

MINUTES FROM CHSWC PUBLIC MEETING

December 16, 2022

Physical Location When Applicable – online during Covid-19

Elihu M. Harris State Building

Oakland, California

NOTE: In accordance with [Executive Order N-29-20](#), and [Executive Order N-33-20](#), the physical meeting location was cancelled for August 4, 2022. The meeting was publicly held via online teleconferencing with publicly provided link.

In Attendance (via online video)

Note: There were technical difficulties with attendance by the public that were resolved mid-meeting such that many people did not hear the injured worker presentation live.

2022 Chair: Mitch Steiger

Commissioners: Doug Bloch, Martin Brady, Shelley Kessler, Sean McNally, Nick Roxborough, Meagan Subers, Sidharth Voorakkara.

Absent: None

I. **Approval of CHSWC Meeting Minutes from the August 4, 2022 CHSWC Meeting** **Mitch Steiger, Chair**

Chair Steiger asked for a motion to approve the minutes, and Commissioner Kessler moved to make the motion, provided she could make a comment before the vote. Commissioner Subers seconded the motion.

Chair Steiger asked for any comments from the Commissioners and Commissioner Kessler began and demonstrated that she had a written list.

Commissioner Kessler began by saying that for the new Members that it is really important to define the acronyms used to benefit the people who may not be familiar them. On page 2 (of the August 4, 2022 minutes) at the bottom, she said that the minutes describe the appeals of the IMR (Independent Medical Review) and that they do not articulate how workers are informed about Utilization Reviews and how they can get assistance for the appeals. She said she wanted to put that as a placeholder for when the Commission has those kinds of discussions to include (such information) so that people will know how the process works.

Commissioner Kessler continued about page 18 and her concern about a clear statement at the meeting by the firefighters that there are real challenges about going to workers' compensation, the difficulty with the culture, and the timing. She said that the statistics that were used (reported) did not speak to that (the challenges and difficulties). She said that she thought that when there is report that talks about some of the complications that occur in the course (of the workers' compensation process) that it is appropriate to articulate (those complications) in the minutes so that people know if they read the minutes that there was attention paid to the issue during the meeting.

Commissioner Kessler continued in reference to page 26 that she thought that when

Commissioners are making comments about studies that it is appropriate for the negative and positive comments to be articulated somehow some way; that maybe it makes the Minutes too long or cumbersome but unless it is acknowledged in the Minutes, there is no public record that says Commissioners had positive and negative comments about different studies and stuff (related matters). She ended her comments on the Minutes and stated her hope that since the meeting is being recorded, those kinds of comments can be integrated when they do the minutes.

Chair Steiger said that he believed Commissioner Kessler comments made a lot of sense. He said that he did not know enough about the specifics of how minutes are prepared, but that he assumed someone could just go and whoever is doing the minutes could put in parentheses (spell out) Independent Medical Review. He said that he believed that it is probably safe to do and not be accused of misquoting anyone. He said it seems like it might be worth it so that people have some idea what they are talking about. He said that he would not have any objection to that, even if it means a little bit of a delay in publishing them.

Commissioner Kessler said that they could have a glossary of acronyms with a link so people could look this stuff up as they're reading the minutes so that everything would not need to be articulated. Chair Steiger said that Commissioner Kessler made a good point.

Chair Steiger asked for any other discussion on the Minutes. He stated that the motion to approve the minutes had been moved and seconded. The Minutes were unanimously approved.

II. Election of Chair for 2023

Chair Steiger asked if there was anything that anyone wanted to say about the election of a new chair.

Commissioner Kessler said that she would like to make a motion for the election of Sean McNally as Chair. She said that he is pretty seasoned on the Commission and knows a lot. Commissioner Roxborough seconded the motion.

Chair Steiger asked for any discussion on the motion. Seeing none, he commented that Sean is an encyclopedia of knowledge when it comes to the workers' compensation system. He said that they have been having many long conversations about it (the system) dating all the way back to 2012 during the SB 863 (Senate Bill 863) days over a decade ago. Chair Steiger said that Commissioner McNally knows all there is to know about workers' comp and believed that he is always very fair to both sides; He said that although Commissioner McNally represents the employer side, he very clearly has the interests of injured workers at heart through a lot of what he does and says, and they (general stakeholders) very much appreciate that. Chair Steiger concluded that he thought Sean would make a great chair next year.

Chair McNally thanked everyone for their kind comments and stated his appreciation.

Chair Steiger asked if there was any additional discussion and seeing none, he called for a vote. The motion passed unanimously.

After brief discussion, it was clarified that Chairmanship began in the New Year, and not in the middle of the present meeting.

III. Stakeholder Presentation

Matthew Heil, Injured Police Officer

Chair Steiger explained that next on the agenda is the stakeholder presentation. He said that this is something that he was really excited about - to the extent someone can be excited about the details of a story that he believes brings together a lot of what injured workers go through in California. He said that he will not rehash all the comments that he made at the last meeting, but in brief, he said that as valuable as all of the data that they hear presented at these meetings, and as much as it needs to provide the foundation of reform efforts, discussions, or regulatory changes or anything going forward, it is very easy to lose sight to some degree of exactly what this system is all about when the data is all they hear about and they move away from the details of the real human details of what injured workers go through. He said that among those, like him, on the labor side of this (debate) who spend a lot of time getting that perspective - and on the employer side, as it is not only the labor side that hears these stories. He said that they definitely hear about them a lot and they think that it is important to reflect on what injured workers go through, the details of the medical treatment delays, and the struggles that they face. He said that there is often excruciating physical pain that injured workers go through when accessing this system, and sometimes that pain is worse or made permanent by the delays in this system. He said that he thinks that there should always be room at these meetings to hear more details about that (experience) because that should be as important a part of the discussions over reforming the whole system as (the reporting of) all the data.

Chair Steiger said that he had met Matt earlier this year and that he has an incredibly compelling story about his experiences in the workers' compensation system that really does lay out what workers go through. Chair Steiger said that Mr. Heil has a powerful presentation and that he is interested in hearing what Mr. Heil has to say. With that, Chair Steiger turned it over to Mr. Heil.

Matt Heil read from his presentation and is posted separately here at <https://www.dir.ca.gov/chswc/Meetings/2022/CHSWC-IW-Presentation-2022-12-16.pdf>

As is not usually customary, reported speech is avoided here since Mr. Heil was not interrupted during his presentation. His presentation was a prepared document written in the first-person and read verbatim. In this atypical instance, the first person transcribed version is retained, and follows below.

Mr. Heil reported that his name was Matt Heil in the first person, as follows:

My name is Matt Heil. I'd like to thank you all for the time and opportunity for me to discuss my personal experiences regarding the California workers' compensation system. I'd like to mention ahead of time that I do have a vision impairment and there are gaps in my field of vision, so please bear with me if I need to read a little bit slower or if I briefly need to regain my place in the presentation. So with that, I will begin.

I worked in law enforcement for over 28 years. In 1991, I started my career with the Concord Police Department. I also worked for the Placer County Sheriff's Office and the

California Department of Justice. I completed my last 24 years in law enforcement as a police officer with 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 on my patrol vehicle. I subsequently required lower back surgery as a result of the injury.

In 2014, I reinjured 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 third lower back surgery. This time, the surgeons decided to fuse vertebrae in my lower back. Shortly after the 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 fourth 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 ongoing injuries, the city of Livermore retired me under an industrial disability retirement. They were not willing to accommodate me with the modified duty position. This was despite me being within 18 months of eligibility for a full CalPERS public safety retirement, which is at age 50 or later. I may have been able to remain in my career well 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 paper clip and my lower back may go out.

So my only alternative was to leave my career early. My industrial disability 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 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, so there's still no healing going on where they did the fusion. 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, so I decided against another surgery at this time.

Throughout my experience with the 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 the 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 changing medical conditions and several other attempts by physicians to get approval for treatment, the surgeries were approved. However, this took 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 the appeals failed. I've retained copies of non-certification letters from Utilization Review in my personal records at home. I would conservatively estimate the number of non-certification letters to be well in excess of 50 dating back to 2011 and I wouldn't be surprised if the number of non-certification letters actually was closer to 100. I was able to pull over 30 non-certification letters from my files at home without even going past the last few years and here's about an inch thick stack of non-certification letters just in the past few years.

The main problem, at least in my opinion, with the workers compensation system is the way that Utilization Review functions. Requests for medical treatment are sent to a Utilization Review physician who has no prior knowledge of the patient. The 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 the medications. (He restated that) There is no personal knowledge of the patient used in determining treatment or medication authorized. 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 prefer 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 healthcare networks that currently refuse to accept California workers compensation insurance due to all the complications involved. An example is 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's becoming more and more difficult for her to find her 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 success or access to physicians who will accept workers compensation insurance. Their only option is to travel extremely long distances to a physician who will accept them as a patient. Imagine having to do this monthly or even several times a week, depending on the type of treatment. I've also been told that there are those who want to try to eliminate or reduce cumulative trauma injury claims. My question would then be what would happen to those injury claims that have already been considered presumptive, such as a police officer who wears a duty belt for an extended period of time as part of their job and then later develops lower back problems. This is a statute that already recognizes cumulative traumas.

