

Workers' Compensation

SAN DIEGO STATE UNIVERSITY College of Extended Studies
never stop learning™

Workers' Compensation

- History and overview
- California: State of the State
- Underwriting, policy types, and coverage
- Experience rating
- Workers' Compensation basics and benefits
- Successful workers' compensation strategies
 - Use actively caring techniques and vocabulary
 - Eliminate the mystery of Workers' Compensation
 - Minimize attorney involvement
 - Don't focus on trying to eliminate fraud
 - Understand employee perception of Workers' Compensation
- Insurance agents and brokers
- Alternatives to "traditional workers' compensation"

Workers' Compensation

- History and Overview
 - Modern origins in Europe
 - United States – 1911
 - Industrial injuries paid for by the employer
 - "Great Compromise" (employers pay for injuries and workers give up right to sue employer)
 - "No-fault" system

California: State of the State

- Employers
 - Highest rates in nation

- Injured Workers
 - Benefits in lower third of all States

- Insurance Companies
 - Unprofitable, profitable, and...

California: State of the State

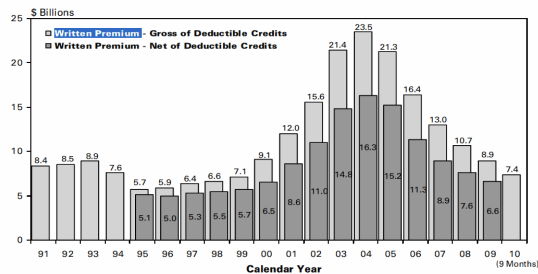
- April 2011
 - California's Workers' Compensation Insurance Rating Bureau governing board has decided not to make a mid-year pure premium rate filing suggesting a 40 percent increase. *The Bureau said insurers' experience deterioration is primarily due to increased losses, claims frequency, loss optimistic forecasts of statewide wage level growth...*

- August 2009
 - Workers' Compensation Insurance Rating Bureau (WCIRB) makes filing proposing 22.8% increase in pure premium rates effective January 1, 2010

- March 2009
 - WCIRB proposes 24.4% [amended to 23.7%] increase in pure premium rates effective July 1, 2009

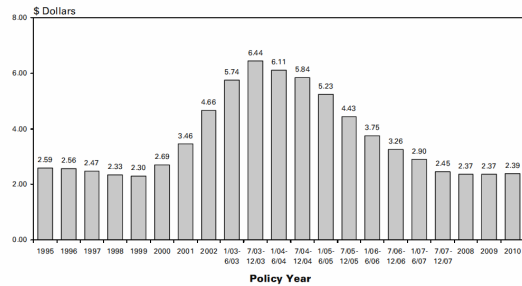
- August 2008
 - WCIRB proposes 16% increase in pure premium rates effective January 1, 2009 (Insurance Commissioner approves 5%)

