

# September

## 2021

### Issue 109

Winter is Coming!

Get Prepared

Page 6

## Index

- 2 OSHA's Emergency Temporary Standard
- 3 Public ACT 21-107
- 4 The Medical Corner - Combating the Delta Variant
- 5 The Legal Corner - New Law Requiring Employers to Disclose Wage Ranges to Applicants and Employees
- 5 New Members of the Trust
- 6 Preparing Your Employees for Winter
- 6 Trust Academy Webinar Schedule
- 6 Welcome to the Trust
- 7 New Safety Training Series
- 7 Five Trust Staff Members Receive Professional Designation
- 7 Trust Says Farewell to Sandy Brophy After 20 Years
- 8 Member Education Programs

# Trust Intelligence

A Newsletter published by the Workers' Compensation Trust

## Trust Staff 100% Vaccinated

The COVID-19 virus has proven to be a formidable foe over the past eighteen months and is showing no signs of going away quickly. The Delta variant of the virus has caused a resurgence in infections throughout the United States and the world, prompting the need for continued enforcement of safeguards and protocols.

The Trust is well aware of the dangers imposed by this virus and has maintained a very vigilant stance in its continued efforts to combat its spread, including full vaccination by all Trust employees prior their return to our Wallingford office in June. We required full vaccination of our staff for their own protection as well as the protection of the Trust members we serve. We want our Trust members to rest assured that when a Trust employee visits your premises for loss control or claim services, that employee has been fully vaccinated. Diane M. Ritucci, President & Chief Executive Officer said "As an organization that is totally vested in employee safety and health, we chose to lead by example as vaccination is crucial in overcoming this virus".

## Governor Mandates Vaccination for Long-Term Care Employees

On August 6th Governor Lamont issued Executive Order No. 13B for long-term care facilities. This order was recently amended on September 3rd by Executive Order No. 13F requiring all "direct access" staff and volunteers (those with direct physical access to a patient or resident of the facility) be fully vaccinated, or in the case of a two-dose vaccine, receive their first dose on or before September 27, 2021 unless the individual is exempted for religious or medical reasons. Those direct access staff members or volunteers who fail to receive the second dose of a two-dose vaccine on the scheduled follow-up date, without good cause, may not remain employed with the facility. The fine for non-compliance with this order is a civil penalty of \$20,000 per day.

Connecticut has recently seen a significant increase in COVID-19 cases among nursing home staff and residents. August numbers revealed approximately 55% of all nursing homes in Connecticut have a staff vaccination rate lower than 75%. Only 21% of nursing homes in the state have a staff vaccination rate above 85%. In the three weeks preceding the August 6th order Connecticut nursing homes had 51 resident cases which was a sharp increase over the 6 cases reported in the previous three-week period.

We certainly don't want to see any of our members' employees suffer with this virus and we encourage all member employees to get vaccinated if you haven't already done so. Together, we can overcome the spread of this virus if we all do our part.

# OSHA's Emergency Temporary Standard: COVID-19



Effective June 21, 2021 OSHA issued an emergency temporary standard to protect healthcare workers from contracting COVID-19. The healthcare emergency temporary standard (ETS) is aimed at protecting workers in healthcare settings where suspected or confirmed coronavirus patients are treated. This includes employees in hospitals, nursing homes and assisted living facilities, emergency responders, home healthcare workers and employees in ambulatory care settings where suspected or confirmed coronavirus patients are treated.

CONN OSHA will adopt the ETS as well although as of this writing, it is not in effect for public entities.

A broad overview of the ETS requirements includes the following activities:

- Conduct a workplace specific hazard assessment, with input from non-managerial employees and their union
- Develop a COVID-19 plan for each “workplace” as defined by the standard and designate a safety coordinator to implement and monitor compliance with the plan;
- Limit and monitor points of entry in direct patient care settings and screen and triage all non-employees upon entry;
- Provide and ensure employees wear facemasks when indoors, and respirators and other PPE when exposed to people with suspected or confirmed COVID-19;
- Follow specific protocol for aerosol-generating procedures on persons with suspected or confirmed COVID-19;
- Ensure employees are following physical distancing rules while indoors, and install physical barriers at work locations in non-patient care areas where employees are not separated by at least 6 feet;
- Follow CDC guidelines on cleaning and disinfecting;
- Use HVAC systems in accordance with manufacturer’s directions using a filter with a MERV rating of 13 or higher;
- Support employee vaccination with reasonable time and paid leave for vaccination and any side effects;
- Health screening and medical management
- Train employees on disease transmission and relevant policies and procedures;
- Inform employees of their rights under the ETS;
- Maintain a log to record each instance in which an employee is COVID-19 positive, regardless of whether it is connected to occupational exposure;
- Implement a Mini Respirator Program as it applies only to specific circumstances specified under the ETS; and
- Report COVID-19 hospitalizations and fatalities to OSHA that occur any time after a work-related incident.

