

AGENCY TRANSPARENCY PLAN UPDATE

February 15, 2024

DELIVERABLES ACHIEVED SINCE 2021:

Ensuring the timely preparation of legally mandated reporting and identify ways to make useful information available to the public.

The Board is legally mandated to report on the following:

Report	Required by	Due Date	Recipient
Assessment Rate	WCL §151	11/01	Public - WCB Subject Number released mid-October.
Board Member Information	Executive Law 203(b)	11/01	Public - Updates to OGS and WCB website
Safety Net Report	WCL §35	12/01	Governor, Senate Majority Leader, Assembly Speaker, and Senate/Assembly Committees of Labor, Ways and Means, and Finance
Regulatory Agenda	SAPA §202-D	01/01	State Register (filed online)
WCB Annual Report	WCL §153	02/01	Governor, public (online)
Reopened Case Fund Accounting	WCL §25-a	04/01	Department of Financial Services, not published
Special Fund for Disability Annual Reconciliation	WCL §15-8	04/01	Available internally for public inspection if requested. Not published
WC Rate Stabilization Fund	Chapter 59, part NNN §2 of the Laws of 2017	04/01	Governor, Senate Majority Leader, Assembly Speaker, Senate Finance Chair/VC, Assembly Ways & Means Chair, Senate Labor Chair, Assembly Labor Chair
Uninsured Employers' Fund Report	WCL §26-a	06/30	Department of Financial Services, open for public inspection
Personal Privacy Protection Law report	POL §94(6)	09/01	Committee on Open Government

It remains a priority for the Board to ensure compliance with all statutorily mandated reports. While not every report filed is online, the Board has increased the public visibility of these reports by creating a section on our website listing the reports, including a link for all such reports that are public.

Below is a list of enhancements that have been made to [the Board's publicly-available data in Open NY](#) since 2021.

3/21/2022: The C-2 Date field was enhanced to include electronic claim filings (*Assembled Workers' Compensation Claims: Beginning 2000*)

3/21/2022: The Controverted Date was enhanced to improve accuracy (*Assembled Workers' Compensation Claims: Beginning 2000*)

12/21/2022: Claimant Gender was expanded to include the value "X – Nonbinary" (*Assembled Workers' Compensation Claims: Beginning 2000*)

12/21/2022: Average Weekly Wage (AWW) was enhanced to improve accuracy (*Assembled Workers' Compensation Claims: Beginning 2000*)

3/21/2023: A new dataset was published showing claims with multiple injured body parts and the reported body parts in each claim (*NYSWCB Workers' Compensation Claim – Multiple Body Parts*)

In addition to public reports, the Board's website contains detailed information for stakeholders, including the latest news, ways to connect to your hearing, and medical, legal, claims, and other information. Throughout the pandemic, the Board provided crucial information on the continuity of the system, and adjustments made to serve injured workers and other stakeholders. This included information regarding the shift to virtual hearings, modifications to allow for electronic signatures on most forms, telemedicine rules and more. As the Board plans the reopening of hearing sites to the public, the website will continue to be a critical source of information.

The Board continues to update and enhance the website to better serve stakeholders. In January 2024, the Board launched the [Injured Worker's Toolkit](#), an online resource designed to ensure anyone who suffers a work-related illness or injury can easily understand their rights, how to file a claim, and the resources available to them as they heal and get back on their feet.

The Public Information Office regularly issues [announcements](#) and [press releases](#) on various topics, all of which are archived on the Board's website. Additionally, the office conducts many webinars on key topics for injured workers, medical providers, insurance carriers, self-insured employers, claimant attorneys, carrier attorneys, and employers.

A major topic of Board outreach has been, and will continue to be, the Board's multi-year modernization program, OnBoard. Through OnBoard, the Board is moving its historically paper-based systems and processes online, providing greater accuracy and efficiency in the Board's efforts to ensure the proper delivery of benefits to injured workers.

OnBoard: Limited Release, the first phase of the Board's new business information system, was implemented in May 2022. Through OnBoard, health care providers and payers now request and review prior authorization requests (PARs) for medical treatment online. Health care providers also use the system to submit requests for decisions on unpaid medical bills. Since launching the new system, the Board has made over 60 enhancements to the system, largely based on user feedback.

