

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

MINUTES OF MEETING

Meeting Day and Date: Thursday, May 23, 1996

Meeting Location: State Building
107 South Broadway
First Floor Auditorium, Room 1138
Los Angeles, California

Commission Members Present:

Chairman Tom Rankin
Commissioner Robert H. Alvarado
Commissioner James J. Hlawek
Commissioner Leonard McLeod
Commissioner Kristen Schwenkmeyer
Commissioner Robert B. Steinberg
Commissioner Gregory Vach

Commission Members Absent:

Commissioner Gerald O'Hara

Commission staff:

Christine Baker, Executive Officer of the Commission

Welcome

The meeting was called to order at 10:00 am by Chairman Tom Rankin.

Adoption of Minutes

Chairman Rankin asked for a motion regarding the minutes of the Commission meeting on March 14, 1996, which had been submitted for approval by Christine Baker. Commissioner Hlawek moved that the minutes be adopted, Commissioner McLeod seconded the motion, and the motion passed unanimously.

Report on Permanent Disability Request For Proposal (RFP) Process

Chairman Rankin called upon Executive Officer Christine Baker to give a status report on the permanent disability study Request for Proposal.

RFP

Ms. Baker reported that the RFP was issued on April 1, 1996 and over 40 organizations requested copies of the proposal. Approximately one dozen firms attended the bidders conference held on May 1, 1996. Commission staff and DWC and IMC representatives participated in a two round evaluation process of the submitted bids. Pursuant to the methodology in the RFP, written and oral proposals were scored and combined and the Rand Corporation proposal of \$486,045 received the highest score. Ms. Baker proposed that the contract be awarded to Rand Corporation.

Project Overview

Chairman Rankin called upon Mark Peterson, a principal investigator from the Rand Corporation, to give a brief overview and answer questions regarding the proposal.

Mr. Peterson reported that the Rand proposal is comprised of four elements. The first element involves getting a profile that will describe the workers' compensation system within California. Peter Barth of the University of Connecticut will be contracted by Rand to compile information. Rand's experience, knowledge, previous research, and a substantial number of interviews will also play a role in completing this part. Interviews with stakeholders and people who work in the workers' compensation system on a regular basis will be conducted to get a feel of how the system operates on a day to day basis and to observe what might be done to improve the system.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

The second phase is to identify promising reforms. To do this, Rand will discuss with key stakeholders their opinions regarding what reforms they believe would be desirable to undertake within the system. They will also look at the workers' compensation system in other states and jurisdictions. This would help draw inferences about what might be the effects, if similar changes were made in California.

The third phase is to assess the effects of initiatives or reforms in other states that could be adopted in California by qualitative analysis and micro simulation of cost benefits. Mr. Peterson hoped to relate data from the state's Employment Development Department (EDD) with wage information at the individual level. This will help in the analysis of the workers' wage situation before and after the injury, the degree to which they recover, whether they suffer wage deficits.

The fourth phase is to use the information derived in the third phase and see how it relates to rehabilitation and modified work assignments. This part of the project will be subcontracted with the University of California. Frank Neuhauser will be responsible for the subcontracted work looking at modified and alternative work assignments within California and to assess how effective they are.

Discussion

Commissioner Hlawek inquired how the other states to be reviewed would be selected. Mr. Peterson responded that Dr. Barth has a knowledge of national systems and had worked in the area for a long time. Data systems such as NCCI's are also available for multi-state data. The study team would also talk with people who are interested in other states and utilize the literature review. He agreed that it would be impossible to look at all 50 states, and indicated that Rand is primarily interested at looking at states where there has been lot of action in reforming.

Commissioner Steinberg noted that at the Symposium there was a difference of opinion between persons from different states, even from those within the same state. He was concerned that not all viewpoints will be represented. To resolve the problem, Rand will attempt to talk to administrators in the state as well as people who have different views. Mr. Peterson further mentioned that Rand will use quantitative data to validate what people say. However, since resources are limited, he acknowledged that it would be difficult to go into deep detail in every state as in California.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

Commissioner Steinberg wanted clarification to who was in charge of the project. Mr. Peterson answered that Rand is responsible. He, the principal investigator of Rand, along with Elizabeth Rolf will manage the project. Although it is a Rand project, he explained that Dr. Barth and Dr. Neuhauser will also be key players. Mr. Peterson mentioned that some of Dr. Barth's duties will include doing interviews, providing information, and also giving some advice on the statistical work. In his opinion, Mr. Peterson said it will be a very cooperative collegial project.

