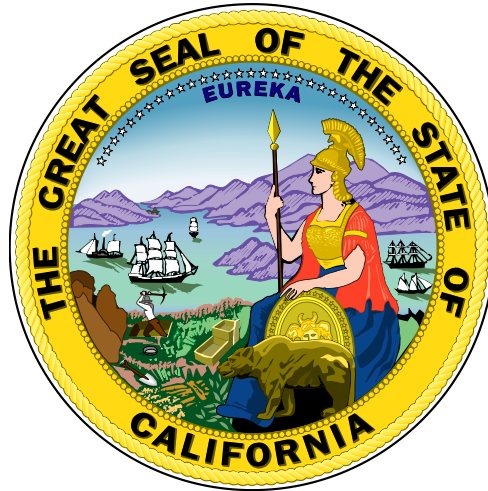


California Commission on Health and Safety and Workers' Compensation



CHSWC 2019 Annual Report

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Labor and Workforce Development Agency

Department of Industrial Relations

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TABLE OF CONTENTS

LIST OF FIGURES	XIV
LIST OF TABLES.....	XXII
ABOUT CHSWC	1
CHSWC MEMBERS REPRESENTING EMPLOYERS	3
Martin Brady.....	3
Mona Garfias.....	4
Sean McNally	5
CHSWC MEMBERS REPRESENTING LABOR.....	6
Doug Bloch	6
Christy Bouma	7
Shelley Kessler	8
Evan Mitch Steiger.....	9
STATE OF CALIFORNIA HEALTH AND SAFETY AND WORKERS’ COMPENSATION FUNCTIONS IN 2019	10
THE ORGANIZATIONAL STRUCTURE OF WORKERS’ COMPENSATION AND HEALTH AND SAFETY SYSTEMS	10
CHSWC RECOMMENDATIONS	12
WORKERS’ COMPENSATION INDEMNITY AND MEDICAL BENEFITS	12
RETURN TO WORK	13
Return to Work Supplement.....	13
Information for Injured Workers and Employers on Benefits of Return to Work.....	14
WAGE LOSS AFTER OCCUPATIONAL INJURY AND ILLNESS	14
Permanent Disability Benefits	14

TABLE OF CONTENTS

MEDICAL CARE IN WORKERS' COMPENSATION.....	15
Monitoring Medical Care and Costs	15
Pharmaceuticals	16
ANTIFRAUD EFFORTS	17
Underground Economy	17
Workers' Compensation Medical Provider Fraud.....	17
Workers' Compensation Payroll Reporting by Employers	18
PUBLIC SELF-INSUREDS	19
HEALTH AND SAFETY	20
SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION	23
HEALTH AND SAFETY AND WORKERS' COMPENSATION LEGISLATION.....	23
Highlights of 2019 Legislation Specific to the Commission	23
<i>SB 880</i>	<i>23</i>
<i>SB 537</i>	<i>24</i>
<i>AB 1400</i>	<i>24</i>
HEALTH AND SAFETY	24
Health and Safety Legislation	24
<i>AB 35, Assembly Member Kalra.....</i>	<i>24</i>
<i>AB 203, Assembly Member Salas</i>	<i>25</i>
<i>AB 647, Assembly Member Kalra.....</i>	<i>26</i>
<i>AB 1400, Assembly Member Kamlager-Dove.....</i>	<i>26</i>
<i>AB 1804, Committee on Labor and Employment.....</i>	<i>27</i>
<i>AB 1805, Committee on Labor and Employment.....</i>	<i>27</i>
<i>SB 83, Committee on Budget and Fiscal Review.....</i>	<i>28</i>
HEALTH AND SAFETY AND WORKERS' COMPENSATION REGULATIONS.....	28
Health and Safety Regulations	28
WORKERS' COMPENSATION.....	29

TABLE OF CONTENTS

Workers' Compensation Legislation 29
 AB 5, Assembly Member Gonzalez 29
 SB 78, Committee on Budget and Fiscal Review 30
 SB 537, Assembly Member Hill 31
 SB 542, Senator Stern 32
 AB 346, Assembly Member Cooper 32
Workers' Compensation Regulations 33
 Administration of Self-Insurance Plans Regulations 33

SYSTEM COSTS AND BENEFITS..... 34

METHODS OF ESTIMATING THE WORKERS' COMPENSATION SYSTEM SIZE 35
 Claim Count-Based Method 35
 Paid Loss Method 37
 Systemwide Cost: Paid Dollars for 2018 Calendar Year 39
 **Estimate of Workers' Compensation System Size Based on Written
 Premium 40**

**2012—2016 WORKERS' COMPENSATION REFORMS: CHANGES IN THE
CALIFORNIA SYSTEM..... 41**
 **2015 Workers' Compensation Reforms: Medical Treatment
 Utilization Schedule (MTUS) and the Drug Formulary (AB 1124) .. 43**
 **2016 Workers' Compensation Reforms: Fortifying the Anti-Fraud
 Changes Regarding Liens (AB 1244 and SB 1160) 43**
 **2016 Workers' Compensation Reforms: Utilization Review (SB
 1160) 44**

COSTS OF WORKERS' COMPENSATION IN CALIFORNIA..... 45
 Costs Paid by Insured Employers 45
 Workers' Compensation Written Premium 46
 Workers' Compensation Average Premium Rate 47
 Workers Covered by Workers' Compensation Insurance in California 48
 *Estimated Number of Workers Covered by Workers' Compensation Insurance
 48*
 Total Earned Premium 49

TABLE OF CONTENTS

<i>Average Earned Premium per Covered Worker.....</i>	49
Costs Paid by Self-Insured Private and Public Employers.....	50
<i>Private Self-Insured Employers.....</i>	52
<i>Public Self-Insured Employers.....</i>	54
ESTIMATED WORKERS' COMPENSATION SYSTEMWIDE EXPENDITURES:	
INDEMNITY AND MEDICAL BENEFITS	56
Overall Costs	56
Growth of Workers' Compensation	57
<i>Distribution of Workers' Compensation Costs by Type</i>	57
Indemnity Benefits.....	58
<i>Trends in Paid Indemnity Benefits.....</i>	60
Supplemental Job Displacement Benefits Costs	61
<i>Supplemental Job Displacement Benefit Vouchers</i>	61
Medical Benefits	62
<i>Workers' Compensation Medical Costs vs. Medical Inflation</i>	62
<i>Distribution of Medical Benefits: Where Does the Workers' Compensation Dollar Go?</i>	63
<i>Trends in Paid Medical Benefits.....</i>	65
Average Ultimate Total Loss.....	67
Average Cost per Claim by Type of Injury	69
Cumulative Trauma Claims.....	69
<i>Cumulative Trauma Claim Counts</i>	70
<i>Cumulative Trauma Claim Costs.....</i>	72
<i>Changes in Average Medical and Indemnity Costs per Claim by Type of Injury</i>	74
MEDICAL-LEGAL EXPENSES.....	76
Workers' Compensation Claims with Medical-Legal Expenses	77
Medical-Legal Evaluations per Claim	81
Medical-Legal Reporting by the California Regions.....	82
Average Cost per Medical-Legal Evaluation.....	83
Medical-Legal Cost Drivers	85

TABLE OF CONTENTS

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE 92

INTRODUCTION 92

WCAB DISTRICT OFFICES WORKLOAD 93

Division of Workers' Compensation Opening Documents 93

Mix of DWC Opening Documents 94

Division of Workers' Compensation Hearings 95

Numbers of Hearings 95

Timeliness of Hearings 99

Division of Workers' Compensation Decisions 100

DWC Case-Closing Decisions 100

Mix of DWC Decisions 100

Division of Workers' Compensation Lien Filings and Decisions 101

DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM..... 103

Background..... 103

Assembly Bill 749 Changes to the Audit Program 103

Overview of Audit Methodology 104

Selection of Audit Subjects 104

Audit and Enforcement Unit Data 104

Routine and Targeted Audits..... 104

Audits by Type of Audit Subject 105

Selection of Files to Be Audited..... 106

Administrative Penalties 107

Unpaid Compensation Due to Claimants 108

DIVISION OF WORKERS' COMPENSATION DISABILITY EVALUATION UNIT.. 110

DEU Backlog 112

Commutation Calculations 113

Staffing 113

DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT 113

TABLE OF CONTENTS

Qualified Medical Evaluator Panels..... 113

Utilization Review 117

**Status on SB 1160 implementation: Utilization Review and Doctor’s
First Report 119**

Utilization Review 119

Doctor’s First Report of Injury..... 119

Independent Medical Review 120

Independent Bill Review..... 121

Medical Provider Networks and Health Care Organizations..... 122

Medical Provider Networks..... 122

Background..... 122

Application Review Process..... 123

Applications Received and Approved 123

Material Modifications 125

Plan for Reapproval Process 126

MPN Applicants 128

MPN Plans Using HCO Networks..... 131

Status of the MPN Program 131

Health Care Organization Program..... 132

HCO Enrollment..... 133

Health Care Organization Program Status..... 135

Medical Treatment Utilization Schedule Training Module 135

MTUS and Formulary Update..... 135

**DIVISON OF WORKERS’ COMPENSATION INFORMATION & ASSISTANCE UNIT
..... 136**

**DIVISION OF WORKERS’ COMPENSATION INFORMATION SERVICE CENTER
..... 138**

RETURN-TO-WORK SUPPLEMENT PROGRAM..... 140

**DIVISION OF WORKERS’ COMPENSATION UNINSURED EMPLOYERS
BENEFITS TRUST FUND 142**

Introduction..... 142

Funding Liabilities and Collections..... 143

TABLE OF CONTENTS

UEBTF Funding Mechanisms 143

Cost of the Uninsured Employers Benefits Trust Fund 144

DIVISION OF WORKERS' COMPENSATION SUBSEQUENT INJURIES BENEFITS TRUST FUND..... 147

ADJUDICATION SIMPLIFICATION EFFORTS 151

Division of Workers' Compensation Information System..... 151

Division of Workers' Compensation Electronic Adjudication Management System 152

Carve-Outs: Alternative Workers' Compensation Systems..... 155

CHSWC Study of Carve-Outs 155

Impact of Senate Bill 228 (2003)..... 156

Impact of Senate Bill 899 (2004)..... 157

SB 863 Carve-out Expansion (2012) 157

Requirements of ADR program reports to DWC under 8 CCR Section 10203 157

Person hours and payroll covered by agreements filed 158

Status of Carve-out Agreements..... 159

DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT 160

DLSE REGISTRATION SERVICES–JANITORIAL SERVICES 162

ANTI-FRAUD ACTIVITIES..... 164

Background..... 164

Suspected Fraudulent Claims..... 165

Workers' Compensation Fraud Suspect Arrests..... 165

Workers' Compensation Fraud Suspect Convictions..... 166

Workers' Compensation Fraud Investigations 167

Types of Workers' Compensation Fraud Investigations..... 167

Trends in Workers' Compensation Fraud Investigations 168

Underground Economy 170

Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts 170

TABLE OF CONTENTS

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES 172

OCCUPATIONAL INJURY AND ILLNESS PREVENTION EFFORTS..... 172

Occupational Injuries, Illnesses, and Fatalities 172

Comparison of the Public and Private Sectors..... 173

Non-Fatal Occupational Injuries and Illnesses..... 173

Fatal Occupational Injuries and Illnesses..... 173

Private Sector 174

Non-Fatal Occupational Injuries and Illnesses..... 174

Fatal Occupational Injuries and Illnesses..... 175

Public Sector: State Government..... 175

Non-Fatal Occupational Injuries and Illnesses..... 175

Fatal Occupational Injuries and Illnesses..... 176

Public Sector: Local Government..... 177

Non-Fatal Occupational Injuries and Illnesses..... 177

Fatal Occupational Injuries and Illnesses..... 177

Occupational Injury and Illness Incidence Rates 178

Comparison of Public and Private Sectors 178

Private Sector 179

Public Sector: State Government..... 180

Public Sector: Local Government..... 181

California Fatality Incidence Rates..... 182

Comparison of Incidence Rates in the United States and California..... 183

Characteristics of California Occupational Injuries and Illnesses..... 185

Characteristics of California Non-Fatal Occupational Injuries and Illnesses . 186

Characteristics of California Fatal Occupational Injuries and Illnesses..... 198

Fatal Injuries among Contracted and Independent Workers 201

Profile of Occupational Injury and Illness Statistics: California and the Nation 205

Incidence Rates 205

Duration..... 205

Industry Data..... 206

Establishment Size and Type 208

Types of Injuries 208

TABLE OF CONTENTS

<i>Demographics</i>	208
Occupational Injury and Illness Reporting	209
<i>OSHA Reporting and Recording Requirements</i>	209
<i>BLS Annual Survey of Occupational Injuries and Illnesses</i>	210
<i>Non-fatal Injuries and Illnesses</i>	210
<i>Fatal Injuries and Illnesses</i>	210
<i>OSHA Occupational Injury and Illness Survey</i>	210
Occupational Injury and Illness Prevention Efforts	210
<i>Cal/OSHA Program</i>	211
PROFILE OF DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (DOSH) INVESTIGATIONS AND VIOLATIONS CITED	212
HIGH HAZARD IDENTIFICATION, CONSULTATION, AND COMPLIANCE PROGRAMS	222
High Hazard Employer Program	222
High Hazard Consultation Program	222
High Hazard Enforcement Program	224
Safety Inspections	227
Safety and Health Standards	228
OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (OSHAB)	229
EDUCATIONAL AND OUTREACH PROGRAMS	230
Worker Occupational Safety and Health Training and Education Program	230
School Action for Safety and Health	231
The California Partnership for Young Worker Health and Safety	231
Cal/OSHA Consultation	231
Partnership Programs	231
UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY	232
BACKGROUND	232
Minimum Rate Law and Open Rating	232

TABLE OF CONTENTS

WORKERS' COMPENSATION ADVISORY PREMIUM RATES	232
CALIFORNIA WORKERS' COMPENSATION RATE CHANGES	233
WORKERS' COMPENSATION PREMIUM.....	235
COMBINED LOSS AND EXPENSE RATIO.....	236
EARNED PREMIUM COMPONENTS	236
Policy Holder Dividends.....	236
Projected Ultimate Total Loss.....	237
Insurer Profit/Loss.....	238
CURRENT STATE OF THE INSURANCE INDUSTRY.....	239
Market Share	239
Impact of September 11, 2001, on Insurance Industry.....	240
ADVISORY WORKERS' COMPENSATION PURE PREMIUM RATES: A HISTORY SINCE THE 2012 REFORM LEGISLATION	241
SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE	248
INTRODUCTION	248
TARGETING METHODS: VALUE ADDED BY LETF.....	248
JOINT ENFORCEMENT ACTIVITY: VALUE ADDED BY LETF	250
ANALYSIS OF WORKERS' COMPENSATION COVERAGE IN THE UNDERGROUND ECONOMY	254
EDUCATION AND OUTREACH	256
RECOMMENDED CHANGES TO STATUTES	257
OBJECTIVES FOR 2019	257
SPECIAL REPORT: EVALUATION OF SB 863 MEDICAL CARE REFORMS.....	258
INTRODUCTION	258
STUDY OBJECTIVES.....	259

TABLE OF CONTENTS

RESEARCH QUESTIONS 259

DATA SOURCE 260

SUMMARY OF FINDINGS 260

OTHER SPECIFIC FEE SCHEDULE CHANGES 261

RECOMMENDATIONS 263

**SPECIAL REPORT: QUALIFIED MEDICAL EVALUATORS: UPDATING
TRENDS IN EVALUATIONS, AVAILABILITY, AND EQUITY 264**

EXECUTIVE SUMMARY 264

RECOMMENDATIONS FOR POSSIBLE MODIFICATIONS IN THE QME PROCESS
AND FUTURE MONITORING 266

ADVANCING THE DIVISION OF WORKERS' COMPENSATION'S RESEARCH
EFFORTS..... 267

**SPECIAL REPORT: EVALUATION OF THE RETURN-TO-WORK FUND
IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM 268**

INTRODUCTION 268

STUDY OBJECTIVES..... 269

RESEARCH QUESTIONS 269

DATA SOURCES 269

SUMMARY OF KEY FINDINGS..... 270

SUMMARY OF KEY RECOMMENDATIONS: 270

**SPECIAL REPORT: WAGE LOSS MONITORING FOR INJURED
WORKERS IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM
..... 271**

INTRODUCTION 271

OBJECTIVES..... 271

CONCLUSIONS..... 272

TABLE OF CONTENTS

SPECIAL REPORT: THE FREQUENCY AND ECONOMIC IMPACT OF MUSCULOSKELETAL DISORDERS FOR CALIFORNIA FIREFIGHTERS 274

INTRODUCTION 274

DISCUSSION 274

FINDINGS 275

SPECIAL REPORT: JANITORIAL TRAINING PROJECT 276

INTRODUCTION 276

PROJECT OBJECTIVES 276

SPECIAL REPORT: HEALTH AND SAFETY TRAINING FOR CHILD-CARE WORKERS 278

BACKGROUND 278

TRAINING CURRICULUM 278

SPECIAL REPORT: CHSWC’S HEALTH AND SAFETY PROGRAMS. 279

WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM 279

NEXT STEPS 281

SCHOOL ACTION FOR SAFETY AND HEALTH PROGRAM 282

CALIFORNIA PARTNERSHIP FOR YOUNG WORKER HEALTH AND SAFETY. 285

SPECIAL REPORT: CALIFORNIA OCCUPATIONAL RESEARCH AGENDA 288

BACKGROUND 288

OBJECTIVES 288

DATA AND METHODS 289

PRELIMINARY FINDINGS FROM THE PROJECT INCLUDE 289

TABLE OF CONTENTS

LIST OF PROJECTS AND STUDIES.....290

2019 LIST OF PROJECTS AND STUDIES 291

CHSWC AND THE COMMUNITY292

HOW TO CONTACT CHSWC..... 292

CHSWC PUBLICATIONS 293

ACKNOWLEDGMENTS..... 293

TABLE OF CONTENTS

LIST OF FIGURES

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2016-2018 average) 35

Figure 2: Systemwide* Paid Benefits, by Year and Type of Payment (\$ in billions) 40

Figure 3: Industry Average Charged Pure Premium Rate per \$100 of Payroll, 2003–2018 46

Figure 4: Workers’ Compensation Written Premium, Gross of Deductible Credits as of December 31, 2018 (\$ in billions)..... 46

Figure 5: Average Advisory Rate per \$100 of Payroll approved by Insurance Commissioner (IC) and Average Charged by Insurers Rate per \$100 of Payroll 48

Figure 6: Estimated Number of Workers Covered by Workers’ Compensation Insurance in California (millions) 48

Figure 7: Workers’ Compensation Earned Premium (\$ in billions) 49

Figure 8: Average Earned Premium per Covered Worker..... 49

Figure 9: Number of Employees of Private Self-Insured Employers (Millions) 52

Figure 10: Number of Indemnity or Medical-Only Claims per 100 Employees of Private Self-Insured Employers 53

Figure 11: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers 53

Figure 12: Incurred Cost per Claim, Indemnity and Medical of Private Self-Insured Employers 54

Figure 13: Number of Employees of Public Self-Insured Employers (Millions)..... 54

Figure 14: Number of Indemnity or Medical-Only Claims per 100 Employees of Public Self-Insured Employers 55

Figure 15: Incurred Cost per Indemnity Claim of Public Self-Insured Employers 55

Figure 16: Incurred Cost per Claim–Indemnity and Medical–Public Self-Insured Employers 56

Figure 17: Workers’ Compensation Costs: Annual Change Compared with 2012 57

Figure 18: Estimated Distribution of Insured Employers’ Workers’ Compensation Paid Costs, 2018 (\$ in millions) 57

Figure 19: Estimated Distribution of Systemwide Workers’ Compensation Paid Costs, 2018 (\$ in millions) 58

TABLE OF CONTENTS

Figure 20: Workers’ Compensation Paid Indemnity Benefit by Type, Systemwide Estimated Costs (\$ in millions) 60

Figure 21: Amounts Paid for Supplemental Job Displacement Benefit (SJDB) Vouchers by Insured Employers (\$ in millions)..... 62

Figure 22: Growth in Workers’ Compensation Medical Costs Compared with Growth in Medical Inflation (2012 as a base year)..... 63

Figure 23: Workers’ Compensation Paid Medical Benefits by Type, Systemwide Estimated Costs (\$ in millions) 66

Figure 24: Projected Ultimate Total Loss and ALAE per Indemnity Claim as of December 31, 2018 68

Figure 25: Average Cost per PD Claim by Type of Injury, 2012—2018 (Thousand \$) .. 69

Figure 26: Cumulative Trauma Claims per 100 Indemnity Claims 70

Figure 27: Percent of Cumulative Trauma Indemnity Claims by Region 71

Figure 28: Distribution of Cumulative Trauma Indemnity Claims by Industry 72

Figure 29: Development of Average Indemnity (Incurred or Paid) Costs per Cumulative Trauma Claims 73

Figure 30: Development of Average Medical (Incurred or Paid) Costs per Cumulative Trauma Claims 73

Figure 31: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2012 through 2018, from 2016 to 2017, and from 2017 to 2018) 75

Figure 32: Workers' Compensation Claims, All and with Permanent Disability, by California Region, SY 2013-SY 2018 78

Figure 33: Number of Medical-Legal Reports on PD and All Claims (Thousands)..... 79

Figure 34: Medical-Legal Payments on PD and All Claims (Million \$)..... 80

Figure 35: WCIRB’s Medical-Legal Costs Reported in Calendar vs. Service Years (Million \$)..... 80

Figure 36: Number of Medical-Legal Evaluations per 100 Workers’ Compensation Claims (PD and All) in California 82

Figure 37: Average Number of Medical-Legal Evaluations per 100 Claims (PD and All), by Region 83

Figure 38: Average Cost of a Medical-Legal Evaluation on All and PD Claims, California 83

Figure 39: Average Cost of a Medical-Legal Evaluation on PD Claim, by Region 84

TABLE OF CONTENTS

Figure 40: Distribution of Medical-Legal Evaluations on PD Claims by Procedure Code in California and Regions SY 2014—SY 2018 86

Figure 41: Average Cost of a Medical-Legal Evaluation for a PD Claims in California by Procedure Code 89

Figure 42: DWC Opening Documents 94

Figure 43: Percentage by Type of Opening Documents..... 94

Figure 44: DWC Labor Code 5502 Hearings Held 96

Figure 45: DWC Non-5502 Hearings Held 97

Figure 46: DWC Total Number of Hearings Held (LC 5502 and non-5502) 98

Figure 47: Elapsed Time in Days from Request to DWC Hearing (4th Quarter) 99

Figure 48: DWC Case-Closing Decisions..... 100

Figure 49: DWC Decisions: Percent Distribution by Type of Decisions..... 101

Figure 50: Routine and Targeted Audits..... 105

Figure 51: DWC Audits by Type of Audit Subject..... 105

Figure 52: Files Audited by Method of Selection 107

Figure 53: DWC Audit Unit—Administrative Penalties Cited (Million \$)..... 108

Figure 54: Average Amount of Administrative Penalties Cited per Violation and Average Number of Violations per Audit Subject..... 108

Figure 55: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation 109

Figure 56: Distribution of Unpaid Compensation by Type 109

Figure 57: DEU Written Ratings, 2012-2018 111

Figure 58: DEU Backlogs 112

Figure 59: Number of Qualified Medical Evaluator (QME) Panel Requests (Thousand) 114

Figure 60: Online QME Panel System: Represented Panel Requests and Requests Assigned Panels 115

Figure 61: Number of QME Initial Panels* and Replacement Panels Issued and Returned as Problem Requests (Thousand)..... 116

Figure 62: Number of Independent Medical Review Requests (IMR) Received and Determinations Completed, 2013-2018..... 120

TABLE OF CONTENTS

Figure 63: Number of Independent Bill Review Requests and Decisions, 2013–2018 121

Figure 64: Number of MPN Applications Received by Year of Receipt, 2004—2018 . 124

Figure 65: Number of MPN Applications Approved, 2004—2018 125

Figure 66: Number of MPN Material Modifications Received, 2005—2018..... 125

Figure 67: Distribution of Approved MPNs by Number of MPNs per Applicant, 2018 . 128

Figure 68: Distribution of All Approved MPN Applications by Type of Applicant, 2018 131

Figure 69: Total RTWSP Applications Received and the Share of Applications Eligible and Paid..... 140

Figure 70: Amount Paid on Eligible RTWSP Applications and the Share of Unpaid Balance 142

Figure 71: UEBTF Cases Opened and Closed, FY 2012-2013 to FY 2018-2019 144

Figure 72: Payments on UEBTF Claims and Administrative Costs, FY 2012-2013 to FY 2018-2019 (in \$ million)..... 144

Figure 73: Average Amount Paid per UEBTF Claim and the Number of UEBTF Claims Paid, FY 2012-2013 to FY 2018-2019..... 145

Figure 74: Average Amount Paid per UEBTF Closed Case and the Number of UEBTF Cases Closed, FY 2012-2013 to FY 2018-2019..... 146

Figure 75: UEBTF Revenues, FY 2012-2013 to FY 2018-2019 (in \$ million)..... 147

Figure 76: Number of SIBTF Cases, Opened and Closed 149

Figure 77: SIBTF Total Costs (in \$ million)..... 149

Figure 78: Number of SIBTF Claims Paid and Average Amount Paid per SIBTF Claim 150

Figure 79: SIBTF Total Revenues Recovered (in \$ million) 151

Figure 80: Suspected Workers’ Compensation Fraudulent Claims and Suspect Arrests 166

Figure 81: Workers’ Compensation Fraud Suspect Prosecutions and Convictions..... 167

Figure 82: Caseload by Type of Fraud Investigations, FY 2011-2012–FY 2017-2018 168

Figure 83: Distribution by Type of Fraud Investigations, FY 2011-2012–FY 2016-2017 169

Figure 84: California Non-Fatal Occupational Injuries and Illnesses: Private Industry and State and Local Governments (Thousands)..... 173

TABLE OF CONTENTS

Figure 85: California Fatal Occupational Injuries and Illnesses—Private Industry and State and Local Governments.....	174
Figure 86: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands).....	174
Figure 87: California Fatal Occupational Injuries and Illnesses—Private Industry	175
Figure 88: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands).....	176
Figure 89: California Fatal Occupational Injuries and Illnesses—State Government ..	176
Figure 90: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands).....	177
Figure 91: California Fatal Occupational Injuries and Illnesses—Local Government ..	178
Figure 92: California Occupational Injury and Illness Incidence Rates: Private, State and Local (Cases per 100 Full-Time Employees)	178
Figure 93: California Occupational Injury and Illness Incidence Rates: Private Industry (Cases per 100 Full-Time Employees).....	179
Figure 94: California Occupational Injury and Illness Incidence Rates: State Government (Cases per 100 Full-Time Employees).....	180
Figure 95: California Occupational Injury and Illness Incidence Rates: Local Government (Cases per 100 Full-Time Employees).....	181
Figure 96: California Fatal Occupational Injuries*—Incidence Rate** (per 100,000 employed)	182
Figure 97: California Fatality Rates by Industries (per 100,000 employed), 2012, 2017, and 2018	183
Figure 98: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry, Total Recordable Cases. U.S. and California.....	184
Figure 99: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. U.S. and California	184
Figure 100: Injury Rates by Industry, 2008, 2017, and 2018.....	185
Figure 101: Number of Non-Fatal Occupational Injuries and Illnesses in California by Gender, Private Industry, 2012-2018	186
Figure 102: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2012-2018 (Cases per 10,000 full-time employees).....	187

TABLE OF CONTENTS

Figure 103: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2018	188
Figure 104: California Occupational Injury and Illness Incidence Rates by Age, Private Industry, 2018 (per 10,000 Full-Time Workers).....	188
Figure 105: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin, Private Industry, 2018.....	189
Figure 106: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure, Private Industry, 2018	190
Figure 107: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2016, 2017, and 2018 (per 10,000 Full-Time Workers)	191
Figure 108: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2016, 2017, and 2018 (per 10,000 Full-Time Workers)	192
Figure 109: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Private Industry, 2018	193
Figure 110: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, State Government, 2018	194
Figure 111: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Local Government, 2018.....	195
Figure 112: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2018	196
Figure 113: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2018.....	197
Figure 114: California Fatal Occupational Injuries and Illnesses by Gender, 2018	198
Figure 115: California Fatal Occupational Injuries and Illnesses by Age of Worker, 2018	198
Figure 116: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin, 2018.....	199
Figure 117: Fatal Occupational Injuries by Selected Occupations, All Ownerships, 2018	200
Figure 118: California Fatal Occupational Injuries and Illnesses by Event and Exposure, 2018	201
Figure 119: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., 2011–2015	202

TABLE OF CONTENTS

Figure 120: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., by Contracting Industry, 2013–2015	203
Figure 121: Number of Fatal Occupational Injuries Incurred by Contracted Workers in California, 2011—2018.....	204
Figure 122: DOSH Enforcement Activities, 2012–2018.....	212
Figure 123: DOSH on-Site Inspections by Type (All, with and without Violations), 2012–2018	213
Figure 124: DOSH Inspections (with and without Violations Cited), 2012–2018	214
Figure 125: DOSH Violations (Serious and Other Than Serious), 2012-2018.....	214
Figure 126: Serious Violations as a Share of Total DOSH Violations, 2012-2018	215
Figure 127: Average Number of DOSH Violations per Inspection, 2012–2018	215
Figure 128: Total DOSH Penalties Assessed and Collected, 2012–2018.....	218
Figure 129: Rate of DOSH Violations per on-Site Inspections, by Major Industry Groups	219
Figure 130: Distribution of on-Site Inspections by Major Industry, 2018.....	220
Figure 131: Distribution of Violations by Major Industry, 2018	221
Figure 132: High Hazard Consultation Program, 2012-2018.....	223
Figure 133: Average Number of Title 8 Violations per Employer with High Hazard Consultative Assistance, 2012-2018	224
Figure 134: Violations Observed during High Hazard Inspections, 2012-2018	226
Figure 135: Occupational Safety and Health Appeals Board (OSHAB) Workload, 2012-2018	229
Figure 136: Occupational Safety and Health Appeals Board Backlogs, 2012-2018....	230
Figure 137: Percentage Changes in Workers' Compensation Advisory Premium Rates, WCIRB Recommendation and Insurance Commissioner's Decision Compared to Corresponding Industry Average Filed Pure Premium Rate.....	233
Figure 138: Workers' Compensation Written Premium as of December 31, 2018 (Billion \$).....	235
Figure 139: California Workers' Compensation Combined Loss and Expense Ratios (Projected accident year, as of December 31, 2018)	236
Figure 140: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year).....	237

TABLE OF CONTENTS

Figure 141: Projected Ultimate Total Loss and ALAE per Indemnity Claim, as of December 31, 2018..... 238

Figure 142: Insurer Pre-Tax Underwriting Profit/Loss, 2012-2018 (Million \$ and as a Percentage of the Earned Premium) 239

Figure 143: Workers' Compensation Insurance Market Share in California by Type of Insurer Based on Written Premium Prior to Deductible Credits..... 240

Figure 144: Average Percentage of Inspected Businesses Found out of Compliance per Year, 2012—2018 249

Figure 145: Number of DLSE Violations and Total Penalty Amounts, by Industry in 2018—2019 254

Figure 146: Average Penalty Amount per Workers' Compensation Violation, by Industry in FY 2018—2019 255

TABLE OF CONTENTS

LIST OF TABLES

Table 1: Workers' Compensation Claims (in 000s) by Market Share 36

Table 2: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2018-2019 37

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2017-2018 38

Table 4: A Claim Counts-Based Estimate of Workers' Compensation System Size (Million \$)..... 39

Table 5: Breakdown of Expenses (Million \$) 39

Table 6: WCIRB's 2019 Evaluation of Senate Bill (SB) 863 Cost Impact..... 42

Table 7: Systemwide Estimated Costs of Paid Indemnity Benefits 59

Table 8: Systemwide Estimated Costs—Medical Benefits Paid (\$ in thousands) 64

Table 9: Distribution of Medical-Legal Reports on PD Claims by California Regions.... 85

Table 10: Medical-Legal Evaluation Cost for Dates of Service on or After July 1, 2006 85

Table 11: Characteristics of ML-104 coded Reports done on PD Claims in California Regions 88

Table 12: Average Cost of a Psychiatric or Psychological/Behavioral Report by Region 90

Table 13: Rate of Psychiatric Evaluations per 100 PD Reports 90

Table 14: Rate of Psychiatric and Psychologist/Behavioral Evaluations per 100 PD Reports..... 91

Table 15: Share of Payments for Psychiatric and Psychological Reports in California Medical-Legal Payments, by Region 91

Table 16: Numbers of Liens Filed and DWC Lien Decisions, 2011—2018 102

Table 17: DEU Ratings in 2018 by Type and Rating Schedules in Effect 112

Table 18: Percent of QME Panels Issued and Returned..... 116

Table 19: Status of UR Investigations 118

Table 20: MPN Program Activities from November 1, 2004, to December 31, 2018... 124

Table 21: Expiring MPN Application Plans by Quarter and Year through December 31, 2022 127

TABLE OF CONTENTS

Table 22: MPN Application Plans for Re-approval Received and Approved by Month through December 31, 2018..... 127

Table 23: Names of MPN Applicants with 10 or More Approved MPNs..... 129

Table 24: Number of Approved MPN Applications by Type of Applicant, 2004–2018. 130

Table 25: Number of MPN Applicants Using HCO Networks 131

Table 26: Currently Certified HCOs by Date of Certification/Recertification, 2019 133

Table 27: HCOs by Number of Enrollees for 2004 through 2018 134

Table 28: Information & Assistance Unit Workload 136

Table 29: Spanish Outreach Attendance..... 137

Table 30: DWC Educational Conferences Attendance, 2012–2019..... 137

Table 31: Number of Enrollees in DWC Tele-Learning Classes for DIR employees ... 138

Table 32: DWC’s Information Service Center Workload..... 139

Table 33: Reasons for ineligibility of RTWSP Applications..... 141

Table 34: Duration of RTWSP Benefit Issuance 141

Table 35: Estimated Person-Hours Worked and Payroll, 2008–2017 159

Table 36: DLSE Citations by Category, FY 2017–2018 161

Table 37: Fatal occupational injuries by independent workers in the U.S. and California, 2016—2018..... 202

Table 38: Twenty-Five Most Frequently Cited CCR Title 8 Standards, 2018 216

Table 39: High Hazard Inspections by NAICS Code, 2016-2018..... 225

Table 40: Enforcement Actions Taken during High Hazard Targeted Inspections, 2012-2018 226

Table 41: Most Frequently Observed Violations during High Hazard Targeted Inspections, 2018 227

Table 42: California Workers’ Compensation Top 10 Insurers Rate Filing Changes... 234

Table 43: Cal/OSHA Results..... 251

Table 44: DLSE Results 251

Table 45: EDD Results..... 253

Table 46: CSLB Results 253

TABLE OF CONTENTS

Table 47: BAR Results 253

Table 48: CDTFA Results 253

Table 49: Percentage of Businesses Cited for Workers' Compensation Violations That Violated Other Laws in FY 2018—2019 256

ABOUT CHSWC

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

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

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

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

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

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

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

ABOUT CHSWC

CHSWC Serving All Californians:

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

ABOUT CHSWC

CHSWC MEMBERS REPRESENTING EMPLOYERS



Martin Brady

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

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

Appointed by: Governor

CHSWC Members Representing Employers



Mona Garfias

Since 1998 Ms. Garfias has been director of claims at DMS Facility Services, a large unionized employer in the janitorial industry with over 1,800 employees. She started her insurance industry career 27 years ago and has held various positions involving workers' compensation claims on both the insurance carrier and insurance brokerage sides.

Ms. Garfias was instrumental in implementing the Ross Pike Memorial Workers' Compensation Carve-Out & Alternative Dispute Resolution (ADR) program and continues to be involved in this program on a daily basis.

Appointed by: Senate Rules Committee

CHSWC Members Representing Employers



Sean McNally

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

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

Appointed by: Governor

ABOUT CHSWC

CHSWC MEMBERS REPRESENTING LABOR



Doug Bloch

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

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

Appointed by: Governor

CHSWC Members Representing Labor



Christy Bouma

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

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

Appointed by: Governor

CHSWC Members Representing Labor



Shelley Kessler

Shelley Kessler recently retired from her position as the Executive Secretary-Treasurer of the San Mateo County Central Labor Council which represents 110 affiliated local unions and over 70,000 working member families. She worked at the Labor Council for 31 years, first as the political director and subsequently as the head of the organization until her retirement. During that time, she was also a Vice-President of the California State Labor Federation. She is a 37-year member of the International Association of Machinists and Aerospace Workers.

Her experience in working on the floor at General Motors, Fremont, CA and Westinghouse Electric, Sunnyvale, CA, compelled her to become involved in worker health and safety issues. She joined the boards of the Santa Clara Center for Occupational Safety and Health, Worksafe, and later the advisory boards of both Cal/OSHA and the Labor Occupational Health Program at UC Berkeley in order to pursue her concerns for worker protections. Ms. Kessler holds two Bachelor of Arts degrees from Sonoma State University.

Appointed by: Speaker of the Assembly

CHSWC Members Representing Labor



Evan Mitch Steiger

Mitch Steiger is a legislative advocate for the California Labor Federation, AFL-CIO. The California Labor Federation, representing over 2.1 million workers statewide, fights to defend and improve the wages, benefits and working conditions of all Californians. Mitch's role is to advocate on behalf of workers in a variety of issue areas, including occupational health and safety as well as workers' compensation, and he participated in the stakeholder discussions that produced SB 863.

Mitch has been with the California Labor Federation since 2010, and prior to that served as researcher/organizer for United Food & Commercial Workers Local 21 and legislative advocate for the Washington State Building & Construction Trades Council, AFL-CIO. He is a member of the Pacific Media Workers Guild, Local 39521, CWA.

Appointed by: Senate Rules Committee

**STATE OF CALIFORNIA HEALTH AND SAFETY AND WORKERS' COMPENSATION FUNCTIONS
IN 2019**

THE ORGANIZATIONAL STRUCTURE OF WORKERS' COMPENSATION AND HEALTH AND SAFETY SYSTEMS follows:

Governor, Gavin Newsom

Labor and Workforce Development Agency, Julie Su, *Secretary*

Department of Industrial Relations, Katie Hagen, *Director (as of March 2020)*
Victoria Hassid, *Chief Deputy Director*

Division of Occupational Safety and Health, Douglas Parker, Chief ([reporting units](#))

Division of Workers' Compensation, George Parisotto, Administrative Director; Raymond Meister, Executive Medical Director; Paige S. Levy, Chief Judge ([reporting units](#))

Division of Labor Standards Enforcement, Lilia Garcia-Brower, Labor Commissioner ([reporting units](#))

Commission on Health and Safety and Workers' Compensation ([important details](#))

Workers' Compensation Appeals Board, Katherine Zalewsky, *Chair*

Occupational Safety and Health Standards Board, Christina Shupe, *Executive Officer*

Occupational Safety and Health Appeals Board, Ed Lowry, *Chair*

**STATE OF CALIFORNIA HEALTH AND SAFETY AND WORKERS' COMPENSATION FUNCTIONS IN 2019
(continued from the previous page)**

Division of Occupational Safety and Health includes Bureau of Investigations, Consultation, Education and Training, Field Operations, Legal Unit, Health and Technical Services, High Hazard Unit, and Research and Standards. ([Back to DOSH](#))

Division of Workers' Compensation includes Audit and Enforcement, Claims Adjudication Unit, Disability Evaluation Unit, Information and Assistance Unit, Legal Unit, Medical Unit, Programmatic Services, Research Unit, and Special Funds Unit. ([Back to DWC](#))

Division of Labor Standards Enforcement includes Wage Claims Adjudication, Enforcement of Labor Standards (Includes enforcement of workers' compensation insurance coverage), and Licensing and Registration. ([Back to DLSE](#))

The Commission on Health and Safety and Workers' Compensation's 2019 members are Doug Bloch, Christine Bouma, Martin Brady, Mona Garfias, Shelley Kessler, Sean McNally, and Evan Mitch Steiger. Sean McNally chaired the commission in 2019. The executive officer of the commission is Eduardo Enz.

[The full DIR organization chart.](#)

CHSWC RECOMMENDATIONS

The Commission on Health and Safety and Workers' Compensation (CHSWC) recommends steps to prevent workplace injuries and illnesses, to ensure the adequate and timely delivery of indemnity and medical benefits for injured workers, and to incentivize uninterrupted and undiminished wage earnings.

WORKERS' COMPENSATION INDEMNITY AND MEDICAL BENEFITS

Senate Bills 863 and 1160, workers' compensation reform legislation passed in 2012 and 2016 respectively, incorporated many of CHSWC's previous recommendations for statutory improvements in the workers' compensation system. The Division of Workers' Compensation (DWC) is carrying out many of the commission's recommendations for administrative improvement.

CHSWC will continue to examine the following:

- Return to work incentives and disincentives
 - Return to Work Supplement
 - Supplemental Job Displacement Benefit (SJDB)
 - Information for Injured Workers and Employers on the benefits of returning to work
- Wage loss after occupational injury and illness
 - Permanent Disability (PD) Benefits
- Access to and the appropriateness and timeliness of medical care
 - Medical Provider Networks
 - Utilization Review
 - Independent Medical Review
 - Medical Treatment Guidelines
- Pharmaceuticals
 - Drug Formulary
- Fraud detection
 - Medical provider suspensions
 - Special Investigation Units (SIUs) and reporting suspicious claims

CHSWC RECOMMENDATIONS

- Data science and machine learning
- Friction, administrative delays, and backlogs
- Stakeholder interaction in the claims process
 - Regional differences in claimant injuries and claims handling
- Mechanism of injury, risk factors, and cumulative effects, including age
 - High hazard occupations and injuries
 - Repetitive motion

RETURN TO WORK

Return to Work Supplement

Labor Code section 139.48 requires the Department of Industrial Relations' (DIR's) program, the [Return-to-Work Supplemental Program](#) (RTWSP), to administer a \$120 million fund that makes supplemental payments to workers whose permanent disability benefits are disproportionately low in comparison to their earnings losses¹. A recent CHSWC study by RAND that evaluated the Return-to-Work Fund found a low take-up rate of the RTWSP among eligible workers.

Recommendations

- Ongoing monitoring of the use of this benefit
- Consider the recommendations of the CHSWC study by RAND "[Evaluation of the Return-to-Work Fund in the California's Workers' Compensation System](#),"² which include:
 - Automating the RTWSP payment after Supplemental Job Displacement Benefit (SJDB) vouchers are issued to improve participation in the program.
 - Increasing outreach and notification to help increase participation in the RTWSP by eligible workers, such as making the RTWSP website accessible in multiple languages.
 - Improving the monitoring and data collection of SJDB vouchers issued to track emerging changes in the RTWSP-eligible population.
- Continue to explore all methods of increasing application rates for unrepresented injured workers.

¹ <https://www.dir.ca.gov/rtwsp/rtwsp.html>.

² <https://www.dir.ca.gov/chswc/meetings/2018/Eval-RTW-Fund-Report-2018.pdf>.

CHSWC RECOMMENDATIONS

- Include benefit expenditure trend data and the number of RTWSP disbursements in the CHSWC Annual Report.

Information for Injured Workers and Employers on Benefits of Return to Work

- Continue to promote a system that effectively and safely integrates injured workers back into the workplace at the earliest possible opportunity so that economic losses resulting from injuries may be reduced for both employers and employees.
- Distribute information about benefits of return-to-work programs and adherence to timeframes for making applications or appeals.
- Communicate research findings on return on investment of return-to-work and experience that the longer an injured worker stays out of work, the greater the adverse economic impact; promote identification of potential psycho-social risk factors in a delayed return to work.
- Continue to partner with organizations to support and promote early return-to-work efforts and projects.

WAGE LOSS AFTER OCCUPATIONAL INJURY AND ILLNESS

Permanent Disability Benefits

Research on the impact of the 2012 workers' compensation reforms on earnings losses suggests that SB 863 is likely to meet its primary objective of restoring adequate wage replacement rates, although some inequities still exist in these rates across impairments. The research also determined for the first time that the economic recession in the late 2000s and early 2010s had a severe impact on the earnings of permanently disabled workers, making the higher benefits provided under the recent reforms particularly important for maintaining adequate levels of wage replacement. Additional recent research on wage loss monitoring found that recessionary impacts were felt broadly, but the extent of recovery varies across regions and industries.

Recommendations

- Consider the recommendations in the DIR studies by RAND "[Wage Loss Monitoring for Injured Workers in California's Workers' Compensation System](https://www.rand.org/pubs/research_reports/RR2572.html),"³ which include:
 - Continuing to monitor earnings losses and the adequacy of permanent partial disability (PPD) benefits.

³https://www.rand.org/pubs/research_reports/RR2572.html;
https://www.rand.org/pubs/research_reports/RR2807.html.

CHSWC RECOMMENDATIONS

- Consider the recommendations in the CHSWC study by RAND [“The Frequency and Economic Impact of Musculoskeletal Disorders for California Firefighters: Trends and Outcomes Over the Past Decade,”](#)⁴ which include:
 - Continuing to conduct research to understand how and why the Great Recession had such lasting effects on post-injury outcomes.
- Consider using similar research methodology from the Firefighter Study to examine occupations and injuries other than firefighters and musculoskeletal disorders (MSDs).
- Monitor the progress of the DIR/DWC study that will evaluate the permanent disability benefit payments and impairment ratings for cancer cases in California using injury claim and earnings loss data.

MEDICAL CARE IN WORKERS’ COMPENSATION

Monitoring Medical Care and Costs

In the past, problems in the medical-legal process included delays in selecting evaluators, obtaining examinations, and producing evaluation reports. Deficiencies also existed in the content of reports when they failed to comply with the legal standards or omitted necessary components and thus necessitated the submission of supplemental reports. These problems contributed to an increase in frictional costs and delays in resolving disputes and delivering benefits to injured workers.

Significant changes in the medical care process for injured workers have resulted from the reform legislation enacted in 2012. One change is that medical necessity disputes are now resolved using Independent Medical Review (IMR).

Additional reform legislation relating to medical care, [Senate Bill 1160](#),⁵ was enacted in September 2016. The bill aims to expedite medical treatment to injured workers within the first 30 days after their injury by exempting conservative treatment from UR, standardizing UR procedures, modernizing data collection in the system to improve transparency, and implementing antifraud measures in the filing and collection of medical treatment liens. SB 1160 also requires DIR to develop a system for the [mandatory electronic reporting of UR decisions](#) and the Doctor’s First Report of Injury form.⁶

In October 2016, the California Legislature requested that CHSWC update a study of the QME process, first done for the commission by UC Berkeley in 2010. That study raised several issues about the QME process and made a number of recommendations for improving the efficiency and equity of evaluations. In 2018, the DWC posted proposed

⁴ https://www.dir.ca.gov/chswc/Reports/2019/Firefighter_MSD_Report.pdf.

⁵ Text of SB 1160,

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

⁶ <https://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm>.

CHSWC RECOMMENDATIONS

revisions to the Medical-Legal Fee Schedule on the DWC Forum and received extensive public comments.

Recommendations

- Continue to study and monitor the frequency, severity, and economic consequences of musculoskeletal injuries.
- Evaluate and monitor the implementation of SB 1160 provisions, including the rulemaking process for UR.
- Provide system monitoring data on UR decisions and Doctor's First Report, after the data become available, in the CHSWC Annual Report.
- Monitor the effectiveness of UR and IMR in the California workers' compensation system.
- Continue to study and review concerns about the QME process including monitoring the adoption process of revisions to the Medical-Legal Fee Schedule and [DWC's response](#) to the recommendations detailed in the recent [California State Auditor's report](#) on the QME process.⁷
- Promote and support the recommendations found in the RAND Medical-Legal white paper.
- Incentivize the use of Medical Provider Networks (MPNs) in post-employment claims as discussed in the RAND report "[Provider Fraud in Workers' Compensation](#)."⁸

Pharmaceuticals

Labor Code section 5307.27 requires the DWC Administrative Director to establish a drug formulary using evidence-based medicine, as part of the medical treatment utilization schedule (MTUS). The DWC drug formulary took effect January 1, 2018.

Recommendations

- Monitor and evaluate the impact of the evidence-based drug formulary. This should include an assessment of how the drug formulary affects pharmaceutical use, expenses, IMR use, and access to medically appropriate care for injured workers.

⁷ <https://www.auditor.ca.gov/pdfs/reports/2019-102.pdf>; <https://www.auditor.ca.gov/reports/2019-102/response.html>.

⁸ Provider Fraud in California Workers' Compensation, RAND, 2017, https://www.dir.ca.gov/Fraud_Prevention/Reports/Provider-Fraud-In-CA-Workers-Compensation.pdf.

CHSWC RECOMMENDATIONS

- Monitor the consultation by the Pharmacy and Therapeutics (P&T) Committee in advising on updates to the MTUS formulary based on evidence of the relative safety, efficacy, effectiveness, type of packaging, and variable cost of drugs within a class of drugs.

ANTIFRAUD EFFORTS

Underground Economy

The underground economy consists of businesses that do not comply with health, safety, workers' compensation, and other tax and reporting laws in California. These businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Operators in the underground economy create an unfair advantage over their law-abiding competitors and cost the state an [estimated](#) \$8.5 billion to \$10 billion in uncollected tax revenues each year.⁹

Recommendations

- Continue to research ways to identify the underground economy and ensure compliance with workers' compensation and health and safety laws.
- Support outreach and education efforts, including publicizing the DIR booklet "[All Workers Have Rights](#)."¹⁰
- Encourage reporting of alleged noncompliant business practices to protect workers and employers and promote transparency at the workplace.

Workers' Compensation Medical Provider Fraud

In recent years, criminal indictments and prosecutions have highlighted the extent of medical provider fraud in the workers' compensation system. Estimates of the cost of this fraud to participants in the workers' compensation system are as high as \$1 billion per year.¹¹

[Assembly Bill 1244](#)¹² and [SB 1160](#),¹³ which were signed into law in September 2016, added Labor Code Sections 139.21 and 4615 and provide a mechanism for suspending

⁹ EDD website, The Underground Economy page, https://www.edd.ca.gov/payroll_taxes/Underground_Economy_Cost.htm.

¹⁰ DIR, LETF "All Workers Have Rights" booklet, 2020, https://www.dir.ca.gov/letf/What_are_your_rights_as_a_worker.pdf.

¹¹ [Senate Labor and Industrial Relations Bill Analysis of SB 1160](#), August 31, 2016.

¹² Text of AB 1244, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1244.

¹³ Text of SB 1160, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

CHSWC RECOMMENDATIONS

perpetrators of fraud from the workers' compensation system, staying liens of criminally charged providers, and limiting financial recovery related to fraudulent activity.

Recommendations

- Monitor and evaluate the outcomes of Labor Code Sections 139.21 and 4615 and the efforts of the Anti-Fraud Unit with respect to these and other provisions related to anti-fraud reforms.
- Monitor the extent of medical provider fraud in such areas as kickbacks, overbilling, and upcoding and new efforts to deter and eliminate fraudulent practices.
- Monitor the impact of medical provider suspensions on the workers' compensation system.
- Monitor progress in the filing of medical provider financial interest disclosures with the DIR and support the investigation of medical provider ownership interests that may conflict with the rules.
- Promote the voluntary use of the Department of Insurance [Workers' Compensation Insurance Special Investigations Unit \(SIU\) Guidelines and Protocols](#),¹⁴ which were last updated in 2011.
- Consider recommendations in the RAND report "[Provider Fraud in California Workers' Compensation](#)"¹⁵ related to provider fraud, including:
 - Keeping post-employment claims treatment under an employer's control to prevent uncontrolled increase in medical provider liens.
 - Considering new forms of fraud detection through the use of the WCIS database and other claims databases and exploring how advanced analytics, business intelligence, machine learning, and other data science techniques can be best employed.

Workers' Compensation Payroll Reporting by Employers

The cost of employers' workers' compensation insurance premiums is based on their total payroll. By misreporting payroll costs, some employers avoid the higher premiums that they would incur with accurate payroll reporting. Employers can also misreport the total

¹⁴ CDI, Workers' Compensation Insurance Special Investigative Unit Guidelines and Protocols, 2011, <https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/0300-fraud-claims-and-forms/upload/WC-SIU-Guidelines-and-Protocols.pdf>.

¹⁵ Provider Fraud in California Workers' Compensation, RAND, 2017, https://www.dir.ca.gov/Fraud_Prevention/Reports/Provider-Fraud-In-CA-Workers-Compensation.pdf.

CHSWC RECOMMENDATIONS

payroll or the number of workers in specific high-risk, high-premium occupation classifications by reporting them in lower-risk, lower-premium occupations. A [CHSWC study](#) found that between \$15 billion and \$68 billion in payroll is underreported annually.¹⁶ A related study on split class codes found that 25 to 30 percent of low-wage payroll is underreported or misreported.

Recommendations

- Consider implementing recommendations in the “[Report on Anti-Fraud Efforts in the California Workers’ Compensation System](#)” to address premium fraud.¹⁷
- Consider updating the 2009 study of payroll underreporting to understand the extent of this practice in more recent years, including underreporting by employers and professional employer organizations.
- Examine claiming at Uninsured Employers Benefits Trust Fund (UEBTF) to better understand the industries, occupations, and other business characteristics of employers who risk not carrying any workers’ compensation insurance.
- Support collaboration among labor enforcement agencies to bring employers into compliance with labor laws.
- Monitor trends listed by the Department of Insurance [Workers’ Compensation Fraud Convictions](#).¹⁸

PUBLIC SELF-INSUREDS

California law requires every employer, except the state, to secure payment of its workers’ compensation obligations by obtaining either insurance or a certificate of consent to self-insure from the Director of DIR.

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

SB 863 added Labor Code section 3702.4, which required CHSWC to examine the public-sector self-insured workers’ compensation programs and to make recommendations for

¹⁶ “Fraud in Workers’ Compensation Payroll Reporting: How Much Employer Fraud Exists? How are Honest Employers Affected?” UC-Berkeley, January 2009, https://www.dir.ca.gov/chswc/Reports/2011/Final_Report_FAC_Premium_Avoidance.pdf.

¹⁷ DIR, DWC, CHSWC, and CDI, Report on Anti-Fraud Efforts in the California Workers’ Compensation System, January 2017, https://www.dir.ca.gov/Fraud_prevention/FRAUD-white-paper.pdf.

¹⁸ CDI, Workers’ Compensation Fraud Convictions page, <https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/index.cfm>.

CHSWC RECOMMENDATIONS

improving program administration and performance. CHSWC contracted with Bickmore for a [study](#) to assist in fulfilling this requirement in 2014.¹⁹

In 2016, Bickmore prepared a study for DIR to identify various data reporting elements that, after having been collected by the DIR Office of Self-Insurance Plans, would further the intent of Labor Code section 3702.2. Specifically, the goal is to establish a database of workers' compensation information for use by public policy makers, regulators, public entities, and the service industry that supports public entity self-insurance in California.

The 2014 and 2016 studies were used to inform DIR Office of Self-Insurance Plans [rulemaking](#)²⁰ related to the annual reporting of public-self-insured employers.

Recommendations

- Monitor rulemaking progress to collect critical information on public sector claims and costs for both public sector employers and employees.
- Consider supporting the release of the results in the annual reports by (public) entity identifier.
- Report on the status of public entity self-insured data reporting as discussed in the 2016 Bickmore report.

HEALTH AND SAFETY

CHSWC recognizes that injury and illness prevention is the best way to preserve workers' earnings and to limit workers' compensation coverage cost increases for employers.

Recommendations

- Continue to monitor the COVID-19 situation and support efforts to help keep workers and employers safe. Please note that California is issuing regular [updates on COVID-19](#),²¹ including [Coronavirus resources for California employers and workers](#)²² compiled by the Labor & Workforce Development Agency.

¹⁹ "Examination of the California Public Sector Self-Insured Workers' Compensation Program", Bickmore, October 22, 2014,

https://www.dir.ca.gov/chswc/Reports/2014/Public_Sector_Self_Insured_WC.pdf.

²⁰ Office of Self-Insurance Plans - Proposed Regulations,

https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_proposed.html.

²¹ CDPH News Releases for daily COVID-19 updates,

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>.

²² LWDA, Coronavirus 2019 (COVID-19) Resources for Employers and Workers,

<https://www.labor.ca.gov/coronavirus2019/>.

CHSWC RECOMMENDATIONS

- Continue support by employers and the health and safety and workers' compensation community for the CHSWC statewide Worker Occupational Safety and Health Training and Education Program (WOSHTEP), one of CHSWC's most proactive efforts. WOSHTEP trains and educates workers, including young workers, in a wide range of workplaces and in agriculture on proven injury and illness prevention measures.
- Collaborate with the DIR Communications unit to promote and extend WOSHTEP's reach to ensure effective outreach and to promote WOSHTEP messages and services, and its three regional resource centers at the University of California.
- Support ongoing partnerships and continued development of in person and online training and outreach materials designed to teach the importance of implementing the required written Injury and Illness Prevention Plan.
- Collaborate with the health and safety and workers' compensation community to extend the reach of CHSWC's School Action for Safety and Health (SASH) Program, a model program to help schools statewide improve their injury and illness prevention practices for K-12 school employees, including teachers.
- Support efforts to develop and create a California Occupational Research Agenda specific to the needs of California's employers and workforce to prevent workplace injuries and illnesses, while integrating the contribution made by the National Occupational Research Agenda (NORA) at the National Institute for Occupational Safety and Health (NIOSH).
- Support efforts, including total worker health, to develop training and safety strategies that help to prevent musculoskeletal disorders.
- Facilitate the development and outreach of a model training curriculum for occupational safety and health training for child-care workers and employers.
- Collaborate with the Office of the Director and the Labor Occupational Health Program to promote the [training program](#)²³ for janitorial services industry employees and employers to prevent sexual harassment and sexual assault-related workplace injuries and illnesses.
- Monitor the implementation of AB 1978, which requires every janitorial business in California to register annually with the Division of Labor Standards Enforcement (DLSE), and report on the number of registered janitorial providers in the DLSE License Registration database and the number of penalties for unregistered janitorial providers for the CHSWC Annual Report.

²³ DIR, Sexual Harassment Prevention Training for Janitorial Services Employers, <https://www.dir.ca.gov/dlse/Janitorial-Training.html>.

CHSWC RECOMMENDATIONS

- Consider the recommendations in the School Action for Safety and Health (SASH) Needs Assessment Report to implement a grant program or develop additional materials to further expand the reach of SASH.

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

HEALTH and SAFETY AND WORKERS' COMPENSATION LEGISLATION

The brief summaries of legislation below provide an overview of the bills' intent and do not purport to provide a complete description of the legislation or go into detail on the measures.

Copies of the legislation referenced in this digest, along with information, such as legislative committee analyses, are available on the Legislative Counsel of California website at www.leginfo.ca.gov. The chaptered bills took effect January 1, 2019, unless they contain an urgency clause, in which case they took effect immediately upon the Governor's signature. Alternatively, some measures specify their effective date.

To research legislation enacted into law or vetoed in recent years, see: <https://www.dir.ca.gov/oprl/dir-legislative-reports.html>.

For historical legislation chaptered prior to 2014, see previous legislative reports in the CHSWC annual reports at: <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

Highlights of 2019 Legislation Specific to the Commission

SB 880

SB 880, adopted as LC 4651, went into effect in 2019. The law, until January 1, 2023, authorizes an employer, with the written consent of the employee, to deposit disability indemnity payments for the employee in a prepaid card account that meets specified requirements, including allowing the employee reasonable access to in-network automatic teller machines. The bill requires employers to provide all necessary aggregated data on their prepaid account programs to CHSWC upon request, and require the Commission to issue a report on or before December 1, 2022, to the Legislature regarding payments made to those prepaid card accounts, as specified. The deadline of 2023 makes this a pilot program. In workers' compensation terminology, "employer" often means insurer unless the employer is self-insured, so it is the insurer who sets up the payment cards for the injured worker.

Note that the prepaid card must comply with the federal Electronic Fund Transfer Act (EFTA) card accounts used for public assistance, such as unemployment insurance benefits. In California, the Employment Development Department (EDD) uses the EDD Debit Card from the Bank of America to deliver benefit payments for all EDD benefit programs including Disability Insurance (DI), Paid Family Leave (PFL), and Unemployment Insurance (UI). The EDD Debit Card is valid for three years from the date of issue. (See https://edd.ca.gov/About_EDD/The_EDD_Debit_Card.htm.)

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

The mandated CHSWC report about these disability indemnity payments should include, but is not limited to, the following:

- (i) The number of employees who elected to receive their disability indemnity payments in a prepaid card account.
 - (ii) The cash value of the disability benefits sent to prepaid card accounts.
 - (iii) The number of employees who opted to change the method of payment from a prepaid card account to either a written instrument or electronic deposit.
- (E) The report issued pursuant to subparagraph (D) shall comply with Section 9795 of the Government Code.

The Commission plans to examine the adoption of this prepaid card account system by employers (i.e., insurers) and to meet the deadline for the mandated December 2022 report to the Legislature.

SB 537

SB 537, adopted as LC section 127.1, 138.7, et al., effective January 1, 2020, requires the administrative director of DWC, with input from CHSWC, to issue a report to the Legislature, on or before January 1, 2023, comparing potential payment alternatives for providers to the official medical fee schedule, including, but not limited to, capitation, bundled payments, quality incentives, and value-based payment systems. The report should address advantages and disadvantages of each alternative payment system to the official medical fee schedule and make recommendations to the Legislature on alternative payment pilot programs.

AB 1400

AB 1400, adds LC section 77.7 effective January 1, 2020, requires CHSWC, in partnership with the County of Los Angeles and relevant labor organizations, to submit a study on the risk of exposure to carcinogenic materials and the incidence of occupational cancer in mechanics who repair and clean firefighting vehicles. The study must use baseline and historical data collection methods.

HEALTH AND SAFETY

Health and Safety Legislation

AB 35, Assembly Member Kalra

Worker safety: blood lead levels: reporting.

Amends Section 105185 of the Health and Safety Code, and to add Section 147.3 to the Labor Code, relating to employment.

Status: Enrolled on September 18, 2019 and chaptered on October 10, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB35

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

Summary: Existing law requires the Department of Industrial Relations, by interagency agreement with the State Department of Public Health, to establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state. That repository is known as the Hazard Evaluation System and Information Service (HESIS). Existing law requires the HESIS, among other things, to provide information and collect and evaluate data relating to possible hazards to employees resulting from exposure to toxic materials or harmful physical agents. Existing law establishes the Division of Occupational Safety and Health within the Department of Industrial Relations and requires the division to, among other things, monitor, analyze, and propose health and safety standards for workers. Existing law authorizes the Division of Occupational Safety and Health to adopt regulations to implement health and safety standards.

This bill would require the State Department of Public Health (department) to consider a report from a laboratory of an employee's blood lead level at or above 20 micrograms per deciliter to be injurious to the health of the employee and to report that case within 5 business days of receiving the report to the Division of Occupational Safety and Health (division). The bill would further provide that the above-described report would constitute a serious violation and subject the employer or place of employment to an investigation, as provided, by the division, and would require the division to make any citations or fines imposed as a result of the investigation publicly available on an annual basis. The bill would specify that the blood lead levels identified in these provisions that trigger action by the department and the division do not supersede any lower blood lead levels established by regulations adopted by the division that would trigger required action by an employer.

AB 203, Assembly Member Salas

Occupational safety and health: Valley Fever.

Adds Section 6709 to the Labor Code, relating to occupational safety and health.

Status: Enrolled on September 20, 2019 and chaptered on October 10, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB203

Summary: The California Occupational Safety and Health Act of 1973 provides the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision overall employment and places of employment necessary to enforce and administer all occupational health and safety laws and standards and to protect employees. The act establishes various safety provisions applicable to certain construction activities. A violation of the act under specific circumstances is a crime.

This bill would require construction employers engaging in specified work activities or vehicle operation in counties where Valley Fever is highly endemic, as defined, to provide effective awareness training on Valley Fever to all employees annually and before an employee begins work that is reasonably anticipated to cause substantial dust disturbance. The bill would require the training to cover specific topics and would authorize the training to be included in the employer's injury and illness prevention

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

program training or as a standalone training program. The bill would provide that the training is not required during the first year that the county is listed as highly endemic, but would be required in subsequent years.

AB 647, Assembly Member Kalra

Hazardous substances: cosmetics: disinfectants: safety documents.

Adds Section 6390.2 to the Labor Code, relating to occupational safety.

Status: Enrolled on September 18, 2019 and chaptered on September 20, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB647

Summary: Existing law, the Hazardous Substances Information and Training Act, prescribes the rights and duties of employers who use hazardous substances, people who sell a hazardous substance to employers in California, and manufacturers who produce or sell hazardous substances. Existing law requires the Director of Industrial Relations to establish a list of hazardous substances and make the list available to manufacturers, employers, and the public. Existing law requires the manufacturer of a hazardous substance on that list to prepare and provide its direct purchasers of the hazardous substance a material safety data sheet, referred to as an MSDS, containing specified information that is current, accurate, and complete.

This bill, beginning July 1, 2020, would require an entity that manufactures or imports a hazardous substance or mixture of substances that constitutes a cosmetic or is used as a disinfectant, as defined, that is required to create a safety data sheet (SDS) for that product, to post and maintain the SDS on its internet website, as prescribed, by its brand name or other commonly known name in a manner generally accessible to the public. If a separate SDS based on color or tint exists, the bill would require the entity to post and translate each SDS. The bill would require the entity to translate the SDS into Spanish, Vietnamese, Chinese, and Korean, and other languages that the director may determine are common to the beauty care industry, and to make these translations also publicly available on its website.

AB 1400, Assembly Member Kamlager-Dove

Employment safety: firefighting equipment: mechanics.

Adds and repeals Section 77.7 of the Labor Code, relating to employee safety.

Status: Enrolled on September 26, 2019 and chaptered on October 10, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1400

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law requires the Commission on Health and Safety and Workers' Compensation to conduct a continuing examination of the workers' compensation system and of the state's activities to prevent industrial injuries and occupational diseases.

This bill would require the commission, in partnership with the County of Los Angeles and relevant labor organizations, on or before January 1, 2021, to submit a study to the

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

Legislature, the Occupational Safety and Health Standards Board, and the Los Angeles County Board of Supervisors on the risk of exposure to carcinogenic materials and incidence of occupational cancer in mechanics who repair and clean firefighting vehicles.

AB 1804, Committee on Labor and Employment

Occupational injuries and illnesses: reporting.

Amends Section 6409.1 of the Labor Code, relating to employment.

Status: Enrolled on August 23, 2019 and chaptered on August 30, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1804

Summary: Existing law requires an employer to file a report of every occupational injury or occupational illness, as defined, of each employee that results in lost time beyond the date of the injury or illness, and that requires medical treatment beyond first aid, with the Department of Industrial Relations, on a form prescribed by the department. Existing law requires an employer to immediately report a serious occupational injury, illness, or death to the Division of Occupational Safety and Health by telephone or email, as specified.

This bill, instead, would require the report of serious occupational injury, illness, or death to the division to be made immediately by telephone or through an online mechanism established by the division for that purpose. The bill, until the division has made the online mechanism available, would require that the employer be permitted to make the report by telephone or email.

AB 1805, Committee on Labor and Employment

Occupational safety and health.

Amends Sections 6302 and 6309 of the Labor Code, relating to employment.

Status: Enrolled on August 23, 2019 and chaptered on August 30, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1805

Summary: Existing law defines “serious injury or illness” and “serious exposure” for purposes of reporting serious occupational injury or illness to the Division of Occupational Safety and Health and for purposes of establishing the division’s duty to investigate employment accidents and exposures.

This bill would recast the definition of “serious injury or illness” by removing the 24-hour minimum time requirement for qualifying hospitalizations, excluding those for medical observation or diagnostic testing, and explicitly including the loss of an eye as a qualifying injury. The bill would delete loss of a body member from the definition of serious injury and would, instead, include amputation. The bill would also eliminate the exclusion of injury or illness caused by certain violations of the Penal Code and would narrow the exclusion of injuries caused by accidents occurring on a public street or highway to include those injuries or illnesses occurring in a construction zone. The bill would recast the definition of “serious exposure” to include exposure of an employee to a hazardous substance in a degree or amount sufficient to create a realistic possibility that death or serious physical harm in the future could result from the actual hazard created by the exposure.

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

Existing law also establishes the standard for what constitutes a serious violation requiring a faster response from the division and further requires the division to keep confidential the name of a person submitting a complaint regarding unsafe or unhealthy working conditions. Existing law establishes that a serious violation exists when the division determines that there is a substantial possibility that death or serious injury could result from the condition alleged in the complaint.

This bill would instead establish that a serious violation exists when the division determines that there is a realistic possibility that death or serious injury could result from the actual hazard created by the condition alleged in the complaint.

***SB 83, Committee on Budget and Fiscal Review
Employment.***

Adds and repeals Section 6717.5 of the Labor Code, among other codes.

Status: Enrolled on June 25, 2019 and chaptered on June 27, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB83

Summary: This is a budget trailer bill that makes several changes to existing law regarding employment.

Existing law authorizes the Occupational Safety and Health Standards Board to adopt, amend, or repeal occupational safety and health standards and orders. Existing law requires the Division of Occupational Safety and Health in the Department of Industrial Relations, known as Cal-OSHA, to propose to the board for its review and adoption, a standard that protects the health and safety of employees who engage in lead-related construction work and meets all requirements imposed by the federal Occupational Safety and Health Administration.

The bill would require Cal-OSHA to submit to the Occupational Safety and Health Standards Board a rulemaking proposal to revise the lead standards for purposes of general industry safety orders and construction safety orders, consistent with scientific research and findings. The bill would require the board to vote on the proposed changes by September 30, 2020.

HEALTH AND SAFETY AND WORKERS' COMPENSATION REGULATIONS

Health and Safety Regulations

The regulatory activities of the Occupational Safety and Health Standards Board (OSHSB) and Division of Occupational Safety and Health (DOSH) regulations are available online as noted below. Formal rulemaking is preceded by a notice, the release of a draft rule, and the announcement of a public hearing. (DOSH and Cal/OSHA references are used interchangeably, and DOSH and Cal/OSHA enforce the OSHSB safety and health standards.)

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

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

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

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

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

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

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

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

WORKERS' COMPENSATION

Workers' Compensation Legislation

AB 5, Assembly Member Gonzalez

Worker status: employees and independent contractors.

Amends Section 3351 of, and adds Section 2750.3 to, the Labor Code, among others.

Status: Enrolled on September 17, 2019 and chaptered on September 18, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB5

Summary: Existing law, as established in the case of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for those purposes.

This bill provides that for purposes of the provisions of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. The bill states that addition of the provision to the Labor Code does not constitute a change in, but is declaratory of, existing law with regard to violations of the Labor Code relating to wage orders of the Industrial Welfare Commission. The bill also states that specified Labor Code provisions of the bill apply retroactively to existing claims and actions to the maximum extent permitted by law while other provisions apply to work performed on or after January 1, 2020. The bill additionally provides that the bill's provisions do not permit an employer to reclassify an individual who was an employee on January 1, 2019, to an independent contractor due to the bill's enactment.

SB 78, Committee on Budget and Fiscal Review
Health

Amends Sections 3208.3 and 3351 of, and adds Sections 3370.1 and 3371.1 to, the Labor Code, relating to workers' compensation, among others.

Status: Enrolled and chaptered on June 27, 2019.

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB78

Summary: Existing law vests the State Department of State Hospitals with jurisdiction over state hospitals, and defines state hospital to include, among others, the Atascadero State Hospital, Napa State Hospital, and county jail treatment facilities under contract with the department to provide competency restoration services.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law provides that each inmate of a state penal or correctional institution is entitled to workers' compensation benefits for injury arising out of, and in the course of, assigned employment, and for the death of the inmate if the injury proximately causes the death. Existing law provides counsel to an inmate under the workers' compensation system for an appeal and generally provides that an employee who is an inmate, or their family on behalf of that inmate, is not entitled to compensation for psychiatric injury, except with respect to an injury sustained prior to incarceration. With respect to temporary disability payments, existing law requires the deposit of those payments into the Uninsured Employers Benefits Trust Fund, a continuously appropriated fund, for the payment of nonadministrative expenses of the workers' compensation program, if the inmate has no dependents.

This bill similarly provides that each patient in a State Department of State Hospitals facility is entitled to workers' compensation benefits for injury arising out of, and in the course of, a vocational rehabilitation work assignment, and for the death of the patient if the injury proximately causes the death. The bill provides counsel to a patient under the

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

workers' compensation system for an appeal and provide that an employee who is a patient committed to a state hospital facility under the State Department of State Hospitals, or their family on behalf of the patient, is not entitled to compensation for psychiatric injury while working in a vocational rehabilitation program, except as specified with respect to an injury sustained prior to commitment. With respect to any temporary disability payments incurred prior to commitment under that provision, if the patient has no dependents, the bill requires the deposit of those payments into the Uninsured Employers Benefits Trust Fund, a continuously appropriated fund, thereby making an appropriation.

SB 537, Assembly Member Hill

Workers' compensation: treatment and disability.

Amends Sections 138.7, 4600.4, 4603.2, 4610, 4616, and 4616.5 of, and adds Sections 127.1, 138.8, and 5307.12 to, the Labor Code, relating to workers' compensation.

Status: Enrolled on September 19, 2019 and chaptered on October 8, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB537

Summary: Requires the Administrative Director of the Division of Workers' Compensation, with input from the Commission on Health and Safety and Workers' Compensation, to issue a report to the Legislature, on or before January 1, 2023, comparing potential payment alternatives for providers to the official medical fee schedule. The bill also requires, on or before January 1, 2024 and annually thereafter, the administrative director to publish on the division's internet website provider utilization data for physicians, as specified, who treated 10 or more injured workers during the 12 months before July 1 of the previous year, including the number of injured workers treated by the physician and the number of utilization review decisions that resulted in a modification or denial of a request for authorization of medical treatment based upon a determination of medical necessity. The bill authorizes the administrative director to withhold data if deemed necessary to protect patient privacy. The bill requires an itemized request for payment for services to be submitted to an employer with the physician's or provider's national provider identifier number. The bill also requires an entity that provides physician or ancillary network service to provide a payor with a written disclosure of the reimbursement amount paid to the provider with a rate sheet if a contracted reimbursement rate is more than 20% below the official medical fee schedule, as specified. The bill authorizes an entity that provides physician or ancillary network services to require a payor to sign a nondisclosure agreement before providing that disclosure.

SPECIAL REPORT: 2019 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

SB 542, Senator Stern

Workers' compensation.

Adds and repeals Section 3212.15 of the Labor Code, relating to workers' compensation.

Status: Enrolled on September 19, 2019 and chaptered on October 1, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB542

Summary: Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law provides that, in the case of certain state and local firefighting personnel and peace officers, the term "injury" includes various medical conditions that are developed or manifested during a period while the member is in the service of the department or unit, and establishes a disputable presumption in this regard.

This bill would provide, only until January 1, 2025, that in the case of certain state and local firefighting personnel and peace officers, the term "injury" also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2020. The bill would prohibit compensation from being paid for a claim of injury unless the member has performed services for the department or unit for at least 6 months, unless the injury is caused by a sudden and extraordinary employment condition.

Vetoed Legislation of Note

AB 346, Assembly Member Cooper

Workers' compensation: leaves of absence.

Amends Section 4850 of the Labor Code, relating to workers' compensation.

Status: Enrolled on September 11, 2019 and vetoed by Governor on October 13, 2019.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB346

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law provides that certain peace officers, firefighters, and other specified state and local public employees are entitled to a leave of absence without loss of salary while disabled by injury or illness arising out of and in the course of employment. The leave of absence is in lieu of temporary disability payments or maintenance allowance payments otherwise payable under the workers' compensation system.

This bill would have added police officers employed by a school district, county office of education, or community college district to the list of public employees entitled to a leave of absence without loss of salary, in lieu of temporary disability payments, while disabled by injury or illness arising out of and in the course of employment.

Workers' Compensation Regulations

The regulatory activities of the Division of Workers' Compensation (DWC) to implement the provisions of the 2012 workers' compensation reform legislation can be found online. Formal rulemaking is often preceded by the release of a draft rule and the opening of an online forum for interested parties to post comments. Older regulations can be found on the DWC rulemaking page at:

https://www.dir.ca.gov/dwc/Laws_Regulations.htm.

Information on preliminary rulemaking activities is available at:

<http://www.dir.ca.gov/Wcjudicial.htm>.

The latest formal rulemaking updates are available at:

www.dir.ca.gov/DWC/dwcrulemaking.html.

DWC Approved Regulations 2019 are available at:

<https://www.dir.ca.gov/dwc/rulemaking/DWCRulemaking2019.html>.

DWC Proposed Regulations 2019 are available at:

http://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html.

Information on Workers' Compensation Appeals Board (WCAB) preliminary rulemaking activities:

<https://www.dir.ca.gov/dwc/DWCWCABForum/1.asp#WCAB/>.

Regulations in Title 8 of the California Code of Regulations (CCR) are at:

<https://www.dir.ca.gov/samples/search/querydwc.htm>.

Administration of Self-Insurance Plans Regulations

Any regulatory activities of the Office of Self-Insurance Plans (OSIP) are discussed on the pages listed below.

Proposed OSIP regulations are at:

https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_proposed.html.

Approved OSIP regulations are at:

http://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_approved.html.

Regulations in Title 8 of the California Code of Regulations (CCR) are at:

<https://www.dir.ca.gov/samples/search/querysip.htm>.

SYSTEM COSTS AND BENEFITS

The California workers' compensation system covers an estimated 16,775,000 employees²⁴ working for over 1,019,255 employers²⁵ in the state. These employees and employers generated a gross domestic product of \$2,968,118,000,000 (\$3.0 trillion) in 2018.²⁶ A total of 682,160 occupational injuries and illnesses were reported for 2018,²⁷ ranging from minor medical treatment cases to catastrophic injuries and deaths. The total paid cost to employers for workers' compensation in 2018 was an estimated \$23.5 billion. (See Tables 4 and 5 in the "Systemwide Cost: Paid Dollars for 2018 Calendar Year" on page 39.)

Employers range from small businesses with one or two employees to multinational corporations doing business in the state and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the state, which is legally uninsured. According to Figure 1, based on the claim counts reported to the Workers' Compensation Information System (WCIS), 67.0 percent of injuries occur to employees of insured employers, 30.2 percent of injuries occur to employees of self-insured employers, and 2.8 percent of injuries occur to employees of the State of California.²⁸ (For calculations based on claim counts and paid loss data, see Tables 1-3 in the "Methods of Estimating the Workers' Compensation System Size" on pages 35-38.)

²⁴ [NASI Report: Workers' Compensation: Benefits, Costs, and Coverage, 2017](#). October, 2019.

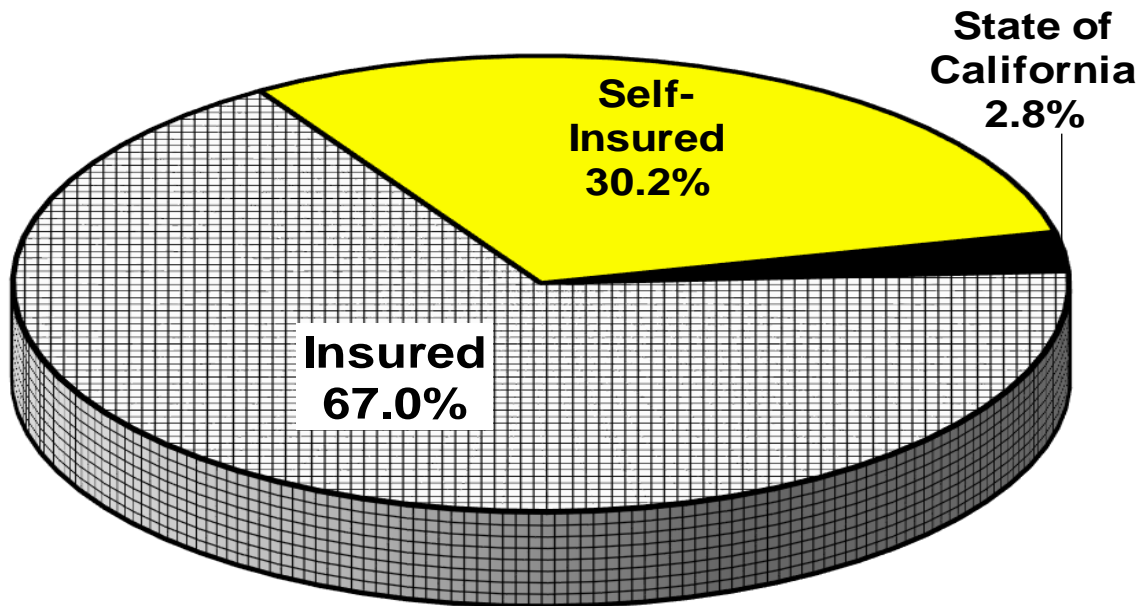
²⁵ CHSWC estimates are based on an [Employment Development Department report](#), as above, showing 1,584,626 businesses in 2018. Of these, 1,130,743 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation. $1,584,626 - (1,130,743/2) = 1,019,255$.

²⁶ [California Department of Finance, Economic Research Unit](#).

²⁷ The latest year for which Workers' Compensation Information System (WCIS) reports are reasonably complete. Data are from the Division of Workers' Compensation (DWC) report from the WCIS database, "[FROI and SROI Data Summary, by Year of Injury](#)", July, 2019. Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, "Reporting Workers' Compensation Injuries in California: How Many are Missed?" (2008), CHSWC Report.

²⁸ [WCIS, Table 4, "Workers' Compensation Claims by Market Share."](#) July 2019.

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2016-2018 average)



Data Source: DWC - WCIS

METHODS OF ESTIMATING THE WORKERS' COMPENSATION SYSTEM SIZE

The overall system size for 2018 is estimated at 1.49 times the insured sector size. This multiplier is based on claims counts in the Workers' Compensation Information System (WCIS).²⁹ CHSWC is using a three-year moving average of WCIS claim counts available since 2000 because it blunts the effect of one-time aberrations. The annually revised estimate of the multiplier is based on updated claims data provided by WCIS as well as updated paid loss amounts from the Workers' Compensation Insurance Rating Bureau (WCIRB), the Office of Self-Insurance Plans (OSIP), and the California Department of Human Resources (CDHR) in order to examine and substantiate its accuracy.

Claim Count-Based Method

The number of claims for all sectors increased by 11 percent from 616,065 claims in 2012 to 682,157 claims in 2018. The market share of the insured sector ranged from a three-year moving average of 65.3 in 2012-2014 to 67.0 percent in 2016-2018. The market share of the self-insured sector decreased from the average of 31.1 percent in 2012-2014 to 30.2 percent in 2016-2018. The three-year moving average share of the State of California steadily decreased from 3.6 percent in 2012-2014 to the average of 2.8 percent in 2016-2018. In 2018, the three-year average market shares based on claims counts were 67.0 percent insured, 30.2 percent self-insured, and 2.8 percent state. Using these

²⁹ [WCIS Database as of July 2019](#).

SYSTEM COSTS AND BENEFITS

values, a multiplier for extending the insured sector information to the overall system can be calculated as $100\%/67.0\% = 1.49$, somewhat lower than 1.52 in 2017.

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

Year	Number of Claims in Insured Sector	Insured Market Share (%)	Number of Claims in Self-Insured Sector	Self-Insured Market Share (%)	Number of Claims in State of California	State of California's Market Share (%)
2016	433.2	65.7	206.4	31.3	19.6	3
2017	459.4	66.6	211.3	30.6	19.2	2.8
2018	467.9	68.6	195.7	28.7	18.5	2.7
Average for 3 years	NA	67	NA	30.2	NA	2.8

Source: WCIS.

Based on the convergence of market share measurements from two independent methods, the data demonstrate that the insured market share is 66-68 percent of the workers' compensation system. Depending on the method of measurement, the self-insured sector is 29-31 percent and the state sector is 3 or 4 percent.

SYSTEM COSTS AND BENEFITS

Paid Loss Method

Paid loss data indicate that 66.2 percent of the market is insured, 29.8 percent is self-insured, and 4.0 percent is the state. These percentages are similar when using 2018 data for the insured and private self-insured sectors and either 2017-2018 or 2018-2019 data for the State and public self-insured sector, as shown in Tables 2 and 3. The multiplier for extending insured sector information to the overall system can be calculated as $100\%/66.2\% = 1.51$ (is in the ballpark of estimated 1.49 based on claim counts).

Table 2: Percent Distribution of Workers’ Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2018-2019

Sectors	Indemnity	Medical	Total	% in Total
<i>a. Private Self-Insured (2018)*</i>	\$614,881,701	\$750,749,175	N/A	N/A
<i>b. Public Self-Insured (2018/2019)**</i>	\$1,271,654,069	\$1,144,059,798	N/A	N/A
SELF-INSURANCE PLAN (a + b)	\$1,886,535,770	\$1,894,808,973	\$3,781,344,743	29.8%
INSURED (2018)***	\$3,770,094,000	\$4,645,113,000	\$8,415,207,000	66.2%
STATE (2018/2019)****	\$223,499,531	\$288,969,888	\$512,469,419	4.0%
Subtotal/Total	\$5,880,129,301	\$6,828,891,861	\$12,709,021,162	100%

* [Private Statewide Summary](#)

** [Public Statewide Summary](#)

*** [WCIRB, 2018 Losses and Expenses Report](#), Exhibit 18.1, Released June 28, 2019.

**** [California Department of Human Resources: Workers' Compensation Program Cost Information](#).

SYSTEM COSTS AND BENEFITS

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses)—using public self-insured and state data for FY 2017-2018

Sectors	Indemnity	Medical	Total	% in Total
<i>a. Private Self-Insured (2018)*</i>	\$614,881,701	\$750,749,175	N/A	N/A
<i>b. Public Self-Insured (2017/2018)**</i>	\$1,214,375,072	\$1,119,293,067	N/A	N/A
SELF-INSURANCE PLAN (a + b)	1,829,256,773	\$1,870,042,242	\$3,699,299,015	29.4%
INSURED (2018)***	\$3,770,094,000	\$4,645,113,000	\$8,415,207,000	66.9%
STATE (2017/2018)****	\$207,641,833	\$257,864,472	\$465,506,305	3.7%
Subtotal/Total	\$5,806,992,606	\$6,773,019,714	\$12,580,012,320	100%

* [Private Statewide Summary](#)

** [Public Statewide Summary](#)

*** [WCIRB, 2018 Losses and Expenses Report](#), Exhibit 18.1, Released June 28, 2019.

**** [California Department of Human Resources: Workers' Compensation Program Cost Information](#).

SYSTEM COSTS AND BENEFITS

Systemwide Cost: Paid Dollars for 2018 Calendar Year

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in Tables 4 and 5. These figures are based on insurer-paid amounts multiplied by 1.49 to include estimated amounts paid by self-insured employers and the State.

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

Benefit Components	Insured	Self-Insured and the State	All Employers
Indemnity	\$3,770*	\$1,847	\$5,617
Medical	\$4,645*	\$2,276	\$6,921
Changes to Total Reserves	-\$554	-\$271	-\$825
Insurer Pre-Tax Underwriting Profit/Loss and Insurer Policyholder Dividends	\$3,166	N/A	\$3,166
Expenses (see Table 5 below: Breakdown of Expenses)	\$6,555	\$2,062	\$8,617
TOTAL for 2018*	\$17,582	\$5,914	\$23,496

*Include CIGA payments totaling \$161 mln.

Source for Insured figures in Tables 4 and 5 is WCIRB Losses and Expenses report released on June 28, 2019. Self-insured and state expenses are calculated by CHSWC using 0.49 multiplier for equivalent cost components. The equivalent expense components are estimated as in the Table 5:

Table 5: Breakdown of Expenses (Million \$)

Expense Components	Insured	Self-Insured and State	All Employers
Loss Adjustment Expense	\$3,248	\$1,592	\$4,840
Commissions and Brokerage	\$1,346	N/A	\$1,346
Other Acquisition Expenses	\$630	N/A	\$630
General Expenses	\$961	\$471	\$1,432
Premium and Other Taxes	\$370	N/A	\$370
Total	\$6,555	\$2,062	\$8,617

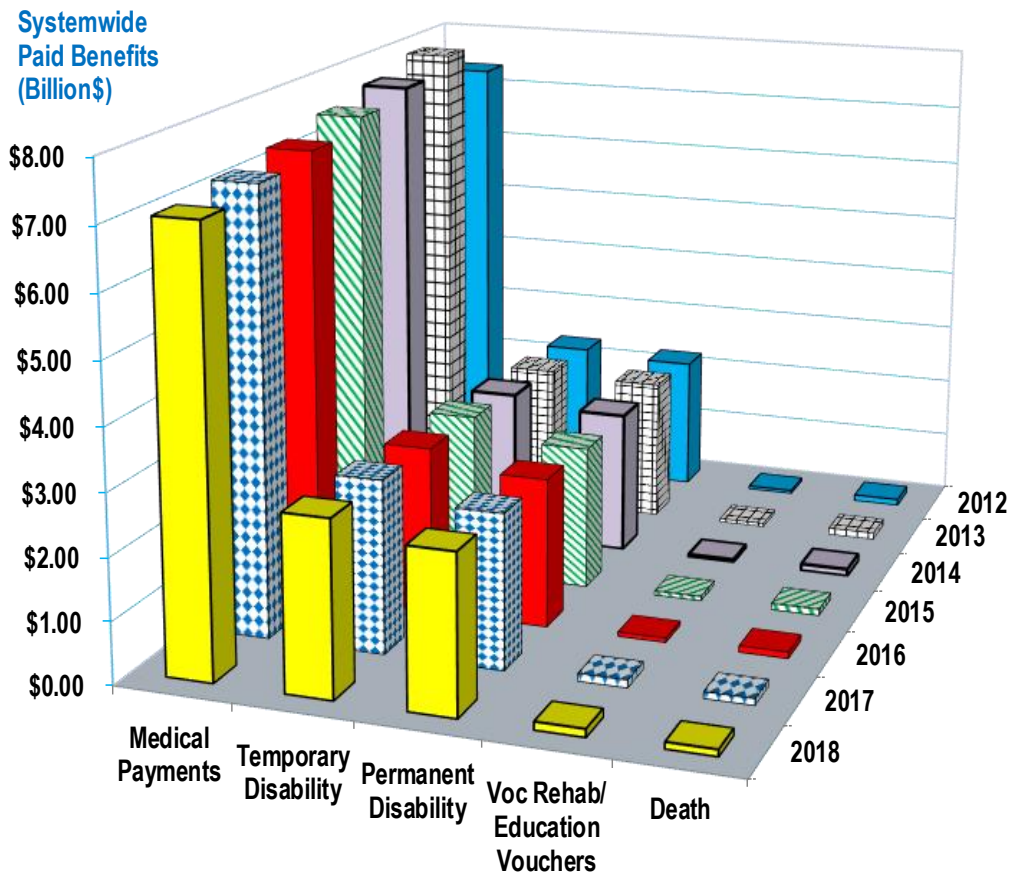
Estimate of Workers' Compensation System Size Based on Written Premium

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

Written premium for insured employers = \$17.0 billion in calendar year 2018.³⁰

$$\$17.0 \text{ billion} \times 1.49 = \$25.3 \text{ billion systemwide costs for employers}$$

Figure 2: Systemwide* Paid Benefits, by Year and Type of Payment (\$ in billions)



* Systemwide amounts estimated at 1.52 times the amounts reported by insurers

Data Source: WCIRB

³⁰ [WCIRB Summaries of Insurer Experience Report as of December 31, 2018](#), Chart 1.

