

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

**MINUTES OF MEETING  
January 31, 2020  
Elihu M. Harris State Building  
Oakland, California**

*In Attendance*

Chair: Sean McNally

Commissioners: Doug Bloch, Christy Bouma, Martin Brady, Mona Garfias, Shelley Kessler, and Mitch Steiger

*Absent*

None

<b>At-a-Glance Summary of Voted Decisions from the CHSWC Meeting</b>	
<b>Approval of Minutes from September 26, 2019, CHSWC Meeting</b>	<b>Approved</b>
<b>Approval of final review and posting of the DRAFT report "The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries in Firefighters in California Update"</b>	<b>Not Approved</b>
<b>Approval of posting for feedback for 30 days DRAFT 2019 CHSWC Annual Report</b>	<b>Approved</b>
<b>Approval of posting for feedback for 30 days DRAFT 2019 WOSHTEP Annual Report</b>	<b>Approved</b>

**Approval of the Minutes from the September 26, 2019, CHSWC Meeting**

*CHSWC Vote*

Chairperson McNally asked for a motion to approve the September 26, 2019, CHSWC Meeting minutes. Commissioner Brady moved to approve the minutes, and Commissioner Bouma seconded.

Commissioner Bouma made a comment regarding the discussion about carve-outs at the previous meeting (and in the minutes), a meeting she did not attend, regarding the many firefighters who negotiate carve-outs. She said she had recently been asked about their medical treatment experience. Ms. Bouma explained that she replied that this is the number one reason firefighters request carve-outs. She said she believes firefighters are not satisfied with their access to medical treatment. She said that her comment is that she appreciates that the legislature gave firefighters an opportunity to improve their life and the experience of the workers' compensation system. She said that she is pained by every worker who remains in the system and who must suffer the same indignities when trying to get back to work and try to secure medical treatment, instead of having a system that works for them. She said this speaks to the small mission of the Commission: they ask the right questions so that they can get answers to help improve the overall system. She said

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that they do not want to have people for whom the only alternative is to leave the system that was established for injured workers.

Commissioner Kessler asked about the cost of living adjustments for the qualified medical evaluators (QMEs). She asked whether there were any updates on those adjustments. There was no verbal reply, with a shaking of heads (meaning “no”) by representatives of the Division of Workers’ Compensation (DWC).

The minutes were approved unanimously.

**Election of New Chair**

Chairperson McNally announced the election of a new chair. Commissioner Kessler nominated Commissioner Mitch Steiger, and Commissioner Bouma seconded. The election of Commissioner Steiger was approved unanimously. Commissioner Steiger thanked the Commissioners, and Commissioner McNally congratulated Commissioner Steiger.

Commissioner Bouma said that she had the pleasure of working with Mr. Steiger for over a decade. She commented that Mr. Steiger was assigned workers’ compensation with the Labor Federation and that she was pleased that Mr. Steiger with his experience would be leading the labor side (of the Commission) as chair.

Commissioner McNally said that he had worked with Commissioner Steiger since the administration of Arnold Schwarzenegger, adding that Angie Wei introduced the two of them. Commissioner McNally said that he was pleased that Mr. Steiger was on the Commission because he was smart, insightful, and passionate. Commissioner McNally expressed his appreciation for Commissioner Steiger’s participation on the Commission.

Commissioner Bloch said that, in their union contract, seniority trumps almost everything, but in this case, he was happy to support Commissioner Steiger as the chair, as a representative of the California Labor Federation, which is home to all labor union members in California. Commissioner Bloch said that he had worked with Mr. Steiger as well, describing him as level headed and very dedicated; he knows workers’ compensation and the issues affecting injured workers.

Commissioner Kessler said that, with the addition of Commissioner Steiger, as a parent, he knows the importance of raising kids in a healthy, safe environment. She said that it was good that he is on the Commission and brings a new perspective to the older Commission members.

Commissioner Bouma thanked Commissioner McNally for his service (as chair) this year. She said that Commissioner McNally had been chair a couple of times and that they had been in amazing and interesting negotiations over the future of the system, and Commissioner Bouma said that she had always found Commissioner McNally to be the same things described for Commissioner Steiger: bright and very respectful of differing opinions. She said he comes from a different perspective but always brings compassion for the worker to his dialogue with the other Commissioners.

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DWC Update

George Parisotto, Administrative Director, DWC

Mr. Parisotto provided an update on DWC activities.

**1. State Audit Report**

- In November 2019, the state auditor issued a report that found fault with several aspects of the Division's QME program.
- The auditor found that the Division failed to address the QME shortage, a finding based in part on the fact that the Division has not updated its Medical-Legal Fee Schedule since 2006, that the Division's past procedures for disciplining and reappointing QMEs raised due process concerns, and that the Division did not have a mandated system for monitoring the quality of QME reports.

Recommendations for the Division were made, including:

- Developing a plan to increase the number of QMEs and using DWC QME data to project the number of QMEs needed to meet demand.
- Implementing written policies for both disciplining and reappointing QMEs.
- Implementing a plan to continuously review the quality and timeliness of QME reports.

The Division accepted these recommendations and is working to put them into place. The auditor asked for this to be done by April 2020, and DWC is working toward doing that.

**2. Med-Legal Fee Schedule**

- Stakeholder meetings in recent months to develop a new fee schedule
  - Progress has been made
  - Initiate rulemaking process for a new fee schedule in the spring, which would probably include a flat rate for medical reports and updated fees for other aspects.
- Updating discipline procedures
- Updating qualifications of QMEs and training requirements
- Review of reports for quality and bias by a panel, probably by a committee of providers and payers.

**3. Medical Treatment Utilization Schedule (MTUS) Update**

- Effective August 11, 2019: Low Back Disorders Guideline.
- Effective October 7, 2019: Hip and Groin Disorders Guideline.
- Upcoming: Workplace Mental Health Guideline—Depression, Interstitial Lung Disease, and Knee.

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- Continue to develop additional online modules for the provider community; DWC recognizes the need to have more robust online resources not only for providers but also injured workers and employers.
  - Currently have three modules: MTUS, Med-Legal Fee Schedule, and Formulary.
  - Additional online topics scheduled: Report writing and bias.
  - Injured Worker pamphlets and booklets to be posted online, as well as videos and webinars for injured workers, providers, and employers to instruct how the (workers' compensation) system works.
  - Workers' Compensation 101 program in Southern California being created by DWC judges.

**4. Formulary Update**

- Continues to grow and develop: usually adopt a treatment guideline and then a few months later with related (drug) updates to the formulary.
- Adopted the MTUS Drug List v. 5, effective August 1, 2019.
- Addition of drugs addressed in the Post-Traumatic Stress Disorder Guideline.
- Adopted the MTUS Drug List v. 6, effective January 15, 2020.
  - Sixth update since the formulary became effective January 1, 2018.
  - Addition of drugs addressed in the Hip and Groin Disorder Guideline.

