

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

June 8, 1999
Department of Industrial Accidents
600 Washington Street, 7th Floor
Boston, MA 02111

Present: Chairman William H. Carnes; Vice Chair Edmund C. Corcoran, Jr.

CM: Jeanne-Marie Boylan; Robert Banks; Joseph Tamulis; Frank Fanning; John Gould (Donald Baldini); Tony Frias; Larry Morrisroe; Carol Falcone; Alan Pierce (Judd Pierce); Angelo Buonopane, Director, Department of Labor & Workforce Development; Carolyn Boviard (John Melina), Director, Department of Economic Affairs.

Also Present: DIA: Commissioner Campbell; Senior Judge Jennings; Vinny Luca; Jim Hayes; Bob Davis; Bob Roesch (WCRIB); Paul O'Neill, General Counsel, Department of Labor & Workforce Development.

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

Absent: CM: John Perry; Bruce Cochrane.

Agenda:

DIA Update

Vendor Update - Tillinghast - Towers Perrin, Ann Conway

ARAP Speakers:

- Dan Cook, American Risk Management
- Howard Mahler, WCRIB

Action Items

- Minutes - May, 1999

Executive Director Update

Miscellaneous

Chairman Carnes conducted today's meeting.

DIA Update

Senior Judge Jennings updated the Council. He stated that there were currently 23 judges (3 off-line who are up for reappointment and 2 off-line because they are behind in their decisions). He noted that because of this decrease of 5 judges, it would be necessary to go to a 13-week scheduling cycle. The Senior Judge stated that it is necessary that the DIA have between 24-25 judges. The conference queue is now 1,857 and the hearing queue is between 1,600-1,700. He reported that the reviewing board has an inventory of 325 cases, and the impartialists are at 311. Section 37's have reached a queue of 189 and should be completed by September.

Chairman Carnes informed the Senior Judge that the Council would assist the DIA in any way to expedite the process of having judges reappointed. Chairman Carnes thanked Senior Judge Jennings for his input.

Stop Work Orders

Mr. Luca reviewed the statistics on stop work orders, which had been included in Council Members' packets. May Total Investigations 513; Total SWO's Issued 154; Fines Collected \$23,365.00; Total Fines Owed \$81,520.00; and Total Fines Billed \$5,800.00. Council Members inquired as to why such large amounts of money had been collected in the past. Mr. Luca informed Council Members that it was during a period when a collection agency was used to collect the monies.

Personnel Issues

Mr. Luca continued with his update to Council Members on recent personnel issues. In May there was one new hire: Administrative Secretary in the Judicial Support Unit. Total DIA positions filled as of May 31, 1999: 301.2.

Budget

Mr. Luca informed Council Members that the 1999 budget "was where it was suppose to be," and that it appeared that the DIA could expect to be awarded the Governor's recommendation of \$18,142,031 which they had requested for fiscal year 2000.

Assessment Audit

Mr. Luca told Council Members that the three assessment audit firms were in the process of auditing four insurance companies (1 large, 2 medium, and 1 small). He expects to have the results shortly.

Chairman Carnes thanked Mr. Luca.

Update on Progress of MUTTS

Bob Davis, Executive Director of the Health Care Services Board, informed Council Members that the pilot testing of the MUTTS system would soon be completed. The Phase II testing (the production of reports from the central database) was expected on June 8th and that the Department would be reviewing the material. Mr. Davis explained that the DIA would be asking insurers to begin reporting in the near future. This is expected to be completed by September 8th.

Discussion followed regarding the costs associated with the MUTTS program. The DIA had enclosed in Council Members' packet a financial-summary of DIA funds spent on MUTTS since the inception of the program (attached to minutes). A Council Member handed out a letter dated April 17, 1998 from the DIA, which he claimed disputed these figures. Explanation was given to the Council that the program began with the 1991 reforms, and that the contract with CHER was effective in 1996. From Fiscal year 1993 through Fiscal year 1997, money has been expended in various subsidiary accounts as shown in the itemized list provided by the DIA.

