

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

**Minutes of Meeting**

**April 26, 2019**

**Elihu M. Harris State Building  
Oakland, California**

**In Attendance**

2019 Chair, Sean McNally

Commissioners Doug Bloch, Christy Bouma, Martin Brady, and Mona Garfias

**Absent**

Commissioner Shelley Kessler

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

Action Item	Vote Decision
Approval of Minutes from the Previous Meeting, on December 14, 2018	<b>Approved</b>
Posting of 2018 CHSWC Annual Report as Final	<b>Approved</b>
Posting of 2018 WOSHTEP Annual Report as Final	<b>Approved</b>
Pending RAND's quality assurance, posting for feedback and comment for 30 days the Draft Report "The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California Update"	<b>Approved</b>

**Approval of Minutes from the December 14, 2018, CHSWC Meeting**

*CHSWC Vote*

Commissioner Bouma moved to approve the Minutes of the December 14, 2018, meeting, and Commissioner Doug Bloch seconded. The motion passed unanimously.

**DWC Update**

Dr. Raymond Meister, Medical Director, Division of Workers' Compensation

Dr. Meister updated CHSWC on Division of Workers' Compensation (DWC) activities. DWC was in the process of updating the medical-legal fee schedule and had received several comments on it. DWC had several meetings with stakeholders for additional input and was planning on holding additional stakeholder meetings starting in May.

Work was also underway to draft proposed changes to the other elements of the Qualified Medical Examiner (QME) regulations regarding appointment and reappointment and other elements.

- Draft regulations were posted to the DWC Rulemaking Forum in December 2018.
  - 96 pages of public comments were received.

## MINUTES OF CHSWC MEETING

April 26, 2019 Oakland, California

- Stakeholder meetings were held.
- Draft revision of the fee schedule received many comments.

### Utilization Review (UR)

- UR regulations were posted in December 2018 and moving forward.
- Received 100 pages of public comment; DWC will start the formal rulemaking process sometime later this year.

### Independent Medical Review (IMR)

- Data comparing the first quarter of 2018 with the first quarter of 2019 showed eligible IMR applications were down approximately 10%. In the first quarter of 2018, 47,000 applications were made, compared with about 42,000 in 2019.
- IMR decisions involving pharmaceutical treatment requests fell from 43% in 2018 to 39% in 2019.

On April 18, the following changes were made to the Medical Treatment Utilization Schedule (MTUS) treatment guidelines:

- Ankle and Foot Disorders Guideline (ACOEM [American College of Occupational and Environmental Medicine], July 16, 2018).
- Cervical and Thoracic Spine Disorders Guideline (ACOEM, October 17, 2018).
- Elbow Disorders Guideline (ACOEM, August 23, 2018).
- Hand, Wrist, and Forearm Disorders Guideline (ACOEM, January 7, 2019).
- Workplace Mental Health: Post-traumatic Stress Disorder (PTSD) Guideline (ACOEM, December 18, 2018). Additional modules in workplace mental health will follow; the next was the depression module expected later this year.

Quarterly updates to the MTUS Drug List:

- Quarterly updates to the formulary and ACOEM updates.
- Quarterly Pharmacy and Therapeutics (P&T) Committee meetings. Consider cost issues around medication since prices can vary greatly.
- Includes the medication added to the PTSD Guideline.
- Decisions have typically been made using evidence-based medicine, but now cost may be taken more into account as well.

Free access to MTUS-ACOEM Guidelines in February 2019 for all health-care providers in California workers' compensation system, and this includes the formulary and ACOEM formulary.

- Updated Online MTUS Continuing Medical Education Course in development and should be ready in the next few months.

### Comments by Commissioners

Commissioner Bouma asked about the nature of the discussions in the stakeholder process for the QME regulations. Dr. Meister replied that the QME regulations were about 12 years old, as was the fee schedule, and things had changed over the past 12 years. It

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

was time for an update to the fee schedule and the regulations. He heard concerns about report quality and about not fairly reimbursing QMEs for the time they spend. One important issue was how to reimburse QMEs about a medical records review: at times, it was a simple and straightforward process, but many times it was a bankers' box of a jumble of records. DWC was trying to see how to handle it and how it can assist, and whether there is a better way to organize records. It did not receive feedback when everything was running smoothly; there are great reports, and the system works as it should.

Commissioner Bouma asked whether the UR regulations were subject to a similar stakeholder process and whether it was in the comment period in regulatory development. Dr. Meister replied that he was always open to discussions with stakeholders. Posting draft regulations started a more formal process in which they were getting input. Typically, after the formal process starts, it had to be completed within a year. The process was: they proposed regulations, and they received comments; then if there were changes, those were posted, and they received comments on the changes. Dr. Meister stated that they try to get any and all input from stakeholders.

