

**Massachusetts Workers' Compensation
Advisory Council Minutes**

Division of Industrial Accidents
600 Washington Street
Boston, MA 02111

Present: Chairman Paul Byrne, Vice-Chairman Thomas M. Jones. CM: Tony Frias (Ines Leonardo); Edmund C. Corcoran; Robert Banks (William Corley); Mickey Long; John D. Boyle; Peter A. Cook; Enrique Perez, Department of Business & Technology; Gayl Mileszko, Director of Labor.

Also Present: DIA: Commissioner Henry Swiniarski; Jack Tynan, Deputy Commissioner of Administration; James LaMothe, Senior Judge; William Taupier, Deputy Director of Administration and EDP; John Glennon, Director of Information Technology; Jean Faletra, Manager of Administrative Services; John Zimini, Director of Investigations; Sandra Gildea, Manager of Stenographer Unit; Yvonne Vieira-Cardoza, Deputy General Counsel; Tony Salido, WCRIB; John Meyers, AIM Mutual; Michael Kelly, AIM Mutual; Karen Shanley and Melody Barlow, Cook & Company Insurance Agency.

Advisory Council Staff: Andrew Burton; Evelyn Flanagan.

Absent: Jeanne-Marie Boylan; John Pulgini; Bob Fitzsimmons; Ken Paradis; Jill Brown;

Agenda:

Chairman's Welcome

DIA Update

Judicial Update - James LaMothe, Senior Judge

DIA Vital Statistics - William Taupier, Deputy Director of Administration & EDP

Action Items

- Minutes - September 13, 2006

DIA FY'07 Goals Presentation

- John Glennon - *Business Process & Technology Efficiency Improvements*
- Jean Faletta - *Risk Assessment & Quality Assurance*
- John Zimini - *Compliance & Enforcement*
- Sandra Gildea - *Workforce Initiatives & Organizational Efficiencies*
- William Taupier - *Communication & Collaboration*
- Yvonne Vieira-Cardoza - *Policy Initiatives & Reforms*

Executive Director Update

Miscellaneous

CHAIRMAN'S WELCOME

Chairman Paul Byrne began today's meeting at 9:00 a.m. The Chairman introduced Peter A. Cook, Sr. who will be serving as a non-voting member of the Advisory Council representing the interests of the insurance industry. Chairman Byrne requested that Senior Judge LaMothe proceed with the judicial update.

DIA UPDATE

Judicial Update

Senior Judge James LaMothe updated Council Members on the information contained within the DIA's vital statistic report for October of 2006 (see attached). Conference Queue: 444; Hearing Queue: 1,257; Reviewing Board Inventory: 156; Impartial Exams for FY'07 (to date): 983 (12 waivers). In fiscal year 2006 there were 5,374 Impartial Medical Examinations (95 waivers).

Senior Judge LaMothe stated that there are six incumbent judges whose terms have expired and are seeking reappointment. He explained that he would have to leave the meeting early today to testify before the Governor's Council on behalf of Judge Murphy and Judge Preston. The Senior Judge stated that the Governor's Council intends to interview Judge Hernandez on Wednesday, October 18, 2006.

Stop Work Orders/Caseload Statistics

Mr. Taupier updated Council Members on the Stop Work Order (SWO) and Caseload Statistics for September of 2006 (see attached). SWO compliance and fine collection remains at 100%. Total compliance investigations initiated during September: 1,920; total SWOs issued in September: 17; total SWOs issued for FY'07 (to date): 57; total number of SWOs issued for FY'06: 228; total fines collected for September: \$30,494; total fines collected in FY'07 (to date): \$71,124; total fines collected in FY'06: \$230,465.

