

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

February 14, 2001
Department of Industrial Accidents
600 Washington Street, 7th Floor
Boston, MA 02111

Chairman: William H. Carnes

Vice Chairman: Edmund C. Corcoran, Jr.

Present: Vice Chairman Edmund C. Corcoran, Jr. CM: Antonio Frias (Inez Leonardo); Stephen Sampson; Richard Lord (Tom Jones); John Perry; Alan S. Pierce; Carol Falcone; Department of Labor & Workforce Development (Joan Lenihan); Department of Economic Development (Thomas McCullough).

Also Present: DIA: Thomas J. Griffin III, Commissioner; Priscilla J. Conant, Deputy Commissioner; Vin Luca; Jim Hayes; Senior Judge Daniel O'Shea; KrisAnn O'Herron; Richard Fairbrothers; Karen Guarin and Tracy Pace (House Post Audit and Oversight Bureau); Karen Wager (WCRIB).

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

Absent: Chairman William H. Carnes; CM: Frank Fanning; Joseph Tamulis; Robert Banks; Bruce Cochrane; Jeanne-Marie Boylan.

Agenda:

Welcome:

- Thomas J. Griffin III, Commissioner
- Priscilla J. Conant, Deputy Commissioner

DIA Update

DIA Fiscal Year 2002 Budget

Action Items

- Minutes - January, 2001

Executive Director Update

Miscellaneous

Vice Chairman Corcoran conducted today's meeting. He asked that those guests present introduce themselves to the Council Members, and he thanked them for attending today's meeting.

He acknowledged Senior Judge O'Shea and asked for his report on judicial statistics.

DIA Update

Senior Judge O'Shea updated Council Members on the current judicial statistics. Conference Queue: 904; Hearing Queue: 1,372; Reviewing Board Inventory: 231; Impartial Exams: 2,620 (39 waivers).

Vice Chairman Corcoran inquired as to the method being implemented by the Senior Judge to expedite cases.

Senior Judge O'Shea stated that he had adjusted the "time-lag" that had risen between conciliation and conference prior to his appointment. This was done by reviewing the 13 week cycle, that had been in place, and creating a "Track A" (12 week cycle program) and a "Track B" (6 week cycle). The purpose of this was to help to schedule conferences quicker and it gives more flexibility to the schedule. He also eliminated the "feast or famine scheduling" which exists in Worcester and Springfield. This is when judges are on the same cycle as other areas and he is required by the statute to give judges an equal caseload yearly. He stated that because of these changes, the Conference queue has decreased.

Senior Judge O'Shea was asked to update the Council on the status of judicial appointments. He responded that he was working with the Governor's Chief Legal Counsel's Office regarding appointments, and those judges on recall status are presently working on-line with the assumption that they will be re-appointed.

Vice Chairman Corcoran asked the Senior Judge, that in light of the OSHA regulations, if he had been involved with any organizations or other states regarding their position on this issue. He replied that he had not as yet had any contact with other agencies or other states.

Vice Chairman Corcoran thanked the Senior Judge and proceeded to welcome the new Acting Commissioner and Acting Deputy Commissioner.

Welcome

Thomas J. Griffin III, Commissioner

Priscilla J. Conant, Deputy Commissioner

Commissioner Griffin III stated that he was looking forward to working with the Council. The Commissioner and Deputy Commissioner Conant wished everyone a Happy Valentines Day.

Stop Work Orders

Mr. Luca reviewed the statistics on stop work orders, which had been included in Council Members' packets. Total Investigations for January 686; Total SWO's Issued: 259; Total Fines Collected: \$24,681.00; Total Fines Billed: \$19,650.00; Total Fines Written Off last Month: \$32,572.00.

Personnel Issues

Mr. Luca continued to update the Council on personnel issues. An Accountant III, a Counsel II and an Investigator resigned. There were two new hires, a Clerk IV and an Investigator. Total DIA positions as of January 31, 2001: 292.2.

DIA Fiscal Year 2002 Budget

Mr. Luca then referred to House I, Fiscal Year 2002 Budget Figures which had been included in Council Members packets (attached to minutes). The Department's allocations was for \$18,642,773.00 and the projections for House I, Fiscal Year 2002 was also \$18,642,773.00. He noted that because only \$799,809.00 was allotted for the Safety Grants Program, the Department with the assistance of KrisAnn O'Herron, Finance and Accounting Director, they were able to assemble a workable budget sheet. This sheet (attached to minutes) has been presented to the House and Senate Ways and Means Committee. It has been approved through DLWD, but the Department has not had final approval. If the submitted form is accepted it will be the budget for fiscal year 2002.

