

Good morning. My name is Matt Heil. I would like to thank you for your time, and the opportunity, to discuss my personal experiences with the California Workers Compensation system.

I worked in law enforcement for over 28 years. I started my career with the Concord Police Department in 1991. I also worked for the Placer County Sheriff's Office, and the California Department of Justice (WSIN). I completed my last 24 years in law enforcement as a police officer with the Livermore Police Department.

During my employment with the Livermore Police Department, I experienced several on-duty injuries that required multiple surgeries.

In 2011, I was struck by an intoxicated driver, who intentionally rammed the driver door of my patrol vehicle. I subsequently required lower back surgery as a result of the injury.

In 2014, I re-injured my lower back while cutting down a man who hung himself in the garage of his home. The injury required a second lower back surgery.

In 2015, I sustained a gunshot injury to my face and head while attending an on-duty firearms training session. The injury resulted in cranial surgery. Following surgery, I retained metal fragments on the left side of my head.

In 2017, due to cumulative trauma to my lower back, I required a 3rd lower back surgery. This time, the surgeons decided to fuse vertebrae in my lower back.

Shortly after this surgery, I had a stroke, and sustained permanent, partial vision loss in both eyes. Following the fusion surgery and stroke, I was unable to return to full-duty.

In 2019, I had a 4th lower back surgery to remove the stabilizing hardware that was installed during the fusion surgery in 2017. The hardware was causing inflammation and additional pain in my lower back.

In August 2019, as a result of the multiple on-duty injuries, the City of Livermore retired me under an industrial disability retirement. They were unwilling to accommodate me with a modified duty position, despite me being within 18 months of eligibility for a full CalPERS public safety retirement, which is at age 50 or later. I may even have been able to continue working in my career beyond age 50. The explanation that was given to me was that I could be sitting at a desk, lean over to pick up a paperclip, and my lower back may go out. So, my only alternative was to leave my career early. My industrial medical retirement salary ended up being only a portion of what I would have received had I been able to remain employed as a police officer past the age of 50. Even considering the tax benefits of an an industrial disability retirement, the reduction in my monthly salary was significant.

Since 2019, my lower back condition continued to deteriorate and it was determined that the spinal fusion had not healed properly, and was considered a non-union. The surgeons wanted to perform a revision surgery using a different fusion technique. Due to my prior history of stroke and other post-surgery complications, I decided against another surgery at this time.

Throughout my experience with the California Workers Compensation system, dating back to 2011 and beyond, it has been nothing but stress and aggravation. Each time I required treatment or medication, my primary treating physician or surgeon would submit a request for authorization to the insurance company, only to have it sent to Utilization Review. Almost every time, Utilization Review would respond with a non-certification, quoting something out of the California Medical Treatment Utilization Schedule. My primary treating physician or surgeon would request a peer to peer conference call, but typically would not be able to contact anyone at Utilization Review. Appeals to Utilization Review or Independent Medical Review were most often denied. Eventually, after a change in medical condition, and several more attempts by the physicians to get approval for treatment, the surgeries were approved. However, this took many months to occur, during which I was in extreme pain and under a lot of stress. Most follow-up treatments and medications were still not approved by Utilization Review or Independent Medical Review, and appeals failed.

I have retained copies of non-certification letters from Utilization Review, in my personal medical records at home. I would conservatively estimate the number of non-certification letters to be well in excess of 50, dating back to 2011. I wouldn't be surprised if the number of non-certification letters was closer to 100. I was able to pull over 30 non-certification letters from my files at home, without even going back beyond the past few years of records.

The main problem with the California Workers Compensation System, at least in my opinion, is the way Utilization Review functions. Requests for medical treatment are sent to a Utilization Review Physician who has no prior knowledge

of the patient. This physician is provided with only limited documentation regarding medical history of the patient, and has never met the patient in person. The Utilization Review physician then consults guidelines in the California Medical Treatment Utilization Schedule and simply responds with whatever the guidelines recommend. There is no personal knowledge of the patient used in determining treatment, or medication authorization. Utilization Review Physicians are required to understand insurance industry practices, and know how to balance the cost of a service, with the benefit of treatment for a patient. So, there is already a built-in subjective bias against the patient.

I was personally told by numerous physicians and surgeons, that because of all the complications involved, they simply preferred not to accept workers compensation insurance. Other physicians and surgeons, who still currently accept workers compensation insurance, told me that they are frustrated with the system and are considering not accepting it as an insurance provider anymore. There are entire health care networks that currently refuse to accept California Workers Compensation Insurance due to all the complications involved (i.e UCSF). They would much rather contract with private insurance companies with much less bureaucracy.

My assigned nurse case manager, Linda Stutzman, oversees care of patients all over the San Francisco Bay Area, and she has done so for many years. Linda told me that it is becoming more and more difficult for her to find patients quality physicians who accept workers compensation insurance. It is even more difficult to find a specialist required for specific types of medical conditions or injuries. It is almost impossible for patients to find quality medical care, and even if they do

find a physician who will accept workers compensation insurance, chances of getting treatment or medications approved through Utilization Review, or appeal, are slim to none.

