

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

**MINUTES OF MEETING  
Thursday, June 7, 2018  
Elihu M. Harris State Building  
Oakland, California**

In Attendance

2018 Chair, Angie Wei

Commissioners Daniel Bagan, Doug Bloch, Christy Bouma, Martin Brady, Mona Garfias, and Shelley Kessler.

Absent

Sean McNally

**At-a-Glance Summary of Voted Decisions from the CHSWC Meeting**

<b>Approval of Minutes from Last Meeting in April 2018</b>	<b>Approved</b>
<b>Posting for feedback and comment and final posting in 30 days the Draft report, "Medical Care Provided to California's Injured Workers: Monitoring System Performance Using Administrative Data," by Barbara Wynn and Andrew Mulcahy, RAND</b>	<b>Approved</b>

**Approval of Minutes from the April 5, 2018 CHSWC Meeting**

*CHSWC Vote*

Commissioner Bagan moved to approve the Minutes of the April 5, 2018 meeting, and Commissioner Bloch seconded. The motion passed unanimously.

**DWC Update**

*George Parisotto, AD (Administrative Director), Division of Workers' Compensation (DWC)*

**Provider Suspension Regulations**

Mr. Parisotto stated that he will update what DWC is working on and what they are planning to do in the next few months. He will begin the update with regulations and one very big item has been the proposed QME regulations.

**DWC Update, and Plans**

1. Regulations  
Qualified Medical Evaluators (QME)

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- Proposed QME regulations -posted revisions to Medical/Legal Fee Schedule to DWC's website forum for comment in May for which we received many comments. Many people thought DWC was rushing regulations and that is not the case. DWC initiated informal rule making based on the rise in the medical legal billings over the past few years and due to an increase in medical-legal billings and abuses of existing rules.
- Changes include:
  - A time limit on report writing.
  - A list and summary of medical records.
  - A limitation on billing for medical research.
  - Allowing medical causation to be billed as a complexity factor only if it is a disputed medical fact.

Mr. Parisotto stated that DWC had received a tremendous number of comments from QMEs, reviewed the comments and will review the drafted rules and make necessary changes. DWC will post the comments on its website as part of the informal rule-making process and before the formal rule-making process begins. After the formal rule-making process DWC will have more comments. So if anyone thinks DWC is rushing things, they are going through their normal process.

### **OMFS – Physician Fee Schedule**

- Currently updating to reflect new geographic adjustment factors adopted by Medicare. Change from the statewide factor used since the adoption of the Resource Based Relative Value Scale (RBRVS) system used since Senate Bill (SB) 863.

### **Interpreters Fee Schedule**

- Draft regulations were posted on the DWC website forum on April 4. Comment period closed April 13. Still reviewing comments of the interpreters' fee schedule.
- Will address selection of interpreters, validating credentials, and setting fixed fees for services based on the federal court rate.

### **Utilization Review**

- In final stages of review. Regulations will provide details for the 30-day "fastpass" provisions, such as definitions and the fact that a claims administrator cannot deny payment of a bill submitted outside of the 30-day timeframe, the URO approval process, URAC approval, and formulary UR timeframes.

## **2. Formulary**

- DWC has selected the members of the Pharmacy and Therapeutics (P&T) Committee – three pharmacists and three physicians - and will shortly issue an announcement as to who they are and the date of their first meeting which will be public. The committee will provide the Division with recommended enhancements and

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improvements to the Medical Treatment Utilization Schedule (MTUS) Formulary. So far, based on the informal comments, the formulary is working.

### 3. **IMR Update**

- Total eligible applications in May was 17,443, and the total number of Final Determination Letters (FDLs) issued were 16,466. These were the highest monthly totals in at least a year (though some months were close).
- Applications slightly up this year, likely due to MTUS changes: 23,300 apps in March; 22,800 in April, and 22,160 in May.
- Maximus is meeting statutory timeframes for getting final decisions out, 13 days from the time medical records are received. 43% are still pharmaceutical disputes.

### 4. **EAMS Upgrade**

- An EAMS software upgrade is currently ongoing. DWC will be rolling out training this summer after completion of the upgrade. Part of the upgrade is revising all of the EAMS forms.
- Mr. Parisotto would like to include the DWC forms in the upgrade. DWC would like to make them all on-line fillable forms that would be easier for everyone to complete.
- Mandatory e-filing – DWC has been looking to turn to a mandatory e-filing system to ease pressure on the offices and increase overall efficiency. Will be working with the WCAB to move in this direction.
- DWC is working with DIR's IT Unit to establish data reporting standards for Utilization Review (UR) data reporting by claims administrators and the electronic filing by physicians of the Doctor's First Report (DFR).

### 5. **Anti- Fraud Activity Suspension Activity**

- 263 physicians, practitioners, or providers have been suspended under Labor Code § 139.21(a).

#### **Lien Stay Activity**

- 152 criminally charged individuals (and their entities) currently have their liens stayed by operation of law under Labor Code 4615.
- 560,791 liens are currently designated as "4615" in EAMS.

Mr. Parisotto thanked his DWC staff for their work.

### ***Comments by Commissioners***

Commissioner Bagan asked whether or not the medical legal fee schedule in the QME regulations will address the consolidators or the aggregators who do all the QME paperwork for the doctors so the doctor can just focus on the examination. Mr. Parisotto replied that the regulations do not address those types of operations. In some instances they may be beneficial

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and he hears from both sides; DWC's "fix" to the medical legal fee schedule addresses the doctor.

Commissioner Bouma asked if the DWC is tracking the impact on the system beyond the suspended providers; does that impact the premium, is the premium going down and is the employer making adjustments for the good of the injured worker? Mr. Parisotto replied that he does not have any specific data that would correlate the two but it is something that he can certainly look into.

Commissioner Kessler asked if there was a way to tell if IMR reviewers are located in California or outside the state. Mr. Parisotto replied that he does not know the locations of IMR reviewers. IMR physician reviewers' locations were anonymous by statute. He will see if he can track that down and let her know. Commissioner Kessler said she would appreciate it since the question has come up over time.

Commissioner Garfias asked if the RAND QME study was going to be released. Mr. Parisotto responded that RAND has looked into the medical legal fee schedule in a couple of the reports and one was issued last month and another is supposed to come out in the next month or so. DWC will look at it to see if they support it. Commissioner Garfias asked if a copy will be released and Mr. Parisotto stated that he believes it will be.

