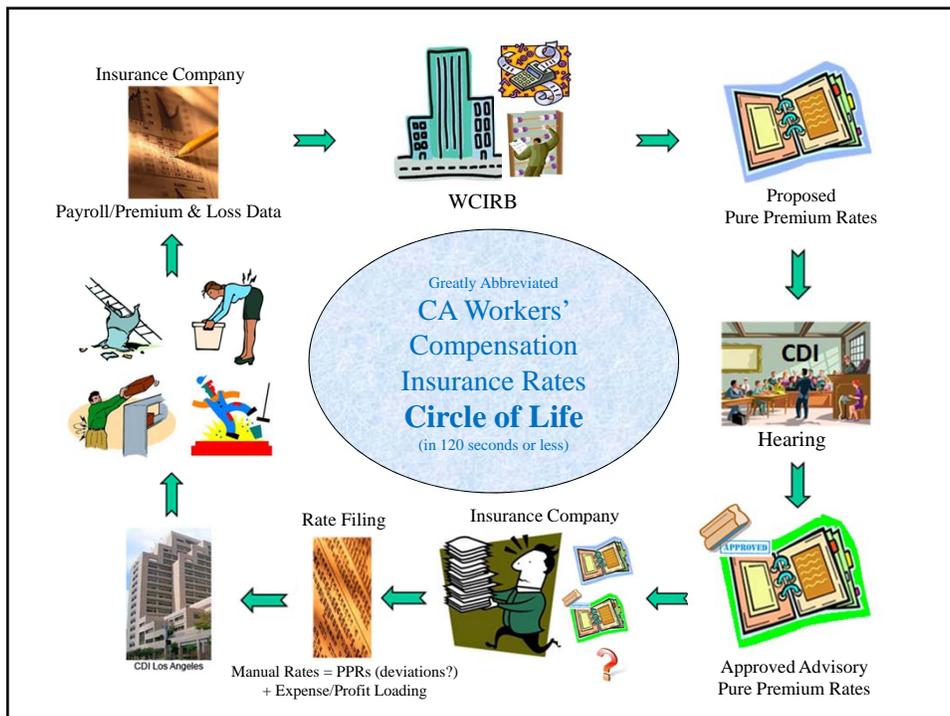


# California Workers' Compensation

DWC 21<sup>st</sup> Annual Educational Conference

Los Angeles February 3 & 4, Oakland February 10 & 11, 2014



### **Insurance Commissioner – CA Department of Insurance Rate Regulation Branch – Rate Filing Bureaus**

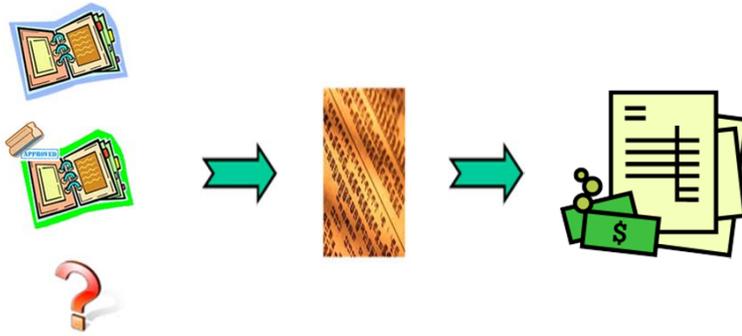
- In California, workers' compensation is a "file-and-use" line of insurance; it is not covered under Proposition 103 as a "prior approval" line of insurance. (e.g. personal auto & homeowners, numerous comm'l lines)
- For WC, every insurer must file with the Commissioner all rates and supplementary rate information that are to be used in California.
- The WC rates and supplementary rate information must be filed not later than 30 days prior to the proposed effective date. » CIC §11735(a)
- If a WC filing is considered to be complete and in compliance with the statutory and regulatory filing requirements on the 30<sup>th</sup> day after filing receipt, the company can use or apply the filed rates.
- In 2012, CDI received 578 WC filings from 222 different WC companies.
- In 2013, CDI received 466 WC filings from 207 different WC companies.

