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Trust Intelligence

A Newsletter published by the Workers' Compensation Trust

49 Members Share in \$350,000 Safety Grant Program

It's a pleasure to report the 2019 safety grant program continued to set new records in both participation and distribution. There were 129 entrants, a 19% increase over last year, requesting over \$1.4 million dollars. After a very difficult selection process 49 recipients were ultimately chosen to receive \$350,000 in grant money with the average award in excess of \$7100.

Winning entries covered a wide spectrum of safety needs such as patient handling equipment, security doors, lighting, safety mats, ramps, railings, lifting devices, professional training, icy grippers, and much more.

Diane Ritucci, President and CEO stated: "We're delighted with the growth in participation this program continues to see. Its impact on loss prevention is enormous, reducing future losses far in excess of the grant money invested. However, the best part of this program is that every Trust member benefits! Taking proactive steps in loss prevention helps generate additional premium returns to all members."

The 2019 Safety Grant recipients are:

Action for Bridgeport Community Development	Klingberg Family Centers
Aetna Ambulance Service	Masters in Home Care
ARC of Greater New Haven	Milestones Behavioral Services
Beth-El Center	New Beginnings for Life
BHcare	New England Residential Services
Boys & Girls Village	New Horizons
Brookview Corporation	New Seasons
Careco Shoreline	Northeast Placement Services
Center for Transitional Living	Perception Programs
Change Maple Leaf Manor	Prestige Companion and Homemakers
Cherry Brook Health Care Center	Reliance Health
Community Residences	Seabird Enterprises
Community Systems	The Arc of Quinebaug Valley
Connecticut Orthopaedic Specialists	The Caring Community of Connecticut
Duncaster	The Community Action Agency W. CT
Easter Seals Capital Region & East CT	The Connection
EdAdvance and Education Connection	The Franklin Academy
EFK of Connecticut	The Supported Living Group
Family & Childrens' Agency	Twin Maples Home
Family & Childrens' Aid	Visiting Nurse Association of Ridgefield
Gilead Community Services	Vista Life Innovations
Groton Ambulance Association	VNA Home
Help Unlimited	Waveny LifeCare Network
Keystone House	Whitney Center
	Whole Life

New Employee Benefit Products

The Trust is pleased to introduce a new line of employee benefit products now available to members. By working closely with AmWINS Group Benefits and The Hartford, we have leveraged the combined purchasing power of the entire Trust membership to negotiate preferred pricing and coverage for these products. Members can now enjoy the ability to offer competitively priced “employer paid” and “employee paid voluntary” insurance plans to their employees. These plans can assist employees financially in many ways during their greatest times of need, and can also help members retain good employees in a competitive job market.

Employee Paid Voluntary Products

We have negotiated specially priced plans and features for each product. The employer can select one, two, or all three of the following coverages to offer their employees. The employees then select which coverages they want to purchase with the option to include coverage for their spouse and family as well.

These products pay scheduled benefits regardless of other applicable insurance coverage, helping employees and their family members offset the costs of deductibles, co-pays, transportation, follow up visits, and much more.

Accident Insurance: – pays benefits for treatment, injury or services incurred by a covered person who is injured in an accident while the insurance is in effect.

- Quoted plan includes 24 hour coverage. Most plans only include off work hours.
- Pays out for each instance of related follow up visits, subject to policy limits. Most plans do not.

Critical Illness Insurance: – pays a lump sum benefit for a covered person diagnosed with a scheduled illness while the insurance is in effect.

- Provides \$50 credit towards annual premium for completing health screening each year.

Hospital Indemnity Insurance: – pays a scheduled benefit for hospital confinement occurring for a covered person while insurance is in effect. Additional benefits for certain services or treatments are also available as listed in the policy.

- Pre-existing condition exclusion waived.

Employer Sponsored Products:

The following employer sponsored products are also available to Trust members:

Basic Life Insurance & Supplemental Life Insurance

Short Term Disability

Long Term Disability

These products allow employers to provide valuable financial protection to employees and their families in the event of a disability or death.

