

Commission on Health and Safety and Workers' Compensation

**MINUTES OF MEETING
February 28, 2008
Elihu M. Harris State Building
Oakland, California**

In Attendance

Chair Angie Wei

Commissioners Catherine Aguilar, Kristen Schwenkmeyer, Robert Steinberg, Darrel "Shorty" Thacker

Executive Officer Christine Baker

Not in Attendance

Commissioners Allen Davenport and Sean McNally

Call to Order

Angie Wei, 2008 CHSWC Chair, called the meeting to order at 10:00 a.m.

Minutes from the December 14, 2007 CHSWC Meeting

Chair Wei requested a vote on the Minutes of the previous meeting.

CHSWC Vote

Commissioner Aguilar moved to approve the Minutes of the December 14, 2007 meeting, and Commissioner Thacker seconded. The motion passed unanimously.

**Request for Proposal for the Insolvency Study, Response to Senate Bill 316
Request for Proposal for Firefighter Musculoskeletal Injuries**

Christine Baker, Executive Officer, CHSWC

Christine Baker stated that the first agenda item addresses two separate Requests for Proposal (RFPs).

RFP for the Insolvency Study

The first RFP is in response to Senate Bill (SB) 316, signed into law on October 10, 2007, which states that "A study shall be undertaken to examine the causes of the number of insolvencies among workers' compensation insurers within the past (10) ten years. The study shall be conducted by an independent research organization under the direction of the commission. Not later than July 1, 2009, the commission and the department shall publish the report of the study

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on its internet web site and shall inform the Legislature and the Governor of the availability of the report.”

Ms. Baker stated that existing law provides that the Commission on Health and Safety and Workers' Compensation (the Commission) shall conduct a continuing examination of the workers' compensation system. This new law requires the Commission to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years.

The purpose of the RFP is to hire an independent research organization (a consultant or consultants) to conduct a study that would examine the financial oversight, access to capital, risk assumed, solvency regulation, quality of data reporting, and underwriting, claims adjusting and reserving practices of workers' compensation insurance companies. In the process of the study, which focuses primarily on the large number of insolvencies in the past 10 years, the study shall focus primarily on developing or confirming what ongoing measurements are sufficient to preclude a repeat of the past.

In developing this RFP, CHSWC staff met with a number of key stakeholders, and based on these interviews, as well as discussions with experts and technical reviewers, the RFP was developed. This study is important, and the Commission hopes to draft policy measures if needed as a result of this study.

Commissioner Steinberg asked if the study is mandated by statute, and Ms. Baker stated that it is. Chair Wei stated that there is little if any study of insolvencies and this would be an important study.

CHSWC Vote

Commissioner Steinberg moved to approve the RFP for the Insolvency Study in response to Senate Bill 316, and Commissioner Schwenkmeyer seconded. The motion passed unanimously.

RFP for the Firefighter Musculoskeletal Injuries Study

Ms. Baker stated that the second RFP for consideration is in response to the December 2007 request from Assembly member Swanson to gather data and conduct a study regarding firefighters.

The focus of this study is on major musculoskeletal injuries, specifically: what percentage of firefighter injuries is musculoskeletal as compared to other job related injuries; and based on the number of claims for musculoskeletal injuries, what percentage of those are ultimately determined to be compensable for the purposes of workers' compensation? Additional questions include: when such injuries are treated, how the cap on physical therapy visits affects the recovery; how often are such requests denied; and how often a particular musculoskeletal injury is the result of a cumulative injury that may or may not been treated appropriately at earlier stages?

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Ms. Baker stated that the data will be difficult to obtain; however, through the RFP process, the necessary information should become available.

CHSWC Vote

Commissioner Aguilar moved to approve the RFP for the Firefighter Musculoskeletal Injury study, and Commissioner Thacker seconded. The motion passed unanimously.

Summary Report on Workers' Compensation Reforms

Lachlan Taylor, Workers' Compensation Judge

Larry Swezey, Consultant

Judge Lach Taylor stated that the Senate Labor and Industrial Labor Relations Committee submitted a summary of the recent reforms. Although information has been published, it has been scattered, and it can be difficult to get an overview. The summary report provides an overview of the main components of the workers' compensation system and which components have been the most active and potentially may be the most active. The report would serve as a background for those who may be called upon to deal with issues in the future. Larry Swezey stated that Judge Taylor had put the report together and it was a helpful summary.