Commissioner Bouma asked about IMR data Dr. Meister presented for 2018 and 2019. Dr. Meister replied that he gave comparisons for the first quarter (three months) of 2018 and 2019. Commissioner Bouma asked whether the IMR decline was a trend for each quarter or an anomaly. Dr. Meister replied that in 2018 the number of applications and UR decisions was higher. Based on the first three months of 2019, those numbers have decreased and were similar to those in 2017. He did not know whether that trend will continue, but at least for the first quarter of 2019, the numbers were going down. Commissioner Bouma asked whether they would attribute that to the drug-specific trend—would they connect that to the formulary? Dr. Meister replied that he does not have data to base that on, but it would not surprise him if that was the case. Based on feedback on how the formulary was working, it seems overall as if it was working as intended. Hopefully the exempt medications are going through the process more smoothly. He was looking at that information and formulary performance. Later this year, he can give them more specifics.

Commissioner Bloch stated that as a teamster he was glad to hear about the updates to the MTUS concerning PTSD. While the experience of his members pales in comparison to that of Commissioner Bouma's members—just thinking back to the last few years when teamsters who were police officers in San Bruno who responded to the Pacific Gas and Electric (PG&E) explosion, others who worked in San Bernardino as public employees where the shooting was, his members who worked for Butte County and had to deal with the horrible fires up there—PTSD was a real issue for his members in the public and private sector. He was happy to hear that the treatment guidelines hopefully were going to catch up to this problem. Unfortunately, these sorts of issues do not seem to be going anywhere, so it was very important for the workers' compensation system to adapt to changing conditions so that workers get the treatment that they need.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

Commissioner Brady asked whether they were looking at how other states were dealing with these types of issues as models; who were the leaders in mental health, depression, and PTSD? Dr. Meister replied that the primary source was the Guidelines that ACOEM developed. It was an unfortunate consequence of the way their guidelines had been updated. The previous mental health stress-related disorder guidelines dated back to 2004, and it was a much narrower focus than would be appropriate for mental health today. DWC was waiting for ACOEM to come out with its guidance. Unless they felt that ACOEM was not working for them, our plan was to go with ACOEM guidance. The ACOM guidelines and the Official Disability Guidelines (ODG) were the two nationwide primary work-related injury and illness guidelines. Through the MTUS, they had the medical evidence search sequence such that if physicians looked for treatment in the MTUS or ACOEM guidelines and did not find it, they went on to the second stop, which would be the ODG guidelines or other guidelines that might be appropriate. They were planning to incorporate the ACOEM guidance on this, but the search sequence does allow for a broad look at other guidelines. Commissioner Brady asked whether other states had operationalized this. It may be too new, but he worked with public schools, and among the hundreds of schools in his program, there was a real spike in depression and mental health issues among students. Their school districts were hiring social workers and mental health professionals, obviously non-occupational, and it seemed to him to be a societal trend. Dr. Meister agreed.

Commissioner Bouma commented that UR regulations were still in development and potentially a year away. One of the requirements that triggered this regulatory development was in that legislation had to do with accreditation of UR companies. Dr. Meister replied that, with a couple of exceptions, all the Utilization Review Organizations (UROs) that were part of California's workers' compensation were Utilization Review Accreditation Commission (URAC) accredited. They seemed to be doing well in getting companies accredited. One of the challenges in UR was to improve communication between the treating physician and the UR physician. Anecdotally, he often heard that if these two doctors were communicating, often things would be better; that was an ideal situation. Dr. Meister understood that URAC requirements were rigorous, and it was important to have someone available at the URO end to have that conversation. The URAC accreditation would benefit the system, and hopefully decisions would be made quickly without having to go on to IMR or other reviews.

Commissioner Bouma asked whether URAC-accredited entities had to demonstrate that a process was in place to receive their accreditation, and if there was back-end oversight of their performance. Dr. Meister replied that he did not have the answer and would get back to Commissioner Bouma. He hoped that there was a review of those various requirements.

Commissioner Bouma stated that, with respect to public agencies, legislation authorized the DWC to come up with an alternative process to URAC because of the expense. She asked whether it was still part of the UR rulemaking process or was established and operational. Dr. Meister replied he did not know and would have to get back to her.

**MINUTES OF CHSWC MEETING**  
April 26, 2019 Oakland, California

**Report on Firefighter Musculoskeletal Injuries in California**

Michael Dworsky and Seth Seabury, RAND

Mr. Dworsky presented updated evidence on the frequency, severity, and economic consequences of firefighter musculoskeletal disorders.

- This report was in progress and co-authored with Seth Seabury.

Musculoskeletal disorders (MSDs) and acute injuries to the musculoskeletal system study was important due to:

- Firefighting was inherently dangerous work with extremely high physical and psychosocial job demands.
- Firefighters had different injury compensation mechanisms than many workers in the California workers' compensation system.
- Given the severity of recent firefighting seasons and expectations for the future, having a healthy firefighter workforce was critical to California's disaster resilience moving forward.

RAND had previously studied firefighter MSDs in a 2010 study by Dr. Seabury.