California Workers' Compensation Written Premium



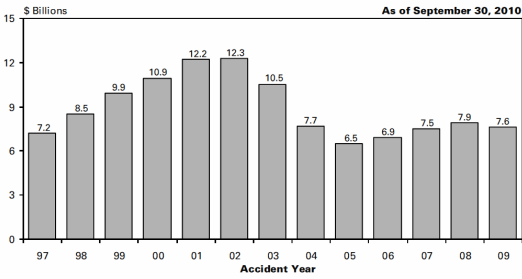
WCIRB California®

**California Workers' Compensation
Average Insurer Rate per \$100 of Payroll**



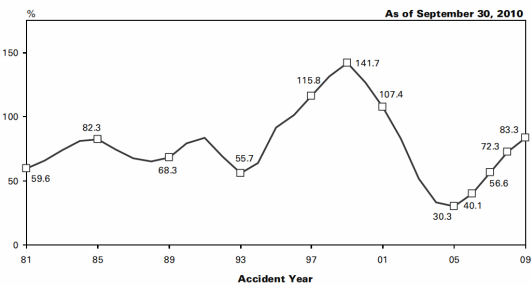
WCIRB^{California}

**California Workers' Compensation
Estimated Ultimate Losses by Accident Year**



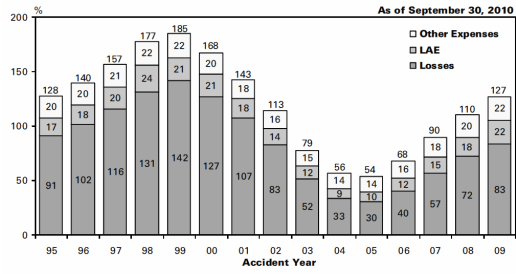
WCIRB^{California}

**California Workers' Compensation
Ultimate Accident Year Loss Ratios**



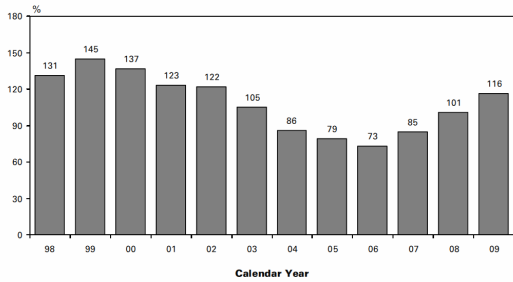
WCIRB^{California}

**California Workers' Compensation
Accident Year Combined Loss and Expense Ratios**



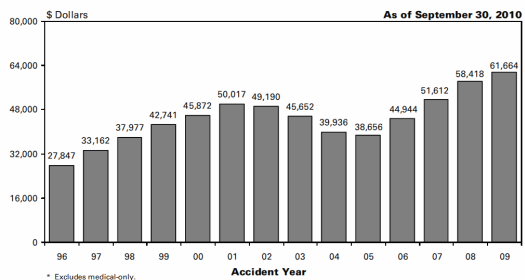
WCIRB^{California}

**California Workers' Compensation
Calendar Year Combined Loss and Expense Ratios**



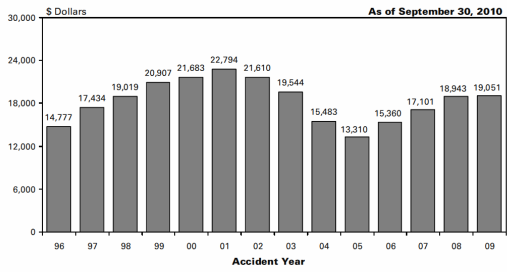
WCIRB^{California}

**California Workers' Compensation
Estimated Ultimate Total Loss* per Indemnity Claim**



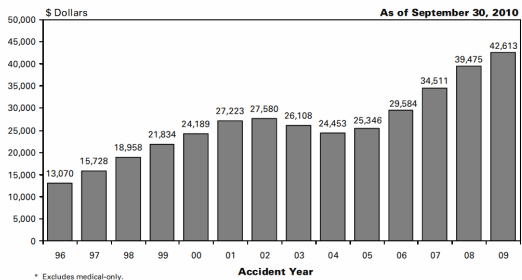
WCIRB^{California}

**California Workers' Compensation
Estimated Ultimate Indemnity per Indemnity Claim**



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**California Workers' Compensation
Estimated Ultimate Medical* per Indemnity Claim**



* Excludes medical-only.

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Workers' Compensation

- How rates are developed
 - Administrative (and political)
 - Recommendations by various governing bureaus
 - Insurance commissioner, governor, voters
 - National Council on Compensation Insurance (NCCI)
 - Rate-making
 - Job classifications
 - Insurance policy issuance/cancellation
 - Experience rating plans
 - Workers' Compensation Insurance Rating Bureau (CA)

Underwriting

What is Underwriting

- Selection and pricing
- Typical department structure
- Education/background of underwriters

Underwriting

How are Businesses Evaluated

- Payroll
- Employer classification
- Experience record of employer

Underwriting

What are Underwriting Standards

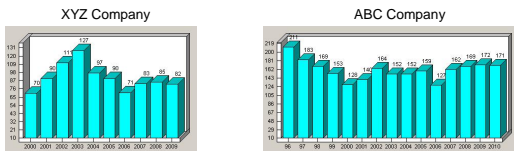
- Type of business and associated hazards
- Perceived qualifications and experience level of the owner/management
- Financial stability
- Demonstrated interest in prevention of injuries
- Injury history (3-4 years)
- Wages, benefits, turnover, seasonal business

Policy types and coverage

- Small and midsize organizations
 - “Guaranteed cost” programs
- Larger organizations
 - Loss-sensitive (similar to paying a deductible)
- Coverage
 - Required in all states except Texas where it’s optional for commercial business entities
 - Exceptions

Experience Rating

- Tailors the cost of workers’ compensation insurance to the performance of the individual employer
 - Compares employers loss record to others
 - Allows for employers to “control” workers’ compensation insurance costs
 - 3-years experience (most recent is omitted from calculation)
 - Considers injury frequency better measure of management



Experience Rating

- How Experience Modification works
 - Adjusted manual premiums
 - Computed annually
 - Calculated by unit statistical filings

Good (credit)	Average	Poor (debit)
75% (reduction in manual premium)	100%	125% (increase in manual premium)

Workers' Compensation Basics

Non-Industrial Injuries

- Injuries caused by intoxication...
- Self-inflicted injuries or suicide...
- Injuries to the initial physical aggressor in an altercation
- Injuries arising out of voluntary participation in off-duty recreation, social or athletic activities

Workers' Compensation Basics

Different Types of Injury Cases

- Medical only
- Temporary disability
- Permanent disability

Workers' Compensation Benefits

Five Types of Benefits

- Medical care
- Temporary disability
- Permanent disability
- Vocational rehabilitation
- Death benefits

Workers' Compensation Benefits

Medical Care

- Insurance carriers must provide treatment to cure or relieve the effects of an industrial injury, including treatment for injuries that are being investigated
- Treatment can be provided by a medical doctor, osteopath, chiropractor, or another medical professional as long as the care provided is permitted by law under their license and in accordance with American College of Occupational and Environmental Medicine guidelines

"Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.