2012—2016 WORKERS' COMPENSATION REFORMS: CHANGES IN THE CALIFORNIA SYSTEM

Since 2012, California made several significant reforms in the workers' compensation system that have been estimated to have saved \$3 billion annually³¹. The major reform bills are summarized as follows.³²

2012 Workers' Compensation Reforms: Senate Bill 863

One of the major reform efforts within the past several years was the enactment of Senate Bill 863 in September 2012. The goal of the reform was to improve benefits for injured workers while reducing costs. SB 863 generally makes changes in: the measurement of permanent disability; the compensation for permanent disability; the physician fee schedule; the process to resolve disputes over appropriate medical treatment, medical fees, billing and collections; the means of ensuring self-insurance program solvency and the methods of securing the payment of compensation by self-insurance; and other aspects of the workers' compensation system.

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

The WCIRB's estimates in its retrospective evaluation update of SB 863 indicate total annual statewide savings of \$2.3 billion per year, an increase of \$2.1 billion over the previous projected prospective estimates of \$200 million.³³ SB 863 medical reforms have resulted in over \$2 billion in annual savings.

³¹ [WCIRB 2019 State of the System Report on California's Workers' Compensation System](#)

³² Information on other [legislation related to workers' compensation](#) and [CHSWC legislative reports](#).

³³ [Senate Bill No. 863 WCIRB Cost Monitoring Report—2016 Retrospective Evaluation](#).

SYSTEM COSTS AND BENEFITS

Table 6 reproduced from [WCIRB's SB 863 Cost Monitoring Update](#), summarizes WCIRB's estimates using various cost categories.

Table 6: WCIRB's 2019 Evaluation of Senate Bill (SB) 863 Cost Impact

Cost Components	Updated Cost Impact (in \$ million)	Updated Total % Impact on Losses and LAE
Indemnity Cost Components		
Changes to Weekly PD Min & Max	+\$650	+3.4%
SJDB Benefits	+\$40	+0.2%
Replacement of FEC Factor	+\$550	+2.9%
Elimination of PD Add-ons	(\$170)	-0.9%
Three-Tiered Weekly PD Benefits	(\$100)	-0.5%
Ogilvie Decision	(\$130)	-0.7%
Indirect Impact on Overall Indemnity Utilization	(\$220)	-1.2%
Med and LAE Cost Components		
Changes to Lien Filings	(\$480)	-2.5%
Spinal Implant Hardware Reimbursements	(\$110)	-0.6%
Changes to ASC Fees	(\$80)	-0.4%
IMR—Impact of Frictional Costs	+\$70	+0.4%
MPN Strengthening	(\$190)	-1.0%
IBR-Impact on Frictional Costs	\$0	0.0%
RBRVS Changes to Physician Fee Schedule	(\$330)	-1.7%
Indirect Impact on Overall Medical Utilization	(\$1,770)	-9.3%
TOTAL ESTIMATE—ALL ITEMS	(\$2,270)	-11.9%

Source: WCIRB

2015 Workers' Compensation Reforms: Medical Treatment Utilization Schedule (MTUS) and the Drug Formulary (AB 1124)

AB 1124 required the DWC Administrative Director to establish an evidence-based drug formulary and to update the formulary on at least a quarterly basis to allow for the provision of all appropriate medications, including those that are new to the market. The MTUS Drug Formulary has three essential parts: the ACOEM Treatment Guidelines which are the backbone of the formulary, the MTUS Drug List, which guides prospective review requirements, and the Ancillary Formulary Rules. The MTUS Drug List is not a standalone document and must be used in conjunction with the adopted American College of Occupational and Environmental Medicine (ACOEM) guidelines.³⁴ The formulary regulations went into effect January 1, 2018, and the actual impacts of implementing the drug formulary will be monitored. According to the WCIRB, the formulary is estimated over time to save about \$100 million per year.³⁵

2016 Workers' Compensation Reforms: Fortifying the Anti-Fraud Changes Regarding Liens (AB 1244 and SB 1160)

SB 863 made changes regarding liens filed against an injured workers' claim, for medical treatment and other services provided in connection with the claim, but not paid for by the employer or insurance carrier. In particular, a filing fee of \$150 was required for all liens filed after January 1, 2013, and a \$100 activation fee was required for liens filed before then, but activated for a conference or trial after January 1, 2013. There were also provisions for **dismissal of liens** by operation of law after January 1, 2014, if no filing or activation fee has been filed, as well as an 18-month statute of limitations for filing liens for services rendered after July 1, 2013, and a three-year statute of limitations for services provided before then.

After a delay because of court challenges to a related section of the law, the workers' compensation community in particular, district attorneys' offices throughout California, especially in San Diego and Los Angeles, realized that suspicious medical bills were still being filed and paid as liens by providers who had ongoing adverse involvement with the criminal justice system and their practice. In 2016, [AB 1244](#) (Gray) passed into law and required the Administrative Director of the DWC to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in any capacity if the individual or entity meets specific criteria related to fraud. Those criteria include being convicted of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or workers' compensation systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider could also be suspended if his or her license, certificate, or approval to provide health care has been surrendered or revoked, or that individual or entity is suspended from participation in the Medicare or Medicaid programs because of fraud or abuse. The bill enabled the barring of a medical provider from submitting or pursuing claims for payment for services or supplies provided,

³⁴ [MTUS Webinar, November 2017](#).

³⁵ [WCIRB 2018 Report on the State of the California Workers' Compensation Insurance System](#).

SYSTEM COSTS AND BENEFITS

if that provider had been suspended from participation in the workers' compensation system. [AB 1244 also made changes in Labor Code section 4906](#) related to the Attorney Fee Disclosure Statement, including requirements to ensure that the injured worker is informed of the specific district office location at which the injured worker's case will be filed.

Until the passage of SB 1160, fraudulent medical providers could claim no knowledge of billing fraud, citing errors by their office staff as the reason for the fraud. In 2016, [SB 1160 \(Mendoza\)](#) required the medical provider to sign a declaration under penalty of perjury stating that the lien is not subject to independent medical review or independent billing review, and that the lien claimant is submitting a legitimate bill for services rendered. SB 1160 also added section 4615 to the Labor Code, which automatically stays any lien filed by or on behalf of a medical treatment provider who has been criminally charged with an offense involving fraud against the workers' compensation system, medical billing fraud, insurance fraud or fraud against the Medicare or Medi-Cal programs. SB 1160 also required all lien claimants to file an original bill with their lien. These lien reforms together with those of SB 863 have contributed to savings of \$1.4 billion per year.³⁶

Leading up to these reforms, CHSWC helped to convene and co-chaired a series of working group roundtable meetings addressing fraud in the workers' compensation system with multiple stakeholders. Many of the [recommendations](#) for statutory improvements from these sessions were incorporated into the SB 1160 and AB 1244 anti-fraud reforms signed into law in September 2016. According to the WCIRB, the anti-fraud reforms in addition to SB 863 provisions related to lien filings have been key contributing factors in the decrease in medical severity over the past several years.³⁷

2016 Workers' Compensation Reforms: Utilization Review (SB 1160)

In addition to anti-fraud provisions regarding liens, SB 1160 also addressed utilization review (UR). SB 1160 reduces UR requirements in the first 30 days following a work-related injury. Commencing July 1, 2018, SB 1160 requires each UR process to be accredited by an independent, nonprofit organization to certify that the UR process meets specified criteria, including, but not limited to, timeliness in issuing a UR decision, the scope of medical material used in issuing a UR decision, and requiring a policy preventing financial incentives to doctors and other providers based on the UR decision. It also mandates electronic reporting of UR data by claims administrators to the DWC, which will enable the division to monitor claim processes and address problems. DWC posted the utilization review regulations on its forum for public comment in December 2018 with a public comment period closing on January 15, 2019.³⁸ Those public comments can be reviewed on the forum website.

³⁶ [WCIRB 2019 State of the System Report on California's Workers' Compensation System.](#)

³⁷ [WCIRB 2018 report on California's Workers' Compensation System.](#)

³⁸ [DWC forums - Utilization Review](#)

COSTS OF WORKERS' COMPENSATION IN CALIFORNIA

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

Costs Paid by Insured Employers

In 2018, workers' compensation insurers' earned premium totaled \$17.4 billion paid by California employers.³⁹

In the past sixteen years, the cost of workers' compensation insurance in California has undergone dramatic changes for several reasons.

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

These reforms reduced workers' compensation costs in California, but the cost of insurance began to increase again after 2009.

Largely because of the SB 863 reforms, which took effect in 2013 and saved about \$1.3 billion annually⁴⁰, the cost of insurance began to fall again in 2014. In particular, as shown in Figure 3, the cost of \$2.25 per \$100 of payroll in 2018 was still 64 percent below the second half of the 2003 peak of \$6.29 per \$100 of payroll, 24 percent below the second peak in 2014, and 11 percent below the 2017 rate.⁴¹

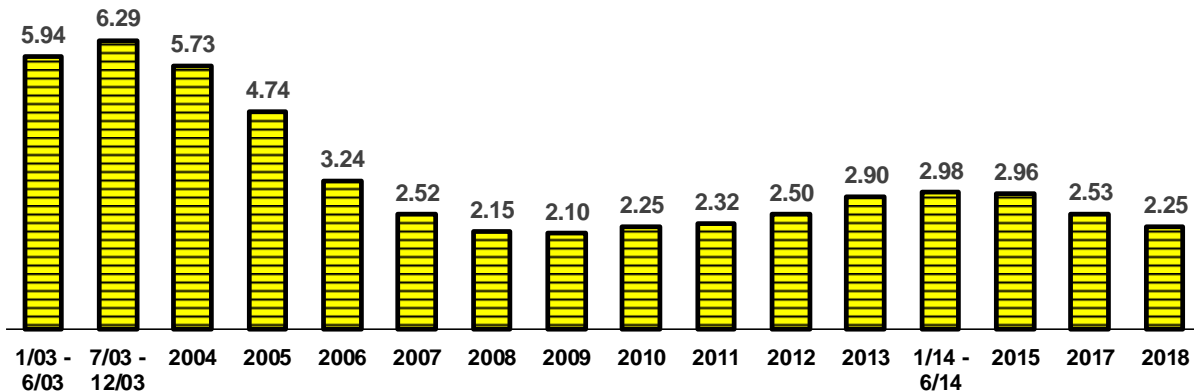
³⁹ ["2018 California's Workers' Compensation Losses and Expenses."](#) WCIRB, June 28, 2019. Note that the earned premium is not identical to the written premium. The two measurements are related, and the choice of which measurement should be used depends on the purpose.

⁴⁰ [Senate Bill No. 863 WCIRB Cost Monitoring Report—2016 Retrospective Evaluation.](#)

⁴¹ [WCIRB Quarterly Experience Report as of March 31, 2017](#) and [WCIRB Quarterly Experience Report as of December 31, 2018.](#)

SYSTEM COSTS AND BENEFITS

Figure 3: Industry Average Charged Pure Premium Rate per \$100 of Payroll, 2003–2018



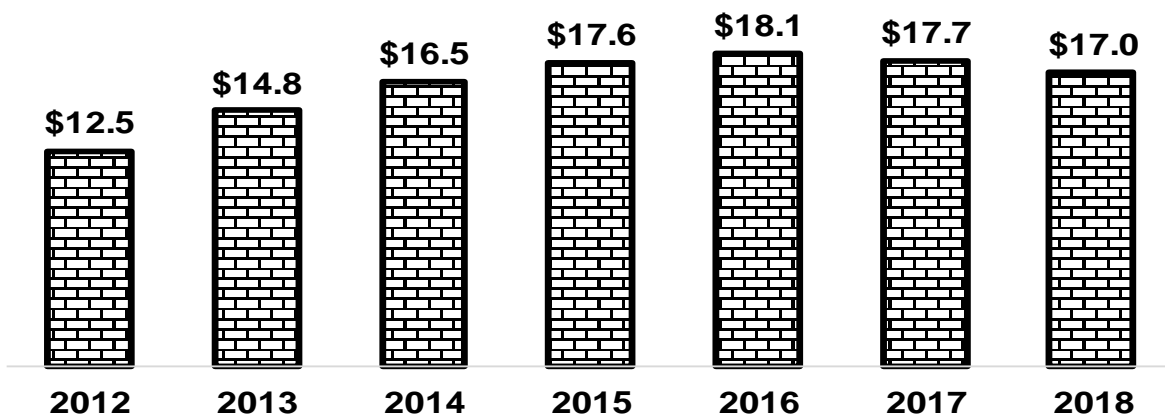
Source: WCIRB

Workers' Compensation Written Premium

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

According to Figure 4, written premium increased by 45 percent from 2012 to 2016 and then declined 6 percent from 2016 to 2018.⁴² The decreases in 2017 and 2018 following seven consecutive years of increases from 2009 (not shown in the period covered by this report as in Figure 4) was driven primarily by decreases in rates charged by insurers, as shown in Figure 5, more than by offsetting increases in employer payroll.

Figure 4: Workers' Compensation Written Premium, Gross of Deductible Credits as of December 31, 2018 (\$ in billions)



Source: WCIRB

⁴² [WCIRB Quarterly Experience Report as of December 31, 2018, Insurer Experience](#), Chart 1.

SYSTEM COSTS AND BENEFITS

Workers' Compensation Average Premium Rate

Figure 5 shows the average advisory rate per \$100 of payroll approved by the Insurance Commissioner (IC) and the insurers' average charged premium rate per \$100 of payroll. The average charged rate is based on collected premiums and reflect all insurer expenses whereas the advisory rate approved by the IC reflects only loss and loss adjustment expenses. Both the approved advisory and charged rates have steadily declined since 2015, and between the first period of 2015 and the first period of 2019, the charged rate was on average 20 percent higher than the approved advisory rate.

The charged rate rose on average by 21 percent from the first period of 2012 to its peak in 2015 and then decreased by 33 percent from the first period of 2015 to the first period of 2019. According to the WCIRB this decrease is largely due to the significant savings from SB 863.⁴³ The pure premium rates approved by the IC are only advisory. Under California law, insurers are permitted to make their own determinations regarding the pure premium rates they will use, as long as the ultimate rates charged do not threaten the insurer's financial solvency, are not unfairly discriminatory, and do not create a monopoly in the marketplace.

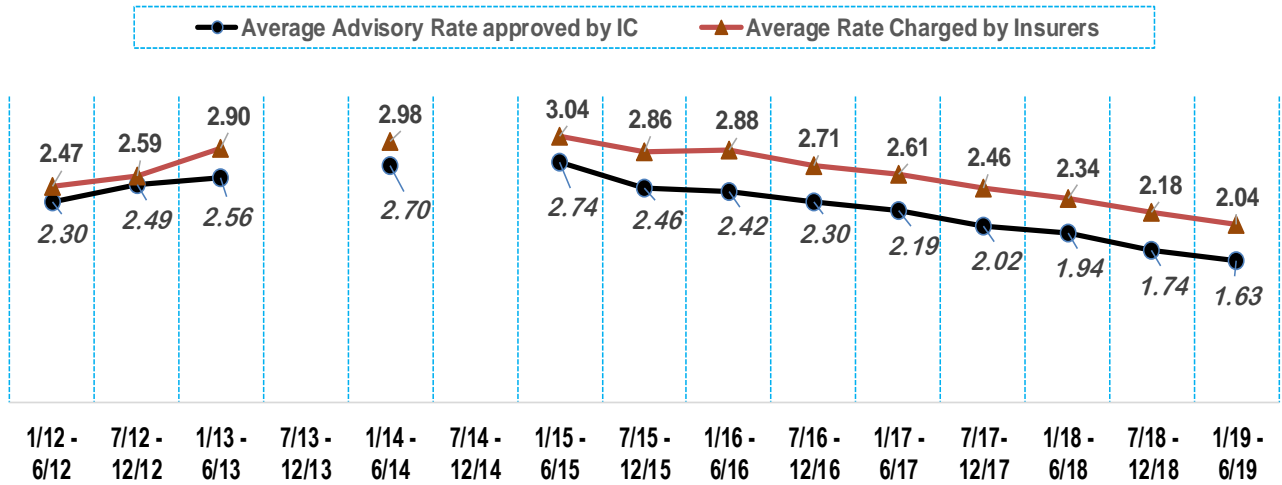
According to Figure 5, the advisory pure premium rates approved January 1, 2019, are on average 41 percent below those as of January 1, 2015.⁴⁴ These rates are not predictive of an individual employer's insurance premium, which may fluctuate greatly from these figures based upon an employer's business, the mix of employees and operations, and the employer's actual claims experience.

⁴³ WCIRB [2018 report on California's Workers' Compensation System](#), Chart 4.

⁴⁴ WCIRB [Quarterly Experience Report as of March 31, 2017](#), Chart 2 and WCIRB [2018 report on California's Workers' Compensation System](#), Chart 5.

SYSTEM COSTS AND BENEFITS

Figure 5: Average Advisory Rate per \$100 of Payroll approved by Insurance Commissioner (IC) and Average Charged by Insurers Rate per \$100 of Payroll



Note: In the second periods of 2013 and 2014, the Insurance Commissioner did not issue decisions with respect to PPR per \$100 of payroll.

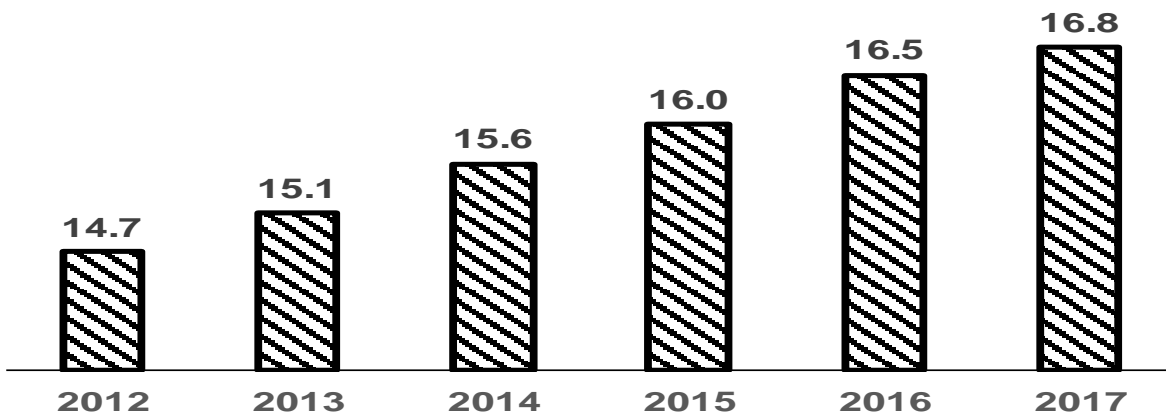
Source: WCIRB

Workers Covered by Workers' Compensation Insurance in California

Estimated Number of Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by 14 percent from 14.7 million in 2012 to 16.8 million in 2017.⁴⁵ See Figure 6.

Figure 6: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (millions)



Source: National Academy of Social Insurance (NASI)

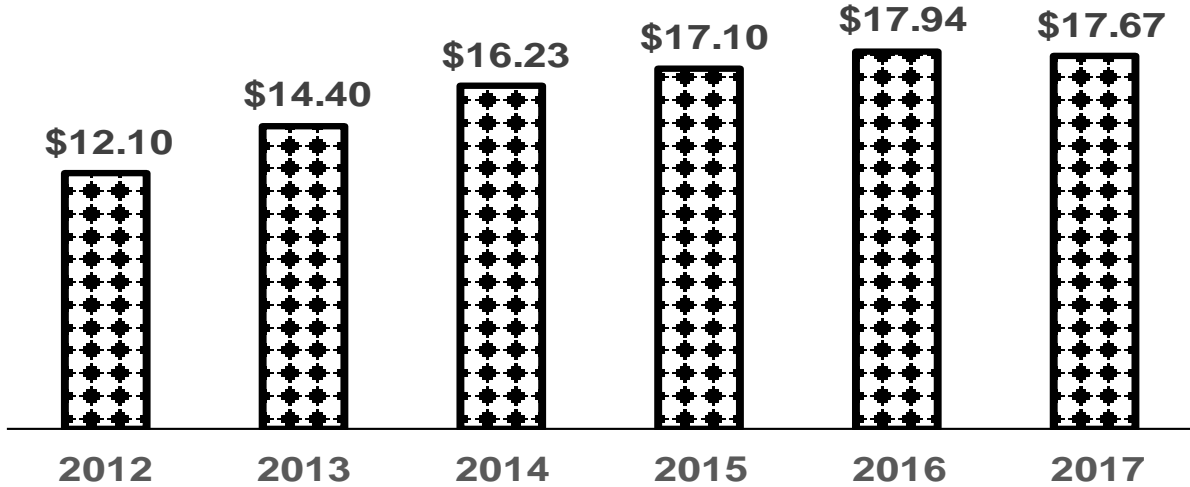
⁴⁵ Latest available data in 2019 from [NASI Report: Workers' Compensation Benefits, Coverage, and Costs](#), 2017. October 2019.

SYSTEM COSTS AND BENEFITS

Total Earned Premium

WCIRB defines the earned premium as the portion of a premium earned by the insurer for policy coverage already provided. As shown in Figure 7, earned premium increased by 48 percent from 2012 and 2016 and then decreased by 1.5 percent from 2016 to 2017.

Figure 7: Workers' Compensation Earned Premium (\$ in billions)

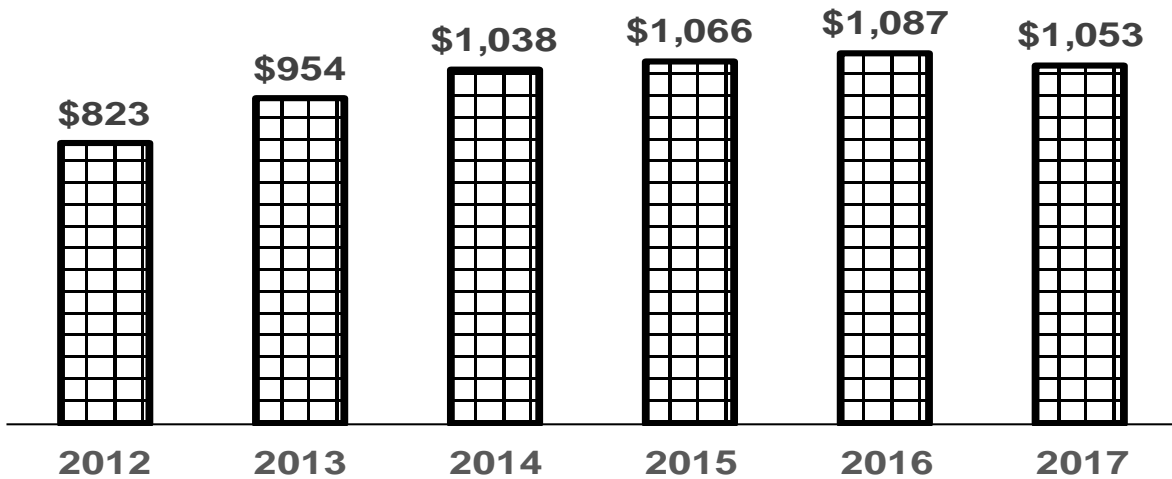


Source: WCIRB

Average Earned Premium per Covered Worker

As shown in Figure 8, the average earned premium per covered worker increased by 32 percent from 2012 to 2016 and then decreased by 3 percent from 2016 to 2017.

Figure 8: Average Earned Premium per Covered Worker



Source: WCIRB and NASI

Costs Paid by Self-Insured Private and Public Employers

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

The Office of Self-Insurance Plans (OSIP) is a program within the Department of Industrial Relations (DIR) Director's Office that is responsible for the oversight, regulation, and administration of the workers' compensation self-insurance marketplace in California. The self-insurance marketplace consists of more than 9,849 employers, employing more than 4 million workers, with a total payroll exceeding \$218 billion. One out of every four California workers is covered by self-insured workers' compensation⁴⁶.

During 2014, OSIP expanded on its many initiatives from the previous year designed to streamline its operations, reduce fees to California employers, and increase its accountability, transparency, and commitment to provide the public with a high level of responsive customer service. An example of this is the year-long project to expand a successful E-Filing platform enabling self-insured employers and actuaries to electronically file their required employer's actuarial and financial report. In 2015, OSIP worked on further improving e-filing to make it even easier to file an employer's Annual Report.

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

OSIP achieved these and many other significant accomplishments in 2015 while reducing expenditures, saving 40 percent in its fiscal year 2015-2016 budget.

In 2016, OSIP moved to a more client-oriented culture, in which each employer had one main contact person for all questions and needs. This led to further efficiency and better communication between the stakeholders and OSIP. OSIP continued to realize the savings of the previous few years.

The focus in 2016 and 2017 was two major projects. Further e-filing enhancement was rolled out in mid-2017; OSIP has received positive feedback from self-insured filers on the changes. The regulations changed the requirements for being self-insured from a net

⁴⁶ [Private Self Insurer's Statewide Totals](#).

SYSTEM COSTS AND BENEFITS

worth requirement to a credit-based requirement. This modern approach allows mid-size companies to become self-insured.

In 2017 and 2018, the two-phase audit process was improved. In previous years, audit supervisors conducted the first phase, which included a general review of the profile, liabilities, and previous audit performance of employers subject to the three-year routine audit. Employers who fail to meet specific criteria are identified for the second-phase field audit. In 2017 and 2018, the responsibilities for the first-phase audit were shifted from the audit supervisor to office staff, with a designated office analyst who coordinates the results from the first-phase audit with the audit supervisor who, in turn, made the decisions on which employers would be subject to the field audit. The change enabled the audit supervisor and the senior compliance officer to have more time to focus on more complicated audits and issues that surface.

The benefits of changes made in previous years were realized in 2018. The credit-based requirement attracts more employers to become self-insured. As employers become more familiar with their main contact person, they are more comfortable asking questions and interacting with OSIP. In 2017 and 2018, OSIP focused on drafting regulations to clarify the solvency, performance, and costs of public self-insurers' workers' compensation programs.⁴⁷

Part of the cost of workers' compensation for self-insured employers can be estimated using the amount of benefits paid in a given year and changes in reserves. This method is similar to the one used by the insurance industry, but the data are less comprehensive for self-insured employers than for insurers. The most complete estimate of the cost to self-insured employers is still obtained by calculating a multiple of the cost to insured employers, excluding the cost elements that apply only to insurance. Using this method yields a multiplier of 0.49 and an estimated cost to self-insured employers and the state for 2018 of \$5.9 billion (see the "Systemwide Cost: Paid Dollars for 2018 Calendar Year" on page 39).

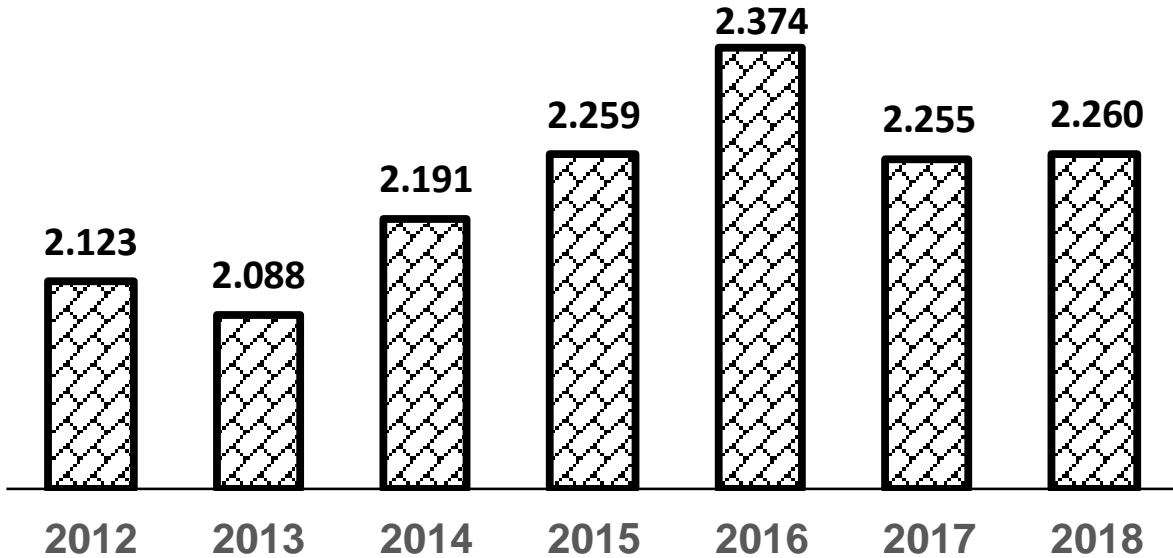
OSIP's focus in 2019 was the [proposed rulemaking](#), which was posted in December 2018. The regulations would require financial information, as well as demographic and claims profile from public self-insurers. This would provide transparency as to the true costs of public self-insurers' workers' compensation programs and the solvency of each public self-insured employer. The regulations were expected to be submitted to the Office of Administrative Law (OAL) in August for approval. OSIP is preparing for this added responsibility with the goal of starting to collect data in 2019.

⁴⁷ Currently, public self-insured employers are not required to provide financial information, whereas to remain self-insured, private self-insured employers must prove that they are financially viable.

Private Self-Insured Employers⁴⁸

Number of Employees. Figure 9 shows the number of employees working for private self-insured employers between 2012 and 2018. A number of factors affect the year-to-year changes. One striking comparison is the average cost of insurance per \$100 of payroll for insured employers, described earlier. When insurance is inexpensive, fewer employers are attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance. As the cost of insurance per \$100 of payroll for insured employers increased from \$2.50 in 2012 to over \$2.95 in 2014 and 2015, more employers chose self-insurance from 2013 to 2016. Because the insurer pure premium rates per \$100 of payroll began to decline in 2015, more employers obtained workers' compensation insurance, thereby decreasing the number of employees covered by self-insurance plans by 5 percent from 2016 to 2018.

Figure 9: Number of Employees of Private Self-Insured Employers (Millions)



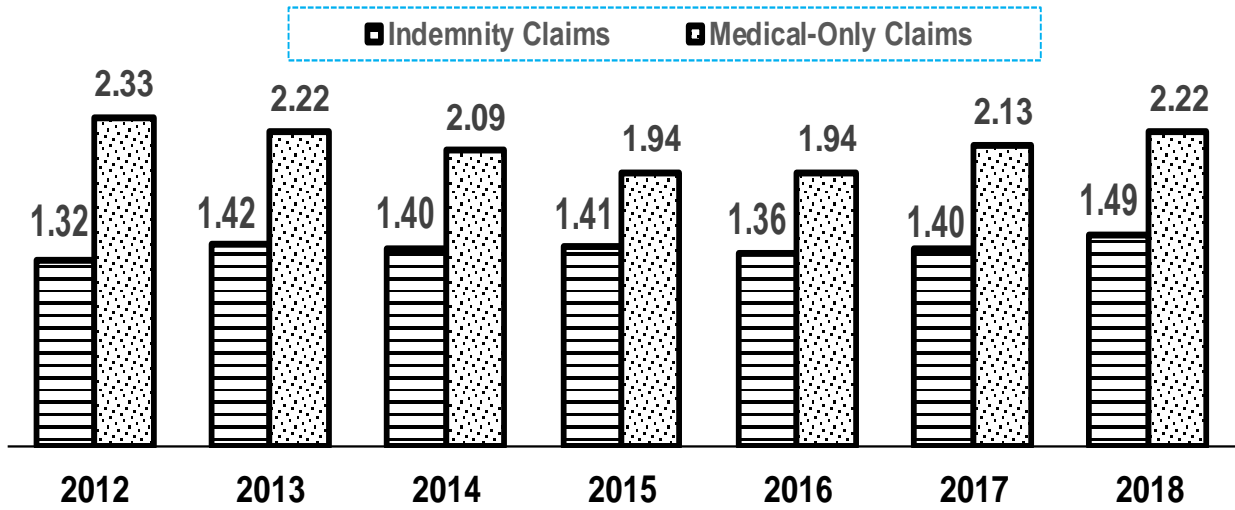
Source: DIR Self-Insurance Plan

Indemnity or Medical-Only Claims. Figure 10 depicts the rate of indemnity or medical-only claims per 100 employees of private self-insured employers. The rate of indemnity claims per 100 employees of private self-insured employers increased by 7.5 percent from 2012 to 2013, averaged 1.40 claims per 100 employees from 2013 to 2017, and then increased by 6 percent from 2017 to 2018. The rate of medical-only claims decreased by 17 percent from its peak of 2.33 per 100 employees in 2012 and then started increasing again from its lowest levels in 2015 and 2016 to 2.22 per 100 employees in 2018 (14 percent).

⁴⁸ Data on private self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in June 2019.

SYSTEM COSTS AND BENEFITS

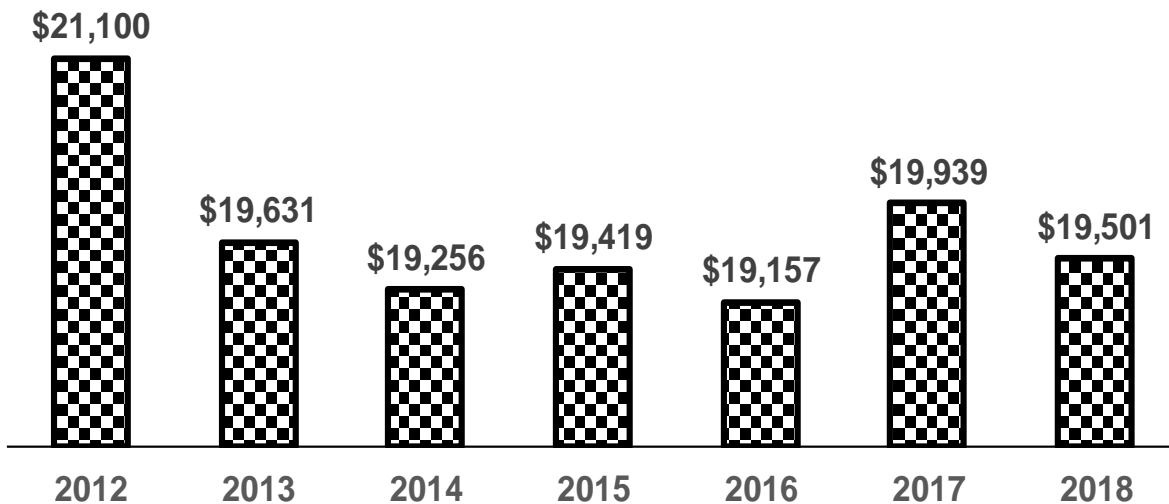
Figure 10: Number of Indemnity or Medical-Only Claims per 100 Employees of Private Self-Insured Employers



Source: DIR Self-Insurance Plan

Incurred Cost per Indemnity Claim. Figure 11 shows the incurred cost per indemnity claim for private self-insured employers, which experienced changes similar to the changes for insurance companies. The average incurred cost per indemnity claim declined 9 percent from 2012 to 2014, and fluctuated between \$19,150 and \$20,000 from 2014 to 2018.

Figure 11: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers

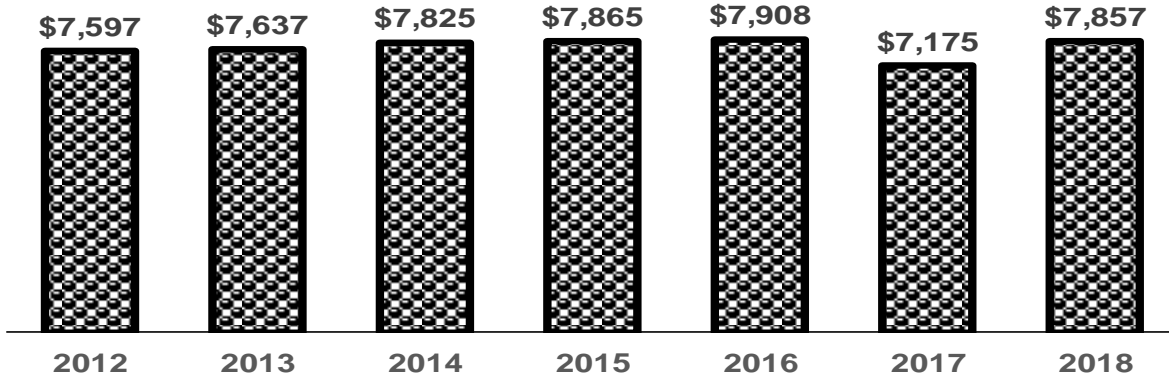


Source: DIR Self-Insurance Plan

SYSTEM COSTS AND BENEFITS

Incurred Cost per Indemnity and Medical Claim. The average cost of all claims, including both indemnity and medical-only claims, is naturally lower than the average cost of indemnity claims. It showed a steady increase from 2012 to 2018, with a one time 9 percent decrease from 2016 to 2017. See Figure 12.

Figure 12: Incurred Cost per Claim, Indemnity and Medical of Private Self-Insured Employers

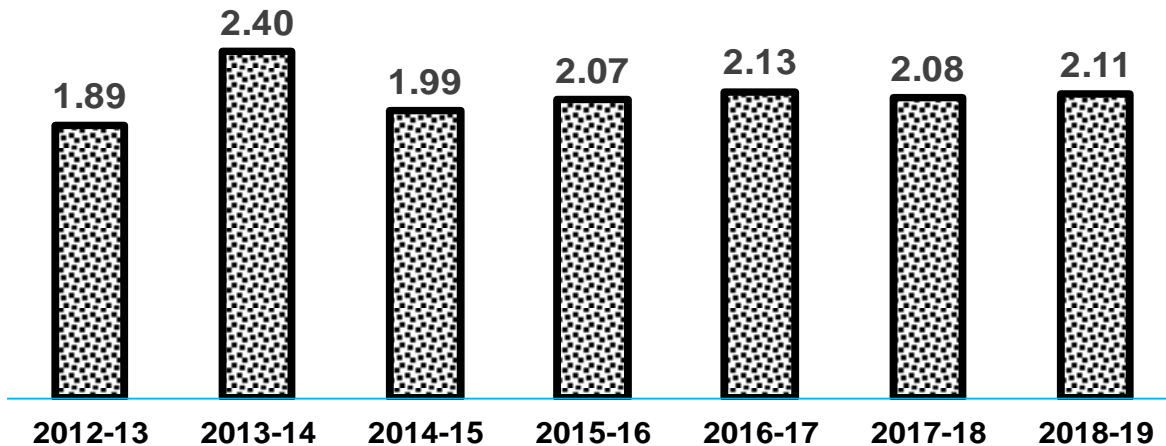


Source: DIR Self-Insurance Plan

Public Self-Insured Employers⁴⁹

Number of Employees. Figure 13 shows the number of employees of public self-insured employers between fiscal years 2012-2013 and 2018-2019. The number of employees of public self-insured employers increased by 27 percent from 2012-2013 to 2013-2014, decreased by 17 percent from 2013-2014 to 2014-2015, and then increased overall by 6 percent from 2014-2015 to 2018-2019.

Figure 13: Number of Employees of Public Self-Insured Employers (Millions)



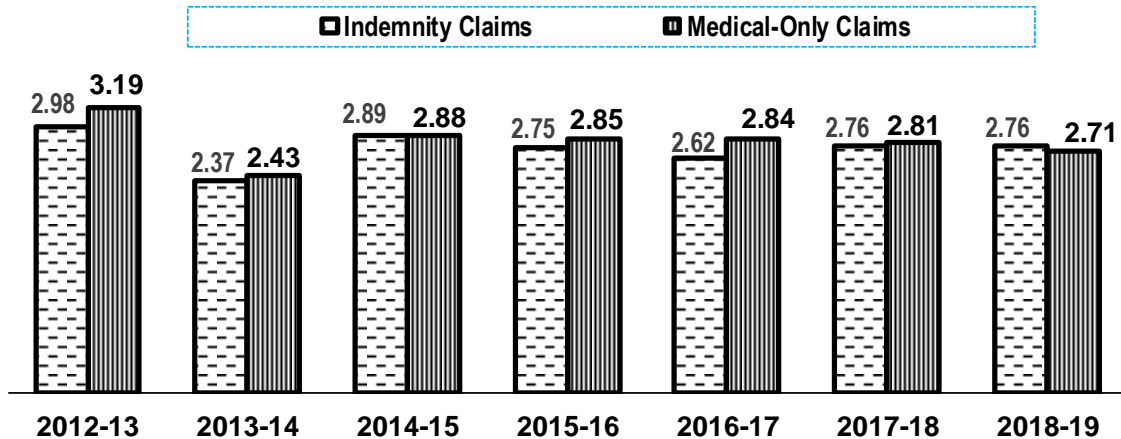
Source: DIR Self-Insurance Plan

⁴⁹ Data on public self-insured employers are from DIR’s Office of Self-Insurance Plans correspondence received by CHSWC in December 2019.

SYSTEM COSTS AND BENEFITS

Indemnity or Medical-Only Claims. The rate of indemnity claims per employees working for public self-insured employers decreased by 20 percent from 2012-2013 to 2013-2014, increased 22 percent from 2013-2014 to 2014-2015, and then decreased by 9 percent from 2014-2015 to 2016-2017. The rate increased by 5.5 percent from 2016-2017 to 2017-2018 and did not change in 2018-2019 from 2017-2018 rate. The rate of medical-only claims decreased 24 percent from 2012-2013 to 2013-2014, and after a one time 18 percent increase from 2013-2014 to 2014-2015, it decreased by 6 percent from 2.88 per 100 employees in 2014-2015 to 2.71 per 100 employees in 2018-2019. See Figure 14.

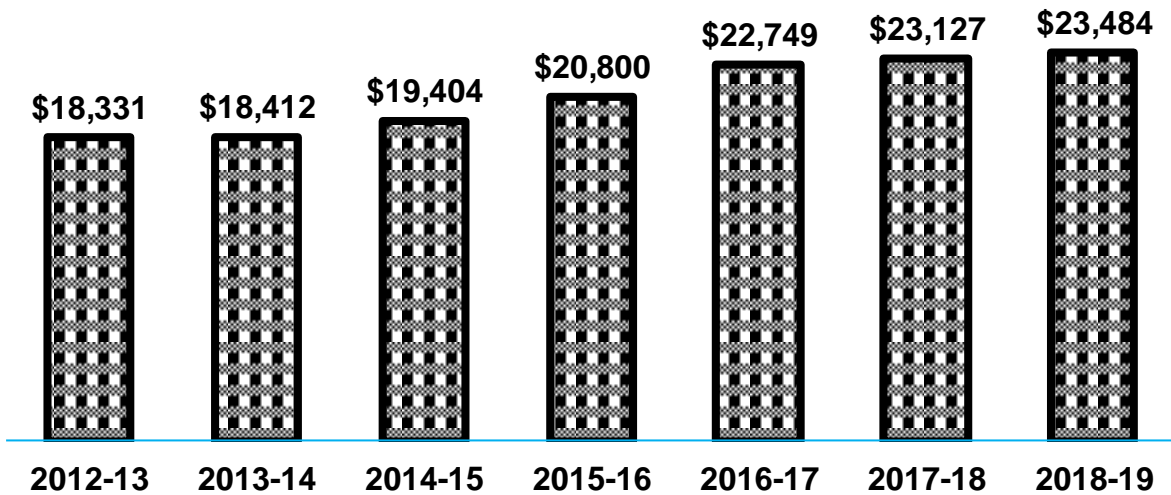
Figure 14: Number of Indemnity or Medical-Only Claims per 100 Employees of Public Self-Insured Employers



Source: DIR Self-Insurance Plan

Incurred Cost per Claim. Figure 15 shows the incurred cost per indemnity claim for public self-insured employers between 2012-2013 and 2018-2019. The incurred cost per indemnity claim increased steadily by 28 percent from \$18,331 to \$23,484.

Figure 15: Incurred Cost per Indemnity Claim of Public Self-Insured Employers

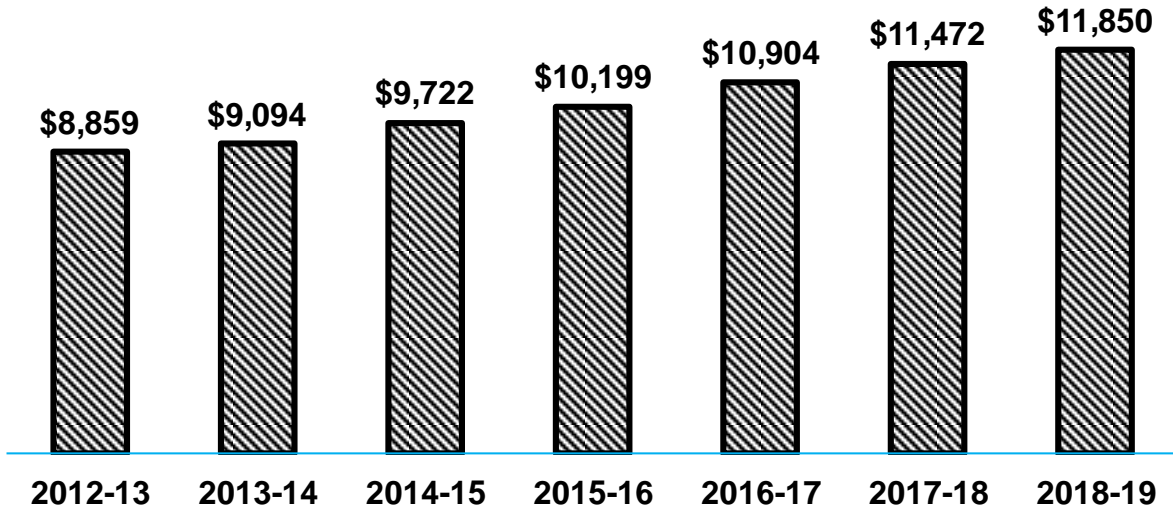


Source: DIR Self-Insurance Plan

SYSTEM COSTS AND BENEFITS

Incurred Cost per Indemnity and Medical Claim. Figure 16 shows the incurred cost per indemnity and medical claim for public self-insured employers between 2012-2013 and 2018-2019. Similar to the average incurred cost per indemnity claim, the incurred cost per indemnity and medical claim increased steadily from 2012-2013 to 2018-2019, rising by 34 percent, from \$8,859 in 2012-2013 to \$11,850 in 2018-2019.

Figure 16: Incurred Cost per Claim—Indemnity and Medical—Public Self-Insured Employers



Source: DIR Self-Insurance Plan

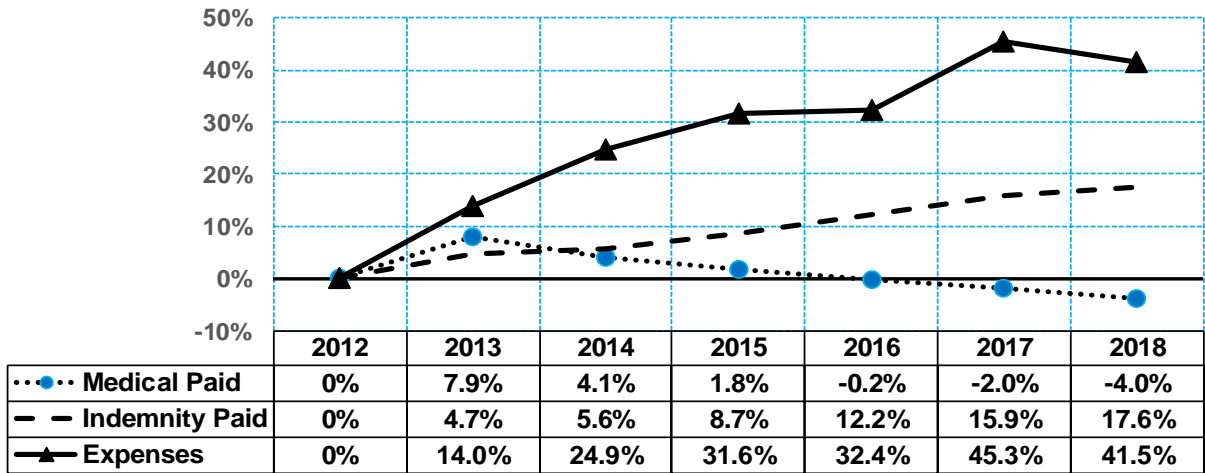
ESTIMATED WORKERS' COMPENSATION SYSTEMWIDE EXPENDITURES: INDEMNITY AND MEDICAL BENEFITS

Overall Costs

Methodology for Estimating. The estimated percentages of total systemwide costs are based on insured employer costs provided by the WCIRB. The assumption is that these data can also be applied to those who are self-insured. Because self-insured employers and the state are estimated to account for 33.1 percent of total California workers' compensation claims (Figure 17), the total systemwide costs are calculated by increasing WCIRB data for insured employers by a multiple of 1.49 to reflect that proportion.

Growth of Workers' Compensation

Figure 17: Workers' Compensation Costs: Annual Change Compared with 2012

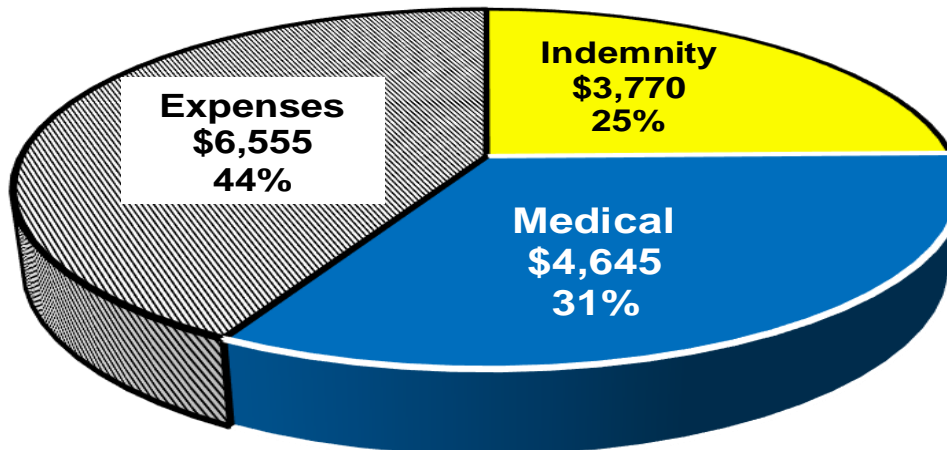


Source: WCIRB

Distribution of Workers' Compensation Costs by Type

Figures 18 and 19 show the distribution of workers' compensation paid costs for insured employers and systemwide.

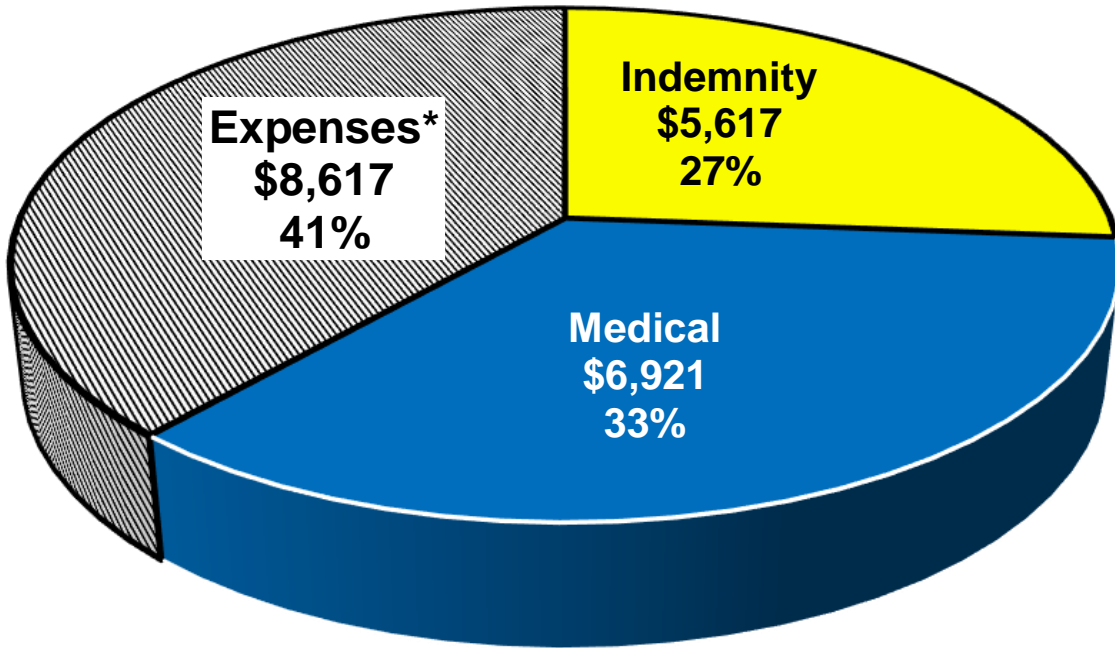
Figure 18: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2018 (\$ in millions)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

Figure 19: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2018 (\$ in millions)



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

Data Source: WCIRB with calculations by CHSWC

Indemnity Benefits

The WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 67.0 percent of total California workers' compensation claims, estimated indemnity benefits are shown in Table 7 for the total system, insured employers, self-insured employers, and the State of California.

In Table 7, amounts estimated for Self-insured employers and the State of California are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.0 percent of all California workers' compensation claims that translates into a 0.49 multiplier applied to indemnity benefits paid by insured employers.

SYSTEM COSTS AND BENEFITS

**Table 7: Systemwide Estimated Costs of Paid Indemnity Benefits
(\$ in thousands)**

INDEMNITY COMPONENTS BY SECTORS	2017	2018	Change
Systemwide, paid by all sectors			
Temporary Disability	\$2,786,991	\$2,755,798	-\$31,193
Permanent Total Disability	\$232,691	\$228,418	-\$4,273
Permanent Partial Disability	\$2,255,823	\$2,265,065	\$9,242
Death	\$107,917	\$107,873	-\$44
Funeral Expenses	\$3,207	\$3,531	\$324
Life Pensions	\$133,496	\$126,753	-\$6,743
Vocational Rehab/ SJDB	\$124,683	\$130,000	\$5,317
Total	\$5,644,807	\$5,617,439	-\$27,368
Paid by Insured Employers			
Temporary Disability *	\$1,833,547	\$1,849,529	\$15,982
Permanent Total Disability *	\$153,086	\$153,301	\$215
Permanent Partial Disability *	\$1,484,094	\$1,520,178	\$36,084
Death *	\$70,998	\$72,398	\$1,400
Funeral Expenses	\$2,110	\$2,370	\$260
Life Pensions	\$87,826	\$85,069	-\$2,757
Vocational Rehab/ SJDB *	\$82,028	\$87,248	\$5,220
Total	\$3,713,690	\$3,770,094	\$56,403
Paid by Self-Insured and the State			
Temporary Disability	\$953,444	\$906,269	-\$47,175
Permanent Total Disability	\$79,605	\$75,117	-\$4,488
Permanent Partial Disability	\$771,729	\$744,887	-\$26,842
Death	\$36,919	\$35,475	-\$1,444
Funeral Expenses	\$1,097	\$1,161	\$64
Life Pensions	\$45,670	\$41,684	-\$3,986
Vocational Rehab/SJDB	\$42,655	\$42,752	\$97
Total	\$1,931,118	\$1,847,346	-\$83,772

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

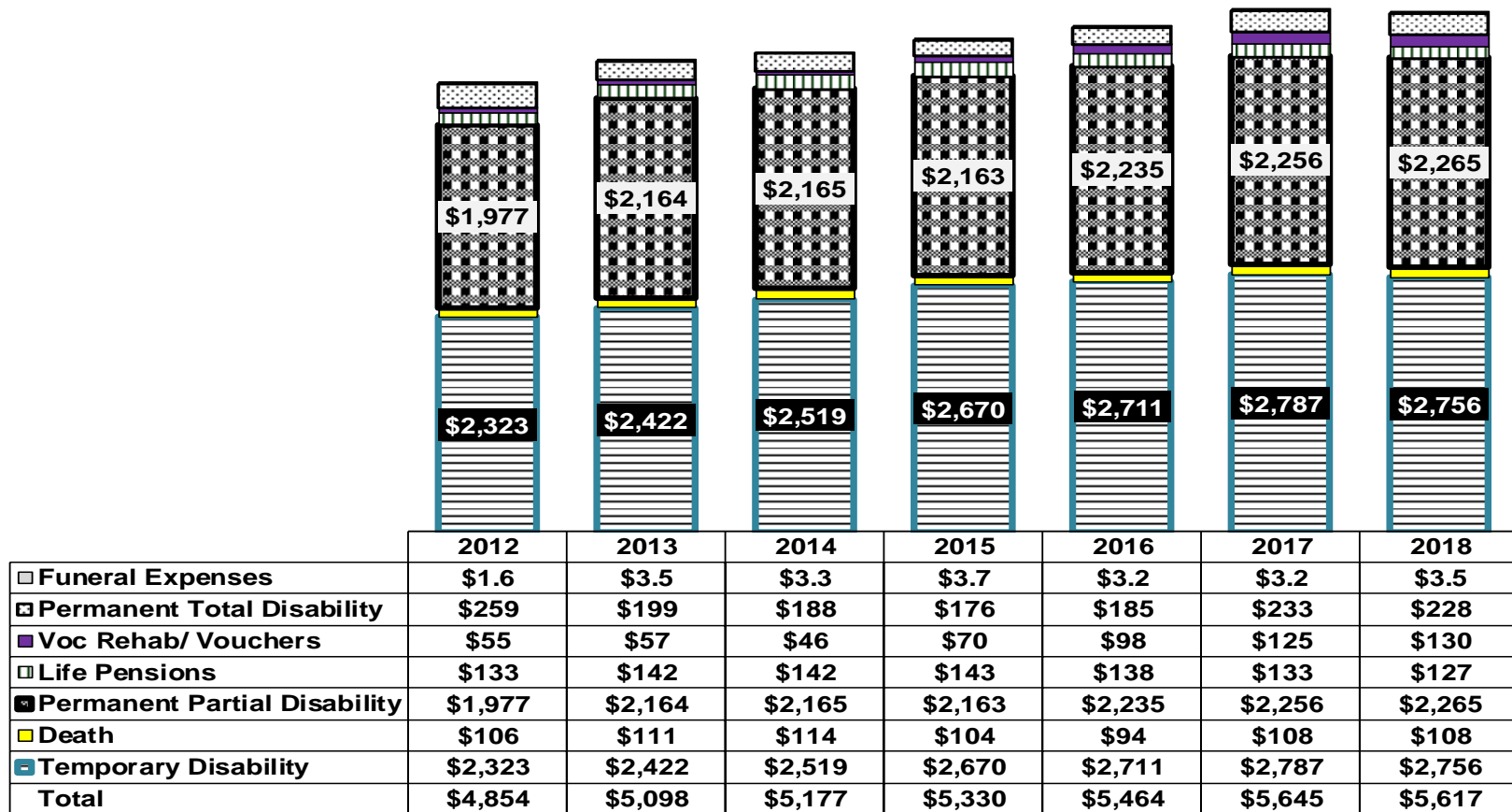
* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.

SYSTEM COSTS AND BENEFITS

Trends in Paid Indemnity Benefits

The estimated systemwide paid indemnity benefits for 2012-2018 are shown in Figure 20. Paid indemnity benefits increased steadily by 16 percent from 2012 to 2017 as the result of SB 863 reforms and slightly decreased by 0.5 percent from 2017 to 2018. From 2012 to 2018, payments for permanent partial disability increased overall by 15 percent and TD benefits increased by 19 percent. Supplemental Job Displacement Benefits (SJDB) increased 2.4-fold during the same period.

Figure 20: Workers' Compensation Paid Indemnity Benefit by Type, Systemwide Estimated Costs (\$ in millions)



Data Source: WCIRB and Calculation: CHSWC

Supplemental Job Displacement Benefits Costs

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

Supplemental Job Displacement Benefit Vouchers

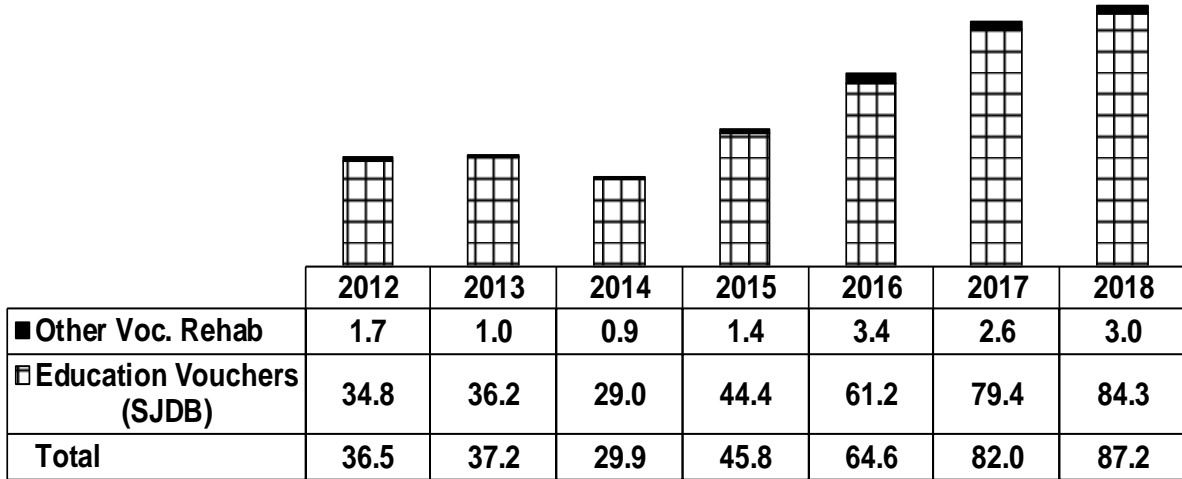
Assembly Bill 227 created a system of nontransferable educational vouchers effective for injuries that occurred on or after January 1, 2004, resulted in a permanent partial disability and termination without an offer of return to work by at-injury employer unless the employer offers and the employee rejects or fails to accept modified work. The WCIRB's estimate of the cost of education vouchers is based on information compiled from its most current Aggregate Indemnity and Medical Costs Call, Call for Calendar Year Experience, and Permanent Disability Claim Survey.

SB 863 revised the SJDB for injuries that occurred on or after January 1, 2013, while preserving the concept of a voucher for education or training for an injured worker who does not have an opportunity to return to work for the at-injury employer. Effective with injuries that occurred on or after January 1, 2013, Labor Code Section 4658.5 was amended and Labor Code Section 4658.7 was added that modified the system of supplemental job displacement benefits. According to LC Section 4658.7, the voucher is now a flat \$6000 for all levels of permanent disability and can be used for training at a California public school or any other provider listed on the state's Eligible Training Provider List (ETPL) on their CalJobs website. It can also be used to pay licensing or certification and testing fees, pay up to 10 percent of the voucher amount for services of licensed placement agencies and RTW counseling, to purchase tools required by a training course, to purchase computer equipment of up to \$1,000 and to reimburse up to \$500 in miscellaneous expenses. The voucher does not expire if issued prior to January 1, 2013. After January 1, 2013, the voucher will expire within two years of being issued or five years from the date of injury, whichever comes later.

SYSTEM COSTS AND BENEFITS

Figure 21 shows that the amounts paid for SJDB vouchers by insured employers in 2018 increased 2.4-fold compared to 2012 and almost threefold compared to 2014. The proportion of amounts paid for SJDB vouchers in total Vocational Rehabilitation benefits increased from 95 percent to 97 percent from 2012 to 2018.

Figure 21: Amounts Paid for Supplemental Job Displacement Benefit (SJDB) Vouchers by Insured Employers (\$ in millions)



Source: WCIRB

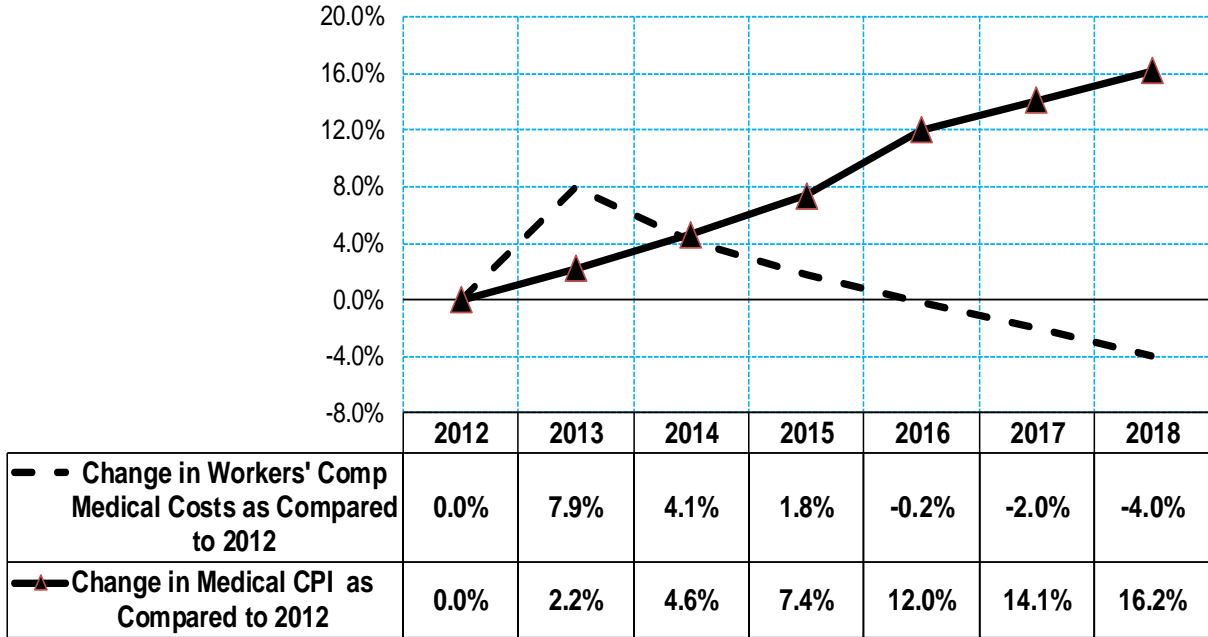
Medical Benefits

Workers’ Compensation Medical Costs vs. Medical Inflation

Figure 22 compares the change in California’s workers’ compensation medical costs paid by insurers and self-insured employers in each consecutive year from 2012 with the growth in the medical component of the Consumer Price Index (CPI) in each consecutive year over the same base year. The medical component of the CPI is also known as the “Medical CPI,” an economic term used to describe price increases in health care services. Since 2013 the pattern of workers’ compensation medical costs has been reversed and started to decrease.

SYSTEM COSTS AND BENEFITS

Figure 22: Growth in Workers' Compensation Medical Costs Compared with Growth in Medical Inflation (2012 as a base year)



Source: WCIRB and Bureau of Labor Statistics (BLS)

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

The WCIRB provided data on the cost of medical benefits paid by insured employers. Assuming that insured employers comprise approximately 67 percent of California workers' compensation claims, estimated medical benefits are shown in Table 8 for the total system, insured employers, self-insured employers, and the State of California.

SYSTEM COSTS AND BENEFITS

Table 8: Systemwide Estimated Costs—Medical Benefits Paid (\$ in thousands)

MEDICAL BENEFIT COMPONENTS	2017	2018	Change
Systemwide Cost, paid by all sectors			
Physicians	\$1,912,067	\$1,846,174	-\$65,893
Hospital (Inpatient and Outpatient)	\$1,006,441	\$933,820	-\$72,620
Medical Supplies and Equipment	\$407,957	\$388,157	-\$19,800
Pharmacy	\$260,189	\$163,998	-\$96,191
Medical-Legal Evaluation	\$488,776	\$431,733	-\$57,042
Payments Made Directly to Patients*	\$2,043,166	\$2,189,689	\$146,523
Medical Cost-Containment Programs**	\$239,830	\$207,280	-\$32,550
Medicare Set-aside and Reimbursements	\$388,228	\$344,698	-\$43,530
Capitated Medical	\$24,790	\$31,783	\$6,994
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$435,846	\$383,885	-\$51,961
Total	\$7,207,290	\$6,921,218	-\$286,071
Paid by Insured Employers			
Physicians	\$1,257,939	\$1,239,043	-\$18,896
Hospital (Inpatient and Outpatient)	\$662,132	\$626,725	-\$35,407
Medical Supplies and Equipment	\$268,393	\$260,508	-\$7,885
Pharmacy	\$171,177	\$110,066	-\$61,111
Medical-Legal Evaluation	\$321,563	\$289,754	-\$31,809
Payments Made Directly to Patient*	\$1,344,188	\$1,469,590	\$125,402
Medical Cost-Containment Programs**	\$157,783	\$139,114	-\$18,669
Medicare Set-aside and Reimbursements	\$255,413	\$231,341	-\$24,072
Capitated Medical	\$16,309	\$21,331	\$5,022
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$286,741	\$257,641	-\$29,100
Total	\$4,741,638	\$4,645,113	-\$96,525
Paid by Self-Insured Empl-rs & the State****			
Physicians	\$654,128	\$607,131	-\$46,997
Hospital (Inpatient and Outpatient)	\$344,309	\$307,095	-\$37,213
Medical Supplies and Equipment	\$139,564	\$127,649	-\$11,915
Pharmacy	\$89,012	\$53,932	-\$35,080
Medical-Legal Evaluation	\$167,213	\$141,979	-\$25,233
Payments Made Directly to Patient*	\$698,978	\$720,099	\$21,121
Medical Cost-Containment Programs**	\$82,047	\$68,166	-\$13,881
Medicare Set-aside and Reimbursements	\$132,815	\$113,357	-\$19,458
Capitated Medical	\$8,481	\$10,452	\$1,972
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$149,105	\$126,244	-\$22,861
Total	\$2,465,652	\$2,276,105	-\$189,546

Sources: Calculated by CHSWC, based on WCIRB's Medical Data Call (MDC).

SYSTEM COSTS AND BENEFITS

Table 8 footnotes:

* Med payments made directly to patient include amounts paid directly to injured workers on lump sum settlements for future med expenses; to a much lesser extent they may also include payments for transportation related to medical care.

** Medical cost-containment programs (MCCP) costs on claims covered by incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for 2018 is \$287 million.

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

**** Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.0 percent of all California workers' compensation claims that translates into a 0.49 multiplier applied to indemnity benefits paid by insured employers.

Trends in Paid Medical Benefits

The estimated systemwide paid medical costs for the past several years are shown in Figure 22. The following trends may result from the impact of SB 863.

The cost of the total medical benefit decreased by 12 percent from 2013 to 2018. Payments to physicians decreased overall by 15 percent from 2013 to 2018 with a slight 2 percent increase from 2016 to 2017. Hospital costs decreased by 17 percent from 2013 to 2016, increased by 13 percent from 2016 to 2017, and then declined from 2017 to 2018. Medical supplies and equipment stabilized at an average of \$372 million per year from 2013 to 2016, increased by 16 percent from 2016 to 2017, and then went back to 2013 level from 2017 to 2018. Medical-legal evaluation costs increased by 16 percent from 2013 to 2016, but decreased by 17 percent from 2016 to 2018. Pharmacy costs decreased almost 4.4 times from \$728 million in 2013 to \$164 million in 2018. This decline was primarily driven by a decrease in utilization which may reflect the impact of Independent Medical Review (IMR), including the reduction in utilization of opiates. Direct payments to patients increased overall by 16 percent from 2013 to 2018. Expenditures on medical cost-containment programs decreased by 37 percent from 2013 to 2018.⁵⁰

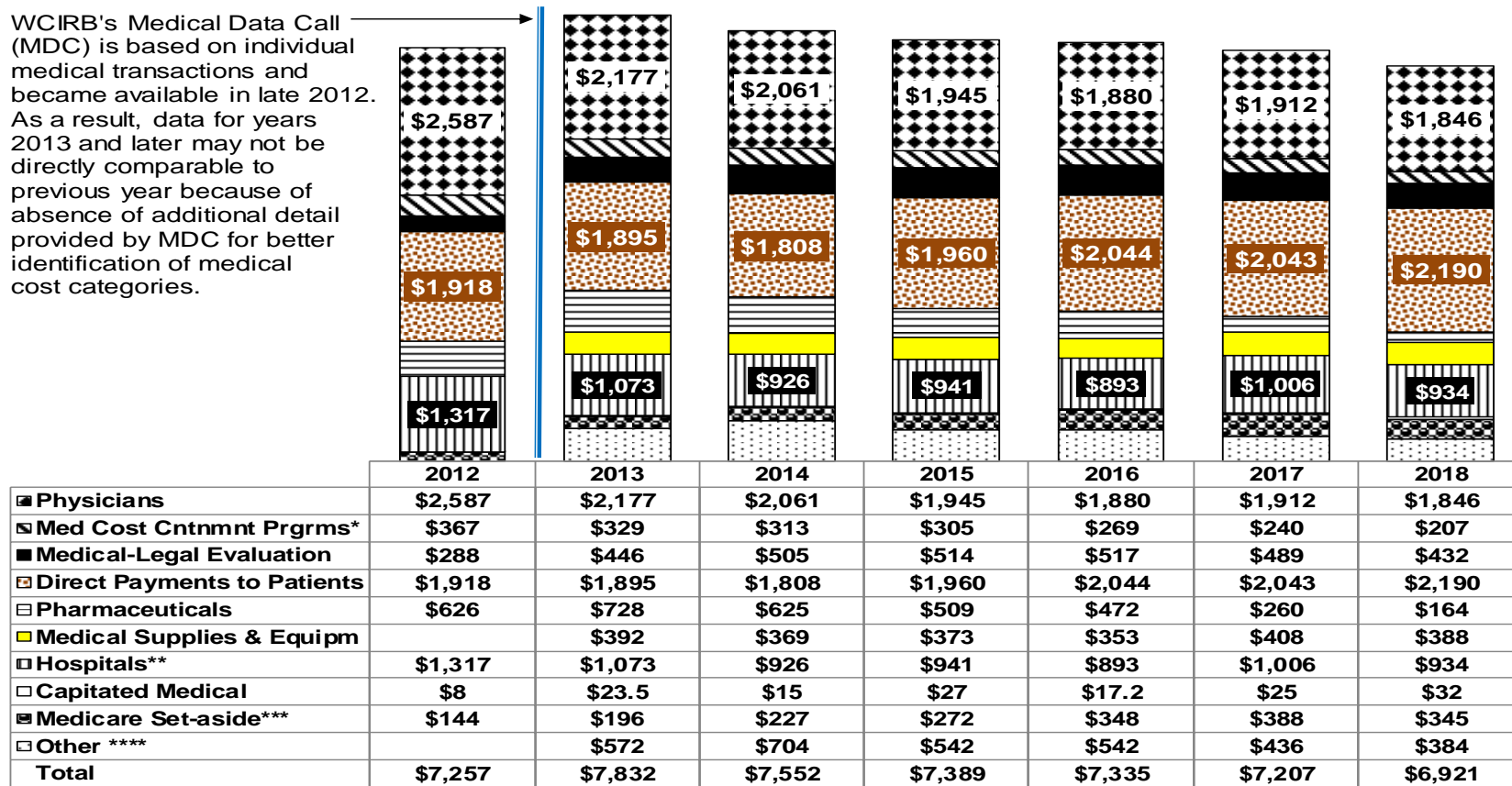
The apparent increases in the medical payments made to injured workers and medical-legal evaluation costs were in part the result of availability of more detailed reporting of payments into specific recipient/payee categories.

⁵⁰ Medical cost-containment program costs on claims covered by policies incepting prior to July 1, 2010, are considered medical loss, and those covered by policies incepting July 1, 2010, and beyond are considered allocated loss adjustment expenses.

SYSTEM COSTS AND BENEFITS

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

WCIRB's Medical Data Call (MDC) is based on individual medical transactions and became available in late 2012. As a result, data for years 2013 and later may not be directly comparable to previous year because of absence of additional detail provided by MDC for better identification of medical cost categories.



Source: WCIRB's MDC (Calculations by CHSWC)

* Medical cost-containment program (MCCP) costs on claims covered by policies incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment

Expenses (ALAE). The amount of MCCP costs reported as ALAE for calendar year 2018 is \$287 million.

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

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

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

Average Ultimate Total Loss

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

Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to the WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss.

The WCIRB projects the average cost or "severity" of a 2018 indemnity claim to be \$71,495, which is 6 percent higher than the projected severity for 2017, the second year of increases, following several years of modest decline in claim severities.⁵¹ The projected average indemnity cost showed relatively modest increase from 2012 to 2017, primarily a result of SB 863 increases to permanent disability benefits effective in 2013 and 2014. It is unclear whether a 7 percent increase from 2017 to 2018 will continue or develop downward like in recent years. The projected average medical cost of a 2018 indemnity claim is 4 percent above that for 2017, which follows decreases in medical severities from 2011 to 2015 and flattening in 2016 and 2017, driven by medical cost savings arising from SB 863. The relatively flat severities since 2015 were driven by recent reforms, reduced pharmaceutical costs and efforts to fight fraud. It is unclear whether the 4 percent increase will develop downward like in recent years or it represents a return of more typical rates as in post-reform medical inflation.⁵² The projected average ALAE cost of a 2018 indemnity claim, excluding MCCP, is 10 percent above that of 2017 and 16 percent higher than the average ALAE severity for 2012. Average ALAE costs tend to rise shortly after the implementation of reforms, even during periods where medical costs have declined. According to the WCIRB, improving claim settlement rates may moderate ALAE costs in the future.⁵³

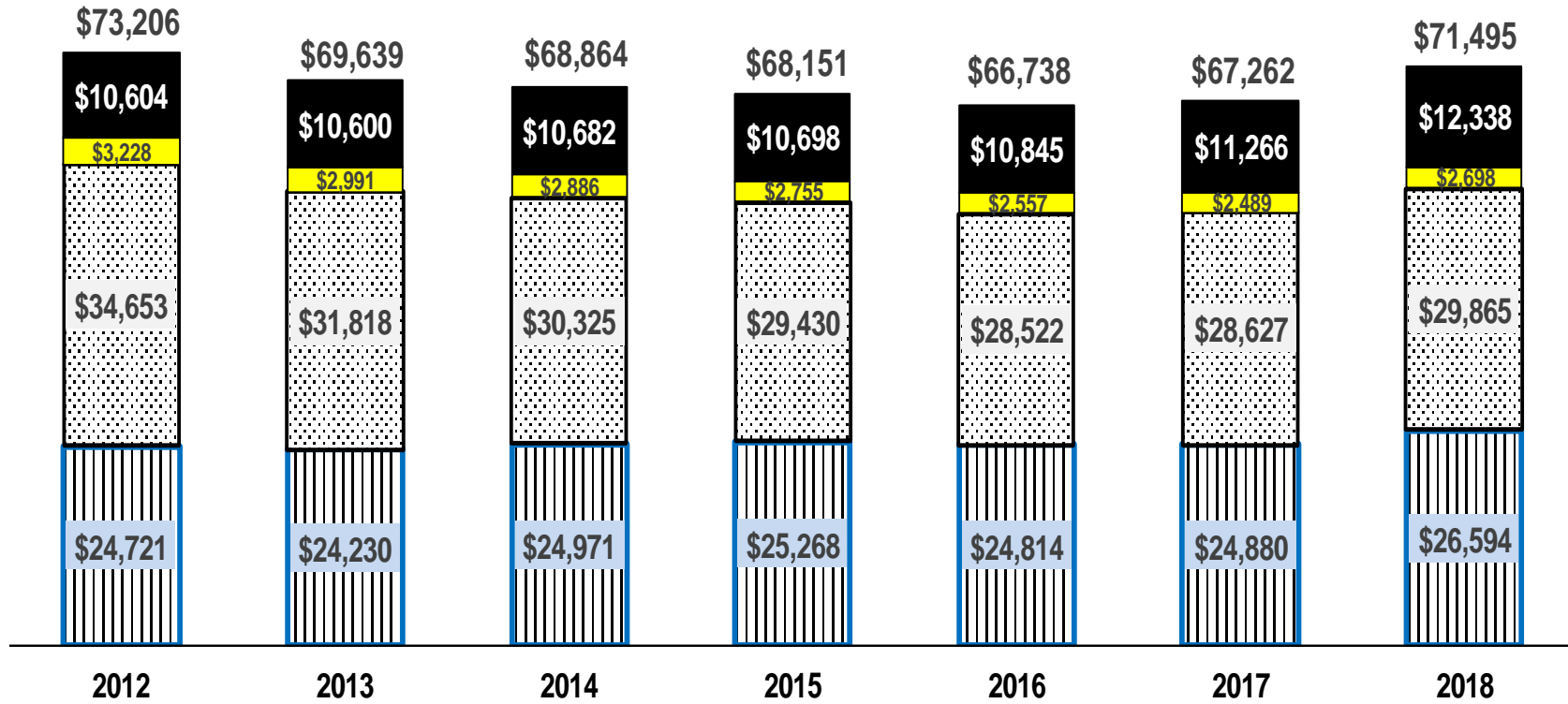
⁵¹ WCIRB Report as of December 31, 2018, Insurer Experience, Charts 8–12.

⁵² Ibid., Chart 10.

⁵³ Ibid., Chart 11.

SYSTEM COSTS AND BENEFITS

Figure 24: Projected Ultimate Total Loss and ALAE per Indemnity Claim as of December 31, 2018



■ Indemnity per claim +
 ■ Medical per claim +
 ■ MCCP per claim +
 ■ ALAE per Claim = Total Losses per Indemnity Claim

Source: WCIRB

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

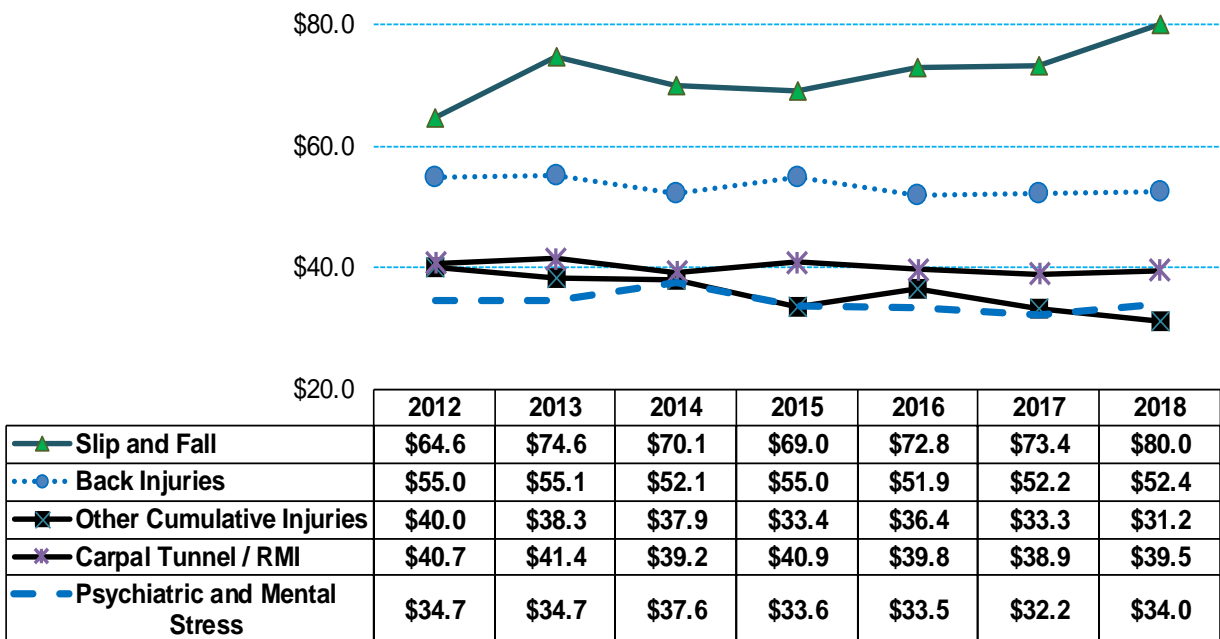
Average Cost per Claim by Type of Injury

Figure 25 shows the average medical and indemnity costs of permanent disability claims.

The average cost of the most expensive type of injury, the slip and fall, increased from 2012 to 2013, decreased by 7.5 percent from 2013 to 2015, and then increased by 16 percent from 2015 to 2018. The average cost of back injuries fluctuated between \$52,000 and \$55,000 from 2012 to 2018. The average cost of carpal tunnel (RMI) stabilized at around \$40,000 per year from 2012 and 2018. The average cost of other cumulative injuries decreased by 16 percent from 2012 to 2015 and then, after a one-time increase from 2015 to 2016, it decreased again by 14 percent from 2016 to 2018.

The average costs of psychiatric and mental stress claims decreased overall by 7 percent from 2012 to 2017, except for a 6 percent increase from 2013 to 2014, and then increased again by 6 percent from 2017 to 2018.

Figure 25: Average Cost per PD Claim by Type of Injury, 2012—2018 (Thousand \$)



Source: WCIRB

Cumulative Trauma Claims

According to Labor Code Section 3208.1, an injury may be either specific or cumulative. A specific injury is one that takes place as the result of a single incident or exposure. A cumulative injury results from repetitive trauma (mental or physical) over a period of time.⁵⁴ The data below describe select trends in cumulative injuries. Additional information

⁵⁴ [Labor Code Section 3208.1](#), p. 9.

SYSTEM COSTS AND BENEFITS

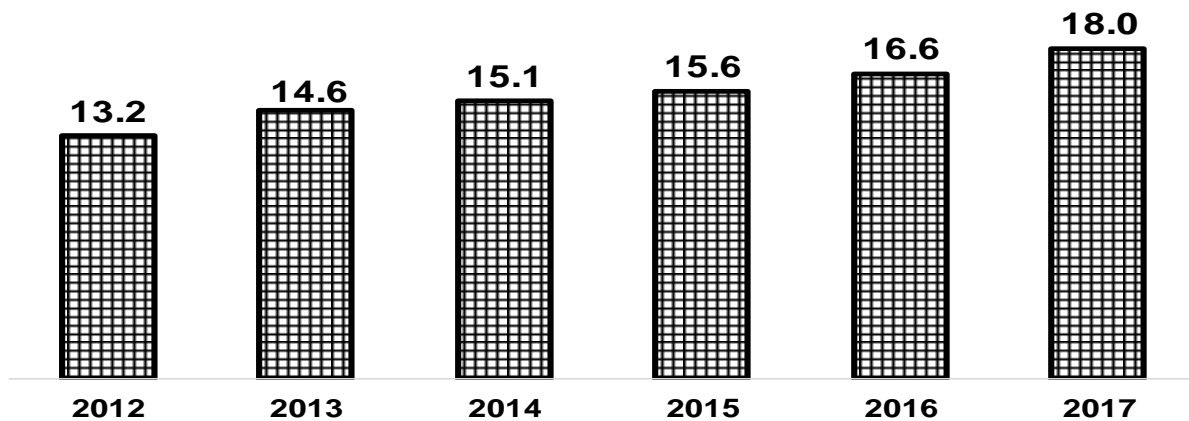
on cumulative trauma (CT) claims can be found in a 2018 WCIRB report, which includes the following findings:⁵⁵

- All recent CT claim growth is in the Los Angeles and San Diego regions, which now generate 75 percent of CT claims but only 50 percent of other claims.
- Recent CT claim growth is spread across many industries in the Los Angeles region, though the Manufacturing and Hospitality sectors have experienced the most significant growth rates.
- CT claim growth in Southern California is concentrated in lower wage workers.
- About 40 percent of recent CT claims are filed after the employee is terminated, about three-quarters are initially denied in part or in whole, and about one-quarter also involve an accompanying specific injury claim.
- CT loss payouts are much slower than those for specific injury claims and on average ultimate costs for CT claims are higher than those for specific injury claims.
- CT claims incur significantly more medical-legal and lien payments than other types of claims, particularly at early and mid-maturity levels.
- CT claims stay open longer than other claims, but claim settlement rates have accelerated across all claim types.

Cumulative Trauma Claim Counts

Figure 26 shows that CT claim rates continued to be high in 2017 and the ratio of CT claims to all indemnity claims increased by over 36 percent since 2012.

Figure 26: Cumulative Trauma Claims per 100 Indemnity Claims



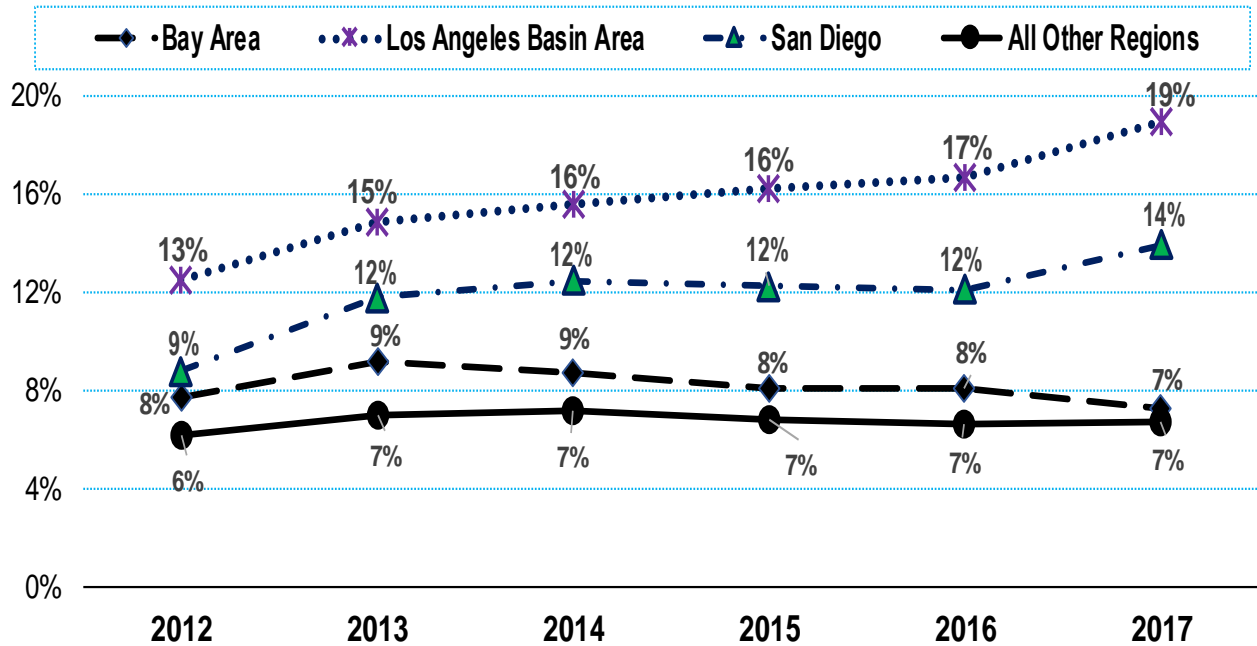
Source: WCIRB

⁵⁵ WCIRB's [The World of Cumulative Trauma Claims Report](#), October 2018.

SYSTEM COSTS AND BENEFITS

As seen in Figure 27, all the recent growth in CT claims has been in the Los Angeles and San Diego regions. CT claim rates in other regions of California have declined and are slightly lower than the 2012 levels. Although not included in the figure, CT claims historically trended at the same levels throughout the state, with the lowest rates in more rural areas.