Outreach efforts prior to the roll-out of OnBoard included extensive website content, along with several monthly training and Q&A webinars held separately with health care providers, medical suppliers, insurers, third-party administrators, self-insured employers, and attorneys to ensure awareness and comfort in navigating the new system. In addition, four subject numbers to each stakeholder group were issued. After implementation, additional webinars were held to answer stakeholder questions. A survey was also sent to all users to gauge their experience using OnBoard. As the Board continues to make regular updates to the system, we communicate with affected groups via email and updating the online resources. Updates are also communicated through the Board’s recurring webinar series with health care providers and insurers.

The Office of the Advocate for Injured Workers and the Office of the Advocate for Business perform education to the public and to interested groups, to help workers and employers understand their rights and responsibilities in the workers' compensation system. The advocates continue to host a popular monthly “lunch and learn” webinar series that is free and open to the public. Links to register and join are posted on the Board’s website. In 2023, the Office of the Advocate for Injured Workers expanded their program by offering a Workers’ Comp 202 session that takes a deeper dive into key topics and best practices. Staff from both offices also regularly attend conferences and expos throughout the year, providing resources and educational materials to the public.

The Medical Director’s Office focuses on ensuring timely, appropriate, and high-quality care for injured workers, to optimize their clinical and functional outcomes. The Board currently offers bi-monthly webinars for health care providers to update them on the latest regarding the Board’s Medical Treatment Guidelines, the *NYS Workers’ Compensation Drug Formulary*, medical fee schedules and OnBoard. These updates are also shared in the [Provider section](#) of the Board’s website.

The Board also currently offers bi-monthly webinars for payers and a webpage is in the works that covers everything payers need to know, from getting started in the workers’ compensation system, to becoming a trading partner, administering claims, and more.

The Board’s robust series of Paid Family Leave (PFL) webinars continue in 2024, sharing the latest information on qualifying events, employee contributions, and benefits. Employee and employer-specific webinars are regularly offered throughout the year, as well as leave-specific webinars for bonding, family care, adoption/fostering, and military. These webinars cover who is eligible, how to take PFL, the roles and responsibilities of employers, and information on COVID-19 paid leave.

Since February 2022, the Board has been offering regular Workers’ Comp and COVID-19 webinars to help workers who believe they contracted COVID-19 on the job, especially those who have missed time from work or are suffering from ongoing or “long-haul symptoms”. The information is relevant to anyone who believes they may have contracted COVID-19 due to an exposure at work.

In addition to the more than 60 webinars offered each year on these various topics, the Board has expanded outreach efforts by hosting in-person and virtual conferences, including a successful Workers' Advocate virtual conference held on International Workers' Day in 2023. The Board will look to expand on these efforts going forward, with plans for an in-person conference in fall 2024.

Improving response time for all Freedom of Information Law requests, including by tracking monthly backlogs of outstanding requests and new requests, and by proactively posting frequently requested information or completed requests online.

The Board does not operate under a significant backlog of FOIL requests. Of the 1,798 FOIL requests received between September 1, 2021, and January 25, 2024, only 41 (2.3%) were extended beyond 20 business days from the date the FOIL request was acknowledged (a FOIL request must be acknowledged within five-business days of receipt per Public Officers Law [POL] 89[3][a]). This has been emblematic of the Board's approach to handling FOIL request over the past 20 years.

In November 2022, the Board began utilizing the GovQA Workflow application at the behest of the Chamber. It has proven to be an effective tool for (a) tracking new and outstanding requests, and (b) sending reminders when acknowledgement letters are due, and a response due date is approaching.

The Board's newly revised webpage contains a section devoted entirely to [public access to Board records through FOIL](#). It contains: (a) an overview of Public Officers Law Article 6; (b) methods to make a FOIL request (using the GovQA online form, mail, email, fax and in person); (c) treatment of the FOIL process; (d) a discussion on the right to appeal; (e) the Board's Subject Matter List, (f) the Board's FOIL regulations (12 NYCRR Part 425), and (g) helpful tips (which contains a link to the Committee on Open Government webpage and 21 FAQs concerning FOIL).

Since most FOIL requests seek individually identifiable claimant information that is protected from disclosure under Workers' Compensation Law (WCL) § 110-a, posting of these records online for public consumption is prohibited.

