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Evaluating the Effects the California Workers Compensation Reforms (SB228 & SB899) Has Had on the Medical Treatment Injured Law Enforcement Public Safety Employees Receive in the Sacramento Region

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EVALUATING THE EFFECTS THE CALIFORNIA WORKERS COMPENSATION REFORMS (SB228 & SB899) HAS HAD ON THE MEDICAL TREATMENT INJURED LAW ENFORCEMENT PUBLIC SAFETY EMPLOYEES RECEIVE IN THE SACRAMENTO REGION

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CONTENTS

Abstract

The California workers compensation reform bills (SB228 & SB899) passed by the legislature in 2003 and 2004 may be destructively limiting medical treatments that are critical to the health of injured law enforcement public safety employees.

As a result of increasing workers' compensation insurance premiums for businesses and workers' compensation medical costs in California, lawmakers decided to change the legal codes that regulate the systems by which injured workers receive medical treatment. Together, these two bills have created treatment guidelines that define the therapies required to cure or relieve work-related injuries, mandated the requirement of utilization review (UR), and authorized medical provider networks (MPN) for employers. This reform legislation is causing a reduction of treatment and significant delays in delivery of needed treatment, while also altering and eliminating many rights of injured public safety employees throughout the state.

This paper evaluates the impact of these reforms on the medical treatment law enforcement public safety employees are receiving throughout the Sacramento region.

Introduction

The California workers' compensation reform bills (SB228 & SB899) passed by the legislature in 2003 and 2004 may be destructively limiting medical treatments that are critical to the health of injured law enforcement public safety employees.

As a result of increasing workers' compensation costs in California, lawmakers decided to change the legal codes that regulate the systems by which injured workers receive medical care. SB228 adopted the American College of Occupational and Environmental Medicine (ACOEM) guidelines as the new presumption of correctness for defining the therapies required to cure or relieve work related injuries. The new law also changed what treatment is considered reasonable and necessary to cure and relieve effects of a work incurred injury, leading to inconsistent interpretations of the ACOEM guidelines. Chiropractic and physical therapy visits were limited to 24 for the life of the injury. SB228 also required employers to adopt utilization review (UR) systems, which is causing a reduction in treatment and significant delays in delivery of needed medical treatment.

SB228 was the impetus to SB899, which sustained, amended or repealed legislation from SB228 and ultimately overhauled the California workers' compensation system. SB899 provisions authorized medical provider networks (MPN) where employees are mandated to be treated by employer physicians unless the employee pre-designates their own physician prior to injury or the employer chooses not to implement an MPN. SB899 also sustained the ACOEM

treatment guidelines presumption of correctness on the extent and scope of medical treatment and the adoption of utilization review for all employers that was enacted in SB228, eliminated reputable presumption for pre-designated personal physicians, established a system of independent medical review, authorized immediate medical treatment to all workers for occupational injuries up to 90 days until the case is accepted or denied, restored vocational rehabilitation for pre-2004 injuries, and limited temporary and permanent disability compensation. These laws are retroactive to cases that were settled prior to the passing of SB228 & SB899, which is negatively effecting the needed medical treatment of many more injured law enforcement public safety employees. These reforms have altered and eliminated many rights of injured public safety employees throughout the state.

This research evaluates the California workers' compensation reform bills (SB228 & SB899) passed in 2003-2004 and how they have impacted the medical treatment of law enforcement public safety employees throughout the Sacramento region. This study evaluates the effects these reforms have had on limiting the needed medical treatment injured law enforcement public safety employees receive in the Sacramento region. This evaluation is designed to answer the following questions:

1. Are ACOEM guidelines being implemented as mandates as opposed to medical treatment recommendations?
2. Are inconsistent applications of the ACOEM guidelines negatively impacting medical treatment for injured public safety employees?

3. Is the lack of insurance premium regulations negatively impacting the goals of workers' compensation reform?

Literature Review

The cost of California's workers' compensation to employers is spiraling upward and is believed to be one of the biggest concerns to California businesses. Several studies have revealed that the rising cost of medical treatment for injured workers is the main contributor to the problem. The system has been identified as complex, costly, and difficult to manage.

Approximately three quarters of a million work-related injuries and illnesses are reported each year in California (CHSWC, August 2003). Over the years, concerns have continued to rise due to the increase in workers' compensation medical care costs. According to the Commission on Health and Safety and Workers' Compensation (CHSWC) (August 2003), the average medical cost per workers compensation claim more than doubled, which resulted in an increase of overall medicals costs from $2.6 billion in 1995 to $5.3 billion in 2002.

In Governor Arnold Schwarzenegger's state of the state speech on January 6, 2004, he addressed California's residents and business owners' concerns with regard to the workers' compensation issue:

> ...we must fix the state's business climate. And we must start with workers' compensation reform. Our workers' comp costs are the highest in the nation - nearly twice the national average. California employers are bleeding red ink from the workers' comp system. Our high costs are driving away jobs and businesses. My proposal brings California's workers' comp standards and costs in line with the rest of the country. To heal injured workers, it emphasizes the importance of health care and

> doctors rather than lawyers and judges. It requires nationally recognized guidelines for permanent disability. And it provides for innovative approaches. I call on the legislators to deliver real workers' comp reform to my desk by March 1st. Modest reform is not enough. If modest reform is all that lands on my desk, I am prepared to take my workers' comp solution directly to the people and I will put it on the ballot in November (State of California website).

The legislative conference committee was under intense pressure to arrive at a compromise and approve a workers' compensation reform package since it was past the Governor's deadline of March 1st and Schwarzenegger was threatening to campaign to place the Workers' Compensation Reform and Accountability Act that would have been put on the November ballot. On April 19, 2004, the impasse was resolved and an overhaul on the California workers' compensation system was enacted with SB899.

SB899 accomplished the desired effect of overhauling the California workers' compensation system. According to the California legislature, the projected annual cost savings to employers could eventually reach $5 billion or more (*San Francisco Chronicle*, Apr. 15, 2004). The reform overhaul guaranteed immediate and better treatment for workers based on new treatment guidelines, return to work incentives, and a new HMO-style system of doctor selection (Hubbell 2004).

History of Workers Compensation Legislation

The workers' compensation system has been revised and reformed repeatedly since the passage of the Workers' Compensation Act in 1913. First, a voluntary employer participation workers' compensation system was established in 1911. As the increase of work-related injuries continued to rise and the

established legislation lacked adequate reparation to employees, a mandatory system was enacted called the Workers' Compensation Insurance and Safety Act of 1913 (Institute of Governmental Studies, University of California, 2004). This Act chartered the requirement of employers paying for the treatment of workers injured on the job and compensating them for lost wages, as well as established the State Insurance Fund. Legislators have struggled with issues of inflation, benefit increases, fraudulent injury claims, and fluctuations in the economy, which have caused significant increases in workers compensation costs (Commission on Health and Safety and Workers Compensation, August 2003).

According to California Labor Code Section 3700, all California employers are required to provide workers' compensation benefits to their employees. The basic types of workers' compensation benefits include: medical care, temporary disability benefits, permanent disability benefits, vocational rehabilitation services, and death benefits. Many reforms during 1989 and 2002 contributed to these benefits for workers. The Margolin-Bill Greene Workers' Compensation Reform Act of 1989 reduced fees for doctors, which had increased considerably over the years. In 1993, fraud penalties were increased and vocational rehabilitation was capped at $16,000 per employee (CHSWC Guidebook 2002).

Overall workers' compensation costs in California had risen from $9 billion in 1993 to $32 billion in 2002 (Institute of Governmental Studies, University of California, 2004). Some categories of medical services, such as chiropractic treatment and physical therapy, have been noted as being especially high compared to other states. According to a 2003 California State Auditor report,

the major determinants of increased costs were: substantial increases in services per claim, growth of unregulated outpatient surgery charges and payments, increases in the number of medical visits per claim compared to other states, and the increase in the use of pharmaceuticals and the costs associated with those prescribed medications (California State Auditor 2003).

On February 15, 2002 Governor Gray Davis signed AB 749, which increased minimum and maximum weekly payments for temporary and permanent disability and doubled death benefits for workers' families. Harsher penalties were enacted for employers who did not carry workers' compensation insurance and, again, fraud penalties were increased. In 2003, Governor Davis signed AB 227 and SB 228, which established standardized rates for every medical care provider, including outpatient surgery centers; replaced vocational rehabilitation with supplemental job displacement benefit (SJDB) in the form of a non-transferable voucher for education-related retraining or skill enhancement; set fee schedules for pharmaceuticals; capped the number of visits (24) to chiropractors, occupational therapists and physical therapists for the lifetime of the injury; established the ACOEM Occupational Medicine Practice Guidelines as the presumption of correctness on the issue of extent and scope of medical treatment; and required utilization reviews which would set care standards for injuries.

Despite these reforms, the California workers' compensation system remained one of the most expensive in the country, costing employers more than in any other state and many argued that it provided some of the lowest benefits

to workers. As a result, Governor Schwarzenegger signed the California workers compensation reform bill (SB899) on April 19, 2004. After deliberation amongst the legislature, an overhaul on the California workers' compensation system was enacted with SB899. However, some legislators felt the complicated provisions of the bill were given too little public scrutiny, having passed committee at about four in the morning after about only an hour of debate. "No one has mentioned so far that we are voting on this with a gun to our heads," said Senator Sheila Kuehl, D-Los Angeles, shortly before voting in favor of the bill. Some also mentioned concern that savings would not be realized without some type of insurance industry regulation (Hubbell 2004).

SB899 accomplished the desired affect of overhauling the California workers' compensation system. The reform predicted huge savings to employers and guaranteed immediate and better treatment for workers. Many have criticized the rushed decisions on a bill with such complexity and many wondered how many lawmakers knew much of what they had sped into law. See appendix B for a summary of SB899 medical treatment provisions.

Public Safety Workers' Compensation

Sprains, strains and repetitive use injuries are common in the law enforcement profession where officers repeatedly are asked to put themselves in harms way without regard to their personal safety. Members of the American Chiropractic Association (ACA) rated public safety/law enforcement as one of the top ten worst occupations for causing back pain (Croasmun 2004). According to the Sacramento Bee (2004), 50% of retirees from local police agencies in the

State of California retired on an industrial disability. Mathis and Schreuder reported a Sacramento police executive as identifying workers' compensation costs as being a significant problem at his agency. "Of 30 recruits initially enrolled in his class, only nine retired through the process of routine retirement. Of that number, only four had left the agency for promotions to retire elsewhere" (Mathis). In Sacramento County 169 (17%) out of 994 safety retirees retired on industrial disability pensions. The statewide industrial disability retirement average is 49% (Sacramento Bee, 2004). The California Public Employees' Retirement System estimates that on an annual basis safety disability pension costs increased 65% between 1997-98 and 2001-02. There is concern that the system intended to protect those who risk their lives to protect the public is complicated, inadequate for the severely disabled, and ripe for abuse (Sacramento Bee 2004). Anti-fraud legislation has been enacted over the years in an effort to combat concerns of widespread claimant fraud that has allegedly contributed to the increased workers' compensation costs.

Workers' Compensation Fraud

Many speculate that fraud by workers is rampant in California. According to the Labor Research Association (1998), many have made unsubstantiated claims that claimant fraud is widespread leading to increased workers' compensation costs. "The American Insurance Association estimated fraud losses at 10% of the cost of claims paid, approximately $3 billion. The National Insurance Crime Bureau estimated $6 billion, even though it was involved in only

99 fraud prosecutions in 1994 and 134 in 1995 nationwide and had no studies to back up their estimated fraud costs" (Labor Research Association 1998). Another insurance company reported workers' compensation fraud costs at $30 billion a year (Labor Research Association 1998). These unsubstantiated and inflated costs have caused widespread panic among the public and politicians, ultimately leading to workers compensation fraud legislation that is directed toward claimants. Substantiated insurer's reports indicate an actual suspected 0.4 percent of claims as being fraudulent, and 0.03 percent of claimants being convicted of fraud (Fricker 1997).

