

FY 2022 Annual Report

Workers' Compensation Advisory Council

Lafayette City Center
2 Avenue de Lafayette
Boston, MA 02111

Website: [WCAC](#)

Annual Report

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Chairman
John Pulgini, Esq
Vice Chair
Todd Johnson, Esq

02. Open Meeting Law | Page 5

Virtual meetings via
WebEx until March 31,
2023

03. Joint Committee on LWD | Page 6

Highlights of a few Joint
Committee on Labor &
Workforce Development bills
the Advisory Council
monitored

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The Council consists of 16
voting and non-voting
members representing major
stakeholders in the workers'
compensation system.

Chairman's Welcome

As we look back on the past fiscal year, the Council would like to acknowledge the DIA management team, led by Interim Director Sheri Bowles, for its commitment to the Commonwealth of Massachusetts. We appreciate the dedication of Senior Judge Omar Hernandez and his determination to manage the adjudicatory process through the COVID-19 pandemic. As the Department continues its work using the hybrid model, Interim Director Bowles has provided staff with the guidance and support they need to operate efficiently.

The Council would also like to welcome the new staff that has joined the DIA this year and bid farewell to many Employees who retired during FY '22. We would like to thank you for your service to the Commonwealth and wish you well!

The Council feels that the Massachusetts Workers' Compensation system remains one of the highest regarded systems in the country. Looking to the future, we are always willing to collaborate with all stakeholders to continue to improve the system. The highlights from FY '22 are:

- ▶ The administration process and its impact during the COVID-19 pandemic
- ▶ The Impartial Physicians Roster
- ▶ The pandemic-related adjudication process; and
- ▶ The Section 36 adjustment

On Behalf of The Council,

John A. Pulgini, Esq.
Chairman

Todd R. Johnson JD, AIC, ARM-P, ARM-E
Vice Chairman



“

In accordance with MGL Chapter 23E, Section 17, the Advisory Council is charged with providing an analysis of the workers' compensation system in Massachusetts, this includes operations at the Department of Industrial Accidents (“DIA”).

- The DIA is fully funded by the Employers of Massachusetts and is not funded by taxpayers, a policy dating back to 1985.
- A diverse group of Council members have collaborated to create this report volunteering their time to analyze a variety of workers' compensation issues, with the goal of identifying priority focus areas.

M.G.L. Chapter 23E, Section 17 | Powers and Duties of Advisory Council

Source: The 192nd General Court of the Commonwealth of Massachusetts, Chapter 23E
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter23e>

Open Meeting Law

► On July 16, 2022, Governor Baker signed into law An Act Relative to Extending Certain State of Emergency Accommodations, which, among other things, extends the expiration of the provisions pertaining to the [Open Meeting Law](#) to March 31, 2023.

► The Workers' Compensation Advisory Council meetings will continue virtually on the second Wednesday of each month through the WebEx platform.

► Source: <https://www.mass.gov/the-open-meeting-law>



Joint Committee on Labor and Workforce Development

Senate and House Bills

- **Senate Bill 1180** | An Act relative to fairness in workers' compensation disfigurement benefits
- **House Bill 2000** | Fairness in workers' compensation

- **Senate Bill 1194** | An Act relative to occupational presumption and COVID-19
- **House Bill 1986** | An Act creating a presumption of relatedness for workers suffering from COVID-19

It shall be the duty of the committee on Labor and Workforce Development to consider all matters concerning discrimination with respect to employment, the labor laws, workers' compensation and such other matters as may be referred.

Joint Committee on Labor & Workforce Development

Ballot Initiatives filed for the 2022 Biennial Statewide Election were Petition 21-11/12:

A Law Defining and Regulating the Contract-Based Relationship Between Network. The purpose of this Act is to define and regulate the contract-based relationship between network companies and app-based drivers as independent contractors with required minimum compensation and benefits standards that will operate uniformly throughout the commonwealth, guaranteeing drivers the freedom and flexibility to choose when, where, how, and for whom they work. Although this petition did not reach the Massachusetts ballot, the petition was monitored.



