The California Commission on Health and Safety and Workers' Compensation

REVISED DRAFT Claims Adjuster and Bill Reviewer Training and Certification by Insurers

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Introduction

At the November 6, 2008 meeting of the Commission on Health and Safety and Workers' Compensation (CHSWC), the Commission instructed staff to review the regulation, compliance and enforcement of claims adjuster and bill reviewer training and certification. The issue of enforcement and oversight was raised by Commissioner Aguilar. This paper reviews the existing rules and oversight process.

At the December 12, 2008 CHSWC meeting, the draft report which reviewed regulation, compliance and enforcement of claims adjuster and bill review training and certification was presented and approved for distribution for public comment and feedback. The Commission also requested that CHSWC staff hold an Advisory Group meeting to look further into the oversight process for claims adjuster and bill reviewer certification.

This report updates the December 2008 report and includes information from the Claims Adjuster and Bill Reviewer Training and Certification Advisory Group meeting.

Executive Summary

The California Department of Insurance (CDI) is directed by statute to require insurers to assure that the individuals responsible for handling their claims will meet a minimum standard of training or experience. "Insurer" is defined for this purpose to mean a workers' compensation insurance carrier, a self-insured employer, or a third-party administrator (TPA) for a self-insured employer. The regulations allow those insurers to manage the training and to designate as trained or experienced the individuals who have received the required training, including continuing education.

Three different levels of claims adjusting responsibility may be designated, each with its own required training and post-designation continuing education. The levels are Claims Adjuster, Medical-Only Claims Adjuster, and Medical Bill Reviewer. After an individual has been designated as "trained" at one of these levels, the regulations require periodic post-designation training. There is also a provision for designation of "experienced" claims handlers in each level. The "experienced" designation served to grandfather in many working claims handlers at the time the new program took effect, and it serves to qualify individuals to supervise trainees handling claims prior to completing training. As an alternative to the specified claims adjusting experience, an individual may be designated as an Experienced Claims Adjuster after passing the comprehensive examination issued by the Department of Industrial Relations (DIR) to qualify as a self-insurance administrator.

The designation of a trained or experienced adjuster or reviewer is issued by the insurer whether or not the insurer is the direct employer. Records of training or experience must be obtained and retained by the insurer. The designation is portable with the individual. The only filings required with CDI are the insurer's certification of the total numbers of persons adjusting its claims and the numbers of those persons who are designated as trained or experienced, as well as the insurer's certification that the training complies with the requirements.

Insurers (as defined to include self-insured employers and third-party adjusters) are the regulated entities under this program; this is not an adjuster-licensing program. No penalties are prescribed for insurers who do not comply. CDI does not have jurisdiction over self-insured employers or their third party adjusting agents. Both CDI and the DIR are entitled to access to insurer (as defined) records of claims handlers' training and experience, so verification of compliance is possible through one department if not the other.

Statute

California Insurance Code Section 11761 was enacted in 2003 to require the Insurance Commissioner to adopt "regulations setting forth the minimum standards of training, experience, and skill that workers' compensation claims adjusters must possess to perform their duties with regard to workers' compensation claims." The statute includes medical bill reviewers for workers' compensation. The statute requires that insurers certify that adjusters and bill reviewers meet the standards set by the Commissioner.

Subdivision (d) of the statute defines "insurer" to include workers' compensation insurers, self-insured employers, and third-party administrators for self-insured employers. This language can give rise to some possibly unexpected results. For example, an insurer that uses third-party adjusting agents is required to make the certification rather than delegate the responsibility to its adjusting agents. This report uses the term "insurer" according to the statutory meaning. (See Attachment A for the full text of the statute.)

Regulations

Regulations became effective on February 22, 2006, and are found at California Code of Regulations, Title 10, Sections 2592 through 2592.14. (See Attachment B for the full text.)

The regulations provide definitions, specify the qualifications an individual must meet to be designated by an insurer in any of six designations, prescribe the duty of insurers to file certifications with CDI, and prescribe the duty of insurers to maintain certain records and furnish them to regulators or to designated adjusters or reviewers.

Training and Experience

The six available designations are:

Trained Claims Adjuster	Experienced Claims Adjuster
Trained Medical-Only Claims Adjuster	Experienced Medical-Only Claims Adjuster
Trained Medical Bill Reviewer	Experienced Medical Bill Reviewer

For each level of trained claims handler, regulations specify the number of hours of training, including classroom hours, and the subjects to be taught. The regulations also specify continuing education, called post-designation training, which must be maintained. The regulations state the qualifications of instructors. Insurers must certify that the training meets the requirements. The curriculum content is not otherwise regulated or subject to CDI approval. (See the full text in Attachment B or a simplified flow chart in Attachment H**.)**

The regulations permit designation of an "experienced" adjuster or reviewer for two purposes. First, adjusters or reviewers who had already acquired the requisite years of experience were grandfathered in when the program began, without the necessity of the initial training to become designated. Second, adjusters or reviewers who are designated as "experienced" may supervise trainees who are handling claims while still in training. For each level of experienced claims handler, regulations specify the number of years of required experience. As an alternative, an individual may qualify for the designation of Experienced Claims Adjuster by passing the Self Insurance Administrator's Examination given by the Department of Insurance, Office of Self Insurance Plans, pursuant to 8 Cal. Code of Regulations, Section 15452.

Maintenance and Availability of Records

All insurers must maintain a record of all courses given or taken by claims adjusters, medical-only claims adjusters, or medical bill reviewers to comply with the article.

Designations of trained or experienced adjusters or reviewers are issued by the insurers. Insurers must keep copies of designation forms and post-designation training forms, whether or not adjusters and medical bill reviewers were trained by the insurer, and maintain those copies for five years after separation. Copies of designation forms must be shared among insurers upon request for the purposes maintaining records of adjusters.

All records maintained pursuant to this article must be made available to the Insurance Commissioner and to the Administrative Director of the Division of Workers' Compensation (DWC). (Section 2592.06 (f))

Upon request of a policyholder or an injured worker whose claim is being adjusted, the insurer must provide a copy of the Designation Form, demonstrating the adjuster's qualifications.