In the 1990's California, along with many other states, passed anti-fraud legislation in an effort to combat the charges of widespread claimant fraud that allegedly contributed to the increased workers compensation costs. "Out of approximately 5 million claims filed in California from 1993 through 1997, 25,997 suspicious claims were reported and 784 resulted in convictions, according to the state Department of Insurance. That's a suspected fraud rate of 0.5 percent" (Fricker 1997). California's largest workers' compensation carrier, State Compensation Insurance Fund processed about 830,000 claims between January 1992 and April 1998. During that time, State Fund reported its investigations resulted in 170 convictions (Fricker 1998). "The actual number of fraud cases sent to prosecutors is less than 1 out of 100, or less than 1%" (Labor Research Association 1998).

Emphasis on claimant fraud has been misleading and greatly misplaced. Evidence suggests that for every $1 lost in claimant fraud, at least $4 to $5 are

lost through premium fraud. "In terms of dollar costs, there's no question that employer fraud today costs more dollars to carriers and to the industry than employee fraud," said Richard Schultz, a spokesman for State Compensation Insurance Fund (Labor Research Association 1998). Moreover, the insurance industry has reported that fraud by employers costs as much or more than fraud by workers. Nevertheless, injured workers continue to be the focus of most fraud prosecutions and legislative reforms that focus on reduction of injured worker's benefits.

In fiscal year 1995-96, California district attorneys reported that out of 1,505 investigations they conducted, 1,220 were workers and 88 were employers. One hundred and twenty medical providers and 15 alleged medical-legal mills were also investigated, but not one insurer. In that same year, the California Department of Insurance reported that out of 202 arrests made, 119 were workers, 21 were employers, 11 were medical providers and 16 were from medical-legal mills, but none were insurers (Fricker 1997).

According to California's Department of Insurance Fraud Division (2002-03) the number of suspected fraudulent claims has fluctuated around 3,500 each year because of the following reasons (See Table 1):

-lower claims frequency

-removal of major medical and legal mills involved in illegal activities,

-reduction in insurers' Special Investigation Units

-deterrence effects resulting from statewide anti-fraud efforts of local district attorneys, the Fraud Division and the insurance industry, and

-fewer insurance companies in the California workers' compensation market.

Table 1

Fiscal Year	Suspected Fraudulent Claims (SFCs)
1992-93	8,342
1993-94	7,284
1994-95	4,004
1995-96	3,947
1996-97	3,281
1997-98	4,331
1998-99	3,363
1999-00	3,362
2000-01	3,548
2001-02	2,968
2002-03	3,544

Source: From California Department of Insurance Fraud Division (FY 2002-2003). *Report on the Program to Investigate & Prosecute Workers' Compensation Insurance Fraud.*

The misconceived notion and presumption by policy analysts and the public that injured workers are malingerers and cheats who are inundating the workers compensation system with fraudulent claims lacks substantiated studies and statistical data. In fact, California state auditors "found that workers compensation insurers violated workers' rights in about half the claims it audited" (Labor Research Association 1998).

Workers' Compensation Reform Effects on Insurance Companies

Promises of relief to California businesses from the strangulation of workers' compensation rates headlined newspapers and swept the halls of the state capitol as legislators bickered over the legislation of SB899. Since 2004, Insurance Commissioner John Garamendi has urged insurers to reduce rates by about 24%. Unfortunately, this urging has fallen on deaf ears. By April 2005, carriers had only reduced rates by 13.9 to 16.6 percent (Chan 2005). In a press release on April 25, 2005, Garamendi said:

> The information I received today is very disturbing. I have heard complaints from across this state that injured workers are losing benefits despite the significant savings created by the reforms of 2003, and to a lesser extent, the reforms of 2004. I have also heard from large and small employers who have not seen the reduction in premiums that the reform savings would lead one to expect. I can find no reason why the amount of premium collected in 2004 rose by 11% while the cost of claims fell by 15% (California Department of Insurance Communications).

California Applicants' Attorneys Association (CAAA) president, David Schwartz, said, "Insurance carriers are reporting obscene profit levels while continuing to squeeze California businesses." Benefits for injured workers have been dramatically reduced to the point where people are losing their needed medical treatment, cars, homes and good credit as a result of the recent reforms that have allowed insurance companies to maximize their profit earnings (California Applicants' Attorneys Association 2005). California workers' compensation insurance carriers reported profit increases of 25% to 36% in 2003. Zenith National Insurance Company, with California workers' compensation insurance representing almost two-thirds of its business, reported its net income of $43.7 million for the fourth quarter of 2004 compared to $20.8

million for the fourth quarter of 2003 (Business Wire 2005). AIG, the state's largest private workers' compensation insurer, reported an increase of 19% in 2003 with a record profit of $11.05 billion for 2004. Earnings for American Financial Group, another top ten workers' compensation insurer in California reported an increase of 43% in the fourth quarter of 2004 (California Applicants' Attorneys Association 2005). David Schwartz commented, "You can keep cutting injured workers' benefits to zero, and without regulation insurance companies may not reduce premiums by a single dollar" (California Applicants' Attorneys Association 2005). Many feel that without regulation of the insurance companies there will not be a substantial relief of workers compensation premiums.

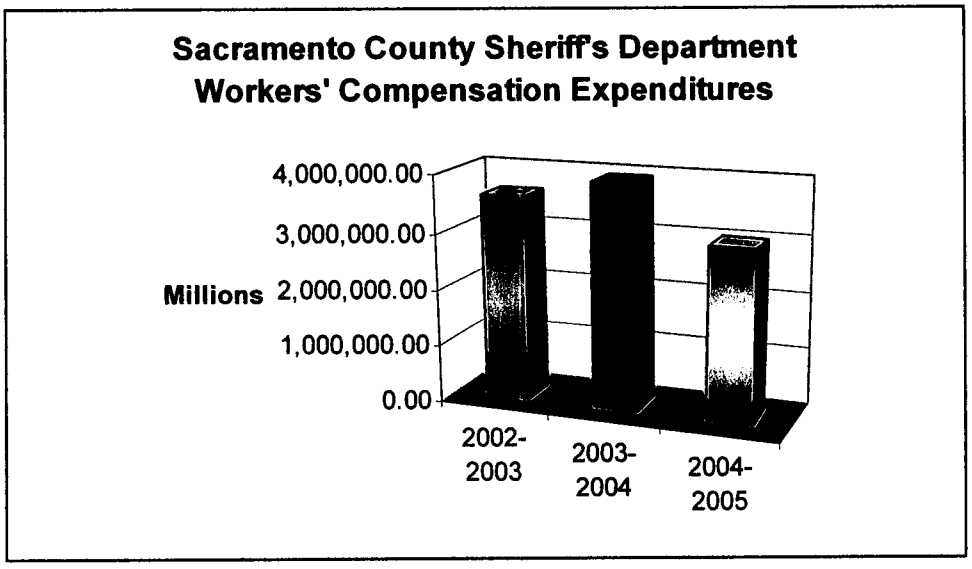
Insurance companies purport profit loss over the seven years prior to implementation of AB227, but some argue those figures may be misleading because they do not show investment income. AB227 acknowledged that the Legislature found that the insolvencies of more than a dozen workers' compensation insurance carriers led to a seriously constricted market and led to dangerous increase in business at the State Compensation Insurance Fund. As a result, the legislation that was implemented in AB227 included an internet rate comparison guide to help employers determine what insurance carriers were offering as coverage. California Insurance Code §11742(b) requires the Insurance Commissioner to establish an online rate comparison for the top 50 workers' compensation insurers. AB227 also charged the Commission on Health and Safety in Workers' Compensation (CHSWC) with completing a study and making recommendations about returning to the Minimum Rate Law. None of

the recent reforms have addressed regulations that cap the rates of carriers, which some argue is the problem with the increased premiums over the past years (State Compensation Insurance Fund 2004).

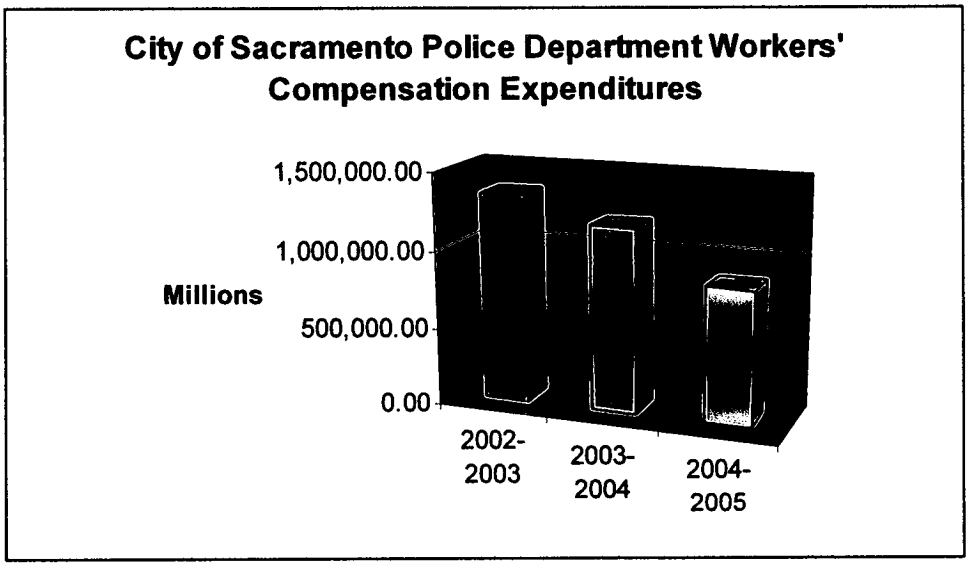
Reform Effects on Medical Treatment

According to proponents of the reform, the goal was to provide relief to California business owners by significantly reducing workers compensation insurance premiums and reducing the increasing medical costs associated with occupational injuries. Reform proponents also promised that this would be done while still providing needed medical treatment to injured workers. "An early analysis of workers' comp claims after enactment of the California reforms indicates that the use of medical guidelines has already had an impact in reducing utilization and claims costs" (Gonzalez, 2004). Some companies have reported saving millions of dollars as a result of the adoption of ACOEM guidelines. Employers have seen significant savings through utilization review as well as changes in the fee schedules for outpatient services (Gonzalez 2004). Examples of these savings are evident in the reported medical costs of the Sacramento County Workers' Compensation Division which reported a considerable reduction from $3,926,220.16 in medical costs for Sheriff's Department public safety employees in 2003 to $3,007,656.56 in 2004 -- a reduction of $918,563.60. This is a 23% reduction in medical costs from 2003 – 2004, which supports the intent of the reform by keeping businesses in

California. The reported claims in 2002 was 465; 2003 was 496; and 2004 was 434.



The City of Sacramento Workers' Compensation Division reported similar reductions with $1,348,927.27 total medical costs from 4/19/2002 to 4/18/2003 and $876,251.76 from 4/19/2004 to 4/18/2005; a reduction of $472,675.51. This is a 35% reduction in medical costs from 2002-2005. The reported number of claims from 4/19/2002 to 4/18/2003 was 468 compared to 459 from 4/19/2003 to 4/18/2004 and 465 from 4/19/2004 to 4/18/2005.



