

**Commission on Health and Safety and Workers' Compensation**

**MINUTES OF MEETING**

**August 18, 2011**

**Elihu M. Harris State Building  
Oakland, California**

In Attendance

2011 Chair Sean McNally

Commissioners Catherine Aguilar, Faith Culbreath,\*\* Kristen Schwenkmeyer,\*\* Robert Steinberg,\*\* Angie Wei

\*\* By Phone

Acting Executive Officer D. Lachlan Taylor

Absent

Darrel (Shorty) Thacker

**Approval of Minutes from the January 5, 2011 CHSWC Meeting**

*CHSWC Vote*

Commissioner Aguilar moved to approve the Minutes of the January 5, 2011 meeting, and Commissioner Wei seconded. The motion passed unanimously

Chair McNally stated that he wanted to advise everyone that he has asked Lachlan Taylor to act as the Acting Executive Officer of the Commission while Christine Baker is Acting Director of the Department of Industrial Relations.

Chair McNally also thanked Commissioner Wei for all her service and efforts as last year's chair of the Commission.

**Chief Deputy Director Department of Industrial Relations (DIR) Report**

Christine Baker, DIR

Christine Baker stated that she is grateful for the opportunity to have served as Executive Officer of the Commission. She stated that as acting director of the Department of Industrial Relations (DIR), she will be able to fully support the research efforts of the Commission. She stated that in the past few months, she has been moving forward to improve the services of the department. At the same time, more needs to be done with less; the department needs to be a catalyst for jobs, return to work, injury prevention and good working conditions.

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Ms. Baker stated that she has a strong dedicated team of chiefs: Julie Su, the Labor Commissioner, Ellen Widess of Cal/OSHA, and Rosa Moran, recently appointed as Administrative Director (AD) of the Division of Workers' Compensation (DWC). She introduced Ms. Moran and stated that Ms. Moran will be available to the Commission as the work moves forward. Ms. Baker stated that she is working closely with Ms. Moran and a strong team dedicated to the working people and employers of California.

Ms. Baker also stated that the EAMS study that the Commission commissioned will help identify the priorities. It is clear that benefits need to be improved and costs need to come down. The work of the Commission will be instrumental in restoring that balance in the system.

Ms. Baker stated that they are writing procedures for most offices and conducting training to ensure consistency for Cal/OSHA and DLSE and will support that as well for DWC.

Ms. Baker stated that some of the other actions recently taken include: setting up payment systems online so that employers can register for garment registration, farm labor contractors and car wash companies; augmenting the authority to pay claims for car wash workers and agricultural/farm workers; meeting with the Department of Health Services to develop a prevention and mitigation plan for health facilities plagued by injuries, establishing a comprehensive employee health and safety program in California's five state mental hospitals where there have been serious injuries and illnesses, including numerous assaults on staff members resulting in injuries; having high-level meetings with key managers at the Public Utilities Commission (PUC) about Hetch Hetchy to take a preventative approach before injuries occur, which is part of the 85 separate projects and a 4.6 billion dollar program.

Ms. Baker stated that the new team is putting together a labor enforcement plan that will use data systems to identify employers who may be paying cash, failing to cover their workers and not protecting their workforce; this will protect the employers who are competing with employers who are cheating the system. Ms. Baker also stated that efforts are underway to streamline offices where they can and close offices where possible. Ms. Baker stated that she thinks that DWC will quickly turnaround, as Ms. Moran is putting the right people into the right jobs.

Ms. Baker then stated that it is a tremendous honor to be part of the Governor Brown administration. Governor Brown, Labor Marty Morgenstern and her team all want California to be the best place to work, live and do business. She thanked the Commission for allowing her to serve.

Commissioner Steinberg asked if Ms. Baker would be present at all Commission meetings. Ms. Baker replied that she would be pleased to do so if invited. Commissioner Steinberg stated that the Commissioners look forward to her participation.

Commissioner Wei stated that Ms. Baker was the only and long-term Executive Officer of the Commission and that it is a milestone that the Executive Officer of the Commission has been able to take on broader responsibilities for all the employers and workers in the State. She stated that she would like to publicly acknowledge Ms. Baker and stated that the Commissioners are grateful for her service to the Commission.

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Ms. Moran stated that she looks forward to working with the Commission. She stated that her office is in the Oakland State Building and she will make every effort to attend Commission meetings. She is focusing on establishing a strong team to be able to facilitate changes that will make DWC more efficient in providing better benefits of injured workers; at the same time, the focus will be on costs and on greater efficiency due to having limited resources. Ms. Moran stated that she was eager to take on the responsibilities of AD in order to work as a team to make necessary changes.

**Evaluation of the Effectiveness of California's Injury and Illness Prevention Program Standard on Safety**

John Mendeloff, RAND

Mr. Mendeloff stated that he would focus on the newer work that RAND has done and not yet reported to the Commission. The Injury and Illness Prevention Program (IIPP) standard is cited in about 25% of all inspections and is the most frequently cited Cal/OSHA standard. It requires that all workplaces have a written safety and health program. There are clear lines of responsibility, and it mandates safety training and communication of hazards to employees. This standard is different from most standards which are hazard-specific as it deals with the general safety program that employers have.

Mr. Mendeloff stated that RAND was asked by the Commission to evaluate IIPP implementation and the effects on health and safety. This evaluation would be important for the Cal/OSHA program, as well as useful for federal OSHA which is considering a similar program.

Mr. Mendeloff stated that the study did not examine construction and agriculture. He stated that construction inspection-level data are not at the firm level (i.e., they might be at 1 site out of 40), but injury data are at the firm level. He stated that RAND did not find a clear impact at the state level, and the study focused on the impact of citing IIPP at inspected workplaces. He stated that with minor exceptions, the effects in construction and agriculture were not examined.

Mr. Mendeloff stated that the key evaluation questions were: do California workplaces comply with the standard? has compliance improved over time? and does compliance have a positive preventative effect on injuries and fatalities?

Mr. Mendeloff stated that the frequency of violations has not changed since 1993. The study looked at several years to see follow-up through 2006. It is somewhat disturbing not to find fewer violations over time. Over this particular period, by far the most common violation is failing to have a written program, which is cited as serious about 1.5% of the time. Having a written program is different from the other requirements and the way that they are enforced.

Mr. Mendeloff stated that once a workplace has been inspected and Cal/OSHA comes back again, the number of IIPP violations declines over time by a half or a third. Once cited, workplaces get better; however, in first-time inspections, the number of violations gets worse. The study found that larger workplaces tend to have much better compliance with the IIPP, especially if they are union workplaces.

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Mr. Mendeloff stated that workplaces inspected for the first time do not show evidence of having improved over the years. One implication of this is that outreach efforts other than inspections may not have been effective in promoting compliance with the IIPP. Cal/OSHA has invested in building model programs of compliance with the IIPP, which are considered to be of very high quality, yet for new workplaces, there is not better compliance than in the past.

