

# Trust Intelligence

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## \$1.1 Million Dividend Return Declared \$20 Million Returned Overall

Happy Holidays! Nothing brings us greater joy than being able to return hard earned money back to our members, and what better time for such good news. We are pleased to announce that the Board of Directors has declared a 2010 dividend return of \$1,100,000 to qualifying members. The Trust's financial strength has never been better and we are proud to have returned over \$20,000,000 to members as the Trust enters its 30th anniversary year.

Diane Ritucci, President and CEO stated "The 2010 dividend return of \$1,100,000 is a continued reflection of the Trust's commitment to providing Connecticut's healthcare employers with a reliable and highly competitive workers' compensation product for nearly 30 years. This dividend is the result of the partnership between the Trust and our members utilizing unsurpassed loss control and educational services combined with exceptional claims management and medical cost control to deliver loss results far better than industry expectations. Our commitment is unwavering and our mission remains focused and clear".

The dividend program rewards current members based on a combination of the member's longevity with the Trust, loss ratio and proportionate share of premium. Each qualifying member will receive their check in the 30 day period preceding their 2011 policy renewal date. Each member that qualifies for a dividend return will be notified by January 1, 2011 informing them of their dividend award amount and when they can expect to receive their check.

The Trust knows how difficult it is for so many of our members to operate their businesses in such challenging financial times and it is gratifying for us to be able to not only provide competitive up front pricing for workers' compensation coverage but to be able to deliver millions in dividend returns as well.

The Trust fully appreciates that we only exist for the members that we serve and we sincerely hope that this return will enable our members to further their services to those in need of care.

**May all of our members enjoy a very  
Safe and Happy Holiday Season!**

**What does your organization do with  
the dividend you receive from the Trust?**

**Reinvest in Safety Programs? Employee  
Recognition Program? Buy Equipment?**

**Email [ceoadmin@wctrust.com](mailto:ceoadmin@wctrust.com). We will  
share some of your answers in our  
next newsletter.**

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# New OSHA Initiatives

## There's a New Sheriff in Town

In 2010, OSHA implemented many new initiatives for 2011. These changes have the potential to impact a large number of employers and employees due to a tougher regulatory climate. Hilda Solis, Secretary of Labor, announced "There's a new sheriff in town". Under her stewardship, the following initiatives have been undertaken:

1. Substantially more aggressive enforcement with over 200 OSHA Investigators being added
2. Taking a hard line on willful violations, which is defined as "either an intentional violation of the Act or plain indifference to its requirements," and egregious cases, which are described as "multiple instances of willful and flagrant indifference to correcting workplace hazard"
3. Bolstering fines and penalties for serious and willful violations
4. Expanding potential criminal prosecution, particularly in the violations involving fatalities
5. Strengthening of whistleblower protection
6. Launching the National Emphasis Program (NEP) on Recordkeeping which targets employers in high risk industries such as healthcare, with very low accident and illness rates: now extended to 2012
7. Reviewing employer safety incentive programs to ensure that such programs are not disincentives to reporting injuries
8. Increasing outreach for training and safety of Spanish speaking workers
9. Heightening transparency by making employer specific injury and illness rates publicly available and searchable online

The Trust stands ready to assist its members before the sheriff walks through your door. If you have any questions concerning any of these new initiatives, please contact your loss control consultant.

## Fear Triggers Employees to Hire Attorneys in WC

A study by the Cambridge-based Workers' Compensation Research Institute (WCRI) identified what triggers injured workers to hire attorneys. WCRI found that employees were more likely to seek the services of an attorney if they thought that they would be fired as a result of the injury or if they thought that their supervisor did not believe that the injury was a legitimate claim. By adopting the following steps, employers can mitigate attorney involvement with their workers' compensation cases:

1. Timely, continuous, and clear communication from the supervisor that focuses on job security and trust
2. Provide written materials that address workers' frequently asked questions to help alleviate any uncertainty

As attorneys tend to add to the cost of the claim, any positive actions and communication by the employers may help reduce claim costs overall.