**5. Fraud Update**

- Over 450 physicians, practitioners, or providers have been suspended under Labor Code section 139.21(a).
- Over 175 criminally charged individuals (and their entities) currently have their liens stayed by operation of law under Labor Code section 4615.
- Over 650,000 liens are designated as 4615 in EAMS.
  - When providers are suspended, their liens are consolidated for a proceeding, where they have a chance to prove the liens are not connected to criminal activity.
- 23 consolidated special lien proceedings, pursuant to section 139.21(f), have been initiated since the effective date of the statute.
- In December 2019, DWC processed voluntary dismissals of over \$75 million in liens for four (4) providers and their entities. The plea agreements reached by the respective district attorneys state that the dismissals are pursuant to section 139.21. This is in part the result of the training and outreach work that the Department's Anti-Fraud Unit has done with the various district attorneys regarding Anti-Fraud Legislation.
- Liens reduced from 30,000 per month to 5,000 per month.

**6. Electronic Reporting/Utilization Review (UR) Update**

- Doctor's First Report: Should go live online next week for physicians who wish to voluntarily report through a new electronic system.

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- Physician reporting form: working with the Reed Group to develop a workers’ compensation reporting form, so that a claims administrator has sufficient information to process and advance a claim.

**7. Independent Medical Report (IMR)/Independent Bill Review (IBR) Update**

<b>Topic</b>	<b>Comment</b>
IMR Application Filings	2019: 177,400 “unique” applications filed.  2018: 200,000 “unique” applications filed.  Decrease due at least partially to Medical Treatment Utilization Schedule (MTUS) and formulary. (Medication disputes made up about 45%–49% of all independent medical review (IMR) disputes, whereas it is currently about 37%, leading to the belief that the formulary is having a positive effect.)
IMR Mailed and Processing Times	<ul style="list-style-type: none"> <li>• Over 98% of the case decisions are issued within statutory requirements from the time the medical records are provided. (IMR organization Maximus has 30 days to issue a decision.)</li> <li>• Average age from assigned date: 23–26 days throughout the year.</li> <li>• Average age from complete medical records: 7–8 days throughout the year.</li> </ul>
Ineligible IMR Applications in 2019	11,200 ineligible applications in 2019. Down from 14,000 in 2018.
IMR Case Decisions and Outcomes 2019	164,000 final decision letters in 2019, 11.2% decrease from 2018 (184,700). Case decisions: 84% cases upheld, 5% cases partially overturned, 11% cases overturned. These percentages have remained constant since the program began in 2013.
IMR Injured Worker Representation in 2019	In 2019, ratios of case outcomes were similar for represented and unrepresented workers.
IMR Case Outcomes by Geographic Region	In 2019, case decision outcomes continue to be consistent across all geographic regions.
IMR Service Categories	Overturn rate of 10% in 2019, similar to 2018.
IMR Service Categories [2]	Pharmaceuticals = 37% in 2019. 2018 = 42%. Requests for all other service categories were stable or increased slightly.

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<b>Topic</b>	<b>Comment</b>
IBR Applications Filed and Decisions Issued	Total application filings = 1,624. 2018 = 1,692. The program appears to be underutilized. The second bill review process, where a bill is denied and a provider makes a second bill review, may be having a positive effect, or a provider might simply believe that it is not worth the filing fee of \$195 to recover \$65 or \$70 for a bill.  1,250 <i>eligible</i> applications.
IBR Case Decisions issued in 2019	77% of cases that go through review (the bill review organization is also Maximus) are awarded additional reimbursement. \$1,541,000 awarded in additional fees in 2019. \$15,358,000 LTD.

**8. Regulations**

- Our Legal Unit is working on finalizing proposed regulations for utilization review, interpreters, and copy fee service.

**9. EAMS Update**

- Working with DIR IT and California Department of Technology to update, modernize, or replace the Electronic Adjudication Management system (EAMs). DWC believes the system has become too cumbersome and too expensive to operate.
- Will likely issue a Request for Information for potential vendors to provide ideas for a new system.
- To begin public meetings to gather input from system stakeholders.

**10. AB 5:** Possible effect on case numbers will be an increase in district offices (applies to workers' compensation in July 2020). DWC has been awarded additional judge positions for that expected increase.

**11. DWC Educational Conference,** March 5–6 in Oakland; March 26–27 in Los Angeles.

***Comments by Commissioners***

Commissioner Bouma asked about communication with injured workers and the type of impact that fraud and lien dismissals have on injured workers with regard to access to medical treatment and doctors. Mr. Parisotto said that he did not think that there would be an effect on an injured worker. He said that when doctors are criminally charged, their liens are stayed, and that when they are suspended, they are removed from the system. He said that he had not heard of an injured worker being adversely affected by suspensions. He said that by the time doctors are suspended,

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they are usually already out of the system. He said he would be interested in hearing of any injured worker who was adversely affected—and how—and the steps they could take to alleviate that. Commissioner Bouma asked for clarification, and Mr. Parisotto explained that there was no process to notify injured workers of a suspension.

Commissioner Bouma said that the QME regulations were forthcoming and asked about the timeline. Mr. Parisotto said that the DWC's progress will depend on the participation of the stakeholders and their ability to reach agreement on specific issues. He said he understands that there has been progress on the fee schedule. He said if DWC could receive an agreed proposal, he would issue rulemaking as soon as possible. He said he would also look at emergency rulemaking. Commissioner Bouma asked who leads that process, and Mr. Parisotto said the DWC QME staff leads that process and that they are doing an excellent job.

Commissioner Bouma asked whether there were codes with the reasons for upholds, partial upholds, and overturns in the IMR data. Mr. Parisotto said that he did not think so but that he would check with the IMR staff. He said that they post all the IMR decisions on their website, with a searchable form. The decisions are formatted as PDFs, but they are looking for another format to make that data more easily accessible.

Commissioner Bouma asked about the regulations that are under legal review—utilization review (UR), interpreters, and copy services. Mr. Parisotto said that they are being finalized by the DWC Legal Unit. After they are finalized, he will “run it up the flagpole” to the Director's Office and the Labor Agency, and then DWC would initiate rulemaking with the Office of Administrative Law. He said that he has learned in the past year that it is very difficult to offer timelines with any sense of assurance.

