

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

August 11, 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: Robert Banks; Frank Fanning; John Gould (Donald Baldini); Joseph Tamulis (Herbert O. Edmunds); Carol Falcone; Alan S. Pierce; Department of Labor & Workforce Development (Janice Tatarka); Department of Economic Affairs (John Melina).

Also Present: DIA: Commissioner Campbell; Vinny Luca; Jim Hayes; Bob Davis; Alexandra St. Onge (WCRIB); Suzanne Bump (American Insurance Association); John Murphy (Liberty Mutual); John Marr (MEIMC).

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

Absent: CM: Jeanne-Marie Boylan (proxy); Tony Frias; Larry Morrisroe; John Perry; Bruce Cochrane.

Agenda:

DIA Update

Workers' Compensation Legislation Discussion: CM: Alan Pierce

Action Items

- Minutes - July, 1999
- Possible Endorsement of DIA Budget Figure see 8/11/99 Executive Director Memo
- MUTTS Report to Legislature

Executive Director Update

Miscellaneous

Chairman Carnes conducted today's meeting.

Vice Chair Corcoran recognized Mr. Marr, a former member of the Advisory Council, who attended today's meeting.

DIA Update

Chairman Carnes announced that Senior Judge Jennings would be unable to attend today's meeting. He referred to the Senior Judge's memo regarding the Dispute Resolution Update that had been included in Council Members' packets (attached to minutes). Conference queue for June: 1,882 and for July: 1,894. Hearing queue for June: 1,401 and for July: 1,354. The Reviewing Board inventory for June: 312 and for July: 286. Impartial exams for June: 4,403, indigency granted: 126 (July not available). Section 37 inventory for June: 135 and for July: 71.

Vice Chair Corcoran voiced his concern involving delays from conciliation to conference and from conference to hearing. He requested that a memo be sent to Senior Judge Jennings asking him to address this issue at the next Council Meeting.

Chairman Carnes requested that a memo be sent to Judge Jennings.

Stop Work Orders

Mr. Luca reviewed the statistics on stop work orders, which had been included in Council Members' packets. July Total Investigations: 522; Total SWO's Issued: 130; Fines Collected: \$36,500; Total Fines Owed: \$43,514; and Total Fines Billed: \$5,250.

Budget

Mr. Luca informed Council Members that the Fiscal Year had ended. The business year will end on the 31st of this month and a report will be submitted to Council Members at the September meeting. The DIA's Budget for fiscal year 2000 was the same as the Governor's recommendation of \$18,142,031.

Personnel Issues

Mr. Luca continued with his update to Council Members on recent personnel issues. In July, there were 3 resignations: EDP System Analyst II, Conciliator I, and a Clerk V. One retired: Investigations. One new hire: Adm.Secretary. Total DIA positions filled as of July, 1999: 298.20.

Assessment Audit

Mr. Luca explained that seven insurers were under review by the auditors. It is expected that two of the audits will be completed in August and four in October. Two checks have been received (Fairfield Insurance): one for \$28,777, and the other for \$129,917.

Mr. Luca also stated that he receives a monthly report from the auditors.

Chairman Carnes thanked Mr. Luca.

Update on Progress of MUTTS

Bob Davis, Executive Director of the Health Care Services Board, updated Council Members. Phase III, the deliverables of the pilot data and reports, had been completed (June 28th) and recommendations will be given to CHER.

Vice Chair Corcoran asked that Mr. Davis explain the definition of deliverables.

Mr. Davis replied that deliverables were samples of what the MUTTS system can produce. He stated that CHER was to deliver at certain points "pieces of the system" i.e. reports, structure, and samples of what the system is able to produce at any given point. He noted that the basic structure is complete. He continued to explain that one of the reports showed the 100 most expensive conditions and gives the most expensive cost of the condition to the least expensive. This report will enable them to determine the best medical practice for a particular condition and will assist them in reviewing the existing guidelines.

Mr. Davis expects the first quarter reporting will end in October and that it will be 8-10 weeks after that date to be completed by CHER. They are moving into the 4th year of the 5-year contract.

Commissioner Campbell informed Council Members that he has been in touch with members of businesses that attended the "Blue Ribbon Panel," and is pleased with the feedback he is receiving. He distributed a positive letter from Gillette (attached to minutes). He hopes to receive a report from Bell Atlantic by the next Advisory Council Meeting, and he will provide the Council with monthly updates.

Vice Chairman Corcoran asked if the Commissioner would like to comment on the letters that were received from various insurance companies and distributed to Council Members. He stated that he has received favorable responses as well as those stating that they would not participate. He believes the fears of those who stated they would not participate in the process are unwarranted. He is, however, willing to further discuss this issue.

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

Workers' Compensation Legislation Discussion: CM: Alan Pierce

Council Member Pierce introduced himself as a non-voting Council Member who represents the Claimant's Bar. 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 judicial terms 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 Commerce and Labor 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 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 to 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. 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.

Action Items

Minutes

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

Motion made to accept the July minutes.

MMS - passed.

Possible Endorsement of DIA Budget Figure

Chairman Carnes referred to the Executive Director's Memo of August 11, 1999 in Council Members' packet (attached to the minutes). He asked for a motion to accept the DIA's budget.

Discussion followed. Mr. Luca was asked why more or less money was appropriated. He informed Council Members that he did not know why the House or Senate added or subtracted from the Budget. He did state that the DIA would like to add to the Safety Program next year.

Vice Chair Corcoran requested that a slide presentation be presented of the Safety Program's Grants at a future Council Meeting. Mr. Luca agreed.

Chairman Carnes asked for a motion to endorse the budget allocation recommended by the Governor and the DIA.

Motion made to accept the DIA Budget.

MMS - 6 affirmative, 1 abstained, did not pass.

Chairman Carnes requested that the Executive Director send a memo to Council Members to inform them that a vote would be taken regarding the DIA's Budget at the September meeting.

Executive Director Update

Executive Director Denise Lucciola updated Council Members.

Ms. Lucciola referred to The Standard's front-page article of July 23, 1999, included in Council Members' packet, that commented on the Advisory Council's Report on the Workers' Compensation Rate Filing. She thanked Vice President Suzanne Bump of American Insurance Association for commending the members, and Council Member Baldini and Andrew Burton for their assistance.

In Council Members' packets she also included a circular letter from the WCRB. The article stated that final briefs and evidence from the rate filing hearings are now being reviewed and a decision on the filing would be issued by late August.

Ms. Lucciola noted that as of today, in regards to legislation, there has not been an executive session regarding workers' compensation bills. She stated that she would continue to update the Council regarding this issue.

She then referred to the MUTTS report sent to Council Members. She noted that the report summarizes and recaps the project phases. She emphasized the report was a draft and asked for input from the Council Members.

Chairman Carnes noted that the Council had made a commitment to the Joint Committee of Commerce and Labor to provide information regarding the MUTTS project. He stated that the DIA General Counsel was not available for this meeting and the report needed input from him regarding legal issues. He suggested that the Council wait before sending the report until the next meeting when Mr. Theodore, Legal Counsel for the DIA, could supply the necessary information. He suggested that a telephone poll of the Council Members be conducted to see if they were in agreement to wait until the next meeting before submitting the MUTTS Report to the Legislature.

Chairman Carnes requested that Council Member Pierce be notified when a sub-committee had been established.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 10:30 a.m.

The next regular meeting of the Advisory Council will be held on September 8, 1999, 9:00 AM, at the Division of Industrial Accidents, 7th Floor Conference Room, 600 Washington Street , Boston, MA 02111 .