Mr. Mendeloff stated that he wanted to distinguish between inspections that cite the general requirement to have a written safety and health program, 3203A, which is different from the specifics of requiring training, accident investigations and hazard surveys. The general requirement is much more likely to be cited in first-time inspections, much less likely to be cited in an accident inspection, much more likely to be cited in small workplaces than large workplaces, and much less likely to be cited in union workplaces. When 3203A is cited, there does not seem to be better compliance, but if there has been an injury, there is more compliance, particularly with the training requirement.

Mr. Mendeloff stated that the study looked at fatalities and the change in the fatality rate in construction from the five years prior to the IIPP being introduced to the five years after. California had about a 17% reduction in the construction fatality rate. When it is compared to the other largest states, it is basically right in the middle; there are no striking improvements in construction compared to the rest of the states. Since 1992, using Bureau of Labor Statistics (BLS) data, the U.S. fatality rate has declined somewhat more than California's fatality rate. There have not been relative gains in California since the IIPP took effect.

Mr. Mendeloff stated at the level of establishment, if compliance with IIPP reduces injury rates, worse performance among those who do not comply should be expected. In addition, if compliance with IIPP reduces injury rates, we should expect to find poorer injury performance in those do not comply, assuming that they do comply after the citation. The second test is that there should be improvement in rates among those workplaces cited for non-compliance, assuming that they will comply after being cited, which generally happens.

One key test is whether an organization violated the IIPP requirement has worse injury performance. The data considered were: the OSHA Data Initiative (ODI), the BLS system of record-keeping; the Workers' Compensation Insurance Rating Bureau (WCIRB) experience modification factor; and the Workers' Compensation Information System (WCIS) first reports linked with Employment Development Department (EDD) data. WCIS data did not yield information; this might be due to bad reporting. The other two data systems indicate that if what was cited was 3203A (not having a written program), then firms were actually better, not worse. However, the aggregate effect of all the other specifics – not having someone responsible for the IIPP, not holding employees accountable, not having a communication system, not doing periodic hazards surveys, not investigating accidents, and not training workers -- was that firms that were in violation of those requirements had worse performance.

Mr. Mendeloff stated that the next issue was whether performance improves after being cited. Looking at accident investigations and other inspections showed that training workers led to large improvements in injury rates, and the average effect through all violations was 22% in accident investigations. In conclusion, being cited for specific IIPP violations leads to being a

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poor performer and this leads to improvement over time, but being cited for not having a written program does not necessarily lead to improvement. Cal/OSHA does not generally cite firms for first-time violation unless they are in a relatively small range of high hazard industries; this may be part of the reason why firms are not taking major steps to improve their overall safety performance.

Mr. Mendeloff stated that in the sectors studied, the IIPP standard seemed to improve safety, but only to a moderate degree. The greatest effect is training, a finding which is consistent with research done; when there is a failure of training, there are negative effects on injury rates. This was the requirement that got penalized most heavily. This indicates that Cal/OSHA outreach programs have not been as effective as hoped.

Mr. Mendeloff stated that the report would be final within a month or so after discussions with Cal/OSHA. Key topics will be how to get better first-time compliance by firms and how to build on the fact that training seems to be an important factor in improving safety.

*Questions from Commissioners*

Commissioner Aguilar stated that she would like to say that it is very disappointing that implementation has not fostered greater compliance. Based on her experience with public entities and school districts, raising awareness in and of itself has some effect, but not the measurable effect desired. She stated that continuing surveillance (inspections) is important.

Commissioner Culbreath asked what other outreach efforts have been made. Mr. Mendeloff responded that that includes presenting model programs for different industries and different sizes of firms to those firms that are not in compliance. It is not clear that these models have not had an impact on safety. First-time compliance has shown no signs of improvement. This area needs to be improved.

Commissioner Wei asked if insurers are required to check for the IIPP before they write policy, and Mr. Mendeloff responded that he did not think that they did that. Commissioner Wei asked for a response from Mark Sektnan, from the Association of California Insurance Companies (ACIC), who was in the audience; he stated that the requirement for insurers to check for an IIPP before writing a policy was eliminated several years ago. She stated that requiring an IIPP in order to get a policy would be an easy way to increase compliance.

Chair McNally stated that the critical factor is having a culture of safety, or making safety as important as the production or whatever is at the core of the business, so that other goals of the business do not take priority. Mr. Mendeloff stated that in Cal/OSHA policy, at every stage of the inspection, the employer will examine the IIPP. However, looking at individual inspectors, it is clear that some are citing IIPP violations in 70% of the workplaces and some are citing violations in 10% of workplaces. It is not clear if inspectors explore exactly what an employer is doing when they do have a written IIPP. This lack of uniformity in inspector procedures suggests that the standards being applied in the field are not uniform.

Commissioner Aguilar asked Judge Taylor about the Commission's School Action for Safety

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and Health (SASH) program which provides training to schools about the IIPP and whether there has been an evaluation of how this program has affected school safety in the districts where the program has been delivered. She stated that the program was funded with money from OSHA violations. Ms. Baker responded that the program is just rolling out and there has not been time to do an evaluation, but that is something that they would like to do. She stated that both labor and management are pleased with having a training program for schools. She suggested that a report on SASH should be put on the agenda of the next Commission meeting. Commissioner Aguilar stated that that would be very interesting.

Commissioner Wei asked whether it would be appropriate to ask Commission staff to draft a memo about the history of the insurance company requirement for the IIPP and, if appropriate, draft language for consideration.

*CHSWC Vote*

Commissioner Aguilar moved that staff be requested to draft a memo about the insurance company requirement for the IIPP, why it was eliminated and what the potential for reinstating it is, and Commissioner Culbreath seconded. The motion passed unanimously.

*Public Comment*

Greg Osuno, insurance broker, stated that he would like a copy of the slides. He also stated that he thinks the focus on compliance is critical. In addition, it is important to address the environmental arena which has driven the safety piece. The key question is how to create a safety culture which is as important as a culture of production and then move toward a culture of safe production. Mr. Mendeloff stated that management commitment and the culture of safety in a firm are critical, but compliance is an important factor, and California deserves credit for moving from hazard-specific regulation to making overall compliance a part of effort to improve safety. Chair McNally stated that it is a delicate balance to create a safety of culture but not to involve incentives that are often a deterrence rather than a help in creating a culture of safety.

Raine Wilson, State of California, asked how often employers take advantage of free Cal/OSHA consultations and whether consultations help employers do better in inspections. Mr. Mendeloff responded that there are approximately 2,000 consultations per year in California, which compares with about 10,000 inspections. The consultations have been concentrated on high hazard firms, which have been encouraged to seek consultations to ward off inspections. There has not been much evaluation of the impact of consultations, which are implemented on a self-selective basis. Chair McNally stated that it is counterintuitive for firms to invite Cal/OSHA in for a consultation and assume that consultation will not lead to inspection.

