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2005

New York State  
Workers' Compensation Board



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George E. Pataki, Governor

June 2006

TO: THE HONORABLE GEORGE E. PATAKI  
GOVERNOR, STATE OF NEW YORK

And

THE LEGISLATURE OF  
THE STATE OF NEW YORK

The Annual Report of the New York State Workers' Compensation Board, recounting the activities and accomplishments of the Board in 2005, is transmitted herewith.

Respectfully submitted by,

Richard A. Bell  
Executive Director  
NYS Workers' Compensation Board

## MESSAGE FROM GOVERNOR GEORGE E. PATAKI

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*Governor George E. Pataki*

The Workers' Compensation Board is an organization that bears little resemblance to the one that operated in the early 1990s. Over the past 11 years, the Board has been completely transformed from a paper-based bureaucracy into a state-of-the-art service provider. The injured workers of New York State and employers have benefitted greatly by the new efficiencies that have seen the Board resolve more than 300,000 claims for the 5th consecutive year.

I am extremely proud of the strides that have been made at the Workers' Compensation Board. We have become completely automated. We use internet technology in ways that have never been done before. The premium rates have been reduced but we still can do more.

In 2005, I proposed a comprehensive package of bills that represent the next step towards making our system the best it can be for the foreseeable future. This plan would reduce costs by 15 percent, streamline services and enact the first benefit increase in more than a decade. It is my sincere hope that action is taken with regard to these important reforms in 2006.

# INTRODUCTION

## BY EXECUTIVE DIRECTOR RICHARD A. BELL

I am pleased to say that in 2005, the Workers' Compensation Board achieved many if not all of our stated goals in improving the way we provide services. Under the leadership of former Chairman David Wehner and all of the Board's employees, we have indeed made tremendous strides.



*Prior to the modernization of the Board's automation system, this was a familiar scene in any Board office.*

When George Pataki was elected Governor in 1994, he promised to fix the workers' compensation system in New York State. A description of the Board a dozen years ago should serve as a reminder to all those involved with the system that change, when done effectively, is indeed a very good thing.

As we recollect about the Board in the early 1990s we recall a time in which bulky files were carried by parties of interest from hearing to hearing. We remember a time in which hundreds of thousands of unnecessary hearings were held each year. We think about the long delays in case resolutions and we hope that we will never again see a day where the best interests of customers are not the most important focus of the Board.

I am pleased to say that we, once again, achieved our goal in 2005 for case resolutions. All told, we resolved more than 312,000 new and reopened claims on behalf of injured workers and employers.

Our appeals unit continued to operate at peak efficiency and once again enjoyed a highly successful affirmation rate regarding cases that were appealed to the State Appellate Division.

One of the hallmarks of the Board under the Pataki Administration has been outreach. To that end, in 2005 Chairman Wehner initiated unprecedented educational conferences across the state in which more than 700 people attended in Long Island, Syracuse, Albany, Rochester, Binghamton and Buffalo.

In 2006, it is our goal to continue improving upon the positive initiatives established over the last decade and to enact new innovations that will help resolve claims more efficiently. We look forward to working with all of our interested parties to ensure continued success.



*Today bulky file cabinets have been replaced with the power and convenience of technology.*

## MISSION STATEMENT

*“The mission of the Workers’ Compensation Board is to equitably and fairly administer the provisions of the New York State Workers’ Compensation Law, including Workers’ Compensation Benefits, Disability Benefits, Volunteer Firefighters’ Benefits, Volunteer Ambulance Workers’ Benefits & Volunteer Civil Defense Workers’ Benefits Law on behalf of our customers, New York’s injured workers and their employers.”*

## COMMISSIONERS OF THE NEW YORK STATE WORKERS' COMPENSATION BOARD



*Chairman  
David P. Wehner*

**David P. Wehner** served as chairman of the NY State Workers' Compensation Board until his departure in 2005. Under his tenure as Chairman, Mr. Wehner instituted unprecedented outreach conducted by the Workers' Compensation Board. He also presided over continued efficiency improvements making the Board a state-of-the-art service provider.

Prior to service at the Workers' Compensation Board, Mr. Wehner served the people of the State of New York as Executive Deputy Commissioner of the New York State Department of Labor.

He previously served as State Media Director for United States Senator Alfonse D'Amato.



*Vice Chairman  
Jeffrey R. Sweet*

**Jeffrey R. Sweet** was appointed Vice Chairman of the Workers' Compensation Board by Governor George E. Pataki, and confirmed by the Senate on April 11, 1995.

Upon graduation from Utica College of Syracuse University in 1970, Mr. Sweet began government service as the Assistant Personnel Director at the Westchester County Medical Center, where he administered the Workers' Compensation and Labor Relations programs for the 3,500 employee teaching hospital.

Mr. Sweet is an officer of the Boards of Directors of the Hudson Valley Hospital Center and the Julia L. Butterfield Memorial Hospital, as well as a Member of the Board of Visitors of Helen Hayes Hospital. He is Vice President of The Associated Charities of Peekskill. He formerly served as member and chairman of the Zoning Board of Appeals of the City of Peekskill, the Foundation of Hudson Valley Hospital Center and Field Home/Holy Comforter skilled nursing facility.

Mr. Sweet retired from state service in 2006.



*Commissioner  
Michael T. Berns*

**Michael T. Berns** was appointed Commissioner of the Workers' Compensation Board by Governor Pataki in December 1996. Before being appointed to the Board, Commissioner Berns accumulated more than 25 years of management experience in the private sector. He served as Chief Operating Officer for a number of companies and as director of community based organizations. He also served as Vice President of Operations for BLR Electronics, Inc., an import distributor of electronics. Commissioner Berns is a graduate of the Wharton School, University of Pennsylvania.



*Commissioner  
Leslie J. Botta*

**Dr. Leslie J. Botta** was appointed to a seven-year term as Commissioner of the Workers' Compensation Board by Governor Pataki in 1999. As a medical provider, Botta brings a unique perspective to the 13-member Board.

Prior to her appointment, Botta, a licensed chiropractor, owned a small chiropractic business in Schenectady, NY. She is certified by the National Board of Chiropractic Examiners and is licensed by the State of New York.

Botta is a graduate of the University of Illinois as well as the National College of Chiropractic in Lombard, Illinois where she received her Doctorate of Chiropractic.



*Commissioner  
Candace K. Finnegan*

**Candace K. Finnegan** was appointed to a seven-year term as Commissioner of the Workers' Compensation Board by Governor Pataki and confirmed by the Senate on June 15, 1998. Mrs. Finnegan brings a wealth of experience in human resources management to the Board.

She began state service in 1977 and has served as Personnel Administrator and Deputy Director of Labor Relations for the Labor Department, Higher Education Services Corp., and the Office of Mental Health at the Rockland

Children's Psychiatric Center, where she conducted special investigations, mediated employee grievances and served as the State's advocate in employee disciplinary arbitrations.

Mrs. Finnegan is a graduate of Skidmore College and attended SUNY Albany's MBA program in Human Resources Administration.



*Commissioner  
Donna Ferrara*

**Donna Ferrara** was appointed by Governor Pataki and unanimously confirmed by the State Senate in 2005 to serve a seven-year term as a Commissioner of the Workers' Compensation Board.

Prior to her appointment, Ms. Ferrara represented the residents of Nassau County as a seven-term member of the New York State Assembly.

Ms. Ferrara is an attorney who received her J.D. in 1984 from St. John's University School of Law. She received her B.A. as a Dean's List student from the State University of New York at Albany. She and her husband Robert are the parents of two children

received her B.A. as a Dean's List student from the State University of New York at Albany. She and her husband Robert are the parents of two children



*Commissioner  
Agatha Edel Groski*

**Agatha Edel Groski** was appointed as a Commissioner of the Workers' Compensation Board by Governor Pataki, and confirmed on June 18, 1998. Prior to her appointment, she worked for the New York State Department of Labor as an Administrative Law Judge for Unemployment Insurance and as a reviewer at the Appeals Board.

Mrs. Groski has also worked in private law practice gaining experience in personal injury and family law.

In addition to her legal experience, Mrs. Groski has a strong background in health. She worked as Nursing Home Administrator for Eden Park Nursing Home in Cobleskill. She also has an R.N. degree and served as the Director of Nurses.

Mrs. Groski is a graduate of Western New England School of Law, Russell Sage College, and Marymount College. She resides with her family in Cobleskill.

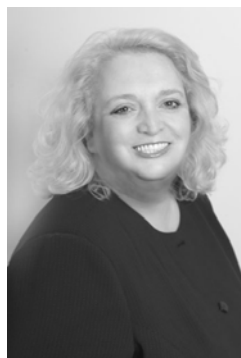


*Commissioner  
Karl A. Henry*

**Karl A. Henry** was appointed Commissioner of the Workers' Compensation Board by Governor Pataki in April of 1995. Prior to his appointment, he was a national sales and account manager for contract physician staffing and placement for Durham Medical Search in Buffalo. During his 10 years with the company, he negotiated contracts with private and public hospitals, clinics and urgent care centers to provide physician coverage.

Commissioner Henry's vast experience in the health care industry includes service as a hospital specialist for Organon Pharmaceuticals in New Jersey, where he was responsible for promoting products used in emergency rooms, intensive care units and other critical care areas.

Mr. Henry's prior public service includes 10 years as a trustee and Mayor of the Village of Hamburg and three terms as an Erie County Legislator. A graduate of Monroe Community College, Mr. Henry served his country in Korea from 1960 to 1963 in the United States Army.



*Commissioner  
Frances M. Libous*

**Frances M. Libous, R.N., B.S.,** was appointed by Governor Pataki in 2001 to serve a seven-year term as a Commissioner of the Workers' Compensation Board.

She brings a valuable health care background to the Board. Libous has held a Registered Nurse's license since 1983. As a public health nurse at the Broome County Health Department, she helped seniors, children, people with AIDS, people with disabilities and many others to avoid institutional placements by

providing direct clinical care to them at home. And as a Manager at the Susquehanna Nursing Center, she helped more seniors by creating and directing home health care and outpatient medical day care programs.

She also brings a commitment to fair and efficient case handling for injured workers to the Board. As the Board's District Administrator in Binghamton for more than five years, she led efforts in a ten-county region to improve the quality and speed of customer service to injured workers through pilot programs involving improved case management and experimental video conference conciliation.



*Commissioner  
Ellen O. Paprocki*

**Ellen O. Paprocki** was appointed by Governor George E. Pataki in March of 2001.

Paprocki's past experiences include time spent as an Assistant Director of the New York State Fair in Syracuse where she was responsible for all aspects of management and planning of the annual State Fair and more than 200 events throughout the year.

She also boasts experience as a field office coordinator and labor management liaison for the U.S. Department of Labor.

Paprocki also worked as a congressional liaison officer for the Agency for International Development, where she assisted members of Congress with their concerns in order to develop recommendations on proposed programs and legislation.

Paprocki spent time volunteering with the Peace Corps in the early 1980s. She is a graduate of St. Bonaventure University with a Bachelor of Arts degree.



*Commissioner  
Mona A. Bargnesi*

**Mona A. Bargnesi** was appointed Commissioner of the Workers' Compensation Board in 2001.

Bargnesi, a graduate of Brown University and the University of Pittsburgh School of Law, was appointed to the Board by Governor George E. Pataki.

Ms. Bargnesi has previously worked with the firm of Gibson, McAskill & Crosby, LLP of Buffalo, where she practiced in the areas of medical malpractice and insurance issues. Prior to that, she held the position of

Assistant Attorney General in the New York State Attorney General's Office from 1996 to 1999.

Bargnesi is fluent in both Spanish and French. In addition, she has extensive volunteer experience including working for the Buffalo Public Schools in bilingual education and the Blind Association of Western New York.



*Commissioner  
Robert Zinck*

**Robert M. Zinck** was appointed by Governor George E. Pataki as Commissioner of the Workers' Compensation Board in April 2001.

Mr. Zinck brings over 20 years of experience to the Board. In the public realm, Mr. Zinck served as a Monroe County Legislator, representing Henrietta, New York. He was Chairman of the Recreation and Education Committee and Vice Chairman of both the Planning and Economic Development Committee and the Public Safety Committee.

Mr. Zinck's experiences in the private sector as a business leader and his strong commitment to public service brings a valuable perspective to the Board.

Mr. Zinck is a graduate of St. John Fisher College in Rochester, New York, where he received a Bachelor of Science degree. He also attended the State University of New York at Brockport where he completed courses in Alcohol and Substance Abuse Counseling.





*Richard A. Bell  
Executive Director*

## DEPUTY EXECUTIVE DIRECTORS



*Marsha Omdorff  
Deputy Director  
of Reg. Affairs*



*Nancy Mulholland  
Deputy Director of  
Information &  
Management Services*



*Glenn Warren  
Deputy Director  
of Administration*

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# OFFICE OF OPERATIONS



David Donohue  
Director of  
Operations

The Office of Operations, through the Board's 11 district offices, processes and manages injured workers' cases through the workers' compensation system. The district staff establishes claimants' cases, performs case maintenance and assembles needed documentation of the facts. In addition, claims examiners resolve uncontroverted issues relating to a case, prepare and execute a calendar for holding conciliation meetings and workers' compensation hearings, and provide customer service to the injured workers and the Board's external constituents. The Board has district offices in Albany-Menands, Binghamton, Brooklyn, Buffalo, Hauppauge, Hempstead, Manhattan, Peekskill, Queens, Rochester and Syracuse. In addition, the Board maintains 30 full-time customer service centers throughout the state, where claimants may appear before the Board or review their case files. The Office of Operations oversees the district office operations and maintains the consistency and quality of service provided.

## Background

The Office of Operations continued its multi-year program to realize an increasing number of efficiencies possible through the Electronic Case Folder initiative. Being able to distribute work electronically around the state, and more effectively utilize and supervise staff in various geographic locations, continues to be a real success story enabling the Office of Operations to constantly enhance and improve service to injured workers and employers.

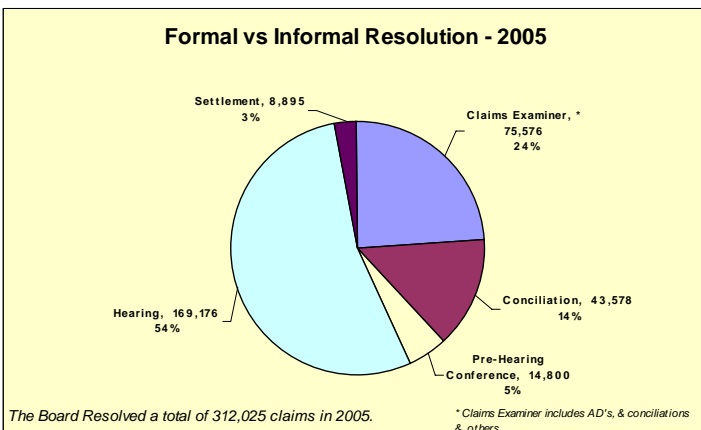
## 2005 Initiatives

■ The Board continues to recognize the importance of high quality customer service and the need for an enterprise approach to customer service. As a result, the Contact Relationship Management Organization (CRMO) was launched to focus on the best business solutions to deliver

prompt and accurate information to our customers. The CRMO is working closely with all business units at the Board to create a world class quality assurance program, which will play a critical role in fulfilling the Board's mission into the future. As the largest Division at the Board, and with our many local Customer Service Centers serving as vital information points for all parties of interest in the compensation system, the Office of Operations will take on a very important role in all CRMO initiatives.

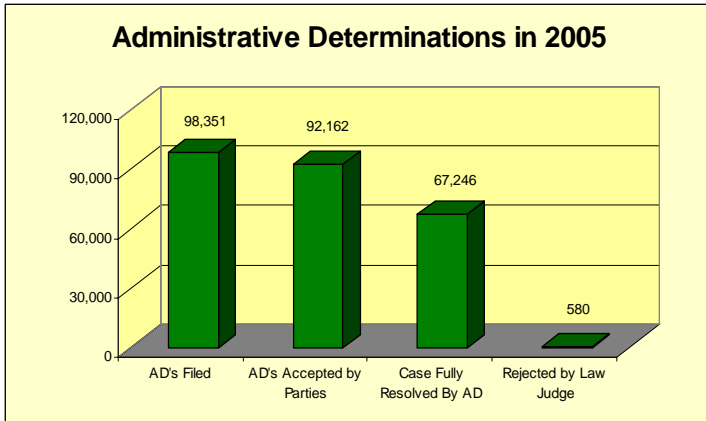
■ The innovative WCB Virtual Call Center, which began and was piloted in the Office of Operations, continues to play a critical role in delivering the Board's mission. The Board continues to handle an increasing number of telephone calls all the while increasing the average speed of answering these calls. The Office of Operations has also successfully piloted a program which introduces claims examiners into the call center process, and a program which has cross trained claims customer service representatives to assist in the handling of Office of Compliance "employer" questions. The Office of Operations has also begun the development of an innovative quality assurance program, with the focus on achieving the highest quality of customer service at the Board.

■ The Office of Operations completed the Post-Optics Re-engineering and Integrated Statewide Staffing Model, or PRISSM, project started in 2004 with the distribution of the final product to all District Administrators, District Managers and team leaders in all District Offices. The Office of Operations has identified three of the ten initiatives for immediate implementation. These initiatives will serve to streamline the Board's available resources in order to respond to future workload challenges. The initiatives will also bring the focus of quality examining to the mindset of all claims examiners.



In 2005 the Board resolved 46 percent of claims informally, outside of the potentially lengthy hearing process.

## OFFICE OF OPERATIONS (continued)



*In 2005, more than 67,000 claims were fully resolved through administrative determinations.*

■ In the 2005, the Office of Operations continued work on a series of quality initiatives with a focus on measuring the claims processing workload not only quantitatively, but also qualitatively. A new series of MIRROR CIS reports are being developed which will, for the first time ever, attempt to measure the quality of work completed by our claims examiners. Quality was also the focus of Operations personnel working in the Document Control Center, and customer service representatives working within the Virtual Call Center, with the continuing development of mechanisms to monitor the quality of the work produced.

■ A major collaborative initiative between the staff of the General Counsel, Office of Operations, and Office of

Continuous Improvement & Staff Development came to fruition in April, 2005, with the roll out of the new 25(3)(e) Penalty Administrative Decision training throughout District Offices across the state. Prompt receipt of proper forms and other requested information from the parties was enhanced with this process, allowing earlier and more complete resolution of issues.

■ Office of Operations senior management developed and presented a seminar on “Effective Claims Processing and Monitoring” to several groups of examiners at the State Insurance Department’s Liquidation Bureau in New York. This was the first outreach ever attempted with the Liquidation



*New York State Workers' Compensation Board District Administrators in 2005. Seated left to right: Linda Spano, George Park, Janet Burman. Standing left to right: Anthony Capozzi, Wayne Allen, Edward Joyce, Frank Vernuccio, Alida Carey, Jeffrey Quinn. Not pictured: Alan Landman & Scott Firestone*

## World Trade Center Claims

The Following is a breakdown of the 10,633 World Trade Center Related Claims indexed:

Death/Missing	2,131
Lost Time Claims	4,737
Medical Only Claims	3,182
Occupational Disease	583

*All Information updated March 2006*

## OFFICE OF OPERATIONS (continued)

Bureau, and it was very rewarding. All Examiners were given eCase access, and they will now be submitting several basic forms on line. Operations Management also piloted a program with the cooperation of Special Funds Conservation Committee to more efficiently resolve the issue of WCL Section 25-a. The Special Funds Conservation Committee is able to review all relevant data in the case via E-case, reducing the number of claimants needing to appear before the Board on this issue.

■ A new Spanish language C-3 “information sheet” project was completed and placed on the Board website. This important document is a Spanish language information sheet which accompanies and explains the C-3 form.

■ In 2005, new hardware and software for Office of Operations Verbatim Reporters was successfully rolled out on a statewide basis. The new hardware and software will further enhance the Verbatim Reporters’ ability to serve all of the Board’s customers.

■ In 2005, by overwhelming consensus both internally and externally, the pilot RB-89 Faxing project, a joint initiative of both the Office of Operations and the Office of Appeals, was deemed a success in that it provided much enhanced customer service. Several hundred faxes a month are now being received, and all parties consider this pilot extremely successful. Therefore, this user friendly program has been made a permanent part of the Board’s services to its customers.

## WORKERS' COMPENSATION DISTRICT OFFICES AND CUSTOMER SERVICE CENTERS

### PRINCIPAL OFFICES

20 Park Street • Albany, NY 12207

### ALBANY DISTRICT

*Linda Spano, District Administrator*

*Patricia Wright, District Manager*

**Counties Served:** Albany, Clinton, Columbia, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, Washington

### Albany District Office

100 Broadway - Menands • Albany, NY 12241

with **Customer Service Center locations in ~**  
**Hudson • Kingston • Plattsburgh**  
**Poughkeepsie • Queensbury • Saranac Lake • Schenectady**

### BINGHAMTON DISTRICT

*Vacant, District Administrator*

*David Wiktorek, District Manager*

**Counties Served:** Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schuyler, Sullivan, Tioga, Tompkins

### Binghamton District Office

State Office Building • 44 Hawley Street • Binghamton, NY 13901

with **Customer Service Center locations in ~**  
**Elmira • Ithaca • Monticello • Norwich • Oneonta**

### BROOKLYN DISTRICT

*Edward Joyce, District Administrator*

*Tom Agostino, District Manager*

**Counties Served:** Kings, Richmond

### Brooklyn District Office

111 Livingston Street • Brooklyn, NY 11201

with **Customer Service Center location in Staten Island**

### BUFFALO DISTRICT

*Jeffrey Quinn, District Administrator*

*Barbara Townsend, District Manager*

**Counties Served:** Cattaraugus, Chautauqua, Erie, Niagara

### Buffalo District Office

Statler Towers, Third Floor • 107 Delaware Avenue  
 Buffalo, NY 14202-2898

with **Customer Service Center locations in ~**  
**Jamestown • Lockport • Olean**

### HAUPPAUGE DISTRICT

*Scott Firestone, District Administrator*

*Robert F. Williams, District Manager*

**Counties Served:** Suffolk

### Hauppauge District Office

220 Rabro Drive, Suite 100 • Hauppauge, NY 11788-4230

with **Customer Service Center locations in ~**  
**Patchogue • Riverhead**

### HEMPSTEAD DISTRICT

*Alan Landman, District Administrator*

*Alan Gotlinsky, District Manager*

**Counties Served:** Nassau

### Hempstead District Office

175 Fulton Avenue • Hempstead, NY 11550

### MANHATTAN DISTRICT

*Frank Vernuccio, District Administrator*

*Ted Cubinski, District Manager*

**Counties Served:** Bronx, New York

### Manhattan District Office

215 W. 125th Street • New York, NY 10027

### PEEKSKILL DISTRICT

*Alida Carey, District Administrator*

*Luis Torres, District Manager*

**Counties Served:** Orange, Putnam, Rockland, Westchester

### Peekskill District Office

41 North Division Street • Peekskill, NY 10566

with **Customer Service Center locations in ~**  
**Newburgh • New City • White Plains • Yonkers**

### QUEENS DISTRICT

*Wayne D. Allen, District Administrator*

*Carl Gabbidon, District Manager*

**Counties Served:** Queens

### Queens District Office

168-46 91st Avenue • Jamaica, NY 11432

### ROCHESTER DISTRICT

*George A. Park, Jr., District Administrator*

*MaryBeth Goodsell, District Manager*

**Counties Served:** Allegany, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Steuben, Wayne, Wyoming, Yates

### Rochester District Office

130 Main Street West • Rochester, NY 14614

with **Customer Service Center locations in ~**  
**Batavia • Geneva • Hornell**

### SYRACUSE DISTRICT

*Janet Burman, District Administrator*

*Marc Johnson, District Manager*

**Counties Served:** Cayuga, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence

### Syracuse District Office

935 James Street • Syracuse, NY 13203

with **Customer Service Center locations in ~**  
**Auburn • Canton • Oswego • Utica • Watertown**

## OFFICE OF GENERAL COUNSEL



Cheryl Wood  
General Counsel

*The Office of General Counsel is the legal department of the Workers' Compensation Board. Its duties and functions range from the dispensing of legal advice to the Chair, the Board, and the various departments of the Board, to the adjudication of claims brought pursuant to the Workers' Compensation Law.*

### Background

■ Cheryl M. Wood was named General Counsel of the Board on May 5, 2005. As General Counsel, Ms. Wood is in charge of the sixteen person office.

