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TRANSCRIPT MINUTES

MEETING OF THE
STATE OF NEVADA
BOARD FOR THE ADMINISTRATION OF THE
SUBSEQUENT INJURY ACCOUNT FOR
ASSOCIATIONS OF SELF-INSURED PUBLIC OR PRIVATE EMPLOYERS

Thursday, May 20, 2021
10:00 a.m.

3360 West Sahara Avenue, Suite 250
Las Vegas, Nevada, 89102
in the Executive Video Conference Room

(Due to concerns with COVID-19,
the meeting was conducted via telephone.)

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A P P E A R A N C E S

For the Board:

Bryan Wachter (phone)
Board Chairman, Member

Allen Walker (phone)
Board Member

Joyce Smith (phone)
Board Member

Donald Bordelove, Esq. (phone)
Deputy Attorney General
Board Counsel

For the Division of Industrial Relations:

Christopher A. Eccles, Esq. (Las Vegas)
Counsel for DIR

For the Administrator of the DIR:

Vanessa Skrinjaric (Las Vegas)
Compliance Audit Investigator
Division of Industrial Relations
Workers' Compensation Section

Also Present:

Richard S. Staub, Esq. (phone)
Carson City, Nevada

Robert F. Balkenbush, Esq. (phone)
Las Vegas, Nevada

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THURSDAY, MAY 20, 2021, 10:00 A.M.

-oOo-

BOARD CHAIRMAN WACHTER: This is the time and place for the Board of the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers.

We'll go ahead and call the agenda, or the meeting to order.

Vanessa, if you'll go ahead and do roll call for me.

MS. SKRINJARIC: Okay. So this is Vanessa Skrinjaric on behalf of the Division of Industrial Relations. Also present in Las Vegas is Christopher Eccles also on behalf of the Division of Industrial Relations.

And Bryan Wachter?

BOARD CHAIRMAN WACHTER: Here.

MS. SKRINJARIC: Okay. Allen Walker?

BOARD MEMBER WALKER: Here.

MS. SKRINJARIC: Joyce Smith?

BOARD MEMBER SMITH: Here.

MS. SKRINJARIC: Donald Bordelove?

MR. BORDELOVE: Here.

MS. SKRINJARIC: Also present on the phone, Richard Staub?

1 MR. STAUB: Present.

2 MS. SKRINJARIC: And Bob Balkenbush?

3 MR. BALKENBUSH: Present.

4 MS. SKRINJARIC: Okay. I believe, that's
5 everybody.

6 BOARD CHAIRMAN WACHTER: Excellent. Thank you.

7 We'll go ahead and open it to public comment.

8 Is there any member of the public that wishes to speak
9 about a nonagenda item?

10 MS. SKRINJARIC: There are no members of the
11 public present in Las Vegas.

12 BOARD CHAIRMAN WACHTER: Excellent. Well, not
13 excellent, but thank you.

14 We'll go ahead and move to agenda item
15 number 3, approval of the agenda.

16 Vanessa, you have a few things for us here.

17 MS. SKRINJARIC: Okay. So first thing on the
18 agenda, item number 6.a., there was a request for
19 continuance, which was granted. So that is no longer on
20 the agenda.

21 Second item is that Mr. Balkenbush had made a
22 request to me that he has a prior commitment and he is
23 requesting that items number 7.d., e. and f. be moved to
24 the front of the agenda. So with your permission, we
25 would like to get those done first.

1 BOARD CHAIRMAN WACHTER: Is that all the
2 changes are you recommending?

3 MS. SKRINJARIC: That is, those are the only
4 changes I'm recommending.

5 BOARD CHAIRMAN WACHTER: We have all heard
6 that. Are there any questions regarding the proposed
7 changes?

8 Okay. If there -- I'll, at that point,
9 entertain a motion to approve the agenda, removing 6.a.
10 and moving 7.b., e. and f. to agenda item -- above
11 agenda item number 5.

12 MS. SKRINJARIC: So that is d. as in dog, d.,
13 e. and f.

14 BOARD CHAIRMAN WACHTER: Oh, I'm sorry.

15 MS. SKRINJARIC: Yes.

16 BOARD CHAIRMAN WACHTER: d., e. and f. --

17 MS. SKRINJARIC: Yes.

18 BOARD CHAIRMAN WACHTER: -- we'll move, we'll
19 make the new agenda item number 5.

20 BOARD MEMBER SMITH: I will motion.

21 BOARD CHAIRMAN WACHTER: I've got a motion. Is
22 there a second?

23 BOARD MEMBER WALKER: Second.

24 BOARD CHAIRMAN WACHTER: I've got a motion and
25 second. All in favor, say "aye."

1 (Board members said "aye.")

2 BOARD CHAIRMAN WACHTER: Any opposed?

3 The motion passes.

4 We will now move to approve the minutes for
5 January 14th, 2021. Are there any changes to those?

6 Okay. Hearing none, I'll accept a motion to
7 approve the minutes for January 14th of 2021.

8 BOARD MEMBER SMITH: I'll motion to approve.

9 BOARD MEMBER WALKER: I would move -- oh. I'll
10 second it.

11 BOARD CHAIRMAN WACHTER: I've got a motion from
12 Joyce, and I have a second from Allen. Any discussion?

13 All those in favor, say "aye."

14 (Board members said "aye.")

15 BOARD CHAIRMAN WACHTER: Any opposed?

16 The motion passes.

17 We will now move over to case number
18 C143-08-03402-01 for Douglas County.

19 And I'll turn it over to you, Vanessa.

20 MS. SKRINJARIC: Okay. It is the
21 Administrator's recommendation to accept this third
22 supplemental request pursuant to NRS 616B.578 for
23 hearing loss.

24 The total amount requested for reimbursement is
25 \$5,355.00. The amount of reimbursement, after costs

1 were verified, is \$5,000.00. An explanation of the
2 disallowance is attached to this recommendation memo.

3 This request was received from Robert
4 Balkenbush, Esq. on January 20th, 2021. This claim was
5 originally approved by the Board on February 16th, 2011.