Sales Information:

The sale of these products will be directed by Connecticut Healthcare Insurance Services (CHIS), a subsidiary of the Workers’ Compensation Trust, and a fully operational insurance agency to AmWins Group Benefits.

To obtain additional information on these products or to request a quote please go to www.wctrust.com and click on the “Members” tab and select “Employee Benefit Program”.

WC Case Law



The Scenario

The injured worker was employed as a CNA. At the end of her shift she punched out, walked to her car and discovered that it had been plowed in with snow. She noticed a shovel when leaving the building, went back and borrowed it to shovel her car out. The claimant injured her back when shoveling snow off her car in the employer’s parking lot. Was the injury deemed compensable?

The Ruling

The trial commissioner found that the injury was compensable, as the employee was injured while shoveling out her car, which had been plowed in by the employer or employer’s contractor. He believed the risk of injury was incidental to her employment as she would reasonably be expected to use her own car to return home.

How Employers Can Mitigate Workers' Compensation Abuse

Although the majority of workers' compensation claims generally go through the system without incident, there are those that seem to go sideways for a host of reasons. Sometimes, it's just a bad set of circumstances that creates a difficult and costly claims outcome with no malice on the part of the injured worker. On the other hand, there are those times, albeit a smaller percentage, when a claim becomes a nightmare and is solely driven by the direct intentional act(s) of an employee to abuse the system wherever there is opportunity to do so. Here are several suggestions employers can implement proactively to potentially mitigate exposure from abuse of the workers' compensation system.

Drug –Free Work Place Programs

A good place to start is with a strong drug-free workplace policy which may help the employer reduce exposure for work injuries. If the employer has a policy in place where reasonable suspicion of drug and/or alcohol use requires screening following a workplace injury, this may provide the employer/carrier with grounds to deny the claim if they test positive. Under the Connecticut's Workers' Compensation Act, impairment/intoxication leading to an injury can be a solid defense for an employer to deny a claim of injury under those circumstances.

Post-Offer Physicals and Functional Testing

As effective as it is, drug testing alone is not enough. Physical Abilities Testing (PAT), a less well known but equally effective injury reduction strategy, can also offer a significant boost to workplace safety. Used alone or in tandem with drug screening, especially for positions that require a certain level of strength, agility, coordination, and/or endurance, PAT evaluates an applicant's functional ability to meet the physical requirements of the position for which he or she has applied. The goal is to screen out potential employees who would struggle to manage those physical demands, placing them and their coworkers at higher risk for workplace injuries.

Since physical abilities testing must be job-specific in order to comply with federal employment regulations, the process of implementing these post offer testing programs begins with a thorough job demands analysis, which helps to identify the specific physical demands of essential tasks and functions expected of potential employees. Once those key elements are identified, each potential employee can be tested according to the established criteria, allowing an

accurate, objective assessment of their physical ability to function safely and effectively in the workplace.

Post-offer PAT offers employers objective and effective methods for screening out potential new hires that pose a greater than average risk of injury as employees.

Use of Uniform Accident Reports

Lastly, the importance of a systematic and comprehensive way of investigating accidents cannot go understated. This means going far beyond just completing the First Report of Injury. All accidents should be fully investigated and the accident report should allow the investigating supervisor to clearly document the biographical details of the worker, the date/time of the accident, witnesses to the accident including their signed statements of what occurred, the location of the accident, and a description of injuries, including enough space to provide details about what actually happened. Remember, the employer is better off utilizing direct questions that prompt the injured workers to respond rather than simply describe to the employer "what happened?" The benefits of these statements can later be used to discredit the veracity of the facts as stated by the worker if they are not adding up, or to share with authorized medical providers or experts to confirm that the reported mechanism of injury is a reasonable cause of the employee's complaints.

