

The California Commission on Health and Safety and Workers' Compensation



Workers' Compensation Compliance and Proof of Coverage (POC)

CHSWC Members

Angie Wei (2006 Chair)

Allen Davenport

Leonard C. McLeod

Alfonso Salazar

Kristen Schwenkmeyer

Robert B. Steinberg

Darrel "Shorty" Thacker

John C. Wilson

Executive Officer

Christine Baker

February 2006

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

Table of Contents

Background	1
Summary: Advantages to Public Access to Workers' Compensation Coverage Information	1
Discussion: Current Practice of Providing Public Access to Workers' Compensation Coverage Information	3
<i>Current Proof of Coverage (POC) Access – Who Collects, Who Uses</i>	3
<i>California</i>	3
<i>Other States: NCCI, Inc. states, ISO Company states, other independent rating agency states, and single state fund “monopolistic” states</i>	5
Online Public Access to POC data is mostly in states with a tie to NCCI: Easier to Implement	7
<i>Benefits of public access to POC verification</i>	8
<i>National level practices: Scale effects & litigation effects</i>	8
Costs of the Databases, and Benefits	10
Policy discussion about insurance records, government mandates and public access—for Proof of Coverage verification, compliance and enforcement	11
<i>Audiences and Purpose of POC verification</i>	11
<i>Identification of Uninsured Employers in California for Enforcement: UEF after an injury, data matching before an injury</i>	12
<i>Incentives provided by public access, and recent enforcement legislation on POC access</i>	13
Implementation Issues: Legislation, Funding, and Technology	14
<i>Legislation: privacy of data versus efficiencies in the system and savings from enabled enforcement</i>	14
<i>Technology and Data in California: out-dated, but being updated; other states data match with mainframes</i>	15
<i>Funding for a DIR program</i>	17
<i>Immunity for providers of data, incentives or requirements for more accurate and timely data</i>	17
Recommendations	18
<i>Recommendations for Enforcement</i>	18
<i>Recommendations for Public Access</i>	18
Charts and Tables	20
<i>Current Public Access to Proof of Coverage Information via the Internet: 17 states</i> ..	20
<i>Planned Public Access to Proof of Coverage Information via the Internet in 2006: 5 more states</i>	20
<i>State URLs for Online Public POC Access Searches</i>	21
<i>UEF Payout Exceeds Recoveries and Penalties</i>	22
<i>Total New Claims Opened by UEF</i>	23
Acknowledgements	24
Addenda: Relevant Codes from Discussion	25
<i>Unemployment Insurance Codes 1094 and 1095</i>	25
<i>Labor Code 90.3</i>	27
<i>Insurance Codes 1175.5 and 11752.5 (d)</i>	29

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

1. Background

A common issue in evaluating and monitoring the Workers' Compensation system is the availability and access to workers' compensation data, insurance data, and employer data. A related issue is the need to format and transfer data in standard electronic files to enable analysis, monitoring and evaluation.

In April 2005, Assembly member Keith Richman requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) prepare an issue paper regarding public access to workers' compensation insurance coverage information or proof of coverage (POC). In response to this legislative request, CHSWC staff members have prepared this paper.

The paper includes a Summary section followed by a Discussion section, and a Recommendations section.

2. Summary: Advantages of Public Access to Workers' Compensation Coverage Information

The following summarizes some of the advantages of improved public access:

- Employers are protected from broker fraud because they may verify that they are covered for workers' compensation.
- The public is protected from engaging contractors or subcontractors, who may not be covered, or who may have let coverage lapse, by allowing coverage verification by date; employers can reduce their risk with immediate verification. (Note also that effective January 1, 2006, the Contractors State Licensing Board will have access to the same coverage information as the Department of Industrial Relations.)
- Administrators save time and money spent collecting POC information. Two major workers' compensation constituencies, medical providers and lawyers, can more efficiently serve injured workers with instant verification of coverage.
- Parties to a claim before the Division of Workers' Compensation (DWC) can save time and money preparing claims, the more POC data are available electronically.
- Workers are protected from lack of workers' compensation coverage; employees and/or their representatives may verify that an employer is covered for workers' compensation above and beyond the law.
- Insurers may ascertain if another insurance company could potentially share the liability in certain claims.
- Health and medical providers may determine the appropriate insurance carrier to bill.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

- Insured employers are placed at a competitive disadvantage with respect to uninsured employers. This levels the economic playing field for insured employers by identifying illegally uninsured employers and bringing them into compliance.
- Insured employers are protected from being doubly disadvantaged when taxes or premiums are raised to cover costs shifted to other government or employer-supported services.
- Taxpayer money is saved by reducing the need for injured workers to use other social and benefit systems because the employer was illegally uninsured.
- The State of California and WCIRB (the rating bureau for California) would save time and money on resources spent handling inquiries and requests for data via forms, letters and phone calls. While the State does not directly provide such information, it would still save additional resources spent on handling misdirected inquiries and requests.
- The State could identify illegally uninsured employers more easily, which could reduce the Uninsured Employers Fund (UEF) payout of over \$20 million each year.
- A study by CHSWC in 1998 reported recoveries and penalties from uninsured employers averaged only \$2.3 million per year, while payment of claims on behalf of uninsured employers resulted in a net loss to the State's General Fund of over \$100 million during the 5-year period. (As of 2004, losses previously incurred by the General Fund are now incurred by the Workers' Compensation Administrative Revolving Fund, and are now funded by a surcharge on all insured employers, by penalties to non-compliant employers, and by recoveries from uninsured employers for actual worker injuries.) A \$20 million gap per year appears to continue up through 2005. (See Chart 9.4 in addendum.)
- Better access to proof of coverage should change the behavior of some employers who believe the risks of going without coverage are worth the savings until—or—if they are ever identified; it is an added deterrent.
- CHSWC conducted three pilot projects regarding illegally uninsured employers. The report entitled "CHSWC Recommendations to Identify Illegally Uninsured Employers and Bring Them into Compliance" describing these projects in detail is available at <http://www.dir.ca.gov/CHSWC/uefcover.html>. The rate of uninsured employers in California was found to be approximately 9% in 1998. A program to identify uninsured employers more consistently would create significant savings.
- The number of new cases received by UEF increased by 45% between FY 01/02 and FY 04/05. Between those years, the number of cases increased 25% between FY 01/02 with 1,001 cases and FY 03/04 with 1,251 cases. Most recent data show a 16% increase from 1251 cases in FY 03/04 to 1451

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

case in FY 04/05. These increases suggest that without better use of coverage data for compliance purposes, demands on the fund may increase. (See Chart 9.5 in addendum.)

