Commission on Health and Safety and Workers' Compensation

2015 Annual Report

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Department of Industrial Relations

California Commission on Health and Safety and Workers' Compensation

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ABOUT CHSWC

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the health and safety and workers' compensation systems in California and makes recommendations to improve their operation.

Established in 1994, CHSWC has directed its efforts toward projects and studies to identify opportunities for improvement and to provide an empirical basis for recommendations and/or further investigations. CHSWC utilizes its own staff expertise combined with independent researchers with broad experience and highly respected qualifications.

At the request of the Executive Branch, the Legislature and the Commission, CHSWC conducts research, releases public reports, presents findings, and provides information on the health and safety and workers' compensation systems.

CHSWC activities involve the entire health, safety and workers' compensation community. Many individuals and organizations participate in CHSWC meetings and fact-finding roundtables and serve on advisory committees to assist CHSWC on projects and studies.

CHSWC projects address several major areas, including permanent disability (PD) ratings and related benefits, State Disability Insurance (SDI), return to work, carve-outs and medical fee schedules. Additional projects address benefits, medical costs and quality, fraud and abuse, streamlining of administrative functions, informational services to injured workers, alternative workers' compensation systems, and injury and illness prevention. CHSWC also continually examines the impact of workers' compensation reforms.

The most extensive and potentially far-reaching project undertaken by CHSWC is the ongoing study of workers' compensation PD ratings. Incorporating public fact-finding hearings with studies by RAND, the CHSWC PD project analyzes major policy issues regarding the way in which California workers are compensated for PD incurred on the job.

CHSWC engages in a number of studies and projects in partnership with state agencies, foundations, and the health and safety and workers' compensation community including: the Labor and Workforce Development Agency (LWDA); the Department of Industrial Relations (DIR); the Division of Workers' Compensation 2(DWC); the California Department of Insurance (CDI); the Fraud Assessment Commission (FAC); the Governor's Office of Homeland Security (OHS); the Bureau of Labor Statistics (BLS); the Department of Fair Employment and Housing (DFEH); the California Health-Care Foundation (CHCF); RAND; the National Academy of Social Insurance (NASI); and the International Association of Industrial Accident Boards and Commissions (IAIABC). CHSWC projects and studies are described in this report.

CHSWC
Serving all Californians

- Created by the 1993 workers' compensation reform legislation.
- Composed of eight members appointed by the Governor, Senate and Assembly to represent employers and labor.
- Charged with examining the health and safety and workers' compensation systems in California and with recommending administrative or legislative modifications to improve their operation.
- Established to conduct a continuing examination of the workers' compensation system and of the State's activities to prevent industrial injuries and occupational diseases and to examine those programs in other states.
- Works with the entire health and safety and workers' compensation community—employees, employers, labor organizations, injured worker groups, insurers, attorneys, medical and disability providers, administrators, educators, researchers, government agencies, and members of the public.
- Brings together a wide variety of perspectives, knowledge, and concerns about various health and safety and workers' compensation programs critical to all Californians.
- Serves as a forum in which the community may come together, raise issues, identify problems, and work together to develop solutions.
- Contracts with independent research organizations for projects and studies designed to evaluate critical areas of key programs. This is done to ensure objectivity and incorporate a balance of viewpoints and to produce the highest-quality analyses and evaluation.

CHSWC Members Representing Employers

Daniel Bagan

Daniel Bagan is the West Region Risk Manager for United Parcel Service (UPS), the world's largest package delivery company and a leading global provider of specialized transportation and logistics services.

He serves on the board of the California Coalition on Workers' Compensation and is an active member of the Workers' Compensation Action Network. He is also a member of United Way's Alexis de Tocqueville Society.

Appointed by: Speaker of the Assembly

Martin Brady

Martin Brady is executive director at Schools Insurance Authority, where he has worked since 1988.

Mr. Brady is a member of the California Joint Powers Authority, California Coalition on Workers' Compensation, Public Agency Risk Managers Association, Public School Risk Institute, Association of Governmental Risk Pools and the Public Risk Management Association.

Appointed by: Governor

CHSWC Members Representing Employers

Sean McNally

Sean McNally is the President of KBA Engineering in Bakersfield, California. He has been certified by the State Bar of California as a specialist in workers' compensation law. He is a licensed general contractor and serves as a trustee for the Self-Insurer's Security Fund. His community activities include serving on the Board of Directors of the Golden Empire Gleaners and the Board of Trustees for Garces Memorial High School. He is the past Vice President of Corporate and Government Affairs and past Vice President of Human Resources for Grimmway Farms.

Mr. McNally is a graduate of the University of the Pacific McGeorge School of Law and was a partner at the law firm of Hanna, Brophy, MacLean, McAleer and Jensen. He graduated from the University of San Francisco with bachelor's degrees in English and theology. Following that, he did graduate studies at Hebrew University of Jerusalem, Israel.

Appointed by: Governor

Kristen Schwenkmeyer

Kristen Schwenkmeyer is President of Gordon & Schwenkmeyer, Inc. (GSI), a telemarketing and fundraising firm that she founded with Mike Gordon in 1985. GSI has offices in Sacramento, San Diego and El Segundo, CA.

Previously, Ms. Schwenkmeyer served as staff aide to Supervisor Ralph Clark of the Orange County Board of Supervisors and Senator John Glenn in Washington, DC.

Ms. Schwenkmeyer received a bachelor's degree in political science from the University of California, Santa Barbara.

Appointed by: Senate Rules Committee

CHSWC Members Representing Labor

Doug Bloch

Doug Bloch has been the political director at Teamsters Joint Council 7 since 2010. He was the Port of Oakland campaign director for Change to Win from 2006 to 2010 and a senior research analyst at Service Employees International Union (SEIU) Local 1877 from 2004 to 2006.

Mr. Bloch was the statewide political director at the California Association of Community Organizations for Reform Now (ACORN) from 2003 to 2004 and ran several ACORN regional offices, including those in Seattle and Oakland, from 1999 to 2003. He was an organizer at the Non-Governmental Organization Coordinating Committee for Northeast Thailand from 1999 to 2003.

Appointed by: Governor

Christy Bouma

Christy Bouma is President of Capitol Connection, which she joined in 2000. She was a mathematics and computer science teacher at the Hesperia Unified School District from 1989 to 1999 and an instructor at Victor Valley Community College from 1991 to 1998.

Ms. Bouma has supported the California Professional Firefighters, the California School Employees Association governmental advocacy team, the State Building and Construction Trades Council, and the Service Employees International Union on special legislative projects. She is affiliated with the Institute of Government Advocates, the Leadership California Institute, and the CompScope Advisory Committee of the Workers' Compensation Research Institute. Ms. Bouma holds a master's degree in computer science.

Appointed by: Governor

CHSWC Members Representing Labor

Shelley Kessler

Shelley Kessler is the Executive Secretary-Treasurer of the San Mateo County Central Labor Council, which represents 110 affiliated local unions and over 70,000 working member families. She has been at the Labor Council for 29 years, first as the political director and currently as the head of the organization. She is a 32-year member of the International Association of Machinists and Aerospace Workers as well as a vice president of the California State Labor Federation.

Ms. Kessler's experience in working on the floor at General Motors, Fremont, CA, and Westinghouse Electric, Sunnyvale, CA, compelled her to become involved in worker health and safety issues. She joined the boards of the Santa Clara Center for Occupational Safety and Health, Worksafe, and later, the advisory board of the Labor Occupational Health Program at the University of California (UC), Berkeley, in order to pursue her concerns for worker protections. Ms. Kessler holds two bachelor's degrees from Sonoma State College.

Appointed by: Speaker of the Assembly

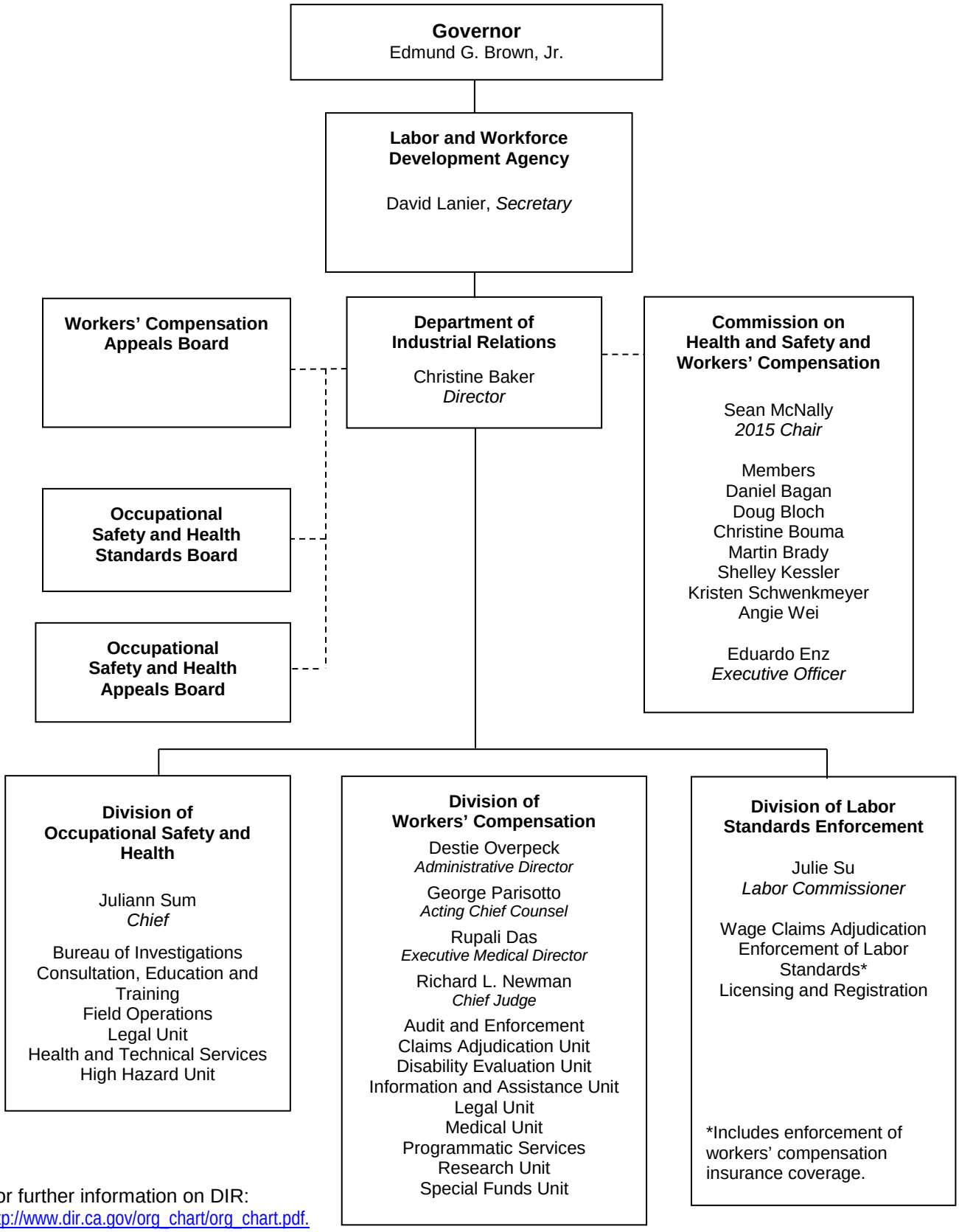
Angie Wei

Angie Wei is the legislative director of the California Labor Federation, the state AFL-CIO Federation. The state Federation represents 1,200 affiliated unions and over two million workers covered by collective bargaining agreements. Previously, Ms. Wei was a program associate for PolicyLine of Oakland, California, and advocated for the California Immigrant Welfare Collaborative, a coalition of four immigrant rights organizations that came together to respond to cuts in public benefits for immigrants as a result of the 1996 federal welfare reform law.

Ms. Wei holds a bachelor's degree in political science and Asian American studies from the University of California, Berkeley, and a master's degree in public policy from the Kennedy School of Government at Harvard University.

Appointed by: Senate Rules Committee

State of California Health and Safety and Workers' Compensation Functions



For further information on DIR:
http://www.dir.ca.gov/org_chart/org_chart.pdf.

CHSWC RECOMMENDATIONS

In the interest of California's workers and employers, the Commission on Health and Safety and Workers' Compensation (CHSWC) recommends steps to ensure adequate and timely delivery of indemnity and medical benefits for injured workers.

In addition, CHSWC recommends an overall culture of safety to prevent workplace injuries.

WORKERS' COMPENSATION INDEMNITY AND MEDICAL BENEFITS AND ADMINISTRATION

Senate Bill (SB) 863, the workers' compensation reform legislation passed in 2012, incorporated many of CHSWC's previous recommendations for statutory improvements in the workers' compensation system, and the Division of Workers' Compensation (DWC) is carrying out many of the commission's recommendations for administrative improvements.

CHSWC recommends that the system continue to be examined in light of the passage of SB 863. Research to inform future recommendations is underway in the Department of Industrial Relations (DIR), DWC, and CHSWC.

Specific recommendations that await the results of pending research include the following areas:

- Permanent Disability Compensation
- Return-to-Work
- Medical Care Quality, Accessibility, and Cost
- Timeliness and Cost of Dispute Resolution

RETURN-TO-WORK SUPPLEMENT

The RAND study "Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments" defines workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss. CHSWC concurs with the definition of "disproportionately low" as meaning that actual measured earnings after the disability award are below what is expected based on the severity of the disability rating and supports the study's recommendation to target benefits to these particular workers.

Recommendation

- Ongoing monitoring of the utilization of this benefit

MEDICAL CARE IN WORKERS' COMPENSATION

Monitoring Medical Care and Costs

In the past, problems in the medical-legal process have included delays in selecting evaluators, obtaining examinations, and producing the evaluation reports. Deficiencies also have existed in the content of reports when they failed to comply with the legal standards or omitted necessary components and thus necessitated the submission of supplemental reports. These problems

contributed to an increase in frictional costs and delays in resolving disputes and delivering benefits to injured workers.

Significant changes in the medical care process for injured workers have resulted from the reform legislation enacted in 2012. One of the changes is that medical necessity disputes are now resolved using an Independent Medical Review (IMR) process. IMR, which is administered by the DWC Administrative Director, requires that an injured worker's objection to a utilization review (UR) decision be resolved through an IMR. An in-person qualified medical evaluator (QME) will still be used for impairment ratings in unrepresented cases, and an agreed medical evaluator (AME) or QME will be used in represented cases.

Recommendations

- Evaluation of the medical care reform changes resulting from the passage of SB 863. The topics for evaluation can be broken into four broad areas: medical necessity determinations, medical provider networks, appropriate fees for medical and other services, and medical evaluations.

- Evaluation of the overall impact of the SB 863 medical care reforms to assess how they have affected medical utilization, medical expenses, and access and quality measures.

- Evaluation of reports and forms required by DWC as part of managing the injured worker's treatment.

- Monitoring of the use of UR and IMR in the California workers' compensation system.

- Continuing the CHSWC and DIR evaluation of implementing electronic reporting in the system to reduce delays and improve the efficiency of the delivery of workers' compensation medical care.

ANTI-FRAUD EFFORTS

Underground Economy

Although most California businesses comply with laws regarding health, safety, and workers' compensation, some businesses do not and thus operate in the "underground economy." Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. In addition, the underground economy costs the state economy an estimated $8.5 billion to $10 billion in tax revenues every year.[1]

Recommendations

- Continuing to research ways to reveal the underground economy and enforce compliance with workers' compensation and health and safety laws.

[1] http://www.lhc.ca.gov/studies/226/Report226.pdf.

- Reviewing the work of the Department of Industrial Relations' Labor Enforcement Task Force (LETF) to improve the targeting of fraud through cross-agency efforts.

Workers' Compensation Payroll Reporting by Employers

The cost of the workers' compensation insurance premium is based on an employer's payroll total. By misreporting payroll costs, some employers avoid the higher premiums they would incur with accurate reporting of their payroll. Employers can also misreport total payroll or the number of workers in specific high-risk, high-premium occupation classifications by reporting them in lower-risk, lower-premium occupations. A 2009 follow-up study to a study by CHSWC in 2007 found that between $15 billion and $68 billion of payroll is underreported annually. A related study on split class codes found that 25 to 30 percent of low-wage payroll is underreported or misreported.

Recommendations

- Focusing more Fraud Assessment Commission funding on premium fraud enforcement and medical provider fraud.

- Researching the extent of medical provider fraud.

Definition of First Aid

Injuries that do not require treatment beyond first aid do not necessitate an employer report of injury for worker's compensation or a Cal/OSHA log. The definitions of first aid for those two purposes are different, however, leading to some uncertainty about when a minor injury is reportable. Even criminal evasion of workers' compensation obligations can hide behind that uncertainty. Employers have identified the conflicting definitions as a barrier to compliance, and prosecutors have identified the conflicting definitions as a barrier to prosecution of willful violations. The definition of first aid is pertinent only to reporting requirements, so a change in the definition would not change an injured workers' right to receive treatment.

Recommendation

- Amending the definition of first aid for purposes of workers' compensation reporting to align with the definition used for Cal/OSHA purposes.

PUBLIC SELF-INSUREDS

California law requires every employer except the State to secure payment of its workers' compensation obligations either by obtaining insurance or by obtaining a certificate of consent to self-insure from the Director of the Department of Industrial Relations (the Director).

Unlike private self-insurers, public-sector employers are not required by law to post a security deposit, and no guarantee association is established by law to pay benefits to injured employers in the event that a public employer or a Joint Powers Authority defaults on its workers' compensation obligations.

SB 863 added Labor Code Section 3702.4, which required CHSWC to examine the public-sector self-insured workers' compensation programs and to make recommendations to improve the administration and performance of the program. CHSWC contracted with Bickmore to assist in fulfilling this requirement.

Recommendation

- As stated in the Bickmore Public Self-Insured Program Study, developing information on public self-insured employers to allow better understanding of the key cost drivers in the workers' compensation system and facilitate better understanding of the elements affecting injuries and claim costs in public entity self-insurance.

INFORMATION FOR INJURED WORKERS AND EMPLOYERS

Injured workers, employers, and the public need up-to-date and easily accessible information about the workers' compensation system.

Recommendations

- Working with the multiple divisions in the DIR to provide the forms, notices, and factsheets in multiple languages for information about the workers' compensation system.

HEALTH AND SAFETY

CHSWC recognizes that injury and illness prevention is the best way to preserve workers' earnings and to limit increases in the cost of employer workers' compensation.

Recommendations

- Continuing support by employers and the health and safety and workers' compensation community for the CHSWC statewide Worker Occupational Safety and Health Training and Education Program (WOSHTEP), one of CHSWC's most proactive efforts, which trains and educates workers, including young workers, in a wide range of workplaces and in agriculture on proven injury and illness prevention measures.

- Supporting ongoing partnerships and continued development of training and outreach materials targeted at teaching the importance of implementing the required written Injury and Illness Prevention Plan (IIPP).

INTEGRATION OF WORKERS' COMPENSATION MEDICAL CARE WITH OTHER SYSTEMS

Health-care costs have been rising more quickly than inflation and wages. These costs create financial challenges for employers, especially those in industries that already have high workers' compensation costs. Furthermore, group health care and workers' compensation medical care are typically delivered through separate provider systems, resulting in unnecessary, duplicative, and contraindicated treatment and inefficient administration.

Suggestions have been made to integrate workers' compensation medical care with the general medical care provided to patients by group health insurers in order to improve the quality and coordination of care, reduce overall medical expenditure and administrative costs, and derive other efficiencies in care. Research also supports the contention that an integrated 24-hour care system has the potential to create medical cost savings as well as shorten the duration of disability for workers.

Recommendations

- Disseminating the results of the evaluation and the opportunities and challenges of implementing an integrated occupational and non-occupational medical treatment and insurance product.

- Providing resources on integrated care for unions and employers interested in carve-out programs.

- Evaluating the impact of Medicare's implementation of its secondary payor rights with regard to settlement of workers' compensation claims and examining alternative ways of coordinating benefits between the two systems.

Seeking opportunities for increased integration of care between workers' compensation and non-occupational health coverage.

SPECIAL REPORT: 2015 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

This Special Report outlines the 2015 legislation and regulations related to health and safety and workers' compensation.

HEALTH AND SAFETY

Health and Safety Legislation

The following describes the health and safety bills signed into law in 2015, as reported on the website of the Legislative Counsel of California at http://leginfo.legislature.ca.gov (formerly www.leginfo.ca.gov). To research legislation enacted into law in previous years, please consult CHSWC annual reports from prior years, which are available online at: http://www.dir.ca.gov/chswc/AnnualReportpage1.html.

AB 266—Assembly Member Bonta
Amends Sections 27 and 101 of, to add Section 205.1 to, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend Section 9147.7 of the Government Code, to amend Section 11362.775 of the Health and Safety Code, to add Section 147.5 to the Labor Code, and to add Section 31020 to the Revenue and Taxation Code, relating to medical marijuana.
Medical marijuana.
Status: Enrolled 9/23/2015 and Chaptered 10/9/2015.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB266

Summary: (1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill, among other things, enacts the Medical Marijuana Regulation and Safety Act for the licensure and regulation of medical marijuana and would establish within the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the Director of Consumer Affairs. The bill requires the director to administer and enforce the provisions of the act.

This bill also requires the Board of Equalization, in consultation with the Department of Food and Agriculture, to adopt a system for reporting the movement of commercial cannabis and cannabis products.

This bill imposes certain fines and civil penalties for specified violations of the act and requires moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account.

(2) Under existing law, certain people with identification cards, who associate within the state in order collectively or cooperatively to cultivate marijuana for medical purposes, are not solely on the basis of that fact subject to specified state criminal sanctions.

This bill repeals these provisions upon the issuance of licenses by licensing authorities pursuant to the Medical Marijuana Regulation and Safety Act, as specified, and provides instead that actions of licensees

with the relevant local permits, in accordance with the act and applicable local ordinances, are not offenses subject to arrest, prosecution, or other sanction under state law.

(3) This bill provides that its provisions are severable.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill makes legislative findings to that effect.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) The bill provides that it shall become operative only if SB 643 and AB 243 of the 2015–16 Regular Session are also enacted and become operative.

SB 84—Committee on Budget and Fiscal Review. State Government.
Amends Section 7314 and Section 6309 of the Labor Code, among other non-health and safety changes.
Status: Enrolled 6/23/2015 and Chaptered 6/24/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB84

Summary: Under existing law, the Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe and may issue orders necessary to ensure employee safety. The act requires the division to investigate a complaint as soon as possible, but not later than 3 working days after receipt of a complaint charging a serious violation, as specified, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. Existing law requires the division to maintain the capability to receive and act upon complaints at all times.

Among the provisions, this bill requires the division to prioritize investigations of reports of accidents involving death or serious injury or illness and complaints that allege a serious violation over investigations of complaints that allege a nonserious violation.

Existing law also requires the Division of Occupational Safety and Health to cause the inspection of all public conveyances, including elevators, dumbwaiters, and escalators, at least once a year. Existing law authorizes the division to fix and collect fees to cover the actual costs of having the inspection performed by a division safety engineer and the costs related to regulatory development. Existing law requires these fees to be set forth in regulations and to be deposited in the Elevator Safety Account in the General Fund.

Also among the provisions, this bill, for the 2015–16 fiscal year, suspends the fee for the annual and biennial inspection of conveyances on a one-time basis. For the 2016–17 fiscal year and for every fiscal year thereafter, it authorizes the Director of Industrial Relations, upon concurrence of the Department of Finance to suspend or reduce this fee on a one-time basis in order to reduce the amount of moneys in the Elevator Safety Account. The bill exempts the suspension or reduction of the fee from the Administrative Procedure Act.

SB 421—Senator Hancock.
Amends Section 7873 of the Labor Code, relating to refineries.
Refineries: turnarounds.
Status: Enrolled 9/3/2015 and Chaptered 9/21/2015.

Summary: Existing law requires a petroleum refinery employer to, every September 15, submit to the Division of Occupational Safety and Health information regarding planned turnarounds, as defined, for the following calendar year and provide onsite access to the division for inspection. Existing law establishes procedures for the public disclosure of turnaround information designated a trade secret, including authorization for a petroleum refinery employer to seek a declaratory judgment to prevent disclosure. Existing law requires a court to award attorney's fees to a party that prevails in an action to compel or prohibit the division from disclosing turnaround information.

This bill deletes the requirement that a person requesting the release of the above-described information, or a petroleum refinery employer seeking to prevent disclosure, name the other as a real party in interest in an applicable action. The bill deletes the requirement that a person requesting release of this information provide notice of an action to compel disclosure to the petroleum refinery employer and instead requires the division to provide that notification. The bill instead authorizes the person to intervene in a petroleum refinery employer's declaratory relief action and require the court to permit that person to intervene. The bill also requires the court to allow the petroleum refinery employer to intervene in that action. The bill also deletes the requirement that the court award attorney's fees.

Health and Safety Regulations

The regulatory activities of the Occupational Safety and Health Standards Board (OSHSB) and any Division of Occupational Safety and Health (DOSH) regulations are outlined below. Formal rulemaking is preceded by a notice, the release of a draft rule, and an announcement for a public hearing. This update covers regulations for 2015.

Approved Occupational Safety and Health Standards Board (OSHSB) standards are available at:
http://www.dir.ca.gov/OSHSB/apprvd.html

Proposed OSHSB standards and rulemaking updates are available at:
http://www.dir.ca.gov/OSHSB/proposedregulations.html

Appoved Division of Occupational Safety and Health (DOSH) regulations are available at:
http://www.dir.ca.gov/dosh/rulemaking/dosh_rulemaking_approved.html

Proposed Division of Occupational Safety and Health (DOSH) regulations are available at:
http://www.dir.ca.gov/dosh/doshreg/mainregs.html

Regulations in Title 8 of the California Code of Regulations (CCR) are available at:
http://www.dir.ca.gov/samples/search/query.htm.

In 2010, the Occupational Safety & Health Standards Board (OSHSB) launched the Title 8 index, available at:
http://www.dir.ca.gov/title8/index/t8index.html

Under CCR, Title 8, Chapter 3.2, DOSH promulgates regulations for the administration of the safety and health inspection program, such as posting, certification, and registration requirements. Under CCR, Title 8, Chapter 4, OSHSB promulgates health and safety orders organized by industry, process, and equipment in distinct subchapters, which are then enforced by DOSH.

2015 OSHSB Regulations	Status of Regulations (as of November 5, 2015)
Personal Protective Devices and Safeguards	**Filed with Secretary of State: Dec. 1, 2014. Effective Apr. 1, 2015.** **CONSTRUCTION SAFETY ORDERS,** Section 1514 **GENERAL INDUSTRY SAFETY ORDERS,** Section 3380 Amends Construction Safety Orders and General Industry Safety Orders to provide consistency and clarity for the approval and marking requirements of personal protective equipment, and for compliance with Title 8 safety standards. https://www.dir.ca.gov/oshsb/Personal_protective_devices_and_safeguards.html
Cranes and Derricks in Construction Operator Certification Effective Dates and Phase-In (Federal Time Extension) Horcher	**Filed with Secretary of State: Apr. 30, 2015. Effective Apr. 30, 2015.** **CONSTRUCTION SAFETY ORDERS,** Section 1618.1(e) Modifies effective and applicable dates to November 10, 2017. https://www.dir.ca.gov/oshsb/CDAC_Operator_Certification_Effective_Dates_and_Phase-In_(Federal_Time_Extension)_Horcher.html
Multi-Story Skeletal Steel Construction-Metal Decking Replacement—Horcher	**Filed with Secretary of State: Aug. 27, 2015. Effective Aug. 27, 2015.** **CONSTRUCTION SAFETY ORDERS,** Section 1710 Amends Construction Safety Orders to require metal decking to be laid tightly and immediately secured upon placement to prevent accidental movement or displacement. http://www.dir.ca.gov/OSHSB/Multi-Story_skeletal_steel_construction-Metal_decking_replacement_-_Horcher.html
Landing Operations—Note to Section 1903	**Filed with Secretary of State: Oct. 2, 2014. Effective Jan. 1, 2015.** **CONSTRUCTION SAFETY ORDERS,** Section 1903 Clarifies an exception in the rule. https://www.dir.ca.gov/oshsb/Landing_operations_-_note_to_section_1903.html

2015 OSHSB Regulations	Status of Regulations (as of November 5, 2015)
Electrical Equipment in Hazardous (Classified) Locations	**Filed with Secretary of State: Jul. 6, 2015. Effective Oct. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 5530, 5568, 5572, 5574, 5575, and 5621 **ELECTRICAL SAFETY ORDERS,** Sections 2540.7 AND 2540.8 Changes the classification of flammable and combustible liquids from Class I, II, III to the corresponding Category 1, 2, 3, 4, in line with the terminology used in the Globally Harmonized System (GHS). There are changes to Electrical Safety Orders to be consistent with the General Industry Safety Orders. Also harmonizes Title 8 requirements for electrical installations and the method of delineation of hazardous (classified) locations with building standards in California Code of Regulations, Title 24. https://www.dir.ca.gov/oshsb/Electrical_equipment_in_hazardous_(classified)_locations.html
Heat Illness Prevention	**Filed with Secretary of State: Apr. 3, 2015. Effective May 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 3395 Qualifies the access to potable water and further requires the water to be free, fresh, and cool. Clarifies the amount of shade and the number of employees who should have access to the shade. Amends temperature thresholds, adds the monitoring of employees with symptoms, and adds authorization of employees to call for emergency medical services, among other changes. https://www.dir.ca.gov/oshsb/Heat_illness_prevention.html

2015 OSHSB Regulations	Status of Regulations (as of November 5, 2015)
Private Fire Brigades—Foot Protection	**Filed with Secretary of State: Aug. 28, 2015. Effective Oct. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Section 3411 Adds alternative standard for protective footwear and boots. https://www.dir.ca.gov/OSHSB/Private_Fire_Brigades-Foot_Protection.html
Agricultural Personnel Transport Carriers	**Filed with Secretary of State: Sept. 14, 2015. Effective Jan. 1, 2016.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 3437, 3441, and 3664(b) Amends to allow passenger employees in agricultural personnel carriers for the purposes of installing, removing, and maintaining irrigation pipe. http://www.dir.ca.gov/oshsb/Agricultural_Personnel_Transport_Carriers.html
Stationary and Mobile Compaction Equipment and Balers	**Filed with Secretary of State: Apr. 30, 2015. Effective Jul. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 4345, 4351, 4352, and 4354 Amends to require trash handling, compaction, and baler equipment placed in service on or after April 1, 2015, to have a mark stating that is was designed and constructed according to the ANZI safety standard. Equipment in service before April 1, 2015, is required to have a mark stating the standard it met at the time it was constructed. Adds definitions and adds safety equipment requirements for drivers. https://www.dir.ca.gov/oshsb/Stationary_and_mobile_compaction_equipment_and_balers.html
Airborne Contaminants, Hydrogen Chloride	**Filed with Secretary of State: Nov. 26, 2014. Effective Jan. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS** Section 5155 Lowers the permissable exposure limit and deletes the term “muriatic acid.” https://www.dir.ca.gov/oshsb/Airborne_contaminants_Hydrogen_Chloride.html

2015 OSHSB Regulations	Status of Regulations (as of November 5, 2015)
Storage Battery Systems and Changing and Charging Storage Batteries	**Filed with Secretary of State: Jul. 30, 2015. Effective Oct. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 5184 and 5185 Defines storage battery systems and modifies how they should be stored, maintained, and handled. https://www.dir.ca.gov/oshsb/Storage_battery_systems_and_changing_and_charging_storage_batteries.html
Update of Title 8 General Industry National Fire Protection Association (NFPA) Fire Protection Standards	**Filed with Secretary of State: Dec. 2, 2014. Effective Apr. 1, 2015.** **GENERAL INDUSTRY SAFETY ORDERS,** Sections 5620, 6165, 6180, 6181, 6182, 6183, and 6184 Amends sections to read consistently for systems and equipment to be designed, installed, and maintained "in an approved manner" and adds a note referring to NFPA. https://www.dir.ca.gov/oshsb/Update_of_Title_8_general-_industry_national_fire_protection_association_(NFPA)_fire_protection_standards.html
Water Supply—Access to Drinking Cups—Horcher	**Filed with Secretary of State: Aug. 27, 2015. Effective Aug. 27, 2015.** **SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING ORDERS,** Section 8397.4(b) Amends section to specify the ways the employer is to dispense water and prohibits shared cups and bottles. https://www.dir.ca.gov/OSHSB/Water_Supply_-_Access_to_Drinking_Cups_-_Horcher.html
2015 DOSH Regulations	**Status of Regulations (as of October 8, 2015)**
Recordkeeping Partial Exemption List	**Filed with Secretary of State: Aug. 20, 2015. Effective Jan. 1, 2016** **Partial Exemption for Establishments in Certain Industries.** Section 14300.2

2015 OSHSB Regulations	Status of Regulations (as of November 5, 2015)
	Amends required industries subject to occupational injury and illness recording and reporting requirements in order to conform with corresponding federal regulations, as required of all State Plan states. https://www.dir.ca.gov/dosh/doshreg/Recordkeeping-partial-exemption-list/

WORKERS' COMPENSATION

Workers' Compensation Legislation

The following describes the workers' compensation bills that were signed into law in 2015, as reported on the website of the Legislative Counsel of California at http://leginfo.legislature.ca.gov/ (formerly www.leginfo.ca.gov). To research legislation enacted into law in previous years, please consult prior year CHSWC annual reports, available online at: http://www.dir.ca.gov/chswc/AnnualReportpage1.html.

AB 202—Assembly Member Gonzalez
Adds Section 2754 to the Labor Code, relating to employment.
Professional sports teams: cheerleaders: employee status.
Status: Enrolled 7/9/2015 and Chaptered 7/15/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB202

Summary: Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

Existing law requires employers to make specified payments and withholdings from wages paid to employment to and to file reports of wages and make contributions for unemployment insurances and the employment administering the state's payroll taxes.

Existing law, the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer, unless based upon a bona fide occupational qualification or, except where based upon applicable security regulations to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment, or to bar or discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of the person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

This bill, for purposes of all of the provisions of state law that govern employment, including the Labor Code, the Unemployment Insurance Code, and the California Fair Employment and Housing Act, requires a cheerleader who is utilized by a California-based professional sports team during its exhibitions, events, or games to be deemed an employee. The bill also requires the professional sports team to ensure that the cheerleader is classified as an employee.

Because a violation of specified employment laws, including wage and hour laws, that would apply to California-based professional sports teams utilizing cheerleaders would be a crime, this bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by this act for a specified reason.

AB 438—Assembly Member Chiu.
Amends Section 124 of the Labor Code, relating to state government.
State government: workers' compensation: compensation.
Status: Enrolled 9/18/2015 and Chaptered 10/6/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB438

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law establishes, in the Department of Industrial Relations, a Division of

Workers' Compensation to administer those provisions. In administering and enforcing those provisions, existing law requires the division to protect the interests of injured workers and requires all forms and notices to be given to employees by the division to be in English and Spanish.

This bill requires the Department of Industrial Relations and the Division of Workers' Compensation to make specified forms, notices, and fact sheets available in Chinese, Tagalog, Korean, and Vietnamese. The bill also requires the Administrative Director to make recommendations regarding any other documents that should be translated into languages other than English, as specified, and require the department and the division to submit the recommendations and any translated documents to the Legislature, as specified.

AB 679—Assembly Member Allen
Amend Section 11165.1 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.
Controlled substances.
Status: Enrolled 9/23/2015 and Chaptered 10/11/2015.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB679

Summary: Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to a licensed health-care practitioner, pharmacist, or both, providing care or services to the individual. By January 1, 2016, or upon licensure in the case of a pharmacist, or upon receipt of a federal Drug Enforcement Administration registration in the case of another health-care practitioner authorized to prescribe, order, administer, furnish, or dispense controlled substances, whichever respective event occurs later, existing law requires those people to apply to the Department of Justice to obtain approval to access information contained in the CURES database regarding the controlled substance history of a patient under his or her care.

This bill extends those January 1, 2016, deadlines to July 1, 2016.

This bill declares that it is to take effect immediately as an urgency statute.

AB 822—Assembly Member Cooley.
Adds Section 1063.18 to the Insurance Code, relating to insurance.
Insurance: California Insurance Guarantee Association: insolvency.
Status: Enrolled 7/2/2015 and Chaptered 7/14/2015.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB822

Summary: Existing law creates the California Insurance Guarantee Association (CIGA) and requires all insurers admitted to transact insurance in this state to become members. Existing law requires CIGA to collect premium payments from members and to discharge covered claims, as defined, of an insolvent insurer. CIGA is required to allocate its claim payments and costs based on categories of insurance, including, but not limited to, workers' compensation claims and homeowners' claims.

This bill provides that the laws described above governing CIGA do not require a final determination of a claim in an insolvent insurer's liquidation proceeding before a covered claim may be submitted to CIGA. The bill provides that these laws also do not require a claim to first be determined and approved by the liquidator before CIGA pays and discharges a covered claim. The bill also provides that if the association provides written denial of a non-workers' compensation claim, the person asserting the claim against the association has one year to bring an action challenging the denial, including an action for declaratory relief. This bill also requires, if the written denial is based on a failure to exhaust other insurance available to pay the claim, a claim to be reasserted against the association within six months after all other insurance has been exhausted.

AB 1124—Assembly Member Perea.
Amends Sections 4600.1, 4600.2, and 5307.27 of, and to add Sections 5307.28 and 5307.29 to, the Labor Code, relating to workers' compensation.
Workers' compensation: prescription medication formulary
Status: Enrolled 9/25/2015 and Chaptered 10/6/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1124

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. The Administrative Director is authorized to adopt, amend, or repeal, after public hearings, any rules and regulations that are reasonably necessary to enforce the state workers' compensation provisions, except when that power is specifically reserved to the Workers' Compensation Appeals Board. Existing law requires the Administrative Director to adopt a medical treatment utilization schedule that addresses the frequency, duration, intensity, and appropriateness of all common treatments performed in workers' compensation cases.

This bill requires the Administrative Director to establish a drug formulary, on or before July 1, 2017, as part of the medical treatment utilization schedule, for medications prescribed in the workers' compensation system. The bill requires the Administrative Director to meet and consult with stakeholders, as specified, prior to the adoption of the formulary. The bill requires the Administrative Director to publish at least two interim reports on the Web site of the Division of Workers' Compensation, describing the status of the creation of the formulary, commencing July 1, 2016, until the formulary is implemented. The bill requires the Administrative Director to update the formulary on at least a quarterly basis to allow for the provision of all appropriate medications, including medications new to the market. The bill exempts an order updating the formulary from the Administrative Procedure Act and other provisions, as specified. The bill requires the Administrative Director to establish an independent pharmacy and therapeutics committee to review and consult with the Administrative Director in connection with updating the formulary, as specified. The bill also makes conforming changes to related code sections.

AB 1509—Assembly Member Hernandez
Amends Sections 98.6, 1102.5, 2810.3, and 6310 of the Labor Code, relating to employment.
Employer liability.
Status: Enrolled 6/23/2015 and Chaptered 6/24/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1509

Summary: (1) Existing law prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against any employee or applicant for employment because the employee or applicant has engaged in protected conduct, as specified. Existing law provides that an employee who made a bona fide complaint and was consequently discharged or otherwise suffered an adverse action is entitled to reinstatement and reimbursement for lost wages. Existing law makes it a misdemeanor for an employer to willfully refuse to reinstate or otherwise restore an employee who is determined by a specified procedure to be eligible for reinstatement. Existing law subjects a person who violates these provisions to a civil penalty of up to $10,000 per violation.

This bill extends the protections of these provisions, as specified, to an employee who is a family member of a person who engaged in, or was perceived to engage in, the protected conduct or make a complaint protected by these provisions. This bill defines terms for the purpose of these provisions.

(2) Existing law requires a client employer to share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for the payment of wages and the failure to obtain valid workers' compensation coverage. Existing law also prohibits a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. Existing law defines terms for these purposes and authorizes the Labor Commissioner to adopt regulations and rules of practice and procedure necessary to administer and enforce these provisions. Existing law excludes certain types of employers from these provisions,

including, but not limited to, a client employer that is not a motor carrier of property based solely on the employer's use of a third-party motor carrier of property with interstate or intrastate operating authority to ship or receive freight, and a client employer that is a motor carrier of property subcontracting with, or otherwise engaging, another motor carrier of property to provide transportation services using its own employees and commercial motor vehicles.

The Household Goods Carriers Act subjects household goods carriers to the jurisdiction and control of the Public Utilities Commission. The act prohibits a household goods carrier from engaging, or attempting to engage, in the business of the transportation of used household goods and personal effects by motor vehicle over any public highway in the state without a permit issued by the commission authorizing transportation entirely within the state or a valid operating authority issued by the Federal Motor Carrier Safety Administration for interstate transportation.

This bill expands the types of employers excluded from those labor-contracting provisions to include a client employer that is not a household goods carrier based solely on the employer's use of a third-party household goods carrier permitted by the commission to move household goods and a client employer that is a permitted household goods carrier subcontracting with, or otherwise engaging, another permitted household goods carrier to provide transportation of household goods using its own employees and motor vehicles.

AB 1513—Assembly Member Williams
Adds and repeals Section 226.2 of, and to repeal Sections 77.7, 127.6, and 138.65 of, the Labor Code, relating to employment
Employment: workers' compensation and piece-rate compensation.
Status: Enrolled 9/23/2015 and Chaptered 10/10/2015.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1513

Summary: (1) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law requires the Commission on Health and Safety and Workers' Compensation to undertake a specified study examining the causes of the number of insolvencies among workers' compensation insurers to be conducted by an independent research organization and requires the commission and the Department of Industrial Relations, no later than July 1, 2009, to publish the report of the study on its Web site and to inform the Legislature and the Governor of the availability of the report.

Existing law requires the Administrative Director, in consultation with the commission and other entities, to conduct a study of medical treatment provided to workers who have sustained industrial injuries and illness and to report and make recommendations to the Legislature on or before July 1, 2004.

Existing law requires the Administrative Director, after consultation with the Insurance Commissioner, to contract with a qualified organization to study the 2003 and 2004 legislative reforms on insurance rates and to submit the study to the Governor and Legislature. Existing law requires the Governor and the Insurance Commissioner to review that study and make recommendations and authorizes them to submit proposals to the Legislature.

This bill repeals these obsolete workers' compensation study requirements.

In addition, this bill requires certain actions by employers.

SB 396—Senator Hill
Amends Section 805.5 of the Business and Professions Code, to amend Section 12529.7 of the Government Code, and to amend Sections 1248.15 and 1248.35 of the Health and Safety Code, relating to health care.
Health care: outpatient settings and surgical clinics: facilities: licensure and enforcement.
Status: Enrolled 8/28/2015 and Chaptered 9/9/2015.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB396

Summary: The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that it is unprofessional conduct for a physician and surgeon to perform procedures in any outpatient setting except in compliance with specified provisions. Existing law prohibits an association, corporation, firm, partnership, or person from operating, managing, conducting, or maintaining an outpatient setting in the state unless the setting is one of the specified settings, which include an ambulatory surgical clinic that is certified to participate in the Medicare Program, a surgical clinic licensed by the State Department of Public Health, or an outpatient setting accredited by an accreditation agency approved by the Division of Licensing of the Medical Board of California.

Existing law provides that an outpatient setting that is accredited shall be inspected by the accreditation agency and may be inspected by the Medical Board of California. Existing law requires that the inspections be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure quality of the care provided.

This bill authorizes the accrediting agency to conduct unannounced inspections subsequent to the initial inspection for accreditation, if the accreditation agency provides specified notice of the unannounced routine inspection to the outpatient setting.

Existing law requires members of the medical staff and other practitioners who are granted clinical privileges in an outpatient setting to be professionally qualified and appropriately credentialed for the performance of privileges granted and requires the outpatient setting to grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting. A willful violation of these provisions is a crime.

This bill additionally requires that each licensee who performs procedures in an outpatient setting that requires the outpatient setting to be accredited be peer reviewed, as specified, at least every two years, by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The bill requires the findings of the peer review to be reported to the governing body, which shall determine if the licensee continues to be professionally qualified and appropriately credentialed for the performance of privileges granted. By expanding the scope of a crime, this bill imposes a state-mandated local program.

Existing law requires specified entities, including any health-care service plan or medical care foundation, to request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California, prior to granting or renewing staff privileges, to determine whether a certain report has been made indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted.

This bill also requires an outpatient setting and a facility certified to participate in the federal Medicare Program as an ambulatory surgical center to request that report. By expanding the scope of a crime, this bill imposes a state-mandated local program.

Existing law establishes a vertical enforcement and prosecution model for cases before the Medical Board of California and requires the board to report to the Governor and the Legislature on that model by March 1, 2015.

This bill extends the date that report is due to March 1, 2016.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by this act for a specified reason.

SB 542—Mendoza
Amend Sections 4616, 4616.2, 4616.4, 4616.5, and 5307.8 of the Labor Code, relating to workers' compensation.
Workers' compensation: medical provider networks: fee schedules.
Status: Enrolled 9/15/2015 and Chaptered 10/6/2015
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB542

(1) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees and requires the Administrative Director to contract with individual physicians or an independent medical review organization to perform independent medical reviews.

This bill clarifies that those independent medical reviews are medical provider network independent medical reviews. The bill would make related and conforming changes.

(2) Existing law requires every medical provider network to post, and update quarterly, a roster of treating physicians in the medical provider network on its Web site.

This bill requires every medical provider network to post on its Web site information about how to contact the medical provider network contact and medical access assistants and also information about how to obtain a copy of any notification regarding the medical provider network that is required to be given to an employee by regulations adopted by the Administrative Director.

(3) Existing law requires an insurer, employer, or entity that provides physician network services to submit a plan for the medical provider network to the Administrative Director to be approved for a period of four years. Commencing January 1, 2014, existing approved plans are deemed approved for a period of four years from their most recent application or modification approval date.

This bill provides that, commencing January 1, 2016, a modification that updates an entire medical provider network plan to bring the plan into full compliance with applicable laws would be deemed approved for a period of four years from the modification approval date. The bill provides that the expiration of the medical provider network's current four-year approval period will not change if a modification does not update a medical provider network plan to bring the plan into full compliance with applicable laws.

(4) Existing law requires an insurer, employer, or entity that provides physician network services to file continuity of care policies. Existing law requires an insurer, employer, or entity that provides physician network services to provide completion of treatment by a terminated provider if at the time of the employer-employee contract's termination, the injured employee was receiving services from that provider for various conditions, as specified.

This bill instead requires medical provider networks to file continuity of care policies. The bill requires an employer or its claims administrator to provide for the completion of treatment by a terminated provider under specified circumstances.

The bill also defines an "entity that provides physician network services" for the purposes described above to mean a medical network licensed by a designated government department or a legal entity that offers medical management and physician network services in California.

(5) Existing law requires the Administrative Director to adopt an official medical fee schedule that establishes reasonable maximum fees paid for specified medical services related to workers' compensation. Existing law also requires the Administrative Director to adopt a schedule for payment of home health-care services that are not covered by a Medicare fee schedule and are not otherwise covered by the official medical fee schedule. Existing law requires this fee schedule to be based on the maximum service hours and fees set forth in provisions of law governing in-home supportive services.

This bill authorizes, rather than requires, the fee schedule to be based on either the maximum service hours and fees set forth in provisions of state law governing in-home supportive services or other state or federal home health-care services fee schedules, as specified.

SB 623—Senator Lara
Adds Sections 3733 and 4756 to the Labor Code, relating to workers' compensation, and making an appropriation therefor.
Workers' compensation: benefits.
Status: Enrolled 8/28/2015 and Chaptered 9/9/2015.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB623

Summary: Existing law generally requires an employer to compensate, without regard to negligence, an employee for an injury sustained by the employee if the injury arose out of, and in the course of, employment, as specified. Existing law also establishes the Uninsured Employers Benefits Trust Fund and the Subsequent Injuries Benefits Trust Fund, both continuously appropriated funds. In the event that an employer fails to pay compensation as required, the employee may apply to be paid by the Director of Industrial Relations from the Uninsured Employers Benefits Trust Fund. In the event that a permanently, partially disabled employee receives a later, compensable injury resulting in additional permanent disability, that employee shall receive compensation from the Subsequent Injuries Benefits Trust Fund.

This bill provides that a person shall not be excluded from receiving benefits under the Uninsured Employers Benefits Trust Fund or the Subsequent Injuries Benefits Trust Fund based on his or her citizenship or immigration status. The bill provides that these provisions are declaratory of existing law.

By increasing the number of applicants eligible for a continuously appropriated fund, this bill makes an appropriation.

Workers' Compensation Regulations

The regulatory activities of the Division of Workers' Compensation (DWC) to implement the provisions of the recent workers' compensation reform legislation are outlined on the following pages. Formal rulemaking is often preceded by the release of a draft rule and the opening of an online forum for interested parties to post comments. This update covers only recent regulations for 2014. Older regulations can be found in previous Commission on Health and Safety and Workers' Compensation (CHSWC) annual reports, which are available online at http://www.dir.ca.gov/chswc.

Information about these preliminary activities is available at http://www.dir.ca.gov/Wcjudicial.htm.

The latest formal rulemaking updates are available at www.dir.ca.gov/DWC/dwcrulemaking.html.

DWC Regulations	Status of Regulations (as of November 5, 2015)
Senate Bill (SB) 863 Implementation	
Copy service fee schedule	**Status: Effective July 1, 2015.** **Title 8, California Code of Regulations, Sections 9980, 9981, 9982, 9983, 9984, 9990, 9992, 9994, and 10208.7** Establishes a copy service fee schedule. https://www.dir.ca.gov/dwc/DWCPropRegs/CopyServiceFeeSchedule/CopyServiceFeeSchedule.htm
Employee Benefit Notices	**Status: Effective January 1, 2016.** **Title 8, California Code of Regulations, Sections 9810, 9811, 9812, 9813, 9814, 9815, 9881.1, and 10139** Amends requirements for benefit notices with the purpose to help explain the complicated workers' compensation claim process. http://www.dir.ca.gov/dwc/DWCPropRegs/BenefitNotices/BenefitNotices_Regs.htm
ICD-10 Regulations	**Status: Effective October 1, 2015.** **Title 8, California Code of Regulations, Section 9770, 9785, 9785.2, 9785.2.1, 9785.3, 9785.3.1, 9785.4, 9785.4.1, 9792.5.1, 14003, 14006, 14006.1, and 14007** Amends DWC's and DIR's regulations and forms to be consistent with the ICD-10 system of diagnosis as of October 1, 2015. **https://www.dir.ca.gov/dwc/DWCPropRegs/ICD-10/ICD-10.htm**
Medical treatment utilization schedule (MTUS)	**Status: Effective April 20, 2015.** **Title 8, California Code of Regulations, Sections 9792.20-9792.26** Clarifies the role of the MTUS by providing an explanation that the MTUS is based on the principals of evidence-based medicine. Also clarifies that the guidelines set forth in the MTUS shall be the primary source of guidance for treating physicians and reviewing physicians. https://www.dir.ca.gov/dwc/DWCPropRegs/MTUS/MTUS_Regulations.htm

DWC Regulations	Status of Regulations (as of November 5, 2015)
Senate Bill (SB) 863 Implementation	
Official Medical Fee Schedule (OMFS)	**Status: Effective March 5, 2015.** **Title 8, California Code of Regulations, Sections 9789.10, 9789.11, 9789.20-9789.23, 9789.25, 9789.50, 9789.60, 9789.70, 9789.110, 9789.111, and 9790** Reiterates the applicable dates of fee schedule provisions that are declaratory of existing laws; addresses the operating disproportionate share hospital (DSH) adjustments; addresses the inpatient hospital outlier payments for eligible transfer cases; updates factors to 2014, and makes minor adjustments to various sections of the Official Medical Fee Schedule. https://www.dir.ca.gov/dwc/DWCPropRegs/OMFS-Regulations/OMFS.htm
Qualified Medical Evaluators (QME)	**Status: Effective September 1, 2015.** **Title 8, California Code of Regulations, Sections 30, 30.5, 31.1, 100, 104, 105, 106, and 109** Implements an online QME initial panel process for represented parties.Parties in a represented case are required to submit initial QME panel requests using the online QME system; by doing so, an online panel will issue immediately. The requesting party is then responsible for serving the panel request form, any required documentation and the QME panel on all parties with a proof of service. Amends QME forms to delete “PSN Psychology—Clinical Neuropsychology,” add “MAA Anesthesiology” as a specialty category and makes various copyedits. https://www.dir.ca.gov/dwc/DWCPropRegs/QME-Regulations/QME.htm
Workers’ compensation information system (WCIS)	**Status: Effective April 6, 2016.** **Title 8, California Code of Regulations, Sections 9701–9702** Makes various changes to data reporting, including conforming to IAIABC Workers’ Compensation Medical Bill Data Reporting Implementation Guide, Release 2.0. Replaces the California EDI Implementation Guide for Medical Bill Payment Records, Version 1.1 (dated November 15, 2011) with Version 2.0. Updates related electronic data requirements. https://www.dir.ca.gov/dwc/DWCPropRegs/WCISRegulations/WCISRegulations.htm

DWC Regulations	Status of Regulations (as of November 5, 2015)
Senate Bill (SB) 863 Implementation	
Labor Code Sections 4600, 5307.8 **Home Health Care Fee Schedule Regulations (Regular Rulemaking)**	**Status: Public hearing on Nov. 30, 2015.** Effective date per Labor Code: July 1, 2013. https://www.dir.ca.gov/dwc/ForumDocs/HomeHealth/HomeHealth.htm
Labor Code Section 5811 **Intrepreter Fee Schedule**	**Status: Posted on DWC forum May 18, 2015** Next Step: Issue Notice of Rulemaking http://www.dir.ca.gov/dwc/ForumDocs/InterpreterFeeSchedule/InterpreterFeeSchedule.htm
Labor Code Section 139.48 **Return-to-Work Fund**	**Status: Effective April 13, 2015** Provides for a one-time $5,000 Return-to-Work supplement that is issued to an injured worker who meets the eligibility criteria. Effective date per Labor Code: January 1, 2013. http://www.dir.ca.gov/ODRegulations/ReturnToWorkRegulations/ReturnToWork.html
Official Medical Fee Schedule: Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule	**Status: 30-day comment period—June 17, 2015.** Title 8, California Code of Regulations Section 9789.32 https://www.dir.ca.gov/dwc/DWCPropRegs/HospitalOutpatientAnbulatorySurgicalCenters/HospitalOutpatientAnbulatorySurgicalCenters.htm
WCAB **(Non-APA rulemaking)** 1. Labor Code Section 139.48—Return to Work Fund—Review procedure	**Status: Workers' Compensation Appeals Board (WCAB) drafting regulations.** Effective date per Labor Code: January 1, 2013.

DWC Regulations	Status of Regulations (as of November 5, 2015)
Senate Bill (SB) 863 Implementation	
2. Labor Code Section 4603.6(f): IBR—Review procedure 3. Labor Code Section 4610.6(h) IMR—Review procedure 4. Labor Code Section 4616(h): MPN—Review procedure 5. Labor Code Sections 4903 et. seq.	

Assembly Bill 227 and Senate Bill 228—Official Medical Fee Schedule

AB 227 & SB 228 OMFS Mandates/Tasks	Status of Regulations (as of November 5, 2015)
Labor Code Section 5307.1 **Official Medical Fee Schedule Shall Be Adjusted** to conform to relevant Medicare/Medi-Cal changes within 60 days of changes (except specified inpatient changes)	**Status: Statutes specify that changes can be implemented without regulations.** Updates to Medicare and Medi-Cal changes are implementeted by an "Order of the Administrative Director of the Division of Workers' Compensation." Update orders issued periodically as needed. The most recent orders issued are as follows: · Inpatient—update to conform to Medicare changes was adopted by Order, effective March 15, 2015. · Outpatient—update to conform to Medicare changes was adopted by Order, effective December 1, 2014. · Ambulance fees—update to conform to Medicare changes was adopted by Order, effective August 1, 2015. · Pathology and Clinical Laboratory—update to conform to Medicare changes was adopted by Order, effective January 1, 2011, and updated effective January 1, 2015. · Durable Medical Equipment, Orthotics, Prosthetics, and Supplies (DMEPOS)—update to conform to Medicare changes was adopted by Order, effective October 1, 2015.

Other Regulations

Labor Code Section 4659 **Commutation Tables for Permanent Disability**	**Status: Need to hire actuary.** *8 CCR Sections 10169, 10169.1*
Labor Code Section 138.6 **WCIS Penalties (Regular Rulemaking)**	**Status: Posted on DWC forum April 16, 2013.** **Next Step: Begin formal rulemaking.** http://www.dir.ca.gov/dwc/DWCWCABForum/WCISRegulations.htm
Labor Code Section 5307.27 **Medical Treatment Utilization Schedule—Opiods and Chronic Pain** **(Regular Rulemaking)**	**Status: Public hearing: Sept. 1, 2015** **Next Step: 15-day comment period** Title 8, California Code of Regulations, Amend Section 9792.24.2 Medical Treatment Utilization Schedule—Chronic Pain Medical Treatment Guidelines Adopt Section 9792.24.4 Medical Treatment Utilization Schedule—Opioids Treatment Guidelines http://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html
Labor Code Section 129.5 **Audit Regulations (Regular Rulemaking)**	**Status: Preparing draft regulations.** **Next Step: Post on DWC forum.**

Administration of Self-Insurance Plan Regulations

The regulatory activities of the Office of Self-Insurance Plans (OSIP) are outlined below.

OSIP conducted regular rulemaking which included a 45-day public comment period and OSIP's response to any filed comments. This update covers only recent administrative regulations occurring during 2014.

Proposed OSIP regulations are available at:
http://www.dir.ca.gov/osip/siprule.html

Approved OSIP regulations are available at:
http://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_approved.html

Regulations in Title 8 of the California Code of Regulations (CCR) are available at:
http://www.dir.ca.gov/samples/search/query.htm.

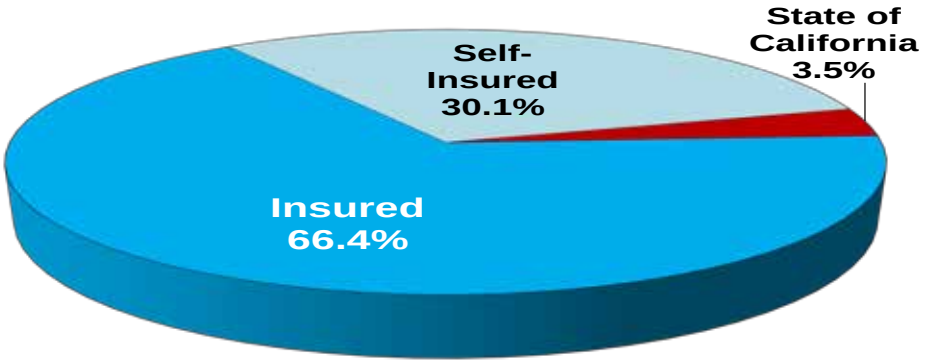
2014/15 OSIP Regulations	Status of Regulations (as of October 8, 2015)
	Status: There were no new regulations in 2015.

SYSTEM COSTS AND BENEFITS OVERVIEW

The California workers' compensation system covers 15,139,000 employees[2] working for over 905,581 employers[3] in the State. These employees and employers generated a gross domestic product of $2,311,616,000,000 ($2.3 trillion) in 2014.[4] A total of 586,525 occupational injuries and illnesses were reported for 2014,[5] ranging from minor medical treatment cases to catastrophic injuries and deaths. The total paid cost to employers for workers' compensation in 2014 was $23.9 billion. (See the box "Systemwide Cost: Paid Dollars for 2014 Calendar Year" on page 38.)

Employers range from small businesses with one or two employees to multinational corporations doing business in the State and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the State, which is legally uninsured. According to Figure 1, based on the claim counts reported to the Workers' Compensation Information System (WCIS), 66.4 percent of injuries occur to employees of insured employers, 30.1 percent of injuries occur to employees of self-insured employers, and 3.5 percent of injuries occur to employees of the State of California.[6] (For calculations based on claim counts and paid loss data, see the box "Method of Estimating the Workers' Compensation System Size" on pp. 35-36.)

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2012-2014 average)



Data Source: DWC - WCIS

[2] NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2013. August, 2015. https://www.nasi.org/sites/default/files/research/NASI_Work_Comp_Year_2015.pdf.

[3] CHSWC estimates are based on an Employment Development Department report, as above, showing 1,391,273 businesses in 2014. Of these, 971,384 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation. 1,391,273 – (971,384 /2) = 905,581. http://www.labormarketinfo.edd.ca.gov/Content.asp?pageid=1045.

[4] California Department of Finance, Economic Research Unit, http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Misc.htm.

[5] The latest year for which Workers' Compensation Information System (WCIS) reports are reasonably complete. Data are from the Division of Workers' Compensation (DWC) report from the WCIS database, "Workers' Compensation Claims by Market Share," June 8, 2015, http://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html. Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, "Reporting Workers' Compensation Injuries in California: How Many are Missed?" (2008), CHSWC Report.

[6] WCIS, Table 4, "Workers' Compensation Claims by Market Share," June 8, 2015, http://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

Method of Estimating the Workers' Compensation System Size

The overall system size is now estimated at 1.5 times the insured sector size. For several years, the generally accepted estimate was 1.25. Beginning in 2008 and with help from the Workers' Compensation Insurance Rating Bureau (WCIRB), the Commission on Health and Safety and Workers' Compensation (CHSWC) estimated the system size at 1.43 times the insured market. This was based on claims counts in the Workers' Compensation Information System (WCIS).[1] In 2011, CHSWC revised that estimate to 1.5 times the insured sector. The revised estimate was based on updated claims data as well as paid loss counts from WCIS.

Claims counts showed a steady decline for all sectors from 2001 to 2011. From 2011 to 2012, the number of claims for both insured and self-insured sectors increased by 2 percent. The State of California experienced no change from 2011 to 2012. From 2012 to 2014, the claims counts for the insured sector averaged 390,000, for the self-insured sector—an increase of 2 percent—while the number of claims for the State sector decreased by almost 22 percent. CHSWC is using a three-year moving average because it blunts the effect of one-time aberrations. The three-year average market shares based on claims counts are 66.4 percent insured, 30.1 percent self-insured, and 3.5 percent state. Using these values, the multiplier for extending insured sector information to the overall system is 100%/66.4% = 1.506 (rounded to system size factor of 1.5).

Table 1: Workers' Compensation Claims (in 000s) by Market Share

	Insured		Self-Insured		State of California	
Year	Number	Market Share (%)	Number	Market Share (%)	Number	Market Share (%)
2012	393.3	66.5	174.2	29.5	23.8	4.0
2013	386.4	66.2	178.6	30.6	18.7	3.2
2014	390.2	66.5	177.8	30.3	18.6	3.2
Average for 3 years		66.4		30.1		3.5

Source: WCIS.

[1] WCIS Database as of June 8, 2015, http://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

(continued on the next page)

(**continued)**

Method of Estimating the Workers' Compensation System Size

Based on the convergence of market share measurements from two independent methods, the data convincingly demonstrate that the insured market share is 66-67 percent of the workers' compensation system. Depending on the method of measurement, the self-insured sector is 29 percent or 30 percent and the State sector is 3 percent or 4 percent.

Paid loss data indicate that 67.5 percent of the market is insured, 29.0 percent is self-insured, and 3.5 percent is State. These percentages are stable using 2014 data for insured and private self-insured sectors and either 2013/2014 or 2014/2015 data for the State and public self-insured sector, as shown in Tables 2 and 3. The multiplier for extending insured sector information to the overall system is 100%/67.5% = 1.48 (rounded to system size factor of 1.5).

Table 2: Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2014-2015

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured[1] (2014)	$608,307,148	$918,409,257		
b. Public Self-Insured[2] (2014/2015)	$1,021,397,246	$1,102,863,683		
SELF-INSURANCE PLAN (a + b)	$1,629,704,394	$2,021,272,940	$3,650,977,334	29.2%
INSURED (2014)[3]	$3,385,878,000	$5,034,730,000	$8,420,608,000	67.4%
STATE (2014/2015)[4]	$179,329,143	$247,526,430	$426,855,573	3.4%
Total			$12,498,440,907	

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2013-2014

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured[1] (2014)	$608,307,148	$918,409,257		
b. Public Self-Insured[2] (2013/2014)	$938,210,927	$1,086,439,359		
SELF-INSURANCE PLAN (a + b)	$1,546,518,075	$2,004,848,616	$3,551,366,691	28.6%
INSURED (2014)[3]	$3,385,878,000	$5,034,730,000	$8,420,608,000	67.8%
STATE (2013/2014)[4]	$175,663,927	$269,624,724	$445,288,651	3.6%
Total			$12,417,263,342	

[1] Private Statewide Summary, http://www.dir.ca.gov/osip/StatewideTotals.html.
[2] Public Statewide Summary, http://www.dir.ca.gov/osip/StatewideTotals.html.
[3] WCIRB, 2014 Losses and Expenses Report, Exhibit 18.1, Released June 30, 2015. http://www.wcirb.com/sites/default/files/documents/2014_ca_workers_compensation_losses_and_expenses_report.pdf.
[4] Cost Information, http://www.calhr.ca.gov/state-hr-professionals/Pages/workers-compensation-program.aspx.

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in Tables 4 and 5. These figures are based on insurer-paid amounts multiplied by 1.5 to include estimated amounts paid by self-insured employers and the State.

Systemwide Cost: Paid Dollars for 2014 Calendar Year

Table 4: A Claim Counts-Based Estimate of Workers' Compensation System Size (Million $)

	Insured	***Self-Insured and the State****	***All Employers***
Indemnity*	$3,386	$1,693	$5,079
Medical*	$5,035	$2,517	$7,552
Changes to Total Reserves	$2,900	$1,450	$4,350
Insurer Pre-Tax Underwriting Profit/Loss	-$699	N/A	-$699
Expenses (see Table below: Breakdown of Expenses)	$5,783	$1,864	$7,647
TOTAL for 2014	$16,405	$7,524	**$23,929**

*Include CIGA payments

Source for Insured figures in Tables 4 and 5 is WCIRB Losses and Expenses report released in June, 2015. Self-insured and state expenses are calculated by CHSWC using 0.50 multiplier for equivalent cost components. The equivalent expense components are estimated as in the Table 5:

Table 5: Breakdown of Expenses (Million $)

	Insured	*Self-Insured and State*	*All Employers*
Loss Adjustment Expense	$2,909	$1,455	$4,364
Commissions and Brokerage	$1,185	N/A	$1,185
Other Acquisition Expenses	$577	N/A	$577
General Expenses	$819	$410	$1,229
Premium and Other Taxes	$293	N/A	$293
Total	$5,783	$1,864	**$7,647**

Estimate of Workers' Compensation System Size Based on Written Premium

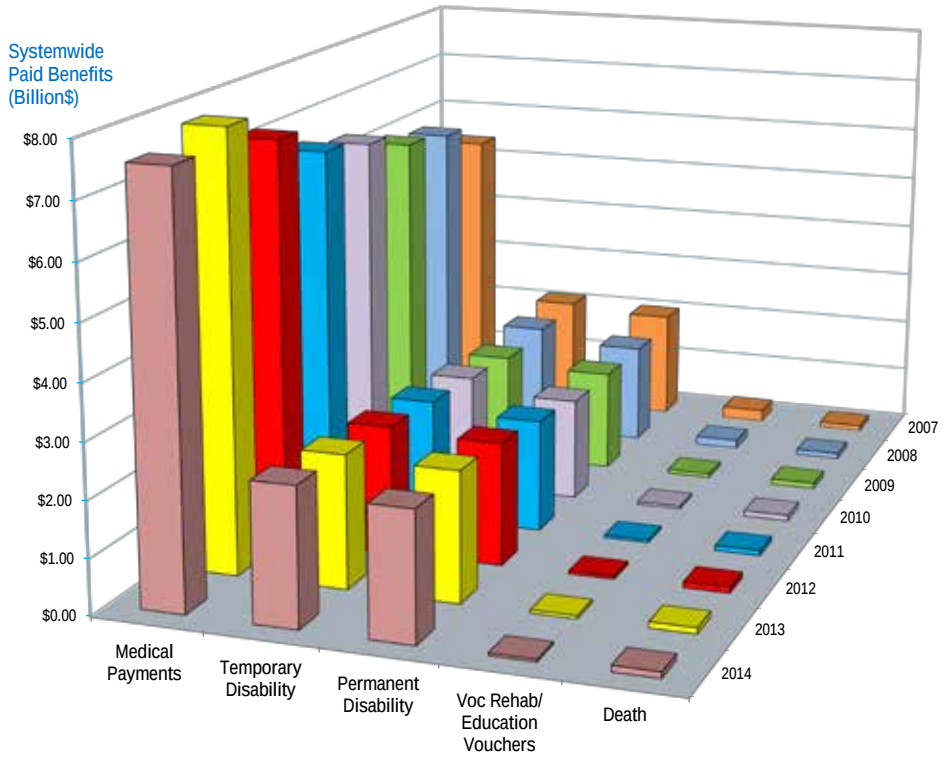
Another way to calculate systemwide costs for employers is by using written premium.

Written premium for insured employers = $16.4 billion in accident year 2014.[7]

$16.4 billion * 1.5 = $24.6 billion systemwide costs for employers.

[7] WCIRB Report on September 30, 2015, Insurer Experience, released December 15, 2015, Exhibit 1.

Figure 2: Systemwide Paid Benefits, by Year and Type of Payment (Billion $)



* System-wide amounts estimated at 1.5 times the amounts reported by insurers

Data Source: WCIRB

Costs Reached a Crisis in 2003

Both the increases in the costs of workers' compensation benefits and changes in the workers' compensation insurance industry were factors contributing to a workers' compensation crisis that peaked in 2003.

The total costs of the California workers' compensation system more than tripled, growing from $7.8 billion in 1997 to $29.0 billion in 2003.[8] Medical costs, which are the largest single category of workers' compensation costs, rose most sharply, from $2.6 billion in 1997 to $7.1 billion in 2003. The rate of increase in medical cost per workers' compensation claim far exceeded the rate of increase in the consumer price index for medical care. Other contributing factors to the increased costs were the increases to the TD and PD benefits that began phasing into effect in 2003 following Assembly Bill (AB) 749 enacted in 2002 and the expansion of workers' compensation liability.

The crisis propelled reforms enacted in 2003 and 2004 which reduced the cost of benefits and at least initially accomplished control of medical costs and a decrease in the cost of workers' compensation insurance. Within several years, the average rate for workers' compensation insurance fell by over 65 percent. These reforms included the following provisions:

[8] The total cost of the workers' compensation figures consists of medical care payments and wage replacement benefits to injured workers, along with administrative expenses and adjustments to reserves, as calculated by CHSWC based on insurer data from WCIRB. *Annual Reports,* San Francisco: WCIRB, 1998, 2004.

- Evidence-based medical treatment guidelines.
- Utilization review of medical treatment, systematically applying the guidelines.
- New fee schedule for inpatient hospital, hospital outpatient departments, and ambulatory surgery centers based on the medical fee plus 20 percent.
- Employer control of medical care through medical provider networks (MPNs).
- PD rating based on the AMA *Guides* prescribed by 2004 legislation, implemented by a Permanent Disability Rating Schedule (PDRS) revision effective January 1, 2005.

Impact of 2003 and 2004 Reforms

The reforms of 2003 and 2004 cut PD benefits by over 50 percent and initially reduced medical costs. However, medical costs began to increase again shortly after the 2004 reforms, and the cost of insurance in recent years has begun to rise once more. The following trends in medical costs and the cost of insurance were noted:

- Paid medical costs increased by over 20 percent from 2007 to 2011, and the average medical cost per claim also grew by over 50 percent from 2005 to 2011. In addition to the increased medical costs, workers' compensation medical treatment disputes took a very long time to resolve, and the medical provider network system was criticized for not providing sufficient access to care for injured workers.
- The average premium rate dropped every year from the second half of 2003 to 2009, when it was $2.10, a decrease of almost 67 percent from the second half of 2003. From 2009 to the second half of 2012, the average premium rate increased by 23 percent, from $2.10 per $100 of payroll to $2.59 per $100 of payroll, correspondingly, and approximately by 12 percent above the average rate of $2.32 per $100 of payroll charged for 2011.

Workers' Compensation Reforms: Changes to the California System

California made significant legislative reforms in the workers' compensation system with the enactment of Senate Bill (SB) 863 in September 2012. The goal of the reform was to improve benefits for injured workers while reducing costs. SB 863 generally makes changes to: the measurement of permanent disability; the compensation for permanent disability; the physician fee schedule; the process to resolve disputes over appropriate medical treatment, medical fees, and billing and collections; the means of ensuring self-insurance program solvency and the methods of securing the payment of compensation by self-insurance; and certain other aspects of the workers' compensation system.

Many of the provisions of SB 863 were supported by CHSWC research and recommendations. For a summary of the key provisions of the reforms, please see the "Special Report: 2012 Workers' Compensation Reforms" in the 2012 CHSWC Annual Report. For a summary of past reforms, please see the "System Costs and Benefits Overview" section in the 2011 CHSWC Annual Report.

The Workers' Compensation Insurance Rating Bureau's (WCIRB's) prospective evaluation of SB 863 indicated significant savings from the reforms. WCIRB's estimates from its November 2015 retrospective evaluation of SB 863 indicate total annual savings of $770 million per year, an increase of $570 million over the previous estimates.[9] The key reasons for the increase include the addition of savings attributed to the reduction in medical severity as well as decreases in costs attributed to RBRVS. In particular, WCIRB estimates a 5 percent decrease in ultimate medical cost per indemnity claim as a result of reductions in medical utilization levels resulting from various medical components of SB 863, including IMR.[10] WCIRB is also retrospectively estimating $300 million less in costs from the adoption of RBRVS.

[9] Senate Bill No. 863 WCIRB Cost Monitoring Report—2015 Retrospective Evaluation http://www.wcirb.com/sites/default/files/documents/sb_863_cost_monitoring_report_2015_retrospective_evaluation.pdf.
[10] Ibid.

Table 6, that was reproduced from WCIRB's November 2015 evaluation, summarizes WCIRB's estimates using various cost categories.

Table 6: WCIRB's November 2015 Evaluation of Senate Bill (SB) 863 Cost Impact *

Estimated Annual Reform Impact					
	WCIRB Prospective Evaluation		November 2015 Retrospective Evaluation		
	Total Cost Impact ($ millions)	Total % Impact	Preliminary Impact on Cost Savings**	Adjusted Cost Impact*** ($ millions)	Adjusted Total % Impact
Indemnity Cost Components					
Changes to Weekly PD Min & Max	+$650	+3.4%	=	—	—
SJDB Benefits	($10)	-0.1%	**TBD**	—	—
Replacement of FEC Factor	+$550	+2.9%	=	—	—
Elimination of PD Add-ons	($170)	-0.9%	**TBD**	—	—
Three-Tiered Weekly PD Benefits	($100)	-0.5%	**TBD**	—	—
Ogilvie Decision	($210)	-1.1%	-	($130)	-0.7%
Med and LAE Cost Components					
Liens	($480)	-2.5%	=	—	—
Surgical Implant Hardware	($110)	-0.6%	+	($140)	-0.7%
ASC Fees	($80)	-0.4%	=	—	—
IMR—Impact of Frictional Costs	($180)	-0.9%	-	+$70	+0.4%
IMR—Impact of TD Duration	($210)	-1.1%	-	—	—
MPN Strengthening	($190)	-1.0%	=	—	—
IBR	N/A	N/A	+	—	—
RBRVS Fee Schedule	+$340	+1.8%	+	($10)	-0.1%
Indemnity Claim Frequency	Small Increase	—	=	—	—
Indemnity Severities (Incl. Trend)	Increases	—	=	—	—
Medical Severities (Incl. Trend)	Increases	—	+	($520)	-2.7%
ALAE and ULAE Severities	Signif. Decline	—	-	—	—
TOTAL ESTIMATE—ALL ITEMS	**($200)**	**-1.1%**		**($770)**** **	**-4.1%**

Data Source: WCIRB

* Senate Bill No. 863 WCIRB Cost Monitoring Report—2015 Retrospective Evaluation (Table 1, p. 3). http://www.wcirb.com/sites/default/files/documents/sb_863_cost_monitoring_report_2015_retrospective_evaluation.pdf.

** A "+" implies additional savings above those prospectively estimated by the WCRIB, a "-" implies less savings (or additional costs), and a "=" implies savings (or cost) estimates generally consistent with prospective estimates. "TBD" implies that it is too early to retrospectively evaluate the cost component at this time.

*** Reflects the total impact on system costs for components for which the WCIRB has enough information to make a revised estimate. Amounts not shown imply total cost impacts equal to the prospective estimates.

**** The total estimate of $770 million in retrospective savings includes savings on provisions that did not change from prospective estimates and are represented by dashes in the last two columns.

Costs of Workers' Compensation in California

Employers pay the cost of workers' compensation either by paying premiums for workers' compensation insurance or by self-insuring with the consent of the Department of Industrial Relations (DIR). Only the State of California can be legally uninsured as an employer. The cost to insured employers is measured in terms of premium. Premium is measured before discounts that are given for deductibles because there are no adequate data on amounts paid in deductibles by employers. The cost to self-insured employers is measured mostly by incurred claims, similar to the analysis of insurance company losses and expenses. These two aspects of employer cost are discussed in the following pages, and the loss and expense analysis for insurers appears later in this section.

Costs Paid by Insured Employers

In 2014, workers' compensation insurers' earned premium totaled $16.2 billion paid by California employers.[11]

The cost of workers' compensation insurance in California has undergone dramatic changes in the past ten years due to a combination of factors.

When workers' compensation premiums were deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances below their actual costs. Costs also increased beyond the amounts foreseen when premiums were determined and collected. Many insurers drew on their reserves to make up the difference, and several insurers became insolvent. Subsequently, the surviving insurers charged higher premium rates in order to meet costs.

The California workers' compensation legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of PD, had significant impact on insurance costs.

These reforms reduced workers' compensation costs in California, but the cost of insurance began to increase again after 2009. However the cost of $2.97 per $100 of payroll in 2014 was still 53 percent below the second half of 2003 peak of $6.29 per $100 of payroll.[12]

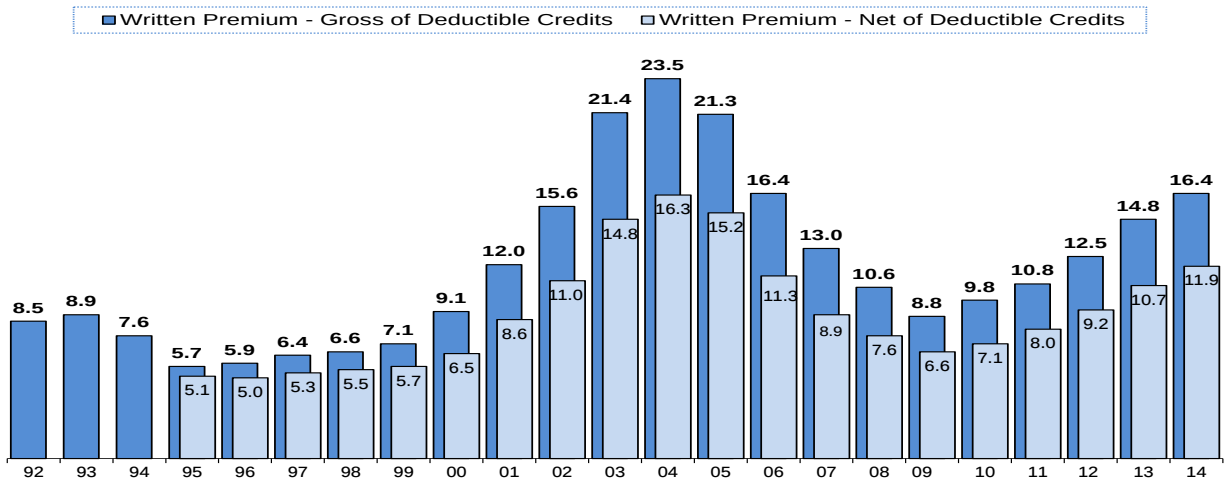
[11] "2014 California's Workers' Compensation Losses and Expenses." WCIRB—June 30, 2015. Note that earned premium is not identical to written premium. The two measurements are related, and the choice of which measurement to use depends on the purpose.
[12] WCIRB Report on September 30, 2015, Insurer Experience, released December 15, 2015, Exhibit 2.

Workers' Compensation Written Premium

WCIRB defines written premium as the premium an insurer expects to earn over the policy period.

As shown in Figure 3, workers' compensation written premium has undergone dramatic changes since 1992. Written premium averaged $8.7 billion per year in 1992 and 1993, decreased 36 percent from 1993 to 1995, increased slightly in the latter part of the 1990s, more than tripled from 1999 through 2004, and experienced a significant decline of over 60 percent from 2004 to 2009. From 2009 to 2014, there was a 86 percent increase in written premium.

Figure 3: Workers' Compensation Written Premium, as of September 30, 2015 (Billion $)

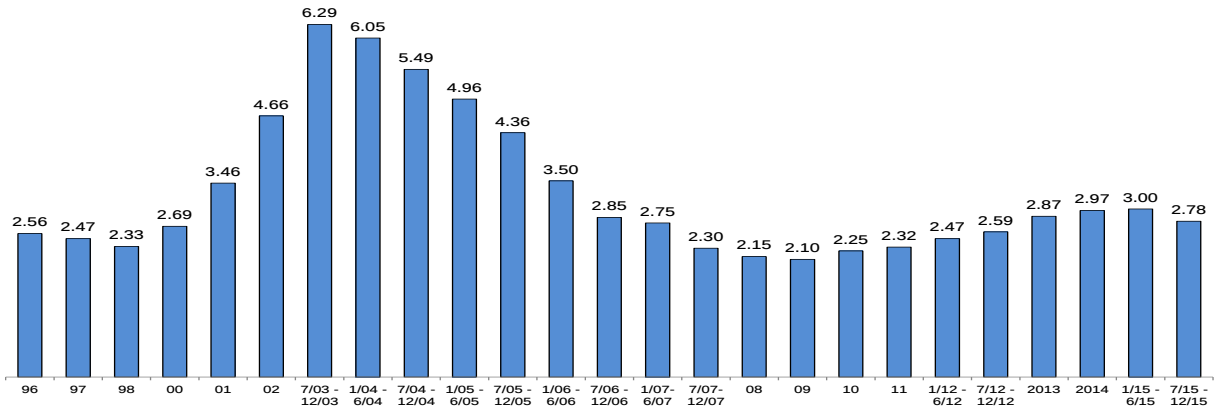


Source: WCIRB Report on September 30, 2015 Insurer Experience, released December 15, 2015, Exhibit 1

Workers' Compensation Average Premium Rate

Figure 4 shows the average workers' compensation premium rate per $100 of payroll. The average stabilized during the late 1990s and then rose significantly beginning in 2000, until the second half of 2003. However, the average premium rate dropped every year from the second half of 2003 to 2009, when it was $2.10, a decrease of almost 67 percent. From 2009 to the first half of 2015, the average premium rate increased by almost 43 percent, and then decreased by 7 percent from the first to second half of 2015.

Figure 4: Average Workers' Compensation Insurer Rate per $100 of Payroll, as of September 30, 2015 (Dollar $)

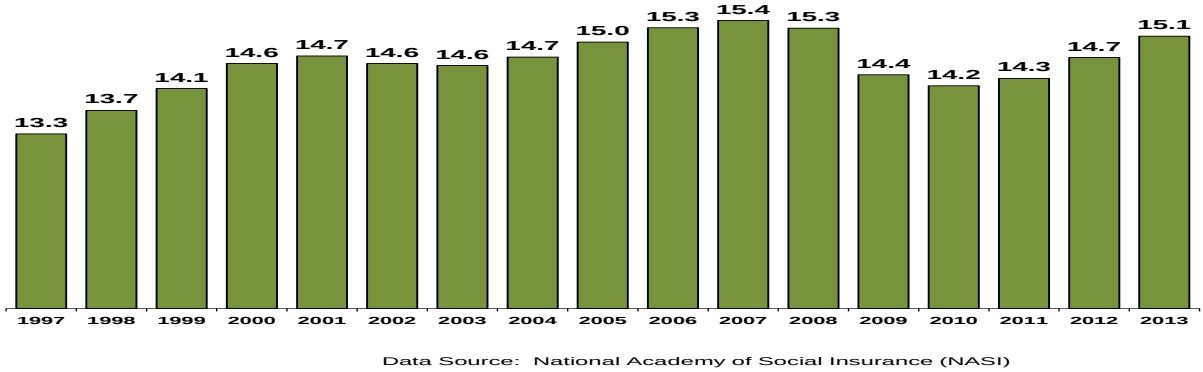


Source: WCIRB Summary of September 30, 2015 Insurer Experience Report, released September15, 2015, Exhibit 2

Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by about 10.5 percent from 13.3 million in 1996 to 14.7 million in 2001. From 2001 to 2005, the number of covered workers in California stabilized, averaging about 14.7 million per year. The estimated number of California workers covered by workers' compensation insurance grew by about 6 percent from 2003 to 2007, decreased by 8 percent from 2007 to 2010, and then increased again by about 6 percent from 2010 to 2013.[13]

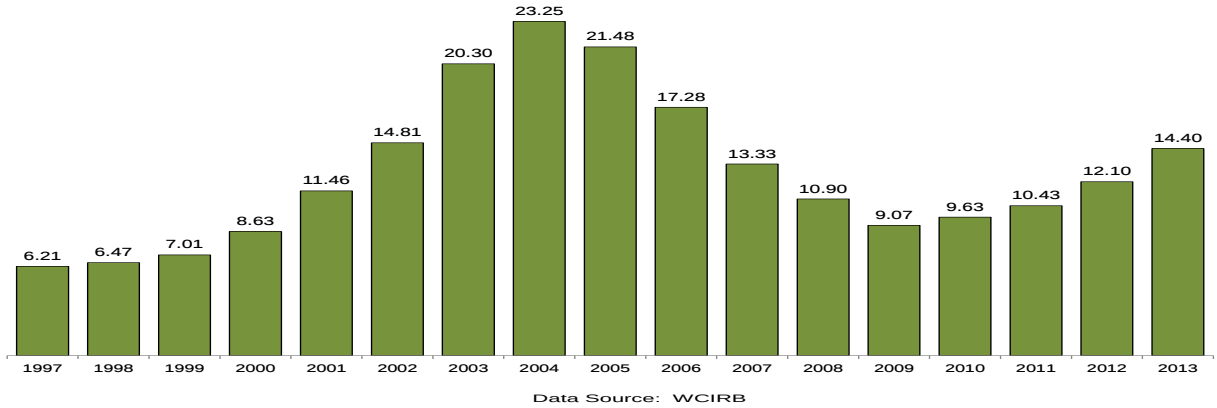
Figure 5: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (Millions)



Total Earned Premium

WCIRB defines the earned premium as the portion of a premium earned by the insurer for policy coverage already provided.

Figure 6: Workers' Compensation Earned Premium (Billion $)

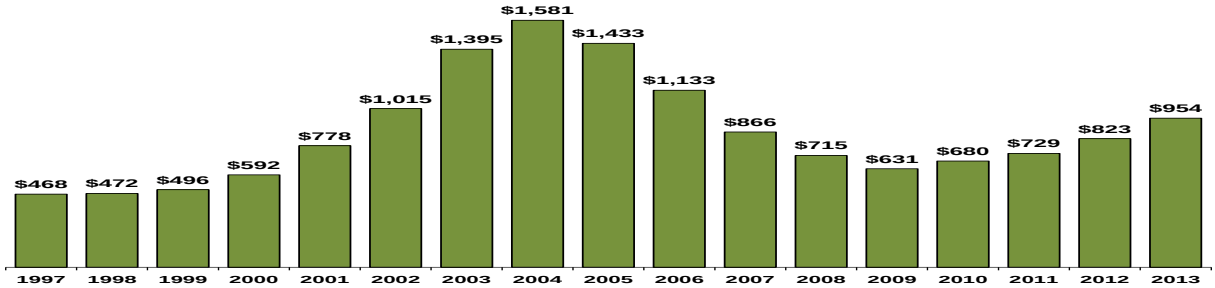


Average Earned Premium per Covered Worker

As shown in Figure 7, the average earned premium per covered worker more than tripled between 1997 and 2004, and then decreased by 60 percent from 2004 to 2009. From 2009 to 2013, the average earned premium per covered worker increased by 51 percent.

[13] Latest available data in 2015 from NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2013. August 2015. https://www.nasi.org/sites/default/files/research/NASI_Work_Comp_Year_2015.pdf.

Figure 7: Average Earned Premium per Covered Worker



Data Source: WCIRB and NASI
Calculations: CHSWC

Costs Paid by Self-Insured Private and Public Employers

The permissible alternatives to insurance are private self-insurance, public self-insurance for government entities either individually or in joint power authorities (JPAs), and legally uninsured State government.

The Office of Self-Insurance Plans (OSIP) is a program within the Department of Industrial Relations Director's Office responsible for the oversight, regulation, and administration of the workers' compensation self-insurance marketplace in California. The self-insurance marketplace consists of more than 9,849 employers, employing 4 million workers with a total payroll exceeding $177 billion. One out of every four California workers is covered by self-insured workers' compensation.

During 2014, OSIP continued to expand on its many initiatives from the previous year designed to streamline its operations, reduce fees to California employers, and increase its accountability, transparency, and commitment to providing the public with a high level of responsive customer service. An example of this was the year-long project to expand a successful E-Filing platform enabling self-insured employers and actuaries to electronically file their required employer's actuarial and financial report.

Another significant accomplishment was the development and implementation of a streamlined process for California employers who wish to become self-insured to accomplish this process in a 'speed-of-business' manner. In 2011, the total time required to complete the private self-insured application process and be issued a certificate of authority to self-insure took nearly nine months. In 2012, this was shortened to four to six months, with additional reductions during 2013 to less than 30 days. In 2014, OSIP successfully worked with private employers and completed this process consistently in less than 14 days. In April 2014, OSIP was able to facilitate and complete this process for a major California employer with more than $1 billion in revenues and 26,000+ employees in just nine days.

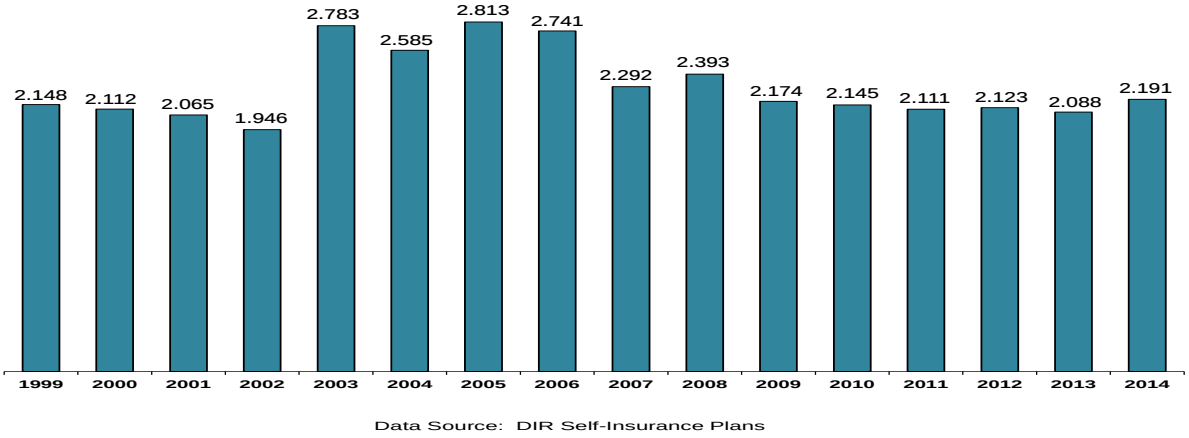
OSIP was able to achieve these and many other significant accomplishments during 2013 while conserving expenditures achieving savings of 30.7 percent in its FY 2013-2014 budget.

Part of the cost of workers' compensation for self-insured employers can be estimated by the amounts of benefits paid in a given year and by changes in reserves. This method is similar to an analysis done by WCIRB for the insurance industry, but the data for self-insured employers are less comprehensive than for insurers. The most complete estimate of the cost to self-insured employers is still obtained by taking some multiple of the cost to insured employers, excluding the cost elements that only apply to insurance. That multiplier is 0.5 and the estimated cost to self-insured employers and the State for 2014 is $7.5 billion (see the box "Systemwide Cost: Paid Dollars for 2014 Calendar Year" on p. 37).

