



**CHARLES D. BAKER, JR.**  
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LIEUTENANT GOVERNOR

## **MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL**

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**JOHN A. PULGINI**  
CHAIR

**TODD R. JOHNSON**  
VICE-CHAIR

**MAUREEN O'CONNELL**  
EXECUTIVE DIRECTOR

### **MINUTES**

January 8, 2020  
Department of Industrial Accidents  
Lafayette City Center  
2 Avenue de Lafayette  
Boston, MA 02111-1750

**Attendees:** John Pulgini; Todd Johnson; Mickey Long; Stephen Joyce; Teri McHugh; James Steenbruggen; Patrick Walsh; Stephen Falvey; Sheri Bowles, Interim Director; Bill Taupier, Director of Administration; Kevin O'Leary, General Counsel; Omar Hernandez, Senior Judge; Karen Fabiszewski, Director of Workers' Compensation Trust Fund; Peter Vitali, Lawrence Regional Manager; Shamia Monroe, Regional Manager Fall River; Vincent Lopes, Regional Manager Worcester; Roman Dolanschi, Workers' Compensation Research Institute (WCRI); and Maureen O'Connell.

### **AGENDA**

#### **CHAIRMAN'S WELCOME**

#### **DIA UPDATE**

- DIA Judicial Update - Senior Judge Omar Hernandez
  - Conference | Hearing | Reviewing Board Queue
  - Impartial Medical Exams | Physicians
- DIA Vital Statistics - Bill Taupier, Director of Administration
  - Cases Filed with DIA
  - Workers' Compensation Trust Fund
  - Personnel Update
  - Enforcement and Compliance
- Director's Update - Sheri Bowles, Interim Director

#### **EXECUTIVE DIRECTOR'S UPDATE**

- Open Meeting Law

#### **ACTION ITEMS**

- Minutes - November 13, 2019
- Minutes – December 11, 2019

#### **COMMUNICATIONS**

N/A

#### **MISCELLANEOUS**

- Karen Fabiszewski, Director of the Workers' Compensation Trust Fund

## **CHAIRMAN'S WELCOME**

Chairman John Pulgini called this meeting to order at 9:08am.

## **DIA UPDATE**

### **Judicial Update**

Senior Judge Omar Hernandez stated that queues are in good shape; the conference queue for January 2020 is down a bit and that all judges have been staying on top of their cases. With respect to the Judicial reappointments, Judges Calliotte, Herlihy, Preston, and Williams have been reappointed and will be meeting with Lieutenant Governor Karyn Polito next.

Chairman John Pulgini inquired as to the next judges that could be potentially retiring. Judge Vieira and Harpin retired in 2019, possibly Judge Heffernan, and Judge Braithwaite has been taken offline.

Council Member Mickey Long expressed his appreciation for Senior Judge Hernandez and his work.

Vice Chair Todd Johnson asked if Senior Judge Hernandez knew at any given time the number of cases that judges have, Senior Judge confirmed that this information is available from the DIA Report #43.

Senior Judge Hernandez provided an update to the request that Council Member Michael Kelley had with respect to the impartial process. Senior Judge had a meeting with the Workers' Compensation Massachusetts Bar Association and had talks about potentially making changes to this process. He's considering polling the physicians to see if the fee is a factor in them leaving the system. Physicians have mentioned the amount of documents that have to be reviewed.

Council Member Teri McHugh provided her experience as an attorney with the impartial process and confirmed that there is duplicate medical information uploaded to the system from both sides (employer/employee).

Senior Judge Hernandez said that there would be a lot of factors in recruiting doctors and that there would be a public hearing on the matter. General Counsel Kevin O'Leary mentioned previous Advisory Council discussions where the impartial fee could be added to the state average weekly wage (SAWW is currently at \$1,400.00).

Without any further questions for Senior Judge Hernandez, Chairman Pulgini directed the floor to Director of Administration, Bill Taupier.

## **Vital Statistics**

Director of Administration, Bill Taupier said that the January Conference queue is 540 cases, which is down compared to the December figure of 604. Currently, the average waiting period for a

conference is 10 to 14 weeks. The January 2020 Hearing queue is 825, this is up when compared to the December figure of 707.

Mr. Taupier said that currently, the pending hearing decisions are at 5, and have trended downward for the previous four months - September at seven, October five, and November four.

