



COMPENSATION ADVISORY ORGANIZATION OF MICHIGAN

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May 13, 2002

**CIRCULAR LETTER #172 TO ALL MEMBERS
REGARDING THE REVISED BYLAWS
OF THE COMPENSATION ADVISORY ORGANIZATION OF MICHIGAN**

Dear Member:

Attached is a copy of the revised bylaws as adopted by the Board of Governors, and ratified by the membership at the Annual Meeting of the Compensation Advisory Organization of Michigan on April 23, 2002.

Please have an authorized official sign and date a copy of the *Acceptance of Membership* (last page), and return that page only to our office for retention in your company records. If you are signing for a group, please list all members of the group.

Thank you for your consideration.

Very truly yours,

Jerry J. Stage

COMPENSATION ADVISORY ORGANIZATION OF MICHIGAN

BYLAWS

ARTICLE I

Name

1.01. The name of this non-profit corporation shall be the Compensation Advisory Organization of Michigan (hereinafter referred to as the "Advisory Organization").

ARTICLE II

Purpose

2.01. It is the purpose of the Advisory Organization to perform all functions required of the designated advisory organization by Public Act No. 7, Public Acts of 1982, being Chapter 24 of the Michigan Insurance Code of 1956, as amended, MCLA 500.2407, and such other services for member insurers as are permitted by applicable law.

ARTICLE III

Effective Date

3.01. These Bylaws shall become effective upon approval by a majority vote of the Board of Governors and ratification by majority vote of the participating members.

ARTICLE IV

Definitions

4.01. As used in these Bylaws:

(a) "Assessable premiums" means the direct voluntary written premiums, including F classes, for workers' compensation insurance (exclusive of insurance provided under an excess policy for a qualified self-insured) written by a member in Michigan during a given calendar year.

(b) "Board" means the Board of Governors of the Advisory Organization.

(c) "F classes" means insurance provided pursuant to the United States Longshore and Harbor Worker's Compensation Act.

- (d) “Governor” means a member of the Board of Governors of the Advisory Organization.
- (e) “Member” means every insurer authorized to write workers’ compensation insurance in Michigan which elects to become a member of the Advisory Organization pursuant to Article V hereof.
- (f) “Participating Member” means a member of the Advisory Organization who in any given calendar year has a participation ratio greater than zero.
- (g) “Participation ratio” means the ratio of a member’s assessable premiums to the comparable statewide totals of all members.
- (h) “Subscriber” means each insurer authorized to write workers’ compensation insurance in Michigan that is not a member of the Advisory Organization.
- (i) “Workers’ Compensation Insurance” means insurance which provides any of the following:
 - (i) The security required pursuant to Act No. 317 of the Public Acts of 1969, as amended, (MCLA 418.101 to 418.941);
 - (ii) The security required pursuant to the United States Longshore and Harbor Worker’s Compensation Act;
or
 - (iii) Employer’s liability insurance, when contained in or endorsed to a policy providing the security described in (i) or (ii).

ARTICLE V

Members

5.01. **Membership.** Every insurer authorized to write workers’ compensation insurance in the State of Michigan shall be eligible to be a member of the Advisory Organization provided that no insurer having the same management or control as one or more other insurers may become a member unless all eligible insurers under the same management or control are or become members.

5.02. **Membership Procedure.** Each member of the Advisory Organization shall, through a duly authorized representative, execute and file with the Advisory Organization, an agreement to be bound by these Bylaws. Such acceptance of these Bylaws shall be deemed an agreement to be a member of the Advisory Organization.

5.03. Withdrawal. An insurer may withdraw as a member by giving sixty (60) days prior written notice thereof to the Chief Executive Officer of the Advisory Organization, provided that the withdrawing member shall continue to be bound by these Bylaws with respect to: (i) the performance and completion of any unsatisfied liabilities and obligations to the Advisory Organization, including assessments, expenses, contracts or other obligations incurred with respect to the period during which the insurer was a member, (ii) any reports required under Section 7.01 hereof relating to policies written by the insurer prior to its withdrawal from membership, and (iii) if the insurer continues to be authorized to write workers' compensation insurance in Michigan after the effective date of its withdrawal from membership, it shall become a subscriber.