Private Self-Insured Employers[14]

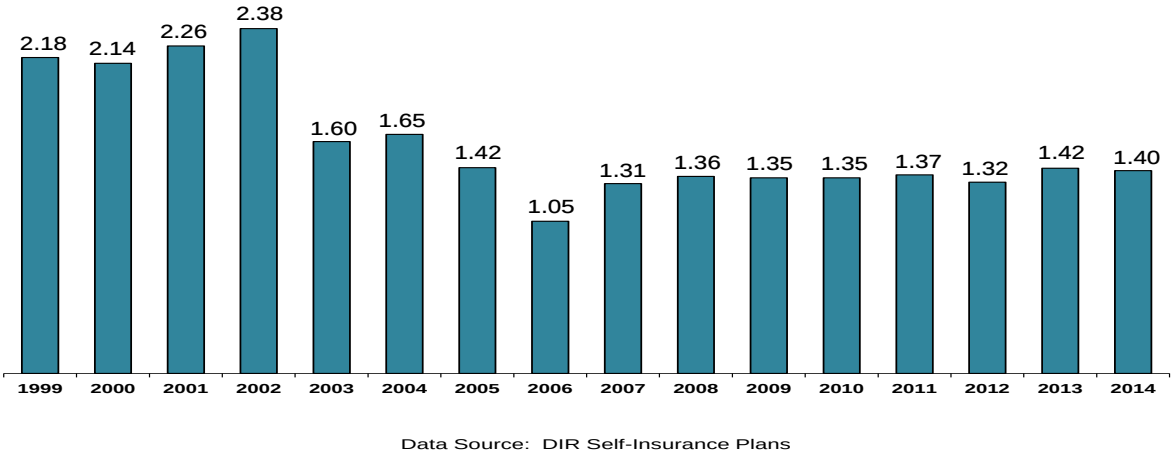
Number of Employees. Figure 8 shows the number of employees working for private self-insured employers between 1999 and 2014. A number of factors may affect the year-to-year changes. One striking comparison is the average cost of insurance per $100 of payroll for insured employers, as described earlier. When insurance is inexpensive, fewer employers may be attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance.

Figure 8: Number of Employees of Private Self-Insured Employers (Millions)



Indemnity Claims. The rate of indemnity claims per 100 employees of private self-insured employers reflects trends seen throughout the workers' compensation system. The frequency has been declining steadily for years. In addition, the reforms of the early 1990s and of 2003-2004 each produced distinct drops in frequency. Smaller year-to-year variations, including a two-year upward trend from 2000 through 2002, are not correlated with any short-term variations in the insured market.

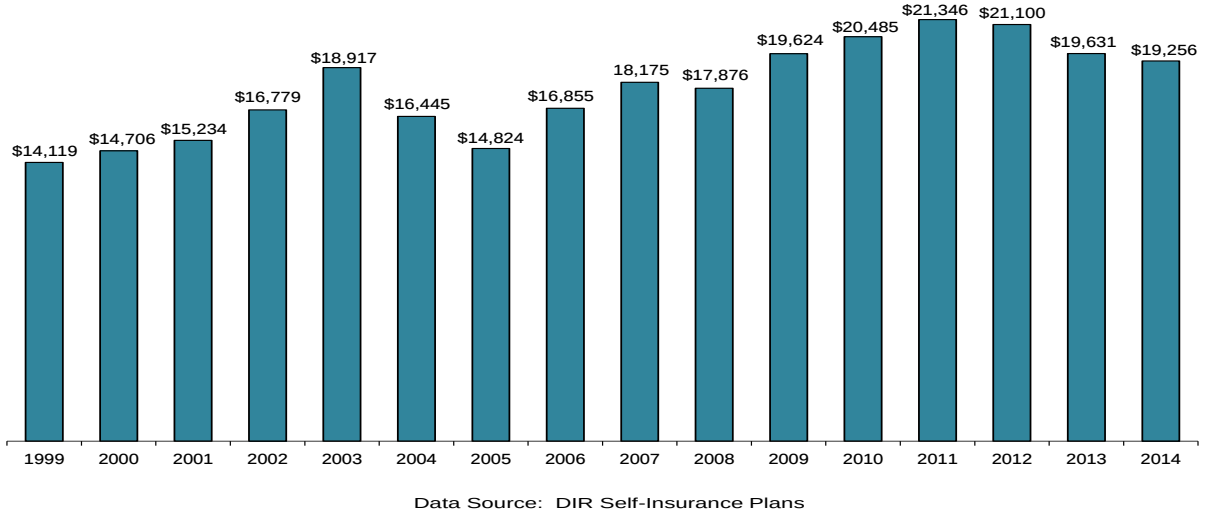
Figure 9: Number of Indemnity Claims per 100 Employees of Private Self-Insured Employers



[14] Data for private self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in June 2015.

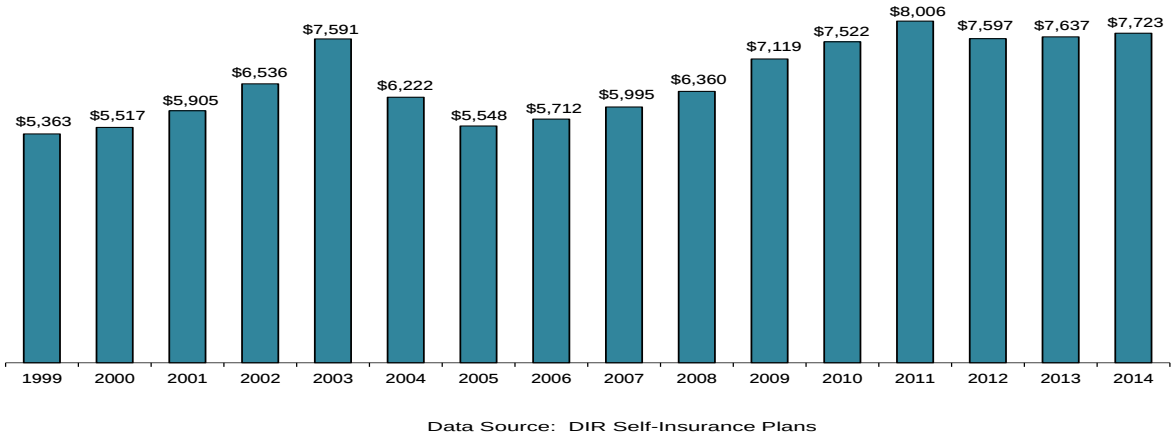
Incurred Cost per Indemnity Claim. Figure 10 shows the incurred cost per indemnity claim for private self-insured employers, which experienced changes similar to the changes for insurance companies. There was a steady rise in the cost per indemnity claim until 2003, when the cost began to drop in response to the reforms of 2003-2004. The upward trend returned in 2006. Although the growth in cost per claim recurred, the starting point for the growth was lower than it would have been without the reforms, and there was a 10 percent decrease in average incurred cost per indemnity claim from 2011 to 2014.

Figure 10: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers



Incurred Cost per Indemnity and Medical Claim. The average cost of all claims, including both indemnity claims and medical-only claims, is naturally lower than the average cost of indemnity claims. Although it is lower, it shows a pattern similar to the trends for indemnity claims, except for a slight increase from 2012 to 2014.

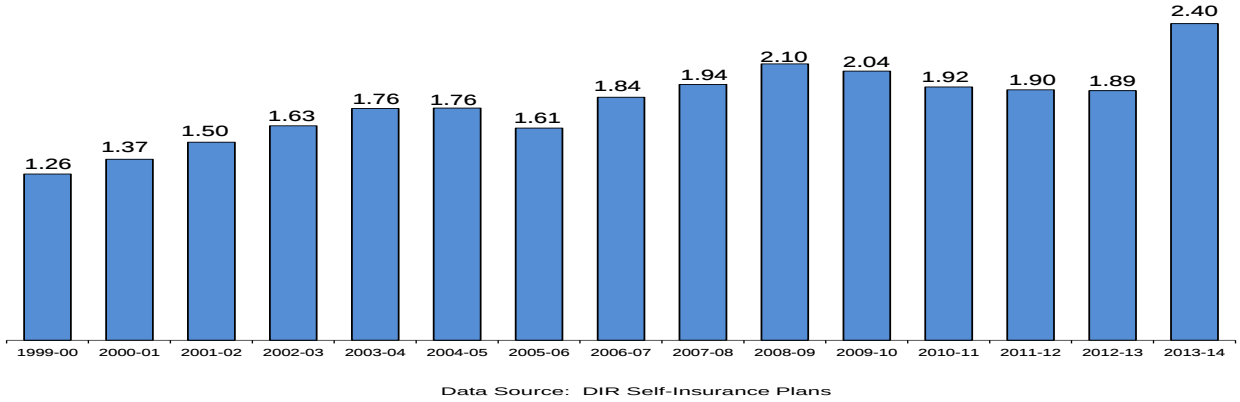
Figure 11: Incurred Cost per Claim, Indemnity and Medical of Private Self-Insured Employers



Public Self-Insured Employers[15]

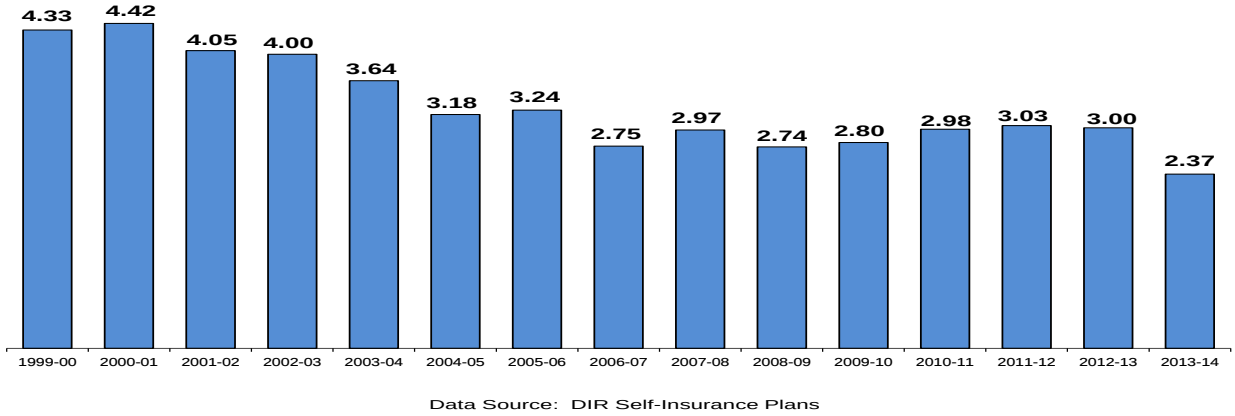
Number of Employees. Figure 12 shows the number of public self-insured employers between fiscal years 1999-2000 and 2013-2014. Between 1999-2000 and 2003-2004, the number of employees working for public self-insured employers grew by 47 percent, then leveled off between 2003-2004 and 2004-2005, declined between 2004-2005 and 2005-2006, increased by 30 percent from 2005-2006 to 2008-2009, and then decreased by about 10 percent from 2009-2010 to 2012-2013. From 2012-2013 to 2013-2014, there was a 27 percent increase in the number of public self-insured employers.

Figure 12: Number of Employees of Public Self-Insured Employers (Millions)



Indemnity Claims. The number of indemnity claims by employees working for public self-insured employers increased slightly from 1999-2000 to 2000-2001. Between 2000-2001 and 2004-2005, the number of indemnity claims by employees decreased by 28 percent and then fluctuated between 2004-2005 and 2008-09. From 2008-2009 to 2011-2012, the number of indemnity claims by employees working for public self-insured employers increased by 10.5 percent, and then decreased again by 22 percent from 2011-2012 to 2013-2014.

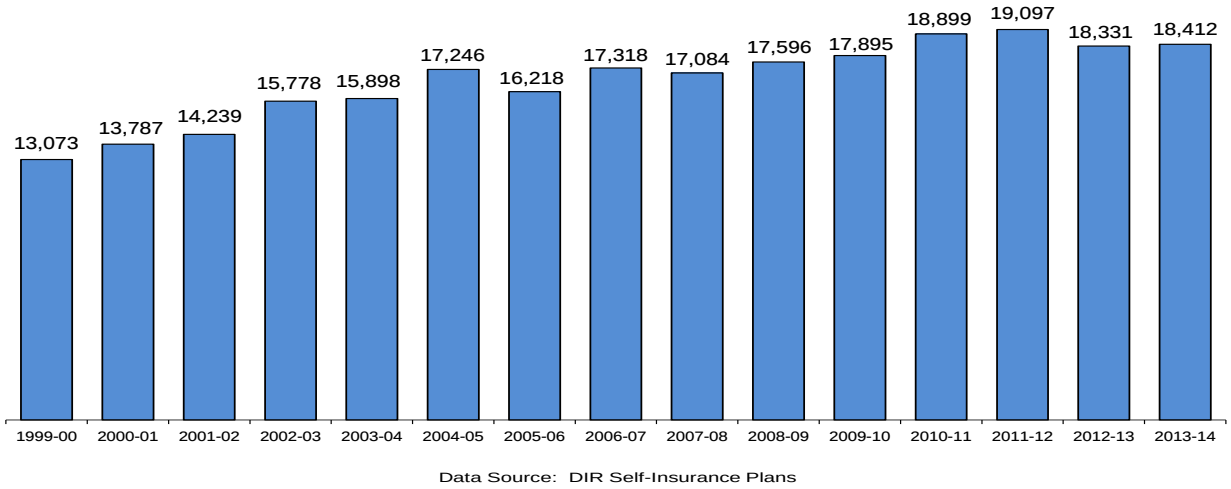
Figure 13: Number of Indemnity Claims per 100 Employees of Public Self-Insured Employers



[15] Data for Public Self-Insured Employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in December 2015.

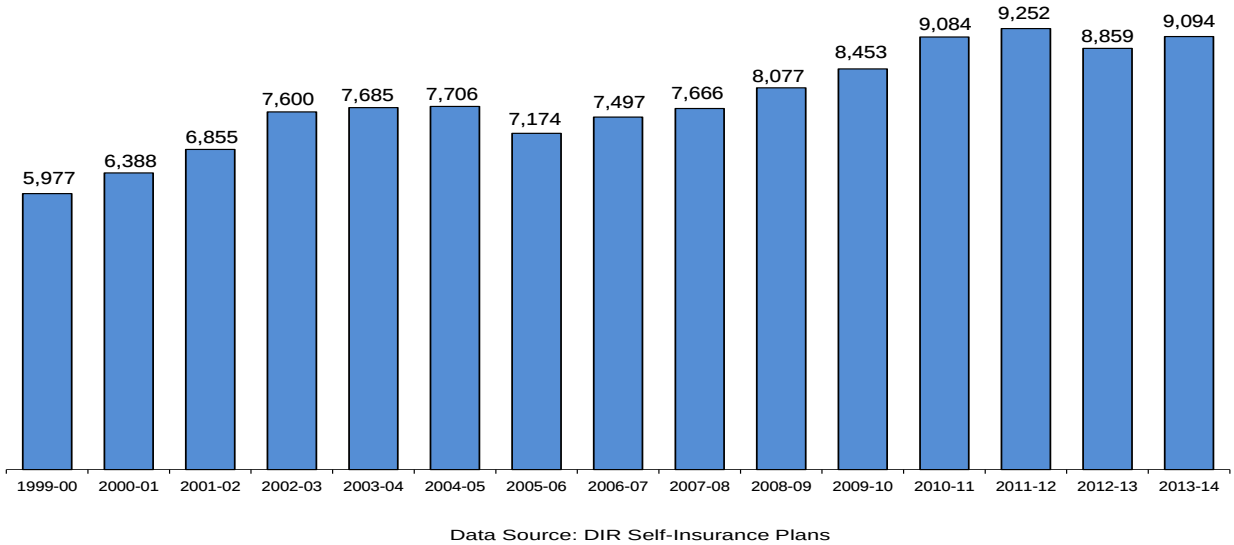
Incurred Cost per Claim. Figure 14 shows the incurred cost per indemnity claim for public self-insured employers. Between 1999-2000 and 2013-2014, the incurred cost per indemnity claim increased overall by 41 percent from $13,073 to $18,412.

Figure 14: Incurred Cost per Indemnity Claim of Public Self-Insured Employers (in $)



Incurred Cost per Indemnity and Medical Claim Figure 15 shows the incurred cost per indemnity and medical claim for public self-insured employers. Between 1999-2000 and 2013-2014, the incurred cost per indemnity and medical claim increased overall by 52 percent from $5,977 to $9,094.

Figure 15: Incurred Cost per Claim–Indemnity and Medical–Public Self-Insured Employers (in $)



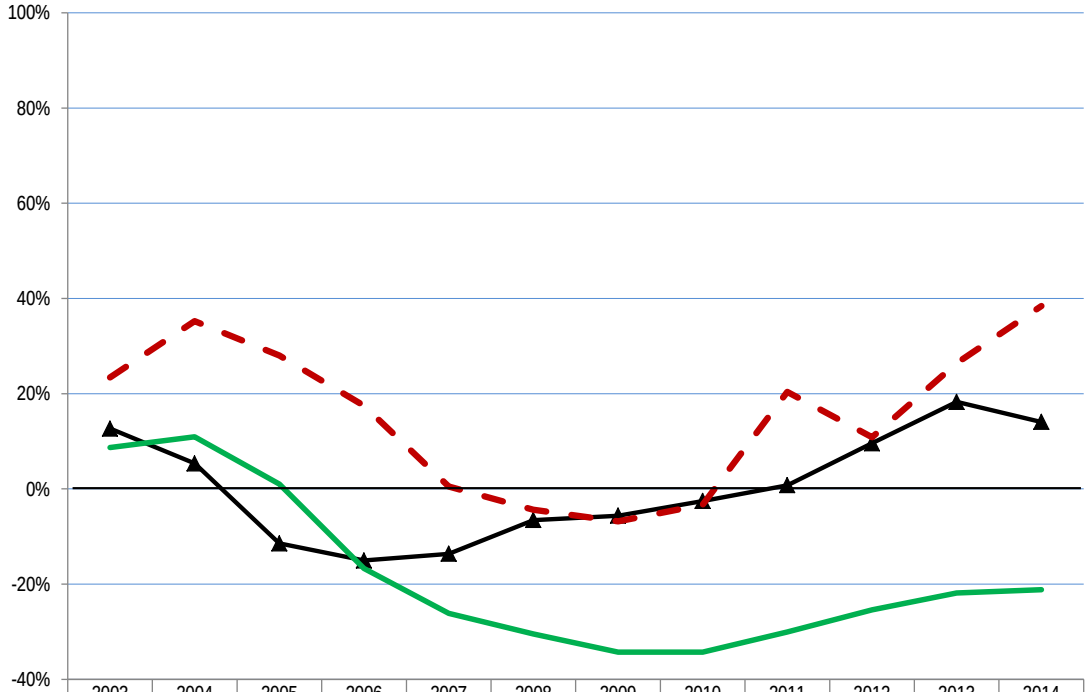
Workers' Compensation System Expenditures: Indemnity and Medical Benefits

Overall Costs

Methodology for Estimating. The estimated percentages of total system costs are based on insured employer costs provided by WCIRB. The assumption is that these data apply also to self-insureds. Since self-insured employers and the State are estimated to account for 33.6 percent of total California workers' compensation claims, the total system costs are calculated by increasing WCIRB data for insured employers to reflect that proportion.

Growth of Workers' Compensation Costs

Figure 16: Workers' Compensation Costs: Percent Change by Year Compared with 2002



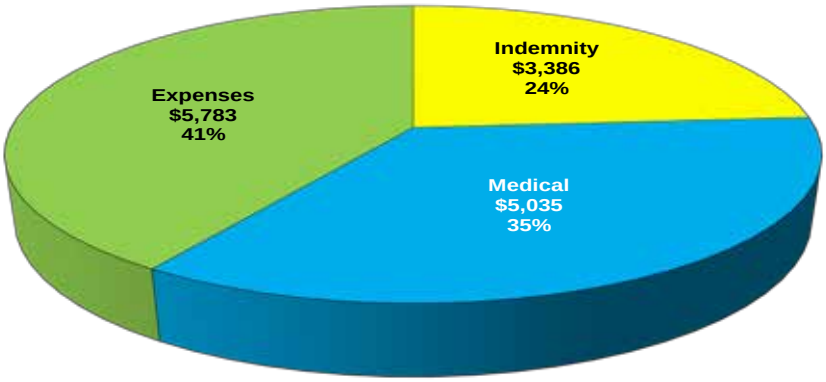
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Medical Paid	12.6%	5.3%	-11.5%	-15.0%	-13.6%	-6.5%	-5.6%	-2.6%	0.8%	9.6%	18.3%	14.1%
Indemnity Paid	8.7%	10.9%	1.0%	-16.7%	-26.1%	-30.5%	-34.3%	-34.3%	-30.1%	-25.4%	-21.9%	-21.2%
Expenses	23.4%	35.2%	28.0%	17.5%	0.5%	-4.4%	-6.8%	-3.3%	20.4%	10.9%	26.4%	38.4%

Data Source: WCIRB

Distribution of Workers' Compensation Costs by Type.

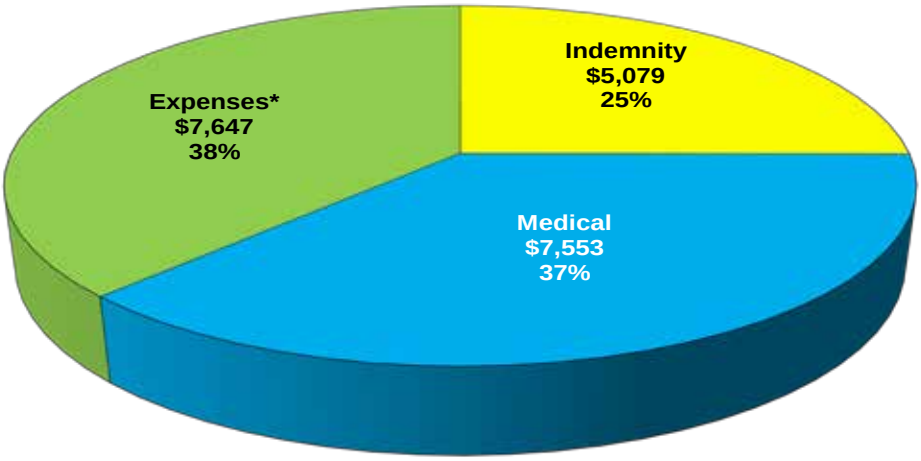
Figures 17 and 18 show the distribution of workers' compensation paid costs for insured employers and systemwide.

Figure 17: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2014 (Million $)



Data Source: WCIRB

Figure 18: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2014 (Million $)



* The distribution shown in this chart includes both insured and self-insured employers' costs. For insured costs, Expenses include allocated loss adjustment expenses, unallocated loss adjustment expenses, commissions and brokerage, other acquisition expenses, and premium taxes. Self-insured employers would not encounter some of those types of expenses.

Please note that Insurer Pre-Tax Underwriting losses ($699 million in 2014) were excluded from the chart since they were not a component of both insured and self-insured costs.

Data Source: WCIRB with calculations by CHSWC

Indemnity Benefits

WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 66.4 percent of total California workers' compensation claims, estimated indemnity benefits are shown in Table 7 for the total system, insured employers, self-insured employers, and the State of California.

Table 7: Systemwide Estimated Costs of Paid Indemnity Benefits

Systemwide Indemnity Benefits (Thousand $)	**2013**	**2014**	**Change**
Temporary Disability	$2,391,908	$2,471,274	$79,366
Permanent Total Disability	$196,833	$184,659	-$12,174
Permanent Partial Disability	$2,137,169	$2,124,120	-$13,049
Death	$109,184	$111,525	$2,341
Funeral Expenses	$3,420	$3,195	-$225
Life Pensions	$139,746	$139,164	-$582
Voc Rehab/Non-transferable Education Voucher	$55,839	$44,879	-$10,961
Total	$5,034,098	$5,078,816	$44,718
Paid by Insured Employers			
Indemnity Benefits (Thousand $)	**2013**	**2014**	**Change**
Temporary Disability *	$1,594,605	$1,647,516	$52,911
Permanent Total Disability *	$131,222	$123,106	-$8,116
Permanent Partial Disability *	$1,424,779	$1,416,080	-$8,699
Death *	$72,789	$74,350	$1,561
Funeral Expenses	$2,280	$2,130	-$150
Life Pensions	$93,164	$92,776	-$388
Voc Rehab/Non-transferable Education Voucher *	$37,226	$29,919	-$7,307
Total	$3,356,065	$3,385,877	$29,812
Paid by Self-Insured Employers and the State**			
Indemnity Benefits (Thousand $)	**2013**	**2014**	**Change**
Temporary Disability	$797,303	$823,758	$26,456
Permanent Total Disability	$65,611	$61,553	-$4,058
Permanent Partial Disability	$712,390	$708,040	-$4,350
Death	$36,395	$37,175	$780
Funeral Expenses	$1,140	$1,065	-$75
Life Pensions	$46,582	$46,388	-$194
Voc Rehab/Non-transferable Education Voucher	$18,613	$14,960	-$3,653
Total	$1,678,033	$1,692,939	$14,906

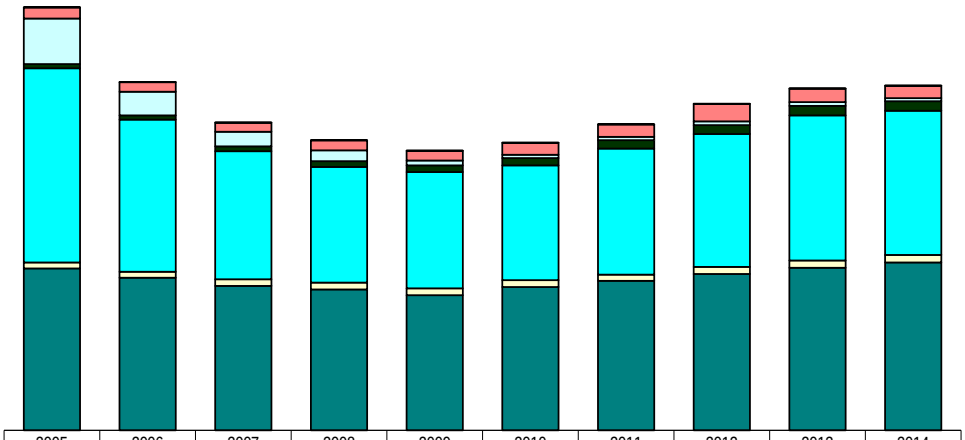
Sources: Calculated by CHSWC, based on data from WCIRB

* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.
** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.6 percent of all California workers' compensation claims.

Trends in Paid Indemnity Benefits.

The estimated systemwide paid indemnity benefits for the past several years are displayed in Figure 19. After the reforms of 2003 -2004, paid indemnity benefits decreased steadily by 34 percent from 2005 to 2009, when they dropped to below the 2001 levels ($5 billion). However, from 2009 to 2014, there was a 23 percent increase in total paid indemnity benefits. After the reforms, payments for permanent partial disability, which peaked in 2004 to $2.9 billion had one of the biggest declines: 42 percent, from 2004 to 2010. From 2010 to 2014, payments for permanent partial disability increased by 26 percent. The TD benefits steadily declined from 2005 to 2009 (17 percent) despite the TD benefit increases of AB 749 and the impact of the two-year limit not taking effect until April 2006. From 2009 to 2014, the TD benefits increased by 24 percent.

Figure 19: Workers' Compensation Paid Indemnity Benefit by Type Systemwide Estimated Costs (Million $)



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Funeral Expenses	$2.0	$2.2	$1.9	$2.2	$1.9	$1.7	$1.5	$1.6	$3.4	$3.2
Permanent Total Disability	$161	$141	$132	$147	$143	$174	$183	$256	$197	$185
Voc Rehab/ Education Vouchers	$673	$347	$217	$158	$71	$48	$48	$55	$56	$45
Life Pensions	$60	$63	$72	$84	$99	$109	$122	$132	$140	$139
Permanent Partial Disability	$2,862	$2,242	$1,885	$1,705	$1,711	$1,691	$1,857	$1,958	$2,137	$2,124
Death	$85	$87	$97	$99	$102	$100	$92	$105	$109	$112
Temporary Disability	$2,385	$2,247	$2,127	$2,075	$1,989	$2,110	$2,202	$2,301	$2,392	$2,471
Total	$6,229	$5,130	$4,532	$4,271	$4,118	$4,235	$4,506	$4,808	$5,034	$5,079

Data Source: WCIRB
Calculations: CHSWC

Supplemental Job Displacement Benefits Costs

The reforms of 2003 eliminated vocational rehabilitation (VR) for injuries arising on or after January 1, 2004, and replaced it with a supplemental job displacement benefit (SJDB). The VR statutes were repealed as of January 1, 2009. Consequently, the expenditures for VR decreased rapidly, as the remaining pre-2004 cases were addressed. SJDB expenditures were made, but at a much lower level.

Supplemental Job Displacement Benefit Vouchers

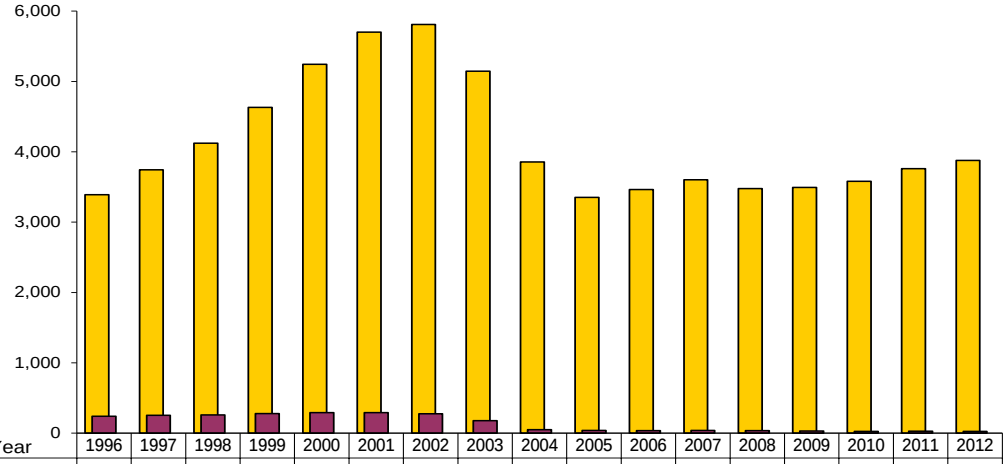
Assembly Bill (AB) 227 (Vargas, 2003) created a system of non-transferable educational vouchers effective for injuries that occurred on or after January 1, 2004. WCIRB's estimate of the cost of education vouchers is based on information compiled from its most current Permanent Disability Claim Survey. In total, 18.3 percent of accident year 2004 PD claims involved education vouchers, and the average cost of the education vouchers was approximately $5,900. For the 2005 accident year, at first survey level, 20.7

percent of sampled PD claims were reported as involving education vouchers, with an estimated average cost of approximately $5,600. SB 863 (De Léon 2012) revises the SJDB for injuries that occurred on or after January 1, 2013, while preserving the concept of a voucher for education or training for an injured worker who does not have an opportunity to return to work for the at-injury employer.

Vocational Rehabilitation and Supplemental Job Displacement Benefit Vouchers (SJDB) Incurred Costs

AB 227, enacted in 2003, in combination with clean-up language in SB 899 enacted in 2004, repealed the workers' compensation VR benefit for dates of injury on or after January 1, 2004. VR benefits were available only to eligible workers injured before 2004 and were available only through December 31, 2008. VR has essentially ended, although some litigation continues over the wind-up of VR under particular circumstances. Figure 20 presents the most recent data available through 2012 on VR costs, including SJDB vouchers (non-transferable education vouchers) beginning in policy year 2003. Effective with injuries that occured on or after January 1, 2013, Labor Code Section 4658.5 was modified, and Labor Code Section 4658.7, which modified the system of supplemental job displacement benefits, was created by Senate Bill 863 (2012).

Figure 20: Vocational Rehabilitation Benefits* and SJDB Voucher Costs as Percent of Total Incurred Losses, WCIRB First Report Level (Million $)



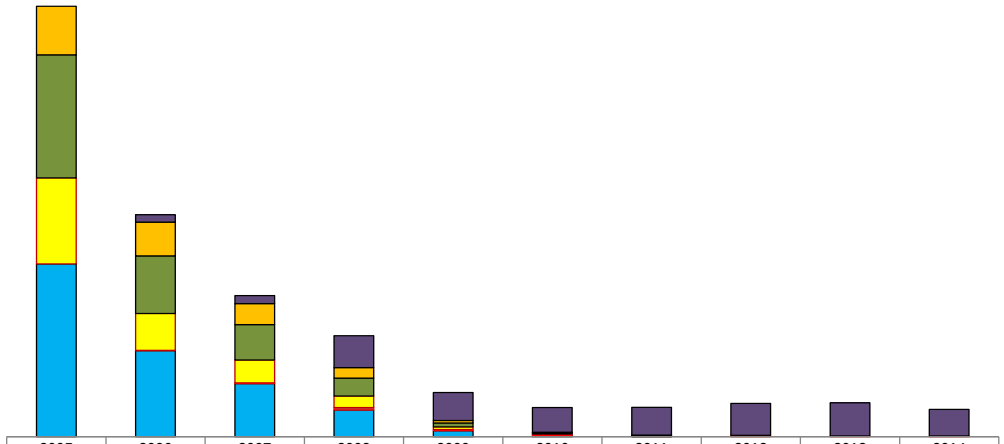
Policy Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total Incurred Losses	3,389	3,744	4,123	4,631	5,243	5,702	5,809	5,147	3,855	3,351	3,463	3,601	3,478	3,495	3,581	3,760	3,878
Voc Rehab Benefits **	241	253	261	278	292	291	275	177	49	38	38	40	37	31	26	27	26
Voc Rehab as % of Total	7.1%	6.8%	6.3%	6.0%	5.6%	5.1%	4.7%	3.4%	1.3%	1.1%	1.1%	1.1%	1.1%	0.9%	0.7%	0.7%	0.7%

* The Vocational Rehabilitation statutes are repealed entirely effective January 1, 2009, and replaced with Supplemental Job Displacement Benefits.
** Policy year 2003 "vocational rehabilitation benefits" contain a mix of vocational rehabilitation costs and non-transferable educational voucher costs. Policy year 2004 and later "vocational rehabilitation benefits" contain mainly non-transferable educational voucher costs.

Data Source: WCIRB

Figure 21 shows the amounts paid for each component of the VR benefit, including newly introduced VR settlement and SJDB vouchers for 2005 through 2014.

Figure 21: Paid Vocational Rehabilitation Benefits and SJDB Vouchers for Insured Employers (Million $)



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Education Vouchers	N/A	8.0	8.9	35.0	30.8	27.1	30.5	34.8	36.2	29.0
V/R Settlement*	53	37.0	22.9	11.5	2.6	0.6	0.1	0.0	0.0	0.0
Education & Training	135	62.8	38.8	19.6	4.4	1.1	0.2	0.0	0.0	0.0
Evaluation	94	40.3	24.9	12.5	2.8	0.7	0.2	0.0	0.0	0.0
Other Voc. Rehab	N/A	0.6	1.0	2.8	1.5	1.0	0.9	1.7	1.0	0.9
Maintenance Allowance	189	94.0	58.1	29.3	6.5	1.6	0.4	0.0	0.0	0.0
Total	471	242.7	154.4	110.6	48.5	32.0	32.3	36.5	37.2	29.9

* Vocational Rehabilitation Settlements were allowed on injuries occuring on or after January 1, 2003, pursuant to Assembly Bill No.749

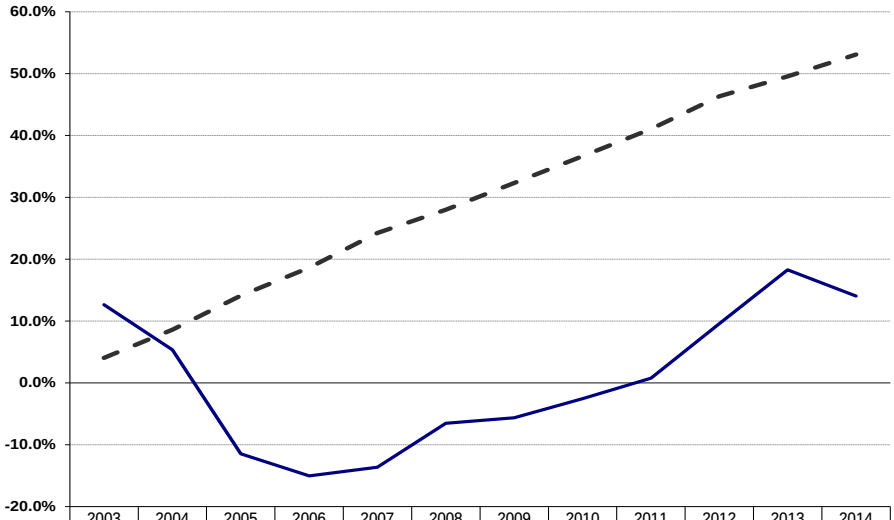
Data Source: WCIRB

Medical Benefits

Workers' Compensation Medical Costs vs. Medical Inflation

Figure 22 compares the percent growth of California's workers' compensation medical costs paid by insurers and self-insured employers in each consecutive year from 2002 with the percent growth of the medical component of the Consumer Price Index (CPI) in each consecutive year from the same base year. The medical component of the CPI is also known as the "Medical CPI," an economic term used to describe price increases in health care services.

Figure 22: Growth of Workers' Compensation Medical Costs Compared with Growth of Medical Inflation (2002 as a base year)



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Change in Workers' Comp Medical Costs as Compared to 2002	12.6%	5.3%	-11.5%	-15.0%	-13.6%	-6.5%	-5.6%	-2.6%	0.8%	9.6%	18.3%	14.1%
Change in Medical CPI as Compared to 2002	4.0%	8.6%	14.1%	18.6%	24.2%	28.0%	32.3%	36.7%	41.0%	46.3%	49.5%	53.1%

Data Source: WCIRB; Bureau of Labor Statistics

Distribution of Medical Benefits: Where Does the Workers' Compensation Dollar Go?

WCIRB provided data for the cost of medical benefits paid by insured employers. Assuming that insured employers comprise approximately 66 percent of total California workers' compensation claims, estimated medical benefits are shown in Table 8 for the total system, insured employers, self-insured employers, and the State of California.

Method of Estimating the Dollar Amounts by type of Medical Payments for Calendar Year 2013

According to the WCIRB report on 2014 Losses and Expenses[16], the medical payment component amounts for 2014 have been updated to reflect WCIRB's Medical Data Call (MDC), which is based on individual medical transactions and provides additional detail for better segregation of medical payments by the type of services and providers. The WCIRB began collecting MDC data in late 2012, and, as a result, only calendar years (CY) 2013 and 2014 can be shown on this basis. While the WCIRB's report on 2014 Losses and Expenses provides dollar amounts by the type of medical payments for CY 2014, the CY 2013 medical payments by type are available as percentage of total medical payments in Exhibit 1.4 in WCIRB's report. In order to compare the dollar amounts by the type of medical services and providers between CY 2013 and CY 2014, the percent distribution of CY 2013 total medical payments by type provided in Exhibit 1.4 was applied to CY 2013 total medical payments of $5,221,459,000 for insured sector (estimated systemwide cost is $7,832 million).

The results of this estimation are reflected in Table 8.

[16] WCIRB 2014 Losses and Expenses Report, Exhibit 1.1, p. 6, and Exhibit 1.4, p. 9: http://www.wcirb.com/sites/default/files/documents/2014_ca_workers_compensation_losses_and_expenses_report.pdf.

Table 8: Systemwide Estimated Costs—Medical Benefits Paid

Systemwide Medical Benefits (Thousand $)	**2013**	**2014**	**Change**
Physicians	$2,177,348	$2,060,553	-$116,795
Hospital (Inpatient and Outpatient)	$1,073,010	$925,977	-$147,033
Medical Supplies and Equipment	$391,609	$369,290	-$22,320
Pharmacy	$728,394	$624,728	-$103,666
Medical-Legal Evaluation	$446,435	$505,386	$58,951
Payments Made Directly to Patients	$1,895,390	$1,808,118	-$87,272
Medical Cost-Containment Programs*	$328,952	$312,590	-$16,362
Medicare Set-Aside (Medical Payments and Reimbursements)	$195,805	$226,764	$30,959
Capitated Medical	$23,497	$15,063	-$8,434
Other (Med Liens, Dental, Interpreter, and Copy Services)	$571,750	$703,626	$131,876
Total	$7,832,189	$7,552,094	-$280,095
Paid by Insured Employers			
Medical Benefits (Thousand $)	**2013**	**2014**	**Change**
Physicians	$1,451,566	$1,373,702	-$77,864
Hospital (Inpatient and Outpatient)	$715,340	$617,318	-$98,022
Medical Supplies and Equipment	$261,073	$246,193	-$14,880
Pharmacy	$485,596	$416,485	-$69,111
Medical-Legal Evaluation	$297,623	$336,924	$39,301
Payments Made Directly to Patients	$1,263,593	$1,205,412	-$58,181
Medical Cost-Containment Programs*	$219,301	$208,393	-$10,908
Medicare Set-Aside (Medical Payments and Reimbursements)	$130,536	$151,176	$20,640
Capitated Medical	$15,664	$10,042	-$5,622
Other (Med Liens, Dental, Interpreter, and Copy Services)	$381,167	$469,084	$87,917
Total	$5,221,459	$5,034,729	-$186,730
Paid by Self-Insured Employers**			
Medical Benefits (Thousand $)	**2013**	**2014**	**Change**
Physicians	$725,783	$686,851	-$38,932
Hospital (Inpatient and Outpatient)	$357,670	$308,659	-$49,011
Medical Supplies and Equipment	$130,536	$123,097	-$7,440
Pharmacy	$242,798	$208,243	-$34,555
Medical-Legal Evaluation	$148,812	$168,462	$19,650
Payments Made Directly to Patients	$631,797	$602,706	-$29,091
Medical Cost-Containment Programs*	$109,651	$104,197	-$5,454
Medicare Set-Aside (Medical Payments and Reimbursements)	$65,268	$75,588	$10,320
Capitated Medical	$7,832	$5,021	-$2,811
Other (Med Liens, Dental***, Interpreter, and Copy*** Services)	$190,583	$234,542	$43,959
Total	$2,610,730	$2,517,365	-$93,365

Sources: Calculated by CHSWC, based on data from WCIRB.

* Figures for medical cost-containment programs (MCCP) are based on a sample of insurers who reported medical cost containment expenses to WCIRB. Costs on claims covered by policies incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for calendar year 2014 is $263 million.

** Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.6 percent of all California workers' compensation claims.

*** Based on WCIRB surveys of insurer medical payments.

Trends in Paid Medical Benefits

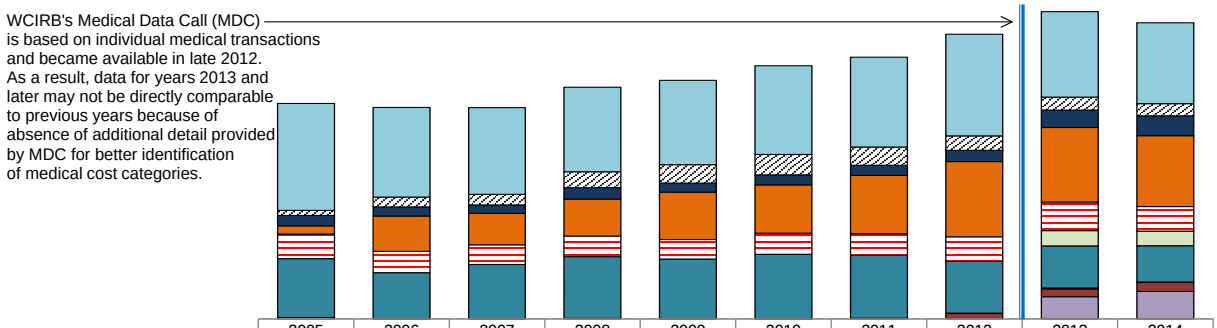
The estimated systemwide paid medical costs for the past several years are shown in Figure 23. The following trends may result from the impact of recent workers' compensation reforms and economic recession.

Figure 23 indicates that the payments in 2013 for hospitals, physicians, and pharmacies remained below the 2004 pre-reform level, while cost-containment program costs and direct payment to patients increased greatly.

The cost of the total medical benefit decreased by 18 percent from 2004 to 2007, and then increased by 45 percent from 2007 to 2013. Payments to physicians decreased by 37 percent from 2004 to 2009, and then increased 33 percent from 2009 to 2013. Pharmacy costs peaked in 2004, declined by 27 percent from 2004 to 2007, and then increased overall by 42 percent from 2007 to 2013. Hospital costs declined by 35 percent from 2004 to 2006, increased overall by 41 percent from 2006 to 2010, and then decreased by 23 percent from 2010 to 2013. Direct payments to patients averaged $210 million for 2004 and 2005, increased sharply 4 times from 2005 to 2006, and then overall increased 2.5 times to $2.2 billion from 2006 to 2013. Expenditures on medical cost-containment programs in 2005 were half of what they were in 2004, increased four times from 2005 to 2010, and then decreased by 37 percent from 2010 to 2013.[17] Medical-legal evaluation costs peaked in 2008 at $289 million (an increase of 26 percent from 2004), decreased by 19 percent from 2008 to 2009, gradually returned to the 2008 level from 2009 to 2012, and then decreased by 9 percent from 2012 to 2013.

The apparent increases in the medical payments made to injured workers and medical cost-containment programs were in part the result of availability of more detailed reporting of payments into specific recipient/payee categories.

Figure 23: Workers' Compensation Paid Medical Benefits by Type, Systemwide Estimated Costs (Million $)



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Physicians	$2,723	$2,285	$2,210	$2,153	$2,147	$2,259	$2,285	$2,587	$2,177	$2,061
Med Cost Cntnmnt Prgrms*	$127	$250	$268	$406	$468	$520	$466	$367	$329	$313
Medical-Legal Evaluation	$263	$232	$214	$289	$233	$253	$261	$288	$446	$505
Direct Payments to Patients	$213	$900	$804	$944	$1,206	$1,230	$1,481	$1,918	$1,895	$1,808
Pharmaceuticals	$624	$545	$497	$526	$496	$542	$554	$626	$728	$625
Medical Supplies & Equipm									$392	$369
Hospitals**	$1,500	$1,168	$1,382	$1,569	$1,527	$1,642	$1,601	$1,317	$1,073	$926
Capitated Medical	$40.5	$13.5	$11.6	$19.8	$5.1	$7.9	$22.9	$8.1	$23.5	$15.1
Medicare Set-aside***								$144	$196	$227
Other ****									$572	$704
Total	$5,492	$5,393	$5,386	$5,906	$6,081	$6,453	$6,672	$7,257	$7,832	$7,552

Source: WCIRB (Calculations by CHSWC)

* Medical cost-containment program (MCCP) costs on claims covered by policies incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for calendar year 2014 is $263 million.

** Hospitals include Outpatient and Inpatient services that became separately identifiable begginning from 2013.

*** Medicare Set-aside Payments include Medical Payments and Reimbursements.

****Other includes Medical Liens, Dental, Interpreter, and Copy services.

[17] Medical cost-containment program costs on claims covered by policies incepting prior to July 1, 2010, are considered medical loss, and those covered by policies incepting July 1, 2010, and beyond are considered allocated loss adjustment expenses.

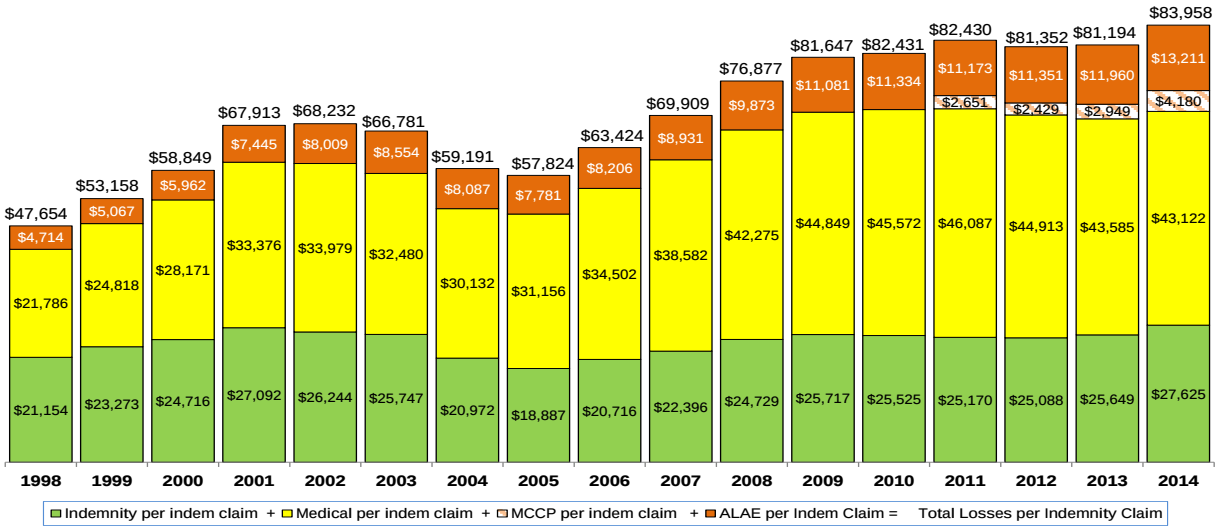
Average Ultimate Total Loss

Figure 24 shows changes in indemnity and medical components of the projected ultimate total loss per workers' compensation indemnity claim.

Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss. As a result, a portion of MCCP costs for accident years 2010 and 2011 was reported as medical loss, and a portion was reported as ALAE. In order to facilitate consistent comparison from year to year of medical losses and ALAE, accident year 2010 MCCP costs reported as ALAE were shifted to medical loss, and the estimated amount of accident year 2011 MCCP costs reported as medical loss were shifted to ALAE.[18] In order to provide consistent comparisons across years in Figure 24, to the extent appropriate, the amounts and ratios shown represent the combined cost of losses and ALAE, with MCCP amounts shown separately.

WCIRB projects the average cost or "severity" of a 2014 indemnity claim to be approximately $84,000, which is moderately higher than the projected severities for the last several accident years.[19] The projected average indemnity cost of a 2014 indemnity claim increased by 8 percent over that for 2013, primarily a result of SB 863 increases to permanent disability benefits in 2014. The projected average medical cost—including MCCP costs—of a 2014 indemnity claim declined for the third straight year and is 6 percent below the projected average medical cost for 2011.[20] Despite the enactment of SB 863, which was forecast to decrease ALAE costs, the projected average ALAE cost of a 2014 indemnity claim, excluding MCCP costs, is approximately 10 percent above that of 2013 and approximately 16 percent higher than the average ALAE severity for 2012.[21]

Figure 24: Estimated Ultimate Total Loss* per Indemnity Claim as of September 30, 2015



* Excluded medical-only

Note: Before July 1, 2010, the costs of Medical Cost Containment Program (MCCP) that could be allocated to a particular claim were reported as medical losses. After July 1, 2010, MCCP is reported as ALAE.

Data Source: WCIRB

Please note that WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increases and medical inflation.

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[18] WCIRB Report on September 30, 2015, Insurer Experience, released December 15, 2015, p. 1.
[19] Ibid., Exhibits 8.1-8.4.
[20] Ibid.
[21] Ibid.

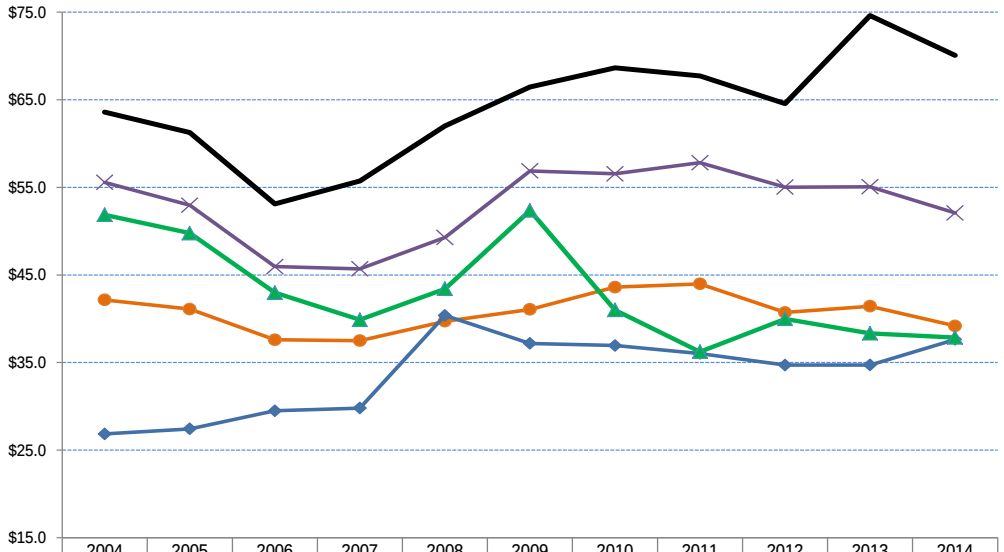
Average Cost per Claim by Type of Injury

As shown in Figure 25, from 2004 to 2007, the average costs declined overall for all types of injuries, with the exception of psychiatric and mental stress. The average cost of other cumulative injuries decreased by 23 percent, and the average cost of back injuries decreased by almost 18 percent, followed by a 11 percent decrease in the average cost of carpal tunnel or repetitive motion injury (RMI) injuries. The average cost of slip and fall injuries decreased by 16.5 percent from 2004 to 2006.

The average cost of slip and fall injuries increased overall by 40.5 percent from 2006 to 2013 and then fell 6 percent from 2013 to 2014. The average cost of back injuries increased by 24 percent from 2007 to 2009, stabilized at an average cost of $56,300 from 2009 to 2013, and then decreased by 5 percent from 2013 to 2014. The average cost of carpal tunnel (RMI) increased by 17 percent from 2007 to 2011, decreased by 7 percent from 2011 to 2012, and then averaged $40,000 from 2012 and 2014. The average cost of other cumulative injuries increased by 31 percent from 2007 to 2009, decreased by 31 percent from 2009 to 2011, increased by 10 percent from 2011 to 2012, and then decreased again by 5 percent from 2012 to 2014.

The average costs of psychiatric and mental stress claims increased by 50 percent between 2004 and 2008, decreased by 14 percent from 2008 to 2013, and then increased by 8 percent from 2013 to 2014.

Figure 25: Average Cost per Claim by Type of Injury, 2004-2014 (Thousand $)



	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Slip and Fall	$63.6	$61.3	$53.1	$55.7	$62.0	$66.5	$68.6	$67.7	$64.6	$74.6	$70.1
Back Injuries	$55.6	$53.0	$46.0	$45.7	$49.3	$56.9	$56.5	$57.8	$55.0	$55.1	$52.1
Carpal Tunnel / RMI	$42.2	$41.1	$37.6	$37.5	$39.7	$41.1	$43.6	$44.0	$40.7	$41.4	$39.2
Psychiatric and Mental Stress	$26.9	$27.4	$29.5	$29.8	$40.4	$37.2	$36.9	$36.0	$34.7	$34.7	$37.6
Other Cumulative Injuries	$51.9	$49.8	$43.0	$39.9	$43.4	$52.4	$41.0	$36.2	$40.0	$38.3	$37.9

Data Source: WCIRB

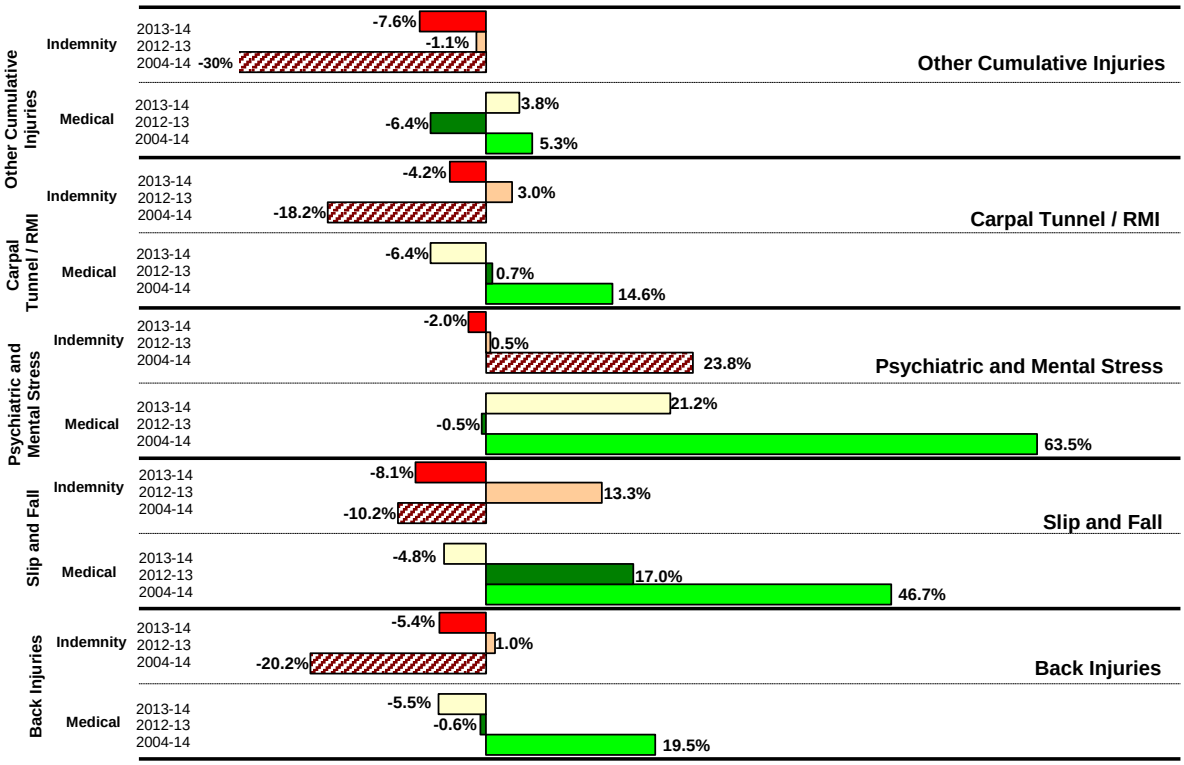
Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

Figure 26 illustrates the impact of the reforms on selected types of injury. The long-term trend from 2004 to 2014 shows increases in medical costs for all types of injuries. The same trend for indemnity costs shows a 30 percent decrease for other cumulative injuries, a 20 percent decrease for back injuries, an 18 percent decrease for carpal tunnel injuries, and a 10 percent decrease for slip and fall injuries. There was a long-term 24 percent increase in indemnity costs of psychiatric and mental stress disorders. Psychiatric and mental stress disorders was the only category that showed a significant long-term increase in both average indemnity and medical costs.

From 2012 to 2013, medical costs increased by 17 percent for slips and falls and by 0.7 percent for carpal tunnel injuries. In the same period, there was a 6.4 percent decrease in the average medical cost of claim for other cumulative injuries, a 0.6 percent decrease for back injuries, and a 0.5 percent decrease for psychiatric and mental stress disorders. In the same year, indemnity costs increased for slips and falls (13 percent), carpal tunnel (RMI) (3 percent), back injuries (1 percent), and psychiatric and mental stress disorders (0.5 percent). There was a 1 percent decrease in the average indemnity cost for other cumulative injuries.

From 2013 to 2014, medical costs increased 21 percent for psychiatric and mental stress disorders and about 4 percent for other cumulative injuries. In the same year, medical costs decreased 6.4 percent for carpal tunnel (RMI) injuries, 5.5 percent for back injuries, and about 5 percent for slip and fall injuries. From 2013 to 2014, indemnity costs decreased for all types of injuries and illnesses.

Figure 26: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2004 through 2014, from 2012 to 2013, and from 2013 to 2014)



Data Source: WCIRB

Medical-Legal Expenses

Changes to the medical-legal process over the years have been intended to reduce both the cost and the frequency of litigation. Starting in 1989, legislative reforms have restricted the number of medical-legal evaluations needed to determine the extent of permanent disability (PD). The qualified medical evaluator (QME) designation was intended to improve the quality of medical evaluations in cases where the parties did not select an agreed medical evaluator (AME). Legislation in 1993 attempted to limit workers' compensation judges to approving the PD rating proposed by one side or the other (Labor Code Section 4065, known as "baseball arbitration"). In addition, the 1993 legislation established a presumption in favor of the evaluation by the treating physician (Labor Code Section 4602.9), which was expected to reduce litigation and reduce costs.

In 1995, CHSWC contracted with the University of California (UC) Berkeley to assess the impact of workers' compensation reform legislation on the workers' compensation medical-legal evaluation process.

This ongoing study has determined that, during the 1990s, the cost of medical-legal evaluations dramatically improved. As shown in the following discussion, this was due to reductions in all the factors that contribute to the total cost. However, baseball arbitration proved to be impractical, and the treating physician's presumption turned out to cost more than it saved. AB 749, enacted in 2002, repealed baseball arbitration and partially repealed the primary treating physician's presumption, except when the worker had predesignated a personal physician or personal chiropractor for injuries that occurred on or after January 1, 2003. This partial repeal was carried further by SB 228, enacted in 2003, to all dates of injury, except in cases where the employee predesignated a personal doctor or chiropractor. Finally, in 2004, SB 899 completely repealed the primary treating physician's presumption.

The reforms of SB 899 also changed the medical dispute resolution process in the workers' compensation system by eliminating the practice of each attorney obtaining a QME of his or her own choice. These provisions required that the dispute resolution process through an AME or a single QME applied to all disputes including compensability of claim and PD evaluation.

In cases where attorneys did not agree on an AME, SB 899 limited the attorneys to one QME jointly selected by process of elimination from a state-assigned panel of three evaluators. In cases without attorneys, the injured worker selected the QME from the state-assigned panel.

Pre-SB 863 increases in both the number and cost of medical-legal evaluations, among other reasons, resulted from two California Workers' Compensation Appeals Board en banc decisions (introduced between 2007 and 2009). The Almaraz/Guzman and Ogilvie decisions required more reports and more complex reports for the assessment of permanent impairment and disability, and as a result, an increase in litigation and medical-legal costs. SB 863 effectively eliminates Ogilivie and does not address Almaraz/Guzman.

SB 863, which took effect January 1, 2013, introduced a significant change to medical-legal evaluations in how medical treatment disputes are resolved. As of January 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, disagreements about a specific course of medical treatment recommended by the treating physician can only be resolved through a process called independent medical review (IMR). In this environment, the medical-legal evaluations by QME and AME are limited to disagreements about whether a claim is covered by workers' compensation (compensability) and disability threshold issues.

According to DWC, under the former system, it typically took 9 to 12 months to resolve a dispute over the treatment needed for an injury. The process required: (1) negotiating over the selection of an agreed medical evaluator, (2) obtaining a panel, or list, of state-certified medical evaluators if agreement could not be reached, (3) negotiating over the selection of the state-certified medical evaluator, (4) making an appointment, (5) awaiting the examination, (6) awaiting the evaluator's report, and then, if the parties still disagree, (7) awaiting a hearing with a workers' compensation judge, and (8) awaiting the judge's decision on the recommended treatment. In many cases, the treating physician could also rebut or

request clarification from the medical evaluator, and the medical evaluator could be required to follow up with supplemental reports or answer questions in a deposition.

SB 863 replaced those eight steps with an IMR process similar to the one used in group health plans, which takes approximately forty (or fewer) days to arrive at a determination to obtain appropriate treatment.

The WCIRB's prospective evaluation of SB 863 assumed that QME reports related to medical treatment issues would be replaced by IMR reports, thereby decreasing the number and cost of medical-legal evaluations. Analysis based on WCIRB's Medical Call Data (MDC) showed that even after IMR became effective for all injuries as of July 1, 2013, the number and cost of medical-legal reports did not show a significant decline.[22]

Although the medical treatment-related evaluations are outside its scope, a medical-legal report is still conducted to determine other multiple compensability and disability threshold issues:

- Worker's eligibility for benefits: Arising out of Employment (AOE)/Course of Employment (COE).
- Permanent and stationary status of injured worker.
- Existence and extent of permanent and temporary disabilities.
- Apportionment.
- Ability to return to work.
- Injured worker's ability to engage in his usual occupation.
- Need for future medical treatment in cases that are settled by Compromise and Release.

The data used in this 2015 CHSWC Annual Report that came from the latest WCIRB's 2012 first-level Permanent Disability Survey requires the permanent partial disability (PPD) claims to be mature enough for analysis (from 30 to 36 months) and provide year-to-year comparability by separating and grouping the PPD claims by accident year. Ninety-one (91) percent of medical-legal evaluations in WCIRB's 2012 PD Survey have dates of service on or after July 1, 2013, and show the impact of SB 863.

As mentioned above, the medical-legal analysis that follows uses data from the WCIRB Permanent Disability Survey. Accident year 2012 is the latest year for which sufficiently mature data reports are available.

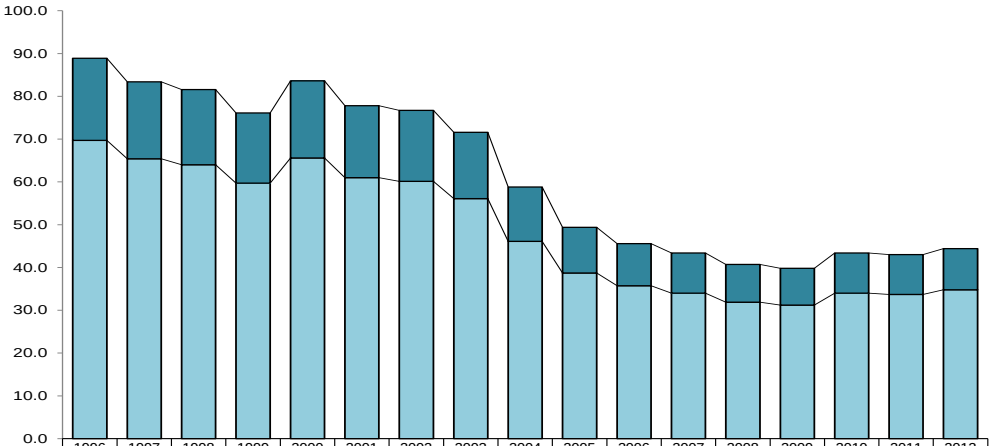
Permanent Disability Claims

Figure 27 displays the number of PPD claims in each calendar year since 1996. Before 1993, WCIRB created these data series from Individual Case Report Records submitted as part of the Unit Statistical Report. Since that time, the series has been discontinued, and estimates for 1994 and subsequent years are based on policy year data adjusted to the calendar year and information on the frequency of all claims,[23] including medical-only claims, which are still available on a calendar-year basis.

The data presented in the medical-legal section of this report are current and based on the latest available data through accident year 2012.

[22] SB 863 WCIRB Cost Monitoring Report—2014 Retrospective Evaluation, November 2014, p. 13.
[23] WCIRB Report on September 30, 2015, Insurer Experience, released December 15, 2015, Exhibit 7.

Figure 27: PPD Claims at Insured Employers by Year of Injury (Thousands)



	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Major (PD rating of 25% or more)	19.2	18.0	17.6	16.4	18.0	16.8	16.6	15.5	12.7	10.7	9.9	9.4	8.8	8.6	9.4	9.3	9.6
Minor (PD rating less than 25%)	69.7	65.4	64.0	59.7	65.6	61.0	60.1	56.1	46.1	38.7	35.7	34.0	31.9	31.2	34.0	33.7	34.8
Total Claims	88.9	83.4	81.6	76.1	83.6	77.8	76.7	71.6	58.8	49.4	45.6	43.4	40.7	39.8	43.4	43.0	44.4

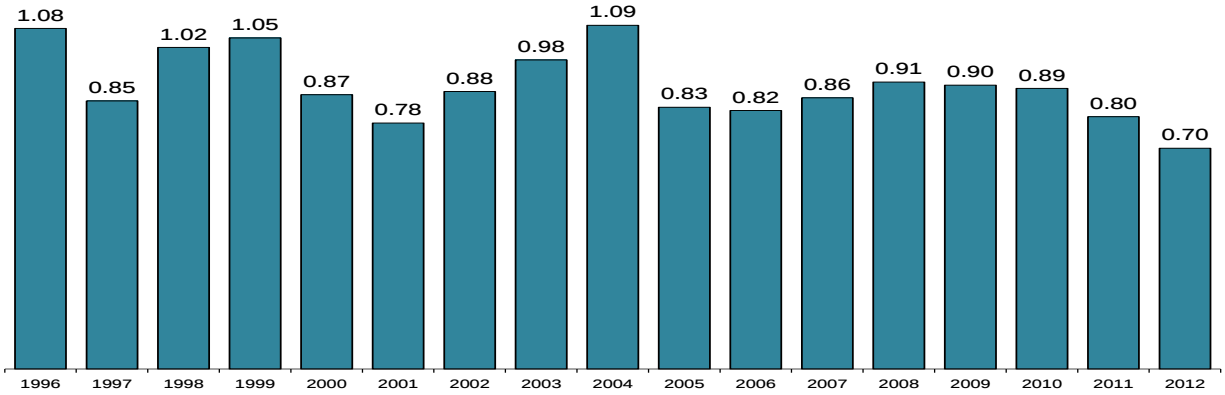
Data Source: WCIRB

Medical-Legal Evaluations per Claim

Figure 28 illustrates that the average number of medical-legal evaluations per claim declined from 1.08 evaluations in 1996 to 0.78 in 2001. This decline of 28 percent is attributed to a series of reforms since 1989 and the impact of efforts to combat medical mills.

Reforms instituted in 1993 that advanced the role of the treating physician in the medical-legal process and granted the opinions of the treating physician a presumption of correctness were expected to reduce the average number of evaluations even further. Earlier CHSWC reports evaluating the treating physician presumption did not find that these reforms had a significant effect on the average number of evaluations per claim. SB 899, enacted in 2004, repealed the primary treating physician's presumption (Labor Code Section 4062.9).

Figure 28: Number of Medical-Legal Evaluations per Workers' Compensation Claim (at 40 months from the beginning of the accident year)



Data Source: WCIRB

Between 2001 and 2004, the average number of medical-legal evaluations per claim increased by 29.5 percent. The increase from 2001 to 2004 could be driven by a number of factors discussed below. accident year (AY) 2005, the average number of medical-legal evaluations per claim decreased by almost

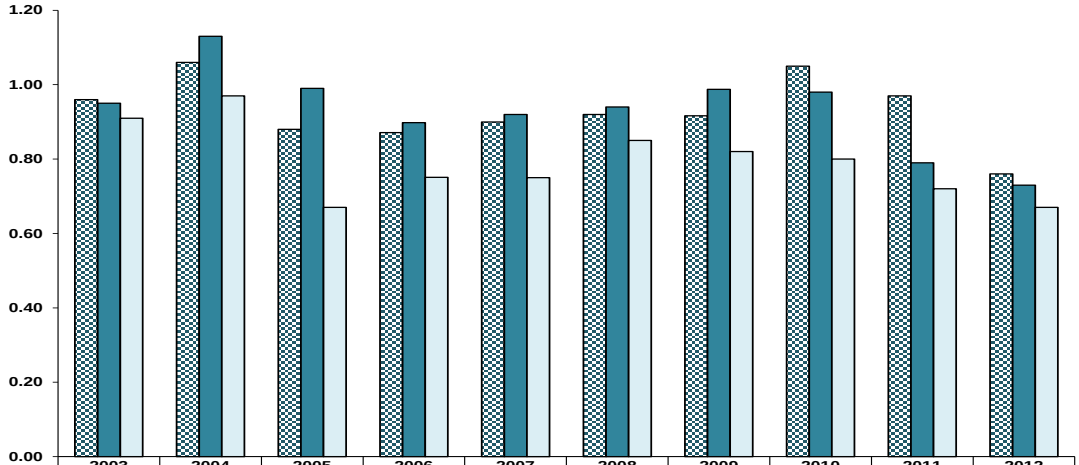
25 percent compared to AY 2004, and then increased by 11 percent from the AY 2006 to AY 2008. From 2008 to 2011, during the ongoing economic crisis, the average number of medical-legal evaluations per claim decreased by 11 percent. The decrease in the average number of evaluations per claim from AY 2004 to AY 2006 was likely due to the SB 899 provision requiring a single QME or AME even in represented cases for injuries beginning January 1, 2005. From AY 2011 to AY 2012, the average number of medical-legal evaluations per claim decreased by 12.5 percent due to SB 863, which replaced the QME reports related to medical treatment issues with IMR reports. Ninety-one (91) percent of medical-legal legal evaluations done for AY 2012 injuries had dates of service on or after January 1, 2013, when SB 863 took effect.

Medical-Legal Reporting by the California Region

The different regions of California are often thought to have different patterns of medical-legal reporting. The revisions to the WCIRB Permanent Disability Survey, undertaken at the recommendation of CHSWC and instituted for AY1997, explored new issues. A zip code field was added to analyze patterns in different regions.

Figure 29 demonstrates the frequency with which medical-legal evaluations were used between 2003 and 2012 in different regions. Between 2003 and 2004, the average number of medical-legal evaluations per claim increased for each region, with a 10 percent increase in the Northern region, a 19 percent increase in the Central region, and a 7 percent increase in the Southern region. From 2004 to 2005, the average number of medical-legal evaluations per claim decreased in all three regions, with the lowest number of medical-legal evaluations per claim (0.67) in nine years for Southern California, from which the prevaliling majority of PPD claims and medical-legal evaluations originate. From 2005 to 2008, the average number of evaluations per claim increased by 4.5 percent in the Northern region and by 27 percent in the Southern region. From 2008 to 2011, during the ongoing economic crisis, the Southern region experienced a 15 percent decline and the Central region showed a 16 percent decline in average number of evaluations per claim. In the same period, there was a 5 percent increase in the frequency of medical-legal evaluations in the Northern region. As a result of the impact of SB 863, the average number of evaluations per claim in all three California regions decreased from AY 2011 to AY 2012: a 22 percent decrease in the Northern region, an 8 percent decrease in the Central region, and a 7 percent decrease in the Southern region, where it fell to its lowest level of 0.67 evaluations per claim.

Figure 29: Average Number of Medical-Legal Evaluations per Claim by Region
(at 34 months after the beginning of the accident year)



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Northern California	0.96	1.06	0.88	0.87	0.90	0.92	0.92	1.05	0.97	0.76
Central California	0.95	1.13	0.99	0.90	0.92	0.94	0.99	0.98	0.79	0.73
Southern California	0.91	0.97	0.67	0.75	0.75	0.85	0.82	0.80	0.72	0.67

Data Source: WCIRB

Prior to 2003, the Southern California region had higher numbers for both the average cost per evaluations and the average number of evaluations per claim than the Northern California region. However, starting in 2003, the number of medical-legal evaluations per claim in the Northern California region exceeded that in the Southern California region. The number of medical-legal evaluations per claim in the Central California region was the highest among all three regions in seven out of the ten years.

Different regions of California have different patterns of medical-legal reporting. Also, regions with a higher share of workers' compensation claims in the system have a bigger impact on the average number of medical-legal evaluations per claim and average cost of medical-legal evaluations in the State. As the Table 9 indicates, the Southern California region has the highest number of workers' compensation claims in the system, followed by the Northern California region.

Table 9: Distribution of Workers' Compensation Permanent Disability Claims by Region

	2005 1st level	2006 1st level	2007 1st level	2008 1st level	2009 1st level	2010 1st level	2011 1st level	2012 1st level
Southern	63.1%	61.8%	63.5%	61.6%	66.2%	64.4%	65.6%	67.4%
Central	13.5%	13.6%	12.5%	14.0%	10.7%	12.0%	11.0%	11.5%
Northern	23.4%	24.6%	24.0%	24.4%	23.1%	23.4%	23.4%	21.1%

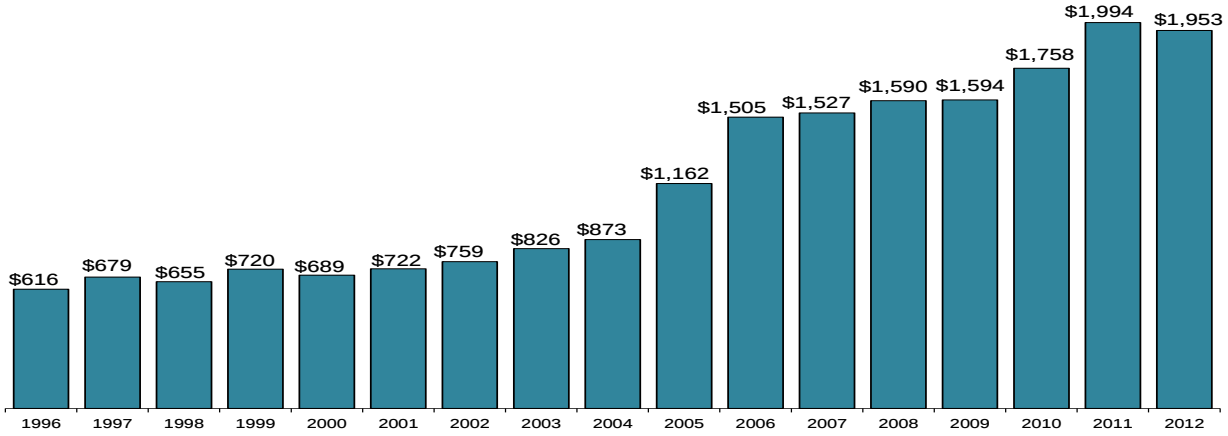
* Based on WCIRB's PD Survey 2012 random sample.

Source: WCIRB

Average Cost per Medical-Legal Evaluation

The average cost of a medical-legal evaluation fluctuated between $600 and $720 from the mid-1990s to 2001. After a significant decrease in medical-legal expenses starting in 1989, when legislative reforms restricted the number and lowered the cost of medical-legal evaluations, a significant increase in average medical-legal costs began to recur in AY 2000. In 2011 and 2012, the average cost of medical-legal evaluations approached a $2,000 mark, or almost three times the level in AY 2000, the highest amount since 1989.

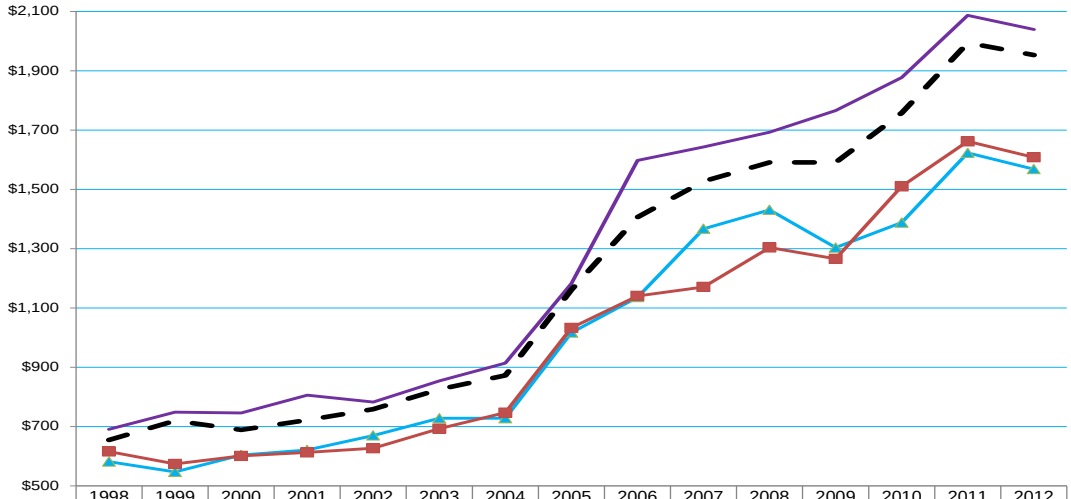
Figure 30: Average Cost of a Medical-Legal Evaluation
(at 40 months from the beginning of the accident year)



Data Source: WCIRB

Since the mid-1990s, the average cost of a medical-legal evaluation has increased, even though the reimbursement under the medical-legal fee schedule did not change from 1993 until 2006.[24] The revised PD Survey by WCIRB includes additional questions that reveal some of the potential causes of this increase in costs. The changes indicate various types of fee schedule classifications as well as geographical factors.[25] The survey data show that, on average, medical-legal evaluations done in the Southern California region have always been substantially more expensive.

Figure 31: Average Cost of a Medical-Legal Evaluation by Region
(at 34 months from the beginning of the accident year)



	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Southern California	$691	$749	$746	$806	$783	$854	$914	$1,182	$1,598	$1,643	$1,693	$1,766	$1,877	$2,087	$2,039
Central California	$582	$547	$604	$621	$670	$728	$728	$1,017	$1,136	$1,367	$1,431	$1,304	$1,388	$1,623	$1,568
Northern California	$616	$574	$601	$613	$627	$693	$747	$1,033	$1,141	$1,171	$1,304	$1,266	$1,510	$1,662	$1,608
CALIFORNIA	$655	$720	$689	$722	$759	$826	$873	$1,162	$1,406	$1,527	$1,591	$1,591	$1,758	$1,994	$1,953

Data Source: WCIRB

Increases in both the average number of medical-legal evaluations per claim and the average cost of an evaluation are being driven by medical-legal evaluations in the Southern California region, as can be seen in Table 10.

Table 10: Regional Contributions to the Increase of the Average Medical-Legal Costs: 2000-2012

Region	Distribution of Medical-Legal Evaluations by Region in 2000	Distribution of Medical-Legal Evaluations by Region in 2012	Change in Average Cost 2000-2012	Contribution of Each Region to the Average Cost
Southern California	58.6%	64.6%	$1,438	75%
Central California	16.5%	12.2%	$964	9%
Northern California	24.9%	23.2%	$862	16%

Source: WCIRB

Cost Drivers

The primary cost driver for California and its Southern region is not the price paid for specific types of evaluations.[26] Rather, the mix of codes under which the evaluations are billed has changed to include a

[24] The new Medical-Legal Fee Schedule became effective for dates of service on or after July 1, 2006.
[25] Issues for injury years before 1997 cannot be examined because the WCIRB survey revision of that year prevents comparisons.
[26] An additional category, "Other than ML-101, ML-102, ML-103, or ML-104" was included by WCIRB in the type of evaluations for PD Survey 2007. It was extended to "Other than ML-101, ML-102, ML-103, ML-104, or ML-105" for 2008 and afterward.

higher percentage of the most complex and expensive evaluations and fewer of the least expensive type.[27] Tables 11 and 12 show the costs and description from the Medical-Legal Fee Schedule.

Table 11: Medical-Legal Evaluation Cost for Dates of Service Before July 1, 2006[28]

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up	$250
ML-102 Basic	$500
ML-103 Complex	$750
ML-104 Extraordinary	$200/hour

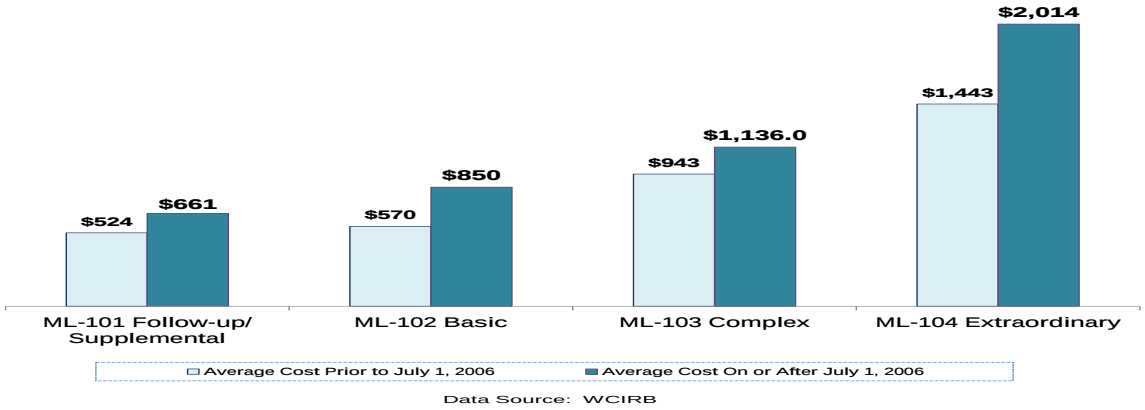
Table 12: Medical-Legal Evaluation Cost for Dates of Service on or After July 1, 2006[29]

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up	$62.50/15 minutes or $250/hr
ML-102 Basic (flat rate)	$625
ML-103 Complex (flat rate)	$937.50
ML-104 Extraordinary	$62.50/15 minutes or $250/hr
ML-105 Testimony	$62.50/15 minutes or $250/hr
ML-106 Supplemental	$62.50/15 minutes or $250/hr

Also in 2006, when the Administrative Director adopted a new Medical-Legal expense Fee Schedule, Section 9795(b) of Title 8 CCR was amended to increase the multiplier from $10.00 to $12.50, resulting in a 25 percent increase for Medical-Legal expenses beginning July 1, 2006.

Figure 32 shows that the average cost of Extraordinary medical-legal evaluations increased by 40 percent after July 1, 2006, when the new Medical-Legal Fee Schedule became effective.

Figure 32: Average Cost of Medical-Legal Evaluation by Type Before and After the Effective Date of the New Medical-Legal Fee Schedule (calculations are based on PD Survey 2005, second level)

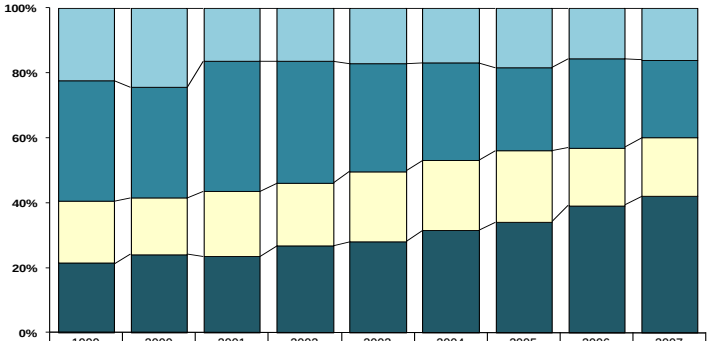


[27] WCIRB also noted that much of the increase in the average cost of a medical-legal evaluation is attributable to increases in a proportion of more complex medical-legal evaluations. Claims Subcommittee meeting minutes for July 28, 2008.
[28] Agreed Medical Evaluators receive 25 percent more than the rates shown in both tables.
[29] Two categories ML-105 and ML-106, created by CCR Title 8, Sections 9793 & 9795, June 2006, were applicable to 2008 and later claims. The functions of medical testimony and supplemental evaluations were moved into these two new categories from their previous status.

Figures 33, 34, and 35 indicate that from 1999 to 2007, the distribution of evaluations in both the Southern California and the Northern and Central regions shifted the statewide distribution of medical-legal evaluations away from the ML-101 and ML-102 types and included a higher percentage of ML-104 evaluations with "Extraordinary" complexity.[30]

From 1999 to 2007, evaluations with "Extraordinary" complexity doubled, from 23.4 percent to 45.7 percent, in the Southern California region, more than doubled, from 18.3 percent to 37.2 percent, in Northern and Central regions, and, as a result of that shift, doubled from 21.4 percent to 42.1 percent statewide. For the same period, the share of medical-legal evaluations billed as ML-102 Basic (the least expensive code) was between 4.0 percentage points and 11.5 percentage points smaller in the Southern region than in Northern and Central California.

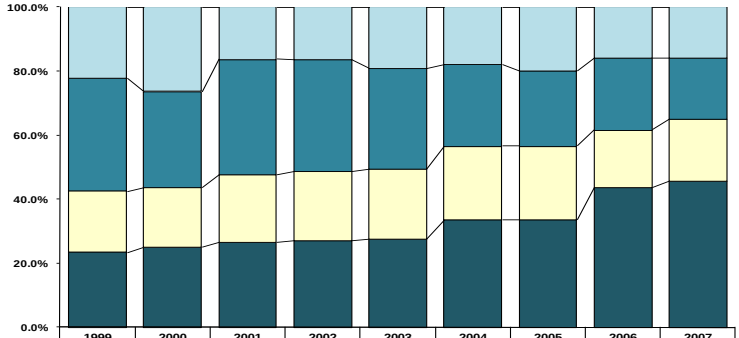
Figure 33: Distribution of Medical-Legal Evaluations by Type (California)



	1999	2000	2001	2002	2003	2004	2005	2006	2007
ML-101 Follow-up/Supplemental	22.4%	24.3%	16.5%	16.4%	17.2%	17.0%	18.5%	15.6%	16.1%
ML - 102 Basic	37.0%	34.2%	40.0%	37.4%	33.2%	30.0%	25.5%	27.5%	23.8%
ML - 103 Complex	19.2%	17.4%	20.0%	19.1%	21.7%	21.5%	22.0%	17.8%	18.0%
ML - 104 Extraordinary	21.4%	24.1%	23.5%	26.7%	27.9%	31.5%	34.0%	39.1%	42.1%

Data Source: WCIRB

Figure 34: Distribution of Medical-Legal Evaluations by Type (Southern California)

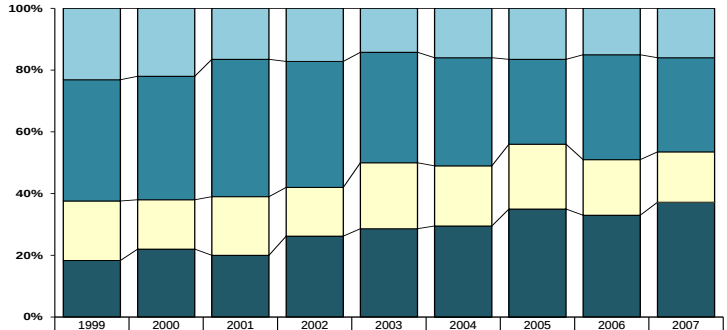


	1999	2000	2001	2002	2003	2004	2005	2006	2007
ML - 101 Follow-up/ Supplemental	22.2%	26.4%	16.4%	16.5%	19.3%	18.0%	20.0%	16.0%	16.1%
ML - 102 Basic	35.3%	30.1%	36.1%	35.0%	31.3%	25.5%	23.5%	22.5%	19.1%
ML - 103 Complex	19.1%	18.5%	21.0%	21.5%	22.0%	23.0%	23.0%	18.0%	19.3%
ML - 104 Extraordinary	23.4%	25.0%	26.5%	27.0%	27.4%	33.5%	33.5%	43.5%	45.7%

Data Source: WCIRB

[30] These three figures on the percent distribution of medical-legal evaluations by type go up to 2007 for the reason of two new categories ML-105 and ML-106 being added in 2008. The category "Other than ML-101, ML-102, ML-103, or ML-104" was introduced for AY 2007 and is also excluded from the three figures for comparability purposes. This latter category comprised 2 percent of medical-legal evaluations in 2007.

Figure 35: Distribution of Medical-Legal Evaluations by Type (Northern and Central California)

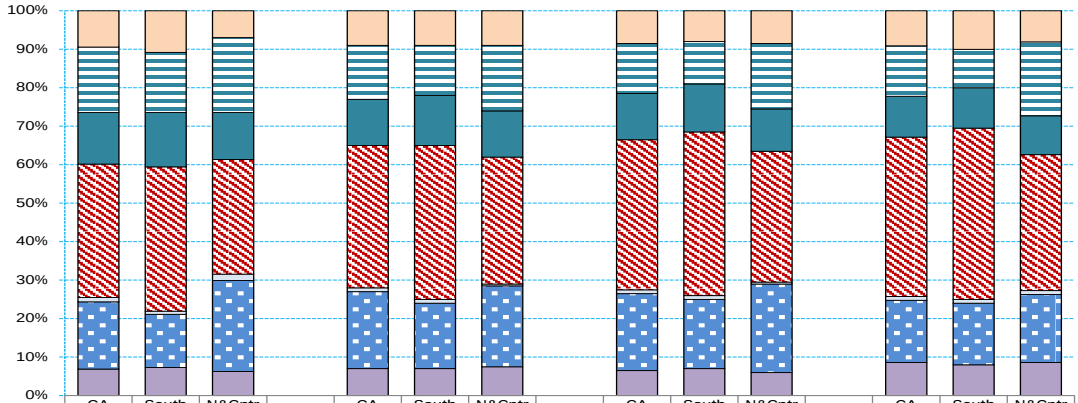


	1999	2000	2001	2002	2003	2004	2005	2006	2007
ML - 101 Follow-up/ Supplemental	23.1%	22.0%	16.5%	17.2%	14.2%	16.0%	16.5%	15.0%	16.0%
ML - 102 Basic	39.3%	40.0%	44.5%	40.8%	35.8%	35.0%	27.5%	34.0%	30.5%
ML - 103 Complex	19.3%	16.0%	19.0%	15.8%	21.4%	19.5%	21.0%	18.0%	16.3%
ML - 104 Extraordinary	18.3%	22.0%	20.0%	26.2%	28.6%	29.5%	35.0%	33.0%	37.2%

Data Source: WCIRB

The distribution of medical-legal evaluations by categories of "fee schedule type" applicable to 2008 and later claims in Figure 36 show that, on average, one-third of medical-legal evaluations are classified as Extraordinary (ML-104), in both the Southern region and the combined Northern and Central regions of California. In 2012, 60.5 percent of medical-legal evaluations in Northern/Central California and 70.5 percent in Southern California regions were billed under the time-based codes, such as ML-101, ML-104, or ML-106, which are priced at $62.50 for every 15 minutes for QMEs or $78.13 for every 15 minutes for AMEs. Some medical-legal evaluation activities are not billable separately under all medical-legal fee codes. For example, reviewing medical-legal consultation reports could not be billed separately under flat-rated codes as ML-102 or ML-103, as opposed to the way it could be done under time-based codes. This makes billing a medical-legal evaluation under a time-based code more profitable in the majority of evaluations.

