

C O N S T R U C T I O N E M E R G E N C Y

The Hidden Cost of Workplace Injuries



A REPORT FROM

Workers Defense Project

*in collaboration with the Division of Diversity and
Community Engagement at the University of Texas at Austin*

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Second Edition

Construction Emergency: The Hidden Cost of Workplace Injuries

The construction industry is vital to the health of the Texas economy, employing nearly 600,000 Texans and contributing \$29.2 billion in wages.¹ However, Texas construction workers face the most deadly working conditions in the country, often without the safety net of workers' compensation since Texas is the only state that does not require employers to provide workers' compensation.

- **One in five construction workers is injured on the job;** yet only 45% of workers have workers' compensation.²
- **Texas is the most deadly place to work in construction,** with a worker dying every 2.5 days and nearly 16,900 accidents annually.³
- **Construction workers make up a disproportionate amount of uncompensated care costs** due to work-related injuries: hospitals in Fort Worth and San Antonio reported that construction workers account for nearly 20% of the uncompensated dollars due to workplace accidents, even though construction workers make up less than 6% of the workforce.⁴
- **Without workers' compensation, construction accidents cost the state of Texas millions of dollars.** In one San Antonio hospital alone, construction workers accounted for over \$2.2 million in uncompensated care costs in FY2008.

To make up for this uncompensated care cost, Texas hospitals shift the burden to insurers through higher charges for services. These charges are then passed on to working families and responsible businesses through higher premiums by insurers.

- **Uncompensated care costs** caused health insurance premiums for working families to go up \$1,071.00 and \$368.00 per employee for employers in 2008.⁵
- **Texas taxpayers** pay higher property taxes as public hospitals increase tax rates to local health care districts to make up their costs.
- **Responsible businesses** are undercut by companies who lower their overhead costs by failing to provide workers' compensation.
- **Working families** are devastated by workplace accidents when they don't have workers' compensation to take care of their families and pay for the care they need to get back to work.



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TEXAS CONSTRUCTION EMERGENCY

In 2009, Martin Botello fell 25 feet while working on a construction site along the border in south Texas. He was knocked unconscious, broke an arm and cut his leg when a 100 lb. piece of metal fell on top of him. A serious work site accident is always traumatic for the worker and their family, but in Martin's case it was utterly devastating: Martin's employer did not have workers' compensation, leaving him without access to the medical care he needed to recover, and forcing his family to face economic hardship while he was unable to work for over a year. If his employer had provided workers' compensation, Martin would not have been forced to sell off his car, and his family of eight would not have had to rely on food stamps and other public safety nets to survive. Also, the hospitals that provided over \$20,000 in emergency care to Martin would have been compensated for the expense, instead of having to charge the public and insurers to make up the difference.

Martin's story is not unique. Texas is facing a crisis. As the only state that does not require employers to provide workers' compensation, Texas hospitals face the extra burden of providing care for injured workers who are unable to pay their hospital bills. In 2008, Texas hospitals paid \$13.1 billion to cover uncompensated healthcare costs for low-income patients, up from \$9.2 billion in 2005.⁶ For many injured workers in Texas, workers' compensation may be their only access to medical coverage; Texas leads the nation with 30% of its population uninsured (5.8 million people).⁷ In the construction industry, 76% of workers report that they have no insurance coverage.⁸ Injured construction workers whose employers fail to provide workers' compensation make up a disproportionate share of uncompensated care costs.⁹

As one of the largest employers in the state, construction is big business in Texas, accounting for \$29.2 billion in wages in 2009.¹⁰ Construction is also incredibly dangerous work. According to the Occupational Health and Safety Administration (OSHA), which records just a portion of workplace injuries, construction injuries are one of the leading causes of work-related accidents in the state, and more workers are fatally injured on the job in construction than in any other industry in the state.¹¹ Every 2.5 days a construction worker dies on the job in Texas, and in 2009 there were 16,900 construction workplace injuries in the state.¹² A survey of Austin construction workers by the University of Texas at Austin found that one in every five workers reported that they had suffered a workplace injury that required them to seek medical attention.¹³ Due to the dangerous nature of the work, construction injuries can be particularly devastating, often leaving construction workers with a long recovery period or permanently incapacitated.

Construction employers can protect themselves and their employees by carrying workers' compensation coverage. Workers' compensation is basic insurance coverage that employers can purchase to cover their workers in the event of a workplace injury. Workers' compensation provides medical benefits to cover hospital bills and ongoing treatment as well as income benefits to ensure that workers are able to provide for their families while they recover. Benefits under the workers' compensation system

Methodology

Research for *Construction Emergency* was conducted by a team of researchers from the University of Texas at Austin and Workers Defense Project. Between August 2010 and January 2011, researchers collected information from primary and secondary resources including Texas hospitals, the Texas Department of Insurance, and interviews with construction workers and employers to determine the extent to which uncompensated healthcare costs due to construction accidents are impacting taxpayers, working families, and honest businesses. Researchers requested data on uncompensated care costs due to workplace injuries from major trauma centers in six Texas cities (Houston, San Antonio, El Paso, Dallas, Fort Worth, and Austin). Where hospital data was available, researchers coded medical case records by industry to determine the frequency and cost of construction injuries in comparison to other industries.

