

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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SUMMARY MINUTES

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APRIL 15-16, 2020

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The Advisory Board met via teleconference, Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY

JOHN DEMENT  
GEORGE FRIEDMAN-JIMENEZ  
MAREK MIKULSKI  
KENNETH SILVER

MEDICAL COMMUNITY

MANIJEH BERENJI  
ROSE GOLDMAN  
STEVEN MARKOWITZ, Chair  
CARRIE A. REDLICH

CLAIMANT COMMUNITY

KIRK DOMINA  
RON MAHS  
DURONDA POPE  
CALIN TEBAY

DESIGNATED FEDERAL OFFICIAL

MICHAEL CHANCE

**WEDNESDAY, APRIL 15, 2020**

**Welcome and Introductions:**

Mr. Chance called the meeting to order at 11:11 a.m. and noted that the meeting was conducted via teleconference as a precaution against the COVID-19 pandemic. He summarized a call which took place between himself, Dr. Markowitz and Douglas Pennington, Deputy Director of the Division of Energy Employees Occupational Illness Compensation (DEEOIC), on April 2, 2020. During this call they discussed the board's request for resources, the process for resource allocations, and associated challenges. The increase in competition for resources during the COVID-19 pandemic was noted. The board will need to determine the mission and logistics of all desired resources and design a comprehensive statement of work. Mr. Chance added that the budget formulations for FY 2021 are already complete and it would be very difficult to add requests for that year.

The above-listed board members were in attendance. After a round of introductions, Steven Markowitz, Board Chair, welcomed participants and outlined the day's agenda. He noted that the current board's term expires in July 2020 and suggested that they keep this timeframe in mind when discussing new board tasks.

**Status of Recommendations and Solicitation of Nominations:**

Mr. Chance reminded board members that they are all eligible to participate in the open nomination period, which ends on May 1, 2020. He updated the board on the status of its latest recommendation on asthma, which is currently in the Secretary's Office and is due out on May 5, 2020. Carrie Rhoads confirmed that the rest of the recommendation responses were available online.

**DEEOIC Updates: Program Highlights**

Rachel Pond, Director, DEEOIC, presented updates from the DEEOIC program. Since the program's inception they have paid almost \$18 billion in nearly 300,000 claims. Almost \$6 billion of that has been in medical claims, which have increased steadily in the past five years due to an aging claimant population with more consequential conditions. Ms. Pond summarized the program's new case assignment process, effective April 1. While they used to assign cases to district offices by jurisdiction, as the program evolved it became clear that they receive more cases from some

areas than others. As a result, the program has now implemented a round robin assignment process across the country; this process has had positive results in the final adjudication branch.

Ms. Pond addressed the program's consistent process for sampling work in the final adjudication branch, the medical benefits branch, and the district offices. Each supervisor reviews a random selection of cases on a monthly basis, meeting with claims examiners (CEs) to discuss strengths and weaknesses of their work. The program has also hired quality review analysts to work for the national office and evaluate several categories of work on a weekly basis. This feedback loop provides supervisors and claims examiners with information about the need for additional training and policy changes. The program will still conduct annual accountability reviews, though these may not take place in person for some time. As part of recommendations made by the Government Accountability Office (GAO) several years ago they also continue to evaluate 10% of claims before they are sent out.

Ms. Pond outlined certain changes that the program has made in response to the COVID-19 pandemic. Given that the claimant population is particularly susceptible, the program has relaxed deadlines for physician visits and providing claim information. Bulletin 20-03 addresses changes specific to home health care, including extensions via letters of medical necessity for existing levels of care and telemedicine for new requests. Hearings are conducted via telephone and WebEx rather than in person, and resource centers are closed to the public but staff are still answering phone questions and collecting mail.

Chair Markowitz asked if any of the program's quality review activities addressed the Contract Medical Consultant (CMC) or industrial hygiene (IH) evaluations, and Ms. Pond said that they were mostly a review of the claims examiners' work. Member Domina asked about more leeway for claimants seeking new home health coverage who might be hesitant to allow new people into their home during the pandemic. Mr. Pennington said that the program's intention was to have one trained medical professional conduct a visit and safely examine the claimant to assess the risk of bringing health care aides into the home. Ms. Pond added that they were constantly reevaluating ways to be as flexible as possible. Chair Markowitz asked if the program had received any claims specifically for COVID. Mr. Pennington said that they had not and noted that any claims for COVID would be for consequential conditions.