In 2011, during my vehicle collision injury, I was transported to a hospital. Shortly after initial treatment at the hospital, I woke up one morning and I had no feeling in my left leg. I saw my primary treating physician and, based on the examinations and imaging, they referred me to a neurosurgeon who was Dr. Lawrence Dickinson. It took me at least a month 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, but several months later. However, most likely due to the lengthy authorization delays, I sustain 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 stabilized. Once I was discharged from the hospital, the recommendation was that I continue follow up treatment through my primary treating physician. Since I did not 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 that I found felt comfortable treating a gunshot injury.

A couple months later, after the initial gunshot injury, a neurosurgeon at UCSF, which does not accept workers compensation insurance, his name was Doctor McDermott, a neurosurgeon. He agreed to perform cranial surgery required to try to remove the metal fragments in my head. Thanks to my nurse case manager, Linda Stutzman, Dr. McDermott made an exception to the UCSF policy of not accepting workers' compensation insurance and performed the surgery. However, this took additional months to get Utilization Review to authorize the surgery. 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 surgery because the lower back condition 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 vision in both eyes. I was transported to the regional trauma center, which is Eden Hospital. The stroke was initially covered by workers' compensation due to the short time period following my lower back surgery, which was the fusion. 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 in the trauma center. They told me that I would have to be transferred to a Kaiser hospital so my personal insurance would cover it. I was transported by ambulance to the Kaiser Hospital in Walnut Creek.

Eventually, I recovered approximately 75% of my vision in both eyes, but I still have vision impairment in both eyes in the lower left quadrant. After about a year of seeing a specialist and determining that the stroke was actually related to my lower back surgery, workers' compensation again decided to cover the stroke. But at this point in time, the most significant requirement for medical treatment had already passed. Instead, I got bounced around between medical care providers for over a year.

Following my retirement in 2019, I required on-going treatment and medication for my lower back, stroke, and the gunshot injury. The majority of treatment and medications that were recommended by my primary treating physician were denied by Utilization Review. My primary treating physician became so frustrated with Utilization Review that she would often tell me that she would try to appeal, but she did not expect approval. Ultimately, the appeals for authorization were typically denied. I honestly doubt that the individual Utilization Review who received the request for authorization even considered any of the supporting documentation. The reason I doubt this is because many of the non-certification letters stated that alternate types of treatments needed to be tried before they would authorize. If they had read the supporting medical documentation, they would have realized that the alternate types of treatment had already been tried.

One of these examples is a documented non-certification that I had in my records from Utilization Review. It was 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. I was basically drowsy and walking around incoherently most of the time. I was unable to tolerate the medications, and based on the side effects that I was experiencing, the medication Lyrica was recommended. I was advised by my primary treating physician and the surgeon that Lyrica was most often used with patients who could not tolerate gabapentin or

pregabalin. The response that I received from Utilization Review was, and I quote, “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 antidepressants and other anticonvulsants.” However, if they actually read the supporting medical documentation for my primary treating physician and the surgeon, they would have known that that the referred to medications and categories had already been tried. Additionally, Utilization Review made no attempts to contact my primary treating physician or the surgeon for any clarification. The result caused needless, lengthy, lengthy delays during which I remained in a worsening condition most times, even after appeals 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 also to the physicians and surgeons involved, as well as my nurse case manager. This is clearly one of the many reasons why physicians eventually choose not to accept workers’ compensation patients. Since 2011 until the present, I have been in very 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 any sleep at night. Due to the gunshot injury and the 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 they are 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 willing 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 urgent care center, then there is typically no problem. The problem arises once the initial treatment is complete, and the hospital urgent care center recommends follow up treatment with a primary treating physician or specialist. Follow up treatment or chronic medical conditions are when all the roadblocks from Utilization Review began.

I never had a problem getting initial treatment or care for an injury. It was always the recommended follow-up treatment procedures and medication that was the issue. Follow-up treatment such as physical therapy or something similar, are typically only approved in six-session increments, as they were in my case. By the time you have an initial evaluation and set up a personalized rehabilitation program, the 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.

There 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 the specialist who personally knows the condition and the progress of the patient. I had several specialists tell me that they could not get additional sessions approved, but that I could pay for it 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 on 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 take a look at physicians who may be abusing the system. During my 28 years 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 that was completely inappropriate and negligent. The procedure, which was 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 months to get authorized and to reschedule. 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 a huge disadvantage when it comes to trying to receive diagnosis or treatment. I have been told that many people in the workers' compensation system look upon lower back injuries and surgeries with suspicion, but I am here to tell you that what I have experienced is very real. I have saved thousands of pages of medical records from my physician, surgeons and hospitals documenting my injuries. There are police reports and Cal/OSHA reports documenting all the instances when I was injured, and there were plenty of coworkers present when the injuries occurred. During the years that followed my injuries, there were days at work when coworkers would need to help me stand or walk because I was in so much pain and at that point I would typically need to be driven to an hospital emergency room.

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

Patients are in need of timely, reasonable, personalized care and not simply dictated to by Utilization Review based on a cookie cutter guideline 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, such as peer-to-peer conference calls and 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 they should not be treated just like a number in an assembly line. This presentation has been only a summary of my experiences that I've had regarding the California workers' compensation system in the past 12 years.

There is so much more that could be discussed, and I'd always be pleased to do so at a later time. Thank you again for your time and the opportunity for me to discuss my experiences regarding the workers' compensation system.

Commissioner Questions or Comments

Chair Steiger said that he believed that he spoke for all the Commissioners when he said that no worker should have to go through what he has gone through and there is no excuse for all of the struggles that he has had in getting the medical care that he needs. He said that instead of all of the delays, the hassles and all the fighting described, injured workers should be able to focus on recovering from their injuries, and not fighting a system that seems so stacked against them. He said that collectively they all apologize to him for everything that he has had to go through, and that sadly he is not alone. Chair Steiger said that they hear about these stories all the time, that these are far from isolated incidents. Chair Steiger said that if one just grabs any applicant's attorney, and asks them about these sorts of questions, they'll be happy to talk one's ear off about how many clients they have that are that are in the exact same situation Mr. Heil is in.

Chair Steiger said that going through Mr. Heil's story, he really hit on pretty much every single point that they raise as far as issues in the system that needs some sort of immediate fix from start to finish - from getting the claim approved, to getting treatment requests approved, to what happens when the doctor can't get a hold of the URO (Utilization Review Organization) and on down the line. Chair Steiger said, specifically, the fact that they are dealing with chronic, maybe incurable, physical pain that the situation is made even worse through these delays. He said he thought this part of Mr. Heil's story will stick with everyone, especially the fact that he will now have to go through his life with a lot of these injuries being worse than they would have been had the system not put him through the ringer the way that it did. Chair Steiger said that there is a lot to talk about - many specific points that they could easily spend the rest of the time going through.

Chair Steiger did say that they have a written copy of Matt's presentation that they are happy to give to Commissioners or anyone else who would like to review it. He said that

he thought this would be really helpful. They should go through and make a list of all of the things and look at them as areas in the system that that need reform, because he believes Mr. Heil had hit every single one of them, sadly. Chair Steiger thanked Mr. Heil and opened up the floor to other Commissioners for any questions.

Commissioner Roxborough said that he first wanted to thank Mr. Heil for his service. Mr. Heil acknowledged and thanked Commissioner Roxborough. Commissioner Roxborough said that it (Mr. Heil's service) goes on notice.

Commissioner Roxborough said that Mr. Heil's story is not unfamiliar to him. He said that he hears it from all sides, from many of the stakeholders. He asked that when Mr. Heil wrote to the State of California, which organization he wrote to.

Mr. Heil said that it was the State Medical Board and that they had opened an investigation.

Commissioner Roxborough asked if Mr. Heil remembered how long ago that was and whether he got a response from them.

Mr. Heil said that the procedure was probably about two to three years ago, and that he immediately filed the complaint with the State of California Medical Board. He said that he received periodic updates saying that it was being looked into and then it took about a year or 18 months. He said that got the final response maybe within the last year and that they (the Board) said that they had closed the case - that there wasn't enough supporting evidence to do anything. He said that in summary, that's basically what it said.

Commissioner Roxborough said that he agreed with the Chair and probably with all of the Commissioners that this is a story that is too often told. He said that his focus was on Utilization Review. He said that his question for the Commission was what to do with this information. He said that this is just anecdotal, so he understands that. He said he thinks that most people in the Commission would agree that it is representative of an ongoing concern and problem. He said that the question for them, given the presentation and comments by a member of the public, and someone who has served in his capacity, what do they do about this. He asked whether they should ask for studies on Utilization Review. On the other hand, to be fair, he said that they have clients who complain that somebody breaks their ankle at work compared to when somebody breaks their ankle skiing outside of workers comp, that they're back working in their office, doing things within a day or two, and that's \$5000 in medical bills; and in workers' compensation, it's \$100,000 of medical bills and there is a claim that goes on for four years. The person doesn't come back to work and uses it as an excuse. He said he thought it was important for everybody to understand that there are two sides to the story, but for now, they are focusing on some of the things that one can do. He said that he was interested in hearing what their Commission could do to deal with this issue.

Commissioner Roxborough again thanked Mr. Heil for his service and said that he was terribly sorry for everything that he had gone through.

Chair Steiger said he wanted to point out that when there is a dispute over a work-related injury, obviously this is something everyone on the on the Commission is well aware of, just to clarify, that they do have a very thorough process for determining whether or not an injury occurred at work or not. He said that that process itself has all sorts of problems that when it is obviously work-related injury, if an employer really wants to fight it, that option is open to them; or if a TPA wants to fight it or whomever. He said that that is where a lot of that cost comes from and that obviously they cannot sit there and say that every human being is perfect, or that no worker out there in the history of California has ever treated an on-the-job injury different from an off-the-job injury.

