



**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**

November 10, 2021

Via WebEx

**Present:** Attendees: John Pulgini, Todd Johnson, Mickey Long, Stephen Joyce, Teri McHugh, James Steenbruggen, 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, 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, and Maureen O'Connell.

**Date:** November 10, 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

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

- o Minutes - October 13, 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. Cases are being resolved in conciliation, great job with the Dele Edebiri, 50% resolutions. Hearing queues coming down, 2600 hearings waiting for hearings, 905 are reschedules, trending downward and moving in the right direction. Reschedules need to pause, cases need to be resolved, mediation need to be used.

Council Member Todd Johnson asked Senior Judge Hernandez about the conference and hearing queue and what the target number would be for the queue. For conferences, 700 range is good, hearings need to be lower, perhaps half. Senior Judge Hernandez wanted to clear up the question on Section 8 penalty last month, that was a clerical error.

New Reviewing Board Judge, Karen Fabiszewski.

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

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.

Mr. Taupier provided the statistics for the Department of Industrial Accidents: 501 cases referred to Conciliation, 51.2% resolved. Dispute resolution: in FY 2022 attorneys have requested 5,681 continuances. Conference queue for August was 691, average waiting time is 8-12 weeks. August Hearing is 2,773. 3 Pending Hearing decisions (1 in 6-9 month category, 2 in 12-36 month category). 24 Reviewing Board inventory.

The DIA issued 108 Stop Work Orders (SWOs), 2 defaults, 1,576 compliance letters, and \$31,681 in total fines collected for FY '22. 3,059 in total compliance checks, 232 field investigations.

Council Member Mickey Long asked about out-of-state contractors. Director of Administration Bill Taupier indicated that the unit cannot cross state lines.

Cases filed: 1,031, First Report of Injury 2,727 for July 2021, with a total of 10,650 cases for FY '22. *Please note: a case is an employee claim, an insurers discontinuance, or a third-party lien. Covid-19 cases: 15*

With respect to the Workers' Compensation Trust Fund, 83 uninsured injuries, with \$253,552 in payments made to open claims, 3 uninsured claims (3 laborer, 1 trucker, 1 carpenter). Recovery efforts: \$94,565. Council Member Long mentioned that this number could be Covid-19 related and asked if the construction section could be added to the chart, identifying the industry is accurate, concerned about the construction industry. Council Member Stephen Joyce appreciates the chart, it is easily identifiable, by industry gives guidance.

Council Member Stephen Falvey wanted to know about the laborer occupation category and whether that included warehouse workers. Mr. Taupier indicated no.

The Second Injury Fund reports payments in the amount of \$0 with a budget of \$27,000,000. COLA reimbursement payments are reported as \$0, with an \$18,000,000 budget. Council Member Johnson had questions about COLA, budget projections, not close to the budget, calculating the budget impacts the assessments. Budget needs to be reviewed, it is overstated, according to Council Member Michael Kelley. Assessments have been in the low 5% for the past few years, according to Mr. Taupier.

Third party claims administrators, where in the statute can I be directed, asked Council Member Falvey. Mr. Taupier indicated that Chapter 152 doesn't mention third party administrators, this section is governed by Division of Insurance. General Counsel Kevin O'Leary indicated that any penalties are not regulated by DIA but Division of Insurance.

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

Accounting and Finance referral fees: \$391,449 and Assessment and Collections are reported as \$3,124,107.

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 winding down. Thank you to everyone involved for their patience.

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 2046, H 2057, SB 1210, SB 1219, with respect to legislative activity. Annual report preparation underway, great feedback. Sheila Tunny CFO will be giving an update

Chairman Pulgini addressed the July minutes, motion to approved, seconded, minutes for July 14, 2021 were approved.

Council Member Long asked about Advisory Council meetings in the virtual format. Executive Director O'Connell mentioned that these would continue in a remote capacity (approved by the legislature) until April 2022.

Without further questions for Executive Director O'Connell and without a quorum, Chairman Pulgini

concluded the meeting at 9:35 am.