Figure 36: Distribution of Medical-Legal Evaluations by Type, 2009–2012



	2009			2010			2011			2012		
	CA	South	N&Cntr	CA	South	N&Cntr	CA	South	N&Cntr	CA	South	N&Cntr
ML - 101 Follow-up	9%	11%	7%	9%	9%	9%	8.5%	8%	8.5%	9.0%	10%	8.0%
ML - 102 Basic	17%	16%	19%	14%	13%	17%	13%	11%	17%	13%	10%	19%
ML - 103 Complex	13%	14%	12%	12%	13%	12%	12%	12.5%	11%	11%	10.5%	10%
ML - 104 Extraordinary	35%	37%	30%	37%	40%	33%	39%	42.5%	34%	41%	44.5%	35%
ML - 105 Testimony	1%	1%	2%	1%	1%	0.5%	1%	1%	0.5%	1%	1%	1.0%
ML - 106 Supplemental	17%	14%	24%	20%	17%	21%	20%	18%	23%	16%	16%	18%
Other	7%	7%	6%	7%	7%	7.5%	6.5%	7%	6%	8.5%	8%	9%

"N&Cntr" - Northern and Central regions

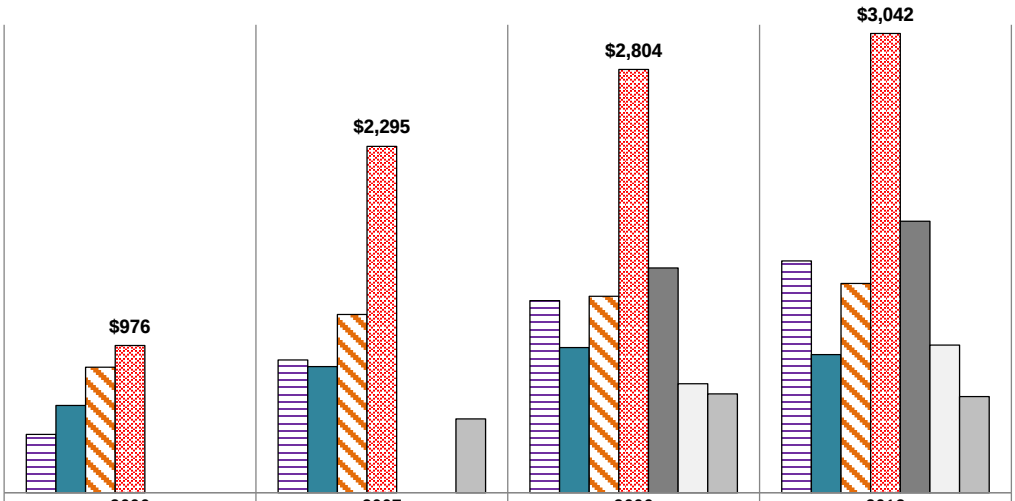
Data Source: WCIRB

Increases to the medical-legal fee schedules for dates of services on or after July 1, 2006, could also have contributed to the higher average cost per evaluation. Figure 37 shows that the average cost per evaluation in each type of evaluation was higher in AY 2007 than in AY 2000. The biggest increases were for the Complex and Extraordinary cases.

In addition, the medical-legal evaluations in AY 2007 had both a higher average cost of Extraordinary evaluations ($2,295 and $976 respectively; see Figure 37) and a higher share of Extraordinary evaluations (42.1 percent and 24.1 percent respectively; see Figure 33) than in AY 2000. In 2007, the pattern of the average cost of a medical-legal evaluation changed. From 2002 to 2006, the average cost of a Basic medical-legal evaluation was higher than the average cost of a Follow-Up/Supplemental evaluation. However in 2007, the average cost of a Basic medical-legal evaluation was lower than the average cost of a Follow-up/Supplemental evaluation. The share of medical-legal evaluations billed under Basic code decreased from 40.0 percent in AY 2001 to 23.8 percent in AY 2007 (see Figure 33).

According to Figure 37, the average costs of medical-legal evaluations billed under codes comparable to 2008 through 2012 evaluation codes showed overall a higher level than the average costs in AY 2007.

Figure 37: Overall Change in Average Cost of a Medical-Legal Evaluation by Type
(Accident years 2000–2012)



	2000	2007	2009	2012
ML-101 Follow-up	$386	$880	$1,273	$1,535
ML-102 Basic	$579	$836	$962	$916
ML-103 Complex	$832	$1,181	$1,302	$1,387
ML-104 Extraordinary	$976	$2,295	$2,804	$3,042
ML-105 Testimony	N/A	N/A	$1,490	$1,799
ML-106 Supplemental	N/A	N/A	$722	$978
Other	N/A	$489	$656	$637

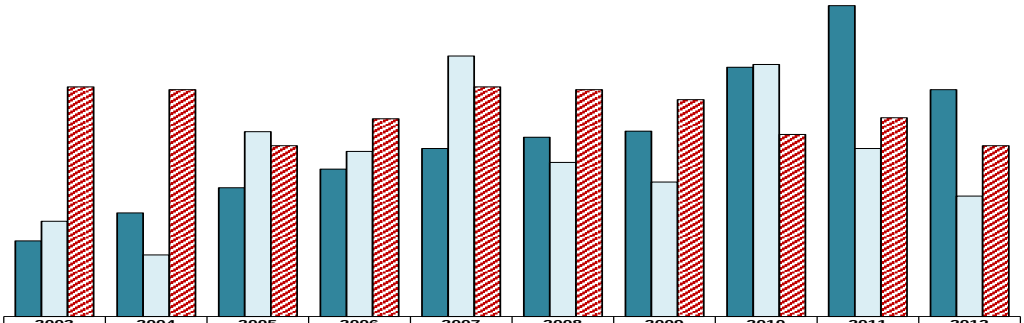
Note: Category "Other" became applicable from accident year 2007 and on. Categories "ML-105" and "ML-106" were introduced in AY2008.

Data Source: WCIRB

Another possible explanation for the differing trends in the average cost per evaluation and the increasing frequency of the most complex evaluations in California could be an increase in both the frequency and number of psychiatric evaluations per claim. On average, psychiatric evaluations are the most expensive evaluations by specialty of provider. Although the relative portion of all evaluations that is made up of psychiatric evaluations has declined since hitting a peak during 1990-1991, leading to a substantial improvement in the overall average cost per evaluation, there was an increase in psychiatric evaluations from 6.9 percent of total medical-legal evaluations in the 2002 PD Survey sample to 9.5 percent in the 2012 sample. The average number of psychiatric evaluations per claim in California increased by 29 percent from 0.062 in 2002 to 0.080 in 2011. AY 2012 was the first year when, as a result of SB 863, the average number of psychiatric evaluations per claim dropped to its AY 2002 level (0.063). Psychiatric evaluations are nearly always billed under the ML-104 code, which is the most expensive. The average cost of a psychiatric evaluation in California increased 2.5-fold from $1,528 in 2002 to $3,783 in 2012. The Southern region produces about 65 percent of the psychiatric evaluations in California and has the

biggest impact on both the frequency and cost of medical-legal evaluations statewide. The frequency of psychiatric evaluations in the Southern region increased from 8.4 percent in AY 2002 to 10.2 percent in AY 2011 and then decreased to 9.5 percent in AY 2012. The average number of psychiatric evaluations per claim increased by 3 percent, from 0.069 in AY 2002 to 0.071 in AY 2011, and then in AY 2012 decreased to its lowest level of 0.061 in AY 2005. At the same time, the average cost of a psychiatric evaluation steadily increased 2.5-fold from $1,533 in 2002 to $3,813 in 2012.

Figure 38: Average Number of Psychiatric Evaluations per PPD Claim by Region



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Northern California	0.027	0.037	0.046	0.053	0.060	0.064	0.066	0.089	0.111	0.081
Central California	0.034	0.022	0.066	0.059	0.093	0.055	0.048	0.090	0.060	0.043
Southern California	0.082	0.081	0.061	0.071	0.082	0.081	0.077	0.065	0.071	0.061

Data Source: WCIRB

According to WCIRB's estimates based on the PD Claim Survey, claims with psychiatric evaluations increased from 6.4 percent of medical-legal evaluations by physician specialty in 2005 to 14 percent in 2014, and the cost of psychiatric evaluations as a share of the cost of all medical-legal evaluations by physician specialty increased from 13.6 percent in 2005 to 27.7 percent in 2014.

The average cost of a psychiatric medical-legal evaluation was the highest in comparison to average costs of other medical-legal evaluations by physician type, averaging $4,249 in 2014, or almost twice the average cost of all medical-legal evaluations, and nearly double its 2005 level ($1,860).

The recent data on the QME process presented in CHSWC studies in collaboration with UC Berkeley indicate a significant increase in the share of QME panels assigned to psychiatrist/psychologist specialties. The demand for psychiatric specialties as a share of all specialties increased from 6.5 percent in 2005 to 12.7 percent in 2010.

Total Medical-Legal Cost Calculation

Total medical-legal costs are calculated by multiplying the number of PPD claims by the average number of medical-legal evaluations per claim and by the average cost per medical-legal evaluation:

Total Medical-Legal Cost = Number of PPD Claims x Average Evaluations/Claim x Average Cost/Evaluation

Medical-Legal Costs

During the 1990s, the cost of medical-legal evaluation improved dramatically. For the insured community, the total cost of medical-legal evaluations performed on PPD claims by 40 months after the beginning of the accident year declined from a peak of $223.7 million in 1992 to an estimated $60.7 million for injuries occurring in 2012, a 73 percent decrease from AY 1992.

Figure 39: Medical-Legal Costs on PPD Claims at Insured Employers (in Million $, 40 months after the beginning of the accident year)

Data Source: WCIRB

The total medical-legal expenses could be different for different organizations and even within the same organization, depending on how the data are collected, methods of estimation, and on inclusion or exclusion of insured, self-insured, and legally uninsured employers.

While WCIRB's PD Survey, on which CHSWC's total is based, covers medical-legal evaluations only for PD claims, its own Losses and Expenses Report includes medical-legal expenses for total and partial permanent disabilities, temporary disability, medical-only, and denied claims as well. The WCIRB's survey form Permanent Disability Claim Survey asks specifically for a permanent disability rating thereby getting a response from claim administrators that excludes other types of claims with medical-legal evaluations. For example, according to the Losses and Expenses Report, the amount of paid medical-legal evaluations was $168,711,000 for the total of 335,715[31] permanent disability, temporary, and medical-only claims in 2010. However, the estimated total medical-legal cost on PPD claims based on the PD Survey in the same year (2010) was $68,000,000 for the total of 39,896[32] PPD claims. While PPD claims constituted 12 percent of workers' compensation claims, they accounted for 40 percent of medical-legal expenses.

The WCIRB's Losses and Expenses Report contains the "paid medical-legal amount" or amounts paid in a certain calendar year determined by the date of service on claims with different years of injury and different policy years while claims covered in its PD Survey are collected for a certain accident year, all with the same year of injury and more uniform policy years in order to provide mature claims (30 to 36 months). Any data based on medical bills are paid amounts and in order to adjust and make it comparable to WCIRB's PD Survey data, for example, the PPD claims have to be separated from other types of claims and grouped by year of injury.

Another consideration when the dollar amounts of medical-legal reports are estimated as a share of medical bills, which constitutes the denominator, as is done by CWCI (ICIS database), is that not all medical costs could be captured by the data bases, especially medical costs not covered by the fee schedule. Moreover, the bill review data are based on the fee schedules.

Also, the methods of calculating the medical expenses that constitute the denominator could differ by the inclusion or exclusion of different categories of medical expenses, such as the medical cost containment program (MCCP) expenses, thereby increasing or decreasing the denominator.

The medical-legal cost is reported by WCIRB as a component of the total medical cost. Table 13 shows the share of medical-legal costs in paid medical costs from 2003 to 2014, as reported by WCIRB's Losses and Expenses Report. The WCIRB's California Workers' Compensation Aggregate Medical Payment

[31] WCIRB Summary of Policy Year Statistics—2013 Release, September 17, 2013, Exhibit 1.1.
[32] Ibid.

Trends—2014 Update[33] increased that share to 8.7 percent for CY 2013 and to 10.1 percent for CY 2014, where, in each year, two-thirds of total medical-legal payments under the Medical Legal Fee Schedule, were spent on the most highly reimbursed ML-104 procedure, thereby increasing costs on a per-transaction basis as well. The average cost of a medical-legal report per transaction increased by 9 percent from CY 2013 to CY 2014. This explains why the average cost of a medical-legal evaluation per PPD claim in AY 2012 did not show a decrease from AY 2011. Fifty-one (51) percent of medical-legal evaluations for PPD claims with injuries in AY 2012 had service dates in CY 2013 and 40 percent were in CY 2014.

Table 13: Percent of Medical-Legal Evaluation Costs in Total Medical Costs

Calendar Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Percent of Medical-Legal Evaluation Costs in Total Medical Costs	2.6	3.5	4.8	4.3	4.8	4.9	3.8	3.9	3.9	4.0	3.3	6.7

Source: WCIRB Losses and Expenses Report, Exhibit 1.4.

Sources of Improvement in Medical-Legal Costs

The changes in total medical-legal cost for insurers reflect changes in all three components of the cost structure. The number of medical-legal examinations per claim dropped sharply after procedural changes enacted in 1989 took effect January 1, 1991. The new procedures for disputes over permanent disability or medical treatment required represented parties to attempt agreement on an AME before selecting their own QMEs, and then it limited the number of QMEs. In the case of an unrepresented worker, an exam could be obtained only from a QME selected from a panel of three QMEs assigned by DWC. These changes cut into the business of "medical mills," which had referred patients back and forth for multiple evaluations when there was no actual dispute. Beginning in 1994, disputes over the compensability of a claim were also brought into the AME/QME model. Furthermore, the first threshold for compensability of psychiatric injuries took effect in 1990. Beginning in 2005, represented cases also became subject to a requirement to select a QME from a panel, rather than having each party pick its own QME. SB 863, took effect January 1, 2013, introduced a significant change to medical-legal evaluations in how medical treatment disputes are resolved. As of January 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, the Independent Medical Review (IMR) is used to decide disputes regarding medical treatment in workers' compensation cases. All these changes contributed to the reduction in number of examinations per claim. Declining claim frequency also contributed to reducing the total number of medical-legal evaluations. Costs have begun to trend upward again due to rising costs per examination. The complexity of impairment rating under the AMA Guides, new rules for apportionment, and the criteria for medical treatment decisions under the Medical Treatment Utilization Schedule are among the reasons cited for rising costs per exam.

The changes in claim frequency, evaluations per claim, and cost per evaluation are all summarized in Table 14.

Table 14: Sources of Change in Medical-Legal Costs

	1990	2012	Change 1990-2012
Number of PPD Claims	167,700	44,400	-73.5%
Average Number of Evaluations per PPD Claim	2.53	0.70	-72.3%
Average Cost of Evaluation	$986	$1,953	+98.0%

Source: WCIRB.

[33] Released on August 18, 2015, http://www.wcirb.com/sites/default/files/documents/150818_ca_wc_aggregate_medical_payment_trends-2014_update_0.pdf.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

INTRODUCTION

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the overall performance of the health and safety and workers' compensation systems to determine whether they meet the State's constitutional objective to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character."

In this section, CHSWC has attempted to provide performance measures to assist in evaluating the system impact on everyone participating in the workers' compensation system, particularly workers and employers.

Through studies and comments from the community, as well as administrative data, CHSWC has compiled the following information pertaining to the performance of California's systems for health and safety and workers' compensation. Explanations of the data are included with the figures and tables.

- Workers' Compensation Appeals Board (WCAB) Workload
  - Division of Workers' Compensation (DWC) Opening Documents
  - DWC Hearings
  - DWC Decisions
  - DWC Lien Filings and Decisions
- DWC Audit and Enforcement Program
- DWC Medical Unit (MU)
- DWC Disability Evaluation Unit
- DWC Medical Provider Networks and Health Care Organizations
- DWC Information and Assistance Unit
- DWC Uninsured Employers Benefits Trust Fund
- DWC Adjudication Simplification Efforts
  - DWC Information System (WCIS)
  - DWC Electronic Adjudication Management System (EAMS)
  - Carve-outs—Alternative Workers' Compensation Systems
- Division of Labor Standards Enforcement (DLSE)
- Anti-Fraud Efforts

WCAB WORKLOAD

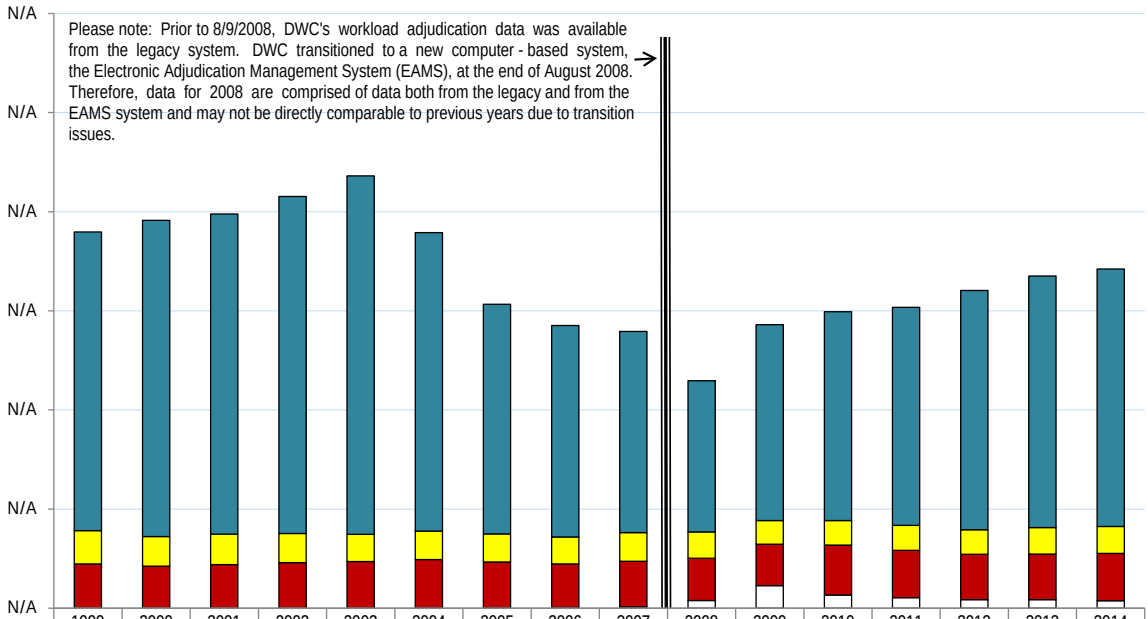
Division of Workers' Compensation Opening Documents

Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. Figure 40 shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation (DWC).

Prior to August 2008, DWC workload adjudication data were available from the legacy system. At the end of August 2008, DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS). Therefore, data for 2008 are comprised of data from both the legacy system and from EAMS and may not be directly comparable to previous years because of the transition.[34]

As Figure 40 shows, the total number of Opening Documents increased from 1999 to 2003 by 15 percent after a decline in the second half of the 1990s and then decreased by 36.4 percent from 2003 to 2007. The total number of Opening Documents after the transition in 2008 returned to the pre-EAMS level from 2009 to 2014.

Figure 40: DWC Opening Documents



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Applications	150,612	159,467	161,469	169,996	180,782	150,458	115,888	106,648	101,446	76,294	98,822	105,312	109,921	120,698	126,785	129,851
Original C&R	16,809	14,884	15,374	14,729	13,665	14,420	14,173	13,696	14,480	13,216	11,941	12,433	12,551	12,337	13,380	13,637
Original Stips	22,394	21,288	22,052	22,972	23,600	24,289	23,016	21,928	23,010	21,289	20,872	25,196	23,956	22,870	23,030	23,870
Other	N/A	N/A	N/A	N/A	N/A	249	280	375	654	3,933	11,407	6,630	5,300	4,389	4,339	3,760
Total	189,815	195,369	198,895	207,697	218,047	189,416	153,357	142,647	139,590	114,732	143,042	149,571	151,728	160,294	167,534	171,118

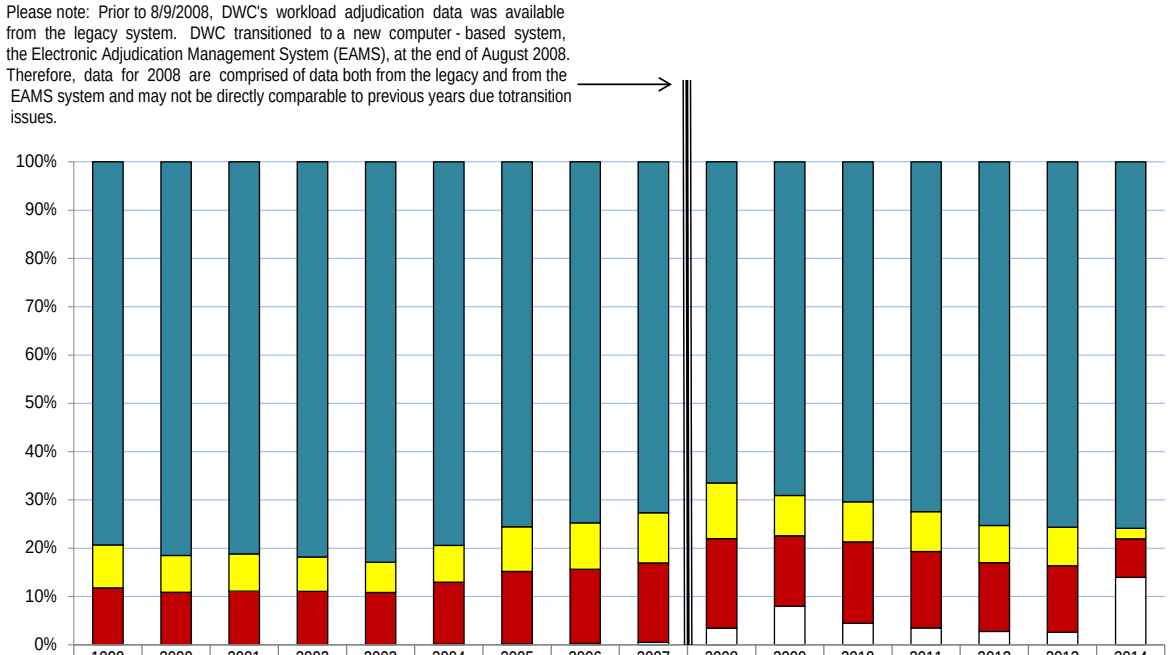
Data Source: DWC

Mix of DWC Opening Documents

The proportion or mix of the types of case-opening documents received by DWC varied during the second half of the 1990s. As Figure 41 shows, the proportion of Applications rose from 1999 to 2003 and then declined slightly from 2003 to 2007. The proportion of Original (case-opening) Stips averaged 11 percent from 1999 to 2003 and then increased from 2003 to 2007. The proportion of original C&Rs declined from 1999 to 2003 and then increased from 2003 to 2007. The distribution of Opening documents by type did not change from the pre-EAMS distribution pattern during the period from 2009 to 2014 after the transition to EAMS, except for adding type "other."

[34] Analysis of trends for WCAB workload data include 2009 and 2010 EAMS calendar year data only for aggregate numbers, but the same analysis for categories within major types of WCAB workload use only legacy data available through 2007. Analysis of trends using both EAMS and legacy data within major types of WCAB workload through 2010 was not possible due to several reasons, including the introduction of new categories in EAMS and the redefinition of previously existing categories.

Figure 41: Percentage by Type of Opening Documents



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Applications	79%	82%	81%	82%	83%	79%	76%	75%	73%	66%	69%	70%	72%	75%	76%	76%
Original C&R	9%	8%	8%	7%	6%	8%	9%	10%	10%	12%	8%	8%	8%	8%	8%	2%
Original Stips	12%	11%	11%	11%	11%	13%	15%	15%	16%	19%	15%	17%	16%	14%	14%	8%
Other	N/A	N/A	N/A	N/A	N/A	0.13%	0.18%	0.26%	0.47%	3%	8%	4%	3%	3%	3%	14%

Data Source: DWC

Division of Workers' Compensation Hearings

Numbers of Hearings

Labor Code Section 5502 hearings are the first hearings only. The hearings covered are expedited hearings, status conferences, priority conferences, mandatory settlement conferences, and trials that follow a mandatory settlement conference (MSC). The timelines are measured from the filing of a Declaration of Readiness to Proceed (DOR) to the hearing. The time frames for each of these hearings are prescribed as follows:

A. Expedited Hearing and Decision. Labor Code Section 5502(b) directs the Court Administrator to establish a priority calendar for issues requiring an expedited hearing and decision. These cases must be heard and decided within 30 days following the filing of a DOR.

B. Priority Conferences. Labor Code Section 5502(c) directs the Court Administrator to establish a priority conference calendar for cases when the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment (AOE) or in the course of employment (COE). The conference shall be conducted within 30 days after the filing of a DOR to proceed.

C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular

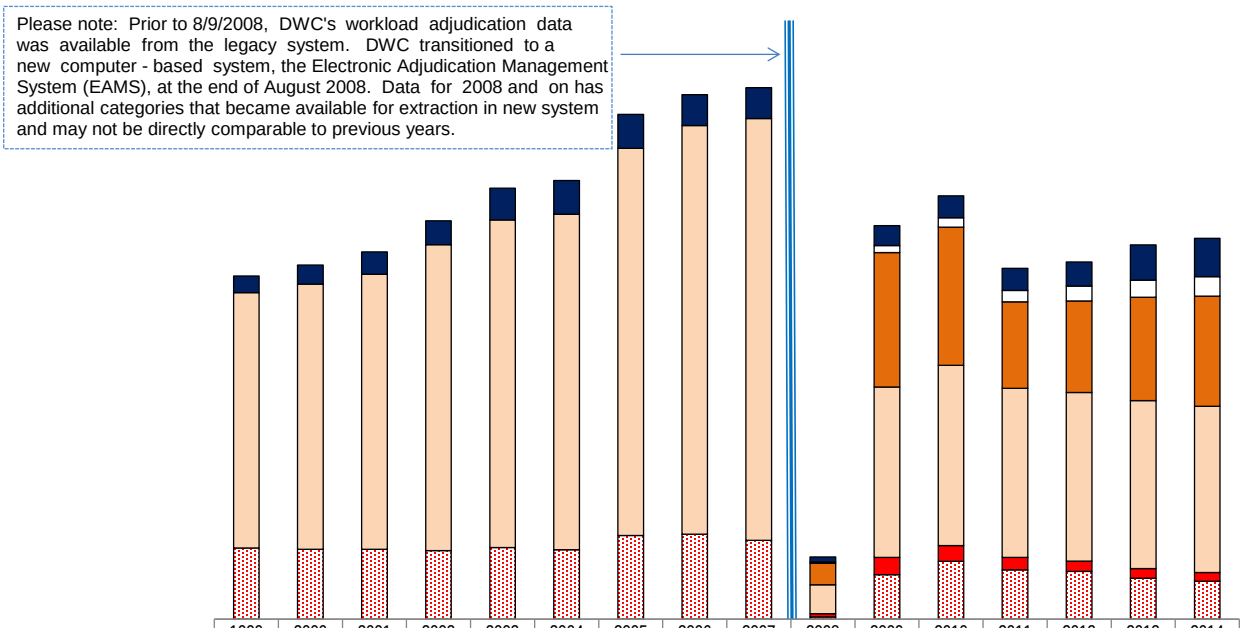
intervals.

D. MSC and Ratings MSC. Labor Code Section 5502(e) establishes time frames to schedule MSCs and trials in cases involving injuries and illnesses occurring on and after January 1, 1990. MSCs are to be conducted not less than 10 days and not more than 30 days after filing a DOR.

E. Trials. Labor Code Section 5502(e) mandates that if the dispute is not resolved at the MSC, a trial is to be held within 75 days after filing the DOR.

Figure 42 indicates the numbers of different types of hearings held in DWC from 1999 through 2014. The total number of hearings held increased by 55 percent from 1999 to 2007. After the transition year of 2008, the total number of hearings held averaged 164,360 hearings per year. From 2010 to 2014, the number of trials decreased by 34 percent, the number of status conferences decreased by 20 percent, mandatory settlement conferences (MSCs) decreased by 8 percent, and rating MSCs by 44 percent. During the same period, the number of expedited hearings increased by 74 percent and the number of priority conferences increased by 107 percent.

Figure 42: DWC Labor Code 5502 Hearings Held



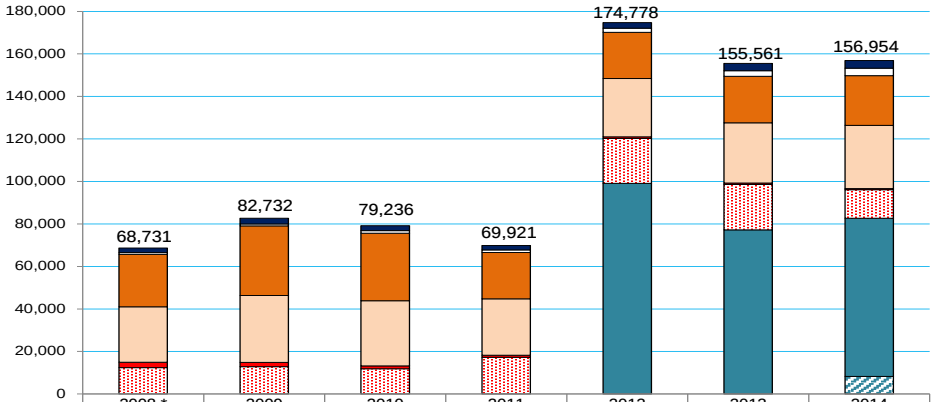
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Expedited Hearings	7,247	8,195	9,693	10,321	13,722	14,640	14,662	13,353	13,307	2,195	8,598	9,527	9,502	10,445	15,217	16,606
Priority Conferences	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	568	3,002	4,082	4,968	6,389	7,372	8,451
Status Conferences	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9,235	58,130	59,770	37,425	39,598	44,710	47,627
Mand. Settl. Conf.(MSC)	110,412	114,705	118,921	132,389	141,703	145,022	167,417	176,731	182,454	12,530	73,716	77,939	73,103	72,911	72,628	71,864
Rating MSCs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,405	7,493	6,778	5,349	4,415	4,214	3,819
Trials	30,811	30,245	30,285	29,635	30,967	30,100	36,235	36,788	34,110	1,003	19,250	25,036	21,381	20,726	17,737	16,407
Total	148,470	153,145	158,899	172,345	186,392	189,762	218,314	226,872	229,871	26,936	170,189	183,132	151,728	154,484	161,878	164,774

Data Source: DWC

The non-Section 5502 hearings are continuances or additional hearings after the first hearing. Figure 43 shows non-Section 5502 hearings held from 2008, when DWC transitioned to EAMS, to 2014.

From 2010 to 2014, the number of status conferences decreased by 26 percent, mandatory settlement conferences (MSCs) by 3 percent, and rating MSCs by 61 percent. During the same period, the number of trials increased overall by 12 percent, the number of expedited hearings by 56 percent, and the number of priority conferences increased almost threefold.

Figure 43: DWC Non-5502 Hearings Held

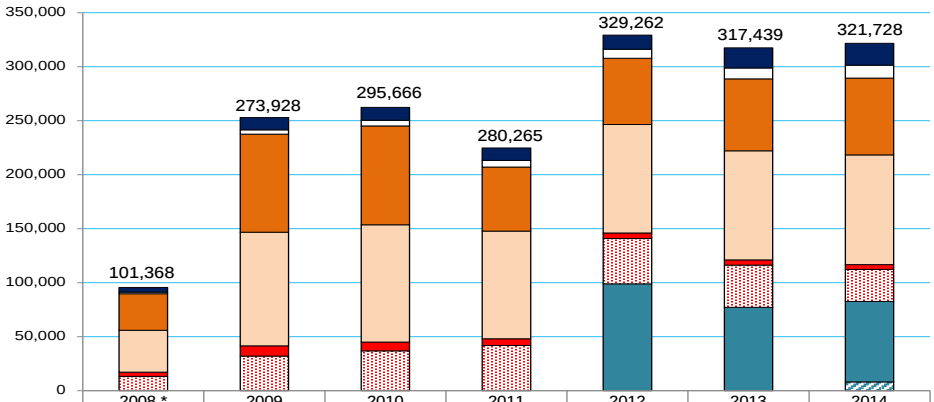


	2008 *	2009	2010	2011	2012	2013	2014
Expedited Hearings	2,199	2,670	2,331	2,079	2,648	3,431	3,638
Priority Conferences	817	952	1,198	1,195	1,965	2,641	3,544
Status Conferences	24,631	32,732	31,801	21,833	21,724	21,901	23,385
Mandatory Settlement Conferences(MSC)	26,106	31,472	30,620	26,527	27,399	28,292	29,725
Rating MSCs	2,570	2,016	1,379	994	749	698	536
Trials	12,408	12,890	11,907	17,293	21,188	21,314	13,387
Lien Conferences	N/A	N/A	N/A	N/A	99,105	77,284	74,457
Lien Trials	N/A	N/A	N/A	N/A	N/A	N/A	8,282
TOTAL	68,731	82,732	79,236	69,921	174,778	155,561	156,954

Data Source: DWC

Figure 44 shows the total hearings held from 2008 to 2014 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and lien conferences.

Figure 44: DWC Total Number of Hearings Held (LC 5502 and non-5502)



	2008 *	2009	2010	2011	2012	2013	2014
Expedited Hearings	4,394	11,268	11,858	11,581	13,093	18,648	20,244
Priority Conferences	1,385	3,954	5,280	6,163	8,354	10,013	11,995
Status Conferences	33,866	90,862	91,571	59,258	61,322	66,611	71,012
Mandatory Settlement Conferences(MSC)	38,636	105,188	108,559	99,630	100,310	100,920	101,589
Rating MSCs	3,975	9,509	8,157	6,343	5,164	4,912	4,355
Trials	13,411	32,140	36,943	41,914	41,914	39,051	29,794
Lien Conferences	N/A	N/A	N/A	N/A	99,105	77,284	74,457
Lien Trials	N/A	N/A	N/A	N/A	N/A	N/A	8,282
TOTAL	101,368	273,928	295,666	280,265	329,262	317,439	321,728

Data Source: DWC

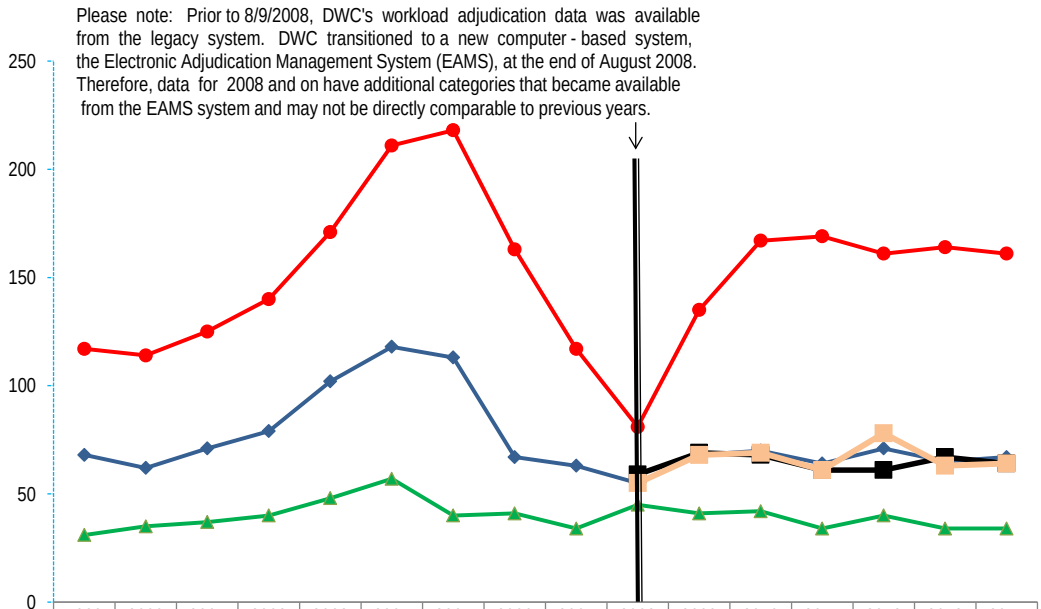
Timeliness of Hearings

California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- An expedited hearing must be held within 30 days of the receipt of a DOR.
- The conference shall be conducted within 30 days after the filing of a DOR.
- MSCs, rating MSCs, and priority conferences are required to be held within 30 days of the receipt of a request in the form of a DOR.
- A trial must be held within 75 days of the request if a settlement conference has not resolved the dispute.

Figure 45 shows the average elapsed time from a request to a DWC hearing in the fourth quarter of each year, from 1999 to 2014. From 2000 to 2004, all the average elapsed times increased from the previous year's quarter, and none were within the statutory requirements. However, between 2005 and 2007, the average elapsed time from the request to a trial decreased by 46 percent, the average elapsed time for conferences by 44 percent, and the average time for expedited hearings by 15 percent. After the transition in 2008, the average elapsed times from a request to a DWC hearing returned to the pre-EAMS level for MSCs and expedited hearings from 2009 to 2014. The average elapsed time from a request to a DWC trial was at the 2006 level from 2010 to 2014.

Figure 45: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
MSCs *	68	62	71	79	102	118	113	67	63	55	68	70	64	71	65	67
Rating MSC **										59	69	68	61	61	67	64
Expedited Hearing	31	35	37	40	48	57	40	41	34	45	41	42	34	40	34	34
Priority Conf **										55	68	69	61	78	63	64
Trials	117	114	125	140	171	211	218	163	117	81	135	167	169	161	164	161

* Mandatory Settlement Conferences.

** Data for the period from 1999 to 2007 are unavailable.

Data Source: DWC

From 2008 through 2011, the longer waiting times for regular trials (top red line) coincided with the reduction in available court hours due to hiring freezes and furloughs. Governor Arnold Schwarzenegger's July 31, 2008, Executive Order froze hiring and barred the use of retired annuitants. Beginning February 1, 2009, judges and staff were placed on furlough two days a month.[35] Effective July 1, 2009, the furloughs were increased to three days per month.[36] With just over 20 working days a month, the furloughs represented cuts of, first, 10 percent and, then, 15 percent of available hours for hearing and resolving cases. The fact that the time to expedited hearing (bottom green line) grew shorter from 2008 through 2011 shows that the courts gave priority to scheduling the urgent issues that are statutorily designated for expedited hearing. After 2008, the waiting time for MSCs and related hearings (rating and priority) was mostly within mandatory timelines.

Division of Workers' Compensation Decisions

DWC Case-Closing Decisions

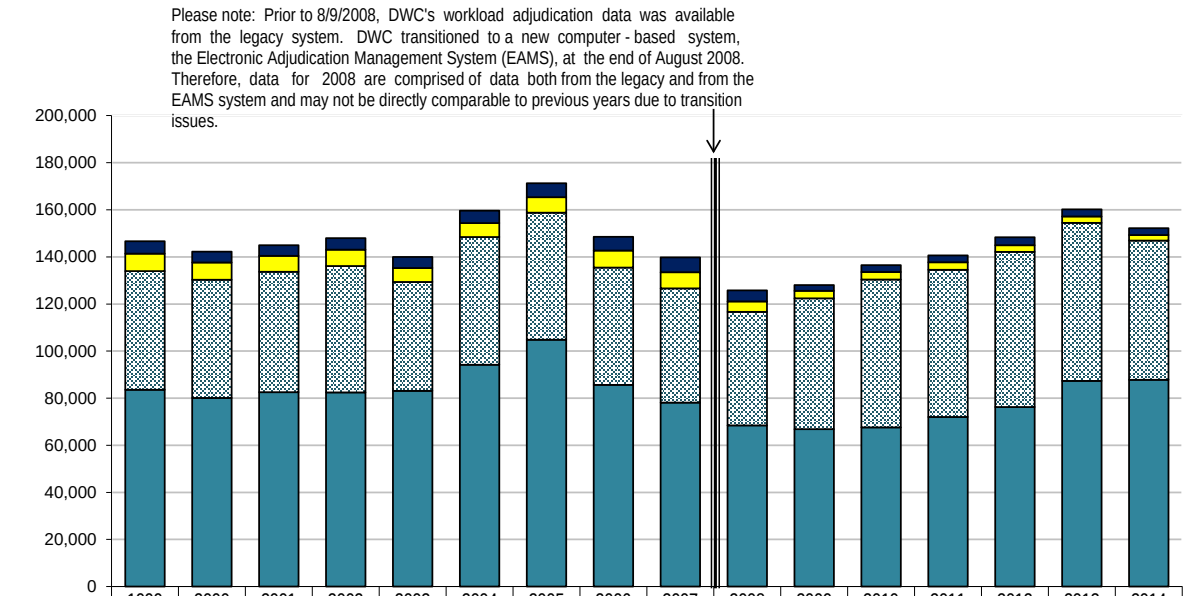
The number of decisions made by DWC that are considered case-closing declined during the second half of the 1990s. As Figure 46 shows, the case-closing decisions increased overall from 2000 to 2005**,** and then decreased by 18.4 percent from 2005 to 2007. The total number of case-closing decisions increased to the 2004 level from 2009 to 2013, after the transition period to EAMS in 2008, and then decreased by 5 percent from 2013 to 2014. This decrease in the number of case-closing decisions was due to decreases

[35] Executive Order S-16-08.

[36] Executive Order S-13-09.

in Findings & Award (F&A) from 2010 to 2014, in Findings & Order (F&O) from 2012 to 2014, and in Stipulations from 2013 to 2014.

Figure 46: DWC Case-Closing Decisions



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
F & O	5,205	4,606	4,470	4,866	4,677	5,221	5,873	5,883	6,331	4,666	2,499	2,907	2,912	3,338	3,042	2,899
F & A	7,487	7,313	6,786	6,996	5,910	5,989	6,634	7,265	6,865	4,475	3,124	3,210	3,195	2,879	2,701	2,314
Stipulation	50,371	50,223	51,113	53,640	46,248	54,216	53,889	49,748	48,469	48,140	55,569	62,755	62,492	65,876	67,154	59,127
C & R	83,512	80,039	82,506	82,433	83,060	94,153	104,829	85,641	78,120	68,444	66,830	67,601	72,017	76,200	87,265	87,804
TOTAL	146,575	142,181	144,875	147,935	139,895	159,579	171,225	148,537	139,785	125,726	128,022	136,473	140,616	148,293	160,162	152,144

Data Source: DWC

Mix of DWC Decisions

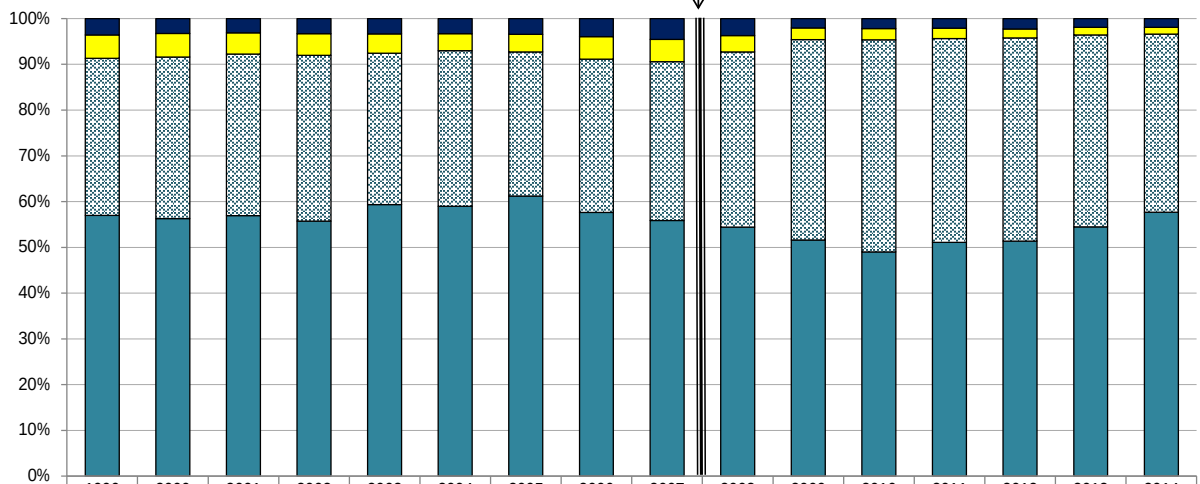
As shown in the previous figures and the figure below, again, the vast majority of the case-closing decisions rendered during the 2000s were in the form of a WCAB judge's approval of Stips and C&Rs, which were originally formulated by the case parties.

From 1999 to 2007, there was an overall increase in the proportion of Stips and overall decrease in the proportion of C&Rs. This reflects the large decrease in the issuance of C&Rs until the 1990s. This pattern continued until 2008 to 2010 and then reversed with a seven-percentage-point decrease in Stips and eight-point increase in C&Rs from 2010 to 2014.

In the figure that follows, only a small percentage of case-closing decisions evolved from an F&A or Finding & Order (F&O) issued by a WCAB judge after a hearing. That pattern continued with an overall decrease for both types of decisions from 2009 to 2014.

Figure 47: DWC Decisions: Percent Distribution by Type of Decisions

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer - based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
F & O	3.6%	3.2%	3.1%	3.3%	3.3%	3.3%	3.4%	4.0%	4.5%	3.7%	2.0%	2.2%	2.1%	2.3%	1.9%	1.9%
F & A	5.1%	5.1%	4.7%	4.7%	4.2%	3.8%	3.9%	4.9%	4.9%	3.6%	2.5%	2.4%	2.3%	1.9%	1.7%	1.5%
Stips	34.4%	35.3%	35.3%	36.3%	33.1%	34.0%	31.5%	33.5%	34.7%	38.3%	43.8%	46.4%	44.5%	44.4%	41.9%	38.9%
C & R	57.0%	56.3%	56.9%	55.7%	59.4%	59.0%	61.2%	57.7%	55.9%	54.4%	51.6%	49.0%	51.1%	51.4%	54.5%	57.7%

Data Source: DWC

Division of Workers' Compensation Lien Filings and Decisions

As Table 15 shows, from 2011 to 2012, the number of liens filed more than doubled in expectation of lien filing fees introduced by SB 863. The number of liens filed decreased by over 50 percent between 2011 and 2014 due to the introduction of SB 863 lien provisions. There has been an increase in lien filings between 2014 and 2015 and research is being conducted to determine the causes of the increase as well as if the rise is a temporary one.

From 2013 to 2015, the number of liens filed almost doubled. The number of decisions regarding liens filed on WCAB cases showed a significant increase of 59 percent from 2011 to 2013, thereby increasing concomitant expenditure of DWC staff resources on resolution of those liens. From 2013 to 2014, there was an 11 percent decrease in DWC lien decisions.

Table 15: Numbers of Liens Filed and DWC Lien Decisions, 2011-2015

	2011	2012	2013 (SB 863 Filing Fee Enacted)	2014	2015
Number of Liens Filed	469,190	1,236,704	206,858	229,730	398,940
Number of DWC Lien Decisions	41,395	64,300	65,800	58,321	NA

Source: DWC

See "Report on Liens" (CHSWC, 2011) for a complete description.
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf

DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM

Background

The 1989 California workers' compensation reform legislation established an audit function within the Division of Workers' Compensation (DWC) to monitor the performance of workers' compensation insurers, self-insured employers, and third-party administrators to ensure that industrially injured workers are receiving proper benefits in a timely manner.

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of workers' compensation benefits to industrially injured workers and to identify and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.

Assembly Bill 749 Changes to the Audit Program

Assembly Bill (AB) 749, effective January 1, 2003, resulted in major changes to California workers' compensation law and mandated significant changes in the methodologies for file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to ensure that each audit unit will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. Any audit subject that fails to meet a profile audit standard established by the Administrative Director (AD) of the DWC will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will be required to pay penalties only for unpaid or late paid compensation.

Labor Code Section 129.5(e) was amended to provide for civil penalties up to $100,000 if an employer, insurer, or third-party administrator has knowingly committed or (rather than "and") has performed with sufficient frequency to indicate a general business-practice act discharging or administering its obligations in specified improper manners. Failure to meet the FCA performance standards in two consecutive FCAs will be rebuttably presumed to be engaging in a general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed is obtained by written request for a hearing before the WCAB rather than by application for a writ of mandate in the Superior Court. Judicial review of the WCAB's F&O is as provided in Sections 5950 et seq.

Penalties collected under Section 129.5 and unclaimed assessments for unpaid compensation under Section 129 are credited to the Workers' Compensation Administration Revolving Fund (WCARF).

Overview of Audit Methodology

Selection of Audit Subjects

Audit subjects, including insurers, self-insured employers and third-party administrators, are selected randomly for routine audits.

The bases for selecting audit subjects for targeted audits are specified in California Code of Regulations (CCR) 8, Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA performance standards.
- A high number of penalties awarded pursuant to Labor Code Section 5814.
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

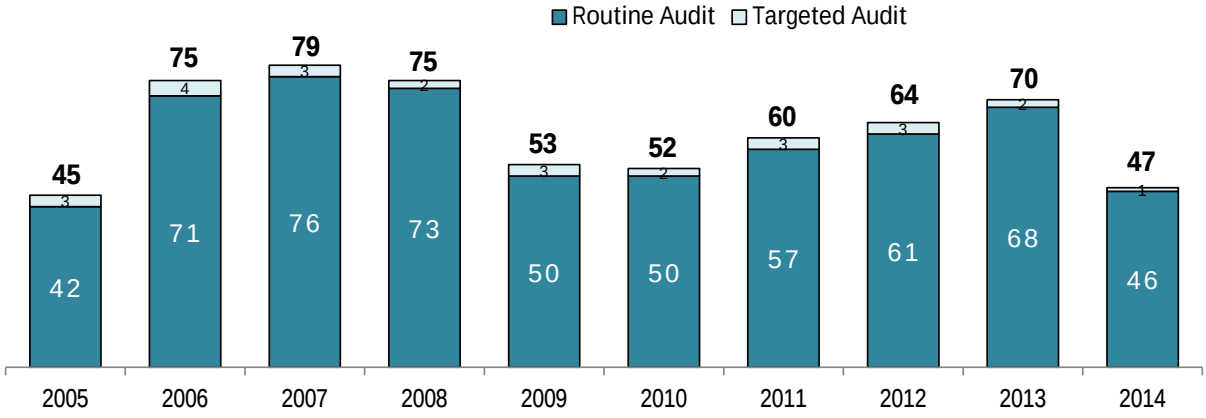
Audit and Enforcement Unit Data

Figures 48 to 54 depict workload data from 2004 through 2014 after the 2003 reform legislation changes to the Audit and Enforcement Program.

Routine and Targeted Audits

Figure 48 shows the number of routine audits and targeted audits and the total number of audits conducted each year.

Figure 48: Routine and Targeted Audits

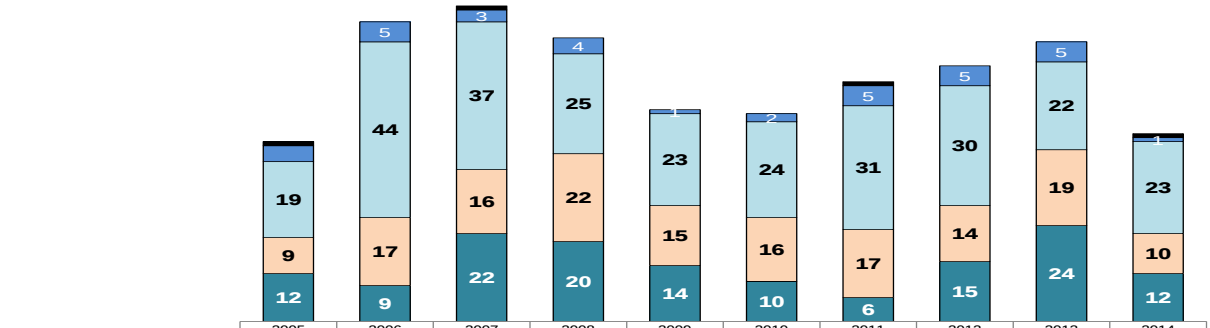


Data Source: DWC Audit and Enforcement Unit

Audits by Type of Audit Subject

Figure 49 depicts the total number of audit subjects each year, broken down by whether the subject is an insurance company (insurer), a self-insured employer, or a third-party administrator.

Figure 49: DWC Audits by Type of Audit Subject



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Self-Insured and TPA +	1	0	1	0	0	N/A	1	0	0	1
Insurer and TPA +	4	5	3	4	1	2	5	5	5	1
Third-Party Administrators +	19	44	37	25	23	24	31	30	22	23
Self-Insured Employers +	9	17	16	22	15	16	17	14	19	10
Insurance Companies +	12	9	22	20	14	10	6	15	24	12
= TOTAL	45	75	79	75	53	52	60	64	70	47

Data Source: DWC Audit and Enforcement Unit

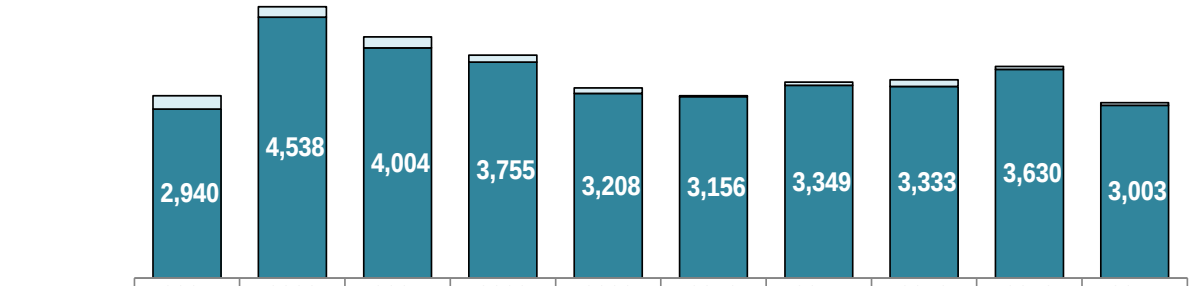
Selection of Files to Be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases selected based on the number of claims in each of those populations of the audit subject:

- Targeted files are selected because they have attributes that the audits focus on.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by DWC related to claims-handling practices. Types of claims include indemnity, medical-only, denied, complaint, and additional.

Figure 50 shows the total number of files audited each year broken down by the method used to select them.

Figure 50: Files Audited by Method of Selection



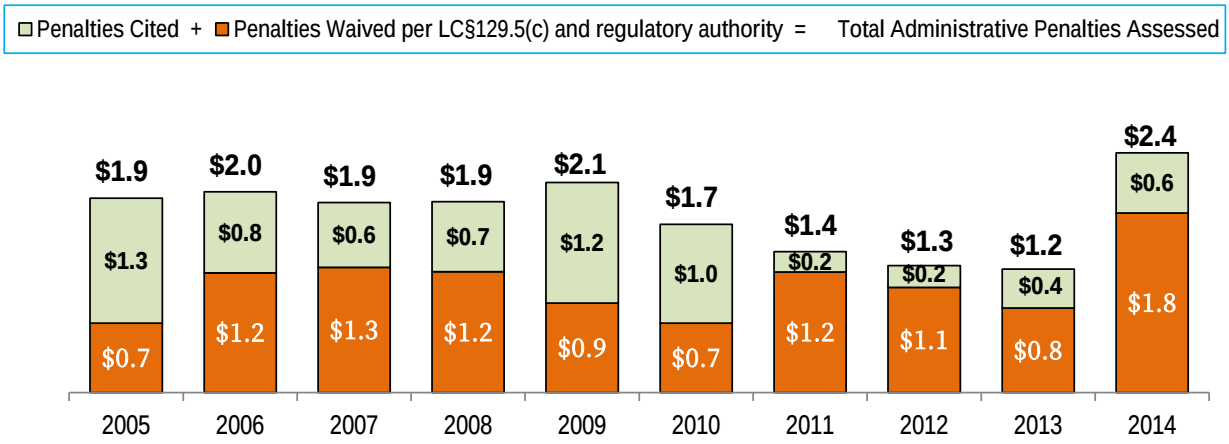
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Targeted	228	180	191	118	96	15	59	112	48	46
Random	2,940	4,538	4,004	3,755	3,208	3,156	3,349	3,333	3,630	3,003
TOTAL	3,168	4,718	4,195	3,873	3,304	3,171	3,408	3,445	3,678	3,049

Data Source: DWC Audit and Enforcement Unit

Administrative Penalties

Figure 51 shows the administrative penalties cited from 2005 to 2014.

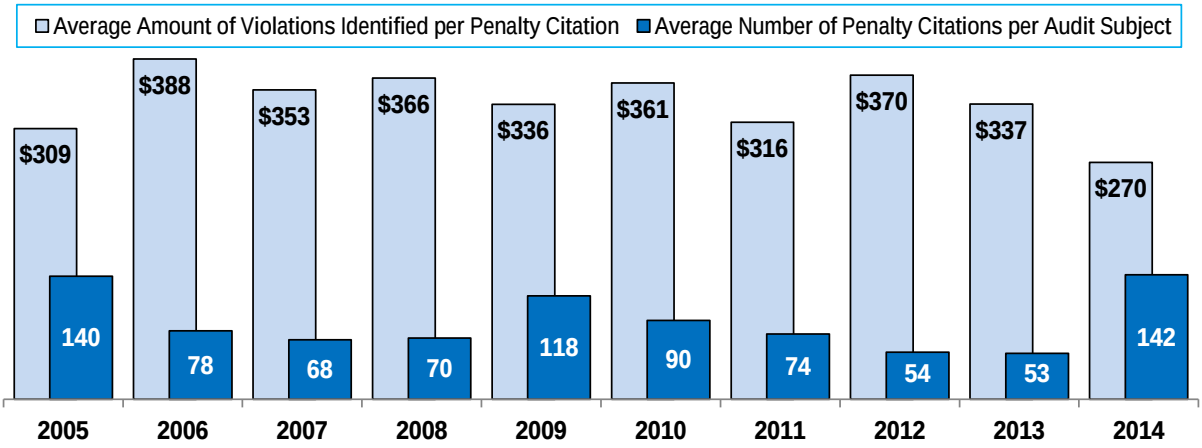
Figure 51: DWC Audit Unit—Administrative Penalties (Million $)



Data Source: DWC Audit and Enforcement Unit

Figure 52 shows the average number of penalty citations per audit subject each year and the average dollar amount per penalty citation.

Figure 52: Average Amount per Penalty Citation and Average Number of Penalty Citations per Audit Subject



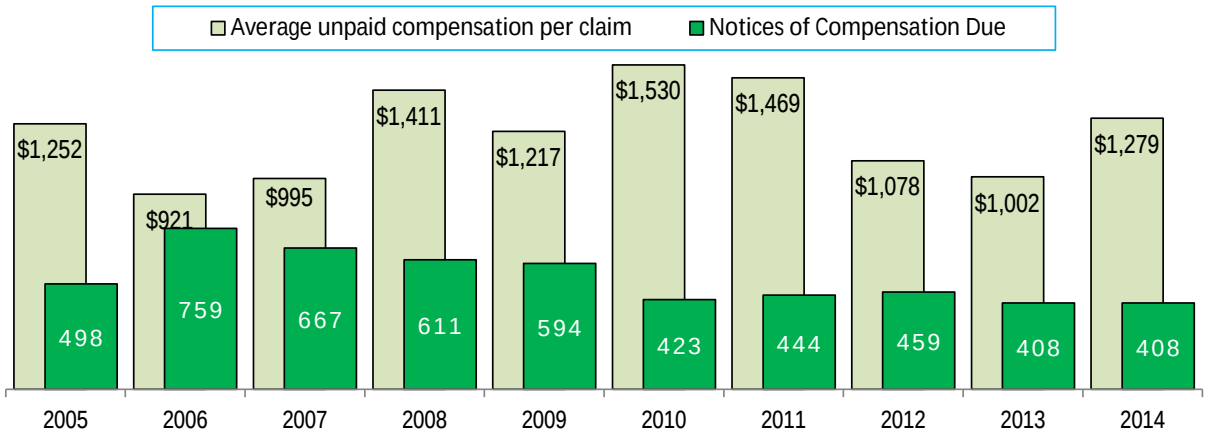
Data Source: Audit and Enforcement Unit

Unpaid Compensation Due to Claimants

Audits identify claim files in which injured workers were owed unpaid compensation. The administrator is required to pay these employees within 15 days after receipt of a notice advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located, the unpaid compensation is payable by the administrator to WCARF. In these instances, application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

Figure 53 depicts the average number of claims per audit where unpaid compensation was found and the average dollar amount of compensation due per claim.

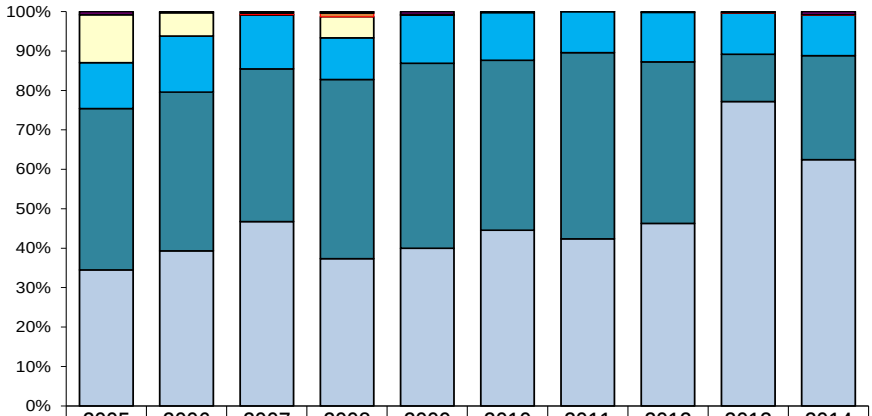
Figure 53: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation



Data Source: Audit and Enforcement Unit

Figure 54 shows yearly distribution of unpaid compensation by specific type.

Figure 54: Distribution of Unpaid Compensation by Type



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Interest and penalty and/or unreimbursed medical expenses	0.8%	0.3%	0.4%	0.4%	0.8%	0.2%	0.0%	0.2%	0.3%	1%
Death Benefits	0.0%	0.0%	0.4%	0.9%	0.0%	N/A	N/A	N/A	0.1%	0.04%
Voc. Rehab Maintenance Allowance	12.1%	5.9%	0.1%	5.3%	0.1%	N/A	N/A	N/A	N/A	N/A
Self-imposed increases for late indemnity payments	12%	14%	14%	11%	12%	12%	10%	13%	10%	10%
Permanent Disability	41%	40%	39%	45%	47%	43%	47%	41%	12%	26%
TD & salary continuation in lieu of TD	35%	39%	47%	37%	40%	45%	42%	46%	77%	62%

Data Source: DWC Audit and Enforcement Unit

For further information …

DWC Annual Audit Reports are available at http://www.dir.ca.gov/dwc/audit.html.

CHSWC "Report on the Division of Workers' Compensation Audit Function" (1998). http://www.dir.ca.gov/CHSWC/FinalAuditReport.html.

DIVISION OF WORKERS' COMPENSATION DISABILITY EVALUATION UNIT

The DWC Disability Evaluation Unit (DEU) determines permanent disability ratings by assessing physical and mental impairments presented in medical reports. Physical impairments for injuries after 2005 are described in accordance with the AMA *Guide,* 5th ed., and disability is determined in accordance with the 2005 Permanent Disability Rating Schedule (PDRS). A final permanent disability rating (PDR) is obtained only after the whole person impairment rating obtained from a treating physician is adjusted for diminished future earning capacity (FEC), occupation and age at the time of injury. For injuries prior to 2005 and after April 1, 1997, the 1997 PDRS or an earlier edition is utilized, depending on date of injury. For injuries that occur on or after January 1, 2013, the FEC modifier has been replaced with a 1.4 modifier in accordance with changes to Labor Code Section 4660.1 as a result of SB 863.

The DEU's mission is to prepare timely and accurate ratings to facilitate the resolution of workers' compensation cases. Ratings are used by workers' compensation judges, injured workers, insurance claims administrators and attorneys to determine appropriate permanent disability benefits. DEU prepares three types of ratings:

- Formal Ratings—ratings per workers' compensation judges as part of expert testimony in a litigated case.
- Consultative Ratings—ratings on litigated cases at the request of an attorney, DWC Information & Assistance Officer, or other party to the case in order to advise parties to the level of permanent disability.
- Summary Ratings—ratings on non-litigated cases done at the request of a claims administrator or injured worker.

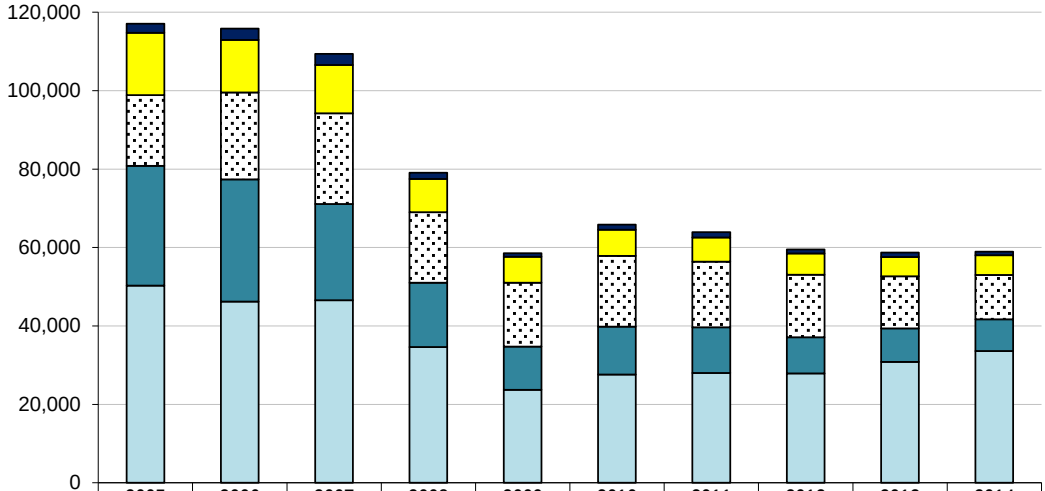
A permanent disability can range from 0 percent to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 percent and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to the number of weeks that an injured employee is entitled to permanent disability (PD) benefits, according to the percentage of PD.

In addition to written ratings, DEU provides oral consultations on PD issues and commutations to determine the present value of future indemnity payments to assist in case settlements.

Figure 55 illustrates DEU's workload from 2005 through 2014 and shows the total ratings and ratings by type.

DEU written ratings leveled off between 2005 and 2006, and declined by 6.6 percent between 2006 and 2007. Between 2007 and 2009, the number of DEU written ratings declined by 46 percent. This decline is due to a number of factors, including: the introduction of AMA *Guides* and case decisions, such as *Ogilvie and Almaraz/Guzman* which increased rating complexity; the transition to a new electronic adjudication management system (EAMS), leading to a learning curve for personnel; hiring freezes that caused clerical shortages; and more consistent tabulation of rating production with the introduction of the EAMS system. A 12.5 percent increase in DEU written ratings in 2010, after the 2009 EAMS transition year, was followed by 10 percent decline from 2010 to 2014.

Figure 55: DEU Written Ratings, 2005-2014



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Formal Ratings	2,299	2,874	2,786	1,584	942	1,317	1,324	1,008	1,093	934
Summary - Treating Doctor	15,922	13,422	12,361	8,440	6,610	6,662	6,215	5,460	4,948	5,025
Summary - Panel QME	18,001	22,139	23,142	18,027	16,243	18,033	16,720	15,931	13,290	11,277
Consultative - Walk-In	30,553	31,181	24,528	16,383	11,065	12,256	11,641	9,213	8,539	8,089
Consultative - Other	50,275	46,210	46,530	34,607	23,682	27,576	27,995	27,895	30,808	33,618
TOTAL	117,050	115,826	109,347	79,041	58,542	65,844	63,895	59,507	58,678	58,943

Data Source: DWC Disability Evaluation Unit

Table 16 shows the number of ratings issued in 2014 by type and rating schedules in effect.

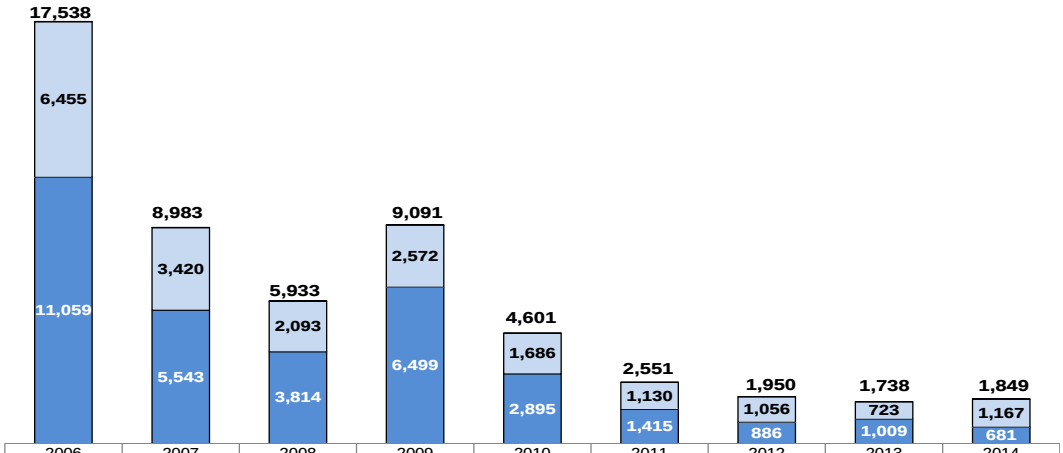
Table 16: DEU Ratings in 2014 by Type and Rating Schedules in Effect

Year that rating schedules went into effect	1997	2005	2013
Summary rating based on QME report	66	10,348	863
Summary rating treating based on physician report	22	4,254	749
Walk-in consultative ratings	515	7,369	205
Other consultative ratings	2,643	29,575	1,400
Formal ratings requested by judge	190	739	5

Data Source: DWC Disability Evaluation Unit

DEU decreased the ratings backlog from 4,601 cases in 2010 to 1,849 cases in 2014, as seen in Figure 56. This represents a 60 percent reduction, including a 49 percent decrease from 2009 to 2010. The reduction in the backlog provides quicker delivery of benefits to injured workers and resolution of workers' compensation cases. From 2013 to 2014, there was a 6.4 percent increase in the ratings backlog.

Figure 56: DEU Backlogs



	2006	2007	2008	2009	2010	2011	2012	2013	2014
Formal Ratings	24	20	26	20	20	6	8	6	1
Consult Ratings	6,455	3,420	2,093	2,572	1,686	1,130	1,056	723	1,167
Summary Ratings	11,059	5,543	3,814	6,499	2,895	1,415	886	1,009	681
Total Backlog	17,538	8,983	5,933	9,091	4,601	2,551	1,950	1,738	1,849

Data Source: DWC Disability Evaluation Unit

DEU also performs commutations of future indemnity payments involving present-value calculations. These commutation calculations assist parties in the resolution of claims involving lump-sum settlements, including calculation of attorney fees on litigated cases.

For injuries that occurred on or after January 1, 2003, life pension and total PD payments are increased according to the annual increase of the state average weekly wage (SAWW) starting January 1 after the payment commences and each January thereafter. The increase in benefits based upon annual SAWW increases the complexity of commutation calculations. DEU performed 1,434 commutations, averaging 119.5 commutation calculations per month in 2013 and 1,346 commutations, averaging 112.2 commutation calculations per month in 2014.

The rating schedule has a profound impact on both employees and employers, as it forms the basis on which workers are compensated for the permanent effects of work-related injuries. Since the adoption of a new rating schedule effective January 1, 2005, DWC continues to collect data regarding the results of the new rating schedule.

Staffing

Current staffing levels are 43 Disability Evaluators (WCC position), 3 supervisors, and 1 unit manager. DEU is supported clerically by staff assigned to the Adjudication Unit.

DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT

The Medical Unit is responsible for the oversight of the physicians who perform disability evaluations in the workers' compensation system, educating physicians on medical-legal issues, and advising the Administrative Director on various medical issues. The Medical Unit sets standards and issues regulations governing Qualified Medical Evaluators (QMEs) and enforces the regulations governing QME disciplinary actions. The Medical Unit issues panels of three randomly selected QMEs to both represented and unrepresented injured workers who need a medical/legal evaluation in order to resolve a claim.

The Medical Unit also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the Medical Unit reviews utilization review (UR) plans from insurers and self-insured employers and develops and monitors treatment guidelines. The unit also

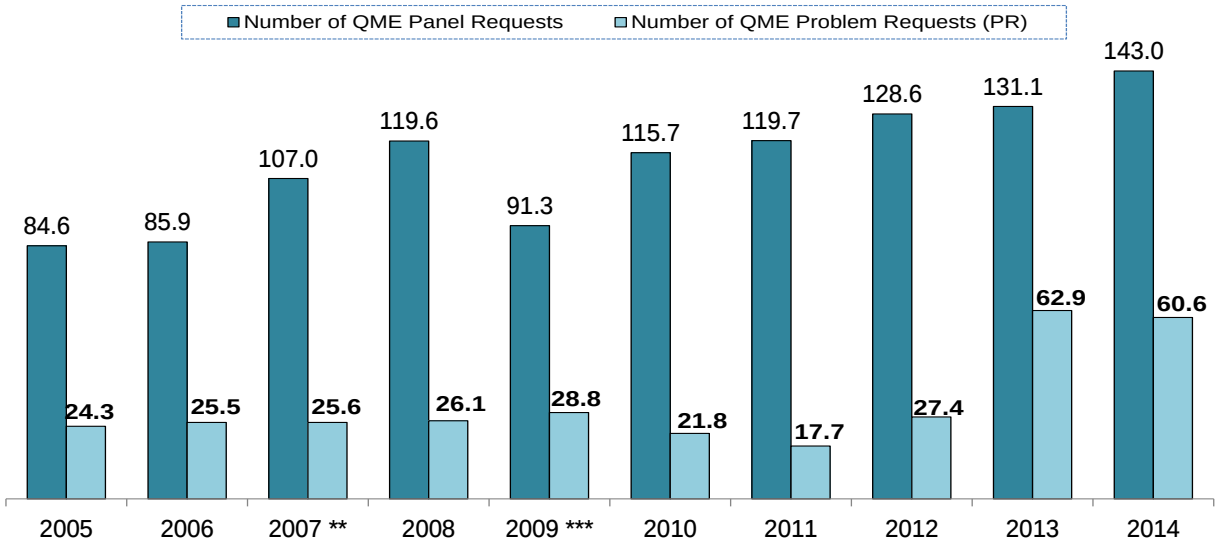
participates in studies to evaluate access to care, medical quality, treatment utilization, and costs. Finally, the Medical Unit recommends reasonable fee levels for various medical fee schedules.

Qualified Medical Evaluator Panels

DWC assigns panels composed of three QMEs, from which an injured worker without an attorney selects an evaluator for a medical dispute. Beginning in 2005, a similar process became effective for cases where the worker has an attorney. This resulted in an increased number of QME panels. The changes contributed to a larger percentage of problems with the panel assignments.

Figure 57 indicates the number of QME Panel Requests issued each year and the number of problems with the original QME panel, which necessitated a replacement list. Some of the problems with panel assignment include parties not submitting documentation or submitting inadequate documentation, parties being ineligible for a QME panel, or DWC needing additional information to determine panel eligibility.

Figure 57: Number of Qualified Medical Evaluator (QME) Panel Requests* and Problem Requests (Thousand)



* The numbers account only for the incoming mail for initial panels. It does not include the count of additional specialty panels; replacement panel requests; Judge order panels; late report replacement panels; request to change the specialty panel needing the Medical Director's consent.

** Data for 2007 was unavailable and is a forecast of previous years

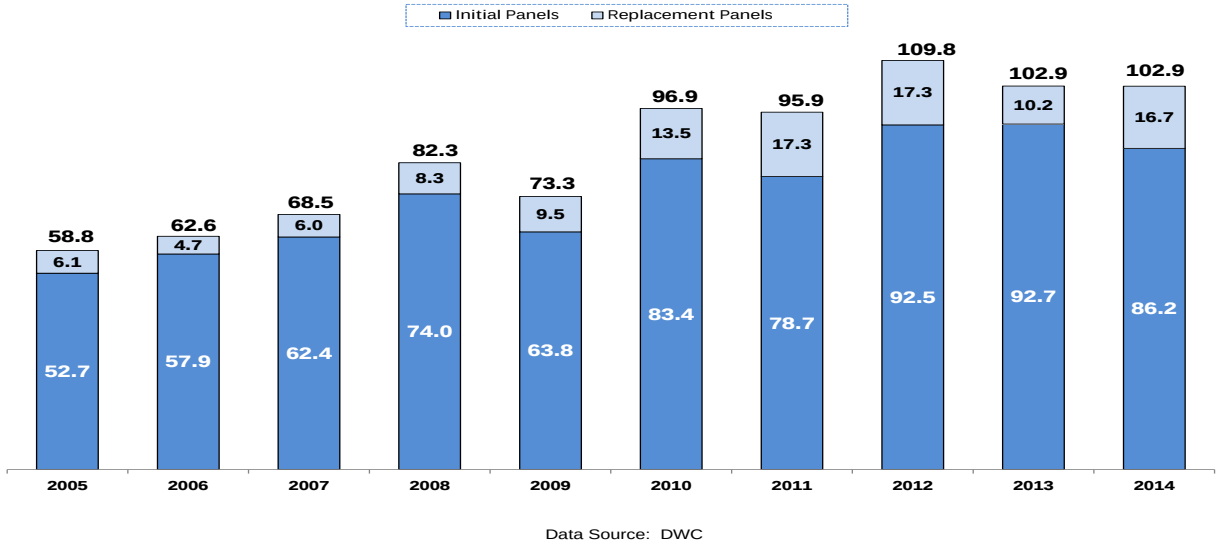
*** Regulation was adopted in February 2009 to implement SB 899 that had impact on reporting the numbers of QME Panel Requests.

Data Source: DWC

Figure 58 shows the number of initial QME panels issued pursuant to the California Code of Regulations (CCR), Sections 30 and 31.7. Section 30 panel requests are submitted on Form 105 for unrepresented injured workers and on Form 106 for represented injured workers, requiring additional documentation to meet conditions under this section. Section 31.7 applies to requests to obtain additional specialty panels under certain specified conditions and is applicable only after the "initial" QME panel has been issued. Replacement QME panels[37] are issued pursuant to CCR, Section 31.5, which applies to requests to replace one or more QMEs from an "initial" panel that meets the conditions specified under this section.

[37] The term "replacement" is referenced as "second" panels in-house to communicate the type of handling needed for the panel request.

Figure 58: Number of QME Initial Panels and Replacement Panels Issued (Thousand)



Utilization Review

The utilization review (UR) process includes utilization management functions that prospectively, retrospectively or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity to cure or relieve, treatment recommendations by physicians, as defined in Labor Code Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Labor Code Section 4600. UR begins when the completed DWC Form RFA (requests for treatment), or a request for authorization accepted as complete under Labor Code section 9792.9.1(c)(2), is first received by the claims administrator, or in the case of prior authorization, when the treating physician satisfies the conditions described in the utilization review plan for prior authorization (§ 9792.6.1(y)).

A Utilization Review Plan is the written plan filed with the Administrative Director (AD) pursuant to Labor Code Section 4610, setting forth the policies and procedures and a description of the UR process (Section 9792.6.1(x)).

Effective January 1, 2004, each employer is required to file a UR plan with the AD. UR is a review of the treating physician's requests for treatment (RFAs) and the decisions made about the medical necessity of the requests. The Utilization Review Organization (URO) can be an internal or external group (from the claims administrator or employer) that performs most of the utilization reviews. The UR regulations (8 CCR Section 9792.6 et seq.) were adopted on September 22, 2005, and UR enforcement regulations were adopted on June 7, 2007. The enforcement regulations (8 CCR Section 9792.11–9792.15) gave DWC the authority to investigate all UROs that have submitted a UR plan. New regulations were introduced as Emergency Regulations on January 1, 2013, and adopted on February 12, 2014, in response to the adoption of SB 863. These new regulations include the enforcement sections 9792.11, .12, and .15. Sections 9792.13 and .14 were not changed and therefore are not found in the newly adopted regulations, but are still considered part of the UR enforcement regulations, just as section 9792.8 is still considered viable, even though it is also not included in the newly adopted regulations. Currently, the DWC Medical Unit UR Program Section has finished an investigation of all UROs that were active when the Enforcement Regulations were adopted. In 2014, DWC began repeat routine investigations on the UROs that were first investigated in 2007 and 2008. Investigations are done by randomly selecting files from all UR requests that the specific URO has received within a three-month period. The period selected is the previous three full months from the start of the investigation. DWC notifies the URO by sending a Notice of Utilization Review Investigation (NURI); generally these will also say "Routine," unless performing a specific target investigation. Once DWC has the information

requested, including a list of all requests for authorization (RFAs) for the three-month period, files are randomly selected for review and a list of those files is sent to the URO with the Notice of Investigation Commencement (NIC). The URO has 14 days from receipt of the NIC to provide copies of each selected file. The DWC Medical Unit UR program section triages the files and eliminates files that DWC considers "not complete," even if the URO has accepted the RFA as complete. When the correct number of UR files is obtained, they are reviewed to determine whether:

- The requests were answered on time.
- Decisions were made with the required criteria and rationale.
- The decision is communicated on time and to the appropriate parties.
- Independent Medical Review (IMR) application is sent to appropriate parties with all denial or modification decisions.
- The 2013 Emergency regulations and the 2014 adopted regulations are followed.

Those files found to have violations are given a set penalty. The entire investigation is given a score, depending on how many violations are cited. The passing score is 85 percent or higher. After the score is determined, the URO is notified through a Preliminary Report with all exhibits to verify how the score was compiled and any next steps to be taken. The URO may request a post-investigation conference and may send further documentation to verify that it actually performed the UR correctly. After the conference and review of additional documentation, DWC completes the Final Investigation Report. If the URO has a failing score or has any mandatory violation (Sections 9792.12(a)(1-17) and (c)(1-4)), DWC also sends an Order to Show Cause (OSC) and a Stipulation and Order, with the Final Report.

Table 17: Status of UR Investigations

	2013	2014	2015 (as of May 2015)
Number of UR investigations completed	7	6	10
Number of UR investigations pending	14	0	6
Number of failed investigations	0	0	0
Amount of UR penalty assessments	$2,000	$0	$0

Source: DWC

Independent Medical Review

Senate Bill (SB) 863 adopted several provisions that affect how medical necessity determinations are made for medical care provided to injured workers. One of the key provisions was putting in place the Independent Medical Review (IMR) process for resolving medical treatment disputes. Effective January 1, 2013, for injuries occurring on or after that date, and effective July 1, 2013, for all dates of injury, IMR is being used to decide disputes between the physician and claims administrator about necessary medical treatment for injured workers. DWC administers the IMR program with costs borne by the employer andit is similar to the group health process for medical treatment dispute resolution.

Table 18 and Figure 59 show correspondingly the monthly and quarterly numbers of IMR applications with duplicates, numbers of unique medical review requests, and IMR determinations completed at initial stages and in the whole period between January 2013 and August 2015. The total number of unique IMR requests received as of August 2015 was 372,950.

According to the table below, at the initial stages, the monthly number of unique IMR requests received increased from 8 in January 2013 to 335 in June 2013. Then, in one month, the number of unique IMR requests received increased substantially from 335 in June 2013 to 3,854 in July 2013, an increase of more than 11-fold, because after July 1, 2013, IMR was applied to medical necessity disputes for all dates of injury.

Table 18: Sharp Increase in Monthly Number of Independent Medical Review (IMR) Requests from January to July of 2013

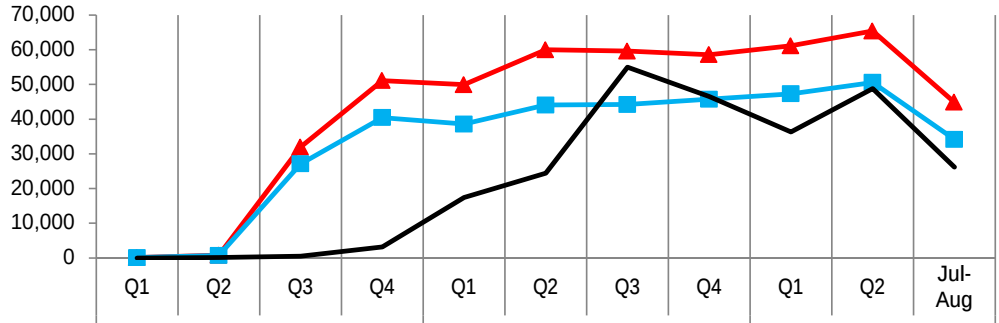
	January	February	March	April	May	June	July
IMR Requests with Duplicates	8	21	73	172	254	350	4,549
Unique IMR Requests	8	18	69	146	243	335	3,854
Number of IMR determinations completed	0	2	0	15	45	67	167

Data Source: DWC

The Figure 59 shows the quarterly numbers of IMR requests and IMR determinations completed from January 2013, when IMR became effective, to August 2015. The quarterly numbers of unique IMR requests received increased 426 times from 95 requests in Q1 to 40,450 in Q4 of 2013. In Q4 of 2013 and Q1 of 2014 the number of unique IMR requests received averaged at around 39,500 requests per quarter, and then gradually increased by 28 percent from Q1 of 2014 to Q2 of 2015.

The quarterly number of IMR determinations completed increased from 2 determinations in Q1 of 2013 to 3,159 determinations in Q4 of 2013. The number of IMR determinations increased 17 times to its peak of 54,959 determinations between Q4 of 2013 and Q3 of 2014. There was a 34 percent decrease in number of IMR determinations completed from Q3 of 2014 to Q1of 2015, and then again a 34 percent increase in quarterly completed IMR determinations from Q1 to Q2 of 2015.

Figure 59: Quarterly Number of Independent Medical Review Requests (IMR) Received and Determinations Completed between January 2013 and August 2015



	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Jul-Aug
	2013				2014				2015		
IMR Requests w. Duplicates	102	776	31,950	51,092	49,928	59,983	59,606	58,567	61,142	65,405	44,855
Unique IMR requests	95	724	27,091	40,450	38,564	44,047	44,206	45,746	47,312	50,574	34,141
IMR determinations completed	2	127	515	3,159	17,424	24,417	54,959	46,512	36,320	48,778	26,153

Data Source: DWC

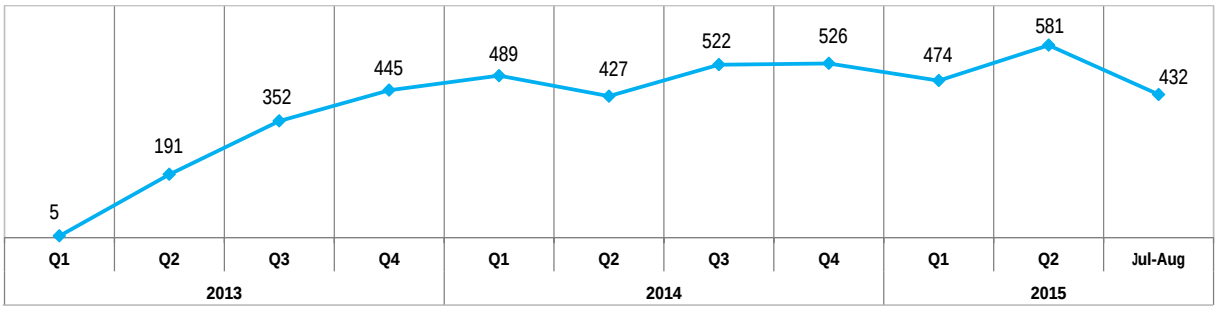
Independent Bill Review

Senate Bill (SB) 863 adopted several provisions to provide a quick, efficient way of resolving disputes over medical billing and eliminate litigation at the appeals board over billing disputes. One of the key provisions was putting in place the Independent Bill Review (IBR) process for resolving medical treatment and medical-legal billing disputes. Effective January 1, 2013, for medical services provided on or after that date and where the fee was determined by a fee schedule established by the DWC, the IBR is being used to decide disputes when a medical provider disagrees with the amount paid by a claims administrator. DWC administers the IBR program, which refers applicants to an independent bill review organization (IBRO). The reasonable fees for IBR are paid by the applying physician. If the independent

bill reviewer determines that the claims administrator owes the physician additional payment on the bill, the claims administrator must reimburse the physician for the review fee.

The total number of IBR requests received as of August 2015 was 4,444. According to Figure 60, the quarterly number of IBR requests received increased from 5 requests in Q1 to 445 in Q4 of 2013. From Q4 of 2013 to Q2 of 2015 the number of IBR requests received fluctuated in the range of 425 to 580 requests per quarter.

Figure 60: Quarterly Number of Independent Bill Review Requests Received between January 2013 and August 2015



Data Source: DWC

Medical Provider Networks and Health Care Organizations[38]

Medical Provider Networks

Background

In recent years, the California workers' compensation system had significant increases in medical costs. Between 1997 and 2003, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,[39] outpacing the costs for equivalent medical treatment provided in non-industrial settings. To abate this rise in costs, major reforms were made in 2003 and 2004. One such effort was the signing into law of Senate Bill (SB) 899 in April 2004. A major component of SB 899 was the option to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et seq. MPNs were implemented beginning January 1, 2005. On September 18, 2012, another round of major workers' compensation reforms was signed into law with SB 863. SB 863 incorporates significant changes to MPNs, including but not limited to: expanding who can qualify to become an MPN applicant; limiting the MPN approval period to four-years and requiring a re-approval process for MPN plans; providing the right to petition for MPN suspension or revocation; and authorizing the adoption of administrative penalties to ensure MPN applicants comply with regulations. Most of these changes took effect in January 1, 2014.

An MPN is a network of providers established by an insurer, self-insured employer, a Joint Powers Authority (JPA), the State, a group of self-insured employers, a self-insurer security fund, or the California Insurance Guarantee Association (CIGA) or entities that provide physician network services to treat work-related injuries.

The establishment of an MPN gives employers significant medical control. With the exception of employees who have a pre-designated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim, as opposed to 30 days of employer medical control they had prior to the passage of

[38] The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.
[39] Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses* Report, prepared pursuant to § 11759.1 of the California Insurance Code.

SB 899. Having an MPN means the employer has more control with regard to who is in the network and who the injured worker sees for care for the life of the claim. The employer chooses who the injured worker goes to on the first visit; after the first visit, the injured worker can go to a doctor of his/her choice in the MPN.

Before the implementation of an MPN, insurers, employers or entities that provide physician network services are required to file an MPN application with the Division of Workers' Compensation (DWC) for review and approval, pursuant to 8 CCR Section 9767.1 et seq.

DWC provides all the data on MPNs and HCOs in this section.

Application Review Process

California Labor Code Section 4616(b) mandates that the Division of Workers' Compensation (DWC) review and either approve or disapprove MPN plans submitted within 60 days of plan submission. If DWC does not act on the plan within 60 days, the plan is deemed approved by default.

Upon receipt of an MPN application, DWC does an initial cursory review of all applications received. The result of the review is communicated to each applicant in a "complete" or "incomplete" letter, as applicable. Applicants with sections missing in their application will be asked to complete the missing part(s). Applicants with a complete application will receive a "complete" letter, indicating the target date for when the full review of their application will be completed. The clock for the 60-day time frame within which DWC should act starts from the day a complete application is received by DWC.

The full review of an application involves thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and CCR Sections 9767.1 et seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application. Applicants with deficient applications are sent a disapproval letter, listing deficiencies that need to be corrected. This process is repeated until the application is approved or withdrawn.

Material modification filings go through a review process similar to the one for an initial application. Except in cases where an applicant was approved under the emergency regulations and is now updating the application to comply with the permanent regulations, reviews of material modifications are done only for those sections of the applications affected by the material change.

Applications Received and Approved

Table 19 summarizes the number of MPN activities from their inception in November 1, 2004, to December 31, 2014. During this time, the MPN program received 2,363 MPN applications. Of these, 42 were ineligible, as they were erroneously submitted by employers, insurers, or other entities that, under the MPN regulations, are not eligible to set up an MPN. As of December 31, 2014, 2,180 applications were approved. Of these, 986 were approved under the emergency regulations, and the remaining 1,109 under the permanent regulations. DWC revoked thirty-two (32) approved applications. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities or an insurer no longer eligible to transact workers' compensation in California. Two hundred and fifty-eight (258) were withdrawn after approval, and 81 were withdrawn before approval. Withdrawn MPNs have never been implemented. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or there was a duplicative submission of the same application. Three hundred and eighteen (318) applications were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN.

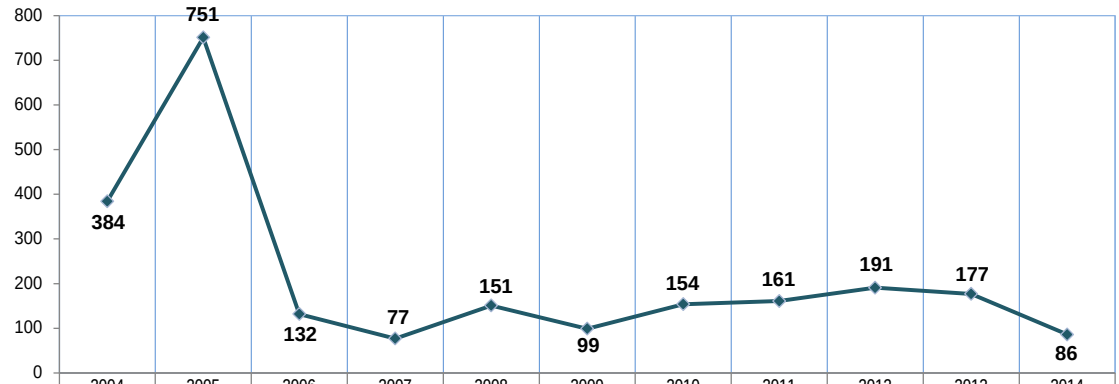
Table 19: MPN Program Activities from November 1, 2004, to December 31, 2014

MPN Application Status:	Number
Received	2,363
Approved	2,180
Material Modifications	3,093
Withdrawn	339
Revoked	32
Ineligible	42
Terminated	318

Source: DWC

Figure 61 shows the receipt of MPN applications by month and year. The bulk of applications, 48 percent, were received in the last two months of 2004 (384) and in 2005 (751). The number of applications decreased by 82 percent from 751 in 2005 to 132 in 2006 and then averaged 136 applications per year from 2006 to 2014.