These suggested measures are just several ways employers can help mitigate workers' compensation abuse. The Trust encourages all members to immediately report any suspicious activity that may raise a red flag on the credibility and/or veracity of a claim.



James Mannello, Tax Consultant Retires

James Mannello, pictured at left with Charles Shelton, the Trust's longtime tax consultant retired from Deloitte Tax in March. We will truly miss all of his knowledge and expertise over the past 27 years. We wish him the best for the future.



WATER! REST! SHADE!

OSHA's Campaign to Keep Workers Safe in the Heat

Launched in 2011, OSHA initiated the Heat Illness Prevention Campaign to educate employers and workers on the dangers of working in the heat. Their safety message is three key words: **WATER. REST. SHADE.** Each year, dozens of workers die and thousands more become ill while working in extreme heat. And nearly 5 million people are treated for skin cancer each year in the US at the estimated cost of \$8.1 billion. These injuries and deaths can be prevented.

Under OSHA law, employers are responsible for providing workplaces free of known safety hazards which includes protecting workers from extreme heat. Workers in every field are susceptible as heat illnesses can affect anyone, regardless of age or physical condition.

Employers who have employees/clients working outdoors should should establish a **heat illness prevention program:**

- Provide workers with water, rest and shade
- Allow new or returning workers to gradually increase workloads and take more frequent breaks as they acclimatize, or build a tolerance for working in the heat
- Plan for emergencies and train workers on prevention
- Monitor workers for signs of illness which are:
 - headache
 - dizziness
 - lack of sweating
 - red, hot, dry skin
 - seizures
 - behavioral changes such as confusion or disorientation
 - muscle weakness or cramps
 - nausea or vomiting
 - rapid heartbeat
 - rapid, shallow breathing
 - unconsciousness



There are many resources available to assist employers in creating sun-safe strategies including a heat prevention program such as www.OSHA.gov and www.cdc.gov.

[In addition, the Trust has created a Quick Course on Trust University \(free online member training\) titled "Protecting Workers from the Heat".](#)

June Is National Safety Month

Each June, The National Safety Council (NSC) helps to promote National Safety Month by highlighting the leading causes of preventable injury and death on a national scale to keep more people safe. Each week during National Safety Month, the NSC will put a spotlight on an important topic and provide free downloadable resources that will help employers educate and engage your workforce and workplace as well family and community.

Week One: Identifying & Addressing Safety Hazards
Week Two: Preventing Slips, Trips and Falls

Week Three: Workplace Fatigue
Week Four: Impairment in the Workplace

Some ideas to get everyone involved in National Safety Month include:

- Distribute materials such as posters and tip sheets
- Provide safety training
- Create newsletters or blog posts
- Hold a safety trivia contest
- Hold a safety fair or lunch n' learn
- Have employees go on safety walks and identify hazards
- Encourage staff to sign a Safety Pledge
- Share posts on social media

For more information, please visit National Safety Council on the web at www.nsc.org

Workplace Violence in Healthcare Settings: Steps for Prevention

Healthcare and social service workers face a significant risk of job-related violence. Between 2011 and 2013, workplace assaults ranged from 23,540 and 25,630 annually, with 70-74% occurring in healthcare and social service settings. While under 20% of workplace injuries happen to healthcare workers, these workers suffer 50% of all assaults. The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as “violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty.” Occupational Safety and Health (OSHA) estimates that there are about 2 million cases of workplace violence (WPV) a year; ranging from verbal and physical abuse to homicides.

While there is currently no regulatory standard on WPV, OSHA is pursuing a standard on WPV for health care and social services. Currently under OSHA, employers are responsible to implement a WPV program including a written program, training and security assessments and will be cited under the General Duty Clause for failing to protect workers from harm due to WPV.

The U.S. Department of Labor, Occupational Safety and Health has published “Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers including hospitals, residential treatment settings, non-residential treatment/services, community care and field work (including home health, companions or social workers who make home visits); this can be found at <https://www.osha.gov/Publications/osha3148.pdf>. This document provides employers with the necessary knowledge and information to implement an effective workplace violence prevention program.