3.0 Discussion: Current Practice of Providing Public Access to Workers' Compensation Coverage Information

The following discussion reports on findings from research on current access practices and possible uses of POC information in California and other states. Implementation issues are discussed in a later section, as are related enforcement program uses of POC data. By the end of the paper, the importance of data and data coordination should be clearer. An attempt is made to make a clear distinction between the use of POC information by the public and by staff in compliance and enforcement programs.

There are three different users of data discussed in this paper: the first are the state officials and civil service professionals in government; the second are the parties to workers' compensation claims; and the third is the public at large. Every attempt is made to be clear about the users of data. Unless otherwise stated, "public access" means unfettered access by the public.

3.1 Current Proof of Coverage (POC) Access – Who Collects, Who Uses

3.1.1 California: WCIRB Collects POC Data in California

Workers' compensation insurance in California is required by law. Insurance providers currently report coverage information by employer to the Workers' Compensation Insurance Rating Bureau of California (WCIRB). The WCIRB is a licensed rating organization and the designated statistical agent of the California Insurance Commissioner. The Bureau maintains the only coverage database of all insured employers. WCIRB uses insurer data to analyze trends in loss, exposure and paid benefit and vocational rehabilitation costs in the workers' compensation insurance industry as well as to model rates. This information is relied upon by the California Department of Insurance, the insurance industry, the Legislature and others in the workers' compensation community. The WCIRB sends a written inquiry to an employer whenever the WCIRB's records indicate that a previously experience rated insured employer is no longer insured. On several occasions in coordination with the Department of Industrial Relations (DIR), WCIRB has participated in a special program to identify employers in selected industries. The program involved sending a written inquiry to those employers who have reported payroll to the Employment Development Department (EDD) but for whom WCIRB records show no evidence of coverage. The inquiry requests such employers to provide the WCIRB with evidence of coverage. If satisfactory evidence of coverage is not provided, the employer is referred to the DIR. Additional follow-up is then conducted by the DIR.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

3.1.2 California State Agencies Use POC Data: Access to Data Not Database, One Record at a Time, No Sorting by Expired Policy Dates, No Internal Data-Matching Program, etc.

The DIR and its divisions request POC information on individual employers from the WCIRB as part of its public duties to adjudicate workers' compensation claims and enforce coverage requirements and laws.

DIR does not have direct access to the WCIRB POC database; rather, it is allowed to query for data on a case-by-case basis using phone modems connected to computers. For example, 6 staff of the Division of Labor Standards Enforcement (DLSE) and 12 Office of the Director (OD) Legal Investigators are authorized to verify coverage on individual employers¹. DLSE and OD Legal staff can search by company name, employer name, and address. As currently configured, operators cannot sort data for a list of expired policies, a list of all employers by street name or zip code, a list of recently relocated businesses, or any other lists of group characteristics which might help detect uninsured employers.² DIR is also allowed to make coverage queries by telephone to WCIRB, at a \$4 fee per call.³ According to some DIR staff, while WCIRB is responsive, the current situation is not ideal. The technology is not user-friendly, and only a limited number of people are trained and authorized for access. The dial-up connections are not as reliable as they could be, and modems at WCIRB have to be reset every two weeks or so after DIR staff is locked out of the system.⁴ DIR has made special requests to WCIRB to receive larger data sorts for data-matching projects, but there is no regular reporting program from WCIRB to the DIR for enforcement or other claims-administration convenience purposes.

Neither WCIRB nor DIR currently provide POC information to the public at large. DIR is not presently able to provide POC data to the public at large because it neither collects POC data nor operates a system to provide verification of coverage information. In terms of access, state employees of DIR, such as the DWC, DLSE, Information Technology staff, and state employees of the Department of Insurance rely on routine contact with WCIRB for POC requests.

3.1.3 Members Party to a Claim (and Others) in California Use POC Data: Access by Submission of Form and Letter Response

In addition to state access, access to POC information in California is currently available only to parties to a workers' compensation claim. WCIRB charges parties other than the injured worker an \$8 fee "per coverage year per employer" to obtain employer coverage

¹ DIR staff in field offices verify employer coverage; as part of pre-inspections DLSE field staff also verify coverage; field staff might also call in a request to one of the BOFE offices, according DIR staff, 10/20/05; other conversations with DIR staff on 10/24/05.

² Conversation with DIR staff, Oakland, 10/19/05, and conversation with DIR staff, 10/20/05.

³ DIR staff conversation, 11/15/05.

⁴ Conversation with DIR staff, San Francisco, 10/24/05.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

information. According to WCIRB Form 807,⁵ parties to a workers' compensation claim who may receive POC information are: injured workers; insurance companies; employers; licensed health care providers; third-party entities (TPE) acting on behalf of an insurer; or an attorney involved in a pending claim.

Injured workers and others who are party to a claim in California may request POC information in writing or by fax through the WCIRB Customer Service Department. A signed restricted-use declaration is required in addition to the fee and request. As policy, WCIRB will respond by mail within approximately 30 days of receipt of the request, although in practice it is much faster.⁶ While neither the WCIRB form nor the WCIRB website indicate that injured employees may receive this information without paying \$8, WCIRB staff indicated they do not charge injured workers for the information.⁷

Other members of the workers' compensation community that do routine checking of employer coverage for administrative purposes, such as billing, also would need to use Form 807.⁸

3.1.4 Public At Large in California: No Access Permitted

WCIRB does not provide the public at large with public access to POC information, either by Internet or other means. Employers or insurers have access to their own coverage information, but they are not permitted to request verification of their competitors, for example. Employees cannot request POC information from WCIRB as a part of a pre-employment due diligence effort. Employers cannot look up companies to try to protect themselves from working with subcontractors who may have let their coverage lapse.⁹ The general public cannot quickly and easily look up employers who may be lapsed or otherwise uninsured and report them to DLSE for further investigation.

In the case of the wider workers' compensation community, such as medical providers, administrators cannot easily look up an employer's workers' compensation insurer in order to bill for services to an undisputed worker's injury. This creates a possible burden on the system by requiring additional phone calls and written requests for information, delaying payments, if not care.

3.2. Other States: NCCI, Inc., States, ISO Company States, Other Independent Rating Agency States, and Single State Fund "Monopolistic" States

CHSWC staff contacted various members of the workers' compensation community to identify the states to be included in the review. Input was also received from many commissions and rating bureaus, including the National Council on Compensation Insurance (NCCI), a rating bureau that provides POC data for over 30 states, including

⁵ Available online at: <http://wcirbonline.org/index2.asp?section=6&subsection=1>

⁶ Meeting with WCIRB indicated as quickly as five days, 11/15/05.

⁷ Meeting with WCIRB, 11/15/05.

⁸ Phone inquiry at WCIRB, 11/04/05.

⁹ Unless there is a "wrap-around" or "wrap-up" policy in place.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

some states that have public access. Additional research was conducted on state workers' compensation commission and insurance department websites.

