

## June is National Safety Month



Each June, the National Safety Council (NSC) celebrates **National Safety Month** as a time to bring attention to key safety issues. The 2014 theme, “**Safety: It takes all of us**,” was inspired by the idea of continuous risk reduction. Everyone in an organization can get actively involved in risk reduction efforts through hazard identification and reporting. Suggested focus topics are:

### **Week 1: Preventing prescription drug abuse**

Prescription medications are often helpful in recovery from illness and injury, and chances are you have received benefits from them. Most medications, even those prescribed by your physician have some risk associated with taking it, including various side effects. Being an informed consumer is very important, especially for the category of drugs referred to as “prescription opioid painkillers”.

### **Week 2: Stop slips, trips and falls**

Most falls are preventable. Many people attribute falls to being clumsy or not paying attention, but controllable risk factors do exist. These include physical hazards in the environment, age-related issues and health conditions. Reduce your risk and risks to others by identifying fall hazards in your workplace and home.

### **Week 3: Be aware of your surroundings**

With the proper training, your employees will see their surroundings in a whole new light. By learning to identify existing and potential hazards, your employees will create a safer environment at work and home.

### **Week 4: Put an end to distracted driving**

Cell phone use while driving has become part of our culture, and in turn, a very dangerous habit that puts not only the distracted driver at risk, but all other drivers on

the road as well. There are steps you can take to make it easier to put down the phone when you are behind the wheel, and break the habit for good.

### **Bonus Week: Summer Safety**

Hot conditions don't have to be dangerous if you watch for the warning signs, and get cooperation from workers to prevent heat-related illness.

Find ways to engage your employees in National Safety Month, because “**Safety: It takes all of us**”. You can:

- distribute safety related topics to employees or post corresponding materials throughout the worksite.
- start meetings off with a five minute talk on the safety topic of the week.
- involve the community by having a Police Officer speak on the dangers of distracted driving or see if they have a drug “take-back” program.
- ask employees to go on hazard walks around your facility and identify all hazards. Offer a prize for the team that finds the most hazards.
- have a safety trivia contest each week based on the weekly topics. Give the winner a safety prize.

The NSC provides free materials to assist employers in promoting National Safety Month throughout June. These materials include NSC Public Posters, crossword puzzles and answer keys, Caught in the Act of Safety coupon template, sample hazard report form, home safety checklist, and a tip sheet with a quiz and answer key for each of the five topics. Some materials are available in both English and Spanish. Make sure to use these downloadable resources to engage everyone in reducing risk in your workplace. A little effort today has the potential to prevent tragedy tomorrow.

Visit [www.nsc.com](http://www.nsc.com) or contact the Trust at 203-678-0123 or [losscontrol@wctrust.com](mailto:losscontrol@wctrust.com)

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# The Impact of the Affordable Care Act (ACA) in Workers' Compensation in Connecticut



There has been much speculation about the potential impact that the ACA will have on workers' compensation. Many feel that with increased coverage provided for those uninsured, there will be an influx of patient volume causing provider shortages, longer wait times to see providers, and potentially impacting timely return to work rates among workers' compensation patients. Others believe that significant cost shifting will occur if the provider believes that workers' compensation reimbursement is richer than other group plans and with other government sponsored plans such as Medicare.

Although many of these speculative concerns may come to reality as more and more enroll in the ACA and the medical community responds to it throughout the country, the Trust believes that Connecticut employers, and more specifically, our members may fare better than others in the country at least when it comes to the ACA's impact on workers' compensation.

Here are some of the reasons for this optimistic view:

The influx in patient volume to providers will be much less in Connecticut than that experienced in other parts of the country under ACA. Based on 2013 statistics, only 8% of the Connecticut population were identified as being uninsured prior to the ACA rollout. This is compared to an uninsured rate of 17% nationally, and in some southern states; the rate is as high as 25%.

Because Connecticut has good coverage of occupational medicine based clinics throughout the state, and secondly, employers can direct care to such facilities versus other states where injured workers can go to their primary care physicians, it is unlikely that there will be any delay in initial treatment for injured workers. We also have less concern with delays with specialized care such as orthopedics and neurosurgery as well since Connecticut is a rather small state with a large number of specialty providers for its working population.

Whether perceived as good news or bad, Connecticut's provider reimbursement for workers' compensation has been and continues to be one of the highest in the country. If cost shifting was to occur, it probably has already happened in Connecticut regardless of the ACA roll out. Diligent claims investigation and having injured workers treated by high quality and thoroughly vetted network providers is the only defense to combat this challenge. Here at the Trust, we believe that's exactly what our proprietary network has been doing for our members since its establishment in 1995.



