



Workers' Compensation Board

BETTER FOR WORKERS

BETTER FOR BUSINESS

NEIL GILBERG AND JOE CAVALCANTE

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Workers' Compensation Board



Achieving Better Performance in Workers' Compensation

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The Advocate for Business

- Educates business owners and government personnel on the workers' compensation system
- Assists individual businesses with coverage and compliance problems
- Meets with business associations and employer groups to hear their concerns regarding the system
- Reports directly to Chair of the Board

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The Advocate for Injured Workers

- Available to help workers; acts as an ombudsman
- Handles most complex claims and fatalities
- Meets with workers, labor advocates, unions, 9/11 community, occupational health providers, and employers
- Reports directly to Chair of the Board

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The Labor/Management Safety Committee: Avoiding Incidents

- Equal number of members from labor and management
- Regularly rotate chair of committee
- Regular meeting schedule with an agenda

The Labor/Management Safety Committee: Tasks

- Visit the workplace
- Review equipment, sites and procedures
- Establish safe procedures and train for safety

Workplace Safety Prevention Incentive Program (Code Rule 60)

- Voluntary establishment of a safety, drug and alcohol prevention, or return to work program
- Save up to 10% on workers' comp insurance in first year, up to 6% in second and third years

	Year 1	Year 2	Year 3
Safety	4%	2%	2%
Return to Work	4%	2%	2%
Drug & Alcohol Prevention	2%	2%	2%

- For more information, visit www.labor.ny.gov/WSLPIP.html

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Required Insurance

- **Workers' Compensation Insurance**
 - Covers *on-the-job* accidents, injuries and illnesses
 - Provides medical and wage replacement
 - Protects employers and their employees
- **Disability Benefits Insurance**
 - Covers *off-the-job* accidents, injuries and illnesses
 - Provides limited wage replacement
- **Paid Family Leave Insurance**
 - Covers care for family members – bonding, serious illness, military service
 - Provides wage replacement

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What Determines Your Workers' Compensation Premium

- Classification code – rates are per \$100 of payroll
- Payroll amount
- Claim experience
- How safely you operate – *EMR* or *X Mod*
- Reserves
- Administrative expenses

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Who Needs Coverage?

Businesses with employees need coverage



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Employee Definition

- Anyone providing any services to a for-profit business can be an employee of that business
- Any compensated individual providing services to a nonprofit, except clergy and teachers in a 501(c)(3)



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Who Is *Not Required* to Carry Workers' Compensation Insurance?

- Sole proprietors with no employees
- Partners in partnerships with no employees
- One- or two-person owned corporations with no employees



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Independent Contractor

- Indicators created to identify if an individual is an independent contractor and not an employee
 - Employer Identification Number from the Federal Internal Revenue Service (IRS) or filed tax returns
 - Maintain a separate business establishment from the hiring business
- For more information and all indicators, visit the ***Employer*** section on the Board's website

Specific Coverage Issues

- Sole proprietors, partnerships including LLCs & LLPs & corporate officers
- Family members
- Domestic employees
- Independent contractors and subcontractors
- Farms

General Contractors: Under the Law

- General contractors are liable for the workers' compensation claims of all uninsured contractors
- Recommended that subcontractors add the general contractor as a certificate holder on their NYS workers' compensation policy



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Proof Required to Obtain Government Permits, Licenses and Contracts

- No permit, license or contract shall be issued without proof of workers' compensation and disability benefits compliance

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Proof of Compliance

- *Certificate of Workers' Compensation Insurance (Form C-105.2)*
- *Certificate of Self-Insurance (Form SI-12)*
- For disability benefits and Paid Family Leave, *Certificate of Insurance Coverage under the NYS Disability and Paid Family Leave Benefits Law (Form DB-120.1)*
- **Exempt?** Sign *Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (Form CE-200)*
- Visit [BusinessExpress.ny.gov](https://www.businessexpress.ny.gov) for more information