Figure 27: Percent of Cumulative Trauma Indemnity Claims by Region

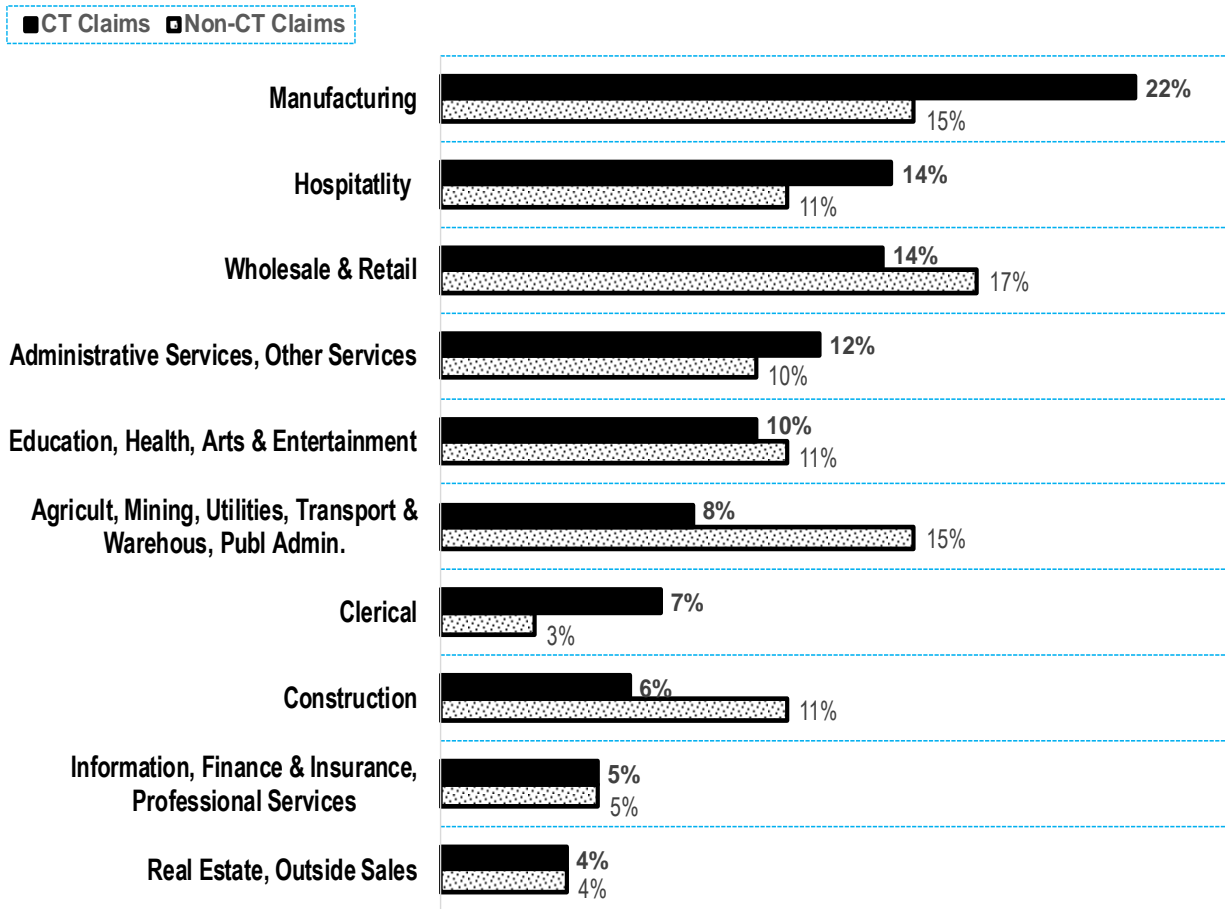


Source: WCIRB

Figure 28 shows that the growth in CT claims has been concentrated in the Manufacturing and Hospitality industries. According to the WCIRB, the proportion of CT claims from white-collar industries has cut by half from 2008 to 2015.

SYSTEM COSTS AND BENEFITS

Figure 28: Distribution of Cumulative Trauma Indemnity Claims by Industry (Policy Year 2015)



Source: WCIRB

Cumulative Trauma Claim Costs

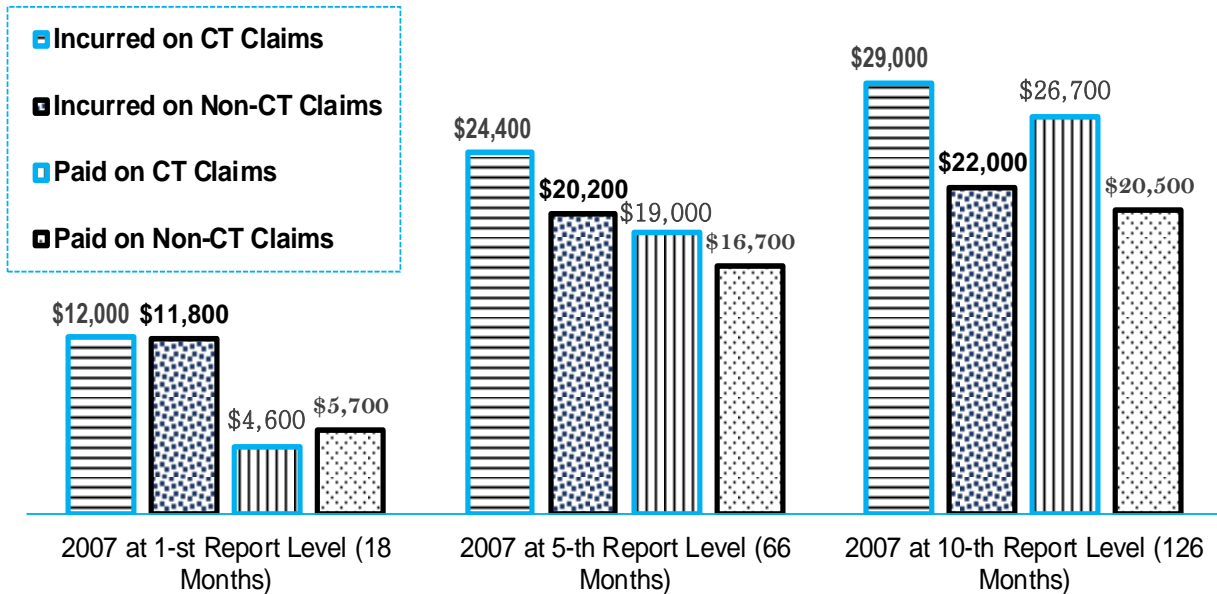
Charts 29 and 30 illustrate the indemnity and medical costs of CT claims at 1.5, 5.5, and 10.5 years of maturity. In 2017, the ten and a half year mature claims originated in the 2007 accident year as the two figures demonstrate a cost development of aging CT claims.

It takes over seven years for CT claims to be 98 percent reported or three times as long as for specific injury claims. In order to demonstrate better characteristics and attributes of CT claims the data have to be tracked from earlier accident years as in Figures 29 and 30.

Initially at 18 months, average CT claim and specific claim indemnity costs are similar. A number of CT claims are initially reported as a medical-only claim with the indemnity benefits paid on an associated claim. CT claims develop much higher costs than specific injury claims and on average have higher indemnity costs at later maturities.

SYSTEM COSTS AND BENEFITS

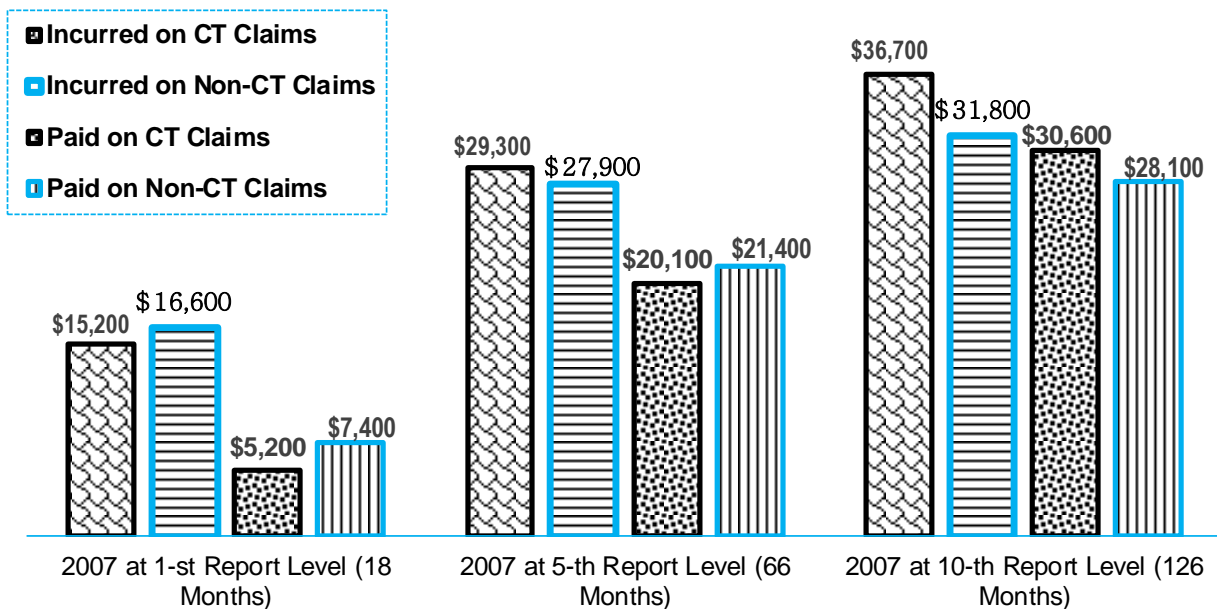
Figure 29: Development of Average Indemnity (Incurred or Paid) Costs per Cumulative Trauma Claims



Source: WCIRB

Initially at 18 months, average CT claim medical costs, like their indemnity costs, are lower than those for specific injury claims. CT claim medical costs develop much higher than for specific injury claims and are on average 13 percent more expensive for incurred and 8 percent higher for paid costs by 126 months.

Figure 30: Development of Average Medical (Incurred or Paid) Costs per Cumulative Trauma Claims



Source: WCIRB

SYSTEM COSTS AND BENEFITS

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

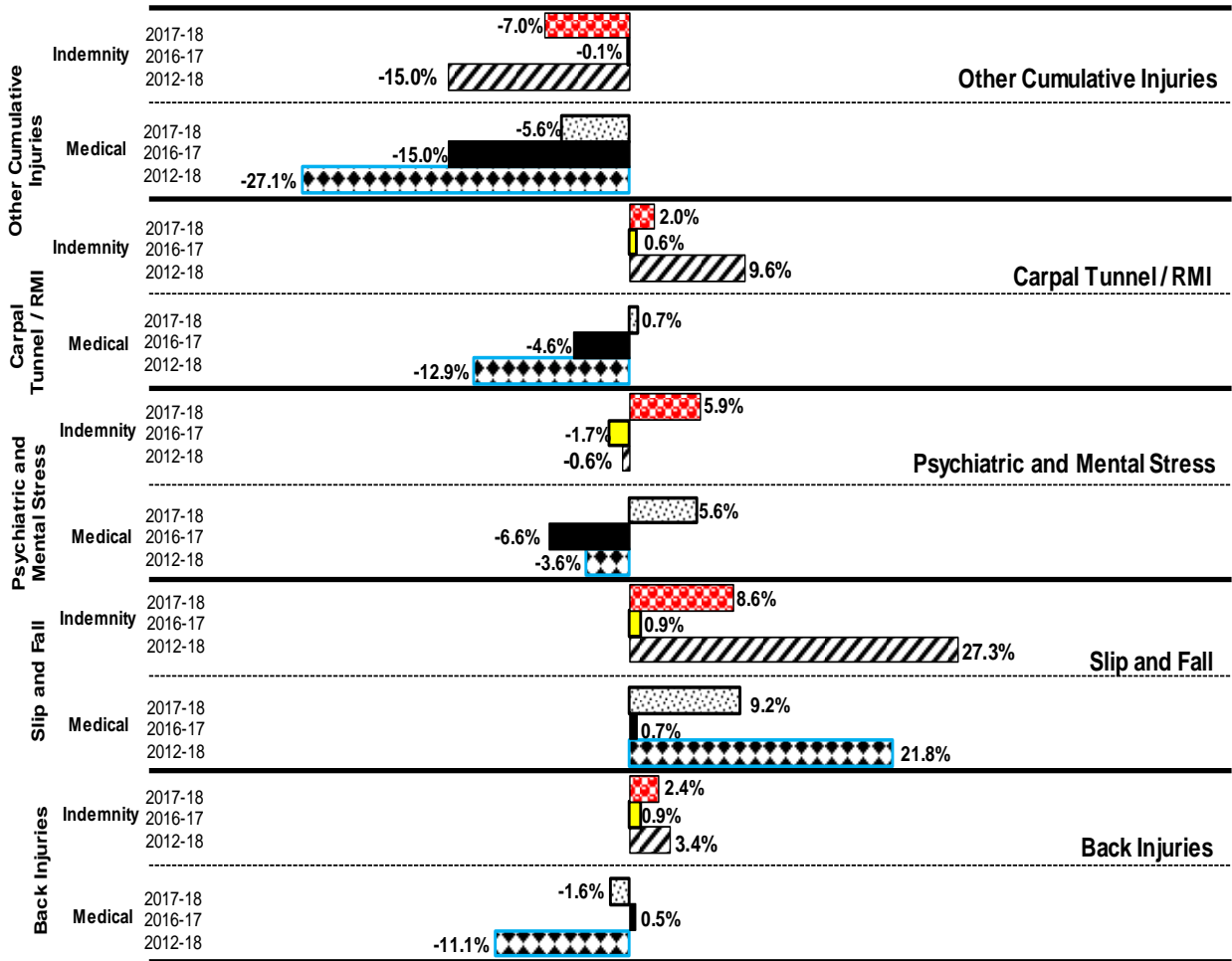
Figure 31 illustrates the impact of the reforms on selected types of injury. The six-year trend from 2012 to 2018 shows decreases in medical costs for almost all types of injuries, except for a 21.8 percent increase for slip and fall injuries. The same six-year trend for indemnity costs showed increases in indemnity costs in slip and fall, carpal tunnel/RMI, and back injuries and decreases in psychiatric and mental stress and other cumulative injuries. Slip and fall injuries were the only category that showed a significant six-year increase in both average indemnity and medical costs.

From 2016 to 2017, medical costs increased by 0.5 percent for back injuries and by 0.7 percent for slip and fall injuries. In the same period, there was a 15 percent decrease in the average medical cost of claim for other cumulative injuries, a 6.6 percent decrease for psychiatric and mental stress disorders, and a 4.6 percent decrease for carpal tunnel/RMI. In the same year, indemnity costs increased by 0.9 percent for both slip and fall and back injuries and by 0.6 percent for carpal tunnel/RMI. Indemnity costs in 2016-2017, decreased for other cumulative injuries and psychiatric and mental stress disorders.

From 2017 to 2018, medical costs decreased 5.6 percent for other cumulative injuries and 1.6 percent for back injuries. In the same year, medical costs showed a 9.2 percent increase in slip and fall injuries, 5.6 percent increase in psychiatric and mental stress disorders, and 0.7 percent increase in carpal tunnel/RMI injuries. Indemnity costs in the same period, increased for all types of injuries, except for a 7 percent decrease for other cumulative injuries.

SYSTEM COSTS AND BENEFITS

Figure 31: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2012 through 2018, from 2016 to 2017, and from 2017 to 2018)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

MEDICAL-LEGAL EXPENSES

In California's workers' compensation system, the medical-legal evaluations result in medical-legal reports addressing specific medical and legal questions based on review of all the medical information concerning a work-related injury. The medical-legal examinations do not provide any medical treatment and the medical treatment-related evaluations for resolving disputes are outside the scope of medical-legal services. A medical-legal report is conducted to determine multiple compensability and disability threshold issues:

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

SB 863, which took effect January 1, 2013, did not directly address the medical-legal process, but its several provisions introduced a significant change to medical-legal evaluations in how medical treatment disputes are resolved. It was expected that the number of medical-legal reports would be reduced by the IMR, lien, medical provider network (MPN), and independent bill review (IBR) provisions of SB 863. As of January 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, disagreements about a specific course of medical treatment recommended by the treating physician are resolved only through a process called independent medical review (IMR). In this environment, medical-legal evaluations by QME and AME are limited to disagreements about whether a claim is covered by workers' compensation (compensability) and disability threshold issues. In addition, another SB 863 legislative change that indirectly could have had an impact on medical-legal evaluations were the California Labor Code Sections 4660.1(c)(1) and (2). These sections limited the ability of injured workers to receive a PD compensation for sleep disorders, sexual disorders and psychological/psychiatric disorders that develop as a "compensable consequence" of physical injuries. For cases after December 31, 2012, sleep disorder and sexual dysfunctions caused by a physical injury and psychiatric disorders cannot cause an increase in PD rating, unless the psychiatric disorder is due to violent acts, direct exposure to a significant violent act, or caused by catastrophic injury, including but not limited to loss of a limb, paralysis, severe burn, or severe head injury.

According to the DWC, under the former system, it typically took 9 to 12 months to resolve a dispute over the treatment needed for an injury. The process required: (1) negotiating over the selection of an agreed medical evaluator, (2) obtaining a panel, or list, of state-certified medical evaluators if agreement could not be reached, (3) negotiating over the

SYSTEM COSTS AND BENEFITS

selection of the state-certified medical evaluator, (4) making an appointment, (5) waiting for the appointment to get an examination, (6) awaiting the evaluator's report, and then, if the parties still disagree, (7) awaiting a hearing with a workers' compensation judge, and (8) awaiting the judge's decision on the recommended treatment. In many cases, the treating physician could also rebut or request clarification from the medical evaluator, and the medical evaluator could be required to follow up with supplemental reports or answer questions in a deposition.

SB 863 replaced those eight steps with an IMR process similar to the one used in group health plans, which takes approximately 40 (or fewer) days to arrive at a determination to obtain appropriate treatment.

According to the WCIRB, subsequent to SB 863, the most expensive ML-104 report with at least four complexity factors accounted for two-thirds of all medical-legal payments from service year 2013 to 2015, contributing to the increase in medical-legal costs. From 2014 to 2016, the increase in costs was attributable, in part, to an increased use of ML-106, a supplemental medical-legal evaluation report and to a lesser degree by increased usage of the complex ML-104 code. From 2015 to 2017, the average paid per transaction for a ML-104 report increased by 5.7 percent, while the share of ML-104 transactions declined by 22.7 percent. Much of this decline in ML-104 transactions in 2017 was attributable to efforts by the Division of Workers' Compensation to ensure that sufficient documentation of the complexity was provided on ML-104 reports. At the same time, the average paid per transaction for ML-102 (the most basic medical-legal evaluation) remained about the same, but its share of transactions increased by 42.6 percent. As a result of these changes in the mix of different types of medical-legal evaluations performed, the average cost of a medical-legal evaluation on both PD claims and all claims decreased by 13 percent from 2016 to 2018.

Beginning from 2016, the analyses in the CHSWC Annual Report are based on the WCIRB's medical transaction data from its Medical Data Call (MDC). The MDC began with mandatory medical transactions in the third quarter of 2012 that were reported to the WCIRB by December 31, 2012.

The historical medical-legal analysis ending in 2015 and based on the WCIRB's Permanent Disability Survey data for 2012, the latest one available, can be found in the [2015 CHSWC Annual Report](#).

Workers' Compensation Claims with Medical-Legal Expenses

The WCIRB's MDC provides two sets of medical-legal data. The first is for all claims with total and partial disabilities, temporary disabilities, medical only, and denied claims as well. The second set is only for claims with total and permanent partial disability which usually have higher severity and a longer life cycle. Claims reported to MDC include claims with any medical transaction and, for this report, are grouped by the service year of a transaction.

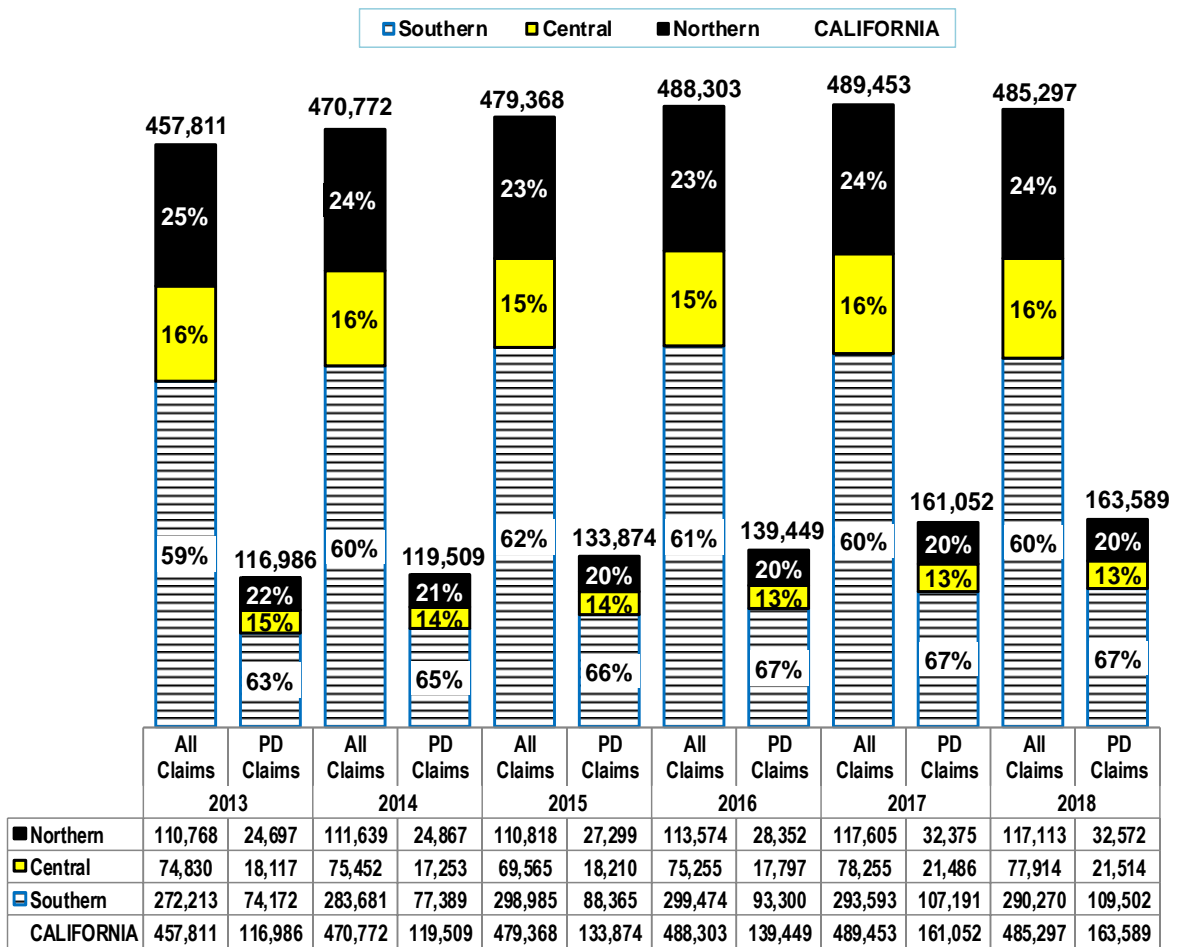
SYSTEM COSTS AND BENEFITS

The data for 2012 are only for six months of medical-legal services provided from July 1, 2012 to December 31, 2012 and are not included in this report.

Figure 32 shows the number of permanent disability (PD) and all claims originating in three California regions in Service Years (SY) 2013 to 2018. The share of claims statewide, involving a permanent disability, increased steadily from 25 percent in 2013 and 2014 to almost 34 percent in 2018.

Around 60 percent of all claims and 63-67 percent of PD claims originated in Southern California and 24 percent of all claims and 20 percent of PD claims originated in Northern California. Different regions in California have different patterns of medical-legal reporting. Regions with a higher share of workers' compensation claims in the system have a bigger impact on both the average number of medical-legal evaluations per claim and the average cost of medical-legal evaluations statewide.

Figure 32: Workers' Compensation Claims, All and with Permanent Disability, by California Region, SY 2013-SY 2018

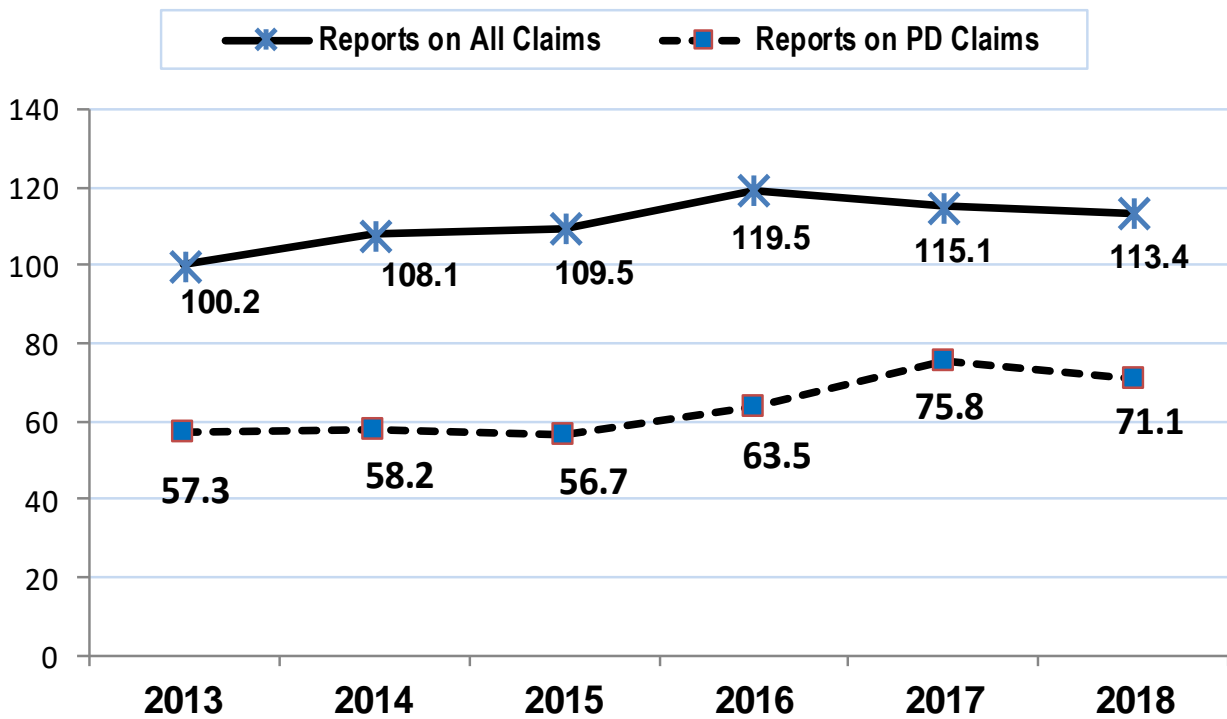


Source: WCIRB

SYSTEM COSTS AND BENEFITS

Figure 33 shows the number of medical-legal reports conducted on PD and all claims in California for SY 2013 to SY 2018. The share of all medical-legal reports in California conducted on PD claims increased from an average of 54 percent yearly from 2013 through 2016 to 66 percent in 2017 and to 63 percent in 2018. The number of medical-legal reports on all claims increased steadily by almost 20 percent from SY 2013 to SY 2016 and then decreased by 5 percent from 2016 to 2018. From 2013 to 2015, this growth could be explained by an increase in non-PD claims with medical-legal reports since the number of medical-legal reports on PD claims did not change in that period. At the same time, the number of medical-legal reports on PD claims stabilized at an average of 57,400 medical-legal reports per year from 2013 through 2015, and then increased by 25 percent from 2015 to 2018, including a 34 percent increase from 2015 to 2017.

Figure 33: Number of Medical-Legal Reports on PD and All Claims (Thousands)

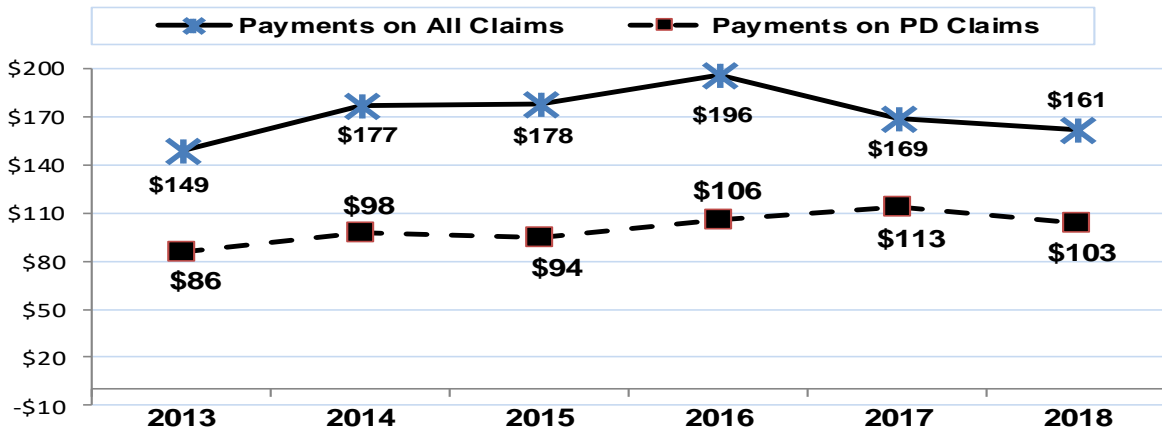


Source: WCIRB

Figure 34 shows statewide medical-legal payments on PD and all claims in California for SY 2013 to SY 2018. On average, around 55 percent of all yearly medical-legal payments were for PD claims from SY 2013 to SY 2016. That share increased 9 points up to 64 percent from SY 2016 to SY 2018. The medical-legal payments on all claims increased by 32 percent from SY 2013 to SY 2016, based in part on an overall 23 percent increase in medical-legal payments on PD claims during the same time period. This trend also reflects the increased number of medical-legal evaluations on PD claims from SY 2015 to SY 2017. From SY 2016 to SY 2018, the medical-legal payments on all claims decreased by 18 percent.

SYSTEM COSTS AND BENEFITS

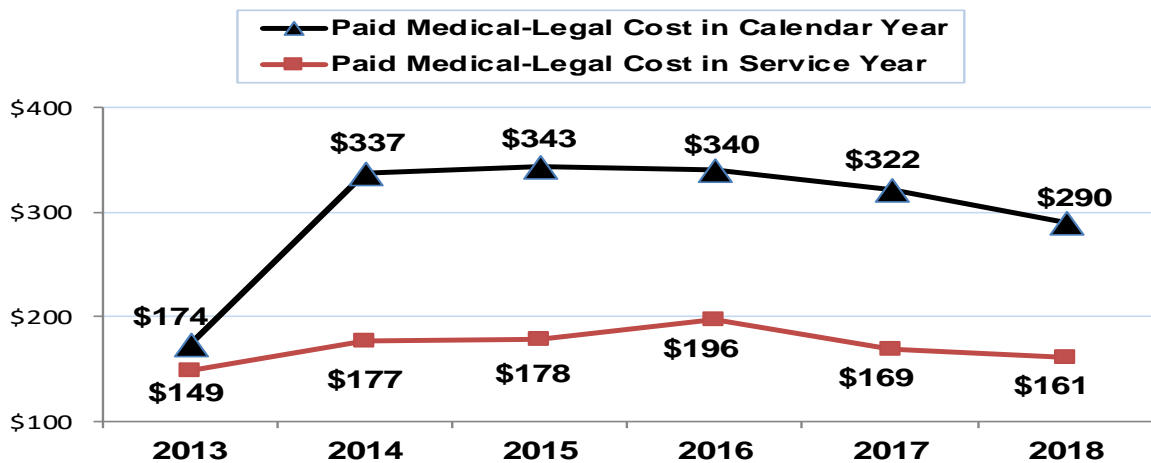
Figure 34: Medical-Legal Payments on PD and All Claims (Million \$)



Source: WCIRB

The total medical-legal cost is reported by the WCIRB as a component of the total medical cost. The WCIRB’s widely used and referenced Losses and Expenses Report⁵⁶ has estimates of the “paid medical-legal amount” or amounts paid in a certain calendar year (CY). The WCIRB’s MDC, on which the total amounts in Figure 34 are based, covers medical-legal evaluations only for a certain service year. Payments reported for a calendar year are for medical-legal services with service dates in different years and therefore cover more services, while payments discussed in this report are limited to services during the same calendar year. Figure 35 shows paid medical-legal amounts in CY 2013 to CY 2018 from the Losses and Expenses Report against the paid medical-legal amounts in SY 2013 to SY 2018 from the current CHSWC report.

Figure 35: WCIRB’s Medical-Legal Costs Reported in Calendar vs. Service Years (Million \$)



Source: WCIRB

⁵⁶ WCIRB, 2018 Losses and Expenses Report, Exhibit 1.1, June 28, 2019

SYSTEM COSTS AND BENEFITS

The total medical-legal expenses could be of different amounts for different organizations and even within the same organization, depending on how the data are collected, the type of reporting year applied (calendar, accident, service, or fiscal), methods of estimation, and on inclusion or exclusion of insured, self-insured, and legally uninsured employers.

The Losses and Expenses Report estimated amounts paid for medical services before CY 2014 (\$174 million in Figure 35) based on the WCIRB's Aggregate Indemnity and Medical Costs Call and Call for California Workers' Compensation Calendar Year Experience. These medical payments were segregated into categories, including the medical-legal category, based on the type of medical provider receiving payment and not necessarily the procedures performed, as is done in the MDC. Starting in CY 2014, the amounts paid for medical services are based on the WCIRB's Aggregate Indemnity and Medical Costs Call, Call for California Workers' Compensation Calendar Year Experience, and MDC that provide a better reporting of payments into specific categories.

Another consideration when the dollar amounts of medical-legal reports are estimated as a share of medical bills is that the bill review data are based on the fee schedules and not all medical costs are captured in the databases, especially medical costs not covered by the fee schedule.

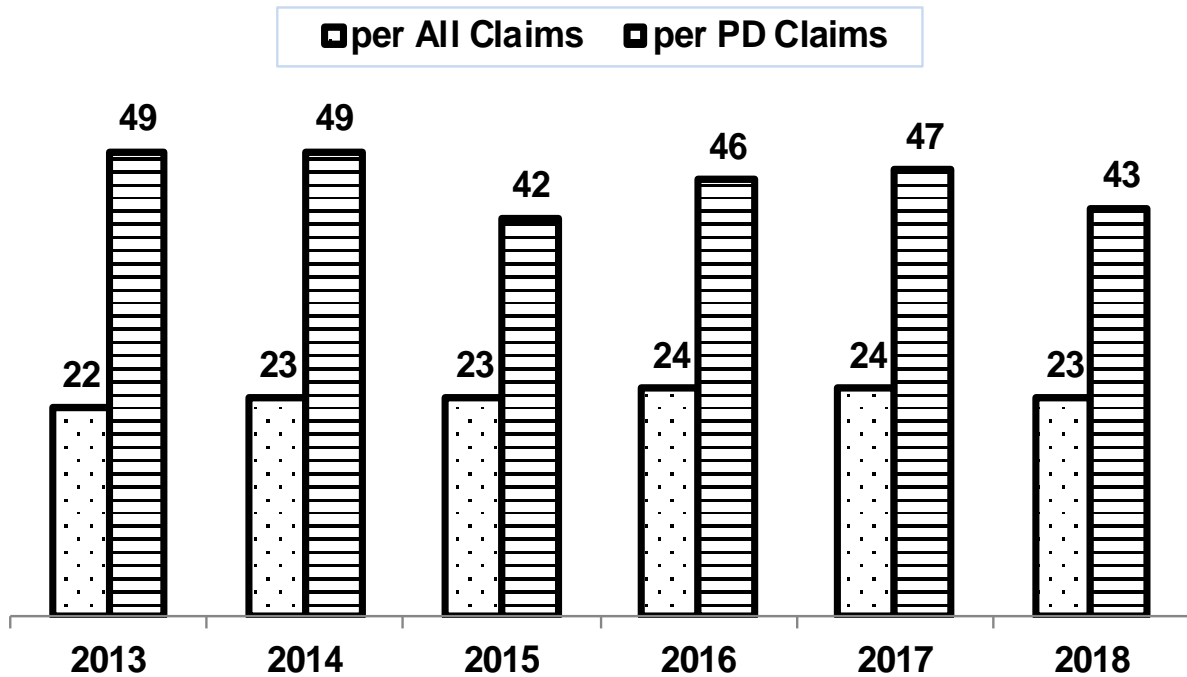
Also, the methods for calculating medical expenses could differ by the inclusion or exclusion of different categories of medical expenses, such as medical cost containment program (MCCP) expenses, thereby increasing or decreasing the total.

The changes in total medical-legal cost for insurers reflect changes in its three components: the number of workers' compensation claims, the average number of medical-legal evaluations per claim, and the average cost of a medical-legal evaluation.

Medical-Legal Evaluations per Claim

Figure 36 compares the frequency of medical-legal reports for all claims and PD claims statewide from SY 2013 to SY 2018. The average number of medical-legal evaluations per 100 PD claims is about double the rate for all claims. While the average number of medical-legal evaluations per 100 all claims stabilized at 23 between the SY 2013 and SY 2018, the same rate for PD claims decreased overall by 12 percent from 49 reports per 100 PD claims in SY 2013 to 43 reports per 100 PD claims in SY 2018.

Figure 36: Number of Medical-Legal Evaluations per 100 Workers' Compensation Claims (PD and All) in California



Source: WCIRB

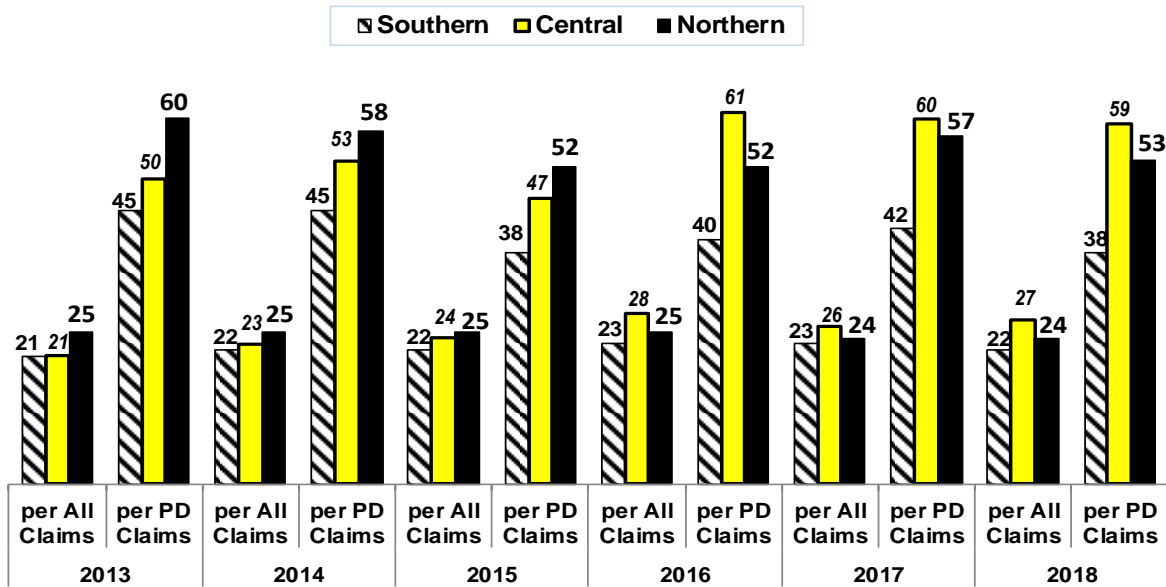
Medical-Legal Reporting by the California Regions

The different regions in California are often thought to have different patterns of medical-legal reporting. Figure 37 compares the frequency of medical-legal reports for all claims and PD claims in three California regions from SY 2013 to SY 2018.

Between 2013 and 2016, the average number of medical-legal evaluations per 100 PD claims decreased for both Northern and Southern California, with a 13 percent decrease in the North and an 11 percent decrease in the South. During the same period, Central California's average number of medical-legal evaluations per 100 PD claims fluctuated between 47 and 53, placing it as the second highest of the 3 regions in terms of the number of evaluations per 100 PD claims. However, from 2016 to 2018, Central California exceeded both Northern and Southern California in the average number of medical-legal evaluations per 100 PD claims, reaching an average of 60 medical-legal evaluations per 100 PD claims during this time. Both Northern and Southern California experienced a slight increase in average number of medical-legal evaluations per 100 PD claims from 2016 to 2017, and then a decrease from 2017 to 2018. The number of medical-legal evaluations per 100 PD claims in Northern California exceeded that in Southern California in all six years. In the same period, the average number of medical-legal evaluations per 100 claims did not change in both regions, the origin of the majority of PD claims and medical-legal evaluations in California.

SYSTEM COSTS AND BENEFITS

Figure 37: Average Number of Medical-Legal Evaluations per 100 Claims (PD and All), by Region

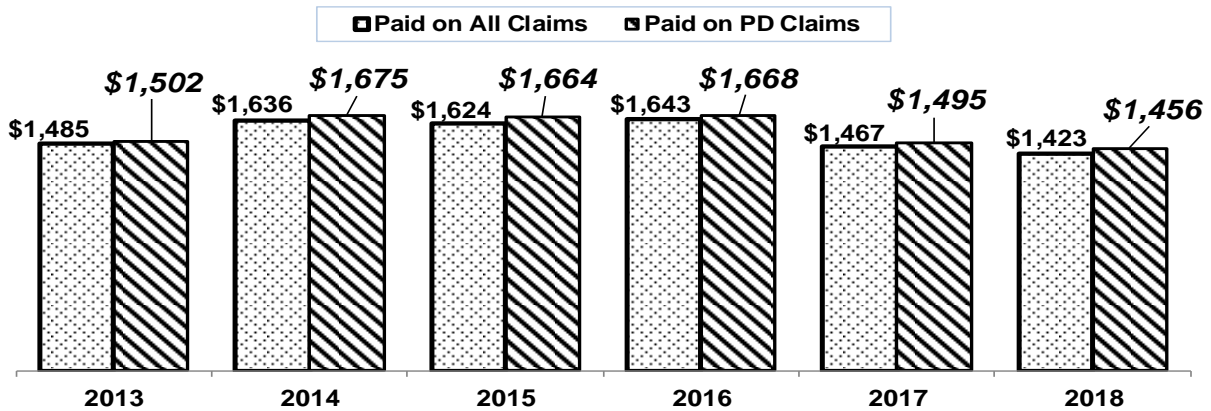


Source: WCIRB

Average Cost per Medical-Legal Evaluation

According to Figure 38, after a similar increase of around 10-11 percent in average costs from SY 2013 to SY 2014, both the average cost of a medical-legal evaluation on PD claims and the average cost of a medical-legal evaluation on all claims were stable and did not change until SY 2016. From SY 2016 to SY 2018, both the average cost of a medical-legal evaluation on PD claims and the average cost of a medical-legal evaluation on all claims declined by 13 percent.

Figure 38: Average Cost of a Medical-Legal Evaluation on All and PD Claims, California

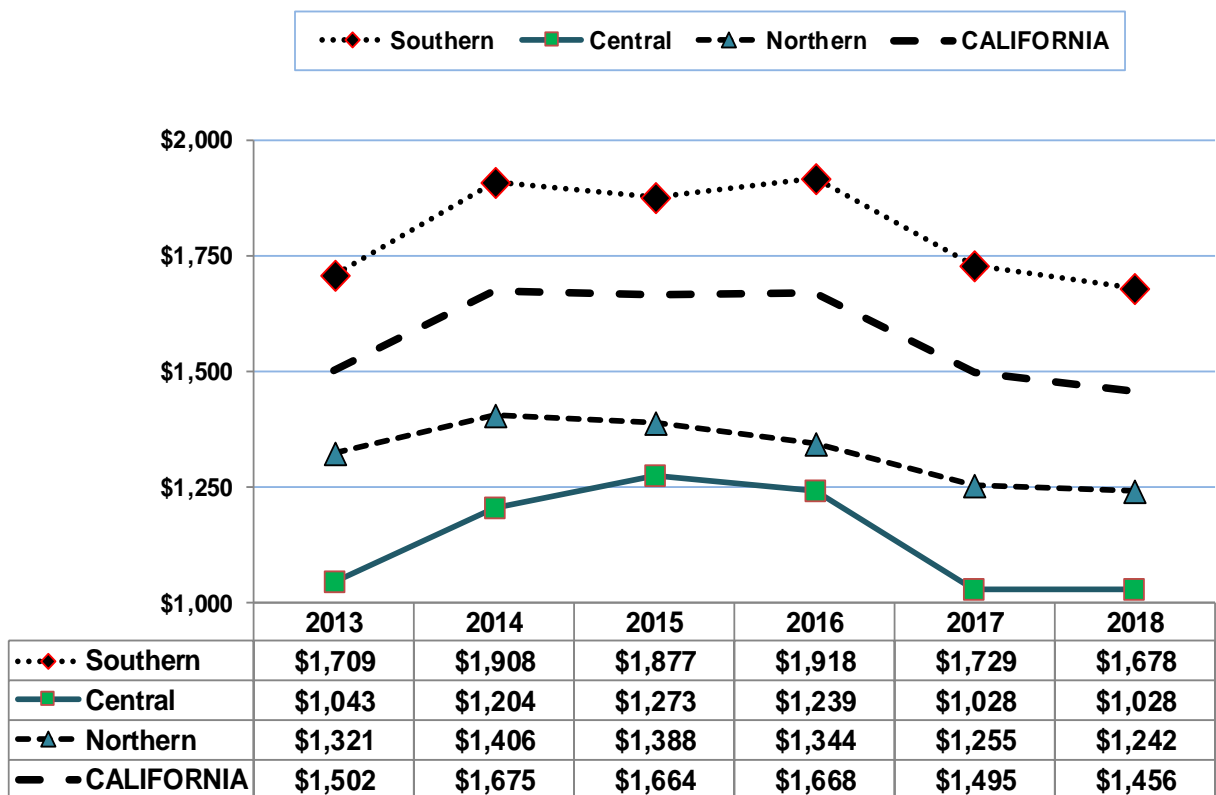


Source: WCIRB

SYSTEM COSTS AND BENEFITS

According to Figure 39, from 2013 to 2014, the average cost of a medical-legal evaluation on PD claims increased in all three regions, with an increase of 12 percent in Southern California and a 6 percent increase in Northern California. The historical data show that, on average, medical-legal evaluations in Southern California have always been substantially more expensive. Both Southern and Northern California showed no change in the average cost of a medical-legal evaluation on PD claims from 2014 to 2016. In that period, a medical-legal evaluation on PD claims averaged \$1,905 per year in Southern and \$1,380 per year in Northern California. The statewide changes in the average cost of a medical-legal evaluation on PD claims mirrored the pattern in Southern California, with an increase of 11 percent from 2013 to 2014 and no change from 2014 to 2016. From SY 2016 to SY 2018, the average cost of a medical-legal evaluation on PD claims decreased by 12.5 percent in Southern and by 8 percent in Northern regions.

Figure 39: Average Cost of a Medical-Legal Evaluation on PD Claim, by Region



Source: WCIRB

Trends in both the average number of medical-legal evaluations per claim and the average cost of an evaluation in California are being driven by medical-legal evaluations in Southern California, as seen in Figure 40 and Table 9. About 60 percent of medical-legal evaluations originated in Southern California in SY 2013 to SY 2018, reflecting the similar share of Southern California in workers' compensation claims.

SYSTEM COSTS AND BENEFITS

Table 9: Distribution of Medical-Legal Reports on PD Claims by California Regions

Regions	2013	2014	2015	2016	2017	2018
Southern	58%	60%	60%	60%	59%	58%
Central	16%	16%	15%	17%	17%	18%
Northern	26%	25%	25%	23%	24%	24%

Source: WCIRB

Medical-Legal Cost Drivers

The primary cost driver for California and its Southern region is not the price paid for specific types of evaluations. Rather, the mix of codes used for billing the evaluations continues the historical pattern of including a higher percentage of the most complex and expensive evaluations and a lower percentage of the least expensive type; although this pattern started changing in 2017 with an increase in ML-102 reports. The Medical-Legal Fee schedule adopted by the Administrative Director in 2006 increased the cost per medical-legal evaluation for dates of services on or after July 1, 2006. Table 10 shows the costs and description from the Medical-Legal Fee Schedule.

Table 10: Medical-Legal Evaluation Cost for Dates of Service on or After July 1, 2006

Evaluation Type	Amount Presumed Reasonable
ML-100 Missed Appointment	Some claims administrators will not pay
ML-101 Follow-up	\$62.50/15 minutes or \$250/hr.
ML-102 Basic (flat rate)	\$625
ML-103 Complex (flat rate)	\$937.50
ML-104 Extraordinary	\$62.50/15 minutes or \$250/hr.
ML-105 Testimony	\$62.50/15 minutes or \$250/hr.
ML-106 Supplemental	\$62.50/15 minutes or \$250/hr.

Note: Two categories ML-105 and ML-106, created by CCR Title 8, Sections 9793 & 9795, June 2006, were applicable to 2008 and later claims. The functions of medical testimony and supplemental evaluations were moved into these two new categories from their previous status.

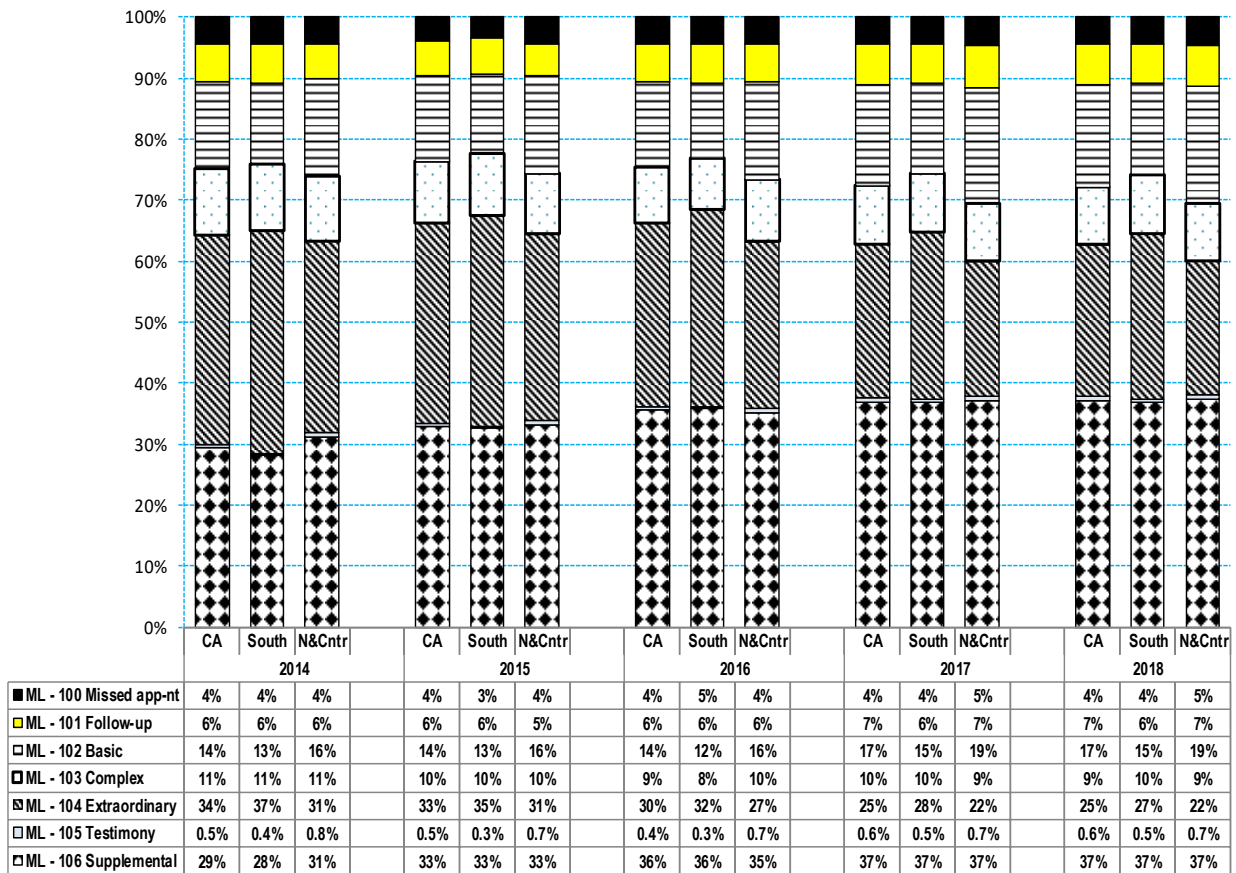
The distribution of medical-legal evaluations by categories of “fee schedule type” in Figure 40 show that, from SY 2014 to SY 2016, on average, one-third of medical-legal evaluations in the Southern California region were classified as Extraordinary (ML-104). Although, within that average, the share of ML-104 reports in the Southern region had been steadily decreasing from 37 percent in SY 2014 to 27 percent in SY 2018, as the share of Supplemental reports was increasing from 28 percent in SY 2014 to 37 percent

SYSTEM COSTS AND BENEFITS

in SY 2018. In 2018, 66 percent of medical-legal evaluations in Northern/Central California and 70 percent in Southern California were billed under the time-based codes, such as ML-101, ML-104, or ML-106, which are priced at \$62.50 for every 15 minutes for QMEs or \$78.13 for every 15 minutes for AMEs. Some medical-legal evaluation activities are not billable separately under all medical-legal fee codes. For example, reviewing medical-legal consultation reports could not be billed separately under flat-rated codes as ML-102 or ML-103, as opposed to time-based codes. This makes billing a medical-legal evaluation under a time-based code more profitable in the majority of evaluations. The share of ML-102 Basic reports in California increased from 14 percent in 2014-2016 to 17 percent in 2017 and 2018.

Although the average cost of ML-104 reports is still high (see Table 11 and Figure 41), the decrease in the share of ML-104 reports and the increase in the share of Basic ML-102 reports, caused the share of ML-104 payments in total medical-legal payments of three regions to decrease in 2017 and 2018 (see Table 11).

Figure 40: Distribution of Medical-Legal Evaluations on PD Claims by Procedure Code in California and Regions SY 2014—SY 2018



"N&Cntr" - Northern and Central regions

Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

Table 11 shows that every year, around two-thirds of medical-legal payments in the Southern region and around 60 percent in the Northern and Central regions were spent on the most highly reimbursed Medical Legal procedure (ML-104). ML-104 involves claims with four or more complexities, is reimbursed at a rate of over \$3,000 per report (see Figure 41) and increases costs on a per-transaction basis as well. The average cost of a medical-legal report per transaction increased by 10 percent from CY 2013 to CY 2015, and according to WCIRB, there was a modest 3 percent increase in payments per transaction between CY 2014 and CY 2016. All these factors explain why the average cost of a medical-legal evaluation on PD claims did not show a notable decrease in CY 2013-2016 before the share of ML-104 reports began decreasing in CY 2017.

SYSTEM COSTS AND BENEFITS

Table 11: Characteristics of ML-104 coded Reports done on PD Claims in California Regions

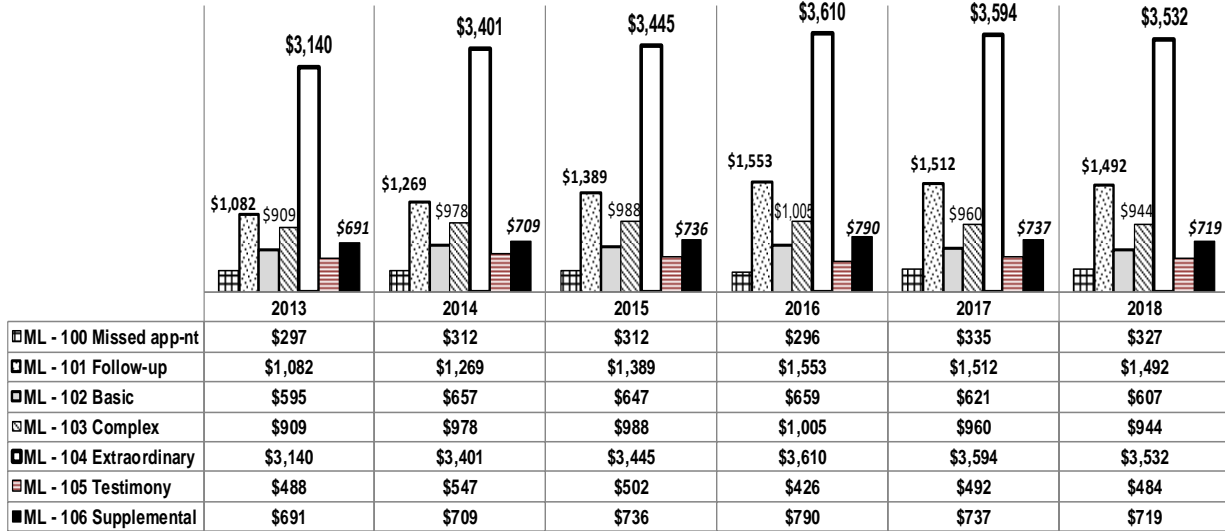
Selected Characteristics by Regions	2013	2014	2015	2016	2017	2018
Southern						
Share of region in Total Med-Legal Payments	66%	68%	68%	67%	68%	67%
Share of ML-104 in regional payment	69%	72%	69%	66%	62%	62%
Average Cost of ML-104 Report	\$3,418	\$3,738	\$3,754	\$3,952	\$3,924	\$3,839
ML-104 Reports per 100 PD Claims	15	16	13	13	11	10
Central						
Share of region in Total Med-Legal Payments	11%	11%	12%	13%	12%	13%
Share of ML-104 in regional payment	63%	66%	64%	63%	57%	57%
Average Cost of ML-104 Report	\$2,356	\$2,595	\$2,856	\$2,924	\$2,718	\$2,751
ML-104 Reports per 100 PD Claims	14	16	14	16	13	13
Northern						
Share of region in Total Med-Legal Payments	23%	21%	21%	20%	20%	21%
Share of ML-104 in regional payment	64%	67%	67%	63%	58%	58%
Average Cost of ML-104 Report	\$2,868	\$2,955	\$2,955	\$3,081	\$3,208	\$3,192
ML-104 Reports per 100 PD Claims	18	18	16	14	13	12

Source: WCIRB

SYSTEM COSTS AND BENEFITS

According to Figure 41, the average cost of all medical-legal evaluations billed under the time-based codes, such as ML-101, ML-104, or ML-106, showed an overall increase from SY 2013 to SY 2016 and a slight decrease from SY 2016 to SY 2018. The cost of an extraordinary report increased by 15 percent from \$3,140 in SY 2013 to \$3,610 in SY 2016 and then decreased by mere 2 percent from SY 2016 to SY 2018.

Figure 41: Average Cost of a Medical-Legal Evaluation for a PD Claims in California by Procedure Code



Source: WCIRB

Another possible explanation for the differing trends in the average cost per evaluation and the increasing frequency of the most complex evaluations in California could be both the frequency and the number of psychiatric and psychological/behavioral evaluations per claim.

On average, psychiatric and psychological/behavioral evaluations are around \$3,000, the most expensive evaluations by specialty of provider, and are nearly always billed under the ML-104 code. Table 12 shows that the average cost of a psychiatric evaluation in California increased by 26 percent from SY 2013 to SY 2016 and then decreased by 13.5 percent from SY 2016 to SY 2018. The average cost of a psychological/behavioral evaluation increased by 28 percent from SY 2013 to SY 2016, mirroring a 26 percent increase in Southern California, and then decreased by 5 percent from SY 2016 to SY 2018.

SYSTEM COSTS AND BENEFITS

Table 12: Average Cost of a Psychiatric or Psychological/Behavioral Report by Region

Reports by Regions	2013	2014	2015	2016	2017	2018
Southern						
Psychiatry	\$3,157	\$3,503	\$3,617	\$3,952	\$3,622	\$3,565
Psychologist/Behavioral	\$2,515	\$3,054	\$2,942	\$3,171	\$3,270	\$3,195
Central						
Psychiatry	\$2,129	\$2,492	\$2,870	\$2,853	\$2,165	\$2,184
Psychologist/Behavioral	\$1,933	\$2,685	\$2,761	\$2,717	\$2,440	\$2,414
Northern						
Psychiatry	\$2,662	\$2,917	\$3,015	\$3,228	\$2,760	\$2,746
Psychologist/Behavioral	\$2,268	\$2,589	\$2,612	\$2,841	\$2,481	\$2,484
CALIFORNIA						
Psychiatry	\$2,897	\$3,233	\$3,352	\$3,642	\$3,197	\$3,152
Psychologist/Behavioral	\$2,345	\$2,863	\$2,829	\$3,001	\$2,907	\$2,856

Source: WCIRB

Southern California is the origin of about 70-75 percent of the psychiatric and 67 percent of the psychological/behavioral evaluations in California and has the biggest impact on both the frequency and cost of medical-legal evaluations statewide. The frequency of psychiatric and psychological/behavioral evaluations in Southern California averaged 5 per 100 PD reports and 7.5 per 100 PD reports yearly from SY 2013 to SY 2018 (Tables 13 and 14).

Table 13: Rate of Psychiatric Evaluations per 100 PD Reports

Regions	2013	2014	2015	2016	2017	2018
Southern	6	6	5	5	5	5
Central	5	5	5	4	4	4
Northern	5	6	6	4	4	4
CALIFORNIA	6	6	5	4	4.5	4.5

Source: WCIRB

SYSTEM COSTS AND BENEFITS

Table 14: Rate of Psychiatric and Psychologist/Behavioral Evaluations per 100 PD Reports

Regions	2013	2014	2015	2016	2017	2018
Southern	7	5	6	9	9	9
Central	8	6	5	8	9	9
Northern	8	7	6	9	9	9
CALIFORNIA	7	6	6	9	9	9

Source: WCIRB

Table 15 shows that the psychiatric and psychological/behavioral evaluations combined make up about one fifth of total medical-legal payments in California, which makes them important cost drivers of California’s medical-legal expenses.

Table 15: Share of Payments for Psychiatric and Psychological Reports in California Medical-Legal Payments, by Region

Regions	2013	2014	2015	2016	2017	2018
Southern	22%	20%	19%	16%	18%	18%
Central	25%	23%	22%	19%	20%	20%
Northern	25%	24%	24%	19%	19%	19%

Source: WCIRB

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

INTRODUCTION

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

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

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

- Workers' Compensation Appeals Board (WCAB) Workload

 - Division of Workers' Compensation (DWC) Opening Documents

 - DWC Hearings

 - DWC Decisions

 - DWC Lien Filings and Decisions

- DWC Audit and Enforcement Program

- DWC Medical Unit (MU)

- DWC Disability Evaluation Unit

- DWC Medical Provider Networks and Health Care Organizations

- DWC Information and Assistance Unit

- DWC Return-to-Work Supplement Program (RTWSP)

- DWC Uninsured Employers Benefits Trust Fund

- DWC Subsequent Injuries Benefits Trust Fund

- DWC Adjudication Simplification Efforts

 - DWC Information System (WCIS)

 - DWC Electronic Adjudication Management System (EAMS)

 - Carve-outs: Alternative Workers' Compensation Systems

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Division of Labor Standards Enforcement (DLSE)

DLSE Bureau of Field Enforcement

DLSE Registration Services-Janitorial Services

Anti-Fraud Efforts

WCAB DISTRICT OFFICES Workload

At the Division of Workers' Compensation's (DWC) 22 district offices and satellites located throughout California, employers, injured workers, and others receive judicial services that assist in the resolution of disputes from workers' compensation claims. The local district offices are a major part of the workers' compensation court system, where judges make decisions about cases. These [offices](#) are called WCABs as their activities are regulated by a [Workers' Compensation Appeals Board \(WCAB\)](#), a seven-member, judicial body appointed by the Governor and confirmed by the Senate. In this context, the WCAB workload does not include a WCAB review of formal appeals of decisions made by district WCAB judges, and it does not include case law decisions by the seven-member WCAB.

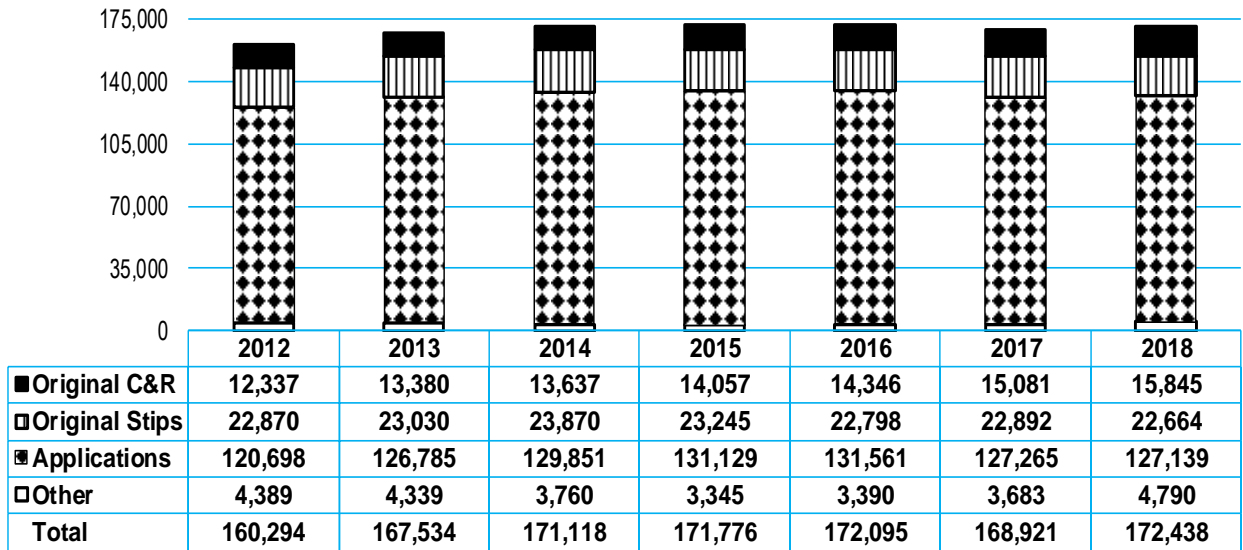
Division of Workers' Compensation Opening Documents

Three types of documents open a Workers' Compensation Appeals Board (WCAB) District Office case. Figure 42 shows the number of Applications for Adjudication of Claim (applications), Original Compromise and Releases (C&Rs), and Original Stipulations (stips) received by the Division of Workers' Compensation (DWC).

Prior to August 2008, DWC workload adjudication data were available from the legacy system. After August 2008, DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS).

As Figure 42 shows, the total number of Opening Documents increased by 7 percent from 2012 to 2016, decreased by 2 percent from 2016 to 2017, and then returned to the 2016 level in 2018. The number of applications, the largest component of opening documents, increased by 9 percent from 2012 to 2016 and then decreased by 3 percent from 2016 to 2018.

Figure 42: DWC Opening Documents

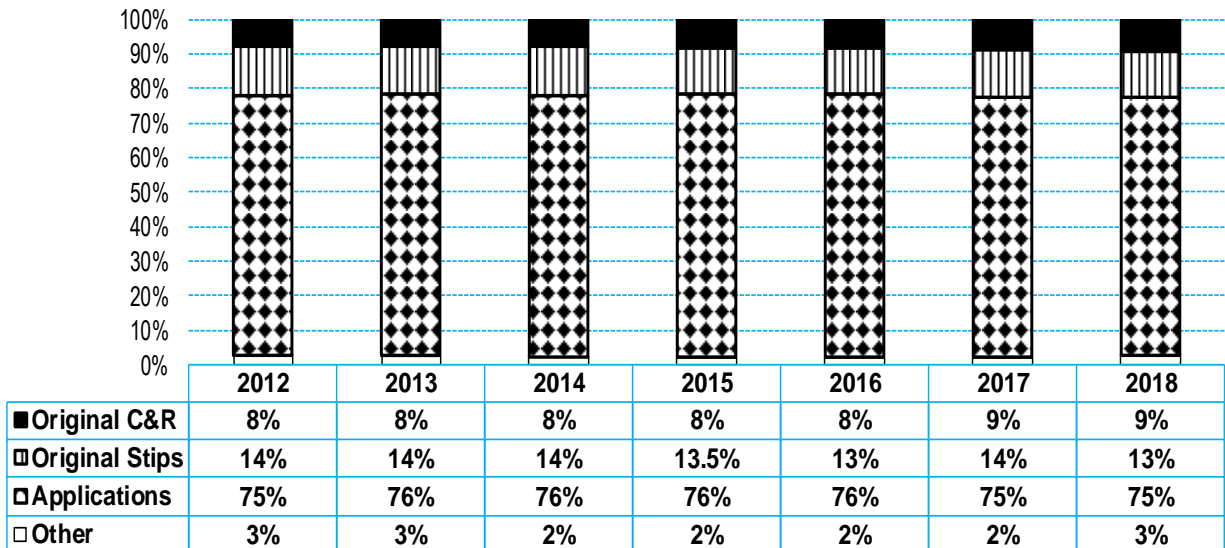


Source: DWC

Mix of DWC Opening Documents

As Figure 43 shows, the Applications comprised 75 percent of the opening documents from 2012 to 2018. The proportion of original (case-opening) stips leveled off at 13-14 percent per year from 2012 to 2018. In the same period, the proportion of original C&Rs also stabilized at 8-9 percent.

Figure 43: Percentage by Type of Opening Documents



Source: DWC

Division of Workers' Compensation Hearings

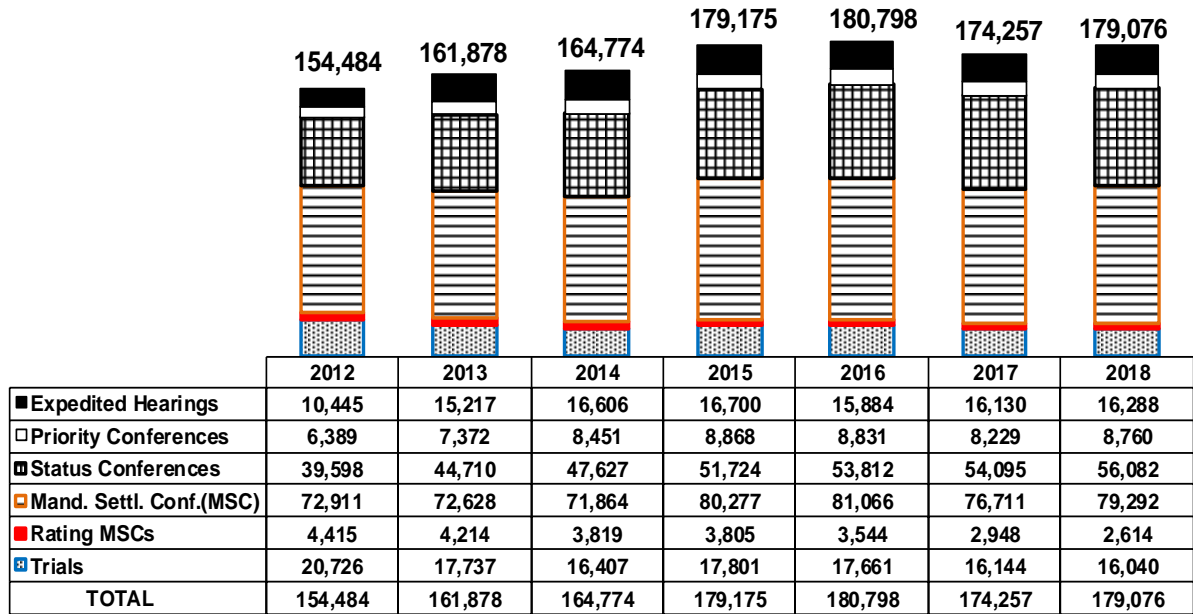
Numbers of Hearings

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

- A. Expedited Hearing and Decision. Labor Code Section 5502(b) directs the Court Administrator to establish a priority calendar for issues requiring an expedited hearing and decision. These cases must be heard and decided within 30 days following the filing of a DOR.
- B. Priority Conferences. Labor Code Section 5502(c) directs the Court Administrator to establish a priority conference calendar for cases when the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment (AOE) or in the course of employment (COE). The conference shall be conducted within 30 days after the filing of a DOR to proceed.
- C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular intervals.
- D. MSC and Ratings MSC. Labor Code Section 5502(e) establishes time frames to schedule MSCs and trials in cases involving injuries and illnesses occurring on and after January 1, 1990. MSCs are to be conducted not less than 10 days and not more than 30 days after filing a DOR.
- E. Trials. Labor Code Section 5502(e) mandates that if the dispute is not resolved at the MSC, a trial is to be held within 75 days after filing the DOR.

Figure 44 indicates the number of different types of LC 5502 hearings held in DWC from 2012 through 2018. The total number of hearings held increased by 17 percent from 2012 to 2016, decreased by 4 percent from 2016 to 2017, and then returned to the 2015 level in 2018. The number of mandatory settlement conferences (MSCs), the most numerous hearings, increased by 11 percent from 2012 to 2016, decreased by 5 percent from 2016 to 2017, and then increased again from 2017 to 2018. Rating MCSs decreased steadily by 41 percent from 2012 to 2018. The number of expedited hearings increased 1.6 times from 2012 to 2015 and then stabilized at 16,250 hearings per year from 2015 to 2018. The number of status conferences increased steadily by a total of 42 percent from 2012 to 2018. The priority conferences increased by 39 percent from 2012 to 2015 and then stabilized at 8,700 conferences per year from 2015 to 2018. The number of trials decreased by 21 percent from 2012 to 2014, increased by 8 percent to an average of 17,700 trials per year in 2015 and 2016, and then decreased by 9 percent from 2016 to 2018.

Figure 44: DWC Labor Code 5502 Hearings Held



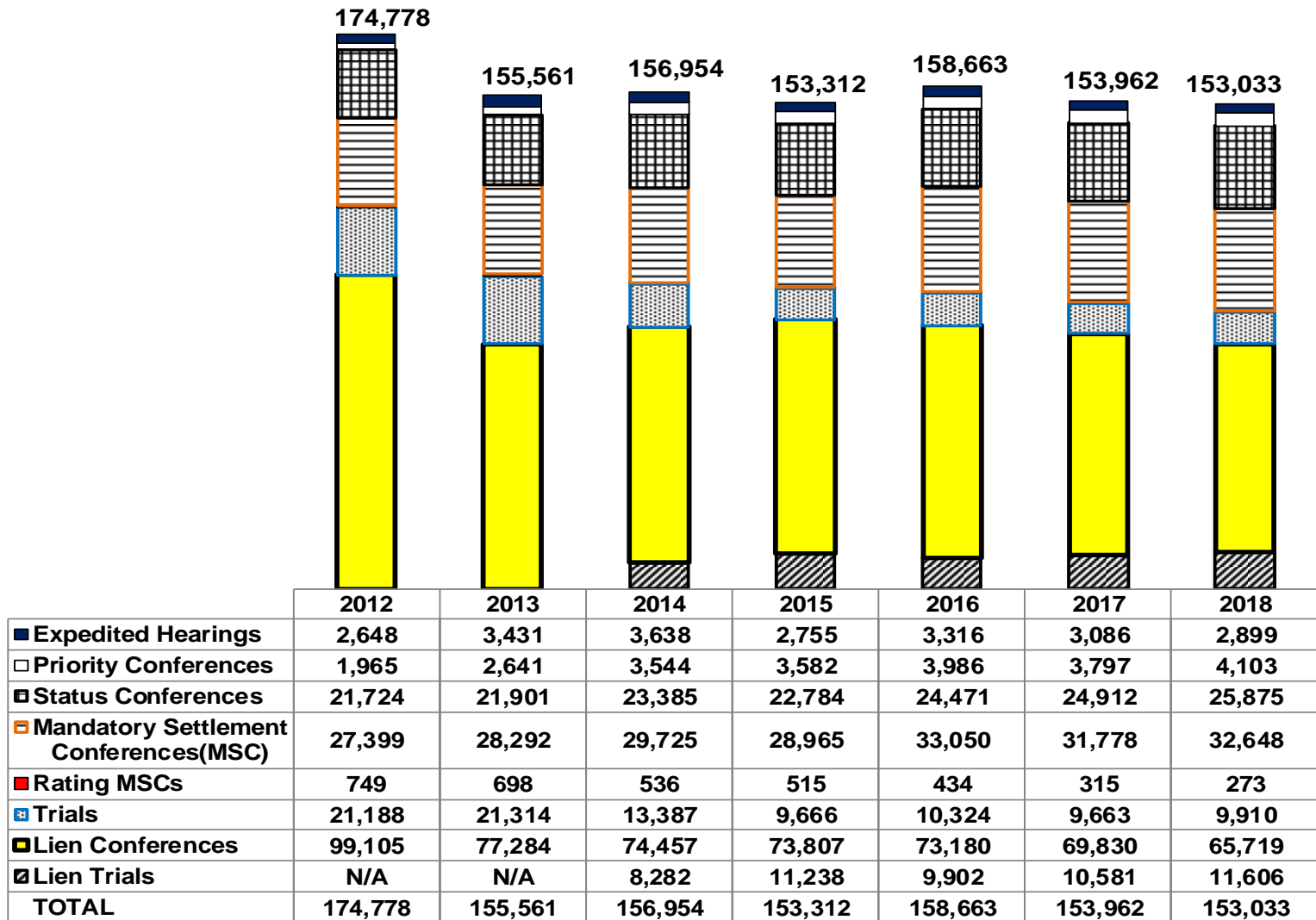
Source: DWC

The non-Section 5502 hearings are continuances or additional hearings after the first hearing. Figure 45 shows non-Section 5502 hearings held from 2012 to 2018.

The number of MCSs increased by 8 percent from 2012 to 2014 and then fluctuated between 28,900 and 33,000 conferences from 2014 to 2018. The rating MCSs decreased 2.7 times from 2012 to 2018. The number of status conferences increased overall by 19 percent from 2012 to 2018. The number of priority conferences doubled from 2012 to 2018. The number of expedited hearings increased by 37 percent from 2012 to 2014, decreased by 24 percent from 2014 to 2015, and then declined again by 13 percent from 2016 to 2018 after increasing from 2015 to 2016. The number of trials decreased overall by 53 percent from 2012 to 2018. The lien conferences decreased steadily by 34 percent from 2012 to 2018. Lien trials data available from 2014 shows an overall 40 percent increase from 2014 to 2018.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 45: DWC Non-5502 Hearings Held

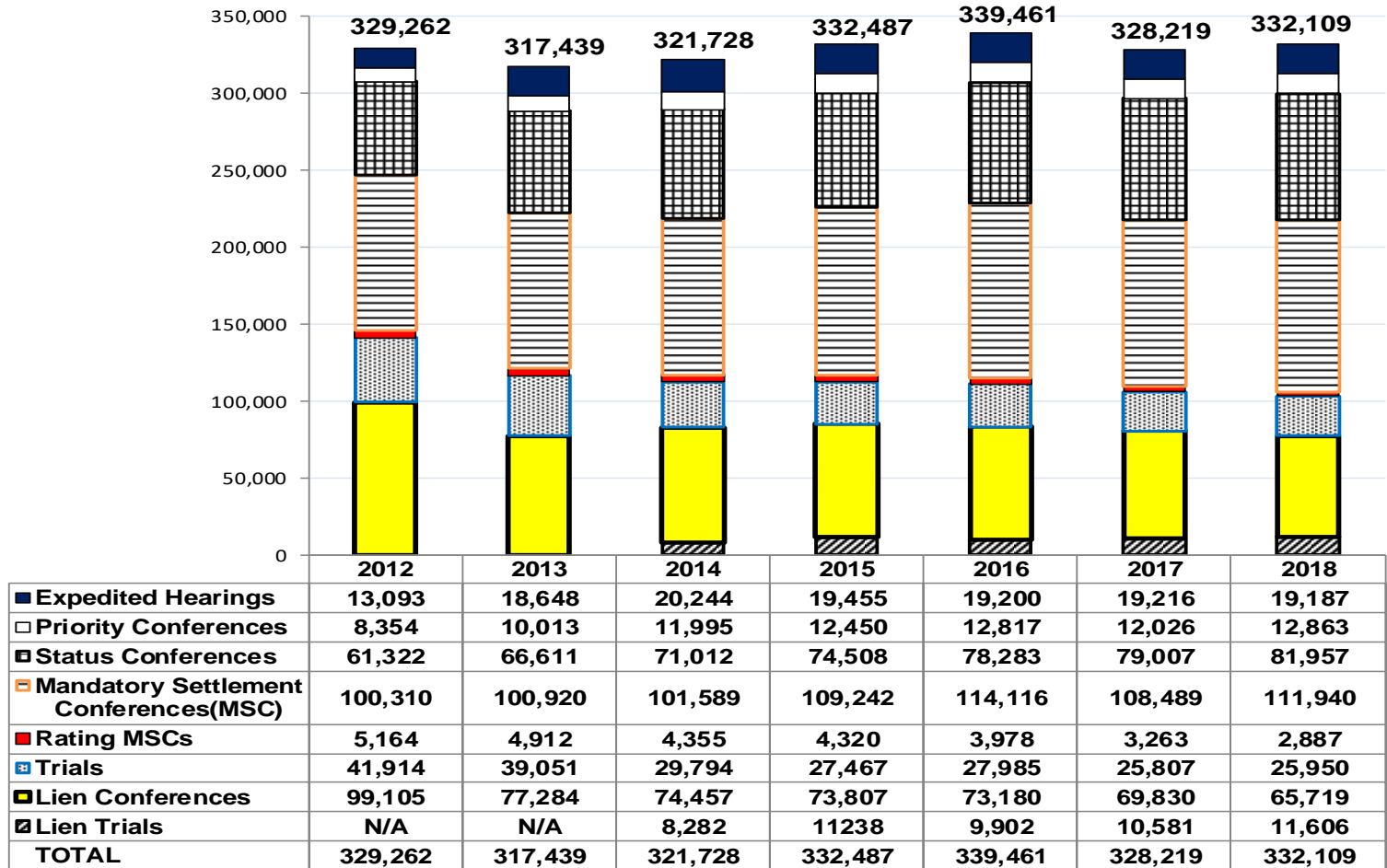


Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 46 shows the total hearings held from 2012 to 2018 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and lien conferences.

Figure 46: DWC Total Number of Hearings Held (LC 5502 and non-5502)



Data Source: DWC

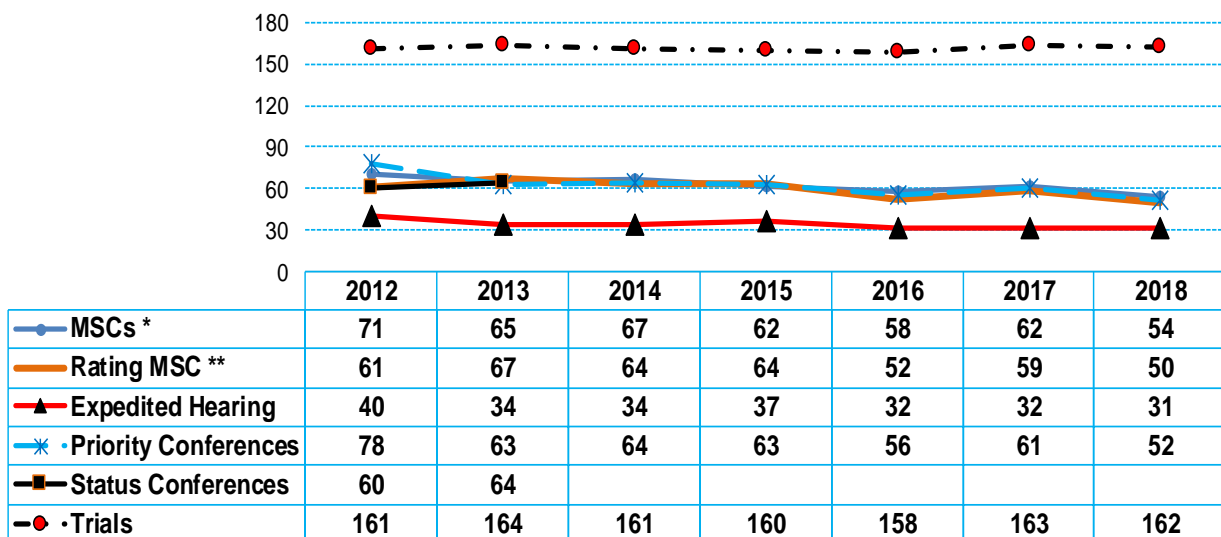
Timeliness of Hearings

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

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

Figure 47 shows the average elapsed time from a request to a DWC hearing in the fourth quarter of each year, from 2012 to 2018. All types of DWC hearings showed an overall decrease in average elapsed time from a request to hearing from 2012 to 2016 followed by a one time increase from 2016 to 2017, excluding the expedited hearings, and then again—by decline for all types of DWC hearings from 2017 to 2018. For expedited hearings, the average elapsed time from a request to hearing showed an almost uninterrupted and steady 22.5 percent decrease, from 40 days in 2012 to 31 days in 2018. The average elapsed time for MSCs decreased by 18 percent from 2012 to 2016, increased by 7 percent from 2016 to 2017, and then declined by 13 percent from 2017 to 2018. Similarly, the average elapsed time from a request to hearing for priority conferences decreased by 28 percent from 2012 to 2016, increased by 9 percent from 2016 to 2017, and dropped by 15 percent from 2017 to 2018. The average elapsed time from a request to a DWC trial changed slightly to an average of 161 days from 2012 to 2018.

Figure 47: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



* Mandatory Settlement Conferences

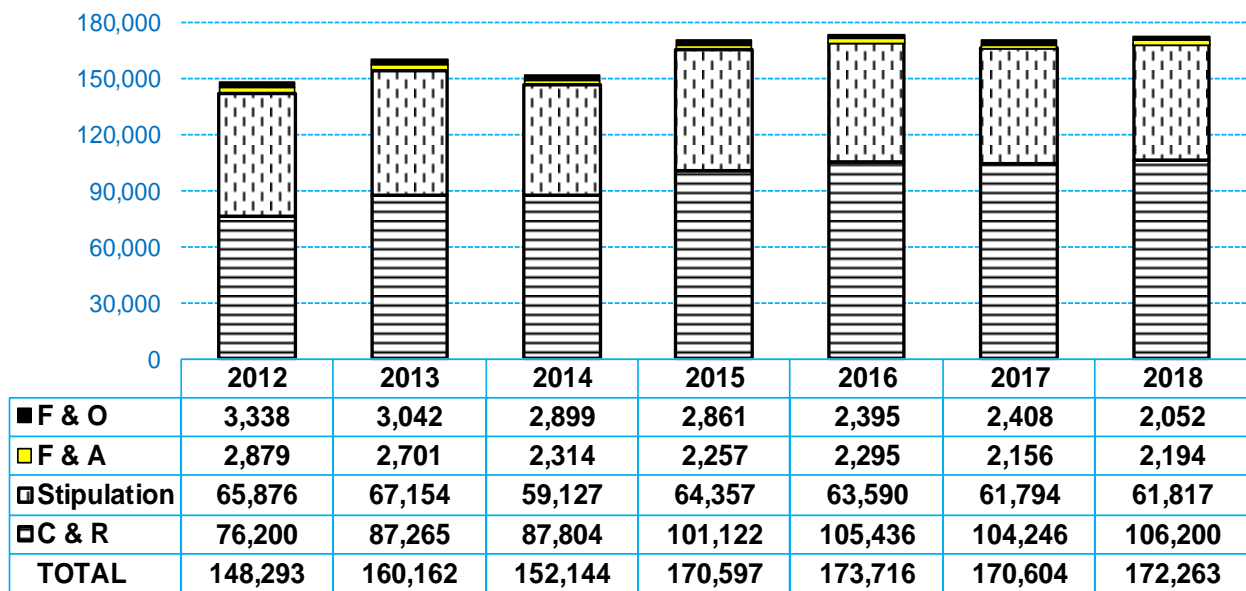
Source: DWC

Division of Workers' Compensation Decisions

DWC Case-Closing Decisions

Figure 48 shows that after an 8 percent increase from 2012 to 2013, the total number of case-closing decisions decreased by 5 percent from 2013 to 2014. This decrease in the number of case-closing decisions was due to decreases in Findings & Award (F&A), in Findings & Order (F&O, and in Stipulations from 2013 to 2014. From 2014 to 2016, the total number of case-closing decisions increased by 14 percent as a result of a steady 38 percent increase in Compromise and Releases (C&Rs) from 2012 to 2016 and a 7.5 percent increase in Stipulations from 2014 to 2016. From 2016 to 2017, the total number of case-closing decisions decreased by 2 percent, as both Compromise and Releases (C&Rs) and Stipulations decreased in the same period. A 1 percent increase in the total number of case-closing decisions from 2017 to 2018 was the result of an increase in C&Rs.

Figure 48: DWC Case-Closing Decisions



Source: DWC

Mix of DWC Decisions

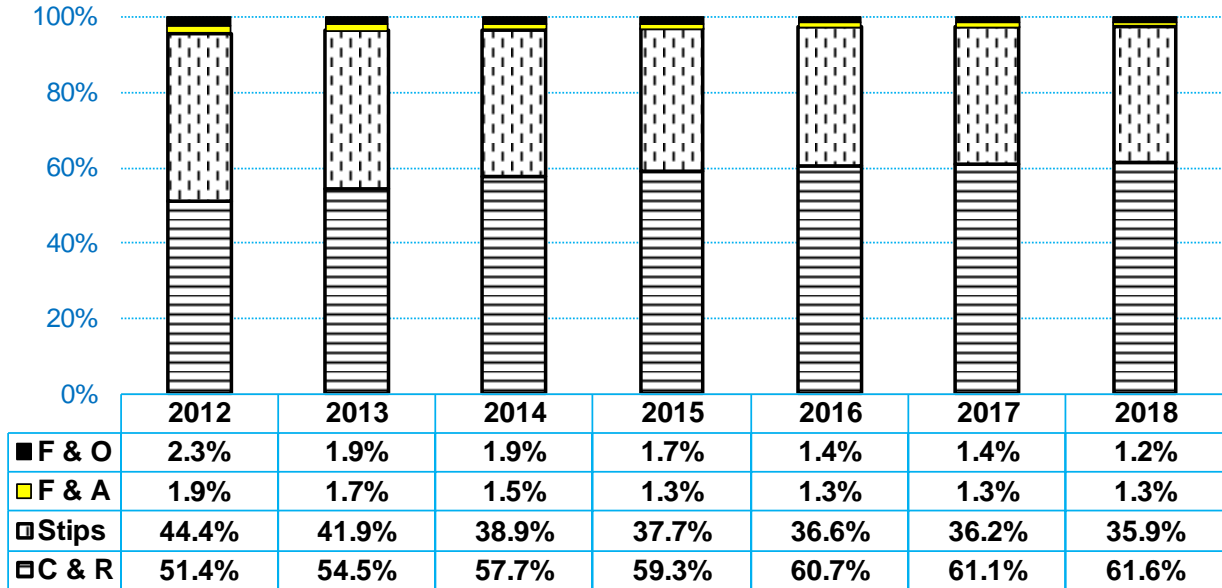
As shown in the previous figures and in the figure below, again, the vast majority of the case-closing decisions were in the form of a WCAB judge's approval of Stips and C&Rs, which were originally formulated by the case parties.

From 2012 to 2018, the proportion of Stips decreased from 44 to 36 percent and the proportion of C&Rs increased from 51 to almost 62 percent.

Figure 49 shows that a small percentage of case-closing decisions evolved from a Findings & Award (F&A) or Finding & Order (F&O) issued by a WCAB judge after a

hearing. That pattern continued with an overall decrease for both types of decisions from 2012 to 2018.