- MSDs were the most common type of nonfatal injury leading to loss of work days in the American economy.
- Musculoskeletal injury was very frequent type of injury.
- RAND's previous 2010 study showed:
  - Higher rates of MSD injury rates for firefighters than other similar types of workers.
  - Economic consequences for firefighters were somewhat less severe than for other similar types of workers.
  - Worsening outcomes with age at injury.
- Data collection for the 2010 study ended with workers injured in 2007.

RAND re-examined the firefighter musculoskeletal disorder study in light of changes in the labor market and of workers' compensation policy.

- CHSWC had the study updated due to the impact of changes in the economy.
  - Great Recession of 2008–2009.
  - Aging of workforce in firefighting and other occupations might be cause for concern.
- Workers' compensation reforms Senate Bill (SB) 863 passed in 2012 and implemented in 2013 and the disability rating impact of SB 863.
- Greater awareness of Post-traumatic Stress Disorder (PTSD) and other psychiatric consequences of physical injuries.
- Sense that crisis was happening in the U.S. due to mental health issues and suicide rates among first responders and firefighters in particular. Sense of urgency about understanding that these workers have access to treatment in the workers' compensation system.

Revisit questions from the 2010 study. Overview of research questions:

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

- Frequency and case mix of firefighter MSDs.
- Economic consequences in terms of lost earnings after injury.
- Disability ratings for workers with permanent disability.
- Examine possible impact of treatment caps on chiropractic, physical therapy, and occupational therapy that were imposed as part of an earlier reform in 2003.
- Look at evidence of how common PTSD and psychiatric comorbidities are among workers with musculoskeletal disorders by reviewing claims data.

RAND used administrative data from WC Claims, Disability Ratings, Earnings, and Medical Treatment.

- Extract data on injured workers from databases maintained by DWC and Employment Development Department (EDD).
- Frequency, composition of musculoskeletal injuries:
  - Study used data provided by DWC for 2005–2018—it looked at case mix, frequency, and causation in MSDs.
- Earnings, benefits, PTSD, medical treatment:
  - Study used 2005–2015 injuries to capture and follow up to see what was happening with workers. Had a few years to understand the earnings losses.

Used Workers' Compensation Information System (WCIS) First Report of Injury (FROI) data to identify MSD claims:

- Study had to come up with the definition of terms used in this study because there was no single consensus definition of what MSD was.
- No consensus definition of MSD in literature. Some excluded carpal tunnel syndrome, RAND included it.
- RAND defined MSD based on nature of injury and body part of injury
  - Nature of injury must be:
    - Strain, sprain, cumulative injury, Carpal Tunnel Syndrome was included in the analysis, inflammation, hernia, dislocation, or rupture
    - And body part of injury must be:
  - Extremities, neck, or trunk
  - Exclude internal organs from trunk and leaves us primarily with back injuries
- Sensitivity Analysis: uses diagnosis codes on medical claims over the first two years after injury to come up with a different classification

RAND used occupation titles to identify active firefighters (in consultation with DIR) to include in this study. These were active firefighters:

- This was done based on occupation titles reported in workers' compensation claims.
- If occupation on workers' compensation claim matched job titles given by firefighters to Bureau of Labor Statistics, included in sample.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

- Examples included: firefighter, fire engineer, fire lieutenant, or battalion chief. Those on fire calls were considered active firefighters.
- This list was verified by fire chiefs who may or may not be active.
- Study also included both municipal and wildland firefighters.
- Excluded: volunteers, inmate firefighters, dispatchers, engine mechanics, arson investigators, and fire inspectors—those not as engaged in the firefighting process.

RAND needed a comparison group for this study. The challenges in finding a comparison group included:

- Firefighting job demands, labor relationships were sharply different from most other jobs
- Unique in many ways:
- High physical, psychosocial job demands.
  - Public-sector employees—labor relations were sharply different from private sector employees with similar physical job demands.
    - Low turnover
    - Heavily unionized
    - Retirement/disability pension coverage
- For injured workers, the public safety worker benefits (Labor Code section 4850) provided up to one year of one hundred percent of salary continuation for public safety workers who have an on-the-job injury. Different level of wage replacement for private sector workers may affect claim behavior or disability duration.

Similar to the RAND 2010 study, this study looked at three comparison groups:

- Police—active police officers who were in the community fighting crime—have three elements that resemble fire fighters: high job demand, public sector workers, and had roles as public safety workers which means eligibility for LC 4850.
- Other public sector workers who do not have that health and safety role and do not have the same level of physical job demands. So they came up with another group of injured workers who are employed by public agencies but are not public safety workers.
  - Includes teachers, custodians, various types of mechanics, corrections officers, and State Government employees.
  - Understand outcomes for injury and how case-mix look for people who had the same or similar job demands as firefighters but had a very different work environment.
- Study looked at survey data from the Department of Labor in terms of job demand that were both physical and psychosocial and ranked every occupation in the United States on how close they were to firefighting in terms of how workers describe their job demands.
  - For private sector comparisons they took the top 25 matches. Very close matches were the public safety employees; excluding those, the study was left with a mix of private sector jobs that would be similar to firefighting like: EMT, ambulance drivers, people who do heavy installation work like utility

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

technicians and telecommunications line workers.