### **Insurance Commissioner Advisory PPR Decision in 2013**

(File Number REG-2013-00012, November 22, 2013)

- No mid-year pure premium rate filing in 2013.
- November 2013, Insurance Commissioner's Decision and Order (REG-2013-00012) directed the WCIRB to adopt an Advisory Claims Cost Benchmark at \$2.70 per \$100 of employer payroll to be effective January 1, 2014. This average pure premium rate of \$2.70 is 6.7% higher than the average pure premium rate insurers were estimated to already have on file as of July 1, 2013 => \$2.53.

## A Rate is a Rate is a Rate

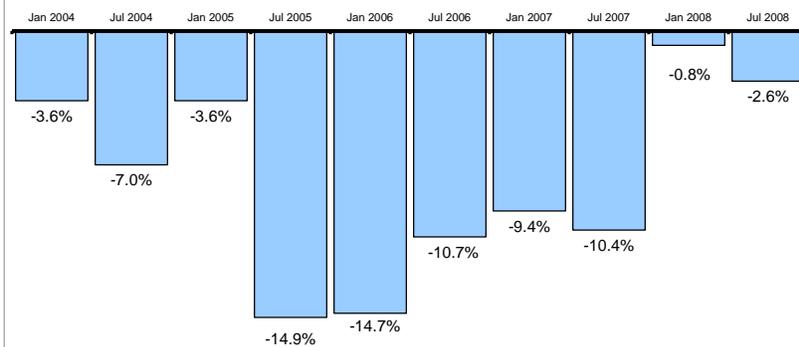


**Pure Premium Rates**  
reflect claims/losses and loss adjustment expense

**Manual Rates**  
reflect insurer's adoption of a set of pure premium rates and any filed classification deviations/modifications + insurer's expense/profit loading

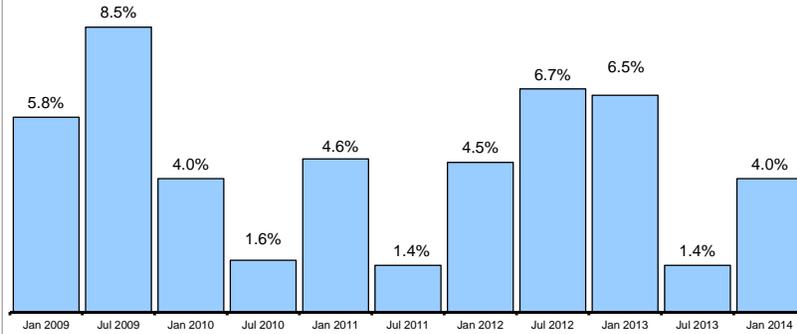
**Charged Rates**  
manual rates reflecting individual account characteristics including x-mod, schedule rating, territory, & other insurer filed plans/factors

### Average Workers' Compensation Manual Rate Changes Filed by Insurers - Post 2003-04 Reforms (AB 749, AB 227/SB 228, SB 899) through July 2008



Source: California Department of Insurance

**Average Workers' Compensation Manual Rate Changes  
Filed by Insurers - January 2009 to Present**



Source: California Department of Insurance

**Insurance Company Pure Premium Rate (Benchmark)  
Adoptions Filed for January 1, 2014...or Thereafter**

The top 120 insurers (97.4% of the market in 2012)...

PURE PREMIUM RATES (BENCHMARK)	EFFECTIVE DATE				
	January 1, 2014	February 1, 2014	March 1, 2014	April 1, 2014	
Approved JAN 2014	14	26	29	1	70
Amended Proposed JAN 2014	8	1	4	0	13
Proposed JAN 2014	3	0	0	0	3
Approved JAN 2013	3	0	4	0	7
<b>TOTAL:</b>	<b>25</b>	<b>27</b>	<b>33</b>	<b>1</b>	<b>93</b>
Companies not making a "year-end" rate filing:			27		

Of the 14 companies adopting the approved benchmark effective 1/1/2014, only 3 filed no uniform class deviation (i.e. factor =1.000).

Of the 70 companies adopting the approved benchmark regardless of effective date, only 6 filed no uniform class deviation.