Commissioner Brady commented that Mr. Parisotto had mentioned that in IMR 42 percent of the disputes were pharmaceutical and that seemed consistent. He also asked if the uphold rate is higher than 90 percent. Mr. Parisotto stated that it tracks to about 92 percent and if there are treatments that it comes down to 70 percent. For mental health treatments the rates are lower but generally it is about 90 percent. Commissioner Brady commented that he would assume that after repetitive measurements the marketplace would learn what has been approved and what has not so it was surprising to him to hear that it is still that high. Mr. Parisotto replied that he would hope that people would look at the IMR online decisions and those that have been posted and get an idea where IMR goes for specific types of treatments. Updating the MTUS will help people going forward and support treatment requests, should be approved and should not have to go to IMR. Commissioner Brady added there were lots of moving parts and complimented DWC staff for doing a very good job. Mr. Parisotto agreed that DWC staff were doing a very good job.

Commissioner Wei asked if Mr. Parisotto had a hypothesis as to why IMR requests are higher this month. Mr. Parisotto said he thinks it is due to the change in the MTUS made at the end of last year. He said they updated all the chapters and went to ACOEM for their guidelines and adopted 14 of them. He said it is probably due to the transition from the old guidelines to the new ones. He said some treatment requests used the old guidelines instead of the new ones, so that would be his guess. Commissioner Wei said that it was potentially a red flag because they should be getting less things (treatment requests) UR'd. She said the theory was that less things (treatment requests) would end up in IMR. Mr. Parisotto said that he absolutely agreed with that. He said he would be curious to see how that trend is going to go. He said the number of applications has gone down from previous months. He said that they had 23,000 in February; it

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went down to 22,800, and then down again to 22,100. He said that these were still substantial numbers, without question, but that he hopes the downward trend really takes effect.

Commissioner Wei said she did not know enough about the transition to the 14 ACOEM chapters, but does the beginning trendline mean that those chapters were more restrictive in the medical treatment that they were prescribed? Mr. Parisotto said that he was not familiar enough at that level, but that he knows in some instances that the treatment recommendations were different. He said that perhaps their Executive Medical Director might have a better sense. Commissioner Wei said that it would be helpful to know, and to bullet out the changes at a high level, not at a clinical level. Mr. Parisotto said that he regretted the term but it was a bit of the "Wild West" before: they had chapters that were over 10 years old, people were going outside of the treatment guidelines. Now they are more up-to-date.

Commissioner Wei said they both know that the design of the MTUS is to allow other treatment guidelines to be layered on top of it (ACOEM). Mr. Parisotto agreed, adding "where necessary." Commissioner Wei said she is worried that if ACOEM is narrower, it will make it necessary to layer on other treatment guidelines. Mr. Parisotto said that is why it is important for physicians to know what is in the guidelines and when they have to go outside of them they can document with specificity why they had to go out and why the injured worker needs the treatment. He added that he hoped the URO companies would recognize that and look to see that a treatment is best for the injured worker. Commissioner Wei said that hopefully all this is avoided by a better UR system or a lack of UR at the front end.

Commissioner Wei said that she was looking for a way to capture the change and potential progress over the last 8 years on this specific UR/IMR interaction, because at the end of the year (2018) there will be some change. There will be a transition in the State and there should be a benchmark on where they are under this framework. Mr. Parisotto agreed, and said that as the year goes on and, as the treatment guidelines are used, it will be interesting to see the IMR numbers, and how many treatments actually go through. Commissioner Wei said that it would be helpful to hear a path forward from Mr. Parisotto, perhaps at the next meeting.

Commissioner Wei also asked about the QME fee schedule. She said she heard Mr. Parisotto say that DWC would have another round of public comment and then rulemaking that will potentially have public hearings. She asked if DWC would have an interactive stakeholder process in between. Mr. Parisotto said that he is definitely considering that. He said that DWC wanted to hear from interested parties about the changes they are considering, and that DWC did hear from them. He applauded the groups that reached out and said something. He said if necessary DWC will reach out to groups and specialty associations to tell them the direction DWC is going. Commissioner Wei said that from her perspective, it would be helpful to have a stakeholder process that puts people in a room to have a dynamic discussion – a back and forth discussion is helpful. She said this is obviously an issue of great interest for all parties because the work of QMEs is so important both for the injured worker as well as the employer. Mr. Parisotto said that DWC wants to make sure that people get evaluated, that disputes are resolved, that ancillary issues fall by the wayside, and physicians are compensated for the work they do. He said that whether DWC has to overhaul the system or not is a very good question. He said he does not want to plan on overhauling the system and let what they have now just continue on. He

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said what they have now can be fixed. He said DWC needs to look at what the system will look like five years into the future. Commissioner Wei said she agreed and added that to put the QME fee schedule in context, if they squeeze too hard on the fee schedule it does have potentially unintended consequences – including the creation of aggregators and other third parties who may play a role in the system but may not be needed so much if the fee schedule reflected what the QMEs believe their value is.

Commissioner Wei said that there was a lot of information in Mr. Parisotto's report and the Commission does want to hear from the public. But there is no action item on the DWC report, so it is not appropriate to hear public comment at this time. However, she encouraged people to make comments at the end of the meeting when time is reserved for such comments.

### **Report on Monitoring Wage Losses in California's Workers' Compensation System Study**

*Michael Dworsky, RAND*

Mr. Dworsky began by acknowledging co-authors Stephanie Rennane, an Associate Economist in the RAND Washington, DC office and Nick Broten, a Ph.D. candidate in the Pardee RAND Graduate School. Mr. Dworsky is an Economist with RAND in Santa Monica, CA. Mr. Dworsky explained that this is the first public presentation on a three year project to monitor earnings losses for workers who are injured in California.

#### Why Wage Loss Monitoring Is Needed in California's Workers' Compensation System?

- Employment and earnings are key indicators of worker well-being and economic hardship after workplace injury and as such are of intrinsic interest to those in the workers' compensation system, as well as of policy and research interest.
- DIR does not have regular access to data reporting on employment outcomes, and so there is no mechanism for DIR to directly track what happens to an injured worker after a workers' compensation claim case is closed.
- Employment Development Department (EDD), which administers the Unemployment Insurance program, has high quality records of how everyone is doing in the labor market.
- Earnings loss data are needed to evaluate benefit adequacy or return to work interventions.

To sum up, labor market outcomes are not reported to DIR, impeding monitoring, research, and evaluation. RAND is working with DIR and EDD to build the infrastructure for regular wage loss monitoring as a way to remedy this gap.