He said that is why they have all of these processes in place and what they need to do is just make sure that where possible it errs on the side of worker, that it errs (benefits) on the side of the person who is in excruciating physical pain and most importantly, that it works really quickly. He said that whatever is going to be decided, it (should) be decided fast and that they don't make people hang out there, they don't leave them out to dry while their injury gets worse and the treatment gets more complicated and more expensive. And when the dispute keeps getting worse, that the speed really needs to be a goal here, in addition to the fact that they need to make sure that the process is fair to the injured worker.

Commissioner Subers said that she did not have a question but that she wanted to just thank Matthew for his story. She said that she would like to be able to review his written testimony. She said that she thought it was important that he focused on UR because she believes it validates a lot of concerns that she has heard from her members -- firefighters in the public safety realm. She said she thought that they (firefighters) face a lot of similar challenges. She said that they will hear from their members that they will finally get an approved treatment and then a year down the road they will get that treatment sent to UR and then it gets denied after they've been receiving that treatment for a period of time. She thanked Mr. Heil for his presentation and for his service.

Mr. Heil thanked Commissioner Subers for her words.

Commissioner Voorakkara said to Mr. Heil that he wanted to share the consensus of his fellow Commissioners on the gratitude for his service as well as deep apologies for the pain and suffering he and his family have endured. Mr. Voorakkara said he was struck by the comment he made about acute versus chronic (injury) and he just wanted to share that as a thought to his fellow Commissioners that what they can do to be thoughtful about moving forward and within their purview. He said that he was grateful that Mr. Heil had a good experience on the acute side, but that may not be representative of all cases. Commissioner Voorakkara said that he did hear him share that comment and he wanted to point out that he heard Mr. Heil that is something he would want to like consider in any kind of future review work that the Commission could do.

Commissioner McNally thanked Mr. Heil for his service. He said that they can always improve the system. While this is an anecdotal story, as Commissioner Roxborough pointed out, much of what Mr. Heil said are common themes and experiences that they

hear about a lot. He said that on behalf of the rest of them on the Commission, they are committed to trying to improve the system and they really do appreciate Mr. Heil coming forward and taking the time. He said it is difficult, he is sure, to expose the difficult, tough situation that that's been going on for so long; it has been so detrimental to your life, your health, and your family life. He said he really respects him and thanked him for presenting. He said that they will do everything they can to try to improve the system on their watch.

Mr. Heil thanked Commissioner McNally.

Commissioner Kessler said that she seconded that sentiment; that there's so much that needs to be done and paid attention to. She thanked Mr. Heil for his work and for all the people who go through this. She said that Mr. Heil is a very good articulation of what the problems are, even though he has to live the manure. She said that everyone on the call and in the meeting needs to hear how real this is for the people who get injured on the job. She thanked him for coming forward and sharing.

Chair Steiger said that seeing no other comments or questions he just wanted to thank Mr. Heil again for taking the time to put that presentation together. Chair Steiger said that they will get it out to commissioners and probably go through it and turn it into a list of reform ideas that they can get to work on so they can start making progress on some of these issues. He thanked Mr. Heil's willingness to take his time to do so, and relayed apologies for everything that he has gone through and everything that he continues to go through. They are deeply sorry that the system failed him the way that it did, but they are going to do what we can to help make sure that it works better in the future. Thank you.

Mr. Heil thanked the Commission for inviting him and expressed his appreciation.

IV. Cal/OSHA Update **Jeff Killip, Chief, Cal/OSHA**

Mr. Killip summarized his topics for the presentation:

- Cal/OSHA hiring updates
- Updated Heat Special Emphasis Program (added indoor heat)
- Extreme Heat (added resources and positions)
- Education and Outreach Updates
 - Worker outreach activities
 - Caravan events during Labor Rights Week
 - Voluntary Protection Program (VPP) ceremonies

Hiring Updates:

Mr. Killip said that the Commissioners have probably heard about this already, but Cal/OSHA has a formidable vacancy rate and getting the best people hired remains a huge priority. He said that they have automated their prior manual hiring examination process. They are trying to make the process more efficient and faster and have expanded their extensive outreach recruitment efforts and that includes career fairs and conferences. He said that one of the results of the remote and online work aspect of the pandemic is the ability to do a lot of the hiring process virtually. He said that Cal/OSHA has been pretty creative and are getting more aggressive in advertising their positions on social media and trade publications, as well as on the Cal/OSHA web page.

- Automated Cal/OSHA's prior manual hiring examination process
- Expanded its extensive outreach recruitment
 - Career fairs and Conferences (including virtual)
 - Advertising positions on social media and trade publications
 - Recently developed ["Work for Cal/OSHA" webpage](#)
 - Developing a Cal/OSHA recruitment video (nearly done) for our stakeholders to share on social media
 - Working to revitalize internship programs and exploring apprenticeship programs
 - Focused on recruiting those with bilingual skills

Hiring Progress:

- Substantial Hiring Progress over last three years
 - 31 hired in 2020 (18 enforcement)
 - 72 hired in 2021 (59 enforcement)
 - 89 hired so far in 2022 (through 10/31) (41 enforcement)¹

Mr. Killip added that he sends out a weekend email to Cal/OSHA staff about major items of relevance to the division and that he always includes staffing information to assure people that help is on the way and that the hiring momentum is gathering. He also credited the efforts with thanks to the legislature for the addition of hundreds of new positions from the budget change proposals for the Cal/OSHA (planning and hiring) team.

- The legislature added hundreds of new positions from Budget Change Proposals (BCPs) for the Cal/OSHA team.

¹ Mr. Killip said that as of the date of the meeting in December that Cal/OSHA had added more hires to equal 104 as the rolling total.

- Bilingual hires
 - Cal/OSHA has more than 48 certified bilingual staff
 - Recently hired two Bilingual Community Engagement Liaisons
 - Hiring 4 more Bilingual Community Engagement Liaisons (in addition to a manager)
- 2022 Hiring
 - 89 critical hires (41 enforcement)
 - Safety engineers
 - Industrial hygienists
 - Analysts + Bilingual analysts
 - Administrative staff
 - more than 300 positions in various stages of recruitment

Heat Illness Special Emphasis Program (SEP)

Mr. Killip described this program as a classic public health approach, or full-court press, with enhanced communications and outreach and enhanced consultation and enhanced enforcement.

- Comprehensive approach to preventing heat illnesses and deaths of employees employed in California.
 - Communications & Outreach
 - Bilingual Communications and Engagement Liaisons
 - Consultation
 - Enforcement
 - Heat Illness Prevention regulation, California Code of Regulations, t8CCR 3395 and other applicable regulations.
- These various units of the Division work together to go beyond statutorily required obligations, where reasonably possible, to address the hazards of heat exposure to employees. Mr. Killip clarified that the heat illness special program now includes the indoor heat hazards. He said that when they go out to inspect due to any sort of complaint about outdoor or indoor heat complaints, they go out there and do an on-site inspection. He summarized that they are definitely more comprehensive and more aggressive about heat illness.

Mr. Killip referred to September 6, 2022, when Sacramento reached 116 degrees Fahrenheit in the shade and broke all records to date. He said that the immediate effects and the latent effects of heat exposure for workers are a big deal and they are doing their best to try and get in front of that. Mr. Killip said that they have some extreme heat added resources and positions; they receive funding that was part of the BCP's from the legislature to expand their public awareness campaign, to provide targeted outreach and education in multiple languages and to enhance regional worker organizational engagement. He said that they have expanded their call center hours for operation and expanded their strategic enforcement efforts for heat illness - outdoor and indoor - and wildfire smoke. He said that these are challenges that that he thinks they all know they are going to be seeing more of in the near future, which is unfortunate, but they need to be as ready as they can be.

Extreme Heat (added resources/positions)

- Cal/OSHA received funding that was part of the multi-agency Extreme Heat Budget Change Proposal (BCP) that will:
 - Expand the public awareness campaign
 - Provide targeted outreach and education in multiple languages
 - Regional worker organization engagement
 - Expand Call Center hours of operation
 - Strategic enforcement efforts (heat illness and wildfire smoke)
 - Cal/OSHA management is developing hiring packages:
 - Bilingual positions
 - Inspectors, Outreach and Specialty Positions

Education and Outreach updates

- Cal/OSHA provided a heavy lift during the Labor Rights Week throughout California (August 29 – September 2, 2022)
 - Cal/OSHA provided opening remarks at the kick-off event at the San Francisco Mexican Consulate
 - Cal/OSHA participated in Facebook Live events that included Q&A's from workers and community-based organizations

Indigenous Agriculture Worker Events: Invitations

- Fresno and Madera (September 16, 2022)

Mr. Killip explained how an indigenous agricultural worker named Lourdes, was speaking to him in Spanish and told him a story about her worker safety and health experience. She described how when she complained about the conditions of her work site, she was

concerned about retaliation. She informed Mr. Killip that she was retaliated against, lost her job, and was having trouble finding another one. She described that the (work safety) conditions were unacceptable.

Mr. Killip said that it was a good opportunity for Cal/OSHA staff to get a better understanding of life on the front line and how they can do their jobs better. He said that there was also an opportunity for Cal/OSHA to educate Lourdes and her colleagues on what Cal/OSHA needs to do their jobs better related to what information Cal/OSHA needs from them, and how Cal/OSHA can provide better support to employers, to keep workers safe and healthy. He said that after the meeting, there was a lot of goodwill in the room, even though the conversation was difficult at times. He said it was a wonderful opportunity to learn, to provide education, and build trust with the indigenous agricultural worker community. He said that Cal/OSHA was looking forward to having more conversations like that one.

