

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.

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- 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 and provides 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.

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- 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

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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

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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:

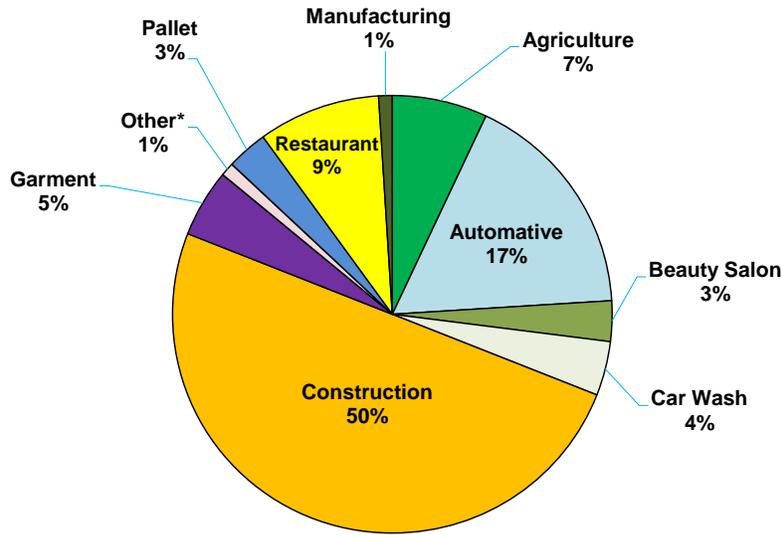
- DLSE has the authority under Labor Code Section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- DOSH has the authority to issue citations for serious, willful, 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.

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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

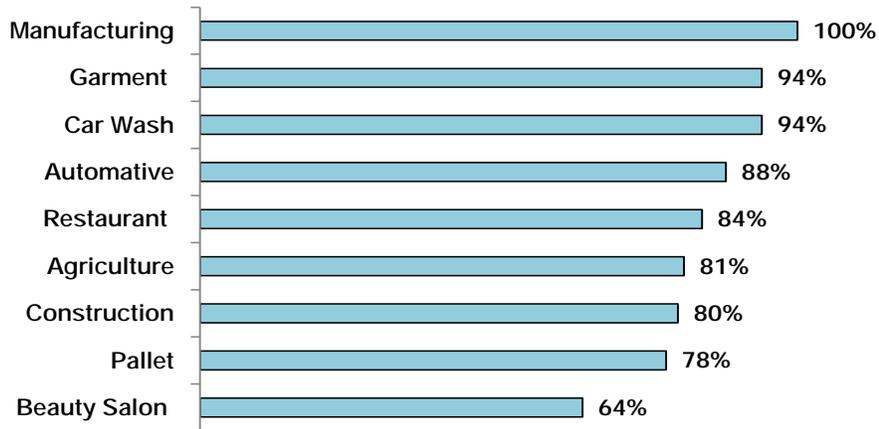
*The total amount assessed by Cal/OSHA, DLSE & CSLB at the time of the initial inspection (the amount is subject to change).

**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).

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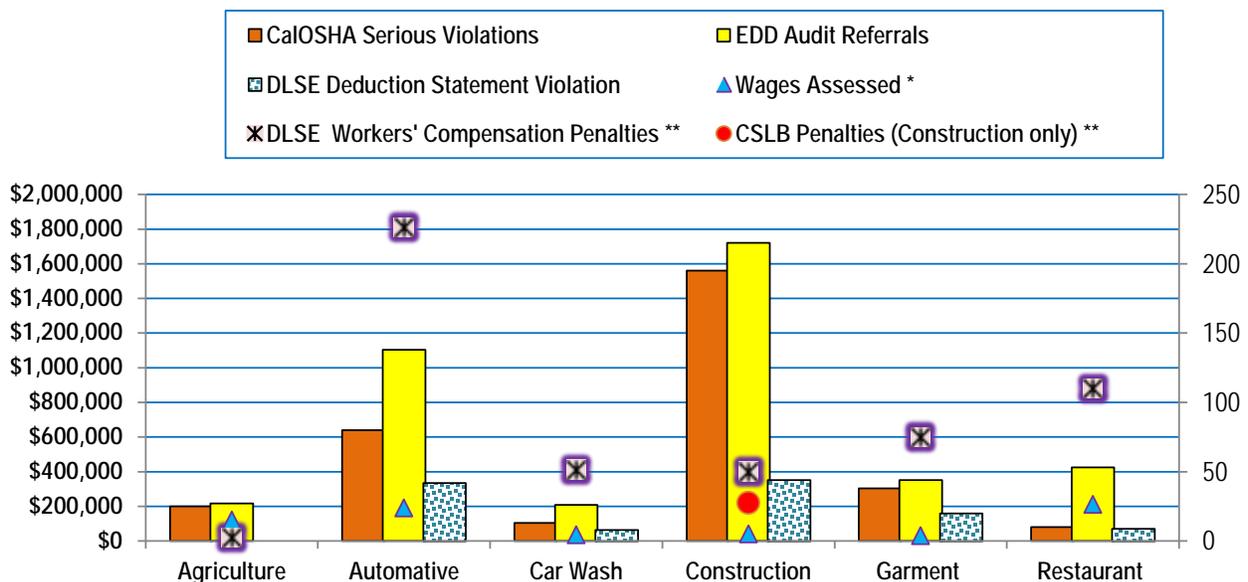
Figure 140: Percent of Noncompliant Businesses by Industry, FY 2014-2015