Vice Chairman Corcoran again raised concern that the Council was not consulted prior to the submission of the Department's budget. He emphasized that every year the budget issue is a problem in regard to how the Council is notified, and what role they play in the process. He requested that the Executive Director contact those members whom would be interested in participating in a Budget Subcommittee, and that Mr. Luca be notified as to the time of the meeting.

Discussion followed.

Commissioner Griffin was asked who was the legislative liaison for the Department. He replied that Mr. Bill Taupier was and that he will be active in that position in the future. Mr. Fairbrothers stated that he has also acted as liaison and has had meetings with the legislature regarding workers' compensation issues.

Mr. Luca was asked if MUTTS had been included in the fiscal year 2002 budget. He replied that it had not been included. Commissioner Griffin stated that one of his priorities is to look at the entire Health Care Service Board. He has not at this time come to a conclusion as to what will be recommended regarding MUTTS. The contract with the vendor CHER has not been included in the budget. When asked about the answer from the Attorney General's Office regarding the privacy issue, the Council was told that the Attorney General would support the Department if the MUTTS program went forward as long as the privacy of claimants were protected.

Mr. Luca continued his update and stated that there was nothing to report on the Insurance Audit. He will submit something in writing to the Council as it materializes.

Vice Chairman Corcoran thanked members of the Department for their input.

Action Items

Minutes

Vice Chairman Corcoran asked for a motion to accept the January 2001 minutes.

Motion made to accept the minutes.

MMS - passed.

Executive Director Update

Executive Director, Denise Lucciola updated Council Members. On January 31st, she and Andrew Burton attended a discussion at the WCRIB regarding the new OSHA Ergonomic Guidelines. She stated that Frank Garvitt, OSHA Regional Director, was unable to discuss the guidelines because they were in litigation. She will keep the Council updated as to future events regarding the guidelines.

Ms. Lucciola referred to the enclosures in Council Members' packets and a list of the new members of the Commerce and Labor Committee. She noted that Representative Larkin will no longer be serving on the Committee, and Representative William G. Greene, Jr, will replace him. She has spoken with Representative Greene and arranged to have a meeting with him in the near future.

Ms. Lucciola stated that she was in the process of reviewing the newly filed workers' compensation legislation. She then referred to the two bills she had included in Council Members' packet. Ms. Lucciola stated that she had discussed with the Senior Judge House Bill 1538, which would abolish the Reviewing Board and the Division of Administrative Law Appeals would assume their duties. She is presently in the process of arranging a meeting with the originator of the bill and will keep the Council updated. Ms.

Lucciola noted that Senate Bill 83 would require the DIA to conduct a study regarding a list of Vocational Rehab issues, and asked Council Member Falcone for her input.

Ms. Falcone stated that Senator Lynch filed the bill on behalf of an injured worker. The bill would authorize the Director of Industrial Accidents to investigate and study issues related to vocational rehabilitation services offered to injured employees under the workers' compensation system. Ms. Falcone stated that it appeared as if the injured worker has collaborated with other injured workers on how they would like to see changes in the vocational rehab services. She indicated that the Vocational Community did have concerns with some of the issues and she would continue to follow the status of this bill through Senator Lynch's Office.

Mr. Fairbanks referred to Senate Bill 79, which amends §30 of Chapter 13. He noted that in amending §13 it would eliminate any legislative authority that has been relied on by the Department of Industrial Accidents over the last several years to justify the MUTTS program. He indicated that if Senate Bill 79 were to be enacted, the Department would not have to make a decision regarding MUTTS because they will not have the statutory authority to go forward. Senate Bill 79 would eliminate utilization review, MUTTS, and the entire Health Care Service Board. Mr. Fairbanks stated that Representative Walsh has assured him that he would look into this bill and will talk to members of the Department before anything goes forward.

Vice Chairman Corcoran stated that the Department should be applauded for what the Health Care Service Board has done relative to utilization review and in the development of guidelines which are spoken of nationally. He felt that it would be unfortunate if Senate Bill 79 eliminates the entire Health Care Service Board as it could result in an increase in claims.

Ms. Lucciola continued to update Council Members. She informed Council Members that the Workers' Compensation Rating & Inspection Bureau is expecting to do a rate filing on March 1st. She spoke with the Budget Department and was told that Ann Conway of Tillinghast still has a contract with the Council. Ms. Conway is ready to proceed with a study.

Ms. Lucciola further informed Council Members that she and Andrew Burton attended an Oracle Steering Committee meeting on February 6, 2001. She noted that the project is going well and without any delays. She will continue to attend the monthly meetings and update Council Members as to its progress. She will also keep Council Members updated on Legislation.

Miscellaneous

Vice Chairman Corcoran inquired as to whom was now the Director of the Trust Fund. Ms. Conant replied that Deborah DiBella, Esq., R.N., is now Acting Director.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 10:30 a.m.

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