Note: An ACCORD form is not acceptable proof

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Noncompliance Penalties

- Up to \$2,000 for every 10 days out of compliance, or \$72,000 a year
- Up to five employees is a **misdemeanor**, subject to a maximum \$5,000 penalty
- More than five employees is a **Class E Felony**, subject to a maximum \$50,000 penalty and 1 1/3 to 4 years in prison
- Misclassification is the same as being uninsured

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The Appeal Process

- If you're penalized, don't stick your head in the sand!
- Contact the Board and/or appeal the penalty



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Noncompliance Suspected

- Notify the Board if you suspect noncompliance
- Stop work order possible
- Financial penalties possible
- Class E Felony or misdemeanor possible
- Fraud? NYS Workers' Compensation Inspector General:
(518) 474-1010

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Controlling Premium Costs

- Schedule a regular meeting and review claims with your insurer/payer
- Check that your classification codes are correct
- Get your loss runs and understand your claim expenses
 - Legal fees, surveillance, IME, admin costs
- Get insurance certificates for independent contractors
- Reserves
- Keep in touch with employees during their absence

Studies show that the faster an employee returns to work, the better the outcome

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Employer Responsibilities

- Obtain required insurances
- Display required insurance posters
- File claims timely
- Employees are eligible regardless of immigration status
- Discrimination against employees for filing a claim is prohibited

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Workers' Compensation: If There's an Injury

- Get first aid and necessary medical treatment promptly
- Continue receiving necessary treatment
- Tell the employer in writing as soon as possible but no later than 30 days after the incident
- File an *Employee Claim (Form C-3)* with the Workers' Compensation Board as soon as possible, either by internet, phone, mail or at a Board office

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Accident or Illness

Claims with the best outcomes have these features

1. Appropriate, prompt medical care
2. Prompt reporting of injury
3. Prompt payment of benefits
4. Return to work program

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Improving Care for Injured Workers

Medical Fee Schedule

- Multiple refinements after periods of public comment
- Final schedule effective as of April 1

Adopting the Universal Billing Form

- Simplify medical reporting
- Transition to the CMS-1500

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Expanded Providers

- Presence of nurse practitioners, physician assistants and certified social workers will expand
- More treatment options available for injured workers



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Injury Reporting

Insurers must report worker injuries to the Board within 18 days of injury or 10 days from employer knowledge, whichever is later



Expedited Benefit Payments

Payments to injured workers must begin within 18 days of injury or 10 days from when the worker gave employer notice of an injury



More Positive Trends in Claims

- Lowest dispute rate in decades – from 15% average in beginning of this century to 5.9%
- Appealed claims resolved in six months – from 57% in 2014 to 95% today

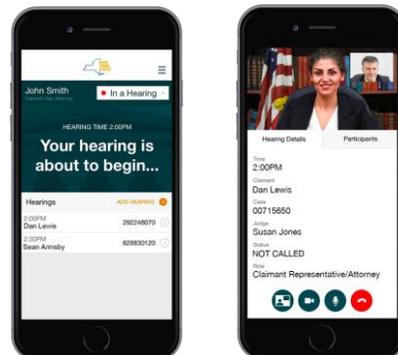
Establish a Return to Work Program

Bring workers back and keep in touch with them

- Appoint a return-to-work coordinator who understands the goals and process
- Coordinator has a pool of transitional duties
- Develop individual return to work plans
- Use the doctor's restrictions
- Comply with the ADA – 15 or more employees

Innovating with Virtual Hearings

- First-in-the-nation initiative
- Makes attending hearings over mobile phone even easier
- Free app – no additional software
- Added convenience for injured workers and other parties



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Socially Connected



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Board Announcements
wcb.ny.gov/notify



#NYSWorkersCompBoard



[youtube.com/
NewYorkStateWorkersCompensationBoard](http://youtube.com/NewYorkStateWorkersCompensationBoard)

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For More Information

Advocate for Business

Helpline:

(518) 486-3331

Email:

AdvocateBusiness@wcb.ny.gov

Advocate for Injured Workers

Helpline:

(800) 580-6665

Email:

AdvInjWkr@wcb.ny.gov

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