Ms. Pond addressed the board's request for a public portal where cases could be made available and said that the program still plans to make case files available to claimants. They have received feedback about the occupational health questionnaire (OHQ) and are moving towards a database format that the resource centers can access. The program is also in the process of fulfilling the board's data requests for post-1995 lung cancer claims and development letters. Chair Markowitz requested clarification on how the interviews between IHs and claimants were initiated. Ms. Pond said that in some cases the claimants asked for the interviews and in other instances the IHs expressed a desire for more information from the claimants. Chair Markowitz asked if the claimant community was aware that they could request these interviews and Ms. Pond said that there was no formal notification, but the information is available on the program's website and claims examiners are aware of the process.

#### **Changes in DEEOIC, Procedure Manual:**

Mr. Vance summarized recent changes in Procedure Manual (PM) 4.1, which was released on March 31, 2020.

Modifications to the PM:

- incorporating a bulletin on updated guidance for processing and adjudicating medical benefit claims
- changes in guidance on reporting to the national incident criminal background check, specifically related to people who could be prohibited from obtaining firearms
- updated guidance on centralization of customer service interactions with resource centers
- updated version of Exhibit 15-4 related to presumptive standards in adjudicating Part E cases
- elimination of recommended decision cover letters
- simplification of the waiver process
- updated guidance regarding reimbursed costs for eyewear
- memorialized guidance regarding medical marijuana

Mr. Vance noted that the next version of the PM is currently in process and will encapsulate the transition to a new medical bill processing contractor.

**DEEOIC Response to Issues from Jan. 28, 2020 meeting (SEM issues raised by Dr. Redlich; PM Exhibit 18-1 smoking language):**

Mr. Vance reviewed the program's responses to issues raised by the board at its January 28, 2020 meeting. The board had concerns about the way that chronic obstructive pulmonary disease (COPD) was listed in the Site Exposure Matrices (SEM). While COPD is listed in the SEM with multiple aliases, the SEM does not apply separate determinations that the program makes with regard to the application of procedural guidance. The program instructs its staff that when they are evaluating claims for interstitial lung disease and pulmonary fibrosis they should go to the SEM and use "pneumoconiosis, other" as the health effect for those conditions. Similar guidance exists for individuals with idiopathic pulmonary fibrosis; claims examiners are instructed to treat this as a potentially work-related condition.

Mr. Vance addressed the issue of reporting sarcoidosis in the SEM and suggested that the board could continue to explore known exposures linked to this diagnosis. The PM does contain guidance that sarcoidosis can represent a misdiagnosis of chronic beryllium disease (CBD). Mr. Vance confirmed that asbestos has been added to the pneumoconiosis health profile in the SEM in response to the board's recommendation. Member Redlich commented that given the fact that sarcoidosis and CBD were clinically indistinguishable, it made sense to link beryllium to sarcoid in the SEM. Ms. Pond said that while they have heard similar feedback from clinicians, they did not want claims examiners to assume that all claimants diagnosed with sarcoidosis actually have CBD instead. Member Redlich said that in her experience the disease/exposure association in the SEM was just one of many factors the CE or CMC considered when making their decision.

Member Goldman noted that for interstitial fibrosis, there is a link in the SEM to potential asbestos. Member Redlich suggested that the board could discuss a possible recommendation about the appropriate exposures to list under pneumoconiosis. Member Domina asked whether the CEs have access to a different SEM and Mr. Vance said that while the filtering functions are different, most of the data in the CEs' SEM is the same as the public SEM.

Mr. Vance addressed the board's concerns about Exhibit 18-1 and the relevance of asking claimants about smoking when evaluating them for pulmonary conditions. Mr. Vance said that they do not consider smoking as part of an occupational pulmonary disease, and due to multiple problems with Exhibit 18-1 the Department has decided to remove it entirely.

