

California Workers' Compensation Institute

**Minutes of the Claims & Medical Care Committees' Meeting
held on Thursday, June 12, 2025, via videoconference and at CWCI offices**

Claims Committee Attendees:

Julie M. Riddle (Chair), The Hartford Insurance Group
Iris Alicea, AIG
Alesha Bartholomew, Liberty Mutual Insurance
George Burr (by Anca Trifa), Crum & Forster
Angela DeBortoli, University of California
Alma Del Real, State Compensation Insurance Fund
Cherie Johnson, Grimmway Farms
Adrienne Lane, Berkshire Hathaway Homestate Companies
Todd Lewis, Republic Indemnity
David Oki, County of Santa Clara Risk Management
Crystal Potch, Everest Insurance
Janice Reiderer, Preferred Employers Group
Julian Robinson (by Arnold Pacpaco), City and County of San Francisco
Matt Sharman (by Rob Harris), WCF Insurance
Lori Sleva, Sutter Health
Bobby Taylor, ICW Group Insurance Companies

Claims Committee Excused:

Mark Aro, Albertsons' Companies
Joe Carresi, Southern California Edison
Misty Coffield, CHUBB
Jack Devlin, AmTrust North America
David Erickson, Zenith Insurance Company
Laurinda Freeman, Zürich North America
Paul Gladden, Pie Insurance
Shari Grapes, CNA Insurance
Cindy Hehner, California Fair Services Authority
Aaron Hice, AF Group/CompWest
Brian Hoadley, EMPLOYERS
Debra Howie, Dignity Health
April Johnson, BETA Healthcare Group Risk Management Authority
Kimberly Kinney, Loma Linda University Health Risk Management
Nidra Kumaradas, Alliance of Schools for Cooperative Insurance Programs
Kimberly Layton, Travelers
Sheila Majam, CopperPoint Insurance Companies
James McMorrow, Pacific Gas & Electric Company
Jen Page, Sentry Insurance
Jeff Rush, California Joint Powers Insurance Authority
Debra Russell, Schools Insurance Authority
Tyrone Spears, City of Los Angeles

Cynthia Wright, The Hanover Insurance Group
Debbie Yokota, Special District Risk Management Authority

Medical Care Committee Attendees:

Rupali Das, M.D. (Chair), Zenith Insurance Company
George Burr (by Anca Trifa), Crum & Forster
Alma Del Real, State Compensation Insurance Fund
Elise Dornfeld, Everest Insurance
Jean Feldman, Sentry Insurance
Tracy Fuller, North American Casualty Company/Applied Underwriters
Stephanie Graham, Preferred Employers Group
Anne Khalili, CopperPoint Insurance Companies
Krystal Lin, M.D., Berkshire Hathaway Homestate Companies
Todd Lewis, Republic Indemnity
Margaret McLarney, Zürich North America
Julie Riddle, The Hartford Insurance Group
Peter Spalding (by Krista Hardter), Liberty Mutual Insurance
Bobby Taylor, ICW Group Insurance Companies

Medical Care Committee Excused:

Nina Hoagland, CNA Insurance
Monique Holzman, CHUBB
Rebecca Homolka, The Hanover Insurance Group
Cheryl Kurpieski, AmTrust North America
Kimberly Layton, Travelers
John Yoon, M.D., Loma Linda University Health Risk Management

Also Present:

Kim Linan, North Bay Schools Insurance Authority
Gideon Baum, Eva Loeza Albino, Adam Russell, Alex Swedlow, Joanne Swedlow and Sara Widener-Brightwell, CWCI

PRELIMINARY

Call to Order and Antitrust Admonition: The meeting was called to order at 9:31 a.m. by Medical Care Committee Chair, Rupa Das, M.D. CWCI SVP of Claims and General Counsel Sara Widener-Brightwell advised the group about applicable antitrust rules and reviewed the guidelines for member attendees.

Introductions, Announcements, and Communications: Chair Das welcomed the attendees and guests. She reminded all attendees of the CWCI resources available on the Institute's website.

