



California Applicants Attorneys Association

Thursday, August 23, 2012

The California Applicants' Attorneys Association (CAAA) is strongly OPPOSED to the proposed workers' compensation legislation.

The proposed legislation contains many provisions that are WORSE than Gov. Schwarzenegger's SB 899.

The measure purports to increase permanent disability compensation in return for "efficiencies" in the system. But the measure contains *provisions that make it extremely difficult for injured workers to qualify for the disability ratings needed to access the increased compensation.* Insurers will not pay the increased benefits.

The proposed legislation makes it impossible for tens of thousands of injured workers to get accurate disability ratings and adequate Permanent Disability compensation.

Large groups of injured workers would lose compensation under the proposal, including many of the most seriously injured, who are unable to return to work.

Here are types of injured workers who would get LESS Permanent Disability compensation:

- Seriously disabled workers who are unable to return to work
- People who have psyche, sleep, sex problems from their injuries

Increased Permanent Disability Compensation would in many cases never be delivered to injured workers.

The proposal raises Permanent Disability compensation for many levels of disability, but at the same time makes it very difficult to get a higher rating; so many injured workers will not benefit from the increase. Seriously injured workers who are unable to return to work would receive a LOWER disability rating than under the current system.

It is like giving a worker an hourly raise, while at the same time cutting their hours and taking away their benefits.

Workers are barred from proving their actual lost future earnings.

Injured workers would be prohibited from qualifying for permanent disability compensation based on the *actual harm their work injury causes to their ability to continue working and earn a living.* This poorly drafted bill provides no measure against which the "standard" rating can be challenged. This leaves the AMA Guides' impairment rating as the only way to challenge the AMA Guides' own measure of disability. This then becomes a completely arbitrary system.

How is a physician to describe a more accurate rating of disability when the law does not define the measure of disability?

Permanent disability compensation is eliminated for certain disabilities.

Psychological effects of work injuries are barred from compensation

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The legislation prohibits compensation for the psychological effects of many injuries, even those that preclude a return to work.

The least injured get the most benefit.

The proposal increases permanent disability compensation for higher-earning and less disabled workers.

This proposal compounds the Schwarzenegger Administration's harm to the most seriously disabled injured workers.

The following items that favor injured workers are eliminated:

- Diminished future earnings capacity
- Psychological damage from career-ending work injuries
- Sexual dysfunction damage from work injuries
- Sleep disorder damage from work injuries
- Agreed Medical Examiners can't determine current need for medical treatment
- Choice of interpreters for non-English speakers
- Medical control of injured worker's treatment