#### Introduction to RAND's Wage Loss Monitoring Study:

- Three-year project (2017-2020)
- Three Monitoring Reports in the first two years:
  - Monitoring for 2013 injuries (forthcoming)

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- Monitoring for 2014-2015 injuries (planned release: August 2018)
- Monitoring for 2016-2017 injuries (planned release: August 2019)
- Final Policy Report in third year of the project
  - Examine factors shaping worker outcomes
  - In-depth focus on permanently disabled workers

RAND Report with expected July 10, 2018 Release Date

Presentation for CHSWC Shows Trends in Earnings Over 2005-2013 Injury Dates

- Focus on earnings loss two years after injury
- Show trends for all injured workers
- Focus on workers with paid indemnity benefits
- Compare earnings for subgroups of workers to statewide average, with comparisons by
  - Industry
  - Region
  - Type of Injury
- Further outcomes, subgroup analyses in report

Policy Challenges Over the Last Decade

- Rising medical costs
- Concerns about benefit adequacy
- Growing attention to:
  - Access to care
  - Evidence-based medical care
  - Fraud
- High unemployment after Great Recession of 2008-2009

Focus on Injury Dates Through 2013, When SB 863 Impacts May Be Limited

- SB 863 (enacted 2012) included major reforms
  - Overhaul of medical payment, dispute resolution
  - Increased PPD ratings, maximum weekly benefits
  - Established Return to Work Fund
- SB 863 impacts for 2013 injuries limited
  - Medical reforms began to be phased in during 2013, but not fully implemented
  - PPD benefit changes phased in, but not anticipated to directly affect earnings losses
- RAND's results are not a report card for SB 863

RAND Built on Methods Developed in Past RAND Studies to Estimate Earnings Losses

- Earnings loss is difference between
  - what a worker *actually earns* after injury

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- what they *would have earned* in absence of injury
- *Actual earnings* can be observed in the data
- But *potential earnings* have to be estimated
- RAND compared injured workers to co-workers who did not file a workers' compensation claim

Mr. Dworsky presented a chart with earnings declining after the date of injury, along with earnings declines for the control workers. He said there are two factors at play for the control workers: there is salary growth due to promotions or raises, but there are also people who move out of employment due to voluntary factors like retirement or involuntary factors such as layoffs. He said those losses outweigh any wage growth for the workers that remain employed. He said that was why it was important to have data, because one would not necessarily expect that to be the case.

Mr. Dworsky next presented a slide titled Injured Worker Earnings as Percentage of Potential Earnings Were Higher in 2013.

***Comments by Commissioners***

Commissioner Bouma asked for clarification that RAND factored in people who actually left employment instead of comparing people who were actually at work. Mr. Dworsky said that in order to make a fair comparison, people who leave employment should be included in the control group.

Commissioner Bagan asked if RAND separated the injured workers who returned to the at-injury employer and those that did not. Mr. Dworsky said that they are lumped together; the injured workers are separate based on industry, region and severity of injury. He said that RAND has the data to separate them out based on at-injury employer or not. He said that this is the most important factor: if one returns to work at the at-injury employer, one will do "O.K." earnings-wise; RAND is more concerned with those injured workers who do not return to the at-injury employer.

Commissioner Brady asked about pre-retirement injuries, i.e. injuries reported 60-90 days before retirement. Mr. Dworsky said that currently those cases are not factored into their results; they do have the ability to break cases down by age. He said that they do see that workers injured close to retirement age are much more likely never to work again. However, it is difficult to determine whether it is due to planned retirement and something that would happen anyway vs. injured workers of an older age tend to have more severe injuries.

Commissioner Kessler asked if they are analyzing the difference between people who remain employed vs. people who are injured and the relative earning abilities. She said that it seems to skew the results when non-injured workers leave the job for layoffs or retirement (i.e. non-injury reasons), the whole point is to determine the impacts of an injured worker's ability to earn a living and how that progresses over time versus a fully employed person who maintains employment. She said that, to her, the method does not give a real picture of the disparity for injured workers vs. employed workers over time. Mr. Dworsky said it is less of a methodological



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question than a normative or values question about what is the right benchmark for earnings losses. He said that given that some workers are going to exit employment for reasons unrelated to injury, RAND thinks that including those workers is the most accurate way to capture potential earnings. He said that there could be arguments for looking at people who are continuously employed. He said the danger with that (not counting those who exit employment) is that one could think that any component of employment is subject to chance or other outside influences, and then one is essentially picking the people who have the best luck and making that the benchmark. He said that RAND has concerns with that methodologically. He said that they have the data to look at continuously employed workers and use them as the benchmark, but they would be concerned about the interpretation of that for earning comparisons. Commissioner Kessler said she just wanted to get an accurate reflection – in reality – of working people impacted by injuries who do not return to work and who experience a greater loss of income than those who still work. She said that in her gut it feels like it is not representative of the realities that are in existence for injured workers.

Mr. Dworsky said that he is hearing that it might be helpful for RAND to provide more detail on how this breaks down based on the worker's status after the injury. He said that they have the data to do very detailed analyses; currently, they have just done initial monitoring work. He said these are the kinds of questions he wants from the Commission, about what sort of detailed analyses they would like to see in future updates. He said it might be useful to talk in more detail to make sure they are all on the same page. Commissioner Kessler said she appreciated that.

Mr. Dworsky returned to the presentation and said that the data show injured worker earnings on average at 94% of what they would normally be earning two years after the injury. He said that number included everyone, including medical-only – meaning less severity – as well as temporary and permanent disability. He said earnings losses began to increase around 2006 through 2009 and have been very slowly recovering since then. He said the most recent data for 2013 show a 1% increase in earnings, but that the case mix is also changing. He said there is more detail in the report, but one of the important changes is there are more low severity claims, i.e., more medical-only claims come into the system when the labor market is strong. He said a lot of those claims dropped out during the Great Recession – whether that was because workers were intimidated or afraid of retaliation and decided not to file. He said that the research does not explain it, but whatever the reason, in these trends the injury mix is changing. He said when they break it out by type of benefits, the medical-only claims recover earnings post-recession. Workers with other indemnity benefits but who were not disabled were also recovering earnings post-recession. He said those with permanent disability were still not recovering earnings post-recession. He said these results were 3-4 years after the date of injury, and that some of those workers had still not received permanent disability due to the complex nature of their cases. He said those numbers would likely change in the future when they update the data.

