

# Workers' Compensation Reform

Will it save you premium dollars?

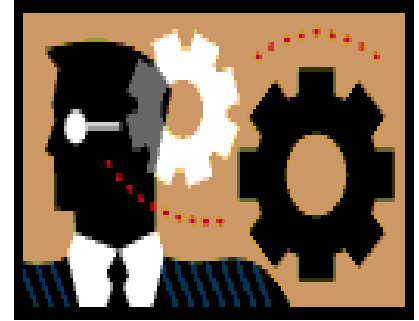


# Speakers

- **John Suhr, MS, CPCU, CRM**  
President – Suhr Risk Services
- **Mike Panza, ARM**  
Director Risk Services – Suhr Risk Services
- **John Sullivan**  
President – Majestic Insurance Company



# Objectives for today



- ✓ What are the changes in the law? - When will they go into effect? - (4/19/04 & 1/1/05)
- ✓ What can you do now? - How do you prepare for 1/1/2005?
- ✓ How will this effect premium? - When will we see premium reductions?

**Why was reform necessary?**

# Events leading up to 4/19/2004

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- 7/13/93 – legislative reform to address stress claims and elimination of minimum rate law effective 1/1/1995
- 1/1/1995 – Open rating/competitive market and rates decrease 30% - 50%
- 1998/1999 – Carriers begin to fail, Reliance Insurance and Superior National
- 1/1/2000 – Rates start to increase and did for 4 years
- 7/2002 – AB 749 is signed – provides for benefit increases in TD & PD over the next 3 years
- 10/1/2003 – AB 227 & SB 228 is signed – provides for additional medical treatment protocols to reduce medical costs
- 11/14/2003 – New Gov. Schwarzenegger takes office and makes WC #2 priority
- 4/19/2004 – SB 899 is signed – sweeping WC Reform

# Some causes for reform

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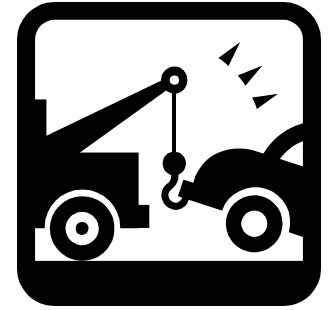
- 27 carriers failed between 1995 and 2003
- CIGA handling over 66,000 claims – 2<sup>nd</sup> largest claim provider
- State Fund increased in market share from approximately 25% to over 60% between 1995 & 2003
- Largest WC insurer, by premium volume, in the country
- In 2003, Calif. W.C. premium rates were the highest in the country - over 30% above #2, FL.
- Benefit increases in AB 749, approved in 7/2002, are projected to add 17.8% to annual claim costs between 1/1/2003 to 1/1/2006
- WC Medical cost increased - 13% in '99-'00; 18% per year in both '00-'01; and '01-'02

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*Source: California Workers' Compensation Institute and Workers' Comp. Insurance Rating Bureau*

# Some causes for reform

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- Written premium for calendar 2003 - estimated at \$ 21.3b – 37% above 2002 (\$ 15.5b) & 300% above 1999 (\$ 7.1b)
- Estimated total claim costs for 2003 are \$ 12.6b – same as 2002 and up 34% over 1999 claims (\$ 9.4b)
- Loss Ratios between 1998 and 2003 were – 173%; 177%; 161%; 142%; 116%; and 94% - including insurer expenses
- After making reinsurance and deductible adjustments – Loss Ratios were 88%; 103%; 102%; 93%; 93% and 81% - lowest since 1997
- Indemnity claim frequency between 1998 and 2003 has declined each year, except one ( -2.0%; +11.7%; -9.1%; -2.0%; and -3.2%)
- Fewer claims are costing more – effect of benefit increases, complexity of the law and difficulties in benefit delivery