There are vast array of WPV prevention resources available to assist with an effective WPV Prevention Program. Our Senior Loss Consultants can assist with policy development and training. The Trust also has several training resources including Trust University, Video Lending Library and two upcoming WPV educational sessions.

Upcoming Workplace Violence Education Programs

Best Practices in Workplace Violence Prevention

Thursday, July 25

9:00 a.m. to 3:00 p.m.

Workplace Violence Prevention: Implementing Your Program

Wednesday, October 30

9:00 a.m. to 3:30 p.m.

2018 Safety Grant Spotlight



West Hartford Health & Rehabilitation Center provides long term care rehabilitation services. This member identified patient handling, transfer, repositioning and boosting injuries as a top loss source in their safety grant application. As this was an area that was able to be reduced with a continued focus on equipment, training and policies, the Trust awarded \$13,796 for the purchase of Safe Patient Handling (SPH) equipment.

A SPH audit was complete and a team was formed to determine that most effective SPH devices to purchase. Policies were revised and employee training was implemented.

The member established a reduction goal of 25% for both frequency and severity of resident handling injuries which has been met for 2018. In addition, goals were established to reduce CNA turnover rates. In 2018, the turnover rate was less than 3%.

The Legal Corner

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

New Legal Guidance Broadens Scope of Accommodations Required for Pregnancy & Post Childbirth Conditions

The Connecticut Fair Employment Practices Act (CFEPA) and Federal law bar employers from terminating, refusing to hire, or denying a reasonable accommodation or accommodation leave of absence to an employee or applicant who is pregnant. However, Connecticut law goes far beyond protecting employees and applicants from discrimination due to pregnancy and childbirth, as it protects related medical conditions, such as lactation and post-partum depression.

On April 23, 2019, the Connecticut Commission on Human Rights and Opportunities (CHRO), as the state agency in charge of enforcing the CFEPA, published a new Legal Enforcement Guidance on “Pregnancy, Childbirth, or Related Conditions at Work.” This new Guidance highlights the expansive class of employees and applicants who may qualify for a reasonable accommodation, even well after they give birth. Therefore, employers may be required to offer pregnancy accommodation leaves (including intermittently) a year after childbirth.

Scope of “Pregnancy, Childbirth, or Related Conditions”

Although you will not find the phrase “pregnancy, childbirth, or related conditions” in the CFEPA, the law has been interpreted broadly to protect employees or applicants who are currently pregnant, were recently pregnant, are trying to get pregnant, or have any number of conditions related to pregnancy or childbirth. In the new Guidance, CHRO listed a non-exhaustive list of pregnancy-related symptoms or conditions which could require a reasonable accommodation, including a leave of absence.

According to the Guidance, employers cannot inquire about or discriminate against an employee or applicant because of the individual’s child-bearing age or plans, reproductive function, use of birth control methods, or family responsibilities.

There is no “length-of-employment requirement” before an employee becomes entitled to the protections of CFEPA, meaning that, unlike under the FMLA, an employee may request a reasonable accommodation, including a leave of absence for pregnancy, childbirth or post-birth related condition (e.g., post-partum depression) upon hire.

Reasonable Accommodations for Pregnancy, Childbirth, or Related Conditions

In addition to the typical accommodations for pregnancy-related conditions, such as more frequent bathroom breaks, periodic rest, assistance with heavy lifting, time off to recover from childbirth, and breaks to express breast milk, CHRO provided examples of more unique accommodations that are presumed reasonable, absent proof of an undue hardship by the employer:

- A phone or video interview instead of an in-person interview for a pregnant applicant;
- Modifying policies prohibiting food or drinks during work;
- Moving a workstation to permit the movement or stretching of extremities, or to be closer to a bathroom;
- Modified dress code or uniform requirements; and/or
- Unpaid leave or a modified or flexible work schedule to accommodate fertility treatments.

