

# California Commission on Health and Safety and Workers' Compensation



## CHSWC 2013 Annual Report

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Labor and Workforce Development Agency

Department of Industrial Relations  
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and Workers' Compensation**

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## ABOUT CHSWC

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the health and safety and workers' compensation systems in California and makes recommendations to improve their operation.

Established in 1994, CHSWC has directed its efforts toward projects and studies to identify opportunities for improvement and to provide an empirical basis for recommendations and/or further investigations. CHSWC utilizes its own staff expertise combined with independent researchers with broad experience and highly respected qualifications.

At the request of the Executive Branch, the Legislature and the Commission, CHSWC conducts research, releases public reports, presents findings, and provides information on the health and safety and workers' compensation systems.

CHSWC activities involve the entire health, safety and workers' compensation community. Many individuals and organizations participate in CHSWC meetings and fact-finding roundtables and serve on advisory committees to assist CHSWC on projects and studies.

CHSWC projects address several major areas, including permanent disability (PD) ratings and related benefits, State Disability Insurance (SDI), return to work, carve-outs and medical fee schedules. Additional projects address benefits, medical costs and quality, fraud and abuse, streamlining of administrative functions, informational services to injured workers, alternative workers' compensation systems, and injury and illness prevention. CHSWC also continually examines the impact of workers' compensation reforms.

The most extensive and potentially far-reaching project undertaken by CHSWC is the ongoing study of workers' compensation PD ratings. Incorporating public fact-finding hearings with studies by RAND, the CHSWC PD project analyzes major policy issues regarding the way that California workers are compensated for PD incurred on the job.

CHSWC engages in a number of studies and projects in partnership with state agencies, foundations, and the health and safety and workers' compensation community including: the Labor and Workforce Development Agency (LWDA); the Department of Industrial Relations (DIR); the Division of Workers' Compensation (DWC); the California Department of Insurance (CDI); the Fraud Assessment Commission (FAC); the Governor's Office of Homeland Security (OHS); the Bureau of Labor Statistics (BLS); the Department of Fair Employment and Housing (DFEH); the California HealthCare Foundation (CHCF); RAND; the National Academy of Social Insurance (NASI); and the International Association of Industrial Accident Boards and Commissions (IAIABC). CHSWC projects and studies are described in this report.

### CHSWC *Serving all Californians*

- Created by the 1993 workers' compensation reform legislation.
- Composed of eight members appointed by the Governor, Senate and Assembly to represent employers and labor.
- Charged with examining the health and safety and workers' compensation systems in California and with recommending administrative or legislative modifications to improve their operation.
- Established to conduct a continuing examination of the workers' compensation system and of the State's activities to prevent industrial injuries and occupational diseases and to examine those programs in other states.
- Works with the entire health and safety and workers' compensation community – employees, employers, labor organizations, injured worker groups, insurers, attorneys, medical and disability providers, administrators, educators, researchers, government agencies, and members of the public.
- Brings together a wide variety of perspectives, knowledge, and concerns about various health and safety and workers' compensation programs critical to all Californians.
- Serves as a forum whereby the community may come together, raise issues, identify problems, and work together to develop solutions.
- Contracts with independent research organizations for projects and studies designed to evaluate critical areas of key programs. This is done to ensure objectivity and incorporate a balance of viewpoints and to produce the highest-quality analyses and evaluation.

## ABOUT CHSWC

### CHSWC Members Representing Employers



#### **Martin Brady**

Martin Brady is executive director at Schools Insurance Authority, where he has worked since 1988.

Mr. Brady is a member of the California Joint Powers Authority, California Coalition on Workers' Compensation, Public Agency Risk Managers Association, Public School Risk Institute, Association of Governmental Risk Pools and the Public Risk Management Association.

Appointed by: Governor



#### **Sean McNally**

Sean McNally is the President of KBA Engineering in Bakersfield, California. He has been certified by the State Bar of California as a specialist in workers' compensation law. He is a licensed general contractor and serves as a trustee for the Self Insurer's Security Fund. His community activities include serving on the Board of Directors of the Golden Empire Gleaners and the Board of Trustees for Garces Memorial High School. He is the past Vice President of Corporate and Government Affairs and past Vice President of Human Resources for Grimmway Farms.

Mr. McNally is a graduate of the University of the Pacific McGeorge School of Law and was a partner at the law firm of Hanna, Brophy, MacLean, McAleer and Jensen. He graduated from the University of San Francisco with Bachelor of Arts degrees in English and Theology. Following that, he did graduate studies at Hebrew University in Jerusalem, Israel.

Appointed by: Governor

## ABOUT CHSWC

### CHSWC Members Representing Employers

#### **Kristen Schwenkmeyer**

Kristen Schwenkmeyer is President of Gordon & Schwenkmeyer, Inc. (GSI), a telemarketing and fundraising firm that she founded with Mike Gordon in 1985. GSI has offices in Sacramento, San Diego and El Segundo, CA.

Previously, Ms. Schwenkmeyer served as staff aide to Supervisor Ralph Clark of the Orange County Board of Supervisors and Senator John Glenn in Washington, D.C.

Ms. Schwenkmeyer received a Bachelor of Arts degree in Political Science from the University of California, Santa Barbara.

Appointed by: Senate Rules Committee

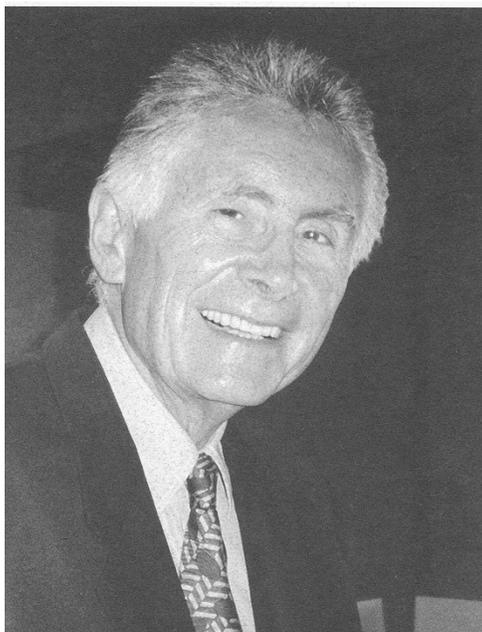


#### **Robert B. Steinberg**

Robert B. Steinberg is a partner in the law offices of Rose, Klein & Marias and specializes in employee injury, third-party civil damage construction, product liability, asbestos and toxic exposure litigation. He is a fellow of the American College of Trial Lawyers (ACTL), a member of the Board of Governors of the Association of Trial Lawyers of America (ATLA), an advocate of the American Board of Trial Advocates (ABOTA), and a trustee of the Asbestos Litigation Group (ALG). He is a past president of the California Trial Lawyers (CTLA) (1985) and a past trustee of the Los Angeles County Bar Association (1987). He is a past member of the Board of the Eagle-Picher and UNR Industries boards of directors and continues to serve as a Trustee advisor to the Manville, National Gypsum, Raytech, Eagle-Picher and UNR Industries asbestos victims trusts.

Mr. Steinberg received Law and Bachelor of Science degrees from the University of California, Los Angeles.

Appointed by: Speaker of the Assembly



## ABOUT CHSWC

### CHSWC Members Representing Labor



**Doug Bloch**

Doug Bloch has been political director at Teamsters Joint Council 7 since 2010. He was the Port of Oakland campaign director for Change to Win from 2006 to 2010 and a senior research analyst at Service Employees International Union (SEIU) Local 1877 from 2004 to 2006.

Mr. Bloch was statewide political director at the California Association of Community Organizations for Reform Now (ACORN) from 2003 to 2004 and ran several ACORN regional offices, including Seattle and Oakland, from 1999 to 2003. He was an organizer at the Non-Governmental Organization Coordinating Committee for Northeast Thailand from 1999 to 2003.

Appointed by: Governor



**Christine Bouma**

Christine Bouma has been president of Capitol Connection since 2000. She was a mathematics and computer science teacher at the Hesperia Unified School District from 1989 to 1999 and an instructor at Victor Valley Community College from 1991 to 1998.

Appointed by: Governor

**CHSWC Members Representing Labor**

**Faith Culbreath**

Faith Culbreath was asked in April 2009 by the Trustees of SEIU United Healthcare Workers West (UHW), a 150,000-member statewide local union, to head its External Affairs Department which includes building and promoting the Local's Political Power and Community Strength program. Ms. Culbreath has been President of Security Officers United in Los Angeles (SOULA), Local 2006, of the Service Employees International Union (SEIU) since 2007.

Previously, Ms. Culbreath was a Field Campaign Coordinator for the Property Services Division of SEIU and worked on various national and global campaigns. She also played a key role during the 2002 "Justice for Janitors" contract strike in Boston and was prominent in the development of the new SEIU Property and Service Local 3 in Ohio, Michigan, Pennsylvania and Indiana. She served dual roles as Secretary-Treasurer and Detroit City Director.

Appointed by: Speaker of the Assembly



**Angie Wei**

Angie Wei is the legislative director of the California Labor Federation, the state AFL-CIO Federation. The state Federation represents 1,200 affiliated unions and over two million workers covered by collective bargaining agreements. Previously, Ms. Wei was a program associate for PolicyLine of Oakland, California, and advocated for the California Immigrant Welfare Collaborative, a coalition of four immigrant rights organizations that came together to respond to cuts in public benefits for immigrants as a result of the 1996 federal welfare reform law.

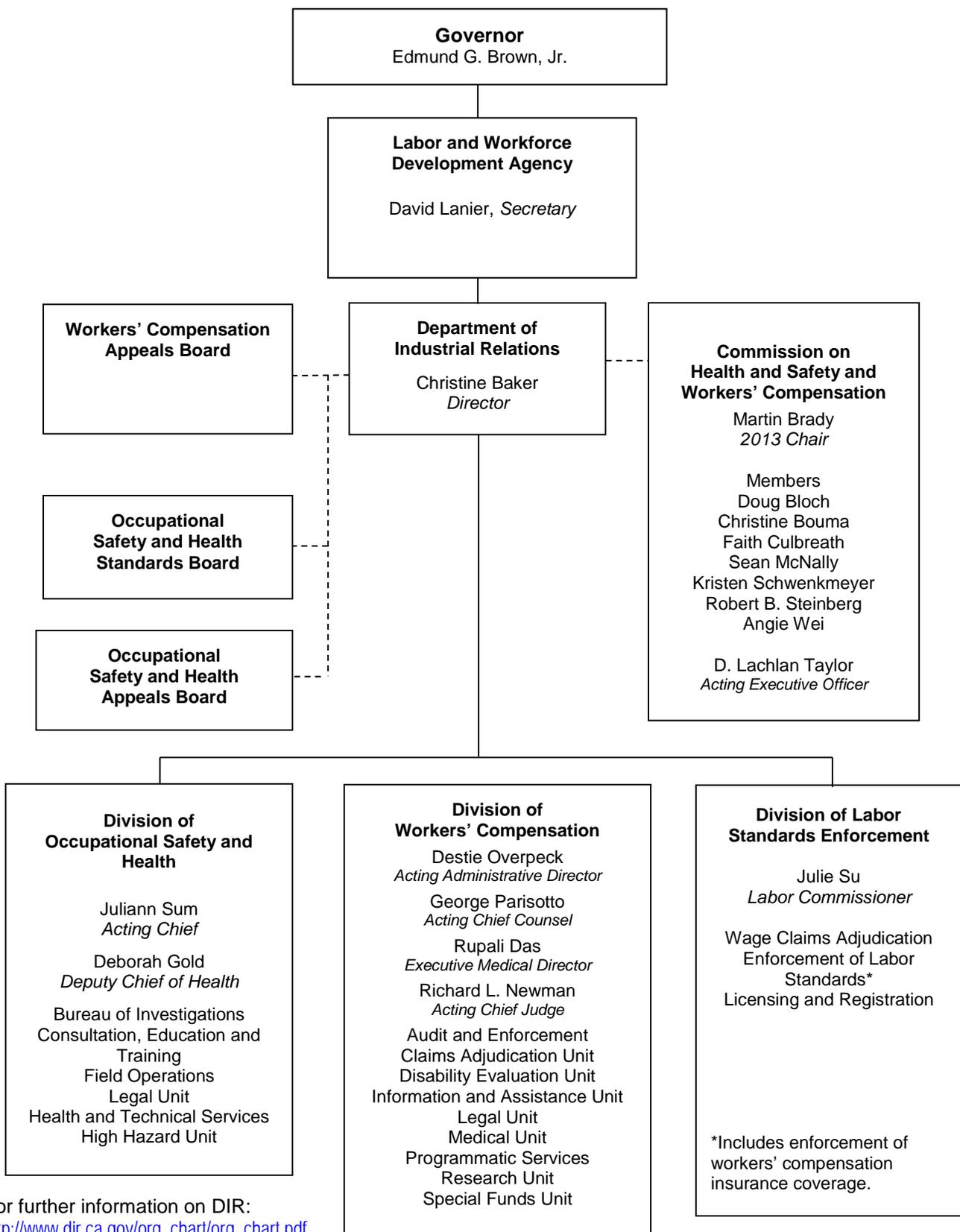
Ms. Wei holds a Bachelor of Arts degree in Political Science and Asian American Studies from the University of California, Berkeley, and a Master of Arts degree in Public Policy from the Kennedy School of Government at Harvard University.

Appointed by: Senate Rules Committee



ABOUT CHSWC

**State of California Health and Safety and Workers' Compensation Functions**



For further information on DIR:  
[http://www.dir.ca.gov/org\\_chart/org\\_chart.pdf](http://www.dir.ca.gov/org_chart/org_chart.pdf)

## **CHSWC RECOMMENDATIONS**

In the interest of California's workers and employers, the Commission on Health and Safety and Workers' Compensation (CHSWC) recommends steps to ensure the adequate and timely delivery of indemnity and medical benefits for injured workers.

In addition, CHSWC recommends steps toward preventing workplace injuries by developing an overall culture of safety.

### **WORKERS' COMPENSATION INDEMNITY AND MEDICAL BENEFITS AND ADMINISTRATION**

The 2012 workers' compensation reform legislation Senate Bill (SB) 863 incorporated many of CHSWC's previous recommendations for statutory improvements in the workers' compensation system, and many recommendations for administrative improvements are being carried out by the Division of Workers' Compensation (DWC).

CHSWC now recommends that the system be thoroughly re-examined in light of the passage of SB 863. Research is underway in the Department of Industrial Relations (DIR), DWC and CHSWC which will inform future recommendations.

Specific recommendations that will await the results of pending research include the following areas:

- Permanent Disability Compensation
- Stay-at-Work/Return-to-Work
- Medical Care Quality, Accessibility, Timeliness and Cost
- Timeliness and Cost of Dispute Resolution
- Evaluation of the Public Self-Insurance Sector

### **BENEFITS**

*Statute of Limitations for Cancer Death Cases for Firefighters and Peace Officers*

*Recommendation*

CHSWC recommends analyzing the financial impact of extending the statute of limitations on death cases for firefighters and peace officers, and how such costs would be accounted for and by whom.

### **RETURN-TO-WORK SUPPLEMENT**

The RAND study titled "Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments" defines workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss. CHSWC endorses the definition of "disproportionately low" as meaning actual measured earnings after the disability award which are below what is expected based on the severity of the disability rating and supports the study's recommendation of targeting benefits to these workers.

*Recommendation*

CHSWC recommends weighing the practical consequences of attempting to achieve the ideal of measuring post-award earnings in each case.

## CHSWC RECOMMENDATIONS

### **MEDICAL CARE ACCESSIBILITY, TIMELINESS AND COST**

Problems in the medical-legal process have included delays in selecting evaluators, obtaining examinations, and producing the evaluation reports. Problems also existed with deficiencies in the content of reports that failed to comply with the legal standards or omitted necessary components and thus necessitated supplemental reports. All of the problems contributed to increased frictional costs and delays in resolving disputes and delivering benefits to injured workers.

Significant changes in the medical care process for injured workers have resulted from the reforms enacted in 2012. One of the changes is that medical necessity disputes are resolved now through an Independent Medical Review (IMR). An IMR program is administered by the Administrative Director of the DWC and requires that an injured worker's objection to a utilization review (UR) decision shall be resolved through IMR. An in-person qualified medical evaluator (QME) will still be used for impairment ratings for unrepresented cases, and an agreed medical evaluator (AME) or QME will be used for represented cases.

#### *Recommendations*

CHSWC recommends the following relating to SB 863:

- Evaluate the impact of the changes both on an individual provision-by-provision basis and in combination. The topics for evaluation can be broken into five broad areas: medical necessity determinations; medical provider networks; appropriate fees for medical and other services; medical evaluations; and timely payment for medical and other services.
- Evaluate the impact of the new provisions on cost, quality and access of injured workers to appropriate and timely medical care, and identify issues and make recommendations for addressing areas of potential concern.
- Evaluate reports and forms required by DWC as part of managing the injured worker's treatment.
- Develop a Copy Service Fee Schedule by DWC taking into consideration the Copy Service Fee Schedule study as well as public comments and suggestions and continuing CHSWC staff engagement in the development of that fee schedule.
- Conduct a study of the operation and potential improvements of the QME system.

### **ANTI-FRAUD EFFORTS**

Insurance fraud, including failure to carry workers' compensation insurance, is a growing problem in our society, representing over \$15 billion in losses each year in California alone, according to the Department of Insurance (CDI) Fraud Task Force Report May 2008. Most people believe that insurance fraud is a victimless crime that does not affect them. In fact, it is a crime that costs lives and also funds criminal enterprises. Ultimately, fraud contributes to higher premium costs for everyone. Cutting the cost of fraud makes economic sense for California. Despite this, fraud is elusive and increasingly difficult to detect as criminals become more sophisticated in their practices.

Ultimately, fraud must be prosecuted in the criminal justice system; however, there are many opportunities to detect potential fraud through various indicators. CHSWC participates in research and activities that identify and measure potential fraud by working closely with the Fraud Assessment Commission (FAC) and CDI to examine the extent of potential fraud in the workers' compensation system and to make recommendations.

## CHSWC RECOMMENDATIONS

### **Workers' Compensation Payroll Reporting by Employers**

The cost of workers' compensation insurance premium is based on the amount of an employer's payroll. By misreporting payroll costs, some employers avoid the higher premiums they would incur with full reporting of payroll. Employers can also misreport total payroll or the number of workers in specific high-risk, high-premium occupation classifications by simply reporting them in lower-risk, lower-premium occupations. A 2009 follow-up study to CHSWC's 2007 study found that between \$15 and \$68 billion of payroll annually are under-reported. A related study on split class codes found that 25 percent to 30 percent of low-wage payroll is under-reported or misreported.

#### *Recommendations*

- Focus more FAC funding on premium fraud enforcement.
- Develop a more systematic approach to detecting premium fraud.

### **Accuracy of Workers' Compensation Insurance Coverage Information**

Two previous CHSWC recommendations have been enacted to help enforce the requirement for all employers to secure the payment of compensation. Both programs require accurate data.

Pursuant to CHSWC recommendations, SB 869 was enacted in 2007, amending Labor Code Section 90.3 to establish a records-matching program in the Division of Labor Standards Enforcement (DLSE) to identify employers who do not have a record of workers' compensation coverage. Initial reports from that program show considerable success in identifying uninsured employers and targeting them for enforcement actions. There are a number of errors, however, where insured employers are mistakenly identified as having no record of coverage.

Pursuant to CHSWC recommendations, Assembly Bill (AB) 483 was enacted in 2009 to establish an Internet site where viewers can determine if an employer has insurance. One of the concerns about this proposal has been the possibility of an employer being mistakenly reported as uninsured.

To optimize both of these programs and to facilitate enforcement of the requirement for all employers to secure the payment of compensation, the reasons for missing or mismatched information should be examined and processes should be adopted to assure the timeliness and accuracy of coverage data.

#### *Recommendation*

CHSWC recommends continuing examination of data-quality problems and improvement of the reporting of employers' coverage for workers' compensation.

### **Definition of First Aid**

Injuries that do not require treatment beyond first aid do not necessitate an employer report of injury for worker's compensation or a Cal/OSHA log. The definitions of first aid for those two purposes are different, however, resulting in a degree of uncertainty about when a minor injury is reportable. Even criminal evasion of workers' compensation obligations may hide behind that uncertainty. Employers have identified the conflicting definitions as a barrier to compliance, and prosecutors have identified the conflicting definitions as a barrier to prosecution of willful violations. The definition of first aid is only pertinent to reporting requirements, so a change in the definition would not change an injured workers' right to receive treatment.

#### *Recommendation*

CHSWC recommends that the definition of first aid for purposes of workers' compensation reporting be amended to align with the definition used for Cal/OSHA purposes.

## CHSWC RECOMMENDATIONS

### CALIFORNIA INSURANCE INDUSTRY

Workers' compensation premiums fell after the early 1990s reforms, only to rise sharply, almost tripling by the second half of 2003, before dropping back by early 2009 to match the 1999 low. As prices were climbing, however, more than two dozen insurers became insolvent. The CHSWC/RAND report published in 2009 identified six key factors that contributed to the insolvencies and volatility over the past 15 years:

- Inaccurate projections of claim costs.
- Pricing below projected costs.
- Reinsurance contracts that gave insurers and reinsurers insufficient stake in the profitability of the policies they wrote.
- Managing general agents who had little financial interest in the ultimate profitability of policies.
- Under-reserving for claim costs by insurers.
- Insurer surplus and capital that were inadequate to provide a cushion against adverse events.

CHSWC considers the first key factor, inaccurate projections of claims costs, to be the most important and the one which remains a concern whether in a hard or soft market. The other factors to a large extent were unique to the price-competitive environment at the time and the new, uncharted or inexperienced environment surrounding the introduction of the open rating system in California.

Related to inaccurate projections of claim costs, RAND identified a problem at the Workers' Compensation Insurance Rating Bureau (WCIRB) in that it does not have direct access to transaction-level data on claims payments in order to better detect and then project more accurate claim costs. According to RAND, WCIRB is developing plans to collect transaction-level data directly from insurers in the future.

RAND made six recommendations aimed at improving the reliability of projecting costs which are noted below. The first three recommendations aim to make the system more predictable, and the next three aim to help WCIRB, CDI and insurers do a better job of predicting costs:

- Increase clarity of legislative intent.
- Expeditiously release guidance and regulation on issues when there are important disagreements among stakeholders.
- Review the Workers' Compensation Appeals Board (WCAB) system.
- Explore the most appropriate way for WCIRB to take advantage of transaction-level data.
- Increase the comprehensiveness of data provided to WCIRB.
- Fast-track analyses of the impact of important legislative and judicial opinions.

CHSWC acknowledges that many of these recommendations highlight the importance of the insurance regulators to do more, but they also highlight the responsibility of DIR and the Legislature to help create an environment where WCIRB and CDI are not engaged in a guessing game as to the real and potential cost drivers in the system, as well as when those cost drivers will actually take effect.

#### *Recommendation*

CHSWC supports overall the four themes underlying the RAND recommendations, those of predictability, transparency, incentives and CDI oversight.

## CHSWC RECOMMENDATIONS

### HEALTH AND SAFETY

CHSWC recognizes that injury and illness prevention is the best way to preserve workers' earnings and to limit increases in workers' compensation costs to employers.

#### *Recommendations*

- Continue support by employers and the health and safety and workers' compensation community for the CHSWC statewide Worker Occupational Safety and Health Training and Education Program (WOSHTEP), one of the most proactive efforts undertaken by CHSWC, which trains and educates workers, including young workers, in the agriculture industry and in a wide range of workplaces on proven injury and illness prevention measures.
- Support ongoing partnerships and continued development of training and outreach materials targeted at teaching the importance of the implementation of the written Injury and Illness Prevention Plan (IIPP).
- Recommend that the Insurance Commissioner consider lowering the threshold of experience rating in light of the findings of "The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?" report:
  - Workers' compensation losses at firms that became experience-rated declined 6 percent to 9 percent compared to those that did not. Expanding experience rating to more employers would reduce occupational injuries without substantially increasing claim under-reporting. This opportunity should be utilized to protect workers while also reducing employer costs.
  - Insurers do not adjust premiums for employers below the current threshold, suggesting that increasing the fraction of employers subject to experience rating would require state intervention.
  - Any extension of experience rating to impact more firms should be mindful of the potential cost that large variance in year-to-year premiums could impose on some employers.

### INTEGRATION OF WORKERS' COMPENSATION MEDICAL CARE WITH OTHER SYSTEMS

Health costs have been rising more quickly than inflation and wages. These costs create financial challenges for employers, especially those in industries with already high workers' compensation costs. Furthermore, group health care and workers' compensation medical care are typically delivered through separate provider systems, resulting in unnecessary, duplicative and contraindicated treatment and inefficient administration.

Suggestions have been made to integrate workers' compensation medical care with the general medical care provided to patients by group health insurers in order to improve the quality and coordination of care, lower overall medical expenditure, reduce administrative costs, and derive other efficiencies in care. Research also supports the contention that an integrated 24-hour care system could potentially provide medical cost savings, as well as shorten the duration of disability for workers.

#### *Recommendations*

- Disseminate the results of the evaluation and the opportunities and challenges of implementing an integrated occupational and non-occupational medical treatment and insurance product.
- Provide resources on integrated care for unions and employers interested in carve-out programs.

## CHSWC RECOMMENDATIONS

- Evaluate the impact of Medicare's implementation of its secondary payor rights with regard to settlement of workers' compensation claims, and examine alternative ways to coordinate benefits between the two systems.
- Examine, once the Affordable Care Act has been implemented, the opportunities for increased integration of care between workers' compensation and non-occupational health coverage.

## **SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION**

This Special Report outlines the 2013 legislation and regulations related to health and safety and workers' compensation.

### **HEALTH AND SAFETY**

#### **Health and Safety Legislation**

Two health and safety bills were signed into law in 2013, as reported on the website of the Legislative Counsel of California at <http://leginfo.legislature.ca.gov/> (formerly [www.leginfo.ca.gov](http://www.leginfo.ca.gov)). To research legislation enacted into law in previous years, please consult prior year CHSWC annual reports which are available online at: <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

#### **AB 1202, Assembly Member Skinner**

**Adds Section 144.8 to the Labor Code, relating to occupational safety and health standards.**

**Occupational safety and health standards: hazardous drugs.**

**Status: Enrolled 9/3/2013 and Chaptered 10/10/2013**

**Summary:** Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Violations of these standards and regulations are a crime.

This bill requires the board to adopt a standard for the handling of antineoplastic drugs, as defined, in health care facilities regardless of the setting. The bill requires the standard to be consistent with and not exceed specific recommendations adopted by the National Institute for Occupational Safety and Health for preventing occupational exposures to those drugs in health care settings.

#### **SB 435, Senator Padilla**

**Amends Section 226.7 of the Labor Code, relating to compensation.**

**Compensation: meal and rest or recovery periods.**

**Status: Enrolled 9/11/2013 and Chaptered 10/10/2013**

**Summary:** Existing law prohibits an employer from requiring an employee to work during any meal or rest period mandated by an order of the Industrial Welfare Commission (IWC) and establishes penalties for an employer's failure to provide a mandated meal or rest period.

This bill makes that prohibition applicable to a meal or rest or recovery period mandated by applicable statute or applicable regulation, standard, or order of the IWC, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. The bill exempts specified employees from the prohibition. The bill requires an employer to pay an employee, for any meal or rest or recovery period mandated by law, one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided. The bill defines "recovery period" for those purposes.

## SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

### Health and Safety Regulations

The regulatory activities of the Occupational Safety and Health Standards Board (OSHSB) are outlined below. Formal rulemaking is preceded by a notice, the release of a draft rule, and an announcement for a public hearing. This update covers only recent administrative regulations for 2013.

Approved Occupational Safety and Health Standards Board (OSHSB) standards are at:

<http://www.dir.ca.gov/OSHSB/apprvd.html>

Proposed OSHSB standards and rulemaking updates are available at:

<http://www.dir.ca.gov/OSHSB/proposedregulations.html>

Any proposed Division of Occupational Safety and Health (DOSH) regulations can be found online at:

<http://www.dir.ca.gov/dosh/doshreg/mainregs.html>

Regulations in Title 8 of the California Code of Regulations (CCR) can be found online at:

<http://www.dir.ca.gov/samples/search/query.htm>.

In 2010, the Occupational Safety & Health Standards Board (OSHSB) launched the Title 8 index at:

<http://www.dir.ca.gov/title8/index/t8index.html>

One Cal/OSHA, or DOSH, regulation was approved in 2013, along with many Occupational Safety and Health Standards Board regulations.

<b>2013 Cal/OSHA Regulations</b>	<b>Status of Regulations (as of November 7, 2013)</b>
<b>Process Safety Management Program Assessment - Emergency Rulemaking</b>	<b>Status: Notice of proposed emergency regulations issued: October 4, 2013. Notice of proposed emergency rulemaking: October 11, 2013. Effective October 29, 2013.</b>  <b>Title 8, California Code of Regulations, Sections 344.76 and 344.77</b>  <b>Establishes the Annual Process Safety Management Program Assessment. The emergency regulatory action will expire 4/29/2014.</b>  <a href="http://www.dir.ca.gov/DOSH/DoshReg/Process-Safety-Management-Program-Assessment/Process-Safety-Management-Program-Assessment.html">http://www.dir.ca.gov/DOSH/DoshReg/Process-Safety-Management-Program-Assessment/Process-Safety-Management-Program-Assessment.html</a>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
<p><b>Globally Harmonized System Update to Hazard Communication – Health (Horcher)</b></p>	<p><b>Status: Public hearing: November 15, 2012. Adopted: March 21, 2013. Effective May 6, 2013.</b></p> <p><b>CONSTRUCTION SAFETY ORDERS</b>  <i>Division 1, Subchapter 4, Article 4,            Sections 1529, 1532 and 1532.1 Appendix B to 1532.1, Sections 1532.2 and 1535</i></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Subchapter 7,            Article 107, Section 5150 Article 109, Sections 5189, 5190, 5191 and 5192 Appendix A to 5192, Section 5194 Appendices A through G to 5194, Section 5198 and Appendix B to 5198            Article 110, Sections 5200, 5201 and 5202 Appendix A to 5202, Sections 5206, 5207 and 5208 Appendix J to 5208, Sections 5209, 5210, 5211 and 5212 Appendix B to 5212, Sections 5213, 5214 and 5217 Appendix A to 5217, Sections 5218 and 5220</i></p> <p><b>SHIP BUILDING, SHIP REPAIRING, SHIP BREAKING SAFETY ORDERS</b>  <i>Division 1, Subchapter 18, Article 4, Sections 8358 Appendix K to 8358, and Section 8359</i></p> <p>Updates requirements for hazard communication as it pertains to updating HCS warning labels, signs and safety data sheets, which are to be consistent with the United Nations GHS classification, and labeling of chemicals to inform workers and other downstream users of manufactured and imported chemical products. Standards also update hazard communication standards for welding, brazing and cutting.</p> <p><a href="http://www.dir.ca.gov/oshsb/GHS_update_to_hazard_communication_%E2%80%93_health.html">http://www.dir.ca.gov/oshsb/GHS_update_to_hazard_communication_%E2%80%93_health.html</a></p>
<p><b>Internal Combustion Engine-Driven Equipment (Technical Amendments)</b></p>	<p><b>Status: Public hearing: June 20, 2013. Adopted: July 18, 2013. Effective October 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 4            Article 4, Section 1533</i></p> <p>Specifies types of ventilation systems that are to be used when such engines are inside buildings and in shafts, culverts, pipelines or other excavations that are 20 feet or less in depth and flow rates to ensure adequate dilution of contaminants to safe and healthful levels.</p> <p><a href="http://www.dir.ca.gov/oshsb/Internal_combustion_engine_driven_equipment_(tech_amend).html">http://www.dir.ca.gov/oshsb/Internal_combustion_engine_driven_equipment_(tech_amend).html</a></p>
<p><b>The Securing of Poles During Removal Operations</b></p>	<p><b>Status: Public hearing: February 21, 2013. Adopted: March 21, 2013. Effective July 1, 2013.</b></p> <p><b>HIGH VOLTAGE ELECTRICAL SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 5</i></p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
	<p><i>Article 36, Section 2940.8</i></p> <p>Specifies that damaged or unstable poles or sections of poles encountered during removal operations be securely supported.</p> <p><a href="http://www.dir.ca.gov/oshsb/Securing_of_poles_during_removal_operations.html">http://www.dir.ca.gov/oshsb/Securing_of_poles_during_removal_operations.html</a></p>
<p><b>Work Area Control (Crane Swing Radius Hazards)</b></p>	<p><b>Status: Public hearing: September 20, 2012. Adopted: December 13, 2012. Effective April 1, 2013.</b></p> <p><b>Construction Safety Orders</b>  <i>Division 1, Chapter 4, Subchapter 4, Article 15, Sections 1610.3 and 1616.3</i></p> <p><b>General Industry Safety Orders</b>  <i>Division 1, Chapter 4, Subchapter 7, Articles 91, Section 4885            Article 98, New Section 4993.1 and Sections 4999 and 5001</i></p> <p>Adds protection for oilers and other employees who must work within the swing radius of a crane.</p> <p><a href="http://www.dir.ca.gov/oshsb/work_area_control_crane_swing_radius_hazards.html">http://www.dir.ca.gov/oshsb/work_area_control_crane_swing_radius_hazards.html</a></p>
<p><b>Fire Control, Update of References to NFPA 13 Standard, Installation of Sprinkler Systems</b></p>	<p><b>Status: Public hearing: May 16, 2013. Effective date Oct. 1, 2013.</b></p> <p><b>CONSTRUCTION SAFETY ORDERS,</b>  <i>Division 1, Chapter 4, Subchapter 4, Article 36, Section 1933</i></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 7,            Article 141, Sections 5541 and 5543            Article 143, Section 5559            Article 145, Section 5600            Article 159, Section 6170</i></p> <p>Specifies amended requirements for sprinklers and refers to the California Fire Code and “approved manner” for installation.</p> <p><a href="http://www.dir.ca.gov/oshsb/Fire_control_update_to_NFPA13.html">http://www.dir.ca.gov/oshsb/Fire_control_update_to_NFPA13.html</a></p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
<p><b>Elevated Locations - Guardrail Exception for Portable Amusement Rides</b></p>	<p><b>Status: Public hearing: October 18, 2012. Adopted: December 13, 2012. Effective April 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 7,            Article 2, Section 3210            Article 35, Section 3900</i></p> <p>Specifies personal fall protection equipment where use of guardrails is impracticable on portable amusement rides.</p> <p><a href="http://www.dir.ca.gov/oshsb/elevated_locations_guardrail_except_for_port_amuse_rides.html">http://www.dir.ca.gov/oshsb/elevated_locations_guardrail_except_for_port_amuse_rides.html</a></p>
<p><b>Working on (Dismantling) Pressurized Pipe</b></p>	<p><b>Status: Public hearing: April 18, 2013. Adopted May 16, 2013. Effective October 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 7,            Article 7, Section 3329</i></p> <p>Specifies added section that during the repair, modification, or maintenance work on pipe lines, energy within the system shall be controlled to prevent an uncontrolled release that could cause injury.</p> <p><a href="http://www.dir.ca.gov/oshsb/Working_on_(dismantling)_pressurized_pipe.html">http://www.dir.ca.gov/oshsb/Working_on_(dismantling)_pressurized_pipe.html</a></p>
<p><b>Federal OSHA Direct Final Rule - Head Protection</b></p>	<p><b>Status: Public hearing: January 17, 2013. Adopted: February 21, 2013. Effective July 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 7            Article 10, Section 3381</i></p> <p>Specifies amendment to be similar to Federal OSHA's final rule on use of helmets/head protection that complies with any of the three most current editions of the American National Standards Institute (ANSI) Z89.1 consensus standards for Industrial Head Protection, editions 2009, 2003, and 1997.</p> <p><a href="http://www.dir.ca.gov/oshsb/Fed_OSHA_direct_final_rule_head_protection.html">http://www.dir.ca.gov/oshsb/Fed_OSHA_direct_final_rule_head_protection.html</a></p>
<p><b>Horizontal Pull Saw (Radial Arm Saw) Guarding</b></p>	<p><b>Status: Public hearing: December 13, 2012. Adopted: January 17, 2013. Effective April 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 7,</i></p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
	<p><i>Article 59, Section 4309.</i></p> <p>Adds language requiring the full diameter of the saw blade be enclosed and not just the upper half of the blade and the arbor ends as is currently mandated.</p> <p><a href="http://www.dir.ca.gov/oshsb/horizontal_pull_saw_radial_arm_saw_guarding.html">http://www.dir.ca.gov/oshsb/horizontal_pull_saw_radial_arm_saw_guarding.html</a></p>
<p><b>Hoisting, Use of Cribbing, ASME Reference Correction</b></p>	<p><b>Status: Public hearing: March 21, 2013. Filed with Secretary of State May 30, 2013. Effective July 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b> <i>Division 1, Chapter 4, Subchapter 7, Article 98, Section 4994</i></p> <p>Deletes incorrect and outdated references, distinguishes between “outriggers” and “stabilizers,” and allows the use of cribbing based upon necessity, given the fact that some ground surface conditions are able to provide firm, secure support.</p> <p><a href="http://www.dir.ca.gov/oshsb/hoisting_use_of_cribbing_ASME_reference_correction.html">http://www.dir.ca.gov/oshsb/hoisting_use_of_cribbing_ASME_reference_correction.html</a></p>
<p><b>Airborne Contaminants - Ethylbenzene</b></p>	<p><b>Status: Public hearing: January 17, 2013. Adopted July 18, 2013. Effective October 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b> <i>Division 1, Chapter 4, Subchapter 7 Article 107, Section 5155</i></p> <p>Lowers the PEL value for ethylbenzene than that found in the federal air contaminants standard at 29 CFR 1910.1000.</p> <p><a href="http://www.dir.ca.gov/oshsb/Airborne_Contaminants_Ethylbenzene.html">http://www.dir.ca.gov/oshsb/Airborne_Contaminants_Ethylbenzene.html</a></p>
<p><b>Laboratory Accreditation for Diacetyl Analysis</b></p>	<p><b>Status: Public hearing: April 18, 2013. Adopted May 16, 2013. Effective October 1, 2013.</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b> <i>Division 1, Chapter 4, Subchapter 7, Group 16, Article 109, Section 5197, Appendix A, Subsection (c)(1)</i></p> <p>Modifies the subsection to include laboratories accredited by AIHA Laboratory Accreditation Programs, LLC or other International Laboratory Accreditation Cooperation mutual recognition signatory.</p> <p><a href="http://www.dir.ca.gov/oshsb/Laboratory_accreditation_for_diacetyl_analysis.html">http://www.dir.ca.gov/oshsb/Laboratory_accreditation_for_diacetyl_analysis.html</a></p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
<p><b>Aerosol Transmissible Diseases Respirator Exception</b></p>	<p><b>Status: Public hearing: Feb. 21, 2013. Filed with Secretary of State August 1, 2013. Effective Oct. 1, 2013</b></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Article 109, Section 5199(g)(3)(B), Exception 2</i></p> <p>Allows employers to use National Institute of Occupational Safety and Health (NIOSH) approved N100 and R100 respirators, in addition to the NIOSH approved P100 filtering facepiece respirators – with added training and selection criteria.</p> <p><a href="http://www.dir.ca.gov/oshsb/Aerosol_trans_diseases_resp_except.html">http://www.dir.ca.gov/oshsb/Aerosol_trans_diseases_resp_except.html</a></p>
<p><b>Scope and Application – Ship Building</b></p>	<p><b>Status: Public hearing: April 18, 2013. Adopted May 16, 2013. Effective October 1, 2013</b></p> <p><b>SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 18, Article 2, Section 8352</i></p> <p>Amends Ship Building, Ship Repairing and Ship Breaking Safety Orders to remove mention of building materials specification and the phrase “of wood or metal construction” in order to apply to all vessels.</p> <p><a href="http://www.dir.ca.gov/oshsb/Scope_and_application_-_ship_building.html">http://www.dir.ca.gov/oshsb/Scope_and_application_-_ship_building.html</a></p>
<p><b>Use of Forklift Trucks and Excavators for Hoisting Loads</b></p>	<p><b>Status: Public hearing: July 19, 2012. Adopted: September 20, 2012. Effective November 22, 2012</b></p> <p><b>CONSTRUCTION SAFETY ORDER</b>  <i>Title 8, Division 1, Chapter 4, Subchapter 4, Article 10, Section 1593</i></p> <p><b>GENERAL INDUSTRY SAFETY ORDERS</b>  <i>Title 8, Division 1, Chapter 4, Subchapter 7, Article 25, Section 3650</i></p> <p>Amends compliance requirement in the use, care and maintenance of slings.</p> <p><a href="http://www.dir.ca.gov/oshsb/use_of_forklift_trucks_and_excavators_for_hoisting_loads.html">http://www.dir.ca.gov/oshsb/use_of_forklift_trucks_and_excavators_for_hoisting_loads.html</a></p>
<p><b>Cranes &amp; Derricks in Construction (Clean-Up)</b></p>	<p><b>Status: Public hearing: June 21, 2012. Adopted: August 16, 2012. Effective November 1, 2012</b></p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

2013 OSHSB Regulations	Status of Regulations (as of November 7, 2013)
	<p><b>CONSTRUCTION SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 4,            Article 12, Section 1600            Article 15, Sections 1610.1, 1610.3, 1610.4, 1610.9, 1611.1, 1612.3,            1613, 1613.2, 1613.10, 1616.1, 1617.1, 1617.2, 1617.3, 1618.1, and            1619.1 and New Sections 1613.11 and 1613.12</i></p> <p><b>GENERAL SAFETY ORDERS</b>  <i>Davison 1, Chapter 4, Subchapter 7,            Article 91, Section 4885            Article 98, Section 4999</i></p> <p>Amends sections related to cranes and derricks.</p> <p><a href="http://www.dir.ca.gov/oshsb/CDAC_in_Construction_(Clean-Up).html">http://www.dir.ca.gov/oshsb/CDAC_in_Construction_(Clean-Up).html</a></p>
<p><b>Fueling of Helicopters Used in Logging Operations</b></p>	<p><b>Status: Public hearing: August 16, 2012. Adopted: September 20, 2012. Effective November 17, 2012.</b></p> <p><b>LOGGING AND SAWMILL SAFETY ORDERS</b>  <i>Title 8, Division 1, Chapter 4, Subchapter 13, Article 11,            Section 6325</i></p> <p>Amends language about static electrical discharge.</p> <p><a href="http://www.dir.ca.gov/oshsb/fueling_of_helicopters_used_in_logging_operations.html">http://www.dir.ca.gov/oshsb/fueling_of_helicopters_used_in_logging_operations.html</a></p>
<p><b>Diesel Engine Runaway Protection</b></p>	<p><b>Status: Public hearing: November 17, 2011. Adopted September 20, 2012. Effective November 30, 2012.</b></p> <p><b>PETROLEUM SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 14            Article 2, Section 6505            Article 35, New Section 6625.1            Article 46, Section 6651</i></p> <p>Adds protections against runaway engines, including the use of remote controlled air intake shut-off valves.</p> <p><a href="http://www.dir.ca.gov/oshsb/Diesel_Overrun_Devices.html">http://www.dir.ca.gov/oshsb/Diesel_Overrun_Devices.html</a></p>
<p><b>Tree Work Maintenance or Removal</b></p>	<p><b>Status: Public hearing: March 15, 2012. Adopted: August 16, 2012. Effective October 25, 2012.</b></p> <p><b>HIGH-VOLTAGE ELECTRICAL SAFETY ORDERS</b>  <i>Division 1, Chapter 4, Subchapter 5, Article 38            Section 2950</i></p>

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<b>2013 OSHSB Regulations</b>	<b>Status of Regulations (as of November 7, 2013)</b>
	<p><b>GENERAL INDUSTRY SAFETY ORDERS</b> <i>Division 1, Chapter 4, Subchapter 7, Article 12</i> <i>Sections 3420 – 3428</i></p> <p>Amends section to require an Injury and Illness Prevention Program and training in recognizing electrical hazards, especially energized power lines and conductors, in CPR and in tree climbing and tree cutting/trimming safety.</p> <p><a href="http://www.dir.ca.gov/oshsb/Tree_Work_Maint.html">http://www.dir.ca.gov/oshsb/Tree_Work_Maint.html</a></p>

## WORKERS' COMPENSATION

### Workers' Compensation Legislation

The following describes the workers' compensation bills that were signed into law in 2013, as reported on the website of the Legislative Counsel of California at <http://leginfo.legislature.ca.gov/> (formerly [www.leginfo.ca.gov](http://www.leginfo.ca.gov/)). To research legislation enacted into law in previous years, please consult prior year CHSWC annual reports available online at: <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

#### **AB 607 – Assembly Member Perea**

**Amends Sections 3501 and 4703.5 of the Labor Code, relating to workers' compensation.**

**Workers' compensation: dependent children.**

**Status: Enrolled 9/3/2013 and Chaptered 10/13/2013.**

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law provides certain methods for determining the amount of workers' compensation benefits payable to a worker or his or her dependents for purposes of temporary disability, permanent total disability, permanent partial disability, and in the case of death. Existing law provides that totally dependent minor children of the deceased worker shall receive death benefits until the youngest child attains 18 years of age, or until the death of a child physically or mentally incapacitated from earning, at a weekly rate of at least \$224. Existing law conclusively presumes, for the purpose of determining the amount of workers' compensation benefits, that children under 18, or certain adult children, who were living with the employee-parent at the time of injury resulting in death, or for whose maintenance the employee-parent was legally liable at the time of the injury resulting in death, is wholly dependent for support on the deceased employee-parent if there is no surviving totally dependent parent.

This bill eliminates the requirement that, in order to conclusively presume that children under 18, or certain adult children, are wholly dependent for support on the deceased employee-parent, there not be a surviving totally dependent parent. This bill also makes conforming changes.

#### **AB 1309 – Assembly Member Perea**

**Amends Section 3600.5 of the Labor Code, relating to workers' compensation.**

**Workers' compensation: professional athletes.**

**Status: 9/25/2013 and Chaptered 10/8/2013.**

**Summary:** Existing workers' compensation law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law provides that an injury may be either "specific," occurring as the result of one incident or exposure that causes disability or need for medical treatment, or "cumulative," occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment.

Existing law provides that an employee who has been hired outside of this state and his or her employer are exempt from these provisions while the employee is temporarily within this state doing work for his or her employer if the employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of a state other than California, as specified.

This bill exempts an employee hired outside of this state and his or her employer from the occupational disease and cumulative injury provisions of this state's workers' compensation laws if (1) the employee is a professional athlete, defined, for purposes of these provisions, to include an athlete who is employed at

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the minor or major league level in the sport of baseball, basketball, football, ice hockey, or soccer, (2) that professional athlete is temporarily within this state doing work for his or her employer, and (3) the employer has furnished workers' compensation insurance under the laws of the state other than California that covers the professional athlete's employment while in this state, except as specified. This bill deems a professional athlete to be temporarily within the state doing work for his or her employer if, during the 365 consecutive days immediately preceding the professional athlete's last day of work for the employer within the state, the professional athlete performs less than 20% of his or her duty days, as defined, in the state. The bill also exempts a professional athlete and his or her employer from the occupational disease or cumulative injury provisions of this state's workers' compensation laws when all of the professional athlete's employers in his or her last year of work as a professional athlete are exempt from these provisions unless the professional athlete has, over the course of his or her professional athletic career, (1) worked for 2 or more seasons for a California-based team or teams, as defined, or worked 20% or more of his or her duty days in California or for a California-based team, and, (2) worked for fewer than 7 seasons for any team other than a California-based team. The bill also states that it is the intent of the Legislature that the decision of the Workers' Compensation Appeals Board in *Wesley Carroll v. Cincinnati Bengals, et al.* (2013) 78 Cal.Comp.Cases \_\_\_\_ (ADJ2295331) (WCAB En Banc) be limited to professional athletes, and includes other specified statements of legislative intent.

The bill provides that these changes apply to all pending claims for benefits filed on or after September 15, 2013, as specified.

**AB 1376 – Assembly Member Roger Hernández  
Amends Section 4600 of the Labor Code, relating to workers' compensation, and declaring the  
urgency thereof, to take effect immediately.**

**Workers' compensation: medical treatment: interpreters.**

**Status: Enrolled 9/25/2013 and Chaptered 10/13/2013.**

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires an employer to provide all medical services reasonably required to cure or relieve the injured worker from the effects of the injury. Under existing law, if the injured employee cannot effectively communicate with his or her treating physician because he or she cannot proficiently speak or understand the English language, the injured employee is entitled to the services of a qualified interpreter during medical treatment appointments. Existing law requires that, to be a qualified interpreter for these purposes, a person meet any requirements established by rule by the administrative director, as specified.

This bill provides that the requirement that a person meet any requirements established by the administrative director in order to be a qualified interpreter commences on March 1, 2014. This bill also makes technical, nonsubstantive changes.

**AB 1394 - Committee on Insurance**

**Amends Section 11785 of the Insurance Code, relating to the State Compensation Insurance Fund.  
State Compensation Insurance Fund: executive appointments.**

**Status: Enrolled 8/26/2013 and Chaptered 9/9/2013.**

**Summary:** Existing law provides for the existence of the State Compensation Insurance Fund (SCIF) to be administered by a board of directors for the purpose of transacting workers' compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his or her agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents. Existing law authorizes the board of directors of SCIF to appoint a president, a chief financial officer, a chief operating officer, a chief information technology officer, a chief investment officer, a chief risk officer, and a general counsel.

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This bill additionally authorizes the board of directors of SCIF to appoint a chief medical officer, a chief actuarial officer, a chief claims operations officer, and a chief of internal affairs, and make those positions subject to the Milton Marks Postgovernment Employment Restrictions Act of 1990.

### **SB 146 – Senator Lara**

**Amends Section 4603.2 of the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.**

**Workers' compensation: medical treatment: billing.**

**Status: Enrolled 8/6/2013 and Chaptered 8/19/2013.**

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires an employer to provide all medical services reasonably required to cure or relieve the injured worker from the effects of the injury, and generally provides for the reimbursement of medical providers for services rendered in connection with the treatment of a worker's injury. Existing law requires a pharmacy to submit its request for payment with an itemization of services provided and the charge for each service, a copy of all reports showing the services performed, the prescription or referral from the primary treating physician if the services were performed by a person other than the primary treating physician, and any evidence of authorization for the services that may have been received.

This bill prohibits a copy of the prescription from being required with a request for payment of pharmacy services, unless the provider of services has entered into a written agreement, as provided, that requires a copy of a prescription for a pharmacy service, and would give any entity until March 31, 2014, to resubmit pharmacy bills for payment, originally submitted on or after January 1, 2013, where payment was denied because the bill did not include a copy of the prescription from the treating physician. The bill also clarifies that an employer, insurer, pharmacy benefits manager, or 3rd-party claims administrator is not be precluded from requesting a copy of a prescription during a review of any records of prescription drugs dispensed by a pharmacy.

This bill declares that it is to take effect immediately as an urgency statute.

### **SB 375 - Committee on Labor and Industrial Relations.**

**Amends Section 11435.35 of the Government Code and amends Sections 139.2, 139.5, 4061, 4610.5, 4903.4, and 4903.6 of the Labor Code, relating to workers' compensation.**

**Workers' compensation.**

**Status: Enrolled 8/28/2013 and Chaptered 9/9/2013.**

**Summary:** Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing workers' compensation law establishes requirements that govern, among other things, the certification of medical examination interpreters, dispute resolution processes for medical and billing disputes, and the allowance of liens against any sum to be paid as compensation.

This bill corrects erroneous cross-references and makes technical, clarifying, and conforming changes with respect to these provisions.

### **SB 527 – Senator Block**

**Amends Section 4850 of the Labor Code, relating to workers' compensation.**

**Workers' compensation: public employees: leaves of absence.**

**Status: Enrolled 8/3/2013 and Chaptered 8/11/2013.**

Existing law provides that certain peace officers, firefighters, and other specified state and local public employees are entitled to a leave of absence without loss of salary while disabled by injury or illness arising out of and in the course of employment. The leave of absence is in lieu of temporary disability

## SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

payments or maintenance allowance payments otherwise payable under the workers' compensation system.

This bill extends this leave of absence entitlement to lifeguards employed year round on a regular, full-time basis by the City of San Diego.

This bill makes legislative findings and declarations as to the necessity of a special statute for these employees of the City of San Diego.

## SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

### **Workers' Compensation Regulations**

The regulatory activities of the Division of Workers' Compensation (DWC) to implement the provisions of the recent workers' compensation reform legislation are outlined on the following pages. Formal rulemaking is often preceded by the release of a draft rule and the opening of an online forum for interested parties to post comments. This update covers only recent regulations for 2013. Older regulations can be found in previous Commission on Health and Safety and Workers' Compensation (CHSWC) annual reports which are available online at <http://www.dir.ca.gov/chswc>.

Information about these preliminary activities is available at <http://www.dir.ca.gov/Wcjudicial.htm>.

The latest formal rulemaking updates are available at [www.dir.ca.gov/DWC/dwcrulemaking.html](http://www.dir.ca.gov/DWC/dwcrulemaking.html).

*\*\*Special Note for Senate Bill (SB) 863 implementation regulations: many of the regulations are ongoing and some are subject to appeals. This section is not definitive. The DWC rulemaking website link above should be consulted for updates.*

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DWC Regulations	Status of Regulations (as of December 13, 2013)
<p><b>Senate Bill (SB) 863 Implementation</b></p>	
<p><b>Sections 10205, 10205.12, 10206, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208, 10208.1</b></p> <p><b>Electronic Document Filing and Lien Filing Fee Regulations (Proposed Rulemaking)</b></p>	<p><b>Status: Public hearing March 26, 2013. 1<sup>st</sup> 15-day comment period September 11, 2013. Readopted – expires January 1, 2014.</b></p> <p><b>Next Step: Certificate of Compliance pending with OAL.</b></p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p><b>Labor Code Sections 139.5, 4610, 4610.5, 4610.6</b></p> <p><b>Independent Medical Review (IMR), Utilization Review (UR) (including Request for Authorization form)</b></p>	<p><b>Status: Notice of proposed emergency action issued December 12, 2012; Public hearing April 4, 2013. 3<sup>rd</sup> 15-day comment period ends December 26, 2013. Emergency regulations readopted – expires January 1, 2014.</b></p> <p><b>Next Step: complete Certificate of Compliance.</b></p> <p>Effective date per Labor Code: for injuries on or after January 1, 2013; for decisions communicated on or after July 1, 2013.</p>
<p><b>Labor Code Sections 139.5, 4603.2, 4603.3, 4603.4, 4603.6, 4622</b></p> <p><b>Independent Bill Review (IBR); Standardized Paper Billing and Payment; Electronic Billing and Payment</b></p>	<p><b>Status: Public hearing April 9, 2013; 2nd 15-day comment period December 26, 2013. Emergency regulations readopted – expires January 1, 2014.</b></p> <p><b>Next Step: complete Certificate of Compliance.</b></p> <p>Effective date per Labor Code: for dates of service on or after January 1, 2013.</p>
<p><b>Labor Code Sections 4658.5, 4658.6, 4658.7</b></p> <p><b>Supplemental Job Displacement Benefit (SJDB) Voucher Regulations Proposed Rulemaking</b></p>	<p><b>Status: Certificate of Compliance completed. New forms effective January 1, 2014.</b></p> <p>Effective date per Labor Code: for injuries on or after January 1, 2013.</p>

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DWC Regulations	Status of Regulations (as of December 13, 2013)
<b>Senate Bill (SB) 863 Implementation</b>	
<b>Labor Code Section 5307.1</b> <b>Spinal Implant (Inpatient Fee Schedule) Regulations</b> <b>(Non-APA rulemaking, already in progress)</b>	<b>Status: Completed.</b> Effective date per Labor Code: January 1, 2013.
<b>Labor Code Section 5307.1</b> <b>Physician Fee Schedule Resource-Based Relative Value Scale (RBRVS)</b>	<b>Status: Public hearing December 12, 2013 to eliminate the use of the Federal Office of Workers' Compensation Program (OWCP) relative value units (because the structure of the OWCP data file results in erroneous fee calculations for certain procedures). These regulations state instead that those procedures will be billed "by report."</b> Effective date per Labor Code January 1, 2014.
<b>Labor Code Section 5307.1</b> <b>Ambulatory Surgery Center (ASC) Fee Schedule</b>	<b>Status: Completed.</b> Effective date per Labor Code: January 1, 2013.
<b>Labor Code Sections 4600, 5307.8</b> <b>Home Health Care Fee Schedule Regulations (Regular Rulemaking)</b>	<b>Status: October 2, 2012 Working Group Meeting. Conducting study.</b> <b>Next Step: draft regulations will be posted on DWC Forum.</b> Effective date per Labor Code: July 1, 2013.
<b>Labor Code Section 5307.9</b> <b>Copy Services Fee Schedule Regulations (Regular Rulemaking)</b>	<b>Status: Study presented October 17, 2013.</b> <b>Next Step: post draft regulations on DWC forum.</b> Effective date per Labor Code: December 31, 2013.

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

DWC Regulations	Status of Regulations (as of December 13, 2013)
Senate Bill (SB) 863 Implementation	
Sections 9767.5.1, 9767.16.5-9767.19  Medical Provider Network (MPN) Regulations (Regular Rulemaking)	Status: Public hearing held September 30, 2013. 15-day comment period ends December 26, 2013.  Effective date per Labor Code: January 1, 2014.
Gov't Code Sections 9795.1, 9795.1.5, 9795.1.6, 9795.3, 9795.5  Labor Code Sections 4600, 5811  Interpreter Certification (Regular Rulemaking)	Status: Completed. Effective August 13, 2013.  Effective date per Labor Code: January 1, 2013.  Status: Certificate of Compliance completed.  Final Regulations extended to March 1, 2014, per Assembly Bill (AB) 1376.
Labor Code Section 5307.7  Vocational Expert Fee Schedule	Status: June 28, 2012 – Working Group Meeting.  Next Step: post draft regulations on DWC forum.  Effective date per Labor Code: July 1, 2013.
Labor Code Section 4600  Predesignation/Chiropractor Primary Treating Physician Regulations	Status: Public hearing held October 17, 2013. Comments.  Effective date per Labor Code: January 1, 2013.
Labor Code Section 139.5, 4610, 4610.5, 4610.6  Qualified Medical Evaluator Regulations and Permanent Disability Rating Determination (QME) (Proposed Rulemaking)	Status: Completed. Effective September 16, 2013.  Effective date per Labor Code: January 1, 2013. For injuries on or after January 1, 2013. For decisions communicated on or after July 1, 2013.
Labor Code Section 139.48	Status: DIR drafting emergency regulations.

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

DWC Regulations	Status of Regulations (as of December 13, 2013)
<p><b>Senate Bill (SB) 863 Implementation</b></p>	
<p><b>Department of Industrial Relations (DIR)</b></p> <p><b>Return-to-Work Fund</b></p>	<p><b>Next Step: begin rulemaking.</b></p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p><b>WCAB (Non-APA rulemaking)</b></p> <p>1. Labor Code Section 139.48 – Return to Work Fund - Review procedure</p> <p>2. Labor Code Section 4603.6(f): IBR - Review procedure</p> <p>3. Labor Code Section 4610.6(h) IMR – Review procedure</p> <p>4. Labor Code Section 4616(h): MPN - Review procedure</p> <p>5. Labor Code Sections 4903 et. seq.</p>	<p><b>Status: Workers’ Compensation Appeals Board (WCAB) drafting regulations.</b></p> <p>Effective date per Labor Code: January 1, 2013.</p>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

**Assembly Bill 227 and Senate Bill 228 – Official Medical Fee Schedule**

<p><b>AB 227 &amp; SB 228 OMFS Mandates/Tasks</b></p>	<p><b>Status of Regulations (as of December 13, 2013)</b></p>
<p><b>Labor Code Section 5307.1</b></p> <p><b>Official Medical Fee Schedule Shall Be Adjusted</b> to conform to relevant Medicare/Medi-Cal changes within 60 days of changes (except specified inpatient changes)</p>	<p><b>Status: Statutes specify that changes can be implemented without regulations.</b></p> <p>Updates to Medicare and Medi-Cal changes are implemented by an “Order of the Administrative Director of the Division of Workers’ Compensation.”</p> <p>Update orders issued periodically as needed. The most recent orders issued are as follows:</p> <ul style="list-style-type: none"> <li>• Inpatient – update to conform to Medicare changes was adopted by Order, effective March 15, 2013.</li> <li>• Outpatient – update to conform to Medicare changes was adopted by Order, effective April 1, 2013.</li> <li>• Ambulance fees – update to conform to Medicare changes was adopted by Order, effective March 9, 2013.</li> <li>• Pathology and Clinical Laboratory – update to conform to Medicare changes was adopted by Order, effective January 1, 2011, and updated effective Jan. 1, 2013.</li> <li>• Durable Medical Equipment, Orthotics, Prosthetics and Supplies (DMEPOS) – update to conform to Medicare changes was adopted by Order, effective July 1, 2013.</li> </ul>

SPECIAL REPORT: 2013 LEGISLATION AND REGULATIONS

**Other Regulations**

<p><b>Labor Code Section 4659</b> <b>Commutation Tables for Permanent Disability</b></p>	<p><b>Status: Need to hire actuary.</b>  <i>8 CCR Sections 10169, 10169.1</i></p>
<p><b>Labor Code Section 138.4</b> <b>Benefit Notice Regulations (Regular Rulemaking)</b></p>	<p><b>Status: Posted on DWC forum April 18, 2013.</b>  <b>Next Step: begin formal rulemaking.</b></p>
<p><b>Labor Code Section 138.6</b> <b>WCIS Penalties (Regular Rulemaking)</b></p>	<p><b>Status: Posted on DWC forum April 16, 2013.</b>  <b>Next Step: begin formal rulemaking.</b></p>
<p><b>Labor Code Section 5307.27</b> <b>Medical Treatment Utilization Schedule (Regular Rulemaking)</b></p>	<p><b>Status: Hierarchy of evidence posted on DWC forum August 21, 2013.</b>  <b>Next Step: begin formal rulemaking. Opioid guidelines are expected to be posted on the DWC forum in January 2014.</b></p>
<p><b>Labor Code Section 129.5</b> <b>Audit Regulations (Regular Rulemaking)</b></p>	<p><b>Status: Preparing draft regulations.</b>  <b>Next Step: Working Group meeting.</b></p>

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**Administration of Self Insurance Plans Regulations**

The regulatory activities of the Office of Self Insurance Plans (OSIP) are outlined below. Emergency rulemaking was preceded by a finding of an emergency, a notice, the release of the proposed emergency rule(s), and an announcement to the public of the emergency rulemaking. In order to make emergency regulations permanent, it was necessary for OSIP to follow the emergency rulemaking process with regular rulemaking which included a 45-day public comment period and OSIP's response to any filed comments. This update covers only recent administrative regulations occurring during 2013.

Proposed OSIP regulations can be found online at:

<http://www.dir.ca.gov/osip/siprule.html>

Regulations in Title 8 of the California Code of Regulations (CCR) can be found online at:

<http://www.dir.ca.gov/samples/search/query.htm>.

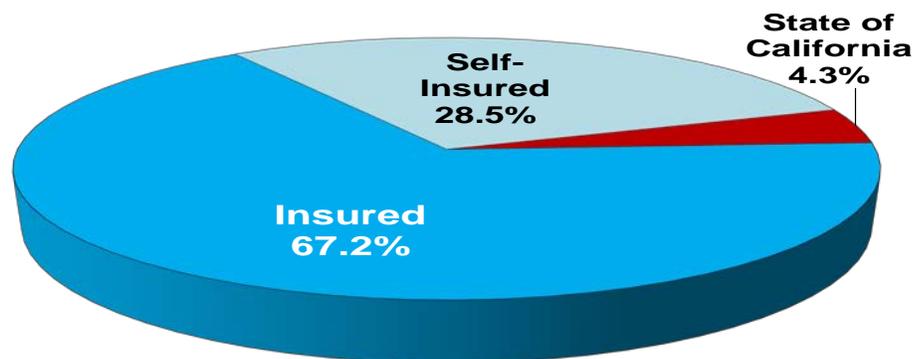
2012/13 OSIP Regulations	Status of Regulations (as of November 7, 2013)
<p><b>Administration of Self Insurance Emergency Regulations</b></p>	<p><b>Status: Finding of emergency and public notice made December 5, 2012. Emergency Regulations will become Effective January 1, 2013.</b></p> <p><b>Emergency Regulations Implementing Actuarial Based Collateral Provisions Required by New Statutes Contained In SB863.</b></p> <p><i>Title 8, California Code of Regulations Division 1, Chapter 8, Subchapter 2, Sections 15201, 15209, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497.</i></p> <p><a href="http://www.dir.ca.gov/osip/siprule.html">http://www.dir.ca.gov/osip/siprule.html</a></p>
<p><b>Administration of Self Insurance Certificate of Compliance</b></p>	<p><b>Status: Regular rulemaking was conducted in order to seek public comment and make permanent the Emergency Regulations that became Effective January 1, 2012. The Certificate of Compliance became Effective August 13, 2013.</b></p> <p><b>Certificate of Compliance was Adopted making permanent the Actuarial Based Collateral Provisions Required by New Statutes Contained in SB863, and Creating an Exception for Small Self-Insurers from Actuarial Requirements in Response to Public Comment.</b></p> <p><i>Title 8, California Code of Regulations Division 1, Chapter 8, Subchapter 2, Sections 15201, 15209, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497.</i></p> <p><a href="http://www.dir.ca.gov/osip/siprule.html">http://www.dir.ca.gov/osip/siprule.html</a></p>

## SYSTEM COSTS AND BENEFITS OVERVIEW

The California workers' compensation system covers 14,310,000 employees<sup>1</sup> working for over 862,428 employers<sup>2</sup> in the State. These employees and employers generated a gross domestic product of \$2,003,479,000,000 (\$2.0 trillion) for 2012.<sup>3</sup> A total of 534,872 occupational injuries and illnesses were reported for 2012,<sup>4</sup> ranging from minor medical treatment cases up to catastrophic injuries and deaths. The total paid cost to employers for workers' compensation in 2012 was \$18.3 billion. (See textbox "Systemwide Cost: Paid Dollars for 2012 Calendar Year" on page 37.)

Employers range from small businesses with just one or two employees to multinational corporations doing business in the State and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the State, which is legally uninsured. Based on the claim counts reported to the Workers' Compensation Information System (WCIS) (see the figure below), 67.2 percent of injuries occur to employees of insured employers, 28.5 percent of injuries occur to employees of self-insured employers, and 4.3 percent of injuries occur to employees of the State of California.<sup>5</sup> (See textbox "Method of Estimating the Workers' Compensation System Size" on pages 35-36 for calculations based on claim counts and paid loss data.)

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2010-2012 average)



Data Source: DWC - WCIS

<sup>1</sup> NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2011. August, 2013.

[http://www.nasi.org/sites/default/files/research/Workers\\_Comp\\_Report\\_2011.pdf](http://www.nasi.org/sites/default/files/research/Workers_Comp_Report_2011.pdf)

<sup>2</sup> CHSWC estimates are based on an Employment Development Department report, as above, showing 1,324,836 businesses in 2012. Of these, 924,816 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation.  $1,324,836 - (924,816 / 2) = 862,428$ . <http://www.labormarketinfo.edd.ca.gov/Content.asp?pageid=1045>.

<sup>3</sup> California Department of Finance, Economic Research Unit, [http://www.dof.ca.gov/HTML/FS\\_DATA/LatestEconData/FS\\_Misc.htm](http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Misc.htm).

<sup>4</sup> The latest year for which Workers' Compensation Information System (WCIS) reports are reasonably complete. Data are from the Division of Workers' Compensation (DWC) report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Twelve-Year History and Cumulative Totals, 2000-2011," July 3, 2013, [http://www.dir.ca.gov/dwc/wcis/WCIS\\_Reports.html](http://www.dir.ca.gov/dwc/wcis/WCIS_Reports.html). Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, "Reporting Workers' Compensation Injuries in California: How Many are Missed?" (2008). CHSWC Report.

<sup>5</sup> Data for 2006 are from the Division of Workers' Compensation report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Eight Year History and Cumulative Totals, 2000-2007," April 25, 2008. From 2002 through 2006, the average shares varied by no more than  $\pm 0.5$ - $0.4$  for the insured share,  $\pm 0.7$ - $0.5$  for the self-insured share, and  $\pm 0.2$  for the State. CHSWC omits the years 2000 and 2001 from these averages because reasonably complete reporting was not achieved until mid-2001.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Method of Estimating the Workers' Compensation System Size

The overall system size is now estimated at 1.5 times the insured sector size. For several years, the generally accepted estimate was 1.25. Beginning in 2008 and with help from the Workers' Compensation Insurance Rating Bureau (WCIRB), the Commission on Health and Safety and Workers' Compensation (CHSWC) estimated the system size at 1.43 times the insured market. This was based on claims counts in the Workers' Compensation Information System (WCIS).<sup>1</sup> As of 2011, CHSWC is revising that estimate to 1.5 times the insured sector. The revised estimate is based on updated claims data as well as paid loss counts from WCIS.

Claims counts show a continuing decline in the number of claims for all sectors from year to year. The decline has been steeper in the insured sector from 2010 through 2012. CHSWC is using a three-year moving average because it blunts the effect of one-time aberrations. The three-year average shares based on claims counts are 67.2 percent insured, 28.5 percent self-insured, and 4.3 percent state. Using these values, the multiplier for extending insured sector information to the overall system is  $100\%/67.2\% = 1.488$  (rounded to system size factor of 1.5).

**Table 1: Workers' Compensation Claims (in 000's) by Market Share**

Year	Insured		Self-Insured		State of California	
	Number	Market Share (%)	Number	Market Share (%)	Number	Market Share (%)
2010	381.3	66.7	165.1	28.9	24.9	4.3
2011	371.6	67.3	156.6	28.4	23.7	4.3
2012	361.0	67.5	150.4	28.1	23.5	4.4
Average for 3 years		67.2		28.5		4.3

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<sup>1</sup> WCIS Database as of June 17, 2013, [http://www.dir.ca.gov/dwc/wcis/WCIS\\_tables/WCC-MarketShare.pdf](http://www.dir.ca.gov/dwc/wcis/WCIS_tables/WCC-MarketShare.pdf)

(continued on the next page)

## SYSTEM COSTS AND BENEFITS OVERVIEW

(continued from previous page)

### Method of Estimating the Workers' Compensation System Size

Based on the convergence of market share measurements from two independent methods, the data convincingly demonstrate that the insured market share is 67-68 percent of the workers' compensation system. Depending on the method of measurement, the self-insured sector is 28 or 29 percent and the State is 3 or 4 percent.

Paid loss data indicate that 68.3 percent of the market is insured, 28.2 percent is self-insured, and 3.5 percent is State. These percentages are stable using 2012 data for insured and private self-insured sectors and either 2011/2012 or 2012/2013 data for the State and public self-insured sector, as shown in Tables 2 and 3, below. The multiplier for extending insured sector information to the overall system is  $100\%/68.2\% = 1.466$  (rounded to system size factor of 1.5).

**Table 2: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) – using public self-insured and state data for FY 2012-2013**

	Indemnity	Medical	Sub-Total	% in Total
a. Private Self-Insured <sup>1</sup> (2012)	\$560,652,058	\$752,732,652		
b. Public Self-Insured <sup>2</sup> (2012/2013)	\$937,771,648	\$1,045,499,089		
<b>SELF-INSURANCE PLAN (a + b)</b>	<b>\$1,498,423,706</b>	<b>\$1,798,231,741</b>	<b>\$3,296,655,447</b>	<b>28.0%</b>
<b>INSURED (2012)<sup>3</sup></b>	<b>\$3,205,415,000</b>	<b>\$4,837,439,000</b>	<b>\$8,042,854,000</b>	<b>68.2%</b>
<b>STATE (2012/2013)<sup>4</sup></b>	<b>\$171,356,901</b>	<b>\$278,355,642</b>	<b>\$449,712,543</b>	<b>3.8%</b>
<b>Total</b>			<b>\$11,789,221,990</b>	

**Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) – using public self-insured and state data for FY 2011-2012.**

	Indemnity	Medical	Sub-Total	% in Total
a. Private Self-Insured <sup>1</sup> (2012)	\$560,652,058	\$752,732,652		
b. Public Self-Insured <sup>2</sup> (2011/2012)	\$948,051,600	\$1,073,241,078		
<b>SELF-INSURANCE PLAN (a + b)</b>	<b>\$1,508,703,658</b>	<b>\$1,825,973,730</b>	<b>\$3,334,677,388</b>	<b>28.4%</b>
<b>INSURED (2012)<sup>3</sup></b>	<b>\$3,205,415,000</b>	<b>\$4,837,439,000</b>	<b>\$8,042,854,000</b>	<b>68.4%</b>
<b>STATE (2011/2012)<sup>4</sup></b>	<b>\$164,783,097</b>	<b>\$217,003,803</b>	<b>\$381,786,900</b>	<b>3.2%</b>
<b>Total</b>			<b>\$11,759,318,288</b>	

<sup>1</sup> Private Statewide Summary <http://www.dir.ca.gov/osip/StatewideTotals.html>

<sup>2</sup> Public Statewide Summary, <http://www.dir.ca.gov/osip/StatewideTotals.html>

<sup>3</sup> WCIRB, 2012 Losses and Expenses Report, Exhibit 18.1, Released June 26, 2013.

[http://www.wcirb.com/sites/default/files/documents/2012\\_losses\\_expenses.pdf](http://www.wcirb.com/sites/default/files/documents/2012_losses_expenses.pdf)

<sup>4</sup> Costs Information, <http://www.calhr.ca.gov/state-hr-professionals/Pages/workers-compensation-program.aspx>

## SYSTEM COSTS AND BENEFITS OVERVIEW

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in the following textbox. These figures are based on insurer-paid amounts multiplied by 1.5 to include estimated amounts paid by self-insured employers and the State.

### Systemwide Cost: Paid Dollars for 2012 Calendar Year

**Table 4: A Claim Counts-based Estimate of Workers' Compensation System Size (Million \$)**

	<i>Insured</i>	<i>Self-Insured and the State*</i>	<i>All Employers</i>
Indemnity*	\$3,205	\$1,603	\$4,808
Medical*	\$4,837	\$2,419	\$7,256
Changes to Total Reserves	\$1,334	\$667	\$2,001
Insurer Pre-Tax Underwriting Profit/Loss	-\$1,885	N/A	-\$1,885
Expenses (See Table below: Breakdown of Expenses)	\$4,631	\$1,483	\$6,114
<b>TOTAL for 2012</b>	<b>\$12,122</b>	<b>\$6,171</b>	<b>\$18,293</b>

\*Include CIGA payments

Source for Insured figures above is WCIRB Losses and Expenses report released in June, 2013. Self-insured and state expenses are calculated by CHSWC using 0.50 multiplier for equivalent cost components. The equivalent expense components are estimated as follows:

**Table 5: Breakdown of Expenses (Million \$)**

	<i>Insured</i>	<i>Self-Insured and State</i>	<i>All Employers</i>
<i>Loss Adjustment Expense</i>	\$2,177	\$1,089	\$3,266
<i>Commissions and Brokerage</i>	\$938	N/A	\$938
<i>Other Acquisition Expenses</i>	\$445	N/A	\$445
<i>General Expenses</i>	\$788	\$394	\$1,182
<i>Premium and Other Taxes</i>	\$283	N/A	\$283
<b>Total</b>	<b>\$4,631</b>	<b>\$1,483</b>	<b>\$6,114</b>

### Estimate of Workers' Compensation System Size Based on Written Premium

Another way to calculate systemwide costs for employers is by using written premium.

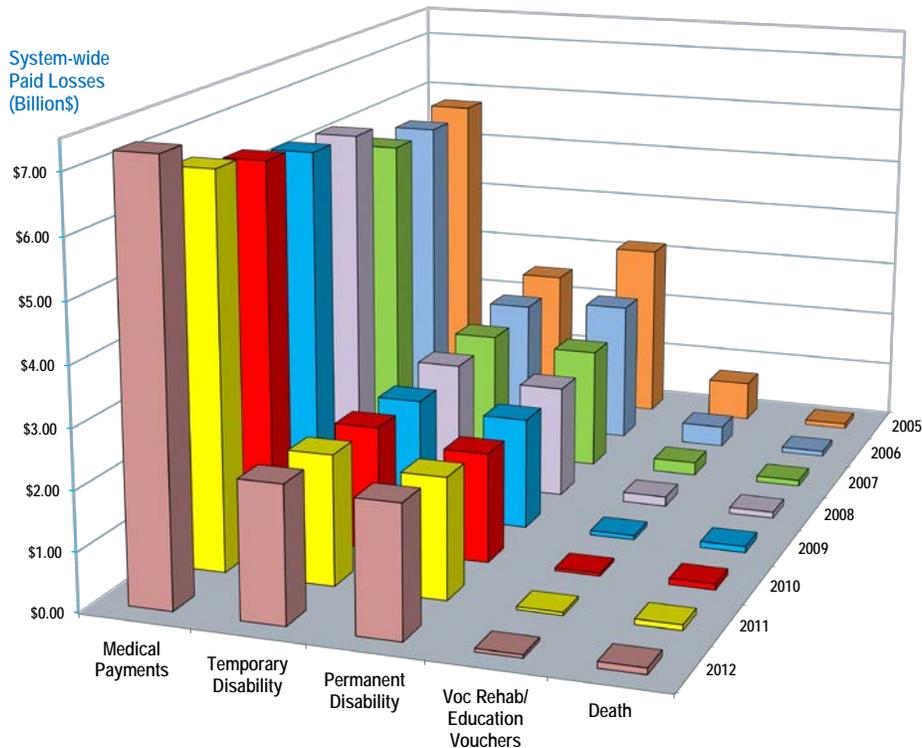
Written premium for insured employers = \$12.5 billion in accident year 2012.<sup>6</sup>

\$12.5 billion \* 1.5 = \$18.8 billion systemwide costs for employers.

<sup>6</sup> WCIRB Summary of June 30, 2013 Insurer Experience Report, September 23, 2013.

## SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 2: System-wide Paid Benefits, by Year and Type of Payment (Billion \$)



\* System-wide amounts estimated at 1.5 times the amounts reported by insurers

Data Source: WCIRB

### Costs Reached a Crisis in 2003

Both the increases in the costs of workers' compensation benefits and changes in the workers' compensation insurance industry were factors contributing to a workers' compensation crisis that peaked in 2003.

The total costs of the California workers' compensation system more than tripled, growing from \$7.8 billion in 1997 to \$29.0 billion in 2003.<sup>7</sup> Medical costs, which are the largest single category of workers' compensation costs, rose most sharply, from \$2.6 billion in 1997 to \$7.1 billion in 2003. The rate of increase in medical cost per workers' compensation claim far exceeded the rate of increase in the consumer price index for medical care. Other contributing factors to the increases in costs were the increases to the TD and PD benefits that began phasing into effect in 2003 following Assembly Bill (AB) 749 enacted in 2002 and the expansion of workers' compensation liability.

The crisis propelled reforms enacted in 2003 and 2004 which reduced the cost of benefits and at least initially accomplished control of medical costs and a decrease in the cost of workers' compensation insurance. Within several years, the average rate for workers' compensation insurance fell by over 60 percent. These reforms included the following provisions:

<sup>7</sup> The total cost of the workers' compensation figures consists of medical care payments and wage replacement benefits to injured workers, along with administrative expenses and adjustments to reserves, as calculated by CHSWC based on insurer data from WCIRB. *Annual Reports*, San Francisco: WCIRB, 1998, 2004.

## SYSTEM COSTS AND BENEFITS OVERVIEW

- Evidence based medical treatment guidelines
- Utilization review of medical treatment, systematically applying the guidelines
- New fee schedule for inpatient hospital, hospital outpatient departments, and ambulatory surgery centers based on the Medical fee plus 20 percent.
- Employer control of medical care through medical provider networks (MPNs).
- PD rating based on the AMA Guides prescribed by 2004 legislation, implemented by Permanent Disability Rating Schedule (PDRS) revision effective 1/1/2005,

### Impact of 2003 and 2004 Reforms

The reforms of 2003 and 2004 cut PD benefits by over 50 percent and initially reduced medical costs. However, medical costs again began to increase shortly following the 2004 reforms and the cost of insurance in recent years has begun to rise again. The following trends in medical costs and the cost of insurance were noted:

- Paid medical costs increased by 35 percent from 2007 to 2012 and the average medical cost per claim had also grown by over 50 percent from 2005 to 2012. In addition to the increase in medical costs, workers' compensation medical treatment disputes took a very long time to resolve and the medical provider network system was criticized regarding not providing sufficient access to care for injured workers.
- The average premium rate has dropped every year from the second half of 2003 to 2009 when it was \$2.10, a decrease of almost 67 percent from the second half of 2003. From 2009 to the second half of 2012, the average premium rate increased by 23 percent from \$2.10 per \$100 of payroll to \$2.58 per \$100 of payroll, correspondingly, and approximately by 8 percent above the average rate of \$2.27 per \$100 of payroll charged for 2011.

### Workers' Compensation 2012 Reforms: Changes to the California System

California made significant legislative reforms in the workers' compensation system with the enactment of Senate Bill (SB) 863 in September 2012. The overall theme of the reform was to improve benefits for most injured workers while reducing costs. SB 863 generally makes changes to: the measurement of permanent disability; the compensation for permanent disability; the physician fee schedule; the process to resolve disputes over appropriate medical treatment, medical fees and billing and collections; the means of ensuring self-insurance program solvency and the methods of securing the payment of compensation by self-insurance; and certain other aspects of the workers' compensation system.

Many of the provisions of SB 863 were supported by CHSWC research and recommendations. For a summary of the key provisions of the reforms please see the Special Report: 2012 Workers' Compensation Reforms in this annual report. For a summary of past reforms, please see System Costs and Benefits Overview section in the 2011 CHSWC Annual Report.

The Workers' Compensation Insurance Rating Bureau (WCIRB) estimated annual savings from the reform at \$500 million per year.<sup>8</sup> It should be noted that the WCIRB is doing a retrospective evaluation of SB 863 as new data becomes available and regulations related to SB 863 are implemented. WCIRB's

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<sup>8</sup> WCIRB Evaluation of the Cost Impact of SB863, October 12, 2012.

[http://www.wcirb.com/sites/default/files/documents/UPDATED\\_EVALUATION\\_SB863\\_COMPLETE.PDF](http://www.wcirb.com/sites/default/files/documents/UPDATED_EVALUATION_SB863_COMPLETE.PDF)

## SYSTEM COSTS AND BENEFITS OVERVIEW

preliminary retrospective evaluation of SB 863 indicates the following<sup>9</sup>:

- Early indications on lien filings based on Division of Workers' Compensation (DWC) data through September 30, 2013 suggest that there may be a greater reduction than the 40 percent reduction projected by the WCIRB in 2012.
- In 2012, based on a California Workers' Compensation Institute analysis, the WCIRB estimated an approximate \$20,000 per claim reduction on claims involving spinal implant hardware due to the SB 863 provisions related to duplicate reimbursement for spinal implant hardware. Preliminary WCIRB data suggests savings of more than \$15,000 per claim on affected spinal surgery claims in 2013.
- In 2012, the WCIRB estimated that the revised fee schedule for ambulatory surgery center (ASC) facility fees required by SB 863 would reduce those fees by approximately 25 percent. Preliminary WCIRB data for 2013 services suggest a 26 percent reduction in ASC fees.
- Early indications on lien filings based on Division of Workers' Compensation (DWC) data through September 30, 2013 suggest that there may be a greater reduction than the 40 percent reduction projected by the WCIRB in 2012. Also, as projected, WCIRB lien survey data suggests that the greatest level of reduction is in liens for relatively small amounts.
- In 2012, based on a California Workers' Compensation Institute analysis, the WCIRB estimated an approximate \$20,000 per claim reduction on claims involving spinal implant hardware due to the SB 863 provisions related to duplicate reimbursement for spinal implant hardware. Preliminary WCIRB data suggests savings of more than \$15,000 per claim on affected spinal surgery claims in 2013.
- In 2012, the WCIRB estimated that the revised fee schedule for ambulatory surgery center (ASC) facility fees required by SB 863 would reduce those fees by approximately 25 percent. Preliminary WCIRB data for 2013 services suggest a 26 percent reduction in ASC fees.

Recent volumes of independent medical review (IMR) requests from DWC data indicate more than 30,000 requests for IMR were filed in August and September. If the volume of IMR requests continues at this level, the number of IMRs conducted will be several times higher than that estimated by the WCIRB in its SB 863 estimated savings published in 2012, raising serious questions as to the anticipated savings in administrative costs as well as potential future savings in medical treatment costs.

### **Costs of Workers' Compensation in California**

Employers pay the cost of workers' compensation either by paying premiums for workers' compensation insurance or by self-insuring with the consent of the Department of Industrial Relations (DIR). Only the State of California can be legally uninsured as an employer. The cost to insured employers is measured in terms of premium. Premium is measured before discounts that are given for deductibles because there are no adequate data on amounts paid in deductibles by employers. The cost to self-insured employers is measured mostly by incurred claims, similar to the analysis of insurance company losses and expenses. These two aspects of employer cost will be discussed in the following pages, and the loss and expense analysis for insurers appears later in this section.

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<sup>9</sup> Senate Bill 863 WCIRB Cost Monitoring Report-Initial Retrospective Evaluation, Released October 2013.  
[http://www.wcirb.com/sites/default/files/documents/131028\\_db\\_ltr\\_to\\_ccarroll\\_on\\_2913\\_cost\\_monitoring\\_report-complete.pdf](http://www.wcirb.com/sites/default/files/documents/131028_db_ltr_to_ccarroll_on_2913_cost_monitoring_report-complete.pdf)

## SYSTEM COSTS AND BENEFITS OVERVIEW

### ***Costs Paid by Insured Employers***

In 2012, workers' compensation insurers earned \$12.1 billion in premiums from California employers.<sup>10</sup>

The cost of workers' compensation insurance in California has undergone dramatic changes in the past ten years due to a combination of factors.

When workers' compensation premiums were deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances lower than their actual costs. Costs also increased beyond the amounts that were foreseen when premiums were determined and collected. Many insurers drew on their reserves to make up the difference, and several insurers became insolvent. Subsequently, the surviving insurers charged higher premium rates to meet costs and began to replenish surplus.

The California workers' compensation legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of PD, had significant impact on insurance costs.

As intended, these reforms reduced workers' compensation costs in California. It appears that the savings have been fully realized and the system may be returning to a trend of cost increases. The question now is whether the cost increases are merely the long-term trends of inflation and medical-cost growth, or whether the savings accomplished by the reforms are being eroded by an inability to maintain the early savings. Insurers report broad-based growth in medical spending, and judicial interpretations of the PD rating system portend increased litigation and higher PD payments. The cost of insurance continued to drop through the latest period for which written premium data are available, but filed rates have begun to climb again.

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<sup>10</sup> Source: "2012 California's Workers' Compensation Losses and Expenses." WCIRB – June 26, 2013. Note that earned premium is not identical to written premium. The two measurements are related, and the choice of which measurement to use depends on the purpose.

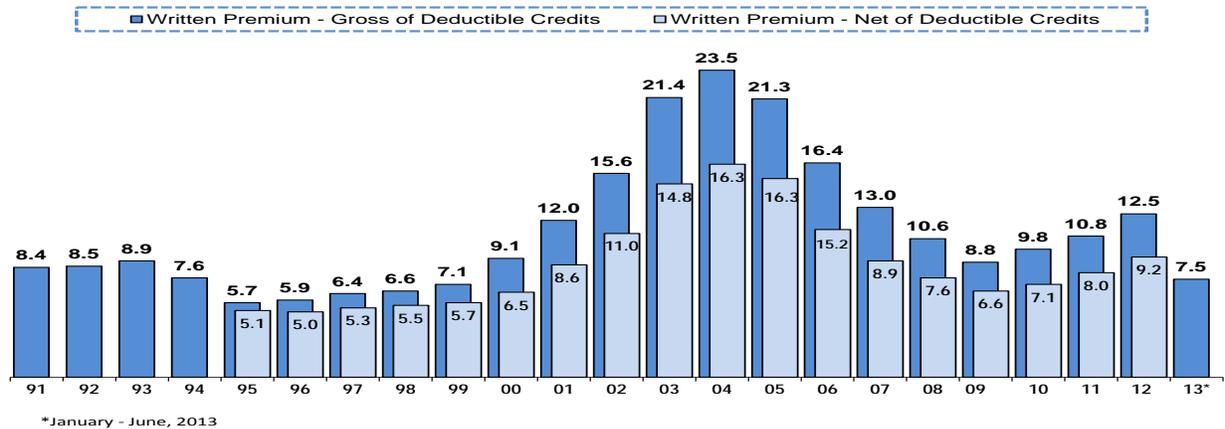
## SYSTEM COSTS AND BENEFITS OVERVIEW

### Workers' Compensation Written Premium

WCIRB defines written premium as the premium an insurer expects to earn over the policy period.

As shown in the following figure, workers' compensation written premium has undergone dramatic changes since 1991. Written premium averaged \$8.6 billion per year from 1991 to 1993, decreased 36 percent from 1993 to 1995, increased slightly in the latter part of the 1990s, more than tripled from 1999 through 2004, and experienced a significant decline of over 60 percent from 2004 to 2009. From 2009 to 2012, there was a 42 percent increase in written premium.

**Figure 3: Workers' Compensation Written Premium, as of June 30, 2013 (Billion \$)**

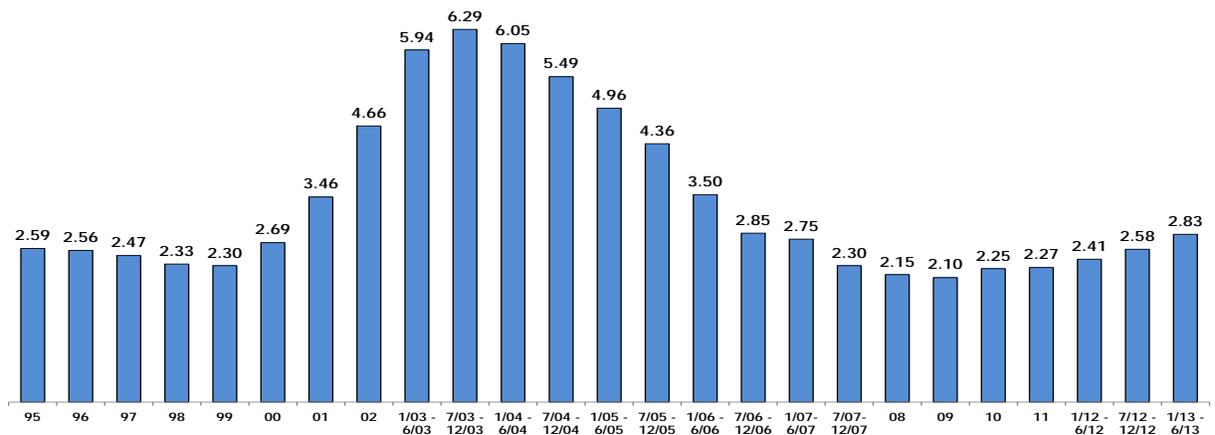


Data Source: WCIRB Summary of June 30, 2013 Insurer Experience Report, released September 23, 2013, Exhibit 1

### Workers' Compensation Average Premium Rate

The following figure shows the average workers' compensation premium rate per \$100 of payroll. The average stabilized during the mid-to-late 1990s and then rose significantly beginning in 2000 up to the second half of 2003. However, the average premium rate has dropped every year from the second half of 2003 to 2009 when it was \$2.10, a decrease of almost 67 percent from the second half of 2003. From 2009 to 2012, the average premium rate increased by 35 percent.

**Figure 4: Average Workers' Compensation Insurer Rate per \$100 of Payroll, as of June 30, 2013 (Dollar \$)**



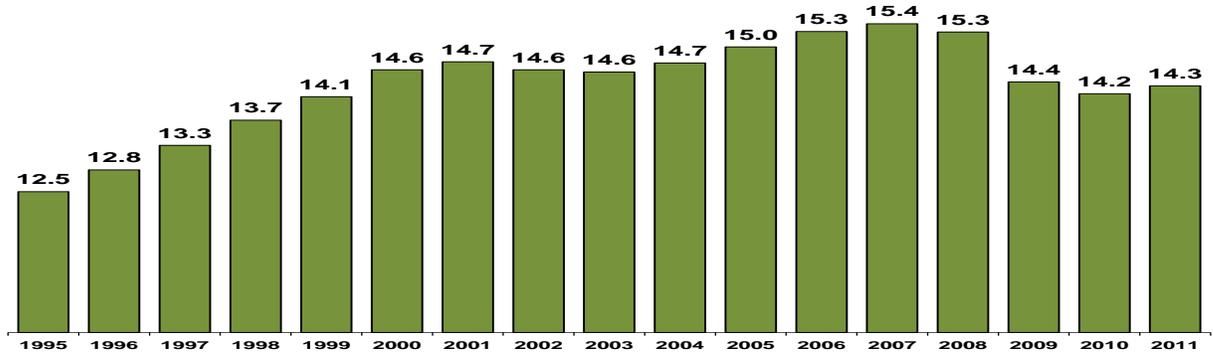
Data Source: WCIRB Summary of June 30, 2013 Insurer Experience Report, released September 23, 2013, Exhibit 2

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Workers Covered by Workers' Compensation Insurance*

The estimated number of California workers covered by workers' compensation insurance grew by about 18 percent from 12.5 million in 1995 to 14.7 million in 2001. From 2001 through 2005, the number of covered workers in California stabilized, averaging about 14.7 million per year. The estimated number of California workers covered by workers' compensation insurance grew by about 6 percent from 2003 to 2007, decreased by 12 percent from 2007 to 2009, and then averaged at 14.3 million per year from 2009 to 2011.

Figure 5: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (Million)

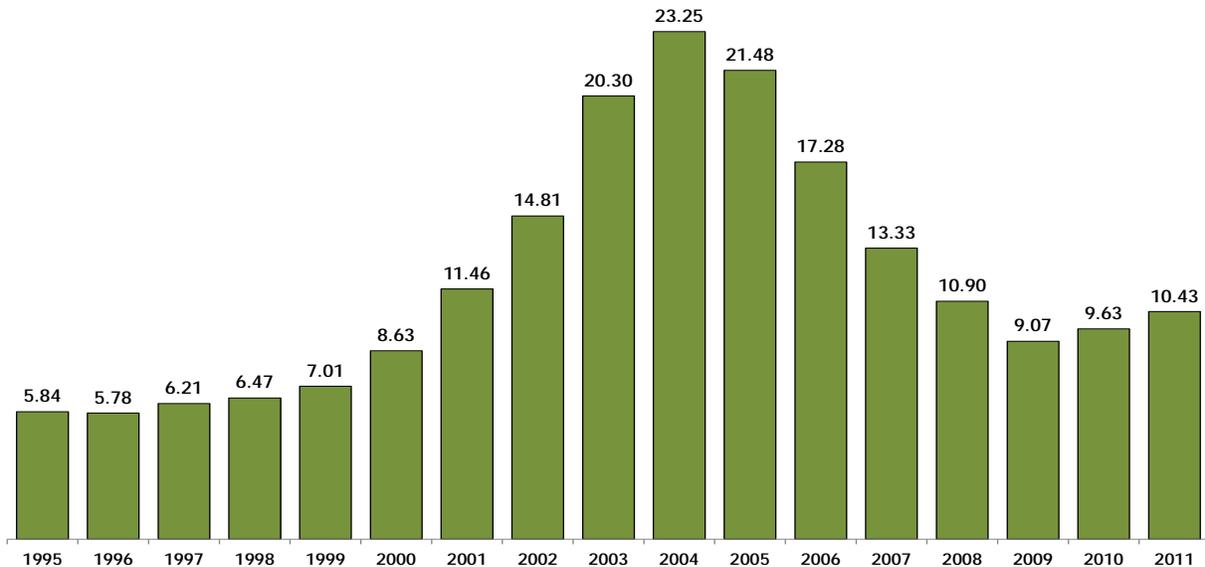


Data Source: National Academy of Social Insurance (NASI)

### *Total Earned Premium*

WCIRB defines the earned premium as the portion of a premium that has been earned by the insurer for policy coverage already provided.

Figure 6: Workers' Compensation Earned Premium (Billion \$)



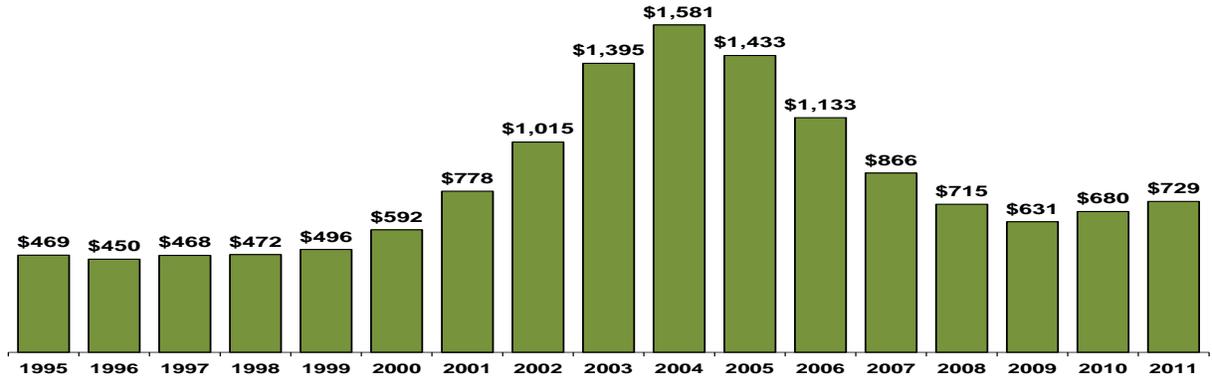
Data Source: WCIRB

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Average Earned Premium per Covered Worker

As shown in the graph below, the average earned premium per covered worker leveled off in the second part of 1990s, more than tripled between 1999 and 2004, and then decreased by 60 percent from 2004 to 2009. From 2009 to 2011, the average earned premium per covered worker increased by 15.5 percent.

Figure 7: Average Earned Premium per Covered Worker



Data Source: WCIRB and NASI  
Calculations: CHSWC

### Costs Paid by Self-Insured Private and Public Employers

The permissible alternatives to insurance are private self-insurance, public self-insurance for governmental entities either individually or in joint power authorities (JPAs), and legally uninsured State government.

The Office of Self Insurance Plans (OSIP) is a program within the Department of Industrial Relations Director's Office responsible for the oversight, regulation and administration of the workers' compensation self-insurance marketplace within California. The self-insurance marketplace is comprised of more than 7,950 employers, employing 4 million workers with a total payroll exceeding \$173 billion. 1 out of every 4 California workers is covered by self-insured workers' compensation.

During 2012, OSIP continued expanding on its many initiatives from the previous year designed to streamline its operations, reduce fees to California employers, and increase its accountability, transparency and commitment to providing a high level of responsive customer service to the public. An example of this was the year-long project creating an E-Filing platform enabling self-insured employers and third party administrators to electronically file their required employer's annual report. This project went live for the 2012 annual reporting cycle creating an easy, user-friendly system for preparing and filing these reports. This system further streamlines OSIP's processing of these reports and will also serve as an expandable platform for future E-Filing initiatives beginning in 2013.

Part of the cost of workers' compensation for self-insured employers can be estimated by the amounts of benefits paid in a given year and by changes in reserves. This method is similar to an analysis done by WCIRB for the insurance industry, but the data for self-insured employers are less comprehensive than for insurers. The most complete estimate of the cost to self-insured employers is still obtained by taking some multiple of the cost to insured employers, excluding the cost elements that only apply to insurance. As described in the sidebars at the beginning of this section, that multiplier is 0.5, and the estimated cost to self-insured employers and the State for 2012 is \$6.2 billion.

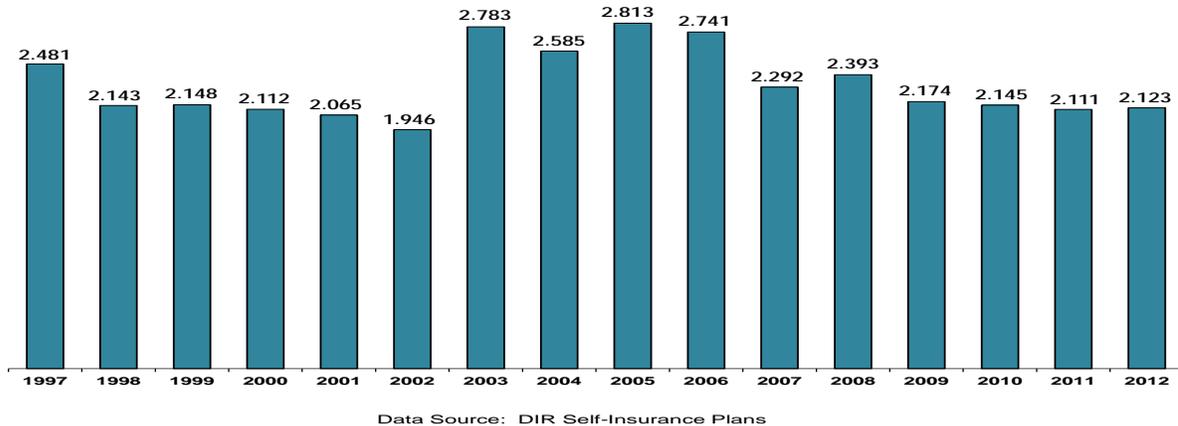
## SYSTEM COSTS AND BENEFITS OVERVIEW

### Private Self-Insured Employers<sup>11</sup>

#### Number of Employees

The following figure shows the number of employees working for private self-insured employers between 1997 and 2012. A number of factors may affect the year-to-year changes. One striking comparison is to the average cost of insurance per \$100 of payroll for insured employers, as described earlier. When insurance is inexpensive, fewer employers may be attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance.

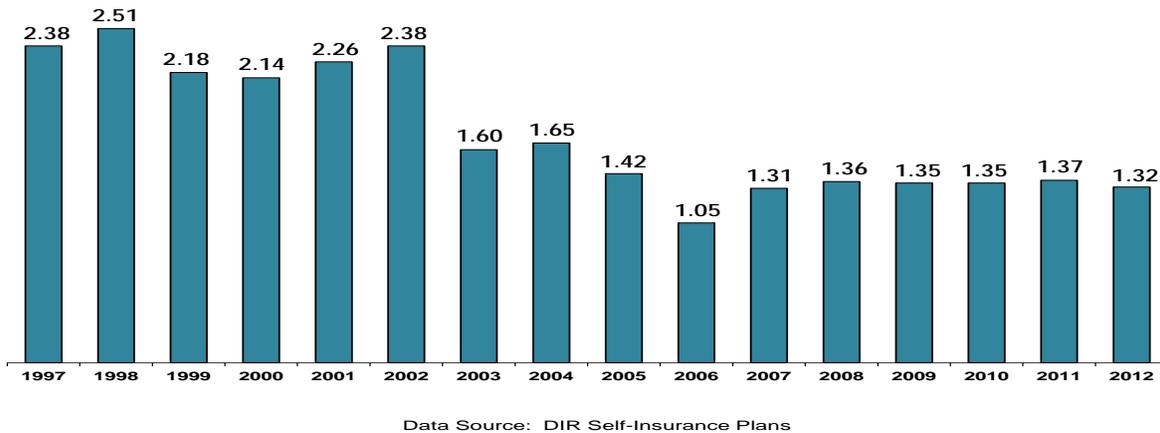
Figure 8: Number of Employees – Private Self Insured Employers (Million)



#### Indemnity Claims

The rate of indemnity claims per 100 employees of private self-insured employers reflects trends seen throughout the workers' compensation system. Frequency has been declining steadily for years. In addition, the reforms of the early 1990s and the reforms of 2003-2004 each produced distinct drops in frequency. Smaller year-to-year variations, including a small upswing in 1998 and a two-year upward trend from 2000 through 2002, are not correlated with any short-term variations in the insured market.

Figure 9: Number of Indemnity Claims per 100 Employees of Private Self-Insured Employers



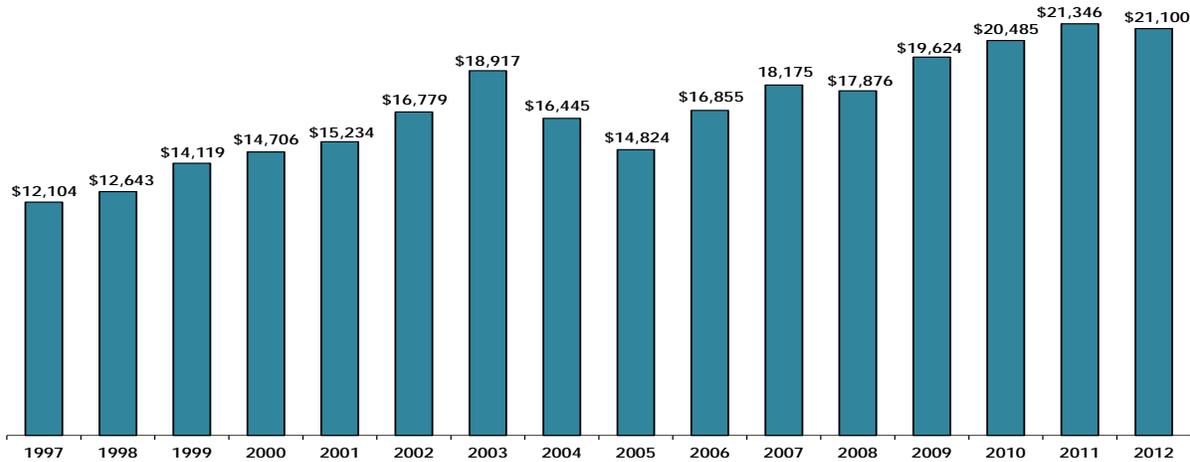
<sup>11</sup> Data for private self-insured employers are from DIR's Office of Self Insurance Plans correspondence received by CHSWC in September 2012.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Incurred Cost per Indemnity Claim*

The following figure shows the incurred cost per indemnity claim for private self-insured employers, which has experienced changes similar to the changes for insurance companies. There has been a steady rise in the cost per indemnity claim until 2003, when the cost began to drop in response to the reforms of 2003 and 2004. The upward trend returned in 2006. Although the growth in cost per claim is back, the cost is now growing from a lower starting point than it would have been without the reforms.