Each insurer must submit to CDI by July 1 annually a document certifying the number of persons adjusting and the number and percentage of those experienced or trained; likewise for medical-only adjusters and for bill reviewers. (An example of an Annual Certification form is in the Appendix.) CDI posts the results from insurer certification forms on its website at **http://www.insurance.ca.gov/0200-industry/0100-education-provider/wc_training.cfm** under the heading, Insurer and Third-Party Administrator (TPA) Certification Summaries. Note that because the certification combines the numbers of adjusters who are designated as "trained" or "experienced" (or both), CDI does not have separate figures for trained adjusters and experienced adjusters. Columns in the posted figures that are labeled "Experienced" actually refer to "Trained or Experienced."

Compliance, Enforcement and Penalties

All "insurers," including insurance carriers, self-insurers, and TPAs for self-insurers, are required to submit Certification annually to the CDI Producer Licensing Bureau pursuant to regulations.

CDI and DIR each have potential jurisdiction to enforce training requirements and appropriate handling of claims and medical bills. CDI has the power over insurance companies admitted to transact business in this state. The CDI Statistical Analysis Division sends out a data call "workbook" to workers' compensation insurance carriers and requests the specific information required by regulation and the certification form.

CDI has no jurisdiction over the other "insurers" as defined for this program to include self insured employers and their TPAs. DIR has authority over self-insured employers and their TPAs. The legislation does not specify any enforcement power for either CDI or DIR, other than the fact that insurer's certification is made under penalty of perjury. Regulations issued by CDI allows the Administrative Director (AD) of the Division of Workers' Compensation (DWC) to have access to the records of training maintained by insurers as defined, although the jurisdiction over self-insured employers and their TPAs is with DIR.

Claims Adjuster and Bill Reviewer Training and Certification Advisory Group Meeting

At the request of the Commission at its December 12, 2008 meeting, CHSWC staff held an Advisory Group meeting on January 23, 2009, to look further into the oversight process for claims adjuster and bill reviewer certification. (See Attachments I and J.)

The key question for the Advisory Group was whether there is sufficient oversight of the program and if not, what enforcement needs to be implemented. Also discussed was whether this is a training issue or something else that might be best left to the courts to enforce through adjudication of benefits or penalties, case-by-case.

Key Issues from Advisory Group Meeting Participants

Discussion about the differences between licensing requirements and certification requirements was held. Additional discussion included the following:
Program Accountability

- A question was raised about sufficient accountability of the certification process.
- Several stakeholders commented that it seems that only a small percentage of claims adjusters and medical bill reviewers perform poorly.
- Several stakeholders felt that accountability is triggered either through the audit process or when a complaint is filed; however, the audit process does not have authority over certification of training. Currently, the DWC Audit Unit does not have authority to review training certification.

Audit Process

- DWC has the authority to enforce claims handling.
- DWC audits have improved slightly. The sampling and selection of the audits are representative of the entire system.
- DWC audits look at whether the medical bill is paid in the correct amount and in a timely manner.
- The question was raised whether the authority to assess penalties for failure to train staff properly by not complying with certification requirements could be included in the audit authority.

Key Issues Regarding Training

- The training is new, so the question remains whether better outcomes, i.e., improvement of claims processing, have resulted from the training requirement.
    - The training program covers specific designated topics. Some stakeholders commented that the training focuses on hours of training, and adjusters are often focused on counting hours. There should be more emphasis on outcomes.

- Several stakeholders commented that there are only a small percentage of poor performers or "bad actors."
- According to adult learning theory, providing training does not necessarily improve the level of performance.
- Incentives can change behavior. It was questioned whether incentives should be directed at individuals or at organizations and whether additional incentives are needed.
- It was suggested that creating increased bureaucracy and additional requirements when only a minority may be the problem would create issues for the community, as well as expense which could increase the cost of the system.

Existing Gaps

- There needs to be a way to identify poor performers. Insurers are responsible for certifying that those who handle claims have the appropriate training. The adjuster training records go with the adjuster and they can be made available by the TPA to the insurers so they can implement the certification.
- Active TPAs and self-insurers are listed on the DIR Office of Self-Insurance Plans (OSIP) website, and insurers (as defined to include self-insured self-administered employers, TPAs for self-insured employers, and insurance carriers) who report their claims adjusters' certifications are listed on the CDI website.
    - OSIP does not post the numbers of claims adjusters and bill reviewers certified by self-insured employers and self-insured employers' TPAs on the OSIP website. Data posted by CDI regarding TPAs seem to be incomplete, according to some stakeholders.
    - There seems to be less than full compliance with reporting by the self-insured employers' TPAs on the CDI website.

Advisory Group Recommendations and Next Steps

Advisory Group meeting participants suggested the following:

- Claims adjuster and bill reviewer regulations are basically adequate. Accountability in relation to the regulations could be reviewed by DIR and CDI.
- Out-of-state claims adjuster training for California claims may not be nearly as good as training in California. Review of out-of-state insurers could be increased.

- Determine if there is a gap in the reporting of training in terms of a match between those who report their training levels and those who should be reporting their training levels.

Conclusion

The conclusion to the December 2008 report is that the program is relatively new, and its strengths and weakness are not fully recognized yet. It is awkward for a single program to oversee the operations of both insurance carriers and self-insured employers because they are under the jurisdictions of different departments of state government. Mechanisms are available to encourage compliance.

The CHSWC staff recommendation based on discussion at the Advisory Group meeting was that any enforcement of claims adjuster and bill reviewer training should be the responsibility of the respective agencies currently responsible for self-insureds and their TPAs and for insurance companies. For self-insureds and their TPAs, enforcement should be done by OSIP and it should include confirming that the entities under its jurisdiction which are required to certify their claims adjuster and bill reviewer training have in fact submitted the required certifications to CDI.[1] For insurance companies, CDI has advised that they are working to ensure complete compliance by the companies. The statute does not specifically provide enforcement powers, but the respective Departments may consider judicious use of general oversight authority. A Department can at least encourage compliance without need for statutory authority.

In addition, increased education and outreach should be implemented by DIR and CDI to improve compliance.