Financial Information

Collections & Expenditures* FY 2020 – 2022

SPECIAL FUND	FY22	FY'21	FY'20
<u>COLLECTIONS</u>			
INTEREST	9,187	5,359	47,240
ASSESSMENTS	19,842,923	18,133,990	19,138,849
REFERRAL FEES	4,143,382	3,407,003	4,201,103
1ST REPORT FINES	268,295	182,071	186,761
STOP WORK ORDERS	814,654	165,286	506,881
LATE ASSESS. FINES	19,976	0	0
MISCELLANEOUS	0	0	0
TOTAL SPECIAL FUND COLLECTIONS	25,098,417	21,925,934	24,080,832
BALANCE BRGT FWD	9,630,463	11,860,064	15,552,604
LESS EXPENDITURES	(24,650,921)	(24,154,886)	(27,773,372)
BALANCE	10,078,607	9,631,112	11,860,065
<u>EXPENDITURES</u>			
TOTAL DIRECT	1,171,966	1,941,565	3,337,318
REPAYMENT - SALARIES	13,437,921	12,216,142	13,238,781
FRINGE BENEFITS	4,873,211	4,416,687	4,652,785
INDIRECT COSTS	444,826	401,911	2,332,264
NON-PERSONNEL COSTS	4,720,593	4,064,206	3,446,900
OTHER INDIRECT COSTS	2,626	1,115,024	765,324
TOTAL REPAYMENT		21,812,059	23,670,730
TOTAL SPECIAL FUND EXPENDITURES	24,651,143	24,155,535	27,773,372

* If you need a full copy of the collections and expenditures report, please contact Executive Director Maureen O'Connell by email: Maureen.OConnell@mass.gov

DIA |
Office of Claims
Administration

DIA | Office of Claims Administration

The Office of Claims Administration starts the dispute resolution process within the DIA when it receives a filing by employers, insurance companies, attorneys, and third parties. The numbers in red reflect **total** first reports of injury (FRI), cases, and COVID-19 claims for FY '22.

<https://www.mass.gov/orgs/department-of-industrial-accidents>

First Reports of Injury

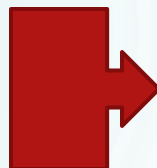
35,644



FY '21: 37,058

Cases

10,345



Employee Claims:

8,546

Insurance
Discontinuances:

1,762

Third-Party Claims:

37

COVID-19 Claims

3,740

Fatalities: **37**

Industries represented

73%: Healthcare

7%: Social Services

FY '21: 10,650 cases



DIA | Office of
Safety

“

The Workplace Safety Grant Program accepted applications between April 17, 2021, and December 31, 2021. The protracted application period was authorized to aid employers navigating the disordered workforce resulting from the COVID19 pandemic.

A leadership change occurred within the Office of Safety with the retirement of the former Director, Kathy Manson, necessitating that Program Coordinators Maria Pesantes and Dev en Awalt manage operations until Maryann Falvey assumed the role of Director in June, 2022. Because of the dedication, professionalism, and program knowledge of Ms. Pesantes and Ms. Awalt, operations ran continuously and timely, amid market uncertainty.

The Office of Safety would like to thank Kathy Manson for her years of dedication to the Workplace Safety Grant Program together with Maria Pesantes and Deven Awalt for their past and ongoing stewardship.

-Maryann Falvey, Director | DIA Office of Safety

DIA | Workplace Safety Grants Program

Due to post Covid-19 market dynamics **24.6%** of awards were unused

Grant Funds
Awarded: \$799,999.50

Grant Funds
Used: \$602,846.23

Grants Received: 76

Grants Awarded: 56

Number of Employees
Trained: 2,650

DIA Office of Safety | Workplace Safety Grants Program (sample grants)

	Type of Business	Amount of Grant	Training	Location
Southeastern MA Business est. in 2019	Mechanical Contractor	\$23,900.00	Fall protection, back safety, provided in English & Portuguese	Plymouth County
Town Cape & Islands	Town	\$23,750.00	Ladder safety, excavation, rigging & traffic control	Cape & Islands County
Northshore	Industrial Sales Co.	\$1,800.00	Forklift training	Essex County

DIA Office of Safety | Workplace Safety Grants Program (sample grants)

	Type of Business	Amount of Grant	Training	Location
Metro West	Ambulance services	\$15,950.00	EMS staff training in situational awareness & de-escalation	Middlesex County
Southeastern MA	Town	\$9,600.00	Roadside & worker safety	Plymouth County
South Shore	Steel Company	\$18,300.00	HazCom, hand & power tools, powered industrial truck	Norfolk County



DIA | Office
of Investigations

DIA | Office of Investigations

The Office of Investigations monitors businesses and organizations across the Commonwealth to guarantee that employers in Massachusetts have workers' compensation insurance. This office also handles Compliance and Enforcement.

- ▶ A Stop Work Order (SWO) is issued to a company if the business does not have workers' compensation insurance.

