

# Trust Intelligence

A Newsletter for Members of the Workers' Compensation Trust

Issue 89

September 2016

## The Trust Celebrates 35 Years A Wonderful Evening Had By All

A Cuban theme with a “Havana Nights” setting provided the entertainment and backdrop for a wonderful evening in celebration of the Trust’s 35th anniversary. The party was held on June 23rd at the Aqua Turf in Plantsville. Well over 400 attendees, including members, staff, Board of Directors, medical providers, brokers and business partners enjoyed a fun-filled evening with Cuban style food, vintage automobiles, a big band and wonderful décor. The celebration was offered as a “Thank You” for our many wonderful members and business associates for their continued support of the Trust over these many years.

The evening featured many highlights, including brief addresses from both Diane Ritucci, President & CEO of the Trust and David Tompkins, Board Chairman, along with several awards and a raffle with some very exciting prizes.

Diane started the evening’s formal agenda addressing the significant changes that have occurred in the health care delivery system over the past 35 years and how the Trust and its members have successfully navigated through those waters. Change is ongoing in the healthcare world and the Trust is constantly creating new approaches to provide effective loss control and claims management services to control losses and overall premium costs for our members.

David Tompkins introduced and read a framed Official Statement from Governor Malloy and a framed Congressional Record entry by Congresswoman Rosa DeLauro. Both statements attested to the vital role the Trust has played in Connecticut’s healthcare industry and congratulated the Trust on this milestone anniversary.

As Connecticut’s leading provider of workers’ compensation coverage to the healthcare industry, the Trust is large enough to see trends but small enough to do something about them. We are quick to react and effective with our solutions. Our efforts have returned over \$26 million of premium back to our members along with providing them a stable, long term, effective alternative to the traditional workers’ compensation marketplace.



Board members pictured L to R: John Quinn, Russell Schwartz, Renny Wieland, Bill Horrigan, Diane Ritucci, President & CEO; Dave Tompkins, Chairman, Charlie Shelton, Brian Carney, Joe Milke & Keith Lavalette. Missing from Photo: Gus Boardman & Linda Worden

Throughout the following pages are pictures of the evening’s various award winners, raffle prize winners and 30 year member recognitions.

The entire Trust staff extends a sincere “Thank You” to all who have worked with us over the past 35 years and we look forward to the next 35!

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# 35th Anniversary Celebration

## Awards of Excellence

Annually, the Trust recognizes members who have achieved a reduction in employee injuries due to their focus on creating, promoting and maintaining a safe and healthy workplace. Diane Ritucci, President & Chief Executive Officer and Carol Fronczek, Vice President, Loss Control Services presented the following members the 2016 Award of Excellence for having shown great progress in their efforts to reduce losses:

### Whitney Center, Inc.

Skilled Nursing and Assisted Living facility, and 12 year member.



Ken Sandberg, Chief Operating Officer, received the award.

### Cheshire House

Long Term Care Facility and Trust member for over 13 years.



Stanley DeCosta, Administrator, accepted the award.

### Franciscan Family Center, Inc.

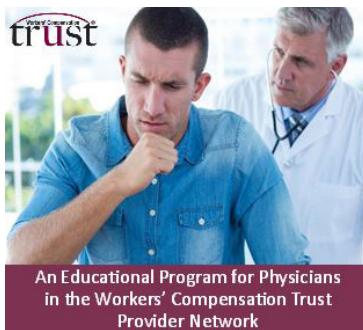
A Home Care & Hospice Organization and 24 year member.



Sister Suzanne Gross, Executive Director, accepted the award.

## Trust Hosts Educational Program for Medical Providers

On May 19th, the Trust hosted a dinner and educational program for over 75 medical providers on the topic of "Best Practices When Biopsychosocial Issues Delay a Workers' Compensation Patient's Recovery".



The event provided an overview of the newly released psychological pain assessment & treatment medical protocols by the CT Workers' Compensation Commission back in February, along with offering practical approaches for handling patients with

This is the second educational event hosted for providers by the Trust in the past 24 months and we are already researching emerging issues and topics in workers' compensation for future programs. This event is just another example of our commitment to work hand-in-hand with our network providers for the common goal of providing the best quality care available to injured workers.



Guest speakers from left to right: Chairman John Mastropietro, Michael Coupland and Phillip Walls.

### Board of Director's News



The Trust would like to wish John Quinn, President & CEO of VNA Health Systems, Inc., a very long, happy and healthy retirement.