■ The Office of General Counsel is the legal department of the Workers' Compensation Board. Its duties and functions range from the dispensing of legal advice to the Chair, the Board, and the various departments of the Board, to the review of matters in which an application for full Board review or a Notice of Appeal to the Appellate Division has been filed from a Board Panel decision.

■ The daily responsibilities of the General Counsel's Office include providing policy and technical assistance on trial litigation in the Federal and State Courts; drafting and promulgating proposed rules and regulations with the appropriate program staff; corresponding with the Secretary of State, Governor's Office of Regulatory Reform and other agencies relative to the promulgation and publication of Board Rules and Regulations; serving as legal advisor to the Chair, the Board, Bureau Directors and District Administrators; providing legal counsel to individual Board members; and, conducting training/informational lecture programs.

■ Legal advice as "in-house" counsel is provided to all Board bureaus and district offices. In addition, guidance is provided concerning legal process served on the Board or Board employees as a party in litigation; investigations of conduct of licensed representatives, self-insureds and third-party administrators are undertaken and recommendations for discipline made; written examinations for licensed representatives are drafted and graded; Orders of the Chair and Board resolutions are prepared; counsel is provided concerning matters relating to licensed representatives; and, prosecution of medical providers authorized to treat and/or conduct independent medical examinations of claimants who have committed professional or other misconduct.

■ Further, legal advice and representation are provided the Board in arbitration proceedings concerning employee disciplinary actions, collective bargaining, ethics, and other personnel issues. Complaints filed against the Board with the Human Rights Commission are reviewed and, when necessary, legal representation of the Board in administrative hearings and proceedings before the Commission is provided. This office also liaisons with the Affirmative Action Officer on human rights complaints filed against the Board by Board employees. In addition, this office evaluates and processes complaints lodged by parties to workers' compensation proceedings against attorneys and carriers.

■ In addition to the above, the Office of General Counsel has primary responsibility for reviewing matters in which an application for full Board review (the last internal administrative review a matter receives) or a Notice of Appeal to the Appellate Division, Third Department has been filed from a Board Panel decision, and to make appropriate recommendations to the Board. It also acts as a liaison with the Labor Bureau of the Office of the Attorney General with regard to cases on appeal from the Board to the Appellate Division. The goal of the Office is to assure the overall consistency and quality of decisions issued by the Board.

### 2005 Initiatives

#### Legal Advice

■ Legal advice as "in-house" counsel is provided to all Board bureaus and district offices, including the preparation of written responses to inquiries of other governmental agencies and miscellaneous correspondence from the public. In 2005, the Office of General Counsel completed over 400 written responses as either correspondence or legal memoranda.

## OFFICE OF GENERAL COUNSEL (continued)

### Full Board Review

■ The Office of General Counsel, in conjunction with the Office of Appeals, assists the full Board with the full Board review process. The process involves the Office of General Counsel receiving all requests, reviewing them and forwarding some requests to the Office of Appeals. From the Office of General Counsel, a Supervising Attorney and five Senior Attorneys provide this assistance. At the start of 2005, the Office had 232 cases pending for its review. A total of 1657 full Board review requests were received during the year. In 2005, the Office of General Counsel processed 411 requests and forwarded 1080 to the Office of Appeals.

### Board Litigation

■ During 2005, the Board referred and/or provided supportive information and documentation to the Attorney General on approximately twenty-five (25) matters.

#### ■ Rules and Regulations

■ On January 7, 2005 the Board adopted and filed an emergency rule, effective upon filing, to amend 12 NYCRR 300.2(d)(11) regarding the filing of independent medical examination reports with the Board. Specifically, the emergency rule changed the time period within which reports must be filed from ten calendar days to ten business days. This amendment was necessary due to Board Panel decisions regarding the regulation as originally written. As emergency rules are only effective for 90 days, additional emergency rules were adopted on April 6, 2005, July 7, 2005, and October 4, 2005. The Board is working to adopt a permanent amendment to this regulation.

■ In the November 16, 2005, edition of the New York State Register, the Board published notice of its proposed amendments to 12 NYCRR §300.36 regarding waiver agreements pursuant to Workers' Compensation Law §32. On April 22, 2004, the Appellate Division, Third Department issued a decision in *Matter of Hart v. Pageprint/Dekalb*, 6 A.D.3d 947 (3d Dept. 2004), finding that the administrative review of waiver agreements pursuant to Workers' Compensation Law §32 was invalid insofar as it conflicted with the terms of 12 NYCRR 300.36 as they then existed. Administrative review of waiver agreements is necessary as the Board receives approximately 10,000 such agreements a year, and it is not possible for timely meetings to be held before a Board commissioner for all of these agreements. Notice of proposed rule making was also posted on the Board's website. No comments were received from the public and the Board voted to adopt the proposed rule at its annual monthly meeting on January 24, 2006.

■ In the November 16, 2005, edition of the New York State Register, the Board published notice of its proposed rule-making regarding the Alternative Dispute Resolution (ADR) program. Specifically, the proposed rule would amend 12 NYCRR §314.2(d)(5) to require a report of injury to be submitted to the Board on an ADR-1 form by the designated party within ten days, rather than 30 days, of the accident. In addition, the proposed rule adds a new Section 314.8 to 12 NYCRR to set forth a procedure for board resolution of certain issues arising in ADR claims which are not subject to the jurisdiction of the ADR program. The Board did receive comments on this rule and is currently reviewing the comments to determine if any changes to the rule are necessary.

■ Finally, pursuant to State Administrative Procedure Act §202-d(1) the Board published a Regulatory Agenda in the July 27, 2005, issue of the New York State Register.

### Employee Discipline

■ The Office of General Counsel assists Human Resource Management in the investigation, interrogation, and drafting of Notices of Discipline (NOD), as well as the settlement of these matters. An attorney from the Office represents the Board, along with a representative from Human Resource Management, at all employee discipline arbitrations and Civil Service Law §72 hearings. Additionally, the Office of General Counsel serves as the Board's liaison with Attorney General's Office in discrimination cases brought against the Board, and represents the Board before other administrative tribunals including the Equal Employment Opportunity Commission (EEOC), the State Division of Human Rights, as well as the Unemployment Insurance Appeals Board.

### Licensed Representative Exam

■ The licensed representative exam is given once a year in April. The Supervising Attorney from the Office prepared the exam for the Licensing Unit. A Senior Attorney from the Office of General Counsel graded the exams. One candidate passed the exam. A disciplinary hearing regarding the possible revocation of an individual's license to represent claimants pursuant to WCL §24-a was held in December 2005 before a Committee of three Board members. A Senior Attorney from the Office of General Counsel presented the complaints and supporting evidence regarding the actions and behavior of the licensee in this matter to the Committee, which presented its recommendation to the full Board at its January 2006 meeting for consideration.



## OFFICE OF GENERAL COUNSEL (continued)

### Temporary Suspension and Permanent Revocation of Health Care Providers' Authorizations to Treat and/or Conduct Independent Medical Examinations of Claimants

■ The Workers' Compensation Law requires physicians, chiropractors, podiatrists and psychologists must be authorized by the Chair of the Board in order to provide treatment to and/or conduct independent medical examinations of workers' compensation claimants. If a medical professional that has been authorized to treat or conduct independent medical examinations of a claimant commits professional or other misconduct, the Chair or his designee can bring proceedings to temporarily suspend or revoke the medical professional's authorization. The Office of General Counsel is responsible for prosecuting such actions. In 2005, the Chair, through his duly appointed designee, temporarily suspended the authorizations of two physicians who were authorized to treat claimants and of three physicians who were authorized to treat and conduct independent medical examinations. In response to notices that the Board intended to take action based upon certain misconduct, two physicians voluntarily resigned their authorizations. At the end of 2005, the Office of General Counsel was working to temporarily suspend the authorization of a physician and a chiropractor. In addition, the Office was working to permanently revoke the authorizations of three physicians.

### Freedom of Information/ Privacy Compliance Matters

■ Two attorneys in the General Counsel's Office have been designated as the Board's Records Access Officers to review, opine and respond to FOIL and Personal Privacy Law inquiries and/or issues. Throughout 2005, there were 68 FOIL requests for records filed with and considered by the Board's Records Access Officers. Additionally, there were approximately 47 non-FOIL requests for documents from the Board. The Records Access Officers also fielded numerous telephone inquiries from Board employees and the public regarding whether certain records were available.

■ The Records Access Officers handled approximately 42 subpoenas served on the Board, and assisted the Office of the Secretary with numerous others. In addition, they answered a myriad of questions from practitioners and staff pertaining to the handling and service of subpoenas.

### Board e-biz

■ The Office of General Counsel provides legal support as the Board continues to increase the number and types of electronic transactions available to constituents. Among other things, attorneys in the General Counsel's Office finalized

agreements for those with eCase access, answered legal questions that arose, and approved electronic versions of certain Board forms.

### Section 32 Waiver Agreements

■ WCL §32 authorizes a claimant to waive his/her right to compensation by entering into an agreement with his/her employer that must be approved by the Board. When a legal issue or concern is raised about a specific agreement, a request is made to the Office of General Counsel for advice. In 2005, the Office received over 700 requests for advice regarding Section 32 agreements.

### Chairman's Consent to file a Judgment

■ WCL §26 authorizes the Chairman to grant consent to a party to file a judgment with the appropriate County Clerk against an employer when there has been a failure to pay an award. The Office of General Counsel processes all such requests. In 2005, the Office processed over 28 such requests.

### Ethics

■ In 2005, the General Counsel continued in the role as Ethics Officer for the Board. Among other things, the Ethics Officer provided information and reminders regarding the filing of annual financial disclosure statements by certain employees and issued opinions to Board employees and others regarding the ethical responsibilities in certain situations.

### Legislation

■ In 2005, the Office of General Counsel reviewed and tracked bills as they were considered by the Legislature and the Governor. When legislation was signed into law, the Office of General Counsel advised the Board and its staff as necessary to implement any changes to the Workers' Compensation Law, Volunteer Ambulance Workers' Benefit Law and/or Volunteer Firefighters' Benefit Law. Ten bills became law in 2005 that amended the Workers' Compensation Law, Volunteer Ambulance Workers' Benefit Law and/or Volunteer Firefighters' Benefit Law. Among the bills that became law were the following:

- Chapter 245 (A. 1201/S.5451) amended WCL §16(1) to clarify that the increased funeral benefits are only awarded when the police officer dies as a result of injuries received in the line of line of duty as a direct result of law enforcement activities.

## OFFICE OF GENERAL COUNSEL (continued)

- Chapter 70 (S. 977/ A. 5802) amends WCL §25 (9) to clarify that direct deposit is available for payments in death claims and that carriers and self-insured employers are not required to offer the option of direct deposit.
- Chapter 649 (S. 2173/ A. 5502) extends the Alternative Dispute Resolution (ADR) program for the unionized construction industry for another five years to 2010.
- Chapter 674 (S. 4184/A. 5398) amends WCL §150 to permit WCLJs to engage in employment that does not conflict with the proper performance of their job.
- Chapter 138 (A.567-A / S. 1404-A) extends the provisions of VFBL §61 relating to disability due to disease or malfunction of the heart or coronary arteries for another five years until June 30, 2010.
- Chapter 212 (A.7688 / S. 593-A) amends both the VFBL and VAWBL to provide a cost of living adjustment to the death benefits provided under Section 7 of both of those laws. With this adjustment benefits in cases where a volunteer ambulance worker or volunteer firefighter dies after July 1, 1992, is \$887. This applies to weekly benefit periods which begin after January 1, 2006.

### Alternative Dispute Resolution (ADR)

■ New York's Workers' Compensation Alternative Dispute Resolution (ADR) program, available to the unionized construction industry, was originally added by Chapter 491 of the Laws of 1995, with an original sunset date of December 21, 2000. The ADR program was extended for another five years by Chapter 464 of the Laws of 1999, and most recently the ADR program was extended until December 31, 2010, by Chapter 649 of the Laws of 2005. Presently, there are four approved ADR programs in New York.

■ The Governor's Office of Regulatory Reform (GORR) approved the Board's proposed regulatory amendments to 12 NYCRR Part 314 in October 2005. The proposed regulatory changes were published in the November 16, 2005, issue of the New York State Register. Public comment on the proposed changes were accepted by the Board through the end of the year. The proposed amendment to 12 NYCRR §314.2(d)(v) would reduce the ADR-1 filing period from 30 days after the date of accident to 10 days in order to create parity with the C-2 filing requirement of WCL §110(d). The addition of §314.8 would create a regulatory procedure to return

ADR cases involving non-ADR entities to Board jurisdiction for approval of stipulated agreements or the adjudication of contested issues.

### Employee Claims Resolution (ECR)

■ Workers' Compensation Law § 20(2)(a) requires the claims of certain designated Board and New York State Insurance Fund Management/Confidential and other designated employees be determined by outside arbitrators. This program is known as the Employee Claim Resolution (ECR) Program.

■ Currently, the Board has ten ECR arbitrators statewide. In 2005, ECR arbitrators processed twelve different ECR cases, one of which involved an administrative appeal review by a three-member arbitration panel. Seven cases continue to be processed through the ECR program. One ECR case is currently pending before the Appellate Division, Third Department.

## OFFICE OF ADJUDICATION



Jean Kneiss  
Director of  
Adjudication Office

*The adjudication program focuses on its duty to fairly and expeditiously resolve claims for workers' compensation benefits under the Workers' Compensation Law (WCL). Unlike claims for personal injuries which are resolved in civil courts with one monetary settlement at the end of the litigation, claims for workers' compensation benefits, designated for resolution solely to the Workers' Compensation Board, are generally on-going throughout the recovery period for the injured worker.*

The Office of Adjudication is comprised of its Director, Principal Attorney Jean Kneiss and a staff of one Supervising Attorney, ten Senior Law Judges, eighty-six Law Judges, and thirty Senior Attorneys assigned to the various district offices throughout the state. At each regular meeting of the Board, a report is given on the status of the adjudication program (12 NYCRR 300.27 [f]).

A claim for workers' compensation has two distinct thresholds. The first is whether the injury or occupational disease suffered is one that is compensable under the Workers' Compensation Law. Once a finding has been made that the injury or occupational disease is compensable, the second threshold concerns the benefits due the injured worker under the law. It is in this second area where issues can arise over the amount and duration of the weekly benefits and medical treatment.

Compensability at the onset of a claim and the various issues concerning benefits arising throughout the course of treatment and recovery are resolved as they arise by the Office of Adjudication in one of two ways: through an informal process or through a formal hearing process. Upon the resolution of compensability in the first instance or issues concerning benefits in the second instance, the Office of Adjudication designates the claim as needing "no further action" by the Board until such time as a new issue arises which needs Board intervention for resolution. As Workers' Compensation is a no-fault system, many times injured workers and their counsel, if any, can agree with the employer/carrier upon the proper amount of benefits provided under the statute.

### Administrative Determinations

Administrative Determinations, an informal method of claim and issue resolution, are utilized for claims which are not controverted by the employer/carrier and which record minor injuries involving little or no lost time from work. Law Judges review and approve all proposed decisions called Administrative Determinations prior to the Board's filing of

those decisions (12 NYCRR 313.3[d]). In 2005, Law Judges reviewed and approved for filing with the parties 98,351 Administrative Determinations.

### Proposed Conciliation Decisions

The Office of Adjudication's Senior Attorneys are assigned cases for potential resolution under the conciliation process, an informal process created by WCL § 25(2-b) which permits disputed issues arising in claims accepted as compensable by the employer/carrier to be handled on a more expeditious and informal basis. The process allows the Senior Attorney, upon review of the file and/or a meeting with the parties, to propose a decision resolving the disputed issue which the parties can accept or reject. If accepted by the parties, the proposed decision becomes final. Only decisions which are proposed for claims in which the claimant is not represented by counsel need the approval of the Law Judge prior to finalization (12 NYCRR 312.5[b]).

### Orders of the Chair

Senior Attorneys in the Office of Adjudication are also charged with the responsibility of reviewing proposed Orders of the Chair under 12 NYCRR 325-1.4(a)(7). Orders of the Chair authorizing a special medical service in excess of \$500 are filed in cases wherein the employer/carrier did not respond to the attending physician's request for authorization of such special services within the time frames required: four days if claimant is hospitalized or 30 days if claimant is not hospitalized.

■ In 2005, Senior Attorneys reviewed 771 Orders of the Chair, enabling them to be filed and sent to the appropriate parties.

### Pre-Hearing Conferences

While the Board indexed 142,611 new cases in 2005, only in 24,342 of those cases did the employer/carrier raise the threshold issue of compensability under the WCL. Once a

notice that a claim is controverted is filed by the employer/ carrier, a pre-hearing conference with the parties must be held within sixty days pursuant to WCL § 25(2-a). The purpose of the conference is to identify and simplify all factual and legal issues in dispute, to complete discovery, and to schedule the case for trial with witness testimony if appropriate.

■ In 2005, Law Judges held 24,342 such conferences and were able to resolve the controversy at that conference over 60% of the time.

### Hearing Calendars

When the pre-hearing conference is unsuccessful at resolving the compensability issue or when there is an issue concerning the amount and duration of benefits which the parties are unable to resolve through informal means, a formal hearing is scheduled when appropriate with the parties at a Board office. Law Judges preside at these formal hearings and the minutes of these hearings are recorded by the Board's verbatim reporters.

■ In 2005, 281,372 formal hearings were held. Approximately, 60 % of the time, the disputed issue necessitating the hearing was resolved by the Law Judge at that hearing. For the remainder of the cases, submission of further evidence and additional formal hearings were necessary to arrive at a resolution.

In an effort to preserve valuable calendar time and to expedite the resolution of the high volume of workers' compensation claims indexed with the Board, Law Judges exercised good calendar management and utilized off-calendar depositions of medical witnesses whenever appropriate to secure the testimony necessary for the resolution of the dispute.

■ In 2005, they directed depositions in 15,187 cases and scheduled 5,856 cases for on-calendar trial testimony.

Moreover, Law Judges were occasionally assigned to WISK (Walk-In Stipulation Calendars) Calendars so that parties who could resolve issues by stipulation could quickly place their stipulations on the record.

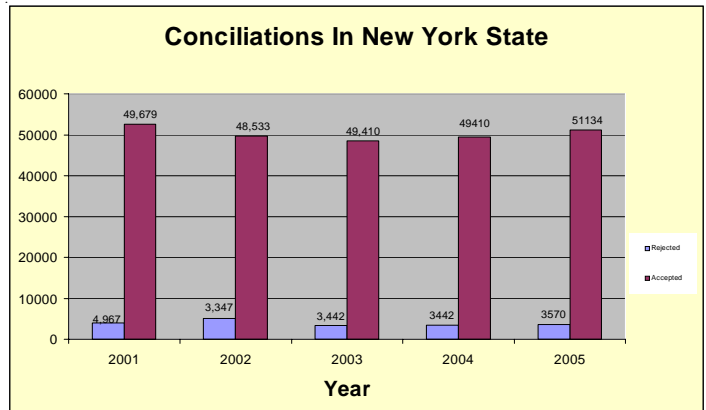
■ In 2005, Law Judges presided at 8,275 WISK hearings which resulted in 8,061 resolutions, generating approximately \$115 million dollars of benefits moving upon the agreement of the parties.

Sometimes, Law Judges found it necessary to employ the provisions of WCL § 25(3)(d) to expedite the resolution of compensability or an issue within an accepted claim.

■ In 2005, 6,418 expedited hearings were held under that statutory provision.

■ Faced with the challenge of many non-English speaking claimants, Law Judges in 2005 effectively utilized a language translation service to hear these claimants' cases and to resolve them in an expedient manner, while protecting the substantial rights of the parties. Similarly, Law Judges were challenged to quickly issue decisions which were "reserved" in contrast to being rendered orally to the parties at the hearing due to the submission of depositions or due to the complexity of the evidence and/or legal issue involved. In 2005, they filed approximately 10,000 reserved decisions.

■ In 2005, Law Judges demonstrated their understanding of and diligence to the law. Of the 281,372 decisions rendered from formal hearings, only 14,314 or 5% were appealed by the parties to the first level of administrative review by a Panel of three Board Commissioners. Of those Law Judge



decisions reviewed by the Board Panels, approximately 80 percent were affirmed.

### Special Hearing Calendars

Adjudication's Supervising Attorney administers WCL § 20(2)(a) which provides for a special hearing process for any claim for workers' compensation filed by law judges, senior attorneys, or managerial/confidential employees of the Board and the State Insurance Fund allocated to a grade of M1 or above pursuant to the Civil Service Law. Known as the Employee Claim Resolution (ECR) Program, this process requires the selection of and assignment to neutral, outside arbitrators who hear and decide these claims.

■ During 2005, the Supervising Attorney coordinated the processing of twelve claims under this program.

The Senior Law Judges supervise on a daily basis the Law Judges and Senior Attorneys assigned to each district office of the Board. In addition, they preside on special hearing

calendars concerning claims for workers' compensation filed by employees of the Board and the State Insurance Fund allocated to a grade lower than M1 as provided by the Civil Service Law. Other special hearing calendars upon which they preside are those dealing with claims relating to injuries or death of people who volunteered their services in the rescue and recovery efforts relating to the attack on the World Trade Center (WTC).

■ During 2005, there were approximately 95 hearings relating to WTC volunteers. Claims for WTC volunteers are paid from monies allocated by the federal government for such injuries.