**Responses to Issues from Jan. 28, 2020 meeting (Timeline and**

**quality control provisions of new CMC contract; Quality control language of existing IH contract):**

Mr. Pennington spoke about the CMC contract, which ends in August of 2021. He explained that the program will begin working with DOL's contracting office a year in advance to develop a statement of work in time for the re-competition of the contract. Member Berenji asked if an audit of CMC reports was conducted as part of this process. Mr. Pennington said that the contract has a provision for the staff medical director to perform regular audits of a sampling of reports.

Mr. Pennington continued with a summary of the contract IH quality control language. Every IH referral that is sent to the IH contractor is quality controlled by their staff using several criteria. The certified IHS on the federal staff review 100% of the reports that the program receives for compliance, accuracy, and consistency.

Chair Markowitz asked for a summary of the time table for resource requests. Mr. Chance reiterated his earlier remarks about the 2021 budget and said that formulations for FY 2022 will be discussed over the next few months and finalized by early fall of 2020. Mr. Pennington added that after the budget has been vetted by DOL's budget office and submitted to the Office of Management and Budget (OMB) it is passed back to DOL, reviewed, and then presented back to OMB and then to Congress to be voted on at the beginning of the 2022 fiscal year. Off-cycle budget requests typically need to be emergency requests and require substantial justification.

Member Friedman-Jimenez asked how the budget process accounted for possible impacts of COVID-19. Mr. Pennington said that all of the discussions so far have focused on the administrative budget, which consists of everything except the benefit fund. The benefit fund is a permanent, unlimited appropriation that does not require decisions from Congress. If an individual files a claim saying that they contracted COVID as a direct consequence of their accepted condition(s) and the Department approves that claim, then DOL will pay for benefits associated with COVID.

**Proposed Recommendation: Parkinson's and Related Diseases**

Member Mikulski led the discussion on four proposed recommendations for Parkinson's disease and related disorders. The working group formulated these proposed recommendations in

response to four questions submitted to the board by the Department of Labor.

Question 1a): In response to DOL's question about appropriate aliases, the working group recommended: Parkinsonian Syndrome, Parkinsonian Disorder, and Secondary Parkinsonism as aliases for Parkinsonism; and Paralysis Agitans, Idiopathic Parkinsonism, Primary Parkinsonism, and Hemiparkinsonism as aliases for Parkinson's disease.

Question 1b): DOL asked the board whether Parkinsonism and/or Manganism should be treated the same as Parkinson's disease. While they do share common clinical characteristics, Parkinsonian disorders may differ from each other in clinical onset, symptomatology, progression, and risk factors. The working group recommended that the clinical diagnosis of Parkinsonism and/or Parkinson disease, with ICD codes, should be used to differentiate between disorders in the claims adjudication process.

Questions 2) and 3): The Department asked the board about toxins associated with Parkinsonism diagnoses and presumptions regarding worker exposure to those toxins. The working group identified several case reports describing Parkinsonian-type symptomatology following exposures to solvents including carbon disulfide, methanol, and toluene, all of which were commonly used in DOE weapons operations. Similarly, exposure to common solvents trichloroethylene (TCE) and polychlorinated biphenyls (PCBs) have also been linked to increased risk for Parkinson's disease in epidemiological studies.

Question 4): In response to the Department's questions about causation presumptions, the working group noted that while there is a growing body of peer-reviewed research showing increased risk for Parkinson's disease with specific exposures, causal relationships have yet to be established. The working group feels that due to the number of positive studies as well as the strength of the association between exposure to TCE and PCBs and Parkinson's disease, TCE and PCBs should be considered at least as likely as not to contribute to or aggravate the risk of Parkinson's disease throughout the claims adjudication process. They also recommend that the duration of exposure to these toxic substances be taken into account when adjudicating Parkinson's claims.

Chair Markowitz commented that the Department of Veterans Affairs recognizes that exposure to TCE-contaminated water at

Camp Lejeune is associated with Parkinson's disorder as a matter of presumption. Member Goldman said that one of the important points highlighted in this recommendation is that chronic long-term exposure to certain agents leads to an increased risk of developing Parkinson's-type disorders. Chair Markowitz asked if the working group's intention was for these causal links to be applied to Parkinson-Plus disorders. Member Mikulski said that that was not their intention.

