

**Massachusetts Workers' Compensation  
Advisory Council Minutes**

August 14, 2002

Department of Industrial Accidents

600 Washington Street, 7<sup>th</sup> Floor

Boston, MA 02111

Present: Vice Chairman Edmund C. Corcoran, Jr.

CM: Frank Fanning; Alan S. Pierce; Carol Falcone.

Also Present: DIA: Commissioner Thomas J. Griffin; Deputy Commissioner Priscilla J. Conant; Senior Judge Dan O'Shea; Director of Administration & EDP, Bill Taupier; Paul Griffin, DIA Legal Counsel.

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

**Absent:** CM: Chairman William H. Carnes; Richard Lord (Tom Jones); Jeanne-Marie Boylan; Antonio Frias; Robert Banks; John Perry; Stephen Sampson; Bruce Cochrane; Department of Labor & Workforce Development (Joan Lenihan); Department of Economic Development (Robert Matthews).

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**Agenda:**

DIA Update

Action Items

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Executive Director Update

Miscellaneous

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Vice Chairman Corcoran conducted today's meeting. He expressed condolences on behalf of the Council and himself regarding the passing of the First Deputy Director of Administration, Jim Hayes and for the mother of Deputy Commissioner Priscilla J. Conant. He further noted Mr. Hayes' contribution to the Department and the Advisory Council and stated that he would be greatly missed.

## DIA Update

Senior Judge O'Shea updated Council Members on current judicial statistics.

Conference Queue: 1,491; Hearing Queue: 1,989; Reviewing Board Inventory: 95; Impartial Exams: 202 (10 waivers).

Vice Chairman Corcoran discussed with members of the DIA and the members of the Advisory Council a letter that was sent to Steven Pierce, Chief Legal Counsel, at the Governor's Office. Copies of this letter had been previously sent to the members of the Council. He noted that the DIA Judge who had sent the letter had also requested to address the Council Members at their monthly meeting. He suggested that Council Members discuss this issue before granting such a request.

Discussion followed. Council Members thoroughly examined the ramifications of granting a request for an individual to come before the Council with a grievance. It was the decision of the Council that its function was as an Advisory Board and not as a Personnel Board. The request was denied on the grounds that the Council had received its initial information from the DIA and that if there was anything in this information presented to the Council that was incorrect, it should be addressed by the DIA through its departmental procedures.

## Stop Work Orders

Mr. Taupier updated Council Members on the stop work orders statistics. Total Investigations for July: 773; Total SWO's Issued: 215; Total Fines Collected: \$44,797.00; Total Fines Billed: \$27,100.00. When asked how many claims existed against the Trust Fund, Mr. Taupier replied in the range of 180.

Vice Chairman Corcoran requested that information regarding claims against the Trust Fund be included in the Stop Work Order update at future meetings.

## Budget

Mr. Paul Griffin, DIA Legal Counsel continued with an update to Council Members. He stated that he would update the Council regarding the status of the budget at the next Advisory Council meeting.

## Personnel Issues

Mr. Paul Griffin, DIA Legal Counsel, referred to the personnel statistics, a copy of which was included in Council Members' packets (attached to minutes). As of July 31, 2002 a total of 292 DIA positions had been filled.

## Assessment Audit

Mr. Griffin addressed the status of the Assessment Audit. He informed Council Members that since their last meeting the department has negotiated and received another payment from Eastern Casualty in the sum of \$105,000. Eastern Casualty is continuing to bill and will remit payment to the department. OneBeacon is requesting to settle with the DIA and that is under advisement. A meeting was also held with Arbella and they will hold another meeting in ten days. If a solution is not found at that time they will further discuss the possibility of arbitration.

Vice Chairman Corcoran thanked members of the DIA for their updates.

## **Action Items**

Vice Chairman Corcoran asked for a motion to accept the July 2002 minutes.

Motion made to accept the minutes.

MMS - passed.

## **Executive Director Update**

Executive Director, Denise Lucciola updated the Council. She informed Council Members that House Bill 4348 was signed into law on July 25, 2002 and she had included the language on this bill in Council Members' packets. She further stated that Vice Chairman Rodrigues, of the Joint Committee on Commerce & Labor, would be holding a meeting of all related parties to discuss the regulation of this bill. She will attend this meeting and update the Council.

Ms. Lucciola informed Council Members that the DIA is still waiting for the final figure for the fiscal year 2003 budget. She stated that the DIA's allocation will be decreased by approximately \$150,000 from their initial request of \$18,642,473 but the Oracle Phase II project funding language has remained throughout the budget process.

Ms. Lucciola stated that she had included in Council Members' packets a letter of thanks and recognition of achievement to retired Judge Carolyn Fischel on behalf of the Council.

Ms. Lucciola also stated that a fiscal year 2004 budget subcommittee meeting would follow the September meeting. She will speak to KrisAnn O'Herron and contact members of the Council when the meeting has been finalized.

She then asked Council Members if they would consider dedicating a page in the Council's Annual Report in remembrance of James B. Hayes as suggested by Andrew Burton.

Vice Chairman Corcoran stated that he had served with Mr. Hayes on various committees and that the Council should consider doing something in his memory. Council Members agreed and will further discuss their course of action.

## **Miscellaneous**

### **IME Issue**

Vice Chairman Corcoran referred to a letter submitted by Council Member Jones that had been sent to Secretary Sullivan on behalf of AIM, regarding the issue of increasing the impartial medical exam fee. Council Member Jones requested that the Council support the increase to the IME fees (impartial medical examinations) and that it be discussed at this meeting.

Vice Chairman Corcoran noted that the Council had supported this issue in the past for an increase of \$350 to \$450.

Discussion followed. The Senior Judge informed members that there were approximately 229 physicians now on the IME Roster. Council Members were concerned about the lack of medical specialties and that the system would experience

delays in the scheduling of impartial exams. The Council agreed that an increase to the impartial fee was in the best interest of all parties participating in the workers' compensation system.

Vice Chairman Corcoran asked for a motion in support of an increase in impartial medical exam fees.

A motion was made to send a letter to Secretary Sullivan of the Executive Office for Administration & Finance. This letter would re-endorse the Council's support for the proposed increase to the impartial medical examination (IME) fee, authorized under M.G.L. c.152 §11A, from its current level of \$350.00 to \$450.00.

MMS - passed.

Vice Chairman Corcoran asked for a motion to adjourn.

Motion made to adjourn.

Meeting adjourned 11:00 a.m.

**The next regular meeting of the Advisory Council: September 11, 2002 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, at 600 Washington Street, Boston, MA 02111.**