Commissioner Bloch asked about staffing and preparations for AB 5. He said he has the privilege to serve at the pleasure of the governor on the state's Future of Work Commission. He said that at that Commission they have been tasked by the administration to look at the effects of, in the words of the labor secretary, “the breakdown of the social compact between employers and workers, and how that has led to increased inequities.” He said that one of the main focuses of the Commission is to look at methods to promote better job quality, including better wages and working conditions, and that it is something that CHSWC examines on the working conditions side. He said that there has been a lot discussion about the state “putting its money where its mouth is,” in terms of investing in creating better wages, better working conditions, and better job quality. He said he would like to hear in more detail about staffing and what the DWC is doing. He said he was pleased to hear that more positions as judges were awarded, but that he would like to hear more specifics about what the DWC is doing in terms of investing in hiring people to fulfill its mission. Mr. Parisotto said that they are trying their best to ensure that they have enough staff to perform their core mission. He said he thanks all the employees who are working exceptionally hard to do that. He said that he did not think many people realize that they are not a big operation. He said a lot is asked of DWC and that they work hard to deliver. He said that, despite that, they are under some types of restrictions. He said that his hiring authority has been taken away based on some past alleged acts that occurred at the Department level that did not involve the DWC. In terms of hiring,

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he has to get that approved not only at the Department level but also by CalHR, and that has proven to be quite an interesting process. He said it has not been quite as fast as he hoped. He said it has been difficult, especially when people are retiring and leaving, and it has taken a long time to replace them. He said, therefore, they are facing some challenges. He said his staff members are trying to learn the proper procedures and manner in which to hire people. He said that he hopes to get hiring authority back in the very near future in order to ensure that they have adequate resources to do the tasks they are supposed to do. He said that it has been personally frustrating; he likened it to trying to plug multiple holes in a dam. He said that there are some areas in the DWC program that may not be addressed as fast as he would like. He said, for example, he would like to take a good look at the Supplemental Job Displacement Benefit program and how DWC could fix that, but it is tough in the current environment; he said that there are other areas as well. He said that they will move forward, and if they find a need for more positions in more areas this year, they will ask for more funding to do that. He said that they did ask for additional money for AB 5, and they did get judge positions for it, and he hopes that it is adequate to handle what he thinks will be a definite uptick in their cases.

Commissioner Bloch said that in the future he would like to receive some numbers if DWC has unfilled positions that there is budgetary authority to hire for, or if there are positions asked for that they need the budget for. He said that he sees this not only as DWC promoting job quality by ensuring injured workers are getting what they need from the system, and it is also the state investing in good public employee jobs. He said that the civil service has been the path of the middle class, particularly for women and people of color—as it should be. He said he would like to hear some specific numbers at the next meeting.

Commissioner Steiger thanked Mr. Parisotto for his presentation. He asked a question related to fraud. He said he understands that injured workers go to a provider and either do not get treatment at all and receive a bill, or they did not get all the treatment they needed or an inappropriate treatment; the system is focused on dealing with those [fraudulent] physicians by dealing with the issue or getting them out of the workers' compensation system. He said that it seems that, at the back end, some injured workers still do not get the treatment they need or settle their claim too early and really do not understand what is happening. He asked whether there is any way to go back and track those workers down or to go back and do a review of everyone who got treatment from that [fraudulent] physician—acknowledging that it could be a daunting task administratively. He said that it seems as if there is a big universe of injured workers who did not get the treatment they needed and then might carry that injury to the next employer, causing ripple effects not just in terms of suffering but greater costs to the system down the line. Mr. Parisotto said that he thought there might be a way to deal with that, but it would involve some dedicated resources. He said that, through the WCIS, DWC does collect data and, through that, it could identify providers and injured workers and the bills submitted and paid as they move through the system. After they are identified, DWC could also reach out to them and get information on how they have been able to deal with the system and their injury, and the providers that they have seen. He said that, by looking at the various databases, that is possible, but it would take a specific dedication of resources.



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Commissioner Steiger said that, from the perspective of treating physicians, the system has changed substantially over the past few years—the new formulary, new electronic reporting, new guidelines—so it seems that there may be an opportunity to combine all the new requirements and assess whether the system is working and whether it makes sense. He said SB 863 was a major victory for all involved, but it exposed more issues. The treating physician cited the MTUS, not going to UR, and then the system would break down. He said it could be fixed through the appeals board process—it took forever and cost a lot of money—but it is hoped that the worker eventually got the treatment. He said that now that it goes to IMR; labor hears anecdotal evidence that sometimes [treatment] does not happen, maybe because the doctors do not cite it properly, or maybe they do, and the UR reviewer said they did not, and no one really knows what happened, or there was miscommunication between UR and the physician. Commissioner Steiger said that someone told him that there is a new scenario in which a doctor contacts the UR reviewer to answer the UR reviewer's questions and UR reviewers sometimes say that they never heard from the doctor. He said there is a question as to how to prove who did what, checking voicemail, etc. He said when the system went from UR to IMR, the ability to deal with a lot of those problems was lost. He said that as they make further changes to the system, there is concern that they are creating more issues for physicians and maybe others in the system of which they would not be aware until it is too late, and this has affected a lot of injured workers. He said that as they move to electronic reporting, it might make sense to institutionalize or fold into the electronic reporting a way to ensure that doctors can handle all these new demands and that they have access to the MTUS. He asked whether these new requirements might make doctors leave the system. His concern was that the new processes raise questions that they may not be able to answer.

Mr. Parisotto said that Commissioner Steiger raised some very interesting points and that he identified some of the areas that DWC should start working on. Mr. Parisotto said that over the past few decades, DWC has layered obligation after obligation after obligation on physicians, such that quite a few physicians are somewhat fed up with the workers' compensation (WC) system. He said a lot of physicians are not even entering the WC system. He said various health-care systems up and down the state have doctor shortages. He said that he thought they will see [shortages] in treating physicians in workers' compensation in the near future. He said that there should be discussion about what they can do to address it. He said that DWC believes that electronic reporting is clearly the way to go—and DWC needs to do it soon. He said if you look at other areas of medicine, they are far ahead [of occupational medicine and workers' compensation]. He said that DWC needs to think about peeling back some of the obligations and look at what is necessary to provide treatment in the system; what is sufficient information. DWC needs people (physicians and others) to follow the guidelines. DWC also needs sufficient reporting forms and to ensure that physicians are adequately compensated for the work that they do. He said that they need to make the system more efficient, to ensure everyone is on the same page, and everyone knows the rules. He said someone told him that the problem with workers' compensation is not the requirements; it is the fact that nobody follows them. He said that they need to do better outreach, to ensure people know what is going on. He said if physicians have any questions, they should be able to go to the DWC website or find an answer quickly at the associations to which

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they belong—not only answers but simple solutions. He said that DWC wants to promote better communication among all the parties. He said that things had gotten a little too adversarial and that should not be. He said people should be informed about what DWC is doing and why it is doing it.