After some discussion, the board modified the language of the working group's response to Question 1(b) to read: "The board recommends that the clinical diagnosis of Parkinsonism and/or Parkinson disease, with respective ICD-9 or ICD-10 codes, as listed in the following rationale, be used in differentiation among Parkinsonian disorders in the process of adjudication of EEOICPA claims." Chair Markowitz also suggested that they include the ICD codes in the body of the recommendation itself as well as in the rationale.

Member Dement asked whether they should include information about Parkinsonism and methanol given that there were only one or two case reports on this topic. Member Friedman-Jimenez said that he thought those case reports needed further review because they appear to discuss ingestion rather than inhalation of methanol. Member Mikulski agreed that methanol and toluene were the weakest exposures in the rationale.

Chair Markowitz asked if the board members felt comfortable enough with the write-up on the other exposures to vote on that particular recommendation. Several members expressed interest in reviewing the case studies that informed this recommendation to get a better understanding of the strength of the evidence. Chair Markowitz asked what that process would look like. Member Friedman-Jimenez suggested that a subset of the board, consisting of the working group and additional board members, review the literature and have a journal club-type discussion to ensure that their recommendations are evidence-based. Members Goldman, Friedman-Jimenez, and Dement and Chair Markowitz volunteered to take part in this process. Chair Markowitz said that the resulting discussion should take place four to five weeks after the April meeting, towards the end of May. He suggested that rather than discuss the proposed recommendation around presumptions and latency period at the current meeting, the working group could consider these issues when they reviewed the case studies.

**Adding IARC 2A Carcinogens to SEM, Evaluation of Other IOM**



## Sources:

Member Berenji, the Chair of the SEM Working Group, led the discussion. The working group was tasked with reviewing the International Agency for Research on Cancer (IARC's) list of 2A carcinogens, examining other sources such as the National Toxicology Program (NTP) and Haz-Map, and looking at current exposure links in the SEM. As of March 2020, IARC has updated their Group 2A list to include 22 chemicals. Member Berenji explained that she had examined the IARC monograph and identified several chemicals that had the most connections to the workers the board is focused on. Member Goldman added that the working group discussed DOE groundskeepers and their possible exposures to pesticides, a job title that is often overlooked. Members Pope and Silver said that during their time at Rocky Flats and Oak Ridge, respectively, the groundskeepers did use a variety of toxic chemicals. Ms. Pond said that the program did include groundskeepers as a job category for consideration of exposures.

Chair Markowitz asked if the public could search the SEM for a particular chemical at a particular site, and Ms. Pond said that that was possible. Member Goldman suggested that the working group might end up looking at some of the pesticides that have been used in the last 20 or 30 years, and Member Berenji agreed. Member Berenji summarized her preliminary research on the most relevant chemicals in Group 2A, including: PBBs; tetrafluoroethylene; silicon carbide whiskers; dichloromethane (methylene chloride); 2-Mercaptobenzothiazole; hydrazine; N, N-Dimethylformamide; tetrabromobisphenol A; styrene; styrene-7, 8-oxide; and glycidyl methacrylate. For most of the chemicals, there is demonstrable evidence that exposure can lead to the development of a variety of cancers.

Member Berenji shared her research on the NTP's fourteenth report, released in 2016, which cites 62 known carcinogens and 186 substances that are reasonably anticipated to be human carcinogens. Member Goldman asked how many of the 62 known carcinogens DOE dealt with, and Member Berenji said that she had not had the time to explore that further. Member Friedman-Jimenez said that there is significant overlap between IARC Class 1 and NTP known carcinogens, and the reasonably anticipated carcinogens category includes mostly Groups 2A and 2B. Chair Markowitz noted that many of NTP's reasonably anticipated carcinogens are not occupational agents. Member Berenji presented Haz-Map's most recent updates and noted that their site is very user-friendly, which is helpful for educating

the public about worker exposures. In contrast, the SEM is not user-friendly and should be made more accessible for both claimants and claims examiners.

Member Goldman asked if physicians consult the SEM, and Ms. Pond said that they do not usually look at it and the program provides them with the information that they need from the SEM. Member Friedman-Jimenez pointed out that the SEM serves several different functions and it might be too much to ask it to also determine causal relationships. He suggested that the working group look at how to design a more user-friendly process using the SEM as one of several resources. Chair Markowitz pointed out that the SEM is an important resource in the claims evaluation process, a fact which is unlikely to change. He said that one challenge with the 2A group is that by definition the 2A chemicals are more likely than not to have weaker epidemiological evidence. In response to DOL's request, he challenged the SEM Working Group to consider which 2A agents could be most closely connected to particular human cancer sites.