### Office of Adjudication Initiatives

In 2005, the Office of Adjudication strived to insure that the staff involved in the adjudication process upholds the highest standards of professionalism, practices the Seven Principles of Effective Hearings, and promptly and fairly renders legally sound decisions. To that end, it has continued its monthly training sessions in the district offices whereby the Senior Law Judge meets with his/her staff to discuss calendar and case management techniques, new developments in the WCL, and any new Court or Board Panel decisions rendered that month. Likewise, in November 2005 upstate and downstate day-long seminars were held for the entire adjudication team which provided Continuing Legal Education (CLE) credit and focused on ethical and legal areas of interest to adjudication staff.

The Office of Adjudication has also used the Board's technology tools to identify cases with excessive hearings so that remaining issues could be identified and the case placed on the appropriate resolution track, to sharpen the language used on the Board's decisions so that the parties-of-interest can clearly understand the Board's findings, to improve the expedited process by which cases are appropriately identified for those hearings, to continue conducting pre-hearing conferences for cases involving an uninsured employer so that these cases are more expeditiously resolved, and to improve the language appearing on some of the Board's forms to encourage the timely filing of necessary information for claim resolution. For 2006, it is committed to finding ways to speed the resolution of disputes involving medical bills and medical issues so that an injured worker deserving of this benefit may seek treatment.

## OFFICE OF APPEALS



Carl Copps  
Director of  
Office of Appeals

*The primary function of the Office of Appeals (OOA) is to assist the Board Commissioners in producing readable, understandable, consistent and legally-sustainable decisions. The office was created in 1998 to restructure the Board's antiquated Review Bureau. The underlying goal was to increase the professionalism of the research and writing staff assigned to the 12 Workers' Compensation Board Commissioners who are responsible for reviewing and issuing decisions on Applications for Review to the Board. In essence, the OOA provides the Board Commissioners with an administrative agency's version of an appellate clerk pool.*

### 2005 Initiatives

The Office of Appeals (OOA) undertook several initiatives in 2005, some internal and some external, while continuing to improve business practices in order to better manage its workload.

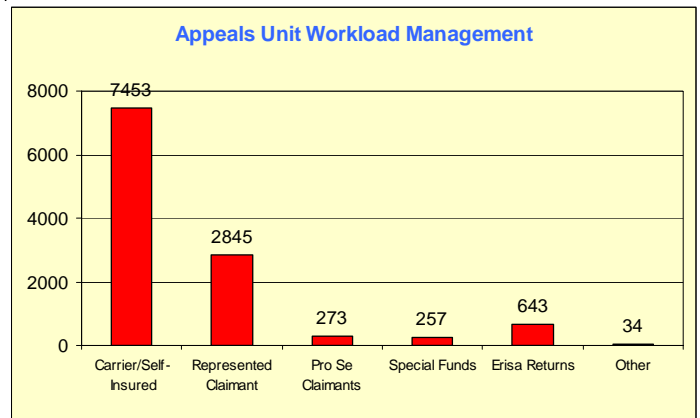
#### Work Load Management

■ OOA was able to reduce the overall inventory of cases awaiting decision by three-member Board Panels by 195 cases in 2005. OOA's Triage system has been very effective in ensuring that the cases of greatest human need are handled promptly. This long-term success allowed OOA to also target its oldest pending cases in 2005, resulting in a 30.7% reduction in such cases.

■ Parties filed 13,722 Applications for Review in 2005, an increase of 1.2% from the 13,565 Applications for Review filed in 2004 and an increase of 4.8% from the 13,092 Applications for Review filed in 2003.

■ OOA's Triage procedures have remained highly efficient. At the end of 2005, all but two cases in OOA had been triaged, meaning that only 0.06% of OOA's case inventory was un-triaged. The un-triaged level had been 1.2% at the end of 2003 and 14.3% as recently as the end of 2001. This means that virtually every case is reviewed and triaged in OOA within 1-2 days of receipt of the file. Approximately 16%, or 2,217 of the 13,722 cases received by OOA in 2005 were returned to the District Offices for proper handling, as no OOA jurisdiction existed. Therefore, OOA's immediate initial review of incoming cases assures that all cases are placed on the proper adjudication track within 24-48 hours of receipt by OOA.

The result is a far more efficient processing of claims and swifter service for the injured workers of New York State.



*The 11,505 decisions issued by the Appeals Unit in 2005 were initially filed by the various constituencies charted above.*

■ The three-Member Board Panels issued 12,574 decisions in 2005; an increase of 1,829 over the 10,745 decisions issued in 2004.

#### Internal Initiatives

■ The WCB conducted a series of Educational Conferences throughout the state in 2005 which were open to all interested persons and organizations who interacted with the Board. OOA personnel took part in each Conference, offering an overview of appellate practice in workers' compensation cases and entertaining questions from the audience.

■ In 2004, OOA took advantage of the Board's enhanced Call Center technology. OOA now has a stand alone Call Center which enables us to provide better customer service. Performance Measures reports indicate that OOA's Call Center performed extremely well in 2005. The vast majority of the 10,352 calls received in 2005 were handled without being forwarded to another department; calls are answered within 8 seconds on average; and only about 2.5% of all calls to OOA are abandoned.

## OFFICE OF APPEALS (continued)

■ OOA was involved in a telecommuting pilot project throughout 2005 whereby ten employees worked from home two days per week. Work was taken from home to office via Board-owned laptops, thus assuring confidentiality of files. That initial telecommuting pilot project was a success. Productivity and employee morale improved and no significant negative impacts were noted. The pilot was renewed for the first six months of 2006, involving ten new participants.

■ The WCB has attained accredited provider status and OOA has taken the lead in preparing and presenting high quality Continuing Legal Education programs for OOA attorneys and other attorneys employed by the Board. Board attorneys are thus able to fulfill their CLE requirements with in-house, on-point, zero cost programs. Thirteen courses, encompassing 25 hours of CLE, were presented in 2005.

### World Trade Center

■ Cases flowing from the World Trade Center catastrophe of 9/11/01, together with cases arising from the ensuing clean up, continued to flow through the WCB's adjudication process in 2005. The Board Panels issued 201 World Trade Center related decisions in 2005, bringing the total to 716 cases through December 31, 2005. In addition, the Appellate Division issued 5 decisions related to the WTC disaster in 2005. The Board Panels were affirmed in 4 of the 5 cases.

■ OOA continues to give high priority and careful scrutiny to all WTC related appeals. Prompt and proper resolution of these cases is OOA's goal for the victims of the WTC disaster.

### Full Board Review

■ OOA continues to work jointly with the Office of General Counsel to move cases through the Full Board Review process as quickly as possible. The great strides made since mid-2002 continue and the turnaround time for Full Board Review cases remains far better than it was prior to mid-2002.

### Upon Further Review

■ The Appellate Division, Third Department, issued 111 decisions in WCB cases in 2004; down from 161 decisions in 2003. The Board was affirmed in 98 cases and reversed in 13 cases. Thus, the Board was affirmed in 88.3% of the decisions; a figure somewhat higher than historic averages.

## SECRETARY TO THE BOARD



Sandra Olson  
Secretary to the  
Board

*The Secretary's Office performs all duties in preparation for the monthly meetings of the 13-member Workers' Compensation Board of Commissioners, and other duties assigned by the Board. By law, the Chair may delegate certain administrative powers and duties to the Secretary. Upon this statutory framework, the Secretary's Office has accrued a set of wide and diverse functions, which, in addition to the Board meetings, relate to a number of the Board's responsibilities, including the following:*

### 2005 Initiatives

#### Licensing/Orientation

■ Pursuant to sections 24-a, 50(3-b) and 50(3-d) of the Workers' Compensation Law, during the year 2005 the Secretary's Office granted licenses to 36 claimant representatives and 59 third-party administrators.

#### Executive Correspondence

■ Throughout the year, the Chairman of the Board receives a large volume of correspondence from elected officials, claimants, doctors, attorneys and businesses. The subject matter varies greatly and may include status inquiries, requests for advocate services, compliance and licensing questions. All such correspondence is processed and assigned through the Secretary's Office. In 2005, 600 such inquiries were processed by the Secretary's Office.

#### Board Resolutions

■ Following each monthly full board meeting, it is the responsibility of the Secretary's Office to notify all parties-of-interest of the Board's resolution to rescind prior Memorandums of Decision. In 2005, the Secretary's Office issued 74 Board Resolutions.

### Agent for Service Process

#### Non-Resident, Non-Insured Employers

Under the provisions of Section 150-a of the Workers' Compensation Law, the Secretary's Office functions as the agent for acceptance of process of all non-insured, non-resident employer claims.

#### Subpoenas Duces Tecum (Subpoenas for Board Records)

Article 6 of the Public Officers Law (commonly referred to as the Freedom of Information Law or FOIL) provides public access to State and local government agency records. The Secretary's Office is responsible for the Board's compliance with all such subpoenas served upon the Board. In 2005, 1,553 subpoenas duces tecum were served upon the Board, generating \$22,501 in revenue.

#### Notices of Appeal to the NYS Supreme Court Appellate Division, Third Department

Under the Workers' Compensation Law Section 150-a, the original Notice of Appeal is to be served upon the Office of the Secretary to the Board. In 2005, 793 notices were served and processed.

#### Original Board Decisions

The Secretary's Office is the official custodian of the Workers' Compensation Board decisions. These include Board panel and mandatory full Board decisions. In 2005, approximately 12,594 decisions were filed.

#### Orders of the Chair

All Orders of the Chair are designated to reside in the Office of the Secretary.



# OFFICE OF COMPLIANCE & REGULATORY AFFAIRS



Marsha Orndorff  
Dep. Executive  
Dir. Reg. Affairs

*The Division of Regulatory Affairs provides oversight of the workers' compensation system to ensure that all parties are in compliance with the workers' compensation and disability benefits laws.*

*The Office monitors compliance on an ongoing basis, penalizing those parties who are not in compliance and referring cases for fraud investigation when deemed necessary. The Division authorizes workers' compensation medical providers, registers independent medical examination entities and licenses medical facilities. It oversees the disputed medical bill and arbitration processes and the workers' compensation preferred provider organization program.*

## Office of Compliance

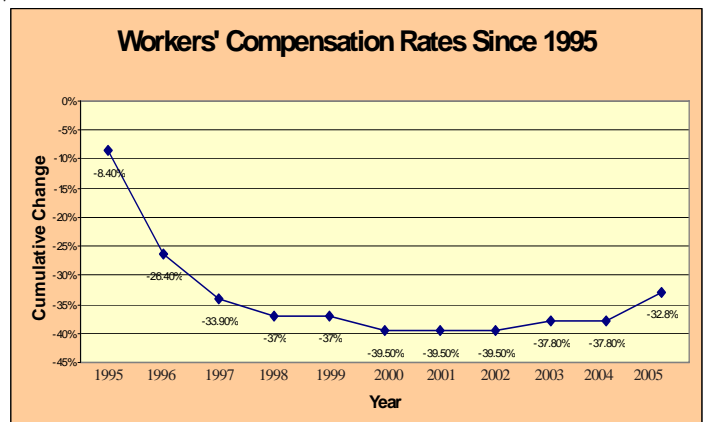
The first of three primary functions within the Office of Compliance is to ensure that all workers employed in the state are properly covered for workers' compensation. The Insurance Compliance Unit monitors over 650,000 employers to ensure that they obtain and maintain statutory insurance benefits for their employees and penalizes employers who are out of compliance. This employer coverage compliance process is accomplished through the use of a complex computerized data system that receives information regarding legitimate businesses from the New York State Department of Labor and from insurance carriers who are licensed in New York State to sell workers' compensation and disability benefits insurance.

The Office includes a centralized penalty collection unit for penalties, which arise out of employer noncompliance and uninsured claims. In conjunction with the Office of Finance, it assists with the processing of administrative and disputed medical bill penalties. The unit is the primary liaison to contracted collection agencies.

In addition, the Office operates a centralized judgment unit, which prepares all legal documents for proper filing of judgment liens against entities that have not paid their legitimate penalties.

The enforcement unit within the Office of Compliance consists of a staff of investigators, located in each of the Board's 11 district offices. They investigate employers who may be out of compliance, collect evidence for criminal prosecution, serve subpoenas on business owners for appearances before the Board, and investigate all aspects of claims filed by employees whose employers did not have proper insurance.

Finally, the Office of Compliance is responsible for overseeing injured workers' claims arising out of the Uninsured Employers Fund (UEF). The UEF is the funding mechanism for compensation and medical payments to injured employees whose employer was not properly insured at the time of the



accident. These claims are processed by staff in the No-Insurance Unit who collect all evidence, prepare the claim for hearings, and administer the payment of all compensation and medical benefits. The office also has a team of lawyers that maintains the integrity of the UEF by representing the Fund at Board hearings to ensure that only valid claims are compensated.

Taking a page from OPTICS, the Office of Compliance began its own re-engineering effort in 1999. Each unit identified critical processes. Ideas were generated to improve these processes and action was taken. Today the Office continues to improve upon the 1999 foundation.

## 2005 Initiatives

- Increased revenues to the UEF by 165% over the tally for 2004 to \$22 million, marking the first time in the 43 year history of the UEF that receipts finished in excess of disbursements.
- Collected a record \$9 million for the Special Fund for Disability Benefits

## OFFICE OF COMPLIANCE & REGULATORY AFFAIRS (continued)

- Initiated prosecution by the Enforcement Unit for a record 106 cases regarding failure of businesses to obtain required workers' compensation insurance.

- Executed a plan to combine disability benefits compliance function and workers' compensation compliance functions under one bureau to provide one central point of contact for the public with questions on workers' compensation and disability benefits insurance.

### Office of Disability Benefits

New York State is one of only six jurisdictions that mandates employers to provide basic disability benefits insurance for their employees. This insurance provides lost wage protection for illnesses or injuries that are not job-related. In New York, employers must provide up to 26 weeks of lost wage benefits at the rate of 50% of the employee's average weekly wage, with a maximum benefit of \$170 per week. Medical payments are the responsibility of the claimant.

The Office of Disability Benefits has the following functions:

#### Disability Benefits Claims

- The *Review Examining Unit* processes claims that have been fully or partially denied by the insurance carrier, self-insured employer or the Special Fund for Disability Benefits. Most of these disputes are resolved administratively, with less than 17% requiring a formal hearing before a WC Law Judge. In 2005, the Review Examining Unit processed and closed 8,722 claims; 7,252 were closed administratively.

- The *Special Fund for Disability Benefits* processes and pays claims for individuals who become disabled while collecting Unemployment Insurance benefits and for employees of non-compliant employers. During 2005, the Special Fund closed 6,845 cases and redirected another 4,369 to insurance carriers or self-insured employers for payment. The Special Fund for Disability Benefits paid just under \$2.5 million to eligible disabled claimants in 2005.

#### Uninsured Employers Fund

- The *Uninsured Employers Fund* (UEF) is the funding mechanism for compensation and medical payments to an occupationally injured employee whose employer was not properly insured at the time of accident. These claims are processed by staff in the *No-Insurance Unit*, who collect all

evidence, prepare the claim for hearings and administer the payment of all workers' compensation and medical benefits. The *Legal Hearing Unit* is a statewide team of lawyers who maintains the integrity of the UEF by representing the Fund at Board hearings to ensure that only valid claims are compensated.

### 2005 Initiatives

- Following executive approval, the Disability Benefits claims automation project has taken its first, early steps toward eventual implementation.

- UEF revenues exceeded expenditures by more than \$4.6 million. Although Section 50 violations have increased more than 33% over the last 3 years, UEF expenditures have only increased 15% over the same period.

### Bureau of Health Management

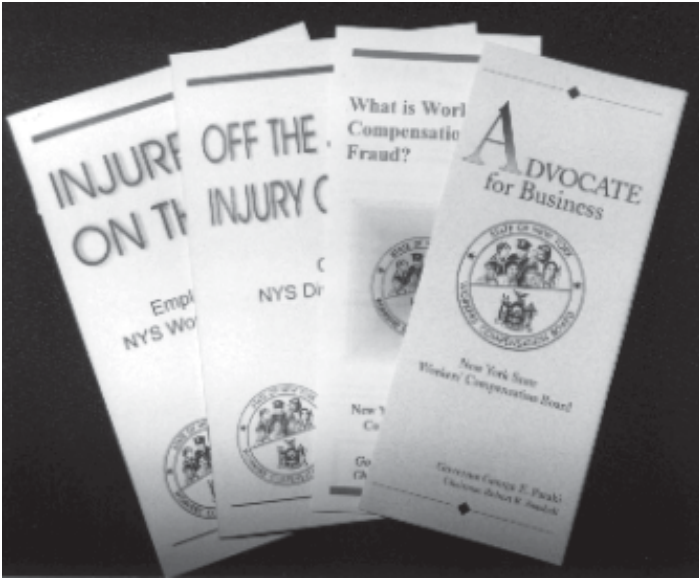
The Bureau of Health Management's mission is to integrate an emphasis on research evaluation, education and customer interaction for the improvement of traditional as well as new alternatives to the delivery of health care programs in the state's workers' compensation system. The Bureau also authorizes licensed physicians, chiropractors, podiatrists and psychologists to provide treatment to workers' compensation claimants. In addition, licenses are granted to medical bureaus, medical centers, x-ray bureaus and laboratories treating injured workers. Recourse for unpaid medical bills is provided to authorized providers as well.

### 2005 Initiatives

- In order to reflect current American Medical Association's procedural terminology codes for reporting medical services and procedures, it was determined that the update of the Workers' Compensation Medical Fee Schedule would be released in April as opposed to October. The anticipated 2006 release (effective April 1, 2006) will reflect up-to-date current procedural terminology (CPT) codes, category III codes (for emerging technologies) and minor various CPT reimbursement based on Ingenix's industry experience.

- In an effort to provide continued outreach and support to the health provider, business and carrier community, presentations and/or meetings were conducted or attended at various Medical Society of the State of New York (MSSNY) offices numerous times throughout the year.

## OFFICE OF COMPLIANCE & REGULATORY AFFAIRS *(continued)*



*These and other informative brochures are available by contacting the Workers' Compensation Board.*

■ In response to the concerns of the health provider community, the Board has undertaken an initiative to update and clarify the Board's Medical Guidelines. The current Workers' Compensation Board Medical Guidelines were written in 1994 and published in 1996. Since it has been over ten years since the development of these guidelines and there have been numerous issues, questions and requests for training, the Board established a committee of qualified medical providers to review, update and clarify the Workers' Compensation Board Medical Guidelines. The committee is charged with developing recommended guidelines which will not only be useful to experienced medical professionals within the workers' compensation system, but can be used as a training tool for medical professionals new to the system. Committee members were selected by the Chairman of the Workers' Compensation Board based upon recommendations submitted by the Medical Society of the State of New York, AFL-CIO, Chiropractic, Psychology and Podiatry professional associations. Final recommendations of the Committee are anticipated to be completed by June, 2006.

■ Participated in six regional educational conferences sponsored and conducted by the Board in 2005.

### Office of Directed Care

Since January 1994, the Department of Health, in conjunction with the Workers' Compensation Board, has been directly responsible for the development, implementation and administration of a process for the certification and moni-

toring of Workers' Compensation Preferred Provider Organizations (PPOs).

An alternative to traditional health care delivery is represented by the institution of "Voluntary Programs." The program was codified by means of an amendment to the rules regarding selection of a provider by an injured worker. These rules, called "Recommendation of Care," describes the process of endorsing or promoting the utilization of a particular network or provider for the treatment of injured employees. In any instance where an employer or carrier recommends a particular network or provider for the treatment of injured employees, any employee handouts, postings, or other written materials communicating such recommendation must clearly indicate that utilization of such network or provider is purely voluntary. Injured workers agree to participate in writing at the time of each injury with the understanding that employees may select or change their provider at any time without jeopardizing their medical or indemnity benefits.

### 2005 Initiatives/Facts

■ Concluded the biannual survey cycle for certified PPO's. The surveys were conducted to ensure compliance with the program's rules and regulations.

The Bureau worked to insure that the contract providers entered into for the PPO program were not being utilized for the "Recommendation of Care Program". The surveys continue to differentiate between the certified PPO program and the Recommendation of Care program.

■ Discussions were held with several PPO's relating to their expansion into additional counties.

■ All certified PPO's are currently in compliance with the program's rules and regulations and are operated in an appropriate environment to ensure the provision of quality care to injured workers.

■ Approximately 750,000-1,000,000 employees are covered through the PPO program; this number represents about 9,000 – 11,000 employers.

## OFFICE OF COMPLIANCE & REGULATORY AFFAIRS (continued)

■ To date, 176 business agreements and management services agreements have been reviewed, approved and executed. There are 13 certified PPO's operating in New York State offering coverage in 34 of the State's 62 counties.

### Treatment Utilization Pilot Program

The Workers' Compensation Board is conducting a study to determine whether higher reimbursement rates have an effect on reducing utilization. An evaluative methodology has been established to design, review and evaluate the treatment patterns of the treating physician during the pilot project. A report will be published at the conclusion of the study. An outreach effort was made to insurance carriers and TPAs to minimize the incidence of improper and untimely reimbursement of medical services provided by the TUPP program physicians. This effort was in response to complaints from the TUPP physicians. Efforts are ongoing and will continue on an as-needed basis to address reimbursement issues.

### 2005 Initiatives/Facts

■ Received 161,326 electronically submitted EC-4's. This number represents 35,987 accidents. There are currently 73 provider participants in the program.

■ The initial review and testing of sample project data has been completed. The initial methodology phase compared the control and TUPP physician groups with respect to five frequently injured body parts (shoulder, leg, hand, back and arm).

### Health Provider Administration – HPA

The Health Provider Administration Information System (HPAIS) fully automates and integrates all processes and provides more efficient service to our customers. The system also provides management reporting and performance measures and comprehensive historical statistics and information. In 2005, significant efforts were made in the development of the Provider Compliance System module and it was successfully implemented. The Provider Compliance System is an important tool to the Board to ensure that all complaints, infractions, fraud and/or illegal activity is documented, tracked, investigated and if required, appropriate steps are taken to temporarily suspend or revoke the provider's authorization to treat workers' compensation claimants. The system automates and stores for historical purposes all information related to providers' complaints, suspensions and revocations. Correspondence is generated to ensure timely follow-ups and the information cap-

tured and stored will enable the generation of timely and accurate management reports.

■ Temporarily suspended four authorized providers and two voluntarily resigned their authorization. The temporary suspensions were based on misconduct charges and consent agreements entered into between the providers and the New York State Board for Professional Medical Conduct as well as further investigation and administrative determination by the Board.

### Independent Medical Examiner (IME) Regulations

As per the IME regulations and law effective March 20, 2001, physicians, podiatrists, chiropractors and psychologists who conduct independent medical examinations of workers' compensation claimants must meet certain professional criteria, and must be authorized to perform these examinations by the Chair of the Workers' Compensation Board.

### 2005 Initiatives/Facts

■ Authorized 363 IME providers.

■ Registered 10 IME entities.

■ Developed electronic procedures and investigated 53 complaints made against IME providers. It is anticipated that this database will be migrated to the Provider Compliance System upon completion.

■ Updated and released the Inpatient Hospital Fee Schedule. The formula on which these rates are based was promulgated in accordance with Article 28 of the Public Health Law and reflects provisions of the Health Care Reform Act of 1996 (HCRA) as set forth in Chapter 669 of the Laws of 1996. The update is effective 7/01/04 – 12/31/04.