In terms of frequency, the overall injury rate for firefighters was higher overall in comparison to police. The injury mix in the musculoskeletal case mix was:

- Nearly half of firefighter injuries are for MSDs; firefighters had a much higher rate than police or other public sector workers or similar private sector workers. This was in line with nationwide data and findings were in line with data from RAND 2010 study.

Types of injuries in terms of body parts for firefighters:

- The injuries on the trunk include back and lower extremities; lower injury rates of upper extremity injuries for firefighters.
- MSDs were not a reflection of age. Firefighters at all ages had a much higher risk of having MSD than other similar workers.
- In line with nationwide data and earlier RAND study but were able to update it.

Economic consequences- RAND focused on metric of earnings loss after injury to measure economic consequences of injury.

- Earnings loss after injury was defined as the difference between what a worker actually earns after injury versus what the worker would have earned without injury.
- There was a fundamental problem in measuring in that one does not know what the worker would have been doing if he or she had not been injured.
- Always need control group to understand the impact of injury in isolation from everything else that may happen to someone's career and employment over time
  - Layoff, retirement, non-work disability, etc.

Earnings loss estimation methods:

- Difference between Injured Control Earnings After Injury Provides Estimate of Loss.
- Main estimates follow past RAND studies and use uninjured co-workers as control groups.
  - Workers at the same employer with same earnings prior to injury and same job tenure as the injured workers, but who do not file a workers' compensation injury claim
- Had analysis use the same occupation with age differences and that is presented elsewhere.
- Use medical-only cases so these are workers who do not receive any indemnity benefits after the injury. These are workers who either did not have any lost work days or if they did they were three or fewer days, or no permanent disability.
  - No severe earnings loss for medical-only cases
- Sensitivity analysis to assess impact of LC 4850, but main findings did not change.

Difference between injured and control earnings after injury provided estimate of loss:

- Relevant earnings were defined as what the injured worker was earning as compared to what the control worker was earning at the same time as their non-

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

injured worker is:

- Plotted relevant earnings two years before the injury and two years after the injury—relative earnings were 100%.
- Control workers compared to injured workers before the injury are on the same earnings trajectory over time up until date of injury. Things changed at the date of injury. There is an immediate drop in the earnings and looking at the quarter after the injury, potentially go out on disability then there is the steepest decline in earnings and then a small recovery over time.
- Recovery over time for the firefighters observed; similar trajectory for the police.
  - Private sector workers had less recovery.
  - Flat recovery for the public sector workers.
  - In general, drop in earnings after the date of injury was a good indication of the actual impact of the injury.
  - Earnings relative to control workers over the first and second year after injury. Drop in income for the firefighters seems to be less severe than for police and the rest of the public or private sector workers.

Earnings and employment by occupation for 2005–2015 MSD indemnity claims:

- For indemnity injuries, overall firefighters two years after the injury are earning about 95% in absence of injury, 88% for police and 85% for other public sector workers and 87% for private sector workers.
- Better outcomes for firefighters because they are much more likely to be employed at the same employer than the police and the other public or private sector workers.

Commissioner Bouma commented that having represented these memberships for such a long time they had LC 4850 benefits, and then they received temporary disability benefits like the rest of the workforce. She asked if there was a reason that Mr. Dworsky stopped analyzing data at two years. She wanted to know what happened after two years of injury. Anecdotally, she had heard about members whose injuries caused them not to return to work often occurred after two years; then the employer would tell them to retire because they had not recovered and were out of time. Mr. Dworsky replied that the reason he focused on injuries up to two years, was due to the focus on workers injured after SB 863. That did not mean they could not look at long-term follow up, but they would have to go back to earlier injury years.

Commissioner Bouma commented that for safety workers who do not have LC 4850 after the two-year temporary disability period that there seem to be other factors surrounding the two-year period that might be informative to what may be happening to these workers in Year 2 to Year 5. Mr. Dworsky replied that in earlier work where they had a longer follow up period they had shown that the second year was very strongly correlated with what happened in the third year. Many people who were going to have difficulty returning to work were already struggling in Year 2. Given the unique environment for public safety workers, it might be worth revisiting that issue for this population. A reason they looked at the police was that they were also eligible for LC 4850 benefits and do not see the same kind of pattern.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

Commissioner Brady stated that although the discussion was in regards to MSDs, he wanted to know the mechanism of injury among firefighters or paramedics; how many of these injuries were caused by firefighting work or medical emergencies or what was the actual act. Mr. Dworsky replied that he did not have that information. Mr. Dworsky said that unfortunately they did not look at the context or type of event (causing the injury). He said that some of the research on the literature of firefighter injuries also points to high frequency of injuries that happen while people are not out on calls, things like maintenance activities or physical training at the station house (fulfilling requirements to stay in shape in order to meet the extreme demands of the job). Other studies document injuries that come from physical training. He said that regarding the fields in WCIS, it is a bit of a challenge to say exactly what a worker was doing—whether it was a medical call or firefighting—at the time of injury. Mr. Seabury added that the literature points to the fact that even at the fire ground, musculoskeletal injuries are the most common injuries. Mr. Dworsky said that WCIS collects information that could be used to pinpoint the issue, but they have not pulled that in, in part due to privacy concerns, such as street address of the job site.

