

10:00 a.m. (EST)
1-866-362-9768
552-970-8972#



Safety & Workers' Compensation Committee

Wednesday, October 17, 2018

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**2018 Safety & Workers'
Compensation Committee
Calendar**

**Meetings begin at 10:00 a.m.
Wednesday, October 17, 2018**

**OMA Safety & Workers' Compensation Committee
Meeting Sponsor:**





OMA Safety & Workers' Compensation Committee October 17, 2018

AGENDA

Welcome & Self-Introductions	Larry Holmes, Fort Recovery Industries Inc.
BWC Update	Brian Jackson, OMA staff
Safety Update	Dianne Grote Adams, Safex
OMA Counsel's Report	Sue Roudebush, Bricker & Eckler LLP
Guest Speakers	Kevin Abrams, Chief Operating Officer, Ohio BWC Dave Sievert, Interim Director, Self-Insurance, Ohio BWC
OMA Public Policy Report	Rob Brundrett, OMA staff

Please RSVP to attend this meeting (indicate if you are attending in-person or by teleconference) by contacting Denise: dlocke@ohiomfg.com or (614) 224-5111 or toll free at (800) 662-4463.

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

Thanks to Today's Meeting Sponsor:



Kevin R. Abrams, Chief Operating Officer

Kevin brings a wealth of workers' compensation experience to his role as Chief Operating Officer for the Ohio Bureau of Workers' Compensation (BWC), including previously serving as the Chief of Employer Services Division of BWC, the Public Member of the Industrial Commission, and Assistant Law Director for BWC. He has extensive experience with self-insuring employers, which served him well as the Chairman of the Self-Insuring Employers Evaluation Board which was included in his responsibilities as the public member of the Industrial Commission.

As Chief Operating Officer, Kevin oversees Employer Services and Claims Services Divisions. Employer Services includes policy processing, underwriting, premium audit, other states coverage, self-insurance, and employer programs. The Claims Services Division is responsible for addressing all non-medical aspects of claims management, one of the most important aspects of which is the payment of compensation.

Kevin earned a B.A. in Psychology from Amherst College and received his law degree from the Ohio State University College of Law where he was a member of the Ohio State Law Journal.

Dave Sievert Interim Director–Self Insured Department

Dave is currently the Interim Director of BWC's Self-Insured Department and has been with BWC for six and a half years, also serving as the SI Auditing Supervisor. He is responsible for overseeing all aspects of self-insurance including new applications, renewals, securitization and employer's compliance through the Self-Insured Complaint and Audit process. Previously, Dave worked at national and local third-party administrators with responsibilities including claims adjusting, IC hearings, supervision, claims operations management, account management and quality control. Earned Associate in Risk Management and Enterprise Risk Management designations. Dave served as an Infantry Officer in the US Army prior to entering the worker's compensation world.



What's New?

Recordkeeping Update

Reminder, that the 2018 data will be due by March 2, 2019. So far, is still limited to 300A regardless of employer size.

Beryllium

The final rule on Occupational Exposure to Beryllium, published on January 9, 2017, established new Permissible Exposure Limits (PELs) and contained several other ancillary provisions that apply to general industry, construction, and shipyards. 29 CFR §1910.1024 became effective on May 20, 2017. Under the general industry standard, all obligations were to commence on March 12, 2018, except for requirements for change rooms and showers in paragraphs (i)(2) and (i)(3), which commence on March 11, 2019, and requirements for engineering controls in paragraph (f), which commence on March 10, 2020. OSHA has been in extensive settlement discussions with several parties who have filed legal actions challenging the general industry standard and as a result OSHA delayed enforcement of the general industry standard by 60 days until May 11, 2018. On May 9, OSHA indicated only the following provisions would be enforced.

1. PELs 1910.1024(d) Action level of $0.1\text{ug}/\text{m}^3$, PEL of $0.2\text{ ug}/\text{m}^3$, STEL of $2.0\text{ ug}/\text{m}^3$
2. Exposure assessment 1910.1024(d)
3. Respiratory protection 1910.1024(g)
4. Medical surveillance 1910.1024(k)
5. Medical removal 1910.1024(l)

The balance in 1910.1024 won't be enforced until December 12, 2018 such as change rooms and showers and engineering controls.