In order to further understand the impact of construction employers opting out of the workers' compensation system, researchers conducted 21 interviews with workers and construction businesses. Through their experiences, this report documents the impact of high rates of workplace injuries and low rates of workers' compensation coverage on working families, taxpayers, and the construction industry. All interviews were conducted using protocols approved by the University of Texas Institutional Review Board in order to protect the individual participants of the study.

are set by Texas law. Workers' compensation also protects the businesses that carry it by limiting an employer's liability for a work-related injury or death, except in the case of gross negligence.

Who pays for injured construction workers when there is no workers' compensation ?

- Honest business owners: Irresponsible employers gain a competitive advantage by not carrying workers' compensation coverage, undercutting honest contractors who are taking smart preventative measures to ensure injured employees in an inherently dangerous industry are taken care of. Responsible businesses also see their insurance premiums increase by 15-20% due to uncompensated care costs according to a report from the Texas Comptroller in 2004.
- Taxpayers: When contractors refuse to carry workers' compensation or pay for the medical bills of their injured employees, taxpayers are left footing the bill. All home owners in Texas pay into their healthcare district to help cover the costs for uncompensated health care costs. With so many construction worker injuries, many uninsured construction workers, and no workers' compensation coverage, taxpayers are forced to cover the costs of irresponsible by contractors who choose not to provide workers' compensation by paying higher property taxes.
- Hardworking families: In Texas we reward honest work, but allowing construction employers not to carry workers' compensation is a broken policy that often punishes some of our state's hardest working families. Estimates show that insurance premiums went up by \$1,017.00 per family in 2008 due to uncompensated care costs. And for family breadwinners who are among the millions of Texas uninsured *and* work for an employer who doesn't provide workers' compensation, they are one accident away from financial ruin.

THE SCOPE OF THE PROBLEM

Texas continues to be the *only* state in the country that does not require employers to carry workers' compensation coverage, even in a dangerous industry like construction.¹⁴ As a result, Texas employers choose to opt out of workers' compensation at alarming rates: Texas ranks 50th in the nation for adult workers covered by workers' compensation with 23.5% of workers without coverage compared to the national average of 8.9%.¹⁵ In the construction industry, the situation is even more dire: a study by the University of Texas found that *only* 45% of construction workers report that they are covered by workers' compensation.¹⁶

From data from Texas Workforce Commission and Division of Workers Compensation, it is possible to estimate that there are a high number of "non-subscribers" in the construction industry. For the second quarter of 2010, TWC records a total of 40,996 construction firms operating in Texas.¹⁷ For the same time period, the DWC records 28,689 construction industry "subscribers."¹⁸ Therefore, 30%, or 12,307 of the construction firms in this second quarter were "non-subscribers." With nearly one third of Texas construction employers choosing not to provide workers' compensation, it is little surprise that the construction industry is responsible for such a high proportion of uncompensated care costs.

"Non-subscribers" and Occupational Risk Plans

In Texas, employers who choose not to provide workers' compensation are called "non-subscribers." A non-subscriber may choose to provide a privately administered insurance plan called an "occupational risk plan" that provides for workers in the event of injury, but they are not required to do so. Because the state of Texas doesn't require "non-subscribers" to provide information on their occupational risk plans, it is impossible to estimate the number of companies that provide this alternative to workers' compensation. In the construction industry these plans are virtually unheard of. One Houston-based specialty subcontractor states, "I have never heard of anyone in our industry providing occupational risk insurance... its either comp or nothing."

"Some companies cheat to underbid other ones. They will cut corners to win a bid, even on something as important as their employees' safety."

- Houston-based Specialty Subcontractor

Texas law does require all "non-subscribers" to report to the state if they choose not to provide workers' compensation, and to report any injuries or illnesses that occur on the job. However, the Texas Department of Insurance reports that only 10% of Texas "non-subscribers" are meeting those reporting requirements. The result is that the state and taxpayers have very little information about "non-subscribers" and in the construction industry most "non-subscribers" simply leave workers to work at their own risk.

When an employer allows their employees to work without any insurance coverage at all, they are exposing themselves to personal injury lawsuits and failing to provide a safety net for workers and their families in the event that a worksite accident occurs. In the construction industry, where *one in every five workers is injured on the job* and requires medical attention, the risks and the costs are enormous.

Why do so many construction companies opt out of workers' compensation coverage?