DIA | Office of Investigations

July – December 2021 Totals

523 – SWOs

25,188 –
Compliance
Checks

8,708 –
Compliance
Letters

January – June 2022 Totals

668 - SWOs

32,603 –
Compliance
Checks

8563 –
Compliance
Letters

Fiscal Year Comparisons

July 2019 SWOs -
156

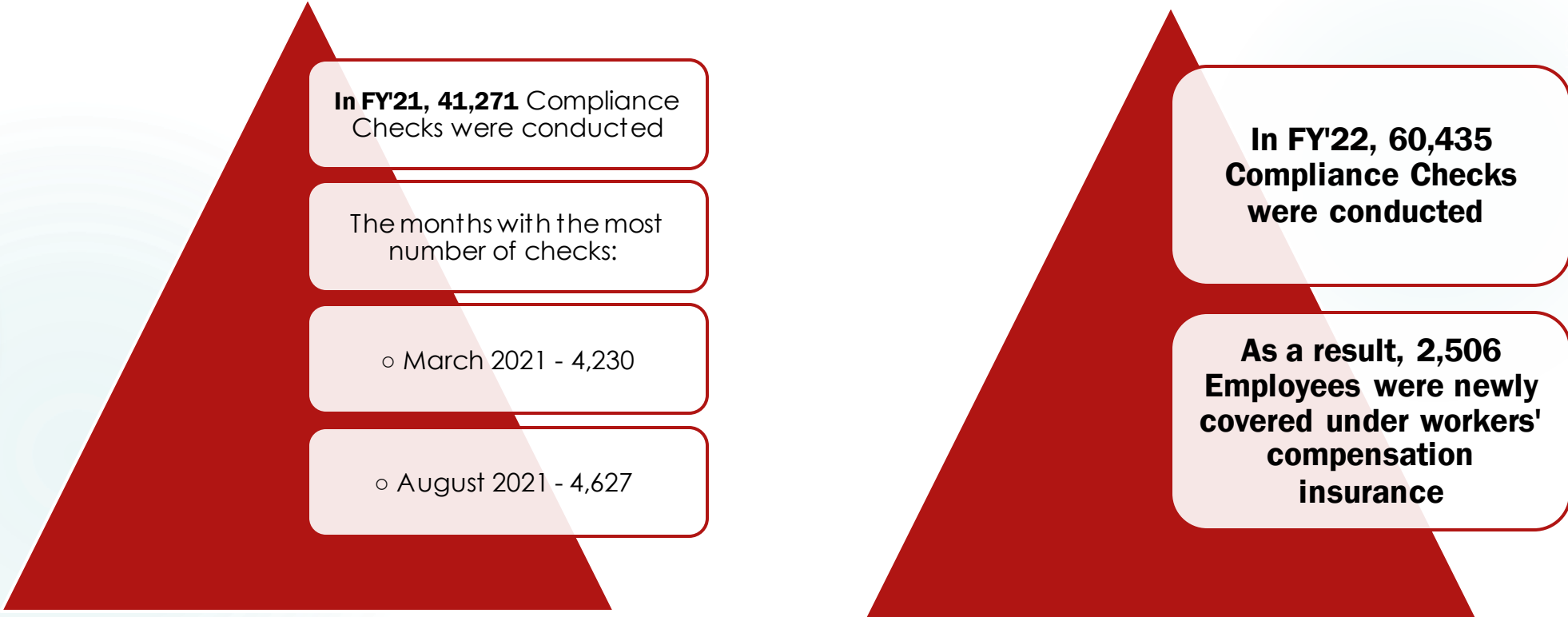
July 2020 SWOs – 0
Due to the Covid-19
crisis.

Highest Month: April
2021 117 SWOs

December 2021 –
5,100 Compliance
Checks and \$62,838
in Fine Collections

Fine Collections for FY '22: \$724,264.00

DIA | Enforcement



In FY'21, 41,271 Compliance Checks were conducted

The months with the most number of checks:

- March 2021 - 4,230

- August 2021 - 4,627

In FY'22, 60,435 Compliance Checks were conducted

As a result, 2,506 Employees were newly covered under workers' compensation insurance

DIA | Workers'
Compensation
Trust Fund
Civil Litigation Unit

DIA | Workers' Compensation Trust Fund

Payments made against Open Claims

\$6,883,155.00

- ▶ The Civil Litigation Unit makes every effort to recover monies owed by utilizing the authority of M.G.L. Chapter 152 to recover money paid on uninsured claims through legal action against the employer in question.
- ▶ Recovery Efforts Against Uninsured Employers by Fiscal Year: **\$641,820**
 - ▶ There were a total of 83 new Section 65 injuries in FY '22, trending downward over the last 4 years (Slide 22).

Top 3 Uninsured Claims by Occupation

- ▶ Carpenter
- ▶ Delivery Driver
- ▶ Laborer

Top 3 Uninsured Claims by Industry

- ▶ Construction
- ▶ Painting
- ▶ Parcel Delivery

DIA | Civil Litigation Unit

The Civil Litigation Unit utilizes the courts and the authority of M.G.L. Chapter 152, Section 65 to recover money paid on uninsured claims by taking legal action against the employer in question.