*CHSWC Vote*

Commissioner Wei moved to approve for release and posting for public comment when available

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the “Evaluation of the Effectiveness of California’s Injury and Illness Prevention Program and Compliance Officers’ Inspections” report, and Commissioner Aguilar seconded. The motion passed unanimously.

**Medical Care Provided Under California’s Workers’ Compensation Program: Effects of Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care**

Barbara Wynn, RAND

Barbara Wynn stated that this is the final briefing on the study “Medical Care Provided Under California’s Workers’ Compensation Program” and that she would review the report and share the key recommendations. Ms. Wynn stated that the study started in 2006 after the Commission asked RAND to examine the impact of the reform provisions on medical care provided to injured workers. The study focused on the impact of reform provisions on overall medical expenditures and on the use and payments for major types of services. Ms. Wynn stated that has been challenging because of the limited amount of longitudinal data available. Another area researched was the experience with medical provider networks (MPNs). In addition, the study assessed utilization review (UR) and medical necessity determination with the application of the medical treatment guidelines. For the first time, RAND has used the Workers’ Compensation Information System (WCIS) and assessed what its potential might be as an ongoing system to monitor access and changes in medical expenditures. Finally, also using the same framework, the study considered what other changes might be necessary to improve how the system is currently operating.

Ms. Wynn stated that she conducted an initial round of interviews at the beginning of the project in the early implementation stage of the reform provisions and that there was a lot of “churning” going on during that period. The interviews were supplemented on an ongoing basis with reports from the Commission and reports from the California Workers’ Compensation Institute and the Workers’ Compensation Research Institute (which has the benchmarking information). Site visits to medical provider networks were made and discussions were held with network administrators; if specific issues arose, interviews were conducted with other state regulators and payors. The study also analyzed data from WCIS and administrative data from the Office of Statewide Health Planning and Development.

Ms. Wynn stated that there were a number of interim reports presented in the past to the Commission, and the highlights of those are included in this report, along with more detailed information that is included in electronic appendices.

Ms. Wynn stated that the purpose of today’s meeting was to review overall findings from the study and focus on remaining opportunities to improve the medical treatment system. Two of the biggest changes after the reforms were in the medical treatment (ACOEM) guidelines and in new UR processes and MPNs. There were significant changes in the Official Medical Fee Schedule (OMFS) with regard to outpatient services in establishing a fee schedule for the first time. In addition, the inpatient hospital services were put on regular updates by being tied to the Medicare fee schedule. The physician fees were reduced by 15% but not below the Medicare allowances. Ms. Wynn stated that the other issue that has been challenging in terms of

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understanding changes is that for medical expenditures, there has been a continuing reduction in the number of injuries involving days lost from work.

Ms. Wynn stated that there were a number of statistics that can be reviewed in terms of expenditures; however, due to the drop in the number of claims, Ms. Wynn believes that the most valuable statistic to look at was incurred medical expenses at different points of maturity. The study compared data from 2002 to 2009 on incurred medical expenses per indemnity claim at 12 months maturity for various accident years starting in 2002 to Medical Consumer Price Index (CPI) rates of growth, and to overall inflation in California. These data were further compared to the average health premium for individual PPO coverage in California; the employer health premium data came from the California HealthCare foundation. Several important results of this comparison are that: the comparison is on a per claim basis and independent of per volume of claim; and secondly, after 2005, the rate of increase in workers' compensation has been going up, but it is not that much steeper than the individual PPO coverage. Therefore, it is not just the price increases but increases in the volume and intensity of services that are driving the steeper increase relative to the medical CPI. Ms Wynn noted that one would expect to see increases due to inflation, but there also changes in service mix and volume. After reviewing the data, Ms. Wynn stated, it is clear that the expenditures are significantly lower than they would have been in the absence of reform. If one looked at the PPO trajectory, it shows where workers' compensation would be, probably at a minimum or even higher, but instead, there was a drop from 2002 to 2005, and the increase has been occurring since then.

Ms. Wynn stated that the other issue addressed in the study is the expenditures by types of expenses. In the past few years, expenditures have been flat. . A lot of savings came from payments to physicians and practitioners, and those payments are still below the pre-reform levels. Payments to hospitals and Ambulatory Surgery Centers (ASCs) have dropped, reflecting both the expansion of the inpatient fee schedule and outpatient fee schedule. Now they are updated on a regular basis and there are some increases, but the biggest payments are direct payments to patients, which for the most part are settlements, and medical cost containment expenses. There have been recent changes to move medical cost containment expenses from medical expense into administrative expenses in the future, and some reporting changes have gone on there.

Ms. Wynn stated that the study's conclusion about MPNs is that they have not lived up to their expectations with some notable exceptions. The majority of MPNs are broad panels selected primarily to meet the access requirements and to provide fee discounts, so that they were not a selective group of providers trying to coordinate care well for a panel of injured workers. One of the findings of the study was that accountability does not rest with the organization operating the MPN. The applicant is applying and is legally accountable, but what they are doing is resting on assurances from the network administrators that the standards are being met and they are not necessarily looking at the details. The payors "lease" the networks and do not contract directly with physicians, and a number of physicians in the early period did not even know they were part of the MPN. Those issues have been worked out for the most part, but there is still a real disconnect. In addition, the Division of Workers' Compensation (DWC) has limited tools to monitor and enforce the standards, and there are no intermediate sanctions for non-compliance;

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the only sanction is termination. There is no re-approval or re-certification process except where there is a material modification in the plan, which most often involves a 10% change in network physicians.

Ms. Wynn stated that when issues from RAND's early interviews and from the DWC-commissioned access interviews are examined, there is quite a bit of provider concern remaining about UR guidelines, including concerns about the amount of administrative burden entailed and on the strict application of treatment guidelines. Those are four of the five issues that were raised by physician complaints of having to deal with either UR or treatment guidelines. DWC does audit reviews of them and found relatively high compliance with UR procedural requirements. Timeliness was the issue most cited. Those audits looked only at procedural requirements, such as whether notices were given correctly and whether there was appropriate documentation, and the nature of the disputes and quality of decisions are not part of that audit process. Ms. Wynn stated that the study looked at what can be analyzed through WCIS, and the report does contain some reviews, but most UR is prospective review so that denials never get into the WCIS system unless the service is actually furnished. Because of the prospective reviews, one ends up with a large number of expedited hearings that involve medical-necessity disputes. Those disputes are decided by judges who weigh information based on the evidence that is being presented to them, but they are not medical experts in the actual medical treatment at issue. The appeals process itself is complex and cumbersome, and details are too complicated to review at this presentation. Key questions affecting the process are: whether the dispute is within an MPN or not in an MPN, whether there is pre-designation or no pre-designation, or whether the worker is represented or not represented.