With all of the risks involved, both for workers and for businesses, why would a construction company choose not to provide workers' compensation? Simply put, it's all about the bottom line and gaining a competitive advantage in a highly competitive industry. A typical workers' compensation plan may cost \$800 to \$2,000 per employee per year, depending on their salary,

type of work they perform, and the level of risk associated with the job.¹⁹ Responsible businesses are routinely underbid by companies that choose not to provide workers' compensation because it enables them to lower their operating costs and make lower bids for contracts.

While companies may see opting out of workers' compensation as a cost saving strategy, it is ultimately the more expensive choice for Texans and responsible businesses. By failing to provide workers' compensation, construction companies aren't lowering their costs, they are simply passing those costs on to working families and taxpayers and unfairly undercutting responsible companies who do provide workers' compensation.

One in every five construction workers is seriously injured on the job, yet only 45% of workers have workers compensation coverage.

Hospitals must make up the costs of uncompensated care or they will be forced to go out of business. They cover these costs by charging more to insured patients, which prompts their insurers to charge higher premiums for businesses and families. Public hospitals raise local property taxes in order to make up the costs.²⁰ With nearly 600,000 construction workers in the state, ensuring safe conditions that can lower costs for taxpayers and level the playing field for honest contractors is serious business.²¹

Construction Injuries Costs Texans Millions in Uncompensated Care

With high injury rates and low rates of workers' compensation coverage, the construction industry is responsible for a disproportionate amount of Texas' uncompensated healthcare costs, which are passed on to taxpayers and responsible businesses.

Data collected from the John Peter Smith Hospital, a large public hospital in Fort Worth, and University Hospital San Antonio, provide a snapshot of how construction workplace accidents place an undue burden on Texas hospitals. JPS Hospital patient records indicate that \$2.97 million of uncompensated care costs can be attributed to workplace accidents. Of that amount, construction workers are responsible for 18.9% of uncompensated care costs, despite the fact that they constitute only 5.8% of the Dallas-Fort Worth workforce.²² While the data for UH San Antonio attributed \$2.21 million to uncompensated care costs to the construction industry, making construction workers responsible for nearly 19.42% of the uncompensated costs despite the fact that they are only 5% of the San Antonio workforce.²³

Construction makes up a disproportionate amount of uncompensated care costs: 6% of the workforce accounts for 20% of work-related uncompensated care costs.

According to data from both hospitals, there are more accidents and illnesses caused by the construction industry than any other industry. In both hospitals data indicates that while the number of construction-related accidents and illnesses outpaces all other industries, they are also more expensive to treat. The average cost of medical care for a construction worker is \$8,420.98 compared to the average cost of care for a workplace injury in general, \$6,574, nearly \$2,000 difference per patient.²⁴ For University Hospital San Antonio, the numbers are also significant. The average cost of medical care per construction worker was \$8,727, compared to the average uncompensated care cost per all other workplace injuries of \$5, 298, a notable \$3, 429 difference per patient.²⁵

With data from JPS hospital indicating that the construction industry alone is responsible for over \$561,327.00 in uncompensated care costs in Fort Worth and \$2,207,901 at University Hospital, San Antonio it is probable that similar trends exist in other parts of the state.²⁶ At this rate, construction injuries are easily costing Texas millions in uncompensated care costs. With construction ranking as one of the top ten employers in Texas, protecting this valuable workforce by providing them with work-

ers' compensation will benefit construction workers and their families, and will result in significant savings for Texas hospitals, taxpayers and businesses.

Chart 1: Top Industry Sectors Resulting in Uncompensated Care Costs

INDUSTRY	DOLLAR AMOUNT OF UNCOMPENSATED CARE		NUMBER OF CASES		PERCENT OF UNCOMPENSATED CARE DUE TO WORKPLACE ACCIDENTS	
	JPS	UHSA	JPS	UHSA	JPS	UHSA
Construction	\$561,327.08	\$2,207,901.01	126	253	18.9%	19.42%
Personal Care and Service	\$283,871.05	\$232,521.30	33	104	9.6%	2.05%
Sales and Related	\$213,737.63	\$1,365,658.00	54	127	7.2%	12.02%
Transportation and Materials Moving	\$186,643.65	\$393,775.30	20	51	6.3%	3.46%
Production Occupations	\$170,442.30	\$1,143,251.1	103	157	5.7%	10.06%
Buildings and Grounds Maintenance	\$142,015.60	\$98,943.50	19	13	4.8%	0.87%
All Industries	\$2,970,317.24	11,367,957.50	652	1982	100%	100%

While the data from John Peter Smith and University Hospitals indicate a significant amount of uncompensated care costs due to construction accidents and illnesses, researchers suspect that the real amount may be higher. Worksite accidents are likely under-reported by patients and many hospitals do not track work-related illnesses if workers' compensation is not involved as a payor. Currently, there is no requirement by the state or federal government to collect and report data on work-related injuries. If hospitals were required by law to report and collect data for work-related uncompensated care costs we expect these numbers would be higher.