Figure 10: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers

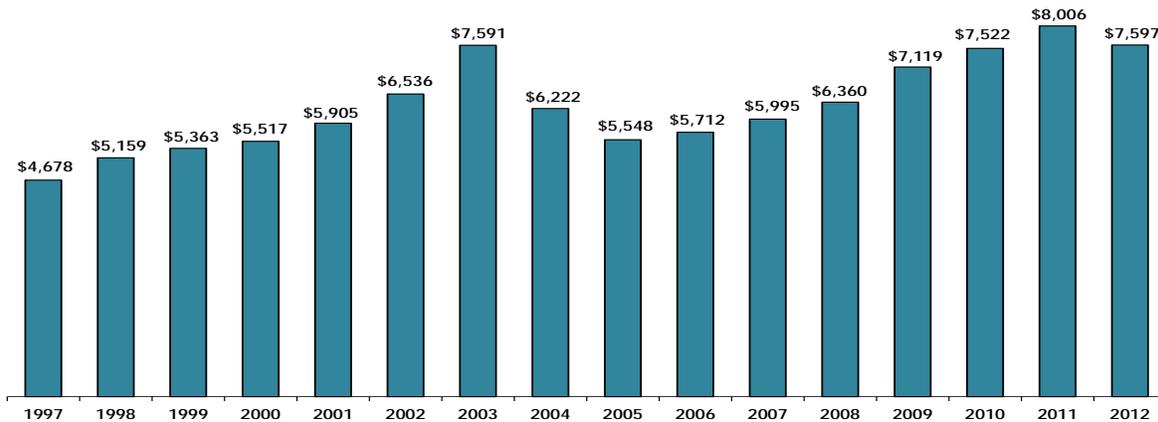


Data Source: DIR Self-Insurance Plans

### *Incurred Cost per Indemnity and Medical Claim*

The average cost of all claims, including both indemnity claims and medical-only claims is naturally lower than the average cost of indemnity claims. While lower, it shows a pattern similar to the trends for indemnity claims.

Figure 11: Incurred Cost per Claim – Indemnity and Medical of Private Self-Insured Employers



Data Source: DIR Self-Insurance Plans

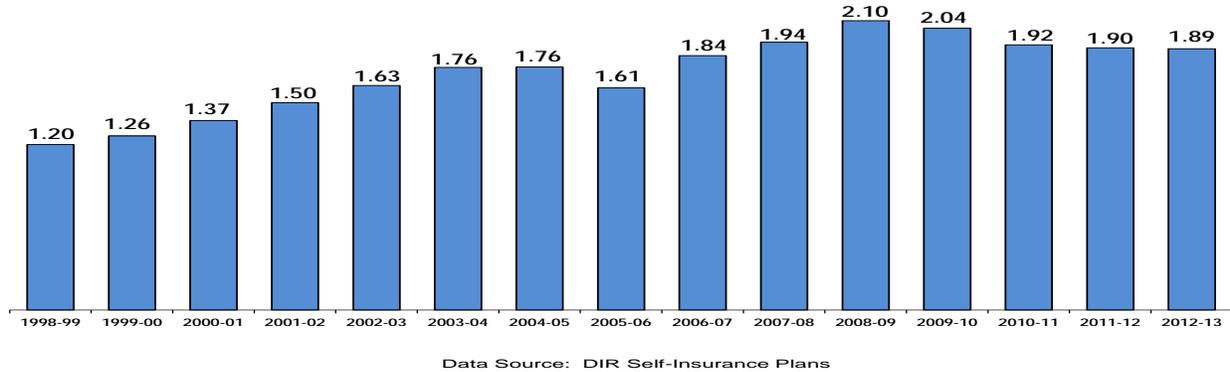
## SYSTEM COSTS AND BENEFITS OVERVIEW

### **Public Self-Insured Employers<sup>12</sup>**

#### *Number of Employees*

The following figure shows the number of public self-insured employers between fiscal years 1998-1999 and 2012-2013. Between 1998-1999 and 2003-2004, the number of employees working for public self-insured employers grew by 47 percent, then leveled off between 2003-2004 and 2004-2005, declined between 2004-2005 and 2005-2006, increased by 30 percent from 2005-2006 to 2008-2009, and then decreased by about 10 percent from 2009-10 to 2012-2013.

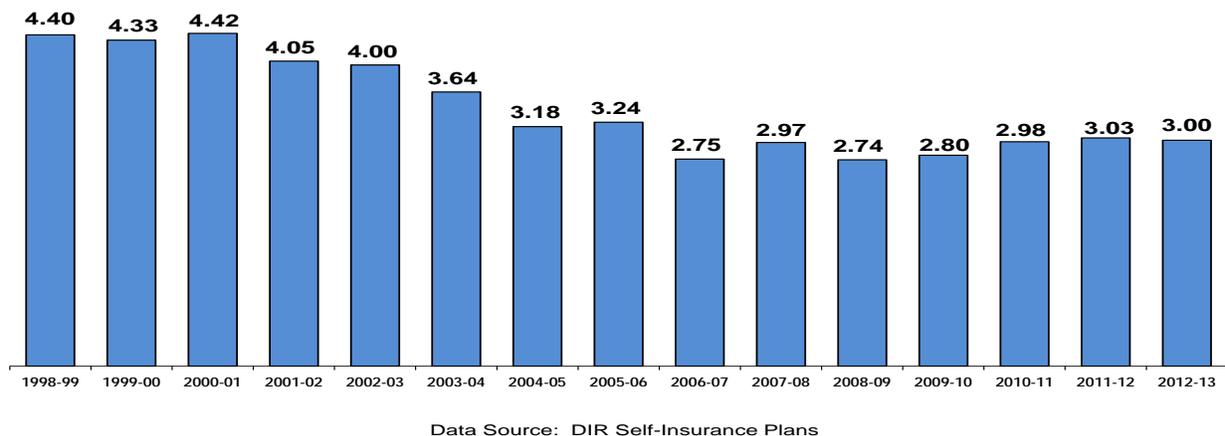
Figure 12: Number of Employees of Public Self-Insured Employers (Million)



#### *Indemnity Claims*

The number of indemnity claims by employees working for public self-insured employers remained steady between 1998-1999 and 2000-2001. Between 2000-2001 and 2004-2005, the number of indemnity claims by employees decreased by 28 percent and then fluctuated between 2004-05 and 2008-09. From 2008-09 to 2012-13, number of indemnity claims by employees working for public self-insured employers increased overall by 9.5 percent.

Figure 13: Number of Indemnity Claims per 100 Employees of Public Self-Insured Employers



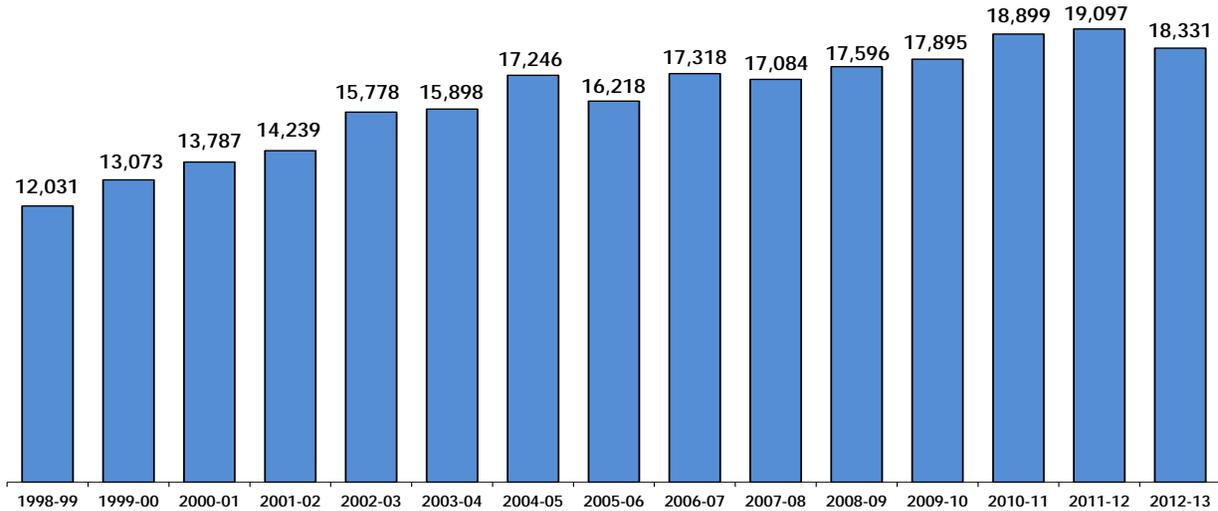
<sup>12</sup> Data for Public Self-Insured Employers are from DIR's Office of Self Insurance Plans correspondence received by CHSWC in December 2013.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Incurred Cost per Claim*

The following figure shows the incurred cost per indemnity claim for public self-insured employers. Between 1998-1999 and 2012-2013, the incurred cost per indemnity claim increased overall by about 52 percent from \$12,031 to \$18,331.

Figure 14: Incurred Cost per Indemnity Claim of Public Self-Insured Employers (Dollar \$)

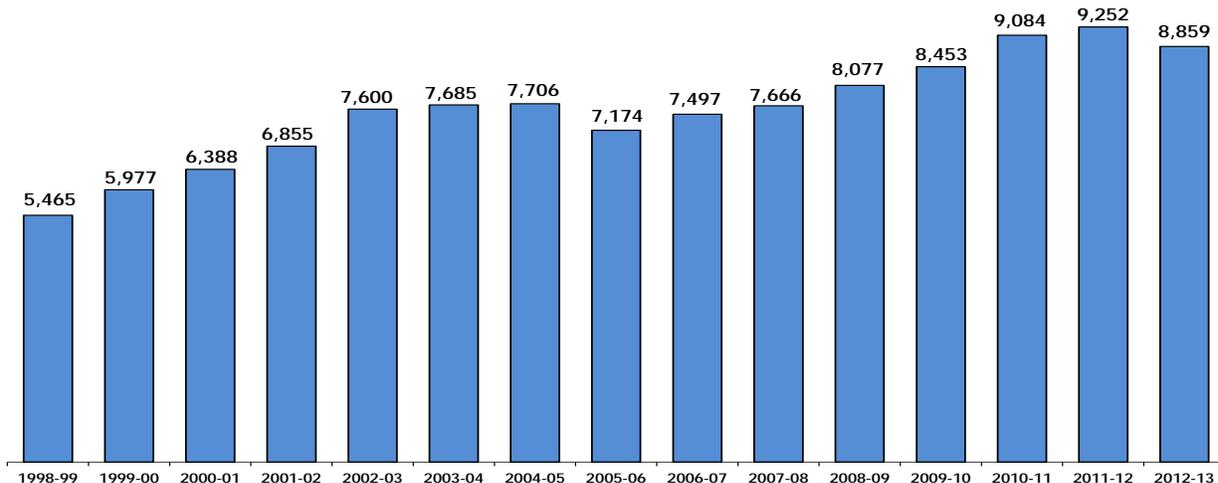


Data Source: DIR Self-Insurance Plans

### *Incurred Cost per Indemnity and Medical Claim*

The following figure shows the incurred cost per indemnity and medical claim for public self-insured employers. Between 1998-1999 and 2012-2013, the incurred cost per indemnity and medical claim increased overall by 62 percent from \$5,465 to \$8,859.

Figure 15: Incurred Cost per Claim – Indemnity and Medical -- Public Self-Insured Employers (Dollar \$)



Data Source: DIR Self-Insurance Plans

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Workers' Compensation System Expenditures: Indemnity and Medical Benefits

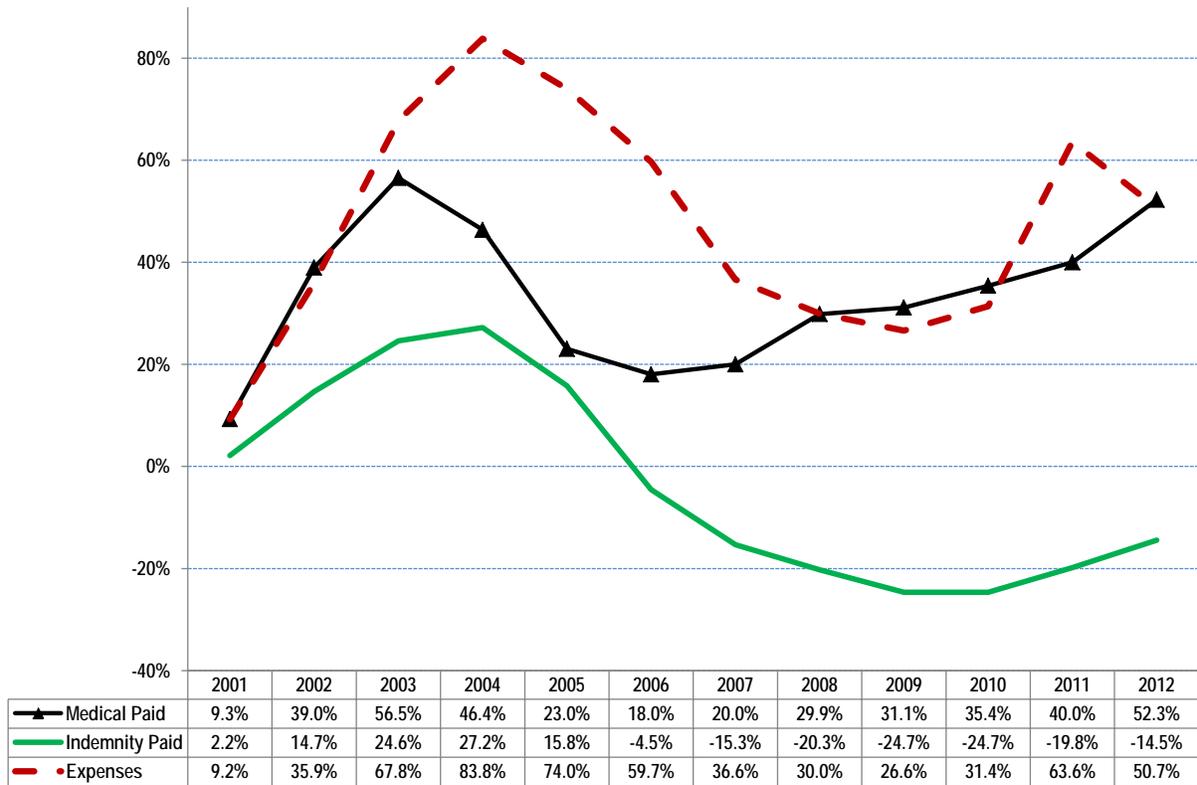
#### Overall Costs

##### Methodology for Estimating

The estimated percentages of total system costs are based on insured employer costs provided by WCIRB. The assumption is that these data apply also to self-insureds. Since self-insured employers and the State are estimated to be 34 percent of total California workers' compensation claims, the total system costs are calculated by increasing WCIRB data for insured employers to reflect that proportion.

##### Growth of Workers' Compensation Costs

Figure 16: Workers' Compensation Costs: Percent Change by Year Compared with 2000



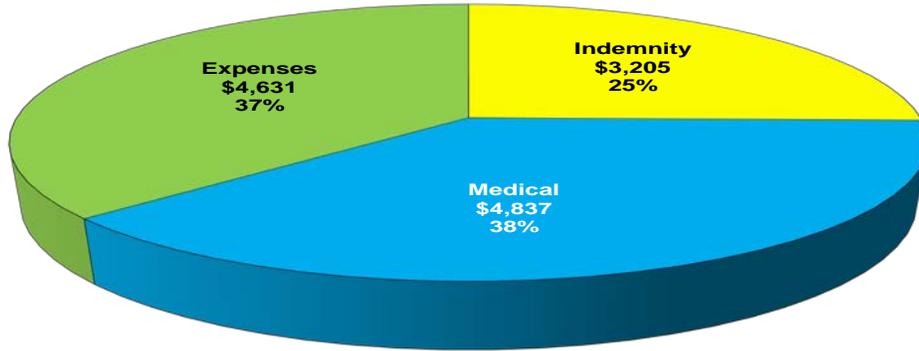
Data Source: WCIRB

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Distribution of Workers' Compensation Costs by Type*

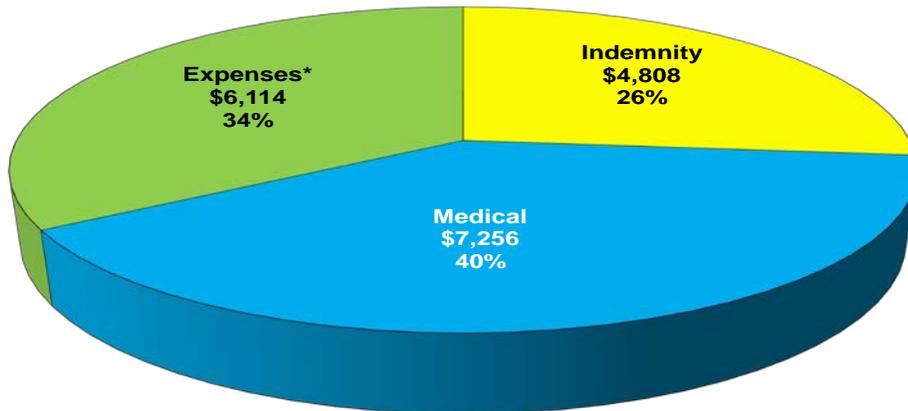
The two figures below show the distribution of workers' compensation paid costs for insured employers and systemwide.

Figure 17: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2012 (Million \$)



Data Source: WCIRB

Figure 18: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2012 (Million \$)



\* The distribution shown in this chart includes both insured and self-insured employers' costs. For insured costs, Expenses include allocated loss adjustment expenses, unallocated loss adjustment expenses, commissions and brokerage, other acquisition expenses, and premium taxes. Self-insured employers would not encounter some of those types of expenses.

Please note that Insurer Pre-Tax Underwriting losses (\$1,885 million in 2012) were excluded from the chart since they were not a component of both insured and self-insured costs.

Data Source: WCIRB with calculations by CHSWC

## SYSTEM COSTS AND BENEFITS OVERVIEW

### **Indemnity Benefits**

WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 66 percent of total California workers' compensation claims, estimated indemnity benefits are shown on the following table for the total system, insured employers, self-insured employers, and the State of California.

**Table 6: Systemwide Estimated Costs of Paid Indemnity Benefits**

Indemnity Benefits (Thousand \$)	2011	2012	Change
Temporary Disability	\$2,201,639	\$2,300,711	\$99,072
Permanent Total Disability	\$183,497	\$256,178	\$72,681
Permanent Partial Disability	\$1,856,979	\$1,957,820	\$100,841
Death	\$91,958	\$105,000	\$13,043
Funeral Expenses	\$1,500	\$1,553	\$53
Life Pensions	\$122,177	\$132,077	\$9,900
Voc Rehab/Non-transferable Education Voucher	\$48,423	\$54,785	\$6,362
Total	\$4,506,171	\$4,808,121	\$301,950

### **Paid by Insured Employers**

Indemnity Benefits (Thousand \$)	2011	2012	Change
Temporary Disability *	\$1,467,759	\$1,533,807	\$66,048
Permanent Total Disability *	\$122,331	\$170,785	\$48,454
Permanent Partial Disability *	\$1,237,986	\$1,305,213	\$67,227
Death *	\$61,305	\$70,000	\$8,695
Funeral Expenses	\$1,000	\$1,035	\$35
Life Pensions	\$81,451	\$88,051	\$6,600
Voc Rehab/Non-transferable Education Voucher *	\$32,282	\$36,523	\$4,241
Total	\$3,004,114	\$3,205,414	\$201,300

### **Paid by Self-Insured Employers and the State\*\***

Indemnity Benefits (Thousand \$)	2011	2012	Change
Temporary Disability	\$733,880	\$766,904	\$33,024
Permanent Total Disability	\$61,166	\$85,393	\$24,227
Permanent Partial Disability	\$618,993	\$652,607	\$33,614
Death	\$30,653	\$35,000	\$4,348
Funeral Expenses	\$500	\$518	\$18
Life Pensions	\$40,726	\$44,026	\$3,300
Voc Rehab/Non-transferable Education Voucher	\$16,141	\$18,262	\$2,121
Total	\$1,502,057	\$1,602,707	\$100,650

\* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.

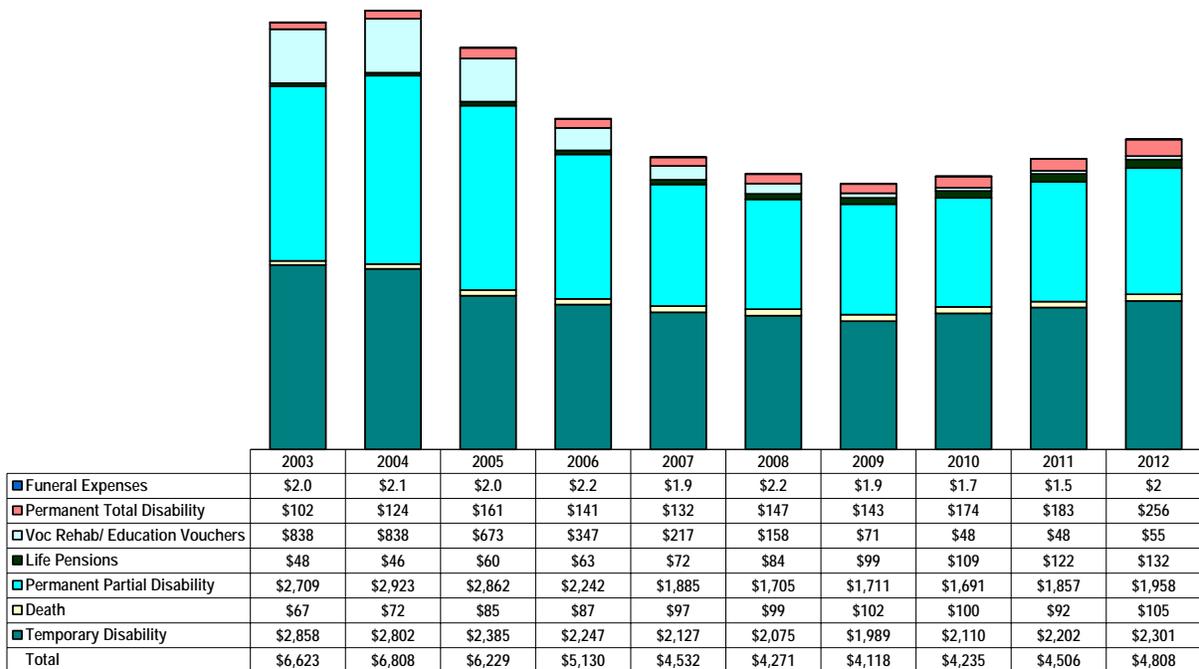
\*\* Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 34 percent of all California workers' compensation claims.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Trends in Paid Indemnity Benefits*

The estimated systemwide paid indemnity benefits for the past several years are displayed in the figure below. After the reforms of 2003 and 2004, paid indemnity benefits decreased steadily by 34 percent from 2004 to 2011, when it dropped to below the 2001 levels (\$5 bln). However, from 2011 to 2012, there was a 7 percent increase in total paid indemnity benefits. The permanent partial disability that peaked in 2004 saw one of the biggest declines after the reforms. The TD benefits were steadily declining from 2005 to 2009 despite the TD benefit increases of AB 749 and the impact of the two-year limit not taking effect until April 2006. From 2009 to 2012, the TD benefits increased by 17 percent.

Figure 19: Workers' Compensation Paid Indemnity Benefit by Type Systemwide Estimated Costs (Million \$)



Data Source: WCIRB  
Calculations: CHSWC

### **Supplemental Job Displacement Benefits Costs**

The reforms of 2003 eliminated vocational rehabilitation (VR) for injuries arising on or after January 1, 2004, and replaced it with a supplemental job displacement benefit (SJDB). The VR statutes were repealed entirely effective January 1, 2009. Consequently, the expenditures for VR decreased rapidly as the remaining pre-2004 cases ran off. SJDB expenditures took their place, but at a much lower level.

#### *Supplemental Job Displacement Benefit Vouchers*

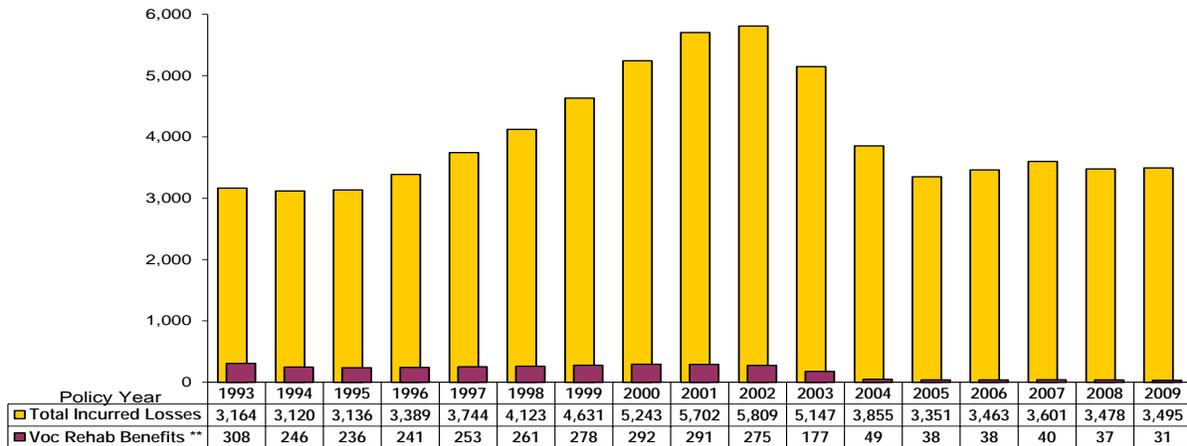
AB 227 (Vargas, 2003) created a system of non-transferable educational vouchers effective for injuries occurring on or after January 1, 2004. WCIRB's estimate of the cost of educational vouchers is based on information compiled from the most current WCIRB Permanent Disability Claim Survey. In total, 18.3 percent of accident year 2004 PD claims involved educational vouchers, and the average cost of the educational vouchers was approximately \$5,900. For the 2005 accident year at first survey level, 20.7 percent of sampled PD claims were reported as involving educational vouchers with an estimated average cost of approximately \$5,600. SB 863 (De León 2012) revises the SJDB for injuries occurring on or after January 1, 2013, while preserving the concept of a voucher for education or training for an injured worker who does not have an opportunity to return to work for the at-injury employer.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Vocational Rehabilitation and Supplemental Job Displacement Benefit Vouchers Incurred Costs

AB 227, enacted in 2003, in combination with clean-up language in SB 899 enacted in 2004, repealed the workers' compensation VR benefit for dates of injury on or after January 1, 2004. VR benefits were available only to eligible workers who were injured before 2004 and were available only through December 31, 2008. VR is essentially over, although some litigation continues over the wind-up of VR under particular circumstances. The figure below presents the most recent data available through 2009 on VR costs including SJDB vouchers (non-transferable educational vouchers) beginning from policy year 2003.

**Figure 20: Vocational Rehabilitation Benefits and SJDB Vouchers Costs Compared with Total Incurred Losses, WCIRB 1<sup>st</sup> Report Level (Million \$)**

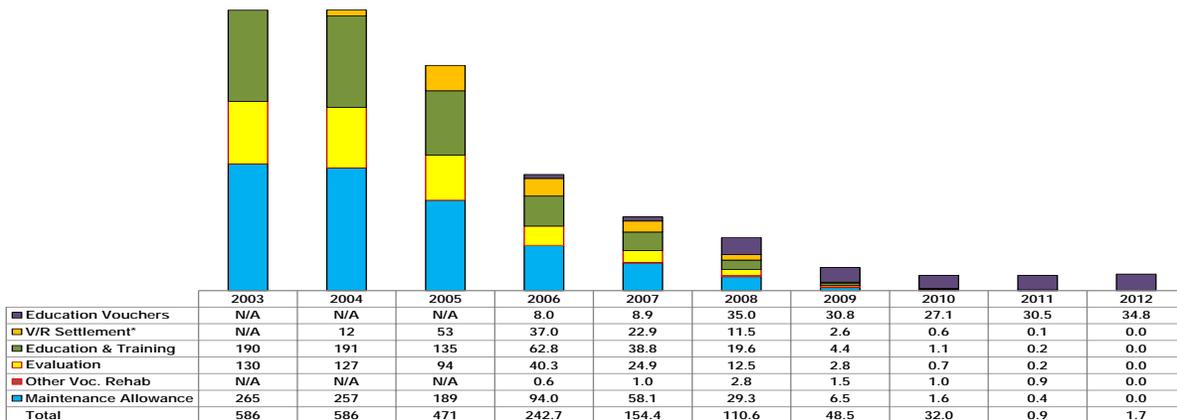


\* The Vocational Rehabilitation statutes are repealed entirely effective January 1, 2009, and replaced with Supplemental Job Displacement Benefits.  
 \*\* Policy year 2003 "vocational rehabilitation benefits" contain a mix of vocational rehabilitation costs and non-transferable educational voucher costs. Policy year 2004 and later "vocational rehabilitation benefits" contain mainly non-transferable educational voucher costs.

Data Source: WCIRB

The following figure shows the amounts paid for each component of the VR benefit including newly introduced VR settlement and SJDB vouchers for the period from 2003 through 2012.

**Figure 21: Paid Vocational Rehabilitation Benefits and SJDB Vouchers for Insured Employers (Million \$)**



\* Vocational Rehabilitation Settlements were allowed on injuries occurring on or after January 1, 2003, pursuant to Assembly Bill No.749

Data Source: WCIRB

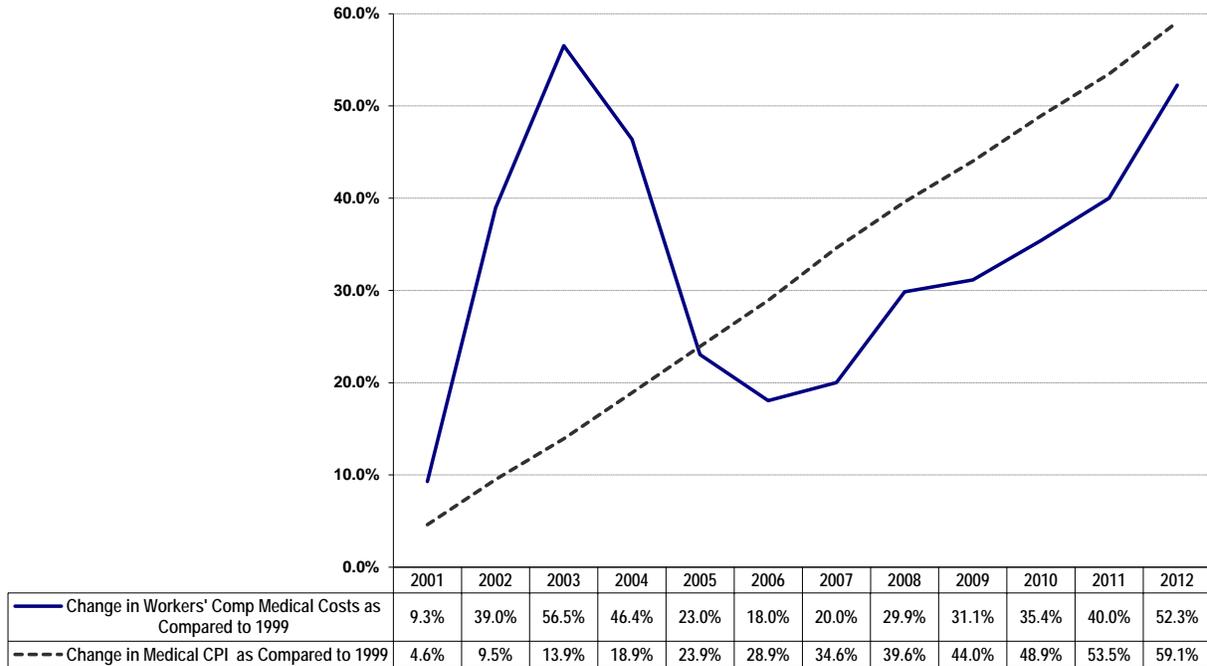
## SYSTEM COSTS AND BENEFITS OVERVIEW

### Medical Benefits

#### Workers' Compensation Medical Costs vs. Medical Inflation

The following figure compares the percent growth of California's workers' compensation medical costs paid by insurers and self-insured employers in each consecutive year from 2000 with the percent growth of the medical component of the Consumer Price Index (CPI) in each consecutive year from 2000. The medical component of the CPI is also known as the "Medical CPI," an economic term used to describe price increases in health care services.

Figure 22: Growth of Workers' Compensation Medical Costs Compared to Growth of Medical Inflation Since 2000



Data Source: WCIRB; Bureau of Labor Statistics

## SYSTEM COSTS AND BENEFITS OVERVIEW

### *Distribution of Medical Benefits: Where Does the Workers' Compensation Dollar Go?*

WCIRB provided data for the cost of medical benefits paid by insured employers. Assuming that insured employers comprise approximately 66 percent of total California workers' compensation claims, estimated medical benefits are shown on the following table for the total system, insured employers, self-insured employers, and the State of California.

**Table 8: Systemwide Estimated Costs - Medical Benefits Paid**

<b>Medical Benefits (Thousand \$)</b>	<b>2011</b>	<b>2012</b>	<b>Change</b>
Physicians	\$2,285,487	\$2,587,286	\$301,799
Capitated Medical	\$22,871	\$8,100	-\$14,771
Hospital	\$1,600,554	\$1,317,471	-\$283,083
Pharmacy	\$554,400	\$626,390	\$71,990
Payments Made Directly to Patient	\$1,481,069	\$1,917,801	\$436,733
Medical-Legal Evaluation	\$261,470	\$288,110	\$26,640
Medical Cost-Containment Programs*	\$466,328	\$367,496	-\$98,832
Medical Payments Related to Medicare Set-aside***	NA	\$138,543	\$138,543
Reimbursements to Medicare***	NA	\$4,964	\$4,964
<b>Total</b>	<b>\$6,672,177</b>	<b>\$7,256,159</b>	<b>\$583,982</b>
<b>Paid by Insured Employers</b>			
<b>Medical Benefits (Thousand \$)</b>	<b>2011</b>	<b>2012</b>	<b>Change</b>
Physicians	\$1,523,658	\$1,724,857	\$201,199
Capitated Medical	\$15,247	\$5,400	-\$9,847
Hospital	\$1,067,036	\$878,314	-\$188,722
Pharmacy	\$369,600	\$417,593	\$47,993
Payments Made Directly to Patient	\$987,379	\$1,278,534	\$291,155
Medical-Legal Evaluation	\$174,313	\$192,073	\$17,760
Medical Cost-Containment Programs*	\$310,885	\$244,997	-\$65,888
Medical Payments Related to Medicare Set-aside***	NA	\$92,362	\$92,362
Reimbursements to Medicare***	NA	\$3,309	\$3,309
<b>Total</b>	<b>\$4,448,118</b>	<b>\$4,837,439</b>	<b>\$389,321</b>
<b>Paid by Self-Insured Employers**</b>			
<b>Medical Benefits (Thousand \$)</b>	<b>2010</b>	<b>2012</b>	<b>Change</b>
Physicians	\$761,829	\$862,429	\$100,600
Capitated Medical	\$7,624	\$2,700	-\$4,924
Hospital	\$533,518	\$439,157	-\$94,361
Pharmacy	\$184,800	\$208,797	\$23,997
Payments Made Directly to Patient	\$493,690	\$639,267	\$145,578
Medical-Legal Evaluation	\$87,157	\$96,037	\$8,880
Medical Cost-Containment Programs*	\$155,443	\$122,499	-\$32,944
Medical Payments Related to Medicare Set-aside***	NA	\$46,181	\$46,181
Reimbursements to Medicare***	NA	\$1,655	\$1,655
<b>Total</b>	<b>\$2,224,059</b>	<b>\$2,418,720</b>	<b>\$194,661</b>

\* Figures for medical cost-containment programs (MCCP) are based on a sample of insurers who reported medical cost containment expenses to WCIRB. Costs on claims covered by policies incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for calendar year 2012 is \$167.2 million.

\*\* Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 34 percent of all California workers' compensation claims.

\*\*\* First reported in the calendar year 2012 call.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Trends in Paid Medical Benefits

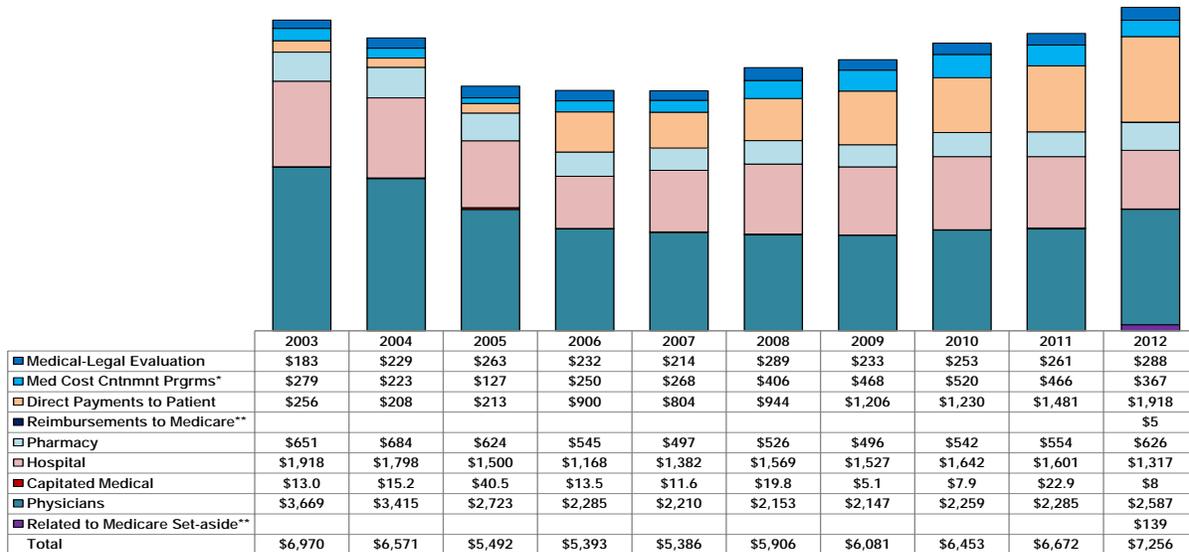
The estimated systemwide paid medical costs for the past several years are displayed in the figure below. The following trends may result from the impact of recent workers' compensation reforms and economic recession.

The figure below indicates that the payments in 2012 for hospitals, physicians, and pharmacies remained below pre-reform levels, while cost-containment program costs and direct payment to patients increased greatly.

The cost of the total medical benefit decreased by 23 percent from 2003 to 2007, and then increased by 35 percent from 2007 to 2012. Payments to physicians decreased by 42 percent from 2003 to 2009, and then increased 20.5 percent from 2009 to 2012. Pharmacy costs peaked in 2004, declined by 27 percent from 2004 to 2007, and then increased overall by 26 percent from 2007 to 2012. Hospital costs declined by 39 percent from 2003 to 2006, increased overall by 37 percent from 2006 to 2011, and then decreased by 18 percent from 2011 to 2012. Direct payments to patients averaged \$226 million from 2003 to 2005, increased sharply 4 times from 2005 to 2006, and then more than doubled from 2006 to 2012. Expenditures on medical cost-containment programs in 2005 were less than a half of what they were in 2003, increased 4 times from 2005 to 2010, and then decreased by 29 percent from 2010 to 2012.<sup>13</sup> Medical-legal evaluation costs peaked in 2008 at \$289 million (an increase of 58 percent from 2003), decreased by 19 percent from 2008 to 2009, and then gradually went back to 2008 level from 2009 to 2012.

The apparent increases in the medical payments made to injured workers and medical cost containment programs were in part the result of availability of more detailed reporting of payments into specific recipient/payee categories.

Figure 23: Workers' Compensation Paid Medical Benefits by Type Systemwide Estimated Costs (Million \$)



\* Figures for medical cost-containment programs (MCCP) are based on a sample of insurers who reported medical cost containment expenses to WCIRB. Costs on claims covered by policies incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for calendar year 2012 is \$167.2 million.

\*\* First reported on calendar year 2012 call.

Data Source: WCIRB  
Calculations: CHSWC

<sup>13</sup> Medical cost-containment program costs on claims covered by policies incepting prior to July 1, 2010, are considered medical loss, and those covered by policies incepting July 1, 2010, and beyond are considered allocated loss adjustment expenses.

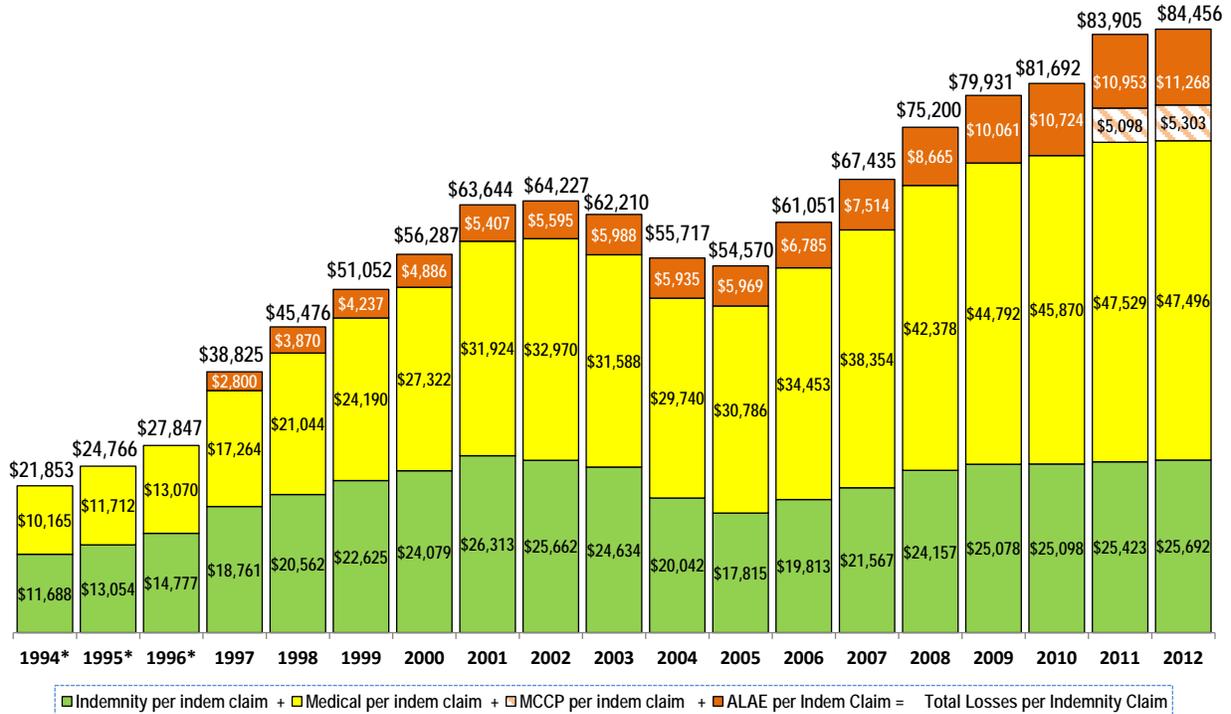
## SYSTEM COSTS AND BENEFITS OVERVIEW

### Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply.

The WCIRB estimated the average loss and allocated loss adjustment expenses (ALAE) cost, or “severity”, of a 2012 indemnity claim to be approximately \$84,456, which is comparable to the projected severity for accident year 2011 and slightly above the projected severities for accident years 2009 and 2010. The projected 2012 average loss and ALAE severity reflects an increase of approximately \$30,000, or more than 55 percent, since the full implementation in 2005 of the reforms of 2002 through 2004. The projected average indemnity cost of a 2012 indemnity claim is relatively close to the corresponding 2011 projected average severity. The projected average medical cost, including MCCP costs, of a 2012 indemnity claim is close to that of the prior year. The projected average ALAE cost of a 2012 indemnity claim, excluding MCCP costs, is slightly higher than that of the prior year and approximately 89 percent higher than the average ALAE severity for 2005.

**Figure 24: Estimated Ultimate Total Loss\*\* per Indemnity Claim as of June 30, 2013**



\* Does not include Allocated Loss Adjustment Expenses (ALAE)

Note: Before July 1, 2010, the costs of Medical Cost Containment Program (MCCP) that could be allocated to a particular claim were reported as medical losses. After July 1, 2010, MCCP is reported as ALAE.

\*\* Excludes medical-only

Data Source: WCIRB Summary of June 30 Insurer Experience Report, issued September 23, 2013, Exhibits 8.1-8.4

Please note that WCIRB’s estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Average Cost per Claim by Type of Injury

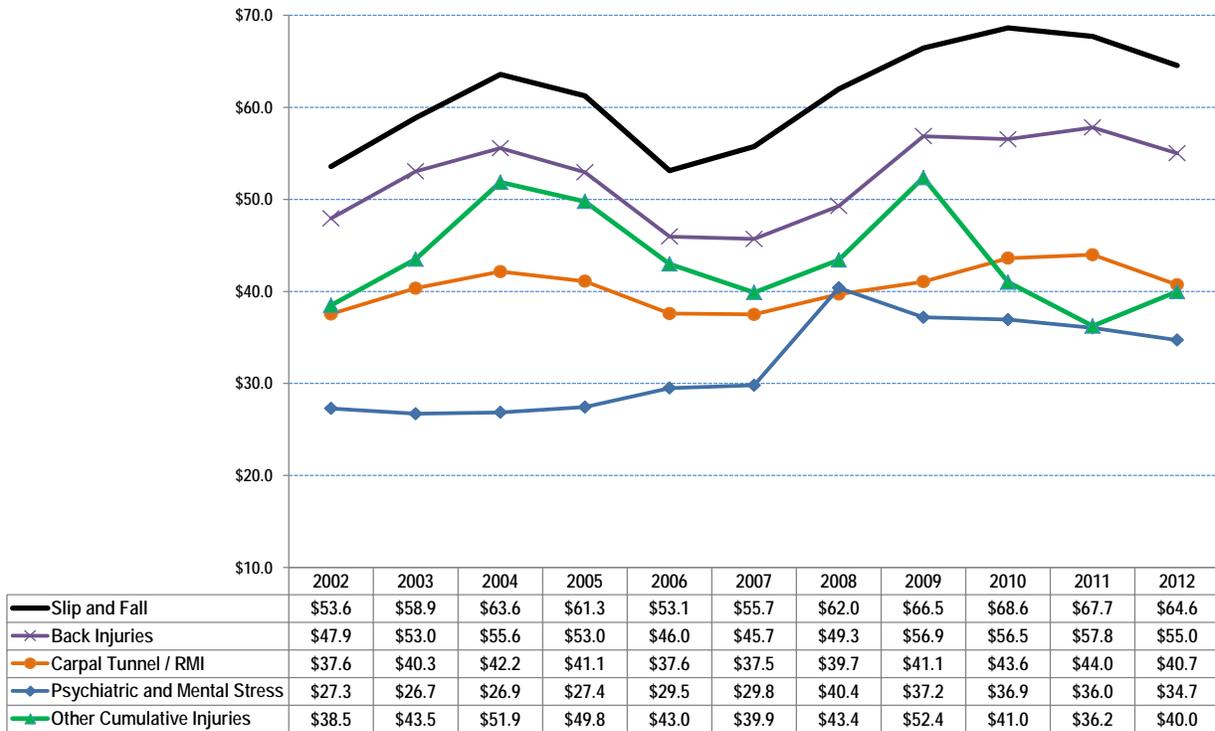
As shown in the following figure, from 2002 to 2004, there was an increase in average costs of all types of injuries with the exception of psychiatric and mental stress that showed a slight decrease of about 2 percent for the same period. The average cost of other cumulative injuries increased by 35 percent, followed by 19 percent increase in average cost slip and fall injuries, 16 percent increase in the average cost of back injuries, and 12 percent increase in average cost of carpal tunnel/repetitive motion injuries (RMI).

From 2004 to 2007, the average costs declined for all of the types of injuries shown below, with the exception of psychiatric and mental stress. The average cost of other cumulative injuries decreased by 23 percent, and the average cost of back injuries decreased by almost 18 percent, followed by a 11 percent decrease in the average cost of carpal tunnel/RMI injuries. The average cost of slip and fall injuries decreased one year earlier by 16.5 percent from 2004 to 2006.

From 2007 and 2011, the average cost of back injuries increased by 26.5 percent and then fell by 5 percent from 2011 to 2012. The average cost of carpal tunnel (RMI) increased by 17 percent from 2007 to 2011 and decreased by 7 percent from 2011 to 2012. The average cost of slip and fall injuries increased by 29 percent from 2006 to 2010 and then fell 6 percent from 2010 to 2012. The average cost of other cumulative injuries increased by 31 percent from 2007 to 2009, decreased by 31 percent from 2009 to 2011, and then increased again by 10 percent from 2011 to 2012.

Average costs of psychiatric and mental stress claims increased overall by 48 percent between 2002 and 2008, and then decreased by about 14 percent from 2008 to 2012.

Figure 25: Average Cost per Claim by Type of Injury, 2002-2012 (Thousand \$)



Data Source: WCIRB

## SYSTEM COSTS AND BENEFITS OVERVIEW

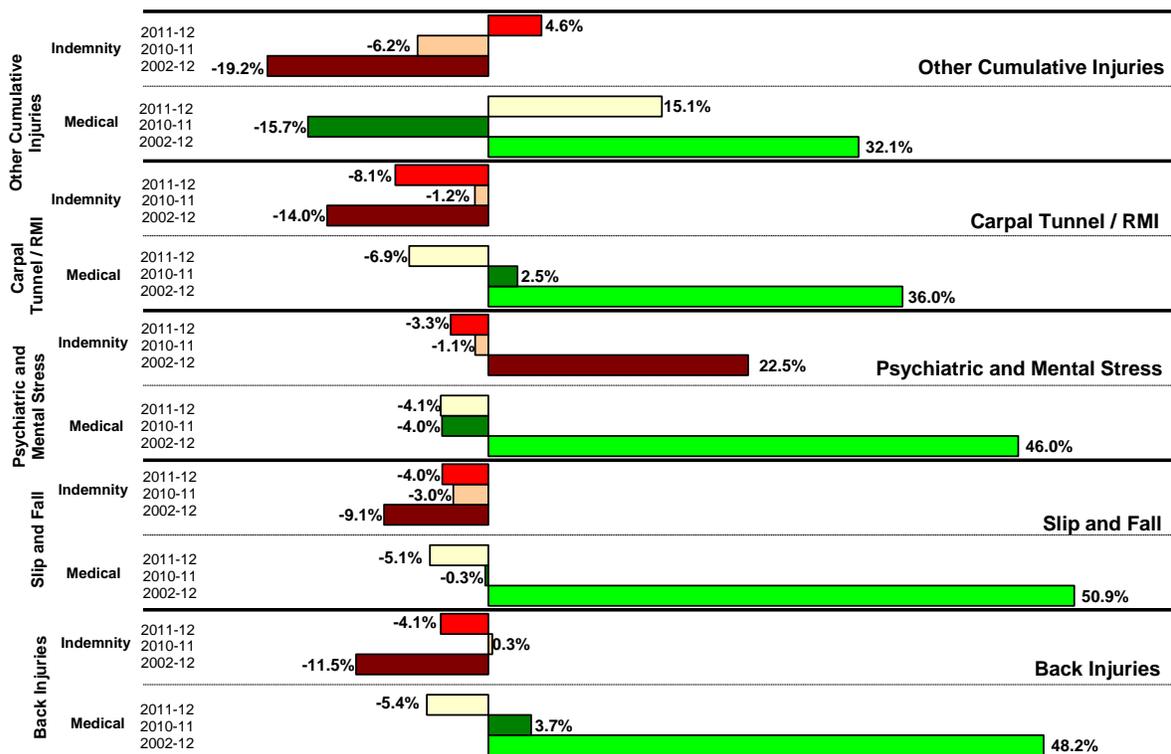
### Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

The figure below illustrates the impact of the reforms on selected types of injury. The long-term trend from 2002 to 2012 shows increases in medical costs for all these types of injury. The same trend for indemnity costs shows 19 percent decrease for other cumulative injuries, 14 percent decrease for carpal tunnel/RMI injuries, almost 12 decrease for back injuries, 9 percent decrease for slip and fall injuries, and 22.5 percent increase for the psychiatric and mental stress.

From 2010 to 2011, medical costs increased for back injuries and carpal tunnel/RMI. In the same period, there was a 16 percent decrease in average medical cost of claim for other cumulative injuries, 4 percent decrease for psychiatric and mental stress, and slight decrease for slips and falls injuries. In the same year, indemnity costs increased slightly for back injuries and decreased 6 percent for other cumulative injuries, followed by 3 percent decrease in average cost of claim for slip and fall, 1 percent for carpal tunnel/RMI, and 1 percent for psychiatric and mental stress injuries.

From 2011 to 2012, medical costs increased 15 percent for other cumulative injuries. In the same year, medical costs decreased 7 percent for carpal tunnel/RMI injuries, 5.4 percent - for back injuries, 5.1 percent - for slip and fall injuries, and 4 percent - for psychiatric and mental stress illnesses. From 2011 to 2012, indemnity costs increased 5 percent for other cumulative injuries, decreased 8 percent for carpal tunnel/RMI, followed by 4 percent decrease in average cost of claim for back injuries, 4 percent decrease in slip and fall, and 3 percent decrease in psychiatric and mental stress injuries.

Figure 26: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2002 through 2012, from 2010 to 2011, and from 2011 to 2012)



Data Source: WCIRB

## SYSTEM COSTS AND BENEFITS OVERVIEW

### Medical-Legal Expenses

Changes to the medical-legal process over the years have been intended to reduce both the cost and the frequency of litigation. Starting in 1989, legislative reforms restricted the number of medical-legal evaluations needed to determine the extent of permanent disability (PD). The qualified medical evaluator (QME) designation was intended to improve the quality of medical evaluations in cases where the parties did not select an agreed medical evaluator (AME). Legislation in 1993 attempted to limit workers' compensation judges to approving the PD rating proposed by one side or the other (Labor Code Section 4065, known as "baseball arbitration"). In addition, the 1993 legislation established a presumption in favor of the evaluation by the treating physician (Labor Code Section 4602.9), which was expected to reduce litigation and reduce costs.

In 1995, CHSWC contracted with University of California (UC), Berkeley to assess the impact of workers' compensation reform legislation on the workers' compensation medical-legal evaluation process.

This ongoing study has determined that during the 1990s, the cost of medical-legal evaluations dramatically improved. As shown in the following discussion, this was due to reductions in all the factors that contribute to the total cost. However, baseball arbitration proved to be impractical, and the treating physician's presumption turned out to cost more than it saved. AB 749, enacted in 2002, repealed baseball arbitration and partially repealed the primary treating physician's presumption, except when the worker had pre-designated a personal physician or personal chiropractor for injuries occurring on or after January 1, 2003. This partial repeal was carried further by SB 228 enacted in 2003 to all dates of injury, except in cases where the employee has pre-designated a personal doctor or chiropractor. Finally, in 2004, SB 899 completely repealed the primary treating physician's presumption.

The reforms of SB 899 also changed the medical dispute resolution process in the workers' compensation system by eliminating the practice of each attorney obtaining a QME of his or her own choice. The new provisions required that the dispute resolution process through an AME or a single QME applies to all disputes including compensability of claim and PD evaluation.

In cases where attorneys do not agree on an AME, SB 899 limits the attorneys to one QME jointly selected by process of elimination from a state-assigned panel of three evaluators. In cases without attorneys, the injured worker selects the QME from the state-assigned panel, similar to the process established since 1989 for non-attorney cases.

After a significant decrease of medical-legal expenses starting in 1989 when legislative reforms restricted the number and lowered the cost of medical-legal evaluations, there was again a significant increase in average medical-legal costs beginning in the 2000 accident year. In 2010, the average cost of medical-legal evaluations was \$1,758, or 2.5 times higher than in 2000 accident year, reaching the highest level since 1989. In the workers' compensation system, the medical-legal cost is reported as a component of medical cost and comprises from 2 to 5 percent of the paid medical cost. A decline in medical costs shortly after passage of major reform measures in 2003 and 2004, followed by an increase starting in 2006, raised the question of how much of the changes in medical costs was attributable to changes in medical-legal costs. The table below shows the share of medical-legal costs in workers' compensation medical costs paid from 2000 to 2012.

**Table 7: Percent of Medical-Legal Evaluation Costs in Total Medical Costs**

Calendar Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Percent of Medical-Legal Evaluation Costs in Total Medical Costs	3.0	2.2	2.6	3.5	4.8	4.3	4.8	4.9	3.8	3.9	3.9	4.0

Source: WCIRB Losses and Expenses Report, Exhibit 1.4

## SYSTEM COSTS AND BENEFITS OVERVIEW

Increases in both the number and cost of medical-legal evaluations are expected to result from two recent California Workers' Compensation Appeals Board *en banc* decisions (described elsewhere in this Annual Report). The *Almaraz/Guzman* and *Ogilvie* decisions may require more reports and more complex reports for the assessment of permanent impairment and disability, and as result, an increase in litigation and medical-legal costs.

Throughout the discussion of the cost of medical-legal reports, it will be important to remember that the quality of medical-legal reports has an impact on the cost of the system and the timeliness of benefit delivery which may very well overshadow the direct cost of the medical-legal reports.

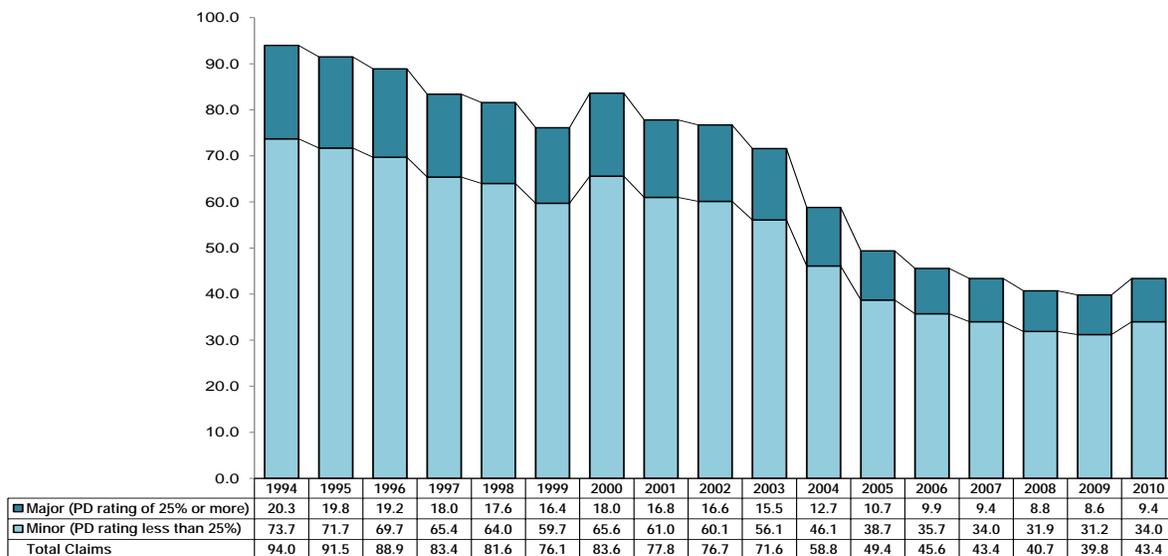
The medical-legal analysis that follows uses data from the WCIRB *Permanent Disability Survey*. Accident year 2010 is the latest year for which sufficiently mature data reports are available.

### **Permanent Disability Claims**

The following figure displays the number of permanent partial disability (PPD) claims during each calendar year since 1994. Through 1993, WCIRB created these data series from Individual Case Report Records submitted as part of the Unit Statistical Report. Since that time, the series has been discontinued, and estimates for 1994 and subsequent years are based on policy year data adjusted to the calendar year and information on the frequency of all claims (WCIRB's Insurer Experience Report, Exhibit 7), including medical-only claims, which are still available on a calendar year basis.

The data presented in the medical-legal section of this report are current and based on the latest available data through accident year 2010.

**Figure 27: PPD Claims at Insured Employers by Year of Injury (Thousands)**



Data Source: WCIRB

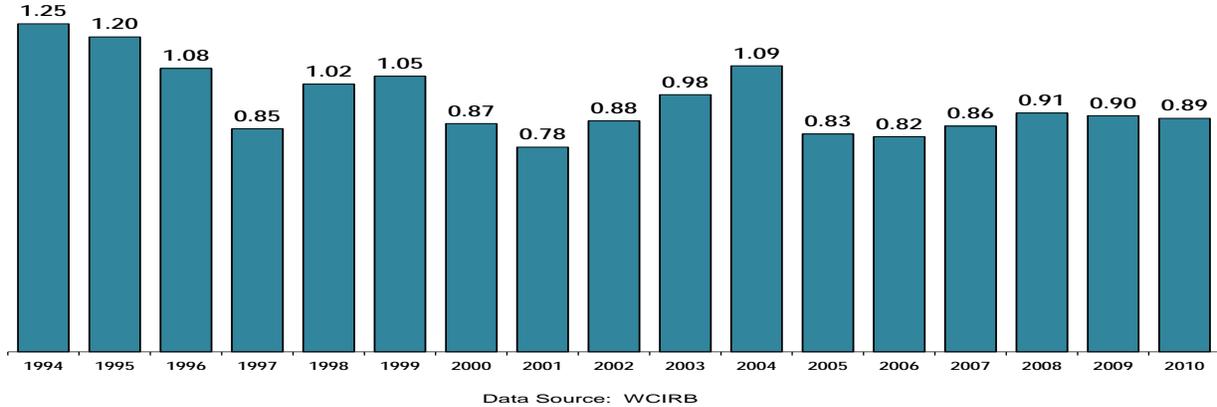
### **Medical-Legal Evaluations per Claim**

The following figure illustrates that the average number of medical-legal evaluations per claim declined from 1.25 evaluations in 1994 to 0.78 in 2001. This decline of 38 percent is attributed to a series of reforms since 1989 and the impact of efforts against medical mills.

## SYSTEM COSTS AND BENEFITS OVERVIEW

Reforms instituted in 1993 that advanced the role of the treating physician in the medical-legal process and granted the opinions of the treating physician a presumption of correctness were expected to reduce the average number of evaluations even further. Earlier CHSWC reports evaluating the treating physician presumption did not find that these reforms had significant effect on the average number of evaluations per claim. SB 899 enacted in 2004 completely repealed the primary treating physician's presumption (Labor Code Section 4062.9).

Figure 28: Number of Medical-Legal Evaluations per Workers' Compensation Claim (At 40 months from the beginning of the accident year)



Between 2001 and 2004, the average number of medical-legal evaluations per claim increased by 29.5 percent. The increase from 2001 to 2004 could be driven by a number of factors that are discussed below. In the 2005 accident year, the average number of medical-legal evaluations per claim decreased by almost 25 percent compared to accident year 2004, and then increased by 11 percent from the 2006 to 2008 accident year. From 2008 to 2010, the average number of medical-legal evaluations per claim decreased by 2 percent. The decrease in average number of evaluations per claim from 2004 to 2006 accident year was likely due to the SB 899 provision requiring a single QME or AME even in represented cases for injuries beginning January 1, 2005.

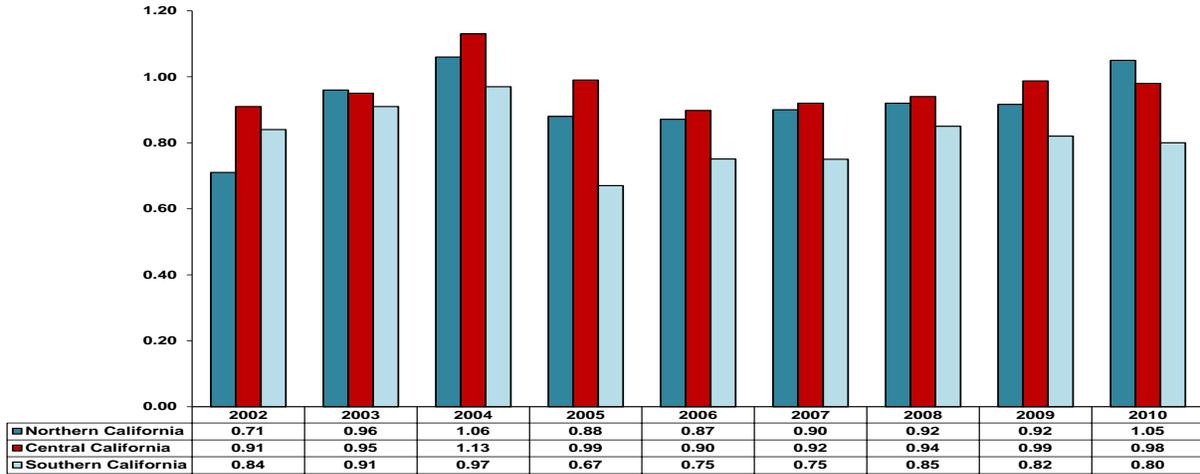
### **Medical-Legal Reporting by California Region**

The different regions of California are often thought to have different patterns of medical-legal reporting. The revisions to the WCIRB *Permanent Disability Survey*, undertaken at the recommendation of CHSWC and instituted for the 1997 accident year, explored new issues. A zip code field was added to analyze patterns in different regions.

The following figure demonstrates the frequency with which medical-legal evaluations were used between 2002 and 2010 in different regions. Between 2002 and 2004, the average number of medical-legal evaluations per claim increased significantly for each region, with 49 percent increase in Northern region, 24 percent increase in Central region, and 15.5 percent increase in Southern region. From 2004 to 2005, the average number of medical-legal evaluations per claim decreased in all three regions with the lowest number of medical-legal evaluations per claim (0.67) in nine years for Southern California. Overall from 2005 to 2010, the average number of evaluations per claim increased 19 percent both in Southern and Northern regions.

## SYSTEM COSTS AND BENEFITS OVERVIEW

**Figure 29: Average Number of Medical-Legal Evaluations per Claim by Region  
(at 34 months after beginning of accident year)**



Data Source: WCIRB

Prior to 2003, the Southern California region had higher numbers for both the average cost per evaluations and the average number of evaluations per claim than the Northern California region. However, starting with 2003, the number of medical-legal evaluations per claim in the Northern California region grew higher than in the Southern California region. The number of medical-legal evaluations per claim in the Central California region was the highest among all three regions in seven out of the nine years.

Different regions of California have different patterns of medical-legal reporting. Also, regions with a higher share of workers' compensation claims in the system have a bigger impact on the average number of medical-legal evaluations per claim and average cost of medical-legal evaluations in the State. As the table below indicates, the Southern California region has the highest number of workers' compensation claims in the system, followed by the Northern California region.

**Table 8: Distribution of Medical-Legal Claims by Region**<sup>14</sup>

	2004 1st level	2005 1st level	2006 1st level	2007 1st level	2008 1st level	2009 1st level	2010 1st level
<b>Southern</b>	58.1%	63.1%	61.8%	63.5%	61.6%	66.2%	64.4%
<b>Central</b>	16.3%	13.5%	13.6%	12.5%	14.0%	10.7%	12.0%
<b>Northern</b>	25.7%	23.4%	24.6%	24.0%	24.4%	23.1%	23.4%

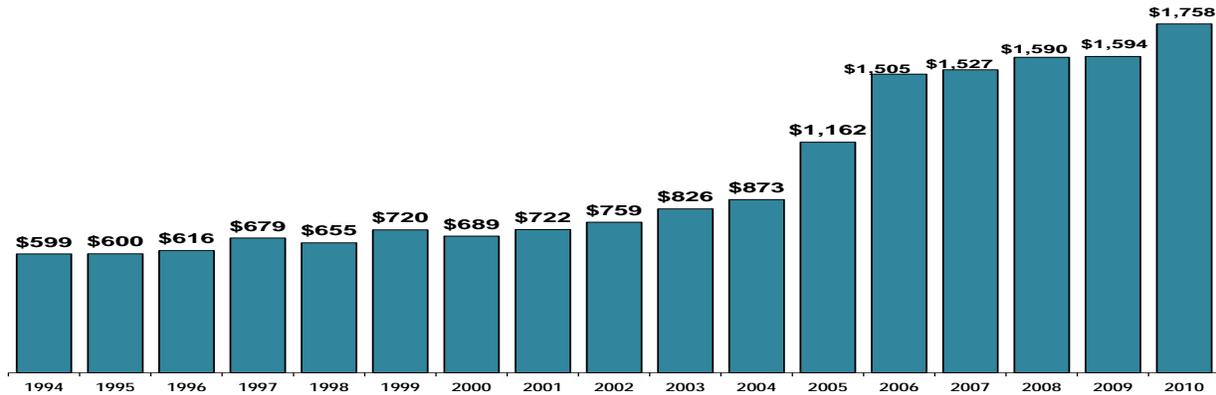
### Average Cost per Medical-Legal Evaluation

The average cost of a medical-legal evaluation fluctuated between \$600 and \$720 from the mid-1990s to 2001. In 2010, the average cost of a medical-legal evaluation increased 2.4 times compared to 2001, doubled compared to the 2004 average medical-legal cost per evaluation, and stayed at its highest level since 1994.

<sup>14</sup> Based on WCIRB's *PD Survey* 2010 random sample.

## SYSTEM COSTS AND BENEFITS OVERVIEW

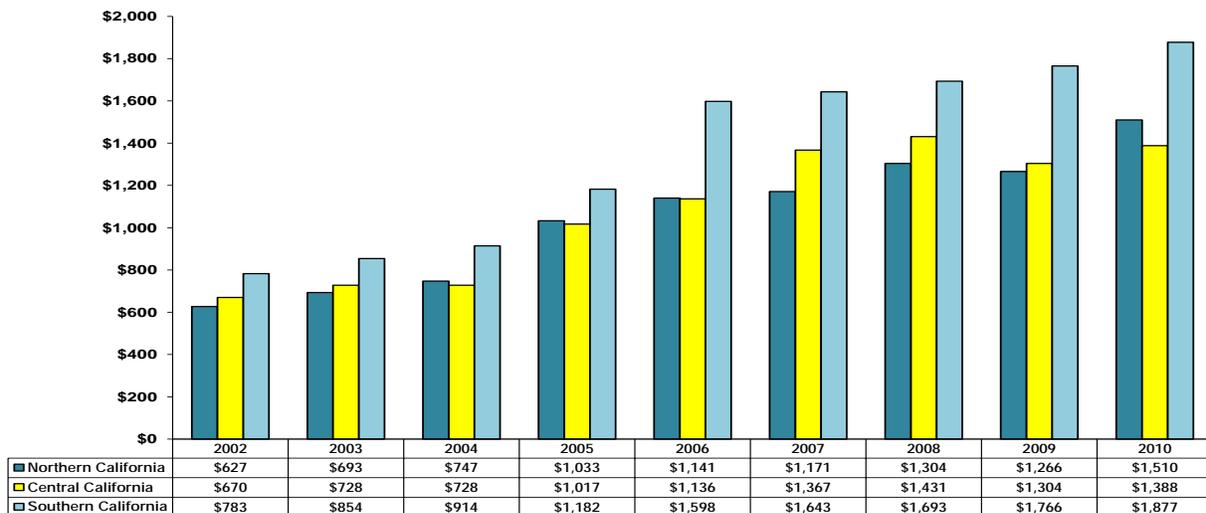
**Figure 30: Average Cost of a Medical-Legal Evaluation  
(at 40 months from the beginning of the accident year)**



Data Source: WCIRB

Since the mid-1990s, the average cost of a medical-legal evaluation has increased, even though the reimbursement under the medical-legal fee schedule did not change from 1993 until 2006.<sup>15</sup> The revised *PD Survey* by WCIRB includes additional questions that reveal some of the potential causes of this increase in costs. The changes indicate various types of fee schedule classifications as well as geography factors.<sup>16</sup>

**Figure 31: Average Cost of a Medical-Legal Evaluation by Region  
(at 34 months from the beginning of accident year)**



Data Source: WCIRB

The survey data show that, on average, evaluations done in the Southern California region have always been substantially more expensive. Increases in the average cost are being driven by claims in the Southern California region as can be seen from the table below.

<sup>15</sup> The new Medical-Legal Fee Schedule became effective for dates of service on or after July 1, 2006.

<sup>16</sup> Issues for injury years before 1997 cannot be examined because the WCIRB survey revision of that year prevents comparisons.

## SYSTEM COSTS AND BENEFITS OVERVIEW

**Table 9: Regional Contributions to the Increase of the Average Medical-Legal Costs: 2000-2010**

Region	Distribution of Medical-Legal Evaluations by Region in 2000	Distribution of Medical-Legal Evaluations by Region in 2010	Change in Average Cost 2000-2010	Contribution of Each Region to the Average Cost
Southern California	58.6%	61.9%	\$1,276	73%
Central California	16.5%	12.3%	\$784	9%
Northern California	24.9%	25.8%	\$764	18%

### Cost Drivers

The primary cost driver for California and its Southern region is not the price paid for specific types of evaluations.<sup>17</sup> Rather, the mix of codes under which the evaluations are billed has changed to include a higher percentage of the most complex and expensive evaluations and fewer of the least expensive type.<sup>18</sup> The two tables below show the costs and description from the Medical-Legal Fee Schedule.

**Table 10: Medical-Legal Evaluation Cost for Dates of Service Before July 1, 2006<sup>19</sup>**

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up	\$250
ML-102 Basic	\$500
ML-103 Complex	\$750
ML-104 Extraordinary	\$200/hour

**Table 11: Medical-Legal Evaluation Cost for Dates of Service on or After July 1, 2006<sup>20</sup>**

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up	\$62.50/15 minutes or \$250/hr
ML-102 Basic (flat rate)	\$625
ML-103 Complex (flat rate)	\$937.50
ML-104 Extraordinary	\$62.50/15 minutes or \$250/hr
ML-105 Testimony	\$62.50/15 minutes or \$250/hr
ML-106 Supplemental	\$62.50/15 minutes or \$250/hr

The following three figures indicate that from 1999 to 2007, the distribution of evaluations both in the Southern California and the Northern and Central regions has shifted the statewide distribution of

<sup>17</sup> An additional category "Other than ML-101, ML-102, ML-103, or ML-104" was included by WCIRB in types of evaluations for PD Survey 2007. It was extended to "Other than ML-101, ML-102, ML-103, ML-104, or ML-105" for 2008 and after.

<sup>18</sup> WCIRB also noted that much of the increase in the average cost of a medical-legal evaluation is attributable to increases in a proportion of more complex medical-legal evaluations. Claims Subcommittee meeting minutes for July 28, 2008.

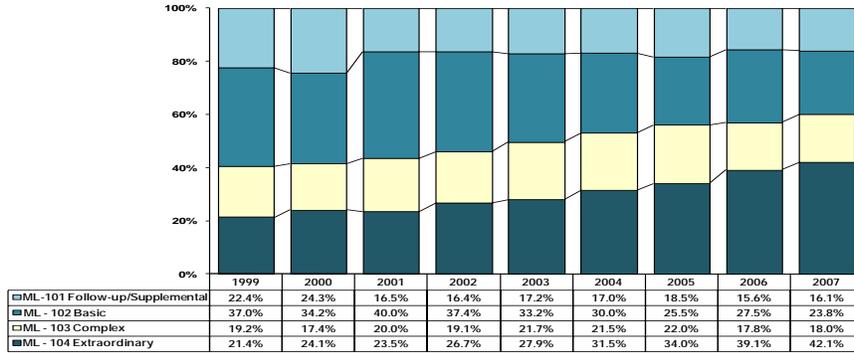
<sup>19</sup> Please note that Agreed Medical Evaluators receive 25 percent more than the rates shown in both of the tables.

<sup>20</sup> Two categories ML-105 and ML-106, created by Title 8 CCR, Sections 9793 & 9795, June, 2006, became applicable to 2008 and later claims. The functions of medical testimony and supplemental evaluations were moved into these two new categories from their previous status.

## SYSTEM COSTS AND BENEFITS OVERVIEW

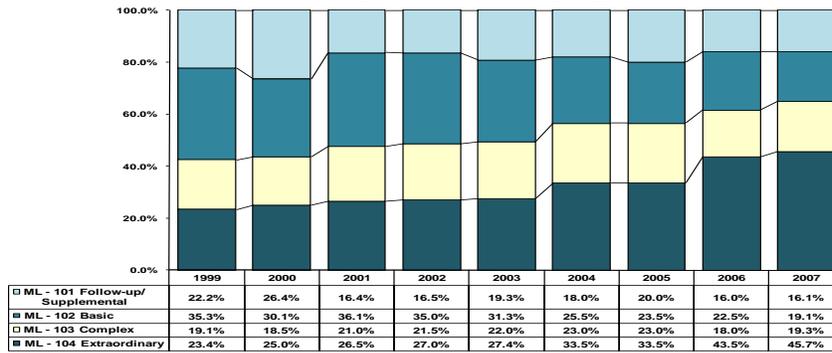
medical-legal evaluations away from ML-101 and ML-102 types to include a higher percentage of ML-104 evaluations with “Extraordinary” complexity.<sup>21</sup>

**Figure 32: Distribution of Medical-Legal Evaluations by Type (California)**



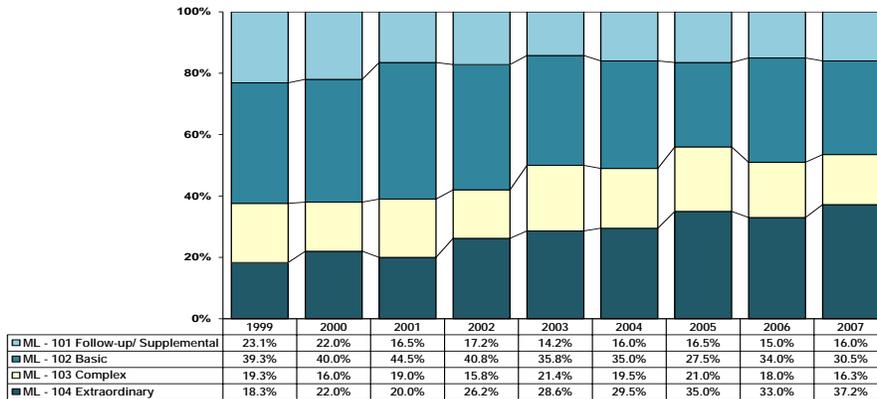
Data Source: WCIRB

**Figure 33: Distribution of Medical-Legal Evaluations by Type (Southern California)**



Data Source: WCIRB

**Figure 34: Distribution of Medical-Legal Evaluations by Type (Northern and Central California)**



Data Source: WCIRB

As shown by the figures above, from 1999 to 2007, evaluations with “Extraordinary” complexity doubled from 23.4 percent to 45.7 percent in the Southern California region, more than doubled from 18.3 percent

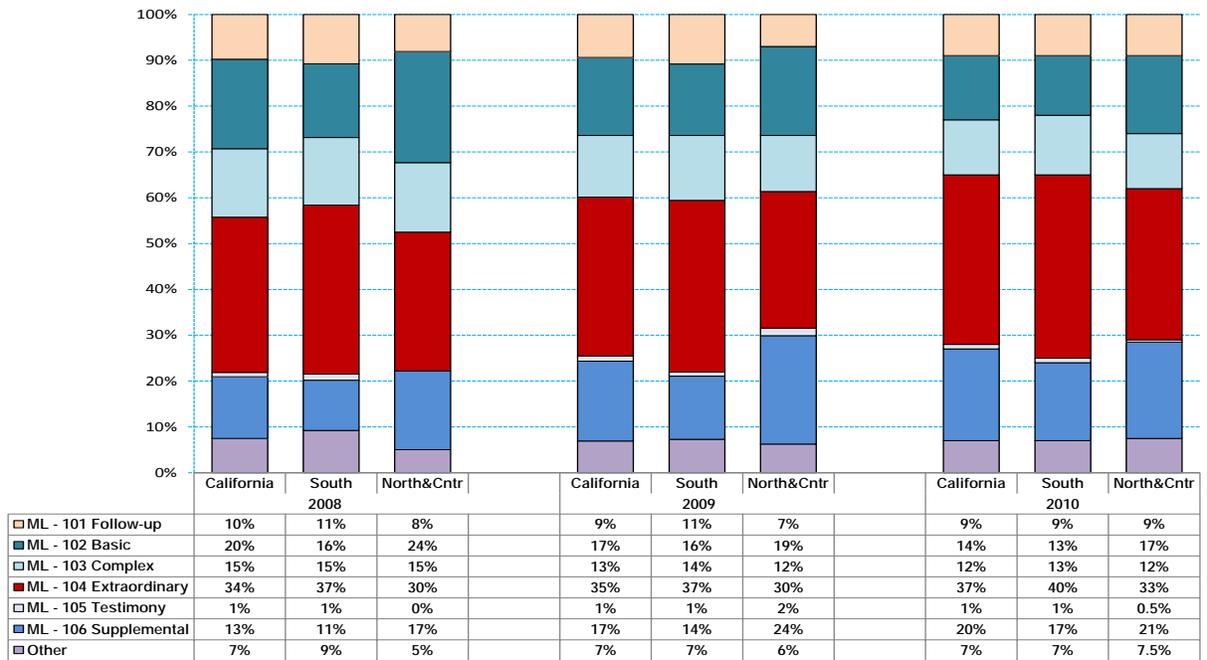
<sup>21</sup> Category “Other than ML-101, ML-102, ML-103, or ML-104” was excluded for 2007 AY from three figures representing the distribution of medical-legal evaluations by type for comparability purposes. This category comprised 2 percent of medical-legal evaluations in 2007.

## SYSTEM COSTS AND BENEFITS OVERVIEW

to 37.2 percent in Northern and Central regions, and as a result of that shift, doubled from 21.4 percent to 42.1 percent statewide. For the same period, the share of medical-legal evaluations billed as ML-102 Basic (the least expensive code) was between 4 percentage points and 11.5 percentage points smaller in the Southern region compared to Northern and Central California.

The distribution of medical-legal evaluations by categories of “fee schedule type” applicable to 2008 and later claims show that on average, one-third of medical-legal evaluations are classified as Extraordinary both in the Northern and Central California and the Southern region of California. In 2010, 64 percent of medical-legal evaluations in Northern/Central California and 66 percent in Southern California regions were billed under the time-based codes such as ML-101, ML-104 or ML-106 that are priced at \$62.50 for every 15 minutes for QMEs or \$78.13 for every 15 minutes for AMEs. Some medical-legal evaluation activities are not separately billable under all medical-legal fee codes. For example, reviewing medical-legal consultation reports could not be separately billed under flat-rated codes as ML-102 or ML-103 as opposed to the way it could be done under time-based codes. This makes billing a medical-legal evaluation under a time-based code more profitable in the majority of evaluations.

Figure 35: Distribution of Medical-Legal Evaluations by Type, 2008 – 2010



Data Source: WCIRB

Increases to the medical-legal fee schedules for dates of services on or after July 1, 2006, could have also contributed to the higher average cost per evaluation.<sup>22</sup> The figure below shows that the average cost per evaluation in each type of evaluation was higher in the 2007 accident year sample compared to the 2002 accident year. The biggest increases were for the Complex and Extraordinary cases.

In addition, the medical-legal evaluations in the 2007 accident year had both a higher average cost of Extraordinary evaluations (\$2,295 and \$1,116 respectively) and a higher share of Extraordinary evaluations (42.1 percent and 26.7 percent respectively, Figure 32) than in accident year 2002. In 2007, the pattern of average costs of evaluations changed. From 2002 to 2006, the average cost of a Basic medical-legal evaluation was higher than the average cost of a Follow-Up/Supplemental evaluation. However in 2007, the average cost of a Basic medical-legal evaluation was lower than the average cost

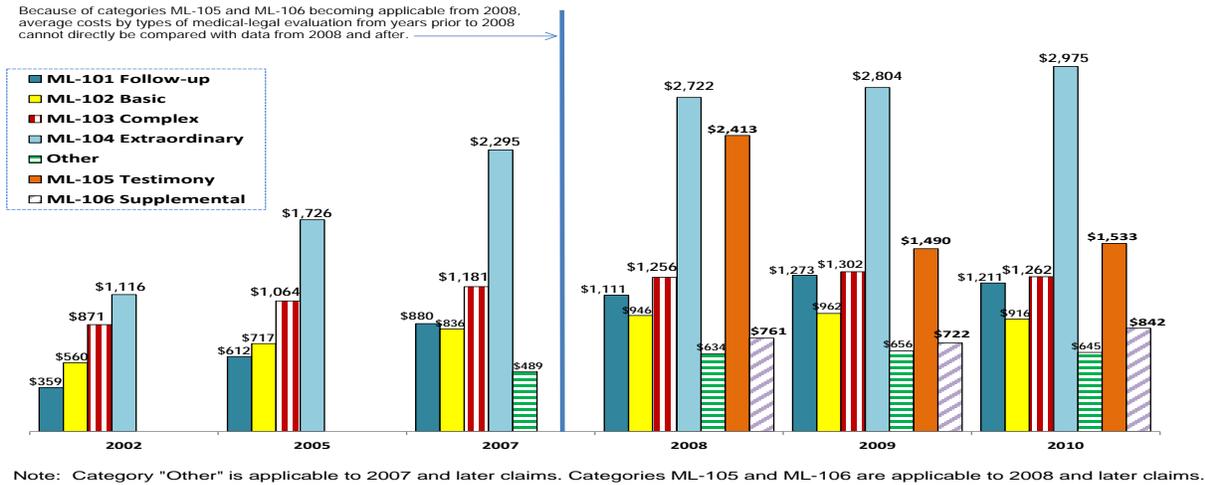
<sup>22</sup> According to California Society of Industrial Medicine and Surgery (CSIMS), from July 1, 2006, a revised Medical-Legal Fee Schedule (MLFS) was expected to provide an across-the-board 25 percent increase in physician fees for medical-legal reports. The Bulletin of CSIMS, Spring 2006, Vol.27, No.2

## SYSTEM COSTS AND BENEFITS OVERVIEW

of a Follow-up/Supplemental evaluation. The share of medical-legal evaluations billed under Basic code was decreasing from 2002 to 2007 from 37.4 percent to 23.8 percent (Figure 32).

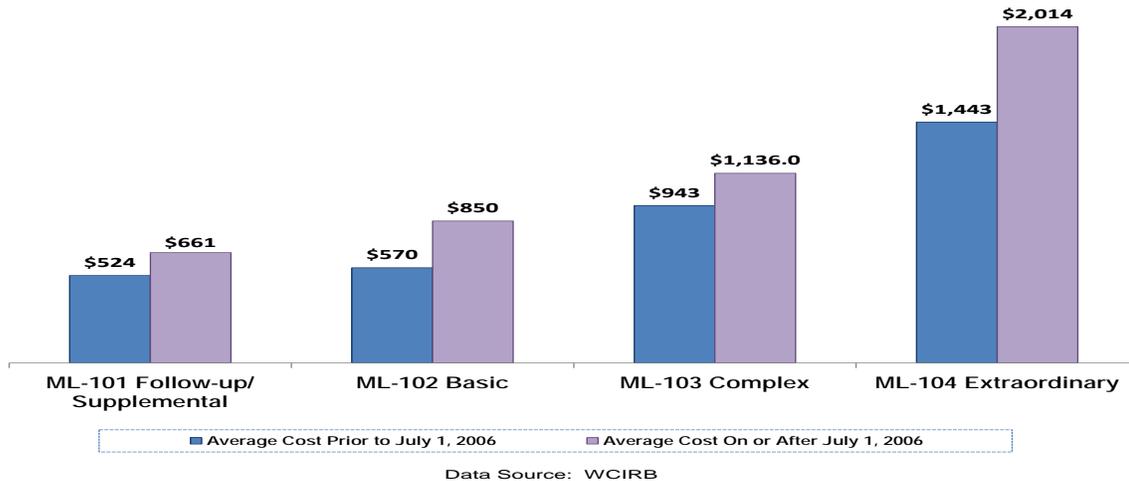
According to the figure below, the average costs of medical-legal evaluations billed under codes comparable to 2008 through 2010 evaluation codes showed overall a higher level than the average costs in 2007 accident year.

**Figure 36: Average Cost of a Medical-Legal Evaluation by Type and Accident Year**



The figure below shows that the average cost of Extraordinary medical-legal evaluations increased by 40 percent after July 1, 2006, when the new Medical-Legal Fee Schedule became effective.

**Figure 37: Average Cost of Medical-Legal Evaluation by Type Before and After the Effective Date of the New Medical-Legal Fee Schedule (Calculations are based on PD Survey 2005 2<sup>nd</sup> Level)**

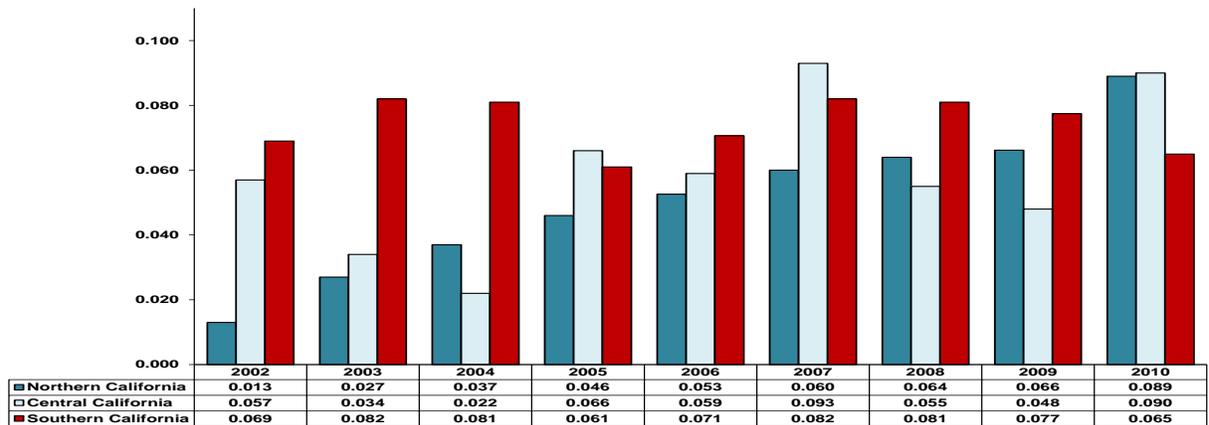


Another possible explanation for the differing trends in the average cost per evaluation and the increasing frequency of the most complex evaluations in California could be an increase in both the frequency and number of psychiatric evaluations per claim. On average, psychiatric evaluations are the most expensive evaluations by specialty of provider. Although the relative portion of all evaluations that is made up of psychiatric evaluations has declined since hitting a high during 1990-1991, leading to a substantial improvement in the overall average cost per evaluation, there was an increase in psychiatric evaluations from 6.9 percent of total medical-legal evaluations in 2002 PD Survey sample to 9.2 percent in the 2010

## SYSTEM COSTS AND BENEFITS OVERVIEW

sample. The average number of psychiatric evaluations per claim in California increased by 19 percent from 0.062 in 2002 to 0.074 in 2010. Psychiatric evaluations are nearly always billed under the ML-104 code that is the most expensive. The average cost of a psychiatric evaluation more than doubled from \$1,528 in 2002 to \$3,719 in 2010. It was an increase of 13 percent from \$3,302 in 2010. The Southern region produces over 60 percent of all psychiatric evaluations in California and has the biggest impact on both the frequency and cost of medical-legal evaluations statewide. The frequency of psychiatric evaluations in Southern region increased from 8.4 percent to 10.5 percent from 2002 to 2010, the average number of psychiatric evaluations per claim decreased by 6 percent from 0.069 to 0.065, while the average cost of a psychiatric evaluation increased 2.5 times from \$1,533 to \$3,891 in the same period.

**Figure 38: Average Number of Psychiatric Evaluations per PPD Claim by Region**



Data Source: WCIRB

According to WCIRB's estimates based on the PD Claim Survey, claims with psychiatric evaluations increased from 6.4 percent of all medical-legal evaluations by physician specialty in 2005 to 13 percent in 2012, and the cost of psychiatric evaluations as a percent of the cost of all medical-legal evaluations by physician specialty increased from 13.6 percent in 2005 to 26 percent in 2012.

The average cost of a psychiatric medical-legal evaluation was the highest in comparison to average costs of other medical-legal evaluations by physician type, averaging \$3,774 in 2012, or 2.1 times the average cost of all medical-legal evaluations, and double of its 2005 level (\$1,860). According to WCIRB's distribution of total workers' compensation medical costs paid by physician type, payments to psychiatrists increased from 1.4 percent in 2005 to 4 percent in 2012.

The recent data on the QME process presented in CHSWC studies in collaboration with UC Berkeley indicate a significant increase in the share of QME panels assigned to psychiatrist/psychologist specialties. The demand for psychiatric specialties as a part of all specialties increased from 6.5 percent in 2005 to 12.7 percent in 2010.

### **Total Medical-Legal Cost Calculation**

Total medical-legal costs are calculated by multiplying the number of permanent partial disability (PPD) claims by the average number of medical-legal evaluations per claim and by the average cost per medical-legal evaluation:

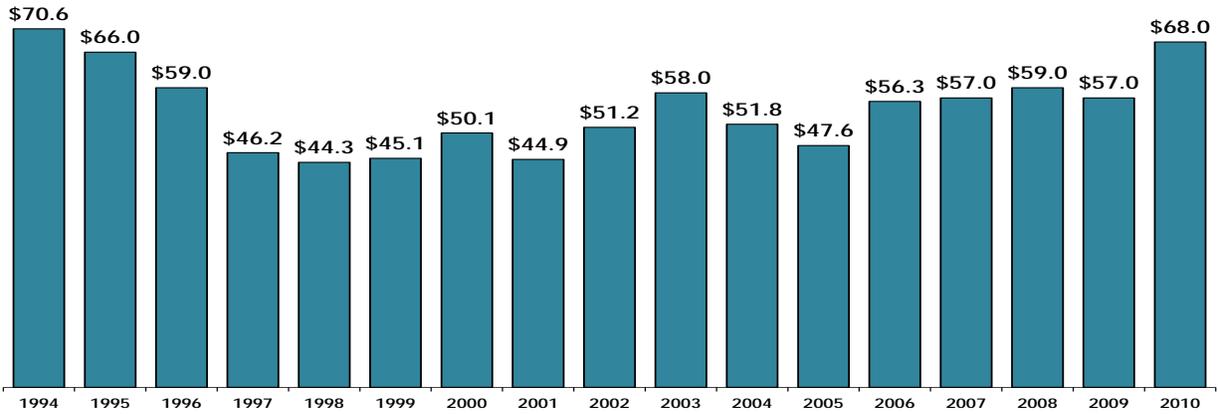
$$\text{Total Medical-Legal Cost} = \text{Number of PPD Claims} \times \text{Average Evaluations/Claim} \times \text{Average Cost/Evaluation}$$

## SYSTEM COSTS AND BENEFITS OVERVIEW

### **Medical-Legal Costs**

During the 1990s, the cost of medical-legal evaluation improved dramatically. For the insured community, the total cost of medical-legal evaluations performed on PPD claims by 40 months after the beginning of the accident year declined from a peak of \$223.7 million in 1992 to an estimated \$68.0 million for injuries occurring in 2010, a 70 percent decrease from 1992 accident year.

**Figure 39: Medical-Legal Costs on PPD Claims at Insured Employers (in Million \$, 40 months after beginning of accident year)**



Data Source: WCIRB

### **Sources of Improvement in Medical-Legal Costs**

The changes in total medical-legal cost for insurers reflect changes in all three components of the cost structure. The number of medical-legal examinations per claim dropped sharply after procedural changes enacted in 1989 took effect January 1, 1991. The new procedures for disputes over permanent disability or medical treatment required represented parties to attempt agreement on an AME before selecting their own QMEs, and then it limited the number of QMEs. In the case of an unrepresented worker, an exam could only be obtained from a QME selected from a panel of three QMEs assigned by DWC. These changes cut into the business of “medical mills” which had referred patients back and forth for multiple evaluations when there was no actual dispute. Beginning in 1994, disputes over the compensability of a claim were also brought into the AME/QME model. Furthermore, the first threshold for compensability of psychiatric injuries took effect in 1990. Beginning in 2005, represented cases also became subject to a requirement to select a QME from a panel rather than each party picking its own QME. All of these changes contributed to the reduction in number of examinations per claim. Declining claim frequency also contributed to reducing the total number of medical-legal evaluations. Costs have begun to trend upward again due to rising costs per examination. The complexity of impairment rating under the *AMA Guides*, new rules for apportionment, and the criteria for medical treatment decisions under the Medical Treatment Utilization Schedule are among the reasons cited for rising costs per exam.

The changes in claim frequency, evaluations per claim, and cost per evaluation are all summarized in the following table.

**Table 12: Sources of Change in Medical-Legal Costs**

	1990	2010	Change 1990-2010
Number of PPD Claims	167,700	43,400	-74.0%
Average Number of Evaluations per PPD Claim	2.53	0.89	-65.0%
Average Cost of Evaluation	\$986	\$1,758	+78.0%

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

## INTRODUCTION

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the overall performance of the health and safety and workers' compensation systems to determine whether they meet the State's constitutional objective to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character."

In this section, CHSWC has attempted to provide performance measures to assist in evaluating the system impact on everyone participating in the workers' compensation system, particularly workers and employers.

Through studies and comments from the community, as well as administrative data, CHSWC has compiled the following information pertaining to the performance of California's systems for health and safety and workers' compensation. Explanations of the data are included with the graphs.

- Workers' Compensation Appeals Board (WCAB) Workload
  - Division of Workers' Compensation (DWC) Opening Documents
  - DWC Hearings
  - DWC Decisions
  - DWC Lien Filings and Decisions
- DWC Audit and Enforcement Program
- DWC Medical Unit (MU)
- DWC Disability Evaluation Unit
- DWC Medical Provider Networks and Healthcare Organizations
- DWC Information and Assistance Unit
- DWC Uninsured Employers Benefits Trust Fund
- DWC Adjudication Simplification Efforts
  - DWC Information System (WCIS)
  - DWC Electronic Adjudication Management System (EAMS)
  - Carve-outs – Alternative Workers' Compensation Systems
- Division of Labor Standards Enforcement (DLSE)
- Anti-Fraud Efforts

## WCAB WORKLOAD

### *Division of Workers' Compensation Opening Documents*

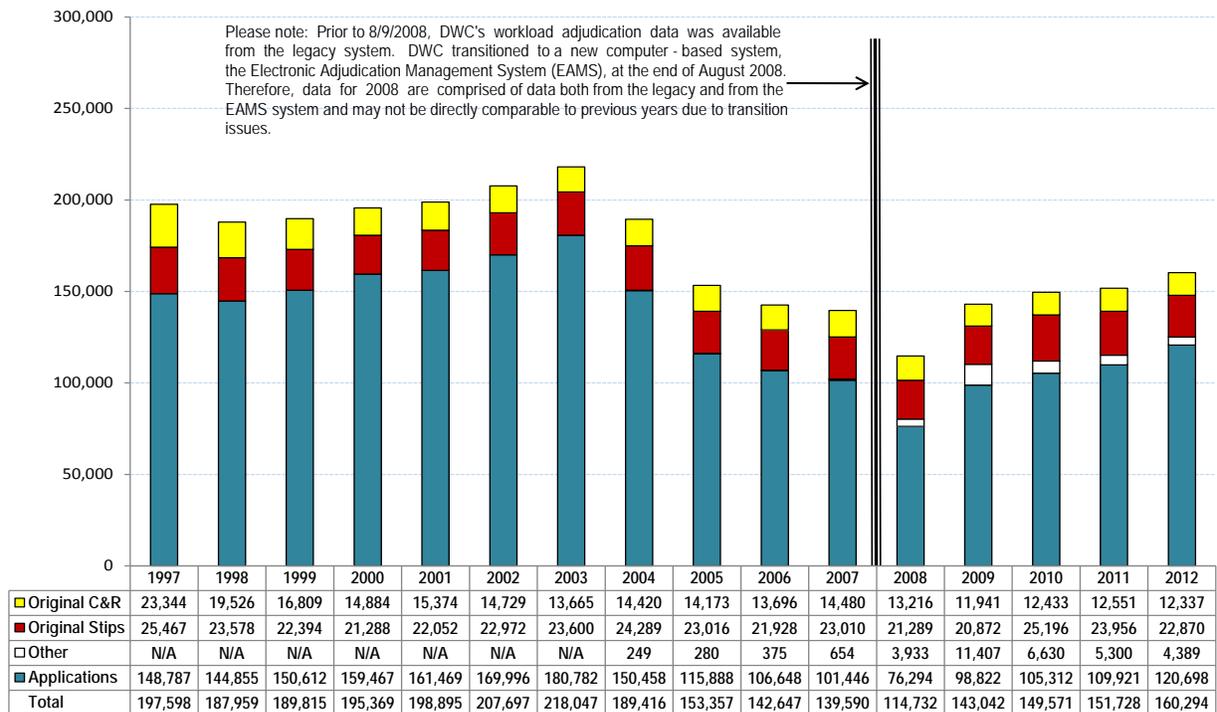
Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. The graph on the next page shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation (DWC).

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Prior to August 2008, Division of Workers' Compensation (DWC) workload adjudication data were available from the legacy system. At the end of August 2008, DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS). Therefore, data for 2008 are comprised of data both from the legacy system and from EAMS and may not be directly comparable to previous years because of the transition.<sup>23</sup>

As the following graph shows, the total number of Opening Documents increased from 1998 to 2003 by 16 percent after a decline in the second part of the 1990s and then decreased by 36.4 percent from 2003 to 2007. The total number of Opening Documents after the transition in 2008 went back to the pre-EAMS level from 2009 to 2012.

**Figure 40: DWC Opening Documents**



Data Source: DWC

### **Mix of DWC Opening Documents**

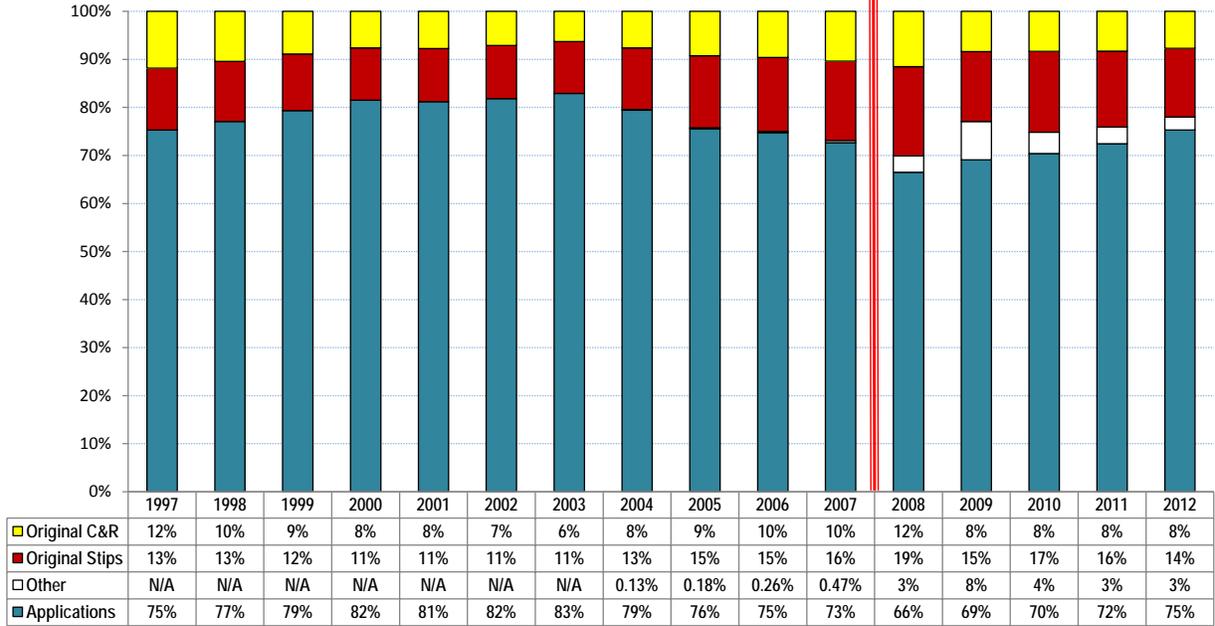
As the graph on the next page shows, the proportion or mix of the types of case-opening documents received by DWC varied during the second half of the 1990s. The proportion of Applications was rising from 1997 through 2003, and then declining slightly from 2003 to 2007. The proportion of Original (case-opening) Stips averaged 11.5 percent from 1997 to 2003 and then increased from 2003 to 2007. The proportion of original C&Rs declined from 1995 to 2003 and then increased from 2003 to 2007. The distribution of Opening documents by type did not change from the pre-EAMS distribution pattern during the period from 2009 to 2012 after the transition to EAMS, except for adding type "other."

<sup>23</sup> Analysis of trends for WCAB workload data include 2009 and 2010 EAMS calendar year data only for aggregate numbers, but the same analysis for categories within major types of WCAB workload use only legacy data available through 2007. Analysis of trends using both EAMS and legacy data within major types of WCAB workload through 2010 was not possible due to several reasons, including the introduction of new categories in EAMS and the redefinition of previously existing categories.

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 41: Percentage by Type of Opening Documents**

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.



Data Source: DWC

## Division of Workers' Compensation Hearings

### Numbers of Hearings

Labor Code Section 5502 hearings are the first hearings only. The hearings covered are expedited hearings, status conferences, priority conferences, mandatory settlement conferences, and trials that follow a mandatory settlement conference (MSC). The timelines are measured from the filing of a Declaration of Readiness to Proceed (DOR) to the hearing. The time frames for each of these hearings are prescribed as follows:

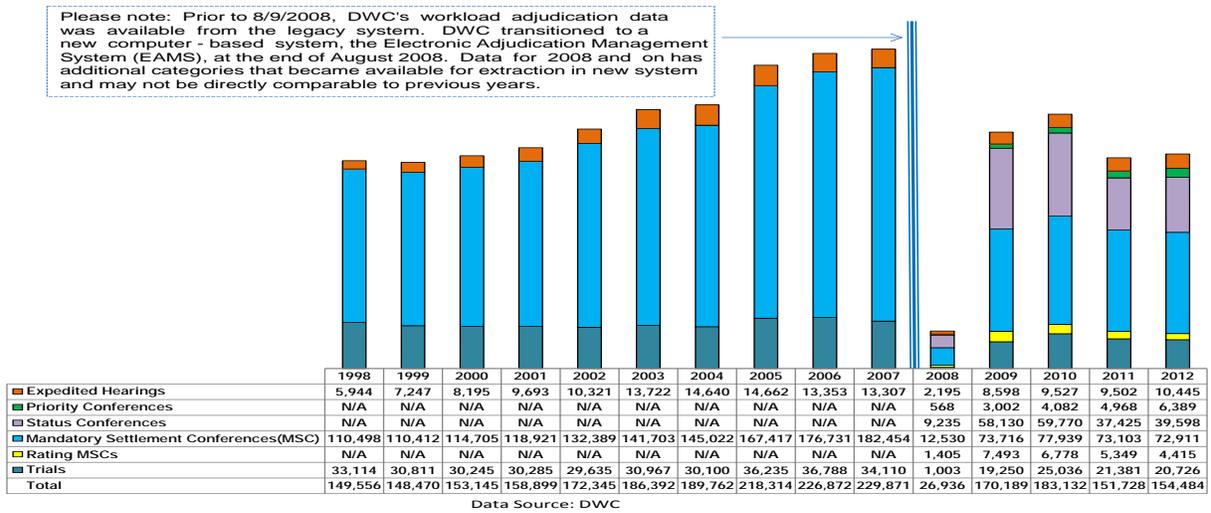
- A. Expedited Hearing and Decision. Labor Code Section 5502(b) directs the Court Administrator to establish a priority calendar for issues requiring an expedited hearing and decision. These cases must be heard and decided within 30 days following the filing of a DOR.
- B. Priority Conferences. Labor Code Section 5502(c) directs the Court Administrator to establish a priority conference calendar for cases when the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment (AOE) or in the course of employment (COE). The conference shall be conducted within 30 days after the filing of a DOR to proceed.
- C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular intervals.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- D. MSC and Ratings MSC. Labor Code Section 5502(e) establishes time frames to schedule MSCs and trials in cases involving injuries and illnesses occurring on and after January 1, 1990. MSCs are to be conducted not less than 10 days and not more than 30 days after filing a DOR.
- E. Trials. Labor Code Section 5502(e) mandates that if the dispute is not resolved at the MSC, a trial is to be held within 75 days after filing the DOR.