A female group home worker, in her early thirties, injured her knee when she slipped and fell on ice at work while employed by a Trust member in January 2011. The worker lost approximately three months of work as a result of having a pre-existing injury to the same knee that apparently got much worse as a result of the slip/fall incident. She eventually went back to full duty work but continued to seek treatment with an orthopedist over the next two years. In August 2013, the Trust was notified by her treating physician that she had a flare up of her 2011 knee injury and was placed out of work for several weeks requiring the Trust to pay her temporary total disability benefits. The circumstances of the unexpected disability two years post injury raised questions in the eyes of the assigned adjuster. This concern

prompted an immediate investigation in conjunction with the member which uncovered that the employee was working as a substitute teacher for a public school system while receiving total disability benefits from the Trust. All-in-all, it was determined that the worker fraudulently collected \$5,500 in disability payments under false pretense.

Upon confirmation of her fraudulent activity, a workers' compensation commission hearing was called by the Trust. The facts of the case were presented to the Commissioner and the worker's counsel with a demand from the Trust that the case be settled with a full and final stipulation for zero dollars. Ultimately, the claimant agreed to the zero settlement to avoid further legal action. Thus, through these efforts and the quick heads up action by the adjuster, the Trust was able to save approximately \$125,000 to \$150,000 in future benefits in this case.

# Whistleblower Protection for Employees

Workers have the right to a safe workplace. The Occupational Safety & Health Act (OSH Act) was passed to prevent workers from being killed or seriously harmed at work and requires employers to provide their employees with working conditions that are free of known dangers.

Under the OSH Act, workers have the right to: ask OSHA to inspect their workplace, use their rights under the law without retaliation and discrimination, and receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. They have the right to training, to obtain copies of test results to find hazards in the workplace, review records of injuries and illnesses and obtain copies of their medical records.

Whistleblower protection under the OSH Act protects workers who complain to their employer, OSHA or other government agencies about unsafe or unhealthy working conditions. Employees cannot be transferred, denied a raise, have their hours reduced, be fired, or punished in any other way because they utilized any of the rights provided to them under the OSH Act.

If workers feel that they have been punished or discriminated against for using their rights under the

OSH Act, they are allowed to file a complaint with OSHA within 30 days of the alleged reprisal for most complaints. Employees may either send a letter or call to report a complaint.

OSHA will complete an investigation to determine whether retaliation took place. The investigation must reveal that the employee engaged in a protected activity, the employer knew about or suspected the protected activity, the employer took adverse action *and* the protected activity motivated or contributed to the adverse action.

If the evidence supports the employee's allegation and a settlement cannot be reached, OSHA will generally issue an order, which the employer may contest, requiring the employer to reinstate the employee, pay back wages, restore benefits and other possible remedies to make the employee whole.

Under President Obama's fiscal year budget proposal, funding for OSHA's whistleblower protection programs would receive a \$4 million increase. The Obama administration is seeking to provide OSHA with \$565 million for the year, beginning October 1<sup>st</sup>, the current budget is \$552.3 million.

## Staff Changes

### Alexandra Eva Powitz Retires

It is with both sadness and gratitude that we announce the retirement of Alexandra Eva Powitz, Education Coordinator. Alexandra has been with the Trust since March 2001 beginning as the Director of Loss Control Services, and for the past six years as our Education Coordinator.

Alexandra made numerous contributions to the Trust. To name just a few, she established our DART Rate benchmarking program, launched Trust University, and established the Trust as the sole National Safety Council Training Center in CT and only one of three in New England.

Alexandra plans to stay in Connecticut for her retirement with her husband, Bob. She and Bob will be spending time traveling, taking long walks on the beach and relaxing. Alexandra will also continue to spend her time volunteering at Forgotten Felines, a no kill shelter for cats in Old Saybrook.

We will miss Alexandra and wish her the best of luck as she begins her new journey in life.

Pictured, Alexandra (center) with the Loss Control staff at her retirement celebration on Friday, March 7, 2014.

### The Trust Hires Mark Petrone



The Trust is pleased to announce the hiring of Mark Petrone as our new Loss Control & Education Coordinator.

Mark joined us on Tuesday, March 25 as a full time employee who not only will manage the education coordinator role vacated by Alexandra, but also, assist member with their Loss Control needs.

Mark is an experienced loss control consultant with many years of experience in loss prevention and training, having worked for CIRMA, St Paul Fire, and UCONN Health Center and the Department of Public Health.