WHO PICKS UP THE TAB?

In order to make up for increased uncompensated care costs due to construction accidents, Texas hospitals are forced to turn to public and private sources of revenue. Emergency departments make up much of this revenue by charging paying patients and their insurers more, which in turn drives up premiums for businesses and families, and depend more heavily on public sources of revenue. In the end, taxpayers, responsible businesses and working families must pick up the cost of paying for workers who don't have workers' compensation.²⁷

Texas Taxpayers Pay for Uncompensated Workplace Injuries

Texas hospitals receive funding from a variety of public, tax-funded sources, mainly property taxes and trauma care transfers from the Texas Department of State Health Services. Texas hospitals receive funding for their emergency rooms through a Local Health District that relies heavily on local property taxes, which often increase when a hospital has high uncompensated care costs. The amount of tax increases vary from county to county, but even a property tax increase of fraction of a percent can result in considerable burden on homeowners in the health care district. Some public hospitals receive funding directly from the Texas Department of State Health Services, which is funded by income from 9-1-1 fees and interests and extra fees for intoxication-related offenses and other taxes and fees paid by Texans.

Thus, when hospitals face increased uncompensated care costs, they recover their costs by increasing property taxes to pay for local health care districts. The state must identify new sources of income to fund higher demand on the Texas Department of State Health Services. Taxpayers also provide the safety net for families who are unable to make ends meet because of workplace injury. Workers report falling back on food stamps, disability benefits and other publicly funded programs when they don't have workers' compensation to help them get back to work. When employers shift the burden of paying for injured workers to hospitals, they are in fact leaving taxpayers to pick up the bill. The case of Pedro Hernandez, an Austin construction worker, illustrates how this works.

Irresponsible Employer Leaves Taxpayers to Pick up the Tab

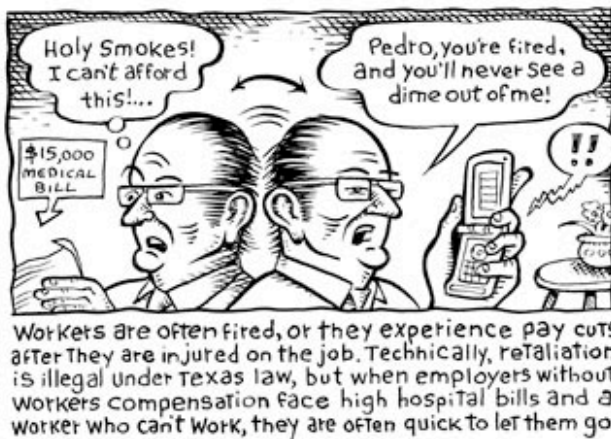
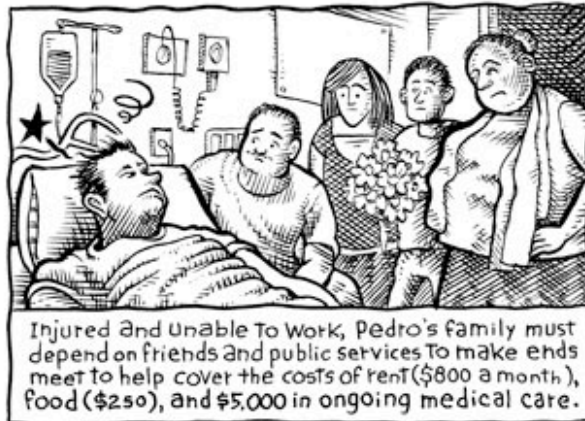
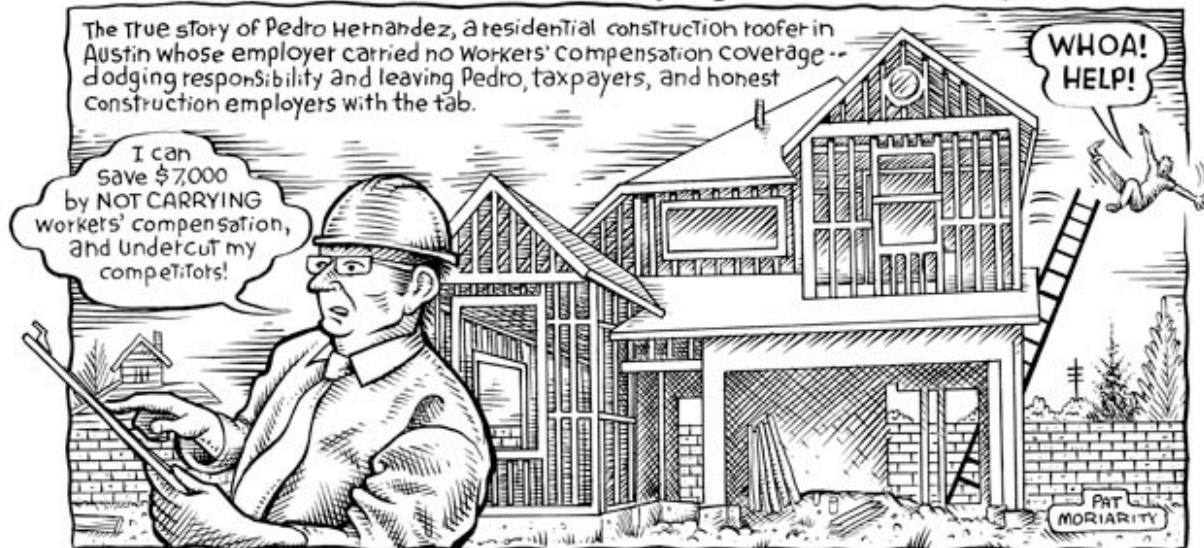
Pedro Hernandez is a roofer by trade. In January 2007, he was hired by an Austin contractor to install new roofs on several homes in Austin. While removing old roofing tiles, Pedro tripped and fell from the roof. His employer had not provided him with a harness or hardhat that he was legally required to use. He was knocked unconscious and suffered serious injuries to his back and neck. Pedro suffered debilitating headaches, shooting pains in his legs and back, and could barely walk for several months after the accident. He was unable to work for four months, and when he finally could work again he could only take on light jobs and work in a limited capacity.

