

Trust Represented on Two Key Committees at the Workers' Compensation Commission

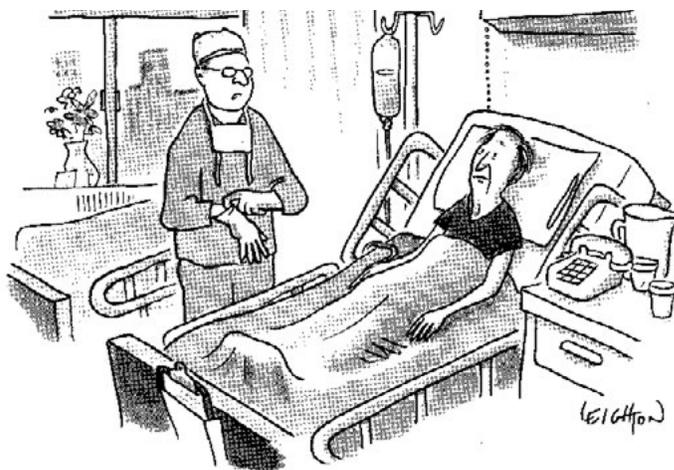
At the request of the Workers' Compensation Commission Chairman John A. Mastropietro, the Trust is participating on two key committees impacting workers' compensation policy in the state.

The first committee was created as a result of Senate Bill 61, passed in May of 2014 by the Connecticut Legislature. This bill requires the Commission to create a workers' compensation fee schedule for services rendered at a hospital or Ambulatory Surgery Center (ASC). For years, these costs have skyrocketed for employers and the need for a fair method to calculate how hospitals and ASCs should be paid for treating injured workers was much needed. The first meeting was held in July and was attended by various stakeholders from the payor, provider, and employer communities. Diane M. Ritucci, President & CEO of the Trust represented the interests of our members and self-insured clients. Pursuant to the legislation, the law requires that a fee schedule be developed and implemented no later than January 1, 2015 and this group will be working feverishly over the next five months or so to meet that deadline.

A second committee was recently formed to address the emerging concerns of opioid use (narcotic pain medication) by injured workers. A recent industry report published by the Workers' Compensation Research Institute stated that approximately 60% of injured workers in the state of Connecticut with greater than seven days of lost work time receive narcotic pain medication(s) at some point throughout the life of their claim. The Chairman has expressed his concern as the dangers of narcotic misuse resulting in death and addiction continue to be on the rise in the United States.

The first meeting was held in June and was attended by physicians, legal counsel, commissioners and payors. Brian Downs, VP of Quality and Provider Relations attended from the Trust. Clear objectives were identified: (1) creating additional educational information for providers and injured workers on the dangers of long term opioid use; and (2) creating an easy to use assessment tool to help providers determine the effectiveness and safety of prescribing these types of drugs in the overall care of their patients.

Once again, the Trust is privileged and honored to work with the Commission to advise and participate in these very important issues impacting the workers' compensation system and to assist in policies and protocols that affect the safety and well being of injured workers, and reduce costs for our members and self-insured clients.



"I'll have someone come in and prep you for the bill."

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Second Injury Fund Assessment Unchanged for Second Consecutive Year

Good news for Connecticut employers! For the second consecutive year the Second Injury Fund (SIF) assessment, which is applied to all workers' compensation policies issued in Connecticut, will remain at 2.75% for policies issued from 7/1/14 to 7/1/15. The SIF is managed by the State Treasurer's office and each year that office releases the new assessment charge to be applied. The fund is financed by assessments on all Connecticut employers' workers' compensation policies.

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 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 SIF after 104 weeks, if certain criteria were met under the Connecticut Workers' Compensation Act.

Today, the Fund continues to be liable for those claims transferred prior to the closing of the Fund as well as claims involving uninsured employers, reimbursement of cost of living expenses for certain injuries involving payment of total disability benefits or dependent widows disability benefits and, on a pro rata basis, reimbursement claims to employers of any worker who had more than one employer at the time of the injury.

The assessment is paid along with your policy premium. For additional information visit the following site and click the Second Injury Fund tab: <http://www.ott.ct.gov/index.html>



A female visiting nurse in her early thirties injured her neck in January 2013 while on the job. The worker immediately sought treatment with a pain management specialist and was placed

on very restrictive duty, working limited hours with limitations in lifting. These restrictions lasted for four months requiring the member to accommodate the worker while other employees took on her work assignments, in addition to their own. The worker also continued to seek medical care including interventional pain management injections.