[1] To test this proposal, CHSWC staff compared the first 13 pages of the 64-page list of private self-insured employers at http://www.dir.ca.gov/sip/PrivateRoster.pdf against the list of self-insurers reporting to CDI as shown at http://www.insurance.ca.gov/0200-industry/0100-education-provider/upload/WCSelfInsuredAdjRpt2008.pdf, both sites accessed on February 10, 2009. Two private self-insured employers in this sample appear to warrant further inquiry. In the first 13 pages of the OSIP list, one employer characterized as "Self Administered and Administered" and one characterized as "Self Administered" do not appear on the CDI list. This review did not include the employers on the OSIP list that are characterized as "Administered," because their TPAs would be the entities responsible for compliance. A more comprehensive effort would include data from additional lists maintained by OSIP and by CDI.

ATTACHMENT A

INSURANCE CODE
SECTION 11761

11761. (a) The commissioner shall adopt regulations setting forth the minimum standards of training, experience, and skill that workers' compensation claims adjusters must possess to perform their duties with regard to workers' compensation claims. The regulations adopted pursuant to this section shall, to the greatest extent possible, encourage the use of existing private and public education, training, and certification programs.

(b) Every insurer shall certify to the commissioner that the personnel employed by the insurer to adjust workers' compensation claims, or employed for that purpose by any medical billing entity with which the insurer contracts, meet the minimum standards adopted by the commissioner pursuant to subdivision (a).

(c) For the purposes of this section, "medical billing entity" means a third party that reviews or adjusts workers' compensation medical bills for insurers.

(d) For the purposes of this section, "insurer" means an insurer admitted to transact workers' compensation insurance in this state, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code, or a third-party administrator that has secured a certificate of consent pursuant to Section 3702.1 of the Labor Code.

ATTACHMENT B

CCR Title 10, Chapter 5, Subchapter 3, Article 20 Sections 2592 through 2592.14

STANDARDS APPLICABLE TO WORKERS' COMPENSATION CLAIMS ADJUSTERS AND MEDICAL BILLING ENTITIES AND CERTIFICATION OF THOSE STANDARDS BY INSURERS.

§ 2592. Authority and Purpose.

These regulations are promulgated pursuant to authority granted to the Insurance Commissioner under the provisions of Section 11761 of the California Insurance Code. The purpose of these regulations is to set forth the minimum standards of training, experience, and skill that workers' compensation claims adjusters, including adjusters working for medical billing entities, must possess to perform their duties with regard to workers' compensation claims and to specify how insurers must meet and certify those standards to the Insurance Commissioner.

§ 2592.01. Definitions.

As used in this article:
(a) "Certify" means a written statement made under penalty of perjury.

(b) "Claims adjuster" means a person who, on behalf of an insurer, including an employee or agent of an entity that is not an insurer, is responsible for determining the validity of a workers' compensation claim. The claims adjuster may also establish a case reserve, approve and process all workers' compensation benefits, may hire investigators, attorneys or other professionals and may negotiate settlements of claims. "Claims adjuster" also means a person who is responsible for the immediate supervision of a claims adjuster but does not mean an attorney representing the insurer or a person whose primary function is clerical. "Claims adjuster" also includes an experienced claims adjuster. "Claims adjuster" does not include the medical director or physicians utilized by an insurer for the utilization review process pursuant to Labor Code section 4610.

(c) "Classroom" means any space sufficiently designed so that the instructor and students can communicate with a high degree of privacy and relative freedom from outside interference. The instructor or the person or persons assisting the instructor may be physically present or may communicate with students by means of an electronic medium, including, but not limited to, audio, video, computer, or Internet.

(d) "Course" means any program of instruction taken or given to satisfy the requirements of Insurance Code Section 11761.

(e) "Curriculum" means a course of study that satisfies the requirements of Insurance Code Section 11761. The curriculum must provide sufficient content, including time allocated to each subject area, to

enable claims adjusters, medical-only claims adjusters, and medical bill reviewers to meet minimum standards of training, experience, and skill to perform their duties with regard to workers' compensation claims.

(f) "Experienced claims adjuster" means a person who has had at least five (5) years within the past eight (8) years of on-the-job experience adjusting California workers' compensation claims or supervising claims adjusters handling California workers' compensation claims and is designated as an experienced claims adjuster by an insurer. A person who has successfully completed the written examination specified by Title 8, Section 15452 of the California Code of Regulations is also considered an experienced claims adjuster, provided that he or she has either (1) worked as a workers' compensation claims adjuster or supervised workers' compensation claims adjusters continuously since passing the examination and is designated as an experienced claims adjuster by an insurer or (2) passed the examination within the previous five (5) years and is designated as an experienced claims adjuster by an insurer. "Experienced claims adjuster" also includes a person who has already been trained and designated a claims adjuster and now meets the requirements of experience or examination completion noted above and is designated an experienced claims adjuster by an insurer.

(g) "Experienced medical-only claims adjuster" means a person who has had at least three (3) years within the past five (5) years of on-the-job experience adjusting California workers' compensation medical-only claims and is designated as an experienced medical-only claims adjuster by an insurer.

(h) "Experienced medical bill reviewer" means a person who has had at least three (3) years within the past five (5) years of on-the-job experience reviewing California workers' compensation medical bills and is designated as an experienced medical bill reviewer by a medical billing entity or by an insurer.

(i) "Instructor" means a person who conveys curriculum content to students on behalf of an insurer, a training entity, or a medical billing entity. An instructor shall have had at least five (5) years within the past eight (8) years of on-the-job experience adjusting California workers' compensation claims and have been designated as a claims adjuster by an insurer or be an individual who has had at least eight (8) years of experience in California workers' compensation within the past twelve (12) years. Persons knowledgeable about specific workers' compensation issues who are not instructors may train students under the direction of an instructor.

(j) "Insurer" means an insurance company admitted to transact workers' compensation insurance in California, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure from the Department of Industrial Relations pursuant to Labor Code Section 3700(b) or (c), or a third party administrator that has secured a certificate of consent pursuant to Labor Code Section 3702.1.