Mr. Taupier said the Reviewing Board inventory of cases on appeal for the month of January is 63 cases. This is up when compared to the December inventory of 67. For FY 2020, 1,899 Impartial Medical Exams (IMEs) were scheduled, with \$884,163 in exam fees collected.

Mr. Taupier said the DIA issued 86 Stop Work Orders (SWOs) in the month of December for a total of 637 for FY 2020. Please note that 34 SWOs were reissued as the result of defaults of previous orders. Fine collection for the month of December 2019 was \$69,718.00 with a FY 2020 total of \$312,516.00. For Fiscal Year 2019 a total of 2,028 SWOs were issued and total fines collected was \$1,165,656. The DIA conducted 6,572 total compliance checks in the month of December (Office compliance checks – 3,306 & Field compliance checks – 3,266). As a result of these efforts an estimated 2,146 workers have been brought under workers' compensation insurance coverage during the current fiscal year. During FY 2019 we estimate that number of workers was 5,486.

Council Member Stephen Joyce asked for a timeline when new investigators would be hired, Senior Management confirmed that it was a lengthy process.

Mr. Taupier reported the number of cases filed in December 2019 was 911. First Report of Injury (FRI) filings for December were 2,876. Total FRIs filed for FY 2020 is 17,011. Total cases filed for FY 2020 is 6,035; the total number of cases filed in FY 2019 was 12,659. The total number of FRIs filed for FY 2019 was 34,169. Please note: a case is an employee claim, an insurers request for discontinuance or a third party claim/lien.

Mr. Taupier said that as of December 31, 2019, 51 uninsured injuries have been reported to the Workers' Compensation Trust Fund (WCTF) for Fiscal Year 2020 and are trending lower. For Fiscal Year 2019, a total of 117 new Section 65 injuries were recorded. *Please note, claims may be determined to be insured or uninsured after they have been filed.* As of this date, payments against open claims in FY 2020 stands at \$3,621,214.00, recovery efforts are \$660,269.00. The WCTF made \$6,613,536 in payments against open claims during FY 2019.

Mr. Taupier said that the Secondary Injury Fund Budget and Payment by Fiscal Year charts shows dollars Paid for Section 37/37A Claims (including quarterly payments and interest) by Fiscal Year. Section 37/37A claims are filed by insurers who are seeking reimbursement of up to 75% of benefits paid for a second injury per the statute, payments include interest. Mr. Taupier provided statistics on the Second Injury Fund: \$6,226,612.00. The COLA reimbursements were \$1,925,042.00. COLAs are quarterly and lag behind.

Mr. Taupier continued to update the Advisory Council on the personnel update, 212, with two hires and one departure. Mr. Taupier confirmed that the two hires were conciliators (one for Worcester one

for Springfield) and one retirement.

With regard to referral fees, \$2,013,607.00 has been received thus far and in assessment collections, \$31,628,082.00.

Without any further questions for Mr. Taupier, Chairman Pulgini directed the floor to Interim Director Sheri Bowles.

#### **Interim Director Update**

Interim Director Bowles indicated that the Performance Audit is ongoing. The lease for the DIA Lawrence office is up for renewal, there is no discussion about moving, just a lease renewal.

Without any further questions for Interim Director Bowles, Chairman Pulgini directed the floor to Executive Director Maureen O'Connell.

#### **Executive Director's Update**

Executive Director Maureen O'Connell updated the Council on the Open Meeting Law and requested that all members sign the acknowledgement form. A reminder was also provided to Advisory Council Members about the reappointment process and to forward their appointment letters to the Executive Director to maintain records accuracy.

#### **Guest Speaker**

Karen Fabiszewski, Director of the Workers' Compensation Trust Fund updated the Advisory Council members on the seven (7) page handout given to members in the meeting. This was an active case summary to include payment ranges, dates of injury, top 20 highest paid claims in FY 2019, and the list of employers of uninsured claims filed in FY 2019.

Without additional questions for Ms. Fabiszewski, Chairman Pulgini moved to the Action Items listed on the Agenda.

With eight (8) voting members in attendance and with a quorum, votes were taken on the November 13, and December 2019 minutes.

Without additional questions, the meeting adjourned at 10:30am.

**The next meeting of the Advisory Council is tentatively scheduled for February 12, 2020, 9:00am at the Department of Industrial Accidents, Lafayette City Center, 2 Avenue de Lafayette, Commons Conference Room, Boston, MA 02111-1750**