Due to suspicion that the worker was exaggerating her symptoms, the Trust initiated an investigation with its Special Investigations Unit (SIU). Video surveillance over a four month period revealed that the worker routinely went to the gym and engaged in extreme weightlifting and body building exercises, many of which can cause significant strain to the neck. The investigation also revealed the worker participating in a regional body building competition in April of 2013. Video evidence was collected as proof of her participation.

The Trust shared our findings with the member who terminated her employment based on facts that she lied during a deposition concerning the extent of her

outside physical activities. The worker immediately obtained counsel and initiated steps to sue her employer for wrongful termination as a result of filing a workers' compensation claim. At the same time, the Trust prepared the potential fraud file and referred it to the State's Workers' Compensation Fraud Unit for consideration.

Ultimately, the Trust was able to settle the claim for significantly less than its potential value with the agreement of the claimant to not pursue the lawsuit against the member. The decision to settle the claim also avoided significant future legal expenses for both the Trust and the member.



If you suspect someone of committing fraud or misrepresenting facts while collecting workers' compensation benefits, please call our HOTLINE at 800-559-3739. Caller does NOT need to leave their name.

Member Recognition Awards



Great Idea Award

The **Great Idea Award** is presented to members who have developed an innovative safety initiative that has helped to reduce workers' compensation injuries.

The 2013 Great Idea Award was presented to MARC: Community Resources, Ltd. for the engagement and support of their safety committee. Supervisors complete behavioral lift observations monthly and report back to the committee to review and discuss. In addition, each committee member writes one article for the company newsletter focusing on safety. The committee remains engaged and has been very effective in helping to keep claim costs and injuries down. Present to accept the award were Carol Visnia, Chairwoman of the Safety Committee, Donnalynn Petrella, Vice President of Human Resources and Elizabeth Warner, President & CEO.



Award of Excellence



The **Award of Excellence** is presented to members who have demonstrated a commitment to safety within their organizations. Criteria includes a favorable workers' compensation loss history, effective and innovative risk management programs, the accommodation of injured workers back to the workforce and the presence of a strong safety culture.



Thames Valley Council for Community Action, Inc. was one of the two Award of Excellence recipients due to their effective risk management and OSHA programs, comprehensive workplace violence program, and accident investigation program. They had exceptional attendance at Trust educational seminars, peer networking meetings and have completed numerous courses on the Trust's online training resource, Trust University.

Diane Ritucci, President & CEO of the Trust, and Monica Garrity and Debbie Hume of Smith Insurance, were on hand to present the award to TVCCA staff.

Midwestern Connecticut Council on Alcoholism, Inc. also received the Award of Excellence this year for their strong and effective safety committee, loss source based training, accident investigation programs and their utilization of the Trust's Video Lending Library. They were one of only 7 organizations in Connecticut to be awarded OSHA's SHARP designation. SHARP is the On-site Consultation Program's Safety and Health Achievement Recognition Program (SHARP) which recognizes small business employers who operate an exemplary injury and illness prevention program.



Carol Fronczek, Vice President of Loss Control for the Trust and Marj Linnin, recently retired Loss Control Consultant for the Trust presented Maribel Hammer, Executive Assistant, and the staff of MCCA with the award.



Tips for Shift Workers: Ways to Achieve a Healthy Balance

Use light to cope with shiftwork - Research shows that light exposure triggers the 24-hour cycle your body lives, eats, works and sleeps by. Getting more light at the right time and being in total darkness at others can help you better manage shiftwork.

Put on the shades - Wear sunglasses if you commute home in bright daylight or are outside in the sunlight before you go to bed at so the light doesn't trigger alertness.

Brighten your workspace - If permitted, make your work area as bright as possible to help you feel more awake on the night shift.

Darken your sleeping area - Block the light from windows as completely as possible so your bedroom is in total darkness no matter what the clock says. Install dim nightlights so you don't have to turn on bright lights if you need to get up.

Talk with your healthcare provider - If you have trouble sleeping or experience severe fatigue that interferes with your life and work for more than a week or two. Some shiftworkers benefit from prescribed light therapy using special light fixtures, similar to the treatment for seasonal affective disorder. Carefully timing your exposure to light and dark can help you feel more energetic when you're working at night and rest more easily during the day.