Silica

March 25, 2016 the new Silica standard was published. It has an effective date of June 23, 2016 with compliance for manufacturers of June 23, 2018. OSHA has put out a **Small Entity Compliance** Document. Interim Enforcement Guidance was published June 25, 2018.

If inspected, should expect to provide

1. A copy of the exposure control plan
2. Sampling data
3. Engineering controls and work practices implemented to reduce exposures
4. Respiratory protection program, if respirators are in use.
5. Hazard communication program with respirable crystalline silica included

The inspector would expect also to see

1. Regulated areas marked
2. Housekeeping

<https://www.osha.gov/Publications/OSHA3911.pdf>

There is also a silica webinar that can be accessed at My OMA.

Clarification of OSHA's Position on Workplace Safety Incentive Programs and Post-Incident Drug Testing Under 29 C.F.R. §1904.35(b)(1)(iv)

The Department believes that many employers who implement safety incentive programs and/or conduct post-incident drug testing do so to promote workplace safety and health. In addition, evidence that the employer consistently enforces legitimate work rules (whether or not an injury or illness is reported) would demonstrate that the employer is serious about creating a culture of safety, not just the appearance of reducing rates. Action taken under a safety incentive program or post-incident drug testing policy would only violate 29 C.F.R. § 1904.35(b)(1)(iv) if the employer took the action to penalize an employee for reporting a work-related injury or illness rather than for the legitimate purpose of promoting workplace safety and health.

Incentive programs can be an important tool to promote workplace safety and health. One type of incentive program rewards workers for reporting near-misses or hazards, and encourages involvement in a safety and health management system. Positive action taken under this type of program is always permissible under § 1904.35(b)(1)(iv). Another type of incentive program is rate-based and focuses on reducing the number of reported injuries and illnesses. This type of program typically rewards employees with a prize or bonus at the end of an injury-free month or evaluates managers based on their work unit's lack of injuries. Rate-based incentive programs are also permissible under § 1904.35(b)(1)(iv) as long as they are not implemented in a manner that discourages reporting. Thus, if an employer takes a negative action against an employee under a rate-based incentive program, such as withholding a prize or bonus because of a reported injury, OSHA would not cite the employer under § 1904.35(b)(1)(iv) as long as the employer has implemented adequate precautions to ensure that employees feel free to report an injury or illness.

A statement that employees are encouraged to report and will not face retaliation for reporting may not, by itself, be adequate to ensure that employees actually feel free to report, particularly when the consequence for reporting will be a lost opportunity to receive a substantial reward. An employer could avoid any inadvertent deterrent effects of a rate-based incentive program by taking positive steps to create a workplace culture that emphasizes safety, not just rates. For example, any inadvertent deterrent effect of a rate-based incentive program on employee reporting would likely be counterbalanced if the employer also implements elements such as:

- an incentive program that rewards employees for identifying unsafe conditions in the workplace;

- a training program for all employees to reinforce reporting rights and responsibilities and emphasizes the employer's non-retaliation policy;
- a mechanism for accurately evaluating employees' willingness to report injuries and illnesses.

In addition, most instances of workplace drug testing are permissible under § 1904.35(b)(1)(iv). Examples of permissible drug testing include:

- Random drug testing.
- Drug testing unrelated to the reporting of a work-related injury or illness.
- Drug testing under a state workers' compensation law.
- Drug testing under other federal law, such as a U.S. Department of Transportation rule.
- Drug testing to evaluate the root cause of a workplace incident that harmed or could have harmed employees. If the employer chooses to use drug testing to investigate the incident, the employer should test all employees whose conduct could have contributed to the incident, not just employees who reported injuries.

<https://www.osha.gov/laws-regs/standardinterpretations/2018-10-11>

OSHA poster available in eleven additional languages

Arabic, Cebuano, Chinese, Haitian Creole, Korean, Nepali, Polish, Portuguese, Spanish, Tagalog, and Vietnamese.

Tip of the Week

On the OSHA homepage there is a tip of the week displayed. Perhaps, in the future a source for weekly tool box talks? Began 9/24. Limited references so far.