The figure below indicates the numbers of different types of hearings held in DWC from 1998 through 2012. The total number of hearings held increased by 54 percent from 1998 to 2007. After the transition year 2008, the total number of hearings held averaged at 165,000 hearings per year.

**Figure 42: DWC Labor Code 5502 Hearings Held**



The non-Section 5502 hearings are continuances or additional hearings after the first hearing. The figure below shows non-Section 5502 hearings held from 2008, when DWC transitioned to EAMS, to 2012.

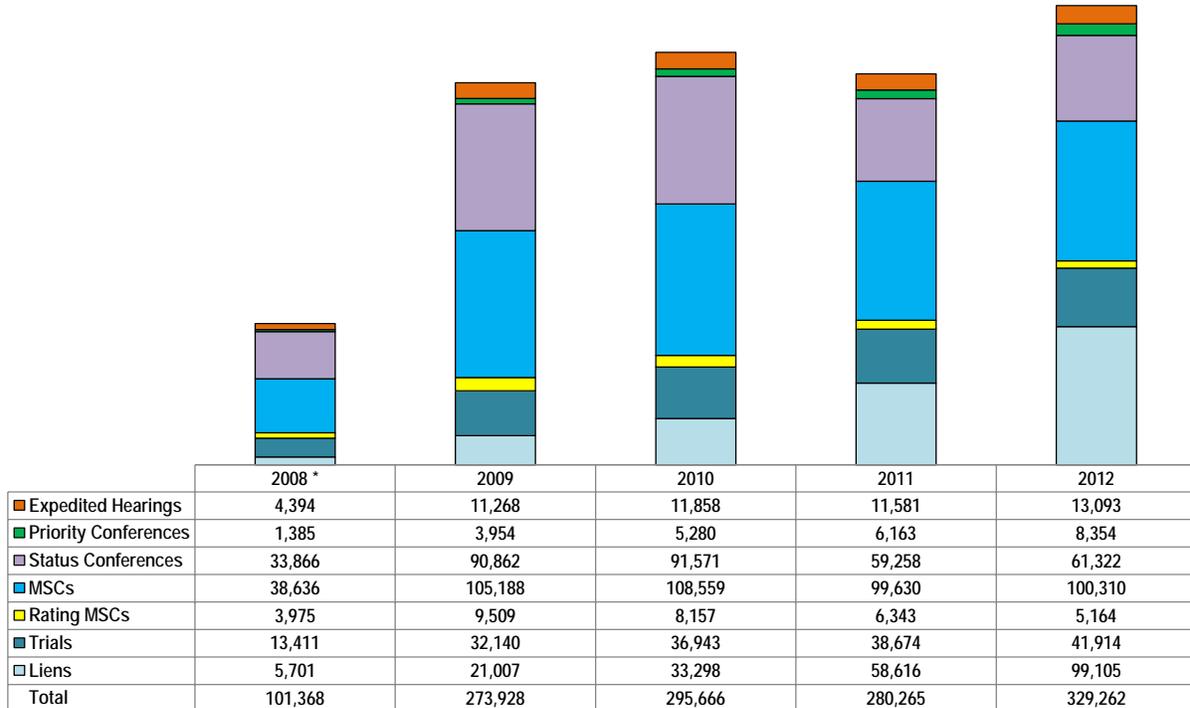
**Figure 43: DWC Non-5502 Hearings Held**



## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The figure below shows the total hearings held from 2008 to 2012 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and liens.

Figure 44: DWC Total Number (LC 5502 and non-5502) of Hearings Held, including Liens



\* 2008 CY was a period of transition from legacy system to Electronic Adjudication Management System (EAMS).

Data Source: DWC

### *Timeliness of Hearings*

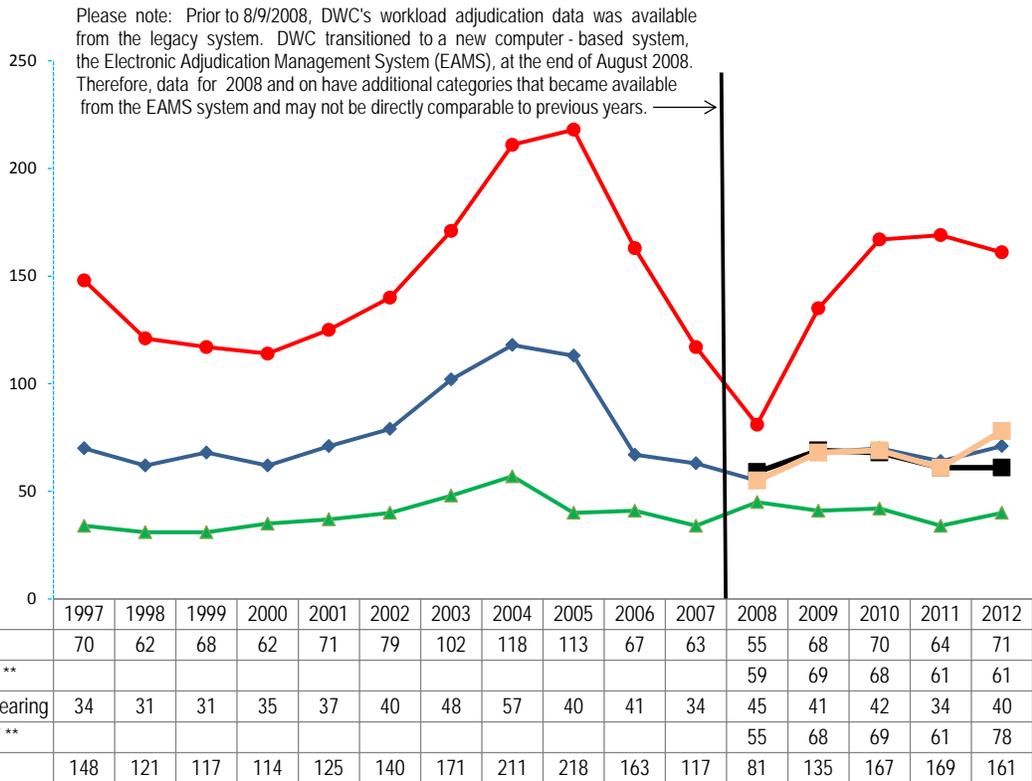
California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- An expedited hearing must be held within 30 days of the receipt of a DOR.
- The conference shall be conducted within 30 days after the filing of a DOR.
- MSCs, rating MSCs, and priority conferences are required to be held within 30 days of the receipt of a request in the form of a DOR.
- A trial must be held within 75 days of the request if a settlement conference has not resolved the dispute.

As the following figure shows, the average elapsed time from a request to a DWC hearing decreased from 1997 to late-1990s. From 2000 to 2004, all of the average elapsed times have increased from the previous year's quarter and none were within the statutory requirements. However, between 2005 and 2007, the average elapsed time from the request to a trial decreased by 46 percent, the average elapsed time for conferences decreased by 44 percent, and the average time for expedited hearings decreased by 15 percent. After the transition in 2008, all of the average elapsed times from a request to a DWC hearing went back to the pre-EAMS level from 2009 to 2012.

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 45: Elapsed Time in Days from Request to DWC Hearing (4<sup>th</sup> Quarter)**



\* Mandatory Settlement Conferences.  
 \*\* Data for 1996 to 2007 are unavailable.

Data Source: DWC

From 2008 through 2011, the longer waiting times for regular trials (top line) coincide with the reduction in available court hours due to hiring freezes and furloughs. Governor Schwarzenegger's July 31, 2008 Executive Order froze hiring and barred the use of retired annuitants. Beginning February 1, 2009, judges and staff were placed on furlough two days a month.<sup>24</sup> Effective July 1, 2009, the furloughs were increased to three days per month.<sup>25</sup> With just over 20 working days a month, the furloughs represented cuts of first 10 percent and then 15 percent of available working hours for hearing and resolving cases. The fact that the time to expedited hearing (green bottom line) grew shorter from 2008 through 2011 shows that the courts gave priority to scheduling the urgent issues that are statutorily designated for expedited hearing. From 2008 on, the waiting time for MSCs and related hearings (rating and priority) was mostly within mandatory timelines.

## Division of Workers' Compensation Decisions

### DWC Case-Closing Decisions

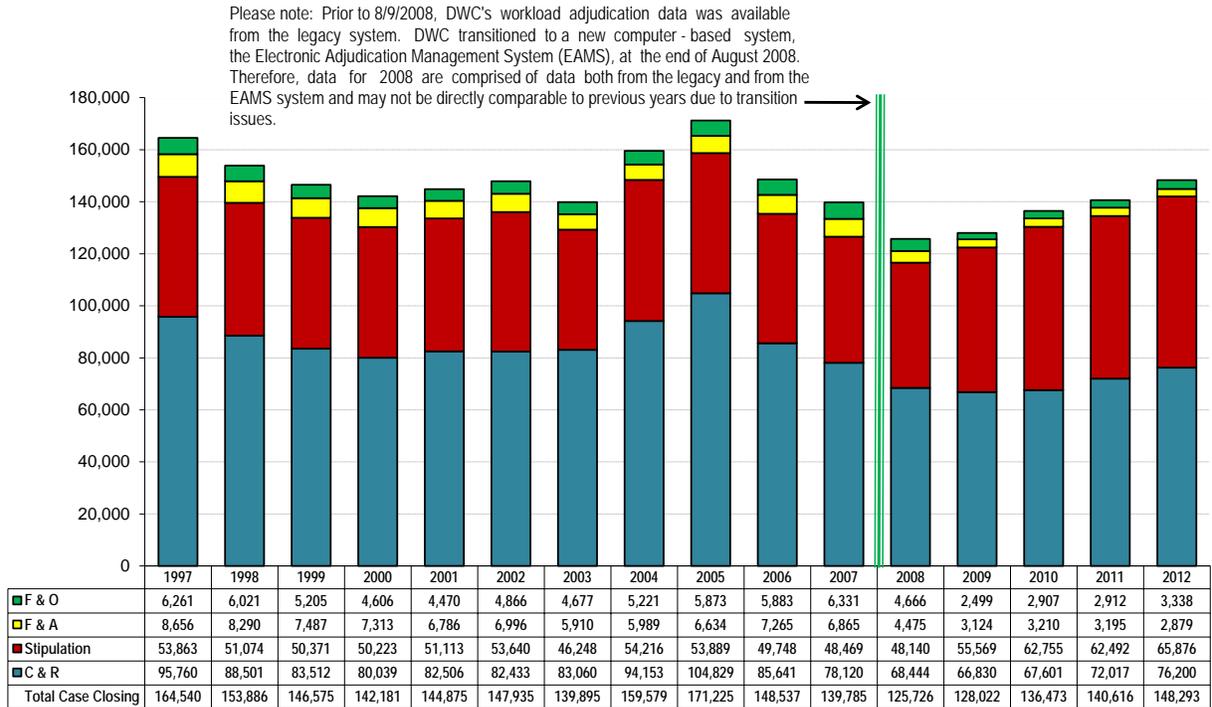
As the figure below shows, the number of decisions made by DWC that are considered to be case-closing declined during the second part of the 1990s, increased overall from 2000 to 2005, and then decreased by 18.4 percent from 2005 to 2007. The total number of case-closing decisions after the transition period to EAMS in 2008 went back to the pre-EAMS level from 2009 to 2012.

<sup>24</sup> Executive Order S-16-08

<sup>25</sup> Executive Order S-13-09

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 46: DWC Case-Closing Decisions



Data Source: DWC

### Mix of DWC Decisions

As shown in the previous figure and the figure below, the vast majority of the case-closing decisions were in the form of a WCAB judge's approval of Stips and C&Rs which were originally formulated by the case parties.

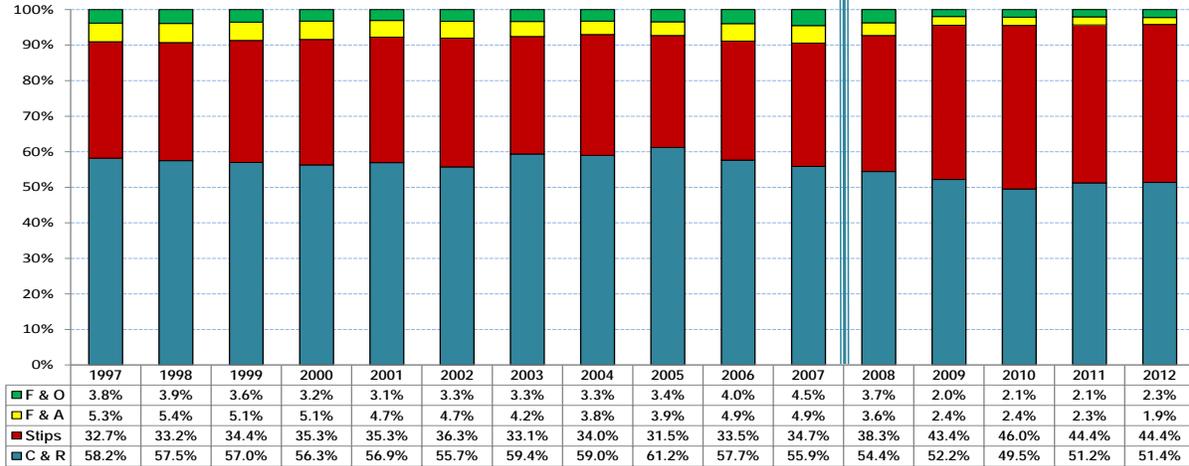
During the period from 1997 through 2007, there was an overall increase in proportion of Stips and overall decrease in proportion of C&Rs. This reflects the large decrease in the issuance of C&Rs through the 1990s when the share of C&Rs decreased from almost 74 percent in 1993 to 57 percent in 1999. This pattern of an increasing proportion of Stips and a decreasing proportion of C&Rs continued into the period from 2009 to 2012, after the transition period to EAMS in 2008, with a slight decrease of Stips from its peak of 46 percent in 2010 to 2012.

In the figure that follows, only a small percentage of case-closing decisions evolved from a Finding & Award (F&A) or Finding & Order (F&O) issued by a WCAB judge after a hearing. That pattern continued with a decrease in the proportion of F&As from 2009 to 2012, after the transition to EAMS in 2008. The proportion of F&Os decreased from the level of 3 to 4.5 percent in the period of 1997 to 2007 to the level of 2 to 2.5 percent in the period of 2009 to 2012.

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 47: DWC Decisions: Percent Distribution by Type of Decisions**

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.



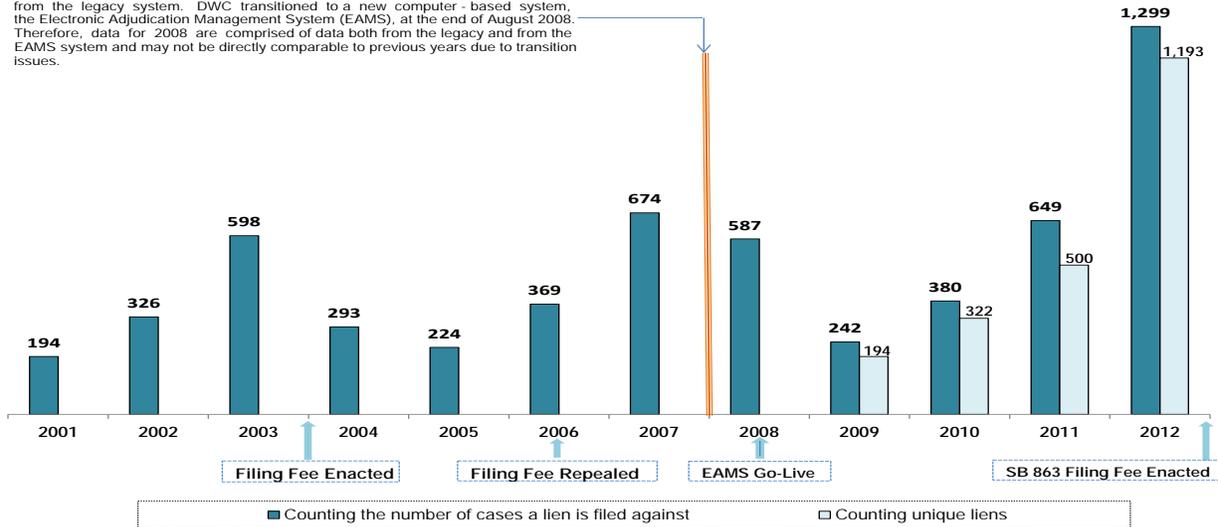
Data Source: DWC

## Division of Workers' Compensation Lien Filings and Decisions

As shown in the figure below, the number of liens tripled between 2000 and 2003, decreased 2.7 times between 2003 and 2005, and then tripled again between 2005 and 2007. After the 2008 transition to the EAMS system, the number of liens filed went back to the pre-EAMS level from 2009 to 2011, as lien filers were getting familiar with the new system. From 2011 to 2012, the number of liens filed doubled in expectation of lien filing fees introduced by SB 863. The figure below presents two ways of counting liens from 2009 through 2012. The first method depicts the number of cases a lien is filed against versus the second method of counting each unique lien.

**Figure 48: Number of Liens Filed, 2001-2012 (Thousand)**

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.

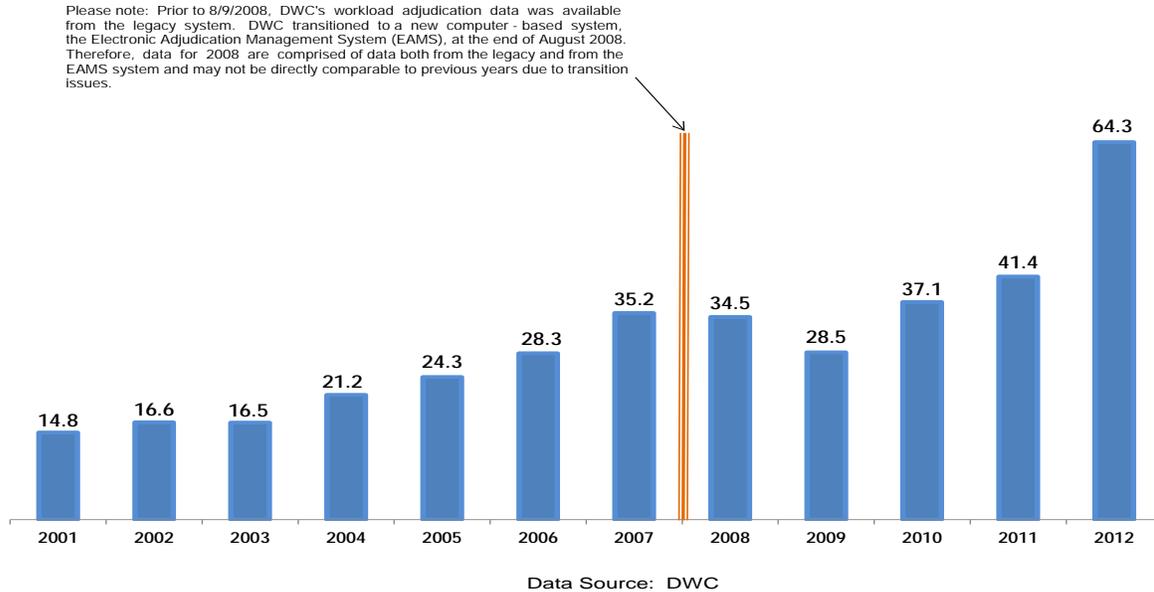


Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The following figure generally shows a large growth in decisions regarding liens filed on WCAB cases and a concomitant expenditure of DWC staff resources on the resolution of those liens.

Figure 49: DWC Lien Decisions, 2001-2012 (Thousand)



See "Report on Liens" (CHSWC, 2011) for a complete description.  
[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf)

### DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM

#### **Background**

The 1989 California workers' compensation reform legislation established an audit function within the Division of Workers' Compensation (DWC) to monitor the performance of workers' compensation insurers, self-insured employers, and third-party administrators to ensure that industrially injured workers are receiving proper benefits in a timely manner.

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of workers' compensation benefits to industrially injured workers and to identify and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.

#### **Assembly Bill 749 Changes to the Audit Program**

Assembly Bill (AB) 749, effective January 1, 2003, resulted in major changes to California workers' compensation law and mandated significant changes to the methodologies for file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to ensure that each audit unit will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. Any audit subject that fails to meet a profile audit standard established by the Administrative Director (AD) of the DWC will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will only be required to pay penalties for unpaid or late paid compensation, as well as any unpaid compensation.

Labor Code Section 129.5(e) was amended to provide for civil penalties up to \$100,000 if an employer, insurer, or third-party administrator has knowingly committed or (rather than "and") has performed with sufficient frequency to indicate a general business-practice act discharging or administering its obligations in specified improper manners. Failure to meet the FCA performance standards in two consecutive FCAs will be rebuttably presumed to be engaging in a general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed is obtained by written request for a hearing before the WCAB rather than by application for a writ of mandate in the Superior Court. Judicial review of the WCAB's F&O is as provided in Sections 5950 et seq.

Penalties collected under Section 129.5 and unclaimed assessments for unpaid compensation under Section 129 are credited to the Workers' Compensation Administration Revolving Fund (WCARF).

### ***Overview of Audit Methodology***

#### *Selection of Audit Subjects*

Audit subjects, including insurers, self-insured employers and third-party administrators, are selected randomly for routine audits.

The bases for selecting audit subjects for targeted audits are specified in 8 California Code of Regulations (CCR) Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA performance standards.
- High numbers of penalties awarded pursuant to Labor Code Section 5814.
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

### ***Audit and Enforcement Unit Data***

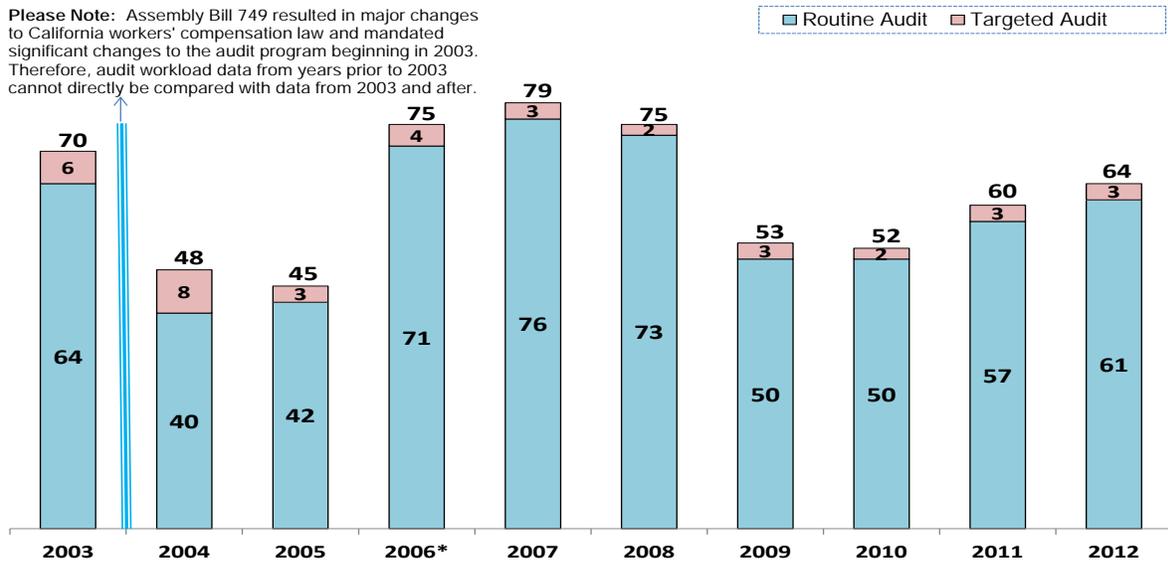
The following figures and graphs depict workload data from 2000 through 2012. As noted on the figures, data before 2003 cannot be directly compared with similar data in 2003 and after because of the significant changes in the program effective January 1, 2003.

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

## Routine and Targeted Audits

The following figure shows the number of routine audits and targeted audits and the total number of audits conducted each year.

Figure 50: Routine and Targeted Audits



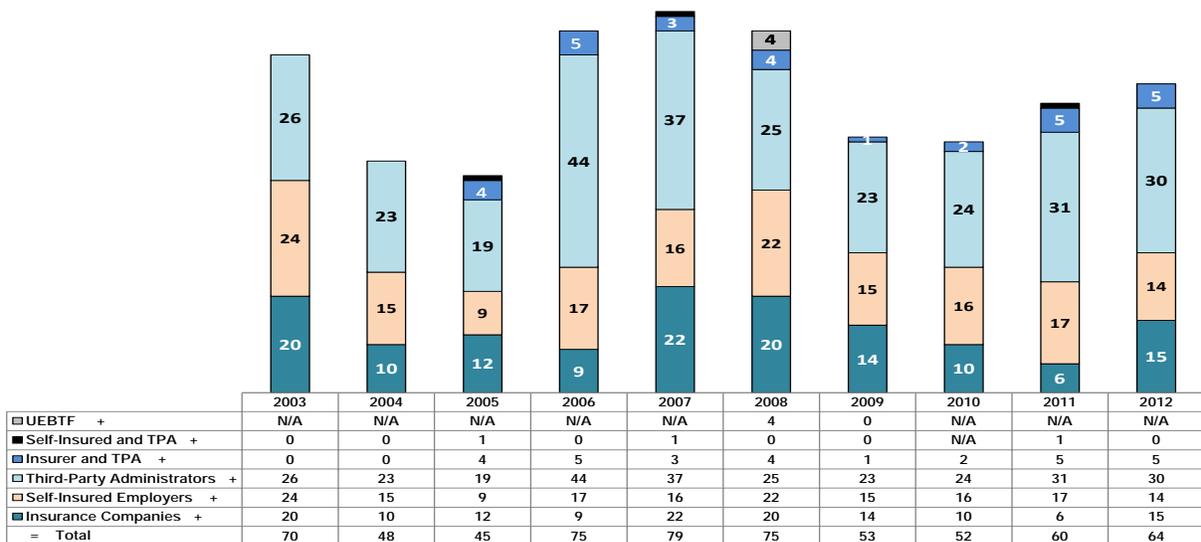
\* Note: An additional target audit was conducted based on a return agreement in a previous stipulation of civil penalty in 2000.

Data Source: DWC Audit and Enforcement Unit

## Audits by Type of Audit Subject

The following figure depicts the total number of audit subjects each year with a breakdown by whether the subject is an insurance company (insurer), a self-insured employer or a third-party administrator.

Figure 51: DWC Audits by Type of Audit Subject



Data Source: DWC Audit and Enforcement

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

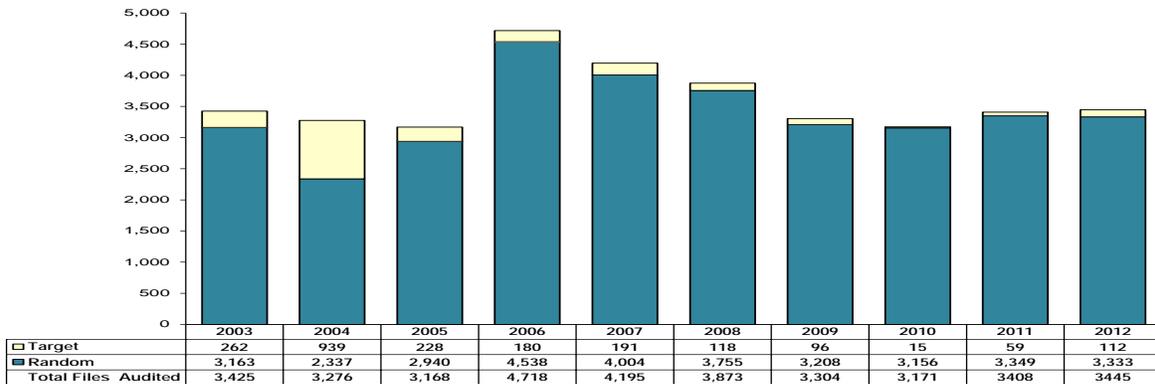
### Selection of Files to be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases being selected based on the numbers of claims in each of those populations of the audit subject:

- Targeted files are selected because they have attributes that the audits focus on.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by DWC related to claims-handling practices. Types of claims include indemnity, medical-only, denied, complaint and additional.

The following figure shows the total number of files audited each year broken down by the method used to select them.

Figure 52: Files Audited by Method of Selection

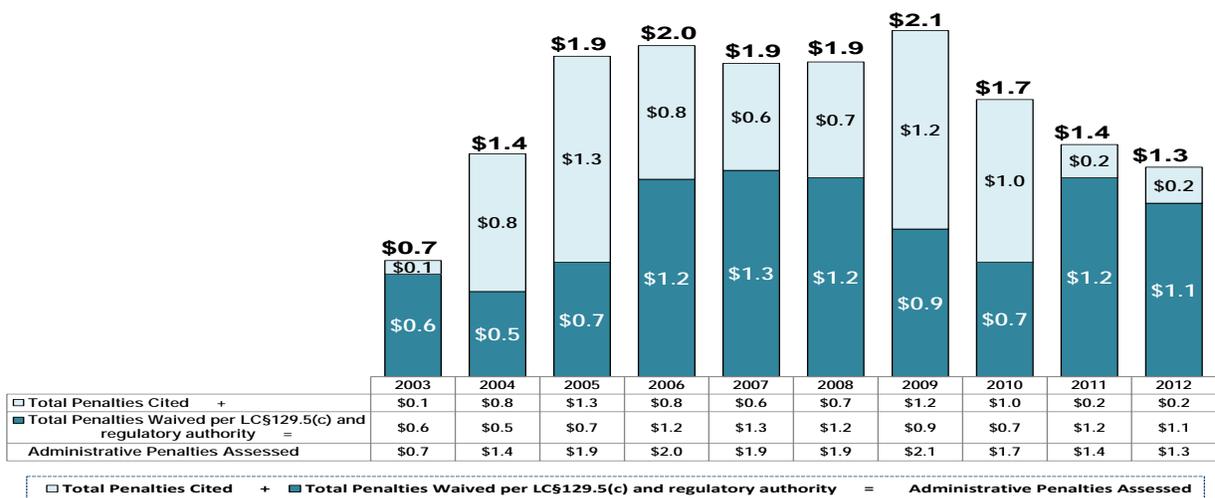


Data Source: DWC Audit and Enforcement Unit

### Administrative Penalties

As shown in the following figure, the administrative penalties cited have changed significantly since the reform legislation changes to the Audit and Enforcement Program beginning in 2003.

Figure 53: DWC Audit Unit – Administrative Penalties (Million \$)

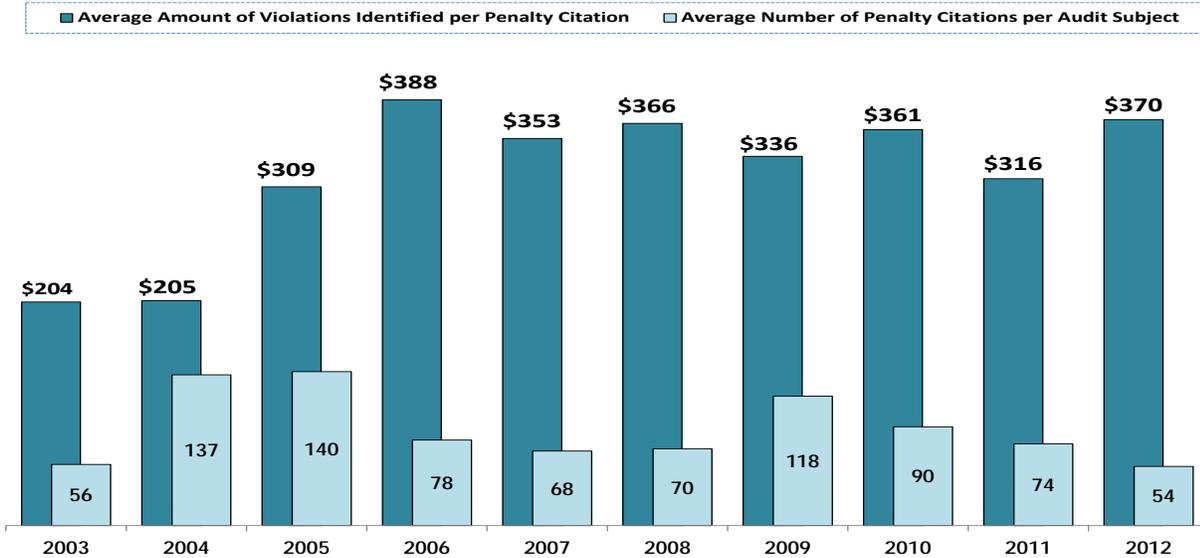


Data Source: DWC Audit and Enforcement Unit

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The following figure shows the average number of penalty citations per audit subject each year and the average dollar amount per penalty citation.

Figure 54: Average Amount per Penalty Citation and Average Number of Penalty Citations per Audit Subject



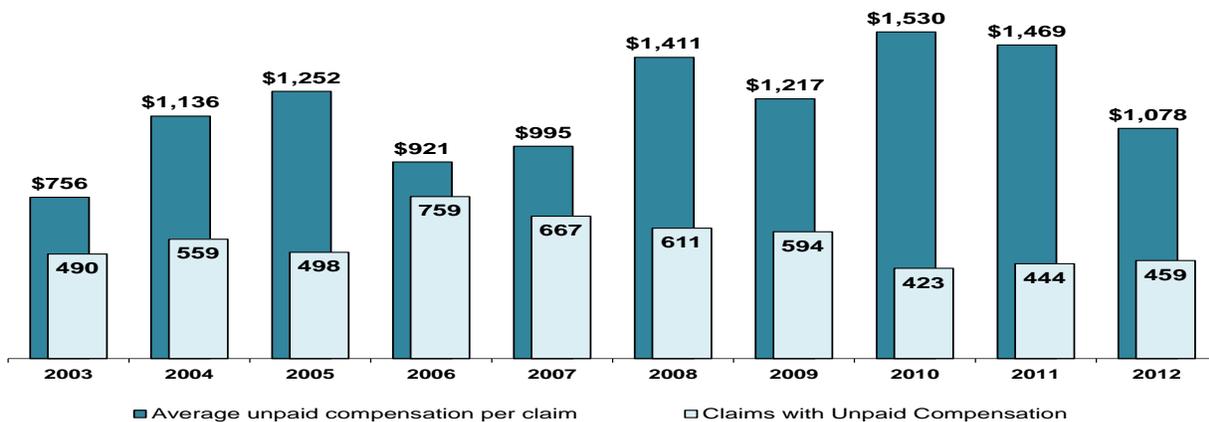
Data Source: DWC Audit and Enforcement Unit

### *Unpaid Compensation Due To Claimants*

Audits identify claim files in which injured workers were owed unpaid compensation. The administrator is required to pay these employees within 15 days after receipt of a notice advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located, the unpaid compensation is payable by the administrator to WCARF. In these instances, application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

The following figure depicts the average number of claims per audit where unpaid compensation was found and the average dollar amount of compensation due per claim.

Figure 55: Average Amount of Unpaid Compensation per Claim and Number of Claims

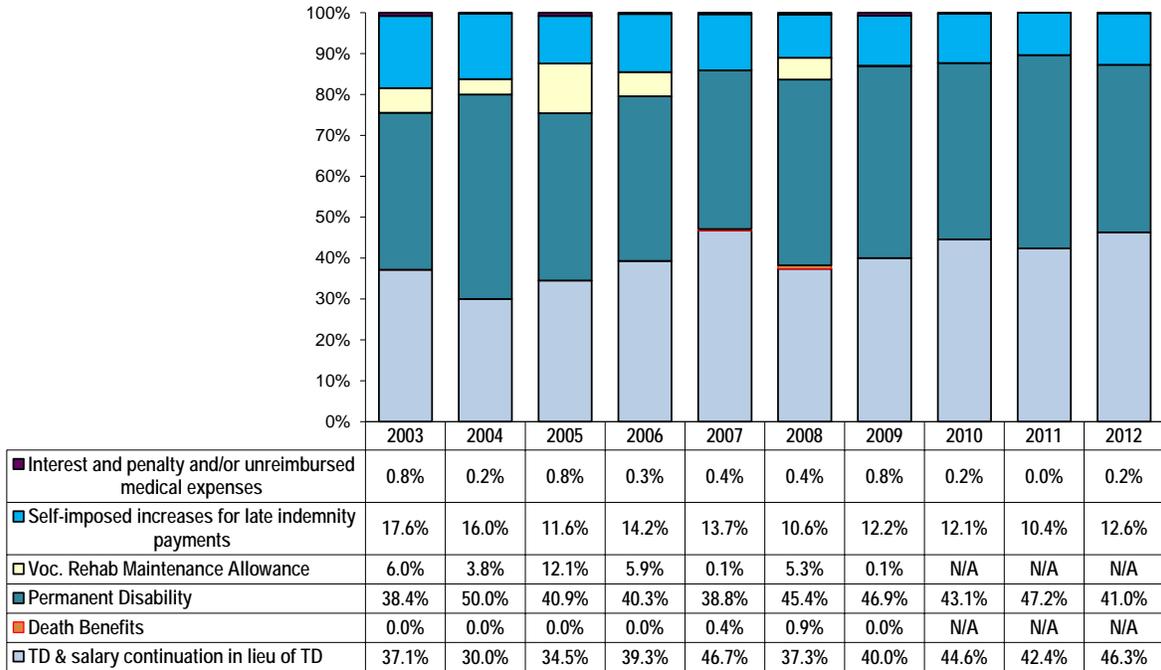


Data Source: DWC Audit and Enforcement Unit

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The following figure shows unpaid compensation each year, broken down by percentage of the specific type of compensation that was unpaid.

**Figure 56: Distribution of Unpaid Compensation by Type**



Data Source: DWC Audit and Enforcement Unit

*For further information ...*

DWC Annual Audit Reports may be accessed at <http://www.dir.ca.gov/dwc/audit.html>.

CHSWC "Report on the Division of Workers' Compensation Audit Function" (1998). <http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>.

### **DIVISION OF WORKERS' COMPENSATION DISABILITY EVALUATION UNIT**

The DWC Disability Evaluation Unit (DEU) determines permanent disability ratings by assessing physical and mental impairments presented in medical reports. Physical impairments for injuries after 2005 are described in accordance with the *AMA Guides*, 5th Edition, and disability is determined in accordance with the 2005 Permanent Disability Rating Schedule (PDRS). A final permanent disability rating (PDR) is obtained only after the whole person impairment rating obtained from a treating physician is adjusted for diminished future earning capacity (FEC), occupation, and age at the time of injury. For injuries prior to 2005 and after April 1, 1997, the 1997 PDRS or earlier edition is utilized, depending on date of injury.

The DEU's mission is to prepare timely and accurate ratings to facilitate the resolution of workers' compensation cases. Ratings are used by workers' compensation judges, injured workers, insurance claims administrators and attorneys to determine appropriate permanent disability benefits. DEU prepares three types of ratings:

Formal Ratings – ratings per workers' compensation judges as part of expert testimony in a litigated case.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Consultative Ratings – ratings on litigated cases at the request of an attorney, DWC Information & Assistance Officer, or other party to the case in order to advise parties to the level of permanent disability.

Summary Ratings – ratings on non-litigated cases done at the request of a claims administrator or injured worker.

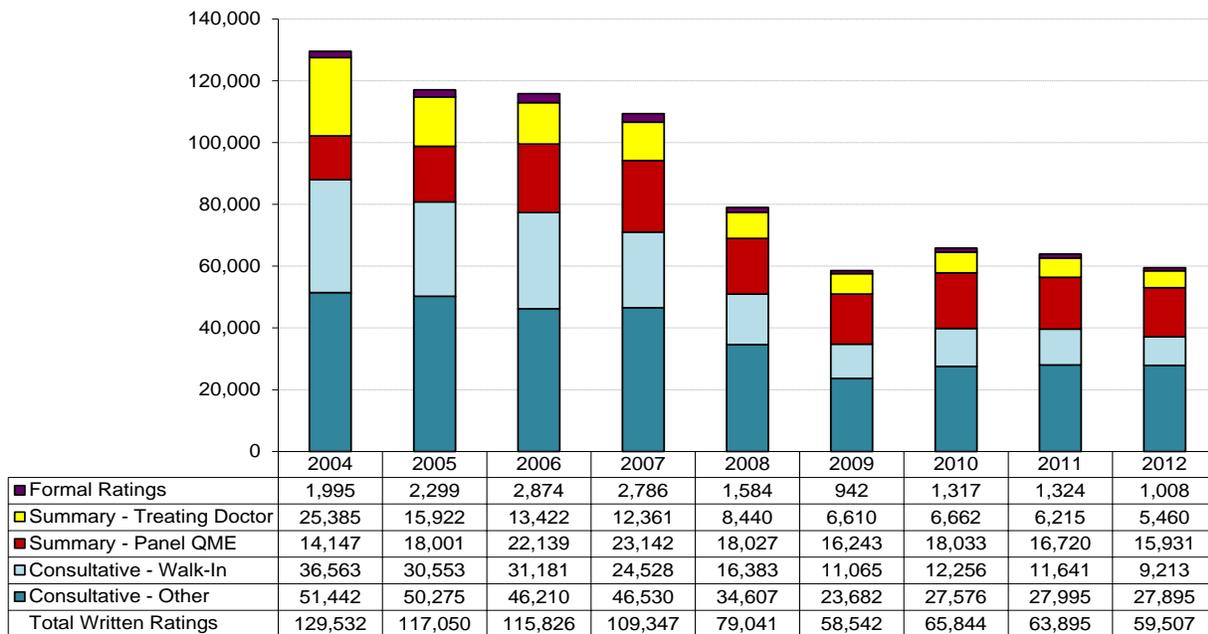
A permanent disability can range from 0 percent to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 percent and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to a number of weeks that an injured employee is entitled to permanent disability (PD) benefits, according to the percentage of PD.

In addition to written ratings, DEU provides oral consultations on PD issues and commutations to determine present value of future indemnity payments to assist in case settlements.

The following chart depicts DEU's workload from 2004 through 2012. The chart shows total ratings and ratings by type.

DEU written ratings declined by 9.6 percent between 2004 and 2005, leveled off between 2005 and 2006, and declined by 6.6 percent between 2006 and 2007. Between 2007 and 2009, the number of DEU written ratings declined by 46 percent. The decline in written ratings between 2007 and 2009 is due to a number of factors including: the introduction of *AMA Guides* and case decisions such as *Ogilvie and Almaraz/Guzman* which increased rating complexity; the transition to a new electronic adjudication management system (EAMS) leading to a learning curve for personnel; hiring freezes that caused clerical shortages; and more consistent tabulation of rating production with the introduction of the EAMS system. A 12.5 percent increase in DEU written ratings in 2010, after the 2009 EAMS transition year, was followed by 10 percent decline from 2010 to 2012.

Figure 57: DEU Written Ratings, 2004-2012



Data Source: DWC Disability Evaluation Unit

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

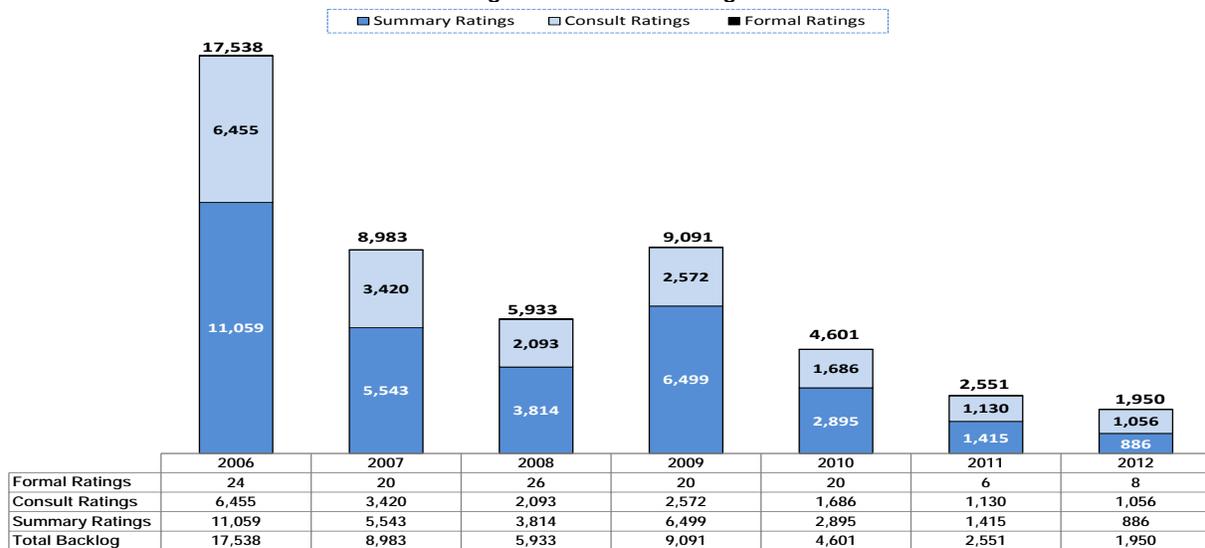
The table below shows numbers of ratings issued according to the old Schedule and to AMA Guides for each type of rating produced in 2012.

**Table 13: 2012 DEU Ratings by Type**

Rating Type	Old Schedule Rating	AMA Guides Rating Schedule
Summary rating based on QME report	197	15,733
Summary rating based on physician report	28	5,433
Walk-in consultative ratings	863	6,805
Other consultative ratings	3,841	25,599
Formal ratings requested by judge	754	570

DEU decreased the backlog of ratings from 4,601 cases in 2010 to 1,950 cases in 2012. This represents a reduction of 58 percent in addition to a 49.4 percent decrease from 2009 to 2010. The reduction of backlog provides quicker delivery of benefits to injured workers and resolution of workers' compensation cases.

**Figure 58: DEU Backlogs**



Data Source: DWC Disability Evaluation Unit

DEU also performs commutations of future indemnity payments involving present value calculations. These commutation calculations assist parties in the resolution of claims involving lump sum settlements, including calculation of attorney fees on litigated cases.

For injuries dated January 1, 2003, and after, life pension and total PD payments are increased according to annual increase of the state average weekly wage (SAWW) starting January 1 after the payment commences and each January thereafter. The increase in benefits based upon annual SAWW increases the complexity of commutation calculations. In 2012, DEU averaged 109.8 commutation calculations per month.

The rating schedule has a profound impact on both employees and employers, as it forms the basis by which workers are compensated for the permanent effects of work-related injuries. Since the adoption of

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

a new rating schedule effective January 1, 2005, DWC continues to collect data regarding the results of the new rating schedule.

### **Staffing**

Current staffing levels are 44 Disability Evaluators (WCC position), 3 supervisors, and 1 unit manager. Four hires are anticipated to replace recently vacancies as a result of promotions and personnel leaving the unit. DEU is supported clerically by staff assigned to the Adjudication Unit.

### **DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT**

The Medical Unit is responsible for the oversight of the physicians who perform disability evaluations in the workers' compensation system, educating physicians on medical/legal issues and advising the Administrative Director on various medical issues. The Medical Unit sets standards and issues regulations governing Qualified Medical Evaluators (QMEs) and enforces the regulations governing QME disciplinary actions. The Medical Unit issues panels of three randomly-selected QMEs to both represented and unrepresented injured workers who need a medical/legal evaluation in order to resolve a claim.

The Medical Unit also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the Medical Unit reviews utilization review (UR) plans from insurers and self-insured employers and develops and monitors treatment guidelines. The unit also participates in studies to evaluate access to care, medical quality, treatment utilization, and costs. Finally, the Medical Unit recommends reasonable levels of fees for various medical fee schedules.

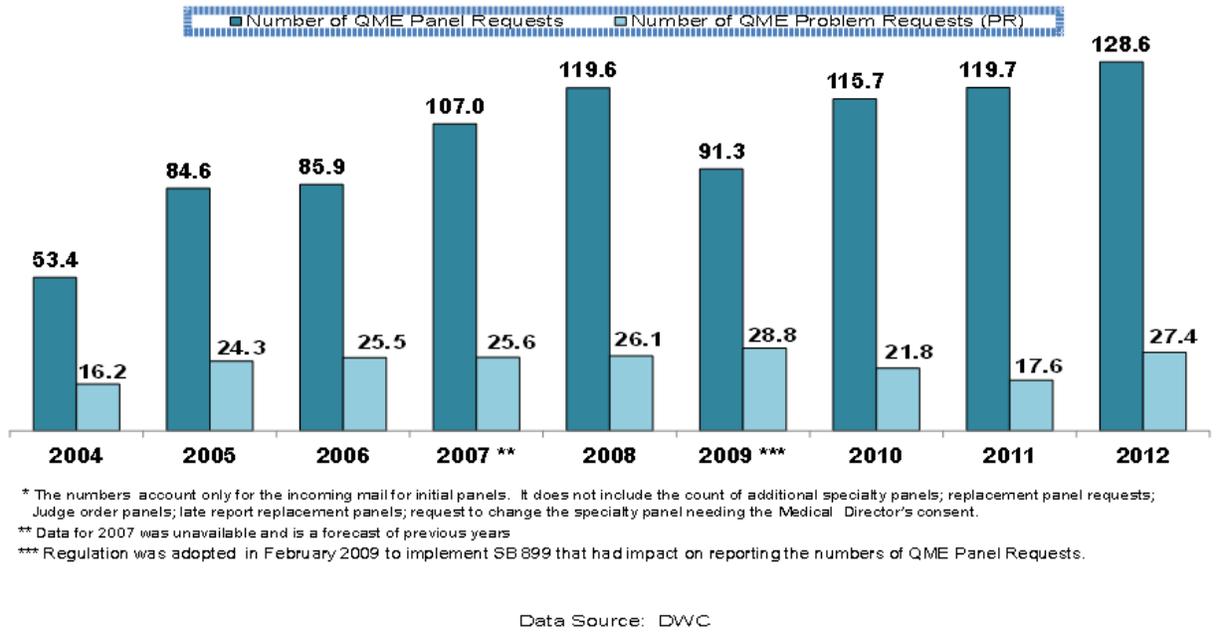
### **Qualified Medical Evaluator Panels**

DWC assigns panels composed of three Qualified Medical Evaluators (QMEs) from which an injured worker without an attorney selects the evaluator for a medical dispute. Beginning in 2005, a similar process became effective for cases where the worker has an attorney. This resulted in an increased number of QME panels. The changes contributed to a larger percentage of problems with the panel assignments.

The figure below indicates the number of QME Panel Requests issued each year and the number of problems with the original QME panel which necessitated a replacement list. Some of the problems with panel assignment include parties not submitting documentation or submitting inadequate documentation, parties not being eligible for a QME panel, or DWC needing additional information in order to make a determination for panel eligibility.

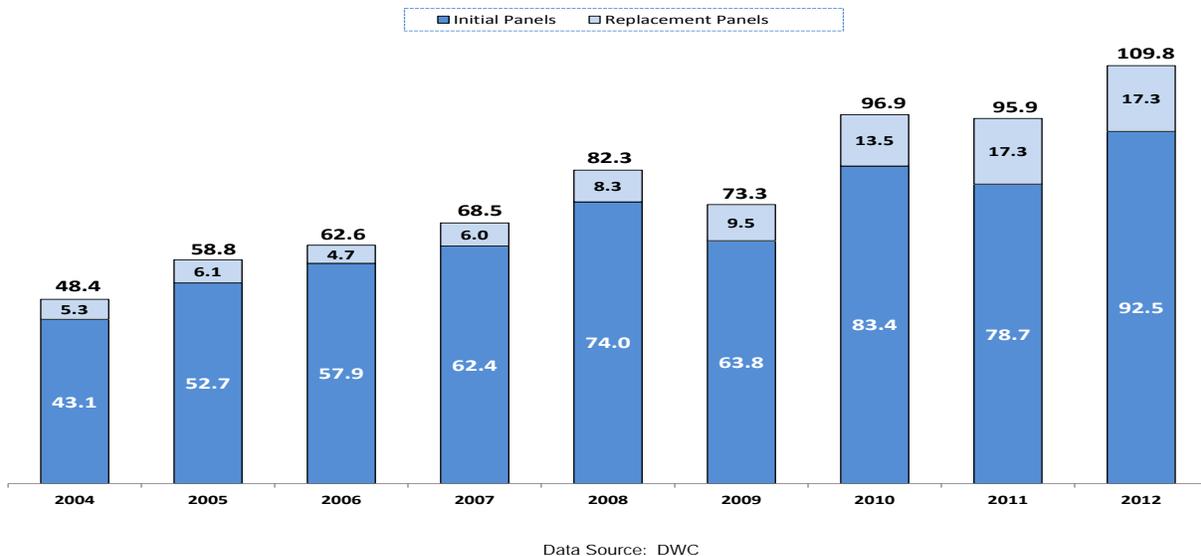
## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 59: Number of Qualified Medical Evaluator (QME) Panel Requests\* and Problem Requests (Thousand)



The figure below shows the number of initial QME panels issued pursuant to California Code of Regulations, Sections 30 and 31.7. Section 30 panel requests are submitted on Form 105 for unrepresented injured workers and on Form 106 - for represented injured workers, requiring additional documentation to meet conditions under this section. Section 31.7 applies to requests to obtain additional specialty panels under certain specified conditions and is only applicable after the "initial" QME panel has been issued. Replacement QME panels<sup>26</sup> are issued pursuant to California Code of Regulations, Section 31.5 that applies to requests to replace one or more QMEs from an "initial" panel that meet the conditions specified under this section.

Figure 60: Number of QME Initial Panels and Replacement Panels Issued (Thousand)



<sup>26</sup> The term "replacement" is referenced as "second" panels in-house to communicate the type of handling needed for the panel request.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Independent Medical Review

Senate Bill (SB) 863 adopted several provisions that affect how medical necessity determinations are made for medical care provided to injured workers. One of the key provisions was putting in place the Independent Medical Review (IMR) process for resolving medical treatment disputes. Effective January 1, 2013, for injuries occurring on or after that date, and effective July 1, 2013, for all dates of injury, IMR is being used to decide disputes between the physician and claims administrator about necessary medical treatment for injured workers. The IMR program is administered by DWC with costs borne by the employer and is similar to the group health process for medical treatment dispute resolution.

According to the table below, the total number of IMR requests received as of November 2013 was 63,171. The number of IMR requests received between January 2013 and June 2013 increased from 1 to 350. Between June and July, the number of IMR requests received increased substantially from 350 to 4,410, or increased almost 13 times, since as of July 1, 2013, IMR is applied for medical necessity disputes for all dates of injury. Between July 2013 and August 2013, the number of IMR cases received increased approximately 3.6 times and then decreased by 16 percent from August to November 2013.

**Table 14: Number of Independent Medical Review Requests  
Received in 2013 (January-November)**

January	February	March	April	May	June	July	August	September	October	November	Total
1	7	78	178	256	350	4,410	15,731	14,990	13,999	13,171	63,171

Data Source: DWC

### Independent Bill Review

Senate Bill (SB) 863 adopted several provisions to provide a quick, efficient way of resolving disputes over medical billing and eliminate litigation at the appeals board over billing disputes. One of the key provisions was putting in place the Independent Bill Review (IBR) process for resolving medical treatment and medical-legal billing disputes. Effective January 1, 2013, for medical services provided on or after that date and where the fee was determined by a fee schedule established by the DWC, the IBR is being used to decide disputes when a medical provider disagrees with the amount paid by a claims administrator. The IBR program is administered by DWC that refers applicants to independent bill review organization (IBRO). The reasonable fees for IBR are paid by the applying physician. If the independent bill reviewer determines that the claims administrator owes the physician additional payment on the bill, the claims administrator must reimburse the review fee to the physician.

According to the table below, the total number of IBR requests received as of November 2013 was 798. There were no IBR requests received in January 2013. Between February 2013 and November 2013 the number of IBR requests received increased from 1 to 129.

**Table 15: Number of Independent Bill Review Requests Received in 2013 (January-November)**

January	February	March	April	May	June	July	August	September	October	November	Total
0	1	4	29	67	95	113	113	126	121	129	798

Data Source: DWC

## **Medical Provider Networks and Health Care Organizations<sup>27</sup>**

### ***Medical Provider Networks***

#### *Background*

In recent years, the California workers' compensation system has seen significant increases in medical costs. Between 1997 and 2003, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,<sup>28</sup> outpacing the costs for equivalent medical treatment provided in non-industrial settings. To abate this rise in costs, major reforms were made in 2003 and 2004. One such effort was the signing into law of Senate Bill (SB) 899 in April of 2004. A major component of SB 899 was the option to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et. seq. MPNs were implemented beginning January 1, 2005. On September 18, 2012, another round of major workers' compensation reforms was signed into law with SB 863. SB 863 incorporates significant changes to MPNs, including but not limited to: expanding who can qualify to become an MPN applicant; limiting the MPN approval period to four-years and requiring a re-approval process for approval of MPN plans; providing the right to petition for MPN suspension or revocation; and authorizing the adoption of administrative penalties to ensure MPN applicants comply with regulations, among other changes. Most of these changes will not take effect until January 1, 2014.

An MPN is a network of providers established by an insurer, self-insured employer, a Joint Powers Authority (JPA), the State, a group of self-insured employers, a self-insurer security fund, or the California Insurance Guarantee Association (CIGA) to treat work-related injuries. SB 863 will expand this category to include entities that provide physician network services.

The establishment of an MPN gives significant medical control to employers. With the exception of employees who have a pre-designated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim as opposed to 30 days of medical control that employers had prior to SB 899. Having an MPN means the employer has more control with regard to who is in the network and who the injured worker sees for care for the life of the claim. The employer gets to choose who the injured worker goes to on the first visit; after the first visit, the injured worker can go to a doctor of his/her choosing in the MPN.

Before the implementation of an MPN, insurers and employers are required to file an MPN application with the Division of Workers' Compensation (DWC) for review and approval, pursuant to Title 8 CCR § 9767.1 et. seq.

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<sup>27</sup> The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.

<sup>28</sup> Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses* prepared pursuant to § 11759.1 of the California Insurance Code.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### *Application Review Process*

California Labor Code Section 4616(b) mandates that the Division of Workers' Compensation (DWC) review and either approve or disapprove MPN plans submitted within 60 days of plan submission. If DWC does not act on the plan within 60 days, the plan is deemed approved by default.

Upon receipt of an MPN application, DWC does an initial cursory review of all applications received. The result of the review is communicated to each applicant in a "complete" or "incomplete" letter, as applicable. Applicants with sections missing in their application will be asked to complete the missing part(s). Applicants with a complete application will receive a "complete" letter indicating the target date of when the full review of their application will be completed. The clock for the 60-day time frame within which DWC should act starts from the day a complete application is received by DWC.

The full review of an application involves a thorough scrutiny, using a standard checklist, to see if the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et. seq. and the California Code of Regulations sections 9767.1 et. seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application. Applicants with deficient applications are sent a disapproval letter listing deficiencies that need to be corrected. This process is repeated until the application is approved or withdrawn.

Material modification filings go through a similar review process as an initial application. Except in cases where an applicant was approved under the emergency regulations and is now updating the application to the permanent regulations, reviews of material modifications are done only for those sections of the applications affected by the material change.

### *Applications Received and Approved*

The table below provides a summary of MPN program activities from the inception of the MPN program in November 1, 2004, to December 31, 2012. During this time, the MPN program received 2,100 MPN applications. Of these, 39 were ineligible as they were erroneously submitted by employers, insurers or other entities that under the MPN regulations are not eligible to set up an MPN. As of December 31, 2012, 1,947 applications were approved. Of these, 986 were approved under the emergency regulations and the remaining 961 under the permanent regulations. Twenty (20) approved applications were revoked by DWC. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities or an insurer who is no longer eligible to transact workers' compensation in California. Two hundred and thirty-five (235) were withdrawn after approval and seventy-one (71) were withdrawn before approval. Withdrawn MPNs have never been implemented. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or there was a duplicative submission of the same application. Two hundred and twenty-six (226) were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN.

**Table 16: MPN Program Activities from November 1, 2004, to December 31, 2012**

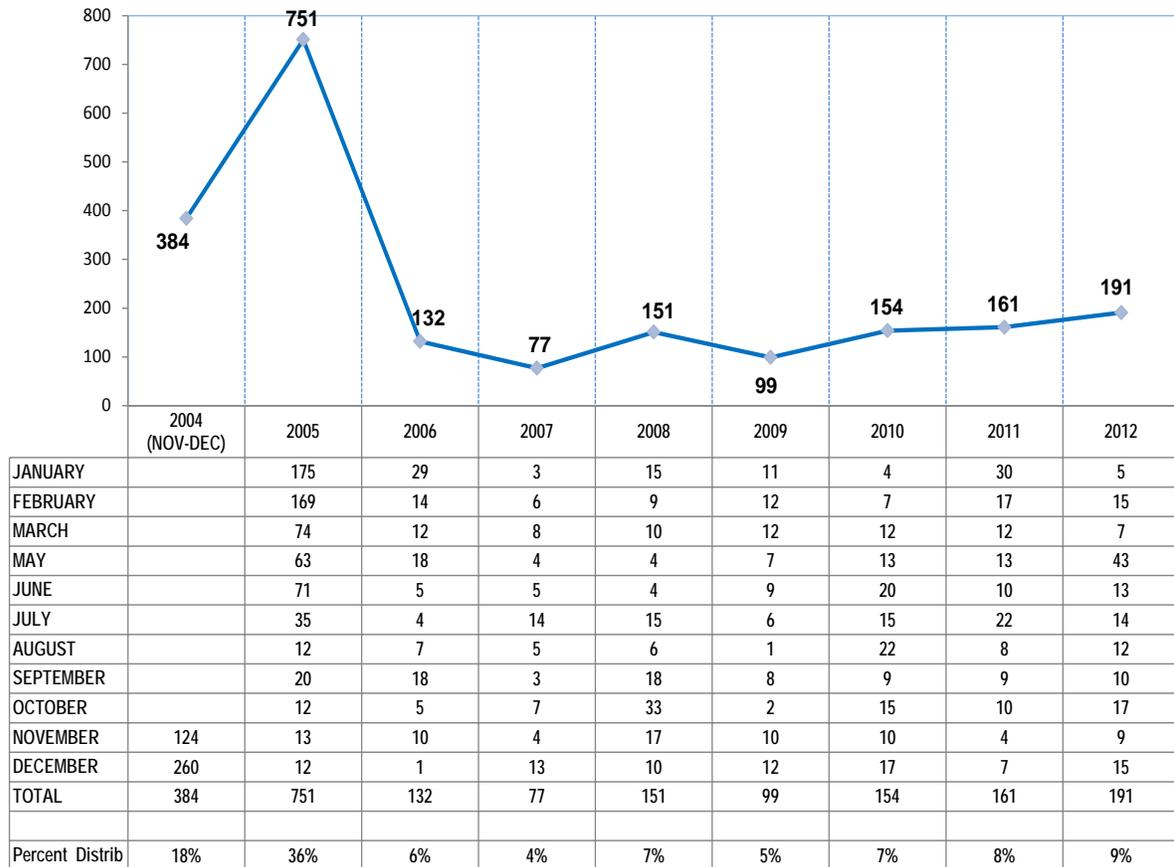
<b>MPN Applications:</b>	<b>Number</b>
Received	2,100
Approved	1,947
Material Modifications	2,522
Withdrawn	306
Revoked	20
Ineligible	39
Terminated	226

Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The chart and table below show the receipt of MPN applications by month and year. The bulk of applications, 35.8 percent (751), were received in 2005. About 6.3 percent (132) were received in 2006, 3.7 percent (77) were received in 2007, 7.2 percent (151) were received in 2008, 4.7 percent (99) were received in 2009, 7.3 percent (154) were received in 2010, 7.7 percent (161) were received in 2011, and 9.1 percent (191) were received in 2012.

**Figure 61: Number of MPN Applications Received by Month and Year of Receipt  
(Total = 2,291)**

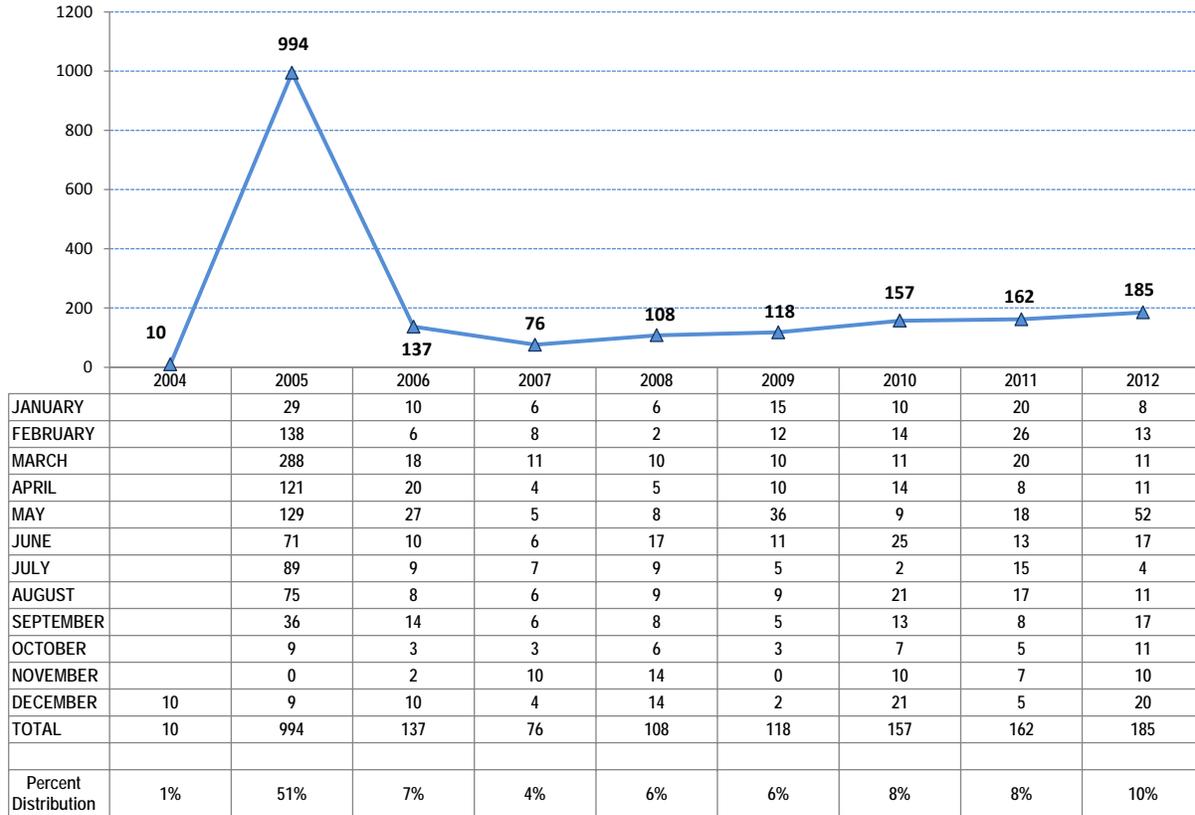


Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The chart and table below show the MPN applications approved by month and year. To recap, 51.1 percent (994) of MPN applications were approved in 2005, while 7.0 percent (137) were approved in 2006, 3.9 percent (76) were approved in 2007, 5.5 percent (108) were approved in 2008, 6.1 percent (118) were approved in 2009, 8.1 percent (157) were approved in 2010, 8.3 percent (162) were approved in 2011, and almost 10 percent (185) were approved in 2012.

**Figure 62: Number of MPN Applications Approved by Month and Year  
(Total = 1,947)**



Data Source: DWC

### *Material Modifications*

MPN applicants are required by Title 8 CCR §9767.8 to provide notice to DWC for required material changes to their approved MPN application. Modifications are required when there is a 10 percent or more change in the provider network, a change in MPN Liaison, or a change in the employee notification materials, among other reasons. In addition, MPN applicants approved under the emergency regulations must update their application to conform to the permanent MPN regulations when filing for a material change to their approved application. Modifications go through a similar review and approval process as a new application, within the same regulatory time frame.

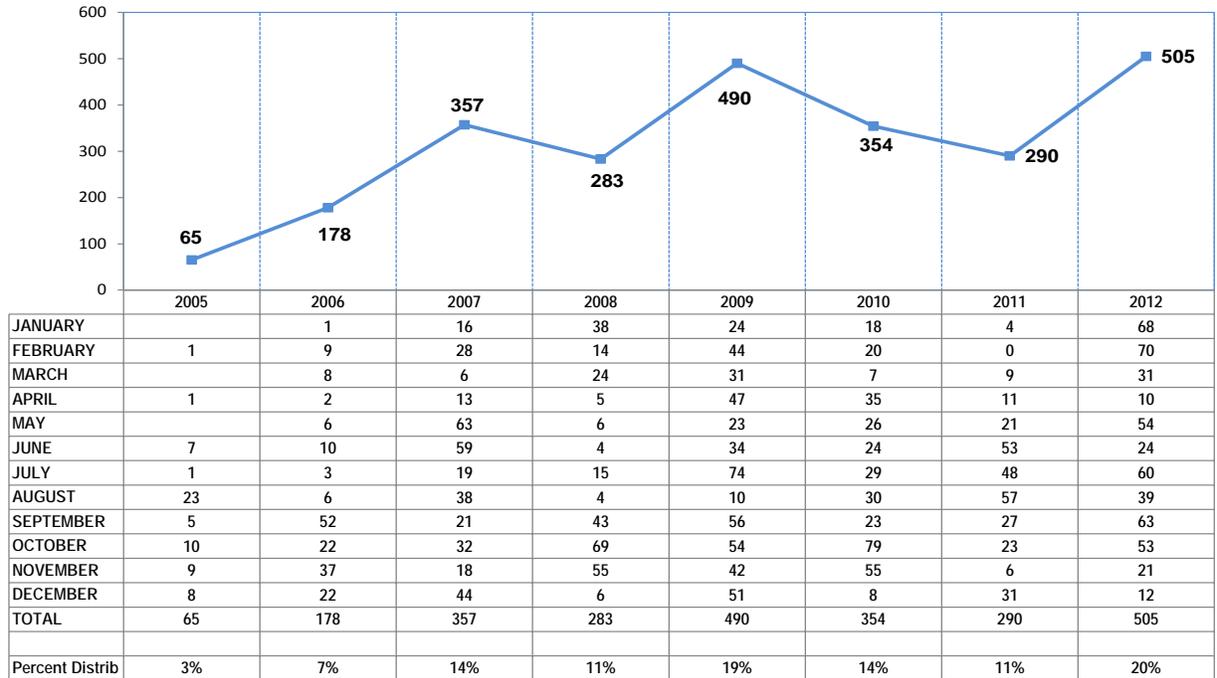
As of December 31, 2012, 1108 applicants have filed 2522 material modifications with DWC. Some applicants have filed more than one material modification. Six hundred and fifteen (615) applicants have filed two or more material modification filings, while 1 applicant had 35 filings.

The following chart and table show how many material modification filings were received at DWC; 65 material modifications were filed in 2005; 178 in 2006; 357 in 2007; 283 in 2008; 490 in 2009; 354 in 2010; 290 in 2011; and 505 in 2012.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The following chart and table show the number of material modification filings received at DWC.

**Figure 63: Number of MPN Material Modifications Received by Month and Year  
(Total = 2,522)**



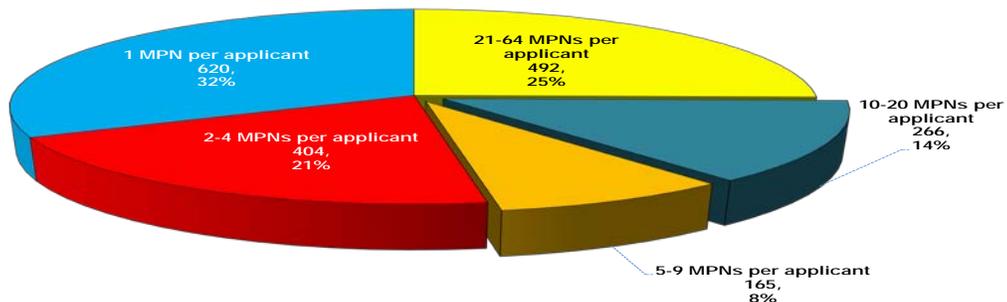
\* Monthly data are not available

Data Source: DWC

### MPN Applicants

MPN applicants are allowed to have more than one MPN. As a result, the MPN applicants with more than one MPN account for 68 percent of all MPNs, including 16 applicants with 21 to 64 MPNs. (See Figure, Distribution of Approved Applicants by Number of MPNs per Applicant, below). The names of MPN applicants with 10 or more approved MPNs are shown in the Table on the next page (Names of MPN Applicants with 10 or More Approved MPNs). ACE American Insurance Company leads with 64 MPNs, followed by Zurich American Insurance Company with 45 MPNs and American Home Assurance Company with 38 MPNs.

**Figure 64: Distribution of Approved MPNs by Number of MPNs per Applicant, 2012**



Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 17: Names of MPN Applicants with 10 or More Approved MPNs**

<b>Name of Applicant</b>	<b>Number of MPNs</b>
ACE American Insurance Company	64
Zurich American Insurance Company	45
American Home Assurance Company	38
National Union Fire Insurance Company of Pittsburgh, PA	37
The Insurance Company of the State of Pennsylvania	33
Fidelity and Guaranty Insurance Company	29
Old Republic Insurance Company	29
New Hampshire Insurance Company	26
Safety National Casualty Corporation	26
ARCH Insurance Company	25
Discover Property & Casualty Insurance Company	25
United States Fidelity and Guaranty Company	24
XL Specialty Insurance Company	24
American Zurich Insurance Company	23
Fidelity and Guaranty Insurance Underwriters, Inc.	23
Hartford Accident and Indemnity Company	21
Federal Insurance Company	20
Hartford Insurance Company of the Midwest	19
Chartis Property Casualty Company	18
Commerce and Industry Insurance Company	18
Twin City Fire Insurance Company	16
Continental Casualty Company	15
Granite State Insurance Company	15
American Guarantee and Liability Insurance Company	13
Greenwich Insurance Company	13
Hartford Fire Insurance Company	12
Landmark Insurance Company	12
Travelers Property Casualty Company of America	12
Hartford Underwriters Insurance Company	11
Sentinel Insurance Company, Ltd.	11
Zurich American Insurance Company of Illinois	11
American Casualty Company of Reading, Pennsylvania	10
SPARTA American Insurance Company	10
SPARTA Insurance Company	10
St. Paul Fire and Marine Insurance Company	10
Tokio Marine & Nichido Fire Insurance Co., Ltd.	10

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

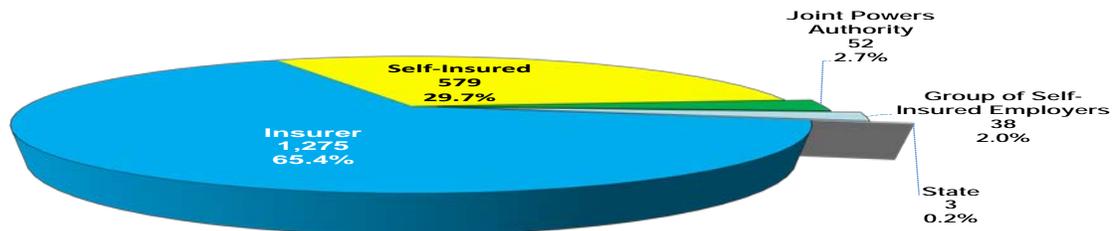
The following table shows the numbers of MPN applicants by type of applicant. The majority (65.5 percent) of MPN applications were filed by insurers, followed by self-insured employers (29.7 percent).

**Table 18: Distribution of Approved MPN Applications by Type of Applicant**

Type of Applicant	2005	2006	2007	2008	2009	2010	2011	2012	Total
Insurer	611	68	32	80	91	66	122	146	1,275
Self-Insured	346	55	37	23	19	28	36	32	579
Joint Powers Authority	33	4	4	3	2	4	2	0	52
Group of Self-Insured Employers	2	10	3	2	6	7	1	7	38
State	2						1	0	3
<b>Total</b>	<b>994</b>	<b>137</b>	<b>76</b>	<b>108</b>	<b>118</b>	<b>157</b>	<b>162</b>	<b>185</b>	<b>1,947</b>

The figure below shows the distribution of MPN applicants by type.

**Figure 65: Distribution of All Approved MPN Applications by Type of Applicant, Total for 2005 - 2012  
(Total = 1,947)**



Data Source: DWC

### MPN Plans Using HCO Networks

HCO networks are used by 409 (21.0 percent) of the approved MPNs. This number excludes those MPNs which were revoked, terminated or withdrawn after approval. The distribution of MPNs by HCO is shown in the Table below. First Health HCO has 11.5 percent of the MPN market share, followed by Corvel HCO, which has 5.8 percent and Medex, which has 3.5 percent.

**Table 19: Number of MPN Applicants Using HCO Networks**

Name of HCO	Approved MPN Plans Using HCO Network	Percentage of Applications Received	Percentage of Applications Approved
CompAmerica (First Health)	223	10.6%	11.5%
Corvel	113	5.4%	5.8%
Medex	68	3.2%	3.5%
CompPartners	4	0.2%	0.2%
Promesa	1	0.0%	0.1%
Net-Work	0	0.0%	0.0%
Astrasano	0	0.0%	0.0%
Prudent Buyer (Blue Cross)	0	0.0%	0.0%
<b>Total Using HCO</b>	<b>409</b>	<b>19.5%</b>	<b>21.0%</b>

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### *Employers/Insurers with MPN*

Neither the number nor the name of insured employers using MPNs can be obtained from MPN applications. Insurers are not required to report who among their insured employers are using their MPN. The list of self-insured employers with a self-reported number of covered employees greater than 5,000 is shown below. This list includes some large self-insured companies such as Albertsons, AT&T, Intel, Safeway, Home Depot, Target Corporation, Raley's, and Lowe's.

### *Status of the MPN Program*

The MPN program is in its ninth year and continues to develop as more MPNs are being used. The MPN plan monitoring and review processes have evolved with the regulations and as agency resources permit. SB 863 will promulgate important changes to the MPNs to improve efficiencies, promote greater accuracy and ensure regulatory compliance.

**Table 20: Self-Insured MPN Applicants with Covered Employees of 5,000 or More, December 2012**

Name of Applicant	Name of MPN	Number of Covered employees
Los Angeles Unified School District	Sedgwick CMS Extended Medical Provider Network	138000
California Restaurant Mutual Benefit Corporation	One Source Medical Network	130000
County of Los Angeles	First Health CompAmerica Select HCO	102000
County of Los Angeles	CorVel HCO	102000
County of Los Angeles	Interplan Health Group	102000
California Farm Management, Inc.	California Farm Management, Inc MPN	92523
California Farm Management-Self-Insured Group	WellComp Medical Provider Network	81351
Target Corporation	Target Medical Provider Network	75300
California State Association of Counties - Excess Insurance Authority	EIA Medical Provider Network	74882
Safeway, Inc.	Safeway Select MPN	60000
Target Corporation	Sedgwick CMS/Harbor Net-Target	59700
San Diego/Imperial County Schools Joint Power Authority	Interplan through CompPartners	54000
San Diego County Schools JPA	CorVel/San Diego County Schools JPA MPN	42000
Home Depot U.S.A., Inc.	The Home Depot Medical Provider Network	41306
Costco Wholesale Corporation	Costco Wholesale MPN	35813
Macy's Inc.	Macy's Inc. Medical Provider Network	32575
The Kroger Co.	CorVel/Kroger Select MPN	32000
Self-Insured Schools of California	Self-Insured Schools of California/California Foundation for Medical Care Network	31811
Pacific Bell Telephone Company	Sedgwick CMS Extended Medical Provider Network	31500
Kaiser Foundation Hospitals, a California Corporation	Kaiser Permanente MPN	29880

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered employees
Southern California Permanente Medical Group	Kaiser Permanente/Harbor Net MPN	29056
Auto Dealers Compensation of California, Inc.	AD-COMP MPN	28012
University of Southern California USC	USC/Harbor MPN	26634
Southern California Permanente Medical Group	Kaiser Permanente MPN	26353
Pacific Gas and Electric Company	PG&E /Blue Cross Medical Provider Network	25663
Walt Disney Parks and Resort US, Inc.	Walt Disney Parks and Resort US, Inc. MPN	22000
County of Orange	WellComp Medical Provider Network	22000
Kaiser Foundation Hospitals	Kaiser Permanente/Harbor Net MPN	21537
County of Orange	Intracorp	21400
San Diego Unified School District	WellComp Medical Provider Network	20762
Santa Clara County Schools Insurance Groups	PRIME Plus Medical Network	20198
The County of Riverside	First Health Comp America Select	20173
Sun Microsystems, Inc. (Sun)	First Health Network	20000
New Albertson's Inc. (A SuperValu Company)	Sedgwick CMS Extended Medical Provider Network	20000
City and County of San Francisco	City and County of San Francisco Medical Provider Network	20000
California Farm Management Self-Insured Group	N/A	20000
Schools Insurance Group	SIG MPN	19600
Ventura County Schools Self-Funding Authority	WellComp Medical Provider Network	19566
County of Riverside	CorVel MPN/County of Riverside	19000
Securitas Security Services USA, Inc.	Sedgwick CMS Extended MPN	19000
Manpower, Inc.	Sedgwick CMS MPN	19000
Viacom International Services, Inc.	First Health Comp America HCO Select Network	18913
Healthcare Industry Self-Insured Program	CorVel/Healthcare Industry Self-Insured Program	18500
Nordstrom Inc.	Nordstrom Medical Provider Network	17000
Securitas Security Services USA, Inc.	Securitas Broadspire SNP	16890
Nonprofits' United Workers Compensation Group	WellComp MPN	16800
Hewlett-Packard Company	Sedgwick CMS Extended Medical Provider Network	16550
Marriott International, Inc.	Marriott's Medical Provider Network	16304
Elite Golf Club Program, Inc.	Monument MPN	16000
Quality Comp, Inc.	Monument MPN	16000
Guardian Comp, Inc.	Monument MPN	16000
Cornerstone Comp, Inc.	Monument MPN	16000
Alameda County Schools Insurance Group	ACSIG/AccessMedical Provider Network	16000

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered employees
COP/CPB of the Church of Jesus Christ of the Latter-day Saints	Deseret MPN	16000
Victory Comp, Inc.	Monument MPN	16000
Lowe's HIW, Inc.	Lowe's CA MPN	15929
Southern California Edison Company	SCE Select	15514
Raley's	Athens MPN	15000
Federal Express Corporation	Intracorp	14878
The Walt Disney Company	The Liberty Mutual Group MPN	14349
Schools Linked For Insurance Management (SLIM)	Prime Advantage Medical Network a	14217
County of San Bernardino	CorVel MPN	14000
Alliance of Schools for Cooperative Insurance Programs	WellComp Medical Provider Network	13764
Central Region School Insurance Group	WellComp Medical Provider Network	13679
Riverside Schools Risk Management Authority	Prime Advantage Medical Network	13610
Scripps Health	Sedgwick CMS/Harbor MPN-Scripps	13586
Lockheed Martin Corporation	INTRACORP/Lockheed Martin MPN	13400
Intel Corporation	Broadspire Signature	13223
Alameda County Schools Insurance Group	PRIME Plus Medical Provider Network	13048
Central Region Schools Insurance Group	CRSIG MPN	12500
Kimco Staffing Services, Inc.	First Health CompAmerica Primary Network	12500
Barrett Business Services, Inc.	BBSI/CorVel MPN	12000
North Bay Schools Insurance Authority	Tri-County MPN	12000
AT&T Inc.	Sedgwick CMS Extended Medical Provider Network	11500
California Contractors Network-Self-Insured Group	WellComp Medical Provider Network	11260
Cedars-Sinai Medical Center	Cedars-Sinai Medical Provider Network (CSMPN)	11000
K-Mart Corporation	Sedgwick CMS-Harbor MPN - Sears Holdings Management Corporation	11000
Dole Food Company, Inc.	First Health CompAmerica Select HCO Network (or "First Health Select")	10980
Los Angeles Community College District	WellComp Medical Provider Network	10948
Memorial Health Services	TRISTAR MPN	10827
Tulare County Schools Insurance Group Workers Compensation JPA	Prime Advantage Medical Network	10707
Saugus Union School District	Prime Advantage Medical Network	10707
Tenet Healthcare Corporation	First Health CompAmerica Primary HCO Network (or "First Health Primary")	10642
North Valley Schools Insurance Group	Prime Advantage Medical Provider	10246

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Name of Applicant	Name of MPN	Number of Covered employees
	Network	
Dole Food Company, Inc.	Sedgwick CMS Extended MPN	10200
99 Cent Only Stores	Broadspire Signature MPN	10100
Chevron Stations, Inc.	Chevron Stations Medical Provider Network	10076
Chevron Corporation	Chevron Medical Provider Network	10076
LFP, Inc. and Affiliates	CorVel MPN	10000
Monterey County Schools Workers' Compensation Joint Powers Authority	Monterey County Schools MPN	10000
Foster Farms	CorVel Custom MPN	10000
Healthcare Industry Self-Insurance Program	Medex	10000
United Air Lines, Inc.	CorVel/UAL/Kaiser MPN	9500
Foster Poultry Farms	Foster Farms Custom CorVel MPN	9200
ABM Industries, Incorporated	ABM MPN	9100
Smart & Final, Inc.	Sedgwick CMS Extended Medical Provider Network	9000
Preferred Auto Dealers Self-Insurance Program	Medex	9000
San Mateo County Schools Insurance Group	Prime Advantage Medical Network	8557
California Livestock Producers, Inc. Self-Insured Group	N/A	8500
BCI Coca-Cola Bottling Company of Los Angeles (Coca-Cola Enterprises, Inc.)	Sedgwick CMS Medical Provider Network	8500
California Contractors Network Self Insured Group	California Contractors Network (CCN)	8500
Alameda County	First Health CompAmerica Primary Network	8494
Kaiser Foundation Health Plan, Inc., a California Corporation	Kaiser Permanente MPN	8448
County of Kern	County of Kern Medical Provider Network	8447
Save Mart Supermarkets, Inc.	The Status MPN-Save Mart	8000
Shasta-Trinity Schools Insurance Group JPA	Shasta-Trinity Schools Insurance Group JPA MPN	8000
Fresno County Self-Insurance Group	TRISTAR MPN	7817
North Orange County Self-funded Workers' Compensation Agency	Prime Advantage Medical Network	7571
Quality Comp, Inc.	Monument MPN	7541
Benefit & Liability Programs of California	WellComp Medical Provider Network	7132
International Paper Company	Sedgwick CMS Medical Provider Network	7000
Kaiser Foundation Health Plan, Inc.	Kaiser Permanente/Harbor Net MPN	6935
Whittier Area Schools Insurance Authority	WellComp Medical Provider Network	6850
MERGE Risk Management JPA	WellComp Medical Provider Network	6778

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Name of Applicant	Name of MPN	Number of Covered employees
San Joaquin County Schools WC Insurance Group JPA	PRIME Plus Medical Provider Network	6768
Valley Insurance Program	WellComp Medical Provider Network	6763
The County of Fresno	County of Fresno Medical Provider Network	6750
Santa Ana Unified School District	WellComp Medical Provider Network	6677
Special District Risk Management Authority	WellComp Medical Provider Network	6500
AmerisourceBergen Corporation	Broadspire Signature MPN	6500
Providence Health System	Intracorp/Providence Medical Provider Network	6500
Cornerstone Comp, Inc	Monument MPN	6249
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	ASCIP-Athens MPN	6200
Wm. Bolthouse Farms, Inc.	Broadspire Signature MPN	6000
Northern California Community Colleges Pool (NCCCP)	Prime Advantage Medical Network	5955
New United Motor Manufacturers, Inc.	NUMMI MPN	5536
Northern California Cities Self-Insurance Fund	NCCSIF MPN	5500
City of Long Beach	City of Long Beach MPN	5481
Orange Unified School District	WellComp Medical Provider Network	5449
The Salvation Army	Red Shield MPN	5440
Oakland Unified School District	Oakland Unified School District MPN	5217
County of San Mateo	San Mateo County MPN	5200
John Muir Health	TRISTAR MPN	5102
THE PEP Boys Manny, Moe and Jack of California	TCT CA MPN	5064
Yellow Transportation, Inc.	CorVel MPN	5000
FedEx Freight Inc.	Sedgwick CMS Extended MPN	5000

**Health Care Organization Program**

Health Care Organizations (HCOs) were created by the 1993 workers' compensation reforms. The laws governing HCOs are California Labor Code, Sections 4600.3 through 4600.7, and Title 8 of the California Code of Regulations (CCR), Sections 9770 through 9779.8.

HCOs are managed care organizations established to provide health care to employees injured at work. A health care service plan (HMO), disability insurer, workers' compensation insurer, or a workers' compensation third-party administrator can be certified as an HCO.

Qualified employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days.

An HCO must file an application and be certified by the Division of Workers' Compensation according to Labor Code Section 4600.3 *et seq.* and Title 8 CCR sections 9770 *et seq.* Due to regulatory changes in 2010, HCOs now pay a fee of \$2,500 at the time of initial certification and a fee of \$1,000 at the time of each three-year certification thereafter. In addition, annually, HCOs are required to pay an annual

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

assessment of \$250, \$300 or \$500 based on their enrollments of covered employees as of December 31 of each year. The HCO loan from the General Fund has been paid off in full.

Currently, the HCO program has 9 certified HCOs. The list of certified HCOs and their most recent date of certification/recertification are given in the table below. Even though there are 9 certified HCOs, only 5 have enrollees; the rest are keeping their certification and using their HCO provider network as a deemed network for MPNs.

**Table 16: Currently Certified HCOs by Date of Certification/Recertification**

Name of HCO	Date of Certification/Recertification
CompPartners	07/24/2008
Corvel Corporation	12/30/2008
First Health/ CompAmerica Primary	10/05/2007
First Health/ CompAmerica Select	10/05/2007
Kaiser On The Job HCO	12/03/2009
MedeX Health Care	03/16/2010
MedEx 2 Health Care	10/10/2009
Network HCO	04/16/2007
Promesa Inc. HCO	04/12/2010

### *HCO Enrollment*

At its maximum in the mid-2004, HCO enrollment reached approximately half a million enrollees. However, with the enactment of MPNs, enrollment of employees under the large HCOs, such as First Health and Corvel, declined considerably. Compared to the 2004 enrollment, First Health lost 100 percent of its enrollees, while CorVel's enrollment declined by 96.6 percent to 3,384 by December 2008. As of December 2011, the total enrollment of employees under HCOs fell by 66.4 percent to 161,413 from 481,337 in 2004. The table below shows the number of enrollees as of December 31 of each year from 2004 through 2012.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 21: HCOs by Number of Enrollees for 2004 Through 2012**

Name of HCO	Year								
	Dec-04	Dec-05	Dec-06	Dec-07	Dec-08	Dec-09	Dec-10	Dec-11	Dec-12
CompPartners	60,935	61,403	53,279	13,210	1,765	1,729	2,884	4,200	
CorVel/ Corvel Select	100,080	20,403	3,719	3,050	3,384	1,983	435	467	
CompAmerica Primary/ Select ( First Health)	218,919	2,403	0	0	0	0	0	0	0
Intracorp	6,329	3,186	2,976	2,870	0	0	0	0	n/a
Kaiser	30,086	67,147	66,138	69,602	77,567	72,469	74,223	76,263	75,253
Medex/ Medex 2	62,154	66,304	46,085	69,410	69,783	34,378	46,838	61,442	
Net Work HCO	1,204	0	0	0	0	0	0	0	0
Promesa	na	na	na	na	21,197	16,467	17,602	19,041	23,731
Prudent Buyer (Blue Cross)	1,390	0	0	0	0	0	0	0	n/a
Sierra	240	0	0	0	0	0	0	0	n/a
<b>TOTAL</b>	<b>481,337</b>	<b>220,846</b>	<b>172,197</b>	<b>158,142</b>	<b>173,696</b>	<b>126,593</b>	<b>138,504</b>	<b>161,413</b>	<b>98,984</b>

*Health Care Organization Program Status*

Although HCO enrollment has decreased significantly, HCOs are still being certified for use of their networks as deemed networks for MPNs. DWC is attempting to complete recertification of the 5 HCOs: (1) First Health Primary; (2) First Health Select; (3) Medex; (4) Medex 2; and (5) Net Work.

For further information ...

[www.dir.ca.gov/dwc](http://www.dir.ca.gov/dwc) and [http://www.dir.ca.gov/dwc/MPN/DWC\\_MPN\\_Main.html](http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html)

**Utilization Review**

The utilization review (UR) process includes utilization management functions that prospectively, retrospectively or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity to cure or relieve, treatment recommendations by physicians, as defined in Labor Code Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Labor Code Section 4600. UR does not include determinations of the work-relatedness of injury or disease, or bill review for the purpose of determining whether the medical services were accurately billed. (Section 9792.6(s)). A Utilization Review Plan is the written plan filed with the Administrative Director (AD) pursuant to Labor Code Section 4610, setting forth the policies and procedures and a description of the UR process. (Section 9792.6(r)). There were 66 active UR plans in the beginning of 2013.

Effective January 1, 2004, each employer is required to file a UR plan with the AD. UR is a review of the treating physician's requests for treatment (RFAs) and the decisions made about the medical necessity of the requests. The Utilization Review Organization (URO) can be an internal or external group (from the claims administrator or employer) that performs most of the utilization reviews. The UR regulations (8 CCR § 9792.6 et seq.) were adopted on September 22, 2005, and UR enforcement regulations were adopted on June 7, 2007. The enforcement regulations (8 CCR Section 9792.11 – 9792.15) gave DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

the authority to investigate all UROs that have submitted a UR plan. Currently, the DWC Medical Unit UR Program Section has begun an investigation of all UROs that were active when the Enforcement Regulations were adopted. In 2012, DWC began investigations on those UROs that became active in 2010 and later. Investigations are done by randomly selecting files from all UR requests which the specific URO has received within a three-month period. The period selected is the previous three full months from the start of the investigation. DWC notifies the URO by sending a Notice of Utilization Review Investigation (NURI); generally, these will also say "Routine," unless performing a specific target investigation. Once DWC has the information requested, including a list of all requests for authorization (RFAs) for the three-month period, files are randomly selected to be reviewed and a list of those files is sent to the URO with the Notice of Investigation Commencement (NIC). The URO has 14 days from receipt of NIC to provide copies of each selected file. The DWC Medical Unit UR program section triages the files and eliminates files not compliant with the regulations. When the correct number of UR files is obtained, they are reviewed to determine if:

- The requests were answered on time.
- Decisions were made with the required criteria and rationale.
- The decision is communicated on time and to the appropriate parties.

Those files found to have violations are given a set penalty. The entire investigation is given a score, depending on how many violations are cited. The passing score is 85 percent or higher. After the score is determined, the URO is notified by sending a Preliminary Report with all exhibits to verify how the score was compiled and any next steps to be taken. The URO may request a post-investigation conference and may send further documentation to verify that they actually performed the UR correctly. After the conference and review of additional documentation, DWC completes the Final Investigation Report. If the URO has a failing score or has any mandatory violation (Sections 9792.12(a)(1-17)), DWC also sends an Order to Show Cause (OSC) and a Stipulation and Order, with the Final Report.

*Status of Implementation of Enforcement Regulations, Section 9792.11 – 9792.15 of 8 CCR*

**Table 22: Investigations Completed in 2012**

Opened in 2009	4
Opened in 2010	8
Opened in 2011	0
<b>Total</b>	<b>12*</b>

Note: Of the 12 completed, one is in process of appeals completion, and four have received their final report; however, work is still needed to revise UR Plans.

**Table 23: Status of Investigations in 2012**

Number of UR investigations pending	7
Number of failed investigations	1
Amount of UR penalty assessments	\$17,500**

\*\* This amount was from a mitigated mandatory penalty that is still in appeal's process. All others had no mandatory penalties and either passed or penalties were abated so that non-mandatory penalties were waived.

**Table 24: Status of DWC's Investigations of Submitted UR Plans**

Notice of UR investigations – routine (NURIs)	8
Investigations terminated	4
In process of review	3
Analysis in process	5
Preliminary report pending	8

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

## DIVISION OF WORKERS' COMPENSATION 2013 MEDICAL ACCESS STUDY

### Access to Medical Treatment for Injured Workers

#### Background

The Division of Workers' Compensation (DWC) is required to complete annual access studies in accordance with Labor Code Section 5307.2, which was enacted by Senate Bill (SB) 228 (Chapter 639, Statutes of 2003). DWC contracted with the Berkeley Research Group (BRG) to conduct the "Study of Access to Medical Treatment for Injured Workers."

This 2013 study represents the first attempt to use California's Workers' Compensation Information System (WCIS) medical claims data to address injured workers' access issues. Previous studies of injured workers' access conducted in 2006 and 2008 were based solely on survey data. In addition to using medical claims submitted to WCIS during the period 2007 through 2011, this report also presents study findings based on an injured worker survey conducted in 2011 and 2012.

#### Description

Prior studies of injured worker medical access were conducted in 2006 by the University of California at Los Angeles (UCLA) and in 2008 by the University of Washington. In both studies, injured worker surveys were conducted to determine workers' ability to both obtain appropriate care and to measure their satisfaction with their care within the workers' compensation health care system. In the present study, in conjunction with an injured worker survey, medical billing data were also analyzed. BRG mined the medical billing data submitted by workers' compensation carriers to WCIS to examine issues such as physician participation in the workers' compensation system and regional differences in frequencies and types of claims.

#### Objectives

The main objectives of the study are to: (1) evaluate the adequacy of access to quality health care for injured workers in 2012, 2013 and 2014; (2) assess changes in access to quality health care since the 2006 UCLA and 2008 University of Washington study; and (3) make recommendations to ensure continued access.

#### Findings of the 2013 Medical Access Study

The study findings included:

- The majority of injured workers had access to needed care without barriers. A small portion of workers reported barriers in access, frequently due to authorization or access to providers.
- Injured workers reported a high level of satisfaction with care and high quality of care, although improvements in provider occupational medicine orientation and injured worker treatment are needed.
- Improvements are needed to increase recovery rates and job modifications.
- Bills submitted by general practice physicians declined as a percentage of total bills from 2007 through 2011, while bills submitted by chiropractors, mental health professionals, physical therapists and physician specialists increased during the same period.
- Orthopedists and general surgeons accounted for the largest percentage of bills submitted by physician specialists from 2007 through 2011. The percentage of bills submitted by pain management specialists increased during this period.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- The 10 highest-volume services identified in medical bill data accounted for 40 percent of all bills during the period from 2007 to 2011. The 4 highest-volume services accounted for 24 percent of bill volume.

For further information...

"2013 Study of Access to Medical Treatment for Injured Workers" (April, 2013).

<http://www.dir.ca.gov/dwc/AccessMedTreatmentReport2013/AccessToMedicalTreatmentCAWC2013.pdf>

The 2014 report of the *Medical Access Study* is expected in early 2014.

### DIVISION OF WORKERS' COMPENSATION INFORMATION & ASSISTANCE UNIT

The DWC Information & Assistance (I&A) Unit provides information and assistance to employees, employers, labor unions, insurance carriers, physicians, attorneys and other interested parties concerning rights, benefits and obligations under California's workers' compensation laws. The I&A Unit, often the first DWC contact for injured workers, plays a major role in reducing litigation before the WCAB.

**Table 25: Information & Assistance Unit Workload**

Number of:	2008	2009	2010	2011	2012
Calls from public handled	323,520	362,581	312,511	296,983	301,517
Outgoing calls placed	36,806	37,905	37,905	33,649	35,985
Settlements reviewed and assisted	16,320	18,757	14,757	12,743	13,515
Face-to-face meetings with walk-ins	22,818	23,757	26,219	23,218	25,911
Injured Worker Workshop presentations	199	256	219	254	217
Workshops for injured workers attended	1,981	1,611	3,191	3,875	3,215
Workshops for employers held	2	4	5	NA	NA
Correspondence written	14,442	15,212	12,713	10,899	12,983

**Table 26: Spanish Outreach Attendance, 2010 and 2011**

	Number of Events		Total Number of Attendees		Average Attendance per Event	
	2010	2011	2010	2011	2010	2011
Regular seminars held	45	41	1,206	1,287	27	31
Outreach events (not including regular seminars)	31	35	3,861	5,625	124	161
Outreach events including workshops	76	76	5,067	6,912	67	91

Note: Data for 2012 were not available.

**Table 27: DWC Educational Conferences Attendance, 2010 - 2012**

	Los Angeles			Oakland		
	2010	2011	2012	2010	2011	2012
Attendees	861	861	1,015	754	754	939
Exhibitors	54	54	64	56	56	59

After the enactment of SB 899 in April 2004, DWC held a special three-day statewide training seminar for all I&A officers, as well as other DWC staff, to provide early guidance on implementing the new reform law. Later in the year, efforts commenced to revitalize the monthly workshops in all 24 district offices and to update all I&A guides and fact sheets.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **DIVISION OF WORKERS' COMPENSATION INFORMATION SERVICE CENTER**

The DWC Information Service Center (ISC) is located in San Bernardino. The main function of the ISC is to screen all incoming calls for the DWC District offices with the exception of San Luis Obispo. Any combination of a district office's main number and Information & Assistance Unit, Disability Evaluation Unit, and Rehabilitation Unit lines are directed through ISC which answers questions and provides information in both English and Spanish on workers' compensation and EAMS issues to the general public. In addition, all of the EAMS help desk emails and the Notice of Representation (NOR) questions come through ISC. ISC staff members monitor and resolve questions sent via e-mail to the EAMS Help Desk, process NOR updates received through the e-File system, and answer Virtual EAMS Support Team (VEST) questions sent by both internal and external users.

In calendar year 2012, the DWC ISC:

- Handled 202,106 incoming calls and placed 5,639 outgoing calls.
- Handled 7,611 Spanish calls.
- Transferred 30,363 calls to district offices.
- Handled 20,274 EAMS Help Desk e-mails.
- Mailed out 4,596 correspondences.
- Processed 36,246 NOR-related questions.

### **DIVISION OF WORKERS' COMPENSATION UNINSURED EMPLOYERS BENEFITS TRUST FUND**

#### **Introduction**

All employers in California except the State are required to provide workers' compensation coverage for their employees through the purchase of workers' compensation insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain workers' compensation coverage for their employees.

The Uninsured Employers Benefits Trust Fund (UEBTF) was established to provide for the payment of workers' compensation benefits to injured employees of illegally uninsured employers. Labor Code Sections 3710 through 3732 describe the operation of the Fund, and Labor Code Section 62.5 describes the funding mechanism for UEBTF.

UEBTF is administered by the director of the Department of Industrial Relations (DIR). Claims are adjusted for the DIR director by the Special Funds Unit in DWC. UEBTF pursues reimbursement of expenditures from the responsible employers through all available avenues, including filing liens against their property. Litigation for UEBTF is conducted in the name of the director of DIR represented by the Office of the Director Legal Unit.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Funding Liabilities and Collections

#### *UEBTF Funding Mechanisms*

UEBTF funding comes from assessments on all insured and self-insured employers annually, from fines and penalties imposed on illegally uninsured employers when they get caught, and from recoveries from illegally uninsured employers when the UEBTF has paid benefits and is able to obtain reimbursement from responsible employers. According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."<sup>29</sup>

The assessment for insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year. The total assessment collected for fiscal year 2010-11 was \$53,336,748.