Commissioner Steinberg wondered about the timeline. Mr. Peterson expected the project to take a year. The final product would include a final report and briefings. A preliminary report is expected to be compiled by the end of the first quarter of next year. Mr. Peterson hoped to not only keep the Commission informed of the process and to get feedback and suggestions, but also to have interaction with the Advisory Committee. Mr. Peterson believed that diverse points of view will produce a better product. On behalf of Rand though, he asked for some flexibility since there may be slight shifts made as the project progresses.

Chairman Rankin inquired if attempts had been made to determine the effects experienced by states that have undergone reforms and whether there had been enough time to measure the projected vs. actual effects. Mr. Peterson replied that there have been limited attempts. However, no one has tried anything to the extent and depth as Rand with regard to the micro simulations and the cost benefit analysis.

Mr. Peterson agreed that it is very important to take time to evaluate the projections vis-à-vis the results. Mr. Peterson suggested two methods: One, is to set the micro simulation and the quantitative system up where it can continue to update additional information regarding changes in California. Two, is to adopt different procedures and policies in different offices, then compare the impacts.

Commissioner Vach asked whether it was possible to look at all the systems and still decide none of them work the way it should work, and if that was so, would it be possible to come up with a new one. Mr. Peterson said that it could be possible to develop an alternative rating system within the time limit, but he could not commit to it.

Ms. Baker commented that a Permanent Disability Study Advisory Committee will be formed based on recommendations coming from the Commission and the stakeholders in the system. Mr. Peterson observed that having an advisory group would be useful in many ways. One, is that it

would represent a range of opinions. Secondly, it would provide people to help carry out some of the work. Thirdly, it could play a role in facilitating access to persons and access to data. Mr. Peterson stated that he would like to acquire access to claims data from a sample of uninsured employers to supplement information. And four, the advisory group could provide intermediary information in the process.

Chairman Rankin asked for a motion regarding the permanent disability study. Commissioner Hlawek made a motion to grant the contract for the permanent disability study to Rand Corporation based on the proposal. Commissioner Alvarado seconded it, and the motion passed unanimously.

Executive Officer Report on Proposed Projects

Chairman Rankin called upon Executive Officer Christine Baker to give her report on proposed projects and other activities.

Ms. Baker announced that Commission staff member Janice Yap Diangco was transferring to another state agency in Sacramento. Chairman Rankin thanked Ms. Yap Diangco for her good work.

Ms. Baker informed the Commission that they may wish to vote today on additional proposed projects for this fiscal year and next fiscal year.

Incomplete Physician Reports

Incomplete physician reports have been cited as a major factor leading to inconsistency in permanent disability ratings.

The Commission has requested a proposal from the University of California for a study of physician reports used in the permanent disability rating process.

The proposed project will:

- determine the frequency of unratable and poor quality medical-legal reports covering permanent impairment;
- determine the distribution of poor and unratable reports by subgroups of reporting doctors -- at least by QME and treating physician status;

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

- estimate the relative cost -- charged and paid -- for reports by QMEs and treating physicians;
- identify the major problem areas determined in the process of evaluating reports; and
- make recommendations for improving the quality of reports, including estimates of the cost impacts of each change.

The evaluation will be done on a random sample of reports drawn from the Disability Evaluation Unit. The sample will be drawn in conjunction with the Industrial Medical Council, who will determine the status of the reporting doctor -- QME or treating physician -- and participate in the evaluation of the reports done by QMEs. The costs of reports will be estimated separately using data drawn from one or more bill review companies or carriers.

The proposed study would begin either June or July and be completed in November 1996 at a cost of \$41,600.

Workers' Compensation Video for Injured Workers

The Commission has received a proposal from UC Berkeley's Labor Occupational Health Program to create an informational video for injured workers. The scope of the proposed project includes:

- Supervision and coordination of the production of a 15-minute informational video for injured workers. The video will explain the basic terms, acronyms, and benefits in workers' compensation; the chronology of a typical claim; steps the injured worker should take; and available resources.
- Development of a fact sheet to accompany the video. The fact sheet, in both English and Spanish, will enable injured workers to retain some of the essential information shown in the video. This information will include definitions of common terms and a list of agencies and other resources.
- Development of a plan for disseminating the videotape information to injured workers.