■ Updated and released the Outpatient Hospital Fee Schedule. The schedule was adopted pursuant to Section 13, subdivision (a) of the Workers' Compensation Law, and covers ambulatory surgery charges rendered on or after January 1, 2003.

### Impartial Specialist Provider Process

In order to maintain a viable, statewide list of Impartial Specialists in varying medical specialties with the appropriate credentials, the Workers' Compensation Board's Impartial Specialist authorized provider process and statewide listing

## OFFICE OF COMPLIANCE & REGULATORY AFFAIRS (continued)

is in the course of being revamped and centralized in the Bureau of Health Management.. The Bureau is working on a process to designate providers to perform impartial specialist examinations. A designation process and associated fee schedule is being developed and it is hoped this initiative will be implemented in 2006.

### World Trade Center Volunteers

The Board administers a benefits program for first responders who voluntarily assisted at the World Trade Center Ground Zero and/or the Staten Island Landfill in the weeks and months following the September 11, 2001, terror attacks. The UEF serves as the Board's representative regarding these claims. Funding for benefits is derived from a federal grant provided to the State of New York for volunteer benefits. To date:

- A total of 691 cases have been indexed by the board.
- A total of 156 claims have resulted in payments from the federal funds.
- A total of 44 claims are being paid on a continuous, bi-weekly basis.
- A total of 535 claims have either not been pursued, are newly received, or are eligible for hearings.
- More than \$3.3 million has been paid.

## OFFICE OF LICENSING AND SELF INSURANCE



Mary Beth Woods  
Director of Licensing  
& Self-Insurance

*The Office of Licensing and Self-Insurance is responsible for overseeing the State's Workers' Compensation and Disability Benefits Self-Insurance Programs. In addition, it manages the licensing functions for the Third Party Administrators (TPAs) and Claimant Representatives.*

### Background

The Workers' Compensation Law requires employers to provide workers' compensation and disability benefits coverage for their workers' in one of three ways: obtaining a policy from an insurance carrier, obtaining a policy from the State Insurance Fund; or qualifying to become a self-insurer.

Employers who wish to self-insure for either workers' compensation or disability benefits must apply to and be approved by the Licensing Office. An important aspect of the application and approval process is ensuring the financial strength of the employer/group. Once approved, the Board must not only ensure that each approved self-insured employer/group continue to have the financial integrity to satisfy all of its obligations under the Law, but that there exists a funding mechanism which protects the injured worker in the event of a default. Depending upon the type of self-insurer, and as provided in the statute, the Board has various mechanisms in place to guarantee the payment of all claims. Each approved self-insurer must post with the Board a security deposit (cash, securities, letters of credit and/or surety bonds) which will be liquidated in the event a self-insurer defaults on their obligations to provide benefits to their employees. In addition, every group self-insurer is required to maintain a properly funded trust, which is dedicated to the workers' compensation obligations of the employer members.

Depending upon the type of self-insurer, there are varying annual reporting requirements, including financial and actuarial reports from the group self-insurers, and detailed claim specific information for the individual self-insurers. The Board uses these annual reports to verify the financial integrity of the group trust and the adequacy of the security deposit on hand for every self-insurer.

The self-insurance program in New York State has experienced significant growth in the past decade, with estimates indicating self-insurance represents 20 percent

of the total workers' compensation insurance market. The majority of the growth has occurred in the Group Self-Insurance Program, which enables smaller employers to take advantage of the financial benefits of self-insurance. There are currently 414 individual self-insurers; 77 group self-insurers, with more than 19,000 employer members; 2300 self insured political subdivisions and more than 1,000 employers approved to self-insure for disability benefits. The Board currently maintains more than \$1.5 billion, mostly in the form of letters of credit and surety bonds, for these self insured employers.

The Law further states that no one other than attorneys, employees of an insurance carrier, or a self-insured employer may represent an employer or carrier before the Board unless they have been licensed by the Board to do so. The Licensing Unit is also responsible for regulating the Third Party Administrators (TPAs) and Licensed Claimant Representatives to ensure compliance with the various laws, rules and regulations.

### 2005 Initiatives

#### Individual Self-Insurance Program

- A comprehensive manual which provides a "user-friendly" description of the actuarial system used to calculate the deposit requirements was developed and made available to every self-insured employer.
- Continued to process annual reports for every individual self insured employer, and update the security deposit requirements based upon the outstanding claims liabilities, and the
- An integral part of ensuring that all self-insured claims are adequately protected is monitoring the financial integrity of the self-insured employers, the banks and surety companies that post the security deposits on the employers'

## OFFICE OF LICENSING AND SELF INSURANCE (continued)

behalf, and the excess carriers that provide protection against catastrophic loss.

### Group Self-Insurance Program

■ During 2005, the Board continued to work with various Advisory Committees regarding issues specific to the proper regulation of the group self-insurers, including homogeneity standards, prescribed reporting requirements, standards applicable to new groups, and establishing appropriate rules and regulations.

■ Continued to refine the comprehensive annual review process, in order to identify those groups in need of some form of fiscal changes. Where necessary, plans were developed and implemented for a number of trusts to address the specific circumstances of the group under review. These plans include any or all of the following: independent fiscal or actuarial consultant reviews; limited or no growth in membership; restrictions related to rates; and assessments to members.

### Third Party Administrators/Claimant Representatives

The Licensing Office ensures that authorized Claimant Representatives and TPA are adhering to all aspects of the WCL and determines if current licensees ought to be renewed. In addition, the Board has adopted a policy in which claims attributable to defaulted self-insurers are administered by a TPA on the Board's behalf. Finally the office investigates allegations against license holders. In 2004, the Licensing Office:

- Facilitated benefit payments on more than 750 claimants, on behalf of three defaulted self-insurers;
- Administered the annual Licensed Representative/TPA exam for 37 candidates.
- Renewed 35 Claimant Representatives licenses and 47 TPA licenses and granted 12 original licenses.
- At present there are five on-going investigations.

### Request for Information

In 2005, the Board issued a Request for Information in order to determine whether there are viable procurement alternatives for designing and implementing a new approach to administering the self-insurance program in New York State in the most cost-effective and efficient manner possible. Based upon the results of that Request for Information, the Board will pursue the procurement of a qualified contractor through a competitive bid process in 2006.

# OFFICE OF ADVOCATE FOR BUSINESS



David Austin  
Advocate for Business

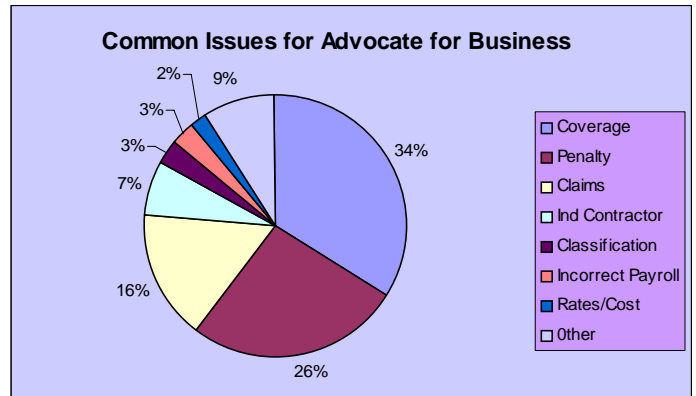
*The Office of Advocate for Business was created in 1993 as the primary interface between New York's business community and the Workers' Compensation Board. The Office was created in response to employers' need for a centralized location to obtain answers to workers' compensation questions and assistance with navigating the workers' compensation system.*

*The major functions of the Office of Advocate for Business include:*

- Assisting individual businesses and their representatives with questions about insurance coverage, understanding their experience modification, classifications, and premium charges;
- Answering questions about the employers' obligations under the workers' compensation law, and explaining their rights;
- Educating business owners and representatives about the policies associated with the workers' compensation system, and the role that each party in the system plays; and
- Meeting with business associations and groups to identify their concerns and suggestions, and report findings and potential solutions to the chairman.

## 2005 Initiatives

- In 2005, the Advocate for Business assisted more than 1,400 businesses. The office handled 590 cases, primarily dealing with insurance and issues involving employees. This is an increase of 22% over the number of cases handled during the previous year. The office also received 837 inquiries from business owners, or their representatives, requesting guidance with a variety of complex issues. The office also handled 310 referrals to other State agencies or offices within the Board.
- The Office assisted employers in saving nearly 3 million dollars in workers' compensation costs.
- The Advocate met with multiple chambers of commerce and business organizations around New York State, and participated in a trade show and five educational conferences.



*Inquiries received by the Advocate for Business in 2005 ranged from simple questions to complex issues.*

- Worked with the Office of Regulatory Affairs to improve policies and Board regulations that will help businesses adhere to the Workers' Compensation Law at the lowest possible cost.
- The Advocate's Office was involved in the formation of an alliance between the Board and OSHA to develop efforts to reduce worker exposure to workplace hazards.
- Participated as a member of the Interagency Small Business Task Force.
- Developed a variety of presentations used when meeting with business organizations.

**Contact the Advocate for Business at (800) 628-3331.**



# OFFICE OF ADVOCATE FOR INJURED WORKERS



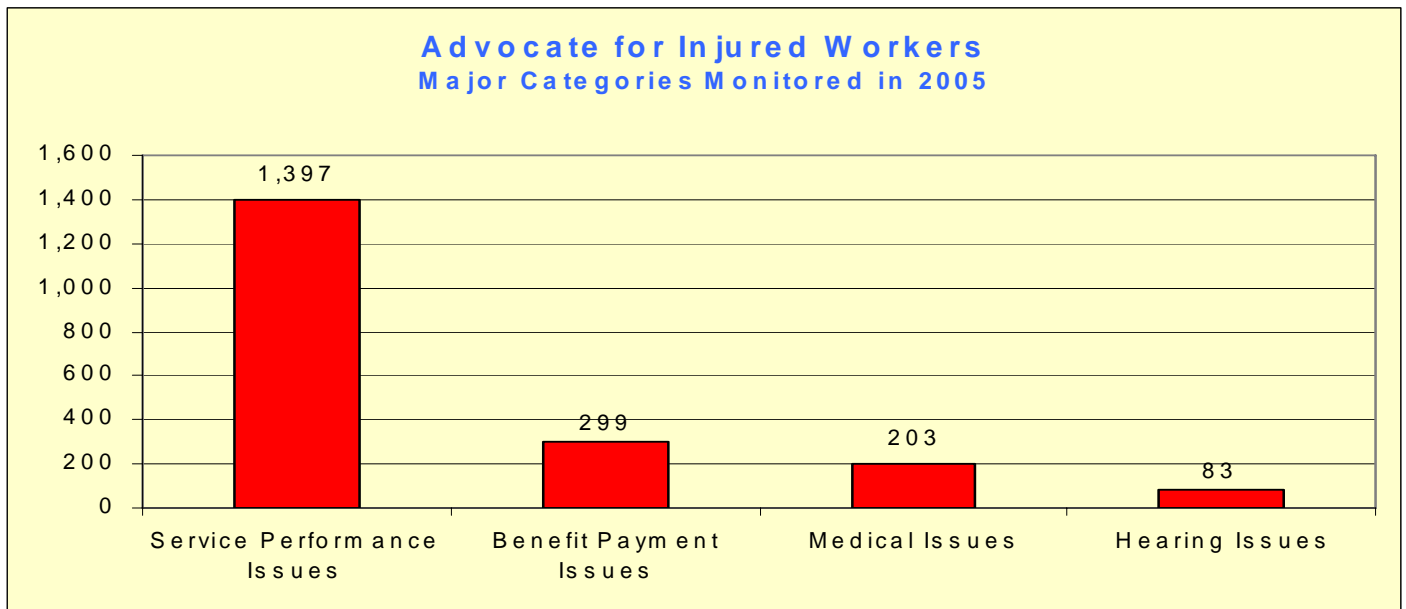
Edwin Ruff  
Advocate for  
Injured Workers

*The Office of Advocate for Injured Workers provides guidance for claimants regarding their workers' compensation claims and assists them in navigating the unique legal system. Working closely with the Social Service and Rehabilitation Bureau, the Advocate for Injured Workers advises injured workers who need help acquiring medical treatment, returning to the work force, or when they face financial difficulties because of lost earnings as a result of an occupational injury or disease. The office also conducts outreach to promote occupational illness and injury prevention.*

## 2005 Initiatives

- Responded to 3,914 claimant inquiries for assistance in resolving their claim.
- Conducted over a three month period 1,680 student contact hours of training on Workers' Compensation Benefits for Volunteer Firefighters and Volunteer Ambulance Workers; Also, conducted at two separate statewide conferences a program for the Fire Polices and the Association of Fire Districts of New York State.
- Performed 2,817 service hours of outreach to organizations throughout the State of New York.
- Provided 2,880 student contact hours of education training for the labor community as part of the workers' compensation navigator program.
- Working with the Office of Compliance, we developed an education program for construction contractors and the building trades. This program will be presented statewide in 2006.
- We still continue to monitor claims related to the World Trade Center attack of 2001.

**To contact the Advocate for Injured Workers, call (800) 580-6665.**



*Major Issue categories monitored in 2005 are depicted in the chart above.*

## OFFICE OF INFORMATION AND MANAGEMENT SERVICES



Nancy Mulholland  
Dty. Executive Dir.  
Info & Management  
Services

*The mission of the Information & Management Services division is to provide highly available, resilient technology and business process improvement solutions to enable performance enhancements in the WCB business programs.*

### Background

The WCB has defined a number of enterprise-wide goals to deliver maximum value to the citizens of New York, and to provide excellent service to WCB's stakeholders:

Maintain and enhance the WCB's leadership position in customer service by addressing "front line" constituent service with an enterprise perspective.

Maintain the WCB's leadership position in the use of technology to drive efficiencies in the Board and in the WC system.

Continuously improve the WCB's performance in all operational areas through process improvement and performance measurement, turning the operational excellence spotlight on WCB supporting business functions.

Measure, influence, and enable improvement in stakeholder performance.

IMS is committed to providing the information and management services necessary for the WCB to accomplish these goals, as evidenced by the division's accomplishments in 2005.

### 2005 Initiatives

Many changes have taken place at the Board during 2005 in each of the areas served by IMS. These improvements include:

#### Information Technology Services

- Completed a major redesign of the Board's data communications network, providing additional capacity and resiliency (redundancy) of the communication paths while reducing costs.

- Completed major upgrade to the Financial Management Information System.
- Completed a comprehensive redesign of the Board's website, making it compliant with federal and state accessibility standards and improving the customer experience.
- Implemented the "Find a Health Care Provider" service on the Board's website.
- Added more functionality to the Board's e-business program, providing more forms on the Board's web site as well as more opportunities for constituents to submit data electronically.
- Completed the Pinnacle CMS Implementation Project to manage our telecommunications environment (phone lines, phones, phone numbers, and cell phones, and all of our moves, adds, and changes). In addition to achieving a more efficient, fully-automated work order and billing reconciliation process, the team identified numerous savings opportunities that have reduced our telecommunication costs.
- Completed implementation of the new imaging services contract, allowing the Board to reduce costs while obtaining more data from our imaging vendor.
- Completed the acquisition and implementation of new Verbatim Reporter Hardware and Software. The roll out to 140 reporters statewide was accomplished timely, and today the verbatim reporters have state-of-the-art tools to support the hearing process.
- Completed the upgrade of WCB's PCs (700 upgraded), printers (220 upgraded) and laptops (110 upgraded). Allowing the Board to maintain a three-year refresh cycle as defined in WCB's IMS principles.

## OFFICE OF INFORMATION AND MANAGEMENT SERVICES (continued)

- Continued expansion of e-Case, a web-based version of the Board's Claims Information System and Electronic Case Folder (there are over 9,000 registered users).
- Continued work on comprehensive business continuity solution for the Board and compliance with the OCSCIC security policies.
- Continued the migration of several critical FoxPro applications to a new, improved, and vendor-supported platform. This project involved multiple applications and multiple customer groups, and all are quite happy with their solutions.

### Management Services

- Created a new Customer Relationship Management Organization to provide a focal point for customer service at the Board. This was one of many recommendations from the CRM re-engineering study, which provided the blueprint for enhancement of the frontline customer service provided by WCB employees as well as the long term vision for customer service delivery.
- Completed the planning and launch of claims operations re-engineering initiatives. These were identified as the priority recommendations from an earlier study of changes required to manage claims in a "post-OPTICS" WCB. This re-engineering study, called the PRISSM Project, has developed a blueprint for enhancing claims operations as the work of the Board becomes increasingly virtual. It has also developed a formal management model and a staffing plan for the Office of Claims Operations;
- Completed the E-Learning project which allows WCB to deliver training across the state utilizing on-line intranet training tools.
- Continued expansion of the award-winning Virtual Call Center to enable the WCB to expand level 1 support to more WCB business units.
- Conducted several process improvement studies for business units throughout the agency and assisted lines of business with the development of process and technology improvement recommendations.
- Completed an assessment of the WCB's intranet in support of the on-going Knowledge Management project including a review of every statewide procedure available to all WCB employees for quality and adherence to standards. Over 8,000 standardized statewide procedures, forms, references, bulletins and many other types of content were prepared for loading into the knowledge management system under development at the WCB.
- Completed the support activities required to enable the WCB to launch and sustain telecommuting pilot programs. With two offices in the WCB actively participating in telecommuting, the agency took a significant step toward enabling telecommuting as a viable program for eligible employees.

### Information Products

- Implemented enhanced performance reporting for the Section 32 Waiver Agreement process, enabling the monitoring of timeliness, quality and outcome of the process.
- Implemented numerous enhancements to the Board's award-winning performance measures system, the MIR-ROR. In addition to introducing new performance reports including tracking administrative law judge rulings that are appealed, software enhancements and a streamlined data architecture to further reduce system maintenance costs were completed.
- Completed a study of measuring quality throughout all claims examining processes and delivered a conceptual design of quality measures. Always the most difficult measurement perspective to quantify, this study will serve as the foundation for expanding upon the measures of quality in claims examining.
- Completed the manual coding of injury and workplace event characteristics in over 160,000 workers' compensation claims using the Occupational Injury & Illness Classification System (OIICS). In addition, over 39,000 claims were manually coded to identify the standard industrial classification of the injured worker's employer.
- Completed the development of a dataset including all death claims, permanent total disability and permanent partial disability claims classified since 1/1/1999. This dataset includes nearly 68,000 claims.
- Completed the development of a dataset of over 66,000 claims resolved by a Section 32 Waiver Agreement since the inception of the program.
- Participated in the development of a journal article published for the International Association of Industrial Accident

## OFFICE OF INFORMATION AND MANAGEMENT SERVICES (continued)

Boards and Commissions (IAIABC) on performance measures and workers' compensation.

### Recognitions

■ In 2005, Nancy W. Mulholland, deputy executive director and CIO was recognized as one of *Computerworld's* Premier 100 IT Leaders. Each year, *Computerworld* magazine conducts a detailed and rigorous evaluation of information technology professionals from around the world. The Premier 100 IT Leaders are those select few who are recognized for outstanding achievement in guiding the effective use of information technology to improve performance, promoting an IT vision that supports organization strategy and the many other characteristics of an exceptional information technology leader.

### Improving Internal IMS Processes

■ IMS, recognizing the value derived from the improvement efforts undertaken during OPTICS in the WCB's major business processes, initiated a series of improvement efforts within the division, focused on key IMS processes.

■ In order to maximize the resources available for new initiatives, IMS must ensure that it is performing infrastructure support functions in the most efficient manner possible. Since our infrastructure is relatively new (within the last ten years), our organization and its processes and procedures are also relatively new. IMS will formally document and mature its internal processes to ensure efficient use of the resources and higher performance for the components of the infrastructure.

■ Two significant business process improvement projects – Service Excellence and Operations Excellence were initiated in 2004 and continued through 2005 as part of this effort. Both projects will work towards standardizing work processes and roles and responsibilities, while gathering improved data for performance metrics.

■ Service Excellence is focused on the work processes associated with maintenance and support service demands. A new methodology and standards for assigning, classifying, performing, and recording maintenance and support activities has been implemented by six Application Development teams. In 2006, these standards will be adapted and implemented in Technical Services and other IMS support units.

■ Operations Excellence is focused on maturing IMS work processes associated with infrastructure support, using the ITIL (Information Technology Infrastructure Library) frame-

work. In 2005, we initiated the analysis of the Configuration Management process area. The implementation of a standard configuration management process, and tools to support it, will continue through 2006.

■ The effort to mature our Project Management processes and practices, initiated in 2004, progressed another step in 2005 with the creation of a Project Management Office (PMO) and a formal Governance Process for IMS investments.

■ Over the next few years, IMS will continue these foundational process improvement projects which will refine the definition of roles and formalize the necessary organizational responsibilities.

## OFFICE OF ADMINISTRATION



Glenn Warren  
Dty Executive Dir.  
Administration

*The Division of Administration is composed of three major components: The Bureau of Human Resources Management, Bureau of Finance, and Bureau of Administrative Services. The mission of the Office of Administration is to provide for the staffing needs of the Board and provide administrative support for Board initiatives.*

### Bureau of Human Resources Management (HRM)

The primary functions of the Bureau of Human Resources Management are to:

1. Meet the staffing needs of the Board's programs through staffing plan development and resulting classification actions, examination planning, recruitment and selection.
2. Promote effective labor/management relations that support management and staff working together cooperatively toward accomplishing the Board's mission, including promoting the use of coaching, counseling and progressive discipline in effectively and fairly dealing with employees.
3. Administer the programs applicable to Board employees to ensure that employees receive the benefits to which they are entitled, while ensuring that the NYS Civil Service Laws, Rules and Regulations, State negotiated agreements, and federal and State labor and disability laws are followed as they relate to Board employees.

#### Functional Organization

HRM is organized into functional units in two geographic locations. The labor/management and employee relations efforts are directed by an Agency Labor Relations Representative in the Queens Office assisted by an Albany staff person. They conduct negotiations, administer the contracts, administer the discipline and grievance procedures and conduct an organized program of dialogue with employee representatives, including participation in labor/management committees.

Personnel groups located in both HRM Offices are led by a Director of Personnel in Albany and handle the personnel activities. They are responsible for statewide benefits programs including employee orientation, probation and

performance evaluation systems, retirement processing, time records management, workers' compensation for Board employees, health benefits, and other insurance management. Others are responsible for providing personnel assistance to program managers through recruiting and hiring, processing of payroll transactions, position classification, examination planning and management, and organizational and staffing analysis.

### 2005 Initiatives

*Several improvements were made to the two primary electronic systems used by HRM staff; namely, the Leave Accrual Tracking System (LATS), which includes an electronic time sheet, and the Human Resources Information Systems (HRIS).*

#### ■ LATS

This year there have been several enhancements to the LATS system which benefit both employees, supervisors and system administrators. Miscellaneous codes can now be entered and are visible on the front screen of the electronic time sheet. Codes that have maximum usage levels have been configured so employees cannot charge more time than is allowed, i.e., an employee may use up to four hours per year for breast cancer screening. The LATS electronic time sheet homepage has been enhanced to allow HRM administrators to create announcements. HRM staff are also now able to create various reports for use internally and by Program Managers.