3.2.1 Single State Fund States (Monopolistic)

States that manage their own workers' compensation system as the state insurer already have POC data and can use it for compliance and fraud investigations. The State of Washington, for example, identified an administrative need in providing public access initially to handle many public works project requests as part of beginning and ending contracts. There are about four single state fund states in the country (Washington, North Dakota, Wyoming, and Ohio).

3.2.2 Independent Rating Bureau States: ISO Company and Non-ISO Company States

States that have "independent" rating bureaus depend on their statistical agent-of-record for POC data. In the case of California, WCIRB in San Francisco is the rating bureau and statistical agent, and it handles inquiries as discussed above.

Each state has a different arrangement for providing POC-verification information. For example, in Pennsylvania, POC data is maintained by the state's rating bureau, but the bureau does not handle POC requests from parties to a claim. POC requests are submitted via written request or fax to the state workers' compensation agency, which then queries the rating bureau for verification, and then the workers' compensation agency informs the party to a claim. In the case of New York, despite having a statistical agent in the New York Compensation Insurance Rating Board (NY CIRB), POC information is also sent directly from insurers to the New York Workers' Compensation Board. New York is an ISO state, meaning that it relies on this New Jersey-based company to handle insurance data formats. "WCPOLS" standards data from insurance carriers is translated by the ISO Company into an EDI standard format when needed for database storage and sorting. The New York Board requires all insurance carriers to file POC information electronically, using the International Association of Industrial Accident Boards and Commissions (IAIABC) standard for electronic data interchange (EDI) transactions. New York allows carriers to designate a third party to provide POC data electronically to NY CIRB, and NCCI is an approved third party in addition to ISO.

In the case of Texas, where workers' compensation insurance is not a requirement, the statistical agent is NCCI, but there is no one rating bureau. Instead, individual insurers establish the premiums. Texas provides online access to POC for anyone who cares to search for it. (See Table 9.3 in addendum for list and website URL of all states that provide POC verification online, as well as further discussion below.)

3.2.3 NCCI Member States: Discretionary Access Determined by Each State

NCCI, an insurance rating bureau and statistical agent that serves over 30 state workers' compensation and state insurance agencies, provides daily downloads of POC data by

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

employer and status of policy (expiry) to member-state commissions and bureaus that request it. The state agencies then integrate the NCCI data with their larger internal database for claims and enforcement purposes.

Some NCCI-member state workers' compensation agencies also provide access to POC information to anyone who requests it by letter, phone and email requests. With technology advances, many agencies saw a benefit in reducing the time and costs of such manual searches by allowing the public to search online for POC verification. According to the few agencies contacted, most search requests are by health providers and lawyers either as part of a claim or as part of routine medical provider-administrative processing where there is no dispute about a claim. Many NCCI-member agencies already manage their own POC databases for claims processing and enforcement and compliance-related activities.

4.0 Online Public Access to POC Data is Mostly in States with a Tie to NCCI: Easier to Implement

We identified seven NCCI states that currently provide public online access to POC data, using an NCCI-provided website link. They are Nevada¹⁰, South Carolina, Georgia, Illinois, New Mexico, Kansas, and Arkansas. According to sources in each state and at NCCI, an internet link to the POC database at NCCI is created for each state that requests it. The coverage look-up feature is formatted to appear to be hosted by each state bureau, when in fact, NCCI manages the data-display results. Four other states take the NCCI data and host the online access with an internally-built solution; those states are Texas, Mississippi, Florida, and Oregon.

Another five NCCI states are planning online access similar to the above eight states mentioned. According to NCCI, Colorado, Maryland and D.C. are in development for early 2006 implementation, and Idaho and Alaska are also likely to implement in 2006.

Michigan, Wisconsin, Washington, Minnesota, North Dakota and Ohio host online POC data independent of any relationship to NCCI. Therefore, to date, there are 17 states with online POC access and there will possibly be as many as a total of 22 states by 2006.¹¹ (See Tables 9.1 and 9.2 in addendum for states with POC access and the kinds of searches that are allowed.)

In terms of restricted access, Mississippi is the only state identified that requires users to register with Social Security number and other personal data before receiving access

¹⁰ According to a Management Analyst for workers' compensation in Nevada, they are planning to use the system for administrative searches. One issue with NCCI's database is that it does not include "third-party administrators," and telephone numbers are not provided for easier access. Nevertheless, according to the analyst, it is still a lot more efficient than dedicating staff to look up the same information that will soon be available to those who need it. Conversation on 11/03/05.

¹¹ Conversation with POC Product Manager, NCCI, 10/2005; additional research; conversations with staff from the Wisconsin Compensation Rating Bureau, CSIAO, staff from Massachusetts Workers' Compensation Advisory Council, and staff on the IAIABC. IAIABC committee on POC indicated that a complete survey of all 50 states has not yet been done.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

permission to both POC and claims data. Turnaround on permissions is typically one business day, with three business days being the stated maximum turnaround time. According to Mississippi workers' compensation administrators, this registration process has the benefits of capturing information on users and allows for possible communications with users, as well as leaves open possible future fee-based access for additional services beyond current views (and downloads of claims updates). In Mississippi, there are currently 3100 registered users for both POC and claims; only 5 users listed POC as their main reason for registering.¹² Other states are just beginning to use Webtrends website traffic monitoring to determine the popularity of online POC public access. Anecdotally, agencies are very pleased and notice a decrease in telephone calls.

4.1 Benefits of Public Access to POC Verification

State agencies that previously provided POC information to the public in response to a telephone inquiry find that websites offer a valuable additional way to respond to requests for information, not to mention the cost savings. For example, Mississippi reported in 2005 that public access to coverage information has saved money equivalent to one full-time worker. In the case of Florida, the savings have been equivalent to at least \$75,000 annually.¹³

Overall, these databases have been widely supported by the workers' compensation stakeholders and throughout the communities where they are available. Some insurers themselves have utilized these websites, for example, to ascertain if another insurance company could potentially share the liability in certain claims.

States that do not currently and routinely provide POC information to the public are less likely to take advantage of cost-saving solutions like Internet access. California is neither an NCCI state nor does it currently provide public access to POC information. Therefore, there is no clear way to calculate savings or other benefits to the state. Public access to POC information would certainly create savings for the "system" as a whole, but savings to the government are less easily measured. Public access to POC would make it easier to direct public inquiries to a website, for example, but inquiries and misdirected inquiries would not end overnight. More significant savings to the government and rate payers are discussed below related to enforcement uses of POC.

It appears that additional legislation would be required if California is to contemplate changing the way POC coverage information is accessed.

4.2 National-level practices: Scale Effects and Litigation Effects

4.2.1 NCCI-member States Use IAIABC EDI Data Formats for POC

In over 30 states, POC data is derived from policies submitted to NCCI. Data is

¹² Conversation with Information Systems Manager, Mississippi Workers' Compensation Commission, 10/05.