CHRO also stated that an employer may not force an employee to: (1) accept an accommodation that is not necessary to perform the essential duties of the job; or (2) take a leave of absence if another reasonable accommodation can be provided instead. This is different from the well-established court rule that an employer must only offer a reasonable accommodation, and not necessarily the reasonable accommodation the employee requests.

Recommendations

Connecticut employers should train supervisors and managers about the scope of pregnancy-related conditions that may be covered under CFEPA and when faced with a request for leave or a reasonable accommodation from an employee or applicant whose condition is related in any way to pregnancy, childbearing, fertility treatments or post-partum depression, be sure to engage in an interactive process to explore all reasonable options for accommodating the employee’s request.

If you would like additional information on this topic or a copy of CHRO’s new Guidance, please do not hesitate to contact Attorney John M. Letizia at (203) 787-7000, or email one of him at letizia@laflegal.com.

Enjoy the Summer, But Protect Your Skin

With summer just ahead, most of us look forward to spending more time outside. Let's make sure we enjoy the longer and brighter days without putting ourselves at too much risk from the strong rays of the sun.

Those with lighter complexions, freckles, blond or red hair, are most vulnerable, but all of us need to take steps to protect ourselves. Skin damage can occur with only 15 minutes of sun exposure during the summer months, so be certain to cover exposed areas and/or use sunscreens with a sun protection factor (SPF) of 15 or higher. Remember that baseball caps do nothing to protect the ears or back of the neck, that a white t-shirt actually has an SPF of less than 15, and that shade is your friend –as are long sleeves and a wide-brimmed hat. The ultraviolet rays that damage our skin get through on cloudy days too, so sunscreens and tightknit clothing are needed then as well. Sun can damage the eyes, so wearing sunglasses is also important. Those with a wrap-around design help protect against light diffusing from the sides and are generally preferred.

Why does all of this matter? Beyond the premature skin aging caused by excessive sun exposure, it also is the principal risk factor for skin cancers, of which the principal three types are basal cell carcinoma, squamous cell carcinoma, and melanoma. Approximately 250,000 basal cell carcinomas, 175,000 squamous cell carcinomas, and 80,000 melanomas occur annually. Of these three, the

most worrisome is melanoma, which is responsible for approximately 9,000 deaths annually and is the sixth most common cancer among those on which official statistics are gathered in the US.

In addition to minimizing sun exposure, it is important to be watchful for changes on your own skin. Dermatologists can often intervene on conditions of the skin such as actinic keratoses, which are precursors to cancers. They also can check for any pigmented lesions of concern. With respect specifically to melanoma, remember these A-B-C-D-E's, which can help alert you to a skin lesion being worrisome:

- "A" stands for asymmetrical. Does the mole or spot have an irregular shape with two parts that look very different?
- "B" stands for border. Is the border irregular or jagged?
- "C" is for color. Is the color uneven?
- "D" is for diameter. Is the mole or spot larger than the size of a pea?
- "E" is for evolving. Has the mole or spot changed during the past few weeks or months?

The CDC advises you to talk to your doctor if you notice changes in your skin such as a new growth, a sore that doesn't heal, a change in an old growth, or any of the A-B-C-D-Es of melanoma.

Trust is Proud Sponsor of the 2019 CNA Hall of Fame

The Trust once again sponsored this year's ceremony held on March 14th in Wallingford, at the ACHCA-CT Chapter Conference. Our congratulations to the following six new inductees: *Ursula Wright of Avon Health Center, Irene Joseph of West Hartford Health and Rehab, Aquilina Pilla of Middlebury Convalescent Home, Blanca Pietri of Cook Willow Convalescent*, all of which are Trust members. In addition Dorothy Sorvillo of Chestelm Health and Rehab and Marcia Miles of Northbridge Health Care Center. Congratulations to all of you and thank you for your exceptional service! A special congratulations to these special CNAs.



Ursula Wright
Avon Health Center



Irene Joseph
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