Apart from the assessments on employers required by Labor Code Section 62.5, UEBTF is funded by two other sources:

- Fines and penalties collected by DIR. These include both the Division of Labor Standards and Enforcement (DLSE) penalties as well as Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

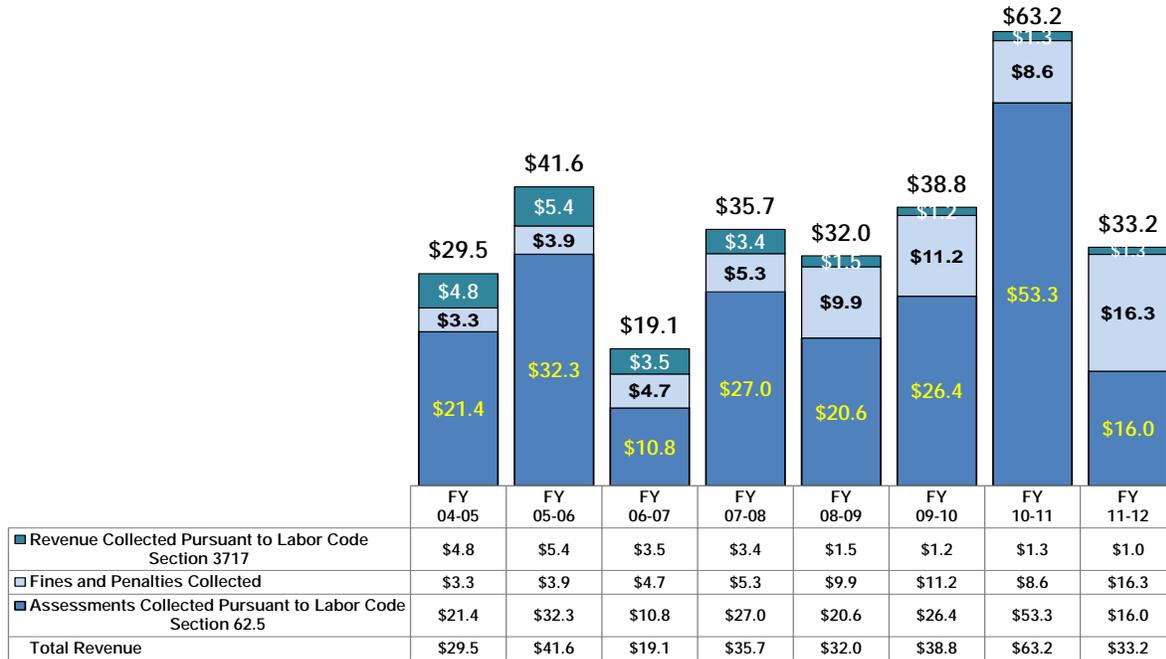
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<sup>29</sup> Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The figure below shows monies collected by the source of the revenue.<sup>30</sup>

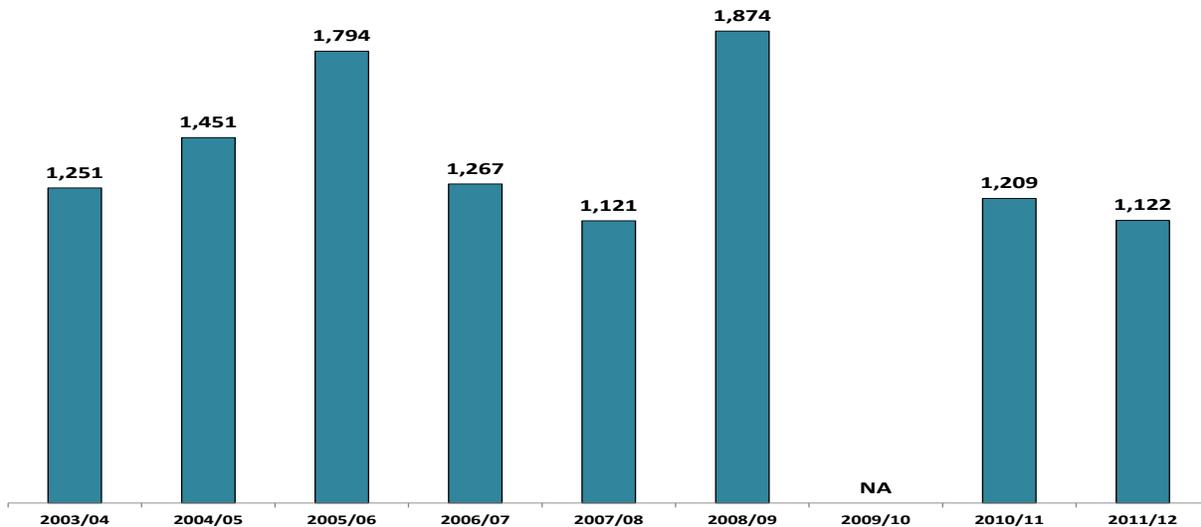
Figure 66: UEBTF Revenues, FY 2004-05 to FY 2011-12 (Million \$)



Data Source: DWC

The number of new UEBTF cases and dollar amounts associated with new opened claims for the past eight fiscal years are shown in two charts below.

Figure 67: New UEBTF Cases Opened, FY 2003-04 to FY 2011-12

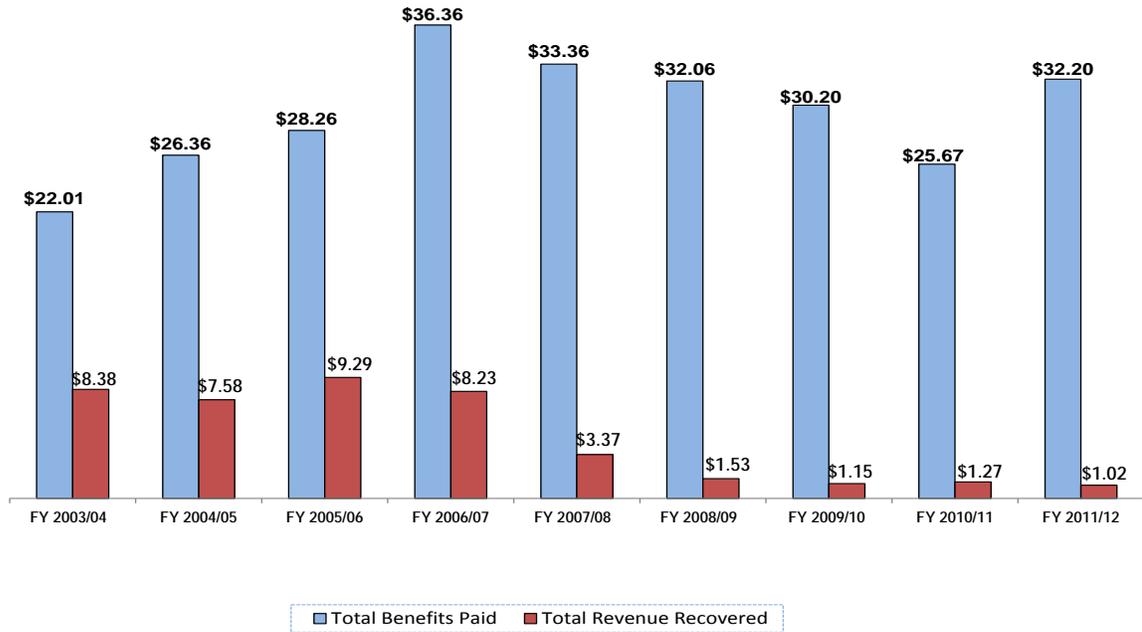


Data Source: DWC

<sup>30</sup> The data in the figure "UEBTF Revenues" can be found at DWC/ Special Funds Unit/UEBTF website are updated on an ongoing basis. [http://www.dir.ca.gov/dwc/UEF/UEF\\_LC3716\\_1.pdf](http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf).

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 68: UEBTF Total Benefits Paid and Total Revenue Recovered, FY 2003-04 to FY 2011-12  
(Million \$)**



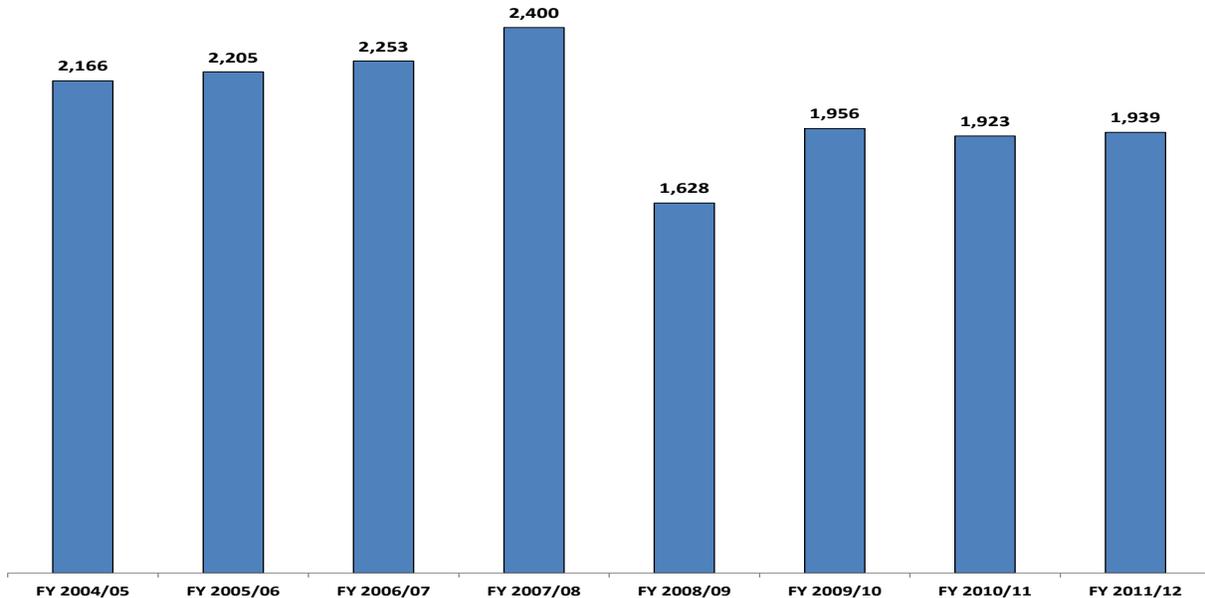
\* Includes collections, DLSE penalties, and inmates without dependents

Data Source: DWC

### *Costs of the Uninsured Employers Benefits Trust Fund*

The number of uninsured claims paid increased 11 percent from 2,166 in fiscal year 2004-05 to 2,400 in 2007-08, decreased by 32 percent from 2007-08 to 2008-09, and increased again by 19 percent from 2008-09 to 2011-12.

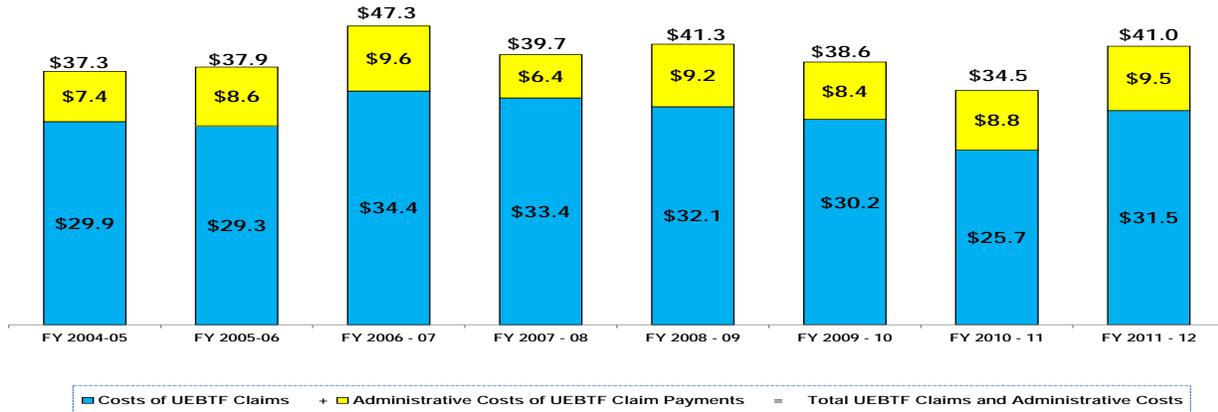
**Figure 69: Number of Uninsured Claims Paid, FY 2004-05 to FY 2011-12**



## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The cost of claims increased 15 percent from 2004-05 to 2006-07, decreased 23 percent from 2006-07 to 2010-11, and then increased by 19 percent from 2010-11 to 2011-12. Administrative costs associated with claim payment activities increased 30 percent from 2004-05 to 2006-07, decreased 33 percent from 2006-07 to 2007-08, and then fluctuated between 2007-08 and 2011-12.

Figure 70: UEBTF Paid Costs, FY 2004-05 to FY 2011-12 (Million \$)

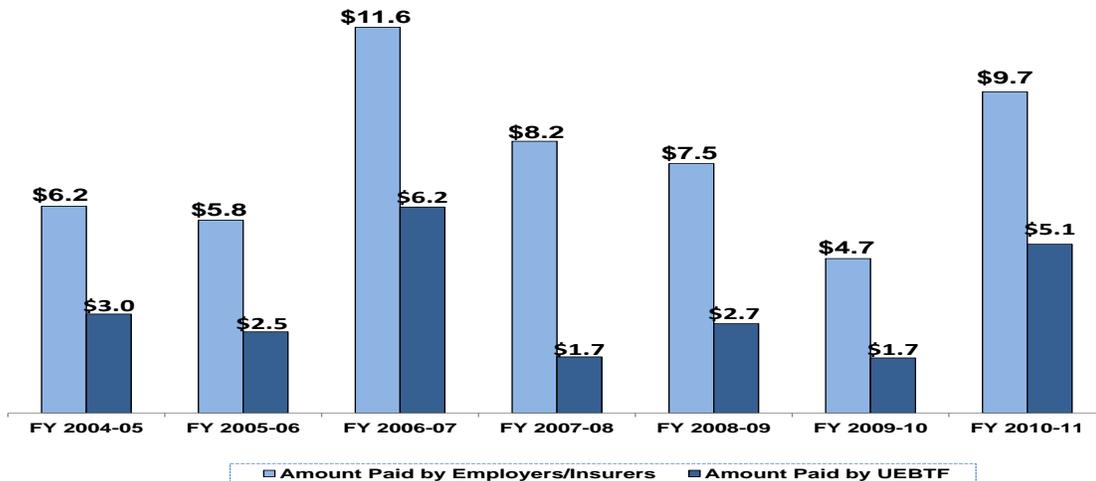


Data Source: DWC

The projected UEBTF annual program cost for the most recent fiscal year 2011-12 is \$40.4 million.<sup>31</sup> This cost includes the administrative costs associated with claims-payment activities, as well as the payout on claims filed by injured workers of illegally uninsured employers.

The figure below provides data on the ratio of money paid out by employers and insurers compared to that paid out by UEBTF in claims where UEBTF was joined in a WCAB case. The figure below demonstrates that in these cases, more money is paid to injured workers from employers and insurers than from UEBTF.<sup>32</sup>

Figure 71: UEBTF Paid Amounts for Cases Closed by OD-Legal, FY 2004-05 to FY 2010-11 (Million \$)



Data source: DWC

<sup>31</sup> Division of Workers' Compensation, "Report of the Uninsured Employers Benefit Trust Fund in Compliance with Labor Code Section 3716.1(c) for Fiscal Year 2008-09" at [http://www.dir.ca.gov/dwc/UEF/UEF\\_LC3716\\_1.pdf](http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf).

<sup>32</sup> Data provided by Office of the Director Legal Unit (OD-Legal) on cases closed for fiscal years 2004-05 through 2010-11.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### ADJUDICATION SIMPLIFICATION EFFORTS

#### Division of Workers' Compensation Information System

California's Workers' Compensation Information System (WCIS) uses electronic data interchange (EDI) to collect comprehensive information from claims administrators to help oversee the state's workers' compensation system. The information collected helps facilitate evaluation of the system and measure adequacy of benefits for injured workers and their dependents, as well as provides statistical data for research. Electronic transmission of first reports of injury (FROIs) was required beginning March 1, 2000, and electronic versions of benefit notices (subsequent reports of injury, SROIs) were mandated as of July 1, 2000. Electronic reporting of medical billing data was required for medical services beginning September 22, 2006.

WCIS operates with joint effort from DIR's Office of Information Services (OIS) staff and DWC's Research Unit staff. The OIS staff provide technical support while the Research Unit staff provide business knowledge and research support.

Currently, WCIS is actively receiving claims data from some 187 claims administrators and medical bill payment records data from 80 claims administrators. As of December 2012, electronic reports have been received for approximately 9.3 million claims and 63 million medical bill payment records.

*Maintenance and Improvements to the system.* In 2012, WCIS EDI liaisons handled more than 10,000 emails and 4,000 calls from WCIS trading partners. The number of contacts with WCIS trading partners is expected to significantly increase with the implementation of Senate Bill 863 and updated reporting and penalty regulations. The DWC Research Unit also worked with DIR OIS to maintain and improve the system by placing WCIS on new servers, upgrading the database operating system, automating code table updates, converting FROI/SROI transmission to secure FTP, replacing the obsolete State Connect EDI translator, automating EDI transfer process, and improving and enhancing WCIS via new releases and change requests. WCIS has worked on and completed 42 change requests in 2012.

*The data warehouse project.* WCIS is modeled after a data warehouse system which consists of three tier layer Data Model: the Transaction Layer, Detail Layer and Aggregate Layer/Data Marts. The Aggregate Layer is the database of record of the medical data warehouse for producing WCIS reports. The data warehouse project in 2012 concentrated in creating the Aggregate Layer/Data Marts. One data mart, the medical acknowledgement data mart, was completed in 2012, and medical data quality reports for the same year were produced using this data mart. Work on the medical billing data mart continued throughout 2012.

*Research projects.* The Research Unit provided research assistance to DWC's medical and legal unit staff regarding fee schedules and electronic billing, responded to information and data requests from the Legislature and governor's office. The Research team assisted in providing WCIS data clarification to the Berkeley Research Group (BRG) for the Medical Access Study required by Labor Code Section 5307.2. Projects with outside researchers involving WCIS data included Census Bureau, DHCS, DOSH, CHSWC, RAND, BLS, CA Dept. of Public Health, EDD and WCIRB. The Research Unit also produced carve-out activities report.

DWC Research Unit accomplishments include:

- Sent out reports to claims administrators and data to senders electronically. These reports included:
  - Timeliness of FROI reporting.
  - FROI SROI data quality reports.
  - Medical data quality reports for 43 senders.
  - A comparison report between the DWC Audit Unit's Annual Report of Inventory and WCIS for some 187 claims administrators.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- Updated the FROI/SROI web published reports.
- Produced and disseminated to data senders the data quality reports for Medical Billing DataMart.
- Completed the Medical Acknowledgement Data Mart, and development work on the Medical Billing Data Mart continued.
- Developed 20 medical data report frameworks for use when the Medical Data Mart is finalized.
- Updated online FAQs for reporting FROI/SROI and medical billing data to provide claims administrators with detailed information on how to report to WCIS.
- Worked with the legal unit to draft the WCIS penalties regulations.
- WCIS data extracts were provided to numerous researchers in academia and government organizations.

### **Division of Workers' Compensation Electronic Adjudication Management System**

In May 2012, EAMS successfully completed a software upgrade to Curam 5.2.

To improve support and performance, EAMS started moving internal scanning software to Datacap in 2012. The new software was successfully configured. Installation and training are occurring at each office and will be complete by May 2013.

Electronic filing regulations have been promulgated for e-forms and Jet on an emergency basis. The E-form Reference Guide, Jet Business Rules, applications and agreements have been rewritten. The new December 2012 regulations include the new lien payment system.

Senate Bill (SB) 863 enacted in late August 2012 required electronic filing and payment of filing fees and activation fees on some liens. This functionality was added to e-forms, Jet and Public Search for the January 1, 2013 rollout. Improvements to the new processes are continuing.

Electronic filing increased to 76 percent of all batches filed in December of 2012 primarily based on lien filing. Increasing numbers of attorneys and claims administrators are filing electronically in EAMS.

Change requests to improve EAMS continue to be implemented. The exhibit numbering system has been improved. Hyperlinks have been added to reduce the number of "clicks" required to complete tasks.

### **Carve-outs: Alternative Workers' Compensation Systems**

A provision of the workers' compensation reform legislation in 1993, implemented through Labor Code Section 3201.5, allowed construction contractors and unions, via the collective bargaining process, to establish alternative workers' compensation programs, also known as carve-outs. In 2003, the Legislature extended the program to cover alternative dispute resolution labor-management agreements outside the construction industry. This is codified in Labor Code Section 3201.7.

CHSWC is monitoring the carve-out program which is administered by DWC.

#### *CHSWC Study of Carve-Outs*

CHSWC engaged in a study to identify the various methods of alternative dispute resolution (ADR) which are being employed in California carve-outs and to begin the process of assessing their efficiency, effectiveness and compliance with legal requirements.

Since carve-out programs have operated only since the mid-1990s, the data collected are preliminary. The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid return to work

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

(RTW) have not occurred; and that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not occurred.

*For further information ...*

*How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers, CHSWC (2006).*

<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

### *Impact of Senate Bill 228*

Senate Bill (SB) 228 adds Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This is in addition to the existing carve-out program in the construction industry (already covered in current law by Labor Code Section 3201.5).

Only the union may initiate the carve-out process by petitioning the Administrative Director (AD). The AD will review the petition according to the statutory requirements and issue a letter allowing each employer and labor representative a one-year window for negotiations. The parties may jointly request a one-year extension to negotiate the labor-management agreement.

In order to be considered, the carve-out must meet several requirements including:

- The union has petitioned the AD as the first step in the process.
- A labor-management agreement has been negotiated separate and apart from any collective bargaining agreement covering affected employees.
- The labor-management agreement has been negotiated in accordance with the authorization of the AD between an employer or groups of employers and a union that is recognized or certified as the exclusive bargaining representative that establishes any of the following:
  - An ADR system governing disputes between employees and employers or their insurers which supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the Appeals Board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge.
  - The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.
  - The use of an agreed, limited list of Qualified Medical Evaluators (QMEs) and Agreed Medical Evaluators (AMEs) that may be the exclusive source of QMEs and AMEs under this division.
  - A joint labor-management safety committee.
  - A light-duty, modified job or return-to-work program.
  - A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.
- The minimum annual employer premium for the carve-out program for employers with 50 employees or more is \$50,000, and the minimum group premium is \$500,000.
- Any agreement must include right of counsel throughout the ADR process.

### *Impact of Senate Bill 899 (2004)*

Construction industry carve-outs were amended per Labor Code Section 3201.5 and carve-outs in other industries were amended per Labor Code Section 3201.7 to permit the parties to negotiate any aspect of the delivery of medical benefits and the delivery of disability compensation to employees of

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

the employer or group of employers who are eligible for group health benefits and non-occupational disability benefits through their employer.

Recognizing that many cities and counties, as well as private industries, are interested in knowing more about carve-outs and about health and safety training and education within a carve-out, CHSWC hosted a conference devoted to carve-outs/alternative dispute resolution on August 2, 2007, in Emeryville, California. The conference was for all stakeholders in the workers' compensation system including: those in existing carve-outs; those considering establishing a carve-out; unions and employers; risk managers; government agencies; third-party administrators; insurers; policymakers; attorneys; and health care providers.

The conference provided an opportunity for the health and safety and workers' compensation communities and the public to share ideas for establishing carve-outs which have the potential to: improve safety programs and reduce injury and illness claims; achieve cost savings for employers; provide effective medical delivery and improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

### *Requirements of ADR Program Reports to DWC Under 8 CCR Section 10203*

The ADR data-reporting requirements, initially adopted by DWC in 1996, can be found in the California Code of Regulations, Title 8, Section 10203. Section 10203 requires that every employer subject to either Labor Code Section 3201.5 or 3201.7 shall provide the DWC with the required information for the previous calendar year on or before March 31 of each year. For each claim with a date of injury on or after January 1, 2004, the information shall be updated annually for the previous four calendar years, thereby allowing longer-term claims trajectories and costs to be determined. In order to fulfill the reporting requirement, groups of employers must, on behalf of their members, either submit data directly to the DWC, or "(a)(2)(B) provide the Administrative Director with written authorization to collect the information from the appropriate claims administrator. However, if the Administrative Director is unable to obtain the information with the written authorization, the employer shall remain responsible for obtaining and submitting the information." Employers are required to submit data using the Aggregate Employer Annual Report (DWC Form GV-1) (8 CCR Section 10103.1) and the Individual Employer Annual Report (DWC Form GV-2) (8 CCR Section 10103.2).

### *Aggregate Data Analysis of Carve-out Programs*

Due to a lack of available historical data and a discrepancy between the reporting requirements of Labor Code Section 3201.9 and the data collection requirements of CCR Section 10203, the earliest data available are from 2004 forward (for presentation purposes, the charts below start from 2005). All data presented on carve-outs are total figures for both construction and non-construction programs.

### *Comparability of Data Presented in Department of Workers' Compensation Carve-out Report*

Except for person-hours worked, payroll, and other data presented in Table 30 and Safety History Tables 37 and 38, the carve-out data presented below is done so at two different stages of data maturity. The first stage of data maturity is first-year reported data. These data are the least mature data because it is the first of the four annual submissions of carve-out claims data DWC receives.

The number of carve-out programs reporting first-year data for this analysis changes per calendar year. From 2007 to 2012, the number and percentage of programs for which first-year data are available has increased from 20 (80 percent) to 25 (100 percent) (Table 28).

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 28: Number of Carve-outs Reporting First-Year Data, 2007-2012**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
Reporting Programs	20	22	23	24	24	25
Total Number of Programs	25	23	24	25	25	25
Percentage of Programs Reporting	80%	96%	96%	96%	96%	100%

Data Source: DWC

The second stage of maturity presented in this report is the latest reporting year available. These data are DWC's most mature carve-out data available for each calendar year. The years included in this latest reporting year available analysis are 2004-2012. The 2004-2009 data presented in the latest reporting year available analysis are fourth-year data. These data are the most mature data collected as part of the carve-out reporting regulations. Because different levels of maturity accompany each year, the data are not strictly comparable.

From 2004 to 2009, the number and percentage of programs for which fourth-year data are available has increased from 13 (52 percent) to 22 (88 percent) (Table 29).

**Table 29: Number of Carve-outs Reporting Latest Reporting Available**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (3rd)	2011 (2nd)	2012 (1st)
Reporting Programs	13	19	21	22	23	22	24	24	25
Total Number of Programs	25	23	24	25	25	25	25	25	25
Percentage of Programs Reporting	52%	83%	88%	88%	92%	88%	96%	96%	100%

Data Source: DWC

**Carve-out Program from 2005 to 2012**

*Carve-Out Participation*

California Code of Regulations, Title 8, Sections 10203(b)(6) and 10203(b)(7) require ADR/carve-outs to report employees' hours worked and payroll in accordance with WCIRB class codes (Table 30). Unlike all of the other reporting requirements, person-hours worked and payroll are only reported once on an annual basis and the data are not updated in subsequent years. Additionally, whereas data for other reporting requirements are available from 2004 to 2012, the person-hours worked and payroll data are available from 2006 to 2012 only. Therefore, all of the data for person-hours worked and payroll are for only one year of maturity and do not receive three additional years of updated information.

**Table 30: Estimated Person-Hours Worked and Payroll, 2006-2012 (1st year reporting)**

Calendar Year (Reporting Year)	2006 (1st)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
Reporting Programs (Total)	19	16	19	21	19	22	25
Employers	981	1,087	1,274	876	1,177	1,586	1,508
Payroll (\$ Billion)	\$1.4	\$1.8	\$2.8	\$3.4	\$2.0	\$2.4	\$1,849
Person-Hours (Mln)	55.6	56.0	92.5	99.2	67.2	78.0	69
FTE* (estimated)	27,785	28,028	46,252	49,618	33,625	38,968	34,500
Hourly Wage	\$25	\$32	\$30	\$34	\$29	\$31	\$27

\* FTE – Full Time Employees

Data Source: DWC

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### *Person hours and Payroll Covered by Agreements filed*

For the 2012 calendar year, carve-out programs reported that they covered 69 million work hours and \$1.8 billion in payroll.

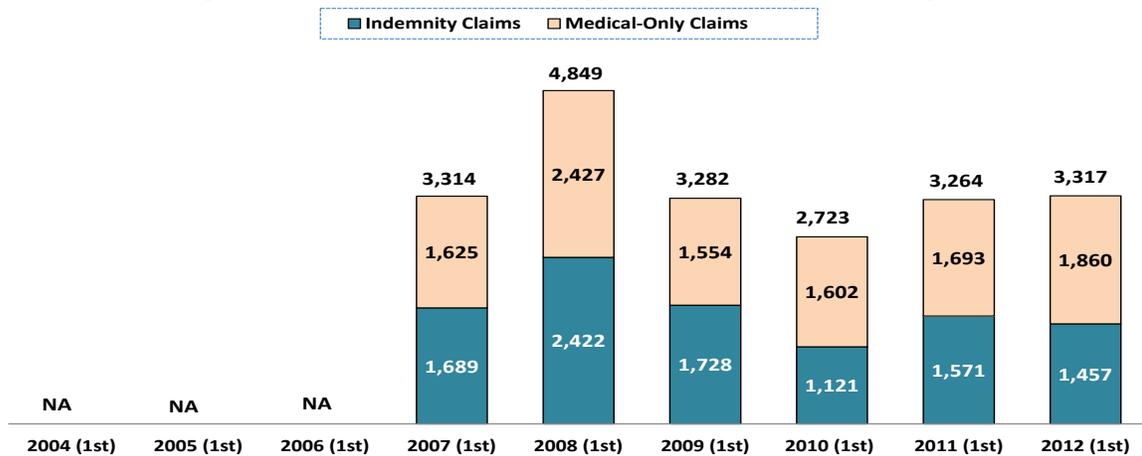
The reported average wage for per carve-out FTE is \$27 per hour, a reduction in average wage from \$31 reported for 2011.

Carve-out programs reported that for the 2011 calendar year, they covered 78 million work hours and \$2.4 billion in payroll.

### *Number of Claims Filed*

In 2012, there were a total of 3,317 claims filed, of which 1,860 (56 percent) claims were medical-only claims and 1,457 (44 percent) were indemnity claims (Figures 72 and 73). In 2012, there were 133 claims filed per carve-out program.

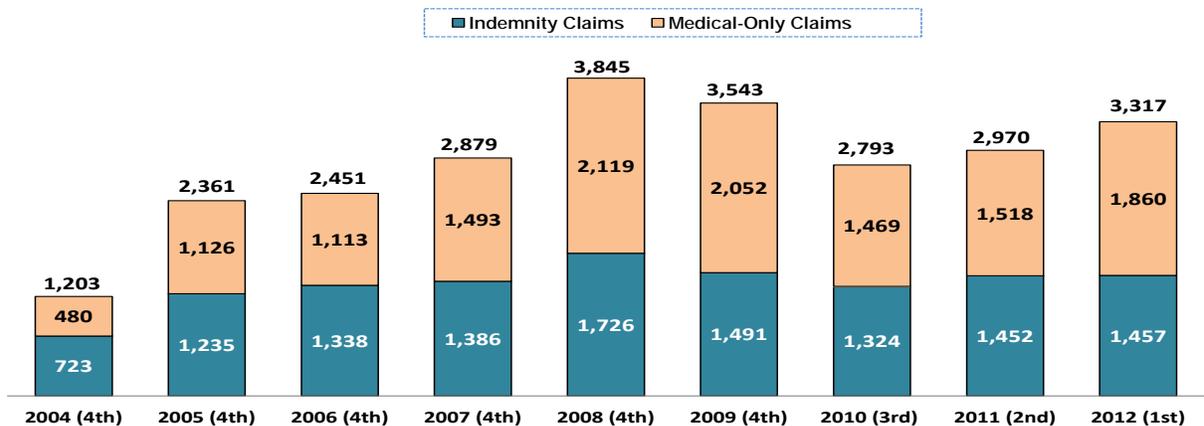
Figure 72: Number of Claims Filed by Type, 2007-2012 (1st year reporting)



Data Source: DWC

For 2004 to 2009 fourth-year data, the number of claims filed increased from 1,203 to 3,543 (Figure 73). This represents an increase from 92 to 161 claims filed per carve-out program.

Figure 73: Number of Claims Filed by Type, 2004 - 2012 (latest reporting year available)



Data Source: DWC

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### Average Incurred Costs per Claim (1st year reporting)

The figures below projected incurred costs for all claims combined by types of benefits. According to first-year data, the average incurred costs per medical-only claim filed in 2012 was \$2,181 (Figure 74), and for indemnity claims, the average cost for non-medical indemnity was \$10,019, and the incurred cost for medical services was \$10,977 (Figure 75). The non-medical incurred indemnity costs per claim were \$7,333 for temporary disability, \$1,934 for permanent disability, \$0 for life pensions, \$0 for death benefits, \$82 for vocational rehabilitation, and \$602 for medical-legal expenses (Figure 76).

Figure 74: Average Incurred Costs for Medical-only Claims, 2007-2012 (1st year reporting)

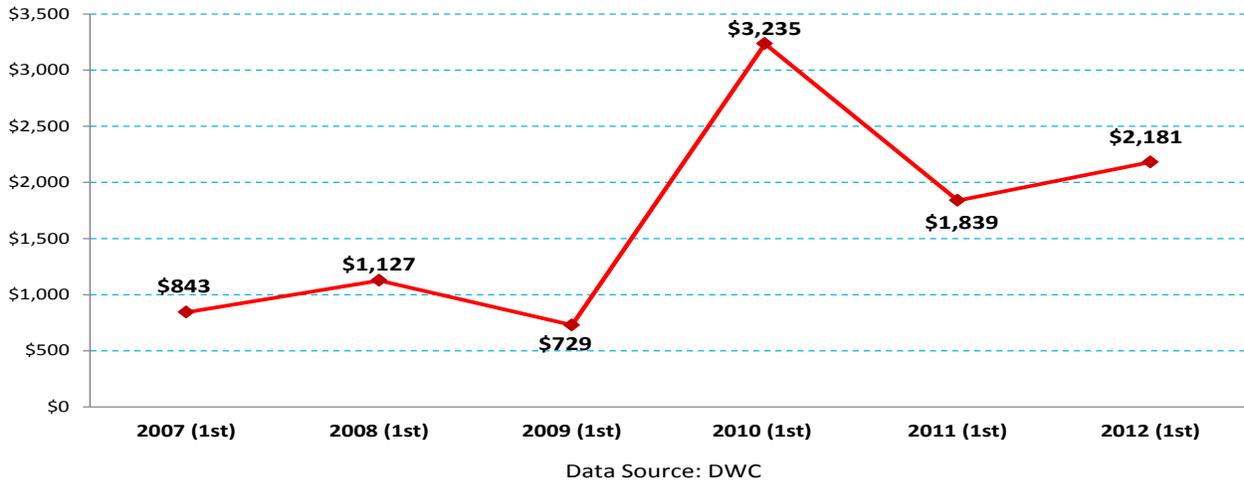
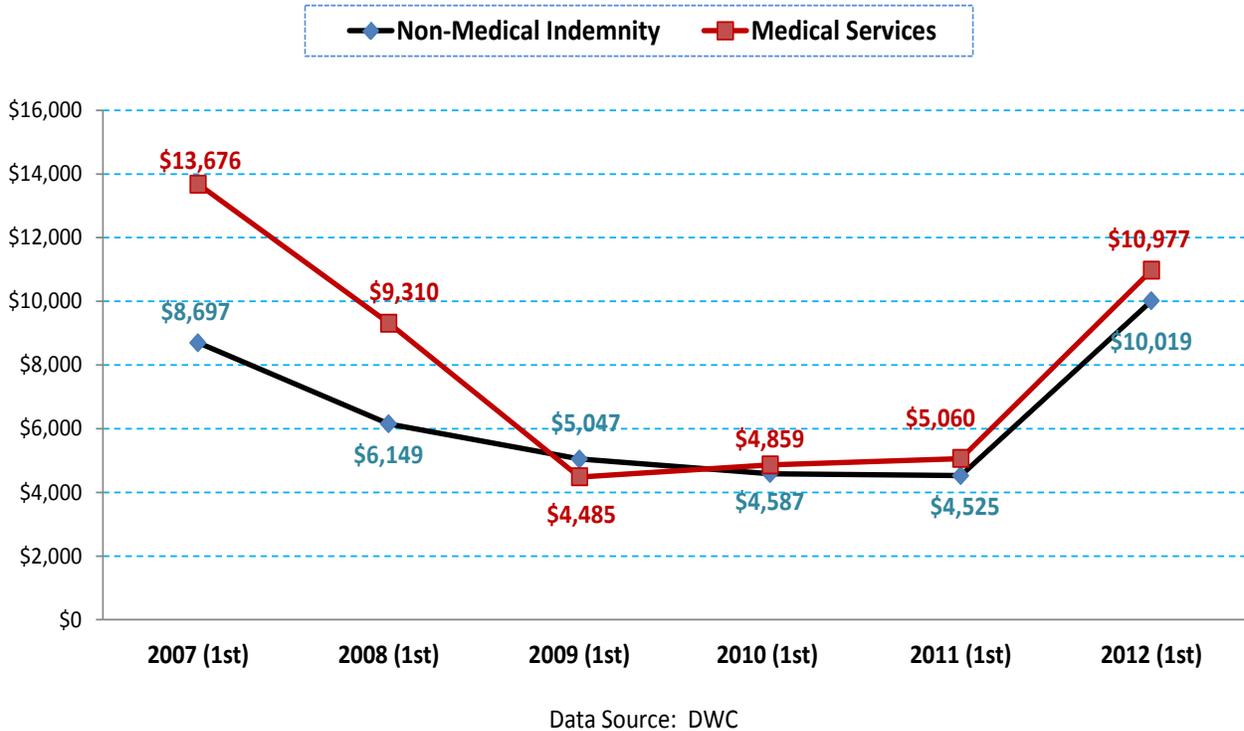
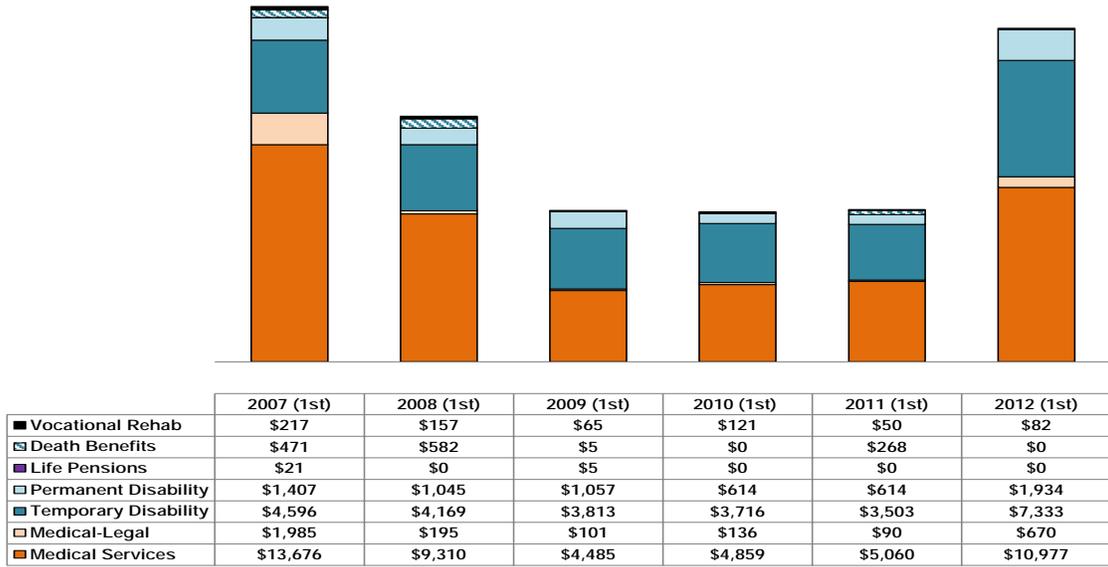


Figure 75: Average Incurred Costs per Indemnity Claim, 2007-2012 (1st year reporting)



## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 76: Average Incurred Costs per Indemnity Claim by Component, 2007-2012 (1st year reporting)

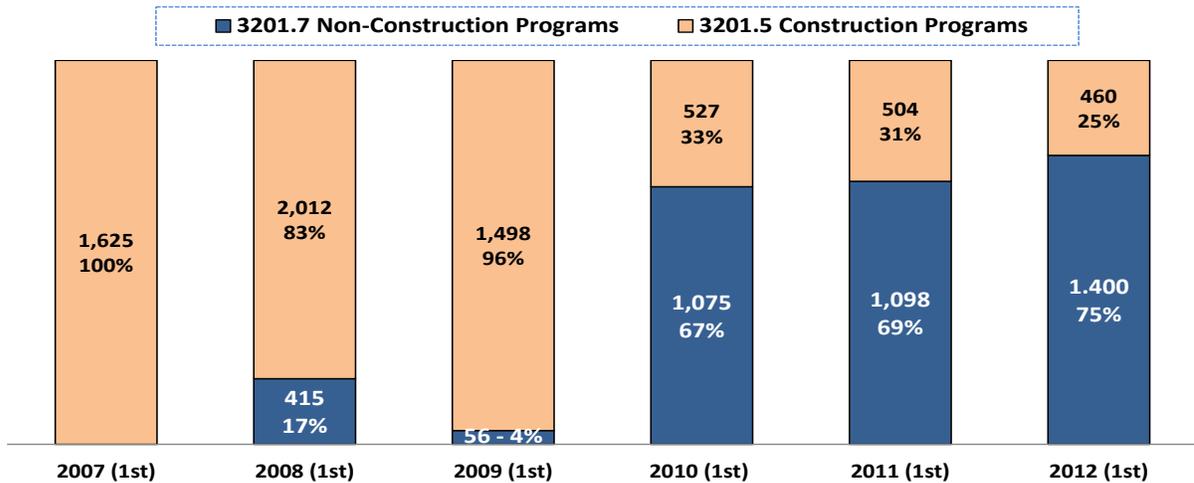


Data Source: DWC

The variation in the first-year medical data reported in Figure 74 is attributable to a fundamental change in who is participating in the carve-out program and the types of claims they are filing. Figure 77 indicates that between 2007 and 2012, the percentage of carve-out medical-only claims filed by non-construction programs increased from 0 percent in 2007 to 75 percent in 2012. This increase combined with a higher average incurred cost per non-construction medical-only claim (Figure 78) has led to higher average incurred costs for medical-only claims since 2010.

In addition, Figures 75 and 76 show increases in average incurred costs for medical services, temporary disability and permanent disability in 2012. Those increases may be attributable to several new non-construction programs that only began reporting in late 2011. These new programs did not make their first full report until 2012.

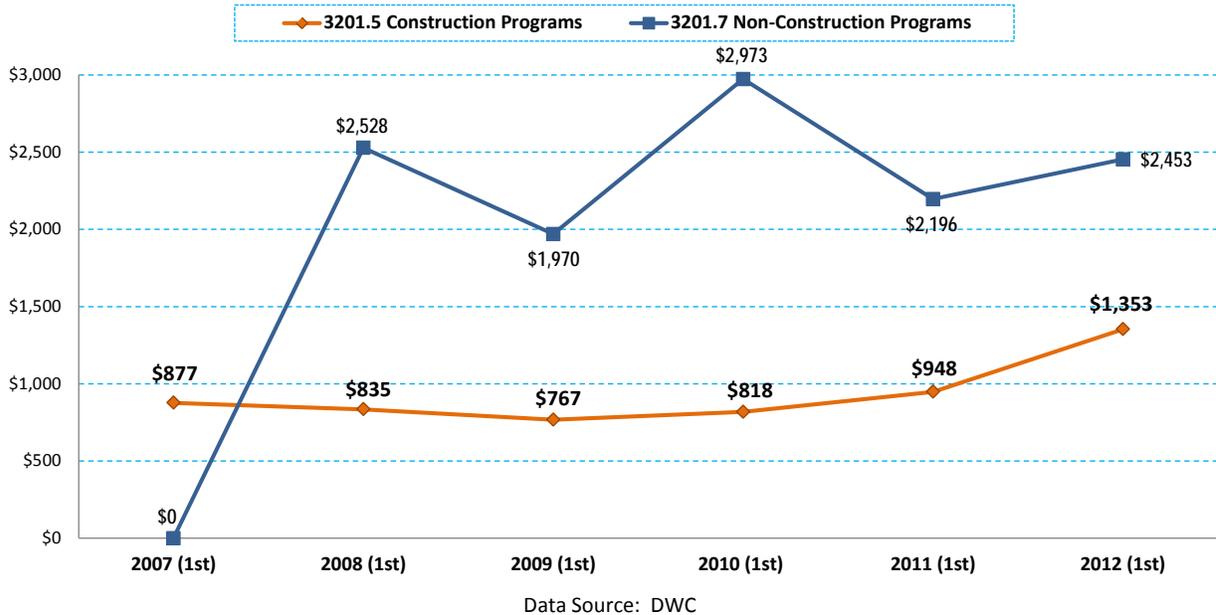
Figure 77: Percent of Medical-only Claims Filed by Construction and Non-Construction Programs, 2007-2012 (1st year reporting)



Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

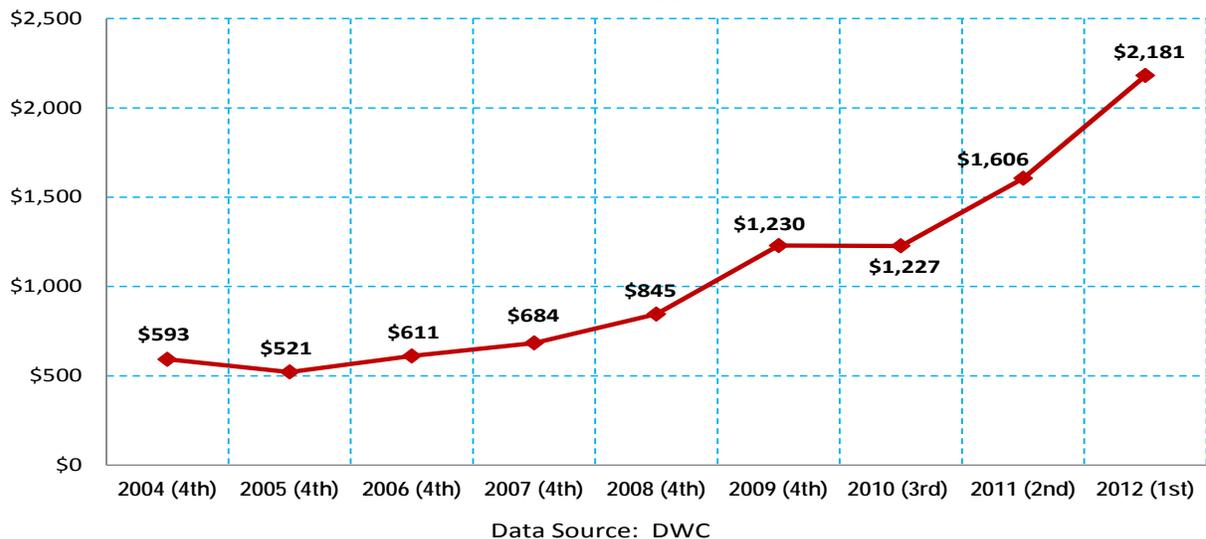
Figure 78: Average Incurred Costs per Medical-only Claim in Construction and Non-Construction Programs, 2007-2012 (1st year reporting)



### Average Incurred Costs per Claim (Latest Reporting-Year Data Available)

The figures below projected incurred costs for all claims combined by types of benefits. According to last fourth-year data report, the average incurred costs per medical only claim filed in 2009 was \$1,230 (Figure 79), while for indemnity claims, the average cost for non-medical indemnity was about \$27,800 and the incurred cost for medical services was about \$22,700 (Figure 80). The non-medical incurred indemnity costs per claim were \$18,945 for temporary disability, \$6,925 for permanent disability, \$26 for life pensions, \$69 for death benefits, \$100 for vocational rehabilitation, and \$1,773 for medical-legal expenses (Figure 81).

Figure 79: Average Incurred Costs for Medical-only Claims, 2004-2012 (latest reporting year available)



## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 80: Average Incurred Costs per Indemnity Claim, 2004-2012 (latest reporting year available, Thousand \$)

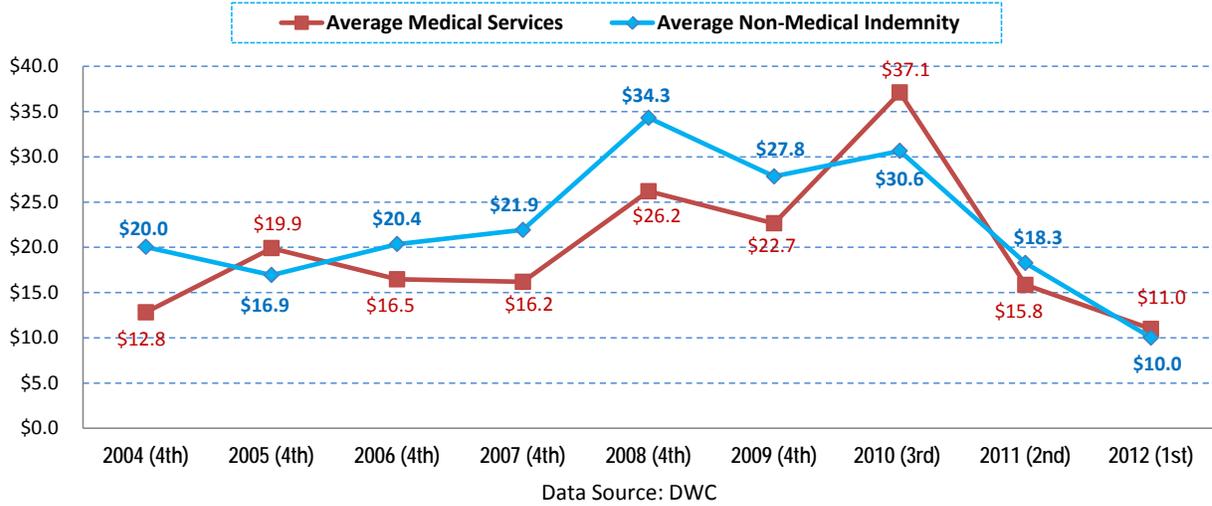
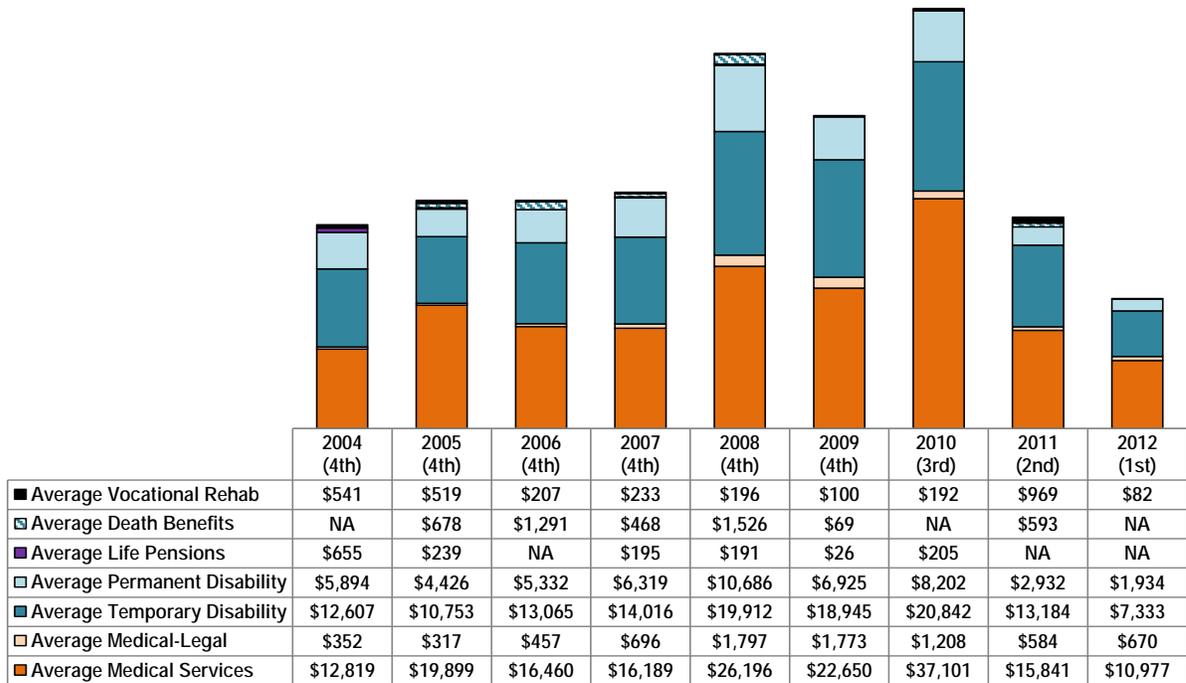


Figure 81: Average Incurred Costs per Indemnity Claim by Components, 2004-2012 (latest reporting year available)



The latest reporting-year available data indicates that carve-out program claims experience significant gains in all component categories as a claim matures. For the 2004 to 2009 fourth-year data, the average carve-out claim saw a significant increase in the amounts incurred for medical-legal expenses, temporary disability payments, and medical services.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

*Dispute Resolution*

California Code of Regulations, Title 8, Section 10203(b)(11) requires carve-outs to submit data on the number of claims resolved before mediation, at or after mediation, at or after arbitration, at or after the Workers' Compensation Appeals Board (WCAB), and at or after the Court of Appeals (Tables 31 and 32). A resolved claim for the purpose of this report is defined in Section 10203(b)(9) as one in which ultimate liability has been determined, even though payments may be made beyond the reporting period.

**Table 31: Resolved, Disputed, and Unresolved Claims, 2007-2012 (1st year reporting)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
Number of Programs Reporting	20	22	23	24	25	25
Number of Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317
Number of Claims Resolved	2,752	3,472	2,923	2,409	2,752	2,797
Percentage of Claims Filed and Resolved	83%	72%	89%	88%	89%	84%
Number of Claims Resolved without Dispute (Before Mediation)	2,300	3,380	2,847	2,348	2,733	2,703
Percentage of Claims Resolved without Dispute (Before Mediation)	84%	97%	97%	97%	99%	97%
Number of Claims Resolved with Dispute	452	92	76	61	19	94
Percentage of Claims Resolved with Dispute	16%	3%	3%	3%	1%	3%
Number of Claims Unresolved	562	1,377	359	314	350	520
Percentage of Claims Unresolved	17%	28%	11%	12%	11%	16%

Data Source: DWC

**Table 32: Resolved, Disputed, and Unresolved Claims, 2004-2012 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (3rd)	2011 (2nd)	2012 (1st)
Number of Programs Reporting	13	16	19	20	22	23	24	25	25
Number of Claims Filed	1,203	2,361	2,451	2,879	3,845	3,543	2,793	2,970	3,317
Number of Claims Resolved	1,134	2,138	2,190	2,690	3,486	3,418	2,612	2,741	2,797
Percentage of Claims Filed and Resolved	94%	91%	89%	93%	91%	96%	94%	92%	84%
Number of Claims Resolved without Dispute (Before Mediation)	1,103	2,098	2,079	2,500	3,352	3,277	2,535	2,683	2,703
Percentage of Claims Resolved without Dispute (Before Mediation)	97%	98%	95%	93%	96%	96%	97%	98%	97%
Number of Claims Resolved with Dispute	31	40	111	190	134	141	77	58	94
Percentage of Claims Resolved with Dispute	3%	2%	5%	7%	4%	4%	3%	2%	3%
Number of Claims Unresolved	69	223	261	189	359	125	181	229	520
Percentage of Claims Unresolved	6%	9%	11%	7%	9%	4%	6%	8%	16%

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

In 2012, carve-out programs reported resolving 94 claims by litigation. Eighty-five (85) claims were resolved at mediation, four (4) at arbitration, five (5) at the WCAB, and none at the Court of Appeals (Tables 33 through 36).

**Table 33: Number of Disputed Claims by Type of Resolution, 2007-2012 (1st year data)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
At Mediation	432	64	59	54	14	85
At Arbitration	20	27	12	3	1	4
At WCAB	0	1	5	4	4	5
At Court of Appeals	0	0	0	0	0	0
Total Disputed Claims	452	92	76	61	19	94

Data Source: DWC

**Table 34: Distribution of Disputed Claims by Type of Resolution, 2007-2012 (1st year data)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
At Mediation	96%	70%	78%	89%	74%	90%
At Arbitration	4%	29%	16%	5%	5%	4%
At WCAB	0%	1%	7%	7%	21%	5%
At Court of Appeals	0%	0%	0%	0%	0%	0%

Data Source: DWC

**Table 35: Number of Disputed Claims by Type of Resolution, 2004-2012 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (3rd)	2011 (2nd)	2012 (1st)
At Mediation	20	29	71	152	83	118	70	43	85
At Arbitration	7	6	32	23	36	16	5	3	4
At WCAB	4	5	8	15	14	7	2	12	5
At Court of Appeals	0	0	0	0	1	0	0	0	0
Total Disputed Claims	31	40	111	190	134	141	77	58	94

Data Source: DWC

**Table 36: Distribution of Disputed Claims by Type of Resolution, 2004-2012 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (3rd)	2011 (2nd)	2012 (1st)
At Mediation	65%	73%	64%	80%	62%	84%	91%	74%	90%
At Arbitration	23%	15%	29%	12%	27%	11%	6%	5%	4%
At WCAB	13%	13%	7%	8%	10%	5%	3%	21%	5%
At Court of Appeals	0%	0%	0%	0%	1%	0%	0%	0%	0%

Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Safety History

To determine safety history, Title 8 CCR Section 10203(b)(14) requires that ADR programs report safety ratings (incidence rates) based on the number of injuries and illnesses per 100 full-time employees. To calculate an incidence rate, ADR programs must multiply the number of injuries and illnesses reported on the United States Department of Labor Occupational Safety and Health Administration (OSHA) Form 300 by 200,000,<sup>33</sup> then divide by the number of person-hours worked reported under California Code of Regulations, Title 8, Section 10203(b)(6).

ADR programs, however, experience under-reporting of injuries and illnesses on OSHA Form 300 when compared to the number of claims filed (Table 37).

**Table 37: Number of OSHA Form 300 Injuries and Illnesses and Total Claims, 2010-2012<sup>34</sup> (1st year data)**

Calendar Year (Reporting Cycle)	2010 (1st)	2011 (1st)	2012 (1st)
<b>3201.5 and 3201.7 Programs</b>			
Number of Programs Reporting (#)	24	25	25
OSHA Form 300 Injuries and Illnesses (#)	2,243	2,287	2,321
Total Claims Reported to Program(#)	2,723	3,102	3,317
Percentage of OSHA Incidents to Program Claims Filed	82%	74%	70%
<b>3201.5 Construction Programs</b>			
Number of Programs Reporting (#)	21	21	20
OSHA Form 300 Injuries and Illnesses (#)	640	427	439
Total Claims (#)	1,045	1,060	874
Percentage of OSHA Incidents to Claims Filed	61%	40%	50%
<b>3201.7 Non-Construction Programs</b>			
Number of Programs Reporting (#)	3	4	5
OSHA Form 300 Injuries and Illnesses (#)	1,603	1,860	1,882
Total Claims (#)	1,678	2,042	2,443
Percentage of OSHA Incidents to Claims Filed	96%	91%	77%

Data Source: DWC

Therefore, DWC also calculates an incidence rate based on the number of claims per 100 full-time employees. To calculate both incidence rates for all programs, adjustments are made to the number of injuries and illnesses and the number of claims to compensate for the ADR programs that did not report person-hours worked (Table 38). In 2012, the U.S. Bureau of Labor Statistics (BLS) injury and illness incidence rate for all California workers was 4.0; construction workers had an incidence rate of 3.6.<sup>35</sup>

<sup>33</sup> The 200,000 hours in the formula represents the equivalent of 100 employees working 40 hours per week, 50 weeks per year, and provides the standard base for the incidence rates. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, 2010, "How To Compute a Firm's Incidence Rate for Safety Management," <http://www.bls.gov/iif/osheval.htm>.

<sup>34</sup> To protect the confidentiality of ADR programs, the safety history analysis excludes 2007-2009 first-year data.

<sup>35</sup> Bureau of Labor Statistics, U.S. Department of Labor, "Table 6. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2012," <http://www.bls.gov/iif/oshwc/osh/os/pr126ca.pdf>

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 38: Number of OSHA Form 300 Injuries and Illnesses and Reported Claims, 2010-2012<sup>36</sup> (1st year data)**

Calendar Year (Reporting Year)	2010 (1st)	2011 (1st)	2012 (1st)
<b>3201.5 and 3201.7 Total Programs</b>			
Reporting Programs (#)	19	22	25
Person-Hours Worked (#)	67,249,009	77,936,131	69,023,455
OSHA Form 300 Injuries and Illnesses (#)	2,136	2,287	2,321
Total Claims Reported to Program (#)	2,521	3,089	3,317
Percentage of OSHA Incidents to Program Claims Filed	85%	74%	70%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	6.4	5.9	6.7
Safety Rating Based on Reported Claims (#)	7.5	7.9	9.6
<b>3201.5 Construction Programs</b>			
Reporting Programs (#)	16	18	20
Person-Hours Worked (#)	50,210,844	46,745,175	34,903,447
OSHA Form 300 Injuries and Illnesses (#)	571	427	439
Total Claims Reported to Program (#)	888	1,049	874
Percentage of OSHA Incidents to Program Claims Filed	64%	41%	50%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	2.3	1.8	2.5
Safety Rating Based on Reported Claims (#)	3.5	4.5	5.0
<b>3201.7 Non-Construction Programs</b>			
Reporting Programs (#)	3	4	5
Person-Hours Worked (#)	17,038,165	31,190,956	34,120,008
OSHA Form 300 Injuries and Illnesses (#)	1,565	1,860	1,882
Total Claims Reported to Program (#)	1,633	2,040	2,443
Percentage of OSHA Incidents to Program Claims Filed	96%	91%	77%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	18.4	11.9	11.0
Safety Rating Based on Reported Claims (#)	19.2	13.1	14.3

Data Source: DWC

*Return to Work*

California Code of Regulations, Title 8, Section 10203(b)(16) requires carve-outs to report the number of workers participating in light-duty or modified return-to-work programs. In 2012, 926 workers participated in light-duty or modified work programs, including 158 construction program workers and 681 non-construction program workers. The overall ratio of claims filed per each light-duty or modified work participant was 3.6 to 1 (Tables 39 and 40).

<sup>36</sup> To protect the confidentiality of ADR programs, the safety history analysis excludes include 2007-2009 first-year data.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 39: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2004-2012 (1st year reporting)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)
Reporting Programs (#)	21	23	23	24	24	25
Total Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317
Light-Duty and Modified Work Participants	113	212	881	730	839	926
Ratio Claims Filed to Light-Duty or Modified Work Participant	29.3	22.9	3.7	3.7	3.7	3.6

Data Source: DWC

**Table 40: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2004-2012 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (3rd)	2011 (2nd)	2012 (1st)
Reporting Programs (#)	13	19	21	22	23	22	23	24	25
Total Claims Filed	1,203	2,361	2,451	2,879	3,845	3,543	2,793	3,102	3,317
Light-Duty and Modified Work Participants	2	61	265	179	965	1,021	869	839	926
Ratio Claims Filed to Light-Duty or Modified Work Participant	601.5	38.7	9.2	16.1	4.0	3.5	3.2	3.7	3.6

Data Source: DWC

*Worker Satisfaction*

In order to fulfill the reporting requirements of Section 10203, non-construction carve-out programs are required to submit the results of a self-administered worker-satisfaction survey. There is currently no standard survey that is required to be implemented by all non-construction programs.

In 2013, DWC will be holding a meeting with non-construction carve-out programs to determine ways to improve their annual reporting of workers' satisfaction surveys.

For 2012, of the five reporting 3201.7 programs, one program submitted results. This program found that 52 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. Three programs failed to report results because they have not yet developed and implemented a worker satisfaction survey.

For 2011, of the four reporting 3201.7 programs, one program submitted results. This program found that 42 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out program. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. A second program failed to report results because they have not yet developed and implemented a worker satisfaction survey. A third program failed to report results as survey requests sent out to employees were not returned.

For 2010, of the four reporting 3201.7 programs, only two programs submitted survey results. One 3201.7 program failed to report the results of a workers' satisfaction survey due to staffing shortages. A second program failed to report results because they had not developed and implemented a worker satisfaction survey. One of the ADR programs that reported results for 2010 found that 43 percent of its respondents rated their ADR program as good or excellent, 20 percent rated it fair, and 37 percent rated it poor. The other ADR program reporting results found that 49 percent of its respondents were satisfied or very satisfied with the services provided by their ADR program, 16 percent were dissatisfied or very dissatisfied, and 35 percent were neutral about the services their ADR program provided.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Status of Carve-out Agreements**

The following tables show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

**Table 41: Construction Industry Carve-out Participants as of June 1, 2013  
Labor Code Section 3201.5 (active programs)**

No.	Union	Company	Agreement Type	Expiration Date
2	International Brotherhood of Electrical Workers (IBEW)	National Electrical Contractors Association (NECA)	1 Union, Multiple Employers	8/14/2013
3	So. CA District of Carpenters & 19 local unions	6 multi-employer groups - 1000 contractors	1 Union, Multiple Employers	8/14/2013
4	So. CA Pipe Trades Council 16	Multi employer - Plumbing & Piping Industry Council	1 Union, Multiple Employers	8/24/2013
6	International Union of Petroleum & Industrial Workers	TIMEC Co., Inc./TIMEC So. CA., Inc.	1 Union, 1 Employer	7/31/2015
8	So. CA District Council of Laborers	Assoc. General Contractors of CA, Building Industry Assoc.; So. CA, So. CA Contractors' Assoc.; Engineering Contractors' Assoc.	1 Union, Multiple Employers	7/31/2014
11	District Council of Painters	LA Painting & Decorating Contractors' Association	1 Union, Multiple Employers	10/28/2015
14	Operating Engineers Local 12	So. CA Contractors' Association	1 Union, Multiple Employers	4/1/2014
15	Sheet Metal International Union	Sheet Metal-A/C Contractors National Association	1 Union, Multiple Employers	4/1/2014
16	Building & Construction Trades Council San Diego	San Diego County Water Authority Emergency Storage Project	Project Labor Agreement	2/20/2015
21	District Council of Iron Workers - State CA & Vicinity	California Ironworker Employers Council	1 Union, Multiple Employers	2/25/2015
22	Sheet Metal Workers International Association #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	1 Union, Multiple Employers	4/17/2015
23	United Union of Roofers, Waterproofers & Allied workers, Local 36 and 220	Union Roofing Contractors Association	1 Union, Multiple Employers	7/31/2014
24	United Union of Roofers, Waterproofers & Allied Workers, Locals 27, 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	1 Union, Multiple Employers	7/31/2014
26	Operatives Plasterers & Cement Masons International Association, Local 500 & 600	So. CA Contractors Association, Inc.	1 Union, Multiple Employers	4/1/2014
27	International Unions Public & Industrial Workers	Irwin Industries, Inc.	1 Union, 1 Employer	3/23/2016
29	No. CA Carpenters Regional Council	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2013
30	No. CA District Council of Laborers	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2013
31	Operating Engineers Local 3	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2013
32	Industrial, Professional & Technical Workers	Irish Construction	1 Union, 1 Employer	12/20/2013
33	Building Trades Council of Los Angeles-Orange County	L.A. Comm. College District Construction Program	Project Labor Agreement	5/6/2014
34	Santa Clara & San Benito Counties Bldg. & Construction Trades	Santa Clara Valley Med'I Cntr-Seismic Safety Project, OCIP	Project Labor Agreement	2/2/2016

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 42: Completed, Ended, or Expired Construction Industry Carve-Outs Programs\***

No.	Union	Company	Agreement Type	Expiration Date
1	CA Building & Construction Trades Council	Metropolitan Water District So. CA - Diamond Valley Lake	Project Labor Agreement	Expired 11/07/2006
5	Steamfitters Local 250	Cherne - two projects completed in 1996	1 Union, 1 Employer	Completed 1996
7	Contra Costa Building & Construction Trades Council	Contra Costa Water District - Los Vaqueros	Project Labor Agreement	Completed
9	CA Building & Construction Trades Council	Metropolitan Water District So. CA Inland Feeder Parsons	Project Labor Agreement	Ended 12/31/2002
10	Building & Construction Trades Council of Alameda County	Parsons Constructors, Inc. Nat'l Ignition Facility - Lawrence Livermore	Project Labor Agreement	Ended 7/02/2006
12	Plumbing & Pipefitting Local 342	Cherne Contracting - Chevron Base Oil 2000 project	1 Union, 1 Employer	Completed
13	LA Building & Construction Trades Council AFL-CIO	Cherne Contracting - ARCO	Project Labor Agreement	Completed
17	LA/Orange Counties Building & Construction Trade Council	Cherne Contracting – Chevron Refinery – El Segundo	Project Labor Agreement	Expired 7/26/2005
18	Plumbers & Steamfitters	Cherne Contracting – Chevron Refinery – Richmond	Project Labor Agreement	Expired 7/1/2005
19	Plumbers & Steamfitters	Cherne Contracting – Tesoro Refinery – Martinez	Project Labor Agreement	Expired 7/1/2005
20	LA County Building & Construction Trades Council	Cherne Contracting – Equilon Refinery – Wilmington	Project Labor Agreement	Expired 3/1/2007
25	United Association - Journeyman & Apprentices - Plumbers & Pipefitters, Local #447	No.CA Mechanical Contractors Association & Association Plumbing & Mechanical Contractors of Sacramento. Inc.	1 Union, Multiple Employers	Expired 11/7/2012
28	PIPE Trades District Council.# 36	Mechanical Contractors Council of Central CA	1 Union, Multiple Employers	Expired 4/14/2013

Data Source: DWC

\*A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Non-Construction Industry Carve-Out Participants as of June 6, 2013  
(Labor Code Section 3201.7)**

**Table 43: Non-Construction Carve-Out Active Programs**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N13	Long Beach Peace Officers' Association & Long Beach Fire Fighters' Association Local 372	City of Long Beach	12/11/2006	12/11/2007	11/2/2007	11/13/2007
N14	SEIU Local 1877	Various Maintenance Companies	4/13/2007	4/13/2008	2/12/2008	2/28/2008
N15	SEIU Local 721	City of Los Angeles	6/18/2007	6/18/2008	4/15/2008	5/8/2008
N28	SEIU United Service Workers West	No. CA Maintenance Contractors Assoc.	1/12/2011	1/12/2012	3/3/2011	3/8/2011
N30	SEIU Local 87	SF Maintenance Contractors Assoc.	3/28/2011	3/28/2012	5/31/2011	6/7/2011
N31	SEIU United Service Workers West	No. CA Safeway Contractors	4/15/2011	4/15/2012	5/24/2011	6/3/2011
N32	SEIU United Service Workers West	ABM-non-food retail-LA County	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N33	SEIU United Service Workers West	ABM-non-food retail-San Diego & Imperial Counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N34	SEIU United Service Workers West	ABM-retail food-All CA counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N41	SEIU-USWW and SEIU 87	ABLE Services	2/9/2012	2/9/2013	2/16/2012	2/23/2012

Data Source: DWC

**Table 44: Non-Construction Carve-Out Programs w. Permission to Operate (not Currently Active)**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N6	No. CA Carpenters Regional Council Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N7	No. CA District Council of Laborers Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N8	Operating Engineers Local 3 Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 45: Non-Construction Carve-Out Programs with Open Permission to Negotiate**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date
N35	Huntington Beach Police Officers' Assoc.	City of Huntington Beach	7/1/2011	7/1/2013
N36	Huntington Beach Firefighters Assoc.	City of Huntington Beach	7/27/2011	7/27/2013
N37	Huntington Beach Police Management Assoc.	City of Huntington Beach	7/12/2011	7/12/2013
N38	Huntington Beach Fire Management Assoc.	City of Huntington Beach	7/5/2011	7/5/2013
N39	UFCW-Locals 8 GS, 135, 324, 770, 1167, 1428, 1442	Albertson's, Ralph's, Von's	10/26/2011	10/26/2013
N40	Orange County Professional Firefighters Assoc.	Orange County Fire Authority	11/30/2011	12/5/2013

Data Source: DWC

**Table 46: Non-Construction Carve-Out Programs with Expired Permission to Negotiate**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date
N1	UFCW Local 324	Super A Foods - 2 locations - ~ 76 members	9/1/2004	9/1/2005
N10	Teamsters Local 952	Orange County Transportation Authority Coach Operators	4/17/2006	4/17/2007 Withdrawn 7/28/2009
N10A	Teamsters Local 952	Orange County Transportation Authority Maintenance Workers	7/31/2006	7/31/2007
N11	Teamsters Local 630	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009
N16	UFCW Local 5	Berkeley Bowl	7/7/2008	7/7/2009
N17	UFCW Local 5	Smoked Prime Meats, Inc.	7/7/2008	7/7/2009
N18	UFCW Local 5	Milan Salami	7/7/2008	7/7/2009
N2	UFCW Local 1167	Super A Foods - Meat Department ~8 employees	9/1/2004	9/1/2005
N20	Kern County Firefighters' Union	County of Kern	6/3/2010	6/3/2011
N21	Kern County Law Enforcement Association	County of Kern	6/3/2010	6/3/2011
N22	United Food & Commercial Workers Local 8	Save Mart Supermarkets dba Yosemite Wholesale	8/11/2010	8/11/2011
N23	Teamsters Local 150	Save Mart Supermarkets dba Roseville Distribution Center	9/13/2010	9/13/2011
N27	Automotive Machinists Lodge 1173	Save Mart Supermarkets dba Vacaville Distribution Center	11/30/2010	11/30/2011
N29	LA County Firefighters Local 1014	LA County Fire Department	3/23/2011	3/23/2013
N3	Teamsters CA State Council-Cannery & Food Processing Unions, IBT, AFL-CIO	CA Processors, Inc. Multi-Employer Bargaining Representative	7/6/2004	7/5/2005
N4	UFCW Local 770	Super A Foods - 10 locations- ~283 members	9/1/2004	9/1/2005
N5	UFCF Local 1036	Super A Foods - All employees, except those engaged in janitorial work or covered under a CBA w/Culinary Workers and demonstrators	9/1/2004	9/1/2005 Withdrawn 7/28/2009
N848	Teamsters Local 848	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 47: Completed, Ended or Expired Non-Construction Carve-Out Programs\***

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N9	United Food & Commercial Workers Union Local 588	Mainstay Business Solutions	8/11/2005	8/11/2006	9/2/2005	9/12/2005

\* A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

*For further information ...*

The latest information on carve-outs may be obtained at:

<http://www.dir.ca.gov/dwc/carveout.html>

*How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers.* CHSWC (2006).

<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>.

*Carve-outs: A Guidebook for Unions and Employers in Workers' Compensation.* CHSWC (2004).

<http://www.dir.ca.gov/chswc/CARVEOUTSGuidebook2004.pdf>

*Carve-Outs' in Workers' Compensation: An Analysis of Experience in the California Construction Industry (1999).*

<http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html>

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT

The Bureau of Field Enforcement (BOFE) in the Division of Labor Standards Enforcement (DLSE) is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, and Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

The following table describes the citations from 2011-12 enforcement actions. It illustrates the Bureau's performance inclusive of all special programs such as non-public works field enforcement and prevailing wage enforcement through the Public Works Unit.

**Table 48: DLSE Citations by Category, 2011 - 2012**

Citation Category	Number of Citations	Penalties Assessed	Penalties Collected
<b>Workers' Compensation</b>	<b>1,761</b>	<b>\$27,017,136</b>	<b>\$2,770,859</b>
Itemized Statement	1,025	\$10,430,875	\$2,735,660
Non-Registration	90	\$520,950	\$582,722
Unlicensed Construction Contractor	56	\$1,362,200	\$40,869
Minimum Wage	175	\$783,374	\$84,920
Overtime	226	\$2,312,491	\$244,183
Child Labor	123	\$126,000	\$73,265
Garment Recordkeeping	42	\$124,200	\$55,740
<b>Sub-Total</b>	<b>3,498</b>	<b>\$42,677,226</b>	<b>\$6,588,218</b>
Public Works	290	\$6,333,748	\$1,394,754
<b>TOTAL</b>	<b>3,788</b>	<b>\$39,772,344</b>	<b>\$7,982,972</b>

Data Source: DLSE

For further information ...

<http://www.dir.ca.gov/dlse/DLSEReports.htm>

### ANTI-FRAUD ACTIVITIES

#### **Background**

During the past decade, there has been a dedicated and rapidly growing campaign in California against workers' compensation fraud. This report on the nature and results of that campaign is based primarily on information obtained from the California Department of Insurance (CDI) Fraud Division, as well as applicable Insurance Code and Labor Code sections, and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

The former Insurance Commissioner Steve Poizner convened an Advisory Task Force on Insurance Fraud in May 2007 to address major issues relating to insurance fraud. Former Executive Officer of CHSWC Christine Baker, currently Director, DIR, chaired the Workers' Compensation Expert Working Group of the Task Force. The Task Force completed a comprehensive review of the anti-fraud insurance programs and identified 18 recommendations to consider in reducing insurance fraud in California.

The recommendations are consolidated into the following five categories identified by the Task Force:

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.
- Industry Role in Fighting Fraud.
- Public Role in Fighting Fraud.
- Fraud Statutes and Regulations.
- Technologies.

The Fraud Division is currently implementing the following recommendations:

- Placing personnel in existing fusion centers within the State so law enforcement can share information more efficiently and quickly identify emerging trends and crime patterns.
- Developing and providing better training for the Special Investigation Units (SIU) on the recognition, documentation and reporting of suspected insurance fraud claims.
- Recognizing insurance companies that go beyond compliance for their greater commitment to fighting fraud.
- Increasing the outreach efforts of CDI about the consequences of fraud and how the public can recognize it and report it.

### ***Suspected Fraudulent Claims***

Suspected Fraudulent Claims (SFCs) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of SFCs represents only a small portion that has been reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:<sup>37</sup>

- The extensive efforts to provide training to the insurance claim adjusters and SIU personnel by the Fraud Division and District Attorneys.
- Changing submission of SFCs by filling out the FD-1 Form electronically through the Internet.
- The Department having promulgated new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit was established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies.
- CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

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<sup>37</sup> 2012 Annual Report of the Insurance Commissioner, August 1, 2013.

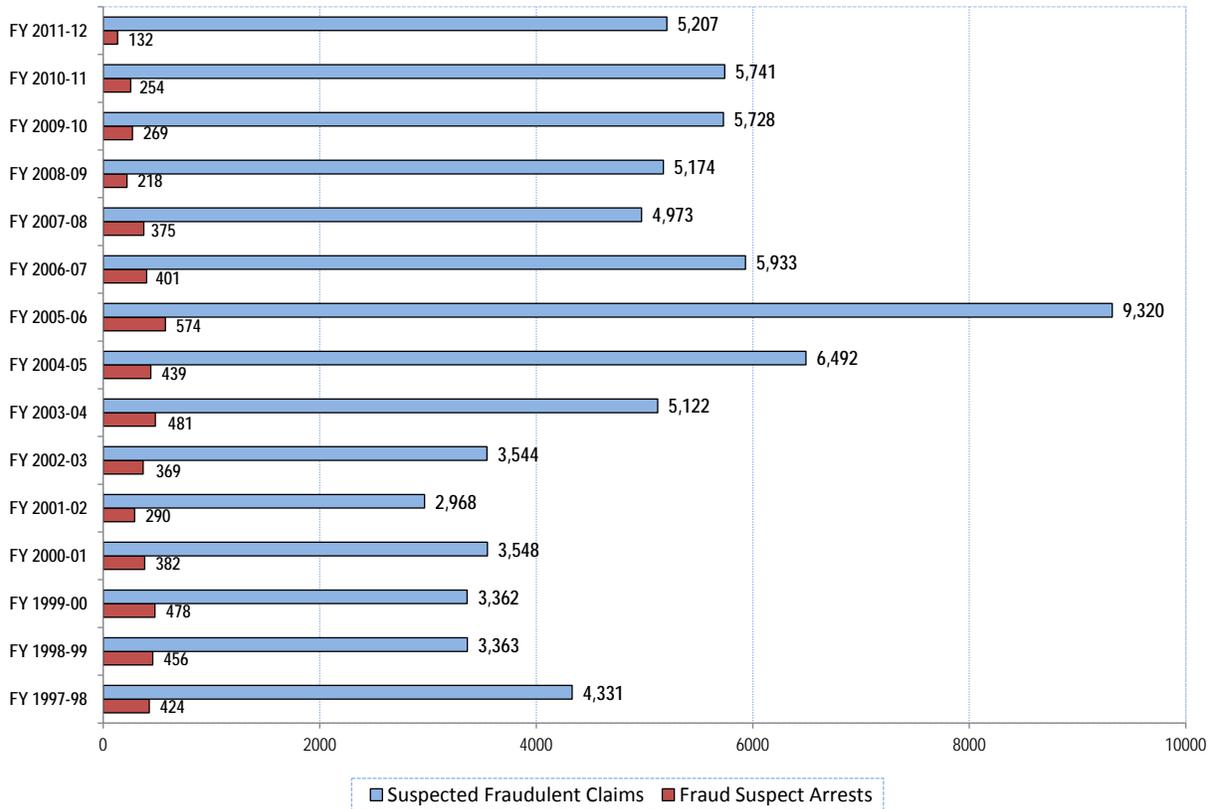
## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

For fiscal year 2011-12, the total number of SFCs reported is 5,207.

### Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year. See the following figure.

Figure 82: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests

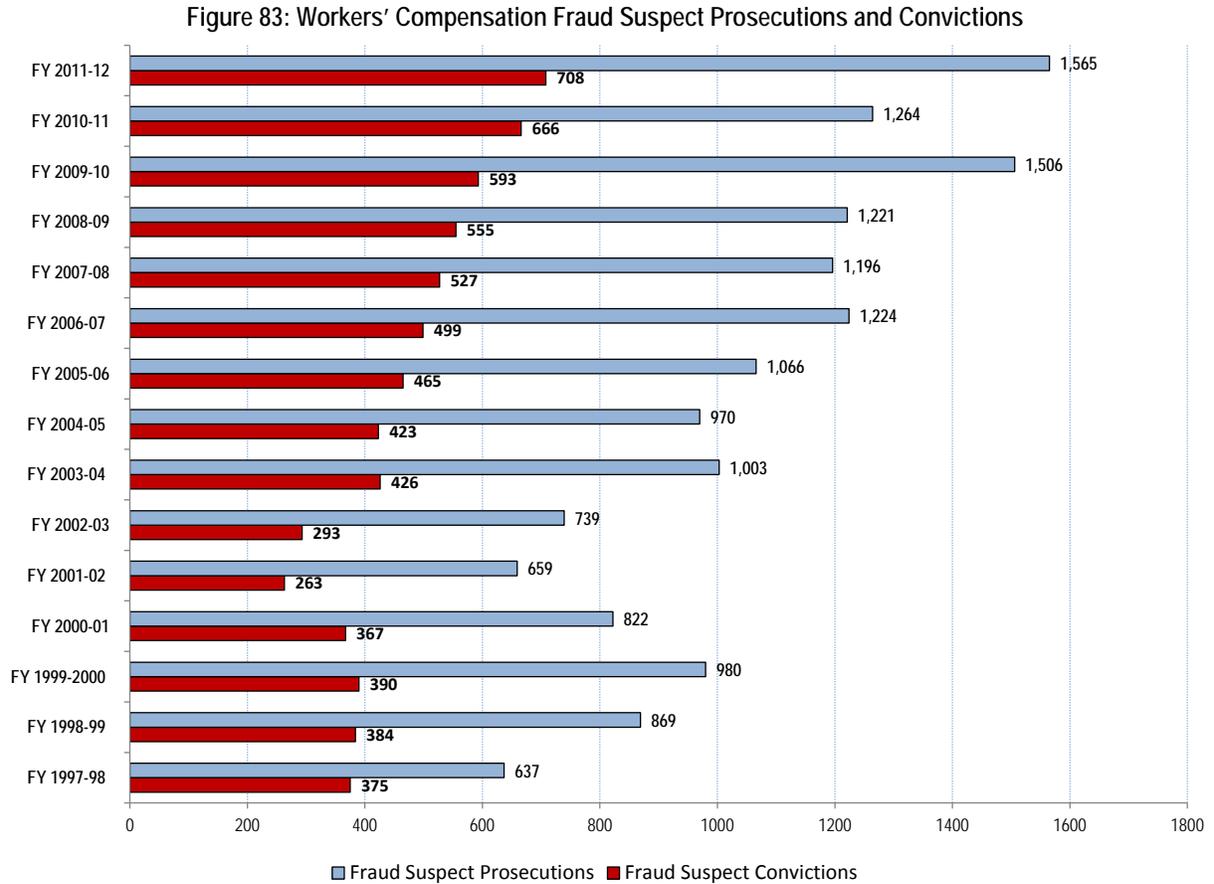


Data Source: CDI - Fraud Division and CWCI

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI Bulletin[s], the number of workers' compensation fraud suspects convicted annually while many cases are still pending in court is reported in the figure below.



Data Source: CDI - Fraud Division and CWCI

### Workers' Compensation Fraud Investigations

#### *Types of Workers' Compensation Fraud Investigations*

The figures "Caseload by Type of Fraud Investigations" and "Type of Fraud Investigations by Percentage of Total" on the next page indicate the number and types of investigations opened and carried from fiscal years 2004-05 to 2011-12 which were reported by district attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and medical provider fraud.

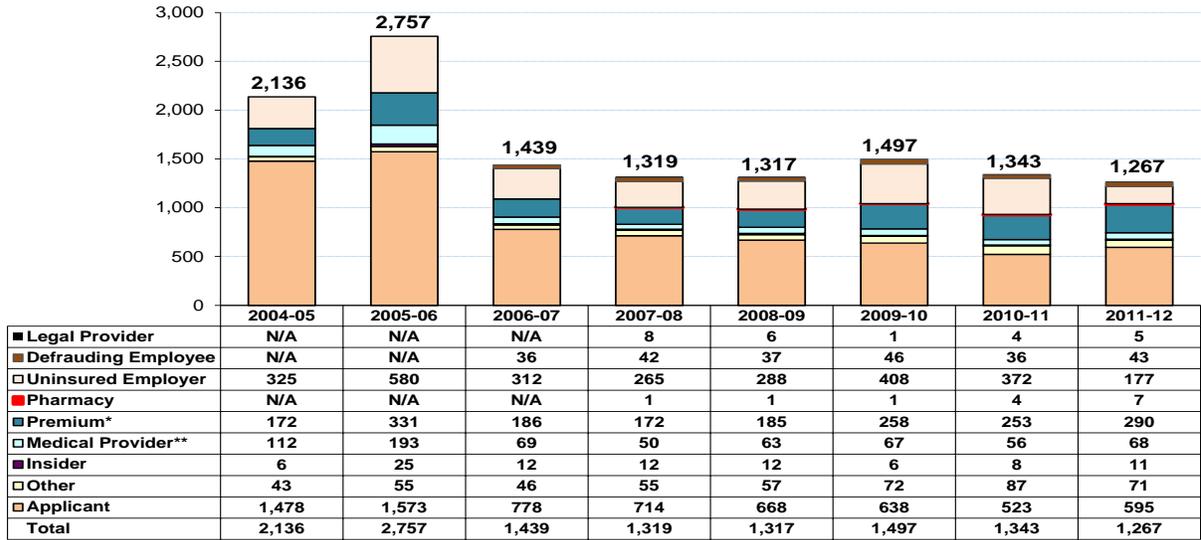
Some of the categories for fraud-related investigations were changed in the fiscal years 2005-2006, 2006-2007, and 2007-2008 as reflected in the following figures. In 2008, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

#### *Trends in Workers' Compensation Fraud Investigations*

The figure below shows that after reaching its peak in 2005-06, the workers' compensation fraud investigations showed a sharp 48 percent decrease in FY 2006-07. From FY 2006-07 to FY 2011-12, the total number of workers' compensation fraud investigations averaged at 1,364.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 84: Caseload by Type of Fraud Investigations, Fiscal Years 2004/05 – 2011/12

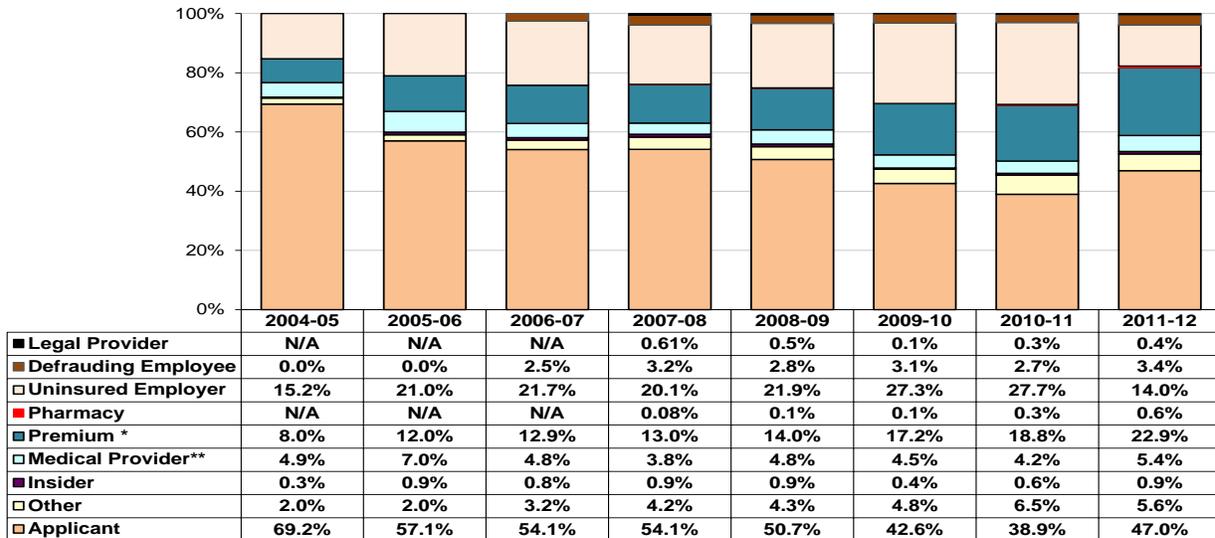


\* From 2007-2008 on, Includes Misclassification, Underreported Wages, and X-Mod Evasion  
 \*\* From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

As seen in the figure below, the focus of the investigations has been changing. Applicant fraud investigations have dropped from 69 percent of the total in 2004-05 to about 47 percent of the total number of investigations in FY 2011-12. At the same time, there has been an increase in the percentage of investigations of premium fraud. The percentage of investigations of uninsured employers' fraud increased from 15 percent to 28 percent between 2004-05 and 2010-11 and then fell back to 14 percent in 2011-12.

Figure 85: Type of Fraud Investigations by Percentage of Total, Fiscal Years 2004/05 – 2011/12



\* From FY 2006-2007 on, Includes Misclassification, Underreported Wages, and X-Mod evasion  
 \*\* From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

In addition, the *2012 Annual Report of the Insurance Commissioner* notes that the great majority of suspected fraudulent claims in calendar year 2012 came from Los Angeles County (1,948 or 38 percent of total cases) followed by Orange County (527 or 10 percent) and then by San Diego County (334 or 7 percent).

### **Underground Economy**

While most California businesses comply with health, safety and workers' compensation regulations, there are businesses that do not and are operating in the "underground economy." Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. According to the Employment Development Department (EDD), the California underground economy is estimated at \$60 billion to \$140 billion annually.<sup>38</sup>

### **Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts**

CHSWC has engaged in many studies that focus on improving workers' compensation anti-fraud efforts. For further information on these studies, please see the "Projects and Studies" section of this report.

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<sup>38</sup> <http://www.bettzedek.org/wp-content/uploads/voicesfromtheunderground.pdf>

## **WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES**

### **Occupational Injury and Illness Prevention Efforts**

Workplace health and safety are of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer and labor organizations, government agencies, health and safety professionals, independent researchers, and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section will discuss the numbers and incidence rates of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States (U.S.) and California.

Where data are available, comparisons among private industry, state government and local government are also included.

### **Occupational Injuries, Illnesses and Fatalities**

The numbers of occupational injuries, illnesses and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are displayed and discussed in this subsection. Fatality data for 2011 (latest available year) are preliminary.

Please note that "lost-work-time" occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that days-away-from-work cases involve days away from work, whether or not there is also job transfer or restricted work activity.

The National Academy of Social Insurance (NASI) estimated that there were 125.8 million workers covered by workers' compensation in the U.S. in 2011 (latest available year), including 14.3 million in California.

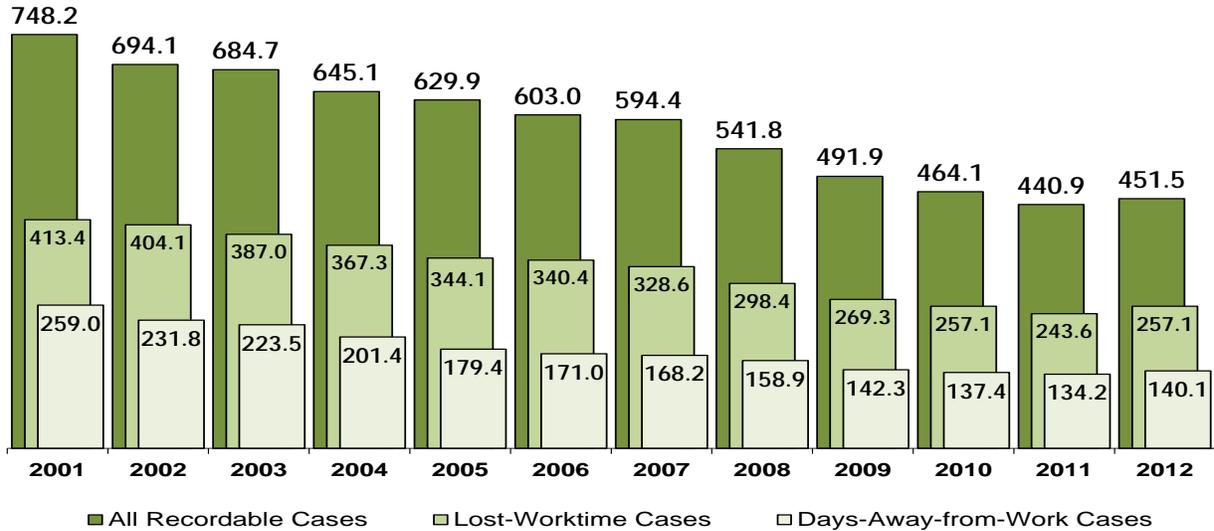
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Public and Private Sectors Compared

#### *Non-Fatal Occupational Injuries and Illnesses*

The following figure shows the numbers of occupational injuries and illnesses in California's private industry, state government and local government. Occupational injuries and illnesses in California have decreased noticeably in the past decade. As shown in the following figure, the number of recordable occupational injury and illness cases, number of lost-work-time cases, and number of days-away-from-work cases have all declined from 2001 to 2012.

Figure 86: California Non-Fatal Occupational Injuries and Illnesses: Private Industry, State and Local Governments (Thousands)

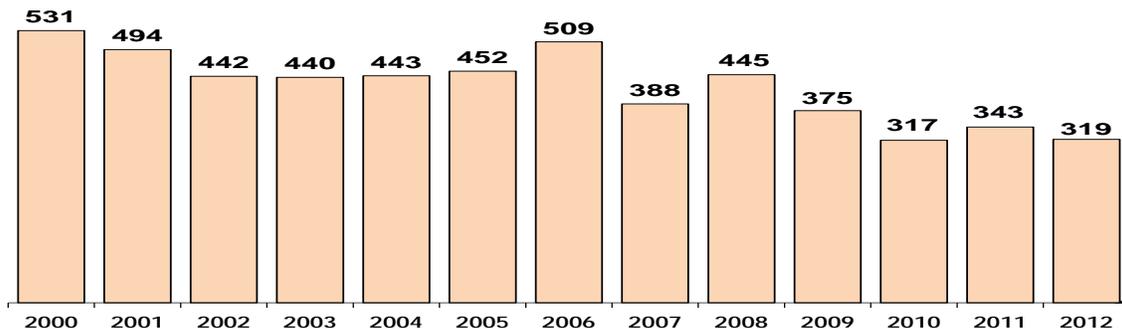


Source: DIR, Director's Office of Policy, Research and Legislation

#### *Fatal Occupational Injuries and Illnesses*

Fatal occupational injuries and illnesses in California have also decreased significantly as depicted in the figure below. Fatal occupational injuries and illnesses in California declined by 17 percent from 2000 to 2002, stabilized at an average of 444 from 2002 to 2005, and then increased by 13 percent from 2005 to 2006. Fatal injuries decreased 23.8 percent from 2006 to 2007, increased 14.7 percent from 2007 to 2008, and then decreased by 33.7 percent from 2008 to 2010. From 2010 to 2012, the number of fatal injuries in California averaged at 325.

Figure 87: California Fatal Occupational Injuries and Illnesses - Private Industry, State and Local Governments



\* Total, excluding Federal Government

Data Source: BLS and DIR, Director's Office of Policy, Research and Legislation

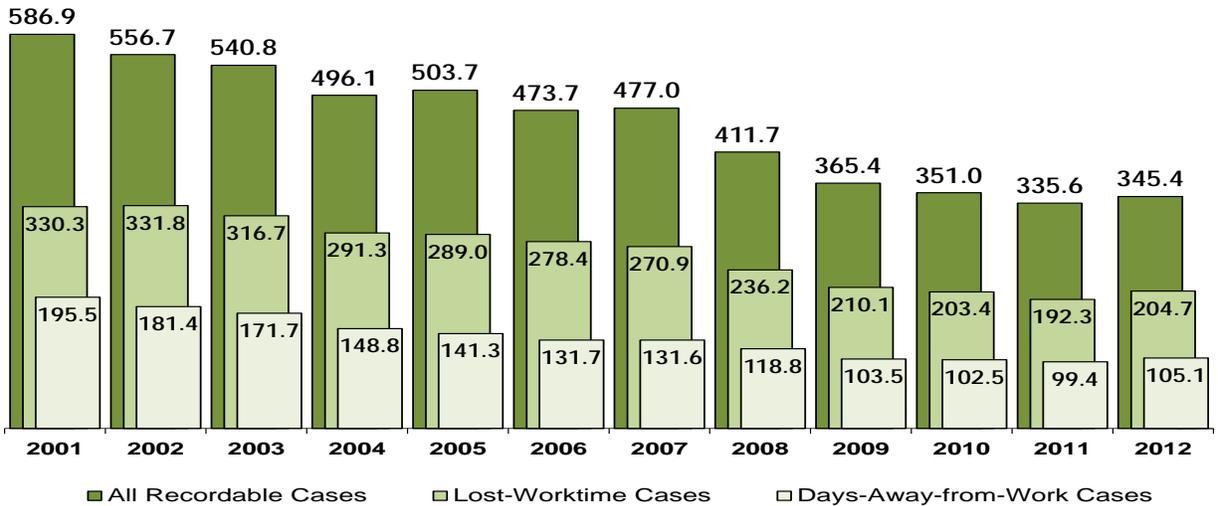
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Private Sector

#### *Non-Fatal Occupational Injuries and Illnesses*

Occupational injuries and illnesses in California's private industry have also decreased noticeably in the past ten years. The total number of recordable injury and illness cases dropped by 41 percent, the number of lost-work-time cases declined by 38 percent, and the number of days-away-from-work cases decreased by 46 percent, all from 2001 to 2012.

Figure 88: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

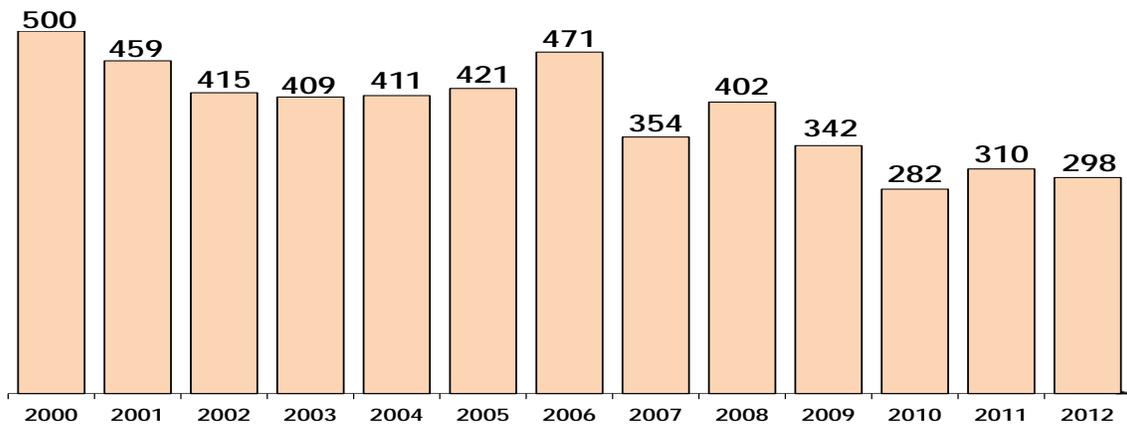


Source: DIR, Director's Office of Policy, Research and Legislation

#### *Fatal Occupational Injuries and Illnesses*

Fatal occupational injuries and illnesses in California private industry declined by 17 percent from 2000 to 2002, stabilized at an average of 414 from 2002 to 2005, and then increased by 12 percent from 2005 to 2006. Fatal injuries decreased 25 percent from 2006 to 2007, increased 13.6 percent from 2007 to 2008, and then decreased by 30 percent from 2008 to 2010. From 2010 to 2012, the number of fatal injuries in California averaged at around 300.

Figure 89: California Fatal Occupational Injuries and Illnesses - Private Industry



Source: BLS and DIR, Director's Office of Policy, Research and Legislation

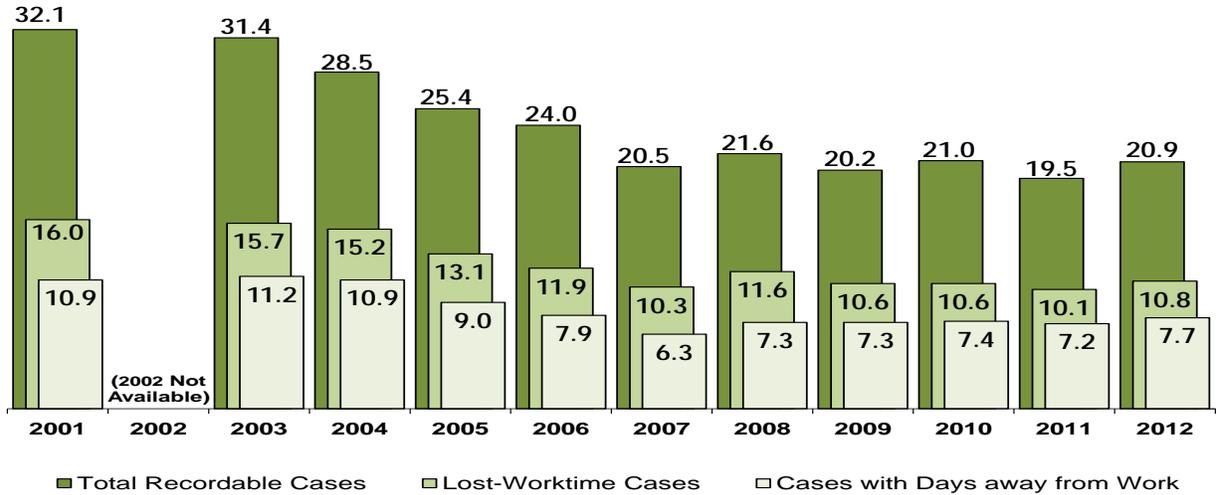
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Public Sector – State Government

#### *Non-Fatal Occupational Injuries and Illnesses*

In contrast to private industry, the numbers of non-fatal occupational injuries and illnesses in state government have changed less appreciably in the past nine years, as shown on the following figure. It should be noted that many state and local government occupations are high-risk, such as law enforcement, firefighting, rescue, and other public safety operations. The total number of cases declined by 36 percent between 2001 and 2007, and then averaged 20,617 from 2007 to 2012.

Figure 90: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

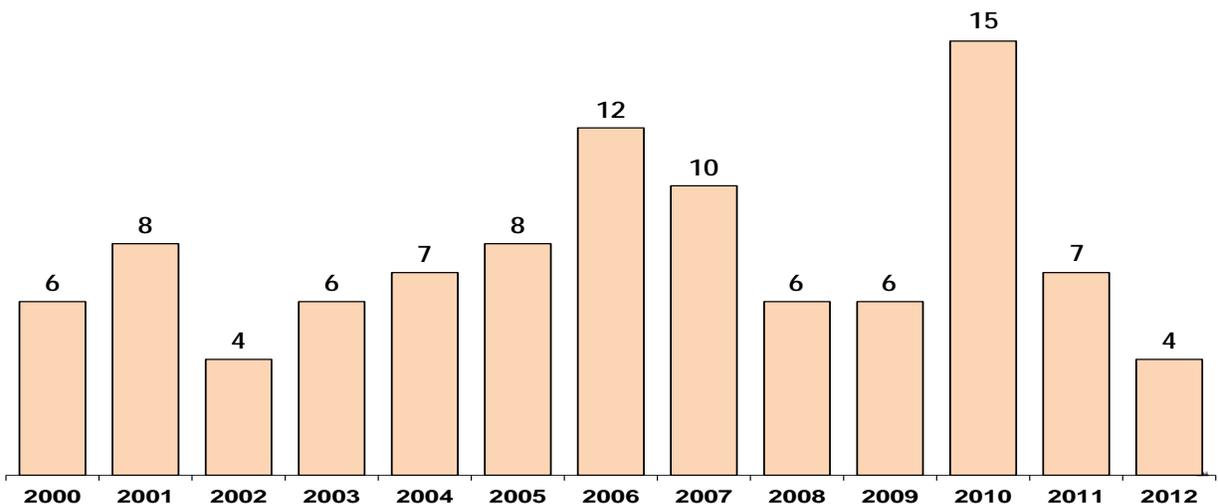


Source: DIR, Director's Office of Policy, Research and Legislation

#### *Fatal Occupational Injuries and Illnesses*

Fatal occupational injuries and illnesses in California state government averaged at 6.2 fatalities for most years from 2000 through 2012, except for increases to an average of 11 fatalities in 2006 and 2007 and to 15 fatalities in 2010.

Figure 91: California Fatal Occupational Injuries and Illnesses - State Government



Source: DIR, Director's Office of Policy, Research and Legislation

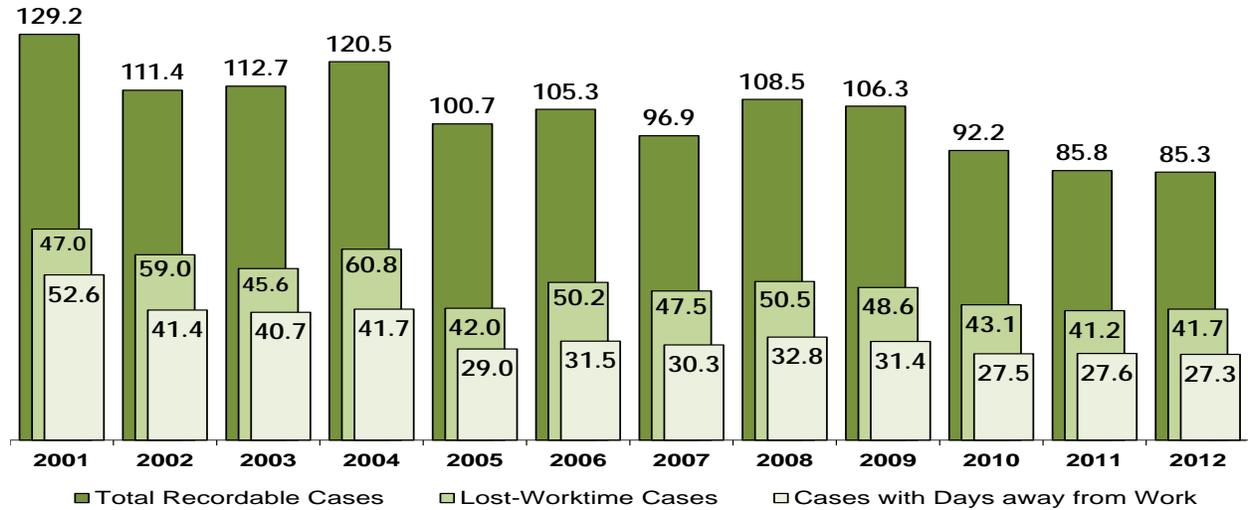
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Public Sector - Local Government

#### *Non-Fatal Occupational Injuries and Illnesses*

The total number of non-fatal occupational injuries and illnesses in local government decreased overall by 34 percent from 2001 to 2012, experiencing fluctuations from 2003 to 2008. The number of injuries and illnesses in this sector decreased from 2004 to 2005 by 16 percent, averaged 101,000 from 2005 to 2007, increased by 12 percent from 2007 to 2008, and decreased again by 21 percent to 85,300 cases from 2008 to 2012.