Mr. Taupier continued his update of the monthly vital statistics. Total number of cases filed for September: 1,011; total number of cases filed for FY'07 (to date): 3,527; total number of cases filed for FY'06: 15,957; total number of First Reports filed for September: 3,404; total number of First Reports filed for FY'07 (to date): 9,495; total number of First Reports filed for FY'06: 36,590; total number of First Reports filed online for September: 673 (20%). For FY'06, a total of 9,405 First Reports were filed online using the DIA's Information Portal on the Internet (25.7% of FRI filings). Mr. Taupier proceeded with his update on uninsured claims (§65). Total number of §65 claims processed for FY'07 to date: 50; total amount of §65 claims paid by the Trust Fund for fiscal year 2007 (to date): \$1,277,222; total number of §65 claims filed for FY'06: 245; total amount of §65 claims paid by the Trust Fund for fiscal year 2006: \$6,647,480.

Council Member Mickey Long requested that the DIA attempt to provide the Advisory Council with a profile of a typical Section 65 case that shows the average degree of disability and the average amount spent by the WCTF for both medical and indemnity benefits.

Deputy Commissioner Jack Tynan indicated that the DIA would attempt to breakdown a "typical" Section 65 Claim for the Advisory Council. The Deputy Commissioner stated that he would likely use data from FY'04 and FY'05 because it would be more mature than FY'06 data.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund (§37/37A).

Number of §37/37A petitions paid in fiscal year 2007 (to date): 94; amount paid on these claims in fiscal year 2007: \$5,646,789; number of §37/37A petitions filed in fiscal year 2006: 490; amount paid on these claims in fiscal year 2006: \$18,539,957; COLA reimbursements to insurers in FY'07 (to date): \$310,362; COLA reimbursements to insurers in FY'06: \$23.3 million.

Budget/Personnel Issues

Mr. Taupier reported that as of August 2006, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 264 (230 DIA employees, 34 WCTF employees). The DIA has no

contract employees at this time. Eleven (11) temporary employees are being utilized within the DIA as of this report. The Office of Legal Counsel is also utilizing the services of 4 legal interns. Each intern works on a part-time basis (the total hours each week add up to one position).

DIA FISCAL YEAR 2007 GOALS PRESENTATION

Deputy Commissioner Jack Tynan reviewed the goal setting process to date. In 2005, goal setting focused on team-building activities for managers to encourage different units to work together. In 2006, goals were developed to enhance enforcement and compliance, increase public awareness on DIA activities, improve the quality of healthcare services to injured workers, bring accountability to the assessment process, and expanding e-government solutions. The Deputy Commissioner explained that goal setting process for 2007 was refined to include the participation of supervisors. Mr. Tynan explained that 6 focus groups were created and charged with developing 4 goals for fiscal year 2007 (see attached presentation on the FY2007 Department Goals). The Deputy Commissioner then introduced the first team leader who gave a brief presentation on their group's goals.

Business Process and Technology Efficiency

Mr. John Glennon is the Director of Information Technology and is the team-leader for the Business Process and Technology Efficiency team. Mr. Glennon updated the Advisory Council members on the group's goals and anticipated completion dates.

Mr. Glennon reviewed the Document Management System (DMS) and the Batch Claims Submission (BCS) projects. The IT Director explained that these projects will require significant DIA resources to successfully complete. Mr. Glennon anticipates that both projects would be complete by the end of FY'07.

Mr. Glennon next discussed the Business Continuity and Disaster Recovery Plan. He explained that this plan needs to be revised to ensure that the Agency can continue to function in the case of an emergency or disaster. Mr. Glennon anticipates a completion date by April of 2007.

Mr. Glennon discussed the third goal of improving overall security of the DIA. This goal will include defining and implementing specific DIA security policies, practices and operations to ensure the confidentiality and availability of information, data integrity, and security for all unit operations. Mr. Glennon noted that some work has already been completed in this area and that he expects the project to be ongoing throughout the year.

The final goal discussed was in regards to change improvements and change management. Mr. Glennon explained that the introduction of new technologies to the DIA will require a major change in business

practices. Mr. Glennon stated that the key components to this goal involve communication, awareness, education, and user training. Mr. Glennon expects this goal to be completed by February 2007.

Compliance and Enforcement

Mr. John Zimini is the Director of Investigations and is the team-leader for the Compliance and Enforcement team. Mr. Zimini updated the Advisory Council members on the group's goals and anticipated completion dates.