Education and Outreach updates

- Two-day Labor caravan events in Imperial County
- VPP (Voluntary Protection Program) Events:
 - Rudolph & Sletten / SDSU (July 20th)
 - NuStar Energy / Richmond (October 5th)

Mr. Killip concluded by restating his description of a very real and robust enforcement presence in California complemented by a dedicated education outreach and proactive consultation process. He offered his willingness to take any questions.

Commissioner Questions or Comments

Chair Steiger thanked Chief Killip for his presentation. Mr. Steiger explained that he neglected to explain in the introductory announcements how the Commission handles public comment and related issues the public meeting. He began by stating that when people are speaking, it was requested and appreciated that others would stay muted until it was their time to speak. He explained that public comments were limited to three minutes per speaker and asked that people keep it as close to that as possible. He asked that people indicate the desire to present an oral comment by using the raised hand option with the software application. He reminded people to unmute the audio on their end to allow for the presentation of their comment at the appropriate time. He continued if people were attending the meeting via phone, to please hold comments until the public comment period and then to unmute the audio and present comments by pressing star 6.

Chair Steiger explained that the meeting was being recorded for the purpose of preparation of meeting minutes, and to please keep that in mind. He said that there have been some questions in the past over exactly how they handle comments from the public when it comes to agency heads or presenters, or anyone who's presented on a topic on the agenda; whether it is a Q&A where anyone can ask a question of that presenter, whether they are

then expected to answer, or if it's more like say, a legislative hearing where you can offer comment, present testimony, but the speaker is under no obligation to respond to comments (or questions) from the public.

Chair Steiger asked for the Commissioners to have a quick conversation about those issues during the publicly noticed meeting. Chair Steiger offered that he thought about it a lot and concluded that it is best to treat these parts of the meeting more like a legislative hearing where members of the Commission can ask questions of the presenters on any topic. During public comment, members of the public are welcome to make any comment they would like.

Chair Steiger continued by advising the public to please be respectful and try to stay on topic, but that in the interest of not losing control of the meeting that the Commissioners treated the exchange more like a chance to offer comment on whatever was presented, rather than it being a Q&A where the speaker is expected to respond to anything and everything. He continued to explain that it was reasonable to conclude that everyone who presents at these meetings is fairly accessible and people who would like to have a conversation with those speakers can do so in their office. He continued that he had never heard of anyone in these meetings refusing to meet with anyone or being especially hard to meet with.

Chair Steiger said that if people want to have a more in-depth discussion about any specific point that's raised that option is definitely out there. He said for publicly noticed meetings, it might make the most sense to treat it more like a chance to offer feedback on something or testify to something, rather than engage in a long back and forth dialogue about a variety of topics. He said that he opened it up to other Commissioners and was happy to be talked out of his proposal if someone had a better idea. (There was no discussion.)

Commissioner Roxborough thanked Mr. Killip for the presentation.

Commissioner Roxborough stated the minutes from the last meeting (in August 2022) reflected Cal/OSHA had about 250-275 vacancies. He said that he understands from the presentation that Cal/OSHA filled about 104 hires. Mr. Killip confirmed, and Commissioner Roxborough observed that there was progress. He asked whether there was anything that the Commission could do to help the Division. Mr. Killip replied that it could help by sharing the Cal/OSHA job postings and if there was a place that it could distribute them regarding the Commission's team, they would like to do that. Mr. Killip said if the Commission had any ideas on how they could get that earned media or if there were other influencers out there to share their recruitment information it would be fantastic.

Commissioner Voorakkara stated that he was following up on Commissioner Roxborough's comments on hiring. He said that since Cal/OSHA was looking at emphasizing bilingual staff, based on his experiences, word-of-mouth is the greatest way of recruitment. He asked how Cal/OSHA might be engaging existing bilingual staff to share their experiences within their communities as potential recruitment efforts.

He continued, while mentioning interagency cooperation, that when Cal/OSHA was looking at new programs around heat exposure, particularly indoor, to consider the growth in the manufacturing, industrial, and distribution sectors and the role of the Governor's Office of Business and Economic Development oversees the California Competes Tax Credit (CCTC) which a number of manufacturing distribution companies look to as a great incentive to grow (expand) in California. He suggested that they look at the conditions in which they (the State) were raising the floor so that Cal/OSHA is not in a position of having to do too many, and they can reduce the number of on-call audits of those places and that they are focusing their attention on others.

Commissioner Kessler said that she was pleased that there was a lot of hiring being done. She said she wanted to point out from the minutes (of last August 2022) when the Commission talked about WOSHTEP (<https://www.dir.ca.gov/chswc/woshtep.html>) and what they have been doing with training materials, they are putting their materials out in 20 different languages. She said that it was a struggle for Cal/OSHA in some respects before he (Mr. Killip) arrived (in California in his position) to have that kind of bilingual attention paid. She said that because the diversity of their state is so great, she said she thought it would be advantageous to consult with some of the people at the Labor Occupational Health Program (<https://lohp.berkeley.edu/>) and other healthcare entities that are doing this work to see if maybe there could be some staff sharing, or if there could be some offers of assistance from people who are quite capable of helping with bilingual translations. She said that she thought there were a lot of opportunities and good resources available, and she said she was pleased to see Cal/OSHA starting to integrate the bilingual programs because of the diversity of the state. She thanked Mr. Killip for the hiring, the work on bilinguals, and recruitment. She said that they appreciated Mr. Killip's enthusiasm about taking over at Cal/OSHA.

Commissioner Kessler asked that when Cal/OSHA has the video finished, whether they could be advised when it was posted or if they could ask for the link to be sent to the Commissioners since there was a suggestion about sending it out to other people as part of assistance with recruitment efforts.

Mr. Killip replied that the invitation was accepted, they appreciate the offer, and they will connect with the Commissioners as soon as the Cal/OSHA recruitment video comes out. He appreciates the Commission as an influencer team that could help get it out there for Cal/OSHA. Mr. Killip said that the video will be universally promoted on social media too, so they may see it there first. He said that he would not be surprised and that was a distinct possibility. He said that they will intentionally send it to everyone at the Commission team. He continued that he did want to mention that they have several statewide contracts available for translation services and to translate in all sorts of languages, so that is a service that they feel is hugely important for them because if they cannot reach their intended audience then it is like they do not even exist. He said that it was a huge priority for them.

Commissioner Brady said that the bilingual hiring efforts that are going on were commendable. He said that he was curious about the sustainability of the hiring and

whether those positions are funded through general fund dollars or through assessments. He asked if Mr. Killip had any background on the funding source.

Mr. Killip said that the positions were permanently funded, and that Director Hagen was very informed on the funding source.

Director Hagen said that most of the Cal/OSHA inspector positions are funded through the assessment. She said that they do have a few general funded positions, but not very many. Commissioner. Brady asked for confirmation that they were funded by the employer assessment. Director Hagen said that they were permanently funded through the State's budget on an annual basis, and that they were not temporary positions in any way.

Chair Steiger thanked Director Hagen for being on the call.

Chair Steiger indicated that he had a few questions. He explained that his question lined up well with Matt Heil's presentation in that he believed that it is always good to pause and focus on what the goal of Cal/OSHA's work is, which is basically to protect workers like Matt Heil from having to experience outcomes like that described above (his injury). Chair Steiger said that the best injury is the one that does not happen. He said that the more that they can do through training, standards, or enforcement - or whatever - the more that they can prevent those kinds of illnesses and injuries from happening, the better. He said that they at the Commission definitely appreciate all of Mr. Killip's work to move the State in that direction and to help prevent workers from ever winding up in the workers' compensation system to begin with.

Chair Steiger said that he also wanted to commend Mr. Killip for doing those meetings with the indigenous farmworkers. He said that he was certain that they had a lot of really helpful things to say. He said that as uncomfortable as those meetings can be, they were critically important and vital to understanding where the weaknesses were at each of these systems that are part of the worker safety and health infrastructure. He said that he appreciated his speaking to those workers and getting that feedback. He said that he was certain that they had a lot of ideas, and that hopefully those ideas can translate into some specific action.

Chair Steiger said that he also wanted to commend Cal/OSHA and DIR for all of the work on hiring. He said that obviously there was still a long way to go, but that this is the one big issue that they hear about over and over from affiliates that they do not have enough inspectors. He said that they hear that the inspectors are stretched too thin, that they are trying to do too many things at once, and that it limits their ability to make changes to the regulations that are out there. Chair Steiger said that it was always the black cloud hanging over everything that they try to do and that they cannot just heap more work on these people who are already completely overworked. He said that therefore he commended Mr. Killip for all of his work on that. Chair Steiger said he hoped to always offer whatever help they can to help solve that issue. He thanked Mr. Killip and Director Hagen for all of their work solving the hiring problem.

Chair Steiger said that seeing no other comments or questions from Commissioners, he would open it up to public comment. Seeing none, he moved on to the next agenda item.