I have been told that many patients who reside in California, in areas north of Sacramento up to the Oregon border, have little to no access to physicians who will accept workers compensation insurance. Their only options are to travel extremely long distances to a physician who will accept them as a patient.

Imagine having to do that monthly, or even several times per week, depending on the type of treatment.

I have also been told that there are those who want to try to eliminate or reduce cumulative trauma injury claims. The question would be, what would then happen to those injuries that are already considered presumptive, such as a police officer wearing a duty belt as part of their job, who later develops lower back problems? This is a statute that already recognizes cumulative traumas.

In 2011, during my vehicle collision injury, I was transported by ambulance to a local hospital. Shortly following initial treatment at the hospital, I woke up one morning and had no feeling in my left leg. I saw my primary treating physician, and based on examinations and imaging, they referred me to a neurosurgeon (Dr. Lawrence Dickinson). It took at least a month just to get imaging approved through Utilization Review. Based on further evaluation, Dr. Dickinson recommended immediate lower back surgery. However, the insurance company forwarded the request for authorization to Utilization Review and their decision was non-certification. It took additional months for Dr. Dickinson to supply

further documentation and finally get a peer to peer conference call with Utilization Review. During this time, I had limited use of my left leg. Ultimately, the surgery was approved months later. However, most likely due to the lengthy authorization delays, I sustained permanent nerve damage in my left foot and ankle.

In 2015, during my gunshot injury, I was immediately transported to a local hospital for initial treatment and to make sure that I was stable. Once I was discharged from the hospital, the recommendations were that I continue follow-up treatment with my primary treating physician. Since I didn't have a designated primary treating physician, I obtained follow-up treatment through Kaiser Permanente, who was an authorized workers compensation provider for the City of Livermore. Kaiser Permanente did not know how to deal with the gunshot injury or who to refer me to. I had to find out-of-network specialists who would accept workers compensation insurance. None of the specialists felt comfortable treating my gunshot injury.

A couple months after the initial gunshot injury, a neurosurgeon at UCSF (Dr. McDermott), agreed to perform the cranial surgery required to try and remove the retained metal fragments. Dr. McDermott made an exception to the UCSF policy of not accepting California Workers Compensation Insurance. It took about another month to get Utilization Review to authorize the surgery. However, the surgery was not successful and I sustained nerve damage in my face, without the retained metal fragments being removed. There has been no additional authorized treatment since the failed surgery.

In 2017, I had spinal fusion surgery because my lower back condition was continuing to deteriorate. This surgery required months to get Utilization Review approval. There were appeals and worsening changes in my condition that eventually led to the surgery being approved. However, the delays were unreasonable and resulted in my condition becoming even worse.

Shortly following the surgery, I had a stroke and lost all vision in both eyes. I was transported to the regional trauma center (Eden Hospital). The stroke was initially covered under workers compensation due to the short time period following my lower back surgery. However, a few days later, there was a change in decision, and workers compensation decided not to cover it. At the time, I was still at Eden Hospital and they told me they had to transfer me to a Kaiser Hospital, so that my personal insurance would cover it. I was transported by ambulance to the Kaiser Hospital in Walnut Creek. Eventually, I recovered approximately 75% vision in both eyes, but I still have vision impairment in the lower left quadrant in both eyes. After about a year of seeing specialists, and it being determining that the stroke was related to my lower back surgery, workers compensation again decided to cover the stroke. But, at that point in time, the most significant requirement for medical treatment had already past. Instead, I got bounced around between medical care providers for over a year.

Following my retirement in 2019, I required on-going treatment and medications for my lower back, the stroke, and gunshot injury. The majority of treatments and medications recommended by my primary treating physician were denied by Utilization Review. My primary treating physician became so frustrated with Utilization Review, that she would tell me that she would try to appeal, but didn't

expect approval. Ultimately, the appeals for authorization were typically denied. I honestly doubt that the individual at Utilization Review, who received the request for authorization, even considered any of the supporting medical documentation. The reason I doubt it is because many of my non-certification letters stated that alternate types of treatments needed to be tried. If they had read the supporting medical documentation, they would have realized that these alternate types of treatments had already been tried.

One example of this, was documented in a non-certification letter from Utilization Review, regarding prescribed medication. My primary treating physician, and a surgeon, recommended that I take Lyrica for nerve pain that I was having. I had already tried Gabapentin and Pregabalin, during which I had severe side effects, and could not tolerate the medications. Based on the side effects I was experiencing, the medication Lyrica was recommended. I was advised by my primary treating physician, and the surgeon, that Lyrica was often used with patients who could not tolerate Gabapentin or Pregabalin.

The response received from Utilization Review was, “The California Medical Treatment Utilization Schedule states that pregabalin is selectively recommended for treatment of chronic persistent pain. Based on the submitted documentation, there is no evidence of failure of treatment with tricyclic anti-depressants, and other anti-convulsants.” However, if they had actually read the provided supporting documentation from my primary treating physician, and the surgeon, they would have known that the referred to medications and categories were already tried.