Commissioner Brady said that it is helpful to pause and look at the things that are working within the system. He said that they have received reports from the Commission that over 95% of the medical treatments are approved. He said the present discussion is about a smaller slice of the “pie,” and DWC and its staff are to be commended for the things that are working and operational. He said he appreciated the efficiency of the electronic reporting, but he thought that there could be an effort to receive additional information that could help with improvements. Commissioner Brady said that he knew that the cost of assessments went up 37% this year for employers. He said, for the first time, assessments surpassed \$1 billion in California. He said it is not growth for growth’s sake, but smart growth. He said that they want to improve the system, but do it strategically and use electronic efficiencies.

Mr. Parisotto said that the DWC has been stable for quite a while, and they now have to see how to make it more efficient.

Commissioner Kessler asked for the breakdown in IMR between represented and non-represented injured workers. Mr. Parisotto replied that it was about 90% represented workers. Commissioner Kessler referred to a Workers’ Compensation Executive document that she received from an insurance agent who was also her brother. She quoted it as saying that a DWC report claims that adjusters’ performance regressed in a recent audit. It found one in ten injured workers were illegally denied at least some of their workers’ compensation indemnity benefits and that collectively the workers were owed over \$500,000 in unpaid benefits. She continued to quote the document, stating that the most cited violation was failing to comply with the notice requirements in the QME/AME process. Auditors found 2,123 violations of the regulation requirement and collected \$141,351 in penalties; not far behind was the failure to pay or object to medical treatment expenses in the proper manner. She asked what DWC was planning to do about the lack of compliance and to get workers the benefits they are owed. Mr. Parisotto said that the DWC Audit Unit was working diligently to enforce the obligations that are there to administer claims. The Audit Unit has been very proactive over the past year and has become a little more complaint driven. Usually, they do random audits of claims administrators once every five years, or if there is a reason to target an audit they act on that. He said that the Audit Unit has been moving quite quickly, and DWC is looking at more enforcement of the civil penalty provision, under Labor Code section 129.5. He said if DWC can identify a claims administrator who has a general business practice of denying someone compensation owed to them, DWC can bring a civil penalty action against them, which results in a \$100,000 fine. Claims administrators with a second violation are referred to the Department of Insurance to have their license “pulled.” He said that they are trying to bolster that unit the best that they can. He said when people complain, they are heard in the Audit Unit, and they take it quite seriously. He said that he hoped to get more resources to that unit in the next few years so that they can go out and start taking a harder look at what is going on.

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Commissioner Kessler then asked: when DWC fines people, where does the money go and does it help injured workers get interest paid or is there a general fund to provide more assistance? Mr. Parisotto said that DWC tries to determine what is owed to an injured worker first, and that is directed back to the injured worker. Then the penalty money goes into their revolving fund.

Chair McNally opened the meeting to public comment, and there was no public comment.

**Cal/OSHA Update**

Cora Gherga, Assistant Chief of Enforcement Administration, Cal/OSHA

1. **Leadership updates**—Doug Parker became the new chief in September 2019; his three major priorities are:
  - a. Filling all vacancies in the Cal/OSHA program
  - b. Rebuilding the occupational health side of the program, both enforcement and consultation
  - c. Accelerating the rulemaking process
2. **Legislative updates**—in 2019 Governor Newsom signed seven bills affecting Cal/OSHA; the most significant (in terms of affecting most employers, or being innovative and unique) are:
  - a. *AB 35. Worker Safety: Blood Lead Levels: Reporting*  
Under this bill, the California Department of Public Health must report to Cal/OSHA any instance in which a worker’s blood lead level is at or above 20 micrograms per deciliter (µg/dL) within five business days of receiving that information. Reports received by Cal/OSHA constitute a complaint from a government agency representative charging a serious violation, subject to an investigation within three working days. In addition, Cal/OSHA must make information concerning any citations and fines imposed as a result of completed investigations publicly available on an annual basis.
  - b. *AB 1805. Occupational Safety and Health*  
This bill amends the definition of the term “serious injury or illness” in Labor Code section 6302(h) to make California's requirements for reporting serious occupational injuries and illnesses align with (and therefore be at least as effective as) the corresponding federal regulation. In addition, Labor Code section 6302(i) is amended to make its definition of “serious exposure” consistent with the new “realistic possibility” standard in Labor Code section 6432, as amended by AB 2774 (Swanson, Chapter 692, Statutes of 2010). Finally, it amends Labor Code section 6309(a), which specifies when a complaint is deemed to allege a “serious violation,” to make this section consistent with the new “realistic possibility” standard in Labor Code section 6432.

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c. *SB 83. Employment*

This is a budget trailer bill that makes several changes to the existing law regarding employment. As it relates to Cal/OSHA, the provisions of this bill require the Division to submit to the Occupational Safety and Health Standards Board a rulemaking proposal to revise the lead standards for the purposes of the general industry safety orders and construction safety orders and require the Board to vote on the proposed changes by September 30, 2020.

Ms. Gherga briefly added that there were other bills. One bill requires construction employers to provide training in Valley Fever protection for employees, in areas where this fungal disease is endemic. She said that there was another bill that made a technical fix in the required reporting.

**3. Regulatory updates**

- a. In the past year, Cal/OSHA, which has the statutory authority and mandate to develop and present to the Occupational Safety & Health Standards Board (OSHSB) regulations on occupational health matters, proposed an emergency regulation to protect workers from wildfire smoke, which was approved by the OSHSB. General Industry Safety Orders section 5141.1, effective July 29, 2019, applies when the current air quality index for inhalable particulate matter (PM2.5) is 151 or greater and when the employer should reasonably anticipate that employees may be exposed to wildfire smoke. When the standard applies, the employer must determine employee exposure to PM2.5, communicate with and train employees on matters concerning wildfire smoke, and control exposures to wildfire smoke using a hierarchy of engineering, administrative, and respirator controls.
- b. In November 2018, Cal/OSHA adopted an emergency amendment to the occupational injury and illness recordkeeping regulations (sections 14300–14300.48), to make California's recordkeeping requirements conform with the federal OSHA program, and the amendment became permanent in December 2019. The regulation requires employers in California with establishments that meet certain criteria to submit electronically Form 300A injury and illness data annually to OSHA, on their Injury Tracking Application website. The deadline for submission each year is March 2 (for the prior year), and employers covered by the electronic submission requirements must submit their Form 300A data for the previous calendar year. For example, employers must submit their Form 300A data for calendar year 2019 by March 2, 2020.

**4. Enforcement updates**—Enforcement is one of the main Cal/OSHA functions.

- a. During the federal fiscal year 2019 (October 1, 2018–September 30, 2019), Cal/OSHA opened 7,594 enforcement inspections of employers. As part of the inspections, Cal/OSHA identified 18,900 hazards. These hazards potentially affected an estimated 8.4 million workers employed at the inspected establishments. Ms. Gherga said that a significant percentage of the violations were considered serious in nature. She offered to provide additional statistical information upon request.

