

# MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL MINUTES

January 9, 2013  
Department of Industrial Accidents  
1 Congress Street, Suite 100  
Boston, MA 02114-2017

*Council Members Present:* John Regan, Chairman; Stephen Joyce, Vice Chairman; Edmund Corcoran, Jr.; Antonio Frias (Ines Leonardo); Stephen Falvey; William Corley; David Powell (Kevin Hurstak); Mickey Long; John Pulgini; Bernie Mulholland; Todd Johnson; Mike Doheny, General Counsel, Executive Office of Labor and Workforce Development.

*Also Present:* Philip L. Hillman, Director; Omar Hernandez, Senior Judge; George Noel, Deputy Director of the DIA; William Tattan, General Counsel; William Taupier, First Deputy Director of Administration; Ray Marchand, Director of Investigations; Bob Ford, Budget Director, EOLWD; Ellen Keefe, Workers' Compensation Rating & Inspection Bureau of Massachusetts; Michael Kelley, AIM Mutual.

*Advisory Council Staff:* William S. Monnin-Browder; Evelyn Flanagan.

*Absent:* Teri McHugh; Dennis Hines; Executive Office of Housing and Economic Development.

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## *Agenda:*

Chairman's Welcome

DIA Update

- Judicial Update – Omar Hernandez, Senior Judge
- Vital Statistics – William Taupier, First Deputy Director of Administration

Action Items

- Minutes – October 10, 2012
- Minutes – November 14, 2012

Discussion on Legislation for the 2013-2014 Legislative Session

Discussion of FY'12 WCAC Annual Report

Executive Director Update – William Monnin-Browder

Miscellaneous

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## **CHAIRMAN'S WELCOME**

Chairman John Regan began the meeting at 9:00 A.M.

## **DIA UPDATE**

### Judicial Update

Senior Judge Omar Hernandez reported that the average wait time between conciliation and conference has decreased to approximately eight to ten weeks. He stated that he is hopeful that the wait times will maintain that level.

Senior Judge Hernandez stated that the Agency will be implementing the impartial fee increase to \$650 next week. He noted that an email will be forwarded to parties informing them of the increase.

Senior Judge Hernandez stated that the appointment/reappointment interview process begins today and continues tomorrow, as well as on Monday. He explained that the Nominating Panel is interviewing approximately 27 people applying for the judges' positions, which includes the five judges hoping for reappointment. The Senior Judge stated that they also have one judge remains in the pool from the last round of interviews, so there are six judges in total hoping for reappointment.

Chairman Regan asked that Council members hold January 16<sup>th</sup> and 17<sup>th</sup> for interviews of judicial candidates. Chairman Regan stated that once the Council knows how many candidates that it must rate, the Council should consider whether the interviews can be done in one day. The Chairman stated that his preference is to have the interviews on the 17<sup>th</sup>, which would allow the Council members more time to review the list of candidates. Chairman Regan stated that unless Council members hear otherwise, they should plan on a full day on the 17<sup>th</sup>, starting at 8:00 A.M. The Chairman informed Council members that the material will be distributed to them electronically in advance of the interviews.

Council member John Pulgini suggested that the Council find a way to honor and acknowledge the contributions of Judge Emily Novick, who passed away recently. He suggested sending a citation to Judge Novick's family. Mr. Pulgini noted that Judge Novick was one of the first members of the Advisory Council, serving as a claimant's bar representative beginning in the mid-1980s.

Chairman Regan suggested a letter be drafted, from the Council, acknowledging our sympathy.

Vice Chairman Steve Joyce stated that he thought the Governor's office would be happy to work with the Council on something more formal, if they have not done so already. Vice Chairman Joyce also suggested that the Council observe a moment of silence in memory of Judge Novick.

The Council observed a moment of silence in memory of Judge Emily Novick.

### Vital Statistics

First Deputy Director Bill Taupier updated Council members on the information contained within the DIA's vital statistic report for January 2013. He offered the following statistics: Conference Queue: 368; Hearing Queue: 984; Reviewing Board Inventory: 22; Impartial Exams for FY'13 (to date): 2,280 (24 waivers); Exam Fees Collected for FY'13: \$746,659; Impartial Medical Examinations in FY'12: 3,667 (48 waivers); Exam Fees Collected in FY'12: \$1,474,788.