Figure 49: DWC Decisions: Percent Distribution by Type of Decisions



Source: DWC

Division of Workers' Compensation Lien Filings and Decisions

SB 863 became effective January 1, 2013 and introduced changes regarding liens filed against an injured workers' claim, for medical treatment and other services provided in connection with the claim, but not paid for by the employer or insurance carrier. The bill introduced a filing fee of \$150 required for all liens filed after January 1, 2013 and a \$100 activation fee required for liens filed before January 1, 2013. These fees served as tools for dismissal of liens by operation of law after January 1, 2014 if no filing or activation fee has been filed. Other measures included an 18-month statute of limitations for filing liens for services rendered after July 1, 2013 and a 3-year statute of limitations for services provided before then. Assignments of lien claims were also strictly limited and allowed only where the assignor had gone out of business.

Senate Bill 1160 and Assembly Bill 1244, both of which became effective on January 1, 2017, added important new provisions that significantly decreased the number of liens filed in 2017:

- Labor Code section 4615 places an automatic stay on liens filed by or on behalf of physicians and providers who are criminally charged with certain types of fraud. The automatic stay prevents those liens from being litigated or paid while the prosecution is pending.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- Provider suspension activities undertaken pursuant to Labor Code section 139.21 include consolidation and dismissal of all pending lien claims in a special lien proceeding for providers who have been suspended due to conviction of a covered crime. A Special Adjudication Unit (SAU) was created in DWC to conduct lien consolidation proceedings.
- Labor Code section 4903.05(c), as amended by SB 1160, introduced the lien dismissals by operation of law. This provision requires lien claimants to file a declaration verifying the legitimacy of liens for medical treatment or medical-legal expenses. Claimants who had filed liens between January 1, 2013 and December 31, 2016, were required to file the declarations by July 1, 2017, to avoid having those liens dismissed.

As Table 16 shows, the number of liens filed in 2012 peaked to 1.2 million in expectation of lien filing fees introduced by SB 863. The number of liens filed decreased by over 50 percent between 2011 and 2014 due to the introduction of SB 863 lien provisions. Between 2014 and 2016, there was an 86 percent increase in lien filings, followed by a 61 percent decrease from 2016 to 2018 due to the SB 1160 and AB 1244 reforms enacted in 2016.

The number of decisions regarding liens filed on WCAB cases showed a significant increase of 59 percent from 2011 to 2013, thereby increasing concomitant expenditure of DWC staff resources on resolution of those liens. Between 2013 and 2016, the number of DWC lien decisions fluctuated and then decreased by 11 percent from 2016 to 2018. Because of the addition of [Labor Code 4615](#), many liens are stayed and cannot be decided until the criminal case is resolved.

Table 16: Numbers of Liens Filed and DWC Lien Decisions, 2011—2018

Lien Activities	2011	2012	2013	2014	2015	2016	2017	2018
Liens Filed	469,190	1,236,704	206,858	229,730	398,940	426,792	206,828	165,290
DWC Lien Decisions	41,395	64,300	65,800	58,321	64,360	56,079	52,140	49,739

Source: DWC & OIS

See [“Report on Liens”](#) (CHSWC, 2011) for a complete description.

DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM

Background

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

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of workers' compensation benefits to industrially injured workers and to identify and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.⁵⁷

Assembly Bill 749 Changes to the Audit Program

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

Labor Code Sections 129 and 129.5 were amended to ensure that each audit location will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. If a new Claims Administrator has at least three years of claims inventory, an audit may be conducted sooner. Any audit subject that fails to meet a profile audit standard established by the Administrative Director (AD) of the DWC will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer or third-party administrator is failing to meet its obligations. To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will be required to pay penalties only for unpaid or late paid compensation.

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

⁵⁷ In addition, LC 129 (f) requires an audit of the Uninsured Employers Benefits Trust Fund (UEBTF) by the claims and collections unit of DWC.

be engaging in a general business practice of discharging and administering compensation obligations in an improper manner.

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

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

Overview of Audit Methodology

Selection of Audit Subjects

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

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

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

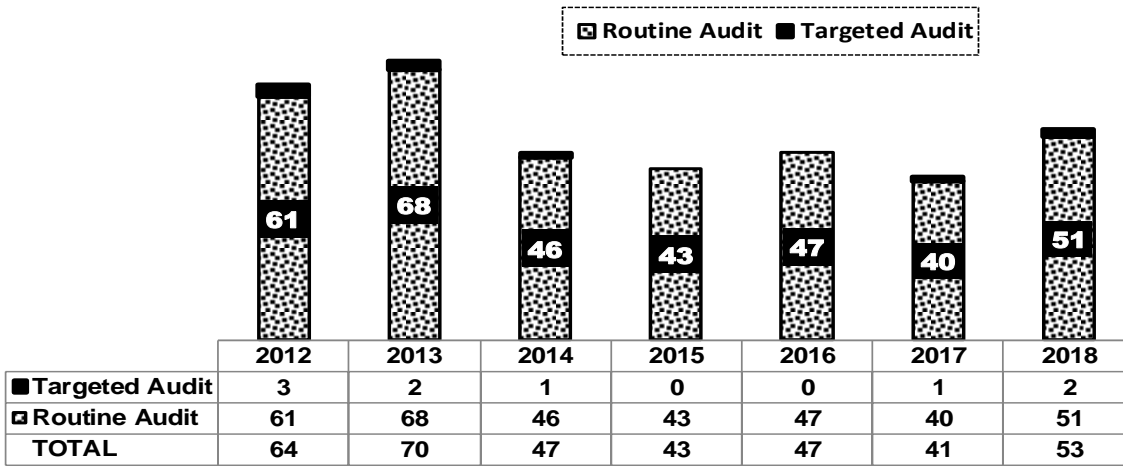
Audit and Enforcement Unit Data

Routine and Targeted Audits

Figures 50 to 56 depict workload data from 2012 through 2018. Figure 50 shows the number of routine and targeted audits and the total number of audits conducted each year.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 50: Routine and Targeted Audits

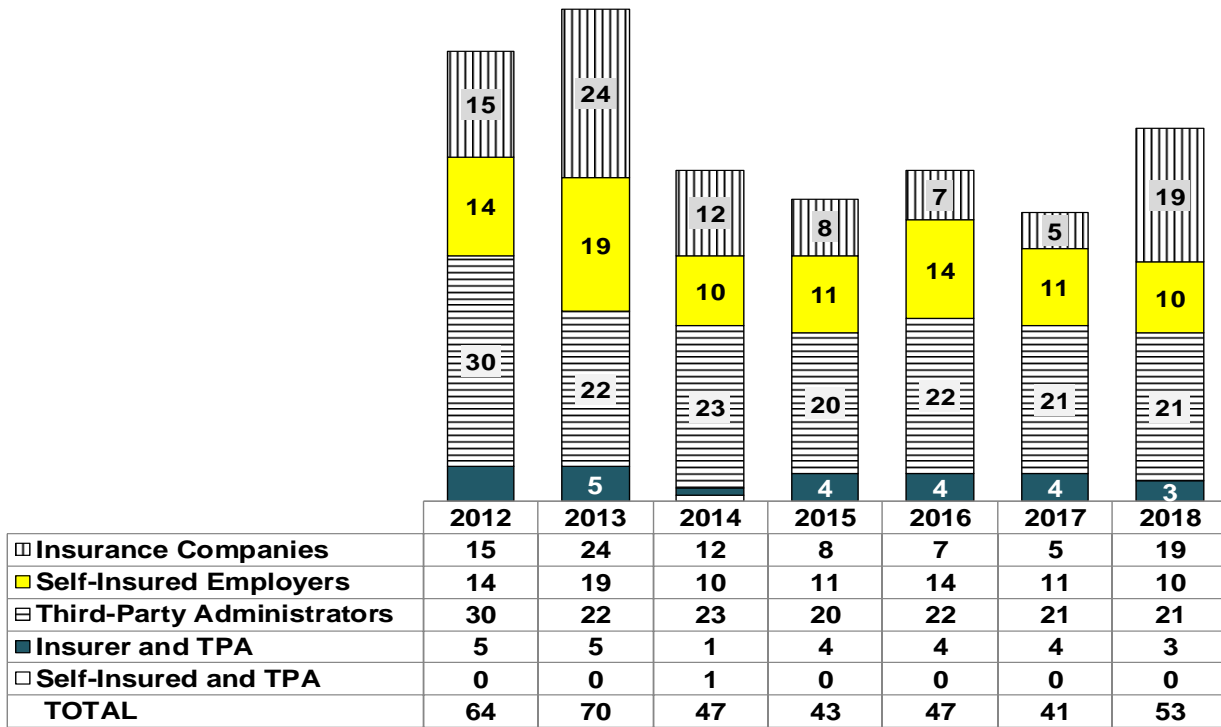


Data Source: DWC Audit and Enforcement Unit

Audits by Type of Audit Subject

Figure 51 depicts the total number of audit subjects each year, broken down by whether the subject is an insurance company (insurer), a self-insured employer, or a third-party administrator.

Figure 51: DWC Audits by Type of Audit Subject



Data Source: DWC Audit and Enforcement Unit

Selection of Files to Be Audited

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

- Some valid complaint files may be selected to undergo targeted audits, and penalties may be issued.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by DWC related to claims-handling practices. Types of claims include indemnity, denied, complaint, and additional files. The Audit Unit only audits claims with indemnity benefits paid and only tracks the number of medical only files on the Annual Report of Inventory.

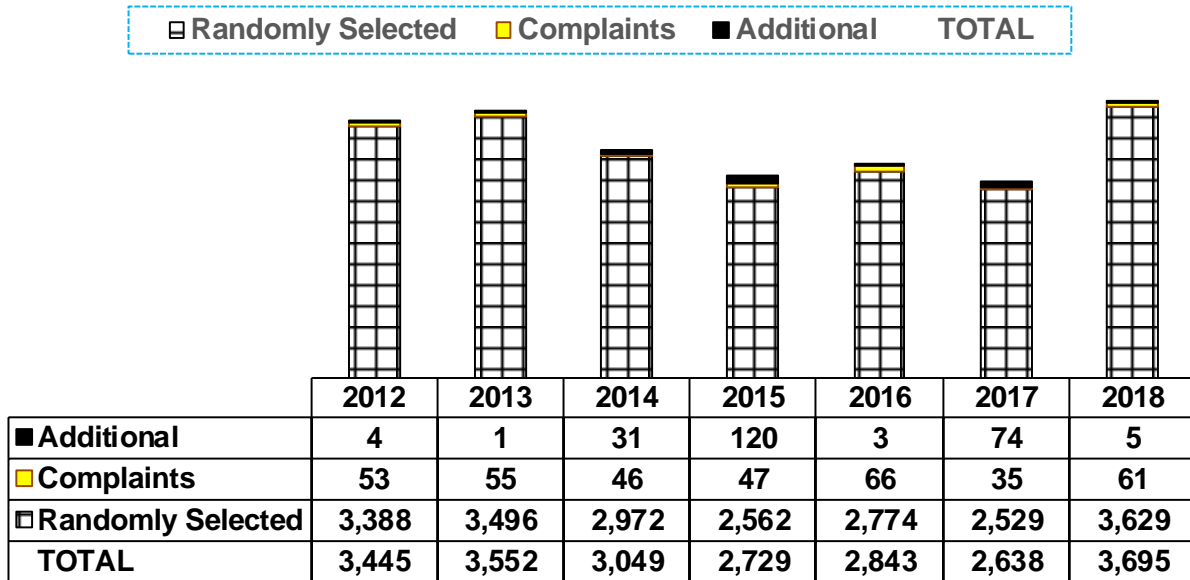
Figure 52 shows the total number of claim files audited each year broken down by the method used to select them. In 2018, within the PAR/FCA audits, compliance officers audited 3,695 claim files, of which 3,629 were randomly selected claims⁵⁸ in which some form of indemnity benefits was paid. Targeted claims audited included 61 files based on valid complaints received by the DWC. Another 5 audited claims were designated as "additional" files."

Additional" files include the following:

- Claims audited as a companion file to a randomly selected file.
- Claims chosen based on criteria relevant to a target audit but for which no specific complaints had been received.
- Claims in excess of the number of claims in the random sample, audited because the files selected were incorrectly designated on the log.

⁵⁸ Some claim files may be substituted for another file if the randomly selected file does not meet the PAR audit criteria or if the files selected were incorrectly designated on the log. These files would still be counted in the original random sample number and not listed as additional files.

Figure 52: Files Audited by Method of Selection



Source: DWC Audit and Enforcement Unit

Administrative Penalties

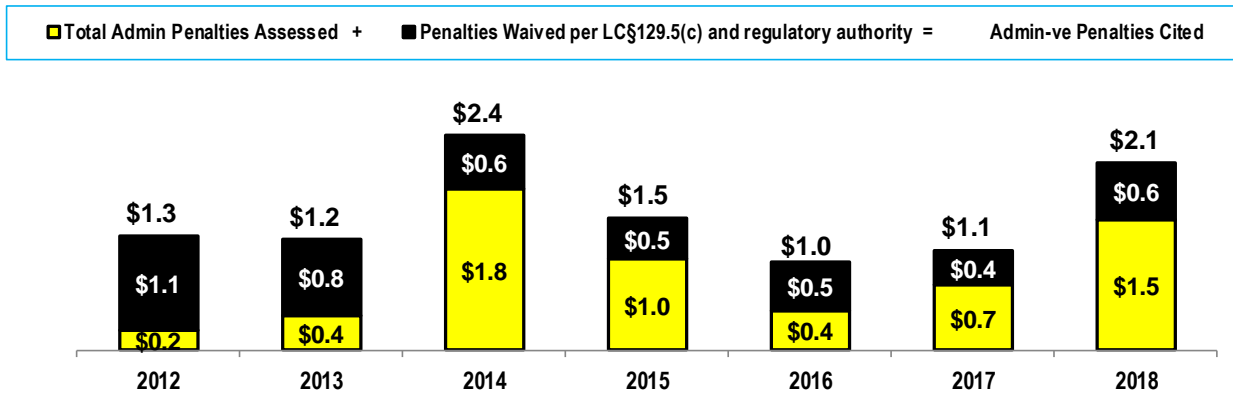
Figure 53 shows the administrative penalties cited from 2012 to 2018. As a result of PAR/FCA audits conducted during the calendar year 2018, the Audit & Enforcement Unit found and cited 8,171 violations against claims administrators, with initial administrative penalties cited totaling \$2,092,334.

Not all administrative penalties are subject to collection. Under the Labor Code, no penalties are assessed on those "cited" violations unless the audit subject fails the audit at a specific level.⁵⁹

In accordance with Labor Code section 129.5(c) and regulatory authority, the Audit & Enforcement Unit did not assess or waived \$638,738 of the potential administrative penalties of the cited violations. The violations which, by law, were not assessed occurred within 43 of the audits that met or exceeded the PAR performance standard. All violations cited in the audit that failed the FCA performance standard were assessed. The assessed penalties subject to collection from claims administrators for FCA audits came to a total of \$1,453,596.

⁵⁹ DWC Annual Audit Report (the link will be added when the report is posted), page 3.

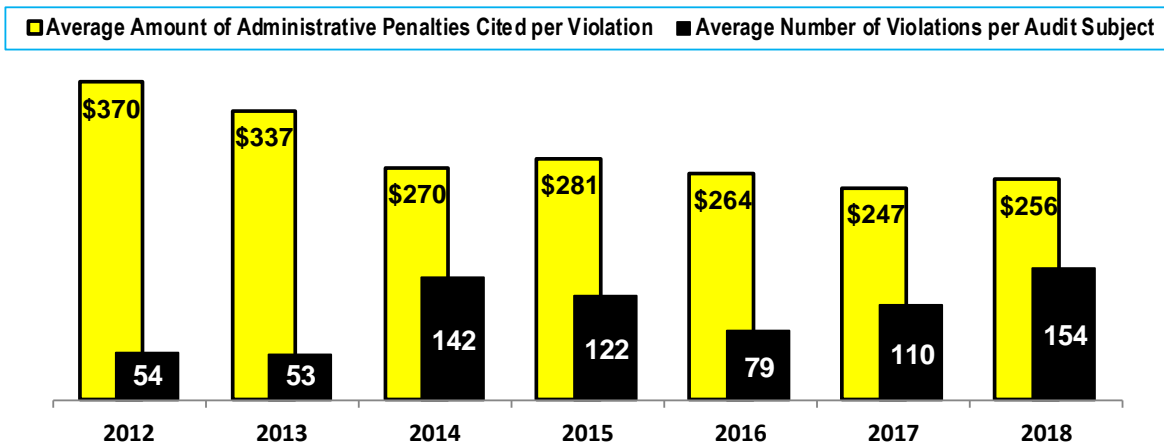
Figure 53: DWC Audit Unit—Administrative Penalties Cited (Million \$)



Data Source: DWC Audit and Enforcement Unit

Figure 54 shows the average number of violations per audit subjects each year and the average dollar amount of administrative penalties cited per violation. In 2018, the average number of violations per 53 completed profile audits was 154 and the average amount of penalties cited per 8,171 violations was about \$256 that includes the penalties waived.

Figure 54: Average Amount of Administrative Penalties Cited per Violation and Average Number of Violations per Audit Subject



Data Source: Audit and Enforcement Unit

Unpaid Compensation Due to Claimants

Audits identify claim files in which injured workers were owed unpaid indemnity compensation. The administrator is required to pay these employees within 15 days after receipt of a notice from the Audit and Enforcement Unit advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located by claims administrators, the unpaid compensation is payable by the administrator to WCARF. In

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

these instances, an application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

Figure 55 depicts the average number of claims per audit where unpaid indemnity compensation was found and the average dollar amount of compensation due per claim.

Figure 55: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation

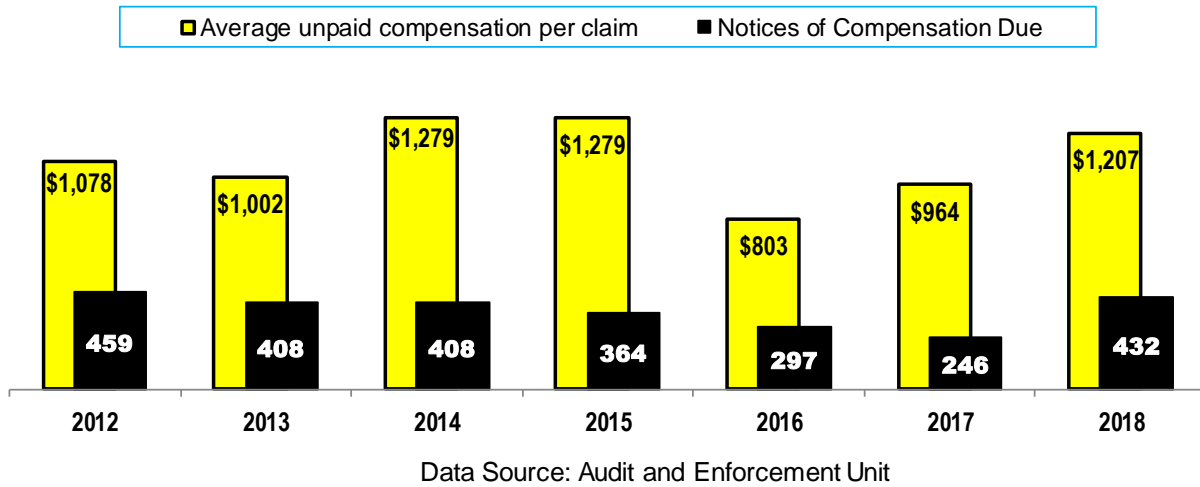
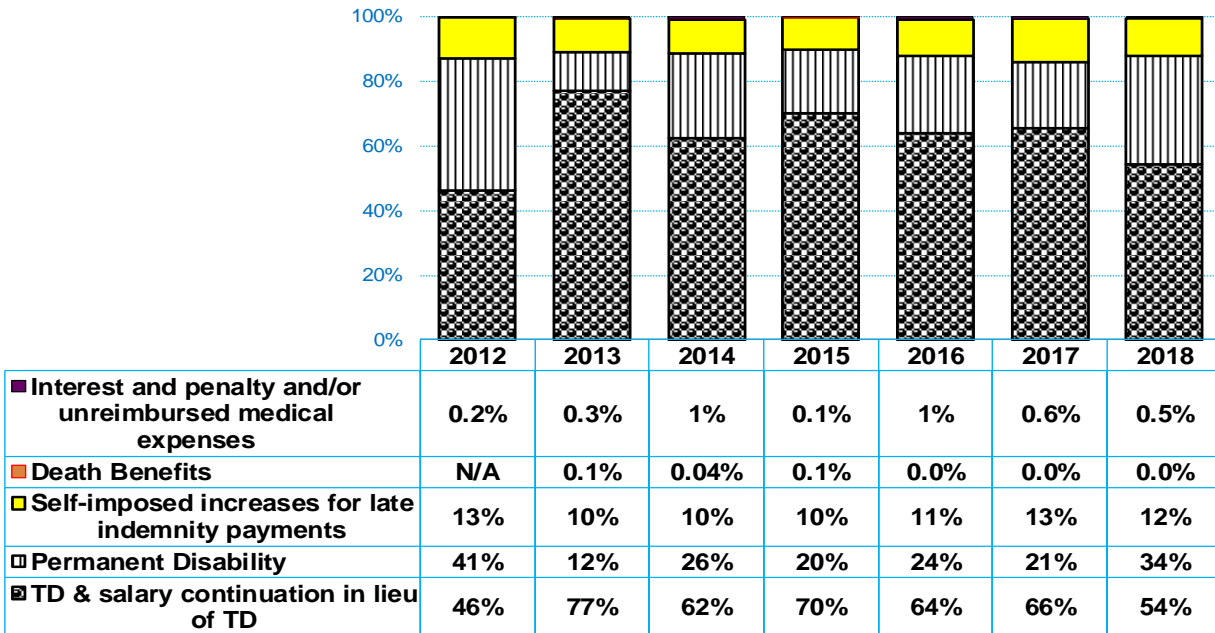


Figure 56 shows yearly distribution of unpaid compensation by specific type.

Figure 56: Distribution of Unpaid Compensation by Type



Note: Due to rounding, percentages may exceed 100%.

Data Source: DWC Audit and Enforcement Unit

For further information

[DWC Annual Audit Reports.](#)

CHSWC [“Report on the Division of Workers’ Compensation Audit Function”](#) (1998).

DIVISION OF WORKERS’ COMPENSATION DISABILITY EVALUATION UNIT

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

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

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

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

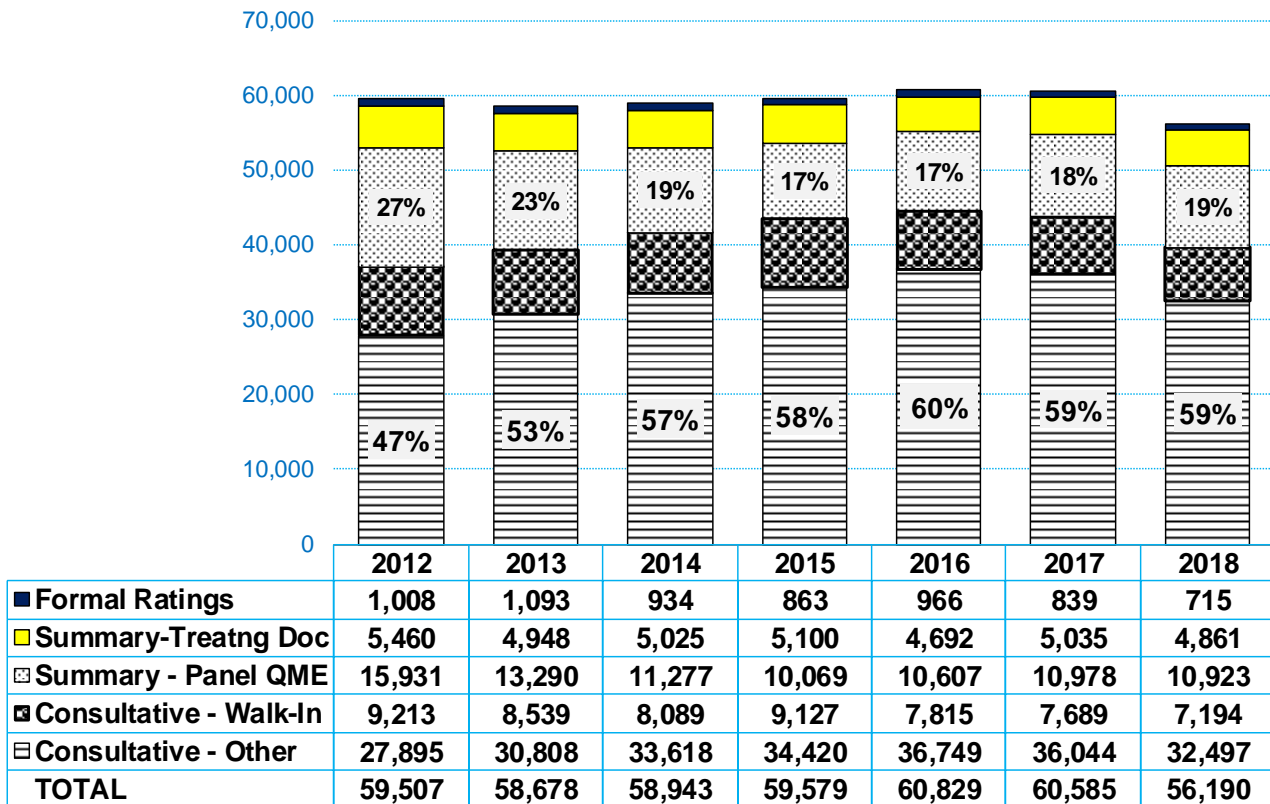
In addition to written ratings, DEU provides oral consultations on PD issues and commutation calculations to determine the present value of future indemnity payments to assist in case settlements.

Figure 57 illustrates DEU’s workload from 2012 through 2018 and shows the total ratings and ratings by type.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The total number of DEU written ratings averaged around 59,180 yearly between 2012 and 2018. The combined share of consultative ratings in total ratings increased from 62 percent in 2012 to 71 percent in 2018 as the number of non-walk-in consultative ratings increased by 16.5 percent from 2012 to 2018. The combined share of summary ratings by panel QMEs and treating doctors in all ratings decreased from 36 percent in 2012 to 28 percent in 2018. Overall from 2012 and 2018, the number of summary ratings by panel QMEs fell by 31 percent, the number of summary ratings by treating doctors decreased by 11 percent, the number of consultative walk-in rates fell by 22 percent, and the number of formal ratings decreased by 29 percent.

Figure 57: DEU Written Ratings, 2012-2018



Data Source: DWC Disability Evaluation Unit

Table 17 shows the number of ratings issued in 1997, 2005, and 2013 by type and rating schedules in effect.

Table 17: DEU Ratings in 2018 by Type and Rating Schedules in Effect

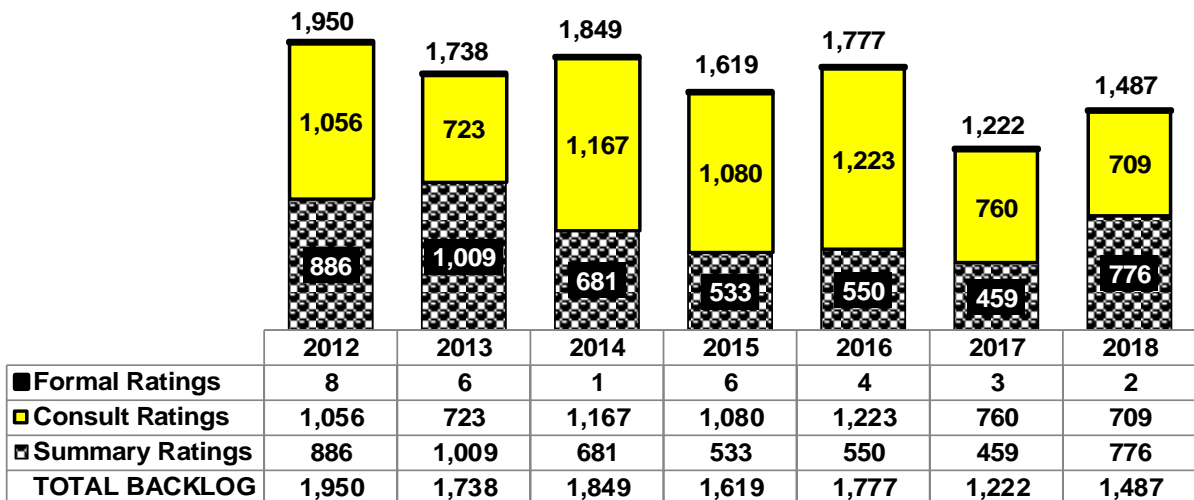
Year that rating schedules went into effect	1997	2005	2013
Summary rating based on QME report	10	6,395	4,518
Summary rating treating based on physician report	1	2,460	2,400
Walk-in consultative ratings	50	4,424	2,720
Other consultative ratings	716	17,012	14,769
Formal ratings requested by judge	33	415	267
TOTAL	810	30,706	24,674
Percent of each rating schedule in effect in grand total number of ratings (=56,190)	1.4%	55%	44%

Data Source: DWC Disability Evaluation Unit

DEU Backlog

A rating backlog represents rating requests of medical reports that have been received but not yet rated. Formal ratings and cases set for hearing are given priority. According to Figure 58, DEU decreased the ratings backlog by 37 percent, from 1,950 cases in 2012 to 1,222 in 2017, as seen in Figure 58. From 2017 to 2018, the requested ratings increased 21.7 percent, mostly due to an increase of 69 percent in summary ratings. The total backlog in 2018 was still smaller than the yearly backlogs from 2012 to 2016. The reduction in the backlog provides quicker delivery of benefits to injured workers and resolution of workers' compensation cases.

Figure 58: DEU Backlogs



Data Source: DWC Disability Evaluation Unit

Commutation Calculations

DEU also performs commutations of future indemnity payments involving present-value calculations. These commutation calculations assist parties in the resolution of claims involving lump-sum payments, including calculation of attorney fees on litigated cases. The estimates are done upon submission of requests to Workers' Compensation Administrative Law Judges by the parties involved.

For injuries that occurred on or after January 1, 2003, life pension and total PD payments are increased according to the annual increase of the state average weekly wage (SAWW) starting January 1 after the payment commences and each January thereafter. The increase in benefits based upon annual SAWW increases the complexity of commutation calculations. DEU performed 1,463 commutations, averaging 121.9 commutation calculations per month in 2017 and 1,621 commutation calculations, averaging 135.1 commutation calculations per month in 2018.

Staffing

Current staffing levels are 43 Disability Evaluators (40 WCC and 3 WCA positions) with three vacancies in the hiring process, 3 supervisors, and 1 unit manager. DEU is supported clerically by staff assigned to the Adjudication Unit.

DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT

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

The Medical Unit also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the Medical Unit reviews utilization review (UR) plans from insurers and self-insured employers and develops and monitors treatment guidelines. The unit also participates in studies to evaluate access to care, medical quality, treatment utilization, and costs. Finally, the Medical Unit recommends reasonable fee levels for various medical fee schedules.

Qualified Medical Evaluator Panels

DWC assigns panels composed of three QMEs, from which an injured worker without an attorney can select an evaluator to resolve a medical dispute. Before April 19, 2004, only an unrepresented injured worker could request a panel. SB 899, which went into effect April 19, 2004, allowed the claims administrator to request a panel in an unrepresented case if the injured worker failed to do so within 10 days. Likewise, in a represented case,

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

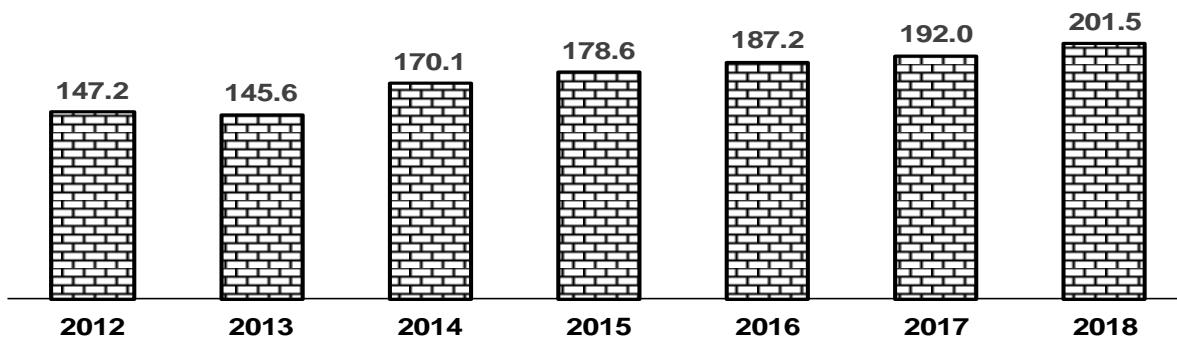
both the applicant's attorney and the defense could request a panel if they could not agree on an AME in cases involving a date of injury on or after January 1, 2005. Although both sides attempt to request the panel in the medical specialty of their choice, the first valid request is processed and subsequent requests are returned as a duplicate.

Effective January 1, 2013, SB 863 no longer requires the parties to confer on using an AME before requesting a panel. Additionally, this reform created a new framework for resolving current medical treatment disputes through an independent medical review (IMR) process. This means that a QME can no longer address current medical treatment disputes. QMEs are also limited to having no more than 10 offices, whereas formerly the number of offices for which they could be certified was unlimited.

An increase in the volume of panel requests has been evident over the past six years because of various legislative reforms, WCAB decisions, and changes in reporting requirements. An online system was implemented on October 1, 2015 to expedite the assignment of initial panels in represented cases. WCAB decisions such as the Romero decision (2007), the Messele decision (2011), and the Navarro decision (2014) also contributed to an increase in panel requests. These changes have contributed to the increase in the number of QME panels, as seen in Figures 59-61.

Figure 59 shows the total number of QME Panel Requests including represented initial requests submitted online that became effective on October 1, 2015 and initial, additional, replacement panel requests, judge orders, and change of specialty panels received as mailed paper submissions. The online system applies to represented cases with dates of injury on or after January 1, 2005, and according to DWC, makes up 48 percent of the panel requests received yearly since 2016. Mailed paper submissions are processed in-house and include initial unrepresented panel requests from either the injured worker or the claims examiner, initial represented panel requests either involving a pre-2005 date of injury or an uninsured employer, and additional specialty panels and replacement panels for both the unrepresented and represented cases. With Panel Request counts rising in 2014, their volume increased by about 17 percent from 2013 to 2014. From 2014 to 2018, the number of QME Panel Requests increased steadily, by 18.5 percent.

Figure 59: Number of Qualified Medical Evaluator (QME) Panel Requests (Thousand)

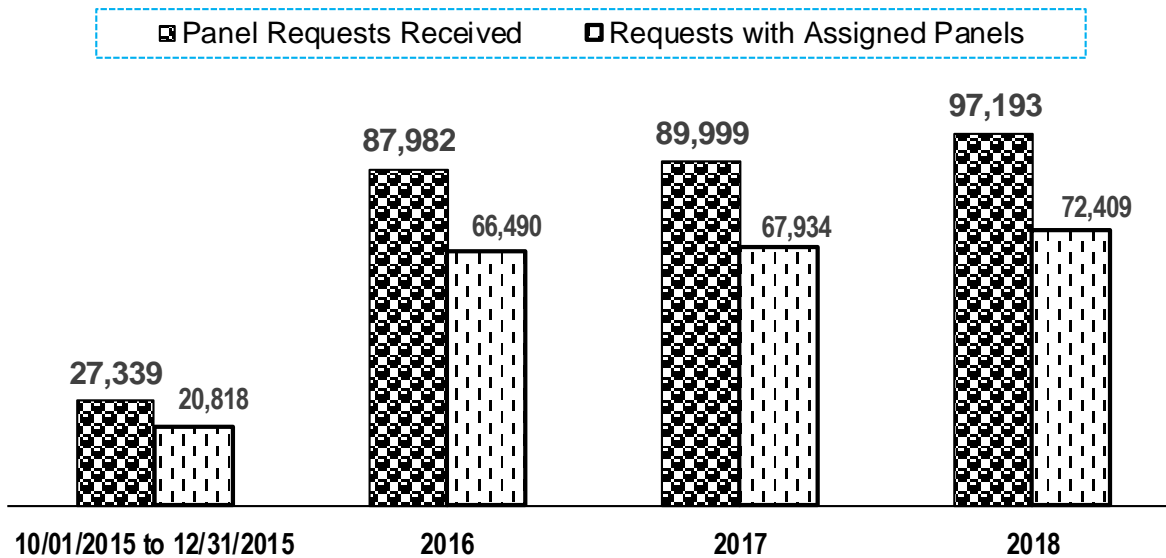


Note: Data for 2012 and 2013 were incomplete and are missing a full count of all requests received.

Source: DWC

Figure 60 shows the number of represented initial requests submitted online and requests assigned panels. In 2015, when the online system was implemented, to 2018, 75 percent of the online panel applications were assigned panels, and about 25 percent were rejected as ineligible because they were rejected by the online system. Represented panel requests reached 88,000 in 2016 and since then comprised a big share of incoming panel requests. From 2016 to 2018, the number of represented panel requests increased by 10.5 percent.

Figure 60: Online QME Panel System: Represented Panel Requests and Requests Assigned Panels



Source: DWC

Figure 61 reflects the count of panels issued and returned as problem requests each year. The Medical Unit has 20 business days to issue an initial panel in an unrepresented case and 30 calendar days to issue an initial panel in a represented case. An online panel request system went into effect on October 1, 2015, allowing parties in a represented case to obtain an initial panel immediately upon online submission. Title 8, California Code of Regulations (CCR) §31.7 applies to requests for obtaining additional specialty panels under certain specified conditions. Replacement QME panels⁶⁰ are issued pursuant to 8 CCR §31.5 that applies to requests for replacement of one or more QMEs from a panel that meets the conditions specified under this section.

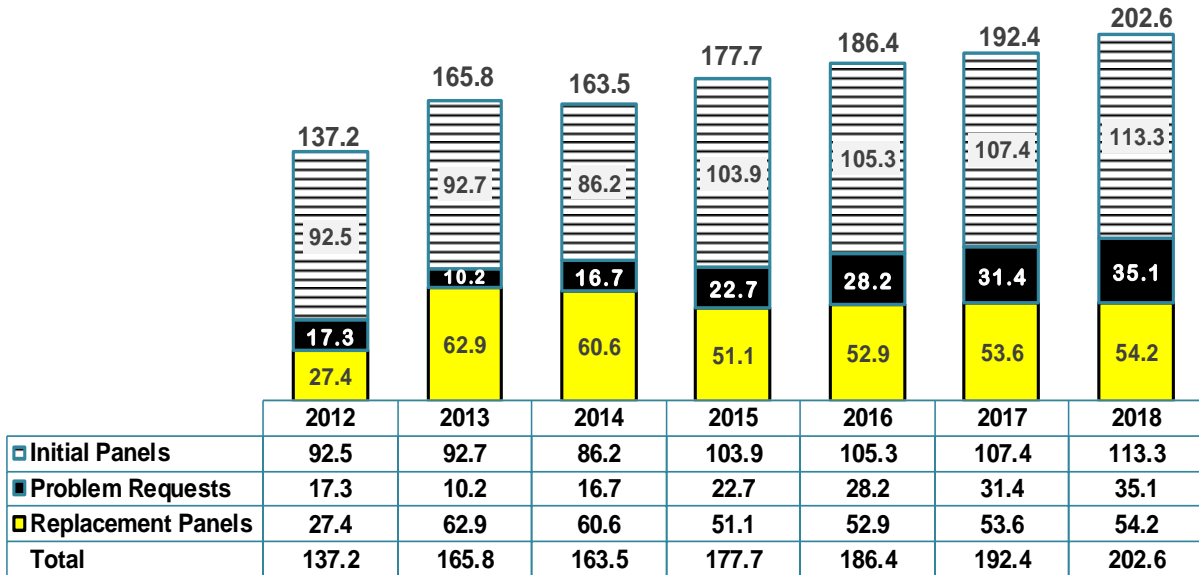
According to Figure 61, the number of QME initial panels issued decreased by 7 percent from an average of 92,600 initial panels per year in 2012 and 2013 to 86,200 initial panels in 2014 when the count of panel requests improved. From 2014 to 2015, the number of QME initial panels issued increased by 20.5 percent and then continued increasing by 9 percent from 2015 to 2018. After growing 2.3-fold from 2012 to 2013, the number of

⁶⁰ The term “replacement” is referenced as “second” panels in-house to communicate the type of handling needed for the panel request.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

replacement panels decreased by 19 percent from 2013 to 2015, and then increased by 6 percent from 2015 to 2018. The problem requests decreased by 41 percent from 2012 to 2013, and then steadily increased 3.4-fold from 2013 to 2018. According to the MU, the processing of initial panels, issuance of replacement panels, and returning problem requests are performed by MU staff in-house, not online. The problem requests comprise about 16 percent of the panels processed in-house.

Figure 61: Number of QME Initial Panels* and Replacement Panels Issued and Returned as Problem Requests (Thousand)



*The numbers account for both initial and additional panels issued.

Data Source: DWC

Table 18 reflects the panel processing activity detailed in Figure 61. The total number of panels issued includes the initial panels issued and replacement panels. Panels returned are ineligible panels. There was a drop in the share of issued panels in 2013 and 2014 as stakeholders adjusted to new filing requirements introduced by SB 863 in 2013. From 2014 to 2015, the number of panels issued increased by eight percentage points to 71 percent and stabilized at 71-73 percent from 2015 to 2018.

Table 18: Percent of QME Panels Issued and Returned

Panel Types	2012	2013	2014	2015	2016	2017	2018
Panels issued	80%	60%	63%	71%	72%	72%	73%
Panels returned	20%	40%	37%	29%	28%	28%	27%

Source: DWC

Utilization Review

The utilization review (UR) process includes utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, delay, or deny treatment recommendations by physicians, as defined in Labor Code Section 3209.3, based in whole or in part on medical necessity to cure or relieve the injured worker from the effects of his or her injury prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Labor Code Section 4600. UR begins when the completed DWC Form RFA (request for authorization of medical treatment) accepted as complete under 8 CCR Section 9792.9.1(c)(2) is first received by the claims administrator or, in the case of prior authorization, when the treating physician satisfies the conditions described in the UR plan for prior authorization (§ 9792.6.1(y)).

Each employer, either directly or through its insurer or an entity with which an employer or insurer contracts for utilization review services, is required to establish a utilization review process via written policies and procedures. A UR plan is the written plan filed with the Administrative Director (AD) pursuant to Labor Code Section 4610, setting forth the policies and procedures and a description of the UR process (Section 9792.6.1(x)). The UR plan ensures that UR decisions are consistent with a medical treatment utilization schedule (MTUS). The MTUS, which is adopted by the AD, incorporates evidence-based, peer-reviewed, nationally recognized standards of care. (Labor Code §§ 4610(c) and 5307.27(a)).

Effective January 1, 2004, each employer is required to file a UR plan with the AD. UR is a review of the treating physician's requests for treatment (RFAs) and the decisions made about the medical necessity of the requests. The Utilization Review Organization (URO) can be an internal or external group (from the claims administrator or employer) that performs most of the UR. The UR regulations (8 CCR Section 9792.6 et seq.) were adopted on September 22, 2005, and UR enforcement regulations were adopted on June 7, 2007. The enforcement regulations (8 CCR Section 9792.11–9792.15) gave the DWC the authority to investigate all UROs that have submitted a UR plan. New regulations were introduced as Emergency Regulations on January 1, 2013, and adopted on February 12, 2014, in response to the adoption of SB 863. These new regulations include the enforcement sections 9792.11, .12, and .15. Sections 9792.13 and .14 were not changed and therefore are not found in the newly adopted regulations, but are still considered part of the UR enforcement regulations. Effective January 1, 2018, the Division of Workers' Compensation has also adopted a drug formulary to implement Assembly Bill 1124. The regulations (8 CCR §§9792.27.1–9792.27.23) established an evidence-based drug formulary, updated quarterly, consistent with MTUS.

Investigations to enforce UR requirements have been conducted every five years as required by law. Investigations can be either routine or targeted. Routine investigations are conducted by randomly selecting files from all UR requests that the specific URO has received within a three-month period. The period selected is the previous three full months from the start of the investigation. The DWC notifies the URO by sending a Notice of Utilization Review Investigation (NURI); generally these also say "Routine," unless

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

performing a specific targeted investigation. After the DWC has the information requested, including a list of all requests for authorization (RFAs) for the three-month period, files are randomly selected for review and a list of those files is sent to the URO with the Notice of Investigation Commencement (NIC). The URO has 14 days from receipt of the NIC to provide copies of each selected file. When the correct number of UR files is obtained, they are reviewed to determine whether:

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

Files found to have violations are given a set penalty. The entire investigation is given a score, depending on how many violations of certain types are cited. The passing score is 85 percent or higher. After the score is determined, the URO is notified through a Preliminary Report with all exhibits to verify how the score was compiled and any next steps to be taken. The URO may request a post-investigation conference and may send further documentation to verify that it actually performed the UR correctly. After the conference and review of additional documentation, the DWC completes the Final Investigation Report. If the URO has a failing score or has any mandatory violation (Sections 9792.12(a)(1-17) and (c)(1-4)), DWC also sends an Order to Show Cause (OSC) and a Stipulation and Order, with the Final Report. In 2018, \$2,000 was assessed in penalties. In contrast to the DWC Audit Unit, no waivers were given on assessed UR investigation penalties.

Table 19: Status of UR Investigations

Investigation Indicators	2015	2016	2017	2018	2019 (Jan.-June)
Number of UR investigations completed	27	11	4	6	4
Number of UR investigations pending	0	0	0	0	2
Number of failed investigations	2	0	0	0	0
Amount of UR penalty assessments	\$39,000	\$8,000	\$30,500	\$2,000	\$13,500

Source: DWC

Status on SB 1160 implementation: Utilization Review and Doctor's First Report

Utilization Review

SB 1160 was signed into law in September 2016. Among other provisions, it revises and recasts provisions relating to UR with regard to injuries occurring on or after January 1, 2018. The bill sets forth the medical treatment services that would be subject to prospective UR. It authorizes retrospective UR for treatment provided under limited circumstances. The bill also establishes procedures for conducting prospective and retrospective UR. On and after January 1, 2018, the bill establishes new procedures for reviewing determinations regarding the medical necessity of medication prescribed pursuant to the drug formulary adopted by the Administrative Director.

In addition, commencing July 1, 2018, the bill requires each UR to be accredited by an independent nonprofit organization to certify that it meets specified criteria, including timeliness in issuing a UR decision and the scope of medical material used in issuing a UR decision.

The passage of SB 1160 also requires the DWC administrative director to develop a system for the electronic submission of information on each UR decision to the DWC. The proposed system requires the secure electronic transmission directly from the Utilization Review Organizations (UROs) to the DWC. Through the monitoring of this UR data, the division will be able to accurately assess timelines of requests for treatment, determine the effects of the MTUS clinical guidelines on treatment, and compare URO decisions on treatment to assess program consistency. The system is still in the process of being built.

Doctor's First Report of Injury

Every physician who treats an injured worker must file a complete Doctor's First Report of Injury (DFR) on form 5021 with the employer's claims administrator within five days of the initial examination. Currently, the claims administrator is required to send a paper copy of the DFR (Form 5021) by mail to DIR. Recent changes require that physicians electronically file the DFR with DWC. The new electronic system being created will allow for standardized data to be submitted directly to DWC and used to improve the workers' compensation system.

For further information

[Text of the SB 1160](#)

Information on the [rulemaking process related to SB 1160 for UR and DFR](#)

Independent Medical Review

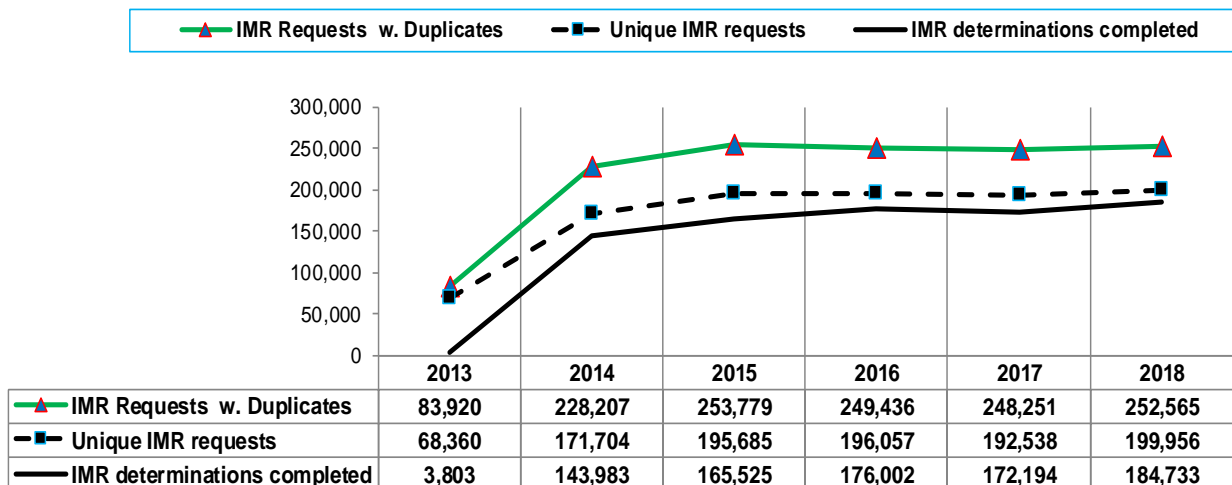
Senate Bill 863 adopted several provisions that affect how medical necessity determinations are made for medical care provided to injured workers. One of the key provisions was putting in place the Independent Medical Review (IMR) process for resolving medical treatment disputes. Effective January 1,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

The IMR program is now in its seventh year. Following an initial ramp-up period that occurred when the program was open for all dates of injury, IMR applications held remarkably steady from 2014 to 2018. Figure 62 shows the annual numbers of IMR applications with duplicates, the number of unique medical review requests, and IMR determinations between 2013 and 2018.

Over 1.3 million IMR requests were filed in the first six years of the program (2013-2018). According to Figure 62, in 2013, the first year of the program, 83,920 IMR applications were received. Since 2014, the number of IMR applications received ranges from 228,207 to 253,779 each calendar year.

The number of unique IMR requests received from 2013 to 2018 totaled 1,024,300. The number of IMR determinations completed from 2013 to 2018 totaled 846,240. The total number of IMR decisions issued per year increased each of the first four years of the program. A peak of 176,002 issued decisions in 2016 followed by a 2 percent decrease to 172,194 decisions in 2017 and then increased 7.3 percent, to 184,733 determinations in 2018.

Figure 62: Number of Independent Medical Review Requests (IMR) Received and Determinations Completed, 2013-2018



Data Source: DWC

For further information

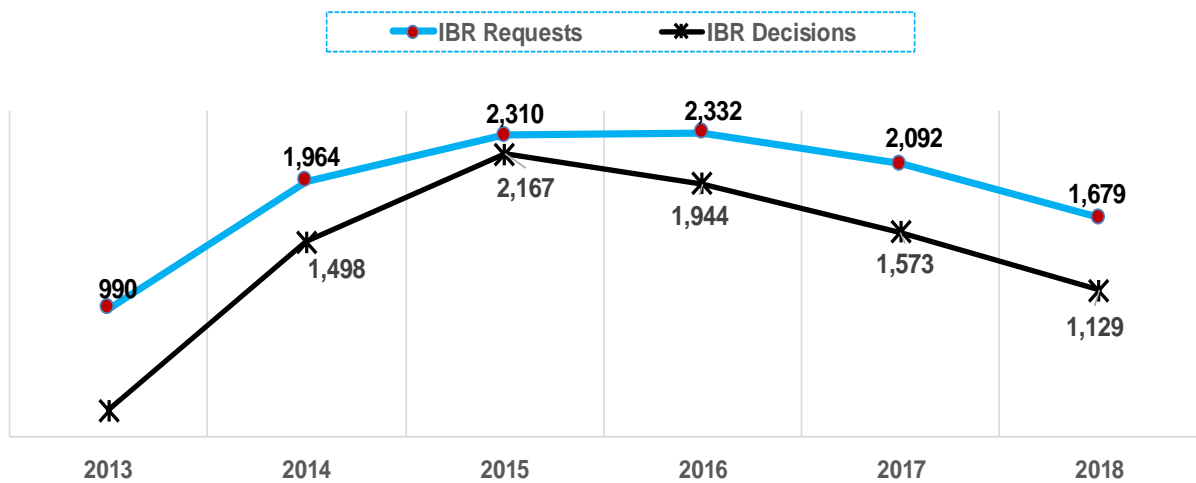
DWC, [“2019 Independent Medical Review \(IMR\) Report: Analysis of 2018 Data”](#) (2019).

Independent Bill Review

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

Figure 63 shows the yearly numbers of IBR requests received and IBR decisions completed between 2013 and 2018. In 2013, when IBR became effective, 990 applications were received and 208 IBR decisions were completed. The number of IBR requests received doubled from 990 in 2013 to 1,964 in 2014. Activity peaked the following two years, with approximately 2,300 applications filed each year and then decreased 28 percent from 2016 to 2018. As of December 2018, the number of IBR requests received totaled 11,367, and the number of decisions completed totaled 8,519.

Figure 63: Number of Independent Bill Review Requests and Decisions, 2013–2018



Data Source: DWC

Medical Provider Networks and Health Care Organizations⁶¹

Medical Provider Networks

Background

Between 1997 and 2003, the California workers' compensation system had significant increases in medical costs. During that period, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,⁶² outpacing the cost of equivalent medical treatment in non-industrial settings. To slow this rise in costs, major reforms were enacted in 2003 and 2004. One such effort was the passage of Senate Bill (SB) 899 in April 2004. A major component of SB 899 was the option to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et seq. MPNs were implemented beginning January 1, 2005. On September 18, 2012, another round of major workers' compensation reforms was signed into law in SB 863. SB 863 incorporates significant changes to MPNs, including but not limited to: expanding who can qualify to become an MPN applicant; limiting the MPN approval period to four years and requiring MPN plans to be reapproved; providing the right to petition for MPN suspension or revocation; and authorizing the adoption of administrative penalties to ensure that MPN applicants comply with regulations. Most of these changes took effect on January 1, 2014.

On October 6, 2015, SB 542 was signed into law with additional changes, including: clarifying the MPN independent medical review process from the independent medical review process that resolves UR disputes; requiring every MPN to post on its website information on how to contact the MPN, on medical access assistance and how to obtain a copy of any notification regarding the MPN that is required to be given to an employee by regulations; creating efficiencies for approving MPNs when a modification is made during a four-year approval period; clarifying who provides for the completion of treatment when there is a continuity-of-care issue; and giving a statutory definition of an entity that provides physician network services. These changes took effect on January 1, 2016.

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

The establishment of an MPN gives employers significant medical control. With the exception of employees who have a predesignated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim, as opposed to 30 days of employer medical control they had prior to the passage of SB 899. Having an MPN means

⁶¹ The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.

⁶² Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses Report*, prepared pursuant to the California Insurance Code, Section 11759.1.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

the employer has more control with regard to who is in the network and whom the injured worker sees for care for the life of the claim. The employer chooses to whom the injured worker goes on the first visit; after the first visit, the injured worker can go to a doctor of his/her choice as long as the doctor is in the MPN and practices the relevant medical specialty.

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

The DWC provides all the data on MPNs in this section.

Application Review Process

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

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

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

Material modification filings go through a review process similar to the one for an initial application. Except in cases in which an MPN application was approved prior to January 1, 2014, the material modification must include all updates to ensure that the MPN complies with the current regulations.

Applications Received and Approved

Table 20 summarizes the number of MPN activities from their inception in November 1, 2004, to December 31, 2017. During this time, the MPN program received 2,633 MPN applications. Of these, 49 were ineligible, as they were erroneously submitted by employers, insurers, or other entities that, under the MPN regulations, are not eligible to set up an MPN. As of December 31, 2018, 2,432 applications were approved. After

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

approval, the DWC revoked 32 approved applications. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities or an insurer no longer eligible to transact workers' compensation in California. In addition to the revoked applications, 397 applications were withdrawn and 1,601 were terminated after approval. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or that a duplicate application was submitted. The reason for the termination was the applicant's decision to stop using the MPN. In 2018, the DWC reached out to expired MPNs that were past their four-year approval period. In response, the DWC received confirmation that over 570 MPNs were no longer being used and were terminated because the majority of networks were consolidated into MPNs established by an entity that provides physician network services.

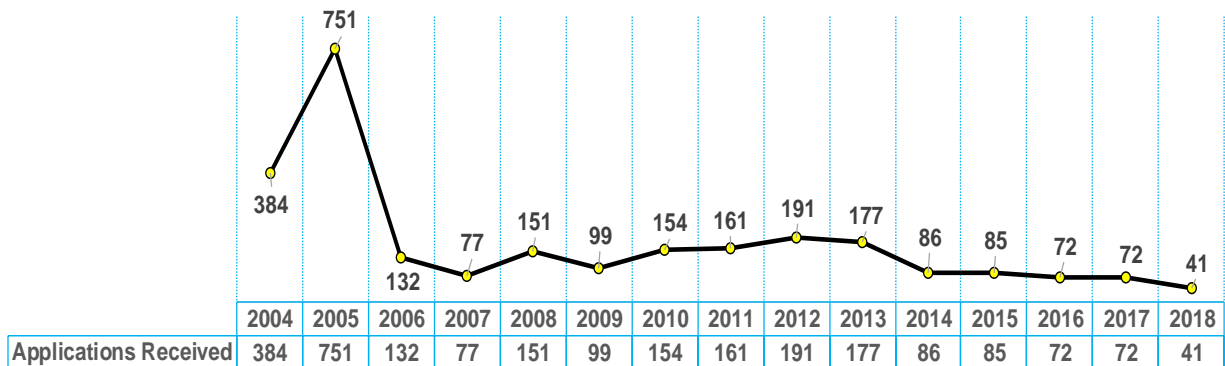
Table 20: MPN Program Activities from November 1, 2004, to December 31, 2018

MPN Application Status	Number
Received	2,633
Approved	2,432
Material Modifications	4,321
Withdrawn	397
Revoked	32
Ineligible	49
Terminated	1,601

Source: DWC

Figure 64 shows the receipt of MPN applications from 2004 to 2018. The bulk of applications, 29 percent, were received in 2005 (751). The number of applications decreased almost 10 times from 751 in 2005 to 77 in 2007 and then averaged 155 applications per year from 2008 to 2013. From 2014 to 2017, the number of MPN applications received by DWC averaged 78 applications per year, before falling to 41 applications in 2018.

Figure 64: Number of MPN Applications Received by Year of Receipt, 2004—2018 (Total = 2,633)

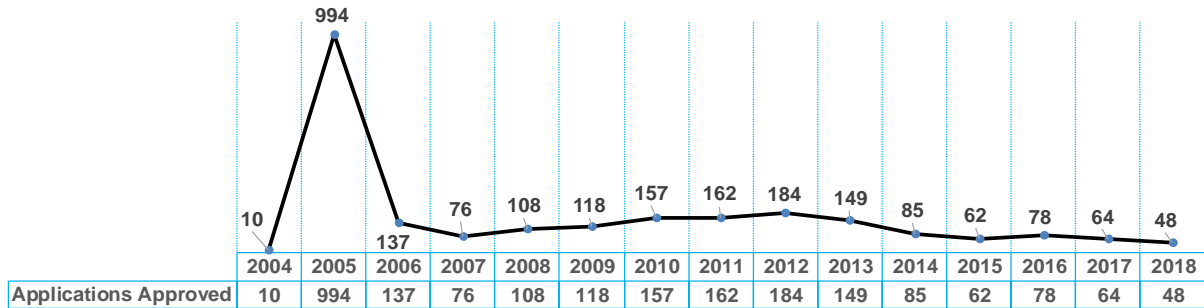


Source DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 65 shows the MPN applications approved from 2004 to 2018. To recap, 41 percent (994) of MPN applications were approved in 2005. As the number of MPN applications decreased ten-fold from 2005 to 2007, the number of approved applications decreased accordingly. From 2008 to 2013, the number of approved MPN applications averaged 146 per year, decreased to an average of 72 approvals per year from 2014 to 2017, and then fell again to 48 approvals in 2018.

**Figure 65: Number of MPN Applications Approved, 2004—2018
(Total = 2,432)**



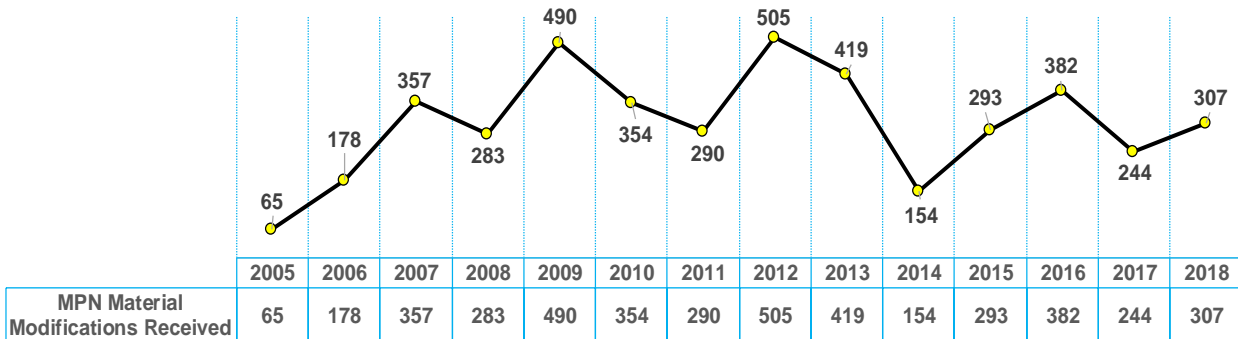
Source: DWC

Material Modifications

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

Figure 66 shows the number of material modification filings received by the DWC from 2005 to 2018. The number of material modifications received increased from 65 to 357 from 2005 to 2007 and then fluctuated between 280 and 500 from 2008 to 2013, decreased to 154 in 2014 and then went back to fluctuating between 240 and 380 per year from 2015 to 2018.

**Figure 66: Number of MPN Material Modifications Received, 2005—2018
(Total = 4,321)**



Source: DWC

Plan for Reapproval Process

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

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

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

Table 21 shows the number of MPN approved plans that will require a filing for a plan for reapproval through 2022. These numbers are expected to change as approved MPNs are terminated because of consolidation into new approved MPNs created by entities that provide physician network services. In addition, these numbers may change because MPN applicants will proactively ensure that the MPN is reapproved more than six months before the plan's expiration.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 21: Expiring MPN Application Plans by Quarter and Year through December 31, 2022

Quarters	2014	2015	2016	2017	2018	2019	2020	2021	2022
Q1	NA	6	88	34	9	3	36	30	31
Q2	NA	11	45	36	12	13	49	70	24
Q3	NA	15	17	36	17	13	55	35	21
Q4	165	10	35	156	20	38	23	46	27
TOTAL	165	42	185	262	58	67	163	181	103

Source: DWC

Table 22 shows the number of MPN application plans for re-approvals received and approved at DWC from 2014 through 2018.

Table 22: MPN Application Plans for Re-approval Received and Approved by Month through December 31, 2018

Activity	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Total
Received 2014	0	0	0	0	0	0	0	0	0	15	17	42	74
Approved 2014	0	0	0	0	0	0	0	0	0	0	0	30	30
Received 2015	25	14	3	30	2	6	1	0	4	4	29	23	141
Approved 2015	6	3	1	27	3	1	4	0	2	5	37	22	111
Received 2016	12	13	10	8	5	10	11	8	9	1	4	0	91
Approved 2016	0	2	4	0	8	1	4	11	9	1	1	1	42
Received 2017	6	4	3	4	10	3	2	4	8	3	5	1	53
Approved 2017	1	8	5	2	4	4	7	9	2	2	8	7	59
Received 2018	1	4	1	1	4	12	0	4	8	0	1	3	39
Approved 2018	4	1	0	2	1	2	2	1	1	10	5	4	33

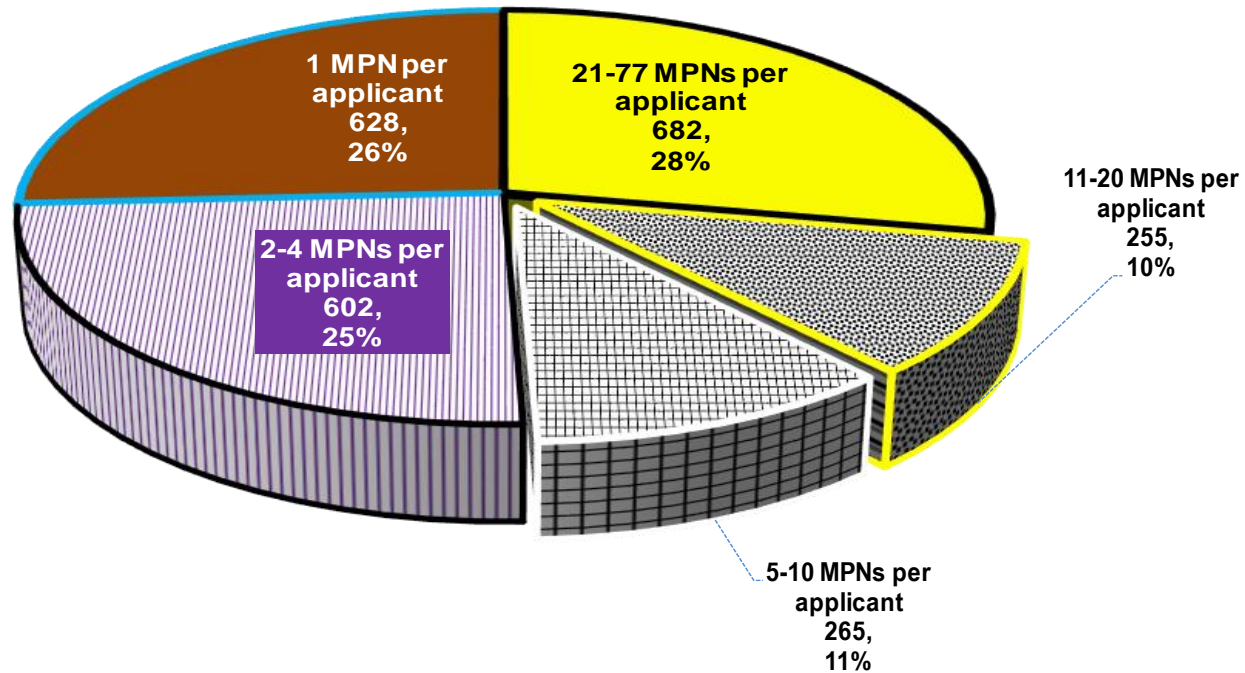
Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

MPN Applicants

MPN applicants are allowed to administer more than one MPN. Currently, MPN applicants with more than one approved MPN account for 74 percent of all MPNs, including 682 approved applicants with 21 to 71 MPNs (see Figure 67). The names of MPN applicants with 10 or more approved MPNs are shown in Table 23. ACE American Insurance Company leads with 77 MPNs, followed by Zurich American Insurance Company with 46 MPNs, and National Union Fire Insurance Company of Pittsburg, PA with 43 MPNs.

Figure 67: Distribution of Approved MPNs by Number of MPNs per Applicant, 2018



Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 23: Names of MPN Applicants with 10 or More Approved MPNs

Name of Applicant	Number of MPNs
ACE American Insurance Company	77
Zurich American Insurance Company	46
National Union Fire Insurance Company of Pittsburgh, PA	43
OCM Coastal Acquisition Co., LLC	42
American Home Assurance Company	41
Safety National Casualty Corporation	36
Federal Insurance Company	35
The Insurance Company of the State of Pennsylvania	35
Fidelity and Guaranty Insurance Company	32
Old Republic Insurance Company	32
New Hampshire Insurance Company	31
ARCH Insurance Company	29
Medex Healthcare	28
Discover Property & Casualty Insurance Company	27
Hartford Accident and Indemnity Company	27
United States Fidelity and Guaranty Company	26
Fidelity and Guaranty Insurance Underwriters, Inc.	25
XL Specialty Insurance Company	25
American Zurich Insurance Company	24
Hartford Insurance Company of the Midwest	21
Commerce and Industry Insurance Company	19
AIG Property Casualty Company	18
Travelers Property Casualty Company of America	18
American Guarantee and Liability Insurance Company	16
Hartford Fire Insurance Company	16
Twin City Fire Insurance Company	16
Continental Casualty Company	15
Granite State Insurance Company	15
Hartford Underwriters Insurance Company	15
Praetorian Insurance Company	14
Greenwich Insurance Company	13
United States Fire Insurance Company	13
Landmark Insurance Company	12
American Casualty Company of Reading, Pennsylvania	11
Indemnity Insurance Company of North America	11
Sentinel Insurance Company, Ltd.	11
The North River Insurance Company	11
Zurich American Insurance Company of Illinois	11
Hartford Casualty Insurance Company	10
SPARTA American Insurance Company	10
SPARTA Insurance Company	10
St. Paul Fire and Marine Insurance Company	10
Tokio Marine & Nichido Fire Insurance Co., Ltd.	10
XL Insurance America, Inc.	10

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 24 shows the number of MPN applicants by type of applicant. From 2004 to 2013, the majority (on an average of 62 percent per year) of MPN applications were filed by insurers, followed by self-insured employers (28 percent). SB 863 added the option for the MPN applicant to change the type of applicant to an entity that provides physician network services, which is reflected in the numbers reported in this table. The share of MPN applications filed by insurers fell to 45 percent in a transitional year of 2014 and then continued its decrease to an average of 29 percent per year from 2015 to 2017, and to 15 percent in 2018. At the same time, the number of MPN applicants filed by entities that provide physician network services increased from a total of 4 in 2004-2013 to an average of 35 per year from 2015 to 2018.

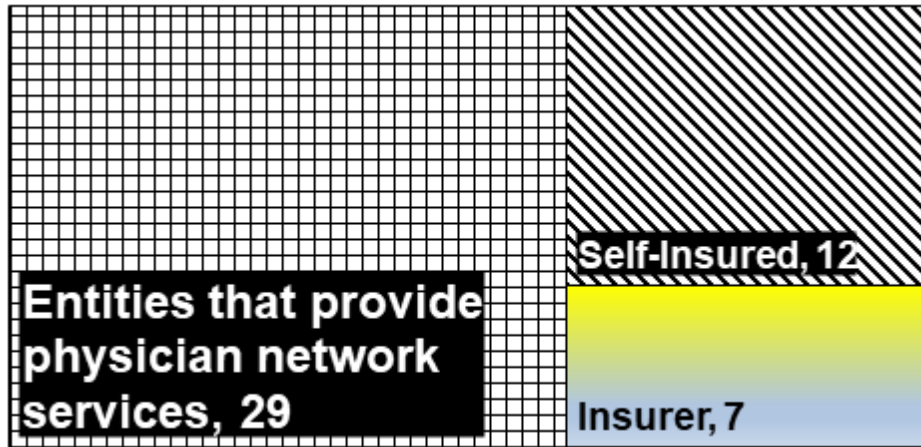
Table 24: Number of Approved MPN Applications by Type of Applicant, 2004–2018

Type of Applicant	2004 - 2013	2014	2015	2016	2017	2018	TOTAL
Insurer	1,376	38	17	24	18	7	1,480
Self-Insured Employers	614	29	9	5	13	12	670
Joint Powers Authority	56	3	3	4	0	0	66
State	4	0	0	0	0	0	4
Group of Self-Insured Employers	40	0	1	0	0	0	41
Entities with Physician Network Services	4	14	32	45	33	29	128
Total	2,094	85	62	78	64	48	2,384

Source: DWC

Figure 68 shows the distribution of MPN applications approved in 2018 by the type of applicant. Sixty (60) percent of approved MPN applications were submitted by entities providing physician network services, followed by 25 percent of self-insured employers, and 15 percent of insurers.

Figure 68: Distribution of All Approved MPN Applications by Type of Applicant, 2018



Source: DWC

MPN Plans Using HCO Networks

Health Care Organizations (HCOs) networks are used by 176 (7.7 percent) of the approved MPNs. This number excludes MPNs that were revoked, terminated, or withdrawn after approval. The distribution of MPNs by HCOs is shown in Table 25. Corvel HCO has an MPN market share of 3.7 percent, followed by Medex, which has a share of almost 2 percent, and CompAmerica (First Health), which has a share of 1.9 percent.

Table 25: Number of MPN Applicants Using HCO Networks

Name of HCO	Approved MPN Plans Using HCO Network	Percentage of Applications Received	Percentage of Applications Approved
Corvel	91	3.5%	3.7%
Medex	43	1.6%	1.8%
CompAmerica (First Health)	41	1.6%	1.7%
Promesa	1	0.04%	0.04%
Total Using HCO	176	6.7%	7.2%

Source: DWC

Status of the MPN Program

The MPN program is in its fourteenth year and continues to develop as more MPNs are being used. The MPN plan monitoring and review processes have evolved with the regulations and as agency resources permit. SB 863 brought about important changes to the MPNs to improve efficiencies, promote greater accuracy, and ensure regulatory compliance. Effective January 1, 2016, SB 542 has added clarifying information regarding MPN requirements.

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

Health Care Organization Program

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

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

Qualified employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days depending on whether the employer offers qualified health-care coverage to its employees for non-occupational injuries or illnesses.

An HCO must file an application and be certified by the DWC according to Labor Code Section 4600.5 et seq. and 8 CCR Sections 9770 et seq. Due to regulatory changes in 2010, HCOs now pay a fee of \$2,500 at the time of initial certification and a fee of \$1,000 at the time of each three-year certification thereafter. In addition, HCOs are required to pay an annual assessment of \$250, \$300, or \$500 based on their enrollments of covered employees as of December 31 of each year.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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

Table 26: Currently Certified HCOs by Date of Certification/Recertification, 2019

Name of HCO	Date of Certification/Recertification
Corvel Corporation	8/1/2019
First Health/ CompAmerica Primary	10/5/2019
First Health/ CompAmerica Select	10/5/2019
Kaiser On The Job HCO	12/3/2018
MedeEx Health Care	3/16/2013
MedEx 2 Health Care	10/10/2012
Promesa	4/12/2019

Source: DWC

HCO Enrollment

At its peak in mid-2004, HCOs had approximately half a million enrollees. However, with the enactment of MPNs, employee enrollment under the large HCOs, such as First Health and Corvel, declined considerably. Compared to enrollment in 2004, First Health lost 100 percent of its enrollees, while Corvel's enrollment declined by 96.6 percent, to 3,384 by December 2008. As of December 2011, the total employee enrollment under HCOs fell by 66.4 percent to 161,413 from 481,337 in 2004. In 2017, HCO enrollment increased to 288,235. Table 27 shows the number of enrollees as of December 31 of each year from 2004 through 2018.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 27: HCOs by Number of Enrollees for 2004 through 2018

HCO Name By Year	Medex/ Medex 2	Kaiser-on-the-Job	Comp Partners	Promesa	CorVel	Intra corp	Net Work	First Health Comp America Primary/ Select (First Health)	Prudent Buyer (Blue Cross	Sierra	TOTAL
2004	62,154	30,086	60,935	na	100,080	6,329	1,204	218,919	1,390	240	481,337
2005	66,304	67,147	61,403	na	20,403	3,186	0	2,403	0	0	220,846
2006	46,085	66,138	53,279	na	3,719	2,976	0	0	0	0	172,197
2007	69,410	69,602	13,210	na	3,050	2,870	0	0	0	0	158,142
2008	69,783	77,567	1,765	21,197	3,384	0	0	0	0	0	173,696
2009	34,378	72,469	1,729	16,467	1,983	0	0	0	0	0	127,026
2010	46,838	74,223	2,884	17,602	435	0	0	0	0	0	141,982
2011	61,442	76,263	4,200	19,041	467	0	0	0	0	0	161,413
2012	67,606	75,253	11,561	23,772	405	n/a	0	0	n/a	n/a	178,597
2013	75,183	74,122	554	28,222	0	n/a	0	0	n/a	n/a	178,081
2014	86,550	73,939	396	30,701	0	n/a	0	0	n/a	n/a	191,586
2015	145,352	77,521	422	29,448	0	n/a	0	0	n/a	n/a	252,743
2016	182,034	84,637	486	26,397	0	n/a	n/a	0	n/a	n/a	293,554
2017	175,387	88,260	729	23,859	0	n/a	n/a	0	n/a	n/a	288,235
2018	173,175	94,519	500	17,659	0	n/a	n/a	0	n/a	n/a	285,853

Source: DWC

Health Care Organization Program Status

HCO enrollment decreased approximately 1 percent between 2017 and 2018. HCOs are still being certified for use of their networks as deemed networks for [MPNs](#). The [DWC](#) is attempting to complete recertification of Medex/Medex 2.

Medical Treatment Utilization Schedule Training Module

Physicians treating in the California workers' compensation system are required to follow the evidence-based recommendations in the DWC medical treatment utilization schedule (MTUS). The online course below provides helpful instructions. In 2016, the DWC introduced a free online one-hour Continuing Medical Education (CME) course for treating physicians, qualified medical examiners, physician reviewers, other health care providers, as well as anyone else interested in learning how to use the MTUS.

Topics covered include:

- What the MTUS is and how to use it
- How to navigate the MTUS treatment guidelines and apply recommendations via case scenarios
- When to consider recommendations outside of the MTUS guidelines for the care of your patient
- The role of utilization review (UR) and independent medical review (IMR) physicians

Since this course was launched, the MTUS has undergone significant updates as well as the addition of a Drug Formulary and free provider access to the MTUS treatment guidelines. The DWC has released a revised and expanded online MTUS course to include the Formulary and information on obtaining free MTUS-ACOEM guidelines access in September 2019.

The [online course](#) can be found at the following website:

MTUS and Formulary Update

Since a significant overhaul in late 2017, the MTUS treatment guidelines have been regularly updated to include the latest treatment guidance from the American College of Occupational and Environmental Medicine (ACOEM). Since its January 2018 release, the MTUS Drug List portion of the MTUS Formulary has been updated quarterly to remain current with the latest medication recommendations from ACOEM.

[Drug List](#)

[MTUS Drug Formulary](#)

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

DIVISION OF WORKERS' COMPENSATION INFORMATION & ASSISTANCE UNIT

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

Table 28: Information & Assistance Unit Workload

I&A Unit Activities	2012	2013	2014	2015	2016	2017	2018
Calls from public handled	301,517	300,515	308,221	307,242	311,473	299,674	201,050
Outgoing calls placed	35,985	33,965	33,015	34,017	31,985	29,922	27,578
Settlements reviewed and assisted	13,515	13,055	14,129	14,535	13,988	10,841	9,332
Face-to-face meetings with walk-ins	25,911	24,588	25,105	26,858	25,715	20,987	18,900
Injured Worker Workshop presentations	217	243	239	245	229	238	185
Workshops for injured workers attended	3,215	3,013	2,615	2,377	2,714	1,593	1,053
Correspondence written	12,983	13,005	12,996	11,557	13,511	14,805	14,700
Conference with WC Judge	NA	NA	9,125	9,334	9,313	7,314	7,700
Audit Unit referrals	NA	NA	70	58	NA	46	25

Source: DWC

Spanish Outreach Attendance data by the type of outreach was available only for 2017 and 2018 (see Table 29). In 2016, the bilingual staff of I&A Unit participated in 69 workshops, fairs, farmworker breakfasts, and consulate presentations, sometimes alone, and sometimes with other DIR staff, such as Labor Commissioners.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 29: Spanish Outreach Attendance

Means of Outreach	Number of Events in 2017	Avrg Number of Attendees per Event in 2017	Number of Events in 2018	Avrg Number of Attendees per Event in 2018
Mexican consulates	27	60	40	50
Radio	1	NA	1	NA
Workshops	3	50-75	6	25-50
Farmworker-related fairs/events	27	200-300	29	200-300

Source: DWC

Table 30: DWC Educational Conferences Attendance, 2012–2019

Locations by years	Attendees	Exhibitors
Los Angeles		
2012	1,015	64
2013	1,091	87
2014	1,058	85
2015	1,162	89
2016	1,191	95
2017	1,190	91
2018	1,039	74
2019	1,045	74
Oakland		
2012	939	59
2013	762	53
2014	740	53
2015	836	61
2016	878	59
2017	803	66
2018	733	54
2019	800	50

Source: DWC

The I&A Unit provides the DWC Tele-Learning classes on different workers' compensation issues for Department of Industrial Relations (DIR) employees. However,

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

no DWC tele-learning classes were held in 2018. The enrollment numbers in these classes in 2014-2017 are listed in Table 31.

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

Courses	2014	2015	2016	2017
Disability Management/RTW	Not offered	12	10	6
Basic Claims	24	23	23	22
Basic PD	6	12	16	11
Medical Management	27	Not offered	9	6
Advanced Claims	Not offered	17	16	12
Advanced PD	15	3	5	7
Total	72	67	79	64

Source: DWC

DIVISION OF WORKERS' COMPENSATION INFORMATION SERVICE CENTER

The DWC Information Service Center (ISC) is located in San Bernardino. The main function of the ISC is to screen all incoming calls for all 24 DWC District offices. Any combination of a district office's main number and I&A Unit, Disability Evaluation Unit, and Rehabilitation Unit lines are directed through ISC, which answers questions and provides information in both English and Spanish on workers' compensation and EAMS issues for the general public. In addition, all EAMS help desk emails and Notice of Representation (NOR) questions go through ISC. ISC staff members monitor and resolve questions sent via email to the EAMS Help Desk, process NOR updates received through the e-File system, and answer Virtual EAMS Support Team (VEST Issue Tracker) questions sent by both internal and external users. In September 2014, some members of DWC ISC's staff started participating in the new DIR Cloud call center several days a week. No statistics are available yet on DIR Cloud call center's workload.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 32: DWC's Information Service Center Workload

Activities	2013	2014	2015	2016	2017	2018
Incoming calls	131,628	174,398	180,144	198,232	184,463	177,281
Outgoing calls*	4,100	5,325	3,532	184	312	264
Calls in Spanish	8,695	13,359	14,908	13,465	12,609	11,798
Calls transferred to district offices	31,158	27,365	33,191	47,271	45,851	39,514
EAMS Help Desk emails	11,925	20,222	21,000	16,208	20,025	22,594
Correspondence mailed out	5,076	5,233	5,346	5,492	4,697	4,477
NOR-related questions processed	39,123	39,524	47,548	30,243	29,547	25,045
VEST/Issue tracker of EAMS related problems	278	103	53	18	47	30

Source: DWC

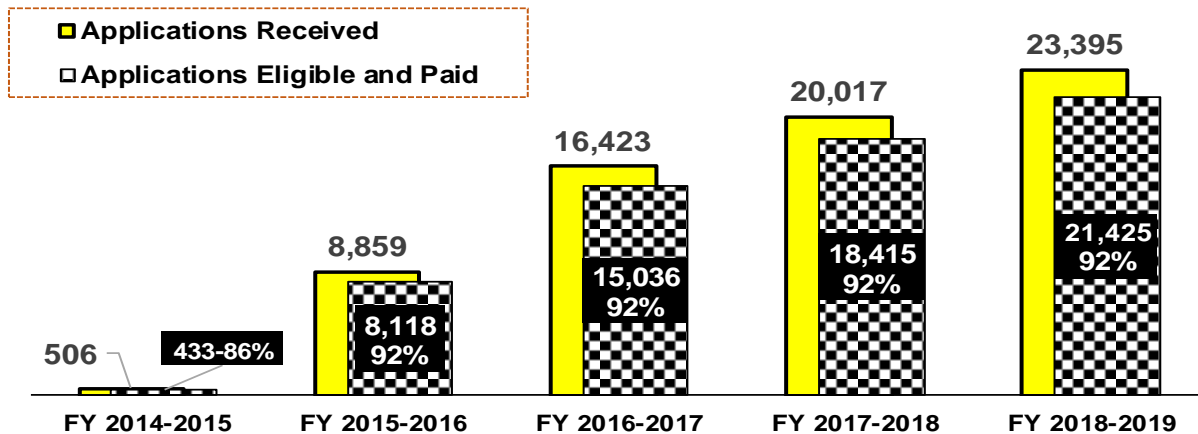
* Decrease in manual outgoing calls due to new phone system.

RETURN-TO-WORK SUPPLEMENT PROGRAM

The Return-to-Work (RTW) Fund was created under Labor Code Section 139.48 as one of the components of SB 863 enacted in September 2012. This section requires that the Department of Industrial Relations (DIR)'s Return-to-Work Supplemental Program (RTWSP) administer a \$120 million fund for the purpose of making supplemental payments to workers whose permanent disability benefits are disproportionately low in comparison to their earnings losses. Injured workers may be eligible for a one-time \$5,000 Return-to-Work supplement if they have a date of injury on or after January 1, 2013, and have received a Supplemental Job Displacement Voucher (SJDB) because of that injury. The benefit is administered by DIR's RTWSP in accordance with the [regulations implemented on April 13, 2015](#), and [amendment effective March 20, 2017](#). The RTWSP application is only available online. For those with no access to a computer, every DWC district office has a kiosk equipped with a computer, scanner, and printer enabling them to apply.

As shown in Figure 69, the number of applications received increased 17 times from an incomplete FY 2014-2015 to FY 2015-2016 and then almost tripled over the next three fiscal years (FY 2016-2017 to FY 2018-2019), when 92 percent of the RTWSP applications received were eligible for payment. Similarly, the number of eligible RTWSP applications increased almost 19 times from FY 2014-2015 to FY 2015-2016 and then nearly tripled over the next three fiscal years (FY 2016-2017 to FY 2018-2019). According to the RTWSP staff, the increase in applications could be explained by the collaborative efforts between RTWSP staff, vocational schools, Vocational Return to Work counselors (VRTW), claims administrators, applicant attorneys, and the injured workers.

Figure 69: Total RTWSP Applications Received and the Share of Applications Eligible and Paid



Note: Data in FY 2014-2015 is for 04/13/2015 - 06/30/2015

Source: DWC

According to Figure 69, 8 percent of the applications received from FY 2015-2016 to FY 2018-2019 were ineligible according to the RTWSP rules and standards. The reasons for

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

ineligibility from FY 2015-2016 to FY 2018-2019 are detailed in Table 33 and included those falling under 8 CCR Sections: 17302(a), 17302(b), 17304, and 17306.

Table 33: Reasons for ineligibility of RTWSP Applications

8 CCR Sections	Reasons
§17302 (a)	Date of Injury before 1/1/2013
§17302 (b)	Same person applying more than once (System Processed or Reviewer Processed)
§17304	Timeliness (application submitted past the deadline)
§17306	Incomplete voucher, SJDB proof of service missing, wrong voucher

Source: DWC

As the volume of RTWSP eligible applications expanded from FY 2014-2015 to FY 2018-2019, thus increasing the time and resources needed for processing the applications and issuing RTWSP checks, the average days of benefit issuance from application received date increased as well. See Table 34.

Table 34: Duration of RTWSP Benefit Issuance

Time Range for Benefit Issuance	FY 2014-2015*	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019
Average Days of Benefit Issuance from Application Received Date (days)	10	11	13	20	33
Average Days of Benefit Issuance from Decision of Eligibility (days)	6	5	5	5	5

Source: DWC

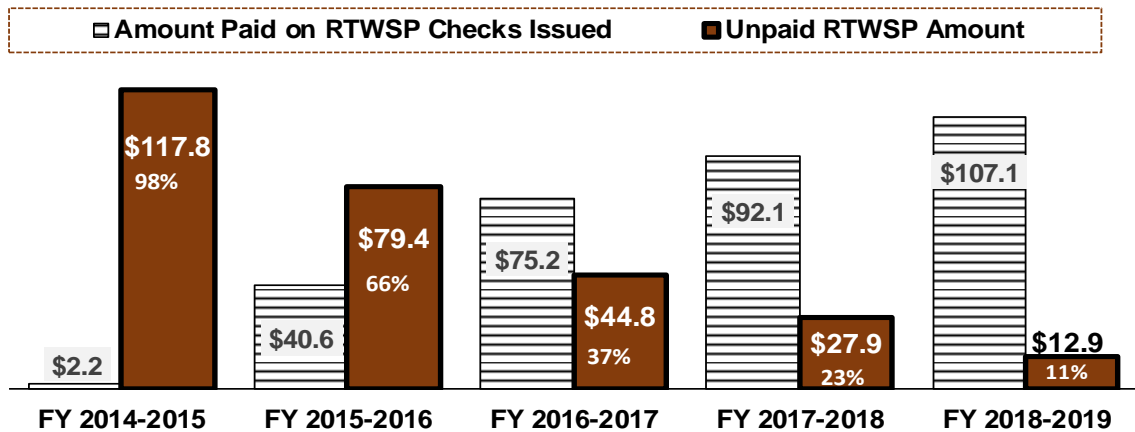
* Note: Data in FY 2014-2015 are for 4/13/2015 - 6/30/2015.

The total yearly amount to be distributed by the RTW Supplement Program is \$120 million for a total of 24,000 eligible applications, and each applicant is issued a \$5,000 check. Figure 70 shows that in FY 2014-2015, the initial stage of the RTWSP program, only 2 percent of the \$120 million annual fund, or \$2.2 million, was disbursed to eligible injured workers. The amount disbursed in FY 2014-2015 increased almost 19 times to \$40.6 million in a single year and then increased to \$107.1 million from FY 2015-2016 to FY 2018-2019. The share of the RTWSP that was not distributed decreased from 98 percent

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

in FY 2014-2015 to 66 percent in FY 2015-2016 and continued to decline over the next three years, reaching 11 percent in FY 2018-2019.⁶³

Figure 70: Amount Paid on Eligible RTWSP Applications and the Share of Unpaid Balance



Note: Data in FY 2014-2015 is for 04/13/2015 - 06/30/2015

Source: DWC

DIVISION OF WORKERS' COMPENSATION UNINSURED EMPLOYERS BENEFITS TRUST FUND

Introduction

All California employers except the State are required to provide workers' compensation coverage for their employees through the purchase of workers' compensation insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain workers' compensation coverage for their employees, and inspection and investigation by DLSE, Cal/OSHA, or LETF might reveal that they lack this coverage.

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

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

⁶³ See the RAND [discussions on RTWSP take-up rate](#).

conducted in the name of the director of DIR represented by the Office of the Director Legal Unit.

The analyses of UEBTF activities in the CHSWC Annual Report are based on the Division of Workers' Compensation (DWC)/Department of Industrial Relations (DIR) Electronic Adjudication Management System (EAMS). EAMS provides UEBTF business analytics and maintains document processing workflows supporting the judicial review process, and expands document processing for UEBTF.

