



**CHARLES D. BAKER**  
GOVERNOR

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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**

July 14, 2021

Via WebEx

**Present:** Attendees: John Pulgini, Stephen Joyce, Teri McHugh, James Steenbruggen, Michael Kelley, Bernie Mulholland, Patrick Walsh; Sheri Bowles – DIA Interim Director, Bill Taupier – DIA Director of Administration, Senior Judge Omar Hernandez – DIA Senior Judge, Kevin O'Leary – DIA General Counsel, Karent Fabiszewski - DIA Director of WCTF, Bob Cronin Investigations, Maryann Brunton, Vinnie Lopes, Shamia Monroe, Dennis Johnson; Ginny McCarthy – WCRIBMA; Dan Judson WCRIBMA; Roman Dolinschi, WCRI, Attorneys Patrick Francomano, Kerry Noto, Alicia DelSignore, Lisa Rocha, Jim Ramsey, Mary Ann Calnan, Judson Pierce; and Maureen O'Connell.

**Date:** July 14, 2021

**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 - 2021 | 2022 session
- o Open Meeting Law Update

#### **4. ACTION ITEMS**

- o Minutes - June 9, 2021

#### **5. COMMUNICATIONS**

N/A

#### **6. MISCELLANEOUS**

N/A

LAFAYETTE CITY CENTER

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Chairman John Pulgini began the meeting at 9:02am.

Chairman Pulgini asked Senior Judge Omar Hernandez to provide an update on judicial activity.

Senior Judge Omar Hernandez shared that the conferences and hearings have resumed, in-person. Restrictions are now in place for continuances, anything more than two conference continuances will have to be sent directly to Senior Judge Hernandez for approval, three for hearings. Cases need to move. This process will be revisited in the future.

Council Member Michael Kelley asked about the conference queue increase, 540 is not a concern, hearings need to move. Reminded the Council that they are down four judges. Attorney Michael Sherry is going before the Governor's Council next week.

Council Member Stephen Falvey asked about Attorney Karen Fabiszewski's appointment and Senior Judge Hernandez confirmed that it will be voted on July 21 for the position of Administrative Law Judge and spoke very highly of Attorney Fabiszewski.

Resolutions on conciliations with the assistance of Dele Edibiri and his staff. Overdue decisions - pending hearing decisions are down to two. Another change was made to conciliations: ALJs will now handle the walk-in lump sums, this took place this week, transition went smoothly. Impartial physicians are coming back and under contract.

Council Member Kelley about the increase in impartial, conferences were increased that explains the high number confirmed Senior Judge Hernandez.

Attorney Gary Orlacchio commended Senior Judge Hernandez on the superior job that was done during the pandemic. Attorney Orlacchio also asked if all parties are in agreement could the lump sum settlements be done virtually, Senior Judge Hernandez confirmed, but asked for parties to check with the Judge. Pre-hearing memo conference, a suggestion was made by Attorney Orlacchio to reduce time to 5 days, Senior Judge Hernandez will take a look at this information and appreciated the suggestion.

Council Member Stephen Falvey asked about Section 7 penalties. Mr. Taupier involved one case. Council Member Kelley also asked about the penalties and to report back in August.

Chairman Pulgini also commended Senior Judge Hernandez on the great work conducted by his staff.

Executive Director Maureen O'Connell interjected and indicated that there was a quorum. A motion was made and seconded for June and May 2021 minutes, all in favor, without an opposition the minutes were voted on.

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

Mr. Taupier provided the statistics for the Department of Industrial Accidents: Dispute resolution: in FY 2021 attorneys have requested 5,681 continuances. Conference queue is 548. Average waiting time is

8-12 weeks. Hearing queue is 2,806. Conferences scheduled: 506, Hearings scheduled 182, Conciliations resolved: 465 (approximately 50%).

Pending Hearing Decisions is 2 for June, 2021, Review Board inventory is 24.

The DIA issued 23 Stop Work Orders (SWOs), sent 1,242 compliance letters in the month of June 2021. DIA suspended issuing SWOs on March 13, 2020 and resumed orders as of January 2021. Fine collections was \$7,796.

Council Member Stephen Joyce asked how many investigators were in the field: General Counsel Kevin O'Leary confirmed 12-13 investigators in the field. During the pandemic, Council Member Joyce asked about the claims, and hoped that there is a focus on the construction industry.

With respect to compliance checks, DIA conducted 2,163 compliance checks, 311 field investigations with a total of 41,271 compliance checks for FY 2021.

Cases filed: 857, First Report of Injury (FRIs): 2,807. *Please note: a case is an employee claim, an insurers discontinuance, or a third-party lien. Covid-19 cases: 6*

With respect to the Workers' Compensation Trust Fund, 83 uninsured injuries, with \$5,385,046 in payments made to open claims. Recovery efforts: \$972,368.

The Second Injury Fund reports payments in the amount of \$18,901,865 with a budget of \$27,000,000. COLA reimbursement payments are reported as \$6,381,017, with an \$18,000,000 budget.

Personnel: 203 employees, are looking to hire 3 investigators and there are vacancies in the judicial staff.

Accounting and Finance referral fees: \$3,406,186 and Assessment and Collections are reported as \$55,171,196 (with a budget of \$52,887,822).

Council Member Kelley asked about Covid-19 cases and whether there have been decisions on this subject, no hearings reported by Senior Judge Hernandez.

Council Member Falvey asked about the investigators being hired and whether they are backfills, General Counsel O'Leary confirmed they are backfill positions.

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

Interim Director Bowles provided the Advisory Council with an update on the DIA Lawrence office lease and landlord improvements. Council Member Falvey asked if the improvements were taken care of by the landlord, Director Bowles confirmed.

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

Executive Director Maureen O'Connell confirmed that no hearing date set on employee HB 2057, SB 1210 with respect to legislative activity. Reminder, Open Meeting Law, remote meetings are still allowed until April of 2022.

Council Member Falvey asked if there were location restrictions, Executive Director O'Connell confirmed that there were no restrictions.

Council Member Joyce mentioned a wage theft study that was sent to Executive Director O'Connell and will be shared with the Advisory Council.

Without further questions for Executive Director O'Connell and without a quorum, Chairman Pulgini concluded the meeting at 9:28 am.