Ms. Wynn stated that there are opportunities to improve medical treatment. These are broken into four categories. The first is to create incentives for providing medically appropriate care efficiently, and one of the biggest needs is in physician service area to implement a resource-based physician fee schedule. That fee schedule should have regular updates and should establish equitable and appropriate payment levels. There have not been increases in a number of years relative to services other than evaluation and management in the OMFS. Also, there should be non-monetary incentives for providing medically appropriate care and rewarding performance. Ms. Wynn stated that RAND had issued an entire monograph on the potential for using pay for performance incentives in the workers' compensation system. As far as inpatient hospital services are concerned, there are two issues: the first is a pass-through for spinal hardware; and the second stems from the recent changes that Medicare has made to improve the payment system to better capture the severity of illness, but what it does is it has inflationary impact. Under the Labor Code, it is awkward for the Administrative Director to remove the inflationary effect through the update, but Ms. Wynn stated that she believes it could be done and that it is about 6% of payment permanently. This is the amount every year in potential savings that are unnecessary expenditures. There have been recommendations on free-standing ASCs to reduce the OMFS multiplier for them. The regulations have not done that this year; DWC is retaining the regulations for the higher multiplier, which Ms. Wynn stated, is an unnecessary expenditure. In terms of outpatient drugs, Ms. Wynn stated that there should be curtailing of in-office physician dispensing and implementation of the pharmacy benefit network provision. Those changes have been in the Labor Code, but the regulations have never been issued, and some payors are "gun-shy" about enforcing them in the absence of regulatory provisions.

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Ms. Wynn stated that there are areas where accountability for performance could be increased. The MPN certification process could be simplified so that instead of having each payor be an applicant, the entity that is accountable for contracting with the physician network would apply; there are not too many unique MPNs, and this would greatly reduce the number and clarify the arrangement between the various payors and networks. Another area is strengthening DWC authorities by providing for: intermediate sanctions for failure to comply with MPN requirements; and establishing penalties for the failure of a claim administrator to comply with the data reporting requirements in WCIS. Currently, there is a reliance on goodwill, and there is a definitely lack of compliance. Accountability could also be increased by allowing some information to be made public about MPNs. Right now, both payors and MPNs are defined as individually identifiable data so that no performance measures are publicly available except for timeliness, where there is an exception. Allowing for or paving the way for public reporting, such as in Texas or Ohio, could also help with accountability and performance. All of that can be done with safeguards; it should not be arbitrarily done.

Ms. Wynn stated that another area is to facilitate monitoring and oversight to provide DWC with more flexibility in terms of what they are collecting with WCIS, and she stated that one of the short comings is that there is not a unique identifier for each MPN. WCIS cannot be used to look at individual MPNs. Also, the medical cost-containment expenses should be reported as an administrative expense, but they are not going to be reported by category of cost, such as what is for bill review and what is for network leasing, or for utilization review management, or for one of the patient care-related activities such case management. Ms. Wynn stated that expanding the use of WCIS is another area for improvement.

Ms. Wynn stated that in terms of administrative efficiencies, there are three potential areas for improvement in performance. The first area is to move from the current appeal system to establishing an external medical review organization to review medical-necessity determinations. This process is used in group health and Medicare in California, and Texas workers' compensation has adopted this, and it is working fairly smoothly there both in terms of timeliness of the decisions and in terms of the quality of the decisions. The second area is to monitor medical-necessity decisions to review their quality and identify areas in which expansions or revisions in the utilization treatment guidelines might be warranted. The third area is to continue to explore best practices of other workers' compensation programs and health programs in carrying out medical cost-containment activities.

Ms. Wynn stated that there is a follow-on study. The areas for additional research which are going to be addressed in this study are: an increase in understanding of post-reform cost experience by de-composing or measuring the contribution of the various factors that account for changes in medical expenditures; constructing measures that could be used for ongoing monitoring of the quality and efficiency of care and work-related outcomes for four selected conditions; and looking at the relationship between the patterns of care and work-related outcomes for selected conditions. For the first time, return to work is going to be added to the files, as well as a comparison of service utilization and costs for those selected conditions under different contracting arrangements, such as broad MPN, narrow MPN and non-MPN care, to the extent possible. The study will be completed using a sample of claims because of a lack of the identifier.

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*Questions from Commissioners*

Chair McNally thanked Ms. Wynn for her work and this report; he acknowledged that this report deals with a complicated area and that it is vitally important to the injured worker and to the employer that medical treatment is provided as efficiently as possible and in as timely a manner as possible. Commissioner Aguilar asked whether under paid medical expenses per indemnity claim, with the notable injuries increasing from 2005 and going straight up, it includes bill review and UR fees since they have not been separated out, and Ms. Wynn responded that it does. Commissioner Aguilar asked whether there is a way to tell how much the expense is medical cost containment expense. Ms. Wynn responded that medical cost containment could be broken out and she would see if she could provide that separately but then stated that the data were provided by the Workers' Compensation Insurance Rating Bureau (WCIRB), and she does not know whether it can be broken out. Commissioner Aguilar stated that WCIRB has implemented it already, while self insureds are still working on the rules and regulations to get that changed; some self-insureds are voluntarily doing this, but the data will be skewed for a while. Commissioner Aguilar believes this is an important change because it is still perceived that everything has to go through UR and that is very difficult. She stated that UR results in additional costs which are skewing the medical costs terribly.

Commissioner Wei stated that AECOM treatment guidelines are in place, as well as employer-chosen and employer-developed MPNs, and those have been in place for at least five years. Commissioner Wei asked if UR is still necessary given this context. Ms. Wynn responded that since the AECOM guidelines have been evaluated, it has been stressed that UR should be selectively applied rather than applied across the board. Some studies have shown that having UR is necessary to have a salutatory effect on physician behavior. For instance, in Washington, they eliminated UR for Magnetic Resonance Imaging (MRI) because they had a very low denial rate for usage, and as a result, usage "shot up." Ms. Wynn stated that some UR is warranted, but non-monetary rewards for the physicians can also be considered. High-performing physicians should have much less UR than other physicians.

Commissioner Wei stated that the payor gets "two bites of the apple": first, in terms of putting together the MPN and then choosing which doctors the injured worker can see; and secondly, reviewing the doctors that were chosen. There is no incentive for the first to have high quality so that you no longer need the second; as long as a "second bite" exists, there will not be robustness in quality review at the MPN. Ms. Wynn responded that the irony is that the Labor Code does require network physicians to abide by the AECOM guidelines, but with the leased MPNs, physicians may not even know what the AECOM guidelines are. Commissioner Wei stated that this deserves some drilling down in terms of where UR is unnecessary and a waste of everyone's time, as well as debilitating to the injured worker, and whether or not we should look at changing that.

