

**TUCKER
ARENSBERG
& SWARTZ**

STANLEY H. SIEGEL, OF COUNSEL
717-248-3913

Original: 2235

February 28, 2000

Honorable Johnny J. Butler
Secretary of Labor and Industry
Pennsylvania Department of Labor and Industry
1700 Labor and Industry Building
7th and Forster Streets
Harrisburg, PA 17120

Dear Secretary Butler:

On behalf of the Workers' Compensation Rules Committee,
I enclose copies of the following:

- (a) Special Rules of Administrative Practice and Procedure Before Judges - Revised Rules (2/00)
- (b) Special Rules of Administrative Practice and Procedure Before Judges - Revised Rules (2/00) containing Present Rules and Revised Rules in corresponding columns
- (c) Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeal Board - Revised Rules (2/00)
- (d) Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeal Board - Revised Rules (2/00) containing Present Rules and Revised Rules in corresponding columns.

The original Committee for Workers' Compensation Referees Rules and Procedures was appointed by the Honorable Charles J. Lieberth, the Secretary of Labor and Industry on May 13, 1980. This Committee was responsible for the preparation of the initial Referees Rules which became effective November 7, 1981.

Following the publication of the initial Rules, the Committee was inactive until 1987 when it was reactivated as the Workers' Compensation Rules Committee and assigned jurisdiction over the Referees (Judges) Rules, the Workmen's Compensation Appeal Board Rules and the Bureau of Workers' Compensation Regulations. The Committee determined not to exercise its assigned jurisdiction relating to the Bureau of Workers' Compensation Regulations.

12 SOUTH MAIN STREET PO BOX 867 LEWISTOWN, PA 17044-0867 717-248-3913 FACSIMILE 717-248-0661

111 North Front Street PO Box 888 Harrisburg, PA 17108-0888 717-234-4121 800-257-4121
Pittsburgh Office 1500 One PPG Place Pittsburgh, PA 15222 412-665-1212
Greensburg Office 139 South Main Street Greensburg, PA 15601 724-866-1612
Airport Professional Office Center 1150 Thom Run Road Ext. Moon Township, PA 15108 412-262-3790

**TUCKER
ARENSBERG
& SWARTZ**
ATTORNEYS

Honorable Johnny J. Butler
Page 2
February 28, 2000

As reactivated, the Committee consisted of four claimant's counsel, four defense counsel, four Workers' Compensation Referees (Judges), the Chairman of the Pennsylvania Senate Labor and Industry Committee, the Chairman of the Pennsylvania House of Representatives Labor Relations Committee, representatives of the Workmen's Compensation Appeal Board and representatives of the Bureau of Workers' Compensation and had a total of 21 members. There were three resignations from the Committee in 1997. These vacancies have not been filled. The present members of the Committee are as follows:

(a) Claimant's Counsel

1. Irwin W. Aronson - Camp Hill
2. Marc S. Jacobs - Philadelphia
3. John W. McTiernan - Pittsburgh
4. Vincent J. Quatrini, Jr. - Greensburg

(b) Defense Counsel

1. Stanley H. Siegel - Lewistown
2. James D. Strader - Pittsburgh
3. Harry K. Thomas - Erie
4. Peter J. Weber - Philadelphia

(c) Workers' Compensation Referees (Judges)

1. Honorable Francis J. Desimone - Johnstown
2. Honorable Joseph Hakun - Malvern
3. Honorable Wayne R. Rapkin - Hazleton
4. Honorable David B. Torrey - Pittsburgh

(d) Chairman of Pennsylvania Senate Labor and Industry Committee

The Honorable Gibson E. Armstrong

(e) Chairman of Pennsylvania House of Representatives Labor Relations Committee

The Honorable Joseph M. Gladeck

**TUCKER
ARENSBERG
& SWARTZ**
ATTORNEYS

Honorable Johnny J. Butler
Page 3
February 28, 2000

- (f) Workers' Compensation Appeal Board
1. Honorable Susan M. McDermott - Philadelphia
 2. David S. Hawkins - Harrisburg
- (g) Bureau of Workers' Compensation
1. Richard A. Himler - Harrisburg
 2. Thomas J. Kuzma - Harrisburg

The reactivated Committee completely revised the then existing Referees Rules and revised the Workmen's Compensation Appeal Board Rules. The present Special Rules of Administrative Practice and Procedure Before Referees were effective March 30, 1991, and the present Workmen's Compensation Appeal Board Rules which were also prepared by the Committee were effective April 8, 1989.