Figure 92: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

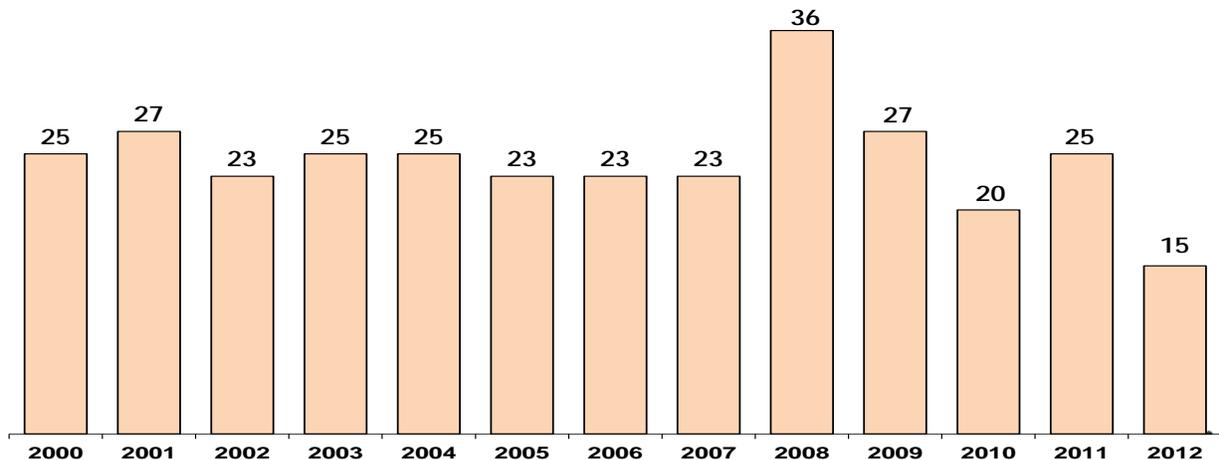


Source: DIR, Director's Office of Policy, Research and Legislation

#### *Fatal Occupational Injuries and Illnesses*

The number of fatal occupational injuries and illnesses in California's local governments averaged at 24 fatalities for the most years between 2000 and 2011, except for an increase to 36 fatalities in 2008 and a decrease to 15 fatalities in 2012.

Figure 93: California Fatal Occupational Injuries and Illnesses - Local Government



Source: BLS and DIR, Director's Office of Policy, Research and Legislation

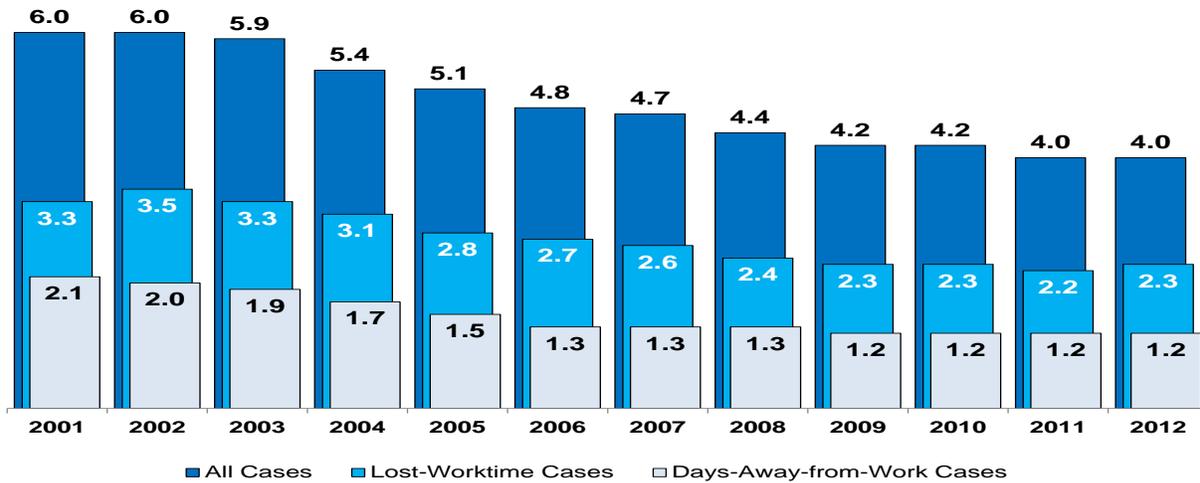
# WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

## Occupational Injury and Illness Incidence Rates

### Public and Private Sectors Compared

Overall, the incidence rates for all three types of cases in California – all cases, lost-work-time, and days-away-from-work - declined from 2001 to 2012.

Figure 94: California Occupational Injury and Illness Incidence Rates: Private, State and Local (Cases per 100 Full-Time Employees)

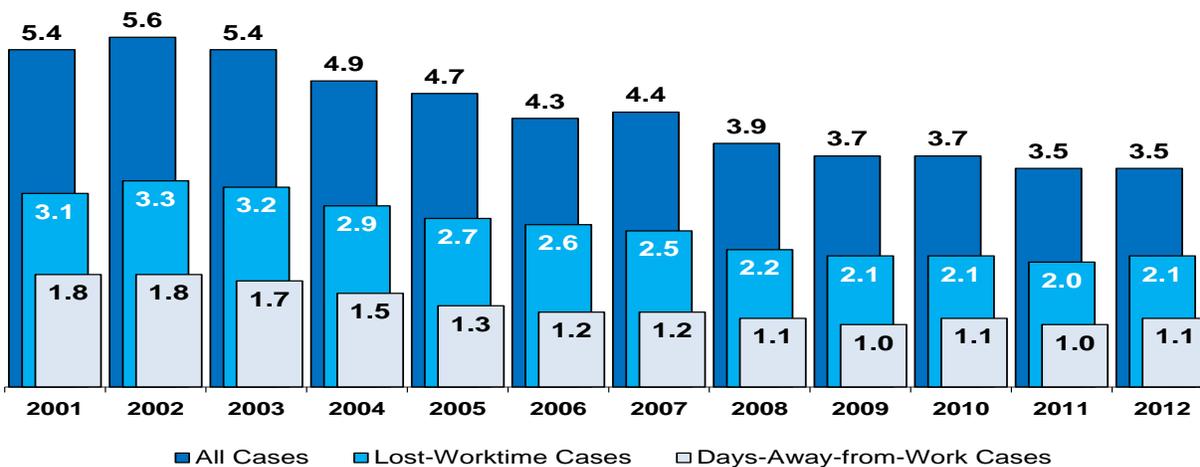


Data Source: DIR, Director's Office of Policy, Research and Legislation

### Private Sector

From 2002 to 2012, the occupational injury and illness incidence rate for all cases in California's private industry declined from 5.6 to 3.5, a decrease of 37.5 percent, the incidence rate for lost-time cases dropped by 36 percent from 3.3 to 2.1, and days-away-from-work cases decreased by 39 percent.

Figure 95: California Occupational Injury and Illness Incidence Rates: Private Industry (Cases per 100 Full-Time Employees)



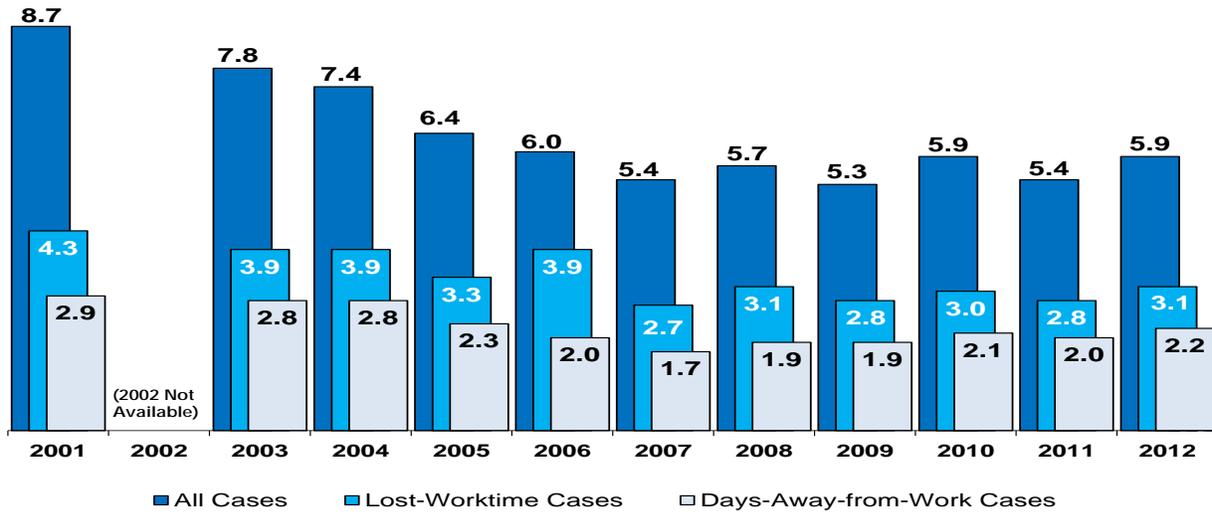
Data Source: DIR, Director's Office of Policy, Research and Legislation

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Public Sector - State Government

California state government occupational injury and illness incidence rates for all cases declined by 38 percent from 8.7 cases in 2001 to 5.4 cases per 100 full-time employees in 2007, and then fluctuated between 5.4 and 5.9 from 2007 to 2012. The incidence rate for lost-time cases averaged 3.75 from 2003 to 2006 and 2.9 from 2007 to 2012. The incidence rate for days-away-from-work cases decreased by 41 percent from 2001 to 2007 and then increased by 29 percent from 2007 to 2012.

Figure 96: California Occupational Injury and Illness Incidence Rates: State Government  
(Cases per 100 Full-Time Employees)

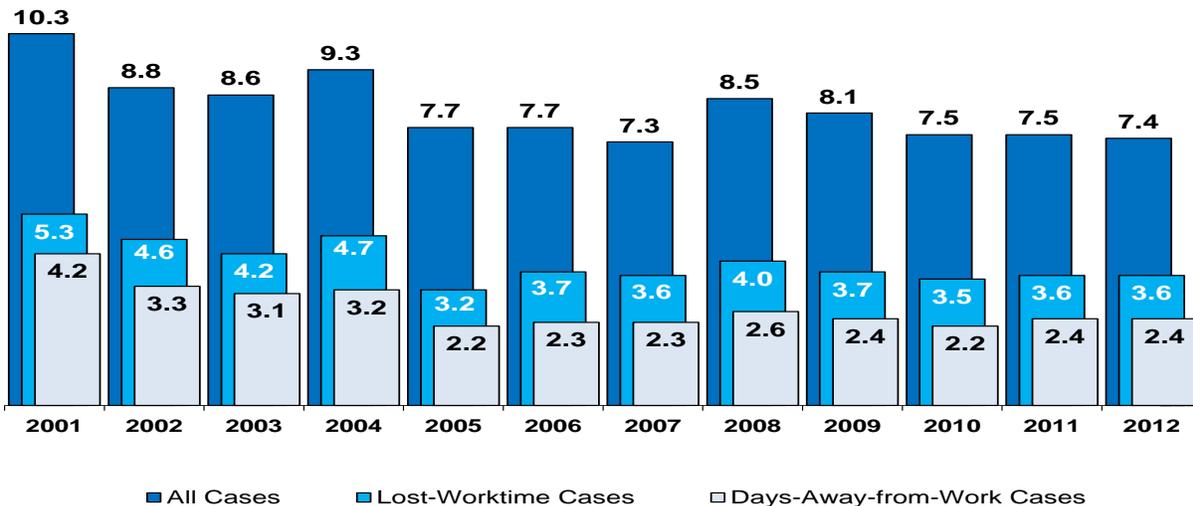


Source: DIR, Director's Office of Policy, Research and Legislation

### Public Sector – Local Government

Local government occupational injury and illness incidence rates decreased from 2001 through 2003 and then increased again in 2004. From 2004 to 2005, injury and illness rates decreased by 17 percent, remained fairly stable between 2005 and 2007, increased again by 16 percent from 2007 to 2008, and then decreased by almost 13 percent from 2008 to 2012 from 8.5 to 7.4 per 100 full-time employees.

Figure 97: California Occupational Injury and Illness Incidence Rates: Local Government  
(Cases per 100 Full-Time Employees)



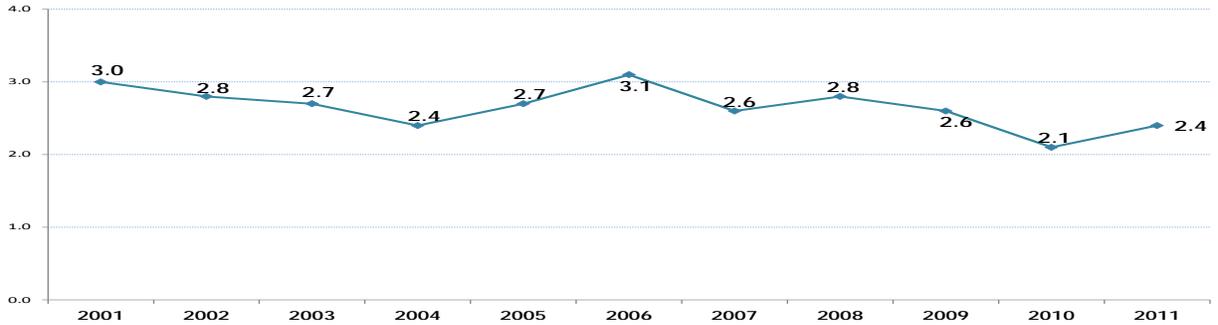
Source: DIR, Director's Office of Policy, Research and Legislation

# WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

## California Fatality Incidence Rates

Fatality per employment rates may be used to compare the risk of incurring injury among worker groups with varying employment levels. From 2001 to 2011, the fatality rates in California kept changing mostly within the range of 2.4 and 3.0 per 100,000 full-time workers.<sup>39</sup>

Figure 98: California Fatal Occupational Injuries\* – Incidence Rate\*\* (per 100,000 employed)

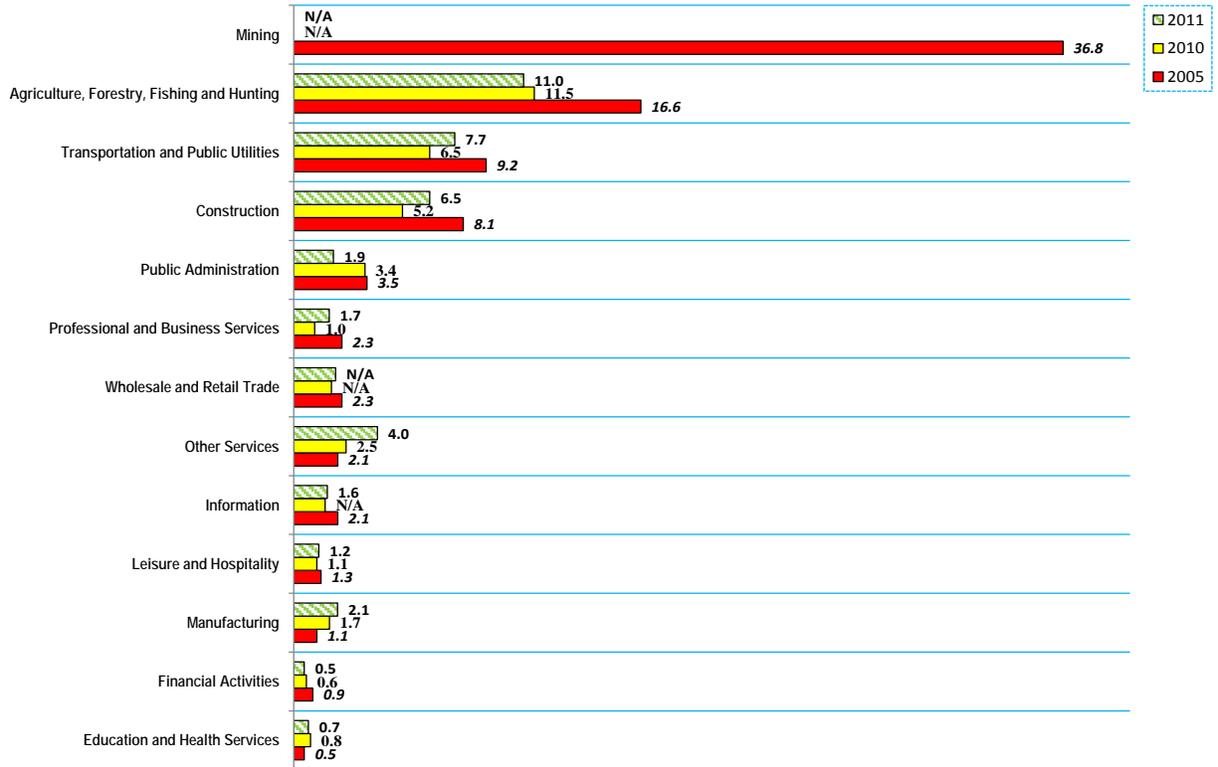


\* California Fatal Occupational Injuries exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.  
 \*\* Incidence Rates for Fatal Occupational Injuries computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries.

The figure below shows the fatality incidence rates by major industries in 2005, 2010 and 2011.

Figure 99: California Fatality Rates by Industries (per 100,000 employed), 2005, 2010, 2011



\* From 2003, classified by NAICS. Because of substantial differences between NAICS and SIC used for prior years, comparisons between prior years and 2003 and on should not be made. (Data for 2006 and 2007 unavailable)

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

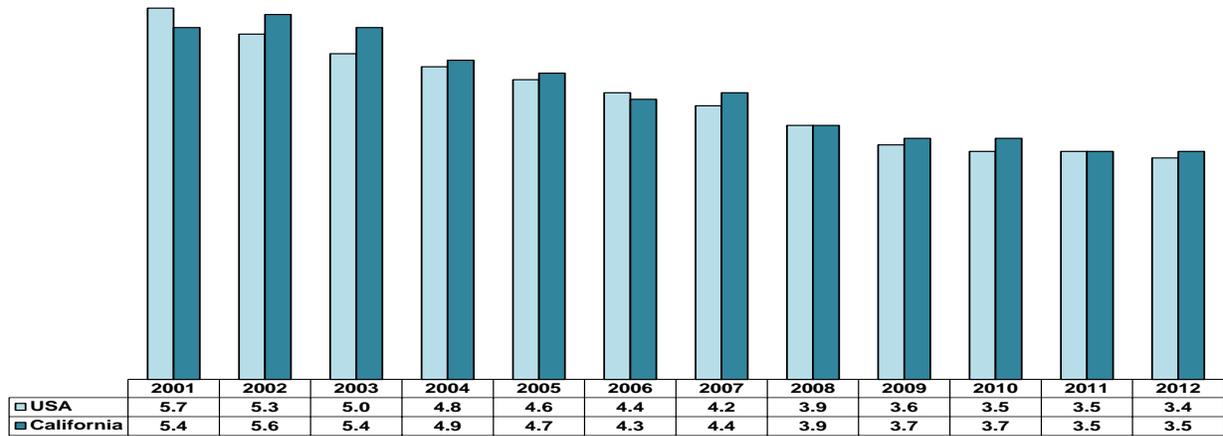
<sup>39</sup> 2011 was the latest year for which fatality incidence rates were available in 2012.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### United States and California Incidence Rates: A Comparison

Both the U.S. and California have experienced a decrease in occupational injury and illness incidence rates from 2001 through 2012. During that time, the U.S. incidence rates dropped by 40 percent and California incidence rates dropped by 35 percent. Since 2002, the incidence rate in California has been mostly above the national average.

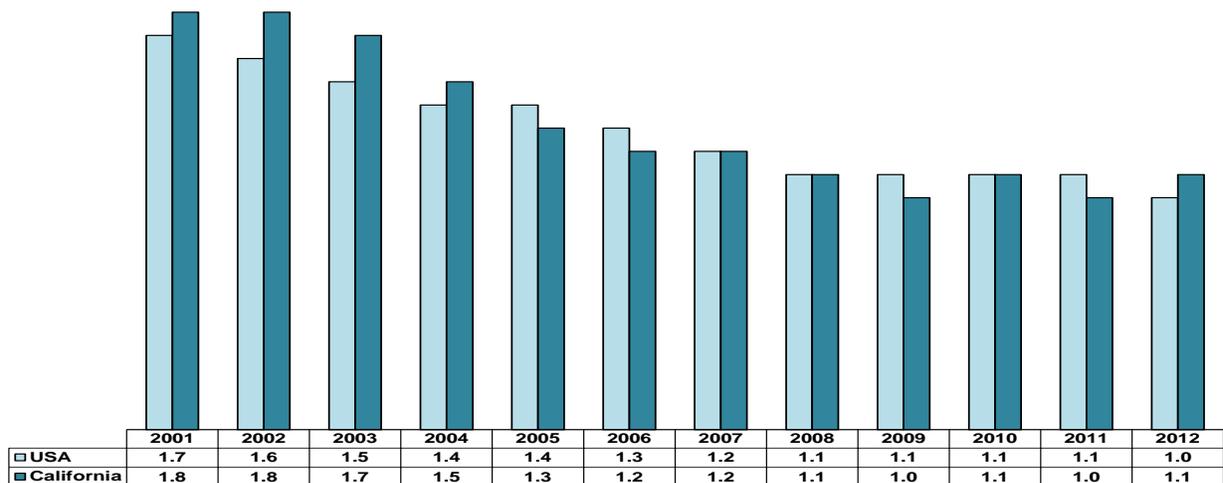
Figure 100: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry – Total Recordable Cases. USA and California



Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases has also declined in both U.S. and California from 1.7 and 1.8 correspondingly to 1.1 from 2001 through 2008. During that time, the U.S. incidence rate for cases with days away from work dropped by 35 percent, while the California rate declined by 39 percent. From 2008 to 2012 the incidence rate of occupational injury and illness days-away-from-work cases stabilized at 1.0 - 1.1 for both U.S. and California.

Figure 101: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. USA and California



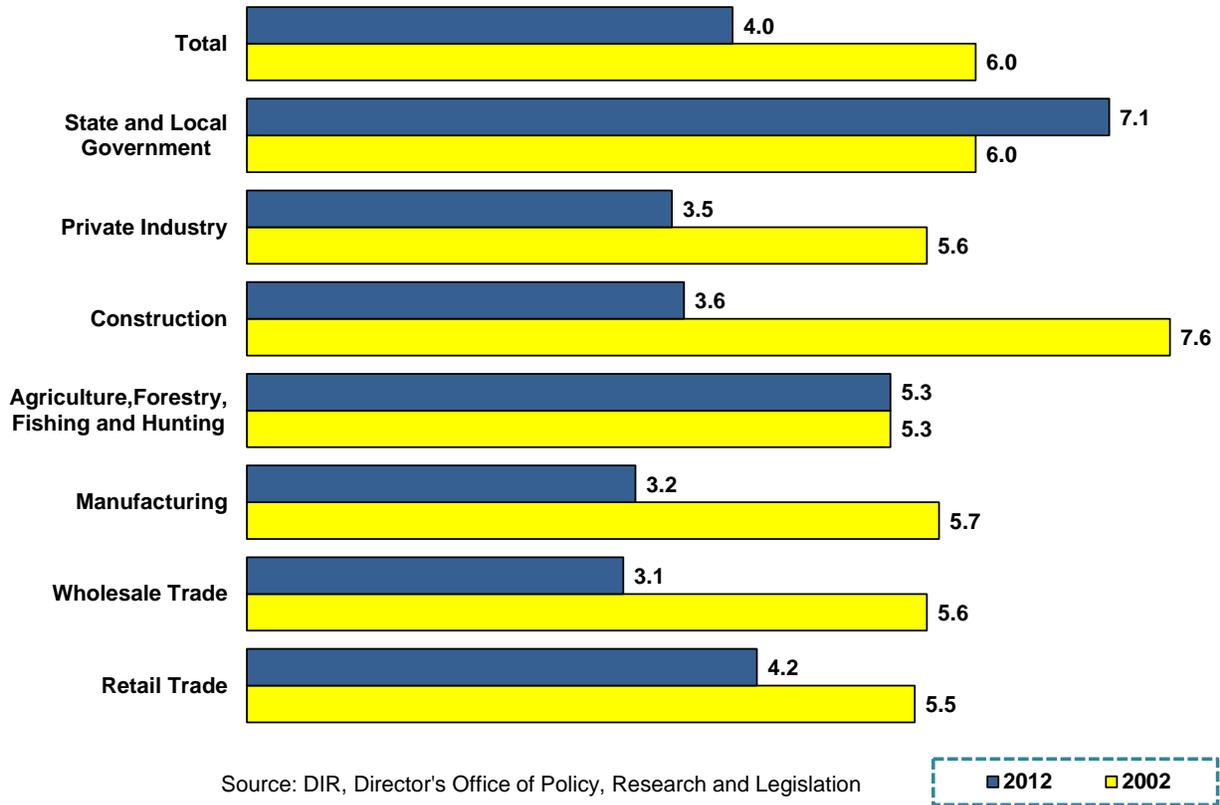
Source: US Department of Labor, Bureau of Labor Statistics

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Characteristics of California Occupational Injuries and Illnesses

This section compares incidence rates by industry in 2002 with those in 2012. The overall California occupational injury and illness incidence rates have declined, and the incidence rates in major industries have also declined. The occupational injury and illness incidence rates for state and local government increased from 6.0 to 7.1. The following figure compares incidence rates for total recordable cases in 2002 and 2012 by type of major industry including state and local government.

Figure 102: Injury Rates by Industry, 2012 vs. 2002



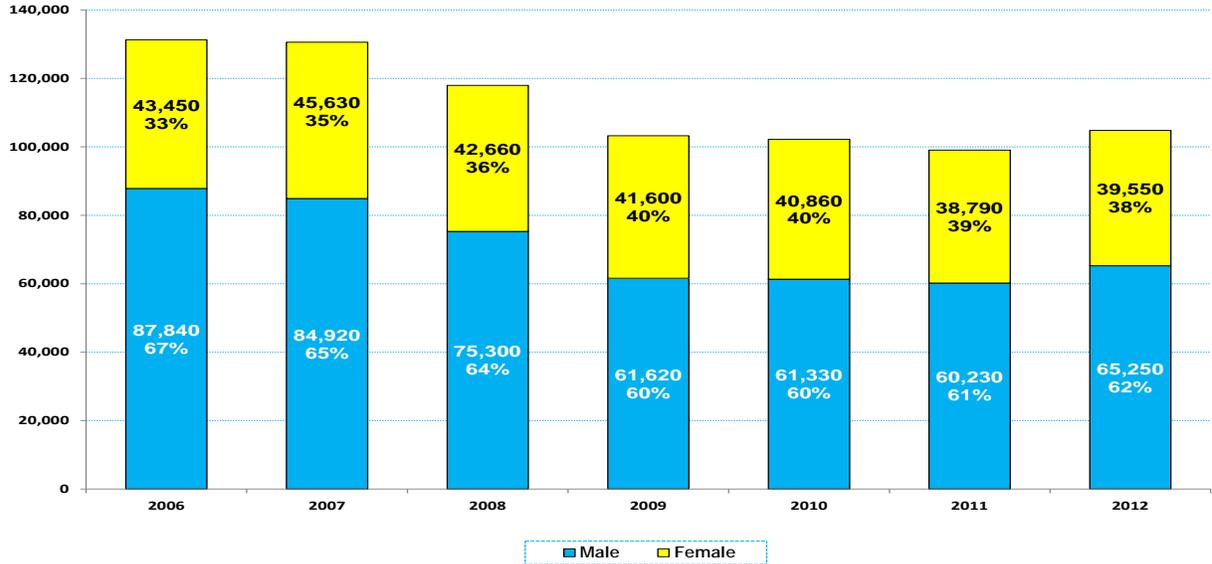
There was no change in incidence rate for agriculture, forestry, fishing, and hunting during this period, and the biggest decline in incidence rate was in construction.

# WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

## Characteristics of California Non-Fatal Occupational Injuries and Illnesses

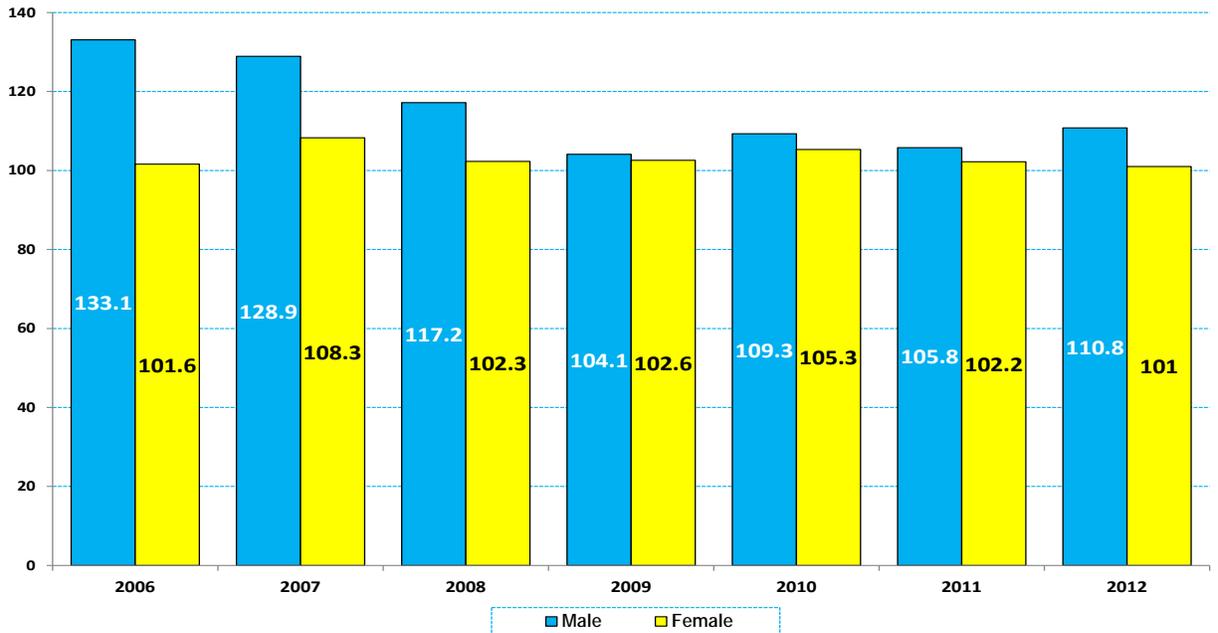
The following figures illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in California's private industry.

Figure 103: Number of Non-Fatal Occupational Injuries and Illnesses in California by Gender, Private Industry, 2006-2012



Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 104: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2006-2012 (Cases per 10,000 full-time employees)

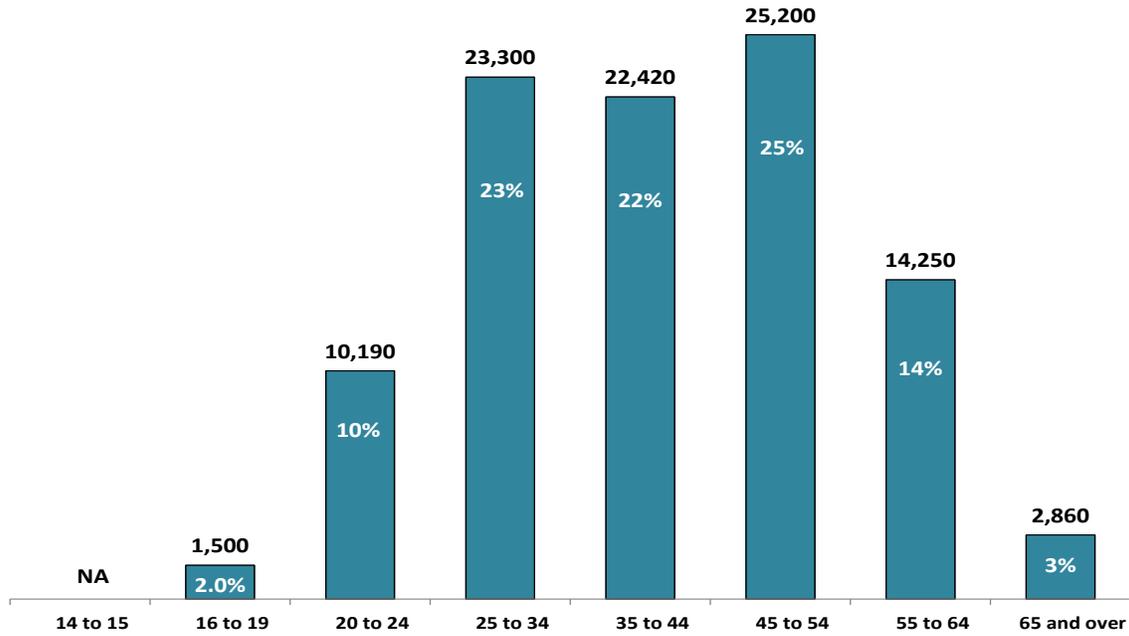


\* With days away from work with or without job transfer or restriction.

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

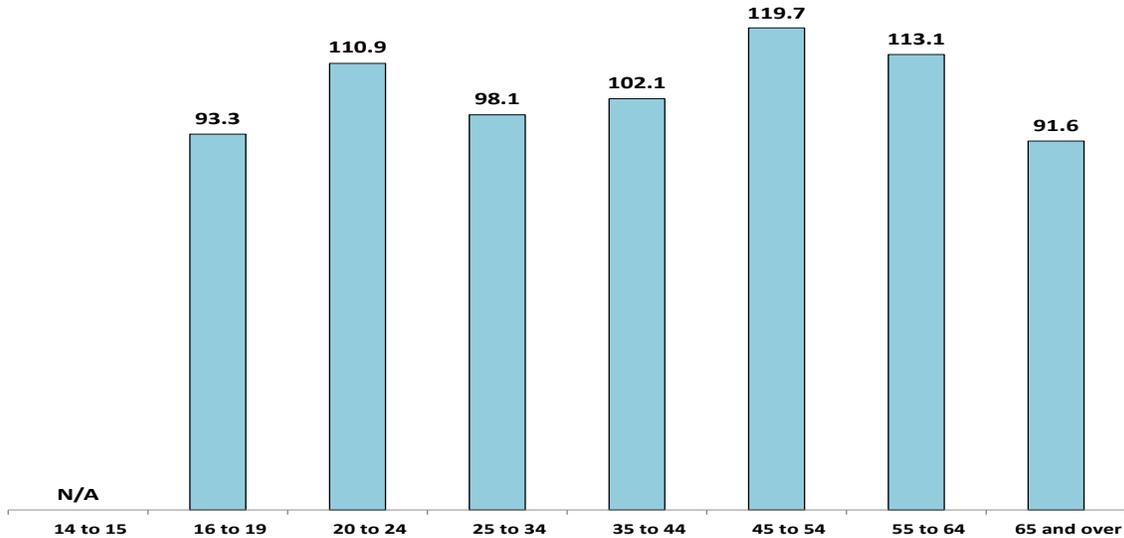
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 105: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2012



Data Source: DIR, Director's Office of Policy, Research and Legislation

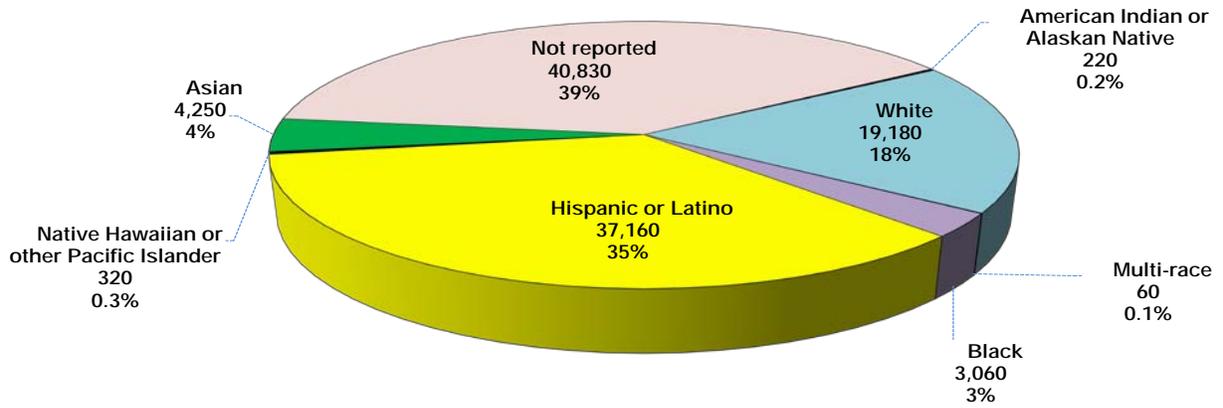
Figure 106: California Occupational Injury and Illness Incidence Rates, by Age Private Industry, 2012 (per 10,000 Full-Time Workers)



Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

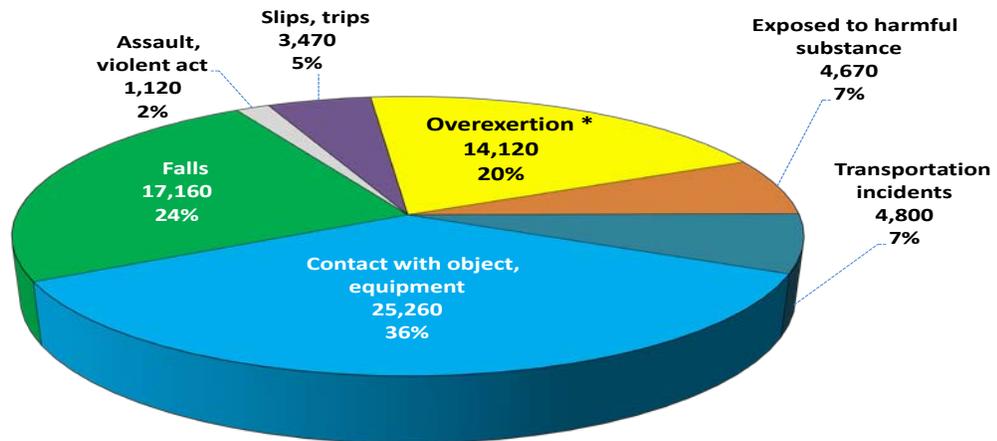
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 107: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin (Private)-2012



Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 108: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure (Private)-2012



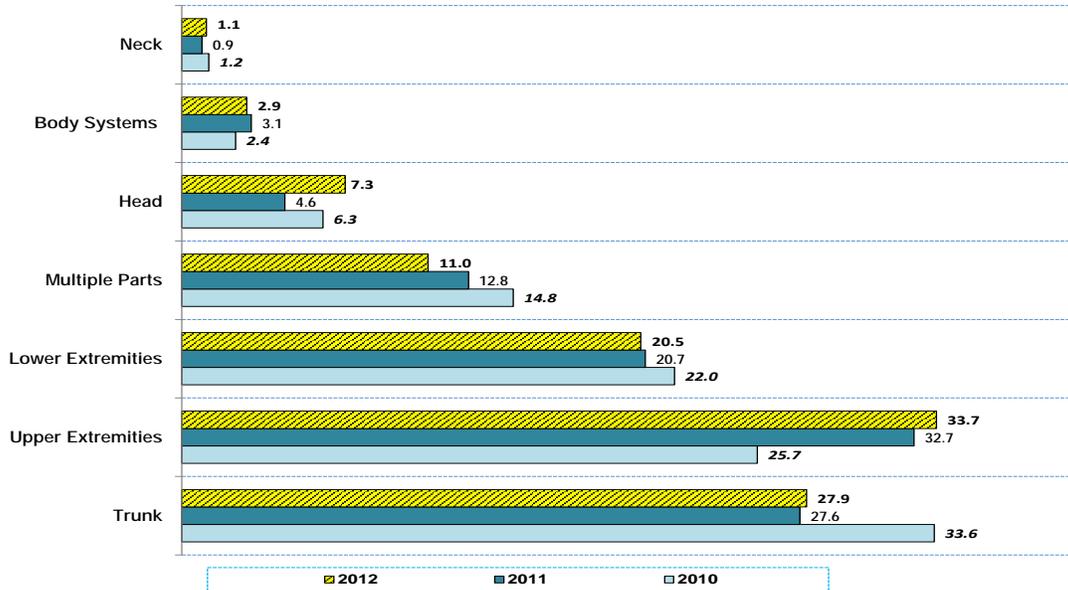
\* From 2011 and on, the "Overexertion" will be reported as "Overexertion in Lifting and Lowering".

Data Source: DIR, Director's Office of Policy, Research and Legislation

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The following figure shows that the trunk and upper extremities were the major body parts with the greatest incidence rates in 2010, 2011 and 2012.

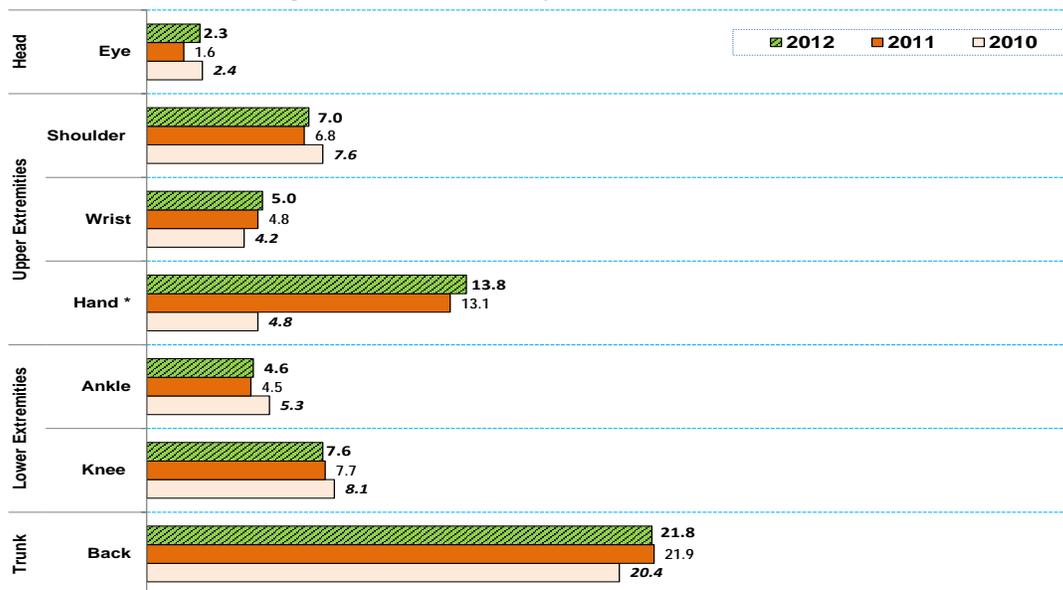
Figure 109: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2010, 2011, and 2012 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

The following figure shows that the back was the body part with the highest incidence rate in 2010, 2011 and 2012.

Figure 110: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Part Units Private Industry, 2010, 2011, and 2012 (per 10,000 Full-Time Workers)



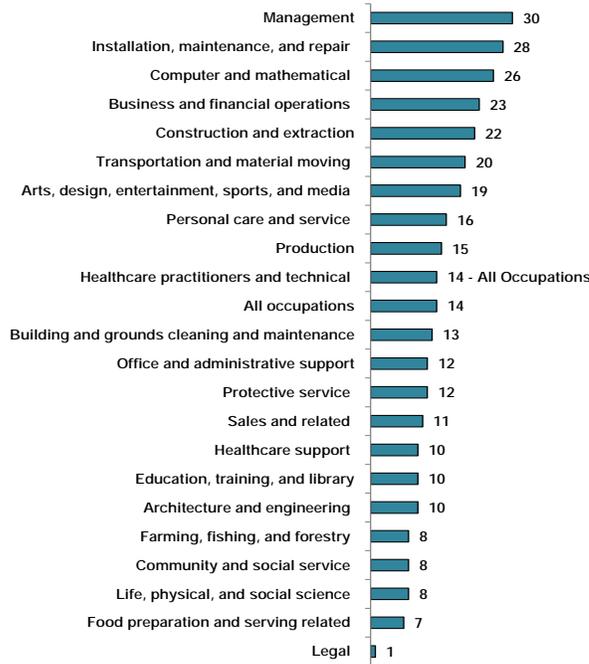
\* From 2011 and on, "Hands, except fingers" is reported as "Hand".  
 \* From 2011 and on, "Finger" is reported as a component of "Hand".

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

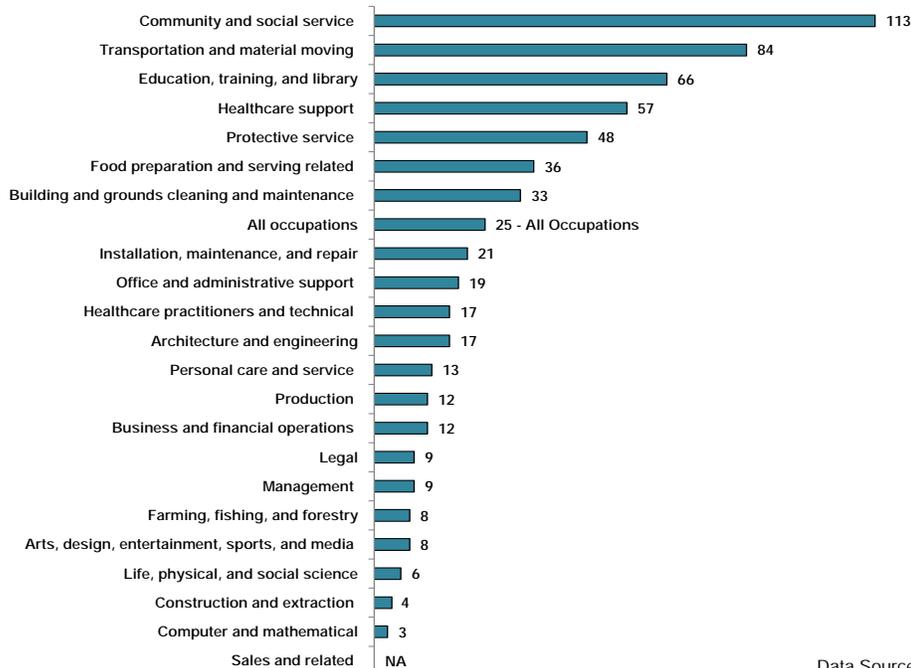
The following three figures compare the median days away from work for private industry occupations, state government occupations, and local government occupations. Management occupations for private industry, community and social services for state government, and architecture and engineering occupations for local government had the greatest median days away from work in 2012.

Figure 111: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (Private) – 2012



Data Source: DLSR

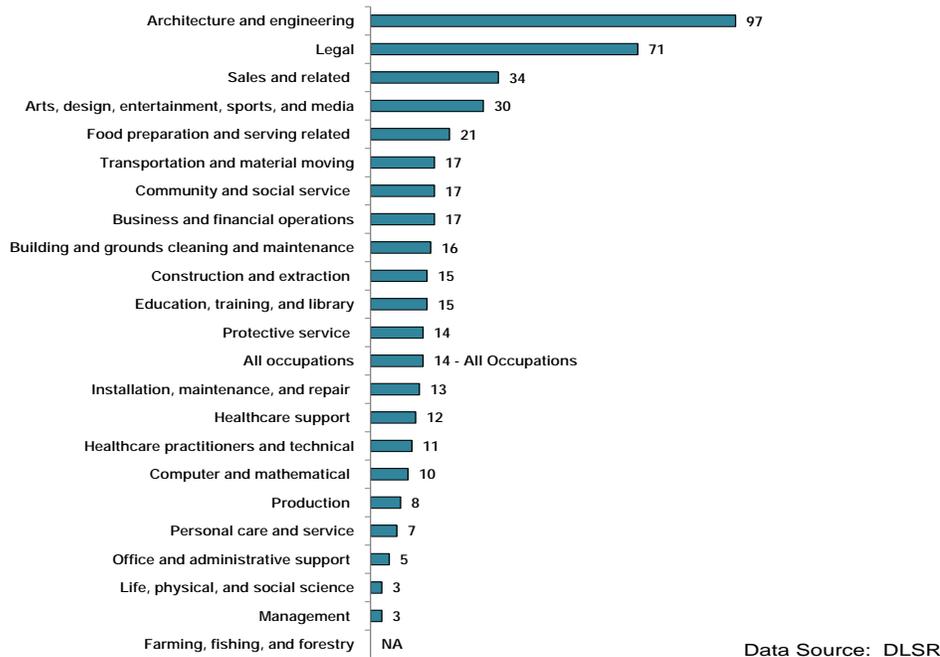
Figure 112: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (State) – 2012



Data Source: DLSR

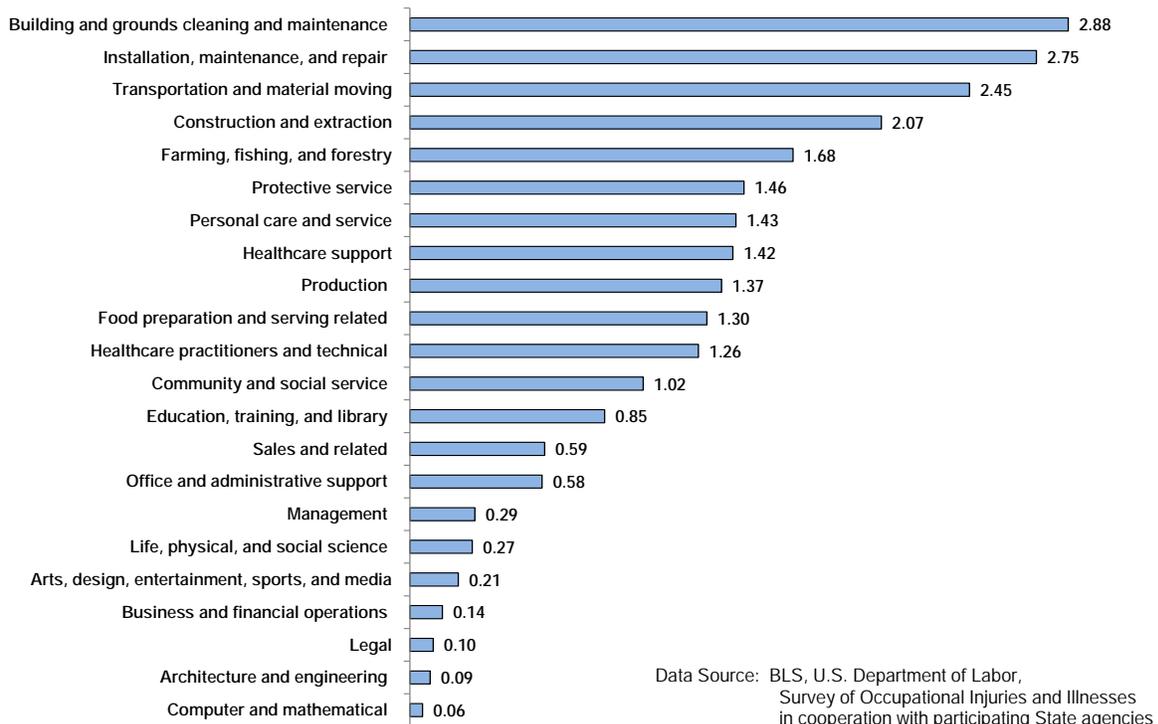
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

**Figure 113: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (Local Government) – 2012**



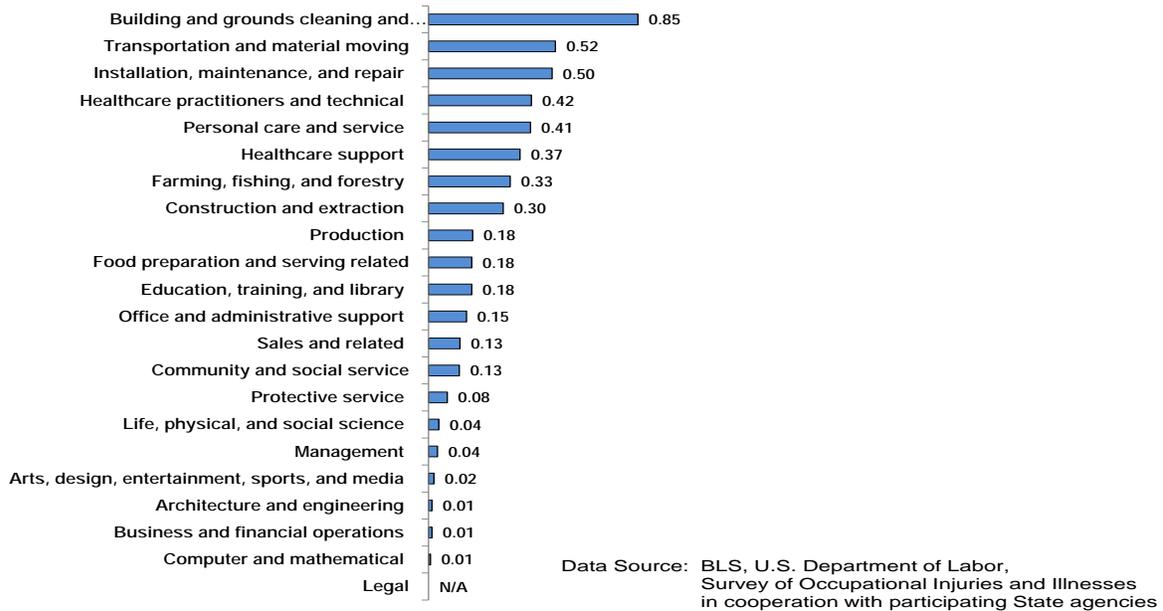
The following two figures compare the injury and illness incidence rates, including back injury, for various occupations. The building and grounds cleaning and maintenance occupations had the highest incidence rate in 2012, followed by the installation, maintenance, and repair occupations.

**Figure 114: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2012**



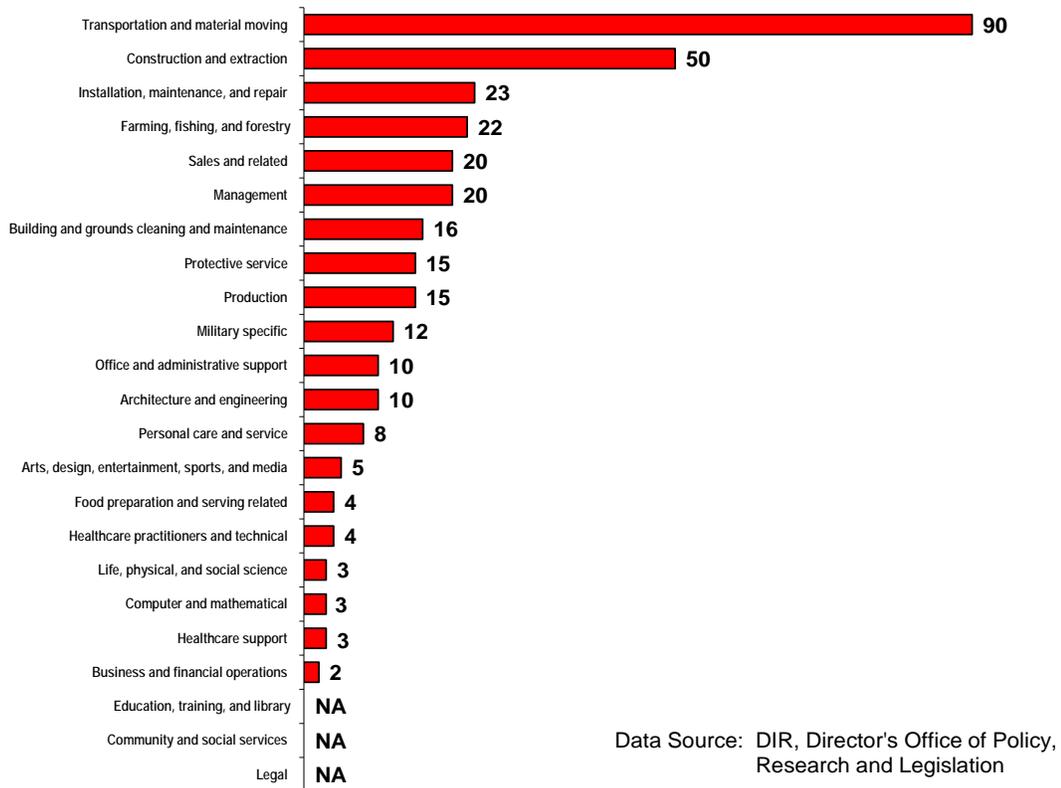
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

**Figure 115: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away From Work, 2012**



The following figure compares the number of fatalities for various occupations. The transportation and material-moving occupation had the greatest number of fatalities in 2012, followed by the construction and extraction and installation, maintenance, and repair occupations.

**Figure 116: Fatal Occupational Injuries by Selected Occupations – All Ownerships, 2012**

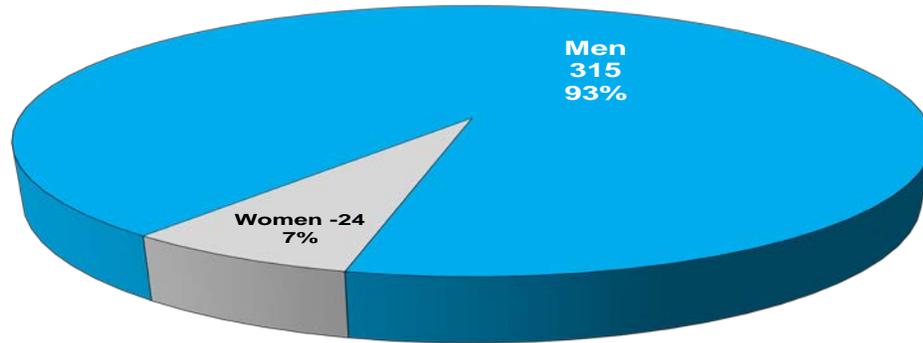


## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Characteristics of California Fatal Occupational Injuries and Illnesses

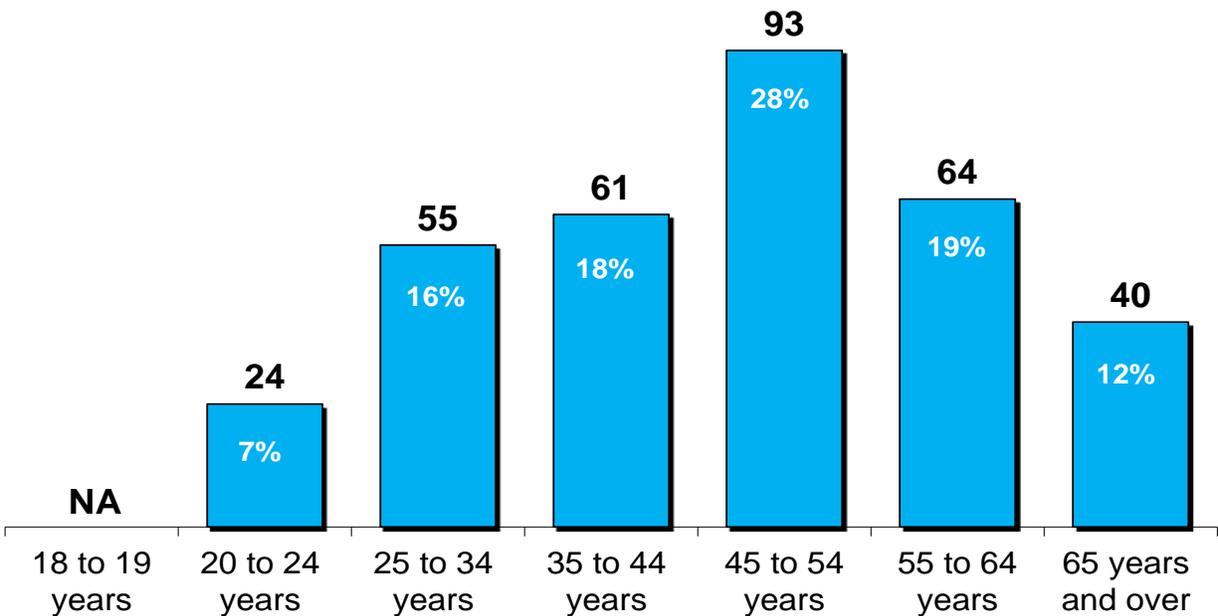
The following figures illustrate various characteristics of fatal occupational injuries and illnesses in California's private industry and federal, state and local governments.

Figure 117: California Fatal Occupational Injuries and Illnesses By Gender – 2012



Data Source: BLS

Figure 118: California Fatal Occupational Injuries and Illnesses By Age of Worker – 2012

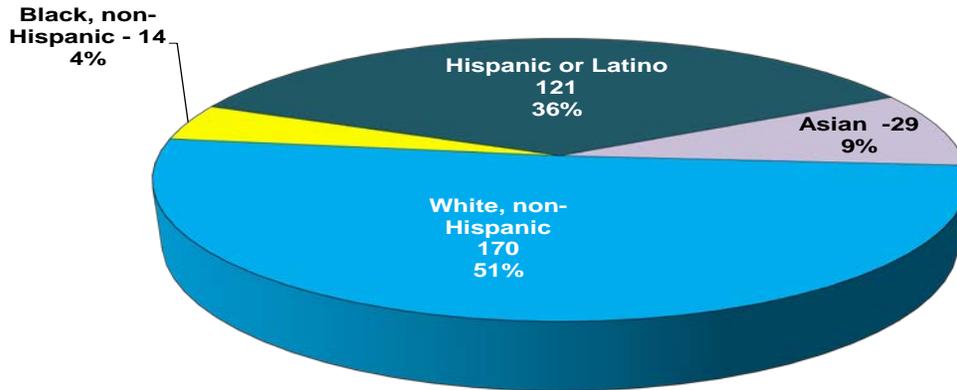


\* Preliminary data

Source: BLS

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

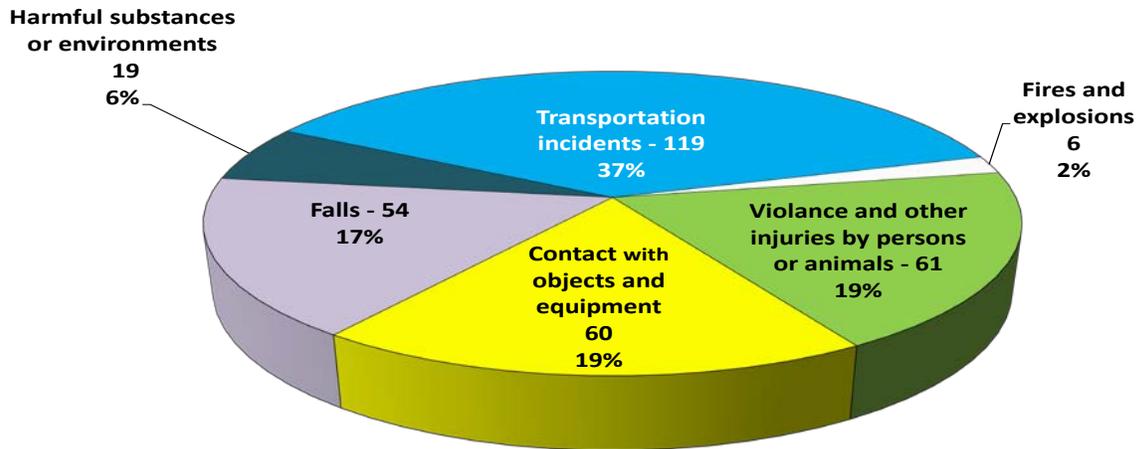
Figure 119: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin - 2012



Note: Data were not available for "Multiple Races" and "Other and Not Reported"

Data Source: BLS

Figure 120: California Fatal Occupational Injuries and Illnesses by Event and Exposure - 2012



Data Source: BLS

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, were derived from the Department of Industrial Relations (DIR), Director's Office of Policy, Research and Legislation and the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS).

#### **Incidence Rates**

- California's most recent work injury and illness statistics for 2012 indicate a non-fatal injury and illness rate of 3.5 cases per 100 full-time employees in the private sector. This is a 37.5 percent decline from the 2002 level of 5.6 and no change from the previous year's rate.
- The trend in California mirrors a national trend. DOL figures for private employers show that from 2001 to 2012, the work injury and illness rate across the U.S. fell from 5.7 to 3.4 cases per 100 employees in the private sector. The reduction in the number of incidences of job injuries is likely due to various factors including a greater emphasis on job safety and the shift from manufacturing toward service jobs.
- In contrast to the private sector rates, California's public sector decline has not been nearly as dramatic, and the incidence rates are twice as high as in the private sector. California's state and local government rate for 2012 is 7.1 cases per 100 full-time employees. This is a 28 percent decline from the 2001 level of 9.9. At the same time, the state and local government rate in California is 21 percent higher than the state and local government national rate of 5.6. In addition, both the state and local government sectors have seen some increases in incidence rates over the past five years.
- The national fatality rate decreased by 20 percent between 2007 and 2011 from 4.0 to 3.2 cases per 100,000 employed, while California's fatality rate decreased from 2.7 to 2.4 cases per 100,000 employed during the same period<sup>40</sup>. This is a 11 percent decline from the 2007 level and a 14 percent increase from the previous year.
- Of the Western region states, Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington, Arizona's (3.2), California's (3.5), and Hawaii's (3.8) private industry rates in 2012 for non-fatal occupational injuries and illnesses were the lowest.<sup>41</sup>

#### **Duration**

- Days-away-from-work cases, including those that result in days away from work with or without a job transfer or restriction, dropped from 1.8 to 1.1 cases per 100 full-time employees from 2001 to 2012 in the private sector. This also mirrors the national trend with the number of days-away-from-work cases falling from 1.7 to 1.1 cases in the national private sector during the same period. Some of this overall decline, according to BLS, may be attributed to economic factors, including a decrease in employment and total hours worked, particularly in construction and manufacturing.
- National overall days-away-from-work rate decreased from 1.2 in 2011 to 1.1 cases in 2012. California's overall days-away-from-work rate of 1.2 cases in 2012 did not change from the previous year's figure.

#### **Industry Data**

- In 2012, injury and illness incidence rates varied greatly between private industries ranging from 1.2 injuries/illnesses per 100 full-time workers in the finance and insurance industry to 5.5 in transportation and warehousing industry. California's private industry rates for total cases were higher than the national rates in every major industry division, except for agriculture, forestry, fishing and hunting (5.5 and 5.3), mining (2.1 and 1.5), construction (3.7 and 3.6), manufacturing (4.3 and 3.2), wholesale trade (3.3 and 3.1), and real estate and rental and leasing (2.9 and 2.5).

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<sup>40</sup> Beginning in 2007, the Census of Fatal Occupational Injuries (CFOI) adopted hours worked estimates to measure fatal injury risk per standardized length of exposure that is generally considered more accurate than previously used employment-based rates.

<sup>41</sup> The comparisons of industry rates have not been adjusted for industry mix within each state.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

- The private industry total case rate for non-fatal injuries of 3.5 per 100 full-time worker injuries did not change from 2011 to 2012, and the rate for the public sector (state and local government) increased by 1 percent from 7.0 in 2011 to 7.1 in 2012.
- According to the Director's Office of Policy, Research and Legislation, the largest decrease in injury and illness by major industry category was in the information industry, from 2.3 to 1.5 per 100 full-time worker injuries in 2011 and 2012 respectively, followed by a decrease in real estate and rental and leasing from 3.4 to 2.5 per 100 full-time worker injuries in 2011 and 2012, and by a decrease in finance and insurance, from 1.5 to 1.2 per 100 full-time worker injuries in 2011 and 2012.<sup>42</sup>
- According to the Director's Office of Policy, Research and Legislation, the largest increase in injury and illness by industry sectors was in educational services, from 1.8 to 2.4 per 100 full-time worker injuries in 2011 and 2012 respectively, followed by accommodation and food services with an increase from 4.2 to 5.0 per 100 full-time worker injuries in 2011 and 2012, and other services, except public administration, from 2.7 to 3.1 in 2011 and 2012.<sup>43</sup>
- Over the past decade (2002-2012), the number of fatal injuries<sup>44</sup> declined 28 percent, from 415 to 298.<sup>45</sup> From 2011 to 2012, the number of fatal injuries decreased by 4 percent. The highest number of fatal injuries was in trade, transportation and utilities (93), followed by construction (55) and natural resources and mining (30).
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2012 were: laborers and freight, stock, and material movers, hand; farm workers and laborers, crop, nursery, and greenhouse; janitors and cleaners, except maids and housekeeping cleaners; retail salespersons; heavy and tractor-trailer truck drivers; light truck or delivery services drivers; stock clerks and order fillers; maids and housekeeping cleaners; registered nurses; nursing assistants.
- In California state government, the top ten occupations with the most non-fatal injuries and illnesses in 2012 are: correctional officers and jailers; psychiatric technicians; police and sheriff's patrol officers; registered nurses; janitors and cleaners, except maids and housekeeping cleaners; first-line supervisors of correctional officers; licensed practical and licensed vocational nurses; forest and conservation workers; operating engineers and other construction equipment operators; compliance officers.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2012 are: police and sheriff's patrol officers; fire fighters; janitors and cleaners, except maids and housekeeping cleaners; bus drivers, transit and intercity; teacher assistants; first-line supervisors of firefighting and prevention workers; landscaping and grounds-keeping workers; bus drivers, school or special client; first-line supervisors of police and detectives; elementary school teachers, except special education;.
- Transportation and material moving (90), construction and extraction (50), and installation, maintenance, and repair (23), occupations accounted for 42 percent of the fatal injuries in 2012. Farming, fishing, and forestry (22); sales and related (20), management (20); building and grounds cleaning and maintenance (16), and protective services (15) were the other occupations with the most number of fatal injuries in 2012. Transportation and material-moving occupations were the number one cause of fatal injuries accounting for 23 percent of fatal injuries in 2012.
- Transportation incidents accounted for 38 percent of fatal injuries in 2012 and are a major cause of fatalities among: transportation and material moving (59); farming, fishing, and forestry (13), and construction and extraction (12) occupations.

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<sup>42</sup> DIR, Director's Office of Policy, Research and Legislation, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2010, 2011.

<sup>43</sup> Ibid.

<sup>44</sup> The Bureau of Labor Statistics' (BLS) preliminary data.

<sup>45</sup> The number of fatalities excludes the number of fatalities for the Federal government.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### ***Establishment Size and Type***

- The lowest rate for the total recordable non-fatal cases in 2012 was experienced by the smallest private employers. Employers with 1 to 10 employees and 11 to 49 employees had incidence rates of 1.6 and 3.1 cases, respectively, per 100 full-time employees. Employers with 1 to 10 employees experienced a decrease in incidence rates from 1.8 in 2011 to 1.6 in 2012. The incidence rates for employers with 11 to 49 employees increased from 3.0 in 2011 to 3.1 in 2012.
- Establishments with 50 to 249 employees reported the highest rate of 4.4 cases per 100 full-time employees, followed by 3.9 cases per 100 full-time employees for establishments with 250 to 999, and 3.7 cases per 100 full-time employees for establishments with 1,000 and more employees in 2012. Establishments with 250 to 999 employees experienced an increase in incidence rates from 4.3 to 4.4 cases per 100 full-time employees from 2011 to 2012.

### ***Types of Injuries***

- All types of work injuries declined from 2002 to 2012 in the private sector. The number of sprains, strains, and tears declined from 2002 to 2012 by 45 percent; however, these injuries remain by far the most common type of work injury accounting for 37 percent of days-away-from-work cases in the private sector in 2012. The biggest decline (82 percent) from 2002 to 2012 was in amputations. Tendonitis and carpal tunnel experienced a 77 percent and 69 percent decline, and chemical burns and corrosions experienced a 58 percent decrease between 2002 and 2012.
- In the private sector, overexertion and bodily reaction were the leading causes of days-away-from-work injuries, cited in 40 percent of days-away-from-work cases in 2012. Contact with objects, equipment was the second common cause of injury, accounting for 24 percent of injuries.
- In California state government, the two main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for about 44 and 16 percent of days-away-from-work cases, respectively, in 2012.
- In local government, the main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for 39.5 and 22 percent of days-away-from-work cases, respectively, in 2012.
- The most frequently injured body part is the back, accounting for about 15 percent of the cases in state government and 17 percent cases in local government in 2012. In the private sector, back injuries account for 20 percent of non-fatal cases.

### ***Demographics***

- Over the period from 2002 to 2012 in the California private sector, the number of days-away-from-work cases for women decreased by 36 percent. Days-away-from-work cases for men decreased by 45 percent.
- Between 2002 and 2012, in private industry, all age groups, except for 65 and over, experienced a decline in the numbers of cases with days away from work. The biggest decline (66 percent) occurred among 16 to 19 year-old workers. The age group 35 to 44 experienced a 55.5 percent decline, the age group 25 to 34 experienced a 54 percent decrease, and the age group 20 to 24 experienced 49 percent decrease in the numbers of cases with days away from work. There was a 1.6 percent increase in the numbers of cases with days away from work in age group 65 and over.
- In 2012, out of 339 fatalities (including the Federal government), approximately 93 percent were male and 7 percent were female. Compared to 2002, the biggest decrease in the number of fatalities (60 percent) was seen in the 35 to 44 age group (from 151 to 61 cases), followed by a 40 percent decrease in the age group 25 to 34 (from 92 to 55 cases), a decrease of 33 percent from 36 to 24 cases in the age group 20 to 24, and a 1 percent decrease from 94 to 93 in age group 45 to 54. The age group that experienced increase in number of fatalities was 55 to 64 (14 percent increase). There was no change in age group 65 and over.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

- The highest number of fatalities in 2012 by race or ethnic origin categories was experienced by “White, non-Hispanic” and “Hispanic or Latino” groups, accounting for 48 and 40 percent of the fatalities respectively. From 2002 to 2012, there was a decrease in fatal injuries for all ethnic groups with the highest decrease of 52 percent in “Black or African-American (non-Hispanic)” group (from 29 to 14 cases), followed by a 31 percent decrease in “Hispanic or Latino” group (from 176 to 121 cases), a 28 percent decrease (from 237 to 170 cases) in “White (non-Hispanic)” group, and 6.5 percent decrease (from 31 to 29) in “Asian (non-Hispanic)” group.

### ***Occupational Injury and Illness Reporting***

Occupational injury and illness information is the responsibility of BLS within the U.S. and DOL and the Director's Office of Policy, Research and Legislation within the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by DOL with the assistance of DIR.

#### *OSHA Reporting and Recording Requirements*

The U.S. Occupational Safety and Health Act (OSH Act) of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in DOL administers the OSH Act recordkeeping system.

Although there are exemptions for some employers from keeping Cal/OSHA injury and illness records, all California employers must report injuries to the Director's Office of Policy, Research and Legislation. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA within DIR.

The data assist employers, employees and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the *BLS Annual Survey of Occupational Injuries and Illnesses* and the *OSHA Occupational Injury and Illness Survey*.

#### *BLS Annual Survey of Occupational Injuries and Illnesses*

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses are derived from this survey. In California, the DIR Director's Office of Policy, Research and Legislation conducts the survey for BLS.

#### *Non-Fatal Injuries and Illnesses*

The *BLS Annual Survey* develops frequency counts and incidence rates by industry and also profiles worker and case characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

#### *Fatal Injuries and Illnesses*

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify and profile fatal work injuries.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### *OSHA Occupational Injury and Illness Survey*

Federal OSHA administers the annual *Occupational Injury and Illness Survey*. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to those employers who have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

### ***Occupational Injury and Illness Prevention Efforts***

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses to improve worker health and safety.

#### *Cal/OSHA Program*

The Cal/OSHA Program is responsible for enforcing California laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries. There are 22 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Specialized enforcement units, such as the High Hazard Compliance Unit, augment the efforts of district offices in protecting California workers from workplace hazards in high hazard industries.

Other specialized units, such as the Crane Certifier Accreditation Unit, the Asbestos Contractors' Registration Unit, the Asbestos Consultant and Site Surveillance Technician Unit, and the Asbestos Trainers Approval Unit, are responsible for enforcing regulations pertaining to crane safety and prevention of asbestos exposure.

The Cal/OSHA Consultation Service provides assistance to employers and workers about workplace safety and health issues through on-site assistance, high hazard consultation, and other special emphasis programs. The Consultation Service also develops educational materials on workplace safety and health topics.

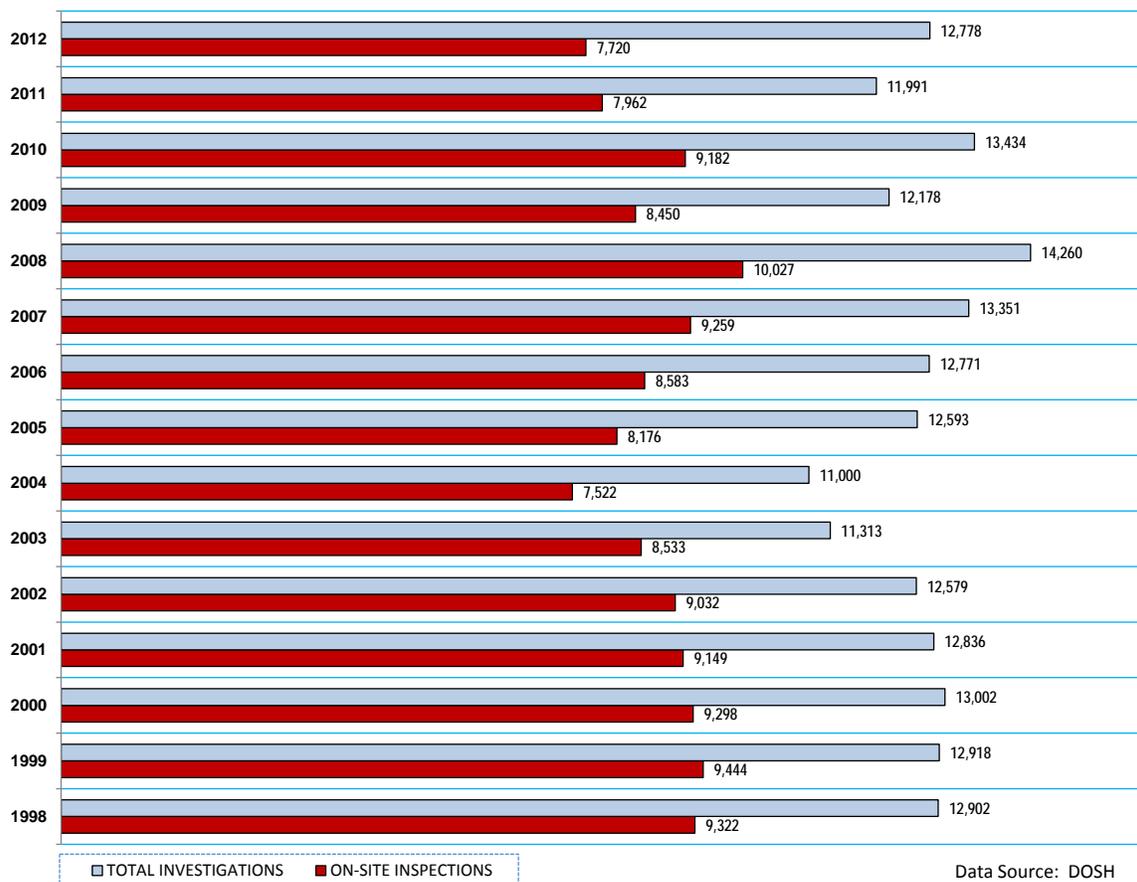
## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### Profile of Division of Occupational Safety and Health (DOSH) On-Site Inspections and Violations Cited

The trends in types of inspections have varied in the past few years, with Accidents and Complaints being consistently predominant. However, starting in fiscal year (FY) 2006, Programmed Inspections started to reach higher levels as compared to Accidents and Complaints.

The following figure shows the total numbers of investigations and on-site inspections for the period from calendar year CY 1998 through 2012.<sup>46</sup> The total number of investigations averaged 12,850, and the number of on-site inspections averaged 9,250 from 1998 to 2002. From 2002 to 2004, there was a decrease in both the number of investigations (14 percent) and the number of on-site inspections (20 percent). From 2004 to 2008, there was a 29.6 percent increase in investigations and a 33 percent increase in the number of on-site inspections. After a 17 percent decrease from 2008 to 2009, the total number of investigations went up and then down within the range of 12,000 to 13,500, from 2009 to 2012. The number of on-site inspections showed an overall decrease of 9 percent from 2008 to 2012.

Figure 121: Numbers of DOSH Investigations and On-Site Inspections, 1998 - 2012



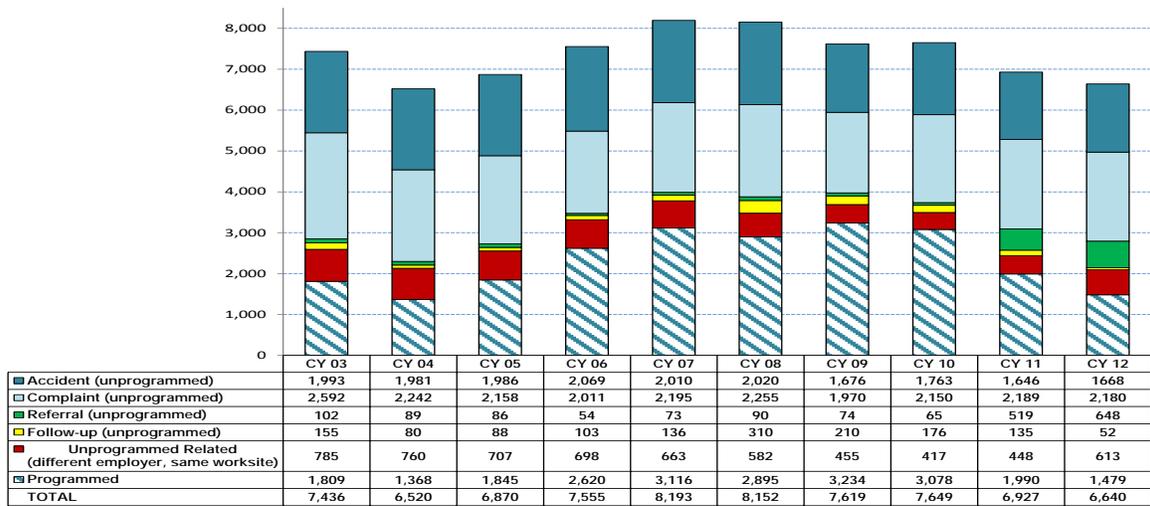
The figure below shows that after the decrease from CY 2003 to 2004, the total number of inspections increased from 6,520 in CY 2004 to 8,193 in CY 2007, and then decreased to 6,640 in CY 2012. From 50 to 60 percent of all inspections are triggered by accidents and complaints, and from 20 to 40 percent are programmed by DOSH. On average, every year, from 80 to 90 percent of total inspections are comprised

<sup>46</sup> The numbers of investigations, on-site inspections and violations for calendar years could differ from the fiscal year numbers provided later in this section.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

of programmed inspections and inspections triggered by complaints and accidents. Inspections triggered by accidents averaged 2,010 per year from CY 2003 to CY 2008, and 1,700 inspections per year from CY 2009 to CY 2012 due to 17 percent decrease of this type of inspections from CY 2008 to CY 2009. Inspections triggered by complaints averaged 2,200 inspections per year from 2003 to 2012 (approximately 30 percent of all inspections). Programmed inspections increased by 136 percent from CY 2004 to CY 2009, thereby increasing its share in all inspections from 21 percent in CY 2004 to 42 percent in CY 2009. From CY 2009 to CY 2012, the number of programmed inspections decreased by 54 percent, thereby decreasing the share of this type of inspections in total inspections to CY 2004 level (22 percent).

Figure 122: DOSH Inspections by Type (All -With and Without Violations)\*, CY 2003 - CY 2012

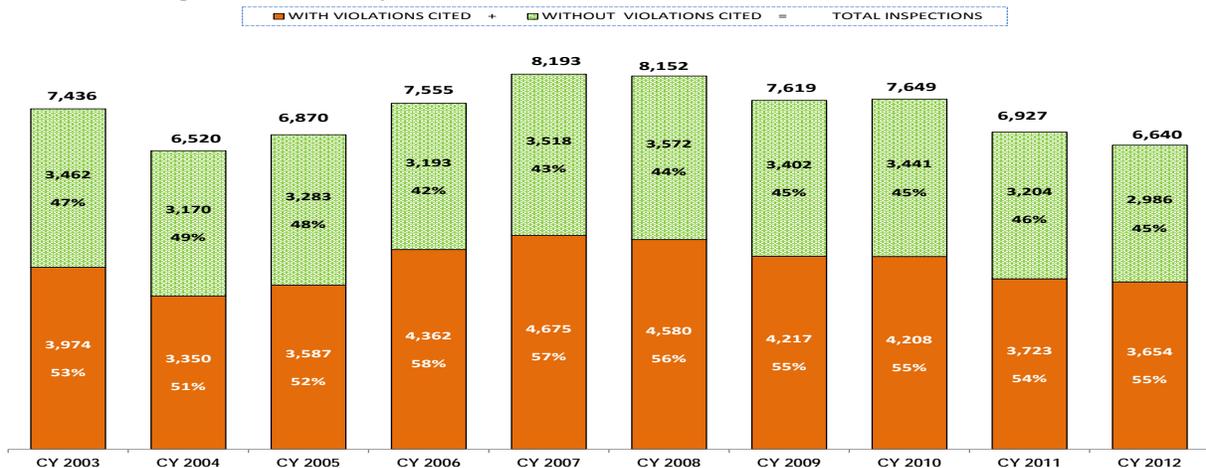


\* Report run on May 15, 2013

Source: DIR - DOSH-IMIS

According to the figure below, the total number of inspections decreased by 12 percent from CY 2003 to 2004, increased by 26 percent from CY 2004 to CY 2007, and then decreased overall by 19 percent to its CY 2004 level. On average, from CY 2003 to CY 2012, about 55 percent of inspections resulted in violations cited yearly.

Figure 123: DOSH Inspections (With and Without Violations Cited)\*, CY 2003 - CY 2012



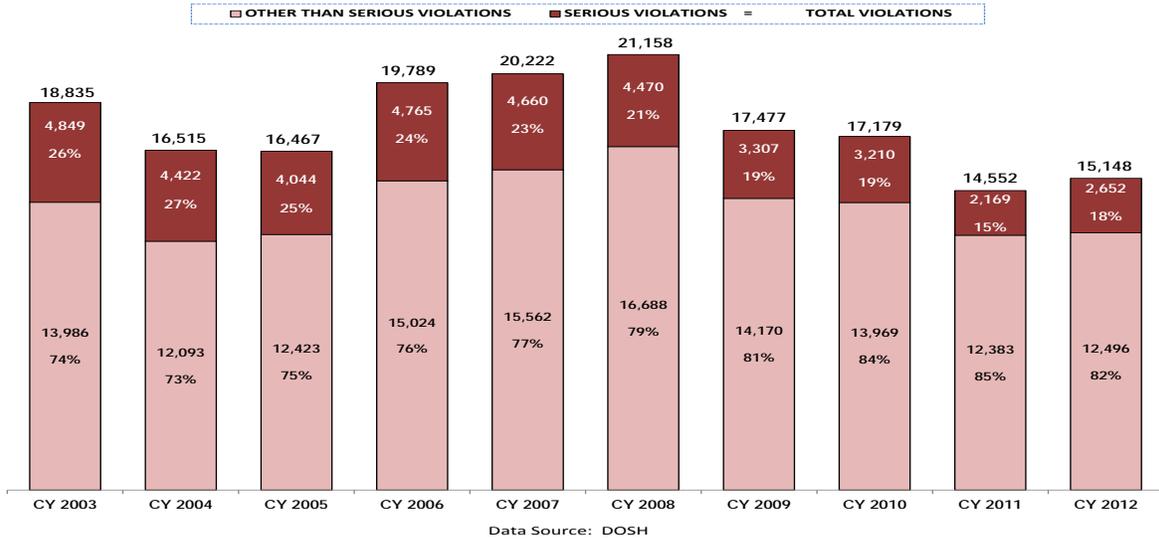
\* Report run on May 15, 2013

Data Source: DOSH-IMIS

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

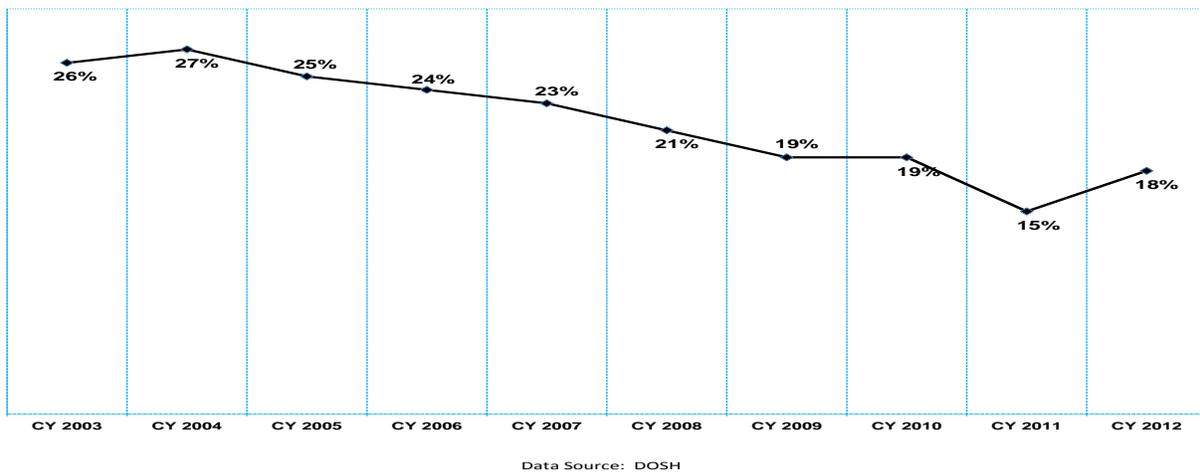
The number of violations is greater than inspections due to the fact that most inspections where violations occur yield more than one violation. Violations are further broken down into serious and other-than-serious. The total number of DOSH violations and their breakdown by type from CY 2003 to CY 2012 are shown in the figure below. The total number of violations decreased by 13 percent from 2003 to 2005, increased by 28.5 percent from 2005 to 2008, and then decreased again by 31 percent from 2008 to 2011. There was a slight increase of 4 percent in the total number of DOSH violations from CY 2011 to CY 2012. As the figure below shows, the number of serious violations decreased by 17 percent from CY 2003 to CY 2005, increased back to CY 2003 level from CY 2005 to 2006, decreased by 54 percent from 2006 to 2011, and then increased by 22 percent from 2011 to 2012. (See pages 175-176 for OSHA statistics on the number of appeals of DOSH violations that were filed and resolved.)

**Figure 124: DOSH Violations (Serious and Other Than Serious), CY 2003 – CY 2012**



The figure below shows the trend in the share of serious DOSH violations in the total number of all violations from 2003 to 2012. The share of serious DOSH violations gradually decreased from 27 percent in 2004 to 15 percent in 2011. From 2011 to 2012, the share of serious violations in total DOSH violations increased by 3 percentage points.

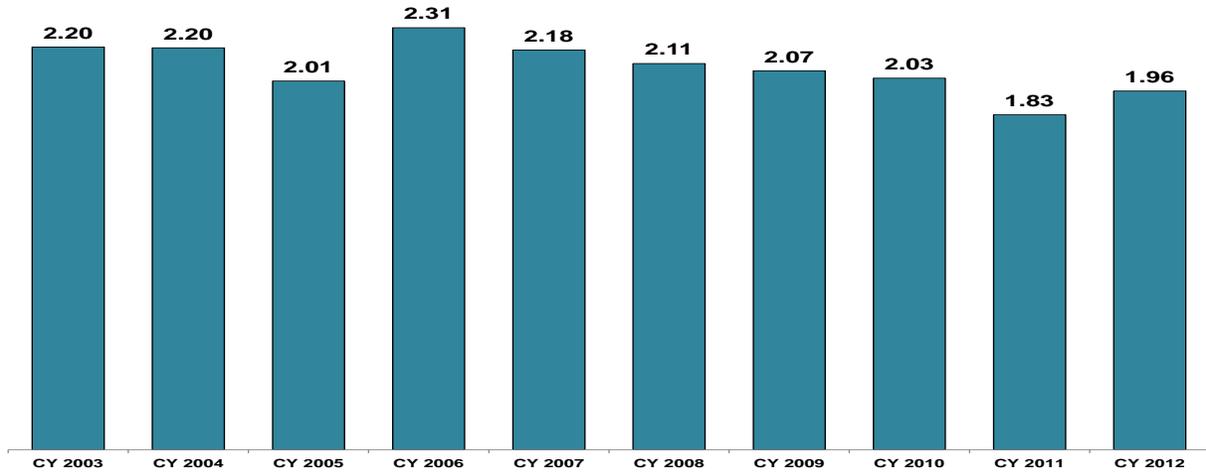
**Figure 125: Percent of Serious Violations in Total DOSH Violations, CY 2003 – CY 2012**



## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The average number of DOSH violations per inspection averaged 2.1 from CY 2003 to 2010, fell to 1.83 from CY 2010 to 2011, and stayed at lower than the 2.0 level in CY 2012.

Figure 126: Average Number of DOSH Violations per Inspection, CY 2001 – 2012



Data Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

**Table 49: Twenty-Five Most Frequently Cited Title 8 California Code of Regulations (CCR) Standards in CY 2012**

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	1709	80	4.7
3395	Heat Illness Prevention	1379	75	5.4
1509	Construction Injury Prevention Program	792	18	2.3
3314	Clean, Repair, Service and Adjust Prime Movers, Machinery and Equipment	522	168	32.2
5194	Hazard Communication	515	16	3.1
342	Reporting Work Fatality or Serious Injury	492	2	0.4
5144	Respiratory Protection Equipment	338	11	3.3
6151	Portable Fire Extinguishers	321	0	0
5162	Emergency Eyewash and Shower	253	70	27.7
461	Permits to Operate Air Tanks	238	0	0
3457	Field Sanitation	220	5	2.3
2340.016	Work Space About Electric Equipment	211	2	0.9
3276	Portable Ladders	208	43	20.7
1512	Construction: Emergency Medical Services	196	0	0
3650	Industrial Trucks: General Requirements	177	48	27.1
3668	Powered Industrial Truck Operator Training	166	8	4.8
3328	Safe Practices, Personal Protection: Machinery and Equipment	158	45	28.5
5189	Process Safety Management of Acutely Hazardous Substance	146	7	4.8
2500.008	Flexible Electrical Cords and Cables: Uses Not Permitted	140	1	0.7
5157	Permit-Required Confined Spaces	137	31	22.6
1644	Metal Scaffolds	133	56	42.1
4650	Compressed Gas and Air Cylinders: Storage, Handling, and Use	132	27	20.5
5193	Bloodborne Pathogens	131	20	15.3
3241	General Physical Conditions and Structures: Special Design Requirements, Live Loads	117	11	9.4
3577	Use, Care, and Protection of Abrasive Wheels: Protection Devices	116	57	49.1

Note: "Serious" includes Serious, Willful, and Repeat Violations

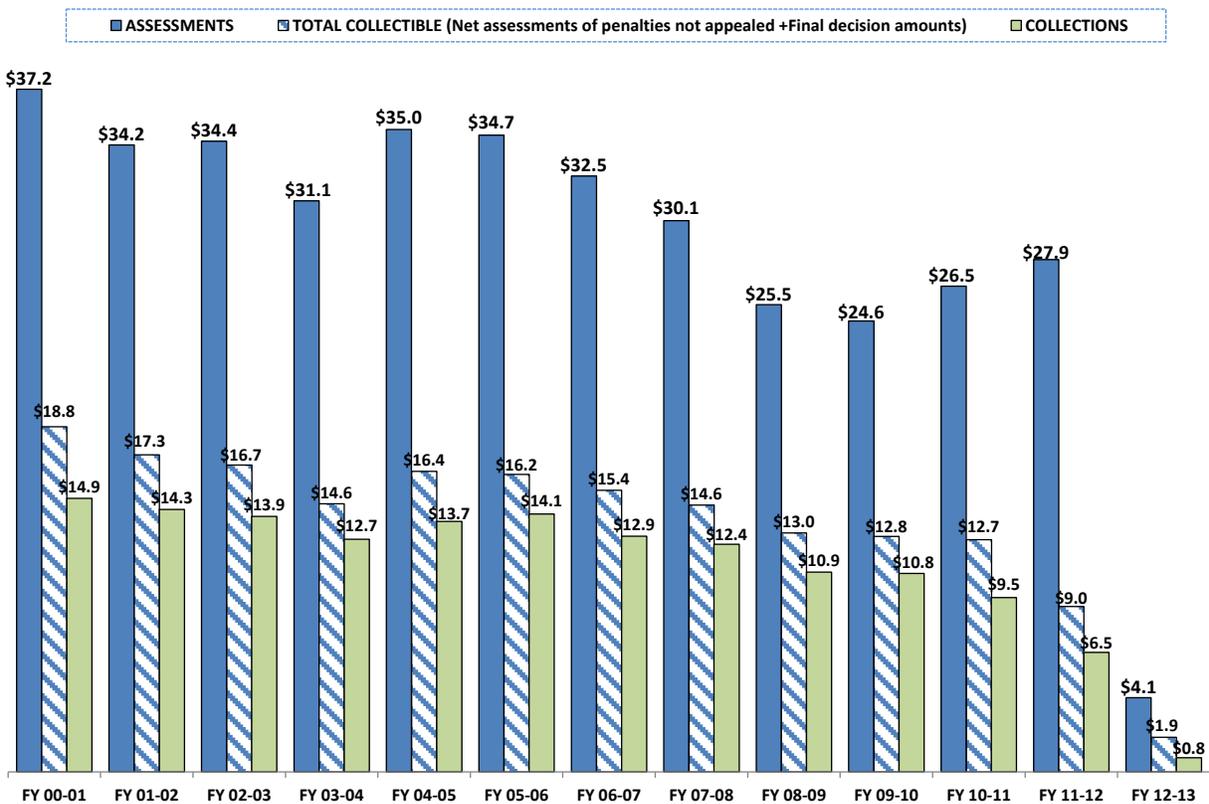
Data Source: DOSH Budget and Program Office

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The figure below demonstrates the trends in penalties and collections. Total Penalties Assessed was \$27.9 million in FY 2011-2012. Many employers appeal those “recommended” penalties at the Cal/OSHA Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have the penalties eliminated due to procedural issues. Because of the appeals process, Penalties Collected will almost always be less than the initial recommended Penalties Assessed. Total Collections were \$0.8 million in FY 2012-2013.

Although the figure below demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. Nevertheless, the data do give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

**Figure 127: Total DOSH Penalties Assessed and Collected, FY 2000-01 - FY 2012-13  
(Million \$)**

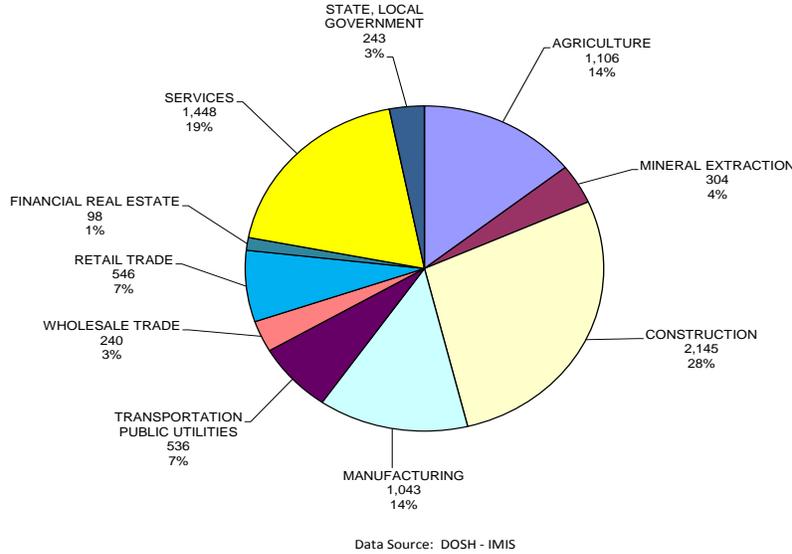


Data Source: DOSH

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

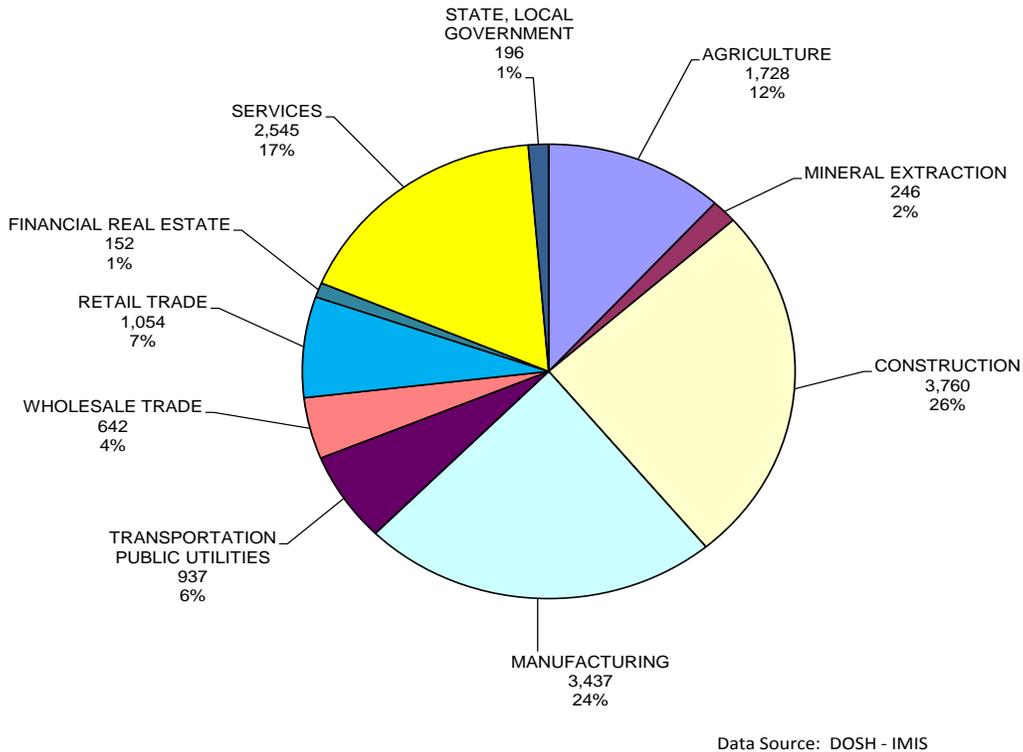
The figure below illustrates the proportion of inspections in major industrial groups. Of the 7,709 workplace health and safety inspections conducted in CY 2012, 2,145 (28 percent) were in construction and 5,564 (72 percent) were in non-construction.

**Figure 128: Distribution of Inspections by Major Industry, State CY 2012  
(Total Inspections=7,709)**



As shown in the figure below, corresponding to the fact that the greatest percentage of inspections was in construction, the greatest percentage (26 percent) of violations was found in construction as well.

**Figure 129: Distribution of Violations by Major Industry, State CY 2012  
(Total Violations=14,697)**



## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### **High Hazard Identification, Consultation and Compliance Programs**

Even though a statutory mandate no longer exists, the Division of Occupational Safety and Health (DOSH) reports annually on the activities of the constituent parts of the High Hazard Employer Program, specifically the High Hazard Consultation Program and the High Hazard Enforcement Program.

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

#### *High Hazard Employer Program*

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to those employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

In 1999, the passage of Assembly Bill (AB) 1655 gave DIR the statutory authority to levy and collect assessments from employers to support the targeted inspection and consultation programs on an ongoing annual basis.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

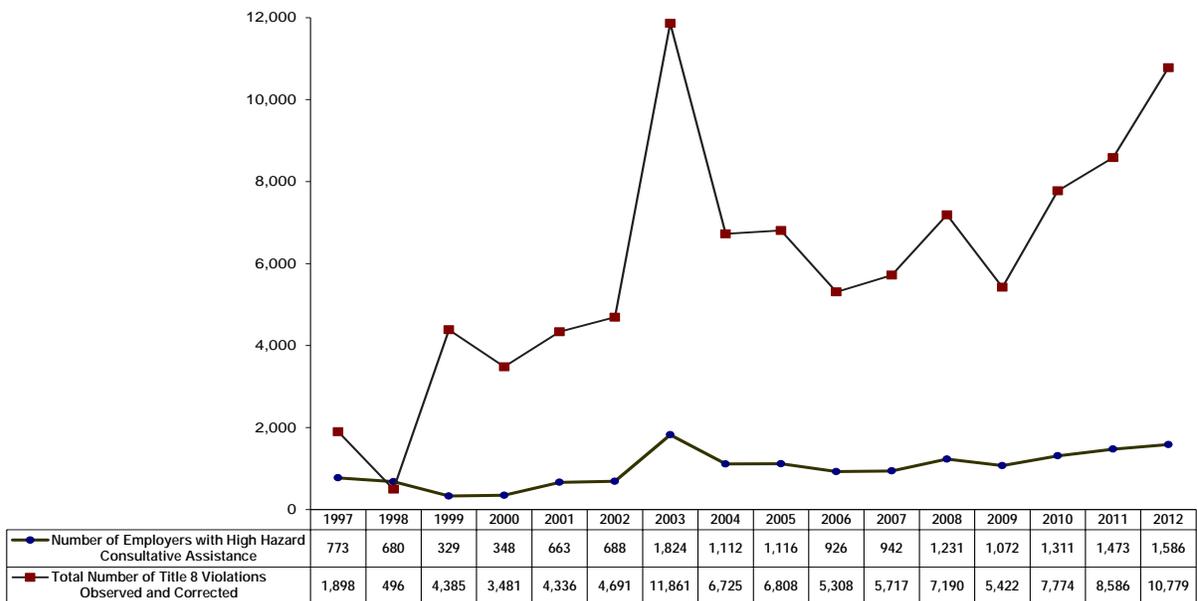
### *High Hazard Consultation Program*

DOSH reports that in 2012, it provided on-site high hazard consultative assistance to 1,586 employers, as compared to 1,473 employers in 2011. During consultation with these employers, 10,779 Title 8 violations were observed and corrected as a result of the provision of consultative assistance.