*Public Comments*

Johnelle Shackelford, injured worker, stated that she had been injured at work on 6/14/2007 and last worked on 6/18/2007. Ms. Shackelford stated that she receives no money due to her injury

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and has filed three complaints over that time with the medical unit. She has appeared in court many times to get the medical care that her MPN primary treating physician (PTP) has requested but which the defendants refuse without UR and insist on using the QME process unless there is a court order to provide the care. Ms. Shackelford stated that two weeks ago, she was in Emergency at a hospital because she desperately needed care and the medical care was “held up” while the medical provider attempted to get written verification and clarification of payment amounts from the claims administrator so they would not have to file a lien. The provider has a court order and a letter from the claims administrator but has heard horrible stories about the dislike of liens in court. Ms. Shackelford stated that it should be remembered that the goal of the California workers’ compensation system is protecting and healing the California injured tax-paying workers.

Carolyn Ginno, California Medical Association (CMA), stated that CMA shares the goal of the Commission to score efficiencies in the system wherever they can be had while also preserving access to care for injured workers and ensuring that the system has the health and human resource providers to do that. She stated that she wanted to thank Commissioner Wei for her comments on the UR process and how that process can be looked at in comparison with MPNs, as well as how MPNs have performed since the reforms and whether they are performing as intended. Ms. Ginno also thanked Ms. Wynn for her comments about the OMFS and making sure that that is sufficient, as well as the proposed transition to Resource-Based Relative Value Scale (RBRVS) which has come through in regulatory proposals for the past couple of years. Ms. Ginno stated that CMA has been involved in the previously mentioned issues. CMA does have concerns that the fee schedule was developed for senior citizens and not for injured workers; currently, there is a proposal moving through the Legislature on this, and CMA has expressed concern in regard to that proposal, as well and expressed concern that payment rules, conversion factors, and the whole system are appropriately adapted so that there is no hindrance to access to the system. Ms. Ginno stated that CMA appreciates the comments about ensuring that payments are adjusted, and from a number of physicians’ and providers’ perspective, that that has happened. In addition, CMA is supportive of the MPN transparency and accountability proposals. Ms. Ginno stated that she wanted to thank the Commission and Ms. Wynn for suggesting these changes.

Ms. Ginno also stated that CMA has fundamental concerns about the proposal to constrict physician in-office dispensing. There is another proposal moving through the Legislature right now, and CMA has been actively participating on that bill as well. Ms. Ginno stated that CMA acknowledges that for certain things, there appears to be some over-dispensing that could be profit-motivated and that is because of a total lack of cost control and billing limitations for those products. CMA has tried to find a happy medium on a reimbursement amount that will allow physicians to continue to dispense out of office, as they have been able to do for a very, very long time for patient convenience, but not allow them to over-bill. The bad actors over-bill and take money out of the system which should be going to legitimate payment to providers to provide necessary treatment to workers. She stated that CMA opposes looking at dispensing in of itself as not a good thing and something that needs to be constrained and gotten rid of. CMA knows that there is abuse in the system and wants to find out why there is abuse and wants to be a part of the discussion on cost control. Ms. Ginno stated that she believes CMA has been part of the discussion for the past year where abuse of the system has been an item of discussion in

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the Legislature, and she stated that CMA thinks that there can there be significant savings while preserving that element of physician practice.

Chair McNally asked how cost control is different from constraint. Ms. Ginno responded that there would be some constraint, but she was looking at the point on cost control on one of the slides which states that physician in-office dispensing should be limited. Ms. Ginno stated that CMA would agree that it is important to limit the ability to bill \$400 for something that costs \$50, which CMA agrees is inappropriate, but CMA does not support going so far as to make in-office dispensing economically unfeasible for a physician practice. Physicians have been able to dispense for a long time, and there have been some bell curves in certain categories where there has been abuse, and CMA thinks that that is because of a lack price control. Ms. Ginno stated that that is wrong, and she believes that that is the reason why there is a fee schedule; however, stating that dispensing is bad and we need to get rid of it is not appropriate. Dispensing can be abused just like anything else, and there is a need to fix that while preserving the ability to dispense.

Commissioner Wei stated that she appreciates the comments and asked Ms. Ginno if doctors get a dispensing fee when they dispense from the office. Ms. Ginno stated that she did not know, and that currently, it was \$7.25 for legend drugs, and she does not know if the physicians get the dispensing fee. Ms. Ginno stated that CMA is still discussing with regard to the bill and that is why it is looking at the dollar figures; the understanding is that physicians did not, but she needs to clarify that with the pharmacy representatives because if physicians do, that would affect the margin that CMA would see as reasonable to allow them to cover the business costs and still dispense drugs. CMA wants to be in line with pharmacy providers. Commissioner Wei stated that she will find an answer to her question off-line.

Chair McNally asked Ms. Wynn if she could elaborate on UR and why it is more complicated in workers' compensation than for private health insurance and managed care. Ms. Wynn responded that it does not have to be much more complicated and it is critical to look at whether or not a given service is medically necessary. The experience on the private side and for government health programs such as Medicare is that Medicare is not reviewing every service that is coming through but targeting the review to areas which have been identified often through monitoring what expenditures are in order to review the services. In workers' compensation, there is a sense that UR has to be done for all services, and there are provisions that any denial needs to come through a physician so that there are administrative layers to it. She stated that it is also complicated because instead of UR being done internally within the claims administrators, it is frequently done by a separate organization. There are administrative layers and the across-the-board application of it.

Commissioner Wei asked whether there is a fee schedule for UR services. Ms. Wynn responded that there is not; the services are part of the medical cost containment expenses, and that is part of the reason why she is saying that it would be helpful to look at these expenses by categories to understand that better and how much is there; in addition, the incentives are not necessarily the best.

Commissioner Aguilar stated that everything she pays under cost containment has its own pay

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code and can be tracked separately, such as UR versus bill review, and she does not know of any systems that do not have it broken down. However, medical cost containment is not in WCIS and that is where Ms. Wynn is getting the numbers and they are not broken down there. Ms. Wynn agreed and stated that it is not being broken down and reported by insurance companies to WCIRB. Commissioner Aguilar stated that this is a detailed level that should be looked at and that it should be coming in from separate pay codes from the data.