6 This request contains reporting and payment for
7 hearing aids on June 13th, 2018.

8 And that's all.

9 Bryan?

10 BOARD CHAIRMAN WACHTER: Sorry, Vanessa. Thank
11 you very much.

12 MS. SKRINJARIC: Okay.

13 BOARD CHAIRMAN WACHTER: I apologize. I was on
14 mute there.

15 Okay. Is there anything that you'd like to
16 add, Mr. Balkenbush?

17 MR. BALKENBUSH: Nothing, Mr. Chairman.

18 BOARD CHAIRMAN WACHTER: Okay. Anything from
19 the State?

20 MR. ECCLES: No, sir. Thank you.

21 BOARD CHAIRMAN WACHTER: Board counsel,
22 anything we should be aware of?

23 MR. BORDELOVE: No, sir.

24 BOARD CHAIRMAN WACHTER: Thank you.

25 Any discussion from the other Board members?

1 BOARD MEMBER SMITH: No, sir.

2 BOARD MEMBER WALKER: No.

3 BOARD CHAIRMAN WACHTER: Okay. Well, in that
4 case, we will entertain a motion to approve case
5 C143-08-03402-01 in the amount specified.

6 BOARD MEMBER SMITH: I will motion to approve.

7 BOARD CHAIRMAN WACHTER: There's a motion. Is
8 there a second?

9 BOARD MEMBER WALKER: I will second.

10 BOARD CHAIRMAN WACHTER: I've got a motion from
11 Joyce, a second from Allen. Any discussion?

12 All those in favor, say "aye."

13 (Board members said "aye.")

14 BOARD CHAIRMAN WACHTER: Any opposed?

15 The motion passes.

16 Vanessa, why don't we move over to case
17 C143-11-05911-01. And I'll turn it back to you.

18 MS. SKRINJARIC: Okay. This is for Lyon
19 County. The association is PACT.

20 It is the Administrator's recommendation to
21 accept this first supplemental request for previously
22 disallowed amounts pursuant to NRS 616B.578 for the left
23 shoulder only. The left knee, left hip and lumbar spine
24 were not requested and are specifically excluded.

25 The total amount requested for reimbursement is

1 \$1,354.58. The amount of reimbursement, after costs
2 were verified, is \$1,354.58.

3 This request was received from Robert F.
4 Balkenbush, Esq. on February 4th, 2021. This request
5 contains reporting and payment information for
6 disallowance item 8 from the Administrator's
7 November 4th, 2020 Recommendation Memorandum.

8 That is all.

9 BOARD CHAIRMAN WACHTER: Thank you, Vanessa.
10 Mr. Balkenbush, anything on your end?

11 MR. BALKENBUSH: Nothing, Mr. Chairman. We
12 agree with the recommendation.

13 BOARD CHAIRMAN WACHTER: Anything from the
14 State?

15 MR. ECCLES: No. Thank you.

16 BOARD CHAIRMAN WACHTER: Board counsel?

17 MR. BORDELOVE: No, sir.

18 BOARD CHAIRMAN WACHTER: Okay. Any discussion
19 from the Board?

20 BOARD MEMBER WALKER: And just --

21 BOARD CHAIRMAN WACHTER: Going back to -- oh.
22 Go ahead, Allen.

23 BOARD MEMBER WALKER: I think, I got the wrong
24 documents. But, I think, I'm good with it. The numbers
25 on the ones I have are different.

1 BOARD CHAIRMAN WACHTER: What do you mean?

2 BOARD MEMBER WALKER: Well, this was Lyon
3 County, right?

4 BOARD CHAIRMAN WACHTER: Correct.

5 BOARD MEMBER WALKER: Let me, let me look at
6 the other document here. Mine's saying \$47,000. Okay.
7 Hold on. Oh, that's why.

8 BOARD CHAIRMAN WACHTER: It's okay.

9 BOARD MEMBER WALKER: Bear with me a minute.
10 I'm trying to get these through my phone here.

11 BOARD CHAIRMAN WACHTER: Oh, no, take your
12 time.

13 BOARD MEMBER WALKER: I'm reading. Okay. I
14 see what I did. I'm good with it.

15 BOARD CHAIRMAN WACHTER: Perfect.

16 BOARD MEMBER WALKER: Yes.

17 BOARD CHAIRMAN WACHTER: I just wanted to make
18 sure you had that in front of you before we voted.

19 BOARD MEMBER WALKER: Yes.

20 BOARD CHAIRMAN WACHTER: Okay. So in that
21 case, we will accept a motion to approve case
22 C143-11-05911-01 in the amount specified.

23 BOARD MEMBER SMITH: I'll motion to approve.

24 BOARD CHAIRMAN WACHTER: I've got a motion from
25 Joyce. Is there a second?

1 BOARD MEMBER WALKER: I'll second.

2 BOARD CHAIRMAN WACHTER: I got a second from
3 Allen. Any discussion from the Board?

4 All those in favor, say "aye."

5 (Board members said "aye.")

6 BOARD CHAIRMAN WACHTER: Any opposed?

7 The motion passes.

8 Vanessa, we will go back to you for
9 C143-08-03615-01.

10 MS. SKRINJARIC: This is on behalf of PACT for
11 Churchill County Communications.

12 It is the Administrator's recommendation to
13 accept this third supplemental request pursuant to NRS
14 616B.578 for the lumbar spine.

15 The total amount requested for reimbursement is
16 \$16,963.87. The amount of reimbursement, after costs
17 were verified, is \$16,934.83. An explanation of the
18 disallowance is attached to this recommendation memo.

19 This request was received from Robert
20 Balkenbush, Esq. on February 4th, 2021. This request
21 contained the following report and/or payment:

22 Office visits with Dr. Rappaport's office from
23 September 28, 2016 through March 6, 2017;

24 X-ray on July 5th, 2016;

25 Office visits with Dr. Muir on November 1, 2016

1 and November 29, 2016;

2 PPD with Dr. Kahn on April 2nd, 2017;

3 Travel from September 28th, 2016 to December 7,
4 2016;

5 PPD for 4 percent whole person impairment paid
6 on April 19th, 2017.

7 On March 6, 2017, Dr. Rappaport felt the
8 injured employee had reached maximum medical improvement
9 and was stable and ratable after the reopening of his
10 claim. On April 2nd, 2017, Dr. Kahn performed a PPD
11 evaluation in which he found 34 percent whole person
12 impairment. He apportioned out the prior 29 percent
13 whole person impairment, leaving a net 5 percent whole
14 person impairment. However, he felt that 1 percent
15 whole person impairment should also be apportioned out
16 of this as well, leaving a net 4 percent whole person
17 impairment to the injured employee. The employee took
18 this in a lump sum.