Figure 61: Number of MPN Applications Received by Month and Year of Receipt, 2005-2014 (Total = 2,363)

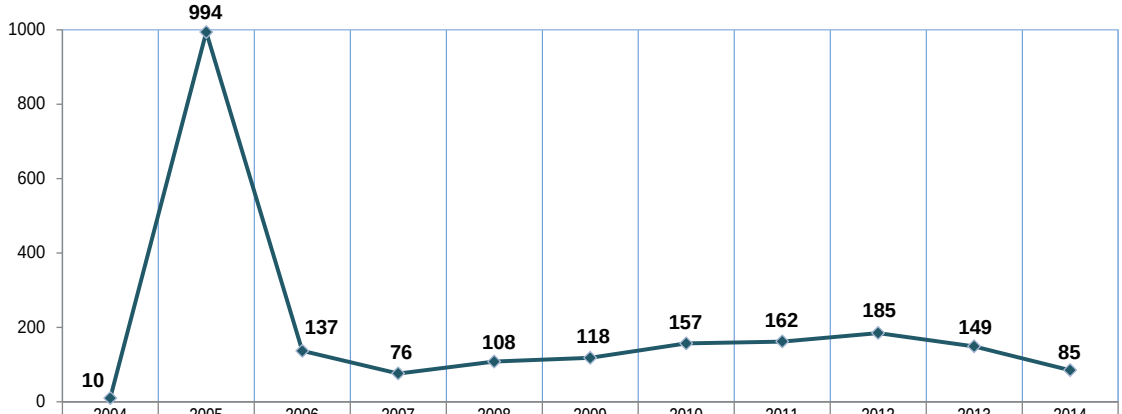


	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
JANUARY		175	29	3	15	11	4	30	5	21	8
FEBRUARY		169	14	6	9	12	7	17	15	15	2
MARCH		74	12	8	10	12	12	12	7	12	5
APRIL		95	9	5	10	9	10	19	31	24	4
MAY		63	18	4	4	7	13	13	43	16	14
JUNE		71	5	5	4	9	20	10	13	12	13
JULY		35	4	14	15	6	15	22	14	10	13
AUGUST		12	7	5	6	1	22	8	12	8	11
SEPTEMBER		20	18	3	18	8	9	9	10	6	3
OCTOBER		12	5	7	33	2	15	10	17	9	6
NOVEMBER	124	13	10	4	17	10	10	4	9	19	1
DECEMBER	260	12	1	13	10	12	17	7	15	25	6
TOTAL	384	751	132	77	151	99	154	161	191	177	86
Percent Distrib	16%	32%	6%	3%	6%	4%	7%	7%	8%	7%	4%

Data Source: DWC

Figure 62 shows the MPN applications approved by month and year. To recap, 48 percent (994) of MPN applications were approved in 2005. The number of MPN applications approved decreased by 86 percent from 994 in 2005 to 137 in 2006 and then averaged 131 approvals per each year from 2006 to 2014.

Figure 62: Number of MPN Applications Approved by Month, 2004-2014
(Total = 2,180)



	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
JANUARY		29	10	6	6	15	10	20	8	11	20
FEBRUARY		138	6	8	2	12	14	26	13	22	1
MARCH		288	18	11	10	10	11	20	11	8	1
APRIL		121	20	4	5	10	14	8	11	6	8
MAY		129	27	5	8	36	9	18	52	30	11
JUNE		71	10	6	17	11	25	13	17	13	4
JULY		89	9	7	9	5	2	15	4	15	7
AUGUST		75	8	6	9	9	21	17	11	8	11
SEPTEMBER		36	14	6	8	5	13	8	17	5	16
OCTOBER		9	3	3	6	3	7	5	11	7	4
NOVEMBER		0	2	10	14	0	10	7	10	7	0
DECEMBER	10	9	10	4	14	2	21	5	20	17	2
TOTAL	10	994	137	76	108	118	157	162	185	149	85
Percent Distrib	0.5%	46%	6%	3%	5%	5%	7%	7%	8.5%	7%	4%

Data Source: DWC

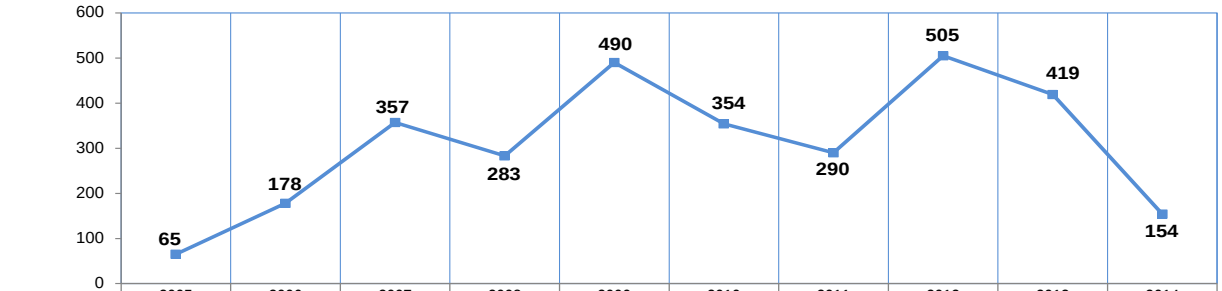
Material Modifications

MPN applicants are required by 8 CCR Section 9767.8 to provide notice to DWC for required material changes to their approved MPN application. Modifications are required when there is a change in MPN Liaison or Authorized Individual, or a change in the employee notification material, among other reasons. Modifications go through a review and approval process similar to the one for a new application, within the same regulatory time frame.

As of December 31, 2014, 1,319 applicants have filed material modifications with DWC. Some applicants have filed more than one material modification. Seven hundred and fifty-two (752) applicants have filed 2 or more material modification filings, while 1 applicant had 38 filings.

Figure 63 and its accompanying table show the number of material modification filings received at DWC. From 2005 to 2007, the number of material modifications received increased from 65 to 357, and then fluctuated between 280 and 500 from 2008 to 2013. There was a 63 percent decrease in the number of material modifications received from 2013 to 2014.

Figure 63: Number of MPN Material Modifications Received by Month, 2005-2014
(Total = 3,095)



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
JANUARY		1	16	38	24	18	4	68	52	9
FEBRUARY	1	9	28	14	44	20	0	70	4	3
MARCH		8	6	24	31	7	9	31	37	5
APRIL	1	2	13	5	47	35	11	10	17	12
MAY		6	63	6	23	26	21	54	28	8
JUNE	7	10	59	4	34	24	53	24	10	7
JULY	1	3	19	15	74	29	48	60	13	8
AUGUST	23	6	38	4	10	30	57	39	19	9
SEPTEMBER	5	52	21	43	56	23	27	63	33	2
OCTOBER	10	22	32	69	54	79	23	53	53	33
NOVEMBER	9	37	18	55	42	55	6	21	121	36
DECEMBER	8	22	44	6	51	8	31	12	32	22
TOTAL	65	178	357	283	490	354	290	505	419	154
Percent Distrib	2%	6%	12%	9%	16%	11%	9%	16%	14%	5%

* Monthly data are not available

Data Source: DWC

Plan for Reapproval Process

Beginning January 1, 2014, SB 863 introduced the four-year approval period for existing and newly approved MPN plans. The MPN applicant is required to submit a complete plan to the DWC for reapproval at least six months before the expiration of the four-year approval period. The amended MPN regulations that became effective August 27, 2014, set the expiration date for those MPN plans with a most recent application approval date or most recent material modification approval date prior to January 1, 2011, to December 31, 2014. For all plans with an application approval date on or after January 1, 2014, the expiration date is four years from the application approval date.

The MPN application plan for reapproval review process is similar to the application review process except that the administrative director has 180 days rather than 60 days to act from the date an MPN application plan for reapproval was received by the DWC.

As in the original application review process, a full review of a plan for reapproval application involves a thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and the CCR Sections 9767.1 et seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application; if there are deficiencies, the MPN applicant is sent a disapproval letter, listing the deficiencies that need to be corrected. A correct and complete resubmission is required to ensure that the MPN approval does not expire, which will result in corrective action initiated by the DWC for a noncompliant plan.

As of August 27, 2014, the DWC identified 1,574 approved MPN plans, of which the approval for 352 MPNs would expire as of December 31, 2014. The DWC received 74 application plans for reapproval filings between October 20, 2014, and December 31, 2014. Of these filings, 30 were approved, 17 were pending review, 18 were incomplete or ineligible filings, and 9 were withdrawn by the applicant because expiration of MPN approval would occur in 2016 and 2017.

A discrepancy in the numbers exists because the DWC anticipates that many of the existing approved MPNs have and will be consolidating into the new approved MPN plans created by the entities that provide physician network services. This consolidation will include the process to end coverage under the existing MPN and begin or transfer coverage into the new MPN. Once the consolidation is complete, the MPN applicant will submit a request to terminate the existing MPN, which will eliminate the requirement to file a plan for reapproval.

Table 20 shows the number of MPN approved plans that will require a filing for a plan for reapproval through 2018. These numbers are expected to change as approved MPNs are terminated due to consolidation into new approved MPNs created by entities that provide physician network services.

Table 20: Expiring MPN Application Plans by Quarter and Year Through December 31, 2018 (Total = 1,598)

Quarter	2014	2015	2016	2017	2018
Q1		19	155	94	22
Q2		54	140	98	23
Q3		90	88	70	34
Q4	352	31	100	222	6
SUBTOTAL	**352**	**194**	**483**	**484**	**85**

Source: DWC

Table 21 shows the number of MPN application plans for reapprovals received and approved at DWC in 2014.

Table 21: MPN Application Plans for Reapproval Received and Approved by Month Through December 31, 2014

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL
Received										15	17	42	**74**
Approved												30	**30**

Source: DWC

MPN Applicants

MPN applicants are allowed to have more than one MPN. As a result, the MPN applicants with more than one MPN account for 71 percent of all MPNs, including 570 applicants with 21 to 71 MPNs (see Figure 64). The names of MPN applicants with 10 or more approved MPNs are shown in the Table 22. ACE American Insurance Company leads with 71 MPNs, followed by Zurich American Insurance Company with 46 MPNs, and American Home Assurance Company with 41 MPNs.

Figure 64: Distribution of Approved MPNs by Number of MPNs per Applicant, 2014

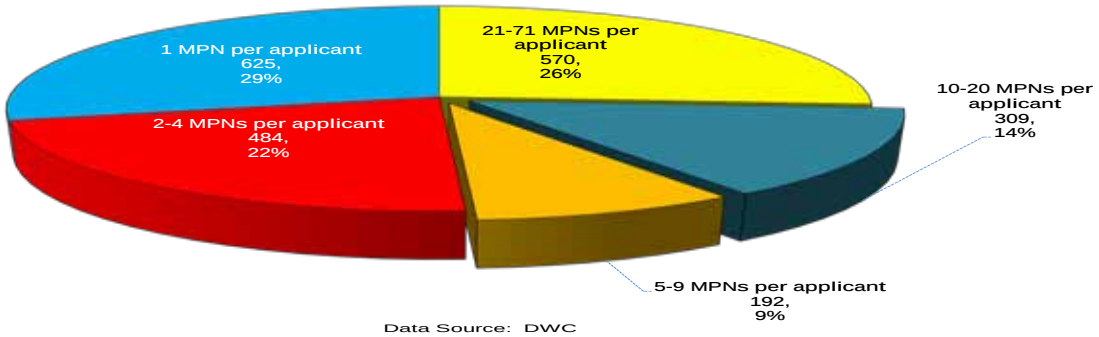


Table 22: Names of MPN Applicants with 10 or More Approved MPNs

Name of Applicant	Number of MPNs
ACE American Insurance Company	71
Zurich American Insurance Company	46
American Home Assurance Company	41
National Union Fire Insurance Company of Pittsburgh, PA	39
Federal Insurance Company	35
The Insurance Company of the State of Pennsylvania	34
Fidelity and Guaranty Insurance Company	32
Old Republic Insurance Company	32
Safety National Casualty Corporation	32
New Hampshire Insurance Company	29
ARCH Insurance Company	28
Discover Property & Casualty Insurance Company	27
United States Fidelity and Guaranty Company	26
Fidelity and Guaranty Insurance Underwriters, Inc.	25
Hartford Accident and Indemnity Company	25
XL Specialty Insurance Company	25
American Zurich Insurance Company	23
Hartford Insurance Company of the Midwest	20
Commerce and Industry Insurance Company	19
AIG Property Casualty Company	18
American Guarantee and Liability Insurance Company	16
Travelers Property Casualty Company of America	16
Twin City Fire Insurance Company	16
Continental Casualty Company	15
Granite State Insurance Company	15
Hartford Underwriters Insurance Company	15
Hartford Fire Insurance Company	14
Praetorian Insurance Company	14
Greenwich Insurance Company	13
Landmark Insurance Company	12
United States Fire Insurance Company	12
American Casualty Company of Reading, Pennsylvania	11
Indemnity Insurance Company of North America	11
Sentinel Insurance Company, Ltd.	11
Zurich American Insurance Company of Illinois	11
SPARTA American Insurance Company	10
SPARTA Insurance Company	10
St. Paul Fire and Marine Insurance Company	10
The North River Insurance Company	10
Tokio Marine & Nichido Fire Insurance Co., Ltd.	10

Source: DWC

Table 23 shows the number of MPN applicants by the type of applicant. The majority (65 percent) of MPN applications were filed by insurers, followed by self-insured employers (29 percent).

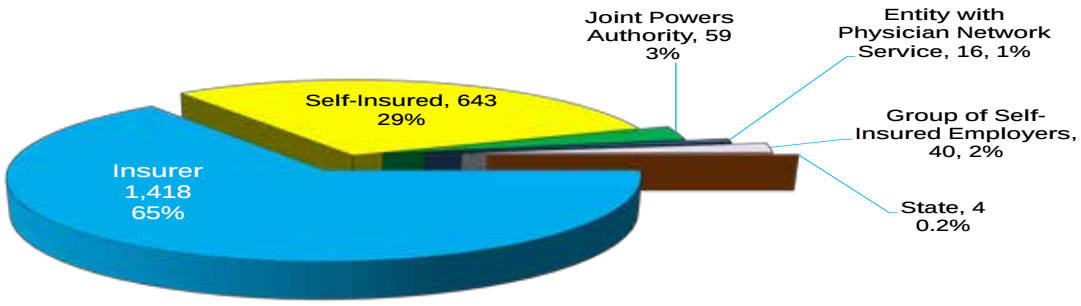
Table 23: Distribution of Approved MPN Applications by Type of Applicant, 2004–2014

Type of Applicant	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Insurer	7	611	68	32	80	91	66	122	146	110	39	**1,418**
Self-Insured	3	346	55	37	23	19	28	36	32	37	29	**643**
Joint Powers Authority		33	4	4	3	2	4	2	0	0	3	**59**
State		3						1	0	0		**4**
Group of Self-Insured Employers		2	10	3	2	6	7	1	7	2		**40**
Entity with Physician Network		2									14	**16**
Total	**10**	**994**	**137**	**76**	**108**	**118**	**105**	**162**	**185**	**149**	**85**	**2,180**

Source: DWC

Figure 65 shows the distribution of MPN applications approved from 2004 to 2014 by the type of applicant.

Figure 65: Distribution of All Approved MPN Applications by Type of Applicant
(Total for 2004 through 2014 = 2,180)



Data Source: DWC

MPN Plans Using HCO Networks

HCO networks are used by 375 (17.1 percent) of the approved MPNs. This number excludes MPNs that were revoked, terminated, or withdrawn after approval. The distribution of MPNs by HCOs is shown in the Table 24. First Health HCO has an 8.3 percent MPN market share, followed by Corvel HCO, which has 4.8 percent, and Medex, which has 3.8 percent.

Table 24: Number of MPN Applicants Using HCO Networks

Name of HCO	Approved MPN Plans Using HCO Network	Percentage of Applications Received	Percentage of Applications Approved
CompAmerica (First Health)	182	7.7%	8.3%
Corvel	105	4.4%	4.8%
Medex	83	3.5%	3.8%
CompPartners	4	0.2%	0.2%
Promesa	1	0.0%	0.0%
Net-Work	0	0.0%	0.0%
Total Using HCO	**375**	**15.8%**	**17.1%**

Source: DWC

Employers/Insurers with MPN

Neither the number nor the name of insured employers using MPNs can be obtained from MPN applications. Insurers are not required to report who among their insured employers is using their MPN. The list of self-insured employers with a self-reported number of covered employees of more than 5,000 is shown below. This list includes some large self-insured companies such as Albertsons, AT&T, Intel, Safeway, Home Depot, Target Corporation, Raley's and Lowe's.

Table 25: Self-Insured MPN Applicants with Covered Employees of 5,000 or More, December 2014

Name of Applicant	Name of MPN	Number of Covered employees
Los Angeles Unified School District	Sedgwick CMS Extended Medical Provider Network	138,000
California Restaurant Mutual Benefit Corporation	One Source Medical Network	130,000
County of Los Angeles	County of Los Angeles/CorVel MPN	102,000
County of Los Angeles	First Health CompAmerica Select HCO	102,000
County of Los Angeles	Interplan Health Group	102,000
California Agricultural Network, Inc.	California Agricultural Network, Inc MPN	92,523
California Farm Management, Inc.	California Farm Management, Inc MPN	92,523
Target Corporation	Target Medical Provider Network	75,300
CSAC Excess Insurance Authority	EIA Medical Provider Network	72,000
Safeway Inc.	Safeway MPN	60,000
The Kroger Co.	Sedgwick/Harbor MPN—Kroger	60,000
Target Corporation	Sedgwick CMS/Harbor Net-Target	59,700
San Diego/Imperial County Schools Joint Power Authority	Interplan through CompPartners	54,000
Self-Insured Schools of California (SISC)	Self-Insured Schools of California(SISC)/California Foundation for Medical Care Network	45,474
San Diego County Schools Risk Management Joint Powers Authority	San Diego County Schools JPA MPN	42,000
Home Depot U.S.A., Inc.	The Home Depot Medical Provider Network	41,306
Costco Wholesale Corporation	Costco Wholesale MPN	35,813
Pacific Bell Telephone Company	Sedgwick/Harbor 2 MPN	35,000
Southern California Permanente Medical Group (a partnership)	Kaiser Permanente/Harbor Net MPN	32,117

Name of Applicant	Name of MPN	Number of Covered employees
The Kroger Co.	CorVel/Kroger Select MPN	32,000
Kaiser Foundation Hospitals, a California Corporation	Kaiser Permanente MPN	29,880
City and County of San Francisco	City and County of San Francisco MPN	29,750
University of Southern California	USC/Harbor MPN	26,634
Kmart Corporation	Sedgwick CMS Extended Medical Provider Network	26,460
Southern California Permanente Medical Group	Kaiser Permanente MPN	26,353
Pacific Gas and Electric Company	PG&E /Blue Cross Medical Provider Network	25,663
CBS Operations Inc.	First Health Comp America HCO Select Network	25,276
California Contractors Network, Inc.	ACM/California Contractors Network MPN	25,000
Kaiser Foundation Hospitals	Kaiser Permanente/Harbor Net MPN	23,260
AT&T Inc.	Sedgwick CMS Extended Medical Provider Network	22,000
Pacific Bell Telephone Company	Sedgwick CMS Extended Medical Provider Network	22,000
Walt Disney Parks and Resort US, Inc.	Walt Disney Parks and Resort US, Inc. MPN	22,000
County of Orange	Intracorp	21,400
San Diego Unified School District	WellComp Medical Provider Network	20,762
The County of Riverside	First Health Comp America Select	20,173
New Albertson's Inc. (A SuperValu Company)	Sedgwick CMS Extended Medical Provider Network	20,000
Oracle America, Inc.	First Health Select MPN	20,000
Ventura County Schools Self-Funding Authority	WellComp Medical Provider Network	19,566
County of Riverside	CorVel MPN/County of Riverside	19,000
County of Riverside	County of Riverside Workers' Compensation Division MPN	19,000
Manpower, Inc.	Sedgwick CMS MPN	19,000
Securitas Security Services USA, Inc.	Sedgwick CMS Extended MPN	19,000
Viacom International Services, Inc.	First Health Comp America HCO Select Network	18,913
County of Orange	WellComp Medical Provider Network	17,700
Schools Insurance Group	Allied Managed Care/SIG MPN	17,500
Nonprofits' United Workers Compensation Group	WellComp MPN	16,800
Lowe's Home Centers, LLC	Lowe's Home Centers/Bunch MPN	16,678
Hewlett-Packard Company	Sedgwick CMS Extended Medical Provider Network	16,550
Marriott International, Inc.	Marriott's Medical Provider Network	16,304
Alameda County Schools Insurance Group	ACSIG/AccessMedical Provider Network	16,000
Cornerstone Comp, Inc.	Monument MPN	16,000

Name of Applicant	Name of MPN	Number of Covered employees
Corporation of the Presiding Bishop of The Church of Jesus Christ of the Latter-day Saints	Deseret Signature MPN	16,000
Elite Golf Club Program, Inc.	Monument MPN	16,000
Guardian Comp, Inc.	Monument MPN	16,000
Quality Comp, Inc.	Monument MPN	16,000
Victory Comp, Inc.	Monument MPN	16,000
Southern California Edison Company	SCE Select	15,514
Raley's	Athens MPN	15,000
Nordstrom, Inc.	Nordstrom Medical Provider Network	14,479
County of San Bernardino	CorVel MPN	14,000
Intel Corporation	Sedgwick/Harbor 2 MPN	14,000
North Bay Schools Insurance Authority	TriCounty MPN	14,000
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	WellComp Medical Provider Network	13,920
Central Region School Insurance Group	WellComp Medical Provider Network	13,679
Scripps Health	Sedgwick CMS/Harbor MPN-Scripps	13,586
Lockheed Martin Corporation	GENEX/Lockheed Martin MPN	13,400
Intel Corporation	Broadspire Signature MPN	13,223
Central Region Schools Insurance Group	CRSIG MPN	12,500
Kimco Staffing Services, Inc.	First Health CompAmerica Primary Network	12,500
Tenet Healthcare Corporation	Sedgwick/Harbor MPN—Tenet	12,200
Federal Express Corporation	GENEX-Federal Express Corporation Medical Provider Network	12,129
Barrett Business Services, Inc.	BBSI MPN	12,000
Securitas Security Services USA, Inc.	Sedgwick/Harbor MPN	12,000
Cedars-Sinai Medical Center	Cedars-Sinai Medical Provider Network (CSMPN)	11,000
K-Mart Corporation	Sedgwick CMS-Harbor MPN—Sears Holdings Management Corporation	11,000
North Bay Schools Insurance Authority	NBSIA/ CorVel Custom MPN	11,000
Los Angeles Community College District	WellComp Medical Provider Network	10,948
Memorial Health Services	TRISTAR MPN	10,827
Tenet Healthcare Corporation	First Health CompAmerica Primary HCO Network (or "First Health Primary")	10,642
Special District Risk Management Authority	WellComp Medical Provider Network	10,413
Dole Food Company, Inc.	Sedgwick CMS Extended MPN	10,200
99 Cent Only Stores	Broadspire Signature MPN	10,100
Chevron Corporation	Chevron Medical Provider Network	10,076
Chevron Stations, Inc.	Chevron Stations Medical Provider Network	10,076
El Camino Hospital	ACM/ El Camino Hospital MPN	10,000
Foster Farms	CorVel Custom MPN	10,000
Healthcare Industry Self-Insurance Program	Medex	10,000
LFP, Inc. and Affiliates	CorVel/LFP, Inc and Affiliates MPN	10,000
Monterey County Schools Workers' Compensation Joint Powers Authority	Monterey County Schools MPN	10,000

Name of Applicant	Name of MPN	Number of Covered employees
Park and Recreation District Employee Compensation	PARDEC MPN	10,000
Hilton Worldwide, Inc.	Sedgwick/Harbor 2 MPN	9,700
United Air Lines, Inc.	CorVel/UAL/Kaiser MPN	9,500
Foster Poultry Farms	Foster Farms Custom CorVel MPN	9,200
ABM Industries, Incorporated	ABM MPN	9,100
Preferred Auto Dealers Self-Insurance Program	Medex	9,000
Smart & Final, Inc.	Sedgwick CMS Extended Medical Provider Network	9,000
BCI Coca-Cola Bottling Company of Los Angeles (Coca-Cola Enterprises, Inc.)	Sedgwick CMS Medical Provider Network	8,500
Kiewit Infrastructure West Co.	Sedgwick CMS Extended MPN	8,500
Providence Health System-Southern California	Genex-Providence Medical Provider Network	8,500
Kaiser Foundation Health Plan, Inc., a California Corporation	Kaiser Permanente MPN	8,448
County of Kern	County of Kern Medical Provider Network	8,447
Save Mart Supermarkets	Status MPN-Save Mart	8,000
Fresno County Self-Insurance Group	TRISTAR MPN	7,817
Quality Comp, Inc.	Monument MPN	7,541
San Gabriel Valley School Districts' Self-Insurance Authority	WellComp Medical Provider Network	7,489
Benefit & Liability Programs of California	WellComp Medical Provider Network	7,132
International Paper Company	Sedgwick CMS Medical Provider Network	7,000
Valley Insurance Program (VIP)	WellComp Medical Provider Network	6,763
County of Fresno	County of Fresno MPN 1211	6,750
Santa Ana Unified School District	WellComp Medical Provider Network	6,677
AmerisourceBergen Corporation	Broadspire Signature MPN	6,500
Cornerstone Comp, Inc.	Monument MPN	6,249
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	ASCIP-Athens MPN	6,200
City of San Jose	Athens MPN	6,000
Wm. Bolthouse Farms, Inc.	Broadspire Signature MPN	6,000
Kaiser Foundation Health Plan, Inc.	Kaiser Permanente/Harbor Net MPN	5,682
New United Motor Manufacturers, Inc.	NUMMI MPN	5,536
Northern California Cities Self-Insurance Fund	NCCSIF MPN	5,500
City of Long Beach	City of Long Beach MPN	5,481
Big 5 Corp.	CorVel MPN	5,300
Frito-Lay, Inc.	Sedgwick CMS Medical Provider Network	5,300
Oakland Unified School District	Oakland Unified School District MPN	5,217
County of San Mateo	San Mateo County MPN	5,200
John Muir Health	TRISTAR MPN	5,102
THE PEP Boys Manny, Moe and Jack of California	TCT CA MPN	5,064

Name of Applicant	Name of MPN	Number of Covered employees
Los Angeles County Office of Education	LACOE- WellComp Medical Provider Network	5,055
FedEx Freight Inc.	Sedgwick CMS Extended MPN	5,000
Foster Farms, LLC	Foster Farms Custom CorVel MPN	5,000
Yellow Transportation, Inc.	CorVel MPN	5,000
Yellow Transportation, Inc.	Yellow Transportation GBMCS MPN	5,000

Data Source: DWC

Status of the MPN Program

The MPN program is in its tenth year and continues to develop as more MPNs are being used. The MPN plan monitoring and review processes have evolved with the regulations and as agency resources permit. SB 863 brought about important changes to the MPNs to improve efficiencies, promote greater accuracy, and ensure regulatory compliance.

To implement the important changes brought about by the passage of SB 863, the MPN regulations were amended, and these amendments took effect August 27, 2014. The changes to the MPN regulations include a more efficient streamlined application process that allows electronic submission of MPN applications, modifications, and re-approvals. The regulatory amendments also include the requirements for an MPN to qualify as an entity that provides physician network services. Allowing these entities to qualify as an MPN applicant better aligns legal responsibility with operational responsibility. Additional changes to the MPN regulations include the assignment of unique MPN identification numbers to each MPN in order to easily identify a specific MPN. The amended MPN regulations establish the standards MPNs must meet with the MPN Medical Access Assistants to properly assist injured workers find and schedule medical appointments with MPN physicians. The amended regulations clarify access standards and now require an MPN to have at least three available physicians from which an injured worker can choose, and if the time and location standards are not met, MPNs shall have a written policy permitting out-of-network treatment. Moreover, the amended MPN regulations set forth the physician acknowledgment requirements to ensure physicians in the MPN have affirmatively elected to be a member of the network and a streamlined process for obtaining acknowledgments from medical groups. To promote greater accuracy and ensure statutory and regulatory compliance, MPNs are approved for a period of four years and must file a re-approval before the expiration of this four-year period. Finally, DWC's oversight of MPNs is strengthened with the formal complaint process, the Petition for Suspension or Revocation of MPNs, the ability to conduct random reviews of MPNs and the authority to assess administrative penalties against MPNs to ensure regulatory compliance.

Health Care Organization Program

Health Care Organizations (HCOs) were created by the 1993 workers' compensation reforms. The laws governing HCOs are California Labor Code, Sections 4600.3 through 4600.7, and 8 CCR Sections 9770 through 9779.8.

HCOs are managed care organizations established to provide health care to employees injured at work. A health-care service plan (HMO), disability insurer, workers' compensation insurer, or a workers' compensation third-party administrator can be certified as an HCO.

Qualified employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days.

An HCO must file an application and be certified by DWC according to Labor Code Section 4600.3 et seq. and 8 CCR Sections 9770 et seq. Due to regulatory changes in 2010, HCOs now pay a fee of $2,500 at the time of initial certification and a fee of $1,000 at the time of each three-year certification thereafter. In

addition, HCOs are required to pay an annual assessment of $250, $300 or $500 based on their enrollments of covered employees as of December 31 of each year.

Currently, the HCO program has nine certified HCOs, only five of them have enrollees; the rest are keeping their certification and using their HCO provider network as a deemed network for MPNs. Certified HCOs and their most recent certification/recertification date are listed in Table 26.

Table 26: Currently Certified HCOs by Date of Certification/Recertification

Name of HCO	Date of Certification/Recertification
CompPartners	07/24/2008
Corvel Corporation	12/30/2008
First Health/ CompAmerica Primary	10/05/2007
First Health/ CompAmerica Select	10/05/2007
Kaiser On The Job HCO	12/03/2012
MedeEx Health Care	03/16/2010
MedEx 2 Health Care	10/10/2009
Network HCO	04/16/2007
Promesa Inc. HCO	04/12/2010

Source: DWC

HCO Enrollment

At its maximum in mid-2004, HCO enrollment reached approximately half a million enrollees. However, with the enactment of MPNs, employee enrollment under the large HCOs, such as First Health and Corvel, declined considerably. Compared to the 2004 enrollment, First Health lost 100 percent of its enrollees, while CorVel's enrollment declined by 96.6 percent to 3,384 by December 2008. As of December 2011, the total employee enrollment under HCOs fell by 66.4 percent to 161,413 from 481,337 in 2004. Table 27 shows the number of enrollees as of December 31 of each year from 2004 through 2014.

Table 27: HCOs by Number of Enrollees as of December 31, 2004 Through 2014

Name of HCO	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CompPartners	60,935	61,403	53,279	13,210	1,765	1,729	2,884	4,200	11,561	554	396
CorVel/ Corvel Select	100,080	20,403	3,719	3,050	3,384	1,983	435	467	405	0	0
CompAmerica Primary/ Select (First Health)	218,919	2,403	0	0	0	0	0	0	0	0	0
Intracorp	6,329	3,186	2,976	2,870	0	0	0	0	n/a	n/a	n/a
Kaiser	30,086	67,147	66,138	69,602	77,567	72,469	74,223	76,263	75,253	74,122	73,939
Medex/ Medex 2	62,154	66,304	46,085	69,410	69,783	34,378	46,838	61,442	67,606	75,183	86,550
Net Work HCO	1,204	0	0	0	0	0	0	0	0	0	0
Promesa	na	na	na	na	21,197	16,467	17,602	19,041	23,772	28,222	30,701
Prudent Buyer (Blue Cross)	1,390	0	0	0	0	0	0	0	n/a	n/a	n/a
Sierra	240	0	0	0	0	0	0	0	n/a	n/a	n/a
TOTAL	481,337	220,846	172,197	158,142	173,696	126,593	138,504	161,413	178,597	178,081	191,190

Source: DWC

Health Care Organization Program Status

According to Table 27, the HCO enrollment increased by 7.4 percent between 2013 and 2014. Like MPNs, HCOs are still being certified for use of their networks. DWC is attempting to complete recertification of the following HCOs: CompPartners, CorVel, First Health CompAmerica Primary, First Health CompAmerica Select, Medex, Medex 2, NetWork, and Promesa.

For further information …
www.dir.ca.gov/dwc and http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html

DIVISION OF WORKERS' COMPENSATION MEDICAL ACCESS STUDY

Access to Medical Treatment for Injured Workers

Background

The Division of Workers' Compensation (DWC) is required to complete annual access studies in accordance with Labor Code Section 5307.2, which was enacted by Senate Bill (SB) 228 (Chapter 639, Statutes of 2003). DWC contracted with the Berkeley Research Group (BRG) to conduct the "Study of Access to Medical Treatment for Injured Workers."

Objectives

The main objectives of the study are to: (1) evaluate the adequacy of access to quality health care for injured workers; (2) assess changes in access to quality health care since the 2006 UCLA and 2008 University of Washington studies; and (3) make recommendations to ensure continued access.

Description

This study is published in 2015, the third in a series, in which Workers' Compensation Information System (WCIS) data were reviewed to measure changes in access to medical care for injured workers.

The first-year study included WCIS data through 2011 and results from injured worker surveys conducted in 2011 and 2012. Like earlier studies, the first-year study found that workers were satisfied with their access to care; approximately 85 percent of the injured workers in the California workers' compensation system were satisfied. The second-year study included data through 2012.

The current study gathered WCIS data for 2013 and additional data for prior years. Over 10 million medical bills were added for 2013, bringing the total for the period from 2007 to 2013 to over 70 million bills. These data were used to assess injured workers' access to medical care primarily by assessing provider participation, utilization of services, and the types of services provided.

Findings of the 2015 Medical Access Study

The study findings included the following information from WCIS:

- The number of injured workers declined by 30 percent from 2007 to 2012 but increased by 5 percent from 2012 to 2013.
- From 2012 to 2013, the number of injured workers increased nationally (1 percent) but at a much lower rate than in California.
- The number of providers treating injured workers followed the same pattern as the number of injured workers. The number of providers treating injured workers declined 25.8 percent from 2007 and 2012 and increased 1.4 percent from 2012 to 2013. The ratio of injured workers to

providers declined by 5.4 percent from 2007 to 2012 and increased by 3.8 percent from 2012 to 2013.

- The number of medical bills per injured worker increased 16.9 percent from 2007 to 2012 and then increased by a further 13.2 percent from 2012 to 2013.
- The number of out-of-state providers decreased, but the number of bills these providers submitted increased by 97.7 percent.
- Report preparation and drug testing services substantially increased from 2007 to 2013.
- Pain medications had the highest rate of increase in use, with prescriptions for Oxycontin growing more rapidly than those for any other drug.
- The average amount paid per medical bill was at its lowest (compared to 2007) in 2013. However, the amount paid per injured worker was higher in 2013 than in all but two other years (2008 and 2010) because of an increase in the number of medical bills submitted per injured worker.
- Comparing payment rates for specific services, the California Workers' Compensation program paid 176 percent of Medi-Cal and 104 percent of Medicare, although the Medicare comparison is affected by differences in payment methods.

For further information…

"2013 Study of Access to Medical Treatment for Injured Workers" (April, 2013).
http://www.dir.ca.gov/dwc/AccessMedTreatmentReport2013/AccessToMedicalTreatmentCAWC2013.pdf

"2014 Study of Access to Medical Treatment for Injured Workers" (February, 2014).
http://www.dir.ca.gov/dwc/Reports/AccessToMedicalTreatmentInCAWC2014.pdf

DIVISION OF WORKERS' COMPENSATION INFORMATION & ASSISTANCE UNIT

The DWC Information & Assistance (I&A) Unit provides information and assistance to employees, employers, labor unions, insurance carriers, physicians, attorneys and other interested parties concerning rights, benefits and obligations under California's workers' compensation laws. The I&A Unit, often the first DWC contact for injured workers, plays a major role in reducing litigation before the WCAB. The Unit gets approximately 1,500 calls a week on its toll-free line, 800-736-7401, or 78,000 calls a year. These callers get prerecorded messages in English and Spanish about the workers' compensation system and can request forms and fact sheets.

Table 28: Information & Assistance Unit Workload

Number of:	2008	2009	2010	2011	2012	2013	2014
Calls from public handled	323,520	362,581	312,511	296,983	301,517	300,515	308,221
Outgoing calls placed	36,806	37,905	37,905	33,649	35,985	33,965	33,015
Settlements reviewed and assisted	16,320	18,757	14,757	12,743	13,515	13,055	14,129
Face-to-face meetings with walk-ins	22,818	23,757	26,219	23,218	25,911	24,588	25,105
Injured Worker Workshop presentations	199	256	219	254	217	243	239
Workshops for injured workers attended	1,981	1,611	3,191	3,875	3,215	3,013	2,615
Workshops for employers held	2	4	5	NA	NA	NA	
Correspondence written	14,442	15,212	12,713	10,899	12,983	13,005	12,996
Conference with Workers' Compensat. Judge to resolve issue or settlement	NA	NA	NA	NA	NA	NA	9,125
Audit Unit referrals	NA	NA	NA	NA	NA	NA	70

Source: DWC

Spanish Outreach Attendance data by type of outreach was available only for 2013 (see Table 29). In 2014, the bilingual staff of I&A Unit participated in 65 workshops, fairs, and consulate presentations. No attendance figures are available for 2014, as many of these presentations were organized by other entities.

Table 29: Spanish Outreach Attendance, 2013

	Number of Events	Average Number of Attendees per Event
Mexican Consulates	42	40–60
Radio	46	
Workshops	9	50–75
Farmworker-related fairs/events	15	500–900

Source: DWC

Table 30: DWC Educational Conferences Attendance, 2010–2014

	Los Angeles					Oakland				
	2010	2011	2012	2013	2014	2010	2011	2012	2013	2014
Attendees	861	861	1,015	1,091	1,162	754	754	939	762	832
Exhibitors	54	54	64	87	89	56	56	59	53	61

Source: DWC

After the enactment of SB 899 in April 2004, DWC held a special three-day statewide training seminar for all I&A officers, as well as other DWC staff, to provide early guidance on implementing the new reform law.

The I&A Unit provides the DWC Tele-Learning classes on different workers' compensation issues for the Department of Industrial Relations (DIR) employees. The enrollment numbers in these classes are as following:

Table 31: Number of Enrollees in DWC Tele-Learning Classes for DIR employees

Courses	2014	2015
Disability Management/RTW	Not offered	12
Basic Claims	24	23
Basic PD	6	12
Medical Management	27	Not offered
Advanced Claims	Not offered	17
Advanced PD	15	3
Total	**72**	**67**

Source: DWC

DIVISION OF WORKERS' COMPENSATION INFORMATION SERVICE CENTER

The DWC Information Service Center (ISC) is located in San Bernardino. The main function of the ISC is to screen all incoming calls for all 24 DWC District offices. Any combination of a district office's main number and I&A Unit, Disability Evaluation Unit, and Rehabilitation Unit lines are directed through ISC, which answers questions and provides information in both English and Spanish on workers' compensation and EAMS issues for the general public. In addition, all EAMS help desk emails and Notice of Representation (NOR) questions go through ISC. ISC staff members monitor and resolve questions sent via email to the EAMS Help Desk, process NOR updates received through the e-File system, and

answer Virtual EAMS Support Team (VEST Issue Tracker) questions sent by both internal and external users. In September 2014, some members of DWC ISC's staff started participating in the new DIR Cloud call center several days a week. No statistics are available yet on DIR Cloud call center's workload.

Table 32: DWC's Information Service Center Workload

Activities	2013	2014
Incoming calls	131,628	174,398
Outgoing calls	4,100	5,325
Calls in Spanish	8,695	13,359
Calls transferred to district offices	31,158	27,365
EAMS Help Desk emails	11,925	20,222
Correspondence mailed out	5,076	5,233
NOR-related questions processed	39,123	39,524
VEST/Issue tracker of EAMS related problems	278	103

Source: DWC

DIVISION OF WORKERS' COMPENSATION UNINSURED EMPLOYERS BENEFITS TRUST FUND

Introduction

All California employers except the State are required to provide workers' compensation coverage for their employees through the purchase of workers' compensation insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain workers' compensation coverage for their employees.

The Uninsured Employers Benefits Trust Fund (UEBTF) was established to provide payment of workers' compensation benefits to injured employees of illegally uninsured employers. Labor Code Sections 3710-3732 describe the operation of the Fund, and Labor Code Section 62.5 describes the funding mechanism for UEBTF.

The director of the Department of Industrial Relations (DIR) administers the UEBTF. Claims are adjusted for the DIR director by the Special Funds Unit in DWC. UEBTF pursues reimbursement of expenditures from the responsible employers through all available avenues, including filing liens against their property. Litigation for UEBTF is conducted in the name of the director of DIR represented by the Office of the Director Legal Unit.

Funding Liabilities and Collections

UEBTF Funding Mechanisms

UEBTF funding comes from annual assessments on all insured and self-insured employers, from fines and penalties imposed on illegally uninsured employers when they get caught, and from recoveries from illegally uninsured employers when the UEBTF has paid benefits and is able to obtain reimbursement from responsible employers. According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."[40]

The assessment for insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year. The

[40] Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

total assessment collected pursuant to Labor Code Section 62.5 was $32.9 million for fiscal year (FY) 2013-2014 and $40.7 million for FY 2014-2015.

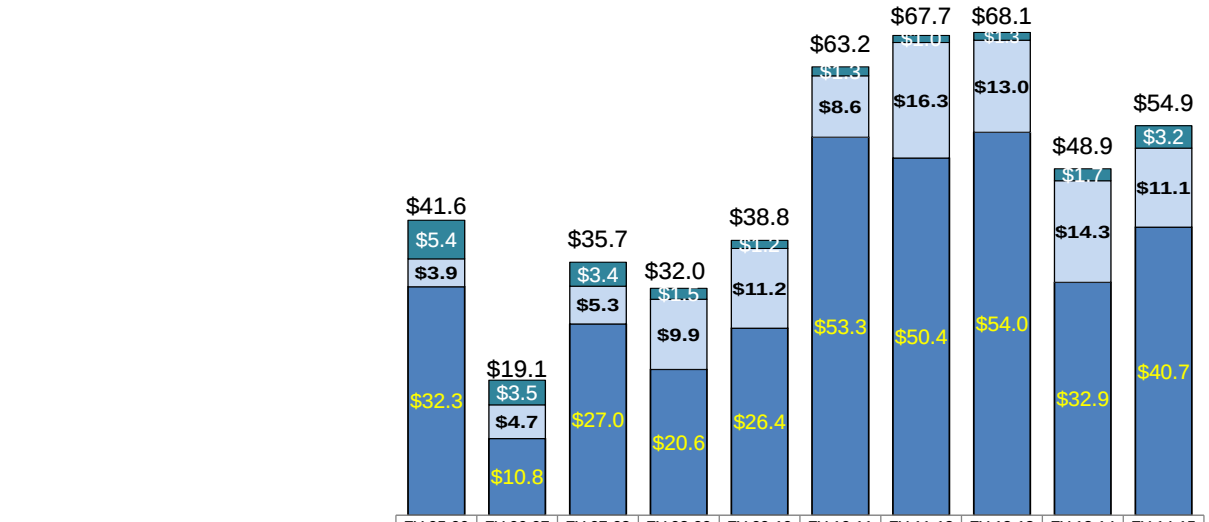
Apart from the assessments on employers required by Labor Code Section 62.5, UEBTF is funded by two other sources:

- Fines and penalties collected by DIR. These include both the Division of Labor Standards Enforcement (DLSE) penalties as well as Labor Code Section 3701.7 penalties on self-insured employers.

- Recoveries from illegally uninsured employers per Labor Code Section 3717.

Figure 66 shows monies collected by the source of the revenue.[41]

Figure 66: UEBTF Revenues, FY 2005-2006 to FY 2014-2015 (Million $)



	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Revenue Collected Pursuant to Labor Code Section 3717	$5.4	$3.5	$3.4	$1.5	$1.2	$1.3	$1.0	$1.1	$1.7	$3.2
Fines and Penalties Collected	$3.9	$4.7	$5.3	$9.9	$11.2	$8.6	$16.3	$13.0	$14.3	$11.1
Assessments Collected Pursuant to Labor Code Section 62.5	$32.3	$10.8	$27.0	$20.6	$26.4	$53.3	$50.4	$54.0	$32.9	$40.7
Total Revenue	$41.6	$19.1	$35.7	$32.0	$38.8	$63.2	$67.7	$68.1	$48.9	$54.9

Data Source: DWC

[41] The data in Figure 66 found at the DWC/Special Funds Unit/UEBTF website are updated on an ongoing basis, http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf.

The number of new UEBTF cases and dollar amounts associated with new opened claims are shown in Figures 67 and 68.

Figure 67: New UEBTF Cases Opened, FY 2005-2006 to FY 2014-2015

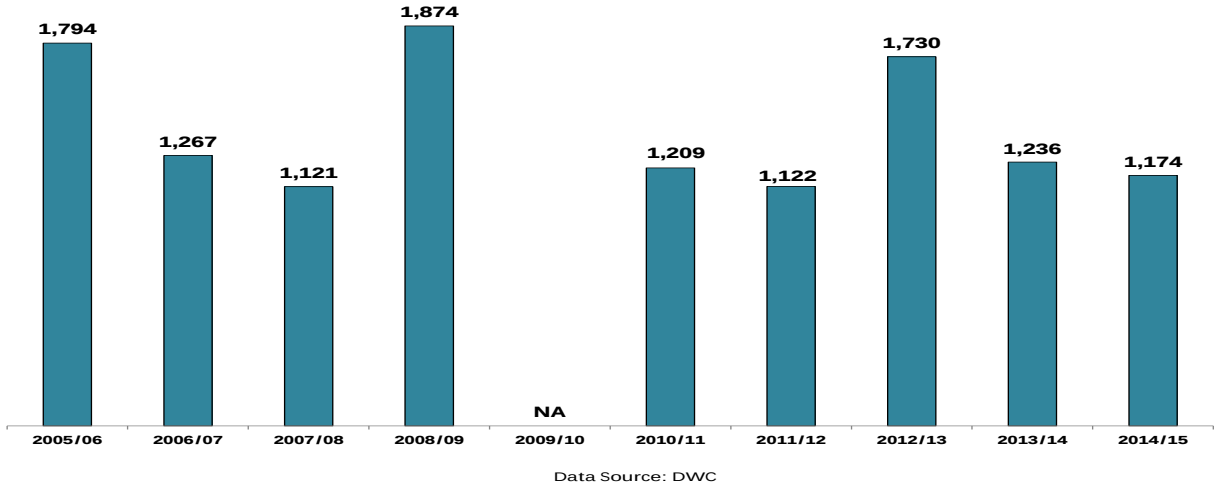
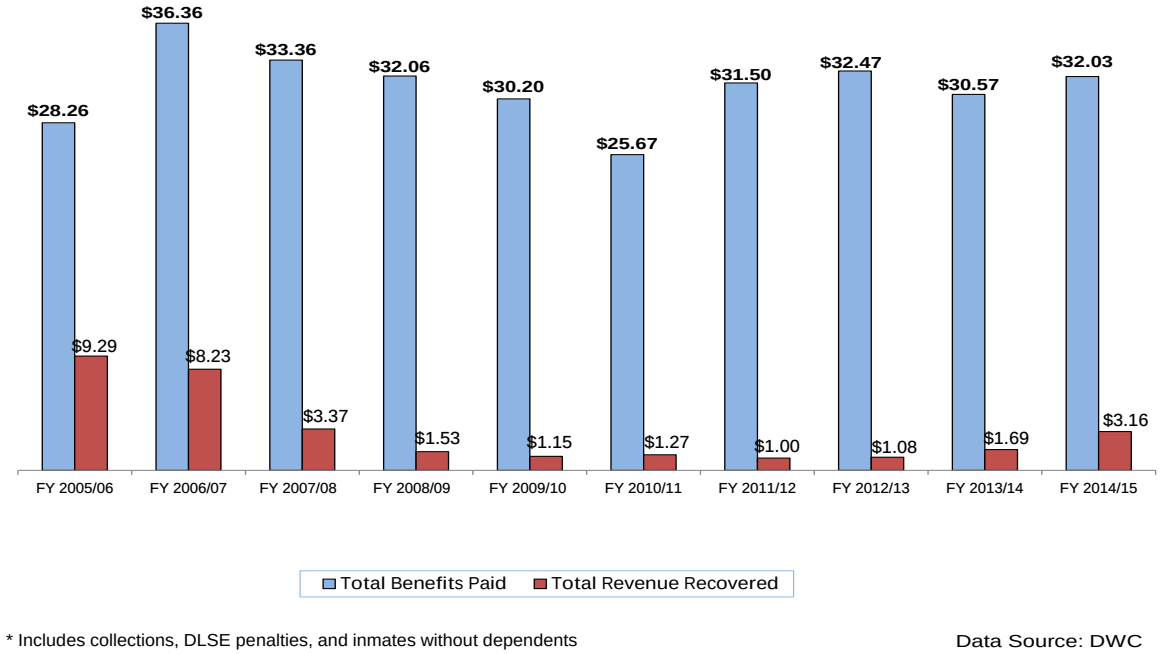


Figure 68: UEBTF Total Benefits Paid and Total Revenue Recovered, FY 2005-2006 to FY 2014-2015 (Million $)

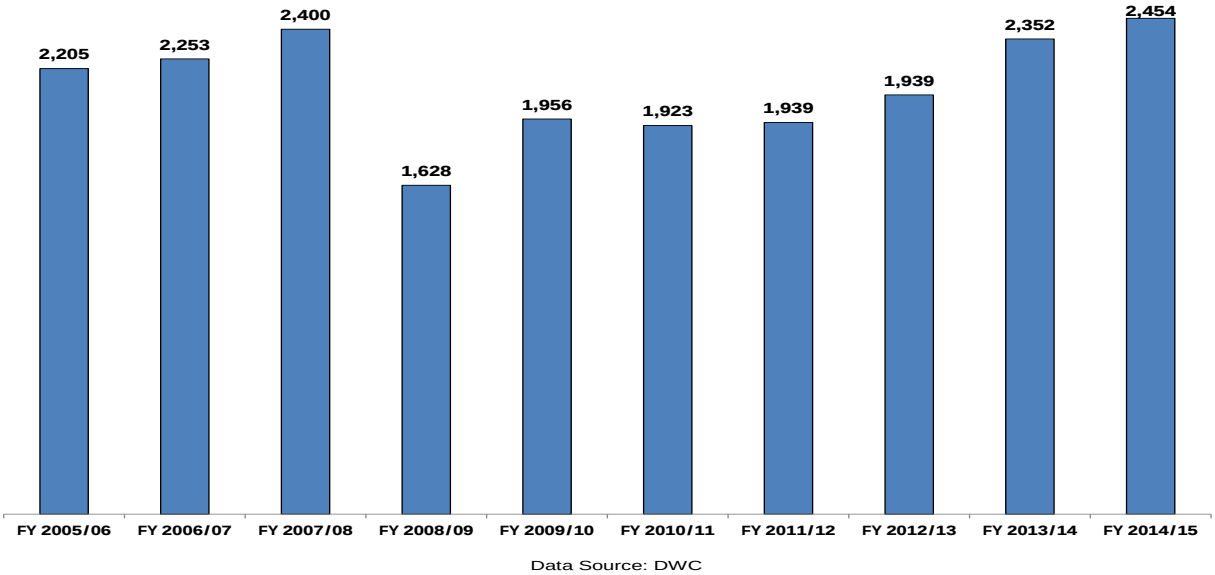


* Includes collections, DLSE penalties, and inmates without dependents

Costs of the Uninsured Employers Benefits Trust Fund

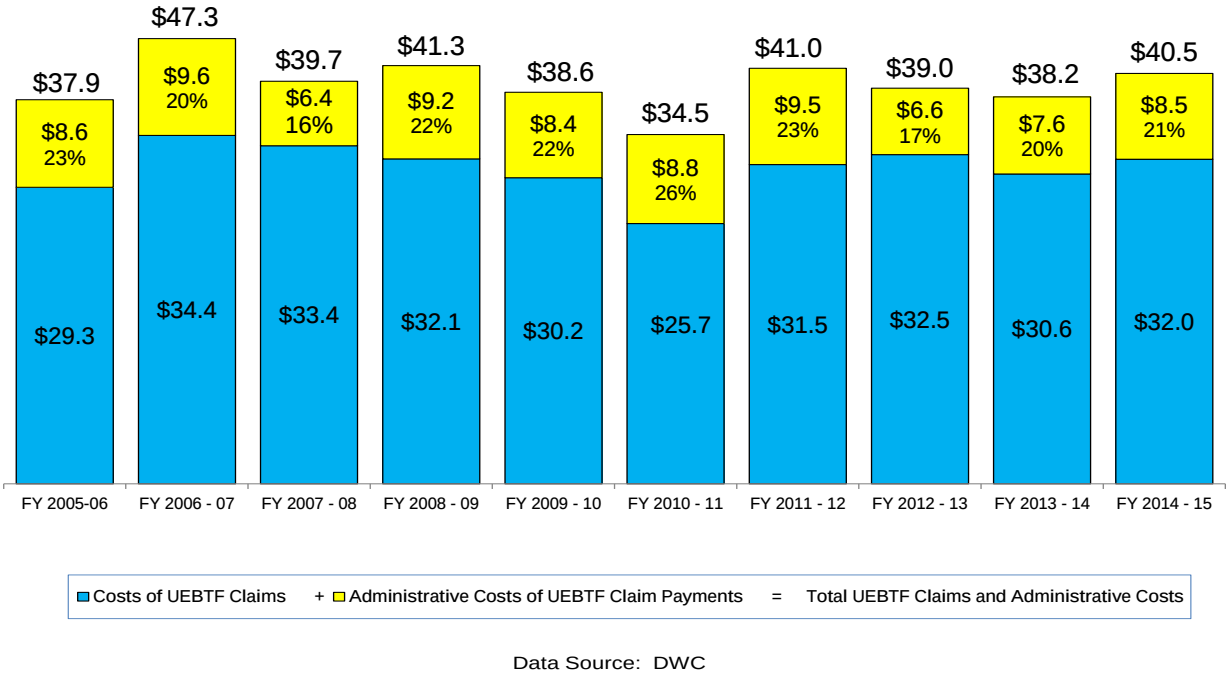
According to Figure 69, the number of uninsured claims paid increased by 9 percent from 2,205 in FY 2005-2006 to 2,400 in FY 2007-2008, decreased by 32 percent from FY 2007-2008 to FY 2008-2009, and then increased by 51 percent from FY 2008-2009 to FY 2014-2015.

Figure 69: Number of Uninsured Claims Paid, FY 2005-2006 to FY 2014-2015



The cost of claims increased by 25 percent from FY 2005-2006 to FY 2006-2007, decreased 23 percent from FY 2006-2007 to FY 2010-2011, increased by 22.5 percent from FY 2010-2011 to FY 2011-2012, and then averaged $40 million from FY 2011-2012 to FY 2014-2015. Administrative costs associated with claim payment activities fluctuated between $6.5 million in FY 2005-2006 and $9.5 million in FY 2014-2015.

Figure 70: UEBTF Amounts Paid and Administrative Costs, FY 2005-2006 to FY 2014-2015 (Million $)



The most recent available projected UEBTF annual program cost is for FY 2011-2012 $40.4 million.[42] This cost includes the administrative costs associated with claims-payment activities, as well as the payout on claims filed by injured workers of illegally uninsured employers.

ADJUDICATION SIMPLIFICATION EFFORTS

Division of Workers' Compensation Information System

California's Workers' Compensation Information System (WCIS) uses electronic data interchange (EDI) to collect comprehensive information from claims administrators to help oversee the state's workers' compensation system. The information collected facilitates evaluation of the system and helps measure the adequacy of benefits for injured workers and their dependents and provides statistical data for internal and external research. Electronic transmission of first reports of injury (FROI) was required beginning March 1, 2000, and electronic versions of benefit notices (subsequent reports of injury, SROI) were mandated as of July 1, 2000. Electronic reporting of medical billing data was required for medical services beginning September 22, 2006.

WCIS operates with joint efforts from DIR's Office of Information Services (OIS) staff and DIR/DWC's Research Unit staff. The OIS staff provides technical support while the Research Unit staff provides business knowledge and research support.

Currently, WCIS is actively receiving FROI/SROI data from 200 senders, medical bill data from 52 senders (claims administrators and bill review companies sending data on behalf of claims administrators). Since December 2014, electronic reports have been received for approximately 10.6 million claims and 102 million medical bill payment records.

Maintenance and Improvements to the System

System improvement continued. The development work for 12 change requests (CRs) to improve system operation and efficiency has been completed and tested and is now in production. Among the CRs is one that allowed WCIS to be able to receive the newly adopted ICD-10 diagnosis and procedure codes.

A plan to switch file transfer from FTP (file transfer protocol) to SFTP (secure file transfer protocol) commences in 2016. The development work for this started in 2014.

The WCIS team updated the California EDI Implementation Guide for FROI/SROI Reporting to version 3.1 to simplify FROI/SROI reporting and worked with the DWC legal team on updating the proposed regulations.

New Projects

Work toward implementing the California EDI Implementation Guide for Medical Bill Payment Records Version 2.0, which is based on the IAIABC Medical Release 2.0, continued. Version 2.0 allows the Department to collect medical bill data using ANSI X12 837 5010 standard formats, in sync with the DWC electronic bills regulations, which also adopted ANSI X12 837 5010 standard formats for electronic medical billing. The California medical version 2.0 allows the WCIS trading partners to report medical bill data to WCIS using the ANSI 837 file and received acknowledgment for their file using ANSI 999 and 824 acknowledgment files.

The DIR/DWC research team and OIS completed requirements gathering for programming the WCIS system according to the California Version 2.0 guide. The design and development work of the 824 acknowledgment was completed and unit tested.

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[42] Division of Workers' Compensation, "Report of the Uninsured Employers Benefit Trust Fund in Compliance with Labor Code Section 3716.1(c) for Fiscal Year 2008-09" at http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf.

In addition, a proof of concept to replace GENTRAN, an off-the-shelf ANSI file translator, with an in-house developed translator was completed. The proof of concept was accepted, and it was further developed to become the 999 acknowledgment, which will be used in CA version 2.0 in 2016. The design and development work for the 999 is completed and unit testing completed.

Each trading partner must sign a trading partner agreement form and file a profile with the department prior to starting data reporting to WCIS. Currently the trading partner profile is sent on paper. In 2014 a proof of concept was developed to change the paper filing of trading partner profiles to a web-based format.

Data Extracts

In 2014, WCIS data extracts were provided to several state organizations, researchers in academia, and other government organizations.

The WCIS continues to supply regular data extracts for the California Division of Occupational Safety and Health (Cal/OSHA), the California Department of Public Health, and the California Department of Health Care Services. The WCIS also provided data to the DIR Directors Office on several subjects related to legislative efforts.

The RAND Corporation studies on the Evaluation of SB863 Medical Care Reform Study, and Disability Evaluation and Medical Treatment in California used the WCIS data.

The WCIS data was also provided to numerous research organizations and the public at large. Organizations that received WCIS data include:

- The University of San Francisco
- The University of California–San Francisco
- The University of Oregon
- The Workers' Compensation Insurance Rating Bureau of California
- The Kaiser Foundation Health Plan, Inc.

Data Quality

The WCIS team continues to work on improving the quality and completeness of data being reported by claims administrators. To this end, the WCIS team developed reports to send out to data senders and communicated with data senders using meetings and electronic media. WCIS holds an annual advisory meeting to discuss trends, issues, and proposed system changes with trading partners and other stakeholders. WCIS staff have continued to answer data sender questions, distribute Online Training Bulletins, and provide one-on-one training to trading partners to improve their FROI/SROI reporting. During the coming year, WCIS staff will be working with DWC's legal unit to develop, draft, and engage in the regulatory process to implement WCIS penalty provisions.

For further information…
http://www.dir.ca.gov/dwc/WCIS.htm

Division of Workers' Compensation Electronic Adjudication Management System

Senate Bill (SB) 863 requires electronic lien filing as well as electronic payment of filing fees or activation fees on some liens. The Division of Workers' Compensation (DWC)/Department of Industrial Relations (DIR) Electronic Adjudication Management System (EAMS) team successfully deployed the lien filing fee and activation fee processes to eForms, Jet, and Public Search on January 1, 2013.

Upgrades to the new payment processes, including a shopping cart function and increased capacity, were rolled out in March, April, and June 2013. Improvements to these processes are continuing.

The electronic Notice and Request for Allowance of Lien and the Declaration of Readiness forms have been revised, and a new form, Request for Factual Correction of an Unrepresented Panel Qualified Medical Examiner (QME) Report, was created.

EAMS regulations for e-Form filing, Jet filing, and lien fees were approved. Due to a preliminary injunction ordered by a federal district judge in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.,* effective November 19, 2013, the DWC/DIR EAMS team suspended the collection of activation fees for liens filed before January 1, 2013. An appeal of the injunction and other aspects of the judge's ruling are pending. Through EAMS, DWC continues to collect the filing fee for liens filed after January 1, 2013.

Check processing for the Uninsured Employers Benefit Trust Fund (UEBTF) shifted from DIR Accounting to the State Controller's Office.

Check processing for the Subsequent Injuries Benefit Trust Fund (SIBTF) shifted from DIR Accounting to the State Controller's Office.

To better track Senate Bill (SB) 863 changes, modifications were made to Expedited Hearings, Liens, and reasons for filing Liens.

Tools were created to reschedule multiple court hearings at the same time and change Uniform Assigned Name addresses on multiple cases. The improved Notice of Hearing data mailer shows all cases set for hearing when companion cases are scheduled.

New software tools enable EAMS staff to systematically add or change law firms and claims administrators on multiple cases.

Venue adjustments made allow case assignment and hearing scheduling at the Santa Barbara satellite district office.

The upgraded EAMS Case Participants list shows internal and external users the complete addresses of all case parties on a single page.

The EAMS staff is working to better incorporate other portions of SB 863, including Independent Medical Review (IMR) and Independent Bill Review (IBR). Many requests for changes to improve EAMS have been implemented.

Carve-Outs: Alternative Workers' Compensation Systems

A provision of the workers' compensation reform legislation in 1993, implemented through Labor Code Section 3201.5, allowed construction contractors and unions, via the collective bargaining process, to establish alternative workers' compensation programs, also known as carve-outs. In 2003, the Legislature extended the program to cover alternative dispute resolution labor-management agreements outside the construction industry. This is codified in Labor Code Section 3201.7.

CHSWC is monitoring the carve-out program, which is administered by DWC.

CHSWC Study of Carve-Outs

CHSWC engaged in a study to identify the various methods of alternative dispute resolution (ADR), which are being employed in California carve-outs and to begin the process of assessing their efficiency, effectiveness, and compliance with legal requirements.

The study team found indications that the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid return to work (RTW) have not occurred and that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not occurred.

For further information …

> *How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers*, CHSWC (2006).
> http://www.dir.ca.gov/CHSWC/carve-out1.pdf

Impact of Senate Bill 228 (2003)

Senate Bill (SB) 228 added Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This is in addition to the existing carve-out program in the construction industry (already covered in current law by Labor Code Section 3201.5).

Only the union may initiate the carve-out process by petitioning the DWC Administrative Director (AD). The AD will review the petition according to the statutory requirements and issue a letter allowing each employer and labor representative a one-year window for negotiations. The parties may jointly request a one-year extension to negotiate the labor-management agreement.

In order to be considered, the carve-out must meet several requirements, including:

- The union has petitioned the AD as the first step in the process.
- A labor-management agreement has been negotiated, separate and apart from any collective bargaining agreement covering affected employees.
- The labor-management agreement has been negotiated in accordance with the authorization of the AD between an employer or groups of employers and a union recognized or certified as the exclusive bargaining representative that establishes any of the following:
  - An ADR system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the Appeals Board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge.
  - The use of an agreed list of medical treatment providers that may be the exclusive source of all medical treatment provided under this division.

- The use of an agreed, limited list of Qualified Medical Evaluators (QMEs) and Agreed Medical Evaluators (AMEs) that will be the exclusive source of QMEs and AMEs under this division.
- A joint labor-management safety committee.
- A light-duty, modified job, or return-to-work program.
- A vocational rehabilitation or retraining program using an agreed list of rehabilitation services providers that will be the exclusive source of rehabilitation services providers under this division.

· The minimum annual employer premium for the carve-out program for employers with 50 employees or more is $50,000, and the maximum group premium is $500,000.

· Any agreement must include right of counsel throughout the ADR process.

Impact of Senate Bill 899 (2004)

In 2004, the construction industry carve-outs were amended per Labor Code Section 3201.5, and carve-outs in other industries were amended per Labor Code Section 3201.7 to permit the parties to negotiate any aspect of the delivery of medical benefits and the delivery of disability compensation to employees of the employer or group of employers eligible for group health benefits and non-occupational disability benefits through their employer.

Recognizing that many cities and counties, as well as private industries, are interested in knowing more about carve-outs and about health and safety training and education within a carve-out, CHSWC hosted a conference devoted to carve-outs/alternative dispute resolution on August 2, 2007, in Emeryville, California. The conference was for all stakeholders in the workers' compensation system, including: those in existing carve-outs; those considering establishing a carve-out; unions and employers; risk managers; government agencies; third-party administrators; insurers; policymakers; attorneys; and health-care providers.

The conference provided an opportunity for the health and safety and workers' compensation communities and the public to share ideas for establishing carve-outs, which have the potential to: improve safety programs and reduce injury and illness claims; achieve cost savings for employers; provide effective medical delivery and improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

Requirements of ADR Program Reports to DWC Under 8 CCR Section 10203

The ADR data-reporting requirements, initially adopted by DWC in 1996, can be found in the CCR, Title 8, Section 10203. Section 10203 requires that every employer subject to either Labor Code Section 3201.5 or 3201.7 shall provide DWC with the required information for the previous calendar year on or before March 31 of each year. For each claim with a date of injury on or after January 1, 2004, the information shall be updated annually for the previous four calendar years, thereby allowing longer-term claims trajectories and costs to be determined. In order to fulfill the reporting requirement, groups of employers must, on behalf of their members, either submit data directly to DWC, or "(a)(2)(B) provide the Administrative Director with written authorization to collect the information from the appropriate claims administrator. However, if the Administrative Director is unable to obtain the information with the written authorization, the employer shall remain responsible for obtaining and submitting the information." Employers are required to submit data using the Aggregate Employer Annual Report (DWC Form GV-1) (8 CCR Section 10103.1) and the Individual Employer Annual Report (DWC Form GV-2) (8 CCR Section 10103.2).

Aggregate Data Analysis of Carve-Out Programs

Due to a lack of available historical data and a discrepancy between the reporting requirements of Labor Code Section 3201.9 and the data collection requirements of CCR Section 10203, the earliest data available are from 2004. All data presented on carve-outs are total figures for both construction and non-construction programs.

Comparability of Data Presented in Department of Workers' Compensation Carve-out Report

Except for person-hours worked, payroll, and other data presented in Table 35 and Tables 41 and 42 on safety history, the carve-out data presented were derived at two different levels of data maturity. The first level of data maturity is the first-year reported data. These data are the least mature data because it is the first of the four annual submissions of carve-out claims data DWC receives.

The number of carve-out programs reporting first-year data for this analysis changes per calendar year. As Table 33 shows, from 2007 to 2014, the number and percentage of programs for which first-year data are available have increased from 21 (84 percent) to 27 (100 percent).

Table 33: Number of Reporting Carve-Out Programs (First-Year Reporting Data), 2007-2014

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs	21	23	23	24	24	25	22	27
Total Number of Programs	25	23	24	25	25	25	25	27
Percentage of Programs Reporting	84%	100%	96%	96%	96%	100%	88%	100%

Data Source: DWC

The second stage of maturity presented in this report is the latest reporting year available. These data are DWC's most mature carve-out data available for each calendar year. The years included in this latest reporting year available analysis are 2004-2014. The 2004-2011 data presented in the latest reporting year available are fourth-year data. These data are the most mature data collected as part of the carve-out reporting regulations. Because different levels of maturity accompany each year, the data are not strictly comparable.

Table 34 shows that from 2004 to 2011, the number and percentage of programs for which fourth-year data are available have increased from 13 (52 percent) to 22 (88 percent).

Table 34: Number of Reporting Carve-Out Programs (Latest Reporting Data Available), 2004-2014

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
Reporting Programs	13	19	21	21	23	22	20	22	22	25	27
Total Number of Programs	25	23	24	25	25	25	25	25	25	25	27
Percentage of Reporters	52%	83%	88%	84%	92%	88%	80%	88%	88%	100%	100%

Data Source: DWC

Carve-Out Program from 2004 to 2014

Carve-Out Participation

CCR, Title 8, Sections 10203(b)(6) and 10203(b)(7), require ADR/carve-outs to report employees' hours worked and payroll in accordance with Workers' Compensation Insurance Rating Bureau (WCIRB) class codes (Table 35). Unlike all the other reporting requirements, person-hours worked and payroll are only reported once on an annual basis and the data are not updated in subsequent years. Additionally, whereas data for other reporting requirements are available only from 2004 to 2014, the person-hours worked and payroll data are available from 2006 to 2014. Therefore, all the data for person-hours worked and payroll are for only one year of maturity and do not receive three additional years of updated information.

Table 35: Estimated Person-Hours Worked and Payroll, 2006-2014 (first-year reporting)

Calendar Year (Reporting Year)	2006 (1st)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs (Total)	19	16	19	21	19	22	25	22	27
Employers	981	1,087	1,274	876	1,177	1,586	1,508	1,815	1,901
Payroll ($ Billion)	$1.4	$1.8	$2.8	$3.4	$2.0	$2.4	$1.8	$1.2	$3.3
Person-Hours (Mln)	55.6	56.0	92.5	99.2	67.2	78.0	69	51	122
FTE* (estimated)	27,785	28,028	46,252	49,618	33,625	38,968	34,500	25,600	60,900
Hourly Wage	$25	$32	$30	$34	$29	$31	$27	$24	$27

* FTE—Full Time Employees Data Source: DWC

Person-Hours and Payroll Covered by Agreements Filed

For calendar year 2014, carve-out programs reported that they covered 122 million work hours and $3.3 billion in payroll. The reported average wage per carve-out FTE is $27 per hour.

For calendar year 2013, carve-out programs reported that they covered 51 million work hours and $1.2 billion in payroll.

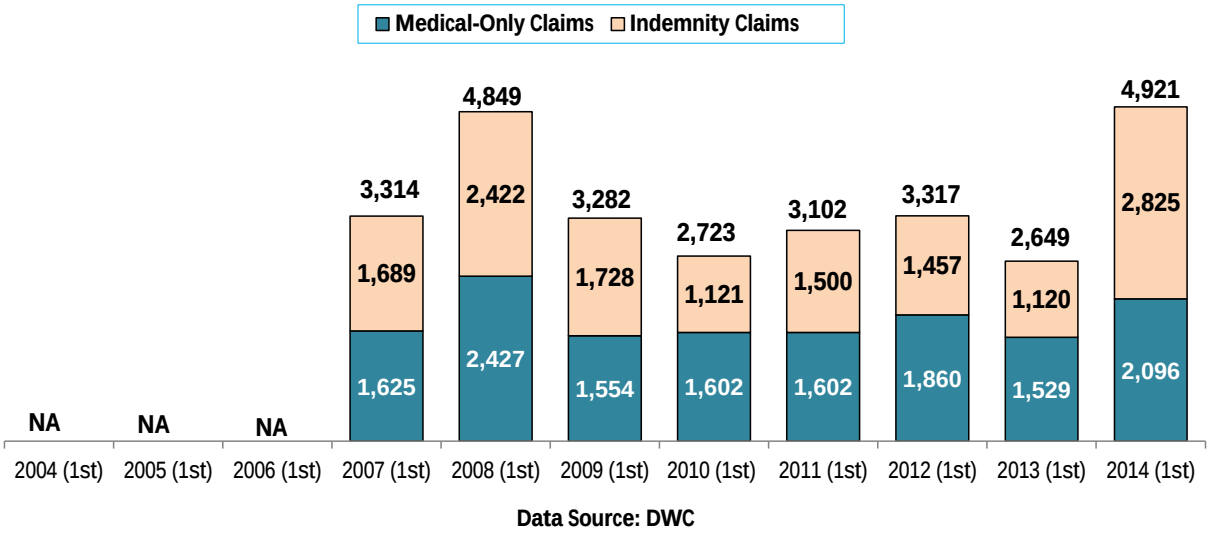
A majority of the 2013 reductions in payroll and person-hours are due to a changing mix of carve-outs and a lack of reporting by four programs. The ending of one program and the four non-reporting programs accounted for $319 million in payroll and 24 million person-hours.

For calendar year 2012, carve-out programs reported that they covered 69 million work hours and $1.8 billion in payroll.

Number of Claims Filed

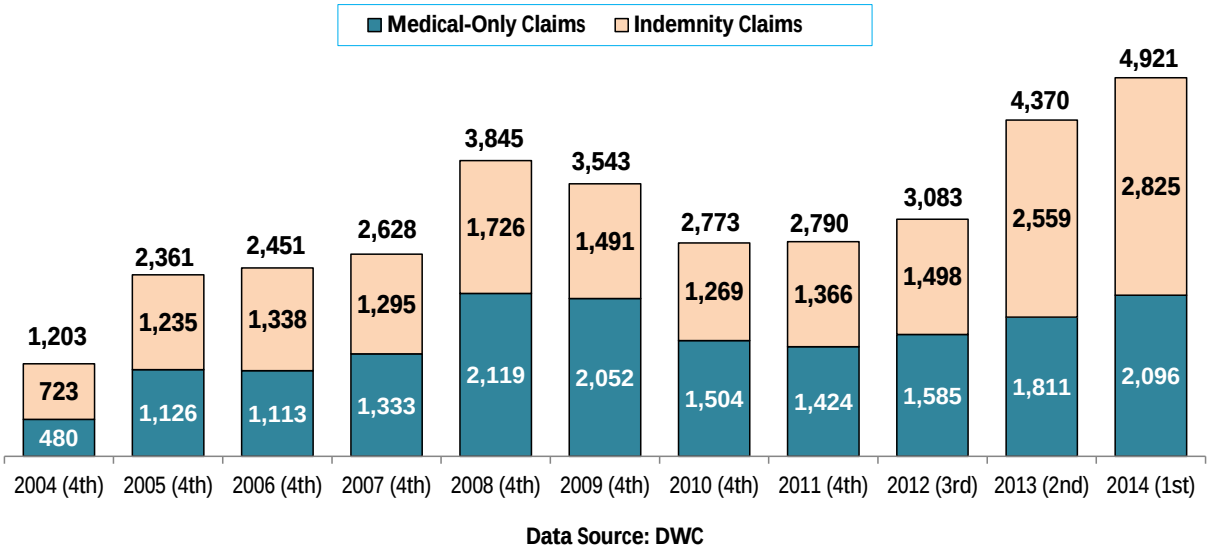
According to Figure 71, in 2014, a total of 4,921 claims were filed, of which 2,096 (42 percent) were medical-only claims and 2,825 (58 percent) were indemnity claims. There were 182 claims filed per carve-out program in 2014.

Figure 71: Number of Claims Filed by Type, 2007-2014 (first-year reporting)



According to Figure 72, for 2004 to 2011 fourth-year data, the number of claims filed increased overall from 1,203 to 2,790. This represents an increase from 92 to 127 claims filed per carve-out program.

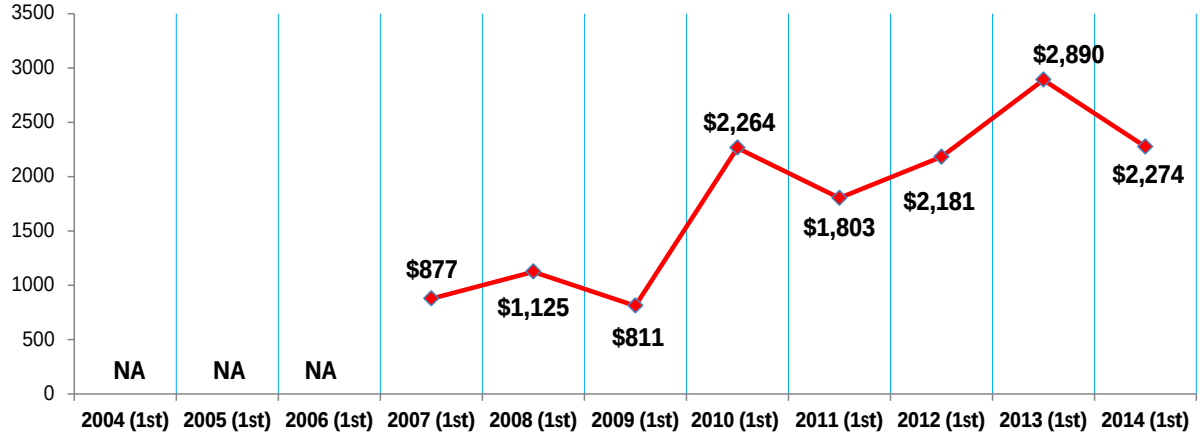
Figure 72: Number of Claims Filed by Type, 2004–2014 (latest reporting year available)



Average Incurred Costs per Medical-Only Claim

Figure 73 shows the average incurred cost per medical-only claims. According to first-year data, the average incurred costs per medical-only claim filed in 2014 was $2,274.

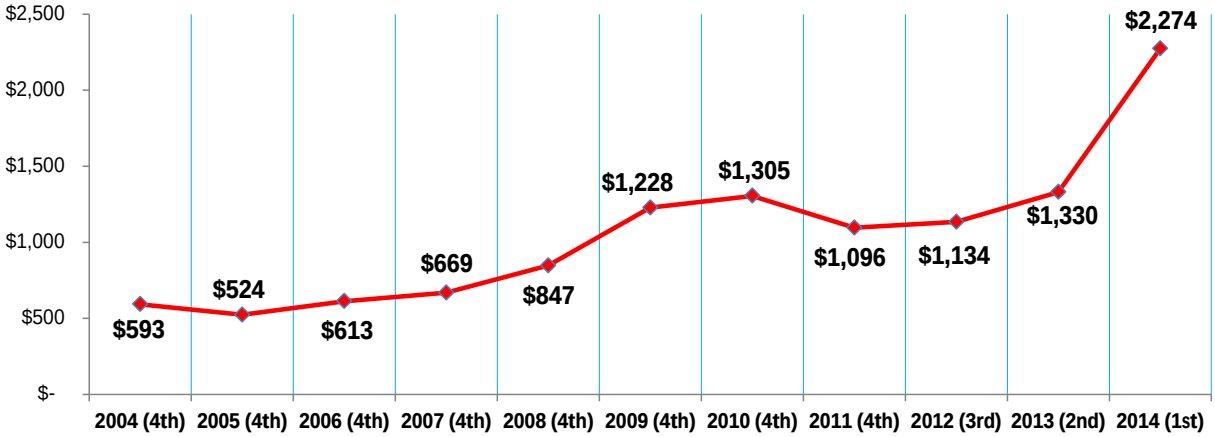
Figure 73: Average Incurred Costs for Medical-only Claims, 2007-2014 (first-year reporting)



Data Source: DWC

According to the latest available data in Figure 74, the average incurred costs per medical-only claim filed in 2011 was $1,096. For medical-only claims, the average incurred cost per claim is higher at initial stages of a claim's life cycle.

Figure 74: Average Incurred Costs for Medical-only Claims, 2004-2014 (latest reporting year available)



Data Source: DWC

Average Incurred Costs per Indemnity Claim

Figures 75 and 76 present averages for two main components of the incurred cost per indemnity claim. For the first-year report, nonmedical indemnity benefits averaged $13,142 per indemnity claim and medical services averaged $13,641 per indemnity claim in 2014. The latest available data in Figure 76 show that, in 2011, the average cost for nonmedical indemnity was $24,580 and the incurred cost for medical services $17,819. The carve-out program claim costs experience significant increase as a claim matures. The fourth-year projected total loss per indemnity claim in 2011 averaged $42,399.

Figure 75: Average Incurred Costs per Indemnity Claim, 2007-2014 (first-year reporting) (Thousand $)

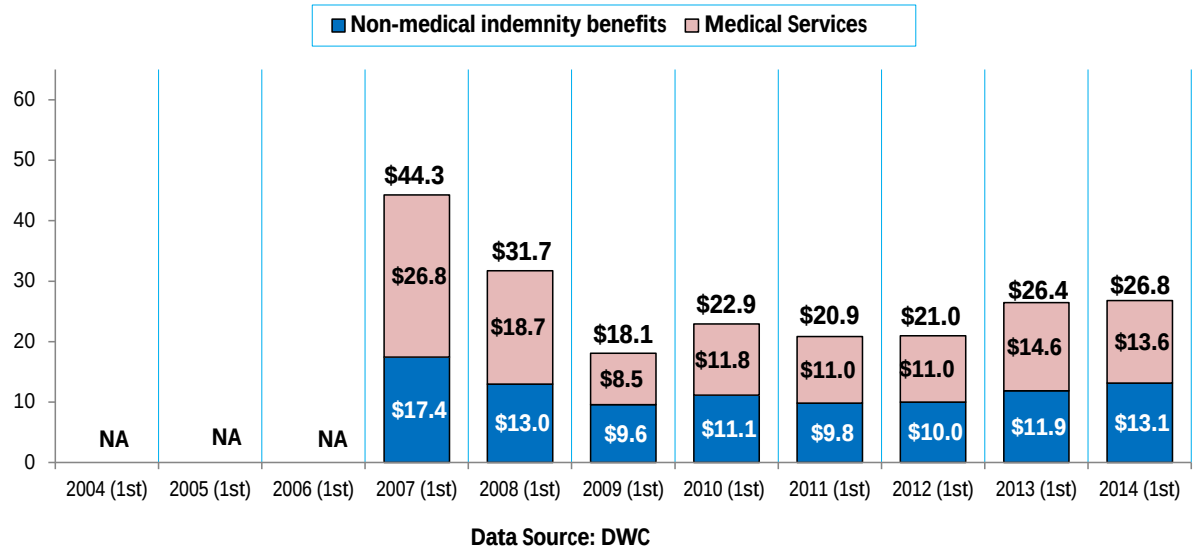
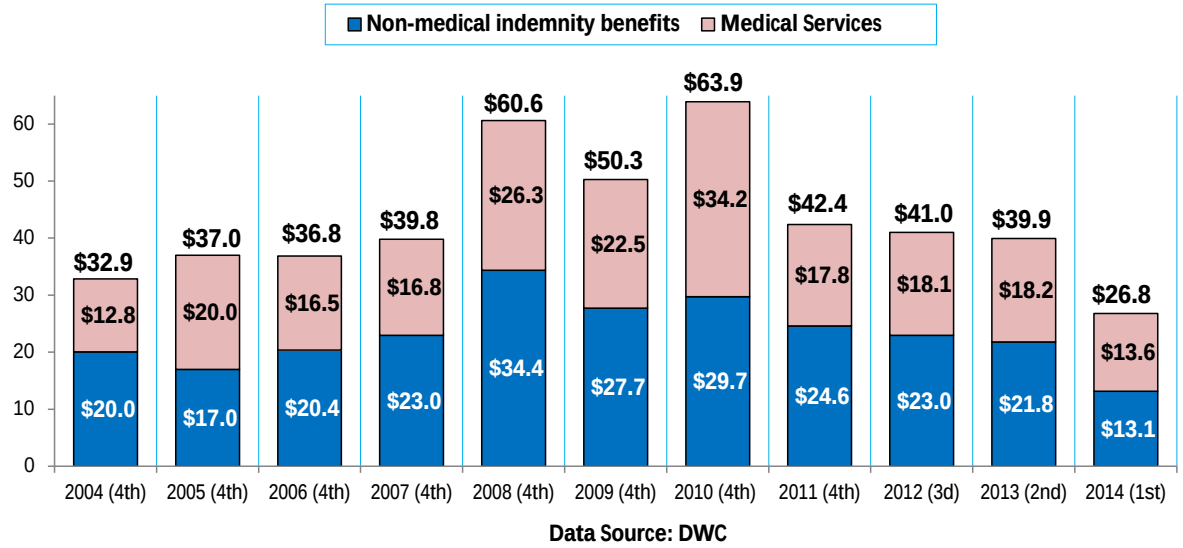


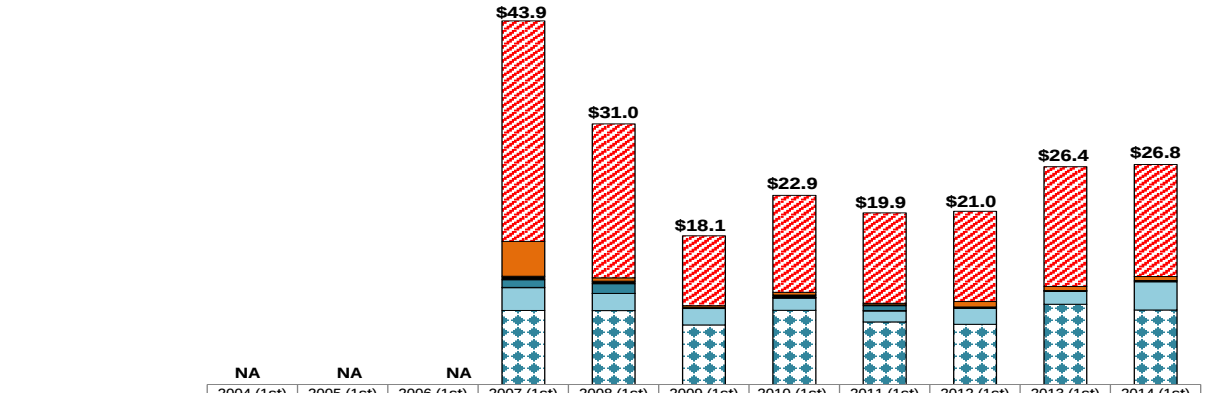
Figure 76: Average Incurred Costs per Indemnity Claim, 2004-2014 (latest reporting year available) (Thousand $)



Average Incurred Costs per Indemnity Claim by Medical and Indemnity Components

Figures 77 and 78 project incurred costs per indemnity claim by the type of benefit. In 2014, for the first-year report, the nonmedical incurred indemnity costs per claim were $9,062 for temporary disability, $3,448 for permanent disability, $0 for life pensions, $0 for death benefits, and $138 for vocational rehabilitation. The medical incurred indemnity costs per indemnity claim were $13,641 for medical services and $494 for medical-legal examinations (Figure 77).

Figure 77: Average Incurred Costs per Indemnity Claim by Benefit Components, 2007-2014 (first-year reporting), (Thousand $)

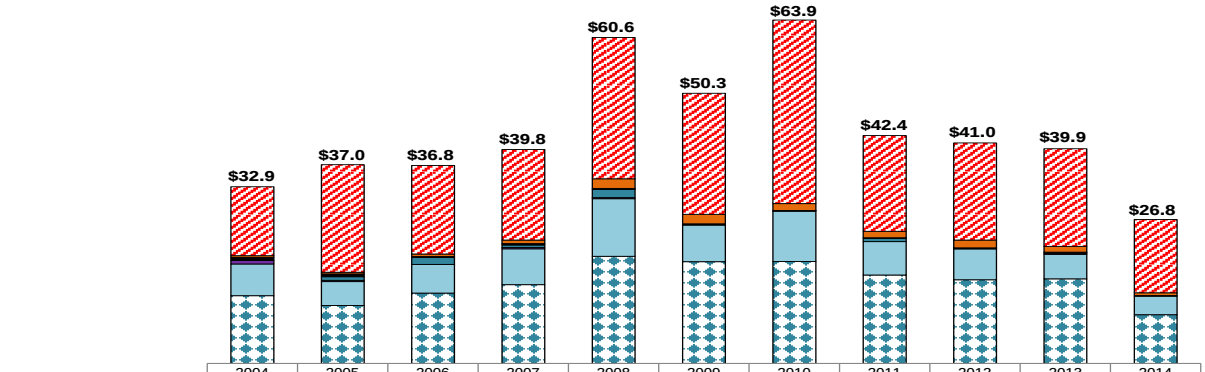


	2004 (1st)	2005 (1st)	2006 (1st)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Medical Services				26.8	18.7	8.5	11.8	11.0	11.0	14.6	13.6
Medical-Legal				4.3	0.4	0.2	0.3	0.2	0.7	0.5	0.5
Vocational Rehab				0.4	0.3	0.1	0.3	0.1	0.1	0.0	0.1
Death Benefits				0.9	1.2	0.0	0.0	0.6	0.0	0.0	0.0
Life Pensions				0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Permanent Disability				2.8	2.1	2.0	1.5	1.3	1.9	1.6	3.4
Temporary Disability				9.0	9.0	7.2	9.0	7.6	7.3	9.8	9.1
Subtotal Indemnity				13.2	12.6	9.4	10.9	9.7	9.4	11.4	12.6
Subtotal Medical				31.1	19.2	8.7	12.1	11.2	11.6	15.1	14.1
TOTAL INCURRED COST				$43.9	$31.0	$18.1	$22.9	$19.9	$21.0	$26.4	$26.8

Data Source: DWC

The latest reporting-year available data in Figure 78 indicate that carve-out program indemnity claims experience significant gains in all categories as a claim matures. For 2011 fourth-year data, the nonmedical incurred indemnity costs per claim were $16,453 for temporary disability, $6,223 for permanent disability, $0 for life pensions, $631 for death benefits, and $69 for vocational rehabilitation.The average carve-out claim saw a 31 percent increase in the amounts incurred for medical services from $12,819 in 2004 to $17,819 per indemnity claim in 2011. From 2004 to 2011, the fourth-year averages for medical-legal expenses reached their peak in 2008 and declined 33 percent in 2011.

Figure 78: Average Incurred Costs per Indemnity Claim by Benefit Components, 2004-2014 (latest reporting year available) (Thousand $)



	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3rd)	2013 (2nd)	2014 (1st)
Medical Services	12.8	20.0	16.5	16.8	26.3	22.5	34.2	17.8	18.1	18.2	13.6
Medical-Legal	0.4	0.3	0.5	0.7	1.8	1.8	1.3	1.2	1.5	1.1	0.5
Vocational Rehab	0.5	0.5	0.2	0.2	0.2	0.1	0.1	0.1	0.0	0.0	0.1
Death Benefits	0.0	0.7	1.3	0.5	1.5	0.1	0.0	0.6	0.1	0.2	0.0
Life Pensions	0.7	0.2	0.0	0.2	0.2	0.0	0.0	0.0	0.0	0.1	0.0
Permanent Disability	5.9	4.4	5.3	6.7	10.7	6.8	9.4	6.2	5.8	4.6	3.4
Temporary Disability	12.6	10.8	13.1	14.7	19.9	18.9	19.0	16.5	15.6	15.7	9.1
Subtotal Indemnity	19.7	16.7	19.9	22.3	32.6	26.0	28.5	23.4	21.5	20.7	12.6
Subtotal Medical	13.2	20.3	16.9	17.5	28.1	24.3	35.4	19.0	19.5	19.2	14.1
TOTAL INCURRED COST	$32.9	$37.0	$36.8	$39.8	$60.6	$50.3	$63.9	$42.4	$41.0	$39.9	$26.8

Data Source: DWC

Dispute Resolution

California Code of Regulations, Title 8, Section 10203(b)(11) requires carve-outs to submit data on the number of claims resolved before mediation, at or after mediation, at or after arbitration, at or after the Workers' Compensation Appeals Board (WCAB), and at or after the Court of Appeals (see Tables 36 and 37). A resolved claim for the purpose of this report is defined in Section 10203(b)(9) as one in which ultimate liability has been determined, even though payments may be made beyond the reporting period.

Table 36: Resolved, Disputed, and Unresolved Claims, 2007-2014 (first-year reporting)

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Number of Programs Reporting	20	22	23	24	25	25	22	27
Number of Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317	2,649	4,921
Number of Claims Resolved	2,752	3,472	2,923	2,409	2,752	2,797	2,436	4,169
Percentage of Claims Filed and Resolved	83%	72%	89%	88%	89%	84%	92%	85%
Number of Claims Resolved without Dispute (Before Mediation)	2,300	3,380	2,847	2,348	2,733	2,703	2,408	4,068
Percentage of Claims Resolved without Dispute (Before Mediation)	84%	97%	97%	97%	99%	97%	99%	98%
Number of Claims Resolved with Dispute	452	92	76	61	19	94	28	101
Percentage of Claims Resolved with Dispute	16%	3%	3%	3%	1%	3%	1%	2%
Number of Claims Unresolved	562	1,377	359	314	350	520	213	752
Percentage of Claims Unresolved	17%	28%	11%	12%	11%	16%	8%	15%

Data Source: DWC

Table 37: Resolved, Disputed, and Unresolved Claims, 2004-2014 (latest reporting year available)

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3rd)	2013 (2nd)	2014 (1st)
No. of Programs Reporting	13	16	19	20	22	23	20	20	20	22	27
No. of Claims Filed	1,203	2,361	2,451	2,879	3,845	3,543	2,773	2,790	3,083	4,370	4,921
No. of Claims Resolved	1,134	2,138	2,190	2,690	3,486	3,418	2,663	2,724	2,918	4,197	4,169
Percent of Claims Filed and Resolved	94%	91%	89%	93%	91%	96%	96%	98%	95%	96%	85%
No. of Claims Resolved without Dispute (Before Mediation)	1,103	2,098	2,079	2,500	3,352	3,277	2,565	2,681	2,862	4,141	4,068
Percent of Claims Resolved without Dispute (Before Mediation)	97%	98%	95%	93%	96%	96%	96%	98%	98%	99%	98%
No. of Claims Resolved with Dispute	31	40	111	190	134	141	41	43	56	56	101
Percentage of Claims Resolved with Dispute	3%	2%	5%	7%	4%	4%	2%	2%	2%	1%	2%
No. of Claims Unresolved	69	223	261	189	359	125	110	66	165	173	752
Percent of Claims Unresolved	6%	9%	11%	7%	9%	4%	4%	2%	5%	4%	15%

Data Source: DWC

In 2014, carve-out programs reported resolving 101 claims through litigation. Forty-four (44) claims were resolved through mediation, 54 through arbitration, 3 at the WCAB, and 0 at the Court of Appeals (Tables 38 through 41). Twenty (20) claims were resolved through mediation, 1through arbitration, 7 at the WCAB, and 0 at the Court of Appeals.