There are some notable exceptions to this standard:

- First aid performed by an employee who is not a licensed healthcare provider;
- Dispensing of prescriptions by pharmacists in retail settings;
- Non-hospital ambulatory care settings where all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;
- Well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;
- Home healthcare settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present;
- Healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing); or
- Telehealth services performed outside of a setting where direct patient care occurs.

The following resources are available to assist with implementation:

- The Trust’s OSHA’s COVID-19 Emergency Temporary Standard for Healthcare-A Resource Guide
- Emergency Temporary Standard <https://www.osha.gov/coronavirus/ets>
- Frequently Asked Questions <https://www.osha.gov/coronavirus/ets/faqs>
- OSHA training <https://www.youtube.com/watch?v=YIB1TZS3pBE>

If you have questions, please contact your Senior Loss Control Consultant or email Carol Fronczek at [fronczek@wctrust.com](mailto:fronczek@wctrust.com)

# Public Act 21-107 (Senate Bill 660)

## “An Act Expanding Workers’ Compensation Benefits for Certain Mental or Emotional Impairments Suffered by Health Care Providers in CT with COVID-19”

The 2021 legislative session came to a close July 9, 2021 with a flurry of activity related to the Workers’ Compensation Act in the closing days and then again during the special session that addressed the implementer bill. Most of the changes were just “technical” in nature to existing statutes with no real substantive impact on employers, but the Public Act (PA) listed below does have application and potential impact to our members and clients alike.

PUBLIC ACT 21-107 (SENATE BILL 660) “An Act Expanding Workers’ Compensation Benefits for Certain Mental or Emotional Impairments Suffered by Health Care Providers in Connecticut with COVID-19” was effective upon passage June 30, 2021. The new law redefines post-traumatic stress disorder as post-traumatic stress injury, notwithstanding that the diagnosis must still meet the criteria for PTSD as specified in the most recent addition of the “Diagnostic and Statistical Manual for Mental Disorders.” Despite the title of the new law, the now “eligible individuals” qualifying for coverage for an event on or after July 1, 2019 has been expanded beyond police officer, parole officer or firefighter to include emergency medical services personnel, Department of Correction employees and telecommunicators. Health care providers join the eligible group when encountering a qualifying event on or after March 10, 2020.

Health care providers as defined means: (A) a person employed at a doctor’s office, hospital, health care center, clinic, medical school, local health department or agency, nursing facility, retirement facility, nursing home, group home, home health care provider, any facility that performs laboratory or medical testing, pharmacy or any similar institution, or (B) a person employed to provide personal care assistance as defined in Section 17b-706 in or about a private dwelling provided such person is regularly employed by the owner or occupier of the dwelling for more than twenty-six hours per week.

The Act also references that a health care provider must be engaged in activity substantially dedicated to mitigating or responding to the public health and civil preparedness emergencies declared by the Governor on March 10, 2020 or any extension thereof.



As such, the health care provider will qualify for benefits in the event he or she:

- (i) Witnesses the death of a person due to COVID-19 or due to symptoms that were later diagnosed as COVID-19;
- (ii) Witnesses an injury to a person who subsequently dies as a result of COVID-19 or due to symptoms that were later diagnosed as COVID-19;
- (iii) Has physical contact with and treats or provides care for a person who subsequently dies as a result of COVID-19 or due to symptoms that were later diagnosed as COVID-19; or
- (iv) Witnesses a traumatic physical injury that results in the loss of a vital body function of a person due to COVID-19 or due to symptoms that were later diagnosed as COVID-19.

The indemnity provisions provide for a cap on benefits and a bar to awarding benefits beyond four years after the qualifying event.



# The Medical Corner

Mark Russi, M.D., MPH,  
Medical Director

## Combating The Delta Variant

Currently nearly all COVID cases across the United States, as well within the State of Connecticut, are due to the Delta variant. The strain, first detected in India in late 2020, spreads more readily, causes more severe illness, and better evades vaccine-induced immunity. We find ourselves at a troubling impasse. How can we best protect ourselves? Will the vaccine and recommended booster dosing work? Will cases continue to increase?