He is also a volunteer fireman for the Town of North Haven.





## Shake off Those Winter Blues

Summer brings a variety of opportunities to re-energize, re-do and re-examine your personal wellness program. Increased opportunities for outdoor exercise, a wider selection of health-boosting, fresh produce and a chance to renew your energy and spirits. Try some of these tips.



**Take a break from the gym and challenge your muscles with different activities and terrains.** Experts recommend at least 2 ½ hours of exercise per week. Many communities and organizations have outdoor sports leagues, hiking, biking, walking, running, gardening, and yard work are all great activities to keep you physically active. Remember to bring a water bottle with you and drink from it often. If you wait until you are thirsty, you are already starting to dehydrate. Exercise in the morning or evening when the weather is cooler.



**Vitamins and minerals in your diet increase when produce of various colors are selected.** During the summer, try bell peppers, zucchini, summer squash, eggplant, cantaloupe, honeydew melon, strawberries, blueberries, cherries, sweet corn and a wide range of lettuces. Remember to add a handful of walnuts for the salad for the added health benefit of omega-3 fatty acids. Make a stop at a local farmers market or a road side stand to get the freshest produce. Not only will you help the local farmer, but you will help yourself!



**Swim!** water-based activities are gentler on the joints than land-based exercise, helping with arthritis and fibromyalgia symptoms, and swimming helps to reduce stress levels and improve mood. Swimming is also a high calorie-burning activity; an hour of swimming can burn up to 650 calories, depending on how much you weigh.

**Gain the health benefits of tea.** Beyond refreshment, tea provides other benefits that can help to improve health. Tea contains antioxidants, cancer and heart protective polyphenols. It has less caffeine than coffee or soda, to boost concentration without getting jittery. For a new twist try making sun-brewed tea; use 4-6 tea bags and fill a 2-quart glass container with water. Place the container in sunlight for 3 to 5 hours to brew.



**De-stress in a natural setting.** Green leaves, wild flowers, chirping birds, lapping water....breathe in the sites and sounds that come with summer. Spending time in a natural setting can soothe the soul and reduce stress. Take time to relax and enjoy your surroundings. Check the schedule of a local community center, park or nature club for upcoming activities like outdoor yoga or nature hikes.

Take full advantage of the what the summer has to offer. Your mind, health and spirit will be glad you did!

# CT ACHCA Chapter Inducts 2014 CNA Hall of Famers

The American College of Health Care Administrators, Connecticut Chapter (ACHCA-CT) conducted its annual meeting on March 19, 2014 at Zandri's Stillwood Inn in Walingford, CT. The most anticipated part of the annual meeting is always the induction awards ceremony for the annual recipients of the CNA (Certified Nursing Assistant) Hall of Fame Award. This was the 12<sup>th</sup> anniversary of the event and it proved to be every bit as inspiring, touching and heartfelt as in prior years.

In order to qualify for consideration, nominees must have a minimum of 20 years of service as a CNA and an unblemished license history with the State of Connecticut. Candidates are nominated by their facilities' supervisors who submit letters of recommendation and supporting information for each candidate. Representatives of ACHCA-CT review all applications and make the final selections.

The Trust was proud to once again sponsor this year's ceremony as six new inductees were presented. They were: Sharon Benjamin of West Hartford Health & Rehabilitation Center, Mary Bohan of Apple Rehab in Saybrook, Dawn DeGroat Gallup of Huges Health & Rehabilitation Center in West Hartford, Elaine Geraci of Andrew House in New Britain, Marilyn MacDonald-Fitch of Glastonbury Healthcare Center and Leann Quinones of Middlesex Health Care Center in Middletown.

Congratulations to all the recipients but a special congratulations to Sharon Benjamin of West Hartford Health & Rehabilitation Center (pictured at right), a long time Trust member!



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## NCCI Symposium Paints Improving Picture

More than 800 insurance professionals recently attended the National Council on Compensation Insurance's (NCCI) Annual Issues Symposium in Orlando, Florida. This year's meeting delivered favorable news for national workers' compensation results. Each year NCCI selects a single word to summarize current market conditions as perceived by their organization. Last year's word was "encouraging" as the market continued its long march back towards profitability and stability. Fortunately, the 2013 year delivered continued improvements in overall results leading NCCI to select the word "balanced" as being reflective of the national market's position as we work our way through 2014.