¹³ Conversation with Insurance Specialist at Florida Division of Workers' Compensation, 2002.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

submitted by insurance carriers in the Workers Compensation Insurance Organizations (WCIO) "WCPOLS" format. In NCCI states (and other states that use EDI), WCPOLS data is downloaded to the operating systems and databases for any number of uses, such as generating letters or recording updates to a policy. The WCPOLS EDI format was developed by the IAIABC so that a common data submission format could be maintained. NCCI traditionally offered POC information only to staff of state accident boards and commissions to verify coverage for insured employers in their own states.

4.2.2 NCCI is required to Make POC Public on a Case-by-case Basis, Initially Through Litigation

NCCI was pushed by litigation in several states to open up access to POC data. It now also provides a web-based service at no cost to NCCI-member states. Private data marketers actually sued workers' compensation commissions for access to data in several states, and NCCI learned via court appearances that POC data would become increasingly publicly available as workers' compensation commissions requested it or were ordered by courts to make it public. NCCI developed a tool for a few member states to make POC publicly available online.

Once NCCI invested in database and software development in one state, it was relatively easy to replicate it in other states, a scale effect. In addition, when data privacy was challenged in court, public access was no longer an issue for NCCI, the litigation effect. Court challenges for access have been identified in Maryland and Michigan as examples.¹⁴ NCCI now enables public access to POC for member states that request it.

Several NCCI states have requested that NCCI assist them in implementing a web-based coverage verification service through their state worker' compensation websites accessible not only to state staff, but to the public at large. NCCI provides coverage information through a linkage to the state's workers' compensation website, and no one would know that NCCI is serving up the POC data on the state workers' compensation websites. (For a list of the states with URLs to POC website, see Table 9.3 in addendum.)

4.2.3 Spectrum Partners member states (Wisconsin, Minnesota, North Carolina, Massachusetts, New York) — Another Scale Effect with ACCCT & ISO (California, Massachusetts, Michigan, Minnesota, Wisconsin, New York, Pennsylvania, Delaware, North Carolina)

Spectrum Partners are a group of rating organizations from Wisconsin, Minnesota, North Carolina, Massachusetts, and New York that develop and maintain computer operating systems for their own group use. It was formed as a cost-saving measure for the group when a new IT system was deemed needed. The vendor that agreed to this approach is IIS based out of Durham, North Carolina (www.renewal-iis.com). When considering this group, we found Wisconsin and Minnesota now also host online public access to POC

¹⁴ DataLister, Inc., of Florida as plaintiff in both cases.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

data.¹⁵

One other consortium of independent workers' compensation rating organizations is the American Cooperative Council on Compensation Technology (ACCCT), and they have similar but smaller scale effects than NCCI. ACCCT develops software products for use by member companies and others. ACCCT is a joint venture of the rating organizations from California, Massachusetts, Michigan, Minnesota, Wisconsin, New York, Pennsylvania, Delaware, North Carolina and the NCCI competitor ISO. ACCCT software products enable reporting policy data and unit statistical data reporting, and are provided to insurers at no charge.

5.0 Costs of the Databases, and Benefits

There are initial costs in setting up the database, but the maintenance cost is not very high and is in some cases negligible. Texas initially set up a database on POC in 2002 using a vendor; the database cost about \$100,000 to build and \$45,000 annually to host. The database is housed in the Texas Workers' Compensation Commission and costs very little to maintain.¹⁶ (As of September 1, 2005, the Texas Commission was merged with the Department of Insurance, with the expectation that the database will remain in tact.)

In Florida, the web-based version of the database took five to six full-time employees to set up over a period of one month. Like most online public POC databases, only basic provider information is displayed. There is usually already a more detailed POC database that is housed in the Division of Workers' Compensation, and not for public access.¹⁷ Today, in 2005, Florida provides public access to 14 different workers' compensation databases, including POC. As of this writing, the costs for NCCI to develop an online access tool have not been identified. Neither have costs from ACCCT states been identified.

In addition to the benefits of public access described above, the benefits of data-matching are even more encouraging. Conversations with representatives in Nevada, Colorado and Kansas provide enthusiastic support and reports of significant fines and resulting compliance. In 1998, California conducted a series of matching pilot projects with a sample of 1350 employers. The cost for matching the data AND conducting the administrative and investigative inspections totaled \$12,475. Approximately 9% of the sample was found to be non-compliant, and \$180,000 were assessed in penalties. If data-matching were to become an on-going program, DIR would reasonably expect similar results with a high net benefit ratio.¹⁸

¹⁵ Conversation with staff from Wisconsin Rating Bureau, 10/21/05.

¹⁶ Conversation with Director of Business Information Technology, Texas Workers' Compensation Commission, 2002.

¹⁷ Conversation with Senior Database Analyst, Florida Division of Workers' Compensation, 2002

¹⁸ CHSWC, "CHSWC Recommendations to Identify Illegally Uninsured Employers and Bring Them into Compliance," 1998. <http://www.dir.ca.gov/CHSWC/uefintro.html>

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

6.0 Policy discussion about insurance records, government mandates and public access -- for Proof of Coverage verification, compliance and enforcement

6.1 Audiences and Purpose of POC Verification

The issues of Proof of Coverage (POC) relate to three distinct audiences, two existing purposes, and two more potential purposes.

The audiences of POC include:

- (1) State workers' compensation and insurance civil service employees who need POC to do their jobs;
- (2) Parties to a workers' compensation claim (injured workers, insurance companies, employers, health care providers, third-party entities (TPE) acting on behalf of an insurer, or an attorney involved in a pending claim); and
- (3) The public-at-large.

The existing purposes of POC include:

- (1) Verification as part of a workers' compensation claim where an employer is alleged to be uninsured (Audience includes State employees and parties to a claim.)

Parties to a claim need this information as they engage in the documentary evidence process leading up to a hearing. The file might then be settled without a hearing, advance to administrative hearings, or end up with collections and enforcement personnel, depending on due diligence results of POC follow-up.

- (2) Pre-inspection research by state employees engaged in investigations of employers using either crude or sophisticated anti-fraud compliance methodologies. As part of enforcement or anti-fraud activities, POC needs to be verified for compliance activities. (Audience is state employees.)

Potential other purposes:

- (1) Medical billing and communications concerning a claim where the identity or location of an insurer is not readily known. Handling a workers' compensation Medical Claim or workers' compensation policy that is neither disputed nor before the DIR—an administrative claim (could still involve an injured worker). (Audience includes a larger public, the workers' compensation community.)