Stay Awake at the Wheel - Driving while tired is just as dangerous as driving while intoxicated. Fatigue slows your reaction times and impairs your judgement.

The best way to prevent drowsy driving is to get plenty of sleep and avoid driving after periods of sleep deprivation or double shifts. **What doesn't work when you are driving and feeling drowsy?** Opening the window, or turning up the radio does not work. Drinking coffee or other caffeinated beverages may sometimes help, but the effect does not last long.



If you have trouble keeping your eyes open at the end of your shift, get a ride home instead of driving. If you're behind the wheel and begin to exhibit signs of drowsiness (i.e. tailgating, hitting the rumble strip, frequent blinking, or yawning uncontrollably), pull over someplace safe and rest or call someone to come get you. Don't let drowsy driving put you or others at risk.

Myth or Fact?

Eating at night leads to more weight gain than eating during the day

Myth A calorie is a calorie, no matter what time you eat it. However, research does show that people may be more likely to make poor food choices late at night (such as refined carbohydrates, processed foods and sweets). Go ahead and eat on the night shift, just make sure you choose healthy foods, watch your portion sizes, and balance your calorie intake with physical activity to manage weight.

The stress of night work can give you an ulcer

Myth Most ulcers are caused by a bacterium called *Helicobacter pylori*. While certain foods, skipping meals, stress and other factors can irritate an ulcer, they do not cause it.

Caffeinated coffee keeps you "regular"

Fact Research shows that the caffeine in coffee stimulates the colon and may send people to the restroom in minutes of drinking it. However, caffeine is also a diuretic, which means it draws liquid out of stools and can make them harder to pass. Too much caffeine can also lead to sleep problems, anxiety and dependency. Even the acidity of decaf coffee has been shown to cause digestive upset in sensitive people. Stick to a cup or two of caffeinated coffee daily (or avoid if you are sensitive). Go easy on the decaffeinated too if you experience heartburn, irritable bowel or other gastric upset.

Keeping Employees Safe in Nursing Homes

The Occupational Safety and Health Administration (OSHA) has developed a new brochure, Safe Patient Handling: Preventing Musculoskeletal Disorders in Nursing Homes, that addresses the prevention of musculoskeletal disorders (MSDs) among nursing home and residential care workers.

MSD injuries are the single biggest worker injury in the healthcare sector. This new resource will help make employers and workers aware of the activities that pose the greatest hazards to workers who care for residents in nursing and residential care industries and what can be done to decrease risks to these workers.

Successful safe patient handling programs include input from caregivers, commitment to the program by all levels of management, hazard assessment, and the use of technology and equipment to control hazards and training.

Brochures are available online at www.osha.gov and through OSHA's Publications Office at 202-693-1888.

OSHA also has a dedicated web page for Nursing Homes and Personal Care Facilities which addresses the industry's most common hazards, OSHA enforcement initiatives including the National Emphasis Program-Nursing and Residential Care Facilities and information on implementing workplace safety and health programs to reduce the extent and severity of work-related injuries and illnesses. Information on Musculoskeletal Disorders, Bloodborne Pathogens/Needlesticks, TB, Workplace Violence, Slips, Trips and Falls, MRSA and Chemicals/Hazardous Drugs are a few of the programs and solutions available on the website.

Staff Changes

Marj Linnin & Ron Stosak Retire from Loss Control Services



After seven years of service as senior loss control consultant, **Marjorie Linnin** retired on June 30, 2014. Marj has worked with many of our members on improving their safety programs and workers' compensation loss experience. Marj enjoyed training and was always willing to "go the extra mile" to provide much needed services and technical advice. Marj's retirement plans include moving to her new home in South Carolina where she and her husband will enjoy the beaches, weather, family and hosting friends.



Ron Stosak, senior loss control consultant, also retired from the Trust on June 30, 2014 after twelve years of service. Ron was instrumental in developing many of our safety and risk management programs and trainings. Ron's hard work and dedication to his

members resulted in several members receiving the Trust's Award of Excellence. With Ron's assistance these members implemented strong and effective risk management programs which produced excellent results. Ron and his wife plan to remain in CT enjoying the outdoors including hiking, canoeing, fishing, and traveling to our national parks.