# New Law for Employee Misclassification

## Prosecution and Penalties for Law Breakers

The Connecticut Employee Misclassification Law was signed into law on May 5, 2010 as Public Act 10-12. Employers should become well versed in understanding this new law as it carries some very harsh penalties. In accordance with the law, the State has announced its plans to vigorously pursue and prosecute violators through a newly formed Joint Enforcement Commission on Employee Misclassification (JEC) which consists of the following: Department of Labor, Department of Revenue Services, Workers' Compensation Commission, Attorney General's Office and the Office of the Chief State's Attorney.

The purpose of the law is to discourage employers from misrepresenting their actual number of employees by classifying workers as independent contractors. Such actions are considered an attempt to defraud and/or deceive an insurance company so as to pay lower workers' compensation insurance premiums.

Considering the penalties now in place, the risk of breaking the law is hardly worth the reward. Employers violating the law are:

- \* Guilty of a Class D felony;
- \* Subject to a stop work order;
- \* Liable to the Labor Department for a penalty of \$300 per violation (each individual) per day; and
- \* Subject to back payroll taxes and unemployment insurance taxes.

Thus, an employer who had inappropriately classified three people as independent contractors for 90 days could be facing fines of \$81,000 (\$300 per day X 90 days X 3 individuals) plus back taxes mentioned above. Additionally, applicable workers' compensation premium would also be charged.

The Connecticut Department of Labor (DOL) recently held a seminar explaining this new law and outlined situations likely to draw their attention. One such example is an employer that has people other than employees performing services similar to those performed by the employees. In short, if the services provided by the independent contractor are an integral part of your business, there's a good chance the independent contractor will be considered an employee by the JEC. Several healthcare situations were highlighted, particularly nursing registries.

The State uses the "ABC Test" to determine worker classification. Examples of this test and additional subtests are available at the DOL website.

Employers using temp workers from temporary employment services should read the contract thoroughly and confirm that the temporary employment service is: 1) carrying workers' compensation coverage on all of its workers and 2) is clearly responsible for all applicable payroll and unemployment insurance taxes. Failure to confirm this could result in the employer being held in violation of the law and the temp staff workers could be considered employees of the employer.

The Trust believes that the best approach is to obtain a valid certificate of insurance from all temporary employees or independent contractors that you may partner with. Most are valid for one year, so be sure to check policy dates and request an updated one as needed.

If you do not collect a certificate of insurance for the independent contractor, the Trust will charge you as though the contractor was an employee.

You may want to consult your attorney and/or your insurance broker regarding questions on this new law. You can also access the DOL website for further information.

The Trust would like to wish everyone

*Happy Holidays*

In lieu of holiday cards, the Trust will be making a donation to one of our members,

**Hands On Hartford, Inc.  
Hartford, Connecticut**



# Are You Ready For Winter?

Winter is fast approaching, and so are the challenges that come along with it. Black ice on building sidewalks and driveways is the source of many deadly and costly accidents. Building maintenance personnel should give priority to eliminating this seasonal hazard.

A misnomer, black ice is not black. It is actually crystal clear, formed when air temperature quickly drops below freezing, and airborne water vapor, freezes immediately and bonds with a slightly warmer and often darker surface. It is often difficult to see; people unknowingly walk on it causing them to slip and fall.

## Tips to Prevent Falls on Black Ice

1. Check your local weather forecast.
2. Watch for when the temperature suddenly drops to below freezing, this usually causes black ice
3. Identify and monitor areas where black ice could develop on your property
4. Encourage employees to wear shoes or boots with good traction
5. Consider utilizing outdoor heated mats for walkways, stairs, and ramps. Most melt snow and ice up to 2 inches per hour and are designed to be left outside all winter.
6. Use ice melt or ice prevention products such as Magic O<sup>®</sup> Salt as long as conditions exist. For information on where to purchase Magic O<sup>®</sup> Salt, go to their website <http://www.magicsalt.info/> and click on “dealers”
7. Slips and Falls due to poor weather conditions can be prevented. If you develop a plan, utilize physical controls and continue to promote safety awareness among your employees, your organization can control these types of injuries.
8. Consider installing products such as IceAlert System<sup>®</sup> at exit doors, on walkways and in parking areas. This product changes colors only when the potential for ice exists. It allows people to “see” the temperature from some distance away and avoid walking in that area. For more information on how to get IceAlert at your agency go to <http://icealert.com>



