

# Trust Intelligence

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## OSHA Updates Hazard Communication Standard December 1 Deadline for Employers

In 2012, OSHA revised its Hazard Communication Standard (HCS) to align with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Two significant changes contained in the revised standard require the use of new labeling elements and a standardized format for Safety Data Sheets (SDSs), formally known as Material Safety Data Sheets (MSDSs). The goal of the revisions is to improve worker understanding of hazards associated with chemicals in their workplace. OSHA is currently phasing in the specific requirements over several years (December 1, 2013 to June 1, 2016).

In an ongoing effort to educate and assist our members with regulatory compliance, the Trust has provided information and resources to our members. In June, we partnered with OSHA to provide two Train-the-Trainer programs on this new standard. In July an informational email was distributed to all members which included a Power Point training module, a sample policy and additional reference materials from the OSHA website.

In addition to these very valuable tools, members can also go online to Trust University to gain access to employee training on these new changes.

The following summarizes phase-in dates for the new GHS standard.:

**By December 1, 2013 - All Employers must train employees on the new label elements and Safety Data Sheet (SDS) format**

**By June 1, 2015** - Chemical manufacturers, importers, distributors and employers must be in compliance with all modified provisions of this rule except:

**By December 1, 2015** - The Distributor shall not ship containers labeled by the chemical manufacturer or importer unless it is a GHS label.

**By June 1, 2016** - All Employers update alternative workplace labeling and hazard communication program as necessary, and provide additional employee training for newly identified physical or health hazards.

During the transition period between now and the above listed dates, employers must comply with either 29 CFR 1910.1200 (the final standard), or at least, the current standard.

Please contact your Loss Control Consultant with questions or Carol Fronczek at 203-678-0161, [fronczek@wctrust.com](mailto:fronczek@wctrust.com).



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# Insurance Market Returns to Underwriting Discipline



The majority of business owners across the country have seen continued increases in their insurance premiums over recent years, often times with large jumps from one year to the next. While the increases have impacted nearly all

lines of the property and casualty business, often times workers' compensation costs have had the largest single impact. In many instances, carriers have completely withdrawn from offering certain coverages to specific types of businesses. Over the past three years alone, we have seen several carriers withdraw or severely restrict their offerings of workers' compensation coverage to healthcare employers in Connecticut.

This "tightening" of the market has many causes but its ultimate impact results in carriers returning to the basics of underwriting, reassessing which types of businesses they can actually make a profit in, and taking a more responsible approach to pricing. Since carriers are no longer seeing large investment returns on premiums, they must focus more on pricing accounts

correctly upfront. The carriers are also seeing their reinsurance costs rising rapidly, forcing many to buy less reinsurance and bear more of the risk themselves. This can have devastating effects if loss results are higher than predicted. Additionally, tighter governmental regulations and more scrutiny from rating agencies have carriers more focused on strengthening reserves and less focused on growth. As if that's not enough, adding to the mix is the accelerating cost of medical care which seems to be outpacing actuarial projections.

We're pleased to report that the Trust has maintained its disciplined underwriting approach throughout the years and we are well positioned financially to continue our mission of being a stable, competitive workers' compensation market for Connecticut's healthcare businesses. This approach has allowed the Trust to return over \$21.5 million in premium returns to its members while simultaneously providing them with unparalleled educational seminars, loss control services and claims management expertise. It is in "hard markets" like this that the value of the Trust really shines head and shoulders above the competition. The combined team effort of the Trust, its members and its brokers creates a winning combination for all of us. Thanks for being a Trust member!

## Spine Surgery Medical Management Program Demonstrating Positive Results

The Trust announced in December 2011 that Dr. William Druckemiller, a recently retired prominent Hartford neurosurgeon, joined the Trust in the capacity of medical consultant to assist in the creation and development of the Trust's proprietary Spine Surgery Medical Management Program. Since its inception, the goal of the program has been twofold: 1) ensure that the latest evidence-based guidelines issued through the Workers' Compensation Commission and other medical reference sources are applied to spine surgery requests, especially fusion requests, and 2) educate our adjusters and nurse case managers on improving claims outcomes for these very costly surgeries.

