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## **TWO-YEAR EVALUATION OF GOVERNOR SCHWARZENEGGER'S WORKERS COMP. LAW Doctors, Experts: Law Fails Injured Workers**

SACRAMENTO - Two years after passage of SB 899, doctors, injured workers and their advocates today said the law "fails injured workers." "Gov. Schwarzenegger's law is harming Californians injured on the job," said Mark Hayes, president of VotersInjuredatWork.org, a non-profit political organization of injured workers and their families. "The new law slashes workers' rights and benefits, takes away their right to pick their own physician, allows insurance companies to dictate medical treatment, and severely limits injured workers' rights to obtain evidence and present their case. Workers' compensation insurers are now earning record profits that can only be described as ludicrous. Injured workers, however, are paying a high price as the lower rates and higher profits are far too often merely a direct reflection of benefit take-aways."

Gov. Schwarzenegger has harmed injured workers by:

- Cutting permanent disability compensation by up to 70%
- Reducing access to medical treatment
- Taking away injured workers' choice of doctor
- Penalizing workers who return to work
- Allowing insurance carriers to pocket billions from denying medical care
- Cutting off temporary disability to the most severely injured workers

"Governor Schwarzenegger broke his promise to protect injured workers. He has not fixed workers' compensation, as he claims, but has made things worse for Californians injured on the job," Hayes told a Sacramento news conference. "Gov. Schwarzenegger promised he wouldn't harm injured workers, but I'm here to tell you he broke that promise. We're losing our cars, our homes, our doctors, our medical care and our lives because of Arnold Schwarzenegger. We're injured and we're angry and we call on the governor and the legislature to fix the flaws in the governor's law. For this governor to bully the most vulnerable is shameful. Cutting already-meager compensation for our permanent disabilities while letting insurance carriers pocket billions is a new political low."

### **Permanent disability compensation has been drastically cut**

The State of California's Commission on Health & Safety & Workers' Compensation recently studied 7,000 permanent disability cases and found that the Schwarzenegger Administration's workers compensation permanent disability schedule reduces permanent disability benefits by more than 50%, and was not based on empirical evidence, as required by SB 899. This finding confirms that the 2005 schedule *does not and cannot assign consistent, empirically based ratings to injured workers.*

The commission's findings parallel several prior studies showing that Schwarzenegger's schedule reduces permanent disability compensation by an average of 50% to 70%. "The Commission's findings confirm severe harm to permanently disabled workers," said David Rockwell, president of the California Applicants' Attorneys Association, whose members represent injured workers. "The governor's regulations deny injured workers adequate care and compensation, as guaranteed by the California Constitution. The new permanent disability rating schedule does not comply with the statutory mandate. The ratings under this schedule do not provide fair or adequate compensation for injured workers."

Senate President pro tem Don Perata has authored SB 1730 to restore cuts to permanently disabled workers' compensation.

### **Medical treatment has been denied – doctors can't deliver needed care**

Rather than providing care to injured workers as promised, Governor Schwarzenegger has drastically increased the denial of needed care. Injured workers are suffering from lack of surgery, chiropractic treatment, and scores of needed procedures as insurance carriers cynically take advantage of poorly crafted legislation to deny care across the board.

The California Medical Association found in its statewide physician survey that medical treatment for injured workers has been denied and delayed so frequently that:

- Patients go months without any treatment
- Authorizations for needed surgery take up to a year
- Authorizations for physical therapy or imaging may take six months or more
- Requests for treatment authorizations are not being made within the 14 days required by law, leaving injured patients without timely treatment and often in pain
- Numerous workers are refused care unnecessarily, leaving patients in pain and without appropriate treatment for months
- Insurance carriers and the Division of Workers' Compensation are not paying sufficient attention to quality of care. The DWC and Governor Arnold Schwarzenegger should look critically at why the reforms have failed to achieve the ultimate goal of getting injured workers back on the job

"I can no longer get needed care for my patients," said Dr. Mark King, a family practice physician at Trinity Health and Wellness of Sacramento. "Of eight patients I saw on a recent day, only one of them is receiving care. I estimate that care for my patients has decreased 85%."

Dr. King's experience is typical of physicians throughout California, according to the California Medical Association (CMA). "Doctors treating injured workers are locked in a system that is

hostile to physicians and often harmful to the patients they serve,” said Dr. Jack Lewin, CEO of the CMA last October in releasing results of the association’s physician survey of how the governor’s law has affected medical care. “Utilization reviews are so cumbersome and misused that patients are not getting the treatment they obviously need. The bottom line is that the law is not being followed, and we not only worry that the reforms are endangered, but we worry that the health of working Californians is at risk.”

**Insurance carrier profits have skyrocketed under Schwarzenegger’s law**

Insurers pocketed more in profits in 2004 (the last full year for which data is available) than they spent on either benefits to workers or expenses. Insurers pocketed \$9.7 billion in profit, before investment income! Insurers only spent \$8.5 billion on injured workers’ benefits.

**Rate reductions for business have been irregular and concentrated in big business**

The 2006 Survey of Small Businesses by the Union Bank of California, conducted in early 2006, found that more than half of responding small businesses had not seen any reduction in premium rates at their most recent policy renewal. More astounding, 29% said their rates increased, while only 15% saw a rate decrease.

While rate increases have stabilized, reductions have been inconsistent, and larger businesses appear to have pocketed most of the savings. Most businesses saw their rates increase by 200% to 300%, and many have seen those increases rolled back at least halfway. It’s little cause for celebration at most businesses when a required policy still costs 50% more than a few years ago.

“What the Governor has done is take a workers’ compensation system that was ailing, but in some ways serving the interest of injured workers, and mutilated it to the point that he has betrayed and broken the historic workers’ compensation bargain. Workers’ compensation was supposed to protect injured workers, not guarantee profits for big insurance companies,” said David Rockwell. “SB 899 turns the system on its head: the victims who were supposed to be protected by this no-fault system are being robbed of their rights and benefits to enrich the insurance industry. Injured workers have been betrayed by a state government more attuned to the needs of moneyed special interests than to their duty to protect working people from the devastating effects of on-the-job injuries. The workers’ compensation bargain is broken, and the insurance industry is laughing all the way to the bank.”

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