Jay Gerd stated that he works for a company that provides utilization management services to a number of self-insured employers. There are a lot of people who use UR as a hammer, but that in his opinion, there are approaches to utilization management that look to make sure that appropriate care is provided as quickly as possible. On the other hand, there are things that drive up costs, such as reports that come in with no information, and these requests have to go to a doctor to be denied for a lack of information; that is a cost-driver. If there is no report at all, the claims administrator should be able to send that back and state that there should be a report in order to evaluate it and that care is not being denied based on medical necessity but because there is no information on which to evaluate the claim. He also stated that there are requests that come in repeatedly after they have been denied and a QME is determined as not necessary; there are also requests that come in for the same treatment five or six or seven times, and you have to address those every single time. That is abuse that drives up costs. There are also ways to do UR effectively. Mr. Gerd stated that his company works with a number of clients where his company gives provider report cards, and these providers are doing a good job of getting outcomes; however, not every employer has an MPN. He stated again, that there are ways to do UR effectively.

Commissioner Wei asked about when a claim comes in and does not have a report, stating that it is her understanding that the insurer would send it to UR to get it denied by UR, rather than sending it back at the insurer level. Mr. Gerd stated that the regulations do not allow the insurer to deny that treatment; instead, it has to go back to the doctor to evaluate and to deny for a lack of information. Commissioner Aguilar stated that as Mr. Gerd commented, they are not denying treatment; they are just asking for additional information. She stated that if it does not have all the information required to evaluate, then it is appropriate at the adjuster level to send it back with the objection that there is not enough information. Then when it comes back, it can go to UR with everything needed or it could be approved. Commissioner Aguilar stated that she does not understand why that piece is not happening and why everything that comes in as a treatment request needs to be evaluated by UR. Mr. Gerd stated that in April 2009, they looked at UR and how to revise the regulations, and six months after that meeting, proposed regulatory changes came out; this issue was addressed in the proposed regulations, but those regulations have not been implemented. The regulations still tell the claims administrators that they cannot send that back but it has to go to UR. Commissioner Aguilar stated that she does not agree, and the regulations state that they cannot deny a treatment but they can delay treatment if there is not enough information. Chair McNally stated that Commissioner Aguilar is interpreting the regulations one way and there are others who will interpret the regulations another way. Mr. Gerd stated that the Commissioners might want to talk to claims administrators who have been assessed penalties if they did not send claims to UR, so the auditors are assessing penalties on them.

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Commissioner Wei stated that the Commission would appreciate written comments on ways to improve the UR system. Commissioner Wei stated that she understands the dynamics but something needs to be fixed and she would appreciate it if people came in with their comments. Steve Cattolica, California Society Industrial Medicine and Surgery and the California Society of Rehabilitation Medicine, stated that accountability for cost-containment expenses and reporting should be by the category of use. He stated that his organization would agree with that, and they were one of the first to point out to the Department of Insurance that accounting for medical expenses was improper; however, to understand the question that was just being discussed, that in the case of a report that is separated from the request, which happens in bill review and in the UR process as well, Mr. Gerd's organization cannot do anything if some place in the work flow the claims administrator has separated some information from the other and the information only gets partially passed along. He stated that with respect to the payments, it would be important to find out who is being paid, not just what is being paid; whether the claim administrator is being paid UR fees or the bill review fee and whether they are in turn paying someone else, or whether it is going directly to the vendor who is responsible for administration of the MPN in the first place, because those business models drive a lot of activity.

Commissioner Wei stated that she does not want to move an agenda item at this time to compel Commission staff to start working on a UR review proposal, but she would like to put this proposal in the "parking lot" somewhere and get a scan of what other states are doing now with UR and what can be done better. Another issue would be the efficacy of putting together a fee schedule for UR service; there is legislation pending about a fee schedule for vocational experts. She stated that she does not know if it should be something like that and she does not want Commission staff to do that now because the Commission is not prepared for it, but she stated that she believes somebody should do it.

Judge Taylor stated that CHSWC staff can certainly get enough information to formulate more specific instructions and get some sense of the environment so that the Commission could do a more formal project. Commissioner Wei stated that they could scope out a potential project for the Commissioners to review. Judge Taylor replied that they could move forward without waiting for the next Commission meeting and start scoping out the issue. Chair McNally stated that he would also like to see what is happening on the private health insurer side since it is working more efficiently with less delay.

Commissioner Aguilar asked Ms. Moran, Administrative Director (AD), to give a status on revisions to UR rules and regulations because there might be proposals in the works that can be of help. Ms. Moran stated that her first official day as AD is August 22nd. Ms. Wynn interjected and stated that she does not have any up-to-date information on where DWC is, but DWC had a very useful stakeholders meeting discussing trying to improve such issues as documentation and developing a standard form to highlight what needs to be in on a request, and there is information that they are going to proceed through the rule making process with some of that. Ms. Moran stated that she is currently focusing on putting a team together, but she was heavily involved with regulations before she became AD, and that after lots of input from different groups of stakeholders, the bottom line is that the regulations do need to be revised. She also stated that Commissioner Wei made an interesting statement about whether or not the idea of MPNs and UR conflict with each other; Ms. Moran stated that she will be looking at that

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and that that is something that needs to be addressed. There are some concerns from stakeholders that MPNs are so large that some of them are not so effective at cost containment and providing quality of care; they are basically Blue Cross listings. She stated that she does understand the other side of the issue, that employers are already given one bite of the apple and the second bite of the apple is UR, so it is something to look and it is one of the first projects that her office will address because it is a large problem. In addition, the issue of time delays, which are heavily litigated, and the process of UR, which is extremely cumbersome, will be reviewed; there are deadlines that providers cannot meet. Ms. Moran stated that she will look at those deadlines because there are 5-day and 14-day deadlines, and there is a lack of clarity, as well as hundreds of conflicting decisions on what the actual deadlines are for UR.

Chair McNally stated that he wants to caution about this idea of two bites at the apple, because the MPNs are so large for some of the insurers that they do not have the ability to manage the medical care and they do not have the ability to influence the size of the MPN because they are not a large enough insurer; then one is saying that this is your first bite and we are going to take away the second one because it is not fair to have two. He stated that we have to be careful. Ms. Moran agreed that there are two sides to the problem. Commissioner Wei stated that she agrees, but stated that if the second bite is so big, the first bite can be tiny. If an employer is allowed to review its supposedly hand-chosen doctors, although these are not really hand-chosen, and if the employer is allowed to review its decisions at the back end, where is there an incentive to get high quality at the front end. That is the problem, and maybe it does not mean getting rid of the back end but tightening up on the front end. Commissioner Aguilar stated that there are employers that have excellent hand-chosen MPNs that are working exactly how they should be, but they are such a minority at this point that they are not affecting the statistics.

*CHSWC Vote*

Commissioner Wei moved to approve for release and posting for public comment the “Medical Care Provided Under California’s Workers’ Compensation Program” report, and Commissioner Aguilar seconded. The motion passed unanimously.