Utilization review has resulted in the denial of care for injured workers, but some argue the guidelines are not rigid and allow for treatment outside recommendations if a doctor can make the case for the treatment requested (Gonzalez 2004). Gregory Krohm, executive director of the International Association of Industrial Accident Boards & Commissions in Madison, Wisconsin, states, "They're [guidelines] are not meant to be followed strictly in all cases." Bill Zachary of Safeway Inc, has voiced his concerns: "He has heard that some organizations are denying treatment without following the protocols that require the use of doctors for peer reviews. This practice is disturbing, he said, because some injuries may legitimately require treatment that falls outside of the guidelines. You just can't say no. The concern I have as a claims professional and as an employer is to make sure the right care gets to workers, and sometimes people will say no because they can" (Gonzalez 2004). Many people directly involved in the workers' compensation system share the same concerns as Zachary. Others feel the system is not being abused and is being utilized the

way it should and they are seeing the positive effects with cost savings. However, according to Stanford School of Medicine Professor and Utilization Review physician, Dr. Steven Feinberg, "the majority of utilization review decisions are not being done in a timely manner and blanket denials for treatment are occurring. I believe that bad utilization review is actually increasing costs, chronic pain and needless suffering" (Quality Care Seminar – sponsored by California Applicants' Attorneys Association May 7, 2005).

The number of voices raised in criticism of the reforms is increasing. The Executive Director of the American College of Occupational and Environmental Medicine, Barry Eisenberg, has publicly expressed his concerns as to how the ACOEM guidelines are being used to deny treatment to injured workers. He wrote a letter to Senator Alarcon (author of SB228) on March 22, 2004 expressing the intent of the ACOEM guidelines. Mr. Eisenberg wrote,

> We have emphasized two key points in our training sessions throughout California: Our guidelines are recommendations, and are not intended as mandates; and most cost savings will come from workers getting the care that is most likely to help them, as close as possible in time to their need for that care, versus applying the guidelines as mandates. We believe it is vital for those who use our guidelines to understand that the guidelines are not intended to serve as mandates or decrees (See Appendix D).

Many doctors feel that these guidelines should be used as recommendations only because it is difficult to have a cookie cutter approach to each and every injury. People respond differently to different types of treatment and not all injuries are the same. According to Stanford School of Medicine Professor, Dr. Steven Feinberg, "Many of the things we [doctors] do is not based on fact." He offered an example of prescribing a Tens Units to injured patients.

He stated there currently is not evidence-based medicine for this type of treatment, but it works for many people. Some believe treatment that works should not be denied in all cases based on the fact that there is not any current scientific evidence supporting that treatment (Quality Care Seminar – sponsored by California Applicants' Attorneys Association, May 7, 2005).

Many lawyers representing injured workers are concerned that their clients are not receiving appropriate treatment as a result of the new reform. The new reform has caused utilization review appeals to be more difficult and/or lengthy, which causes injured workers to be without medical care for longer periods of time. According to reform provisions, it is insufficient to rebut the presumption by having the treating physician disagree based on his or her years of practice and expertise. In order to rebut the presumption, the treating physician will have to refer to other medical guidelines and scientific studies that support the recommended treatment. Assuming the treating physician is willing to prepare such a report, the dispute would then go to a workers' compensation judge for a final decision. This process could take months to resolve while workers are being denied necessary treatment. Some injured workers have turned to paying for their treatment out of their own pocket or seeking treatment with their own private medical providers. The problem is many medical physicians are denying treatment to patients if they are made aware that the injury is work related and the workers' compensation carrier or employer is denying the requested medical treatment. According to the no-fault workers' compensation system the injured worker is not allowed to pay for his or her own medical treatment for work related

injuries. This is forcing injured workers to lie in order to get the treatment they need. It has also forced doctors to turn away patients they know need medical treatment and would benefit from their services.

According to Peggy Sugarman, executive director of VotersInjuredatWork.org, "lawmakers encouraged a rigid interpretation of the rules by writing a subtle yet powerful concept into law." The new legislation made the ACOEM guidelines presumption correct whereas, prior legislation allowed the treating physician's decision to be presumed correct. This presumption made it difficult for insurers to deny medical treatment and some argue promoted overuse of services. Sugarman felt that giving this presumption to insurers encourages abuse in the other direction, causing denial of treatment (San Francisco Gate, February 6, 2005).

Limitations on Chiropractic Treatments

There is particular concern in the treatment category of chiropractic care. Some categories of medical services, such as chiropractic treatment and physical therapy, have been noted as being especially high compared to other states. High costs and excessive treatment are the factors that have sparked limitations on the number of visits (24) to chiropractors, occupational therapists and physical therapists for the lifetime of the injury.

According to a study conducted in 2002 by the Workers' Compensation Research Institute, more than one-quarter of injured workers receive physical medicine services that include chiropractic manipulations and adjustments,

supervised exercise, hot and cold packs, electro stimulation and massage therapy. Approximately 20% of total workers' compensation medical costs represent these types of services. Back injuries represent 41% of all injuries that receive physical medicine services and these services are often utilized to cure or relieve by these types of injuries (Victor & Wang 2002). A Workers' Compensation Research Institute study reported 30% higher costs per claim for chiropractor-directed physical medicine than physician-directed physical medicine care for non-surgical back sprains and strains that achieved similar recovery outcomes. Interestingly, Florida chiropractor-directed claims reported 10% lower costs in cases that achieved similar outcomes as physician-directed physical medicine care. The lower costs were attributed to regulatory restrictions on the number of chiropractic visits or weeks of chiropractic treatment (Victor & Wang 2002).

Contrary to the Workers' Compensation Research Institute study, Manga and Angus (1998) reported that the cost of medical management for neuromuskuloskeletal (NMS) disorders is two times higher than chiropractic management per episode of NMS disorders (See Table 2). This study also found that there is higher patient satisfaction with chiropractic care versus medical management of injuries resulting in low-back pain. The California Chiropractic

Table 2

Total Payments for Patients with 2 Episodes of Care		
	Chiropractic	Medical
First Episode	$635	$1272
Second Episode	$658	$1505
No. of Patients	311	579

Source: Manga, Pran, Ph.D., & Angus, Doug. (1998). *Enhanced Chiropractic Coverage Under OHIP as a Means of Reducing Health Care Costs, Attaining Better Health Outcomes and Achieving Equitable Access to Health Services.* Canada: University of Ottawa.

Association's President, Dennis Buckley identified three significant studies that were released in 2004 that contradicted the higher costs for chiropractic-directed treatment study. According to the California Chiropractic Association, a study published in the Archives of Internal Medicine (2004) reported a 31% lower rate of back surgery with chiropractic treatment and a cost savings of 1.6% in overall health care expenditures. Another study from the Journal of Manipulative and Physiologic Therapeutics (2004) reported a 43% reduction in hospital admissions, 43% outpatient surgeries and procedures and 51% reduction in pharmaceutical costs with patients who treat with chiropractic doctors (California Chiropractic Association 2005).

Positive and negative approaches to chiropractic treatment are difficult to measure with contradicting studies reporting increases and reductions in medical costs with the utilization of chiropractic care.

Rand Study-Recommendations / Commission on Health and Safety and Workers' Compensation Recommendations

A study was conducted by Rand in an effort to evaluate the appropriateness of care provided to California's injured workers based on the requirements of SB228. Evaluation of the Rand study revealed that the panelists preferred ACOEM guidelines over the alternatives. However, evaluation revealed that ACOEM and American Society of Orthopedic Surgeons (AAOS) developers did a poor job of considering implementation issues, and stakeholder interviews indicated that payers are applying the ACOEM guidelines in an inconsistent fashion. Study findings, questioned the validity of ACOEM guidelines for physical modalities (non-surgical topics). Stakeholder interviews suggested that payors in the California workers compensation system are applying the ACOEM guidelines inconsistently with regard to treatment. Rand research suggested implementing regulations to clarify the following priority issues: physical therapy of the spine and extremities, chiropractic manipulation of the spine and extremities, spinal and paraspinal injection procedures, magnetic resonance imaging (MRI) of the spine, chronic pain, occupational therapy, devices and new technologies, and acupuncture. The study also recommended that the State develop a consistent set of utilization criteria (i.e. overuse criteria) to be used by all payors. The following are recommendations to the State for utilization criteria:

1. "Rather than covering all aspects of care for clinical problem, as guidelines do, these utilization criteria should be targeted to clinical circumstances relevant to determining the appropriateness of specific tests and therapies.
2. Rather than defining appropriateness for all tests and therapies provided to injured workers, the criteria should focus on common injuries that frequently lead to costly and inappropriate services.
3. The utilization criteria should be usable for either perspective or retrospective assessments of appropriateness, because utilization management in the California workers compensation system involves both types of activities.
4. The criteria should use precise language so that they will be interpreted consistently."

It was also found that ACOEM guidelines were being applied for topics the guideline does not address or addresses only minimally. The recommendation is that the State issue regulations clarifying the topics for which the adopted guideline should apply and the State should clarify who bears the burden of proof for establishing appropriateness of care. Also, "the State should clarify whether expert opinion constitutes an acceptable form of the 'evidence within evidence based, peer review, nationally recognized standards of care" (Rand Study, 2004).

Methodologies

The hypothesis for this research study is that the California workers compensation reform bills (SB228 & SB899) passed in 2003-2004 has limited the needed medical treatment injured law enforcement public safety employees receive in the Sacramento region. The independent variable is the passage of the California workers compensation reform bills (SB228 & SB899) and the dependent variable is the limitation in needed medical care for injured law enforcement public safety employees.

Primary data was collected through a random sample survey questionnaire (Appendix E) of law enforcement public safety employees at 13 law enforcement agencies in the Sacramento region. A pre-survey draft consisting of nine law enforcement participants was conducted on April 4, 2005 at the Sacramento Police Department to determine the effectiveness of the proposed survey. The pre-survey draft results prompted some changes in the proposed survey. The changes consisted of adding pain medications as an option to choose in question #13 & #16; adding #20 as a follow-up question to #19 – If no, what medical treatment has your doctor prescribed that your are not receiving?; and added "not applicable" as an option to choose in questions #19 & #21.

The final surveys were sent to 1025 Sacramento Police Officer Association (SPOA) members that consist of active and retired peace officers, dispatchers and community service officers. A mass email (Appendix F) was sent to approximately 4138 active law enforcement public safety employees at 12

agencies in the Sacramento region: Sacramento Sheriff's Department/Sacramento Deputy Sheriff's Association – 3300; Davis Police Department – 107; Folsom Police Department – 65; Citrus Heights Police Department – 20; Roseville Police Department – 91; Elk Grove Police Department – 109; Yolo County Deputy Sheriff's Association – 59; Nevada County Sheriff's Department – 27; Marysville Police Department – 39; Woodland Police Department – 9; Yuba City Police Department – 16; and Placer County Sheriff's Department - 296 directing them to an online link where they could complete the survey. The total respondents contacted through hardcopy surveys sent in the mail and email directed links was 5163, of which 345 responded to the survey.

Respondents filled out the confidential questionnaire in the privacy of their homes or workplace. They were guaranteed anonymity and confidentiality of their responses and they were told it would take 1-5 minutes to complete the survey. The questionnaires that were sent to SPOA members were sent a brief letter by the SPOA President, David Topaz, explaining the purpose of the study (Appendix G). These respondents were able to send their questionnaires directly to the SPOA office where the researcher collected them.

It is important to mention that the respondents of SPOA retired law enforcement public safety employees is the only retired law enforcement public safety employees the researcher was able to survey. The statistics of law enforcement public safety employees retiring on industrial disabilities is typically 50%. In short, a larger sample size of retired law enforcement public safety

employees from other Sacramento law enforcement agencies may be beneficial in determining the effects of the reform on medical treatment they would be receiving.

Key Informant Interviews

Several key stakeholders were identified who have direct relations in various areas of the workers' compensation system. Interviews were conducted with local workers' compensation attorney – Dudley Phenix; doctors – Dr. Charles McCrory, M.D., D.C. and Stanford University School of Medicine, Dr. Steven Feinberg; Senator Alarcon's (author of SB228) Principal Consultant, Roger Dillon; Sacramento County Workers Compensation Manager, Denise Currie; Peace Officers Research Association of California President, Ron Cottingham; and Workers' Compensation Appeals Board Judge, Sharyn Sala in an effort to determine the effects of the reform on treatment received by injured law enforcement public safety employees.

