

**Massachusetts Workers' Compensation
Advisory Council Minutes**

October 12, 2005

Department of Industrial Accidents
160 Winthrop Avenue (Frank Janas Training Center)
Lawrence, MA 01843

Present: Chairman Paul Byrne; Vice-Chairman Thomas M. Jones. CM: Edmund C. Corcoran; John D. Boyle; John A. Pulgini; Robert Fitzsimmons; Jill Brown; Bruce Cochrane (Tom McClure); Peter Scantalides, Department of Business & Technology.

Also Present: DIA: John Chapman, Commissioner; James LaMothe, Senior Judge; Jack Tynan, Deputy Commissioner of Administration; William Taupier, Deputy Director of Administration and EDP; Marcy Goldstein-Gelb, MassCOSH; Gayann Wilkinson, Director of Office of Safety; Dan DeMille, Lawrence Regional Manager; John Myers, AIM Mutual; Mike Kelly, AIM Mutual.

Advisory Council Staff: Andrew Burton; Evelyn Flanagan.

Absent: CM: Jeanne-Marie Boylan; Robert Banks; Mickey Long; Tony Frias (Ines Leonardo); Ken Paradis; Director of Labor.

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 14, 2005

Wood Floor-Finishing Hazards in Massachusetts

Marcy Goldstein-Gelb, Executive Director - MassCOSH

Changes & Accomplishments - Office of Safety

Gayann Wilkinson, Director - DIA Office of Safety

Daniel DeMille, Regional Manager (Lawrence)

Executive Director Update

Miscellaneous

Chairman's Welcome

Chairman Paul Byrne began today's meeting at 10:00 a.m. Chairman Byrne requested the Senior Judge to proceed with his judicial update.

DIA UPDATE

Judicial Update

Senior Judge LaMothe updated Council Members on the information contained within the DIA's vital statistic report for September of 2005 (see attached). Conference Queue: 214; Hearing Queue: 1,924; Reviewing Board Inventory: 132; Impartial Exams for FY'06 (to date): 1,153 (34 waivers). In fiscal year 2005 there were 4,779 Impartial Medical Examinations (119 waivers).

Senior Judge LaMothe reported to the Council that he had selected a permanent Manager to take over the Impartial Medical Unit. The Senior Judge stated that her name was Sandra Jutras and that she was both a Nurse and Certified Legal Nurse Consultant. The Senior Judge also publicly acknowledged the great job Ms. Gayann Wilkinson, Acting Manager of the Impartial Unit and Director of Safety, had performed during the interim. Senior Judge LaMothe informed the Council Members that it currently takes six (6) weeks for a case to go from conciliation to conference. The Senior Judge mentioned that his goal is to have this time frame reduced to approximately four (4) weeks.

The Senior Judge stated that there is still a shortage of physicians in the Springfield area, but noted that the DIA has made progress in recruiting physicians. He stated that the DIA has added twenty (20) new doctors in the last couple months to the Impartial

Physician List. The Senior Judge explained that Springfield remains the only region that the DIA is experiencing delays with the scheduling of impartial exams. He stated that doctors receive payment of \$450, which includes the exam, reviewing medical records, and writing a report. The Senior Judge explained that this fee becomes particularly problematic when an injury requires a specialty.

Stop Work Orders/Caseload Statistics

Mr. Taupier updated Council Members on the Stop Work Order (SWO) and Caseload Statistics for September of 2005 (see attached). SWO compliance and fine collection remains at 100%. Total compliance investigations completed during September: 1,952; total SWOs issued in September: 21; total SWOs issued for FY'06 (to date): 60; total number of SWOs

issued for FY'05: 173; total fines collected for September: \$42,469; total fines collected in FY'06 (to date): \$80,085; total fines collected in FY'05: \$267,061.

Mr. Taupier continued his update of the monthly vital statistics. Total number of cases filed for September: 1,281; total number of cases filed for FY'06 (to date): 3,789; total number of cases filed for FY'05: 16,276; total number of First Report's filed for September: 2,817; total number of First Reports filed for FY'06 (to date): 9,304; total number of First Reports filed for FY'05: 37,461. In September, a total of 2,314 First Reports were filed online using the DIA's Information Portal on the Internet (30% of FRI filings).