Access to POC information makes it easier for medical providers to determine the insurance provider to be billed on a workers' compensation injury. It might raise the bar on employers to provide required information to employees about workers' compensation. It makes it easier for attorneys to ascertain coverage when an injured worker is still contemplating legal assistance with an injury or bill. Insurance companies

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

and brokers might want to verify accuracies of information or monitor system updates especially if penalties are part of the system of incentives for timeliness and accuracy of data.

(2.) The General Public wanting to research a particular employer. (Audience reaches the public at large)

- a. A prospective employee, or employment intermediaries, might be aware of workers' compensation compliance issues in certain industries and might choose to look up a prospective employer as part of a due diligence effort related to job-hunting.
- b. The general public or business competitors may wish to participate in citizen enforcement ("tips," "hotline") by researching the POC of an employer and reporting alleged lack of coverage for follow-up investigation by DIR. The quality of tips here might improve with access to a POC database.

6.2. Identification of Uninsured Employers in California for Enforcement: UEF After an Injury, Data Matching Before an Injury

It is the State's job to track down uninsured employers who are out of compliance; it is not the role of the private sector to enforce workers' compensation laws. The State needs to use all the resources available to educate, inform, remind, and induce workers' compensation coverage by employers. The State also needs to recover costs incurred from uninsured employers with reported worker injuries. Identification of uninsured employers, therefore, is needed before both worker injuries occur and after worker injuries are reported.

Currently, most enforcement leads are handed off by the UEF to DLSE after UEF receives claims against uninsured employers. It is much easier to identify uninsured employers once an injured worker has submitted a claim; there is usually some paper trail or former address at least. DLSE and UEF send investigators and collections agents to find the owners of the company. The more challenging task is in identifying uninsured employers before there is a workers' compensation injury and claim. The identification of uninsured employers before an injury occurs is also much less costly to the system in terms of time, litigation, and collections, and it puts fewer people at risk.

The task might be made more manageable if agencies could coordinate participation in this enforcement activity, if only by providing improved access to information. For example, city business tax license offices, county offices for fictitious name filings of new businesses, and state business tax /payroll tax filings, typically EDD/Unemployment Insurance employer lists, could provide more regular access to data.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

DIR OD Legal Investigators, UEF collections, and DLSE enforcement staff in California all investigate employers and business owners related to workers' compensation coverage. Department of Insurance investigators also participate in identifying uninsured employers along with the District Attorney offices in the state.¹⁹ However, no one in government has access to a complete updatable database of POC coverage at WCIRB. Even with inter-agency cooperation, WCIRB cooperation is critical. Accurate and timely access to POC data will continue to be a challenge without WCIRB cooperation.

An improved enforcement system would generate leads from matching the state's records that list *all* employers against the WCIRB records that identify the insurers of employers. Employers and companies that appear to be uninsured would be contacted through a series of letters and visits requesting clarification and evidence of coverage. As mentioned, this has been done in a very limited and targeted "pilot" several times in California using EDD payroll records.

Many states have a robust enforcement program that matches complete UI/EDD employer data with POC data from their respective state Insurance Department rating bureau/statistical agents. Utah, Colorado and Kansas all have automated data matching programs that generate thousands of apparently uninsured employers that must provide evidence of coverage in a timely manner to avoid penalties and fines.

In California, an on-going, comprehensive program of matching employer records with WCIRB POC records does not exist due to lack of funding for such a program. The past "pilot projects" were funded by CHSWC, not an enforcement unit of DIR. In addition, the state may wish to consider expanding the program to go beyond specific targeted industries, as currently defined in Labor Code 90.3. Infrequent studies by CHSWC have successfully proved the usefulness of data matching, but the examples from other states' on-going programs go farther in proving the value of an established, funded and comprehensive program. Data matching is a proven method to detect uninsured employers, saving rate payers millions of dollars that are currently needed in the UEF fund to cover injured workers from uninsured companies. In a wider enforcement program, DIR would be responsible for both the matching of data and the mailing of letters requesting evidence of coverage.

6.3 Incentives Provided by Public Access and Recent Enforcement Legislation on POC Access

Although many state personnel are responsible for ensuring compliance, the private sector also has an incentive to work towards 100% compliance. Insurance carriers and brokers, in particular, stand to benefit from writing new policies for the uninsured-employer population. Access to a POC coverage database would help the private sector

¹⁹ Fraud is compliance-related but different and is beyond the scope of this paper. Fraud is broadly defined as intentional exaggerations of physical conditions, exaggerated costs, or mis statements about place of injury by different parties.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

identify those who may not realize the important need for coverage, while the state would reap the benefits of compliance effects resulting from business development.

Anti-fraud legislation in 2004 (AB 13 and SB 1344) as amended in the Insurance Code opened access to coverage records to city attorneys and the Department of Corrections. In 2005, the Insurance Code was amended again (AB 1027) to include the Contractors State Licensing Board with the same access to WCIRB data that DIR receives, though not yet access to a database or regular downloads to an enforcement database.

At present, public access to POC information is not mentioned in the Labor Code. Labor Code 90.3 addresses a program of enforcement, but the program has never been instituted due to funding issues. Public access is not mentioned. Most of the other states that have provided public access of workers' compensation coverage information have done so administratively. Texas is one state that included statutory language to: "implement an electronic reporting and public information access program, and adopt rules as necessary to implement the data collection requirements of this subchapter..." (Texas Labor Code 406.009)

7.0 Implementation Issues: Legislation, Funding and Technology

There is already statutory language to enable a data-matching program to enforce workers' compensation law and identify uninsured employers. There seems to be a lack of legislation for funding such a program. In addition, WCIRB data is not yet in a client-server database amenable to data sharing, although the WCIRB indicates that this process has begun. Therefore, additional programming services are needed to automate a data-matching program.

7.1 Legislation: Privacy of Data versus Efficiencies in the System and Savings from Enabled Enforcement

Presently, there is nothing in the Labor Code which stipulates privacy protections affecting POC. Insurance Code Section 11751.5 stipulates that the designated statistical agent — in this case, WCIRB — shall provide DIR any information that would assist DIR to identify uninsured employers. However, Section 11752.5(d) stipulates "any information obtained by a government agency pursuant to this section shall be confidential and not subject to public disclosure under any other law of this state." This would appear to restrict public access to POC information at least when it is provided pursuant to Insurance Code Section 11752.5. Further, case law exists that recognizes the economic value of policy renewal or expiration dates and hence a "trade secret" to be protected. (State Farm Auto Insurance Co. v Dempster, 174 Cal App. 2d 418 (1959) and American Credit Indemnity Co. v. Sacks, 213 Cal. App. 3d 622 (1985).

