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Trust Intelligence

A Newsletter published by the Workers' Compensation Trust

Trust Awards \$450,000 in Safety Grant Program

Lots of insurance companies like to talk about their focus on loss control and claim prevention, but many policy holders never actually see a loss control representative nor do they benefit directly from the services they were told would be available. Often times, the policy holder is surprised to find those services come at an additional cost.

The Trust takes a different approach, our experience has shown taking a proactive stance in this area pays huge rewards for our members and for us. Our members know that most of our loss control services are free and our loss control representatives are always available to provide vital training, answer questions, help structure safety programs, assist in OSHA compliance and so much more.

We're also aware no one knows our members' jobs and exposures better than they do and that's where our Safety Grant Program comes into play. This program allows members to identify prominent loss exposures in their businesses and propose a plan to help reduce and/or eliminate those exposures. This program has been a proven winner for the past six years. This year's award pool was \$450,000, bringing the grand total invested in this program to \$2.2 million.

This year we received 126 proposals seeking over \$1.37 million in grant assistance. Ultimately, 60 applicants (48%) were selected to share in the \$450,000 pool for an average award amount of \$7,627. The maximum individual award is limited to \$15,000, enabling us to assist a larger number of applicants.

Trust President & CEO Diane Ritucci stated, "Our Safety Grant Program is a shining example of the Trust's ongoing commitment to assist members in improving worker safety and loss results. We don't just talk about safety, we're committed to it and we roll up our sleeves every day to help our members achieve better results. When our members win, the entire Trust wins! It is this type of commitment that has allowed us to return nearly \$60 million in premium returns back to our members. Thank you to all the members who submitted proposals this year. There was a lot of competition! Congratulations to this year's winners."

Safety Grants Everybody Wins With This Program



Award Recipients



The Trust



Trust Members

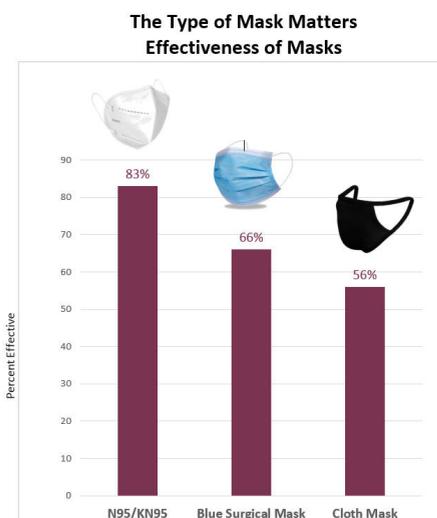
2022 Safety Grant Award Recipients

A Brand New Day ABA Services, LLC
Ambulance Service of Manchester, LLC
Area Congregations Together, Inc.
Brookview Corp., Inc. dba W. Hartford Health & Rehab
CCARC, Inc.
Change Meadowbrook Manor, Inc.
Chrysalis Center, Inc.
Community Health Resources, Inc.
Connecticut Foodshare, Inc.
Continuum of Care, Inc., Continuum Home Health, Inc.
CSC Enterprises, Inc. dba Branford Hills
Easterseals Capital Region & Eastern Connecticut, Inc.
EdAdvance and Education Connection
Greenwich Emergency Medical Service, Inc.
Hebrew Health Care Inc.
Help Unlimited, Inc.
Horizons, Inc./Horizons Programs, Inc.
Human Resources Agency of New Britain, Inc.
Humanidad, Inc.
JFS Care at Home LLC
Journey Found, Inc.
LEARN
Life Quest USA, Inc.
Marrakech, Inc.
Matulaitis Nursing Home, Inc.
Network, Inc.
New Britain Emergency Medical Services, Inc.
New England Residential Services, Inc.
New Horizons, Inc.
New Samaritan Corporation