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**5. Other Initiatives/Special Projects**

- a. Since October 2018, when Cal/OSHA slightly changed the paradigm for assessing wildfire response, it responded to complaints surrounding smoke exposure and assisted the State Office of Emergency Services at the Operation Centers at a regional and statewide level. She said that in 2019, Cal/OSHA provided assistance on a much larger scale. It provided robust compliance assistance to employers of cleanup operations in the affected areas of the wildfires. She said this included training on-site for the contractors who perform the work. She said, from March to June 2019 for example, almost 1,100 compliance assistance interventions were performed by stopping off at worksites. Ms. Gherga said that as a result of these interventions, 995 hazards were identified and mitigated. She said that, unlike enforcement inspections, compliance assistance requires the employer to correct the hazards that were identified. She said enforcement activities also occurred as a response to a complaint or accidents extending from the wildfire activities, cleanup and rebuilding operations, and on referrals from the compliance assistance staff when employers continued to be noncompliant. Ms. Gherga said the hope was for fewer devastating fires, so that it does not have to engage in the activity at such a level.
- b. Cal/OSHA learned of the death of three (3) workers from silica exposure. These workers were less than 40 years old and were heavily engaged in the processing of material with a high silica content widely used in manufacturing countertops—something generally referred to as “engineered stone.” Ms. Gherga said that the public knows these materials under the brand names Caesarstone, Cambria, Silestone, and so on. She said that these materials have a silica content of over 90%, which is more than natural quartz than anything else in nature. She said that as a result of learning about these fatalities and conducting inspections of the respective establishments, in November 2019, Cal/OSHA started a consultation and enforcement initiative to evaluate silica-related hazards.
- c. In November 2019, Cal/OSHA started a consultation and enforcement initiative to evaluate silica-related hazards in establishments conducting this type of work. Inspectors and consultants with industrial hygiene expertise visit these companies, observe the materials and the processes used, conduct air monitoring to determine employees’ exposure to silica, interview workers and management, and overall evaluate compliance with the requirements of existing regulations, with emphasis on the silica standard.
- d. Cal/OSHA has developed, and is in the process of posting on its website, guidance on 2019 Novel Coronavirus for California health-care employers and employees.

***Comments by Commissioners***

Commissioner Bloch stated that he was happy Doug Parker was heading the California Occupational Safety and Health Administration (Cal/OSHA). He requested that Ms. Gherga (as well as Mr. Parisotto) attend the next CHSWC meeting to discuss filling vacancies as well as

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regulations. He continued to describe an event at a food-processing facility in the Central Valley; this facility employed a thousand immigrant workers who were trying to join together in a union with the Teamsters. There was a chlorine chemical spill at this plant. Chlorine was used to wash the vegetables; 20 people, including a pregnant woman who was throwing up blood, were taken to the hospital. Cal/OSHA inspected the site and issued serious violations against this employer. The employer appealed, even though the fines were insubstantial, even for serious violations. Not too long after this event, this facility had the exact chemical spill in the exact same location, and again 20 people were taken to the hospital. The whole experience led him to conclude that Cal/OSHA did not have “enough teeth” to enforce its regulations because it was just too easy for an employer to appeal, pay the fine, and not necessarily do the necessary remediation to protect workers. He stated that, through statute or regulation, there needed to be a way to strengthen Cal/OSHA’s hand to have more effective enforcement to protect workers. Ms. Gherga replied that she was open to any suggestions and could provide additional explanations about the processes.

Commissioner Steiger asked whether the rulemaking on the indoor heat regulations had been completed. At the last Cal/OSHA Advisory meeting, they did not expect to go to rulemaking but anticipated it would be done by the end of the year. Ms. Gherga answered that she did not know answers to Commissioner Steiger’s questions, but would have them by January 31 or February 3 because they have a tracking system. That does not mean they could accelerate the process, but she could tell him where it was in the process. She believed that they were going back and forth with questions, but she will get the information and send it to Mr. Enz, who can relay it to Commissioner Steiger.

Commissioner Bouma asked whether any significant and substantial actions regarding Form 300A at the federal level affect employers’ obligations to file; she added those may be distinct from Cal/OSHA, as it may have separate industry standards to which employers must subscribe. She thought the federal authorities had an aggregation function, so the public could access this injury data from Cal/OSHA, and whether it existed at Cal/OSHA, given that federal action may take away that requirement. Ms. Gherga asked for clarification: was Commissioner Bouma asking whether Cal/OSHA or federal OSHA was posting the information it has received from employers. Commissioner Bouma replied that she was asking about the format it took: if there was a searchable database for California-based employers. She thought it existed at the federal level, and she was not clear about the requirement. Ms. Gherga replied it did not exist at the federal level. About a couple of months ago, there was a hearing in San Francisco federal court or in Oakland regarding the posting or not posting of 300A data, the Injury Tracking Application. California employers upload the information electronically on the federal website. Cal/OSHA (or DOSH) does not have a separate website for this information. Federal OSHA makes the data available from the state employers to the state. Cal/OSHA would have access to the data reported by California employers from federal OSHA. Commissioner Bouma asked if the public had any ability to gain access to what Cal/OSHA had access to that was filed at the federal level. Ms. Gherga replied that the public did not have this access. There was no website and no searchable database.

Commissioner Kessler asked about the “warehouse” workers at the Cal/OSHA advisory meeting. She wanted a representative from the Occupational Safety and Health Appeals Board (OSHAB) at a future CHSWC meeting. She added that penalties were adjudicated to a lower amount so some of these costs for employers became a cost of doing business, rather than changing the behavior

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that leads to injury for workers. She said that even when Cal/OSHA cited companies, the resolution process was long. She asked how they would ensure that employers pay the penalty and change their behavior. She said that she was told she could go to the Cal/OSHA appeals board, and it could take years to resolve. It would be helpful if they understood this process so that she and the public are clear why this behavior continued and did not stop when people were hurt. Ms. Gherga replied that in its annual assessment of all the state plans, federal OSHA considered various parameters and various state plans, and Cal/OSHA has the highest retention rate of penalties when they become final versus when they were issued. Regarding collection and improvement, she had been at Cal/OSHA 26 years and has seen improvement over the past four or five years; Cal/OSHA enforcement had developed a system of communication, coordination, and tracking of penalties that DIR's collection rate after the penalty was final had never been that high. The trend was that they were collecting more and more on the dollar every year.