V. Janitor Time-Motion Project Update – Carisa Harris, COEH, UCSF

Carisa Harris provided an update on the Janitor Time Motion study. Dr. Harris is an Associate Professor in the Department of Medicine at the University of California San Francisco (UCSF) and Director of the Northern California Center of Occupational and Environmental Health at University of California Berkeley (UCB). She is also the Director of the University of California Ergonomics Research and Training Program, which is a joint program between UC Berkeley and UCSF. Dr. Harris stated that this study was generously funded and supported by CHSWC, and she discussed the project's progress and plans.

Dr. Harris said the study had three phases. The first phase was a survey to evaluate the impact of COVID-19, to assess the exposures, and the mental and physical health challenges that California janitors were facing or experiencing. The second phase had a focus group, and the Labor Occupational Health Program (LOHP) would look at aspects of work changes, productivity requirements and management challenges during the pandemic. The third phase had a time motion study which would quantify through mechanical exposures and risk assessment and would compare actual rates to International Sanitary Supply Association (**ISSA 612**) production rates to be able to make recommendations on how to re-organize work that was safer and more impactful for preventing injuries.

She presented an overview of the first two questions evaluated with the survey. One is to determine the types of COVID-19 prevention measures that were implemented in janitorial workplaces. Dr. Harris discussed study results with workloads pre-pandemic and currently, as the pandemic was not over at this time. The methods included a Qualtrics survey that was sent by e-mail or text. There were some challenges with response rates and survey completion when the survey link was sent by e-mail or text. In response, they used and are continuing to collect survey data using one-on-one interview methods at the four target venues included in the time motion study (Phase III). To date, they had 715 respondents and 74 percent were female, 96 percent were Hispanic, and 61 percent cared for others living with them. About half were in the age group 50 to 65 years and the other 42 percent were between 30 and 49 years old. Their educational level: about 35 percent had some or no high school. 49 percent had an average of three years as a janitor. Employees were 7.8 years at their current employer; 82 percent had worked for one to three companies as a janitor. About 41 percent reported working on the day shift and 46 percent reported working on the night shift and 10 percent on the swing shift. For second jobs, 25 percent reported working a second job and working an average of 21 hours per week in that second job. 48 percent of respondents were represented by a union. Most respondents, 75 percent, worked in office spaces. Dr. Harris added that other respondents worked in schools, airports, events, convention centers, malls, and shopping centers, and only 16 or 2 percent were working in the biotechnology industry. The study asked

them what tasks they performed more than two hours per day: about 32 percent reported sweeping and mopping for more than two hours per day.

Dr. Harris said it was important to document the rate of perceived exertion. On a zero to 10 scale, where zero was no exertion and 10 was the most exertion that they could experience, procedure exertions across these various tasks were rated quite high. Exertion was noted as 6.9 to 7 and the lowest recorded was dusting at 5.7. Primary tasks performed: sweeping, mopping, vacuuming, trash collecting, cleaning up kitchens and bathrooms, and dusting. Twenty one percent of workers reported spending more than two hours per day disinfecting to prevent COVID-19 from spreading. The study also asked what kinds of activities were performed for more than two hours per day, and that the activities on most or all days were repetitive motions with their hands, wrists, arms, or shoulders. They reported having a lot of postures with bent back and neck without support. About half also reported spending all or most days lifting or lowering objects above the shoulders or below the knees, which required twisting, and 45 percent reported working with hands overhead. These activities were known to increase the risk of injury, so they were important to assess.

Dr. Harris reviewed how work had changed for the study participants due to the pandemic. The study asked if their workload had increased: 50 percent agreed that it had increased since COVID-19, 30 percent disagreed and 19 percent said it was not applicable or did not either agree or disagree. The study asked whether they were required to do additional disinfection tasks: 50 percent agreed that they did, and 26 percent disagreed. The study also asked if they were pressured to work faster and do more: 43 percent agreed and 33 percent disagreed. A comparison of the rate of perceived exertion showed that the average intensity of work across all individuals before the pandemic versus after the pandemic showed only a small increase in intensity after the pandemic started. On average, it did not seem to impact janitors. However, when the analyses were repeated yet stratified, it was clear that some janitors experienced an increase in the intensity of work and some experienced a decrease, which did change by venue. When the study looked at the intensity difference by venue, the janitors who were working in public places like airports, events and convention centers, malls and shopping centers saw an increase in work intensity. Technology and biotechnology saw a decrease, and office work was about the same. Schools had a slight decrease and other venues were reporting on average an increase in their change of intensity of work.

Dr. Harris also asked about vaccination rates. There were about 5 percent who reported being unvaccinated, 26% were unsure who to go to if they were to get injured or sick at work. They were asked whether they felt they could stay home with symptoms if they had symptoms of COVID-19 and not fear job loss or less pay and about 67 percent agreed, but 33 percent disagreed with that statement. Increased risks of getting sick because of their work, 79 percent agreed with that statement. As far as being confident that their employer would not notify them if someone at work got sick with COVID-19: 47 percent disagreed with that statement. 33 percent disagreed that their employer would provide them with supplies or to protect themselves from COVID-19 and 25 percent disagreed that they had the time that they needed to use protective measures to avoid getting COVID-19 at work.

The study asked questions about training on prevention measures, 22 percent reported never receiving any prevention training, 17 percent reported that they did receive some training, but they

could not understand it due to language barriers. These were the different forms of training around COVID-19, and it was a mixture of online and in-person training, but the majority was in person group training at a morning meeting or something similar. For prevention measures, 77 percent said that they were provided personal protective equipment (PPE) most or all of the time. Dr. Harris said that the 56 percent who received the PPE said these were different types of PPE, and included face masks, respirators, bandanas, and gloves and quite a big percentage of individuals report never having received these PPE. But fortunately, there was a percentage of workers that do. 22 percent reported only occasionally or never receiving PPE.

She said they were continuing to analyze their findings and results from the survey. They were preparing a summary report for CHSWC on the survey findings and expect that report to be finished sometime in January or February of 2023.

Dr. Harris provided an update on the time motion study. Dr. Harris said data collection for the time motion study was in progress at the Sacramento Airport. They had approval from the property owners as well as the janitorial servicing company, so they had appointments to collect data in January 2023 at various malls. Approvals to conduct research at the biotechnology companies were extremely challenging, primarily because their primary tool was a video camera, and the biotechnology companies did not want recording in their labs. They would like to move to another venue proposed earlier, which was event and convention centers. They were exploring access to some convention centers. With office buildings, the problem was occupancy. Some of them have not seen a significant number of workers return to the offices. There was some concern that they did not have a realistic measurement of what the janitorial workload was during the pandemic. They were waiting until occupancy was about 75 percent of what it was and that happened during the last spike of the pandemic flu and RSV. She believed that sometime in March 2023 the level of occupancy should return, and they were exploring options to get into some office buildings.

Dr. Harris said the primary questions that we will be answering with a time motion study concerned task durations and rates of different types of workloads. The first question was: what are the tasks, durations and rates per venue, location, and area. The second question was, per venue, what were the durations, frequency and magnitudes of biomechanical exposures and risk for musculoskeletal diseases (MSDs). The third question was: what were the physiological workload and the risk for cardiovascular strain. What they were hoping was to help janitorial companies reorganize their work so that they did not have some janitors doing excessively difficult tasks on any given day. There were many improvements that can be made by reorganizing work in a way that was based on these time motion studies. The last question was how the actual work rate compares to the ISSE production rates and COVID-19 production rates.

Dr. Harris said they were using heart rate monitors, activPALs (devices that measure physical activity), lumbar motion monitors to look at the risk for back injuries and inertial measuring units. However, wearable devices have had mixed welcoming from the janitors, many of them do not want to wear some of these devices. And so that has been their biggest challenge. They might drop the lumbar motion monitor because that seems to be the least favorite. It was obvious that they're wearing it, whereas some of these other wearable devices can be worn underneath clothes. They were continuing to refine the wearables so that it was more amenable to the janitors.

Dr. Harris said the handheld camera was really their most important tool for the time motion study. They spend four to six hours of the person's shift walking around and videotaping their work. They took direct measurements of things they were lifting, pushing, and pulling. Some will have wearable sensors and they will get additional information. The students were analyzing the video using a frame-by-frame approach, so they had detailed information on each task as well as the exposures associated with each task. They get not only time on task frequency rates but look at tools and their impact on their work. Based on the time motion studies of a couple of subjects analyzed to date, she had information on exact duration and minutes they were doing these different tasks. Then they had exposure and risk assessments associated with each of these tasks. Examples of the measurements include average weight of items, grip and pinch forces used to manipulate various tools or things that they use including such as spray bottles. Dr. Harris said it was interesting to see different techniques of doing the same thing. They have been able to identify some of the techniques that required less work to do the same task. They looked at push pull forces and then the amount of reaches and heights required to perform their tasks well. Access has been extremely challenging. They have been working regularly with unions, labor organizations as well as different companies. It was a lot to get the property owners as well as the janitorial services on board. Then they had to recruit janitors to participate so that was more challenging than usual particularly with flexible work and spikes in COVID-19. However, she thought they were making good progress on getting access and they had spent a very small amount of the overall budget to date, given that they have been primarily working on the survey and analyzing it. They were providing paperwork for a no cost extension so they could continue to use the funds that were provided to perform the work. She appreciated this opportunity to provide updates on the project and looked forward to doing so again in the future.

Commissioner Questions or Comments

Chair Steiger said it was a fascinating study and interesting subject matter including their data collection. He was looking forward to the finished report.