19 That's all.

20 BOARD CHAIRMAN WACHTER: Perfect. Thank you.

21 Any comment from you, Mr. Balkenbush?

22 MR. BALKENBUSH: Mr. Chairman, we agree with
23 the recommendation of the Administrator.

24 BOARD CHAIRMAN WACHTER: Perfect. Any comments
25 from the State?

1 MR. ECCLES: No. Thank you.

2 BOARD CHAIRMAN WACHTER: Board counsel?

3 MR. BORDELOVE: No, sir.

4 BOARD CHAIRMAN WACHTER: Any discussion from
5 the Board?

6 BOARD MEMBER WALKER: No.

7 BOARD CHAIRMAN WACHTER: Okay. Then, we will
8 entertain a motion to approve case C143-08-03615-01 in
9 the amount specified.

10 BOARD MEMBER SMITH: I will motion to approve.

11 BOARD MEMBER WALKER: Motion to approve.

12 BOARD CHAIRMAN WACHTER: I've got a --

13 BOARD MEMBER WALKER: I'll second it.

14 BOARD CHAIRMAN WACHTER: I've got a motion by
15 Allen.

16 BOARD MEMBER WALKER: Okay.

17 BOARD CHAIRMAN WACHTER: And I've got a second
18 by Joyce.

19 BOARD MEMBER WALKER: We'll go that way.

20 BOARD CHAIRMAN WACHTER: Any comments from the
21 Board?

22 BOARD MEMBER WALKER: None.

23 BOARD CHAIRMAN WACHTER: Okay. In that case,
24 all those in favor, say "aye."
25 (Board members said "aye.")

1 BOARD CHAIRMAN WACHTER: Any opposed?

2 Okay. Motion passes.

3 MR. BALKENBUSH: Thank you, Mr. Chair.

4 BOARD CHAIRMAN WACHTER: And I apologize, but
5 we need to take -- thank you, Mr. Balkenbush. We need
6 to take a 10-minute recess. And then I could come back.
7 I apologize.

8 MS. SKRINJARIC: Okay.

9 BOARD MEMBER SMITH: Okay.

10 BOARD CHAIRMAN WACHTER: Thank you.

11 MR. BALKENBUSH: Thank you, Vanessa.

12 MS. SKRINJARIC: You're welcome.

13 MR. BALKENBUSH: And I'll get off the call at
14 this point.

15 MS. SKRINJARIC: Thank you, Mr. Balkenbush.

16 MR. BALKENBUSH: Bye-bye.

17 * * * * *

18 (A break was taken.)

19 * * * * *

20 BOARD CHAIRMAN WACHTER: Yeah, we'll go ahead
21 and call the meeting back to order. I appreciate the
22 discretion there.

23 We will go ahead, then. And we are going to go
24 back to what should have been agenda item number 5. And
25 we are going to talk about case 5001-0142-2019-1200 for

1 Carey Transport.

2 And, Vanessa, I will turn that over to you.

3 MS. SKRINJARIC: Okay. So before we get
4 started, this is for Nevada Transportation Network,
5 Carey Transport. And, I believe, Allen has a
6 disclosure.

7 BOARD MEMBER WALKER: I do. I have to recuse
8 myself because that is my workers' comp company, Nevada
9 Transportation.

10 MS. SKRINJARIC: So Allen will need to abstain
11 from voting. And so the quorum goes down to two at this
12 point. Okay?

13 BOARD CHAIRMAN WACHTER: And could I have Board
14 counsel put that on the record for me.

15 MS. SKRINJARIC: Okay.

16 MR. BORDELOVE: Sure. I'd just reiterate what
17 Vanessa said. I believe, the statute is, if I'm
18 remembering correctly, I think, it's 281A.420. I'm not
19 positive if that's the right statutory reference, but I
20 believe so.

21 BOARD CHAIRMAN WACHTER: Thank you very much.

22 Okay. Vanessa, go ahead.

23 MS. SKRINJARIC: Okay. It is the
24 Administrator's recommendation to accept this request
25 pursuant to NRS 616B.578 for the left shoulder only.

1 The right knee is specifically excluded.

2 The total amount requested for reimbursement is
3 \$66,875.62. The amount of reimbursement, after costs
4 were verified, is \$65,586.53. An explanation of the
5 disallowance is attached to this recommendation memo.

6 This request was received from Associated Risk
7 Management on January 20th, 2021.

8 Prior history.

9 This employee was working in Texas for Jack
10 Scapel Trucking when on December 24th, 2011 he threw a
11 chain over a truck and injured his left shoulder.

12 The prior history will be taken from Dr. Witt's
13 PPD evaluation penned on July 20th, 2013.

14 The employee was seen the day of the injury and
15 diagnosed with a left shoulder strain.

16 By February 2012, the employee was suspected to
17 have a rotator cuff or labral tear.

18 A February 13th, 2012 MRI revealed a
19 full-thickness supraspinatus tear and AC joint
20 hypertrophy.

21 On March 12, 2012, the employee saw Dr. Metzger
22 who recommended surgery.

23 On March 27, 2012, Dr. Metzger performed a left
24 shoulder arthroscopic rotator cuff repair, two
25 fully-threaded suture anchors, subacromial

1 decompression, superior labral debridement with biceps
2 tenotomy. Postoperative physical therapy occurred from
3 April 5th, 2012 to August 16, 2012.

4 On June 26, 2012, Dr. Sledge noted the employee
5 continued to have soreness and weakness in the left
6 shoulder.

7 On August 17, 2012, the employee was noted to
8 have significant cervical pain and radicular symptoms.
9 Physical therapy was continued from August 21, 2012 to
10 October 19, 2012.