### PPD Worker Findings Subject to Change Because Cases Are Still Developing

- Difficult to interpret 2013 PPD injury trends due to incomplete claim development
- Revisit PPD trends in Final Policy Report
- Focus on average outcomes for all indemnity claims in remainder of briefing, including:
  - Any TD

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- Any PD
- Any settled indemnity

### Monitoring Report Shows Trends in Worker Outcomes for Subgroups of Workers

- Which groups of workers had better or worse outcomes compared to statewide average?
- Did any groups differ from statewide trends?
- Poor outcomes may point toward system challenges calling for closer examination

### Trends for All Workers with Indemnity Payments Serve as Point of Comparison

- Calculate Relative Earnings For Workers with Indemnity at Different Sized Firms
- Compare Moving Average for Group to Statewide Average at Different Sized Firms
  - Findings: Injured Workers at Small Employers Do Much Worse than Statewide Average
  - Use this Framework Across Different Sized Firms
  - Strong Relationship between Large Firms and Outcomes after Injury – the Larger the Better Outcome
  - Industry Differences with Greatest Deviations from Statewide Average: Construction, Manufacturing, Retail, and Wholesale Workers Have Worse Outcomes; Workers in Education, Public Administration (public sector) Had Better Outcomes than the Statewide Average
  - Regional Differences: Impact of Great Recession Felt Throughout the State, Though Recovery Has Been Uneven; the Bay Area and Sacramento appear to be doing a little better post-recession than Southern California.
  - Cumulative Injuries, Multiple Injuries Associated with More Severe Earnings Loss; situation is particularly severe in southern California.
  - Cumulative Injuries in Southern California Have Especially Poor Outcomes

Commissioner Bagan interjected with a question about the definition of “Wholesale” in the Industry Differences slide. Mr. Dworsky said that it is based on the industry code reported to EDD. He said it included warehousing and transportation, but he would have to get back to the Commissioner for the exact breakdown of sub-industries. Commissioner Garfias asked where the janitorial workers would be reported. Mr. Dworsky said that there were other industries not included in the presentation, but are included in the report; janitors were not examined specifically.

### Outcomes for Cumulative Injuries in Southern California Suggest Need for Improvement

- Study did not explore mechanisms driving poor outcomes for these cases in Southern California
  - Differences in provider fraud/abuse?
  - Higher concentration of post-employment claims?
  - Poor-quality health care more broadly?
  - Case mix differences from rest of state?
- Additional study needed to identify problems and design solutions

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Conclusions of First Interim Report on Wage Loss Monitoring

- Overall labor market outcomes improved slightly in 2013 compared to 2010-2012
- No evidence of recovery from Great Recession for PPD workers, but findings subject to change
- Recession impacts felt broadly, but with regional and industry differences in strength of recovery
- Understanding regional differences could help improve policy for cumulative trauma injuries

*Comments by Commissioners*

Commissioner Bagan said that he thought cumulative trauma injuries were definitely something that needed to be looked at. He said “add-on” injuries were a particular area to examine, or a separate injury filed in conjunction with the specific injury. He said it would be useful to look at those cumulative injuries and return to work rates (exiting the workforce). Mr. Dworsky clarified that earning losses are essentially return to work outcomes, so they have data on what Commissioner Bagan is interested in.

Commissioner Bloch said that he is frequently made aware that southern California is different, and asked if Mr. Dworsky could speculate as to why. Mr. Dworsky said that RAND has several hypotheses, based partially on what WCIRB has researched as well as RAND research on provider fraud. He said there is anecdotal evidence that there is a higher prevalence of provider fraud or lower quality of care in southern California compared to the rest of the state. He said that this was speculation, but that they could do some analysis with the data collected for the monitoring study to evaluate these claims. He said one issue that has come up is that there is a higher concentration of post-employment claims in southern California. He said that those post-employment claims tend to be cumulative trauma. He said what they may be seeing is “reverse causation” – somebody gets let go (laid off) and that causes them to file a claim. He said even though a lot of those claims might be denied, they believe they are interesting to look at because these are workers obviously having trouble finding work and are involved in the workers’ compensation system. He said that there are other unexplored issues in terms of regional variation – there are differences in industry mix, in demographics and wage distribution which are factors that affect earnings losses. He said that RAND has the data to try to access explanations but that they have not done that in the current report.

Commissioner Bloch said that he agrees that these are all things that they should be looking at – the quality of care is front-and-center for the Commission. He said post-employment claims leads him to think about the impact of an aging workforce. He said that this economy is not providing retirement security for workers anymore – for the vast majority of workers. He said people are staying in the workforce longer and he would be interested in seeing the age, gender, and ethnicity of workers in the analyses. He said that to not look at those issues, with all due respect, would be irresponsible. Mr. Dworsky said that they do not see ethnicity either on workers’ compensation claims or in the EDD data. He said to protect confidentiality they do not hold workers’ names or street addresses which would help impute that (ethnicity). He concluded that it would be difficult to tackle the ethnicity question, even though he agreed that it is

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substantively extremely important. He said that they could analyze age and gender from the data. Commissioner Bloch said his concern was the scenario of an older worker who gets injured and then let go and replaced by someone half his age and is willing to do the work and risk occupational injury; the older worker has cumulative trauma from years of doing repetitive work. Mr. Dworsky said that they could look at the age issue.

Commissioner Garfias asked about wage loss among janitors. Mr. Dworsky said they have looked at industry sliced in broad categories, and have the ability to look at janitors, for example. He said they can do it by industry, however, by occupation can be more challenging. Occupation data in WCIS relies on the claims administrator to fill it out in a text field, so it is not standardized and tends to get cut off. He said another thing to look at is the workers' compensation classification codes to distinguish temporary employees at staffing agencies, for example.

Commissioner Brady suggested if RAND cross-referenced industries with the class code variations from WCIRB, they would obtain greater specificity. Commissioner Brady said that RAND results on southern California are consistent with other reports. He said it is 22% of claim load in Los Angeles but 40% of the dollars. He said it is a driver (of costs). He said post-employment CT claims are like "nails on a chalk board." He said a lot of the small employers are experiencing this and that it is an important area to examine.

Commissioner Kessler said that she is concerned about the north and south divisions. She asked whether the divisions could be broken down by zip code. She explained that in the central California farming industries there may be a different way of looking at people in those areas both for the quality of care issue, type of injuries, etc. She said that with older workers, it will give a better idea of who is and is not able to return to the workplace, and the drop-off. Mr. Dworsky asked her to speak more about the regions and zip codes that concern Commissioner Kessler. Commissioner Kessler suggested that occupation might help capture where the impacts lay.

### **Update on Legislative and Commission Directives**

*Amy Coombe, DIR*

Ms. Coombe stated that among other goals SB 863 was intended to improve weekly benefits by increasing the weekly maximum benefits and also increasing disability ratings for select injuries. SB 863 also instructed the DIR director to design and implement a new \$120 million dollar program named the Return-to-Work (RTW) supplemental program. This program is for permanently disabled workers who suffer disproportionately high earnings losses in the process of their workers' compensation claims benefits and provides a one-time \$5,000 benefit to workers who cannot return to work following a permanently disabling workplace injury.