First, some good news: The vaccines continue to be effective in preventing severe disease, hospitalization and death. While “breakthrough” cases have become more common in fully vaccinated individuals, most are moderate or mild. Based upon data presented recently at CDC’s Advisory Committee for Immunization Practices (ACIP), the risk of hospitalization due to COVID among vaccinated individuals is still 16-fold lower than it is among the unvaccinated. **Vaccination continues by far to be our best defense against COVID-related hospitalization and mortality, even when nearly 100% of cases are due to the Delta variant.** In Connecticut, despite a resurgence of disease incidence, rates of hospitalization do not approach those we saw during the first wave of the epidemic in 2020.

And the vaccines do not just prevent severe disease and death. While they are less effective in preventing overall infection with the Delta variant than they were against the original strain, they are still very effective. An extremely good source of information regarding the actual current effectiveness is the HEROES-RECOVER cohort of frontline workers. In that study more than 4 thousand participants across six US states, whether vaccinated or unvaccinated, have been subjected to weekly PCR testing (whether or not they experienced symptoms) over the past 8 months. Such a study design allows us to see not just how much symptomatic illness is prevented by vaccination, but how much actual infection (whether symptomatic or asymptomatic) is prevented. During the period from December 2020 through April 2021, the Pfizer and Moderna mRNA vaccines were shown to be approximately 90% effective at preventing COVID infection. An update of the study through August 14, 2021, has shown that in settings where Delta variant is the predominantly circulating strain, effectiveness of the vaccine to prevent COVID infection has been reduced

to 66%. That still translates into a vaccinated individual being three times less likely to contract Delta variant COVID than an unvaccinated individual. A 66% effective vaccine is also more protective than annual flu vaccines at 59%, based on more than thirty years of monitoring. And again, of those who do get Delta variant COVID despite vaccination, illness in most cases is milder, with low risk of hospitalization or severe outcome.

**Now for the bad news:** While most vaccinated individuals will not become infected, and those who do will have milder disease, we will continue to see the epidemic proliferate for a while. This is due to the high reproductive number associated with Delta variant COVID. That number, which estimates the number of individuals to whom an infected individual will transmit infection, has been estimated by some to be in the range from 6 to 8 with the Delta variant, in contrast to estimates of 2 or 3 with the original COVID strain. Even in an optimistic scenario with 100% of the population vaccinated and a reproductive number of 6, each infected individual would still transmit to two other individuals given current vaccine efficacy, sustaining the epidemic. It is for this reason that masking has once again been generally implemented in workplaces and public indoor places, and that booster doses have been considered to incrementally increase vaccine effectiveness.

How effective is a third vaccine dose? A number of studies have shown that a booster dose increases antibody levels against COVID. While that is encouraging, we do not adequately understand how well increases in antibody levels translate into actual reduction in disease transmission. Fortunately, there is news from real-world experience in Israel (where Delta variant is also predominant) that suggests actual reduction in transmission due to boosting. Israel began administering third doses of the Pfizer vaccine to its population in late July, and preliminary data from the Israel Ministry of Health suggest a four-fold increase in protection against infection among those over the age of 60 administered three doses compared to those who had only received two. Preliminary data from a large HMO in Israel also suggest a third vaccine dose to be 86% effective against Delta variant among those over 60.

The resumption of masking and social distancing, along with widespread participation in vaccination, remain our

## Amendment to Pay Equity Law Requires Employers to Disclose Wage Ranges to Applicants

An amendment to Connecticut's pay equity law effective October 1, 2021 requires employers to disclose wage ranges to applicants and employees to increase transparency and level the playing field for applicants and employees in terms of pay. Employers should be aware of this new obligation and revise their hiring processes accordingly. The new law also broadens the standard used to determine whether an employer is discriminating against an employee in the amount of compensation it pays to the employee based on sex. This new standard may make it easier for an employee to bring a gender-based wage discrimination claim.

### I. Employer Obligation to Disclose Wage Ranges to Applicants – New Hiring Processes Needed

Connecticut law already prohibits employers from asking prospective employees about past compensation and generally allows employees to discuss wages. Now, pursuant to Public Act 21-30, entitled An Act Concerning the Disclosure of Salary Range for a Vacant Position, an employer cannot:

- Fail or refuse to provide an applicant for employment the wage range of a position for which the applicant is applying, upon the earliest of (a) the applicant's request; or (b) prior to the time the applicant is made an offer of compensation; and
- Fail or refuse to provide an employee the wage range for the employee's position upon (a) hiring the employee; (b) a change in the employee's position with the employer; or (c) the employee's first request for a wage range.

