



**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

## **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 - REVISED**

August 10, 2022  
Via WebEx

**Present:** Attendees: John Pulgini, Todd Johnson, Stephen Joyce, Teri McHugh, Michael Kelley, 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, WCTF Director Holly Anderson, Dennis Johnson, Attorney Timothy Foley, Shamia Moore, Vinnie Lopes; Christopher Stark - Mass Insurance Federation; Kharissa Meo, Courtney Pidani, Lena-Kate Mulhern, Julie Bowler, Attorney Ana Mari deGaravilla, Attorney John Leone, Attorney Maryanne Calnan, Attorney Lori Favata, Attorney Alicia DelSignore, Attorney Patrick Francomano; Ramona Tanabe - WCRI, Kathleen Fisher - WCRI, Roman Dolinschi - WCRI, Frank Rivera - Massport, and Maureen O'Connell.

**Date:** August 10, 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
- o Open Meeting Law

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- o Petition 21-11/12

#### 4. ACTION ITEMS

- o Minutes - February 9, 2022
- o Minutes - March 9, 2022
- o Minutes - April 13, 2022
- o Minutes - May 11, 2022
- o Minutes - June 8, 2022

#### 5. COMMUNICATIONS

N/A

#### 6. MISCELLANEOUS

N/A

Chairman John Pulgini began the meeting at 9:03am and asked Senior Judge Omar Hernandez to provide an update on judicial activity. Senior Judge Hernandez indicated that the unit is resolving cases, 55%, highest ever, thank you to Dele Edibiri, even with the short staff in his unit. With respect to hearing queue brought the down 50%, Judges doing great work, mediation is working. Attorneys doing their job and doing it well. Average waiting period: 10-16 weeks. Conference queue trending downward. Outside Counsel gave praise to Senior Judge Hernandez staff.

Vice Chair Todd Johnson echoed the positive sentiment of Senior Judge Hernandez staff and wanted the perspective on the hearing and conference queue, what it looked like pre-pandemic, how do we compare to 2019, prior to pandemic statistics. Continuances in 2019, 11,700 continuances, and in 2022, down to 6,200. Less delay now, cases are moving quicker through they system. Lump sum settlements have increased 6%. Vice Chair Johnson shared his experiences, employers are struggling to hire individuals, in many industries, not back to pre-pandemic levels, paying people higher wages. In my business, TPA administration claims are increasing, but not pre-pandemic levels of reporting. The numbers are positive on this slide deck and wanted a comparative from 2019 -2022.

Senior Judge Hernandez said that he'd put together a chart for the September meeting.

Pending hearing decisions are at 6, good shape. Reviewing board is operating steady. Impartial fees are within normal range.

New Judge began in Boston last week, Jamie Spiller Kaplan, sitting in on cases and Senior Judge Hernandez said that he was excited to have Judge Kaplan on board.

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

Mr. Taupier indicated that this is the beginning of the fiscal year and the numbers are low.

With respect to conciliations, 599 were resolved and 499 were referred to a conference: 54.6%, an increase since last month. During FY '23, attorneys have requested 667 continuances and during FY'22 there were 6,293 continuances. The average waiting period is 10-16 weeks for a conference, a decrease when compared to last month.

The number of conferences scheduled: 798; hearings scheduled: 557; orders issued: 274, appeals to the reviewing board: 1, and 6 pending hearing decisions. Reviewing board inventory: 22.

With respect to Dispute Resolution: 1 fee waiver was granted; \$142,149 was collected in exam fees; \$6,966,392 in attorney's fees; and zero dollars in Section 7 + 8 penalties.

With respect to Compliance and Enforcement, there were 100 SWOs issued and 3 default; 1,145 compliance letters sent in the month of July, 2022. There were 4,807 in total compliance checks, 204 field investigations since the beginning of July, 2022. Fine collection for the month of July was \$69,760. There are now 355 employees covered by workers' compensation insurance as a result of these checks.

Council Member Stephen Falvey asked about full investigative staffing. General Counsel Kevin O'Leary mentioned that the interview process is ongoing to hire two investigators and supervisor.

Vice Chair Johnson appreciated the telling numbers, happy to hear what has been taking place.

First Report of Injury (FRI) cases, 841 cases filed in July, 2022, FRI filings: 2,872. Total cases: 841, employee claims: 726, insurance discontinuances: 113, and 2 third-party cases.

With respect to Covid-19 FRIs, 178 were filed with 11,350 in healthcare (73%) and 915 in social services (6%). Lump sum agreement: 84, Section 19 agreement: 50, Withdrawn prior to conciliation: 30, Hearing scheduled: 16, and Appeal to hearing: 15.

Vice Chair Johnson asked for clarification about 10 hearings scheduled, 28 appeal to hearing. Mr. Taupier explained that the appeal to hearing means conference order has been appealed, 10 hearings means a date has been scheduled. One Covid case has gone to the review board, Mr. Taupier indicated yes.

Council Member Michael Kelley asked if he could get a copy of the reviewing board case. Senior Judge Hernandez indicated that the case would be redacted. Isn't the hearing decision a public document, asked Council Member Kelley. Hearing decisions are not public, reviewing board cases are published. Hearing decisions are redacted because they contain personal information. Council Member Kelley went on record to request the case.

With respect to the Workers' Compensation Trust Fund, there are 86 new Section 65 injuries (8 in July, 2022), and \$359,091 payments made against open claims out of a

\$8,200,000 budget. With regard to occupation: 2 laborer and 2 carpenter, by industry 4 construction and 2 parcel delivery. 5,761,538 in FY '21 (40 claims by industry: construction, and

25 laborer, 3 driver by occupation). The civil litigation unit has recovered zero dollars in the month of July.

The Second Injury budget is \$27,000,000 and payments made were \$454,578. COLA reimbursements were zero. Referral fees were \$335,115. Assessment collection budget is \$61,157,033 with collections standing at \$1,407,704. Personnel: 196 (68 Administration, 76 dispute, 15, legal, 27 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 did not have an update for the Council.

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

Executive Director O'Connell updated the Advisory Council on the Open Meeting Law. Governor Baker extended some pandemic-related policies, and remote meetings were one of them. The Advisory Council will operate in a virtual environment (via WebEx) until March 31, 2022. The next update is in reference to Petition 21-11/12. The case is before the Supreme Court in MA and the justices dismissed this case, it will not be on the November 2022 ballot. The annual report process for FY '22 has begun. Lastly, there have been no changes in the legislative bills since our last meeting. The legislative session is over.

Director O'Connell asked Chairman Pulgini about meeting to vote on minutes and he requested an email be sent to the Advisory Council Members to ask for their availability.

Chairman Pulgini asked if the guests today had questions.

Council Member Michael Kelley asked Senior Judge Hernandez for the details on the September plan for the live conferences. It will be reviewed and the decision will be made in September indicated Senior Judge Hernandez. Council Member Kelley asked if the Council could get an update on it at the next meeting, yes stated Senior Judge Hernandez. In closing, Council Member Kelley strongly endorsed that the DIA go back to live conferences. Senior Judge Hernandez acknowledged Council Member Kelley's request.

Without further questions for Executive Director O'Connell and without a quorum the meeting concluded at 9:35 am.