Well, almost 18 months since the inception of the program, the Trust is pleased to announce that it has achieved significant savings by reducing and successfully denying spinal fusion requests by 21% to date, based on not meeting clinical guidelines. This effort has resulted in a savings of over \$1 million dollars in claims expense.

A Savings of  
**OVER \$1 MILLION**  
in claims expenses



# Schoolcraft Decision Heading to Connecticut Supreme Court

Back in March, the Trust informed our members and TPA clients that a September 2012 decision rendered by Second District Workers' Compensation Commissioner David W. Schoolcraft, concerning payments to hospitals for treating workers' compensation patients, would significantly increase claim cost for hospital services. At issue was the applicability of a longstanding statute which clearly speaks to the fact that a hospital shall provide medical treatment to injured workers in workers' compensation cases at the hospital's actual costs rather than their billed charges. Schoolcraft's decision basically said that the hospital's charges are their costs and must be paid in full, barring a specific discount agreement between payor and provider.

The Schoolcraft decision was immediately appealed by a number of parties representing the payor/employer community opposed to the decision and, at that time, it was believed that it would be sent to the Workers' Compensation Commission Review Board (CRB) to be heard. In the meantime, new legislation was proposed during the 2013 spring legislative session for changes to the law that would have made for a more transparent and equitable process between payors and providers concerning hospital charges. Unfortunately, the legislation died in the final days of the session by failing to get out of committee for a vote.



The Trust has been closely monitoring the Schoolcraft decision and the appeal process from the start and has recently learned that the case will now skip the CRB and the Connecticut Appellate Court and will head directly to the Connecticut Supreme Court in the spring of 2014. It is anticipated that a final decision on this hotly contested issue will be rendered in the fall of 2014.

In the meantime, the hospital cost statute remains on the books.

## 20 Years as Trust Members

In keeping with tradition, Diane M. Ritucci, President & CEO, and Pat Cramer, Account Executive have had the pleasure of visiting members to show their appreciation of 20 years of Trust membership. In celebration and recognition of their longstanding support of the Trust, Ms. Ritucci presented each of the organizations with a commemorative plaque and a tray of cookies to share with their staff. Recently celebrating 20 years are Clasp Homes in Westport, and Valley Association of Retarded Children and Adults (VARCA) in Derby.



Pictured above, Pat Cramer, Keith Brown of Keston-Brown Insurance (KBI), Tracy Flood, President Clasp Homes, Jeannine Howard, Diane Ritucci, Michele Markelon, Meridith Genovese (KBI) & Robert Keston (KBI)



Pictured above from left to right are Paul Palanzo of Rose & Kiernan Insurance, Claudia Improta, Finance Director of VARCA, Joan Bucci, Executive Director of VARCA, Robert Wood, Chairman of Board of Directors of VARCA and Diane Ritucci.



# Encouraging Employee Health by Eating Right With Color

Splash some color on your plate! The American Dietetic Association wants you to make healthy choices by incorporating a colorful variety of fruits, vegetables, whole grains, lean proteins, and dairy into your meals every day. Not only are fruits and vegetables tasty, but many are beneficial in so many ways including reducing the risk of many types of cancer.



“Eat Right with Color,” provides an easy way to focus on improving eating habits — simply include plenty of color on your plate! Adding a splash of colorful seasonal foods to your plate makes for an eye-appealing meal with a multitude of nutrients.

**Green foods have antioxidant potential and may help promote healthy vision**  
Fruits: Avocado, apples, grapes, honeydew, kiwi and limes  
Vegetables: Artichokes, asparagus, broccoli, green beans, peppers and leafy greens such as spinach.