Pedro's employer did not have workers' compensation, and was unprepared to pay for his medical bills, leaving Pedro and his family on their own. At first Pedro was stuck with nearly \$8,000 in emergency care bills, but when it became clear he would not be able to pay it back, the hospital covered the expenses. Unable to afford the ongoing physical therapy he desperately needed, Pedro applied for the Medical Assistance Program (MAP) which is run by the City of Austin. The MAP program provides health coverage for low-income individuals and gives them access to the community health clinic network. Through the city's health clinics, Pedro was able to get basic medical attention at a low cost, although it fell short of the specialized physical therapy he needed to fully recover. Meanwhile, Pedro was unable to work and had to depend on social safety nets like food banks, shelters, and the generosity of his friends and family to survive. Thousands of public dollars went towards Pedro's emergency room bill and ongoing medical care. Thousands more made it possible for him to survive the hard months while he recovered from his injury. If Pedro's employer had provided workers' compensation, Pedro would have been able to meet his basic needs and receive the medical care he needed to get back to work more quickly. When employers fail to provide adequate protections

and benefits to their workers, the public is forced pick up the bill. If Pedro's employer had simply spent \$2,160.00 a year to pay for a workers' compensation policy to cover Pedro, he would have received the care he needed and Texas taxpayers could have saved at least \$8,000.00.²⁸

The TRUE COST of not carrying workers' compensation

The True story of Pedro Hernandez, a residential construction roofer in Austin whose employer carried no Workers' Compensation coverage -- dodging responsibility and leaving Pedro, taxpayers, and honest construction employers with the tab.



Honest Businesses Pay Twice

Interviews with responsible construction businesses reveal that they pay a double “hidden tax” first because they are underbid by companies that don’t provide compensation, and second because they face higher insurance premiums. Irresponsible employers gain a competitive advantage by not carrying workers’ compensation coverage and undercutting honest contractors who are taking preventative measures to ensure injured employees in an inherently dangerous industry are taken care of. “We were struggling to get contracts, and so we were being beat out by people and we found out that was one the reasons,” states the owner of San Marcos based family-owned painting and trim contractor, regarding how difficult it has been to compete against contractors who don’t carry workers’ compensation.

Honest businesses also see their health insurance premiums go up to account for the high rate of uncompensated care costs in Texas when hospitals charge more to paying patients and insurance companies who then pass on the costs to businesses who provide health insurance. “In our line of business there are all sorts of accidents. You have everything from severe cuts to loss of life. So we take [precautionary measures] very seriously. We have to,” stated a San Marcos family-owned painting contractor.

While cutting out the expense of workers’ compensation may allow cost cutting in the short term, these contractors are overlooking the ways that workers’ compensation can save them money in the long-run. Construction contractors describe a number of benefits to their companies by providing workers’ compensation. First of all, providing workers’ compensation allows them to focus on their business without having to worry about lawsuits due to worksite accidents. According to a survey of Texas companies conducted by the Texas Department of Insurance in 2010, 18% of employers with workers’ compensation report that they purchase coverage because they were concerned about lawsuits.²⁹

The Safety Director at a leading electrical subcontractor in Central Texas sums up the cost savings of workers’ compensation: “It only takes one accident to be astronomically expensive. If you have an accident that runs into \$500 or \$1 million... a smaller company could get run into the ground. It’s like car insurance, you spend a lot of money on it and hope you don’t need it.”

