

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

October 10, 2001
Venezia Restaurant
20 Ericsson Street
Boston, MA 02122

Chairman: William H. Carnes

Vice Chairman: Edmund C. Corcoran, Jr.

Present: Chairman William H. Carnes; Vice-Chairman Edmund C. Corcoran, Jr. *CM:* Frank Fanning; Antonio Frias (Inez Leonardo); John Perry; Richard Lord (Tom Jones); Department of Labor & Workforce Development (Joan Lenihan); Alan S. Pierce; Carol Falcone.

Also Present: DIA: Deputy Commissioner Conant; Senior Judge O'Shea; Jerome Shea; Representative Michael J. Rodrigues, Karen Almeida, Jonathan Ablett and Ken Owens (Commerce and Labor Committee); George Sutcliffe; Nancy Foley (MassCosh).

Advisory Council Staff: Denise A. Lucciola; Andrew Burton; Ann Helgran.

Absent: *CM:* Bruce Cochrane; Stephen Sampson; Jeanne-Marie Boylan; Robert Banks; Department of Economic Development (Tom McCullough).

Agenda:

DIA Update

Vocational Rehab Update - Council Member Carol Falcone

Action Items

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Executive Director Update

Miscellaneous

Recognition of Council Member Joseph A. Tamulis

Chairman Carnes acknowledged that today's meeting was held in conjunction with the recognition of Council Member Joseph Tamulis' resignation. He invited everyone to attend the luncheon in honor of Council Member Tamulis following today's meeting. Chairman Carnes then introduced Representative Michael J. Rodrigues of the Joint Commerce and Labor Committee and asked him if he would update Council Members on pending legislation:

Representative Rodrigues addressed the Council and made reference to the following four bills that had been endorsed by the Advisory Council.

- House 1161 (Insurance Assessment bill) had reported out favorably and is in House Ways and Means;
- Senate 757 (To Raise Employer Fines) had been put in study;
- House 2648 (Code of Judicial Conduct for Judges) had been reported out favorably with some amendments; and - The Bill Staggering Judges' Terms of Office have been reported out favorably. The Representative also encouraged Council Members to write to the various Committees or to him with any concerns they may have regarding legislation.

Vice Chairman Corcoran informed Council Members that he and Senior Judge O'Shea had participated in the International Industrial Accident Board Conference in Portland, Maine and that it was noted that the code of judicial conduct was practiced in most States. Chairman Carnes thanked Representative Rodrigues for attending today's Council Meeting and stated that the Council appreciated the efforts of Commerce and Labor. Chairman Carnes recognized former Council Member Tamulis and acknowledged his assistance as a Member of the Council and again invited those present to stay for his luncheon.

DIA Update

Senior Judge O'Shea updated Council Members on current judicial statistics. Conference Queue: 1,838; Hearing Queue: 1,916; Reviewing Board Inventory: 210; Impartial Exams: 879 (11 waivers). He expressed the belief that the Hearing queue could become problematic and needed to be reviewed.

He informed Council Members that he had attended a meeting with the Governor's Chief Legal Council's office and was optimistic that they will proceed to finalize judicial appointments within the next month. Senior Judge O'Shea also stated that the number of impartial doctors had increased to 211 but there were still shortages in the Western part of State and in some specialties. Chairman Carnes thanked Senior Judge O'Shea for his update.

Stop Work Orders

Mr. Jerome Shea, Director of Administration, reviewed the statistics on stop work orders. Total Investigations for September: 632; Total SWO's Issued: 162; Total Fines Collected: \$24,787.00; Total Fines Billed: \$18,750.00. He further noted that investigations were down because of lost work hours of investigators due to family problems.

Budgetary Matters

Mr. Hayes informed members of the Council that there was a Budget Study Plan in process (\$18 million 6.2) and that there would be a shortfall in Personnel and money will have to be moved from different accounts. The same budget will probably be carried into fiscal year '03. He stated that a Budget Subcommittee meeting would be held at 1:30 p.m. on October 23rd with members of the Advisory Council and they will be given a briefing on the budget at that time.

Personnel Issues

Mr. Shea continued to update Council Members on Personnel Issues and referred to his handout (attached to the minutes). Total Staffing as of September 30, 2001: 304.5.