The proposed project will run for six months and cost approximately \$63,000.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

Workers' Compensation Fact Sheets for All Workers

The Commission has received a proposal from UC Berkeley's Labor Occupational Health Program to produce instructional written material about workers' compensation for all workers, including teenage workers.

The scope of the proposed project includes the development of seven fact sheets in both English and Spanish and a plan for disseminating this information:

1. Introduction to Workers' Compensation -- including terms, acronyms, types of benefits, and the basic chronology of a claim
2. Medical Treatment and Evaluation, including the right to predesignate one's treating physician, changing the treating physician if necessary, and the purposes of medical evaluations
3. Attorney Services -- when and how to choose an attorney
4. Problems and Disputes -- options and instructions
5. Settling Your Claim -- understanding the terms of a proposed settlement and understanding the options
6. Resources -- a list and explanation of resources for injured workers
7. Workers' Compensation for Young Workers -- targeting all working teenagers. Includes basic introductory information about the workers' compensation system, basic medical treatment issues, and the initial steps teenage workers should take when injured.

The proposed project will run for eight months and cost approximately \$64,500.

Task Force on Young Worker Health and Safety

Ms. Baker indicated that the Commission had an opportunity to spearhead and coordinate a project to enhance the health and safety of young workers. Ms. Baker believes that this proposed project addresses the health and safety component of the Commission's mandate on a statewide policy level.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

As suggested by the Labor Occupational Health Program, the Commission could convene a statewide Task Force to coordinate strategies to protect young people from work-related injury and illness.

The Task Force would consist of groups and individuals dealing with California youth employment and education issues, as well as others who can play a role in educating and protecting young workers.

Task force participation could include:

- California Department of Education
- California Employment Development Department
- Federal Department of Labor
- Other DIR entities such as Labor Standards Enforcement, Cal/OSHA, and Apprenticeship Standards
- University researchers
- Physicians
- Labor Unions
- Employer groups
- Loss Control organizations
- Parent/Teacher groups
- California Association of Work Experience Educators
- Student groups

The Task Force could meet quarterly, to accomplish three major tasks:

1. Develop a resource list of task force members, listing all activities related to educating and/or protecting young workers.
2. Identify ways for agencies to work together to educate and/or protect young workers more effectively.

3. Develop a prioritized list of new strategies for protecting young workers, including identification of resources or agencies responsible for carrying out these strategies.

This proposed project is estimated to run for 12 months and cost about \$20,000.

Safety and Health Education Video for Young Workers

This proposed project was suggested by the UCLA Labor Occupational Health Program, known as LOSH. LOSH is one of three model projects funded by the National Institute for Occupational Safety and Health -- NIOSH -- to develop and implement health and safety curricula in US high schools. During a LOSH project at Jefferson High School in Los Angeles, participants identified the need for a video to be used in the classroom.

LOSH is proposing a project to develop a 10 to 15 minute video and discussion guide that can be used in the classroom to educate students how to identify health and safety hazards on their jobs and to understand their rights and responsibilities under Cal-OSHA and California's child labor laws. Students and teachers will be involved in all aspects of the video project.

The video will be accompanied by a discussion guide and will be distributed at no cost to all 49 high schools in the Los Angeles Unified School District. LOSH plans to disseminate the video to all other school districts in state at minimal cost.

This proposed project has received the support of the Los Angeles Unified School District. LOSH has previously produced eight videos on workplace health and safety that have been distributed nationally.

Current Projects

Ms. Baker then gave an update of current projects.

Information Services to Injured Workers

A draft of the final report is expected by June 14, 1996 for the Information Services to Injured Workers project.

Vocational Rehabilitation Reform Project

The final Vocational Rehabilitation Study report is scheduled to be issued in June 1997.

Medical-Legal Evaluation Study

The Commission has extended the Medical-Legal Evaluation Study project for another year.

Grant Program

Ms. Baker reported that of the four grantees that have submitted products, two have also completed all required reports and their files have been closed and we are awaiting the final financial report for the other two. The remaining grantees still have open and active files. Several have requested and been granted extensions to complete their projects. Ms. Baker indicated that the Commission has close contact with the grant recipients and all projects are reported to be progressing smoothly.

Discussion on Projects

Ms. Baker indicated that project leaders were present to answer questions.

Commissioner Steinberg noted that many junior high and high school students, counselors and teachers really don't understand the workplace nor workers' compensation in the workplace. He and other Commission members thought it was a good idea to provide the next generation with greater awareness.