(k) "Medical bill reviewer" means a person who is not a claims adjuster or medical-only claims adjuster

and who only reviews or adjusts workers' compensation medical bills on behalf of an insurer, including employees or agents of the insurer or employees or agents of a medical billing entity. "Medical bill reviewer" also includes an experienced medical bill reviewer.

(l) "Medical billing entity" means a third party that reviews or adjusts workers' compensation medical bills for insurers.

(m) "Medical-only claims adjuster" means a person who, on behalf of an insurer, including an employee or agent of an entity that is not an insurer, is responsible for determining the validity of workers' compensation claims only involving medical workers' compensation benefits, as defined under Article 2 (commencing with Labor Code section 4600) of Chapter 2 of Part 2 of Division 4 of the Labor Code. The medical-only claims adjuster may also establish medical treatment reserves, approve and process medical benefits, and negotiate settlement of medical benefit claims. "Medical-only claims adjuster" also means a person who is responsible for the immediate supervision of a medical-only claims adjuster but does not mean an attorney representing the insurer or a person whose primary function is clerical. "Medical-only claims adjuster" also includes an experienced medical-only claims adjuster. "Medical-only claims adjuster" does not include the medical director or physicians utilized by an insurer for the utilization review process pursuant to Labor Code section 4610.

(n) "Post-designation training" means a course of study provided to trained or experienced workers' compensation claims adjusters and medical-only claims adjusters who have been designated by an insurer or provided to trained or experienced medical bill reviewers who have been designated by an insurer or medical billing entity. Post-designation training also includes seminars, workshops, or other informational meetings pertaining to California workers' compensation.

(o) "Student" or "trainee" means an individual taking a course that is required for that person in order to be a workers' compensation claims adjuster, medical-only claims adjuster, or medical bill reviewer.

(p) "Training" means to provide a course of instruction that includes the topics specified in Sections 2592.03 and 2592.04.

(q) "Training entity" means any person or organization that provides instructors or curriculum to an insurer or medical billing entity.

§ 2592.02. Training Required for Claims Adjusters and Medical-Only Claims Adjusters.

(a) Every insurer shall require all claims adjusters and medical-only claims adjusters who handle workers' compensation claims on the insurer's behalf, other than those who are defined in subdivisions (f) and (g) of Section 2592.01, to be trained pursuant to these subparagraphs:

(1) The insurer shall require at least 160 hours of training for claims adjusters, at least 120 hours of which shall be conducted in a classroom with an instructor. The insurer shall require at least 80 hours of training for medical-only claims adjusters, at least 50 hours of which shall be conducted in a classroom with an instructor. Any training not conducted in a classroom with an instructor may be done on the job under the supervision of an instructor or an experienced claims adjuster.

(2) A medical-only claims adjuster who has completed 80 hours of training pursuant to this section may be designated as a claims adjuster upon completion of 80 additional hours of workers' compensation claims training, 70 hours of which shall be in a classroom with an instructor, provided that such training is completed within six months of the claims adjuster beginning to adjust claims that include more than medical benefits.

(b) The training required by this section shall be completed within a twelve (12) consecutive month period, during which time a claims adjuster or medical-only claims adjuster trainee may adjust claims under the supervision of an instructor or experienced claims adjuster. No individual may adjust claims on behalf of one or more insurers for a combined total of more than twelve (12) months unless such individual has been trained pursuant to this article. However, if a claims adjuster or medical-only claims adjuster trainee requires leave from his or her employment because of illness, disability, military service, or leave required or permitted by state or federal law, and the leave has begun after the training has started, the training shall be completed within a period not to exceed 24 months after the commencement of the training.

(c) Any classes or courses taken within three (3) years before the effective date of these regulations that satisfy the curriculum requirement may be used to meet the hourly requirements upon verification by the student to the insurer of the type of course taken, the course of study, the date or dates taken, the person or organization providing the class or course, and the number of hours taken.

(d) Upon the effective date of these regulations, every insurer shall require a minimum of 30 hours of post-designation training every two (2) years for all claims adjusters and 20 hours of training every two (2) years for all medical-only claims adjusters.

(e) Post-designation training may include seminars, workshops, or other informational meetings pertaining to California workers' compensation and need not be in a classroom with an instructor. Such training shall be verified by the insurer with the type of course taken, the subject matter, the date or dates taken, the location of the training, the person or organization providing the training, and the number of hours taken.

(f) Failure of a claims adjuster or medical-only claims adjuster who has received a designation pursuant to subdivisions (a) or (b) of section 2592.05 to fulfill the requirements for post-designation training every

two years pursuant to subdivisions (d) and (e) above shall result in that person being no longer considered a designated claims adjuster or medical-only claims adjuster. That person shall not be authorized to adjust claims until the requisite number of hours of post-designation training is completed.

(g) The insurer may provide the designation training directly or by sending its employees or its agents to be trained by a training entity for the entire designation curriculum. An insurer shall certify to the Insurance Commissioner that the course of instruction provided for training meets all the requirements set forth in this article and that all of the claims adjusters and medical-only claims adjusters who adjust claims on behalf of the insurer have actually attended the training for the required number of hours, in the manner provided for in sections 2592.07 and 2592.08.

(h) A claims adjuster or medical-only claims adjuster who has completed the training required by this section shall not be required to be re-trained and re-designated in order to adjust claims for a different insurer.

(i) An insurer may not authorize an individual to act in the capacity of claims adjuster or medical-only claims adjuster who has not been trained and designated pursuant to this article or who is not an experienced claims adjuster or an experienced medical-only claims adjuster and designated pursuant to this article, except that an individual who is undergoing training may adjust claims under the direct supervision of an instructor or experienced claims adjuster.

§ 2592.03. Curriculum.

(a) The course of study required by Section 2592.02 for claims adjusters shall include, but not be limited to, the following topics:

(1) Historical overview of the workers' compensation system.

(2) Organizational structure of the system.

(3) The workers' compensation insurance policy, its forms and endorsements, insurance principles of compensation.

(4) Concepts and terminology.

(5) Benefit provisions.

(6) Compensability.

(7) Notice requirements.

(8) Temporary disability.

(9) Permanent disability, including evaluation and rating.

(10) Death benefits.

(11) Return to work and vocational rehabilitation.

(12) Cumulative trauma.

(13) Serious and willful misconduct.