Commissioner Bloch said that he was also wondering about that as well, given the higher incidence of MSDs in this occupation—what it was in particular that was causing that. Mr. Dworsky said that that was a great question that he was not prepared to answer at the day's meeting but they will add that to the report.

Relative earnings for indemnity MSD injuries over time for active firefighter, policy, public sector and private sector occupational groups:

- Active firefighters had higher relative earnings than the other occupations.
- Downward trend in the overall workers' compensation system following the Great Recession of 2008–2009.
- Parallel trend for firefighters and some of the comparison groups—not as much for police.
- Rebound for firefighters—some recovery after the Great Recession, but an incomplete recovery after injury for the system as a whole, as well as for firefighters.
- For injury dates before and after SB 863, after SB 863- lower relative earnings across occupations.
- Lower relative earnings predated the SB 863 reforms, and more likely due to economic conditions (of the Great Recession).
- More detail on this subject is in their wage loss study.

Disability Ratings:

- SB 863 intended to improve benefit adequacy of PD via several policy levers-
  - Maximum weekly PD benefit levels raised by about 26%.
  - Future Earnings Capacity multiplier was set to the maximum of 1.4 for all impairment types.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

- Secondary add-ons were eliminated (psychiatric; sleep disorders; sexual dysfunction).

Disability Evaluation Unit (DEU) ratings performed 33 months after injury in order to capture the period before and after SB 863:

- Ratings based on whether an injured worker has (legal) representation or not, and who initiated the rating.
  - Consult ratings, requested by one of the opposing parties to the case, are much less common for firefighters than for the other comparison groups.
    - No explanation for the difference but consult cases tend to be more complex and contentious, and are also associated with higher ratings.
    - Firefighters have more severe disabilities than the comparison groups, and they receive higher ratings.
    - A lot of spine and a lot of lower extremities with high ratings, and upper extremities with lower ratings.
- Psychiatric impairments are infrequently rated with MSDs, and only a little more often rated with other injuries and illnesses.
- SB 863 was effective at increasing impairment ratings for firefighters as well as other workers.
  - Increase in final ratings was about 3 rating points on summary ratings and 4 rating points on consult ratings.
  - Translates to about a \$5,000 increase in disability benefits for summary ratings and about \$10,000 for consult ratings.
  - SB 863 had the intended effect of increasing benefits.

Treatment caps on chiropractic, physical therapy, and occupational therapy:

- Only about 3% of firefighters with MSDs above the treatment cap.

Psychiatric comorbidities:

- Unlikely to be reported on the first report of injury (FROI).
- In medical claims, PTSD was extremely rare.

Psychiatric medications (antidepressants or antipsychotics) as an indicator of PTSD:

- Firefighters much less likely to be treated for any psychiatric conditions in the workers' compensation system.

Conclusions

- Work-related musculoskeletal disorders remain more common among firefighters than for workers in similar occupations in the public and private sectors.
- Economic outcomes worsened during Great Recession and have not fully recovered.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

- Economic consequences for firefighters remain less severe than observed in similar occupations.
- SB 863 increased ratings and statutory benefits.

**Policy Implications:**

- Prevention efforts needed to reduce MSDs in firefighters.
- Psychiatric claims and impairment ratings more common in non-MSD claims than on MSD claims.
- Restriction of psychiatric add-ons had limited impact on firefighters with MSD; incidence was already very low.
- Lower rates of psychiatric conditions consistent with reports of stigma among public-safety workers.

**Comments by Commissioners**

Commissioner Bouma asked what it would take to get a Year Three outcome. He said that he would have to check to see if they have that data or if they would have to make another request. He said that he believed they could look at longer term outcomes from earlier years. Mr. Seabury stated that in the earlier 2010 study, they did look at longer term outcomes. He said the general pattern was similar to current study, in that earnings losses were less for firefighters because of the greater (workplace) protections. He said that holds true until they are older, age 50-plus, near retirement age. He said an injured firefighter with PD aged 50 or more is much more likely to exit the workforce and retire.