Chairman Rankin then called upon Laura Stock who explained that the video will provide basic information such as things to do when injured, rights to pre-designate a physician, what are the general resources. The video will touch upon general points which will hold consistent even throughout law changes. Ms. Stock reassured that even if the law were to change fundamentally, she and her staff will still be able to revise the video and material.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

Chairman Rankin inquired whether Ms. Stock will be working with DWC Administrative Director Casey Young. Ms. Stock stated that her intent is to work closely with Mr. Young and his staff on both of the proposals to insure that what is developed is useful for DIR and reflects the latest changes.

Chairman Rankin commented that the videos could be used in DWC offices, especially for people who are waiting to see an information systems officer. Ms. Stock indicated that she and her staff were interested in working in DWC offices to make sure it works in the setting. She believes that the use of the video and informational material can save resources.

Commissioner Steinberg asked if the final products of both projects by could be viewed as be a preventive measure for people in schools across the state. Ms. Stock affirmed that it is true for both projects. The video is a general introduction to the system, targeted at people who have not been injured. It can also be used in part of the general health and safety chain. Ms. Stock indicated that the introductory fact sheet of the proposed written material project can also serve the same purpose. She added that the fact sheet being developed specifically for young workers will be intended not only for injured workers but for all workers incorporated in the high school's apprenticeship program.

A curriculum is also being developed for young workers, and Ms. Stock reported that a number of contacts have already been made. Workers' compensation is one of the top requests for work experience coordinators.

Commissioner Alvarado made a motion to approve all of the proposed projects. Commissioner Hlawek seconded and the motion passed unanimously.

Public Comments

There were no comments from the public.

Other Business

AB 3450

Chairman Rankin brought up AB 3450 by Senator Brewer which requires the Insurance Commissioner to conduct a study on experience rating. Chairman

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

Rankin mentioned that in the original version of the bill, the Commission was to receive a copy of the study but for some reason, the Commission was subsequently amended out. Chairman Rankin proposed that the Commission try to put that requirement back into the bill.

Commissioner Hlawek moved that the Commission take such a position with the experience rating study. Commissioner McLeod seconded and the motion passed unanimously.

CCR

Chairman asked if there were further business. Commissioner Hlawek reported that as a member also of the Board of the Californians for Compensation Reform (CCR), he had been asked by Chuck Bader, the Executive Officer of the Board to make a presentation on behalf of the Commission. Although he was unable to attend, he prepared a letter to provide an update of what the Commission has been and will be doing. The letter was introduced to the Board and was favorably received. Commissioner Hlawek believed that CCR has re-examined their antagonism towards the Commission and is trying to work with the Commission better.

DWC's KPMG Study

Chairman Rankin thanked Commissioner Hlawek and asked if there was anything further. Commissioner Vach asked what phase DWC's KPMG study was in. Ms. Baker replied that she did not know what phase, but the study is currently under way and the study report is due before June. She also stated that a budget change proposal for DWC is being prepared as a result of the KPMG study.

Carve-Out Program

Chairman Rankin inquired if there was a report due on the Carve Out Program. Ms. Baker replied that a report is due from the Division of Workers' Compensation to the Legislature in June 1996.

California Commission on Health and Safety and Workers' Compensation

Minutes of Meeting

May 23, 1996 Los Angeles

Future Meetings

Ms. Baker requested that the July meeting be moved to August to allot more time for the workload and preparation of the Commission annual report. The Commission set the next meeting for August 1996 in Sacramento.

The Commission members requested that DWC Administrative Director Casey L. Young be asked to attend the next meeting to address the following topics:

- Peat Marwick (KPMG) study
- DWC Information Systems Project
- Carve Outs
- Judicial Ethics

Special Note: Subsequent to the May 1996 Commission meeting, calendar conflicts necessitated the further rescheduling of the next Commission meeting to Monday, September 16, 1996 in Los Angeles.

Adjournment

Before adjourning, Chairman Rankin thanked Ms. Baker and the Commission staff for the good job on the Commission's Symposium in April. Commissioner Alvarado added that the Symposium had received recognition even on the East Coast -- two weeks later, several people at a meeting he attended referred to the Commission's symposium as an example.

The meeting was adjourned at 11:15 a.m.

Approved:

Respectfully submitted,

 9-16-96

Tom Rankin, Chairman Date



Christine Baker, Executive Officer