**Aggregate Filed Manual Rate Changes for the CA Workers'  
Compensation Industry**

(Cumulative Post 2003-04 Reforms: 1/1/2004 through 3/1/2014)

- **State Compensation Insurance Fund  
Cumulative Filed Manual Rate Change** -41.4%
- **CA Workers' Comp. Industry  
Cumulative Filed Manual Rate Reductions** -29.2%

**Newly Authorized Workers' Compensation Insurers since AB 227,  
SB 228, SB 899**

(Determined by Initial Rate Filing or Certificate of Authority Application, as of 1/22/2014)

<b>YEAR</b>	<b># OF COMPANIES ADMITTED</b>
<b>2004</b>	<b>6</b>
<b>2005</b>	<b>7</b>
<b>2006</b>	<b>6</b>
<b>2007</b>	<b>5</b>
<b>2008</b>	<b>7</b>
<b>2009</b>	<b>7</b>
<b>2010</b>	<b>10</b>
<b>2011</b>	<b>12</b>
<b>2012</b>	<b>10</b>
<b>2013</b>	<b>9</b>
<b>2014</b>	<b>1</b>
<b>TOTAL</b>	<b>80</b>

**Newly Authorized Workers' Compensation Insurers since AB 227,  
SB 228, SB 899**

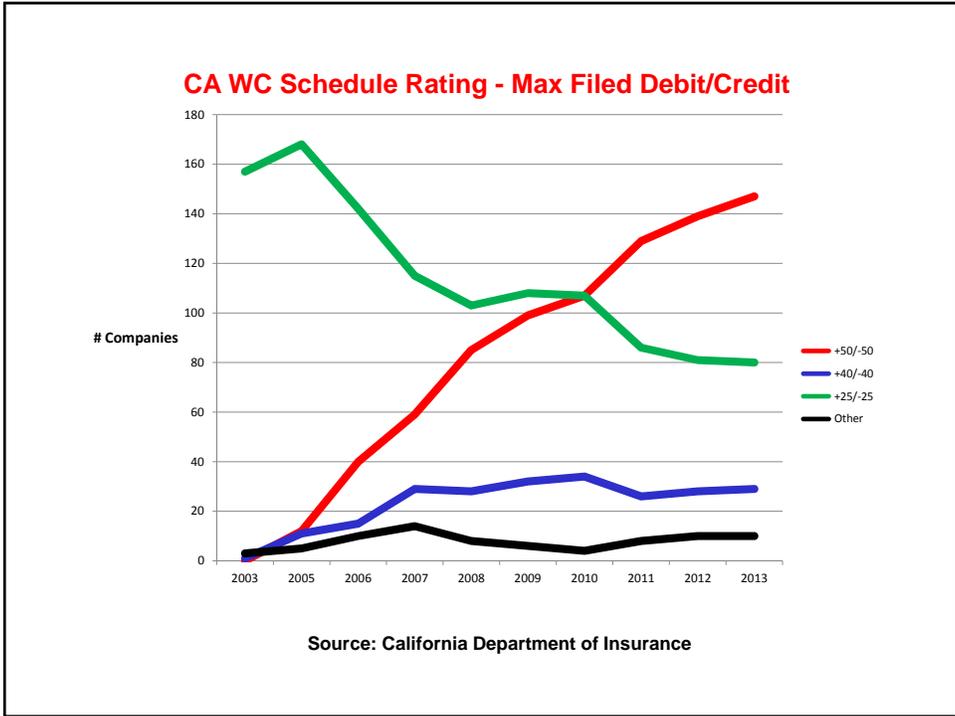
(Determined by Initial Rate Filing or Certificate of Authority Application, as of 1/22/2014)

<b>COMPANY / GROUP NAME</b>	<b>DATE OF ADMISSION</b>
• 71. Ohio Security Insurance Company	1/9/13
• 72. Tokio Marine America Insurance Company	3/1/13
• 73. Cincinnati Casualty Company	3/7/13
• 74. Cincinnati Indemnity Company	3/7/13
• 75. Ohio Casualty Insurance Company (The)	3/19/13
• 76. Foremost Ins Co Grand Rapids, MI	4/18/13
• 77. Foremost Property and Casualty Insurance Co	4/18/13
• 78. OBI National Insurance Company	8/29/13
• 79. Torus National Insurance Company	11/18/13
• 80. Sagamore Insurance Company	1/8/14

**Pending Applications for New Workers' Compensation Insurers  
since passage of AB 227, SB 228, SB 899**

(Determined by Initial Rate Filing or Certificate of Authority Application, as of 1/22/2014)

<b>COMPANY NAME</b>	<b>DATE OF APPLICATION</b>
• 1. Cherokee Insurance Company	1/14/14



**CDI WC Enforcement Actions 2013**

**Legal**

\* Settlement reached with insurer after insurer failed to file large deductible (dispute resolution) agreement forms with CDI as required by the Insurance Code. Insurer never filed agreements after CDI advised all insurers in 2011 to file such agreements. Insurer’s agreements generally offered on a take it or leave it basis to employers, with New York laws applying to disputes, and resolution in Chicago regardless of employers’ base of business (e.g. in CA).