Commissioner Bloch said that the Commission spent a lot of time looking at what happens after a worker is injured. He said that they spend a little time on prevention efforts to avoid entering the workers' compensation system. Mr. Dworsky said that was because their focus was on data as it works its way through the workers' compensation system, they were more prepared to discuss what happened after an injury. Mr. Dworsky said that there were studies that suggested changes in activities such as physical training at the firehouse, but as a non-doctor he did not feel qualified to make any such recommendations. Mr. Seabury said prevention is difficult given the physical job demands and the staffing requirements to perform the many duties, including carrying heavy things up slippery ladders. He said it is challenging to come up with a zero-injury type of policy for this firefighter population. He said he did not have a solution other than technological change, such as the more advanced lifting support designs with military-grade technology which is not deployed in municipal firehouses at this point. Commissioner Bloch said that he thought it would be a worthy subject for the Commission to explore the issue in the future.

**Update on Young Worker Health and Safety Program**

Diane Bush and Kelsie Scruggs, UC Berkeley-LOHP

Ms. Bush said that she would present on work that the Commission has been funding for many years through the California Partnership for Young Worker Health and Safety. She

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

said she would start with three stories that underline why they are doing this work. Shari Sanjit was a UCLA employee, age 23, who died as a result of exposure to a fire that broke out in a laboratory. Her clothing caught fire, she was working with an air-sensitive chemical, she was not wearing a protective lab coat, and she did not have a lot of training about the health and safety hazards in that job. Jamie was a high school student working in a hospital kitchen when a powerful dish-cleaning solution splashed in her face, and she was blinded in one eye for two weeks. She did recover, but she had no idea that the chemical could do that. Armando and Heladio Ramirez were not in school but working for a recycling company in Southern California that composts organic waste. They were asked to clean out a storm drain. Heladio saw that his younger brother had collapsed at the bottom of the 8-foot hole, so he went in to save him and they both died. They were killed by the hydrogen sulfide gas that had accumulated there. They had painters masks and no training. Ms. Bush said she shared these stories to help underline the fact that young workers are going to college, they are in high school or outside of the education system and already started their work lives.

Ms. Bush said that she is not discussing numbers in the presentation, but that although the injury rates have declined over the years, young workers are still being injured at higher rates than adults. She said that National Institute for Occupational Safety and Health (NIOSH) has also looked at emergency room data, which do a better job of capturing what is happening with young workers, who are less likely to show up in the workers' compensation system. She said that NIOSH has found that injury rates for workers under 25 years of age are twice as high as those over 25 years of age.

Ms. Bush said that in response to this, in 1994 LOHP was asked by Dr. John Howard of Cal/OSHA to write a report about young workers in California. She said that one result of the report was recognition that it would be good to have a statewide working group to address young worker health and safety issues in California. She said that since 1997, the Commission has sponsored and convened the California Partnership for Young Worker Health and Safety. She said that LOHP coordinates the partnership, with support from the LOSH sister program at UCLA—especially with the Young Worker Leadership Academy, which grew out of the Partnership's efforts. She said the goal of the Partnership is to identify and promote strategies that reduce work-related injuries and illnesses among young workers and to foster health and safety awareness and skills so that youth can actively participate in the health and safety programs in their workplaces. The idea is to educate youth now so that they can carry these skills into their adult work life. She said the Partnership promotes positive, healthy employment opportunities for young people.

She said the Partnership includes agencies and organizations that can play a role in protecting and educating young workers—people involved in youth employment, education systems representing teachers, educators, labor unions, employers, parents, workforce development and others. She described and provided a handout with the Partnership's statement of purpose to promote:

- Safe, well-supported job opportunities, with good supervision.
- Employer compliance with the law—health and safety laws, labor laws, and child labor laws.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

- Training and education.
- Broad community awareness of workplace protections, with a focus on protections for young workers.

Ms. Bush then described the Partnership's Accomplishments, and Kelsie Scruggs described the Safe Jobs for Youth Month public awareness campaign and Young Worker Leadership Academy:

- Educational resources
  - [youngworkers.org](http://youngworkers.org) (with funding support from CHSWC, NIOSH, and OSHA)
  - Fact sheets, curricula (Spanish and English)
  - App and online work permit quiz (Spanish and English)
- Safe Jobs for Youth Month campaign (since 2000; replicated in at least five other states, including NY, OR, WA, MA, and OK)
  - Poster contest, with the winning poster sent to over 1,000 high schools in California; first- to third-place winners receive cash prizes
  - Are You a Working Teen app- to integrate into the classroom
  - Work permit quiz to complement the Are You a Working Teen? factsheet and integrate into the classroom- successful completers receive a printed certificate
  - Resolutions from school boards and city councils; and the state legislature (e.g., a resolution signed by Senator Pan two years ago proclaiming May as Safe Jobs for Youth Month)
- Young Worker Leadership Academy (through WOSHTEP) (since 2005, funded initially by Partnership work but has now been folded into WOSHTEP—and still funded by the Commission, with additional funding from labor partners and workers' compensation insurers.) [A video about the Academy on YouTube was also presented, available at [Links to YouTube video/.](#)]
- Teams of youth from organizations, schools, community-based organizations, and youth employment organizations attend the Academy, now just at UC Berkeley. Each team goes back to its community, where it does a health and safety project. Ms. Scruggs highlighted a few from 2018. "Compton YouthBuild" developed and led a six-hour health and safety workshop at its local adult school. North Monterey County High School in Castroville created a workshop for 71 working teens at the school, using the "Are You a Working Teen?" factsheet and activities from the Academy, such as "Hazard Mapping," "Know Your Rights Jeopardy," "Find the Hazards" pictures, and the "Work Permit Quiz." Norte Vista High School in Riverside developed and led a workers' rights presentation for its "NoVi" Dreamers club, many of whose members were undocumented workers. John R. Wooden High School worked to get a resolution passed by US Representative for California Brad Sherman to proclaim May as "Safe Jobs for Youth Month" in Los Angeles Unified School District (LAUSD), and designed safe jobs swag, including hard hats with Laffy Taffy stickers.
- Training for teachers
- Institutionalizing health and safety training