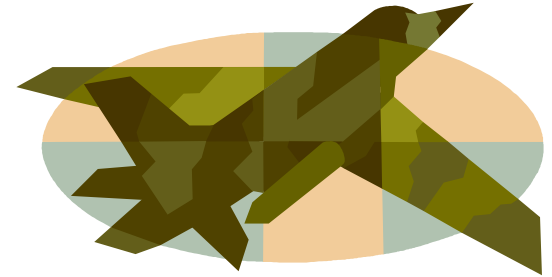
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*Source: California Workers' Compensation Institute and Workers' Comp. Insurance Rating Bureau*

**What was included in SB 899?**

# Overview of SB 899

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- 49 sections of the bill – repealing areas of the Labor Code and adding new provisions or revising existing ones
- The modifications are administrative changes - they effect what is paid and how it is paid - how the adjuster handles a claim or how a dispute is resolved (what a Judge or a doctor must consider)
- New provisions of the law require that regulations be written and adopted – they are the “how to” guide to implement the change
- Includes a requirement for a study on the effect the Bill has had on Premium rates, due to the Gov. by 1/1/2006

# 8 Key Provisions of SB 899

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1. Significant changes in medical treatment protocols - ACOEM
2. Provides the employer with more control over medical care – Employer Physician Network
3. New method to evaluate the extent of any disability (PPD) – revise the current schedule and use AMA guidelines (objective in nature)
4. Employer responsibility for PPD will only be for the amount caused by the injury - the doctor must consider all prior injuries, conditions and illnesses
5. New PPD schedule of dollar equivalent will be adjusted - increase the amount for severe injuries (over 70%) and decreased the amount for minor injuries (0.25% and 69.75%)

# 8 Key Provisions of SB 899

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6. PPD amount will be increased or decreased by 15% - depending upon whether the employer provides modified work for the injured employee  
Example - a 30% disability for an employee with a back injury  
= \$ 25,830 - 2005 maximum rate  
\$ 21,955 - returned to work - 15% decrease or  
\$ 29,705 - could not return to work - 15% increase  
**\$ 7,750** – difference in claim costs
7. Employers with 50 or less employees will be eligible for reimbursement for Workplace Modifications
8. ADR has been expanded to include more collective bargaining situations by reducing the premium requirements

**When do the provisions of  
SB 899 go into effect?**

# Timeline for Implementation



- Bill was passed as emergency legislation – unless otherwise specified, it is effective on the date the Bill was signed by the governor, 4/19/2004
  
- Some provisions apply to all claims, regardless of the injury date, while others apply based upon the actual date of injury
  
- 4 Key dates to remember
  - 4/19/2004
  - 6/1/2004
  - 7/1/2004 or when regulations are adopted
  - 1/1/2005 or when regulations are adopted

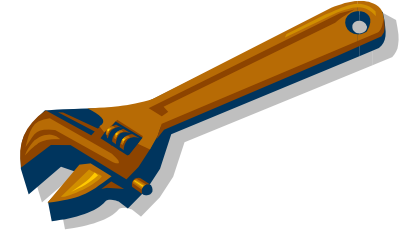
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We've included exhibits that identify the Top 5 changes and a side-by-side comparison of the changes.

**What should you do now?**

# What should you do now?

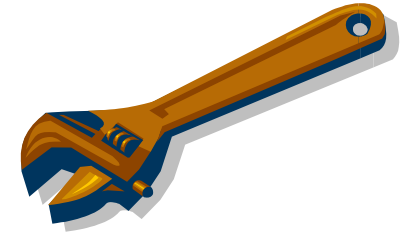
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1. Remind your employees that all work injuries or illnesses must be reported immediately
2. Refer any potential work injury or illness to your medical facility for an evaluation
3. Review all current open claims and identify any information related to any known prior injuries or conditions
4. Provide that information to the claim adjuster so the doctor can evaluate any disability from the prior injury or condition  
- see **Exhibit #1**

# What should you do now?

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5. Notify the claim adjuster of any prior Awards or Settlements on all open claims - see **Exhibit #1**
6. Return employees to work in modified positions, whenever feasible
7. Remind employees that W.C. fraud is a crime
8. Encourage employees to report fraud and provide them with the information needed to report any fraud - see **Exhibit #2**

