

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

October 13, 1999
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 Chair Edmund C. Corcoran, Jr.

CM: Tony Frias (Inez Leonardo); Larry Morrisroe; Robert Banks; Frank Fanning; John Gould (Donald Baldini); Joseph Tamulis; Carol Falcone; Alan S. Pierce; Department of Labor & Workforce Development (Janice Tatarka and Paul O'Neill).

Also Present: DIA: Commissioner Campbell; Vinny Luca; Jim Hayes; Bob Davis.

Legislative Staff Members: Tom Jones and Liz Cellucci from the Joint Committee on Commerce & Labor and Trish C. Mitchell from Senator Lynch's Office.

WCAC Staff: Denise A. Lucciola and Ann Helgran.

Absent: CM: Jeanne-Marie Boylan (proxy); John Perry (proxy); Bruce Cochrane; Department of Economic Affairs.

Agenda:

DIA Update

Office of Safety - Tom Carroll

Action Items

- Minutes - September, 1999

Executive Director Update

Miscellaneous

Chairman Carnes conducted today's meeting.

DIA Update

Senior Judge Jennings updated Council Members on the statistics for September.

Conference queue: 1,024; Hearing queue: 1,600; Reviewing Board inventory: 316;

Impartial exams: 1,012 with: 28 waivers.

Senior Judge Jennings referred to and reviewed his memo included in Council Members' packet. The time frame has been decreased from 300 days to 270 days: 60 days for despositions plus 30 days to file decisions plus 180 days, (6 months). Outstanding decisions (for 18 judges): 13 average decisions outstanding. He noted that there was a judge who had 50 outstanding decisions and who was presently off-line and that there were 3 judges with 30 decisions outstanding.

Senior Judge Jennings also informed Council Members that one judge's term had expired in September 1998 and the position was still vacant. He noted that in June another judge's term expired but he is still doing Conferences. He continued by stating that there will be another judge's term that will expire in December, and there will be eight next Spring whose terms will expire.

Council Members inquired as to the Senior Judge's position regarding current legislation on the staggering of judges' terms/probationary period for judges. The Senior Judge replied that he supported the concept of the bills being proposed, but did not agree with the contents.

Chairman Carnes thanked Judge Jennings for his update.

Stop Work Orders

Mr. Luca reviewed the September statistics on the stop work orders, which had been included in Council Members' packets. Total Investigations: 452; Total SWO's Issued: 107; Fines Collected: \$45,288; Total Fines Billed: \$1,950. Total Fines Owed: -\$5,348 (he explained it was a negative figure because it represents that they collected more money than the current receivables that were out there).

Personnel Issues

Mr. Luca continued with his update to Council Members on recent personnel issues. In September there was one promotion in the Trust Fund of a Clerk IV to a Clerk V. Total DIA positions filled as of September 30, 1999: 300.20.

Budget

Mr. Luca stated that the DIA's Budget was on track and that he was awaiting word from the Commonwealth as to the State Budget.

Assessment Audit

Mr. Luca explained that insurers were under review by the auditors. He has received one preliminary draft summary, which appears to be very positive. The DIA expects to receive \$120,000 on the next completed audit. As of now, they have received \$160,000.

Chairman Carnes thanked Mr. Luca for his updates.

Update on Progress of MUTTS

Bob Davis, Executive Director of the Health Care Services Board, updated Council Members. He has met with CHER and is reviewing the reports on the coding and reporting levels. They have also spent some time developing the exception programs, and are developing access and procedures for those interested in reaching the database once the data becomes part of the MUTTS system. Mr. Davis will be meeting this afternoon with the Attorney General's Office to discuss the DIA's legal options. He will advise the Council Members as to the outcome of this meeting.

Commissioner Campbell acknowledged that he had the opportunity of attending the International Conference in Washington with Vice Chair Corcoran. He noted that Massachusetts is doing extremely well in comparison to the other States. He cautioned that there are trends across the country similar to those we had seen in the 1980's and 1990's.

Chairman Carnes thanked both Mr. Davis and the Commissioner for their participation.

Safety Presentation - Tom Carroll

Vice Chair Corcoran introduced Mr. Tom Carroll of the Office of Safety. He had asked at the last meeting a representative from the Office of Safety update the Council. He believed it was imperative that Council Members be made aware of the importance of the Office of Safety.

Mr. Tom Carroll came before the Council to inform Council Members on the functions of the Office of Safety. He distributed a handout on the overall objective of the Occupational Safety and Health Education Training program and a list of those participating in the FY 2000 program (attached to minutes).

