

**Massachusetts Workers' Compensation
Advisory Council Minutes**

February 11, 1998
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.; Vice Chair William H. Carnes. CM: Lawrence Morrisroe; Robert Banks; John Gould (Donald Baldini); John Perry; Tony Frias (Ines Leonardo); Carol Falcone; Alan S. Pierce; Department of Labor & Workforce Development (Joan Lenihan); Department of Economic Affairs (John Melina).

Also Present: DIA: Senior Judge Jennings; Bill Sivert; Vinny Luca; Brian Hickey; Neil Gibbons (WCRIB); Denise Atwood (Department of Mental Retardation); Diane Jacobs (Division of Health Care Finance & Policy); Sue Carney (Massport).

Staff: Matthew Chafe; Andrew Burton; Ann Helgran.

Absent: CM: Joseph Tamulis; Edward Sullivan, Jr.; Jeanne-Marie Boylan; Bruce Cochrane.

Agenda:

DIA Update

Audit of Insurance Carrier Assessment Payments

Criteria for Rating AJ & ALJ Candidates

Fiscal Year 1999 Budget

W/C Insurance Discounts for Drug Free Workplace Programs

Action Items

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Executive Director Update

Miscellaneous

Chairman Corcoran opened today's meeting and welcomed Carol Falcone as a new member of the Council.

DIA Update

Senior Judge Jennings updated Council Members on the judicial statistics. Conference queue, 1,600 (he will be doubling the number of conferences over the next two weeks which will deplete the queue); reviewing board queue, 305. Senior Judge Jennings explained that during the upcoming appointment process he will have to choose between creating a queue of cases that are reassigned to a new judge, or creating a queue of cases that are awaiting an initial assignment. He does not anticipate delays at the conference level, but recognizes that problems may occur at the hearing level. He noted that out of 18 judges' slots, four would not be seeking reappointment. Senior Judge Jennings stated that the DIA needs 24 or 25 judges.

Chairman Corcoran inquired about the number of impartial doctors. Senior Judge Jennings replied that the total number of impartial doctors is down; they now have 351. Chairman Corcoran thanked Senior Judge Jennings.

Stop Work Orders

Mr. Sivert reviewed the statistics on stop work orders. January Investigations, 511; SWO's issued, 181; fines collected, \$0. Mr. Sivert noted that the investigations referred to in the statistics were investigators going out to various businesses. What these figures did not reflect were the number of investigations made from the referrals given the DIA by the WCRB. He will update the monthly statistics report to include the total number of investigations made during the month.

Personnel Issues

Mr. Sivert referred to the Personnel Status included in Council Members' packet (attached to minutes). Vice Chair Carnes asked if the positions of those who resigned would be filled. Mr. Sivert replied that all three would be filled from within the agency.

Budgetary Matters

Mr. Sivert noted that the fiscal year 1999 budget contained in House I (attached to minutes) was level funded. He then referred to the proposed transfers between subsidiary accounts for fiscal year 1998, which was distributed by Mr. Luca (attached to minutes).

Chairman Corcoran inquired as to why the money for the Trust Fund was included in the House I Budget. He noted that including this information with information on appropriations only served to confuse those following the process.

Mr. Sivert stated that on many occasions it has been explained to the legislature and their staff that the agency does not receive money from the General Fund but from assessments. However, legislators are still unclear on the process. A Senate Ways & Means legislative staff member will be coming to the DIA on February 23rd to obtain more information on the agency's funding.

Chairman Corcoran offered the assistance of the Council to inform legislators of the DIA's funding process, and he stated that he would also like to meet with the new Senate Ways & Means Budget Analyst when she is introduced to the agency.

Mr. Luca proceeded to review the handout of fiscal year 1998 inter-subsidary transfers, which had been handed out previously and attached to minutes. Chairman Corcoran inquired as to the status of consultants at the agency. Mr. Luca explained that there were two doctors in the Health Care Service Board that were consultants and that the Trust Fund has two computer consultants.