(14) Workers' Compensation Appeals Board procedures, forms, hearings, and penalties.

(15) Investigation.

(16) Fraud.

(17) Medical terminology.

(18) Knowledge and use of utilization guidelines (American College of Occupational and Environmental Medicine or other guidelines approved by the Administrative Director of the Division of Workers' Compensation.)

(19) Medical evidence.

(20) Medical dispute resolution (Qualified Medical Examiners, spinal surgery second opinions, pre-designation of physicians, independent medical reviewers, utilization review.)

(21) Fee schedules.

(22) Liens.

(23) Apportionment.

(24) Subrogation.

(25) Reserving.

(26) Ethical issues.

(b) The course of study required for the training of medical-only claims adjusters shall include, at a minimum, all the topics specified in subdivision (a) above, with the exception of (8), (9), (10), (11), (13), and (23).

(c) The course of study required by Section 2592.02(d) for post-designation training shall include

changes in the law that affect workers' compensation claims and any other topics relevant to the work of a claims adjuster or medical-only claims adjuster as specified in subdivision (a) above.

§ 2592.04. Training Required for Medical Bill Reviewers.

(a) Every insurer shall require all medical bill reviewers, other than those defined in section 2592.01(h), including employees and agents of medical billing entities used by the insurer, to be trained. The insurer shall require at least 40 hours of training for medical bill reviewers, at least 30 hours of which shall be conducted in a classroom by an instructor. No more than ten (10) hours of training may be done on the job.

(b) The training required by this section shall be completed within a twelve (12) month period, during which time a medical bill review trainee may review bills under the supervision of an instructor, experienced medical bill reviewer, or experienced claims adjuster. No individual may review medical bills on behalf of one or more insurers for a combined total of more than twelve (12) months unless the individual has been trained pursuant to this article.

(c) Any classes or courses taken within one (1) year before the effective date of these regulations that satisfy the curriculum requirement of subdivision (h) below may be used to meet the hourly requirements upon verification by the student to the insurer or medical billing entity of the type of course taken, the course of study, the date or dates taken, the person or organization providing the class or course, and the number of hours taken.

(d) Upon the effective date of these regulations, every insurer shall require a minimum of 16 hours every two (2) years of post-designation training for all medical bill reviewers and shall include in the post-designation training changes in the law affecting medical bill reviewers and topics as specified in subdivision (h) below.

(e) Failure of a medical bill reviewer designated pursuant to subdivisions (a) or (c) of section 2592.05 to fulfill the requirements for post-designation training every two years pursuant to subdivision (d) above shall result in that person being no longer considered a designated medical bill reviewer. That person shall not be authorized to review medical bills until the requisite number of hours of post-designation training is completed.

(f) The insurer may provide the designation training directly or by sending its employees or agents to be trained by a training entity for the entire designation curriculum. The insurer shall require all medical billing entities that review or adjust medical billings on its behalf to have the medical billing entities' employees or agents trained directly by the medical billing entity, the insurer, or by a training entity for the entire designation curriculum. The insurer shall certify, in the manner provided for in sections 2592.07 and 2592.09, that the course of instruction provided or that is provided by its medical billing

entities meets all the requirements set forth in this article and that all medical bill reviewers of the insurer and its medical billing entities have actually attended the training for the required number of hours.

(g) A medical bill reviewer who has received a Designation as having completed the training required by this article shall not be required to be re-trained and re-designated in order to review medical bills for a different insurer.

(h) The curriculum for the training of medical bill reviewers shall include, but not be limited to, the following topics:

(1) The correct use of billing codes and detection of improper use of billing codes.

(2) All fee schedules applicable in California to workers' compensation medical care, including statutes and regulations authorizing the fee schedules.

(3) Workers' compensation benefit provisions.

(4) Fraud.

(5) Medical terminology.

(6) Utilization guidelines (American College of Occupational and Environmental Medicine or other guidelines approved by the Administrative Director of the Division of Workers' Compensation.)

(7) Medical evidence.

(8) Liens.

(9) Ethical issues.

(i) An insurer may not authorize an individual to act in the capacity of a medical bill reviewer who has not been trained pursuant to this article or who is not an experienced medical bill reviewer, except that an individual who is undergoing training may review medical bills under the direct supervision of an instructor, experienced medical bill reviewer or experienced claims adjuster.

§ 2592.05. Designation.

(a) A Designation shall be provided by the insurer to any person who successfully completes the claims adjuster, medical-only claims adjuster, or medical bill reviewer training required by sections 2592.02 and 2592.03 or section 2592.04, respectively. The Designation for a claims adjuster, medical-only claims adjuster or a medical bill reviewer shall be in the form specified in Section 2592.10 or 2592.11, respectively.

(b) An Experienced Claims Adjuster or Experienced Medical-Only Claims Adjuster Designation shall be provided by the insurer to a person as defined in Section 2592.01(f) or (g), respectively. The Experienced Claims Adjuster or Experienced Medical-Only Claims Adjuster Designation shall be in the form specified in Section 2592.12.

(c) An Experienced Medical Bill Reviewer Designation shall be provided by the insurer to a person as defined in Section 2592.01(h). The Experienced Medical Bill Reviewer Designation shall be in the form specified in Section 2592.13.

(d) An insurer shall provide to the claims adjuster, medical-only claims adjuster or medical bill reviewer a Post-Designation Training Form that states the course and hours taken for the post-designation training following the completion of the required training. The Post-Designation Training Form shall be on the form specified in Section 2592.14.

(e) A medical billing entity may provide medical bill reviewer and experienced medical bill reviewer Designations and Post-Designation Training Forms to its employees or agents that meet the requirements of this article so long as the insurer using the medical billing entity confirms that the medical billing entity has met all requirements of this article and obtains copies of all records required by this article.

§ 2592.06. Maintenance of Records.

(a) An insurer shall maintain copies of the Designation forms pertaining to trained and experienced claims adjusters, medical-only claims adjusters and medical bill reviewers in its employ or acting on its behalf, notwithstanding whether or not that person was designated by it or was employed or trained by or on behalf of another insurer or a medical billing entity, as long as the claims adjuster, medical-only claims adjuster, or medical bill reviewer is in its employ or acting on its behalf and thereafter for five (5) years.