\* Hospitals agree to record payment and billing/disclosure reforms in CDI lawsuit involving anesthesia billing. => lower prices and affect WC claims. CA to receive \$20 million for investigation and prevention of insurance fraud.

\* Business owner sentenced to one felony count of insurance fraud and ordered to pay restitution of nearly \$4.2 million; sentenced to six years in prison for defrauding two insurance companies by underreporting employee payroll and unemployment insurance tax evasion.

### **CDI WC Enforcement Actions 2013**

...business owner sentenced for insurance premium fraud...misrepresented the number of employees at the company as well as its actual payroll when applying for workers' compensation insurance to its insurer...

...arrest of three suspects accused of producing and selling hundreds of false certificates of insurance for workers' compensation insurance...

...Wife gets arrested when husband dies, but she continues to cash his workers' compensation checks. Overpayment of benefits results in wife fraudulently receiving over \$500,000...

...Investigation leads to conviction of business owner for committing workers' compensation insurance premium fraud for failing to properly report employee payroll to the insurance carrier...

...California Department of Insurance investigation leads to conviction of family for workers' compensation insurance fraud...

### **CDI WC Enforcement Actions 2013**

...business owner sentenced to 364 days in jail and three years' probation after pleading no contest for two felony counts including insurance premium fraud and failing to maintain workers' compensation insurance...paid restitution of over \$52,000 toward unpaid insurance premiums...

...insurance agent arrested for theft and providing bogus insurance certificates to dupe clients...Investigators found that the agent collected more than \$6,000 from clients for workers' compensation, general liability, and commercial automobile insurance coverage and allegedly failed to forward the premium exposing clients to the risk of uncovered loss...

≈

To assist in addressing the type of activities outlined above, \$32 million in local grants were awarded to district attorneys across 36 counties in California in 2013 to combat workers' compensation fraud.

## **CDI WC Enforcement Actions 2013**

### **Market Conduct**

CDI completed 10 insurance company exams during 2013 that included the Workers' Compensation line. Four of the exams covered claims practices and six covered rating and underwriting. The typical compliance problems found, which tend to be common findings on WC exams in general, include:

#### **Claims**

- Errors or miscalculations in the benefits owed leading to underpayments
- Failure to include self-imposed penalties and interest when due
- Not performing complete investigation (or not documenting all investigatory steps taken)
- Delays in acknowledging and responding to communications
- Delays in issuing payments

## **CDI WC Enforcement Actions 2013**

### **Market Conduct**

#### **Rating and Underwriting**

- Failure to file all components of rates, rating plans and supplemental rate information being used
- Use of rating/pricing tiers – including failure to have objective and mutually exclusive placement rules, failure to consistently apply placement rules, failure to collect all underwriting info needed to apply rules, and failure to include such rules in a rate filing
- Inadequate documentation of application of schedule rating
- Failure to make required filings with WCIRB – such as forms and safety group information

## **Recently Enacted Legislation - Dispute Resolution or Arbitration**

CIC §11658.5, which applies to workers' compensation policies issued or renewed on or after July 1, 2012, requires an insurer that intends to use a dispute resolution or arbitration agreement to disclose to the employer at policy quotation that choice of law and choice of venue or forum for the resolution/arbitration process may be a jurisdiction other than California, and that these terms are negotiable between the insurer and the employer.

The disclosure must be signed by the employer as evidence of receipt where the employer accepts the offer of coverage from that insurer.

A dispute resolution or arbitration agreement may be negotiated by the insurer and the employer before any dispute arises.

Failure by the insurer to observe these requirements will result in a default to California as the choice of law and forum for resolution of disputes arising in California.