5.04 Merger. When a member has been merged or consolidated into another insurer or another insurer has reinsured a member's entire business in this State, the member and the insurer which is the successor in interest of the member shall be liable for the member's obligation to the Advisory Organization thereafter.

ARTICLE VI

Subscribers

6.01. Subscription. Every insurer authorized to write workers' compensation insurance in the State of Michigan, including the Accident Fund, that is not a member of the Advisory Organization, shall become a subscriber to the basic services of the Advisory Organization, as described in Section 7.01.

6.02. Subscription Procedure. Each subscriber shall, through a duly authorized representative, execute and file with the Advisory Organization an agreement to be bound by applicable provisions of these Bylaws.

6.03 Withdrawal. An insurer may withdraw as a subscriber upon ceasing to be authorized to write workers' compensation insurance in the State of Michigan, provided the withdrawing subscriber shall continue to be bound by these Bylaws with respect to any reports required under Section 7.01 hereof relating to policies written by the insurer prior to its withdrawal.

ARTICLE VII

Advisory Organization Services

7.01. Basic Services. Each member and subscriber shall make reports to the Advisory Organization which conform to the data reporting requirements of the statistical plans of the Advisory Organization, as required by Section 2407 of the Michigan Insurance Code. The reports shall be made at the time and in the manner prescribed by the Advisory Organization. The Advisory Organization will collect and compile the data reported by members and subscribers and distribute the data to the Data Collection Agency for dissemination to all insurers.

7.02. Other Services. In addition to the services described in Section 7.01, a member may receive other services from the Advisory Organization not prohibited by law, on terms agreed upon by the Advisory Organization and member. The member shall pay a fee or assessment for other services, in addition to the assessment for basic services described in Section 18.02.

ARTICLE VIII

Offices

8.01. The offices of the Advisory Organization shall be at a location within the State of Michigan selected by the Board.

ARTICLE IX

Meetings of Members

9.01. Annual Meeting. The annual meeting of the members of the Advisory Organization shall be held at the offices of the Advisory Organization, or at another location selected by the Board. The annual meeting shall be held at a date and time fixed by the Board. The annual meeting shall be held for the purpose of electing the Board and transacting other business that may come before the meeting.

9.02. Special Meeting. Special meetings of the members may be called by the Board, the Chairperson of the Board, or upon the written request to the Board of any ten members no two or more of which are in a group under common management, ownership, or control.

9.03. Notice of Meetings. Written notice of the time, place and purpose of a meeting of members shall be given not less than twenty (20) days before the date of the meeting to each member. Such notices shall be mailed to the last address of the member as it appears on the books of the Advisory Organization. No notice need be given of an adjourned meeting of the members provided the time and place to which the meeting is adjourned are announced at a meeting at which the adjournment is taken and at the adjourned meeting the only business which is transacted is that which might have been transacted at the original meeting.

9.04. Quorum. The presence in person or by proxy of fifty-one percent of the participating members shall constitute a quorum for the transaction of business at any meeting of the members.

9.05. Voting at Meeting. Only participating members shall be entitled to vote. A participating member may vote by means of its authorized representative appearing in person or by proxy duly executed in writing and delivered to the Secretary of the Board prior to or at the meeting. Each participating member shall have one vote. Except as provided in Article XX, a proposal submitted to a vote of the members at a meeting at which a quorum is present shall be adopted if approved by a majority of the members present and voting.

9.06. Mail Ballots. Any matter, including the amendment of these Bylaws, upon which the participating members are required or permitted to vote, may be submitted to the participating members and voted upon by them by mail, provided this procedure is authorized by a majority of the members of the Board present and voting at any meeting of the Board. The Board shall fix a date for the counting of votes on proposals submitted to the participating members by mail, and such proposals shall be mailed to the participating members for voting not less than twenty (20) days prior to the date fixed by the Board for the counting of the votes. A proposal submitted to the participating members for a vote by mail shall be adopted if approved by a majority of the participating members.