Workers’ compensation also creates incentives for construction companies to provide safety trainings and avoid accidents. Insurance companies may negotiate on the cost of a workers’ compensation premium if a company implements a safety program. One insurance carrier estimates that “Having a training program in place would cause underwriting to consider discounting the annual premium for a client. The discount would be around 5% depending on risk (losses, experience, etc).”³⁰ Construction companies like this one describe how, in the long run, workers’ compensation saves them money and pushes them to develop a comprehensive safety program.

“it’s a long road to get a return out of. We’ve got to pay a premium for our workers’ comp, but we have to have safety programs, incentives, the insurance company requires certain things, but if we come up with our own safety and health things, then when it comes time to renew, then it’s a bartering game. So if we provide safety training, that’s money we get back, if we provide safety equipment that’s money we get back, and then all the training and safety equipment is actually keeping workers from getting injured on the job, which keeps the insurance company from having to pay out, which keeps our premiums from going up. so it’s a long road to get a return for your money, but yes, it is worth it, it does save us money in the long run.”

“ It would be good if everybody [construction companies] was required to provide it [workers’ compensation] because then the pool would be larger and our cost associated with workers’ comp would be low.”

-Houston-based,
General Contractor

Another contractor explains that “it saves us money if we’re safe... If we work a lot of hours and we don’t have any accidents, then it’ll save us money because our EMR drops, and then we can decrease our overhead.”³¹ With concrete financial returns for having safer worksites, workers’ compensation actually creates incentives for construction companies to guarantee that their workers are safe.

Workers’ compensation coverage allows reputable companies to focus on what is most important to them, to their business, instead of having to expend personnel time and financial resources on workplace injuries that, without coverage can result in a costly lawsuit. Employers who choose *not* to plan ahead, or carry workers’ compensation undercut good businesses by gaining an unfair advantage by not taking the necessary precautions. Business practices that project for long-term stability are also good for the community at large, by helping taxpayers save money, ensuring honest businesses to compete, and helping working families get back to work.

Working Families Pay the Price

In Texas, we reward honest work, but allowing construction employers not to carry workers’ compensation is a broken policy that punishes some of our state’s hardest working families. Each year our state sees nearly 17,000 construction workers injured on the job, and every 2.5 days a construction worker dies on the job in Texas making our state the most deadly place to work in the country.

Working families bear the worst burden of Texas’ policy of not requiring employers to carry workers’ compensation. They are the ones who struggle to make ends meet when they lose their primary income and are buried under mounting medical bills. Seventy-one percent of construction workers surveyed reported that they were the primary providers in their household and depended on their work in the industry to provide for them and their families.³²

Austin construction worker Fernando Adame, the primary breadwinner in his family and father of three, fell off a ladder while working a painting job that caused him to break his wrist that required surgery. In the end, Fernando’s employer, who didn’t carry workers’ compensation, left him with over \$11,000 in unpaid medical bills. “My family was forced to pawn nearly everything we had, my tools, even my kids’ games...my wife and oldest child had to go look for work to help cover the costs of our rent and utilities since I wasn’t able to work,” stated Fernando about how his injury and lack of workers’ compensation impacted his family.

Fernando’s story is not unique; workers from across Texas report that they are unable to receive the care they need to restore them to fully productive members of the workforce when their employer doesn’t provide workers’ compensation. Martin, a worker from the Rio Grande Valley, fell while working on the international bridge at Brownsville and found out at the hospital that his employer didn’t provide workers’ compensation. He is still fighting to receive the therapy he needs to fully recover from a broken arm and a serious head injury. Henry, a laborer from Houston recounts that when he broke his foot his employer refused to take him to the hospital or call an ambulance because he was afraid of getting in trouble for not having workers’ compensation. He had to wait for two hours with a broken foot before he found someone to take him to the hospital. Because the injury wasn’t treated immediately, Henry had to return to the hospital on five different occasions and ended up with nearly \$20,000 in hospital bills for what could have been a much less expensive recovery.

Another Houston worker, Santiago Arias recounts an accident that left him paralyzed:

“Without workers’ comp, my injury changed the life of my whole family...nothing is the same.”

Fernando Adame,
Austin Construction Worker





“There were no precautions there, nothing. We were working on a roof. There were stones on the ground ...there were no harnesses or nothing. It was dangerous [work]... installing insulation systems and stuff. So when I fell I wasn’t so lucky. I fell on top of some iron planks. I hit my back on it.”

Santiago Arias, Houston Construction Worker

Santiago’s employer didn’t have workers’ compensation. Without income benefits to make up for his lost income, his family was devastated. His daughter, who was studying, was forced to drop out of school in order to support the family. Santiago found an attorney to take his case, but so far his attorney hasn’t been able to recover any money for Santiago and his family.