Secondary Data

Secondary data statistics were collected from the Sacramento County Workers Compensation Division and the City of Sacramento Workers Compensation Division to determine the effects of the reform on reducing workers compensation medical costs with injured law enforcement public safety employees. The Commission on Health and Safety and Workers' Compensation Recommendations on Workers' Compensation Medical Treatment Guidelines released November 2004 and the Rand Corporation Institute for Civil Justice and

Health study on Evaluating Medical Treatment Guidelines Set for Injured Workers in California conducted November 2004 were also evaluated.

For the purpose of this study, the following definitions apply:

1. **Agreed Medical Examiner** means a doctor who is selected by agreement between the injured worker's attorney and the claims administrator to conduct a medical examination and prepare a medical-legal report to help resolve a dispute.
2. **Alternative work** means if the treating physician reports that the injured worker will never be able to return to the same job or working conditions prior to injury, then the employer is permitted to offer alternative work instead of vocational rehabilitation benefits.
3. **American College of Occupational and Environmental Medicine's ("ACOEM") guidelines** means the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines, 2nd Edition (2004), published by OEM Press. The Administrative Director incorporates ACOEM by reference. It is a publication that provides treatment guidelines to assist in making decisions about appropriate care for the most common types of work-related injuries. A copy may be obtained from OEM Press, 8 West Street, Beverly Farms, Massachusetts 01915 (www.oempress.com).
4. **California workers compensation** refers to a law that was originally mandated by the state Legislature in 1913. This law was designed to

shield employers from liability regardless of fault, as well as provide workers with appropriate benefits for all workplace injuries.

5. **Evidence-based** means using the best available research evidence to support medical professionals' decision-making (Rand, 2004).
6. **Fee schedule** is defined as a schedule that determines the medical fees for California workers compensation cases, which are regulated and paid based on the provisions of the Official Medical Fee Schedule.
7. **Medical-legal mills** means corrupt medical or legal professionals who initiate schemes to repetitively defraud insurers and policyholders by filing fraudulent claims.
8. **Medical Provider Networks (MPN)** are a network of doctors that are composed of both occupational and non-occupational treating doctors that have been chosen by an employer. An injured employee is required to seek medical treatment from a doctor within the MPN unless the employer has pre-designated a physician.
9. **Medical treatment** is defined as what is reasonably required to cure or relieve as the treatment that is in accordance with the utilization schedule or treatment guidelines adopted pursuant to Labor Code section 5307.27 or ACOEM guidelines.
10. **Minimum Rate Law** means a regulated pricing system that existed prior to 1995, which did not allow an insurer to charge less than the minimum rate. They could charge more, depending on risk characteristics, as long as the application of rate was not excessive, inadequate, or discriminatory.

Surplus profits would be returned to policyholders in the form of dividends, other pricing options, and service. The Workers' Compensation Insurance Rating Bureau (WCIRB) developed the rates that were approved by the Insurance Commissioner.

11. **Modified and alternated work** is defined as work requiring at least 85% of injury earnings and location at a reasonable commute distance from residence (Labor Code Section 4658.1).
12. **Qualified medical evaluator (QME)** is a doctor who is selected by either the injured worker, the worker's attorney, or the claims administrator to conduct a medical examination and prepare a medical-legal report to help resolve a dispute. QMEs are certified by the state Industrial Medical Council.
13. **SB228 (California Senate Bill)** refers to the workers compensation legislation that passed in California on September 30, 2003.
14. **SB899 (California Senate Bill)** refers to the workers compensation legislation that passed in California on April 19, 2004.
15. **Treating physician** is a doctor who is responsible for managing the overall care of the injured worker and who writes medical reports that affect the worker's benefits.
16. **Utilization review (UR)** is a process that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, as defined in Labor Code 3209.3, prior

to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600 (SB228, pg. 30). This process is used by insurers to assess the necessity and reasonableness of medical services based upon ACOEM standards.

17. **Vocational rehabilitation** is defined as services to identify possible vocational options and to learn how to perform successfully in specific work roles following a work-related injury affecting vocational performance. It is to assist the injured worker to transition to another job that they are physically or mentally capable of doing.

18. **Workers' Compensation Appeals Board (WCAB)** is the Appeals Board and workers' compensation administrative law judges.

The author of this research study was retired on a public safety industrial disability after eight and a half years of service as a police officer with the Sacramento Police Department.

Results and Findings

Clearly there is dissension among stakeholders as to the most appropriate legislation necessary to provide the most efficient and comprehensive California workers' compensation system. In an environment ripe for reform, promises were made to businesses that there would be relief from skyrocketing insurance premiums and medical costs would be reduced while still providing adequate benefits and medical treatment for injured workers. Literature review suggests business owners have either seen no reductions or only slight reductions in their workers' compensation insurance premiums. Several interviews of stakeholders in various areas of the workers' compensation system supported the quantitative data analysis of the survey study that was conducted, which supported my hypothesis.

I conducted a personal interview with Senator Alarcon's Principle Consultant, Roger Dillon, he stated that his office has received complaints that insurance companies are re-classifying employers into higher classifications, thereby resulting in higher rates. He emphasized that this was merely anecdotal information that has not been substantiated at this point. He stated the information his office received from the Workers Compensation Insurance Rating Bureau is that insurance premium rates are down by an average of 16% since the middle of 2003. "However, we are hearing from small businesses that these reductions are not filtering down to them. Some small businesses are not seeing any impact from the legislation." Mr. Dillon mentioned that the Insurance Bureau offers an advisory rate to workers' compensation insurance companies, but

ultimately the insurance company can implement whatever rates they choose. "Right now the loss ratios for insurance companies are the lowest on record. For every $100 they are taking in they are only paying out $45, which is essentially sixty-five cents for every one dollar in profit and that doesn't even count their earnings from investments." He added, "My boss (Senator Alarcon) feels the missing piece to workers compensation reform is the failure to have a more upward regulation of insurance rates; meaning a cap on rates."

Mr. Dillon said his office receives information in the form of testimony before committees, rallies, letters, phone calls and emails regarding large numbers of people who are seeing delays in medical care or denials of care that their doctors are trying to get approved. This is affecting not only recent cases, but cases that were settled before the legislation passed. He acknowledged, "The ACOEM guidelines are fairly narrow and do not cover all types of treatment, so this is resulting in a lot of people seeing delays and denials of care. Doctors now have to provide justification for the treatments they are prescribing based on evidence in the medical literature. Overwhelmingly, the most direct impact that we are seeing is the denial of care and the delays of care." He said his office is also hearing complaints of a number of people being taken away from the doctor who has treated them for a number of years because of the new Medical Provider Networks (MPN) that have been set up by the employers (Interview--Senator Alarcon's Principle Consultant, Roger Dillon, May 3, 2005).

In a telephone interview with the Peace Officers' Research Association of California (PORAC) president, Ron Cottingham, he stated that he feels the

biggest issue injured public safety employees face is the utilization review (UR) process where he understands that less than 10% of the medical treatment is being approved that is going through the UR process. People are not receiving treatment that exceeds the limitations of physical therapy visits when they are not yet healed and still in need of physical therapy treatment. Mr. Cottingham described a case where an officer had reached his requisite number of physical therapy visits and was only able to lift a three pound dumbbell. Utilization review did not allow him further physical therapy visits and he had been cleared to return to work full duty as a police officer. The injured officer's department is now faced with the decision of whether to medically retire him because he cannot continue treatment. Cottingham said, this officer does not want to retire, but feels if he was able to get further physical therapy treatment he may be able to rehabilitate his arm and shoulder and return to full duty. Mr. Cottingham added, "Within the system itself if you want to challenge your lack of treatment, because the employer has total control of medical treatment, you have to appeal within that system before you can get out of that system to go to your own doctor. That can take several months and by that time it may be almost too late for follow up treatment." He also mentioned, "We feel insurance regulation was the missing link in the recent workers compensation reforms" (Interview-PORAC president, Ron Cottingham, May 12, 2005).

Review of literature has identified discrepancies in how ACOEM guidelines were adopted by the reform and are negatively affecting medical treatment received by injured workers. Inconsistencies in the interpretation of the

ACOEM guidelines have resulted in unwarranted denials of medical treatment that has cured or relieved injured workers in the past as mentioned by both doctors interviewed.

During a personal interview with Dr. Charles McCrory, D.C., M.D. and QME, he said, "The ACOEM guidelines were designed as guidelines not dictated treatment to help place patients through treatment during the first 90 days of injury; meaning during the acute stages of injury." He feels the guidelines were not meant as a whole view of care and were not designed to establish injured people's protocols for chronic pain patients. He added, "Insurance companies, because they wish to save money, have used the ACOEM guidelines to save as much as possible and only allowed people the minimum based on the guidelines." Dr. McCory mentioned that his office is seeing people who have had surgery but are completely debilitated and are being given only medications and home exercises. He commented, "This is an outrage in my opinion."

According to Dr. McCrory, the big issue with Medical Provider Networks (MPN) is that insurance companies are hiring physicians that say exactly what they want them to say. He said, "The reason I know this is I was hired by an insurance company in Oregon where I was sent four patients. I referred them for needed care and I was screamed at for sending them for unnecessary care and wasn't clearing up claims like I should." Dr. McCory stated he is concerned that a lot of physicians are not being honest within these networks. He mentioned that back pain is the largest healthcare condition in the world and he is seeing defense physicians saying nothing more can be done for these patients. He

stated he has seen defense physicians prescribe simple medications and home exercises for serious back injuries. He added, "It's like saying AIDS is like having a bad case of the flu and what they need to do is take NyQuil and change their diet. It is a preposterous treatment regimen. In the short-term it has saved money but I think the impact to society is much greater." Dr. McCrory acknowledged that injured workers for the most part are prevailing in the appeals process and most of them have gotten the care he originally prescribed. He feels the bigger issue is the delay in treatment that is needed. He reported patients waiting 4, 8, 10 or 12 months just to get the process going. Dr. McCrory said he is seeing patients conditions worsen as a result of this lengthy process. He added, "The next treatment you ask for is also rejected, so then you have to go back in to get that approved. All it does is take industrial injuries that if it treated in a timely fashion would get reasonable results." Literature research also supported Dr. McCrory's concerns regarding the effects on injured workers with the lengthy process of getting treatment approved.

During the interview, Dr McCrory expressed that utilization review is not designed to streamline care and make it more innovative. He stated he feels it is designed to say no. He said, "A lot of the protocols for treating the spine--conservative treatment, chiropractic, medicinal care pain management and surgery--have been developed over 40, 50, 60 and 80 years. Now all of a sudden none of it works?" He added that ACOEM guidelines are allowing treatment to be denied based on the fact that there are no well-respected scientific studies that show certain types of treatment work. He is not opposed to implementing

medical treatment guidelines and feels the Pressley Reed medical treatment guidelines are a better compilation of guidelines that looks at the best treatment for different conditions. He said, "Pressley Reed is not designed to restrict care or deny people proper care. It is designed to have an algorithm of proper care in a timely fashion for the benefit of the patient and to achieve a cost-effective outcome" (Interview – Dr Charles McCrory, M.D., D.C, QME, pain management specialist, April 17, 2005).

I interviewed Dr. Steven Feinberg who is a member of the American Board of Pain Medicine and the American Board of Physical Medicine and Rehabilitation. He is a Clinical Associate Professor at Stanford University School of Medicine, a Qualified Medical Examiner, and he conducts utilization reviews for EK Health. He agrees with the utilization of the ACOEM guidelines if they are used properly, but feels that many choose to abuse the intended recommendations of ACOEM. Dr. Feinberg acknowledges, "Every utilization review company is different, but some are implementing ACOEM guidelines as mandates as opposed to medical treatment recommendations." According to Dr. Feinberg, another recognized problem is that doctors are not use to having to provide explanation for prescribed treatment. Doctors become frustrated by the new legislation that requires evidence-based medicine in order to get treatment approved. The insurance companies win in this situation because doctors give up on trying to get the needed treatment approved. Ultimately the injured worker is negatively affected.