Mr. Zimini reviewed the first goal, which is to develop additional working relationships with other state agencies. Mr. Zimini stated that this would enable the DIA and other agencies to exchange vital information and documentation. Mr. Zimini expects this project to be ongoing throughout the year.

Mr. Zimini informed the Council Members that the second goal of the group would be to continue the compliance and enforcement efforts through the targeting of industries and areas such as cites and towns. He stated that this would be accomplished by utilizing investigative team sweeps. Mr. Zimini noted that a different focus would be selected each quarter during fiscal year 2007.

Mr. Zimini explained that the third goal of the team would be to establish an in-house collection unit to collect fines, late fees and penalties. Mr. Zimini anticipates implementation during the third quarter of fiscal year 2007.

Mr. Zimini noted that the final goal of the team would be to advocate, through the appropriate channels, for increasing the "No Show Fee" and evaluating the overall fee structure for Impartial Physicians.

Senior Judge LaMothe explained that one of the biggest complaints received from Impartial Physicians was the percentage of "No Shows." The Senior Judge estimated that approximately 20% of injured employees do not show up for their impartial exam. Council Member Ed Corcoran noted that if the employee does not reschedule the impartial exam, the Trust Fund or Special Fund is required to pay for the exam. CM

Corcoran requested that the agency attempt to capture the amount paid out in a fiscal year for "No Shows."

Vice-Chairman Tom Jones requested that the DIA provide statistics on the percentage of employees who do not attend the impartial physician exam.

Risk Assessment and Quality Assurance

Ms. Jean Faletra is the Manager of Administrative Services and is the team-leader for the Risk Assessment and Quality Assurance team. Ms. Faletra updated the Advisory Council members on the group's goals and anticipated completion dates.

Ms. Faletra stated that the team would focus on the amount of money paid out by each department at the DIA. In an effort to determine each unit's risk assessment/quality assurance issues, the first goal of the team would be to hire a consultant to assist with some of the projects, as well as compose a questionnaire to be forwarded to all DIA unit managers, Ms. Faletra stated that the group's second goal would be to produce a Statement of Work for the consultant. The statement would request that the consultant review and streamline various workflow processes, including reviewing Section 37s, Section 34Bs, Section 65s, legislation, compliance with past audit report findings and recommendations. Ms. Faletra informed the Council members that the last two goals of the team would be to set up a panel to interview consultants. Ms. Faletra stated that upon the completion of this process, the team members would serve as a liaison between the consultant and the DIA and oversee the consultant's work.

Council Member Ed Corcoran asked the administration if a subcommittee of the Advisory Council could participate in the process of ensuring that the DIA complies with the audit report's findings.

Commissioner Swiniarski stated that he would welcome the Advisory Council's participation in this process. The Commissioner noted that although many of the audit's concerns have been sufficiently addressed, the consultant would be able to provide an independent assessment of any further progress that needs to be made.

Policy Reform and Legislative Reform

Ms. Yvonne Vieira-Cardoza is the Deputy General Counsel and is the team-leader for the Policy Reform and Legislative Reform team. Ms. Vieira-Cardoza updated the Advisory Council members on the group's goals and anticipated completion dates.

Attorney Vieira-Cardoza explained that the group would work to define, prioritize and narrow the scope of changes that are appropriate for the agency. The Deputy General Counsel stated that a preliminary list has been drafted for consideration. The list includes areas of vocational rehabilitation; Section 37 reform; the Private Right of Action Legislation; as well as regulatory and statutory changes.

Attorney Vieira-Cardoza stated that another goal of the team is to draft legislation that would give town and city police proper authority to keep a business closed after they receive a Stop Work Order from a

DIA investigator. Attorney Vieira-Cardoza noted that there are not enough investigators to check and ensure that the company remains closed.

Communications and Collaboration

Mr. William Taupier is the Deputy Director of Administration and is the team-leader for the Communications and Collaboration team. Mr. Taupier updated the Advisory Council members on the group's goals and anticipated completion dates. Mr. Taupier stated that the team is focusing on an agency outreach program with other state agencies. Mr. Taupier stated that the group has already established a Public.