## **Comparison Shop on the Internet**

- **Comparison Shop on the Internet**
  - **www.insurance.ca.gov - Click on "Consumers", "Compare Premiums", "Information on the CA Workers' Compensation Rate Comparison", and click on the range of class codes that contains your governing class code. Use the bookmarks and Class Code Search feature to help navigate to specific class codes.**
  - **Click on the Back button and go back to the Cal WC Rate Comparison main page, and click on "Check your insurance company's profile" link to obtain profile information about the company. Request a premium quote from the company, or for an authorized agent/broker that may provide a quote. If the quote is too high, select another company from the list. Check company licenses and agent/broker licenses. Check financial stability ratings.**
  - **Many companies have their own websites and can provide on-line quotes.**

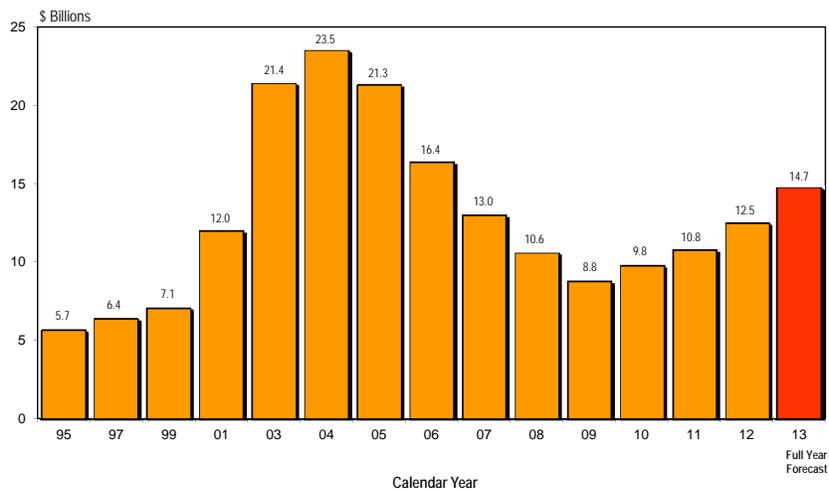
## California Workers' Compensation Update – WCIRB Perspective

Presented by  
Dave Bellusci & Shane Steele  
WCIRB of California

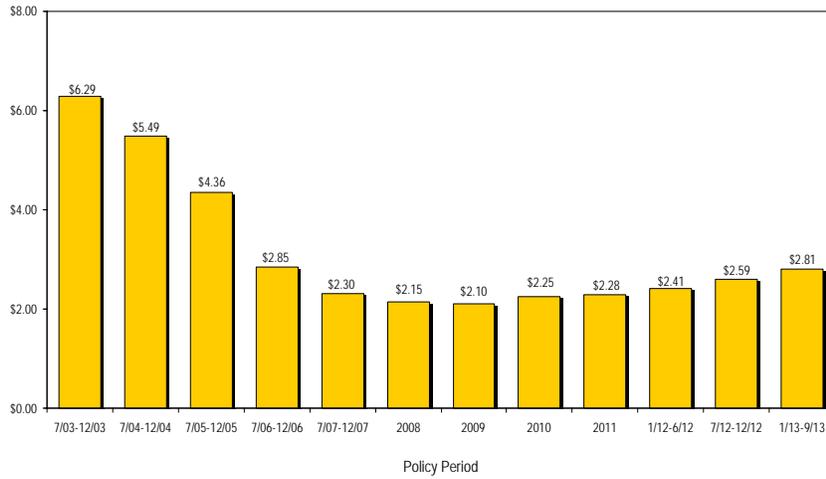
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California Workers' Compensation Update – WCIRB Perspective