Since 1994, 18,381 employers have been provided direct on-site consultative assistance, and 105,262 Title 8 violations have been observed and corrected. Of these violations, 33.0 percent were classified as "serious."

The following figure indicates the yearly number of consultations and violations observed and corrected during the years 1997-2012. It should be noted that for years 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. Effective 2004, only employers with experience modification (Ex-mod) rates of 125 percent and above are included in the High Hazard Consultation Program figures.

Figure 130: High Hazard Consultation Program Production by Year



Data Source: Division of Occupational Safety and Health

The efficacy of High Hazard Consultation is measured by comparisons of employer lost-and-restricted-workday data. Beginning in 2001, Log 200 was replaced with Log 300 as the source for lost-and-restricted-workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was transitioned and replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses Ex-mod rates to measure efficacy.

### *High Hazard Enforcement Program*

Reporting of high hazard enforcement program activities has changed in 2012 and new data are only available beginning from 2011. In 2012, 314 employers underwent targeted high hazard enforcement inspections. Follow-up inspections were conducted for 11 employers. Taking into account cases where inspections were not conducted for the reason of absence of employees, the total of 359 inspections took place with 1,773 violations being observed and cited. An average number of high hazard violations per targeted inspection was 4.94 in 2012.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

For 2011 and 2012, the high hazard enforcement program reported the following activity measures.

The distribution of high hazard targeted inspections by Standard Industrial Classification (SIC) in 2011 and 2012 are shown in the table below.

**Table 50: High Hazard Inspections by SIC Code**

SIC and Description	2011		2012	
	Inspections	Percent	Inspections	Percent
0111-0783 Agriculture	31	6%	10	3%
0811-0971 Forestry	0	0%	0	0%
1011-1499 Mining, Oil, and Gas	2	0.4%	0	0%
1521-1799 Construction	122	23%	16	4%
2011-3999 Manufacturing	196	37%	167	47%
4011-4971 Transportation / Communication/ Electricity / Gas / Sanitary Services	57	11%	61	17%
5012-5199 Wholesale Trade	6	1%	10	3%
5211-5999 Retail Trade	30	6%	6	2%
6011-6799 Finance, Insurance & Real Estate	3	1%	1	0.3%
7011-8999 Services	88	16%	88	25%
9111-9721 Public Administration	1	0.2%	0	0%
Total	<b>536</b>		<b>359</b>	

Violations observed during high hazard targeted inspections are divided into two categories of “serious, willful, and repeat (SWR)” and “other than serious” violations.

**Table 51: Violations Observed During High Hazard Inspections**

Targeted Inspections	2011		2012	
	Number	Percent	Number	Percent
Serious, Willful, Repeat	549	28%	586	33%
Other Than Serious	1,390	72%	1,187	67%
<b>Total</b>	<b>1,939</b>		<b>1,773</b>	
Instances not included in previous reports	7,164		4,953	

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The next table shows the distribution of enforcement actions taken during high hazard inspections by type in 2011 and 2012.

**Table 52: Enforcement Actions Taken During High Hazard Targeted Inspections**

Types of enforcement actions	2011		2012	
	Number	Percent	Number	Percent
Warrants	4	0.4%	0	0%
Order Prohibiting Use	20	2%	75	8%
Information Memorandums	29	3%	15	2%
Citations	928	94.6%	869	91%

The table below shows the most frequently observed violations during high hazard inspections in 2012.

**Table 53: Most Frequently Observed Violations During High Hazard Targeted Inspections**

Title 8 Section	Description
3203	Injury and Illness Prevention Program
5162/5185	Emergency Eyewash and Shower Equipment
3578/3577	Permissible Wheel Exposure/Protection Devices
6151	Portable Fire Extinguishers
3314	Control of Hazardous Energy
2340.016	Clear Space About Electrical Installations
461	Permit to Operate Air Tank
14300.32	Recordkeeping
3668	Powered Industrial Truck Operator Training
5144	Respiratory Protection

### Safety Inspections

DOSH has three major public safety programs devoted to conducting inspections to protect the public from safety hazards:

- The Amusement Ride and Tramway Unit conducts public safety inspections of amusement rides, both portable and permanent, and aerial passenger tramways and ski lifts.
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.<sup>47</sup>
- The Pressure Vessel Unit conducts public safety inspections of boilers and pressure vessels to ensure their safe operation in places of employment.

### Health and Safety Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The mission of OSHSB is to

<sup>47</sup> For a list of conveyances, please see <http://www.dir.ca.gov/Title8/sub6.html>

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

promote, adopt and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

To meet the DIR Goal 1 on ensuring that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement. Standards adopted in 2013 are listed in the “Legislation and Regulations” section of this report.

*For further information ...*

<http://www.dir.ca.gov/OSHSB/oshsb.html>

### **Occupational Health and Safety Appeals Board (OSHAB)**

The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected each from the field of management, labor and the general public. The chairman is selected by the governor.

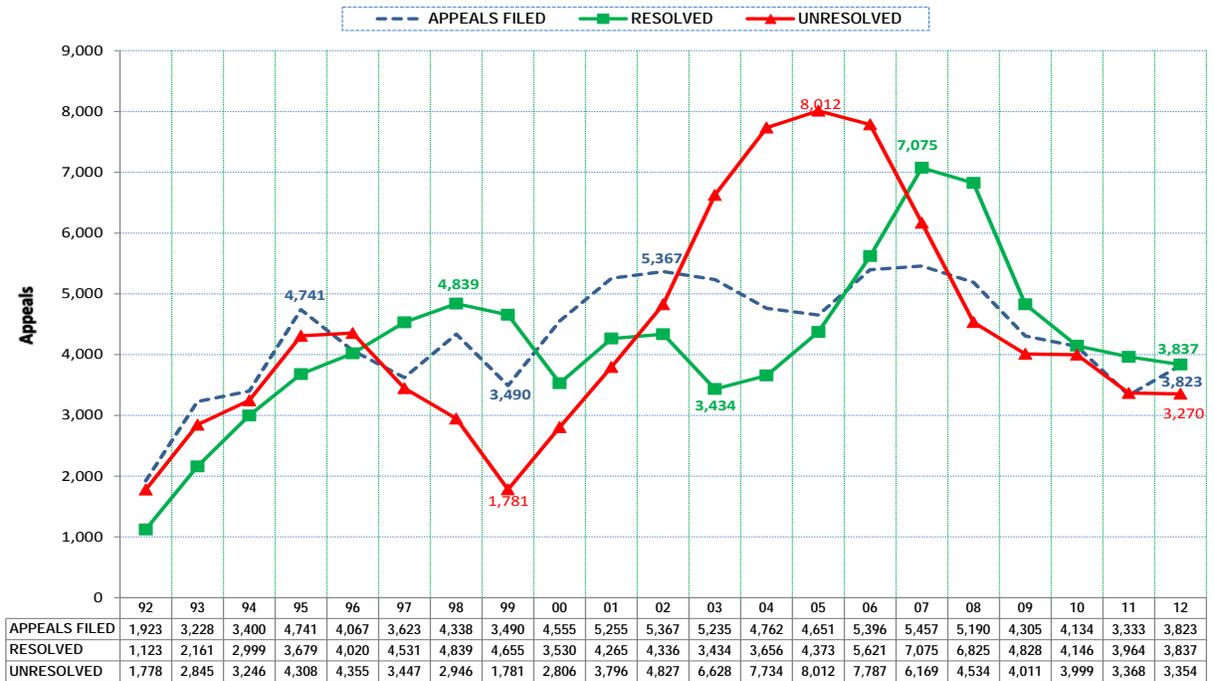
The mission of OSHAB is to fairly, timely and efficiently resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violation of workplace health and safety laws and regulations.

The figure below shows the OSHAB workload: appeals filed, resolved, and unresolved. From 1991, the numbers of appeals filed with OSHAB yearly grew steadily until 1995, reaching 4,741 cases in that year. From 1995 to 2009, the number of appeals filed yearly stabilized at an average number of 4,695 cases, with a maximum of 5,457 appeals filed in 2007.

From 1992 to 1996, an average of 81 percent of filed appeals was resolved each year. From 1997 to 2000, the OSHAB processed appeals in a shorter time frame (10 months) than the Fed/OSHA standard, averaging 123 percent of yearly filed cases; therefore, the number of unresolved appeals reached its minimum in 1999. From 2000 to 2006, processing of appeals had slowed down again because an average of 83 percent of filed appeals was resolved each year, increasing the number of unresolved cases to its maximum of 8,012 cases in 2005. From 2005 to 2012, the numbers of unresolved cases decreased by 58 percent since an average of 110 percent of yearly filed cases were resolved in 2009, 2010 and 2011. In 2012, the numbers of resolved cases were slightly higher than the numbers of filed cases, decreasing the numbers of unresolved cases to 1997 level.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

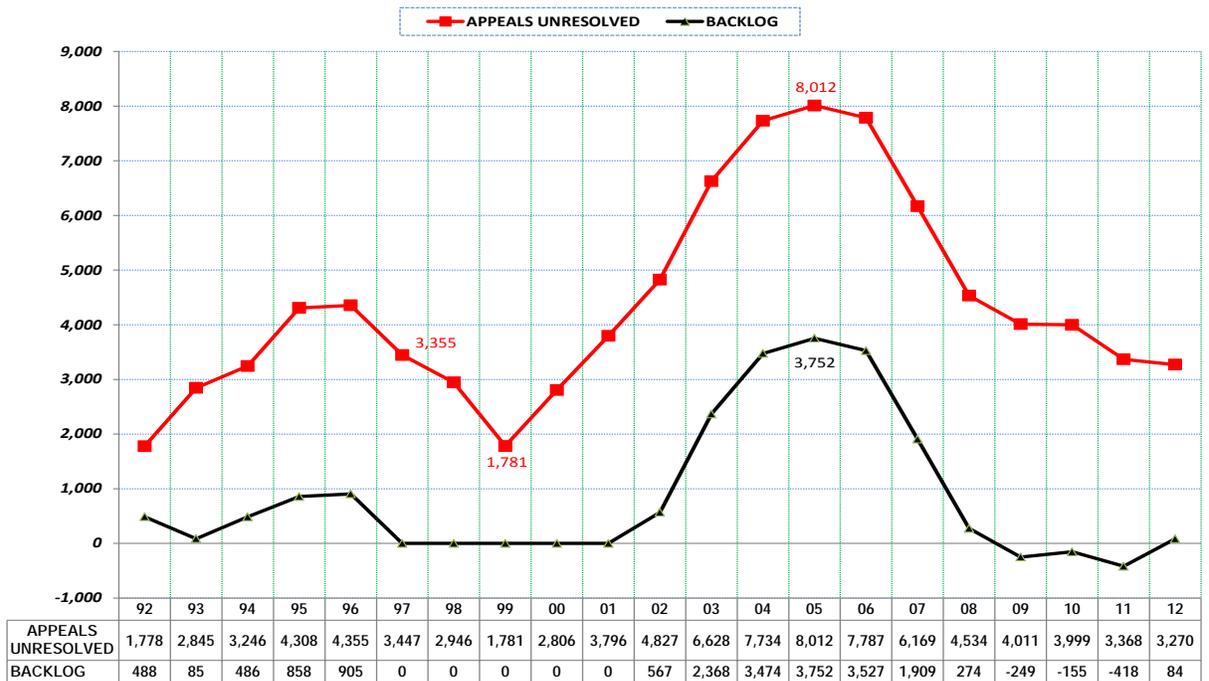
Figure 131: Occupational Safety and Health Appeals Board (OSHAB) Workload, 1992-2012



Data Source: OSHAB

The trend and level of backlogged citation appeals reflect changes in unresolved cases as they accumulate from previous years. As the figure below shows, the pattern of backlog repeats the pattern of unresolved cases described in the above paragraph.

Figure 132: Occupational Safety and Health Appeals Board Backlogs, 1992-2012

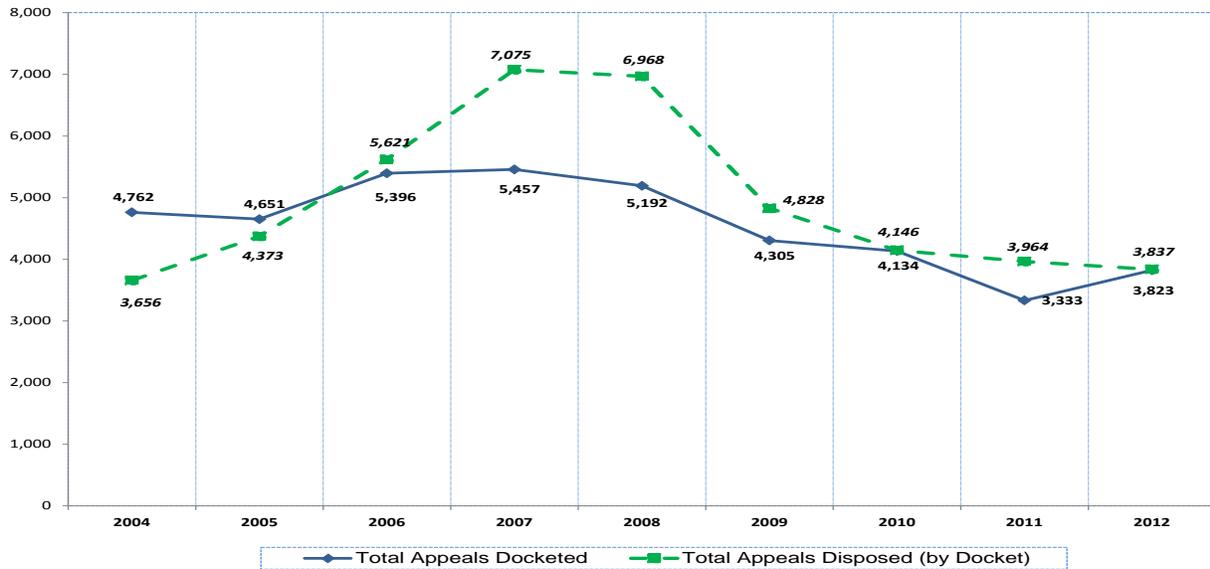


Data Source: OSHAB

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The figure below shows the total number of citation appeals docketed and disposed from 2004 to 2012. In 2012, 100 percent of appeals were resolved.

Figure 133: Occupational Safety and Health Appeals Board: Appeals Docketed and Disposed, 2004-2012



Data Source: OSHAB

### Educational and Outreach Programs

In conjunction and cooperation with the health and safety and workers' compensation community, DIR administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

#### *Worker Occupational Safety and Health Training and Education Program*

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs. For further information about WOSHTEP and its activities, see the "Projects and Studies" section of this report.

#### *School Action for Safety and Health*

Per the mandate set forth in the Labor Code 6434, CHSWC is to assist inner-city schools or any school or district in implementing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention programs. For further information about SASH and its activities, see the "Projects and Studies" section of this report.

#### *The California Partnership for Young Worker Health and Safety*

CHSWC has convened the California Partnership for Young Worker Health and Safety. The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers. See the "Projects and Studies" section of this report for further information about the Partnership.

## WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

### *Cal/OSHA Consultation*

Consultative assistance is provided to employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

### *Partnership Programs*

California has developed several programs that rely on industry, labor and government to work as partners in encouraging and recognizing workplace health and safety programs that effectively prevent and control injuries and illnesses to workers. These partnership programs include the Voluntary Protection Program (VPP), Golden State, SHARP, Golden Gate, and special alliances formed between industry, labor and OSHA.

## **UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY**

### **Background**

In California, approximately two-thirds of the total payroll in the State is covered for workers' compensation through insurance policies, while the remainder is through self-insurance. There are more than 200 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (State Fund).

The California Department of Insurance (CDI) oversees these insurers. To accomplish its principal objective of protecting insurance policyholders in the State, CDI examines insurance companies to ensure that operations are consistent with the requirements of the Insurance Code.

#### *Minimum Rate Law and Open Rating*

In 1993, workers' compensation reform legislation repealed California's 80-year-old minimum rate law and replaced it beginning in 1995 with an open-competition system of rate regulation in which insurers set their own rates based on "pure premium advisory rates" developed by the Workers' Compensation Insurance Rating Bureau (WCIRB). These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss-adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates that are intended to cover other costs and expenses, including unallocated loss-adjustment expenses.

### **Insurance Market After Elimination of Minimum Rate Law**

Subsequent to the repeal of the minimum rate law effective January 1995, changes were noted in the actions of insurers and employers.

#### *Price Competition*

Open rating apparently spurred competition among insurers seeking to retain or add to their market share. Some insurers attempted to increase their market share by writing coverage at low prices that eventually proved to be below loss costs. This deregulated market kept premium rates near their historic lows throughout the latter half of the 1990s, even though losses were no longer declining.

As the link between the price of insurance and loss costs became more and more tenuous, some insurers left the State, others ceased writing workers' compensation or were merged or acquired by other carriers, and still others, including several of the largest insurers in the State, became insolvent and had to be taken over or supervised by the State. As a result, the workers' compensation market became much more concentrated than in the past. Aside from State Fund, there were only a few large national carriers that accounted for the largest portion of the statewide premium.

**Insurers Liquidated Since 2000**

**2000**

California Compensation Insurance Company  
 Combined Benefits Insurance Company  
 Commercial Compensation Casualty Insurance Company  
 Credit General Indemnity Company  
 LMI Insurance Company  
 Superior National Insurance Company  
 Superior Pacific Insurance Company

**2001**

Credit General Insurance Company  
 Great States Insurance Company  
 HH America Compensation & Liability Insurance Company  
 Amwest Surety Insurance Company  
 Sable Insurance Company  
 Reliance Insurance Company  
 Far West Insurance Company  
 Frontier Pacific Insurance Company

**2002**

PHICO  
 National Auto Casualty Insurance Company  
 Paula Insurance Company  
 Alistar Insurance Company

**2003**

Western Growers Insurance Company  
 Legion Insurance Company  
 Villanova Insurance Company  
 Home Insurance Company  
 Fremont Indemnity Corporation  
 Wasatch Crest Insurance Co. (No WC policies)  
 Pacific National Insurance Company

**2004**

Protective National Insurance Company  
 Holland-America Insurance Company  
 Casualty Reciprocal Exchange

**2005**

Cascade National Insurance Company/Washington  
 South Carolina Insurance Company/South Carolina  
 Consolidated American Insurance Company/South Carolina

Source: CIGA  
 (continued on the next page)

*Insurance Market Changes*

Since 2000, a significant number of workers' compensation insurance companies have experienced problems with payment of workers' compensation claims. Forty two (42) insurance companies have gone under liquidation, and 26 companies have withdrawn from offering workers' compensation insurance during that time. However, since 2004, 81 insurance/reinsurance companies have entered<sup>48</sup> the California workers' compensation market, while only 23 companies withdrew from the market.<sup>49</sup>

*Changing Insurers*

WCIRB estimated that before open rating, about 25 percent of California employers with experience modifications (Ex-mods) changed insurance carriers each year. After open rating, about 35 percent of the employers did so. However, in many post-open rating situations, employers had no choice but to change insurers, as the market had deteriorated to the point that many carriers, including several of the largest workers' compensation insurers in the State, ceased to exist or stopped writing workers' compensation in California.

*Reinsurance*

After open rating, many carriers shifted the risk of their workers' compensation claims to other insurance companies, some of which were inexperienced with the California workers' compensation insurance market. It was reported that many carriers used reinsurance aggressively in order to mitigate the risk of having to make large future payoffs. Some primary workers' compensation carriers offered extremely low rates that proved to be inadequate in the face of soaring losses. Some reinsurance companies also sold off their risk to other reinsurers in a process called "retrocession." During 1999, several major reinsurance pools experienced financial difficulty and ceased operations.

**Impact of Workers' Compensation Reforms on Insurance Companies**

Workers' compensation reform legislation, Senate Bill (SB) 228, Assembly Bill (AB) 227 and SB 899, were enacted with the intent of controlling costs and improving the benefit-delivery process in the workers' compensation system.

In 2007, SB 316 eliminated a duplicative reserve requirement that was inadvertently not removed when risk-based capital requirements went into effect for workers' compensation insurers in 2002. That same bill also mandated a study by the Commission on Health and Safety and Workers' Compensation (CHSWC) of the causes of many of the insolvencies in this decade.

<sup>48</sup> Based on information provided by CDI on newly licensed workers' compensation insurance companies as of 11/30/2013.

<sup>49</sup> The information on the companies that have withdrawn and entered the market since 2004 is through 11/30/2013.

**(continued from previous page)**

**Insurers Liquidated Since 2000**

**2006**

Vesta Fire Insurance Company  
Hawaiian Insurance & Guaranty Company  
Municipal Mutual Insurance Company

**2010**

Insurance Corporation of New York (The)

**2011**

Atlantic Mutual Insurance Co./New York  
Centennial Insurance Company/New York  
Reinsurance Company of America/Illinois

**2012**

Frontier Insurance Company of New York

**2013**

Lumbermens Mutual Casualty Group of  
Illinois  
Ullico Casualty Company/Delaware

Source: CIGA

The study has been completed and includes recommendations to contain the risk of future insolvencies. (See "California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change.")

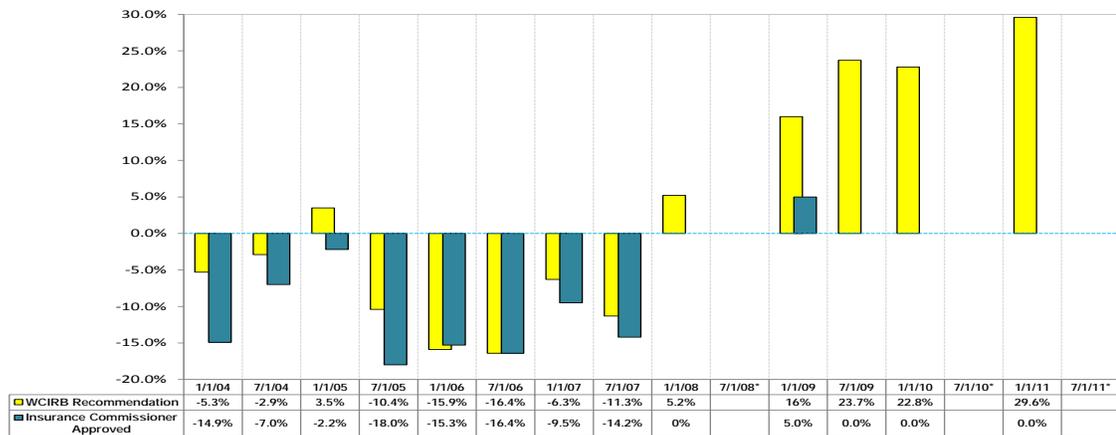
<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

### Workers' Compensation Advisory Premium Rates

As a result of 2003 legislative reforms, WCIRB recommended changes and the IC approved either decreases or no changes in the pure premium advisory rates between January 2004 and January 2011, with the exception of the January 2009 filing.

On April 12, 2012, the WCIRB submitted its July 1, 2012 pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average \$2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of \$2.41 as of January 1, 2012. On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, that average \$2.49 per \$100 of payroll. (A history of pure premium rates since 1993 appears later in this section.)

Figure 134: Changes in Workers' Compensation Advisory Premium Rates - WCIRB Recommendation v. Insurance Commissioner Approval



\* WCIRB did not issue any recommendations for changes to pure premium rates effective 7/1/2008, 7/1/2010, and 7/1/2011, and the IC did not issue the interim advisory rates for these periods.

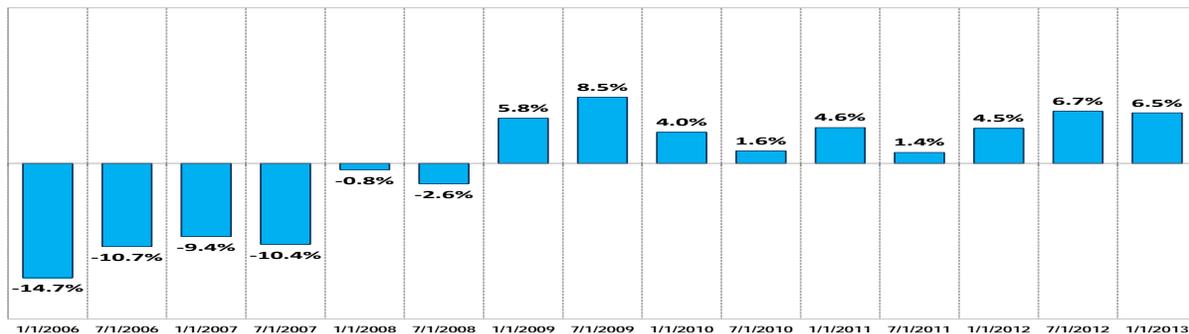
Note: On September 27, 2010, the WCIRB amended its January 1, 2011 filing to propose a change in the claims cost benchmark of +27.7 percent in lieu of the +29.6 percent reflected in its August 18, 2010 filing.

Data Source: WCIRB

### California Workers' Compensation Manual Rate Changes Filed by Insurers

As a result of 2003 workers' compensation legislative reforms and the subsequent decisions by the IC on advisory premium rates, workers' compensation insurers reduced their average filed manual rates between 2004 and 2008 (the figure below shows the average filed rates from 2006 and on). However, in 2009, average rates filed by insurers increased and have done so since then.

Figure 135: Average Workers' Compensation Manual Rate Changes Filed by Insurers



Data Source: California Department of Insurance (CDI)

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

**California Workers' Compensation Rate Changes**

Workers' compensation legislative reforms enacted in 2003 and the subsequent decisions by the Insurance Commissioner on advisory claims cost benchmarks and pure premium rates led to insurers filing a series of significant manual rate reductions from 2004 through 2008. Despite recent manual rate increases filed by insurers, which helped lead to additional legislative reforms passed in 2012 (SB 863), the top ten California workers' compensation insurers still maintain greatly reduced filed manual rates from those in effect in 2003.

**California Workers' Compensation Top 10 Insurers Rate Filing Changes**

COMPANY NAME	GROUP NAME	Market Share 2012	Cumulative Rate Change 1-04 to 4-13	4-1-2013 % Filed Rate Change*	1-1-2013 % Filed Rate Change*	7-1-2012 % Filed Rate Change*	1-1-2012 % Filed Rate Change*
STATE COMPENSATION INSURANCE FUND		10.36%	-44.52%	-7.00%	0.00%	0.00%	-1.07%
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA	Travelers Group	7.09%	-32.77%	7.00%	7.00%	0.00%	9.10%
EMPLOYERS COMPENSATION INSURANCE COMPANY	Employers Holdings Group	3.79%	-46.50%	n/a	1.00%	6.40%	3.90%
CYPRESS INSURANCE COMPANY	Berkshire Hathaway Group	3.60%	-51.31%	n/a	2.00%	2.00%	8.68%
ZENITH INSURANCE COMPANY	Fairfax Financial Group	3.17%	-16.98%	n/a	6.70%	5.10%	5.20%
ZURICH AMERICAN INSURANCE COMPANY	Zurich Ins Group	3.15%	-40.80%	8.50%	8.30%	n/a	6.50%
EVEREST NATIONAL INSURANCE COMPANY	Everest Reins Holdings Group	3.08%	-36.22%	n/a	7.70%	11.93%	9.70%
INSURANCE COMPANY OF THE WEST	American Assets Group	2.98%	-29.32%	n/a	8.50%	8.30%	18.80%
NATIONAL UNION FIRE INSURANCE CO OF PITTSBURGH, PA	AIG	2.14%	-30.69%	10.00%	8.30%	n/a	5.30%
STAR INSURANCE COMPANY	Meadowbrook Insurance Group	1.83%	-37.14%	n/a	14.40%	n/a	12.90%

\* Indicated % filed rate change reflects cumulative rate change(s) in effect as of that date from the rates in effect on the preceding date.

As of January 1, 2013, the cumulative premium weighted average manual rate reduction filed by insurers with the CDI since enactment of the 2003 reforms is approximately 33 percent for all writers including State Compensation Insurance Fund (SCIF). Eight consecutive advisory benchmark rate reductions occurred as a result of the passage of AB 227, SB 228, and SB 899, and insurers filed cumulative manual rate reductions averaging 56 percent from January 2004 through July 2008. The first post-2003 reform advisory benchmark rate increase occurred effective January 1, 2009 (+5.0 percent), and insurers responded by increasing filed rates by 5.8 percent. Filed rates have moderately increased annually thereafter, in some instances when the advisory benchmark rates remained unchanged. Also, in response to the January 1, 2013 advisory benchmark rate revision, filed insurer manual rates increased 6.5 percent.<sup>50</sup>

<sup>50</sup> Source: California Department of Insurance, RFLA3 Rate Filing Bureau.

WCIRB reports that the average rate charged in the second six months of 2012 is approximately 59 percent less than the average rate charged prior to the enactment of AB 227, SB 228 and SB 899 in 2003. The average rate per \$100 of payroll fell from \$6.29 in the second half of 2003 to \$2.58 in the second half of 2012.<sup>51</sup>

Since the first reform package was chaptered in 2003, 77 new insurers have filed to enter the California market and existing private insurers have increased their writings. The significant rate reductions totaling 33 percent since the first reforms were enacted and State Fund's declining market share (53 percent at its peak in 2003, down to 10 percent in 2012) point to the dramatic initial success of the 2003 cost containment reforms and a stabilizing market with increased capacity and greater rate competition. However, the estimated 2012 accident year combined loss and expense ratio of 120 percent<sup>52</sup> points to a continued erosion of the effectiveness of the 2003 cost containment reforms over time. Any impact from the latest reform, SB 863 passed in 2012 and effective January 1, 2013, has not yet been determined.

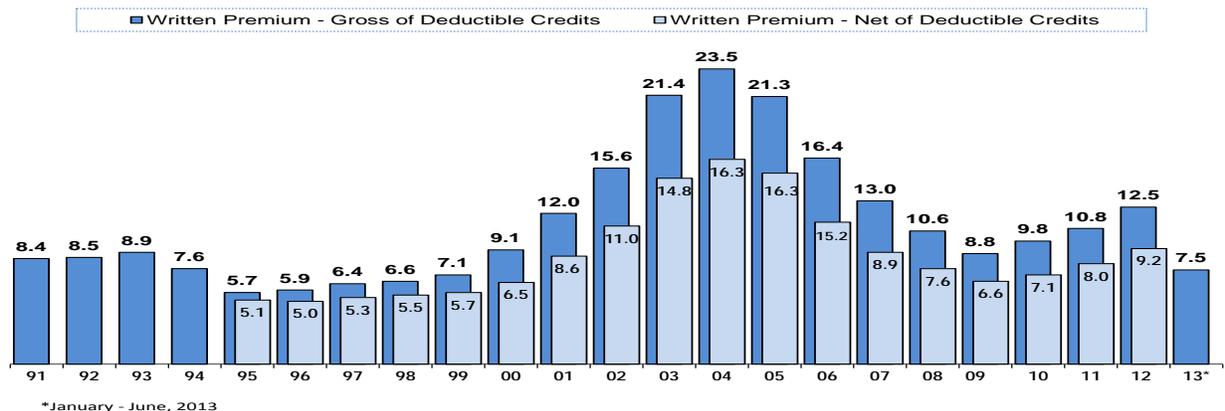
### Workers' Compensation Premium

After elimination of the minimum rate law, the total written premium declined from a high of \$8.9 billion in 1993 to a low of \$5.7 billion (\$5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth, movement from self-insurance to insurance, and other factors, rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the decade.

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium increased by 37 percent to \$21.4 billion from 2002 to 2003 and increased by about 10 percent to a peak of \$23.5 billion from 2003 to 2004. The written premium declined by almost 63 percent from \$23.5 billion to \$8.8 billion between 2004 and 2009 due to rate decreases. From 2009 to 2012, there was a 43 percent increase in written premium.

The figure below shows the California workers' compensation written premium before and after the application of deductible credits. Note that these amounts are exclusive of dividends.

Figure 136: Workers' Compensation Written Premium as of June 30, 2013 (Billion \$)



Data Source: WCIRB Summary of June 30, 2013 Insurer Experience Report, released September 23, 2013, Exhibit 1

<sup>51</sup> Source: WCIRB Report as of June 30, 2013 Insurer Experience, released September 23, 2013, Exhibit 2.

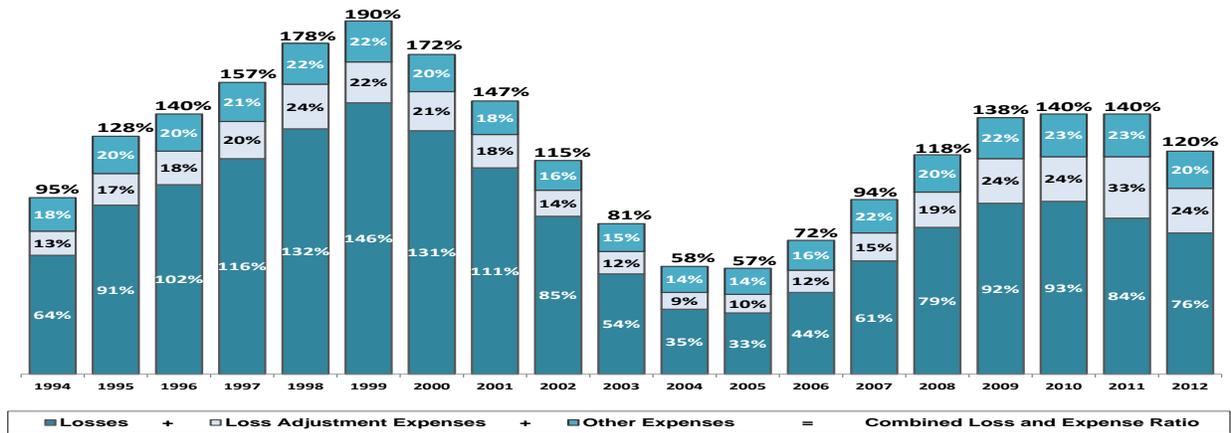
<sup>52</sup> Source: WCIRB Report as of June 30, 2013 Insurer Experience, released September 23, 2013, Exhibit 5.

**Combined Loss and Expense Ratio**

The accident year combined loss and expense ratio, which measures workers' compensation claims payments and administrative expenses against earned premium, increased during the late 1990s, declined from 1999 through 2005, and increased annually from 2005 to 2010. The combined loss and expense ratio decreased from 140 percent to 120 percent from 2011 to 2012.

In accident year 2012, insurers' claim costs and expenses amounted to \$1.20 for every dollar of premium collected.

Figure 137: California Workers' Compensation Combined Loss and Expense Ratios (as of June 30, 2013)



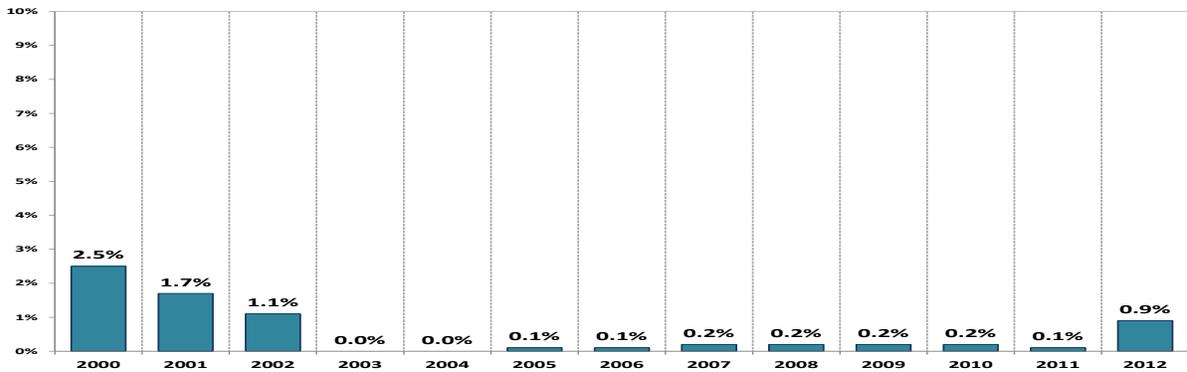
Data Source: WCIRB

WCIRB estimates that the total cost of benefits for injuries occurring prior to January 1, 2013, was approximately \$4.8 billion more than insurer-reported loss amounts.<sup>53</sup>

**Policy Holder Dividends**

Dividends paid to policyholders were less than 3 percent from 2000 to 2002, were not paid at all in 2003 and 2004, and then were reinstated from 2005 through 2011 at a very low rate. Dividends paid to policyholders increased up to 0.9 percent in 2012.

Figure 138: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



Data Source: WCIRB

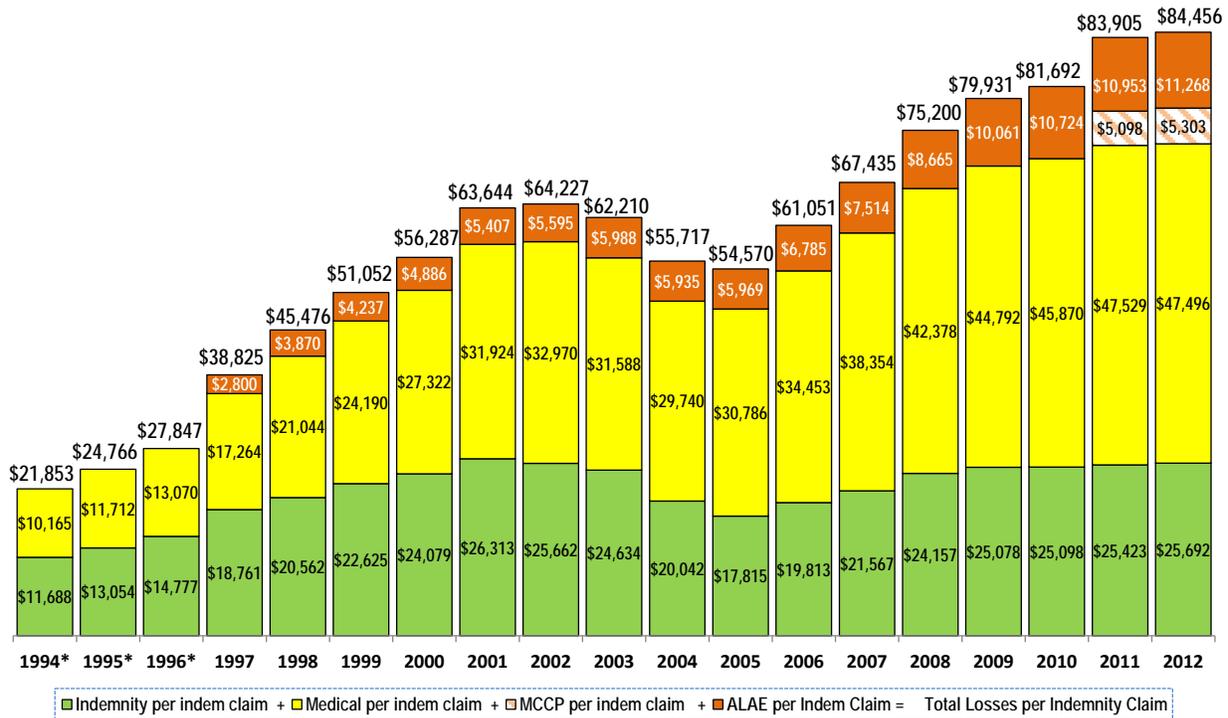
<sup>53</sup> Source: WCIRB Summary of June 30, 2013 Insurer Experience, released September 23, 2013, Exhibit 9.

**Average Claim Costs**

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply during the late 1990s.

The total average cost of indemnity claims increased, almost tripling from 1994 to 2002 and then decreased by 15 percent from 2002 to 2005, reflecting the impact of AB 227, SB 228 and SB 899. However, the average cost of indemnity claims increased by 55 percent between 2005 and 2012. It should be noted that both 2012 medical and indemnity average costs per claim were very close to their 2011 levels.<sup>54</sup> WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.

Figure 139: Estimated Ultimate Total Loss\* per Indemnity Claim as of June 30, 2013 (Dollar \$)



\* Does not include Allocated Loss Adjustment Expenses (ALAE)

Note: Before July 1, 2010, the costs of Medical Cost Containment Program (MCCP) that could be allocated to a particular claim were reported as medical losses. After July 1, 2010, MCCP is reported as ALAE.

\*\* Excludes medical-only

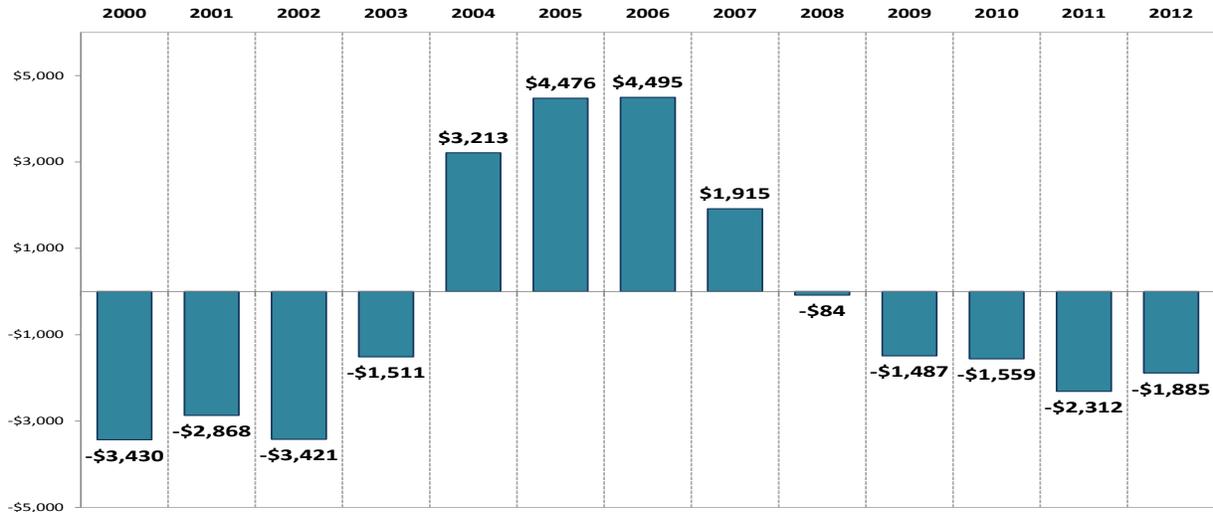
Data Source: WCIRB Summary of June 30 Insurer Experience Report, issued September 23, 2013, Exhibits 8.1-8.4

<sup>54</sup> Source: WCIRB Summary of June 30, 2013 Insurer Experience, released September 23, 2013 Exhibits 8.1, 8.2, and 8.3.

**Insurer Profit/Loss**

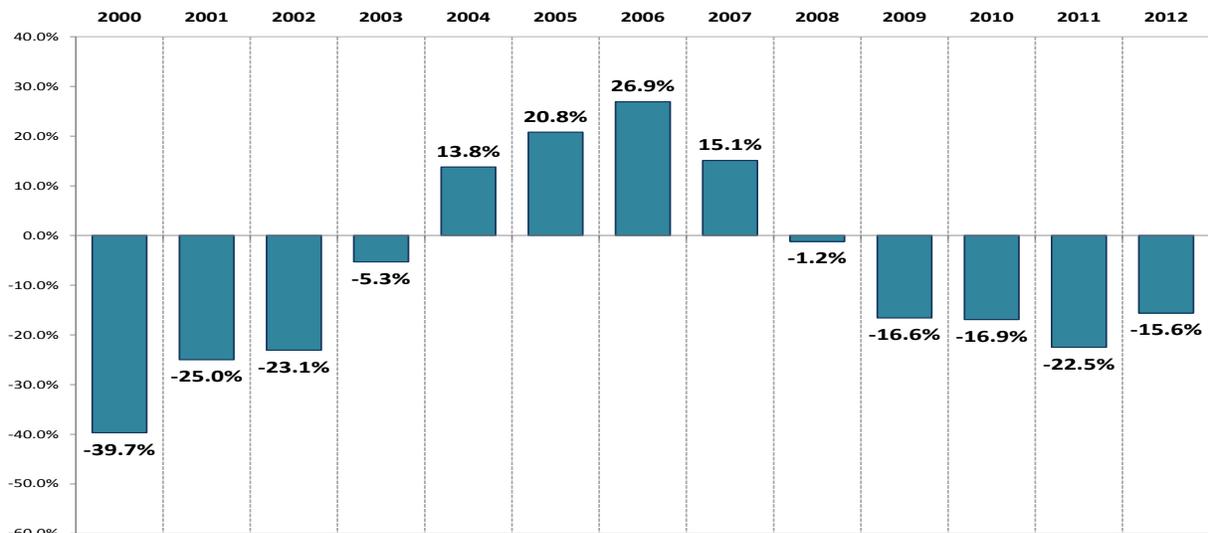
Workers' compensation insurers experienced large fluctuations in profits and losses during the past decade, as measured by actual dollars and percentage of earned premium. Since the reforms of 2004, insurer underwriting profits have been uncharacteristically high. Investment income typically was the main source of insurer profits, but underwriting profits from policies have been a recent development. In 2008, workers' compensation insurers experienced losses for the first time since 2004. The pre-tax underwriting losses went up to 17 percent in both 2009 and 2010, reached 22.5 percent of earned premium in 2011, and then again went back to 16 percent.

Figure 140: Insurer Pre-Tax Underwriting Profit/Loss, 2000-2012 (Million \$)



Data Source: WCIRB

Figure 141: Insurer Pre-Tax Underwriting Profit/Loss as a Percentage of Earned Premium, 2000-2012



Data Source: WCIRB

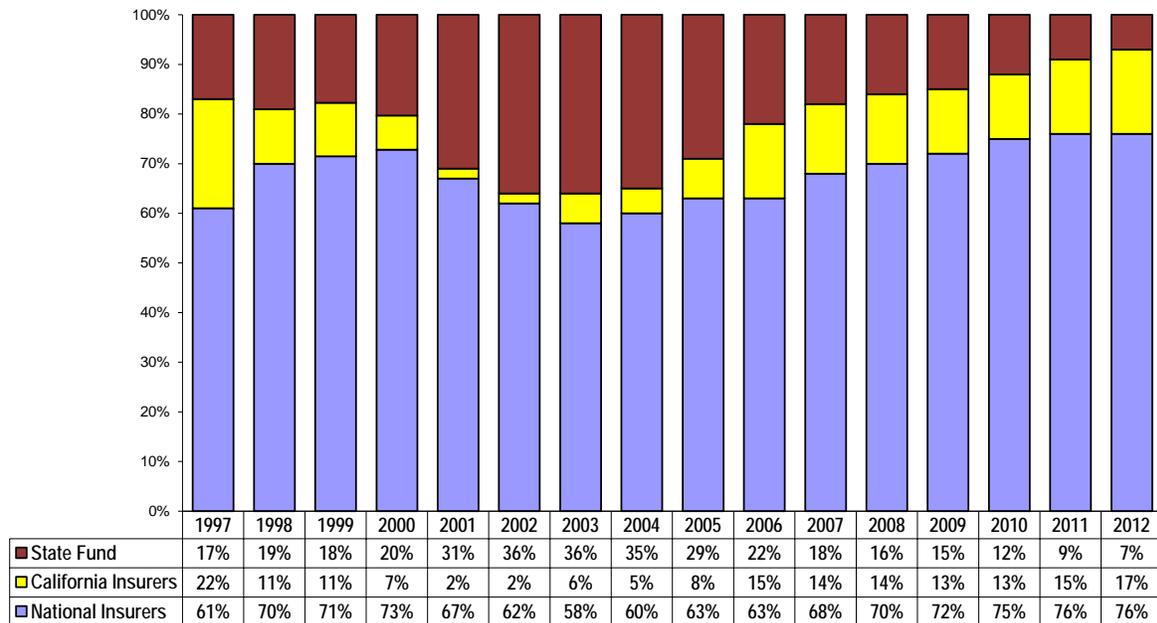
## Current State of the Insurance Industry

### Market Share

A number of California insurers left the market or reduced their writings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993. The figure below shows changes in the workers' compensation insurance market share from 1996 to 2011.

According to WCIRB, from 2002 through 2004, State Fund attained about 35 percent of the California workers' compensation insurance market, double the market share it had in the 1990s. However, between 2004 and 2012, State Fund's market share decreased to 7 percent. The market share of California domestic insurers, excluding State Fund, increased from 5 percent to 15 percent between 2004 and 2006 and then averaged about 14 percent from 2006 to 2012.

Figure 142: Workers' Compensation Insurance Market Share in California by Type of Insurer Based on Written Premium Prior to Deductible Credits



Source: WCIRB

Please note that totals may not equal to 100 percent due to rounding

"California Insurers" are defined as private insurers who write at least 80 percent of their workers' compensation business in California

### September 11, 2001 Impact on Insurance Industry

The problems in the reinsurance market caused by the events of September 11, 2001, have significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, have a significant effect on the cost of workers' compensation insurance. This effect extends to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace. The insurance industry has remained concerned about the renewal of the Terrorism Risk Insurance Act, often known as TRIA, which was reauthorized in 2007 to extend to December 2014.

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**1993**

***Insurance Commissioner action:***

Pure premium rate reduction of 7 percent effective July 16, 1993, due to a statutory mandate.

**1994**

***WCIRB recommendation:***

No change in pure premium rates.

***Insurance Commissioner action:***

Two pure premium rate decreases: a decrease of 12.7 percent effective January 1, 1994; and a second decrease of 16 percent effective October 1, 1994.

**1995**

***WCIRB recommendation:***

A 7.4 percent decrease from the pure premium rates that were in effect on January 1, 1994.

***Insurance Commissioner action:***

A total of 18 percent decrease to the premium rates in effect on January 1, 1994, approved effective January 1, 1995 (including the already approved 16 percent decrease effective October 1, 1994).

**1996**

***WCIRB recommendation:***

An 18.7 percent increase in pure premium rates.

***Insurance Commissioner action:***

An 11.3 percent increase effective January 1, 1996.

**1997**

***WCIRB recommendation:***

A 2.6 percent decrease in pure premium rates.

***Insurance Commissioner action:***

A 6.2 percent decrease effective January 1, 1997.

**1998**

***WCIRB recommendation:***

The initial recommendation for a 1.4 percent decrease was later amended to a 0.5 percent increase.

***Insurance Commissioner action:***

A 2.5 percent decrease effective January 1, 1998.

**1999**

***WCIRB recommendation:***

The WCIRB initial recommendation of a 3.6 percent pure premium rate increase for 1999 was later amended to a recommendation for a 5.8 percent increase.

***Insurance Commissioner action:***

No change in pure premium rates in 1999.

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**2000**

***WCIRB recommendation:***

An 18.4 percent increase in the pure premium rate for 2000.

***Insurance Commissioner action:***

An 18.4 percent increase effective January 1, 2000.

**2001**

***WCIRB recommendations:***

The WCIRB initial recommendation of a 5.5 percent increase in the pure premium rate was later amended to a recommendation for a 10.1 percent increase.

***Insurance Commissioner action:***

A 10.1 percent increase effective January 1, 2001.

**January 1, 2002**

***WCIRB recommendations:***

The WCIRB initial recommendation of a 9 percent increase in the pure premium rate was later amended to a recommendation for a 10.2 percent increase effective January 1, 2002.

***Insurance Commissioner action:***

The Insurance Commissioner approved a 10.2 percent increase effective January 1, 2002.

**April 1, 2002**

***WCIRB recommendations:***

On January 16, 2002, the WCIRB submitted recommended changes to the California Workers' Compensation Uniform Statistical Reporting Plan – 1995, effective March 1, 2002 and the California Workers' Compensation Experience Rating Plan – 1995, effective April 1, 2002, related to insolvent insurers and losses associated with the September 11, 2001, terrorist actions. No increase in advisory premium rates was proposed.

***Insurance Commissioner action:***

The Insurance Commissioner approved the WCIRB's requests effective April 1, 2002.

**July 1, 2002**

***WCIRB recommendation:***

The WCIRB filed a mid-term recommendation that pure premium rates be increased by 10.1 percent effective July 1, 2002, for new and renewal policies with anniversary rating dates on or after July 1, 2002.

***Insurance Commissioner action:***

On May 20, 2002, the Insurance Commissioner approved a mid-term increase of 10.1 percent effective July 1, 2002.

**January 1, 2003**

***WCIRB recommendations:***

On July 31, 2002, the WCIRB proposed an average increase in pure premium rates of 11.9 percent for 2003. On September 16, 2002, the WCIRB amended the proposed 2003 pure premium rates submitted to the California Department of Insurance (CDI). Based on updated loss experience valued as of June 30, 2002, the WCIRB proposed an average increase of 13.4 percent in pure premium rates to be effective on January 1, 2003, and later policies.

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**January 1, 2003**

***Insurance Commissioner action:***

On October 18, 2002, the Insurance Commissioner approved a 10.5 percent increase in pure premium rates applicable to policies with anniversary rating dates in 2003. This increase takes into account the increases in workers' compensation benefits enacted by AB 749 for 2003.

**July 1, 2003**

***WCIRB recommendation:***

The WCIRB filed a mid-term recommendation on April 2, 2003, that pure premium rates be increased by 10.6 percent effective July 1, 2003, for policies with anniversary dates on or after July 1, 2003.

***Insurance Commissioner action:***

The Insurance Commissioner approved a 7.2 percent increase in pure premium rates applicable to new and renewal policies with anniversary rating dates on or after July 1, 2003.

**January 1, 2004**

***WCIRB recommendations:***

On July 30, 2003, the WCIRB proposed an average increase in advisory pure premium rates of 12.0 percent to be effective on January 1, 2004, for new and renewal policies with anniversary rating dates on or after January 1, 2004.

The original WCIRB filing of an average increase of 12 percent on July 30, 2003, was later amended on September 29, 2003, to an average decrease of 2.9 percent to reflect the WCIRB's initial evaluation of AB 227 and SB 228.

In an amended filing made on November 3, 2003, the WCIRB recommended that pure premium rates be reduced, on average, from 2.9 percent to 5.3 percent.

***Insurance Commissioner action:***

On November 7, 2003, the Insurance Commissioner approved a 14.9 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2004.

**July 1, 2004**

***WCIRB recommendation:***

On May 13, 2004, the WCIRB proposed advisory pure premium rates that are a 2.9 percent decrease from the January 1, 2004, approved pure premium rates. These rates reflect the WCIRB's analysis of the impact of provisions of SB 899 on advisory pure premium rates.

***Insurance Commissioner action:***

In a decision issued May 28, 2004, the Insurance Commissioner approved a 7.0 percent decrease in pure premium rates, effective July 1, 2004, with respect to new and renewal policies, as compared to the approved January 1, 2004, pure premium rates.

**January 1, 2005**

***WCIRB recommendation:***

On July 28, 2004, the WCIRB proposed advisory premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005, that are, on average, 3.5 percent greater than the July 1, 2004, advisory pure premium rates approved by the Insurance Commissioner.

***Insurance Commissioner action:***

In a decision issued November 17, 2004, the Insurance Commissioner approved a total 2.2 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005.

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**July 1, 2005**

***WCIRB recommendations:***

On March 25, 2005, the WCIRB submitted a filing to the California Insurance Commissioner recommending a 10.4 percent decrease in advisory pure premium rates effective July 1, 2005, on new and renewal policies.

On May 19, 2005, in recognition of the cost impact of the new Permanent Disability Rating Schedule adopted pursuant to SB 899, the WCIRB amended its recommendation. In lieu of the 10.4 percent reduction originally proposed in March, the WCIRB recommended a 13.8 percent reduction in pure premium rates effective July 1, 2005. In addition, the WCIRB recommended a 3.8 percent reduction in the pure premium rates effective July 1, 2005, with respect to the outstanding portion of policies incepting January 1, 2005, through June 30, 2005.

***Insurance Commissioner action:***

On May 31, 2005, the Insurance Commissioner approved an 18 percent decrease in advisory pure premium rates effective July 1, 2005, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2005. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$23,288. The Insurance Commissioner also approved a 7.9 percent decrease in pure premium rates, effective July 1, 2005, applicable to policies that are outstanding as of July 1, 2005. The reduction in pure premium rates applicable to these policies reflects the estimated impact on the cost of benefits of the new Permanent Disability Rating Schedule.

**January 1, 2006**

***WCIRB recommendations:***

On July 28, 2005, the WCIRB submitted to the California Insurance Commissioner a proposed 5.2 percent average decrease in advisory pure premium rates as well as changes to the California Workers' Compensation Uniform Statistical Reporting Plan -1995 and the California Workers' Compensation Experience Rating Plan -1995.

On September 15, 2005, the WCIRB amended its filing to propose an average 15.9 percent decrease in pure premium rates based on insurer loss experience valued as of June 30, 2005, and a re-evaluation of the cost impact of the January 1, 2005 Permanent Disability Rating Schedule.

***Insurance Commissioner action:***

On November 10, 2005, the Insurance Commissioner approved an average 15.3 percent decrease in advisory pure premium rates effective January 1, 2006, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2006. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$20,300.

**July 1, 2006**

***WCIRB recommendations:***

On March 24, 2006, the WCIRB submitted a rate filing to the California Department of Insurance recommending a 16.4 percent decrease in advisory pure premium rates to be effective on policies incepting on or after July 1, 2006. The recommended decrease in pure premium rates is based on an analysis of loss experience valued as of December 31, 2005. The WCIRB filing also includes an amendment to the California Workers' Compensation Experience Rating Plan-1995, effective July 1, 2006, to adjust the experience rating eligibility threshold to reflect the proposed change in pure premium rates. A public hearing on the matters contained in the WCIRB's filing was held April 27, 2006.

***Insurance Commissioner action:***

On May 31, 2006, the Insurance Commissioner approved a 16.4 percent decrease in advisory pure premium rates effective July 1, 2006, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006. In addition, the experience rating eligibility threshold was reduced to \$16,971 to reflect the decrease in pure premium rates.

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**January 1, 2007**

***WCIRB recommendation:***

On October 10, 2006, the WCIRB recommended a 6.3 percent decrease in advisory pure premium rates decrease for California policies incepting January 1, 2007.

***Insurance Commissioner action:***

On November 2, 2006, the Insurance Commissioner approved an average 9.5 percent decrease in advisory pure premium rates effective January 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$16,000.

**July 1, 2007**

***WCIRB recommendation:***

On March 30, 2007, the WCIRB recommended an 11.3 percent decrease in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2007.

***Insurance Commissioner action:***

On May 29, 2007, the Insurance Commissioner approved an average 14.2 percent decrease in advisory pure premium rates effective July 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$13,728.

**January 1, 2008**

***WCIRB recommendations:***

On September 23, 2007, the WCIRB recommended 4.2 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2008.

On October 13, 2007, the Governor signed Assembly Bill (AB) 338 which extends the time period for which temporary disability payments may be taken. On October 19, 2007, the WCIRB amended its January 1, 2008 pure premium rate filing to propose an overall 5.2 percent increase in pure premium rates in lieu of 4.2 percent to incorporate the impact of AB 338.

***Insurance Commissioner action:***

On November 28, 2007, the Insurance Commissioner approved no overall change to the advisory pure premium rates effective January 1, 2008.

**July 1, 2008**

***WCIRB recommendation:***

On March 26, 2008, accepting a recommendation made by the WCIRB Actuarial Committee, the WCIRB Governing Committee decided that the WCIRB would not propose a change in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2008.

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**January 1, 2009**

***WCIRB recommendations:***

On August 13, 2008, the WCIRB recommended a 16 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2009. See the WCIRB website below for further details and updates to this information.

At its September 10, 2008 meeting, the Governing Committee agreed that the WCIRB's January 1, 2009 pure premium rate filing should be amended to reflect the most recent accident year experience valued as of June 30, 2008, as well as a revised loss development methodology. The original filing should be supplemented to include a recommendation that the proposed January 1, 2009 pure premium rates be adjusted to reflect (a) the impact of the Division of Workers' Compensation proposed changes to the Permanent Disability Rating Schedule (+3.7%) if adopted as proposed and (b) the impact of SB 1717 (+9.3%) if signed into law by the Governor.

***Insurance Commissioner action:***

On October 24, 2008, the Insurance Commissioner approved a 5 percent increase in pure premium rates effective January 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2009.

**July 1, 2009**

***WCIRB recommendations:***

On March 27, 2009, WCIRB recommended a 24.4 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2009.

WCIRB amended its filing on April 23, 2009, to reflect the revised aggregate financial data calls recently submitted by an insurer to WCIRB. These revisions reduced the indicated July 1, 2009, increase in the claims cost benchmark from 24.4 percent to 23.7 percent.

***Insurance Commissioner action:***

On July 8, 2009, the Insurance Commissioner approved no change to the pure premium rates effective July 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2009.

**January 1, 2010**

***WCIRB recommendation:***

On August 18, 2009, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 22.8 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

***Insurance Commissioner action:***

On November 9, 2009, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2010, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

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**July 1, 2010**

***WCIRB recommendations:***

On April 7, 2010, WCIRB voted not to submit a pure premium rate filing for July 1, 2010. The WCIRB's analysis of pure premium and loss experience valued as of December 31, 2009, showed that the indicated July 1, 2010 change in pure premium rates was essentially unchanged from the indication reflected in the January 1, 2010 filing.

***Insurance Commissioner action:***

The Insurance Commissioner did not issue the interim advisory rate for this period.

**January 1, 2011**

***WCIRB recommendation:***

On August 18, 2010, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 29.6 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. On September 27, 2010, the WCIRB amended its January 1, 2011 filing to propose a change in the claims cost benchmark of +27.7 percent in lieu of the +29.6 percent reflected in its August 18, 2010 filing.

***Insurance Commissioner action:***

On November 18, 2010, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2011, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. Other proposed changes to the USRP, ERP and Miscellaneous Regulations were approved as filed with the exception that the experience rating eligibility was increased to \$16,700 to reflect the 0 percent approved change in the Claims Cost Benchmark.

**July 1, 2011**

***WCIRB recommendations:***

On May 19, 2011, the WCIRB decided not to submit a pure premium rate filing for July 1, 2011. The WCIRB noted that a decision on a mid-year filing would likely not be available prior to the WCIRB's upcoming January 1, 2012 Advisory Pure Premium Rate Filing in mid-August, and two pending filings with the CDI had the potential to create a confusion.

***Insurance Commissioner action:***

The Insurance Commissioner did not issue the interim advisory rate for this period.

**Advisory Workers' Compensation Premium Rates**

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**January 1, 2012**

***WCIRB recommendations:***

On August 22, 2011, the WCIRB submitted its January 1, 2012 pure premium rate filing to the California Insurance Commissioner. The pure premium rates proposed in this filing are benchmarked to the average insurer filed pure premium rate. The average of 494 classification pure premium rates is \$2.33 per \$100 of payroll and 1.8 percent less than the corresponding average of insurer filed pure premium rates for July 1, 2011.

***Insurance Commissioner action:***

On November 4, 2011, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2012, which average \$2.30 per \$100 of payroll.

**July 1, 2012**

***WCIRB recommendations:***

On April 12, 2012, the WCIRB submitted its July 1, 2012 pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average \$2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of \$2.41 as of January 1, 2012.

***Insurance Commissioner action:***

On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, which average \$2.49 per \$100 of payroll.

**January 1, 2013**

***WCIRB recommendations:***

On October 1, 2012, the WCIRB submitted its January 1, 2013 pure premium rate filing to the California Insurance Commissioner. The WCIRB is not recommending a January 1, 2013 increase in the advisory pure premium rate level. Instead, the WCIRB is proposing January 1, 2013 pure premium rates that average \$2.38 per \$100 of payroll, which is the industry average filed pure premium rate as of July 1, 2012. The amended January 1, 2013 Pure Premium Rate Filing incorporated new proposed advisory pure premium rates as well as proposed changes to the reporting requirements of *the California Workers' Compensation Uniform Statistical Reporting Plan - 1995* and to the eligibility threshold of the *California Workers' Compensation Experience Rating Plan - 1995*.

***Insurance Commissioner action:***

On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average \$2.56 per \$100 of payroll which is 2.8 percent higher than the industry average filed pure premium rate of \$2.49 per \$100 of payroll as of November 9, 2012.

**Advisory Workers' Compensation Premium Rates**

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**July 1, 2013**

***WCIRB recommendations:***

On April 3, 2013, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2013 Pure Premium Rate Filing. Instead, the Actuarial Committee will continue reviewing insurer experience in preparation for the regular January 1, 2014 Pure Premium Rate Filing to be submitted this August.

***Insurance Commissioner action:***

The Insurance Commissioner did not issue the interim advisory rate for this period.

**January 1, 2014**

***WCIRB recommendations:***

On October 23, 2013, the WCIRB and public members voted unanimously to amend the WCIRB's January 1, 2014 Pure Premium Rate Filing to propose an additional 1.8% increase in pure premium rates to reflect the increased costs of the new physician fee schedule recently adopted by the Division of Workers' Compensation (DWC). With this amendment, the WCIRB is proposing January 1, 2014 advisory pure premium rates that average \$2.75 per \$100 of payroll which is 8.7% greater than the industry average pure premium rate of \$2.53 as of July 1, 2013. (The original Filing that was submitted on September 13, 2013 proposed an industry average pure premium rate of \$2.70 which is 6.9% higher than the July 1, 2013 industry average pure premium rate.)

***Insurance Commissioner action:***

On November 22, 2013, the California Department of Insurance (CDI) has issued a Decision regarding the WCIRB's January 1, 2014 Pure Premium Rate Filing approving advisory pure premium rates that average \$2.70 per \$100 of payroll effective January 1, 2014, which is 6.7% higher than the average filed pure premium rate as of July 1, 2013.

[https://wcirbonline.org/resources/rate\\_filings/current\\_rate\\_filings.html](https://wcirbonline.org/resources/rate_filings/current_rate_filings.html)

Source: WCIRB

## **SPECIAL REPORT: SENATE BILL 863 REFORMS AND RELATED CHSWC STUDIES**

### **Introduction**

CHSWC has been involved in many studies related to Senate Bill (SB) 863. The following is a brief overview of the status of these studies and any related policy recommendations.

### **Copy Services Fee Schedule Study**

SB 863 added Labor Code Section 5307.9 which states: “On or before December 31, 2013, the administrative director, in consultation with the Commission on Health and Safety and Workers’ Compensation, shall adopt, after public hearings, a schedule of reasonable maximum fees payable for copy and related services, including, but not limited to, records or documents that have been reproduced or recorded in paper, electronic, film, digital, or other format. The schedule shall specify the services allowed and shall require specificity in billing for these services...”

In 2013, the Commission on Health and Safety and Workers’ Compensation (CHSWC) worked with Berkeley Research Group of Emeryville, CA, to analyze copy services practices in the workers’ compensation system, review pricing options, and prepare a report summarizing relevant fees in the marketplace and policy issues that may be addressed during the rulemaking process.

The “Formulating a Copy Services Fee Schedule” report presents a rationale for a flat fee schedule to cover all costs related to obtaining and reproducing a set of records up to 1,000 pages if the bill is paid timely and without dispute, and a higher fee to include the additional business expenses if the bill has to go into collection or dispute resolution.

Based on review and analysis, Berkeley Research Group concluded that the most cost-effective and fair method for paying for copy cost is to institute a single price for copy sets, regardless of the number of pages involved (up to 1,000 pages) or the difficulty in retrieval of documents. The researchers concluded that the cost of each initial copy set should be \$103.55. Additional copy sets should be made available at \$.10 per page if paper and for a nominal lump sum fee of \$5.00 if electronic. If a proper invoice is not paid within 60 days, a higher fee is recommended to be applied to take account of the increased collection costs and uncertainty.

*For further information ...*

“Formulating a Copy Services Fee Schedule,” October 2013.

[http://www.dir.ca.gov/chswc/Reports/2013/Copy\\_Services\\_2013.pdf](http://www.dir.ca.gov/chswc/Reports/2013/Copy_Services_2013.pdf)

Collected Public Comments

<http://www.dir.ca.gov/chswc/Meetings/2013/PublicCommentsFromPublicOctober2013.pdf>

### **Wage Loss Study**

SB 863 added Labor Code Section 4660.1(i) which provides, “The Commission on Health and Safety and Workers’ Compensation shall conduct a study to compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule, and shall report the results of the study to the appropriate policy and fiscal committees of the Legislature no later than January 1, 2016.”

Specifically, the study will:

- Compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule.

## SPECIAL REPORT: SENATE BILL 863 REFORMS AND RELATED CHSWC STUDIES

- Determine if ratings under the new SB 863 permanent disability schedule are more proportional with earnings losses than ratings under the pre-SB 863 schedule.

RAND was selected as the contractor for this study and will provide a draft study report for the Wage Loss Study on December 1, 2015, and a final report on or before January 1, 2016.

### **Return-to-Work Program Study**

SB 863 made many changes to the disability benefit system, one of which was the creation of a Return-to-Work Program. This program, which is to be funded at \$120 million per year, would provide supplemental payments to injured workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss. The bill provided the Director of the Department of Industrial Relations (DIR) leeway in the design and implementation of the program. In addition, the bill required the Director in consultation with the California Commission on Health and Safety and Workers' Compensation (CHSWC) to determine eligibility and the amount of payments to be made based on a study. RAND was selected to assist DIR and CHSWC to develop a methodology for the eligibility determination and benefit amounts for the new Return-to-Work Program.

RAND noted many challenges to the study including: how to define disproportionately low benefits; eligibility requirements; calculations of pre- and post-injury earnings; determination of the actual benefit payment; and considerations of any adverse work incentives to using the program.

Results from the study produced various scenarios illustrating the potential number of recipients and the size of the benefit based on present observed trends in reported earnings declines as well as based on the use of the supplemental job displacement benefit (SJDB) which typically indicates whether there is an offer to return to work at the at-injury employer. While the study acknowledged an inherent trade-off between the number of recipients and the size of the benefit, it set forth several eligibility criteria which produced examples of such trade-offs. As many as 24,000 beneficiaries might be eligible under the program at just under \$5,000 on average; however, under different criteria, average benefits might be over \$11,000 with 10,000 beneficiaries.

The RAND study was released for public comment in August of 2013 and presented at the October 2013 Commission meeting in Oakland, CA.

*For further information ...*

"Identifying Permanently Disabled Workers with Disproportionate Earnings Losses for Supplemental Payments," RAND, August 2013.

[http://www.dir.ca.gov/chswc/Reports/2013/Earnings\\_Losses\\_2013.pdf](http://www.dir.ca.gov/chswc/Reports/2013/Earnings_Losses_2013.pdf)

### **Public Self Insured Study**

SB 863 added Labor Code Section 3702.4 which requires the Commission on Health and Safety and Workers' Compensation (CHSWC) to undertake a study to examine the public self-insured program and provide recommendations for its improvement addressing costs of administration, workers' compensation benefit expenditures, solvency and performance of public self-insured workers' compensation programs, and provisions in the event of insolvencies.

CHSWC contracted with Bickmore Risk Services to conduct an examination of California public self-insured employers that will:

- Identify variances in performance of public employers' self-insured workers' compensation programs so as to target areas for improvements in relevant areas including costs of administration, timeliness of benefit payments, benefit expenditures, and prospective ability to pay compensation when due.

## SPECIAL REPORT: SENATE BILL 863 REFORMS AND RELATED CHSWC STUDIES

- Establish benchmarks against which the performance of a public employer's program can be usefully compared to other public employers and to identify outliers, using publicly available information to the extent feasible, and identifying where possible the impacts of different administrative practices upon the various performance parameters.

A final report is due in June 2014.

## **SPECIAL REPORT: JOINT EFFORTS BETWEEN DIR AND CHSWC ON EXAMINATION OF THE WORKERS' COMPENSATION SYSTEM**

CHSWC has been engaged in many efforts of providing joint oversight and/or facilitating the coordination of the following DIR studies:

### **Ambulatory Surgical Centers**

Senate Bill (SB) 863, signed by the Governor on September 18, 2012, requires the Department of Industrial Relations (DIR) to review: additional facility fees for services at Ambulatory Surgical Centers (ASCs) that are not subject to a fee paid by Medicare for services performed in an outpatient department; and whether establishing the payment at 85 percent of the Diagnostic Related Group (DRG) fee paid by Medicare for the same services performed in an inpatient hospital is reasonable.

DIR contracted with RAND to evaluate the feasibility of establishing ASC facility fees for services performed in ASCs that are not covered for hospital outpatient department settings by Medicare, but are covered by Medicare as inpatient hospital procedures. In particular, DIR needs to evaluate the appropriateness of using ASCs in workers' compensation for procedures that Medicare covers only in hospital settings, and to conduct an evaluation of appropriate facility fees for those procedures that may appropriately be performed in ASCs.

A report is expected at the end of 2013.

### **Home Health Care Fee Schedule**

Senate Bill (SB) 863, signed by the Governor on September 18, 2012, requires the Administrative Director (AD) of the Division of Workers' Compensation (DWC) in DIR to adopt certain fee schedules, including a fee schedule for home health care services. California workers' compensation law requires the provision of all medical treatment reasonably required to cure or relieve from the effects of injury. "Medical treatment" has been construed to include services such as housekeeping that may not be covered by any other health care system if this service is warranted by the circumstances. The language of the statute encompasses these supportive services as well as the ancillary medical services more commonly contemplated by the term "home health care services." The statute was particularly intended to address issues of whether and how much a family member should be paid for providing supportive services to an injured worker.

Labor Code Section 5307.8 provides: "Notwithstanding Section 5307.1, on or before July 1, 2013, the administrative director shall adopt, after public hearings, a schedule for payment of home health care services provided in accordance with Section 4600 that are not covered by a Medicare fee schedule and are not otherwise covered by the official medical fee schedule adopted pursuant to Section 5307.1. The schedule shall set forth fees and requirements for service providers, and shall be based on the maximum service hours and fees as set forth in regulations adopted pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code. No fees shall be provided for any services, including any services provided by a member of the employee's household, to the extent the services had been regularly performed in the same manner and to the same degree prior to the date of injury. If appropriate, an attorney's fee for recovery of home health care fees under this section may be awarded in accordance with Section 4906 and any applicable rules or regulations."

DWC contracted with RAND to provide assistance in analyzing possible methods for creating a fee schedule for home health care services, as mandated by SB 863.

A report is expected by the end of 2013, with rulemaking to follow.

## SPECIAL REPORT: JOINT EFFORTS BETWEEN DIR AND CHSWC ON EXAMINATION OF THE WORKERS' COMPENSATION SYSTEM

### **Interpreter Fee Schedule**

Senate Bill (SB) 863 requires the AD to adopt an Interpreter Fee Schedule with two components: one for interpreter services in conjunction with hearings before the Workers' Compensation Appeals Board (WCAB), depositions relevant to a claim of work-injury and medical-legal examinations; and the other for interpreter services performed by a qualified interpreter at medical treatment appointments. The former fee schedule currently exists in regulations, but has been widely criticized because of minimum hourly requirements and loopholes that allow an interpreter to bill for multiple concurrent appearances at hearings. Consideration must be given to addressing such concerns.

The current Interpreter Fee Schedule is at 9795.1 et seq. ([http://www.dir.ca.gov/t8/ch4\\_5sb1a5\\_7.html](http://www.dir.ca.gov/t8/ch4_5sb1a5_7.html)) SB 863 added a new subdivision (g) to Labor Code Section 4600 for a new fee schedule as there is currently no fee schedule for interpreter services in conjunction with medical treatment appointments.

DIR contracted with Berkeley Research Group of Emeryville, CA, to provide assistance in analyzing and comparing pricing schedules for interpretation services utilized by the legal, medical and related industries.

A report is expected by the end of 2013, with rulemaking to follow.

### **Implementing a Resource-Based Relative Value Scale Fee Schedule for Physician Services**

DWC maintains an Official Medical Fee Schedule (OMFS) for medical services provided under California's workers' compensation program. The OMFS establishes the maximum allowable amount (MAA) for services unless the payer and provider contract for a different payment amount. The OMFS for physician services applies to all services performed by physicians and other practitioners. Because the last major revision occurred in 1999, the procedure codes are outdated. Further, the MAAs are based on historical charges, which tend to undervalue evaluation and management (E&M) services relative to procedures and do not reflect changes in practice patterns and new medical technology.

Senate Bill (SB) 863 requires that the AD of the DWC implement a resource-based relative value scale (RBRVS) fee schedule to establish MAAs for physician and other practitioner services. As amended by SB 863, Labor Code Section 5307.1(a)(2) requires a four-year transition from the estimated aggregate MAAs under the OMFS for physician services prior to January 1, 2014, to the MAAs based on the Resource-Based Relative Value Scale (RBRVS). The MAAs are not to exceed 120 percent of estimated annualized aggregate fees prescribed in the Medicare payment system for physician services. The fee schedule is to be updated annually to reflect changes in procedure codes, relative values and inflation, and is to include, as appropriate, payment ground rules different from those in Medicare.

DWC contracted with RAND to develop and assess policy options that may serve as a basis for revising the physician fee schedule. Following the framework for the transition specified by SB 863, RAND computed separate conversion factors (CFs) for anesthesia, surgery, radiology, and all other services based on current OMFS allowances and assessed the impact by comparing estimated total aggregate allowances under the OMFS with estimated allowances under the RBRVS during 2014-2017. The researchers had the following objectives:

- To determine budget-neutral CFs that will apply during the transition to the RBRVS fee schedule. The results from this objective have implications for the level of aggregate spending during the transition period.
- To assess the impact that the transition to RBRVS could have on MAAs for services furnished to workers' compensation patients. The results from this objective do not affect aggregate spending levels; rather, they estimate what changes in aggregate spending levels will occur relative to the current OMFS MAA.

## SPECIAL REPORT: JOINT EFFORTS BETWEEN DIR AND CHSWC ON EXAMINATION OF THE WORKERS' COMPENSATION SYSTEM

RAND researchers found that over the four-year period, total MAAs are estimated to increase 11.9 percent. The increase represents the combined effect of estimated inflation (which increases the rates 8 percent over the period) and the transition from current OMFS payment levels in the aggregate at 116 percent of Medicare to 120 percent of Medicare in 2017. For anesthesia, allowable fees would decline 19.8 percent over the transition. There would also be declines in surgery (-20.1 percent) and radiology (-15.9 percent). Within the "all the other services" category, there would be significant increases for medicine (17.3 percent) and E&M (39.5 percent) and significant reductions in pathology (-29.0 percent).

Because most specialties furnish a range of services, the impacts by specialty are generally less than those by type of service. For example, surgeons furnish a substantial amount of E&M services in addition to surgical services, so the percentage change in allowances for the surgical specialties would be -8.7 percent, compared with the -20.1 percent change for surgery.

*For further information...*

"Implementing a Resource-Based Relative Value Scale Fee Schedule for Physician Services: An Assessment of Policy Options for the California Workers' Compensation Program" (August, 2013).

[http://www.dir.ca.gov/dwc/DWCPPropRegs/OMFSFeeSchedule/RAND-Report\\_RR395.pdf](http://www.dir.ca.gov/dwc/DWCPPropRegs/OMFSFeeSchedule/RAND-Report_RR395.pdf)

### **Access to Medical Treatment for Injured Workers**

DWC is required to complete annual studies of access in accordance with Labor Code Section 5307.2, which was enacted by Senate Bill (SB) 228 (Chapter 639, Statutes of 2003). DIR contracted with Berkeley Research Group of Emeryville, CA, to assist in fulfilling the objectives of Labor Code Section 5307.2 and conduct the "Access to Medical Treatment for Injured Worker Study."

The main objectives of the study are to: evaluate the adequacy of access to quality health care for injured workers in 2012, 2013 and 2014; assess changes in access to quality health care since the 2006 UCLA and 2008 University of Washington studies; and make recommendations to ensure continued access.

This study is noteworthy in that it is the first attempt to use medical claims submitted to the Workers' Compensation Information System (WCIS) to address injured workers' access issues. Previous studies of injured workers' access conducted in 2006 and 2008 were based solely on survey data. Nevertheless, the findings of each of the previous studies are largely consistent with the findings of this study. In all three studies, a substantial majority of injured workers reported no problems with access to care and expressed satisfaction with the care they received. The WCIS medical claims data indicated that the number of injured workers who obtain care from specialists rather than general practitioners is increasing although the overall number of providers treating injured workers has not changed.

The complete report of the first of the three access studies can be found

at: <http://www.dir.ca.gov/dwc/AccessMedTreatmentReport2013/AccessToMedicalTreatmentInCAWC2013.pdf>

In addition, at the request of Honorable Darrell Steinberg, President pro Tempore of the Senate, and the Honorable John A. Pérez, Speaker of the Assembly, the Director of DIR is to work with the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study on high-quality medical care in the workers' compensation system with special emphasis on specialist doctors.

SB 863 calls for a reduction in fees for certain specialist medical care. At present, specialist care is paid at 180 percent of the rate specialists are paid by Medicare for the same services. Under the new law, that amount will be reduced in stages until it reaches 120 percent of the Medicare rate.

Berkeley Research Group (BRG) was retained by DWC to conduct Medical Access studies over the three years commencing in May 2012 to determine whether injured workers have access to and are satisfied with the medical care they receive in the workers' compensation system. This is an excellent opportunity to also review this subset access issue to specialist doctors.

## **SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE**

### **Introduction**

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment where legitimate businesses can thrive, and support the collection of all California taxes, fees and penalties due from employers.

Task force members include:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including Division of Labor Standards Enforcement (DLSE) and Division of Occupational Safety and Health (DOSH)
- Employment Development Department (EDD)
- Contractors State Licensing Board (CSLB)
- California Department of Insurance (CDI)
- Board of Equalization (BOE)
- Bureau of Automotive Repair (BAR)
- State Attorney General and district attorneys throughout California
- Agricultural Labor Relations Board (ALRB)

### **Targeting Methods – Value Added by the LETF**

To target non-compliant employers, DIR continues to refine its methods, which are both data-driven (proactive) and complaint-driven (responsive).

LETF teams include inspection staff from DLSE, DOSH, EDD and CSLB, as well as other member agencies, depending on the industry. On every team, staff members from each agency develop potential targets through statistical reporting from their respective databases and other sources of information. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access collectively:

- DLSE uses wage claims data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- DOSH uses contacts with the local Agricultural Commissioner's office, the local U.S. Department of Agriculture's office, and community-based organizations.
- EDD uses complaint data and the Automated Collection Enhancement System (ACES) database that includes multiple databases, including tax and Department of Motor Vehicle (DMV) records. Their data on taxpayers are protected by federal privacy and confidentiality laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, DIR receives complaints and tips submitted directly by the public to identify potential targets. The complaints and tips come in through a live hotline, answered during business hours, and an LETF email address. Both are posted at the LETF website: <http://www.dir.ca.gov/letf/letf.html>

### **Enforcement – Value Added by the LETF**

Working together, each LETF team has access to a fuller range of enforcement tools than does each agency on its own:

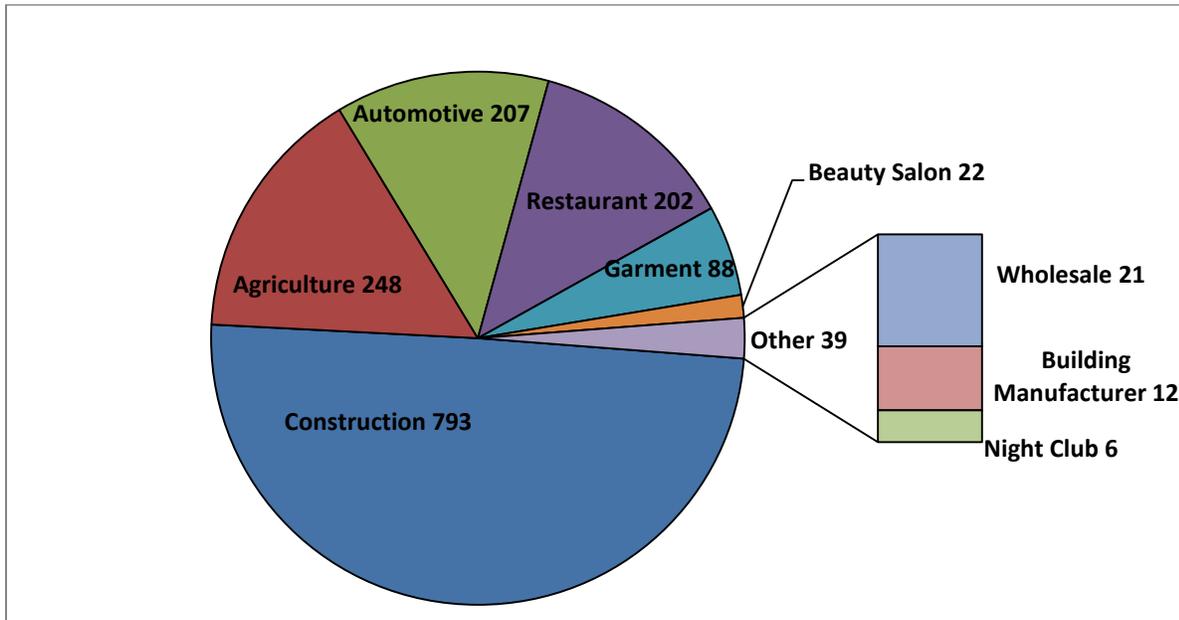
## SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

- DLSE has the authority under Labor Code Section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- DOSH has the authority to issue citations for serious, willful and repeat violations. DOSH may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.
- EDD has authority under Unemployment Insurance Code 1092 to require employers to provide records for inspection anytime during the employing unit's business hours.
- CSLB is able to suspend contractors' licenses until the penalties issued by DLSE and EDD are paid. Penalties are far more likely to be paid promptly when the license is suspended until payment.

Because LETF inspection teams comprise members from multiple agencies, an LETF inspection has less disruptive impact on business operations of compliant employers than multiple inspections by the individual agencies. However, when several agencies working together do find an egregious employer, the ensuing publicity has a deterrent effect that is much more powerful than if only a single agency were enforcing.

The LETF program focuses on specific industries, including agricultural, automotive, construction, garment and restaurant, based on several factors such as geographical, seasonal and other considerations. The composition of inspections by industry type for fiscal year 2012/13 is shown below.

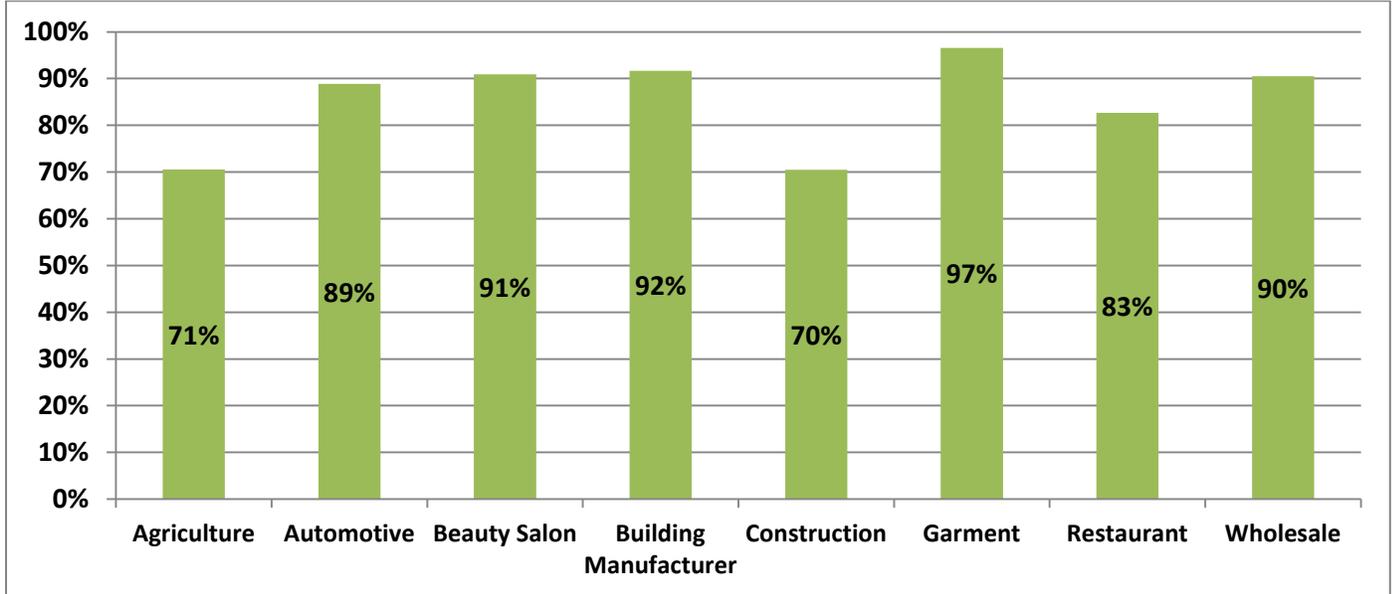
Figure 143: Composition of Businesses Inspected by LETF, FY 2012-2013



Source: LETF Database

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Figure 144: Percentage (%) of Businesses Found Out of Compliance by Industry by LETF, FY 2012-2013

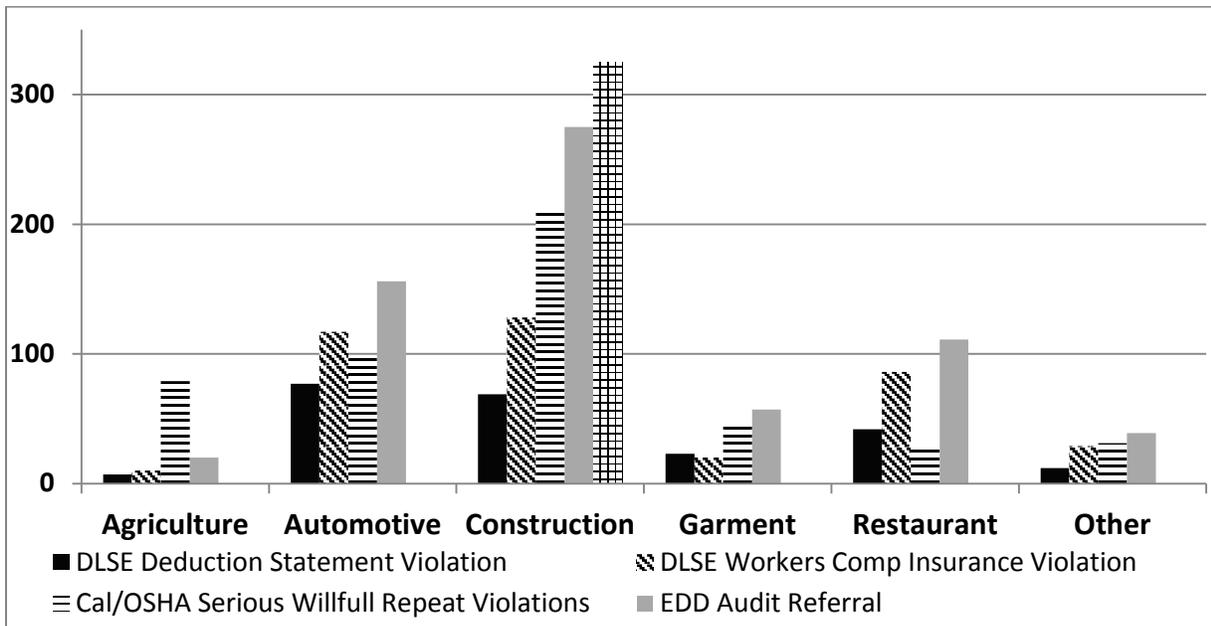


\*Includes industries with 10 or more inspections for Fiscal Year 2012-2013

Source: LETF Database

In fiscal year 2012-13, LETF inspected 1,599 businesses. Over 90 percent of businesses in several industries, such as beauty salons, building manufacturer and garment, were found out of compliance, which reflects the effective targeting of businesses using data-matching. Overall, initial assessments for LETF-related enforcement exceeded \$10 million, attributed largely to violations found in automotive, construction, garment and restaurant industries.

Figure 145: Instances of Non-Compliance from LETF Agencies for Fiscal Year 2012-2013



Source: LETF Database

## SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

### **Education and Outreach**

Outreach and education are an important component in combating the underground economy. Workers need to know their rights and what to do if their rights are violated, and employers need to know their responsibilities to operate in compliance with California labor, tax, and business laws. LETF has a comprehensive outreach and education plan under development to aid workers and employers to work and conduct business in a safe and fair environment. The plan includes the following:

- Design and produce effective educational materials in coordination with other agencies.
- Publish comprehensive employer guide to inform educate employers how to stay in compliance with laws enforced by LETF partner agencies.
- Translate educational materials into the languages commonly spoken by employers and employees in California.
- Inform local and regional organizations serving low-wage workers about the availability of enhanced online materials and information.
- Offer training opportunities for employer and worker organizations.
- Publicize the campaign effort and feature successful enforcement actions via television, radio, movie theater screens, posters, blogs, email news releases and newspapers, as well as social media such as Facebook and YouTube.

### **Partnerships**

LETF initiated a partnership with labor and management stakeholders in the roofing industry. The partnership is designed to promote collaboration and communication between agencies and the public to reduce the incidence of injuries and illnesses, labor law violations, workers' compensation fraud, and evasion of worker social insurance protections in the roofing industry.

# **SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE**

## **Introduction**

Promoting the early and sustained return to work of injured and disabled workers is an important goal of state workers' compensation systems. Return to work benefits workers by reducing the adverse economic consequences of an injury, and it benefits employers by reducing disability benefits and other costs. In California, workers who are permanently disabled as a result of a workplace injury have been found to have poor return-to-work rates on average. The poor return-to-work rates have meant that permanently disabled workers in California have had worse economic outcomes, even though the workers' compensation costs for California employers were among the highest in the country.

Evidence of the poor adequacy and poor affordability of permanent partial disability (PPD) benefits was a key factor in the multiple reform efforts to workers' compensation in California in early 2000s. The notion that improving return to work could make the system more affordable while also improving the adequacy of benefits motivated many of the reforms to the California workers' compensation system. This report discusses how these reforms affected return to work and the adequacy of benefits for disabled workers in the California workers' compensation system.

## **Background and Legislative History**

In order to understand the role of workers' compensation reforms on the rates of return to work by injured and disabled workers in California and the implications for the adequacy of disability benefits, the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND addressed the following broad set of research questions:

- How do public policies, both within and outside the workers' compensation system, influence return to work?
- How have these policies changed in California over the past ten years?
- How have rates of return to work by injured and disabled workers in California changed in the past ten years?
- What has been the impact of reforms in the workers' compensation system on benefit adequacy for injured and disabled workers? How, if at all, have changes in benefit adequacy been influenced by changes in return to work?

The study classifies return-to-work policy efforts into three broad categories: medical management; incentive-based approaches; and accommodation-based approaches. The medical management approaches attempt to improve return to work by improving the quality and timely receipt of medical care or by improved coordination and communication with medical providers. Some reforms that target this involve the assignment of control of provider choice or the direct regulation of care through utilization review or treatment guidelines. The incentive-based approaches use financial rewards (or punishments) to influence the behavior of employers or the workers themselves, often by manipulating disability benefits based on return-to-work status. Finally, accommodation-based methods alter the requirements of the job, either the schedule or the tasks required or the physical environment, in order to make it easier for a disabled worker to perform the necessary tasks. Some states adopt subsidies to accommodations in order to improve employment for disabled workers.

From 2001-2004, California adopted reforms that impacted all three of these approaches to improve return to work. In 2003, Senate Bill (SB) 228 made massive changes to medical treatment delivery for workers' compensation cases, including the adoption of utilization review based on treatment guidelines

## SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

and caps on certain therapies. In 2004, SB 899 enacted a two-tier permanent disability benefit that requires employers to pay 15 percent higher benefits when they make no offer of return to work and 15 percent lower benefits when an offer is made. The State also made significant changes to the vocational rehabilitation services offered, switching to a voucher program. There were important changes outside of the workers' compensation system as well. In 2001, the State reformed the Fair Employment and Housing Act (FEHA), which protects the disabled from discrimination by their employers, in such a way that potentially penalizes employers who fail to offer "reasonable" accommodations to workers disabled due to a workplace injury. Any or all of these could have affected return to work.

In addition to the two-tiered benefit adopted in 2004, the State also dramatically reformed the evaluation system for permanent disabilities. One effect of this reform is that permanent disability benefits were cut substantially. A cut in disability benefits would reduce the overall level of income replacement (defined as the fraction of lost wages replaced by benefits) for injured workers, unless return to work improved and reduced earnings losses enough to offset the decline in benefits. The study combines administrative data on workers' compensation benefits and earnings of injured and disabled workers in order to estimate how return to work changed after the reforms and to evaluate the net impact on the replacement of lost income.

### Findings

Study findings include:

- A survey of employers that suggests both large and small employers are keenly aware of return-to-work issues and have taken steps to improve return to work. Their answers suggest that workers' compensation costs play a key role in determining their return-to-work decisions.
- Workers' compensation reforms and the changes to FEHA have impacted decisions to accommodate disabled workers in workers' compensation cases. About 40 percent of employers identified both the workers' compensation reforms and changes to FEHA as important factors in return-to-work decisions. These survey findings confirm that policies both within and outside the workers' compensation system are potentially important tools for influencing return to work.
- The empirical findings suggest that return to work improved dramatically in California during the study period. Workers injured in 2003-2006 were significantly more likely to be working one or two years after an injury than workers injured in 2000-2002. Overall employment and employment for the at-injury employer showed improvement. Some of the biggest gains in return to work were observed for the most severely disabled workers.
- Pinpointing exactly why return to work improved so much is a challenge. According to this study, return to work was improving even before Senate Bill (SB) 899 reforms were adopted. Workers injured in 2003 and 2004 were not eligible for the tiered benefit, rendering it unlikely to be a driving factor behind the observed trend. At the same time, the study finds modest evidence that the tiered benefit improved return to work for workers employed at medium-sized firms. The findings also cast doubt on the effectiveness of the old vocational rehabilitation system in California in terms of improving employment outcomes for injured workers. The results suggest that the biggest gains in employment for injured workers came from workers who were most likely to participate in the vocational rehabilitation system. This does not necessarily mean that the system had no positive effect on return to work, but it suggests that any such effects were minor. The timing of the return-to-work gains suggests that the changes to FEHA, the medical treatment reforms, or the general activities by employers to improve return to work in response to rising costs might have been important factors.
- Examination of the effects of the reforms on the income replacement provided to injured workers indicated that the impact was striking. Indemnity benefits fell dramatically, and most of the decline was experienced by workers with permanent disabilities. Part of the decline experienced by workers with permanent disabilities was due to the changes to the disability rating schedule, and

## SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

part was due to the repeal of the vocational rehabilitation system. The reforms also appear to have led to a decline in the fraction of workers who receive permanent disability benefits.

- The decline in indemnity benefits led to a decline in the average replacement rate of lost income. Replacement rates fell about 26 percent on average. The gains in return to work helped offset some of the declines, but not all. Estimates are that if return to work had stayed at its lowest point, replacement rates would have fallen 15 percent more than they ultimately did.
- Declines in replacement rates were experienced most profoundly by the most severely disabled workers. This is despite the fact that the most severely disabled workers experienced the biggest gains in return to work. It is also noteworthy that replacement rates for these workers fell the most, even though SB 899 specifically raised benefits for workers with more severe disabilities and lowered them for workers with less severe disabilities (as measured by the disability rating system). Given the changes to the rating system, however, very few individuals are so severely disabled as to qualify for the higher disability benefits. Additionally, the most severely disabled were more likely to have qualified for vocational rehabilitation benefits.
- Some have argued that there has been an upward trend in physician disability ratings which tie directly to permanent disability benefits. The study reviewed whether there was a significant increase in disability ratings from 2006-2009. There was some evidence of an increase, with permanent disability ratings rising about 8-10 percent per year from 2007-2009. This offsets about a third of the decline in the level of permanent disability awards that workers are eligible for, with a decline of 40 percent from 2004, as opposed to the 60 percent that was observed immediately after adoption of the new schedule.

### Recommendations

CHSWC recommendations include:

- Despite the improvements in return to work, the study finds that the level of income replacement provided to disabled workers fell significantly. To maintain previous levels of benefit adequacy, an increase in benefit levels is necessary.
- While California clearly made strides in terms of return-to-work gains, there still are areas where the State could improve. The general lack of use and impact of the workplace-modification subsidy program are discouraging; it still seems that more could be done to improve return to work at smaller employers. Most of the return-to-work programs discussed are likely to be geared towards larger employers, who have more flexibility to modify staff and reallocate workers. More research needs to be done to understand what kinds of programs would be most effective for smaller businesses:
  - For example, do self-insurance pools of smaller employers do a better job of promoting return to work than insured small employers do on their own?
  - Would a premium discount for an approved return-to-work program help improve return to work? Would these programs be cost-effective for small employers?
- There are also important issues that should be monitored going forward. The study found evidence of a general trend towards increasing disability ratings over time, and it is particularly prominent in cases with attorney representation. If the medical-legal system is introducing uncertainty or subjectivity into the rating process, this could be another factor.
- Further work is needed to understand the impact of medical treatment guidelines and utilization review on return to work and employment.

## SPECIAL REPORT: WORKERS' COMPENSATION REFORMS AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

- Another implication of this study is the need to further explore the potential gains to the integration of occupational and non-occupational disability compensation. While much work needs to be done to understand the potential implications and challenges of integration of care, both overall and with respect to the impact on return to work, it is an area that merits further consideration.

### **Update**

SB 863 changes the specifications for the return-to-work offer that excuses an employer from liability for the supplemental job displacement benefit. This bill also fixes the amount of the voucher independent of the permanent partial disability rating. In addition, the time for the employer to offer the voucher has changed. Finally, the bill expands the list of eligible expenses that can be covered by the voucher and prohibits compromise or settlement of the right to the voucher (Labor Code Section 4658.7).

*For further information ...*

"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2010).  
<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

## SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

### Introduction

Given the pressing need to reduce the risk of opioid overdose and misuse among injured workers in California, the California Department of Industrial Relations (DIR) and the California Commission on Health and Safety and Workers' Compensation (CHSWC) are working to develop criteria that can be used to screen for higher-risk prescribing practices within the workers' compensation system. The objective of the current study was to search for information on opioid prescribing that can be used to inform the development of such screening criteria for assessing opioid-prescribing risk. This study was also used to evaluate publicly available opioid treatment guidelines and systematic reviews and identify how this information can be used to mitigate the risks associated with opioid pain medications.

### Background

In California and nationally, policymakers and individual physicians are striving to attain an elusive goal: balancing adequate pain control with minimizing the risks associated with prescription pain medication. Overdoses due to prescription opioid medication are leading to an increasing number of emergency department visits, hospitalizations and deaths. According to the Centers for Disease Control and Prevention, fatalities associated with prescription opioids rose from 4,000 to nearly 14,000 annually between 1999 and 2006.<sup>55</sup> Now there are nearly as many accidental deaths due to use of opioids as due to motor vehicle accidents.<sup>56</sup>

There are several factors that may be contributing to this epidemic of prescription drug abuse and accidental overdoses. One is that opioids have inherent risks. Opioids suppress the drive to breathe, particularly in combination with sleeping/anti-anxiety medication or alcohol. Opioids can be addictive, more so for some people than for others. The public mistakenly perceives prescription drugs as being safer than street drugs; while abuse of prescription drugs has risen, use of street drugs has dropped.<sup>57</sup> Also, over the past two to three decades, there has been a dramatic change in the standard of care for pain management, with an increasing emphasis on adequately controlling pain. Physicians are often taught that there is no objective measure of pain so providers should be responsive to patients' subjective complaints.<sup>58</sup> Therefore, the overall result has been a dramatic increase in the number of patients receiving opiates, particularly for non-cancer pain, and a rise in the total doses prescribed and used.<sup>59</sup> The increase in the prescribing of opioids has been for both appropriate and inappropriate indications, though defining inappropriate use can be challenging.<sup>60</sup>

In workers' compensation settings, opioid-prescribing issues take on unique implications due to: the responsibility that employers bear for disability costs; the association between chronic pain and workplace factors such as job satisfaction, disputed disability claims, or receipt of disability payments; and the fact

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<sup>55</sup> Warner M, Chen L, Makuc D. Increase in fatal poisonings involving opioid analgesics in the United States, 1999-2006. 2009 [updated 2009; cited 2012 May 20]; Available from: <http://www.cdc.gov/nchs/data/databriefs/db22.pdf>.

<sup>56</sup> Murphy SL, Xu J, Kochanek KD, Division of Vital Statistics. Deaths: Preliminary Data for 2010. 2012 [updated 2012; cited 2012 March 8]; Available from: [http://www.cdc.gov/nchs/data/nvsr/nvsr60/nvsr60\\_04.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr60/nvsr60_04.pdf).

<sup>57</sup> Ibid.

<sup>58</sup> Katz LY, Cox BJ, Clara IP, Oleski J, Sacevich T. Substance abuse versus dependence and the structure of common mental disorders. *Compr Psychiatry*. 2011;52 (6):638-43 and American Pain Society Quality of Care Committee. Quality improvement guidelines for the treatment of acute pain and cancer pain. *JAMA*. 1995; 274(23):1874-80.

<sup>59</sup> Centers for Disease Control and Prevention. CDC Grand Rounds: Prescription Drug Overdoses — a U.S. Epidemic; 2012 Contract No.: Document Number]; and Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. *JAMA*. 2008;299(1):70-8.

<sup>60</sup> Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. *JAMA*. 2008;299(1):70-8 and Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. *Spine (Phila Pa 1976)*. 2007;32(19):2127-32.

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that similar injuries tend to have worse outcomes in workers' compensation settings than otherwise.<sup>61</sup> In addition, opioid use may be associated with poorer outcomes in workers' compensation settings. One study by a large workers' compensation insurer found that individuals with back problems who were prescribed opioids at doses above 140 mg of morphine equivalents over the first 15 days of their claim had longer disability and higher medical care costs.<sup>62</sup>

In the California workers' compensation system, a recent study suggests potential issues with particular opioids and that a small number of physicians represent outliers with high-risk prescribing practices. One percent of physicians who prescribed opioids within the California workers' compensation system were the source of 33 percent of all opioid prescriptions.

### **CHSWC Study by RAND**

#### **Scope of the Study**

Higher-risk prescribing practices could be defined as practices that warrant scrutiny because they are thought to be associated with an increased risk of suboptimal patient outcomes. The screening criteria for assessing opioid-prescribing risk are, therefore, analogous to a screening test for cancer in which a positive test is not diagnostic but rather needs to be followed by a second test that can be used to confirm or rule out the diagnosis. The screening criteria for assessing opioid-prescribing risk would generally not represent absolute rules but rather aspects of care where providers should venture only with specialized expertise and/or considerable caution. One potential strategy would be for prescriptions flagged by the screening criteria to undergo review by a third party, and, if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation.

When considering how to define higher-risk prescribing practices, it is essential to consider the types of data that will be available to a future monitoring system. Such a system would, in all likelihood, rely on patients' medical care claims data, including claims from multiple dates over time. The system will be less burdensome to implement if it relies on prescription claims rather than complete medical claims. The information contained in prescription claims may include, at a minimum: medication name and formulation; route of administration; dose per unit of medication; and number dispensed. Over time, the number and frequency of refills would be available.