"Wage range" is defined as "the range of wages an employer anticipates relying on when setting wages for a position," and may include reference to any applicable pay scale, previously determined wage ranges for the position, actual wage ranges for the position, actual wage ranges for current employees or the employer's

budgeted amount for the position. An individual may bring a civil action for violations of these new requirements within two years after a violation. Potential remedies include compensatory damages, attorney's fees and costs, punitive damages and other legal and equitable relief as the court deems just and proper. Employers must be aware of this new obligation and revise their hiring processes and policies accordingly before October 1, 2021.

### II. "Comparable Work" Requirement May Strengthen Wage Discrimination Claims

Under the current law, an employee claiming gender wage discrimination must demonstrate facts to show that the employer pays employees of one sex a lower wage than employees of the opposite sex for equal work that requires equal skill, effort and responsibility and is performed under similar working conditions. Under the new law, employees must instead show that the employer pays employees of one sex a lower wage for comparable work, which is a determination made based on a review of various factors including "a composite of skill, effort and responsibility." The new law makes it clear that geographic location, credentials, skills, education and training may be bona fide factors other than sex upon which employers may make compensation decisions. As under existing law, an employee who alleges gender wage discrimination may file a complaint with the labor commissioner or the commissioner may investigate this issue on his own. If the commissioner does not investigate an employee's complaint, the employee may bring an action in court. This new, more flexible "comparable work" standard will broaden the circumstances in which an employee can successfully allege a gender wage discrimination claim.

If you have any questions or would like more information please contact Managing Partner, John M. Letizia, at [letizia@laflegal.com](mailto:letizia@laflegal.com) or Senior Counsel Phyllis M. Pari at [pari@laflegal.com](mailto:pari@laflegal.com)

### **Combating the Delta Variant (continued from previous page)**

best defenses for the present. Time will tell whether a broader approach to third doses across the vaccinated US population, as has been proposed by the Biden administration, will allow us a leg up on the Delta variant. On the horizon also are Delta variant specific boosters, which began clinical trials in August, but it will take time to assess their effectiveness as well as to produce them in adequate numbers if they are shown to be effective. Needless to say, the challenges are still immense.

# Preparing Your Employees for Winter

Winter is fast approaching and fall is the best time to prep your organization and your employees for what lies ahead in the coming months.

Cold and winter weather-related accidents are common. According to the U.S. Bureau of Labor Statistics (BLS), in 2017, there were over 20,000 occupational injuries related to ice, sleet and snow.

Safety preparations to consider include:

- Wear appropriate footwear that has visible, heavy treads and a flat bottom
- Wear icy grippers; they are one of the best defenses against slipping on black ice
- Walk slowly and consciously when snow or ice is present, and use handrails if available
- Look where you are stepping and anticipate slippery surfaces. Black ice – sometimes called clear ice – often appears early in the mornings, in shady areas, or where the sun shines during the day and melted snow refreezes at night.
- Do not listen to music or talk on a cellphone while walking. Also, workers should keep alert for any vehicles and snow removal equipment in the area
- Watch for wet floors when entering the workplace, as co-workers may have tracked in snow and slush
- Look up for snow or ice that may fall or break away from awnings, buildings and windows
- Review safe methods for snow removal
- Provide safe winter driver training
- Prepare vehicles
- Stock up on sand and ice melt
- Encourage employees to use safe walking routes
- Review cold weather exposures and controls and provide PPE for employees who work outdoors

Don't wait until the inclement weather is upon us. Preparing now will help to ensure your employees and organization is set for the challenges to come. If you would like some assistance with training and or resources, contact your loss control consultant.