11 It appears the employee then moved to Nevada.

12 An MRI performed on October 12th, 2012 revealed
13 evidence of previous anterior dislocation with
14 Hill-Sach's deformity and anterior labral repair. Soft
15 tissue anchors, 1.8-centimeter full-thickness tear
16 supraspinatus tendon at footprint with mild retraction.
17 Markedly heterogenous, somewhat attenuated distal
18 infraspinatus tendon, without discrete linear tear.
19 Tendinopathy, partial tearing subscapular tendon,
20 Grade II AC separation.

21 On October 19th, 2012, Dr. Cummings determined
22 that the employee would need a repeat left shoulder
23 arthroscopy and rotator cuff repair. This was performed
24 on December 19th, 2012.

25 At the employee's post-op visit on January 14,

1 2013, he was doing well and would stay in a sling until
2 six weeks post-op.

3 On February 4th, 2013, the employee requested
4 to return to work on February 18. He was to start
5 physical therapy.

6 On July 2nd, 2013, Dr. Cummings determined the
7 employee had reached maximum medical improvement and was
8 stable and ratable. He had no restrictions.

9 On July 20th, 2013, Dr. Witt determined the
10 employee had a 14 percent upper extremity impairment
11 which converts to an 8 percent whole person impairment
12 for the left shoulder.

13 Present claim.

14 This employee was hired on March 20th, 2019 as
15 a CDL truck driver for the current employer. On
16 November 13th, 2019, he was tightening some straps on a
17 load when the load bar shifted causing his left shoulder
18 to jerk. He also fell onto his right knee in which he
19 had a prosthetic joint.

20 The employee was seen at Renown Urgent Care on
21 November 16th, 2019 where x-rays of the left shoulder
22 revealed mild osteoarthritis and postsurgical changes in
23 the proximal humerus with probable calcific tendonitis.
24 He was diagnosed with left shoulder strain and a right
25 knee contusion.

1 The employee had an MRI on December 19th, 2019
2 which showed a complete re-tear of the supraspinatus and
3 infraspinatus tendon with approximately 3 centimeters of
4 retraction to the myotendonous juncture, strain of the
5 teres minor muscle, circumferential degeneration of the
6 labrum without disruption of the biceps labral anchor.

7 The employee's care was transferred to
8 orthopedist Dr. Nair who began treatment on January 2nd,
9 2020. Dr. Nair noted that the tear may not be
10 repairable or it may not heal at all due to the
11 employee's two previous surgeries.

12 On March 5th, 2020, Dr. Nair performed an
13 arthroscopic revision repair of a massive tear of the
14 subscapularis, supraspinatus and infraspinatus with
15 extensive debridement of the shoulder labrum.

16 At a follow-up on April 13th, 2020, Dr. Nair
17 felt the employee was doing well. Physical therapy
18 started on April 16th, 2020 and concluded on July 13th,
19 2020.

20 On July 14th, 2020, Dr. Nair released the
21 employee to full duty.

22 On July 28th, 2020, the employee returned to
23 Dr. Nair with worsening pain and a new limited range of
24 motion without an intervening injury. Dr. Nair noted a
25 possible re-tear.

1 An August 17th, 2020 MRI revealed a recurrent
2 full-thickness tear of the supraspinatus involving the
3 anterior fibers of the infraspinatus with mild to
4 moderate atrophy of the muscle bellies. A displaced
5 surgical anchor was noted, not previously seen.
6 High-riding humeral head with moderate glenohumeral
7 joint degenerative changes and large effusion with
8 chronic appearing Hill-Sach's deformity of the humeral
9 head was also noted. Unchanged diffuse labral
10 degeneration tearing was also noted as well as a
11 high-grade interstitial tear of the long head of the
12 biceps tendon involving both the intra and extra
13 articular portions.

14 On September 4th, 2020, Dr. Nair noted the
15 employee's three prior rotator cuff repairs and
16 recommended conservative management versus consideration
17 of a total reverse shoulder arthroplasty. Dr. Nair
18 performed a joint injection and recommended a functional
19 capacity evaluation.

20 On October 7, 2020, the FCE was performed. It
21 stated the employee's physical capabilities are not
22 compatible with his job description as a truck driver.

23 On October 12th, 2020, Dr. Nair reported the
24 employee received only one week of relief from the joint
25 injection. He also noted that the employee elected to

1 proceed with the reverse total shoulder arthroplasty.

2 On November 10th, 2020, a medical record review
3 was performed which indicated a reverse total shoulder
4 arthroplasty is indicated in the employee's situation.

5 On November 10th, 2020, Dr. Nair noted the
6 employee was waiting for authorization to proceed with
7 the surgery.

8 TTD was paid in this case from November 16,
9 2019 to December 18th, 2020.

10 Findings.

11 On December 6th, 2020, Dr. Betz penned a letter
12 for subsequent injury review. He opined that, quote,
13 "Absent the two prior surgeries and chronic pathologies,
14 employee likely would have suffered no more than a left
15 shoulder strain as a result of the subsequent injury
16 incident on 11-13-2019 requiring a brief course of
17 conservative care followed by complete recovery without
18 permanent impairment. However, as a direct result of
19 the prior surgeries, chronic atrophy and significant
20 prior impairment, employee required extensive additional
21 evaluation, surgery and is now facing total joint
22 replacement with its substantial associated permanent
23 impairment."

24 Consequently, it is reasonable and appropriate
25 to conclude that 95 percent of the costs of this

1 subsequent claim were the result the combined effects of
2 previous surgeries, preexisting pathologies, and the
3 subsequent injury. 5 percent or less of the cost of the
4 subsequent claim were the result of the subsequent
5 injury alone. The Administrator agrees with this
6 analysis.

7 Therefore, NRS 616B.578, subsection 1, has been
8 satisfied.

9 The employee received an 8 percent whole person
10 impairment for the left shoulder as a result of the PPD
11 performed by Dr. Witt on July 20th, 2013.