**How do you prepare for  
1/1/2005?**

# How to prepare for 1/1/2005?

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1. Ask your carrier how they plan to implement the Employer Physician Network - see [Exhibit #3](#)
2. Ask your carrier when they plan to implement the Employer Physician Network - see [Exhibit #3](#)
3. Keep track of employees who return to a modified job and any expenses for any modifications - see [Exhibit #4](#)
4. Ask the carrier how an employer with less than 50 employees can access grant money from the Workplace Modification Program - see [Exhibit #5](#)

# How to prepare for 1/1/2005?

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5. Union employers, consider adding Alternative Dispute Resolution to collective bargaining discussions
6. Set a reminder for approximately 11/15/2004 to ask your carrier about implementation of an Employer Physician Network
7. Remember the provisions for employee pre-designation
  - Only if group health is provided
  - Physician has records and previously treated the patient
  - Physician is part of the Employer Physician Network
  - Physician agrees to the employee's designation

# How will the changes effect my premiums?

**John L. Sullivan**



# **Pure Premium rates will be reduced by 7% on July 1, 2004, as promulgated by WCIRB and approved by the DOI.**

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<b>1/1/04</b>	<b>14.9%</b>
<b>7/1/04</b>	<b>7.0%</b>

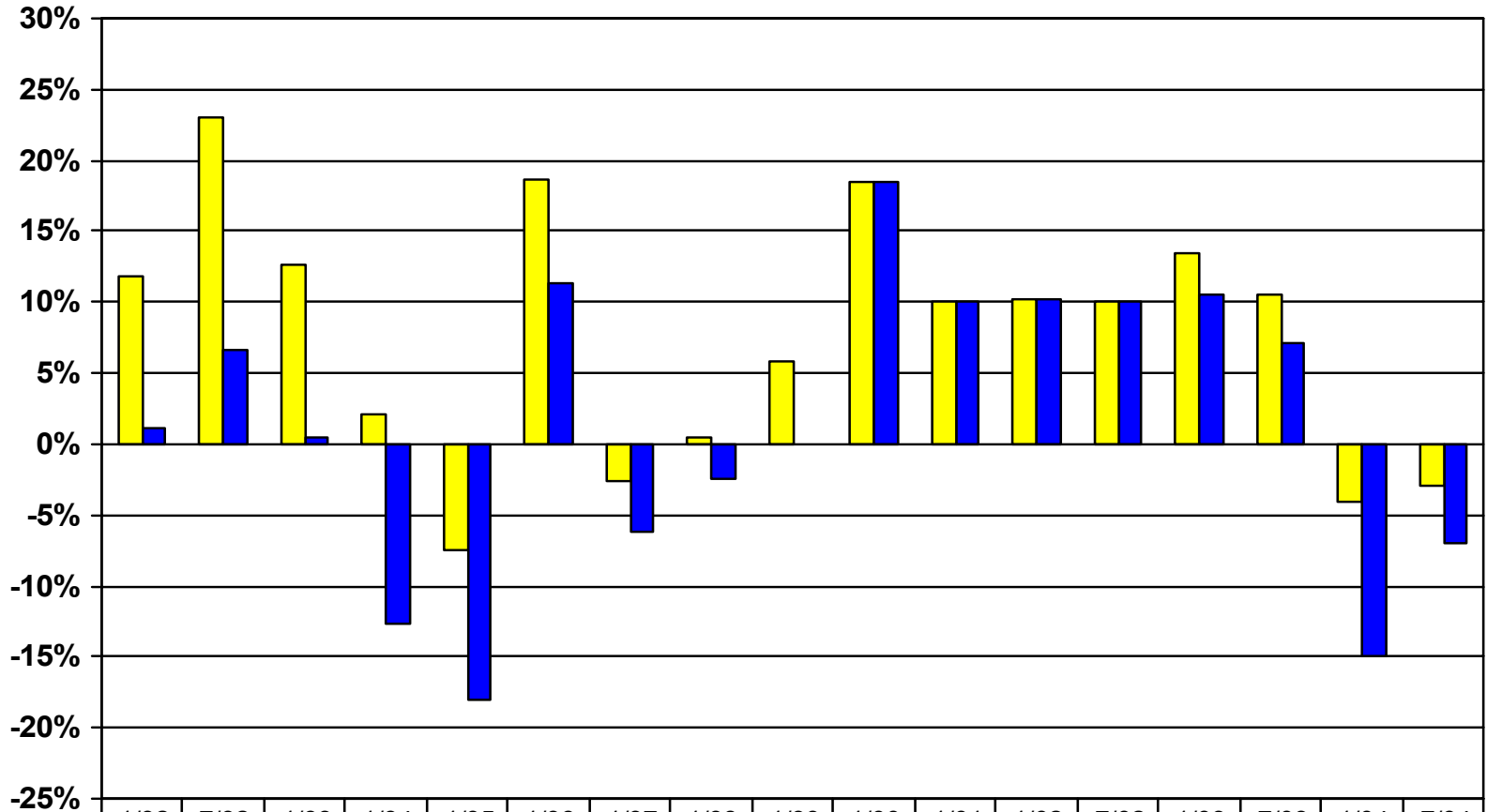
**Average decrease from 7/1/03**

**20.9%**

**“My evaluation indicates that the 14.9% decrease made effective January, 2004 should remain in effect and, as noted above, that SB899 should provide a further decrease of 7% for policies effective July 1, 2004.”**

Department of Insurance; File Number RH 04036694 Decision; John Garamendi, Insurance Commissioner; May 28, 2004