#### ■ HRIS

The old HRIS Legacy system became obsolete and we rely solely on HRISnet. Verifying the accuracy of system data, development of the individual HRIS modules, and updating/modifying the organizational structure coding, continued throughout the year. Staff worked to successfully use the Office of the State Comptroller (OSC) Automated Interface, which replaced the previous Data Capture electronic system, for payroll transmissions to OSC's electronic system.

## OFFICE OF ADMINISTRATION (continued)

The LATS/HRIS payment interface was introduced in 2005 to electronically transmit payment information directly from LATS into HRIS and then to OSC. Several ad-hoc reporting capabilities were reviewed and created for management use.

### ■ Labor Relations

The telecommuting pilot program continued through 2005. There are currently 18 Albany-based employees participating in the pilot which allows employees to work from home for up to four days per pay period. A joint Labor-Management Committee comprised of the managers of the units where the pilot is being conducted (Office of Appeals and Management Information Systems), IMS and HRM staff, and CSEA and PEF representatives oversee the program.

The Board, in connection with CSEA and the NYS and CSEA Partnership for Education & Training Program, developed a tuition assistance program for CSEA employees who wish to pursue course work in the field of court reporting. This effort will help to address recruitment and retention issues in the Board's Verbatim Reporter Section. Ten Board employees were provided with additional tuition and mentoring support from the NYS and CSEA Partnership, which is in addition to CSEA tuition reimbursement negotiated agreement.

Labor Relations staff continued to handle employee grievances and to assist program managers in dealing with employee disciplinary situations.

### ■ Examinations and Staffing

HRM Staff completed two more holdings of the Verbatim Reporter exam and established resulting eligible lists, completed evaluation and administration of assessments in support of the exams for Associate, Supervising and Principal Attorney titles, and completed all recruitment activities necessary to fill almost 120 positions.

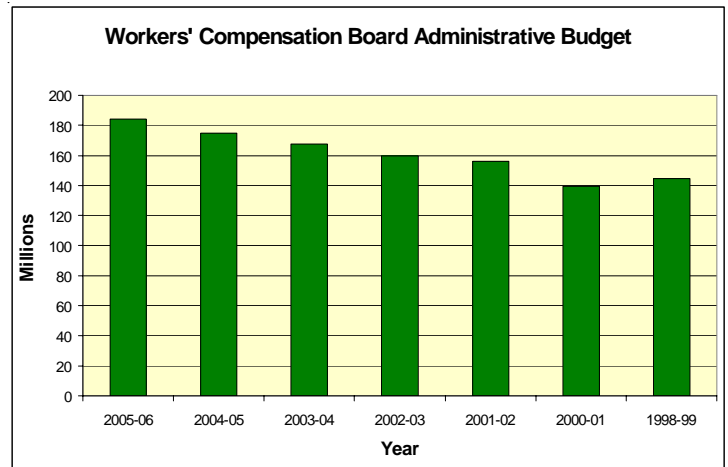
### ■ Classification

HRM Staff submitted approximately 100 classification requests including those in support of the Contact Relationship Management Office (customer service representative positions), and for support positions for the District Office's Adjudication Services Units, and completed studies of certain positions in the Office of Regulatory Affairs to verify proper classification.

### ■ Transactions

HRM staff processed an average of 67 transactions per pay period with all the associated paper work and authorizations to ensure that employees are in the correct employment status and receiving the correct salary and benefits.

This included managing leaves of absence for an average of 38 employees per pay period.



### ■ Baseline/WIRE

In keeping with our on-going theme of improved communication, HRM completed, working cooperatively with a number of staff throughout the agency, over 30 revisions/additions to Baseline and WIRE. Some highlights are:

- A new section in WIRE was created for Performance Programs and staff developed "sample" performance programs for supervisors to use as a guide when developing performance program tasks and standards.
- The Timely Tips newsletters has evolved into the HR Newsletter to provide information to employees and supervisors on a variety of human resource issues.
- Employees were provided information on a variety of negotiated and employee benefit programs.

### Succession Planning Efforts

HRM Staff developed and published the following procedures for staff on how to handle/process:

- Voluntary Reduction in Work Schedule requests;
- Early completion of a two- year Administrative Traineeship request;
- Unsatisfactory performance evaluation rating appeals from PEF and CSEA represented employees;
- Personal History Folder review requests;
- Individualized work schedule requests; and

## OFFICE OF ADMINISTRATION (continued)

- The death of an employee to ensure that next of kin is provided with appropriate benefit information and procedures

### Finance Office

The Finance Office's primary functional areas include: budget analysis; assessment and collection of the Board's Administrative and Special Funds; claims processing for the Special Funds; maintenance of security deposits for self-insured employers and supervised accounts, including interest payments; fund accounting; processing of payroll and vouchers; processing of compliance penalties; and processing of procedural penalties and miscellaneous revenues.

### 2005 Initiatives

■ Issuance of Administrative and Special Fund Assessments of just under \$983.0 million in Workers' Compensation Program and \$7.7 million in Disability Benefits Program. In 2005, due to the fund balance for the Special Fund for Disability Benefits, no assessment was required.

■ In the Fund for Reopened Cases, the Office processes just under 425,000 payments totaling over \$102 million; this includes almost 6,000 checks on a biweekly basis primarily to claimants. An additional \$32 million is also disbursed from that Fund to carriers and self-insured employers as reimbursement of Supplemental Benefits payments.

■ In the Special Disability Fund, over 102,000 payments, totaling over \$538.0 million are paid as a reimbursement to the carriers and self-insured employers.

■ In the Special Fund for Disability Benefits, just under \$2.5 million in benefits are paid to claimants who became disabled while receiving unemployment benefits or who became disabled while employed by an uninsured employer.

■ Disbursed from the fund for benefits and medical payments to claimants who are injured on the job while employed by an uninsured employer. An additional \$1.5 million was disbursed for benefits and medical payments to volunteers from the World Trade Center tragedy under the Federal grant for that program.

■ Process vouchers for personal services and other than personal services, including travel for the agency of over \$174 million; this includes the payroll for over 1,500 employees (this includes part time and per diem employees).

■ In the Disability Benefits Program, just under \$9.8 million was received and processed from employers who were out of compliance with maintaining coverage for employees in accordance with the Disability Benefits Law.

■ Processed receipts from procedural penalties and other miscellaneous revenue exceeding \$1 million. The other miscellaneous revenue receipts include the revenue from the Board publications available for sale to the public.

■ Continued working with consultants to implement an upgrade to a computer system which has automated many of the manual processes. After implementation of the upgrade, development is expected to be started on the other modules that will impact the remaining accounts receivable areas.

### Bureau of Administrative Services

The primary function of the Bureau of Administrative Services is to provide administrative support services to every unit within the Board. These services include mail and messenger services, a centralized office supply stock room serving all Board locations, printing services, telephones, archives, purchasing, contractual services, vehicles, facility management, space design, leasing, surplus property disposition, records management and staff and building relocations.

### 2005 Initiatives

During Fiscal Year 2005-2006, Administrative Services realized a number of accomplishments, including:

■ Initiated centralized case preparation at the Central Archives unit in Norwich. Effective September 2005, all paper cases requested from the Archives unit were pulled, prepped and sent from Norwich to the scanning vendor directly, instead of to the individual district making the request. This initiative has resulted in both time and cost savings.

■ Expanded the case copying initiative at Central Archives to include the entire state. All requests for copies of cases statewide are now directed to the Archives unit, which responds to the request, collects the copying fees, and transmits the completed copies to the requestor.

■ Actively participated in statewide crisis planning activities, and provided substantial support to the process of developing, printing and distributing the resulting Red Books, which contain specific emergency plans and information for each of the Board's district and major administrative offices.

## OFFICE OF ADMINISTRATION (continued)

■ At the end of June, a severe rain storm resulted in major flooding at the Board's facility in Menands. Much of the Data Center and many of the newly renovated offices were flooded. Administrative Services staff coordinated clean up efforts, and arranged for staff to be relocated, areas cleaned and rehabilitated, and returned to their original office over the next several months.

■ Administrative Services staff was integrally involved in the fit/gap and testing processes as the Financial Management Information System moved toward a major PeopleSoft upgrade.

■ Under the oversight of the Office of General Services, Administrative Services staff added the Board's copiers and fax machines to the statewide maintenance program administered by the Remi Group.

■ Administrative Services researched and recommended the installation of a new computerized incoming and outgoing mail system to provide better accountability for the entire mail, asset shipment and receiving process. The new system is expected to be installed in April 2006.

■ Worked with OGS and the landlord to prepare the new Hudson customer service center site for opening. It is expected that hearings will begin at the new site in May 2006.

■ All Board facilities were inspected for compliance with OSHA, State and Local Rules, Regulations and Codes. Any identified violations or deficiencies were reported and corrective actions were actively sought with landlords and facility managers.

■ Oversaw construction related to the installation of a generator in Queens as part of the Board's backup disaster recovery strategy.

■ Completed plans to renovate and increase the size of the Staten Island customer service center. The anticipated completion date is late spring 2006.

### Office of Security

The Office of Security provides security for 44 offices throughout the state where 1,700 state employees perform the agency's business. It is the responsibility

of the Office of Security to maintain order and safety for the thousands of employees and the public who access these facilities on a daily basis.

Visits were made to all District Offices on a regular basis so that the Office of Security is in constant communication with each District Administrator, District Manager and Senior Law Judge.

### 2005 Initiatives

■ The ACRT met monthly and handled 15 incidents throughout the state.

■ Two major crises were handled: the Menands flood and the NYC transit strike.

■ The Office of Security conducts quarterly meetings with statewide Security Managers.

■ Incident Reports are distributed as needed to General Counsel, the Health and Safety Director and Human Resources. There were 380 recorded incidents in 2005.

■ The Office of Security arranged special security coverage for 640 Special Security Cases during 2005, which included involvement from the NYS Police and local law enforcement. Forty-eight (48) cases were covered by the New York State Police under a Memorandum of Understanding with that agency.

■ The Office of Security provided responses to various problems in the districts such as robberies in OGS Parking Lots, office thefts and small thefts of equipment.

■ Hub Room Reader Project: This project will last at least a year and will involve replacing or adding locks and readers as well as the Basis System as needed in 35 locations throughout the state.

■ The Director of Security is responsible for training in workplace violence, crisis management and utilizes the Assistant Director of Training at the WCB in order to carry out these assignments. Training has been conducted throughout the state on crisis management in 2005 at every district office.



# OFFICE OF FRAUD INSPECTOR GENERAL



John H. Burgher  
Fraud Inspector  
General

*The mission of the Office of the Workers' Compensation Fraud Inspector General (OFIG) is to implement the Governor's workers' compensation (WC) fraud fighting program by detecting, investigating and deterring workers' compensation fraud. The OFIG vigorously, fairly and thoroughly investigates all accusations of fraud and proactively investigates potential fraud using various programs and techniques.*

To fulfill its mission, OFIG utilizes 27 staff members consisting of: the Inspector General, Deputy Inspector General, four Assistant Inspector Generals, investigators, senior investigators, forensic auditors and support staff. Investigators are assigned throughout New York State with at least one investigator covering each of the WCB's 11 district offices.

Since 2000, the OFIG has undergone a reorganization of programs used to combat WC fraud in accordance with the Governor's antifraud policies. This program expansion has principally centered on the following three areas:

- Broadening the scope of OFIG's fraud fighting efforts through the establishment of an Audit Unit whose forensic auditors analyze complex employer premium and provider billing fraud schemes to maximize the amount of victim restitution obtained.
- Increasing the efficiency and effectiveness of OFIG's existing efforts to investigate claimant fraud through improved case intake, screening and investigatory processes.
- Combining the Board's award winning computer technology systems with OFIG's data mining programs to proactively identify large numbers of additional potential fraud cases for investigation.

## 2005 Initiatives

### Deterring Fraud

■ In 2005, the Fraud Inspector General and OFIG staff presented the Identifying Fraud Potential seminar to over 600 participants from sixteen insurance carrier employee groups and other private and governmental entities. Participants have uniformly rated these seminars highly and their excellence has been formally recognized through attainment of CLE and CFE educational accreditations. OFIG plans on delivering this seminar to more insurance industry groups and County District Attorney's office staff in 2006.

### Electronic Data Mining

In 2005, OFIG's data mining programs produced 1,561 fraud case leads which increased the total number of cases generated thereby to 12,594 since 2000. OFIG carefully assesses each case lead for the actual likelihood of fraud. Based on this assessment, OFIG opens an investigation, refers the case to an appropriate authority or closes the file where no fraud is indicated.

### Fraud Complaints

During 2005, OFIG received 3,571 fraud complaints for investigation. This figure includes 817 complaints received through OFIG's 24-hour WC fraud telephone hotline. Anyone wishing to report a suspected workers' compensation fraud case may consult confidentially with an experienced OFIG intake staff person by calling toll free 1-888-363-6001.

### Fraud Prosecutions

In 2005, there were 110 arrests and prosecutions resulting from OFIG investigations. This increases the total number of arrests stemming from OFIG's fraud investigations since 1997 to 756. These arrests have included: claimants, employers, insurance brokers, lawyers and medical providers. The overwhelming majority of these defendants plead guilty once the incriminating documentary and/or video surveillance evidence against them was revealed. In each case, the defendants were found guilty of workers' compensation fraud.

### Fraud Cases of Note

#### ■ Nassau County Nurse Defrauds Insurer of \$36,000

A Nassau County nurse was convicted of fraudulently collecting \$36,000 in WC benefits while working at a local medical center. She was ordered to repay \$36,000 to the carrier.

## OFFICE OF FRAUD INSPECTOR GENERAL (continued)

### ■ Greene County Couple Fraudulently Receive \$18,000 in WC Benefits

A Greene County couple concealed receiving \$18,000 in WC benefits so they could continue collecting their full welfare payments from the Greene County Department of Social Services. A six months in jail was handed down along with \$18,000 in restitution.

### ■ A Westchester County Business Owner Defrauded SIF of \$15,000 in WC Benefits.

A White Plains restaurant owner was convicted of defrauding SIF of \$15,000 by collecting WC benefits while continuing to work in his restaurant. He was ordered to repay SIF \$15,000.

### ■ An Albany Area Truck Driver Defrauded SIF of \$14,000.

An Albany area truck driver was convicted of defrauding SIF of \$14,000 by collecting WC benefits while working as an auctioneer. He was ordered to pay \$14,000 in victim restitution.

### ■ New York City Claimant Fraudulently Collects \$14,000 in WC Benefits.

A New York City claimant was convicted of fraudulently collecting \$14,000 in WC benefits and ordered to make full restitution to the insurer.

### Fraud Sweeps

During 2005, OFIG presented criminal referrals to local District Attorneys which culminated in several countywide sweeps, leading to the arrest of many individuals who had committed WC insurance fraud. Most of these operations were accomplished with the joint participation and assistance of the Insurance Frauds Bureau and/or the State Insurance Fund.

Kings, Nassau, Orange, Queens, and Suffolk Counties conducted the following six very successful roundups, arresting 45 individuals for various Workers Compensation and Insurance Law violations who had allegedly committed WC fraud totaling over \$1.1 million:

■ On March 10, 2005, the Kings County District Attorney's Office, OFIG, the State Insurance Department, NYC Transit Authority, and U.S. Postal Inspection Service announced the arrest of 5 suspects for committing over \$100,000 in

WC Fraud. The Fraud Inspector General said, "Workers' compensation fraud creates a drain on our economy, negatively impacts job growth and adds to the overall cost of doing business in New York State. These arrests should send a strong message to would-be criminals to think twice before selfishly committing workers' compensation fraud."

■ On March 15, 2005, the Nassau County District Attorney's Office, OFIG, State Insurance Fund and State Insurance Department announced the arrest of eight persons for perpetrating \$168,000 in WC fraud.

■ On June 29, 2005, the Queens County District Attorney's Office, OFIG, and the State Insurance Department announced the arrest of 12 individuals for committing over \$500,000 in WC fraud. The Fraud Inspector General said, "Workers' compensation fraud costs everyone in the long run in higher prices for goods and services. It is not a victimless crime. Governor Pataki has made it clear that fraud will not be tolerated and it is days like this that should impress upon anyone considering fraud that it is just not worth it."

■ On October 12, 2005, the Orange County District Attorney's Office, OFIG, and the State Insurance Department announced the arrest of seven persons for perpetrating over \$30,000 in WC fraud.

■ On November 4, 2005, the Nassau County District Attorney's Office, OFIG, the State Insurance Department, and SIF announced the arrest of three individuals for committing \$77,000 in WC fraud.

■ On November 16, 2005, the Suffolk County District Attorney's Office and OFIG announced the arrest of 10 individuals for perpetrating \$268,000 in WC fraud.

### Victim Restitution

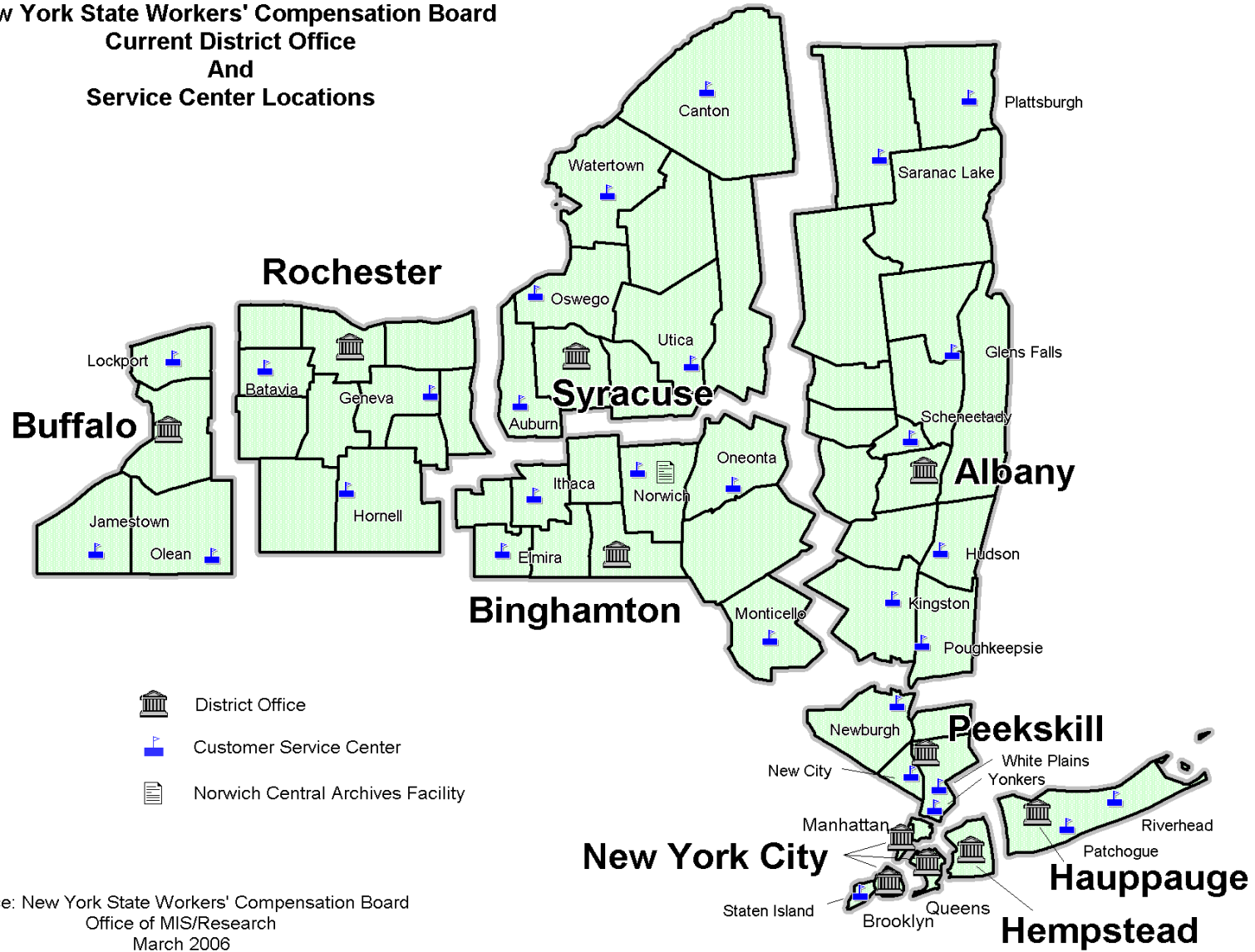
■ In 2005, the amount of money returned to victims, fines collected, and freed insurance reserves as a direct result of OFIG actions totaled \$1.9 million. Since 1997, OFIG has saved the WC system \$19.9 million in victim restitution, fines and freed insurance reserves.