12 Therefore, NRS 616B.578, subsection 3, has been
13 satisfied.

14 On January 28th, 2019, the employee had a
15 medical examination performed as a requirement for his
16 CDL. The employer hired him on March 20th, 2019 as a
17 driver. The medical examination was in the possession
18 of the employer and was forwarded to Associated Risk
19 Management on December 4th, 2020 after a request for
20 subsequent injury purposes. The form states, quote,
21 "Have you ever had surgery?" End quote. The employee
22 stated, quote, "L-E-T, should be left, shoulder. Two
23 knee replacement." End quote. Additionally, it asks,
24 quote, "Are you currently taking medications?" End
25 quote. The employee answered, quote, "Left shoulder."

1 End quote.

2 In fact, the employee had two left shoulder
3 surgeries which resulted in an 8 percent whole person
4 impairment.

5 North Lake Tahoe Fire Protection District vs.
6 Board of Administration does not require the employer's
7 perfect knowledge of a 6 percent permanent impairment.
8 It requires an employee's preexisting permanent physical
9 impairment be fairly and reasonably inferred from the
10 written record and the impairment must amount to at
11 least 6 percent whole person impairment. That is the
12 case here.

13 Based on the document presented, it is
14 reasonable to conclude that the employer was aware the
15 employee had a left shoulder surgery from which he was
16 ultimately awarded 8 percent whole person impairment.

17 Therefore, NRS 616B.578, subsection 4, has been
18 satisfied.

19 Subsection 5 does not need to be satisfied in
20 order for this claim to be considered for reimbursement
21 since the date of injury is after the October 1, 2007
22 change in the requirements of the statute.

23 That's all.

24 BOARD CHAIRMAN WACHTER: Thank you for that.

25 Mr. Staub.

1 MR. STAUB: Mr. Chairman, we have no problems,
2 and we agree with the recommendation.

3 BOARD CHAIRMAN WACHTER: Okay. This seems
4 redundant at this point, but does the State have any
5 questions or concerns?

6 MR. ECCLES: No, sir. Thank you.

7 BOARD CHAIRMAN WACHTER: And Board counsel, any
8 hidden gems we should be aware of and consequences we
9 should avoid?

10 MR. BORDELOVE: No, sir.

11 BOARD CHAIRMAN WACHTER: Okay. This is getting
12 boring. Then, in that case, we will go ahead, and any
13 questions or comments from the Board?

14 I don't have any, either. So we will accept a
15 motion in case 5001-0142-2019-1200 in the amount
16 specified. Is there someone willing to make that motion
17 for me? Or it could only be Joyce. Excuse me.

18 Do we have Joyce?

19 BOARD MEMBER SMITH: Oh, sorry. I was on mute.

20 BOARD CHAIRMAN WACHTER: Oh, that's okay.

21 BOARD MEMBER SMITH: Yes, I motion.

22 BOARD CHAIRMAN WACHTER: Okay. Then, Donald,
23 do I second it, or do I just do it without a second?

24 MR. BORDELOVE: You would need to second it.

25 BOARD CHAIRMAN WACHTER: Okay. Then, I will

1 second the motion. All those in favor, say "aye."

2 (Board members said "aye.")

3 BOARD CHAIRMAN WACHTER: Any opposed?

4 The motion passes. Thank you very much.

5 We'll now move on. 6.a. was continued. So

6 we'll go to 7.a., case number 5001-0114-2003-0006.

7 And is there any disclosures on this case?

8 BOARD MEMBER WALKER: Yes. Again, this is

9 Nevada Transportation, so I have to recuse myself.

10 BOARD CHAIRMAN WACHTER: Excellent. Then,
11 we'll just refer the record back to the previous case,
12 and we will turn it over to you, Vanessa, to get it
13 started.

14 MS. SKRINJARIC: Okay. This is for Truck
15 Parts & Equipment.

16 It is the Administrator's recommendation to
17 accept this eighth supplemental request pursuant to NRS
18 616B.578 for the lumbar spine.

19 The total amount requested for reimbursement is
20 \$86,313.47. The amount of reimbursement, after costs
21 were verified, is \$74,595.78. An explanation of the
22 disallowance is attached to this recommendation memo.

23 This request was received from Associated Risk
24 Management, Inc. on February 16th, 2021. This claim was
25 originally approved by the Board on November 22nd, 2011.

1 This request contains payment and/or reporting
2 for the following expenses:

3 Permanent total disability benefits from
4 January 1, 2020 through December 31, 2020;

5 Prescriptions from August 16, 2016 through
6 January 28, 2021;

7 Office visits with Dr. Schifini from March 7,
8 2017 through November 24th, 2020;

9 Lumbar injections with Dr. Schifini on
10 April 30th, 2019; June 3rd, 2020; July 1, 2020 and
11 September 15, 2020;

12 Yearly urology follow-up with Urology
13 Specialists from November 30th, 2018 through
14 November 26, 2019.

15 This gentleman had an injury to his lumbar
16 spine in 2003. He was deemed permanent and total in May
17 2014. PTD benefits started on July 1, 2014. He is
18 entitled to a yearly cost-of-living allowance of
19 2.3 percent pursuant to NRS 616C.473. Permanent total
20 disability report of employment, Form D-14, for the year
21 2020 was submitted.

22 This employee treats quarterly with
23 Dr. Schifini for pain management. Only L5-S1 is
24 accepted under the industrial claim. The employee
25 treats L3-4 on a nonindustrial basis. In 2016, he

1 underwent a fusion at L3-4. On September 16, 2016,
2 Dr. Schifini was asked what medications were prescribed
3 for the industrial condition versus the nonindustrial
4 condition. He responded Oxy IR, Belsomra, Lyrica,
5 Cymbala and Soma. The employee had a number of epidural
6 steroid injections. At the last visit with Dr. Schifini
7 on November 24th, 2020, Dr. Schifini's letter states the
8 exam remains unchanged.

9 The employee also has yearly visits with
10 Urology Specialists for urology complaints secondary to
11 the lumbar condition. He is stable on his medication.

