

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

September 12, 2001
Department of Industrial Accidents
160 Winthrop Avenue
Lawrence, MA 01843

Chairman: William H. Carnes

Vice Chairman: Edmund C. Corcoran, Jr.

Present: Chairman: William H. Carnes; Vice-Chairman: Edmund C. Corcoran, Jr. CM: Richard Lord (Tom Jones); Frank Fanning; Antonio Frias (Inez Leonardo); Alan S. Pierce; Carol Falcone.

Also Present: DIA: Commissioner Tom Griffin; Senior Judge O'Shea; Jerome Shea; George Sutcliffe; Jonathan Ablett and Ken Owens Commerce and Labor Committee); Karen Wager (WCRIB).

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

Absent: CM: Bruce Cochrane; Stephen Sampson; Jeanne-Marie Boylan; Robert Banks; John Perry; Department of Labor & Workforce Development (Joan Lenihan); Department of Economic Development (Tom McCullough).

Agenda:

DIA Update

Vocational Rehab Update - Council Member Carol Falcone

Action Items

Minutes - August, 2001

Executive Director Update

Miscellaneous

Chairman Carnes opened today's meeting with a moment of silence for all those who were involved in the WTC disaster and terrorist attacks.

DIA Update

Senior Judge O'Shea updated Council Members on current judicial statistics. Conference Queue: 1,497; Hearing Queue: 2,006; Reviewing Board Inventory: 221; Impartial Exams: 515 (8 waivers). He informed Council Members that the Governor's Legal Counsel is now in place and he will proceed to finalize judicial appointments. To the best of his knowledge, no new pool has been convened at this time. The Senior Judge

has not received any information regarding a fee increase for impartial physicians. He will continue to update the Council if any new developments occur in these areas.

Stop Work Orders

Mr. Jerome Shea, Director of Administration, reviewed the statistics on stop work orders. Total Investigations for August: 773; Total SWO's Issued: 221; Total Fines Collected: \$55,623.00; Total Fines Billed: \$13,500.00. He further noted that no fines have been written off and when the new budget is in place there will be two new investigator position available.

Budgetary Matters

Mr. Shea told members of the Council that there had been no movement on the budget. Council Members suggested that a subcommittee be formed in anticipation of reviewing the budget. The following Council Members who agreed to serve on this subcommittee: Chairman Carnes, Vice Chairman Corcoran, Council Members Jones and Falcone. Mr. Shea will coordinate the dates for the subcommittee meetings.

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 August 31, 2001: 305.5.

Vice Chairman Corcoran inquired as to the status of consultant contracts and Mr. Shea referred to the Contractor Specification Status (attached to minutes). Commissioner Griffin answered questions regarding the duties of the consultants in relation to the operation of the department. In specific, the position of advisor of OHP was in question as was the Trending and Tracking System. Council Members further requested that the Council be advised as to any developments in the Health Care Services Board with regards to the Trending and Tracking System at the next Council meeting. Commissioner Griffin agreed to do this if it was appropriate at that time. Vice Chairman Corcoran emphasized the fact that the Council deemed it necessary to be informed of this matter and its continued status because of the problems in the past with the MUTTS program.

Assessment Audit

Karen Fabiszewski was not available today to update the Council. She will bring the Council up to date at the next Council Meeting. The Vice Chairman stated that he would like to thank Mr. Lou Connolly for his assistance in coordinating today's meeting in Lawrence and the members of the Department for their update.

Vocational Rehab Update - Carol Falcone

Council Member Falcone addressed the Council today to update them on issues regarding the Office of Vocational Rehabilitation. Council Member Falcone stated that she had met with members of the Administration and Jim Hayes to review some of the issues of concern to the Council. She also met with members of Commerce and Labor.

Council Member Falcone noted that the Department had been charged with enhancing the productivity of OVER. Feedback confirmed this was not this was happening due to the operational components of the program. She was further concerned with the fact that after meeting with the staff from Commerce and Labor, changes could not be micromanaged through legislation. Her discussion with members of the Commerce and Labor Staff included the possibility of legislating something that would enable low-wage earners not to be re-trained but receive some level of services. She was of the opinion that the Department may be able to do something operational in this matter, but the difficulty would be with those who would not assign providers for low-wage earners.

She continued to say that there are also some insurers that do not comply with assigning vocational providers. Again she stressed concern with the operational part of the OVER program and the necessity of enhancing the program. She further stated that one of her recommendation to Commerce and Labor was that the Oracle system would help expedite the process of assisting injured workers. Council Member Falcone again stated that in her opinion micro managing through legislation would not be an efficient way to administer vocational rehabilitation services. In the interim she and many others would like to see something immediately done to enhance the Office of Vocational Rehabilitation. Council Member Falcone made reference to the new guidelines and their overwhelming requirements for documentation, which she felt, was delaying the process.

She reviewed this issue with Mr. Hayes and the necessity of having these documents. She also discussed the possibility of revising some of the guidelines for vocational rehabilitation. Some changes have been made since this meeting but she felt more were necessary.

Council Member Falcone expressed frustration regarding the status of the Department's vocational rehabilitation program and did not know what can be further done internally with the Department. She

stated that she had met with all of the Directors in the past six years and that the preference is not to legislate through micro managed Vocational Rehabilitation. She does not know where to go from this point. She again stressed her and colleagues opinion that the problem with OVER was mostly operational. She will continue to work with Commerce and Labor and continue to keep the Council updated. Executive Director, Denise Lucciola, suggested that the subcommittee be revised to include the Commissioner or his representative.

Discussion followed.

Council Members discussed various methods to improve OEVR. It was suggested that it be put under Dispute Resolution as it was in the 1980's. However, it was noted that it was taken out of Dispute Resolution because it was not effective and can be done administratively. It was the general consensus that it was the obligation of the Department to improve the Department of Vocational Rehabilitation.

Vice Chair Corcoran suggested that the Department give the Council further insight into how they were going to address this matter at the next meeting. Chairman Carnes stated that there is a necessary to do something soon to assist the injured worker.

Commissioner Griffin stated that he would like to meet with Council Member Falcone and Pierce, and any other concerned Council Members, prior to the next meeting to discuss their concerns regarding vocational rehabilitation.

Chairman Carnes thanked Council Member Falcone for her report.

Action Items

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

Motion made to accept the minutes.

MMS - passed.

Executive Director Update

Executive Director, Denise Lucciola suggested that something be done in the near future on behalf of the Council for those victims of the WTC tragedy. She then proceeded to update Council Members on the enclosures in their packets. She reviewed the various articles that were included in Council Members' packets regarding Eastern Casualty's efforts to leave the Massachusetts Workers' Compensation Market

Ms. Lucciola informed members that she had written to the Chair and Vice Chair of the House Ways and Means Committee advising them of the Council's endorsement of House Bill 1161 (attached to minutes). She will continue to keep the Council updated on the progress of this bill.

Ms. Lucciola told Council Members that she had met with the Oracle subcommittee and that everything was proceeding on schedule. She also stated that there had been a postponement of the WCRI briefing scheduled for yesterday on a claim cost study. In conclusion she thanked both Mr. and Mrs. Connolly for their assistance in the preparation of today's meeting.

Ms Lucciola stated that she is organizing the next Council Meeting to honor the contributions to the Council by former Council Member Joseph Tamulis.

A notice will sent out as to the time and place of this meeting.

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

Motion made to adjourn.

MMS - passed. Meeting adjourned 11.45 a.m.