[MGL CH 152](#)

Section 65 Injuries

83 new Section 65 injuries for FY '22 (yearly comparison in red)

Recoveries

The Civil Litigation Unit recovered \$393,212.00 since the beginning of FY'22 (July 1, 2021)

Payments

The WCTF paid \$5,761,538.00 in payments against uninsured claims during FY 2021

2018: 112

2019: 117

2020: 93

2121: 83

DIA | Offices of
Insurance and
Assessment &
Compliance

DIA | Assessment Rates Announcement

Assessment Rates

The Department of Industrial Accidents (DIA) announces the official assessment rates to be applied to policies effective July 1, 2022 and thereafter. Carriers are again reminded that the DIA developed a [separate algorithm](#) to assist the insurance community in understanding the components included in the DIA's definition of standard premium as outlined in [452 CMR 7.00](#)

Letter

View: [Assessment Letter & Rates](#)

- The assessment rates have been trending downward for the past 3 years.
- Click to download pdf: <https://www.mass.gov/doc/dia-fy-2023-assessment-rates-and-letter/download>

Office of Insurance

Number of new self-insurance licenses

0

Parent-Licenses

67

**The number of subsidiaries
covered by these parent-licenses**

305

**The number of inquiries to the insurance
office for historical information
from insurer register: 1,523**

Office of Assessment and Compliance

The number of assessments remitted to the DIA as
a result of Certified Public Accountant reviews
during FY'22 - \$304,159