Commissioner Bloch stated that it was not only how good Cal/OSHA was at collecting penalties but whether the penalties were sufficient to penalize bad behavior considering that they see repeat violations. Commissioner Kessler added that if they were collecting fines, and if they were better at it than Mississippi, that was great, but she wanted to ensure that they were stopping the behavior that led to it. She knew that Cal/OSHA was doing what it could to cite within its parameters and staff limitations, but if the employers continued to do what they were doing and employees continued to be injured, then its starting point was to prevent people from injury. She stated that was also true for employers because they had to pay workers' compensation. She asked what had been done to alter the behavior of repeat offenders who were bad actors and that do not need to be in business if they continue to do dangerous work. Chair McNally replied to Commissioner Kessler that he cared not only about the cost of workers' compensation but about employees.

### **Child Care Occupational Safety and Health Model Training Program Update**

Charlotte Chang, Labor Occupational Safety and Health Program, UC Berkeley

Ms. Charlotte Chang from the Labor Occupational Safety and Health (LOHP) Program at UC Berkeley presented an update on the Child Care Occupational Safety and Health Model Training Program.

Ms. Chang stated that the State of California has over 100,000 child-care workers, based at child care centers, preschools, public schools, and private homes:

- Demand for child care was increasing.
- Predominantly female, almost 50 percent workers of color, and about a quarter of them were foreign born.
- Workers performed range of tasks: supervising and monitoring children, meal prep, hygiene, diapering, organizing learning and developmental activities, communicating with parents.

Hazards for child care workers included:

- Heavy lifting and ergonomic hazards
- Exposures to chemicals

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- Bloodborne pathogens
- Stress on the job
- Slips, trips, and falls from trip hazards
- Violence on the job, including child behavior and parent behavior
- Low wages

In 2018, in response to a request by Assembly member Monique Limón, CHSWC contracted with LOHP to work in partnership with the SEIU to develop a training program for child-care providers at school locations. LOHP built on the SEIU's existing curriculum developed for family child care and center-based child care; the curriculum was developed in both English and Spanish.

Project activities included conducting a needs assessment of health and safety training and then using it to revise the SEIU's center- and school-based curricula:

- Pilot testing and revisions of curriculum included Training of Trainers (TOT) in both English and Spanish and provision of technical assistance.
- Needs assessment conducted in 2018. Reviewed SEIU center-based child-care curriculum to see what the strengths and areas of improvements were and fill any gaps.
- Methods of the needs assessment included: reviewing existing health and safety curricula, including the existing SEIU curriculum; reviewing SEIU's evaluation data from both family child care and center-based trainings, and conducting 11 interviews with three employers, a resource and referral agency representative, Cal/OSHA, ergonomic and child-care health consultants, SEIU coordinators, and three of their peer trainers.
- Findings were that health and safety training and resources focused on the health and safety of children, not that of workers.
- Findings were: focus on occupational safety and health (OSH) for workers varied from employer to employer, often not a focus or not systematic or strong in focus.
- Training and resources ad hoc in nature on specific topics such as asthma or chemicals but not comprehensive health and safety.
- Limited opportunities for child care workers to receive OSH training.
- Review of curriculum showed gaps in discussion of workers' rights and aggressive child behaviors.

In the needs assessment, the challenges for providing training to child care workers were:

- Focus on health and safety in the child-care industry tends to be concerned with children and not workers.
- Workers have to complete the training when they are not working, and they already work very long hours.
- Workload and competing priorities (training and in classroom)
- Employer awareness of worker health and safety and their responsibilities, including responsibility to provide training.
- Need for Spanish-language material as well as Asian languages for training.

After the needs assessment, there were revisions and seven modules (including Introduction) that take two hours and twenty minutes to two and a half hours (including the optional module):



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- **Introduction:** Identifying work-related hazards
- **Section 1:** Injury prevention
- **Section 2:** Illness prevention
- **Section 3:** Use of toxic chemicals and alternatives
- **Section 4:** Reducing and preventing stress
- **Section 5:** Aggressive behavior in young children (optional module), a significant issue for some providers and not for others
- **Section 6:** Workers' rights and responsibilities.

Conducted pilot training of the curriculum in November 2018:

- In Oakland in English, with eight participants, and one in Los Angeles in Spanish, with six participants in December 2018.
- Clear need and resonance with child care workers for this training and for health and safety training; Participants found the topics novel, important, useful.
- Enthusiastic participation, positive response to interactive format of the training.
- Health and safety of workers, not of children—reminders during training that it was about the workers and not the children.

Feedback from pilot training:

- Workers appreciated all topics in the curriculum. LOHP was trying to decide whether shorter training would be better because it was two and a half hours, but all the participants liked the training and all the modules, especially workers' rights.
- Did not realize Cal/OSHA applied to them and not just other industries.
- Important to keep the volume of the content and length of training.
- Wanted to keep it short enough so people can take time out of their busy schedules and keep it at a meaningful length.

After the pilot, the curriculum was revised:

- Included helpful guidance from DIR colleagues and the SEIU.
- Included regular reminders that the health and safety discussion is about the participants and not the children (though recommendations can enhance safety of children as well.)
- Revised activities and props (e.g., used dolls for lifting practice, not boxes) based on pilot participant feedback.
- Revised the handouts.
- Revised evaluation forms.
- Design changes.
  
- Made some changes in organization, language, and formatting of scripts and instructions.
- Switched out images for greater relevance.

Conducted day-long TOT, for peer educators:

- In May 2019 in Oakland, there were nine participants in day-long TOT in English. In July 2019 in Los Angeles, there were eight participants in day-long TOT in Spanish.

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- There was strong need and enthusiasm among participants for the training.
- There was a range of experience and existing capacities; some were ready to begin training, and others needed additional support.
- There was interest in being able to offer training in other languages, such as Cantonese.
- Follow up: technical assistance session was held in July 2019 in Oakland; brought together TOT to discuss the results and challenges of their training.
- Final curriculum will be posted on the CHSWC website after document accessibility issues are addressed.

***Comments by Commissioners***

Commissioner Kessler asked about Ms. Chang's availability to conduct this child-care training. She added that San Mateo County had multiple child care facilities, and some were unionized. Ms. Chang replied that LOHP would like to hear about those opportunities and how it could meet those needs. LOHP would have to determine whether it would be direct worker training or TOT sessions.

Commissioner Bouma asked Ms. Chang to explain how this project came about and how the process for getting training like this was developed and disseminated. Ms. Chang replied that LOHP was able to put together the project and have the resources funded to engage in a needs assessment of the curriculum and partner with the SEIU on the piloting and conducting the technical assistance for the TOTs. She was in touch with the SEIU and will continue to provide technical assistance even though the project funding for conducting training had ended. LOHP tries to meet those needs as much as possible with existing organizational resources.