- To evaluate the program, RAND examined program performance and suggested improvements to the return-to-work program which were presented at the last Commission on Health and Safety and Workers' Compensation (CHSWC) public meeting. CHSWC asked DIR to assist in exploring administrative options to address

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RAND's recommendations. These included: outreach and notification efforts, monitoring of SJDB voucher issuance and other related claims detail and automatic cash transfers to all eligible workers versus the current opting in process.

- Several efforts are underway to increase program awareness:
  - Website navigation and visibility has been improved. It is now located on the DIR website in the workers section for reference as well as the Division of Workers' Compensation homepage.
  - Website navigation and translated information and instructions are featured online.
  - The SJDB voucher content is under review for program visibility on the voucher itself and are being enhanced and translations are being considered.
  - An injured worker survey is in process to see how we can improve the benefit program. They will be collaborating with claims administrators and others to find more ways to get the word out to workers.
  
- RAND recommended increased program monitoring. Data that provide insight into key decisions over time, focused trends and shifts in the number of eligible workers. Other issues may be observed through traditional data collection, and they may need to address these issues: including service delivery, quality and timeliness as well as patterns of fraud and access issues. While they know key events that can be reported to provide this insight, a mechanism to report this information to DIR still needs to be identified.
  - RAND found the program is performing well and administration is very efficient. The eligibility criteria have accurately targeted workers with more severe disability. While the program is efficient, the take-up of the program is low. In a sample of eligible workers, RAND found just over half applied to receive the benefit. The most important factor predicting access to the program is legal representation. It suggests many workers are failing to opt into the program. To improve take-up among those who are currently eligible, the benefit payments could be made automatically. The data that they are reporting could be a trigger for adequate notification to DIR to allow this cash payment to be automated. DIR has the authority to adjust the design and implementation of the program by amending the regulations as well.

### *Comments by Commissioners*

Commissioner Wei asked if DIR could change this automatic benefit payment issuance by regulation. Ms. Coombe stated that yes they could. Commissioner Bloch asked how they could get that accomplished.

Mr. Brady asked about the survey timeline. Ms. Coombe replied that the worker survey information will be provided in greater detail later in this presentation.

Commissioner Bloch said that he would like to go on the record as having discussed this issue at length for several years. He added that the RAND study was excellent and he would advocate for

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the steps discussed in Ms. Coombe's presentation to make an automatic trigger. He was convinced that based on the studies done the effort to make sure that injured workers are getting access to this RTWSP money should be automatic.

Commissioner Kessler stated that she would like website access for multiple languages. She stated that she knows Ms. Coombe is aware of this but besides Spanish, languages could be Chinese, Vietnamese or other languages and that should be stated on the first website page. She added that it would really help if an injured worker had access to a computer and knew how to use it, to have language in a navigation page or as part the top of the page and on a separate box or a navigation pane that provides languages to make it easier for someone to get it.

Commissioner Kessler also suggested that a lot of injured workers who have the ability to apply for and receive this return-to-work fund are not being told about it. There are a variety of ways they can be told, such as through doctors or if they are represented (but that is another issue). It would be great if the injured workers are given access to an educational environment that informs them where they can get this money. There are a variety of places this can take place. The stakeholder meeting is one way for people to make concrete suggestions that assist workers, and she will be happy to find people to participate.

### **Preliminary Findings of Supplemental Job Displacement Voucher (SJDB) Program Assessment**

Ms. Coombe stated that the efficacy of the SJDB program was studied pursuant to a legislative directive from Senator Lara, in consultation with DIR. The results of the initial phase of the study examined the demographics and the injuries of the SJDB recipients along with trends in the SJDB program, socio-demographics and related injuries of SJDB recipients. Ms. Coombe also discussed the in-progress efforts that will be presented to CHSWC this fall.

Ms. Coombe reported that there was a slight increase in the share of workers with permanent partial disability (PPD) with any paid SJDB. The program has expanded since 2011 and particularly since 2013. While the benefit permits \$6,000 per eligible worker:

The recent average paid SJDB per case was \$4,600 for 2013-2014 injuries.

- In terms of timing: 60% of SJDB recipients begin to receive the benefit from one to three years after the date of injury.

Claims data provided the socio-demographics of SJDB program recipients:

Sociodemographics of SJDB program recipients

- Mostly male (42% female)
- Average age is 43.5 years
- Average weekly wage is \$634.49
- 43% live in a zip code associated with low English literacy
- 31% live in a zip code associated with low internet access
- Half live in Southern California (30% in Los Angeles)

Source: RAND Analysis of WCIS data, injury years 2013-2014: WC1219 (2018), Table B16, p.144

Geographically, the SJDB beneficiaries are located throughout the State of California with major concentrations in major metro areas. DIR also examined the causes and natures of the injuries. Claims data indicates that strains and lifting injuries were the leading causes of injuries and that lower back and shoulder injuries were the most frequently reported types of injury. DIR also looked at industry and class mix for these workers. Manufacturing, retail and administrative support industries have the greatest share of SJDB recipients. Service retail classifications have the most SJDB recipients. DIR looked closer at the data and found a third of the beneficiaries worked in labor and maintenance occupations.

Labor included general labor, mover, loader, warehouse worker, roofer, construction worker, tree trimmer, heavy load workers.

Maintenance includes housekeeping, cooking, janitors, and caregivers.

- A closer look showed: Labor and maintenance occupations comprise a third of SJDB recipient claims:
  - Labor occupations = 23% (vs. 13% for all WC claims)
  - Labor includes general labor, mover, loader, warehouse worker, roofer, construction worker, tree trimmer, heavy load workers
  - 15% injuries caused by slips, trips, or falls (vs. 6.5% in all claims)
  - 14% injuries caused by lifting (vs. 9.5% in all claims)

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- Maintenance occupations = 13% (vs. 11% for all WC claims)
- Maintenance includes housekeeping, cooking, janitors, caregivers
- 20% injuries caused by slips, trips, or falls (vs. 6.5% in all claims)
- 15% injuries caused by lifting (vs. 9.5% in all claims)

Source: DIR analysis of WCIS data <sup>12</sup>

To complete the study, they were in the second phase of the research. This included a legal evaluation of training providers and addressed questions about legitimacy. They were also conducting a brief survey about the services and were gaining insight into the benefit for workers.

Overview of efforts in progress:

Evaluation of legitimacy of training partners:

- Through a combined use of phone, text and e-mail, 12,600 workers were invited to participate in a survey regarding the SJDB program to evaluate services.
- Synthesize the findings and present recommendations to improve SJDB process to better serve injured workers using this information.
- Prepare a report to present before the Commission about findings this fall.

### *Comments by Commissioners*

Commissioner Bagan asked if they knew how many SJDB vouchers were issued on an annual basis. Ms. Coombe responded that it has changed over time. DIR did have the data but did not have it at the time of the meeting.