Commissioner Roxborough said there were 715 respondents, and he asked what the email response rate was. Dr. Harris replied that the response rates were identified through their closed populations, and they were still collecting data from those populations. There was a survey using blast email and social media. The unions sent the emails to many groups. She added she did not have a denominator and because of that she could not give the response rate. They planned to ask everybody at the venues they visit to participate in the survey. Then they will have a denominator for those venues and a response rate for those closed populations and compare the results from those closed populations to the larger population to make sure that the larger population was representative.

Commissioner Roxborough asked how many emails were sent. Dr. Harris said they did not send out any emails. Unions were asked to send the emails and text messages, and they sent them to their membership. Commissioner Roxborough said the data suggested that for one email blast five percent open it and out of the five percent that open it about 10 percent respond. He guessed the response rate was less than 5 percent and asked if that would be a fair estimate. Dr. Harris answered: yes, for the surveys that were sent out. Commissioner Roxborough asked after the initial

phase what was the response rate since Dr. Harris said there were surveys at different phases of the study. Commissioner Kessler also asked how many phases were left in this study. Dr. Harris replied that phase one, which included a survey was 90 percent complete. Phase two included focus groups and will not be completed until they have more access to the sites. Phase three, which is a time motion study was concurrent with phase two and that is where there were challenges getting access and they were in the beginning of that process.

Commissioner Roxborough asked when will the study be completed. Dr. Harris estimated by the end of 2023, and the bottleneck was getting access to the sites. The study had two venues. Commissioner Roxborough asked how many of the 715 people who responded filed workers' compensation claims. Dr. Harris said she did not have that number, but she had asked about the injuries and will include it in the written report. Commissioner Roxborough wanted the workers' compensation claims to be included as well.

Commissioner Roxborough asked since 75 percent of the people work in the office, this study compared workloads before COVID-19 and after COVID-19 or during COVID-19, based on his personal experience and from clients' offices they had more vacancies than before COVID-19. He was trying to understand why work intensity had increased. In his office, and almost every office he went to, no one was there. He asked how janitors' workload had increased due to less work because there were fewer people. Dr. Harris replied what was most important was there was a big difference in whether the work has changed, whether the intensity of work has gone up or down depending on the work venue and some office space has only increased a bit. There was a huge variance, meaning some office spaces had increased and some had not increased at all. Increases had been at airports, events and convention centers, malls and "other" where the venues were not covered.

Commissioner Roxborough asked if Los Angeles Airport (LAX) was empty, so how could work at airports increase. There were no international flights or very few and domestic flights decreased until they recently came back. He did not understand the logic there. Dr. Harris replied the evaluation was at airports in the Summer and Fall of 2022, the numbers around airports, but they were not asking this when people really were not flying. Surveys went out in the spring and summer. They were continuing to collect data at airports including Sacramento airport. From their perspective, the intensity of work had increased. Some work requirements have increased because of additional work due to disinfecting for COVID-19. There were many ways this could happen including downsizing, working with fewer janitors, so those janitors were left with more work and will discuss with focus groups. Commissioner Roxborough added that nobody went to the conventions, people were not going to the government building for two to three years because of COVID-19. Commissioner Roxborough said work increased because there were fewer workers, fewer available workers, and fewer janitors. That might be an interesting thing to control for. Dr. Harris said that the data showed a normal distribution, and their work has not changed significantly. But there was a large group that said the work has decreased and then there was this large group that said their work had increased.

Commissioner Roxborough said after further analysis, they can look at the workers' compensation issue and maybe explain controlling for a shorter labor force.

Commissioner Kessler said she was curious about other airports because as Commissioner Roxborough said he was in Los Angeles, and she was at San Francisco International Airport (SFO), and she believed it was more intense than Sacramento. She asked if this study would include other airports since they have access to them to see if there were more people back to work and flying since the holiday season will be intense. Dr. Harris replied that she wanted to have access to other airports, so if Commissioner Kessler had ideas about how to access SFO, LAX, San Jose, that would be wonderful because access had been a challenge. Commissioner Brady said that Transportation Security Administration (TSA) had a tracker application to track by airport and by month the number of ticketed passengers. Dr. Harris replied that that could be very helpful as far as understanding how busy the airport was during the time that they were there.

Chair Steiger asked about prevention measures training where 22 percent never received any prevention training and 17 percent could not understand it due to language barriers. He asked if those were separate populations. Therefore, roughly 39 percent of workers in this study received no training on COVID-19. He said that was a really important point to highlight along with all the other data collected that show some of the struggles of these workers. The California Occupational Safety and Health Standards Board (OSHSB) has come up with a clear prevention safety standard even though enforcement and compliance were not perfect, 39 percent had never received any training. It was important to pause and figure out how to solve this problem because workers were still getting COVID-19 and they still needed to be protected from it. Dr. Harris agreed. Chair Steiger said what concerned him was how many had to go to work sick, and that could be a correct impression or that could be incorrect because they had not received the training that they need to reassure them that they can stay home if they were sick. Regardless, that impression will lead to them going to work sick. Chair Steiger said that that was bad for them, bad for their coworkers, bad for the public, and bad for everybody.

Public Comments

None

VI. Discussion on Request for Proposal (RFP) Process Commissioners, CHSWC

Executive Officer Enz said based on feedback received from CHSWC Commissioners he proposed that the RFP should include CHSWC Commissioner input, questions CHSWC Commissioners determined needed to be addressed based on the legislative request were addressed in the RFP; extend the time for applicants to meet the time frame to submit their proposals to facilitate equal access. Mr. Enz also said that they should also ensure worker participation, (a theme that CHSWC has had for the past couple of years), adhere to scientific standards and communicate findings.

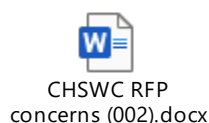
Mr. Enz asked for feedback on the RFP process and Commissioners submitted their written responses on how to proceed. At the same time, he said that the preparation and revision of the of the RFP document had to be done by State of California employees who had signed confidentiality agreements. He consulted with the Department of Industrial Relation's (DIR) Legal department to have the confidentiality agreement clarified.

Commissioner Roxborough added that the genesis of this discussion was based on concerns most Commissioners had regarding a few issues in the RFP process. Studies were far along before concerns were discovered, and in some cases, studies were completed before concerns were discovered and that limited the effectiveness and applicability of the conclusions of that study. Having happened more than once, the Commissioners thought it made sense to pause and have a discussion on what to do to prevent it from happening in the future. They wanted to spend money on good research, and they do. It is best not to have allegiance to any research organization, and no allegiance to any process. Their goal was to make the changes that were needed for the health and safety and workers' compensation infra-structure; they discussed the details of this process, and it was important to get involved earlier in this process, stay more involved as it progresses, as much as possible due to the confidentiality requirements. The studies could be used to guide big policy decisions that could be based on their results.

Commissioner Kessler asked Mr. Enz about the following list that was forwarded to the Commissioners. Commissioner Kessler said she articulated these concerns because the issue was complicated and needed to be discussed. They did not have a thorough discussion about the process except for learning how the process functions internally in the State of California. The Commissioners, especially the new Commissioners, have not discussed how they interact in the process that results in getting good in-depth information from a study given to an organization.

Chair Steiger thanked Commissioner Kessler and said the list of concerns that she raised was helpful and he did not see anything that looked like something they should not adopt or formalize.

Commissioner Kessler's RFP list of concerns:



Commissioner Kessler said that it was important to understand that when you were giving \$250,000 to one million dollars to any organization and its results will be codified into legislation or policy it was important that they had an accurate in-depth discussion.

Commissioner Voorakkara said that he would like Commissioner Kessler to take time going through this list because there may be visually impaired members of the public joining.

Commissioner Kessler discussed the above list under the title *RFP concerns for discussion by CHSWC*:

- 1) Notice of all requests for a study sent by email in a time efficient manner to CHSWC. By the time the Commission has a meeting, they should be able to conduct an investigation or review the request and its time frame. She discussed the time needed for the RFP request. Sometimes the Commissioners do not know about an RFP request until there is a meeting, and time has passed because the Commission has quarterly meetings.
- 2) Review of request for the study by CHSWC for input on crafting the RFP. If Commissioners had suggestions, they could submit them for consideration prior to RFP

being finalized. Since CHSWC was approving the RFP, the Commissioners should have input on it. She said Commissioners did not draft the RFP because it was an internal process due to confidentiality requirements; the Commissioners may have suggestions because some Commissioners may have experience with it. Drafting the RFP did not give them an opportunity for input. She was requesting an opportunity to put in suggestions before the RFP was finalized.

