

**MASSACHUSETTS WORKERS' COMPENSATION  
ADVISORY COUNCIL MINUTES**

November 10, 1999  
Department of Industrial Accidents  
600 Washington Street, 7<sup>th</sup> Floor  
Boston, MA 02111

**Chairman:** William H. Carnes

**Vice Chairman:** Edmund C. Corcoran, Jr.

**Present:** Vice Chair Edmund C. Corcoran, Jr.

**CM:** Tony Frias (Inez Leonardo); Frank Fanning; Carol Falcone; Alan S. Pierce; Department of Labor & Workforce Development (Janet Hubley).

**Also Present DIA:** Vinny Luca and Janet Boyle; Alexandra St. Onge (WCRIB).

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

**Absent:** Chairman William H. Carnes (proxy); CM: Larry Morrisroe; Robert Banks; John Gould (Donald Baldini proxy); Joseph Tamulis (proxy); Jeanne-Marie Boylan (proxy); John Perry; Bruce Cochrane; Department of Economic Affairs.

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**Agenda:**

DIA Update

Legislative Subcommittee Update

Action Items

Minutes - October, 1999

Legislative Recommendation Letter to Joint Committee on Commerce and Labor Discussion of Potential Concerns and Recommendations for FY'99 Annual Report Executive Director Update

Miscellaneous

Vice Chair Corcoran conducted today's meeting and recognized Janet Boyle of the DIA Health Care Service Board who will be overseeing the Utilization Review Process.

### **DIA Update**

#### **Stop Work Orders**

Mr. Luca reviewed the statistics on stop work orders, which had been included in Council Members' packets. October Total Investigations 442; Total SWO's Issued: 150; Fines Collected: \$24,502.00; Total Fines Owed: -\$13,650.00; and Total Fines Billed: \$8,100.00.

#### **Personnel Issues**

Mr. Luca continued with his update to Council Members on recent personnel issues. In October, there was 1 retirement and 1 resigned position. Total DIA positions filled as of October 31, 1999: 298.20 (attached to minutes).

### **Budget**

Mr. Luca stated that the DIA is working off last year's Budget and noted that he was awaiting word from the Commonwealth as to the passing of this year's Budget. He will have a more in-depth report next month.

### **Assessment Audit**

Mr. Luca explained that insurers were under review by the auditors. He will have an assessment report, on the status of insurance company reviews, sent to Council Members. There has been one completed audit, which cost the DIA approximately \$27,000 and resulted in a collection of \$290,000. In the preliminary reports, prior to the audit, an insurer had complained that they had overpaid. After reviewing this insurer it was discovered that they had underpaid the DIA in the past and owed approximately \$200,000.

Vice Chair Corcoran asked as to what the net results would be in regards to the money that is recovered. Mr. Luca responded that 70-75% will go into the Trust Fund, and that the remaining 23-25% will go into the Special Fund. None of the money put in the Special Fund can be spent, but it will become part of the surplus to the carryover towards next year's assessment. He stated that money that is accumulated in the Trust Fund would probably effect further reductions in the requests for the Trust Fund Budget.

Vice Chair Corcoran thanked Mr. Luca for his input.

Senior Judge Jennings updated Council Members on the statistics for October. Conference queue: 1,122; Hearing queue: 1,763; Reviewing Board inventory: 294; Impartial exams: 1,578 and section 37's backlog was gone as of September and has been integrated with the regular claims. Senior Judge Jennings stated that he has a judge on staff that has not as yet been reappointed, another judge whose term will be expiring, and two judges off line. He is now down three judges.

Senior Judge Jennings informed Council members that a member of the Governor's Council was inquiring as to how a judge whose term expired could still write decisions. The Senior Judge stated that since the judges were still on payroll they were allowed to write decisions, and because he did not appoint judges, he did not have the authority to terminate a judge. He felt, however, that this issue could present a problem next year when eight judges' terms will expire.

Vice Chair Corcoran suggested that a letter be drafted to the Governor's Office making them aware of this additional issue regarding the process of judges' appointments.

Vice Chairman Corcoran thanked Senior Judge Jennings for his update.

#### **Legislative Sub-committee Update**

Vice Chair Corcoran referred to a draft letter in Council Members' packet directed to the Chairs of the House and Senate Joint Committee on Commerce and Labor. The letter addressed House Bill 577 (staggering judicial terms); House Bill 3027 (code of judicial conduct); and Senate Bill 1970 (increase of fines for employers' who fail to obtain workers' compensation insurance). He asked Advisory Council Members to review the letter and add any comments. It was suggested that the wording of "administrative law judge" be made to also include "administrative judges." It was also suggested that a paragraph be added to state that although the Council was taking a position on these three bills, the Council is still actively studying the benefit bills and will be getting back to the Joint Committee on those issues. Council Members agreed to make the necessary changes to the letter.

#### **Action Items**

Letter to the Joint Committee on Commerce and Labor Motion made to send the letter to Chairman Stephen F. Lynch and Chairman Peter J. Larkin of the Joint Committee on Commerce and Labor with the amendments agreed upon by the Council

MMS - passed

Minutes

Vice Chairman Corcoran asked for a motion to accept the October minutes. Motion made to accept the October minutes.

MMS - passed.

### **Discussion of Potential Concerns and Recommendations for FY'99 Annual Report**

Vice Chair Corcoran then referred to the Concerns and Recommendation Section of the Annual Report that had been included in Council Members' packet. He suggested that this discussion be postponed until the December meeting and that a vote be taken when a full Council is present.

### **Executive Director Update**

Executive Director Denise Lucciola updated Council Members. She referred to the enclosures in Council Members' packets.

Ms. Lucciola referred to a letter from Ann Conway of Tillinghast regarding the need to update the Advisory Council's report of December 1997 on benefits. She noted that Ms. Conway was of the opinion that the benefits of updating the analysis are minimal.

Ms. Lucciola also referred to a letter from Dino Theodore, General Counsel of the DIA. She had requested the DIA's opinion on House Bill 4525 and Senate Bill 1746, which addresses managed care. Mr. Theodore's response stated that the DIA does not support either proposed legislation in its current form.

Ms. Lucciola informed Council Members that she would be sending them the Dispute Resolution Section of the Annual Report for their review. She also noted that she had contacted Jamie Beletz at the IAIBC and asked how many states utilize the ABA (code of judicial conduct). She was informed that he would get back to her next week with some data.

Vice Chairman Corcoran asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 10:00 a.m.

**The next regular meeting of the Advisory Council: December 8, 1999 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, and 600 Washington Street, Boston, MA 02111.**