North East Transportation Co., Inc.
Notre Dame Convalescent Home, Inc.
Optimus Health Care, Inc.
Perception Programs, Inc.
Portland Care and Rehabilitation Center Inc.
Project MORE Inc.
Quality Homemakers, Inc.
Recovery Network of Programs, Inc.
Residential Management Services, Inc., RMS Development
SARAH SENECA Residential Services, Inc.
SARAH, Inc.
Stamford Emergency Medical Services, Inc.
Stamford Health, Inc.
Stratford Visiting Nurse Association, Inc.
Susan B. Anthony Project, Inc.
The Arc Eastern Connecticut, Inc.
The ARC of Southington, Inc.
The ARC of the Farmington Valley, Inc.
The Caring Community of Connecticut, Inc.
The Children's Community Programs of CT, Inc.
The Connecticut Hospice, Inc.
The Mary Wade Home, Inc.
The West Haven Community House Association, Inc.
United Community & Family Services, Inc.
Utopia Home Care, Inc.
Valley Shore YMCA, Inc.
Visiting Nurse Association of Ridgefield, Inc.
Wachusett Ventures, LLC
Wethersfield Housing Authority
Whole Life, Inc.

Type of Mask Matters

Masking continues to be a critical public health tool for preventing the spread of COVID-19, but the effectiveness of a mask depends on several factors including the type of mask.



N95s and KN95s afford the most protection. Many of these masks are designed and tested to ensure they perform at a consistent level. Labels for these types of masks include: 1) MEETS ASTM F3502; 2) MEETS WORKPLACE PERFORMANCE; and 3) MEETS WORKPLACE PERFORMANCE PLUS.

Procedure Masks often referred to as surgical masks or medical procedure masks. These offer protection but should not be worn with gaps around the sides of the face or nose or if they are wet or dirty.

Cloth masks afford the least protection. A cloth mask should have a proper fit over the nose, mouth and chin to prevent leaks as well as multiple layers of tightly woven, breathable fabric. The mask should have a nose wire and the should be made of fabric that blocks light when held up to a bright light source. Choosing the right mask will make all the difference in preventing the spread of COVID-19.

Coping With Stress and Mental Illness



The COVID-19 pandemic has taken a serious toll on the mental health of Americans. According to the National Alliance on Mental Health (NAMI), 21% of adults experienced mental illness in 2020 which is equivalent to nearly 53 million Americans. Initial studies suggest that one in five people who survive infection with COVID-19 may develop a mental illness.

One truth is increasingly clear. Our work and our workplaces impact our mental health and wellbeing. Almost 9 in 10 employees report that their workplace is causing them stress, and 83% say they're experiencing emotional exhaustion as a result of work.

This has never been more evident than with the changes in working conditions due to the pandemic with some working from home indefinitely, some in extraordinarily high-stress and high-risk frontline jobs, often for longer hours, and others experiencing layoffs and job insecurities.

Stress can cause the following:

- Feelings of fear, anger, sadness, worry, numbness, or frustration
- Changes in appetite, energy, desires, and interests
- Difficulty concentrating and making decisions
- Nightmares or problems sleeping
- Physical reactions, such as headaches, body pains, stomach problems, or skin rashes
- Worsening of chronic health problems and mental health conditions
- Increased use of alcohol, illegal drugs (like heroin, cocaine, methamphetamine), and misuse of prescription drugs (like opioids).

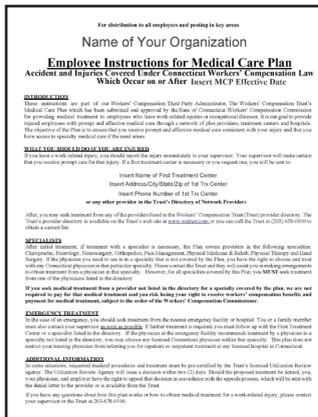
It's natural to feel stress, anxiety, grief, and worry during the COVID-19 pandemic. Below are ways that you can help yourself, others, and your community manage stress.

Take breaks from news stories, including those on social media. It's good to be informed, but constant information about the pandemic can be upsetting. Consider limiting news to just a couple times a day and disconnecting from phone, tv, and computer screens for a while. Take care of your body:

- Get vaccinated and stay up to date on your COVID-19 vaccines.
- Eat plenty of fruits and vegetables, lean protein, whole grains, and fat-free or low-fat milk and milk products. Eating well also means limiting saturated fats, cholesterol, salt, and added sugars.
- Going to bed at the same time each night and getting up at the same time each morning, including on the weekends, can help you sleep better (seven or more hours per night for adults).
- Move more and sit less—every little bit of physical activity helps. You can start small and build up to 150 minutes a week that can be broken down to smaller amounts such as 20 to 30 minutes a day.
- Take deep breaths, stretch, or meditate
- Limit alcohol intake. Choose not to drink, or drink in moderation by limiting consumption to one drink a day for women—two for men—on days that alcohol is consumed.
- Avoid using prescription drugs in ways other than prescribed, someone else's prescription, or illegal drugs.
- Avoid smoking and the use of other tobacco products. People can and do quit smoking for good.
- Continue with regular health appointments, testing, and screening.

