



## California Workers' Compensation Institute

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December 17, 2021

VIA E-MAIL: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov)

To: Maureen Gray, Regulations Coordinator  
Division of Workers' Compensation

### **Re: Electronic Service of Medical-Legal Reports by Medical Evaluators**

Dear Ms. Gray:

On behalf of its members, California Workers' Compensation Institute offers these comments on the Electronic Service of Medical-Legal Reports by Medical Evaluators. The Institute's members include insurers writing 80% of California's workers' compensation premium, and self-insured employers with \$89B of annual payroll (33.7% of the state's total annual self-insured payroll).

Insurer members of the Institute include AIG, Allianz Global Corporate and Specialty, AmTrust North America, AXA XL Insurance, Berkshire Hathaway, CHUBB, CNA, CompWest Insurance Company, CopperPoint Insurance Companies, Crum & Forster, EMPLOYERS, Everest National Insurance Company, GUARD Insurance Companies, The Hanover Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, North American Casualty Company, Preferred Employers Group, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, Travelers, WCF National Insurance Company, Zenith Insurance Company, and Zürich North America.

Self-insured employer members include Albertsons/Safeway, BETA Healthcare Group, California Fair Services Authority, California Joint Powers Insurance Authority, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Los Angeles, City of Pasadena, City of Torrance, Costco Wholesale, County of Los Angeles, County of San Bernardino Risk Management, County of Santa Clara Risk Management, Dignity Health, Disneyland Resort, East Bay Municipal Utility District, Grimmway Farms, Kaiser Permanente, North Bay Schools Insurance Authority, Pacific Gas & Electric Company, Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group, Southern California Edison, Special District Risk Management Authority, Sutter Health, United Airlines, and University of California.

Recommended revisions to the proposed regulation are indicated by underscore and ~~strikeout~~. Comments and discussion by the Institute are identified by *italicized text*.

## Discussion

The Institute supports the continuing effort by the Division to improve the efficiency of the workers' compensation system by making the service of medical-legal reports more convenient for all parties involved and to speed up the delivery of medical-legal reports to the interested parties. We are in favor of the proposal to make permanent the emergency regulation regarding electronic delivery of medical-legal reports.

In particular, we agree with the proposal to strike the earlier language precluding electronic service on unrepresented parties. As we noted in our original Comments, the majority of medical-legal evaluation reports are generated in cases involving unrepresented injured workers. If the injured worker is in agreement to receive a copy of the report electronically, this choice should be supported and not prohibited. Likewise, unrepresented employers should be permitted to choose to receive copies of medical-legal reports electronically. Permitting both sides to engage in electronic communication in instances such as this helps to move the system forward into a more efficient method of functioning overall.

Additionally, the Institute would like to take this opportunity to reiterate our prior suggestions that clarify that the required written agreement to receive electronic service include agreement sent electronically. We again recommend that new language be added consistent with Rules of Court §2.251(g)(1) such that, in the event of a change of address under 8 CCR §36.7(a), a party whose email address has changed has the obligation to file a notice of change of address with the physician and serving notice electronically on all other parties.

Finally, we support the recommendation at the December 17, 2021, Public Hearing that reference be made to HIPPA compliance. While physicians are already under obligation to ensure appropriate protections are in place, reiteration of that requirement in these electronic service regulations is appropriate.

Thank you for the opportunity to comment, and please contact us if additional information would be helpful.

Sincerely,

*Ellen Sims Langille*

Ellen Sims Langille, General Counsel  
California Workers' Compensation Institute

cc: Katrina Hagen, DIR Director  
George Parisotto, DWC Administrative Director  
CWCI Claims Committee  
CWCI Medical Care Committee  
CWCI Legal Committee  
CWCI Regular Members  
CWCI Associate Members