Assessment Audit

Karen Fabiszewski, Assistant General Counsel, updated and distributed a handout (attached to minutes). She noted that a final report had been issued by the reviewing firm of Moody, Famiglietti and Andronico regarding the Eastern Casualty Insurance Company. Ms. Fabiszewski noted that the results of the report were based on an examination of a sample population and that these results were then extrapolated to the entire population of policies to arrive at a projected underpayment. Chairman Carnes thanked the members of the Department for their update.

Vocational Rehab Update - Carol Falcone

Council Member Falcone stated that she and Council Member Pierce had met with the Commissioner, Deputy Commissioner and Mr. Hayes and they were very receptive to the Council's recommendations. A summary of this meeting was given to her this morning.

Council Member Falcone informed Council Members that Mr. Hayes would be addressing the issues and their recommendations that dealt with the internal operations of vocational rehabilitation. She was hopeful that the Oracle system would enhance the services rendered to injured employees.

Council Member Pierce stated that at the meeting with the Department he addressed the concerns regarding vocational rehabilitation from an attorney's point of view, and that of an injured worker. He felt

that the meeting was a productive meeting. Council Member Falcone would like to have the next meeting sometime in November and Mr. Hayes will inform her as to the Department's availability. Chairman Carnes thanked Subcommittee Members Falcone and Member Pierce on behalf the Council.

Minutes

Chairman Carnes asked for a motion to accept the September 2001 minutes.

Motion made to accept the minutes.

MMS - passed.

Executive Director Update

Ms. Lucciola thanked Representative Michael Rodrigues and the Joint Committee on Commerce & Labor Staff for attending today's meeting. She then referred to the articles she had included in Council Members' packets. She reviewed the articles referring to Eastern Casualties transfer of policies and the article regarding the workers' compensation costs to the insurance industry from the Sept. 11th tragedies.

Ms. Lucciola reminded Council Members that tomorrow the WCRI would be holding a briefing at the State House at 11:00 a.m. to discuss their findings from a new multi-state benchmarking report. She noted that the report outlined how Massachusetts compared with seven other states on key measures such as timeliness of payments to injured workers, benefit costs, medical costs, claim duration, and attorney costs. She informed Council Members that if they were unable to attend tomorrow's meeting there would be another briefing held at the Colonnade Hotel on Wednesday, October 24, 2001 from 1:30 p.m. to 2:30 p.m.

Ms. Lucciola informed Council Members that on October 2nd Vice Chairman Corcoran, Andrew Burton and she had attended the Oracle Steering Committee Meeting. They were made aware of the fact that the project is going well, but is currently four weeks behind schedule with report testing. Mr. Hayes stated that an additional Oracle developer has been added to their staff to correct this lag in time.

Ms. Lucciola stated that on October 3rd she and Andrew Burton met with the Commerce and Labor staff members Jonathan Abblett and Ken Owens to discuss the current status of workers' compensation legislation. They agreed that it would be beneficial for a letter to be sent to the Committee Chairs from the Advisory Council informing them of the Council's concerns and endorsed legislation. Ms Lucciola stated that she was formulating the Council Concerns and Recommendations to be included in the Annual Report and would try to have it available for the November meeting. She requested that Council Members send her any information that they would like to have included in this section.

Ms. Lucciola announced that Ex-Officio Council Member Tom McCullough (MA Office of Business Development) is leaving the Council because of employment transfer. She also recognized Nancy Foley from the Alliance of Injured Workers who was attending today's meeting.

Ms. Lucciola personally thanked former Council Member Joseph A. Tamulis on behalf of his staff and that he would be missed.

Miscellaneous

Chairman Carnes suggested that the Council consider putting together some sort of Holiday function. Chairman Carnes and Vice Chairman Corcoran presented former Council Member Joseph A. Tamulis with a gift in recognition of his distinguished service as an Advisory Council Member. It was presented on behalf of the Swift Administration and the Department of Industrial Accidents. They wished him all the best in his future endeavors.

Joseph A. Tamulis thanked everyone and stated it was a pleasure and an honor to be part of the Council.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 12:30 p.m.

The next regular meeting of the Advisory Council: November 14, 2001 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, and 600 Washington Street, Boston, MA 02111.