**Orange & deep yellow foods can promote healthy vision and immunity**  
Fruits: Apricot, cantaloupe, grapefruit, mango, papaya, peach, pineapple and lemon  
Vegetables: Carrots, yellow peppers, yellow corn, squash and sweet potatoes

**Purple and blue foods may have antioxidants with anti-aging benefits including increased memory**  
Fruits: Blackberries, blueberries, plums, raisins, figs and black currants  
Vegetables: Eggplant, purple cabbage and purple-fleshed potatoes

**Red foods may help you maintain a healthy heart and improve vision and immunity**  
Fruits: Cherries, cranberries, pomegranate, red/pink grapefruit, apples, grapes, strawberries and watermelon  
Vegetables: Beets, red onion, red peppers, red potatoes, rhubarb and tomatoes

**White, tan and brown foods often contain nutrients that may promote heart health**  
Fruits: Bananas, brown pears, dates and white peaches  
Vegetables: Cauliflower, mushrooms, onions, parsnips, turnips, white potatoes and corn



## What Do You Think?

The claimant was injured when he fell while working off the ground because he was not wearing fall protection equipment. The claimant had received two certificates from OSHA for general safety training that included the use of fall and harness protection. The employer required employees to use fall protection working 6 feet off the ground. Finally, two days before the claimant was injured he met with the employer’s health and safety officer to discuss the implementation of a fall protection plan. Was the injury deemed compensable?

### Answer

The injury was not compensable. The commissioner deemed the injury was caused by the willful and serious misconduct of the employee which absolves the employer from liability for payment of workers compensation benefits. The claimant admitted that his failure to wear the safety equipment constituted highly unreasonable conduct, grave breach of OSHA, and was against company policy.

# Second Injury Fund Assessment Unchanged

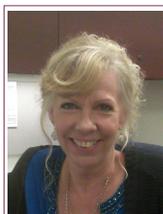
Good news! The Second Injury Fund (SIF) assessment, which is applied to all workers' compensation policies issued in Connecticut, will remain at 2.75% for the 7/1/13 to 7/1/14 term. The SIF is managed by the State Treasurer's office and each year that office releases the new assessment charge to be applied. Following is a description of the fund as copied from the State Treasurer's website:

***About the Second Injury Fund** - The State Treasurer is the Custodian of the Second Injury Fund ("SIF" or "the Fund"), a state operated workers' compensation insurance fund. During 2005, the Fund made many significant achievements, which included: completely paying off the long-term debt, originally scheduled to be paid off in 2016; dramatically reducing the rates charged to Connecticut businesses; reducing the program's unfunded liabilities; and, gaining approval for pro-business legislative reforms.*

*The Second Injury Fund was established in 1945 to discourage discrimination against veterans and encourage the assimilation of workers with a pre-existing injury into the workforce. Prior to July 1, 1995, the Fund provided relief to employers when a worker who already had a pre-existing injury or condition was hurt on the job and that second injury was made "materially and substantially" worse than it would have been if not for the first injury. Employers transferred liability for these workers' compensation claims to the Fund after 104 weeks, if certain criteria were met under the Connecticut Workers' Compensation Act.*

## The Trust Welcomes Three New Employees

With Trust membership at an all time high, it seemed only appropriate to build upon our existing staff. We are thrilled to welcome the following three new staff members to the Trust family:



**Nancy Frank** has been a Registered Nurse since 1973. She joins the Trust as a Nurse Case Manager with 13 years experience in workers' compensation, most recently with Berkeley Administrators.



**Laura Gagnon** has over 25 years of workers' compensation experience having worked for several major carriers prior to joining the Trust. She joins us as a Sr. Claims Adjuster working with members and TPA clients.



**Heather Hinckley** joins the Trust as the new Loss Control Administrative Assistant. She will be working closely with members on all loss control and educational matters.

We hope that you will help us welcome these three great additions and that you will have the opportunity to work with them soon.