**The total amount collected from insurance
companies during FY'22**

-- Insurance Companies- \$72,593,445.98

-- SIGs- \$2,088,364.73

-- SI- \$5,425,293.76

<https://www.mass.gov/doc/historical-assessment-rates/download>

DIA | Public
Information
Unit and
Office of
Multilingual
Services

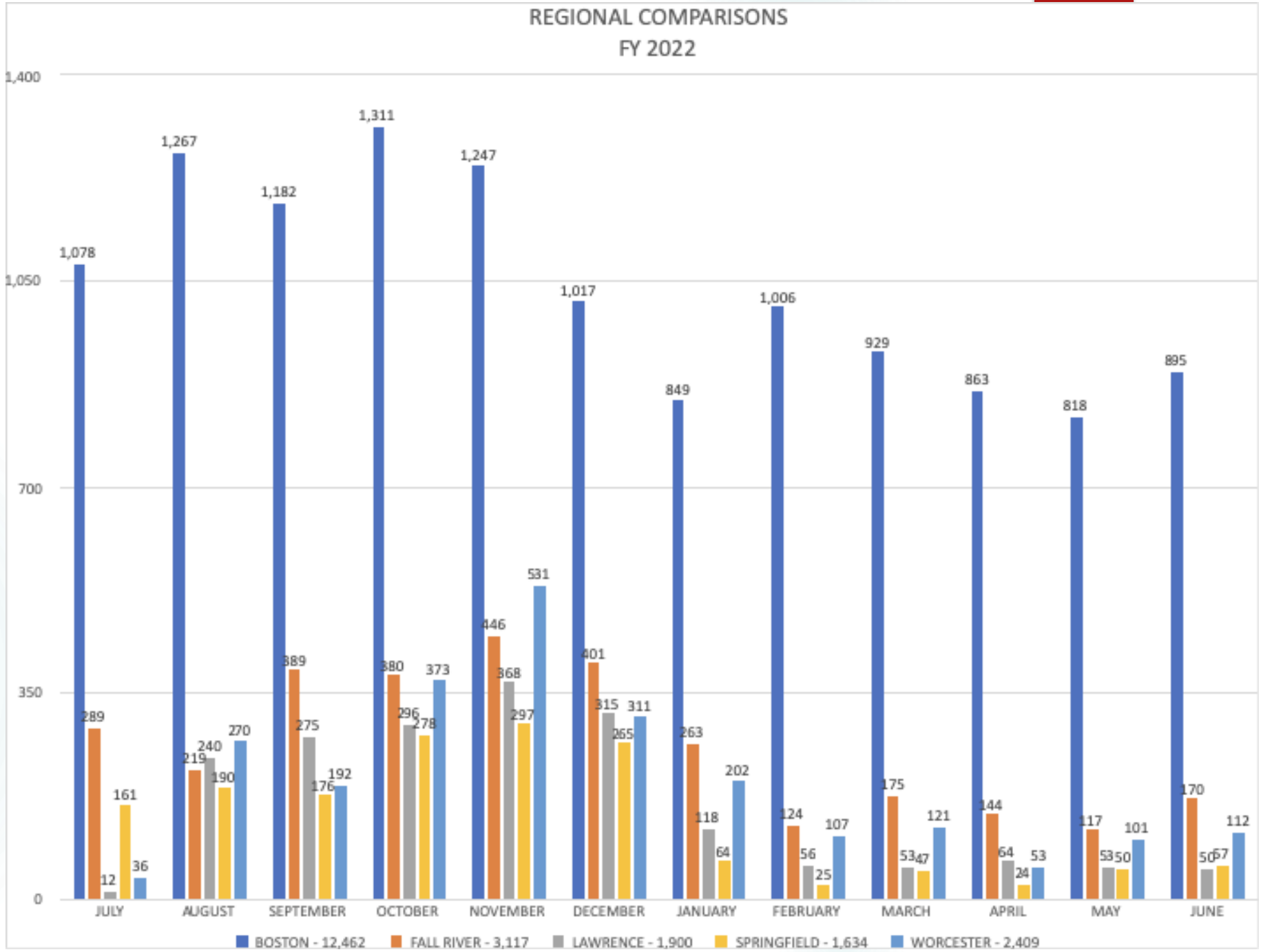
DIA | Public Information Unit

Total for FY 2022

Calls and Visitors between all 5 DIA Regional Offices: 21,522

The multilingual services unit assisted with interpretation of 98% of the calls received during the period January to June 2022 (237 calls, 2,578 minutes) to the DIA.

- Office of Multilingual Services
Commonwealth of MA





DIA

Regional
Offices

DIA | Regional Offices



DIA | Lawrence

354 Merrimack St #230
Lawrence, MA 01843

[\(978\) 683-6420](tel:(978)683-6420)



DIA | Fall River

1 Father Dev alles Blv d,
Fall River, MA 02723

[\(508\) 676-3406](tel:(508)676-3406)



DIA | Worcester

100 Front St #310,
Worcester, MA 01608

[\(508\) 753-2072](tel:(508)753-2072)