Mr. Carroll explained that the Office of Safety was responsible for establishing and supervising programs which entails the education and training of employees and employers in the recognition, avoidance, and prevention of unsafe or unhealthy working conditions. He began his presentation by giving Council Members background information and explaining ergonomics (the study of work). He noted that the Department awards funds to qualified applicants based on a competitive selection process (RFR). He continued to explain the RFR (request for response) process.

Mr. Carroll referred to the report that is done by the Safety Office in February of each year and sent to the House and Senate Ways and Means Committee. In Fiscal Year 1998, the Office of Safety received 62 requests for RFR (request for response) and out of this number 40 grants were funded. In Fiscal Year 1998, these programs trained over 22,000 employees in the Commonwealth. In Fiscal Year 1999, they received 62 requests again and funded 43 proposals and trained over 27,000 employees. In the last five years the office has trained over 100,000 employees in the Commonwealth.

The requests for money are increasing, and in his report to the Senate Ways and Means Committee Mr. Carroll has asked the program not be level funded at \$800,000 but that the amount be increased for this year. He justified his request by stating that the program is working and quoting letters from various vendors of the lack of injuries because of the training programs. He stated that the program worked and of the vendors participating in the program, there was a decrease or no loss time in claims. He also stated that the Office of Safety has tapes and videos available and encouraged Council Members to visit the Office of Safety to view them.

Vice Chair Corcoran suggested that the Safety Program get more recognition through a newsletter and applauded the program. He thanked Mr. Carroll for his presentation.

Action Items

Minutes

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

Motion made to accept the September minutes.

MMS - passed.

Executive Director Update

Executive Director Denise Lucciola updated Council Members. She asked the members to decide on an actuarial firm to do next year's rate filing and noted if they continue with Tillinghast, they do not have to re-bid for vendors.

Chairman Carnes asked for a motion.

Motion made that Tillinghast be continued for another year.

MMS - passed

Ms. Lucciola stated on September 29th the Joint Committee on Commerce and Labor held an Executive Session for the workers' compensation legislation and a majority of the bills have been put into a study.

She then referred to an article, which had been included in Council Members' packet, in the Lowell Sun on workers' compensation claims continued dramatic fall (attached to minutes).

Miscellaneous

Vice Chair Corcoran requested that the MUTTS update is given quarterly. Council Members agreed and the next MUTTS update will be in January 2000.

Chairman Carnes asked that Ann Conway be invited to the November meeting to discuss the upcoming rate filing.

Chairman Carnes announced that there would be a subcommittee meeting following the regular meeting on Workers' Compensation Legislation.

Chairman Carnes asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 10:30 a.m.

The next regular meeting of the Advisory Council: November 10, 1999 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, 600 Washington Street, Boston, MA 02111.

Sub-committee Meeting Following Regular Meeting

Workers' Compensation Legislation Discussion: CM: Alan Pierce

Council Member Pierce introduced himself as a non-voting Council Member who represents the Claimant's Bar on the Council. He reviewed the background of the workers' compensation system and the changes that had occurred in the 1991 reform. He requested that the Council assist him in bringing forth to the attention of the legislature the necessity of change to some of the reforms in benefit legislation.

Council Member Pierce was under the impression that focus should be on what the workers' compensation system was designed to do i.e. the collection of premiums from an employee and delivery of benefits to employees who are injured. He felt that in between these step there is a massive bureaucracy and groups of professionals and industries that separate those two processes. He indicated that it was his perspective that injured employees were suffering hardships because of the some of the changes in benefits. He also indicated that Judges' terms and needed to be addressed.

Council Member Pierce referred to an article in the Standard that he distributed to Council Members (attached to minutes), and called attention to paragraph 3.

Chairman Carnes informed Council Members that the Labor and Commerce Committee had asked for guidance from the Advisory Council in the forming of legislation. He suggested a sub-committee be created consisting of both Labor and Management. It would be the function of the sub-committee to review benefit bills (as well as other legislation), and form a consensus on proposed legislation. He would then forward their concerns/suggestions to Chairs Larkin and Lynch of the Commerce and Labor Committee. He asked that the Executive Director issue a memo to Advisory Council Members requesting their participation in such a committee.

Vice Chair Corcoran stated that he would serve on the Committee. He agreed that there was room for change in some areas such as scarring, but cautioned as to what had been the situation before these changes were implemented. He felt it was a fair system but purposed a better vocational rehabilitation system and the review of section 35 cases and the Tillinghast report. Council Member Baldini agreed to participate on a sub-committee but indicated that profitability for insurers was relative and he would address this issue at the sub-committee meeting. Council Member Fanning also expressed interest in serving on this committee.

Chairman Carnes thanked Council Member Pierce.