Workers' Compensation Benefits

Medical Care

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Workers' Compensation Benefits

Temporary Disability

- When an injured worker is unable to work as the result of their injury, they are entitled to temporary disability. This benefit equals 2/3's of a worker's gross average weekly wage up to a maximum of \$ per week.

Temporary Disability Rates

Date of Injury	2003	2004	2005	2006	2007	2008	2009	2010-11
Minimum	\$126	\$126	\$126	\$126	\$132.25	\$137.45	\$143.70	\$148.00
Maximum	\$602	\$728	\$840	\$840	\$881.66	\$916.33	\$958.01	\$986.69

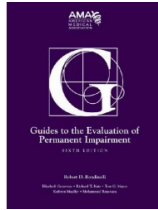
For dates of injury in 2003 through 2006, workers with wages less than \$189 qualify for a minimum

Workers' Compensation Benefits

Permanent Disability

- A legal term (not medical)
- Based on impairment pursuant to the AMA Guides to the Evaluation of Permanent Impairment
- The level of benefits is determined by the level of the permanent disability

Rating	07/1/96-12/31/02	2003	2004	2005	2006 - 2011
Up to 14.75%	\$140	\$185	\$200	\$220	\$230
15% to 24.75%	\$160	\$185	\$200	\$220	\$230
25% to 69.75%	\$170	\$185	\$200	\$220	\$230
70% to 99.75%	\$230	\$230	\$250	\$270	\$270
Minimum per week:	\$70	\$100	\$105	\$105	\$130



Workers' Compensation Benefits

Vocational Rehabilitation(SJDB as of 1/1/2009)

- Employees injured after 1/1/2004 qualify for supplemental job displacement benefits
- Replaces vocational rehab benefits
- Voucher (up to 10K) (small employer assistance available)
 - <http://www.dir.ca.gov/dwc/rehab.html>

Workers' Compensation Benefits

Supplemental Job Displacement Benefits (SJDB) (formerly Vocational Rehabilitation)

- Employees injured after 1/1/2004 qualify for supplemental job displacement benefits
- Replaced vocational rehab benefits
- Voucher (up to 10K) (small employer assistance available)
 - <http://www.dir.ca.gov/dwc/rehab.html>

Permanent Disability Level	SJDB Voucher Amount
Less than 15%	Up to \$4,000
15% to 25%	Up to \$6,000
26% to 49%	Up to \$8,000
50% to 99%	Up to \$10,000

Workers' Compensation Benefits

Death Benefits

- Death benefits provide compensation to full and partial dependants when an employee sustains a fatal industrial injury
 - 2011 – 250K to 320K
 - Benefits also include burial expenses (up to 5K)

Death Benefit Maximums		
	07/01/96 - 12/31/05	2006 - 2011
Single total dependent	\$125,000	\$250,000
No total dependents and one or more partial dependents	\$125,000	\$250,000
Single total dependent and one or more partial dependents	\$145,000	\$290,000
Two total dependents	\$145,000	\$290,000
Three or more total dependent	\$160,000	\$320,000

Successful strategies and best practices

- Recovery opportunities
- Fraud and red flags (injured worker)
- Fraud and red flags (employer)
- Minimizing the cost of injuries
 - After an injury
 - Reporting and investigation
 - Return to work
 - Medical providers
 - Insurance carrier relationship
 - Insurance broker and agents

Actively Caring Techniques and Vocabulary

Throw out the book

- Erase certain words from your manuals and correspondence with employees
- Delete vocabulary that draws "lines in the sand" between you and your employees

Actively Caring Techniques and Vocabulary

- Erase the word “claim” and “claimant”
- Eliminate phrases: “employee alleges”, or “employee claims”
- “Careless” is not a reason for injury

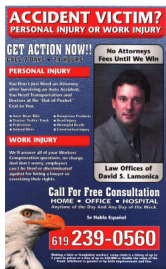
Change vocabulary to:
injured worker, person injured, employee states, stated
injury, injury, injury case

Eliminate the Mystery of Workers' Compensation

- Provide fundamental information to supervisors and employees
- Reassure employees that their job is safe
- Tell injured employees about the reimbursement of mileage

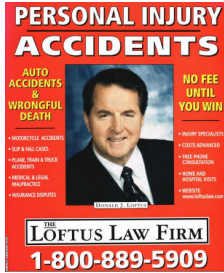
Minimize Attorney Involvement

Where do you want your employees to learn about workers' compensation?