Member Berenji said that they could come up with a tiered system to identify the 2A chemicals with strong, moderate, and weak epidemiological evidence. Ms. Pond commented that DOL uses Group 1 chemicals in the SEM because they are relying on causation, while the board's recommendations about chemicals can be put into policy in terms of contribution and aggravation. She said that a tiered approach would fit well into that system. Chair Markowitz suggested that this issue go back to the working group and Member Berenji agreed that they would reconvene before the full board meeting in June.

#### **Status of DOL Requests to Board (B Reading, Provider Outreach):**

Chair Markowitz summarized DOL's questions to the board about B readers. The Department asked the board to weigh in on B readers' certification requirements and how claims staff can verify that test results originated from a qualified B reader. Chair Markowitz presented a draft response to DOL, which he had previously circulated to the physicians on the board for their initial feedback. After completing an examination, during which they are asked to examine radiographic films and determine which ones represent diseases of the lungs, B readers are certified by NIOSH. All 176 currently certified B readers are publicly identified on the NIOSH website. If a claims examiner is uncertain whether a given claim was actually completed by a B reader, they can check the physician's name on the B read

against the list of certified B readers. While there have been some well-publicized incidents of B reader abuse over the years, to the board's knowledge there is no highly prevalent pattern of abuse. NIOSH has proposed a provision that would allow them to examine incidents representing possible abuse and disqualify B readers who are consistently inaccurate.

Chair Markowitz said that while there is no standard way for a B reader to label their B read, there is a standard B reading form. B reading on its own is not diagnostic and is designed to be used in association with research and information about exposure. Claims examiners cannot directly verify B readings themselves; any discrepancy between B reading results and another physician's opinion needs to be resolved by a qualified CMC. Ms. Pond said that part of the reason DOL asked about B reading is because they have had cases where a current physician examining a claim disagrees with a B read from the same claim that was done ten years ago, and they want to make sure that they are getting an accurate diagnosis. Member Goldman noted that ten years ago B reading was done on x ray films, and there has been a recent transition to digital film. Member Redlich commented that in recent years the number of certified B readers has decreased, and this is a problem. Member Silver asked if a B read of digital film was more likely to detect pathology that would have been missed on a traditional x ray ten years ago. Member Redlich said that she did not think that was the case.

Chair Markowitz asked for proposed changes to the draft response to DOL. Member Silver asked if they should include language to the effect that discordant results between B readers should be resolved in favor of the claimant. Chair Markowitz said that given the fact that B reads should not be considered in isolation, discordant results should be resolved by CMCs. Member Redlich agreed and said that this problem predates digital film.

Member Redlich proposed that the board adopt this response to DOL's request. The proposal was seconded by Member Berenji and unanimously approved.

**Public Comment Period:**

*Terrie Barrie, Alliance of Nuclear Workers Advocacy Groups*

Ms. Barrie cited a recent investigative report by The Seattle Times concerning leaking respirators used by Hanford workers. The DOE contractor at Hanford admitted to the defects and identified over 500 workers who were affected. A similar

situation occurred with improperly cleaned respirators at Y-12 from 2009 to 2012. Ms. Barrie referenced past concerns over contracted IH reports and boilerplate language. She requested that the board obtain a sample of claims from Hanford and Y-12 workers during the time of the faulty respirators in order to review the IH reports and the documents that DOE provided on the cases. Ms. Barrie also expressed concerns about DOL's failure to provide a support contractor to the board and about the 10-day review period for the board to review policy changes. She suggested that the board form a working group for the purpose of reviewing proposed policy changes.

*Ronald Avery*

Mr. Avery spoke about his experience as a worker at the Rocky Flats Plant. From February 1970 to March 1989 Mr. Avery worked in plutonium recovery and was at various times a chemical operator, radiation monitor, and technical foreman. He was diagnosed with hearing loss but did not have ten consecutive years of work under the relevant job title, even though all of his jobs involved the same level of exposure to toxins.