If you have questions or need assistance please contact your loss control consultant or Carol Fronczek, Vice President, Loss Control Services, at [Fronczek@wctrust.com](mailto:Fronczek@wctrust.com) or 203-678-0161.

## Special Investigations Unit Working Hard Against Fraud

As a new addition to our newsletter, the newly developed Trust Special Investigations Unit (SIU) will highlight recent claims that have been investigated achieving a positive outcome in resolving a fraudulent or suspicious claim. Achieving positive outcomes on these types of claims could result in anything from actual criminal prosecution of an employee, to recovering restitution or settling a claim for a value far less than what it would have cost the Trust if the fraudulent activity was not discovered.



A 27 year old EMS worker with a reported back injury in 2007 remained disabled from work due to his injury. A tip was received that he was more active than what he was telling his treating medical provider and an investigation commenced. During the course of the investigation, it was found that the employee was in fact very active and was even captured on surveillance doing yard work, including lifting and removing heavy brush. The employee was confronted and settled his claim for no additional monies. Potential savings associated with this claim is estimated to be between 80 to 90 thousand dollars.

**HELP THE TRUST STOP FRAUD!**

**If you suspect an employee of committing fraud or misrepresenting facts while collecting workers compensation benefits**

**PLEASE CALL OUR HOTLINE AT 1-800-559-373**

# Member Spotlight

## Recognition for a Job Well Done

### Award of Excellence Given to Lord Chamberlain Health Services & Birmingham Group Health Services

The 2010 winners of the “Award of Excellence” are Lord Chamberlain Nursing & Rehabilitation Center and Birmingham Group Health Services, Inc.

The Award of Excellence is given to Trust members who have achieved significant accident frequency reduction in the past two years as measured by Trust data. Additionally, management commitment and written employee safety programs have to be in place as evidenced by loss control over the previous year. The award is offered annually and is determined by a Trust Awards Committee, comprised of representatives from Loss Control, Claims, Underwriting and Managed Care.



Nilda Maignan, Director of Human Resources (left) and Lorraine Branecky, Vice President of Finance accepted the Award of Excellence on behalf of Birmingham Group



Accepting the award for Lord Chamberlain Health Services above are Richard Bates, Administrator (far left), Jim Bergers, Administrator (far right), and the members of the Safety & Health Committee.

Lord Chamberlain’s frequency rate was reduced by 45%. They implemented a strong safety culture and implemented several initiatives including Return-to-Work, revised footwear policy and enforced the use of gait belts and friction reducing slide sheets. They increased employee Safe Patient Handling training and established a new position for risk management for the safety program.

From 2008 to 2009, Birmingham Group reduced their frequency rate by 87%. They have a strong risk management program including monthly safety committee meetings and inspections, they utilize online training, have instituted excellent hiring practices, have an effective Accident Investigation program and incorporate safety into their yearly budget.

**Congratulations to all of our winners!**

### Great Idea Award Goes to Perception Programs, Inc.

Perception Programs, Inc. has been awarded the Workers’ Compensation Trust 2010 Great Idea award for their innovative and highly effective Incident/Accident Program.

Perception Programs management identified that rising WC costs and injuries needed to be addressed. They decided to address the issue through their Environment of Care committee which meets quarterly. This program has helped to make a dramatic improvement with losses. Since 2007, incurred losses for this member have decreased by 95% and they have been injury free for the current policy year.