Mr. Taupier updated the Council on the Stop Work Order (SWO) and Caseload Statistics, including the following: SWOs issued in December: 206 (19 SWOs were reissued as the result of defaults of previous orders); total SWOs issued in FY'13 (to date): 1,318; fine collection for December: \$130,569; total fines in FY'13 (to date): \$668,444; SWOs issued in FY'12: 2,637; total fines collected in FY'12: \$1,381,085; compliance checks for December 2012: 6,704; estimated number of workers now covered by workers' comp. insurance as the result of a SWO: 3,497 (FY'13).

Mr. Taupier continued the update of the monthly vital statistics offering the following: total cases filed in December 2012: 835; total cases filed in FY'13 (to date): 5,877; total cases filed in FY'12: 12,646; total First Report of Injury Forms (FRI) filed in December 2012: 2,027; total FRI filed online in December 2012: 912 (45%); total FRI filed in FY'13: (to date): 14,498; total FRI filed in FY'12: 29,643 (9,034 online).

Council member Mickey Long asked when the Agency believed it would set a date for mandatory online filing of First Reports of Injury forms (FRIs). Council member Long suggested that the Agency could send out a letter today stating that everyone must file electronically, if there is no technological barrier.

Chairman Regan suggested that the Council discuss this issue further at its next meeting.

Mr. Taupier proceeded with his update on uninsured claims (§65), offering the following: total §65 claims reported in FY' 13 (to date): 64; total amount of §65 claims paid by the Trust Fund in FY' 13 (to date): \$2,356,301; total §65 claims filed in FY' 12: 111; total amount of §65 claims paid by the Trust Fund in FY' 12: \$7,810,128; total recovery efforts against uninsured employers FY' 13: \$715,131; total recovery efforts against uninsured employers FY' 12: \$1,047,057.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A), stating the following: total amount of §37/37A petitions paid in FY' 13 (to date): \$11,780,770; total amount paid on these claims in FY' 12: \$24,198,415; total COLA reimbursements to insurers in FY' 13 (to date): \$3,777,652; total COLA reimbursements to insurers in FY' 12: \$20,077,659.

Mr. Taupier reported that as of December 2012, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 242 (193 DIA employees, 49 WCTF employees).

Director Phil Hillman stated that at the last meeting, there was discussion about the fiscal controls underway at state agencies. He reminded Council members that A&F had, essentially, taken a snap shot of all state agency personnel as of a date certain. Director Hillman explained that DIA has received a dispensation from the controls, so, therefore, the Agency is restarting its hiring processes.

Mr. Taupier presented the following accounting and finance statistics: total referral fees collected in FY' 13 (to date): \$2,019,702; total referral fees collected in FY' 12: \$3,774,237; total first report fines in FY' 13 (to date): \$26,108; total first report fines in FY' 12: \$115,000; total assessment collections in FY' 13 (to date): \$33,247,062; total assessment collections in FY' 12: \$82,117,762; total SWO fines in FY' 13 (to date): \$668,444; total SWO fines in FY' 12: \$1,381,085.

### **ACTION ITEMS**

A motion was made to approve the October 10, 2012 minutes.

Motion seconded and carried.

A motion was made to approve the November 14, 2012 minutes.

Motion seconded and carried.

A motion was made to approve Workers' Compensation Advisory Council Fiscal Year 2012 Annual Report.

Motion seconded and carried.

### **DISCUSSION OF LEGISLATION FOR THE 2013-2014 LEGISLATIVE SESSION**

Chairman Regan stated that since legislation is still being filed the Council should wait to make decisions on what to support. He explained that once all the legislation is filed Will Monnin-Browder would put together a summary of each bill concerning workers' compensation and forward it to the members.

A motion was made to adjourn the meeting.

Motion seconded and carried.

**The next meeting of the Advisory Council is scheduled for Wednesday, February 13, 2013, at 9:00 AM, at the Department of Industrial Accidents, 1 Congress Street, Suite 100, Conference Room #10-140, Boston, MA 02114-2017.**