12 The injured employee has monthly prescriptions
13 for pain management and urological conditions. They
14 consist of Oxycodone, Lyrica, Belsomra, Cymbalta, Soma,
15 Flector patches, Amitriptyline, Myrbetriq, Cialis and
16 Flomax.

17 Please note, there are other prescriptions that
18 were submitted for reimbursement and are disallowed as
19 medical records by the prescribing doctor, primary care
20 provider, et cetera, were not submitted which
21 substantiate the need for these prescriptions.

22 Additionally, the letters submitted by
23 Dr. Schifini do not qualify as medical records from
24 which reimbursement can be made. Specifically,
25 Dr. Schifini does not list all of the medications he is

1 prescribing the employee, nor does he list a diagnosis.
2 He merely states, quote, "Continue his medication
3 regime." End quote. See the requirements in Form D-39,
4 Physician's Progress Report. The copies of the
5 prescriptions provided in the application are illegible.
6 Therefore, further reimbursement of Dr. Schifini's
7 prescriptions will need to be more fully explained in
8 the next submission as well as his office visits.

9 That's all.

10 BOARD CHAIRMAN WACHTER: Thank you, ma'am.
11 Mr. Staub, anything from yourself?

12 MR. STAUB: No comments. We agree with the
13 recommendations, Mr. Chairman.

14 BOARD CHAIRMAN WACHTER: Anything from the
15 State?

16 MR. ECCLES: No. Thank you.

17 BOARD CHAIRMAN WACHTER: Anything from Board
18 counsel?

19 MR. BORDELOVE: No, sir.

20 BOARD CHAIRMAN WACHTER: Joyce, do you have any
21 comments?

22 BOARD MEMBER SMITH: I do not.

23 BOARD CHAIRMAN WACHTER: Then, would you
24 consider accepting in a motion in case
25 5001-0114-2003-000 -- oh, I'm sorry. Nope.

1 Vanessa, I didn't mark it off. Which, are we
2 on a. or b.?

3 MS. SKRINJARIC: We are on a.

4 BOARD CHAIRMAN WACHTER: Okay. I apologize. I
5 was right. So case 5001-0114-2003-0006 in the amount
6 specified.

7 BOARD MEMBER SMITH: I will motion to approve.

8 BOARD CHAIRMAN WACHTER: I appreciate that. I
9 will second that. And then I will ask, all those in
10 favor, say "aye."

11 (Board members said "aye.")

12 BOARD CHAIRMAN WACHTER: Any opposed?

13 The motion passes.

14 Okay. Now we will move to b.,

15 5001-0447-2004-0042.

16 Vanessa.

17 MS. SKRINJARIC: Again, Allen needs to make his
18 disclosure.

19 BOARD MEMBER WALKER: Yes, I, again, I'll
20 recuse myself because this is Nevada Transportation.

21 MS. SKRINJARIC: Okay. This is for Bonanza
22 Beverage Company.

23 It is the Administrator's recommendation to
24 accept this sixth supplemental request pursuant to NRS
25 616B.578 for the right knee.

1 The total amount requested for reimbursement is
2 \$42,008.04. The amount of reimbursement, after costs
3 were verified, is \$42,008.04.

4 This request was received from Associated Risk
5 Management, Inc. on February 4th, 2021. This claim was
6 originally approved by the Board on April 21st, 2011.
7 This request contains monthly permanent total disability
8 payments from January 1, 2020 through December 31, 2020.
9 The employee is entitled to a yearly cost-of-living
10 allowance of 2.3 percent pursuant to NRS 616C.473. The
11 2020 monthly payment amount is \$3,500.67. The permanent
12 total disability report of employment, Form D-14, for
13 the year 2020 was submitted.

14 That is all.

15 BOARD CHAIRMAN WACHTER: Thank you, ma'am.

16 Mr. Staub.

17 MR. STAUB: No comments. We agree with the
18 recommendation.

19 BOARD CHAIRMAN WACHTER: Okay. Anything from
20 the State?

21 MR. ECCLES: No. Thank you.

22 BOARD CHAIRMAN WACHTER: Anything from Board
23 counsel?

24 MR. BORDELOVE: No, sir.

25 BOARD CHAIRMAN WACHTER: Joyce, it's up to you

1 and I. Anything for you?

2 BOARD MEMBER SMITH: No, sir. I'd like to
3 motion to approve.

4 BOARD CHAIRMAN WACHTER: I would love to accept
5 that motion on the case of 5001-0447-2004-0042 in the
6 amount specified. I will second that. All those in
7 favor, say "aye."

8 (Board members said "aye.")

9 BOARD CHAIRMAN WACHTER: Any opposed?
10 The motion passes.

11 And then we will move to, I think, our last
12 case of the day, case 5001-0640-2017-0358.

13 And I'm assuming, Allen, do you need to make
14 the same disclosure here?

15 BOARD MEMBER WALKER: Yes. Again, this is
16 Nevada Transportation, so I have to recuse myself.

17 BOARD CHAIRMAN WACHTER: Appreciate that.
18 And, Vanessa, we'll turn it over to you.

19 MS. SKRINJARIC: Okay. This is for Packer
20 Transportation Company.

21 It is the Administrator's recommendation to
22 accept this first supplemental request pursuant to NRS
23 616B.578 for the lumbar spine, L4-L5 herniation.

24 The total amount requested for reimbursement is
25 \$242,289.26. The amount of verified costs is

1 \$229,602.59. An explanation of the disallowance is
2 attached to this letter.