Funding Liabilities and Collections

UEBTF Funding Mechanisms

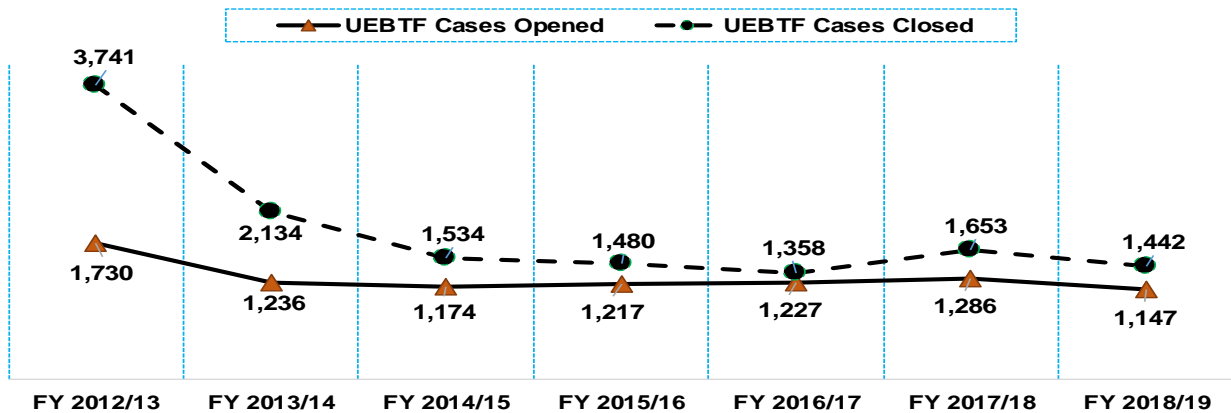
UEBTF funding comes from:

- Annual assessments on all insured and self-insured employers, required by Labor Code Section 62.5(e). According to Labor Code Section 62.5(e), the “total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available.”⁶⁴ The assessment for insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year. The total assessment collected pursuant to Labor Code Section 62.5 was \$22.0 million for FY 2017-2018 and \$21.2 million for FY 2018-2019.
- Fines and penalties collected by DIR. These include Division of Labor Standards Enforcement (DLSE) penalties and Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

The number of new and closed UEBTF cases is shown in Figure 71. Over the period FY 2012-2013 to FY 2018-2019, more UEBTF cases were closed than opened. In FY 2012-2013 and FY 2013-2014, on average, 2 cases were closed for each case opened, and from FY 2014-2015 to FY 2018-2019 this decreased to an average of 1.2 yearly closed cases for each UEBTF case opened.

⁶⁴ Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

Figure 71: UEBTF Cases Opened and Closed, FY 2012-2013 to FY 2018-2019

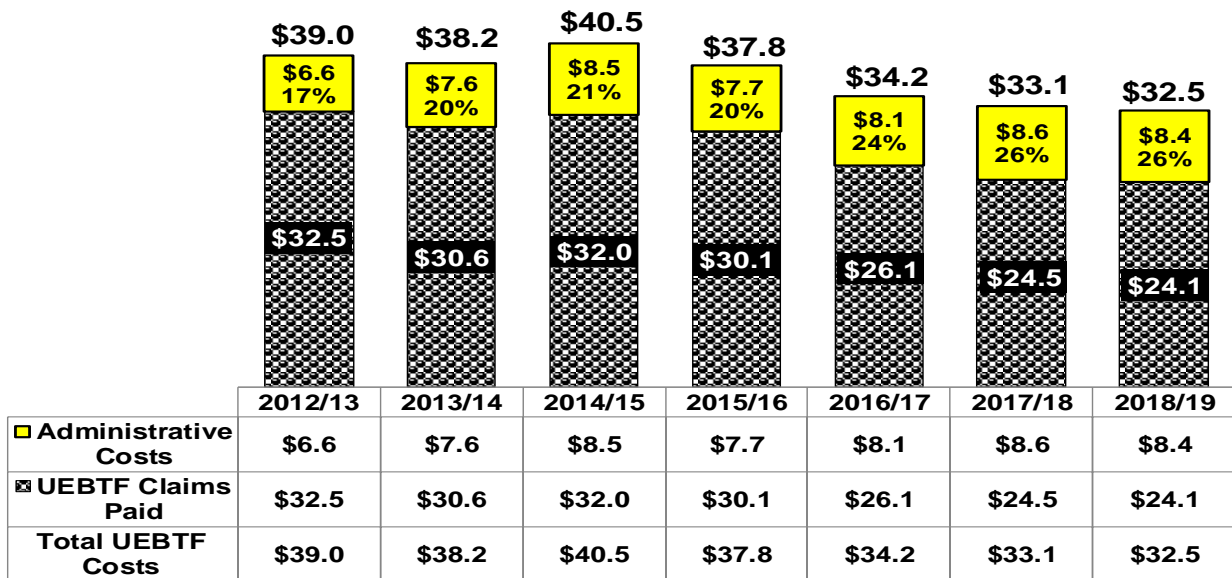


Source: DWC

Cost of the Uninsured Employers Benefits Trust Fund

Figure 72 shows that the total amount paid on UEBTF claims decreased overall by 26 percent from FY 2012-2013 to FY 2018-2019. Administrative costs associated with claim payment activities fell from FY 2014-2015 to FY 2015-2016 after a 29 percent increase from FY 2012-2013 to FY 2014-2015 and then increased again by 9 percent from FY 2015-2016 to FY 2018-2019. The share of UEBTF administrative costs increased from 17 percent of total costs in FY 2012-2013 to 26 percent in FY 2018-2019.

Figure 72: Payments on UEBTF Claims and Administrative Costs, FY 2012-2013 to FY 2018-2019 (in \$ million)



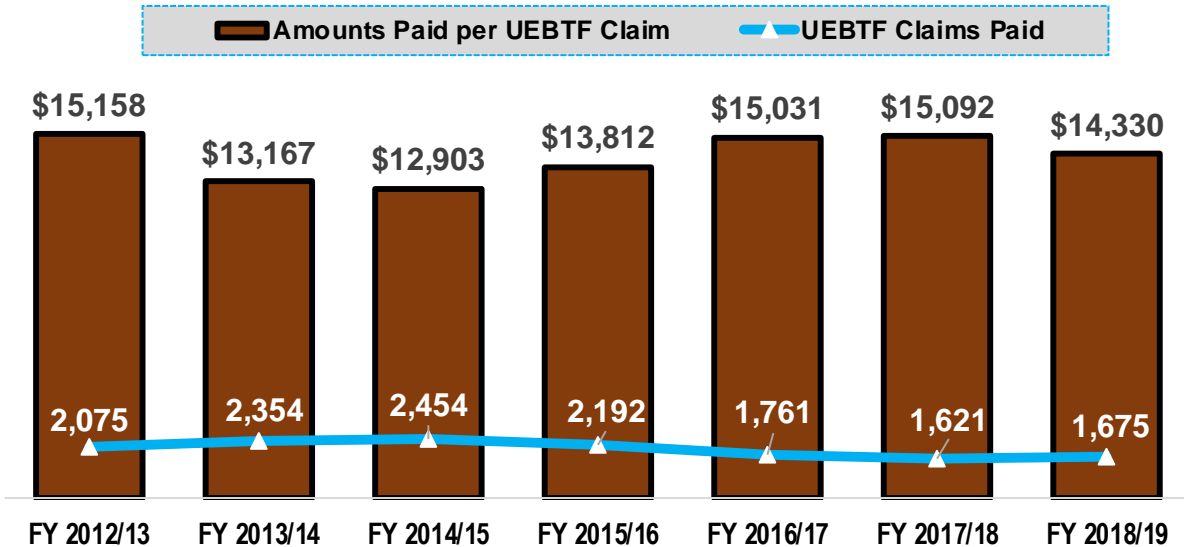
Note: Administrative Costs for FY 2018-2019 are estimates based on 2 year average for FY 2016-2017 and FY 2017-2018 before the DIR's FY 2018-2019 books are closed.

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

As shown in Figure 73, the average amount paid per UEBTF claim decreased by 15 percent as the number of uninsured claims paid increased by 18 percent from FY 2012-2013 to FY 2014-2015. From FY 2014-2015 to FY 2017-2018, the trend reversed, with the average amount paid per UEBTF claim increasing by 17 percent as the number of uninsured claims paid decreased by 34 percent. The amount paid per claim decreased 5 percent, and the number of claims from FY 2017-2018 to FY 2018-2019 increased 3 percent.

Figure 73: Average Amount Paid per UEBTF Claim and the Number of UEBTF Claims Paid, FY 2012-2013 to FY 2018-2019



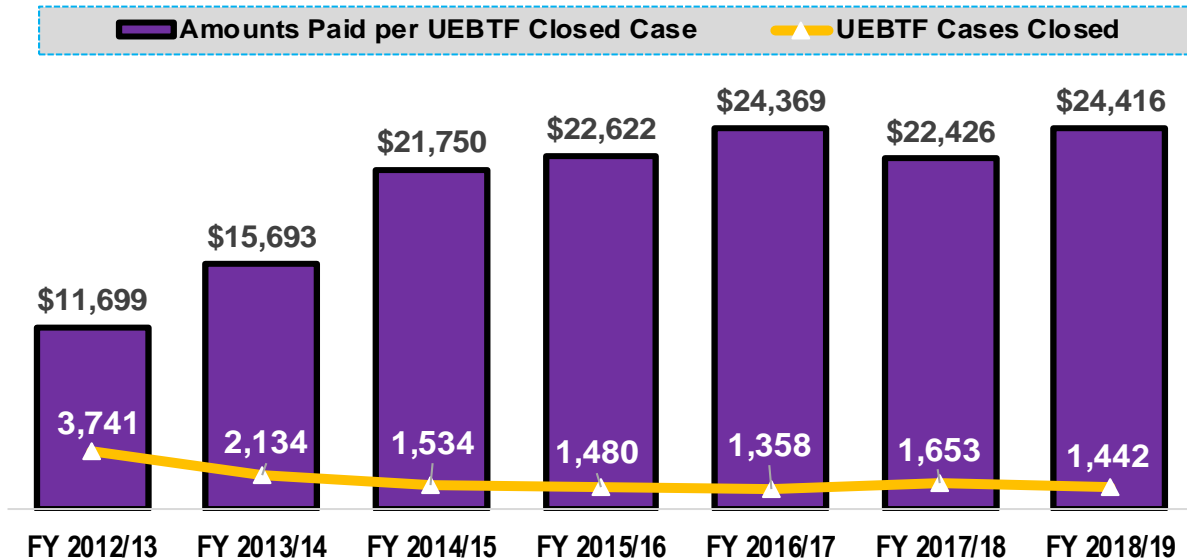
Source: DWC

Figure 74 shows the number and the average amount paid in UEBTF closed cases. UEBTF closes a case after it has either been paid off or settled or it has not settled but has been inactive for one year.⁶⁵ Between FY 2013-2014 and FY 2018-2019, the average number of cases closed was 1,600.⁶⁶ The average amount paid per closed case increased by 39 percent, from \$15,700 in FY 2013-2014 to \$21,750 in FY 2014-2015, and then averaged \$23,000 per closed case from FY 2014-2015 to FY 2018-2019.

⁶⁵ UEBTF normally closes a case on the grounds of inactivity for one year at the discretion of the adjuster. However, the case could be reopened if the applicant reappears for reasons such as medical treatment or case settlement.

⁶⁶ The number of closed cases in FY 2012-2013 was much higher (3,741) than average from FY 2013-2014 to FY 2018-2019. According to UEBTF, this aberration may have been due to a Closing Project conducted by the Claims branch of UEBTF during that year to review and close inactive cases.

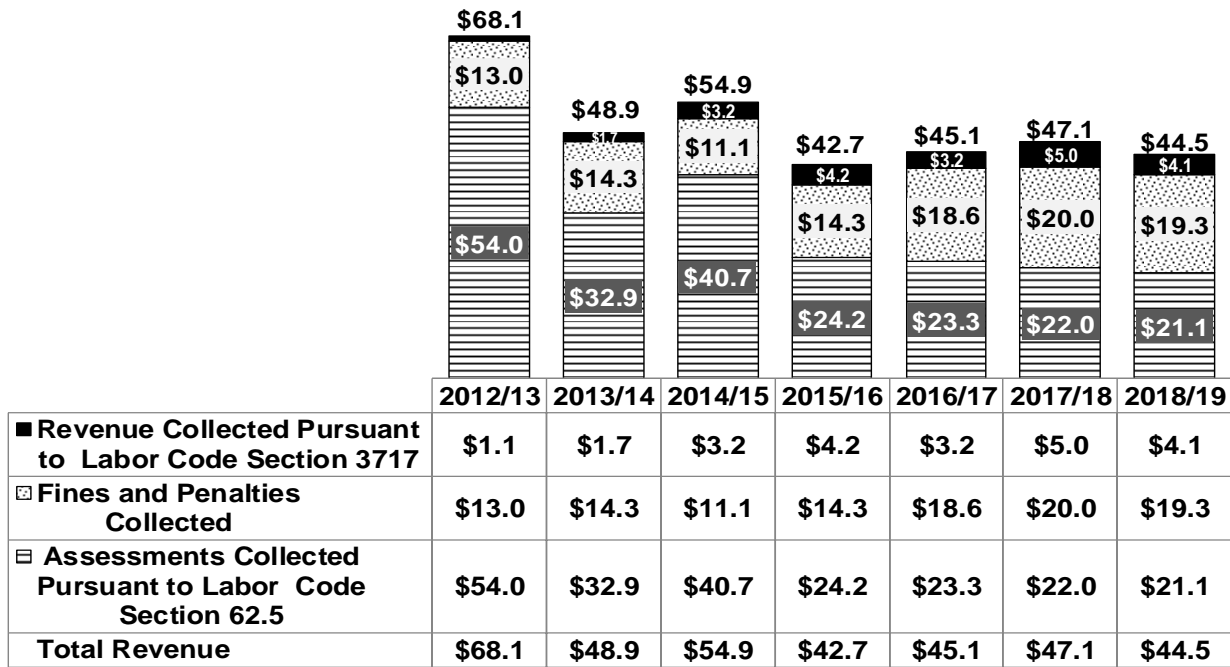
Figure 74: Average Amount Paid per UEBTF Closed Case and the Number of UEBTF Cases Closed, FY 2012-2013 to FY 2018-2019



Source: DWC

Figure 75 shows monies collected by the source of the revenue. The total UEBTF revenue collected reached its peak of \$68 million in FY 2012-2013, decreased by 19 percent from FY 2012-2013 to FY 2014-2015, and then declined further by 19 percent to \$45 million from FY 2014-2015 to FY 2018-2019. This decrease in total UEBTF revenue collected was due to a 60 percent decline in its largest component as the assessments were collected pursuant to LC Section 62.5. The share of assessments collected pursuant to LC Section 62.5 fell from 79 percent of total UEBTF revenue in FY 2012-2013 to 47 percent in FY 2018-2019, declining almost to the same share of revenue as fines and penalties collected.

Figure 75: UEBTF Revenues, FY 2012-2013 to FY 2018-2019 (in \$ million)



Note: Both the Revenue Collected pursuant LC Sec. 3717 and Fines and Penalties Collected in FY 2018-2019 are estimates based on 2 year average for FY 2016-2017 and FY 2017-2018 before the DIR's FY 2018-2019 books are closed.

Data Source: DWC

DIVISION OF WORKERS' COMPENSATION SUBSEQUENT INJURIES BENEFITS TRUST FUND

The Subsequent Injuries Benefits Trust Fund (SIBTF) is a fund established and administered by the California Division of Workers' Compensation in the Department of Industrial Relations and governed by Labor Code Section 4751. The legislative intent behind Labor Code Section 4751 is:⁶⁷

- to encourage employers to offer employment to workers with pre-existing disabilities without taking economic responsibility for that condition if the worker incurs a work-related injury that causes the pre-existing disabilities to worsen
- to encourage workers with pre-existing disabilities to seek employment and have mechanisms in place to assist them in case their disabilities increase after a workplace injury

SIBTF accomplishes these two goals by providing benefits to qualified injured workers. The subsequent injury must be an industrial injury whereas the pre-existing disability can be either industrial or non-industrial but must be "labor disabling," meaning it limits them

⁶⁷ [Subsequent Injuries Benefits Trust Fund \(SIBTF\)](#)

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

in the open competitive labor market. To qualify for SIBTF benefits, the [following conditions must be met](#):

1. The employee must have a prior permanent partial disability and a subsequent compensable injury
2. The degree of disability caused by the combination of both disabilities must be greater than that which would have resulted from the subsequent injury alone
3. The combined effect of the pre-existing disability and subsequent injury must be equal to or more than 70 percent.
4. The employee's condition must be one of the following:
 - The previous disability or impairment affected a hand, an arm, a foot, a leg or an eye; and the permanent disability resulting from the subsequent injury affects the opposite and corresponding member; and the disability from the subsequent injury, when considered alone and without regard to or adjustment for the occupation or age of the employee, is equal to 5 percent or more of the total.
 - The permanent disability resulting from the subsequent injury, when considered alone and without regard to or adjustment for the occupation or the age of the employee, is equal to 35 percent or more of the total.

The analyses of SIBTF activities in the CHSWC Annual Report are based on the Division of Workers' Compensation (DWC)/Department of Industrial Relations (DIR) Electronic Adjudication Management System (EAMS). EAMS provides SIBTF business analytics and maintains document processing workflows supporting the judicial review process, updates classifications for case participants to match the current needs, and expands document processing for SIBTF.⁶⁸

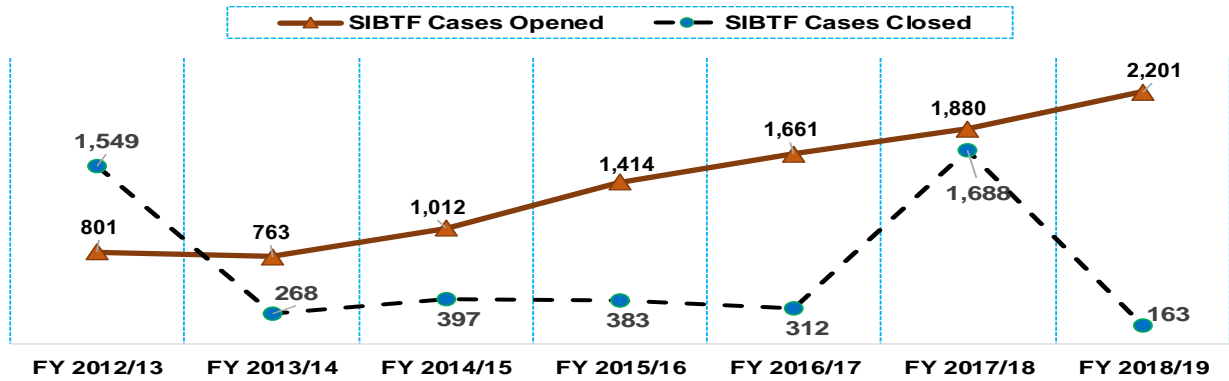
Over the past few years, the number of workers' compensation cases involving SIBTF increased. Figure 76 shows that, from FY 2012-2013 to FY 2018-2019, the number of SIBTF cases opened nearly tripled, totaling 9,732 cases in 7 years. Over the same period, 4,760 cases were closed, with a spike of 1,688 cases closed in FY 2017-2018 because of identification of abandoned cases.⁶⁹

⁶⁸ See DWC Electronic Adjudication Management System (EAMS) section in this chapter for a more detailed description of EAMS activities.

⁶⁹ In FY 2017-2018, the number of cases closed was high because a special examination was conducted (via overtime by a staff person in another unit) of all open cases in order to identify abandoned cases (i.e. the applicant passed away prior to finalizing case against SIBTF); [Increased Support for SIBT Program](#).

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

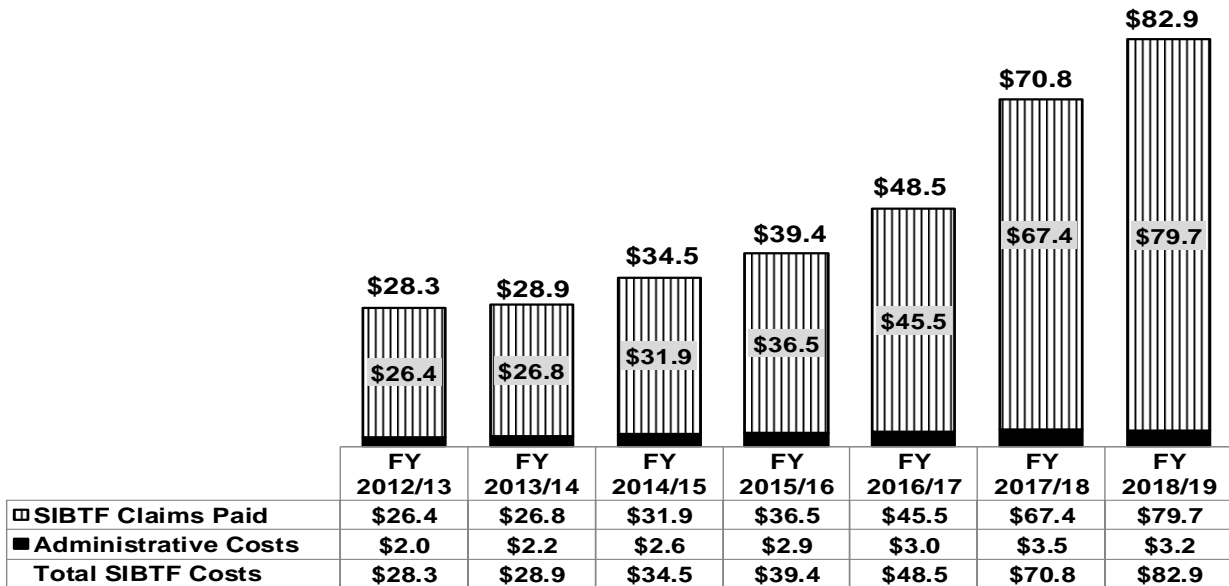
Figure 76: Number of SIBTF Cases, Opened and Closed



Source: DWC

As shown in Figure 77, from FY 2012-2013 to FY 2018-2019 not only did the number of SIBTF cases increase but so did SIBTF costs. The number of SIBTF cases and the value of claims increased in part because of changes in apportionment rules according to workers' compensation legislation such as SB 899 and Labor Code Sections 4663 and 4664.⁷⁰ As a result, applications for SIBTF benefits and benefit payouts increased from \$8 million in FY 2003-2004, the last fiscal year before 2004 reforms (not included in the period examined in this report and in the figures), to \$67.4 million in FY 2017-2018.⁷¹

Figure 77: SIBTF Total Costs (in \$ million)



Note: Administrative Costs for FY 2018-2019 are estimates based on 2 year average for FY 2016-2017 and FY 2017-2018 before the DIR's FY 2018-2019 books are closed.

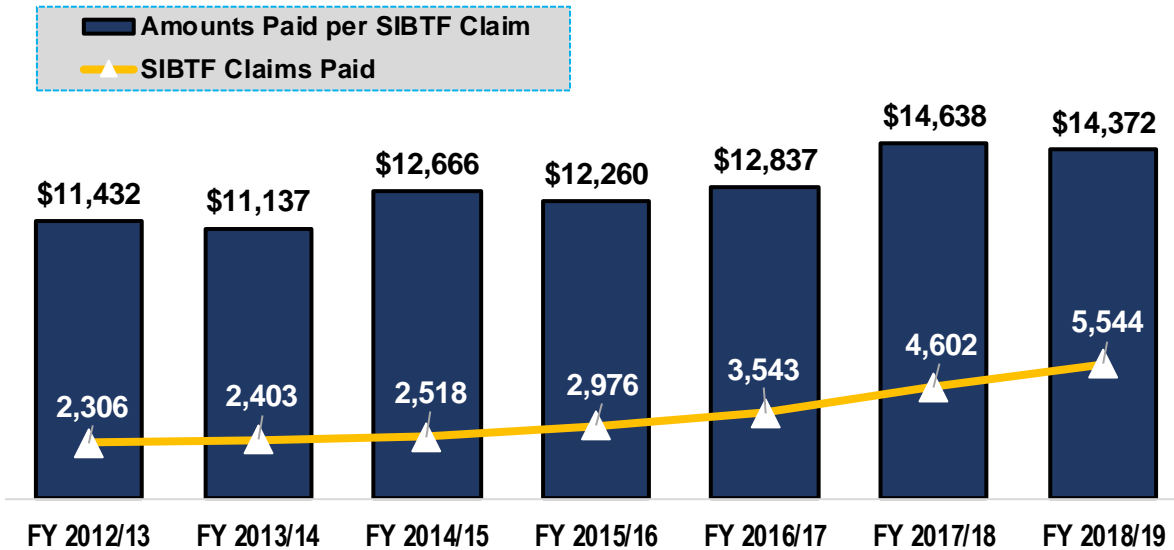
Data Source: DWC

⁷⁰ According to these amended provisions of LC Sections 4663 and 4664, the apportionment of permanent disability was based on the causation of disability. This means that workers were not entitled to compensation for the worsening of a pre-existing condition.

⁷¹ [Increased Support for SIBT Program](#), page 2.

According to Figure 78, from FY 2012-2013 to FY 2018-2019 the number of SIBTF claims paid increased 2.4 times and the average paid amount per SIBTF claim increased by 28 percent from an average of \$11,300 in FY 2012-2013 and FY 2013-2014 to \$14,500 in FY 2017-2018 and FY 2018-2019.

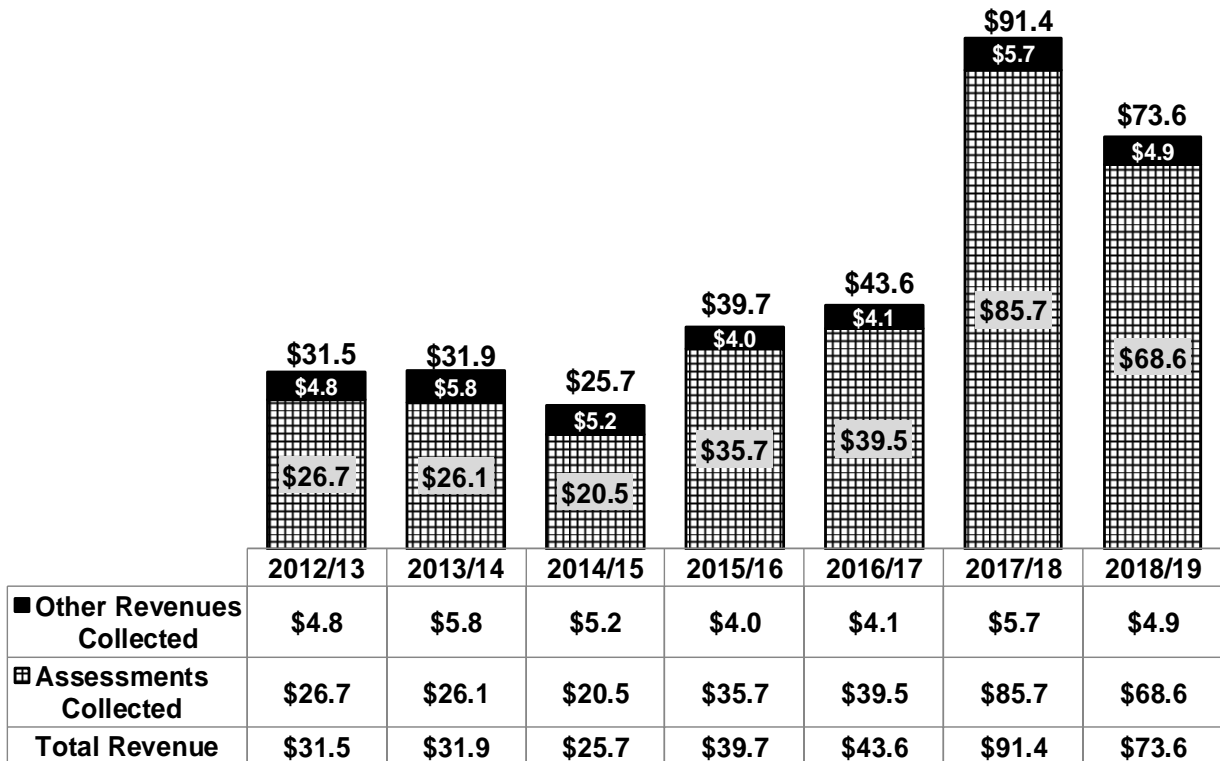
Figure 78: Number of SIBTF Claims Paid and Average Amount Paid per SIBTF Claim



Source: DWC

SIBTF funding comes mainly from annual assessments collected from insured and self-insured employers and about 7 percent from other revenue. As Figure 79 shows, total SIBTF revenue decreased by 19 percent from FY 2012-2013 to FY 2014-2015 and then increased by 55 percent from FY 2014-2015 to the next fiscal year. From FY 2014-2015 to FY 2017-2018, the revenues increased 3.6 times. Among the reasons for this significant increase in revenue assessments could be increases in both the number of paid claims and the amount paid per claim, changes in the timing of permanent disability (PD) payments in which the DIR must start paying SIBTF benefits to qualifying workers at the same time that the employer starts paying PD benefits, SIBTF benefits paid in addition to PD payments from the employer, instead of upon a declaration of permanent and stationary status, and overall increases in PD benefits, which make it more feasible for injured workers to pursue payments from the SIBTF fund.

Figure 79: SIBTF Total Revenues Recovered (in \$ million)



Note: Other Revenues Collected for FY 2018-2019 are estimates based on 2 year average for FY 2016-2017 and FY 2017-2018 before the DIR's FY 2018-2019 books are closed.

Data Source: DWC

ADJUDICATION SIMPLIFICATION EFFORTS

Division of Workers' Compensation Information System

WCIS receives over 700,000 First Reports of Injury and Subsequent Reports of Injury (FROI/SROI) claims per year and 12 million medical bills with 35 million bill lines per year from workers' compensation claims administrators. WCIS data is being used more than ever to help monitor and improve the workers' compensation system in California. The quality of the data has enabled rigorous empirical research, providing a real, data-informed foundation for policy. WCIS staff provides research, regulatory and educational outreach support through one-on-one training and consultation with reporting entities to improve the FROI/SROI and medical billing data set.

WCIS FROI/SROI adopted [new regulations and new reporting guidelines](#) in March 2018, reflecting the first update since 2012. A follow-up [proposal to shift to quarterly reporting of SROI](#) is in progress.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

WCIS FROI/SROI Data is used for:

- Evaluating the efficiency and adequacy of benefit delivery
- Assisting the department in the safety and health rulemaking process
- Supporting the department in its evaluation of health and safety hazards
- External research requests

WCIS Medical Bill data reporting has improved significantly with the introduction of California Medical Version 2.0 in April 6, 2016. The Medical Billing Database continues to grow. Thirty-six (36) million bills and 110 million bill lines were collected as of June 2019.

WCIS medical data provides supportive evidence for California's:

- Combat against medical fraud and abuse
- MTUS drug formulary
- Medical access evaluation, measuring the timeliness and utilization of treatment for injured workers.

The medical bill data continues to be used by outside researchers, as well as by DIR. State agencies such as the California Department of Health Services continue to use the WCIS data in their health surveillance efforts.

Division of Workers' Compensation Electronic Adjudication Management System

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

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

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

EAMS regulations for e-Form filing, Jet filing, and lien fees were approved. Due to a preliminary injunction ordered by a federal district judge in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*, effective November 19, 2013, the DWC/DIR EAMS team suspended the collection of activation fees for liens filed before January 1, 2013. Resolution of the

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

appeal of the injunction are discussed below. Through EAMS, DWC continues to collect the filing fee for liens filed after January 1, 2013.

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

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

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

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

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

EAMS venue adjustments allow case assignment and hearing scheduling at the Santa Barbara satellite district office.

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

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

In 2015 and 2016, DIR created a more robust and secure network for EAMS by refreshing servers, adding security features, and updating infrastructure software and Cognos reporting software.

Activities in 2015:

- DIR enriched workflows for document processing for judge review, lien processing (to systematically add the lien claimant and lien claimant representative as case participants), and expanded workflows for the Uninsured Employers Benefits Trust Fund (UEBTF). Document processing was improved by adding document titles and updating classifications for case participants to our current needs. The ability to match a new case to a previously injured worker was improved by adding a portion of the worker's first name in the matching criteria.
- In November, we made changes in the Declaration of Readiness and resumed the collection of lien activation fees in compliance with a ruling issued by Judge George Wu of the US District Court for the Central District of California in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- In December, DIR implemented changes to halt the collection of lien activation fees, in compliance with the ruling issued in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*

Activities in 2016:

- DIR enlarged the comment fields in EAMS, created additional case participant roles, and enhanced the Public Information Search Tool. DIR streamlined the workflow for settlement notification to the judges. JET filing internal processes were improved. DIR enhanced document processing by updating zip code lists, adding more document titles and enforcing the lien claimant UAN (Uniform Assigned Name) on all lien submissions.
- DIR streamlined the process for setting hearings before judges and developed new UEBTF and SIBTF processes for those hearings. The department improved UEBTF document processing, data reliability, and communication templates.

In 2017, DIR began implementation of Assembly Bill 1244 and Senate Bill 1160.

Activities in 2017:

- EAMS support for the Special Adjudication Unit (SAU) was designed and implemented to conduct lien consolidation proceedings.
- Processes were created in EAMS to identify liens of medical providers that have been criminally indicted or suspended in EAMS. Those changes are displayed in EAMS and in the Lien Search results of the Public Information Search Tool.
- DIR revised the electronically filed Notice and Request for Allowance of Lien form to include medical provider information, created the Supplemental Lien Form and Section 4903.05(c) Declaration and updated DWC Document Cover and Separator Sheets to allow submission of SAU case documents into EAMS.
- In August, DIR processed liens that were dismissed by operation of law that did not meet the statutory requirements of Labor Code Section 4903.05.
- DIR improved SIBTF and UEBTF business analytics.

In 2018, DIR completed implementation of Assembly Bill 1244 and Senate Bill 1160 and updated EAMS software and hardware, FileNet storage and scanning software.

Activities in 2018:

- DIR expanded workflows in document processing for SAU judge review. It improved scheduling of hearings and created communication templates for SAU and gave e-filers access to SAU screens.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- DIR reduced redundancy and increased efficiency in EAMS software by updating Curam case management software according to current industry standards.

In 2019, DIR updated EAMS software and hardware and expanded JET filing.

Activities in 2019:

- DIR enriched workflows for document processing for judicial review, updated classifications for case participants to meet its current needs, and expanded document processing for UEBTF and SIBTF by adding document titles.
- DIR continued to improve SIBTF and UEBTF business analytics while enhancing tracking capabilities for case outcomes.
- DIR increased efficiency in EAMS software for internal staff by adding bulk case reassignment processing.
- DIR upgraded EAMS electronic service, FileNet's search application, and data transfer software to meet current industry standards.
- DIR expanded the number of forms and documents to be submitted through JET filing.
- DIR began adding upfront UAN validations for structured E-form submissions.

Carve-Outs: Alternative Workers' Compensation Systems

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

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

CHSWC Study of Carve-Outs

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

Since carve-out programs have operated only since the mid-1990s, the 10 years of data collected for the report are preliminary. The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid return to work (RTW) have not

occurred; and that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not occurred.

For further information

[How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers](#), CHSWC (2006).

Impact of Senate Bill 228 (2003)

Senate Bill 228 (2003) added Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This was in addition to the existing carve-out program in the construction industry (already covered under Labor Code Section 3201.5).

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

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

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

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- A joint labor-management safety committee.
- A light-duty, modified job or return-to-work program.
- A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.
- The minimum annual employer premium for the carve-out program for employers with 50 employees or more is \$50,000, and the minimum group premium is \$500,000.
- Any agreement must include right of counsel throughout the ADR process.

Impact of Senate Bill 899 (2004)

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

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

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

SB 863 Carve-out Expansion (2012)

SB 863 amended LC Section 3201.7 to permit the State of California to enter into a carve-out. As of 2019, no state agency has pursued this option.

Requirements of ADR program reports to DWC under 8 CCR Section 10203

The ADR data reporting requirements, initially adopted by DWC in 1996, can be found in the California Code of Regulations, Title 8, Section 10203. Section 10203 requires that every employer subject to either Labor Code Section 3201.5 or 3201.7 shall provide the

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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

Person hours and payroll covered by agreements filed

As Table 35 shows, for calendar year 2017, 28 of 39 reporting programs reported payroll and person-hours. Carve-out programs reported that for the 2017 calendar year, they covered 94 million work hours and \$3.0 billion in payroll. The reported average wage per carve-out person-hours worked was \$20 per hour.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 35: Estimated Person-Hours Worked and Payroll, 2008–2017

Calendar Year (Reporting Year)	Reporting Programs	Employers	Payroll (Million\$)	Person-Hours Worked (Millions)	FTE (estimated)	Average Hourly Wage
2008	19	1,274	\$2,782	93	46,500	\$30
2009	21	876	\$3,393	100	50,000	\$34
2010	19	1,177	\$1,976	67	33,500	\$29
2011	22	1,586	\$2,418	78	39,000	\$31
2012	25	1,508	\$1,849	69	34,500	\$27
2013	22	1,815	\$1,226	51	25,600	\$24
2014	27	1,901	\$3,255	122	60,900	\$27
2015	23	1,552	\$2,553	89	44,600	\$29
2016	34	NA	\$3,203	159	79,400	\$20
2017	28	NA	\$3,000	94		\$32

Data Source: DWC

Status of Carve-out Agreements

The following websites are updated regularly and show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

[Construction Industry Carve-out Participants Labor Code Section 3201.5](#)

[Non-Construction Industry Carve-out Participants Labor Code Section 3201.7](#)

For further information

[Carve-Outs in California](#) (December 2017).

[The latest information on carve-outs.](#)

[How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers.](#) CHSWC (2006).

[Carve-outs: A Guidebook for Unions and Employers in Workers' Compensation.](#) CHSWC (2004).

[Carve-Outs' in Workers' Compensation: An Analysis of Experience in the California Construction Industry](#) (1999).

DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT

The Bureau of Field Enforcement (BOFE) in the Division of Labor Standards Enforcement (DLSE) is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, and Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

Table 36 lists the citations from FY 2017–2018 enforcement actions. It illustrates the Bureau's performance inclusive of all special programs, such as non-public works field enforcement and prevailing wage enforcement through the Public Works Unit.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 36: DLSE Citations by Category, FY 2017–2018

Citation Category	N. of Violations	Penalties Assessed	Penalties Collected
Workers' Compensation	1,551	\$28,749,599	\$4,707,626
Itemized Statement	605	\$15,547,187.5	\$2,472,194
Overtime	145	\$895,862.5	\$145,635
Rest and Meal Period	146	\$1,313,214	\$107,864
Minimum Wage	369	\$2,165,910	\$167,148
Child Labor	112	\$265,300	\$150,040
Unlicensed Construction Contractor	27	\$564,200	\$51,462
Garment Registration	19	\$19,500	\$8,313
Garment	69	\$439,400	\$80,350
Car Wash Registration	68	\$607,100	\$541,214
Unlicensed Farm Labor Contractor	5	\$46,600	\$50,000
Lactation Accommodation Violation	1	\$16,600	\$2,250
Misclassification	3	\$1,295,000	\$0.0
Reimbursable Business Expenses	15	\$14,650	\$0.0
Violation of Reporting Time	3	\$250	4,662.5
Waiting Time Penalties	107	NA	NA
Grand Total	3,245^a	\$51,940,373	\$8,488,758
<i>LESS citations dismissed/modified</i>	160	\$3,705,444	NA
Subtotals	3,085	\$48,234,929	8,488,758
Public Works	757 ^b	\$29,385,945	6,593,795 ^c
TOTAL	3,842	\$77,620,874	\$15,082,553^d

Source: DLSE

^a Excludes 48 demands made for wages pursuant to LC 223 for contract wages above minimum wages.

^b Should be understood as 757 civil wage and penalty assessments (CWPA's) issued (rather than as citations).

^c Includes Labor Code Section 1777.7 penalty assessments.

^d May include collection of penalties due in earlier reporting periods.

For further information

Bureau of Field Enforcement Report at <https://www.dir.ca.gov/dlse/DLSEReports.htm>.

DLSE REGISTRATION SERVICES–JANITORIAL SERVICES

Labor Code Sections 1420-1434, the Property Services Workers Protection Act, establish registration requirements for janitorial employers and protection for property service workers in the form of sexual harassment prevention training.

Effective July 1, 2018, all janitorial service provider employers were required to register with the DLSE by mail or online by October 1, 2018. The registration fee is \$500 annually, and failure to register is subject to a fine of \$100 per day, up to \$10,000. The DLSE is required to maintain a public database of [registered employers](#). Fines are also levied for hiring unregistered janitorial service providers, and the registration database can be used to confirm which registered service providers are in compliance.⁷²

Beginning in January 1, 2019, after janitorial service provider employers are registered, they were also required to provide employees with DLSE-developed in-person sexual harassment prevention training at least once every two years. DIR and CHSWC contracted with the Labor Occupational Health Program at UC Berkeley to develop this training. According to DLSE, until the [proposed regulations](#) establishing the training requirements become effective, employers must continue to provide [the Department of Fair Employment and Housing \(DFEH\) pamphlet DFEH-185, "Sexual Harassment," in English or Spanish](#), as appropriate.

Employers may also provide the training as required by the proposed regulations by using complimentary materials developed by the Labor Occupational Health Program at UC Berkeley for the Department of Industrial Relations and the Commission on Health and Safety and Workers' Compensation. These materials, available below in [English](#) and [Spanish](#), will be updated as needed to help employers meet Fair Employment and Housing Act requirements for sexual harassment and abusive conduct training as well.⁷³

The following data represent the first full year of the registration requirement:

- Number of new janitorial service providers and contractors registered in FY 2018-2019: 1,669
- Number of new janitorial service providers and contractors who registered in 2018-2019 after October 1, 2018, and incurred a penalty: 5
- Total LC Section 1423 penalties incurred by janitorial service providers and contractors in FY 2018-2019 for failure to register by required date: 3⁷⁴

⁷² [Janitorial Registration Frequently Asked Questions.](#)

⁷³ <https://www.dir.ca.gov/dlse/Janitorial-Training.html>

⁷⁴ The other two employers who did not register by October 1, 2018, were cited for LC Section 226(a) records and/or LC 3700 Workers Compensation (WC) violations.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- Total amount of LC Section 1423 penalties in FY 2018-2019: \$30,000.00; \$10,000 for each of the 3 employers

For further information

Janitorial Service Providers and Contractors at:

https://www.dir.ca.gov/dlse/Janitorial_Providers_Contractors.html

ANTI-FRAUD ACTIVITIES

Background

During the past decade, there has been a dedicated and rapidly growing campaign in California against workers' compensation fraud. This report on the nature and results of that campaign is based primarily on information obtained from the California Department of Insurance (CDI) Fraud Division, as well as applicable Insurance Code and Labor Code sections, and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

The former Insurance Commissioner Steve Poizner convened an Advisory Task Force on Insurance Fraud in May 2007 to address major issues relating to insurance fraud. Christine Baker, a former executive officer of CHSWC and now the retired director of DIR, chaired the Task Force's Workers' Compensation Expert Working Group.⁷⁵ The Task Force completed a comprehensive review of the anti-fraud insurance programs and identified 18 recommendations to consider in reducing insurance fraud in California.

The recommendations are consolidated into the following five categories identified by the Task Force:

- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.
- Industry Role in Fighting Fraud.
- Public Role in Fighting Fraud.
- Fraud Statutes and Regulations.
- Technologies.

The Fraud Division is currently implementing the following recommendations:

- Placing personnel in existing fusion centers in the State so that law enforcement can share information more efficiently and quickly identify emerging trends and crime patterns.
- Developing and providing better training for the Special Investigation Units (SIU) on the recognition, documentation and reporting of suspected insurance fraud claims.
- Recognizing insurance companies that go beyond compliance for their greater commitment to fighting fraud.
- Increasing the CDI's outreach efforts about the consequences of fraud and how the public can recognize and report it.

⁷⁵ She is currently serving on the Fraud Assessment Commission at the Department of Insurance as an appointee of former Governor Jerry Brown.

Suspected Fraudulent Claims

Suspected Fraudulent Claims (SFCs) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of SFCs represents only a small portion reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:⁷⁶

- The extensive efforts to provide training to the insurance claim adjusters and SIU personnel by the Fraud Division and District Attorneys.
- Changing submission of SFCs by filling out the FD-1 Form electronically on the Internet.
- Promulgating new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit was established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies.
- CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

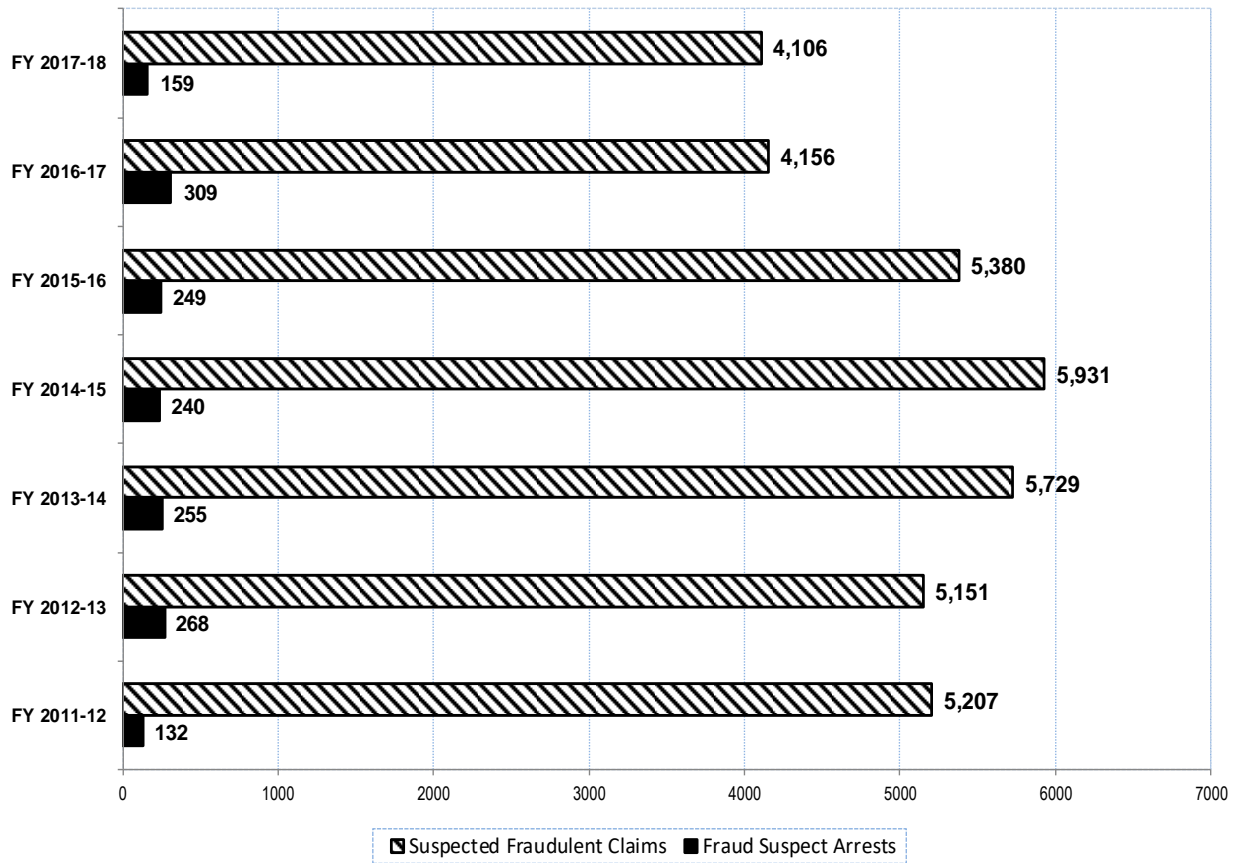
The total number of SFCs reported in fiscal year 2017-2018 is 4,106.

Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year (see Figure 80). From FY 2012-2013 to FY 2015-2016, the Fraud Division identified and reported from 5,100 to 5,900 SFCs per fiscal year, with 250 arrests per fiscal year on average. In FY 2016-2017 and FY 2017-2018, the number of identified and reported SFCs fell to about 4,100 cases per fiscal year, with 309 arrests (7 percent of SFCs) in FY 2016-2017 and 159 arrests (4 percent of SFCs) in FY 2017-2018.

⁷⁶ [2014 Annual Report of the Insurance Commissioner](#), August 1, 2015.

Figure 80: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests



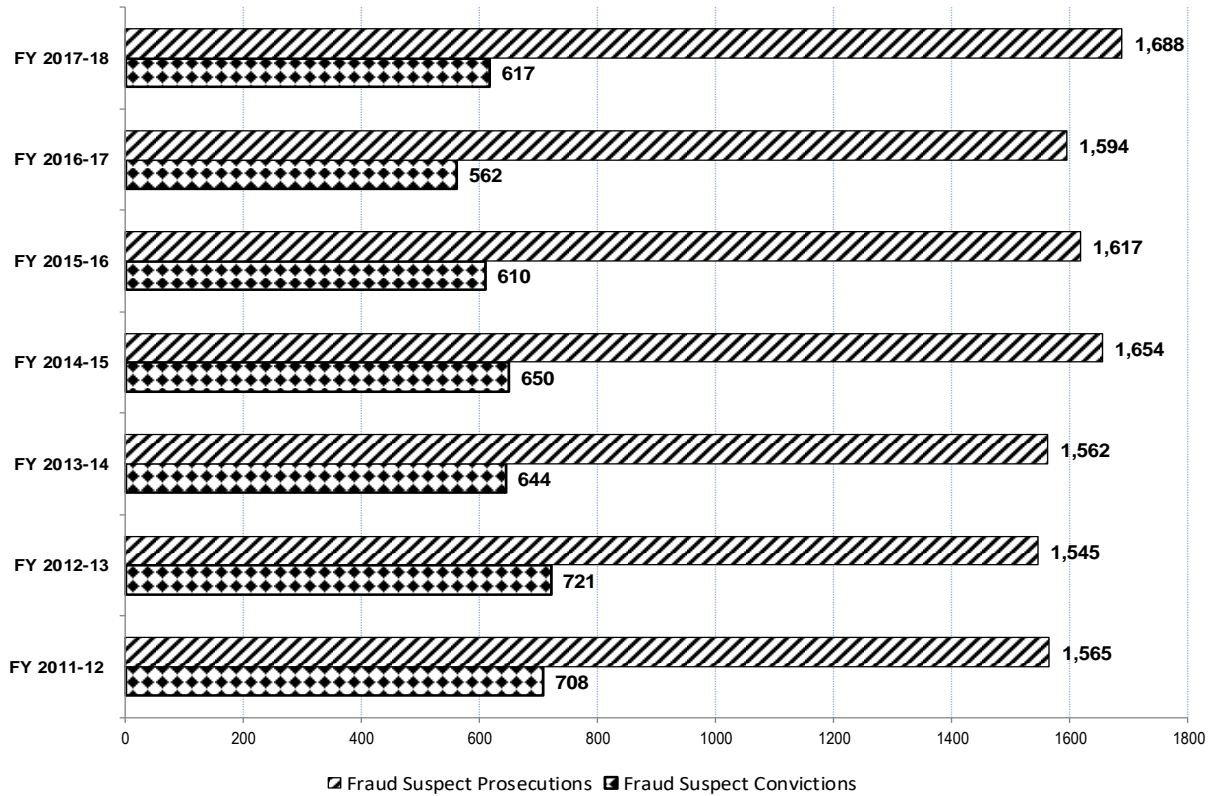
Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI Bulletin(s), the number of workers' compensation fraud suspects convicted annually while many cases are still pending in court is reported in Figure 81. From FY 2011-2012 to FY 2017-2018, district attorneys prosecuted about 1,550 to 1,690 suspects per fiscal year, resulting in 560 to 720 convictions per fiscal year.⁷⁷

⁷⁷ For case-by-case information regarding specific workers' compensation fraud convictions, see the Department of Insurance page [Workers' Compensation Fraud Convictions](#).

Figure 81: Workers' Compensation Fraud Suspect Prosecutions and Convictions



Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Investigations

Types of Workers' Compensation Fraud Investigations

Figures 82 and 83 indicate the number and type of investigations opened and carried from fiscal years FY 2011-2012 to FY 2017-2018 reported by district attorneys. Claimant, also named applicant, fraud appears to be the area generating the most cases followed by premium fraud and uninsured employer fraud.

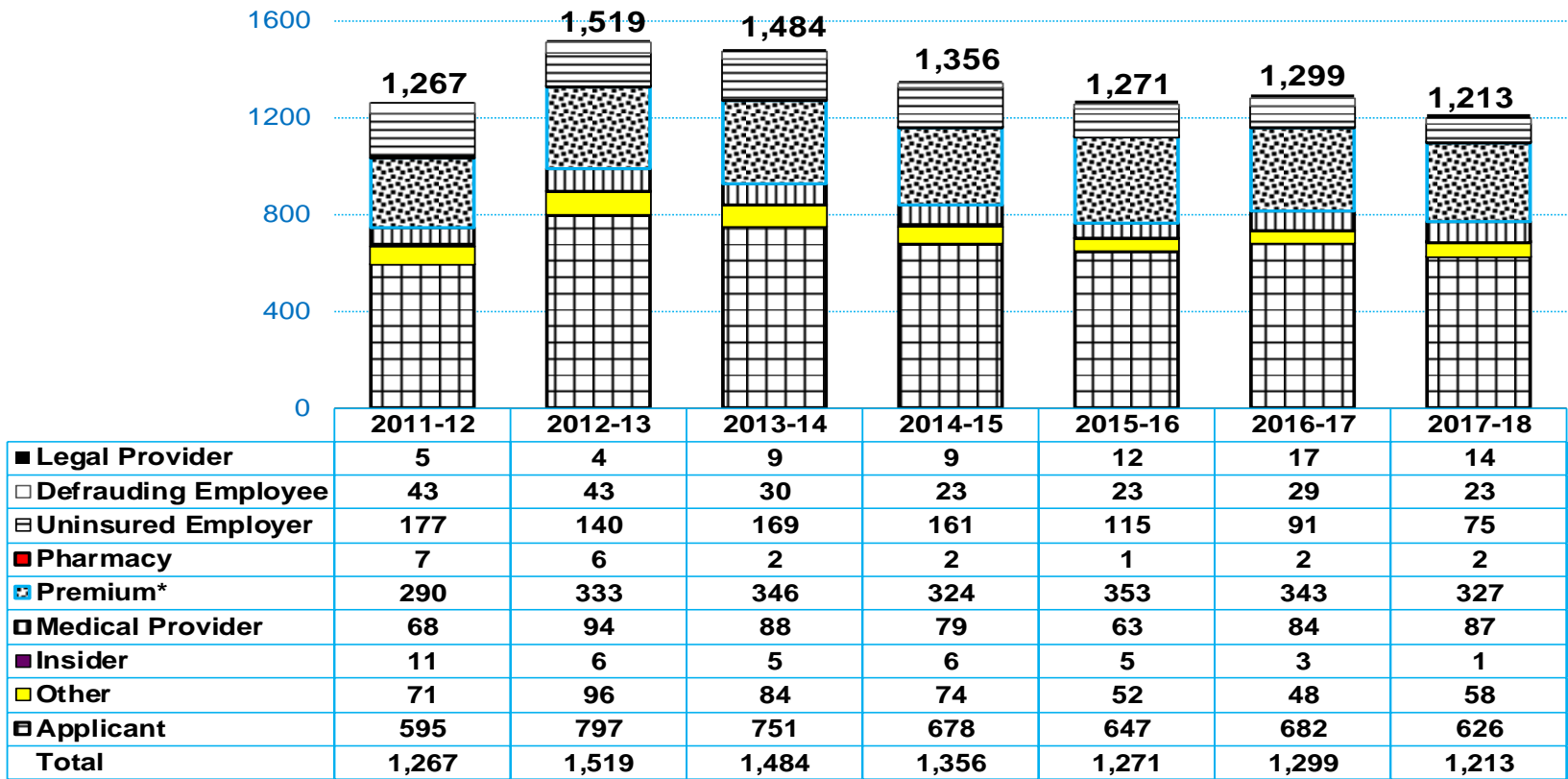
Some of the categories for fraud-related investigations were changed in FY 2005-2006, FY 2006-2007, and FY 2007-2008. In FY 2008-2009, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Trends in Workers' Compensation Fraud Investigations

Figure 82 shows that the number of workers' compensation fraud investigations increased by 20 percent from FY 2011-2012 to FY 2012-2013 and then decreased by 20 percent from FY 2012-2013 to FY 2017-2018. This decrease from FY 2012-2013 to FY 2017-2018 was mostly due to a 21.5 percent decrease in claimants (also called applicants) and an almost two-fold decline in uninsured employer investigations.

Figure 82: Caseload by Type of Fraud Investigations, FY 2011-2012–FY 2017-2018



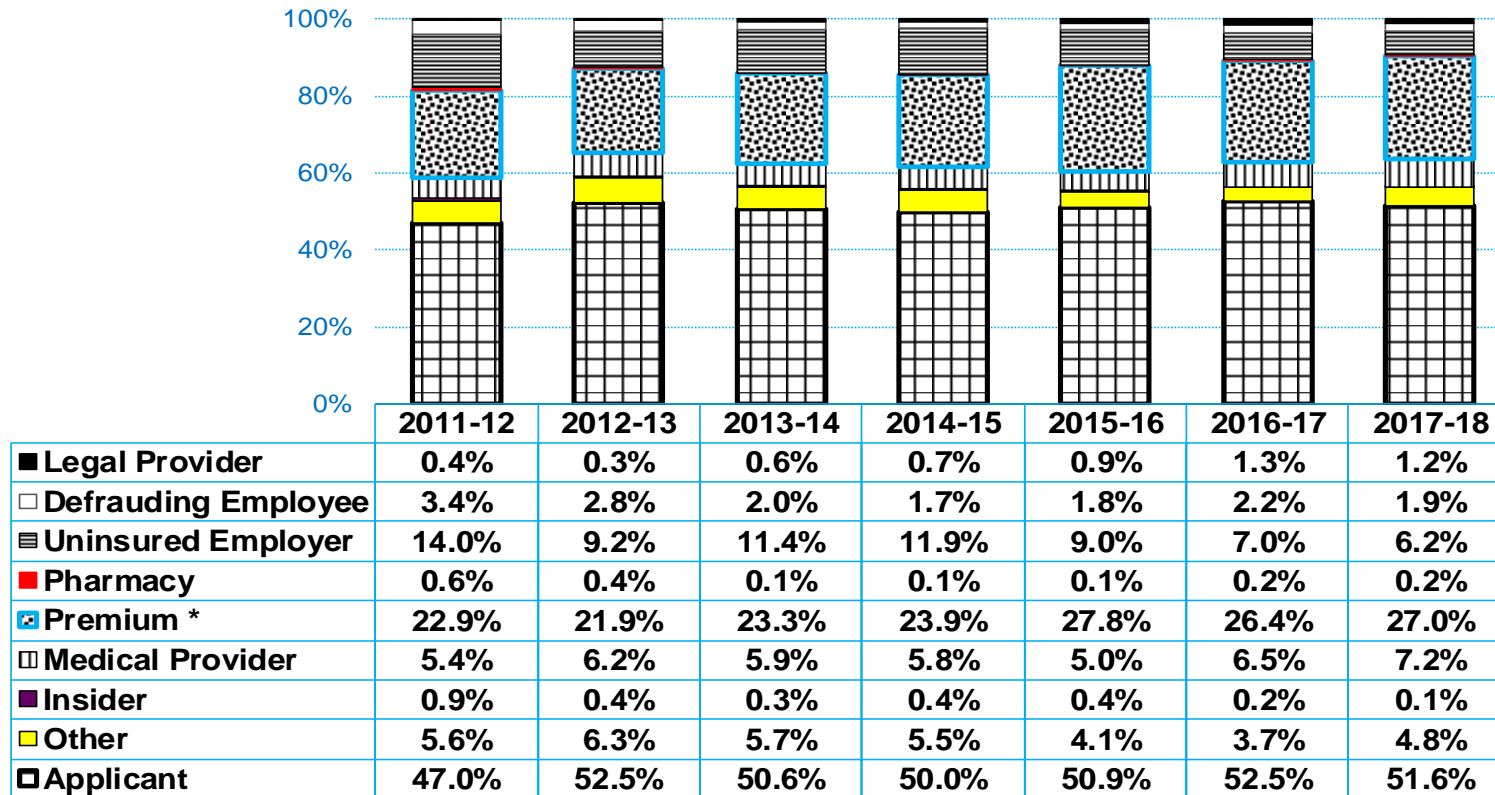
* Includes Misclassification, Underreported Wages, and X-Mod Evasion

Data Source: California Department of Insurance, Fraud Division

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

As seen in Figure 83, the focus of the investigations experienced some changes during the observed period. Claimant/applicant fraud investigations increased overall from 47 percent of the total in FY 2011-2012 to 52.0 percent in FY 2017-2018. During the same period, the percentage of investigations of premium fraud increased overall from 23 percent in FY 2011-2012 to 27 percent in FY 2017-2018. From FY 2011-2012 to FY 2017-2018, investigations of uninsured employer fraud decreased by eight percentage points and decreased for defrauding employees by 1.5 percentage points.

Figure 83: Distribution by Type of Fraud Investigations, FY 2011-2012–FY 2016-2017



* Includes Misclassification, Underreported Wages, and X-Mod evasion.

Data Source: California Department of Insurance, Fraud Division

In addition, the *2018 Annual Report of the Insurance Commissioner* notes that the majority of suspected fraudulent claims in calendar year 2018 came from Los Angeles County (1,329, or 36.0 percent of total cases) followed by Orange County (412, or 11.0 percent), and Riverside (203, or 5.5 percent) or San Diego County (203, or 5.5 percent).

Underground Economy

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

Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts

CHSWC has conducted many studies that focus on improving workers' compensation anti-fraud efforts and co-chaired stakeholder meetings on fraudulent activity in the workers' compensation system. In September 2016, Governor Brown signed Assembly Bill 1244 and Senate Bill SB 1160 that provide a mechanism for suspending perpetrators of fraud from the workers' compensation system and for limiting financial recovery related to fraudulent activity. More information on the Department of Industrial Relations (DIR) efforts related to AB 1244 and SB 1160 can be found at [DIR website](#).

The Administrative Director of the Division of Workers' Compensation is now required to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in any capacity when the individual or entity meets specific criteria as related to fraud. Those criteria include conviction of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or workers' compensation systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider is also to be suspended when his or her license, certificate, or approval to provide health care has been surrendered or revoked, or when that individual or entity has been suspended from participation in the Medicare or Medicaid programs due to fraud or abuse. A medical provider is now barred from submitting or pursuing claims for payment for services or supplies provided, if that provider has been suspended from participation in the workers' compensation system.

In the period 2018-2019, over 180 criminally charged individuals had their liens stayed under LC Section 4615, representing over 650,000 liens stayed. There were 15 consolidated special lien proceedings, among which 8 are still in process and 7 were resolved. Eleven (11) providers have had their liens dismissed. The Anti-Fraud Unit (AFU) does not reveal the dollar amounts related to liens. Over 350 providers have been

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

suspended, and 5 providers have been sent a suspension notice with no Order of Suspension issued under LC Section 139.21.⁷⁸

For further information

Information on the Department of Industrial Relations (DIR) efforts [related to AB 1244 and SB 1160](#).

⁷⁸ Data for 2018-2019 were provided by DIR, Office of the Director Anti-Fraud Unit.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

OCCUPATIONAL INJURY AND ILLNESS PREVENTION EFFORTS

Workplace health and safety are of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer, and labor organizations, government agencies, health and safety professionals, independent researchers, and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section discusses the number and incidence rate of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States and California.

Where data are available, comparisons among private industry and state and local government are also included.

Occupational Injuries, Illnesses, and Fatalities

The number of occupational injuries, illnesses, and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are listed and discussed in this subsection.

Please note that “lost-work-time” occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that days-away-from-work cases involve days away from work, regardless of whether there is also job transfer or restricted work activity.

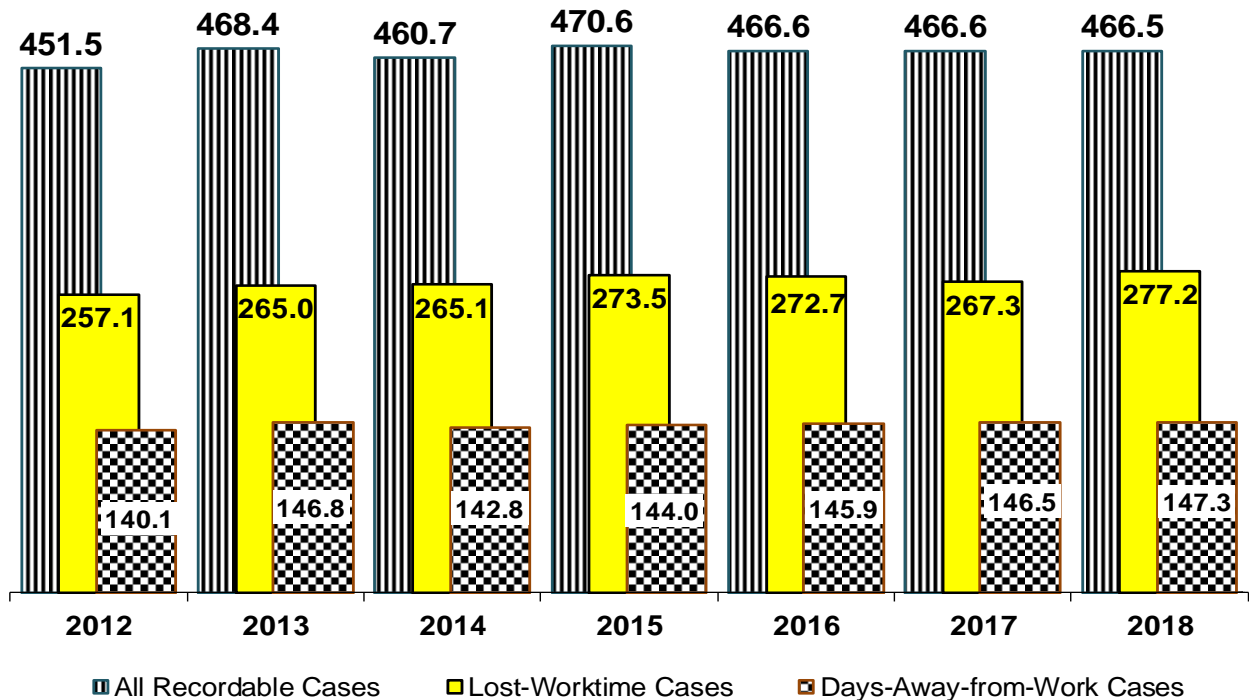
The National Academy of Social Insurance (NASI) estimated that in 2017 (latest available year in 2019) 140.4 million workers were covered by workers’ compensation in the U.S., including 16.8 million in California.

Comparison of the Public and Private Sectors

Non-Fatal Occupational Injuries and Illnesses

Figure 84 shows the number of occupational injuries and illnesses in California’s private industry and state and local government. The number of all recordable cases for occupational injury and illness in California increased overall by 4 percent from 2012 to 2015, decreased by 1 percent from 2015 to 2016, and then stabilized at around 466,600 thousand cases from 2016 to 2018. The number of lost-work-time cases increased by 6 percent from 2012 to 2015, decreased by 2 percent from 2015 to 2017, and then increased by 4 percent from 2017 to 2018. The days-away-from-work cases increased by 5 percent from 2012 to 2013, decreased slightly from 2013 to 2014, and then increased by 3 percent from 2014 to 2018.

Figure 84: California Non-Fatal Occupational Injuries and Illnesses: Private Industry and State and Local Governments (Thousands)

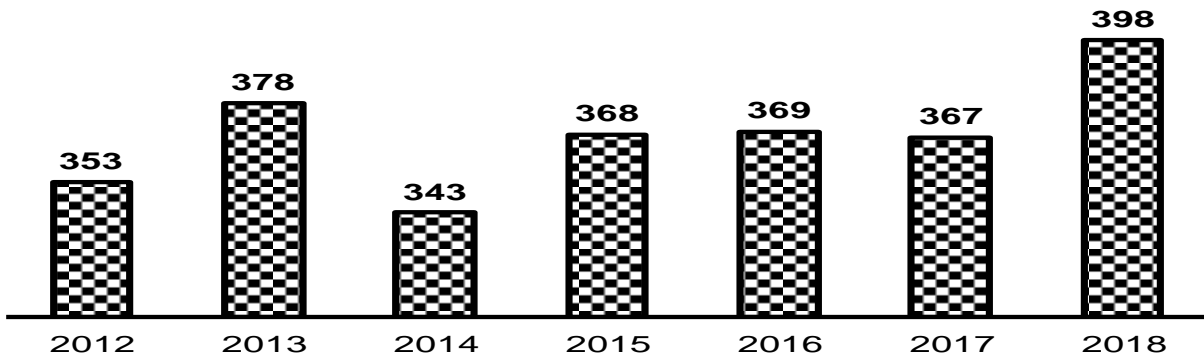


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California are shown in Figure 85. The number of fatal occupational injuries and illnesses in California increased by 7 percent from 2012 to 2013, decreased by 9 percent from 2013 to 2014, and then after increasing again by 7 percent from 2014 to 2015, it stabilized at an average of 368 fatal injuries per year from 2015 to 2017. From 2017 to 2018, the number of fatal occupational injuries and illnesses in California increased by 8 percent.

Figure 85: California Fatal Occupational Injuries and Illnesses—Private Industry and State and Local Governments



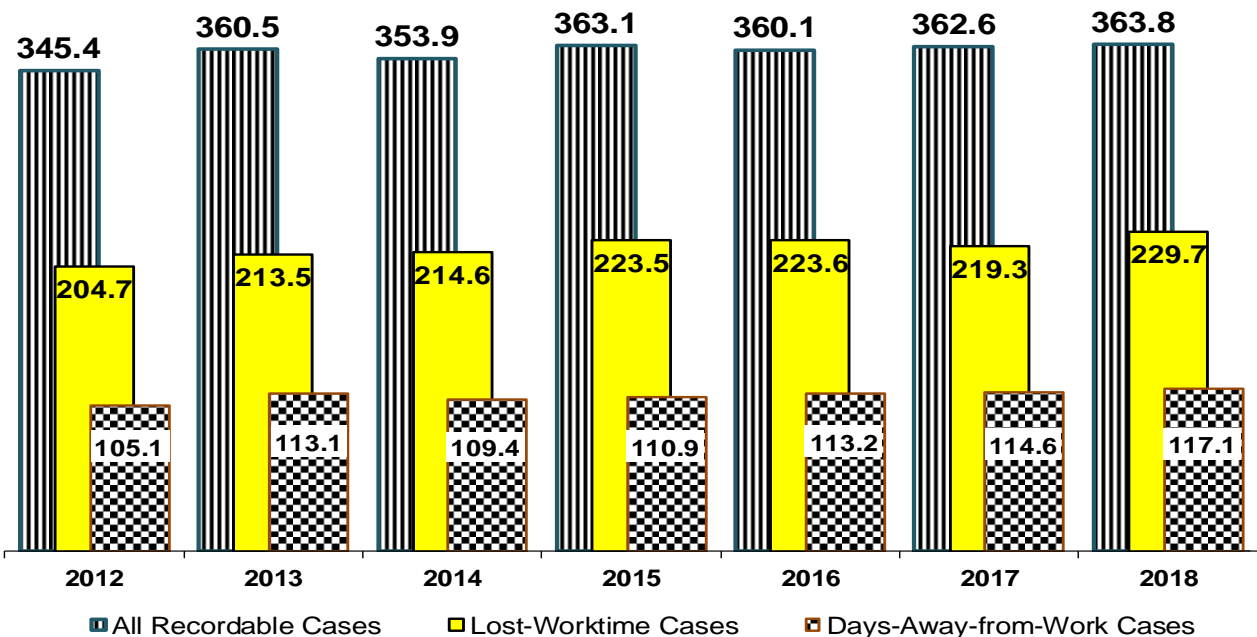
Data Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Private Sector

Non-Fatal Occupational Injuries and Illnesses

The total number of recordable injury and illness cases fluctuated between 345,000 and 363,000 cases between 2012 to 2016 and then increased by 1 percent from 2016 to 2018. The number of lost-work-time cases increased overall by 12 percent from 2012 to 2018. The number of days-away-from-work cases increased by 8 percent from 2012 to 2013, decreased slightly from 2013 to 2014, and then increased by about 7 percent from 2014 to 2018.

Figure 86: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

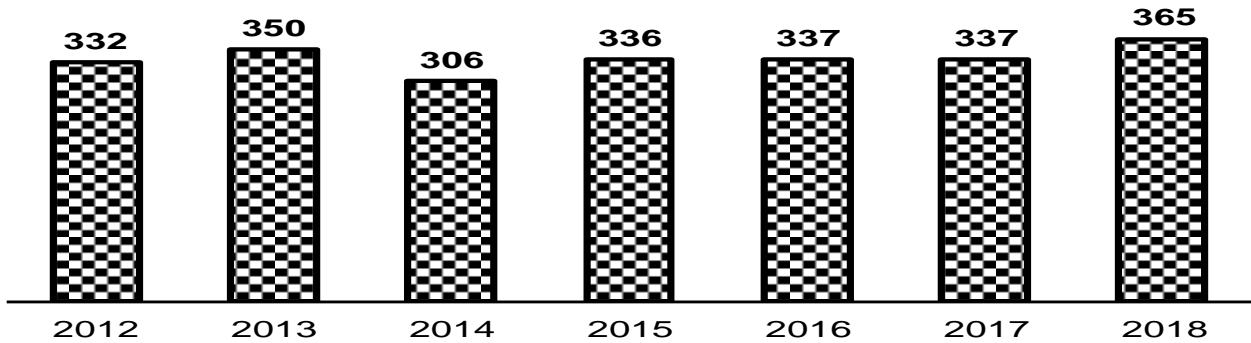


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California private industry increased by 5 percent from 2012 to 2013, decreased by 13 percent from 2013 to 2014, and then after a 10 percent increase in the number of fatal injuries from 2014 to 2015, it stabilized at an average of 337 fatalities per year from 2015 to 2017. From 2017 to 2018, the number of fatal occupational injuries and illnesses in private sector increased by 8 percent.

Figure 87: California Fatal Occupational Injuries and Illnesses—Private Industry



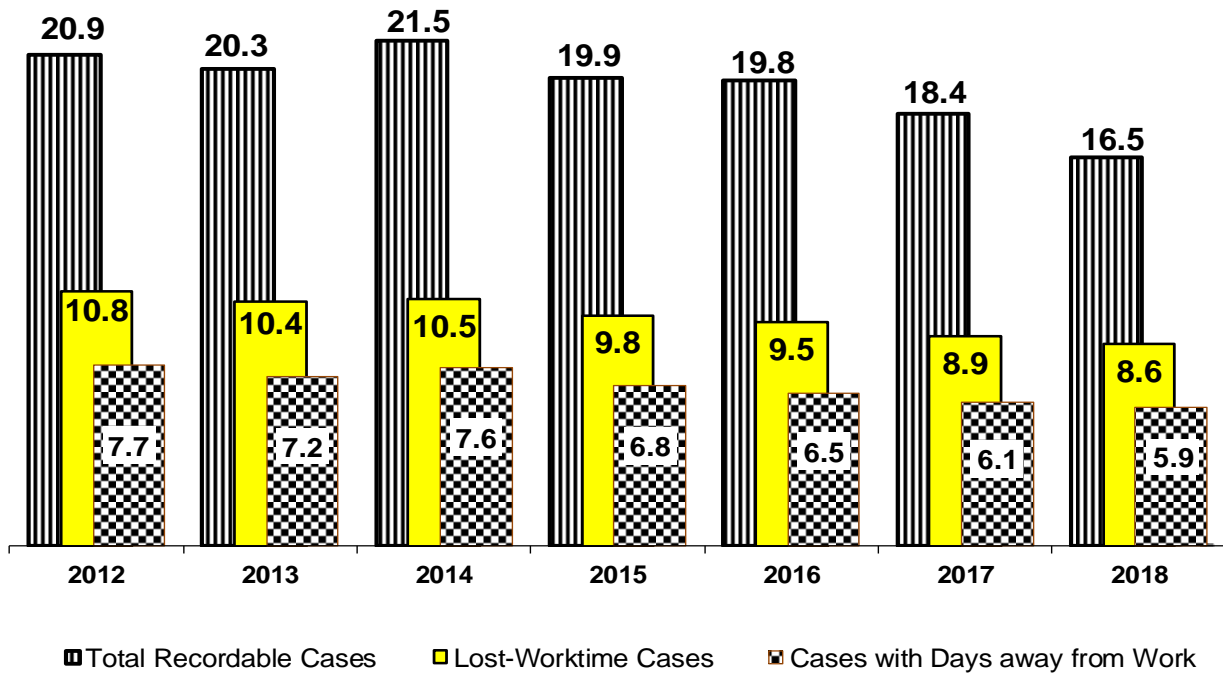
Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Public Sector: State Government

Non-Fatal Occupational Injuries and Illnesses

Figure 88 shows that the number of all recordable injury and illness cases in California state government averaged at 20,600 cases in 2012 and 2013, increased by 4 percent from 2013 to 2014, and then decreased by 23 percent from 2014 to 2018. It should be noted that many state and local government occupations are high risk, such as law enforcement, firefighting, rescue, and other public safety operations.

Figure 88: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

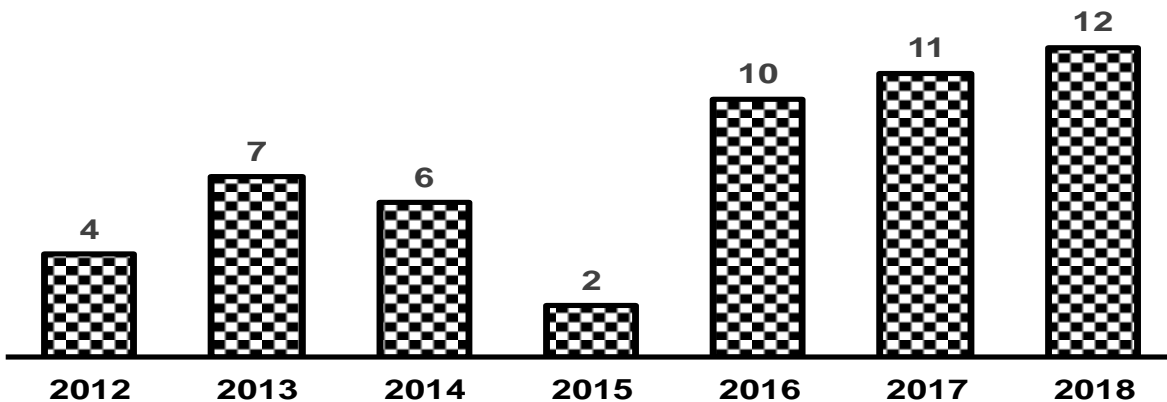


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California state government increased from 4 in 2012 to 7 in 2013, decreased to a minimum of 2 fatalities in 2015, and then increased to an average of 11 fatalities annually from 2016 to 2018.

Figure 89: California Fatal Occupational Injuries and Illnesses—State Government



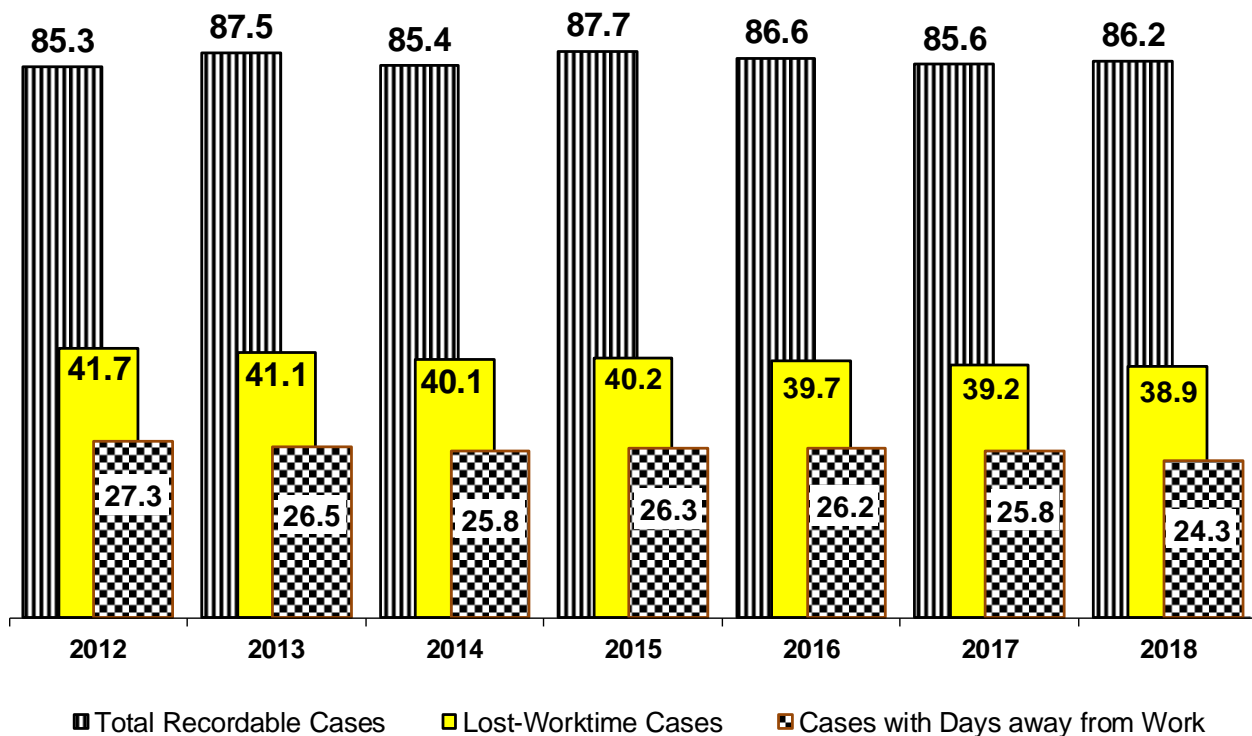
Source: DIR, Director's Office of Policy, Research and Legislation

Public Sector: Local Government

Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local government fluctuated between 85,000 and 88,000 cases between 2012 and 2015 and then decreased slightly from 2015 to 2018. From 2012 to 2018, the number of lost-worktime cases in this sector decreased steadily by 7 percent. The number of cases with days away from work decreased overall by 11 percent from 2012 to 2018, with some slightly higher numbers in 2015 and 2016.

Figure 90: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

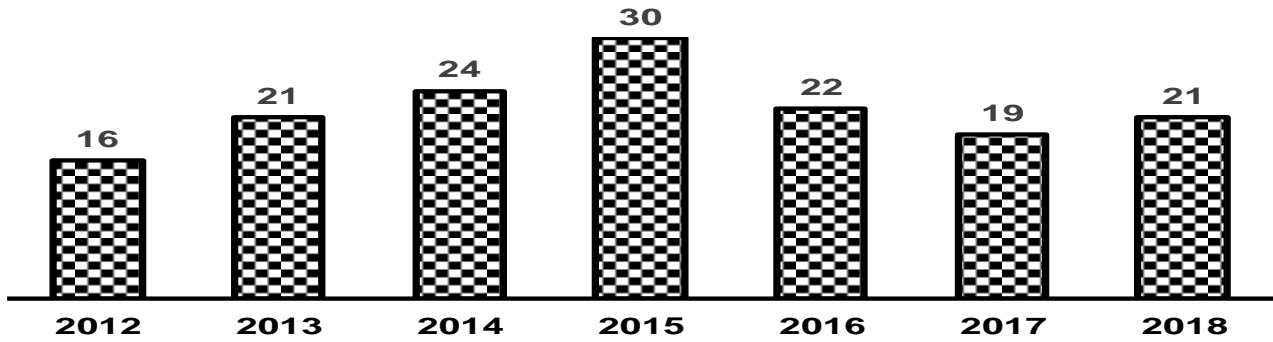


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Figure 91 shows that the number of fatal occupational injuries and illnesses in California's local governments doubled in 2015 from 16 fatalities in 2012 after a steady increase between 2012 and 2015. From 2015 to 2017, the number of fatal occupational injuries and illnesses in California's local governments decreased from 30 fatalities to 19. From 2017 to 2018, the number of fatal injuries in local governments increased from 19 to 21.

Figure 91: California Fatal Occupational Injuries and Illnesses—Local Government



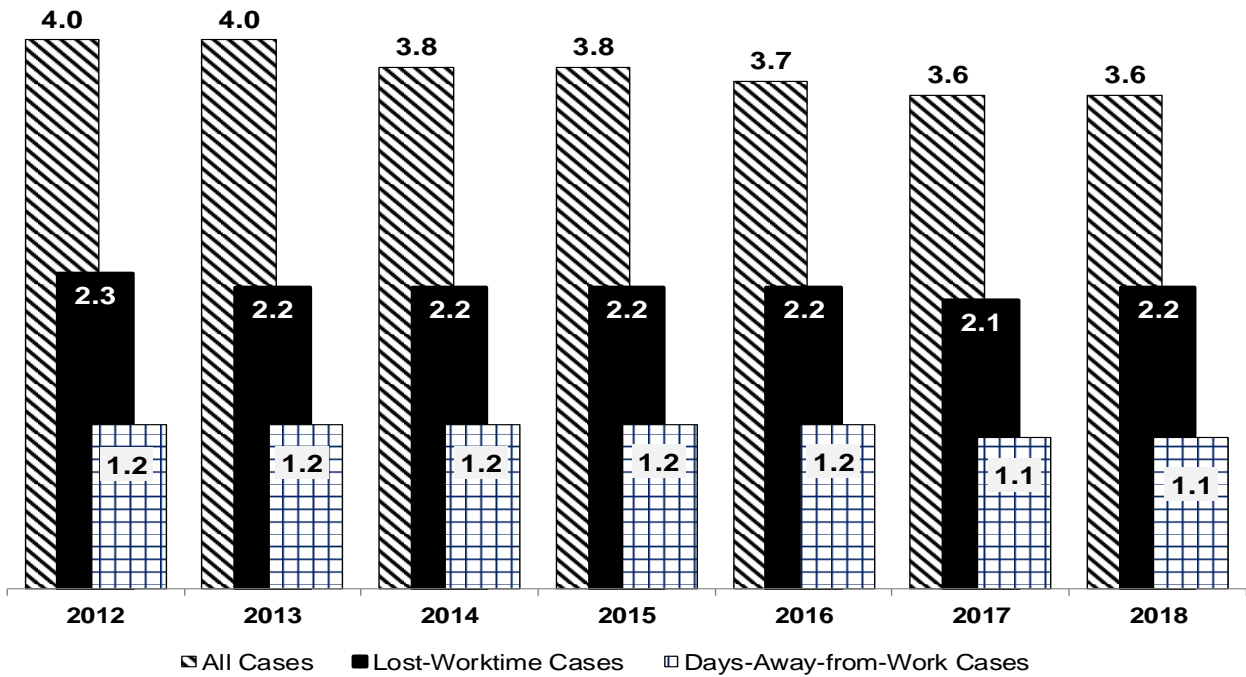
Source: BLS and DIR, Director's Office of Policy, Research and Legislation

Occupational Injury and Illness Incidence Rates

Comparison of Public and Private Sectors

The incidence rates for all cases and days-away-from-work cases in California declined from 2012 to 2018. The incidence rate for lost-work-time cases decreased from 2012 to 2017, and then increased by 5 percent from 2017 to 2018.

Figure 92: California Occupational Injury and Illness Incidence Rates: Private, State and Local (Cases per 100 Full-Time Employees)



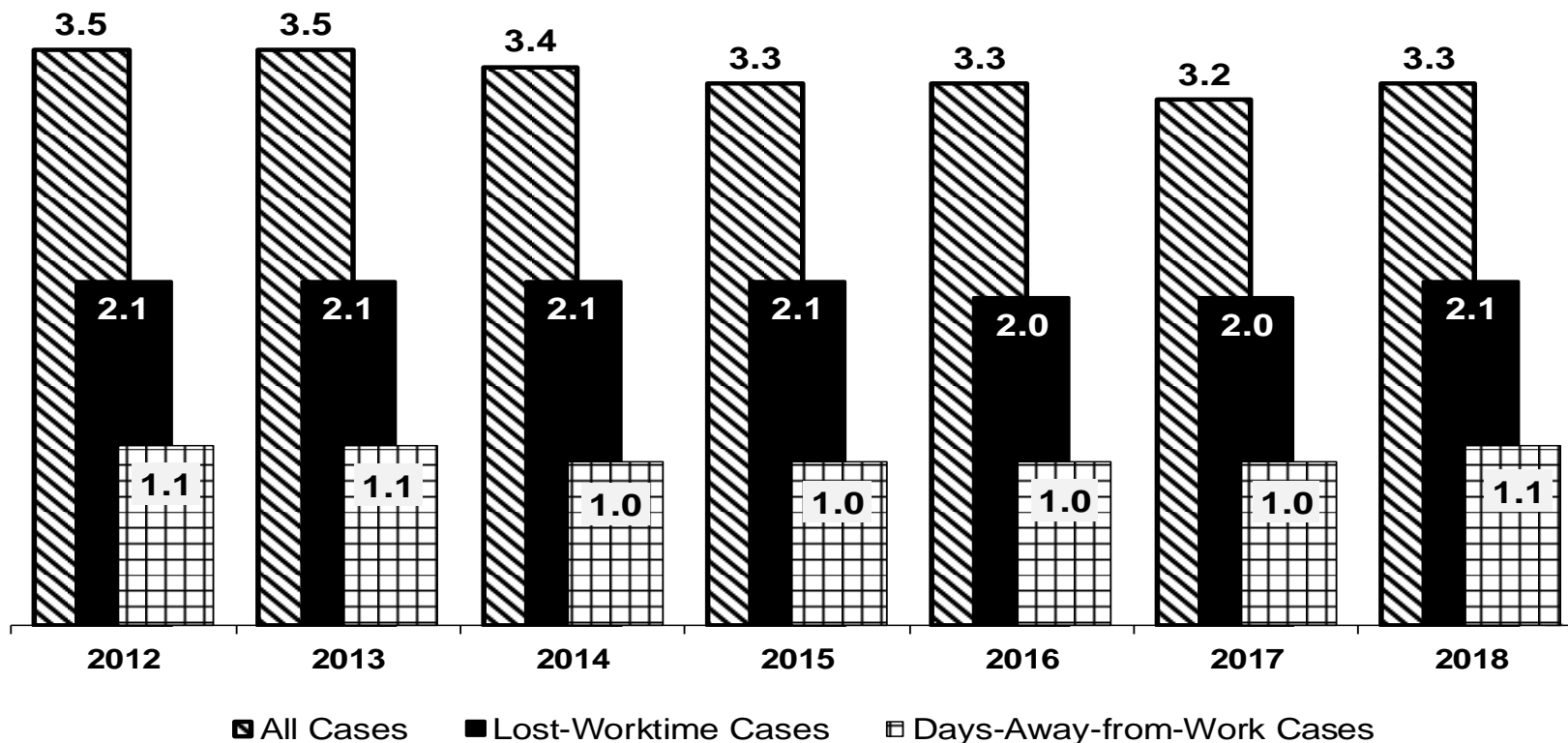
Data Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Private Sector

According to figure 93, the occupational injury and illness incidence rate for all three types of cases in California’s private sector—all cases, lost-work-time, and days-away-from-work—declined from 2012 to 2017 and then increased for the first time since 2007 from 2017 to 2018. From 2017 to 2018, the incidence rate increased by 5 percent for lost-work-time cases and by 10 percent for days-away-from-work.