The Board will, however, proactively add the [Open Data link](#) to its webpage to facilitate access to frequently requested aggregate claimant data.

To the extent that completed FOIL requests that are of interest to the public are identified, the Board will endeavor to post them on its webpage.

Posting documents required for meetings open to the public at the same time the agenda is posted to the extent practical

The only meetings that the Board regularly holds that are considered open to the public under the Open Meetings Law (Public Officers Law Article 7) are its monthly Board meetings. The Board posts the agenda when each meeting is held. Soon thereafter, a webcast of the meeting is posted on the Board's webpage and a transcript of the meeting is posted on the Board's webpage as soon as practical following the meeting to further the goals of governmental transparency.

Most of the time for each meeting is devoted to the consideration of workers' compensation cases (legal appeals, mandatory review cases, and discretionary review cases). WCL § 110-a protects individually identifiable claimant information from disclosure to the public. Once the cases are appealed to the Appellate Division and/or the Court of Appeals, they are no longer protected by WCL § 110-a, and the resulting decisions can be found on each court's webpage. The Board will post a link to the webpage of the Appellate Division, Third Department, and the Court of Appeals so these decisions can be easily accessed by the public.

Reducing or eliminating the costs associated with providing data or records.

Public Officers Law § 87(1)(b)(iii) permits the Board to charge a requestor \$.25 per page for paper copies of records that are disclosed through FOIL. The Board's Records Access Officer (RAO) presently makes every effort to provide records to requestors electronically. The Board's RAO frequently provides records to requestors by email and through MOVEit, a managed file transfer software that provides a link to the requestor with a user I.D. and password to provide electronic access to the requested file for a period of 20 days.

In those instances where a requestor specifically seeks paper copies, the statutory fee is always waived if the number of responsive records is 10 pages or less. All copying fees for paper copies are waived for fellow governmental entities.

Requests for claimant records outside of the FOIL process are handled by the Board's Norwich Central Archives Facility (Norwich). Norwich handles approximately 22,500 such requests per year. Approximately 97% are complied with by sending responsive records to the requestor electronically. The remaining 3% are complied with by providing paper copies. Norwich does not request a fee for providing paper copies of its records if the number of pages is 10 or less, or the request is from a fellow governmental entity. As a result, only a small portion of the requests sent to Norwich for claimant records entail the Board's collection of a copying fee. In fact, a copying fee has not been collected by Norwich in 2023 (through September 28, 2023).

Historically, when paper copies of transcripts of Board records were requested outside of the FOIL process, fees were charged and collected by verbatim reporters. All the Board's hearings have been conducted through the Virtual Hearing Center since April 2019. As all hearings have been digitally recorded, transcripts are no longer routinely prepared, and verbatim reporters are not paid for production of these transcripts. Instead, a digital audio recording of any requested hearing is sent free of charge.

Updating records retention policies, including ensuring the timely transfer of pertinent records to the State Archives.

Retention of Board records is determined either by individual Board Records Retention and Disposition schedules, or the General Retention and Disposition Schedule for New York State Government Records published by New York State Archives. The former is updated as needed by the Board's Records Management Officer. The latter is presumably updated regularly.

Before Board records deemed of historical significance are destroyed, the Board’s Records Management Officer routinely reaches out to State Archives to determine the potential for a transfer of the records.

INITIATIVES TO BE IMPLEMENTED IN 2024:

The Board is committed to continuing the outreach and transparency that has forged positive relationships with our stakeholders and it will continue that work forward.

1. Additional OnBoard projects are in the works, including moving key forms for attorneys online. During the planning phase, the Board held focus group sessions with injured worker attorneys and their technical associates, to detail this project and gather feedback with open discussions. Email communications and website updates have also provided the opportunity for injured worker attorneys to submit their interest for a focus group session or becoming a testing partner. As the Board nears implementation, outreach will continue with webinars, new and updated online resources, and email updates.
2. The Board will continue outreach and training as additional phases of OnBoard are implemented and we move toward a fully integrated new claims system. Also, as the Board continues plans to re-open to the public, transparency with regard to process and policies will be paramount and will be communicated to stakeholders timely.
3. In 2024, the Board will explore provision of a health care provider toolkit – an online resource that walks providers through everything they need to know about the workers’ compensation system, from getting started in the workers’ compensation system, to treating injured workers, billing for services, latest news, and more.