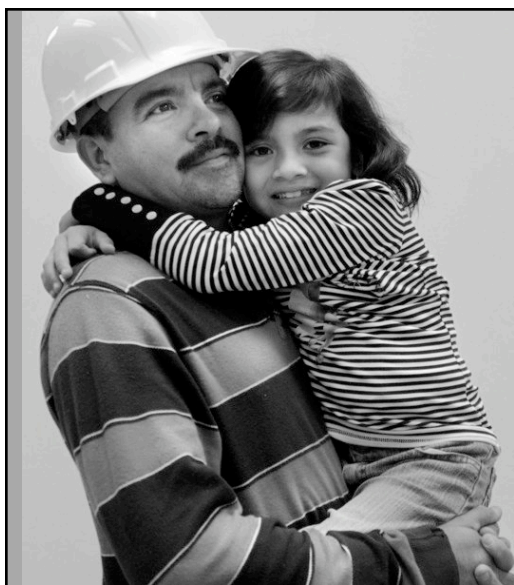
Unlike Santiago, many injured workers are unable to find a personal injury attorney who is willing to take their case; only the most serious accidents are sufficiently lucrative for attorneys since personal injury cases do not result in attorneys fees. Often, a construction employer will not have enough assets to collect from. In effect, without workers compensation, construction workers are left with no recourse when they are injured on the job.

These stories are a few among thousands of hardworking construction workers each year who are seriously injured on the job with little recourse. Since his injury, Fernando has not been able to return to work at full capacity, because without workers’ compensation or health insurance he has been unable to get the rehabilitation care he needed. “I am only able to work 3 or 4 days a week, I can’t work like I used to before the accident,” he explains.

Injured workers without access to workers’ compensation are forced to increasingly rely on public safety nets such as food pantries, homeless shelters, and friends and family for support, putting an enormous strain on families. Each of the workers interviewed reported an immense strain on their family: their wife taking a second job, their children dropping out of school, or a sister caring for them while they recovered. If their employers had provided workers’ compensation coverage, their families would be able to cover their expenses during their recovery, and they would have received the medical care they needed to get back to work and provide for their families.

When workers don’t receive the support they need while they are recovering, they often turn to publicly funded benefits. Jorge del Bosque had to depend on food stamps to survive while he was too injured to work and Martin Botello and his wife were only able to support their children and one grandchild with their food stamps and by selling their possessions. The effects of a

workplace accident are far-reaching and can strain a marriage or destroy their quality of life when there is no safety net to help them through.



“It was heartbreaking, when they [my family] saw me injured and in a wheel chair, my daughter cried. But they were just glad I was alive. It was hard while I couldn’t work- we had to cut a lot of corners and go with out the most basic things. Its terrible for a father to go through that.”

- Felix Jimenez, an Austin roofer who suffered a serious injury five years ago, recalls

Policy Recommendations

The hardworking men and women that help build our state haven’t gotten a fair deal. Every day they go out on the job and risk their lives to build our homes, schools, and roadways. But Texas continues to be the *only* state in the country that does not require workers’ compensation for construction workers. Irresponsible construction businesses that don’t carry workers’ compensation leave thousands of families unprotected each year and force taxpayers to pick up the tab. Policy-makers have failed to guarantee basic protections for construction workers, honest businesses, and taxpayers. These failed policies hurt reputable construction companies that play by the rules and invest in safety to make their businesses profitable. But Texas policy makers can take important steps to level the playing field for responsible businesses and cut back on state expenditures for uncompensated health care.

Require Workers’ Compensation Coverage for Construction Workers

By requiring that all construction employers carry workers’ compensation, Texas legislators can reward hard work, smart business practices, and save taxpayers money. Requiring construction workers’ compensation cuts down on uncompensated care costs, lowering property taxes, and saving the state money in this critical time during a budget shortfall.

Workers’ compensation also creates incentives for strong business practices on safety that help reduce accidents. Construction companies interviewed for *Construction Emergency* reported that they implemented extra safety programs in order to reduce insurance costs, such as increased safety training for employees.

Require Department of State Health Service to Collect Data on Work-Related Injuries

Further research is needed to fully understand the costs of construction workplace injuries and the common practice of opting out of workers’ compensation coverage in the construction industry. While hospital data indicates that construction inju-

ries place a disproportionate burden on hospitals compared to the share of the workforce, many of the hospitals contacted were unable to provide the requested data. Additional reporting to the state about uncompensated care costs due to workplace injuries can help policy-makers to identify sound policy solutions that will protect workers and level the playing field for responsible businesses.

In an industry as dangerous as construction, Texans simply can't afford to allow construction employers to opt out of carrying workers' compensation.