This suggests that the following specific elements of prescribing would be feasible for monitoring:

- Types of opioid medications, formulations and routes of administration.
- Daily doses of opioid medications, in morphine equivalents.
- Issues relating to medications and time, such as speed.
- Drug-drug interactions: other medications prescribed with the opioid that increase risk of adverse and overdose events.

If the system for identifying risky prescribing practices includes additional information from the patient's medical claims, particularly diagnosis codes, it may be possible to identify other characteristics about the

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<sup>61</sup> Loeser JD, Henderlite SE, Conrad DA. Incentive effects of workers' compensation benefits: a literature synthesis. *Med Care Res Rev.* 1995;52(1):34-59.

<sup>62</sup> Franklin GM, Stover BD, Turner JA, Fulton-Kehoe D, Wickizer TM. Early opioid prescription and subsequent disability among workers with back injuries: the Disability Risk Identification Study Cohort. *Spine (Phila Pa 1976).* 2008;33(2):199-204 and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number].

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patient's situation that define it as high-risk. For example, patients who have sleep apnea are at a particularly high risk of opioid overdoses.<sup>63</sup>

The research questions this project set out to address focused, therefore, on the four above elements of prescribing and their relationship to patient outcomes. The study sought to understand how specific types of medications, formulations, routes, doses, durations of therapy, and drug-drug interactions affected outcomes such as pain control, functional status, and adverse events including the risk of overdose, addiction and mortality. To answer these questions, the study focused its search for information on publicly available medical treatment guidelines, systematic literature reviews, meta-analyses, and information on individual medications released by the Food and Drug Administration. The study restricted its search to information published since 2007, since studies have shown that new studies can render guidelines out-of-date as quickly as three years after publication.<sup>64</sup>

This opioid study conducted a systematic search for publicly available guidelines and systematic reviews. The public domain databases used were: National Guidelines Clearinghouse; MEDLINE via PubMed; and websites of relevant specialty societies. The study used websites of California, Colorado, and Washington state workers' compensation systems. The publicly available guidelines and reviews selected were based on the following criteria: they addressed acute, sub-acute or chronic pain in general; they were published between January 1, 2007 and May 15, 2012; and they were published in English.

When identifying publicly available guideline recommendations or topic areas as potential screening criteria for assessing opioid-prescribing risk, the researchers did so on the basis of the following criteria:

- The potential screening criterion was believed to be associated with one or more adverse patient outcomes, such as overdose, addiction, substance misuse, mortality, or another adverse outcome.
- The association was supported by one of the following types of evidence:
  - Strong, high-quality research evidence (such as randomized controlled trials or well-executed observational studies).
  - Recommended by multiple guidelines, contradicted by few guidelines, and not contradicted by strong, high-quality research evidence.
  - Included in Food and Drug Administration (FDA)-prescribing information.
  - Recommended by one or more guidelines, contradicted by no other guidelines, not contradicted by research evidence, and believed to pose a substantial risk to specific populations (e.g., specific drug-drug interactions).
- Applying the screening criterion appeared potentially feasible using billing data.

In addition to affecting the types of medications and doses prescribed, other strategies may also reduce risks associated with opioid use. Consequently, secondary objectives included: considering practices that may affect the risks associated with prescribing opioids, such as strategies for minimizing prescription opioid use when appropriate; screening for substance abuse with a medical history; assessing patients' individual risks of misuse; performing urinary drug tests; and entering into written treatment agreements with patients.

### Summary of Findings

Chronic pain, defined as pain lasting at least three months longer than the expected period of healing, is unfortunately very common. Opioids can be an appropriate means of treating patients with chronic pain,

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<sup>63</sup> Webster LR, Cochella S, Dasgupta N, Fakata K, Fine P, Fishman S, et al. An analysis of the root causes for opioid-related overdose deaths in the United States. *Pain Medicine*. 2011; June (12 Supplemental 2):S26-35.

<sup>64</sup> Shekelle PG, Ortiz E, Rhodes S, Morton SC, Eccles MP, Grimshaw JM, et al. Validity of the Agency for Healthcare Research and Quality Clinical Practice Guidelines: How Quickly Do Guidelines Become Outdated? *JAMA*. 2001;286(12):1461-67.

## SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

particularly those with moderate to severe pain. Four of the systematic reviews this study identified found that oral opioids are significantly more effective than placebo in treating chronic pain, with declines in pain in the range of 30-50 percent. Use of opioids for chronic pain has also been associated with significant improvements in measures of functional status (such as on SF-36).<sup>65</sup> According to two of these studies, opioids are also more effective at improving pain and functional status than non-steroidal anti-inflammatory drugs (NSAIDs).<sup>66</sup> Nevertheless, the increasing use of opioids has been accompanied by real risks of substance misuse, addiction, diversion, overdose and death. The Institute of Medicine Report *Relieving Pain in America* summarizes the ongoing challenges involved in balancing effective treatment of pain against the known risks associated with opioid therapy and provides specific recommendations for national and other policy audiences.<sup>67</sup>

The risks of overdose, substance misuse and mortality may be higher in workers' compensation settings than otherwise, based on a systematic review published this year that documents opioid prescribing practices in workers' compensation and other settings. In workers' compensation settings, opioids are used more often in the treatment of chronic non-cancer pain, and the doses used tend to be higher.

Workers' compensation settings have an additional unique issue as well: the value of ensuring that the patients being prescribed opioids return to their baseline functional status as quickly as possible. Observational studies, including one in California, found use of higher-dose opioids associated with longer disability and higher workers' compensation claim costs.<sup>68</sup>

Higher-risk practices are those that are thought to be associated with suboptimal patient outcomes. The potential screening criteria for identifying them focus on areas of practice where providers should proceed with caution or not at all. Those prescriptions flagged as positive for the screening criteria could undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation. Most likely, any criteria implemented as a state policy or by workers' compensation payors would be applied to pharmaceutical claims (billing) data so the criteria should be able to identify high-risk practices based on medication name and formulation, route of administration, dose per unit of medication, number dispensed, and patterns of refills over time.

The research questions in this study focused on how specific types of medications affected outcomes such as pain control, and adverse events including the risk of overdose. The search was restricted to information published since 2007, since studies have shown that new studies can render guidelines out of date as quickly as three years after publication.<sup>69</sup>

The study identified 20 recent publicly available guidelines that appeared relevant. Of these, two had particularly high-quality literature reviews and addressed a range of topics relevant to patients with

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<sup>65</sup> Noble M, Treadwell JR, et al. Long-term opioid management for chronic noncancer pain; 2010 Contract No.: Document Number] and Papaleontiou M, Henderson CR, Jr., Turner BJ, Moore AA, Olkhovskaya Y, Amanfo L, et al. Outcomes associated with opioid use in the treatment of chronic noncancer pain in older adults: a systematic review and meta-analysis. *J Am Geriatr Soc.* 2010;58(7):1353-69. PMID: 3114446; and

Furlan AD, Sandoval JA, Mailis-Gagnon A, Tunks E. Opioids for chronic noncancer pain: a meta-analysis of effectiveness and side effects. *CMAJ.* 2006;174(11):1589-94. PMID: 1459894; and

Kalso E, Edwards JE, Moore RA, McQuay HJ. Opioids in chronic non-cancer pain: systematic review of efficacy and safety. *Pain.* 2004;112(3):372-80.

<sup>66</sup> National Institute for Health and Clinical Excellence. Neuropathic pain: the pharmacological management of neuropathic pain in adults in non-specialist settings. London; 2010 [updated 2010; cited 2012 May 1]; Available from: [www.nice.org.uk/guidance/CG96](http://www.nice.org.uk/guidance/CG96) and American College of Physicians. ACP PIER - Pain Guideline; 2012 Contract No.: Document Number].

<sup>67</sup>Institute of Medicine. *Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research.* Washington, DC; 2011 Contract No.: Document Number].

<sup>68</sup> Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. *Spine (Phila Pa 1976).* 2007;32(19):2127-32; and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number 1.

<sup>69</sup>Shekelle PG, Ortiz E, Rhodes S, Morton SC, Eccles MP, Grimshaw JM, et al. Validity of the Agency for Healthcare Research and Quality Clinical Practice Guidelines: How Quickly Do Guidelines Become Outdated? *JAMA.* 2001;286(12):1461-67.

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chronic pain. The study extracted a great deal of information from all of the publicly available guidelines relating to the risks of adverse events. Selecting a variety of potential screening criteria based on this work appears quite feasible.

The publicly available guidelines and other information sources identified two individual medications as posing particularly high risks of overdose, substance misuse, or toxicity: immediate release fentanyl preparations; and meperidine. Methadone can also be included as a screening criterion to ensure that patients are started on the drug in a safe manner. These three are clear candidates for consideration as potential screening criteria, meaning that particularly close scrutiny is warranted (the first two) or the drug should not be prescribed to outpatients (meperidine).

In terms of selecting a dose of each opioid to use as a screening criterion for inappropriate prescribing, this too appears feasible. That said, it is difficult to determine the dosing levels at which the optimal balance is achieved between effectiveness and an acceptably low risk of overdose.

This report also identifies, based on the public guidelines reviewed, potential screening criteria for when patients are switched from one opioid to another. These transitions are fraught with risks of overdose due to the characteristics of the different drugs, as well as variability across individual patients in how they metabolize different opioids. Doses calculated using the old standby equi-analgesic dosing tables must be adjusted downward by 25-50 percent for most drugs to allow for the possibility that patients may not be nearly as tolerant to the new medication; other adjustments are required for fentanyl and methadone, as explained in the section above.

As a window into how many patients might have care that will be flagged by such potential screening criteria, Swedlow et al. have provided detailed relevant information on opioid claims in the California workers' compensation system.<sup>70</sup> The Swedlow study did not provide information on dose or drug-drug interactions. However, a study by Dembe et al. based on opioid claims in the Ohio workers' compensation system did provide that information. With regard to dose, that varied greatly.<sup>71</sup>

If prescribing practices in California are similar to those in Ohio, the potential screening criteria suggested by the various guideline recommendations will identify quite a number of medical claims warranting review. Thus, it would be helpful to test how a system of claims-based screening criteria that identify risky opioid prescribing practices would actually work. The publicly available guidelines and other documents the study reviewed suggest possible screening criteria. The next step would be to identify the various types of data sources that could be available for examining prescribing practices.

### Conclusions

- Opioid-related substance abuse and overdoses are growing problems, partly due to prescribing practices. Both issues can lead to poor outcomes and increase workers' compensation costs.
- New standards of care and policies are emerging to address these issues.
- Using administrative data to identify high-risk prescriptions may be feasible.
- There are a few recent relatively high-quality guidelines on opioid treatment; one of these could be evaluated further for implementation in the California workers' compensation system.

*For further information...*

"Identifying Risky Opioid Prescribing Practices." UCLA, 2012.

"Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II," UCLA, 2012.

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<sup>70</sup>Swedlow A, Ireland J, Johnson G. Prescribing Patterns of Schedule II Opioids in California Workers' Compensation: California Workers' Compensation Institute; 2011 Contract No.: Document Number I.

<sup>71</sup>Dembe A, Wickizer T, Sieck C, Partridge J, Balchick R. Opioid use and dosing in the workers' compensation setting. A comparative review and new data from Ohio, *Am J Ind Med.* 2012;55(4):313-24.

# **SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES**

## **Evaluation of the California Injury and Illness Prevention Program**

### *Introduction*

Details are scarce about the effectiveness of Cal/OSHA's Injury and Illness Prevention Program (IIPP) standard and whether some compliance officers are especially good at reducing workplace injury and illness rates.

The purpose of the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND was to conduct research that evaluates the effectiveness of the IIPP standard at reducing injury and illness rates and compliance officers' inspections. The research could help to improve the ability of occupational health and safety agencies to prevent injuries and illnesses, potentially a significant number of injuries and illnesses.

### *Background*

As part of the inspection process, inspectors review employers' compliance with required programs such as the Injury and Illness Prevention Program (IIPP). The requirement of the IIPP is specified in Title 8 CCR Section 3203 of the General Industry Safety Orders which took effect in July 1991. The regulations required all employers in California to establish an IIPP. Having an IIPP is considered the first step toward creating a system for identifying, correcting and preventing workplace safety and health hazards. Section 3203 has been the most frequently cited standard in general industry in California ever since it was promulgated.

Other Labor Code sections and regulations address specific industrial safety and health hazards and prevention requirements by type of workplace, type of equipment, environmental contexts and industry sectors. The Division of Occupational Safety and Health (DOSH) enforces the laws on IIPPs and safety standards through various means, including inspections and citations. Data on occupational injuries and illnesses can be used to measure or test the impact of safety and health standards, including enforcement efforts.

### *Objective and Scope of the Study*

The purpose of the study is to answer the following descriptive and causal questions. The descriptive questions are:

- Has compliance with specific IIPP provisions improved over the years?
- How does the number of IIPP violations cited vary with the type of establishment and type of inspection?

The causal questions are:

- Did injury and fatality rates decline in California, relative to other states, after the implementation of the IIPP standard?
- Do workplaces that do not comply with the IIPP have worse injury, fatality and loss performance than compliant firms?
- Did workplaces that had been cited for IIPP violations and which came into compliance improve their injury performance relative to other workplaces?

## SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

### *Data*

The above research relied on the following sources of data: California Unemployment Insurance; California Workers' Compensation Information System (WCIS); OSHA Integrated Management Information System; and the California Workers' Compensation Insurance Rating Bureau (WCIRB).

### *Findings*

The study findings include:

- There is an important difference between inspections citing violations of Labor Code Section 3203(a), the requirement to have a written safety and health document, and inspections citing violations for its specific subsections, or those that require hazard surveys, accident investigations and training. The former carry small penalties and are cited primarily in first-time inspections, mainly at quite small, non-union workplaces. The latter have larger penalties and are cited at larger sites, especially in the course of accident investigations and are not concentrated in first-time inspections.
- Looking at trends over time, after a decline during the first two years of the IIPP, the number of violations per inspection has remained fairly constant for both types.
- The number of Labor Code Section 3203(a) violations in first-time inspections has not decreased over time. Thus, either due to lack of information or lack of deterrence, newly inspected establishments are no more likely to have written programs now than 20 years ago. On the other hand, once an establishment has been cited for an IIPP violation, the likelihood of finding another violation declines substantially.
- Examining changes in fatality rates to see whether California experienced any improvement relative to other states in the years after the IIPP took effect in 1991 did not indicate any improvement. Even if improvement had been found, it would have been unclear whether the improvement was due to the IIPP or to other factors.
- Employers who were cited for a violation of Labor Code Section 3203(a), the basic requirement to have a written IIPP document, actually had better performance (either Ex-mods or prior injury rates) than firms that had no IIPP violations. In contrast, employers who were cited for violations of the subsections of Labor Code Section 3203(a), especially the requirements to train employees and to investigate accidents, had worse performance than employers who were not cited for any IIPP violation or who were cited only for Labor Code Section 3203(a). This last finding was true for both accident investigations and for other inspection types.
- A citation of subsection of Labor Code Section 3203(a) for failing to provide appropriate training was linked both to poorer performance prior to inspection and to improved performance after the inspection. This finding was true for both accident investigations and for other inspection types.

The RAND study concludes with a consideration of policy implications. Some Cal/OSHA staff suggested that the inspectors' reviews of the IIPP often, perhaps usually, went no further than determining that the employer had a document. It interpreted the findings above to show that, when enforced, the provisions of the IIPP, especially for training, do make a difference. The study suggested that the IIPP would be more effective if inspectors made it the focus of the inspection. In that scenario, inspectors would link hazards and violations they found to the IIPP, asking "why didn't your IIPP lead you to identify and abate that hazard." This approach would very likely require more time to carry out inspections; if inspection resources are fixed, the result would be fewer inspections. Whether the added impact of this approach in each inspection would compensate for the reduced number of inspections would require further study.

## SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

*For further information ...*

“An Evaluation of the California Injury and Illness Prevention Program,” RAND, 2012.  
<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf>

### **Effective Occupational Safety and Health Inspectors and Inspections Practices**

#### *Background*

Cal/OSHA is responsible for enforcing California laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries' risks. There are 23 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Inspections are conducted by Cal/OSHA safety engineers and industrial hygienists who respond to complaints, referrals and accidents, as well as plan an inspection schedule in hazardous industries. There is no existing research on whether some compliance officers are more effective than others at reducing workplace injuries and illness rates. One earlier study found that health inspections were more effective than safety inspections in preventing injuries. This unexpected finding may reflect that health inspections involve more time on-site than safety inspections do and thus give the compliance officer more time to observe the workplace. A study found that the number of violations cited was smaller for inexperienced compliance officers, although the effect was not statistically significant.

The most recent study of the impact of inspections on injury and illness rates, covering the years from 1999 through 2006 in Pennsylvania, estimated that the average effect in manufacturing was approximately a 20 percent reduction in the rate of lost-time injuries over the two years after the year of inspection. This reduction was seen, however, only when the inspection levied penalties, an outcome that generally accompanies citations for serious violations. A majority of the inspections did levy penalties.

#### *Findings*

The RAND study of Cal/OSHA inspectors found that they varied considerably in their inspection practices. These practices included: the number of violations cited per inspection; the number of different standards that they cited; and whether an employee accompanied them during the inspection.

To some degree, the study found that these individual variations were associated with different practices among the district offices. Since inspectors often stay with the district office where they begin, they appear to be socialized in the practices of that office. If Cal/OSHA puts a high priority on uniform behavior among inspectors, it may need to increase the training that addresses these issues.

As found in a prior study, injury rates declined more when more experienced inspectors conducted inspections. However, no other characteristics that were clearly linked to better outcomes were found.

*For further information ...*

“Are There Unusually Effective Occupational Safety and Health Inspector and Inspection Practices?” RAND, 2012.  
<http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf>

### **Randomized Government Safety Inspections**

CHSWC provided assistance and support to researchers reviewing inspection data which produced analysis and findings about injury outcomes from inspections.

## SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

The researchers observed that controversy surrounds occupational health and safety regulators, with some observers claiming that workplace regulations damage firms' competitiveness and destroy jobs and others arguing that they make workplaces safer at little cost to employers and employees. They examined how workplace safety inspections affected injury rates and other outcomes in high-injury industries. They compared 409 randomly inspected establishments in California with 409 matched-control establishments that were eligible, but not chosen, for inspection. Compared with controls, randomly inspected employers experienced a 9.4 percent decline in injury rates and a 26 percent reduction in injury cost. They found no evidence that these improvements came at the expense of employment, sales, credit ratings, or firm survival.

*For further information ...*

"Randomized Government Safety Inspections Reduce Worker Injuries with No Detectable Job Loss," David Levine, Michael Toffel and Mathew Johnson, *Science*, 18 May 2012: Vol. 336 no. 6083 pp. 907-911.

<http://www.sciencemag.org/content/336/6083/907.abstract?sid=c3f083eb-5e42-4a84-8acb-00452903caf8>

### **Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health**

Another CHSWC study by RAND looked at the three major safety inspection types in California: programmed (planned) inspections, complaint inspections, and accident investigations. Researchers examined serious violations found at different locations and establishments throughout the state and found great variation. Researchers also found great variation in required hospitalization reporting for workplace injuries. It is pointed out that one anomaly of the compliance regime is that employers who correctly report hospitalizations as required end up more likely to be investigated and cited, whereas employers who do not report such accidents also avoid receiving any resulting accident investigation.

Researchers found a lack of detailed data available on complaint investigations, making any analysis of the response to complaints difficult to design and compare with other types of inspections. Data are available for complaints that actually result in inspections, and the data point to these workplaces as already having high injury rates.

Contrary to policy expectations, researchers did not find a strong relationship between high hazard industries and proportionally high losses, violations or number of injuries. While this observation makes the job of allocating resources a new challenge in terms of possibly changing focus, it also opens up new areas of inquiry, including a review of procedures to match the findings suggested by this report. For example, industries with high injury rates deserve more attention for inspection. Findings from this study suggest that creating an optimal balance between reactive and proactive inspections is possible, but that more work needs to be done in understanding why there are regional differences in the data.

*For further information ...*

"Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health," RAND, 2013.

[http://www.dir.ca.gov/chswc/Reports/2013/DOSH\\_Inspection\\_Targeting.pdf](http://www.dir.ca.gov/chswc/Reports/2013/DOSH_Inspection_Targeting.pdf)

### **The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?**

*Introduction*

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help

## SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different:

- Safety policies and practices such as workers' compensation experience rating.
- Workplace health and safety activities for different types of employers by size, age of firm and industry.

In addition to the above recommendations, the Experience Rating Task Force, established in 2007 in response to concerns expressed by the California Insurance Commissioner, made recommendations regarding research on workers' compensation experience modification rating (Ex-mod). The Task Force report suggested that research opportunities to "evaluate the effectiveness of experience rating as a safety incentive" should be undertaken "to the extent such research is likely to produce meaningful results relevant to potential future Rating Plan changes."

The CHSWC study by RAND identifies whether the application of and changes to workers' compensation Ex-mod would have an effect on the safety experience of small employers. The study examines whether jurisdictions should lower their thresholds for experience rating to include small employers. Lastly, it discusses whether experience rating, in general, is the best manner of setting premium rates.

The findings of the study include:

- The number of claims at firms that became experience-rated had a decline of 6 to 9 percent compared to those whose status did not change.
- Almost all of the reduction in losses was due to the reduction in claim frequency; almost none was due to a decline in the average cost per claim.
- Reducing the threshold for experience rating in order to extend it to more small firms would reduce claims among the newly experience-rated firms by 7 to 11 percent and would reduce total losses by 10 to 15 percent.
- Analysis of the extra cost that a newly experienced-rated employer could incur by reporting a claim under the current rules indicated a surprisingly big effect; thus, any extension of experience rating to impact more firms should be mindful of the potential cost to employers.

### *For further information*

"The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?" RAND, 2012. [http://www.dir.ca.gov/chswc/Reports/2013/SmallEmployerXModStudy\\_2013.pdf](http://www.dir.ca.gov/chswc/Reports/2013/SmallEmployerXModStudy_2013.pdf)

## **SPECIAL REPORT: INJURY AND ILLNESS PREVENTION PROGRAMS FOR SCHOOLS, GENERAL INDUSTRY, SMALL BUSINESS, AND AGRICULTURE**

The following injury and illness prevention training programs and resources have been developed by the Commission on Health and Safety and Workers' Compensation (CHSWC) for schools, general industry, small business and agriculture.

### **School Action for Safety and Health (SASH) Program**

#### **Background**

Per the mandate set forth in the Labor Code 6454, CHSWC is to assist inner-city schools or any school or district in establishing effective occupational injury and illness prevention programs (IIPPs). Priority shall be given to schools or districts with high risk.

A significant number of school employees are injured on the job each year. In 2008, the incidence rate of occupational injuries and illnesses for California school employees was higher than for all other industries in California: 7.6 cases per 100 full-time employees as compared to 4.4 cases per 100 full-time employees. Common causes of injuries and illnesses for school employees include over-exertion, repetitive motions, slips and falls, vehicle collisions, and assaults. These injuries are often serious and involve lost work time, including days away from work or days of restricted activity or both. Work-related injuries and illnesses impact the school community, not only the injured employee, but also his or her family, co-workers, districts and students.

School districts are frequently cited by the Division of Occupational Safety and Health (Cal/OSHA) for occupational health and safety violations. The most common citation issued by the Cal/OSHA against schools is for not having a written Injury and Illness Prevention Plan (IIPP). Other common citations are for lack of chemical safety training under the Hazard Communication Standard, violation of the Asbestos Standards, and violation of sanitation standards. Between 2004 and 2008, California assessed school districts \$273,000 in penalties for violations of Cal/OSHA standards.

CHSWC has established a schools safety and health model program, California's School Action for Safety and Health (SASH), to help schools statewide improve their injury and illness prevention practices. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience is composed of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to the California Division of Juvenile Justice, formerly the Youth Authority, a division of the California Department of Corrections and Rehabilitation (CDCR).

The SASH program was developed to help:

- Ensure that employees do not have to deal with the consequences of a work-related injury or illness.
- Prevent disruptions in the class routine so that students can continue to learn and be successful in school.
- Boost employee morale and productivity when they see problems addressed and injuries prevented.
- Reduce the expenses that often go along with an injury, including the costs of workers' compensation claims, hiring substitutes and Cal/OSHA fines.

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On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. (See list of participants in the "Projects and Studies" section of this report.) The objectives of the meeting were to determine how best to structure and implement the model program, including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State. Subsequent Advisory Group meetings were held on June 30, 2009, and March 29, 2010, to provide feedback on the project.

Following a needs assessment conducted with Advisory Committee members and others to determine the types of training and resources to be provided by the SASH program, staff at the University of California (UC) Berkeley's Labor Occupational Health Program (LOHP) developed resource materials and a one-day training program, as well as established a SASH Resource Center at LOHP.

The resource materials include: schools-specific factsheets, checklists and other tools; occupation-specific tip sheets; an electronic IIPP template and accompanying guide; and an online resource list for more information. All materials are provided on CHSWC's website. To date, LOHP has worked with Joint Powers Authorities serving school districts, county offices of education, unions, and school district staff to conduct numerous SASH training programs statewide.

LOHP and CHSWC will continue to conduct the SASH training programs at county offices, disseminate materials, and promote effective health and safety programs for school district employees. Further development of the model program would include: expanding partnerships with key constituents throughout the State; expanding the target population statewide; developing a network of expert trainers; ensuring that measures of accountability are applied; and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

### **Program Components**

The SASH Program offers:

- A free training program to help build the capacity of district-level health and safety coordinators to be resources to other employees and develop an IIPP to identify, prevent and eliminate hazards.
- Written materials that support injury and illness prevention activities.
- Problem-solving assistance provided in an ongoing manner by a statewide SASH Resource Center.

The free one-day SASH training program has been designed for school district staff responsible for employee safety and health. These employees are typically from human resources/administration and/or the maintenance and operations departments. Training is provided by University of California trainers and held in convenient locations so participants do not have to travel far to attend.

Participants learn valuable skills in how to: identify and solve safety problems; prepare written IIPPs; and involve other employees in carrying out prevention activities.

Once participants complete the training, they become "SASH Coordinators" for their district and receive a certificate from the CHSWC and the University of California.

SASH materials are free and designed to help school employees identify and address health and safety issues in the school environment. Materials include:

- An online template for writing an IIPP, with an accompanying Guidebook.
- Factsheets on hazards commonly found in schools, including:

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- Overview of the SASH Program
  - Underlying Causes of Injury and Illness
  - Job Hazards in Schools; Investigating Job Hazards
  - Controlling Hazards
  - Prioritizing Health and Safety Problems
  - Addressing Ergonomic Hazards
  - Preparing for Emergencies at School
  - Basics of Cal/OSHA
  - Key Cal/OSHA Standards that Apply to Schools
  - Elements of an Effective Workers' Compensation Program
  - Health and Safety Committees
- Checklists and other tools to help identify problems, investigate and learn from accidents, and keep track of safety activities, including:
    - Inspection Checklist
    - Incident/Accident/Near Miss Investigation Report
    - Hazard Correction Record
    - Employee Training Record
  - Tip sheets for employees on hazards and solutions for their particular occupation, including:
    - Teachers and teaching aides
    - Maintenance staff
    - Groundskeepers
    - Food service employees
    - Custodians
    - Administrative and office staff
    - Bus drivers
  - A poster for school employees promoting their involvement in safety activities.
  - An online Resource Guide that provides additional school-related materials on particular hazards/issues and a list of agencies and organizations.

The SASH Resource Center is located at LOHP. In collaboration with UCLA's Labor Occupational Safety and Health (LOSH) Program, the Resource Center is available to help school districts find additional information and obtain assistance after the trainings.

### **Accomplishments**

In addition to the materials above, training classes have been offered and will continue to be offered statewide. To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts in 29 counties with school district and county office of education staff, including two pilot trainings. The trainings have been very well received. Some of the attendees have assisted in setting up additional trainings in other areas. Different training options are being explored and implemented. One new format for course delivery, including a longer training with the option of video conferencing in from remote sites, which will allow for two-way conferencing and participation in activities, was held with the Mendocino County Office of Education.

Follow-up activities after attending a SASH class include sending attendees a class roster so attendees can stay in touch and use each other as resources and sending out a newsletter. Two-page SASH newsletters for SASH Coordinators (SASH training attendees) have been distributed through email. The newsletters include the answers to common questions asked during training sessions, as well as other relevant information.

## **National SASH Program – Promoting School Employee Injury and Illness Prevention Programs**

The objective of the National Institute for Occupational Safety and Health (NIOSH)-funded project, Promoting School Employee Injury and Illness Prevention Programs, was to evaluate the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. As part of National SASH, the degree to which SASH trainees are equipped with the skills and resources they need to apply what they have learned in the SASH training was evaluated through an electronic survey sent to all SASH trainees three months after participants have attended a SASH training. Follow-up telephone interviews were also conducted with a smaller number of SASH trainees. Analysis of the data collected and entered into an Access database resulted in concrete recommendations for improving the SASH program and implementing similar programs across the nation.

### **Partnerships**

The following organizations were involved in shaping the SASH Program activities and materials:

- California Association of School Business Officials (CASBO)
- California Department of Education
- California Federation of Teachers (CFT)
- California School Employees Association (CSEA)
- California Teachers Association (CTA)
- Contra Costa County Schools Insurance Group
- Kennan & Associates
- North Bay Schools Insurance Authority
- San Diego County Schools Risk Management JPA
- Schools Insurance Authority

*For further information ...*

“Summary of June 27, 2008 Schools Injury and Illness Prevention Program Roundtable”  
(December 2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf)

School Action for Safety and Health (SASH) Program Information and Resource Center  
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Brochure  
[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_brochure.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf)

SASH Flyer  
[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_Flier.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf)

Injury and Illness Prevention Program Template  
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template.  
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Online Resource Guide  
<http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf>

SASH Poster  
[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_Poster.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf)

## **Taking Action for Safety and Health: Injury and Illness Prevention Program Training for General Industry**

### **Background**

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, Taking Action for Safety and Health, which assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of this training program and IIPP materials allows CHSWC to take a leadership role in creating a model that can be useful nationwide.

### **Description**

The purpose of the program is to create a focused training program specifically aimed at developing effective IIPPs and targeting a range of industries in California. The program will draw on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and the School Action for Safety and Health (SASH) Program.

The program includes:

- Developing and pilot-testing a one-day interactive training program targeting staff responsible for creating or implementing IIPPs.
- Adapting training materials, including a generic model IIPP guide and template and program tools including a factsheet on promoting employee involvement, sample accident investigation forms, and hazard identification worksheets.
- Conducting at least three sessions of the training program in Northern California and one in Southern California. Recruitment will target a variety of industries in order to assess program effectiveness.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program will eventually be made available statewide.

For further information about this program, see the "Projects and Studies" section of this report and <http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#1>.

## **Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Small Businesses**

### **Background**

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, Taking Action for Safety and Health, that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

### **Description**

The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and the School Action for Safety and Health (SASH) Program.

The program includes:

- Developing a half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP.
- Adapting training materials, including a model IIPP guide and template and program tools.
- Conducting sessions of the training program in Northern California.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program may eventually be made available statewide.

### **Partnerships**

The following organizations were involved in shaping the activities and materials:

- Department of Industrial Relations
- Cal/OSHA
- State Compensation Insurance Fund (State Fund)
- Small Business California
- California Small Business Association
- California Department of Public Health Occupational Health Branch

For further information about this program, see the "Projects and Studies" section of this report and <http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2>.

## **Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Agriculture**

### **Background**

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) had designed a model Injury and Illness Prevention Program training program for the agricultural industry. The program will assist employers and employees working in agriculture in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

### **Description**

The purpose of the program is to create materials and a focused training program specifically aimed at developing effective IIPPs in the agriculture industry in California. The program draws on materials from three key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); the School Action for Safety and Health (SASH) Program; and the Taking Action for Safety and Health Program.

The program includes:

- Adapting training materials, including a generic model IIPP guide and template and program tools specifically for agriculture.
- Developing and pilot-testing a one-day interactive training program targeting staff responsible for creating or implementing IIPPs.
- Conducting at least two sessions of the training program in Central California in order to assess program effectiveness.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program will eventually be made available statewide.

For further information about this program, see the "Projects and Studies" section of this report and <http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3>.

## PROJECTS AND STUDIES

### Introduction

In response to its Labor Code mandate, the Commission on Health and Safety and Workers' Compensation (CHSWC) has engaged in many studies to examine the health and safety and workers' compensation systems in California. CHSWC has concentrated these efforts on areas that are most critical and of most concern to the community.

CHSWC studies are conducted by staff and independent researchers under contract with the State of California. Advisory Committees are composed of interested members of the workers' compensation community and the public who provide comments, suggestions, data and feedback.

Studies were initially formed to evaluate changes to the system after the implementation of workers' compensation legislative reforms in the early 1990s and to assess the impact on workers and employers. While that focus continues, the scope of CHSWC projects has also evolved in response to findings in the initial studies and to concerns and interests expressed by the Legislature and the health and safety and workers' compensation community.

This report contains synopses of current and recently completed projects and studies followed by an overview of all CHSWC projects and studies. These projects are categorized as follows:

- I. Permanent Disability, Temporary Disability and Benefits
- II. 2012 Workers' Compensation Reforms – CHSWC Studies, and Other
- III. Return to Work
- IV. Return to Work and Disability Management
- V. Medical Care
- VI. Worker's Compensation Reforms
- VII. Administrative Efficiency
- VIII. Fraud
- IX. Insurance Industry
- X. Information for Workers and Employers
- XI. Occupational Safety and Health

## **SYNOPSIS OF CURRENT CHSWC PROJECTS AND STUDIES**

### **PERMANENT DISABILITY AND TEMPORARY DISABILITY**

#### **Permanent Disability**

This section starts with a discussion of the comprehensive evaluation of permanent disability (PD) by the Commission on Health and Safety and Worker's Compensation (CHSWC) and continues with descriptions of CHSWC's other ongoing studies.

#### ***Background***

The most extensive and potentially far-reaching effort undertaken by CHSWC is the ongoing study of workers' compensation PD in California. The ongoing CHSWC evaluation incorporates public discussions with studies by RAND and other independent research organizations. The CHSWC evaluation studies deal with major policy issues regarding the way that California workers are compensated for PD incurred on the job.

The determination of PD is one of the most challenging tasks of the workers' compensation system. The manner in which California rates and compensates injured workers for permanent partial disability (PPD or simply PD) affects the adequacy of injured workers' benefits, the ability of injured workers to return to gainful employment, the likelihood of litigation, the efficient operation of the Division of Workers' Compensation (DWC) adjudication system, and the cost of the workers' compensation system to employers. In addition to the direct costs to employers for PD benefits, there are indirect costs generated as a consequence of the method of determining PD.

CHSWC's PD project was originally conceived as having two phases. The focus of the first phase was to measure the long-term earnings losses and other outcomes for workers with PD claims. The focus of the second phase was intended to refine these measures and, at the same time, provide policymakers with suggestions for reforms intended to improve outcomes for injured workers at reasonable cost to employers. The second phase was nearing completion in 2004 when it was overtaken by a crisis in California workers' compensation that precipitated wholesale changes to the method of evaluating and compensating permanent disabilities. The project has become an ongoing effort to evaluate the effects of changes in the system and provide continuing information to policymakers contemplating further changes.

#### ***Permanent Disability – Phase 1***

##### **Initial Wage Loss Study**

The initial report from the CHSWC study of PD, "Compensating Permanent Workplace Injuries: A Study of the California System," examines earnings losses and the replacement of earnings losses for workers with PPD claims at insured firms in California in 1991-92. The main findings of this report include:

- PPD claimants experienced large and sustained earnings losses over the five years following injury. These losses amounted to approximately 40 percent of the earnings these workers would have made if injury had not occurred.
- Workers' compensation benefits replaced only 40 percent of pre-tax earnings losses and only 50 percent of after-tax earnings losses.
- Losses are largely driven by lower employment rates among PPD claimants over the years following injury.
- Earnings losses and disability ratings are not closely related, particularly for low-rated claims. Replacement rates, the fraction of losses that are compensated by benefits, were lowest for the lowest-rated claims.

**Status:** Completed.

*For further information ...*

"Compensating Permanent Workplace Injuries: A Study of the California System," RAND (1998).

[http://www.dir.ca.gov/chswc/Reports/2009/PD\\_1998.pdf](http://www.dir.ca.gov/chswc/Reports/2009/PD_1998.pdf)

"Findings and Recommendations on California's Permanent Partial Disability System-Executive Summary," RAND (1997).

<http://www.dir.ca.gov/CHSWC/Reports/PPDFindingsAndRecommendations.pdf>

### **Policy Advisory Committee**

A CHSWC Permanent Disability Policy Advisory Committee was established to review the RAND report and the community's responses and to recommend further action. The committee began meeting in November 1997.

**Goals Established by the  
CHSWC Permanent Disability  
Policy Advisory Committee**

- Decrease in an efficient way the uncompensated wage loss for disabled workers in California.
- Increase the number of injured workers promptly returning to sustained work.
- Reduce transaction and friction costs, including costs to injured workers.

The CHSWC Policy Advisory Committee raised additional questions about the wage loss study and other areas of the RAND report.

The workers' compensation community wanted additional information on how other factors, such as demographics and local economic conditions, affected the outcomes of the wage loss study. Observations were also made about the initial study parameters, as the study lacked data on employees of self-insured employers and data beyond the 1991-1993 period.

The Permanent Disability Policy Advisory Committee urged CHSWC to study those issues further, and CHSWC voted to continue the comprehensive evaluation of workers' compensation PD. Continuation of the evaluation of PD includes the following projects.

### **Enhancement of the Wage Loss Study to Include Self-Insureds**

Stakeholders objected to the 1998 report, "Compensating Permanent Workplace Injuries: A Study of the California System," because they believed that self-insured employers, which account for one-third of claims in California (an estimate that CHSWC in 2008 has revised to 30 percent, including self-insured employers and the State), would have better outcomes for PPD claimants. Stakeholders felt that since self-insured employers are larger and higher-paying firms and since they directly bear the full cost of their workers' compensation claims, they would likely have more programs to encourage return to work (RTW) and a more motivated workforce.

### **Private Self-Insureds**

The report entitled "Permanent Disability at Private, Self-Insured Firms" was released in April 2001. This report includes an unprecedented data-collection effort on PD claims at self-insured firms in California. The findings of this report include:

- Better RTW at self-insured firms led to a lower proportion of earnings lost by PPD claimants. During the five years after injury, self-insured claimants lost a total of 23 percent of both pre- and post-tax earnings, compared to the insured claimants' proportional losses of about 32 percent.

- Since workers at self-insured firms have higher wages, they are more likely to have weekly wages that exceed the maximum temporary disability (TD) payment. Therefore, workers' compensation benefits replaced a smaller fraction of losses at self-insured firms. Workers at these self-insured firms experienced lower five-year wage-replacement rates (48 percent) than workers at insured firms (53 percent).
- At both insured and self-insured firms, replacement rates were very low for workers with the lowest indemnity claims. At the self-insured and insured firms, claimants with total indemnity falling below the 20<sup>th</sup> percentile had 14 percent and 11 percent of their lost earnings replaced by benefits, respectively.
- PPD claimants with high pre-injury earnings and high indemnity claims experienced large dollar losses that were not compensated by benefits.

**Status:** Completed.

*For further information ...*

CHSWC Report: "Permanent Disability at Private Self-Insured Firms," RAND (2001).

<http://www.dir.ca.gov/CHSWC/Reports/PD-Study.pdf>

### ***Permanent Disability – Phase 2***

#### **Legislation Based on Permanent Disability Interim Report**

The multi-year study of PD was nearing its conclusion when a crisis in the worker's compensation system precipitated a series of reforms affecting the four major types of benefits: medical treatment; TD; PD; and vocational rehabilitation. The PD reform was enacted by Senate Bill (SB) 899 in 2004. The amended Labor Code Section 4660 called for a revision of the PD rating schedule (PDRS) with explicit reference to an interim report from the nearly completed study. The final report was published in 2005, containing a thorough review of PD compensation, including the underlying rationale for PD compensation, the measurement of wage loss, and the measurement of how well the California system was meeting its goals.

The final report observed that the California PDRS had come to be regarded as costly, inequitable, inconsistent, and prone to disputes. Workers who sustained similar earnings losses for different types of injuries received different amounts of compensation. The CHSWC "Permanent Disability Study" by RAND consisted of a detailed analysis of the PDRS in order to provide empirical findings that could guide a revision that would be consistent with the economic losses experienced by permanently disabled workers. The study empirically identified the components of the schedule that contribute to inconsistency and made recommendations to reduce them. By the time the final report was published, parts of its recommendations had already been enacted into law.

The CHSWC study by RAND recommended:

- Basing PD ratings on a more objective method of evaluation, such as the American Medical Association *Guides to the Evaluation of Permanent Impairment*, fifth edition (AMA Guides).
- Adjusting PD ratings to ensure that ratings were proportional to wage losses across different types of injury.

**Status:** Completed.

*For further information ...*

- “Evaluation of California’s Permanent Disability Rating Schedule: Interim Report,” RAND (2003).  
<http://www.dir.ca.gov/CHSWC/Reports/PermanentDisabilityRatingSchedule-InterimReport.pdf>
- “An Evaluation of California’s Permanent Disability Rating System,” RAND (2005).  
[http://www.dir.ca.gov/CHSWC/Reports/Eval\\_Of\\_CA\\_PD\\_System.pdf](http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System.pdf)

## **Legislative Changes and Administrative Implementation**

With the enactment of Senate Bill (SB) 899 in 2004, the Governor and the Legislature intended to enact a PD rating system that would promote “consistency, uniformity, and objectivity.”<sup>72</sup> The legislation carried out recommendations that emerged from CHSWC studies and included other changes as well. SB 899 made changes to:

- The goal of the rating schedule, giving consideration to diminished future earning capacity in place of consideration to diminished ability to compete in an open labor market (Section 4660(a)), as well as promoting consistency, uniformity and objectivity (Section 4660(d)).
- The criteria for medical evaluations, using the *AMA Guides* in place of the often subjective criteria traditionally used in California (Section 4660(b) (1)).
- The adjustment factors to be included in the Schedule for Rating Permanent Disabilities, specifying that diminished future earning capacity be a numeric formula based on average long-term loss of income according to empirical studies (Section 4660(b)(2)).
- The apportionment of disability between industrial injuries and other causes when a disability is caused by the combination of two or more injuries or diseases (Sections 4663 and 4664).
- The number of weeks of PD benefits payable for each percentage point of permanent partial disability (PPD), reducing payments by up to 15 weeks on all awards of less than 70 percent PPD (Section 4658(d)(1)).
- The dollar amount of weekly PD benefits depending on whether the employer offers to continue to employ the permanently disabled worker, if the employer has 50 or more employees (Section 4658(d)(2) and (d)(3)).

Implementation of SB 899 required the Administrative Director (AD) of the Division of Workers’ Compensation (DWC) to adopt a revised PDRS. At the request of the AD, RAND prepared a separate report which quantified the ratio of average PD ratings to average proportional earnings losses for each of 23 injury categories in the RAND data. The AD adapted those ratios in the development of the new PDRS effective January 1, 2005.

*For further information ...*

- “Data for Adjusting Disability Ratings to Reflect Diminished Future Earnings and Capacity in Compliance with SB 899,” RAND (2004).  
[http://www.rand.org/pubs/working\\_papers/2004/RAND\\_WR214.pdf](http://www.rand.org/pubs/working_papers/2004/RAND_WR214.pdf)
- Schedule for Rating Permanent Disabilities, State of California (2005).  
<http://www.dir.ca.gov/dwc/PDR.pdf>

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<sup>72</sup> Labor Code Section 4660(d).

### **Permanent Disability Rating Schedule Analysis**

The Legislature requested that CHSWC report on the impact of the change in the PDRS, as well as how the schedule could now be amended in compliance with Labor Code Section 4660(b)(2), which requires the use of findings from the RAND report and other available empirical studies of diminished future earning capacity.

In response to this legislative request, CHSWC developed a paper that evaluated the impact of the changes in the PDRS using data from the Disability Evaluation Unit (DEU) that did not exist when the latest reform was adopted.

#### ***Findings***

- At the time the 2005 schedule was adopted, adequate empirical studies did not exist to permit accurate calculation of the relationship between impairments evaluated according to the *AMA Guides* and diminished future earning capacity.
- The 2005 schedule reduced the average PD rating (rated percentage of disability) in rated cases by about 43 percent for unrepresented cases and by about 40 percent for represented cases.
- The legislative and administrative changes reduced PD compensation by about two-thirds, with about half of that reduction attributable to lower ratings under the 2005 PDRS compared to the previous rating schedule.
- Revisions of the schedule can be formulated immediately and revised periodically. (See CHSWC study “Permanent Disability Rating Schedule Analysis.”)

The CHSWC “Permanent Disability” report provides a methodology for updating the PDRS to obtain more consistent ratings for all types of injuries. The report recommends a new mathematic formula using administrative data from DWC and the latest available wage loss data to make all ratings calculations consistent. The ratings are then entered into the existing system to calculate the level of benefits. An important recommendation in the report is that periodic revision to the rating schedule be adopted such that any future trends in medical impairments and earnings losses can be detected and incorporated in the formula.

The report also suggests that, beyond using a consistent methodology, overall levels of ratings and compensation should be considered a separate public policy issue. The report acknowledges that issues of benefit adequacy and affordability are issues for policymakers to debate. Subsequent unpublished work has suggested that the goal of equity across types of injuries can be achieved through amendments to the PDRS as contemplated in the CHSWC report, but the goal of benefit adequacy may require a combination of legislative action and amendments to the PDRS.

**Status:** Completed. CHSWC voted on February 9, 2006, to approve and release the report “Permanent Disability Rating Schedule Analysis.”

*For further information ...*

“Permanent Disability Rating Schedule Analysis” (February 23, 2006).

<http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

### **Return-to-Work Study Reveals Diminished Replacement Rate**

CHSWC arranged for RAND to examine how return-to-work rates had been affected by the reforms of 2003 and 2004. The 2003 reforms included repeal of the vocational rehabilitation benefit and adoption

of medical treatment guidelines. The 2004 reforms included changes to PD rating, limitation of TD duration, and other changes. Incidental to this study, RAND examined the percentage of wage losses over the five-year period after injury that was replaced by indemnity benefits (TD and PD combined).

The study found that return-to-work rates had, indeed, improved, although it was difficult to tie the improvement to the effects of the 2003 and 2004 reforms. Return-to-work rates actually began to improve before the reforms occurred. The notable finding with regard to PD compensation, however, was that the average replacement rates had gone down as a consequence of the reforms. The replacement rate (the average percentage of lost wages replaced by TD and PD benefits) had been holding near 50 percent since 2000, but it began to drop in 2004, and by the second quarter of 2006, it was down to 37 percent. Without the improvement in return-to-work rates which began in 2002, the replacement rate would have been about 32 percent.

Although the purpose of the report was to examine changes in return-to-work, it offers insight into the impact of the changes in PD rating and compensation, so the report bears mention in this summary of PD projects and studies.

**Status:** Completed 2010, final publication 2011.

*For further information ...*

“Workers’ Compensation Reform and Return to Work: The California Experience.”  
<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

### **Continuing Review**

A combined study of medical treatment and disability evaluation commenced in December, 2010, as described below under the headings “BENEFITS: Disability Evaluation and Medical Treatment in the California Workers’ Compensation System.” The ongoing examination of permanent disability awards will provide a platform for monitoring the impacts of the 2012 reform bill, SB 863 (De León).

## PERMANENT DISABILITY

### APPORTIONMENT

#### Understanding the Effect of Senate Bill 899 on the Law of Apportionment

##### **Background**

Apportionment is the process in which an overall permanent disability (PD) that was caused at least in part by an industrial injury is separated into the components that are and are not compensable results of that injury. Senate Bill (SB) 899, signed into law on April 19, 2004, profoundly changed the law of apportionment. Decades of interpretation of the old law of apportionment are called into question, with some principles still being applicable and others being reversed. The Commission on Health and Safety and Workers' Compensation (CHSWC) report provides information on the effect of SB 899 on the prior law of apportionment, how apportionment is likely to be affected by the American Medical Association *Guides to the Evaluation of Permanent Impairment*, fifth edition (AMA *Guides*), and what the key issues are that remain to be resolved. A summary of the report follows.

##### **Repeal of Pre-existing Disease and Previous Permanent Disability or Impairment Language**

SB 899 repealed Labor Code Section 4663 which provided that if a pre-existing disease were aggravated by a compensable injury, compensation was allowed only for the portion of the disability due to the aggravation reasonably attributed to the injury. SB 899 also repealed Labor Code Section 4750 which provided that an employee "suffering from a previous PD or physical impairment" could not receive compensation for a subsequent injury in excess of the compensation allowed for the subsequent injury "when considered by itself and not in conjunction with or in relation to the previous disability or impairment" and that the employer was not liable "for the combined disability, but only for that portion due to the later injury as though no prior disability or impairment had existed."

##### **Apportionment by Causation**

To replace the repealed sections, SB 899 re-enacted Section 4663 in an extensively revised form and added a new Section 4664. The revised Section 4663 provides that "apportionment of permanent disability shall be based on causation." Apportionment is determined by the approximate percentage of the PD caused by the direct result of the industrial injury and by the approximate percentage of the PD caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. A PD evaluation is not considered complete unless it includes an apportionment determination. Labor Code Section 4664(a) was added to emphasize that the employer is only liable for the percentage of PD "directly caused" by the injury. The repealed sections do not appear inconsistent with the new sections, but the case law interpreting the repealed sections considerably limited their application.

The problem faced by members of the workers' compensation community is how the authors of this legislation intended permanent disabilities to be apportioned under the new law. The final Senate floor analysis says only that it was intended to "replace present law on apportionment with the statement that apportionment of permanent disability is based on causation." It is clear, however, that the announced purpose of SB 899 was to reduce the cost of providing workers' compensation.

**Status:** At its April 27, 2007 meeting, CHSWC approved the release of the draft report on apportionment for public comment. At its August 9, 2007 meeting, the Commission received a verbal update on a key judicial interpretation. The report requires updating to reflect subsequent judicial interpretations.

## BENEFITS

### Statute of Limitations for Cancer Death Benefits for Firefighters and Peace Officers

#### *Description*

In 2012, Governor Brown vetoed Assembly Bill (AB) 2451 which proposed lengthening the statute of limitations on death cases for firefighters and peace officers. In his veto message, he identified fiscal constraints and asked for further study of this issue.

The Commission on Health and Safety and Workers' Compensation (CHSWC) voted to conduct research and contracted with Bickmore Risk Services to examine the impacts of such an extension of the statute of limitations.

In June 2013, Bickmore Risk Services presented to CHSWC an interim analysis of research related to the re-introduced AB 1373. Bickmore found a percentage increase in cost related to the proposed 240-week extension of time for family members to qualify for death benefits. However, Bickmore was not able to determine a cost impact due to data limitations. Data limitations also made some findings tentative at this interim stage of analysis, due to unclear or unrecorded cancer type and overall potential incompleteness of reported cancer deaths in the workers' compensation data collected by the Division of Workers' Compensation (DWC).

The interim briefing described a 6-7 percent cost increase by extending the statute of limitations to 480 weeks, with a caveat that if claim frequency were to be influenced by the extension of the limitation period, the percentage estimate increase would no longer be valid.

**Status:** In process. Draft report was submitted to CHSWC in October 2013.

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## BENEFITS

### Disability Evaluation and Medical Treatment in the California Workers' Compensation System

#### *Description*

The Senate Bill (SB) 899 reforms relating to the evaluation of permanent disability (PD) augmented some already stringent reforms to medical treatment in the system. While the reforms did lead to a decline in the overall cost of workers' compensation in the State, with a more than 40 percent reduction in premiums between 2004 and 2006, many controversies remain. In particular, there are complaints that the systems for evaluating disability and providing medical treatment are inefficient, inconsistent and fraught with error, the Commission on Health and Safety and Workers' Compensation (CHSWC) issued a Request for Proposal (RFP) to conduct a disability evaluation study, and the contract was awarded to RAND. The study commenced in December 2010.

The purpose of the CHSWC/RAND Disability Evaluation and Medical Treatment in the California Workers' Compensation System study is to answer important questions about the disability rating system in California: how effectively it targets benefits to disabled workers; and whether the system imposes barriers to early return to work and better outcomes for employers and disabled workers.

#### *Objectives of the Study*

The objectives of the study are to:

- Conduct research on permanent disability ratings and worker outcomes in order to assess the accuracy and consistency of permanent disability ratings in California including the following:
- Evaluate and identify potential practices and policies that would improve both the quality and efficiency of the medical care provided under California's workers' compensation system and increase the efficiency of medical benefit administration.

**Status:** In process.

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## BENEFITS

### Review of Disability Evaluation Delays and Supplemental QME Reports

#### *Description*

Delays in summary ratings of Qualified Medical Evaluator (QME) reports are a concern to many stakeholders, and Commission on Health and Safety and Workers' Compensation (CHSW) staff was asked to examine this issue. The CHSWC analysis used a database of all summary ratings and consultative ratings issued in a 16-month period from September 2008 through December 2009. The CHSWC report summarized the length of time parties waited for a DEU rating.

#### *Findings*

Across the 16 months of ratings examined, the ratings were prepared an average of 104 days after DEU received the medical-legal reports. The analysis demonstrated the difference in waiting time for attorney-represented cases (consultative ratings) and unrepresented cases (summary ratings). Across the 16-month period, the average was 129 days for cases without attorneys and 84 days for cases with attorneys. Month-by-month figures were also calculated for the mean and the median for both consultative and summary ratings. The patterns refute complaints that the delays have been growing longer. After growing longer in the first six months of 2009, the delays generally grew shorter in the second six months. By December 2009, every parameter except the mean time to rating for unrepresented cases had improved over December 2008. The mean time to rating for unrepresented cases stood at 119 days in December 2009.

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#### **Comments and Recommendations**

Required timelines in Labor Code Section 4061(e) and 8 California Code of Regulations, Section 36(e) are discussed in the CHSWC report "A Review of Disability Evaluation Delays and Supplemental QME Reports," along with a description of the concern that claims administrators sometimes improperly influence a QME's conclusions without the worker having the knowledge or resources to resist those tactics.

CHSWC recommends continuing examination of this issue.

**Status:** Completed.

#### *For further Information ...*

"A Review of Disability Evaluation Delays and Supplemental QME Reports" (June 2010).  
[http://www.dir.ca.gov/chswc/Reports/2010/CHSWC\\_DEUDelaysandSupplementalQMERReports.pdf](http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_DEUDelaysandSupplementalQMERReports.pdf)

## BENEFITS

### Qualified Medical Evaluator

#### *Description*

The delivery of workers' compensation benefits ordinarily depends on medical findings, and medical findings are often disputed. The California Legislature has placed the Qualified Medical Evaluator (QME) at the core of California's occupational and injury dispute resolution system.

The study describes the criteria for measuring success of the system, and the basic analytic approach to obtaining the outcome measures is discussed. Descriptive data on the dispute process and overall trends are presented as well as data on the assignments of QMEs. The time frame for the different dispute resolution steps requiring QME evaluations and the consistency and fairness of the QME process as it pertains to disability ratings are described. The final section of the study discusses the findings.

#### *Findings*

Study findings include:

- The number of providers registered as QMEs declined by about 45 percent between 2005 and 2010, but this decline was nearly the same as the decline in disabling injuries. The decline in registered QMEs likely did not lead to scheduling problems and delays.
- There was a dramatic spike in the number of panel QME requests starting in late 2007 and ending in early 2009. This spike is likely the cause of most complaints about difficulty and delay in obtaining QME appointments. The spike was not caused by an increase in requests for medical-legal evaluations related to permanent disability (PD), which remained constant over this period. Most likely, the spike was a result of disputes over medical treatment and the use of QMEs to resolve these disputes. The *Sandhagen* decision clarified the path for medical treatment disputes and substantially reduced the use of QMEs in these cases.
- The perception of delays in the QME process is probably partially the result of this temporary spike in panel requests that has since resolved.
- According to this QME study, a small number of QMEs have registered at a very large number of addresses, dominating assignments. Most of these QMEs are assisted in scheduling and possibly developing locations by a small number of facilitating services. The study indicates that:
  - 63 percent of QMEs are registered at only one location. These QMEs are assigned to 23 percent of the panels.
  - 3.9 percent of QMEs are registered at 11 or more addresses. This small number of QMEs conducts nearly 40 percent of all evaluations, mainly because the large number of locations makes them much more likely to be assigned.

**Status:** Completed.

*For further information ...*

"Evaluating the QME Process: Is it Equitable and Efficient?" (September 2010).  
<http://www.dir.ca.gov/chswc/Reports/2010/QMEstudy.pdf>

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**2012 WORKERS' COMPENSATION REFORM SENATE BILL 863 – CHSWC Studies**

**Copy Services Fee Schedule Study**

**Background**

Senate Bill (SB) 863, signed into law in September 2012, requires the Department of Industrial Relations (DIR) Administrative Director (AD) to adopt new fee schedules. In particular, Labor Code Section 5307.9 requires a copying services fee schedule.

Labor Code Section 5307.9 states: "On or before December 31, 2013, the administrative director, in consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt, after public hearings, a schedule of reasonable maximum fees payable for copy and related services, including, but not limited to, records or documents that have been reproduced or recorded in paper, electronic, film, digital, or other format. The schedule shall specify the services allowed and shall require specificity in billing for these services, and shall not allow for payment for services provided within 30 days of a request by an injured worker or his or her authorized representative to an employer, claims administrator, or workers' compensation insurer for copies of records in the employer's, claims administrator's, or workers' compensation insurer's possession that are relevant to the employee's claim. The schedule shall be applicable regardless of whether payments of copy service costs are claimed under the authority of Section 4600, 4620, or 5811, or any other authority except a contract between the employer and the copy service provider."

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Before SB 863, DIR began to examine copy services issues and conducted a two-part survey of providers and clients of copy services. It then contracted with Berkeley Research Group to provide analysis and technical assistance, leading up to the Division of Workers' Compensation (DWC) rulemaking and public comment.

**Findings**

Based on review and analysis, Berkeley Research Group concluded that most cost effective and fair method for paying for copy cost is to institute a single price for copy sets, regardless of the number of pages involved (up to 1,000 pages) or the difficulty in retrieval of documents. The researchers concluded that the cost of each initial copy set should be \$103.55. Additional copy sets should be made available at \$.10 per page if paper and for a nominal lump sum fee of \$5.00 if electronic. If a proper invoice is not paid within 60 days, a higher fee is recommended to be applied to take account of the increased collection costs and uncertainty.

**Status:** Completed.

*For further information...*

- "Formulating a Copy Services Fee Schedule," October 2013 [http://www.dir.ca.gov/chswc/Reports/2013/Copy\\_Services\\_2013.pdf](http://www.dir.ca.gov/chswc/Reports/2013/Copy_Services_2013.pdf)
- Collected Public Comments <http://www.dir.ca.gov/chswc/Meetings/2013/PublicCommentsFromPublicOctober2013.pdf>

**2012 WORKERS' COMPENSATION REFORM SENATE BILL 863 – CHSWC Studies**

**Wage Loss Study**

***Description***

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. SB 863, with an effective date of January 1, 2013, makes changes to measurement and compensation of permanent disability benefits.

SB 863 added Labor Code Section 4660.1(i) mandating the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study to compare average loss of earnings for injured workers with permanent disability ratings.

The purpose of the study will be to:

- Compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule.
- Determine if ratings under the new SB 863 permanent disability schedule are more proportional to earnings losses than ratings under the pre-SB 863 schedule.

**Status:** In process.

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**2012 WORKERS' COMPENSATION REFORM SENATE BILL 863 – CHSWC Studies**

**Return-to-Work Program Study**

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. SB 863, with an effective date of January 1, 2013, makes changes to return to work (RTW). It requires the Director of the Department of Industrial Relations (DIR), in consultation with the Commission on Health and Safety and Workers' Compensation (CHSWC), to undertake a study to determine eligibility and payments related to the RTW Program.

The annual funding for the RTW Program will be 120 million dollars. The RTW Program is intended to make supplemental payments to injured workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss.

The purpose of the study will be to:

- Develop and evaluate a methodology and criteria for determining the eligibility for payments and the amount of payments for the purpose of making supplemental payments to workers applying for RTW Program funds.

**Status:** In process.

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## 2012 WORKERS' COMPENSATION REFORM SENATE BILL 863 – CHSWC Studies

### Public Self Insured Program Study

#### **Background**

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. At a fundamental level, this reform is an effort by the direct parties to the workers' compensation agreement (employees and employers) to return to the principles of relatively certain defined benefits and relatively timely delivery of those benefits. SB 863 added Labor Code Section 3702.4 which requires the Commission on Health and Safety and Workers' Compensation (CHSWC) to undertake a study to examine the public self insured program and provide recommendations for its improvement.

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**Bickmore Risk  
Services**

#### **Description**

Objectives of the study are to address costs for administration, workers' compensation benefit expenditures, and solvency and performance of public self insured workers' compensation program, as well as provisions in the event of insolvencies.

Goals of the study and of examining the public sector self insured will include:

- Enable public employers and the public to compare administrative costs among public employers and identify factors contributing to unnecessary administrative costs.
- Enable the public and regulatory authorities to evaluate the ability of self-insured public employers to meet their workers' compensation obligations.
- Recommend steps that the State could take to manage the risk of insolvency and to provide for a response in the event of default by public employers that are self-insured for workers' compensation.

**Status:** In process.

## RETURN TO WORK

### Workers' Compensation Reforms and Return to Work: The California Experience

#### *Description*

The effectiveness of a workers' compensation system can be assessed by two important measures: adequacy and affordability. Adequacy reflects the extent to which indemnity benefits compensate an appropriate amount of workers' earnings losses from workplace injury. Affordability reflects the extent to which workers' compensation benefits, including the delivery costs, affect the cost to employers.

The study reviews the role of public policy in promoting return to work and discusses how public policy can be used to improve outcomes for injured workers and employers. Policy efforts are classified into three broad approaches: medical management; incentive-based; and accommodation-based.

To evaluate the return-to-work rates of injured and disabled workers after the reforms, the study analyzed data on workers' compensation claims for workers who were injured from 2000-2007 reported to the Workers' Compensation Insurance Rating Bureau (WCIRB) and Division of Workers' Compensation (DWC) Disability Evaluation Unit (DEU). These data were linked to quarterly earnings data from the Employment Development Department (EDD). The study matched injured workers to uninjured "control" workers to estimate the change in post-injury outcomes that are attributable to the injury.

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#### *Findings*

Study findings include:

- Return-to-work outcomes improved considerably for injuries that occurred from 2002-2005. Moreover, the biggest gains were experienced by workers with the most severe injuries. The study noted gains in overall employment and in employment for at-injury employers. Overall, the improvements in return to work represent a significant gain for disabled workers.
- Results do not pinpoint why return to work improved so much. The study's findings indicate that return to work was improving even before Senate Bill (SB) 899 reforms were adopted. Workers injured in 2003 and 2004 were not eligible for the tiered benefit, so that is unlikely to be a driving factor behind the observed trend. The timing of the trend suggests that changes to the Fair Employment and Housing Act (FEHA) or the adoption of medical treatment guidelines could have an effect.

**Status:** Completed.

*For further information ...*

"Workers' Compensation Reform and Return to Work: The California Experience" (November 2010).

<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

## RETURN TO WORK

### How Effective Are Employer Return-to-Work Programs?

#### *Description*

Employers often adopt programs that are designed to improve return to work (RTW) of injured employees in order to manage their workers' compensation costs. The Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND examines the effectiveness of employer-based RTW programs adopted by a sample of large, private, self-insured employers in California. The study combines data on duration of time out of work for workers' compensation claimants with information on employer RTW programs from a survey of 40 large, private self-insured California employers to estimate the impact of the programs on time out of work. The data include detailed information about the formal programs and practices used to lower the duration of work-injury absences, including information such as the frequency of use of various modifications and accommodations.

#### *Findings*

Findings include:

- Employer-based RTW programs led to a significant reduction in the duration of injury absences:
  - Workers in an RTW program return approximately 1.4 times sooner compared to workers injured at a firm without a program. This corresponds to a three to four-week reduction in the median-injury duration of injury-related absences.
- Much of the impact of RTW programs appears to be driven by a large improvement in RTW for workers who experience more severe, permanently disabling injuries.
- RTW programs have a much bigger impact on male workers, likely due to higher injury rates and more dangerous jobs.
- Employer-based RTW programs are cost-effective when adopted by large, self-insured firms, but it is unclear if RTW initiatives would provide a cost-effective means of improving employment outcomes for disabled workers at small or medium-sized firms.

**Status:** Completed.

*For further information ...*

"How Effective are Employer Return to Work Programs?" (March 2010).

[http://www.dir.ca.gov/chswc/Reports/2010/CHSWC\\_RANDRTW.pdf](http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RANDRTW.pdf)

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## RETURN TO WORK AND DISABILITY MANAGEMENT

### International Forum on Disability Management 2010: *Collaborating for Success*

#### **Description**

As part of its commitment to disability management, the Commission on Health and Safety and Workers' Compensation (CHSWC) and the Department of Industrial Relations (DIR) collaborated with the International Association of Industrial Accident Boards and Commissions (IAIABC) to host the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, in Los Angeles, on September 20<sup>th</sup> through 22<sup>nd</sup>. The Forum was devoted to multinational dialogue on disability management.

IFDM 2010 brought together over 400 attendees, representing over 33 countries across the world, from the health, safety and workers' compensation communities.

Key topics included prevention, integration of care, and public policy.

**Status:** Completed.

For further information ...

<http://www.dir.ca.gov/chswc/Conferences/IFDM/IFDM%20Program2010.pdf>

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**IFDM 2012 and 2014**

The Royal Society of Medicine in the United Kingdom hosted the 2012 International Forum on Disability Management (IFDM) in London, England, September 10-12, 2012, on the tenth anniversary of the conference. The Royal Society of Medicine, together with Unum and a national/international advisory committee, organized the conference.

IFDM 2014 will be held in Melbourne, Australia.

*For further information ...*

International Forum on Disability Management (IFDM) 2010

[www.ifdm2010.org](http://www.ifdm2010.org)

International Forum on Disability Management (IFDM) 2012

<http://ifdm2012.rsm.ac.uk/>

International Forum on Disability Management (IFDM) 2014

<http://ifdm2014.com.au>

Commission on Health and Safety and Workers' Compensation

[www.dir.ca.gov/chswc](http://www.dir.ca.gov/chswc)

International Association of Industrial Accident Boards and Commissions

[www.iaiaabc.org](http://www.iaiaabc.org)

## RETURN TO WORK AND DISABILITY MANAGEMENT

### California Consortium to Promote Stay at Work/Return to Work

#### *Description*

In June 2007, the Commission on Health and Safety and Workers' Compensation (CHSWC) participated in a Stay at Work (SAW)-Return to Work (RTW) Northern California Summit "Preventing Needless Work Disability by Helping People Stay Employed." The American College of Occupational and Environmental Medicine (ACOEM) guideline of the same title (advocating effective SAW-RTW processes) was featured and launched breakout discussions focusing on specific recommendations of the guideline among employer, labor, insurer and medical provider stakeholders, and other interested participants. (See <http://www.acoem.org/guidelines.aspx?id=566>.)

From 2008 through the present, CHSWC has participated in the California Consortium to Promote SAW/RTW (<http://www.CASAWRTW.org>). This voluntary, multi-disciplinary group of stakeholders was created to continue the initial work of the Summit.

**Status:** Ongoing.

#### *For further information ...*

California Consortium to Promote Stay-at-Work (SAW)/Return-to-Work (RTW)  
<http://www.CASAWRTW.org>

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## MEDICAL CARE

### Coordination Between Healthcare Reform and Workers' Compensation

#### *Description*

There will be policy implications for workers' compensation as a result of the requirements of the new healthcare laws in the United States. The Commission on Health and Safety and Workers' Compensation (CHSWC) study on coordination between healthcare reform and workers' compensation will look at areas where workers' compensation and healthcare overlap and/or should or should not overlap.

The CHSWC study will focus on: (1) where there are important interactions between the two systems; (2) where an effort led by the CHSWC could have a substantial impact on California and national implementation efforts; and (3) where ideas might be attractive to funding partners.

Key areas thought to be important to the coordination of workers' compensation and the changes relating to implementation of the healthcare reform legislation include: cost-effectiveness of medical treatment regimens; third-party liability for treatment costs; changing employer responsibility for employment-based health insurance; impact of occupational conditions on state and federal budgets; and piloting an occupational and non-occupational medical treatment database.

**Status:** In process.

#### *For further information ...*

Compensation: Could Integration Pay for Covering the Working Uninsured?" (October 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/Medical\\_Overhead\\_Cost\\_Comparision\\_2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/Medical_Overhead_Cost_Comparision_2009.pdf)

"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (2008).

[http://www.dir.ca.gov/chswc/Reports/SummaryOandNO\\_ICR2008.pdf](http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf)

"Integrating Group Health and Workers' Compensation Medical Care Factsheet" (2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_IntegrationofCareFactsheet.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf)

"Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation – Could Integration Pay for Covering the Working Uninsured?" (October 2009). [www.dir.ca.gov/chswc/PublicCommentsandFeedback.html](http://www.dir.ca.gov/chswc/PublicCommentsandFeedback.html)

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## MEDICAL CARE

### Medical Care Provided Under California’s Workers’ Compensation Program: Effects of the Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care

#### *Description*

California’s workers compensation system was at the center of intense debate and legislative activity during the period leading up to reforms in 2003 and 2004. High rates of growth in medical care expenditures resulted in a series of reform efforts to control medical-treatment expenses for injured workers and to improve program efficiency. The Commission on Health and Safety and Workers’ Compensation (CHSWC) asked RAND to examine the impact that such policy changes could have on the medical care provided to injured workers.

The purpose of this study was to analyze the effects that the reforms had on access to medically appropriate care and efficiency of service delivery. The Medical Access study also recommends additional changes that might increase both quality and efficiency of care in California’s workers’ compensation system.

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#### **Recommendations**

The main recommendations of the study included:

- Create incentives for providing medically appropriate care efficiently.
- Increase accountability for performance.
- Facilitate monitoring and oversight.
- Increase administrative efficiency.

**Status:** Completed.

*For further information ...*

Medical Care Provided Under California’s Workers’ Compensation Program, RAND (2011).  
[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_MedicalCareReformsandOpps\\_2011.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MedicalCareReformsandOpps_2011.pdf)  
 Use of Compound Drugs, Medical Foods, and Co-Packs in California’s Workers’ Compensation Program: An Overview of the Issues, RAND (January 2011).  
[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf)  
 Inpatient Hospital Services: An Update on Services Provided Under California’s Workers’ Compensation Program Report, RAND (January 2009).  
[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_InpatientHospitalServices.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_InpatientHospitalServices.pdf)  
 Facility Services for Ambulatory Surgery, RAND (2009). <http://www.dir.ca.gov/chswc/Reports/2009/FacilityServicesforAmbulatorySurgery.pdf>  
 “Regulatory Actions that Could Reduce Unnecessary Medical Expenses Under California’s Workers’ Compensation Program,” RAND (July 2009).  
<http://www.dir.ca.gov/chswc/Reports/>

**MEDICAL CARE**

**Quality-of-Care Indicators: A Demonstration Project**

**Description**

Ensuring that workers receive high-quality medical care would benefit both workers and employers. Better medical care would enable workers to make faster and more complete recoveries and would reduce time off from work which drives economic losses for injured workers. From the employers' perspective, a lack of recovery can create a need for more medical care over time, thereby increasing medical costs. Reducing temporary disability (TD) and permanent disability (PD) would decrease economic losses for employees.

A recent landmark study by RAND found that across all health care settings, adults in the U.S. receive only about half of the care recommended by published literature and experts. Researchers also found that quality-of-care problems are pervasive for back and joint injuries, for which a third to half of U.S. patients do not receive appropriate care. The poor quality of care generally provided for back and joint injuries suggests that many injured workers probably do not receive the appropriate care.

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--

**Conclusions**

*Conclusions based on the study include:*

- Quality of care is important in workers' compensation settings, and quality measures are needed.
- Provider organizations can use the carpal tunnel syndrome (CTS) measures and tools developed by the study to monitor quality of care.
- Payors could assess the appropriateness of future surgeries for CTS using the algorithm developed in the study.

**Status:** Completed.

*For further information ...*

Karl J. Sandin, M.D., M.P.H.; Steven M. Asch, M.D., M.P.H.; Charles Jablecki, M.D.; David Kilmer, MD; Teryl K. Nuckols, M.D., M.S.H.S., and the Carpal Tunnel Quality Group. "Clinical Quality Measures for Electrodiagnosis in Suspected Carpal Tunnel Syndrome." *Muscle and Nerve*. 2010 Apr; 41(4):444-52.

<http://onlinelibrary.wiley.com/doi/10.1002/mus.21617/abstract> (subscription required for full article)

Melinda Maggard, MD, MPH; Walter Chang, MD; Neil Harness, MD; Janak A. Parikh, MD; Steven M. Asch, MD, MPH; Kevin Chung, MD; Teryl K. Nuckols, MD, MSHS and the Carpal Tunnel Quality Group. "Indications for Performing Carpal Tunnel Surgery: Clinical Quality Measures." *Plastic Reconstructive Surgery*. 2010 Jul;126(1):169-79.

[http://journals.lww.com/plasreconsurg/Abstract/2010/07000/Indications\\_for\\_Performing\\_Carpal\\_Tunnel\\_Surgery\\_.21.aspx](http://journals.lww.com/plasreconsurg/Abstract/2010/07000/Indications_for_Performing_Carpal_Tunnel_Surgery_.21.aspx) (subscription required for full article). Correction item about a Table in the publication:

[http://journals.lww.com/plasreconsurg/Fulltext/2011/02000/Correction\\_Indications\\_for\\_Performing\\_Carpal.107.aspx](http://journals.lww.com/plasreconsurg/Fulltext/2011/02000/Correction_Indications_for_Performing_Carpal.107.aspx)

## PROJECTS AND STUDIES

Nuckols T, Harber P, Sandin K, Benner D, Weng H, Shaw R, Griffin A, Asch S; The Carpal Tunnel Quality Group. "Quality Measures for the Diagnosis and Non-Operative Management of Carpal Tunnel Syndrome in Occupational Settings." *Journal of Occupational Rehabilitation*. 2010 Aug 25. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3041902/>

Teryl K. Nuckols, MD, MSHS; Melinda Maggard, MD, MPH; Neil Harness, MD; Walter Chang, MD; Kevin Chung, MD, MS; Steven M. Asch, MD, MPH and the Carpal Tunnel Quality Group. Clinical Quality Measures for Intra-Operative and Peri-Operative Management in Carpal Tunnel Surgery. *Hand*. 2011; 6(2): 119. <http://www.springerlink.com/content/t107542j82661571/> or <http://www.springerlink.com/content/t107542j82661571/fulltext.pdf>

The researchers have also developed and pilot-tested a comprehensive and detailed tool that enables quality of care to be assessed for people with carpal tunnel syndrome by reviewing their medical records. The tool explains how to identify the patients to which each measure applies and how to determine when care adheres to the measure, as well as other supporting information. A report containing the tool, the "RAND/UCLA Quality-of-Care Measures for Carpal Tunnel Syndrome: Data Collection Tools," is posted online at:

[www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_QualityofCareMeasuresforCarpalTunnel\\_Tools\\_2011.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_Tools_2011.pdf).

In addition to the tool, the report provides background information, describes study methods, and includes the algorithm for determining when surgery is necessary, optional, or inappropriate.

## MEDICAL CARE

### Occupational and Non-Occupational Integrated Care

#### *Description*

Integration of group health and workers' compensation medical care is an alternative to two separate systems of medical care. Under integrated health care, the same individual physician or health provider group administers treatment for both occupational and non-occupational medical conditions and integrates payment for treatment under a single insurance policy. Integrating workers' compensation medical treatment with group health treatment offers employers the potential for significant savings and could help improve the quality of care and workers' overall access to health insurance.

#### *Integration of Care Pilot Program*

The Commission on Health and Safety and Workers' Compensation (CHSWC) has partnered with the California HealthCare Foundation (CHCF) and the University of California (UC), Berkeley, to examine the feasibility of integrated care in California.

#### *Evaluating the Potential for Savings Under Integration: Study of Cost Savings*

CHSWC has issued a working paper titled "Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation — Could Integration Pay for Covering the Working Uninsured?" At its October 22, 2009 meeting, CHSWC voted to create an advisory group to discuss the findings of the issue paper on integrating workers' compensation medical and group health care. Subsequently, on February 25, 2010, CHSWC held a roundtable to discuss the issue paper in detail, get feedback from the advisory group, and examine the feasibility of adopting integrated care in California. The roundtable was composed of over 40 participants representing employers, labor, government agencies, medical providers, insurance companies, and attorneys.

#### *Study Findings*

Study findings indicate that total national savings estimates over the first ten years would be between \$490 billion, based on National Academy of Social Insurance (NASI) data, and \$560 billion, based on California insurer data. Savings for California alone would be about \$10 billion in the first year and \$100 billion for the ten years 2011 to 2020 inclusive.

**Status:** Ongoing.

#### *For further information ...*

"Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation – Could Integration Pay for Covering the Working Uninsured?" (October 2009). [www.dir.ca.gov/chswc/PublicCommentsandFeedback.html](http://www.dir.ca.gov/chswc/PublicCommentsandFeedback.html)

"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (December 2008).

[http://www.dir.ca.gov/chswc/Reports/SummaryOandNO\\_ICR2008.pdf](http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf)

"Integrating Group Health and Workers' Compensation Medical Care," Factsheet (2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_IntegrationofCareFactsheet.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf)

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PROJECTS AND STUDIES

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**MEDICAL CARE**

**Identifying Risky Opioid Prescribing Practices**

**Description**

The California Department of Industrial Relations (DIR) and the California Commission on Health and Safety and Workers' Compensation (CHSWC) are currently working to develop criteria that can be used to identify high-risk prescribing practices within the workers' compensation system that warrant closer scrutiny. The criteria would potentially be used to identify risky prescribing practices. Those practices would then undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention might be required to mitigate the situation.

The objective of the current study commissioned by the DIR and CHSWC was to perform a systematic literature search for information that can be used to identify higher-risk prescribing practices within the workers' compensation system.

Higher-risk practices are those that are thought to be associated with suboptimal patient outcomes. The potential screening criteria for identifying them focus on areas of practice where providers should proceed with caution or not at all. Those prescriptions flagged as positive for the screening criteria could undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation. Most likely, any criteria implemented as a state policy or by workers' compensation payors would be applied to pharmaceutical claims (billing) data so the criteria should be able to identify high-risk practices based on medication name and formulation, route of administration, dose per unit of medication, number dispensed, and patterns of refills over time.

The research questions this project set out to address focused, therefore, on how specific types of medications, formulations, routes, doses, durations of therapy, and drug-drug interactions affected outcomes such as pain control, functional status, and adverse events including the risk of overdose, addiction, and mortality. To answer these questions, the study focused its search for information on publicly available medical treatment guidelines, systematic literature reviews, meta-analyses, and information on individual medications released by the Food and Drug Administration (FDA). The study restricted its search to information published since 2007, since studies have shown that new studies can render guidelines out-of-date as quickly as three years after publication.

**Conclusions**

- Opioid-related substance abuse and overdoses are growing problems, partly due to prescribing practices. Both issues can lead to poor outcomes and an increase in costs in workers' compensation settings
- New standards of care and policies are emerging to address these issues on opioids.
- Using administrative data to identify high-risk prescriptions may be feasible.
- There are a few recent relatively high-quality guidelines on opioid treatment; one of these could be evaluated further for implementation in the California workers' compensation system.

**Status:** Completed.

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**RAND Corporation**

Teryl Nuckols, M.D.

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## MEDICAL CARE

### Use of Compound Drugs, Medical Foods, and Co-packs in California's Workers' Compensation Program

#### *Description*

There is considerable controversy over the use of compound drugs, medical foods and co-packs for workers' compensation patients. A recent report issued by the California Workers' Compensation Institute (CWCI) found that payments for compound drugs, convenience packaging of drugs and medical foods (co-packs), and medical foods grew from 2.3 percent to 12 percent of medication expenses between the first quarter of January 2006 and the first quarter of 2009.<sup>73</sup>

The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with RAND to conduct a study to examine issues surrounding compound drugs. The study examined several aspects related to compound drugs including medical necessity, allowance, and physician incentives.

#### *Findings and Recommendations*

- Clarifying the rules and removing inappropriate incentives should help assure that workers receive the drugs and other pharmaceuticals that are needed to "cure or relieve" their illness or injury.
- Review of sample bills and OMFS pricing policies indicates that there is a problem with how bulk ingredients are priced.
- Physician-dispensing creates financial incentives that affect the use of compound drugs and other products results.

**Status:** Completed.

*For further information ...*

"Use of Compound Drugs, Medical Foods, and Co-Packs in California's Workers' Compensation Program: An Overview of the Issues." RAND, January 2011.

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf)

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<sup>73</sup> Ireland, J., & Swedlow, A. (August 2010). The Cost and Utilization of Compound Drugs, Convenience Packs, and Medical Foods in California Workers' Compensation *CWCI Research Notes*: California Workers' Compensation Institute, Available at: <http://www.cwci.org/research.html>.

## MEDICAL CARE

### Medical-Legal Study

#### *Description*

Reform legislation changes to medical-legal evaluations were intended to reduce both the cost and the frequency of litigation, which drive up the price of workers' compensation insurance for employers and lead to long delays in case resolution and the delivery of benefits to injured workers.

In 1995, the Commission on Health and Safety and Workers' Compensation (CHSWC) initiated a project to determine the impact of the workers' compensation reform legislation on workers' compensation medical-legal evaluations. CHSWC contracted with the University of California (UC), Berkeley to carry out this study.

The study analysis is based upon the *Permanent Disability Claim Survey*, a set of data created each year by the Workers' Compensation Insurance Rating Bureau (WCIRB) at the request of the Legislature to evaluate the 1989 reforms. WCIRB data summarize accident claim activity, including such measures and elements as disability rating, including a disability rating after apportionment if it was applied, the types of providers, fee schedule types, cost of medical-legal evaluations, zip codes to facilitate regional analysis, and whether the case was settled and, if so, the method of settlement employed.

#### *Findings*

The study determined that a substantial decline in total medical-legal costs occurred since 1990s. The changes in total medical-legal costs for insurers result from shifts in its three components: total number of permanent partial disability (PPD) claims; average number of medical-legal evaluations per claim; and average cost of a medical-legal evaluation. From 1990 to 2004, the substantial decline in total medical-legal costs for insurers was the result of significant decreases in all three components of the cost structure. Beginning in 2004, when the average cost of medical-legal evaluations started increasing, the source of savings could be attributed to a decline in PPD claim frequency and to a reduction in the number of evaluations performed per claim.

A significant increase in average cost of a medical-legal evaluation between 2004 and 2010 accident years could be attributed to:

- Increases in the average cost being driven by claims in the Southern California region where medical-legal evaluations have always been substantially more expensive.
- Changes in the mix of codes under which the evaluations were billed to include a higher share of the most complex and expensive evaluations and lesser share of the least expensive type.
- Increases in both the frequency and number of psychiatric evaluations per claim that are nearly always billed under the ML-104 code that is the most expensive. The average cost of a psychiatric medical-legal evaluation was the highest in comparison to average costs of other medical-legal evaluations by physician type.

**Status:** The medical-legal study was initiated in 1995 and is ongoing.

*For further information ...*

See "Medical-Legal Expenses" in the "System Costs and Benefits Overview" section of this report.

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## ADMINISTRATIVE EFFICIENCY

### Electronic Adjudication Management System Study

#### *Description*

At the request of the Honorable Jose Solario, Chair, Assembly Insurance Committee, the Commission on Health and Safety and Workers' Compensation (CHSWC) conducted an assessment of the Division of Workers' Compensation (DWC) Electronic Adjudication Management System (EAMS). CHSWC contracted with Renee Taylor Consulting, Inc., to do an independent needs assessment.

The needs assessment determined the extent that complaints about the system are justified and what will be or can be done to address them and at what further cost. It also assessed whether there are changes in the work processes of the Division necessary to adapt to the limitations of EAMS. Successes were also acknowledged.

**Status:** Completed.

#### *For further information ...*

"EAMS' Needs Assessment" (2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_EAMS\\_AssessmentReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport.pdf)

"Public Comments on EAMS Information Technology Needs Assessment Report of June 29, 2011."

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_EAMS\\_AssessmentReport\\_publicReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport_publicReport.pdf)

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**ADMINISTRATIVE EFFICIENCY****Liens****Description**

Previous reforms have attempted to deal with the issue of liens. Assembly Bill (AB) 749 signed in 2002 placed statutory limitations on the filing of lien claims. In 2003, SB 228 added Labor Code Section 4903.05, requiring a \$100 filing fee for each medical lien filed beginning in 2004, with exceptions for certain publicly funded programs. Effective July 1, 2006, budget trailer bill language in AB 1806 repealed the lien filing fee and added Section 4903.6 to deter the filing of premature and potentially unnecessary liens at DWC district offices. The only one of those measures that was demonstrably effective was the filing fee that sharply reduced the volume of liens filed during two and a half years.

Prior to SB 863, California used a unique lien system, which was the subject of considerable controversy. Other states have nothing like the lien phenomenon seen in California. Critics argued that there was a huge backlog of lien claims filed at WCAB offices that was delaying the processing of cases filed by injured workers in many WCAB district offices. In many instances, liens for services provided over ten years earlier were being filed on workers' compensation cases. The Commission observed that the volume of liens provided an environment where indefensible delays and denials by claims administrators as well as fraud and abuse by lien claimants could flourish.

The Commission on Health and Safety and Workers' Compensation (CHSWC) Liens Report adopted in January, 2011, made a number of recommendations that were later incorporated into Senate Bill (SB) 863, signed by Governor Brown on September 18, 2012. These included:

- Taking certain treatment and billing disputes away from the jurisdiction of the Workers' Compensation Appeals Board (WCAB) by prohibiting a lien to be filed for matters that are subject to Independent Medical Review (IMR) and Independent Bill Review (IBR) dispute resolution. The resolution of the majority of medical treatment disputes will now be handled by IMR or IBR through the Administrative Director's office.
- Requiring the Workers' Compensation Judge to disallow treatment liens if the provider either knew or in the exercise of reasonable diligence should have known that the condition being treated was caused by the employee's present or prior employment, unless at the time the expense was incurred certain conditions were met.
- Prohibiting liens for unauthorized treatment obtained outside of a medical provider network (MPN) and providing for expedited resolution of disputes over the right to treatment outside of an MPN.
- Requiring payment only to the provider unless the provider has ceased doing business and assigned all right, title, and interests in the remaining accounts receivable to the assignee.
- Adopting a statute of limitation within which liens must be filed.
- Adopting mandatory filing and activation fees which are payable by a medical lien claimant and reimbursable by the defendant under specified circumstances.

**Status:** Completed.

*For further information ...*

"Report on Liens" (2011). [http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf)

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## **FRAUD**

### **Anti-Fraud Studies and Activities and Related Projects to Assist Injured Workers**

This section describes the findings from Commission on Health and Safety and Workers' Compensation (CHSWC) studies on fraud and fraud measurements.

#### ***Background***

Over the past several years, the Commission has focused on anti-fraud studies to quantify and identify areas of system cost losses and system cost shifting. Partnerships with the Department of Insurance (CDI) and others have created an ongoing agenda to combat fraud through measurement and identification of types of fraud in the system.

The objectives of the fraud studies were to:

- Determine the extent of workers' compensation medical overpayments and underpayments of all types, including suspected fraud, waste, abuse, and billing and processing errors, in order to allocate the appropriate level of resources to detect and evaluate suspected medical provider fraud in California. This study was carried out jointly by Fraud Assessment Commission (FAC) and CHSWC. (See "List of Projects and Studies" in this report.)
- Estimate the percent or number of uninsured employers.
- Identify uninsured employers operating in the underground or "gray" economy.
- Determine under-reporting of injuries.
- Determine misreporting of payroll and estimate the degree of premium avoidance by insured employers.
- Estimate the degree of misreporting of split class codes, when lower-wage worker payrolls are reported as higher-wage ones in order to take advantage of the lower premiums in the higher-wage class codes. (See "List of Projects and Studies" in this report.)

Some of the studies created findings which became initiatives or projects to improve the delivery of services and assist injured workers who may be potential unsuspecting victims of fraud or simply vulnerable to the intricacies of the benefit-delivery system when procedures are not properly followed by employers or the injured workers themselves.

Studies described below include project summaries of these offshoot initiatives. While some reports are completed, the focus on anti-fraud efforts is ongoing.

## FRAUD

### Underreporting of Injuries: “Reporting of Workers' Compensation Injuries in California: How Many are Missed?”

#### *Description*

Underreporting of occupational injuries and illnesses may occur in response to increases in premium costs. Such underreporting is often proposed as a partial explanation for the continuing decline in occupational incidence rates. The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with Boston University to conduct this injury-reporting study, using a large sample of Workers' Compensation Information System (WCIS) data and Bureau of Labor Statistics (BLS) data and applying a capture-recapture analysis methodology.

#### *Findings*

- The most conservative estimate of reporting of workplace injuries in California suggests that 21 percent to 25 percent of lost-time injuries go unreported to WCIS. A less conservative estimate of underreporting implies that 40 percent of lost-time injuries went unreported.
- From a policy perspective, benefit payment is at least as important as reporting of injuries. Researchers do not know how many workers receive benefits for injuries that go unreported to WCIS. It seems likely that benefits have been paid but not reported in many cases; however, evidence about this is inadequate to support an estimate.
- Injured workers with unreported injuries may be eligible for workers' compensation benefits but receive none. In this case, the unpaid workers' compensation benefits pose a burden to the injured workers and their families, health insurance programs, and public and private disability programs.

#### *Recommendation*

- Improve WCIS reporting.

**Status:** Completed.

*For further information, including additional recommendations ...*

“Reporting Workers' Compensation Injuries in California: How Many are Missed?” (August 2008).  
<http://www.dir.ca.gov/chswc/Reports/ReportingWorkersCompensationInjuriesinCalifornia2008August.pdf>

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**FRAUD**

**Premium Avoidance by Insured Employers**

**Description**

In the absence of auditing or accountability, an employer seeking to minimize insurance costs has incentives to misreport payroll for different types of employees. If employers do misreport payroll, it would be expected to be more prevalent during periods when costs are high. Consequently, employers would report less payroll as workers' compensation costs as a percentage of payroll increase. The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with University of California (UC), Berkeley, to estimate the magnitude of misreported payroll in the system.

**Objectives**

The purpose of the study is to determine the extent of underreporting by:

- Examining the reporting behavior of employers' reported payroll for premium calculation compared to actual payroll.

**Findings**

From 1997 to 2005, the most recent data available at publication, there was substantial underreporting of premium by employers. Underreporting ranges from a low of 4 percent in 1997, when rates were substantially lower, to an excess of 10 to 12 percent in 2003-2004, when rates were several times higher than in 1997. This amounts to about \$15 billion of underreported payroll in 1997 and up to \$68 billion in payroll in 2003 (and \$61 billion in 2004).

Between \$15 and \$68 billion of payroll annually is underreported over this period for employers that should be insured for workers' compensation insurance. This includes the underground economy and underreporting by employers that do have insurance. The result is that premium rates are likely to be unfairly high for honest employers who probably face rates three to ten times higher in the high-risk class codes than they would face under full reporting. Underreporting also affects the competitiveness of honest employers. There are only limited incentives for insurers to accurately monitor underreporting, and underreporting is probably offset by the higher premium rates that are observed.

**Status:** Completed.

*For further information, including suggested next steps ...*

"Fraud in Workers' Compensation Payroll Reporting: How Much Employer Fraud Exists? What is the Impact on Honest Employers?" (August 2007 and January 2009).

[http://www.dir.ca.gov/chswc/Reports/Fraud\\_in\\_WC\\_payroll\\_Report\\_Aug\\_14\\_2007.pdf](http://www.dir.ca.gov/chswc/Reports/Fraud_in_WC_payroll_Report_Aug_14_2007.pdf)  
(August 2007)

[http://www.dir.ca.gov/chswc/Reports/2011/Final\\_Report\\_FAC\\_Premium\\_Avoidance.pdf](http://www.dir.ca.gov/chswc/Reports/2011/Final_Report_FAC_Premium_Avoidance.pdf)  
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**FRAUD**

**Uninsured Employers Operating in the Underground or “Gray” Economy**

**Background**

An unknown fraction of employers operate partially or entirely outside the standard economy, going uncovered for workers’ compensation insurance as well as committing other wage and tax violations. Honest employers, workers, state social programs, the state general fund, and the federal government all suffer the consequences of fraudulent underground activity. Despite the important and extensive impact the underground economy has on honest employers and their workers, there are almost no useful estimates of the extent of the underground economy, the amount of premium and taxes avoided, or the differential impact on employers by industry. The main reason for this lack of information is that by operating underground, these employers remain outside most mechanisms used to track and measure economic activity.

Underground or “gray” economy employers may represent a major fraction of the uninsured employer population. Often, these employers are only identified when a worker files a claim with the Uninsured Employers Benefit Trust Fund (UEBTF).<sup>74</sup>

**Objectives**

The purpose of the study is to:

- Examine the impact of the enforcement mechanisms in place to deter underground activity.
- Estimate the impact of enforcement mechanisms (sweeps, fines, etc.) on reported employment, reported payroll and related taxes, workers’ compensation coverage, and worker safety.
- Examine the incentives related to fines and penalties imposed during enforcement.
- Propose how enforcement procedures could increase compliance.
- Propose how enforcement procedures could measure the underground economy and support progress towards better compliance.

The main approach of the study is to:

- Identify the population of all employers, industries and geographic areas subject to enforcement sweeps and other systematic enforcement efforts.
- Compare various types of enforcement (industry-based, geography-based, community-state partnerships, etc.) and evaluate which approaches are most cost-effective.
- Develop recommendations on refining enforcement and penalty-assessment strategies.

**Status:** In process.

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<sup>74</sup> UEBTF is also still commonly called the Uninsured Employers Fund (UEF).

**Fraud Studies - Related Initiatives: Uninsured Employers Benefits Trust Fund Project, Information and Assistance (I&A) Officer Customer Service Project, UEBTF Handbook, and Labor Code 90.3 Data Matching**

**Description**

All employers in California except the State are required to provide workers' compensation coverage for their employees through the purchase of workers' compensation insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain workers' compensation coverage for their employees.

The Uninsured Employers Benefits Trust Fund (UEBTF) was established to provide for the payment of workers' compensation benefits to injured employees of illegally uninsured employers. Fraudulent misreporting or illegally uninsured employers shift costs to other payors inside and outside of the workers' compensation system.

UEBTF is administered by the director of the Department of Industrial Relations (DIR). Funding comes from assessments on all insured and self-insured employers annually, from fines and penalties imposed on illegally uninsured employers when they get caught, and from recoveries from illegally uninsured employers when UEBTF has paid benefits and is able to obtain reimbursement from responsible employers.

Concerns have been raised about UEBTF from both employers and workers. Law-abiding employers are concerned about cost shifting to UEBTF by illegally uninsured employers. Workers are concerned about the difficulties in obtaining benefits from UEBTF.

**Findings**

Past findings include:

- Identifying and locating uninsured employers along with proper enforcement would reduce the costs to stakeholders in the workers' compensation system.
- The surest way to reduce the long-term cost of UEBTF is to reduce the prevalence of illegally uninsured employers. In a Commission on Health and Safety and Workers' Compensation (CHSWC) 1998 study on illegally uninsured employers, the rate of uninsured employers was found to be 9 percent of the system as a whole. For new employers and in the targeted industry of auto/truck repair, 15 percent and 20 percent, respectively, were uninsured.
- Unrepresented applicants lack easy access to UEBTF. Of some 1,800 claims filed during the 2007-2008 fiscal year, only 4 or 5 were filed by unrepresented applicants according to UEBTF. Injured workers will probably continue to require attorneys if they wish to pursue any of the additional remedies available against illegally uninsured employers.
- Applicants' attorneys have consistently complained about the many technicalities and formalities with which they must comply to file a valid claim. The process cannot be greatly streamlined because it is necessary to build a case that can ultimately lead to a civil judgment against the illegally uninsured employer.

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**Recent Initiatives and Outcomes**

As a result of these past findings, CHSWC has worked with the DIR and stakeholders to address emerging issues:

- CHSWC has funded the development of a UEBTF booklet in simple language in English and Spanish for use by uninsured workers. The booklet, "If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits," was made available in June 2011 and is posted at <http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>. The Spanish version is posted at: [http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers\\_Spanish.pdf](http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf).
- Progress is being made in following the requirements of Labor Code Section 90.3, as evidenced by the release of the annual reports required by Labor Code Section 90.3 in 2009, 2010, 2011 and 2012 by the Division of Labor Standards Enforcement (DLSE). In 2011, new data specifications were developed to include separate sampling of new employers, targeted employers, and random employers. In 2013, the 2012 results of those new samples should shed further light on the types of employers that choose to disregard the law.

**Status:** Completed.

*For further information ...*

"CHSWC Background Paper: Uninsured Employer Benefits Trust Fund" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

"2009 Annual Report of the Unlawfully Uninsured Employer Enforcement Program, Labor Code Section 90.3(d)."

<http://www.dir.ca.gov/dlse/UUEEP-2009.pdf>

"2008 Annual Report of the Unlawfully Uninsured Employer Enforcement Program, Labor Code Section 90.3(d)."

<http://www.dir.ca.gov/dlse/UUEEP-2008.pdf>

Division of Labor Standards Enforcement Reports.

<http://www.dir.ca.gov/dlse/DLSEReports.htm>.

## INSURANCE INDUSTRY

### Insolvent Insurers

#### *Description*

Since insurance rates were partially deregulated in 1995, the California workers' compensation system has been very volatile. For reasons that go beyond price deregulation, there have been dramatic swings in workers' compensation prices and insurer underwriting profits, and a substantial number of insurers, including some of the largest market participants, have failed.

Pursuant to Senate Bill (SB) 316, which was signed into law in 2007, the Commission on Health and Safety and Workers' Compensation (CHSWC) conducted the CHSWC/RAND/Navigant consulting study and report "California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change." This study identifies and examines factors that contributed to increased market volatility and the large number of insolvencies following price deregulation.

The purpose of this report is to identify the different factors that contributed to increased market volatility and the large number of insolvencies following price deregulation and to suggest policy changes to reduce the severity of these problems in the future. Findings and recommendations are based on information obtained through interviews with a wide range of interested parties, detailed examination of eight insurance groups that became insolvent and eight insurance groups that survived, a review of previous studies, and an analysis of data from the Workers' Compensation Insurance Rating Bureau (WCIRB) and the California Department of Insurance (CDI) on the overall market.

#### *Findings*

Several key factors contributed to the insolvencies and volatility over the past 15 years: inaccurate projections of claim costs; pricing below expected costs; reinsurance contracts that gave insurers and reinsurers insufficient stake in the profitability of the policies they wrote; managing general agents who had little financial interest in the ultimate profitability of policies; under-reserving by insurers; and insurer surplus and capital that were inadequate to provide a cushion against adverse events.

There are four broad themes that run through the 29 policy recommendations: improve predictability; enhance transparency of the system; better align incentives of major players; and improve California CDI oversight.

**Status:** Completed.

*For further information ...*

"California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change," RAND, December 2009.

<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

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**INSURANCE INDUSTRY**

**Self Insurance Groups**

**Description**

Self insurance groups (SIGs) in the private sector are a comparatively new phenomenon in California. Private sector employers in California must secure the payment of their workers' compensation obligations either by obtaining workers' compensation insurance or by obtaining from the State a certificate of consent to self-insure. Since the early years of workers' compensation, individual employers with sufficient financial capacity have been able to obtain the State's consent to self-insure. Public entities have been permitted to self-insure for decades.

By the end of 2007, SIGs reported over \$5.2 billion in covered payroll, nearly 6 percent of the total payroll covered by all private sector self-insurance. There were 28 active SIGs in California as of February 2009, ranging from groups of 3 members up to a group of 743 members. One SIG reported over \$1.1 billion in covered payroll. In 2007, SIGs paid an aggregate of \$21,610,856 in indemnity benefits and \$28,786,674 in medical benefits.<sup>75</sup> This growth has taken place under a statute governing individually self-insured employers and under regulations based largely on the regulations designed for individually self-insured employers.

Both the market for group self insurance and the regulatory oversight of group self insurance are now undergoing a first stage of maturation. Some SIGs are closing or undergoing changes as their business models prove to be poorly suited to the current economic climate. An extensive overhaul of the regulations was adopted effective March 2, 2009, after more than three years of work by the Department of Industrial Relations (DIR) and its Office of Self Insurance Plans (OSIP). Other states with provided examples of what can go wrong when SIGs are not adequately regulated and supervised.

In the context of these changes, and mindful of the widely publicized failure of several large self insurance trusts in the state of New York, Assembly Member Joe Coto, Chair of the California Assembly Insurance Committee, requested on October 6, 2008, that the Commission on Health and Safety and Workers' Compensation (CHSWC) analyze the statutory and regulatory oversight of workers' compensation self insurance groups and make recommendations to ensure the viability of these programs.

**Findings**

California already has regulations designed to protect against the most obvious risks of financial failure and default by self insurance groups. The CHSWC study found that self insurance groups have the potential to serve the interests of California employers and employees by promptly providing workers' compensation benefits to injured workers at reasonable cost while enabling and encouraging employers to improve safety and provide the earliest appropriate return to work for injured employees.

The CHSWC "Report on Self Insurance Groups" makes recommendations for improved solvency, security and insight, as well as for what legislation or oversight might be needed to preserve group self insurance as an option for eligible employers and to assure that the risks are held to a reasonable minimum.

**Status:** Completed.

*For further information ...*

"Report on Self Insurance Groups" (December 2009).  
[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_SIGReport.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SIGReport.pdf)

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<sup>75</sup> Sources: Office of Self Insurance Plans website and e-mail correspondence 1/8/2009.

**INFORMATION FOR WORKERS AND EMPLOYERS**

**Return-to-Work/FEHA/ADA Handbook and Factsheet**

**Description**

Return to work after an injury or illness is important for employers and workers and their families in California. Efforts need to be made to reduce litigation, reduce friction, and provide information to employers, particularly small employers who have the most difficult time complying with requirements regarding return to work.

Several stakeholders have requested information to help workers and employers meet their responsibilities under the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Acts (ADA). In 2010, the director of the Department of Industrial Relations (DIR) requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) work with the Department of Fair Employment and Housing (DFEH) and partner with the Division of Workers' Compensation (DWC) on a new handbook on return to work, FEHA and ADA. The Commission voted at its November 6, 2008 meeting to proceed with this project and convened the Return-to-Work/FEHA/ADA Advisory Group on December 9, 2008. This was a multi-agency effort to improve return to work and improve information for workers and employers in order to reduce confusion and litigation.

The Advisory Group emphasized that there is a need for a new and better approach to return to work especially with an aging workforce and the economy shedding jobs. A new Return to Work/FEHA/ADA handbook was recommended.

**Handbook and Factsheet**

***Handbook: Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California***

CHSWC worked with DFEH and partnered with DWC and the University of California (UC), Berkeley, on a new handbook on return to work, FEHA and ADA, *Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California*.

The handbook, which was available beginning in February 2010, is especially geared for small employers and their employees. It briefly describes workers' compensation anti-discrimination and disability rights laws in California, including: how workers' compensation law protects injured employees from discrimination; and what employers' obligations are under FEHA. It also describes six basic steps that constitute best practices to help injured employees return to safe and appropriate work in a timely fashion, including: how employers can comply with the requirements of the interactive process under FEHA; what the time frames are for engaging in the interactive process and offering work; and examples of RTW in construction and agriculture. In addition, it discusses: how to establish an effective program to carry out best practices; how to ensure that everyone assumes their roles and responsibilities; and why employers should evaluate existing jobs and working conditions.

Additional resources are included in Appendix sections for physicians and insurers and about job accommodations, workers' compensation benefits rights and procedures, and disability rights and procedures under FEHA. Appendix A lists additional resources to help employers and employees design, implement, and participate in an effective

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return-to-work program; it also lists resources of the state agencies that administer workers' compensation and disability rights laws. Appendix B and Appendix C explain how to access the laws and regulations discussed in this handbook.

**Factsheet: “Best Practice in Returning an Injured Employee to Work: Factsheet for Employers”**

A Factsheet based on the Handbook, “Best Practices in Returning an Injured Employee to Work: Factsheet for Employers,” was also available in February 2010. The Factsheet presents key points from the RTW/FEHA/ADA Handbook: *Helping Injured Employees Return to Work: Practical Guidance Under Workers’ Compensation and Disability Rights Laws in California, February 2010.*

**Status:** Completed.

*For further information ...*

“Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting” (April 2009). [http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf)

*Helping Injured Employees Return to Work: Practical Guidance Under Workers’ Compensation and Disability Rights Laws in California*

[http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf)

“Best Practices in Returning an Injured Employee to Work: Factsheet for Employers,” February 2010.

[http://www.dir.ca.gov/chswc/CHSWC\\_FactsheetRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf)

## INFORMATION FOR WORKERS AND EMPLOYERS

### Uninsured Employers Benefits Trust Fund Educational Booklet

#### *Description*

Injured workers, whose employers' are illegally uninsured or whose employers do not provide information about their insurance face significant hurdles in requesting workers' compensation benefits either from the employer or from the Uninsured Employers Benefits Trust Fund (UEBTF). Injured workers, legal services organizations, and agencies that investigate workers' compensation fraud have expressed a need for these workers to receive help and support in requesting workers' compensation benefits. The Division of Workers' Compensation (DWC) has produced basic materials on steps to take in a UEBTF case. Further educational work is needed to clarify and fully explain the procedural steps set forth in these materials with easy-to-understand terminology and examples. University of California (UC), Berkeley staff assisted the Commission on Health and Safety and Workers' Compensation (CHSWC) in developing a fully designed educational booklet based on DWC materials and advisory input from members of the workers' compensation community.

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This project was coordinated with CHSWC to streamline the UEBTF process and offer additional services to injured workers of uninsured employers and to pilot these services with the Information & Assistance (I&A) office in Salinas.

The booklet is available in English and Spanish online and distributed at I&A Offices.

**Status:** Completed.

#### *For further information ...*

"If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits" (June 2011).

<http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>.