## Save the Date

**Thursday, October 3, 2013**

for the

The State of Connecticut Workers' Compensation Commission's  
100th Anniversary Symposium titled  
**"Yesterday, Today and Tomorrow"**

A full day event followed by a cocktail reception to benefit the Disabled Workers' Scholarship Program  
For more information, go to <http://wcc.state.ct.us/symposium2013/index.htm>

# The Legal Corner

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

## New Employee Personnel Files and Unemployment Compensation Laws

New legislation effective October 1, 2013 will significantly increase the obligations of Connecticut employers with respect to employee personnel files and unemployment compensation filings. Amendments to the personnel files law will require employers to 1) provide current and former employees with expedited access to their personnel files; 2) notify employees of discipline and termination documents; and 3) inform employees of their right to submit a rebuttal to any performance, disciplinary or termination documents. Failure to comply with these requirements will result in increased penalties by the Connecticut Department of Labor (“DOL”). Changes in the unemployment compensation law are intended to help fight unemployment compensation fraud, but will also increase the obligation of employers to electronically submit accurate and timely information to the DOL. Employers must be familiar with these new compliance obligations and revise their policies and procedures accordingly.



### Amendments to Personnel Files Law

**Expedited Timeframes** - The Connecticut Personnel Files Law gives employees the right to inspect their personnel files within a “reasonable time” of a request. However, under the new law:

- an employer must allow a current employee to inspect or copy his personnel file within seven (7) business days of a written request;
- an employer has ten (10) business days from the receipt of a request to allow a former employee to inspect or obtain a copy of his personnel file; and
- former employees can also inspect and copy their personnel files at a “mutually agreed upon” location, and if one cannot be agreed upon, the employer must mail a copy of the personnel file to

the former employee within ten (10) business days of receiving the written request.

**Notification of Discipline and Termination Documents** - Under the new law, employers must provide employees with a copy of any written disciplinary action, e.g., a warning letter, within one business day after the action is taken. In addition, employees must “immediately” receive copies of any notices of termination. However, the amendments do not require employers to produce or create documentation of the disciplinary action or termination, but we strongly recommend you do.

**Employee Right to Submit Rebuttal** - Employers must now include in every documented disciplinary action, notice of termination and performance evaluation a statement in “clear and conspicuous language” that if the employee disagrees with any information in the document, the employee may submit a written statement explaining his position. The employer must keep the employee’s statement in the personnel file and include it whenever the file is transmitted to disclose to a third party. **Employers should also consider a written response to the rebuttal.**

**Increased Civil Penalties** - The new law grants the DOL discretionary power to establish an appropriate fine of up to \$500 for any first violation and \$1,000 for any subsequent violations.

**Implications for Employers** - Employers must ensure that staff and compliance personnel are trained in the requirements of the new law and that relevant policies are revised as necessary to reflect the new timeframes and procedures. Moreover, employers must ensure that all disciplinary and termination documents are prepared properly, as employees will now have a right to submit a rebuttal.

### Unemployment Compensation Law Changes

Effective October 1, 2013, employees who fraudulently receive unemployment compensation benefits are subject to increased penalties. Finally, if unemployment compensation benefits are paid out because the employer failed to respond to DOL requests for information, the payment of the benefits will adversely affect the employer’s experience rating. In addition, the new law requires the following:

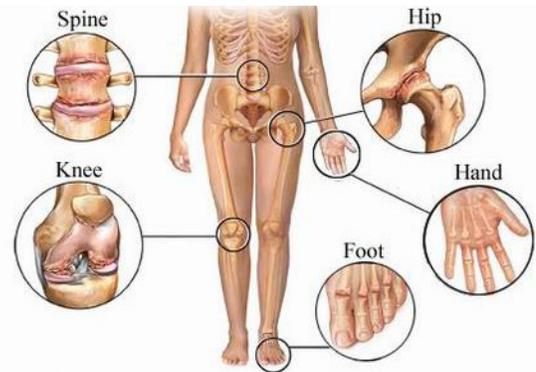
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## Age and Osteoarthritis Potential Costs to Employers