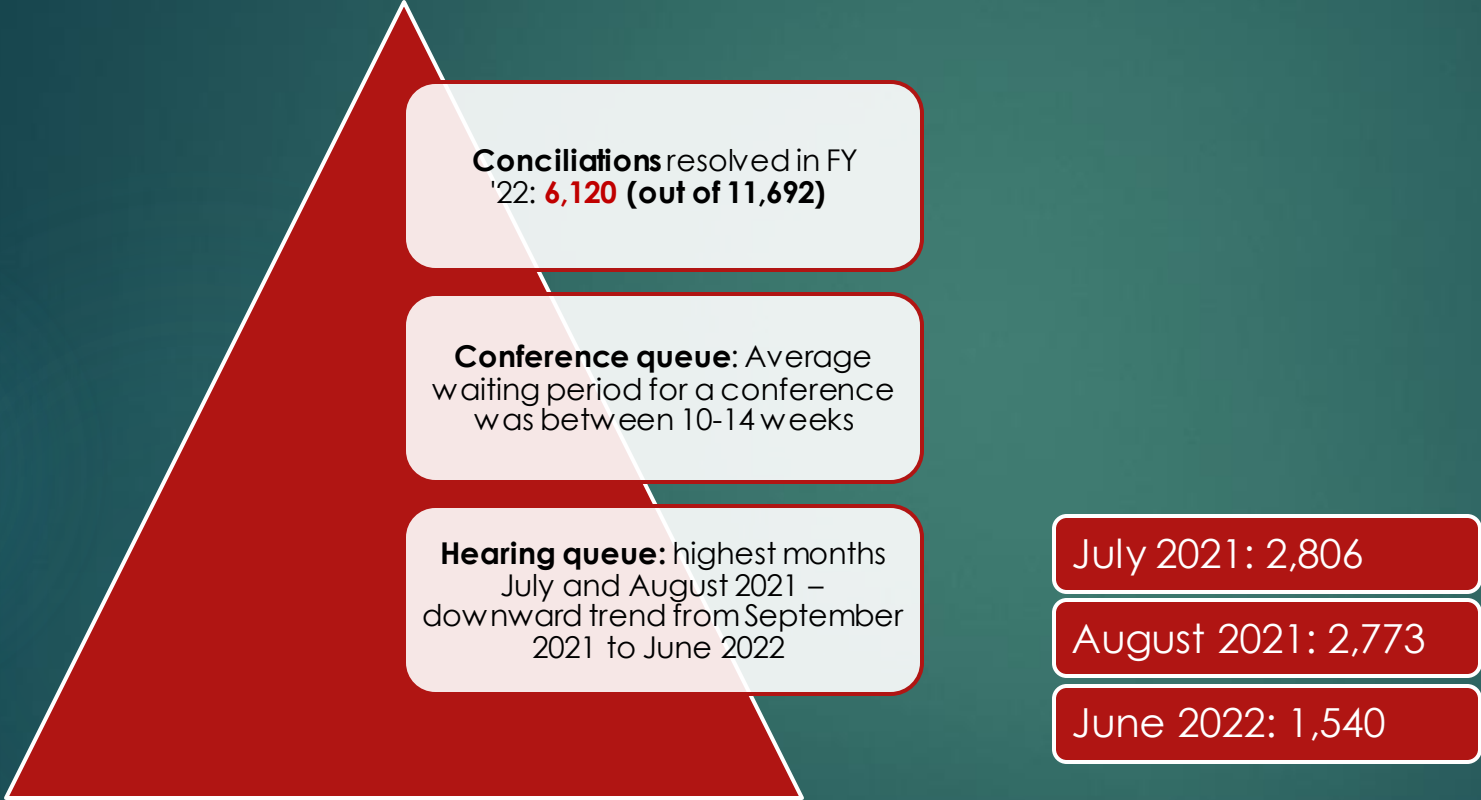
DIA | Springfield

436 Dwight St STE 105,
Springfield, MA 01103

[\(413\) 784-1133](tel:(413)784-1133)

DIA |
Division of
Dispute
Resolution

DIA | Division of Dispute Resolution



Conciliations resolved in FY '22: **6,120** (out of 11,692)

Conference queue: Average waiting period for a conference was between 10-14 weeks

Hearing queue: highest months July and August 2021 – downward trend from September 2021 to June 2022

July 2021: 2,806

August 2021: 2,773

June 2022: 1,540

Additional Resources:

Impartial Physicians Roster - This is a list of doctors who perform impartial medical examinations for the Department of Industrial Accidents after a conference order has been appealed.

As of May 31, 2022 there were 78 physicians on the roster

<https://www.mass.gov/service-details/impartial-physicians-roster>

DIA | Reviewing Board



July 2021 – June 2022

7 cases issued during
the period
July through December
2021

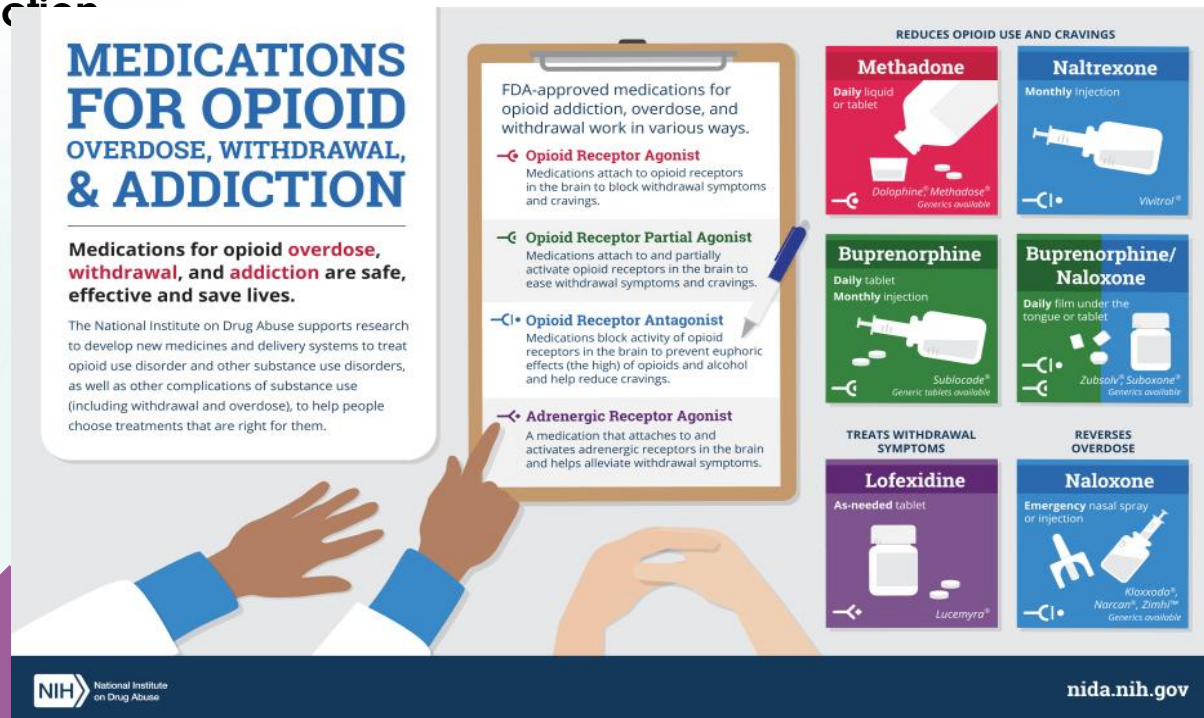
8 cases issued during
the period
January through June
2022

To view all Reviewing Board Decisions dating back to 1999:

<https://www.mass.gov/dia-reviewing-board-decisions>

DIA | Care Coordinators

Infographic | Medications for Opioid Overdose, Withdrawal & Addiction



DIA + Care Coordinators

- The Opioid Alternative Treatment Pathway (OATP) is an additional tool to address the state's opioid epidemic by giving attorneys, judges, and injured workers within the DIA system quicker access to medical professionals to make treatment decisions
- Within the DIA, applications are ongoing, and individuals and insurers have continued to express their desire to be included in the (OATP) program
- **MA Opioid Deaths:** In June, 2022 the Department of Public Health posted a Data Brief: Opioid-Related Overdose Deaths among Massachusetts Residents
- <https://www.mass.gov/doc/opioid-related-overdose-deaths-among-ma-residents-june-2022/download>

DIA | Office of
Health Policy
and Health Care
Services Board

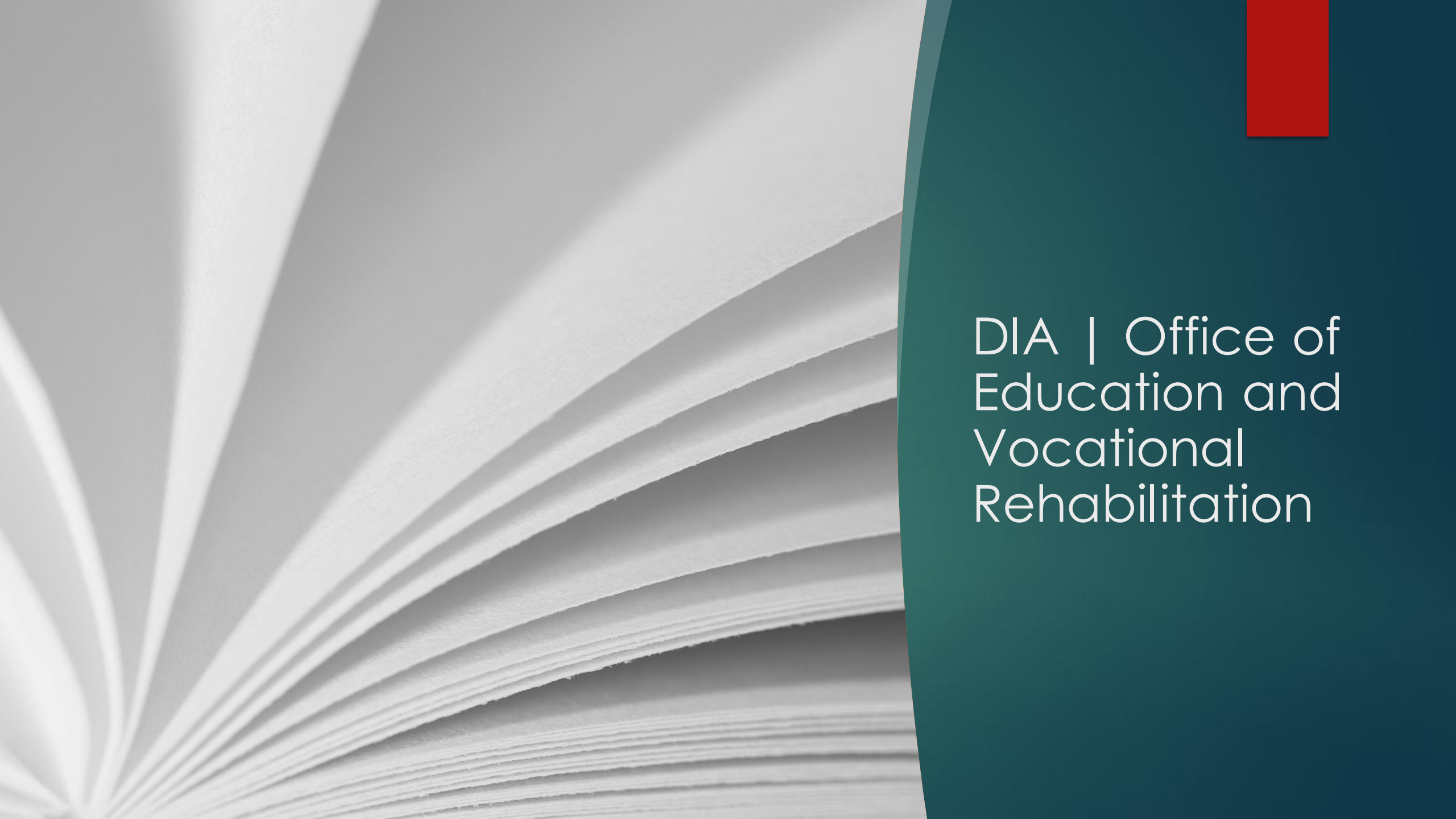
DIA | Office of Health Policy

Office of Health Policy

- 3 employees
- 25 audits on utilization review agents were completed during FY '22
- 1 complaint was analyzed by utilization review in FY '22