- 3) Adequate time for (academic/health and safety focused) institutions/organizations to vet the RFP through their internal process for submitting a proposal. Given CHSWC's areas of concern, health and safety organizations should be encouraged to apply. There should be adequate time to bid on the RFP and for those organizations to be able to go through their respective organizations so that they can submit a proposal in response to the RFP. For example, the State of California or University of California academic institutions, community-based organizations, and other organizations have a more complicated time-consuming process but were competent to take on the subject. Due to the nature of the request, she would want to go to an organization that had experience to do the research and provide an in-depth report. Commissioner Kessler said time was needed because the organization submitting the proposal did not have the time to vet the process through their institution.
- 4) The amendment process: if the RFP did not adequately address the request, both for the scope and potential additional financial request, it was important to disclose the budget and what was anticipated. If the process was on-going and an organization asked for an amendment to the budget, then the Commissioners get a disclosure and understand why the scope or potential additional financial assistance was important for the impact and results of the study. The Commissioners had to be informed about the financial request, that it was appropriate for the Commissioners to know about it and assess it, including how much time and money it will take, and its scope. She wanted to have an in-depth discussion.
- 5) Target populations and engagement of their impacted individuals, with minimum contact established for those groups. She said what they had learned from a few past studies, that they were giving one quarter of one million dollars to an organization, and they only spoke to 13 people within California who were the impacted individuals (the workers). CHSWC can provide access to relevant people, much like the discussion from Police Officer Heil at this CHSWC meeting. There should be understanding that impacted individuals were part of that study. She understood that impacted individuals could mean doctors, lawyers, and other professionals in the field. She wanted to ensure, because of workers' compensation and health and safety issues, that people who were at risk had the opportunity to weigh in. She had heard from the authors of the Janitor Time-Motion Project study that some places were difficult to access therefore she had suggested airports. Commissioner Roxborough may have a way to get into LAX, she may have a way to get into SFO and use the CHSWC resources. That may have challenges, but CHSWC could look for opportunities to find people.
- 6) Transparency of applicants, process anticipated, timelines, and results. When Commissioner Kessler first came to the Commission a few years ago she learned that RFPs had been granted without their approval and Commissioners were told afterwards. She

thought that the process would be important to put before the Commission and the public and the applicants for transparency. It was appropriate for a public entity to have a transparent process, so people see who was applying, what was the process, what were the timelines, and how to get the results. It was that broad ability to get appropriate information. She understood there may be some legal challenges, but she wanted a discussion.

- 7) Reflection of comments by Commissioners in the final reports, especially if critical of the study, should be noted at the top of the report in the introduction to fund and reviewing the study. CHSWC has had reports which had challenges about the results or who was spoken to, the assessments that were made. Policies and legislation were sometimes made because of these reports. It was important that if they had concerns that those be front-loaded. In any report by an entity on behalf of CHSWC, it should be acknowledged especially when that entity is reaching out to do interviews that are a CHSWC contracted effort to complete the study. If there were positive or negative things about the study, those need to be stated so when people look at the study that CHSWC has contracted for, CHSWC's point of view is reflected in it.
- 8) Acknowledgement of CHSWC in the outreach that any contracted organization does on its behalf. She said CHSWC should be acknowledged in the study. There was the issue of who was the owner of CHSWC funded reports and it was a complicated issue. Some of the challenges CHSWC had included organizations who had completed a study and thought it was their proprietary ownership when CHSWC had funded it. The study was CHSWC's, and it should be able to post it or not. If there were challenges with the study, those had to be reviewed or dealt with before an organization posted it or said they did the study and now you can see it, but no mention was made of anything that was critical or positive. It was their study.
- 9) Determination of who "owns" the report that was commissioned once completed. Commissioner Kessler said CHSWC needed to own what it paid for. It may be challenging, and it was complicated. However, CHSWC commissioners had concerns that an organization posted the report and there was no articulation about the concerns nor that it was owned by CHSWC. For example, the survey for PTSD never mentioned CHSWC. Mr. Enz could speak about it. She wanted to find out what the survey questions were and did those survey questions mention CHSWC. She saw it as a problem. She asked to discuss any other issues and asked for comments.

Chair Steiger thanked Commissioner Kessler for her discussion document and leading this detailed discussion. He did not see anything on her list that CHSWC should not argue strenuously for and should not be a part of this process. He said adopting all of them would make this process better.

Commissioner Roxborough said he agreed with Commissioner Kessler, and the genesis of this discussion, as Chair Steiger noted, had to do with not being apprised and money being spent on what was not a study. He added that CHSWC should get notice of requests. He agreed in theory with Commissioner Kessler that CHSWC should have input, but it may be difficult. He did not think that was their role to have input. In terms of adequate time, he said Commissioner Kessler said there were smaller organizations that did not have a team that can quickly do an RFP and CHSWC would like diversity. CHSWC would like smaller groups who have never participated but who may have expertise in a particular area.

Commissioner Roxborough followed up on Commissioner Kessler's point about the budget and said that Professor Harris gave a status report, and the Commissioners asked questions, and they know it will be at least a year before they receive an answer. There was a timeline. It was helpful to get the status report because he asked the question whether it was a statistically relevant sample, and the answer was probably not. Professor Harris did not know the response rate, but he said her answer had value and it was not anecdotal. If the question was, is it a study, then Commissioner Roxborough said they should define a study. It was an amorphous term for many; he had a strict constructionist definition. He said for a study there must be a random sample and certain things must be complied with. If it was anecdotal and one report that CHSWC received had 13 people, he would never commission it; it was anecdotal. What they were getting from Professor Harris has a little bit of both and attempted to do a study and an e-mail blast with 715 respondents. If only one percent responded, and it was sent out to 70,000 people it had some value. It's an easy subject to express opinions on and those will be more restrictions, a little bit less work, a little bit more supervision. The point he was making was Professor Harris provided full transparency.

Commissioner Roxborough said CHSWC 's Commissioners' comments should be "front loaded" and that should be mandated. Commissioner Roxborough added that his guess was CHSWC owned the reports because it paid for them. The authors have a right to put it on their website, but it should be a complete document and not unintentionally misleading. In other words, it should list all the Commissioners' comments. Commissioner Roxborough added that CHSWC had the power to say when it commissioned a study that it was their study, and "front load" the comments and before it was released on another website, run it by the CHSWC Commissioners to make sure that their comments were accurately stated.

Commissioner Roxborough said that at the August 4th, 2022, CHSWC meeting, he asked the employees at the Department of Industrial Relations Contracts Unit who were part of the RFP approval process to make themselves available to answer specific questions about it. They were not at this meeting. That was four months ago. He would make a motion that 30 days before the next CHSWC meeting the Contracts Unit provides answers about the RFP process to understand DIR Contracts unit's limitations, and to come up with a policy, procedure or process and provide answers to the Commissioners' questions. He did not want to have solutions only to find out they do not work. CHSWC needed to hear from the DIR Contracts Unit so they can be part of the process. At the next meeting, at least two weeks before the meeting, Commissioners can study it and can refine it.

Commissioner Roxborough had asked the DIR Contacts unit to attend the August 4th, 2022 CHSWC meeting and nobody came. He did not understand why; he could not have been clearer. And he needed their input and did not want to do something that is not in their best interest, but if they do not participate and give us input, they would do what they need to do without their input. And he did not want to do that. Commissioner Kessler seconded the motion. He thanked Commissioner Kessler for her thoughtful presentation.

Mr. Enz asked for clarification from Commissioner Roxborough that the motion was: 30 days prior to the next Commission meeting, he would like the DIR Contracts Unit to have answered the

proposal that was being forwarded by Commissioner Kessler. At the next meeting when they are present, and they can then answer follow-up questions the Commissioners may have.

Commissioner Kessler added that since CHSWC had to shift the meeting date and time because CHSWC could not get a room in the building for an in-person meeting the DIR Contracts Unit employees normally would have shown up and could not because of this change of date. She noted that Mr. Enz had tried to reach out.

The motion was: 30 days prior to the next Commission meeting, DIR Contracts Unit to have answered the proposal that was being forwarded by Commissioner Kessler. It was moved by Commissioner Roxborough and seconded by Commissioner Kessler.

Chair Steiger asked for any further discussion on the motion. Commissioner Voorakkara asked for clarification about CHSWC commissioners getting information or answers 30 days before public notification. Mr. Enz replied that he would have an answer. Commissioner Roxborough said the General Counsel at DIR can provide guidance. Commissioner Voorakkara said he would be supportive of the motion with the caveat of confirming that they received direction from DIR General Counsel.

Commissioner Roxborough stated that the motion would be if they could get a response from the DIR Contracts unit, in 30 days, subject to any restrictions that DIR General Counsel may have. Commissioner Kessler said that she agreed with the amendment. The amendment was accepted.

Commissioner Kessler said she would like to hear from Commissioner McNally because he had been a commissioner for a long time. Commissioner McNally replied that when he was first nominated to the Commission, one of his first priorities was to get a broader base of people to work for CHSWC because every report seemed to come from RAND and the University of California, Berkeley (UCB). The quality was fine, but they needed more cross pollination and they worked diligently towards it. However, they were unable to find qualified providers to do the work for CHSWC. CHSWC had a couple of bad experiences. He was not saying that to color this effort because it was approximately 18 years ago. He said they should try again. He was providing historical context. After a couple of very inadequate experiences, CHSWC went back to RAND and UCB.

Director Hagen stated that she was unaware that a representative from DIR Contracts unit was unable to attend this CHSWC meeting. In the future, if certain issues could be escalated to her then she can try to make a representative available for CHSWC public meetings. She reviewed the questions from Commissioner Kessler, and it was the first time she had seen them. With her 25 years of contract experience in government, she said these questions were a mix of revisions and scope language changes that could be made in the contract template. There were items about outreach in terms of, like trying to bring in additional potential vendors. She saw very few items that would pose a potential issue with the Department General Services standards for contracts. Much of this was preference, what language CHSWC wanted to see in future contracts. She said Mr. Enz and his team could potentially take this feedback and work on a template to bring back to the CHSWC commissioners. She did not know how valuable the contracts' staff were going to be because much could be added to the scope of the contract. Mr. Enz agreed with Director Hagen.

He would like to have DIR Contracts attend the CHSWC meeting to make sure that there were not any legal issues, not so much the contract unit issues, but the DIR legal unit as well to make sure there's nothing there that was problematic.