## APPENDICES

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Appendix II	Cases Indexed in 2005 By County
Appendix III	Cases Indexed In 2005 by District Office
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Appendix XXII	Administrative Assessment - Section 60 VAW
Appendix XXIII	Special Fund Assessment - Section 25-A
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Appendix XXV	Special Fund Assessment - Section 214

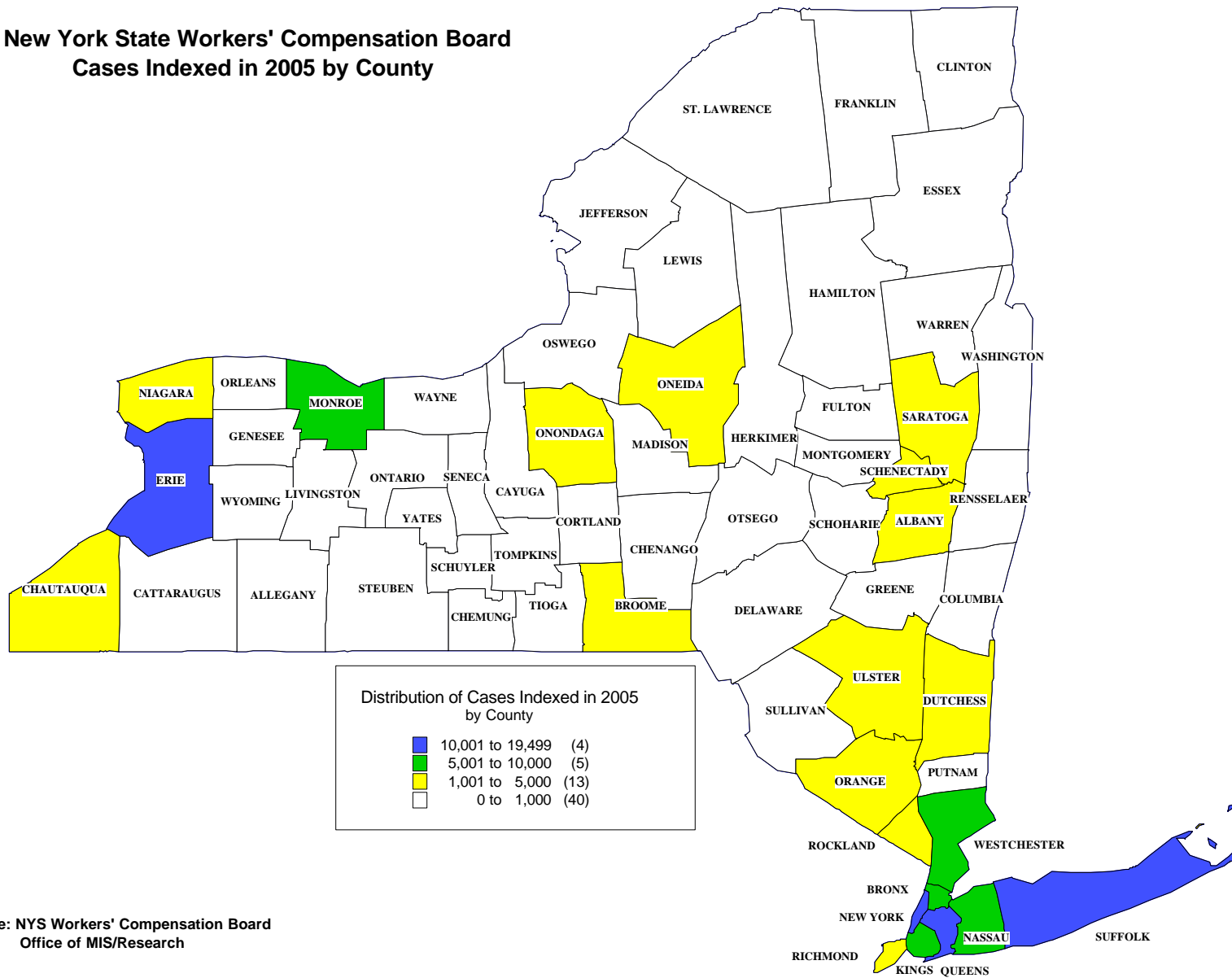
APPENDIX I

New York State Workers' Compensation Board  
Current District Office  
And  
Service Center Locations



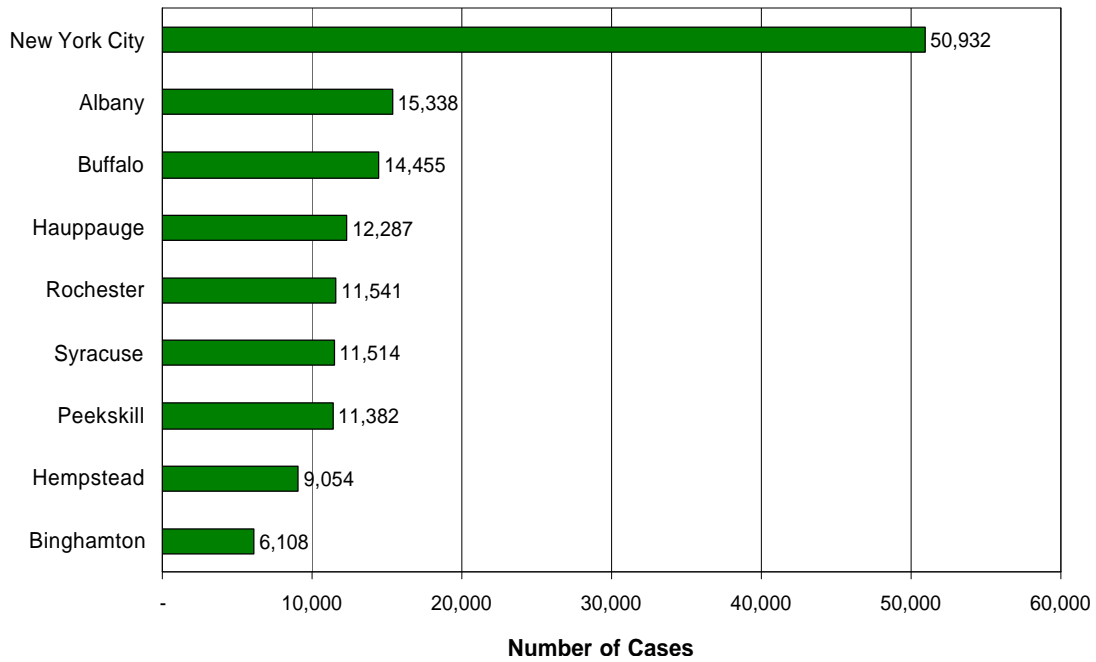
Source: New York State Workers' Compensation Board  
Office of MIS/Research  
March 2006

### New York State Workers' Compensation Board Cases Indexed in 2005 by County



Source: NYS Workers' Compensation Board  
Office of MIS/Research

### Cases Indexed in 2005 By District Office

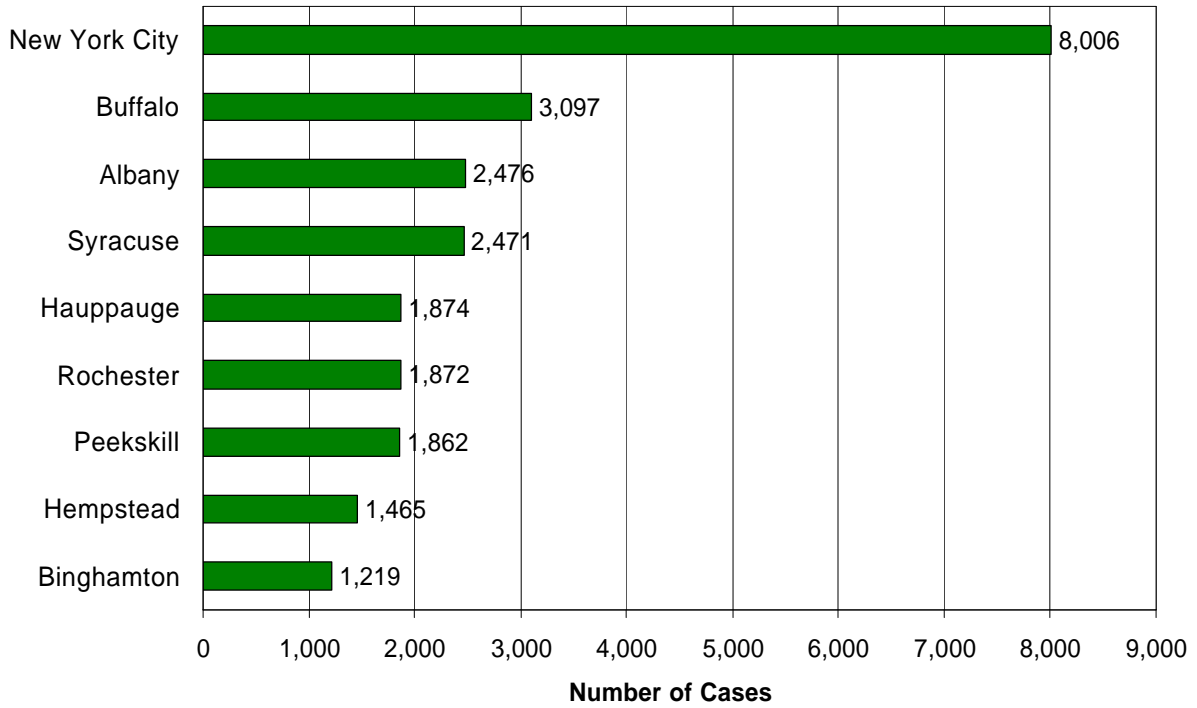


### Cases Indexed and Cases Reopened in 2005 By District Office

District Office	Cases Indexed	Cases Reopened
New York City	50,932	49,039
Albany	15,338	17,339
Buffalo	14,455	18,966
Hauppauge	12,287	16,848
Rochester	11,541	15,478
Syracuse	11,514	20,961
Peekskill	11,382	16,823
Hempstead	9,054	13,654
Binghamton	6,108	8,372
<b>Total</b>	<b>142,611</b>	<b>177,480</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

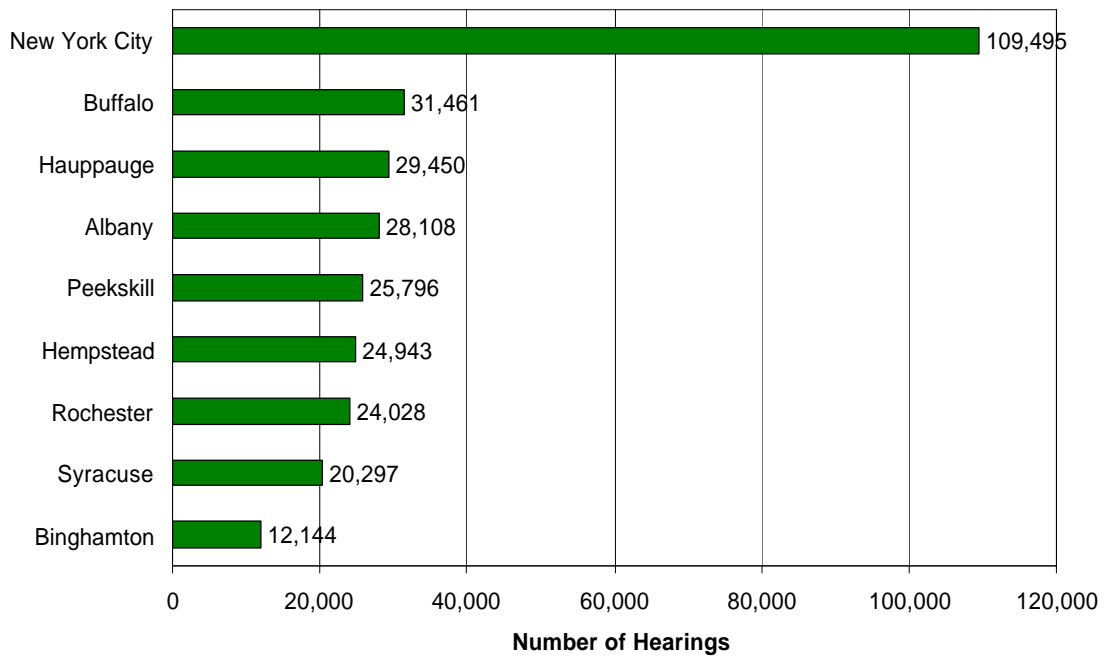
### Cases Controverted in 2005 By District Office



District Office	Number of Cases Controverted
New York City	8,006
Buffalo	3,097
Albany	2,476
Syracuse	2,471
Hauppauge	1,874
Rochester	1,872
Peekskill	1,862
Hempstead	1,465
Binghamton	1,219
<b>Total</b>	<b>24,342</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

### Hearings Held in 2005 By District Office

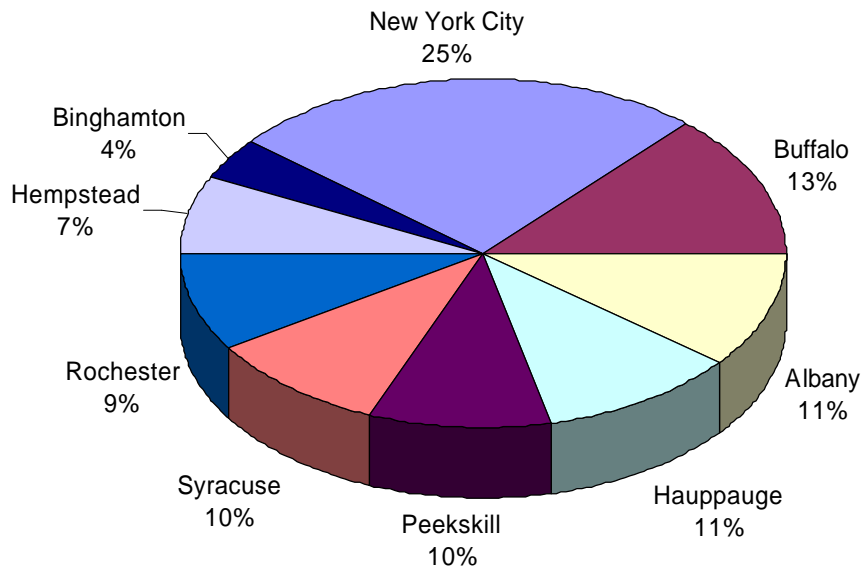


District Office	Number of Hearings
New York City	109,495
Buffalo	31,461
Hauppauge	29,450
Albany	28,108
Peekskill	25,796
Hempstead	24,943
Rochester	24,028
Syracuse	20,297
Binghamton	12,144
<b>Total</b>	<b>305,722</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research



**Percentage of All Claims Accepted in 2005  
By District Office**



**Claims Accepted in 2005  
By District Office**

District Office	Claims Accepted
New York City	25,880
Buffalo	13,357
Albany	10,771
Hauppauge	10,709
Peekskill	9,922
Syracuse	9,594
Rochester	9,296
Hempstead	7,271
Binghamton	3,984
<b>Total</b>	<b>100,784</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

### Claims Accepted in 2005 By Claim Type and Month

Month Accepted	Total Claims Accepted	WCL Claims (a)	VFBL Claims (b)	VAWBL Claims (c)
January	8,845	8,768	72	5
February	8,947	8,871	69	7
March	10,504	10,428	68	8
April	9,728	9,633	91	4
May	8,195	8,118	73	4
June	7,231	7,172	51	8
July	6,835	6,769	59	7
August	7,947	7,875	67	5
September	8,274	8,170	95	9
October	7,271	7,199	67	5
November	8,003	7,912	84	7
December	9,004	8,908	85	11
<b>Total</b>	<b>100,784</b>	<b>99,823</b>	<b>881</b>	<b>80</b>

(a) Claims under the Workers' Compensation Law

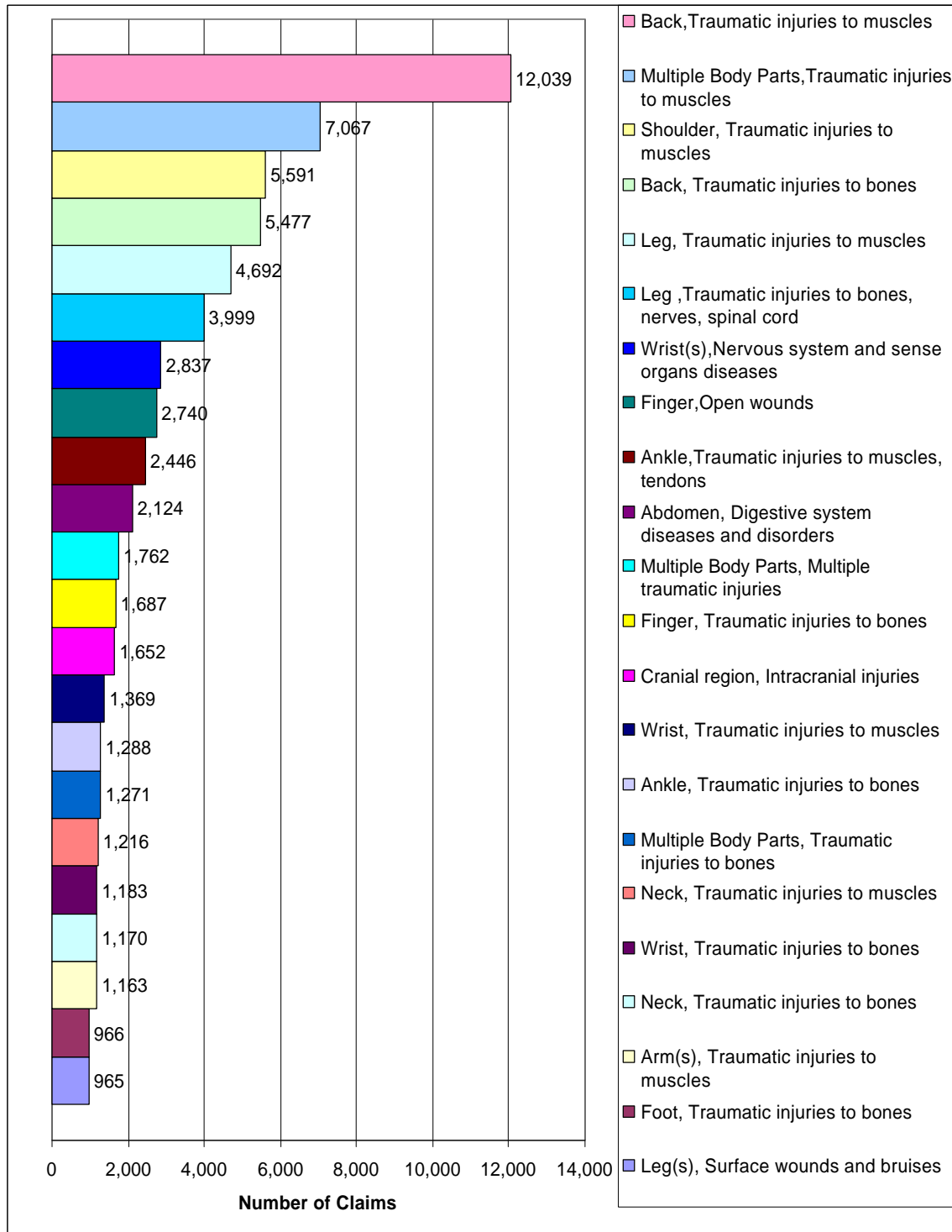
(b) Claims under the Volunteer Firefighters' Benefit Law

(c) Claims under the Volunteer Ambulance Workers' Benefit Law

Claims Accepted in 2005: Claims for which there was a finding made by the Board during calendar year 2005 that (1) the claimant sustained an injury arising out of and in the course of employment; (2) timely notice thereof was given to the employer; and (3) there is a causal relationship between the work injury and a consequent disability.

(The claims accepted data for 2005 includes some previously established claims for which a Board finding during calendar year 2005 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total).

### Most Frequently Occurring Injury Types For Accepted Claims with First Indemnity Benefits Paid in 2005



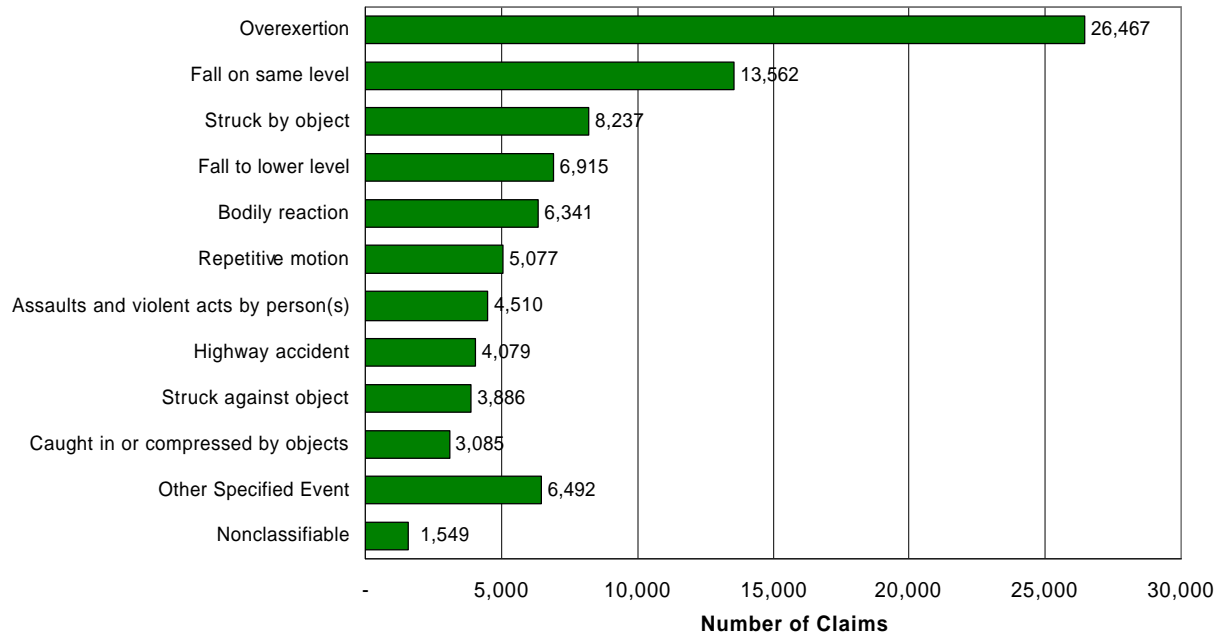
Source: NYS Workers' Compensation Board  
Office of MIS/Research

**Part of Body Injured Summary  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

<b>PART OF BODY AREA Body Sub-Area</b>	<b>All Claims</b>	<b>Male Workers</b>	<b>Female Workers</b>	<b>Sex Not Indicated</b>
<b>HEAD</b>	<b>4,309</b>	<b>3,158</b>	<b>1,071</b>	<b>80</b>
<b>NECK</b>	<b>2,558</b>	<b>1,369</b>	<b>1,145</b>	<b>44</b>
<b>UPPER EXTREMITIES</b>	<b>19,262</b>	<b>11,853</b>	<b>7,028</b>	<b>381</b>
Finger	6,064	4,472	1,444	148
Wrist	6,120	2,801	3,246	73
Hand	1,857	1,331	465	61
Arm	3,342	2,178	1,105	59
Multiple Upper Ex.	1,849	1,059	750	40
All Other	30	12	18	0
<b>TRUNK</b>	<b>32,130</b>	<b>20,856</b>	<b>10,626</b>	<b>648</b>
Back	19,013	11,622	6,963	428
Shoulder	7,304	4,733	2,460	111
Abdomen	2,295	2,082	170	43
Chest	1,601	1,248	313	40
Pelvic Region	934	616	303	15
Multiple Trunk Locations	945	530	405	10
All Other	38	25	12	1
<b>LOWER EXTREMITIES</b>	<b>18,625</b>	<b>12,219</b>	<b>5,980</b>	<b>426</b>
Leg	10,818	7,261	3,352	205
Ankle	4,043	2,550	1,376	117
Foot	1,937	1,229	654	54
Toe	638	441	177	20
Multiple Lower Ex.	1,172	728	414	30
All Other	17	10	7	0
<b>BODY SYSTEMS</b>	<b>766</b>	<b>397</b>	<b>349</b>	<b>20</b>
<b>MULTIPLE BODY AREAS</b>	<b>12,019</b>	<b>6,518</b>	<b>5,212</b>	<b>289</b>
<b>OTHER OR UNSPECIFIED</b>	<b>531</b>	<b>384</b>	<b>132</b>	<b>15</b>
<b>Total</b>	<b>90,200</b>	<b>56,754</b>	<b>31,543</b>	<b>1,903</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