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

Ms. Bush said that they have a lot of great tools, activities, and resources, but as a state, we lack systems for sustaining ongoing education; LOHP reaches a lot of people, but they have to keep contacting them every year. Every year there are new workers, new teachers, and new employers. She said that in particular, they want educators and policy-makers to understand that all young people (as well as adult workers), need to have some basic health and safety critical thinking skills—it is not enough just to pass a health and safety test. She said every person should be able to go into a workplace, recognize the potential hazards, and be able to think critically about how workers can be protected from those hazards.

**Foundational Skills:**

- Recognize hazards
- Understand how hazards can be addressed, not just personal protective equipment but engineering controls
- Understand worker rights and responsibilities; agencies that can be of support are available
- Effectively solve problems in the workplace

**Institutionalizing Training: Successes**

- Career technical education (CTE) curriculum standards include strong occupational safety and health (OSH) components
- WorkAbility Program (for youth with cognitive and learning disabilities) requires OSH training for all staff
- Integrated OSH “Student Learning Outcome” into Linked Learning
- Workshops for thousands of teachers (CAWEE, CTE, WorkAbility, CWA, CCEA, CA-ROP)

Ms. Bush said that there is no process that requires all high school students to receive specific training; California schools are all locally controlled. The workplace-focused programs have been more open to providing this training, but not all students participate in these programs. She said that they have done many workshops over the years—with Commission funding and other sources—that have all been successful. She said she wanted to highlight to the Commission how their support of the CA Partnership for Young Worker Health and Safety, and YWLA, have put California in the forefront of the young worker health and safety issue since the late 1990s. She said that even though the funding has not been huge, it has provided a basis on which it can seek other funding from federal agencies and foundations to continue this work. She said she congratulated the Commission for providing funding. She cited examples, such as working with NIOSH on curriculum and partnering with OSHA to support a social media campaign, “Safe Summer Jobs.” She said that this year they and their partners have been successful in obtaining funding from the state Department of Education. LOHP just completed 13 workshops around the state for over 270 teachers using a curriculum they helped develop for building OSH critical thinking skills and are working with the California Occupational

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

Health Branch to strengthen their teaching tools for Career Technical Education (CTE) programs.

Ms. Bush concluded by asking for support, including ideas for new partners and policy initiatives, to continue to address what's still needed:

- Safe, well-supported job opportunities
- Employer compliance with the law
- Training and education
- Broad community awareness of workplace protections

### **Comments by Commissioners**

Commissioner Bouma stated that, based on the presentation, the program has tremendous value. She asked how they spread the word about awareness and find people to participate in the YWLA. Ms. Bush said that they do outreach through Partnership members, and they reach other organizations serving young people. She said that they maintain an email listserv of contacts. They do outreach throughout the education and youth employment world. The young people engage in activities in their communities and that grow out of what they learn in the Academy; the program provides a \$150 fund to each team to enable their work. Each YWLA typically includes 30 youth from both Northern and Southern California.

Commissioner Bloch said that he appreciated the youthful energy brought into the room. He said that he wanted to comment on one of the tragedies mentioned in the presentation involving the two young men in Lamont, CA (Commissioner McNally corrected the town name to Arvin, CA), who worked at Community Recycling. He said the solid waste recycling industry is one of 15 industries he deals with in 50 counties in California. He said it was one of the most dangerous. He said Commissioner McNally knew about this particular employer. He said the tragedy is that the Teamsters represent the drivers and that those who do the work that the two young men did lacked union representation. He said the work that the Teamsters do as a labor union and the work that LOHP does in educating workers are so important and could literally mean the difference between life and death for workers. He said that he appreciated the mentioning of horrible examples of worker tragedies as a reminder of why they are doing this work and that he believed the support from the Commission is so important for the future of these kids and the future workforce. He thanked LOHP.