Figure 93: California Occupational Injury and Illness Incidence Rates: Private Industry (Cases per 100 Full-Time Employees)



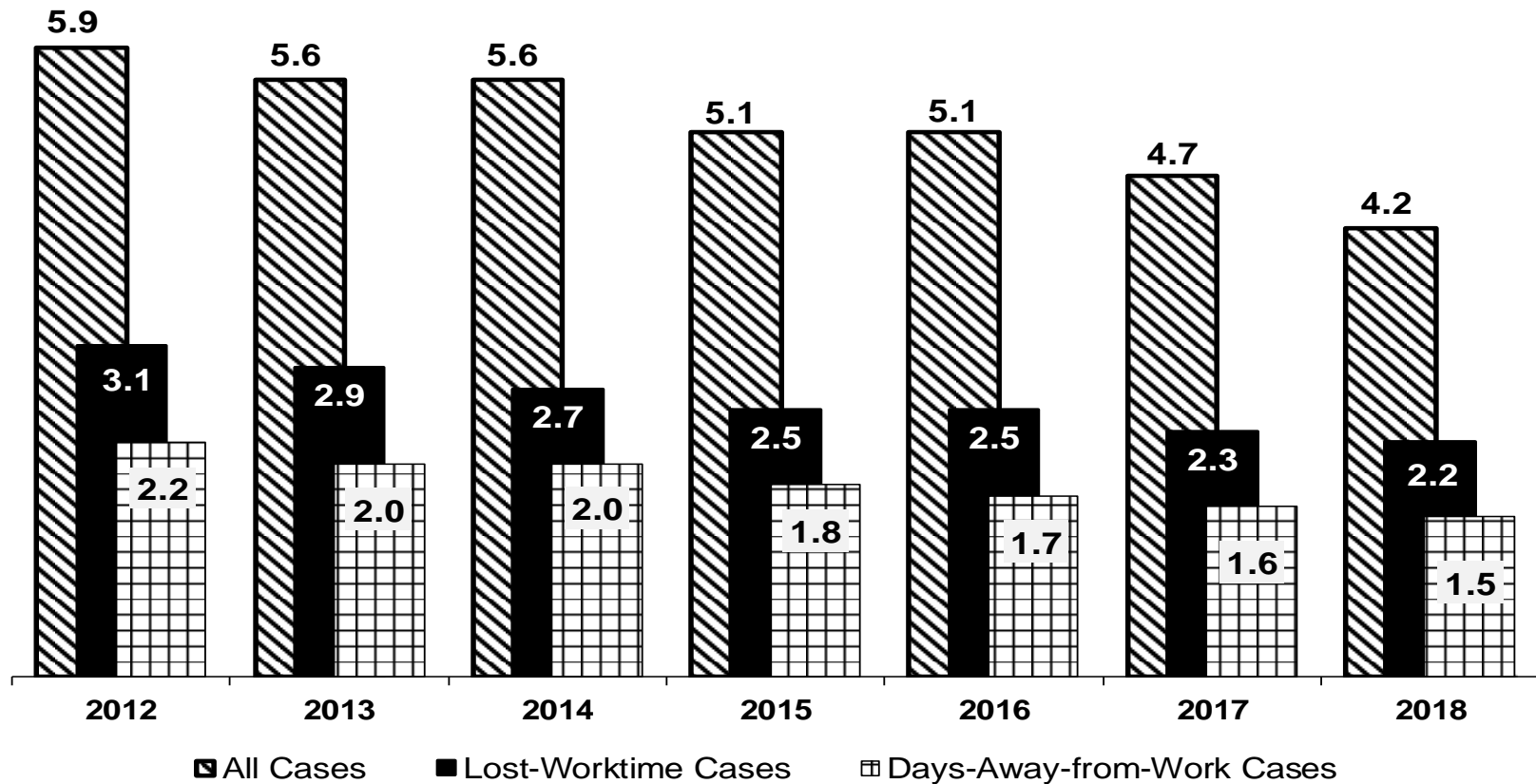
Data Source: DIR, Director’s Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector: State Government

Figure 94 demonstrates that California state government occupational injury and illness incidence rates for all cases decreased by 29 percent from 2012 to 2018. The incidence rate for lost-time cases decreased by 32 percent between 2012 and 2018. The incidence rate for days-away-from-work cases decreased by 29 percent from 2012 to 2018.

Figure 94: California Occupational Injury and Illness Incidence Rates: State Government (Cases per 100 Full-Time Employees)



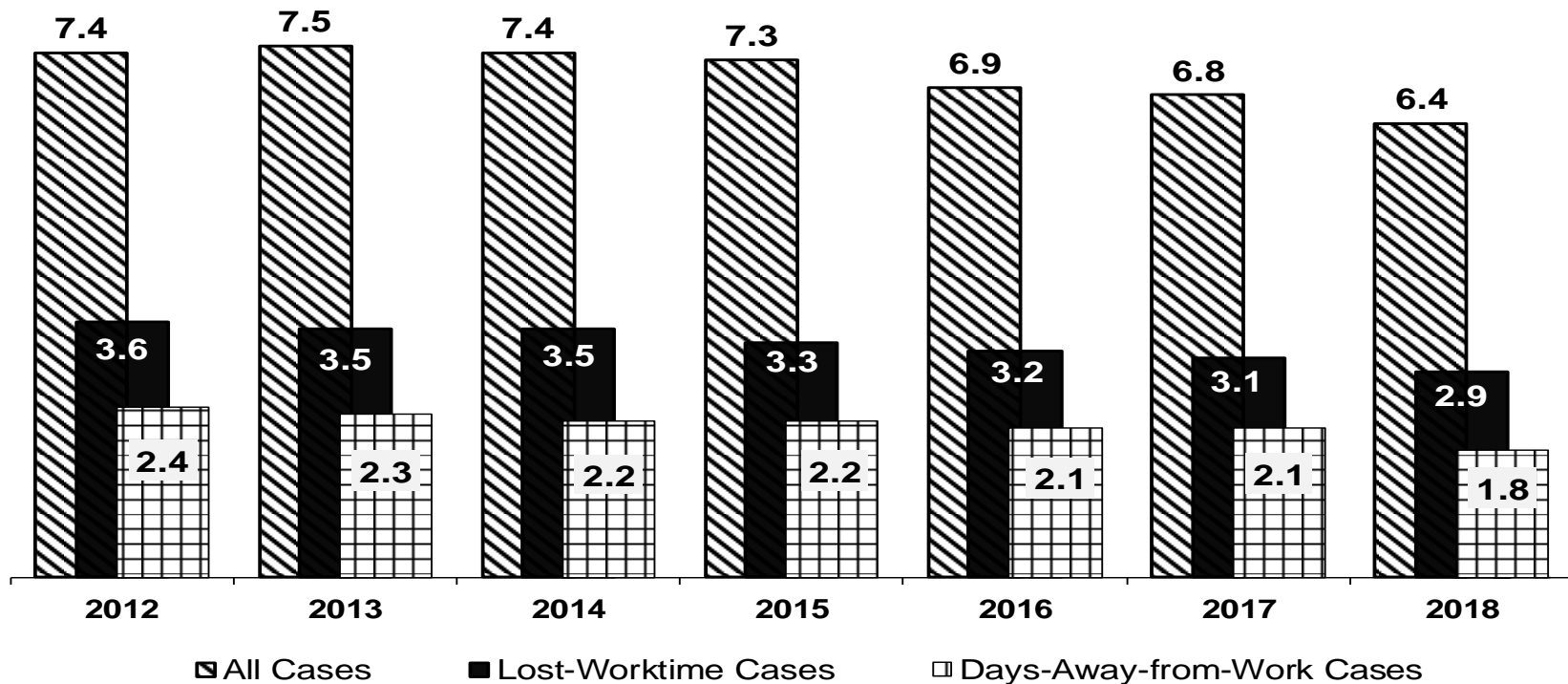
Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector: Local Government

Local government occupational injury and illness incidence rates for all cases averaged at 7.4 cases per 100 full-time employees from 2012 to 2015 and then decreased by 12 percent from 2015 to 2018. The incidence rate for lost-time cases decreased from 3.6 to 2.9 cases per 100 full-time employees from 2012 to 2018. The incidence rate for days-away-from-work cases decreased by 25 percent from 2012 to 2018.

Figure 95: California Occupational Injury and Illness Incidence Rates: Local Government (Cases per 100 Full-Time Employees)

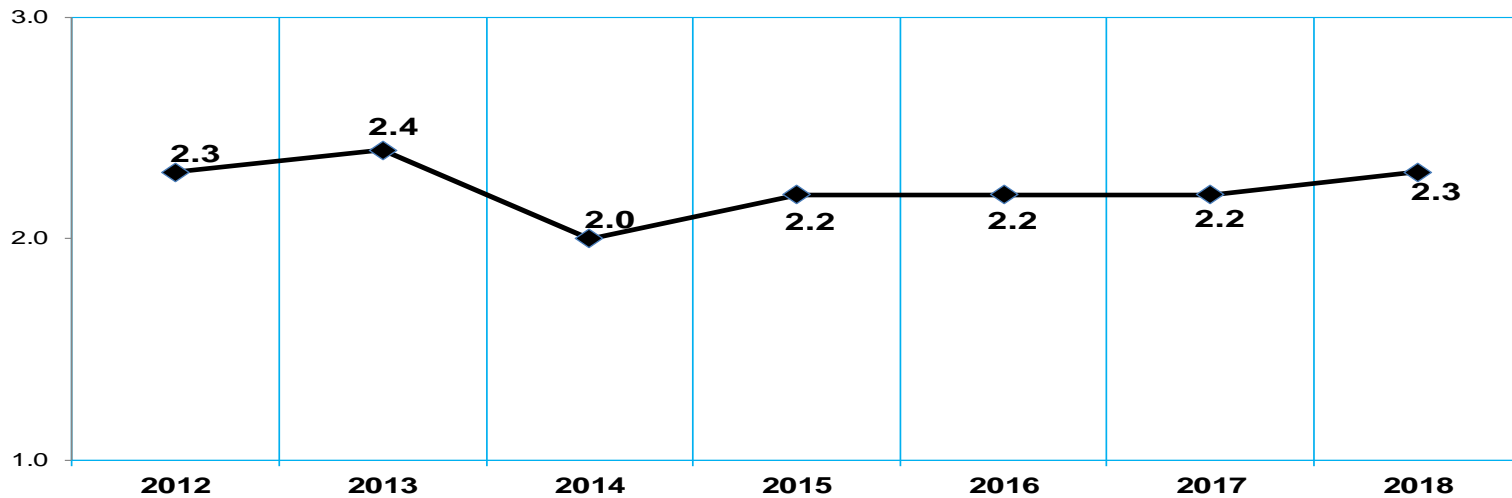


Source: DIR, Director's Office of Policy, Research and Legislation

California Fatality Incidence Rates

Fatality per employment rates can be used to compare the risk of incurring injury among worker groups with varying employment levels. After increasing from 2.3 fatalities per 100,000 full-time workers in 2012 to its peak of 2.4 in 2013, the fatality rates in California decreased to a minimum of 2.0 fatalities in 2014. The rate did not change in three consecutive years after increasing to 2.2 fatalities per 100,000 full-time workers in 2015. The fatality rates in California increased from 2.2 in 2017 to 2.3 fatalities per 100,000 full-time workers in 2018.

Figure 96: California Fatal Occupational Injuries*—Incidence Rate (per 100,000 employed)**



* California Fatal Occupational Injuries exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.

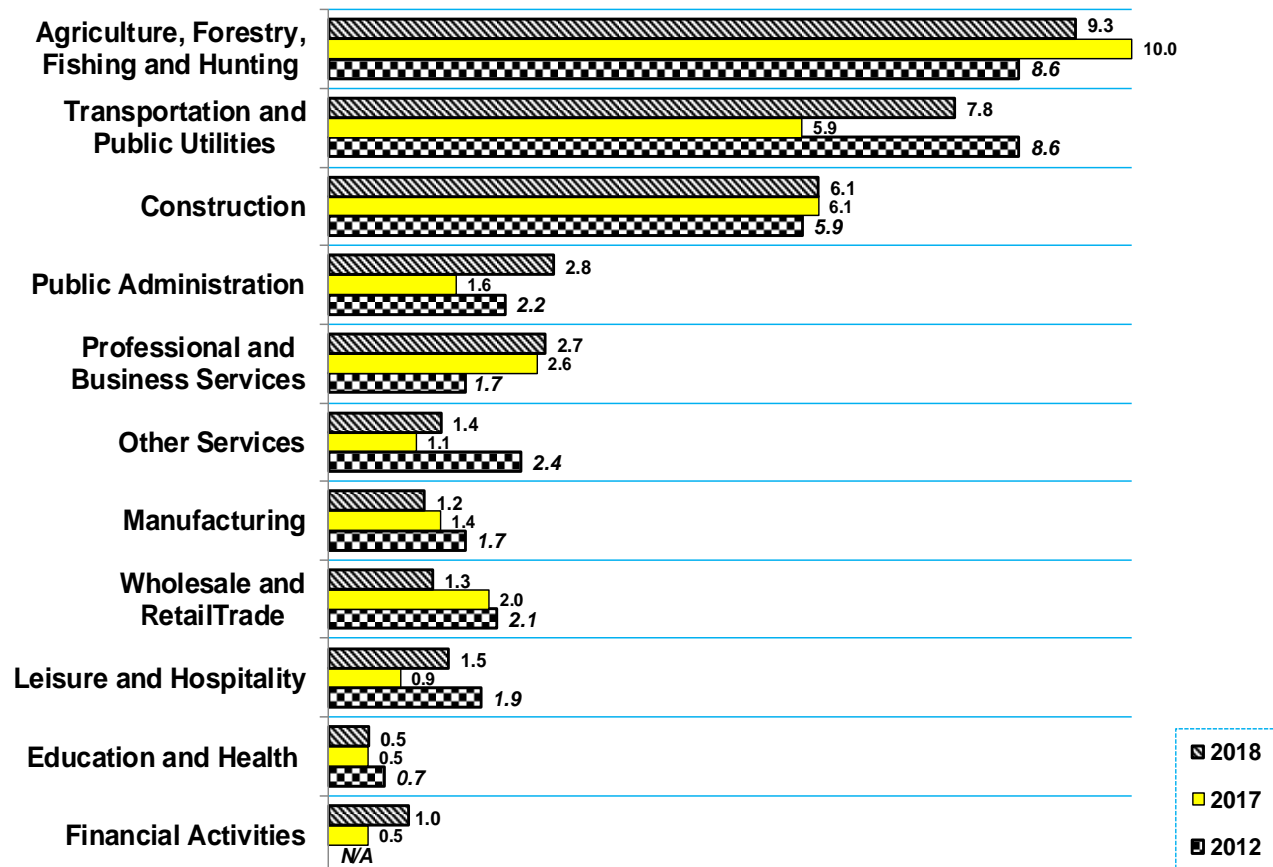
** Incidence Rates for Fatal Occupational Injuries computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 97 shows the fatality incidence rates by major industries in 2012, 2017, and 2018. For the three years depicted in the figure, agriculture, forestry, fishing, and hunting, transportation and public utilities, and construction were the top three industries with highest fatality rates in California.

Figure 97: California Fatality Rates by Industries (per 100,000 employed), 2012, 2017, and 2018



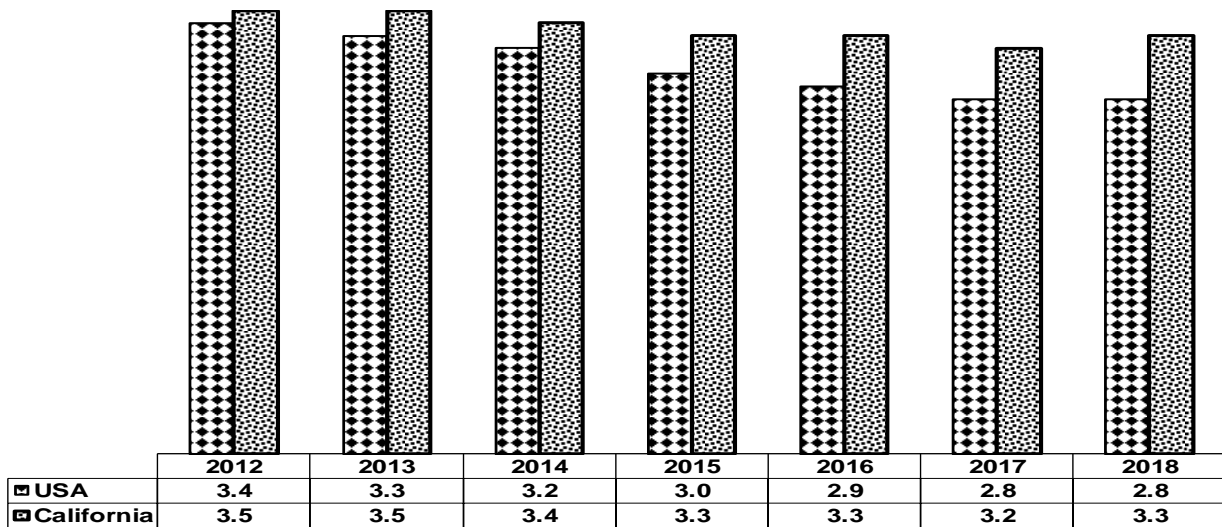
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies.

Comparison of Incidence Rates in the United States and California

Both the U.S. and California experienced a decrease in occupational injury and illness incidence rates from 2012 through 2017. From 2017 to 2018, the U.S. incidence rate did not change, but the incidence rate in California increased slightly. From 2012 to 2018, U.S. incidence rates dropped by about 18 percent. The California incidence rates decreased by about 9 percent from 2012 to 2017, and then increased by 3 percent from 2017 to 2018. Since 2012, the incidence rate in California has been slightly above the national average during the whole period.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

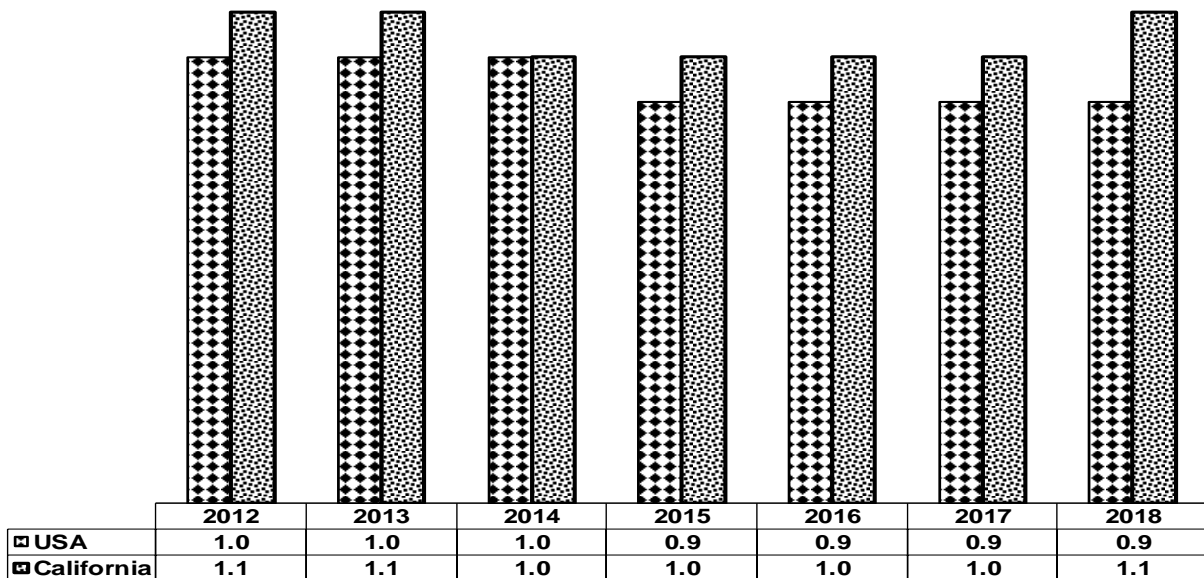
Figure 98: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry, Total Recordable Cases. U.S. and California



Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases also declined steadily in the U.S. from 2012 to 2018, while in California, after a decrease from 1.1 in 2012 to 1.0 in 2017, the incidence rate increased from 1.0 in 2017 to 1.1 in 2018.

Figure 99: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. U.S. and California



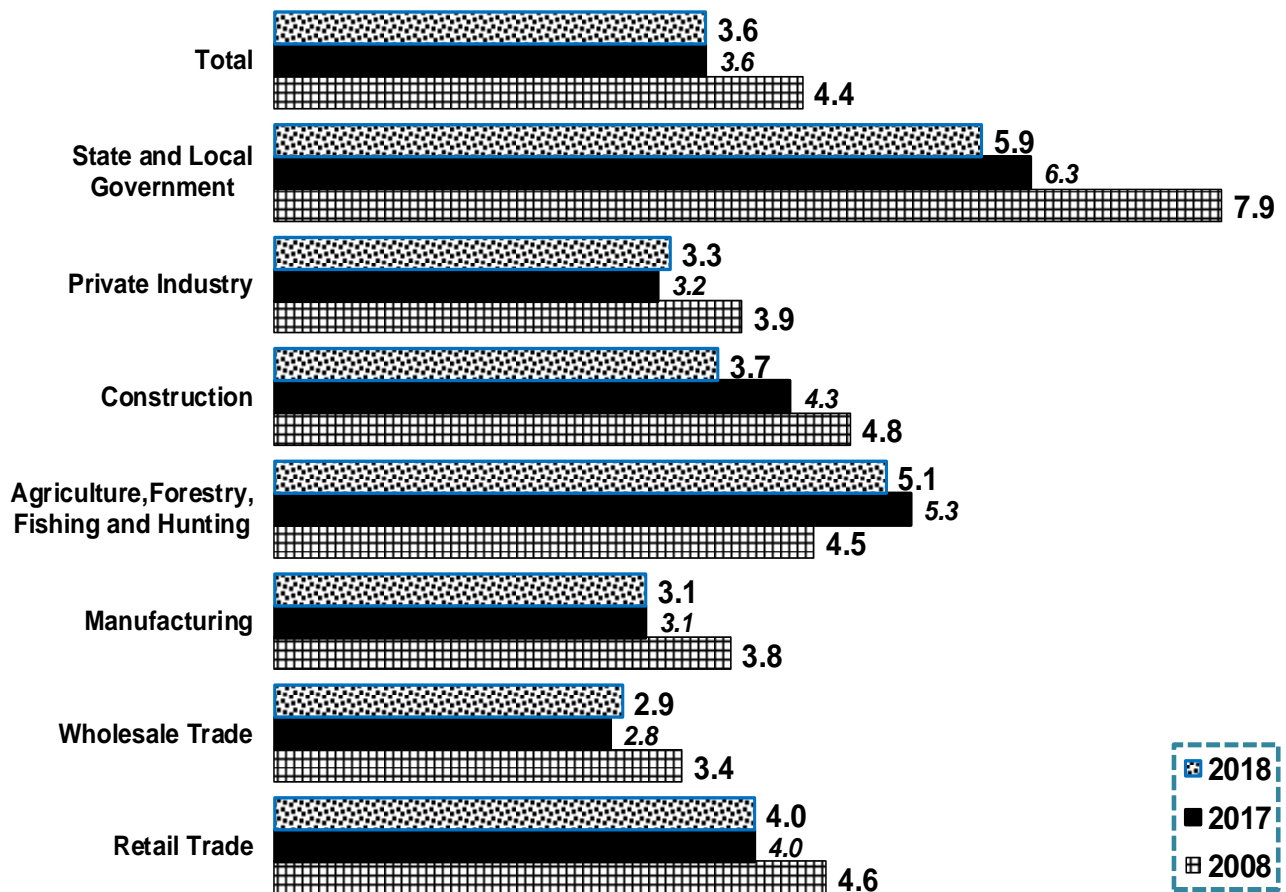
Source: US Department of Labor, Bureau of Labor Statistics

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Characteristics of California Occupational Injuries and Illnesses

Figure 100 compares incidence rates for total recordable cases in 2008, 2017, and 2018 by the type of major industry, including state and local governments. The incidence rates in major industries, excluding agriculture, forestry, fishing, and hunting declined overall from 2008 to 2018. During this period, the biggest decline in incidence rates (25 percent) was in state and local government. The overall California occupational injury and illness incidence rates for all industries, including state and local government, declined by 18 percent from 2008 to 2017 and remained the same in 2018. Manufacturing and retail trade also followed this average pattern in all industries. Private industry had an overall decline of 18 percent from 2008 to 2017 but then increased by 3 percent from 2017 to 2018. Like private industry, wholesale trade experienced an 18 percent decrease from 2008 to 2017 and then an increase by 4 percent from 2017 to 2018. Agriculture, forestry, fishing, and hunting, state and local government, and construction experienced a decline from 2017 to 2018, decreasing 3.8 percent, 6.8 percent, and 16.2 percent respectively.

Figure 100: Injury Rates by Industry, 2008, 2017, and 2018



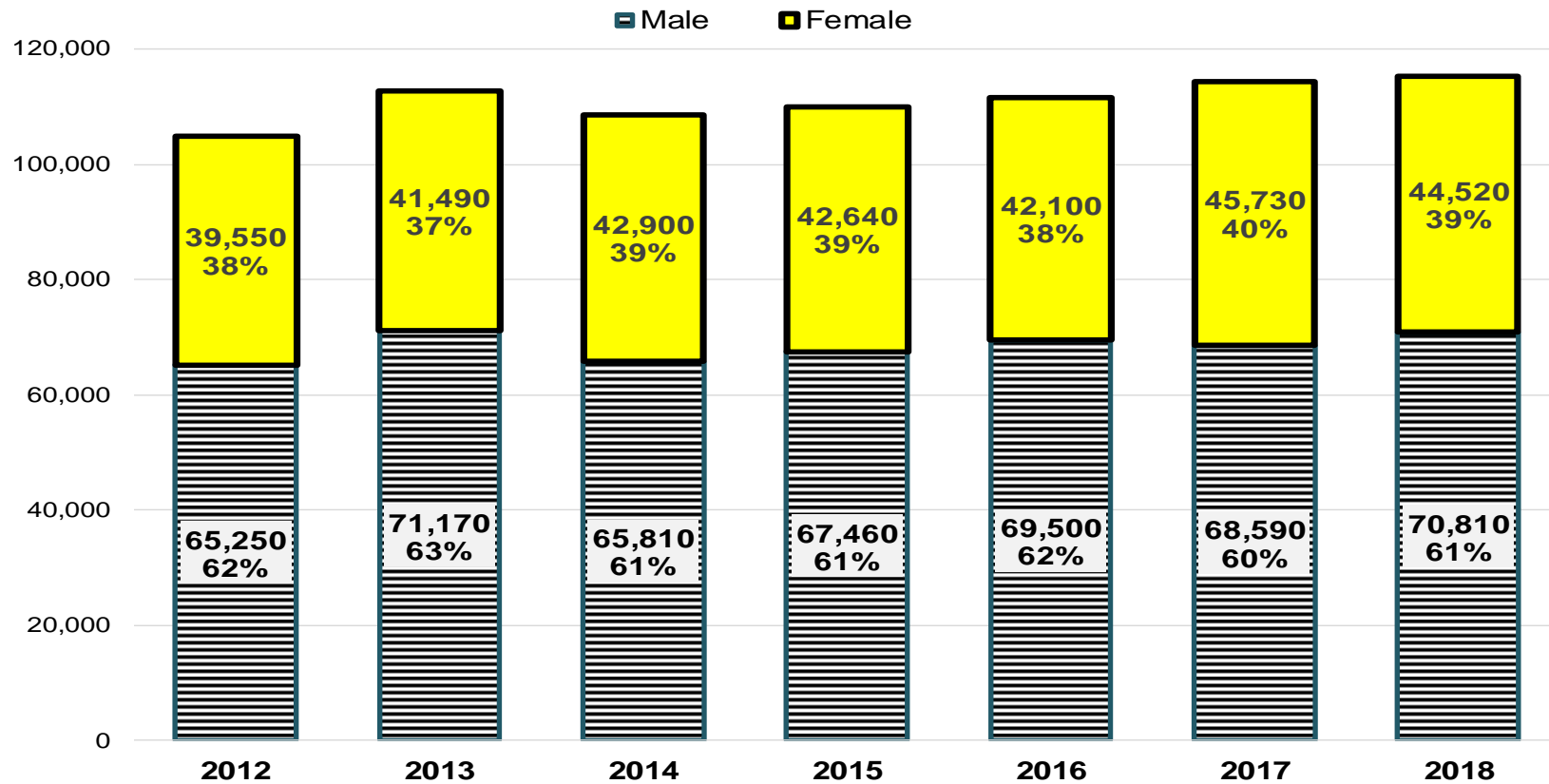
Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Characteristics of California Non-Fatal Occupational Injuries and Illnesses

Figures 101-106 illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in private industry in California.

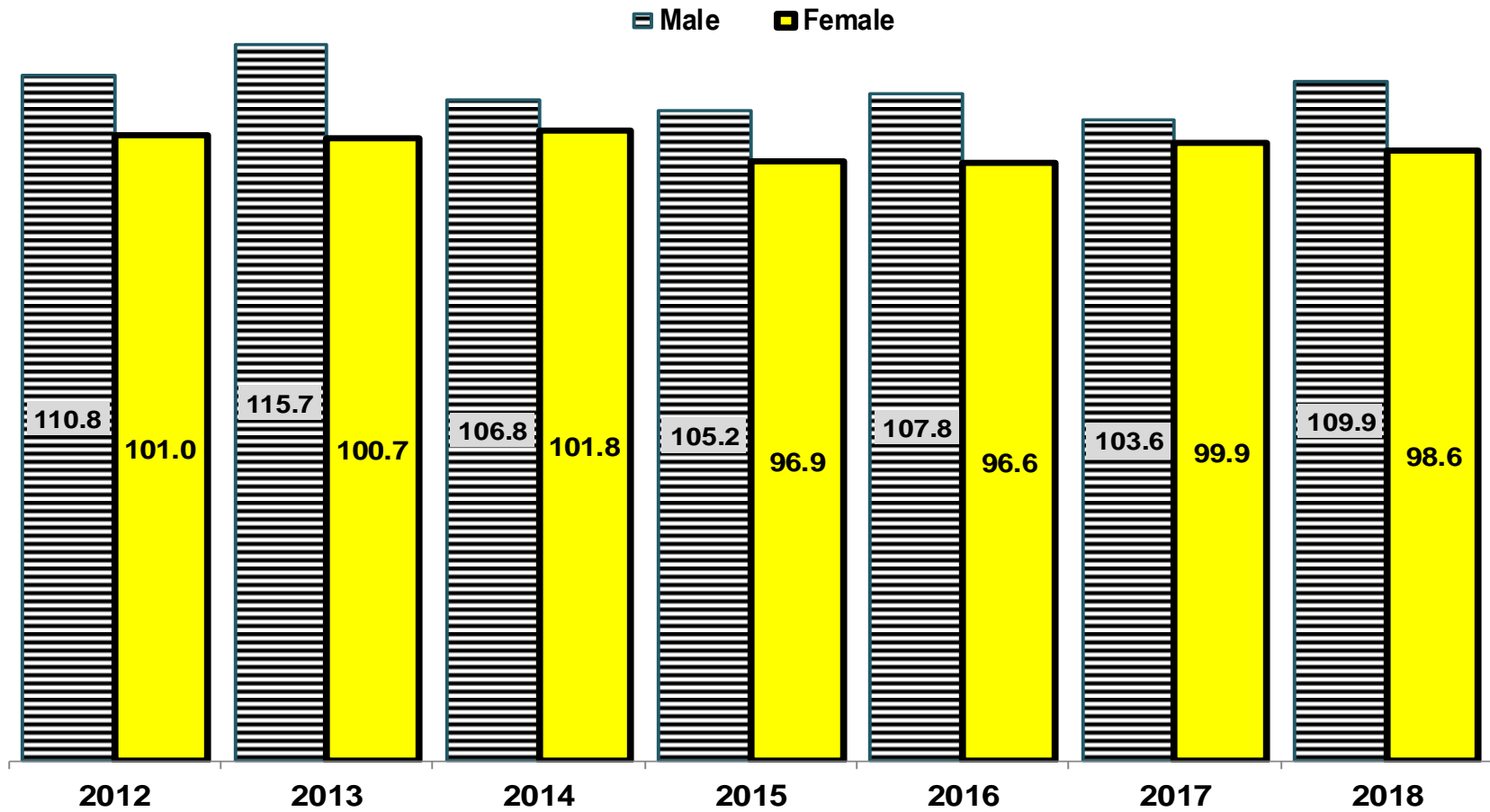
Figure 101: Number of Non-Fatal Occupational Injuries and Illnesses in California by Gender, Private Industry, 2012-2018



Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

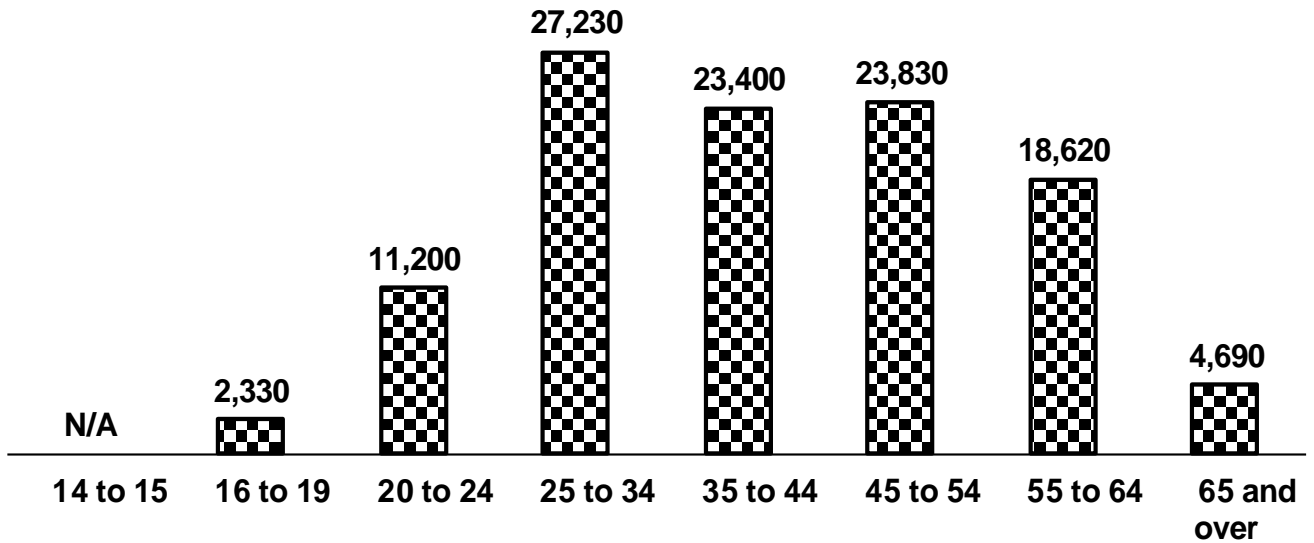
Figure 102: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2012-2018 (Cases per 10,000 full-time employees)



* With days away from work with or without job transfer or restriction.

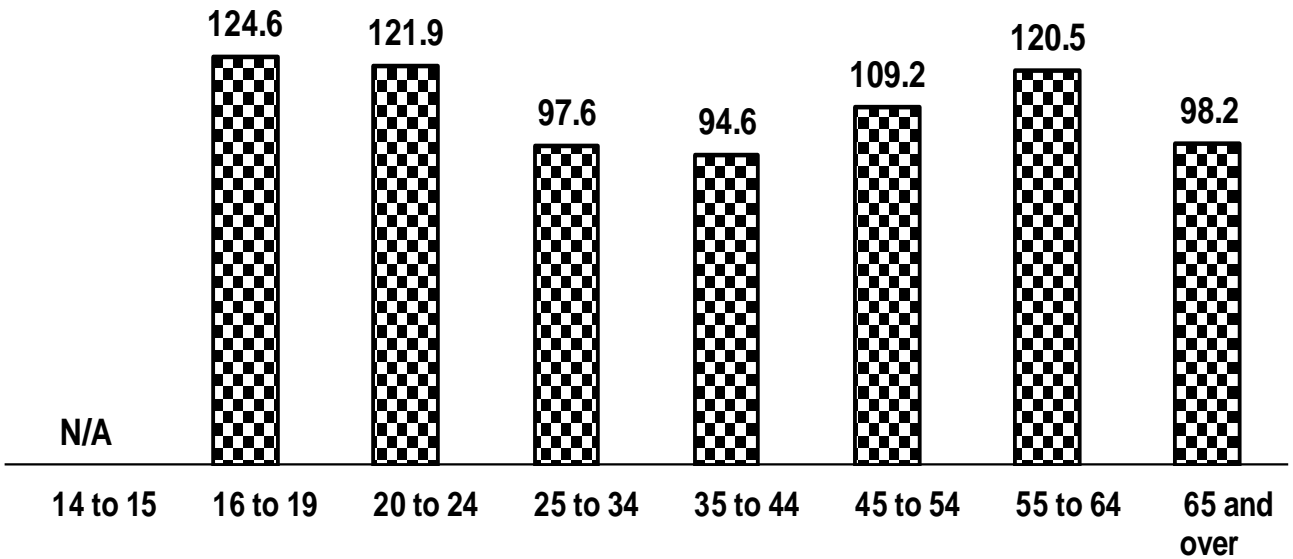
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

Figure 103: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2018



Data Source: DIR, Director's Office of Policy, Research and Legislation

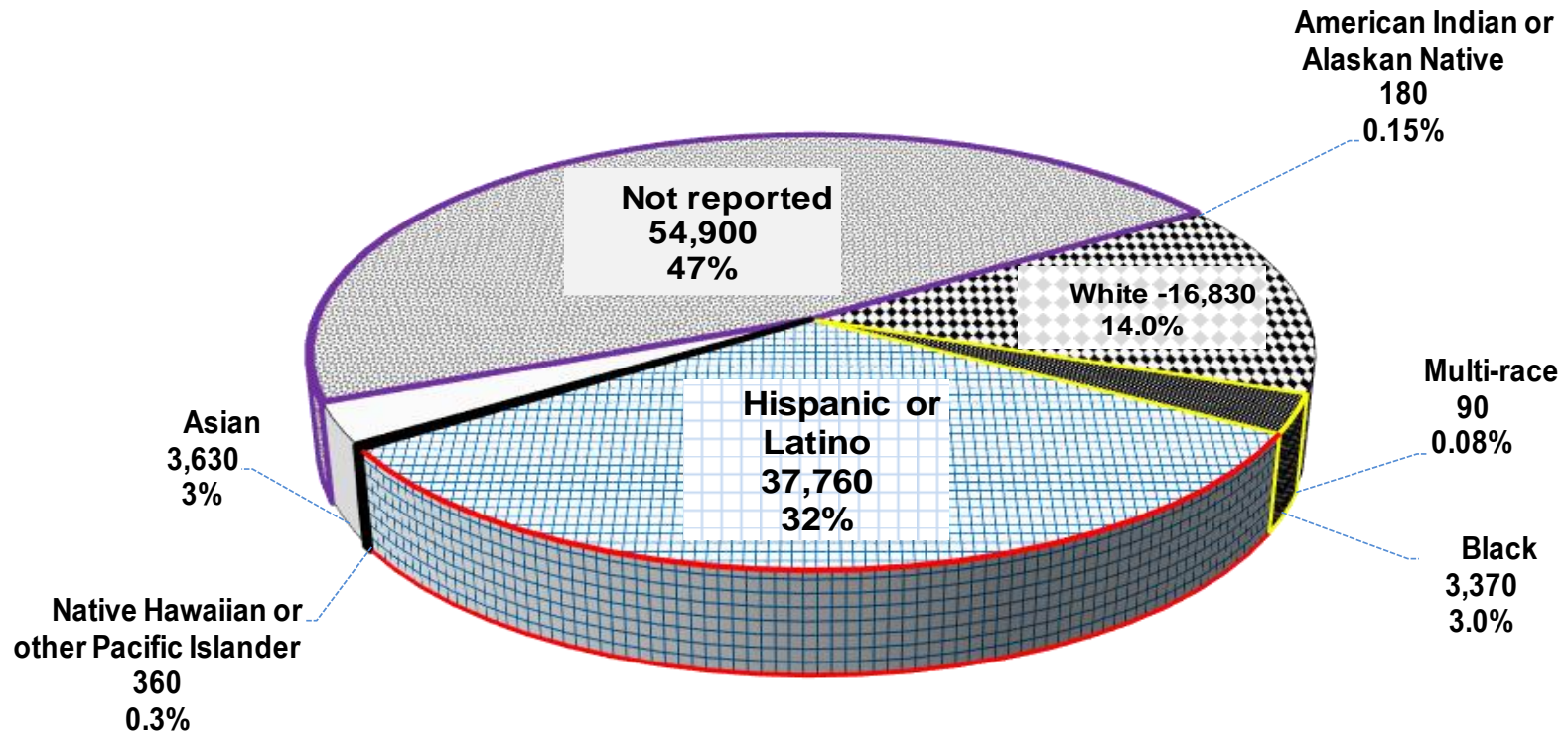
Figure 104: California Occupational Injury and Illness Incidence Rates by Age, Private Industry, 2018 (per 10,000 Full-Time Workers)



Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

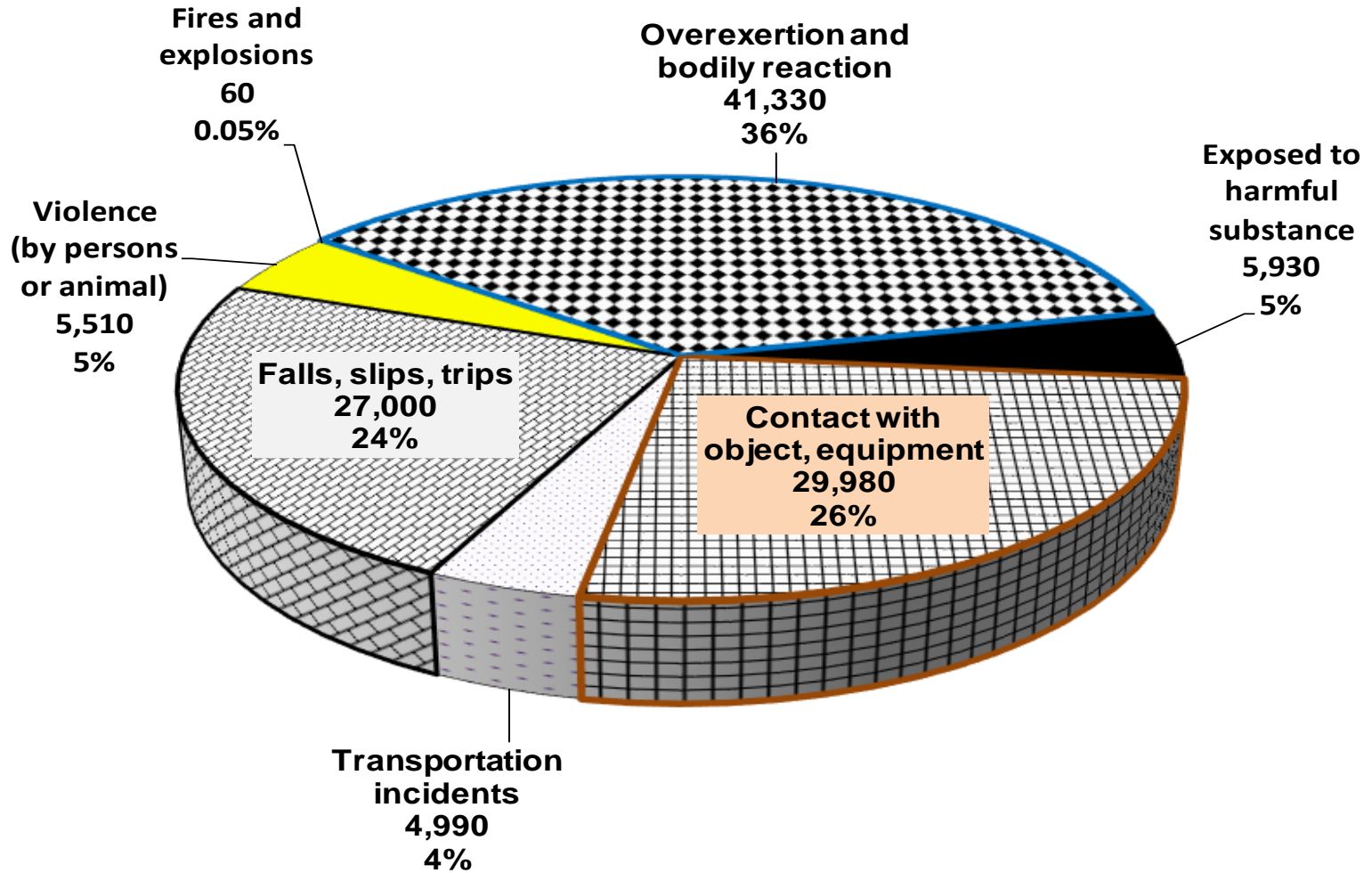
Figure 105: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin, Private Industry, 2018



Data Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 106: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure, Private Industry, 2018

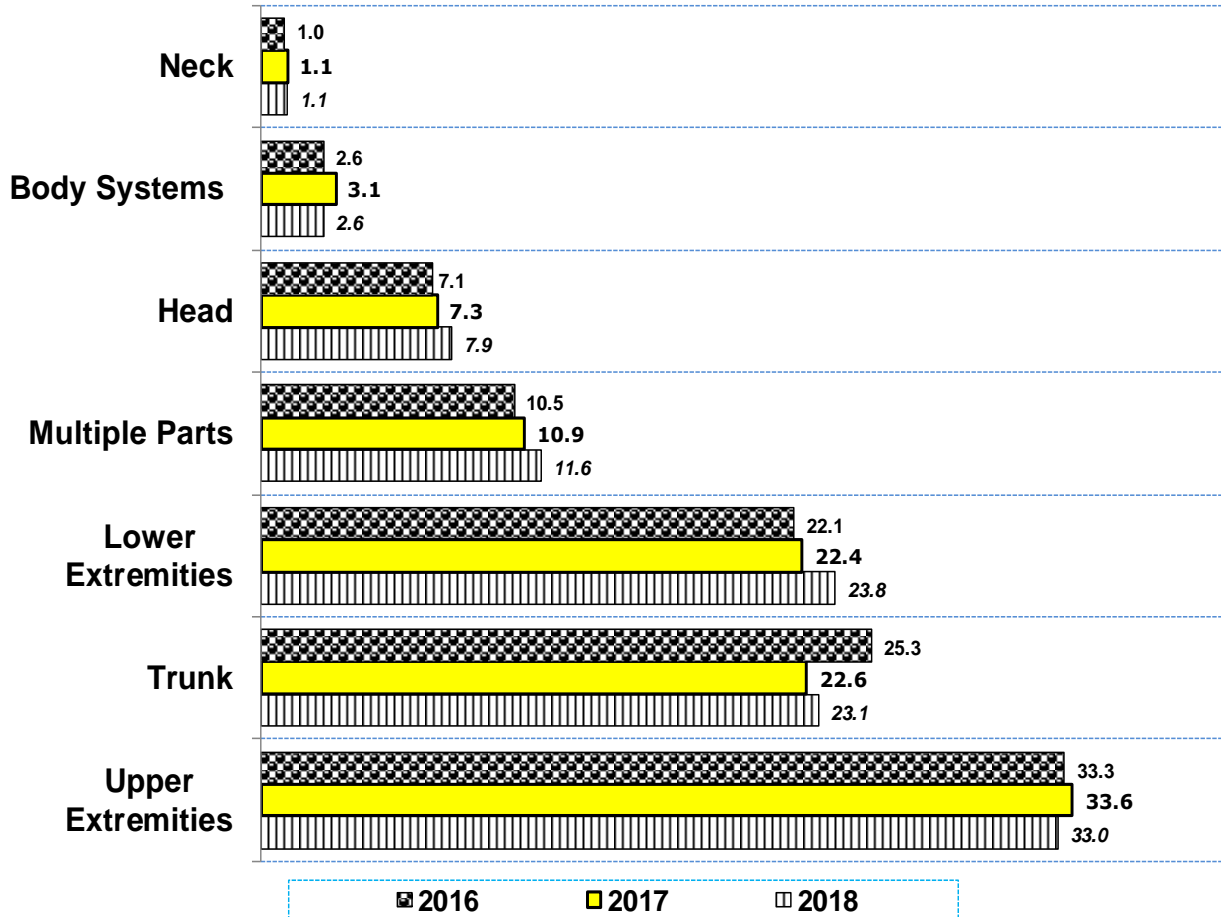


Data Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 107 shows that the upper extremities and trunk were the major body parts with the highest incidence rates in 2016, 2017, and 2018.

Figure 107: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2016, 2017, and 2018 (per 10,000 Full-Time Workers)

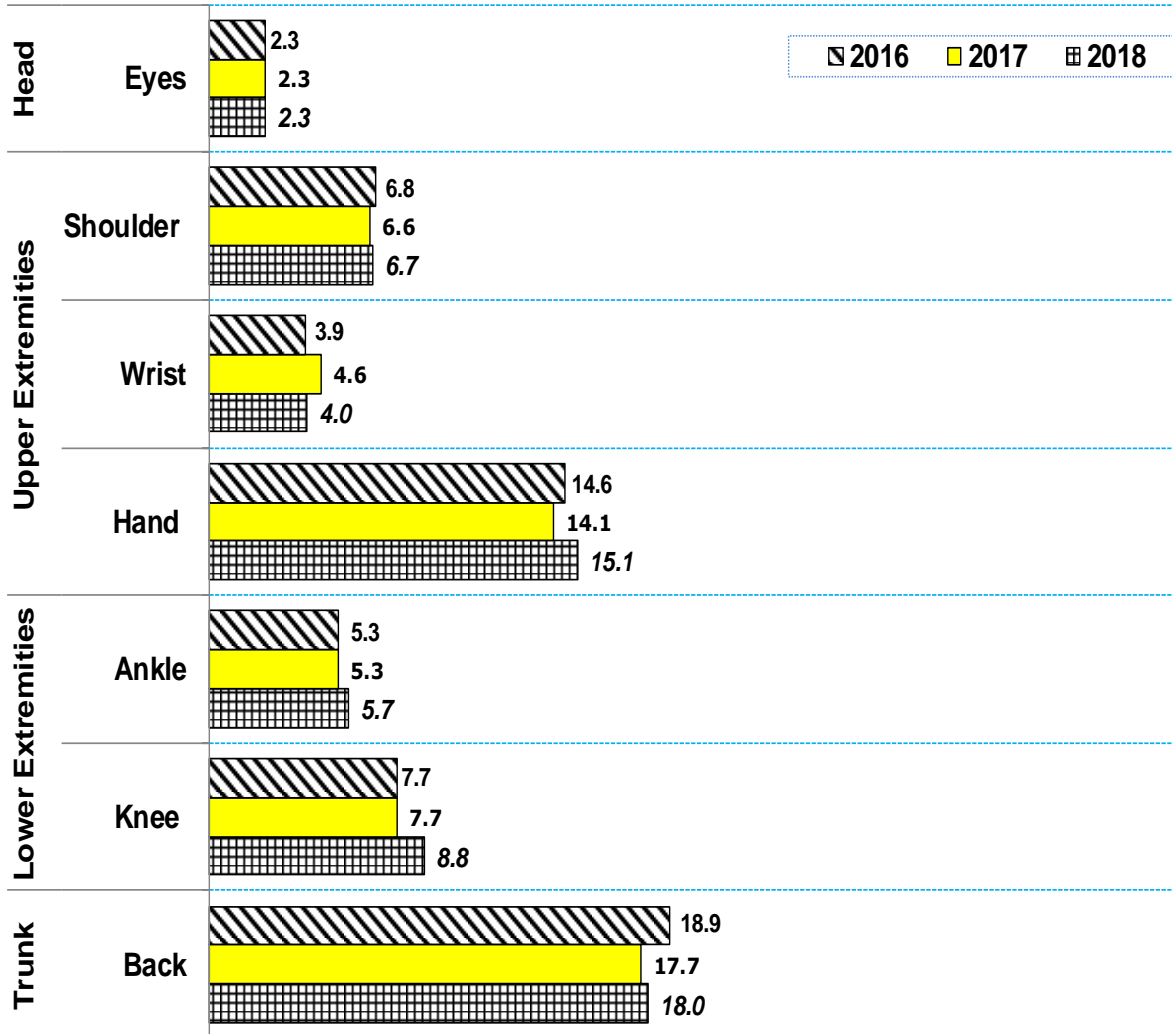


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 108 shows that the back was the body part with the highest incidence rate in 2016, 2017, and 2018.

Figure 108: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2016, 2017, and 2018 (per 10,000 Full-Time Workers)

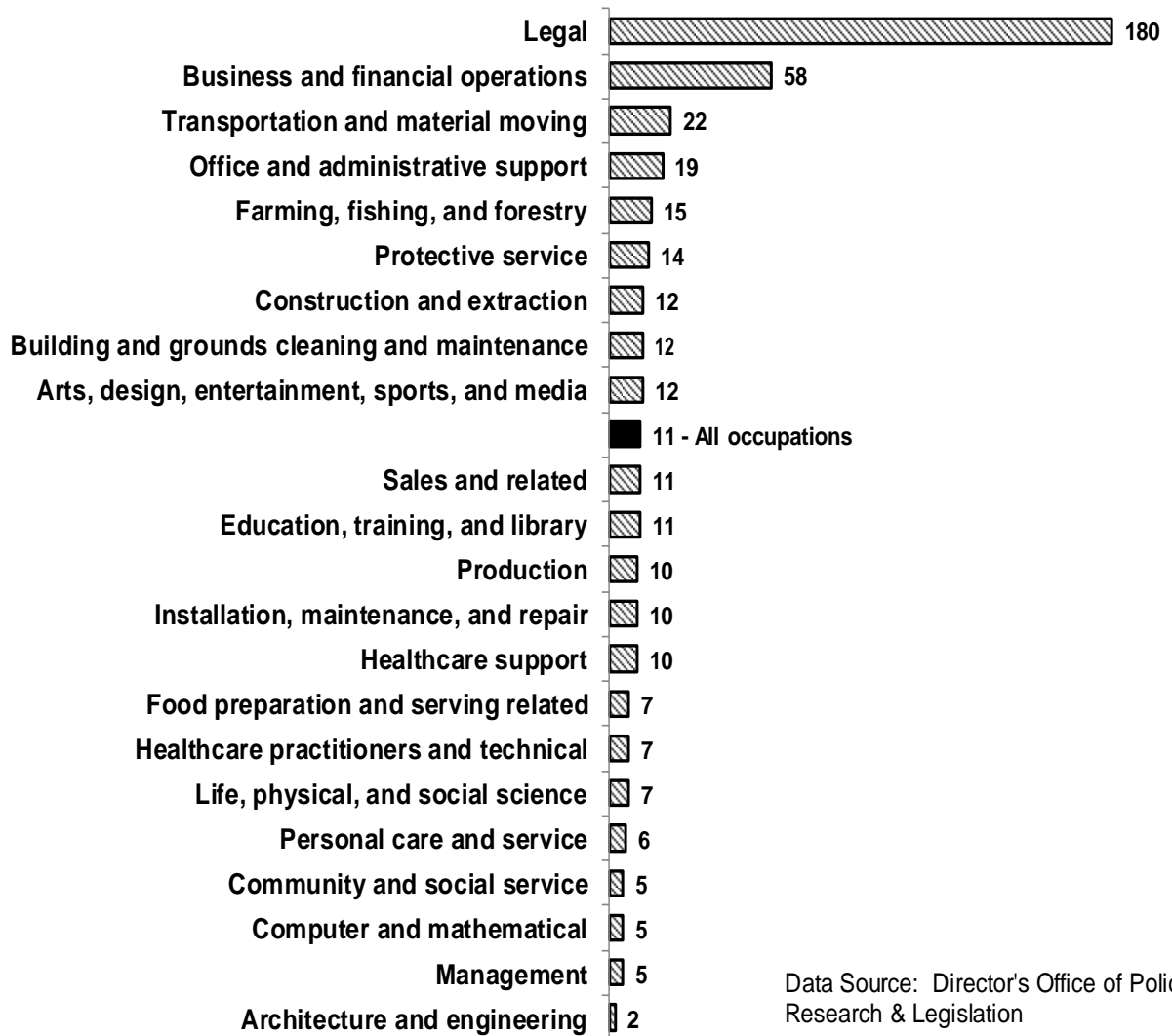


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

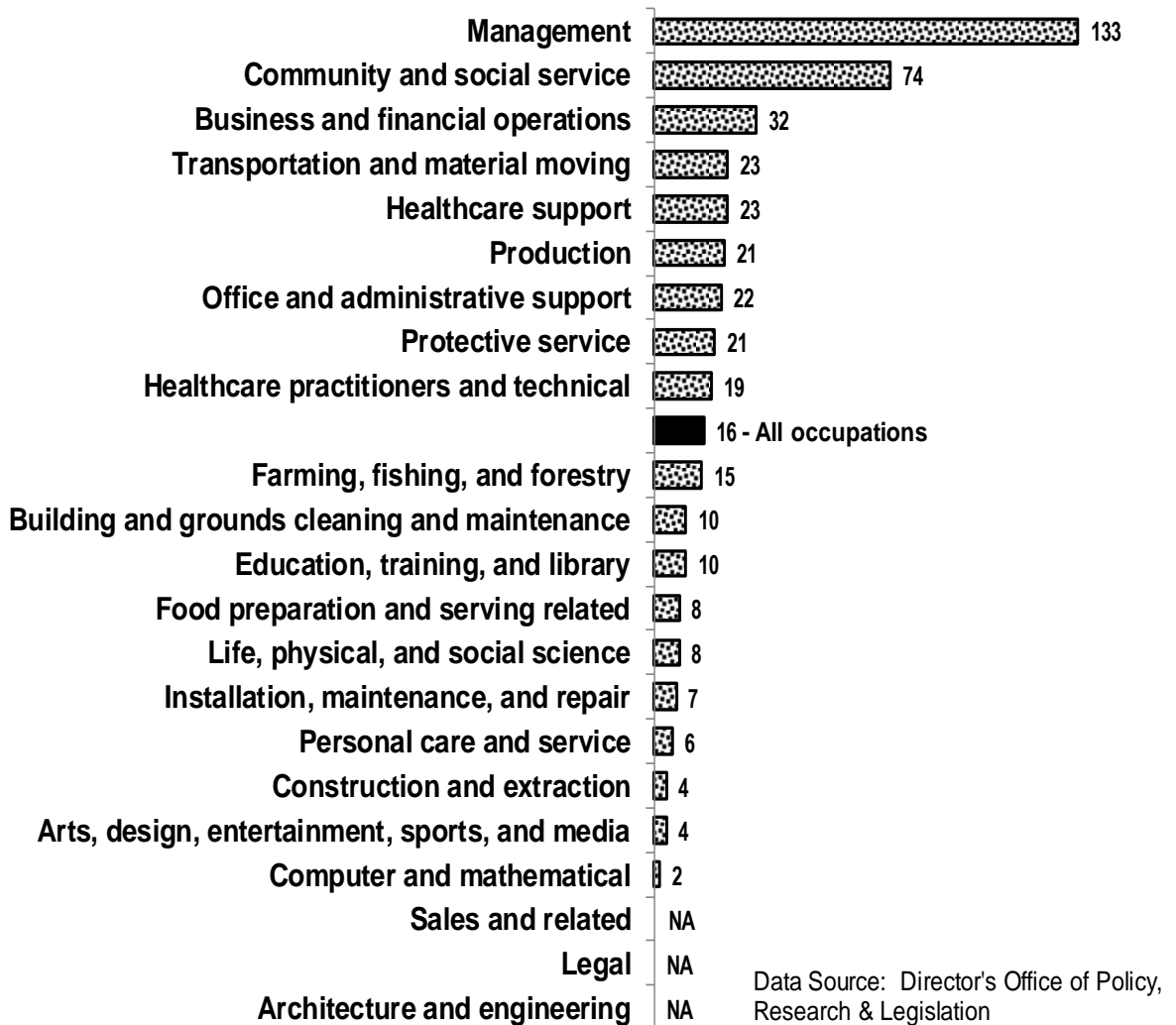
Figures 109 to 111 compare the median days away from work for private industry and state and local government occupations. Legal occupations for private industry, management for state government, and architecture and engineering occupations for local government had the greatest median days away from work in 2018.

Figure 109: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Private Industry, 2018



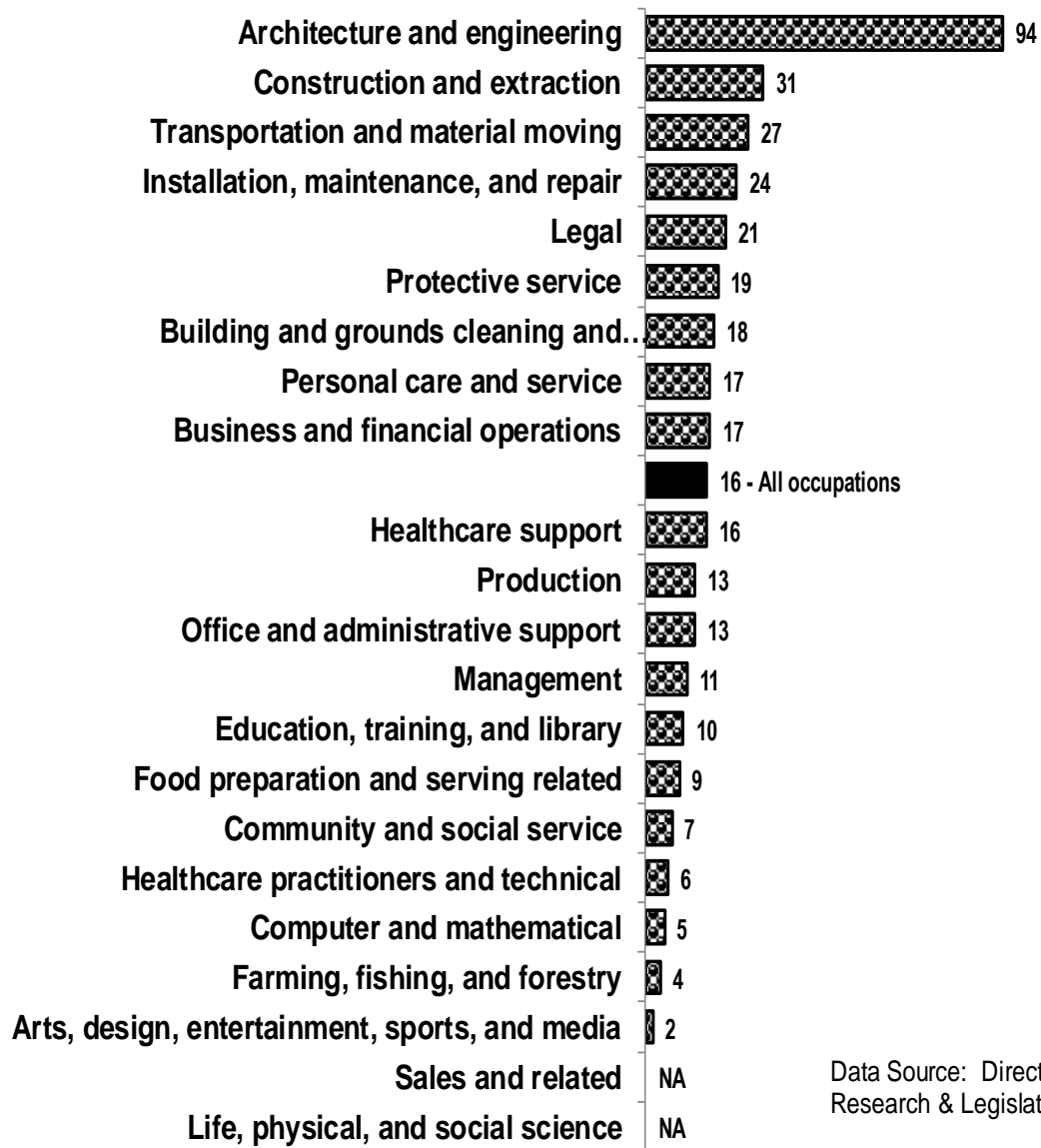
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 110: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, State Government, 2018



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 111: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Local Government, 2018

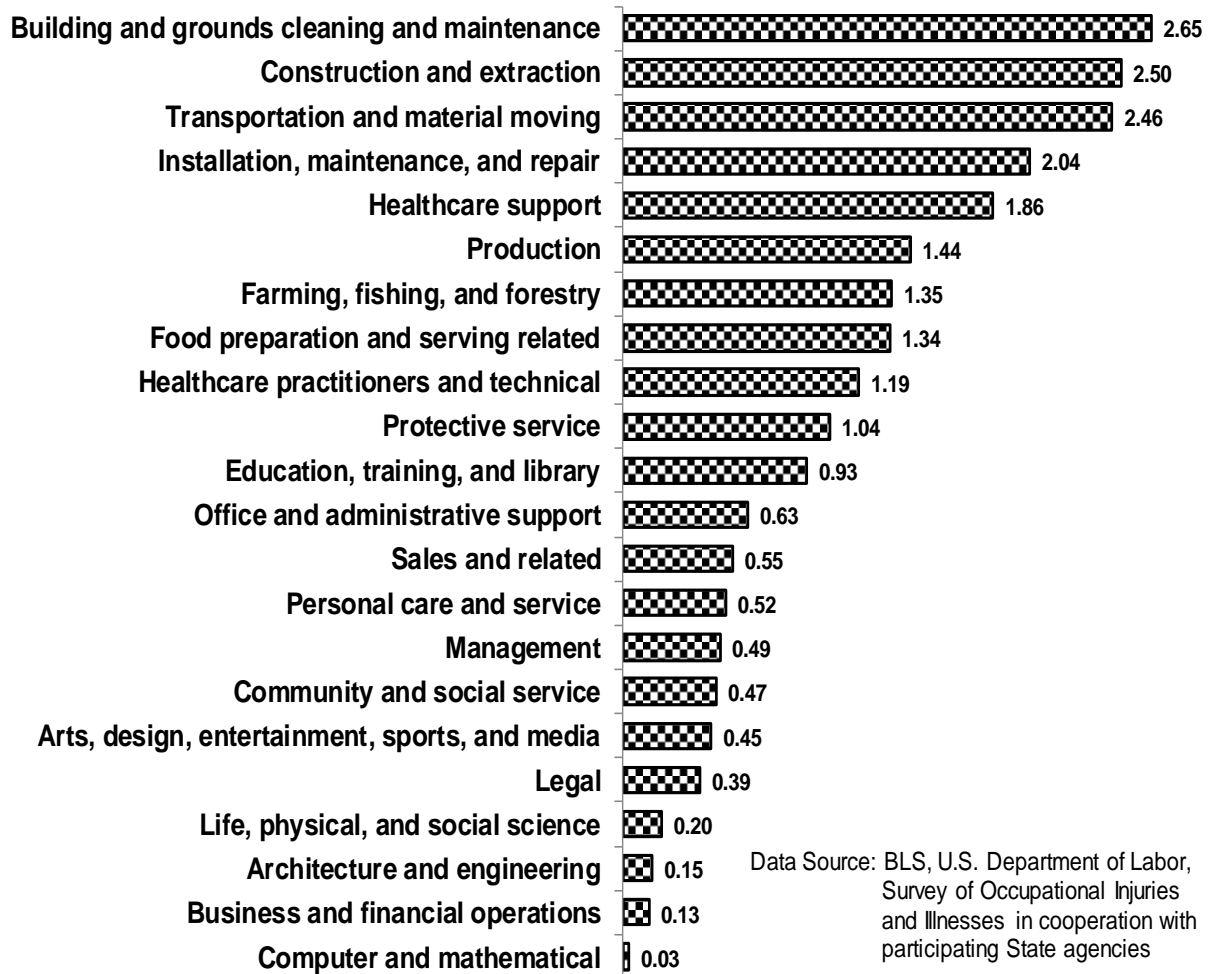


Data Source: Director's Office of Policy, Research & Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

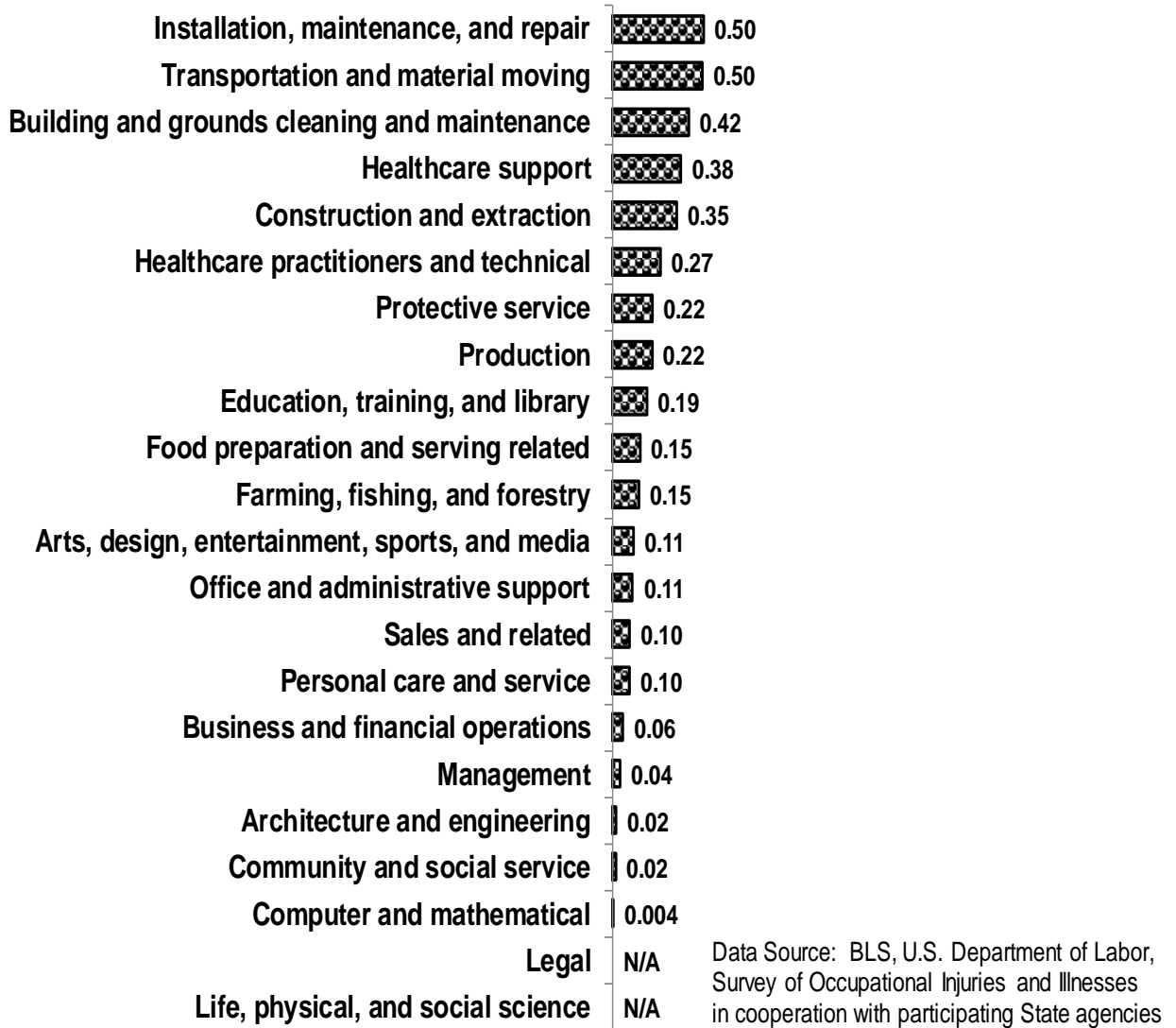
Figures 112 and 113 compare the injury and illness incidence rates, including back injury, for various occupations. The building and ground cleaning and maintenance occupations had the highest incidence rate in 2018, followed by the construction and extraction occupations.

Figure 112: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2018



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 113: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2018

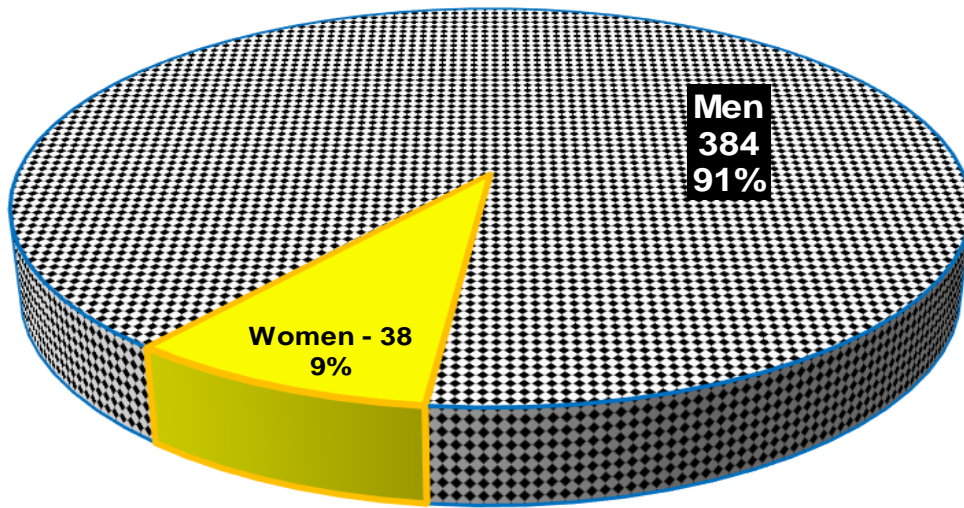


WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Characteristics of California Fatal Occupational Injuries and Illnesses

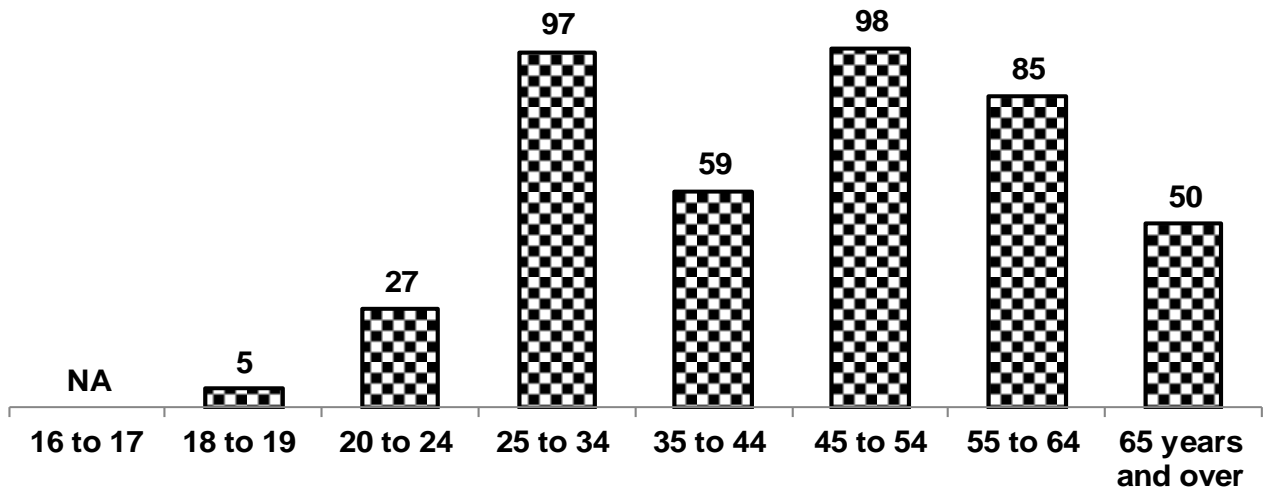
Figures 114-118 illustrate various characteristics of fatal occupational injuries and illnesses in private industry and federal, state, and local governments in California.

Figure 114: California Fatal Occupational Injuries and Illnesses by Gender, 2018



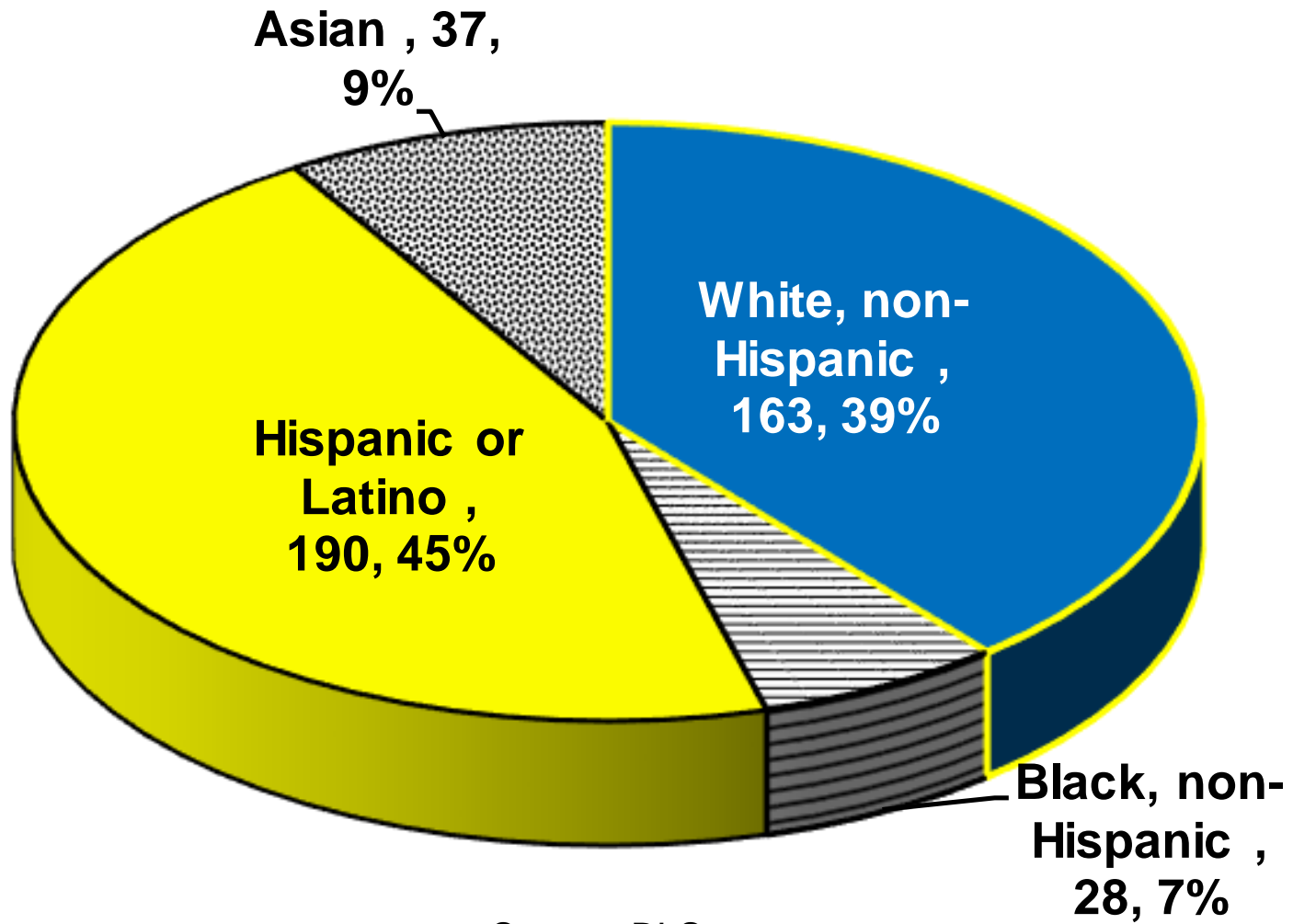
Data Source: BLS

Figure 115: California Fatal Occupational Injuries and Illnesses by Age of Worker, 2018



Source: BLS

Figure 116: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin, 2018



Source: BLS

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 117 compares the number of fatalities for various occupations. The transportation and material-moving occupation had the highest number of fatalities in 2018, followed by the construction and extraction occupations.

Figure 117: Fatal Occupational Injuries by Selected Occupations, All Ownerships, 2018

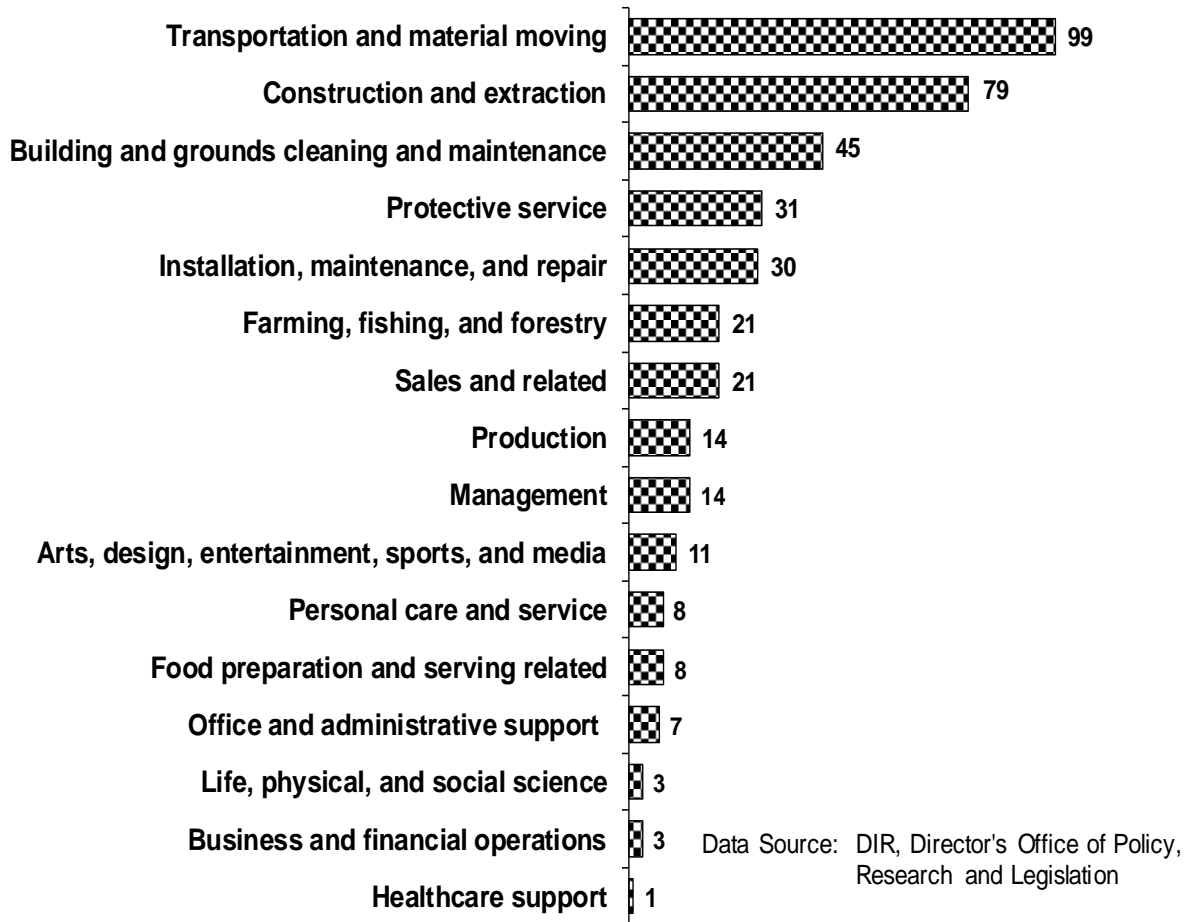
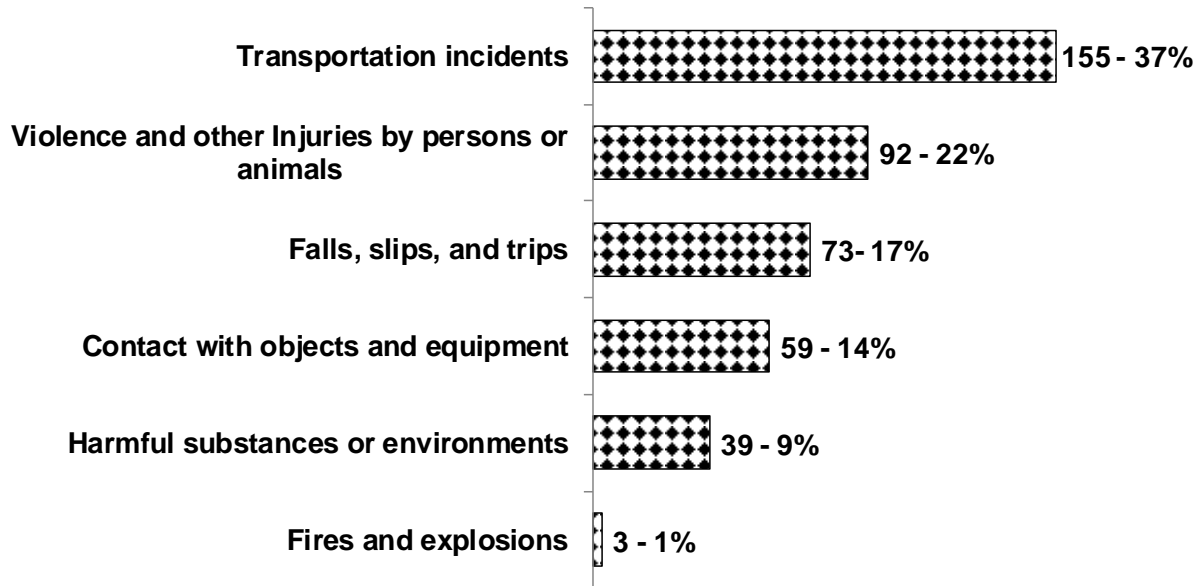


Figure 118: California Fatal Occupational Injuries and Illnesses by Event and Exposure, 2018



Source: BLS

Fatal Injuries among Contracted and Independent Workers

In the Census of Fatal Occupational Injuries (CFOI), a contracted worker is defined as someone employed by one firm but working for another firm that is responsible for operations at the site where a worker is killed. CFOI first collected data on contracted workers in 2011, and the latest data available for U.S. contractor fatalities are for 2015. CFOI collects two types of industry data for contracted workers. The contracting industry is the industry of the firm that contracts the worker. The employer industry is the industry of the firm that directly employs the worker.⁷⁹ Unlike contractors, as defined in this section, independent workers are temporarily employed and paid directly by the employer. According to the BLS, independent workers generally have short-term jobs that involve a discrete task, have no guarantee of future work based on their current contract, have no guarantee that work will be available when they are able to work, and have the ability to decide which work they undertake.

According to BLS, data available for the U.S. as of May 2017, workers with alternative arrangements—that is, not permanent jobs—comprised 10.1 percent of total employment. Independent contractors make up the largest of four alternative arrangements, responsible for 6.9 percent of total employment in May 2017. The second-largest category was on-call workers, at 1.7 percent. Temporary help agency workers

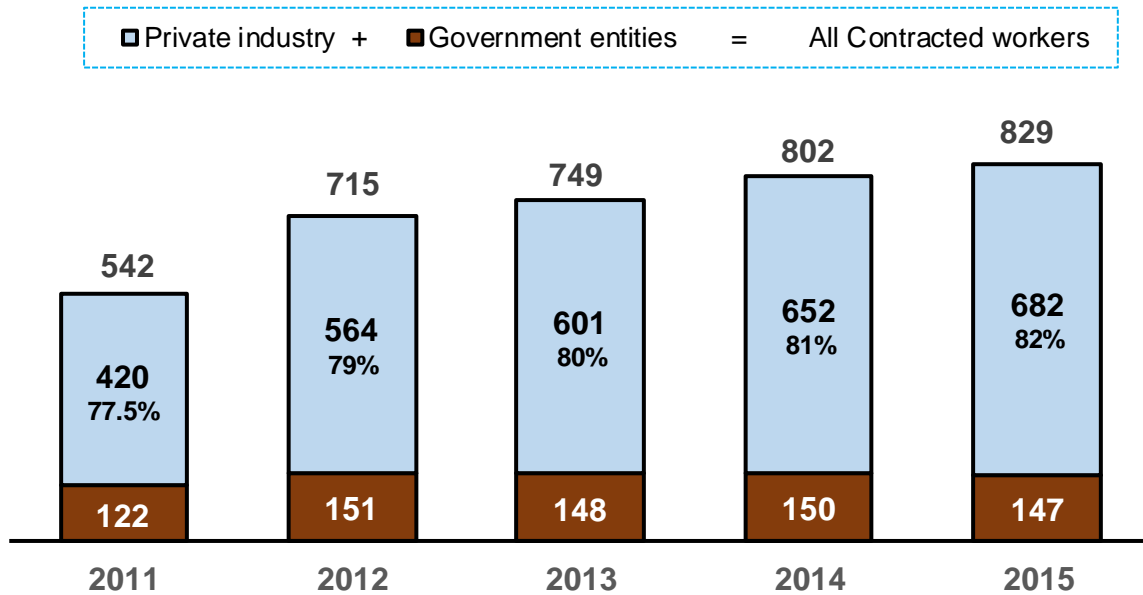
⁷⁹ BLS page "[Fatal occupational injuries to contracted workers.](#)"

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

accounted for 0.9 percent of total employment, and workers provided by contract firms made up 0.6 percent of total employment.⁸⁰

Figure 119 shows that from 2011 to 2015, the number of fatal occupational injuries among contracted workers in the U.S. increased by 53 percent.

Figure 119: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., 2011–2015



Source: BLS

Table 37 depicts the number of fatal injuries among independent workers Nationally and in California from 2016 to 2018.

Table 37: Fatal occupational injuries by independent workers in the U.S. and California, 2016–2018

Regional Level	2016	2017	2018
U.S.	662	613	621
California	52	75	60

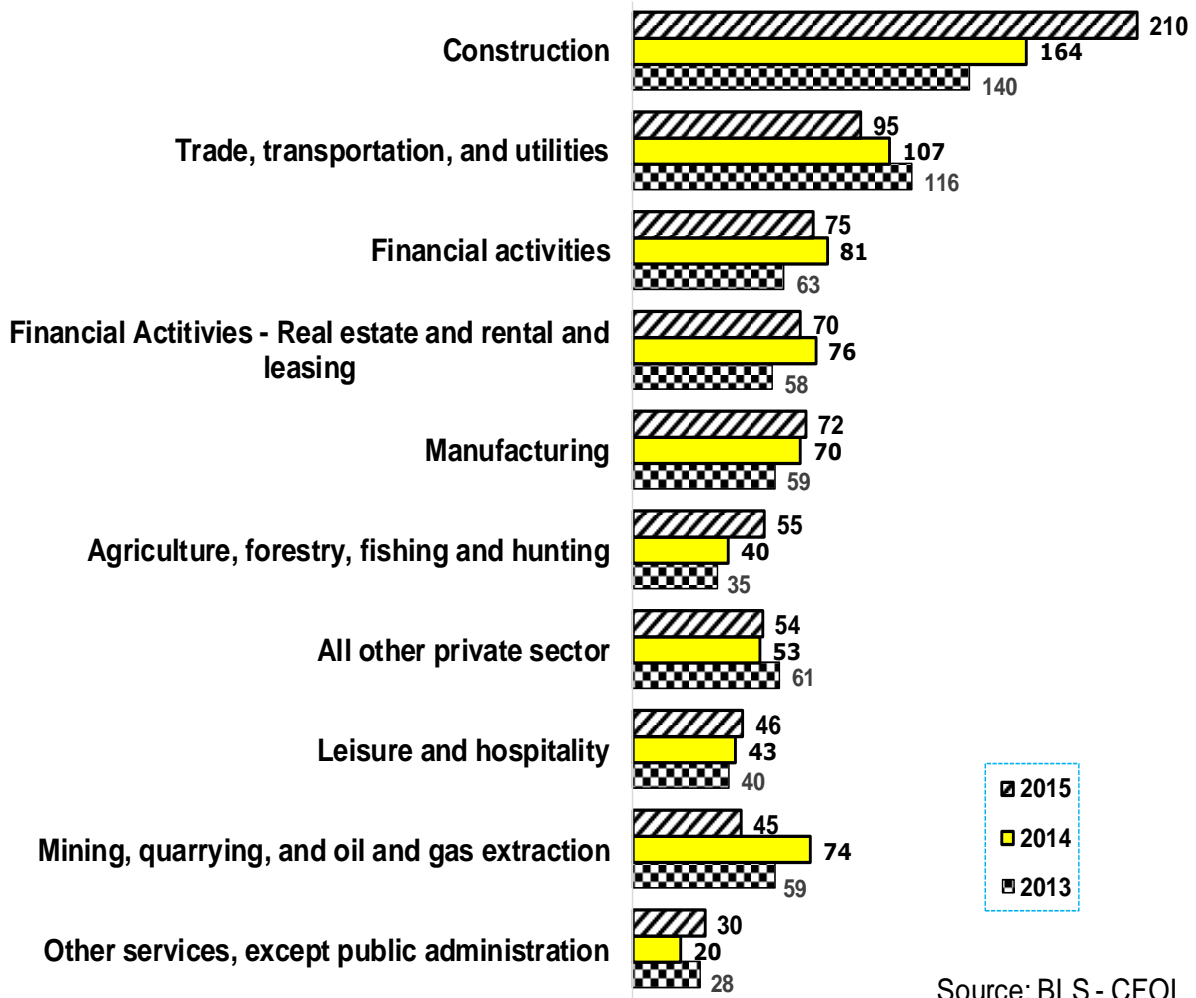
Source: BLS

⁸⁰ BLS page [“TED: The Economics Daily image”](#).