**Event or Exposure  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

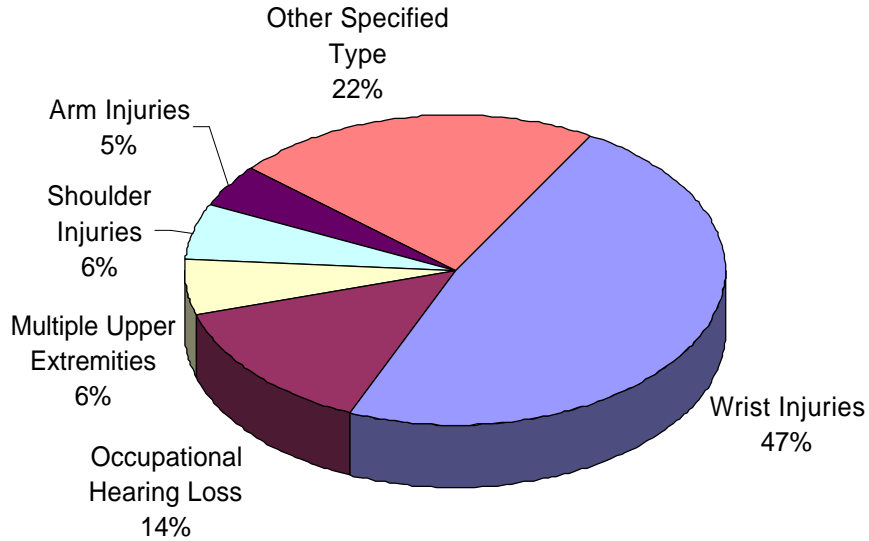


**Sex of Worker and Event or Exposure  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

Event or Exposure	All Claims	Male Workers	Female Workers	Sex Not Indicated
Overexertion	26,467	16,833	9,100	534
Fall on same level	13,562	6,403	6,870	289
Struck by object	8,237	5,892	2,132	213
Fall to lower level	6,915	5,057	1,685	173
Bodily reaction	6,341	4,293	1,939	109
Repetitive motion	5,077	1,891	3,143	43
Assaults and violent acts by person(s)	4,510	2,361	2,062	87
Highway accident	4,079	2,904	1,052	123
Struck against object	3,886	2,702	1,109	75
Caught in or compressed by objects	3,085	2,460	554	71
Other Specified Event	6,492	4,885	1,485	122
Nonclassifiable	1,549	1,073	412	64
<b>Total</b>	<b>90,200</b>	<b>56,754</b>	<b>31,543</b>	<b>1,903</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

**Types of Occupational Disease or Exposure Injuries  
For Accepted Claims with First Indemnity Benefits Paid in 2005**



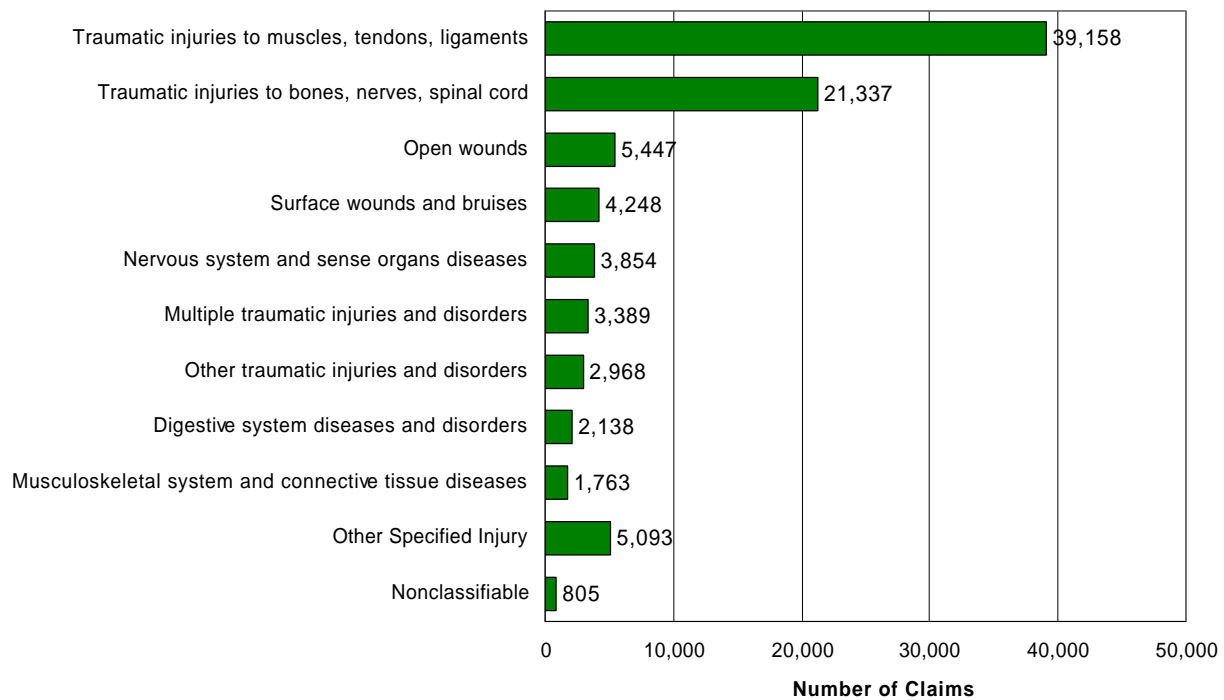
**Sex of Worker and Occupational Disease or Exposure  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

Type of Occupational Disease or Exposure	Accepted Claims	Male Workers	Female Workers	Sex Not Indicated
Wrist Injuries	2,451	886	1,551	14
Occupational Hearing Loss	703	671	32	0
Multiple Upper Extremities	302	98	202	2
Shoulder Injuries	285	132	153	0
Arm Injuries	234	109	124	1
Other Specified Type	1,116	654	451	11
<b>Total</b>	<b>5,091</b>	<b>2,550</b>	<b>2,513</b>	<b>28</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

APPENDIX XII

**Nature of Injury  
For Accepted Claims with First Indemnity Benefits Paid in 2005**



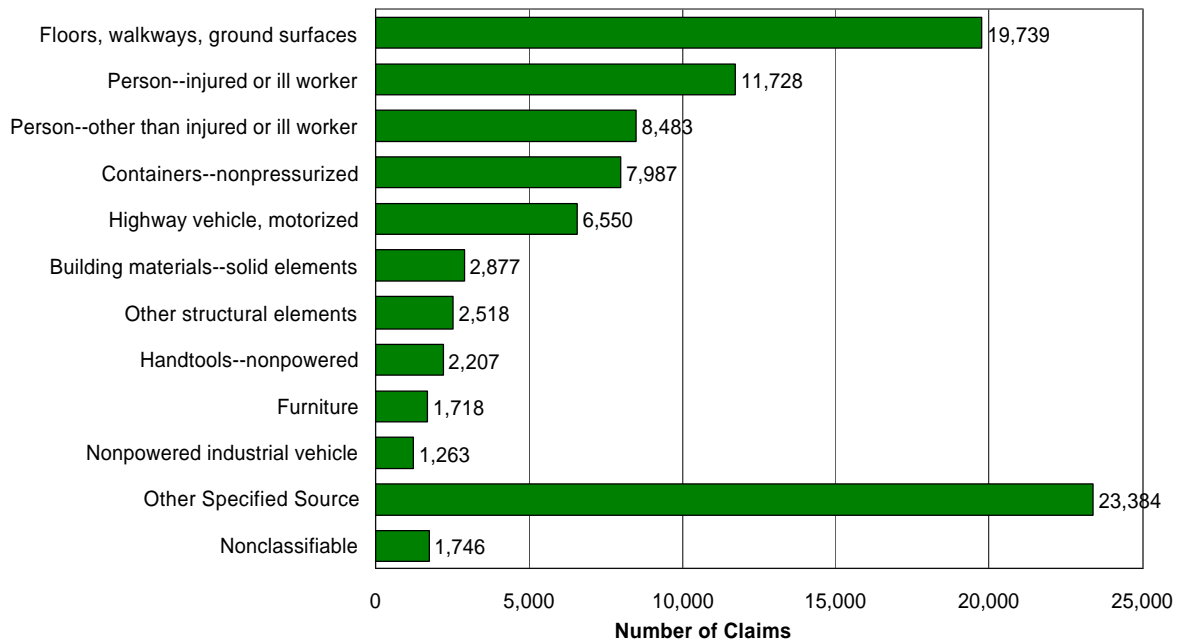
**Sex of Worker and Nature of Injury  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

Nature of Injury	All Claims	Male Workers	Female Workers	Sex Not Indicated
Traumatic injuries to muscles, tendons, ligaments	39,158	23,499	14,838	821
Traumatic injuries to bones, nerves, spinal cord	21,337	14,090	6,786	461
Open wounds	5,447	4,327	992	128
Surface wounds and bruises	4,248	2,439	1,701	108
Nervous system and sense organs diseases	3,854	1,932	1,898	24
Multiple traumatic injuries and disorders	3,389	2,120	1,189	80
Other traumatic injuries and disorders	2,968	1,822	1,065	81
Digestive system diseases and disorders	2,138	1,980	118	40
Musculoskeletal system and connective tissue diseases	1,763	749	995	19
Other Specified Injury	5,093	3,246	1,742	105
Nonclassifiable	805	550	219	36
<b>Total</b>	<b>90,200</b>	<b>56,754</b>	<b>31,543</b>	<b>1,903</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

APPENDIX XIII

**Source Producing Injury  
For Accepted Claims with First Indemnity Benefits Paid in 2005**



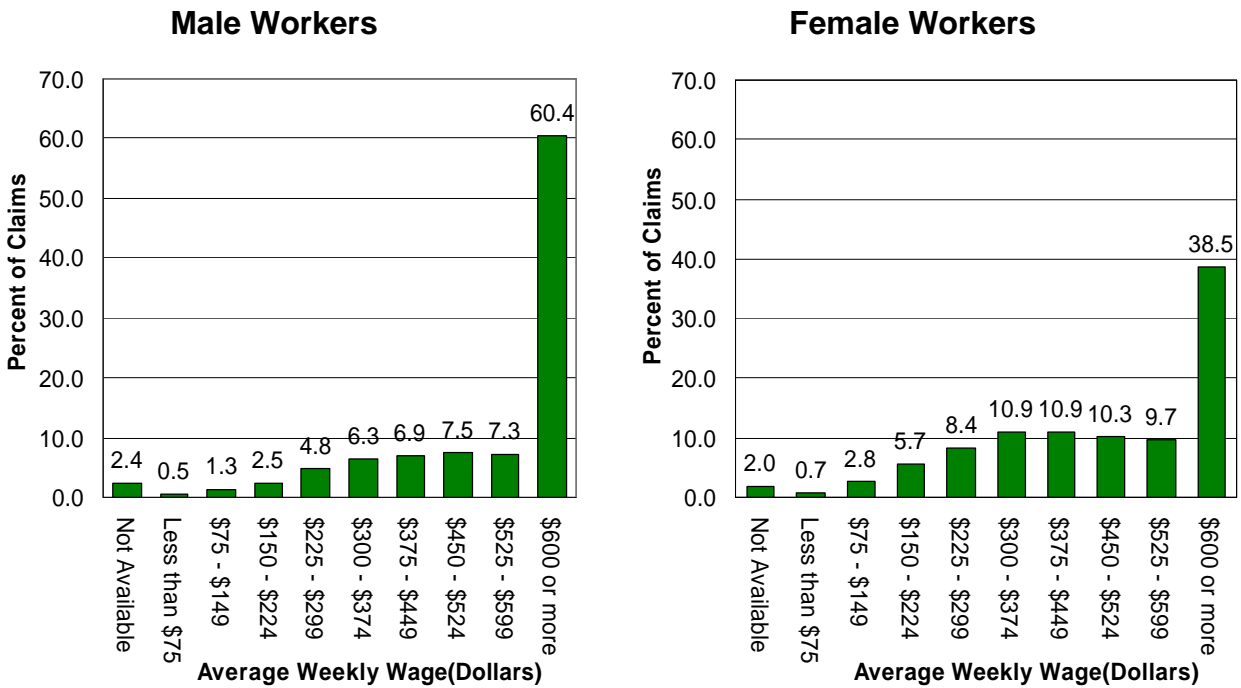
**Sex of Worker and Source Producing Injury  
For Accepted Claims with First Indemnity Benefits Paid in 2005**

Source of Injury	All Claims	Male Workers	Female Workers	Sex Not Indicated
Floors, walkways, ground surfaces	19,739	11,075	8,220	444
Person--injured or ill worker	11,728	6,383	5,183	162
Person--other than injured or ill worker	8,483	2,665	5,659	159
Containers--nonpressurized	7,987	5,286	2,522	179
Highway vehicle, motorized	6,550	4,848	1,532	170
Building materials--solid elements	2,877	2,602	222	53
Other structural elements	2,518	1,571	884	63
Handtools--nonpowered	2,207	1,745	418	44
Furniture	1,718	904	778	36
Nonpowered industrial vehicle	1,263	866	367	30
Other Specified Source	23,384	17,607	5,286	491
Nonclassifiable	1,746	1,202	472	72
<b>Total</b>	<b>90,200</b>	<b>56,754</b>	<b>31,543</b>	<b>1,903</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research



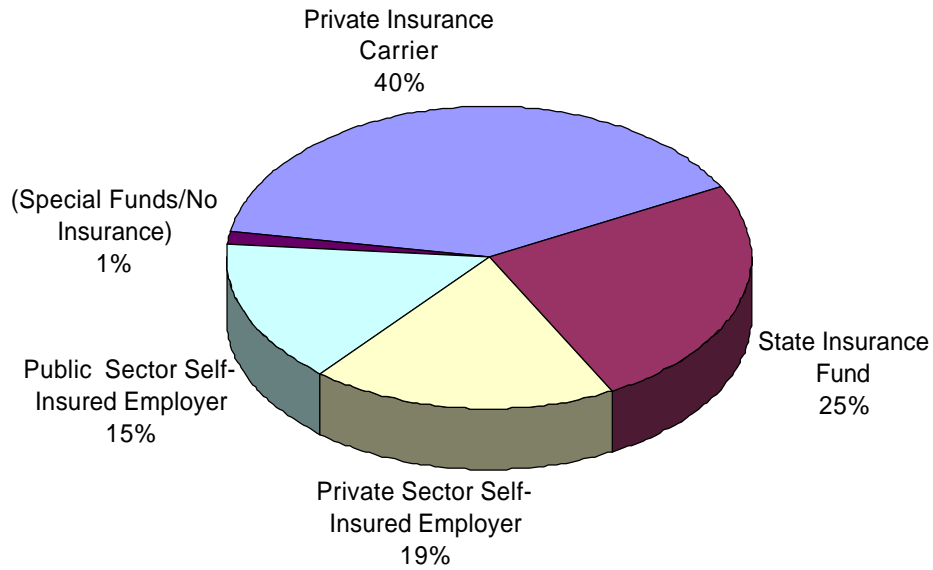
### Sex of Worker and Average Weekly Wage For Accepted Claims with First Indemnity Benefits Paid in 2005



Average Weekly Wage	All Claimants	Male Workers	Female Workers	Sex Not Indicated
Not Available	2,031	1,382	634	15
Less than \$75	537	291	236	10
\$75 - \$149	1,623	713	886	24
\$150 - \$224	3,266	1,428	1,785	53
\$225 - \$299	5,530	2,748	2,664	118
\$300 - \$374	7,220	3,600	3,451	169
\$375 - \$449	7,510	3,933	3,434	143
\$450 - \$524	7,661	4,271	3,239	151
\$525 - \$599	7,327	4,118	3,061	148
\$600 or more	47,495	34,270	12,153	1,072
<b>Total</b>	<b>90,200</b>	<b>56,754</b>	<b>31,543</b>	<b>1,903</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

### Claim Liability For Claims Accepted in 2005



Type of Liability Coverage	Number of Claims
Private Insurance Carrier	39,768
State Insurance Fund	25,253
Private Sector Self-Insured Employer	18,964
Public Sector Self-Insured Employer	15,306
(Special Funds/No Insurance)	1,493
<b>Total</b>	<b>100,784</b>

Source: NYS Workers' Compensation Board  
Office of MIS/Research

## Industry Coding in 2005

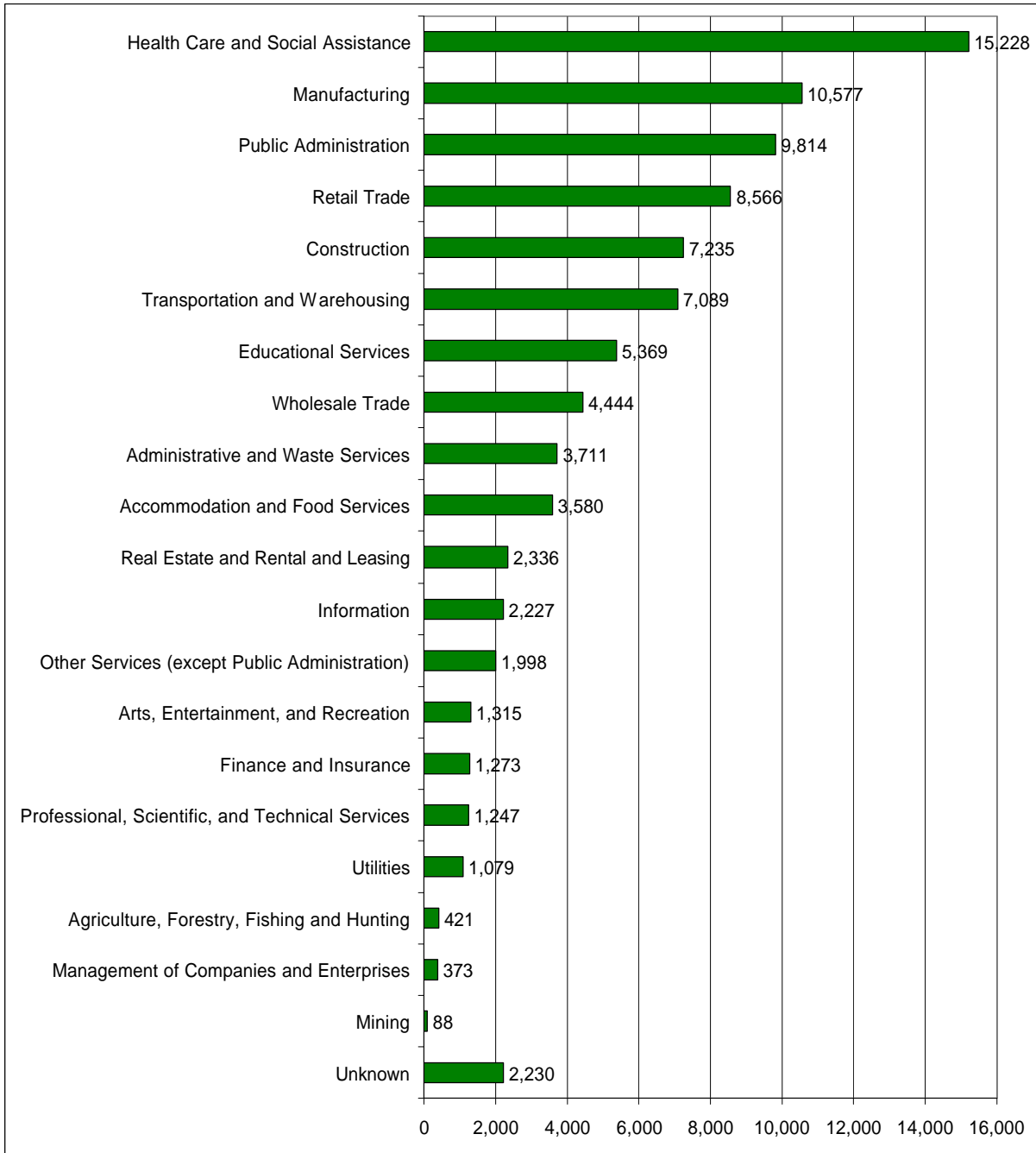
In 2005, the Board continued to acquire data on the industrial classification of the employers for all accepted claims having indemnity benefits first paid to the injured worker in 2005. The method used to determine the industrial classification leverages new data systems in place at the Board. When employer records from claims can be matched with employer records for insurance compliance, the North American Industrial Classification System (NAICS) code can be identified or translated from an available Standard Industrial Classification (SIC) code. Once coded, multiple claims by workers from the same enterprise can be coded automatically. This provides the Board with an ability to identify the industrial classification code of the enterprise with a highly standardized process producing consistent results.

The North American Industrial Classification System (NAICS), like the Standard Industrial Classification (SIC) system before it, is based on the assignment of classification codes to establishments, which are described as generally being a single physical location where business is conducted or services provided. The concept of establishment stands in contrast to the enterprise. A single enterprise might control multiple establishments of differing industries. Enterprises that are comprised of multiple disparate establishments are common. For example, a retail furniture store chain might have a trucking division or a large warehousing operation. Coding at the enterprise level, all workers would be classified in the Retail Trade Sector (NAICS Code 44) even if they are employed in the trucking division (NAICS Code 48). While not providing the same grain of detail as coding at the establishment level, identifying the industrial classification at the enterprise level is based on the data used to determine the employer's compliance with providing workers' compensation coverage.