Health Care Services Board

- The Health Care Services Board (HCSB) is a 14 member advisory group established by MGL c. 152, § 13. The board members are appointed by the Director of the Department of Industrial Accidents. The members represent a variety of professions concerned with the treatment and care of injured workers.
- The HCSB revised and the DIA adopted revisions to the Chronic Pain Treatment Guideline, the Neck and Back Treatment Guideline, and the Opioid-Controlled Substance Protocol.
- There were zero complaints analyzed in FY '22

The background of the slide features a close-up, grayscale image of the pages of an open book, fanned out from the bottom left corner. A large, dark teal curved shape covers the right side of the image, and a solid red rectangle is positioned in the top right corner.

DIA | Office of Education and Vocational Rehabilitation

DIA | Office of Education and Vocational Rehabilitation

FY '22 Staffing

- OEVR was headed by a Director and staffed by
- **5** Rehabilitation Review Officers
- **2** Support Staff
- **0** Disability Analysts

Vocational Rehabilitation Providers

- **25** were approved in FY'22
- Out of the **1,282** cases referred to OEVR in FY'22, **71 %** proceeded to a mandatory meeting for a determination of suitability for vocational rehabilitation services.

Statistics

- **Mandatory Meeting: 18 %** were referred to the insurer/self-insurer with a request to initiate vocational rehabilitation services by an OEVR certified provider
- **66%** success ratio of those injured workers who completed plans and returned to work
- Encumbrances of the Trust Fund totaled **\$0.00** for vocational rehabilitation services.



Advisory Council Members

Advisory Council Members Labor Representatives | Voting

John A. Pulgini, Esq. | Chairman

Pulgini & Norton LLP, 10 Forbes Rd - Suite 240
Braintree, MA 02184

Stephen P. Falvey

The Carpenters Center, 750 Dorchester
Ave Boston, MA 02125

Stephen Joyce

North Atlantic States Regional Council of
Carpenters, 750 Dorchester Ave, Boston MA
02125

Mickey Long , Esq.

AFL-CIO, 193 Old Colony Ave., P. O. Box E-1
Boston, MA 02127

Patrick Walsh

Laborer's Local 223, 12 Everdean St.,
#A Boston, MA 02122

Advisory Council Members Business Representatives | Voting

Todd R. Johnson, Esq. | Vice Chairman

FutureComp a division of USI Insurance
Services, 12 Gill St., Suite 5500, Woburn, MA
01801

Teri McHugh, Esq.

Boyle | Shaughnessy Law, PC, 695 Atlantic
Ave Boston, MA 02111

John R. Regan

Associated Industries of Massachusetts
One Beacon St., 18th Floor, Boston, MA
02108

James Steenbruggen

First Electric Motor Service, Inc., 73 Olympia
Ave Woburn, MA 01801

VACANT

Advisory Council Members

Non-voting

Michael P. Kelley

HUB International New England
299 Ballardville St., Wilmington, MA
01887

Bernard J. Mulholland, Esq.

Ford Mulholland & Moran, 288 North Main
St., PO Box 4499, Brockton, MA 01887

VACANT

Medical Provider
Vocational Rehabilitation

Ex-Officio | Secretary Rosalin Acosta

Executive Office of Labor and Workforce
Development

Ex-Officio | Secretary Michael Kennealy

Executive Office of Housing and Economic
Development

Executive Director | Maureen O'Connell

Workers' Compensation Advisory Council,
Lafayette City Center, 2 Avenue de Lafayette,
Boston, MA 02111

SOURCES

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- ▢ Department of Public Health: <https://www.mass.gov/doc/opioid-related-overdose-deaths-among-ma-residents-june-2022/download>
- ▢ DIA: <https://www.mass.gov/orgs/department-of-industrial-accidents>
 - ▢ Impartial Physicians Roster: <https://www.mass.gov/service-details/impartial-physicians-roster>
- ▶ Joint Committee LWD: <https://malegislature.gov/Committees/Detail/J43>
- ▶ MGL: [M.G.L. Chapter 23E, Section 17 | Powers and Duties of Advisory Council](#)
 - ▶ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter23e>
 - ▶ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter152>
- ▶ Open Meeting Law: <https://www.mass.gov/the-open-meeting-law>
- ▶ WCAC: <https://www.mass.gov/orgs/workers-compensation-advisory-council>





Thank you

Thanks for your support.

We look forward to working together.

Workers' Compensation Advisory Council

Maureen O'Connell | Executive Director

Maureen.OConnell@mass.gov