Other states have either created enabling legislation for improved data collection and access (Texas, as mentioned above) as part of a Business Improvement Project, or have a

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

Public Records Act to refer to when making data available to the public at large (Florida and Mississippi). States that provide public access to POC information do so in order to create more efficiencies in the systems, saving administrators time and money verifying basic information in order to bill or contact the appropriate insurance claims representative. States cite other advantages such as allowing policyholders to monitor the accuracy of their own policy status and better quality "tips" from the public who may suspect a non-compliant company. (It may turn out that there is a relation between uninsured employers and other health and safety code violations or other trade licensing violations.)

Labor Code Section 90.3 stipulates that to enforce employer workers' compensation insurance coverage laws, the "Labor Commissioner shall establish and maintain a program for targeting employers...identified from data from the Uninsured Employers' Fund, the Employment Development Department, the ratings organizations licensed by the Insurance Commissioner, and any other sources deemed likely to lead to the identification of unlawfully uninsured employers." ... "All state departments and agencies and any rating organization...shall cooperate with the Labor Commissioner and on reasonable request provide information and data in their possession reasonably necessary to carry out the program." The increased abilities provided by modern information technology make such requests more "reasonable" than ever before.

Therefore, both the Labor Code (Section 90.3) and the Insurance code (Section 11751.5) provide for DIR access to "information" and data for enforcement purposes. If DIR and the Department of Insurance deem it necessary to have a POC database for internal analysis and matching purposes for compliance, they may need to reach an understanding with WCIRB to provide regular, daily downloads of complete data as opposed to modem access to the WCIRB POC individual records one-at-a-time. Unemployment Insurance Code Sections 1094 and 1095 provide sufficient statutory language to share data for workers' compensation compliance. (See Section 10.1 in addendum for statutory language.)

7.2 Technology and Data in California: Out-dated, but Being Updated; Other States Data Match with Mainframes.

WCIRB received 83,019 telephone inquiries from the workers' compensation community in 2004.²⁰ About 1500 of those telephone inquiries were for POC verification. An additional 38,000 paper requests for POC verification were submitted in 2004.²¹ WCIRB charges \$8 per employer per coverage year; hence, an estimated \$304,000/year in revenue is collected by WCIRB for POC verification. If the experiences of other states are an example, WCIRB could save time and money on many of those requests by providing public access. (Anecdotal research did not reveal other rating bureaus in other

²⁰ Ibid., p. 28.

²¹ WCIRB meeting on 11/15/05.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

states charging anyone for the service of POC verification.) Bringing POC data into a client-server database might justify costs.

Coverage information is currently stored in legacy mainframe computer files at WCIRB. The data are updated daily at WCIRB. Select DIR staff are currently permitted to query the WCIRB coverage information using two phone modems (not broadband or EDI), but DIR is not permitted to download this information into a state database as part of a monitoring or evaluation program of enforcement and compliance. WCIRB and DIR staff admit that complicated procedures and incomplete training make access to the information inefficient and not user-friendly.

EDI (Electronic Data Interchange) is a term used for the electronic transfer of data. EDI is currently used for submitting some Workers' Compensation Information Systems (WCIS) data and for DIR's DWC to receive first reports of injury and two other reports using a WCIO "WCPOLS" standard. Additional claims information will be electronically filed via a new Electronic Adjudication Management System (EAMS) that is in development at DIR. Electronic filings from health providers are expected to be available soon.²² Similar exchanges of data could be made for POC verification purposes, either to populate a DIR database from WCIRB or to host a searchable Internet or intranet website with POC verification of individual employers.

High quality and accurate POC data is necessary in order to evaluate and monitor the compliance of all employers. Maintenance of such data is a constant challenge. Upgrades to systems and databases will allow for better, and more automatic quality control. Accessing a more complete history of policy updates, name changes, and address changes will only add to the effectiveness of enforcement activities. Efforts to create or obtain a richer database from WCIRB should be supported.

Without a copy of the WCIRB POC database, DIR cannot use other government data (especially EDD data) to identify unlawfully uninsured employers. Once POC data is made available, conversion of the data for online access to a larger public is a proven possibility. Making POC data available online, if deemed of greater value to the public than property interests, might save time and money in administration for the workers' compensation community at large. Making POC data available for DIR data matching will save the government time and money by producing better, qualified uninsured employer leads through a proven methodology, and it should save rate payers money once enforcement results trickle through the system.

The Governing Committee at WCIRB approved a proposal to "replace the WCIRB's aging mainframe computer and related systems with a more modern client-server system and relational database. The project, dubbed the Legacy System Replacements Project (LSRP), will impact all of the systems used to receive and process policy documents and unit statistical reports, as well as produce classification experience data and experience

²² Conversation with DIR staff, 10/19/05.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

modifications. Replacement of the mainframe systems is expected to significantly improve WCIRB efficiencies while having minimal impact on processes members currently use to submit policies and unit reports. The Plan contemplates phasing in the various replacement systems over a three-year period, with full implementation of all systems by early 2008.”²³

It would be reasonable to plan a data-matching program with an improved WCIRB POC database. However, at least one state, Colorado, has successfully matched UI/EDD records with POC data in a mainframe environment. WCIRB need not necessarily delay cooperation in a more robust data-matching program.

As WCIRB contemplates an improved POC database for internal and external clients, it could look to providers who have already developed large databases with workers' compensation applications and packages, such as those already in place in independent rating bureau states and NCCI's work in over 30 states with POC online inquiry, etc.

7.3 Funding for a DIR Program

Funding for this new data-matching method of enforcement could come from the UEF (Uninsured Employer Benefit Trust Fund) fund. To support the data-matching program, investigations staff and technical staff would be assigned to a special enforcement unit for this specific activity. Citations and fines generated from this program could remain in the UEF fund, but would probably have a longer-term effect of lowering costs passed to employers who ultimately pay all UEF costs through surcharges. With a data-driven program of enforcement firmly established in a specific enforcement unit, the number of penalties and fines would be expected to increase and then stabilize over time, such that the UEF fund would decrease to meet a smaller uninsured employer universe. Since rate payers fund the UEF fund, premium surcharges should decrease to reflect a smaller fund. The UEF fund averages a \$20 million liability that is covered by premium surcharges to employers. (See Chart 9.4 in addendum.)

7.4 Immunity for Providers of Data, Incentives or Requirements for More Accurate and Timely Data

For WCIRB to make POC more publicly accessible, it would need sufficient immunity from misuse and other liabilities of providing such information. Many other state websites have language that stipulates specific use policies for the POC data. The Department of Insurance would probably also need authority to direct WCIRB to make such information public.

The present quality of WCIRB POC data makes coverage difficult to verify, even beyond mainframe access issues. FEIN employer numbers are not universally required, although generally provided, employer name fields have multiple spellings, and multiple company names or subsidiaries may not be reflected in the same policy when they should be. Such

²³ WCIRB California 2004 Annual Report, p. 10.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

data quality means that verifying coverage is very labor-intensive. Further, backdating procedures and other quality data issues make recognition of lapsed policies difficult. New incentives or requirements, even with statutory penalties, are many of the approaches other states have used to address the issue of more accurate and timely data submitted by the brokers and carriers in the process.