(b) An insurer shall maintain copies of the Post-Designation Training Forms as long as the claims adjuster, medical-only claims adjuster, or medical bill reviewer is in its employ or acting on its behalf, notwithstanding whether or not that person received post-designation training by that insurer or was employed or trained by or on behalf of another insurer or medical billing entity, and thereafter for five (5) years.

(c) If a trained or experienced claims adjuster, medical-only claims adjuster, or medical bill reviewer is employed by or works on behalf of an insurer that did not designate him or her, the insurer that did designate the claims adjuster, medical-only claims adjuster, or medical bill reviewer shall send copies of the Designation Forms to the current insurer within 20 working days after a request for the Designation Forms has been received.

(d) All insurers shall maintain a record of all courses given or taken by claims adjusters, medical-only claims adjusters, or medical bill reviewers to comply with this article. The record shall include:

(1) The name and business address of all students, along with the beginning and ending date of the training of the student and a statement of whether or not the student has completed the training in all topic areas required to be covered.

(2) A complete description of the curriculum, including all topics covered with a detailed statement of how much time was spent training students in each topic, the name of the entity providing the instruction, and the name of the instructor or instructors and any persons who instructed under the direction of the instructor.

(e) All insurers shall maintain a record of all post-designation courses, seminars, workshops, or other training taken by claims adjusters, medical-only claims adjusters, and medical bill reviewers employed by or acting on their behalf. The record shall also include the dates of such training, the time spent in the training, and the topics covered.

(f) All records maintained pursuant to this article shall be made available to the Insurance Commissioner and to the Administrative Director of the Division of Workers' Compensation. Copies of all Designation Forms maintained pursuant to the article and issued to a claims adjuster, medical-only claims adjuster, or medical bill reviewer shall be provided by the insurer that issued the forms to that person within 20 working days of a request for copies of the forms from the claims adjuster, medical-only claims adjuster, or medical bill reviewer.

(g) Upon the request of a policyholder or an injured worker whose claim is being adjusted, the insurer shall provide to the requesting policyholder or injured worker a copy of the Designation Form of the claims adjuster, medical-only claims adjuster, or medical bill reviewer handling the claim demonstrating that person's qualifications in adjusting that claim.

§ 2592.07. Certification and Submission of Documents.

(a) Each insurer shall submit to the commissioner annually by July 1 of each year a document certifying the following:

(1) the total number of persons adjusting claims on its behalf;

(2) the total number of claims adjusters and medical-only claims adjusters who are trained or experienced;

(3) the percentage of the claims adjusters and medical-only claims adjusters who are trained or experienced;

(4) all persons adjusting claims on behalf of the insurer are designated to do so or are in training; and

(5) the course of instruction provided for training of all claims adjusters and medical-only claims adjusters meets all requirements of this article and that all claims adjusters and medical-only claims adjusters have attended training for the required number of hours to be qualified to adjust workers' compensation claims.

The document, which shall be on the form specified in Section 2592.08, shall be signed under penalty of perjury by the person or executive officer responsible for the insurer's claims operations. The commissioner shall publish the information contained in this document on the Department of Insurance public website.

(b) Each insurer shall submit to the commissioner annually by July 1 of each year a document certifying the following:

(1) the total number of medical bill reviewers reviewing medical bills on its behalf;

(2) the total number of medical bill reviewers who are trained or experienced;

(3) the percentage of the medical bill reviewers who are trained or experienced medical bill reviewers;

(4) all persons reviewing medical bills on its behalf are designated to do so or are in training; and

(5) the course of instruction provided for training of all medical bill reviewers of the insurer and of medical billing entities used by the insurer meets all requirements set forth in this article and that all medical bill reviewers of the insurer and of medical billing entities used by the insurer have attended training for the required number of hours to be qualified to perform medical bill review.

The document, which shall be on the form specified in Section 2592.09, shall be signed under penalty of perjury by the person or executive officer responsible for the insurer's claims operations. The commissioner shall publish the information contained in this document on the Department of Insurance public website.

§ 2592.08. Insurer Annual Certification Form -Claims Adjusters and Medical-Only Claims Adjusters.

ANNUAL CERTIFICATION OF CLAIMS ADJUSTERS AND MEDICAL-ONLY CLAIMS ADJUSTERS

(insert Form image)

§ 2592.09. Insurer Annual Certification Form -Medical Bill Reviewers.

ANNUAL CERTIFICATION OF MEDICAL BILL REVIEWERS

(insert Form image)

§ 2592.10. Designation -Claims Adjuster and Medical-Only Claims Adjuster.

CLAIMS ADJUSTER or MEDICAL-ONLY CLAIMS ADJUSTER DESIGNATION

(insert Form image)

§ 2592.11. Designation -Medical Bill Reviewer.

MEDICAL BILL REVIEWER DESIGNATION

(insert Form image)

§ 2592.12. Designation -Experienced Claims Adjuster and Medical-Only Claims Adjuster.

EXPERIENCED CLAIMS ADJUSTER OR EXPERIENCED MEDICAL-ONLY CLAIMS ADJUSTER DESIGNATION

(insert Form image)

§ 2592.13. Designation -Experienced Medical Bill Reviewer.

EXPERIENCED MEDICAL BILL REVIEWER DESIGNATION

(insert Form image)

§ 2592.14. Post-Designation Training Form.

POST-DESIGNATION TRAINING FORM

(insert Form image)

ATTACHMENT C

CLAIMS ADJUSTER or MEDICAL-ONLY CLAIMS ADJUSTER DESIGNATION

This Designation is awarded to

_____

(Adjuster's Name)

for: ☐ **Claims Adjuster** ☐ **Medical-Only Claims Adjuster**

(Check Only One)

as a result of successfully completing the required hours for workers' compensation training pursuant to California Insurance Code Section 11761 and California Code of Regulations, Title 10, Sections 2592.02 and 2592.03

Total Hours of Training Completed: _____

Designation Given By:

_____

(Name of Insurance Company, Self-Insured Employer, or Third-Party Administrator)

_____ _____

(Date) (Signature)

Name of person awarding designation (print or type):

Title of person awarding designation:

Business address:

Note: Authority cited: Section 11761, Insurance Code. Reference cited: Section 11761, Insurance Code and Section 2592.10 of the California Code of Regulations, which is titled, "Designation—Claims Adjuster and Medical-Only Claims Adjuster."

