

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

June 12, 2002
Department of Industrial Accidents
600 Washington Street, 7th Floor
Boston, MA 02111

Chairman: William H. Carnes

Vice Chairman: Edmund C. Corcoran, Jr.

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

Also Present: DIA: Commissioner Thomas J. Griffin; Deputy Commissioner Priscilla J. Conant; Senior Judge Dan O'Shea; Jerome Shea, Director of Administration; Jim Hayes; Paul Griffin, DIA Legal Counsel; Catherine Farnam, Office of Health Policy; Tom Carroll, Office of Safety; Jessica Nordstrom, Office of Senator Marc R. Pacheco; Karen Wager (WCRIB); Sharon Soong, Office of Health Care Finance & Policy, Sandra Gethers.

Advisory Council Staff: Denise Lucciola; Andrew Burton;

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

Agenda:

DIA Update

Introduction - Catherine Farnam

Safety Grants

Senate Bill 2358

Action Items

Minutes - May 8, 2002

Executive Director Update

Miscellaneous

Chairman Carnes conducted today's meeting.

DIA Update

Senior Judge O'Shea updated Council Members on current judicial statistics. Conference Queue: 1670; Hearing Queue: 1269; Reviewing Board Inventory: 102; Impartial Exams: 4,211 (81 waivers). The Senior Judge provided a brief summary of the Oracle conversion, as it related to Dispute Resolution. He also referred to judicial appointments.

Judge Taub has been recalled; Patricia Costigan was appointed to the ALJ Review Board slot as of July 1, 2002; and Judge Bean was re-appointed to a 3-year term. Floor opened for questions by Chairman Carnes.

Council Member Jones queried as to any open Judgeships. The Senior Judge responded that Judge Long's position is open. He also noted that although Judge Purcell's term expired in December of 1999, he is being held over. Judge Sumner's term expires in July of 2002. His position is in pool of candidates and could be re-appointed.

The Senior Judge explained that there has been no movement regarding an increase to the examination fee. Council Member Jones stated that a number of insurers were upset due to stalemate in regards to fee increase. The Senior Judge noted that the rate is ascribed by 801 CMR statute. A proposal was recommended and submitted, which is now under administrative review. The DIA has a total of 228 IME doctors on the roster as compared to 587 in the past. This dramatic decrease is not only attributed to the lack of any fee increase, but in part to doctors being board certified vs. board eligible. The HSCB recommends that IME doctors be certified and not just eligible.

Council Member Pierce asked if agency still had one judge off-line. The Senior Judge stated that one judge was currently off-line. Vice Chairman Corcoran suggested that a probationary period would be a useful tool when the quality of judicial performance diminishes. The Senior Judge appreciated such suggestions and explained that each judge has to be handled differently.

Vice Chairman Corcoran asked if a vote should be taken in support of sending a letter from the Advisory Council to the Governor's Chief Legal Counsel with Council's viewpoint of one particular judge in question. It was agreed that the a letter should be sent indicating the Council's concerns regarding the judicial performance of one particular judge. Motion for a letter to be drafted for "all members review" addressing committee concerns of one particular judges' lack of performance.

MMS - passed.

Vice Chairman Carnes thanked the Senior Judge.

Stop Work Orders

Mr. Shea reviewed the statistics on stop work orders. Total Investigation for May: 903; Total SWO's Issued: 246; Total Fines Collected: \$44,804.00; Total Fines Billed: \$29,400.00.

Budget Mr. Hayes stated that the Senate budget has allocated the DIA more than House budget. Mr. Hayes deferred other budgetary issues to Executive Director, Denise Lucciola, for further discussion in her update.

Personnel Issues

Mr. Shea referred to changes in the May memorandum in Council Members packets which showed a new Systems Analyst hire in Data Processing; resignation of Administrative Secretary in Judicial support; discharge of M6 position in Claims; and a new hire in the Office of Health Policy (UR Nurse III). In answer to Council Members questions, Commissioner Griffin stated that the Agency is very close in its efforts to hire a Conciliator II. Chairman Carnes thanked Mr. Hayes. Chairman Carnes introduced Catherine Farnam, the new Acting Director of the Office of Health Policy.

Assessment Audit

Mr. Shea deferred his update on the assessment audit until next month, at which time a full briefing will be made to council members. Chairman Carnes thanked Mr. Shea for his updates.

Safety Grants

Mr. Carroll, from the Office of Safety, directed the Council Members attention to handouts referencing the FY'03 Safety Grants Selection Report. The FY'02 figures will not be available until end of June. Mr. Carroll noted that the figures would be lower than last years due to cuts in funding (\$100,000) resulting in only 28 grants vs. 33 grants the year before. There were 62 submittals this years with 1 not being evaluated due to missing information. Of the 61 proposals, 34 were funded.