The National Institute for Occupational Safety and Health (NIOSH) Worker Well-being Questionnaire (or the NIOSH WellBQ) is another new tool that can help organizations tackle employee wellbeing. This free survey provides a quick, comprehensive and confidential way to measure employee wellbeing across five key domains of life. Most importantly, it directs organizations on priorities for intervention and assistance to improve wellbeing.

Medical Care Plan Compliance Reminder



Just a reminder that we recently sent out a notice to all our members that we're in the process of auditing and updating the Employee Instructions for your approved Medical Care Plan. The Employee Instructions should be given to all employees, be included in your employee orientation and posted in your workplace. They designate where the injured worker should seek initial care should they require treatment for an injury, and are an important part of the communication process for your employees. If you have received the information but have not yet responded back to us, please do so ASAP so we may update our records and send you a revised document to comply with state regulations. Again, the actions you need to take after reviewing your current Employee Instructions document are listed below.

If the first treatment center(s) listed on the Employee Instructions is correct, please make appropriate copies for all of your locations and post a copy where employees commonly seek companywide information. This copy should replace the prior version. Also, be sure to include it in your employee orientation materials. Lastly, please send a confirmatory email to losscontrol@wctrust.com that you are in agreement with what is listed, so we can confirm that our records are correct.

If the first treatment center(s) listed on the Employee Instructions is incorrect, please email losscontrol@wctrust.com with the correct first treatment center for each of your locations. We will make the appropriate corrections in our system and send you a revised document. Once received, please post at all locations and include with orientation materials as outlined above.

If you are responsible for ensuring compliance regarding this requirement at your organization and have not received the document we have on file, please contact our Member Service Representative, Heather Hinckley at (203) 678-0123 or email at losscontrol@wctrust.com.

Two Senior Claim Representatives Retire



In March, Susan Beard and Eloise Fioravanti, both Senior Claims Representatives, retired. Sue was with the Trust for six years. Eloise spent five years with us. Sue and Eloise worked mainly with our self-insured clients.

Sue plans to spend time with her grandchildren. Eloise will be moving to her new home in Key West, FL. We wish them both the very best.

New Staff

We are pleased to introduce our newest staff member, Ana Bravo. Ana has over 20 years of claims experience. Her most recent employment was with Gallagher Bassett where she was a Lost Time workers' compensation adjuster working with the State of Connecticut account.

Ana will be working in the claims area as a Senior Claims Adjuster. Welcome to Ana!



BUSTED! Workers' Compensation Fraud



In the Fall of 2021, a maintenance man in his late 50s reported to his employer that he fell from an elevated surface in one of the insured's group homes and sustained multiple injuries involving his back, hip, ankle and wrist. Treatment was sought immediately which resulted in the provider placing him on temporary total disability for his alleged injuries. From the start, the claims representative investigating the facts of the case and working in close coordination with the member felt that things just didn't add up. First, the employer didn't even know the claimant was in the group home when the alleged event occurred until they were notified by him and second, the only other witness to the event he claimed was his wife who didn't even work for the organization! Apparently, there was some renovation going on in the group home at the time in which a third-party contractor was doing some demolition and renovation that did not require the employee's participation. It was just one of several red flags that warranted a deeper dive into the facts of the case and the alleged injuries.

The claims representative initiated a more in-depth investigation which led to extensive surveillance, the claimant being deposed under oath, and several respondent medical exams to gain a clearer picture on the extent of the alleged injuries. What resulted from these actions demonstrated that the claimant had many pre-existing conditions for the same body parts he reported as injured during the event. Moreover, extensive surveillance over a period of time found that he engaged in repeated physical activity including changing tires on a truck and mowing lawns along with other landscaping work all while being "totally disabled" by a provider for his ongoing complaints of severe pain and limited function.