ATTACHMENT D

EXPERIENCED CLAIMS ADJUSTER OR EXPERIENCED MEDICAL-ONLY CLAIMS ADJUSTER DESIGNATION

This Designation is awarded to

_____

(Adjuster's Name)

for: ☐Experienced Claims Adjuster

☐Experienced Medical-Only Claims Adjuster

(Check Only One)

as a result of meeting the experience requirements for workers' compensation claims experience pursuant to California Insurance Code Section 11761 and California Code of Regulations, Title 10, Sections 2592.01 and 2592.05

Total Years of California Experience at Time of Designation: _____

and/or

Date Completed Examination Pursuant to Title 8, CCR Section 15452: _____

Designation Given By:

_____

(Name of Insurance Company, Self-Insured Employer, or Third-Party Administrator)

_____ _____

(Date) (Signature)

Name of person awarding designation (print or type):

Title of person awarding designation:

Business address:

Note: Authority cited: Section 11761, Insurance Code. Reference cited: Section 11761, Insurance Code and Section 2592.12 of the California Code of Regulations, which is titled, "Designation—Experienced Claims Adjuster and Medical-Only Claims Adjuster."

ATTACHMENT E

POST-DESIGNATION TRAINING FORM

_____

(Adjuster's or Medical Bill Reviewer's Name)

☐ **Claims Adjuster** ☐ **Medical-Only Claims Adjuster** ☐**Medical Bill Reviewer**

(Check Only One)

has successfully completed the post-designation workers' compensation training and hours noted below pursuant to California Insurance Code Section 11761 and California Code of Regulations, Title 10, Sections 2592.02 , 2592.03, 2592.04, and 2592.05

Name and Topic of Post-Designation Training Taken:

_____

Total Hours of Post-Designation Training Completed: _____

Date of Post-Designation Training: _____

Post-Designation Training Verified By:

_____

(Name of Insurer or Medical Billing Entity)

_____ _____

(Date) (Signature)

Name of person verifying training (print or type):

Title of person verifying:

Business address:

Note: Authority cited: Section 11761, Insurance Code. Reference cited: Section 11761, Insurance Code and Section 2592.14 of the California Code of Regulations, which is titled, "Post—Designation Training Form."

ANNUAL CERTIFICATION OF MEDICAL BILL REVIEWERS
To the Insurance Commissioner of the State of California
Pursuant to California Insurance Code Section 11761 and California Code of Regulations, Title 10, Sections 2592.04 and 2592.07

As the person or officer responsible for the claims operation of:

_____
(Name of Insurer)

☐Insurance Company ☐Self-Insured Employer ☐Third-Party Administrator
(Check One)

I hereby certify the following regarding California workers' compensation claims:

1. The total number of medical bill reviewers reviewing medical bills on this insurer's behalf is: _____.

2. The total number of experienced or trained medical bill reviewers reviewing medical bills on this insurer's behalf is: _____.

3. The percentage of experienced or trained medical bill reviewers reviewing medical bills on this insurer's behalf is: _____%

4. All persons reviewing medical bills on behalf of this insurer are designated to do so or are in training.

5. The course of instruction provided for training of all medical bill reviewers of this insurer and of medical billing entities used by this insurer meets all requirements set forth in Article 20 (commencing with section 2592) of Subchapter 3, Chapter 5, Title 10, California Code of Regulations, and that all medical bill reviewers of this insurer and of medical billing entities used by this insurer have attended training for the required number of hours to be qualified to perform medical bill review.

I certify under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

_____ _____
(Date and Place) (Signature)

Name of person certifying (print or type):

Title of person certifying:

Business address:

Note: Authority cited: Section 11761, Insurance Code. Reference cited: Section 11761, Insurance Code and Section 2592.09 of the California Code of Regulations which is titled, "Insurer Annual Certification Form—Medical Bill Reviewers."

Please type or print clearly in ink. All sections of this form must be completed and submitted to the California Department of Insurance, Producer License Bureau – Education Section, Attention: Post-Designation Training Form, 320 Capitol Mall, Sacramento, CA 95814.