Table 38: Number of Disputed Claims by Type of Resolution, 2007-2014 (first-year data)

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
At Mediation	432	64	59	54	14	85	20	44
At Arbitration	20	27	12	3	1	4	1	54
At WCAB	0	1	5	4	4	5	7	3
At Court of Appeals	0	0	0	0	0	0	0	0
Total Disputed Claims	452	92	76	61	19	94	28	101

Data Source: DWC

Table 39: Distribution of Disputed Claims by Type of Resolution, 2007-2014 (first-year data)

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
At Mediation	96%	70%	78%	89%	74%	90%	71%	44%
At Arbitration	4%	29%	16%	5%	5%	4%	4%	53%
At WCAB	0%	1%	7%	7%	21%	5%	25%	3%
At Court of Appeals	0%	0%	0%	0%	0%	0%	0%	0%

Data Source: DWC

Table 40: Number of Disputed Claims by Type of Resolution, 2004-2014 (latest reporting year available)

Calendar Year (Rep Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
At Mediation	20	29	71	152	83	118	35	29	47	34	44
At Arbitration	7	6	32	23	36	16	5	5	3	3	54
At WCAB	4	5	8	15	14	7	1	5	5	15	3
At Court of Appeals	0	0	0	0	1	0	0	4	1	4	0
Total Disputed Claims	31	40	111	190	134	141	41	43	56	56	101

Data Source: DWC

Table 41: Distribution of Disputed Claims by Type of Resolution, 2004-2014 (latest reporting year available)

Calendar Year (Rep Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
At Mediation	65%	73%	64%	80%	62%	84%	85%	67%	84%	61%	44%
At Arbitration	23%	15%	29%	12%	27%	11%	12%	12%	5%	5%	53%
At WCAB	13%	13%	7%	8%	10%	5%	2%	12%	9%	27%	3%
At Court of Appeals	0%	0%	0%	0%	1%	0%	0%	9%	2%	7%	0%

Data Source: DWC

Safety History

To determine safety history, CCR, Title 8 Section 10203(b)(14) requires that ADR programs report safety ratings (incidence rates) based on the number of injuries and illnesses per 100 full-time employees. To calculate an incidence rate, ADR programs must multiply the number of injuries and illnesses reported on the United States Department of Labor Occupational Safety and Health Administration (OSHA) Form 300 by 200,000,[43] then divide by the number of person-hours worked reported under CCR, Title 8, Section 10203(b)(6).

ADR programs, however, experience under-reporting of injuries and illnesses on OSHA Form 300 when compared to the number of claims filed (see Table 42).

Table 42: Number of OSHA Form 300 Injuries and Illnesses and Total Claims, 2010-2014[44] (first-year data)

Calendar Year (Reporting Cycle)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
3201.5 and 3201.7 Programs					
Number of Programs Reporting (#)	24	25	25	22	27
OSHA Form 300 Injuries and Illnesses (#)	2,243	2,287	2,321	2,056	3,073
Total Claims Reported to Program(#)	2,723	3,102	3,317	2,649	4,921
Percentage of OSHA Incidents to Program Claims Filed	82%	74%	70%	78%	62%
3201.5 Construction Programs					
Number of Programs Reporting (#)	21	21	20	18	18
OSHA Form 300 Injuries and Illnesses (#)	640	427	439	556	466
Total Claims (#)	1,045	1,060	874	1,095	954
Percentage of OSHA Incidents to Claims Filed	61%	40%	50%	51%	49%
3201.7 Non-Construction Programs					
Number of Programs Reporting (#)	3	4	5	4	9
OSHA Form 300 Injuries and Illnesses (#)	1,603	1,860	1,882	1,500	2,607
Total Claims (#)	1,678	2,042	2,443	1,554	3,967
Percentage of OSHA Incidents to Claims Filed	96%	91%	77%	97%	66%

Data Source: DWC

The DWC calculates an incidence rate based on the number of claims per 100 full-time employees. To calculate both incidence rates for all programs, adjustments are made to the number of injuries and illnesses and the number of claims to compensate for the ADR programs that did not report person-hours worked (see Table 43). In 2014, the U.S. Bureau of Labor Statistics (BLS) injury and illness incidence rate for all California workers was 3.8; construction workers had an incidence rate of 4.8.[45]

[43] The 200,000 hours in the formula represents the equivalent of 100 employees working 40 hours per week, 50 weeks per year, and provides the standard base for the incidence rates. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, 2010, "How To Compute a Firm's Incidence Rate for Safety Management," http://www.bls.gov/iif/osheval.htm.

[44] To protect the confidentiality of ADR programs, the safety history analysis excludes include 2007-2009 first-year data.

[45] Bureau of Labor Statistics, U.S. Department of Labor, "Table 6. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2014," http://www.bls.gov/iif/oshwc/osh/os/pr146ca.pdf or http://www.bls.gov/iif/oshstate.htm#CA.

Table 43: Number of OSHA Form 300 Injuries and Illnesses and Reported Claims, 2010-2014[46] (first-year data)

Calendar Year (Reporting Year)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
3201.5 and 3201.7 Total Programs					
Reporting Programs (#)	19	22	25	22	27
Number of Person-Hours Worked (million)	67.2	77.9	69.0	51.2	121.7
OSHA Form 300 Injuries and Illnesses (#)	2,136	2,287	2,321	2,056	3,073
Total Claims Reported to Program (#)	2,521	3,089	3,317	2,649	4,921
Percentage of OSHA Incidents to Program Claims Filed	85%	74%	70%	78%	62%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	6.4	5.9	6.7	8.0	5.0
Safety Rating Based on Reported Claims (#)	7.5	7.9	9.6	10.4	8.1
3201.5 Construction Programs					
Reporting Programs (#)	16	18	20	18	18
Number of Person-Hours Worked (million)	50.2	46.7	34.9	30.7	34.4
OSHA Form 300 Injuries and Illnesses (#)	571	427	439	556	466
Total Claims Reported to Program (#)	888	1,049	874	1,095	954
Percentage of OSHA Incidents to Program Claims Filed	64%	41%	50%	51%	49%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	2.3	1.8	2.5	3.6	2.7
Safety Rating Based on Reported Claims (#)	3.5	4.5	5.0	7.1	5.5
3201.7 Non-Construction Programs					
Reporting Programs (#)	3	4	5	4	9
Number of Person-Hours Worked (million)	17.0	31.2	34.1	20.5	87.3
OSHA Form 300 Injuries and Illnesses (#)	1,565	1,860	1,882	1,500	2,607
Total Claims Reported to Program (#)	1,633	2,040	2,443	1,554	3,967
Percentage of OSHA Incidents to Program Claims Filed	96%	91%	77%	97%	66%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	18.4	11.9	11.0	14.7	6.0
Safety Rating Based on Reported Claims (#)	19.2	13.1	14.3	15.2	9.1

Data Source: DWC

Return to Work

CCR, Title 8, Section 10203(b)(16), requires carve-outs to report the number of workers participating in light-duty or modified return-to-work programs. In 2014, 985 workers participated in light-duty or modified work programs, including both construction-program and non-construction-program workers. The overall ratio of claims filed per each light-duty or modified work participant was 5 to 1 (Tables 44 and 45).

[46] To protect the confidentiality of ADR programs, the safety history analysis excludes include 2007-2009 first-year data.

Table 44: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2007-2014 (first-year reporting)

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs (#)	21	23	23	24	24	25	22	27
Total Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317	2,649	4,921
Light-Duty and Modified Work Participants	113	212	881	730	839	926	721	985
Ratio Claims Filed to Light-Duty or Modified Work Participant	29.3	22.9	3.7	3.7	3.7	3.6	3.7	5.0

Data Source: DWC

Table 45: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2004-2014 (latest reporting year available)

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4rd)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
Reporting Programs (#)	13	19	21	22	23	22	23	24	22	25	27
Total Claims Filed	1,203	2,361	2,451	2,628	3,845	3,543	2,793	3,102	3,083	4,370	4,921
Light-Duty and Modified Work Participants	2	61	265	179	965	1,021	869	839	617	618	619
Ratio Claims Filed to Light-Duty or Modified Work Participant	601.5	38.7	9.2	14.7	4.0	3.5	3.2	3.7	5.0	7.1	7.9

Data Source: DWC

Worker Satisfaction

In order to fulfill the reporting requirements of Section 10203, non-construction carve-out programs are required to submit the results of a self-administered worker-satisfaction survey.

In 2014, of the nine reporting 3201.7 programs, one program submitted results. This program found that 40 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. Eight other 3201.7 programs failed to report the results of a worker satisfaction survey.

In 2013, of the four reporting 3201.7 programs, one program submitted results. This program found that 42 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. Three other 3201.7 programs failed to report the results of a worker-satisfaction survey.

For 2012, of the five reporting 3201.7 programs, one program submitted results. This program found that 52 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. Three programs failed to report results because they had not yet developed and implemented a worker-satisfaction survey.

For 2011, of the four reporting 3201.7 programs, one program submitted results. This program found that 42 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out program. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. A second program failed to report results because they had not yet developed and implemented a worker-satisfaction survey. A third program failed to report results as survey requests sent out to employees were not returned.

Status of Carve-Out Agreements

Tables 46 to 52, show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

Table 46: Construction Industry Carve-out Participants as of August, 2015
Labor Code Section 3201.5 (active programs)

No.	Union	Company	Agreement Type	Expiration Date
2	International Brotherhood of Electrical Workers (IBEW)	National Electrical Contractors Association (NECA)	1 Union, Multiple Employers	8/14/2016
3	So. CA District of Carpenters & 19 local unions	6 multi-employer groups—1000 contractors	1 Union, Multiple Employers	8/14/2016
4	So. CA Pipe Trades Council 16	Multi employer—Plumbing & Piping Industry Council	1 Union, Multiple Employers	8/24/2016
6	International Union of Petroleum & Industrial Workers	TIMEC Co., Inc./TIMEC So. CA., Inc.	1 Union, 1 Employer	7/31/2018
8	So. CA District Council of Laborers	Assoc. General Contractors of CA, Building Industry Assoc.; So. CA, So. CA Contractors' Assoc.; Engineering Contractors' Assoc.	1 Union, Multiple Employers	7/31/2017
11	District Council of Painters	LA Painting & Decorating Contractors' Association	1 Union, Multiple Employers	10/28/2015
14	Operating Engineers Local 12	So. CA Contractors' Association	1 Union, Multiple Employers	4/1/2017
15	Sheet Metal International Union	Sheet Metal-A/C Contractors National Association	1 Union, Multiple Employers	4/1/2017
16	Building & Construction Trades Council San Diego	San Diego County Water Authority Emergency Storage Project	Project Labor Agreement	2/20/2018
21	District Council of Iron Workers—State CA & Vicinity	California Ironworker Employers Council	1 Union, Multiple Employers	2/25/2018
22	Sheet Metal Workers International Association #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	1 Union, Multiple Employers	4/17/2015
23	United Union of Roofers, Waterproofers & Allied workers, Local 36 and 220	Union Roofing Contractors Association	1 Union, Multiple Employers	7/31/2017
24	United Union of Roofers, Waterproofers & Allied Workers, Locals 27, 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	1 Union, Multiple Employers	7/31/2017
26	Operatives Plasterers & Cement Masons International Association, Local 500 & 600	So. CA Contractors Association, Inc.	1 Union, Multiple Employers	4/1/2017
27	International Unions Public & Industrial Workers	Irwin Industries, Inc.	1 Union, 1 Employer	3/23/2016
29	No. CA Carpenters Regional Council	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
30	No. CA District Council of Laborers	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
31	Operating Engineers Local 3	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
32	Industrial, Professional & Technical Workers	Irish Construction	1 Union, 1 Employer	12/04/2016
33	Building Trades Council of Los Angeles-Orange County	L.A. Comm. College District Construction Program	Project Labor Agreement	5/6/2017
34	Santa Clara & San Benito Counties Bldg. & Construction Trades	Santa Clara Valley Med'l Cntr-Seismic Safety Project, OCIP	Project Labor Agreement	2/2/2016

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/ConstructionCarveOut.htm

Table 47: Completed, Ended, or Expired Construction Industry Carve-Out Programs*

No.	Union	Company	Agreement Type	Expiration Date
1	CA Building & Construction Trades Council	Metropolitan Water District So. CA—Diamond Valley Lake	Project Labor Agreement	Expired 11/07/2006
5	Steamfitters Local 250	Cherne—two projects completed in 1996	1 Union, 1 Employer	Completed 1996
7	Contra Costa Building & Construction Trades Council	Contra Costa Water District—Los Vaqueros	Project Labor Agreement	Completed
9	CA Building & Construction Trades Council	Metropolitan Water District So. CA Inland Feeder Parsons	Project Labor Agreement	Ended 12/31/2002
10	Building & Construction Trades Council of Alameda County	Parsons Constructors, Inc. Nat'l Ignition Facility—Lawrence Livermore	Project Labor Agreement	Ended 7/02/2006
12	Plumbing & Pipefitting Local 342	Cherne Contracting—Chevron Base Oil 2000 project	1 Union, 1 Employer	Completed
13	LA Building & Construction Trades Council AFL-CIO	Cherne Contracting—ARCO	Project Labor Agreement	Completed
17	LA/Orange Counties Building & Construction Trade Council	Cherne Contracting—Chevron Refinery—El Segundo	Project Labor Agreement	Expired 7/26/2005
18	Plumbers & Steamfitters	Cherne Contracting—Chevron Refinery—Richmond	Project Labor Agreement	Expired 7/1/2005
19	Plumbers & Steamfitters	Cherne Contracting—Tesoro Refinery—Martinez	Project Labor Agreement	Expired 7/1/2005
20	LA County Building & Construction Trades Council	Cherne Contracting—Equilon Refinery—Wilmington	Project Labor Agreement	Expired 3/1/2007
25	United Association - Journeyman & Apprentices—Plumbers & Pipefitters, Local #447	No.CA Mechanical Contractors Association & Association Plumbing & Mechanical Contractors of Sacramento. Inc.	1 Union, Multiple Employers	Expired 11/7/2012
28	PIPE Trades District Council.# 36	Mechanical Contractors Council of Central CA	1 Union, Multiple Employers	Expired 4/14/2013

*A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/ConstructionCarveOut.htm

Non-Construction Industry Carve-Out Participants as of August 2015
(Labor Code Section 3201.7)

Table 48: Non-Construction Carve-Out Active Programs

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N14	Long Beach Peace Officers' Association & Long Beach Fire Fighters' Association Local 372	City of Long Beach	12/11/2006	12/11/2007	11/2/2007	11/13/2007
N15	SEIU Local 1877	Various Maintenance Companies	4/13/2007	4/13/2008	2/12/2008	2/28/2008
N16	SEIU Local 721	City of Los Angeles	6/18/2007	6/18/2008	4/15/2008	5/8/2008
N20	Kern County Firefighters' Union	County of Kern	6/3/2010	6/3/2011	1/14/2014	1/14/2014
N21	Kern County Law Enforcement Association	County of Kern	6/3/2010	6/3/2011	1/14/2014	1/14/2014
N28	SEIU United Service Workers West	No. CA Maintenance Contractors Assoc.	1/12/2011	1/12/2012	3/3/2011	3/8/2011
N29	LA County Firefighters' Local 1014	LA County Fire Department	3/23/2011	3/23/2013	10/24/2012	10/24/2012
N30	SEIU Local 87	SF Maintenance Contractors Assoc.	3/28/2011	3/28/2012	5/31/2011	6/7/2011
N31	SEIU United Service Workers West	No. CA Safeway Contractors	4/15/2011	4/15/2012	5/24/2011	6/3/2011
N32	SEIU United Service Workers West	ABM-non-food retail-LA County	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N33	SEIU United Service Workers West	ABM-non-food retail-San Diego & Imperial Counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N34	SEIU United Service Workers West	ABM-retail food-All CA counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N35	Huntington Beach Police Officers' Assoc.	City of Huntington Beach	7/1/2011	7/1/2013	5/13/2013	5/13/2013
N36	Huntington Beach Firefighters Assoc.	City of Huntington Beach	7/27/2011	7/27/2013	5/13/2013	5/13/2013
N37	Huntington Beach Police Management Assoc.	City of Huntington Beach	7/12/2011	7/12/2013	5/13/2013	5/13/2013
N38	Huntington Beach Fire Management Assoc.	City of Huntington Beach	7/5/2011	7/5/2013	5/13/2013	5/13/2013
N40	Orange County Professional Firefighters Assoc.	Orange County Fire Authority	11/30/2011	12/5/2013	8/14/2014	8/14/2014
N41	SEIU-USWW and SEIU 87	ABLE Services	2/9/2012	2/9/2013	2/16/2012	2/23/2012
N42	UFCW 8 Locals	Von's and Super A	10/26/2011	10/26/2013	10/23/2013	10/23/2013

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N43	City of Glendale Police Officers' Association	City of Glendale	7/10/2013	7/10/2014	2/25/2015	2/25/2015
N44	Bakersfield Police Officers' Association	City of Bakersfield	1/27/2014	1/27/2015	3/27/2015	3/27/2015
N45	Bakersfield City Firefighters' Association Local 246	City of Bakersfield	2/18/2014	2/18/2015	3/27/2015	3/27/2015
N46	Madera Police Officers Association	City of Madera	2/18/2014	2/18/2016	3/27/2015	3/27/2015
N47	Rialto Firefighters Local 3688	City of Rialto	7/31/2014	7/31/2015	5/29/2015	5/29/2015
N50	Rialto Police Benefit Association	City of Rialto	5/16/2014	5/16/2015	5/29/2015	5/29/2015
N51	Fresno Police Officers' Association	City of Fresno	8/14/2014	8/14/2015	6/26/2015	6/26/2015

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm.

Table 49: Non-Construction Carve-Out Programs with Permission to Operate (not Currently Active)

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N6	No. CA Carpenters Regional Council Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N7	No. CA District Council of Laborers Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N8	Operating Engineers Local 3 Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm.

Table 50: Non-Construction Carve-Out Programs with Open Permission to Negotiate

No.	Union	Company	Negotiate Start Date	Negotiate End Date
N48	Amalgamated Transit Union, Local 1027	City of Fresno	3/25/2014	3/25/2015
N52	Porterville Operating Engineers	City of Porterville	9/24/2014	9/29/2015
N53	Porterville City Employees Association	City of Porterville	9/24/2014	9/29/2015
N54	Porterville Police Officers' Association	City of Porterville	9/24/2014	9/29/2015
N55	Porterville Firefighters' Association	City of Porterville	3/26/2015	3/26/2016
N56	Porterville Manager and Confidential Series	City of Porterville	3/26/2015	3/26/2016
N57	Porterville Fire Officer Series	City of Porterville	3/26/2015	3/26/2016
N58	Amalgamated Transit Union, Local 1575	Golden Gate Transit	6/23/2015	6/23/2016
N59	Richmond Police Officers' Association	City of Richmond	8/15/2015	8/15/2016

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm

Table 51: Non-Construction Carve-Out Programs with Expired Permission to Negotiate

No.	Union	Company	Negotiate Start Date	Negotiate End Date
N1	UFCW Local 324	Super A Foods—2 locations—~ 76 members	9/1/2004	9/1/2005
N2	UFCW Local 1167	Super A Foods—Meat Department ~8 employees	9/1/2004	9/1/2005
N3	Teamsters CA State Council-Cannery & Food Processing Unions, IBT, AFL-CIO	CA Processors, Inc. Multi-Employer Bargaining Representative	7/6/2004	7/5/2005
N4	UFCW Local 770	Super A Foods—10 locations- ~283 members	9/1/2004	9/1/2005
N5	UFCF Local 1036	Super A Foods—All employees, except those engaged in janitorial work or covered under a CBA w/Culinary Workers and demonstrators	9/1/2004	9/1/2005 Withdrawn 7/28/2009
N10	Teamsters Local 952	Orange County Transportation Authority Coach Operators	4/17/2006	4/17/2007 Withdrawn 7/28/2009
N10A	Teamsters Local 952	Orange County Transportation Authority Maintenance Workers	7/31/2006	7/31/2007
N11	Teamsters Local 630	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009
N12	Teamsters Local 848	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009
N16	UFCW Local 5	Berkeley Bowl	7/7/2008	7/7/2009
N17	UFCW Local 5	Smoked Prime Meats, Inc.	7/7/2008	7/7/2009
N18	UFCW Local 5	Milan Salami	7/7/2008	7/7/2009
N22	United Food & Commercial Workers Local 8	Save Mart Supermarkets dba Yosemite Wholesale	8/11/2010	8/11/2011
N23	Teamsters Local 150	Save Mart Supermarkets dba Roseville Distribution Center	9/13/2010	9/13/2011
N27	Automotive Machinists Lodge 1173	Save Mart Supermarkets dba Vacaville Distribution Center	11/30/2010	11/30/2011
N49	UFCW Locals 5, 8-GS and 648	Safeway	4/18/2014	4/18/2015

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm

Table 52: Completed, Ended or Expired Non-Construction Carve-Out Programs*

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N9	United Food & Commercial Workers Union Local 588	Mainstay Business Solutions	8/11/2005	8/11/2006	9/2/2005	9/12/2005

* A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

Source: DWC, http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm

For further information …

The latest information on carve-outs may be obtained at:
http://www.dir.ca.gov/dwc/carveout.html

How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers. CHSWC (2006).
http://www.dir.ca.gov/CHSWC/carve-out1.pdf

Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation. CHSWC (2004).
http://www.dir.ca.gov/chswc/CARVEOUTSGuidebook2004.pdf

Carve-Outs in Workers' Compensation: An Analysis of Experience in the California Construction Industry (1999).
http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html

DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT

The Bureau of Field Enforcement (BOFE) in the Division of Labor Standards Enforcement (DLSE) is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, and Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

Table 53 lists the citations from 2013-2014 enforcement actions. It illustrates the Bureau's performance inclusive of all special programs, such as non-public works field enforcement and prevailing wage enforcement through the Public Works Unit.

Table 53: DLSE Citations by Category, 2013–2014

Citation Category	Number of Citations	Penalties Assessed	Penalties Collected
Workers' Compensation	**1,224**	**$30,108,340**	**$4,011,771**
Itemized Statement	630	$7,870,513	$3,062,563
Non-registration*	112	$802,600	$278,517
Unlicensed Construction Contractor	79	$966,800	$59,760
Minimum Wage	178	$845,850	$122,618
Overtime	199	$879,044	$168,344
Child Labor	76	$95,000	$62,940
Garment	39	$61,100	$22,506
Rest and Meal Period	115	$732,613	$65,765
Unlicensed Farm Labor Contractor	7	$70,000	$21,700
Misclassification	1	$5,000	$5,000
Other	4	$3,400	$200
Subtotal	**2,664**	**$42,440,259**	**$7,881,683**
Public Works	406	$13,420,728**	$3,521,696
LESS citations dismissed/modified		*($14,656,948)*	
TOTAL	**3,070**	**$41,204,039**	**$11,403,380**

* "Non-registration" includes penalties for non-registration issued for car washes and garment manufacturers.
** Includes the assessment of $4,744,115 in Labor Code Section 1777.7.

Source: DLSE

For further information …

http://www.dir.ca.gov/dlse/BOFE_LegReport2014.pdf

ANTI-FRAUD ACTIVITIES

Background

During the past decade, there has been a dedicated and rapidly growing campaign in California against workers' compensation fraud. This report on the nature and results of that campaign is based primarily on information obtained from the California Department of Insurance (CDI) Fraud Division, as well as applicable Insurance Code and Labor Code sections, and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

The former Insurance Commissioner Steve Poizner convened an Advisory Task Force on Insurance Fraud in May 2007 to address major issues relating to insurance fraud. Former Executive Officer of CHSWC Christine Baker, currently the director of DIR, chaired the Task Force's Workers' Compensation Expert Working Group. The Task Force completed a comprehensive review of the anti-fraud insurance programs and identified 18 recommendations to consider in reducing insurance fraud in California.

The recommendations are consolidated into the following five categories identified by the Task Force:

- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.
- Industry Role in Fighting Fraud.
- Public Role in Fighting Fraud.
- Fraud Statutes and Regulations.
- Technologies.

The Fraud Division is currently implementing the following recommendations:

- Placing personnel in existing fusion centers in the State so that law enforcement can share information more efficiently and quickly identify emerging trends and crime patterns.

- Developing and providing better training for the Special Investigation Units (SIU) on the recognition, documentation and reporting of suspected insurance fraud claims.

- Recognizing insurance companies that go beyond compliance for their greater commitment to fighting fraud.

- Increasing the CDI's outreach efforts about the consequences of fraud and how the public can recognize and report it.

Suspected Fraudulent Claims

Suspected Fraudulent Claims (SFCs) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of SFCs represents only a small portion reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:[47]

- The extensive efforts to provide training to the insurance claim adjusters and SIU personnel by the Fraud Division and District Attorneys.

- Changing submission of SFCs by filling out the FD-1 Form electronically on the Internet.

- Promulgating new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit was established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies.

[47] 2014 Annual Report of the Insurance Commissioner, August 1, 2015.

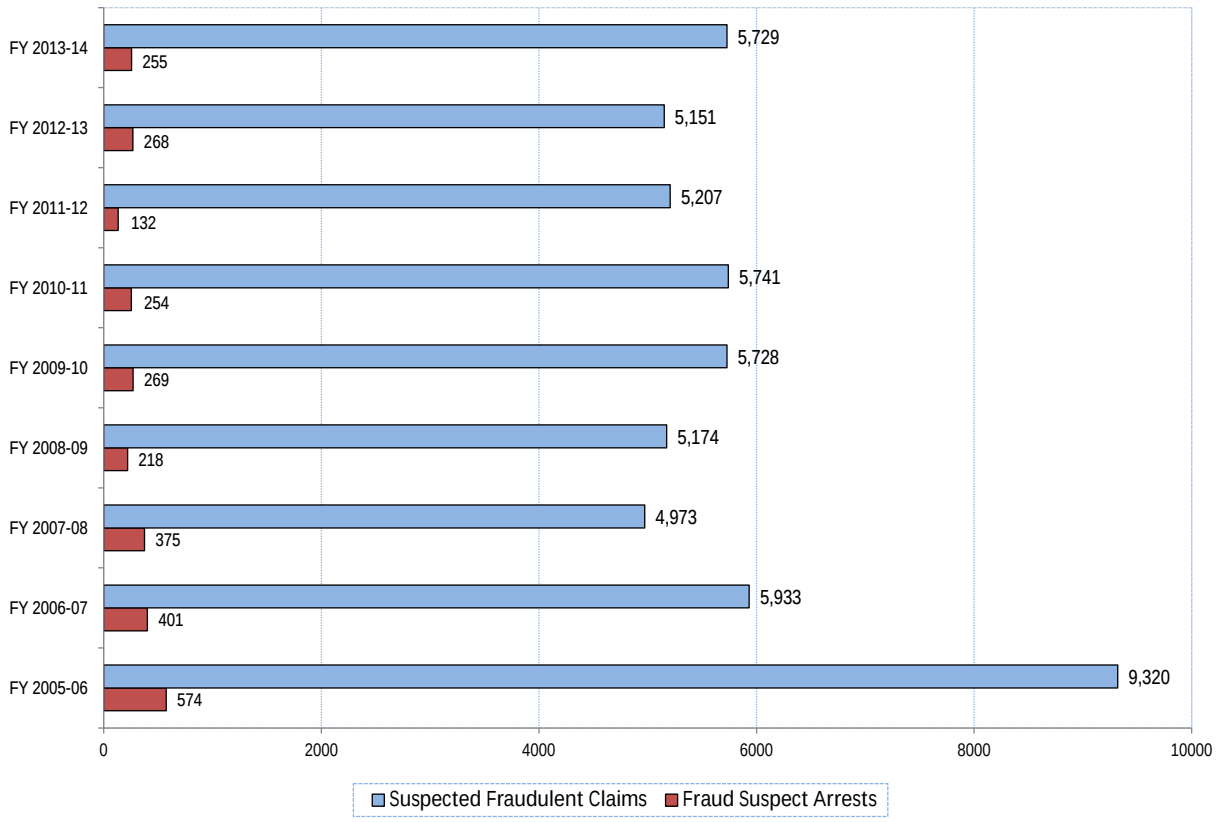
- CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

For fiscal year 2013-2014, the total number of SFCs reported is 5,729.

Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year (see Figure 79).

Figure 79: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests

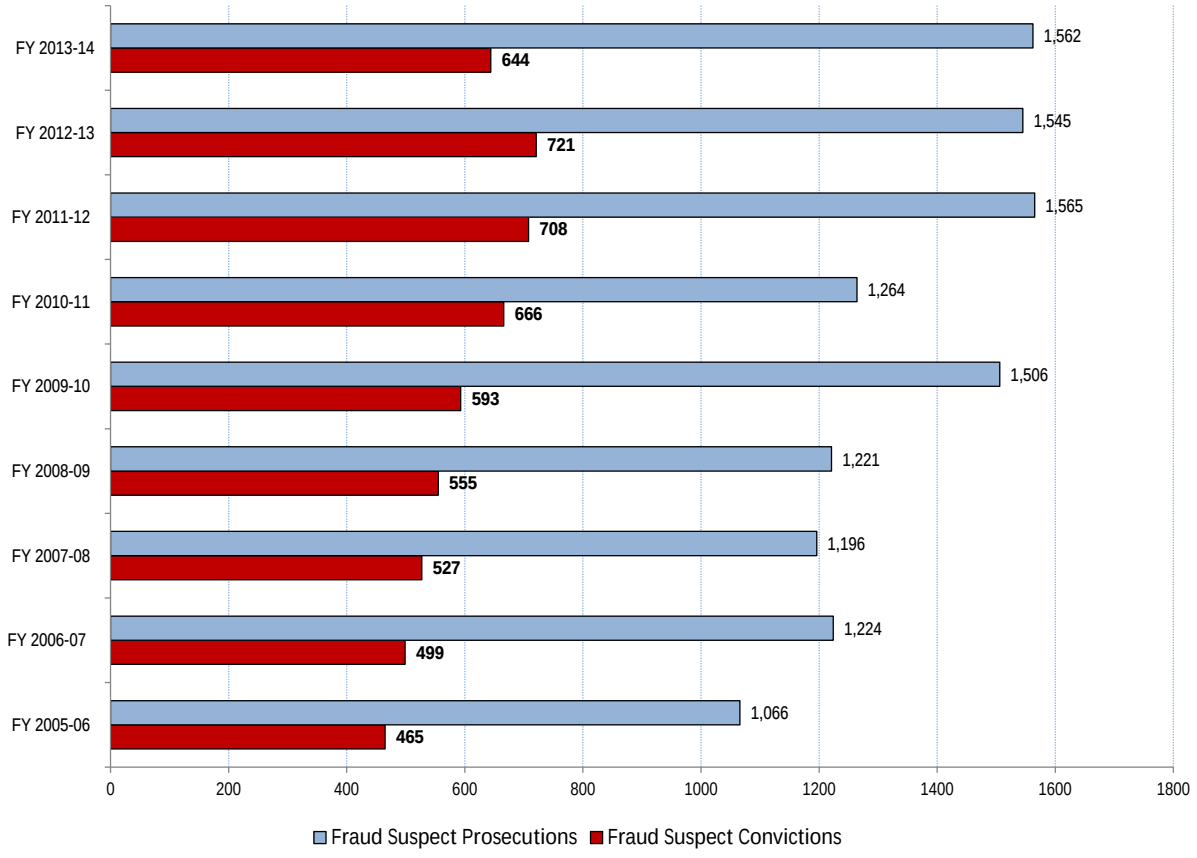


Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI Bulletin(s), the number of workers' compensation fraud suspects convicted annually while many cases are still pending in court is reported in Figure 80.

Figure 80: Workers' Compensation Fraud Suspect Prosecutions and Convictions



Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Investigations

Types of Workers' Compensation Fraud Investigations

Figures 81 and 82 indicate the number and types of investigations opened and carried from fiscal years (FY) 2005-2006 to FY 2013-2014 that were reported by district attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and uninsured employer fraud.

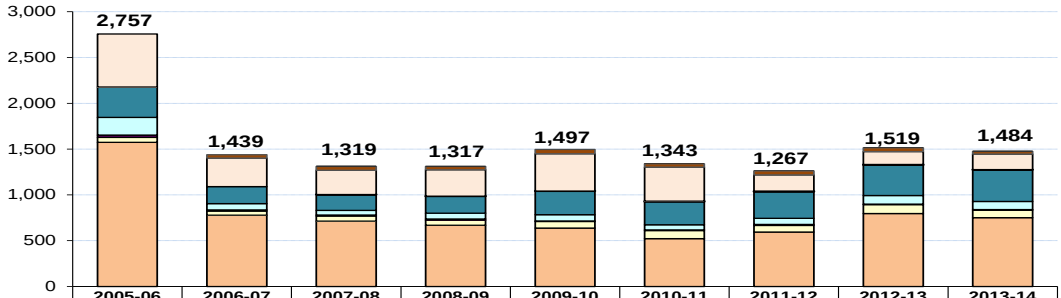
Some of the categories for fraud-related investigations were changed in FY 2005-2006, FY 2006-2007, and FY 2007-2008 as reflected in Figures 81 and 82. In 2008, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

Trends in Workers' Compensation Fraud Investigations

Figure 81 shows that, after reaching its peak in FY 2005-2006, the workers' compensation fraud investigations showed a 48 percent decline in FY 2006-2007. From FY 2006-2007 to FY 2011-2012, the number of workers' compensation fraud investigations averaged 1,364. The workers' compensation fraud

investigations increased by 20 percent from FY 2011-2012 to FY 2012-2013 and averaged 1,500 investigations per year in FY 2012-2013 and FY 2013-2014.

Figure 81: Caseload by Type of Fraud Investigations, FY 2005-2006–FY 2013-2014



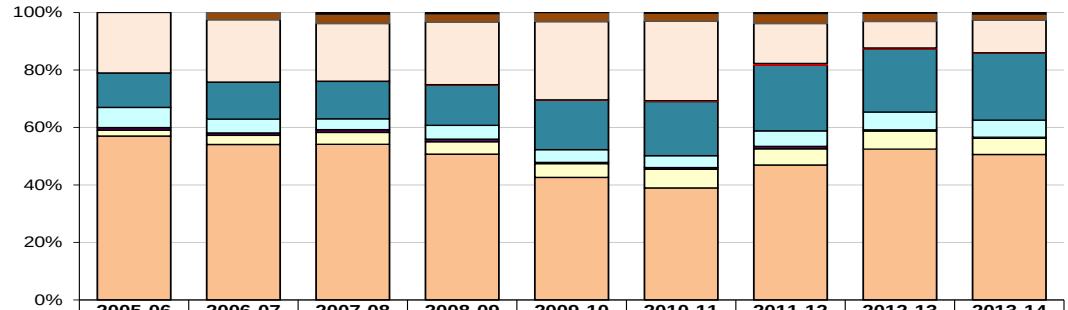
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Legal Provider	N/A	N/A	8	6	1	4	5	4	9
Defrauding Employee	N/A	36	42	37	46	36	43	43	30
Uninsured Employer	580	312	265	288	408	372	177	140	169
Pharmacy	N/A	N/A	1	1	1	4	7	6	2
Premium*	331	186	172	185	258	253	290	333	346
Medical Provider**	193	69	50	63	67	56	68	94	88
Insider	25	12	12	12	6	8	11	6	5
Other	55	46	55	57	72	87	71	96	84
Applicant	1,573	778	714	668	638	523	595	797	751
Total	2,757	1,439	1,319	1,317	1,497	1,343	1,267	1,519	1,484

* From 2007-2008 on, Includes Misclassification, Underreported Wages, and X-Mod Evasion
** From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

As seen in Figure 82, the focus of the investigations has been different in different periods. Applicant fraud investigations dropped from 57 percent of the total in FY 2005-2006 to about 39 percent in FY 2010-2011. During the same period, the percentage of investigations of premium and uninsured employer frauds increased. From FY 2010-2011 to FY 2013-2014, investigations of applicant fraud increased again, premium fraud continued an overall increase from the previous period, and investigations of uninsured employers fell from 28 percent to 11 percent.

Figure 82: Type of Fraud Investigations by Percentage of Total, FY 2005-2006–FY 2013-2014



	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Legal Provider	N/A	N/A	0.61%	0.5%	0.1%	0.3%	0.4%	0.3%	0.6%
Defrauding Employee	0.0%	2.5%	3.2%	2.8%	3.1%	2.7%	3.4%	2.8%	2.0%
Uninsured Employer	21.0%	21.7%	20.1%	21.9%	27.3%	27.7%	14.0%	9.2%	11.4%
Pharmacy	N/A	N/A	0.08%	0.1%	0.1%	0.3%	0.6%	0.4%	0.1%
Premium *	12.0%	12.9%	13.0%	14.0%	17.2%	18.8%	22.9%	21.9%	23.3%
Medical Provider**	7.0%	4.8%	3.8%	4.8%	4.5%	4.2%	5.4%	6.2%	5.9%
Insider	0.9%	0.8%	0.9%	0.9%	0.4%	0.6%	0.9%	0.4%	0.3%
Other	2.0%	3.2%	4.2%	4.3%	4.8%	6.5%	5.6%	6.3%	5.7%
Applicant	57.1%	54.1%	54.1%	50.7%	42.6%	38.9%	47.0%	52.5%	50.6%

* From FY 2006-2007 on, Includes Misclassification, Underreported Wages, and X-Mod evasion
** From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

In addition, the *2014 Annual Report of the Insurance Commissioner* notes that the majority of suspected fraudulent claims in calendar year 2014 came from Los Angeles County (2,374, or 40 percent of total cases) followed by Orange County (576, or 10 percent) and San Diego County (348, or 6 percent).

Underground Economy

Although most California businesses comply with health, safety, and workers' compensation regulations, some do not and operate in the "underground economy." Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. According to the Employment Development Department (EDD), the California underground economy is estimated at $60 billion to $140 billion annually.[48]

Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts

CHSWC has conducted many studies that focus on improving workers' compensation anti-fraud efforts. For further information on these studies, please see the "Projects and Studies" section of this report.

[48] http://www.bettzedek.org/wp-content/uploads/voicesfromtheunderground.pdf.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

OCCUPATIONAL INJURY AND ILLNESS PREVENTION EFFORTS

Workplace health and safety are of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer, and labor organizations, government agencies, health and safety professionals, independent researchers, and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section discusses the number and incidence rate of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States and California.

Where data are available, comparisons among private industry, state government and local government are also included.

Occupational Injuries, Illnesses, and Fatalities

The number of occupational injuries, illnesses, and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are listed and discussed in this subsection. Fatality statistics for 2014 are preliminary; the latest fatality rates are available for 2013.

Please note that “lost-work-time” occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that days-away-from-work cases involve days away from work, regardless of whether there is also job transfer or restricted work activity.

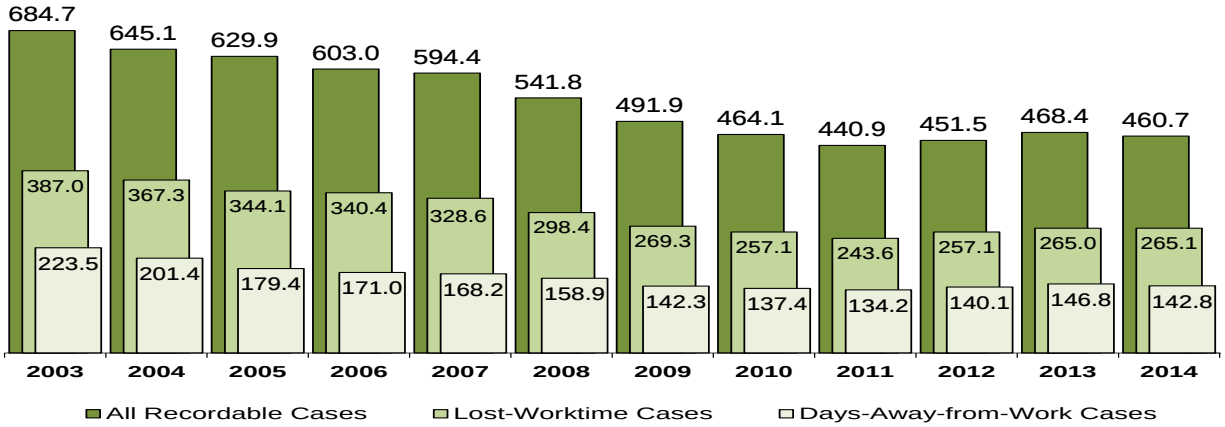
The National Academy of Social Insurance (NASI) estimated that in 2013 (latest available year) 129.6 million workers were covered by workers’ compensation in the U.S., including 15.1 million in California.

Comparison of the Public and Private Sectors

Non-Fatal Occupational Injuries and Illnesses

Figure 83 shows the number of occupational injuries and illnesses in California's private industry, state government and local government. Occupational injuries and illnesses in California have decreased noticeably in the twelve years. As shown in Figure 83, the number of recordable occupational injury and illness cases, lost-work-time cases, and days-away-from-work cases declined from 2003 to 2011, and then increased overall by 4 percent, 9 percent, and 6 percent respectively from 2011 to 2014.

Figure 83: California Non-Fatal Occupational Injuries and Illnesses: Private Industry and State and Local Governments (Thousands)

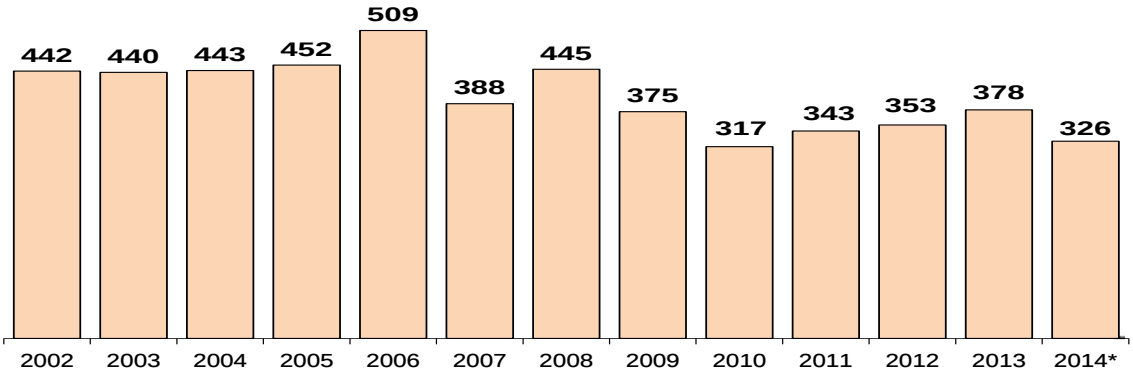


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California have also decreased overall, as shown in Figure 84. Fatal occupational injuries and illnesses in California stabilized at an average of 444 from 2002 to 2005, and then increased by 13 percent from 2005 to its peak in 2006. Fatal injuries decreased 23.8 percent from 2006 to 2007, increased 14.7 percent from 2007 to 2008, and then decreased by 33.7 percent from 2008 to 2010. The number of fatal injuries in California increased by 19 percent from 2010 to 2013, and then decreased by 14 percent from 2013 to 2014.

Figure 84: California Fatal Occupational Injuries and Illnesses—Private Industry and State and Local Governments**



* Preliminary data.
** Total, excluding Federal Government.

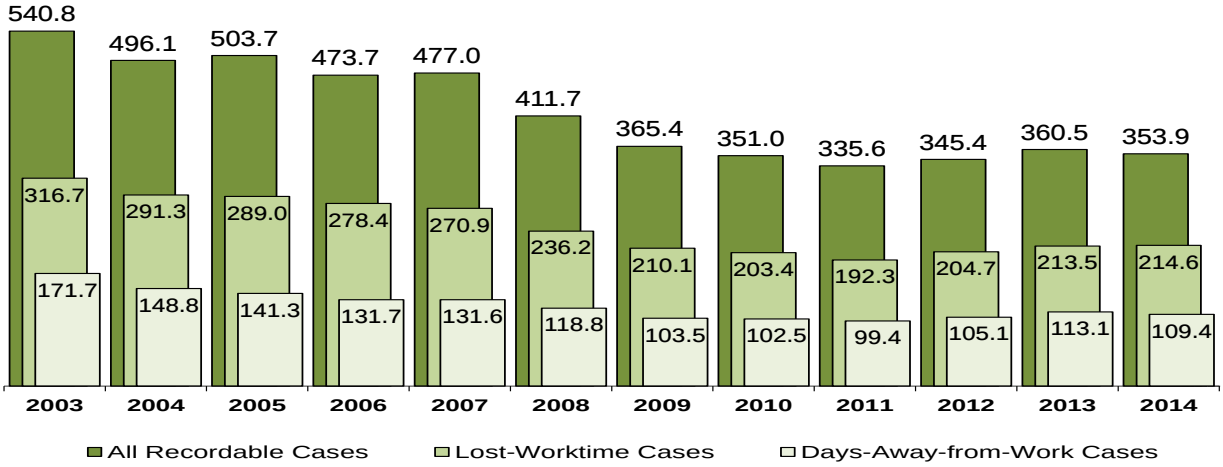
Data Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Private Sector

Non-Fatal Occupational Injuries and Illnesses

A significant decrease in occupational injuries and illnesses in California's private industry from 2003 to 2011 followed by an increase starting in 2012. The total number of recordable injury and illness cases dropped overall by 38 percent, the number of lost-work-time cases declined by 39 percent, and the number of days-away-from-work cases decreased by 42 percent, all from 2003 to 2011, and then increased overall by about 5 percent, 12 percent, and 10 percent respectively from 2011 to 2014.

Figure 85: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

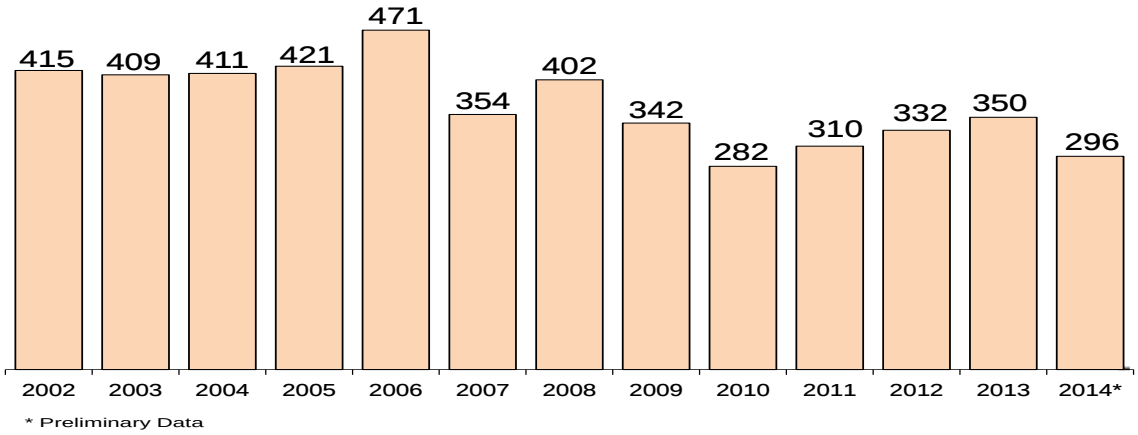


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California private industry stabilized at an average of 414 from 2002 to 2005, and then increased by 12 percent from 2005 to 2006. Fatal injuries decreased by 25 percent from 2006 to 2007, increased 13.6 percent from 2007 to 2008, and then decreased by 30 percent from 2008 to 2010. A 24 percent increase in the number of fatal injuries in California from 2010 to 2013 followed by 15 percent decrease from 2013 to 2014.

Figure 86: California Fatal Occupational Injuries and Illnesses—Private Industry



* Preliminary Data

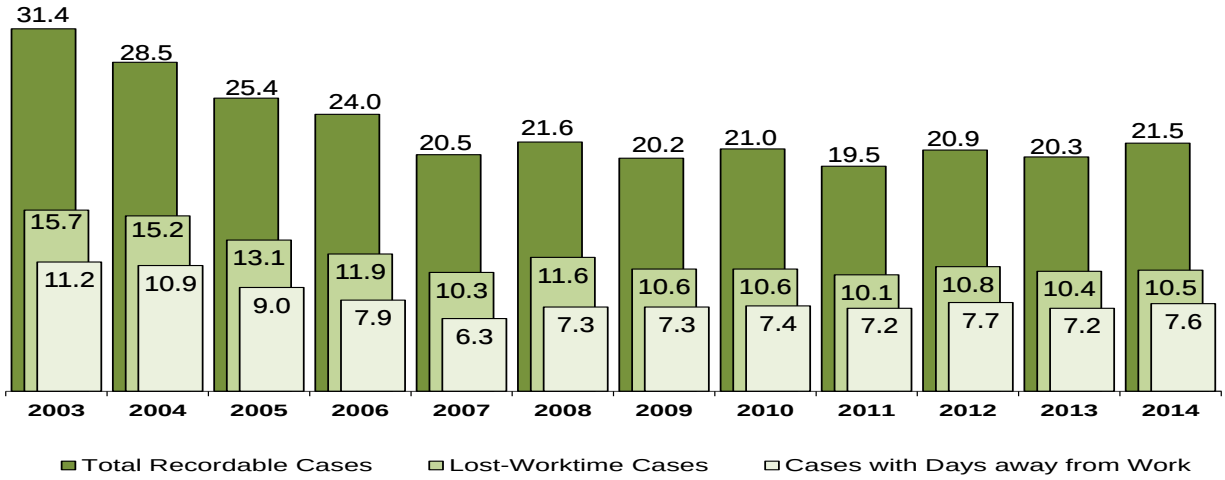
Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Public Sector: State Government

Non-Fatal Occupational Injuries and Illnesses

The number of recordable injury and illness cases in California state government declined by 35 percent between 2003 and 2007, and then averaged 20,700 cases per year from 2007 to 2014. It should be noted that many state and local government occupations are high risk, such as law enforcement, firefighting, rescue, and other public safety operations.

Figure 87: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

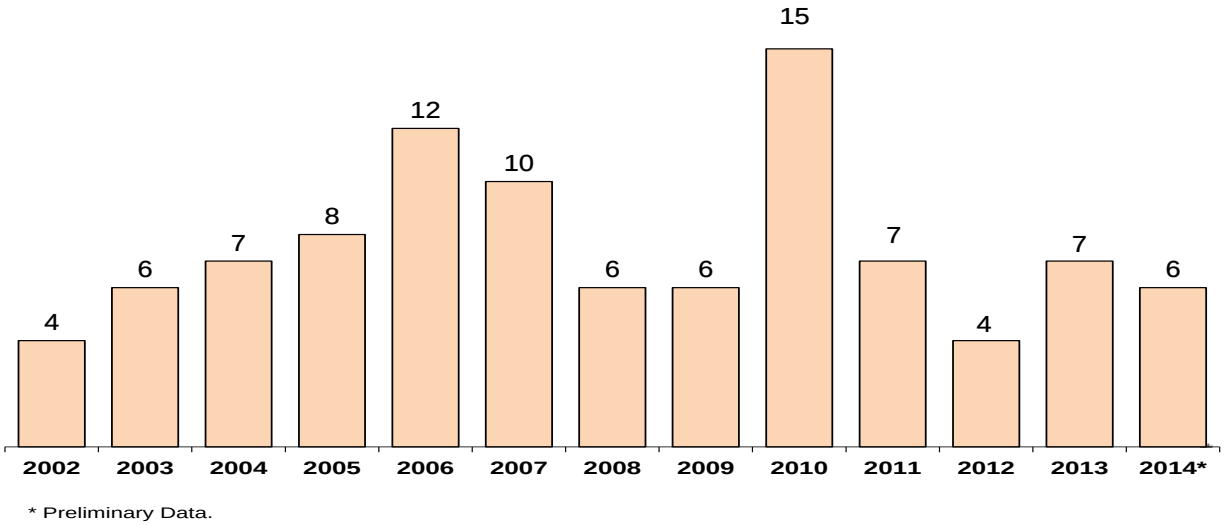


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California state government averaged at 6 fatalities for most years from 2002 through 2014, except for increases in 2006 and 2007 to an average of 11 fatalities and in 2010 to 15 fatalities.

Figure 88: California Fatal Occupational Injuries and Illnesses—State Government



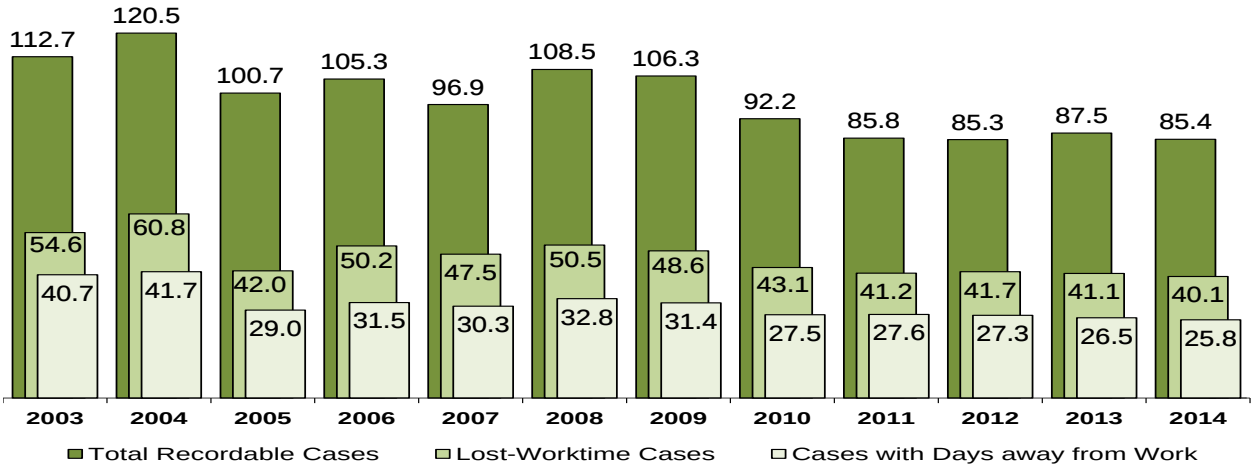
Source: DIR, Director's Office of Policy, Research and Legislation

Public Sector: Local Government

Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local government experienced fluctuations from 2003 to 2008. From 2008 to 2011, the number of injuries and illnesses in this sector decreased by 21 percent and then remained fairly constant between 2011 and 2014, except for 2.5 percent increase in 2013.

Figure 89: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

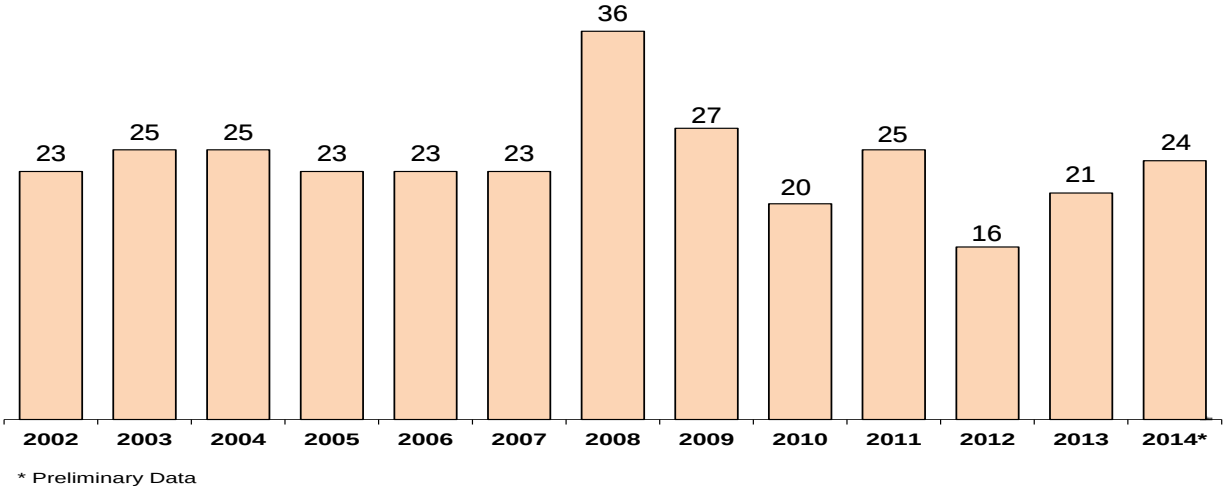


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

The number of fatal occupational injuries and illnesses in California's local governments averaged 23.5 fatalities for most years between 2002 and 2014, except for an increase to 36 fatalities in 2008 and a decrease to 16 fatalities in 2012.

Figure 90: California Fatal Occupational Injuries and Illnesses—Local Government



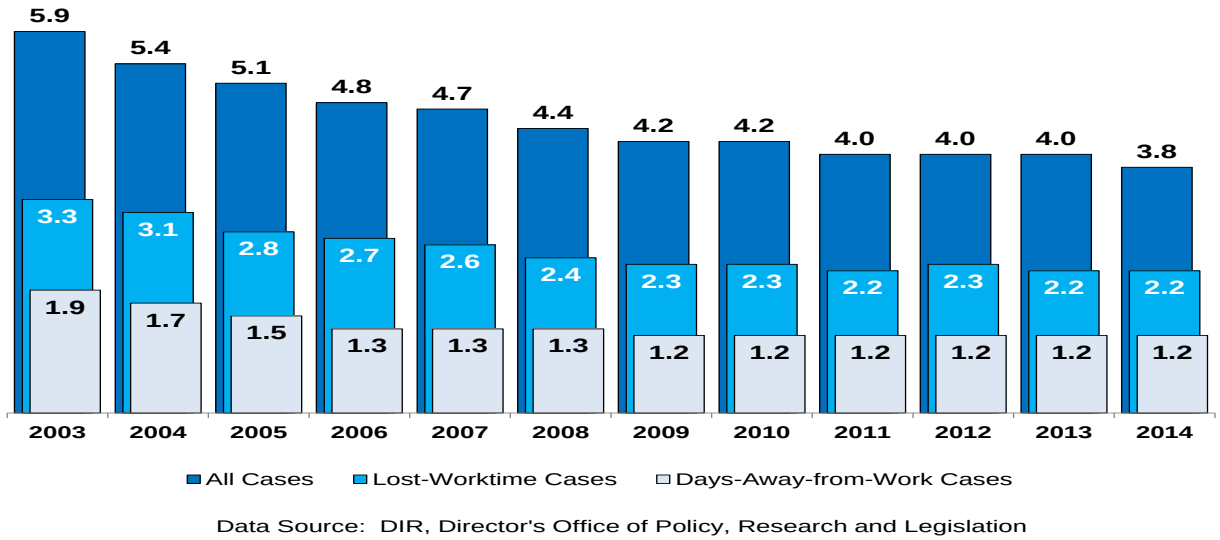
Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Occupational Injury and Illness Incidence Rates

Comparison of Public and Private Sectors

Overall, the incidence rate for all three types of cases in California—all cases, lost-work-time, and days-away-from-work—declined from 2003 to 2011 and remained flat from 2011 to 2014, except for a slight decrease in incidence rate for all cases from 2013 to 2014.

Figure 91: California Occupational Injury and Illness Incidence Rates: Private, State and Local
(Cases per 100 Full-Time Employees)



Data Source: DIR, Director's Office of Policy, Research and Legislation

Private Sector

From 2003 to 2014, the occupational injury and illness incidence rate for all cases in California's private industry declined from 5.4 to 3.4, a decrease of 37 percent; the incidence rate for lost-time cases dropped by 34 percent, from 3.2 to 2.1; and days-away-from-work cases decreased by 41 percent.

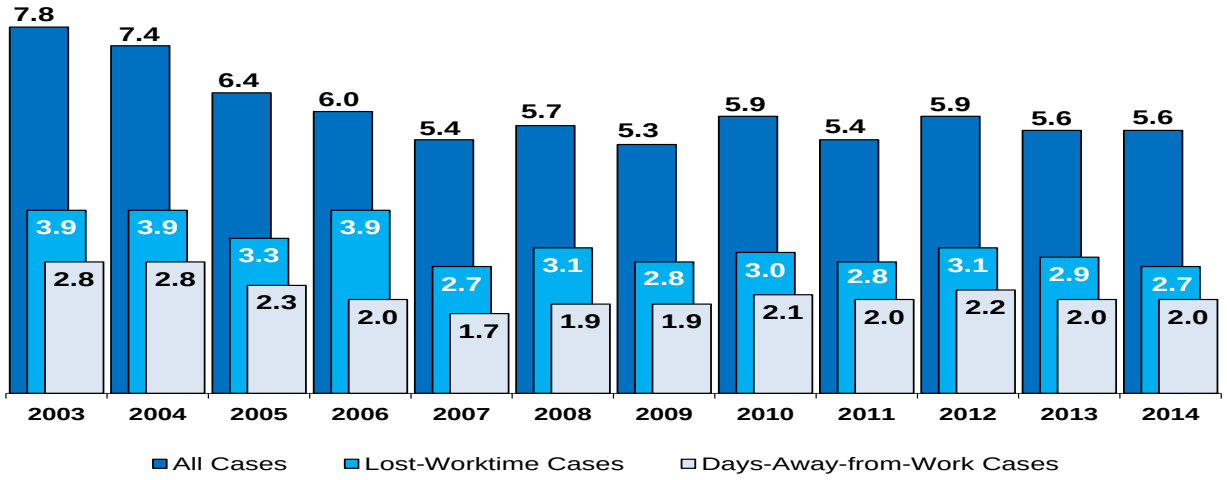
Figure 92: California Occupational Injury and Illness Incidence Rates: Private Industry
(Cases per 100 Full-Time Employees)

Data Source: DIR, Director's Office of Policy, Research and Legislation

Public Sector: State Government

California state government occupational injury and illness incidence rates for all cases declined by 38 percent, from 7.8 cases in 2003 to 5.4 cases per 100 full-time employees in 2007, and then fluctuated between 5.3 and 5.9 from 2007 to 2013. After a slight decrease in incidence rate for all cases from 2012 to 2013, there was no change in it from 2013 to 2014. The incidence rate for lost-time cases averaged 3.75 from 2003 to 2006 and 2.9 from 2007 to 2014. The incidence rate for days-away-from-work cases dropped from 2.8 in 2003 to 1.7 in 2007, increased to 2.2 in 2012, and then decreased to 2.0 in 2013. There was no change in incidence rate for days-away-from-work cases from 2013 to 2014.

Figure 93: California Occupational Injury and Illness Incidence Rates: State Government
(Cases per 100 Full-Time Employees)

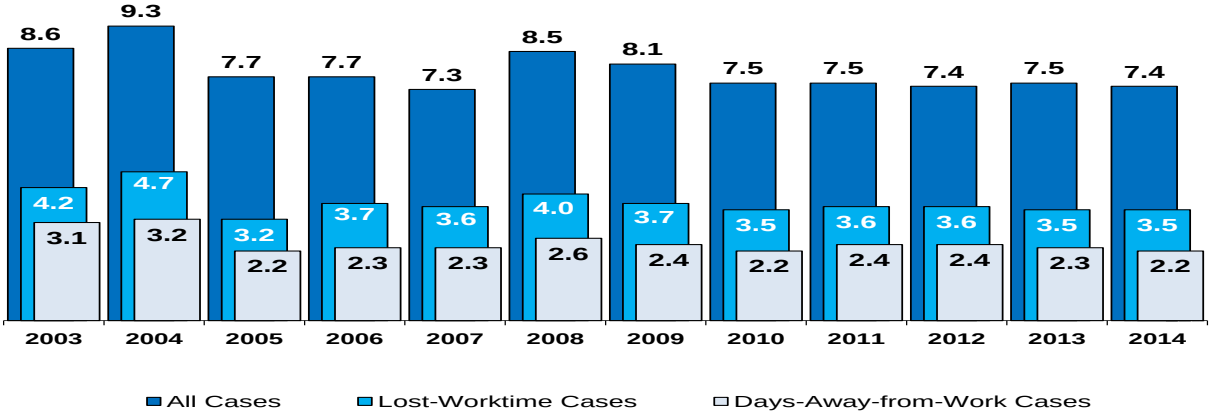


Source: DIR, Director's Office of Policy, Research and Legislation

Public Sector: Local Government

Local government occupational injury and illness incidence rates increased by 8 percent from 2003 to 2004. From 2004 to 2005, injury and illness rates decreased by 17 percent, remained fairly stable between 2005 and 2007, increased again by 16 percent from 2007 to 2008, and then decreased by 13 percent from 8.5 in 2008 to 7.4 in 2014.

Figure 94: California Occupational Injury and Illness Incidence Rates: Local Government
(Cases per 100 Full-Time Employees)

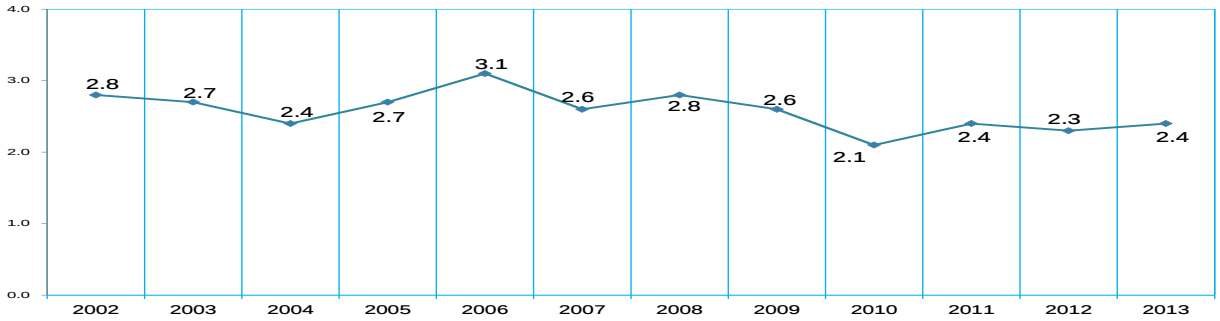


Source: DIR, Director's Office of Policy, Research and Legislation

California Fatality Incidence Rates

Fatality per employment rates can be used to compare the risk of incurring injury among worker groups with varying employment levels. From 2002 to 2013, the fatality rates in California fluctuated between 2.1 and 3.1 per 100,000 full-time workers.[49]

Figure 95: California Fatal Occupational Injuries*—Incidence Rate** (per 100,000 employed)



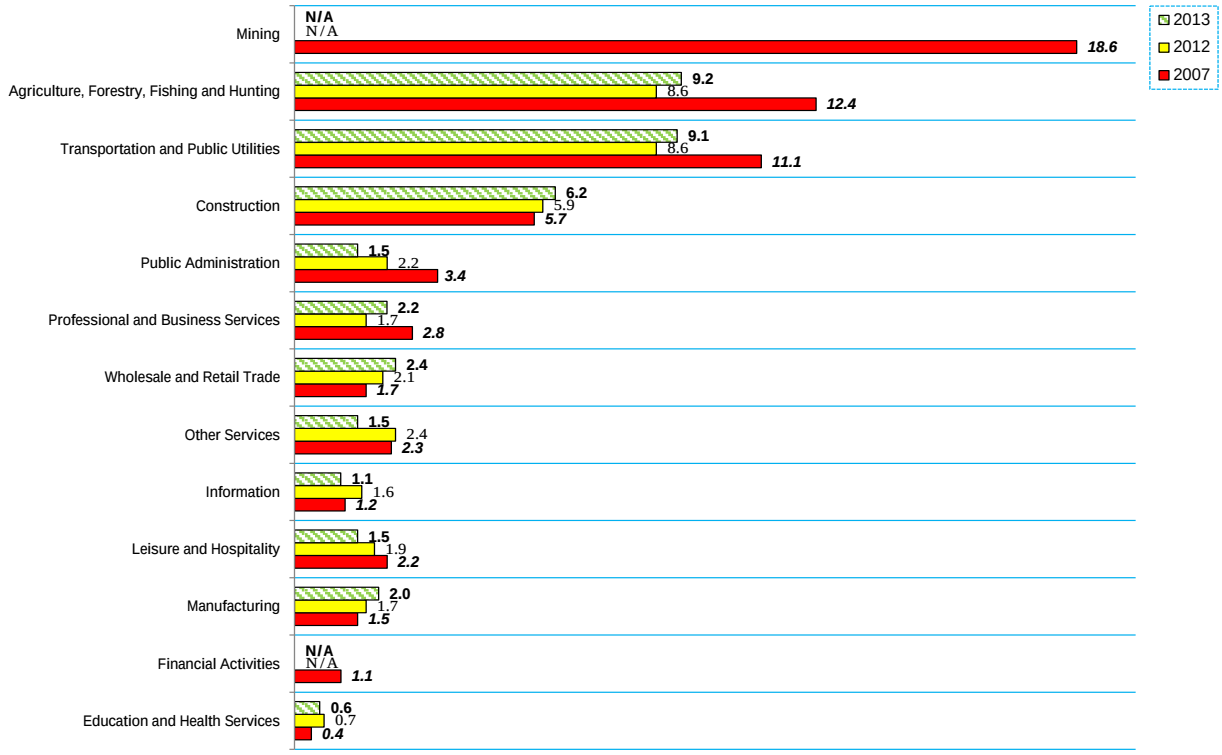
* California Fatal Occupational Injuries exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.

** Incidence Rates for Fatal Occupational Injuries computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries.

Figure 96 shows the fatality incidence rates by major industries in 2007, 2012, and 2013.

Figure 96: California Fatality Rates by Industries (per 100,000 employed), 2007, 2012, and 2013



* From 2003, classified by NAICS. Because of substantial differences between NAICS and SIC used for prior years, comparisons between prior years and 2003 and on should not be made. (Data for 2006 and 2007 unavailable)

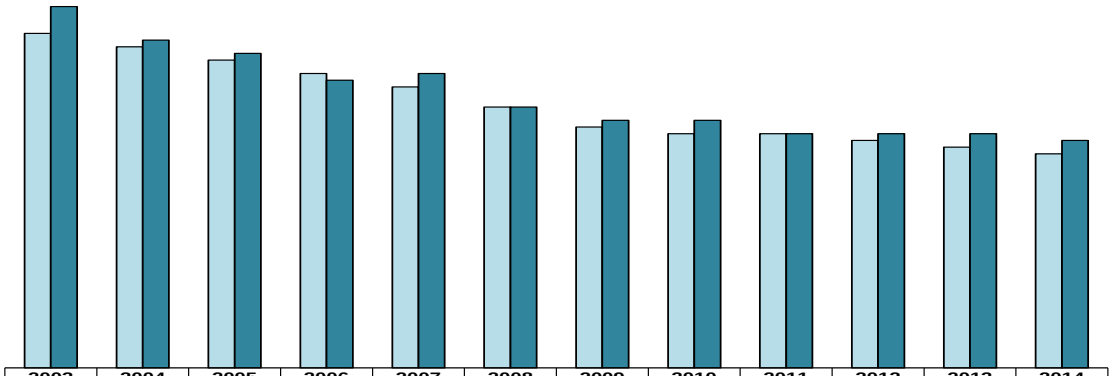
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

[49] 2013 was the latest year for which fatality incidence rates were available in 2015.

Comparison of Incidence Rates in the United States and California

Both the U.S. and California experienced a decrease in occupational injury and illness incidence rates from 2003 through 2014. During that time, the U.S. incidence rates dropped by 36 percent, and California incidence rates dropped by 37 percent. Since 2003, the incidence rate in California has been slightly above the national average for the majority of this period.

Figure 97: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry, Total Recordable Cases. U.S. and California

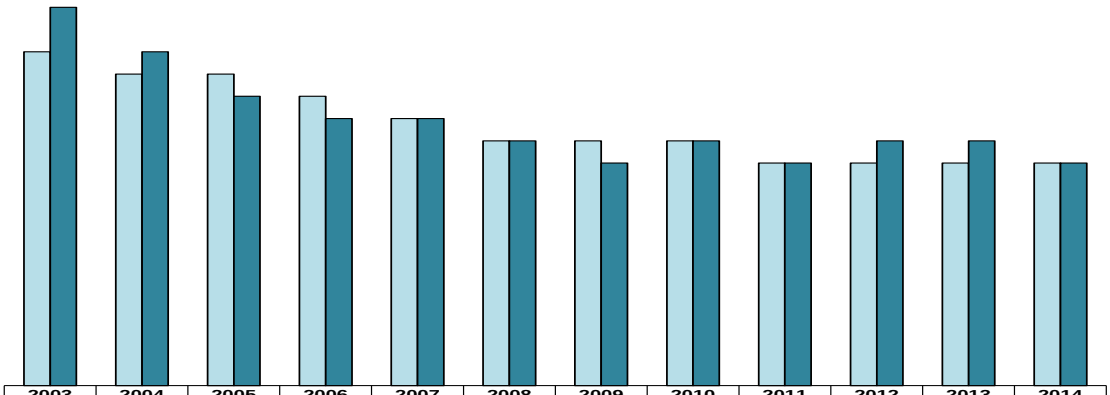


	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
USA	5.0	4.8	4.6	4.4	4.2	3.9	3.6	3.5	3.5	3.4	3.3	3.2
California	5.4	4.9	4.7	4.3	4.4	3.9	3.7	3.7	3.5	3.5	3.5	3.4

Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases also declined in both the U.S. and California, from 1.5 and 1.7, respectively, to 1.1 from 2003 to 2008. During that period, U.S. incidence rates for cases with days away from work dropped by 27 percent, while the California rates declined by 35 percent. From 2008 to 2014, the incidence rate of occupational injury and illness days-away-from-work cases stabilized at 1.0–1.1 for both the U.S. and California.

Figure 98: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. U.S. and California



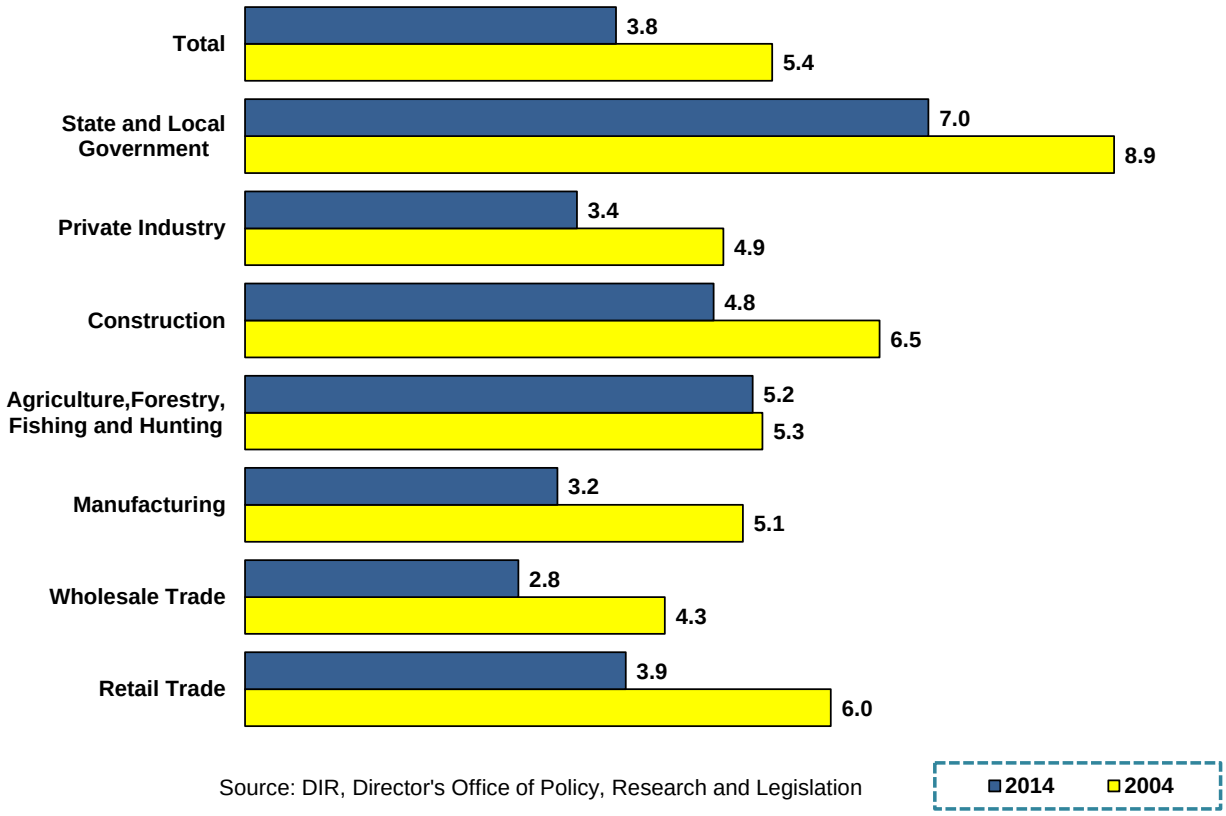
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
USA	1.5	1.4	1.4	1.3	1.2	1.1	1.1	1.1	1.0	1.0	1.0	1.0
California	1.7	1.5	1.3	1.2	1.2	1.1	1.0	1.1	1.0	1.1	1.1	1.0

Source: US Department of Labor, Bureau of Labor Statistics

Characteristics of California Occupational Injuries and Illnesses

This section compares incidence rates by industry in 2004 with those in 2014. The overall California occupational injury and illness incidence rates declined, and the incidence rates in major industries also declined. The biggest decline in incidence rates was in manufacturing. Figure 99 compares incidence rates for total recordable cases in 2004 and 2014 by the type of major industry, including state and local governments.

Figure 99: Injury Rates by Industry, 2014 vs. 2004

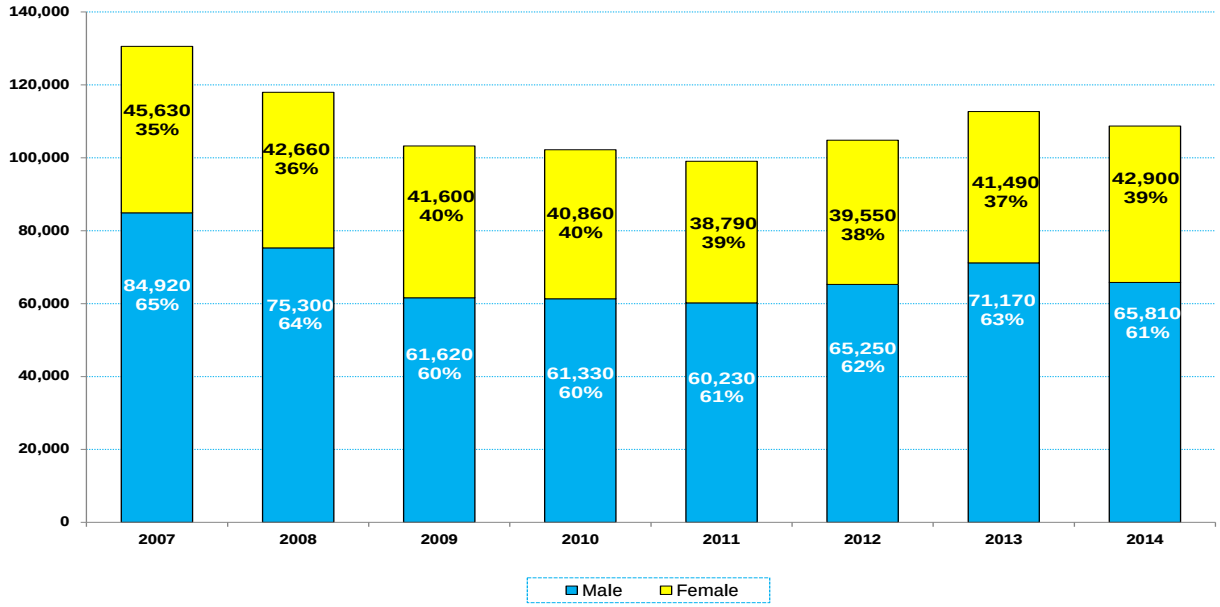


Source: DIR, Director's Office of Policy, Research and Legislation

Characteristics of California Non-Fatal Occupational Injuries and Illnesses

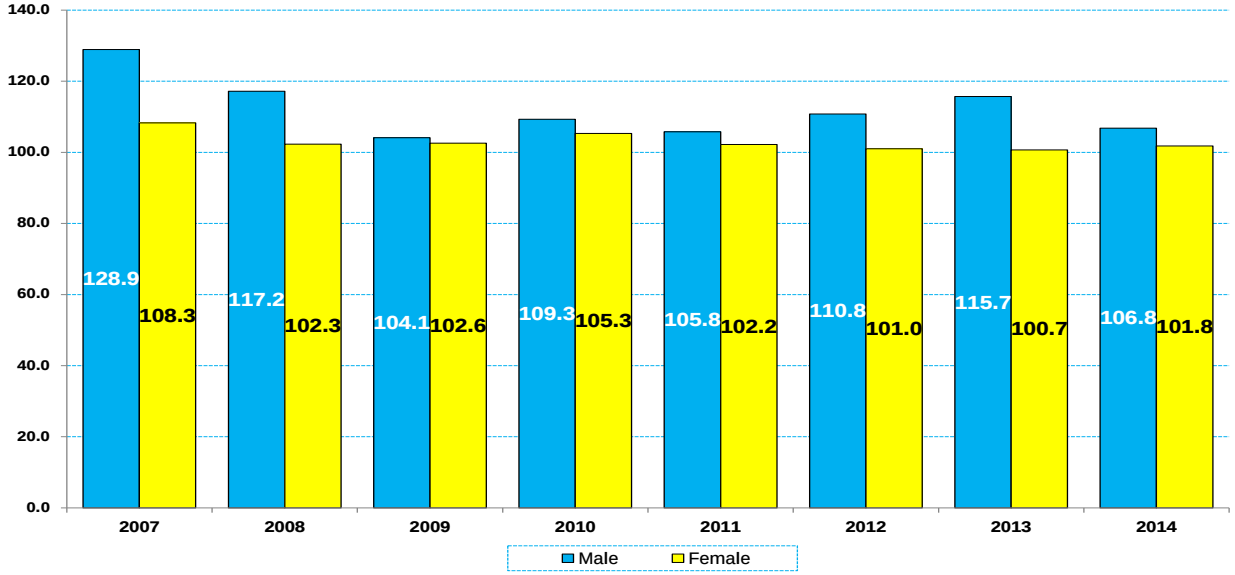
Figures 100-105 illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in private industry in California.

Figure 100: Number of Non-Fatal Occupational Injuries and Illnesses in California by Gender, Private Industry, 2007-2014



Data Source: DIR, Director's Office of Policy, Research and Legislation

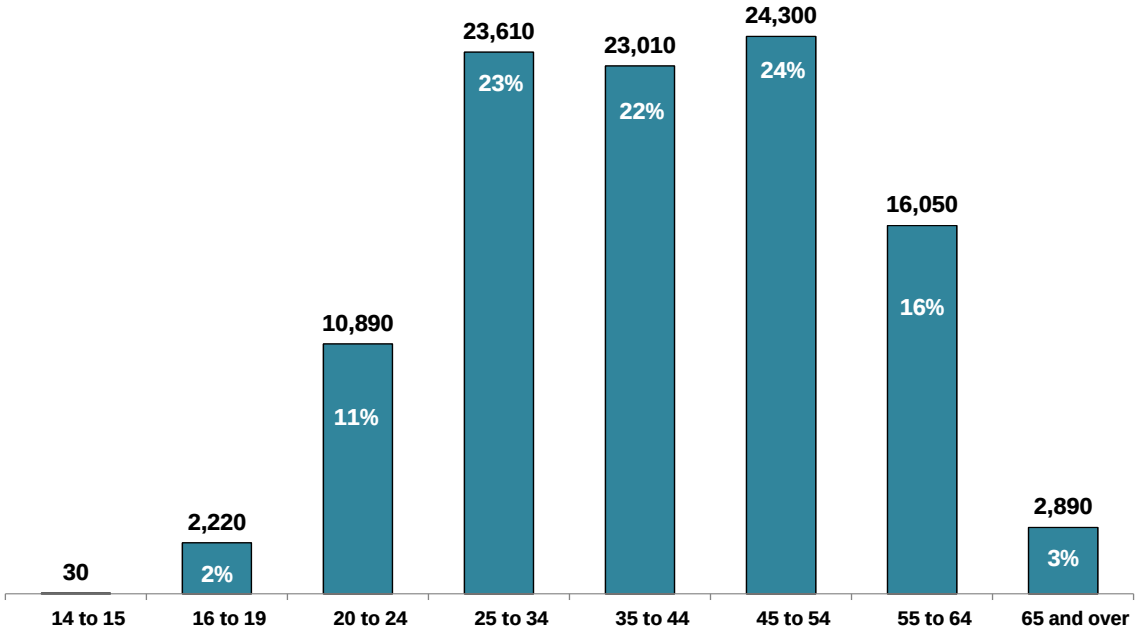
Figure 101: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2007-2014 (Cases per 10,000 full-time employees)



* With days away from work with or without job transfer or restriction.

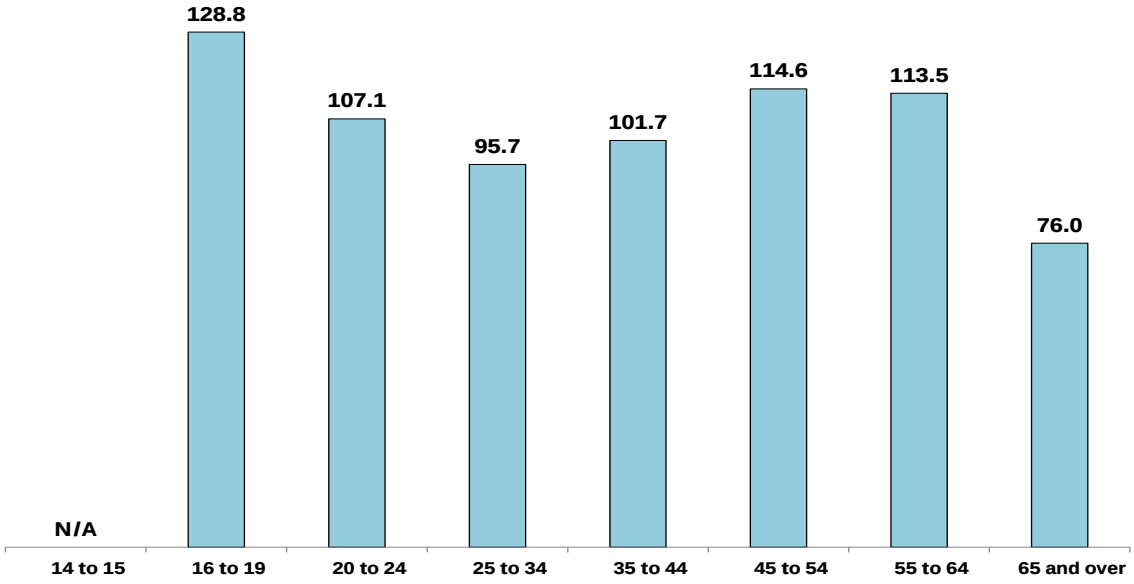
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

Figure 102: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2014



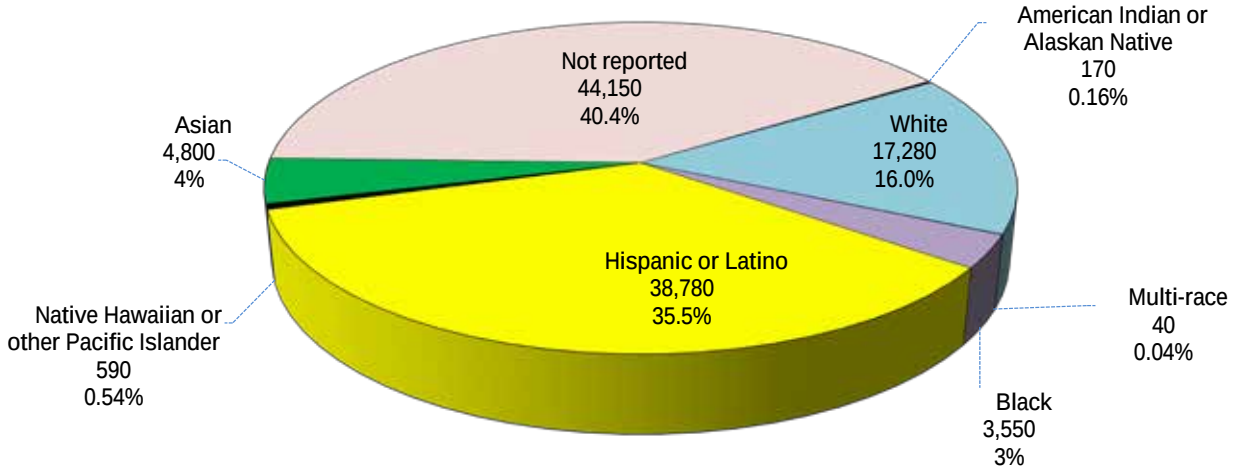
Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 103: California Occupational Injury and Illness Incidence Rates by Age, Private Industry 2014 (per 10,000 Full-Time Workers)



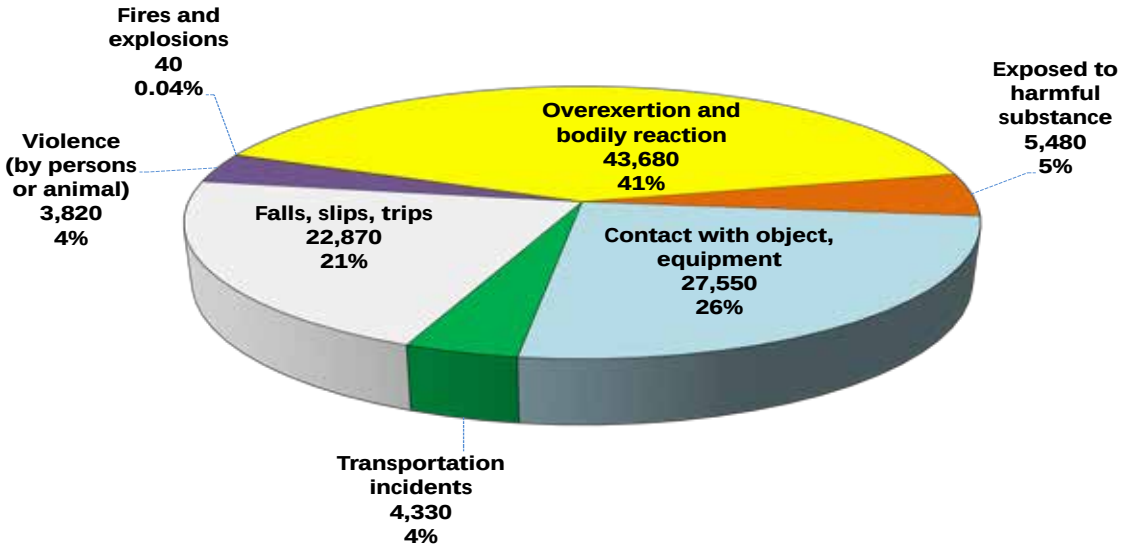
Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

Figure 104: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin, Private Industry, 2014



Data Source: DIR, Director's Office of Policy, Research and Legislation

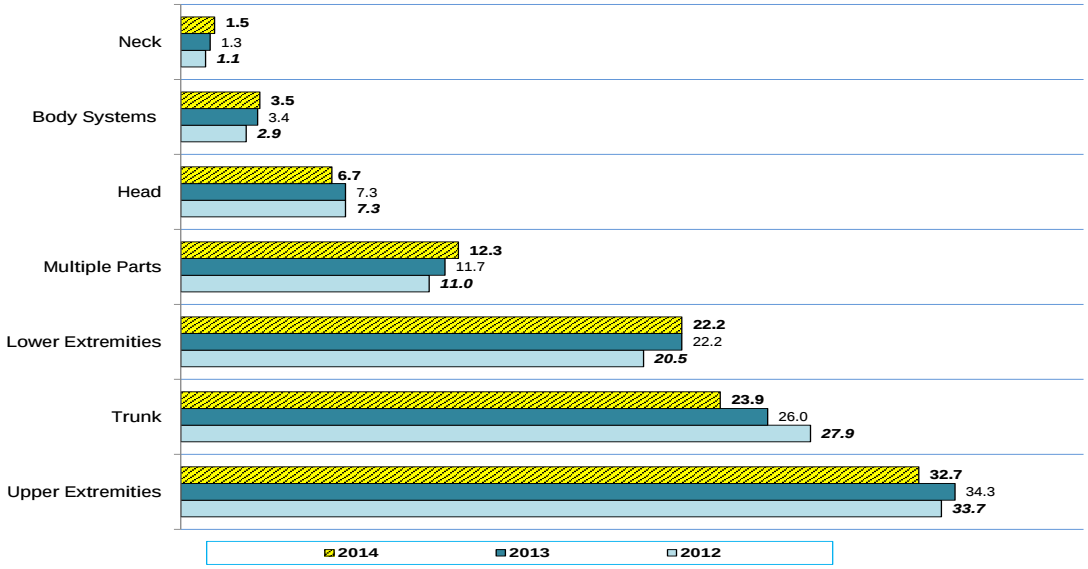
Figure 105: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure, Private Industry, 2014



Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 106 shows that the upper extremities and trunk were the major body parts with the highest incidence rates in 2012, 2013, and 2014.