Mr. Taupier proceeded with his update on uninsured claims (§65). Total number of §65 claims filed in FY'06 (to date): 64 (49 have been processed by the WCTF); uninsured claims paid by the Trust Fund for fiscal year 2006 (to date): \$1,468,700. Total number of §65 claims filed for FY'05: 247 (with 201 actual uninsured injuries); uninsured claims paid by the Trust Fund for fiscal year 2005: \$6,052,205.

Mr. Taupier proceeded with the vital statistics for the Second Injury Fund. Number of §37/37A petitions filed in fiscal year 2006 (to date): 77; number of §37/37A petitions paid in fiscal year 2006 (to date): 178; amount paid on these claims in fiscal year 2006 (to date): \$4,234,595; number of §37/37A petitions filed in fiscal year 2005: 316; number of §37/37A petitions paid in fiscal year 2005: 530; amount paid on these claims in fiscal year 2005: \$25,299,116; COLA reimbursements to insurers in FY'06 (to date): \$7,704,752; COLA reimbursements to insurers in FY'05: \$16.1 million. Mr. Taupier explained that the reason for the high amount for COLA reimbursements is due to the backlog from the last fiscal year when new procedures were put in place.

Budget/Personnel Issues

Mr. Taupier reported that as of September 2005, the number of employees whose salary is paid by either the Special Fund or the Trust Fund was 269 (239 DIA employees, 30 WCTF employees). The DIA has no contract employees at this time. Seven temporary employees are being utilized within the DIA as of this report. Mr. Taupier noted that the DIA is utilizing 3 legal interns who are assisting the Office of Legal Counsel.

ACTION ITEMS

Chairman Byrne asked for a motion to accept the Minutes for September 14, 2005.

Motion made to accept the Minutes for September 14, 2005.

MMS - passed.

WOOD FLOOR-FINISHING HAZARDS IN MASSACHUSETTS

Executive Director Burton introduced Ms. Marcy Goldstein-Gelb, who serves as the Executive Director of MassCOSH. Prior to her presentation, Mr. Burton requested that Mr. Bill Taupier update the Council Members about the DIA's effort to make the agency more accessible to non-English speaking workers.

Mr. Taupier indicated that over the past year, the DIA had translated many of the DIA forms, as well as the employee's guide into a variety of languages. He reported to the Council that the DIA is currently translating their posters and other

pertinent information, which will be made available to injured workers. Mr. Taupier stated that the DIA has provided a list of certified interpreters on their website for non-English speaking workers.

Ms. Goldstein-Gelb explained that MassCOSH was a non-profit organization specializing in providing a healthy and safe work environment for people in Massachusetts. Specifically, she noted that MassCOSH works with people who are of particular risk, such as immigrants, teens, and non-English speaking workers.

Ms. Goldstein-Gelb stated that this was the 17th year that Workers' Memorial Day was observed (April 28, 2005). The day is set aside to remember workers killed or injured on the job. Ms. Goldstein-Gelb explained that the Worker Memorial Day Report highlights the names of the 72 workers who died in 2004 and the 20 servicemen from Massachusetts who had lost their lives.

Ms. Goldstein-Gelb explained to the Council Members that she had recently participated in a briefing at the State House regarding the hazards involved in the wood-floor finishing industry in Massachusetts. She reported that last September, two Vietnamese floor sanders died when fire burned through a Somerville home while the floor was being refinished. A fire in Hull, less than a year later, took the life of another Vietnamese floor sander. Both fires were suspected to be caused from highly flammable chemicals used to refinish the floors. Ms. Goldstein-Gelb stated that many floor-finishing products are highly flammable and contain chemicals that are neurological or reproductive toxins.