Additionally, Utilization Review made no attempt to contact my primary treating physician or the surgeon for clarification. The result caused needless, lengthy delays, during which I remained in a worsening condition. Most of the times, even after appeal and all the delays, the request for authorization was still denied. The example I provided was only one of many Utilization Review denials that made absolutely no sense, not only to me, but the physicians and surgeons involved, as well as my nurse case manager. This is clearly one of many reasons why physicians eventually choose not to accept workers compensation patients.

Since 2011 until present, I have been in varying degrees of pain. Depending on the day, this pain ranges from moderately tolerable, to barely being able to walk, stand upright, or even take a deep breath. I barely get sleep at night. Due to the gunshot injury and stroke, I have intense headaches, facial nerve pain, jaw pain, memory loss, and vision impairment. Recommended medications are immediately forwarded to Utilization Review and then typically denied.

As a result of the ongoing denials by Utilization review and failing appeals, I chose to settle my workers compensation claims with the City of Livermore, and in turn give up all future medical benefits. The amount of stress and aggravation caused by the unreasonable, endless delays within the California Workers Compensation System was not something I was able to deal with long term. It was causing me additional physical and mental hardships, well beyond the injuries I sustained while employed with the City of Livermore. I found that it would be much more beneficial, and less stressful, to simply pay for medical treatment and medications out of pocket, rather than deal with all the hassles of the California

Workers Compensation System.

The California Workers Compensation System works well for acute, immediate treatment. If someone has an injury at work and requires immediate medical care at a hospital or urgent care center, then there is no problem. The problem arises once the initial treatment is complete, and the hospital or urgent care center recommends follow-up treatment with a primary treating physician or specialist. Follow-up treatment, or chronic medical conditions, are when all of the roadblocks from Utilization Review begin. I never had a problem getting initial treatment or care for an injury. It was always the recommended follow-up treatment, procedures, and medications, that was the issue.

Follow-up treatment, such as physical therapy (or something similar), are typically only approved in 6 session increments, as they were in my case. By the time you have an initial evaluation, and set up a personalized rehabilitation program, the 6 sessions are completed. Then, having to wait for approval to get additional sessions takes time and delays recovery. It also causes unnecessary stress for the patient, who sustains setbacks in recovery.

These are sessions that are requested and recommended by the specialist doing the rehabilitation treatment. But again, Utilization Review either approves or denies the request based on state guidelines, not based on the recommendation of a specialist who personally knows the condition and progress of the patient. I had several specialists advise me that they could not get additional sessions approved, but that I could pay “out of pocket.” This was for rehabilitation that was providing me with some pain relief and improving my condition.

The California Workers Compensation System requires immediate change. Primarily, the process of how recommended procedures, follow-up treatment, and medications are approved. I understand that there needs to be checks and balances to keep services and costs from being abused. However, instead of punishing the patients, it would be much more effective to look at physicians who may be abusing the system. During my 28 year in Law Enforcement, I handled many investigations of this nature. Additionally, during my treatment for my lower back injury, I personally experienced a physician who performed a procedure completely inappropriately and negligently. The procedure, a CT Myelogram, was performed in the wrong area of my spine. The procedure itself was painful, and I had short term side-effects, such as swelling and bleeding. I had to have the entire procedure performed again at a different medical facility and with a different physician. This took over a month to re-schedule. Despite my formal written complaint to the State of California, nothing happened. Due to my gunshot injury in 2015, I am unable to have MRI's and only alternate imaging can be used, such as CT scans or x-rays. This causes me a huge disadvantage when it comes to trying to receive diagnosis or treatment.

I have been told that many people in the workers comp system look upon back injuries and surgeries with suspicion, but I am here to tell you what I experienced is very real. I have saved thousands of pages of medical records from physicians, surgeons, and hospitals, documenting my injuries. There are police and CalOSHA reports documenting all the instances when I was injured, and there were plenty of co-workers present when the injuries occurred. During the years following my injuries, there were days at work when co-workers would need to help me stand up or walk, because I was in so much pain. I would typically have to be driven to a

hospital emergency room.

I have a 9 year old son, who plays baseball, football, basketball, and soccer. He would love to go to a park and practice, or play sports with me. However, he realizes that I am unable to run anymore and I have very limited mobility in my lower back. I can not bend or twist without risking extreme pain, or being immobilized for days, or even a trip to the hospital. So, my participation with my son's sports and school activities has been reduced greatly. These are years that I will never get back.

Patients are in need of timely, reasonable, personalized care, and not simply dictated to by Utilization Review, based on cookie-cutter guidelines set forth by the California Medical Treatment Utilization Schedule. I believe that an objective, reasonable solution is that there needs to be more expeditious, timely, peer to peer communication between physicians and Utilization Review before decisions are made. Utilization Review decisions need to be based more on communication with the requesting physician (i.e. peer to peer conference calls, or other types of direct information exchanges). Simply making authorization or denial decisions based on very limited medical documentation, or state guidelines, is not sufficient. The current amount of time required to exchange information is far too slow and limited. Patients with chronic, long term, medical conditions are lost in a broken system. Patients are people, with real needs, and shouldn't be treated like just a number in an assembly line.

Thank you again for your time, and the opportunity to discuss my experiences with the California Workers Compensation system.