



STATE OF CALIFORNIA
Labor & Workforce Development Agency

GOVERNOR Edmund G. Brown Jr. • SECRETARY David Lanier

Agricultural Labor Relations Board • California Unemployment Insurance Appeals Board
California Workforce Investment Board • Department of Industrial Relations
Employment Development Department • Employment Training Panel • Public Employment Relations Board

May 31, 2016

Ms. Christine Baker, Director
Department of Industrial Relations
1515 Clay Street, Floor 17
Oakland, CA 94612

Dear Director Baker:

As you know, the two primary goals of the 2012 workers' compensation reforms, SB 863 (De Leon), were to increase benefits for injured workers and control costs for employers. Negotiations with the key stakeholders, worker and employer representatives led to reforms that have in fact increased benefits, controlled costs, and reduced exploitative and fraudulent practices in the system.

While significant progress toward meeting the goals sought by the Governor and the Legislature in enacting SB 863 has been achieved, there is more work to be done. Recent investigations, indictments and convictions demonstrate both successes – and significant remaining challenges. With more than 20 new regulation and reform packages in place, increased benefits to injured workers and overall system costs under control, we are well poised to develop and implement a significant anti-fraud strategy that builds on the SB 863 framework.

In recent years a number of studies and reports focused on fraud have been conducted by the Commission on Health and Safety and Workers' Compensation, the Department of Insurance Fraud Assessment Commission, the Little Hoover Commission and a number of others. Finding the appropriate solutions to fight fraud requires careful analysis and an understanding of the workers' compensation system, the law and the motivations for fraud.

To chart the next steps in fraud prevention, I would like you to convene a working group, comprised of the relevant stakeholders, to review the research to date, provide further analysis of the problem and propose a set of comprehensive and strategic policy recommendations for consideration by the Governor and the Legislature.



Specifically this working group should:

- Conduct focus group meetings with stakeholders to identify solutions.
- Identify ongoing data measurements to be used to evaluate effectiveness of actions taken.
- Review current and potential new strategies toward increasing the agility of enforcement for cross-county and statewide efforts.
- Analyze and evaluate strategies in other jurisdictions and health care systems to restrict participation for providers or entities that have been sanctioned for improper practices.
- Evaluate data mining and analysis tools successfully used in other jurisdictions to identify and prioritize areas of most significant financial and social impact.
- Evaluate existing legal requirements and practices of insurer, self-insured, and third party administrators as they relate to sharing relevant information with state and county authorities.
- Create a recommended structure to monitor, coordinate and evaluate efforts going forward.

Further, I ask that the working group prepare a report making recommendations to the Governor and Legislature no later than spring of 2017. This report should address opportunities and implementation strategies for improved coordination of anti-fraud efforts and make recommendations for additional administrative, regulatory and statutory actions as appropriate.

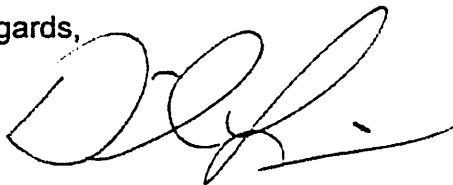
The report should not be limited to a specific set of issues but should include review of the following areas of potential fraud and abuse within the workers' compensation system in California:

- The sale and purchase of accounts receivable (A/R) after January 1, 2013, in violation of Labor Code (LC) 4903.8(a).
- The filing of false declarations required by LC 4903.8.
- Failures to disclose purchase of A/Rs when liens are filed (LC 4903.8(b)).
- Medical-legal reports filed by treating providers prior to the filing of a workers' compensation claim form (DWC-1).
- Illegal referrals to firms in which the provider has a financial interest (LC 139.3 and 139.32).
- Treating physicians writing medical-legal reports to challenge utilization review denials (no longer a medical-legal expense).
- Selling A/R (factoring) for businesses that are still ongoing concerns (LC 4903.8 (a)).
- Unnecessary tests in medical-legal exams by Qualified Medical Examiners and Agreed Medical Examiners (QMEs/AMEs).
- Review of corporate practices of violating rules on pharmaceuticals.

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- Filing of medical treatment liens by collection companies without naming the medical provider (LC 4903.8(a)(1)).
- Study of post-termination cumulative trauma and incentives.
- Review of patterns of abuse linked to other businesses within workers' compensation.
- Review of ongoing analytical efforts to use workers' compensation injury and billing data and dispute resolution and adjudication records to identify and focus on problem areas, ongoing organized schemes and emerging strategies.
- Review of continuing efforts to identify entities engaging in fraudulent activities and initiate sanctions and challenges to licensing for those entities.
- Performance metrics to measure both inputs and outcomes of state-funded efforts, including development of standardized reporting tools and incentives to address complex cases.

Regards,



David M. Lanier, Secretary
Labor and Workforce Development Agency

cc:

Honorable Dave Jones, Insurance Commissioner, California Department of Insurance

Senate President Pro Tempore Kevin De Leon
Attention: Mr. Charles Wright

Speaker of the Assembly Anthony Rendon
Attention: Mr. George Wiley

Honorable Tony Mendoza, Chair, Senate Labor and Industrial Relations Committee

Honorable Tom Daly, Chair, Assembly Insurance Committee

Honorable Freddie Rodriguez, Chair, Joint Legislative Audit Committee

Honorable Richard Roth, Vice Chair, Joint Legislative Audit Committee

Mr. Tom Dyer, Chief Deputy of Legislative Affairs, Governor's Office