As we age, our joints become increasingly vulnerable to degenerative changes known as osteoarthritis. According to the U.S. Centers for Disease Control and Prevention (CDC), 13.9% of adults aged 25 and older, and 33.6% of those over age 65 are affected. Knees, hands, hips, and the spine are the tissues most commonly involved, and "job-related" osteoarthritis costs may exceed 13 billion dollars per year in the United States. According to national survey data, osteoarthritis of the knee is 1 of 5 leading causes of disability among non-institutionalized adults. About 80% of patients with osteoarthritis have some degree of movement limitation, and as many as 25% cannot perform major activities of daily living. While accidents and chronic stresses may cause a predisposition to osteoarthritis, the risk factor most strongly correlated with the condition is aging.

Osteoarthritis is characterized by degeneration of joint cartilage, which reduces the capacity of the joint to provide effective shock absorption, and predisposes one to bone tissue damage. Radiographs reveal joint space narrowing, presence of bony spicules, scarring in the joint lines, and cysts associated with the bone and cartilage. Clinically, patients experience joint pain and swelling, which may be chronic or episodic.

Among those with osteoarthritis, studies have shown that participation in moderate-intensity, low-impact physical activity improves pain, functional status, mood and



quality of life without worsening symptoms or disease severity. Physical activity, including aerobic and muscle strengthening exercise may also delay disability. In 2010, the Centers for Disease Control and Prevention and the Arthritis Foundation released *A National Public Health Agenda for Osteoarthritis*. The *Agenda* lists physical activity as a priority intervention to improve arthritis symptoms and to prevent arthritis-related limitations in activity. The American College of Rheumatology recommends physical activity for almost all forms of arthritis.

While exacerbations of osteoarthritis, which occur commonly in the workplace, may require a patient to reduce some activities for a limited period of time, gradual re-establishment of normal activities should remain the goal as symptoms become more tolerable. In general, long periods of rest due to degenerative conditions of the joints are counterproductive and should be discouraged.

## Legal Corner - Continued From Previous Page

- employers must file quarterly wage reports electronically unless the employer obtains a waiver from DOL due to undue hardship;



- employers are subject to a \$50 fine for failing to notify DOL that they are subject to unemployment tax within 30 days of starting or acquiring a business; and
- employers are subject to a \$25 fine for failing to provide the correct unemployment compensation registration number in their quarterly wage reports to DOL.

Employers must be aware of their compliance obligations in this area and ensure that they have the processes in place to timely and accurately convey the necessary information to DOL.



## Upcoming 2013 Educational Programs for Members

The following seminars are offered by the Trust for the fourth quarter of 2013. 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. Detailed information 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.

### Workers' Compensation Claims: From Start to Finish

Thursday, October 10	9:00 AM - 3:30 PM	Members: FREE	Value: \$200
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### OSHA 10 Hour General Industry Safety & Health Outreach Training

Thursdays, October 17 & 24	8:45 AM - 3:30 PM	Members: \$195	Value: \$300
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### Partnering With the Trust

Wednesday, October 30	9:00 AM - 11:00 AM	Members: FREE	
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### Wages & Workplace Standards

Thursday, November 7	9:00 AM - 11:00 AM	Members: FREE	Value: \$100
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### Safe Patient Movement & Handling

Thursday, November 14	9:00 AM - 12:00 PM	Members: FREE	Value: \$100
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### Sexual Harassment Prevention Training for Supervisors

Thursday, December 5	9:00 AM - 11:00 AM	Members: FREE	Value: \$100
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### National Safety Council 4-Hour Defensive Driving Course

Tuesday, December 17	8:30 AM - 1:00 PM	Members: \$40	Non-Members: \$60
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