Council Members again voiced concern regarding the clarity of the reporting of the money spent on the MUTTS program and the authority of the DIA to require insurance companies to participate in the program. Commissioner Campbell assured the Council that the DIA would seek legal avenues to insure their participation. He referred to the letter he had included in Council Members' packets (attached to minutes) as justification for the program, noting a 48% premium reduction over the last four years. He also reviewed a chart (attached to minutes) indicating Massachusetts to be 13.9% below the national average in percent of benefits for medical costs.

Commissioner Campbell stated that he was creating a "Blue-Ribbon Panel" made up of large employers, union members, and insurance carriers to discuss issues regarding MUTTS. The Commissioner noted that a discussion would take place sometime next week. He invited any interested Council Member to participate in this discussion. In answer to Council Members' repeated pleas for disclosure of actual figures for the cost of MUTTS, the Commissioner stressed the difficulty of separating Utilization Review and the MUTTS program. The Commissioner stated that the DIA relied on expert opinion on the implementation of the medical components of the 1991 reforms.

Vice Chair Corcoran praised the 25 guidelines created by the DIA and the additional 3 that had been added. He did question the voluntary participation of the insurance carriers. Commissioner Campbell noted that it may end up in court, but the DIA would continue going forward. An attorney has been preparing for litigation if it became necessary. Chairman Carnes suggested legislation be implemented to

insure participation by insurers. Commissioner Campbell assured Council Members that the program would be compatible in the year 2000 and that computer personnel are scheduled for training on June 22nd.

Chairman Carnes thanked the Commissioner and members of the DIA for their input.

Action Items

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

Motion made to accept the minutes.

MMS - passed.

ARAP Speakers: Dan Cook, American Risk Management and Howard Mahler, Workers' Compensation Rating & Inspection Bureau (WCRIB)

Mr. Daniel F. Cook, President of American Risk Management, Inc. spoke on behalf of the Building Trades Employers Association, Massachusetts Council of Construction Employers and Associated General Contractors of Massachusetts. He stated that he believed the Massachusetts Workers' Compensation Advisory Council is a proper body to exert pressure on the insurance industry to eliminate the All Risk Adjustment Program (ARAP). He presented a slide presentation with handouts to support his position (attached to minutes). Mr. Cook read his letter to the Members of the Workers' Compensation Advisory Council regarding experience modification plans (attached to minutes).

Mr. Howard Mahler of the WCRIB addressed the Advisory Council in support of ARAP. He explained that in 1990 the WCRIB instituted ARAP with the purpose of establishing adequate premiums and thus encouraging more insurers to write on a voluntary basis. Mr. Mahler explained to Council Members that rates are lower because of its existence.

Chairman Carnes thanked both Mr. Cook and Mr. Mahler for sharing their respective views on ARAP with the Council.

Chairman Carnes reviewed the draft testimony of the Advisory Council to be given at the Commerce & Labor Hearing on June 9th, which was enclosed in Council Members' packets (attached to minutes). He noted that the hearing would be held at the State House in Gardner Auditorium and would begin at 10:30 a.m.

Executive Director Update

Chairman Carnes reviewed a portion of the update with Council Members. He asked the Council Members if they would like Denise and Andrew to visit the work-site of CHER to conduct an independent analysis of the MUTTS system. A follow-up summary will be provided thereafter to the Council Members. Council Members agreed and stated that the visit should take place in the near future.

The Executive Director stated that a question was posed to her by the Council Members at the last meeting regarding where attorney fees, fines, etc. are budgeted within the DIA.

She informed them that the funds are allocated to the "Special Fund", which cannot be spent. The balance of each year's fund goes towards next year's assessment.

Ms. Lucciola addressed the Senate Committee on Ways & Means fiscal year 2000's budget figure. Council Members concurred that this matter may be discussed further at the July meeting.

Ms. Lucciola referred to an e-mail that she received from Nancy Dionne, which asked if any Council Members would be interested in speaking at a conference for insurance representatives, employers, or self-insurers. Some Council Members suggested that Ms. Dionne contact each Member individually and discuss their interests.

Ms. Lucciola also addressed a fax she had received regarding H.1138 from Monette Galello, which was included in Council Members' packets for their consideration.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 11:30 a.m.

The next regular meeting of the Advisory Council will be held on July 14, 1999, 9:00 AM, at the Division of Industrial Accidents, 7th Floor Conference Room, 600 Washington Street , Boston, MA 02111.