Commissioner Bouma asked whether LOHP had a grant for this type of work and whether she was selected to provide this training requested by the SEIU. She asked how the general public could start something like this. Ms. Chang referred her questions to Laura Stock. Ms. Stock added that Assembly member Monique Limón worked with the SEIU and was interested in this topic. The SEIU and Limón recognized the need to build capacity to get this curriculum out there, particularly the peer education model. This message came to CHSWC, which compiled a proposal for this work. LOHP was approached because it had experience in developing effective training through its WOSHTEP program, and it was brought in as a partner to do this work; that is how the request came to them. A program proposal was put together and a curriculum was developed. It was an exciting opportunity to recognize that developing this type of program is very important, and child care workers were a very important constituency, and there were many others. They have learned from this, and hopefully there are other projects that they can do in other settings. The TOT and peer education model is critical to build internal capacity to do this work, but organizations such as the SEIU that want to do this work need support and capacity building. People are committed to the peer education model and they want to help in developing the curriculum and building capacity; they have learned a lot from this that can be applied to other initiatives like this one.

Commissioner Bloch stated that a few decades ago, he was an organizer with a community-based organization that was organizing home child-care providers and turned the project over to the SEIU; last year, to the SEIU's credit, it passed legislation that the Governor signed, giving these workers a path to joining a union. He was pleased that CHSWC invests in efforts like this training to try to prevent injuries. He said that, as a part of the Future of Work Commission, this type of work, much of which is home based, whether child care or elder care, will increase in California. He said they

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should be investing in workers to give them the resources that they need not only for themselves but also for children, the elderly, and sick people, doing everything they can to make these good occupations.

Commissioner Steiger added that this was a great program, and he wanted to commend them on that. As an industry, it stands out that employers and workers have rights and responsibilities that they are not aware of. Whatever outreach they can do, particularly with regard to home-based child-care providers, would help since often employers do not know that Cal/OSHA applies to them. The more they can educate workers that they have these rights the better, and hopefully it will come back and improve the entire industry.

Commissioner Brady commented that he has worked with school losses for 32 years, and there is a class code that has not been identified; often, a lot of injuries occur with younger children due to poor housekeeping. It was a non-sexy topic: clutter. Many teachers were notorious for being packrats, and there are a lot of injuries as a result of poor housekeeping. One item in their curriculum, student violence, was optional, and the optional should be removed; very aggressive child behavior, such as punching, is a primary risk and not a secondary risk at all. He stated that child-care facilities in California face general liability that is the highest it has ever been in the past 40 years, and they may be shut down. We need to sensitize ourselves to a lot of issues pertaining to that workforce.

Ms. Stock replied that LOHP is coordinating the School Action for Safety and Health (SASH) program with support from the Commission. The issue of providing resources to schools and the other issues that Commissioner Brady is raising are very important as well. She has worked through SASH for para-educators and wanted to acknowledge the importance of what Commissioner Brady had said and that they are in center-based programs, often in school settings, and more work needs to be done.

**CHSWC Executive Officer Report, 1/31/2020**

Mr. Enz stated that since the last Commission meeting on September 26, the staff has been busy fulfilling Commission requests and closely monitoring and working on a number of projects and studies.

**CHSWC Studies Update**

The RAND update on the “Frequency, Severity and Economic Consequences of Musculoskeletal Injuries to Firefighters” study has been finalized. This report included a specific analysis of the return to work rates for firefighters who experience a musculoskeletal injury, compared to injured workers in other classifications. Approval of this report was an action item for this meeting.

CHSWC prepared and released a Request for Proposal in mid-January to comply with the legislatively mandated request in Assembly Bill (AB) 1400 authored by Assembly member Sydney Kamlager-Dove that CHSWC study the risk of exposure to carcinogenic materials and the incidence of occupational cancer in mechanics who repair and clean firefighting vehicles. CHSWC anticipates the study will begin in the spring and expects a final report in December 2020.

**CHSWC Projects and Activities Update**

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Mr. Enz stated the CHSWC staff has worked hard to prepare the draft 2019 CHSWC and WOSHTEP Annual Reports, and approval of both reports was an action item at this meeting. He complimented and congratulated the CHSWC staff for the outstanding work they do every year to put these reports together.

Mr. Enz stated, since the September 2019 meeting, his staff actively participated in the California Partnership for Young Worker Health and Safety Meeting on December 10 in Oakland. The meeting featured Young Worker project updates, outreach and legislative efforts, a Labor Commissioner's Office enforcement update, serving youth outside school settings, resource sharing, and plans for future initiatives. Additionally, the annual Young Worker Leadership Academy will be held February 6–8 at UC Berkeley. The Academy provided a leadership development opportunity for teams of high school students, with their adult sponsors, from different communities statewide to focus on young worker health and safety. The staff is also in the process of planning the WOSHTEP Advisory Board meeting scheduled for March 24 that will focus on an overview of program accomplishments in the past year and discuss future goals and objectives within the framework of the 2017–2021 WOSHTEP Strategic Plan.

Mr. Enz stated in addition to the activities that he described, the Janitorial Training Curriculum for workers and supervisors mandated by AB 1978 was recently posted on the DIR website, and there was also a link on the CHSWC website. The curriculum for both workers and supervisors is available in English and Spanish. CHSWC is also working to post the Child-care Occupational Safety and Health Model Training program curriculum in English and Spanish on its website in the coming weeks. As part of CHSWC's SASH program, LOHP at UC Berkeley developed an Active Shooter Fact Sheet that addressed what schools and school employees can do to prevent active shooter incidents. These actions include working to create a healthy school climate, including maintaining open communication, and encouraging positive emotional support as well as recognizing potential threats. Schools and school employees are encouraged to participate in training and practice a "Run, Hide, Fight" strategy. This fact sheet was recently posted on the CHSWC website.

**Action Items**

Three action items were presented for the Commissioners' consideration:

The first item, the RAND report on musculoskeletal injuries to firefighters in California, was an action item at the September meeting, but in deference to Commissioner Bouma (who was absent from the September meeting), the Commissioners deferred approval until the next meeting. The first action item was:

- 1) Does the Commission wish to approve for final release and posting the DRAFT report by Michael Dworsky and Seth Seabury at RAND titled "The Frequency, Severity and Economic Consequences of Musculoskeletal Injuries to Firefighters in California Update"?

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Chair McNally stated that the Commissioners had discussed the report before the meeting. Commissioner Kessler recommended not approving this report. She stated that it had definite problems and asked for it to be removed from the CHSWC website. After her review of the report, she wanted a discussion with the researchers that included answers to her questions. She added that this report had issues that needed to be resolved prior to reposting it. She gave a couple of examples: limited sample sizes, so the report did not evaluate as appropriately as she thought they could some of the people affected. For example, those who cap benefits have erroneous reporting about income but still made the same postulations about what the salary scales and benefits were, and they assumed that people got full medical coverage, which was not true. There was post-traumatic stress disorder, which leads workers to file fewer claims for workers' compensation than they were entitled to.

