



CHARLES D. BAKER
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MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL

LAFAYETTE CITY CENTER
2 AVENUE DE LAFAYETTE
BOSTON, MASSACHUSETTS 02111

JOHN A. PULGINI
CHAIR

TODD R. JOHNSON
VICE-CHAIR

MAUREEN O'CONNELL
EXECUTIVE DIRECTOR

MINUTES

April 13, 2022
Via WebEx

Present: Attendees: John Pulgini, Stephen Joyce, Teri McHugh, Michael Kelley, Bernie Mulholland, Jim Steenbruggen, Patrick Walsh, Stephen Falvey; Sheri Bowles – DIA Interim Director, Bill Taupier – DIA Director of Administration, Senior Judge Omar Hernandez – DIA Senior Judge, Kevin O'Leary – DIA General Counsel, Interim Director WCTF Holly Anderson, Bob Cronin Investigations, Maryann Brunton, Vinnie Lopes, Shamia Moore; Ginny McCarthy – WCRIBMA; Roman Dolinschi, Christopher Stark - MA Insurance Federation, Virginia McCarthy - WCRIBMA; Frank Rivera - MassPort; Caleb Huntington - DOI; Attorney Kerry Nero - City of Boston, Attorney Alicia DelSignore, Lena-Kate Ahern - City of Boston, Julie Bowler - Atlantic Charter, Attorney James Ramsey, Attorney Peter Francomano, Attorney Lori Favata, Attorney James Ramsey, Attorney David O'Connor, Attorney Buzz Schneider, Attorney Brian Sullivan, Attorney Ned Barrett, Attorney Ana Mari deGaravilla, Attorney Courtney Pidani, Attorney Ryan Benharris, Edwin Barrett ; and Maureen O'Connell.

Date: April 13, 2022
Location: Department of Industrial Accidents - via WebEx
Lafayette City Center
2 Avenue de Lafayette, Boston, MA 02111
Time: 9:00 A.M.
Notice: All meetings are voice recorded to aid in preparing "hard copy" minutes.

1. CHAIRMAN'S WELCOME

2. DIA UPDATE

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

3. EXECUTIVE DIRECTOR'S UPDATE

- o Legislative update

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4. ACTION ITEMS

- o Minutes - February 9, 2022
- o Minutes - March 9, 2022

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

N/A

Chairman John Pulgini began the meeting at 9:02am and asked Senior Judge Omar Hernandez to provide an update on judicial activity. Senior Judge Hernandez indicated that the unit is resolving cases, thank you to Dele Edibiri and his conciliation staff. Judges and Attorneys are working hard to get the queue down, moving in a positive direction. With respect to conferences, also moving in a positive direction.

Council Michael Kelley asked about the timeframes in regions to go to conciliation to conference: Fall River 5-5 1/2 months, 3-4 months for all other regions. Judge Stephen Murray will be assigned to Fall River at the end of the month (April 25) and that will address the Fall River timeframe (DIA has been without a fourth judge for 2+ years). Judges have been moved to Fall River to maintain the timeline. Council Member Kelley asked when will the conferences go back in-person, factors are in place (Covid-19, mask mandates, increase in gas prices) and online is working, this will be revisited month to month, there are a lot of moving parts to go from virtual to in-person. Senior Judge Hernandez' goal is to go back in person at some point. Council Member Kelley asked to make this a priority, judges are going forward without all parties. As you can see with the numbers, cases are moving in a positive direction. A judges meeting will be taking place this week and these issues will be addressed and if you have any issues they will be addressed.

Pending hearing decisions are in great shape. Reviewing Board is writing new decisions. Scheduling impartial examinations, we'd like to have new doctors. Dr. Naris has not been writing reports, and if that is in your case, petition judge to open up the record and DIA will refund your fee. Exams have not been scheduled with Dr. Naris. New doctors are on board and will be utilized moving forward. Council Member Teri McHugh mentioned that Dr. Naris indicated it will be 10-12 weeks to get a report.

Judge Jamie Spiller Kaplan will return to the office in August-September 2022. We wish her well and will be in Boston at the end of the summer.