ARTICLE X

Board of Governors

10.01. Powers. The Board of Governors shall have responsibility for administration of these Bylaws and management of the affairs and operation of the Advisory Organization, consistent with the Bylaws and applicable provisions of the Michigan Insurance Code.

10.02. Number. The Board shall consist of nine (9) members of the Advisory Organization elected by a majority vote of the participating members.

10.03. Term. Each Governor shall serve until the next annual meeting of the members, or until a successor is elected or designated, or until the Governor's resignation.

10.04. Resignations; Vacancies. The resignation of a Governor is effective upon receipt by the Advisory Organization of written notice thereof or at a subsequent time set forth in the notice of resignation. Any vacancy in the Board shall be filled from among the remaining members of the Advisory Organization within sixty (60) days by vote of the remaining Governors.

10.05. Appointment of Designated Representatives. Each member of the Board shall select a qualified person as its designated representative who shall act for such member in all matters, including attendance and voting at all meeting of the Board. In the event of the absence of the designated representative from any meeting, the member shall appoint a qualified person as its substitute representative who may attend with like powers in the place and stead of its usual representative.

10.06. Reimbursement for Expenses. Members of the Board shall serve without compensation, but they may be reimbursed, to the extent and in the manner approved by the Board, for their actual and necessary expenses incurred in attendance at Board meetings, committee meetings or otherwise in connection with Advisory Organization business. The Board may authorize reimbursement of the actual and necessary expenses incurred by others in serving on committees established by the Board or otherwise assisting the Board in the performance of its duties.

ARTICLE XI

Meetings of the Board of Governors

11.01. **Annual Meetings.** A regular annual meeting of the Board of Governors shall be held immediately following the annual meeting of the members without notice other than this provision of the Bylaws.

11.02. **Special Meetings.** Special meetings of the Board may be called by or at the request of the Chairperson or by any three (3) Governors. Notice of any special meeting of the Board shall be sent or mailed at least five (5) days in advance of the meeting, and such notice shall state the time, place and purpose of the meeting. Any Governor may waive notice of any meeting.

11.03. **Quorum and Votes.** At any meeting of the Board, five (5) Governors shall constitute a quorum for the transaction of business, and the acts of a majority of the Governors present at a meeting at which a quorum is present shall be the acts of the Board. Each member of the Board shall have one vote.

11.04. **Participation by Telephonic Means.** A member of the Board may participate in any meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear each other. Participation in a meeting pursuant to this section constitutes presence in person at the meeting.

11.05. **Written Consent.** Any action required or permitted at any meeting of the Board may be taken without a meeting, without prior notice, and without a vote, if all of the Governors consent thereto in writing.

ARTICLE XII

Officers

12.01. The Board shall elect a Chairperson and Vice Chairperson (each of whom shall be a member of the Board) at its annual meeting, and shall appoint a Secretary, a Chief Executive Officer, and any other officers it shall deem desirable.

(a) The Chairperson shall preside at all meetings of the Board and of members. The Chairperson may sign, with any other officer authorized by the Board, any deeds, mortgages, bonds, contracts or other instruments which the Board has authorized to be executed. The Chairperson shall discharge any other duties which are incidental to the office or are prescribed by the Board from time to time and shall serve as an ex-officio member of all committees.

(b) In the absence of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson.

(c) The Secretary shall keep the minutes of the meetings of the members and the Board; see that all notices are duly given in accordance with the provisions of these Bylaws; and discharge any other duties which are incidental to the office or are required by the Board.

