

**Massachusetts Workers' Compensation
Advisory Council Minutes**

October 8, 1997

Department of Industrial Accidents

600 Washington Street

Boston, MA 02111

Chair: Edmund C. Corcoran, Jr.

Vice Chair: William H. Carnes

Present: Chairman Edmund C. Corcoran, Jr. CM: Edward Sullivan, Jr.; Tony Frias (Ines Leonardo); Robert Banks; John Gould (Donald Baldini); John Perry; Joseph Tamulis (Herbert Edmunds); Amy Vercillo; Alan S. Pierce; Department of Labor & Workforce Development (Joan Cunningham);

Also Present: DIA: Commissioner Campbell; Senior Judge Jennings; Bill Sivert; Vinny Luca; Robert Davis; Neil Gibbons (WCRIB); Carol Falcone

Staff: Matthew Chafe; Andrew Burton

Absent: CM: Vice Chair William H. Carnes; Lawrence Morrisroe; J.Bruce Cochrane; Jeanne-Marie Boylan; Department of Economic Affairs (John Melina)

Agenda:

DIA Update

Action Items - Minutes - September 10, 1997

Wage Benefit Study Update

Insurance Rate Filing Hearing

Executive Director Update - Employer Fines

Miscellaneous

Chairman Corcoran conducted today's meeting.

DIA Update

Chairman Corcoran asked Senior Judge Jennings for his monthly update on dispute resolution activity. Senior Judge Jennings addressed the Council. The conference queue has decreased to 870. The hearing queue is at 1,496. The total reviewing board inventory is 468. The impartial exams for this fiscal year total 1,192, almost double from September. He noted that the appointment of Richard Heffernan as administrative judge would be taken up by the Governor's Council today.

Chairman Corcoran notified the Senior Judge that the Advisory Council had voted by telephone poll to rate Judge Heffernan as "Highly Qualified." Mr. Corcoran asked the Senior Judge what approach would be taken to address the large number of opening judgeships beginning January 1, 1998.

The Senior Judge stated that he has already suggested that the Governor's Council conduct three interviews a month. He explained that he would schedule conferences through the end of a judges term but would not schedule hearings since, on average, it takes 100 days to issue a decision.

Chairman Corcoran asked the Senior Judge for an update on the Judges' training session. The Senior Judge explained that he had had two doctors speak during the training session; Dr. Christine Oliver - who spoke on multiple chemical sensitivity and sick building syndrome, and Dr. David Lowe - who spoke on orthopedic injuries. An administrative session was held on the topic of security and the use of state police. The Senior Judge also noted that performance evaluations were being conducted for the judges.

The Executive Director asked the Senior Judge how the reappointment process would work for the Reviewing Board, since all terms expire at the same time.

The Senior Judge stated that he would not interrupt the pre-transcript conferences, but he will stop making panel assignments in January or February so that they can finish cases already before them.

Chairman Corcoran thanked the Senior Judge and asked if Commissioner Campbell would like to add anything.

The Commissioner directed the attention of Council members to a Boston Globe article (see attached) which had been previously mailed to them. The Commissioner explained that the article reviewed the success of the workers' compensation system in Massachusetts since the 1991 Reform Act. The Commissioner noted that that the underlying statement in the article was that the reform was healthy and good for business.

Chairman Corcoran thanked the Commissioner and asked Bill Sivert for his update.

Stop Work Orders

Mr. Sivert informed Council members that when a stop work order is being issued and an employer is not present, investigators tie an orange bag to the premises and take a picture of it so that the employer cannot dispute that they ever received it. Whenever a corporation is created, the Secretary of State's Office will inform the filer of the corporations duty to secure workers' compensation insurance. Mr. Sivert updated the Council on stop work orders. September Investigations, 455; total SWO's issued, 188; total fines imposed, \$0.

Personnel Issues

Mr. Sivert stated that he will advise the Commissioner to conduct a search outside the agency for a computer programmer. He noted that future vacancies will be filled internally.

Budgetary Matters

Mr. Sivert explained that the DIA is asking the Governor's Office to file an amendment to change the wording for account "0502 DIA Payroll - Justices" as contained in the FY 1998 budget. The DIA is seeking to include both judges "and their support staff," in this language including necessary attorneys and law clerks. Mr. Sivert intends for this recommendation to go forward in the Supplemental Budget.

Chairman Corcoran asked Mr. Luca how the DIA will use the money freed up from the account "0500 DIA Special Fund," should this amendment pass.

Mr. Luca explained that monies would be used to pay for computer training associated with the installation of the Windows 95 computer operating system software. He noted that \$32,000 had been set aside in the original DIA budget for computer training purposes. Mr. Sivert said he would submit a report to the Executive Director by the first of next week specifying how money would be spent in both the Special Fund account and Judicial Payroll account.

Executive Director Chafe announced the resignation of OEVR manager Stephen Linsky. Mr. Chafe explained that he will be replaced internally by Bob Demetrio.

Action Items

Chairman Corcoran asked that a motion be made to accept the September 10, 1997 minutes. Motion made to accept the minutes.

MMS - passed.

Wage Benefit Study Update

Executive Director Chafe explained that Tillinghast has gathered all the data needed and formed conclusions, but they have not yet completed the written report. Mr. Chafe stated that prior to the next Council meeting, he will send Council members a draft of the report so it can be reviewed at the next meeting. Mr. Chafe suggested that the Council meeting be moved up one week to November 5th, so that the report can be submitted to the

Commerce & Labor Committee before their session ends on November 12th. Council members agreed.

Insurance Rate Filing Hearing

Mr. Chafe stated that he had sent a letter to the director of the State Rating Bureau, Steve D'Mato, for more information regarding the elimination of the All Risk Adjustment Program (ARAP) and the institution of premium discounts for risks in the pool.

Although no written response was received, Mr. Chafe spoke with Walter Horn of the Bureau. Mr. Chafe stated that he submitted the Ernst & Young report at the rate hearing and afterwards Commissioner Ruthardt thanked the Advisory Council for prompt submission of the analysis. Mr. Chafe noted an article in The Standard (see attached) that covered the rate hearing and the Advisory Council's involvement. Mr. Chafe described the testimony given at the rate hearing and noted that the process has been delayed because rates for auto insurance are currently being reviewed (see attached memo).

Executive Director Update - Employer Fines

Mr. Chafe updated the Council on Senator Lynch's bill on employer fines. He stated that the bill is currently before the Senate Ways & Means committee. Mr. Chafe recommended that the Council contact legislators on the committee urging them to support the bill.

Chairman Corcoran suggested that it might be more beneficial to push for the bill individually, as well as collectively, since the make-up of the Council represents diverse backgrounds of management and labor groups.

Council member Sullivan suggested that the Executive Director draft a sample endorsement letter and issue it to Council members so letters can be sent individually. Chairman Corcoran asked that a motion be made for a sample endorsement letter.

Motion made for a sample endorsement letter.

MMS - passed.

Chairman Corcoran reminded Council members that next Council meeting would be moved up one week to November 5, 1997.

Motion made to adjourn.

Meeting adjourned 10:30 A.M.

The next regular meeting of the Advisory Council will be held on November 5, 1997, at the Division of Industrial Accidents, 7th Floor Conference Room at 9:00 AM, 600 Washington Street, Boston, MA 02111.