The Spanish version is posted

at: [http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers\\_Spanish.pdf](http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf).

"CHSWC Background Paper: Uninsured Employers Benefits Trust Fund" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

## INFORMATION FOR WORKERS AND EMPLOYERS

### Benefit Notices: Recommendations

#### Description

Labor Code Section 77(b) authorizes the Commission on Health and Safety and Workers' Compensation (CHSWC) to issue period reports and recommendations to improve and simplify benefit notices.

California does not have a streamlined benefit notices program that allows claims administrators to communicate effectively with injured workers.

Advisors consulted identified problems with benefit notices including:

- Too voluminous (e.g., overly wordy, redundant, containing factsheets and forms that are not needed by all workers).
- Complex, overwhelming, frightening, vague, confusing (e.g., "you may lose important rights if you do not take certain actions within 10 days"; "you may be asked to return to the physician for a new evaluation").
- Difficult to understand (e.g., indirect wording, unfamiliar terminology).
- Not coordinated as a single system, not standardized.
- Misleading (e.g., workers think they are required to submit the Qualified Medical Evaluator (QME) panel request form; notice that no permanent disability exists sounds like denial of the entire claim).
- Not conveying the main points to workers.
- Difficult to keep updated (i.e., the required factsheets).

#### Recommendations

The Commission's July 2010 "Report on Benefit Notices and Recommendations" recommends legislation requiring a system of benefit notices to be written in plain language and a guidebook for injured workers also to be written in plain language, which the benefit notices can refer to. At its August 19, 2010 meeting, the Commission voted to initiate background work on simplification of notices and to revise the 2006 *Guidebook for Injured Workers*.

Since 2006, the revised guidebook includes changes such as the extension of time to receive temporary disability benefits, the new Medical Treatment Utilization Schedule, and changes in the right to pre-designate.

Legislation contained in Assembly Bill (AB) 335 implements these recommendations and was signed into law in 2011. The law now requires the Administrative Director (AD) of the DWC and CHSWC to develop and make available such plain language notices with accompanying information materials. For more information about AB 335, please see "Special Report on

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## PROJECTS AND STUDIES

2012 Legislation and Regulations on Health and Safety and Workers' Compensation" in the 2012 Annual Report.

### ***Update***

Major workers' compensation reform, Senate Bill (SB) 863, was signed into law in September 2012. The AD of the DWC and CHSWC will develop notices that inform injured workers about the new programs, rights and requirements created by SB 863.

**Status:** Completed.

*For further information ...*

"Report on Benefit Notices and Recommendations," July 2010.

<http://www.dir.ca.gov/chswc/Reports/2010/BenefitNoticesRecommendationspdf.pdf>

**INFORMATION FOR WORKERS AND EMPLOYERS**

**Workplace Wellness: How to Address Both Occupational and Lifestyle Issues on the Job**

**Description**

Integration of wellness and occupational health and safety has become a key focus of efforts by employers of large, medium-size and small business and labor. On July 16, 2008, the Commission on Health and Safety and Workers' Compensation (CHSWC) hosted a Workplace Wellness Roundtable facilitated by the University of California (UC), Berkeley Labor Occupational Health Program (LOHP). Participants included representatives from employers of large, medium-size and small businesses, labor, research organizations, and state agencies. The purpose of the Workplace Wellness Roundtable was to begin a dialogue about strategic approaches, both short-term and long-term, to integrating workplace wellness and occupational health and safety programs in California. Attendees were encouraged to share experience with workplace wellness initiatives and programs and to reflect on how these ideas relate to their own organizations.

**Booklet on Integrating Wellness and Occupational Health and Safety Programs**

As a result of the Roundtable, a booklet, *The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs*, was developed. The booklet addresses the central role that the workplace plays in the health of most Americans.

The booklet provides examples of specific wellness/health promotion programs and discusses their effectiveness. It also presents a Checklist and a Planning Worksheet for integrating workplace wellness programs and occupational health and safety, as well as a List of Resource Organizations and a bibliography of publications related to wellness and occupational health and safety.

**Status:** Completed.

*For further information ...*

- "Summary of the July 16, 2008 Workplace Wellness Roundtable" (December 2008).  
[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_SummaryWorkplaceWellnessRoundtable.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_SummaryWorkplaceWellnessRoundtable.pdf)
- The Whole Worker: Integrating Wellness and Occupational Health and Safety Programs*  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP\\_TheWholeWorker.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf)

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**OCCUPATIONAL SAFETY AND HEALTH**

**Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and Implications for Public Policy**

**Description**

The provision of public safety is one of the most important responsibilities of government. Workers charged with protecting the public routinely put their lives and well-being at risk. It is documented that, in general, public safety employees tend to have much higher-than-average rates of work-related injuries and illnesses, both fatal and non-fatal as compared to other sectors. Because public safety occupations inherently entail significant risk and because of the social importance of the services they provide, public safety employees are usually rewarded with comparatively higher compensation in the event of a work-related injury.

The high rate of injury and disability sustained by vital public safety employees, particularly police and firefighters, is of great concern to the workers' compensation community. In October 2004, Assembly Members Juan Vargas and Rick Keene requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) conduct a study of public sector injury prevention. In particular, they requested a comprehensive evaluation and recommendations on effective public safety employee injury and illness prevention measures.

In response to the above bi-partisan request, CHSWC contracted with RAND in September 2005 to conduct a study that will assist the Legislature in its goals to minimize injuries incurred by public safety employees and provide adequate benefits to those who are injured.

**Objectives of the Study**

Researchers pursued the following research goals:

- Summarize the existing literature on the injury and fatality risks to public safety employees.
- Characterize the perceived risks and efforts currently used to reduce those risks.
- Describe the differences in the rates of injury, disability and other chronic health problems for workers in public safety occupations compared with workers in other occupations.

**Findings and Recommendations**

The findings of the study were grouped into four separate categories: (1) characterizing the central occupational health risks to different public safety occupations; (2) describing current efforts at improving safety and identifying promising areas for reform; (3) comparing the self-reported health of public safety employees with that of workers in non-safety occupations; and (4) examining differences in work-related disability claim rates of public safety employees and non-safety employees by age.

**Status:** Completed.

*For further Information ...*

“Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and the Implications for Public Policy,” RAND (2008).

[http://www.dir.ca.gov/CHSWC/Reports/CHSWC\\_PublicSafetyEmployeesReport2008.pdf](http://www.dir.ca.gov/CHSWC/Reports/CHSWC_PublicSafetyEmployeesReport2008.pdf)

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**OCCUPATIONAL SAFETY AND HEALTH**

**The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?**

**Description**

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

"The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety" study is a response to the research recommendations of the Experience Rating Task Force and the Health and Safety Research Advisory Committee.

**Objectives of the Study**

Objectives of the study are to identify:

- Whether the application of and changes to workers' compensation Ex-mod has an effect on the safety experience of small, medium-size and large employers in addition to addressing insurer underwriting concerns.
- Whether application of and changes to workers' compensation Ex-mod to medium-size and large employers affects their safety experience.
- If employers' performance now affects their premiums, but overall premiums are declining, whether employers would pay more or less attention to how to decrease their injury losses.

**Findings**

Preliminary findings of the study to date have included:

- The number of claims at firms that became experience-rated declined 6 to 9 percent compared to those whose status did not change.
- Almost all of the reduction in losses was due to the reduction in claim frequency; almost none was due to a decline in the average cost per claim.
- Reducing the threshold for experience rating in order to extend it to more small firms would reduce claims among the newly experience-rated firms by 7 to 11 percent and would reduce total losses by 10 to 15 percent.
- Analysis of the extra cost that a newly experienced-rated employer could incur by reporting a claim under the current rules indicated a surprisingly big effect; thus, any extension of experience rating to impact more firms should be mindful of the potential cost to employers.

**Status:** In process.

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## OCCUPATIONAL SAFETY AND HEALTH

### An Evaluation of the California Injury and Illness Prevention Program

#### **Description**

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different regulators' policies and practices with respect to job safety and health standards and enforcement through worksite inspections.

The purpose of the study is to conduct research that addresses the above recommendation with respect to the effectiveness of the Injury and Illness Prevention Program (IIPP) standard, as well as to identify the effects and policy implications of IIPP in California. The research can help to improve the ability of occupational health and safety agencies to prevent injuries, potentially preventing a significant number of injuries and illnesses. The study addresses the following questions about implementation and effectiveness:

Implementation:

- Has compliance with specific IIPP provisions improved over the years?
- How does the number of IIPP violations cited vary with the type of establishment and type of inspection?

Effectiveness:

- Did injury and fatality rates decline in California, relative to other states, after the implementation of the IIPP standard?
- Do workplaces that do not comply with the IIPP have worse injury, fatality and loss performance than compliant firms?
- Did workplaces that had been cited for IIPP violations and then came into compliance improve their injury performance relative to other workplaces?

#### **Findings**

Implementation:

- Compliance with the IIPP provision to have a written policy has not improved over the years. For first inspections, between 1991 and 2006, there is little improvement. The reason for this is not clear. It could be that the low penalty assessment has little deterrent effect, that outreach programs have not been as effective, or that a change in mix of establishments inspected over time makes comparison over time difficult.

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## PROJECTS AND STUDIES

- Small establishments tend to have worse compliance with IIPP provisions. Again, this could be due to lack of awareness or low risk in terms of being inspected and low penalty amount as deterrent.
- As establishments grow to have more employees, there is a shift from Labor Code Section 3203(a) violations for not having a written IIPP to violations of Labor Code Section 3203-specific subsections, such as lack of employee training in the IIPP program and recording keeping.
- Establishments that have had two or more inspections experience fewer IIPP violations over time; however, a deterrent effect from repeated inspections was not detected within frequently inspected industries.
- Establishments with unions have better IIPP compliance than non-union establishments.
- Accident inspections more than any other type of inspection resulted in citations for subsections of the IIPP provisions.
- Programmed inspections were more likely to cite lack of a written IIPP, rather than any subsection of the provision.

### Effectiveness:

- Approach 1: The first effectiveness research test was based on the assumption that, if compliance with the IIPP helped to prevent injuries, then establishments with violations of its provisions should, on average, have poorer safety performance.

Findings: Employers that were cited for a violation of Labor Code Section 3203(a), the basic requirement to have a written IIPP document, actually had better performance (experience modifications (Ex-mods) or prior injury rates) than firms that had no IIPP violations. In contrast, employers that were cited for violations of the subsections of Labor Code Section 3203(a), especially the requirements to train employees and to investigate accidents, had worse performance than employers that were not cited for any IIPP violation or that were cited only for Labor Code Section 3203(a).

- Approach 2: The second effectiveness research test was based on the premise that if compliance with the IIPP improved safety, then employers that were cited for IIPP violations and corrected them would improve their safety performance in the year or two after the inspection. This test examined any change effects (safety improvements) due to violations cited.

Findings: The data revealed no effect when Labor Code Section 3203(a) was cited but substantial improvements after the specific subsections were cited. The average effect using a broad sample (non-accident inspections) was a 26 percent reduction in the total recordable rate of injuries in the following year, although this applied to a small percentage of overall inspections.

**Status:** Completed.

### *For further information ...*

"An Evaluation of the California Injury and Illness Prevention Program (2012).

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf> - full report

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluationSummary.pdf> - summary

See also special report "Occupational Safety and Health" in this Annual Report.

## OCCUPATIONAL SAFETY AND HEALTH

### Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health

#### *Description*

This report examines the different types of inspections that the Division of Occupational Safety and Health (Cal/OSHA) carries out and the roles that they play.

It focuses on the three major inspection types in California: programmed (planned) inspections, complaint inspections, and accident investigations. It investigates several different issues:

- The average number of serious violations found during different inspection types and the average injury rates at the establishments that receive each type of inspection.
- How those measures vary with establishment size and the sequence of the inspection.
- How rates of complaint and programmed inspections vary across counties.
- A comparison across counties of the rates of all accident investigations with the rates for those limited to fatalities.

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#### **Findings**

Researchers found a lack of detailed data available on complaint investigations, making any analysis of the response to complaints difficult to design and compare with other types of inspections. Data are available for complaints that actually result in inspections, and the data point to these workplaces as already having high injury rates.

Contrary to policy expectations, researchers did not find a strong relationship between high hazard industries and proportionally high losses, violations or number of injuries. While this observation makes the job of allocating resources a new challenge in terms of possibly changing focus, it also opens up new areas of inquiry, including a review of procedures to match the findings suggested by this report. For example, industries with high injury rates deserve more attention for inspection. Findings from this study suggest that creating an optimal balance between reactive and proactive inspections is possible, but that more work needs to be done in understanding why there are regional differences in the data.

**Status:** In process.

*For further information ...*

"Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health," RAND, 2013 at  
[http://www.dir.ca.gov/chswc/Reports/2013/DOSH\\_Inspection\\_Targeting.pdf](http://www.dir.ca.gov/chswc/Reports/2013/DOSH_Inspection_Targeting.pdf)

## OCCUPATIONAL SAFETY AND HEALTH

### Are There Unusually Effective Occupational Safety and Health Inspectors and Inspections Practices?

#### *Description*

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different regulators' policies and practices with respect to job safety and health standards and enforcement through worksite inspections.

#### *Findings*

- Substantial variation exists both among the inspectors in many inspection practices and in the inspection practices among the 23 Cal/OSHA districts.
- Inspections by inspectors with more experience tended to reduce injury rates more than inspections by others.
- The identity of the inspector explained very little of the variation in injury rate changes subsequent to the inspections.
- No examined inspection practices were found to be associated with better inspection outcomes, i.e., reduced injuries after inspections.

**Status:** Completed.

#### *For further information ...*

"Are There Unusually Effective Occupational Safety and Health Inspectors and Inspections Practices?" (RAND, 2012)

<http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf> - full report

[http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors\\_Summary.pdf](http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors_Summary.pdf) -summary

See also "Special Report: Occupational Safety and Health" in this report.

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## OCCUPATIONAL SAFETY AND HEALTH

### Firefighters Musculoskeletal Injuries

#### *Description*

Firefighting is a dangerous and difficult occupation that places considerable toll on the health and safety of workers. Policymakers and researchers have made efforts to understand the adverse conditions that arise at a fire ground and to devise policies and equipment that protect firefighters. However, because much of the attention has focused on monitoring and reducing fatalities and chronic diseases among firefighters, there is still much that is unknown about the causes and consequences of non-fatal acute injuries among firefighters.

At the request of Assembly Member Sandré R. Swanson, Chair, Assembly Committee on Labor and Employment, to the Commission on Health and Safety and Workers' Compensation (CHSWC), the CHSWC musculoskeletal injury study gathered data and analyzed the types, frequencies and treatments applied to major musculoskeletal injuries incurred by firefighters while performing their job-related duties.

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#### *Findings*

- Firefighters face considerably more risk of nonfatal injuries than workers in the private sector, but the risk is even more pronounced for musculoskeletal disorders (MSDs). In addition, firefighters 55 years of age and older are more than 10 times more likely to suffer an MSD relative to private sector workers of the same age, and when injured, they take more than four times longer to return to work.

**Status:** Completed.

*For further information ...*

"The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California," RAND,

2010. <http://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>

## OCCUPATIONAL SAFETY AND HEALTH

### Study on Older Workers, Injury Risk and Future Cost Trends

#### *Description*

The Commission on Health and Safety and Workers' Compensation (CHSWC), with the assistance of the University of California (UC), Berkeley, is preparing a study on older workers and their post-injury outcomes. One of the recommendations of the Commission's annual report for several years has been to examine disability duration by age. The study will help determine if older workers in California experience longer average time off work when disabled, or if older workers experience the kinds of injuries that are associated with longer disability durations. This determination would ultimately be important for both safety and prevention.

Key questions about the aging workforce include: do older workers get injured more or less often than younger workers; and how does the duration of disability compare by age? These are important questions for employers, workers, government budgets and benefit programs. The importance is magnified because the workforce is aging, and many older workers are choosing to stay in the labor force for economic reasons.

At best, the research in this area is limited or, at worst, anecdotal. One perspective is that older workers get injured less often because they are safer and more experienced. However, when older workers are injured, it takes longer to recover, costs more in disability payments and medical treatment, is more likely to result in permanent disability, and results in greater economic loss to the worker. The study assessed how true these claims are and if true, whether the cause is age-related or driven by other causes, as well as what the answers to these questions mean for future trends.

Even if older workers are less likely to experience injury, as many claim, key questions still needing to be answered include whether older workers are actually safer due to experience, or whether lower injury rates are simply the consequence of more experience, or whether older workers are migrating into safer jobs (supervisor, etc.).

The study examined whether older workers experience longer average time off work when disabled and whether age is the reason, or whether older workers simply experience the kinds of injuries that are associated with longer disability duration, perhaps because of the types of occupations in which they work. For instance, older workers may be more likely to suffer back injuries which take longer to heal than lacerations and contusions. Alternatively, older workers may experience more cumulative injuries, also associated with longer disability, because of greater lifetime exposure to the underlying cause.

If age drives injuries and disability duration, then an aging workforce will lead to increasing occupational medical and disability costs and costs for government programs. On the other hand, to the extent that any differences in older workers' frequency and duration of occupational conditions are due to the types of work into which they migrate over their careers and not a due to their age, a higher proportion of older workers will not lead to changes in medical treatment, insurance, and government benefit costs. In either case, understanding how an older workforce interacts with occupational safety is important for focusing future investments in prevention and research.

**Status:** Completed.

*For further information ...*

"Working Safer or Just Working Longer? The Impact of an Aging Workforce on Occupational Injury and Illness Costs," RAND, 2010. [http://www.dir.ca.gov/chswc/reports/2011/chswc\\_agingworkforceoccupationalinjuryillnesscost.pdf](http://www.dir.ca.gov/chswc/reports/2011/chswc_agingworkforceoccupationalinjuryillnesscost.pdf)

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**OCCUPATIONAL SAFETY AND HEALTH**

**Worker Occupational Safety and Health Training and Education Program**

**Description**

Labor Code Section 6354.7 establishes a Workers’ Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. The Commission on Health and Safety and Workers’ Compensation (CHSWC) has developed the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

CHSWC has taken the following steps in implementing WOSHTEP:

- *Prepared a Survey of State, National and International Worker Health and Safety Training Programs.*
- *Created a labor-management Advisory Board to oversee program activities, which meets semi-annually.* The WOSHTEP Advisory Board consists of employers and workers or their representatives who assist in guiding development of curricula and broadening partnerships.
- *Conducted needs assessments with stakeholders that will continue on an ongoing basis.*
- *Designed a core curriculum and supplemental training materials based on the results of the needs assessment.* This 24-hour Worker Occupational Safety and Health (WOSH) Specialist curriculum is aimed primarily at “workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those serving on a health and safety committee or serving as a designated safety representative.” Participants who complete six core modules and three supplemental modules become WOSH Specialists.
- *Developed a training-of-trainers curriculum to train a statewide network of trainers as mandated by the statute.*
- *Adapted and disseminated statewide WOSH Specialist curriculum materials in collaboration with the State Building and Construction Trades Council (SBCTC), AFL-CIO, which incorporate WOSHTEP curricula appropriate for apprenticeship and pre-apprenticeship programs.*
- *Developed materials for the implementation of heat illness training to protect California’s farm workers from outdoor heat illness and workers in other industries from indoor heat illness.*
- *Adapted the WOSH Specialist curriculum and materials for NIOSH-affiliated Community Rehabilitation Programs in California that serve and employ individuals with disabilities.*
- *Created a Small Business Resources program component to target very small employers who do not have the resources to send employees to 24 hours of training.* Materials have been developed for owners and managers of small businesses across industries, and industry-specific materials have been developed for the restaurant industry, the janitorial industry, and the dairy industry.

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## PROJECTS AND STUDIES

- *Created training programs and resources for developing and implementing an Injury and Illness Prevention Program (IIPP) for general industry and for owners and managers of small businesses and the agricultural industry.*
- *Created health and safety programs for young workers, including a Young Worker Leadership Academy. One or two Academies have been offered annually in Northern California and/or in Southern California.*
- *Completed and disseminated a booklet, "The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs."*
- *Established Resource Centers that house and distribute training materials and additional health and safety resources. These Resource Centers are located at LOHP, LOSH and the Western Center for Agricultural Health and Safety (WCAHS) at UC Davis.*
- *Prepared and updated a Multilingual Health and Safety Resource Guide to Worker Training Materials on the Web for WOSHTEP.*

### **Next Steps**

Each year, CHSWC assesses fees to California workers' compensation insurance carriers pursuant to Labor Code Section 6354.7 in order to fund the Workers' Occupational Safety and Health Education Fund (WOSHEF) for the next fiscal year, which funds WOSHTEP.

Next steps for WOSHTEP include: continuing trainings in a variety of industries for participants in diverse occupations and work settings; ongoing development of a statewide network of trainers; ongoing development and dissemination of materials on health and safety topics; continuing small business and young worker trainings; broad outreach for all aspects of the program; and ongoing evaluation.

**Status:** Ongoing.

*For further information ...*

WOSHTEP website and List of Publications

<http://www.dir.ca.gov/chswc/woshtep.html>

PROJECTS AND STUDIES

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*United Food and Commercial Workers Union (UFCW)  
Local 5*

Amber Novey  
*Laborers-Employers Cooperation and Education Trust*

Tom Rankin  
*State Fund, California, and formerly President,  
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Dorothy Rothrock  
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Louis Therrien  
*AIG*

Ed Walters  
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Len Welsh  
*State Compensation Insurance Fund*

**OCCUPATIONAL SAFETY AND HEALTH**

**California Partnership for Young Worker Health and Safety**

**Description**

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. Over the past 16 years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, formalized by Assembly Bill (AB) 1599 in September 2000. The Partnership is coordinated by the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, with key support from the Labor Occupational Safety and Health Program (LOSH) at the University of California, Los Angeles (UCLA), and other members of the Partnership. In addition to serving California, these efforts have inspired similar activity throughout the U.S.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others who can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, governmental agencies and others.

The purpose of the Partnership is to identify potential strategies to: reduce work-related injuries and illnesses among youth in the California workforce; foster awareness and skills in health and safety that will remain with youth throughout their working lives and allow them to take an active role in shaping safe work environments; and promote positive, healthy employment for youth.

During the past year, the Partnership implemented the following activities:

- *Promote the annual California Safe Jobs for Youth Month public awareness campaign in May*, which was established by former Governor Gray Davis's proclamation starting in 1999. This year's public awareness and education activities included: a teen poster contest (with posters distributed to 1,000 schools and hundreds of other youth-serving organizations); a teen video public service announcement (PSA) contest, funded separately by the Department of Industrial Relations (DIR), with the winning PSA shown in movie theaters in for a month; and distribution of the current Safe Jobs for Youth Month Resource Kit to over 100 educators and community groups (primarily through downloads from the website), plus over 9,500 downloads of resource kit materials from past years.
- *Support and conduct one Young Worker Leadership Academy*. A statewide Young Worker Leadership Academy (YWLA) was held in Berkeley in February 2013. The Academy is a part of the CHSWC Worker Occupational Safety and Health Training and Education Program (WOSHTEP). This year's Academy was coordinated by LOHP and supported by active participation by Partnership members, including LOSH, DIR, federal Department of Labor, and the Economic Employment Opportunity Commission (EEOC). Young people from six different organizations around the state attended.

The goals of the Academy are: to teach youth about workplace health and safety and their rights on the job; to help youth start thinking about ways to help ensure that young people do not get hurt on the job; and to provide a forum for these youth to plan for specific actions they can take in their own communities to promote young worker safety. Academy alumni youth led many of the activities at the Academies and developed their own outreach projects. The

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## PROJECTS AND STUDIES

California Partnership seeks opportunities for building the skills of YWLA young leaders, including speaking opportunities.

- *Improve outreach to employers.* The Partnership has shared LOHP's "one-stop" web-based health and safety resource pages for small business, focusing on youth in small businesses.
- *Explore ways to integrate job health and safety education into high school curriculum.*
- *Coordinate the provision of information and resources on young worker health and safety.* Partnership members helped promote and recruit for the YWLA, the poster contest, the video PSA contest, and Safe Jobs for Youth Month resources and activities. In addition, several youth have made presentations to Partnership members about their innovative ideas to help reduce young worker injuries and illnesses.

Partnership accomplishments include:

- More than 400 teachers, employers and youth received direct training or presentations.
- At least 2,000 teachers, employers and youth received written information, such as the fact sheets for teens and for employers, the Safe Jobs for Youth Month Resource Kit produced by LOHP, or articles in Partnership newsletters, such as that of the California Association of Work Experience Educators (CAWEE). In addition, CAWEE estimates that its own members reach approximately 15,000 students, parents and employers with workplace safety information. Thousands more received information through listserv postings, email announcements, radio and video PSAs, and posters.
- About 35 teachers, employers and youth received direct technical assistance via phone, email, or via the [www.youngworkers.org](http://www.youngworkers.org) website.
- The [www.youngworkers.org](http://www.youngworkers.org) website averaged 348 unique visitors per day (1.28 visits/visitor; 3.0 pages per visit, equaling an average of 1342 pages visited/day) for a total of 127,000 unique visitors served during 2013, or 490,000 pages visited. This represents an increase of 258% percent in the number of visitors compared to last year. The most frequently visited pages, after the home page, were: the "What is a Union?" page (viewed 21,500 times); the teen info page (viewed 8,100 times); the FAQs page (viewed 3,400 times); the employer info page (viewed 3,100 times), and the Around the Nation page (viewed 2,400 times). The most frequent downloads, after the poster and PSA contest materials, were: activities from the YWLA Guide (over 19,000); current and past Safe Jobs for Youth Month Resource Kit activities (over 9,500, led by the '06 risk mapping activity, and the '09 Emergencies at Work activity); and our industry-specific young worker fact sheets, led by the fact sheets on construction (1,600), hotel work (900), and auto repair (800).
- At least three newsletter, newspaper or web-based articles have been published.
- Health and safety information continued to be integrated into ongoing statewide activities of many of the partners, including regular in-service training for work experience educators, widespread use of health and safety curricula in job training and work experience programs, and organizational links to the <http://www.youngworkers.org> website. The WorkAbility program, which places youth with learning and cognitive disabilities in the workplace, has required that all of their staff receive training on how to teach their participants about health and safety. Trainings have been conducted for all regions.

In the coming year, priorities are to continue to expand involvement for youth and Partnership members; and continue to share the Partnership model with other states and assist them with replicating this model.

## PROJECTS AND STUDIES

**Status:** Ongoing.

*For further information ...*

Young Worker Websites for information for teens, teen workers in agriculture, employers, parents and educators.

<http://www.dir.ca.gov/YoungWorker/YoungWorkersMain.html>

<http://www.dir.ca.gov/chswc/woshtep.html>

<http://www.youngworkers.org>

<http://www.losch.ucla.edu> (UCLA-LOSH Youth Project)

*Engaging Employers in Protecting Young Workers: Tips and Best Practices from the Young Worker Safety Resource Center*

(2010). [http://lohp.org/docs/pubs/youth\\_work/ProtectingYoungWorkers.pdf](http://lohp.org/docs/pubs/youth_work/ProtectingYoungWorkers.pdf)

*Teens Speak Out for Safety on the Job. Lessons from the Young Worker Leadership Academy* (2008). <http://youngworkers.org/downloads/pdf/TeensSpeakOut.pdf>

*Youth @ Work: Talking Safety* (2007). <http://www.cdc.gov/niosh/talkingsafety/>

*Keeping California's Youth Safe on the Job – Updated Recommendations of the California Partnership for Young Worker Health and Safety* (2004).

<http://www.youngworkers.org/downloads/pdf/2004Recommendations904.pdf>

PROJECTS AND STUDIES

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## OCCUPATIONAL SAFETY AND HEALTH

### School Action for Safety and Health Program

#### *Description*

The Commission on Health and Safety and Workers' Compensation (CHSWC) has established California's School Action for Safety and Health (SASH) model program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve Injury and Illness Prevention Programs (IIPPs) and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience consists of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to, the California Division of Juvenile Justice (formerly known as the Youth Authority), a division of the California Department of Corrections and Rehabilitation (CDCR).

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. The objectives of the meeting were to determine how best to structure and implement the model program including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State.

The SASH program includes: a needs assessment conducted to determine the types of training and resources; development of materials and resources, including a SASH brochure, Factsheets, Tools, and an online resource guide; establishment of a SASH Resource Center at the University of California (UC), Berkeley Labor Occupational Health Program (LOHP); a pilot group; ongoing statewide trainings; and evaluation.

To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts and 29 counties with school district and county office of education staff, including two pilot trainings. Follow-up activities after the classes include sending a class roster so attendees can stay in touch and use each other as a resource and newsletters to those who have already attended trainings. Further development of the model program would include: expanding partnerships with key constituents throughout the State; expanding the target population statewide; developing a network of expert trainers; ensuring measures of accountability; and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

A NIOSH-funded project, Promoting School Employee Injury and Illness Prevention Programs, evaluated the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. The project includes evaluation tools. Analysis of the data collected resulted in recommendations for improving SASH and implementing similar programs across the nation.

**Status:** Ongoing.

*For further information ...*

SASH Website <http://www.dir.ca.gov/chswc/SASH/index.htm>

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PROJECTS AND STUDIES

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## OCCUPATIONAL SAFETY AND HEALTH

### Taking Action for Safety and Health: Injury and Illness Prevention Program Training for General Industry

#### *Description*

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of the proposed training program and IIPP materials would allow CHSWC to take a leadership role in creating a model that can be useful nationwide.

The purpose of the project is to create a focused training program specifically aimed at creating effective IIPPs and targeting a range of industries in California. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

The project includes:

- A one-day interactive training program targeting staff responsible for creating or implementing IIPPs. Recruitment targets mid-sized and larger workplaces from a variety of industries.
- Adapted training materials, including a generic model IIPP guide, template and program tools including a factsheet on promoting employee involvement; a sample accident investigation form; and a hazard identification worksheet.

**Status:** Ongoing.

*For further information ...*

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#1>

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## OCCUPATIONAL SAFETY AND HEALTH

### Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Small Businesses

#### *Description*

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

The purpose of the project is to create a focused training program specifically aimed at assisting small businesses create effective IIPPs. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

Key partners in developing and implementing this program include: Cal/OSHA Consultation; California Department of Industrial Relations; State Compensation Insurance Fund; the California Department of Public Health's Occupational Health Branch; Small Business California; and California Small Business Association.

The project includes:

- A half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP. Recruitment targets small businesses with fewer than 50 employees from a variety of industries.
- Adapted training materials, including a model IIPP guide, template and program tools.

**Status:** Ongoing.

For further information ...

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2>

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## OCCUPATIONAL SAFETY AND HEALTH

### Taking Action for Safety and Health: Injury and Illness Prevention Program Training for Agriculture

#### **Description**

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists small agricultural business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program. The training sessions are conducted statewide.

The project includes:

- A half-day interactive training program targeting owners, managers and contractors in the agricultural industry to help them create and implement their IIPP.
- Adapted training materials, including a model IIPP guide, template and program tools specifically tailored for the agricultural industry.

**Status:** Ongoing.

For further information ...

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3>

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## PROJECTS AND STUDIES

### OCCUPATIONAL SAFETY AND HEALTH

#### Clean Energy Partnership

##### *Description*

The energy efficiency sector is expanding rapidly in California in order to achieve California's clean energy agenda goals.

The Department of Industrial Relations (DIR) and its Division of Apprenticeship Standards (DAS) are working in partnership with the California Energy Commission (CEC), California Public Utilities Commission (PUC), investor-owned utility companies (IOUs) and the California Workforce Investment Board (CWIB). The goal of the partnership is to incorporate higher workforce standards into the IOUs' Workforce Education and Training energy efficiency plan and encourage alignment of the state's training resources with a particular emphasis on recognition and utilization of apprenticeship's high training standards and apprentice trained journey-level workers to achieve the state's ambitious energy efficiency goals.

In addition, the DAS participates in the state CWIB's Green Collar Jobs Council and as an advisor to the Don Vial Center for the Green Economy's contract for the guidance document for the IOU's implementation of its education and training plan for energy efficiency.

The Labor Occupational Health Program at University of California at Berkeley through the Commission's Worker Occupational Safety and Health Training and Education Program (WOSHTEP) is providing technical support to DIR for the purpose of developing health and safety recommendations and resources for employers and workers in the emerging energy efficiency sector.

**Status:** In process.

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## PROJECTS AND STUDIES

### ***LIST OF PROJECTS AND STUDIES***

#### **I. PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES**

##### **Permanent Disability Schedule Analysis**

*Status:* Completed

*CHSWC Reports and Memoranda:*

"Impact of the Adoption of AMA-based Permanent Disability Rating Schedule in California" (January 2012).

[http://www.dir.ca.gov/chswc/Reports/2012/CHSWC\\_ImpactOfAMABasedPDSchedule.pdf](http://www.dir.ca.gov/chswc/Reports/2012/CHSWC_ImpactOfAMABasedPDSchedule.pdf)

"Stakeholder Public Comments About the Permanent Disability Rating Schedule Report"

<http://www.dir.ca.gov/chswc/Reports/2012/CHSWCPDReportComments012612.pdf>

Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of Ratings Under the New PD Schedule Through June 2007" (August 2007).

[http://www.dir.ca.gov/chswc/Reports/memo\\_on\\_new\\_ratings\\_through\\_june\\_30\\_07\\_revised\\_aug\\_9.pdf](http://www.dir.ca.gov/chswc/Reports/memo_on_new_ratings_through_june_30_07_revised_aug_9.pdf)

Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of ratings under the new PD schedule, through January 2007" (February 2007).

<http://www.dir.ca.gov/CHSWC/Reports/MemoOnRatingsThruJan2007.pdf>

"Permanent Disability Rating Schedule Analysis" (2006).

<http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

##### **Impact of Changes to the Temporary Disability Benefits**

*Status:* Completed

*CHSWC Memorandum:*

"Evaluate and Identify Impact of Changes to the Temporary Disability Benefit"

(2007). [http://www.dir.ca.gov/CHSWC/Reports/Memo\\_On\\_TD\\_Benefits\\_Beyond\\_2Years.pdf](http://www.dir.ca.gov/CHSWC/Reports/Memo_On_TD_Benefits_Beyond_2Years.pdf)

##### **Initial Wage Loss Analyses**

*Status:* Completed

*CHSWC Reports:*

"Compensating Permanent Workplace Injuries: A Study of the California System," RAND (1998).

[http://www.rand.org/pubs/monograph\\_reports/MR920](http://www.rand.org/pubs/monograph_reports/MR920)

"Findings and Recommendations on California's Permanent Partial Disability System - Executive Summary," RAND

(1997). <http://www.dir.ca.gov/CHSWC/Reports/PPDFindingsAndRecommendations.pdf>

##### **Enhancement of Wage Loss Analysis – Private Self-Insured Employers**

*Status:* Completed

*CHSWC Report:*

"Permanent Disability at Private Self-Insured Firms: A Study of Earnings Loss, Replacement, and Return to Work for Workers' Compensation Claimants," RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/PD-Study.pdf>

##### **Impact of Local Economic Conditions on Wage Loss**

*Status:* Completed

*CHSWC Report:*

"Trends in Earnings Loss from Disabling Workplace Injuries in California – The Role of Economic Conditions," RAND (2001).

<http://www.dir.ca.gov/CHSWC/Reports/TrendsInEarningsLoss-EcoCondition.pdf>

##### **Permanent Disability Rating Tool**

*Status:* Completed

*CHSWC Reports:*

"An Evaluation of California's Permanent Disability Rating System," Summary, RAND (2005).

## PROJECTS AND STUDIES

### **PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES (continued)**

[http://www.dir.ca.gov/CHSWC/Reports/Eval\\_Of\\_CA\\_PD\\_System\\_Summary.pdf](http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System_Summary.pdf)

"An Evaluation of California's Permanent Disability Rating System," Full Report, RAND (2005).

[http://www.dir.ca.gov/CHSWC/Reports/Eval\\_Of\\_CA\\_PD\\_System.pdf](http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System.pdf)

"Evaluation of California's Permanent Disability Rating Schedule," Interim Report, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/PermanentDisabilityRatingSchedule-InterimReport.pdf>

#### **Apportionment**

*Status:* Completed

*CHSWC Reports:*

"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (April 2007).

[http://www.dir.ca.gov/chswc/CHSWC\\_ApportionmentPaper.pdf](http://www.dir.ca.gov/chswc/CHSWC_ApportionmentPaper.pdf)

"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (October 2005).

<http://www.dir.ca.gov/CHSWC/FinalApportionmentPaper.pdf>

"Background Paper on Workers' Compensation Causation and Apportionment" (May 2004).

[http://www.dir.ca.gov/CHSWC/Causation\\_and\\_Apportionment\\_Final\\_May\\_2004.pdf](http://www.dir.ca.gov/CHSWC/Causation_and_Apportionment_Final_May_2004.pdf)

#### **Disability Evaluation and Medical Treatment**

*Status:* In process

## **II. RETURN TO WORK**

#### **Return to Work**

*Status:* Completed

"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2011).  
Summary

[http://www.dir.ca.gov/chswc/Reports/2010/RAND\\_RTW2011\\_sum.pdf](http://www.dir.ca.gov/chswc/Reports/2010/RAND_RTW2011_sum.pdf)

Full Document

<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

#### **Return-to-Work Programs**

*Status:* Completed

*CHSWC Reports:*

"How Effective are Employer Return to Work Programs?" RAND (February 2010).

[http://www.dir.ca.gov/chswc/Reports/2010/CHSWC\\_RANDRTW.pdf](http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RANDRTW.pdf)

"Report on the Return-To-Work Program Established in Labor Code Section 139.48."

[http://www.dir.ca.gov/chswc/Reports/2010/CHSWC\\_RTWReport.pdf](http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RTWReport.pdf)

<http://www.dir.ca.gov/chswc/Reports/2009/ReimbursementProgramRecommendations2009.pdf>

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers," February 2010.

[http://www.dir.ca.gov/chswc/CHSWC\\_FactsheetRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf)

Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California, February 2010.

[http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf)

#### **International Forum on Disability Management (IFDM) 2010**

*Status:* Completed

<http://www.dir.ca.gov/chswc/Conferences/IFDM/IFDM.html>

#### **Return-to-Work Program Established in Labor Code Section 139.48**

*Status:* Completed

*CHSWC Reports:*

## PROJECTS AND STUDIES

### **RETURN TO WORK (continued)**

"Recommendations for the Return-to-Work Program Established in Labor Code Section 139.48" (April 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/ReimbursementProgramRecommendations2009.pdf>

"Report on the California Return-to-Work Program Established in Labor Code 139.48" (April 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_ReportontheCaliforniaReturntoWorkProgramEstablishedinLaborCode139\\_48\\_2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_ReportontheCaliforniaReturntoWorkProgramEstablishedinLaborCode139_48_2009.pdf)

### **RTW/FEHA/ADA – Coordination and Interaction**

*Status:* Completed

*CHSWC Booklet, Factsheet and Report:*

*Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California* (February 2010).

[http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf)

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).

[http://www.dir.ca.gov/chswc/CHSWC\\_FactsheetRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf)

"Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting" (April 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf).

### **Evaluation of Return-to-Work Reforms**

*Status:* Completed

"Workers' Compensation Reform and Return to Work: The California Experience" (November 2010).

<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

### **Return-to-Work Roundtable**

*Status:* Completed

*CHSWC Report:*

"Summary of November 17, 2006 CHSWC Return-to-Work Roundtable" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/ReturnToWorkRoundtable-Final.pdf>

### **Assembly Bill 1987 and Return to Work**

*Status:* Completed

*CHSWC Report:*

"AB 1987 and Return-to-Work Incentives and Alternatives" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/RTW-AB1987.pdf>

### **Review of Literature on Modified Work**

*Status:* Completed

*CHSWC Report:*

"Does Modified Work Facilitate Return to Work for Temporarily or Permanently Disabled Workers?" (August 1997).

[http://www.dir.ca.gov/CHSWC/Modified\\_Work\\_Krause.html](http://www.dir.ca.gov/CHSWC/Modified_Work_Krause.html)

### **Policies and Strategies to Help Injured Workers Return to Sustained Employment**

*Status:* Completed

*CHSWC Report:*

"Return to Work in California: Listening to Stakeholders' Voices" (July 2001).

<http://www.dir.ca.gov/CHSWC/RTWinCA0701.html>

## PROJECTS AND STUDIES

### **RETURN TO WORK (continued)**

#### **Primary Treating Physician Effectiveness in Return to Work (RTW) After Low-Back Injuries**

*Status:* First phase: Completed

Second phase: In process

*CHSWC Report:*

"Physical Workplace Factors and Return to Work After Compensated Low-Back Injury: A Disability Phase-Specific Analysis," JOEM (March 2000).

[http://journals.lww.com/joem/Abstract/2000/03000/Physical\\_Workplace\\_Factors\\_and\\_Return\\_to\\_Work.15.aspx](http://journals.lww.com/joem/Abstract/2000/03000/Physical_Workplace_Factors_and_Return_to_Work.15.aspx)

#### **Predictors and Measures of Return to Work**

*Status:* Completed

*CHSWC Report:*

"Determinants of Duration of Disability and Return to Work After Work-Related Injury and Illness: Challenges for Future Research" (April 2001).

<http://www.dir.ca.gov/chswc/Determinants.pdf>

### **III. WORKERS' COMPENSATION REFORMS**

#### **Evaluation of System Changes**

*Status:* In process

*CHSWC Summary:*

"CHSWC Summary of System Changes in California Workers' Compensation" (February 2008).

<http://www.dir.ca.gov/Chswc/Reports/CHSWCRptonSummarySystemChangesDRAFTFeb%202008.pdf>

#### **Assembly Bill 749 Analysis**

*Status:* Completed

*CHSWC Summaries:*

"CHSWC and AB 749 as Amended" (October 2002).

<http://www.dir.ca.gov/CHSWC/749Report/AB749asamended112202.html>

"CHSWC and AB 749" (February 2002).

<http://www.dir.ca.gov/CHSWC/ab749.html>

#### **Assembly Bill 227 and Senate Bill 228 Analysis**

*Status:* Completed

*CHSWC Summary:*

"Reforms of 2003, AB 227" (October 2003).

[http://www.dir.ca.gov/CHSWC/Reports/Reforms\\_of\\_2003-AB227.pdf](http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-AB227.pdf)

"Reforms of 2003, SB 228" (October 2003).

[http://www.dir.ca.gov/CHSWC/Reports/Reforms\\_of\\_2003-SB228.pdf](http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-SB228.pdf)

#### **Senate Bill 899 Analysis**

*Status:* Completed

*CHSWC Summaries:*

"Summary of Workers' Compensation Reform Legislation" (2004).

<http://www.dir.ca.gov/CHSWC/Summary-of-SB899.doc>

"Section-by-Section Review of SB 899" (2004).

<http://www.dir.ca.gov/CHSWC/Section-by-section-Review-of-SB899.doc>

#### **Evaluation of the Division of Workers' Compensation (DWC) Audit Function (Special Study at the Request of the Legislature)**

*Status:* Completed

## PROJECTS AND STUDIES

### **WORKERS' COMPENSATION REFORMS (continued)**

#### *CHSWC Reports:*

"CHSWC Report on the Division of Workers' Compensation Audit Function" (1998).

<http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>

"CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/CHSWC/AuditSummaryCover.html>

#### **Medical-Legal Study**

*Status:* Ongoing

#### *CHSWC Reports:*

"Evaluating the Reforms of the Medical-Legal Process Using the WCIRB Permanent Disability Survey" (July 1997).

[http://www.dir.ca.gov/CHSWC/DisabilityReport/data\\_and\\_methodology.html](http://www.dir.ca.gov/CHSWC/DisabilityReport/data_and_methodology.html)

"Evaluating the Reforms of the Medical-Legal Process Using the WCIRB Permanent Disability Survey" Executive Summary (July 1997).

<http://www.dir.ca.gov/CHSWC/DisabilitySummary/execsummary.html>

#### **Vocational Rehabilitation Study**

*Status:* Completed

#### *CHSWC Reports:*

"Vocational Rehabilitation Reform Evaluation" (March 2000).

<http://www.dir.ca.gov/CHSWC/Vocrehabreform2000.pdf>

"Vocational Rehabilitation Benefit: An Analysis of Costs, Characteristics, and the Impact of the 1993 Reforms" (August 1997).

<http://www.dir.ca.gov/CHSWC/rehab/rehabcover.html>

#### **Evaluation of Treating Physician Reports and Presumption**

*Status:* Completed

#### *CHSWC Report:*

"Report on the Quality of the Treating Physician Reports and the Cost-Benefit of Presumption in Favor of the Treating Physician" (August 1999).

<http://www.dir.ca.gov/CHSWC/Report99/TPhysician.html>

#### **Update of Treating Physician Reports and Presumption Study**

*Status:* Completed

#### *CHSWC Report:*

"Doctors and Courts: Do Legal Decisions Affect Medical Treatment Practice"? (November 2002).

<http://www.dir.ca.gov/CHSWC/CHSWCLegalDecAffectMedTreatPractice/ptpfinalrpt.html>

#### **Evaluation of Labor Code Section 5814 Penalty Provisions**

*Status:* Completed

#### *CHSWC Reports:*

"Issue Paper on Labor Code Section 5814" (April 2000).

<http://www.dir.ca.gov/CHSWC/LC5814Cvr.html>

"Background Paper on Labor Code Section 5814" (February 1999).

<http://www.dir.ca.gov/CHSWC/LC5814.htm>

#### **"Baseball Arbitration" Provisions of Labor Code Section 4065**

*Status:* Completed

#### *CHSWC Report:*

"Preliminary Evidence on the Implementation of 'Baseball Arbitration' in Workers' Compensation" (November 1999).

<http://www.dir.ca.gov/chswc/Baseballarbfinal%27rptcover.htm>

## PROJECTS AND STUDIES

### **WORKERS' COMPENSATION REFORMS (continued)**

#### **CHSWC Response to Questions from the Assembly Committee on Insurance**

*Status:* Completed

*CHSWC Report:*

"CHSWC Response to Questions from the Assembly Committee on Insurance" (2001).

#### **Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the Reforms (Special Study at the Request of the Legislature)**

*Status:* Completed

*CHSWC Report:*

"Workers' Compensation Costs and Benefits After the Implementation of Reform Legislation" (August 1999).

<http://www.dir.ca.gov/chswc/Report.htm>

"Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability" (August 1999).

<http://www.dir.ca.gov/chswc/ExecutiveSummary.htm>

"Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (August 1999).

<http://www.dir.ca.gov/chswc/Summary.htm>

#### **Cost Trends 1985-2005**

*Status:* Completed

*NASI Brief:*

"Workers' Compensation in California and in the Nation: Benefit and Employer Cost Trends, 1989-2005" (April 2008).

<http://www.dir.ca.gov/chswc/Reports/CAWorkers'CompensationBrief2008.pdf>

#### **Temporary Disability Payments Beyond the Two-Year Restriction**

*Status:* Completed

*CHSWC Memorandum:*

"Impact of Relaxing Restrictions on Eligibility for Temporary Disability Payments Beyond the Current Two Years From Commencement of Benefit Payment" (January 2007).

[http://www.dir.ca.gov/CHSWC/Reports/Memo\\_On\\_TD\\_Benefits\\_Beyond\\_2Years.pdf](http://www.dir.ca.gov/CHSWC/Reports/Memo_On_TD_Benefits_Beyond_2Years.pdf)

### **IV. OCCUPATIONAL SAFETY AND HEALTH**

#### **Experience Rating Impacts on Safety**

*Status:* Draft version posted for public comment with final version to follow

"Report on Impact of Experience Rating on Small Employers," RAND (2012).

[http://www.dir.ca.gov/chswc/Reports/2012/ExperienceRatingSmEmp\\_draft.pdf](http://www.dir.ca.gov/chswc/Reports/2012/ExperienceRatingSmEmp_draft.pdf)

#### **The Injury and Illness Prevention Program (IIPP)**

*Status:* Completed

"An Evaluation of the California Illness and Injury Prevention Program," Full Report and Summary, RAND (2012).

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf>

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluationSummary.pdf>

"Requirement for Insurer Review of Employer's IIPP," CHSWC (January 2012).

[http://www.dir.ca.gov/chswc/Reports/2012/CHSWC\\_RequirementForInsurerReviewOfEmployer'sIIPP.pdf](http://www.dir.ca.gov/chswc/Reports/2012/CHSWC_RequirementForInsurerReviewOfEmployer'sIIPP.pdf)

## PROJECTS AND STUDIES

### **OCCUPATIONAL SAFETY AND HEALTH (continued)**

#### **Cal/OSHA Inspections**

**Status: Completed**

“Are There Unusually Effective Occupational Safety and Health Inspectors and Inspection Practices?” RAND (2012).

<http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf>

#### **Aging Workforce**

*Status:* Completed

“Working Safer or Just Working Longer? The Impact of an Aging Workforce on Occupational Injury and Illness Costs” (February 2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_AgingWorkforceOccupationalInjuryIllnessCost.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_AgingWorkforceOccupationalInjuryIllnessCost.pdf)

#### **Research Agenda for Improving Workplace Health and Safety in California**

*Status:* Report completed; individual studies ongoing.

*CHSWC Report:*

“Research Agenda for Improving Workplace Health and Safety in California” (February 2008).

<http://www.dir.ca.gov/CHSWC/reports/CHSWCReportHealthandSafetyResearchAgendaFeb2008.pdf>

#### **California Occupational Safety and Health Programs**

*Status:* Completed

*CHSWC Report:*

“Background Report on California Occupational Safety and Health Programs” (February 2008).

<http://www.dir.ca.gov/CHSWC/reports/CHSWCBackgroundReportonCaliforniaHealthSafetyProgramsFeb2008.pdf>

#### **ISO 9001**

*Status:* Completed

*CHSWC Report:*

“Quality Management and Job Quality: How the ISO 9001 Standard for Quality Management Systems Affects Employees and Employers” (August 2008).

[http://www.dir.ca.gov/chswc/Reports/ISO\\_9001\\_2008\\_August.pdf](http://www.dir.ca.gov/chswc/Reports/ISO_9001_2008_August.pdf)

#### **Occupational Safety and Health for Public Safety Employees**

*Status:* Completed

*CHSWC Report:*

“Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and the Implications for Public Policy” (2008).

[http://www.dir.ca.gov/CHSWC/Reports/CHSWC\\_PublicSafetyEmployeesReport2008.pdf](http://www.dir.ca.gov/CHSWC/Reports/CHSWC_PublicSafetyEmployeesReport2008.pdf)

#### **Musculoskeletal Injuries to Firefighters in California**

*Status:* Completed

*CHSWC Report:*

“The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California,” RAND (2010).

<http://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>

#### **School Action for Safety and Health Program**

*Status:* In process

*CHSWC Report and Materials:*

SASH Brochure

[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_brochure.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf)

## PROJECTS AND STUDIES

### **OCCUPATIONAL SAFETY AND HEALTH (continued)**

SASH Flyer

[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_Flier.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf)

Injury and Illness Prevention Program Template

<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template.

<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Online Resource Guide

<http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf>

SASH Poster

[http://www.dir.ca.gov/chswc/SASH/Publications/SASH\\_Poster.pdf](http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf)

“Summary of the June 29, 2008 Schools Injury and Illness Prevention Program Roundtable”  
(December 2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf)

### **Project: Worker Occupational Safety and Health Training and Education Program (WOSHTEP)**

*Status:* Ongoing

*CHSWC Reports and Materials:*

*WOSHTEP Brochure*

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP%20Brochures.English.2009.06.09.pdf>

2004-2013 WOSHTEP Advisory Board Annual Reports

<http://www.dir.ca.gov/chswc/woshtep.html>

“Workplace Health and Safety Worker Training Materials: An Electronic Multilingual Resource List”  
(November 2013).

<http://www.dir.ca.gov/CHSWC/MultilingualGuide/MultilingualGuideMain.html>

Taking action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for the General Industry

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#1>

Taking action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for Small Business

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#2>

Taking action for Safety and Health: Developing Your Workplace Injury and Illness Prevention Program for the Agriculture Industry

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/#3>

Spray Polyurethane Foam (SPF) and Hazards when Applying

[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/Spray\\_Polyurethane.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/Spray_Polyurethane.pdf)

“Excessive Heat at Work: How to Prevent Indoor Heat Illness Participants Handouts,” English and Spanish (December 2012).

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatIllnessPreventionParticipantsHandoutsforWebFINAL.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatPreventionMaterialsParticipantsHandoutsSPANFINAL.pdf>

“Indoor Heat Illness Checklist,” (December 2012), English and Spanish

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistFINAL.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistSPANFINAL.pdf>

*Heat Hazards in Agriculture: A Guide for Employers to Carry out Tailgate Training for Workers* (2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_HeatAgriculturEnglish.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgriculturEnglish.pdf)

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_HeatAgricultureSpanish.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgricultureSpanish.pdf)

*Construction Case Study Training Guide* (January 2010).

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ConstructionCaseStudyTraining.pdf>

## PROJECTS AND STUDIES

### **OCCUPATIONAL SAFETY AND HEALTH (continued)**

*The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs*  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP\\_TheWholeWorker.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf)  
"WOSHTEP NEEDS ASSESSMENT REPORT: Opportunities to Integrate Worker Health and Safety Education into Building Trades Apprenticeship Program" (March 11)  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ApprenticeshipNeedsAssessment.pdf>  
NISH Occupational Health and Safety Course Flier  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/NISHGenericFlier.pdf>  
Awareness Session: "Preventing Workplace Injuries and Illnesses" (2010).  
Guide – English and Spanish  
<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleEnglish.pdf>  
<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleSpanish.pdf>  
Training Cards – English and Spanish  
<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsEnglish.pdf>  
<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsSpanish.pdf>  
Small Business Health and Safety Training Materials (General) (July 2009). <http://www.dir.ca.gov/chswc/SBMRhealthandsafety.htm>  
Small Business Restaurant Supervisor Safety Training Materials (Industry-specific) (July 2009).  
<http://www.dir.ca.gov/chswc/SBMRMaterials.htm> (English and Spanish)  
"Protecting the Safety and Health of Restaurant Workers: A Workbook for Employees," English, Spanish and Korean  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook.pdf>  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantTrainingGuide\\_Spanish.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantTrainingGuide_Spanish.pdf)  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook\\_Korean.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook_Korean.pdf)  
Small Business Janitorial Health and Safety Training Materials (Industry-specific) (July 2009).  
[http://www.dir.ca.gov/chswc/WOSHTEP/SBMR\\_Janitorial.htm](http://www.dir.ca.gov/chswc/WOSHTEP/SBMR_Janitorial.htm) (English and Spanish)  
Small Business Health and Safety Materials for the Dairy Industry – English and Spanish  
Training Guide  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide.pdf>  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide\\_Spanish.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide_Spanish.pdf)  
*Fotonovela* (Picture Book)  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela.pdf>  
[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela\\_Spanish.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela_Spanish.pdf)  
"Motor Vehicle Safety Programs Fact Sheet"  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/MotorVehicleSafety.pdf>  
*Teens Working in Agriculture: Activities for High School ESL Classes* (2009).  
<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ESLCurriculumActivitiesBooklet.pdf>  
*Teens Speak Out for Safety on the Job: Lessons from the Young Worker Leadership Academy* (2008).  
<http://www.youngworkers.org/downloads/pdf/TeensSpeakOut.pdf>

### **Workplace Wellness**

Status: Completed

CHSWC Booklet and Report:

*The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs* (2010).

[http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP\\_TheWholeWorker.pdf](http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf)

"Summary of the July 16, 2008 Workplace Wellness Roundtable" (December 2008).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_SummaryWorkplaceWellnessRoundtable.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_SummaryWorkplaceWellnessRoundtable.pdf)

### **Low-Wage Workers - Barriers to Occupational Health**

Status: Completed

CHSWC Report:

"Barriers to Occupational Health Services for Low-Wage Workers in California" (April 2006).

[http://www.dir.ca.gov/CHSWC/Reports/Barriers\\_To\\_OHS.pdf](http://www.dir.ca.gov/CHSWC/Reports/Barriers_To_OHS.pdf)

## PROJECTS AND STUDIES

### **OCCUPATIONAL SAFETY AND HEALTH (continued)**

#### **California Partnership for Young Worker Health and Safety**

*Status:* Ongoing

*CHSWC Report:*

"Protecting and Educating Young Workers: Report of the California Study Group on Young Worker Health and Safety" (March 1998).

<http://www.dir.ca.gov/chswc/studgrp.html>

[www.youngworkers.org](http://www.youngworkers.org) for the California Partnership for Young Worker Health and Safety, providing information for teens, teen workers in agriculture, employers, and educators

#### **Project: Child Labor Photography Exhibit and Teen Workshops**

*Status:* Presented in 2004, 2005 and 2006.

### **V. WORKERS' COMPENSATION ADMINISTRATION**

#### **Formulating a Copy Services Fee Schedule**

*Status:* Completed

*CHSWC Report:*

Formulating a Copy Services Fee Schedule, Berkeley Research Group, October 2013

[http://www.dir.ca.gov/chswc/Reports/2013/Copy\\_Services\\_2013.pdf](http://www.dir.ca.gov/chswc/Reports/2013/Copy_Services_2013.pdf)

Public Comments and Feedback on "Formulating a Copy Service Fee Schedule," Berkeley Research Group, October 2013

<http://www.dir.ca.gov/chswc/Meetings/2013/PublicCommentsFromPublicOctober2013.pdf>

#### **EAMS**

*Status:* Completed

*CHSWC Report:*

"Electronic Adjudication Management System (EAMS) Information Technology Needs Assessment Report" (June 2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_EAMS\\_AssessmentReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport.pdf)

Stakeholder public comments about EAMS Needs Assessment Report.

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_EAMS\\_AssessmentReport\\_publicReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport_publicReport.pdf)

#### **Liens**

*Status:* Completed

"Liens Report" (January 2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf)

"Stakeholder Public Comments About Lien Report, Volume 1."

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReportVolume1.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume1.pdf)

"Stakeholder Public Comments About Lien Report Volume 2."

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReportVolume2.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume2.pdf)

#### **System Monitoring**

*Status:* Completed

"Memo on System Monitoring" (January 2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_MemoOnSystemMonitoring.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MemoOnSystemMonitoring.pdf)

#### **Review of Disability Evaluation Delays and Supplemental QME Reports**

*Status:* Completed

*CHSWC Report:*

"Review of Disability Evaluation Delays and Supplemental QME Reports" (June 2010).

## PROJECTS AND STUDIES

### **WORKERS' COMPENSATION ADMINISTRATION (continued)**

[http://www.dir.ca.gov/chswc/Reports/2010/CHSWC\\_DEUDelaysandSupplementalQMEReports.pdf](http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_DEUDelaysandSupplementalQMEReports.pdf)

#### **Report on Benefit Notices and Recommendations, July 2010**

*Status:* Completed

*CHSWC Report:*

"Report on Benefit Notices and Recommendations" (July 2010). <http://www.dir.ca.gov/chswc/Reports/2010/BenefitNoticesRecommendationspdf.pdf>

#### **Selected Indicators in Workers' Compensation**

*Status:* Completed

*CHSWC Reports:*

2004-2011 "Selected Indicators in Workers' Compensation: A Report Card for California." <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>

#### **The System of Access to Benefits for Injured Employees When Employer May Not Be Insured**

*Status:* Completed

*CHSWC Report:*

"Background Paper on Uninsured Employers Benefits Trust Fund" (April 2007). <http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

#### **Electronic Deposit of Benefits**

*Status:* Completed

*CHSWC Report:*

"Costs and Benefits of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004). [http://www.dir.ca.gov/chswc/chswc\\_accesstofunds.pdf/](http://www.dir.ca.gov/chswc/chswc_accesstofunds.pdf/)

#### **Workers' Compensation Court Management and Judicial Function Study**

*Status:* Completed

*CHSWC Reports:*

"Improving Dispute Resolution for California's Injured Workers," Summary, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf>

"Improving Dispute Resolution for California's Injured Workers," Full Report, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf>

#### **Court Technology Project**

*Status:* Completed

*CHSWC Reports:*

"Improving Dispute Resolution for California's Injured Workers" (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf> - Full Report

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf> - Summary

#### **Final Offer Arbitration in Determining a Permanent Disability Rating Under Labor Code 4065**

*Status:* Completed

*CHSWC Reports:*

"Preliminary Evidence on the Implementation of Baseball Arbitration" (November 1999).

<http://www.dir.ca.gov/chswc/BasebalArbFinal.htm>

#### **Local Forms and Procedures – Labor Code Section 5500.3**

*Status:* Completed

## PROJECTS AND STUDIES

### **WORKERS' COMPENSATION ADMINISTRATION (continued)**

*For further information ...*

CHSWC 1998-99 Annual Report: "Projects and Studies" section.

#### **Profile of Division of Workers' Compensation (DWC) District Office Operations**

*Status:* Completed

*For further information ...*

CHSWC 1997-98 Annual Report: "Program Oversight" section.

#### **CHSWC Roundtable on Division of Workers' Compensation (DWC) Lien Workload**

*Status:* Completed

*For further information ...*

CHSWC 1998-99 Annual Report: "Projects and Studies" section.

#### **Evaluation of the DWC Audit Function**

##### **(Special Study at the Request of the Legislature)**

*Status:* Completed

*CHSWC Reports:*

"CHSWC Report on the Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/chswc/FinalAuditReport.html>

"Executive Summary - CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/chswc/AuditSummaryCover.html>

"Project Description Study of Workers Compensation Audit Function" (1998).

<http://www.dir.ca.gov/chswc/Auditfunctiondesc.html>

## **VI. INFORMATION FOR WORKERS AND EMPLOYERS**

#### **Uninsured Employers Benefits Trust Fund Educational Booklet**

*Status:* Completed

*"If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits"* (June 2011).

<http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>.

Spanish version: [http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers\\_Spanish.pdf](http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf)

#### **Workers' Compensation and Disability Rights Laws in California: RTW, FEHA, and the Interactive Process**

*Status:* Completed

*Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California* (February 2010).

[http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf)

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).

[http://www.dir.ca.gov/chswc/CHSWC\\_FactsheetRTW\\_2010.pdf](http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf)

"Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting" (April 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf)

#### **Medical Booklet and Fact Sheet**

*Status:* Completed

*CHSWC Booklet and Fact Sheet:*

*The Basics About Medical Care for Injured Workers* (2006).

<http://www.dir.ca.gov/CHSWC/Reports/MedicalCareFactsheet.pdf>

## PROJECTS AND STUDIES

### **INFORMATION FOR WORKERS AND EMPLOYERS (continued)**

*Getting Appropriate Medical Care for Your Injury* (2006).  
<http://www.dir.ca.gov/CHSWC/Reports/MedicalCareBooklet.pdf>

#### **Benefit Notices Simplification Project**

*Status:* Completed

*CHSWC Reports:*

“Project to Improve Laws and Regulations Governing Information for Workers Recommendations: Information for Injured Workers” (May 2000).

<http://www.dir.ca.gov/CHSWC/IWCover.html>

“Navigating the California Workers’ Compensation System: The Injured Workers’ Experience” (July 1996).

<http://www.dir.ca.gov/CHSWC/navigate/navigate.html>

#### **Workers’ Compensation Information Prototype Materials**

*Status:* Completed

*CHSWC Report, Fact Sheets and Video:*

“Project to Augment, Evaluate, and Encourage Distribution of the Prototype Educational Materials for Workers” (2000).

#### **Workers’ Compensation Fact Sheets and a Video, “Introduction to Workers’ Compensation”**

<http://www.dir.ca.gov/chswc/EduMaterials.html>

#### **Consolidating and Coordinating Information for Injured Workers**

*Status:* English and Spanish versions completed.

*CHSWC Reports:*

*Workers’ Compensation in California: A Guidebook for Injured Workers* Third Edition (November 2006).

<http://www.dir.ca.gov/CHSWC/Reports/WorkersCompGuidebook-3rdEd.pdf> (English)

<http://www.dir.ca.gov/CHSWC/Reports/GuidebookSpanishforInjuredWorkers2006.pdf> (Spanish)

“Workers Compensation Update: Predesignating a Medical Group” (March 2007).

<http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdateMarch2007d.pdf>

“Workers Compensation Update: New Law Extends Period for Temporary Disability Payments to Injured Workers” (April 2008).

<http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdate-2008.pdf>

#### **Workers’ Compensation Medical Care in California Fact Sheets**

*Status:* Completed

*Fact Sheets:*

“Workers’ Compensation Medical Care in California: Quality of Care, Costs, Access to Care, System Overview” (August 2003).

[http://www.dir.ca.gov/chswc/CHSWC\\_WCFactSheets.htm](http://www.dir.ca.gov/chswc/CHSWC_WCFactSheets.htm)

#### **Workers’ Compensation Carve-Out Booklet**

*Status:* Completed

*CHSWC Report:*

*How to Create a Workers’ Compensation Carve-Out in California: Practical Advice for Unions and Employers* (2006).

<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

#### **Workers’ Compensation Carve-Out Guidebook**

*Status:* Completed

*CHSWC Report:*

*Carve-Outs: A Guidebook for Unions and Employers in Workers’ Compensation* (May 2004).

<http://www.dir.ca.gov/CHSWC/CARVEOUTSGuidebook2004.doc>

## PROJECTS AND STUDIES

### **INFORMATION FOR WORKERS AND EMPLOYERS (continued)**

#### **Carve-Outs – Alternative Workers’ Compensation Systems**

*Status:* Completed

*CHSWC Report:*

*Carve-outs in Workers’ Compensation: An Analysis of Experience in the California Construction Industry* (September 1999).

<http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html>

### **VII. MEDICAL CARE**

#### **Medical Care Provided Under California Workers’ Compensation Program**

*Status:* Completed

*CHSWC Report:*

“Medical Care Provided Under California’s Workers’ Compensation Program: Effects of the Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care,” RAND (2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_MedicalCareReformsandOpps\\_2011.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MedicalCareReformsandOpps_2011.pdf)

Separate Appendices Document

[http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND\\_MG1144.appendixes.pdf](http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1144.appendixes.pdf)

#### **Identifying Risky Opioid Prescribing Practices**

*Status:* Completed

*CHSWC Report:*

Identifying Risky Opioid Prescribing Practices, UCLA (2012).

[http://www.dir.ca.gov/chswc/Reports/2012/Identifying%20Risky%20Opioid%20Prescribing%20Practices\\_2012.pdf](http://www.dir.ca.gov/chswc/Reports/2012/Identifying%20Risky%20Opioid%20Prescribing%20Practices_2012.pdf)

Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II, UCLA 2012

[http://www.dir.ca.gov/chswc/Reports/2012/Memorandum%20on%20Opioid%20Guidelines%20Evaluation\\_2012.pdf](http://www.dir.ca.gov/chswc/Reports/2012/Memorandum%20on%20Opioid%20Guidelines%20Evaluation_2012.pdf)

Public Comments to the Identifying Risky Opioid Prescribing Practices Report and the Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II and the Author’s Replies

[http://www.dir.ca.gov/chswc/Reports/2012/Comments%20and%20Response\\_v2.pdf](http://www.dir.ca.gov/chswc/Reports/2012/Comments%20and%20Response_v2.pdf)

#### **Use of Compound Drugs, Medical Foods, and Co-Packs in California Workers’ Compensation Program**

*Status:* Completed

*CHSWC Report:*

“Use of Compound Drugs, Medical Foods, and Co-Packs in California’s Workers’ Compensation Program: An Overview of the Issues,” RAND (January 2011).

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf)

#### **Medical Study of Impact of Recent Reforms**

*Status:* Completed

*CHSWC Report:*

“Working Paper: Pay-for-Performance in California’s Workers’ Compensation Medical Treatment System,” RAND (August 2007).

[http://www.dir.ca.gov/chswc/Reports/Pay\\_for\\_Performance\\_Report\\_2007.pdf](http://www.dir.ca.gov/chswc/Reports/Pay_for_Performance_Report_2007.pdf)

## PROJECTS AND STUDIES

### **MEDICAL CARE (continued)**

#### **Medical Care Provided California's Injured Workers**

*Status:* Completed

*CHSWC Report:*

"Medical Care Provided California's Injured Workers: An Overview of the Issues," RAND (September 2007)

[http://www.dir.ca.gov/chswc/CHSWC\\_MedCareProvidedCAIW.pdf](http://www.dir.ca.gov/chswc/CHSWC_MedCareProvidedCAIW.pdf)

#### **Quality-of-Care Indicators: A Demonstration Project Using Carpal Tunnel Syndrome**

*Status:* Completed

"RAND/UCLA Quality-of-Care Measures for Carpal Tunnel Syndrome: Tools for Assessing Quality of Care and Appropriateness of Surgery," (RAND 2011).

Summary at:

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_QualityofCareMeasuresforCarpalTunnel\\_summary\\_2011.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_summary_2011.pdf)

Full report at:

[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_QualityofCareMeasuresforCarpalTunnel\\_Tools\\_2011.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_Tools_2011.pdf)

Appendices at: [http://www.rand.org/pubs/technical\\_reports/TR809.html](http://www.rand.org/pubs/technical_reports/TR809.html)

#### **CHSWC Study on Spinal Surgery Second-Opinion Process**

*Status:* Completed

*CHSWC Report:*

"Report and Recommendations on the Spinal Surgery Second-Opinion Process" (April 2007).

<http://www.dir.ca.gov/chswc/Reports/SSSOP-Final.pdf>

#### **State Disability Insurance Integration Project**

*Status:* In process

*CHSWC Draft Report:*

"The Impact of Occupational Injury and Illness on Pricing an Integrated Disability Benefit" (October 2008).

[http://www.dir.ca.gov/chswc/Reports/SDI\\_paper\\_final\\_draft\\_2008\\_Oct\\_29.pdf](http://www.dir.ca.gov/chswc/Reports/SDI_paper_final_draft_2008_Oct_29.pdf)

#### **Medical Treatment Studies**

*Status:* In process.

*CHSWC Report:*

"Inpatient Hospital Services: An Update on Services Provided Under California's Workers' Compensation Program Report," RAND (January 2009).

[http://www.dir.ca.gov/chswc/Reports/CHSWC\\_InpatientHospitalServices.pdf](http://www.dir.ca.gov/chswc/Reports/CHSWC_InpatientHospitalServices.pdf)

"Inpatient Hospital Fee Schedule and Outpatient Surgery Study," RAND (February 2002).

<http://www.dir.ca.gov/CHSWC/HospitalFeeSchedule2002/HospfeeschedulePage1.html>

"Ambulatory Surgery Facility Services Provided to California's Injured Workers," RAND (March 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/FacilityServicesforAmbulatorySurgery.pdf>

"Hospital Emergency Department Services Furnished Under California's Workers' Compensation Program," RAND (April

2009). <http://www.dir.ca.gov/chswc/Reports/2009/EmergencyDepartmentServices.pdf>

"Regulatory Actions that Could Reduce Unnecessary Medical Expenses Under California's Workers' Compensation Program," RAND (July 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/RANDpaper.pdf>

## PROJECTS AND STUDIES

### **MEDICAL CARE (continued)**

#### **CHSWC Study on Medical Treatment Protocols**

*Status:* Completed

*CHSWC Reports:*

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Full Report, RAND (April 2006).

[http://www.dir.ca.gov/CHSWC/Reports/Evaluating\\_med\\_tx\\_guideline.pdf](http://www.dir.ca.gov/CHSWC/Reports/Evaluating_med_tx_guideline.pdf)

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Summary, RAND (April 2006).

[http://www.dir.ca.gov/CHSWC/Reports/Eval\\_med\\_tx\\_guideline\\_summary.pdf](http://www.dir.ca.gov/CHSWC/Reports/Eval_med_tx_guideline_summary.pdf)

"Updated and Revised CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (April 2006).

[http://www.dir.ca.gov/CHSWC/Reports/Medical\\_Treatment\\_Recommendations\\_Final\\_040606.pdf](http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf)

"CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (November 2004).

[http://www.dir.ca.gov/chswc/CHSWC\\_Med%20Treat\\_Nov2004.pdf](http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.pdf)

"Estimating the Range of Savings from Introduction of Guidelines Including ACOEM" (October 2003).

<http://www.dir.ca.gov/CHSWC/ACOEMGuideline.pdf>

#### **Health Care Organizations**

*Status:* Completed

*CHSWC Staff Report:*

"A Report on Health Care Organizations (HCOs) in Workers' Compensation" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/HCO-WC-Apr2006.pdf>

#### **Repackaged Drugs Study**

*Status:* Completed

*CHSWC Issue Paper:*

"Paying for Repackaged Drugs Under the California Workers' Compensation Official Medical Fee Schedule" (May 2005).

[http://www.dir.ca.gov/CHSWC/WR260-1050525\\_Repack.pdf](http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf)

#### **Pharmacy Reporting Impact Study**

*Status:* Completed

*CHSWC Report:*

"Impact of Physician-Dispensing of Repackaged Drugs on California Workers' Compensation, Employers' Cost, and Workers' Access to Quality Care" (July 2006).

<http://www.dir.ca.gov/CHSWC/Reports/Physician-Dispensend-Pharmaceuticals.pdf>

#### **Workers' Compensation Pharmaceutical Costs Study**

*Status:* Completed

*CHSWC Reports:*

"Study of the Cost of Pharmaceuticals in Workers' Compensation" (June 2000).

<http://www.dir.ca.gov/CHSWC/Pharmacy/pharmacover.html>

"Study of the Cost of Pharmaceuticals in Workers' Compensation," Executive Summary (June 2000).

<http://www.dir.ca.gov/CHSWC/Pharmacy/ExecSumPharmaRpt.html>

#### **Payment for Hardware Study**

*Status:* Completed

*CHSWC Report:*

"Payment for Hardware Used in Complex Spinal Procedures Under California's Official Medical Fee Schedule for Injured Workers," RAND (September 2005).

[http://www.dir.ca.gov/CHSWC/Hardware\\_comp9.pdf](http://www.dir.ca.gov/CHSWC/Hardware_comp9.pdf)

## PROJECTS AND STUDIES

### **MEDICAL CARE (continued)**

#### **Burn Diagnosis-Related Groups (DRGs) Study**

*Status:* Completed

*CHSWC Report:*

"Payments for Burn Patients under California's Official Medical Fee Schedule for Injured Workers," RAND (May 2005).

<http://www.dir.ca.gov/CHSWC/WR-263.Burn050525.pdf>

#### **California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work**

*Status:* Completed

*CHSWC Report:*

"California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work," RAND (2006).

[http://www.dir.ca.gov/chswc/Reports/2009/MedBenefit\\_and\\_RTW\\_2006.pdf](http://www.dir.ca.gov/chswc/Reports/2009/MedBenefit_and_RTW_2006.pdf)

#### **Integrating Occupational and Non-Occupational Medical Treatment**

*Status:* In process

#### **Occupational and Non-Occupational Integrated Care (ONIC) Roundtables**

*Status:* Completed

*CHSWC Report:*

"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (December 2008).

[http://www.dir.ca.gov/chswc/Reports/SummaryOandNO\\_ICR2008.pdf](http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf)

#### **CHSWC Study on 24-Hour Care**

*Status:* Completed

*CHSWC Reports:*

"24-Hour Care Roundtable," Summary (December 2006).

<http://www.dir.ca.gov/CHSWC/Reports/24-Hour-Care-Final.pdf>

"Assessment of 24-Hour Care Options for California" (2004).

<http://www.dir.ca.gov/CHSWC/Reports/24HourCare.pdf>

"CHSWC Background Paper: Twenty-four Hour Care" (October 2003).

[http://www.dir.ca.gov/CHSWC/CHSWC\\_24hCare.pdf](http://www.dir.ca.gov/CHSWC/CHSWC_24hCare.pdf)

#### **Workers' Compensation Medical Payment Systems**

*Status:* Completed

*CHSWC Staff Reports:*

"Workers' Compensation Medical Payment Systems: A Proposal for Simplification and Administrative Efficiency, Prepared for the Honorable Richard Alarcón, Chair, California Senate Committee on Labor and Industrial Relations" (2003).

[http://www.dir.ca.gov/CHSWC/CHSWC\\_WCMedicalPaymentSystem/CHSWC\\_WCMedicalPaymentSystem.pdf](http://www.dir.ca.gov/CHSWC/CHSWC_WCMedicalPaymentSystem/CHSWC_WCMedicalPaymentSystem.pdf)

"Adopting Medicare Fee Schedules: Considerations for the California Workers' Compensation Program," RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/AdoptingMedicareFeeSchedules-summary.pdf>

## **VIII. COMMUNITY CONCERNS**

#### **Analysis of WCIRB Pure Premium Rates**

*Status:* Completed

*CHSWC Report:*

## PROJECTS AND STUDIES

### **COMMUNITY CONCERNS (continued)**

“Analysis of Proposed WCIRB 2009 Pure Premium Rates Submitted to the California Department of Insurance” (September 2008).

[http://www.dir.ca.gov/chswc/Reports/Analysis\\_of\\_proposed\\_WCIRB\\_2009\\_pure\\_premium\\_rates-20080923.pdf](http://www.dir.ca.gov/chswc/Reports/Analysis_of_proposed_WCIRB_2009_pure_premium_rates-20080923.pdf)

### **Public Access to Workers’ Compensation Insurance Coverage Information**

*Status:* Completed

*CHSWC Reports:*

“Workers’ Compensation Compliance and Proof of Coverage” (February 2006).

<http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

“CHSWC Issue Paper on Public Access to Workers’ Compensation Insurance Coverage Information” (April 2005).

<http://www.dir.ca.gov/CHSWC/ProofofCoverage.pdf>

### **DWC Workers’ Compensation Audits**

*Status:* In process

*CHSWC Report:*

“Draft CHSWC Response to Community Concerns Regarding DWC Workers’ Compensation Audits” (February 2007).

[http://www.dir.ca.gov/CHSWC/Reports/DWC\\_Audits\\_022107.pdf](http://www.dir.ca.gov/CHSWC/Reports/DWC_Audits_022107.pdf)

### **U.S. Longshore and Harbor Workers’ Compensation Market in California**

*Status:* Completed

*CHSWC Report:*

“CHSWC Issue Paper on the United States Longshore and Harbor Workers’ Compensation Market in California” (April 2005).

<http://www.dir.ca.gov/CHSWC/USLongshoreAndHarborPaper.pdf>

### **Workers’ Compensation and the California Economy**

*Status:* Completed

*CHSWC Report:*

“Update – Workers’ Compensation and the California Economy” (April 2000).

<http://www.dir.ca.gov/CHSWC/CalEconomy/CalEconomyCover.html>

### **Evaluation of Workers’ Compensation Cost and Benefit Changes Since the Beginning of the 1989 and 1993 Reforms**

#### ***(Special Study at the Request of the Legislature)***

*Status:* Completed

*CHSWC Reports:*

“Workers’ Compensation Costs and Benefits After the Implementation of Reform Legislation (August 1999).

<http://www.dir.ca.gov/CHSWC/Report.htm>

“Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability” (August 1999).

<http://www.dir.ca.gov/CHSWC/ExecutiveSummary.htm>

“Summary Estimating the Workers’ Compensation Reform Impact on Employer Costs and Employee Benefits” (August 1999).

<http://www.dir.ca.gov/CHSWC/Summary.htm>

CHSWC 1998-99 Annual Report incorporates this report.

### **Workers’ Compensation Anti-fraud Activities**

*Status:* Completed

*CHSWC/Fraud Assessment Commission (FAC) Study:*

“Workers’ Compensation Medical Payment Accuracy Study” (June 2008).

## PROJECTS AND STUDIES

### **COMMUNITY CONCERNS (continued)**

[http://www.dir.ca.gov/chswc/Reports/2009/Navigant\\_Medical\\_Payment\\_Report.pdf](http://www.dir.ca.gov/chswc/Reports/2009/Navigant_Medical_Payment_Report.pdf)

“Reporting Workers’ Compensation Injuries in California: How Many are Missed?” (August, 2008).

<http://www.dir.ca.gov/chswc/Reports/ReportingWorkersCompensationInjuriesinCalifornia2008August.pdf>

“Fraud in Workers’ Compensation Payroll Reporting: How Much Employer Fraud Exists? What is the Impact on Honest Employers?” (August 2007).

[http://www.dir.ca.gov/chswc/Reports/Fraud\\_in\\_WC\\_payroll\\_Report\\_Aug\\_14\\_2007.pdf](http://www.dir.ca.gov/chswc/Reports/Fraud_in_WC_payroll_Report_Aug_14_2007.pdf)

“Split Class Codes: Evidence of Fraudulent Payroll Reporting” (August 2007).

[http://www.dir.ca.gov/chswc/Reports/Split\\_Class\\_Codes\\_13Aug2007.pdf](http://www.dir.ca.gov/chswc/Reports/Split_Class_Codes_13Aug2007.pdf)

“Report on the Workers’ Compensation Anti-Fraud Program” (August 2001).

<http://www.dir.ca.gov/CHSWC/Finalfraudreport0801.html>

Report on the Campaign Against Workers’ Compensation Fraud” (May 2000).

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudcover.html>

“Workers’ Compensation Anti-Fraud Activities – Report on the CHSWC Public Fact-Finding Hearing” (September 1997).

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudreport.html>

### **Illegally Uninsured Employers Study**

*Status:* Completed

*CHSWC Reports:*

“Uninsured Employers Benefits Trust Fund,” Background Paper (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

“Employers Illegally Uninsured for Workers’ Compensation – CHSWC Recommendations to Identify Them and Bring Them Into Compliance” (December 1998).

<http://www.dir.ca.gov/CHSWC/uefcover.html>

## **IX. INSURANCE INDUSTRY AND COVERAGE**

### **Insurance Insolvency Study**

*Status:* Completed

*CHSWC Report:*

“California’s Volatile Workers’ Compensation Insurance Market: Problems and Recommendations for Change,” RAND (December 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

### **Self Insurance Groups**

*Status:* Completed

*CHSWC Reports:*

“Report on Self Insurance Groups” (December 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_SIGReport.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SIGReport.pdf)

“Issue Paper on Tax Status of Self-Insured Groups (SIGs)” (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/SIG-TaxStatus.pdf>

### **Training of Claim Adjusters and Bill Reviewers**

*Status:* Completed

*CHSWC Report:*

“Revised Claims Adjuster and Bill Reviewer Training and Certification by Insurers Report” (April 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/CHSWC\\_TrainingCertificationClaimsAdjusters.pdf](http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_TrainingCertificationClaimsAdjusters.pdf)

### **Proof of Coverage**

*Status:* Completed

## PROJECTS AND STUDIES

### **INSURANCE INDUSTRY AND COVERAGE (continued)**

*CHSWC Background Paper:*

"Workers' Compensation Compliance and Proof of Coverage" (February 2006).

<http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

### **State of the California Workers' Compensation Insurance Industry**

*Status:* Completed

*CHSWC Background Papers:*

"Study of the California Workers' Compensation Insurance Market Study" (September 2003).

[http://www.dir.ca.gov/CHSWC/Reports/CA\\_InsuranceMarketStudy.pdf](http://www.dir.ca.gov/CHSWC/Reports/CA_InsuranceMarketStudy.pdf)

"State of the California Workers' Compensation Insurance Industry," Background Paper (April 2002).

<http://www.dir.ca.gov/CHSWC/StateInsuranceIndustry2002/Stateinsuranceindustry042002.html>

## **X. DISASTER PREPAREDNESS AND TERRORISM**

### **Impact of Terrorism on Workers' Compensation**

*Status:* Completed

*CHSWC Issue Paper:*

"CHSWC Background Paper on the Impact of Terrorism and California Workers' Compensation" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/ImpactTerrorism-WC.pdf>

### **Forum on Catastrophe Preparedness: Partnering to Protect Workplaces (April 2006)**

*Status:* Completed

*CHSWC Staff Report:*

"A Report on the Forum on Catastrophe Preparedness: Partnering to Protect Workplaces" (April 2006).

<http://www.dir.ca.gov/chswc/forum2006.html>

## **XI. CHSWC ISSUE PAPERS**

### **Study of Labor Code Section 132a**

*Status:* Completed

*CHSWC Memorandum:*

"Update on Labor Code Section 132a and Employer Termination of Health Insurance Coverage: Calif. Supreme Court Decision in *State of California, Dept of Rehab v. WCAB (Lauher)*" (July 2003).

<http://www.dir.ca.gov/chswc/Lauher132aUpdate.pdf>

### **Information on Industrial Medical Council (IMC) Disciplinary Actions Taken on Qualified Medical Evaluators (QMEs)**

*Status:* Completed

*CHSWC Background Paper:*

"Recommendations for Improvement of the IMC's Protection of Injured Workers and Regulation of QMEs" (July 2003).

[http://www.dir.ca.gov/chswc/CHSWCReport\\_IMCDisciplinaryrevJuly2003.doc](http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.doc)

or [http://www.dir.ca.gov/chswc/CHSWCReport\\_IMCDisciplinaryrevJuly2003.pdf](http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.pdf)

### **CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California**

*Status:* Completed

## PROJECTS AND STUDIES

### **CHSWC ISSUE PAPERS (continued)**

*CHSWC Paper:*

"CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004).

[http://www.dir.ca.gov/CHSWC/CHSWC\\_AccesstoFunds.pdf](http://www.dir.ca.gov/CHSWC/CHSWC_AccesstoFunds.pdf) or  
[http://www.dir.ca.gov/chswc/CHSWC\\_Accesstofunds.doc](http://www.dir.ca.gov/chswc/CHSWC_Accesstofunds.doc)

### **Strategic Plan**

*Status:* Completed

*CHSWC Report:*

"CHSWC Strategic Plan" (November 2002).

<http://www.dir.ca.gov/CHSWC/StratPlanReport2002/Stratplan2002.html>

## **XII. OTHER**

### **Pending Final Disposition:**

"Comparing the costs of delivering medical benefits under group health and workers' compensation—Could integration pay for covering the working uninsured?" (October 2009).

[http://www.dir.ca.gov/chswc/Reports/2009/Medical\\_Overhead\\_Cost\\_Comparision\\_2009.pdf](http://www.dir.ca.gov/chswc/Reports/2009/Medical_Overhead_Cost_Comparision_2009.pdf)

## CHSWC PARTNERSHIPS WITH THE COMMUNITY

### Introduction

Since its inception, the Commission on Health and Safety and Workers' Compensation (CHSWC) has been working closely with the health and safety and workers' compensation community including employers, employees, labor organizations, injured worker groups, insurers, attorneys, medical and rehabilitation providers, administrators, educators, researchers, government agencies, and members of the public.

In certain projects and studies, CHSWC partners with other state agencies or other organizations in areas of mutual interest. Key partnerships include the following.

### **Return-to-Work/FEHA/ADA Process and Handbook and Factsheet for Injured Workers *Partnership with the California Department of Industrial Relations, the Department of Fair Employment and Housing, and the University of California, Berkeley***

CHSWC has partnered with the California Department of Industrial Relations (DIR), the Department of Fair Employment and Housing (DFEH), and the University of California (UC), Berkeley, to support efforts to reduce litigation, reduce friction and provide information to employers, particularly small employers who have the most difficult time complying with requirements regarding return to work, by providing improved information for all system participants about the requirements of the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA).

A handbook, *Helping Injured Workers Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California*, was developed and made available in February 2010. The handbook provides an overview of the laws which govern an injured employee's right to continue working and the employer's obligations to accommodate the employee: workers' compensation law, Labor Code Section 132a, which protects the employee from discriminatory treatment; and disability rights law under FEHA, which requires the employer to engage in a timely, good faith, interactive process to find a reasonable accommodation for the employee's disability. This handbook is especially geared for small employers and their employees.

The handbook includes additional resources in Appendix sections for physicians and insurers and for employers and employees to design, implement and participate in an effective return-to-work program. Also included is a list of state agencies that administer workers' compensation and disability rights laws.

A Factsheet based on the handbook, "Best Practices in Returning an Injured Employee to Work: Factsheet for Employers," was also prepared and made available in February 2010.

### **Customer Service Initiative**

#### ***Partnership with Division of Workers' Compensation and Workers' Compensation Enforcement Collaborative***

CHSWC has partnered with the Division of Workers' Compensation (DWC) and the Workers' Compensation Enforcement Collaborative (WCEC), based in Watsonville, CA, to overcome hurdles faced by injured workers seeking benefits when their employers are illegally uninsured. In late May 2009, DIR launched a pilot customer service initiative in one Information & Assistance (I&A) Office in Salinas, in Northern California, to assist unrepresented (*in pro per*) injured workers in properly identifying employers and serving papers.

In addition to CHSWC and the Department of Industrial Relations (DIR) and its divisions, members of the WCEC include: the Watsonville Law Center; the Department of Insurance (CDI) Fraud Division; the San

## CHSWC PARTNERSHIPS WITH THE COMMUNITY

Francisco, Santa Cruz and Monterey County Offices of the District Attorney; the Fraud Assessment Commission; Kaiser Permanente; the UC Berkeley Institute for Research on Labor & Employment; the Workers' Compensation Insurance Rating Bureau (WCIRB); Salud Para La Gente; Worksafe; La Raza Centro Legal; California Rural Legal Assistance (CRLA); and the California Applicants' Attorneys Association (CAAA).

Injured workers face unique barriers in pursuing claims where the employer is uninsured. Accessing the Uninsured Employers Benefits Trust Fund (UEBTF) is procedurally complicated, especially for unrepresented injured workers. Before UEBTF can be joined in a case, the employer must be correctly identified using the legal name and then be served notice of a claim in order to establish the court's jurisdiction. The process discourages attorneys and deters most injured workers without attorneys. With stakeholder input from the community, CHSWC has published useful guides for injured workers, and it has reported on various barriers to the workers' compensation systems for low-wage workers and other categories of workers with a view to improving access to the workers' compensation system for all injured workers. In particular, CHSWC has reported on UEBTF, including a review of the statutory provisions and DWC guidance materials that detail the required steps in filing a UEBTF claim. In addition, CHSWC has funded a user's guide to be developed and based on the experience of the customer service initiative pilot.

The customer service initiative was developed to test whether more assistance is needed or is productive in assisting injured workers. Once the unique requirements of a UEBTF claim have been completed, the I&A process reverts to normal customer service in the provision of information and assistance.

This initiative began in the Salinas, California I&A Office on June 1, 2009, and continued for one year before results were reviewed. However, preliminary results before the year ended were deemed positive enough to expand the pilot to a Southern California office in Anaheim and since then in 2012, I&A Officers from the San Bernardino district office, the San Bernardino Call Center, Santa Rosa, Van Nuys, San Diego, Oxnard, Fresno and Pomona district offices have been trained to assist in verifying workers' compensation coverage.

### **Quality-of-Care Indicators Study**

#### ***Partnership with RAND/UCLA and Zenith Insurance Company***

CHSWC has partnered with RAND/UCLA and Zenith Insurance Company on a demonstration project that suggests a mechanism for monitoring and improving the quality of care provided to injured workers. The goal of the study was to demonstrate quality measurement in workers' compensation. The objectives were to:

- Develop quality-of-care measures for carpal tunnel syndrome (CTS).
- Pilot test the measure in workers' compensation provider and payor organizations.
- Place measures and supporting tools in the public domain.
- Use the measures to assess quality of care for a larger population of patients.

Public-private partnerships made the study possible. Funding support was provided by the Commission and Zenith Insurance. The Commission also provided essential technical assistance in developing the project. Partners-in-kind included Kaiser Permanente Northern California Regional Occupational Health and the California State Compensation Insurance Fund (State Fund), which were involved in pilot testing.

### **Occupational and Non-Occupational Integrated Medical Care Pilot Project**

#### ***Partnership with the California HealthCare Foundation, University of California, Berkeley, DMS Facility Services, and the Service Employees International Union Local 1877***

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The California HealthCare Foundation (CHCF) awarded a grant to CHSWC to develop a proposal to integrate occupational and non-occupational medical treatment, an alternative that could offer savings on medical utilization, unit pricing, and administrative expenses while potentially offering improvements in the quality of health care. As a secondary advantage, the project is expected to expand access to affordable medical insurance.

The project team is calculating the administrative and overhead cost of delivering occupational care under workers' compensation, comparing each cost category from workers' compensation to the counterpart in private health insurance, and calculating the total amount that could potentially be saved if occupational medical treatment and insurance were completely integrated under group health.

CHSWC hosted a series of roundtable discussions of the results and the opportunities and challenges of implementing an integrated occupational and non-occupational medical treatment and insurance product. In addition, the National Academy of Social Insurance (NASI) held a national conference in November 2009 on the issue of integration, which focused on the California example.

### **Forum and Study Regarding Medicare Secondary Payor *Partnership with RAND Corporation***

CHSWC and RAND partnered on a forum and study regarding Medicare secondary payor. The forum, held in September 2010, brought together parties to discuss the potential impact of Medicare set-asides. Since the early 2000s, Medicare has taken a more aggressive stance on the responsibility of insurers and self-insured employers when they settle the future medical liabilities in a workers' compensation case.

CHSWC and RAND are conducting further research and analysis on the impact of Medicare set-asides on the workers' compensation system.

### **International Forum on Disability Management 2010: *Collaborating for Success* *Partnership with the Department of Industrial Relations and the International Association of Industrial Accident Boards and Commissions***

CHSWC partnered with the Department of Industrial Relations (DIR) and the International Association of Industrial Accident Boards and Commissions (IAIABC) on the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, which was held in Los Angeles, California, September 20-22, 2010. The purpose of the Forum, which is held every two years, is to share information about disability management and to identify barriers and ways to overcome barriers in disability management systems. IFDM 2010 brought together over 400 attendees from 33 countries across the world who represent the health, safety, medical and workers' compensation communities. The diverse audience included employers, workers, disability management practitioners, healthcare providers, advocates for full employment with disabilities, policymakers, such as legislators and heads of the executive branches, dynamic leaders in labor, business and insurance, and experts in disability management, including people mastering personal disabilities. Representatives of organizations with an interest in disability issues and a commitment to more effective systems for overcoming barriers to the rehabilitation and full integration of workers with disabilities in gainful employment participated in the discussion.

The IFDM 2010 Advisory Committee included representatives from the following national and international agencies and organizations: National Institute for Occupational Safety and Health; National Institute for Disability Management and Research; Cornell University, International Labor Relations School; Griffith Health Executive, Griffith University, Gold Coast Campus; Association of Workers' Compensation Boards of Canada; Council on Employee Health & Productivity, National Business Group on Health; Baylor School of Medicine; Health Sciences Programs, College of Arts, Social and Health Sciences, University of Northern British Columbia; Eur., Federal Ministry of Labour and Social Affairs; World Institute on Disability; German Social Accident Insurance; International Labour Organization;

## CHSWC PARTNERSHIPS WITH THE COMMUNITY

Kaiser Foundation Health Plan, Inc.; California Consortium to Promote Stay-at-Work/Return-to-Work; U.S. Government Accountability Office, Education, Workforce, and Income Security Team; Netherlands Organisation for Applied Scientific Research; RAND Corporation; Unum; Yukon Workers' Compensation Health and Safety Board; and Disability Management Employer Coalition.

More information on IFDM 2010 is available at: [www.dir.ca.gov/chswc](http://www.dir.ca.gov/chswc).

### **Northern California Summit and Consortium to Promote Stay-at-Work/Return-to-Work *Partnership with employers, medical providers, insurers, and non-profit disability organizations***

CHSWC partnered with employers, medical providers, insurers, and non-profit disability organizations to plan the first Northern California Summit to Promote Stay-at-Work/Return-to-Work (SAW-RTW) in Northern California on June 21, 2007. The goal of the summit was to advance toward sustained solutions for preventing needless time away from work and the realignments needed to meet this goal.

The Northern California Consortium to Promote SAW-RTW was developed following the June 2007 California Summit. Its mission is to provide resources and strategies for interested stakeholders to ensure that more California employees stay at work and/or return to work.

Key SAW-RTW areas addressed by the Consortium include: dissemination of information through the Consortium's website and use of social media; using data to manage work disability; change management in promoting work disability prevention; promoting SAW-RTW for California's aging workforce; promoting multi-stakeholder communications in preventing needless work disability, including featuring an employer-employee checklist; and engaging California healthcare providers in preventing needless work disability. In addition, the Consortium prepared an "SAW-RTW Needs Checklist" in response to a request in May 2011 from the Department of Industrial Relations (DIR) Director for recommendations on SAW-RTW.

The Consortium also solicits ongoing feedback from Summit participants about positive changes related to SAW-RTW in their organizations and posts that feedback along with resources on SAW/RTW on the Consortium's website: <http://www.casawrtw.org>. In 2010, the Consortium participated in the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, held September 20-22, in Los Angeles and participated in planning IFDM 2012.

### **Workplace Wellness: How to Address Both Occupational and Lifestyle Issues on the Job *Partnership with employers of small, medium-size and large companies, labor, medical providers, and federal and state agencies***

On July 16, 2008, CHSWC hosted a Workplace Wellness Roundtable including participants from employers, labor, research organizations, and state agencies. The purpose of the Workplace Wellness Roundtable was to begin a dialogue about strategic approaches, both short-term and long-term, to integrating workplace wellness and occupational health and safety programs in California. As a result of recommendations from Roundtable participants, a booklet on integration of workplace wellness and occupational health and safety programs in California was developed.

The workplace wellness booklet, *The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs*, helps promote a general understanding of what constitutes an integrated approach to health promotion and occupational health and safety programs; explores barriers and strategies to overcome barriers to integration of workplace health promotion and workplace health and safety programs; and identifies resources for promoting more effective programs that address worker health in a holistic fashion. The booklet is available on the CHSWC website.

## **Injury and Illness Prevention Programs**

### **Loss Control/Prevention Partnership**

***Partnership with representatives from the insurance industry, the Department of Industrial Relations, University of California, Berkeley, the California Department of Public Health Occupational Health Branch and California Workers' Compensation Institute***

DIR held a Loss Control/Prevention Advisory Group meeting in 2013 to initiate partnership activities with insurer loss control entities and workers' compensation agents and brokers for promoting safety and health activities at policyholders' workplaces. Objectives for the partnership are to promote an understanding between the State and insurers on health and safety initiatives and to generate ideas about ways to effectively use the limited resources that both entities have to reduce hazards and injuries in California's workplaces. Suggestions for collaborative projects included: outreach and education; research and measures for evaluating loss control programs; surveys of loss control activities among California workers' compensation insurers and agents/brokers; and protocols for referrals and mutual support.

### **School Action for Safety and Health Program**

***Partnership with representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and state and school-related agencies and organizations in California***

Per the mandate set forth in the Labor Code, CHSWC will assist inner-city schools or any school district in establishing effective occupational injury and illness prevention programs (IIPPs) for their employees. CHSWC has established a model program, the School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and make other health and safety improvements that will help protect school employees from injuries and illnesses on the job. The target audience focuses on K-12 schools and school districts at high risk of occupational injury and illness.

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. The program was developed based on a needs assessment conducted to determine the types of training and resources that would be most effective. The SASH program now includes a day-long training program for district-level employees, resource materials and a SASH Resource Center for technical assistance. The program is being implemented statewide. Ongoing evaluation indicates that the program is well received by participants.

The IIPP template and SASH brochure and binder of materials are available on the SASH section of the CHSWC website. The binder materials include: Factsheets, Tools, Tip Sheets, Resource List of organizations and agencies, Worksheets, and IIPP Guide and template. An online resource guide with factsheets related to specific health and safety information for school district employees is also included.

### **Taking Action for Safety and Health: A Guide to Developing Your Workplace Injury and Illness Prevention Program for General Industry, Small Business and the Agriculture Industry**

***Partnership with California Small Business Association, Small Business California, Cal/OSHA, State Compensation Insurance Fund and the California Department of Public Health Occupational Health Branch***

Training materials have been developed to help general industry and small business and agriculture industry workplaces in California comply with Cal/OSHA's Injury and Illness Prevention Program (IIPP) Standard and, consequently, protect the health and safety of their employees. Materials include: an online IIPP fill-in-the-blank template; a Guide that will help businesses learn how to write an IIPP specific to their business and how to implement the elements of an effective IIPP; It Pays to Take

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Action for Safety and Health brochure; Factsheets; Tools; and a Resource List of agencies and organizations providing information on the California IIPP standard and on health and safety.

### **Small Business Health and Safety Resources**

#### **Health and Safety Training and Resources for Small Businesses Across Industries**

***Partnership with the State Compensation Insurance Fund and US Department of Small Business Administration, Small Business Development Centers***

Health and safety resources for small businesses across industries have been developed in English and Spanish through the California Worker Occupational Safety and Health Training and Education Program (WOSHTEP), administered by CHSWC. CHSWC has partnered with the State Compensation Insurance Fund (State Fund) to implement training and disseminate health and safety information to small businesses throughout the State of California. Through WOSHTEP, health and safety resources have also been developed for the restaurant, janitorial, and dairy industries.

#### **Health and Safety Training for Small Business Restaurant Owners**

***Partnership with the State Compensation Insurance Fund and the California Restaurant Association and the Korean Immigrant Workers' Alliance***

CHSWC has partnered with the State Compensation Insurance Fund (State Fund) and with the California Restaurant Association (CRA) to provide health and safety trainings to small business restaurant owners and managers throughout California through WOSHTEP. Findings from the evaluation of these trainings showed that participants increased their understanding and commitment to health and safety; follow-up surveys indicated that participating managers and owners incorporated core program concepts into their training and supervision practices. In addition, CHSWC has partnered with the Korean Immigrant Workers' Alliance (KIWA) to produce health and safety materials for restaurant industry employees in English, Spanish and Korean.

#### **Health and Safety Training and Resources for the Janitorial Industry**

***Partnership with the State Compensation Insurance Fund and the Service Employees International Union Local 1877***

Health and safety training and resources have been developed for the janitorial industry through WOSHTEP. CHSWC has partnered with the State Compensation Insurance Fund (State Fund), the Building Skills Partnership (a program of the Leadership Training & Education Fund between the California Janitors' Union, SEIU 1877), the Pacific Association of Building Services Contractors (PABSCO), and the Independent Maintenance Contractors Association to provide health and safety training on these resources to small businesses within the janitorial industry.

#### **Health and Safety Training and Resources for the Dairy Industry**

***Partnership with University of California, Davis***

Health and safety training and resources have been developed for the dairy industry through WOSHTEP. CHSWC has partnered with the University of California at Davis Western Center for Agricultural Health and Safety (WCAHS) and other WOSHTEP stakeholders to provide materials to owners and managers of dairies to strengthen their health and safety programs. Materials are being used by universities and organizations including the National Farm Medicine Safety, the Canadian Ag Safety Association, the Swedish University of Ag Sciences, the University of Illinois at Urbana-Champaign, Cornell University and Quantico MD, the National Farm Medicine Center in Wisconsin, and the Dairy Herd Network.

## CHSWC PARTNERSHIPS WITH THE COMMUNITY

### **Integration of Worker Health and Safety Education into Building Trades Apprenticeship Programs *Partnership with the State Building and Construction Trades Council of California (SBCTC), AFL-CIO, with 13 member unions***

Union apprenticeship and pre-apprenticeship training programs provide a potential avenue to integrate worker health and safety education. CHSWC contracted with the UCLA Labor Occupational Safety and Health Program (LOSH) and the UC Berkeley Labor Occupational Health Program (LOHP) to address worker injuries and illnesses in the construction industry by bringing together the resources of WOSHTEP and those offered by apprenticeship and pre-apprenticeship programs.

A needs assessment revealed opportunities to adapt construction-related health and safety materials that are currently part of the WOSHTEP curriculum for apprenticeship and pre-apprenticeship programs. Findings included that: WOSHTEP materials be shortened to be appropriate for the building trades and should include worker safety in green construction; adapted materials could be delivered to apprentices during orientations to their apprenticeship programs, in the classroom, or on-the-job at tailgate safety training; apprenticeship instructors, senior apprentices or journeymen could present training modules; and adapted training could be presented to journeymen as part of their refreshers, upgrades or supervisory training.

In response to the findings from the needs assessment, LOSH, LOHP and the State Building and Construction Trades Council of California (SBCTC), AFL-CIO, developed a *Construction Case Study Training Guide* of 13 case studies (including 4 green construction cases) from real life stories of construction workers who had an occupational fatality, injury or illness on the job. The *Guide* was developed for use in apprenticeship programs to teach about the importance of occupational safety and health.

In addition, factsheets for apprentices and contractors have been developed which address the health and safety issues involved in working in a particularly hazardous job associated with energy efficiency work, and applying spray polyurethane foam insulation.

### **Health and Safety on the Job for Workers with Disabilities *Partnership with NISH, The ARC in Southern California, and Pride Industries in Northern California***

Materials and outreach and training based on the Worker Occupational Safety and Health (WOSH) Specialist curriculum, including a trainer-of-trainers' component, were developed for managers, supervisors and employees in sheltered workshops in California that serve and employ individuals with disabilities on: how to provide health and safety training to their workers with intellectual disabilities; and how to design and implement a successful injury and illness prevention program (IIPP) in their workplaces. This program was developed in partnership with NISH – Creating Employment Opportunities for People with Severe Disabilities, The ARC in Southern California, and Pride Industries in Northern California. Additional trainings for other employers of people with disabilities from around the country continue to be conducted in partnership with NISH.

The program also includes materials from the *Staying Safe at Work: Teaching Workers' with Disabilities and Health & Safety on the Job* curriculum developed in 2009 by the University of California, Berkeley Labor Occupational Health Program (LOHP) and the National Institute for Occupational Safety and Health (NIOSH).

### **Implications of Developments in Workers' Compensation for Social Security Disability Insurance *Partnership with the National Academy of Social Insurance and the Social Security Administration***

CHSWC partnered with the National Academy of Social Insurance (NASI) and the Social Security Administration (SSA) in November 2009 to host a seminar to enhance understanding of policy and

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administrative issues relating to the fit between workers' compensation and social security disability insurance (SSDI). Key topics included how to improve coordination between the two programs and better serve disabled workers. Sessions focused on: priorities in social security disability programs and policy; national trends in workers' compensation; the California experience – growth and retrenchment; social security disability insurance and the offset; pathways from workers' compensation to SSDI; how injured workers learn about SSDI; and California innovations in return to work.

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In 2012, most government departments and agencies were asked to redesign their public website by Governor Brown's Office in order to have a more efficient way to locate information. CHSWC participated in the redesign process and, according to its mandate, continues to post useful information for the public and related stakeholders to use.

Check out [www.dir.ca.gov/chswc](http://www.dir.ca.gov/chswc) for:

- What's New
- Research Studies and Reports
- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR Young Workers Website
- Information for Workers and Employers
- WOSHTEP
- Conferences
- Public Comments and Feedback
- Resources
- School Action for Safety and Health (SASH) Program

**CHSWC Publications**

In addition to the many reports listed in the CHSWC Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports  
1994 through 2012

CHSWC Strategic Plan 2002

## CHSWC AND THE COMMUNITY

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