Linda Mastrianni, Executive Director and Ruth Gordon, Director of Human Resources for Perception Programs accept the Great Idea Award from Carol Fronczek, Vice President of Loss Control and Ron Stosak, Loss Control Consultant from the Trust.

# Diabetes:

## American Epidemic Complicates Healing

**The Medical Corner**

Mark Russi, MD, MPH

Medical Director

WC Trust

An estimated 24 million Americans suffer from type I or type II diabetes, and another 57 million may have a condition known as pre-diabetes. All three of these disorders are characterized by an impaired ability to maintain normal levels of the sugar glucose in the bloodstream.

Type I and type II diabetics, and to some extent those with pre-diabetes, suffer from a range of health conditions which accompany diabetes including risk of heart disease, high blood pressure, stroke, kidney disease, nerve damage, high cholesterol, and obesity. With rates of diabetes on the rise, particularly among children, a substantial burden on the healthcare system can be anticipated in years to come.

Much effort has gone into identifying risk factors for the development and progression of diabetes, particularly lifestyle factors such as obesity, lack of exercise, and overconsumption of high energy foods. The American College of Endocrinology and the American Association of Clinical Endocrinologists have developed lifestyle intervention guidelines for preventing the onset of type 2 diabetes:

- 1) Eat healthy meals (low-fat, low-sugar, low-salt diet)
- 2) Get plenty of physical exercise (45 min x 5 days a week)
- 3) Reduce weight by as little as 5-10 percent for a significant impact on overall health.

During the past decade large numbers of workplaces have embraced Wellness programs to promote healthier living habits among their employees. Most studies of such interventions have pointed to benefits in overall health costs and, most importantly, to healthier employees.

Absent successful interventions to stem the current tide of new cases of diabetes and its associated complications, we can reasonably expect increased morbidity in the future, not only with respect to the well established sequelae of diabetes, but also with outcomes of more traditionally work related conditions, such as traumatic or repetitive traumatic injuries. Compromises in blood circulation, wound healing, and peripheral nerve function, as well as the presence of obesity, may complicate the healing of a range of common workplace injuries.



### Best Wishes to Carol Russell, RN

The Trust would like to wish Carol Russell, Nurse Case Manager, the very best in her retirement. Carol started at the Trust in December of 2004 and has worked so closely with many of our members and their injured workers. She has been an invaluable member of the Trust team and will surely be missed.



### What do you think?

#### What Happens When a Motion to Preclude is Granted?

A Motion to Preclude was granted for the respondent's failure to deny the claim in a timely manner. A Respondent's Examination was performed and a Commissioner's Examination was ordered. At a subsequent formal hearing, the Respondent Examination was entered into evidence. The Commissioner Examiner relied on the Respondent's Examiner conclusions in reaching his opinion. Can a Respondent Exam be entered into evidence when a Motion to Preclude is granted? Email your answer to Robert MacDonald at [macdonald@wctrust.com](mailto:macdonald@wctrust.com).

#### Answer to Case from September's Issue

Thanks for the many responses. The Compensation Review Board concluded that the "date of incapacity" or in this case, the surgery date, should be used in calculating the compensation rate.

# Annual Workers' Compensation Seminar

## Well Attended by Members

On October 21st, 56 Trust members attended the "Workers' Compensation Claims – From Start to Finish" seminar held at the Trust. This seminar, held annually in October, provides employers with a comprehensive overview on how to effectively manage workers' compensation claims within their organization.

Trust staff from the Claims and Loss Control units provided information on timely reporting of injuries and related information, how to discover underlying root causes through accident investigations, understanding and responding to a Form 30C; the official notice that an employee intends to pursue a workers' compensation claim, and the critical components that make up a strong Return-to-Work Program.

Dr. Evangeline Specht, Regional Medical Director for Concentra Medical Centers, then reviewed the key role that the first treatment care center plays in handling an employee's injury during the first few weeks of care. Dr. Specht emphasized that documenting the assessment of a patient's past and current medical history is critical, along with determining very early in the treatment process whether or not the employee's injury or illness can be directly related to a work event or circumstance.