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

As Figure 120 shows, the largest contracting industries in the U.S. for fatally injured contracted workers in private industry were construction, trade, transportation, utilities, and financial activities.

Figure 120: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., by Contracting Industry, 2013–2015



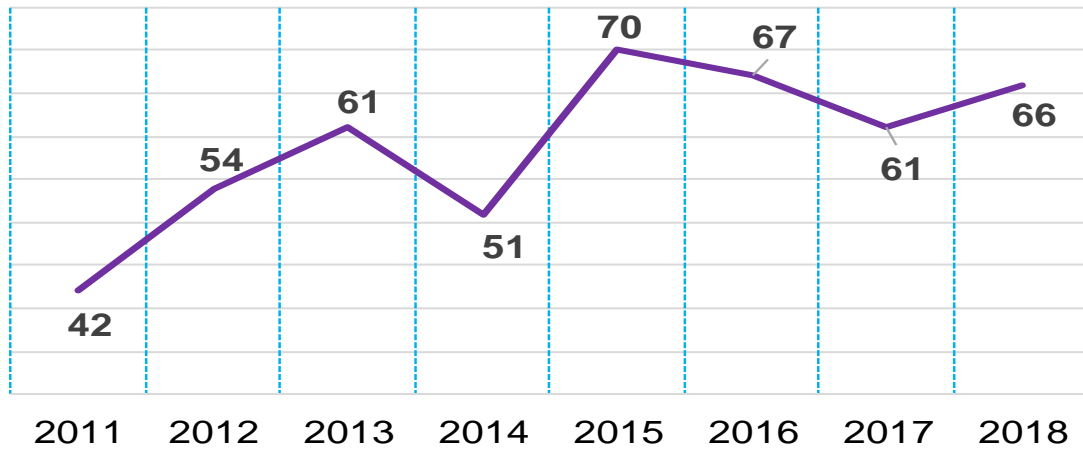
Source: BLS - CFOI

Similar to the pattern nationally, the contractor-based economy has been increasing in California since the Great Recession. The distinction between those who qualify as independent contractors and those who are considered permanent employees is extremely significant. Contractors are excluded from protections for permanent employees in many laws, including coverage by workers' compensation statutes, workplace discrimination laws, eligibility for overtime pay, collection of post-termination unemployment, eligibility for health insurance, and other employee benefits.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 121 shows that the number of fatal occupational injuries for contracted workers in California fluctuated from 42 to 70 fatalities between 2011 and 2015, decreased by 13 percent between 2015 and 2017, and increased by 8 percent from 2017 to 2018.

Figure 121: Number of Fatal Occupational Injuries Incurred by Contracted Workers in California, 2011—2018



Source: BLS—CFOI

Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, came from the Department of Industrial Relations (DIR), Director's Office of Policy, Research, and Legislation (OPRL) and the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS).

Incidence Rates

- California's work injury and illness statistics for 2018 indicate a non-fatal injury and illness rate of 3.3 cases per 100 full-time employees in the private sector. This is a 6 percent decline from the 2012 level of 3.5 and a slight increase of 3 percent from the previous year's rate of 3.2.
- The trend in California mirrored a national trend from 2012 to 2018. DOL figures for private employers show that from 2012 to 2018, the work injury and illness rate across the U.S. fell from 3.4 to 2.8 cases per 100 employees in the private sector and then remained flat from 2017 to 2018. The reduced incidence of job injuries from 2012 to 2017 is likely due to factors including a greater emphasis on job safety and the shift from manufacturing to service jobs.
- In contrast to the private sector rates, California's public sector decline has not been nearly as dramatic, and the incidence rates are significantly higher than in the private sector. California's state and local government rate for 2018 is 5.9 cases per 100 full-time employees. This is a 17 percent decline from the 2012 rate of 7.1. At the same time, in 2018, the state and local government rate of 5.9 in California is 21 percent higher than the national rate of 4.8 for state and local government.
- The national fatality rate increased by 3 percent between 2012 and 2018, from 3.4 to 3.5 cases per 100,000 employed, and California's fatality rate in 2018 did not change; it remained at the level in 2012: 2.3 cases per 100,000 employed.⁸¹
- Among the Western region states (Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington), Arizona's (3.0), California's (3.3), and Hawaii's (3.3) private industry rates in 2018 for non-fatal occupational injuries and illnesses were the lowest.⁸²

Duration

- Days-away-from-work cases in the private sector, including those that result in days away from work with or without a job transfer or restriction, did not change from 1.1 case per 100 full-time employees from 2012 to 2018. The national rate of the days-

⁸¹ Beginning in 2007, the Census of Fatal Occupational Injuries (CFOI) adopted hours worked estimates to measure fatal injury risk per standardized length of exposure, which is generally considered more accurate than previously used employment-based rates.

⁸² The comparisons of industry rates have not been adjusted for industry mix in each state.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

away-from-work cases per 100 full-time employees fell from 1.0 to 0.9 cases in the private sector during the same period.

- Nationally, the overall days-away-from-work rate in 2018 did not change from the 2017 rate. California's days-away-from-work rate of 1.1 case per 100 full-time employees in 2018 slightly increased from 1.0 in 2017.

Industry Data

- In 2018, injury and illness incidence rates varied greatly among private industries ranging from 0.7 injury/illness per 100 full-time workers in the mining, quarrying, and oil and gas extraction industries to 5.7 in transportation and warehousing. California's private industry rates for total cases were higher than the national rates in every major industry division, except for mining, quarrying, and oil and gas extraction (0.7 and 1.4), manufacturing (3.1 and 3.4), agriculture, forestry, fishing, and hunting (5.1 and 5.3), real estate and rental and leasing (2.1 and 2.3), and information (1.2 and 1.3).
- The California private industry total case rate for non-fatal injuries increased slightly in 2018 from 3.2 per 100 full-time worker injuries in 2017 to 3.3 in 2018, and the rate for the public sector (state and local government) decreased from 6.3 in 2017 to 5.9 in 2018.
- According to the Director's Office of Policy, Research, and Legislation, the largest decrease in injury and illness by major industry category was in the real estate and rental and leasing (27.6 percent), from 2.9 to 2.1 and construction (14 percent), from 4.3 to 3.7, per 100 full-time worker injuries in 2017 and 2018 respectively, followed by a decrease in management of companies and enterprises (6 percent) from 1.7 to 1.6 per 100 full-time worker injuries in 2017 and 2018, and by a decrease in the educational services (4.5 percent), from 2.2 to 2.1 per 100 full-time worker injuries in 2017 and 2018.⁸³
- According to the Director's Office of Policy, Research and Legislation, the largest increase in injury and illness by industry sectors was in the utilities (43 percent), from 1.4 to 2.0 per 100 full-time worker injuries in 2017 and 2018 respectively, followed by finance and insurance (25 percent), with an increase from 0.8 to 1.0 and other services (except public administration), with a 12.5 percent increase from 2.4 to 2.7 per 100 full-time worker injuries in 2017 and 2018, and professional, scientific, and technical services (11 percent), from 0.9 to 1.0 between 2017 and 2018.⁸⁴
- From 2012 to 2018, the number of fatal injuries⁸⁵ increased by almost 13 percent, from 353 to 398.⁸⁶ From 2017 to 2018, there was an 8 percent increase in the number of fatal injuries. In 2018, the highest number of fatal injuries was in trade,

⁸³ DIR, Director's Office of Policy, Research and Legislation, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2017, 2018.

⁸⁴ Ibid.

⁸⁵ BLS preliminary data.

⁸⁶ The number of fatalities excludes those for the Federal government.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

transportation, and utilities (101), followed by construction (71) and professional and business services (70).

- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2018 were: laborers and freight, stock, and material movers, hand; heavy and tractor-trailer truck drivers; stock clerks and order fillers; construction laborers; carpenters; farm workers and laborers, crop, nursery, and greenhouse; food preparation workers; retail salespersons; maids and housekeeping cleaners; and light truck or delivery service drivers.
- In California's state government, the top ten occupations with the most non-fatal injuries and illnesses in 2018 were: correctional officers and jailers; psychiatric technicians; police and sheriff's patrol officers; firefighters; janitors and cleaners, except maids and housekeeping cleaners; registered nurses; first-line supervisors of firefighting and prevention workers; highway maintenance workers; probation officers and correctional treatment specialists; and first-line supervisors of correctional officers.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2018 were: police and sheriff's patrol officers; firefighters; teacher assistants, janitors and cleaners, except maids and housekeeping cleaners; elementary school teachers, except special education; first-line supervisors of fire fighting and prevention workers; maintenance and repair workers, general; bus drivers, transit and intercity; first-line supervisors of police and detectives; and landscaping and grounds-keeping workers.
- Transportation and material moving (99), construction and extraction (79), and building and grounds cleaning and maintenance (45) occupations accounted for 56.5 percent of the fatal injuries in 2018. Protective services (31), installation, maintenance, and repair (30), farming, fishing, and forestry (21), sales and related (21), and management (14) were the other occupations with the most number of fatal injuries in 2018. Transportation and material-moving occupations were the number one cause of fatal injuries accounting for 25 percent of fatal injuries in 2018.
- Transportation incidents (including the federal government) accounted for 37 percent of fatal injuries in 2018 and were a major cause of fatalities among: transportation and material moving (70); construction and extraction (13); and farming, fishing, and forestry (12) occupations.

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2018 was experienced by the smallest private employers. Employers with 1 to 10 and 11 to 49 employees had incidence rates of 1.3 and 2.9 cases, respectively, per 100 full-time employees. Establishments with 1,000 and more and 250 to 999 employees experienced 6 percent and 3 percent decreases in incidence rates from 2017 to 2018.
- Establishments with 50 to 249 employees reported the highest rates of 4.2 per 100 full-time employees, followed by 3.7 cases per 100 full-time employees for establishments with 250 to 999 employees in 2018. Employers with 1 to 10, 11 to 49, and 50 to 249 employees experienced an 8 percent, 4 percent, and 2 percent increases correspondingly from 2017 to 2018.

Types of Injuries

- Six out of eleven types of work illnesses and injuries decreased from 2012 to 2018 in the private sector. The number of sprains, strains, and tears decreased by 1 percent from 2012 to 2018; these injuries remain by far the most common type of work injury accounting for 40 percent of days-away-from-work cases in the private sector in 2018. Carpal tunnel syndrome and tendonitis experienced a decrease of 46 and 25 percent respectively between 2012 and 2018. The biggest increase (78 percent) from 2012 to 2018 was in soreness and pain. Amputations and heat (thermal) burn injuries experienced increases of 48 and 17 percent, respectively, and cuts, lacerations, and punctures experienced an increase of 11 percent between 2012 and 2018.
- In the private sector, overexertion and bodily reaction were the leading causes of days-away-from-work injuries, cited in 36 percent of cases in 2018. Contact with objects and equipment was the second common cause of injury, accounting for 26 percent of injuries.
- In California state government, the two main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for about 36 and 20 percent of days-away-from-work cases, respectively, in 2018.
- In local government, the main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for 43 and 19 percent of days-away-from-work cases, respectively, in 2018.
- The most frequently injured body part was the back, accounting for about 10 percent of the cases in state government and 17.5 percent of the cases in local government in 2018. In the private sector, back injuries account for about 17.5 percent of the non-fatal cases.

Demographics

- Over the period from 2012 to 2018 in the California private sector, the number of days-away-from-work cases for women increased by 13 percent. Days-away-from-

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

work cases for men increased by 9 percent. Some of this increase can be attributed to an increase in employment and total hours worked.

- Between 2012 and 2018, in private industry, all age groups, except for group 45–54, experienced an increase in the numbers of cases with days away from work. The biggest increase (64 percent) occurred among workers 65 and over. The 16–19 age group experienced a 55 percent increase, the 55–64 age group experienced a 31 percent growth, the 25–34 age group experienced a 17 percent increase, the 20–24 age group experienced a 10 percent growth, and the 35 to 44 age group experienced a 4 percent increase. The 45–54 age group experienced a 5 percent decrease in the numbers of cases with days away from work.
- In 2018, out of 422 fatalities (including the federal government), 91 percent were male and 9 percent were female. Compared to 2012, the biggest decrease in the number of fatalities (8 percent) was in the 45–54 age group (from 106 to 98 cases), followed by a 7 percent decrease in the 20–24 age group (from 29 to 27 cases), and a decrease of 5 percent from 62 to 59 cases in the 35–44 age group. The age groups that experienced the biggest increase in the number of fatalities was the 25–34 age group (49 percent increase) from 65 to 97 cases, followed by a 25 percent increase from 68 to 85 in 55–64 age group, and a 16 percent increase from 43 to 50 in the age group 65 and over.
- The highest number of fatalities by race or ethnic origin categories in 2018 was experienced by “Hispanic or Latino” and “White, non-Hispanic” groups, accounting for 45 percent and 39 percent of the fatalities respectively. The “White, non-Hispanic” ethnic group experienced a 9 percent decrease in fatal injuries, from 180 cases in 2012 to 163 cases in 2018. From 2012 to 2018, there was an increase in fatal injuries for the “Black, non-Hispanic,” “Hispanic or Latino,” and “Asian” ethnic groups. The highest increase in fatal injuries from 2012 to 2018, 40 percent, was in the group “Black, non-Hispanic” (from 20 to 28 cases), followed by 39 percent increase from 137 to 190 cases in the group “Hispanic or Latino,” and 9 percent increase from 34 to 37 cases in the “Asian” group.

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of BLS in the U.S. and DOL and the Director's Office of Policy, Research, and Legislation in the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by DOL with DIR assistance.

OSHA Reporting and Recording Requirements

The U.S. Occupational Safety and Health Act (OSH Act) of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in DOL administers the OSH Act recordkeeping system.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Although some employers are exempt from keeping Cal/OSHA injury and illness records, all California employers must report injuries to the Director's Office of Policy, Research and Legislation. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA (Cal/OSHA) in DIR.

The data assist employers, employees, and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the BLS Annual Survey of Occupational Injuries and Illnesses and the OSHA Occupational Injury and Illness Survey.

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses come from this survey. In California, the DIR Director's Office of Policy, Research, and Legislation conducts the survey for BLS.

Non-fatal Injuries and Illnesses

The BLS Annual Survey develops frequency counts and incidence rates by industry and also profiles worker and case characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

Fatal Injuries and Illnesses

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify, and profile fatal work injuries.

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual Occupational Injury and Illness Survey. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to employers that have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

Occupational Injury and Illness Prevention Efforts

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses in order to improve worker health and safety.

Cal/OSHA Program

The Cal/OSHA Program is responsible for enforcing California's 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 investigations of workplaces in California based on worker complaints, accident reports, and planned inspections in high hazard industries. Twenty-eight [Cal/OSHA district](#) offices are located throughout California including enforcement, [Mining and Tunneling](#) and [Process Safety Management](#). Specialized enforcement units, such as the High Hazard Unit and the [Labor Enforcement Task Force](#), focus on protecting California's workers from workplace hazards in high hazard industries.

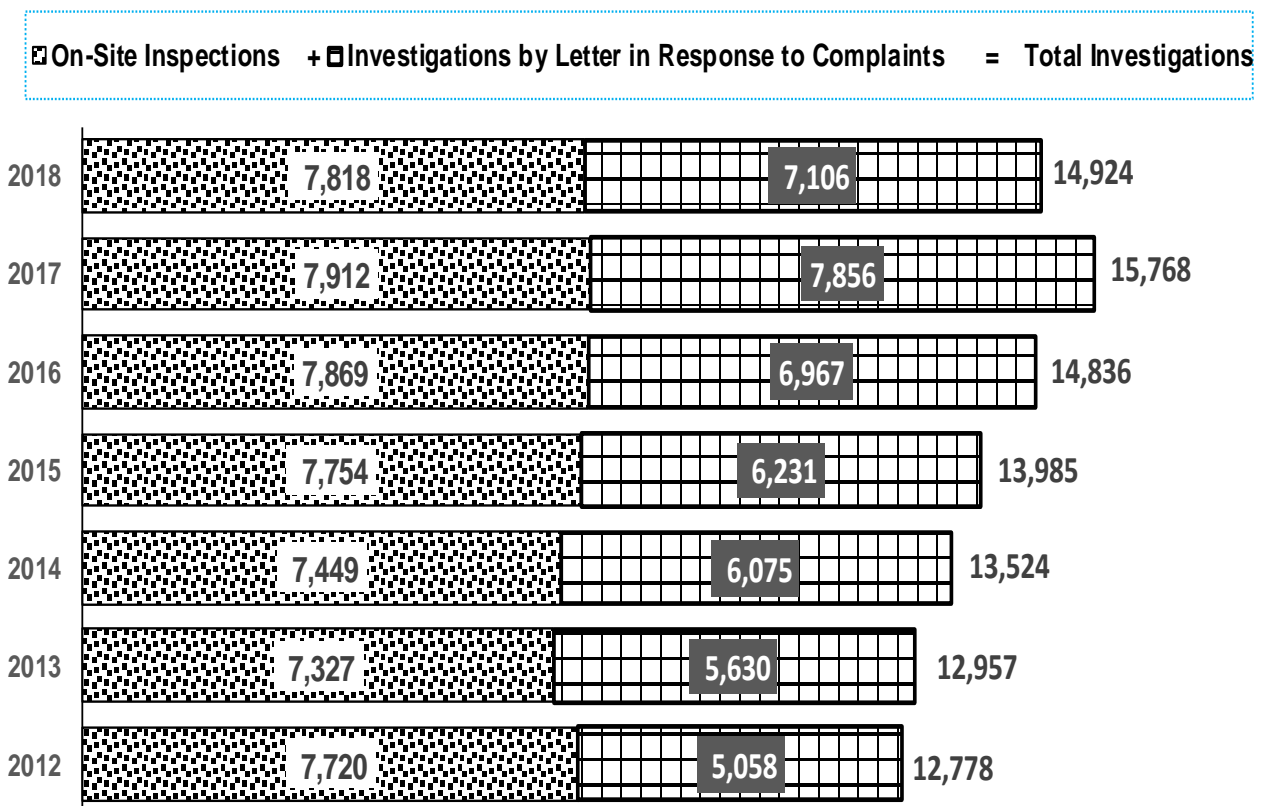
Other specialized units, such as the [Crane Certifier Accreditation Unit](#), the [Asbestos Contractors' Registration Unit](#), the [Asbestos Consultant and Site Surveillance Technician Unit](#), and the [Asbestos Trainers Approval Unit](#), are responsible for enforcing regulations on crane safety and the prevention of exposure to asbestos.

The [Cal/OSHA's Consultation Services](#) Branch provides assistance to employers and workers about workplace safety and health issues through on-site assistance, telephone inquiries, high hazard consultation, and other programs with a particular emphasis. Consultation Services also develops educational materials on workplace safety and health topics.

PROFILE OF DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (DOSH) INVESTIGATIONS AND VIOLATIONS CITED

Figure 122 shows the number of on-site inspections and investigations by letter⁸⁷ in response to complaints for the period from calendar year (CY) 2012 to CY 2018.⁸⁸ The on-site inspections decreased by 5 percent from 2012 to 2013 and then increased by 8 percent from 2013 to 2017. From 2017 to 2018, the on-site inspections decreased by 1 percent. Investigations by letter in response to complaints increased by 55 percent from 2012 to 2017, and then decreased by 9.5 percent from 2017 to 2018. Accordingly, reflecting DOSH enforcement activities, the total number of investigations increased by 23 percent from 2012 through 2017, and then decreased by 5 percent from 2017 to 2018.

Figure 122: DOSH Enforcement Activities, 2012–2018



Source: DOSH

⁸⁷ Investigations by letter are conducted in response to non-formal complaints as in items 3D and 3E of [Cal/OSHA safety and health complaint handling simplified process](#).

⁸⁸ The number of investigations, on-site inspections, and violations for calendar years could differ from those in fiscal years below in this section.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 123 shows the distribution of DOSH on-site inspections with and without violations from 2012 through 2018.

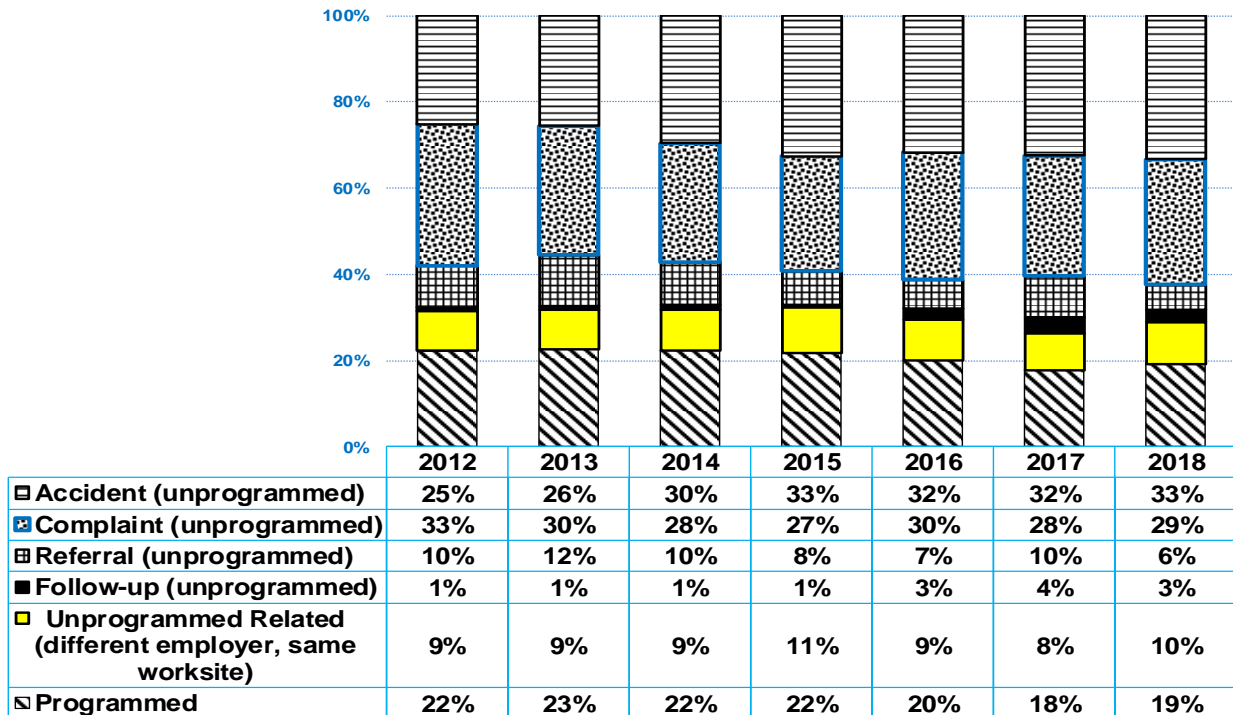
Unprogrammed inspections triggered by accidents increased overall from 25 percent of all programmed and unprogrammed inspections in 2012 to 33 percent in 2018.

Unprogrammed inspections triggered by complaints decreased overall from 33 percent in 2012 to 29 percent in 2018.

Programmed inspections decreased from an average of 22 percent per year from 2012 through 2015 to 19 percent in 2018. This trend in programmed inspections took place as the share of unprogrammed inspections triggered by accidents and complaints increased in around the same period.

From 2012 to 2018, accidents and complaints were consistently the predominant types of inspections.

Figure 123: DOSH on-Site Inspections by Type (All, with and without Violations), 2012–2018

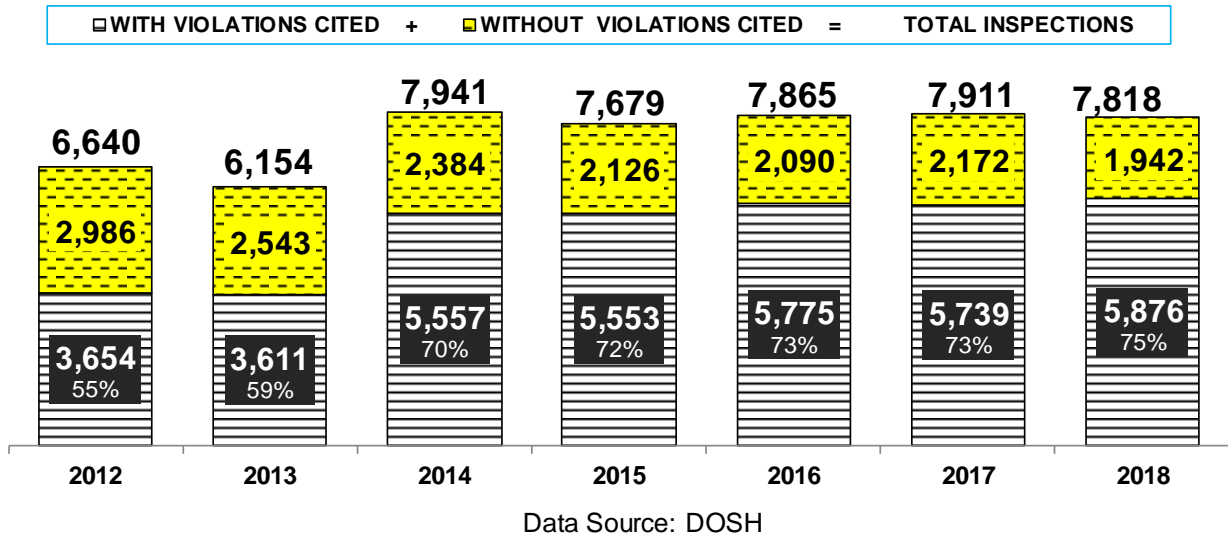


Source: DOSH

According to Figure 124, the number of inspections without violations decreased overall by 35 percent from 2012 to 2018 while the number of inspections with violations increased 61 percent over the same period. The share of DOSH inspections that resulted in violations cited increased from 55 percent of all inspections in 2012 to 75 percent in 2018.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 124: DOSH Inspections (with and without Violations Cited), 2012–2018

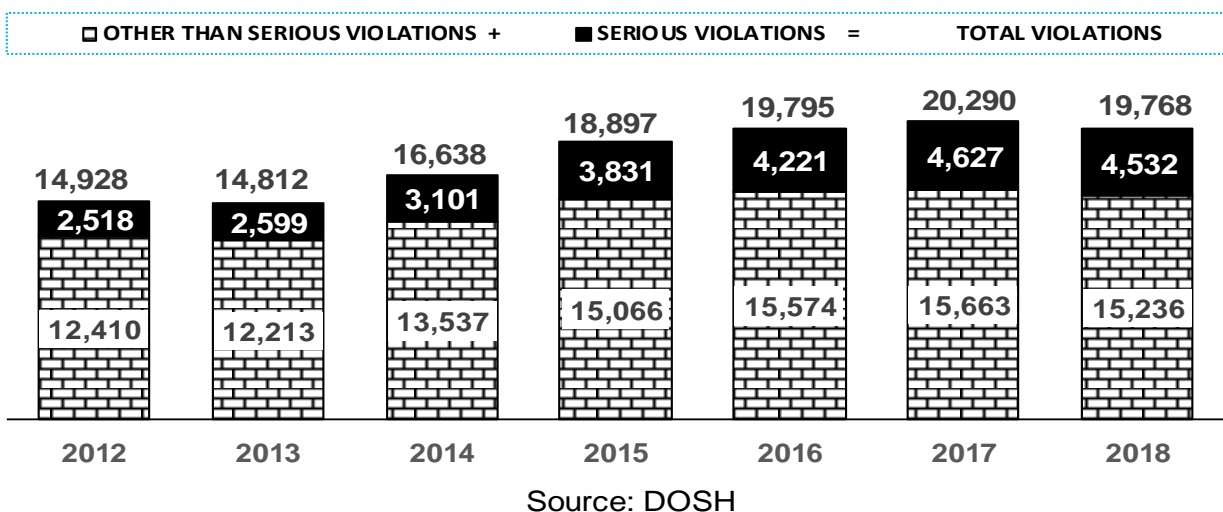


The number of violations exceeds that of inspections because most inspections of places where violations occur yield more than one violation. Violations are further broken down into serious and other-than-serious. The number of DOSH violations and their breakdown by type from 2012 to 2018 are shown in Figure 125.

The number of all violations increased by 36 percent from 2012 to 2017 and then decreased by 2.5 percent from 2017 to 2018.

The number of serious violations increased by 84 percent from 2012 to 2017, and then slightly decreased from 2017 to 2018. (See Figures 135 and 136 for OSHAB statistics on the number of appeals of DOSH violations that were filed and resolved.)

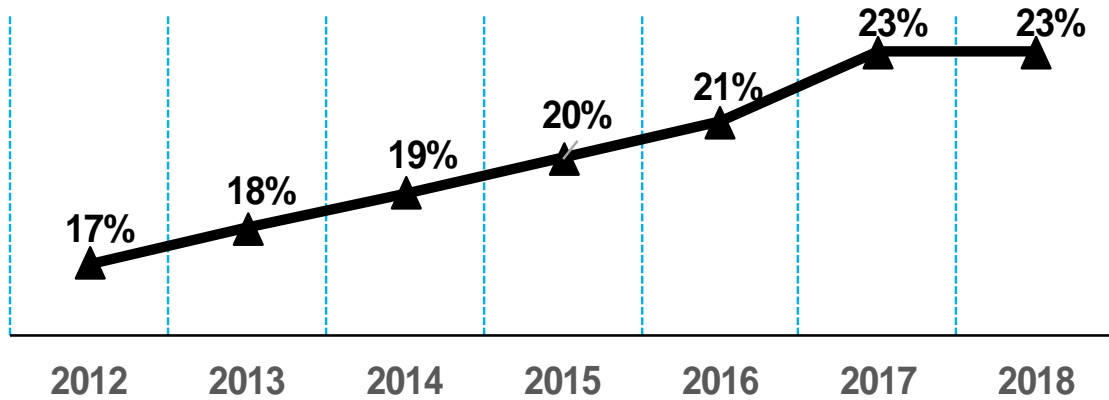
Figure 125: DOSH Violations (Serious and Other Than Serious), 2012-2018



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 126 shows the trend in serious DOSH violations as a share of all violations from 2012 to 2018. The share of serious DOSH violations gradually increased from 17 percent in 2012 to 23 percent in 2017 and 2018.

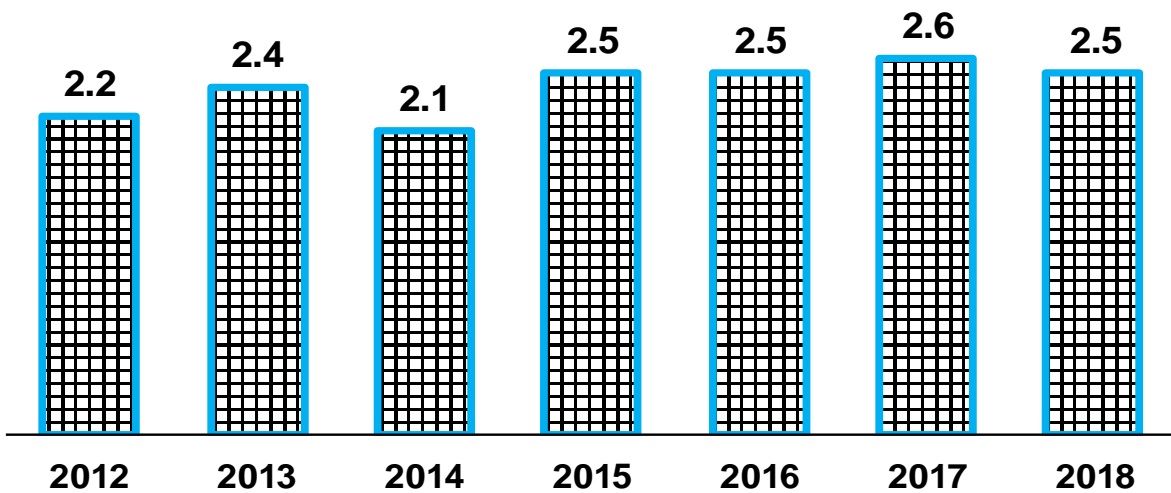
Figure 126: Serious Violations as a Share of Total DOSH Violations, 2012-2018



Source: DOSH

The average number of DOSH violations per inspection averaged 2.2 from 2012 to 2014 and then 2.5 from 2015 to 2018.

Figure 127: Average Number of DOSH Violations per Inspection, 2012–2018



Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Table 38: Twenty-Five Most Frequently Cited CCR Title 8 Standards, 2018

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	2,323	208	9.0%
3395	Heat Illness Prevention	2,035	329	16.2%
1509	Construction Injury and Illness Prevention Program	1,173	86	7.3%
3314 ⁸⁹	Control of Hazardous Energy, Including Lockout/Tagout	653	273	41.8%
5194	Hazard Communication	639	10	1.6%
342	Reporting Work-Connected Fatalities and Serious Injuries	545	8	1.5%
5162	Emergency Eyewash and Shower Equipment	481	210	43.7%
5144	Respiratory Protection	425	17	4.0%
6151	Portable Fire Extinguishers	415	1	0.2%
3276	Portable Ladders	336	105	31.3%
3650	Industrial Trucks: General Requirements	333	128	38.4%
461	Permits to Operate Air Tanks	326	3	0.9%
2340.16	Work Space About Electric Equipment	310	5	1.6%
3328	Safe Practices, Personal Protection: Machinery and Equipment	287	102	35.5%
1512	Construction: Emergency Medical Services	275	3	1.1%
3668	Powered Industrial Truck Operator Training	216	33	15.3%

⁸⁹ The 3314 standard description may differ from previous years due to changes that were made to Title 8 CCR [3314 regulations](#) in 2018 to add sections (a) 4–5.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Standard	Description	Total Violations	Serious Violations	Percent Serious
5189	Process Safety Management of Acutely Hazardous Materials	195	16	8.2%
1670	Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices	169	104	61.5%
4650	Compressed Gas and Air Cylinders: Storage, Handling, and Use	168	36	21.4%
1712	Requirements for Impalement Protection	161	102	63.4%
3577	Use, Care, and Protection of Abrasive Wheels: Protection Devices	158	83	52.5%
1644	Metal Scaffolds	148	74	50.0%
3421	Tree Work, Maintenance or Removal General	148	35	23.6%
341	Permit Requirements: Excavations, Trenches, Construction and Demolition and the Underground Use of Diesel Engines in Work in Mines and Tunnels	145	5	3.4%
3400	Medical Services and First Aid	144	4	2.8%

Source: DOSH Budget and Program Office

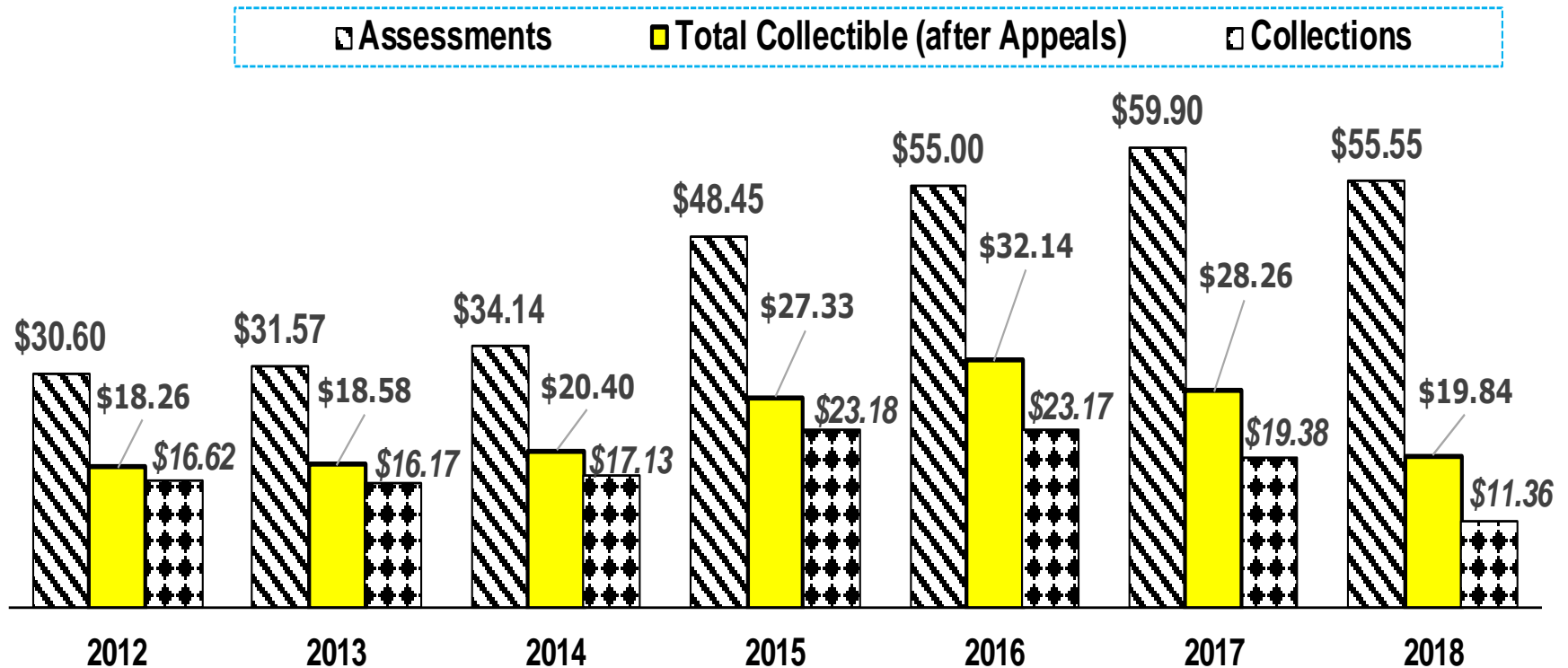
Note: "Serious" includes Serious, Willful, and Repeat Violations

Figure 128 demonstrates the trends in penalties and collections. Total penalties assessed were \$55.6 million in 2018, an increase of 82 percent from 2012. Many employers appeal those "recommended" penalties at the Cal/OSHA Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have penalties eliminated due to procedural issues. Because of the appeals process, penalties collectible and collected are almost always less than the initial recommended penalties assessed. Total penalties collectible after appeals and collections were \$19.8 million and \$11.4 million respectively in 2018.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Although Figure 128 demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. Nevertheless, the data give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

Figure 128: Total DOSH Penalties Assessed and Collected, 2012–2018
(Million \$)

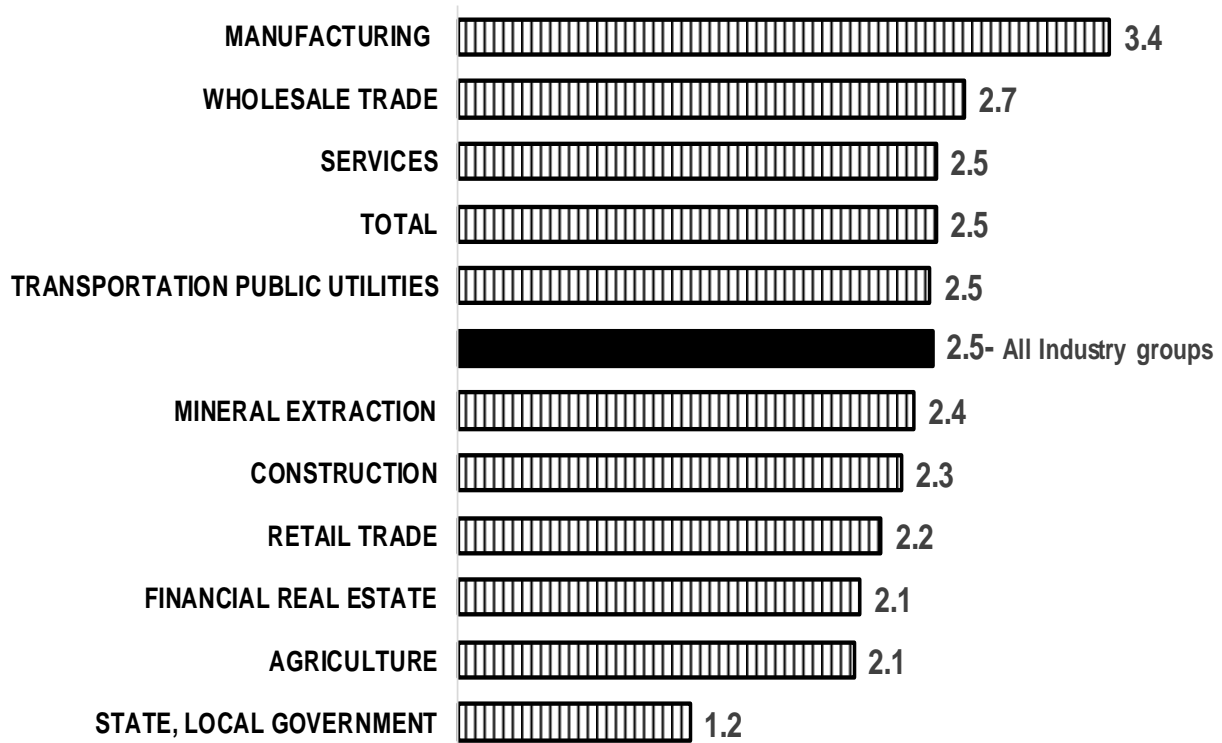


Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 129 shows the rate of DOSH violations per on-site inspection for each major industry group. Except for the higher-than-average rate in manufacturing and lower-than-average rate in state and local government, all other major industry groups have a nearly average rate of DOSH violations per on-site inspection, which explains the similar industry group proportions in on-site inspections and DOSH violations. See Figures 130 and 131.

Figure 129: Rate of DOSH Violations per on-Site Inspections, by Major Industry Groups

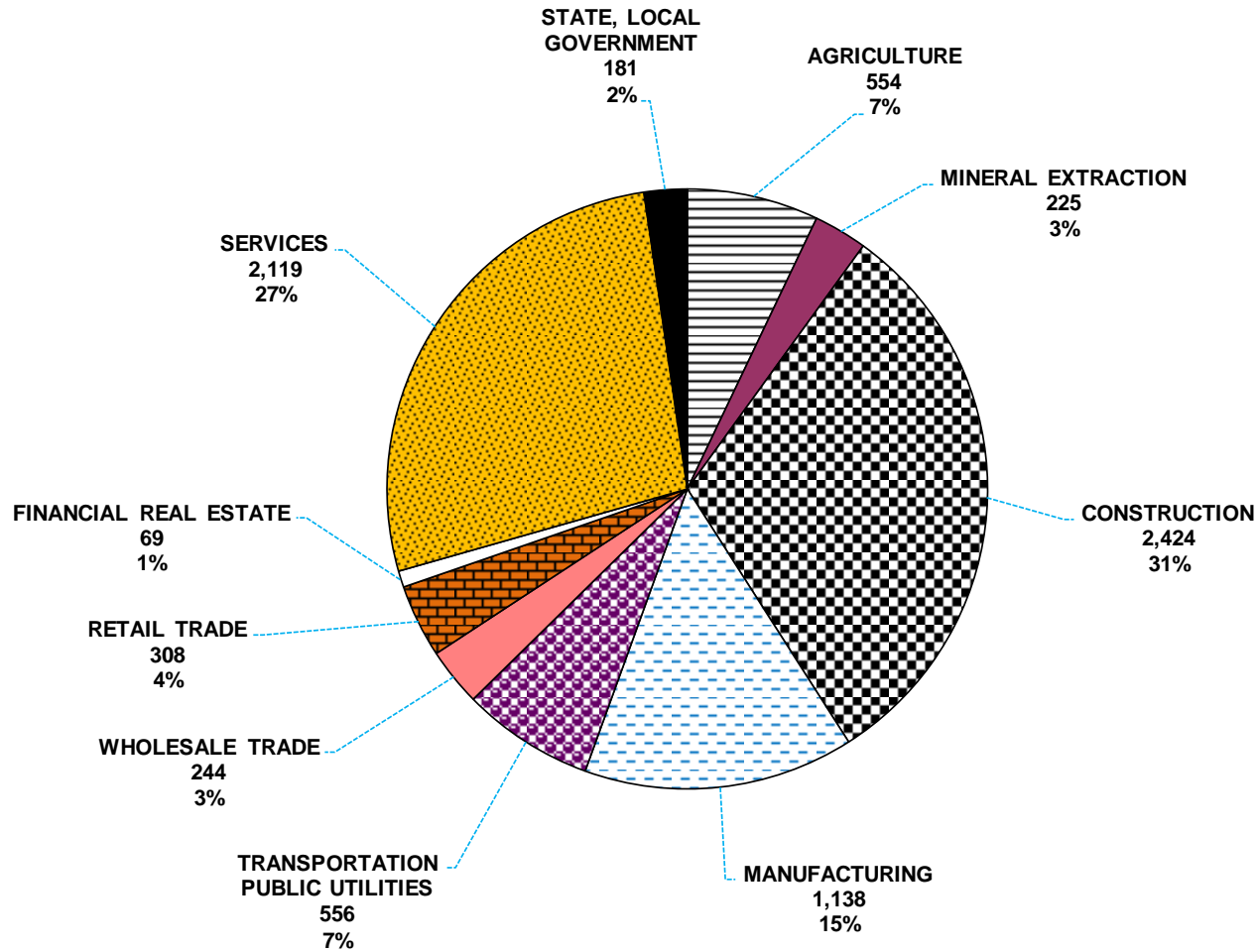


Source: DOSH

Figure 130 illustrates the proportion of on-site inspections in major industrial groups. Of the 7,818 workplace health and safety inspections conducted in 2018, 2,424 (31 percent) were in construction and 5,394 (69 percent) were in non-construction.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 130: Distribution of on-Site Inspections by Major Industry, 2018
(Total Inspections = 7,818)

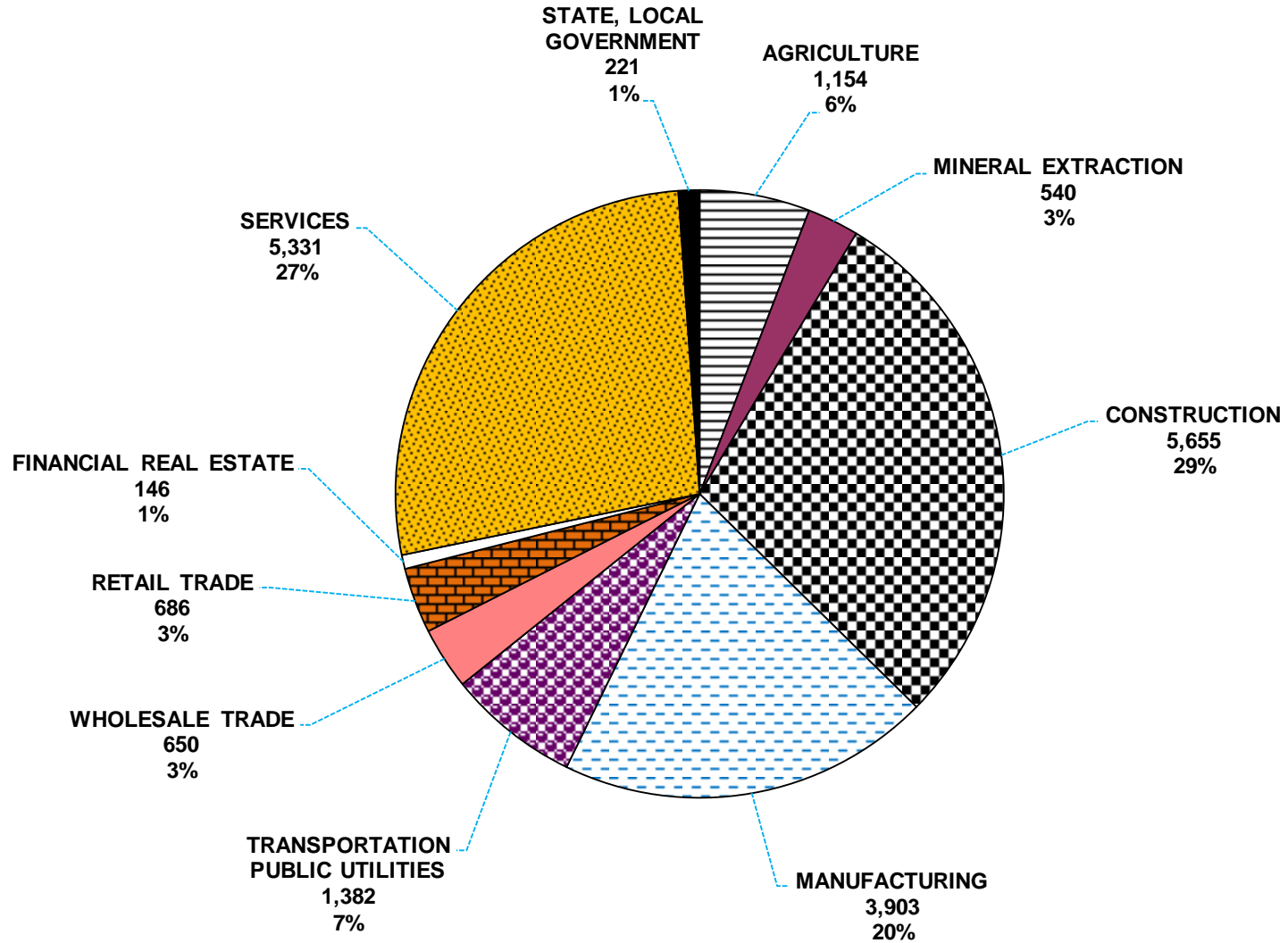


Source: DOSH

As shown in Figure 131, the highest percentage of violations was in construction (29 percent), closely followed by services (27 percent), and subsequently by transportation and public utilities (7 percent).

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 131: Distribution of Violations by Major Industry, 2018
(Total Violations = 19,668)



Source: DOSH

HIGH HAZARD IDENTIFICATION, CONSULTATION, AND COMPLIANCE PROGRAMS

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

High Hazard Employer Program

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to those employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

In 2008, the passage of Assembly Bill (AB) 1389 gave DIR the statutory authority to levy and collect assessments from employers to fund DOSH's operations.

High Hazard Consultation Program

Using workers' compensation data, the Cal/OSHA Consultation Services Branch identifies employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses. "Hazardous industries" are identified using published annual workers' compensation pure premium rates. Individual employers are identified using workers' compensation experience modification (ExMod) rate data.

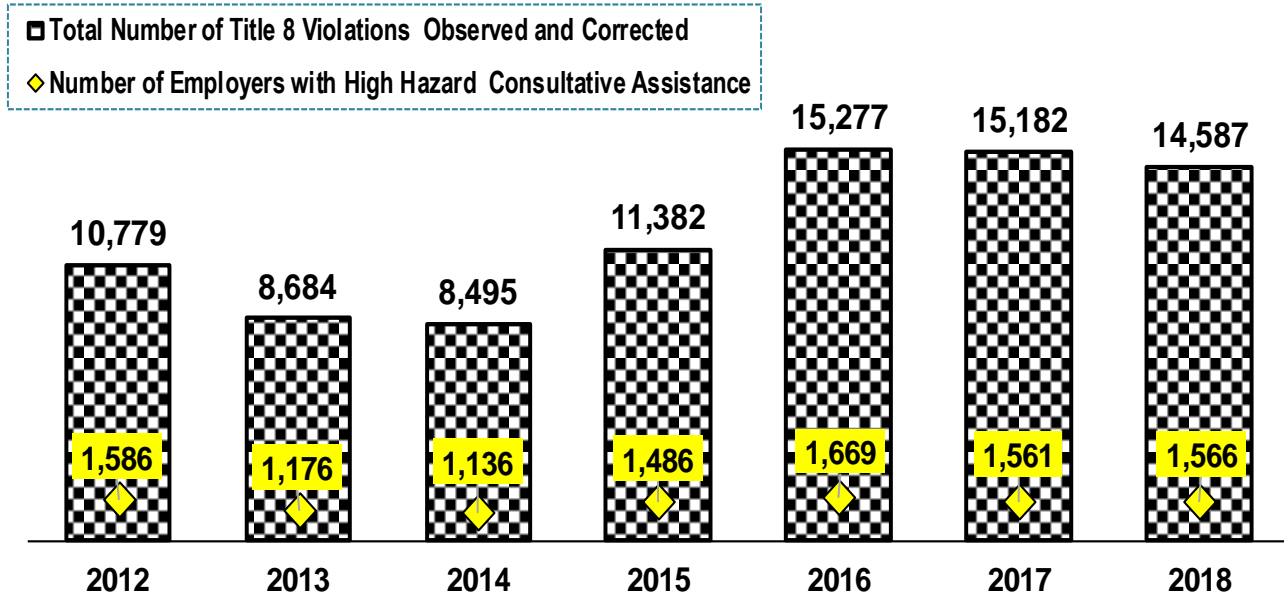
The Cal/OSHA Consultation Services Branch reports that in 2018, it provided on-site high hazard consultative assistance to 1,566 employers. During consultation with these employers, 14,587 Title 8 violations were observed and corrected as a result of the provision of consultative assistance (see Figure 132).

From 1994 to 2018, 26,975 employers have been provided direct on-site consultative assistance, and 178,869 Title 8 violations have been observed and corrected. Of these violations, 33.7 percent were classified as "serious." It should be noted that for 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. Effective 2004, only employers with ExMod rates of 125 percent and above are included in the High Hazard Consultation Program figures.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The Cal/OSHA Consultation Services Branch conducts annual surveys to measure the efficacy of the services provided. One of the efficacy measures is the comparison of employer lost-and-restricted-workday data (DART) before and after receiving on-site consultative assistance. The other efficacy measure compares individual employer's workers' compensation ExMod rate data again before and after receiving onsite consultative assistance.

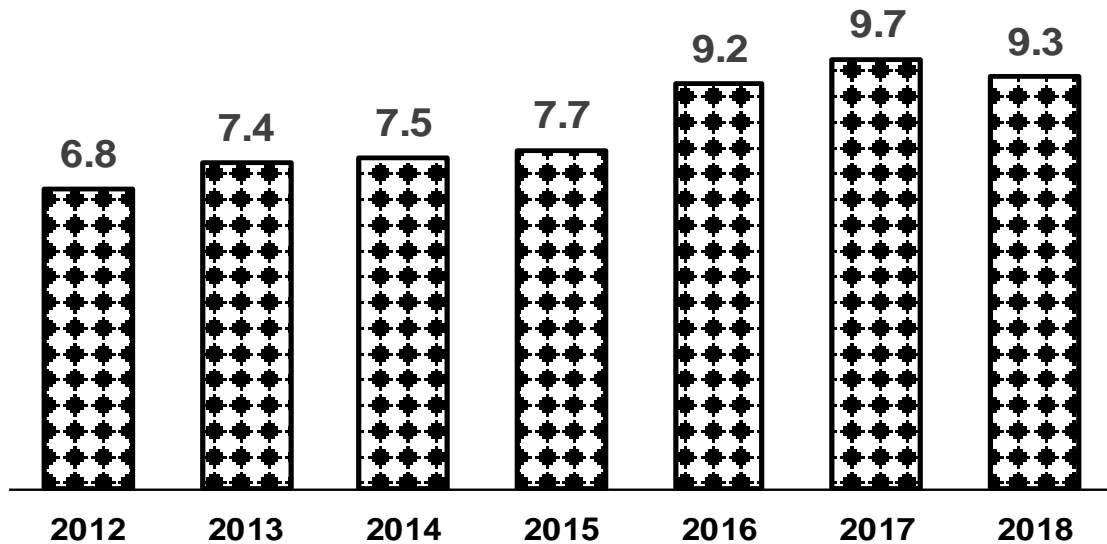
Figure 132: High Hazard Consultation Program, 2012-2018



Source: DOSH

The efficacy of High Hazard Consultation is measured by comparing employer lost-and-restricted-workday data. In 2001, Log 300 replaced Log 200 as the source for lost-and-restricted-workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses ExMod rates to measure efficacy.

Figure 133: Average Number of Title 8 Violations per Employer with High Hazard Consultative Assistance, 2012-2018



Source: DOSH

High Hazard Enforcement Program

It is the policy of DOSH to protect California’s workers from serious injury and illness and to establish and implement a program for inspecting high hazard businesses operating in California. The High Hazard Unit, which consists of two offices (Northern and Southern) and a regional office, is dedicated to conducting targeted programmed inspections in “High Hazard Industries” throughout California.

In 2018, the High Hazard Unit opened 240 inspections and Regions 1-4 opened 142 inspections. The majority of inspections 365 (96 percent) were targeted programmed-planned. Other types of inspections opened by the High Hazard Unit were programmed-related, follow-up, accidents, complaints, and referrals. A total of 2,065 violations were identified and cited during inspections. Violations were identified in 94 percent of the inspections conducted. The violation per inspection ratio for targeted programmed-planned inspections in 2018 was 5.4.

The high hazard enforcement program activity measures are shown in Tables 39-41 and Figure 134.

The distributions of high hazard targeted inspections by North American Industrial Classification System (NAICS) in 2016 through 2018 are shown in Table 39.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Table 39: High Hazard Inspections by NAICS Code, 2016-2018

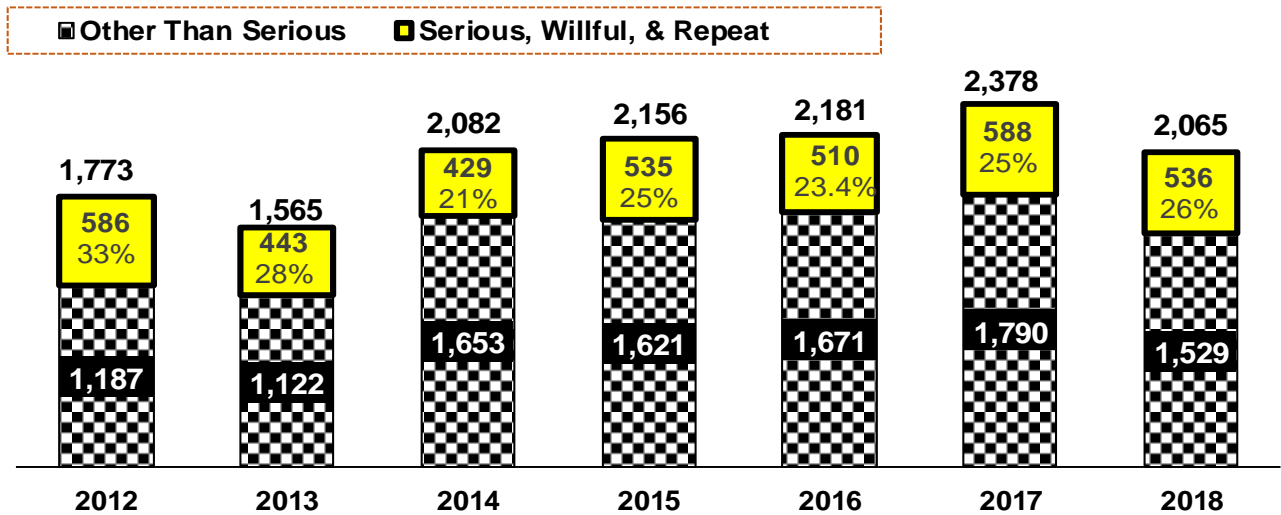
NAICS code	Description	2016 Numb.	2016 %	2017 Numb.	2017 %	2018 Numb.	2018 %
11	Agriculture, Forestry, Fishing and Hunting	52	15%	33	8%	27	7%
21	Mining, Quarrying, and Oil and Gas Ext.	0	0%	0	0%	1	0.26%
22	Utilities	1	0%	0	0%	0	0%
23	Construction	3	1%	4	1%	5	1%
31-33	Manufacturing	158	46%	215	49%	177	46%
42	Wholesale Trade	9	3%	5	1%	5	1%
44-45	Retail Trade	3	1%	0	1%	1	0.26%
48-49	Transportation and Warehousing	4	1%	8	2%	45	12%
51	Information	0	0%	0	0%	0	0%
52	Finance and Insurance	0	0%	0	0%	0	0%
53	Real Estate and Rental/Leasing	0	0%	0	0%	0	0%
54	Professional, Scientific, and Technical Services	3	1%	5	1%	0	0%
56	Admin and Support and Waste Management and Remediation	104	30%	132	30%	14	4%
61	Educational Services	0	0%	0	0%	0	0%
62	Health Care and Social Assistance	0	0%	11	3%	102	27%
71	Arts, Entertainment, and Recreation	0	0%	0	0%	0	0%
72	Accommodation and Food Services	na		2	0%	0	0%
81	Other Services	6	2%	24	5%	5	1%
92	Public Administration	0	0%	1	0%	0	0%
	Total	343		440		382	

Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Violations observed during high hazard targeted inspections are divided into two categories: “serious, willful, and repeat (SWR)” and “other than serious” violations. The share of SWRs decreased from 33 percent of all High Hazard inspection violations in 2012 to 21 percent in 2014. From 2015 to 2018, the share of SWRs in High Hazard inspection violations stabilized at 25 percent.

Figure 134: Violations Observed during High Hazard Inspections, 2012-2018



Source:DOSH

Table 40 shows the distribution of enforcement actions taken during high hazard inspections by type in 2012–2018.

Table 40: Enforcement Actions Taken during High Hazard Targeted Inspections, 2012-2018

Types of enforcement actions	2012	2013	2014	2015	2016	2017	2018
Warrants	0	0	0	0	0	0	0
Order Prohibiting Use (Stop Order)	75	20	0	8	12	5	1
Information Memorandums	15	53	75	71	25	14	40
Violations	1,773	1,565	2,082	2,156	2,181	2,378	2,065

Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Table 41 shows the most frequently observed violations during high hazard inspections in 2018.

Table 41: Most Frequently Observed Violations during High Hazard Targeted Inspections, 2018

Title 8 Section	Description
2340.16	Work Space about Electric Equipment
3203	Injury and Illness Prevention Program
5162	Eyewash and Shower
2500	Uses Not Permitted
5194	Hazard Communication
6151	Portable Fire Extinguishers
5144	Respiratory Protection Program
461	Permits to Operate (Air Tanks)
14300	Retention and Updating
3314	The Control of Hazardous Energy
2473.1	Conductors Entering Boxes, Cabinets, or Fittings
3578	Permissible Wheel Exposures for Grinders
3668	Powered Industrial Truck Operator Training
3395	Heat Illness Prevention Program
3577	Protection Devices

Source: DOSH

Safety Inspections

DOSH has three major public safety programs devoted to conducting inspections to protect the public from safety hazards:

- The Amusement Ride and Tramway Unit conducts public safety inspections of amusement rides, both portable and permanent, and aerial passenger tramways and ski lifts.
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.⁹⁰
- The Pressure Vessel Unit conducts public safety inspections of boilers and pressure vessels to ensure their safe operation in places of employment.

⁹⁰ For a list of conveyances, see [Elevator Safety Orders](#).

Cal/OSHA's Highest Hazard Industries List

Pursuant to Labor Code 6401.7(e)(3)(A), Cal/OSHA issues the Highest Hazard Industry List annually. The methodology for Cal/OSHA's High Hazard Industry threshold is based on >200 percent of the annual private sector average DART (Days Away, Restricted, and Transferred) rate. The DART rate in 2015, serving as a basis for FY 2017-2018 High Hazard Industry threshold, was 2.1. Accordingly, the high hazard industry threshold for that fiscal year is 4.2.

For further information

[Cal/OSHA's Highest Hazard Industry List for FY 2018–2019](#)

Safety and Health Standards

The [Occupational Safety and Health Standards Board \(OSHSB\)](#), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The mission of OSHSB is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

To meet DIR's goal to ensure that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement.

For further information

Occupational Safety & Health Standards Board [Approved Regulations](#)

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (OSHAB)

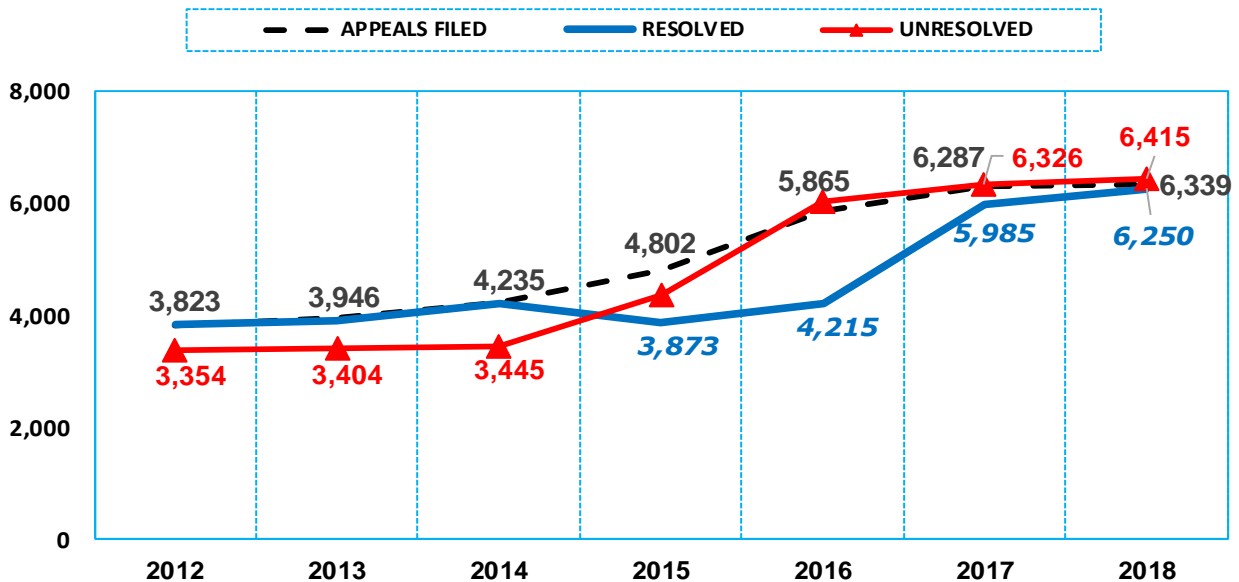
The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected from among management, labor, and the general public. The chairman is selected by the governor.

The mission of OSHAB is to resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety fairly, efficiently, and in a timely manner. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violations of workplace health and safety laws and regulations.

Figure 135 shows the OSHAB workload: appeals filed, resolved, and unresolved. The number of appeals filed yearly increased by 66 percent from 2012 to 2018.

From 2012 to 2014, almost 100 percent of filed appeals were resolved each year; therefore, the average number of unresolved appeals per year reached its minimum of 3,400 cases on average from 2012 to 2014. In 2015 and 2016, the processing of appeals slowed down to 81 and then to 72 percent of filed appeals correspondingly, increasing the number of unresolved cases from 2015 to 2017. Resolved appeals as a share of yearly filed appeals increased to 95 percent in 2017 and to 99 percent in 2018, so the number of unresolved cases leveled out.

Figure 135: Occupational Safety and Health Appeals Board (OSHAB) Workload, 2012-2018



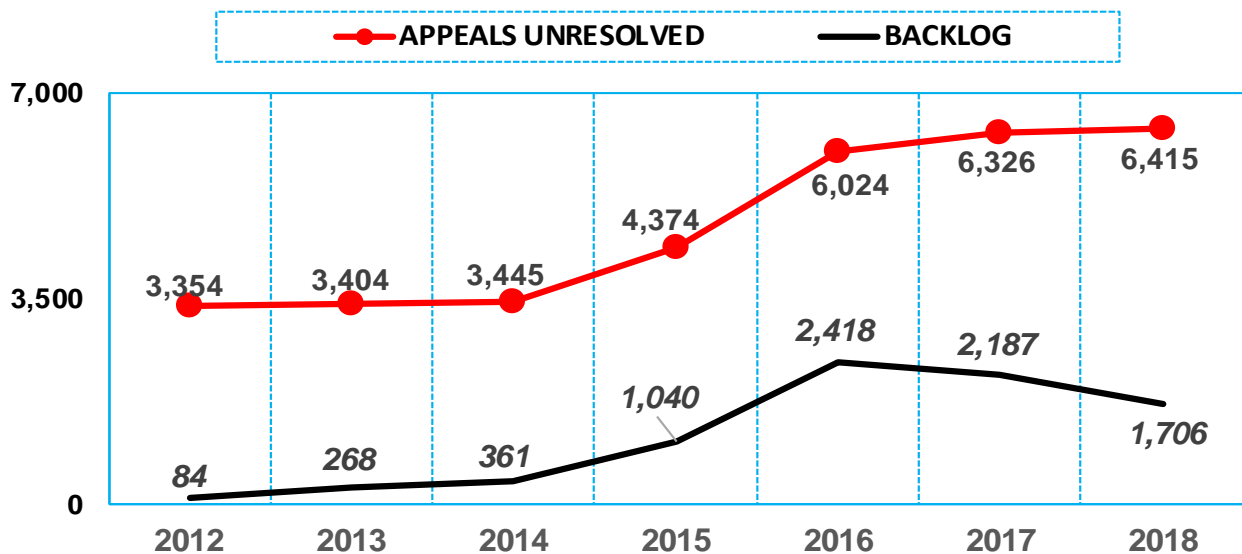
Data Source: OSHAB

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The trend and level of backlogged citation appeals reflect changes in unresolved cases as they accumulate from previous years.

Figure 136 shows that the number of backlogged appeals increased from 84 in 2012 to 2,418 cases in 2016. This growth in the backlog was the result of the filed appeals outpacing the level of resolved cases in 2015 and 2016 (see Figure 135), and an increase in the number of unresolved cases from 2012 to 2016. As the number of filed appeals and unresolved cases leveled out from 2016 to 2018, and the number of resolved cases increased by 48 percent in the same period, the backlog decreased by 29 percent from 2016 to 2018.

Figure 136: Occupational Safety and Health Appeals Board Backlogs, 2012-2018



Data Source: OSHAB

EDUCATIONAL AND OUTREACH PROGRAMS

In conjunction and in cooperation with the health and safety and workers' compensation community, CHSWC administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

Worker Occupational Safety and Health Training and Education Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs. For further information about WOSHTEP and its activities, see the "Special Report: CHSWC's Health and Safety Programs."

School Action for Safety and Health

Per the mandate set forth in the Labor Code 6434, CHSWC is to assist school districts and other local education agencies (LEAs) in implementing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention programs. For further information about SASH and its activities, see the "Special Report: CHSWC's Health and Safety Programs."

The California Partnership for Young Worker Health and Safety

CHSWC has convened [the California Partnership for Young Worker Health and Safety](#). The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers, and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers. For further information about the Partnership see the "Special Report: CHSWC's Health and Safety Programs."

In addition, DIR oversees these educational and outreach programs through Cal/OSHA:

Cal/OSHA Consultation

Consultative assistance is provided to employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

Partnership Programs

California has developed several programs that rely on industry, labor, and government to work as partners in encouraging and recognizing workplace health and safety programs that effectively prevent and control worker injuries and illnesses. These partnership programs include the [Voluntary Protection Program](#) (VPP), Golden State, SHARP, Golden Gate, and special alliances formed among industry, labor, and OSHA.

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

BACKGROUND

In California, approximately two-thirds of the total State payroll is covered for workers' compensation through insurance policies, while the remainder is through self-insurance.⁹¹ There are more than 200 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (SCIF).

The California Department of Insurance (CDI) oversees these insurers. To accomplish its principal objective to protect insurance policyholders in the State, CDI examines insurance companies to ensure that operations are consistent with Insurance Code requirements.

Minimum Rate Law and Open Rating

In 1993, workers' compensation reform legislation repealed California's 80-year-old minimum rate law and in 1995 replaced it with an open-competition system of rate regulation, in which insurers set their own rates based on "pure premium advisory rates" developed by the Workers' Compensation Insurance Rating Bureau (WCIRB). These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss-adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates intended to cover other costs and expenses, including unallocated loss-adjustment expenses, as well as an operating profit.

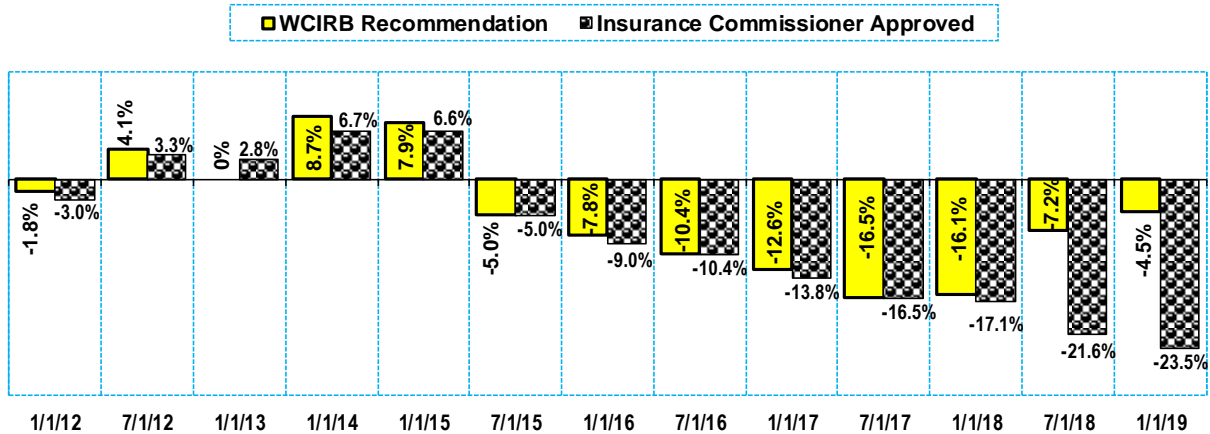
WORKERS' COMPENSATION ADVISORY PREMIUM RATES

As a result of the 2003 legislative reforms, WCIRB recommended changes and the Insurance Commissioner (IC) either approved them or declared no changes in the pure premium advisory rates. When decisions have been issued, the IC approved increases for all periods from July 1, 2012, to January 1, 2015, filings. The IC approved decreases in the pure premium advisory rates in six consecutive periods beginning from July 1, 2015 to January 1, 2018. The WCIRB did not submit its July 1, 2013, July 1, 2014, and July 1, 2019, pure premium rate filings, and the IC did not issue the interim advisory rates for these periods. Recognizing that mid-year filings and adjustments to advisory pure premium rates can be disruptive to employers, agents, and brokers as well as insurers, the Committee established a guideline in 2011 stating that midyear filings would generally not be made by the WCIRB unless there was highly unusual volatility in experience or

⁹¹ Please note that the state of California is legally uninsured.

major legislative, regulatory, or judicial action. (A history of pure premium rates since 2012 appears later in this section.) See Figure 137.

Figure 137: Percentage Changes in Workers' Compensation Advisory Premium Rates, WCIRB Recommendation and Insurance Commissioner's Decision Compared to Corresponding Industry Average Filed Pure Premium Rate



Note: The WCIRB did not submit its July 1, 2013, July 1, 2014, and July 1, 2019, pure premium rate filings, and the IC did not issue the interim advisory rates for these periods

Source: WCIRB

CALIFORNIA WORKERS' COMPENSATION RATE CHANGES

Workers' compensation legislative reforms enacted in 2003 and subsequent decisions by the IC on advisory claims cost benchmarks and pure premium rates led insurers to file a series of significant manual rate reductions from 2004 through 2008. Despite manual rate increases filed by insurers, which helped lead to additional legislative reforms passed in 2012 (SB 863), the top ten California workers' compensation insurers still maintain greatly reduced filed manual rates from those in 2003 (see Table 42).

Since the first reform package was chaptered in 2003, 108 new insurers have filed to enter the California market and existing private insurers have increased their underwritings. The significant rate reductions, totaling 28 percent since the first reforms were enacted, and SCIF's declining market share from its peak of 53 percent in 2003 to 10.9 percent in 2018 point to the dramatic initial success of the 2003 cost containment reforms and a stabilizing market with increased capacity and greater rate competition.

The impact of savings from the latest reform, SB 863 passed in 2012 and effective January 1, 2013 are being realized as the advisory pure premium rates effective July 1, 2018, averaged \$1.74 per \$100 of payroll and were 10.3 percent less than the average of the approved January 1, 2018, advisory pure premium rates of \$1.94. Approved pure premium rates effective January 1, 2019, averaged \$1.63 per \$100 of payroll and were 6.3 percent lower than the approved July 1, 2018 pure premium rate of \$1.74 per \$100 of payroll. (See "Advisory Workers' Compensation Pure Premium Rates. A History since the 2012 Reform Legislation" on pp. 241-247.)

Table 42: California Workers' Compensation Top 10 Insurers Rate Filing Changes

COMPANY NAME	GROUP NAME	Market Share 2018	Cumulative Rate Change 1-04 to 4-19	4-1-2019 % Filed Rate Change*	4-1-2018 % Filed Rate Change*	4-1-2017 % Filed Rate Change*	4-1-2016 % Filed Rate Change*
State Compensation Insurance Fund	N/A	10.90%	-52.09%	-10.00%	-8.00%	-9.50%	0.020%
Insurance Company of the West	American Assets Group	6.28%	-54.93%	-17.80%	-10.60%	-10.32%	-5.60%
Travelers Property Casualty Company of America	Travelers Group	5.25%	-45.84%	-10.00%	-6.40%	-5.20%	-4.00%
Cypress Insurance Company	Berkshire Hathaway Grp	3.00%	-60.22%	-16.70%	-7.00%	-5.00%	0.00%
Security National Insurance Company**	AmTrust NGH Group	2.84%	39.78%	-0.60%	-0.30%	-0.80%	-2.30%
Zurich American Insurance Company	Zurich Ins. Group	2.82%	-50.78%	-7.00%	-9.10%	-8.73%	0.00%
Zenith Insurance Company	Fairfax Financial Grp	2.78%	-19.21%	-8.50%	-2.50%	-0.40%	-1.30%
Everest National Insurance Company	Everest Reins Holdings Grp	2.35%	-47.02%	-8.84%	-12.60%	-12.40%	-4.80%
Redwood Fire & Casualty Insurance Co	Berkshire Grp	2.20%	-74.32%	-16.70%	-6.90%	-9.60%	0.00%
Ace American Insurance Company	ACE Ltd. Grp.	2.04%	-81.74%	-11.50%	-7.70%	-9.08%	-10.80%

* Indicated % filed rate change reflects cumulative rate change(s) in effect as of that date from the rates in effect on the preceding date.

** Security National Insurance Company entered the California market in 2008.

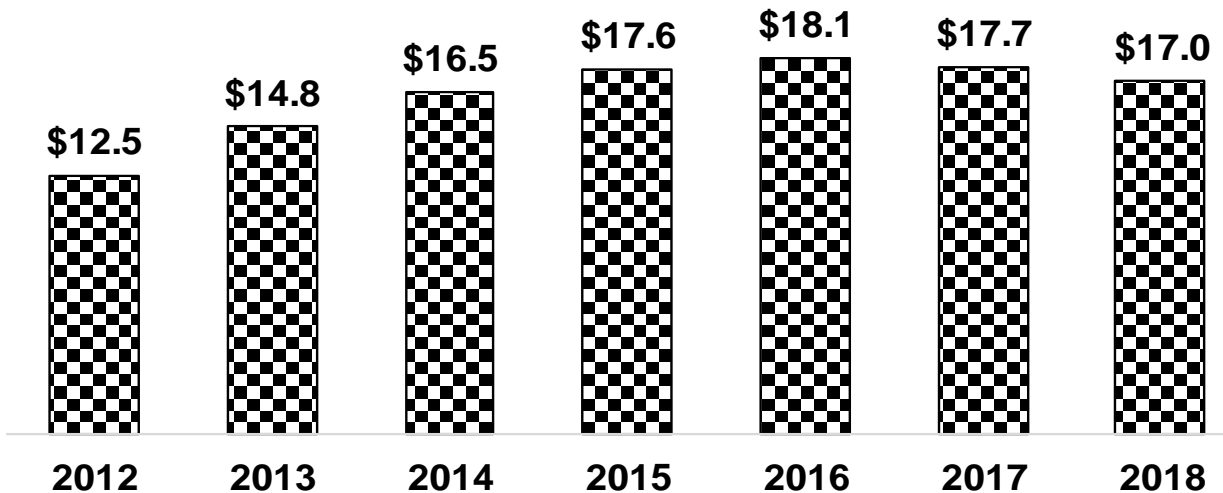
WORKERS' COMPENSATION PREMIUM

After elimination of the minimum rate law, the total written premium declined from a high of \$8.9 billion in 1993 to a low of \$5.7 billion (\$5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth, movement from self-insurance to insurance, and other factors, rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the 1990s.

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium increased by 37 percent to \$21.4 billion from 2002 to 2003 and increased by about 10 percent to a peak of \$23.5 billion from 2003 to 2004. The written premium declined by almost 63 percent from \$23.5 billion to \$8.8 billion between 2004 and 2009 due to rate decreases. From 2009 to 2016, the written premium more than doubled.

Figure 138 shows the California workers' compensation written premium gross of deductible credits between 2012 and 2018. Note that these amounts exclude dividends.⁹²

Figure 138: Workers' Compensation Written Premium as of December 31, 2018 (Billion \$)



Source: WCIRB

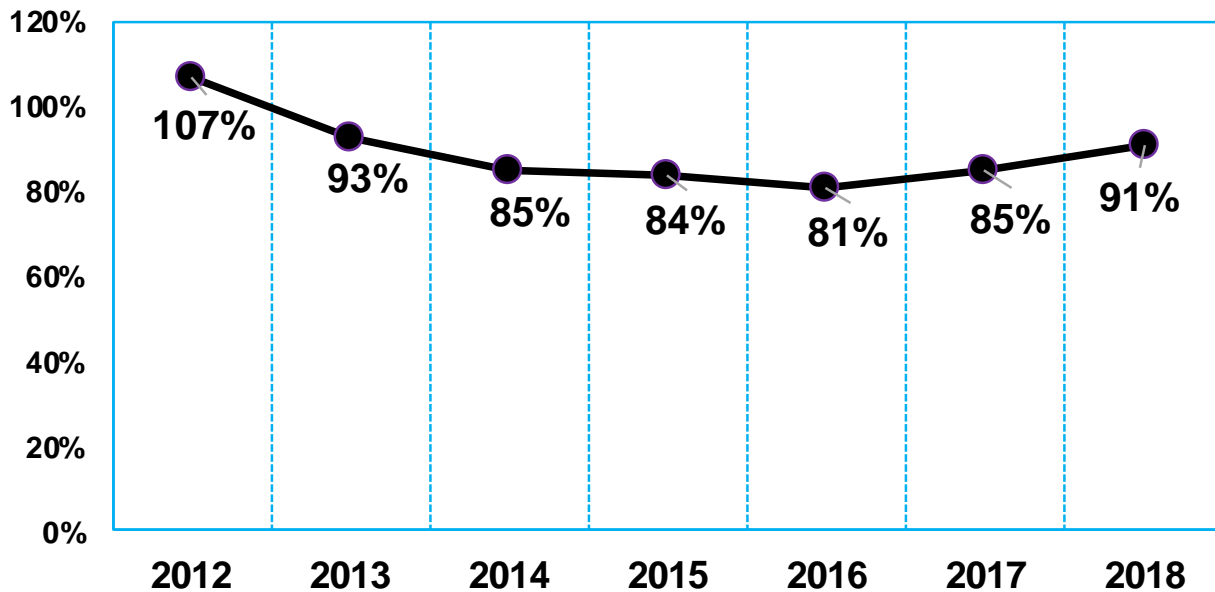
⁹² [WCIRB Quarterly Experience Report, as of December 31, 2018](#), Chart 1.

COMBINED LOSS AND EXPENSE RATIO

The accident year combined loss and expense ratio measures workers' compensation claims payments and administrative expenses against the earned premium.

In accident year 2018, insurers' claim projected costs and expenses amounted to \$.91 for every dollar of premium collected.⁹³ The projected combined ratio is six points higher for 2018 than 2017 as premium levels decreased while average claim severity increased. Despite the recent increase, combined ratios for the past six years remain below 100 percent and are the lowest since the period 2004 to 2006.

Figure 139: California Workers' Compensation Combined Loss and Expense Ratios (Projected accident year, as of December 31, 2018)



Data Source: WCIRB

EARNED PREMIUM COMPONENTS

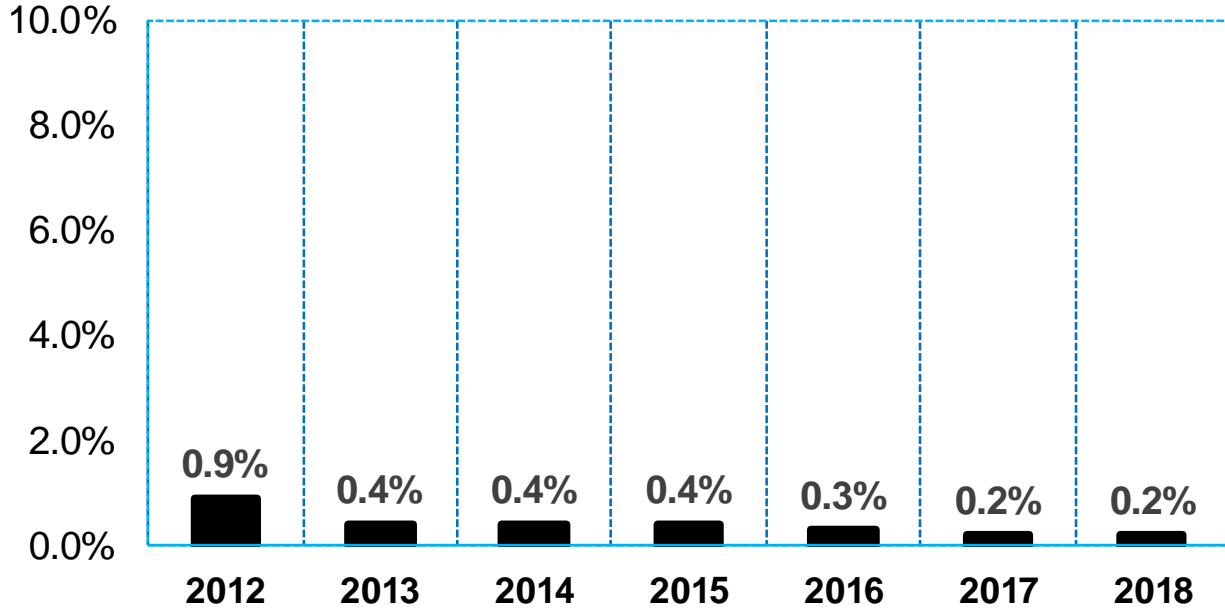
Policy Holder Dividends

Dividends to policyholders were not paid in 2004 and were then reinstated from 2005 through 2011 at a very low rate. Dividends paid to policyholders increased up to 0.9 percent in 2012 and then decreased to 0.4 percent in 2013. From 2013 to 2018, dividends paid to policyholders decreased steadily, from 0.4 to 0.2 percent of the earned premium. These estimated insurer policyholder dividends totalling \$35 million incurred in 2018

⁹³ [WCIRB Quarterly Experience Report, as of December 31, 2018](#), Chart 4.

resulted in an underwriting profit of \$3.1 billion, or 18 percent of the earned premium, as shown in Figure 140.

Figure 140: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



Source: WCIRB

Projected Ultimate Total Loss

Figure 141 shows changes in the projected average indemnity, medical, and allocated loss adjustment expense (ALAE) cost components of the projected ultimate total loss or projected average cost (“severity”) per workers’ compensation indemnity claim.

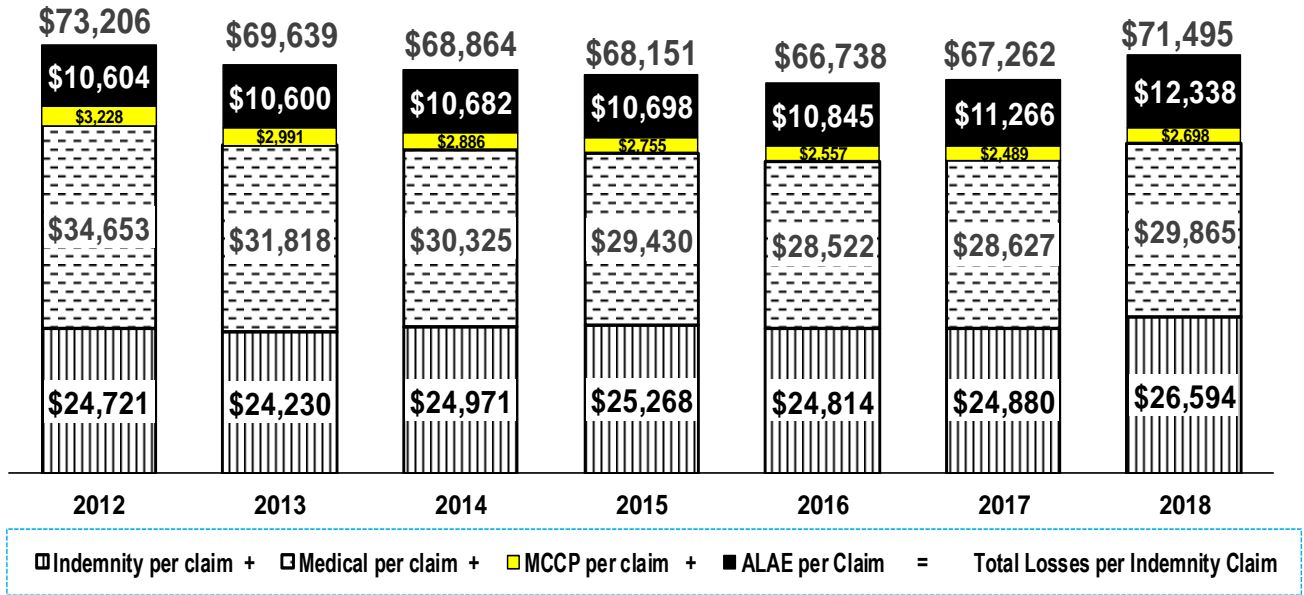
Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss.