3 This request was received from Associated Risk
4 Management, Inc. on January 25th, 2021.

5 It contains payment and/or reporting for the
6 following expenses:

7 Hospitalists for the hospital stay of July
8 25th, 2018 to August 17, 2018;

9 Office visits with Dr. Halki from
10 February 12th, 2019 to June 10th, 2020;

11 Office visits with Dr. Rembetski from
12 February 12th, 2019 to July 15, 2019, including
13 March 18, 2019 surgery and April 4th, 2019 surgery;

14 Hospital stay from March 18, 2019 to March 21,
15 2019;

16 Anesthesiologist for March 18, 2019 surgery;

17 Emergency room visit on March 23rd, 2019;

18 EMS services on April 3rd, 2019;

19 Emergency room visit on April 3rd, 2019;

20 CT of the abdomen on April 3rd, 2019;

21 Renal sonogram on April 7, 2019;

22 Chest x-ray on April 9th, 2019;

23 Chest x-ray on April 13th, 2019;

24 Pulmonary perfusion with ventilation on
25 April 14, 2019;

1 Chest x-ray on April 17, 2019;
2 Chest x-ray on April 30th, 2019;
3 Hospital stay from April 3rd, 2019 to April 11,
4 2019;
5 Anesthesiologist for April 4th, 2019 surgery;
6 Hospitalists for the hospital stay of
7 April 3rd, 2019 to April 11, 2019;
8 Hospitalists for the hospital stay of April 11,
9 2019 to May 3rd, 2019;
10 Weekly wound debridement and cultures with Yuma
11 Medical Center from May 6, 2019 to March 9, 2020;
12 TTD from February 8th, 2017 to June 9th, 2020;
13 Voc rehab maintenance from June 10, 2020 to
14 September 30, 2020;
15 Vocational counselor fees from July 13, 2020 to
16 September 2nd, 2020;
17 Mileage reimbursement from August 15, 2020 to
18 August 19, 2020;
19 PTD from October 1, 2020 to December 1, 2020 in
20 the monthly amount of \$1,660.89.
21 At the last submission the Board was informed
22 that on July 25th, 2018, the employee underwent anterior
23 lumbar fusion with a titanium cage at L4-L5 and L5-S1
24 with a bone graft. The surgery was scheduled to be a
25 two-part surgery, with the second, posterior, surgery

1 the next day. The patient developed a high fever and it
2 was found he had an abdominal wound dehiscence which
3 necessitated a laparotomy and closure of the wound on
4 August 1, 2018. Due to the complications of the first
5 surgery, it was decided by Dr. Halki and assistant
6 surgeon Dr. Rembetski that the second, posterior,
7 surgery would be postponed for three to six months to
8 allow the patient time to heal. The patient was
9 discharged from the hospital on August 17th, 2018.

10 On March 18th, 2019, Dr. Rembetski performed a
11 robotic transverse abdominis muscle release and primary
12 closure with mesh reinforcement and closure of the
13 abdominal wall over drain.

14 On March 23rd, 2019, the employee presented to
15 the emergency room because he had bleeding around the
16 surgical site. He was released. On March 23rd, 2019,
17 Dr. Rembetski removed the drain. On April 3rd, 2019,
18 the employee was taken by ambulance to the emergency
19 room because the incision site had opened and was
20 spurting pus and leaking fluid. It was believed he had
21 an abscess. On April 4th, 2019, Dr. Rembetski performed
22 a debridement of the infected abdominal wound and
23 performed a drainage with a Pulsavac lavage. The
24 employee's cultures had heavy staph growth.
25 Additionally, the employee suffered an acute kidney

1 injury. This was believed to be caused by the sepsis he
2 suffered.

3 The employee was unable to care for his wound
4 so he was transferred to Tahoe Pacific Hospital for
5 ongoing wound care. While he was there, it was
6 determined that he had congestive heart failure. The
7 employee was released on May 3rd, 2019. He then moved
8 to Arizona.

9 Once in Arizona, the employee underwent weekly
10 wound debridement at the Yuma Regional Medical Center
11 from May 6, 2019 to March 9th, 2020.

12 On June 10th, 2020, the employee saw Dr. Halki
13 where it was determined that he would not undergo the
14 second, posterior, surgery for his back due to the
15 complications of the first surgery. Dr. Halki felt the
16 employee had permanent restrictions. Therefore, he was
17 sent to a vocational rehabilitation counselor. The
18 counselor felt the employee could not return to the work
19 force based on his disabilities, age, 71 years old,
20 education and prior work experience, truck driver. The
21 employee was placed on permanent total disability on
22 October 1, 2020.

23 That's all.

24 BOARD CHAIRMAN WACHTER: Perfect. Thank you,
25 Vanessa.

1 Any comments, Mr. Staub?

2 MR. STAUB: No comments. We agree with the
3 recommendation.

4 BOARD CHAIRMAN WACHTER: Any comments from the
5 State?

6 MR. ECCLES: No, but thank you for asking.

7 BOARD CHAIRMAN WACHTER: Excellent. Any
8 comments from the Board?

9 MR. BORDELOVE: No, sir.

10 BOARD CHAIRMAN WACHTER: Okay. Thank you.
11 Joyce, do you have anything to add?

12 BOARD MEMBER SMITH: Motion to approve.

13 BOARD CHAIRMAN WACHTER: Okay. We have a
14 motion by Joyce to approve case 5001-0640-2017-0358 in
15 the amount specified. I will second that motion. All
16 those in favor, say "aye."

17 (Board members said "aye.")

18 BOARD CHAIRMAN WACHTER: Any opposed?

19 The motion carries. Thank you all very, very
20 much for that.

21 MR. STAUB: Mr. Chairman --

22 BOARD CHAIRMAN WACHTER: I hope you have a tea
23 or something, Vanessa.

24 Mr. Staub.

25 MR. STAUB: Mr. Chairman, this is Richard

1 Staub. I'm going to sign off. All righty?

2 BOARD CHAIRMAN WACHTER: We'll miss you. Thank
3 you.

4 MR. STAUB: Thank you, everybody.

5 BOARD MEMBER SMITH: Bye-bye.

6 BOARD CHAIRMAN WACHTER: So we will now turn
7 our attention to agenda item number 8, general matters
8 of concern to Board members.

9 Joyce or Allen, do we have anything to add
10 here?

11 BOARD MEMBER WALKER: No.

12 BOARD MEMBER SMITH: I do not.

13 BOARD CHAIRMAN WACHTER: Okay. Then, we'll
14 move to old and new business.

15 Vanessa, do you have anything for us here?

16 MS. SKRINJARIC: No, just, you know, pretty
17 much, I think, everybody on this Board is out of their,
18 you know, appointments. Allen has indicated that he is
19 not going to be seeking reappointment. I have relayed
20 that to the Governor. Allen has said that he will
21 remain on the Board until he is replaced.