(d) The Chief Executive Officer shall be responsible to the Board for supervision of the affairs of the Advisory Organization. The chief Executive Officer shall receive, disburse, and properly care and account for all funds, prepare reports necessary to disclose in detail the financial condition of the Advisory Organization as required by the Board and shall have the authority and exercise the powers as are conferred from time to time by the Board

ARTICLE XIII

Committees

13.01. **Standing Committees.** The Chairperson of the Board shall appoint the following standing committees:

(a) An **Operations Committee**, which shall review all aspects of the Advisory Organization's operations, and make recommendations to the Board regarding appropriate action to be taken with respect to operational matters. Members of the Operations Committee shall be Governors or other members of the Advisory Organization.

(b) A **Data Coordination Committee**, which shall assist in the development of the statistical plans referred to in Section 7.01 hereof, recommend to the Board the amount of the assessment for basic services, monitor the reports submitted by members and subscribers for conformance with the data reporting requirements of the Advisory Organization's statistical plans, evaluate and take appropriate action in cases in which a member's or subscriber's reports do not conform to the Advisory Organization's statistical plans, and any other functions that the Board shall direct. Any member or subscriber may, after making an appropriate request, present to the Data Coordination Committee its recommendations relating to the statistical plans or the assessment for basic services. Members of the Data Coordination Committee may include both members and subscribers of the Advisory Organization.

13.02. **Other Committees.** The Chairperson may appoint other standing committees or special committees as may be deemed necessary for the conduct of the Advisory Organization's affairs.

ARTICLE XIV

Administration

14.01. **Performance of Administrative Functions.** The Board may employ persons, firms or corporations as it deems appropriate to perform the administrative functions necessary to fulfill any

of the duties imposed on the Board or the Advisory Organization. A person, firm or corporation employed by the Advisory Organization shall keep records of its activities as may be required by the Board.

14.02. Bank Accounts. The Board may open bank accounts for use in Advisory Organization business. Reasonable delegation of deposit and withdrawal authority to the accounts for Advisory Organization business may be made consistent with prudent fiscal policy.

14.03. Borrowings. The Board may borrow money from any person or organization, including a member, on terms that the Board in its judgement deems advantageous for the Advisory Organization.

14.04. Contracting with Others. The Board may contract with one or more persons, firms or corporations (including a member) for goods and services required to carry out the efficient operation of the Advisory Organization.

14.05. Audits. The Board shall appoint a properly qualified firm of independent public accountants to conduct an annual audit of the books and records of the Advisory Organization.

ARTICLE XV

Books and Records

15.01. The Advisory Organization shall keep correct and complete books and records of accounts and shall also keep minutes of the important proceedings of each Board meeting and shall keep at the principal office a record giving names and addresses of all members.

ARTICLE XVI

Fiscal Year

16.01. The fiscal year of the Advisory Organization shall begin on the first day of January and end on the last day of December of each year.

ARTICLE XVII

Indemnification

17.01 Each person or entity (hereinafter referred to collectively as “the person”) who is or shall be in the future a governor, officer or employee of the Advisory Organization, a member of any committee or subcommittee of the Advisory Organization, or an agent of the Advisory Organization who with the approval of the Board is acting lawfully on behalf of the Advisory Organization, shall be indemnified and reimbursed by the Advisory Organization for expenses (including attorney’s fees)

reasonably incurred by the person, the cost of reasonable settlement and liabilities imposed upon or incurred by the person in connection with or arising out of any claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of being or having been a governor, officer, employee, agent or member of any committee or subcommittee of the Advisory Organization, by reason of any action taken or not taken by the person or obligation entered into in the performance of the person's duties on behalf of the Advisory Organization (whether or not the person continues to be a governor, officer, agent or employee of the Advisory Organization or a member of a committee or subcommittee of the Advisory Organization at the time of incurring such expenses, cost or liabilities). The Advisory Organization shall not, however, indemnify or reimburse any person (a) in relation to any matter in any claim, action, suit, or proceeding as to which the person shall finally be adjudged to have been guilty of breach of duty as a director, officer, agent or employee of the Advisory Organization or as a member of any committee or subcommittee of the Advisory Organization, or (b) in relation to any matter in any claim, action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement; unless in either case the person acted in good faith for a purpose which the person reasonably believed to be in the best interests of the Advisory Organization and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that the conduct in question was unlawful. The determination whether the conduct of the person met the standard required in order to justify indemnification or reimbursement in relation to any matter described in (a) or (b) of the preceding sentence may only be made in any one of the following ways:

- (i) by a majority vote of those governors of the Advisory Organization who are not seeking indemnification hereunder as a result of the same occurrence:
- (ii) by the majority vote of the participating members, each member being allotted one vote; or
- (iii) by independent legal counsel in a written opinion.