After lunch, Robb Wright, Licensed Occupational Therapist, and owner of Wright2Work LLC, started off the afternoon session in which he presented on a wide array of



rehabilitation programs such as Functional Capacity Evaluations, Work Conditioning and traditional Occupational Therapy to get injured employees back to work sooner. Robb stressed the importance of facilitating temporary alternative duty positions for injured workers to avoid "disability syndrome"; a psychological condition that sets in when an employee remains out of work for an extended period of time and begins to lose their interest in working.

Attorney John Letizia from Letizia, Ambrose & Falls, PC, closed out the day with a presentation on some of the legal issues which arise when considering whether to discipline or terminate an employee who is also a workers' compensation claim. The main takeaway from attorney Letizia's presentation is to consistently follow established employment policies and procedures which each claim and not to deviate based on whether it is a workers' compensation claim or not.

## The Trust Partners with Clear Data Strategies

Clear Data Strategies, a leading provider of software and process solutions for the property and casualty industry, announced a strategic consulting, software license and professional services agreement with the Trust initially for Workers' Compensation policy administration solutions.

The Trust will deploy the CDS Instream Carrier Center module to support their day-to-day underwriting operations. After this Phase I engagement CDS will work with the Trust to address their needs for integrated claims, medical case management and bill review solutions.

Bill Kuebler, CEO of Clear Data Strategies said "The Trust has a long history with the principals at CDS. The introduction of our web based system was perfectly timed to meet their needs to enhance offerings to their client base. We look forward to providing the Trust with a unified platform for their agent portal, application submission, NCCI rating and policy administration needs."

Diane Ritucci, President & CEO of Workers' Compensation Trust said. "We chose Clear Data Strategies for their knowledge of the Workers Compensation market and the resources and experience they bring to the project. CDS understands our business and was able to accommodate our unique rating algorithms and coverage complexities. Their vision for a fully integrated end-end system is in line with our strategic goals."

Clear Data Strategies provides other software solutions including: Instream MGA Center, Instream Carrier Center (Policy Administration), Instream Claims and Instream Analytics.



# Upcoming 2011 Educational Programs

The following seminars are offered by the Trust for the first quarter of 2011. These programs are designed to assist our members in gaining knowledge of issues that surround and support the reduction of work related injuries and associated claims. More detailed information is forthcoming. Many courses offer contact hours (CEUs). Your attendance is encouraged.

## OSHA RECORDKEEPING AND INSPECTION PROCESS

JANUARY 11      9:00 AM – 1:00 PM      MEMBERS: FREE      NON-MEMBERS: \$50

## ACCIDENT INVESTIGATION: SOLVING THE RIGHT PROBLEM

JANUARY 27      9:00 AM – 3:30 PM      MEMBERS: FREE      NON-MEMBERS: \$100

## MEMBERS' ORIENTATION TO THE TRUST

FEBRUARY 3      9:00 AM – 11:30 AM      MEMBERS: FREE

## NATIONAL SAFETY COUNCIL 4-HOUR DEFENSIVE DRIVING COURSE

FEBRUARY 17      8:30 AM – 1:00 PM      MEMBERS: \$50\*      NON-MEMBERS: \$75

## DYNAMICS OF AN EFFECTIVE SAFE EMPLOYEE DRIVING PROGRAM

MARCH 1      9:00 AM – 12:00 PM      MEMBERS: FREE      NON-MEMBERS: \$50

## HOW TO HIRE THE BEST PEOPLE FOR YOUR ORGANIZATION

MARCH 17      9:00 AM – 3:00 PM      MEMBERS: \$50\*      NON-MEMBERS: \$100\*



## WAGES AND WORKPLACE STANDARDS

MARCH 31      9:00 AM – 11:00 AM      MEMBERS: \$FREE      NON-MEMBERS: \$50



\* Discounted rates are available for groups of 3 or more from one organization



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