Commissioner Bloch stated that they have been involved in the Bay Area workforce development projects over the years. There is value in examining the legitimacy of training partners. He has seen that many good organizations are working at the local level and many other organizations have political relationships that monopolize funding and do not do a lot of training except for placing workers in minimum wage jobs. It is a good question to examine but he does not think they should throw out the “baby with the bath water”, and although they will not hear it today, they frequently hear comments from the employer side that the program should not be getting this money or should be getting less money. With this and the return- to-work program they are talking about people who as their own studies demonstrate are suffering catastrophic income loss because they are not able to return to work in their old job. Our workers’ compensation system needs to have a heart for those workers and the employers do as well. He is not faulting any of his fellow Commissioners on the employer side but he wanted to address it publically.

### **Report on Mental Health Programs and Options to Support First Responder in California**

Ms. Coombe stated that Assembly member Grayson had asked CHSWC to examine the characteristics of First Responders who get Post Traumatic Stress Disorder (PTSD) to better understand the services available to them and how this may benefit workers. DIR presented the



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initial findings in October 2017 along with the information regarding treatment requests information and their outcomes and information about how the MTUS is directed in stress related conditions. Today DIR is presenting the second phase of the study. DIR examined the literature to understand the factors that influence care seeking behavior and examine existing model programs that may be useful to consider as they examine the landscape despite the limited evidence of their effectiveness. They also looked at other states that are considering similar legislation and conducted legal analysis of the various provisions underway to inform efforts in California. The report will include a detailed overview of that analysis.

- To provide background: under LC 3208.3 any worker suffering from a job related illness or disability can file a claim to receive benefits. The specific facts are reviewed in every case and there are no exclusions for First Responders. What DIR found is that while treatment was available it was not always used. The stigma, in particular, and other negative perceptions present barriers to seeking care. For emergency responders in particular a cultural shift may be necessary to support increased use of treatment.
- DIR looked at empirical gender differences and the risk related to PTSD. While men have a higher risk of being exposed to traumatic events, women are twice as likely to develop PTSD. Beyond the known workplace differences for men and women, there is evidence that gender specific hormones may factor into how PTSD impacts the individual. For first responders specifically, women experience a higher rate of exposure and more symptoms related to PTSD, and 9/11 was a catalyst for a lot of additional research in this area.

In reviewing the programs currently offering PTSD related services to first responders:

- One of the most promising programs is the West Coast Post-Trauma Retreat (WCPTR). It began in 2001 and features a six day residential program. It is designed to focus on therapy, stress recognition, and follow-up treatment plan for first responders. Two studies were conducted and there is evidence of immediate and significant symptom reduction and support for this program's effectiveness.
- The second program is the California Peer Support Association (CPSA) which offers a peer support structure that facilitates treatment and hosts a three day annual conference. While it is very well received and there is anecdotal evidence of its helpfulness, there is no empirical evidence of its effectiveness. It does show promise.
- In addition to the two programs discussed above, there are a number of other services available regarding PTSD treatment although they are not specifically designed for first responders.

Additional approaches to consider:

- The U.S. Department of Veterans Affairs has launched a new program ensuring that all veterans with PTSD will receive evidence-based cognitive behavioral therapy and they

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have new interventions designed to reduce the risk of PTSD more proactively.

- Encouragingly, there is a highly accurate scanning technique that diagnoses PTSD. It is called Magnetoencephalography (MEG) (brain scan) and could offer the first biological test to enable proactive, faster, and earlier intervention.
- Several states were looking into similar legislation. DIR conducted analysis and found detail on covered occupations, specific benefits, and other items common to all bills along with explicit elimination of restrictions. There were differences across the bills as well including definitions, coverage benefits, and limitations. The DIR report will include a complete analysis that will be helpful for California to consider.

In summary:

- California's MTUS treatment guidelines and medical evidence search sequence offer appropriate guidance for behavioral health disorders, such as PTSD.
- Cases are underreported, and associated stigma prevent care-seeking behavior in general (including first responders and veterans).
- Overall, men have a higher risk of exposure, but women have a higher risk of developing PTSD.
- Programs are available to first responders in California with limited but encouraging evidence of their effectiveness.
- California can draw on the experiences of other states and there are examples of legislating on this topic.

***Comments by Commissioners***

Commissioner Bouma thanked Ms. Coombe for her presentation and added that she also works for the California Firefighters' Association. She commented that getting treatment of PTSD necessitates a culture shift and is recognizing this even in her own job and occupation. A lot of proactive work with the union in collaboration with management recognizes that the culture shift is an important goal. It is a service to our members to diffuse that stigma and provide avenues to access so they do not end up suffering from an injury related to the PTSD that they may incur on the job. She looks forward to all the details that will come in the fall and appreciates all the work.

Commissioner Bloch stated that he echoed Commissioner Bouma's comments and he thanked Ms. Coombe for all three reports. Although the Teamsters are primarily a union of truck drivers, they also represent first responders in San Bruno who responded to the gas explosions, public employees in San Bernardino who responded to that attack, and public employees in Sonoma County that dealt with the fires in Lake County. His experience has been the same at least regarding the stigma, not just for the members who are first responders, but also for those who are public employees. To the extent that they are coming forward with recommendations on how to help workers deal with PTSD, he is all for that and will follow the lead of the firefighters.

Commissioner Brady stated that it is smart business to cross-reference and learn from Veterans Affairs. If there is any organization that has been traumatized with this issue it is Veterans

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Affairs. This is also true for opioid treatments. He stated we have to learn from other groups that have cutting edge thinking. He likes that cross-fertilization.

Commissioner Kessler stated that she liked the Veterans Administration and that First Responders who are also veterans are finding out about the cross over between the two groups and how people have dealt with it would be really good. She thanked Ms. Coombe again for the reports.

Commissioner Bouma stated that she did not know if it is covered in the research but California's military department was establishing peer support programs and crisis referral services for their employees.

Commissioner Wei also thanked Ms. Coombe for her reports. She looks forward to hearing about additional progress.

### **CHSWC Report**

*Eduardo Enz, Executive Officer, CHSWC*

Mr. Enz stated that since the April 5 meeting, staff has worked to implement the Commission's decisions and to fulfill requests.

The RAND report on the Evaluation of RTW Fund in California's Workers' Compensation System was posted for 30 days for feedback and comment and received no public comments. [Correction: CHSWC did in fact receive one public comment by email on May 7 from CAAA that has since been posted on our website under the RAND report.] CHSWC will post this report as final on its website when RAND finalizes and releases report later this month. Commissioners also requested a report on possible administrative options to support the RTW Supplemental program and this briefing was provided today.