We will miss both Ron and Marj wish them a long, safe, happy and healthy retirement.

Trust Hires Pam Hunter & Claudine Ellis-Blagrove



The Trust is pleased to welcome Pam Hunter to our team. Pam joined the Trust on July 21st as a Senior Loss Control Consultant. Pam has an extensive loss control and insurance background, spanning over 25 years.

Pam has a BS in Occupational Safety and Health, a MS in Occupational Safety and Health Management and is currently pursuing her Ph.D. in Safety Sciences from Indiana University of Pennsylvania. Pam is a CSP, DDC4 instructor, and is a certified OSHA 10/30 Hour instructor.



We would also like to welcome Claudine Ellis-Blagrove to the Trust as our newest Senior Claim Representative.

Claudine comes to the Trust with over 14 years of claims experience, 9 of which have been in the field of workers' compensation. Most recently she worked with ESIS/ACE before joining us.

Claudine is a graduate of University of Hartford with a Bachelor of Science in Respiratory Therapy.

We hope our members will welcome the opportunity to work with both Pam and Claudine.

The Legal Corner

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

CMS' New Guidance on Alternative Sanctions for Home Health Agencies



In March 2014, the Centers for Medicare and Medicaid Services (CMS) issued guidance to state survey agency directors on the implementation of the new alternative sanctions for home health agencies that were implemented by CMS in a **Final Rule** published on November 8, 2012. The Final Rule imposed new alternative sanctions to be used against home health agencies found to have deficiencies constituting noncompliance with the Medicare Conditions of Participation, established new survey standards and implemented a new dispute resolution process for addressing condition-level deficiencies. The guidance issued by CMS instructs state surveyors on how and when to use the alternative sanctions, the procedural processes required to impose civil monetary penalties, and the dispute resolution process. Now that CMS has issued this guidance to state surveyors, home health agencies can expect to see changes in the way surveys are performed, how survey findings are addressed and the type of sanctions they may face if there are condition-level deficiencies.

The Final Rule Requirements

Alternative Sanctions The Final Rule gave CMS the authority to impose a variety of alternative sanctions against home health agencies with condition-level deficiencies instead of terminating the agency's provider agreement. The alternative sanctions are civil monetary penalties, directed in-service training, directed plans of correction, suspension of payment for new admissions and temporary management of the home health agency. Notably, when CMS imposes an alternative sanction, the sanction applies to the parent home health agency and its respective branch offices. The guidance issued by CMS in March instructed surveyors on the various levels of deficiencies, the circumstances under which sanctions could be imposed and the formal appeals

process to be used when the sanction of a civil monetary penalty is imposed. The sanctions of directed in-service training, directed plans of correction and temporary management were effective July 1, 2013. However, the provisions relating to the civil monetary penalties and the suspension of payment for all new admissions became effective July 1, 2014.

Survey Requirements

The Final Rule established requirements for unannounced, standard and extended surveys of home health agencies to ensure that the agency is meeting the Medicare Conditions of Participation. Notably, the new survey requirements, which were effective July 1, 2013, provided for visits to patient homes to evaluate whether the home health agency's services maintained the highest practicable functional capacity of the patient as reflected in the patient's written plan of care and clinical records. The guidance issued to state surveyors by CMS in March includes new survey protocols for surveyors to follow.

Dispute Resolution Procedures

The Final Rule creates an informal dispute resolution ("IDR") process for addressing a home health agency's dispute of condition-level deficiencies following a survey. The home health agency's request for IDR must be submitted in writing and received by the state survey agency within 10 calendar days of receipt of the statement of deficiencies. The CMS guidance issued to the surveyors in March establishes the steps in the informal dispute resolution process, outlines the state's obligation to notify the home health agency of the right to IDR and establishes the process the home health agency must follow to request IDR. The new dispute resolution procedure also became effective July 1, 2014.



If you have questions about the new procedures and alternative sanctions implemented by the Final Rule, please contact John M. Letizia at letizia@laflegal.com or Phyllis M. Pari at pari@laflegal.com.

The representations made in this article are the analysis of the law offices of Letizia, Ambrose & Falls, P.C., who are responsible for its content. This information and analysis are provided gratuitously and for information purposes only. You are encouraged to consult with the appropriate legal counsel prior to relying on this information or analysis.