Commissioner Steinberg stated that he has always accepted Judge Taylor's opinions. Chair Wei stated that the report is available on the side table for public comment, and it will go through the formal process for feedback.

CHSWC Vote

Commissioner Thacker moved to approve for feedback and comment the "CHSWC Summary of System Changes in California Workers' Compensation," and Commissioner Aguilar seconded. The motion passed unanimously.

Report on the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) Young Worker Programs

Diane Bush, Labor Occupational Health Program (LOHP), UC Berkeley

Nancy Morales, Labor Occupational Safety and Health Program (LOSH), UCLA

Diane Bush stated that the California Partnership for Young Worker Health and Safety is convened by CHSWC and is coordinated by the University of California Berkeley Labor Occupational Health Program (LOHP). Many agencies and organizations are concerned about young worker health and safety, but there has not been a mechanism for coordinating efforts and sharing information. The Partnership was established in 2001 by Legislation to be a resource network on young worker health and safety and to identify and promote implementation of strategies to: reduce work-related injuries and illnesses among youth in the California workforce; to foster safety and health awareness and skills that will remain with youth throughout their

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working lives, as well as allow them to take an active role in shaping safe work environments; and to promote positive, healthy employment for youth.

Ms. Bush stated that the Partnership, which meets three times a year with sub-committees meeting between the larger meetings, is made up of about 25 different agencies and organizations representing: government agencies; educators; youth employment programs; employers, labor, and parents. The Partnership focuses on several areas: school-based strategies, as schools are a key way to get health and safety information out to youth; initiatives in the workplace for employers; strategies for involvement by community-based youth organizations; strategies for enforcement agencies; and areas for further research. The Partnership has developed over 30 recommendations of what could be done in California to help ensure young worker health and safety.

Ms. Bush stated that the Partnership has developed information for employers and for youth on young worker rights and responsibilities in the workplace. In addition, training curricula have been developed by LOHP and LOSH with external funding from the National Institute on Occupational Safety and Health (NIOSH), California Wellness Foundation, and Federal Occupational Safety and Health Administration (OSHA). Institutionalized training through the California Association for Work Experience Educators (CAWEE) and the California Teachers Association (CTA) has developed through the Partnership.

Ms. Bush stated that during Safe Jobs for Youth Month in California, which has been designated as May each year, the Partnership holds several events, including a teen poster contest, a teen journalism contest, a Public Service Announcement (PSA) contest, and a public information campaign with distribution of resource kits to teachers and youth-based organizations. Ms. Bush stated that this year, the Partnership has received 25 entries for the PSA contest, and the winning PSA will be determined soon. The Labor Commissioner's office has identified funding to distribute PSAs to movie theaters in several areas of the state. The Department of Industrial Relations (DIR) has been instrumental in getting media attention for Safe Jobs for Youth Month and the Young Worker Leadership Academy (YWLA).

Nancy Morales described the Young Worker Leadership Academy (YLWA), a key program of the Partnership funded through the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The YWLA is a partnership project between CHSWC, LOSH, LOHP, and the California Center for Civic Participation. Each year, 12 teams of three to four youth each from schools, community-based organizations or clubs attend an Academy in either Northern or Southern California at UC Berkeley or UCLA. An adult sponsor for each team agrees to attend and support the team during the Academy and during the follow-up community activity.

Ms. Morales stated that the youth Academy participants spend three days focusing on health and safety training, understanding the role of policy, and practicing planning a community activity after they go back to their schools and communities. They build knowledge of health and safety and employment rights and responsibilities, as well as speaking skills and leadership skills. In addition, six to seven YWLA graduates from previous years' Academies return to the new Academies and act as youth mentors, leading activities and supporting teams, as well as planning

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their own community activity. In addition, during Safe Jobs for Youth Month in May, each team conducts an activity to promote young worker health and safety in their community. About 28 to 30 teams from past Academies have conducted community events that have reached over 4,000 participants. Ms. Morales also stated that participants in the 2006 Academies held a special outreach event on April 20, 2007, called a Teen Employment Scene, which was organized and conducted by the Academy graduates. Two hundred and fifty high school students attended this event which included workshops led by teens.

Ms. Morales stated that this year, Labor Commissioner Angela Bradstreet spoke at the Northern California Academy at UC Berkeley about the importance of health and safety on the job and of youth understanding their rights and playing a health and safety leadership role in their schools and communities.