REGULATIONS

Ms. Widener-Brightwell provided updates on all relevant regulatory activity:

Regulatory Update

Regulations Finalized: Ms. Widener-Brightwell reviewed the regulations which would revise the pharmaceutical fee schedule to align the workers' compensation pharmacy drug reimbursement and dispensing fee reimbursement with the new Medi-Cal pharmacy fee methodology. The regulations implement the statutory provision to set maximum prices for pharmacy goods that are not Medi-Cal benefits at rates that Medi-Cal would pay for pharmacy goods requiring "comparable resources." The regulations were filed with the California Secretary of State on 12/11/24. The effective date is 7/1/25.

Proposed Regulations:

Utilization Review:

Ms. Widener-Brightwell reviewed the proposed rulemaking which implements exemptions to prospective UR created by SB 1160 for treatment rendered within first 30 days from the initial date of injury, and AB 1124 for drugs listed as exempt on the drug formulary. She noted the extensive changes to the UR enforcement rules including the elimination of the 85% UR audit pass rate and the increased penalties. She advised the new physician reporting form, the PR-1, which combines other reports (Form RFA and PR-2) was eliminated from this rule making. The second 15-day comment period ended 5/22/25.

Pending Regulations:

Ms. Widener-Brightwell noted the DWC has not yet taken formal action on the interpreter fee schedule, the home health care fee schedule, the pharmacy fee schedule update, the electronic Doctor's First Report, or the utilization review data reporting regulations. The AD has commented that these regulations are in process and are expected to be released soon.

The committees discussed issues with approvals for MPN applications by the DWC Medical Unit. The Unit is inconsistent in the application of current regulations, and appears to be applying standards that are not part of the regulations.

Fraud:

Ms. Widener-Brightwell reviewed the recent fraud charges against a defense attorney accused of misrepresenting his stepdaughter's work restrictions and complaints during a return-to-work conference.

RESEARCH

Mr. Swedlow provided a research update, noting pending studies including Access to Care / Claims Monitoring, Long COVID, Functional Restoration Programs, Medical Inflation: Part 2, Utilization, and Presumptions – Heat and Hospitals.

Mr. Swedlow noted the Long COVID study was just released. He advised only 4.7 % of COVID claims have treatment beyond 90 days. Those claims account for 82.1% of all medical payments for COVID claims.

Mr. Swedlow thanked the members that assisted in developing the scope of the study and in developing the data. He advised that ACOEM has released a new pain management chapter that more fully discusses FRPs. Ms. Widener-Brightwell noted the chapter has not been adopted by the DWC yet. Mr. Swedlow and Dr. Loaeza Albino discussed the difficulty in identifying FRPs in the data due to the use of unlisted codes. They also noted the lack of transparency regarding the actual treatment modalities provided in each program. Mr. Swedlow reviewed the reasons for modifications and denials in utilization review, including lack of documentation, no functional improvement and no support for the request. He reviewed the characteristics of matched claims that did or did not have an FRP. The medical costs for FRPs were two thirds of the total medical costs in FRP claims. The study will be completed in the next few months.

The committees noted the positive results seen in FRPs in the past. Programs are now driven by different motivations and incentives. Studies have supported the efficacy of these programs in some circumstances, where the patient is appropriately screened and motivated.

Dr. Loaeza Albino reviewed the medical inflation study, noting California's OMFS rates for physician services are now 151% of Medicare rates, due to the deviation from the Medicare Economic Index and the adoption of other measures at the federal level.

Mr. Swedlow reviewed IMR data through Q1 2025. He noted a 13% increase in IMR letters in Q1 2025 over Q1 2024. The uphold rate remains relatively constant at 89.1%.

Mr. Baum discussed pending presumptions at the Legislature. He reviewed the Institute's Heat Presumption study, noting this year's bill is identical to last year's. He advised the Institute's pending study addressing the proposed hospital worker presumption will be released in the next few weeks.

Mr. Swedlow noted additional studies are pending, including Access to Care which will focus on rural issues and CURES II which is pending data availability.

The committees discussed whether telemedicine use has decreased post-COVID. Mr. Swedlow advised the Institute may be able to study the types of services most commonly using telemedicine, particularly psyche services, and whether those services provide faster and easier access for injured workers.