In addition, the national insurance carriers that have a policy for an employer in multiple states face the additional burden of having to submit information several times due to lack of POC data-sharing. Allowing carriers to update policies through a larger clearinghouse, such as NCCI, has long been viewed as an advantage for cooperation vs. independent bureaus. WCIRB might wish to consider whether there might be advantages to their members by working more closely with organizations that have a reach beyond a single state.

8.0 Recommendations

8.1 Recommendations for Enforcement

- That WCIRB adopt what many other states are doing by providing daily POC database downloads so that the State may carry out its mandate to enforce employer compliance by conducting a program of matching EDD records with WCIRB records.
- That EDD provide monthly database downloads of employer identification data, including FEIN numbers, names and addresses, so that the State may carry out its mandate to enforce employer compliance by conducting a program of matching EDD records with WCIRB records.
- Provide DLSE with funding to create and conduct an ongoing data-matching program to identify uninsured employers, to contact uninsured employers, to assess penalties, and to bring the uninsured into compliance. Such a program may be funded by fines once started, with most of the penalties returned to the UEF fund. Such a program should create periodic reports on results, including fines levied, to the Department of Insurance.

8.2 Recommendations for Public Access

- Determine the desirability and legality, in particular given the referenced case law with respect to the confidential and proprietary nature of policy effective dates, of making POC data available to the public in California, regardless of whether someone is a party to a claim.
- Determine whether WCIRB should be mandated to make public access of POC via the Internet, or whether WCIRB will deem the service valuable enough to WCIRB members and the related workers' compensation community to host it on its own.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

- Determine how such public access will be funded. Given the planned WCIRB upgrades mentioned in this paper, the costs of hosting an online public access database may be recoverable, especially when manual paper requests currently require \$8 administrative fees to cover overhead (\$8 x 38,000 requests equals \$304,000). Public access may reduce many of these paper requests and lower costs.

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

9.0 Charts and Tables

9.1 Current Public Access to Proof of Coverage Information via the Internet: 17 States

Nos. 1-7 are hosted by NCCI

Nos. 8-11 are in-house hosted but use NCCI data

Nos. 12-17 are in-house hosted and do NOT use NCCI data

		<u>Date of Search Allowed/Data Provided</u>			
		effective	injury	expiration	today only/current
1	Nevada		x		
2	South Carolina		x		
3	Georgia		x		
4	Illinois		x		
5	New Mexico		x		
6	Kansas		x		
7	Arkansas		x		
8	Oregon	x			
9	Texas	x		x	
10	Mississippi	-	-	-	-
11	Florida	x			
12	Michigan				x
13	Minnesota		x		
14	Wisconsin				x
15	Washington				x
16	North Dakota				x
17	Ohio				X

9.2 Planned Public Access to Proof of Coverage Information via the Internet in 2006: 5 More States

18	Colorado
19	Maryland
20	D.C.
21	Idaho
22	Alaska

Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

9.3 State URLs for Online Public POC Access Searches

State	Online POC Links
1 Nevada	http://dirweb.state.nv.us/wcs/era.htm
2 South Carolina	http://www.wcc.state.sc.us/coverage.htm
3 Georgia	http://sbwc.georgia.gov/02/sbwc/home/0,2235,11394008,00.html
4 Illinois	http://www.iwcc.il.gov/coverage.htm
5 New Mexico	http://www.state.nm.us/wca/poclookup.html
6 Kansas	http://www.dol.ks.gov/WC/html/wccoververifi_ALL.html
7 Arkansas	http://www.awcc.state.ar.us/electron.html
8 Oregon	http://www.cbs.state.or.us/external/wcd/
9 Texas	https://www.txcomp.twcc.state.tx.us/TXCOMPWeb/common/home.jsp
10 Mississippi	http://www.mwcc.state.ms.us/SERVICES/services.html
11 Florida	http://www.fldfs.com/WCAPPS/Compliance_POC/wPages/query.asp
12 Michigan	http://www.cis.state.mi.us/bwuc/wkrcomp/asp/sr_bwdc.asp
13 Minnesota	http://inslookup.doli.state.mn.us/
14 Wisconsin	http://www.dwd.state.wi.us/wc/workers/select.asp
15 Washington	http://www.lni.wa.gov/TradesLicensing/Contractors/HireCon/CRUA/default.asp
16 North Dakota	https://www.workforcesafety.com/online-services/employersearch/
17 Ohio	https://www.ohiobwc.com/provider/services/mcollookup/nlbwc/default.asp
18 Colorado	NA
19 Maryland	NA
20 D.C.	NA
21 Idaho	NA
22 Alaska	NA

Commission on Health and Safety and Workers' Compensation

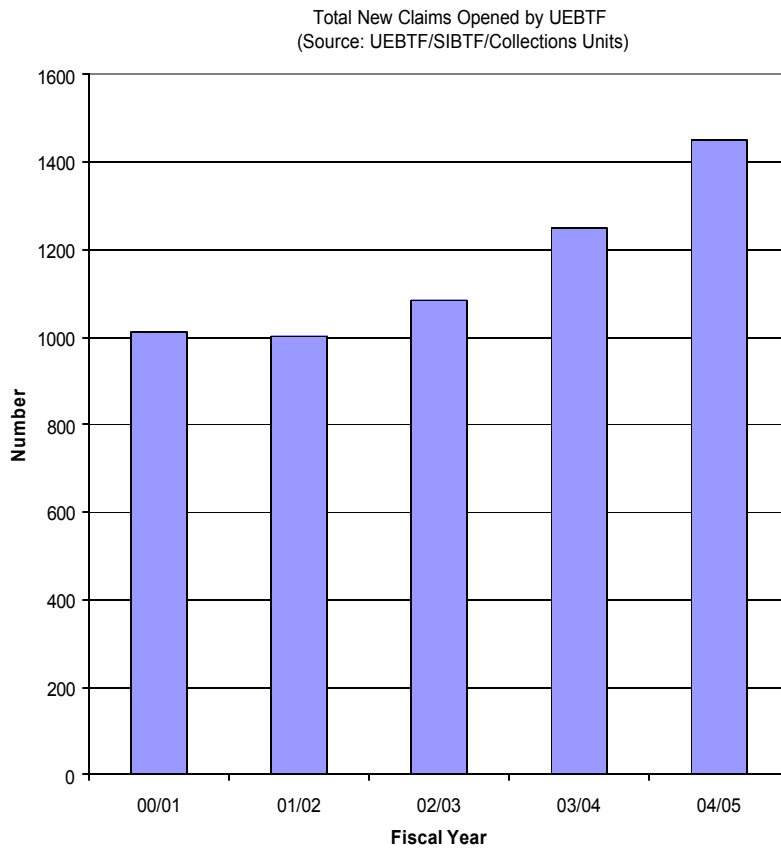
Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

9.4 UEF Payout Exceeds Recoveries and Penalties



Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

9.5 Total New Claims Opened by UEF



Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

Acknowledgements

The Commission on Health and Safety and Workers' Compensation would like to acknowledge and thank Department colleagues for sharing information about current practices and challenges. The Commission thanks other Workers' Compensation Bureaus and Commissions around the country that provided information about practices in their state and their approaches to using technology to both match data and provide public access to coverage information.