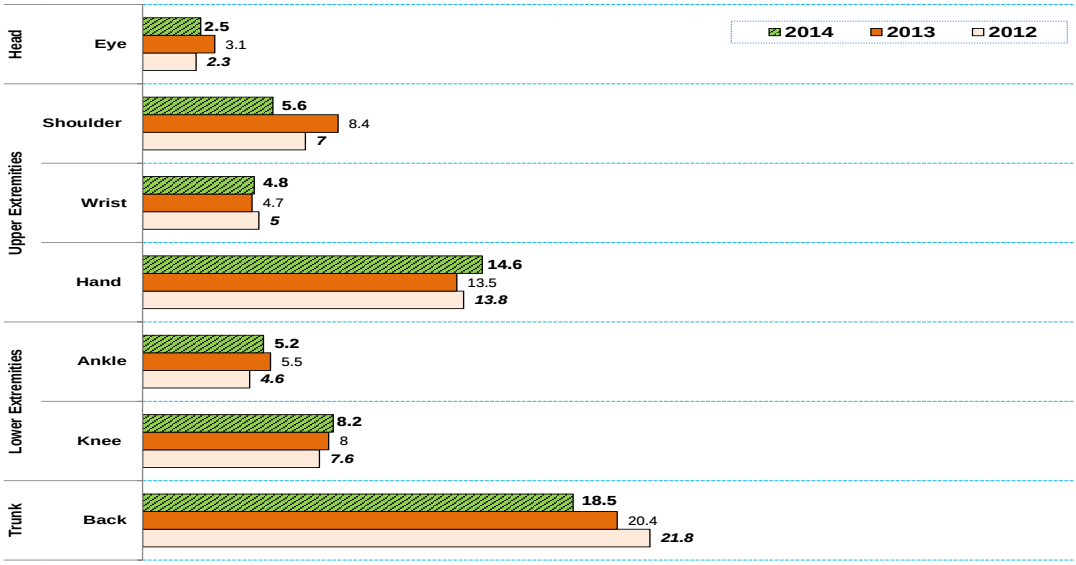
Figure 106: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2012, 2013, and 2014 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

Figure 107 shows that the back was the body part with the highest incidence rate in 2012, 2013, and 2014.

Figure 107: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2012, 2013, and 2014 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

Figures 108 to 110 compare the median days away from work for private industry, state government, and local government occupations. Legal occupations for private industry, architecture and engineering for state government, and transportation and material moving occupations for local government had the greatest median days away from work in 2014.

Figure 108: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Private Industry, 2014

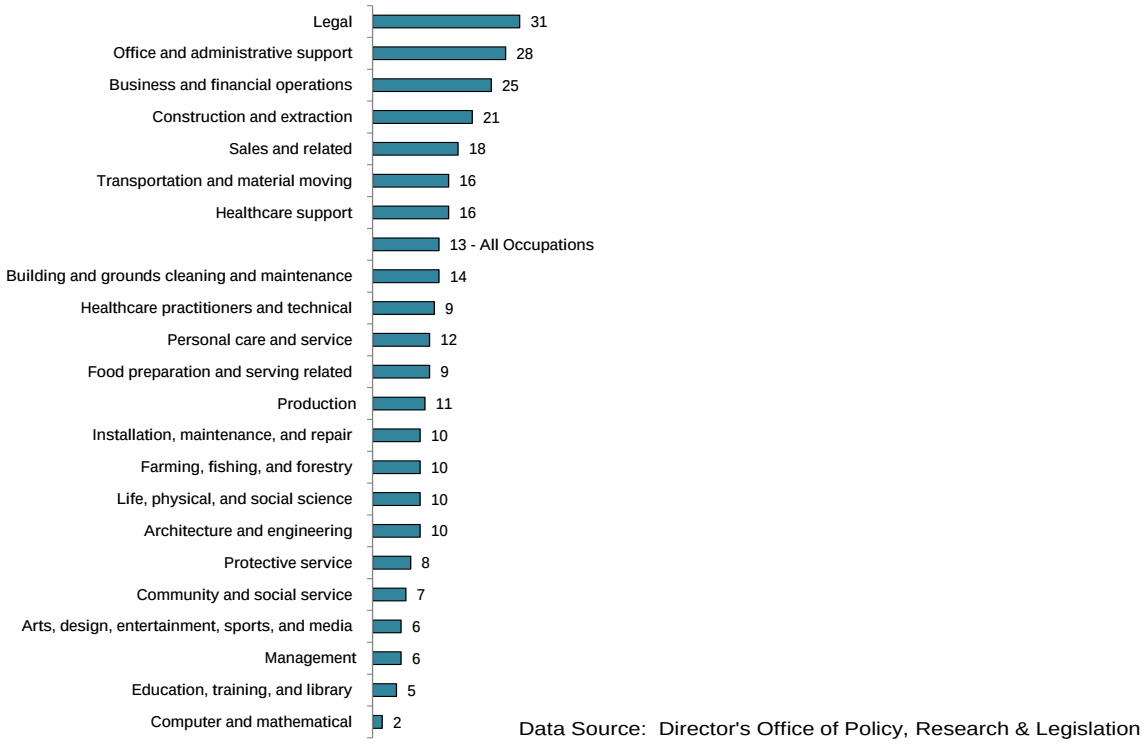


Figure 109: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, State Government, 2014

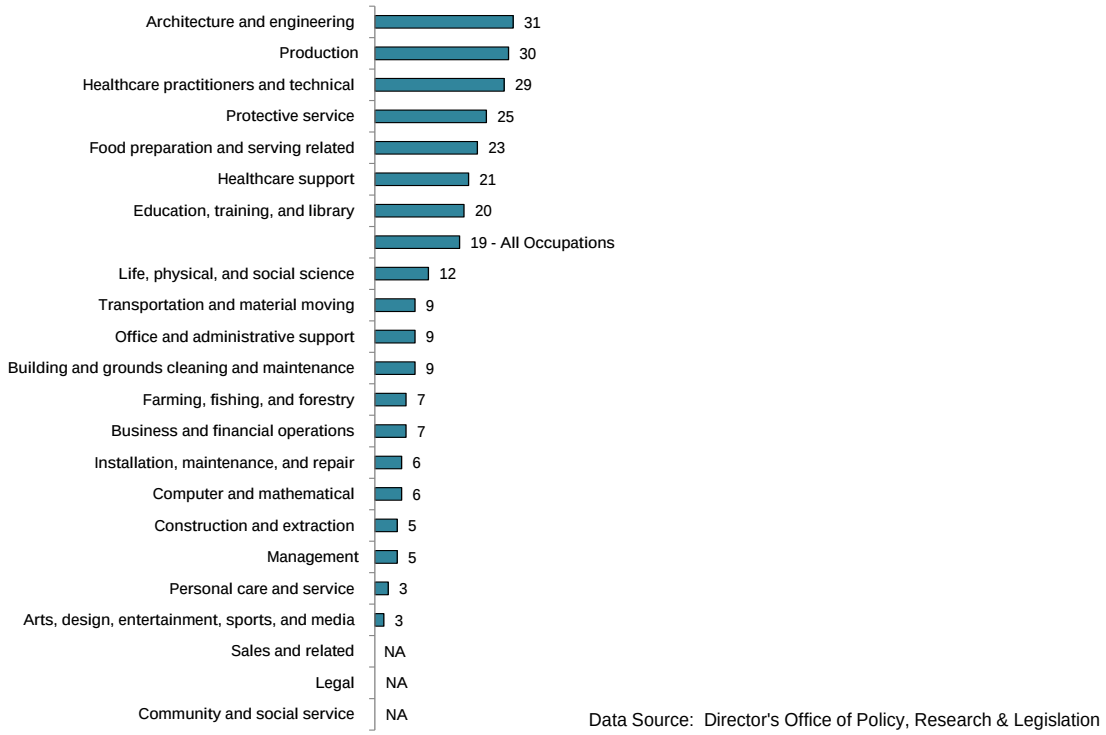
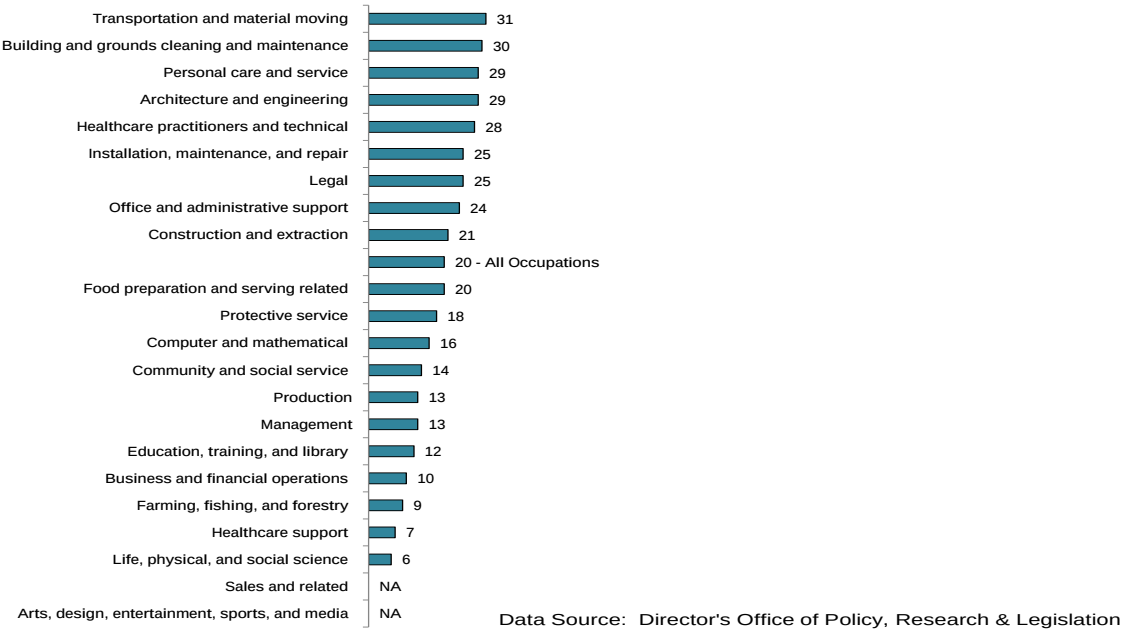


Figure 110: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Local Government, 2014



Figures 111 and 112 compare the injury and illness incidence rates, including back injury, for various occupations. The building and ground cleaning and maintenance occupations had the highest incidence rate in 2014, followed by the transportation and material moving occupations.

Figure 111: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2014

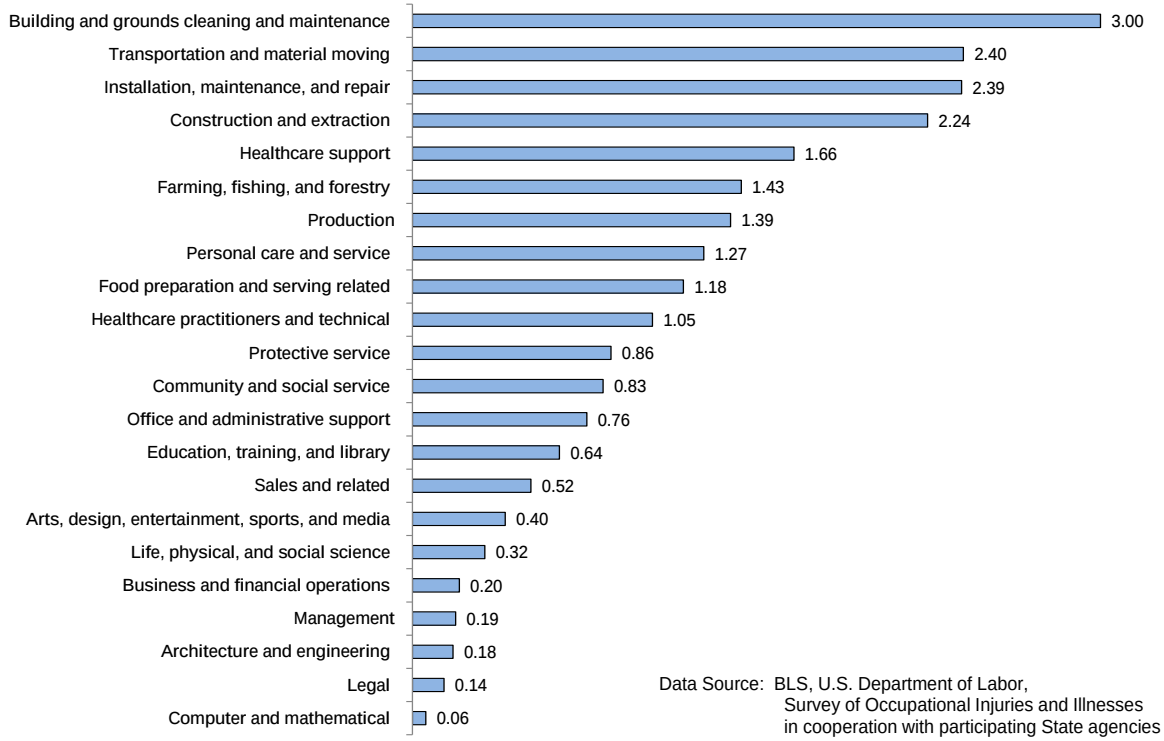


Figure 112: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2014

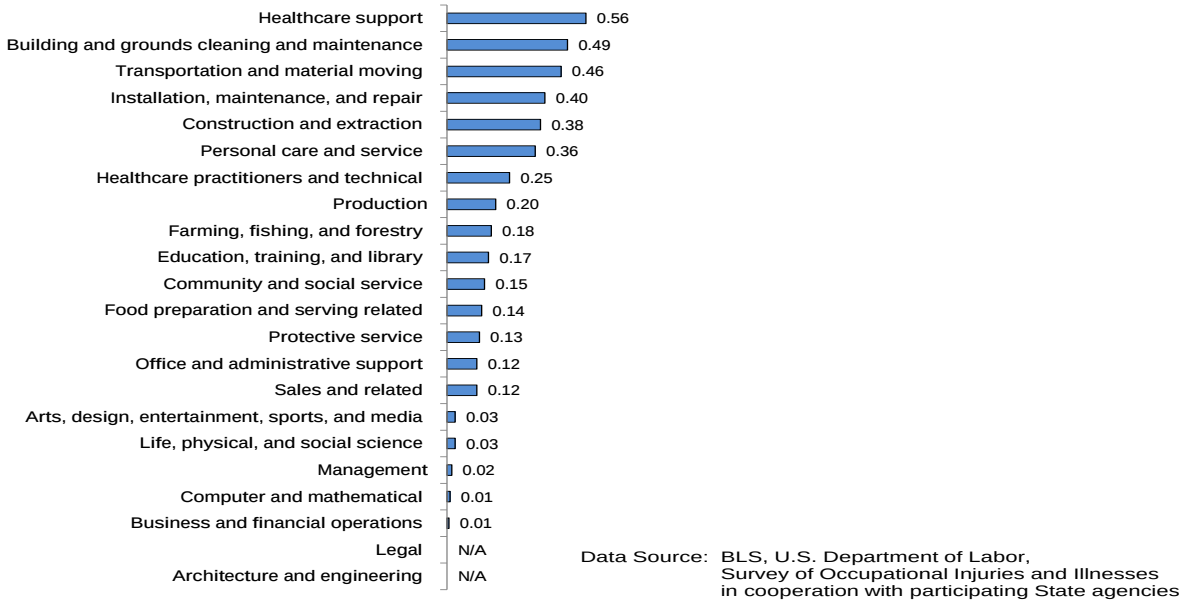
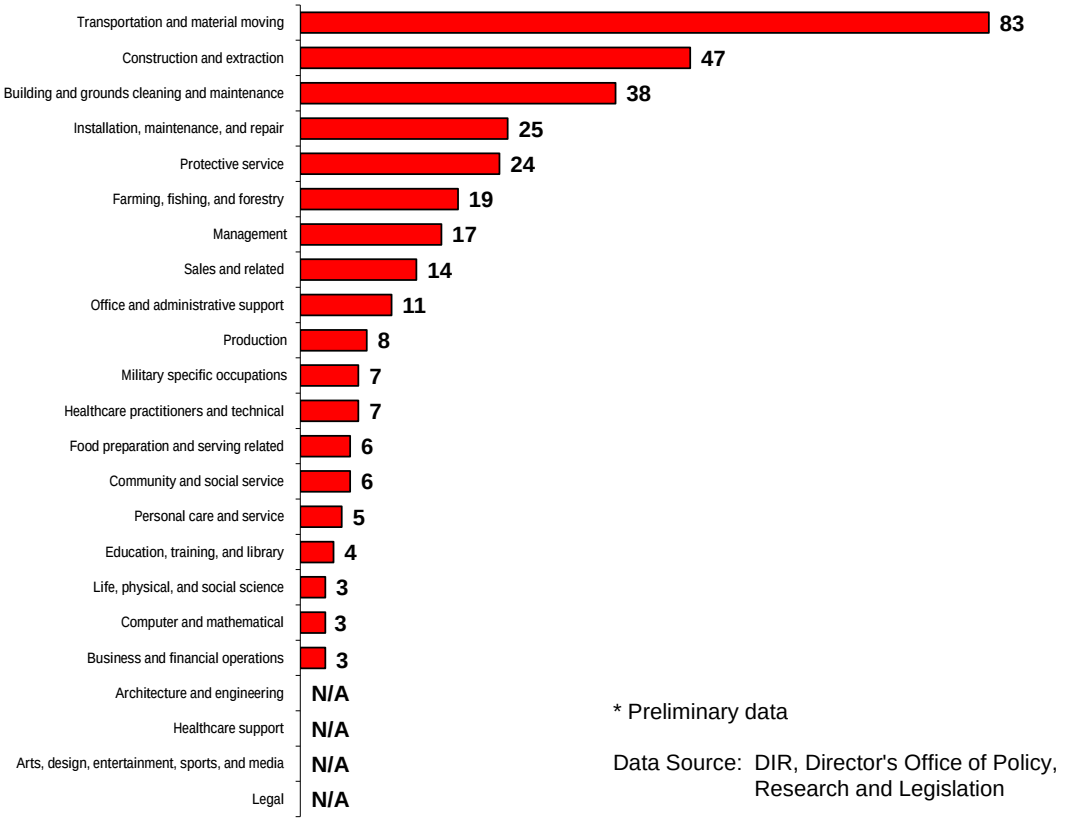


Figure 113 compares the number of fatalities for various occupations. The transportation and material-moving occupation had the highest number of fatalities in 2014, followed by the construction and extraction occupations.

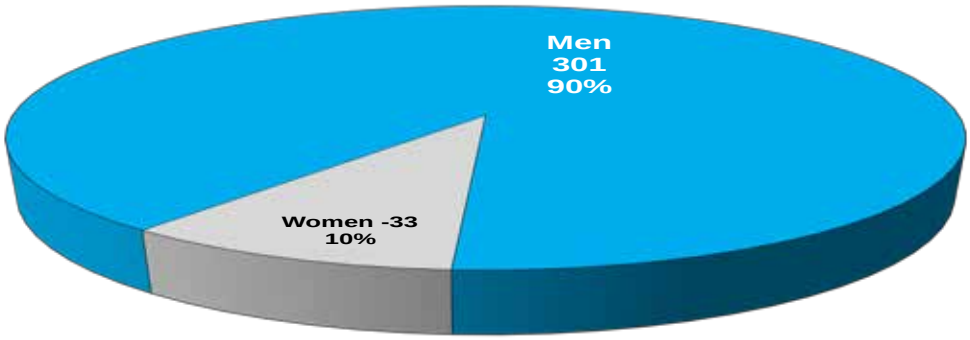
Figure 113: Fatal Occupational Injuries by Selected Occupations, All Ownerships, 2014*



Characteristics of California Fatal Occupational Injuries and Illnesses

Figures 114 and 115 illustrate various characteristics of fatal occupational injuries and illnesses in private industry and federal, state, and local governments in California.

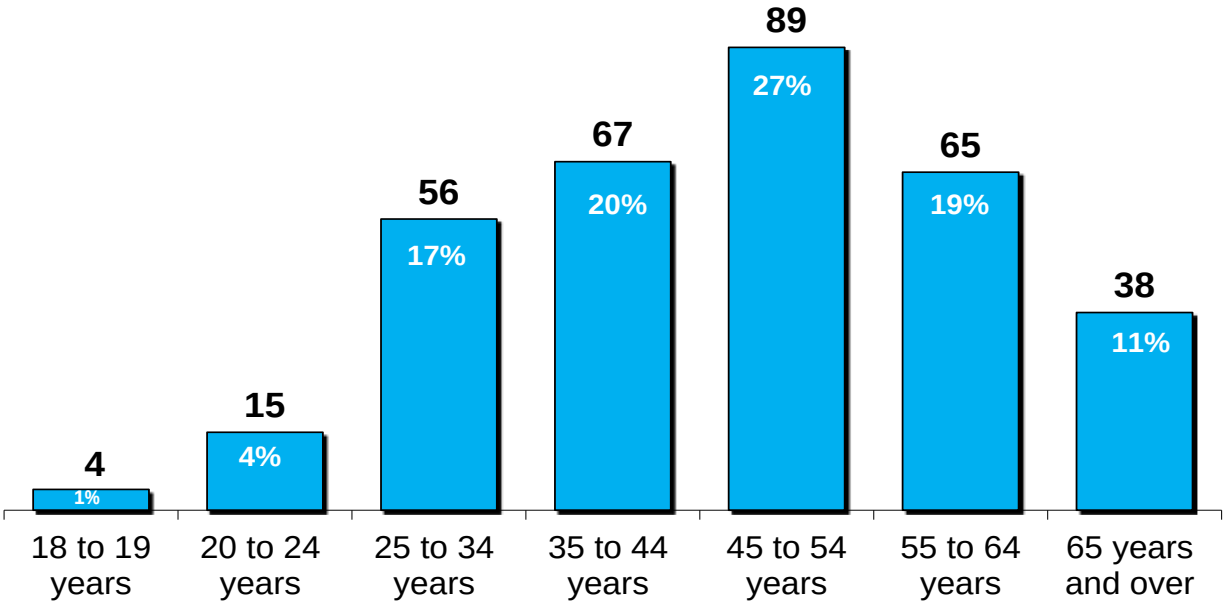
Figure 114: California Fatal Occupational Injuries and Illnesses by Gender, 2014*



* Preliminary data

Data Source: BLS

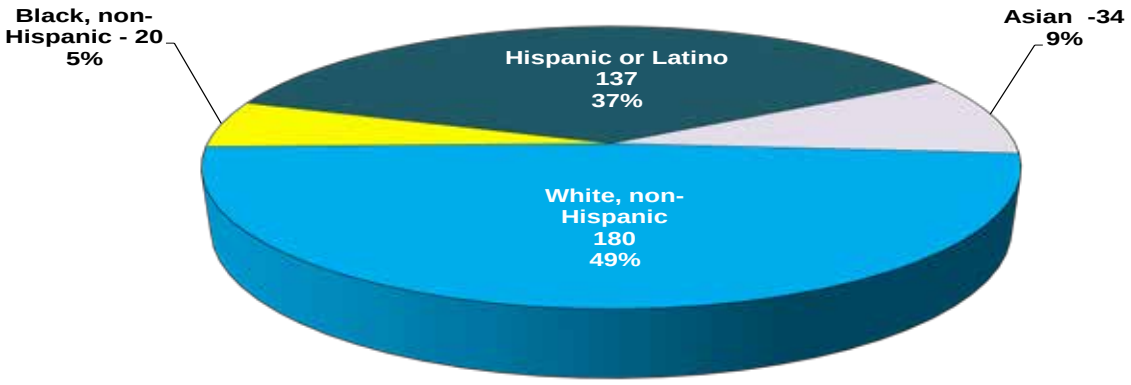
Figure 115: California Fatal Occupational Injuries and Illnesses by Age of Worker, 2014*



* Preliminary data

Source: BLS

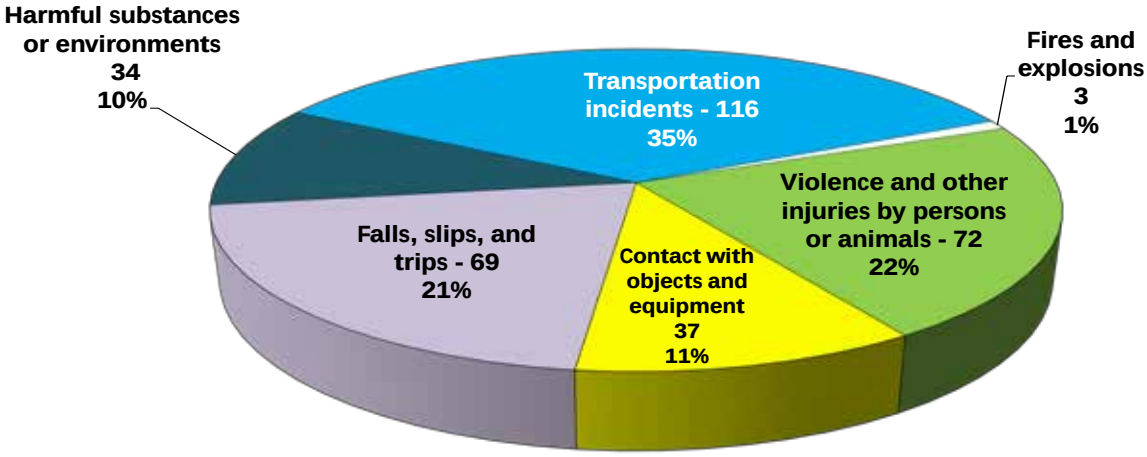
Figure 116: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin, 2014*



* Preliminary data

Data Source: BLS

Figure 117: California Fatal Occupational Injuries and Illnesses by Event and Exposure, 2014*



*Preliminary data

Data Source: BLS

Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, came from the Department of Industrial Relations (DIR), Director's Office of Policy, Research, and Legislation (OPRL) and the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS).

Incidence Rates

- California's work injury and illness statistics for 2014 indicate a non-fatal injury and illness rate of 3.4 cases per 100 full-time employees in the private sector. This is a 37 percent decline from the 2003 level of 5.4 and 3 percent decline from the previous year's rate of 3.5.
- The trend in California mirrors a national trend. DOL figures for private employers show that from 2003 to 2014, the work injury and illness rate across the U.S. fell from 5.0 to 3.2 cases per 100 employees in the private sector. The reduced incidence of job injuries is likely due to factors including a greater emphasis on job safety and the shift from manufacturing to service jobs.
- In contrast to the private sector rates, California's public sector decline has not been nearly as dramatic, and the incidence rates are significantly higher than in private sector. California's state and local government rate for 2014 is 7.0 cases per 100 full-time employees. This is a 17 percent decline from the 2003 rate of 8.4. At the same time, the state and local government rate in California is almost 29 percent higher than the national rate of 5.0 for state and local government.
- The national fatality rate decreased by 11 percent between 2008 and 2013 from 3.7 to 3.3 cases per 100,000 employed, and California's fatality rate decreased from 2.8 to 2.4 cases per 100,000 employed during the same period.[50] This was a 14 percent decline from the 2008 level and a 4 percent increase from 2013.
- Among the Western region states (Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington), Arizona's (3.0), California's (3.4), and Hawaii's (3.7) private industry rates in 2014 for non-fatal occupational injuries and illnesses were the lowest.[51]

Duration

- Days-away-from-work cases in the private sector, including those that result in days away from work with or without a job transfer or restriction, dropped from 1.7 to 1.0 cases per 100 full-time employees from 2003 to 2014. This also mirrors the national trend, in which the number of days-away-from-work cases fell from 1.5 to 1.0 cases in private sector during the same period. Some of this overall decline, according to BLS, can be attributed to economic factors, including a decrease in employment and total hours worked, particularly in construction and manufacturing.
- Nationally, overall days-away-from-work rate in 2014 remained 1.0, as in 2013. California's days-away-from-work rate decreased from 1.1 cases per 100 full-time employees in 2013 to 1.0 in 2014.

Industry Data

- In 2014, injury and illness incidence rates varied greatly among private industries ranging from 1.0 injuries/illnesses per 100 full-time workers in mining, quarrying, and oil and gas extraction industry to 5.2 in transportation and warehousing. California's private industry rates for total cases were higher than the national rates in every major industry division, except for agriculture, forestry, fishing, and hunting (5.5 and 5.2), mining, quarrying, and oil and gas extraction (2.0 and 1.0), manufacturing (4.0 and 3.2), and wholesale trade (2.9 and 2.8).
- The California private industry total case rate for non-fatal injuries decreased from 3.5 per 100 full-time worker injuries in 2013 to 3.4 in 2014, and the rate for the public sector (state and local government) decreased from 7.1 in 2013 to 7.0 in 2014.

[50] Beginning in 2007, the Census of Fatal Occupational Injuries (CFOI) adopted hours worked estimates to measure fatal injury risk per standardized length of exposure, which is generally considered more accurate than previously used employment-based rates.
[51] The comparisons of industry rates have not been adjusted for industry mix in each state.

- According to the Director's Office of Policy, Research, and Legislation, the largest decrease in injury and illness by major industry category was in the mining, quarrying, and oil and gas extraction industry, from 1.6 to 1.0 and management of companies and enterprises industry, from 2.6 to 1.7, per 100 full-time worker injuries in 2013 and 2014 respectively, followed by a decrease in information services from 2.0 to 1.5 per 100 full-time worker injuries in 2013 and 2014, and by a decrease in retail trade, from 4.5 to 3.9 per 100 full-time worker injuries in 2013 and 2014.[52]
- According to the Director's Office of Policy, Research and Legislation, the largest increase in injury and illness by industry sectors was in the real estate and rental and leasing industry, from 2.6 to 3.3 per 100 full-time worker injuries in 2013 and 2014 respectively, followed by construction, with an increase from 4.0 to 4.8 per 100 full-time worker injuries in 2013 and 2014, and professional, scientific, and technical services, from 1.0 to 1.2 between 2013 and 2014.[53]
- From 2004 to 2014, the number of fatal injuries[54] declined by 26.4 percent, from 443 to 326.[55] From 2013 to 2014, the number of fatal injuries decreased by 14 percent. In 2014, the highest number of fatal injuries was in trade, transportation and utilities (88), followed by professional and business services (55) and construction (47).
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2014 were: laborers and freight, stock, and material movers, hand; heavy and tractor-trailer truck drivers; janitors and cleaners, except maids and housekeeping cleaners; stock clerks and order fillers; farm workers and laborers, crop, nursery, and greenhouse; maids and housekeeping cleaners; light truck or delivery services drivers; customer service representatives; retail salespersons; carpenters.
- In California state government, the top ten occupations with the most non-fatal injuries and illnesses in 2014 are: correctional officers and jailers; psychiatric technicians; firefighters; janitors and cleaners, except maids and housekeeping cleaners; registered nurses; police and sheriff's patrol officers; operating engineers and other construction equipment operators; first-line supervisors of correctional officers; landscaping and groundskeeping workers; office clerks, general.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2014 are: police and sheriff’s patrol officers; janitors and cleaners, except maids and house-keeping cleaners; landscaping and grounds-keeping workers; firefighters; teacher assistants; bus drivers, transit and intercity; first-line supervisors of firefighting and prevention workers; bus drivers, school or special client; maintenance and repair workers, general; elementary school teachers, except special education.
- Transportation and material moving (83), construction and extraction (47), and building and grounds cleaning and maintenance (38), occupations accounted for 50 percent of the fatal injuries in 2014. Installation, maintenance, and repair (25); protective service (24); farming, fishing, and forestry (19); management (17); and sales and related (14) were the other occupations with the most number of fatal injuries in 2014. Transportation and material-moving occupations were the number one cause of fatal injuries accounting for 25 percent of fatal injuries in 2014.
- Transportation incidents accounted for 35 percent of fatal injuries in 2014 and are a major cause of fatalities among: transportation and material moving (59); protective service (11); and building and grounds cleaning and maintenance (9) occupations.

[52] DIR, Director's Office of Policy, Research and Legislation, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2013, 2014.
[53] Ibid.
[54] BLS preliminary data.
[55] The number of fatalities excludes those for the Federal government.

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2014 was experienced by the smallest private employers. Employers with 1 to 10 employees and 11 to 49 employees had incidence rates of 1.6 and 3.0 cases, respectively, per 100 full-time employees. Employers with 1 to 10 employees experienced the same rate 1.6 in both 2013 and 2014. The incidence rates for employers with 11 to 49 employees decreased from 3.2 in 2013 to 3.0 in 2014.
- Establishments with 50 to 249 and 250 to 999 employees reported the highest rates, 4.2 and 3.9 cases per 100 full-time employees, respectively, followed by 3.2 cases per 100 full-time employees for establishments with 1,000 and more employees in 2014. Establishments with 50 to 249 employees experienced an increase in incidence rates from 4.1 to 4.2 cases per 100 full-time employees from 2013 to 2014.

Types of Injuries

- All types of work injuries declined from 2004 to 2014 in the private sector. The number of sprains, strains, and tears declined by 32 percent from 2004 to 2014; however, these injuries remain by far the most common type of work injury accounting for 36 percent of days-away-from-work cases in the private sector in 2014. The biggest decline (70 percent) from 2004 to 2014 was in amputations. Tendonitis and multiple injuries experienced declines of 60 percent and 53 percent, respectively, and fractures experienced a decrease decrease of 27 percent between 2004 and 2014.
- In the private sector, overexertion and bodily reaction were the leading causes of days-away-from-work injuries, cited in 40 percent of cases in 2014. Contact with objects and equipment was the second common cause of injury, accounting for 25 percent of injuries.
- In California state government, the two main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for about 41 and 18 percent of days-away-from-work cases, respectively, in 2014.
- In local government, the main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for 38 and 23 percent of days-away-from-work cases, respectively, in 2014.
- The most frequently injured body part is the back, accounting for about 16 percent of the cases in state government and 21 percent of the cases in local government in 2014. In the private sector, back injuries account for about 18 percent of the non-fatal cases.

Demographics

- Over the period from 2004 to 2014 in the California private sector, the number of days-away-from-work cases for women decreased by 12 percent. Days-away-from-work cases for men decreased by 34 percent.
- Between 2004 and 2014, in private industry, all age groups, except for groups older than 54, experienced a decline in the numbers of cases with days away from work. The biggest decline (43 percent) occurred among 16- to 19-year-old workers. The 20–24 age group experienced a 39 percent decline, the 25–34 and 35–44 age groups, both experienced a 38 percent decrease, and the 45–54 age group experienced 20 percent decrease. The age groups 65 and over and 55 to 64 experienced a 30 percent and 9 percent increase, respectively, in the numbers of cases with days away from work.
- In 2014, out of 334 fatalities (including the Federal government), approximately 90 percent were male and 10 percent were female. Compared to 2004, the biggest decrease in the number of fatalities (79 percent) was in the 18–19 age group (from 19 to 4 cases), followed by a 61 percent decrease in the 20–24 age group (from 38 to 15 cases), a decrease of 45 percent from 121 to 67 cases in the 35–44 age group, a 31 percent decrease from 81 to 56 in the 25–34 age group, a 14 percent decrease from 103 to 89 cases in the 45–54 age group, and an 8 percent decrease from 71

to 65 cases in the 55–64 age group. The age group that experienced an increase in the number of fatalities from 32 to 38 cases was 65 and over (19 percent increase).

- The highest number of fatalities by race or ethnic origin categories in 2014 was experienced by "Hispanic or Latino" groups and "white, non-Hispanic," accounting for 49 and 37 percent of the fatalities respectively. From 2004 to 2014, there was a decrease in fatal injuries for all ethnic groups, except for the "Asian" group, which experienced no change in the number of fatalities (33 and 34 cases respectively). The highest decrease in fatal injuries, 27 percent, was in the "Hispanic or Latino" group (from 188 to 137 cases), followed by a 20 percent decrease in the "black or African-American (non-Hispanic)" group (from 25 to 20 cases), and a 15 percent decrease (from 211 to 180 cases) in the "white, non-Hispanic" group.

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of BLS in the U.S. and DOL and the Director's Office of Policy, Research, and Legislation in the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by DOL with DIR assistance.

OSHA Reporting and Recording Requirements

The U.S. Occupational Safety and Health Act (OSH Act) of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in DOL administers the OSH Act recordkeeping system.

Although some employers are exempt from keeping Cal/OSHA injury and illness records, all California employers must report injuries to the Director's Office of Policy, Research and Legislation. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA (Cal/OSHA) in DIR.

The data assist employers, employees, and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the BLS *Annual Survey of Occupational Injuries and Illnesses* and the OSHA *Occupational Injury and Illness Survey*.

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses come from this survey. In California, the DIR Director's Office of Policy, Research, and Legislation conducts the survey for BLS.

Non-fatal Injuries and Illnesses

The BLS *Annual Survey* develops frequency counts and incidence rates by industry and also profiles worker and case characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

Fatal Injuries and Illnesses

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify, and profile fatal work injuries.

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual *Occupational Injury and Illness Survey*. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to employers that have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

Occupational Injury and Illness Prevention Efforts

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses to improve worker health and safety.

Cal/OSHA Program

The Cal/OSHA Program is responsible for enforcing California laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports, and high hazard industries. There are 22 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Specialized enforcement units, such as the High Hazard Compliance Unit, augment the efforts of district offices in protecting California workers from workplace hazards in high hazard industries.

Other specialized units, such as the Crane Certifier Accreditation Unit, the Asbestos Contractors' Registration Unit, the Asbestos Consultant and Site Surveillance Technician Unit, and the Asbestos Trainers Approval Unit, are responsible for enforcing regulations pertaining to crane safety and prevention of asbestos exposure.

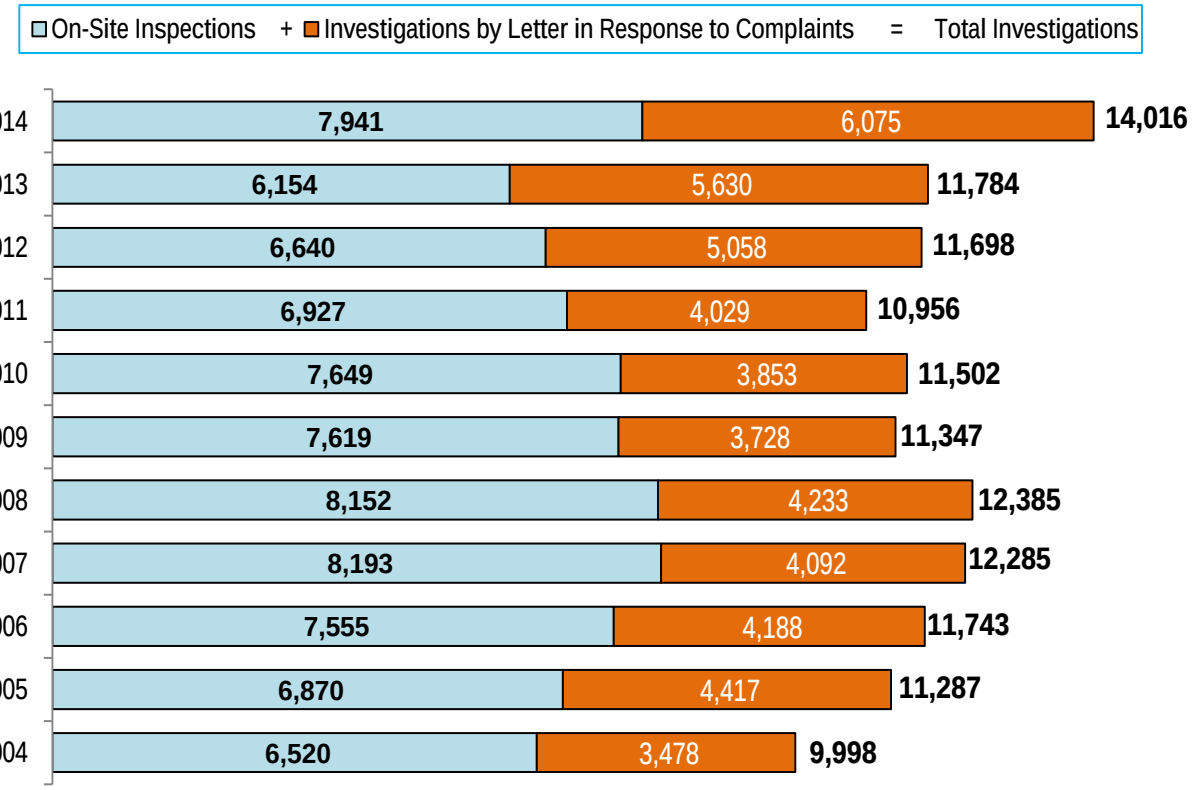
The Cal/OSHA Consultation Service provides assistance to employers and workers about workplace safety and health issues through on-site assistance, high hazard consultation, and other special emphasis programs. The Consultation Service also develops educational materials on workplace safety and health topics.

Profile of Division of Occupational Safety and Health (DOSH) On-Site Inspections and Violations Cited

The trends in types of inspections have varied in the past decade, with Accidents and Complaints being consistently predominant before fiscal year (FY) 2006. However, starting in FY 2006, Programmed Inspections started to reach higher levels than Accidents and Complaints.

Figure 118 shows the total numbers of on-site inspections and investigations by letter in response to complaints for the period from calendar year (CY) 2004 to CY 2014.[56] The total number of on-site inspections increased by 25 percent and the number of investigations by letter in response to complaints increased by 22 percent, both from 2004 to 2008. After a 7 percent and 12 percent decreases in on-site inspections and investigations by letter in response to complaints correspondingly, from 2008 to 2009, the trends in these two DOSH enforcement activities took opposite directions. The total number of on-site inspections decreased by 25 percent from 2008 to 2013, before increasing by 29 percent from 2013 to 2014. The total number of investigations by letter in response to complaints increased by 63 percent from 2009 to 2014. Accordingly, the total number of investigations, reflecting the DOSH enforcement activities, increased by 24 percent from 2004 to 2008, decreased by 8 percent from 2008 to 2009, and then averaged at around 11,500 investigations per year from 2009 through 2013, before increasing by 19 percent from 2013 to 2014.

Figure 118: DOSH Enforcement Activities, CY 2004–CY 2014



Source: DOSH

Figure 119 shows that the number of inspections increased from 6,520 in 2004 to 8,193 in 2007, decreased to 6,154 in 2013, and then increased again to 7,941 inspections in 2014. From 50 to 60

[56] The number of investigations, on-site inspections, and violations for calendar years could differ from those in fiscal years below in this section.

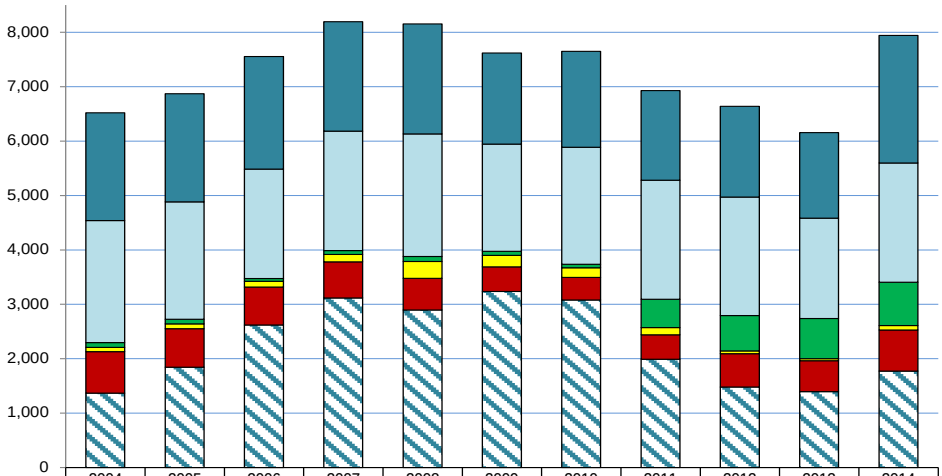
percent of all inspections are triggered by accidents and complaints, and from 20 to 40 percent are programmed by DOSH. On average, every year, from 80 to 90 percent of total inspections consist of programmed inspections and inspections triggered by complaints and accidents.

Inspections triggered by accidents averaged 2,010 per year from 2004 to 2008 and, after a 17 percent decrease from 2008 to 2009, averaged 1,660 inspections per year from 2009 to 2013. From 2013 to 2014, inspections triggered by accidents increased by 49 percent.

Inspections triggered by complaints averaged 2,150 inspections per year from 2004 to 2014, except for 2013, when the number of inspection decreased by 15 percent to 1,846 from 2012.

Programmed inspections increased by 136 percent from 2004 to 2009, thereby increasing its share in all inspections from 21 percent in 2004 to 42 percent in 2009. From 2009 to 2013, the number of programmed inspections decreased by 57 percent, thereby decreasing the share of this type of inspections in total inspections to 2004 level (23 percent), and then increased again by 27 percent from 2013 to 2014, although without a change in its share in total inspections due to a simultaneous increase in two types of insepctions triggered by accidencts and complaints.

Figure 119: DOSH On-Site Inspections by Type (All–With and Without Violations), CY 2004–CY 2014*



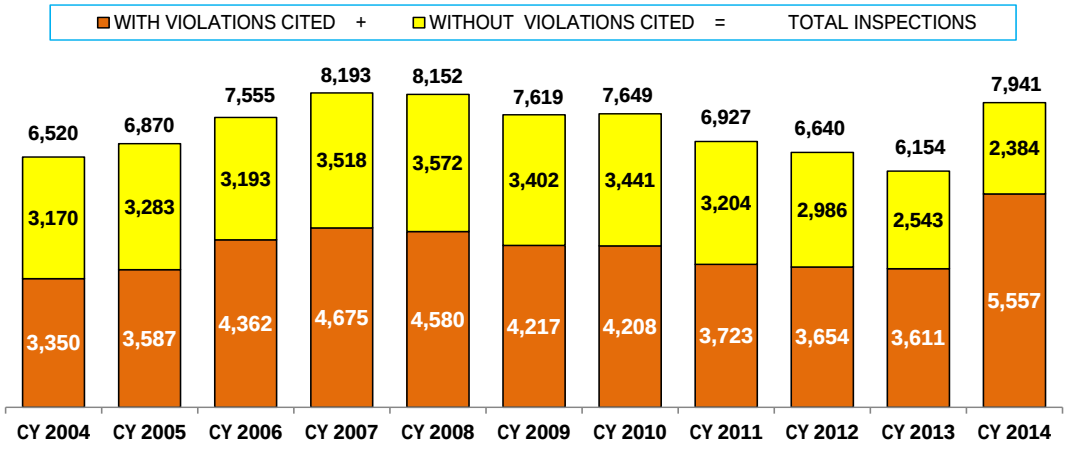
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Accident (unprogrammed)	1,981	1,986	2,069	2,010	2,020	1,676	1,763	1,646	1668	1571	2,345
Complaint (unprogrammed)	2,242	2,158	2,011	2,195	2,255	1,970	2,150	2,189	2,180	1,846	2,192
Referral (unprogrammed)	89	86	54	73	90	74	65	519	648	736	796
Follow-up (unprogrammed)	80	88	103	136	310	210	176	135	52	38	82
Unprogrammed Related (different employer, same worksite)	760	707	698	663	582	455	417	448	613	568	753
Programmed	1,368	1,845	2,620	3,116	2,895	3,234	3,078	1,990	1,479	1,395	1,773
TOTAL	6,520	6,870	7,555	8,193	8,152	7,619	7,649	6,927	6,640	6,154	7,941

* Report run on November 13, 2015

Source: DIR - DOSH- IMIS

According to Figure 120, the number of inspections without violations averaged 3,350 from 2004 to 2011, and then decreased by 26 percent from 2011 to 2014. The number of inspections with violations cited increased by 40 percent from 2004 to 2007, decreased by 23 percent from 2007 to 2013, and then increased sharply by 54 percent from 2013 to 2014. The share of DOSH inspections that resulted in violations cited increased from 51 percent in 2004 to 58 percent in 2006, gradually decreased to 56 percent in 2008, and then stabilized at an average of 55 percent from 2009 through 2012. From 2012 to 2014, the share of DOSH inspections that resulted in violations increased from 55 percent to 70 percent.

Figure 120: DOSH Inspections (With and Without Violations Cited), CY 2004–CY 2014*

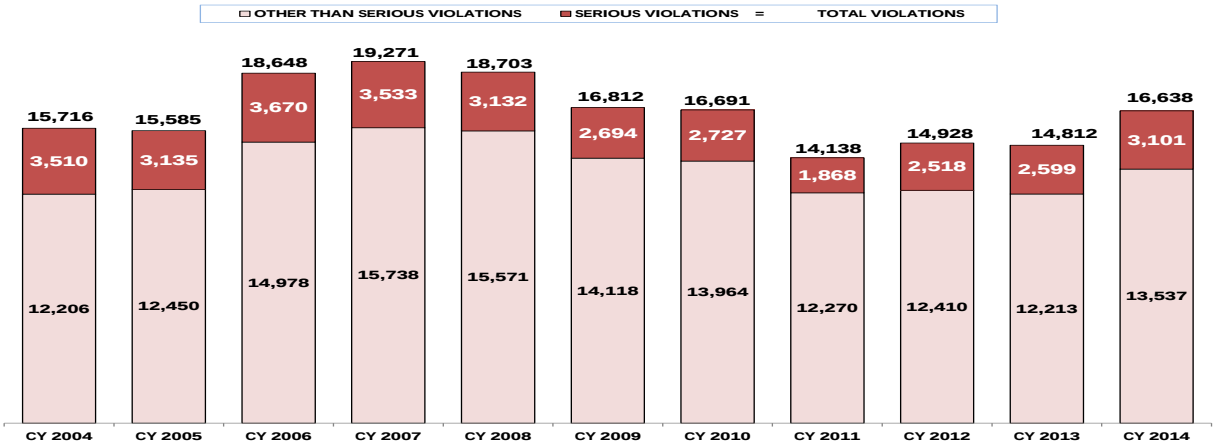


Data Source: DOSH - IMIS

The number of violations exceeds that of inspections because most inspections of places where violations occur yield more than one violation. Violations are further broken down into serious and other-than-serious. The number of DOSH violations and their breakdown by type from 2004 to 2014 are shown in the Figure 121. The number of violations increased by 23 percent from 2004 to 2007, decreased overall by 23 percent from 2007 to 2013, and then increased by 12 percent from 2013 to 2014.

The number of serious violations decreased by 20 percent from an average of 3,400 serious violations per year from 2004 to 2008 to an average of 2,700 serious violations per year in 2009 and 2010. After a 31 percent decrease from 2010 to 2011, the number of serious violations increased by 66 percent from 2011 to 2014. (See pp. 181-183 for OSHAB statistics on the number of appeals of DOSH violations that were filed and resolved.)

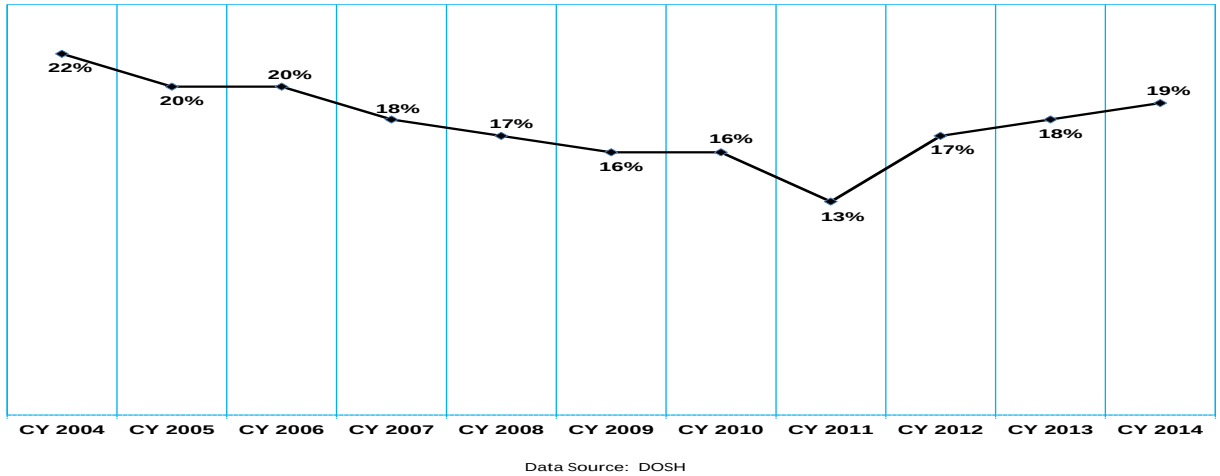
Figure 121: DOSH Violations (Serious and Other Than Serious), CY 2004–CY 2014



Data Source: DOSH

Figure 122 shows the trend in serious DOSH violations as a share of all violations from 2004 to 2014. The share of serious DOSH violations gradually decreased from 22 percent in 2004 to 13 percent in 2011. From 2011 to 2014, serious violations as a share of the total increased by five percentage points.

Figure 122: Serious Violations as a Share of Total DOSH Violations, CY 2004–CY 2014



The average number of DOSH violations per inspection averaged 2.3 from 2002 to 2014, from a low of 2.0 in 2011 to a of 2.5 in 2006.

Figure 123: Average Number of DOSH Violations per Inspection, CY 2004–CY 2014

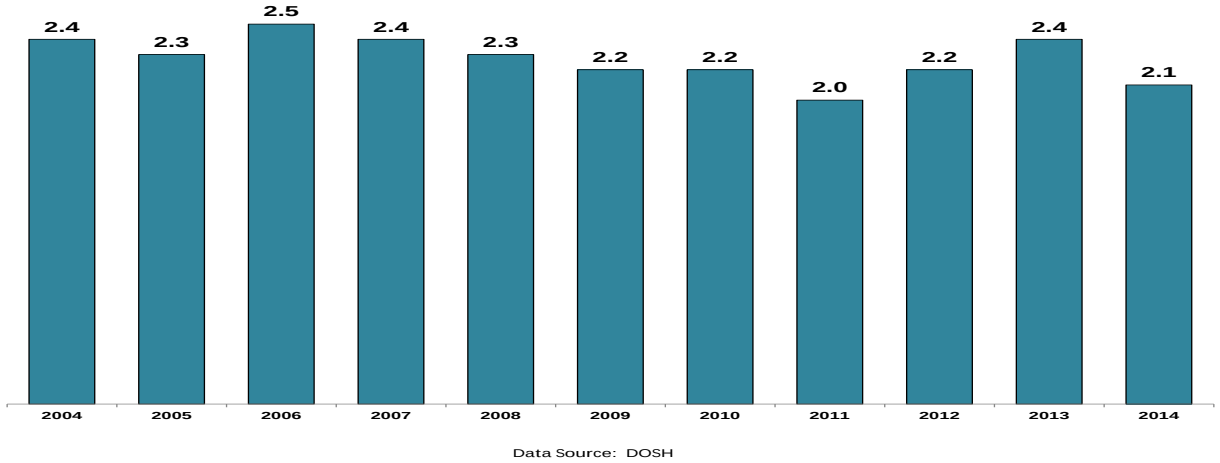


Table 54: Twenty-Five Most Frequently Cited CCR Title 8 Standards in CY 2014

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	1,723	86	5.0
3395	Heat Illness Prevention	1,599	92	5.8
1509	Construction Injury and Illness Prevention Program	1,050	20	1.9
3314	Clean, Repair, Service, Set-up and Adjust Prime Movers, Machinery and Equipment	554	189	34.1
342	Reporting Work Fatality or Serious Injury	470	1	0.2
5144	Respiratory Protection	374	9	2.4
5194	Hazard Communication	364	1	0.3
1512	Construction: Emergency Medical Services	329	3	0.9
6151	Portable Fire Extinguishers	299	1	0.3
3276	Portable Ladders	270	65	24.1
461	Permits to Operate Air Tanks	268	0	0.0
2340.16	Work Space About Electric Equipment	236	0	0.0
3457	Field Sanitation	210	8	3.8
5162	Emergency Eyewash and Shower Equipment	200	43	21.5
3650	Industrial Trucks: General Requirements	191	47	24.6
3328	Safe Practices, Personal Protection: Machinery and Equipment	177	40	22.6
3668	Powered Industrial Truck Operator Training	165	8	4.8
1527	Washing Facilities, Food Handling and Temporary Sleeping Quarters	152	0	0.0
3577	Use, Care, and Protection of Abrasive Wheels: Protection Devices	151	71	47.0
5193	Bloodborne Pathogens	139	36	25.9
1670	Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices	128	87	68.0
1644	Metal Scaffolds	121	68	56.2
3210	Guardrails at Elevated Locations	121	43	35.5
4300.1	Table Saws (Manual Feed)	116	96	82.2
3241	General Physical Conditions and Structures: Special Design Requirements, Live Loads	115	19	16.5

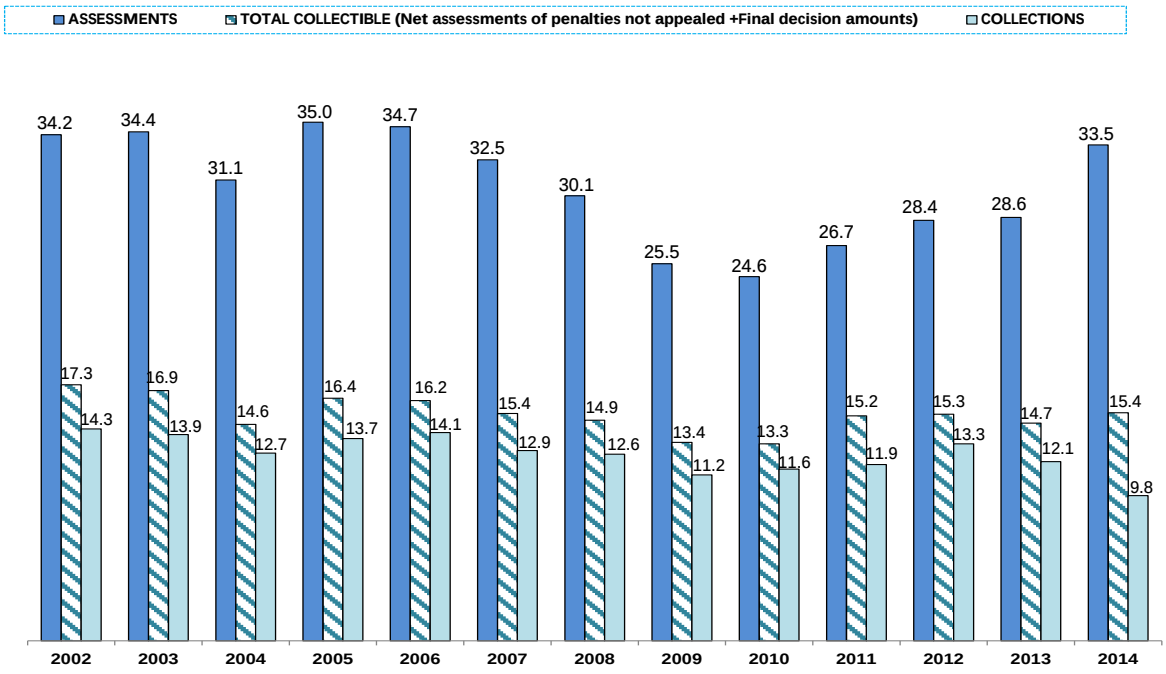
Note: “Serious” includes Serious, Willful, and Repeat Violations.

Source: DOSH Budget and Program Office.

Figure 124 demonstrates the trends in penalties and collections. Total penalties assessed were $33.5 million in 2014. Many employers appeal those “recommended” penalties at the Cal/OSHA Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have penalties eliminated due to procedural issues. Because of the appeals process, penalties collected are almost always less than the initial recommended penalties assessed. Total collections were $9.8 million in 2014.

Although Figure 124 demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. Nevertheless, the data give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

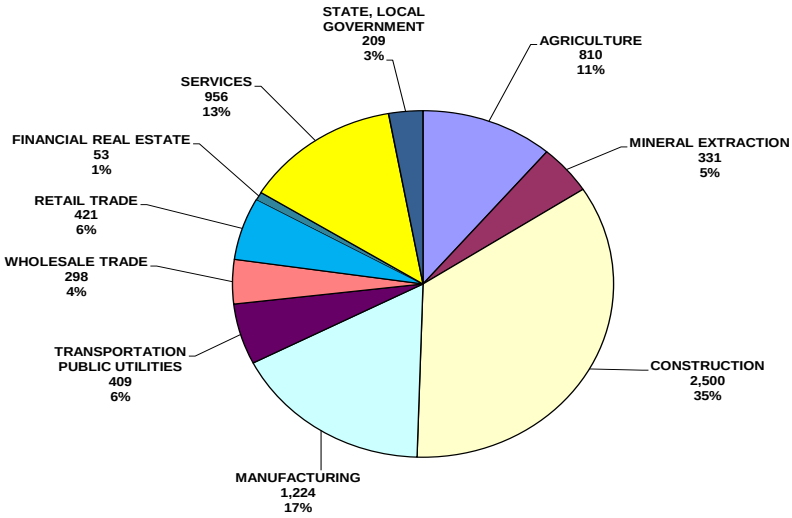
Figure 124: Total DOSH Penalties Assessed and Collected, 2002–2014
(Million $)



Data Source: DOSH

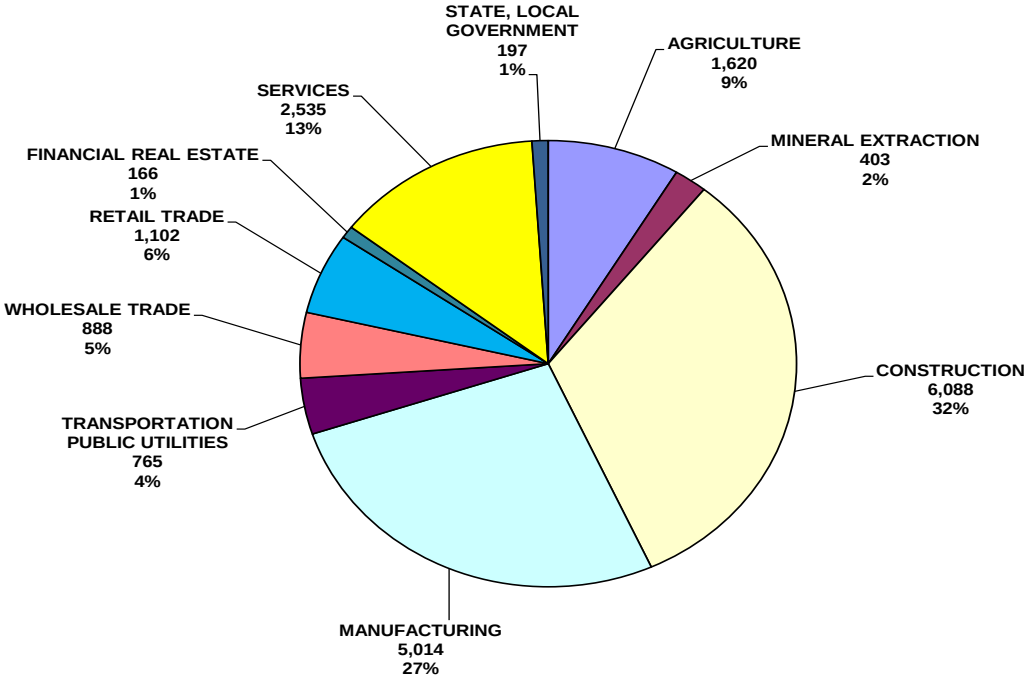
Figure 125 illustrates the proportion of inspections in major industrial groups. Of the 7,211 workplace health and safety inspections conducted in 2014, 2,500 (35 percent) were in construction and 4,711 (65 percent) were in non-construction.

Figure 125: Distribution of Inspections by Major Industry, CY 2014
(Total Inspections = 7,211)



As shown in Figure 126, corresponding to the fact that the highest percentage of inspections was in construction, the highest percentage (32 percent) of violations was alsofound in construction.

Figure 126: Distribution of Violations by Major Industry, CY 2014
(Total Violations = 18,778)



High Hazard Identification, Consultation, and Compliance Programs

Even though a statutory mandate no longer exists, the Division of Occupational Safety and Health (DOSH) reports annually on the activities of the constituent parts of the High Hazard Employer Program, specifically the High Hazard Consultation Program and the High Hazard Enforcement Program.

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

High Hazard Employer Program

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to those employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

In 1999, the passage of Assembly Bill (AB) 1655 gave DIR the statutory authority to levy and collect assessments from employers to support the targeted inspection and consultation programs on an ongoing annual basis.

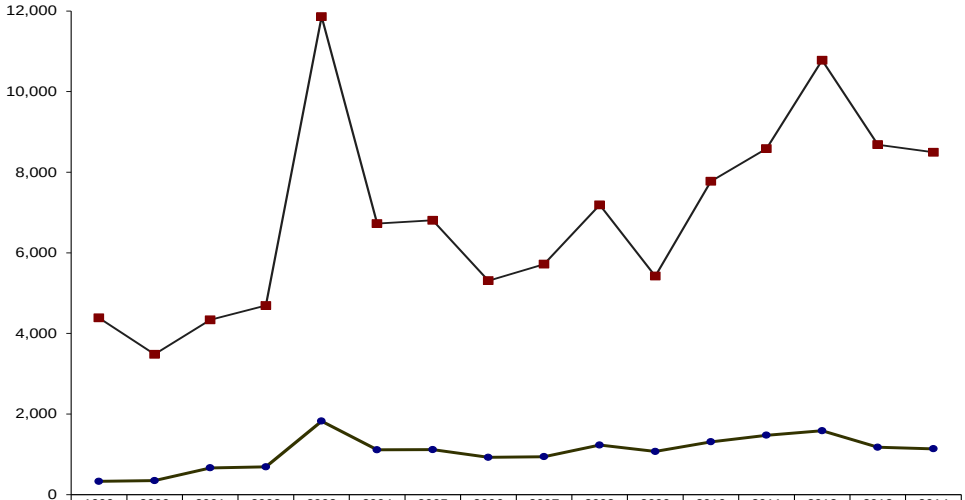
High Hazard Consultation Program

DOSH reports that in 2014, it provided on-site high hazard consultative assistance to 1,136 employers, as compared to 1,176 employers in 2013. During consultation with these employers in 2014, 8,495 Title 8 violations were observed and corrected as a result of the provision of consultative assistance.

Since 1994, 20,693 employers have been provided with direct on-site consultative assistance, and 122,441 Title 8 violations have been observed and corrected. Of these violations, 32.3 percent were classified as "serious."

Figure 127 indicates the yearly number of consultations and violations observed and corrected during the years 1999-2014. In 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. As of 2004, only employers with experience modification (Ex-mod) rates of 125 percent and above are included in the High Hazard Consultation Program figures.

Figure 127: High Hazard Consultation Program Production by Year



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of Employers with High Hazard Consultative Assistance	329	348	663	688	1,824	1,112	1,116	926	942	1,231	1,072	1,311	1,473	1,586	1,176	1,136
Total Number of Title 8 Violations Observed and Corrected	4,385	3,481	4,336	4,691	11,861	6,725	6,808	5,308	5,717	7,190	5,422	7,774	8,586	10,779	8,684	8,495

Data Source: Division of Occupational Safety and Health

The efficacy of High Hazard Consultation is measured by comparisons of employer lost-and-restricted-workday data. In 2001, Log 300 replaced Log 200 as the source for lost–and-restricted-workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses Ex-mod rates to measure efficacy.

High Hazard Enforcement Program

Reporting of high hazard enforcement program activities has changed in 2012 and data are only available beginning from 2011. In 2014, the High Hazard Unit conducted 385 inspections of 354 employer establishments. The majority of inspections 281 (73 percent) were targeted programmed-planned. Other types of inspections conducted were; programmed-related, accidents, complaints, and follow-up. A total of 2,082 violations were identified and cited. Violations were found in 81 percent of all inspections conducted. The violation per inspection ratio for targeted programmed-planned inspections was 6.65 in 2014.

The high hazard enforcement program reported the following activity measures for calendar years 2011-2014.

The distribution of high hazard targeted inspections by North American Industrial Classification System (NAICS) in 2014 is shown in Table 55.

Table 55: High Hazard Inspections by NAICS Code, 2014

NAICS code and Description	Number	Percent
11 Agriculture, Forestry, Fishing and Hunting	17	4.4%
21 Mining, Quarrying, and Oil and Gas Ext.	0	0%
22 Utilities	0	0%
23 Construction	50	13.0%
31-33 Manufacturing	276	71.7%
42 Wholesale Trade	6	1.6%
44-45 Retail Trade	9	2.3%
48-49 Transportation and Warehousing	1	0.3%
51 Information	0	0%
52 Finance and Insurance	1	0.3%
53 Real Estate and Rental/Leasing	0	0%
54 Professional, Scientific, and Technical Services	0	0%
56 Admin and Support and Waste Management and Remediation	25	6.4%
61 Educational Services	0	0%
62 Health Care and Social Assistance	0	0%
71 Arts, Entertainment, and Recreation	0	0%
81 Other Services	0	0%
92 Public Administration	0	0%
Total	385	100%

Source: DOSH

Violations observed during high hazard targeted inspections are divided into two categories: “serious, willful, and repeat (SWR)” and “other than serious” violations.

Table 56: Violations Observed During High Hazard Inspections

Targeted Inspections	2011		2012		2013		2014	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Serious, Willful, Repeat	549	28%	586	33%	443	28%	429	21%
Other Than Serious	1,390	72%	1,187	67%	1,122	72%	1,653	79%
Total	**1,939**		**1,773**		**1,565**		**2,082**	
Instances not included in previous reports	7,164		4,953		NA		NA	

Source: DOSH

Table 57 shows the distribution of enforcement actions taken during high hazard inspections by type in 2011–2014.

Table 57: Enforcement Actions Taken During High Hazard Targeted Inspections

Types of enforcement actions	2011		2012		2013		2014	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Warrants	4	0.4%	0	0%	0	0%	0	0%
Order Prohibiting Use	20	2%	75	8%	20	2.6%	0	0%
Information Memorandums	29	3%	15	2%	53	6.8%	75	19%
Citations	928	94.6%	869	91%	711	90.6%	313	81%

Source: DOSH

Table 58 shows the most frequently observed violations during high hazard inspections in 2014.

Table 58: Most Frequently Observed Violations During High Hazard Targeted Inspections, 2014

Title 8 Section	Description
3577/3578	Protection Devices[Grinders]
4300-4310	Saws [Woodworking Guards]
3650-3668	Industrial Trucks. General.
5144	Respiratory Protective Equipment.
461	Permits to Operate [Air Tank]
5162/5185	Emergency Eyewash and Shower Equipment.
6151	Portable Fire Extinguishers.
3203/1509	Injury and Illness Prevention Program.
3314	Cleaning, Repairing, Servicing and Adjusting Prime Movers, Machinery and Equipment.
2340.16	Work Space About Electric Equipment.

Source: DOSH

Safety Inspections

DOSH has three major public safety programs devoted to conducting inspections to protect the public from safety hazards:

- The Amusement Ride and Tramway Unit conducts public safety inspections of amusement rides, both portable and permanent, and aerial passenger tramways and ski lifts.
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.[57]
- The Pressure Vessel Unit conducts public safety inspections of boilers and pressure vessels to ensure their safe operation in places of employment.

[57] For a list of conveyances, please see http://www.dir.ca.gov/Title8/sub6.html.

Table 59: Cal/OSHA's Highest Hazard Industry List, FY 2014–2015

Industry Group	NAICS	Industry Activity	DART *	Establishments	Employees
Agriculture, Forestry, Fishing and Hunting	1114	Greenhouse, nursery, and floriculture production	4.7	986	26,628
	112	Animal production	5.1	2,671	28,987
Construction	23812	Structural steel and precast concrete contractors	7.2	469	9,067
	23816	Roofing contractors	4.6	2,194	17,895
	23819	Other foundation, structure, and building exterior contractors	5.7	517	3,687
Manufacturing	3113	Sugar and confectionery product manufacturing	5.4	177	6,162
	311511	Fluid milk manufacturing	4.5	76	7,627
	3116	Animal slaughtering and processing	5.1	298	20,956
	311812	Commercial bakeries	4.9	328	14,588
	312 **	Beverage and tobacco product manufacturing	5.3	1,522 (254)	44,491 (16,111)
	32191	Millwork	4.6	333	6,358
	33151	Ferrous metal foundries	4.7	90	3,748
	33232 **	Ornamental and architectural metal products manufacturing	4.6	836 (583)	19,442 (16,376)
	3366	Ship and boat building	4.7	117	7,564
Retail Trade	444	Building material and garden equipment and supplies dealers	4.3	6,310	114,425
Transportation and Warehousing	481	Air transportation	6.4	493	42,725
	492	Couriers and messengers	6.2	1,645	57,624
	493	Warehousing and storage	4.4	1,688	69,697
Administrative and Support and Waste Management and Remediation Services	56172	Janitorial services	4.8	5,087	99,169
Accommodation and Food	721	Accommodation	4.3	6,037	200,260

Source: DOSH

* The latest available private sector average "DART" (Days Away, Restricted and Transferred) rate in 2012 was 2.1. Cal/OSHA's High Hazard Industry threshold is > 200% of the private sector average, or > 4.2.

** The industries with the NAICs codes listed below will not be targeted because their DARTs are less or equal to 200 percent of the private sector's average DART:

31213	Wineries	3.8	1,268	28,380
332323	Ornamental and architectural metal work manufacturing	2.8	235	3,066

Health and Safety Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The mission of OSHSB is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

To meet the DIR Goal 1 on ensuring that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement. Standards adopted in 2014 are listed in the "Legislation and Regulations" section of this report.

For further information …

http://www.dir.ca.gov/oshsb/apprvdarchive.html
http://www.dir.ca.gov/oshsb/apprvd.html

Occupational Health and Safety Appeals Board (OSHAB)

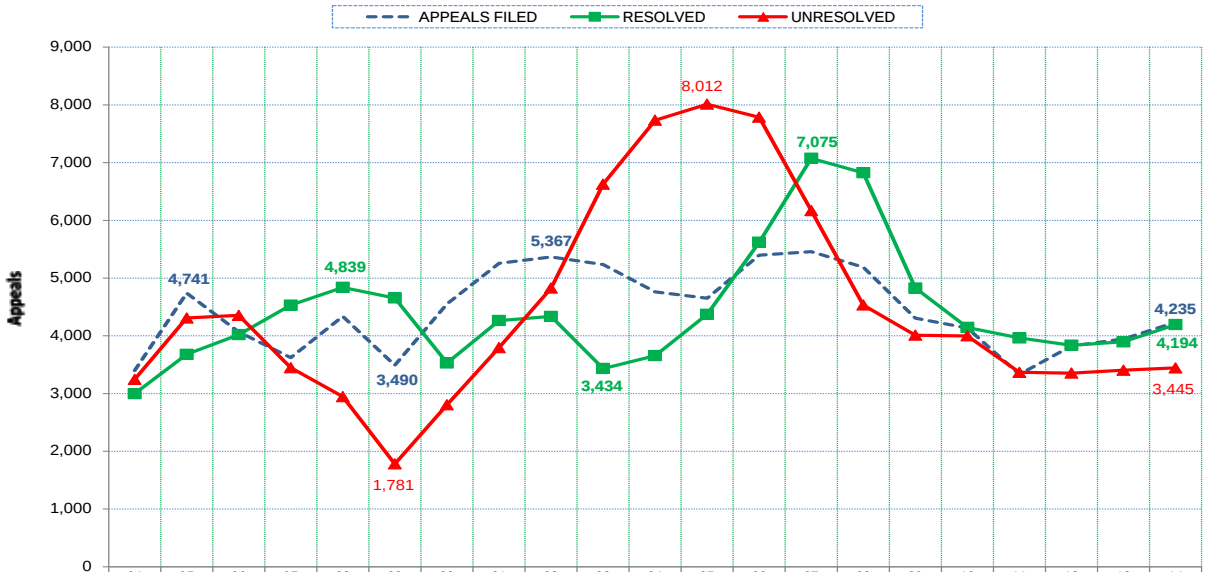
The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected from among management, labor, and the general public. The chairman is selected by the governor.

The mission of OSHAB is to fairly, timely and efficiently resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violation of workplace health and safety laws and regulations.

Figure 128 shows the OSHAB workload: appeals filed, resolved, and unresolved. From 1994 to 1995, the number of appeals filed with OSHAB increased, reaching 4,741 cases in 1995. From 1995 to 2009, the number of appeals filed yearly stabilized at an average of 4,695 cases, with a maximum of 5,457 appeals filed in 2007.

From 1994 to 1996, on average 81 percent of filed appeals was resolved each year. From 1997 to 2000, OSHAB processed appeals in less time (10 months) than the Fed/OSHA standard, averaging 123 percent of yearly filed cases; therefore, the number of unresolved appeals reached its minimum in 1999. From 2000 to 2006, processing of appeals slowed down again because an average 83 percent of filed appeals was resolved each year, increasing the number of unresolved cases to its maximum of 8,012 cases in 2005. From 2005 to 2012, the number of unresolved cases decreased by 58 percent because an average 110 percent of yearly filed cases were resolved in 2009, 2010, and 2011. In 2013, there was a first-time increase in unresolved cases since their peak in 2005, when resolved appeals as a share of yearly filed appeals decreased from 100.4 percent in 2012 to 98.7 percent in 2013. Resolved appeals as a share of yearly filed appeals was less than 100 percent (99 percent) in 2014.

Figure 128: Occupational Safety and Health Appeals Board (OSHAB) Workload, 1994-2014

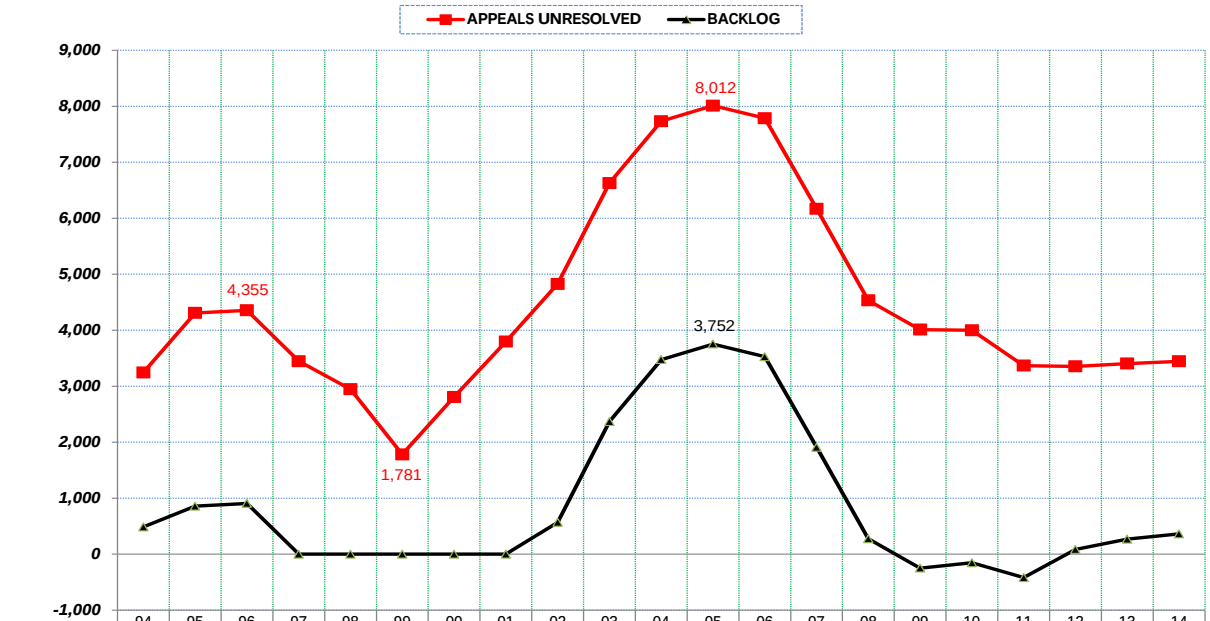


	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14
APPEALS FILED	3,400	4,741	4,067	3,623	4,338	3,490	4,555	5,255	5,367	5,235	4,762	4,651	5,396	5,457	5,190	4,305	4,134	3,333	3,823	3,946	4,235
RESOLVED	2,999	3,679	4,020	4,531	4,839	4,655	3,530	4,265	4,336	3,434	3,656	4,373	5,621	7,075	6,825	4,828	4,146	3,964	3,837	3,896	4,194
UNRESOLVED	3,246	4,308	4,355	3,447	2,946	1,781	2,806	3,796	4,827	6,628	7,734	8,012	7,787	6,169	4,534	4,011	3,999	3,368	3,354	3,404	3,445

Data Source: OSHAB

The trend and level of backlogged citation appeals reflect changes in unresolved cases as they accumulate from previous years. As Figure 129 shows, the pattern of backlog repeats the pattern of unresolved cases described above.

Figure 129: Occupational Safety and Health Appeals Board Backlogs, 1994-2014



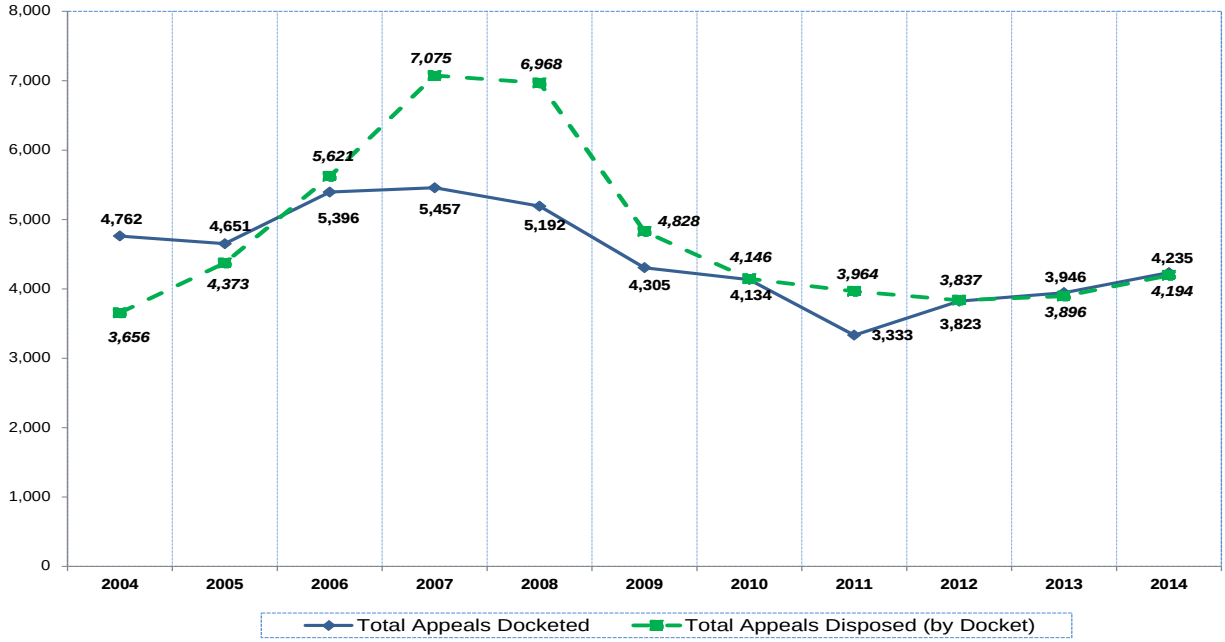
	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14
APPEALS UNRESOLVED	3,246	4,308	4,355	3,447	2,946	1,781	2,806	3,796	4,827	6,628	7,734	8,012	7,787	6,169	4,534	4,011	3,999	3,368	3,354	3,404	3,445
BACKLOG	486	858	905	0	0	0	0	0	567	2,368	3,474	3,752	3,527	1,909	274	-249	-155	-418	84	268	361

Data Source: OSHAB

Figure 129 above shows that in 2012, the downward trend in backlogged appeals experienced from 2005 to 2011 reversed, and the number of backlogged appeals increased from 84 in 2012 to 361 cases in 2014. This growth in the backlog was the result of an increase in filed appeals to the level of resolved cases from 2012 to 2014 (see Figure 130), and an increase in the number of unresolved cases from 2012 to 2014.

Figure 130 shows the total number of citation appeals docketed and disposed from 2004 to 2014. In 2014, 99 percent of appeals were resolved.

Figure 130: Occupational Safety and Health Appeals Board: Appeals Docketed and Disposed, 2004-2014



Data Source: OSHAB

Educational and Outreach Programs

In conjunction and cooperation with the health and safety and workers' compensation community, DIR administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

Worker Occupational Safety and Health Training and Education Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs. For further information about WOSHTEP and its activities, see the "Projects and Studies" section of this report.

School Action for Safety and Health

Per the mandate set forth in the Labor Code 6434, CHSWC is to assist inner-city schools or any school or district in implementing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention programs. For further information about SASH and its activities, see the "Projects and Studies" section of this report.

The California Partnership for Young Worker Health and Safety

CHSWC has convened the California Partnership for Young Worker Health and Safety. The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers. See the “Projects and Studies” section of this report for further information about the Partnership.

Cal/OSHA Consultation

Consultative assistance is provided to employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

Partnership Programs

California has developed several programs that rely on industry, labor and government to work as partners in encouraging and recognizing workplace health and safety programs that effectively prevent and control injuries and illnesses to workers. These partnership programs include the Voluntary Protection Program (VPP), Golden State, SHARP, Golden Gate, and special alliances formed among industry, labor, and OSHA.

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Background

In California, approximately two-thirds of the total State payroll is covered for workers' compensation through insurance policies, while the remainder is through self-insurance. There are more than 200 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (SCIF).

The California Department of Insurance (CDI) oversees these insurers. To accomplish its principal objective to protect insurance policyholders in the State, CDI examines insurance companies to ensure that operations are consistent with Insurance Code requirements.

Minimum Rate Law and Open Rating

In 1993, workers' compensation reform legislation repealed California's 80-year-old minimum rate law and in 1995 replaced it with an open-competition system of rate regulation, in which insurers set their own rates based on "pure premium advisory rates" developed by the Workers' Compensation Insurance Rating Bureau (WCIRB). These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss-adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates intended to cover other costs and expenses, including unallocated loss-adjustment expenses, as well as an operating profit.

Insurance Market After Elimination of Minimum Rate Law

Subsequent to the repeal of the minimum rate law effective January 1995, changes were noted in the actions of insurers and employers.

Price Competition

Open rating apparently spurred competition among insurers seeking to retain or add to their market share. Some insurers attempted to increase their market share by writing coverage at low prices that eventually proved to be below loss costs. This deregulated market kept premium rates near their historic lows throughout the second half of the 1990s, even though losses were no longer declining.

As the link between the price of insurance and loss costs became more and more tenuous, some insurers left the State, others ceased underwriting workers' compensation or merged with or were acquired by other carriers, and still others, including several of the State's largest insurers, became insolvent and had to be taken over or supervised by the State. As a result, the workers' compensation market became much more concentrated than in the past. Aside from SCIF, only a few large national carriers accounted for the largest portion of the statewide premium.

Insurers Liquidated Since 2000

2000

California Compensation Insurance Company
Combined Benefits Insurance Company
Commercial Compensation Casualty Insurance Company
Credit General Indemnity Company
LMI Insurance Company
Superior National Insurance Company
Superior Pacific Insurance Company

2001

Credit General Insurance Company
Great States Insurance Company
HIH America Compensation & Liability Insurance Company
Amwest Surety Insurance Company
Sable Insurance Company
Reliance Insurance Company
Far West Insurance Company
Frontier Pacific Insurance Company

2002

PHICO
National Auto Casualty Insurance Company
Paula Insurance Company
Alistar Insurance Company
Western Specialty Insurance Company

2003

Western Growers Insurance Company
Legion Insurance Company
Villanova Insurance Company
Home Insurance Company
Fremont Indemnity Corporation
Wasatch Crest Insurance Co. (No WC policies)
Pacific National Insurance Company
Miller Insurance Company

2004

Protective National Insurance Company
Holland-America Insurance Company
Casualty Reciprocal Exchange
Commercial Casualty Insurance Company
American Bonding Company

(continues)

Insurance Market Changes (UPDATED)

Since 2000, a significant number of workers' compensation insurance companies have experienced problems with payment of workers' compensation claims. Fifty one insurance companies underwent liquidation, and 26 companies withdrew from offering workers' compensation insurance after that year. However, since 2004, 86 insurance/reinsurance companies have entered the California workers' compensation market, while only 23 companies withdrew from the market.[58]

Changing Insurers[59]

WCIRB estimated that before open rating, about 25 percent of California employers with experience modifications (Ex-mods) changed insurance carriers each year. After open rating, about 35 percent of these employers did so. However, in many post-open rating situations, employers had no choice but to change insurers, as the market had deteriorated to the point that many carriers, including several of the State's largest workers' compensation insurers went out of business or stopped offering workers' compensation in California.

Reinsurance[60]

After open rating, many carriers shifted the risk of their workers' compensation claims to other insurance companies, some of which were inexperienced with the California workers' compensation insurance market. It was reported that many carriers used reinsurance aggressively in order to mitigate the risk of having to make large future payoffs. Some primary workers' compensation carriers offered extremely low rates that proved to be inadequate in the face of soaring losses. Some reinsurance companies also sold off their risk to other reinsurers in a process called "retrocession." During 1999, several major reinsurance pools experienced financial difficulty and ceased operations.

Impact of Workers' Compensation Reforms on Insurance Companies

Workers' compensation reform legislation in 2003 and 2004, Senate Bill (SB) 228, Assembly Bill (AB) 227, and SB 899, were enacted with the intention of controlling costs and improving the benefit-delivery process in the workers' compensation system.

In 2007, SB 316 eliminated a duplicative reserve requirement that was inadvertently not removed when risk-based capital requirements went into effect for workers' compensation insurers in 2002. That same bill also mandated a study by the Commission on Health and Safety and Workers' Compensation (CHSWC) of the causes of many of the insolvencies in this decade.

[58] The information on the companies that have withdrawn and entered the market since 2004 are based on data provided by CDI and cover period through October 31, 2015.
[59] Source: http://www.dir.ca.gov/CHSWC/StateInsuranceIndustry2002/Stateinsuranceindustry042002.html.
[60] Ibid.

(continued)

Insurers Liquidated Since 2000

2005

Cascade National Insurance Company/Washington

South Carolina Insurance Company/South Carolina

Consolidated American Insurance Company/South Carolina

2006

Vesta Fire Insurance Company

Hawaiian Insurance & Guaranty Company

Municipal Mutual Insurance Company

2010

Insurance Corporation of New York (The)

2011

Atlantic Mutual Insurance Co./New York

Centennial Insurance Company/New York

Reinsurance Company of America/Illinois

2012

Frontier Insurance Company of New York

2013

Lumbermens Mutual Casualty Group of Illinois

Tokio Marine & Nichido Fire Insurance Co., Ltd.

Ullico Casualty Company/Delaware

2014

Freestone Insurance Company/Delaware

Red RockInsurance Company/Oklahoma

2015

Lincoln General Insurance Company

Source: CIGA

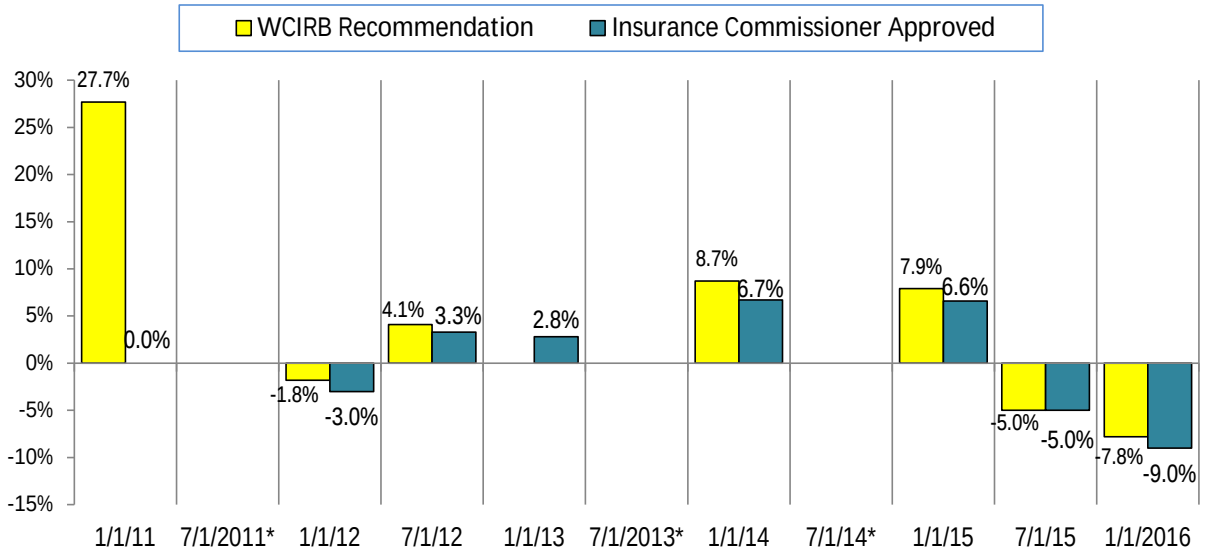
The study has been completed and includes recommendations to contain the risk of future insolvencies. (See "California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change."