The resulting facts were presented to the Commissioner along with a request that disability payments cease immediately and that the claimant stipulate the claim for no further monies paid and to settle the case once and for all. The Trust's recommendation and the claimant's counsel clearly saw the hand writing on the wall for his client and did not dispute the Commissioner's decision.

The total claim cost had the potential to exceed a six-figure value if it wasn't for the intuitiveness and tenacity

of the claims representative to dig deeper and seek out the true facts of the case.

If you or anyone in your organization suspects fraud in a workers compensation case, please contact the Trust's Fraud Hotline toll free at 1-800-559-3739. Provide as much detailed information

as possible – Who, What, Where, When and How. A Caller does not need to leave their name. All information will be held in the strictest of confidence and will be thoroughly investigated.

Workers' Compensation **FRAUD** is Against the Law



The Workers' Compensation Trust has established a Fraud Hotline to accept information on suspected fraudulent activity. If you suspect a co-worker of committing fraud while collecting workers' compensation benefits, call the FRAUD HOTLINE toll free at

1-800-559-3739

Caller does **NOT** have to leave their name.

All information will be held in the strictest of confidence.

 **Fighting Fraud With Conviction**

June is National Safety Month



Observed annually in June by the National Safety Council, National Safety Month focuses on saving lives and preventing injuries, from the workplace to anyplace. This year's materials will include a poster, tip sheets, articles, social media graphics and more.

The following topics will be highlighted:

- Week 1: Musculoskeletal Disorders
- Week 2: Workplace Impairment
- Week 3: Injury Prevention
- Week 4: Slips, Trips and Falls

Some ways to celebrate include:

- Create newsletters or blog posts
- Hold a safety trivia contest with weekly prizes
- Have employees identify hazards in the workplace
- Throw a safety fair, lunch 'n learn or celebratory luncheon
- Provide safety training

We encourage our members and clients to use the materials found on at www.nsc.org.

The Legal Corner

Attorney John M. Letizia, Managing Partner
Letizia, Ambrose & Falls, PC

Employer Options in New Law Banning Enforcement of Agreements to Arbitrate Sexual Harassment Claims

In March, President Joseph Biden signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (the “Act”), which, among other things, invalidated pre-dispute agreements to arbitrate such claims, whether brought by a single plaintiff or a class of plaintiffs. Therefore, employers can no longer force employees to arbitrate claims of sexual harassment and civil sexual assault through arbitration agreements entered into before the dispute arose. However, the Act does not prevent employers and employees from agreeing to arbitrate sexual harassment or civil sexual assault disputes after the dispute has arisen. Employers must be aware of their rights and obligations under the Act and should take steps to protect themselves before a claim covered by the Act is filed against them.

What Lawsuits Are Covered by the Act?

The Act broadly defines “sexual harassment dispute” to mean “a dispute relating to conduct that is alleged to constitute sexual harassment under federal or state law.” This broad definition covers claims arising out of, for example, unwelcome or unwanted sexual advances or other comments; benefits conditioned on sexual activity; and retaliation for rejecting sexual advances or other behavior. “Sexual assault dispute” is defined as “a dispute involving a nonconsensual sexual act or sexual contact” as those terms are defined under federal, state, or tribal law. The Act applies to all claims or disputes that “arise or accrue” after the Act became law. As a practical matter, all complainants alleging unlawful discrimination in Connecticut must exhaust their administrative remedies in the Connecticut Commission on Human Rights and Opportunities and/or the Equal Employment Opportunities Commission before filing suit in state or federal court. However, once a suit is filed in court, arbitration can be compelled in those cases that are not covered by the Act.

What Lawsuits Are Not Covered by the Act?

The Act does not affect mediation or arbitration agreements to arbitrate discrimination, harassment or retaliation claims that are unrelated to sexual harassment or sexual assault, or claims based on other protected categories like age, race, or religion. However, it remains to be seen how courts will apply the Act in cases where the claimant asserts a sexual harassment claim and other common law or statutory claims, such as emotional distress or breach of contract, arising out of the same conduct. It is possible that the sexual harassment claims would be addressed in court, while the other claims would be subject to arbitration.