### **CHSWC Study/Project Update**

The comprehensive RAND study Evaluation of the SB 863 Medical Care reforms is scheduled for release later this month. The Medical Access study year 1 report is being finalized and the year 2 report is in process. We anticipate a briefing at the next Commission meeting on both Medical Access reports. The update on the frequency, severity and economic consequences of Musculoskeletal Injuries to Firefighter study is also getting underway.

Based on today's presentations, a final issue brief on First Responder PTSD will be prepared and submitted in response to Assembly member Tim Grayson's request. Also as reported earlier, phase 1 of the response to Senator Ricardo Lara's request regarding SJDB program (which addressed the demographics and injuries associated with SJDB recipients) is now complete. Phase 2 (which addresses his remaining questions) will be prepared and presented at the next Commission meeting.

### **Decision**

Mr. Enz asked for a decision for the Commissioners' consideration today:

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The RAND report Medical Care Provided to Injured Workers provides a framework for understanding changes in medical spending levels and provides the results from RAND's analysis of WCIS data from 2007-2012. It established a baseline that has been used to evaluate the impact of SB 863 provisions in the subsequent study on the Evaluation of SB 863 Medical Care Reforms also by RAND.

Does the Commission wish to post for feedback and comment and for final posting in 30 days the DRAFT report titled "Medical Care Provided to California's Injured Workers: Monitoring System Performance Using Administrative Data" by Barbara Wynn and Andrew Mulcahy at RAND?

### *CHSWC Vote*

Motion Considered by Commissioner Bouma. Commissioner Bagan seconded the motion. All in favor. None opposed.

### **Public Comment**

Scott Thompson, Chief Executive Officer of Arrowhead Evaluation Services and former claims adjuster, stated that Arrowhead Evaluation Services was started 30 years ago by an orthopedic surgeon named John McAllister, who was honored by the Senate for his contribution to injured workers. Mr. Thompson wanted to discuss a proposed fee schedule, a copy of which was given to CHSWC commissioners. He rhetorically asked: what if there was a medical-legal fee schedule that removed the friction, saved payers money, encouraged doctors to provide better quality and faster reporting, saved the taxpayers and DWC time and money and helped injured workers resolve their cases faster. Mr. Thompson stated his proposed medical fee schedule has all that. He stated that Frank Neuhauser's research documented that the average medical legal evaluation was topping \$1600; his proposal will be far below that and his proposal's price is \$1,100 for musculoskeletal evaluations and it adjusts upwards based on the medical records received. His system is based on what CalPERS pays for evaluations. CalPERS currently pays \$1,000 dollars for a CalPERS evaluation which is somewhat similar to workers' compensation. It is a little simpler because they do not have to deal with the evaluation conditions and whether they can do their job. Most evaluations are more complex and that is why it is a higher amount. The labor code specifically states that the medical fee schedule reflect reasonably comparable work and the CalPERS fee schedule does allow additional payment to physicians based on the extraordinary amounts of medical records received. Mr. Thompson stated that his fee schedule cannot be "gamed" by the payer or the physician, and it is completely devoid of any time based billing by the physician. There will be no more arguing about complexity. The problem with today's fee schedule is that it is based on a high grade of complexity on the time spent; one person's complexity is different than another's, that is where the argument lies and that is probably why more than 400 QMEs have dropped out or have been kicked out of the system. It is also in Mr. Neuhauser's report that the number of QMEs is dropping very rapidly.

Maria Servano, representative of Ortega Counseling Center, they are vocational return to work counselors for injured workers throughout California. RAND recently reported that half of injured workers were not applying for the Return-to-Work Supplemental Program (RTWSP). She feels that there are a few key issues that greatly affect the success of the program. The

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physician RTW voucher report is mandatory and the trigger for the SJDB; if it is missing the voucher will not be issued. Many doctors do not fill out the form either because they do not know about it or because there is no fee for doing so. Therefore, vouchers are not issued causing the injured workers to forfeit their benefits. Many insurance companies do not automatically issue the voucher when it is due. Instead, they wait for it to be requested. If it is not requested, it will not be issued causing the injured workers to forfeit their benefits. If the voucher was found to be missing completed proof of service it will keep the injured worker from submitting their application. They have seen dozens of cases where injured workers were precluded from the benefit because they do not get hold of insurance companies or adjusters to get completed proof of service before the expiration date causing them to forfeit their benefit. Voucher forms are issued to the injured workers and sometimes no copy is sent to the applicants' attorney. Sometimes there is no guidance or explanation of benefit rules and regulations or deadlines which also causes the injured worker to forfeit his or her benefit.

Ms. Servano recommended the following solutions. 1) Removing the expiration dates to allow injured workers their right to their share of funds. 2) Remove the physicians return to work voucher report requirement - even though the form is required it shares the same information as the P&S report and doctors will not do so again as there is no fee to do so. Removal of the requirement or indicating that there is some type of fee including a flat fee to be paid to the doctors and to do so would encourage them to complete the form and turn it in. 3) Removal of the proof of service requirement. 4) Allow the injured worker to apply upon job loss instead of SJDB voucher. 5) Audit the insurance companies to get accurate data from eligible workers about the vouchers that have actually been issued.

Gabor Vari, CEO and founder of California Medical Evaluators, a QME practice management company. Like Scott Thompson, he is also here to talk about the proposed changes to the medical legal fee schedule. He would like to call for slowing down these changes since they seem abrupt. He stated that in terms of the first question about what are they trying to address: Mr. Parisotto indicated that the medical legal costs are going up and that these need to be controlled through the regulations. There were two research studies that came out last year, one through the WCIRB which indicated that medical legal costs were flat between 2014 and 2016 and declining into 2017. Another study came out last year from California Workers' Compensation Institute (CWCI) which indicated that fees per report, in the ML-4 range (the highest range) have been declining steadily since 2014. They were then 35 percent of services and are now 25 percent. Mr. Vari stated that the first question is: what was being solved? This is the major problem that has not been discussed and that they were trying to identify so there is an accurate narrative about what is going on with the QME headcount. Ten years ago they had 4,200 QMEs. Today they have 2,500. They have lost half the QMEs. Meanwhile, demand for QMEs is at an all-time high. 10 years ago there were 65,000 panels and now there are 130,000 panels. Meanwhile they have half the doctors to do twice as much work. The fee schedule has not changed since 2006, effectively a 26 percent reduction in buying power for doctors whose costs continue to increase. Mr. Vari stated that the real question is how one gets enough doctors into the system to fulfill the demand. He commended Commissioner Wei for calling on Mr. Parisotto to potentially include stakeholders in this conversation. Unfortunately, that has not happened so far. The 520 pages of largely negative comments that were posted within a couple of weeks of the proposed fee schedule being published indicate that the thought leaders were not

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consulted. For example, Sue Watters, Wayne Whalen, Jim Platis and California Medical Association (CMA), California Orthopedic Association (COA) California Society of Industrial Medicine and Surgery (CSIMS) were not part of the conversation on the proposed fee schedule. Mr. Vari is waiting for the RAND study to come out on the QME fee schedule and he understands that traditionally the committee has waited for that important data and conversations with stakeholders so he humbly requests that they slow the process down to get it right.