Chair Markowitz said that several years ago the board recommended that DOL reduce the required ten years to seven years of work, eliminate the consecutiveness requirement, and expand the number of accepted job titles. The Department did not agree with this recommendation.

*Vina Colley, Portsmouth Gaseous Diffusion Plant*

Chair Markowitz summarized Ms. Colley's written comments on the board's website. Ms. Colley submitted a letter from 2008 from SC&A, the contractor to the Radiation Advisory Board, which refers to a review of the site profile for Portsmouth and a summary of site expert interviews. Chair Markowitz said that Ms. Colley wished to bring the board's attention to the fact that these records have still not been made public.

*Stephanie Carroll*

Ms. Carroll, an authorized representative specializing in lung disease, shared her comments on B reading. She cited the case of B reads conducted by Johns Hopkins several years ago, almost none of which found significant disease among the coal miner population they examined. She also talked about her experience with a NIOSH B reader who was bullied out of the program. She addressed the conflict between past and current B readers and

linked this to a recent uptick in claimants hiring their own B readers to look at chest x rays. Ms. Carroll said that DOL has a library of documents and studies that support the information in the SEM and suggested that it would be a useful resource for the SEM Working Group.

### **Occupational Health Questionnaire Revision:**

Member Dement led a discussion on the revised drafts of the OHQ that DOL provided to the board. He went through the draft and noted several positive changes, but expressed concern that workers would not recall the level of detail requested by the form. He also said that including more free text responses in the OHQ places more burden on the interviewer to have a consistent, scripted approach when asking questions. Member Dement noted that the Exposure Information section would present a particular challenge when writing scripts and training interviewers to ask appropriately detailed questions. He suggested that it would be helpful to provide the workers with some sort of material to fill out prior to the interview in order to jog their memory. He also suggested listing tasks under each exposure category for the same purpose.

Chair Markowitz asked whether the IH would get the necessary information about form and method of exposure by asking questions about tasks. Member Dement said that the original recommendation from the working group was to make the OHQ more task-oriented. He reiterated his belief that the format of the interviewer's script was extremely important and noted as an example that welding is not mentioned as a method of exposure anywhere on the OHQ. He added that as part of the BTMed program all of the tasks are compiled on a single page and sent to interviewees before the interview. Chair Markowitz asked how he would change the OHQ form, and Member Dement said that the scripted questions need to be thought out very carefully and work tasks need to be mentioned.

Chair Markowitz said that given the enormous diversity of job titles among claimants, it was difficult to think of a generic list of tasks that could be used in the OHQ to cover all of the titles. Member Dement agreed that no list could cover everyone, but argued that there are several tasks that are very consistent. Member Friedman-Jimenez suggested adding a question to the OHQ about out-of-title work; if a claimant said that they performed out-of-title work it would trigger the IH to ask for a more open-ended occupational history. Member Tebay said that at the Hanford Workforce Engagement Center they instruct claimants



He said that instead he would augment the question about uses of a substance with a question about what tasks a claimant performed with the substance. Member Redlich said that she found the mention of PPE to be more of an indication that there were hazardous circumstances requiring PPE rather than reassurance that the worker was adequately protected. Chair Markowitz reminded board members that they had previously recommended removing questions concerning PPE. Member Dement commented that on the previous OHQ the references to PPE were numerous, whereas it appears less frequently and is not objectionable in the current version.

Member Tebay suggested that questions about PPE could provide an opportunity to document the lack of PPE in situations where it should have been provided, and Member Pope agreed. Chair Markowitz said that the current OHQ's mention of PPE in an example question is a soft trigger, and he thought that was sufficient because it reminds the claimant to mention PPE if they want to but does not give specific information that could be misinterpreted in the claims evaluation process. Member Friedman-Jimenez suggested asking questions that are harder to misinterpret; for example, asking claimants if they worked in situations where PPE would be necessary, followed by a question about whether or not they were provided with the proper PPE. Member Friedman-Jimenez volunteered to draft questions about PPE and edit the Additional Information section for the board's consideration during the second day of the meeting.

**THURSDAY, APRIL 16, 2020**

**Call to Order:**

Chair Markowitz called the meeting to order at 11:03 a.m.