Another concern with the changes is the legislation is how it is affecting injured workers who settled their cases prior to the reforms. He feels these people may be the hardest hit when it comes to getting medical treatment because attorneys are no longer interested in their cases or they are no longer practicing. The insurance companies deny treatment because they know there is not much the injured worker can do and they know the injured worker is not usually sophisticated enough to know to ask for a review.

When asked if he felt these reforms were affecting injured workers returning to work Dr. Feinberg said, "Yes, I think it is probably keeping them from going back to work. When you don't treat someone who needs to be treated you create anger." He said there are treatments that are being denied routinely that he has prescribed for years and work, but don't have evidence-based studies to justify them. He acknowledged that just because there are not evidence-based studies does not mean they do not work. "A significant percentage of what physicians do, rightly or wrongly, for musculoskeletal and chronic pain conditions, do not fall within ACOEM guidelines or have any evidence-based medicine scientific basis. There is much the ACOEM guidelines equivocate on or do not cover at all" (Interview--Utilization Review Dr. Steven Feinberg, May 18, 2005).

An example of the negative impact of utilization review and ACOEM guidelines is with one of the survey respondent's replies, "My Doctor prescribed additional physical therapy for recovery from my shoulder surgery. The comp carrier refused to go beyond the new PT appointment schedule. As a result, I still have considerable pain in my shoulder that I believe would have been

rectified with the additional time at PT. I was back working full time so the cost would have been minimal. But they decided to go against medical advice to save money." Another survey respondent wrote, "I was diagnosed with a Parse fracture in my L5. The medical Doctor dosed me up with pain meds and said rest. I don't like the way pain meds make me feel so the Doctor suggested I see a Chiropractor. The Chiropractor was an absolute miracle. In a week I went from not being able to make the slightest movements without experiencing extreme pain to being able to walk and bend without pain. Workers Comp, however, has limited chiropractic care to 24 visits per year, so now I am paying for the care out of my pocket." Survey data collection noted similar comments reported by other survey respondents. Respondents also admitted using their own private medical insurance to obtain treatment for their work injuries because they were not receiving the treatment they needed from workers' compensation. All interview recipients mentioned concerns regarding injured workers paying for their own medical treatment and the consequences for allowing this to occur in our no-fault workers' compensation system.

During the Quality Care Seminar, sponsored by the California Applicants' Attorneys Association on May 7, 2005, Workers Compensation Appeals Board Judge, Sharyn Sala, stated she has seen more cases recently where compromises have been made on authorizing injured workers to pay out of their own pocket for chiropractic or physical therapy visits past the mandated 24-visit limit. Judge Sala did not have any legal advice for those injured workers whose doctors are not willing to treat them when the insurance carriers or employers are

denying prescribed treatment. She said, "We will start to see these types of decisions made on appeal, until then I don't know what to tell those people" (Quality Care Seminar-- sponsored by California Applicants' Attorneys Association May 7, 2005).

An interview was conducted via electronic mail with Judge Sala who has been a judge for over fourteen years. She said, "Traditionally, an applicant has not been able to pay for their treatment except after their case has totally settled, including rights to further medical care. My theory is that the legislation cannot preclude them from getting treatment both from WC and at their own expense." She mentioned that in her view the biggest problem with getting medical treatment approved is the lack of communication between the utilization review doctor or AME/QME, if applicable, and the recommending physician. Treating physicians are not taking the time to substantiate their recommendations with the evidence-based studies now legislatively mandated. According to Judge Sala, "The net result is that often times treatment is probably being denied with only a cursory comparison of the ACOEM guideline to the injury. I have no idea how many workers are merely accepting the denials without fighting, either because they don't know how or because they feel they can't accomplish anything."

When asked how the reform is affecting patients who have had their cases settled prior to April 19, 2004 with an award of lifetime medical treatment Judge Sala responded by saying, "In some ways they are the hardest hit. They are the ones who do not understand why, when they have been getting chiropractic three times a week for twenty years (I do not exaggerate; these cases exist, and are

the reason for what some consider a draconian legislative reaction) it should all of a sudden be cut off. Usually, these patients are not even given a 'weaning' off. Most of them end up selling out their right to further medical treatment" (Interview – Workers Compensation Appeals Board Judge, Sharyn Sala, May 20, 2005).

In a personal interview with Sacramento County Workers' Compensation Manager, Denise Currie, I was able to gain a different perspective as to how her agency is dealing with the affects of this legislation. She mentioned, although her agency is not doing this, she has heard that some companies are not using discretion and sending everything to utilization review (UR), which is causing delays in treatment. "At our agency, only 7-8 go to utilization review out of 100 claims and we are only sending unique things to utilization, such as IDET, rhizotomy, Prolo therapy, Botox injections and some chiropractic treatments where the extent of treatment is excessive--acute level for extended periods of time. The legislation hasn't impacted the more recent injuries (last couple of years). There hasn't been changes to their medical treatment, but for some of the older claims we are sending ongoing chiropractic treatment for 10-15 years to utilization review and most of the time they are being denied." She feels the reforms have been a benefit to injured workers by providing medical treatment from the first day of injury up to $10,000 until the claim is accepted or denied. This allows injured employees to receive immediate medical treatment without having to wait for the claim to be accepted and they don't have to pay for treatment they received if the claim is eventually denied." However, she feels the

reform has negatively affected injured workers within the workers' compensation industry at large, but not with the injured employees for Sacramento County.

Mrs. Currie expressed Sacramento County's workers' compensation medical costs had gone down each month for the last eleven months. She estimated the medical costs reduction as varying from 5%-25% and a claims reduction of 10-12%. She attributed medical cost reductions to utilization review and doctor self-monitoring, so they are not over-treating the way they were before because they want to be part of the networks. We saw this occur before SB899 was implemented because doctors began to market heavily to get into the networks (Interview--Sacramento County Workers Compensation Manager, Denise Currie, April 15, 2005).

Clearly the reform has accomplished the promised goal of reducing medical costs as is evident by the data collected from the Sacramento County Sheriff's and City of Sacramento Police Department workers' compensation expenditures ranging from 23-35% reduction.

I conducted a personal interview with Workers' Compensation Attorney, Dudley Phenix, who has represented many injured law enforcement public safety employees. He also provided a legal analysis of the workers' compensation legislation proposals prior to their implementation to Peace Officers' Research Association of California (PORAC) president, Ron Cottingham. He identified several areas of concern in the proposed legislation. After reviewing the effects of the legislation on injured law enforcement public safety employees Mr. Phenix feels there should be serious concern as to the implications of police officers who

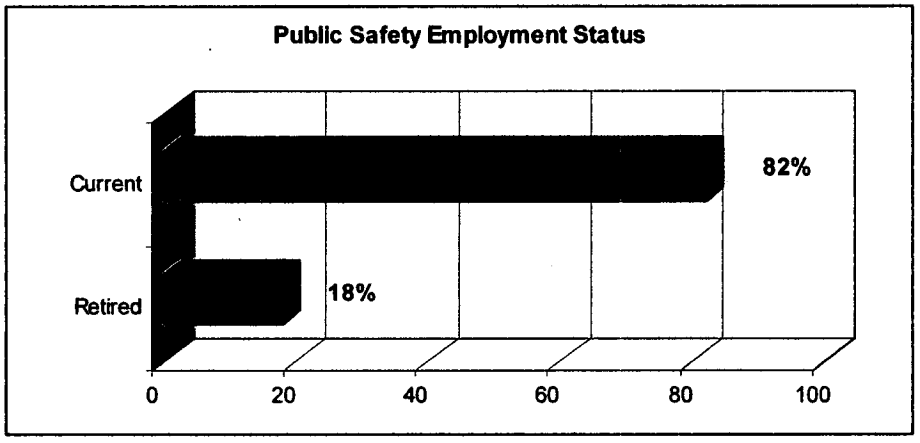
are continuing to work when their treatment is being denied by utilization review based on the ACOEM guidelines. The impact of this legislation is not only keeping injured workers from returning to work it is allowing injured law enforcement public safety employees to continue to work without receiving the treatment they need. He is concerned this may cause more severe damage leading to more medical retirements with higher disability ratings, which will cost the state more money in the long run. He expressed his concern that this legislation is allowing injured police officers to work in dangerous situations without being at peak levels of health. He feels the ACOEM guidelines are not applicable to so many medical situations and there are many significant flaws in these guidelines. One recognized problem with the adoption of the ACOEM guidelines is there was no orthopedic surgeon on the panel when considering the adoption of these treatment guidelines. He feels another significant problem is that the legislation adopting the ACOEM guidelines was signed and implemented prior to the guidelines even being published. He noted that of the workers' compensation costs, approximately 30% is temporary and permanent disability payments and approximately 70% are medical costs. He feels the intention of insurance companies to cut the medical costs in half by the legislation bills that were enacted increased insurance profits by billions of dollars. He said, "Injured workers were sold out. There will be all kinds of ripple affects on society. A lot of private insurances will be paying the medical bills for work injuries now. There was complete lack of consideration for the injured worker with this legislation" (Interview—Workers' Compensation Attorney, Dudley Phenix, April 6, 2005).

Survey Results

Data was collected through a random sample survey questionnaire (Appendix E) of law enforcement public safety employees at 13 law enforcement agencies in the Sacramento region.

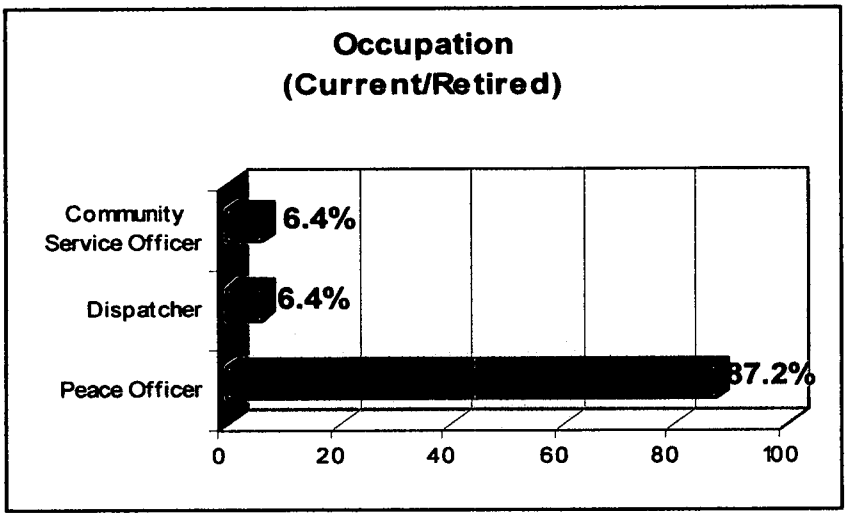
Survey Question #1 – Are you currently employed as a public safety employee?
Survey Question #2 – Are you a retired public safety employee?

The majority of respondents of the study were currently employed as law enforcement public safety employees.



Survey Question #3 – Choose your current or retired occupation:

Slightly over 87% of the respondents were peace officers and an equal 6.4% of dispatchers and 6.4% community service officers responded to the survey.