Since 1991, the Committee has received numerous written comments concerning the 1991 Referees (Judges) Rules. It quickly became evident that revisions to the Referees (Judges) Rules and the Board Rules were necessary for a number of reasons including the following:

- (a) Certain areas were not covered by the 1991 Referees (Judges) Rules because of a desire to complete work on these Rules.
- (b) Changes were required as the result of the enactment of Acts Nos. 1993-44 and 1996-57.
- (c) Experience demonstrated that certain Rules which were originally promulgated in 1989 and 1991 required revision.

Although the Committee met on October 22, 1992, and on October 28, 1993, it did not begin a serious reconsideration of the Referees (Judges) Rules and Board Rules until a meeting on February 16, 1996. The Committee then considered all written comments which had been received since the effective dates of the 1991 Referees (Judges) Rules and the 1989 Board Rules and other issues which required attention. After several meetings, the entire Committee determined which of the written comments and other issues warranted further detailed consideration.

The Committee was divided into four Subcommittees for the Referees (Judges) Rules and one Subcommittee for the Board

**TUCKER
ARENSBERG
& SWARTZ**
ATTORNEYS

Honorable Johnny J. Butler
Page 4
February 28, 2000

Rules. Each of the written comments and other issues which the entire Committee determined warranted consideration was assigned to a specific Subcommittee. The Subcommittees reviewed all of the assigned written comments and other issues in considerable detail. Each Subcommittee usually met several times either by telephone or in person.

During 1997, on April 10, 1997, September 18, 1997, November 14, 1997, and December 22, 1997, the full Committee met in all day sessions and considered at great length all of the recommendations from the various Subcommittees. First Drafts of Proposed Revisions to each set of Rules were prepared as a result of the determinations by the Committee at these meetings.

The First Drafts of Proposed Revisions were widely circulated among the entire workers' compensation community. Representatives of the Committee met with groups of all Workers' Compensation Judges in Pennsylvania and with various Bar Association groups at locations throughout Pennsylvania. The locations and dates of these meetings were as follows:

- (a) April 24, 1998 - Central and Eastern District Workers' Compensation Judges - Harrisburg, Pennsylvania
- (b) May 13, 1998 - Pennsylvania Bar Association Workers' Compensation Law Section - Hershey, Pennsylvania
- (c) May 20, 1998 - Philadelphia Bar Association Workers' Compensation Law Section - Philadelphia, Pennsylvania
- (d) June 12, 1998 - Western District Workers' Compensation Judges - Pittsburgh, Pennsylvania
- (e) June 26, 1998 - Southeastern Pennsylvania District Workers' Compensation Judges - Philadelphia, Pennsylvania
- (f) September 9, 1998 - Allegheny County Bar Association Workers' Compensation Law Section - Pittsburgh, Pennsylvania
- (g) September 18, 1998 - Pennsylvania Bar Association Workers' Compensation Law Section - Hershey, Pennsylvania
- (h) July 12, 1999 - Workers' Compensation Law Judges Conference - State College, Pennsylvania

TUCKER
ARENSBERG
& SWARTZ
ATTORNEYS

Honorable Johnny J. Butler
Page 5
February 28, 2000

The proposed revisions to the Board Rules were not considered at meetings with Workers' Compensation Judges.