Ms. Goldstein-Gelb noted that the floor sanding industry has become an occupation performed primarily by immigrants, mostly Vietnamese or Cape Verdeans. She stated that according to a survey by Viet-AID, 127 of 144 floor-finishing contractors registered in Boston employ Vietnamese workers. She noted that these workers have little or no access to health and safety information relevant to the products used and finishing techniques. Ms. Goldstein-Gelb further stated that many in the Vietnamese community face language barriers that prevent them from receiving or understanding information concerning safety and chemical hazards.

Ms. Goldstein-Gelb mentioned that because the floor sanding business is so competitive, floor sanding companies often choose to use toxic and flammable products because they are less expensive than the safer water-borne products. Furthermore, when one employee is hurt, there are many others waiting in line to take that employee's position.

Ms. Goldstein-Gelb informed the Council that the Floor Finishing Safety Task Force is co-sponsoring House Bill 3375 with Representatives Martin Walsh, Patricia Jehlen and Garrett Bradley, as well as Senators John Hart and Robert Hedlund. This bill would regulate the floor sanding industry by requiring licensing and training for all people in the industry. Other recommendations made by the Task Force include: prohibiting the sale of flammable floor finishing products for indoor use; funding the Massachusetts Toxics Use Reduction Institution (TURI) to develop standardized product labels in languages understandable to the majority of users; and to add multi-lingual labels and sufficient warnings on the products.

The Office of Safety Director, Gayann Wilkinson, stated that it is very difficult to reach out to this target community because many of these companies are frequently in and out of business. She stated that for those companies that can be reached, there is often a cultural divide. Ms. Wilkinson suggested that training be mandated in order for a person to receive a license.

Ms. Goldstein-Gelb explained that the Coalition Alliance for Healthy Tomorrows had made two recommendations for getting the message out into the community: work with the legislature and educate the consumers. She explained that it was important to make the consumer aware that there are safer chemicals out in the market that should be used when floor finishing is being done on their homes. Ms. Goldstein-Gelb stated that if the consumer would promote safer products, such as water-based solvents, this would increase awareness and help to ensure a safer work environment. Chairman Byrne requested that Executive Director Burton provide the Council Members with a copy of House Bill 3375. Chairman Byrne suggested that the Council further discuss the merits of this legislation at next month's meeting.

CHANGES & ACCOMPLISHMENTS - OFFICE OF SAFETY

The Executive Director introduced Mr. Dan DeMille, the Lawrence Regional Manager. Mr. DeMille reviewed the Safety Grant Program. In FY'05, the Office of Safety received 93 proposals in which 49 were funded. This allowed the Office of Safety to train a total of 13,210 people. Mr. DeMille stated that in FY'05, the Office of Safety cut administrative costs, which allowed them to save approximately \$200,000.

Mr. DeMille reported that for FY'06, the Office of Safety had received 71 proposals and funded approximately two-thirds (47). Mr. DeMille noted that 30% of those proposals were directly related to outreach by the Office of Safety to the Chamber of Commerce.

Mr. DeMille stated that Office of Safety had recently archived their Safety Video Library and has placed this information on the DIA website. He noted that all videos can be borrowed by the public to assist in training efforts. Council Member John Boyle raised concern that the grant money is being used to train the wrong workers. CM Boyle suggested that the Safety Grant Program target workers who are in the most need for training and experience the most serious injuries. CM Boyle voiced his belief that grant spending should be focused on industries where fatalities occur, such as the floor sanding industry.

Chairman Byrne recommended that the Council review the Office of Safety's mandate in regards to Safety Grants and examine this issue further at next month's meeting.

EXECUTIVE DIRECTOR UPDATE

Executive Director Andrew Burton explained that the proposed legislation that would suspend the driver's license of uninsured employers, filed by Representative Rodrigues, had been placed in the Joint Committee on Transportation. Mr. Burton stated that he and Mr. Taupier would be contacting Senator McGee's Office to see if this bill could be moved to the Joint Committee on Labor & Workforce Development.

MISCELLANEOUS

Chairman Byrne thanked all parties for participating and asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed. Meeting adjourned 11:45 a .m.

The next regular meeting of the Advisory Council is scheduled for Wednesday, November 9, 2005 at 9:00 AM, at the Division of Industrial Accidents, 7th Floor Conference Room, Boston, MA 02111.