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

Chairman John Pulgini asked what judge was going to Fall River and if there are open spots. Who took Judge Benoit's spot, asked Chairman Pulgini, Senior Judge Hernandez mentioned that he'd get back to the Chairman.

With respect to conciliations, 452 were resolved and 391 were referred to a conference: 53.6%. During FY '22, attorneys have requested 5,443 continuances. The average waiting period is

10-22 weeks for a conference. The number of conferences scheduled: 526; hearings scheduled: 321; orders issued: 260 hearings scheduled, 4 pending hearing decisions, 12 in dispute resolution inventory. Impartial medical exams: 2,421; fee waivers granted: 42; exam fees collected: \$1,608,671; attorneys fees collected: \$64,914,976; and Sections 7/8 penalties: \$3,274.

With respect to Compliance and Enforcement, there were 140 SWOs issued; 1,377 compliance letters sent during the month of March, and \$109,421 fines collected (FY'22 total fines collected: \$592,071). DIA conducted 6,446 total compliance checks and 372 field investigations, FY 2022 DIA conducted 46,615 compliance checks, and there are 2,431 employees brought under workers' compensation insurance.

Council Member Stephen Falvey asked Mr. Taupier about the investigation report and the new abbreviations (NRNW). Without knowledge of the acronyms, Mr. Taupier will clarify and get back to Council Member Falvey.

First Report of Injury (FRI) cases, 1,004, FRI 3.074, and in FY 2022 FRI were 26,799. Covid-19 FRI were 71 with healthcare 10,468 (73%). Lump sum 64, appeals to hearing 26, and Section 19 44. There are 56 new Section 65 injuries in the Workers' Compensation Trust Fund and \$5,412,483 payments against open claims (36 claims by industry and 22 claims by occupation - construction. The civil litigation unit has recovered \$620,330.

Council Member Kelley asked about Covid-19 decisions, one was appealed to the reviewing board, and whether he could read it as it's a public record. Senior Judge Hernandez said he'd get back to Council Member Kelley.

Council Member Falvey asked if PTSD is a workers' compensation covered situation. Mr. Taupier deferred to Senior Judge Hernandez, who responded yes, it depends on the situation. Are the claims that we've been looking at over the last 2+ years, are any of the cases PTSD related. Senior Judge Hernandez said he'd look into this further. Great question said Senior Judge Hernandez.

The Second Injury budget is \$27,000,000 and payments made were \$17,839,675. COLA reimbursements were \$1,255,324, Section 34 budget \$10,900,000. Referral fees were \$2,957,758. Assessment collection budget is \$61,157,033 with collections standing at \$44,533,758. Personnel is at 194 (66 Administration, 73 dispute, 15, legal, 30 WCTF, and 10 finance). Slide deck has been adjusted to reflect breakdown of personnel.

Without questions for Mr. Taupier the floor was directed to Interim Director Sheri Bowles.

Director Bowles has one quick update, a reminder, the grant application has opened up and is open until August 31, 2022.

Without questions for Director Bowles, Chairman Pulgini asked the participants in the meeting if they had any questions. Without any questions, Chairman Pulgini directed the floor to Executive Director Maureen O'Connell.

Executive Director Maureen O'Connell mentioned that she has a few updates: legislation, two bills HB4606 (act to protect injured workers), redraft of SB1187 HB2032, reported favorably and is now in House Ways and Means. HB4609 (permanent disfigurement), redraft of HB1995 & HB2053, major changes triple max disfigurement benefits, reported favorably and is now in House Ways and Means. With respect to the Open Meeting Law, meetings will be virtual until July 15, 2022. Please check our website for updates. Without any further updates and no questions for Director Bowles the floor was directed back to Executive Director O'Connell.

On April 19, 2022, the Nominating Panel is conducting judicial interviews (four reappointments & one new candidate) and the Advisory Council has availability April 25 and 27. Chairman Pulgini picked Monday April 25, 2022 at 2:00pm for judicial interviews. Council Member Falvey asked if they fill out the same application process, Senior Judge Hernandez confirmed.

Without further questions for Executive Director O'Connell and without a quorum the meeting concluded at 9:27 am.