Nationally, workers' compensation premium increased by more than 5% , driven primarily by payroll growth and increased pricing. Connecticut's premium outperformed national results with premium growth in excess of 10%. Total national premium is now in excess of \$37 billion, as compared to \$35 billion in 2012.

Perhaps the most encouraging news is the continued sizable drop in the national combined loss ratio from 115% in 2011, to 108% in 2012, to 101% in 2013. This is the lowest combined loss ratio since 2008. The 2013 year has also seen a 2% drop in lost time claim frequency and lower than expected increases in both indemnity and medical claims severity.

Residual markets (assigned risk pools) growth continued but at a slower pace and the increases were primarily driven by larger accounts (over \$100K in premium) being placed in those markets. This is the result of continued underwriting discipline as some of these risks are in less hazardous occupations than would normally be found in residual markets.

One other positive note is the industry's surplus is 2% higher than average and is the highest it has been since the recession.

# The Legal Corner

Attorney John Letizia, Managing Partner  
Letizia, Ambrose & Falls, P.C., New Haven

## Providers Beware: Medicare & Medicaid Fraud

Federal and Connecticut government agencies are aggressively taking steps to crack down on health care fraud and recover overpayments from health care providers participating in federal health care programs including Medicare and Medicaid. The concern is that some of these providers being subject to review clearly did not intend to commit fraud, but with this new aggressive approach, they are being investigated as if they have.

In particular, the Centers for Medicare and Medicaid Services (“CMS”) has recently released a directive addressing a plan to focus on “recalcitrant providers” and has taken other measures to screen and target providers for fraud. In addition, states are focusing their efforts on Medicaid fraud and abuse prosecutions of providers alleged to have billed for services that were never rendered. This recent government activity highlights the need for providers to conduct routine self-audits of sample claims submitted to Medicare and Medicaid to ensure compliance with federal program billing payment requirements, and take immediate steps to remedy any compliance failures that are discovered on audit.

### Recent Efforts by the Federal Government

On January 15, 2014, CMS released a directive addressing its plans to crack down on “recalcitrant providers” improperly receiving payments from federal health care programs by referring these providers to the Inspector General of the United States Department of Health and Human Services (“HHS”). The Inspector General has the authority to issue civil fines and exclude providers from participation in Federal health care programs like Medicare and Medicaid. CMS defines a “recalcitrant provider” as a provider “abusing the program and not changing inappropriate behavior even after extensive education to address these behaviors.”

However, even if a provider does not meet the definition of “recalcitrant,” the provider may be subject to heightened scrutiny by the Federal government simply by virtue of the volume of Medicare and Medicaid billings submitted for payment. For example, HHS has recently directed Medicare officials to establish a cumulative payment threshold for physician providers as a way to screen potential fraud and abuse; payments in excess of the threshold would be more closely scrutinized and may be subject to an audit or a fraud and abuse investigation. HHS is expected to implement similar screening mechanisms for other health care providers.



### States Target Home Health Medicaid Payments for Criminal Arrests

As Medicaid home care spending has increased, anti-fraud efforts have focused more resources on prosecuting alleged Medicaid fraud among home care providers, particularly in the area of agencies and individuals billing for services that were not rendered. As of March 1, 2014, six states had announced arrests and prosecutions of home care providers for Medicaid fraud in the first two months of 2014 alone. Providers can also be subject to overpayment recovery efforts by the state and Federal governments, as well as Medicare and Medicaid audits, even when they identify overpayments in connection with Medicare and Medicaid programs but fail to take steps to return the overpayments in a timely fashion.

### Impact on Providers

Providers that participate in Federal health care programs must be aware of their compliance obligations and take steps to ensure their continued compliance with these obligations. Routine self-audits are an important compliance measure that serve a number of functions. First, they enable providers to determine whether their records would support a finding that the services ordered and performed were necessary and reasonable. Second, self-audits allow providers to assess whether their health care records contain all necessary information to support reimbursement from the Federal health care program. Self-audits allow providers to flag potential problems involving how the health care information was recorded or billed and take timely action in response. Finally, health care providers that receive correspondence from CMS or their fiscal intermediary notifying them of an audit or an investigation into potential fraud and abuse should take immediate action and, if needed, contact their legal counsel and appropriate consultant.

# The Medical Corner

Mark Russi, M.D., MPH, Medical Director  
Workers' Compensation Trust

## Concern Regarding Recently Approved Opiate

While patients may benefit, particularly during the acute phase of an injury, from prescription opiates, there is increased national awareness and increased concern about addiction and abuse of such substances. For that reason, many prescription opiates are prepared in ways that make them less likely to be used for other than medical reasons. According to the American Pharmacists Association (APhA), opiate-containing pain medications may contain substances such as naloxone, niacin, or other compounds that trigger adverse effects when injected or snorted, but which are inert when absorbed from the gastrointestinal tract. Oral opiate preparations may also contain fillers that prevent the active form of the medication from getting into the body too quickly via snorting or injecting, thus lessening the potential for users to obtain a heroin-like high.

