

**Massachusetts Workers' Compensation
Advisory Council Minutes**

February 11, 2004

Department of Industrial Accidents

600 Washington Street, 7th Floor

Boston, MA 02111

Present: Chairman Thomas M. Jones. CM: Edmund C. Corcoran, Jr.; Antonio Frias; Ines Leonardo; Fran Fanning; Alan S. Pierce; Joan Lenihan, (Department of Labor and Workforce Development); Rich Weitzel (Department of Business and Technology).

Also Present: DIA: Deputy Commissioner John Chapman, Senior Judge Daniel O'Shea; Jack Tynan, Director of Administration; Richard Morris, First Deputy Director of Administration; Bill Taupier, Deputy Director of Administration & EDP; Philip Wiswell, EDP Manager; Kevin Mulvey, State Auditor; Tom Budnar, Oracle.

Advisory Council Staff: Andrew Burton; Evelyn Flanagan, Ann Helgran.

Absent: CM: Robert Banks, Carol Falcone, Jeanne-Marie Boylan; Bruce Cochrane; Stephen Sampson; John Perry.

Agenda:

DIA Update

Oracle Presentation - Tom Budnar (Oracle)

Action Items

- Minutes - January 14, 2004

Draft Guidelines - Qualifications of Judicial Candidates

Commerce & Labor Executive Session

Executive Director Update

Miscellaneous

Chairman's Welcome

Chairman Jones conducted today's meeting.

DIA UPDATE

Senior Judge O'Shea updated Council Members on the information contained within the DIA's vital statistic report (see attached). Conference Queue: 922; Hearing Queue: 2,111; Reviewing Board Inventory: 102; Impartial Exams: 2,525 (76 waivers).

Stop Work Orders/Caseload Statistics

Mr. Bill Taupier updated Council Members on the Stop Work Order and Caseload Statistics. Stop Work Orders issued for January: 24; Total Stop Work Order compliance investigations completed during January: 549; Fines Collected: \$26,702; Fines Imposed: \$8,100.

Mr. Jack Tynan explained to Council Members that the decrease in the number of Stop Work Orders issued was due, in large part, to the computer training currently being held for the Office of Investigations. The training is scheduled to continue into the early part of February. Investigators would be in the office for a majority of the month of February, which will contribute to the figures remaining low for next month's statistics. Upon completion of training, the investigators will resume their regular schedule. Mr. Tynan explained that the number of investigations should begin to rise toward the latter part of the month.

Mr. Taupier continued his update of the monthly vital statistics. Total number of cases filed for January 2004: 1,213. Total number of cases filed for January 2003: 1,669. Total number of cases filed for fiscal year 2004: 9,484. Total number of cases filed for Calendar Year 2003: 16,987. Total number of First Report's filed for January 2004: 2,967. Total number of First Report's filed in fiscal year 2004 (to date): 21,844. Total number of First Report's filed in fiscal year 2003: 36,641.

Uninsured claims (§65) filed for fiscal year 2004: 110. Uninsured claims paid by the Trust Fund for fiscal year 2004: \$2,389,558. Total number of Section 65 Claims filed for fiscal year 2003: 233. Total number of uninsured claims paid by Trust Fund for fiscal year 2003: \$3.78 million.

Number of §37/§37A petitions filed in fiscal year 2004: 208. Number of §37/§37A petitions paid in fiscal year 2004: 373. The amount paid on these claims in fiscal year 2004: \$13,988,200. Number of §37/§37A petitions filed in fiscal year 2003 (to date): 284. Number of §37/§37A petitions paid in fiscal year 2003 (to date): 257. The amount paid on these claims in fiscal year 2003 (to date): \$19.8 million.

Budget/Personnel Issues

The total number of positions filled by full-time employees at the DIA (including the WCTF) as of February 2004: 283 (255 DIA employees, 28 WCTF employees). The DIA has no contract employees at this time. Five temporary employees are being utilized within the DIA as of this report.

Council Members inquired whether the agency intended to hire additional support staff considering that the number of claims are down. Council Members asked about the number of ERIP positions still available. Senior Judge O'Shea indicated that the statute requires the DIA to maintain a certain number of judges. The Senior Judge explained that in order to keep cases moving smoothly it was imperative that all judicial positions be filled. He noted that the ERIP positions

do not affect the judicial positions. Council Members concurred with the Senior Judge's assessment of the necessity for the judicial positions.