John retired from his position on the board of directors in July. He has served on the board since September, 2015.

# New Strategies to Avert Claim Outliers

In our ongoing effort to gravitate towards a greater “advocacy driven” style management associated with workplace injuries, the Trust has recently introduced several new programs to its injury response toolbox intended to prevent injured workers from becoming derailed in their recovery.

Our new VocFit program targets the worker’s tolerance to future work and bolsters a health fitness natured lifestyle. This program follows the conclusion of traditional care and focuses on developing personal fitness, core strengthening and means to sustain activity and fitness habits throughout their career. This program is also used to assure that an injured worker who no longer has a job to return to maintains a level of vigor and readiness to return to the workforce.

*VocFit Quote of the Day: “Robb, I had the nicest phone call this am from my claimant, Debra. She had nothing but wonderful things to say about this program and how much it has helped her. She stated she has never felt better in her life! You have no idea how much that makes my job easier! A happy claimant makes a happy adjuster. She also said Dr. Beiner is the most positive, all about fitness doctor she has ever seen. She is really impressed with her care through the Trust. Thank you, Patti”*

Our VocCounseling program is just getting its legs under it and is designed for assisting workers who will not be returning to their occupations given the impact of their injury due to loss of employment. The Trust’s vocational counseling program calls upon expert Vocational Counselors who assist our injured workers with job seeking skills, polishing of resumes and interview skills and also provides an analysis of transferable employment skills so past employment aptitudes can be utilized effectively to secure re-employment.

If you would like to learn more or believe that an injured worker in your organization may potentially benefit from one of these services, please contact Robb Wright, Return to Work Specialist, at (203) 678-0185 or via email at [wright@wctrust.com](mailto:wright@wctrust.com).

## More 35th Anniversary Celebration Highlights

With each five year anniversary milestone, the Trust recognizes excellence in the fields of medicine, law, insurance brokerage and within its own staff. On the occasion of our 35th anniversary, we could think of none more deserving than the following:

### Best Doctor



Dr. John Beiner of CT Orthopaedic Specialists was awarded the Best Doctor Award.

### Outstanding Law Firm



Neil Ambrose & Kristen Falls accepted the Outstanding Law Firm Award on behalf of Letizia, Ambrose & Falls, P.C. of New Haven.

### Outstanding Employee



Kathi Bepko, Claims Manager was awarded the Outstanding Employee Award.

### Distinguished Broker



Paul Palanzo of Rose & Kiernan in Danbury, was awarded the Distinguished Broker Award.

### 30-Year Members Recognized

The Trust is very pleased and proud to recognize two members who have been with the Trust, continually, for over 30 years! Andrea Wilson, Executive Director from New Milford VNA accepted a plaque of appreciation at the 35th anniversary celebration, while Carol Fronczek later met with Crystal Holtzclaw from Stamford Hospital to present her with a plaque.



## Penalties Prove More Effective Than Rewards

According to a recent study done by the University of Pennsylvania, monetary penalties have the potential to be more effective at helping workers reach physical activity goals than rewards in a wellness program.

During a 26-week study, 281 participants were placed in one of four random control groups and given a fitness objective of completing 7,000 steps each day. The four groups included 1) no monetary incentive; 2) \$1.40 award each day the goal was met; 3) entrance into a lottery with a potential prize of \$1.40 for each day the goal was met; and 4) a total of \$42 at the beginning of each month with the understanding they would return \$1.40 each day the goal was not met.

Researchers found that participants who could lose the \$42 reward met the walking goal 45 percent of the time – nearly 50 percent more than the control group. Offering the \$1.40 reward for meeting the goal was no more effective in motivating participants than offering no reward, as these participants met the goal about 30 percent to 35 percent of the time.

The way an incentive is “framed” is crucial in determining its effectiveness, researchers concluded, according to a university press release.

For the second half of the study, participants received feedback instead of incentives. An app on participants’ smartphones tracked their steps.

Almost all of the participants (96 percent) continued with the study three months after they stopped receiving incentives, indicating devices and apps can encourage people to increase their activity.