No adjudication of liability or guilt as to the person shall in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of the successors, assigns, estate, heirs, executors, administrators, legatees and devisees of the person. The expense of indemnification and reimbursement shall be treated as a cost of administering the Advisory Organization in the year in which payment is made by the Advisory Organization and shall be charged to all participating members in the manner provided in Article XVIII. Expenses incurred in defending a claim, action, suit or proceeding may be paid by the Advisory Organization in advance of final disposition thereof, upon receipt of an undertaking by or on behalf of the person involved to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the Advisory Organization.

ARTICLE XVIII

Fees and Assessments

18.01. Fees for Special Services. Each member shall pay to the Advisory Organization, as and when demanded, the fees charged it for any special services rendered, as described in Section 7.02 hereof.

18.02. Assessments for Basic Services.

(a) After considering the recommendations of the Data Coordination Committee, the Board shall determine the total assessments necessary to cover expenses related to the basic services described in Section 7.01 hereof and the expenses of the Data Collection Agency which the designated advisory organization is required by Section 2407 (7) of the Michigan Insurance Code, as amended, to bear, for the fiscal year.

(b) Each member will be assessed in proportion to its participation ratio with respect to the period for which the assessment is made.

(c) The timing of assessments shall be as determined by the Board. In the event the Board determines that the Advisory Organization needs funds to cover expenses described in subsection (a) hereof before the assessment has been determined for a given fiscal year, it may make preliminary assessments as may be required in its judgement. A preliminary assessment shall be apportioned on the basis of the latest available calendar year's writings and the preliminary assessment paid by each member shall be applied against its assessment as finally determined for the fiscal year during which the preliminary assessment was made.

(d) If for any reason the foregoing basis should not be applicable in a given case, the Board shall determine an equitable basis for assessment in that case.

18.03. Assessments for Special Services. The Board may make one or more assessments in addition to those described in Section 18.02 for the purpose of financing special services furnished to members. Any additional assessment levied pursuant to this section shall be payable by members only.

18.04. Payment of Assessments. Assessments shall be due and payable in portions, or in their entirety, and at times as the Board shall determine.

ARTICLE XIX

Insolvency

19.01. Insolvency. In the event any member fails, by reason of insolvency, to pay its portion of any Advisory Organization assessment or expense, the unpaid amount shall be paid by the remaining members and subscribers, each contributing in the manner provided for the distribution of expenses under Article XVIII hereof, excluding from such calculation the share of the insolvent member or subscriber.

19.02. Subrogation. The Advisory Organization shall be subrogated to the rights of the remaining members in any liquidation proceeding and shall have full authority to exercise such rights on their behalf in any action or proceeding.

ARTICLE XX

Amendments

20.01 These Bylaws may be amended, altered or repealed, in whole or in part, only by majority vote of the Board, ratified by a majority vote of the participating members.

**ACCEPTANCE OF MEMBERSHIP
IN THE
COMPENSATION ADVISORY ORGANIZATION OF MICHIGAN**

Pursuant to the provisions of the Bylaws of the Compensation Advisory Organization of Michigan, the undersigned insurer hereby signifies its acceptance of membership in said Advisory Organization and hereby agrees to observe and to be bound by the Bylaws of the Advisory Organization as presently in force and as may hereafter be amended.

(Name of Insurer)

By:

(Signature of Authorized Official)

(Title of Authorized Official)

(Place and Date)