Council Members voiced concern regarding the adequate level of staffing at the DIA with the current trend of decreasing claims. Mr. Tynan indicated that they were reviewing the staffing situation. With respect to temporary employment, Mr. Tynan remarked that temporary workers were only utilized for short-term projects.

Council Members also voiced concern regarding the marked increase in the Section 37 Claims and the costs associated with them. Mr. Tynan explained that they were reviewing this matter. **Chairman Jones requested that Mr. Tynan provide a formal explanation with respect to this matter at the next Advisory Council Meeting.** Mr. Tynan stated that he would put together as much information as possible. Chairman Jones thanked the members of the DIA for their update.

Oracle - Phase III

Tom Budnar appeared before the Advisory Council and reviewed Oracle's previous accomplishments in Phase I and Phase II. Mr. Budnar explained that there was potential for further enhancements to the Case Management System (CMS) if the DIA and Advisory Council chose to support an additional phase. Mr. Budnar stated that Oracle could provide the DIA with: an online assessment collection application, a Millennium Application System, and additional user-requested enhancements.

Mr. Budnar stated that Oracle will work on providing a comprehensive document to the DIA describing the possible scope of Phase III. Once the proposal is reviewed with DIA Senior Management, Mr. Budnar will have Oracle present it to the Advisory Council.

Draft Guidelines for Conducting Judicial Interviews

Chairman Jones voiced concern on the time constraints that the Executive Order imposed on the Advisory Council for interviewing judicial candidates. The Chairman explained that the Advisory Council could have a difficult time gathering a quorum of members together to conduct interviews within seven days from receiving the candidate's names from the Nominating Panel. The Chairman noted that this problem is compounded by the fact that the Council is currently without a full compliment of voting members. Chairman Jones explained that a group of Council Members remained after last month's meeting to draft internal guidelines that will provide set procedures for conducting judicial interviews in an effort to expedite the process. These guidelines were included in Council Members' packets.

Commerce & Labor Executive Session

The Executive Director, Andrew Burton, explained that on Tuesday, January 20, 2004, the Joint Committee on Commerce & Labor held an Executive Session on all workers' compensation legislation before the committee. The Executive Director stated that although a majority of the bills were placed into "study," twelve bills were "favorably rated" and combined into newly redrafted legislation. He noted that Council Members had a memorandum in their packet listing the "favorably rated" legislation.

Prior to discussing the pending legislation, Deputy Commissioner John Chapman shared with Advisory Council Members an outside section that was included in the Governor's Budget. Mr. Chapman explained that this outside section would allow the DIA to suspend or prohibit the issuance or renewal of a driver's license of an employer who is operating without workers' compensation insurance. Mr. Chapman stated that this would benefit the workers' compensation system by giving the DIA one more tool to help enforce the insurance mandate.

Mr. Burton reviewed the following legislation with Council Members:

SENATE BILL 72/SENATE BILL 88 - Employee Leasing Companies

SENATE BILL 123 - Benefits: State Social Workers - Acts of Violence

HOUSE BILL 4458 - Comprehensive

HOUSE BILL 4459 - Corporate Officers/Directors - Waiver of Rights

HOUSE BILL 4465 - Judicial Appointments/Performance - Code of Conduct Council Member Pierce requested that all members reconsider House Bill 4458. He stated that the reason a multiplier was put into this bill was to account for annual increases in the State Average Weekly Wage.

Chairman Jones asked the Executive Director to send a letter on behalf of the Advisory Council to the House Committee on Steering, Policy and Scheduling endorsing the passage of House Bill 4465.

EXECUTIVE DIRECTOR UPDATE

The Executive Director informed Council Members that on January 28, 2004, Governor Romney released his Fiscal Year 2005 Budget Recommendations (House 1) in which the DIA was appropriated \$19,422,377. Mr. Burton stated that the Governor's budget did not include a limit on DIA expenditures for occupational safety grants.

The Executive Director welcomed any interested Council Members to participate in a meeting with the State Auditor's Office on February 18th at 10:00 a.m. Immediately following this meeting would be a budget subcommittee meeting at 11:00 a.m. Chairman Jones adjourned today's meeting at 11:30 a.m.

The next regular meeting of the Advisory Council is scheduled for March 10, 2004 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, at 600 Washington Street, Boston, MA 02111.