**Occupational Health Questionnaire Revision (continued):**

Chair Markowitz noted that this meeting marked the third anniversary of the board's recommendation to improve the OHQ. He summarized the previous day's discussion and said that it was time for the board to give its final comments and let DOL move forward with piloting the questionnaire.

Member Friedman-Jimenez presented draft language for a general, open-ended question to be added to the end of the OHQ.

**Board Recommendation:**

After some discussion, the board voted unanimously to submit the following as a formal recommendation to DOL:

"The Board recommends pilot testing of the OHQ in its most recent version provided to the Board with the following comments:

1). Adding a general open-ended question for the end of the OHQ: "Did we miss anything? For example, are you concerned about any exposures to toxic substances that were not adequately described in your responses in this questionnaire? Please describe your concern, for example what types of substances these were (even if you don't know the technical name), when the exposures happened, what kind of PPE you used at the time and whether you think these exposures are related to the health problem for which you are applying for compensation."

2). Sending claimants, prior to the OHQ interview, either a copy of the OHQ or a simplified version or worksheet together with brief examples of common work tasks and processes that the claimant could use to gather their occupational information."

#### **Site-Wide Job Titles in SEM: Recommendation and DOL Response**

Chair Markowitz reminded board members that they had previously made a recommendation about job titles in the SEM and summarized DOL's response. He said that DOL appeared to think the board was recommending the standardization of the exposures of certain job titles across the entire complex, e.g., a firefighter at Portsmouth and a firefighter at Los Alamos should be listed in the SEM as having the same exposures. In reality, the board was recommending that a firefighter at Portsmouth be considered to have a very broad set of exposures at Portsmouth, and likewise for Los Alamos firefighters and a broad set of exposures at Los Alamos. He also referenced DOL's statement that the Department does not make broad determinations about toxic substances or job categories across DOE facilities. He pointed out that this is not necessarily true; within the SEM one can search within the category of "construction, all sites," select a job category and receive a set of toxic substances for potential exposure that is standardized across the complex. Chair Markowitz said that the board will ask DOL for clarification around this issue.

Chair Markowitz highlighted a second point in DOL's response where they assert that the SEM is based on objective data that supports the listing of potential exposures. He summarized his review of SEM data on certain job titles included in the board's



recommendation (firefighter, security guard, health physics technician, and aliases). Hanford is a clear outlier, with some variation in other job titles among other sites. Even when the type of facility is narrowed down, for example focusing on gaseous diffusion plants in particular, there is considerable variation in the toxic substances listed. Member Dement commented that this review showed the inconsistency across sites in terms of how exposures are determined.

Chair Markowitz asked board members what action they wanted to take on this matter, noting that evaluation of the SEM was one of the board's original four mandated tasks. He suggested that they could ask for the objective data that went into the construction of the toxic substance profiles for certain sites and job titles. They could also ask the program's industrial hygiene personnel about their understanding of what causes this variation. Member Goldman reminded the board of a previous discussion about firefighters and other workers who would go to different plants in times of need. Mr. Vance said that the SEM provides a generalized profile of information based on documentation specific to each site. Individual characteristics of where a firefighter or other claimant worked would need to be profiled by the IH and exposure information would need to be customized based on what is uncovered in the review process.

Chair Markowitz summarized the result of the board's discussion: the board requests data for the SEM's underlying documentation in relation to selected job titles and DOE sites. The goal of this request is to better understand how the SEM profiles for jobs at those sites were constructed and also the variation that occurs across job titles and sites. Chair Markowitz added that the board would appreciate hearing DOL's view on why this variation occurs.

#### **Assessments of CMC and IH Performance:**

Chair Markowitz said that this item was on the agenda to allow the board to explore ways in which the current CMC and IH assessments might be revised and, if necessary, come up with a recommendation for a modified method of assessing the quality, objectivity and consistency of IHS and CMCs. Member Dement said that he did not consider the DOL IH review to be an in-depth review, and if it was, the DOL IHS were overworked. He said that there should be a different process for the IH review, such as the CMC reviews that take a sample and do an in-depth review of the fairness and accuracy of claim determinations.