Workers' Compensation Advisory Premium Rates

As a result of the 2003 legislative reforms, WCIRB recommended changes and the Insurance Commissioner (IC) approved either decreases or no changes in the pure premium advisory rates between January 1, 2004, and July 1, 2012, with the exception of January 1, 2009, filing. When decisions have been issued, the IC approved increases for all periods from July 1, 2012, to January 1, 2015, filings. The IC approved decreases in the pure premium advisory rates in two consecutive periods beginning from July 1, 2015.

The WCIRB did not submit its January 1, 2013, pure premium rate filing to the California IC. On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average $2.56 per $100 of payroll, which is 2.8 percent higher than the industry average filed pure premium rate of $2.49 per $100 of payroll as of November 9, 2012. Also, WCIRB did not submit July 1, 2013, and July 1, 2014, pure premium rate filings, and the IC did not issue the interim advisory rates for these periods. (A history of pure premium rates since 1993 appears later in this section.)

Figure 131: Percentage Changes in Workers' Compensation Advisory Premium Rates, WCIRB Recommendation and Insurance Commissioner's Decision Compared to Corresponding Industry Average Filed Pure Premium Rate

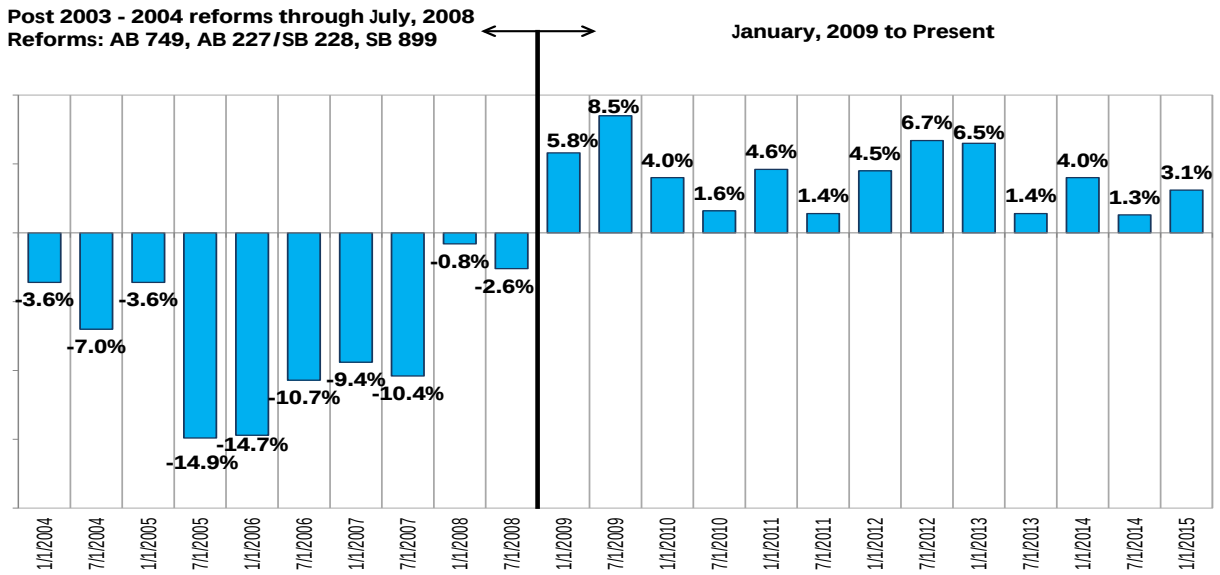


* WCIRB and/or Insurance Commissioner did not take actions

California Workers' Compensation Manual Rate Changes Filed by Insurers

As a result of the 2003 workers' compensation legislative reforms and the subsequent decisions by the IC on advisory premium rates, workers' compensation insurers reduced their average filed manual rates between 2004 and 2008. However, in 2009, average rates filed by insurers increased and have continued to increase since then (see Figure 132).

Figure 132: Average Workers' Compensation Manual Rate, Changes Filed by Insurers



Data Source: California Department of Insurance (CDI)

California Workers' Compensation Rate Changes

Workers' compensation legislative reforms enacted in 2003 and subsequent decisions by the IC on advisory claims cost benchmarks and pure premium rates led insurers to file a series of significant manual rate reductions from 2004 through 2008. Despite recent manual rate increases filed by insurers, which helped lead to additional legislative reforms passed in 2012 (SB 863), the top ten California workers' compensation insurers still maintain greatly reduced filed manual rates from those in 2003 (see Table 60).

As of April 1, 2015, the cumulative premium weighted average manual rate filed by insurers with the CDI since the enactment of the 2003 reforms is approximately 26 percent for all underwriters, including the State Compensation Insurance Fund (SCIF). Eight consecutive advisory benchmark rate reductions occurred as a result of the passage of AB 227, SB 228, and SB 899, and insurers filed cumulative manual rate reductions averaging 56 percent from January 2004 through July 2008. The first post-2003 reform advisory benchmark rate increase occurred effective January 1, 2009 (+5.0 percent), and insurers responded by increasing filed rates by 5.8 percent. Filed manual rates have moderately increased annually thereafter, in some instances when the advisory benchmark rates remained unchanged. Also, in response to the January 1, 2015, advisory benchmark rate revision of +2.2 percent, filed insurer manual rates increased 3.1 percent.[61]

WCIRB reports that the average rate charged for 2014 is approximately 53 percent less than the average rate charged prior to the enactment of AB 227, SB 228, and SB 899 in 2003. The average rate per $100 of payroll fell from $6.29 in the second half of 2003 to $2.97 for 2014 policies.[62]

Since the first reform package was chaptered in 2003, 86 new insurers have filed to enter the California market and existing private insurers have increased their underwritings. The significant rate reductions, totaling 26 percent since the first reforms were enacted, and SCIF's declining market share point to the dramatic initial success of the 2003 cost containment reforms and a stabilizing market with increased capacity and greater rate competition.

[61] California Department of Insurance, RFLA3 Rate Filing Bureau.
[62] WCIRB Report on September 30, 2015, Insurer Experience, released December 15, 2015, Exhibit 2.

However, the projected ultimate accident year combined loss and expense ratios from 2008 to 2011, when the ratio hit 116 percent in 2009, 117 percent in 2010, and 122 percent in 2011,[63] reflect an erosion of the effectiveness of the 2003 cost containment reforms over time. Nonetheless, recent loss trends are encouraging, as the projected ultimate accident year combined loss and expense ratio for 2013 was down to 109 percent and 2014 ratio was 104 percent.[64] Further, the impact or savings from the latest reform, SB 863 passed in 2012 and effective January 1, 2013, may be starting to materialize as the January 1, 2016, approved pure premium rates are on average 2.0 percent lower than the approved July 1, 2015, advisory pure premium rates.

Table 60: California Workers' Compensation Top 10 Insurers Rate Filing Changes

COMPANY NAME	GROUP NAME	Market Share 2013	Cumulative Rate Change 1-04 to 4-15	1Q 2015 % Filed Rate Change*	7-1-2014 % Filed Rate Change*	4-1-2013 % Filed Rate Change*	1-1-2013 % Filed Rate Change*
State Compensation Insurance Fund		*13.38%*	*-36.08%*	*9.00%*	*5.7%*	*-7.00%*	*0.00%*
Travelers Property Casualty Company of America	Travelers Group	*6.17%*	*-29.36%*	*1.03%*	*4.0%*	*7.00%*	*7.00%*
Insurance Company of the West	American Assets Group	*4.67%*	*-27.56%*	*0.0%*	*2.5%*	*n/a*	*8.50%*
Cypress Insurance Company	Berkshire Hathaway Group	*3.80%*	*-45.95%*	*2.6%*	*6.08%*	*2.00%*	*2.00%*
Security National Insurance Company**	AmTrust NGH Group	*3.59%*	*-45.53%*	*3.0%*	*6.96%*	*9.70%*	*n/a*
Zurich American Insurance Company	Zurich Ins Group	*3.09%*	*-36.12%*	*4.20%*	*3.40%*	*8.50%*	*8.30%*
California Insurance Company	Berkshire Hathaway Group	*2.92%*	*-32.30%*	*2.20%*	*7.60%*	*n/a*	*0.00%*
Everest National Insurance Company	Everest Reins Holdings Grp	*2.90%*	*-20.26%*	*1.30%*	*12.10%*	*10.10%*	*7.70%*
Zenith Insurance Company**	Fairvax Financial Group	*2.82%*	*-7.88%*	*4.50%*	*4.30%*	*1.80%*	*6.70%*
National Union Fire Insurance Co of Pittsburgh, PA	AIG Group	*2.55%*	*-27.22%*	*0.00%*	*5.00%*	*10.10%*	*8.30%*

* Indicated % filed rate change reflects cumulative rate change(s) in effect as of that date from the rates in effect on the preceding date.
** Security National Insurance Company entered the California market in 2008.

Workers' Compensation Premium

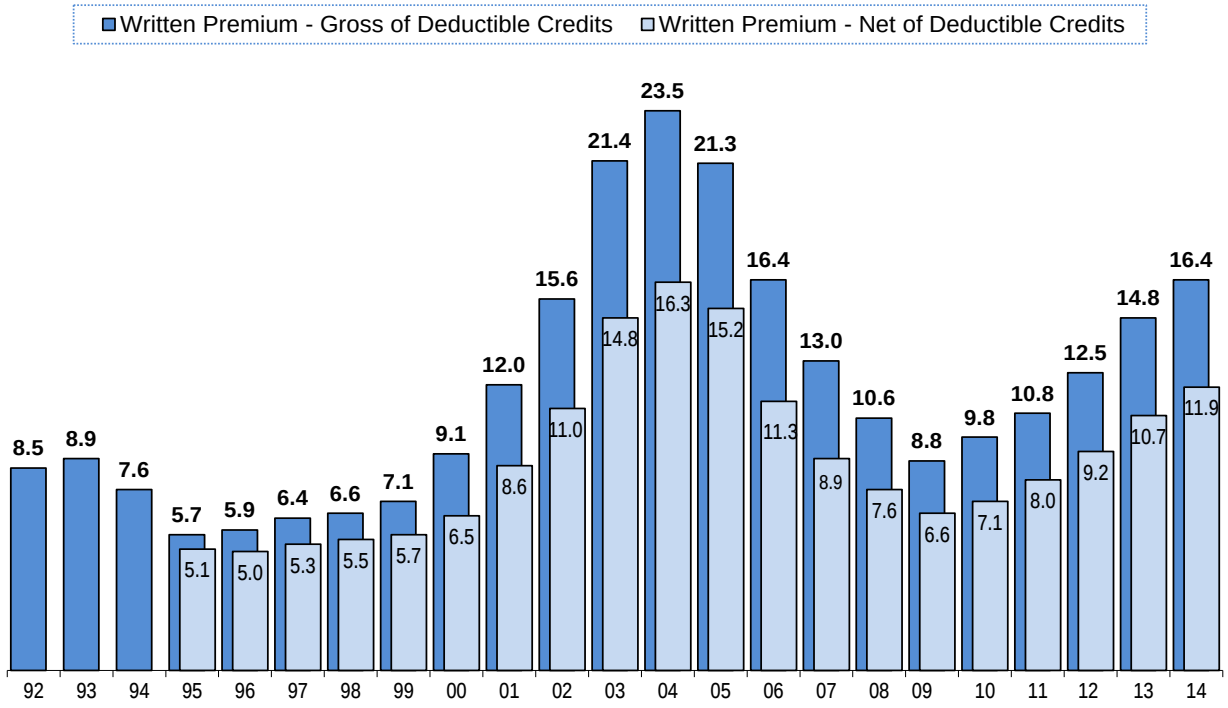
After elimination of the minimum rate law, the total written premium declined from a high of $8.9 billion in 1993 to a low of $5.7 billion ($5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth, movement from self-insurance to insurance, and other factors, rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the 1990s.

[63] Ibid., Exhibit 6.
[64] Ibid.

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium increased by 37 percent to $21.4 billion from 2002 to 2003 and increased by about 10 percent to a peak of $23.5 billion from 2003 to 2004. The written premium declined by almost 63 percent from $23.5 billion to $8.8 billion between 2004 and 2009 due to rate decreases. From 2009 to 2014, there was an 86 percent increase in the written premium.

Figure 133 shows the California workers' compensation written premium before and after the application of deductible credits. Note that these amounts exclude dividends.

Figure 133: Workers' Compensation Written Premium as of September 30, 2015 (Billion $)



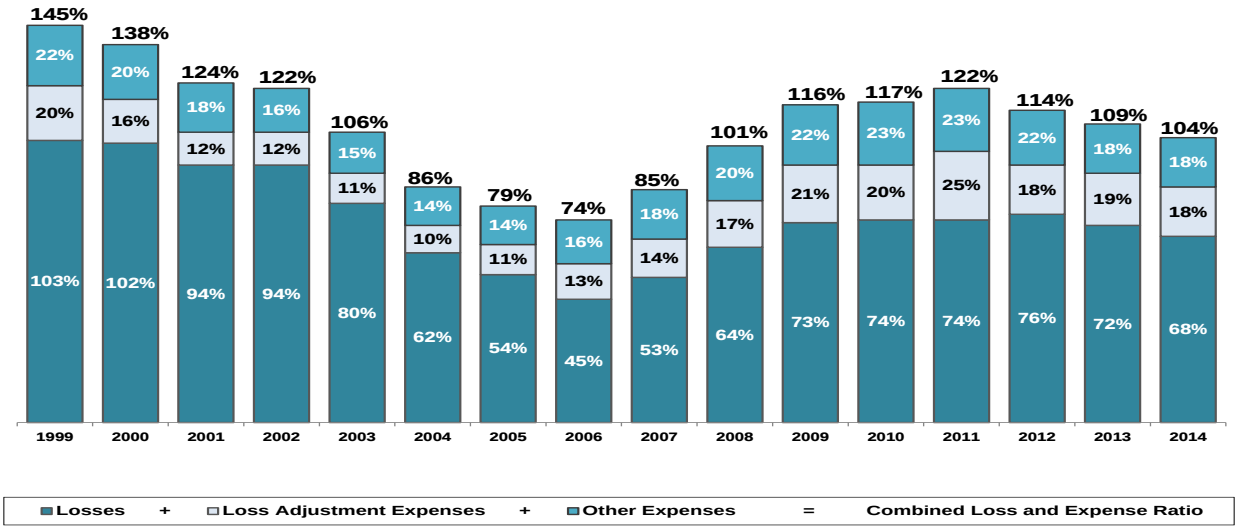
Data Source: WCIRB Report on September 30, 2015 Insurer Experience, released December 15, 2015, Exhibit 1

Combined Loss and Expense Ratio

The accident year combined loss and expense ratio, which measures workers' compensation claims payments and administrative expenses against the earned premium, increased during the late 1990s, declined from 1999 through 2006, and increased annually from 2006 to 2011. The combined loss and expense ratio decreased from 122 percent to 104 percent from 2011 to 2014.

In accident year 2014, insurers' claim costs and expenses amounted to $1.04 for every dollar of premium collected.

Figure 134: California Workers' Compensation Combined Loss and Expense Ratios
(Projected accident year, as of September 30, 2015)



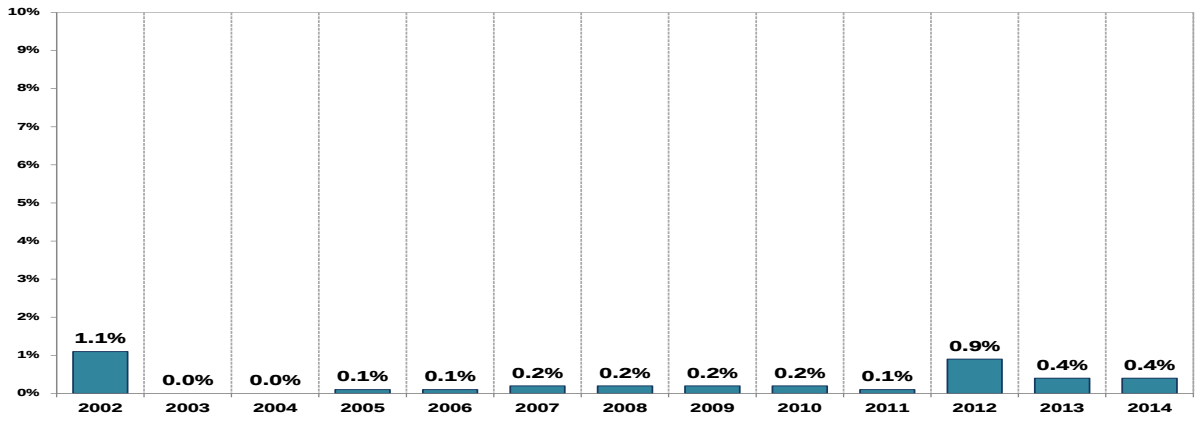
Data Source: WCIRB Report on September 30, 2015 Insurer Experience, released December 15, 2015, Exhibit 6

WCIRB estimates that the total cost of benefits for injuries occurring prior to January 1, 2015, was approximately $3.9 billion more than insurer-reported loss amounts.[65] These estimates are somewhat below those presented in recent prior summaries as a result of favorable loss development experienced in recent quarters.

Policy Holder Dividends

Dividends paid to policyholders were 1 percent in 2002, not paid in 2003 and 2004, and then reinstated from 2005 through 2011 at a very low rate. Dividends paid to policyholders increased up to 0.9 percent in 2012 and then decreased to 0.4 percent in 2013 and 2014.

Figure 135: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



Data Source: WCIRB

[65] Ibid., Exhibit 9.

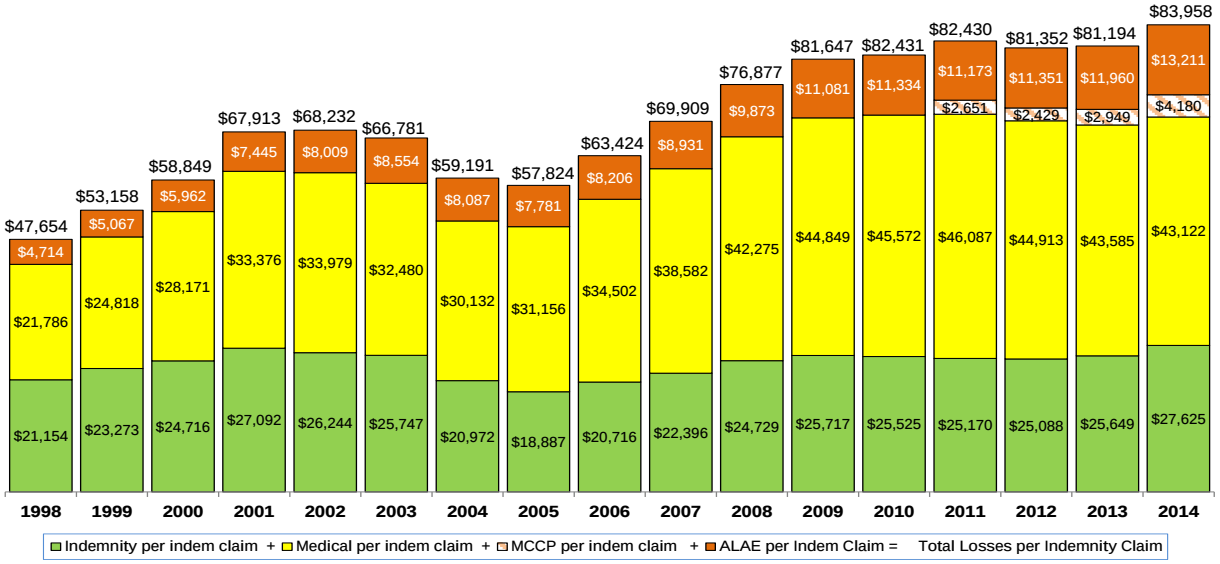
Average Ultimate Total Loss

Figure 136 shows changes in indemnity and medical components of the projected ultimate total loss per workers' compensation indemnity claim.

Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss. As a result, some portion of MCCP costs for accident years 2010 and 2011 has been reported as medical loss and some portion has been reported as ALAE. In order to facilitate a consistent year-to-year comparison of medical losses and ALAE, accident year 2010 MCCP costs reported as ALAE were shifted to medical loss, and the estimated accident year 2011 MCCP costs reported as medical loss were shifted to ALAE.[66] In order to provide consistent comparisons across years in Figure 136, to the extent appropriate, the amounts and ratios shown represent the combined cost of losses and ALAE, with MCCP amounts shown separately.

The total average cost of indemnity claims increased by 43 percent from 1998 to 2002 and then decreased by 15 percent from 2002 to 2005, reflecting the impact of AB 227, SB 228, and SB 899. The projected 2014 average loss and ALAE severity reflects an increase of almost 45 percent since 2005. The projected average indemnity cost of a 2014 indemnity claim increased by 8 percent from that for 2013, primarily a result of SB 863 increases to permanent disability benefits in 2014. The projected average medical cost—including MCCP costs—of a 2014 indemnity claim declined for the third straight year and is 6 percent below the projected average medical cost for 2011. Please note that WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation. The projected average ALAE cost of a 2014 indemnity claim, excluding MCCP costs, is approximately 10 percent above that of 2013 and approximately 16 percent higher than the average ALAE severity for 2012, despite forecast reductions in ALAE costs expected to arise from SB 863.[67]

Figure 136: Estimated Ultimate Total Loss* and ALAE per Indemnity Claim as of September 30, 2015



* Excluded medical-only

Note: Before July 1, 2010, the costs of Medical Cost Containment Program (MCCP) that could be allocated to a particular claim were reported as medical losses. After July 1, 2010, MCCP is reported as ALAE.

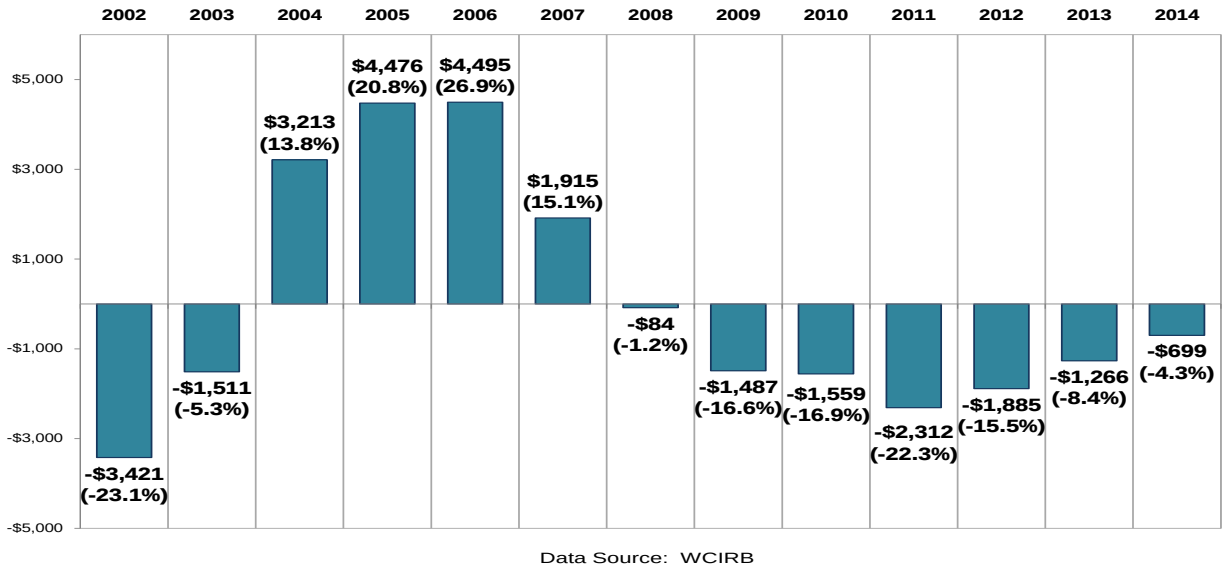
Data Source: WCIRB

[66] Ibid., p. 1.
[67] Ibid., p. 2.

Insurer Profit/Loss

Workers' compensation insurers experienced large fluctuations in profits and losses during the past decade, as measured by actual dollars and percentage of earned premium. From the implementation of the reforms of 2004 until 2008, insurer underwriting profits were uncharacteristically high. Investment income typically was the main source of insurer profits, but underwriting profits from policies was a new development. In 2008, workers' compensation insurers experienced losses for the first time since 2004. The pre-tax underwriting losses increased to 17 percent in both 2009 and 2010, reached 22.3 percent of earned premium in 2011, and fell back to almost 16 percent in 2012, and then to 4.3 percent in 2014.

Figure 137: Insurer Pre-Tax Underwriting Profit/Loss, 2002-2014 (Million $ and as a Percentage of Earned Premium)



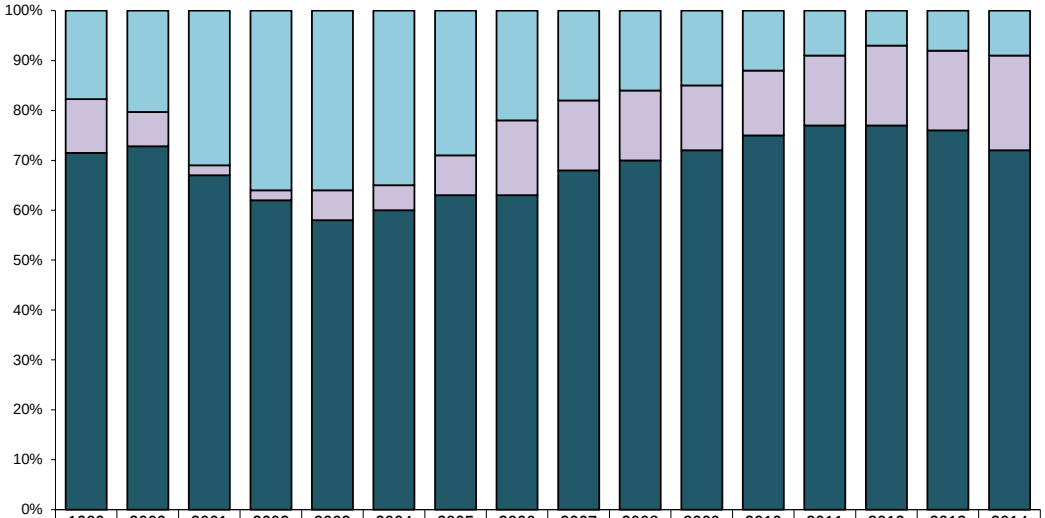
Current State of the Insurance Industry

Market Share

A number of California insurers left the market or reduced their underwritings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993. Figure 138 shows changes in the workers' compensation insurance market share from 1999 to 2014.

According to WCIRB, from 2002 through 2004, SCIF attained about 35 percent of the California workers' compensation insurance market, double the market share it had in the 1990s. However, between 2004 and 2014, SCIF's market share decreased to 9 percent. The market share of California domestic insurers, excluding SCIF, increased from 5 percent in 2004 to 15 percent in 2006 and then, in 2014, reached its highest level, of 19 percent, since 1997, when it was 22 percent.

Figure 138: Workers' Compensation Insurance Market Share in California by Type of Insurer
Based on Written Premium Prior to Deductible Credits



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
SCIF	18%	20%	31%	36%	36%	35%	29%	22%	18%	16%	15%	12%	9%	7%	8%	9%
California Insurers	11%	7%	2%	2%	6%	5%	8%	15%	14%	14%	13%	13%	14%	16%	16%	19%
National Insurers	71%	73%	67%	62%	58%	60%	63%	63%	68%	70%	72%	75%	77%	77%	76%	72%

Source: WCIRB aggregate financial data calls

Please note that totals may not equal to 100 percent due to rounding.

"California Insurers" are difined as private insurers who write at least 80 percent of their workers' compensation business in California.

Impact of September 11, 2001, on Insurance Industry

The problems in the reinsurance market caused by the tragic events of September 11, 2001, have significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, have a significant effect on the cost of workers' compensation insurance. This effect extends to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace. The insurance industry has remained concerned about the renewal of the Terrorism Risk Insurance Act, often known as TRIA, which was reauthorized in 2007 to extend to December 2014. Now known as TRIPRA, the Terrorism Risk Insurance Program Reauthorization Act of 2015 amends the expiration date of the Terrorism Risk Insurance Program (TRIP) to December 31, 2020.

Advisory Workers' Compensation Pure Premium Rates
A History Since the 1993 Reform Legislation

1993

Insurance Commissioner action:

Pure premium rate reduction of 7 percent effective July 16, 1993, due to a statutory mandate.

1994

WCIRB recommendation:

No change in pure premium rates.

Insurance Commissioner action:

Two pure premium rate decreases: a decrease of 12.7 percent effective January 1, 1994; and a second decrease of 16 percent effective October 1, 1994.

1995

WCIRB recommendation:

A 7.4 percent decrease from the pure premium rates that were in effect on January 1, 1994.

Insurance Commissioner action:

A total of 18 percent decrease to the premium rates in effect on January 1, 1994, approved effective January 1, 1995 (including the already approved 16 percent decrease effective October 1, 1994).

1996

WCIRB recommendation:

An 18.7 percent increase in pure premium rates.

Insurance Commissioner action:

An 11.3 percent increase effective January 1, 1996.

1997

WCIRB recommendation:

A 2.6 percent decrease in pure premium rates.

Insurance Commissioner action:

A 6.2 percent decrease effective January 1, 1997.

1998

WCIRB recommendation:

The initial recommendation for a 1.4 percent decrease was later amended to a 0.5 percent increase.

Insurance Commissioner action:

A 2.5 percent decrease effective January 1, 1998.

1999

WCIRB recommendation:

The WCIRB initial recommendation of a 3.6 percent pure premium rate increase for 1999 was later amended to a recommendation for a 5.8 percent increase.

Insurance Commissioner action:

No change in pure premium rates in 1999.

2000

WCIRB recommendation:

An 18.4 percent increase in the pure premium rate for 2000.

Insurance Commissioner action:

An 18.4 percent increase effective January 1, 2000.

2001

WCIRB recommendations:

The WCIRB initial recommendation of a 5.5 percent increase in the pure premium rate was later amended to a recommendation for a 10.1 percent increase.

Insurance Commissioner action:

A 10.1 percent increase effective January 1, 2001.

January 1, 2002

WCIRB recommendations:

The WCIRB initial recommendation of a 9 percent increase in the pure premium rate was later amended to a recommendation for a 10.2 percent increase effective January 1, 2002.

Insurance Commissioner action:

The Insurance Commissioner approved a 10.2 percent increase effective January 1, 2002.

April 1, 2002

WCIRB recommendations:

On January 16, 2002, the WCIRB submitted recommended changes to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, effective March 1, 2002, and the California Workers' Compensation Experience Rating Plan—1995, effective April 1, 2002, related to insolvent insurers and losses associated with the September 11, 2001, terrorist actions. No increase in advisory premium rates was proposed.

Insurance Commissioner action:

The Insurance Commissioner approved the WCIRB's requests effective April 1, 2002.

July 1, 2002

WCIRB recommendation:

The WCIRB filed a mid-term recommendation that pure premium rates be increased by 10.1 percent effective July 1, 2002, for new and renewal policies with anniversary rating dates on or after July 1, 2002.

Insurance Commissioner action:

On May 20, 2002, the Insurance Commissioner approved a mid-term increase of 10.1 percent effective July 1, 2002.

January 1, 2003

WCIRB recommendations:

On July 31, 2002, the WCIRB proposed an average increase in pure premium rates of 11.9 percent for 2003. On September 16, 2002, the WCIRB amended the proposed 2003 pure premium rates submitted to the California Department of Insurance (CDI). Based on updated loss experience valued as of June 30, 2002, the WCIRB proposed an average increase of 13.4 percent in pure premium rates to be effective on January 1, 2003, and later policies.

January 1, 2003

Insurance Commissioner action:

On October 18, 2002, the Insurance Commissioner approved a 10.5 percent increase in pure premium rates applicable to policies with anniversary rating dates in 2003. This increase takes into account the increases in workers' compensation benefits enacted by AB 749 for 2003.

July 1, 2003

WCIRB recommendation:

The WCIRB filed a mid-term recommendation on April 2, 2003, that pure premium rates be increased by 10.6 percent effective July 1, 2003, for policies with anniversary dates on or after July 1, 2003.

Insurance Commissioner action:

The Insurance Commissioner approved a 7.2 percent increase in pure premium rates applicable to new and renewal policies with anniversary rating dates on or after July 1, 2003.

January 1, 2004

WCIRB recommendations:

On July 30, 2003, the WCIRB proposed an average increase in advisory pure premium rates of 12.0 percent to be effective on January 1, 2004, for new and renewal policies with anniversary rating dates on or after January 1, 2004.

The original WCIRB filing of an average increase of 12 percent on July 30, 2003, was later amended on September 29, 2003, to an average decrease of 2.9 percent to reflect the WCIRB's initial evaluation of AB 227 and SB 228.

In an amended filing made on November 3, 2003, the WCIRB recommended that pure premium rates be reduced, on average, from 2.9 percent to 5.3 percent.

Insurance Commissioner action:

On November 7, 2003, the Insurance Commissioner approved a 14.9 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2004.

July 1, 2004

WCIRB recommendation:

On May 13, 2004, the WCIRB proposed advisory pure premium rates that are a 2.9 percent decrease from the January 1, 2004, approved pure premium rates. These rates reflect the WCIRB's analysis of the impact of provisions of SB 899 on advisory pure premium rates.

Insurance Commissioner action:

In a decision issued May 28, 2004, the Insurance Commissioner approved a 7.0 percent decrease in pure premium rates, effective July 1, 2004, with respect to new and renewal policies, as compared to the approved January 1, 2004, pure premium rates.

January 1, 2005

WCIRB recommendation:

On July 28, 2004, the WCIRB proposed advisory premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005, that are, on average, 3.5 percent greater than the July 1, 2004, advisory pure premium rates approved by the Insurance Commissioner.

Insurance Commissioner action:

In a decision issued November 17, 2004, the Insurance Commissioner approved a total 2.2 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005

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July 1, 2005

WCIRB recommendations:

On March 25, 2005, the WCIRB submitted a filing to the California Insurance Commissioner recommending a 10.4 percent decrease in advisory pure premium rates effective July 1, 2005, on new and renewal policies.

On May 19, 2005, in recognition of the cost impact of the new Permanent Disability Rating Schedule adopted pursuant to SB 899, the WCIRB amended its recommendation. In lieu of the 10.4 percent reduction originally proposed in March, the WCIRB recommended a 13.8 percent reduction in pure premium rates effective July 1, 2005. In addition, the WCIRB recommended a 3.8 percent reduction in the pure premium rates effective July 1, 2005, with respect to the outstanding portion of policies incepting January 1, 2005, through June 30, 2005.

Insurance Commissioner action:

On May 31, 2005, the Insurance Commissioner approved an 18 percent decrease in advisory pure premium rates effective July 1, 2005, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2005. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $23,288. The Insurance Commissioner also approved a 7.9 percent decrease in pure premium rates, effective July 1, 2005, applicable to policies that are outstanding as of July 1, 2005. The reduction in pure premium rates applicable to these policies reflects the estimated impact on the cost of benefits of the new Permanent Disability Rating Schedule.

January 1, 2006

WCIRB recommendations:

On July 28, 2005, the WCIRB submitted to the California Insurance Commissioner a proposed 5.2 percent average decrease in advisory pure premium rates as well as changes to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and the California Workers' Compensation Experience Rating Plan—1995.

On September 15, 2005, the WCIRB amended its filing to propose an average 15.9 percent decrease in pure premium rates based on insurer loss experience valued as of June 30, 2005, and a re-evaluation of the cost impact of the January 1, 2005, Permanent Disability Rating Schedule.

Insurance Commissioner action:

On November 10, 2005, the Insurance Commissioner approved an average 15.3 percent decrease in advisory pure premium rates effective January 1, 2006, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2006. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $20,300.

July 1, 2006

WCIRB recommendations:

On March 24, 2006, the WCIRB submitted a rate filing to the California Department of Insurance recommending a 16.4 percent decrease in advisory pure premium rates to be effective on policies incepting on or after July 1, 2006. The recommended decrease in pure premium rates is based on an analysis of loss experience valued as of December 31, 2005. The WCIRB filing also includes an amendment to the California Workers' Compensation Experience Rating Plan-1995, effective July 1, 2006, to adjust the experience rating eligibility threshold to reflect the proposed change in pure premium rates. A public hearing on the matters contained in the WCIRB's filing was held April 27, 2006.

Insurance Commissioner action:

On May 31, 2006, the Insurance Commissioner approved a 16.4 percent decrease in advisory pure premium rates effective July 1, 2006, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006. In addition, the experience rating eligibility threshold was reduced to $16,971 to reflect the decrease in pure premium rates.

January 1, 2007

WCIRB recommendation:

On October 10, 2006, the WCIRB recommended a 6.3 percent decrease in advisory pure premium rates decrease for California policies incepting January 1, 2007.

Insurance Commissioner action:

On November 2, 2006, the Insurance Commissioner approved an average 9.5 percent decrease in advisory pure premium rates effective January 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $16,000.

July 1, 2007

WCIRB recommendation:

On March 30, 2007, the WCIRB recommended an 11.3 percent decrease in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2007.

Insurance Commissioner action:

On May 29, 2007, the Insurance Commissioner approved an average 14.2 percent decrease in advisory pure premium rates effective July 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to $13,728.

January 1, 2008

WCIRB recommendations:

On September 23, 2007, the WCIRB recommended 4.2 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2008.

On October 13, 2007, the Governor signed Assembly Bill (AB) 338 which extends the time period for which temporary disability payments may be taken. On October 19, 2007, the WCIRB amended its January 1, 2008 pure premium rate filing to propose an overall 5.2 percent increase in pure premium rates in lieu of 4.2 percent to incorporate the impact of AB 338.

Insurance Commissioner action:

On November 28, 2007, the Insurance Commissioner approved no overall change to the advisory pure premium rates effective January 1, 2008.

July 1, 2008

WCIRB recommendation:

On March 26, 2008, accepting a recommendation made by the WCIRB Actuarial Committee, the WCIRB Governing Committee decided that the WCIRB would not propose a change in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2008.

January 1, 2009

WCIRB recommendations:

On August 13, 2008, the WCIRB recommended a 16 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2009. See the WCIRB website below for further details and updates to this information.

At its September 10, 2008, meeting, the Governing Committee agreed that the WCIRB's January 1, 2009, pure premium rate filing should be amended to reflect the most recent accident year experience valued as of June 30, 2008, as well as a revised loss development methodology. The original filing should be supplemented to include a recommendation that the proposed January 1, 2009, pure premium rates be adjusted to reflect (a) the impact of the Division of Workers' Compensation proposed changes to the Permanent Disability Rating Schedule (+3.7%) if adopted as proposed and (b) the impact of SB 1717 (+9.3%) if signed into law by the Governor.

Insurance Commissioner action:

On October 24, 2008, the Insurance Commissioner approved a 5 percent increase in pure premium rates effective January 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2009.

July 1, 2009

WCIRB recommendations:

On March 27, 2009, WCIRB recommended a 24.4 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2009.

WCIRB amended its filing on April 23, 2009, to reflect the revised aggregate financial data calls recently submitted by an insurer to WCIRB. These revisions reduced the indicated July 1, 2009, increase in the claims cost benchmark from 24.4 percent to 23.7 percent.

Insurance Commissioner action:

On July 8, 2009, the Insurance Commissioner approved no change to the pure premium rates effective July 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2009.

January 1, 2010

WCIRB recommendation:

On August 18, 2009, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 22.8 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

Insurance Commissioner action:

On November 9, 2009, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2010, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

July 1, 2010

WCIRB recommendations:

On April 7, 2010, WCIRB voted not to submit a pure premium rate filing for July 1, 2010. The WCIRB's analysis of pure premium and loss experience valued as of December 31, 2009, showed that the indicated July 1, 2010, change in pure premium rates was essentially unchanged from the indication reflected in the January 1, 2010 filing.

Insurance Commissioner action:

The Insurance Commissioner did not issue an interim advisory rate for this period.

January 1, 2011

WCIRB recommendation:

On August 18, 2010, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 29.6 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. On September 27, 2010, the WCIRB amended its January 1, 2011, filing to propose a change in the claims cost benchmark of +27.7 percent in lieu of the +29.6 percent reflected in its August 18, 2010, filing.

Insurance Commissioner action:

On November 18, 2010, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2011, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. Other proposed changes to the USRP, ERP and Miscellaneous Regulations were approved as filed with the exception that the experience rating eligibility was increased to $16,700 to reflect the 0 percent approved change in the Claims Cost Benchmark.

July 1, 2011

WCIRB recommendations:

On May 19, 2011, the WCIRB decided not to submit a pure premium rate filing for July 1, 2011. The WCIRB noted that a decision on a mid-year filing would likely not be available prior to the WCIRB's January 1, 2012, Advisory Pure Premium Rate Filing in mid-August, and two pending filings with the CDI had the potential to create a confusion.

Insurance Commissioner action:

The Insurance Commissioner did not issue an interim advisory rate for this period.

January 1, 2012

WCIRB recommendations:

On August 22, 2011, the WCIRB submitted its January 1, 2012, pure premium rate filing to the California Insurance Commissioner. The pure premium rates proposed in this filing are benchmarked to the average insurer filed pure premium rate. The average of 494 classification pure premium rates is $2.33 per $100 of payroll and 1.8 percent less than the corresponding average of insurer filed pure premium rates for July 1, 2011.

Insurance Commissioner action:

On November 4, 2011, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2012, which average $2.30 per $100 of payroll.

July 1, 2012

WCIRB recommendations:

On April 12, 2012, the WCIRB submitted its July 1, 2012, pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average $2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of $2.41 as of January 1, 2012.

Insurance Commissioner action:

On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, which average $2.49 per $100 of payroll.

January 1, 2013

WCIRB recommendations:

On October 1, 2012, the WCIRB submitted its January 1, 2013, pure premium rate filing to the California Insurance Commissioner. The WCIRB did not recommend a January 1, 2013, increase in the advisory pure premium rate level. Instead, the WCIRB proposed January 1, 2013, pure premium rates that average $2.38 per $100 of payroll, which is the industry average filed pure premium rate as of July 1, 2012. The amended January 1, 2013, Pure Premium Rate Filing incorporated new proposed advisory pure premium rates as well as proposed changes to the reporting requirements of the *California Workers' Compensation Uniform Statistical Reporting Plan*—1995 and to the eligibility threshold of the *California Workers' Compensation Experience Rating Plan*—1995.

Insurance Commissioner action:

On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average $2.56 per $100 of payroll which is 2.8 percent higher than the industry average filed pure premium rate of $2.49 per $100 of payroll as of November 9, 2012.

July 1, 2013

WCIRB recommendations:

On April 3, 2013, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2013, Pure Premium Rate Filing. Instead, the Actuarial Committee agreed to continue reviewing insurer experience in preparation for the regular January 1, 2014, Pure Premium Rate Filing to be submitted in August.

Insurance Commissioner action:

The Insurance Commissioner did not issue an interim advisory rate for this period

January 1, 2014

WCIRB recommendations:

On October 23, 2013, the WCIRB and public members voted unanimously to amend the WCIRB's January 1, 2014, Pure Premium Rate Filing to propose an additional 1.8 percent increase in pure premium rates to reflect the increased costs of the new physician fee schedule recently adopted by the Division of Workers' Compensation (DWC). With this amendment, the WCIRB proposed January 1, 2014, advisory pure premium rates that average $2.75 per $100 of payroll which is 8.7 percent greater than the industry average pure premium rate of $2.53 as of July 1, 2013. (The original Filing submitted on September 13, 2013, proposed an industry average pure premium rate of $2.70, which is 6.9 percent higher than the July 1, 2013, industry average pure premium rate.)

Insurance Commissioner action:

On November 22, 2013, the California Department of Insurance (CDI) issued a decision regarding the WCIRB's January 1, 2014, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2014, that average $2.70 per $100 of payroll, which is 6.7 percent higher than the average filed pure premium rate as of July 1, 2013.

July 1, 2014

WCIRB recommendations:

On April 3, 2014, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2014, Pure Premium Rate Filing.

Insurance Commissioner action:

The Insurance Commissioner did not issue a decision with respect to the pure premium rate for this period.

January 1, 2015

WCIRB recommendations:

On September 4, 2014, the WCIRB voted to amend the WCIRB's January 1, 2015, Pure Premium Rate Filing to propose advisory pure premium rates that average $2.77 per $100 payroll in lieu of the advisory pure premium rates averaging $2.86 per $100 of payroll that were proposed in the WCIRB's initial August 19, 2014, Filing. The new proposed average pure premium rate of $2.77 is 7.9 percent higher than the corresponding industry average filed pure premium rate of $2.57 as of July 1, 2014.

Insurance Commissioner action:

On November 14, 2014, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2015, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2015, that average $2.74 per $100 of payroll, which is 6.6 percent higher than the average filed pure premium rate as of July 1, 2014, of $2.57 per $100 of payroll and 2.2 percent above the average approved January 1, 2014, pure premium rate of $2,68 per $100 of payroll.

July 1, 2015

WCIRB recommendations:

On April 6, 2015, the WCIRB submitted a July 1, 2015, Pure Premium Rate Filing to the California Department of Insurance (CDI) proposing advisory pure premium rates effective July 1, 2015, that average $2.46 per $100 of payroll. The average proposed advisory pure premium rate is 5.0 percent lower than the corresponding industry average filed pure premium rate of $2.59 as of January 1, 2015, and 10.2 percent less than the approved average January 1, 2015, advisory pure premium rate of $2.74.

Insurance Commissioner action:

On May 7, 2015, the Commissioner approved the WCIRB's proposed advisory pure premium rates that average $2.46 per $100 of payroll. The approved pure premium rates are, on average, 5.0 percent less than the industry average filed pure premium rate as of January 1, 2015, of $2.59 and 10.2 percent less than the average of the approved January 1, 2015, advisory pure premium rates of $2.74. The approved advisory pure premium rates are effective July 1, 2015, for new and renewal policies.

January 1, 2016

WCIRB recommendations:

On August 19, 2015, the WCIRB submitted its January 1, 2016, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates for the 491 standard classifications proposed to be effective January 1, 2016, average $2.45 per $100 of payroll, which is $0.21, or 7.8 percent, less than the corresponding industry average filed pure premium rate of $2.66 as of July 1, 2015, and $0.02 or 0.8 percent less than the average approved July 1, 2015, advisory pure premium rate of $2.47.

Insurance Commissioner action:

On October 20, 2015, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2016, Pure Premium Rate Filing, approving advisory pure premium rates that averaged $2.42 per $100 of payroll. The approved pure premium rates were, on average, 9.0 percent less than the industry average filed pure premium rate as of July 1, 2015, of $2.66 and 2.0 percent less than the average of the approved July 1, 2015, advisory pure premium rates of $2.47.

Source: WCIRB.

SPECIAL REPORT: SENATE BILL 863 REFORMS AND RELATED CHSWC STUDIES

Introduction

CHSWC has been involved in many studies related to Senate Bill (SB) 863. The following is a brief overview of the status of these studies and any related policy recommendations.

Copy Services Fee Schedule Study

SB 863 added Labor Code Section 5307.9, which states: "On or before December 31, 2013, the administrative director, in consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt, after public hearings, a schedule of reasonable maximum fees payable for copy and related services, including, but not limited to, records or documents that have been reproduced or recorded in paper, electronic, film, digital, or other format. The schedule shall specify the services allowed and shall require specificity in billing for these services…"

In 2013, the Commission on Health and Safety and Workers' Compensation (CHSWC) worked with Berkeley Research Group of Emeryville, CA, to analyze copy services practices in the workers' compensation system, review pricing options, and prepare a report summarizing relevant fees in the marketplace and policy issues that may be addressed during the rulemaking process.

The "Formulating a Copy Services Fee Schedule" report presents a rationale for a flat fee schedule to cover all costs related to obtaining and reproducing a set of records up to 1,000 pages if the bill is paid timely and without dispute, and a higher fee to include the additional business expenses if the bill has to go into collection or dispute resolution.

Based on review and analysis, Berkeley Research Group concluded that the most cost-effective and fair method for paying for copy cost is to institute a single price for copy sets, regardless of the number of pages involved (up to 1,000 pages) or the difficulty in retrieval of documents. The researchers concluded that the cost of each initial copy set should be $103.55. Additional copy sets should be made available at $.10 per page if paper and for a nominal lump sum fee of $5.00 if electronic. If a proper invoice is not paid within 60 days, a higher fee is recommended to be applied to take account of the increased collection costs and uncertainty.

For further information…

"Formulating a Copy Services Fee Schedule," October 2013.
http://www.dir.ca.gov/chswc/Reports/2013/Copy_Services_2013.pdf
Collected Public Comments
http://www.dir.ca.gov/chswc/Meetings/2013/PublicCommentsFromPublicOctober2013.pdf

Wage Loss Study

SB 863 added Labor Code Section 4660.1(i), which provides, "The Commission on Health and Safety and Workers' Compensation shall conduct a study to compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule, and shall report the results of the study to the appropriate policy and fiscal committees of the Legislature no later than January 1, 2016."

Specifically, the study will:

- Compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule.

- Determine if ratings under the new SB 863 permanent disability schedule are more proportional with earnings losses than ratings under the pre-SB 863 schedule.

RAND was selected as the contractor for this study and will provide a draft study report for the Wage Loss Study on December 1, 2015, and a final report on or before January 1, 2016.

Return-to-Work Program Study

SB 863 made many changes to the disability benefit system, one of which was the creation of a Return-to-Work Program. This program is funded at $120 million per year andprovides supplemental payments to injured workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss. The bill provided leeway to the Director of the Department of Industrial Relations (DIR) in the program's design and implementation. In addition, the bill required the Director in consultation with the California Commission on Health and Safety and Workers' Compensation (CHSWC) to determine eligibility and the amount of payments to be made based on a study. RAND was selected to assist DIR and CHSWC to develop a methodology for the eligibility determination and benefit amounts for the new Return-to-Work Program.

RAND noted many challenges to the study including: how to define disproportionately low benefits; eligibility requirements; calculations of pre- and post-injury earnings; determination of the actual benefit payment; and considerations of any adverse work incentives to using the program.

Results from the study produced various scenarios illustrating the potential number of recipients and the size of the benefit based on present observed trends in reported earnings declines as well as on the use of the supplemental job displacement benefit (SJDB) which typically indicates whether there is an offer to return to work at the at-injury employer. While the study acknowledged an inherent trade-off between the number of recipients and the size of the benefit, it set forth several eligibility criteria which produced examples of such trade-offs. As many as 24,000 beneficiaries might be eligible under the program at just under $5,000 on average; however, under different criteria, average benefits might be over $11,000 with 10,000 beneficiaries.

The RAND study was released for public comment in August 2013 and presented at the October 2013 Commission meeting in Oakland, CA. It was then finalized for release in February 2014.

For further information …

"Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments," RAND, February 2014.
http://www.dir.ca.gov/chswc/Reports/2014/Earnings_Losses_2014.pdf

Public Self-Insured Study

SB 863 added Labor Code Section 3702.4 which requires the Commission on Health and Safety and Workers' Compensation (CHSWC) to undertake a study to examine the public self-insured program and provide recommendations for its improvement addressing costs of administration, workers' compensation benefit expenditures, solvency and performance of public self-insured workers' compensation programs, and provisions in the event of insolvencies.

CHSWC contracted with Bickmore to conduct an examination of California public self-insured employers that:

- Identifies variances in performance of public employers' self-insured workers' compensation programs so as to target areas for improvements in relevant areas including costs of administration, timeliness of benefit payments, benefit expenditures, and prospective ability to pay compensation when due.

- Establishes benchmarks against which the performance of a public employer's program can be usefully compared to other public employers and to identify outliers, using publicly available information to the extent feasible, and identifies where possible the impacts of different administrative practices upon the various performance parameters.

Bickmore evaluated the public self-insured program in three broad areas—Benefit Expenditures, Claims Administration and Solvency

Among the Findings:

Benefit Expenditures

- Regional differences were found in southern California where higher claim frequency, higher average claim size, and higher overall cost have been the trend.

- Municipalities as a type of public insurer had the higher costs, whereas educational institutions had lower costs and those claims closed more quickly than municipalities or counties.

- Joint-Power Authorities (JPAs) have historically had lower costs but are starting to increase.

- Use of a Third-Party Administrator (TPA) did not differ from self-administration.

Claims Administration

- Performance Audit Review (PAR) results were worst for out-of-state claims administrators, followed by the Los Angeles area.

- Insurers as a type of adjuster had the worst PAR results while public self-insureds that self-administer had the best results.

- JPAs and Individual self-insurers that self-administer appear to have similar PAR results.

- Limited public data on bill review and UR make analysis of effectiveness less robust.

Solvency

- Due to lack of standardized financial reporting, comparisons of actuarial and financial information is difficult.

- Very little financial and actuarial information is provided to regulators.

The recommendations include:

Benefit Expenditures

- Investigate disparities by region.

- Separate data on medical and indemnity costs in order to analyze them individually.

- Consider making benchmarking data publicly available.

- Consider updating the OSIP annual report to include new information on costs and expenses, extend data reporting analysis beyond five years, report data by accident year instead of reporting year, include standardized geographic regions for benchmarking purposes, distinguish between primary and excess JPAs due to their different claim

characteristics, and provide more detailed claim data for claims management and risk control.

Claims Administration

- Investigate disparities in PAR results by region.
- Consider other, additional new factors besides indemnity for review in PAR audits.
- Consider making the public PAR data available in a more user friendly format that facilitates analysis.
- Consider collecting data about UR costs and savings for benchmarking and comparisons with industry averages.

Solvency

- Consider requiring that actuarial reports be obtained by all public entity self-insurers, and that specific items and disclosures are included.

The report refers to Labor code section 3702 in which the DIR Director has the power to specify the type of information to be required in the public entity self-insurer annual report, and describes that the data collection and analysis recommended could be implemented through the power of the Director provided by statute.

For further information …

"Examination of the California Public Sector Self-Insured Workers' Compensation Program," Bickmore, 2014.
http://www.dir.ca.gov/chswc/Reports/2014/Public_Sector_Self_Insured_WC.pdf

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Introduction

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment where legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers.

Task force members include:

- the Labor & Workforce Development Agency (LWDA)
- the Department of Industrial Relations (DIR), including the Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (DOSH)
- the Employment Development Department (EDD)
- the Contractors State License Board (CSLB)
- the California Department of Insurance (CDI)
- the Board of Equalization (BOE)
- the Bureau of Automotive Repair (BAR)
- Alcoholic Beverage Control (ABC)
- the State Attorney General and district attorneys throughout California
- the Agricultural Labor Relations Board (ALRB)

Beginning in January 2012, the Department of Industrial Relations (DIR) assumed responsibility for administering the newly formed LETF. Executive and strategic operations teams were established to plan, evaluate, and monitor the program. This summary covers activities for fiscal year 2014-2015.

Targeting Methods—Value Added by the LETF

To target noncompliant employers, DIR continues to refine its methods, which are both data-driven (proactive) and complaint-driven (responsive).

LETF teams include inspection staff from DLSE, DOSH, EDD, and CSLB, as well as from other member agencies, depending on the industry. On every team, staff members from each agency develop potential targets through statistical reporting from their respective databases and other sources of information. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access collectively:

- DLSE uses wage claims data and Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.

- DOSH uses contacts with the local Agricultural Commissioner's office, the local U.S. Department of Agriculture's office, and community-based organizations. DOSH frequently receives reports of unsafe working conditions and accidents, which also help identify potential targets.

- EDD uses complaint data and the Automated Collection Enhancement System (ACES) database that includes multiple databases, including tax and DMV records. EDD's data on taxpayers are protected by federal privacy and confidentiality laws.

- CSLB uses complaint data and licensing data and contact with industry partners.

In addition, DIR receives complaints and tips to identify potential targets. The public may report through the LETF hotline or via email, as provided online at http://www.dir.ca.gov/letf/letf.html.

LETF targeting protocol involves a multi-phased process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to

EDD for screening to learn if the employer is registered with EDD and determine how many employees the employer has reported; the Workers' Compensation Insurance Rating Bureau (WCIRB) also screens the target lists to determine if the employer is adequately insured.

Prior to joint inspections, teams conduct physical surveillance to confirm the information obtained in the targeting process and gather additional information. Physical surveillance can include both visual examination from a distant location and on-site visiting of the premises where there are customers.

Enforcement—Value Added by the LETF

Working together with combined authority, LETF teams have access to a fuller range of enforcement tools than does each agency on its own:

- DLSE has the authority under Labor Code Section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.

- DOSH has the authority to issue citations for serious, willful, and repeat violations. DOSH may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.

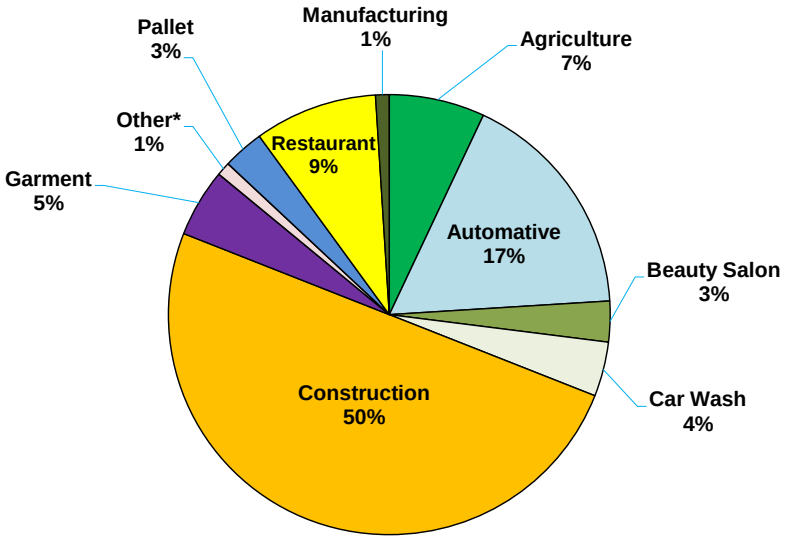
- EDD has authority under Unemployment Insurance Code 1092 to require employers to provide records for inspection anytime during the employing unit's business hours.

- CSLB is able to suspend contractors' licenses until the penalties issued by DLSE and EDD are paid. Penalties are far more likely to be paid promptly when the license is suspended until payment. Senate Bill (SB) 315 was chaptered in September 2014 and went into effect in January 2015. This legislation affords CSLB increased enforcement authority regarding unlicensed contractors.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, an LETF inspection has less impact on business operations than multiple inspections by the individual agencies. Second, when several agencies working together do find an egregious employer, the ensuing publicity has a deterrent effect that is much more powerful than if only a single agency were enforcing.

LETF uses a targeted enforcement approach to leverage interagency authority and maximize resource use. The program focuses on specific industries in which underground economy activity is most prevalent, including the agricultural, automotive repair, construction, garment, beauty salon, and restaurant industries. The enforcement strategy is guided by several factors, such as geographical, seasonal, and other considerations. The composition of inspections by industry type for fiscal year 2014-2015 is shown in Figure 139. The scope of enforcement efforts in these industries is determined in part by their contribution to California's workforce.

Figure 139: Composition of Businesses Inspected by LETF, FY 2014-2015



* Other includes Factory, Massage Parlor, Property Management, Residential Care, and Trucking industries.

Source: LETF Database

As Table 61 shows, in fiscal year 2014-2015, LETF inspected 1,231 businesses. LETF found 82 percent of the businesses out of compliance. The initial assessments levied against employers through LETF-related enforcement exceeded $9 million. With a commitment to ensuring California's workers receive their fair wages, LETF assessed $935,418 in wages due.

Table 61: LETF Overall Inspection Results, FY 2014-2015

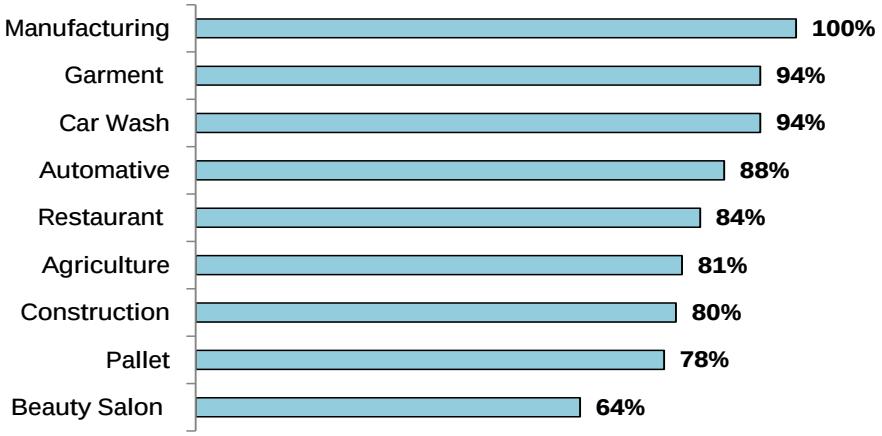
Total Number of Businesses Inspected	1,231
Percentage of Businesses Out of Compliance	82%
Total Amount of Initial Assessments*	$9,039,307
Total Amount of Wages Assessed**	$935,418

*The total amount assessed by Cal/OSHA, DLSE & CSLB at the time of the initial inspection (the amount is subject to change).

**The amount of wages assessed by DLSE as of August 26, 2015 (subject to change, as some cases are still open).

LETF found 85 percent or more of the businesses in the automotive, car wash, garment, and manufacturing industries out of compliance, which reflects the effective data-matching methods for targeting noncompliant businesses (see Figure 140).

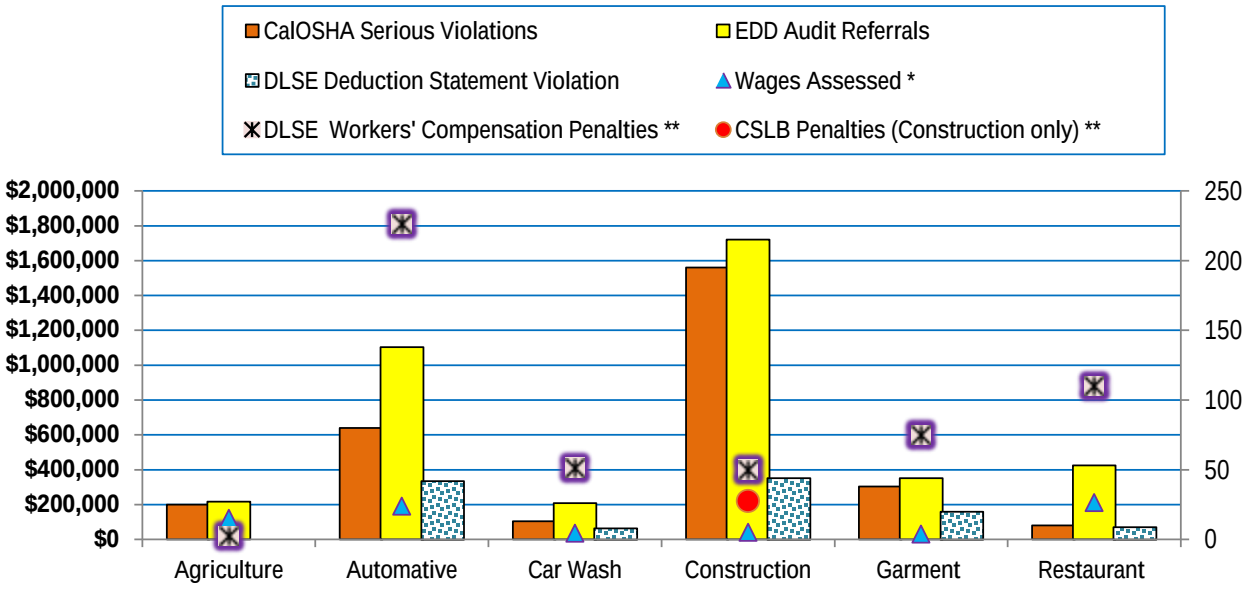
Figure 140: Percent of Noncompliant Businesses by Industry, FY 2014-2015



Data Source: LETF

Figure 141 illustrates specific instances of noncompliance, the amount of wages assessed, and the amount of workers' compensation penalties issued for selected target industries. In fiscal year 2014-2015, the construction industry had the highest number of Cal/OSHA serious violations and DLSE deduction statement violations, and CSLB issued $226,000 in initial penalties. EDD made the most audit referrals in construction, at over 200, followed by automotive and garment industries. LETF inspection results revealed a widespread problem of automotive employers failing to carry a valid workers' compensation insurance policy, with over $1.8 million in initial penalties assessed. Wage theft and workers' compensation coverage violations are pervasive in the restaurant industry, as shown by the $209,916 in wages assessed and $855,945 in workers' compensation coverage penalties issued.

Figure 141: Instances of Noncompliance, Workers' Compensation Penalties, and Wages Assessed by Target Industry, FY 2014-2015



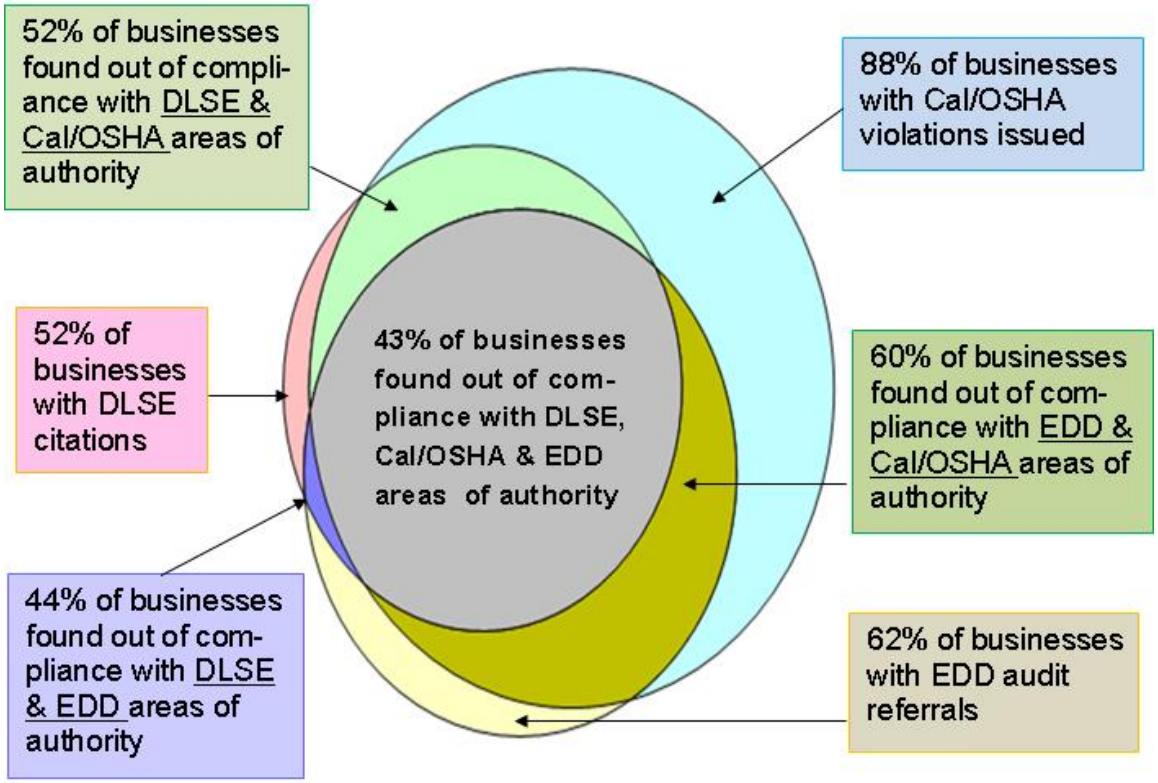
* The amount of wages assessed by DLSE as of August 26, 2015, subject to change, as some cases are still open.

** DLSE Workers' Comp and CSLB penalties assessed at the time of the initial inspection, subject to change.

Source: LETF Database

Figure 142: LETF Inspection Outcomes: Noncompliance Frequency Across Multiple Agencies, FY 2014-2015

444 Businesses were jointly inspected by DLSE, EDD, and Cal/OSHA in FY 2014-2015.



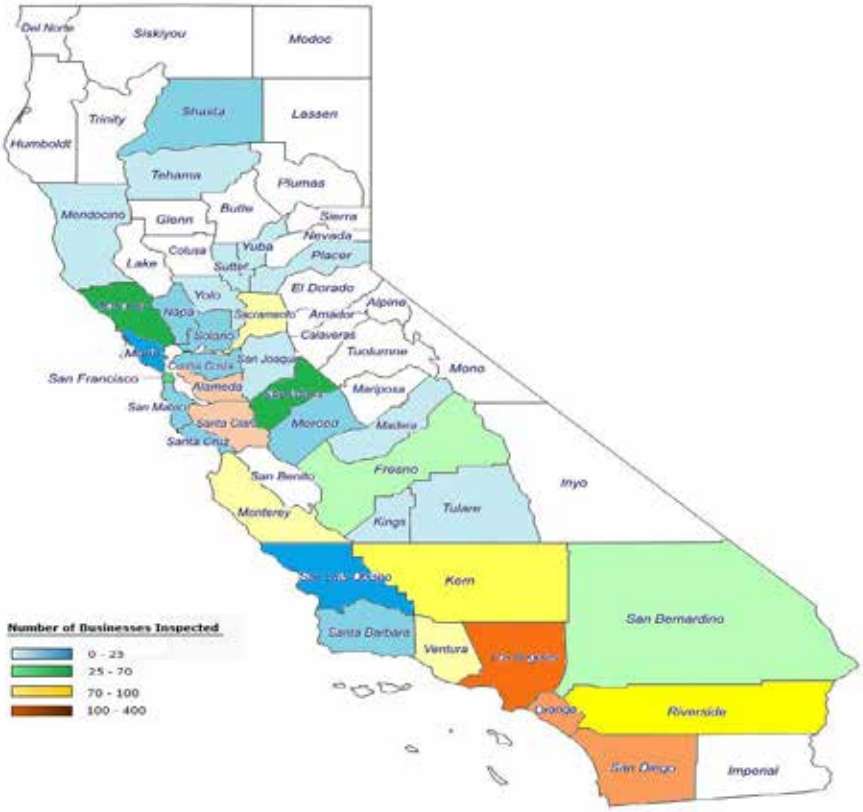
Source: LETF

Enforcement outcomes of businesses that were inspected jointly by DLSE, EDD and Cal/OSHA were examined for two purposes: (1) to assess the effectiveness of our targeting methodology; and (2) to test the underlying assumption that businesses operating in the underground economy are likely to have violations in multiple areas of the law. As shown in Figure 142, the vast majority of inspected businesses were found to be in violation by at least two agencies. In fact, 43 percent of joint LETF inspections have resulted in violations with every agency participating in the inspection. LETF enforcement activity has successfully targeted businesses operating in the underground economy, corroborating the notion that underground economy participants are often out of compliance with the law in more than one area.

Monitoring Performance Results

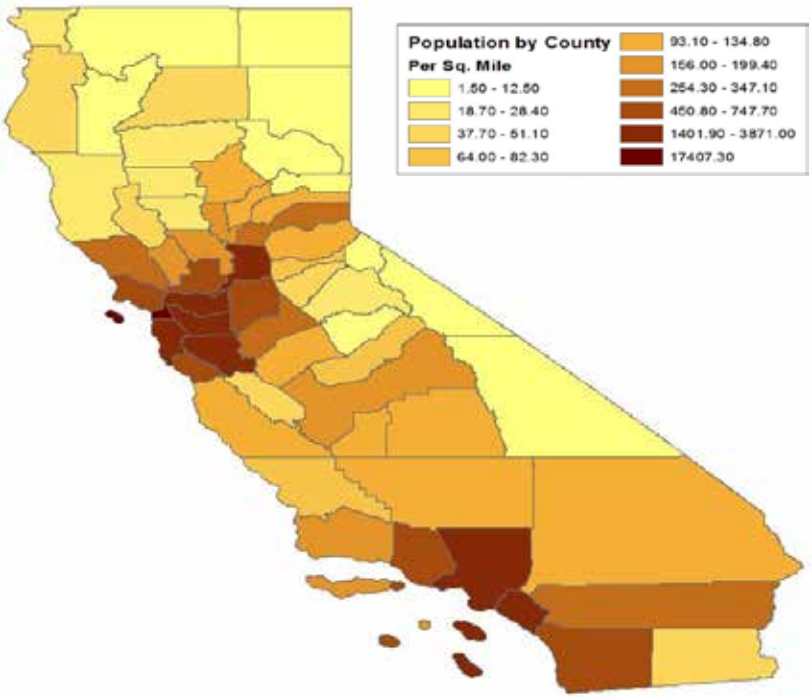
In addition to tracking multi-agency and isolated industry results, LETF assesses joint inspection outcomes over time. The management team evaluates performance and identifies best practices by examining enforcement results across teams, geography, and industry. Findings are used to determine training needs, improve targeting methods, and refine inspection protocols. LETF is committed to ensuring effective, high-quality enforcement, as measured by the high percentage of noncompliance among the businesses inspected. In addition, LETF uses spatial analysis and activity mapping to monitor trends in enforcement outcomes. Figures 143 and 144 feature a map depicting the number of businesses LETF inspected in each county for fiscal year 2014-2015 alongside another map showing the population density by county in California. The side-by-side comparison demonstrates LETF's wide presence in California. Further, the concentration of enforcement activity is purposely aligned with the areas that are the most densely populated to focus resources on the areas of greatest potential impact.

Figure 143: LETF Inspected Businesses by County, FY 2014-2015



Source: LETF Database

Figure 144: California Population Density, 2011



Source: Southern California Earthquake Center

Education and Outreach

LETF initiated a statewide program in collaboration with the University of California (UC), Berkeley to achieve the following:

- Design and produce effective educational materials in coordination with other agencies.
- Translate educational materials into the languages commonly spoken by employers and employees in California.
- Inform and train local and regional organizations serving low-wage workers using enhanced materials and industry-specific information.
- Publicize the campaign and enforcement efforts via speaking engagements, press releases, website features, television, radio, email news releases, and newspapers, as well as social media such as Facebook, Twitter, and YouTube.

LETF educational materials inform workers of their rights and help employers understand their responsibilities. The booklet "All Workers Have Rights in California" is available in English, Spanish, Chinese, Korean, and Vietnamese and covers topics such as minimum wage and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. "An Overview for Employers" provides information about what a LETF inspection entails. There are also brochures specifically designed for construction and restaurants to help those businesses understand and follow labor, licensing, and payroll tax laws. All materials are available on the LETF website at www.dir.ca.gov/letf.

LETF representatives participated in numerous outreach and educational events statewide, as well as local radio and television broadcasts in multiple languages.

In addition, DIR has made several improvements to the LETF website, including translating the website to Spanish www.dir.ca.gov/letf/Spanish/LETF.html and launching the LETF online lead referral form: www.dir.ca.gov/LETF/Referral/LETFReferral.asp. The public can now use this online referral form, available in English and Spanish, to submit leads to LETF.

LETF Leads and Referrals

LETF receives underground economy leads from the public via the LETF hotline (855-297-5322), email (letf@dir.ca.gov), and online lead referral form. Information is entered into a database and reviewed for priority investigation. After a preliminary review, leads are referred to the most appropriate enforcement program or partner agency based on the nature of the reported violations. Leads that are deemed suitable for LETF operations are referred directly to LETF teams, and leads that meet the criteria for other enforcement programs are referred appropriately. Between January and June 2015, 296 leads received from the public were referred to LETF teams or other enforcement programs.

Partnerships

The LETF/JESF Collaborative Enforcement Partnership

To help combat California's underground economy and protect workers' rights, DIR and EDD have joined efforts through their respective enforcement programs, LETF and the Joint Enforcement Strike Force (JESF), to coordinate activity and share effective strategies.

The LETF/JESF Collaborative merges best practices based on an array of experiences and innovation. The joint effort draws upon both program's respective strengths through training, refinement of targeting methods, and strategic planning. While LETF and JESF remain under the guidance of their respective agencies, enforcement coordination has afforded a streamlining of administration to leverage resources and mitigate overlap. The results include broader statewide operations, stronger communications, and

knowledgeable, cross-trained staff. In June 2015 DIR hosted the second annual LETF/JESF joint training. Investigators and supervisors from around the State engaged in two days of cross training and sharing best practices.

Operation Underground

On May 20, 2015, LETF and JESF participated in "Operation Underground," a statewide outreach and enforcement effort led by the California Department of Insurance (CDI) to target the underground economy. LETF and JESF teams inspected 39 businesses and assessed approximately $155,000 in fines as a result of this one-day operation. LETF Cal/OSHA inspectors issued six Orders Prohibiting Use (OPUs). Cal/OSHA issues OPUs for machinery or equipment that presents an imminent safety hazard. After the OPU has been issued, the equipment or machinery cannot be used again until the hazards have been mitigated and Cal/OSHA has provided approval. LETF and JESF DLSE inspectors issued 13 stop orders to employers that had no workers' compensation insurance for their employees.

The Roofing Compliance Working Group (RCWG)

In September 2013, DIR officially launched the Roofing Compliance Working Group (RCWG) as a collaborative effort between LETF partners, local district attorneys' offices, and several roofing contractor and union groups to combat unsafe and unfair practices in the roofing industry. A dedicated hotline and email account were established to expedite reporting of observed violations. As leads are received, appropriate agency partners are identified and deployed to respond with prompt, coordinated enforcement. For fiscal year 2014-2015 the RCWG conducted 18 inspections, which resulted in just under $152,000 assessed in initial penalties.

LETF Cracks Down on an Egregious Violator Through the RCWG

In January 2015 LETF received a lead for a roofing job site in San Francisco; an LETF team responded the same day, and the joint inspection resulted in the following:

- Cal/OSHA issued a total of nine violations and $8,050 in proposed penalties to the employer, including two serious violations for failing to ensure that employees were protected from falls of more than 20 feet.

- DLSE issued a stop order and a penalty assessment for $12,000 to the employer for not having a valid workers' compensation insurance policy for the eight employees working on the job site.

- CSLB opened a case against the employer for contracting without a license. CSLB opened a second case again another employer for aiding, abetting, or conspiring with an unlicensed contractor.

The Revenue Recovery and Collaborative Enforcement Team

In October 2013, Assembly Bill 576 established the Revenue Recovery and Collaborative Enforcement (RRACE) Team to fight criminal tax evasion. To build on the success of the LETF and JESF collaboration, Governor Jerry Brown directed DIR to lead the RRACE in his signing message. His charge for DIR was to ensure that the three teams work together and avoid duplication of efforts.

The primary enforcement partners named in the bill include the following: the Board of Equalization (BOE), Employment Development Department (EDD), the Franchise Tax Board (FTB), and the Department of Justice (DOJ). DIR is named as an advisory partner in the bill, as are the Department of Insurance (CDI), Department of Consumer Affairs (DCA), Department of Motor Vehicles (DMV), and the California Health and Human Services Agency (CHHSA).

DIR has worked to facilitate a governance framework among participating agencies to clarify roles and responsibilities. Ongoing implementation activities include establishing a cross-referral protocol and

appropriate data-sharing solutions to improve enforcement efficacy. Although each remains under the guidance of its respective agency, coordination of enforcement efforts supports enhanced communication, while leveraging administrative costs, areas of authority, and staff resources across participating agencies.

Continuous Improvement

LETF continuously refines the methods it uses for enforcement based on the data contained herein, as well as feedback from the field and suggestions from the public. All comments, reactions, and ideas are welcome. Please contact us at LETF@dir.ca.gov and visit LETF online at: http://www.dir.ca.gov/letf.

Please subscribe to the Labor Enforcement Task Force (LETF) email list to be informed of the latest updates about LETF enforcement activity, including news and announcements, recently added publications, and events at http://www.dir.ca.gov/letf/Subscribe_LETF_list.html.

SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

Introduction

Promoting the early and sustained return to work of injured and disabled workers is an important goal of state workers' compensation systems. Return to work benefits workers by reducing the adverse economic consequences of an injury, and it benefits employers by reducing disability benefits and other costs. In California, workers who are permanently disabled as a result of a workplace injury have been found to have poor return-to-work rates on average. The poor return-to-work rates have meant that permanently disabled workers in California have had worse economic outcomes, even though the workers' compensation costs for California employers were among the highest in the country.

Evidence of the poor adequacy and affordability of permanent partial disability (PPD) benefits was a key factor in the multiple reform efforts to workers' compensation in California in early 2000s. The notion that improving return to work could make the system more affordable while also improving the adequacy of benefits motivated many of the reforms to the California workers' compensation system. This report discusses how these reforms affected return to work and the adequacy of benefits for disabled workers in the California workers' compensation system.

Background and Legislative History

In order to understand the role of workers' compensation reforms on the return to work rates by injured and disabled workers in California and the implications for the adequacy of disability benefits, the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND addressed the following broad set of research questions:

- How do public policies, both within and outside the workers' compensation system, influence return to work?
- How have these policies changed in California over the past ten years?
- How have return to work rates by injured and disabled workers in California changed in the past ten years?
- What has been the impact of workers' compensation system reforms on benefit adequacy for injured and disabled workers? How, if at all, have changes in benefit adequacy been influenced by changes in return to work?

The study classifies return-to-work policy efforts into three broad categories: medical management; incentive-based approaches; and accommodation-based approaches. The medical management approaches attempt to improve return to work by improving the quality and timely receipt of medical care or by improved coordination and communication with medical providers. Some reforms that target this involve the assignment of control of provider choice or the direct regulation of care through utilization review or treatment guidelines. The incentive-based approaches use financial rewards (or punishments) to influence the behavior of employers or the workers themselves, often by manipulating disability benefits based on return-to-work status. Finally, accommodation-based methods alter the job requirements, either the schedule or the tasks required or the physical environment, in order to make it easier for a disabled worker to perform the necessary tasks. Some states adopt subsidies to accommodations in order to improve employment for disabled workers.

Update

SB 863 changes the specifications for the return-to-work offer that excuses an employer from liability for the supplemental job displacement benefit. This bill also fixes the amount of the voucher independent of the permanent partial disability rating. In addition, the time for the employer to offer the voucher has changed. Finally, the bill expands the list of eligible expenses that can be covered by the voucher and prohibits compromise or settlement of the right to the voucher (Labor Code Section 4658.7).

For further information …

"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2010).
http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

Introduction

Given the pressing need to reduce the risk of opioid overdose and misuse among injured workers in California, the California Department of Industrial Relations (DIR) and the California Commission on Health and Safety and Workers' Compensation (CHSWC) are working to develop criteria that can be used to screen for higher-risk prescribing practices within the workers' compensation system. The objective of the current study was to search for information on opioid prescribing that can be used to inform the development of such screening criteria for assessing opioid-prescribing risk. This study was also used to evaluate publicly available opioid treatment guidelines and systematic reviews and identify how this information can be used to mitigate the risks associated with opioid pain medications.

Background

In California and nationally, policymakers and individual physicians are striving to attain an elusive goal: balancing adequate pain control with minimizing the risks associated with prescription pain medication. Overdoses due to prescription opioid medication are leading to an increasing number of emergency department visits, hospitalizations and deaths. According to the Centers for Disease Control and Prevention, fatalities associated with prescription opioids rose from 4,000 to nearly 14,000 annually between 1999 and 2006.[68] Now there are nearly as many accidental deaths due to opioid use as due to motor vehicle accidents.[69]

Several factors may be contributing to this epidemic of prescription drug abuse and accidental overdoses. One is that opioids have inherent risks. Opioids suppress the drive to breathe, particularly in combination with sleeping/anti-anxiety medication or alcohol. Opioids can be addictive, more so for some people than for others. The public mistakenly perceives prescription drugs as being safer than street drugs; while abuse of prescription drugs has risen, use of street drugs has dropped.[70] Also, over the past two to three decades, there has been a dramatic change in the standard of care for pain management, with an increasing emphasis on adequately controlling pain. Physicians are often taught that there is no objective measure of pain so providers should be responsive to patients' subjective complaints.[71] Therefore, the overall result has been a dramatic increase in the number of patients receiving opiates, particularly for non-cancer pain, and a rise in the total doses prescribed and used.[72] The increase in the prescribing of opioids has been for both appropriate and inappropriate indications, though defining inappropriate use can be challenging.[73]

In workers' compensation settings, opioid-prescribing issues take on unique implications due to: the responsibility that employers bear for disability costs; the association between chronic pain and workplace factors such as job satisfaction, disputed disability claims, or receipt of disability payments; and the fact

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[68] Warner M, Chen L, Makuc D. Increase in fatal poisonings involving opioid analgesics in the United States, 1999-2006. updated 2009; cited May 20, 2012, available at http://www.cdc.gov/nchs/data/databriefs/db22.pdf.

[69] Murphy SL, Xu J, Kochanek KD, Division of Vital Statistics. Deaths: Preliminary Data for 2010. 2012; cited March 8, 2012, available at http://www.cdc.gov/nchs/data/nvsr/nvsr60/nvsr60_04.pdf.

[70] Ibid.

[71] Katz LY, Cox BJ, Clara IP, Oleski J, Sacevich T. Substance abuse versus dependence and the structure of common mental disorders. Compr Psychiatry. 2011;52 (6):638-43; and American Pain Society Quality of Care Committee. Quality improvement guidelines for the treatment of acute pain and cancer pain. JAMA. 1995; 274(23):1874-80.

[72] Centers for Disease Control and Prevention. CDC Grand Rounds: Prescription Drug Overdoses—A U.S. Epidemic; 2012 Contract No.: Document Number 1; and Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. JAMA. 2008;299(1):70-78.

[73] Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. JAMA. 2008;299(1):70-78; and Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. Spine (Phila Pa 1976). 2007;32(19):2127-32.

that similar injuries tend to have worse outcomes in workers' compensation settings than otherwise.[74] In addition, opioid use may be associated with poorer outcomes in workers' compensation settings. One study by a large workers' compensation insurer found that individuals with back problems who were prescribed opioids at doses above 140 mg of morphine equivalents over the first 15 days of their claim had longer disability and higher medical care costs.[75]

CHSWC Study by RAND

Scope of the Study

Higher-risk prescribing practices could be defined as practices that warrant scrutiny because they are thought to be associated with an increased risk of suboptimal patient outcomes. The screening criteria for assessing opioid-prescribing risk are, therefore, analogous to a screening test for cancer in which a positive test is not diagnostic but rather needs to be followed by a second test that can be used to confirm or rule out the diagnosis. The screening criteria for assessing opioid-prescribing risk would generally not represent absolute rules but, rather, aspects of care where providers should venture only with specialized expertise and/or considerable caution. One potential strategy would be for prescriptions flagged by the screening criteria to undergo review by a third party, and, if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation.

This suggests that the following specific elements of prescribing would be feasible for monitoring:

- Types of opioid medications, formulations and routes of administration.
- Daily doses of opioid medications, in morphine equivalents.
- Issues relating to medications and time, such as speed.
- Drug-drug interactions: other medications prescribed with the opioid that increase risk of adverse and overdose events.

If the system for identifying risky prescribing practices includes additional information from the patient's medical claims, particularly diagnosis codes, it may be possible to identify other characteristics about the patient's situation that define it as high-risk. For example, patients who have sleep apnea are at a particularly high risk of opioid overdoses.[76]

When identifying publicly available guideline recommendations or topic areas as potential screening criteria for assessing opioid-prescribing risk, the researchers did so on the basis of the following criteria:

- The potential screening criterion was believed to be associated with one or more adverse patient outcomes, such as overdose, addiction, substance misuse, mortality, or another adverse outcome.

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[74] Loeser JD, Henderlite SE, Conrad DA. Incentive effects of workers' compensation benefits: a literature synthesis. Med Care Res Rev. 1995;52(1):34-59.

[75] Franklin GM, Stover BD, Turner JA, Fulton-Kehoe D, Wickizer TM. Early opioid prescription and subsequent disability among workers with back injuries: the Disability Risk Identification Study Cohort. Spine (Phila Pa 1976). 2008;33(2):199-204; and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number 1.

[76] Webster LR, Cochella S, Dasgupta N, Fakata K, Fine P, Fishman S, et al. An analysis of the root causes for opioid-related overdose deaths in the United States. Pain Medicine. 2011; June (12 Supplemental 2):S26-35.

- The association was supported by one of the following types of evidence:
  - Strong, high-quality research evidence (such as randomized controlled trials or well-executed observational studies).
  - Recommended by multiple guidelines, contradicted by few guidelines, and not contradicted by strong, high-quality research evidence.
  - Included in Food and Drug Administration (FDA)-prescribing information.
  - Recommended by one or more guidelines, contradicted by no other guidelines, not contradicted by research evidence, and believed to pose a substantial risk to specific populations (e.g., specific drug-drug interactions).

- Applying the screening criterion appeared potentially feasible using billing data.

In addition to affecting the types of medications and doses prescribed, other strategies may also reduce risks associated with opioid use. Consequently, secondary objectives included considering practices that may affect the risks associated with prescribing opioids, such as strategies for minimizing prescription opioid use when appropriate; screening for substance abuse with a medical history; assessing patients' individual risks of misuse; performing urinary drug tests; and entering into written treatment agreements with patients.

Summary of Findings

Chronic pain, defined as pain lasting at least three months longer than the expected period of healing, is unfortunately very common. Opioids can be an appropriate means of treating patients with chronic pain, particularly those with moderate to severe pain. Nevertheless, the increasing use of opioids has been accompanied by real risks of substance misuse, addiction, diversion, overdose and death. The Institute of Medicine Report *Relieving Pain in America* summarizes the ongoing challenges involved in balancing effective treatment of pain against the known risks associated with opioid therapy and provides specific recommendations for national and other policy audiences.[77]

The risks of overdose, substance misuse and mortality may be higher in workers' compensation settings than otherwise, based on a systematic review published this year that documents opioid prescribing practices in workers' compensation and other settings. In workers' compensation settings, opioids are used more often in the treatment of chronic non-cancer pain, and the doses used tend to be higher.

Workers' compensation settings have an additional unique issue as well: the value of ensuring that the patients being prescribed opioids return to their baseline functional status as quickly as possible. Observational studies, including one in California, found use of higher-dose opioids associated with longer disability and higher workers' compensation claim costs.[78]

Conclusions

- Opioid-related substance abuse and overdoses are growing problems, partly due to prescribing practices. Both issues can lead to poor outcomes and increase workers' compensation costs.

- New standards of care and policies are emerging to address these issues.

- Using administrative data to identify high-risk prescriptions may be feasible.

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[77] Institute of Medicine. Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research. Washington, DC; 2011 Contract No.: Document Number 1.

[78] Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. Spine (Phila Pa 1976). 2007;32(19):2127-32; and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number 1.

- There are a few recent relatively high-quality guidelines on opioid treatment; one of these could be evaluated further for implementation in the California workers' compensation system.

For further information…

"Identifying Risky Opioid Prescribing Practices." UCLA, 2012.

"Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II," UCLA, 2012.

SPECIAL REPORT: INFECTION RISKS FROM “SHARPS” INJURIES FOR NON-HEALTH-CARE WORKERS

Introduction

The legislature requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) review whether provisions of current law offered sufficient protection against sharps injuries for workers outside health-care occupations. Federal and state blood-borne pathogen statutes closely regulate aspects of "sharps" (needles and other sharp objects that can become contaminated with blood and other infectious materials) in health-care settings. The legislature has considered extending the regulations in some form to both home-health generated sharps and non-health-care occupational settings. This report examines the risk that sharps in non-health-care settings will result in HIV, HBV, or HCV infections.

Background and Legislative History

In connection with a proposed bill (AB-1893, Stone and Eggman, 2013-2014) and a related hearing, the Legislature requested additional information from CHSWC to help the legislature understand the scope of the issue of needle sticks in non-health-care settings. The legislature requested information on the incidence of needle sticks, the cost to employers, and the cost (if any) and risk faced by workers. In connection with proposed AB-1893:

- Existing law requires all sharps waste generated in health-care settings to be placed in a sharps container, taped closed, and labeled with the words “sharps waste” or with the international biohazard symbol and the word “BIOHAZARD.”

- Existing law specifically excludes home-generated sharps waste from the definition of medical waste for purposes of the statute.

- Existing law only prohibits a person from knowingly placing home-generated sharps waste in certain types of containers and requires that home-generated sharps waste be transported only in sharps containers, as defined, or other containers approved by the State Department of Public Health or the local enforcement agency.

Findings

- A review of research literature on non-health-care, occupational sharps injuries found an extremely small number of confirmed cases of either HIV or HCV being transmitted by needle stick injuries outside health-care settings. The combined number in developed, Western countries appears to be less than 10 total for all countries from the onset of the AIDS epidemic through 2008.

- An analysis of the research on the mechanism of transmission was consistent with the findings of very few cases. We estimate that the risk of HIV from a work related needle stick injury converting to an HIV infection was 1/1 million to 75/1 million when the needle was from an intravenous (IV) drug user. For home-health sourced waste, the risk of infection may be as small as 1/100 million needle sticks.

- A review of data from the Division of Workers' Compensation Information System found that needle stick injuries were uncommon. In non-health-care settings, approximately 1/10,000 workers will experience a needle stick injury in any year. These numbers are higher in specific industries and occupations, but still in the area of 1/1,000 workers per year.