Newsletter (released October 10, 2006). The purpose of the newsletter is to inform the DIA constituencies and public of news, events, and updates related to the operations of the DIA. The newsletter will be a conduit for important procedural changes, announcing new policies, and providing a select number of statistics.

Mr. Taupier stated that another goal of the group would be to provide video guides for injured workers and employers through a partnership program with Emerson College.

The video would be approximately 20 minutes long and would cover the necessary information for filing a claim and navigating through the dispute resolution process. Mr. Taupier anticipates a project completion date of mid to late spring of 2007. In an effort to foster inter-agency relationships via the Internet, the Communication and Collaboration Group would determine which other state agencies would benefit from cross-linking their website with the DIA. Mr. Taupier anticipates a project completion date of late fall or early winter of 2006.

Council Members suggested that the Communication and Collaboration Group consider cross-linking the DIA with OSHA.

Mr. Taupier stated that the group is proposing to offer conferences and seminars for new businesses in Massachusetts. Mr. Taupier explained that this would involve a wide range of state agencies covering a variety of topics to help new businesses with properly understanding their legal responsibilities and regulatory requirements.

Workforce Initiatives and Organizational Efficiencies

Ms. Sandra Gildea is the Manager for the Stenographer Unit and is the team-leader for the Workforce Initiatives and Organizational Efficiencies team. Ms. Gildea updated the Advisory Council members on the group's goals and anticipated completion dates.

Ms. Gildea stated that there is a need to have the DIA Employee Benefit book, tuition remission programs and other pertinent information and programs available on the Intranet to all DIA employees. Ms. Gildea anticipates this goal to be completed by October of 2006.

Ms. Gildea noted that another goal the group is working on is to provide a formal orientation session for new employees. Ms. Gildea noted that training and rollout is scheduled to be implemented in December of 2006.

Ms. Gildea explained that a further goal is to incorporate a formal Exit Interview for employees leaving the DIA. Ms. Gildea noted that Mr. David Olsen, Director of Human Resources, had provided her with a very effective form to be filled out by the employee and the manager when the employee left their position. This goal will enable human resources to effectively evaluate the open position, as well as the work environment.

Another goal of the group is to develop a student internship program to benefit both the DIA and students. Ms. Gildea noted that many units have already signed up to have an intern work in their area.

Ms. Gildea informed the Council that the last goal of the team is to provide training on creating class specifications and Form 30s. Ms. Gildea stated that instructions would be provided on creating accurate class specifications. She noted that as positions change, class specifications and Form 30s should reflect the changes.

ACTION ITEMS

Chairman Byrne asked for a motion to accept the Minutes for September 13, 2006. Motion made to accept the Minutes for September 13, 2006. MMS - Passed.

EXECUTIVE DIRECTOR UPDATE

Executive Director, Andrew Burton, informed the Advisory Council Members that the next Council meeting would be held at the Lawrence Regional office on Monday, November 13, 2006, at 10:00 a.m. Mr. Burton explained that during the first part of the meeting, safety grants would be awarded to select businesses in Massachusetts. Immediately following the safety grant presentation, the Advisory Council will hold their regular monthly meeting. The Executive Director explained that the agenda includes a presentation from the Department of Public Health on safety initiatives for teen workers in Massachusetts.

Mr. Burton directed the Council's attention to a recently published article in The Journal of Workers' Compensation on undocumented workers and the implications of immigration reform on the workers' compensation system.

MISCELLANEOUS

Council Member John Boyle suggested that the Advisory Council consider putting together a subcommittee or task force to discuss legislative issues for the upcoming 2007- 2008 Legislative Session. Council Members agreed to form a subcommittee to address legislative matters.

Chairman Byrne thanked all parties and asked for a motion to adjourn the meeting. A motion was made to adjourn the meeting.

The next regular meeting of the Advisory Council is scheduled for Monday, November 13, 2006, at 10:00 AM, at the Division of Industrial Accidents, 160 Winthrop Avenue, Frank Janas Training Center, Lawrence, MA, 018437.