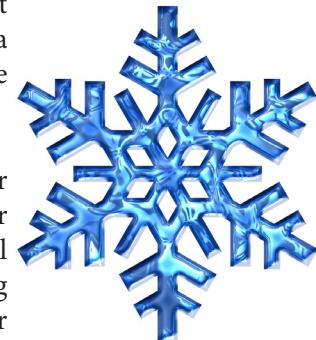
“Although most people know that exercise is good for their health, more than 50 percent of adults in the United States don’t get enough of it,” study lead author Mitesh S. Patel, assistant professor of Medicine and Health Care Management in the university’s Perelman School of Medicine and The Wharton School, said in the release. “Workplace wellness programs aimed at increasing physical activity and other healthy behaviors have also become increasingly popular, but there’s a lack of understanding about how to design incentives within these programs. Our findings suggest that these programs could result in better outcomes if they designed financial incentives based on principles from behavioral economics such as loss aversion.”

*The study was published online Feb. 16 in the Annals of Internal Medicine.*

## Let's Face It, Winter's Coming: Time to Prep for Fall Prevention

Months of frigid temperatures and heavy snowfall are on their way and can make daily life difficult for your employees and clients they care for. However with a little planning, education and a focused effort, employees and clients can safely maneuver through winter weather by being aware of the high risk for falls during icy and snowy conditions and taking proper precautions.

**Focus on Footwear** - now is the time to develop and enforce a shoe policy relevant to winter conditions if you don't already have a policy in place or to reinforce an existing policy. Rubber or neoprene soles, with plenty of tread, provide better traction than leather or plastic soles. The fall is also the time to purchase icy grippers for staff who must work outdoors or who travel during the winter months. Ensure your policy is in place, training is provided and employees have a clear understanding of what is expected.



**Care with Cars** - many falls occur while entering or exiting vehicles. Make sure footing is clear prior to getting in and out of vehicles, both for staff and clients.

**Black Ice** - is just as slippery as regular ice but is harder to detect. Ensure your employees stay on clear pathways, use ice alert signs that indicate that the temperature may facilitate the formation of black ice. Provide employees who are on the road with kitty litter/sand salt. Consider pre-treating walkways with a preventative substance such as Magic Salt which can be utilized to minimize ice and snow from adhering to the pavement.

The Trust will continue to post tips on winter safety throughout the fall and winter. Be sure to check the December Trust Intelligence Newsletter and our website [www.wctrust.com](http://www.wctrust.com) for more winter safety tips!

# OSHA Fines to Nearly Double



OSHA's new penalty levels will take effect after Aug. 1, when the maximum penalty for serious violations will rise from \$7,000 to \$12,471. The maximum penalty for willful or repeated violations will increase from \$70,000 to \$124,709. Any citations issued by OSHA after Aug. 1 will be subject to the new penalties if the related violations occurred after November 2, 2015. OSHA will provide guidance to field staff on the implementation of the new penalties by August 1, 2016.

"Civil penalties should be a credible deterrent that influences behavior far and wide," Secretary of Labor Thomas E. Perez said in a press release. "Adjusting our penalties to keep pace with the cost of living can lead to significant benefits for workers and can level the playing field [for] responsible employers who should not have to compete with those who don't follow the law."

## OSHA Delays Deadline for Anti-Retaliation Provisions in Recordkeeping Rule

The initial date for enforcement of the provisions in OSHA's Improve Tracking of Workplace Injuries and Illnesses has been delayed to November 1, 2016 from its original deadline of August 10, 2016. The delay is intended to allow more time for OSHA to lead outreach efforts and offer additional guidance to employers who have questions about the rule. The recordkeeping rule will require the following anti-retaliation actions:

- Employers must inform workers about their right to report work-related injuries and illnesses without threat of retaliation.
- Employers must implement reasonable procedures for reporting injuries and illnesses that do not discourage workers from speaking up.
- Employers must incorporate existing anti-retaliation rules into their practices.

Establishments with 250+ employees in industries covered by the recordkeeping regulation must submit information from their 2016 Form 300A by July 1, 2017. These same employers will be required to submit information from all 2017 forms (300A, 300, and 301) by July 1, 2018. Beginning in 2019 and every year thereafter, the information must be submitted by March 2.

Establishments with 20-249 employees in certain high-risk industries must submit information from their 2016 Form 300A by July 1, 2017, and their 2017 Form 300A by July 1, 2018. Beginning in 2019 and every year thereafter, the information must be submitted by March 2.

Trust staff will assist members with questions pertaining to these new initiatives. We will also be holding our annual Recordkeeping training class in January 2017.

## Proper Insurance Depends on Proper Coverage Rate & Form

The Trust is pleased to present a new Insurance Educational program for our members. Wednesdays this Fall!