Employer Takeaways

Despite the new law, which is just one exception out of about a hundred of employment-related disputes that could arise between employee and employer, we still strongly recommend including broad mediation and arbitration provisions in all employee agreements or separately requiring new or existing employees to enter into mutual mediation and arbitration agreements to cover claims that are not subject to the Act. In addition, it is important to note that provisions requiring pre-suit mediation are not prohibited by the Act, as mediation can provide the parties with a cost-effective opportunity to resolve claims prior to a lawsuit. In fact, a vast majority of wrongful discharge claims that go to mediation are settled without the need to proceed to arbitration or court. Finally, in light of the new law, employers should take steps to mitigate the risk of sexual harassment lawsuits being filed, including reviewing, broadening and strengthening their anti-harassment policies and practices to ensure that they are in the best possible position to defend against such litigation.

If you have any questions regarding any of the information in this advisory, please contact Attorney John Letizia or Attorney Phyllis Pari by email at letizia@laflegal.com or pari@laflegal.com or by phone at (203)787-7000.

Coronavirus (COVID-19): Two Years In

About a week ago I happened to be flying into Miami International Airport when the steward on our plane announced the federal mask mandate had been lifted. A cheer rose up from most of the passengers. More interesting was what happened next, namely... nothing. Everyone kept their masks on. We were crammed together in what currently passes for coach seating; soon we were standing, crouching or sitting even closer during that odd waiting period when the plane has stopped, but the doors have not yet been opened; and frankly, everyone on board seemed to think it made common sense to keep their masks on. It did, of course. Two years of an epidemic have taught us that masks help, particularly in really crowded indoor spaces. I shall refrain from a discussion about a district judge with no medical or epidemiological training subverting our nation's public health policy. You can probably guess how I feel about that. Instead I'd like to offer something in the way of common sense as we make our way into the third year of the pandemic.

In the US, at least, things are a lot better. The vaccines work well at keeping people alive. Unfortunately they don't prevent infection itself as well as they did with earlier variants of the virus, but most importantly hospitalizations are down, and mortality is down. There are some medical therapies that are useful, particularly for people who do not mount a strong immune response following vaccination. Appropriate personal protective equipment has been effective in protecting healthcare workers, and the combination of social distancing and masking has worked in public.

Omicron and its subvariants continue to proliferate. BA.2 is predominant still, with BA.2.12.1 beginning to assert itself as BA.1.1 fades into the distance. These viruses transmit a little more easily, but generally result in milder illness, particularly in a reasonably well vaccinated and boosted population such as our own. Currently about 1% of counties are classified as having high COVID-19 community levels, 7% have moderate levels, and 92% are at low level. The number of moderate- and high-level counties, however, is on the increase, and the current 7-day moving average of daily new cases has increased

35% compared with the previous 7-day moving average. All Connecticut counties are currently classified as having low levels of transmission. Clearly, we are not out of the woods, but it's amazing how much more normal life has become.

One has only to review the lackluster showing of influenza virus over the past two years to gauge whether masking and social distancing work. They do, but we're tired of masks, and the world, at least in the US, is a safer place than it was two years ago. In healthcare settings, where the most vulnerable go to be treated, we should continue to mask. Despite a recent change in Connecticut DPH policy on that matter, federal guidance still recommends it, and we're better to abide by that. Outside of healthcare settings, things have become more lax. Given high vaccination rates combined with substantial numbers of individuals who have been infected in the past, that is reasonable. Absent strict federal, state or municipal guidance, what should we do? I would argue that we should do what my fellow passengers and I did last week, namely use common sense. In a really crowded circumstance such as the cabin of an airplane, we should mask. Outdoors, and indoors in uncrowded settings, it is not as necessary as it once was. But importantly, we should feel free to make a decision that is sensible, even if it is more conservative than what is mandated. My parents are in their late eighties, and on my recommendation they mask whenever they are in an indoor public space. I do not these days, unless it's particularly crowded. I do keep a mask with me and would don it if someone were coughing, or if the space became crowded. Importantly we need to respect the choices of those around us as long as those choices do not put us at greater hazard than the currently applicable guidance allows. I would add that we must continue to monitor ourselves closely for symptoms as well, which can be very mild with the omicron subvariants. Have a low threshold for testing yourself for covid, avoid exposing others by staying home or masking until you have determined your infection is not COVID-19, and if it is, continue to abide by current recommendations for isolation, namely home for 5 days as long as fever has resolved and symptoms are absent or improving, and masking for another 5 days after that when in public.