Minimize Attorney Involvement

Would you rather teach employees about workers' compensation, or have these guys do it?

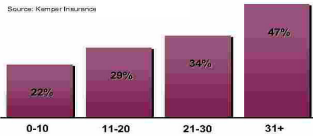


Minimize Attorney Involvement

- Get care for injured workers first
 - Do the paperwork later
- Notify insurance carrier or third-party administrator quickly after injury
- Continue to practice “actively caring” steps

Minimize Attorney Involvement

Source: Kemper Insurance

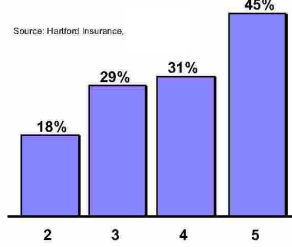


The longer the reporting period – the higher the probability of litigation

Percentage of claims litigated, relative to report lag (in days: 10, 20, 30 and over 30)

Minimize Attorney Involvement

Source: Hartford Insurance.



Injuries reported within 2 weeks of injury were 18% more expensive than those reported within one week. Claims reported within 3 weeks were 29% more expensive than those reported within one week. Similarly, claims reported at 4 weeks were 31% higher and at five weeks they were 45% higher.

Don't Focus on Fraud

"I Don't Have To Be Me (Til Monday)"

American country music artist Steve Azar released the lead-off single in 2001-2002 ... peaked at #2 on the Billboard Hot Country Singles & Tracks

Chart performance

Chart (2001-2002)	Peak position
U.S. <i>Billboard</i> Hot Country Singles & Tracks	2
U.S. <i>Billboard</i> Hot 100	35

Video: <http://www.youtube.com/watch?v=RIQe-T14Bsg>

Lyrics: <http://www.youtube.com/watch?v=i3Dw0lr5V4s>

Don't Focus on Fraud

"I Don't Have To Be Me (Til Monday)" by Steve Azar

I got me a brand new car waiting in the driveway
Shinin' like a bright new star
I been wishin' on it everyday
To take me away from here
So I called in to where I work,

*Told a little white lie
No my back don't really hurt
but that's my alibi*

My temporary ticket to anywhere but there
Call it an early weekend
Call it goin' off the deep end
Call it what you want I made up my mind...

Video: <http://www.youtube.com/watch?v=RIQe-T14Bsg>

Lyrics: <http://www.youtube.com/watch?v=i3Dw0lr5V4s>

Understand Injured Worker Perceptions

Employee Perception Survey
The Injured Worker's Experience
by
Labor Occupational Health Program
University of California at Berkeley

Gallup/Intracorp Surveys
(1994, 1997, 2001)
"Communication, Concern and
Caring"

Understand Employee Perception of Workers' Compensation

Berkeley Study

- Sadness due to uncaring treatment by their employers after they were injured
- Anger at being "kept in the dark," "shut out," and "pushed aside" by various providers of information services
- Humiliation due to condescending treatment by various providers of information and other services
- Despair caused by an inability to work or find work
- Forms and letters they received were difficult to understand because they were too technical or legalistic

Understand Employee Perception of Workers' Compensation

Intracorp Studies (1994, 1997, 2001)

- Communication counts
- Show you care
- Treat people the way you would want to be treated
- Get help/medical care for injured
- Get well cards (signed by staff)
- Flower or other means of recognition
- Visits/calls
- Demonstrate understanding, caring behavior
- Discuss job security

Understand Employee Perception of Workers' Compensation

Intracorp Studies (1994, 1997, 2001)

"... the preferred source for information should be provided by employers (supervisors) ..."

Workers' Compensation

- Reporting and investigation
- Return to work program
- Relationships with medical providers and insurance carriers

Workers' Compensation

- Insurance agents and brokers
 - Commissions and compensation
 - Broker of record letter
- Alternatives to WC

Workers' Compensation

■ Tools and resources

□ Division of California workers' compensation

- <http://www.dir.ca.gov/dwc/>
- <https://wcrbonline.org/wcirb/>
- https://wcrbonline.org/wcirb/resources/data_reports/pdf/063009_insurer_experience.pdf
- <http://www.insurance.ca.gov/>
- https://wcrbonline.org/wcirb/Employer_guide/experience_rating_wksheet.html
- <http://www.dir.ca.gov/dwc/Foms.html>
- <http://www.dir.ca.gov/dwc/DWCForm1.pdf> (DWC-1)
- <http://www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf> (5020)