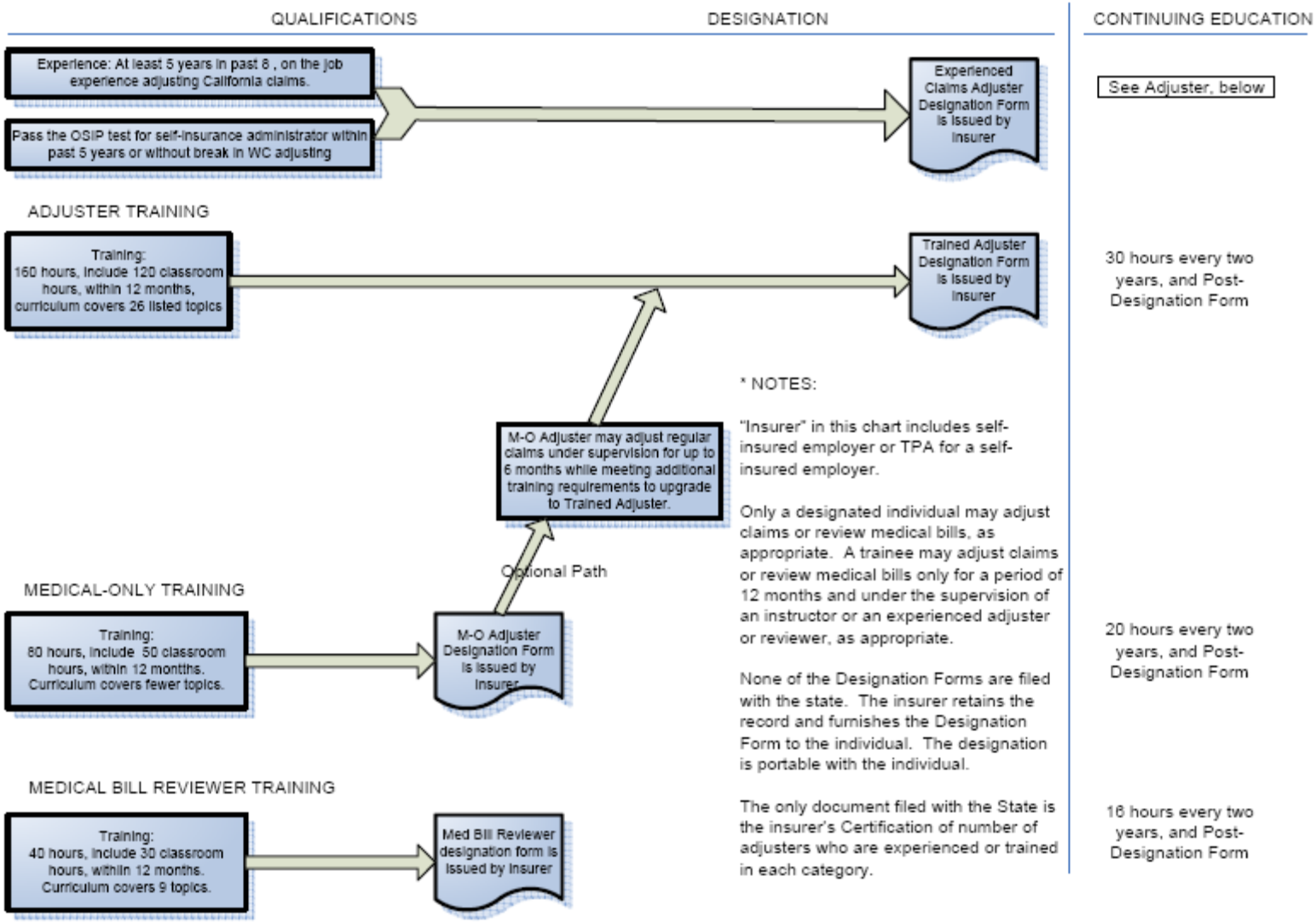
Education Section Inquiries: (916) 492-3064.

ATTACHMENT G

This is a sample of the insurer-certified adjuster data shown on the CDI website, http://www.insurance.ca.gov/0200-industry/0100-education-provider/wc_training.cfm

INSURER - 2008 ADJUSTER DATA BY COMPANY (sorted by company name)				
NAIC	COMPANY NAME	TOTAL NUMBER OF PERSONS ADJUSTING CLAIMS (AS OF JUNE 2008)	TOTAL NUMBER OF EXPERIENCED CLAIMS ADJUSTERS AND EXPERIENCED MEDICAL-ONLY CLAIMS ADJUSTERS (AS OF JUNE 2008)	PERCENTAGE OF EXPERIENCED CLAIMS ADJUSTERS AND EXPERIENCED MEDICAL-ONLY CLAIMS ADJUSTERS
22667	ACE AMERICAN INSURANCE COMPANY	1061	924	87%
20702	ACE FIRE UNDERWRITERS INSURANCE COMPANY	1061	924	87%
10030	ACE INDEMNITY INSURANCE COMPANY	1061	924	87%
20699	ACE PROPERTY AND CASUALTY INSURANCE COMPANY	1061	924	87%
12300	ACIG INSURANCE COMPANY	4	4	100%
40517	ADVANTAGE WORKERS COMPENSATION INSURANCE COMPANY	2	2	100%
19402	AIG CASUALTY	1312	1159	88%
19399	AIU INSURANCE COMPANY	1312	1159	88%
42552	AIX GROUP/NOVA CASUALTY COMPANY	4	4	100%
38733	ALASKA NATIONAL INSURANCE COMPANY	14	14	100%
24899	ALEA NORTH AMERICA INSURANCE COMPANY	230	227	99%
35300	ALLIANZ GLOBAL US INSURANCE COMPANY	3	3	100%
42579	ALLIED PROPERTY & CASUALTY INSURANCE COMPANY	1	1	100%
19100	AMCO INSURANCE COMPANY	1	1	100%
19720	AMERICAN ALTERNATIVE INSURANCE CORPORATION	5	5	100%
20427	AMERICAN CASUALTY COMPANY OF READING, PA	78	78	100%
19690	AMERICAN ECONOMY INSURANCE COMPANY	33	31	94%

TRAINED OR EXPERIENCED ADJUSTERS ARE DESIGNATED BY INSURER* AFTER MEETING QUALIFICATIONS.



NOT SHOWN: Paths for Experienced Medical-Only Claims Adjuster or Experienced Bill Reviewer. Note that by 12 months after adoption of rules, the only way to gain experience was first to become trained Medical-Only Adjuster or trained Bill Reviewer. Experienced Claims Adjuster is still obtainable through OSIP test for S-I Administrator.

ATTACHMENT I

Claims Adjuster and Bill Reviewer Training and Certification

Advisory Group Meeting

January 23, 2009
Elihu Harris State Building
1515 Clay Street, 13th Floor, Room 1304
Oakland, CA
10:00 a.m. – 12:30 p.m.

AGENDA

• Welcome and Introductions CHSWC Commissioner Christine Baker, Executive Officer	10:00 a.m.
• Background	10:15 a.m.
• Discussion: Issues and Concerns	10:40 a.m.
• Recommendations	11:30 a.m.
• Next Steps	12:15 p.m.

ATTACHMENT J

Advisory Group Meeting Participants

Catherine Aguilar
Consultant

Steve Cattolica
U.S. Healthworks

Jill Dulich
Marriott

Janet Jamieson
Consultant

Valerie Lampson
State Compensation Insurance Fund

Michael Nolan
California Workers' Compensation Institute

James Stewart
Cole, Fisher, Bosquez-Flores, Cole & O'Keefe

Patricia Ortiz
Division of Workers' Compensation

Project Staff
Christine Baker, CHSWC
Lachlan Taylor, CHSWC
Irina Nemirovsky, CHSWC
Selma Meyerowitz, CHSWC
Chris Bailey, CHSWC

Consultant
Juliann Sum, UC Berkeley