### What Every CEO/CFO Needs to Know About Buying Insurance

October 12<sup>th</sup> & 26<sup>th</sup>, November 9<sup>th</sup> & 30<sup>th</sup>

This is a high level 4 part series meant for Executive level staff members to learn how to make informed decisions about the purchase of commercial insurance. Commercial insurance is designed to protect your business and your bottom line. Coverage limits, exposures, terms & policy language can be confusing. This course will provide essential information to ensure you have the information you need to understand these coverages and protect your organization.

Learn about General Liability, Contracts, Cyber Liability, Employment Practices Liability, Directors & Officers, Crime Policies and so much more.

Course materials will be provided. Attendees will receive a Program Certificate upon completion of the 4 part series.

Fee for Members: \$795 Non-Members: \$995  
More information forthcoming. Registration available soon!



# The Legal Corner

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

## New Light Duty Coverage for Pregnant, Partially Disabled Employees

Providing light-duty work to employees with work-related injuries or illnesses is in the best interest of all employers and is required in order for employers, through their carriers, to realize the full benefits of a workers' compensation provider network. However, if you provide temporary light-duty work to employees with work-related injuries or illnesses, you must now also provide temporary light-duty work to employees who are partially disabled as a result of pregnancy due to a recent U.S. Supreme Court decision.

Prior to this decision, it was legal under Connecticut law for employers to provide temporary light-duty work only to employees with work-related injuries or illnesses. So long as employers had "pregnancy-blind" light-duty policies – meaning the policy did not explicitly exclude pregnant employees from eligibility for light-duty work – employers did not have to worry about liability under the Federal Pregnancy Disability Act ("PDA") if they did not accommodate a pregnant employee's request for modified or light-duty work. Employers could deny a pregnant employee's request the same way they could deny a request of an injured employee who was recovering from a non-work related injury (e.g., ski accident).

However, this changed with the U.S. Supreme Court's decision in *Young v. UPS* in 2015, and the Second Circuit Court of Appeals' decision in *Legg v. Ulster County* on April 26, 2016. In *Young v. UPS*, Young requested a light duty work assignment to accommodate a lifting restriction due to her pregnancy. UPS denied the request because it had a policy only to provide light-duty or restricted work to employees: (1) with work-related injuries; (2) who lost their DOT certifications; or (3) who were disabled under the Americans with Disabilities Act (ADA). The Supreme Court held that an employer could be found liable for intentional discrimination if its light-duty policy imposes a "significant burden" on pregnant workers without having a "sufficiently strong" justification. The Court suggested that a showing that UPS accommodated a large percentage of non-pregnant employees while not accommodating a large percentage of pregnant employees could be sufficient evidence to prove the employer was discriminating against employees that were temporarily and partially disabled due to being pregnant.

The Second Circuit Court, whose decisions are binding on Connecticut employers, applied this new rule for the first time in *Legg v. Ulster County*. Legg, a corrections officer, requested

light-duty work (i.e., having no direct contact with inmates) due to her temporary disability as a result of her pregnancy. Legg's employer, Ulster County Jail, denied the request to accommodate her pregnancy-related work restrictions because its policy was to accommodate only employees with work-related injuries or illnesses. The Court held that Ms. Legg had established an initial case of discrimination because she sought a light-duty accommodation, the County did not accommodate her, and the County provided light-duty accommodations to other employees who only had a light-duty or restricted work capacity due to a workers' compensation injury.

It should be noted that pregnant employees may also be entitled to reasonable accommodations under the ADA if they are suffering from a pregnancy-related complication (e.g. gestational diabetes, hypertension, etc.) that substantially limits a major life activity. While a temporary impairment does not generally qualify as a disability under the ADA, the ADA Amendment Act of 2008 expanded the reach of the ADA to include temporary impairments if they are "sufficiently severe." By now covering partial disabilities due to pregnancy under a light-duty work policy, you are "accommodating" a disabled employee and in essence partially fulfilling your ADA obligations.



### **Recommendation – Take Action Now**

1. You need to review and revise your light-duty or modified work policy and practices to ensure that it includes employees that are temporarily and partially disabled due to pregnancy and treats them the same as it does employees who suffer a work-related injury.
2. Each request for temporary light-duty work by pregnant employees should be considered on a case-by-case basis, the same as you would for an employee with a work-related injury. For example, if an employee with a work-related injury has restrictions that prevent him/her from working more than 2.5 hours a day and you do not accommodate that employee because it is not practical to

## Zika: What You REALLY Need to Know

The Zika virus, named after the Zika Forest in Uganda where it was first discovered in 1947, is presently spreading rapidly in tropical and sub-tropical areas of the Americas. At time of writing, the first local continental U.S. transmissions of the disease have been reported in a Miami neighborhood, and more are likely to follow. (Of note, there already are more than 5,000 known local transmissions of Zika in Puerto Rico.)