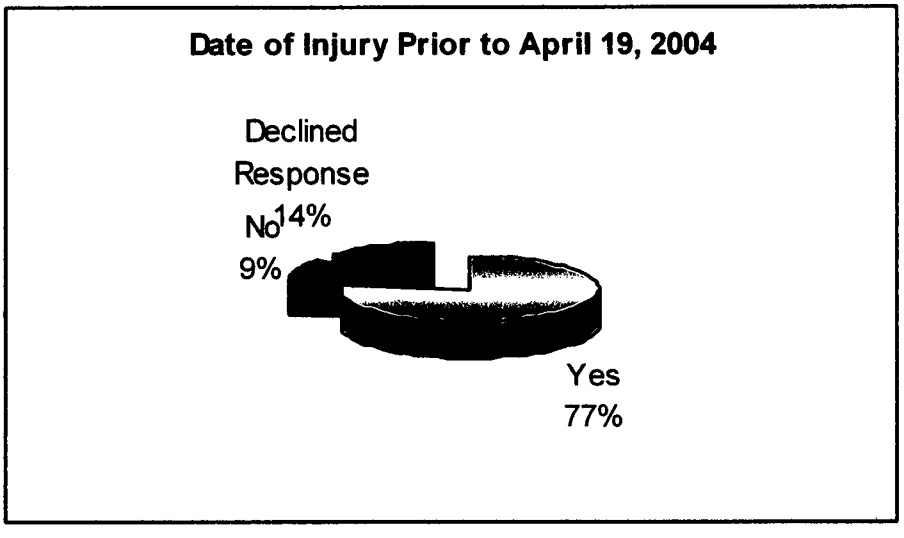


Survey Question # 4 – Have you ever been injured while on duty?

Eighty-one percent of respondents reported being injured while on duty, while 19% had not. The respondents that had not been injured while on duty were asked to discontinue the survey and did not answer any further questions.

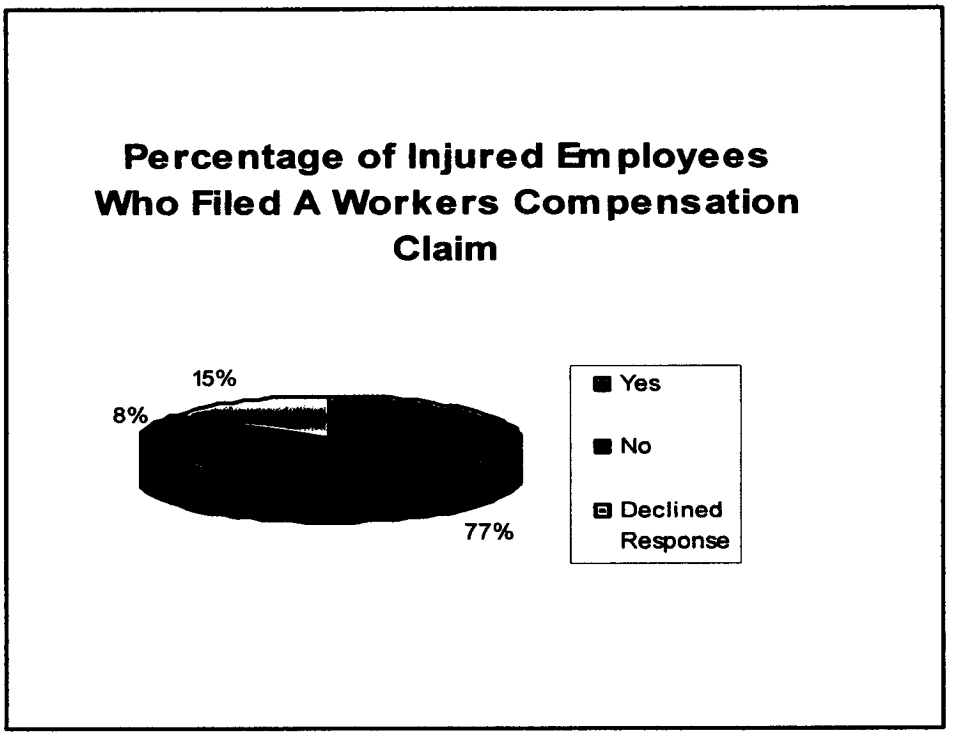
Survey Question #5 – Was your date of injury prior to April 19, 2004?
Survey Question #6 – What was your date of injury?

Seventy-seven percent of respondents were injured prior to April 19, 2004, 9% were injured after April 19, 2004 and 14% declined to answer.



Survey Question #7 – Did you file a workers' compensation claim with your employer?

Seventy-seven percent of respondents filed a workers' compensation claim with their employer, 8% did not file a claim and 15% declined to respond.



Survey Question #8 – If yes, was your claim accepted or denied?

A majority of the claims were accepted with 95.4% of the respondents answering accepted and 4.6% of the respondents claims were denied.

Survey Question #9 – Was your workers compensation case settled prior to April 19, 2004?

Of the respondents who answered this question, most of the claims were settled prior to April 19, 2004 with 70.2% of the respondents answering yes and 29.8% of the respondents answering no.

Survey Question #10 – Was your workers compensation case still open when the reform went into affect on April 19 2004?

Fourteen percent of respondents claimed this question was not applicable to them, 28.8% answered yes and 57.2% answered no.

Survey Question #11 – Did you seek medical treatment for your injury prior to the April 2004 SB899 workers compensation reform?

Of the respondents who answered this question, 91% sought medical treatment for their injury and 9% claimed they did not.

Survey Question #12 – Before the reform went into affect April 19 2004 did the claims adjuster accept or deny your medical treatment?

Of the respondents who answered this question, 92.3% stated their claims were accepted and 7.7% were denied.

Survey Question #13 – What type of treatment did you receive?

Pain medication	59.6%
Acupuncture	6%
Chiropractic	25.1%
Physical therapy	66.7%
Trigger point injections	10.9%
Other (please specify)	50.6%

Of the respondents who answered other, the following is the medical treatment respondents reported receiving.

Surgery	85
MRI	4
Ultrasound	1
Heart Attack Treatment	5
Epidural Injections	3
Orthodics	1
Heat/Cold Therapy	1
Emergency Room Treatment	2
Massage	7

Sutures	5
Hearing Aids	4
Medications other than for pain	3
Tetanus Injection	1
Botox Injections	2
Brace	1
Stress Management Treatment	2
Gym Memberships	3
Medical Doctor	6

Survey Question #14 – Please check the following time frame in which you received approval for your medical treatment prior to the reform.

0-2 weeks	47.2%
2 weeks-1 month	15.1%
1-2 months	10.3%
2-3 months	3.2%
3-4 months	3.6%
4-6 months	2.8%
6 months or longer	17.9%

Survey Question #15 – After the reform went into affect in April 2004 was there a change in the medical treatment that was approved by the workers compensation adjuster?

Of the respondents who answered this question, 14.7% had a change in the medical treatment that was approved, 30.9% answered no and 54.4% answered not applicable.

Survey Question #16 – What type of treatment did you receive after the reform went into affect? Check all that apply.

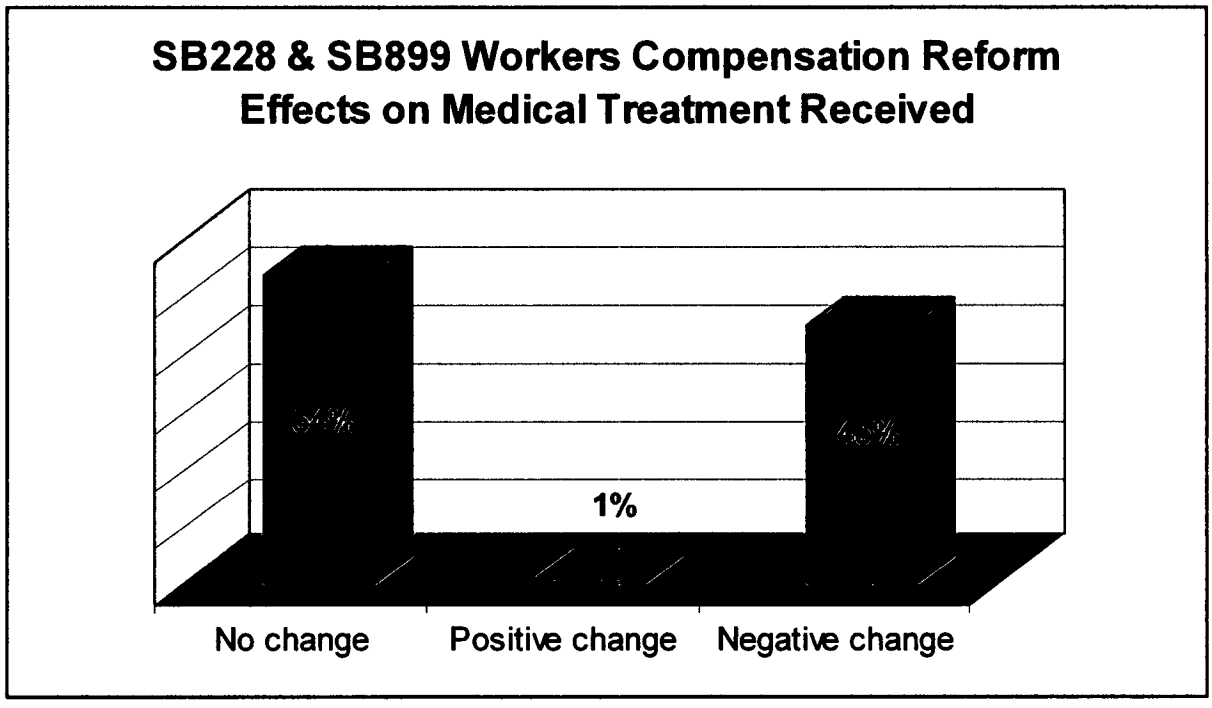
Pain medication	19.6%
Acupuncture	2.1%
Chiropractic	11.5%
Physical therapy	15.7%
Trigger point injections	4.3%
None because I recovered from my injury	48.5%
None because treatment was denied	8.5%
Other	27.2%

Survey Question #17 – If you received treatment please check the following time frame in which you received approval for your medical treatment after the reform went into affect.

0-2 weeks	50.4%
2 weeks - 1 month	13%
1-2 months	12.2%
2-3 months	8.7%
3-4 months	4.3%
4-6 months	0.9%
6 months or longer	10.4%

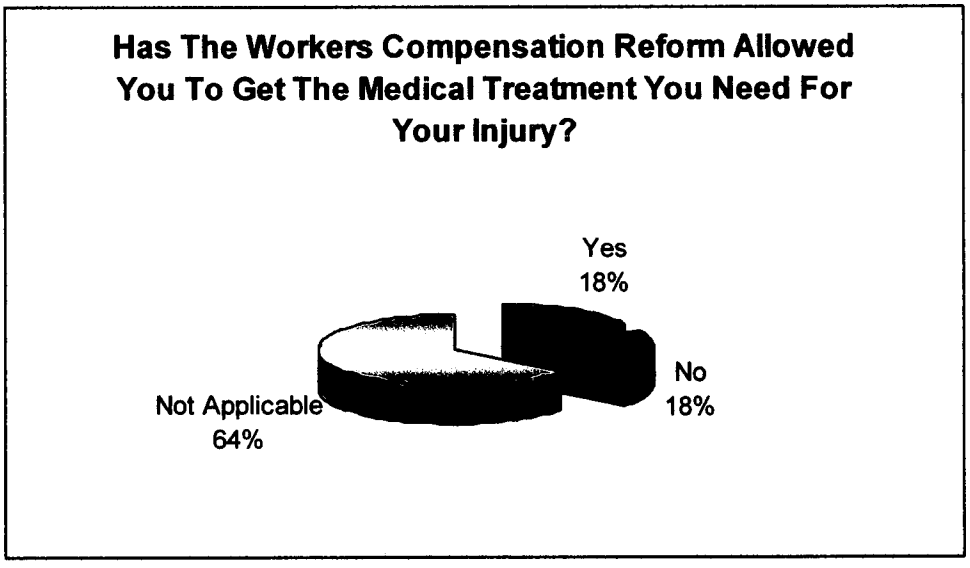
Survey Question #18 – How has the 2004 SB899 workers compensation reform affected the medical treatment you have received?

Of the respondents who answered this question, 54% reported no change in the medical treatment they receive, 1% reported a positive change and 45% reported a negative change.