Numerous suggestions were received as a result of all of the meetings held from April 24, 1998, to September 18, 1998. All of these suggestions were considered in detail by the full Committee at meetings of the Committee held on November 13, 1998, and March 2, 1999. Thereafter, in June 1999, a Second Draft of Proposed Revisions to the Referees (Judges) Rules was prepared incorporating the decisions of the Committee at the November 13, 1998, and March 2, 1999, meetings and was circulated to all members of the Committee for review and comment. Additional time was required to resolve a number of issues which arose subsequent to the circulation of the Second Draft of Proposed Revisions to the Referees (Judges) Rules and to incorporate into each set of Rules provisions relating to the superseding of the General Rules of Administrative Practice and Procedure. A Final Draft of Proposed Revisions to the Referees (Judges) Rules was circulated to all members of the Committee for approval on November 5, 1999. A Final Draft of Proposed Revisions to the Board Rules was circulated to all members of the Committee for approval on December 30, 1999.

The Committee's deliberations have been motivated solely by the desire to develop rules and procedures which will be fair and equitable to all parties and will promote the effective and expeditious administration of the workers' compensation system in Pennsylvania. Unfortunately, there were a number of delays during the process as a result of developments which indicated the desirability of postponing final action by the Committee. In addition, a determined effort was made to reach a consensus on all significant issues. As a result of all of the foregoing deliberations and meetings, the enclosed recommendations do represent the substantial consensus of the entire Committee.

The Committee fully recognizes your authority to take any action relating to the proposed revisions to the Referees (Judges) Rules and the proposed revisions to the Board Rules which you wish. In view, however, of the detailed and extensive consideration which the Committee has given to these proposed revisions to the Referees (Judges) Rules and the proposed revisions to the Board Rules, I respectfully urge that a Subcommittee of the Committee be given an opportunity to meet

TUCKER
ARENSBERG
& SWARTZ
ATTORNEYS

Honorable Johnny J. Butler
Page 6
February 28, 2000

with you to explain the rationale for any of the proposed revisions to the Referees (Judges) Rules and the proposed revisions to the Board Rules prior to the making of any changes in the proposed revisions to the Referees (Judges) Rules and the proposed revisions to the Board Rules. I also respectfully suggest that the proposed revisions to the Referees (Judges) Rules and the proposed revisions to the Board Rules must be each considered as a unit. Any revisions to specific provisions of either set of the proposed revisions may have undesirable effects on other provisions of the proposed revisions or existing Rules.

The Committee recommends that it be consulted concerning any comments which may be received or any problems which may develop during the regulatory approval process. The familiarity which the members of the Committee have developed relating to the proposed revisions to each set of Rules will facilitate a meaningful consideration and resolution of any comments or problems. The Committee also recommends that it be continued for the purpose of monitoring the effectiveness of both the Judges Rules and the Board Rules and recommending any subsequent revisions which experience may demonstrate to be desirable.

It would be inappropriate to conclude this report without mentioning the excellent, competent and efficient assistance given to the Committee by all of the Directors of the Bureau of Workers' Compensation with whom the Committee has worked. Particularly, in the years leading up to the preparation of the revised Referees (Judges) and Board Rules, Bureau Director Richard A. Himler has been outstanding in his general assistance, knowledgeable and thoughtful suggestions and complete cooperation. The devotion, cooperation and diligence displayed by every member of the Committee in the performance of the functions of the Committee has been excellent. Almost without exception, no member of the Committee at any time has refused any request to perform Committee functions, however burdensome the request may have been.

Any discussion of the work of the Committee necessitates specific reference to the highly competent and professional service rendered to the Committee by Melissa J. Magee. Without Ms. Magee's assistance as recorder at Committee meetings and as general handy person performing any task necessary to further the work of the Committee, it would have been impossible to complete

TUCKER
ARENSBERG
& SWARTZ
ATTORNEYS

Honorable Johnny J. Butler
Page 7
February 28, 2000

the proposed revisions to the Referees (Judges) Rules and to the Board Rules. Ms. Magee is one of the most efficient individuals with whom I have ever had the privilege of working. I trust that her unusual devotion to the work of the Committee will be recognized in some appropriate manner.

Respectfully yours,

STANLEY H. SIEGEL
Chairman
Workers' Compensation Rules Committee

SHS:cf

Enclosures

CC: Mr. Richard A. Himler
Director
Bureau of Workers' Compensation

Honorable Elizabeth A. Crum
Director of Adjudication

All Committee Members

(Each with copies of enclosures)