**EAMS Study Report**

Renee Taylor, Renee Taylor Consulting

Renee Taylor stated that she would present the results of the findings of the EAMS needs assessment, conducted over six weeks from mid-April to the beginning of June, which then went through an approval cycle in a draft form. She stated the study was commissioned by the Assembly Insurance Committee Chairman Jose Solorio in February 2011 who asked the Commission to respond to several questions, including: what are EAMS’ significant shortcomings? Can these shortcomings be corrected, and if so, at what future cost? And, are other changes in the work processes of the Division of Workers’ Compensation (DWC) necessary to adapt to the limitations of EAMS?

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Ms. Taylor stated that the study team assessed the gaps between the original goals for EAMS and its current capabilities and developed recommendations for closing those gaps. The inputs were documents from the procurement cycle, including the 2004 Feasibility Study Report (FSR), the 2006 Special Project Report (SPR), and the additional Request for Proposal (RFP) and documents that went out to vendors, as well as the winning vendor's response.

Ms. Taylor stated that the team then spent the better part of three weeks interviewing internal and external users and contributors to the EAMS process. Finally, they developed recommendations and drafted the report for review and comment; public comments have been received and are available on the CHSWC website. The interviewees and contributors came externally from law firms, self-insured employers and large insurance organizations, and internally, workers from the appeals boards, judges and commissioners, among others; and staff from the Department of Industrial Relations (DIR) Office of Information Systems.

Ms. Taylor stated that they looked at the 2004 FSR goals and gave EAMS a "report card." The objectives of EAMS in the 2004 FSR were to:

- Streamline the process of creating files, setting hearings and serving decisions.
- Improve access to case records while preserving confidentiality.
- Provide cost and time savings to parties to a case and to the State.
- Reduce delays and eliminating duplication.
- Reduce file storage space and shipping costs.
- Standardize the DWC desktop computing environment across units.
- Support enforcement against uninsured employers.

She stated that the only clear benefit to date has been that the hardware has been upgraded and that the paper file collection in the district offices has been substantially reduced and is in the process of being completely eliminated. Because EAMS is an electronic system with electronic files and document-management capabilities, the backlog of holding paper for court cases is going away. Other objectives have been realized only in part, and several key objectives have not been realized. In addition, the system went over budget, almost double from the original \$31-million estimate to nearly \$60 million. She also stated that the time savings envisioned by the release of EAMS, in particular, seems problematic for users to verify.

Ms. Taylor stated that in terms of positive feedback, it is important to note that as EAMS was envisioned to enable electronic filing of documents into the court system as a method of transmission, of those parties that have that e-filing capability, many are fairly satisfied with EAMS. However, due to various problems, many parties are not using the electronic filing option. Those who are relying on scanning by district offices are experiencing major problems.

Ms. Taylor stated that findings from external firms include:

- E-filing firms were relatively pleased with EAMS, especially sophisticated firms capable of in-house training and quality review.
- E-filers interviewed cited a shorter learning curve in using EAMS than firms whose

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documents are scanned by DWC.

- E-filers like being able to get hearing dates online – they have passwords and accounts (OCR/scan filers are envious).
- Interviewees appreciate DWC efforts & commitment to making EAMS successful.

Findings from internal users include:

- Judges appreciate being able to see case files online, as well as the ability of multiple parties to view the case file concurrently by using EAMS.
- Presiding judges cited benefits of online viewing and balancing of office caseloads.
- WCAB commissioners like being able to establish appeals cases directly via EAMS, without having to go through DWC for this.

Ms. Taylor stated that key problems discovered with EAMS include:

- **Insufficient Access for E-Filing (typing fill able forms) Prevents Benefits from Being Realized:** Current license models prevent most external users from e-filing. Access has been extended to only 500 locations or sites. There are limitations in the number of licenses provided through the contract arranged by Deloitte with the underlying vendor of the case management functionality, which have prevented others from using the system. This is a “show stopper” for many firms who would like access but are feeling the impact of having to continue to use the DWC scanning method to get the information it needs.
- **Due to Lack of Staffing, Redirected Efforts Constrain Core Improvements:** Due to lack of staffing among both the Appeals Board offices and the Office of Information Systems, EAMS has not received needed changes, workarounds and improvements that have been logged since 2007 when the Deloitte contract began to end. There has been a situation of being on hold with many needed change requests and fixes to the problems that many are experiencing.
- **User Error is Rife and the Learning Curve is not Adequately Addressed:** Using EAMS is frequently cumbersome, and more interactive training needed. External firms’ errors on forms for scanning cause unreasonable delay, but there is also a problem with hardware within the DWC offices; the scanners are not of the quality to support good workflow. In a visit to the Sacramento office, it was clear that the scanners cannot handle any three-hole punch documents being submitted, but also have problems even if you photocopy a three-hole punch document as a fix. It is sometimes impossible to submit a clean copy of documents the first time around. The Sacramento office estimated that the amount of postage being spent to reject erroneous submissions, even with these kinds of cosmetic flaws, is costing \$1,000 per month to reject information. While education is provided by seminars, webinars, and phone conferences, EAMS is a complex system and not particularly user-friendly. The clerical staff on the external side who have to use EAMS are not necessarily able to find themselves able to move comfortably through the system after a webinar. Therefore, an increase in training is recommended, and changes to make the training more interactive may be needed so that

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it has greater impact on the person being trained.

- **Failures in Scanning Process May be Resolved by Centralizing Scanning:** Another study was done on this. DWC offices are being flooded by high scanning volumes, as e-filing access is limited. The main benefit of centralized scanning is that the agency could have much better, more powerful equipment that would not reject the documents that are currently being rejected today. The current delays due to inferior scanners can be weeks, not days, to get documents into EAMS using the current scanning process. Centralized scanning would enable better staff, better training internally, and better equipment; however, it would not address other errors being made through external submissions. Those errors would need to be addressed with training. If centralized scanning were to be done, training of external users should take place first.

Scanning of documents was not actually intended to be the way EAMS was going to move forward in the future; in a way, EAMS's use of scanning as an upload mechanism could be temporary. It could be that more licenses would be made available for electronic filers. It could be that other access mechanisms, such as what the Office of Information Systems is currently working on (Jetfiling), will expand to enable more firms, especially large firms, to use direct data interchange, instead of using forms. Electronic data interchange (EDI) would enable firms to directly send information into EAMS. EDI is the way of the future and scanning, which is one of the main pain points and delay points, could be a problem that will go away due to other fixes being considered. Centralized scanning would probably cost \$2 million per year for the next two years, if done internally. If outsourced, the cost would go to \$5-6 million per year based on quotes obtained from outside vendors which could implement centralized scanning. Due to the volume of errors coming in from submitters, it would be debatable whether an external firm is suitable for implemented centralized scanning.