Survey Question #19 – Has the 2004 SB899 workers compensation reform allowed you to get the medical treatment you need for your injury?

Eighteen percent of the respondents felt the reform allowed them to get the medical treatment they needed for their injury. Equally, 18% reported they were not able to get the medical treatment they needed for their injury, 64% of respondents answered not applicable.



Survey Question #20 – If no, what medical treatment has your doctor prescribed that you are not receiving?

Physical Therapy	13
MRI/Diagnostics	5
Chiropractic	11
Massage Therapy	6
Acupuncture	2
Epidural/Trigger Point Injections	2
Referral to Specialist	3
Ongoing Medical Maintenance	2
Gym Membership	2
Medications	2
Tens Unit	1
Spinal Traction	1
Surgery	3

The following are additional comments respondents added.

> "I did not pursue more treatment due to the increased difficulty in getting treatments approved."
>
> "I don't receive the additional physical therapy in a timely manner. I have to wait weeks and sometimes months to get doctors reports filed to workers comp to get accepted additional therapy. No problem before AB899. The same applies to surgeries."
>
> "Workers Comp Doctor won't prescribe anything but meds."

"Workers comp just informed me that they are not going to be approving any post-surgery physical therapy. They said under the new laws, it is difficult to pay for PT or chiropractic care."

"Continuing chiropractic treatment for cumulative back injury previously approved under the presumption and treated until this legislation came into effect."

"The Doctor will not do an MRI because the county will not pay for it."

"I use to be able to get chiropractic care as needed. My back has flare-ups where an adjustment eases my pain. Worker comp said if the pain is permanent and it cannot get better with treatment you are discontinued. You are screwed if you have an injury that cannot be rehabilitated. I am a Sheriff's Security Officers who was hit and dragged by a car on duty attempting to capture a fleeing felon. The suspect was shot and I was presumed dead."

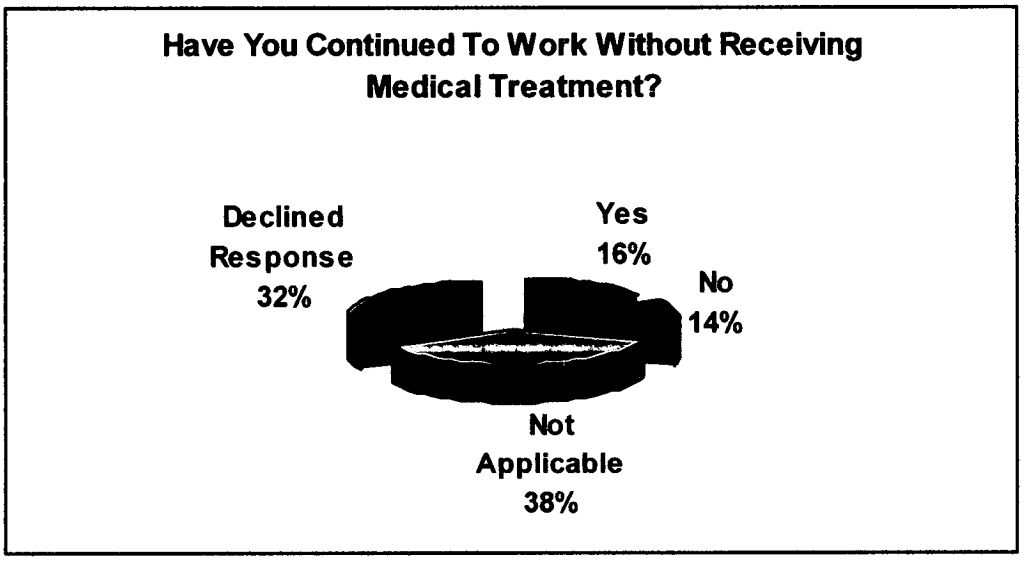
"Need for surgery again for ACL repair per the doctor. I am also in need of an MRI, which they will not approve. They will approve the surgery. However, they will not authorize the MRI. The doctor will not do surgery until the MRI is completed."

"My Doctor prescribed additional physical therapy for recovery from my shoulder surgery. The comp carrier refused to go beyond the new PT appointment schedule. As a result I still have considerable pain in shoulder that I believe would have been rectified with the additional time at the PT. I was back working full time so the cost would have been minimal. But they decided to go against medical advice to save money."

"In the past I was able to get treatment every one to two weeks as a health maintenance. Now I can only receive treatment when my condition is interfering with my ability to perform my duties. I have to wait until I am in pain and can explain how the injury is negatively affecting my performance."

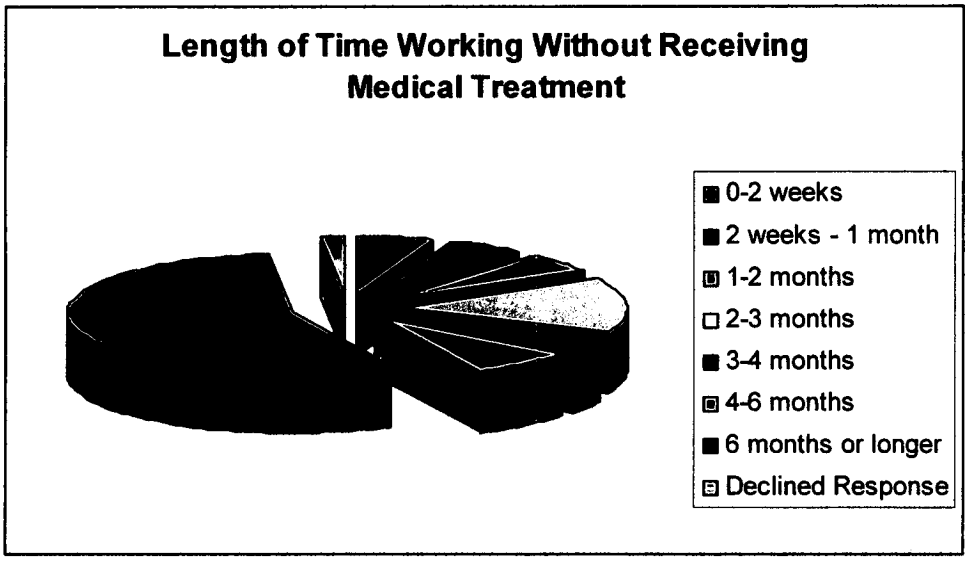
Survey Question #21 – Have you continued to work without receiving medical treatment?

Sixteen percent of the respondents have continued to work without receiving medical treatment, 13% have not continued to work without medical treatment, 39% answered not applicable and 32% declined to answer.



Survey Question #22 – If yes, how long have you worked without receiving medical treatment?

0-2 weeks	5.6%
2 weeks - 1 month	5.6%
1-2 months	5.6%
2-3 months	14.8%
3-4 months	3.7%
4-6 months	7.4%
6 months or longer	55.5%
Declined Response	1.8%



Summary and Conclusions

The ACOEM guidelines do not appear to be comprehensive enough in covering all necessary physical modalities and are being applied inconsistently. Utilization review has been causing delays and denial of prescribed diagnostics and medical treatment for injured law enforcement public safety employees. Injured employees are returning to work without the treatment they need, potentially causing more severe damage and ultimately costing more money long-term. Due to the limitations on physical therapy, occupational and chiropractic visits injured employees are not getting the therapy they need post-surgery because they reached the requisite visits allotted during their acute level of injury. Injured workers are being forced to pay medical bills for injuries they incurred on the job, which defies the purpose of the California no-fault workers' compensation system. Finally, doctors are discontinuing treatment of workers compensation patients because of reduced medical fee schedules and the increased work of justifying their prescribed treatments with evidence-based scientific studies.

Data analysis of the City and County of Sacramento's Workers' Compensation Division supports the reduction of medical costs up to 35%. However, reduction of workers' compensation insurance rates for employers is much less than expected while insurance companies are reporting record profits.

Finally, empirical survey data revealed 50% of respondents in need of medical treatment are not receiving the treatment they need and 45% reported a negative change in the medical treatment they receive since the reform.

Recommendations

A review of the literature has identified discrepancies in reform-adopted ACOEM guidelines affecting medical treatment of injured workers. Analysis of the Rand study and Commission on Health and Safety and Workers' Compensation report may be beneficial in determining more efficient and effective means to make certain medical treatment for injured workers is obtained when reasonable and necessary.

As recommended by the Rand study and Commission on Health and Safety and Workers' Compensation report the State needs to impose regulations clarifying the topics (physical therapy of the spine and extremities, chiropractic manipulation of the spine and extremities, spinal and paraspinal injection procedures, magnetic resonance imaging (MRI) of the spine, chronic pain, occupational therapy, devices and new technologies, and acupuncture) for which the adopted guidelines should apply. The State needs to clarify whether expert opinion constitutes an acceptable form of the evidence within evidence based, peer review and nationally recognized standards of care. Legislation imposing significant financial penalties on insurance companies or employers that delay medical treatment decisions by unnecessary utilization review or that fail to notify injured workers promptly need to be implemented as an incentive for compliance. Agency recommendations include training to employers, insurers, physicians and patients should be implemented to provide a better understanding of the guidelines and how they are to be interpreted in each individual case. This education may discontinue discrepancies on guideline interpretations that

currently exist and to avoid unnecessary denials and delays of treatment. In addition, law enforcement public safety employers should provide a workers' compensation employee relations officer aside from the workers' compensation adjustor to facilitate a less adversarial relationship and provide better communication and resources for the employee in an effort to get timely medical treatment necessary to return the employee to work.

If the Administrative Director of the Division of Workers Compensation chooses not to maintain the ACOEM guidelines as the standard of care then a more comprehensive treatment guideline needs to be implemented that covers all types of injuries and all levels--acute as well as chronic.

If ACOEM guidelines remain the standard of care guidelines for treating physicians and the medical utilization schedule, then the Division of Workers' Compensation Administrative Director needs to address three issues: adopting a medical treatment utilization schedule for both surgical and non-surgical procedures, adopting adequate guidelines with respect to spinal surgery, and incorporating comprehensive and appropriate treatment schedules for physical modalities that may not be currently addressed by the ACOEM Guidelines. Developing guidance for clinicians when treatment is not covered by the official utilization schedule is also needed.

Legislation needs to be implemented that mandates monitoring for Medical Provider Networks to ensure that appropriate treatment is not being denied by physicians who are only looking out for the interest of the insurance carrier or employer. Additionally, legislation needs to be adopted that regulates

the insurance premium rates for employers can actually see the legislature's promised significant savings from workers compensation reform.

Implementing these recommendations will allow injured law enforcement public safety employees to get the treatment they need while maintaining reasonable workers compensation medical costs and reducing workers compensation insurance premiums for both large and small employers.

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Appendix A

Summary of SB228 – Medical Treatment Provisions:

ADOPTION OF UTILIZATION GUIDELINES

Mandates adoption of utilization guidelines and attaches a presumption of correctness to the utilization guidelines.

REPEAL OF TREATING PHYSICIAN'S PRESUMPTION

The treating physician's presumption of correctness for treatment for all dates of injury, except in cases where the employee has pre-designated his or her personal physician was repealed.

UTILIZATION REVIEW SYSTEMS

All employers are required to adopt utilization review systems, consistent with the American College of Occupational and Environmental Medicine Occupational Medical Practice Guidelines. In cases involving spinal surgery, denials will go to expedited second opinion process. In all other cases the existing qualified medical examiner/appointed medical examiner process will continue to apply.

OUTPATIENT SURGERY CENTERS

Allow self-referral to outpatient surgery center where the provider discloses the financial relationship to the employer and the employer pre-authorizes the treatment at the center.

Appendix B

Summary of SB899 - Medical Treatment Provisions:

REPEAL OF TREATING PHYSICIANS PRESUMPTION Labor Code Section 4062.9

The presumption of correctness of the treating physician was repealed and applicable to all cases, regardless of the date of injury.