Special thanks to Dave Bellusci and colleagues at the Worker's Compensation Insurance Rating Bureau of California (WCIRB), Linda Prusetti at the National Council on Compensation Insurance (NCCI), Gregory Krohm at the International Association of Industrial Accident Boards and Commissions (IAIABC), Christine Siekierski at the Wisconsin Compensation Rating Bureau and IAIABC POC committee chair, Larry Williams in Utah, Debra Weis in Colorado, and Dick Thomas and David Sprick in Kansas.

Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

10.0 Addenda: Relevant Codes from Discussion

10.1 Unemployment Insurance Codes 1094 and 1095

CALIFORNIA CODES
UNEMPLOYMENT INSURANCE CODE
SECTION 1085-1098

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code is confidential, not open to the public, and shall be for the exclusive use and information of the director in discharge of his or her duties.

(b) The information released to authorized entities pursuant to other provisions of the code shall not be admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code or one described in Section 1095.

(c) The information may be tabulated and published in statistical form for use by federal, state, and local governmental departments and agencies, and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(d) Wages as defined by Section 13009 and amounts required to be deducted and withheld under Section 13020 shall not be disclosed except as provided in Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(e) Any employee or his or her representative may receive his or her wage information upon written request by the employee. The information shall be provided without charge.

(f) Any person who knowingly accesses, uses, or discloses any confidential information without authorization is in violation of this section and is guilty of a misdemeanor.

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

.....Skip to subsection (o).....

(o) To provide an authorized governmental agency with any or all relevant information that relates to any *specific workers' compensation insurance fraud investigation*. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body.

Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

10.2 Labor Code 90.3

CALIFORNIA CODES
LABOR CODE
SECTION 79-107

90.3. (a) It is the policy of this state to vigorously enforce the laws requiring employers to secure the payment of compensation as required by Section 3700 and to protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to secure the payment of compensation.

(b) In order to ensure that the laws requiring employers to secure the payment of compensation are adequately enforced, the Labor Commissioner shall establish and maintain a program for targeting employers in industries with the highest incidence of unlawfully uninsured employers. The industries and employers shall be identified from data from the Uninsured Employers' Fund, the Employment Development Department, the rating organizations licensed by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, and any other sources deemed likely to lead to the identification of unlawfully uninsured employers. All state departments and agencies and any rating organization licensed by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code shall cooperate with the Labor Commissioner and on reasonable request provide information and data in their possession reasonably necessary to carry out the program.

(c) As part of the program, the Labor Commissioner shall establish procedures for ensuring that employers with payroll but with no record of workers' compensation coverage are contacted and, if no valid reason for the lack of record of coverage is shown, inspected on a priority basis.

(d) The Labor Commissioner shall annually report to the Legislature, not later than March 1, concerning the effectiveness of the program. The report shall include, but not be limited to, all of the following:

- (1) The number of unlawfully uninsured employers identified pursuant to the program.
- (2) The number of employers matched to records of insurance coverage.
- (3) The number of employers notified that there was no record of their insurance coverage.
- (4) The number of employers inspected.

Commission on Health and Safety and Workers' Compensation

**Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)**

(5) The number and amount of penalties assessed pursuant to Section 3722 as a result of the program.

Commission on Health and Safety and Workers' Compensation
Government Access, Claimant Access, and Public Access to Workers' Compensation
Insurance Coverage Information (Proof of Coverage)

10.3 Insurance Codes 11751.5 and 11752.5 (d)

CALIFORNIA CODES
INSURANCE CODE
SECTION 11750-11759.2

11751.5. The commissioner, after notice and hearing, may promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter in the recording and reporting by insurers of their loss and expense experience in order that the experiences of all insurers may be made available in such form and detail as may be necessary to aid the commissioner in administering the provisions of Article 2 (commencing with Section 11730). The commissioner shall designate a rating organization licensed under this article as his or her statistical agent to gather and compile such experience statistics and all licensed rating organizations shall report the experience of their members to such designated rating organization. Subject to reasonable rules approved by the commissioner, such designated rating organization shall make such experience statistics, when compiled, available to all licensed rating organizations and may make a reasonable charge to other rating organizations for the expense incurred by it in combining, tabulating and compiling the experience of all workers' compensation insurers.

11752.5. (a) Subject to subdivision (b), a licensed rating organization shall make available any policy information contained in its records to the following:

(1) The Department of Industrial Relations.

(2) Any other governmental agency if the Insurance Commissioner, after consultation with the licensed rating organization, approves the release of the policy information requested to the agency.

(b) The Department of Industrial Relations and any other governmental agency shall specify to the licensed rating organization, in writing, the information requested, that the information requested is to be used to facilitate the agency's performance of its constitutional or statutory duties, and that the information received will not be released to others, except in the discharge of a specific statutory or constitutional duty, or published without the prior written consent of the licensed rating organization. In addition, if the Insurance Commissioner's approval is required for the release of the policy information requested, a written copy of the approval shall be submitted to the licensed rating organization.

(c) As used in this section, "policy information" means

Commission on Health and Safety and Workers' Compensation

Government Access, Claimant Access, and Public Access to Workers' Compensation Insurance Coverage Information (Proof of Coverage)

information which is contained in a workers' compensation policy, including, but not limited to, the identity and address of the employer, the identity of the insurer, the policy number, and the policy period.

(d) Information obtained by a governmental agency pursuant to this section shall be confidential and not subject to public disclosure under any other law of this state.

(e) No licensed rating organization or member thereof, or member of a committee of a licensed rating organization when acting in its capacity as a member of the committee, or officer or employee of a licensed rating organization, when acting within the scope of his or her employment, shall be liable to any person for injury, personal or otherwise, or damages caused or alleged to have been caused, either directly or indirectly, by the disclosure of information to a governmental agency pursuant to this section, or for the accuracy or completeness of the information so disclosed.

(f) This section shall not be construed as implying the existence of liability in circumstances not defined in this section, nor as implying a legislative recognition that, except for enactment of this section, a liability has existed or would exist in the circumstances stated in this section.

(g) This section shall not be construed as limiting any authority of a licensed rating organization to disclose information contained in its records to others.