Chairman Corcoran asked as to why the consultants in the Trust Fund had not been made permanent employees. He was told that their duties were temporary.

Audit of Insurance Carrier Assessment Payments

Chairman Corcoran asked for an update on the audit of insurance carrier assessments that was discussed at the last meeting. Mr. Luca stated that the process has begun with a procurement management team (PMT), which has met twice. A RFR will be put together, which will take at least a four

months. The program could start sometime next year. Mr. Sivert indicated that the DIA would continue to report to the Council monthly on its status.

Council Members inquired as to where the funding would come for the assessment audit. They were informed that the Trust Fund would pay for the audit since they would be the ones who would benefit from the money that was retrieved.

Chairman Corcoran inquired as to whom would be on the committee.

He was informed that it would consist of Diane Lentini, Priscilla Conant, Barbara Kelly, Tom Griffin, Brian Hickey, Leonard Gabrila and Carol Corcoran.

Chairman Corcoran asked that the Council be updated on the process at all Council meetings and thanked Mr. Sivert and Mr. Luca for their input.

Criteria for Rating AJ & ALJ Candidates

The Executive Director reviewed the Criteria for Rating AJ & ALJ Candidates, which had been sent out to Council Members before last month's Council Meeting. Council Members discussed what guidelines they would amend or adopt.

A motion was made to accept guidelines as attached.

MMS - passed

Fiscal Year 1999 Budget

The Executive Director referred to the Budget recommendations for the Division of Industrial Accidents for fiscal year 1999, which had been included in Council Members' packets (attached to minutes).

Chairman Corcoran suggested that a subcommittee be formed to meet with the DIA regarding the budget. Chairman Corcoran, Vice Chair Carnes and Council Member Baldini agreed to serve on the committee.

Mr. Sivert talked about fiscal year 2000 and the necessity of obtaining money for data processing.

Council Members also inquired as to the status of MUTTS. Mr. Luca informed Council Members that two of the year's money was not spent for MUTTS; it was spent on the computer system. Mr. Sivert suggested that a MUTTS briefing be scheduled for the next meeting.

Chairman Corcoran suggested that the budget subcommittee also take a look at the MUTTS program prior to the next Council meeting and report its findings to the Council.

Workers' Compensation Insurance Discounts for Drug Free Workplace

The Executive Director reviewed his memo of February 2, 1998 (attached to minutes) on Drug Free Workplace Programs, (Senator Magnani's Senate Bill 52). The bill would require that carriers offer a 5% reduction in workers' compensation if an employer were to adopt a drug testing program.

Discussion followed. There were pros and cons regarding random drug testing. It was agreed that the bill was poorly drafted. Council Members, however, felt that it was not within the realm of the Council to draft such legislation.

Chairman Corcoran suggested that the Executive Director monitor the bill and report back to the Council on any developments.

Action Items

Chairman Corcoran asked that a motion be made to accept the January 8, 1997 minutes.

Motion made to accept the minutes.

MMS - passed.

Miscellaneous

The Executive Director noted that the Advisory Council's Annual Report had been included in Council Members' packet.

Council Member Banks requested that the agenda of next month include someone from the Trust Fund. He is concerned about the amount of money being spent on uninsured employees. He is also concerned about the \$50 million that was spent from the Trust Fund since 1988 but not recovered from uninsured employers. He would like to be informed as to how many employers have used the Trust Fund more than once, how much money is recovered from employers who do not have workers' compensation, and if they are allowed to come back into the system without reimbursing the Trust Fund.

Chairman Corcoran agreed to include this as an agenda topic next month.

Motion made to adjourn

MMS - passed - meeting adjourned 11:30 a.m.

The next regular meeting of the Advisory Council will be held on March 11, 1998, at the Division of Industrial Accidents, 7th Floor Conference Room at 9:00 AM, 600 Washington Street, Boston, MA 02111.