Commissioner McNally commented that his company hires a lot of younger people, and it sees more and more that young people are not exposed to workplaces or rural environments—they are not growing up on farms or around small businesses, so there is an incredible gap between [the environment in] the classroom with computers and phones and the workplace; the divide is so big. He said there is a lack of hazard recognition or hazard awareness, and often young workers do not get that until there are near misses or they have experience and realize that these things can affect them really badly and

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

quickly. He said that, like the high school student in the hospital kitchen, he would not expect to be blinded from doing something as benign as washing dishes. He said he commended LOHP for what it is doing and expressed the wish that it would continue the work, as it is so important.

**CHSWC Report**

Eduardo Enz, Executive Officer, CHSWC

Mr. Enz briefed the Commissioners on CHSWC projects, studies, and activities.

- The 2018 CHSWC Annual Report and the 2018 WOSHTEP Advisory Board Annual Report were posted for feedback and comment for 30 days; they received no comments, and so have been finalized and are action items today.
- The draft RAND report on Firefighter Musculoskeletal Injuries in California was in process and was expected to be available for posting, feedback, and comment on the CHSWC website by early June. Posting this report for 30 days for feedback/comment when available is also an action item.
- Commission staff was collaborating with LOHP at UC Berkeley on a number of projects approved by the Commission. For instance, the California Occupational Research Agenda (CORA) project is in process, and we anticipate a report on it, including survey findings and an environmental scan, at our next meeting, in June. Meanwhile, the Janitorial Sexual Harassment training curriculum in English and Spanish for both workers and supervisors stemming from AB 1978 is also being finalized, and Training of Trainers courses for workers have begun, with two training sessions in the Bay Area earlier this week and four in Los Angeles between April 26 and 29. Additionally, the child-care health and safety training curriculum is almost finalized and will be rolled out on May 18, with Training of Trainers in English and in Spanish planned between late May and mid-June.

**Action Items**

Mr. Enz presented a number of action items for consideration as follows:

1. Does the Commission wish to post for feedback and comment for 30 days, pending RAND's quality assurance, the DRAFT report titled "The Frequency, Severity and Economic Consequences of Musculoskeletal Injuries to Firefighters in California Update," by Michael Dworsky and Seth Seabury at RAND?

Commissioner Bloch moved to approve the motion, and Commissioner Brady seconded. The motion passed unanimously.

2. Does the Commission wish to approve for final release and posting the DRAFT 2018 CHSWC Annual Report?

Commissioner Bouma moved to approve the motion, and Commissioner Brady seconded. The motion passed unanimously.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

3. Does the Commission wish to approve for final release and posting the DRAFT 2018 WOSHTEP Annual Report?

Commissioner Bloch moved to approve the motion, and Commissioner Garfias seconded. The motion passed unanimously.

*Public Comment*

Dr. Gabor Vari of Chief EO California Medical Evaluators stated that he managed Qualified Medical Evaluators practices for 150 Qualified Medical Examiners (QME) and commented on the fee schedule that Dr. Meister had discussed. He added that the 2018 CHSWC Annual Report had fantastic information about the QME system and was excellent in outlining issues around demand and costs for medical legal evaluation. However, the report lacked information on the supply of QMEs as well as injured workers' access to QME evaluations. First, on the cost issue, the report noted from 2016 to 2017 medical-legal costs on all claims decreased by 14%, and the average cost of medical-legal evaluations decreased by 10%. He stated that was a different finding than the narrative he had previously heard from the administration, which had mentioned increasing costs of medical-legal evaluations many times. The demand for QME reports continues to climb. Figure 53 in the 2018 CHSWC Annual Report (page 68) showed 145,000 panel requests in 2013, and that number rose to 192,000 in 2017, an increase by one-third in only four years. One of the measures of access in the report was the number of replacement panels, a main driver of which were doctors who were unavailable to provide evaluations within 60 days. The number of replacement panels tripled from 10,000 in 2013 to over 30,000 in 2017. He had a graph that showed the supply and demand in the system; he showed 4,000 doctors in the system when it started over ten years ago, and now there were 2,500 doctors. Doctors were leaving daily, so there were fewer providers providing valuable services. He stated the problem was worse at the provider mix level. Over 54 percent of panels that were requested were for orthopedics, yet only 16% of the QMEs were orthopedists. The QME fee schedule had not been updated since 2006, and doctors continue to quit because they were not interested in working for wages that made sense over 13 years ago [but have not been updated]. In Nevada, the cost of living is much lower than in California, but the medical-legal fee schedule rate was \$1,700, whereas in California it was \$625. Mr. Vari stated that this fee schedule needed to be updated very quickly, and he looked forward to working with the administration to move that forward.

**Other Business**

None.

**Adjournment**

The meeting was adjourned at 12:02 p.m.

**MINUTES OF CHSWC MEETING**  
**April 26, 2019 Oakland, California**

**Approved:**

Sean McNally, 2019 Chair

Signature (on file)

Date

Respectfully submitted:

Eduardo Enz, Executive Officer, CHSWC

Signature (on file)

Date