- When needle stick injuries occur, the workers' compensation claim costs are very low and the presence of temporary and permanent disability is also very low. Needle sticks are almost all very

low cost medical-only claims. We found no evidence of seroconversion to any of the three major infections for any non-health-care occupational cases in California between 2010 and 2012.

- Prophylactic treatment after needle sticks, a measure of the risk perceived by health-care providers and patients, is also infrequent. Only 1.2 percent of these injuries received prophylactic treatment.

Needle stick injuries in non-health-care settings are uncommon and the risk from any needle stick resulting in chronic disease is very small. HIV remains the primary concern because there is no vaccine or cure. But the risk of HIV transmission for non-health-care workers, from work-related needle sticks is very small. Hepatitis B is much more infectious than HIV, but has an effective vaccine and virtually all workers under 35 were vaccinated as children. Older workers in high-risk professions have the vaccine available. The vaccine is thought to be an effective prophylactic measure even when administered after a sharps injury. Hepatitis C (Hep C), while less infectious than Hepatitis B (Hep B), is more infectious than HIV. However, highly effective treatments for Hepatitis C have recently been developed with fewer side effects than traditional therapy.

For further information …

"Infection Risk for 'Sharps' Injuries for Non-Healthcare Workers," University of California, Berkeley (2015).
https://www.dir.ca.gov/chswc/Reports/2015/sharps_3-25-15.pdf

SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

Evaluation of the California Injury and Illness Prevention Program

Introduction

Details are scarce about the effectiveness of Cal/OSHA's Injury and Illness Prevention Program (IIPP) standard and whether some compliance officers are especially good at reducing workplace injury and illness rates.

The purpose of the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND was to conduct research that evaluates the effectiveness of the IIPP standard at reducing injury and illness rates and compliance officers' inspections. The research could help to improve the ability of occupational health and safety agencies to prevent injuries and illnesses, potentially a significant number of them.

Background

As part of the inspection process, inspectors review employers' compliance with required programs such as the Injury and Illness Prevention Program (IIPP). The requirement of the IIPP is specified in Title 8 CCR Section 3203 of the General Industry Safety Orders, which took effect in July 1991. The regulations required all employers in California to establish an IIPP. Having an IIPP is considered the first step toward creating a system for identifying, correcting, and preventing workplace safety and health hazards. Section 3203 has been the most frequently cited standard in general industry in California ever since it was promulgated.

Other Labor Code sections and regulations address specific industrial safety and health hazards and prevention requirements by type of workplace, type of equipment, environmental contexts and industry sectors. The Division of Occupational Safety and Health (DOSH) enforces the laws on IIPPs and safety standards through various means, including inspections and citations. Data on occupational injuries and illnesses can be used to measure or test the impact of safety and health standards, including enforcement efforts.

Objective and Scope of the Study

The purpose of the study is to answer the following descriptive and causal questions. The descriptive questions are:

- Has compliance with specific IIPP provisions improved over the years?
- How does the number of IIPP violations cited vary with the type of establishment and type of inspection?

Data

The above research relied on the following sources of data: California Unemployment Insurance, California Workers' Compensation Information System (WCIS), OSHA Integrated Management Information System, and the California Workers' Compensation Insurance Rating Bureau (WCIRB).

Findings

The study findings include:

- There is an important difference between inspections citing violations of Labor Code Section 3203(a), the requirement to have a written safety and health document, and inspections citing

violations for its specific subsections, or those that require hazard surveys, accident investigations and training. The former carry small penalties and are cited primarily in first-time inspections, mainly at quite small, non-union workplaces. The latter have larger penalties and are cited at larger sites, especially in the course of accident investigations and are not concentrated in first-time inspections.

- Looking at trends over time, after a decline during the first two years of the IIPP, the number of violations per inspection has remained fairly constant for both types.

- The number of Labor Code Section 3203(a) violations in first-time inspections has not decreased over time. Thus, either due to a lack of information or a lack of deterrence, newly inspected establishments are no more likely to have written programs now than 20 years ago. On the other hand, once an establishment has been cited for an IIPP violation, the likelihood of finding another violation declines substantially.

- Examining changes in fatality rates to see whether California experienced any improvement relative to other states in the years after the IIPP took effect in 1991 did not indicate any improvement. Even if improvement had been found, it would have been unclear whether the improvement was due to the IIPP or to other factors.

- Employers cited for a violation of Labor Code Section 3203(a), the basic requirement to have a written IIPP document, actually had better performance (either Ex-mods or prior injury rates) than firms with no IIPP violations. In contrast, employers cited for violations of the subsections of Labor Code Section 3203(a), especially the requirements to train employees and to investigate accidents, had worse performance than employers not cited for any IIPP violation or cited only for Labor Code Section 3203(a). This last finding was true for both accident investigations and for other inspection types.

- A citation of subsection of Labor Code Section 3203(a) for failing to provide appropriate training was linked both to poorer performance prior to inspection and to improved performance after the inspection. This finding was true for both accident investigations and for other inspection types.

The study suggested that the IIPP would be more effective if inspectors made it the focus of the inspection. In that scenario, inspectors would link hazards and violations they found to the IIPP, asking "why didn't your IIPP lead you to identify and abate that hazard." This approach would very likely require more time to carry out inspections; if inspection resources are fixed, the result would be fewer inspections. Whether the added impact of this approach in each inspection would compensate for the reduced number of inspections would require further study.

For further information …

"An Evaluation of the California Injury and Illness Prevention Program," RAND, 2012.
http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf

Effective Occupational Safety and Health Inspectors and Inspections Practices

Background

Cal/OSHA is responsible for enforcing California laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries' risks. There are 23 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Inspections are conducted by Cal/OSHA safety engineers and industrial hygienists who respond to complaints, referrals and accidents, as well as plan an inspection schedule in hazardous industries. There is no existing research on whether some compliance

officers are more effective than others at reducing workplace injuries and illness rates. One earlier study found that health inspections were more effective than safety inspections in preventing injuries. This unexpected finding may reflect that health inspections involve more time on-site than safety inspections and thus give the compliance officer more time to observe the workplace. A study found that the number of violations cited was smaller for inexperienced compliance officers, although the effect was not statistically significant.

The most recent study of the impact of inspections on injury and illness rates, covering the years from 1999 through 2006 in Pennsylvania, estimated that the average effect in manufacturing was approximately a 20 percent reduction in the rate of lost-time injuries over the two years after the year of inspection. This reduction was seen, however, only when the inspection levied penalties, an outcome that generally accompanies citations for serious violations. A majority of the inspections did levy penalties.

Findings

The RAND study of Cal/OSHA inspectors found that they varied considerably in their inspection practices. These practices included: the number of violations cited per inspection; the number of different standards that they cited; and whether an employee accompanied them during the inspection.

To some degree, the study found that these individual variations were associated with different practices among the district offices. Since inspectors often stay with the district office where they begin, they appear to be socialized in the practices of that office. If Cal/OSHA puts a high priority on uniform behavior among inspectors, it may need to increase the training that addresses these issues.

As found in a prior study, injury rates declined more when more experienced inspectors conducted inspections. However, no other characteristics that were clearly linked to better outcomes were found.

For further information …

> "Are There Unusually Effective Occupational Safety and Health Inspector and Inspection Practices?" RAND, 2012.
> http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf

Randomized Government Safety Inspections

CHSWC provided assistance and support to researchers reviewing inspection data which produced analysis and findings about injury outcomes from inspections.

The researchers observed that controversy surrounds occupational health and safety regulators, with some observers claiming that workplace regulations damage firms' competitiveness and destroy jobs and others arguing that they make workplaces safer at little cost to employers and employees. They examined how workplace safety inspections affected injury rates and other outcomes in high-injury industries. They compared 409 randomly inspected establishments in California with 409 matched-control establishments that were eligible, but not chosen, for inspection. Compared with controls, randomly inspected employers experienced a 9.4 percent decline in injury rates and a 26 percent reduction in injury cost. They found no evidence that these improvements came at the expense of employment, sales, credit ratings, or firm survival.

For further information …

> "Randomized Government Safety Inspections Reduce Worker Injuries with No Detectable Job Loss," David Levine, Michael Toffel and Mathew Johnson, *Science*, May 18, 2012: Vol. 336, no. 6083: 907-911.
> http://www.sciencemag.org/content/336/6083/907.abstract?sid=c3f083eb-5e42-4a84-8acb-00452903caf8

Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health

Another CHSWC study by RAND looked at the three major safety inspection types in California: programmed (planned) inspections, complaint inspections, and accident investigations. Researchers examined serious violations found at different locations and establishments throughout the state and found great variation. Researchers also found great variation in required hospitalization reporting for workplace injuries. It is pointed out that one anomaly of the compliance regime is that employers who correctly report hospitalizations as required end up more likely to be investigated and cited, whereas employers who do not report such accidents also avoid receiving any resulting accident investigation.

Researchers found a lack of detailed data available on complaint investigations, making any analysis of the response to complaints difficult to design and compare with other types of inspections. Data are available for complaints that actually result in inspections, and the data point to these workplaces as already having high injury rates.

Contrary to policy expectations, researchers did not find a strong relationship between high hazard industries and proportionally high losses, violations or number of injuries. While this observation makes the job of allocating resources a new challenge in terms of possibly changing focus, it also opens up new areas of inquiry, including a review of procedures to match the findings suggested by this report. For example, industries with high injury rates deserve more attention for inspection. Findings from this study suggest that creating an optimal balance between reactive and proactive inspections is possible, but that more work needs to be done in understanding why there are regional differences in the data.

For further information …

> "Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health," RAND, 2013.
> http://www.dir.ca.gov/chswc/Reports/2013/DOSH_Inspection_Targeting.pdf

The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?

Introduction

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different:

- Safety policies and practices such as workers' compensation experience rating.
- Workplace health and safety activities for different types of employers by size, age of firm and industry.

In addition to the above recommendations, the Experience Rating Task Force, established in 2007 in response to concerns expressed by the California Insurance Commissioner, made recommendations regarding research on workers' compensation experience modification rating (Ex-mod). The Task Force report suggested that research opportunities to "evaluate the effectiveness of experience rating as a safety incentive" should be undertaken "to the extent such research is likely to produce meaningful results relevant to potential future Rating Plan changes."

The CHSWC study by RAND identifies whether the application of and changes to workers' compensation Ex-mod would have an effect on the safety experience of small employers. The study examines whether jurisdictions should lower their thresholds for experience rating to include small employers. Lastly, it discusses whether experience rating, in general, is the best manner of setting premium rates.

The findings of the study include:

- The number of claims at experience-rated firms had a decline of 6 to 9 percent compared to those whose status did not change.

- Almost all of the reduction in losses was due to the reduction in claim frequency; almost none was due to a decline in the average cost per claim.

- Reducing the threshold for experience rating in order to extend it to more small firms would reduce claims among the newly experience-rated firms by 7 to 11 percent and would reduce total losses by 10 to 15 percent.

- Analysis of the extra cost that a newly experienced-rated employer could incur by reporting a claim under the current rules indicated a surprisingly big effect; thus, any extension of experience rating to impact more firms should be mindful of the potential cost to employers.

For further information . . .

"The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?" RAND, 2012.
http://www.dir.ca.gov/chswc/Reports/2013/SmallEmployerXModStudy_2013.pdf

SPECIAL REPORT: INJURY AND ILLNESS PREVENTION PROGRAMS FOR SCHOOLS, GENERAL INDUSTRY, SMALL BUSINESS, AND AGRICULTURE

The following injury and illness prevention training programs and resources have been developed by the Commission on Health and Safety and Workers' Compensation (CHSWC) for schools, general industry, small business and agriculture.

School Action for Safety and Health (SASH) Program

Background

Per the mandate set forth in the Labor Code 6454, CHSWC is to assist inner-city schools or any school or district in establishing effective occupational injury and illness prevention programs (IIPPs). Priority shall be given to schools or districts with high risk.

A significant number of school employees are injured on the job each year. In 2008, the incidence rate of occupational injuries and illnesses for California school employees was higher than for all other industries in California: 7.6 cases per 100 full-time employees as compared to 4.4 cases per 100 full-time employees. Common causes of injuries and illnesses for school employees include over-exertion, repetitive motions, slips and falls, vehicle collisions, and assaults. These injuries are often serious and involve lost work time, including days away from work or days of restricted activity or both. Work-related injuries and illnesses impact the school community, not only the injured employee, but also his or her family, co-workers, districts and students.

School districts are frequently cited by the Division of Occupational Safety and Health (Cal/OSHA) for occupational health and safety violations. The most common citation issued by the Cal/OSHA against schools is for not having a written Injury and Illness Prevention Plan (IIPP). Other common citations are for lack of chemical safety training under the Hazard Communication Standard, violation of the Asbestos Standards, and violation of sanitation standards. Between 2004 and 2008, California assessed school districts $273,000 in penalties for violations of Cal/OSHA standards.

CHSWC has established a schools safety and health model program, California's School Action for Safety and Health (SASH), to help schools statewide improve their injury and illness prevention practices. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience is composed of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to the California Division of Juvenile Justice, formerly the Youth Authority, a division of the California Department of Corrections and Rehabilitation (CDCR).

The SASH program was developed to help:

- Ensure that employees do not have to deal with the consequences of a work-related injury or illness.
- Prevent disruptions in the class routine so that students can continue to learn and be successful in school.
- Boost employee morale and productivity when they see problems addressed and injuries prevented.
- Reduce the expenses that often go along with an injury, including the costs or workers' compensation claims, hiring substitutes and Cal/OSHA fines.

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. (See list of participants in the "Projects and Studies" section of this report.) The objectives of the meeting were to determine how best to structure and implement the model program, including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State. Subsequent Advisory Group meetings were held on June 30, 2009, and March 29, 2010, to provide feedback on the project.

Following a needs assessment conducted with Advisory Committee members and others to determine the types of training and resources to be provided by the SASH program, staff at the University of California (UC) Berkeley's Labor Occupational Health Program (LOHP) developed resource materials and a one-day training program, as well as established a SASH Resource Center at LOHP.

The resource materials include: schools-specific factsheets, checklists and other tools; occupation-specific tip sheets; an electronic IIPP template and accompanying guide; and an online resource list for more information. All materials are provided on CHSWC's website. To date, LOHP has worked with Joint Powers Authorities serving school districts, county offices of education, unions, and school district staff to conduct numerous SASH training programs statewide.

LOHP and CHSWC will continue to conduct the SASH training programs at county offices, disseminate materials, and promote effective health and safety programs for school district employees. Further development of the model program would include: expanding partnerships with key constituents throughout the State; expanding the target population statewide; developing a network of expert trainers; ensuring that measures of accountability are applied; and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

Program Components

The SASH Program offers:

- A free training program to help build the capacity of district-level health and safety coordinators to be resources to other employees and develop an IIPP to identify, prevent and eliminate hazards.
- Written materials that support injury and illness prevention activities.
- Problem-solving assistance provided in an ongoing manner by a statewide SASH Resource Center.

The free one-day SASH training program has been designed for school district staff responsible for employee safety and health. These employees are typically from human resources/administration and/or the maintenance and operations departments. Training is provided by University of California trainers and held in convenient locations so participants do not have to travel far to attend.

Participants learn valuable skills in how to: identify and solve safety problems; prepare written IIPPs; and involve other employees in carrying out prevention activities.

Once participants complete the training, they become "SASH Coordinators" for their district and receive a certificate from the CHSWC and the University of California.

SASH materials are free and designed to help school employees identify and address health and safety issues in the school environment. Materials include:

- An online template for writing an IIPP, with an accompanying Guidebook.
- Factsheets on hazards commonly found in schools, including:

- Overview of the SASH Program
- Underlying Causes of Injury and Illness
- Job Hazards in Schools; Investigating Job Hazards
- Controlling Hazards
- Prioritizing Health and Safety Problems
- Addressing Ergonomic Hazards
- Preparing for Emergencies at School
- Basics of Cal/OSHA
- Key Cal/OSHA Standards that Apply to Schools
- Elements of an Effective Workers' Compensation Program
- Health and Safety Committees

· Checklists and other tools to help identify problems, investigate and learn from accidents, and keep track of safety activities, including:

  - Inspection Checklist
  - Incident/Accident/Near Miss Investigation Report
  - Hazard Correction Record
  - Employee Training Record

· Tip sheets for employees on hazards and solutions for their particular occupation, including:

  - Teachers and teaching aides
  - Maintenance staff
  - Groundskeepers
  - Food service employees
  - Custodians
  - Administrative and office staff
  - Bus drivers

· A poster for school employees promoting their involvement in safety activities.

· An online Resource Guide that provides additional school-related materials on particular hazards/issues and a list of agencies and organizations.

The SASH Resource Center is located at LOHP. In collaboration with UCLA's Labor Occupational Safety and Health (LOSH) Program, the Resource Center is available to help school districts find additional information and obtain assistance after the trainings.

Accomplishments

In addition to the materials above, training classes have been offered and will continue to be offered statewide. To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts in 29 counties with school district and county office of education staff, including two pilot trainings. The trainings have been very well received. Some of the attendees have assisted in setting up additional trainings in other areas. Different training options are being explored and implemented. One new format for course delivery, including a longer training with the option of video conferencing in from remote sites, which will allow for two-way conferencing and participation in activities, was held with the Mendocino County Office of Education.

Follow-up activities after attending a SASH class include sending attendees a class roster so attendees can stay in touch and use each other as resources and sending out a newsletter. Two-page SASH newsletters for SASH Coordinators (SASH training attendees) have been distributed through email. The newsletters include the answers to common questions asked during training sessions, as well as other relevant information.

National SASH Program—Promoting School Employee Injury and Illness Prevention Programs

The objective of the National Institute for Occupational Safety and Health (NIOSH)-funded project, Promoting School Employee Injury and Illness Prevention Programs, was to evaluate the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. As part of National SASH, the degree to which SASH trainees are equipped with the skills and resources they need to apply what they have learned in the SASH training was evaluated through an electronic survey sent to all SASH trainees three months after participants have attended a SASH training. Follow-up telephone interviews were also conducted with a smaller number of SASH trainees. Analysis of the data collected and entered into an Access database resulted in concrete recommendations for improving the SASH program and implementing similar programs across the nation.

Partnerships

The following organizations were involved in shaping the SASH Program activities and materials:

- California Association of School Business Officials (CASBO)
- California Department of Education
- California Federation of Teachers (CFT)
- California School Employees Association (CSEA)
- California Teachers Association (CTA)
- Contra Costa County Schools Insurance Group
- Kennan & Associates
- North Bay Schools Insurance Authority
- San Diego County Schools Risk Management JPA
- Schools Insurance Authority

For further information …

"Summary of June 27, 2008 Schools Injury and Illness Prevention Program Roundtable" (December 2008).
http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf

School Action for Safety and Health (SASH) Program Information and Resource Center
http://www.dir.ca.gov/chswc/SASH/index.htm

SASH Brochure
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf

SASH Flyer
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf

Injury and Illness Prevention Program Template
http://www.dir.ca.gov/chswc/SASH/index.htm

SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template
http://www.dir.ca.gov/chswc/SASH/index.htm

SASH Online Resource Guide
http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf

SASH Poster
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for General Industry

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, Taking Action for Safety and Health, which assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of this training program and IIPP materials allows CHSWC to take a leadership role in creating a model that can be useful nationwide.

Description

The purpose of the program is to create a focused training program specifically aimed at developing effective IIPPs and targeting a range of industries in California. The program will draw on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and the School Action for Safety and Health (SASH) Program.

The program includes:

- Developing and pilot-testing a one-day interactive training program targeting staff responsible for creating or implementing IIPPs.

- Adapting training materials, including a generic model IIPP guide and template and program tools including a factsheet on promoting employee involvement, sample accident investigation forms, and hazard identification worksheets.

- Conducting at least three sessions of the training program in Northern California and one in Southern California. Recruitment will target a variety of industries in order to assess program effectiveness.

- Developing a Roll-Out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program will eventually be made available statewide.

For further information about this program, see the "Projects and Studies" section of this report and http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#1.

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Small Businesses

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, Taking Action for Safety and Health, that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

Description

The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and the School Action for Safety and Health (SASH) Program.

The program includes:

- Developing a half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP.
- Adapting training materials, including a model IIPP guide and template and program tools.
- Conducting sessions of the training program in Northern California.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program may eventually be made available statewide.

Partnerships

The following organizations were involved in shaping the activities and materials:

- Department of Industrial Relations
- Cal/OSHA
- State Compensation Insurance Fund (State Fund)
- Small Business California
- California Small Business Association
- California Department of Public Health Occupational Health Branch

For further information about this program, see the "Projects and Studies" section of this report and http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2.

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Agriculture

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) had designed a model Injury and Illness Prevention Program training program for the agricultural industry. The program will assist employers and employees working in agriculture in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

Description

The purpose of the program is to create materials and a focused training program specifically aimed at developing effective IIPPs in the agriculture industry in California. The program draws on materials from three key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); the School Action for Safety and Health (SASH) Program; and the Taking Action for Safety and Health Program.

The program includes:

- Adapting training materials, including a generic model IIPP guide and template and program tools specifically for agriculture.
- Developing and pilot-testing a one-day interactive training program targeting staff responsible for creating or implementing IIPPs.
- Conducting at least two sessions of the training program in Central California in order to assess program effectiveness.
- Developing a Roll-Out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program will eventually be made available statewide.

For further information about this program, see the "Projects and Studies" section of this report and http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3.

PROJECTS AND STUDIES

Introduction

In response to its Labor Code mandate, the Commission on Health and Safety and Workers' Compensation (CHSWC) has engaged in many studies to examine the health and safety and workers' compensation systems in California. CHSWC has concentrated these efforts on areas that are most critical and of most concern to the community.

CHSWC studies are conducted by staff and independent researchers under contract with the State of California. Advisory Committees are composed of interested members of the workers' compensation community and the public who provide comments, suggestions, data, and feedback.

Studies were initially formed to evaluate changes to the system after the implementation of workers' compensation legislative reforms in the early 1990s and to assess the impact on workers and employers. While that focus continues, the scope of CHSWC projects has also evolved in response to findings in the initial studies and to concerns and interests expressed by the Legislature and the health and safety and workers' compensation community.

This report contains synopses of current and recently completed projects and studies followed by an overview of all CHSWC projects and studies. These projects are categorized as follows:

I. Benefits

II. 2012 Workers' Compensation Reforms: CHSWC Studies and Other

III. Medical Care

IV. Occupational Safety and Health

SYNOPSES OF CURRENT CHSWC PROJECTS AND STUDIES

Benefits

Disability Evaluation and Medical Treatment in the California Workers' Compensation System

Description

The Senate Bill (SB) 899 reforms relating to the evaluation of permanent disability (PD) augmented some already stringent reforms to medical treatment in the system. While the reforms did lead to a decline in the overall cost of workers" compensation in the State, with a reduction of more than 40 percent in premiums between 2004 and 2006, many controversies remain. In particular, complaints have arisen that the systems for evaluating disability and providing medical treatment are inefficient, inconsistent, and fraught with error, the Commission on Health and Safety and Workers' Compensation (CHSWC) issued a Request for Proposal (RFP) to conduct a disability evaluation study, and the contract was awarded to RAND.

The purpose of the CHSWC/RAND Disability Evaluation and Medical Treatment in the California Workers' Compensation System study is to answer important questions about the disability rating system in California: how effectively it targets benefits to disabled workers and whether the system imposes barriers to early return to work and better outcomes for employers and disabled workers.

Objectives of the Study

The objectives of the study are to:

- Conduct research on permanent disability ratings and worker outcomes in order to assess the accuracy and consistency of permanent disability ratings in California including the following:

- Evaluate and identify potential practices and policies that would improve both the quality and efficiency of the medical care provided under California's workers' compensation system and increase the efficiency of medical benefit administration.

Status: In process.

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2012 WORKERS' COMPENSATION REFORM SENATE BILL 863—CHSWC Studies

Wage Loss Study

Description

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. SB 863, which took effect January 1, 2013, makes changes to measurement and compensation of permanent disability benefits.

SB 863 added Labor Code Section 4660.1(i) mandating the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study to compare average loss of earnings for injured workers with permanent disability ratings.

The purpose of the study is to:

- Compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule.
- Determine if ratings under the new SB 863 permanent disability schedule are more proportional to earnings losses than ratings under the pre-SB 863 schedule.

Status: In process.

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2012 WORKERS' COMPENSATION REFORM SENATE BILL 863–CHSWC Studies

Public Self-Insured Program Study

Background

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. SB 863 added Labor Code Section 3702.4, which requires the Commission on Health and Safety and Workers' Compensation (CHSWC) to undertake a study to examine the public self-insured program and provide recommendations for its improvement. CHSWC contracted with Bickmore to conduct an examination of California public self-insured employers.

Project Team

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Bickmore Risk Services

Mark Priven

Description

Bickmore evaluated the public self-insured program in three broad areas: Benefit Expenditures, Claims Administration, and Solvency

Findings

Regional differences were found both for expenditures and claims administration performance, but the reasons for the differences were not apparent. Very little financial and actuarial information is available to regulators. Recommendations were made to investigate regional differences and to require actuarial reports from public entity self-insurers.

Status: Completed.

For further information …

"Examination of the California Public Sector Self-Insured Workers' Compensation Program," Bickmore (2014), http://www.dir.ca.gov/chswc/Reports/2014/Public_Sector_Self_Insured_WC.pdf.

MEDICAL CARE

Evaluation of SB 863 Medical Care Reforms

Description

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863, with the goal of improving access to medical care for injured workers, avoiding delays and disputes, and reducing costs to employers. SB 863, which took effect January 1, 2013, adopted several medical care reforms to meet these goals.

The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with RAND to conduct a joint study with the Division of Workers' Compensation (DWC) to evaluate medical care reforms enacted by SB 863.

Objectives of the Study

The objectives of the study are to:

- Evaluate the impact of the SB 863 medical care reforms both on an individual provision-by-provision basis and in combination.

  The key topics for evaluation include:

  - Medical necessity dispute resolution process.
  - Resource-Based Relative Value Scale (RBRVS) and other Official Medical Fee Schedule (OMFS) changes.
  - Independent bill review and other bill processing changes.
  - Medical Provider Network (MPN) operational and oversight provisions.

- Identify issues and make recommendations for addressing areas of potential concern.

A separate task of the study will be to assess workers' compensation required reports and the medical-legal fee schedule.

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Technical Advisory Group meetings were held on August 14, 2014, and October 15, 2015, to solicit stakeholder feedback on the study's research design.

Status: In process.

MEDICAL CARE

Coordination Between Health-Care Reform and Workers' Compensation

Description

The requirements of the Affordable Care Act (ACA), the new health-care laws in the United States, have policy implications for workers' compensation. The Commission on Health and Safety and Workers' Compensation (CHSWC) study on coordination between health-care reform and workers' compensation is looking at areas where workers' compensation and health-care overlap, and where they should or should not overlap.

Project Team

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Executive Officer, CHSWC

The CHSWC study focuses on: (1) where the two systems have important interactions; (2) where an effort led by the CHSWC could have a substantial impact on California and national implementation efforts; and (3) ideas that might be attractive to funding partners.

Key areas thought to be important in the coordination of workers' compensation and the changes relating to implementation of the ACA include: the cost effectiveness of medical treatment regimens, third-party liability for treatment costs, changing employer responsibility for employment-based health insurance, the impact of occupational conditions on state and federal budgets, and creating an occupational and non-occupational medical treatment database.

Status: In process.

For further information …

Compensation: Could Integration Pay for Covering the Working Uninsured?" (October 2009), http://www.dir.ca.gov/chswc/Reports/2009/Medical_Overhead_Cost_Comparision_2009.pdf.
"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (2008), http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf.
"Integrating Group Health and Workers' Compensation Medical Care Factsheet" (2008), http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf.
"Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation: Could Integration Pay for Covering the Working Uninsured?" (October 2009), www.dir.ca.gov/chswc/PublicCommentsandFeedback.html.

MEDICAL CARE

Occupational and Non-Occupational Integrated Care

Description

Integration of group health and workers' compensation medical care is an alternative to two separate systems of medical care. Under integrated health care, the same individual physician or health provider group administers treatment for both occupational and non-occupational medical conditions and integrates payment for treatment under a single insurance policy. Integrating workers' compensation medical treatment with group health treatment offers employers the potential for significant savings and could help improve the quality of care and workers' overall access to health insurance.

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Integration of Care Pilot Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) has partnered with the California Health-Care Foundation (CHCF) and the University of California (UC), Berkeley, to examine the feasibility of integrated care in California.

Evaluating the Potential for Savings Under Integration: Study of Cost Savings

CHSWC has issued a working paper titled "Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation: Could Integration Pay for Covering the Working Uninsured?" At its October 22, 2009, meeting, CHSWC voted to create an advisory group to discuss the findings of the issue paper on integrating workers' compensation medical and group health care. Subsequently, on February 25, 2010, CHSWC held a roundtable to discuss the issue paper in detail, get feedback from the advisory group, and examine the feasibility of adopting integrated care in California. The roundtable was composed of over 40 participants representing employers, labor, government agencies, medical providers, insurance companies, and attorneys.

Study Findings

Study findings estimate total national savings over the first ten years at between $490 billion, based on National Academy of Social Insurance (NASI) data, and $560 billion, based on California insurer data. Savings for California alone would be about $10 billion in the first year and $100 billion for the ten years from 2011 to 2020.

Status: Ongoing.

For further information …

"Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation: Could Integration Pay for Covering the Working Uninsured?" (October 2009), www.dir.ca.gov/chswc/PublicCommentsandFeedback.html.

"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (December 2008), http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf.

"Integrating Group Health and Workers' Compensation Medical Care," Factsheet (2008), http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf.

Roundtable Participants

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Linda Atcherley
Linda Atcherley & Associates, California Applicants' Attorneys Association

Gideon Baum
California Senate Labor and Industrial Relations

Dave Bellusci
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MEDICAL CARE

Medical-Legal Study

Description

Reform legislation changes to medical-legal evaluations were intended to reduce both litigation cost and frequency, which drive up the price of workers' compensation insurance for employers and lead to long delays in case resolution and the delivery of benefits to injured workers.

In 1995, the Commission on Health and Safety and Workers' Compensation (CHSWC) initiated a project to determine the impact of the workers' compensation reform legislation on workers' compensation medical-legal evaluations. CHSWC contracted with the University of California (UC), Berkeley to carry out this study.

The study analysis is based upon the *Permanent Disability Claim Survey*, a set of data created each year by the Workers' Compensation Insurance Rating Bureau (WCIRB) at the request of the Legislature to evaluate the 1989 reforms. WCIRB data summarize accident claim activity, including such measures and elements as disability rating, including a disability rating after apportionment if it was applied, the types of providers, fee schedule types, cost of medical-legal evaluations, zip codes to facilitate regional analysis, whether the case was settled, and, if so, the method of settlement employed.

SB 863, which took effect January 1, 2013, introduced a significant change to medical-legal evaluations in how medical treatment disputes are resolved. As of January 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, disagreements about a specific course of medical treatment recommended by the treating physician can only be resolved through a process called independent medical review (IMR). Ninety-one (91) percent of medical-legal evaluations in WCIRB's 2012 PD Survey have dates of service on or after July 1, 2013, and show the impact of SB 863.

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Findings

The study determined that a substantial decline in total medical-legal costs has occurred since the 1990s. The changes in total medical-legal costs for insurers result from shifts in its three components: total number of permanent partial disability (PPD) claims; average number of medical-legal evaluations per claim; and average cost of a medical-legal evaluation. From 1990 to 2004, the substantial decline in total medical-legal costs for insurers was the result of significant decreases in all three components of the cost structure. When the increase in the average cost of medical-legal evaluations from 2004 followed by increase in frequency of PPD claims in 2009, the source of savings could be attributed only to a reduced average number of evaluations performed per PPD claim. According to WCIRB, even after IMR, as a part of SB 863, became effective on all injuries starting in the second quarter of 2013, the number and cost of medical-legal reports have not shown any decline.

A significant increase in the average cost of a medical-legal evaluation between 2004 and 2012 accident years could be attributed to:

- Changes in the mix of codes under which the evaluations were billed to include a higher share of the most complex and expensive evaluations (ML-104) and smaller share of the least expensive type.

- Increases in the average cost driven by claims in the Southern California region, where two thirds of all medical-legal evaluations originate from at a substantially higher cost.
- Increase in the average cost of psychiatric medical-legal evaluations, which are nearly always billed under the ML-104 code and are the most expensive in comparison to other medical-legal evaluations by physician type. Psychiatric evaluations comprise from 8 to 10 percent of all medical-legal evaluations.

Status: The medical-legal study was initiated in 1995 and is ongoing.

For further information …

See “Medical-Legal Expenses” in the “System Costs and Benefits Overview” section of this report.

OCCUPATIONAL SAFETY AND HEALTH

Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health

Description

This report examines the different types of inspections that the Division of Occupational Safety and Health (Cal/OSHA) carries out and the roles that they play.

It focuses on the three major inspection types in California: programmed (planned) inspections, complaint inspections, and accident investigations. It investigates several different issues:

- The average number of serious violations found during different inspection types and the average injury rates at the establishments that receive each type of inspection.
- How those measures vary with establishment size and the sequence of the inspection.
- How rates of complaint and programmed inspections vary across counties.
- A comparison across counties of the rates of all accident investigations with the rates for those limited to fatalities.

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Findings

Researchers found a lack of detailed data available on complaint investigations, making any analysis of the response to complaints difficult to design and compare with other types of inspections. Data are available for complaints that actually result in inspections, and the data point to these workplaces as already having high injury rates.

Contrary to policy expectations, researchers did not find a strong relationship between high hazard industries and proportionately high losses, violations, or number of injuries. Although this observation makes the job of allocating resources a new challenge in terms of possibly changing focus, it also opens up new areas of inquiry, including a review of procedures to match the findings suggested by this report. For example, industries with high injury rates deserve more attention for inspection. Findings from this study suggest that creating an optimal balance between reactive and proactive inspections is possible but that more work needs to be done to understad why the data show regional differences.

Status: Completed.

For further information …

"Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health," RAND, 2013, http://www.dir.ca.gov/chswc/Reports/2013/DOSH_Inspection_Targeting.pdf.

OCCUPATIONAL SAFETY AND HEALTH

Aging Workforce Project

Description

According to the Bureau of Labor Statistics, the share of workers in the labor force who are 55 and over is projected to increase to 25 percent in 2020, up from 14 percent in 2002.

At its March 26, 2015, meeting, the Commission on Health and Safety and Workers' Compensation (CHSWC) voted to approve a proposal by the Labor Occupational Health Program (LOHP) for a project addressing the occupational safety and health needs of the aging workforce. The project is being conducted by the Labor and Occupational Health Program at UC Berkeley with assistance from the Department of Industrial Relations (DIR) and CHSWC staff. As part of the project, LOHP is conducting a needs assessment by collecting information on employment rates, injury rates, occupational safety and health issues, and the needs of aging workers. The study will also include a roundtable of key stakeholders to discuss the issues, challenges, best practices, and potential interventions relating to policy, regulation, enforcement, and outreach and education for the aging workforce.

Status: In process. A summary report from the roundtable is expected in early 2016.

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OCCUPATIONAL SAFETY AND HEALTH

Worker Occupational Safety and Health Training and Education Program

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Description

Labor Code Section 6354.7 establishes a Workers' Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. The Commission on Health and Safety and Workers' Compensation (CHSWC) has developed the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

CHSWC has taken the following steps in implementing WOSHTEP:

- *Prepared Survey of State, National, and International Worker Health and Safety Training Programs.*

- *Created a labor-management Advisory Board to oversee program activities, which meets semiannually.* The WOSHTEP Advisory Board consists of employers and workers or their representatives who assist in guiding development of curricula and broadening partnerships.

- *Conducted needs assessments with stakeholders that will continue on an ongoing basis.*

- *Designed a core curriculum and supplemental training materials based on the results of the needs assessment.* This 24-hour Worker Occupational Safety and Health (WOSH) Specialist curriculum is aimed primarily at "workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those serving on a health and safety committee or serving as a designated safety representative." Participants who complete six core modules and three supplemental modules become WOSH Specialists.

- *Adapted the WOSH Specialist curriculum and materials for California Prison Industries Authority (PIA) supervisors and trainers* to enable them to teach the WOSH Specialist course to inmate-workers who work in the PIA factories across the state.

- *Adapted the WOSH Specialist curriculum and materials into Awareness Sessions appropriate for target audiences* who cannot attend the full WOSH Specialist course. These sessions help promote awareness of and interest in the WOSH Specialist course.

- *Developed a training-of-trainers curriculum to train a statewide network of trainers as mandated by the statute.*

- *Adapted and disseminated statewide WOSH Specialist curriculum materials, including a Construction Study Training Guide in collaboration with the State Building and Construction Trades Council (SBCTC), AFL-CIO,* which incorporate WOSHTEP curricula appropriate for apprenticeship and pre-apprenticeship programs.

- *Developed materials to implement heat illness training to protect California's farm workers from outdoor heat illness and workers in other industries from indoor heat illness.*

- *Adapted the WOSH Specialist curriculum and materials for Source America–affiliated Community Rehabilitation Programs in California that serve and employ individuals with disabilities*.

- *Created a Small Business Resources training program for small businesses to prepare them to teach their employees about health and safety on the job.* Materials have been developed for small businesses owners and managers across industries, and industry-specific materials have been developed for the restaurant, janitorial, and dairy industries. A national version of the general industry materials has also been developed. The California version of the general industry materials has been translated into Spanish, Chinese, and Vietnamese.

- *Created training programs and resources to develop and implement an Injury and Illness Prevention Program (IIPP)* for general industry and for owners and managers of small businesses and the agricultural industry.

- *Created health and safety programs for young workers, including a Young Worker Leadership Academy*. One or two Academies have been offered annually in Northern California or in Southern California.

- *Completed and disseminated booklets and other materials, including "The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs," a motor-vehicle safety factsheet, and a factsheet on spray polyurethane hazards.*

- *Established Resource Centers that house and distribute training materials and additional health and safety resources*. These Resource Centers are located at LOHP, LOSH, and the Western Center for Agricultural Health and Safety (WCAHS) at UC Davis.

- *Prepared and updated a Multilingual Health and Safety Resource Guide to Worker Training Materials on the Web for WOSHTEP.*

Next Steps

Each year, CHSWC assesses fees to California workers' compensation insurance carriers pursuant to Labor Code Section 6354.7 in order to fund the Workers' Occupational Safety and Health Education Fund (WOSHEF) for the next fiscal year, which funds WOSHTEP.

Next steps for WOSHTEP include: continuing training in a variety of industries for participants in diverse occupations and work settings as well as for small businesses and young workers, ongoing development of a statewide network of trainers, ongoing development and dissemination of materials on health and safety topics, broad outreach on all aspects of the program, and ongoing evaluation.

Status: Ongoing.

For further information …

WOSHTEP website and List of Publications
http://www.dir.ca.gov/chswc/woshtep.html

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State Building & Construction Trades Council

Marti Fisher
California Chamber of Commerce

Simmi Gandhi
Garment Workers Center

Scott Hauge
Small Business California

Jon Hughes
United Food and Commercial Workers Union (UFCW) Local 5

Amber Novey
Laborers-Employers Cooperation and Education Trust

Tom Rankin
State Fund, California, and formerly President, California Labor Federation (AFL-CIO)

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Jeremy Smith
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OCCUPATIONAL SAFETY AND HEALTH

California Partnership for Young Worker Health and Safety

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. Over the past 19 years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, formalized by Assembly Bill (AB) 1599 in September 2000. The Partnership is coordinated by the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, with key support from the Labor Occupational Safety and Health Program (LOSH) at the University of California, Los Angeles (UCLA), and other members of the Partnership. In addition to serving California, these efforts have inspired similar activity throughout the U.S.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others who can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, government agencies, and others.

The purpose of the Partnership is to identify potential strategies to: reduce work-related injuries and illnesses among youth in the California workforce, foster awareness and skills in health and safety that will remain with youth throughout their working lives and allow them to take an active role in shaping safe work environments, and promote positive, healthy employment for youth.

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During the past year, the Partnership engaged in the following activities:

- *Promotion of the annual California Safe Jobs for Youth Month public awareness campaign in May,* a campaign established by former governor Gray Davis's proclamation in 1999. This year's public awareness and education activities included: a teen poster contest (with posters distributed to 1,000 schools and hundreds of other organizations serving youth), a teen video public service announcement (PSA) contest, development of an app version of the "Are You a Working Teen?" fact sheet, development of a web-based narrated work permit info presentation and quiz ("6 Things Young Workers Need to Know"), and distribution of the current Safe Jobs for Youth Month Resource Kit to over 200 educators and community groups (primarily through downloads from the website).

- *Support of and conducting of one Young Worker Leadership Academy per year.* A statewide Young Worker Leadership Academy (YWLA) was held in Berkeley January 29-31, 2015. The Academy is a part of the CHSWC Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The Leadership Academy was coordinated by LOHP and supported by active participation of other Partnership members, including LOSH, DIR, federal Department of Labor, and the Economic Employment Opportunity Commission (EEOC). Young people from six different organizations around the state attended.

  The goals of the Academy are: to teach youth about workplace health and safety and their rights on the job, to help youth start thinking about ways to help ensure that young people do not get hurt on the job, and to provide a forum for these youth to plan for specific actions they can take in their own communities to promote young worker safety. Academy alumni youth led many of the activities at the Academies and developed their own outreach projects. The

California Partnership seeks opportunities for building the skills of YWLA young leaders, including speaking opportunities.

- *Exploring ways to integrate job health and safety education in the high school curriculum.* Partnership members guided LOHP efforts to promote health and safety education in a variety of programs, including Work Experience, Career Technical Education, WorkAbility, Linked Learning and Career Pathway Programs, and Career Readiness frameworks.

- *Coordinating the provision of information and resources on young worker health and safety.* Partnership members helped promote and recruit for the YWLA, the poster contest, the video PSA contest, and Safe Jobs for Youth Month resources and activities. In addition, several young people have made presentations to Partnership members about their innovative ideas to help reduce injuries and illnesses among young workers.

Partnership accomplishments include:

- More than 200 teachers, employers, and youth received direct training or were given presentations.

- At least 2,000 teachers, employers, and youth received written information, such as the fact sheets for teens and for employers, the Safe Jobs for Youth Month Resource Kit produced by LOHP, or articles in Partnership newsletters, such as that of the California Association of Work Experience Educators (CAWEE). In addition, CAWEE estimates that its own members reach approximately 15,000 students, parents, and employers with workplace safety information. Thousands more received information through listserv postings, email announcements, radio and video PSAs, and posters.

- About 30 teachers, employers and youth received direct technical assistance via phone, email, or via the www.youngworkers.org website.

- The www.youngworkers.org website was launched in May 2014. It is likely that some referring websites are still in the process of correcting links to specific pages. We are now also able to eliminate some of the robot-trolling from our statistics, so this year's statistics should be viewed as a baseline for future comparison and cannot be compared directly to those for previous years. During the past year, we have had 114,277 unique visitors who visited an average of three pages (nine hits) per visit. The most frequently visited pages, not counting the home page, were: the teen info page (viewed 5,784 times), the "What Is a Union?" page (viewed 3,703 times); the teen info page (viewed 7,750 times); the FAQs page (viewed 2,823 times); the "contact us" page (viewed 2,483 times) and the "Our Materials" page (viewed 2,527 times). The most frequent downloads, after the poster and PSA contest materials, were: activities from the YWLA Guide; current and past Safe Jobs for Youth Month Resource Kit activities (led by the 2006 risk mapping activity, and the 2009 Emergencies at Work activity) and our industry-specific young worker fact sheets (led by the fact sheets on construction).

- At least three newsletter, newspaper, or web-based articles have been published.

- Health and safety information continued to be integrated into ongoing statewide activities of many of the partners, including regular in-service training for work experience educators, widespread use of health and safety curricula in job training and work experience programs, and organizational links to the http://www.youngworkers.org website. The WorkAbility program, which places youth with learning and cognitive disabilities in the workplace, has required that all of its staff receive training on how to teach participants about health and safety.

In the coming year, the priorities include continuing to explore social media strategies for sharing health and safety information and expanding youth involvement in Partnership activities.

Status: Ongoing.

For further information …

Young Worker Websites for information for teens, teen workers in agriculture, employers, parents, and educators.

http://www.dir.ca.gov/YoungWorker/YoungWorkersMain.html
http://www.dir.ca.gov/chswc/woshtep.html
http://www.youngworkers.org
http://www.losh.ucla.edu (UCLA-LOSH Youth Project)

Youth @ Work: Talking Safety (2014), http://www.cdc.gov/niosh/talkingsafety/

Engaging Employers in Protecting Young Workers: Tips and Best Practices from the Young Worker Safety Resource Center (2010), http://lohp.org/docs/pubs/youth_work/ProtectingYoungWorkers.pdf

Teens Speak Out for Safety on the Job. Lessons from the Young Worker Leadership Academy (2008), http://youngworkers.org/downloads/pdf/TeensSpeakOut.pdf

Keeping California's Youth Safe on the Job—Updated Recommendations of the California Partnership for Young Worker Health and Safety (2004),

http://www.youngworkers.org/downloads/pdf/2004Recommendations904.pdf.

California Partnership for Young Worker Health and Safety

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OCCUPATIONAL SAFETY AND HEALTH

School Action for Safety and Health Program

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) has established California's School Action for Safety and Health (SASH) model program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve Injury and Illness Prevention Programs (IIPPs) and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience consists of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to, the California Division of Juvenile Justice (formerly known as the Youth Authority), a division of the California Department of Corrections and Rehabilitation (CDCR).

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. The objectives of the meeting were to determine how best to structure and implement the model program including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State.

The SASH program includes: a needs assessment conducted to determine the types of training and resources; development of materials and resources, including a SASH brochure, Factsheets, Tools, and an online resource guide; establishment of a SASH Resource Center at the University of California (UC), Berkeley Labor Occupational Health Program (LOHP); a pilot group; ongoing statewide trainings; and evaluation.

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To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts and 29 counties with school district and county office of education staff, including two pilot training sessions. Follow-up activities after the classes include sending a class roster so that attendees can stay in touch and use one another as a resource and newsletters to those who have already attended training. Further development of the model program includes: expanding partnerships with key constituents throughout the State, expanding the target population statewide, developing a network of expert trainers, ensuring measures of accountability, and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

A project funded by the National Institute of Occupational Safety and Health, Promoting School Employee Injury and Illness Prevention Programs, evaluated the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. The project includes evaluation tools. Analysis of the data collected resulted in recommendations for improving SASH and implementing similar programs across the nation.

Status: Ongoing.

For further information …
SASH Website, http://www.dir.ca.gov/chswc/SASH/index.htm.

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OCCUPATIONAL SAFETY AND HEALTH

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for General Industry

Description

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of the proposed training program and IIPP materials would allow CHSWC to take a leadership role in creating a model that can be useful nationwide.

The purpose of the project is to create a focused training program specifically aimed at creating effective IIPPs and targeting a range of industries in California. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

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The project includes:

- A one-day interactive training program targeting staff responsible for creating or implementing IIPPs. Recruitment targets medium-size and larger workplaces in a variety of industries.

- Adapted training materials, including a generic model IIPP guide, template, and program tools, including a factsheet on promoting employee involvement, a sample accident investigation form, and a hazard identification worksheet.

Status: Ongoing.

For further information …
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/

OCCUPATIONAL SAFETY AND HEALTH

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Small Businesses

Description

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

The purpose of the project is to create a focused training program specifically aimed at assisting small businesses to create effective IIPPs. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

Key partners in developing and implementing this program include: Cal/OSHA Consultation, California Department of Industrial Relations, State Compensation Insurance Fund, the California Department of Public Health's Occupational Health Branch, Small Business California, and California Small Business Association.

The project includes:

- A half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP. Recruitment targets small businesses with fewer than 50 employees in a variety of industries.

- Adapted training materials, including a model IIPP guide, template, and program tools.

Status: Ongoing.

For further information …
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2

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OCCUPATIONAL SAFETY AND HEALTH

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Agriculture

Description

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists small agricultural business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

The project includes:

- A half-day interactive training program targeting owners, managers, and contractors in the agricultural industry to help them create and implement their IIPP.
- Adapted training materials, including a model IIPP guide, template, and program tools specifically tailored for the agricultural industry.

Status: Ongoing.

For further information …
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3

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LIST OF PROJECTS AND STUDIES

I. PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES

Permanent Disability Schedule Analysis
Status: Completed
CHSWC Reports and Memoranda:
"Impact of the Adoption of AMA-based Permanent Disability Rating Schedule in California" (January 2012).
http://www.dir.ca.gov/chswc/Reports/2012/CHSWC_ImpactOfAMABasedPDSchedule.pdf
"Stakeholder Public Comments About the Permanent Disability Rating Schedule Report"
http://www.dir.ca.gov/chswc/Reports/2012/CHSWCPDReportComments012612.pdf
Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of Ratings Under the New PD Schedule Through June 2007" (August 2007).
http://www.dir.ca.gov/chswc/Reports/memo_on_new_ratings_through_june_30_07_revised_aug_9.pdf
Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of ratings under the new PD schedule, through January 2007" (February 2007).
http://www.dir.ca.gov/CHSWC/Reports/MemoOnRatingsThruJan2007.pdf
"Permanent Disability Rating Schedule Analysis" (2006).
http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf

Impact of Changes to the Temporary Disability Benefits
Status: Completed
CHSWC Memorandum:
"Evaluate and Identify Impact of Changes to the Temporary Disability Benefit" (2007).
http://www.dir.ca.gov/CHSWC/Reports/Memo_On_TD_Benefits_Beyond_2Years.pdf

Wage Loss
Status: Completed
CHSWC Report:
"Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments," RAND, February 2014.
http://www.dir.ca.gov/chswc/Reports/2014/Earnings_Losses_2014.pdf

Initial Wage Loss Analyses
Status: Completed
CHSWC Reports:
"Compensating Permanent Workplace Injuries: A Study of the California System," RAND (1998).
http://www.rand.org/pubs/monograph_reports/MR920
"Findings and Recommendations on California's Permanent Partial Disability System—Executive Summary," RAND (1997).
http://www.dir.ca.gov/CHSWC/Reports/PPDFindingsAndRecommendations.pdf

Enhancement of Wage Loss Analysis—Private Self-Insured Employers
Status: Completed
CHSWC Report:
"Permanent Disability at Private Self-Insured Firms: A Study of Earnings Loss, Replacement, and Return to Work for Workers' Compensation Claimants," RAND (2003).
http://www.dir.ca.gov/CHSWC/Reports/PD-Study.pdf

Impact of Local Economic Conditions on Wage Loss
Status: Completed
"Trends in Earnings Loss from Disabling Workplace Injuries in California—The Role of Economic Conditions," RAND (2001).
http://www.dir.ca.gov/CHSWC/Reports/TrendsInEarningsLoss-EcoCondition.pdf

Permanent Disability Rating Tool
Status: Completed
CHSWC Reports:
"An Evaluation of California's Permanent Disability Rating System," Summary, RAND (2005).
http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System_Summary.pdf
"An Evaluation of California's Permanent Disability Rating System," Full Report, RAND (2005).
http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System.pdf
"Evaluation of California's Permanent Disability Rating Schedule," Interim Report, RAND (2003).
http://www.dir.ca.gov/CHSWC/Reports/PermanentDisabilityRatingSchedule-InterimReport.pdf

Apportionment
Status: Completed
*CHSWC Report*s:
"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (April 2007).
http://www.dir.ca.gov/chswc/CHSWC_ApportionmentPaper.pdf
"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (October 2005).
http://www.dir.ca.gov/CHSWC/FinalApportionmentPaper.pdf
"Background Paper on Workers' Compensation Causation and Apportionment" (May 2004).
http://www.dir.ca.gov/CHSWC/Causation_and_Apportionment_Final_May_2004.pdf

II. RETURN TO WORK

Return to Work
Status: Completed
"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2011).
Summary
http://www.dir.ca.gov/chswc/Reports/2010/RAND_RTW2011_sum.pdf
Full Document
http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf

Return-to-Work Programs
Status: Completed
CHSWC Reports:
"Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments," RAND (February 2014).
http://www.dir.ca.gov/chswc/Reports/2014/Earnings_Losses_2014.pdf
"How Effective are Employer Return to Work Programs?" RAND (February 2010).
http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RANDRTW.pdf
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"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers," February 2010.
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Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California, February 2010.
http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

International Forum on Disability Management (IFDM) 2010
Status: Completed
http://www.dir.ca.gov/chswc/Conferences/IFDM/IFDM.html

RTW/FEHA/ADA—Coordination and Interaction

Status: Completed

CHSWC Booklet, Factsheet and Report:

Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California (February 2010).
http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).
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Status: Completed

"Workers' Compensation Reform and Return to Work: The California Experience" (November 2010).
http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf

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Status: Completed

CHSWC Report:

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Status: Completed

CHSWC Report:

"AB 1987 and Return-to-Work Incentives and Alternatives" (April 2006).
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Status: Completed

CHSWC Report:

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Status: Completed

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Status: Completed

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Status: Completed
CHSWC Report:
"Determinants of Duration of Disability and Return to Work After Work-Related Injury and Illness: Challenges for Future Research" (April 2001).
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III. WORKERS' COMPENSATION REFORMS

Evaluation of System Changes
Status: Completed
CHSWC Summary:
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Assembly Bill 749 Analysis
Status: Completed
CHSWC Summaries:
"CHSWC and AB 749 as Amended" (October 2002).
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"CHSWC and AB 749" (February 2002).
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Status: Completed
CHSWC Summary:
"Reforms of 2003, AB 227" (October 2003).
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Senate Bill 899 Analysis
Status: Completed
CHSWC Summaries:
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http://www.dir.ca.gov/CHSWC/Summary-of-SB899.doc
"Section-by-Section Review of SB 899" (2004).
http://www.dir.ca.gov/CHSWC/Section-by-section-Review-of-SB899.doc

Evaluation of the Division of Workers' Compensation (DWC) Audit Function
(Special Study at the Request of the Legislature)
Status: Completed
CHSWC Reports:
"CHSWC Report on the Division of Workers' Compensation Audit Function" (1998).
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"CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).
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Medical-Legal Study
Status: Ongoing
CHSWC Reports:
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http://www.dir.ca.gov/CHSWC/DisabilityReport/data_and_methodology.html
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Status: Completed
CHSWC Reports:
"Vocational Rehabilitation Reform Evaluation" (March 2000).
http://www.dir.ca.gov/CHSWC/Vocrehabreform2000.pdf
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Status: Completed
CHSWC Report:
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Update of Treating Physician Reports and Presumption Study
Status: Completed
CHSWC Report:
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Status: Completed
*CHSWC Report*s:
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http://www.dir.ca.gov/CHSWC/LC5814Cvr.html
"Background Paper on Labor Code Section 5814" (February 1999).
http://www.dir.ca.gov/CHSWC/LC5814.htm

"Baseball Arbitration" Provisions of Labor Code Section 4065
Status: Completed
CHSWC Report:
"Preliminary Evidence on the Implementation of 'Baseball Arbitration' in Workers' Compensation" (November 1999).
http://www.dir.ca.gov/chswc/Baseballarbfinal%27rptcover.htm

CHSWC Response to Questions from the Assembly Committee on Insurance
Status: Completed
CHSWC Report:
"CHSWC Response to Questions from the Assembly Committee on Insurance" (2001).

Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the Reforms (*Special Study at the Request of the Legislature*)

Status: Completed

CHSWC Report:

"Workers' Compensation Costs and Benefits After the Implementation of Reform Legislation" (August 1999).
http://www.dir.ca.gov/chswc/Report.htm
"Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability" (August 1999).
http://www.dir.ca.gov/chswc/ExecutiveSummary.htm
"Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (August 1999).
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Status: Completed

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"Workers' Compensation in California and in the Nation: Benefit and Employer Cost Trends, 1989-2005" (April 2008).
http://www.dir.ca.gov/chswc/Reports/CAWorkers'CompensationBrief2008.pdf

Temporary Disability Payments Beyond the Two-Year Restriction

Status: Completed

CHSWC Memorandum:

"Impact of Relaxing Restrictions on Eligibility for Temporary Disability Payments Beyond the Current Two Years From Commencement of Benefit Payment" (January 2007).
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IV. OCCUPATIONAL SAFETY AND HEALTH

HIV, HBV, or HCV Infection Risk from "Sharps" Injuries for Non-Health-Care Workers

Status: Completed

"Infection Risk from 'Sharps' Injuries for Non-Healthcare Workers" (March 2015).
https://www.dir.ca.gov/chswc/Reports/2015/sharps_3-25-15.pdf

Inspection Targeting Issues for the Division of Occupational Safety and Health

"Inspection Targeting Issues for the California Department of Industrial Relations, Division of Occupational Safety and Health," RAND, October 2013.
http://www.dir.ca.gov/chswc/Reports/2013/DOSH_Inspection_Targeting.pdf

Experience Rating Impacts on Safety

Status: Completed

"The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?" RAND (2012).
http://www.dir.ca.gov/chswc/Reports/2013/SmallEmployerXModStudy_2013.pdf

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Status: Completed

"An Evaluation of the California Illness and Injury Prevention Program," Full Report and Summary, RAND (2012).
http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf
http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluationSummary.pdf
"Requirement for Insurer Review of Employer's IIPP," (January 2012).
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Status: Completed

"Are There Unusually Effective Occupational Safety and Health Inspectors and Inspection Practices?" RAND (2012).
http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf

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Status: Completed

"Working Safer or Just Working Longer? The Impact of an Aging Workforce on Occupational Injury and Illness Costs" (February 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_AgingWorkforceOccupationalInjuryIllnessCost.pdf

Research Agenda for Improving Workplace Health and Safety in California

Status: Report completed; individual studies ongoing.

CHSWC Report:

"Research Agenda for Improving Workplace Health and Safety in California" (February 2008).
http://www.dir.ca.gov/CHSWC/reports/CHSWCReportHealthandSafetyResearchAgendaFeb2008.pdf

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Status: Completed

CHSWC Report:

"Background Report on California Occupational Safety and Health Programs" (February 2008).
http://www.dir.ca.gov/CHSWC/reports/CHSWCBackgroundReportonCaliforniaHealthsafetyProgramsFeb2008.pdf

ISO 9001

Status: Completed

CHSWC Report:

"Quality Management and Job Quality: How the ISO 9001 Standard for Quality Management Systems Affects Employees and Employers" (August 2008).
http://www.dir.ca.gov/chswc/Reports/ISO_9001_2008_August.pdf

Occupational Safety and Health for Public Safety Employees

Status: Completed

CHSWC Report:

"Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and the Implications for Public Policy" (2008).
http://www.dir.ca.gov/CHSWC/Reports/CHSWC_PublicSafetyEmployeesReport2008.pdf

Musculoskeletal Injuries to Firefighters in California

Status: Completed

CHSWC Report:

"The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California," RAND (2010).
http://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf

School Action for Safety and Health Program

Status: Ongoing

CHSWC Report and Materials:

SASH Brochure
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf
SASH Flyer
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf

Injury and Illness Prevention Program Template
http://www.dir.ca.gov/chswc/SASH/index.htm
SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template.
http://www.dir.ca.gov/chswc/SASH/index.htm
SASH Online Resource Guide
http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf
SASH Poster
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf
"Summary of the June 29, 2008 Schools Injury and Illness Prevention Program Roundtable" (December 2008).
http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf

Project: Worker Occupational Safety and Health Training and Education Program (WOSHTEP)
Status: Ongoing
CHSWC Reports and Materials:

WOSHTEP Brochure
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP%20Brochures.English.2009.06.09.pdf
2004-2014 WOSHTEP Advisory Board Annual Reports
http://www.dir.ca.gov/chswc/woshtep.html
"Workplace Health and Safety Worker Training Materials: An Electronic Multilingual Resource List" (November 2013).
http://www.dir.ca.gov/CHSWC/MultilingualGuide/MultilingualGuideMain.html
Taking Action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for the General Industry
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#1
Taking Action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for Small Business
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2
Taking Action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for the Agriculture Industry
http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3
Spray Polyurethane Foam (SPF) and Hazards When Applying
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/Spray_Polyurethane.pdf
"Excessive Heat at Work: How to Prevent Indoor Heat Illness Participants Handouts," English and Spanish (December 2012).
http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatIlllnessPreventionParticipantsHandoutsforWebFINAL.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatPreventionMaterialsParticipantsHandoutsSPANFINAL.pdf
"Indoor Heat Illness Checklist," (December 2012), English and Spanish
http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistFINAL.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistSPANFINAL.pdf
Heat Hazards in Agriculture: A Guide for Employers to Carry out Tailgate Training for Workers (2008).
http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgriculturEnglish.pdf
http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgricultureSpanish.pdf
Construction Case Study Training Guide (January 2010).
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ConstructionCaseStudyTraining.pdf
The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs (2010).
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf

"WOSHTEP NEEDS ASSESSMENT REPORT: Opportunities to Integrate Worker Health and Safety Education into Building Trades Apprenticeship Program" (March 11).
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ApprenticeshipNeedsAssessment.pdf
NISH Occupational Health and Safety Course Flier
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/NISHGenericFlier.pdf
Awareness Session: "Preventing Workplace Injuries and Illnesses" (2010).
Guide—English and Spanish
http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleEnglish.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleSpanish.pdf
Training Cards—English and Spanish
http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsEnglish.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsSpanish.pdf
Small Business Health and Safety Training Materials (General) (July 2009).
http://www.dir.ca.gov/chswc/WOSHTEP/SBMRhealthandsafety.htm
Small Business Restaurant Supervisor Safety Training Materials (Industry-specific) (July 2009).
http://www.dir.ca.gov/chswc/SBMRMaterials.htm (English and Spanish)
"Protecting the Safety and Health of Restaurant Workers: A Workbook for Employees," English, Spanish, and Korean
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantTrainingGuide_Spanish.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook_Korean.pdf
Small Business Janitorial Health and Safety Training Materials (Industry-specific) (July 2009).
http://www.dir.ca.gov/chswc/WOSHTEP/SBMR_Janitorial.htm (English and Spanish)
Small Business Health and Safety Materials for the Dairy Industry—English and Spanish
Training Guide
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide_Spanish.pdf
Fotonovela (Picturebook)
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela.pdf
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela_Spanish.pdf
"Motor Vehicle Safety Programs Fact Sheet"
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/MotorVehicleSafety.pdf
Teens Working in Agriculture: Activities for High School ESL Classes (2009).
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ESLCurriculumActivitiesBooklet.pdf
Teens Speak Out for Safety on the Job: Lessons from the Young Worker Leadership Academy (2008).
http://www.youngworkers.org/downloads/pdf/TeensSpeakOut.pdf

Workplace Wellness

Status: Completed

CHSWC Booklet and Report:

The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs (2010*).*
http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf
"Summary of the July 16, 2008 Workplace Wellness Roundtable" (December 2008).
http://www.dir.ca.gov/chswc/Reports/CHSWC_SummaryWorkplaceWellnessRoundtable.pdf

Patterns of Work-Related Injury and Common Injury Experiences of Workers in the Low-Wage Labor Market

Status: Completed

"Patterns of Work-Related Injury and Common Injury Experiences of Workers in the Low-Wage Labor Market" LOSH at UCLA (March 2015).
http://www.dir.ca.gov/chswc/Reports/2015/Patterns_Work_Related_Injury.pdf

Low-Wage Workers—Barriers to Occupational Health
Status: Completed
CHSWC Report:
"Barriers to Occupational Health Services for Low-Wage Workers in California" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/Barriers_To_OHS.pdf

California Partnership for Young Worker Health and Safety
Status: Ongoing
CHSWC Report:
"Protecting and Educating Young Workers: Report of the California Study Group on Young Worker Health and Safety" (March 1998).
http://www.dir.ca.gov/chswc/studgrp.html
www.youngworkers.org for the California Partnership for Young Worker Health and Safety, providing information for teens, teen workers in agriculture, employers, and educators

V. WORKERS' COMPENSATION ADMINISTRATION

California Public Sector Self-Insured Workers' Compensation Program
"Examination of the California Public Sector Self-Insured Workers' Compensation Program," Bickmore, October 2014
http://www.dir.ca.gov/chswc/Reports/2014/Public_Sector_Self_Insured_WC.pdf

Formulating a Copy Services Fee Schedule
Status: Completed
CHSWC Report:
"Formulating a Copy Services Fee Schedule," Berkeley Research Group, October 2013
http://www.dir.ca.gov/chswc/Reports/2013/Copy_Services_2013.pdf
Public Comments and Feedback on "Formulating a Copy Service Fee Schedule," Berkeley Research Group, October 2013
http://www.dir.ca.gov/chswc/Meetings/2013/PublicCommentsFromPublicOctober2013.pdf

EAMS
Status: Completed
CHSWC Report:
"Electronic Adjudication Management System (EAMS) Information Technology Needs Assessment Report" (June 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport.pdf
Stakeholder public comments about EAMS Needs Assessment Report.
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport_publicReport.pdf

Liens
Status: Completed
"Liens Report" (January 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf
Stakeholder Public Comments About Lien Report, Volume 1.
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume1.pdf
Stakeholder Public Comments About Lien Report, Volume 2.
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume2.pdf

System Monitoring
Status: Completed
"Memo on System Monitoring" (January 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MemoOnSystemMonitoring.pdf

Review of Disability Evaluation Delays and Supplemental QME Reports

Status: Completed
CHSWC Report:
"Review of Disability Evaluation Delays and Supplemental QME Reports" (June 2010).
http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_DEUDelaysandSupplementalQMEReports.pdf

Report on Benefit Notices and Recommendations, July 2010

Status: Completed
CHSWC Report:
"Report on Benefit Notices and Recommendations" (July 2010).
http://www.dir.ca.gov/chswc/Reports/2010/BenefitNoticesRecommendationspdf.pdf

Selected Indicators in Workers' Compensation

Status: Completed
*CHSWC Report*s:
"Selected Indicators in Workers' Compensation: A Report Card for California," 2004-2011.
http://www.dir.ca.gov/chswc/AnnualReportpage1.html

The System of Access to Benefits for Injured Employees When Employer May Not Be Insured

Status: Completed
CHSWC Report:
"Background Paper on Uninsured Employers Benefits Trust Fund" (April 2007).
http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf

Electronic Deposit of Benefits

Status: Completed
CHSWC Report:
"Costs and Benefits of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004).
http://www.dir.ca.gov/chswc/chswc_accesstofunds.pdf

Workers' Compensation Court Management and Judicial Function Study

Status: Completed
CHSWC Reports:
"Improving Dispute Resolution for California's Injured Workers," Summary, RAND (2003).
http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf
"Improving Dispute Resolution for California's Injured Workers," Full Report, RAND (2003).
http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf

Court Technology Project

Status: Completed
CHSWC Reports:
"Improving Dispute Resolution for California's Injured Workers" (2003).
Full Report
http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf
Summary
http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf

Final Offer Arbitration in Determining a Permanent Disability Rating Under Labor Code 4065

Status: Completed
CHSWC Reports:
"Preliminary Evidence on the Implementation of Baseball Arbitration" (November 1999).
http://www.dir.ca.gov/chswc/BasebalArbFfinal.htm

Evaluation of the DWC Audit Function
(*Special Study at the Request of the Legislature*)
Status: Completed
CHSWC Reports:
"CHSWC Report on the Workers' Compensation Audit Function" (December 1998).
http://www.dir.ca.gov/chswc/FinalAuditReport.html
"Executive Summary—CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).
http://www.dir.ca.gov/chswc/AuditSummary Cover.html
"Project Description Study of Workers Compensation Audit Function" (1998).
http://www.dir.ca.gov/chswc/Auditfunctiondesc.html

Uninsured Employers Benefits Trust Fund Educational Booklet
Status: Completed
If Your Employer Is Illegally Uninsured: How to Apply for Workers' Compensation Benefits (June 2011).
http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf.
Spanish version: http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf

Workers' Compensation and Disability Rights Laws in California: RTW, FEHA, and the Interactive Process
Status: Completed
Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California (February 2010).
http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

VI. INFORMATION FOR WORKERS AND EMPLOYERS

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).
http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf

"Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting" (April 2009).
http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf

Medical Booklet and Fact Sheet
Status: Completed
CHSWC Booklet and Fact Sheet:
The Basics About Medical Care for Injured Workers (2006).
http://www.dir.ca.gov/CHSWC/Reports/MedicalCareFactsheet.pdf
Getting Appropriate Medical Care for Your Injury (2006).
http://www.dir.ca.gov/CHSWC/Reports/MedicalCareBooklet.pdf

Benefit Notices Simplification Project
Status: Completed
CHSWC Reports:
"Project to Improve Laws and Regulations Governing Information for Workers Recommendations: Information for Injured Workers" (May 2000).
http://www.dir.ca.gov/CHSWC/IWCover.html
"Navigating the California Workers' Compensation System: The Injured Workers' Experience" (July 1996).
http://www.dir.ca.gov/CHSWC/navigate/navigate.html

Workers' Compensation Information Prototype Materials
Status: Completed
CHSWC Report, Fact Sheets, *and Video:*
"Project to Augment, Evaluate, and Encourage Distribution of the Prototype Educational Materials for Workers" (2000).

Workers' Compensation Introduction
Status: Completed
Fact Sheets and a Video, "Introduction to Workers' Compensation" (1998)
http://www.dir.ca.gov/chswc/wcvideo.html and
http://www.dir.ca.gov/chswc/Injured_Worker_Factsheets.html

Workers' Compensation Information for Injured Workers
Status: English and Spanish versions completed.
CHSWC Reports:
Workers' Compensation in California: A Guidebook for Injured Workers, fifth edition (July 2014).
http://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.pdf (English)
http://www.dir.ca.gov/InjuredWorkerGuidebook/Spanish/InjuredWorkerGuidebook.pdf (Spanish)
"Workers Compensation Update: Predesignating a Medical Group" (March 2007).
http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdateMarch2007d.pdf
"Workers Compensation Update: New Law Extends Period for Temporary Disability Payments to Injured Workers" (April 2008).
http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdate-2008.pdf

Workers' Compensation Medical Care in California Fact Sheets
Status: Completed
Fact Sheets:
"Workers' Compensation Medical Care in California: Quality of Care, Costs, Access to Care, System Overview" (August 2003).
http://www.dir.ca.gov/chswc/CHSWC_WCFactSheets.htm

Workers' Compensation Carve-Out Booklet
Status: Completed
CHSWC Report:
How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers (2006).
http://www.dir.ca.gov/CHSWC/carve-out1.pdf

Workers' Compensation Carve-Out Guidebook
Status: Completed
CHSWC Report:
Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation (May 2004).
http://www.dir.ca.gov/CHSWC/CARVEOUTSGuidebook2004.doc

Carve-Outs—Alternative Workers' Compensation Systems
Status: Completed
CHSWC Report:
Carve-outs in Workers' Compensation: An Analysis of Experience in the California Construction Industry (September 1999).
http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html

VII. MEDICAL CARE

California Safety Officer Workers' Compensation Cancer Presumption

"California Safety Officer Workers' Compensation Cancer Presumption—Impact of AB 1035 (using 420 weeks and signed into law)," Bickmore, September 2014.
http://www.dir.ca.gov/chswc/Reports/2014/BickmoreSafetyOfficerPresumption_AB1035.pdf
"California Safety Officer Workers' Compensation Cancer Presumption—DRAFT (Impact of AB 1373, using 480 weeks)," Bickmore, March 2014
http://www.dir.ca.gov/chswc/Reports/2014/BickmoreSafetyOfficerPresumption_AB1373.pdf

Medical Care Provided Under California Workers' Compensation Program

Status: Completed
CHSWC Report:

"Medical Care Provided Under California's Workers' Compensation Program: Effects of the Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care," RAND (2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MedicalCareReformsandOpps_2011.pdf
Separate Appendices
http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1144.appendixes.pdf

Identifying Risky Opioid Prescribing Practices

Status: Completed
CHSWC Report:

Identifying Risky Opioid Prescribing Practices, UCLA (2012).
http://www.dir.ca.gov/chswc/Reports/2012/Identifying%20Risky%20Opioid%20Prescribing%20Practices_2012.pdf
Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II, UCLA 2012
http://www.dir.ca.gov/chswc/Reports/2012/Memorandum%20on%20Opioid%20Guidelines%20Evaluation_2012.pdf
Public Comments to the Identifying Risky Opioid Prescribing Practices Report and the Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II and the Author's Replies
http://www.dir.ca.gov/chswc/Reports/2012/Comments%20and%20Response_v2.pdf

Use of Compound Drugs, Medical Foods, and Co-Packs in California Workers' Compensation Program

Status: Completed
CHSWC Report:

"Use of Compound Drugs, Medical Foods, and Co-Packs in California's Workers' Compensation Program: An Overview of the Issues," RAND (January 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf

Pay for Performance Study

Status: Completed
CHSWC Report:

"Working Paper: Pay-for-Performance in California's Workers' Compensation Medical Treatment System," RAND (August 2007).
http://www.dir.ca.gov/chswc/Reports/Pay_for_Performance_Report_2007.pdf

Medical Care Provided California's Injured Workers

Status: Completed
CHSWC Report:

"Medical Care Provided California's Injured Workers: An Overview of the Issues," RAND (September 2007)
http://www.dir.ca.gov/chswc/CHSWC_MedCareProvidedCAIWs.pdf

Quality-of-Care Indicators: A Demonstration Project Using Carpal Tunnel Syndrome

Status: Completed

RAND/UCLA Quality-of-Care Measures for Carpal Tunnel Syndrome: Tools for Assessing Quality of Care and Appropriateness of Surgery (RAND, 2011).

Summary
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_summary_2011.pdf

Full report:
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_Tools_2011.pdf

Appendices
http://www.rand.org/pubs/technical_reports/TR809.html

CHSWC Study on Spinal Surgery Second-Opinion Process

Status: Completed

CHSWC Report:

"Report and Recommendations on the Spinal Surgery Second-Opinion Process" (April 2007).
http://www.dir.ca.gov/chswc/Reports/SSSOP-Final.pdf

State Disability Insurance Integration Project

Status: In process

CHSWC Draft Report:

"The Impact of Occupational Injury and Illness on Pricing an Integrated Disability Benefit" (October 2008).
http://www.dir.ca.gov/chswc/Reports/SDI_paper_final_draft_2008_Oct_29.pdf

Medical Treatment Studies

Status: Completed.

CHSWC Reports:

"Inpatient Hospital Services: An Update on Services Provided Under California's Workers' Compensation Program Report," RAND (January 2009).
http://www.dir.ca.gov/chswc/Reports/CHSWC_InpatientHospitalServices.pdf

"Inpatient Hospital Fee Schedule and Outpatient Surgery Study," RAND (February 2002).
http://www.dir.ca.gov/CHSWC/HospitalFeeSchedule2002/HospfeeschedulePage1.html

"Ambulatory Surgery Facility Services Provided to California's Injured Workers," RAND (March 2009).
http://www.dir.ca.gov/chswc/Reports/2009/FacilityServicesforAmbulatorySurgery.pdf

"Hospital Emergency Department Services Furnished Under California's Workers' Compensation Program," RAND (April 2009).
http://www.dir.ca.gov/chswc/Reports/2009/EmergencyDepartmentServices.pdf

"Regulatory Actions that Could Reduce Unnecessary Medical Expenses Under California's Workers' Compensation Program," RAND (July 2009).
http://www.dir.ca.gov/chswc/Reports/2009/RANDpaper.pdf

CHSWC Study on Medical Treatment Protocols

Status: Completed

CHSWC Reports:

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Full Report, RAND (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/Evaluating_med_tx_guideline.pdf

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Summary, RAND (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/Eval_med_tx_guideline_summary.pdf

"Updated and Revised CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf
"CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (November 2004).
http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.pdf
"Estimating the Range of Savings from Introduction of Guidelines Including ACOEM" (October 2003).
http://www.dir.ca.gov/CHSWC/ACOEMGuideline.pdf

Health Care Organizations
Status: Completed
CHSWC Staff Report:
"A Report on Health Care Organizations (HCOs) in Workers' Compensation" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/HCO-WC-Apr2006.pdf

Repackaged Drugs Study
Status: Completed
CHSWC Issue Paper:
"Paying for Repackaged Drugs Under the California Workers' Compensation Official Medical Fee Schedule" (May 2005).
http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf

Pharmacy Reporting Impact Study
Status: Completed
CHSWC Report:
"Impact of Physician-Dispensing of Repackaged Drugs on California Workers' Compensation, Employers' Cost, and Workers' Access to Quality Care" (July 2006).
http://www.dir.ca.gov/CHSWC/Reports/Physician-Dispensend-Pharmaceuticals.pdf

Workers' Compensation Pharmaceutical Costs Study
Status: Completed
*CHSWC Report*s:
"Study of the Cost of Pharmaceuticals in Workers' Compensation" (June 2000).
http://www.dir.ca.gov/CHSWC/Pharmacy/pharmacover.html
"Study of the Cost of Pharmaceuticals in Workers' Compensation," Executive Summary (June 2000).
http://www.dir.ca.gov/CHSWC/Pharmacy/ExecSumPharmaRpt.html

Payment for Hardware Study
Status: Completed
CHSWC Report:
"Payment for Hardware Used in Complex Spinal Procedures Under California's Official Medical Fee Schedule for Injured Workers," RAND (September 2005).
http://www.dir.ca.gov/CHSWC/Hardware_comp9.pdf

Burn Diagnosis-Related Groups (DRGs) Study
Status: Completed
CHSWC Report:
"Payments for Burn Patients under California's Official Medical Fee Schedule for Injured Workers," RAND (May 2005).
http://www.dir.ca.gov/CHSWC/WR-263.Burn050525.pdf

California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work
Status: Completed
CHSWC Report:

"California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work," RAND (2006).
http://www.dir.ca.gov/chswc/Reports/2009/MedBenefit_and_RTW_2006.pdf

Integrating Occupational and Non-Occupational Medical Treatment
Status: Completed
CHSWC Report and Factsheet:
http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf
http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf

Occupational and Non-Occupational Integrated Care (ONIC) Roundtables
Status: Completed
CHSWC Report:
"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (December 2008).
http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf

CHSWC Study on 24-Hour Care
Status: Completed
CHSWC Reports:
"24-Hour Care Roundtable," Summary (December 2006).
http://www.dir.ca.gov/CHSWC/Reports/24-Hour-Care-Final.pdf
"Assessment of 24-Hour Care Options for California" (2004).
http://www.dir.ca.gov/CHSWC/Reports/24HourCare.pdf
"CHSWC Background Paper: Twenty-four Hour Care" (October 2003).
http://www.dir.ca.gov/CHSWC/CHSWC_24hCare.pdf

Workers' Compensation Medical Payment Systems
Status: Completed
CHSWC Staff Reports:
"Workers' Compensation Medical Payment Systems: A Proposal for Simplification and Administrative Efficiency, Prepared for the Honorable Richard Alarcón, Chair, California Senate Committee on Labor and Industrial Relations" (2003).
http://www.dir.ca.gov/CHSWC/CHSWC_WCMedicalPaymentSystem/CHSWC_WCMedicalPaymentSystem.pdf
"Adopting Medicare Fee Schedules: Considerations for the California Workers' Compensation Program," RAND (2003).
http://www.dir.ca.gov/CHSWC/Reports/AdoptingMedicareFeeSchedules-summary.pdf

VIII. COMMUNITY CONCERNS

Analysis of WCIRB Pure Premium Rates
Status: Completed
CHSWC Report:
"Analysis of Proposed WCIRB 2009 Pure Premium Rates Submitted to the California Department of Insurance" (September 2008).
http://www.dir.ca.gov/chswc/Reports/Analysis_of_proposed_WCIRB_2009_pure_premium_rates-20080923.pdf

Public Access to Workers' Compensation Insurance Coverage Information
Status: Completed
CHSWC Reports:
"Workers' Compensation Compliance and Proof of Coverage" (February 2006).
http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf

"CHSWC Issue Paper on Public Access to Workers' Compensation Insurance Coverage Information" (April 2005).
http://www.dir.ca.gov/CHSWC/ProofofCoverage.pdf

DWC Workers' Compensation Audits
Status: In process
CHSWC Report:
"Draft CHSWC Response to Community Concerns Regarding DWC Workers' Compensation Audits" (February 2007).
http://www.dir.ca.gov/CHSWC/Reports/DWC_Audits_022107.pdf

U.S. Longshore and Harbor Workers' Compensation Market in California
Status: Completed
CHSWC Report:
"CHSWC Issue Paper on the United States Longshore and Harbor Workers' Compensation Market in California" (April 2005).
http://www.dir.ca.gov/CHSWC/USLonghsoreAndHarborPaper.pdf

Workers' Compensation and the California Economy
Status: Completed
CHSWC Report:
"Update—Workers' Compensation and the California Economy" (April 2000).
http://www.dir.ca.gov/CHSWC/CalEconomy/CalEconomyCover.html

Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the 1989 and 1993 Reforms
(*Special Study at the Request of the Legislature)*
Status: Completed
CHSWC Reports:
"Workers' Compensation Costs and Benefits After the Implementation of Reform Legislation (August 1999).
http://www.dir.ca.gov/CHSWC/Report.htm
"Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability" (August 1999).
http://www.dir.ca.gov/CHSWC/ExecutiveSummary.htm
"Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (August 1999).
http://www.dir.ca.gov/CHSWC/Summary.htm
CHSWC 1998-99 Annual Report incorporates this report.

Workers' Compensation Anti-fraud Activities
Status: Completed
CHSWC/Fraud Assessment Commission (FAC) Study:
"Workers' Compensation Medical Payment Accuracy Study" (June 2008).
http://www.dir.ca.gov/chswc/Reports/2009/Navigant_Medical_Payment_Report.pdf
"Reporting Workers' Compensation Injuries in California: How Many are Missed?" (August, 2008).
http://www.dir.ca.gov/chswc/Reports/ReportingWorkersCompensationInjuriesinCalifornia2008August.pdf
"Fraud in Workers' Compensation Payroll Reporting: How Much Employer Fraud Exists? What is the Impact on Honest Employers?" (August 2007).
http://www.dir.ca.gov/chswc/Reports/Fraud_in_WC_payroll_Report_Aug_14_2007.pdf
"Split Class Codes: Evidence of Fraudulent Payroll Reporting" (August 2007).
http://www.dir.ca.gov/chswc/Reports/Split_Class_Codes_13Aug2007.pdf
"Report on the Workers' Compensation Anti-Fraud Program" (August 2001).
http://www.dir.ca.gov/CHSWC/Finalfraudreport0801.html

Report on the Campaign Against Workers' Compensation Fraud" (May 2000).
http://www.dir.ca.gov/CHSWC/Fraud/Fraudcover.html.
"Workers' Compensation Anti-Fraud Activities—Report on the CHSWC Public Fact-Finding Hearing" (September 1997).
http://www.dir.ca.gov/CHSWC/Fraud/Fraudreport.html

Illegally Uninsured Employers Study
Status: Completed
CHSWC Reports:
"Uninsured Employers Benefits Trust Fund," Background Paper (April 2007).
http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf
"Employers Illegally Uninsured for Workers' Compensation—CHSWC Recommendations to Identify Them and Bring Them Into Compliance" (December 1998).
http://www.dir.ca.gov/CHSWC/uefcover.html

IX. INSURANCE INDUSTRY AND COVERAGE

Insurance Insolvency Study
Status: Completed
CHSWC Report:
"California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change," RAND (December 2009).
http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf

Self-Insurance Groups
Status: Completed
CHSWC Reports:
"Report on Self-Insurance Groups" (December 2009).
http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SIGReport.pdf
"Issue Paper on Tax Status of Self-Insured Groups (SIGs)" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/SIG-TaxStatus.pdf

Training of Claim Adjusters and Bill Reviewers
Status: Completed
CHSWC Report:
"Revised Claims Adjuster and Bill Reviewer Training and Certification by Insurers Report" (April 2009).
http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_TrainingCertificationClaimsAdjusters.pdf.

Proof of Coverage
Status: Completed
CHSWC Background Paper:
"Workers' Compensation Compliance and Proof of Coverage" (February 2006).
http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf

State of the California Workers' Compensation Insurance Industry
Status: Completed
CHSWC Background Papers:
"Study of the California Workers' Compensation Insurance Market Study" (September 2003).
http://www.dir.ca.gov/CHSWC/Reports/CA_InsuranceMarketStudy.pdf
"State of the California Workers' Compensation Insurance Industry," Background Paper (April 2002).
http://www.dir.ca.gov/CHSWC/StateInsuranceIndustry2002/Stateinsuranceindustry042002.html

X. DISASTER PREPAREDNESS AND TERRORISM

Impact of Terrorism on Workers' Compensation
Status: Completed
CHSWC Issue Paper:
"CHSWC Background Paper on the Impact of Terrorism and California Workers' Compensation" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/ImpactTerrorism-WC.pdf

Forum on Catastrophe Preparedness: Partnering to Protect Workplaces (April 2006)
Status: Completed
CHSWC Staff Report:
"A Report on the Forum on Catastrophe Preparedness: Partnering to Protect Workplaces" (April 2006).
http://www.dir.ca.gov/CHSWC/Reports/Report_On_Catastrophe_Preparedness.pdf
http://www.dir.ca.gov/chswc/forum2006.html

XI. CHSWC ISSUE PAPERS

Study of Labor Code Section 132a
Status: Completed
CHSWC Memorandum:
"Update on Labor Code Section 132a and Employer Termination of Health Insurance Coverage: Calif. Supreme Court Decision in *State of California, Dept of Rehab v. WCAB (Lauher)"* (July 2003).
http://www.dir.ca.gov/chswc/Lauher132aUpdate.pdf

Information on Industrial Medical Council (IMC) Disciplinary Actions Taken on Qualified Medical Evaluators (QMEs)
Status: Completed
CHSWC Background Paper:
"Recommendations for Improvement of the IMC's Protection of Injured Workers and Regulation of QMEs" (July 2003).
http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.doc or
http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.pdf

CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California
Status: Completed
CHSWC Paper:
"CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004).
http://www.dir.ca.gov/CHSWC/CHSWC_AccesstoFunds.pdf or
http://www.dir.ca.gov/chswc/CHSWC_Accesstofunds.doc

Strategic Plan
Status: Completed
CHSWC Report:
"CHSWC Strategic Plan" (November 2002).
http://www.dir.ca.gov/CHSWC/StratPlanReport2002/Stratplan2002.html

XII. OTHER

Pending Final Disposition:

”Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers’ Compensation—Could Integration Pay for Covering the Working Uninsured?” (October 2009). http://www.dir.ca.gov/chswc/Reports/2009/Medical_Overhead_Cost_Comparision_2009.pdf

CHSWC PARTNERSHIPS WITH THE COMMUNITY

Introduction

Since its inception, the Commission on Health and Safety and Workers' Compensation (CHSWC) has been working closely with the health and safety and workers' compensation community including employers, employees, labor organizations, injured worker groups, insurers, attorneys, medical and rehabilitation providers, administrators, educators, researchers, government agencies, and members of the public.

In certain projects and studies, CHSWC partners with other state agencies or other organizations in areas of mutual interest. Key partnerships include the following.

Injury and Illness Prevention Programs

Loss Control/Prevention Partnership

Partnership with representatives from the insurance industry, the Department of Industrial Relations, University of California, Berkeley, the California Department of Public Health Occupational Health Branch and California Workers' Compensation Institute

DIR held a Loss Control/Prevention Advisory Group meeting in 2013 to initiate partnership activities with insurer loss control entities and workers' compensation agents and brokers for promoting safety and health activities at policyholders' workplaces. Objectives for the partnership are to promote an understanding between the State and insurers on health and safety initiatives and to generate ideas about ways to effectively use the limited resources that both entities have to reduce hazards and injuries in California's workplaces. Suggestions for collaborative projects included: outreach and education; research and measures for evaluating loss control programs; surveys of loss control activities among California workers' compensation insurers and agents/brokers; and protocols for referrals and mutual support.

School Action for Safety and Health Program

Partnership with representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and state and school-related agencies and organizations in California

Per the mandate set forth in the Labor Code, CHSWC will assist inner-city schools or any school district in establishing effective occupational injury and illness prevention programs (IIPPs) for their employees. CHSWC has established a model program, the School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and make other health and safety improvements that will help protect school employees from injuries and illnesses on the job. The target audience focuses on K-12 schools and school districts at high risk of occupational injury and illness.

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. The program was developed based on a needs assessment conducted to determine the types of training and resources that would be most effective. The SASH program now includes a day-long training program for district-level employees, resource materials and a SASH Resource Center for technical assistance. The program is being implemented statewide. Ongoing evaluation indicates that the program is well received by participants.

The IIPP template and SASH brochure and binder of materials are available on the SASH section of the CHSWC website. The binder materials include: Factsheets; Tools; Tip Sheets; Resource List of

organizations and agencies; Worksheets; and IIPP Guide and template. An online resource guide with factsheets related to specific health and safety information for school district employees is also included.

Taking Action for Safety and Health: A Guide to Developing Your Workplace Injury and Illness Prevention Program for General Industry, Small Business and the Agriculture Industry
Partnership with California Small Business Association, Small Business California, Cal/OSHA, State Compensation Insurance Fund,* and the *California Department of Public Health Occupational Health Branch

Training materials have been developed to help general industry and small business and agriculture industry workplaces in California comply with Cal/OSHA's Injury and Illness Prevention Program (IIPP) Standard and, consequently, protect the health and safety of their employees. Materials include: an online IIPP fill-in-the-blank template; a Guide that will help businesses learn how to write an IIPP specific to their business and how to implement the elements of an effective IIPP; It Pays to Take Action for Safety and Health brochure; Factsheets; Tools; and a Resource List of agencies and organizations providing information on the California IIPP standard and on health and safety.

Small Business Health and Safety Resources

Health and Safety Training and Resources for Small Businesses Across Industries
Partnership with the State Compensation Insurance Fund and US Department of Small Business Administration, Small Business Development Centers

Health and safety resources for small businesses across industries have been developed in English and Spanish through the California Worker Occupational Safety and Health Training and Education Program (WOSHTEP), administered by CHSWC. CHSWC has partnered with State Compensation Insurance Fund (SCIF) to implement training and disseminate health and safety information to small businesses throughout the State of California. Through WOSHTEP, health and safety resources have also been developed for the restaurant, janitorial, and dairy industries.

Health and Safety Training and Resources for the Janitorial Industry
Partnership with State Compensation Insurance Fund and the Service Employees International Union Local 1877

Health and safety training and resources have been developed for the janitorial industry through WOSHTEP. CHSWC has partnered with State Compensation Insurance Fund (SCIF), the Building Skills Partnership (a program of the Leadership Training & Education Fund between the California Janitors' Union, SEIU 1877), the Pacific Association of Building Services Contractors (PABSCO), and the Independent Maintenance Contractors Association to provide health and safety training on these resources to small businesses within the janitorial industry.

Health and Safety Training and Resources for the Dairy Industry
Partnership with University of California, Davis

Health and safety training and resources have been developed for the dairy industry through WOSHTEP. CHSWC has partnered with the University of California at Davis Western Center for Agricultural Health and Safety (WCAHS) and other WOSHTEP stakeholders to provide materials to owners and managers of dairies to strengthen their health and safety programs. Materials are being used by universities and organizations including the National Farm Medicine Safety, the Canadian Ag Safety Association, the Swedish University of Ag Sciences, the University of Illinois at Urbana-Champaign, Cornell University and Quantico MD, the National Farm Medicine Center in Wisconsin, and the Dairy Herd Network.

CHSWC AND THE COMMUNITY

For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

Write:

California Commission on Health and Safety and Workers' Compensation
1515 Clay Street, 17th Floor
Oakland, CA 94612

Phone:	***FAX***:	***Email***:
510-622-3959	510-622-3265	chswc@dir.ca.gov

Internet:

In 2012, most government departments and agencies were asked by Governor Brown's Office to redesign their public website so that information can be located more efficiently. CHSWC participated in the redesign process and, according to its mandate, continues to post useful information for the public and related stakeholders.

Check out www.dir.ca.gov/chswc for:

- What's New
- Research Studies and Reports by Topic and by Year
- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR/CHSWC Young Workers' Program
- Information for Workers and Employers
- Worker Occupational Safety and Health Training and Education Program (WOSHTEP)
- Past Conferences
- Public Comments and Feedback
- Injury and Illness Prevention Program (IIPP) Resources
- School Action for Safety and Health (SASH) Program
- Other Resources

CHSWC Publications

In addition to the many reports listed in the CHSWC Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports, 1994–2015

CHSWC Strategic Plan, 2002

WOSHTEP Annual Reports, 2004–2015

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Their willingness to share the insights and knowledge derived from their years of experience has assisted CHSWC immeasurably in its mission to examine and recommend improvements in the health and safety and workers' compensation systems in California.

American Medical Association (AMA)

Boeing
Christine Coakley, Regulatory and Legislative Analyst

Boston University (BU)
Leslie I. Boden, Ph.D., Professor, School of Public Health

California Applicants' Attorneys Association (CAAA)
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Bert Arnold, President
Mark Gerlach, Consultant

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California Coalition on Workers' Compensation (CCWC)
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Keith Mentzer, Benefit Program Administrator

California Small Business Association
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Greg Edwards, Chief Financial Officer Budget Unit
DOA staff

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DLSE staff

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Tess Gormley, Special Advisor to the Director
Cora Lee, Compliance Manager
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Melissa Hicks, Manager Medical Unit
Kathy Patterson, Manager, EAMS
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