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.

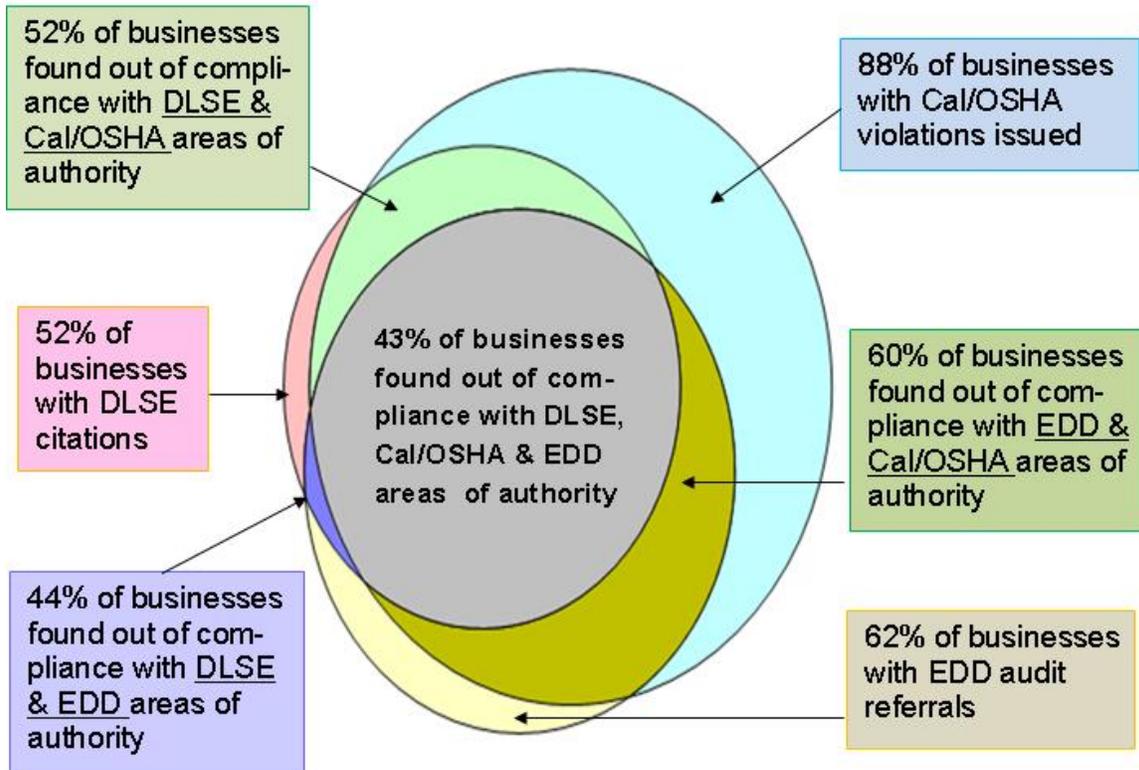
** DLSE Workers' Comp and CSLB penalties assessed at the time of the initial inspection, subject to change.