## Trust Academy Webinar Schedule

Friday, 10/1	Agency Errors & Omissions 9:00 am - 11:00 am
Wednesday, 10/13	Homeowners, Dwelling & Umbrella Coverage 9:00 am - 11:00 am
Wednesday, 10/20	Condominium Insurance 9:00 am - 2:00 pm
Thursday, 10/21	Analysis of Certificates of Insurance 9:00 am - 11:00 am
Thursday, 10/21	Cyber Liability 12:00 pm - 2:00 pm
Wednesday, 10/27	Commercial Property 9:00 am - 11:00 am

To register, visit [www.wctrust.com](http://www.wctrust.com)



**TO THE TRUST**

**Covered Staffing, LLC**

**Housatonic Area Regional Transit District**

**MARCH, Inc. of Manchester**

**Project M.O.R.E. Inc.**

**The Children's Center of Hamden, Inc**

**Where The Heart Is, Inc.**

# New Safety Training Series

Member education has always been a cornerstone of Trust Loss Control services. Our members have come to rely on education to train managers and employees on topics relevant to their operations. We consistently strive to develop new course offerings. These trainings can be viewed live or on demand allowing attendees to view at a time which best fits their schedule.

We recently launched a new series of safety classes; the Safety Workshop Series which is intended to assist with creating, developing and updating safety programs to help ensure our members are protecting employees from injury and conforming to OSHA regulations. Each program in the series is a hands-on workshop to teach how to complete a hazard assessment specific to the exposure, a necessary first step in the compliance process and step-by-step the sections for program development. The final step is the site-specific training requirements for employees.

A second new safety and risk management series is also being offered; An Introduction to Safety Management Systems. This is a three part webinar series will introduce attendees to the concepts of Safety Management Systems, which broadly defined is a systematic approach to finding and correcting workplace hazards before injuries or illnesses occur. This series is designed to bring your Safety and Risk Management program to the next level.

To register to attend a live webinar or one that is available on demand, please go to [www.wctrust.com](http://www.wctrust.com).

## 5 Employees Receive Professional Designation

The Trust is pleased to announce that five employees within the Claims Department successfully completed the necessary coursework and passed a challenging and comprehensive written exam to achieve the professional designation of Workers' Compensation Professional (WCP). This designation, sponsored and administered through the American Society of Workers Comp Professionals, Inc., (AMCOMP) aims to raise the professional standards of practice in the field of workers' compensation. We applaud the efforts of the following employees in their personal efforts to increase their educational knowledge and professional standing in the industry by achieving this prestigious designation:



Kathi Bepko, AIC, WCLA, WCLS, SCLA, CMSP, WCP - Claim Manager  
Cathy Crisman, AIC, WCP – Claim Manager  
Claudine Ellis, AIC, WCP – Senior Claim Representative  
Anne Lovett, WCP – Medical Only Claim Representative  
Danielle Pierpont, AIC, WCP – Senior Claim Representative

## The Trust Says Farewell to Sandy Adams Brophy



It is with mixed feelings that we announce, that after 20 years, Sandy Adams-Brophy has retired from the Trust. Sandy has been an integral part of the loss control team as we grew and developed the department and our services. Sandy's first priority was providing service to our members, always willing to do whatever they needed, including OSHA training, researching and providing information or just being the "go to" safety consultant when needed. Sandy always did the best job she could at providing what our members needed. Sandy could interject humor into any topic which always allowed for a thoughtful and entertaining presentation.

Because of Sandy's efforts and technical knowledge, we have no doubt that she impacted the lives of many employees to help keep them safe. We are sad that she left but excited for her as she begins the next chapter in her life.



## Upcoming Educational Programs

*The following webinars are designed to assist members in gaining knowledge of issues that surround and support the reduction of work related injuries and create a safe and healthy workplace. To register, or obtain detailed information, go to [www.wctrust.com](http://www.wctrust.com). Your attendance is encouraged.*

### **Employer Responsibilities to Protect Temporary Workers**

Thursday, September 23                      10:00 AM - 11:00 AM

### **Supervisor's Toolkit: Leading Yourself and Others Through Change**

Thursday, September 30                      10:00 AM - 12:00 PM

### **October is Fire Safety Month**

Thursday, October 7                          10:00 AM - 11:00 AM

### **Safety Workshop Series: Part 3 - Personal Protective Equipment and Hazard Communication**

Thursday, October 14                          10:00 AM - 11:30 AM

### **Safety Solutions: Mindfulness in the Workplace**

Wednesday, October 20                      10:00 AM - 11:00 AM

### **Introduction to Safety Management Systems - Part 1**

Thursday, October 28                          10:00 AM - 11:00 AM

### **Introduction to Safety Management Systems - Part 2**

Thursday, November 4                        10:00 AM - 11:00 AM

### **OSHA Recordkeeping: The Basics**

Thursday, November 18                       10:00 AM - 11:00 AM



47 Barnes Industrial Park Road  
Wallingford, CT 06492