MEDICAL TREATEMENT DEFINED Labor Code Section 4600

Medical treatment is defined as what is reasonably required to cure or relieve as the treatment that is in accordance with the utilization schedule or treatment guidelines adopted pursuant to Labor Code section 5307.27 or ACOEM guidelines.

PRE-DESIGNATION OF PHYSICIAN Labor Code Section 4600

The employee has a right to pre-designate a treating physician. Otherwise, the employer has medical control for the first 30 days, after which the employee gets the right to select the treating physician. If the employer establishes a medical treatment network, employees who did not pre-designated must receive care only through the network. After the first visit the injured worker has the right to choose a doctor within the medical network. The injured worker is authorized to obtain a second and third medical opinion with in the network if he/she disputes diagnosis or treatment prescribed by the treating physician. Authorized treatment outside of the network must be approved by the employer or the insurer.

An employer or insurer has the exclusive right to determine the members of their network.

MEDICAL BILLING Labor Code Section 4603.2

All payments for medical treatment shall be at the fee schedule amount, except under written contract.

TREATMENT GUIDELINES Labor Code Section 4604.5

Guidelines can only be rebutted by scientific medical evidence. Guidelines must be evidence based, nationally recognized and peer reviewed.

Injuries occurring on or after January 1, 2004, imposes limit of 24 visits on occupational therapy, along with 24 chiropractic care, and 24 physical therapy visits for life of the injury, unless the employer authorizes additional visits.

A new provision was enacted for requests on all spinal surgery (neck and back). If the treating physician recommends spinal surgery, the employer/insurance carrier may object and force the injured worker to be evaluated by an Agreed Medical Examiner (AME) selected by both sides or a Qualified Medical Examiner (QME) selected by the administrative director of the workers' compensation appeals board. The decision of the AME or QME is final with no right of appeal by either side and significant delays may occur while the issue is resolved.

IMMEDIATE MEDICAL TREATMENT

The insurer must provide immediate medical treatment from the first day of injury until the claim is accepted or denied. Liability for medical treatment is limited to $10,000 until the claim is accepted.

VOCATIONAL REHABILITATION Labor Code Section §139.5 & 4658.5

SB899 repealed vocational rehabilitation benefits for injuries before January 1, 2004. Injuries prior to January 1, 2004 must utilize vocational rehabilitation prior to 2009.

AB227 September 30, 2003 added Section 4658.5 to the Labor Code, to read:

(a) Except as provided in Section 4658.6, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability, the injured employee shall be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state approved or accredited schools, as follow:

(1) Up to four thousand dollars ($4,000) for permanent partial disability awards of less than 15 percent.

(2) Up to six thousand dollars ($6,000) for permanent partial disability awards between 15 and 25 percent.

(3) Up to eight thousand dollars ($8,000) for permanent partial disability awards between 26 and 49 percent.

(4) Up to ten thousand dollars ($10,000) for permanent partial disability awards between 50 and 99 percent.

RETURN TO WORK INCENTIVES Labor Code Section §139.48

Return to work compensation reimbursement incentives are offered to employers who offer worksite modifications to accommodate the employee's return to work.

INDEPENDENT MEDICAL REVIEW

Established a system of independent medical review (IMR) for requesting resolution of disputed health care service issues. The standard to be used for IMR is identical to that established in ACOEM guidelines or the utilization schedule.

Appendix C

California Constitution
ARTICLE XIV LABOR RELATIONS

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate court of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

Appendix D

AMERICAN COLLEGE OF
OCCUPATIONAL AND
ENVIRONMENTAL MEDICINE

March 22, 2004

The Honorable Richard Alarcon
California Senate
State Capitol
Room: 4035
Sacramento, CA 95814

Dear Senator Alarcon:

This letter is to update you and your staff on some of the messages that the American College of Occupational and Environmental Medicine ("ACOEM") has given those who attended training sessions sponsored by the Division of Workers' Compensation in recent weeks. We have delivered a consistent message at ACOEM-sponsored training sessions in California, and our intent is to reinforce these concepts at future training sessions.

We have emphasized two key points:

- *Our guidelines are recommendations, and are not intended as mandates; and*
- Most cost savings will come from workers getting the care that is most likely to help them, as close as possible in time to their first need for that care, versus applying the guidelines as mandates.

We believe it is vital for those who use our guidelines to understand that the guidelines are not intended to serve as mandates or decrees. They are recommendations that are based on the best available evidence. We have told the various conference attendees that when a physician's request does not meet guidelines, it does not automatically mean that the request is inappropriate. It means that it is important to learn from the physician whether there is a compelling rationale for deviating from the guidelines. If there is such a compelling rationale, and if the physician's recommendation is otherwise reasonable, there is no guidelines-related reason why the request should not be approved. Further, the Guidelines have been created in such a way that as new medical evidence is developed and evaluated, the Guidelines can be updated to ensure that they remain current with the fundamental principles of evidence-based medicine under which they were created.

time, as familiarity with the Guidelines grows, and as practice patterns naturally conform more and more to the accepted guidelines, such requests for exceptions should become more limited to those with genuinely legitimate medical exceptions. Thus, the burdens on the "system" for processing such requests can be expected to steadily diminish.

We have stressed in our training and other communications that true cost savings are not likely to come from simply saying "no". We have pointed out that saying "no" to a request may convert the request from a medical issue to a payment and/or legal issue. What had been an issue for physicians to resolve based on consideration of clinical factors, could become a legal issue about whether a carrier has improperly denied payment for a service. We have pointed out that the costs associated with the resolution of such non-clinical issues can completely negate the savings that will occur from the improvements in clinical care that will certainly be effected when the medical care system provides necessary care as close in time to the need for such care as is possible.

In our public statements and our training sessions, we have done our best to communicate what we believe are two fundamentally important points. First, it is our belief that maximum efficiency of the workers' compensation system can best be achieved, by focusing on the needs of the injured workers and by providing optimal clinical care based on evidence-based best practices. In addition, we feel it is important for clinicians, attorneys, employers and insurers all to recognize that they share a common interest in helping the injured worker return to health and function as quickly and as safely as possible. Therefore, we encourage all those involved in the workers' compensation system to focus on their numerous shared interests, rather than on the few differences that divide them.

ACOEM greatly appreciates the trust that your legislature has placed in us. We hope that this brief summary of some of the points we have made in training sessions will help you conclude that your trust was well placed. We remain available to provide additional input and advice you believe will be helpful.

Sincerely,

Barry S. Eisenberg

Barry S. Eisenberg, CAE
Executive Director

Appendix E

Evaluating the Effects the California Workers Compensation Reform (SB899) has had on the Medical Treatment Injured Public Safety Employees Receive in the Sacramento Region

The identity of each respondent will remain confidential and the results will be used for the purpose of this study.

1. Are you currently employed as a public safety employee?
   ____ Yes _____ No

2. Are you a retired public safety employee?
   ____ Yes _____ No

3. Choose your current or retired occupation:
   _____ Peace officer
   _____ Dispatcher
   _____ Community Service Officer

4. Have you ever been injured while on duty?
   ____ Yes _____ No
   If no, please discontinue survey!
   if yes, please continue survey.

5. Was your date of injury prior to April 19, 2004?
   ____Yes _____ No

6. What was the date of your injury? _____

7. Did you file a workers compensation claim with your employer?
   ____ Yes _____ No

8. If yes, was your claim accepted or denied?

____ Accepted ____ Denied

9. Was your workers compensation case settled prior to April 19, 2004?

_____ Yes _____ No

10. Was your workers compensation case still open when the reform went into affect in April 19, 2004?

_____ Yes _____ No _____ Not Applicable

11. Did you seek medical treatment for your injury prior to the April 2004 SB899 workers compensation reform?

____ Yes _____ No

12. Before the reform went into affect April 19, 2004 did the claims adjuster accept or deny your medical treatment?

_____ Accept _____ Deny

13. What type of treatment did you receive?

Check all that apply.

_____ Pain medication

_____ Acupuncture

_____ Chiropractic

_____ Physical therapy

_____ Trigger point injections

_____ Other - please specify what type_____

14. Please check the following time frame in which you received approval for your medical treatment prior to the reform.

_____ 0-2 weeks
_____ 2 weeks – 1 month
_____ 1-2 months
_____ 2-3 months
_____ 3-4 months
_____ 4-6 months
_____ 6 months or longer

15. After the reform went into affect in April 2004 was there a change in the medical treatment that was approved by the workers compensation adjuster?

____ Yes ____ No ____ Not Applicable

16. What type of treatment did you receive after the reform went into affect? Check all that apply.

_____ Pain medication
_____ Acupuncture
_____ Chiropractic
_____ Physical therapy
_____ Trigger point injections
_____ Other - please specify _____
_____ None, because I recovered from my injury
_____ None, because treatment was denied

17. If you received treatment, please check the following time frame in which you received approval for your medical treatment after the reform went into affect.

_____ 0-2 weeks
_____ 2 weeks – 1 month
_____ 1-2 months
_____ 2-3 months
_____ 3-4 months
_____ 4-6 months
_____ 6 months or longer

18. How has the 2004 SB899 workers compensation reform affected the medical treatment you have received?

_____ No change – (Receive the same medical treatment as I did prior to the reform)
_____ Positive change – (Receive the same or better medical treatment)
_____ Negative change – (Don't receive the medical treatment I was getting prior to the reform)

19. Has the 2004 SB899 workers compensation reform allowed you to get the medical treatment you need for your injury?

_____ Yes _____ No _____ Not Applicable

20. If no, what medical treatment has your doctor prescribed that you are not receiving?

_____

21. Have you continued to work without receiving medical treatment?

_____ Yes _____ No _____ Not Applicable

22. If yes, how long have you worked without receiving medical treatment?

_____ 0-2 weeks

_____ 2 weeks – 1 month

_____ 1-2 months

_____ 2-3 months

_____ 3-4 months

_____ 4-6 months

_____ 6 months or longer

23. Additional Comments:

THANK YOU FOR YOUR TIME AND PARTICIPATION IN THIS SURVEY

Appendix F

I am a graduate student at Golden Gate University and a retired police officer from the Sacramento Police Department. I am conducting a study for my masters thesis where I am evaluating the effects the California workers compensation reform (SB899) has had on the medical treatment injured public safety employees receive in the Sacramento and surrounding region. I am looking to administer this brief survey (1-5 minutes) to active and retired members of local law enforcement agencies (peace officers, dispatchers & community service officers) in the Sacramento and surrounding areas.

A high percentage of law enforcement officers are injured while on duty and return to work. Many others retire on medical disability, so I know officers, dispatchers and community service officers have been affected and will be affected by this reform in one way or another, positive or negative.

I would sincerely appreciate a response if the _____ employees may be interested in participating in this confidential survey. I have several agencies within the Sacramento region that have been willing to participate, but feel it is important to have as many respondents as possible in order to conduct the most credible study possible.

Employees can take the brief 1-5 minute survey online at the following link: http://www.surveymonkey.com/s.asp?u=47407992835

If your agency agrees to participate I will just need to know how many employees were sent the email directing them to the link that way I can report the number of public safety employees that were asked to participate.

Again, this survey is confidential and would be used for the purpose of my thesis.

Thank you for you time.

Jeanette Areia

Appendix G

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April, 2005

To All SPOA Members:

This survey is optional and anonymous for anyone who chooses to complete and return it. It is to assist retired member, Jeanette Areia, complete her graduate program. This mailing is completely at her expense.

She is studying the effects on medical treatment of police officers after the recent worker's compensation law changes. All data is confidential and only to be used for her project, and in composite form could be beneficial to the SPOA in contract discussions or legal actions against the City for violating rights of injured workers.

After completing the survey, please mail it back to SPOA in the enclosed stamped envelope. Jeanette will pick them up from the SPOA office.

Thank you all in advance for taking the time to complete the survey and assist Jeanette with her project.

Sincerely,

David E. Topaz
President