Platelet-Rich Plasma & Orthopedic Injuries

Platelet-Rich Plasma (PRP) has received publicity lately as a therapeutic approach to a broad range of orthopedic injuries. While the physiological basis of the therapy is not completely understood, its effect may be due to the exposure of damaged human tissues to high concentrations of specific proteins involved in the healing process. Such proteins are found at high concentration in platelets, which are a specific type of blood cell involved in clotting. PRP is prepared by drawing a patient's blood, isolating and concentrating the platelets using a centrifuge, then injecting the concentrated platelets into a site of soft tissue damage. PRP injections have been used at sites of chronic injury, such as at the elbow for lateral epicondylitis (tennis elbow), at the Achilles tendon, or the patellar tendon of the knee. The injections have also been utilized in an effort to speed healing following certain orthopedic surgical procedures. A limited number of studies have shown benefit of PRP therapies, though the results

are mixed. The American Academy of Orthopedic Surgeons (AAOS) states that for chronic tendon injuries, PRP therapy has not yet been demonstrated to be more effective than traditional treatment. Further, the AAOS has stated that for acute ligament and muscle injuries, there is not definitive evidence that PRP therapy actually improves the healing process. With respect to use of PRP for arthritis of the knee, to speed healing of fractures, or as an adjunctive therapy following surgery, the AAOS has stated that an adequate evidence base is not yet at hand.

PRP is regarded as a therapy with the potential to enhance healing of a number of different injury types. Some studies of its application have been very encouraging, but questions remain regarding the consistency of results, and the specific injury types most likely to benefit from it.



Did You Know?? Lunchtime Employee Activity

One afternoon, while taking a walk on her lunch break, an employee tripped while trying to avoid an oncoming car, and fell on some gravel, injuring her right shoulder. She testified that she walks during her lunchtime for the betterment of her health and that no special permission from her supervisors is required for her to walk. The employer was aware that employees walked on the grounds during lunch hours.

The trial commissioner originally determined the claimant was doing something "incidental" to her employment at the time she was injured, deeming the claim compensable. He found that the employer was aware and acquiesced to the practice of employees walking on the campus during lunch hour. He also found that the practice of physical activity on unpaid breaks enhanced the health of employees.

The case was then appealed to the Commission Review Board (CRB). The CRB found that while such activity as walking may well be beneficial, the trial commissioner did not reach any subordinate finding of fact that the claimant's purpose in undertaking her physical fitness regimen was intended to benefit her employer. The employer did acquiesce to employees walking during their lunch hour, but there is no evidence on the record they promoted this activity or encouraged employees to participate. Therefore, they concluded that the employer dis established that the claimant's decision to walk was voluntary. They then looked to the evidence before the trial commissioner as to the claimant's motivation for engaging in voluntary walking during her free time at the employer's complex. The record does not indicate that the claimant intended to benefit her employer by walking on their grounds during her lunch break nor does it indicate that the employer was aware it was receiving any benefit from the claimant's unilateral and voluntary decision to engage in a regimen of walking for her health during a period where she was "off the clock." The CRB dismissed the claim.

The above Review Board findings indicate that one of the criteria to be in the course of your employment is that the employee has to be engaged in an activity that is "**mutually beneficial**" to the employer and the employee at the time of the accident.



Upcoming 2014 Education 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. Most courses offer Continuing Education Units (CEUs). Your attendance is encouraged.

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: \$40	Value: \$100
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ServSafe Food Safety Program for Managers

Thursday, September 25	8:00 AM - 5:30 PM	Members: \$165	Value: \$250
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National Safety Council 4-Hour Defensive Driving Course

Thursday, October 2	8:30 AM - 1:00 PM	Members: \$40	Value: \$100
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OSHA 10 Hour General Industry Safety & Health Outreach Training (Certificate Program)

Thursdays, October 9 & 16	8:45 AM - 3:30 PM	Members: 125	Value: \$300
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Down Syndrome & Alzheimers Disease: Connection and Care

Wednesday, October 22	9:00 AM - 1:00 PM	Members: \$40	Value: \$125
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Partnering With The Trust - A Must for New Members and Employees Who Manage Workers' Comp Claims

Thursday, October 23	8:30 AM - 1:00 PM	Members: FREE	Value: Priceless
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Workers' Compensation Claims: From Start to Finish

Wednesday, October 29	9:00 AM - 3:30 PM	Members: FREE	Value: \$200
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