LEGAL UPDATE

CAAA Summer Convention: Ms. Widener-Brightwell discussed the topics that will be presented at the CAAA Summer Convention. The panels include Immigration Law 101 – Representing non-English Speaking Clients Effectively, Mechanics of Filing CT Injury Claims, The Art of Medical Legal Report Writing in Catastrophic Cases, Discovery Rules at the WCAB (Back to Basics), The Mechanics of Filing Petitions for Reconsideration and Removal, Understanding the Interactive Process When Representing IWs, 3rd Party Credit/Lien Considerations at the WCAB, Audit Unit Penalties on Insurance Companies and Employer Fraud, Protecting Your Firm From Malware Attacks, Commissioners’ Panel, Litigating Toxic Exposure Claims, and Most Important Cases.

Case Law and Amicus: Ms. Widener-Brightwell reviewed the status of *Ayala*, which has been discussed at previous meetings, noting that on 02/20/25, a unanimous California Supreme Court affirmed the Court of Appeals in full, finding that the Board’s conclusion was plainly inconsistent with the statutory definition of “ ‘compensation’ ” as limited to “compensation under” the workers’ compensation law.

Ms. Widener-Brightwell provided an update on *Mayor v. Ross Valley Sanitary District*, advising that the Court of Appeals held that because the petition for reconsideration was denied by operation of law under former Labor Code section 5909 on 5/22/23, the WCJ’s award of 100% PD and attorney’s fees which issued on 3/2/23, is now final. The decision was certified for publication. The WCAB filed a petition for rehearing which was denied. The WCAB filed a petition for review with the California Supreme Court on 10/7/24 which was granted on 12/11/24. Amicus briefing appears to be complete. She also discussed the Institute’s amicus involvement in *Zenith v. WCAB (Chan)* where the WCAB issued a Grant for Study within 60 days of the petition being “discovered” which was greater than 60 days after transmission of the petition for reconsideration from the district office to the WCAB.

She discussed *Zenith v. WCAB (Hernandez)* where the applicant alleged injury in an MVA while riding home from work in a vanpool arranged by another employee. The WCJ found injury AOE/COE applying special risk exception to going and coming rule holding the commute was not a “local” commute as contemplated by *Hinojosa* due to distance, the applicant took “extraordinary” action to get to work on time, every day by using vanpool, and the applicant would never have been in a van coming home from work, at the location where the accident took place, but for this special condition of employment. The WCJ also found a “dual purpose” exception to the going and coming rule, concluding exception applies because the employer obtained a benefit from the vanpool which permitted applicant to arrive “at work and on time every day.” The WCAB denied reconsideration. The defendant appealed. The Institute filed an amicus brief on 12/18/24. On 5/1/25, the COA annulled and remanded, holding 1) special risk exception only applies to situations just outside ER premises - this case does not meet that requirement and 2) facts were not sufficient to apply dual purpose exception, as they do not go beyond the “normal need of the presence of the person for the performance of the work.”

She discussed the recent en banc decision in *Vazquez v. Zenith* where the WCAB determined that only the Board has jurisdiction to determine if a replacement QME panel is appropriate. The WCAB held that *in a represented case*, when a QME cannot set an appointment within the

timeframes in AD Rule 31.3, replacement is not automatic. The WCJ has discretion to order a replacement QME upon showing of good cause. She reviewed the 5 factors a WCJ may consider when deciding whether good cause exists.

Legislation Wrap-Up: Ms. Widener-Brightwell and Mr. Baum reviewed the 2025 legislative calendar, and current bills including SB 230, AB 1125, AB 1336, SB 632, SB 8, SB 447, SB 555, AB 1048, AB 1293, SB 668, AB 1498, AB 1398, SB 536, AB 1209, SB 487, and AB 1329. Mr. Baum noted the fires in Los Angeles County will have a significant impact on the budget, which will affect what workers' compensation legislation is signed this year.

ADDITIONAL DISCUSSION

The committees expressed concern regarding ongoing push for presumptions every year.

ADJOURNMENT

The next joint meeting of the Claims and Medical Care Committees is to be determined. The committees' members will be notified via email. Chair Das adjourned the meeting at 11:32 a.m.

Submitted by:

Sara Widener-Brightwell
SVP Claims, General Counsel & Secretary