Member Friedman-Jimenez said that the board's consensus after their previous review of cases was that there were too many cases that raised concerns for the board. He also agreed with previous comments that current assessments seem to focus more on impairment ratings and level of care needs rather than the accuracy of the determination of work-related causation. Member Friedman-Jimenez proposed that the board recommend that EEOICP set up a multidisciplinary committee to conduct periodic peer-reviewed performance assessments of the quality of IH and CMC evaluations.

Member Redlich noted that the board has been working on this effort for several years and has made recommendations on these assessments in the past that have been implemented. She said that she was hesitant to suggest forming another committee. Member Silver agreed and said that he would rather stick with their first resource request for a contractor to support the board's analyses. Chair Markowitz said that he did not think a recommendation for an independent peer review process necessarily involved the board at all. He said that the board's charter is to provide advice to the Department, and while they are all aware of the resource constraints, the board does not know what exactly the resources are and where they come from, and they should focus on the areas where they are knowledgeable.

Chair Markowitz suggested that the board delegate this issue to a smaller group for further discussion in the coming weeks, with a formal recommendation to be presented at the June meeting. Several board members expressed their agreement.

#### **Revisions in EEOICP Procedure Manual and Bulletins:**

Chair Markowitz said that during the development of the work plan the board should develop a strategy for addressing the short notice pre-publication documents provided to them by DOL.

#### **Update on Expanding Asbestos Job Titles in the PM:**

Chair Markowitz reminded the board that he and Members Mahs, Dement and Pope were asked by DOL to provide documentation for the expansion of asbestos job titles in the PM. He said that they had not been able to address this matter as of yet but it should be closed out by the end of this board term.

#### **Review of Public Comments:**

Chair Markowitz referenced Stephanie Carroll's comment about B

reading and said that the board had addressed that issue in their earlier advice to DOL. Mr. Avery's comments about hearing loss have also been addressed. Member Silver noted that Mr. Avery was a name and a face to go with the board's earlier discussion on site-wide job titles. Chair Markowitz summarized Terrie Barrie's comments about news reports of faulty respirators and her suggestion that the board review claims. Chair Markowitz said that he was hesitant to request more claims to look at. He asked how DOL incorporates news reports like those about the faulty respirators into the claims process. Mr. Vance said that in his experience the IHS do not look at PPE when forming their opinion about exposure to occupational toxins.

#### **Timetable to Complete Work by July:**

Chair Markowitz read through the items on the board's work agenda. Board members discussed the timeline for each item and which members will work on each task. Chair Markowitz suggested that they circulate all proposed documents two weeks before the June meeting.

#### *Parkinson-related disorders*

Members Mikulski, Pope, Goldman, Friedman-Jimenez, and Dement will conduct the scientific review over the next month, with a final recommendation to be discussed and voted on at the June meeting.

#### *SEM-IARC Group 2A chemicals*

Members Berenji, Pope, Goldman, and Friedman-Jimenez will meet in the coming weeks and present a final recommendation by the end of June.

#### *Asbestos job titles*

Members Dement, Mahs and Domina and Chair Markowitz will continue to look for documentation for the job titles that should be added.

#### *Board's resources request*

Chair Markowitz asked for a group to draft a statement of work and he and Member Silver volunteered to coordinate this effort.

#### *Review of post-1995 lung cancer claims*

Chair Markowitz asked when the board might be receiving claims to review and Mr. Vance said that he did not have a specific timeframe. Chair Markowitz said that this round of claims review will be much more targeted than the last. Members Silver, Domina and Redlich and Chair Markowitz volunteered to review the claims when the board receives them from DOL.

*CMC and IH assessment*

Chair Markowitz said that this item will mostly consist of a discussion between himself and Members Mahs, Dement, Pope, and anyone else who would like to be involved.

*Review of DOL pre-publication policy changes*

Chair Markowitz said that this might consist of a discussion in June rather than a separate group dedicated to this topic. This item was referred to the full board meeting.

*Response to DOL's request for assistance in provider outreach*

Chair Markowitz said that this will mainly involve looking over the materials sent to the board and brainstorming ways in which the process could be improved. This item was deferred to the full board meeting.

**Close of Meeting:**

Mr. Chance adjourned the meeting at 1:45 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are an accurate summary of the meeting.

Submitted by:

  
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Steven Markowitz, MD, Dr.Ph.

Chair, Advisory Board on Toxic Substances and Worker Health

Date: 6/16/2020