The FDA has announced that such abuse-deterrent properties are a public health priority. However, according to APhA, they are not available for many extended release/long-acting painkillers. Due to this shortcoming, the FDA has announced it does not think it feasible at this time to require abuse deterrent additives for all new orally dosed opioids. Zohydro ER, for example, an extended release formulation of hydrocodone, was approved by the FDA in 2013 without such additives. Because of this, prescribers are required to provide patients with medication guides, and to counsel patients on its safe use, storage, and disposal. The medication is also the subject of a study to evaluate risk of abuse with long-term use.

Despite such measures, many have expressed concerns regarding Zohydro ER. The Anesthetic and Analgesic Drug Products Advisory Committee, which is charged with advising the FDA on the safety and effectiveness of marketed and investigational human drug products, voted 11-2 against approving the drug without an abuse deterrent, citing concerns over the potential for addiction. A large number of State Attorneys General sent a letter to FDA Commissioner Margaret Hamburg urging the agency to reconsider its approval of Zohydro ER. And Senator Joe Manchin, D-W.Va., has introduced legislation, the "Act to Ban Zohydro," that would withdraw approval of the drug and ban the FDA from approving similar medications without abuse-deterrent features. Similar legislation has been introduced in the House.



The outcome of such measures is unknown at this point, but the abuse potential of this medication is of real concern. Zohydro ER has been excluded from the Trust's list of approved opiate medications.



## What Do You Think?

**Does the statutory provisions allowing a termination of benefits prior to an evidentiary hearing in violation of the due process a guarantee of the fourteenth amendment? Due process is the guarantee of a fair legal process when the government seeks to burden a person's protected interests in life, liberty, or property.**

**Answer:** The Appellate Court held that Sec 31-296 and the formal hearing process met the requirements of due process. The Court found that the case was similar to the termination of Social Security Disability benefits were an evidentiary hearing is not required. In fact the Court felt that Sec 31-296 procedures afforded the claimant with greater opportunity to challenge the discontinuance than the process for termination under Social Security Disability benefits.

Sec. 31-296 Before discontinuing or reducing payment on account of total or partial incapacity, the employer or the employer's insurer, if it is claimed by or on behalf of the injured employee that such employee's incapacity still continues, shall notify the commissioner and the employee, by certified mail, of the proposed discontinuance or reduction of such payments. Such notice shall specify the reason for the proposed discontinuance or reduction and the date such proposed discontinuance or reduction will commence. No discontinuance or reduction shall become effective unless specifically approved in writing by the commissioner. The employee may request a hearing on any such proposed discontinuance or reduction not later than fifteen days after receipt of such notice. The commissioner shall not approve any such discontinuance or reduction prior to the expiration of the period for requesting a hearing or the completion of such hearing, whichever is later.



## Upcoming 2014 Educational Programs for Members

The following 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. Detailed information and more courses can be found on our website at [www.wctrust.com](http://www.wctrust.com). Most courses offer Continuing Education Units (CEUs). Your attendance is encouraged.

### ADA & FMLA: An Advanced Program for Employers

Thursday, June 12	9:00 AM - 3:30 PM	Members: FREE	Value: \$300
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### Motivation and Managing a Diverse Workplace

Wednesday, June 18	9:00 AM - 12:00 PM	Members: \$40	Value: \$100
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### Partnering With The Trust - A Must for New Members and Employees Who Manage Workers' Comp Claims

Wednesday, July 16	9:00 AM - 11:30 AM	Members: FREE	Value: Priceless
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### Preventing Ergonomic Injuries: A Train-the-Trainer Seminar

Thursday, August 7	9:00 AM - 12:00 PM	Members: FREE	Value: \$100
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### Eliminating Costly Employee Slips, Trips & Falls

Thursday, August 14	9:00 AM - 12:30 PM	Members: FREE	Value: \$100
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### DSS Audits: What You Need to Know to Be Prepared

Thursday, September 11	9:00 AM - 12:30 PM	Members: FREE	Value: \$100
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### Transitioning Into a Supervisory Role

Wednesday, September 17	9:00 AM - 12:00 PM	Members: FREE	Value: \$100
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