

# Actuarial Committee

## Meeting Minutes

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<b>Date</b>	<b>Time</b>	<b>Location</b>	<b>Staff Contact</b>
September 6, 2016	9:30 AM	WCIRB California 1221 Broadway, Suite 900 Oakland, CA	David M. Bellusci

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1221 Broadway, Suite 900 • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com

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Released: September 12, 2016

### Members

Laura Carstensen\*  
James Gebhard\*  
Joanne Ottone\*  
Jill Petker\*  
Mark Priven  
Kate Smith  
Bryan Ware\*

### Representing

Zurich North America  
Farmers Insurance Group of Companies  
Berkshire Hathaway Homestate Companies  
Liberty Mutual Group  
Public Members of Governing Committee  
State Compensation Insurance Fund  
Employers Insurance Group

### California Department of Insurance

Giovanni Muzzarelli\*

### WCIRB

Bill Mudge  
David Bellusci  
Ward Brooks  
Greg Johnson  
Tony Milano

\* Participated via teleconference

The meeting of the Actuarial Committee was called to order at 9:30 AM, with Mr. David Bellusci, Executive Vice President and Chief Actuary, presiding.

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## Item AC16-09-02 Potential Impact of 2016 Legislation

The Committee continued the discussion that began at the September 1, 2016 meeting as to the potential cost impact of Senate Bill No. 1160 (SB 1160) and Assembly Bill No. 1244 (AB 1244), which were passed by Legislature on August 31, 2016. The Committee discussed the key provisions of SB 1160 related to utilization review (UR) which, on compensable injuries occurring on or after January 1, 2018, exempts medical treatment requested within the first 30 days from the date of injury from prospective UR with a number of exceptions. The Committee was reminded that staff's preliminary evaluation of the impact of the SB 1160 provisions related to UR on policy year 2017 costs discussed at the September 1, 2016 meeting suggested that the modest decrease in UR costs projected as a result of SB 1160 (0.1% of total costs) will approximately offset the increase in medical treatment costs (0.1% of total costs). The Committee was advised that staff met with the Department of Industrial Relations (DIR) to review the data and assumptions underlying the potential cost impact of the SB 1160 UR provisions. Staff noted that as a result of this discussion, the DIR's updated estimate and staff's preliminary evaluation were generally comparable. After discussion, the consensus of the Committee was that no adjustment to policy year 2017 pure premium rates for the impact of the SB 1160 UR provisions was appropriate at this time. The Committee noted the potential indirect impact of the SB 1160 UR provisions on medical treatment costs in the first 30 days and staff agreed to monitor medical treatment patterns on post-January 1, 2018 injuries.

The Committee was reminded that the provisions of SB 1160 and AB 1244 related to liens include (a) a stay on liens filed by providers indicted or convicted of fraud until the disposition of the criminal proceedings, (b) a requirement that a declaration under penalty of perjury must be included with liens filed on or after January 1, 2017 as well as on outstanding liens by July 1, 2017 stating that the lien is not subject to independent medical review (IMR) or independent bill review (IBR) and that the provider meets one of several requirements, and (c) a requirement that liens filed on or after January 1, 2017 cannot be assigned to a third party unless the provider has ceased doing business. Staff noted that calendar year 2015 information and WCIRB lien surveys suggests liens are approximately 6% of total system costs and lien filings in 2015 and 2016 have increased sharply, with a significant increase in the proportion of total liens filed by the lien claimants with the most lien filings.

The Committee discussed the potential impact of the SB 1160 and AB 1244 lien provisions on liens filed prior to January 1, 2017. It was noted that DIR information suggests approximately 10% of outstanding liens and 9% of lien demand amounts were filed by providers with fraud indictments or convictions. It was also noted that even if only a fraction of these liens were ultimately dismissed, significant cost savings for prior accident years could result. It was also noted that the declaration required to be filed on pre-January 1, 2017 liens by July 1, 2017 may also result in reductions in outstanding lien volumes but its impact is uncertain. The Committee noted that these provisions may impact loss development patterns on pre-2017 accident years. After a lengthy discussion, the consensus of the Committee was that, consistent with the valuation of earlier reforms, no adjustment to proposed 2017 pure premium rates for the impact of SB 1160 and AB 1244 on pre-2017 injuries should be made at this time but that staff should prepare an analysis for the Committee's review of the impact of SB 1160 and AB 1244 on loss and loss adjustment expense development in the near future.

The Committee next discussed the potential impact of the SB 1160 and AB 1244 lien provisions on policy year 2017 pure premium rates. It was noted that the provisions related to providers indicted or convicted of fraud may result in reduced lien filings on claims arising from 2017 policies. It was also noted that the declaration required to be filed with liens may reduce liens that are filed for the balance between a billed amount and a fee schedule amount, which should be subject to IBR. It was also noted that DIR information suggested 18% to 25% of liens are currently filed by assignees and that some proportion of those liens may not be filed on future claims. However, it was noted that some lien assignees may

transition to lien collection agencies, the declaration requirements may result in increases in IMR and IBR, and potential legal challenges to the provisions may lessen cost savings. The Committee noted that while the impact of these provisions is uncertain and may be mitigated by a number of the factors discussed, these provisions will likely reduce future lien by some relatively modest amount.

The Committee noted that 10% of existing liens were filed by lien claimants under indictment or convicted for fraud and 18% to 25% of lien claims are estimated to be filed by assignees and some proportion of those lien filings may be eliminated in the future, and that WCIRB data from the DIR suggests that the concentration of liens filed by the top ten providers has increased by about 10 percentage points over the last year. However, the Committee also noted that the different lien components of SB 1160 are interrelated and not independent. After further discussion, a motion was made and seconded to project a judgmental 10% reduction in lien filings on policy year 2017 claims should SB 1160 and AB 1244 be signed by the Governor, resulting in a 0.6% reduction in total system costs. The motion passed with 6 in favor and 1 opposed. (The member opposed to the motion agreed that a reduction in lien filings was appropriate but favored a more modest reduction considering the uncertainty and potential mitigating factors.)

Actuarial Committee  
Meeting Minutes for September 6, 2016

The meeting was adjourned at 10:50 AM.

Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the meeting scheduled for November 8, 2016 for approval and/or modification.