Commissioner Voorakkara said he spent approximately a decade as a program officer with the State's largest private foundation. There were questions about how to get organizations to apply who would be closer to the work, but one would always gravitate to the larger organizations. It was like what he heard in this conversation. Given that Commissioner McNally said that CHSWC had tried that previously, and there were fits and starts, he asked in what ways could the State of California build capacity for smaller organizations to apply. It was not necessarily on the “front end” of having the right capacity time to apply but it was also the” back end” of the financial auditing requirements. It was the systems that need to be in place to receive state funding sources. That was another question to ask the State, which is around capacity building, and hopefully when CHSWC does more outreach, it will go out and get new applicants that can apply and will be successful in that endeavor. Chair Steiger said that was a good point.

The motion was if they could get a response from the DIR Contracts Unit in 30 days, subject to any restrictions that DIR General Counsel may have. Chair Steiger said all were in favor of the motion. None were opposed. The motion carried.

Public Comments

None.

VII. Executive Officer Report

Executive Officer Eduardo Enz said since the last CHSWC meeting in August 2022, CHSWC Staff has been working diligently on fulfilling Commission requests and closely monitoring and working on several projects and studies.

CHSWC Studies Update

Mr. Enz said the first was a legislative requirement based on Senate Bill (SB) 1159, Labor Code section 77.8 required the Commission to conduct a study on *COVID-19 in the California Workers' Compensation System* and submit both a preliminary draft report and a final report to the Legislature and the Governor. After receiving Commissioner approval to post the report at its August meeting, the final draft report as well as the research brief were both posted on CHSWC's website.

Mr. Enz said the CHSWC study *“Cleaning and Disinfection during the COVID-19 Pandemic: Determining Safe and Effective Workloads for California Janitors”* by the Northern California Center for Occupational and Environmental Health, a collaboration between UC Berkeley, San Francisco, and Davis campuses, is still in process. CHSWC had anticipated a draft report of preliminary findings by September 30, 2022, and a finalized report by November 30, 2022. Those deadlines were not met due to unforeseen issues with attaining access to venues required to conduct the research, this project was experiencing significant delays as detailed by Dr. Harris during her

presentation at today's meeting. CHSWC was working with Dr. Harris for a no cost extension through 2023.

Mr. Enz said CHSWC was redoing the study "*Assessment of Risk of Carcinogens Exposure and Incidents of Occupational Cancer Among Mechanics and Cleaners of Firefighting Vehicles*" is also in process. CHSWC are finalizing a Request for Proposal (RFP) that included an extended timeline to facilitate equal access, ensuring worker participation, adhering to scientific standards, and communicating findings. This RFP was undergoing final revisions and he anticipated completion by mid-January, but he needed to finalize the actual timeline. At this point they were anticipating 90 days, but that can be longer based on the CHSWC's decision.

CHSWC Projects and Activities Update

Mr. Enz advised that CHSWC Staff had completed the draft 2022 CHSWC Annual report as well as the WOSHTEP Advisory Board Annual report for review and public comment; these reports were sent to CHSWC Commissioners for review. He expressed his appreciation for the outstanding work done by CHSWC Staff each year in putting together these annual reports. These reports were a lot of work, and the staff does a fantastic job.

CHSWC staff participated in the following activity since its last meeting: CHSWC Staff attended the California Partnership for Young Worker Health and Safety held on September 27, 2022. The meeting focused on Young Worker project updates, coordinating young worker outreach efforts on a national scale, and promoting Safe Jobs for Youth month in May 2023.

Additionally, the 2023 Young Worker Leadership Academy (YWLA), which has been going on for many years sponsored by the CHSWC, will be held in person between February 9-11, 2023, at University of California Berkeley (UCB). YWLA provides a leadership development opportunity for teams of high school students, with their adult sponsors, from different communities within the State of California to focus on young workers' health and safety. Youth work in teams during and after the YWLA to create a community project to promote safe jobs for youth in May 2023. Youth join a statewide youth network on young worker rights, health, and safety.

Action Items

There were two action items for consideration:

- 1) Did CHSWC wish to approve for posting for 30 days for feedback and comment, the DRAFT 2022 CHSWC Annual Report? Chair Steiger asked for a motion. Commissioner McNally made the motion to approve to post. Commissioner Brady seconded. All were in favor, none opposed. The motion carried.

Commissioner Questions and Comments

Commissioner Kessler stated that the janitorial study was excellent because of the number of participant interviews (including employers and employees). That was a clear distinction from some of the other CHSWC studies and complimented the authors of the janitorial study.

Commissioner Kessler said on page 237 of the study titled “*A Study of COVID-19 Claims and Presumptions Under Senate Bill 1159*” it did not provide how many were interviewed, who was interviewed, what were the sectors and what was the concern about the workers’ compensation system. On page 239 of this study, she said RAND claimed quantitative and qualitative analysis including interviews, but the study did not describe these populations, what sectors, and who. She asked to revise this section on the report to include a deeper overview of who and how many were in the study. She added that she saw the same problem with the RAND study titled “*Evaluation of Incidence of Mental Health Conditions or Illnesses Among Firefighters and Peace Officers*” study on pages 265 to 266, especially because of the firefighter who spoke at the CHSWC meeting and Commissioner Subers. She asked if it was accurate to claim there were caps on the treatment, and that it had no impact. She asked if the firefighters said that and if so, how many, and not just the Chiefs but the rank-and-file firefighters.

Commissioner Kessler said that the reports, despite the details, were helpful. Chair Steiger agreed that the reports were helpful. He reviewed reports for a specific statistic, and it was a great collection of information. The study should be thorough and include all the details mentioned.

Chair Steiger asked about an amendment to the motion. He said CHSWC should approve the posting of the CHSWC Annual Report conditional on the issues mentioned above being addressed. Mr. Enz replied that the action item was to post the report for public comment. He said Commissioner Kessler's request to make sure those changes, in addition to changes requested by the public were incorporated. It should not keep CHSWC from posting the CHSWC Annual Report. There was no further discussion.

Action Item

- 2) Did the Commission wish to approve for posting for 30 days for feedback and comment, the DRAFT 2022 WOSHTEP Advisory Board Annual Report? Commissioner Voorakkara moved the motion and Commissioner Subers seconded the motion. All were in favor. All Commissioners were in favor. None opposed, and the motion carried.

Commissioner Questions and Comments

Commissioner Subers asked Mr. Enz about the timeline for an updated RFP for the Firefighter Mechanics study. She wanted confirmation that CHSWC expected to have an updated draft in mid-January 2023 and the CHSWC commissioners were able to review it. Mr. Enz replied that according to the Department of Industrial’s Legal department, due to confidentiality, no one outside of State of California employees can draft or review an RFP or evaluate the proposals that come from an RFP. So, Commissioner Subers cannot review it. Mr. Enz said he can include all the elements and then she could review them once the RFP was released. Commissioner Subers added that was different than what she previously thought. She thought she would be able to see the draft RFP. She asked if 90 days was how long he intended to have the RFP posted for a response. Mr. Enz said yes, unless the Commission requested more time such as 120 days. The 90-day framework usually gives enough time.

Commissioner Kessler said she had raised this issue in past meetings because of the challenges with the previous CHSWC Firefighter Mechanics Carcinogenic study. She asked to make or submit changes that were brought to CHSWC by the American Federation of State, County and Municipal Employees (AFSCME). Originally the study came from Southern California, and it was a statewide study. She was asking the people crafting the RFP to make sure that geographically, they have a broader reach. Secondly, that they asked for and included everyone who did this work because there were a variety of environments in which it took place, it goes on in Sacramento, it goes on in Central California, it goes on in Los Angeles, so she would like to see that incorporated.

Commissioner Kessler said where there was a conflict, she would like to review that RFP before it was made public. For her and Commissioner Subers, as Union representatives she wanted to make sure that it adequately captured the request. Depending on who drafted the RFP and their knowledge, there may be aspects that should be included that might not be. That was part of the concern in her list. There may be legal restrictions that Mr. Enz or Director Hagen could address. She was concerned about it because there were problems in the RFP. Mr. Enz replied that he had received revisions from the California Division of Occupational Safety and Health (Cal/OSHA). Cal/OSHA looked at the scope of work and at the RFP and they were an internal DIR agency, so their expertise was brought in. He also said that Cal/OSHA had been working with AFSCME, and that the RFP has been vetted and its changes had been accepted. He could ask the DIR Legal unit about the RFP, but their comments so far have been that anyone other than State of California employees cannot review the RFP due to confidentiality issues. However, he will double check.

Chair Steiger asked for any other items before they adjourned. Commissioner Voorakkara stated that due to technical difficulties at this CHSWC meeting he was unable to vote. He asked for confirmation that Commissioner McNally had been elected chair. He asked the minutes to reflect that he would have voted in favor of electing Commissioner McNally Chair of CHSWC.

Commissioner Kessler asked for a moment of silence for Fred Ross Jr. who passed away from pancreatic cancer and who worked tirelessly for the health and safety of farm workers and others. Chair Steiger added that he was a great organizer, great fighter for workers, and part of a line of great fighters for workers.

Chair Steiger asked for a motion to adjourn the meeting. Commissioner McNally moved the motion. Commissioner Roxborough seconded. All were in favor, and none were opposed. The motion to adjourn carried.

Other Business

None

Adjournment

The meeting was adjourned at 1:08 p.m.

Approved:

Mitch Steiger, 2022 Chair

Date

Respectfully submitted:

Eduardo Enz, Executive Officer, CHSWC

Date