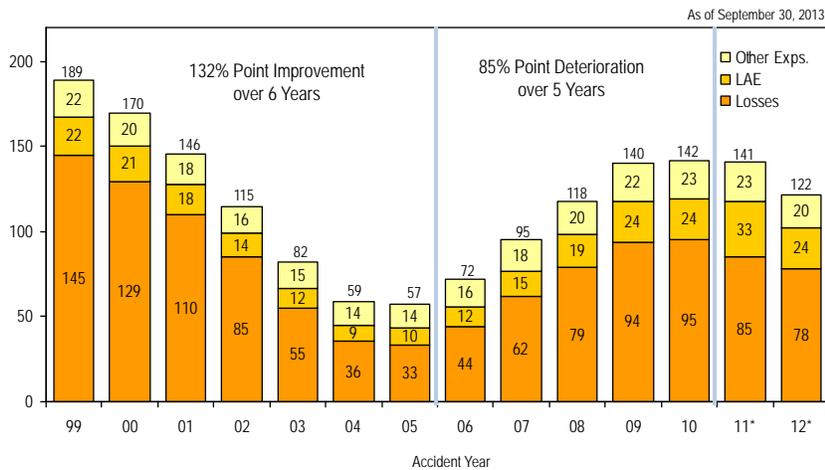
### Reported Written Premium Gross of Deductible Credits



### Estimated Average Charged Insurer Rate Per \$100 of Payroll



### Accident Year California Projected Combined Loss and Expense Ratios



\* The cost of medical cost containment programs is reflected in LAE for accident years 2011 and 2012. It is reflected in losses for all other accident years.

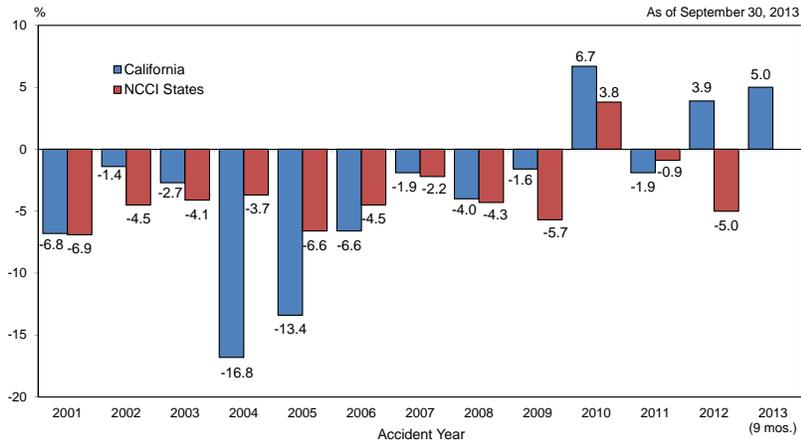
## WCIRB Prospective Cost Evaluation of SB 863 Summary of WCIRB October 12, 2012 Estimates (\$'s in billions)

SB 863 Provisions	Impact on Statewide Claim Costs	% Impact on Claim Costs
2013 & 2014 PD Benefit Level Changes	+\$1.2	+6.4%
Elimination of PD Add-ons	(\$0.2)	-0.9%
Three-Tiered Weekly PD Benefits	(\$0.1)	-0.5%
Liens	(\$0.5)	-2.5%
Surgical Implant Hardware	(\$0.1)	-0.6%
ASC Fees	(\$0.1)	-0.4%
IMR (Impact on Frictional Costs & TD Duration)	(\$0.4)	-2.1%
Ogilvie Decision	(\$0.2)	-1.1%
MPN Strengthening	(\$0.2)	-1.0%
<b>Total Estimated Impact of SB 863 (pre RBRVS)</b>	<b>(\$0.5)</b>	<b>-2.7%</b>
RBRVS Fee Schedule	+\$0.3	+1.8%
<b>Total Estimated Impact of SB 863 (post RBRVS)</b>	<b>(\$0.2)</b>	<b>-0.9%</b>

## Indemnity Claim Frequency – WCIRB Prospective Estimate

- Impact of SB 863's PD Benefit Increases on Frequency Estimated to Increase Costs by 1.1% (\$200M)
- Accident Year 2013 Frequency Initially Projected to Increase by 1.0% Based on WCIRB Frequency Model
- Preliminary 2013 Indication: +5%