Endnotes

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- ⁴ Data request: “Work-related Accidents Fiscal Year 2008 (10/01/2007 - 09/30/2008).” John Peter Smith Hospital. 11/03/2010.; Quarterly Employment and Wages for the 1st through 3rd Quarters 2008 for Dallas-Fort Worth MSA, Texas Workforce Commission. <http://www.tracer2.com>. Accessed 1/10/11.
- ⁵ *Hidden Health Tax*. Families, USA, 2009.
- ⁶ “Texas Trauma Report – Uncompensated Care 2008”. Texas Department of State Health Services. 2008. Uncompensated care refers to hospital charges that have been billed to patients and never paid and the charity care that hospitals provide to indigent patients.
- ⁷ Texas Medical Association. “The Uninsured in Texas.” www.texmed.org. Accessed 1/21/11
- ⁸ Cox et al. *Building Austin, Building Injustice: Working Conditions in Texas’ Construction Industry*. University of Texas and Workers Defense Project. June 2009.
- ⁹ Data request: “Work-related Accidents Fiscal Year 2008 (10/01/2007 - 09/30/2008).” John Peter Smith Hospital. 11/03/2010.
- ¹⁰ “Generated Report: Top Industry Focus.” Texas Workforce Solutions website <http://www.texasindustryprofiles.com/apps/led/IndustryFocus.asp>. Accessed January 5, 2011; Quarterly Employment and Wages for The 1st through 3rd Quarters 2009, Texas Workforce Commission.
- ¹¹ “Census of nonfatal occupational injuries and illnesses by industry and case types, 2009.” Bureau of Labor Statistics. www.bls.gov. Accessed 1/5/2011;
- ¹² Cox et al. June 2009; “Census of nonfatal occupational injuries and illnesses by industry and case types, 2009.” Bureau of Labor Statistics. www.bls.gov. Accessed 1/5/2011.
- ¹³ Cox et al. June 2009.
- ¹⁴ Texas Labor Code Sec. 406.002 “Coverage Generally Elective.”
- ¹⁵ Baylor, Don. *State of Working Texas 2007*. Center for Public Policy Priorities. p. 15.
- ¹⁶ Cox et al. June 2009
- ¹⁷ <http://www.tracer2.com/cgi/dataanalysis/industryReport.asp?menuchoice=industry>
- ¹⁸ Data Request from the Texas Department of Insurance on Subscribers. 4/14/2010.
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¹⁹ Insurance companies calculate workers comp rates based on an employee's salary and a rate depending on the class of labor they provide. For example, a field supervisor making \$48,000 per year could result in \$900/year while a roofing deck installer earning \$24,000/year might result in \$2100 in workers comp. Information based on estimates from Texas Mutual Insurance Company, obtained 1/7/2011.

²⁰ Strayhorn, Carole Keeton, Texas Comptroller. *The Uninsured: A Hidden Burden on Texas Employers and Communities*. April 2005.

²¹ Quarterly Employment and Wages for The 1st through 3rd Quarters 2009 Texas Workforce Commission.

²² Data request: John Peter Smith Hospital. 11/03/2010; Quarterly Employment and Wages for the 1st through 3rd Quarters 2008 for Dallas-Fort Worth MSA, Texas Workforce Commission. <http://www.tracer2.com>. Accessed 1/10/11.

²³ Data Request: University Hospital San Antonio received on 3/11/2011 for the 2008 year; Data regarding the San Antonio workforce in 2011 can be found here: http://www.tracer2.com/admin/uploadedpublications/1729_sanantoniomsa.pdf

²⁴ Data Request: John Peter Smith Hospital. 11/03/2010.

²⁵ Data Request: University Hospital San Antonio. 3/11/2011

²⁶ Data requests were submitted to six of the top fifteen trauma centers in Texas to obtain information on uncompensated care costs associated with work-related accidents. Although every hospital reported that they identified injuries and illnesses as work-related during triage, two hospitals reported that that information was not recorded in such a way that they could produce a report. Another two hospitals were able to identify a number of cases as work-related but felt that the reporting was irregular and highly inaccurate. The fifth hospital has simply not responded to the request. This paucity of data on the true scope and costs of workplace injuries and illnesses prevents us from fully understanding the impact of workplace injuries and illnesses on Texas' uncompensated care costs and how effective the workers' compensation system is at covering benefits for workers.

²⁷ Strayhorn, Carole Keeton, Texas Comptroller. *The Uninsured: A Hidden Burden on Texas Employers and Communities*. April 2005.

²⁸ Approximate cost of workers compensation policy to cover one roof decking installer in a five man construction crew provided by Farmers Insurance Group 1/7/11.

²⁹ *Employer Participation in the Texas Workers' Compensation System: 2010 Estimates*. Texas Department of Insurance, Workers' Compensation Research and Evaluation Group. October 2010.

³⁰ Email communication from Charles Mims, Farmers Insurance Agency on 2/10/11.

³¹ EMR refers to Experience Modification Rate, a rating that is used to calculate insurance premiums based on the past cost of injuries and future risk. If a company has a lower EMR, they will pay lower workers compensation premiums. (source: <http://www.safetymanagementgroup.com/emr-experience-modification-rate.aspx>)

³² Cox, et al. 2009.