WCIRB projects the average cost or “severity” of a 2018 indemnity claim to be \$71,495, which is 6 percent higher than the projected severity for 2017, the second year of increases, following several years of modest decline in claim severity.⁹⁴ The projected average indemnity cost showed a relatively modest increase from 2012 to 2017, primarily a result of SB 863 increases to permanent disability benefits effective in 2013 and 2014. It is unclear whether a 7 percent increase from 2017 to 2018 will continue or whether a downward trend will develop, as in recent years. The projected average medical cost of a 2018 indemnity claim is 4 percent above that for 2017, which follows decreases in medical severity from 2011 to 2015 and levelling off in 2016 and 2017, driven by medical

⁹⁴ [WCIRB Quarterly Experience Report, as of December 31, 2018](#), Charts 8–12.

cost savings arising from SB 863. The absence of a significant increase or decrease in severity since 2015 was driven by recent reforms, reduced pharmaceutical costs, and efforts to fight fraud. It is unclear whether the 4 percent increase will be reversed as in recent years or whether it represents a return to more typical rates, as in post-reform medical inflation.⁹⁵ The projected average ALAE cost of a 2018 indemnity claim, excluding MCCP, is 10 percent above that of 2017 and 16 percent higher than the average ALAE severity for 2012. Average ALAE costs tend to rise shortly after the implementation of reforms, even during periods when medical costs have declined. According to the WCIRB, improving claim settlement rates may moderate ALAE costs in the future.⁹⁶

Figure 141: Projected Ultimate Total Loss and ALAE per Indemnity Claim, as of December 31, 2018



Source: WCIRB

Insurer Profit/Loss

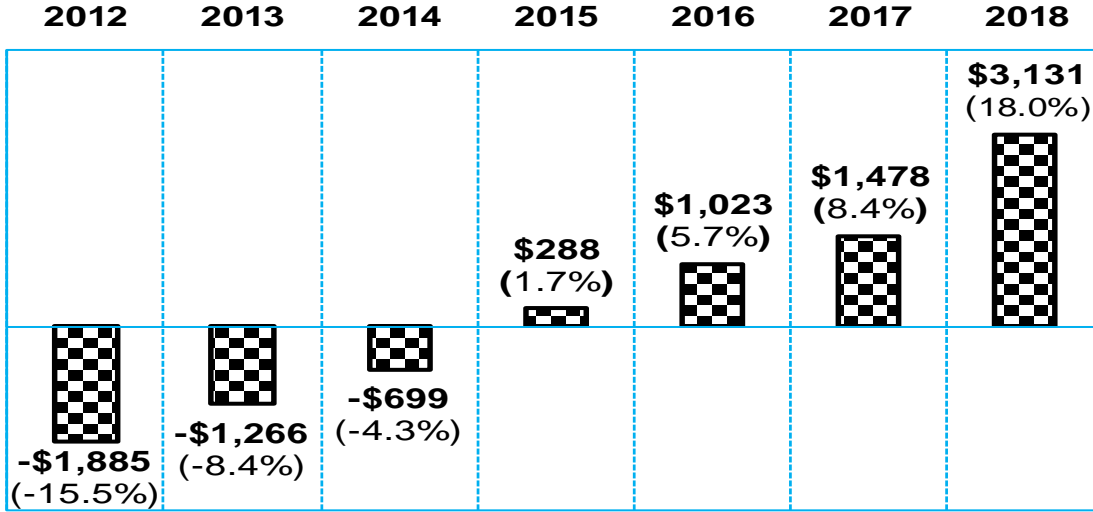
Workers' compensation insurers experienced large fluctuations in profits and losses during the past decade, as measured by actual dollars and percentage of earned premium. From the implementation of the reforms of 2004 until 2008, insurer underwriting profits were uncharacteristically high. Investment income typically was the main source of insurer profits, but underwriting profits from policies was a new development. In 2008, workers' compensation insurers experienced losses for the first time since 2004. The pre-tax underwriting losses increased to 17 percent in both 2009 and 2010, reached 22.3 percent of earned premium in 2011, and then declined steadily from 2011 to 2014. In

⁹⁵ Ibid., Chart 10.

⁹⁶ Ibid., Chart 11.

2015, insurers experienced the underwriting profits of 1.7 percent after 7 years of losses. In 2018, the underwriting profits increased 16.3 percentage points from 1.7 percent.

Figure 142: Insurer Pre-Tax Underwriting Profit/Loss⁹⁷, 2012-2018 (Million \$ and as a Percentage of the Earned Premium)



Source: WCIRB

CURRENT STATE OF THE INSURANCE INDUSTRY

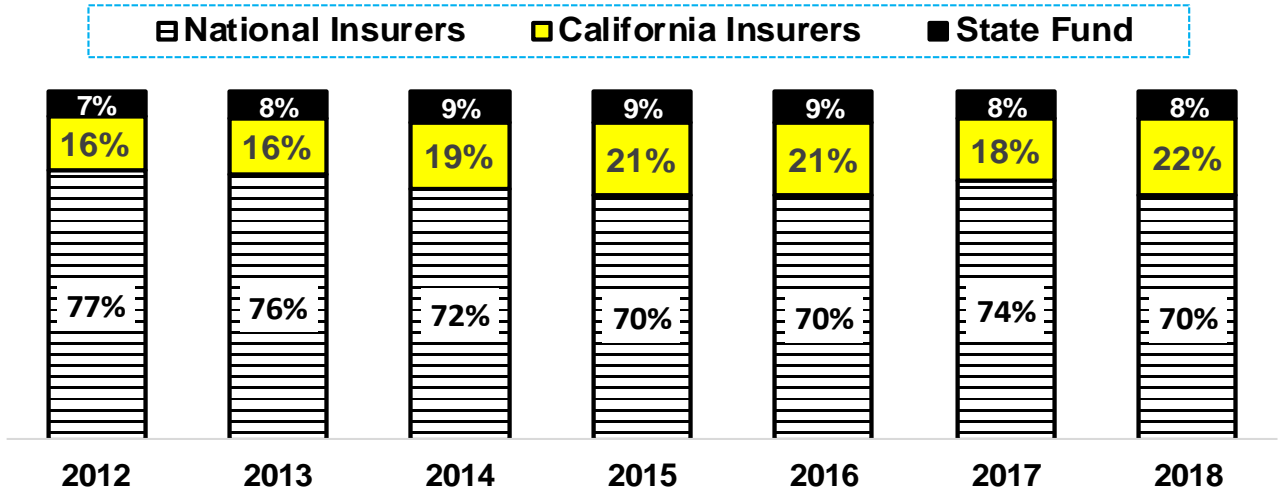
Market Share

A number of California insurers left the market or reduced their underwritings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993. Figure 143 shows changes in the workers' compensation insurance market share from 2012 to 2018.

According to WCIRB, from 2012 to 2018, SCIF attained between 7 to 9 percent of the California workers' compensation insurance market. The market share of California domestic insurers, excluding SCIF, increased overall, from 16 percent in 2012 to 22 percent in 2018.

⁹⁷ Underwriting profits or losses in this report represent only insured policies prior to reinsurance assumed or ceded and before the application of deductible credits or advisory retrospective rating plan adjustments. Also these numbers reflect underwriting results only, not overall profitability, taking into account measures of investment income or federal income taxes.

Figure 143: Workers' Compensation Insurance Market Share in California by Type of Insurer Based on Written Premium Prior to Deductible Credits



Note: California Insurers are defined as private insurers who write at least 80 percent of their workers' compensation business in California.

Data Source: WCIRB

Impact of September 11, 2001, on Insurance Industry

The problems in the reinsurance market caused by the tragic events of September 11, 2001, significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, had a significant effect on the cost of workers' compensation insurance. This effect extended to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace. The insurance industry remained concerned about the renewal of the Terrorism Risk Insurance Act, often known as TRIA, which was reauthorized in 2007 and extended to December 2014. Now known as TRIPRA, the Terrorism Risk Insurance Program Reauthorization Act of 2015 amends the expiration date of the Terrorism Risk Insurance Program (TRIP) to December 31, 2020.

ADVISORY WORKERS' COMPENSATION PURE PREMIUM RATES: A HISTORY SINCE THE 2012 REFORM LEGISLATION

January 1, 2012

WCIRB recommendations:

On August 22, 2011, the WCIRB submitted its January 1, 2012, pure premium rate filing to the California Insurance Commissioner. The pure premium rates proposed in this filing are benchmarked to the average insurer filed pure premium rate. The average of 494 classification pure premium rates is \$2.33 per \$100 of payroll and 1.8 percent less than the corresponding average of insurer filed pure premium rates for July 1, 2011.

Insurance Commissioner action:

On November 4, 2011, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2012, which average \$2.30 per \$100 of payroll.

July 1, 2012

WCIRB recommendations:

On April 12, 2012, the WCIRB submitted its July 1, 2012, pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average \$2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of \$2.41 as of January 1, 2012.

Insurance Commissioner action:

On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, which average \$2.49 per \$100 of payroll.

January 1, 2013

WCIRB recommendations:

On October 1, 2012, the WCIRB submitted its January 1, 2013, pure premium rate filing to the California Insurance Commissioner. The WCIRB did not recommend a January 1, 2013, increase in the advisory pure premium rate level. Instead, the WCIRB proposed January 1, 2013, pure premium rates that average \$2.38 per \$100 of payroll, which is the industry average filed pure premium rate as of July 1, 2012. The amended January 1, 2013, Pure Premium Rate Filing incorporated new proposed advisory pure premium rates as well as proposed changes to the reporting requirements of the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and to the eligibility threshold of the California Workers' Compensation Experience Rating Plan—1995.

Insurance Commissioner action:

On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average \$2.56 per \$100 of payroll which is 2.8 percent higher than the industry average filed pure premium rate of \$2.49 per \$100 of payroll as of November 9, 2012.

July 1, 2013

WCIRB recommendations:

On April 3, 2013, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2013, Pure Premium Rate Filing. Instead, the Actuarial Committee agreed to continue reviewing insurer experience in preparation for the regular January 1, 2014, Pure Premium Rate Filing to be submitted in August.

Insurance Commissioner action:

The Insurance Commissioner did not issue an interim advisory rate for this period.

January 1, 2014

WCIRB recommendations:

On October 23, 2013, the WCIRB and public members voted unanimously to amend the WCIRB's January 1, 2014, Pure Premium Rate Filing to propose an additional 1.8 percent increase in pure premium rates to reflect the increased costs of the new physician fee schedule recently adopted by the Division of Workers' Compensation (DWC). With this amendment, the WCIRB proposed January 1, 2014, advisory pure premium rates that average \$2.75 per \$100 of payroll which is 8.7 percent greater than the industry average pure premium rate of \$2.53 as of July 1, 2013. (The original Filing submitted on September 13, 2013, proposed an industry average pure premium rate of \$2.70, which is 6.9 percent higher than the July 1, 2013, industry average pure premium rate.)

Insurance Commissioner action:

On November 22, 2013, the California Department of Insurance (CDI) issued a decision regarding the WCIRB's January 1, 2014, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2014, that average \$2.70 per \$100 of payroll, which is 6.7 percent higher than the average filed pure premium rate as of July 1, 2013.

July 1, 2014

WCIRB recommendations:

On April 3, 2014, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2014, Pure Premium Rate Filing.

Insurance Commissioner action:

The Insurance Commissioner did not issue a decision with respect to the pure premium rate for this period.

January 1, 2015

WCIRB recommendations:

On September 4, 2014, the WCIRB voted to amend the WCIRB's January 1, 2015, Pure Premium Rate Filing to propose advisory pure premium rates that average \$2.77 per \$100 payroll in lieu of the advisory pure premium rates averaging \$2.86 per \$100 of payroll that were proposed in the WCIRB's initial August 19, 2014, Filing. The new proposed average pure premium rate of \$2.77 is 7.9 percent higher than the corresponding industry average filed pure premium rate of \$2.57 as of July 1, 2014.

Insurance Commissioner action:

On November 14, 2014, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2015, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2015, that average \$2.74 per \$100 of payroll, which is 6.6 percent higher than the average filed pure premium rate as of July 1, 2014, of \$2.57 per \$100 of payroll and 2.2 percent above the average approved January 1, 2014, pure premium rate of \$2.68 per \$100 of payroll.

July 1, 2015

WCIRB recommendations:

On April 6, 2015, the WCIRB submitted a July 1, 2015, Pure Premium Rate Filing to the California Department of Insurance (CDI) proposing advisory pure premium rates effective July 1, 2015, that average \$2.46 per \$100 of payroll. The average proposed advisory pure premium rate is 5.0 percent lower than the corresponding industry average filed pure premium rate of \$2.59 as of January 1, 2015, and 10.2 percent less than the approved average January 1, 2015, advisory pure premium rate of \$2.74.

Insurance Commissioner action:

On May 7, 2015, the Commissioner approved the WCIRB's proposed advisory pure premium rates that average \$2.46 per \$100 of payroll. The approved pure premium rates are, on average, 5.0 percent less than the industry average filed pure premium rate as of January 1, 2015, of \$2.59 and 10.2 percent less than the average of the approved January 1, 2015, advisory pure premium rates of \$2.74. The approved advisory pure premium rates are effective July 1, 2015, for new and renewal policies.

January 1, 2016

WCIRB recommendations:

On August 19, 2015, the WCIRB submitted its January 1, 2016, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates for the 491 standard classifications proposed to be effective January 1, 2016, average \$2.45 per \$100 of payroll, which is \$0.21, or 7.8 percent, less than the corresponding industry average filed pure premium rate of \$2.66 as of July 1, 2015, and \$0.02 or 0.8 percent less than the average approved July 1, 2015, advisory pure premium rate of \$2.47

Insurance Commissioner action:

On October 20, 2015, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2016, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.42 per \$100 of payroll. The approved pure premium rates were, on average, 9.0 percent less than the industry average filed pure premium rate as of July 1, 2015, of \$2.66 and 2.0 percent less than the average of the approved July 1, 2015, advisory pure premium rates of \$2.47.

July 1, 2016

WCIRB recommendations:

On April 11, 2016, the WCIRB submitted its July 1, 2016, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2016, average \$2.30 per \$100 of payroll, which is 10.4 percent lower than the corresponding industry average filed pure premium rate of \$2.57 as of January 1, 2016, and 5.0 percent less than the average approved January 1, 2016, advisory pure premium rate of \$2.42.

Insurance Commissioner action:

On May 31, 2016, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2016, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.30 per \$100 of payroll. The approved pure premium rates were, on average, 10.4 percent less than the industry average filed pure premium rate as of January 1, 2016, of \$2.57 and 5.0 percent less than the average of the approved January 1, 2016, advisory pure premium rates of \$2.42.

January 1, 2017

WCIRB recommendations:

On August 19, 2016, the WCIRB submitted its January 1, 2017, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2017, averaged \$2.26 per \$100 of payroll. On October 3, 2016, after completing evaluations of June 30, 2016 experience, the WCIRB submitted an amended

advisory pure premium rate averaging \$2.22 per \$100 of payroll. The proposed rate is 12.6 percent less than the corresponding industry average filed pure premium rate of \$2.54 as of July 1, 2016 and 4.3 percent less than the average approved July 1, 2016 advisory pure premium rate of \$2.32.

Insurance Commissioner action:

On October 27, 2016, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2017, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.19 per \$100 of payroll. The approved pure premium rates were, on average, 13.8 percent less than the industry average filed pure premium rate as of July 1, 2016, of \$2.54 and 5.6 percent less than the average of the approved July 1, 2016, advisory pure premium rates of \$2.32 per \$100 of payroll.

July 1, 2017

WCIRB recommendations:

On April 11, 2017, the WCIRB submitted its July 1, 2017, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2017, averaged \$2.02 per \$100 of payroll. The average proposed rate is 16.5 percent less than the corresponding industry average filed pure premium rate of \$2.42 as of January 1, 2017 and 7.8 percent less than the average approved January 1, 2017 advisory pure premium rate of \$2.19.

Insurance Commissioner action:

On May 22, 2017, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2017, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.02 per \$100 of payroll. The approved advisory pure premium rates were, on average, 16.5 percent less than the corresponding industry average filed pure premium rate as of January 1, 2017, of \$2.42 and 7.8 percent less than the average of the approved January 1, 2017, advisory pure premium rates of \$2.19 per \$100 of payroll.

January 1, 2018

WCIRB recommendations:

On August 18, 2017, the WCIRB submitted its January 1, 2018, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2018, averaged \$2.01 per \$100 of payroll. On September 8, 2017, the WCIRB submitted an amended January 1, 2018 Pure Premium Rate Filing. The proposed amended rate average \$1.96 and is 16.1 percent less than the corresponding industry average filed pure premium rate of \$2.00 as of July 1, 2017 and 2 percent less than the average approved July 1, 2017 advisory pure premium rate of \$2.00.

Insurance Commissioner action:

On October 26, 2017, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2018, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.94 per \$100 of payroll. The approved pure premium rate was, on average, 17.1 percent less than the industry average filed pure premium rate as of July 1, 2017, of \$2.34 and 3 percent less than the average of the approved July 1, 2017, advisory pure premium rates of \$2.00 per \$100 of payroll.

July 1, 2018

WCIRB recommendations:

On April 9, 2018, the WCIRB submitted its July 1, 2018, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2018, averaged \$1.80 per \$100 of payroll. The proposed advisory pure premium rate was 7.2 percent less than the average approved January 1, 2018 advisory pure premium rates.

Insurance Commissioner action:

On May 29, 2018, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2018, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.74 per \$100 of payroll. The approved pure premium rate was, on average, 21.6 percent less than the industry average filed pure premium rate as of January 1, 2018, of \$2.22 and 10.3 percent less than the average of the approved January 1, 2018, advisory pure premium rates of \$1.94 per \$100 of payroll.

January 1, 2019

WCIRB recommendations:

On August 20, 2018, the WCIRB submitted its January 1, 2019, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2019, averaged \$1.70 per \$100 of payroll. The proposed advisory pure premium rate was 4.5 percent less than the average approved July 1, 2018 advisory pure premium rates.

Insurance Commissioner action:

On November 7, 2018, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2019, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.63 per \$100 of payroll. The approved pure premium rate was, on average, 23.5 percent less than the industry average filed pure premium rate as of July 1, 2018, of \$2.13 and 8.4 percent less than the average of the approved July 1, 2018, advisory pure premium rates of \$1.78 per \$100 of payroll.

July 1, 2019

WCIRB recommendations:

On April 3, 2019, the WCIRB Governing Committee agreed not to submit a July 1, 2019, Pure Premium Rate Filing. Recognizing that midyear filings and adjustments in advisory pure premium rates can be disruptive for employers, agents, and brokers as well as insurers, the Committee established a guideline in 2011 stating that midyear filings would generally not be made by the WCIRB unless there was highly unusual volatility in experience or major legislative, regulatory, or judicial action. Based on the December 31, 2018, experience and analysis, the Committee determined that the overall improvement in experience since the January 1, 2019, approved pure premium rates was more moderate, approximately \$0.06 per \$100 of payroll or less than 4 percent than in recent years.

Insurance Commissioner action:

The Insurance Commissioner did not issue a decision with respect to the pure premium rate for this period.

January 1, 2020

WCIRB recommendations:

On August 20, 2019, the WCIRB submitted its January 1, 2020, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2020, averaged \$1.58 per \$100 of payroll. The proposed advisory pure premium rate is 5.4 percent less than the average current January 1, 2019, advisory pure premium rates.

Insurance Commissioner action:

On November 13, 2019, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2020, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.52 per \$100 of payroll. The average approved pure premium rate is about 23.6 percent lower than the industry filed average pure premium rate of \$1.99 as of July 1, 2019 and 9.0 percent lower than the average approved January 1, 2019 advisory pure premium rate of \$1.67 per \$100 of payroll.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE⁹⁸

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 in which legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers. Task force members include the following:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including the Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (Cal/OSHA)
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Insurance (CDI)
- California Department of Tax and Fee Administration (CDTFA)
- Bureau of Automotive Repair (BAR)
- Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

Established in January 2012, LETF is administered by DIR, as directed by Governor Newsom. DIR developed executive and strategic operations teams to operate, evaluate, and monitor the program. This report covers activities since LETF's inception.

TARGETING METHODS: VALUE ADDED BY LETF

LETF is tasked with ensuring efficacy, resource maximization, and the avoidance of overlap in agency enforcement. Targeted inspections are the most effective approach for meeting these central objectives. To accurately target noncompliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams comprise staff from the member agencies listed above, customized for inspections in each industry. On its own, each agency does not have access to the full range of data and other information that the LETF teams can access collectively.

- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses contacts with the local Agricultural Commissioner's office, the local

⁹⁸ The information in this special report is derived from the following [LETF Legislative Report](#).

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

US Department of Agriculture’s office, and community-based organizations.

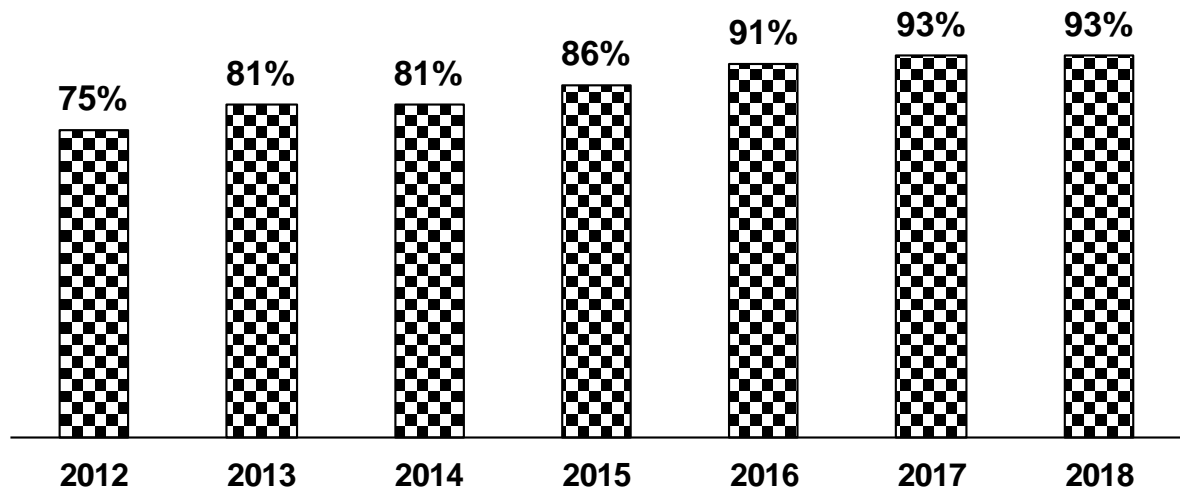
- EDD uses complaint data and their Automated Collection Enhancement System (ACES) that includes multiple databases, including tax and DMV records. Their data on taxpayers are protected by federal privacy laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, DIR receives complaints and tips submitted directly by the public to identify potential targets. The public may report through the LETF hotline, the LETF online form, or the LETF email address, as provided online at [LETF website](#).

LETF targeting protocol involves a multiphase process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to EDD for screening to learn if the employer is registered with EDD and to determine how many employees the employer has reported. The target lists are screened through the Workers’ Compensation Insurance Rating Bureau (WCIRB) to determine if the employer is adequately insured. In addition, LETF screens business names using other agency databases to match on a variety of fields that may indicate areas of noncompliance. The results are added to the business profile and used to prioritize and prepare inspectors for joint enforcement action.

As illustrated in Figure 144, LETF continues to improve the effectiveness of targeted joint enforcement by focusing on inspecting noncompliant businesses. In 2017 and 2018 LETF found that an average 93 percent of businesses inspected each month were found to be out of compliance by at least one LETF partner agency. Figure 144 shows that successful targeting is based on enforcement results (and should not be misinterpreted to represent noncompliance in the overall business community).

Figure 144: Average Percentage of Inspected Businesses Found out of Compliance per Year, 2012—2018



Source: LETF

JOINT ENFORCEMENT ACTIVITY: VALUE ADDED BY 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.
- Cal/OSHA has the authority to issue citations for serious, willful, and repeat (SWR) violations. Cal/OSHA 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 Section 1092 of the California Unemployment Insurance Code to require employers to provide records for inspection at any time during the employing unit's business hours.
- CSLB is able to suspend contractors' licenses until penalties issued by DLSE and state payroll taxes, penalties, and interest due to EDD are paid or formal arrangements have been made to pay off the liability due in installments. Penalties are far more likely to be paid promptly when the license is suspended until payment is made.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, one LETF inspection has less impact on business operations than multiple separate inspections by the individual agencies. Second, when several agencies working together find egregious employer misconduct, the ensuing publicity has a deterrent effect that is much more powerful than that of a single agency's enforcement.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Tables 43–48 show enforcement results by year for participating agencies.

Table 43: Cal/OSHA Results

Results	2012—2016	2017	2018*	Total
Businesses inspected	4,172	741	758	5,671
Percent of businesses out of compliance	85%	97%	96%	88%
Orders prohibiting use (OPUs)	122	26	22	170
Total number of violations	13,766	3,630	3,368	20,764
Percent of violations that were serious	15%	18%	15%	16%
Percent of programmed inspections with SWR** violations	34%	46%	46%	37%
Initial assessment amounts	\$12,226,562	\$3,709,590	\$2,701,425	\$18,637,577

* Totals for 2018 do not reflect information for 200 inspections that are still pending citation issuance.

** Serious, willful, and repeat violations.

Table 44: DLSE Results

Results	2012—2016	2017	2018	Total
Businesses inspected	4,506	792	751	6,049
Businesses out of compliance	2,411	408	348	3,167
Percent of businesses out of compliance	54%	52%	46%	52%
Number of workers' compensation insurance violations	1,751	339	269	2,359

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Results	2012—2016	2017	2018	Total
Number of child labor violations	47	18	19	84
Number of deduction statement violations	1,261	253	247	1,761
Number of minimum wage violations	166	46	26	238
Number of overtime violations	190	33	23	246
Number of garment violations	150	64	48	262
Number of contractor's license (1021/1021.5) violations	187	23	14	224
Number of garment registration violations	128	15	5	148
Number of car wash registration violations	74	38	26	138
Number of rest period violations	13	7	9	29
Number of meal period violations	16	1	9	26
Number of split-shift violations	19	3	4	26
Number of misclassification violations	1	0	1	2
Number of unlicensed farm labor contractor (1683) violations	1	0	0	1
Total number of violations	4,004	840	700	5,544
Assessment amounts	\$35,339,002	\$7,749,381	\$8,159,009	\$51,247,392

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Table 45: EDD Results

Results	2012—2016	2017	2018	Total
Businesses inspected	4,805	841	760	6,406
Percent of audit referrals*	58%	59%	52%	57%
Estimated unreported wages**	\$692,867,734	\$122,997,873	\$98,981,173	\$914,846,780
Estimated unreported employees	14,539	2,181	1,639	18,359
Completed audits	1,712	420	451	2,583
Audit liability change	\$49,596,107	\$14,224,261	\$15,188,596	\$79,008,964

*Based on closed LETF cases. **Closed LETF leads.

Table 46: CSLB Results

Results	2012—2016*	2017	2018	Total
Businesses inspected	2,442	287	288	3,017
Percent of businesses out of compliance**	37%	31%	44%	37%
Civil penalties assessed	\$1,470,300	\$74,100	\$77,550	\$1,621,950

*Totals for 2012 followed different methodology than totals for the other years, which both reflect joint inspection results when CSLB partnered with at least one other LETF enforcement partner.

**Includes violations for contracting without a license, contracting with an expired or suspended license, illegal advertising, and other violations.

Table 47: BAR Results

Results	2012—2016	2017	2018	Total
Businesses inspected	409	131	170	710
Percent of businesses out of compliance*	36%	14%	12%	26%

*Includes both unlicensed businesses and businesses with delinquent licenses.

Table 48: CDTFA Results

Results	2012—2016	2017	2018	Total
Businesses inspected	1,190	195	205	1,590
Percent of Businesses out of compliance*	36%	25%	18%	33%

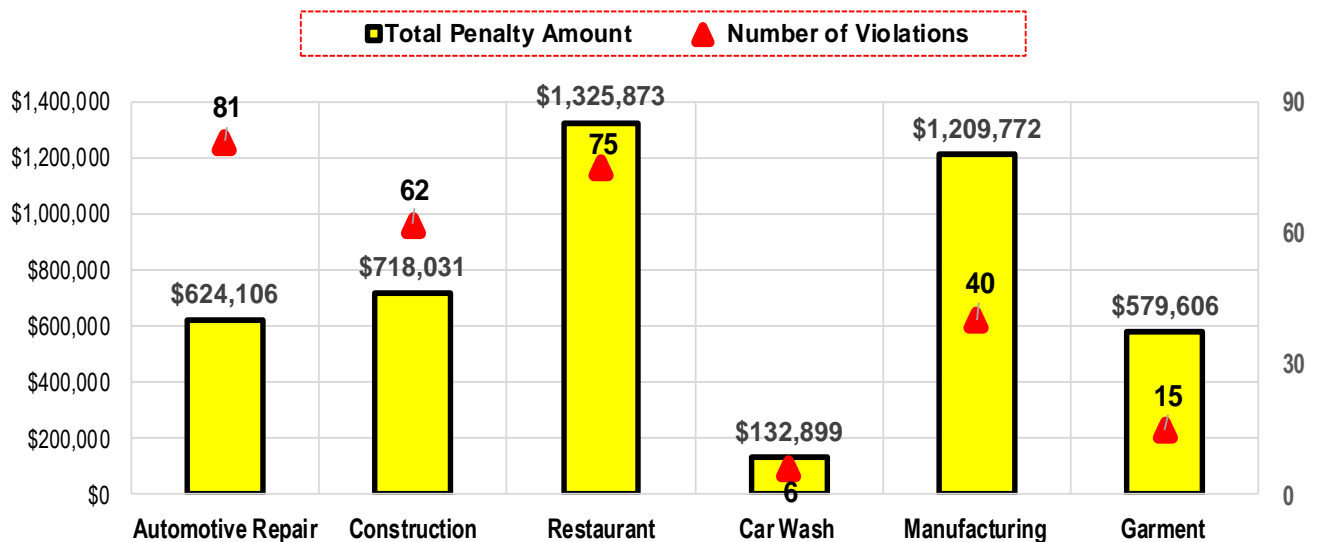
*Includes businesses operating without a seller's permit and leads generated by CDTFA.

ANALYSIS OF WORKERS' COMPENSATION COVERAGE IN THE UNDERGROUND ECONOMY

Employers' failure to carry a workers' compensation policy is a common violation in the underground economy. A key step in the LETF-targeted enforcement protocol includes digital surveillance. As detailed above, investigators match across partner agencies' databases to screen for potential violations and complaints. To determine whether an employer is adequately insured, inspectors consult the Workers' Compensation Insurance Rating Bureau (WCIRB) database. LETF prioritizes inspection of businesses that appear to have no workers' compensation policy.

Figure 145 shows the number of workers' compensation coverage violations and related penalties across the industries that LETF inspected in FY 2018-2019. The DLSE issued 81 violations to automotive businesses and 75 violations to restaurants for workers' compensation coverage violations. In addition, the DLSE assessed over \$1.2 million and 1.3 million, respectively, in penalties to manufacturing and restaurant businesses.

Figure 145: Number of DLSE Violations and Total Penalty Amounts, by Industry in 2018—2019



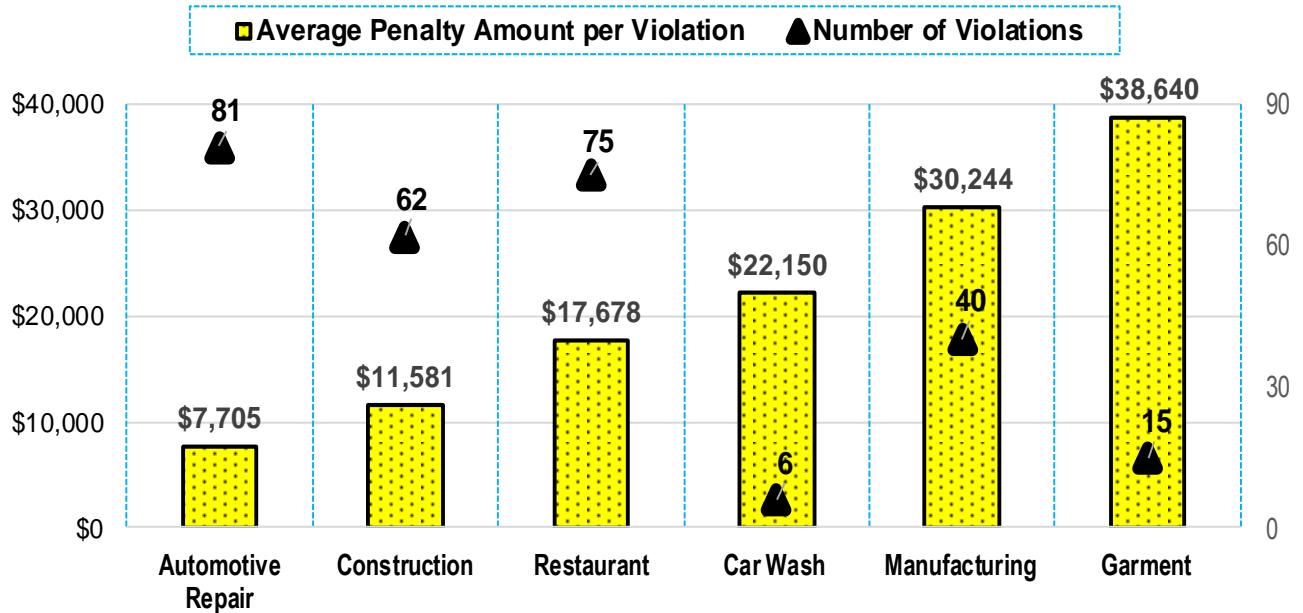
Source: LETF

*The number of violations (right-hand axis) issued to employers for failure to cover employees with workers' compensation insurance.

** The initial penalty amounts (left-hand axis) for failure to cover employees with workers' compensation insurance assessed at the time of the initial inspection. These amounts are subject to change.

Figure 146 shows the average penalty amount per workers’ compensation violation by industry. In 2018-2019, severity of violations was the highest in the car wash, manufacturing, and garment industries.

Figure 146: Average Penalty Amount per Workers’ Compensation Violation, by Industry in FY 2018—2019



Source: LETF

LETF examined the correlation of workers’ compensation violations with other types of violations and areas of noncompliance (see Table 49). The key findings include:

- 87 percent of garment businesses and 70 percent of construction businesses cited for workers’ compensation violations were also referred to the EDD audit program for further investigation.
- 80 percent of garment businesses and 60 percent of automotive businesses cited for workers’ compensation violations were also cited by Cal/OSHA for serious health and safety violations.
- 100 percent of car wash businesses cited for workers’ compensation violations were also cited for violating the car wash registration provision and 50 percent for failing to provide car wash employees with itemized wage statements.
- 40 percent of garment businesses cited for workers’ compensation violations were also cited for violating the garment registration provision.

Table 49: Percentage of Businesses Cited for Workers' Compensation Violations That Violated Other Laws in FY 2018—2019

Industry	Licensing and registration violations*	Cal/OSHA serious violations	EDD audit referrals	Itemized wage statement violations
Automotive	N/A	60%	64%	25%
Car wash	100%	50%	67%	50%
Construction	11%	36%	70%	30%
Garment	40%	80%	87%	27%
Manufacturing	N/A	55%	58%	43%
Restaurant	N/A	45%	67%	25%

*Car wash and garment employers are cited if they do not register with the DLSE. Construction employers/contractors are cited by the CSLB if they are unlicensed and perform work that requires a contractor's license.

EDUCATION AND OUTREACH

LETF uses multiple education and outreach methods to ensure that employers know their responsibilities and workers know their rights. LETF has designed and produced effective educational materials for workers and employers in coordination with other agencies. LETF produced the widely referenced employee handbook "All Workers Have Rights in California," which is available in English, Spanish, Chinese, Korean, and Vietnamese and covers topics such as minimum wages and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. LETF has also produced fact sheets to help employers understand and follow labor, licensing, and payroll tax laws. The fact sheets have been designed for employers in specific industries, including agriculture, automotive, construction, garment, landscaping, and restaurants. Printable and mobile versions of these materials for workers and employers have been recently updated to reflect the minimum wage increases in 2019 and other important labor law updates. The mobile versions are readable on smartphones and other mobile devices. All the [LETF educational materials](#) are available at the LETF website.

The [LETF website](#) is available in English and Spanish. DIR publicizes LETF's efforts and notable cases via speaking engagements, press releases, website features, email alerts, as well as social media, such as Facebook and Twitter. The public can subscribe to [LETF email alerts](#).

RECOMMENDED CHANGES TO STATUTES

Though LETF does not currently have any active plans for legislation, Task Force partners are continuously looking for ways to improve effectiveness and interagency collaboration.

OBJECTIVES FOR 2019

Objectives for 2019 include the following:

1. **Continue to foster interagency collaboration.** LETF will continue to work with various enforcement partners to facilitate information sharing (as permitted by the law), refine joint operation protocols, and combine resources in order to streamline interagency collaboration, focus on operators in the underground economy, and avoid duplication of efforts.
2. **Strengthen and increase engagement with community partners.** Working with a wide range of community partners is essential for LETF to understand and combat the multifaceted nature of the underground economy. LETF aims to strengthen existing partnerships and develop new ones with community partners, such as worker advocates, employer groups, and union representatives.
3. **Expand outreach and education.** LETF will continue to work with partners to raise awareness about the widespread harmful effects of the underground economy. Additionally, LETF seeks to promote compliance by partnering with employer groups and educating employers in multiple industries on their responsibilities and on how to remain in compliance with labor laws.

For further information

[Labor Enforcement Task Force \(LETF\).](#)

SPECIAL REPORT: EVALUATION OF SB 863 MEDICAL CARE REFORMS

INTRODUCTION

California's workers' compensation (WC) program provides medical care and wage-replacement benefits to workers who suffer on-the-job injuries and illnesses. Injured workers are entitled to receive all medical care reasonably required to cure or relieve the effects of their injury with no deductibles or copayments. Over the years, WC medical care expenses have fluctuated. Total medical expenses increased by 24 percent from 2007 to 2011, with particularly significant increases in medical cost containment expenses and medical-legal costs. The latest WC medical care reforms were enacted by Senate Bill 863 in 2012.

The intention of SB 863 provisions was to constrain the rate of increase in medical expenses through a combination of measures designed to improve the quality, efficiency, and timeliness of medical care given to injured workers through improvements in the fee schedules and dispute resolution processes and increased accountability and oversight.

Key SB 863 provisions include:

- *Fee Schedule Changes.* Changes in the Official Medical Fee Schedule (OMFS) were designed to promote the efficient delivery of medical care. These changes include modifications to the inpatient hospital and ambulatory surgery facility fee schedules effective January 1, 2013, replacement of the existing OMFS for physician services with a Resource-Based Relative Value System (RBRVS) fee schedule effective January 1, 2014, and development of new fee schedules for home health care, copying services, and interpreter fees.
- *Medical Provider Networks (MPN).* SB 863 aimed to improve the operation and oversight of medical provider networks (MPNs). Since January 1, 2004, injured workers of employers with MPNs have been required to use network providers throughout the course of the treatment. The SB 863 provisions, including medical

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SPECIAL REPORT: EVALUATION OF SB 863 MEDICAL CARE REFORMS

access assistants for injured workers, written contracts between MPNs and providers including language that providers will follow Medical Treatment Utilization Schedule (MTUS) guidelines, and additional oversight by the Division of Workers' Compensation (DWC) over MPN lists of providers, took effect January 1, 2014.

- *Medical-Legal Evaluations*. Improving the process of medical-legal evaluation included addressing deficiencies in the composition of qualified medical evaluator (QME) panels, streamlining the process and timelines for evaluations by agreed medical evaluators (AME) and QMEs, and increasing DWC oversight of the evaluators and their decisions; these regulatory changes took effect September 16, 2013. With respect to medical necessity disputes, the Independent Medical Review (IMR) process replaced the AME/QME process. Effective July 1, 2013, an evaluator no longer provides an opinion on any disputed medical treatment issue; evaluators continue to be needed to provide an opinion about whether the injured worker will require future medical care to mitigate the effects of an industrial injury.
- *Independent Medical Review (IMR)*. Replacing the existing dispute resolution process with IMR was intended to improve the quality and timeliness of the process for resolving medical necessity determinations. The IMR process took effect January 1, 2013, for injuries that occurred in 2013 and on July 1, 2013, for any adverse utilization review (UR) decisions communicated on or after that date, regardless of the year in which the injury took place.
- *Independent Bill Review (IBR)*. SB 863 provisions established requirements for bill submissions and processing to improve the timeliness of payment for medical treatment and implemented the IBR process to resolve payment disputes. The IBR process was effective for services furnished on or after January 1, 2013.

STUDY OBJECTIVES

The report uses two types of analyses. The first type includes analyses of specific SB 863 provisions, for example, specific fee schedule changes, with the goal of describing how the provision in question is related to changes in WC-paid medical care utilization and spending. The second type includes analyses of SB 863 as a whole. These “consolidated” analyses rely on pre-post comparisons with control groups to identify changes in medical care utilization and medical care spending.

RESEARCH QUESTIONS

The report addresses the following main research questions:

1. How has medical care utilization and spending changed over the SB 863 implementation period in terms of both overall levels (i.e., utilization and spending per injury) and the mix of services?

SPECIAL REPORT: EVALUATION OF SB 863 MEDICAL CARE REFORMS

2. How have utilization and spending changed for specific medical care services affected by the implementation of RBRVS? What are the overall impacts of the transition to RBRVS?
3. Did other specific fee schedule changes introduced in SB 863—including changes to inpatient hospital and ambulatory surgery center services and the medical-legal fee schedule—change utilization and spending on these and related services?
4. How did changes in the IMR process affect IMR and UR frequency and other outcomes?
5. Was SB 863 associated with changes in medical care utilization and spending for injured workers, after controlling for unrelated trends through comparison to control patients?

DATA SOURCE

The primary data source for the study comes from the Workers' Compensation Information System (WCIS) database maintained by the DWC for services provided from 2007 to 2015.

SUMMARY OF FINDINGS

Medical care utilization and spending. RAND found significant changes in utilization and spending on medical services affected by SB 863.

Significant changes were made in specific service categories, with marked increases in spending on evaluation and management (E&M) services in which RBRVS fee schedule changes raised payment rates and declines in laboratory and pathology service utilization and payments (reflecting RBRVS changes). Researchers found some changes that were not anticipated, for example, increases in spending within 12 months of injury on physical medicine services. In 2014, spending on E&M increased to nearly 30 percent of total payments in the year of injury and to approximately 35 percent in 2015. They found that two-thirds of this growth can be attributed to RBRVS changes and the rest to an increase in E&M service utilization. However, most of the increase in utilization appears to have been due to consultation visits that were billed as office visits in 2014 because consultation visits were no longer paid under RBRVS.

RBRVS implementation and transition. When the RBRVS was fully implemented in 2017, payments under RBRVS were set at 120 percent of Medicare payment rates in July 1, 2012, before application of an inflation factor and a relative value scale adjustment factor.

The transition to RBRVS increased payments for E&M services, which are commonly delivered by general practitioners, and lowered payments for specialists. From the perspective of an individual provider, the net impact of the transition to RBRVS depends on the provider's mix of services before the transition and the change in rates for these services. The transition to RBRVS from 2013 to 2014 shifted the distribution of payments

and volume of WC services in California. E&M visits accounted for a larger share of total payments and spending in 2013 and 2014.

The change in volume and payment for medical services varied significantly from 2013 to 2014 across different types of services. Payments for E&M services accounted for a larger share of total payments in 2014 than in 2013 (36.2 percent versus 29.5 percent). The volume for E&M services increased much more modestly (by less than one percentage point), which suggests that the increase in payment was driven by higher prices under RBRVS.

OTHER SPECIFIC FEE SCHEDULE CHANGES

Inpatient hospital schedule. RAND found a reduction in inpatient hospital stays per claim from 2012 to 2014. Across all inpatient stays in acute care hospitals subject to the OMFS for inpatient hospital services, from 2012 to 2014 total discharges decreased 12.6 percent, whereas the average allowance per discharge decreased 8.7 percent.

Ambulatory Surgery Center (ASC) schedule. The fee schedule comparison also highlights the generosity of the OMFS ASC facility allowances relative to other Medicare-based fee schedules. In addition to the overall finding that estimated payments are 138 percent of the Medicare ASC allowances, the differences across types of procedures are of concern. SB 863 reduced the aggregate allowance for ASC facility services to 80 percent of Medicare's hospital outpatient prospective payment system (OPPS) rate.

The Medicare ASC fee schedule is designed to create neutral incentives regarding where services are rendered. In contrast, the current OMFS provides incentives that are inconsistent with the efficient delivery of medically appropriate services in the least costly setting. These incentives drive device-intensive procedures to take place in the hospital and shift services commonly performed in an office setting to ASCs. Both incentives potentially increase WC expenditures for ambulatory surgery.

RAND analyzed the potential alternatives to current policies on OMFS facility fees for ASC surgical services. It considered the following options for refining the OMFS:

- Continue to pay using the OPPS framework, including the Comprehensive Ambulatory Payment Classifications (C-APC) bundling policies. This represents no change in OMFS policies for ASC facility fees.
- Continue to pay using the OPPS framework but determine allowances for procedures without the C-APC bundling policies. This would continue to use the current OMFS policies to determine the other factors that affect the allowances and represents the smallest change from pre-C-APC policies.
- Determine the allowances for ASC services based on 120 percent of the Medicare fee schedule for ASC facility services. This would conform the OMFS allowances for ASC facility services to the Medicare ASC fee schedule.

Medical-Legal Fee Schedule. The medical-legal (ML) fee schedule has not been updated since 2007, whereas estimated payments for E&M services were projected to increase when the RBRVS was fully implemented, before further adjustments for inflation. Instead, RAND found that the cost of \$250 per hour used to determine the ML allowances is significantly higher than the fully transitioned 2017 allowances for E&M services, which consist of similar activities. Despite these increases, the number of subsequent follow-up evaluations has also increased significantly. Together, the trends suggest that the allowances for extraordinarily complex evaluations should be restructured.

RAND discusses several considerations that might motivate the efficient completion of high-quality evaluations, including flat rates for complex ML 104 evaluations, limitation of supplemental reports, performing all diagnostic testing before an evaluation, and orderly control over medical documentation.

Medical Necessity Dispute Resolution Process and IMR and UR frequency. The medical necessity dispute resolution process begins with UR of medical care provided to an injured worker. Only a physician can issue an adverse UR decision to modify or deny the requested treatment. SB 863 streamlined the medical necessity dispute resolution process and shifted responsibility for resolving the disputes from WC administrative law judges to medical experts. The DWC contracted with Maximus to perform the independent medical review organization functions.

The issues that occurred when the IMR process was implemented have largely been addressed. Maximus has eliminated the initial backlog of IMR reviews and is issuing IMR decisions in a timely fashion after the supporting documentation is submitted by the claims administrator. Effective January 1, 2018, SB 1160 revised the Labor Code to require that the employer electronically submit the required medical documentation within 10 days of being notified that a request for IMR has been approved and has been assigned to the independent medical review organization, with copies to the employee and the requesting physician. The penalties for not complying with the IMR notice and reporting requirements were also strengthened.

Most claims administrators are processing UR requests in a timely way, but some are not doing so or issuing UR decisions for a significant percentage of their UR requests, and the same is true for some UROs. Claims administrator practices vary widely in terms of the proportion of requests for authorization approved at the claims adjuster level, and prior authorization policies are fairly limited. Both policies have implications for administrative costs and medical cost containment expenses.

The SB 1160 provision requiring the electronic submission of UR documents to the DWC offers an opportunity to introduce more performance accountability to the system and more transparency about how the UR process actually functions.

RECOMMENDATIONS

The report's recommendations include:

- For ambulatory surgery facility services, consideration should be given to replacing the OPPS-based fee schedule with an ASC-based fee schedule.
- For medical-legal services, consideration should be given to converting the allowance for an extraordinarily complex evaluation into a flat rate based on the complexity of the issues that need to be addressed by the evaluator.
- For medical-legal services, consideration should be given to establishing policies that provide incentives for completing high-quality reports that address the issues outlined in the cover letter(s) from the parties requesting the evaluation. For example, timely completion of reports and comprehensive reporting could be incentivized by establishing a higher payment for timely submissions and by not paying for an initial evaluation unless the issues have been addressed respectively.
- Continue to monitor trends in utilization and spending for different medical service categories.
- Continue to monitor trends in work-related outcomes for injured workers.
- Pursue additional analyses comparing changes in outcomes for California injured workers to comparison groups, including possibly injured workers in other states or patients in California with injuries that are not work related.

For further information

[“California Workers’ Compensation Medical-Legal Fee Schedule, Analysis and Recommendations,”](#)⁹⁹ RAND, October 2018.

RAND’s final report will be forthcoming in early 2020.

⁹⁹ https://www.rand.org/pubs/working_papers/WR1279.html.

SPECIAL REPORT: QUALIFIED MEDICAL EVALUATORS: UPDATING TRENDS IN EVALUATIONS, AVAILABILITY, AND EQUITY

EXECUTIVE SUMMARY

The Qualified Medical Examiner (QME) process is at the heart of the California workers' compensation dispute resolution process. The current process is the result of a series of reforms over the past 15 years that were meant to improve the delivery of medical-legal evaluations expeditiously and equitably for both parties.

This QME report updates the original 2010 review of the QME process for the Commission. The update was requested by Senate Committee on Labor and Industrial Relations Chair Tony Mendoza on October 17, 2016, and was approved by the Commission on December 9, 2016. The report examines how the QME process has changed over the past decade (2007-2017), with special attention on the issues raised in the previous report.

UC-Berkeley used extensive electronic administrative data made available by the Division of Workers' Compensation (DWC) Medical Unit and Disability Evaluation Unit (DEU), supplemented with summary data from several sources. The study covers the period from 2007 through 2017, during which much of the evolution occurred after the 2004 reforms, which introduced utilization and treatment guidelines, a new permanent disability rating schedule based on the AMA Guides, and changes in how parties in represented cases can select QMEs. Subsequently, SB 863 made additional important changes, including the Independent Medical Review (IMR) process, which was anticipated to replace the need for medical-legal exams to decide treatment issues. SB 863 also imposed restrictions on the number of locations at which QMEs could schedule exams.

Key Findings in This Study

- *The number of providers registered as QMEs continues to decline (17% since 2007), but less rapidly than it did prior to 2007.*
- *The number of requests for QME panels has increased rapidly, 87 percent since 2007.*
- *The decline in QMEs and increase in panel requests means that the number of requests per QME has doubled (+101%).*

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SPECIAL REPORT: QUALIFIED MEDICAL EVALUATORS: UPDATING TRENDS IN EVALUATIONS, AVAILABILITY, AND EQUITY

- *Coupled with a continuing increase in the average paid amount for QME reports, the average QME earns 240 percent more from panel reports now than in 2007.*
- *All the increase in panel requests is from represented track cases, up 400 percent despite the elimination of panels for most medical treatment issues (replaced by the IMR process). This increase was equally driven by requests from both applicants and defendants.*
- *Panel requests for unrepresented cases declined 55 percent, driven entirely by a decline in requests by injured workers. The number of requests by claims administrators in unrepresented cases changed little.*
- *The DWC began collecting the reasons for panel requests on represented cases in 2015. Those data show that the primary reasons for panels are: compensability (42.5%), permanent disability (21.4%), and Permanent & Stationary (P&S) status (11.4%).*

In response to the earlier study, SB 863 placed limits on the number of locations (10) at which QMEs can be registered. This has had the effect of distributing QME panels more evenly and widely among registered providers.

- *Very-high-volume QMEs (with 11-100+ registered locations) have been eliminated.*
- *However, a high proportion of panel assignments (55%-60%) are still assigned to the busiest 10 percent of QMEs, nearly all of whom have exactly 10 offices and are in orthopedic specialties.*
- *Unlike the very-high-volume QMEs studied earlier, the top 10 percent and 5 percent of QMEs by the number of panels in the current system produce reports that show less bias. Even the top 5 percent of QMEs by volume give ratings that are only slightly more conservative than average.*

Access to QMEs does not appear to be an important current problem, but some signs indicate that delays in getting an evaluation may be developing.

- *Orthopedic specialties are under-represented among registered QMEs relative to requests.*
- *The number of panels for which a subsequent panel is requested because the QME was not available within 60 days (a measure of access), while still low, has increased from 1 percent to 2.8 percent for unrepresented cases and 0.7 percent to 4.7 percent for represented cases. Almost all of this increase took place from 2013 to 2016.*

SPECIAL REPORT: QUALIFIED MEDICAL EVALUATORS: UPDATING TRENDS IN EVALUATIONS,
AVAILABILITY, AND EQUITY

DWC has made an effort to eliminate providers who are accused or convicted of fraudulent activity or violations of professional standards from the workers' compensation system. This study examined the activity of these doctors in the QME process and how their suspension may affect QME evaluations. This study found:

- *Of providers suspended or restricted under Labor Code sections 139.21 and 4615, 41 were registered as QMEs at least one year between 2007 and 2016.*
- *They represented a small minority of all QMEs (1.6%) and were assigned to a minority of the three-doctor panels (4.6%).*
- *Although these percentages are low overall, in some areas problem providers appear to be concentrated and present a special problem. The pain specialties (PAP, MAA, & MPP) stood out, and 40-50 percent of QME panels include at least one restricted or suspended provider.*
- *The more general pain category (MPA), which is more commonly used now, as well as Physical Medicine and Rehabilitation (PM&R) and Internal Medicine-Hematology (MMH) had 15-17 percent of panels with a restricted or suspended provider.*
- *Overall, the restricted and suspended doctors gave much more generous evaluations to injured workers than the average QME: higher ratings, less frequent use of apportionment, and more frequent Almaraz ratings.*

**RECOMMENDATIONS FOR POSSIBLE MODIFICATIONS IN THE QME PROCESS
AND FUTURE MONITORING**

- *DWC could use QME registration data linked with WCIS medical-legal payment data to examine whether the increases observed in average cost of medical-legal reports is driven primarily by providers acting through aggregators.*
- *The very high concentration of restricted and suspended doctors in the pain specialties suggests that DWC could examine the costs and benefits of maintaining separate pain specialties in the QME system. If the specialties are retained, DWC could concentrate special monitoring and outreach to this community of providers and related professional associations. This could involve additional testing and/or other restrictions on registering for these specialties.*
- *The number of QMEs who are unavailable in the 60-day period is still small, but the recent increase suggests the need for continued close monitoring by DWC, with special attention on the orthopedic specialties.*

DWC should consider eliminating the requirement that unrepresented workers serve the claims administrator with notice and confirm the proof of service under penalty of perjury.

SPECIAL REPORT: QUALIFIED MEDICAL EVALUATORS: UPDATING TRENDS IN EVALUATIONS,
AVAILABILITY, AND EQUITY

This may be intimidating workers and reducing their use of the QME process when challenging the primary treating physician's (PTP's) findings. DWC could supply notice to the claims administrator and eliminate the need for workers to do so.

ADVANCING THE DIVISION OF WORKERS' COMPENSATION'S RESEARCH EFFORTS

The division is hampered in evaluating how efficient and equitable the QME system is in evaluating issues of compensability, permanent disability (PD), and future medical because of substantial gaps in the data on which claimants are evaluated by QMEs and which of those evaluations are rated by the DEU.

- *DWC should consider drawing a random sample of initial workers' compensation first reports of injury and examine how they are resolved, including issues of compensability and permanent disability. Key questions could include:*
 - *What are the characteristics of claims and claimants using the QME process vs. resolving disputes based on the PTP's report?*
 - *What are the characteristics of PD claims and claimants who are rated by the DEU vs. other sources such as the claims administrator in unrepresented cases and private raters or the parties in represented cases?*
- *DWC should consider identifying more information about the operation of aggregators managing the QME location and appointment process. The consolidation of QMEs under a small number of aggregators with a substantial share of the market may be having an impact on the system.*
- *DWC should collect electronically the reason for panel requests in unrepresented cases, similar to the data collected on represented cases. The main reasons for requesting a QME panel are already included on the documentation submitted by workers and claims administrators.*

For further information

["Qualified Medical Evaluators: Updating Trends in Evaluations, Availability, and Equity."](#)
University of California, Berkeley, 2017.

SPECIAL REPORT: EVALUATION OF THE RETURN-TO-WORK FUND IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM

INTRODUCTION

In September 2012, California enacted Senate Bill 863, a major workers' compensation reform bill. The Return-to-Work (RTW) Fund was created under Labor Code Section 139.48 as one of the components of SB 863. This section requires that the Department of Industrial Relations (DIR)'s Return-to-Work Supplemental Program (RTWSP) administer a \$120 million fund for the purpose of making supplemental payments to workers whose permanent disability benefits are disproportionately low in comparison to their earnings losses. Injured workers may be eligible for a one-time \$5,000 Return-to-Work supplement if they have a date of injury on or after January 1, 2013, and have received a Supplemental Job Displacement Voucher (SJDB) because of that injury. The benefit is administered by DIR's RTWSP in accordance with the regulations implemented on April 13, 2015, and amendment effective March 20, 2017¹⁰⁰.

A prior CHSWC study¹⁰¹ pointed out that the RTW Fund is a highly progressive benefit that greatly assists low wage workers. However, stakeholders have raised concern that not all workers who are eligible for supplemental payments from this fund are applying for these payments, and the appropriate level of the benefit is also under discussion.

In 2016, Senator Tony Mendoza requested that CHSWC conduct a review of the RTW Fund. CHSWC commissioned RAND to conduct the study to assist with assessment of the fund's payments to injured workers.

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¹⁰⁰ Title 8, California Code of Regulations, [Sections 17300-17310](#) and [Section 17304](#).

¹⁰¹ [Benefits and Earnings Losses for Permanently Disabled Workers in California](#), Michael Dworsky, Seth A. Seabury, Frank W. Neuhauser, Ujwal Kharel, and Roald Euler, RAND, 2016.

SPECIAL REPORT: EVALUATION OF THE RETURN-TO-WORK FUND IN CALIFORNIA'S WORKERS'
COMPENSATION SYSTEM

STUDY OBJECTIVES

The main objectives of the study are to:

- A. Evaluate the adequacy and equity of the RTW Fund benefit.
- B. Identify any practices and policies that would improve the adequacy, equity and efficiency of administration of the RTW Fund.

RESEARCH QUESTIONS

The study addresses these study objectives through the following main research questions:

- How many workers are eligible for, apply for, and receive the RTW Supplement?
- Does the RTWSP accurately target workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss?
- Are the RTWSP and its related processes vulnerable to fraud and abuse?
- Are barriers to access preventing eligible workers from receiving the RTW Supplement?
- What modifications should DIR consider to help the RTWSP more fully meet its goals?

DATA SOURCES

The quantitative part of the study conducted by RAND uses data from a variety of sources, including the Workers' Compensation Information System (WCIS), program records from the RTWSP, the Electronic Adjudication Management System (EAMS), the Disability Evaluation Unit (DEU), data on use of SJDB vouchers from a convenience sample of claims administrators, and several auxiliary data sets from public sources.

In addition to the quantitative analysis, RAND also conducted a thorough analysis of the program's operations since its inception, which included a review of regulations and practices governing the RTWSP, and held a Technical Advisory Group meeting on January 23, 2018, to obtain input on interim findings and potential modifications.

SPECIAL REPORT: EVALUATION OF THE RETURN-TO-WORK FUND IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM

SUMMARY OF KEY FINDINGS

- The RTWSP is targeting the intended population: workers with more severe disabilities, who are less likely to return to work and thus may face disproportionate earnings losses.
- Program administration is efficient and rapid, with little evidence of fraud or abuse.
- Although the take-up by eligible workers has increased significantly over the life of the program, just over half of eligible workers apply for the RTWSP.
- The population eligible for the program is larger than was expected when the program was established, and increasing receipt of the SJDB voucher may contribute to continued eligibility growth.
- Language and geography were not as important as legal representation in determining which eligible workers applied for the RTWSP.

SUMMARY OF KEY RECOMMENDATIONS:

- Make RTW Supplement payment automatic upon SJDB voucher issuance to ensure that the RTWSP reaches the full population of eligible workers.
- Improve notification and awareness of the program to increase take-up among eligible workers under current law.
- Improve monitoring of the SJDB voucher issuance to track emerging changes in the RTWSP-eligible population.
- Better empirical evidence on effectiveness of the SJDB is needed to assess whether the RTWSP promotes better employment outcomes by encouraging greater SJDB utilization.

For further information

["Evaluation of the Return-to-Work Fund in the California's Workers' Compensation System: Performance to Date and Options for Modification," RAND, 2018.](#)

SPECIAL REPORT: WAGE LOSS MONITORING FOR INJURED WORKERS IN CALIFORNIA’S WORKERS’ COMPENSATION SYSTEM

INTRODUCTION

The risk of occupational injury and illness¹⁰² poses a major threat to the health and financial well-being of workers.¹⁰³ In California and other states, the workers’ compensation system bears primary responsibility for providing injured workers with needed medical treatment and compensation for lost earnings. Therefore, the California Department of Industrial Relations (DIR) contracted with RAND to monitor ongoing wage losses for injured workers between 2013 and 2017. This report is the third of four reports (three interim reports and a final report) over the course of a three-year project. RAND built on techniques developed in numerous prior studies to collect the data needed to monitor overall trends in earnings losses and other economic outcomes.

OBJECTIVES

This third interim report provided updated estimates of earnings loss trends for workers injured after the implementation of SB 863 began in 2013 and was fully implemented in 2014. Estimates presented in this study include the following:

- Trends in earnings losses for the average injured worker with injury dates from 2005 through 2016–2017;
- Trends for workers with indemnity benefits;
- Trends for workers with permanent disability benefits who were injured during or before 2015;

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¹⁰² Unless otherwise noted, we use “occupational injuries” or “workplace injuries” to refer to all occupational or work-related injuries and illnesses.

¹⁰³ This introduction is an abbreviated version of the introductory chapter from the first report in this series, since the policy context and motivation are broadly similar. See Chapter 1 of Dworsky, Rennane, and Broten (2018) for additional details. We updated this chapter to include discussion of policy changes and legislative activity in 2016–2017.

SPECIAL REPORT: WAGE LOSS MONITORING FOR INJURED WORKERS IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM

- Comparison of earnings losses due to 2016 and 2017 injuries to levels of earnings losses for earlier injury years;
- Comparison of differences in earnings loss levels and changes across subgroups of injuries.

CONCLUSIONS

This report provided updated estimates of post-injury labor market outcomes for California workers who filed workers' compensation claims for injuries in 2016 and 2017.

Key findings from the report include:

- Overall, earnings losses one year after injury for all workers were steady in 2016-2017. RAND estimated that relative earnings one year after injury fell from roughly 95 percent to approximately 91 percent of counterfactual earnings between 2005 and 2012. First year relative earnings have been fairly flat during the economic recovery, increasing to 92 percent in 2013 and remaining constant for the 2016 and 2017 injury cohorts.
- Relative earnings for injured workers with indemnity payments increased modestly in 2016 and 2017. For workers with indemnity claims, relative earnings during the first year after injury increased by one percentage point, from 77 to 78 percent, relative to the 2013–2015 injury cohorts. Similarly, relative earnings in the second year after injury increased by one percentage point, to 82 percent, for workers injured in 2016 compared with those injured between 2013 and 2015. The gap between one-year and two-year outcomes for workers with indemnity claims has widened since the Great Recession.
- Relative earnings increased in Los Angeles but declined in the Bay Area. RAND estimated that relative earnings in the first year after injury increased in Los Angeles by 2.1 percentage points and declined in the Bay Area by 1.9 percentage points in 2016–2017. The increase in relative earnings in Los Angeles persisted in the second year after injury for workers injured in 2016, but there was not a statistically significant decline in earnings for injured workers in the Bay Area during the second year after injury.
- Outcomes for overall cumulative injuries in Southern California improved in 2016–2017. Workers with cumulative injuries in Southern California have significantly lower relative earnings than other injured workers in the state, though we observe improvements in 2016–2017. Relative earnings increased by an average of 3.8 percentage points during the first year after injury for workers injured in 2016 and 2017, and by 2.7 percentage points during the second year after injury for workers injured in 2016.
- There were potential improvements for workers with permanent partial disability (PPD). Given concerns about potentially long lags in collecting PPD benefits, RAND constructed a constant-maturity sample of injured workers

SPECIAL REPORT: WAGE LOSS MONITORING FOR INJURED WORKERS IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM

between 2005 and 2015 who claimed PPD benefits within 36 months of their injury date. This cohort experienced especially large earnings losses during the Great Recession and had relatively steady outcomes for several years after the recovery. While average relative earnings both one and two years after injury declined slightly in 2013–2015 relative to 2010–2012, there was an important change in trend between 2013 and 2015: relative earnings were especially low in 2013 but began to increase in 2014 and 2015.

Over the course of three interim monitoring reports, RAND documented several trends and features of earnings loss in California since 2005:

- Relative earnings for injured workers have slowly increased since the Great Recession but are still lower than pre-recession levels.
- Earnings losses in California vary considerably across regions, injury types, industries, pre-injury earnings, and attachment to the labor market. Workers with cumulative trauma injuries in Southern California have fared especially poorly but have shown improvements in recent years.
- Outcomes for workers with PPD benefits have been more difficult to study, given long reporting lags, but show large declines in relative earnings during the Great Recession and modest improvements beginning in 2014.

For further information

Wage Loss Monitoring in California's Workers' Compensation System, Michael Dworsky, Stephanie Rennane, and Nicholas Broten, RAND September 26, 2019, https://www.dir.ca.gov/chswc/Meetings/2019/RAND-Wage-Loss-prezo_91919.pdf

Wage Loss Monitoring in California's Workers' Compensation System: 2016-2017 Injury Year Findings (Third Interim Report), https://www.rand.org/content/dam/rand/pubs/research_reports/RR4200/RR4209/RAND_RR4209.pdf

Wage Loss Monitoring in California's Workers' Compensation System: 2014-2015 Injury Year Findings (Second Interim Report), https://www.rand.org/pubs/research_reports/RR2807.html

Wage Loss Monitoring in California's Workers' Compensation System: 2013 Injury Year Findings (First Interim Report), https://www.rand.org/content/dam/rand/pubs/research_reports/RR2500/RR2572/RAND_RR2572.pdf

SPECIAL REPORT: THE FREQUENCY AND ECONOMIC IMPACT OF MUSCULOSKELETAL DISORDERS FOR CALIFORNIA FIREFIGHTERS

INTRODUCTION

Firefighters play a vital role in protecting the public, often placing their own lives at risk in order to protect the health and safety of others. Firefighting is one of the most dangerous occupations in the United States in terms of workplace injury risk. The Bureau of Labor Statistics reports approximately 508 nonfatal injuries per 10,000 full-time equivalent (FTE) firefighters in 2017. This is more than five times the rate of injury per 10,000 FTE that workers face, on average, in the private sector (89.4).¹⁰⁴ In California, the risks of firefighting have become even more salient in the past few years, with the record wildfires and resulting deaths.

DISCUSSION

The health risks facing firefighters go beyond burns, automobile crashes, and other acute trauma. Firefighters are widely believed to face an elevated risk of cancer due to smoke inhalation and exposure to other hazardous materials. Additionally, the strenuous nature of the work and its rigorous physical demands can take a physical toll, including wear and tear that increases the risk of back injury, joint pain, or other forms of musculoskeletal disorders (MSDs), particularly for older workers.

As in most occupations, in firefighting the most common type of occupational injury or illness is MSDs, which creates concern that the strenuous physical demands of firefighting could put workers at greater risk of work loss and disability. Moreover, rigorous job requirements often dictate that even a relatively minor work restriction prevents firefighters from performing the full range of activities required of them to remain on active duty. Thus, the risk of an MSD injury can make it more difficult or costly to maintain fully staffed fire departments capable of protecting the public at an optimal level. This has led to considerable interest among policy makers and stakeholders about how to best monitor, prevent, and treat MSDs among firefighters.

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¹⁰⁴ Bureau of Labor Statistics, [Survey of Occupational Illnesses and Injuries](#) (accessed June 19, 2019).

SPECIAL REPORT: THE FREQUENCY AND ECONOMIC IMPACT OF MUSCULOSKELETAL DISORDERS FOR CALIFORNIA FIREFIGHTERS

A 2010 study by the RAND Corporation compared the frequency and economic consequences of work-related MSDs among firefighters to those for other workers in the public and private sectors.¹⁰⁵ This study found that firefighters experienced MSDs at a significantly higher rate than other workers, even those in other high-risk jobs, such as police or corrections work. Moreover, firefighters were more likely than other workers to experience lost time because of an MSD, when they are older. However, the study also found that the economic impact of MSDs—back injuries, in particular—was more moderate on average for firefighters than for other employees.

In this study, RAND updated the analyses from its 2010 study and considered the impacts of the SB 863 workers' compensation reforms and the economic shocks of the late 2000s on outcomes for firefighters with MSDs compared to other injured workers. Following the approach used in the prior report, RAND analyzed administrative data from the California Workers' Compensation Information System (WCIS) linked to data on earnings for injured workers, tailoring the results to the reforms and taking advantage of previously unavailable data. Where necessary, or to provide context, RAND also examined data in the published literature or national data.

FINDINGS

- Firefighters continue to face high risk of work-related MSDs, especially injuries to the lower extremities and trunk.
- Earnings losses for firefighters worsened after the Great Recession of 2008-2009, yet firefighters face fewer economic consequences from MSDs than other workers in similar occupations.
- After the implementation of 863, Disability Evaluation Unit ratings and statutory permanent disability benefits for firefighters rose.
- Firefighters with MSDs rarely receive treatment or permanent disability benefits for post-traumatic stress disorder or other psychiatric conditions.
- No evidence was found that treatment caps on chiropractors, occupational therapy, and physical medicine had a substantial impact on most workers, including firefighters.

Status: In Process

For further information

[The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California](https://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf), Seabury, Seth A., and Christopher F. McLaren, RAND, 2010 at <https://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>.

¹⁰⁵Seabury, Seth A., and Christopher F. McLaren. 2010, Santa Monica, CA: RAND Corporation. <https://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>.

SPECIAL REPORT: JANITORIAL TRAINING PROJECT

INTRODUCTION

On September 15, 2016, California Governor Jerry Brown signed into law AB 1978, a bill that established protection against harassment and sexual violence in the workplace for custodial staff. The law focuses on addressing sexual assault and harassment of workers, mainly undocumented female janitors, at night in empty buildings who often do not report the incidents out of fear of deportation or losing their job. AB 1978 protects janitorial workers by requiring employers to register annually with the Labor Commissioner to ensure employer compliance with this bill, starting July 1, 2018, and mandating that the Division of Labor Standards Enforcement (DLSE) establish a biennial in-person sexual violence and harassment prevention training program requirement for employees and employers.

The DIR, in collaboration with the Commission on Health and Safety and Workers' Compensation (CHSWC), has contracted with the Labor Occupational Health Program (LOHP) at UC Berkeley to develop the janitorial training program for janitors and supervisors on sexual harassment. To develop the training programs LOHP will use written materials developed by DIR, which may include a factsheet for workers and a factsheet for supervisors on sexual harassment and AB 1978 requirements. LOHP will provide suggestions on the content of the written materials developed by DIR, based on its work with janitors on this issue. The training program, which will use interactive methods, is aimed at helping workers play an active role in preventing and addressing workplace issues. The training format and delivery methods will be designed with an eye toward feasibility and practicality.

PROJECT OBJECTIVES

The main objectives of this project are to:

- Develop a training program and short video for janitors on sexual harassment and assault, based on the requirements of the new regulations in AB 1978, and provide four "Training-of-Trainers" (TOT) sessions for worker leaders, worker representatives, and others so that they are prepared to train workers.

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SPECIAL REPORT: JANITORIAL TRAINING PROJECT

- Develop two training activities that can be included in the supervisor training program.
- Develop a lesson plan for a supervisor training program on sexual harassment.

Status: In Process

For further information

[AB 1978 information.](#)

SPECIAL REPORT: HEALTH AND SAFETY TRAINING FOR CHILD-CARE WORKERS

BACKGROUND

According to the Labor Occupational Health Program (LOHP), in 2015–2016 the Service Employees International Union (SEIU), with funding from the California Community College Chancellor's Office and the California Workforce Development Board, developed a [curriculum for teaching child-care workers](#) in family day-care settings about workplace health and safety.

In 2017, Assemblyperson Monique Limón sponsored Assembly Bill (AB) 676 which proposed an Early Educators' Occupational Safety and Health Training Program. She also requested that CHSWC develop a model-training curriculum for occupational safety and health training for early care and education workers and employers, with the goal of prevention and reduced costs for employers and employees.

TRAINING CURRICULUM

In 2018, CHSWC funded a study for LOHP to assess the effectiveness of the SEIU-created [curriculum and training](#) and to develop and pilot a proposed expanded curriculum for center-based and school-based child-care centers in California, adopting some training elements from AB 676 and acknowledging the work of the California Childcare Health Program at the University of California, San Francisco.

That study is currently in progress with the following objectives:

- Review and assess the effectiveness of existing health and safety curriculum, including the family day care training developed by SEIU.
- Adapt the SEIU curriculum for child-care workers in center- and school-based settings.
- Provide two training of trainer (TOT) programs in English and Spanish to prepare trainers to conduct the health and safety training.
- Develop a dissemination plan and begin a limited rollout.
- Assess effectiveness of the TOT and of the initial dissemination/outreach plan.

The curriculum developed is expected to be posted on the CHSWC website in English and in Spanish in 2019.

Status: In Process

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SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

In conjunction and in cooperation with the health and safety and workers' compensation community, CHSWC administers and participates in several major efforts to improve occupational health and safety through its various training and education programs.

WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM

Description

Labor Code Section 6354.7 establishes a Workers' Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. CHSWC developed the [Worker Occupational Safety and Health Training and Education Program \(WOSHTEP\)](#) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

CHSWC steps in implementing WOSHTEP include:

- *Created a labor-management Advisory Board to oversee program activities, which meets annually.* The WOSHTEP Advisory Board consists of employers and workers or their representatives who assist in guiding development of curricula and broadening partnerships.
- *Conducted needs assessments with stakeholders that will continue on an ongoing basis.*
- *Designed a core curriculum and supplemental training materials based on the results of the needs assessment.* The standardized 24-hour

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curriculum for a Worker Occupational Safety and Health (WOSH) Specialist course is aimed at training workers to take a leadership role in injury and illness prevention in their workplaces. The training consists of six core modules and three to four supplemental modules (selected from a total of eight that are available). Participants who attend the full training receive a certificate of completion. Training is conducted statewide in English and Spanish. Materials are available in English and Spanish as well as in Chinese. The WOSH Specialist training program is a unique worker training program and serves as a local, state, and national model.

- *Identified three Centers of Excellence, the Labor Occupational Health Program (LOHP) at the University of California, Berkeley, the Labor Occupational Safety and Health (LOSH) Program at the University of California, Los Angeles, and the Western Center for Agricultural Health and Safety (WCAHS) at the University of California, Davis, consisting of trainers, curriculum developers, and resource specialists in occupational safety and health. These three Northern, Southern, and Central California Resource Centers offer libraries and distribution systems of occupational health and safety training materials to provide information and technical assistance to the workers' compensation community and to support trained WOSH Specialists and WOSHTEP trainers.*
- *Established a statewide network of trainers to offer the WOSH Specialist curriculum. WOSH training is taught primarily by LOHP, LOSH, and WCAHS trainers, and training-of-trainer courses have been offered to WOSH Specialist trainers to broaden the reach of the program. These trainers receive ongoing mentoring from experienced trainers from LOHP and LOSH.*
- *Established a network of community educators to help WOSHTEP trainers deliver short awareness classes to vulnerable working populations. Training of trainer (TOT) courses are conducted to prepare WOSH Specialists and community educators/promotoras to teach awareness classes on such topics as chemical hazards, hazard communication, heat illness prevention, and the best practices for reaching and educating low-wage, immigrant workers.*
- *Created a [small business health and safety training resources](#) program across a range of industries, with materials adapted for use nationwide. It developed industry-specific materials for restaurant owners and managers on identifying and controlling hazards in their workplace, working with the State Compensation Insurance Fund (SCIF) and the California Restaurant Association (CRA) to offer training. It created materials for the janitorial and dairy industries and conducted training for employers in these industries.*
- *Developed and disseminated [materials on creating and implementing an Injury and Illness Prevention Program \(IIPP\)](#) for small and large businesses in general industry. The materials are available in multiple languages. The training has recently been adapted for staffing agencies to include guidance on protecting workers in dual-employer situations. The IIPP training has also been adapted for the agricultural industry.*

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- Developed a [Multilingual Health and Safety Resource Guide](#) to address the need for easily accessible multilingual materials. This guide is updated regularly. It includes worker training materials in over 20 languages, including fact sheets, checklists, and other educational resources that are available online in the WOSHTEP section of the CHSWC website.
- Developed a [Construction Case Study Training Guide](#) for the construction industry for apprenticeship and pre-apprenticeship programs. It developed additional materials on health and safety topics such as indoor and outdoor heat illness, motor vehicle safety, and emergency preparedness.
- Created a successful Young Worker Leadership Academy (YWLA) for youth statewide to develop knowledge of health and safety issues and their rights and responsibilities in the workplace, as well as leadership skills. The three-day, statewide Academy is conducted once per year. Academy youth take a leadership role as promoters of workplace health and safety in their communities during Safe Jobs for Youth Month in May. WOSHTEP staff also developed a guide for use by other states to implement a Young Worker Leadership Academy.
- Developed a [guide](#) for integrating wellness and injury and illness prevention programs.

NEXT STEPS

Every year, CHSWC assesses fees to California workers' compensation insurance carriers pursuant to Labor Code section 6354.7 in order to fund the Workers' Occupational Safety and Health Education Fund (WOSHEF) for the next fiscal year and thereby fund WOSHTEP.

The next steps for WOSHTEP include continuing training in a variety of industries for participants in diverse occupations and work settings, ongoing development of a statewide network of trainers, ongoing development and dissemination of materials on health and safety topics, continuing training for small businesses and young workers, broad outreach for all aspects of the program, and ongoing evaluation.

Status: Ongoing.

For further information

The [WOSHTEP materials](#).

The [WOSHTEP Advisory Board Annual Reports](#).

The [IIPP resources and materials](#).

SCHOOL ACTION FOR SAFETY AND HEALTH PROGRAM

Per the mandate set forth in Labor Code section 6434, CHSWC is to assist school districts and other Local Education Agencies (LEAs) in establishing effective occupational injury and illness prevention programs (IIPPs), with a priority on high-risk schools or districts.

CHSWC established a model program for LEAs called the California School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices to protect school employees. The program is administered by CHSWC through an interagency agreement with the Labor Occupational Health Program at UC Berkeley and with the collaboration of the Labor Occupational Safety and Health (LOSH) Program at UCLA.

The program includes training and resources to enable schools or school districts to develop or improve their IIPPs and to make other health and safety improvements that will help protect school or school district employees from workplace injuries and illnesses. The target audience is K–12 schools and school districts at high risk of occupational injury and illness.

Program Components

The SASH Program offers:

- A free training program to help build the capacity of district-level health and safety coordinators to act as resources to other employees and develop an IIPP to identify, prevent, and eliminate hazards.
- Written materials that support injury and illness prevention activities.
- Ongoing problem-solving assistance provided 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.

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SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

Participants learn valuable skills in how to identify and solve safety problems, prepare written IPPs, and involve other employees in carrying out prevention activities.

After participants complete the training, they become "SASH coordinators" in their district and receive a certificate from 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.
- Checklists and other tools to help identify problems, investigate and learn from accidents, and keep track of safety activities.
- 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 LOSH Program, the Resource Center is available to help school districts find additional information and obtain assistance after the training.

Accomplishments

In addition to the materials described above, training classes have been offered and will continue to be offered statewide. To date, 87 one-day SASH training classes have been conducted for over 1,394 attendees from school districts in 36 counties with school district and county office of education staff, including two pilot training sessions. The training has been very well received.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

Follow-up activities after attending a SASH class include sending attendees a class roster so that they can stay in touch and use one another as resources and sending out a newsletter. Two-page SASH newsletters for SASH coordinators (SASH training attendees) have been distributed by email. The newsletters include the answers to common questions asked during training sessions as well as other relevant information.

New factsheets are being developed as needed each year. Factsheets developed in the past two years have included those for para-educators on handling aggressive student behaviors and those on addressing active shooters.

SASH Expansion

Although the injury rate among school district employees has declined to some degree since the SASH program began, it is still high relative to the overall injury rate. Consequently, additional training and support are needed to accomplish the goals of this statewide initiative. Therefore, CHSWC has expanded the reach of the program by increasing the number of training sessions and webinars offered and by updating the SASH curriculum and materials, as needed, to include information about new health and safety issues identified by the SASH Advisory Committee and course participants, including any new Cal/OSHA standards that apply to schools. Expansion of the SASH program also includes an evaluation of the training program.

Status: Ongoing.

For further information

The [SASH materials](#).

CALIFORNIA PARTNERSHIP FOR YOUNG WORKER HEALTH AND SAFETY

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. For more than 20 years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, formalized by Assembly Bill (AB) 1599 in September 2000. The Partnership is coordinated by the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, with key support from the Labor Occupational Safety and Health Program (LOSH) at the University of California, Los Angeles (UCLA), and other members of the partnership. In addition to serving California, these efforts have inspired similar activity throughout the United States and internationally.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others that can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, government agencies, and others.

The purpose of the partnership is to identify potential strategies to reduce work-related injuries and illnesses among youth in the California workforce, foster awareness and skills in health and safety that youth will retain throughout their working lives and allow them to take an active role in shaping safe work environments, and promote positive, healthy employment for youth.

During the past year, the partnership implemented the following activities:

- *Promoted the annual California Safe Jobs for Youth Month public awareness campaign in May*, which was established in 1999 by the then-Governor Gray Davis. This year's public awareness and education activities included a teen poster contest (with posters distributed to 1,000 schools and hundreds of other organizations that serve youth), promotion of the Work Permit Quiz, which was developed in both English and Spanish, and distribution of the current Safe Jobs for Youth Month Resource Kit to educators and community groups (via the website), plus resource kit materials from past years (available on the website).

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SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- *Held the annual Young Worker Leadership Academy.* A statewide Young Worker Leadership Academy (YWLA) was held in Berkeley on February 7-9, 2019. The Academy is a part of the CHSWC Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The Leadership Academy was coordinated by LOHP and supported by active participation of other partnership members, including UCLA-LOSH, Cal/OSHA, the Labor Commissioner's Office, the California Department of Public Health's Occupational Health Branch, and the Equal Employment Opportunity Commission (EEOC). Young people from six different organizations around the state attended, along with six YWLA alumni who served as youth mentors. This year's Academy was also observed by staff from New Zealand's Young Workers Resource Centre, who plan to replicate the Academy in New Zealand.

The goals of the Academy are to teach youth about workplace health and safety and their rights on the job, to help youth start thinking about how to help ensure that young people do not get hurt on the job, and to provide a forum for these youth to plan specific actions that they can take in their own communities to promote safety among young workers. Academy alumni youth led many of the activities at the Academies and developed their own networking project. The California partnership seeks opportunities for building the skills of YWLA young leaders, including those in public speaking.

- *Promoted the institutionalization of health and safety education for California students.* Partnership members guided LOHP efforts to promote health and safety education in a variety of programs, including Work Experience, Career Technical Education, WorkAbility, and Linked Learning and Career Pathway Programs. This year, with additional support from the California Department of Education, LOHP conducted 16 professional development workshops for over 360 CTE and other work-based learning instructors around the state on teaching health and safety related to critical thinking skills using [Youth@Work: Talking Safety](#) curriculum available from the National Institute for Occupational Safety and Health.

Partnership accomplishments include:

- More than 800 teachers, employers and youth received direct training or presentations.
- At least 2,000 teachers, employers, and youth received written information, such as the factsheets for teens and employers, the Safe Jobs for Youth Month Resource Kit produced by LOHP, or articles in partnership newsletters, such as that of the California Association of Work Experience Educators (CAWEE). In addition, CAWEE estimates that its own members reach approximately 15,000 students, parents, and employers with workplace safety information. Thousands more received information through listserv postings, email announcements, radio and video public service announcements, and posters.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- About 25 teachers, employers, and youth received direct technical assistance via phone or email.
- The www.youngworkers.org website: During 2018-2019 (12 months of tracking), the website had 93,500 page views, comprising a broad range of webpages. The most frequently visited pages are the "Work Permits" page (21,400 views), the "Teen workers "info page (9,300 views), the homepage (7,200 views), the "Stats and Stories" page (6,500 views), and the "Safe Jobs for Youth Month" page (5,600 views).
- At least six articles have been published in newsletters, newspapers, and on the web.
- Health and safety information continued to be integrated into ongoing statewide activities by many of the partners, including regular in-service training for work experience educators, widespread use of health and safety curricula in job training and work experience programs, and organizational links to the [Young Worker Health and Safety Website](#). The WorkAbility program, which places youth with learning and cognitive disabilities in the workplace, requires that all its staff receive training on how to teach participants in the program about health and safety.

Status: Ongoing.

For further information

Young Worker Websites for information for teens, teen workers in agriculture, employers, parents, and educators:

[DIR/CHSWC Young Workers' Program](#)

[Young Worker Health and Safety Website](#)

SPECIAL REPORT: CALIFORNIA OCCUPATIONAL RESEARCH AGENDA

BACKGROUND

Despite the advances California has made in promoting occupational safety and health over the years, according to data for 2017, 376 workers died from injuries sustained on the job, over 650,000 filed workers' compensation claims for nonfatal injuries, and workers' compensation system costs exceeded \$24 billion. Occupational injuries and illnesses in California take a substantial toll on workers, who lose worktime and wages and may suffer permanent disability or even death. Employers are also negatively affected by lost productivity and higher workers' compensation insurance premiums.

To help address these issues, the Department of Industrial Relations (DIR)/Commission on Health and Safety and Workers' Compensation (CHSWC) and its partners, the California Department of Public Health's Occupational Health Branch (CDPH OHB) and the University of California's Centers for Occupational and Environmental Health (COEH), are collaborating to identify the research priorities specific to the needs of California's workforce.

OBJECTIVES

The objectives of this project include:

- Reviewing and summarizing current illness and injury data and National Occupational Research Agenda (NORA) topic areas relevant to California
- Identifying and recruiting stakeholders to assist in determining the regional workplace and workforce issues and research needs specific to California
- Developing, conducting, and summarizing an online survey of identified stakeholders in California
- Developing a final report that describes the selected research priorities and suggested next steps in developing and implementing a statewide California

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SPECIAL REPORT: CALIFORNIA OCCUPATIONAL RESEARCH AGENDA

Occupational Research Agenda (CORA) program to identify key research needs and fund occupational health research.

DATA AND METHODS:

An online survey of stakeholders in the health and safety and workers' compensation community was conducted by CHSWC and LOHP at the end of 2018 and in early 2019 via email. In addition, the project team has been analyzing the current fatal and nonfatal occupational illness and injury data and the National Occupational Research Agenda sectors pertinent to California.

PRELIMINARY FINDINGS FROM THE PROJECT INCLUDE

- Overall, the top research need identified by respondents in the survey as high priority in promoting safe workplaces and injury and illness prevention in California was identifying effective solutions for preventing injuries and illnesses in specific jobs and industries.
- The three industries with the greatest incidence rates of fatalities in 2017 were: agriculture, forestry, fishing and hunting, transportation and utilities, and construction.
- The three occupations with the highest number of fatalities in 2017 were transportation and material moving occupations, construction and extraction occupations, and building and grounds cleaning and maintenance occupations.
- The three occupations with the highest incidence rates of nonfatal days away from work injuries and illnesses were: building and grounds cleaning and maintenance, construction and extraction, and transportation and material moving.

Status: In process.

LIST OF PROJECTS AND STUDIES

CHSWC Projects and Studies are numerous and often build on work initiated in prior years. As CHSWC refines its approach to the study of the workers' compensation and health and safety systems, the projects incorporate that knowledge to develop more sophisticated lines of inquiry and research. This Annual Report lists the CHSWC projects and studies for 2019; lists of CHSWC projects and studies for prior years are in the 2018 and 2017 Annual Reports.¹⁰⁶

CHSWC divides projects and studies on workers' compensation topics into eleven categories:

I. PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES

II. RETURN TO WORK

III. WORKERS' COMPENSATION REFORMS

IV. OCCUPATIONAL SAFETY AND HEALTH

V. WORKERS' COMPENSATION ADMINISTRATION

VI. INFORMATION FOR WORKERS AND EMPLOYERS

VII. MEDICAL CARE

VIII. COMMUNITY CONCERNS

IX. DISASTER PREPAREDNESS AND TERRORISM

X. CHSWC ISSUE PAPERS

XI. OTHER

¹⁰⁶ The CHSWC projects and studies for 2018 are listed in the [2018 Annual Report](#), 172; and all the CHSWC projects and studies up to and including 2017 are listed in the [2017 Annual Report](#), 193.

LIST of PROJECTS and STUDIES

2019 LIST OF PROJECTS AND STUDIES

The following projects and studies were produced in 2019:

- [Safe and Respectful Workplaces: Preventing Sexual Harassment and Abusive Conduct in the Janitorial Industry](#), LOHP, UC-Berkeley, September 2019 (Category IV)
 - Status: Completed
- The Frequency and Economic Impact of Musculoskeletal Disorders for California Firefighters, Misha Dworsky, Seth Seabury, and Nick Broten, RAND, December 2019 (Category IV) (add the link)
 - Status: Completed
- Evaluation of SB 863 Medical Care Reforms, Andrew Mulcahy, Barbara Wynn, Kandice Kapinos, Preethi Rao, Rosalie Malsberger, Brian Phillips, and Spencer Case, RAND (Category III)
 - Status: Report forthcoming
- Health and Safety Training for Childcare Workers (in English and Spanish), UC Berkeley (LOHP) (Category IV)
 - Status: In Process

CHSWC AND THE COMMUNITY

HOW TO CONTACT CHSWC

For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

Write:

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1515 Clay Street, 17th Floor
Oakland, CA 94612

Contact Information:

PHONE: 510-622-3959
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Internet:

In 2012, most government departments and agencies were asked by the office of Governor Brown to redesign their public website so that information can be located more efficiently. CHSWC participated in the redesign process and, according to its mandate, continues to post useful information for the public and related stakeholders.

Check out [CHSWC website](#) for:

- What's New
- Research Studies and Reports by Topic and by Year
- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR/CHSWC Young Workers' Program
- Information for Workers and Employers
- Worker Occupational Safety and Health Training and Education Program (WOSHTEP)
- Past Conferences
- Public Comments and Feedback

CHSWC and the COMMUNITY

- Injury and Illness Prevention Program (IIPP) Resources
- School Action for Safety and Health (SASH) Program
- Other Resources

CHSWC PUBLICATIONS

In addition to the many reports listed in the CHSWC List of Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports, 1994–2018

CHSWC Strategic Plan, 2002

Worker's Occupational Safety and Health Training and Education Program (WOSHTEP) Advisory Board Annual Reports, 2004–2018

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CHSWC is pleased to acknowledge and thank the following individuals and organizations from the California health, safety and workers' compensation communities.

Their willingness to share the insights and knowledge derived from their years of experience has assisted CHSWC immeasurably in its mission to examine and recommend improvements in the health and safety and workers' compensation systems in California.

American Medical Association (AMA)

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American Insurance Association (AIA)

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The Honorable Anthony Rendon, Speaker of the Assembly

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Members of the Public

Participants in CHSWC meetings, fact-finding hearings, and public forums

Participants in CHSWC project advisory committees

Special appreciation is owed to injured workers and employers in the system who have come forward to suggest improvements to the system and provide their insights and comments.

Finally, CHSWC acknowledges and thanks its staff:

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