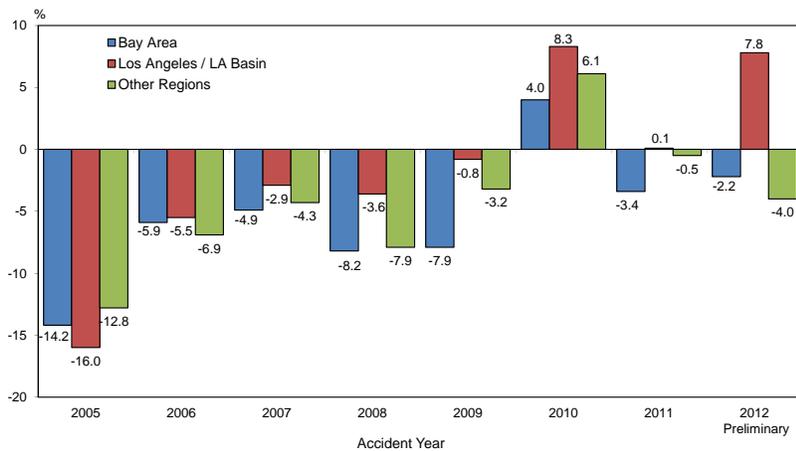
## Change in Estimated Indemnity Claim Frequency – California vs. NCCI States



Source: WCIRB Unit Statistical Data (2001-2011) and Aggregate Data Calls (2012-2013)

NCCI estimates are based on May 16, 2013 State of the Line Presentation (NCCI 2012 estimate is preliminary and the 2010 and 2011 estimates have been adjusted to remove the impact of audit premium and other factors).

## Estimated Frequency Changes by Geographic Region USR 1<sup>st</sup> Report Level



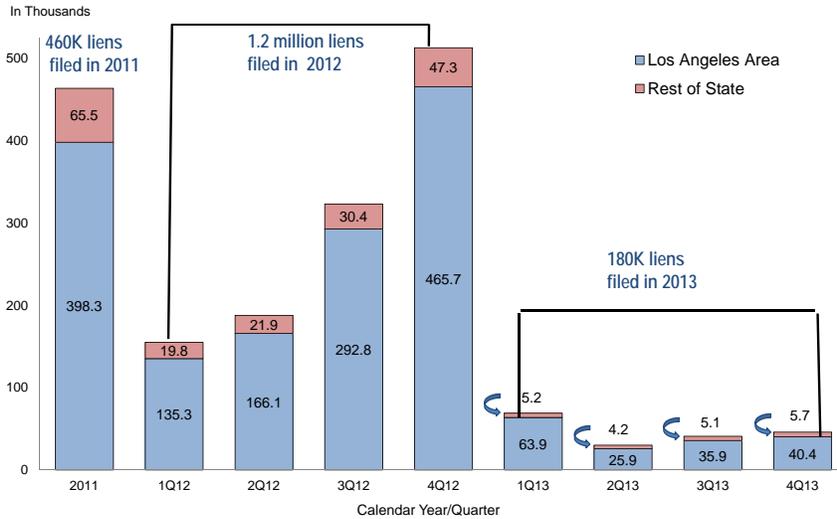
## Change in Indemnity Claim Frequency 2010 Compared to 2012

	2010 Frequency Change	2012 Frequency Change
<b>Comparison to Countrywide</b>	California Consistent with National Trends	California Differs from National Trends
<b>Impact of Recession</b>	Increase in Cumulative Injuries (not Filed During Recession)	Increase in Newly-Hired Workers During Recovery
<b>Industries Most Affected</b>	Sectors Most Impacted By Recession (e.g., Construction, Real Estate)	Broad-Based (e.g., Manufacturing, Entertainment, Other Industries)
<b>Regions Most Affected</b>	Broad-Based Across all California	Isolated to Los Angeles Area Regions
<b>Claims Most Affected</b>	Smaller Indemnity Claims that May Otherwise Have Been Medical-Only	Larger Permanent Disability Claims, Many Involving Multiple Body Parts
<b>Shifting Industrial Mix</b>	Loss of Construction Employment Significantly Dampening Frequency	Reversal of Dampening Impact During Recovery

## Liens – WCIRB Prospective Estimate

- Total Impact of SB 863 Lien Provisions Estimated to Decrease Costs by 2.5% (\$480M)
- Assumed 260,000 Liens (41%) Eliminated by Filing Fee and Statute of Limitations

## Liens Filed Counts by Region



## Spinal Surgical Implant - WCIRB Estimated Cost Impact

- Elimination of Separate Reimbursements for Implantable Hardware Estimated to Decrease Costs by 0.6% (\$110M)
- Estimate Based on CWCI Study of Multiple Reimbursements
  - Duplicate payments added \$20,000 to each procedure
- Post-Reform Emerging Costs - Calculated Billed and Paid Amounts for the 7 DRGs Pre- and Post-1/1/13