Source: LETF Database

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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

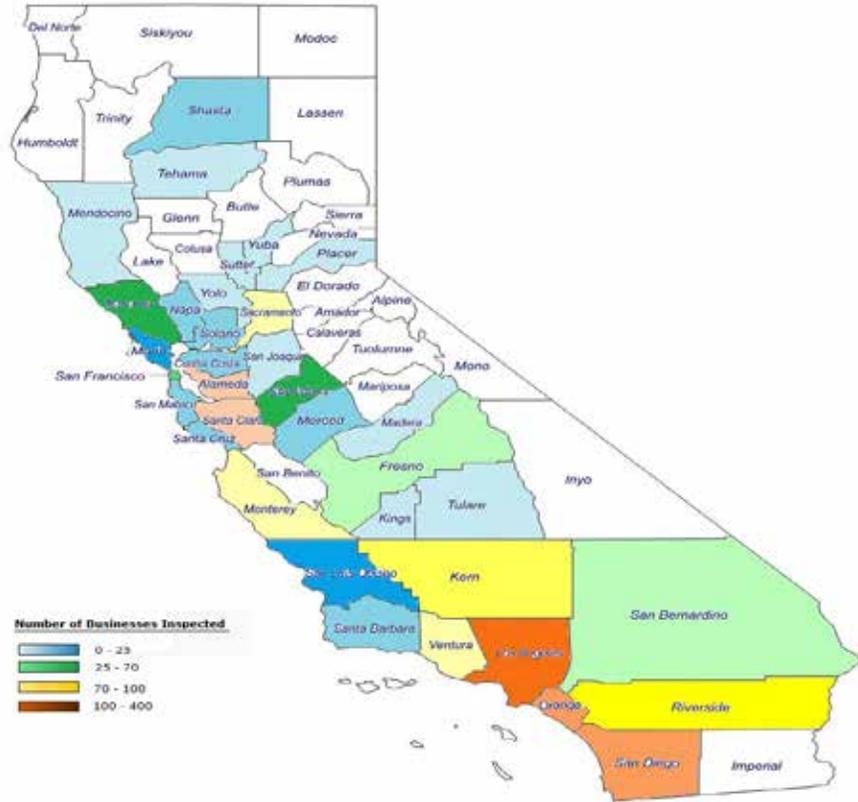
Enforcement outcomes of businesses that were inspected jointly by DLSE, EDD and Cal/OSHA were examined for two purposes: (1) to assess the effectiveness of our targeting methodology; and (2) to test the underlying assumption that businesses operating in the underground economy are likely to have violations 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.

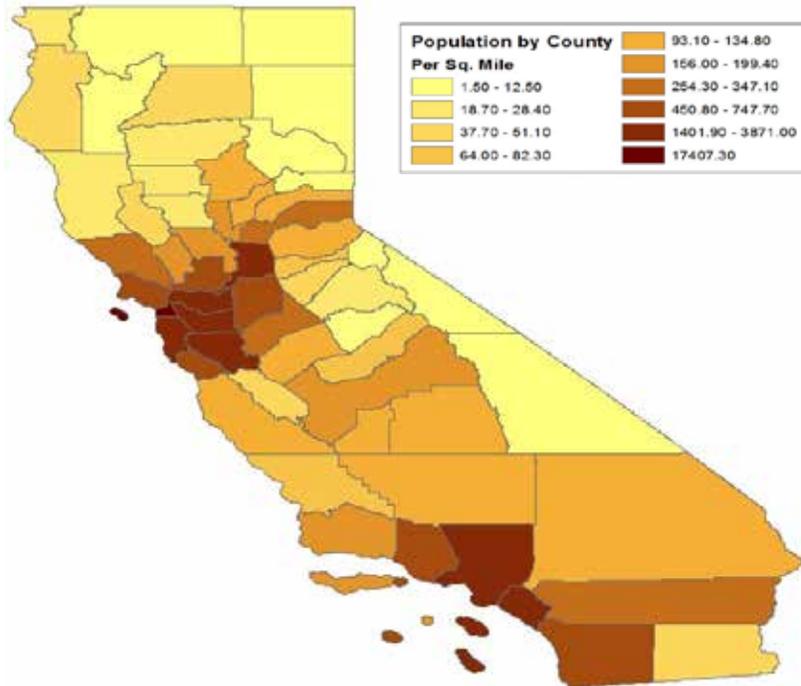
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Figure 143: LETF Inspected Businesses by County, FY 2014-2015



Source: LETF Database

Figure 144: California Population Density, 2011



Source: Southern California Earthquake Center

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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

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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 against 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

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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.

SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

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

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.

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

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.

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.

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

- 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.

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.

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

- 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

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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

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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

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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.”

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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 of workers' compensation claims, hiring substitutes and Cal/OSHA fines.

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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:

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- 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>.