In most individuals the virus causes only mild symptoms, most commonly fever, rash, joint pains and conjunctivitis. Symptoms typically last from several days to a week, and those who become infected are likely protected from future infections. In a small minority of infections, the virus has been linked to the Guillain-Barre Syndrome, a severe neuropathic condition causing muscle weakness or paralysis, which may or may not resolve completely. Zika also has been associated with severe birth defects when women are infected during pregnancy, principal among them microcephaly, a condition in which the brain does not develop normally and babies are born with an abnormally small head. Other birth defects linked to Zika include eye defects, hearing deficits and impaired growth.

As of August 3rd, there have been more than 1800 cases in the United States, including 39 in Connecticut. The vast majority of U.S. cases have occurred in individuals returning from areas of the world where Zika is spread by mosquitoes. There also are 16 known sexual transmissions of the virus in the U.S., and one laboratory transmission.

To date there has been no spread of Zika virus in the continental U.S. by mosquitoes other than the cases recently reported in Miami. The principal vector of the disease is the Aedes aegypti

mosquito whose range is generally southern, though it may extend further north. It may also spread via the Aedes albopictus mosquito, a species more likely to be present in Connecticut. Because there is no vaccine against the virus, the best prevention is mosquito control and avoidance of mosquito contact when visiting areas where there has been local spread. General recommendations include use of insect repellants, wearing long-sleeved shirts and long pants, and avoiding being out at dawn or dusk when mosquitoes are more likely to bite.



In healthcare settings, any person-to-person spread is thought to be extremely unlikely unless there is contact with blood via a needlestick or splash onto mucus membranes. Obviously, such an occurrence would be a serious matter in a pregnant healthcare worker. Guidance has been published by the CDC addressing the diagnostic workup of Zika in pregnant women with known exposures, as well as fetal growth monitoring. There is much that is not yet known regarding the likelihood of infection among exposed persons, the likelihood of transmission to the developing fetus, and the likelihood of fetal abnormalities when a pregnant woman becomes infected.

### Light Duty for Pregnancy Continued

have an employee come in to perform light-duty work for only 2.5 hours a day, then you may also deny a temporarily disabled pregnant employee who makes a request. Of course, the opposite is also true.

3. If a pregnant employee informs you that she is partially disabled due to pregnancy, you must make her aware of the options that may be available to her under your light-duty work policy in the same manner and method that you would for an employee with a partial work capacity due to a work-related injury.

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.

If you have questions regarding your confidentiality obligations, please contact John M. Letizia at [letizia@laflegal.com](mailto:letizia@laflegal.com) or (203) 787-7000.



# Upcoming Educational Programs

The following programs 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). Most courses offer Continuing Education Units (CEUs). Your attendance is encouraged.

## New Legal Requirements - Overtime, Pregnancy Disability & Criminal Inquiries

Tuesday, September 20                    9:00 AM - 12:00 PM                    Members: FREE                    Value: \$100

## Accident Investigation: Solving the Right Problem

Thursday, September 22                    9:00 AM - 12:00 PM                    Members: FREE                    Value: \$100

## What Every CEO/CFO Needs to Know About Buying Insurance

Wednesdays, October 12th & 26th, November 9th & 30th

9:00 AM - 12:00 PM                    Members: \$795                    Non-Members: \$995

## Workers' Compensation Claims: From Start to Finish

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

## Partnering with the Trust

Wednesday, October 19                    9:00 AM - 12:00 PM                    Members: FREE                    Value: PRICELESS

## Workplace Violence: From Preparedness to Response!

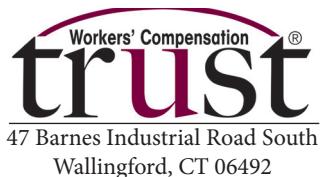
Thursday, October 20                    9:00 AM - 3:30 PM                    Members: FREE                    Value: \$200

## Empathic Approaches to Supporting People with Dementia

Tuesday, October 25                    8:00 AM - 4:30 PM                    Members: \$60                    Value: \$250

## Sexual Harassment Prevention Training for Supervisors

Thursday, October 27                    9:00 AM - 11:00 AM                    Members: FREE                    Value: \$100



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