	# Episodes	% DRGS 454 & 455	Total \$ Paid	Avg. \$ Paid Per Episode
Pre-1/1/13	214	84%	\$5,870,125	\$27,430
Post-1/1/13	52	85%	\$628,504	\$12,087
<b>Change</b>				<b>-56%</b>

### Ambulatory Surgical Center – WCIRB Estimated Cost Impact

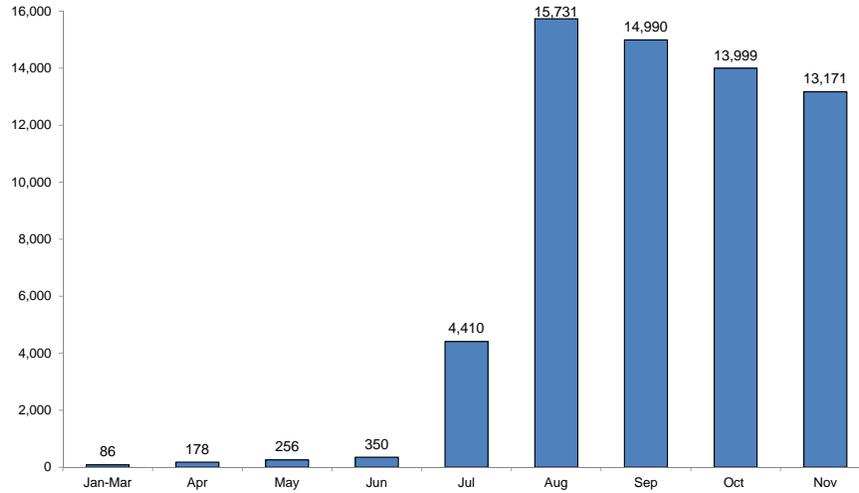
- Changes to ASC Fees Estimated to Decrease Costs by 0.4% (\$80M)
- Some ASC Fees Reimbursed Under Contract Levels Below Current Fee Schedule
- Assumed Reduction in ASC Facility Fees of 25%
- Post-Reform Emerging Costs - Examined ASC Episodes of Care for the 30 Most Highly Reimbursed Procedure Codes (67% of All ASC Costs)

ASC Surgeries Top 30 Paid Codes	% of all ASC \$ in Top 30 Codes	# of Episodes	\$ Paid	\$ Paid per Episode
Services Pre-1/1/13	65%	11,435	\$37,628,741	\$3,291
Services Post-1/1/13	68%	5,497	\$13,430,373	\$2,443
<b>Change</b>				<b>-26%</b>

### Independent Medical Review – WCIRB Prospective Estimate

- Total Quantifiable Impact of SB 863 IMR Provisions Estimated to Decrease Costs by 2.1% (\$390M)
- IMR Frictional Cost Saving Assumptions
  - 30,000 medical liens for UR disputes replaced by IMR reports
  - 21,000 QMEs for medical treatment replaced by IMR reports
  - 9,000 expedited hearings eliminated
- Reduction in Delays for Medical Treatment Assumed to Reduce TD Duration & Litigation
- No Estimate for IMR Impact on Medical Treatment Levels Provided

### Number of IMR Requests by Month



Source: DWC

### WCIRB Cost Evaluation of SB 863 Summary of Estimates (\$'s in billions)

SB 863 Provisions	WCIRB Prospective Cost Estimates (Impact on Statewide Claim Costs)	Preliminary Monitoring Results (Impact on Savings Estimates)
2013 & 2014 PD Benefit Level Changes	+\$1.2	▼
Elimination of PD Add-ons	(\$0.2)	TBD
Three-Tiered Weekly PD Benefits	(\$0.1)	TBD
Liens	(\$0.5)	▲
Surgical Implant Hardware	(\$0.1)	▬
ASC Fees	(\$0.1)	▬
IMR (Impact on Frictional Costs & TD Duration)	(\$0.4)	▼
Ogilvie Decision	(\$0.2)	TBD
MPN Strengthening	(\$0.2)	TBD
IMR (Impact on Medical Treatment)	TBD	TBD
IBR	TBD	TBD
RBRVS Fee Schedule	+\$0.3	TBD