Council members asked on how safety grants are advertised. Mr. Carroll stated that grants are advertised via the internet, flyers, and word of mouth. Council Member Jones offered Mr. Carroll the opportunity to write a small article on Safety Grants for publication in his on-line newsletter.

Vice Chairman Corcoran applauded the efforts of Mr. Hayes and Mr. Carroll in publicizing the safety grants to businesses. Mr. Carroll stated that next years grant letters are slated to go out by the 2nd week in September, for release by 1st week in October. Proposals are due by 1st week in February. Mr. Carroll also invited Council Members to view some training sessions at their convenience.

Vice Chairman Carnes thanked Mr. Carroll.

Senate Bill 2358

Vice Chairman Corcoran opened floor for discussion on Senate Bill 2358, formerly Senate Docket 2447. This bill would amend the rate setting method for physician and hospital services under c.152 and increase the benefits for scar-based disfigurement under §36. Council Member Pierce noted that Senate bill 2358 is a highly reduced version of House Bill 777.

Ms. Sharon Soong, Policy Analyst for the Division of Health Care Finance & Policy (DHCFP), was asked to respond to the Council regarding this legislation. Ms. Soong was not officially prepared to speak but was willing to answer questions posed by the Council Members. Her office is currently working on amendments to the bill. However, due to recent retirements, the DHCFP is under-staffed. Linda Ruthardt, formerly the Commissioner of Insurance, is now the new Commissioner for DHCFP. Vice Chairman Corcoran stated that he had serious concerns regarding the impact of House Bill 2358.

Council Member Pierce discussed various aspects of the bill and stated that other state systems have already gone through this procedure. He also stated that the Council should be willing to work with Commerce and Labor to refine system fees. Vice Chairman Corcoran agreed with Mr. Pierce and stated that given the opportunity, the Council will work with Commerce and Labor regarding this issue.

Ms. Nordstrom shared with the Council that this bill is a priority of Senator Pacheco. She also stated that the Senator would like to work with the DIA on this issue. Council Member Jones expressed his concerns regarding Senate Bill 2358. He stated that any increase to either medical fees or scarring should be coupled with a legitimate cost estimate.

Discussion ensued between Council Members as to the terminology referenced by the term "Usual & Customary." It was noted that Senator Pacheco made a reference to other New England states using such terms as it pertained to rates. It was also thought that such language evoked a meaning of whatever the doctor charged. The Council was in agreement that the term "Usual & Customary" must be more clearly defined.

Vice Chairman Corcoran asked Ms. Catherine Farnam if the Health Care Services Board (HCSB) had taken this legislation under discussion. She responded that the HCSB is currently reviewing the bill and the problems associated with it. The Board believes there should be parity.

Vice Chairman Corcoran proposed that the Advisory Council draft a letter to the Commerce & Labor Committee stating the Council's inability to reach a consensus in favor or opposed to Senate Bill 2358. However, such a letter would state the areas of agreement that the Council had discussed at today's meeting. It was agreed that such a letter should be faxed to each member for comment. Motion made for such actions.

MMS - passed.

Action Items

Chairman Carnes asked for a motion to accept the May 2002 minutes.

Motion made to accept the minutes.

MMS - passed.

Executive Director Update

Executive Director, Denise Lucciola, updated the Council on the Senate budget. Specific allocations were \$800,000 for Safety and \$150,000 for Electronic Arbitration. Ms. Lucciola stated that the Oracle funding for Phase-II was also included in the budget.

Vice Chairman Corcoran asked Mr. Hayes about the status of Oracle and if it was on track. Mr. Hayes responded that Oracle was indeed on track with the exception of minor issues with the firewalls.

The WCRI meeting will be held June 13, 2002 in Commissioner Griffin's Office to discuss the draft report coming out in July. Furthermore, Ms. Lucciola, Ms. Falcone and Mr. Hayes will be attending the next vocational rehabilitation subcommittee meeting. Ms. Lucciola thanked Ms. Sandra Gethers for sitting in the absence Ms. Helgran, who is on vacation. Ms. Lucciola stated that she will fax a copy of a letter regarding Senate Bill 2358 to Council Members.

Chairman Carnes thanked Ms. Lucciola and asked for a motion to adjourn. Motion made to adjourn.

MMS- passed. Meeting adjourned 11:35 a.m.

The next regular meeting of the Advisory Council: July 10, 2002 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, at 600 Washington Street, Boston, MA 02111.

