



## **Report on Safe Patient Handling Act**

**As required by Chapter 60 of the Laws of 2014**

November 30, 2020



**Department of  
Financial Services**

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Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Superintendent

November 30, 2020

Dear Senator Krueger and Assemblymember Cahill:

Pursuant to the requirements of Chapter 60, Part A, §20 of the Laws of 2014, I hereby submit a report on the results of the Safe Patient Handling Act on workers' compensation insurance.

Respectfully submitted,

Linda A. Lacewell  
Superintendent of Financial Services

## **BACKGROUND**

The Safe Patient Handling Act (“SPHA”) was enacted as part of the 2014 Budget Bill. The Legislature declared that the implementation of safe patient handling (“SPH”) procedures is in the public interest, and would benefit patients (improved quality of care and life), caregivers (reduced risk of injury), and providers (lower workers’ compensation costs). Under the SPHA, health care providers were required to establish SPH committees by January 1, 2017.

Effective October 1, 2017, providers in compliance with the SPHA are eligible to receive up to a 2.5% reduction in workers’ compensation premium. A carrier may either apply this 2.5% credit to the entire policy premium, or may use a tiered approach, where the size of the premium credit varies with the portion of the policy premium that is subject to the SPHA. The carrier is assumed to use the flat credit approach unless it specifically declares its intent to use the tiered credit approach for all policies eligible to receive a SPHA credit.

This SPHA Report is submitted by the Superintendent (the “Superintendent”) of the Department of Financial Services (the “Department”) pursuant to Section 2304(j)(2) of the New York Insurance Law, which provides:

The department shall complete an evaluation of the results of the reduced rate, including changes in claim frequency and costs, and shall report to the appropriate committees of the legislature on or before December first, two thousand eighteen and again on or before December first, two thousand twenty.

In preparing this SPHA Report, the Department has relied on information submitted by the New York Compensation Insurance Rating Board (“NYCIRB”) in accordance with section 151-7.3 of Insurance Regulation 119 (11 NYCCR 151):

By June 1 of each year, every workers’ compensation rate service organization shall submit a report to the superintendent regarding policies receiving a credit pursuant to this Part, including policy year payrolls, indemnity losses, indemnity claim counts, and medical losses by classification, and such other information as the superintendent may require. Every workers’ compensation rate service organization shall report the information, including adjustments, consistent with the comparable classification relativity review.

The data elements identified in this section of Insurance Regulation 119 are reported to NYCIRB in accordance with its statistical plan. However, the initial unit statistical reports of the experience of an individual policy include premium and loss data valued eighteen months after the policy effective date. These reports are only required to be submitted to NYCIRB by the end of the twentieth month after the policy effective date. NYCIRB also

collects premium data compiled from policy records, which are not subject to the same level of data editing as statistical reports, as the latter form the basis of classification relativities, experience modifications, etc., while the former do not. There are no losses associated with these policy records. This policy information is submitted to NYCIRB no later than thirty days after the policy effective date. The data in this report reflect policy and statistical plan submissions in NYCIRB's systems as of April 1, 2020 and November 1, 2020, respectively.

## DISCUSSION

There were 138 policies with effective dates between October 1, 2018 and September 30, 2019 reported to NYCIRB that have received the 2.5% SPHA credit. This is an increase over the 89 policies that received this credit for the October 1, 2017 – September 30, 2018 policy year. The three most common governing classification codes among these policies, with the percentage of policies receiving the SPHA credit, and the class definitions of these codes follow.

<b>Class Code</b>	<b>Policy Percentage</b>	<b>Definition</b>
8829	53%	Convalescent or Nursing Home – All Employees
8833	14%	Hospital – Professional Employees
8865	9%	Alcohol or Drug Rehabilitation Facility – All Employees & Clerical

The following table lists the total number of policies, the number of policies receiving the SPHA credit, and the percentage of policies receiving the SPHA credit for each of the above governing classifications.

<b>Governing Class</b>	<b>Number of Policies</b>	<b>Number of Policies Receiving SPHA Credit</b>	<b>% of Policies Receiving SPHA Credit</b>
8829	562	73	13.0%
8833	497	20	4.0%
8865	385	12	3.1%

The following table is comparable to the preceding, replacing policy counts with standard premium.

<b>Governing Class</b>	<b>Standard Premium</b>	<b>Standard Premium for Policies Receiving SPHA Credit</b>	<b>% of Standard Premium for Policies Receiving SPHA Credit</b>
8829	153,886,506	30,423,223	19.8%
8833	197,670,304	22,204,744	11.2%
8865	53,577,746	6,737,416	12.6%

The comparable percentages of standard premium represented by policies with governing classes of 8829, 8833, and 8865 receiving the SPHA credit in policy year 2017 are 12.2%, 8.7%, and 3.9%, respectively.

Standard premium is defined as the product of the payroll (in hundreds) and the manual rate for each classification listed on the policy, adjusted by the experience rating modification and most other credits and debits, including the SPH credit. In other words, standard premium can be thought of as the total policy premium before the application of premium discount, expense constant, and terrorism and catastrophe charges. This is the premium basis that was used in NYCIRB’s rate revision filings until the conversion from administered pricing to loss costs in 2008.

When reviewing data from NYCIRB’s policy system, one should recognize that premiums are based on estimated payrolls. Payrolls are audited eighteen months after the policy effective date, and the resultant audited premiums are included in unit statistical reports.

For this report, there is a full year of loss data available for policies effective between October 1, 2017 and September 30, 2018. The indemnity claims and claim frequencies (defined as indemnity claims divided by manual premium (in thousands) adjusted by experience rating) for the top five governing classes, separately for policies receiving the SPHA Credit and for all policies, are contained in the following table. Note that Class Code 8864 is assigned to Developmental Organizations, and the phraseology of Class Code 9051 is Health Care Services- Daily Living Skills Services – Traveling.

<b>Governing Class</b>	<b>Indem. Claims From Policies With SPHA Credit</b>	<b>Claim Frequency</b>	<b>Total Indem. Claims</b>	<b>Total Claim Freq.</b>
8829	283	1.31%	2096	1.10%
8833	1393	1.14%	3800	1.00%
8864	57	1.01%	819	1.20%
8865	126	1.40%	675	1.05%
9051	7	0.29%	1505	0.53%
<b>Total</b>	<b>1866</b>	<b>1.16%</b>	<b>8895</b>	<b>0.90%</b>

A similar table for average claim severity (reported losses divided by number of indemnity claims) follows.

<b>Governing Class</b>	<b>Average Severity From Policies Receiving SPHA Credit</b>	<b>Total Average Severity</b>
8829	22,653	26,400
8833	24,211	27,248
8864	32,619	27,797
8865	24,163	29,175
9051	32,959	35,308
<b>Total</b>	<b>24,261</b>	<b>28,609</b>

## **SUMMARY**

To summarize, for the three governing classifications with the most policies with SPHA credits, approximately 7.5% of total policies, representing 15.6% of standard premium, have received SPHA credits. Assuming each of these policies received the 2.5% flat SPHA credit, these 105 providers had a reduction of nearly one and a half million dollars

in workers' compensation premiums. Based on a review of the earliest available data from the first complete policy year for which SPHA credits were available, the policies receiving the SPHA credits had lower average claim costs. However, this was offset by these policies having higher claim frequencies. Because of the lack of credible, mature reported loss data, the Department would caution against drawing any conclusions about the effect of the implementation of SPH procedures on changes in claim frequency and costs. The Department will continue to monitor the difference in the experience between policies receiving the SPHA credit, and all policies within the health care industry.