Ms. Morales then stated that the Partnership and the YWLA are examples of California acting as a national model: through Safe Jobs for Youth Month which is being implemented by other states; through the Partnership Recommendations being used as a model; and through implementation of a guide to putting on a YWLA that is being developed, with Massachusetts and Washington planning to hold their own Academies.

Chair Wei stated that there is a resolution, ACR 101, introduced in the Assembly by Assembly member Swanson recognizing Safe Jobs for Youth Month.

Executive Officer Report

Christine Baker, CHSWC Executive Officer

California Partnership and WOSHTEP

Ms. Baker stated that the Commission would be presented with new proposals for funding the California Partnership and the continuing work of WOSHTEP at the next Commission meeting.

Ms. Baker stated that the WOSHTEP Advisory Board meeting was held this week. Attendance included three new employer members: the California Chamber of Commerce; the California Manufacturers & Technology Association (CMTA); and San Jose State University. Another new member was the California Department of Health Services. CMTA has expressed interested in supporting the YWLA and getting this educational program out to more people. Ms. Baker stated that WOSHTEP is a highly visible program with many positive results.

IIPP Programs for Schools

Ms. Baker stated that CHSWC will have approximately \$300,000 in one-time monies in the budget this next year. These monies came through Labor Code Section 6434, which requires that civil or administrative penalties assessed under this chapter to school districts, county boards of education, county superintendents of schools, charter schools, community college districts, California State Universities, Universities of California, and joint power agencies performing

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educational functions be held in trust for a period of two years. These are OSHA penalties that have been assessed. During the two-year period, educational facilities may apply for a refund of those civil penalties if certain conditions are met. The sum of \$300,000, collected under Labor Code 6434, was granted to CHSWC to be used to assist schools with Injury and Illness Prevention Programs (IIPPs). A plan will be developed to disburse the funds fairly and equitably to schools to prevent injuries and illnesses.

CHSWC is beginning planning and developing the best strategy for expenditure of these funds with a labor-management advisory committee and would work closely with Commissioner Aguilar on ideas for improving safety in the schools. A plan should be presented at the next Commission meeting.

Chair Wei asked if that money supplants any Commission funding, and Ms. Baker responded that the monies are in addition to Commission funding. Chair Wei asked if the schools could ask for any of the monies to be returned, and Ms. Baker responded that they could not, as the time period for that request has passed.

Background Paper on California Occupational Safety and Health Programs

Ms. Baker stated that a background paper on California Occupational Safety and Health Programs which provides the reader with an overview of the current programs has been developed. The document has been circulated and reviewed, and feedback has been received. It would be updated as new data are available. It is now ready to be posted on the CHSWC web site.

CHSWC Vote

Commissioner Thacker moved to approve the release of the “Background Report on California Occupational Safety and Health Programs” for posting and public distribution, and Commissioner Aguilar seconded. The motion passed unanimously.

Research Agenda for Improving Workplace Health and Safety

Ms. Baker stated that the final report is ready on the “Research Agenda for Improving Workplace Health and Safety” developed from a roundtable discussion for the purposes of developing a research agenda for the Commission to develop a strategic plan regarding the kinds of research that should be funded by the Commission. Careful thought, expertise and a very balanced group of stakeholders made up of labor and management have reviewed the research areas and provided feedback. This report has been in circulation and is ready for formal adoption and posting on the CHSWC website.

CHSWC Vote

Commissioner Aguilar moved to approve the final report on the “Research Agenda for Improving Workplace Health and Safety,” and Commissioner Thacker seconded. The motion passed unanimously.

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CHSWC Staff

Ms. Baker stated that CHSWC staff continues to work on all its projects despite a reduced staff due to maternity leave and illnesses. The staff is dedicated to providing high-quality work. She stated that CHSWC staff is grateful to UC Berkeley, Frank Neuhauser, UCLA, and RAND for responsiveness and expert technical support on Commission projects.

Public Comments

There were no comments from the public.

Adjournment

CHSWC Vote

Commissioner Thacker moved to adjourn the meeting, and Commissioner Aguilar seconded. The motion passed unanimously

The meeting was adjourned at 10:40 p.m. The next CHSWC meeting is scheduled for Thursday, April 17, 2008, in Oakland.

Approved:

Angie Wei, Chair

Date

Respectfully submitted:

Christine Baker, Executive Officer

Date