Commissioner McNally would like the authors to give their presentation, then have discussion and answer questions.

Commissioner Kessler stated that this is a detailed report, and she had questions throughout the report; the Commissioners would give their questions to Mr. Enz, who could forward them to the researchers. As Commissioners finished reading the report, they might have other issues. She wanted the researchers to come to the next meeting but, in the meantime, the report should be removed from the website. Commissioner McNally seconded that.

Mr. Enz continued:

- 2) Does the Commission wish to approve for posting for 30 days for feedback and comment the DRAFT 2019 CHSWC Annual Report?

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

- 3) Does the Commission wish to approve for posting for 30 days for feedback and comment the DRAFT 2019 WOSHTEP Annual Report?

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

**Public Comment**

Mr. Gabor Vari, chief executive officer of California Industrial Medicine and Surgery, a QME Management Company, congratulated Commissioner Steiger for being elected CHSWC chair. He stated that the 2019 CHSWC Annual Report had two significant omissions. First, there was no mention of the California State Audit that came out in November 2019 regarding the QME program. He stated that, in light of Mr. Parisotto's comments that the DWC has accepted all the state auditor's recommendations and has an April deadline for remediating those deficiencies, addressing this audit would be important to include in the 2019 CHSWC Annual Report. The second glaring omission was in the analysis of the QME system: the 2019 CHSWC Annual Report

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had quite a lot of data, in terms of the trends and the costs and demand for QME services, but there was no significant analysis of the QME supply: the head count of physicians in the system—that was the heart of the issue. The audit discusses the QME crisis and whether injured workers see the QMEs in a timely way.

Luis Del Cid, American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME) Local 119, stated he had been a fire equipment mechanic for 11 years and had been diagnosed with cancer at the age of 42. He considered himself fortunate. He wanted to thank CHSWC for its work, emphasizing the importance of the study requested in AB 1400; there were protections and standards that were needed when the fires were being extinguished. They were in the background, preparing equipment that is required to do the work along with the firefighters. In addition, he wanted to thank the Commission for some of the questions that were asked of the DWC and Cal/OSHA because these things go together: the lack of standards and the lack of protection. He stated that he was very fortunate to be there, and his fellow helicopter mechanics and fire equipment mechanics were there to cooperate in any way, shape, or form, to make it happen.

Commissioner Bouma thanked Mr. Del Cid for his public comment and for coming to this Commission meeting to speak about this important issue. She also thanked Mr. Allison, his representative. She represented the California Professional Firefighters and knew that the men and women on the front lines appreciated their work and the risks they take to keep the fire equipment operational while they are on the fire line. She was happy that he was here today after receiving a cancer diagnosis, and she hoped the best for his recovery. In the previous study Commissioner Kessler discussed that it had some flaws, one of which was that no one talked to the firefighters directly when inquiring about their experience in the system. So hopefully it does not have the same flaw as the study that CHSWC is contracting for on Mr. Del Cid's behalf.

Mr. Del Cid thanked Assembly Member Kamlager-Dove for sponsoring Assembly Bill (AB 1400).

Gary Hodge, President of AFSCME Local 119, and a fire equipment mechanic, thanked the Commission. He stated that he came to this meeting from Los Angeles as it was personal. The members he represented also thanked CHSWC; he represented about 65 people who were directly affected by this study; the broader impact was that it could affect people nationwide. They had representatives in Menlo Park, East Bay Parks and Recreation, and this research will affect the entire state. He appreciated that the Commission was working diligently in regard to AB 1400 and the direct long-term effect it will have. His mother passed away from cancer, and his brother was a survivor; when someone does not survive, it has a direct impact on the family. After his mother passed away, the insurance company came after his father; his father was a full-time aerospace worker for 35 years, and they became homeless. That was the direct effect.

Andrew Jung, president of AFSCME Council 36, thanked the Commission and congratulated the chair-elect and past chair of the Commission. AFSCME Council 36 has 65 units in Southern California, which included helicopter mechanics in Los Angeles County; the cancer rate in their units is extraordinarily high. Among the 50 to 60 mechanics, they bury one person per year, and no fewer than 10 are diagnosed every year. His brothers and sisters in the firefighter units get protection with their presumptions. When firefighters appear on television, they have the fire mechanics with them. The mechanics did not have masks on and might have the same exposure in the fire shop. Assembly Member Kamlager-Dove went to their shop, and they could not find protective goggles for her to wear while walking to the industrial areas. Some of these were basic

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Cal/OSHA issues. The firefighters receive a majority of the resources because the legislation mandates it, and they have a presumptive factor that mandates it. However, the mechanics do not get the resources and do not have the same level of protection as the firefighters. Firefighters obtain a majority of the resources because legislation mandates that they do, and they all know that the firefighters with permanent total disability (PTD) have the highest rates of cancer in the US and the best PTD benefits. AB 1400 is crucial for workers in California who deal with fire, which is increasing year after year.

Commissioner Kessler thanked Mr. Jung for coming to speak to CHSWC. She wanted to reiterate what Commissioner Bouma stated about the previous study: that you have to talk to the workers and what it means to them. It was not just about data and tables and research. She said that she has been a machinist for over forty years, and the Teamster members and those who repair equipment—whether aircraft for her union or fire engines for Sacramento and for the City and County of San Francisco—are constantly exposed to carcinogenic materials. She is married to a retired firefighter, and she is aware of the issues facing firefighters. At least for legislative purposes, there was an assumption that firefighters who develop cancer do so as a result of their exposure to carcinogens. That is not true for the mechanical equipment workers, and some ancillary issues were not well recognized. She wanted the request for proposal (RFP) for AB 1400 to include outreach, so there is a human element that is recognized. She wanted to recognize the people who do the work and is hoping that the RFP is inclusive of the workers. She also stated that if there are any challenges to find the workers to use CHSWC resources to find the workers and make sure they are involved in the study itself.

Commissioner Bloch thanked the workers who attended the meeting and for discussing the issues and agreed with Commissioner Kessler that Teamsters represent workers who work on many vehicles as well as first responders; he pledged his support. He also recognized AFSCME for its work in taking up an issue, going to a legislator, getting a bill passed, and then bringing it to the Commission. The Commissioners need to do their work to inform the policy making regarding the protection of workers on the front lines.

**Public Comment**

None

**Other Business**

None

**Adjournment**

The meeting was adjourned at 12:23 p.m.

**Approved:**

\_\_\_\_\_  
Mitch Steiger, 2020 Chair

\_\_\_\_\_  
Date

Respectfully submitted:

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

\_\_\_\_\_  
Date

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