Rick Meechan, of the California Applicants Attorneys Association (CAAA) commented that it was undemocratic to restrict public comment until the end of the meeting. He said there had been five or six presentations with no public input until the end. He said that CAAA had submitted comments following the May 7<sup>th</sup> report and they were not in the minutes and said he would like those included. *[Note: He is referring to the May 7<sup>th</sup> deadline for public comments about the RTW Draft report. CAAA submitted comments by email and those comments were subsequently identified and posted on the CHSWC website; those comments would not have been included in the approved April minutes, since they were submitted after that meeting.]* He asked regarding SJDB, CAAA would like to know how many people are not returning to their usual, customary employment and whether they are receiving or not receiving (the SJDB). He asked whether the carriers are doing their due diligence, are they obeying the law? He said CAAA would also like to know, of the people who are receiving the SJDB (vouchers), what percentage are using them. He said that his understanding from the presentation in April, was that less than one quarter of the RTW fund had been paid out since it came into effect in 2013. He said to call that administration function efficient and effective does not appear to be a true reflection of what those words mean. He said that he would call that anti-worker, when only a quarter of every dollar goes out to injured workers. Mr. Meechan said regarding CT claims, that the Commissioners should look at how much California Insurance Guarantee Association (CIGA) is filing, and the problem may be with CIGA. He said many of the CT claims CAAA files address apportionment - people who have had long careers and are getting half of their permanent disability apportioned away due to age or cumulative trauma. That has caused additional filings. The law used to be that cumulative trauma prior to a specific injury were not apportionable; that has changed. He said that is incorrect and should be fixed. He said that some of the data they get here (at these meetings) is unactionable. He criticized some charts that combined earnings losses which combined earners with very low PD ratings with earners with high PD ratings; he said there needs to be some clarification when that is presented. He said he knows that the defense has an inflection point; they know that when a case goes over a certain amount of money or a certain amount of temporary disability paid, that reserves have to go up, as it is likely headed towards a catastrophic case. He said studies should be done by RAND and others to address the real problems, not just glossing over with information that does not help us (the system).

Janice Skiljo Haris, registered nurse and CEO of MedLink for the past 26 years. She said she was fortunate to be working as a management service for doctors, medical-legal QMEs and AMEs. She said she agreed with Commissioner Wei comment to Mr. Parisotto about including stakeholders in a face-to-face meeting about promulgating rules. She said it should not be just the doctors, but everyone in the business who is interested. She said she supports Scott Thompson's comments and that doctors are trying to do a good job, they are trying to report on an evidence basis and they need time to do it. She said not all doctors are the same. She said she thinks the majority of the industry doctors are very conscientious and appropriate. She said, for example,

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one of her doctors did a QME report and that he had about 150 records. He billed about six hours of record review time. She said the opposing doctor on the case reviewed the report, did the record reviews, and charged 45 hours. She said there has to be a way to just formulate this so that it is objective and more simplified. She said that as a cardiovascular nurse, she likes to see the big picture and then go smaller and focus. She said she appreciated what Scott Thompson presented: they have a flat-fee opportunity and an objective record review opportunity as well. She said he is right about the \$1,000 fee: up to two inches of records, two hours of work (of record review), one hour of face-to-face time, four hours at \$250/hour is \$1,000 bill. She said one of the ways to objectify the records and record review time is to look at the number of pages. 200 pages equals one inch of records. One inch of records is about one hour of record review time – unless they are very, very detailed, with all kinds of handwritten notations, in which case it might take a little bit more. She asked why they would allow such a voluminous amount of time for each doctor taking 45 hours for one inch of records instead of six hours. She said it would be very helpful to look at something objective, to look at the comments that have been made on the (online) Forum; she said many people have been conscientious and tried to be objective.

Ramon Terrazas, a physician with the San Francisco Fire Department, said he wears many hats – one of which is as a QME. He said he commended the Commission for taking a look at mental health programs for first responders. He said to please understand that the problem is very bad and that access to qualified and good mental health practitioners is very limited – even in the San Francisco Bay Area. He said to keep in mind that there are deterrents to reporting PTSD or any mental health condition among first responders. He said that they (first responders) may not even enter the workers' compensation system. Sometimes they may have to rely on their personal funds to pay for care, or rely on their Blue Cross/Blue Shield insurance plan. He said if you look at the Blue Shield provider list for mental health providers, the list is extensive and comprehensive, but to be able to get in to see one of those (providers), is "almost an act of God." He said that when first responders enter the workers' compensation system, and if the carrier/employer is willing to pay for the care, even then, access to mental health providers who are willing to see workers' compensation cases, the list dwindles to two or three. It is ridiculous at times. He said that anything that the Commission does to explore the problem even further and implement or approve policy that expands access to care, as the employer he would be very grateful. He said that as an employer who manages workers' compensation, there is a lot of UR for their injured employees. He said that as was mentioned earlier the amount of UR taking place today has not really changed since they started doing UR. He said that others have reported to this body (CHSWC) that 80% of treatment that occurs in the workers' compensation system occurs with providers who do not do injury care full time, they do it part-time. He said that is a problem because the provider may not even know what the MTUS says as far as physical therapy treatment for an ankle injury, for example. They may not even know what the MTUS says when it is clinically appropriate to order an MRI of the ankle. When care for their injured employees occurs with providers that have full time experience, they see decreased UR. He said the last thing he wanted to say as a QME is whenever their injured firefighters need to see a QME just for adjudication of the claim, as far as causation, they are looking at three to six months for them to see a QME; that means three to six months when nothing is being done. If they need surgery, they are going to be out of work for at least a year. The chance that they will be able to rehabilitate from that injury drops every single day that they are not getting care.

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**Other Business**

None.

**Adjournment**

Commissioner Bloch motioned to adjourn. Commissioner Kessler seconded.

The meeting was adjourned at 12:03 p.m.

**Approved:**



\_\_\_\_\_  
Angie Wei, 2018 Chair

09.27.18

\_\_\_\_\_  
Date

Respectfully submitted:



\_\_\_\_\_  
Eduardo Enz, Executive Officer, CHSWC

9/27/18

\_\_\_\_\_  
Date