# *DOI approved price changes have fallen short of WCIRB recommended changes*



■ Filed Change	11.9%	23.1%	12.7%	2.1%	-7.4%	18.7%	-2.6%	0.5%	5.8%	18.4%	10.1%	10.2%	10.1%	13.4%	10.6%	-4.1%	-2.9%
■ Approved	1.2%	6.7%	0.5%	-12.7	-18.0	11.3%	-6.2%	-2.5%	0.0%	18.4%	10.1%	10.2%	10.1%	10.5%	7.2%	-14.9	-7.0%

# **Pure Premium rates are a recommendation only – insurance carriers are not required to adopt.**

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- **Pure premium for rates for July 1, 2004, are based on the actual loss experience of the industry but primarily on projected savings in the current legislation.**
  
- **Actual pricing is a combination of the pure premium rate and other factors.**
  - **Employer Experience Modification Factor**
  - **Carriers Premium Discount Factor**
  - **Carriers Scheduled Rating Plan**
  - **State Assessments**

# Pricing will continue to be driven by market conditions

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- **Capital has not moved into market even as prices have climbed.**
- **Cost drivers have caused rates to go up significantly – and costs remain high even with new legislation**
- **As capital moves back into the market, pricing will be impacted.**

# California Cost Drivers

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- Excessive litigation
  - Nearly 60% of all claims filed become litigated (CWCI, August 2003)
  - State employers spent \$580 Million in defense cost in 2002
  - Reforms do not adequately address litigation
  
- Utilization and cost of medical care
  - From 1997 to 2002 average medical cost increased by 125%, rising from \$13,845 to \$31,120. National medical inflation was only 22% for the same period.
  
- Benefit increases of \$3.2 Billion annually through 2006
  
- Reserve deficiencies will continue to haunt companies that built market share in the late 90's.

