



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

March 9, 2022
Via WebEx

Present: Attendees: Mickey Long, Stephen Joyce, Teri McHugh, Michael Kelley, 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; Tim Foley, Sheila Tunny, Ginny McCarthy – WCRIBMA; Roman Dolinski, 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 James Ramsey, Attorney David O'Connor, Attorney Buzz Schneider, Attorney Brian Sullivan, Attorney Ned Barrett, Attorney Ana Mari deGaravilla ; and Maureen O'Connell.

Date: February 9, 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
 - Conference/Hearing/Reviewing Board Queue
 - Impartial Medical Exams/Physicians
- B. DIA Vital Statistics - Bill Taupier, Director of Administration
 - Cases Filed with DIA
 - Workers' Compensation Trust Fund
 - Personnel Update

- Enforcement and Compliance
- C. Director's Update – Sheri Bowles, Interim Director

3. EXECUTIVE DIRECTOR'S UPDATE

- Legislative update

4. ACTION ITEMS

- Minutes - February 9, 2022

5. COMMUNICATIONS

N/A

6. MISCELLANEOUS

N/A

Executive Director Maureen O'Connell began the meeting at 9:02am as Chairman John Pulgini will be joining in later. Before getting to the items on the agenda, Executive Director O'Connell mentioned that the Advisory Council received a letter from a claimant and wanted to acknowledge the receipt on this letter. The statutory regulations for the Advisory Council do not involve claims and therefore this item will not be discussed at the meeting, but Director O'Connell wanted to acknowledge this letter, and receipt of, on the record.

Since there have been questions about the policy surrounding masks, Executive Director O'Connell asked if Sheri Bowles, DIA Interim Director could provide an update. The mask mandate has been dropped for the City of Boston. There is no mask mandate for the DIA Boston office, and Worcester, but DIA is instructed to follow mask mandates for cities that apply. 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.

Council Member Michael Kelley asked about protocols and wanted to confirm that there are no masks required for individuals when they enter the Boston DIA office, Director Bowles confirmed. Are there any other protocols, no confirmed Director Bowles.

Attorney Jim Ramsey asked in-person conciliations, conferences, and hearings. Director Bowles indicated that conciliations and conferences are conducted virtually and hearings in-person. When asked when virtual conciliations and conferences would resume in-person. Director Bowles deferred to Senior Judge

Omar Hernandez. This has been discussed, but we are going to remain virtual. Ample notice will be given to the stakeholders.

Council Member Kelley strongly encouraged the DIA to go back to in-person conferences as soon as possible, there is no reason to delay this. Director Bowles appreciated the feedback. Without further questions, Executive Director O'Connell directed the floor to Mr. Bill Taupier, Director of Administration.

With respect to conciliations, 437 were resolved and 423 were referred to a conference: 50.8%. During FY '22, attorneys have requested 4,845 continuances. The hearing queue is 1,946 and the conference queue is 920. The average waiting period is 10-22 weeks for a conference. The number of conferences scheduled: 432; hearings scheduled: 295; orders issued: 267; appeals to the reviewing board: 2; and 4 pending hearing decisions. The review board inventory is at 12. Impartial medical exams: 2,056; fee waivers granted: 36; exam fees collected: \$1,381,446; attorneys fees collected: \$55,618,026; and Sections 7/8 penalties: \$200.

With respect to Compliance and Enforcement, there were 112 SWOs issued; 1,697 compliance letters sent during the month of February, and \$63,723 fines collected (FY'22 total fines collected: \$480,721). DIA conducted 5,913 total compliance checks and 337 field investigations, and there are 1,981 employees brought under workers' compensation insurance. This was added back into the slide deck at the Council's request.

First Report of Injury (FRIs) were 2,867 filings and 90 Covid filings with 10,382 being in the healthcare sector (73%). Number of Covid cases (by date of injury) in dispute resolution 48,155, Section 19: 47.

There are 83 new Section 65 injuries in the Workers' Compensation Trust Fund and \$4,968,099 payments against open claims (30: construction, 17: laborer, and 9: carpenter). The civil litigation unit has recovered \$520,335.

Council Member Stephen Joyce asked about SWOs, compliance checks, and how many are from the construction industry - where those uninsured injuries are, enforcement folks should be doing sweeps at the construction sites. What the plan is, could someone from investigation explain this?

Executive Director O'Connell asked if Bob Cronin could explain, General Counsel Kevin O'Leary stepped in to answer Council Member Joyce's question. 13 large construction site checks - February (24 compliance checks per site, 1 SWO, 318 total compliance checks in February were conducted). At some point we should have a conversation about those sites, said Council Member Joyce. Bob Cronin, Director of Investigations provided cities of their checks: 5 Boston, 2 Watertown, 2 Everett, 1 Chelsea, 2 Worcester and 1 Milton - subcontractors and sites of the compliance checks. Investigators have success in running plates at coffee shops and hardware stores. Appreciate the work of the investigation unit, said Council Member Joyce. Good job, said Council Member Stephen Falvey, appreciate you thinking outside the box.

Council Member Mickey Long had questions about the projects, do you ask if unions are primary at the construction sites. Do they come from union sites or not? Appreciate your work as well. Mr. Cronin said that the investigators are not sure whether they are unions until they get to the worksite, but did highlight his experience on Martha's Vineyard a few years back.

With respect to the Second Injury Fund, \$14,960,089 with a budget of \$27,000,000. COLA reimbursement is \$1,255,324 with a budget of \$10,900,000. Referral fees are in the amount of \$2,629,231; assessments are at \$43,870,273 with a budget of \$61,157,033. Personnel is at 192 (49: WCTF and 143: DIA). Slide deck has been adjusted to reflect breakdown of personnel.

Council Member Joyce asked about personnel a few months back and wanted to know the difference in employees. Mr. Taupier confirmed that they were retirements.

Council Member Long asked about dispute - judges, support staff, and administration - claims, OEVR, public information, the differences. Mr. Taupier explained the differences.

Without questions for Mr. Taupier, the floor was directed to Executive Director O'Connell.

Executive Director Maureen O'Connell provided the Advisory Council an update on legislation. 1 bill HB 1975 disfigurement (language) pending, left favorably HB1988, accompanied a study (HB 1990, HB1991, 1973. If anyone wishes to view

the spreadsheet reach out to me by email. Following up on Council Member Falvey's request on Petitions 21-11/21-12 (independent contractor rules) with the Attorney General's office, Supreme Court Docket #13237 (July 1 is when the case needs to wrap up before it goes on the November voters ballot) and Amazon Fulfillment Center + OSHA, awaiting OSHA confirmation, no citations above \$40,000 according to OSHA website. Sheila Tunney, CFO will be providing a budget update at the April 13, 2022 meeting.

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