22 I think, Bryan, you've said the same things.

23 So. But at this time, I don't believe that
24 there is anybody who has applied to be on this Board.

25 And so I thank you very much for both of your

1 guys' service. Because, otherwise, we would not have a
2 quorum.

3 BOARD CHAIRMAN WACHTER: No problem.

4 BOARD MEMBER WALKER: That could get dopey.

5 MS. SKRINJARIC: Well, if nobody applies, then
6 they can't exactly appoint anybody. So thank you, Bryan
7 and Allen, for remaining despite fact that you're not
8 interested in being reappointed.

9 BOARD CHAIRMAN WACHTER: Appreciate that.

10 Anything from the State or Board counsel that
11 we should discuss here?

12 MR. ECCLES: Nothing from the State. Thank
13 you.

14 MR. BORDELOVE: No, sir.

15 BOARD CHAIRMAN WACHTER: Okay. Then, we could
16 move on to agenda 8.c. We have our next meeting
17 July 22nd. And any concerns or questions with that
18 date?

19 MS. SKRINJARIC: Nope.

20 BOARD CHAIRMAN WACHTER: Okay.

21 BOARD MEMBER SMITH: No.

22 BOARD CHAIRMAN WACHTER: Oh. Well, Joyce,
23 you're good?

24 BOARD MEMBER SMITH: That's the day after my
25 birthday. In case you wanted to have a cake down there.

1 I'm just saying.

2 BOARD CHAIRMAN WACHTER: Well, that's actually
3 a good question, is at what point do we transition back
4 to in-person? I think, the Governor's, you know,
5 directive on the Open Meeting Law and some of those have
6 changed. So is there a reason, Don, why we might move
7 back to in-person? Can we just keep them like this?
8 What's kind of the rule there?

9 MR. BORDELOVE: Right now, there's a bill
10 before the Legislature that would make the -- so,
11 essentially, the Governor, the Governor's directives are
12 due to expire soon, that basically got rid of the
13 location requirement, the physical location requirement.
14 That is possibly going to change. There's a bill before
15 the Legislature right now that would essentially make
16 that requirement, the physical location requirement go
17 away permanently. It looks like it's most likely going
18 to pass, and it's going to be effective upon signature.

19 So, most likely, what will happen is pretty
20 much the status quo right now, you can have a physical
21 location if you want, but you're not going to be
22 required to. What most administrative bodies that I've
23 seen are planning on doing is having a physical location
24 if there's interest, but still letting people, you know,
25 appear remotely or telephonically, you know, depending

1 on their personal situations. So it would kind of have
2 both in play.

3 BOARD MEMBER SMITH: Are you still there?

4 MS. SKRINJARIC: Yes, we're -- we're here.

5 BOARD CHAIRMAN WACHTER: Oh, I'm sorry. I was
6 on mute.

7 So do we want to just leave the status quo for
8 July, then, and then we can put that on the agenda, is
9 we'll have a discussion regarding the future location of
10 meetings?

11 MR. BORDELOVE: It's your preference, but that
12 seems like a good idea.

13 BOARD CHAIRMAN WACHTER: Joyce or Allen, any
14 comments there?

15 BOARD MEMBER WALKER: I'm fine with either. I
16 am fine with a physical meeting. I am back in town now
17 anyway, so. But if you want to just do it over the
18 phone, I'm good with that, too.

19 BOARD CHAIRMAN WACHTER: Joyce, do you have, do
20 you have a preference?

21 BOARD MEMBER SMITH: I was just going to do it
22 over the phone.

23 BOARD CHAIRMAN WACHTER: Okay.

24 BOARD MEMBER SMITH: It's just the easiest
25 thing to do.

1 BOARD CHAIRMAN WACHTER: Yep. So we're going
2 to keep the current status for the July 22nd meeting.
3 But I would, Vanessa, like to put something on the
4 agenda, maybe under 8.b., under old and new business,
5 let's just discuss that. And then, Don, if that bill
6 passes, you can give us kind of an update there. And
7 then we can have all of our ducks in a row to go
8 forward.

9 MS. SKRINJARIC: Okay.

10 MR. BORDELOVE: Sounds good.

11 MS. SKRINJARIC: So if that bill does not pass,
12 and the Governor's directives expire, that would mean
13 that a physical location is required. So that being
14 said, we here have a contingency plan on how to
15 accommodate that. So that means --

16 BOARD CHAIRMAN WACHTER: Okay.

17 MS. SKRINJARIC: -- in the July meeting, I will
18 have made arrangements on having the physical location
19 ready. If the bill does pass, then I will put that
20 matter on the agenda on how you guys want to deal with
21 it. How about that, is that a good plan?

22 BOARD CHAIRMAN WACHTER: That sounds, yep, that
23 sounds perfect.

24 MS. SKRINJARIC: Okay.

25 MR. BORDELOVE: And just so Joyce knows, even

1 if the bill doesn't pass, you can still appear
2 telephonically. There was a physical location
3 requirement. Even before all this happened, you were
4 allowed to appear telephonically. So that won't change.

5 MS. SKRINJARIC: Right.

6 BOARD CHAIRMAN WACHTER: Perfect. Well, then,
7 I appreciate that.

8 And then we will move, we'll ask for public
9 comment. Any member of the public that would like to
10 speak, now is the time.

11 MS. SKRINJARIC: And there is no --

12 BOARD CHAIRMAN WACHTER: There is none.

13 MS. SKRINJARIC: -- public.

14 BOARD CHAIRMAN WACHTER: Thank you, Vanessa.

15 We will then move, I will adjourn the meeting
16 at 10:49. And I appreciate all of your time. And I
17 hope you get some tea or something, Vanessa, for all
18 that reading you had to do.

19 MS. SKRINJARIC: Thank you.

20 BOARD CHAIRMAN WACHTER: And we'll see and hear
21 you guys back in July.

22 MS. SKRINJARIC: Bryan --

23 BOARD MEMBER SMITH: You as well.

24 MS. SKRINJARIC: -- hold on one second?

25 -oOo-