# How Costs are Distributed

FIGURE 1

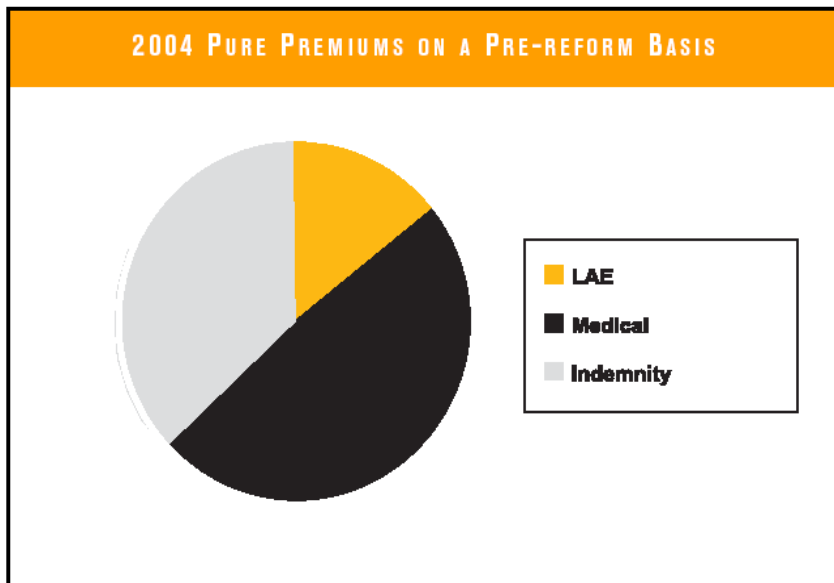
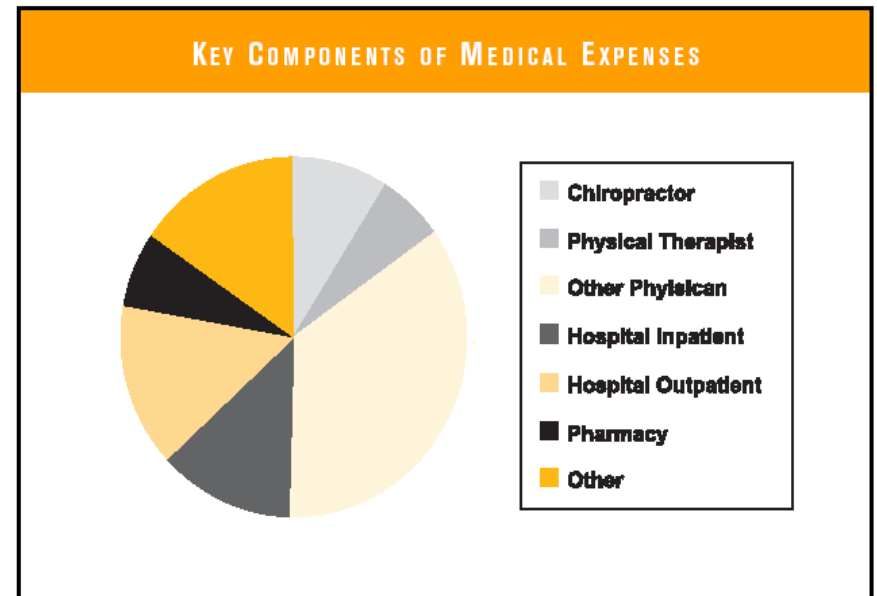


FIGURE 2



**When will we see premium reductions?**

# **Carriers are reluctant to pass on savings until they materialize**

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- **Varying commencement dates of reforms**
- **Guidelines and regulations will not be released until at least January 1, 2005**
- **Savings may be realized by policyholders through Experience Modification factors and through cost savings on Loss Sensitive Plans**

# What You Can and Must Do to Help the System Move Forward

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- Report all injuries including first aid claims the day they occur
- Help direct all medical care through our PPO networks.
- Provide Return to Work Programs for your injured/recovering employees
- Participate in controlling workers' compensation costs and transform into "preferred risks"
  - Reduce your experience modification
  - Get involved in claims management
  - Implement an integrated approach to reducing frequency and severity
  - Refocus safety initiatives, strengthen HR functions
  - If a union employer, enter into ADR Collectively Bargained Workers' Compensation Agreement
- Share the risk
  - Retrospective Rating Plans
  - Deductible Programs

# Questions