- **Gaps in Cúram Case Management Functionality Cause User Dissatisfaction:** Insufficient support exists in Cúram for workers' compensation scenarios, and data are duplicated or erroneous due to inadequate processing routines. Some of the problems of Cúram are its inability to handle the complex case information interrelationships in workers' compensation, including when there are two case numbers or multiple forms of legal representation for one injured party or for companion cases. Effort has been made to customize Cúram by Deloitte, but much more would have to be done to meet the objectives of EAMS. These problems have resulted in serious issues for some cases.
- **FileNet is Cumbersome, Making Documents Hard to Organize:** FileNet is a fairly standard low-end file management product. Judges have complained that they cannot tell if they have all the information entered. The ability to upload all information affects the ability of others to access the information. DWC staff need to improve how they organize the information into FileNet, as well.
- **Users Seek Greater Involvement in Addressing Needs for Change:** Outreach efforts are lagging; however, users can help in the change process by making recommendations, and actively wish to be solicited in helping EAMS reach its potential.

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Ms. Taylor stated that needs assessment recommendations include:

- Restore user groups to serve at a strategic partnership level.
- Increase the stakeholders' role in requirements analysis/best practice research.
- Re-scope the EAMS architecture based on value analysis.
- Increase access to training and supporting documentation, including making information online easier to find.
- Improve technical support responsiveness to user issues.
- Upgrade DWC scanners to address errors and backlogs.
- Centralize scanning at key regional locations.
- Upgrade and/or further customize Cúram to add functionality.
- Consider other commercial off-the-shelf (COTS) solutions for case management functions.
- Consider alternatives to FileNet.
- Expand E-Filing access to EAMS.
- Expand electronic data interchange options for EAM, which would eliminate the problems of errors.
- Increase staffing to better support EAMS.

*Questions and Comments from Commissioners*

Commissioner Steinberg stated that this is a fine report. In the past, people were strong advocates of an e-filing system based on a study by RAND. Improving the problem of scanning might involve encouraging more e-filing. It would be interesting to know what the percentage is of e-filers vs. those who send documents to be scanned. Ms. Taylor responded that there are 500 licenses for e-filing and several thousand users are doing scanning. Less than 50% of EAMS users are using e-filing. Unfortunately, for the external users, the e-filing license requires that all filing be done by e-filing, and they lose the ability to send in documents for scanning. This has created problems for filers who would prefer to wait because they have documents that require signatures.

Ms. Baker stated that she believes that DIR will be allowing both e-filing and scanning for external users who wish to use both methods in future.. Not only firms who use scanning today but also e-filers will have the ability to e-file and to scan. Those using JETFile will be allowed to put in their documents if they join a vendor who offers this for EAMS. That is just starting and hopefully, will be expanded.

*CHSWC Vote*

Commissioner Steinberg moved to approve for final release and posting the "EAMS Needs Assessment" report together with the comments received during the closed and open comment periods, and Commissioner Culbreath seconded. The motion passed unanimously

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**Acting Executive Officer Report**

D. Lachlan Taylor, CHSWC

D. Lachlan Taylor, stated that he is here as the Acting Executive and is pleased to say that the transition has been smooth to-date, as has the first attempt at a teleconference set-up.

*Ongoing Work*

Commission staff is working on projects with many data linkages and Memoranda of Understanding (MOUs) that require the Employment Development Department (EDD) and the Workers' Compensation Insurance Rating Bureau (WCIRB), and the Social Security Administration (SSA) to match data. He stated that the Commission is fortunate to have an acting director of the department that is very supportive of its efforts.

Judge Taylor then stated that the staff is working on the annual report and on data collection for the Commission's ongoing RAND studies.

*New Projects*

Judge Taylor stated that he has several projects for consideration today. The first is a proposal for a feasibility study to collect and report on workers' compensation data from public agencies. Currently, data comes from the WCIRB, which covers 70% of the marketplace, and is extrapolated to the total marketplace. WICRB publishes data on indemnity payments for temporary disability, permanent total disability, permanent partial disability, death, life pensions and vocational rehabilitation/educational vouchers. This study is important because data do not currently exist on private self-insureds. The budget for the study would be about \$15,000-20,000, with the possibility of finding a public sector partner for funding.

*CHSWC Vote*

Commissioner Wei moved to approve the proposal "Feasibility Study on Collecting and Providing Workers' Compensation Public Agency Data" for \$15,000-20,000, with the possibility of finding a public sector partner for funding, and Commissioner Culbreath seconded. The motion passed unanimously.

*New Proposal: Revision of Study on the Workers' Compensation System*

Judge Taylor stated that the next proposal is to respond to a request from the public members of the WCIRB to review the study done by Bickmore Risk Services on the workers' compensation system. This would entail a thorough review of Bickmore's findings and recommendations and would be conducted by Commission staff with the assistance of the University of California (UC), Berkeley. He asked the Commission for approval to work on this study and to make recommendations for improvements to the system.

*CHSWC Vote*

Commissioner Aguilar moved to approve the proposed review of the study done by Bickmore Risk Services on the workers' compensation system, and Commissioner Wei seconded. The motion passed unanimously

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Commissioner Aguilar stated that she recommends that the Commission work with the Public Agency Risk Management Association (PARMA), and she stated that she thought they would be very interested in participating.

*Worker Occupational Safety and Health Training and Education Program*

Judge Taylor stated that the Commission's Worker Occupational Safety and Health Training and Education Program (WOSHTEP) is going well, although it has been scaled down a bit because of budget issues. WOSHTEP trainings continue to be conducted for workers, young workers and small businesses statewide through UC Berkeley's Labor Occupational Health Program (LOHP), UCLA's Labor Occupational Safety and Health Program (LOSH), and UC Davis's Western Center for Agricultural Health and Safety (WCAHS). Recently, Small Business Health and Safety materials in English and Spanish for the dairy industry have been completed and trainings are being conducted. There has been extensive interest, more than any other part of the program, in these materials from associations and universities. This project was led by Teresa Andrews of UC Davis.

Judge Taylor stated that WOSH Specialist curriculum materials for the State Building and Construction Trades Council (SBCTC) apprenticeship and pre-apprenticeship training programs, including industry-specific health and safety case studies, including green case studies, which can be incorporated into apprenticeship and pre-apprenticeship training on health and safety and on green jobs have been completed and are being disseminated. In addition, indoor heat illness materials and training activities are under development, which will be useful across different worksites and implemented as part of WOSHTEP Awareness Sessions. Finally, Small Business Health and Safety training materials in English, Spanish and Korean have been developed for restaurant industry employees; previous materials for the restaurant industry were for owners and managers of small restaurants.

**Other Business**

None.

**Adjournment**

The meeting was adjourned at 12:50 p.m.

**Approved:**

\_\_\_\_\_  
Sean McNally, Chair

\_\_\_\_\_  
Date

Respectfully submitted:

\_\_\_\_\_  
D. Lachlan Taylor, Acting Executive Officer

\_\_\_\_\_  
Date