### Industry Sector and Percentage For Accepted Claims with First Indemnity Benefits Paid in 2005

Industry Sector	Claims	Percent
Health Care and Social Assistance	15,228	16.9
Manufacturing	10,577	11.7
Public Administration	9,814	10.9
Retail Trade	8,566	9.5
Construction	7,235	8.0
Transportation and Warehousing	7,089	7.9
Educational Services	5,369	6.0
Wholesale Trade	4,444	4.9
Administrative and Waste Services	3,711	4.1
Accommodation and Food Services	3,580	4.0
Real Estate and Rental and Leasing	2,336	2.6
Information	2,227	2.5
Other Services (except Public Administration)	1,998	2.2
Arts, Entertainment, and Recreation	1,315	1.5
Finance and Insurance	1,273	1.4
Professional, Scientific, and Technical Services	1,247	1.4
Utilities	1,079	1.2
Agriculture, Forestry, Fishing and Hunting	421	0.5
Management of Companies and Enterprises	373	0.4
Mining	88	0.1
Unknown	2,230	2.5
<b>Total</b>	<b>90,200</b>	<b>100</b>

### Industry Sector For Accepted Claims with First Indemnity Benefits Paid in 2005



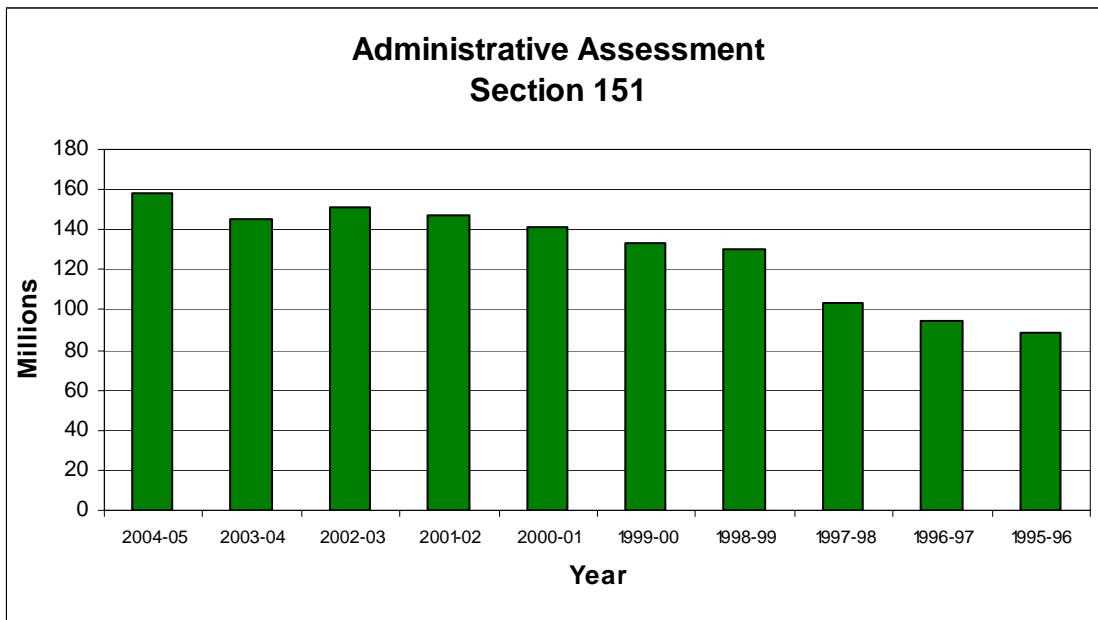
Source: NYS Workers' Compensation Board  
Office of MIS/Research

## ASSESSMENT CALCULATION

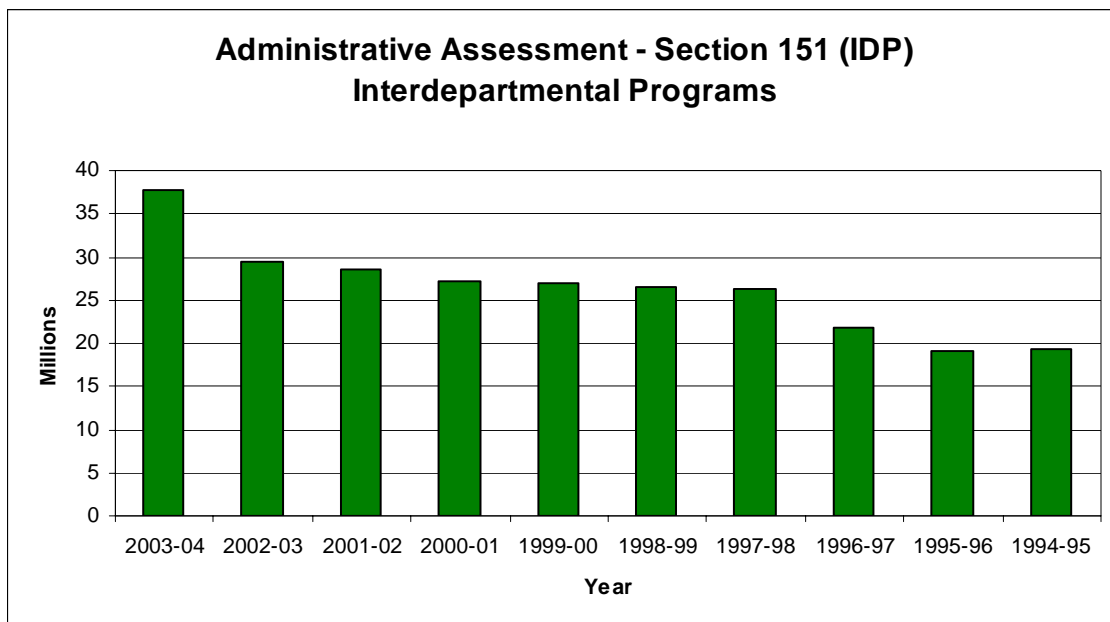
Through the normal budget process, the Board calculates the funding level needed to support its workers' compensation and disability benefits operations. The State Departments of Labor and Health also calculate their funding needs for the interdepartmental programs. When added together, these funding requirements become the basis for the Administrative Assessment. The Administrative Assessment is managed on a fiscal year basis.

**Section 151 and IDP** — the rate for the cost associated with the administration of the workers' compensation program is calculated by dividing the cost of the program by the total annual workers' compensation payments (indemnity only) paid by all entities. This rate is then multiplied by the total annual workers' compensation payments paid by the individual entity to determine that entity's assessment.

### Appendix XVII

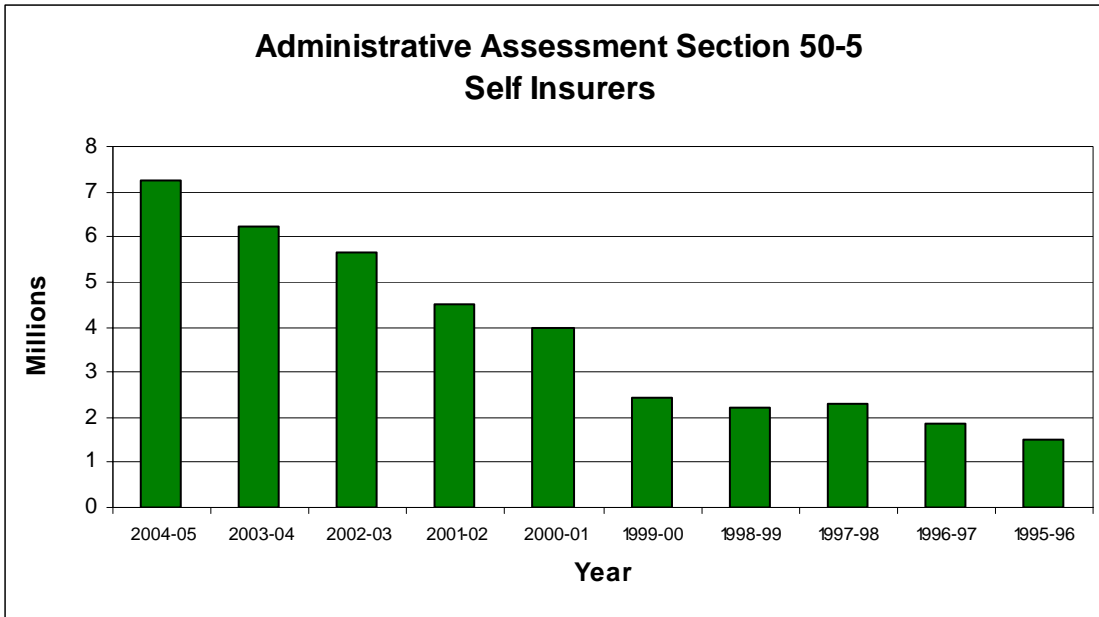


### Appendix XVIII



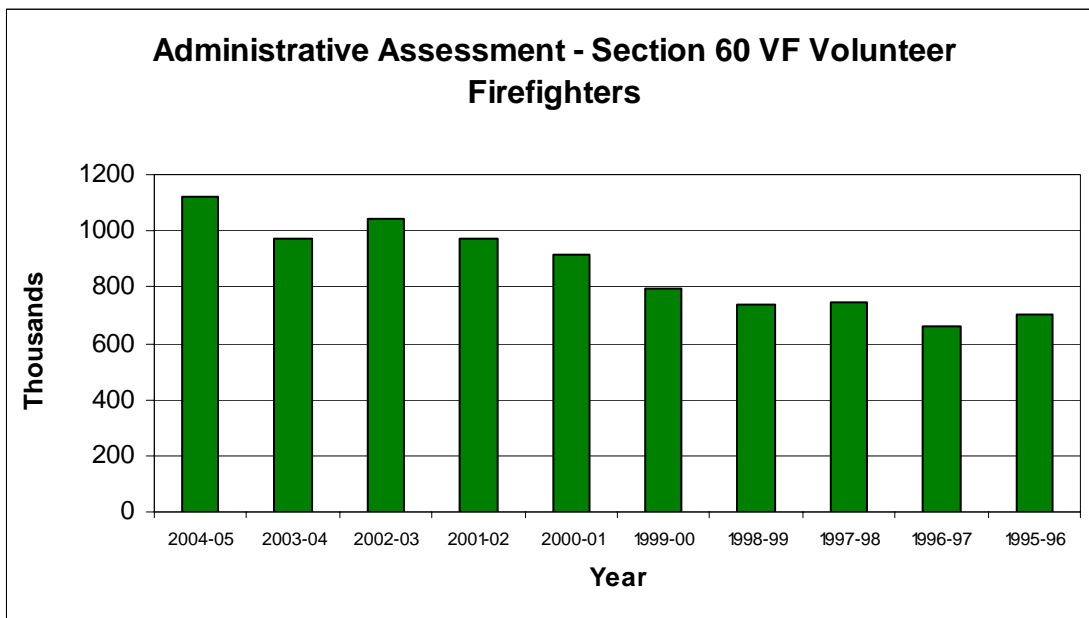
**Section 50-5** — Corporate self-insurers are assessed their portion of the cost associated with the administration of the self-insured program. The rate for the cost associated with this program is calculated by dividing the cost by the total of all security accounts held by the Board for all corporate self-insured entities. This rate is then multiplied by the total of the security account held for an individual self-insurer to determine that self-insurer's assessment.

**Appendix XIX**



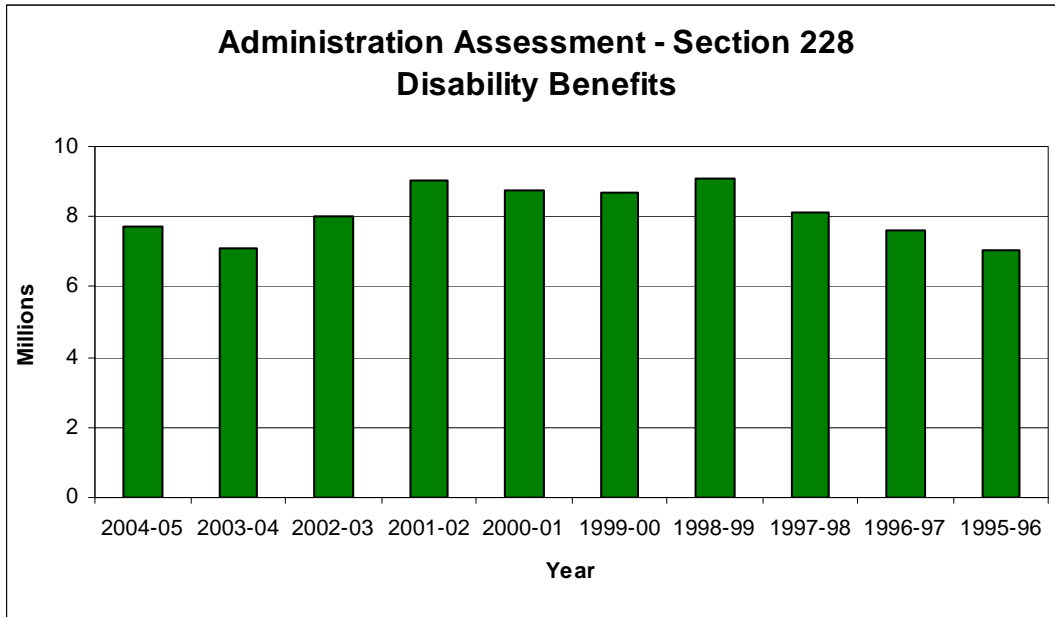
**V60** — the rate for the cost associated with the administration of the volunteer fire fighter program is calculated by dividing the cost of the program by the total annual volunteer fire fighter payments (indemnity only) paid by all entities. This rate is then multiplied by the total annual volunteer fire fighter payments paid by the individual entity to determine that entity's assessment.

**Appendix XX**



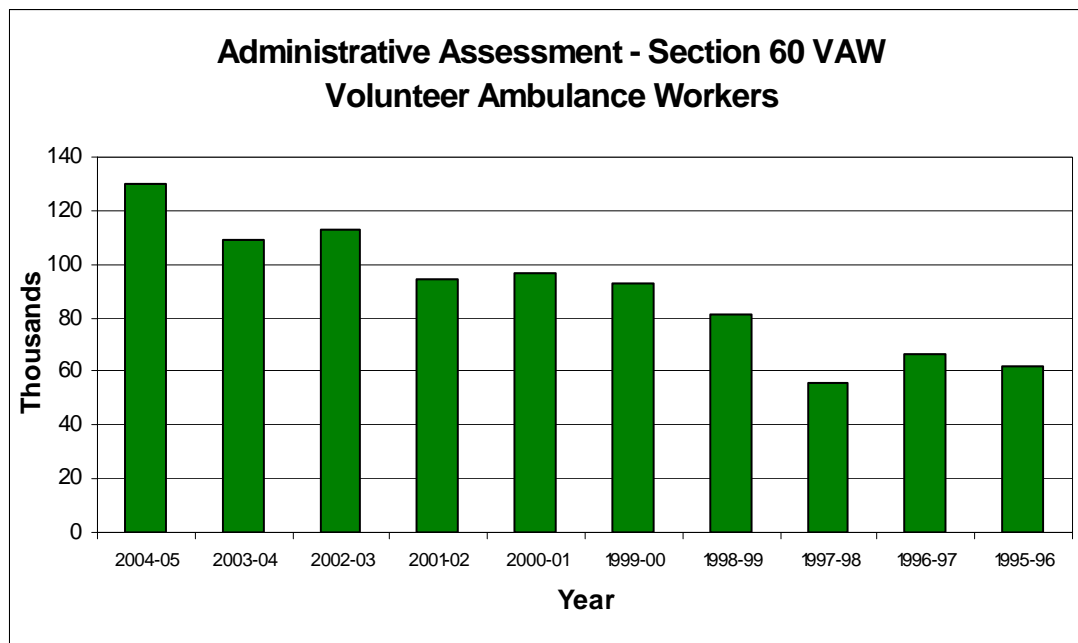
**Section 228** — the rate for the cost associated with the administration of the disability benefits program is calculated by dividing the cost of the program by the total annual payroll covered by all entities. This rate is then multiplied by the total annual payroll covered by the individual entity to determine that entity's assessment. Under current law entities need only report the first \$7,000 of an employee's payroll.

**Appendix XXI**



**A60** — the rate for the cost associated with the administration of the volunteer ambulance worker program is calculated by dividing the cost of the program by the total annual ambulance worker payments (indemnity only) paid by all entities. This rate is then multiplied by the total annual volunteer ambulance worker payments paid by the individual entity to determine that entity's assessment.

**Appendix XXII**



# SPECIAL FUNDS ASSESSMENTS

Three Special Funds assessments are billed once a year and are levied to finance:

**Section 25a** — direct payment to claimants and health providers for certain reopened cases and reimbursement to carriers for supplemental benefit cases.

**Section 15.8** — reimbursement to insurance carriers and self-insured employers/groups for claims involving second injuries, concurrent employment, and occupational disease.

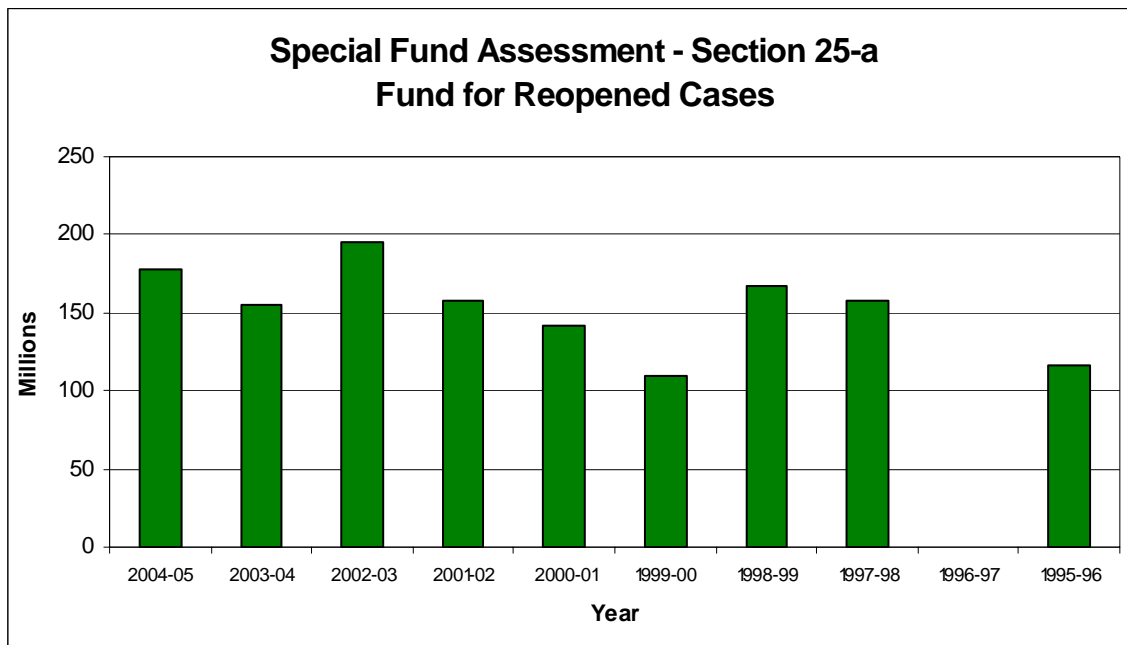
**Section 214** — direct benefit payments to individuals who become disabled while receiving unemployment benefits or individuals who become disabled while employed by an uninsured employer.

**Section 25a** covers two basic programs: Reopened Cases and Supplemental Benefits. The fund for Reopened Cases provides payments directly to claimants and health providers when the claimant's case is reopened under the following circumstances:

- The case was previously disallowed or closed without compensation and is reopened after a lapse of seven years from the date of the accident.
- The case is reopened seven years after the date of accident and at least three years after the last compensation payment.
- Death occurs after seven years from the accident in non-compensated cases or after seven years from the date of the accident and at least three years after the last compensation payment.

**Section 25a** — The Special Fund Conservation Committee calculates the reserves needed by the Board to secure the Fund for Reopened Cases. The Board takes this reserve information and adds a 10 percent contingency. The Board then adds the amount paid out in the previous year for the Supplemental Benefit program. From this amount, the Board subtracts funds it has on hand. These calculations provide the total amount that must be assessed for the 25a program.

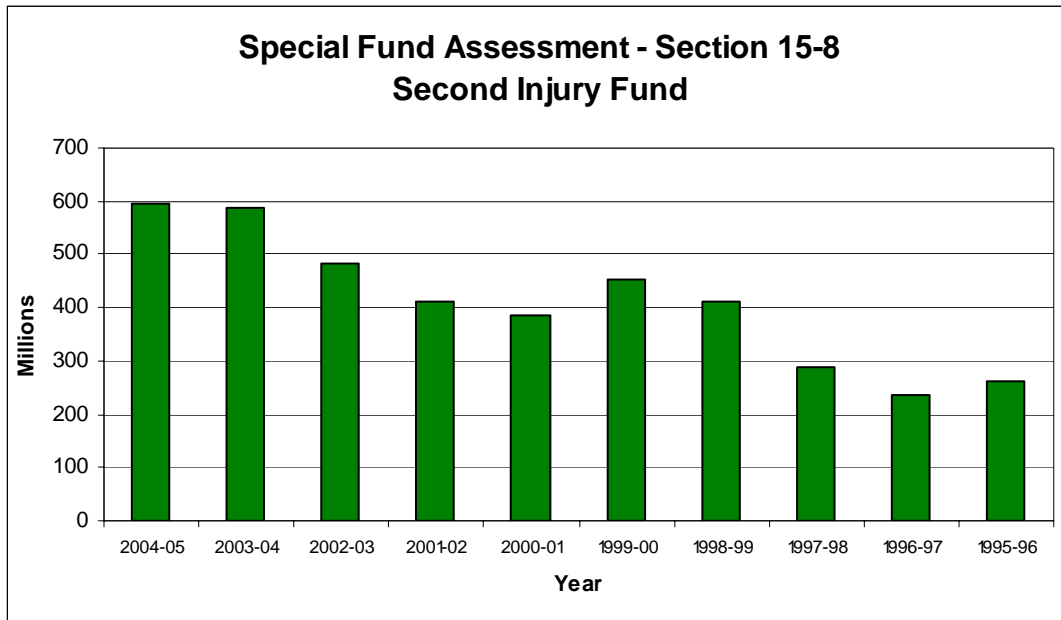
## Appendix XXIII





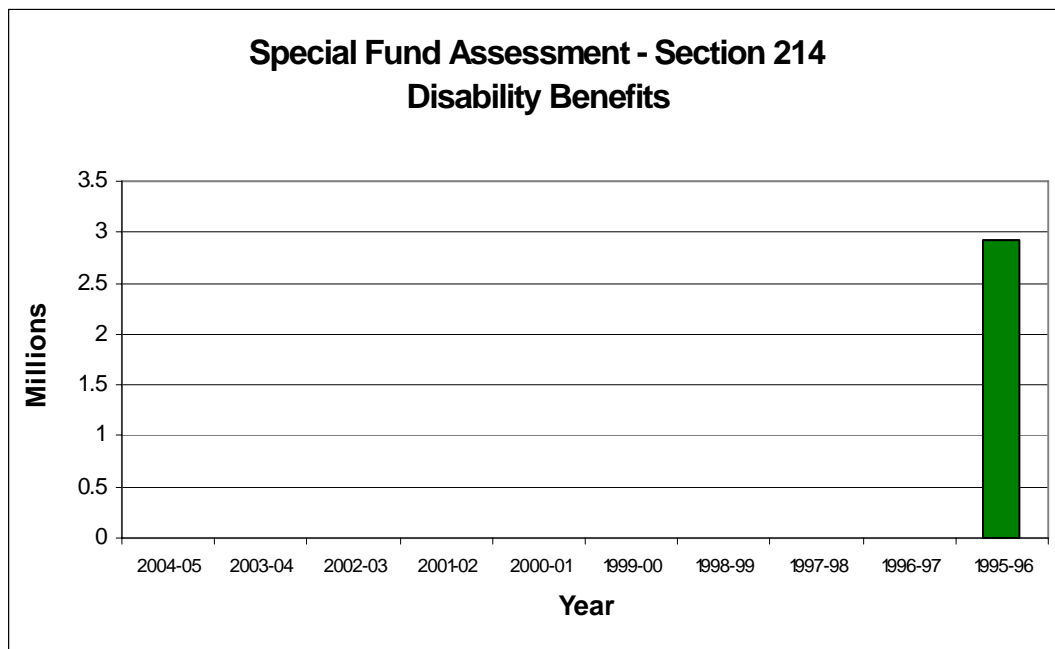
**Section 15.8** —The Board calculates the total disbursements made from the **Special Disability Fund** during the preceding calendar year and multiplies that amount by 150 percent. From this amount, the Board subtracts any funds it has on hand. These calculations provide the total amount that must be assessed for the 15-8 program.

**Appendix XXIV**



**Section 214** —The **Special Fund for Disability Benefits** must maintain a balance of \$12 million. At the end of the fiscal year, the Board calculates the amount needed to restore the fund to the \$12 million level. This calculation provides the total amount that must be assessed for the 214 program. Any penalties collected from employers who are not in compliance with the disability benefits law are deposited in the Special Fund for Disability Benefits to help offset the assessment.

**Appendix XXV**



# Notes

# Notes



This report was prepared by the Office of the Chairman, Workers' Compensation Board  
Jon Sullivan, Director of Public Information • Judith Ann Eastman, Production Management  
Statistical data provided by the Bureau of MIS/Research - Tom Wegener, Director