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Ohio Manufacturers' Association
Workers' Compensation Counsel Report
October 17, 2018

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Regulatory Actions

The BWC final filed the following rules with JCARR on October 9, 2018 to be effective January 1, 2019:

- 4123-17-33 Public employer taxing district industry group and limited loss ratio tables. (Amend)
- 4123-17-34 Public employer taxing districts contribution to the state insurance fund. (Amend)

The BWC final filed the following rules with JCARR on October 9, 2018 to be effective July 1, 2019:

- 4123-17-03 Employer's classification rates. (Amend)
- 4123-17-03.3 Employer premium size factors. (New) Permits BWC to set premium size factors
- 4123-17-05.1 Private employer credibility table. (Amend)
- 4123-17-18 Claim free discount. (Rescind)
- 4123-17-38 Private employer contribution to the premium payment security fund. (Rescind)
- 4123-17-43 Application for retrospective rating plan. (Amend)
- 4123-17-44 Minimum retrospective premium. (Amend)
- 4123-17-72 Deductible rule. (Amend)
- 4123-17-73 Group retrospective rating program. (Amend)
- 4123-17-75 Destination: excellence program. (Amend) the claim-free discount is no longer included in the Destination: excellence program

Further, BWC filed the following rules "without changes" as a result of a five year rule review:

- 4123-17-13 Employer application for workers' compensation coverage.
- 4123-17-14.1 Misrepresentation of payroll.
- 4123-17-15.6 Client employer information.
- 4123-17-24 Other states coverage policy.
- 4123-17-27 Protest of an employer's experience.
- 4123-17-28 Correction of inaccuracies affecting employer's premium rates.

- 4123-17-53 Private employer retrospective rating plan minimum premium percentages
- 4123-17-54 Public employer retrospective rating plan minimum premium percentages
- 4167-2-01 Refusal to work.
- 4167-3-02 Emergency temporary standards.
- 4167-5-01 Abatement dates.
- 4167-6-09 Records for substances required to be monitored or measured.
- 4167-8-02 Finding of imminent danger.
- 4167-9-01 Discrimination.
- 4167-10-01 Protection of trade secrets and confidential information.
- 4167-10-02 Required disclosure of trade secrets and confidential information to health professionals.
- 4167-13-01 Abatement verification, abatement plan, and progress reports.
- 4167-14-02 Hearings and appeals.
- 4167-14-03 Appeals to the court.
- 4167-15-01 Safety partnership agreement requirements.
- 4167-15-02 Agreement termination or suspension.

The following rules go before JCARR on October 18, 2018:

- 4123-6-21.3 Outpatient medication formulary: administrative changes only
- 4123-17-15 Professional employer organizations: The proposed rule sets forth definitions relating to PEOs, the obligations of a PEO, and requirements relating partial lease agreements. The proposed rule prohibits partial lease agreements between temporary agencies and PEOs. Additionally, the proposed rule formally recognizes all under client reporting.
- 4123-17-15.1 PEO agreements: This rule establishes requirements for PEOs that enter into agreements with client employees. The proposed rule incorporates:
 - 1) Changes mandated through the passage of House Bill 27.
 - 2) Clarifications as to the effective date of a PEO agreement, or change in PEO agreement, for workers' compensation policy purposes.
 - 3) Prohibition of PEO agreements where a PEO is a client employer.
 - 4) Establishment of a late processing fee of fifty dollars and no cents (\$50.00) for each occurrence of a PEO not complying with various statutory reporting requirements.
- 4123-17-15.2 Registration and reporting requirements: administrative changes only
- 4123-17-15.4 Financial requirements: removes the requirement to provide supplemental schedules to guarantee the working capital requirements are satisfied

4123-17-15.5 Self-insuring PEOs: administrative changes only
4123-17-15.7 Denial or revocation of PEO registration

Legislative Actions

No new legislation; see Rob's report for status updates to pending legislation

Judicial Decisions

State ex. Rel. Belle Tire Distribs. v. Indus. Comm., 2018-Ohio-2122

Herbert Melroy died on November 19, 2014 when he was in the process of changing a truck tire for Belle Tire Distributors, Inc. ("Belle Tire"). His wife, Judy Melroy ("Melroy") filed a claim for death benefits with the Ohio Bureau of Workers' Compensation ("BWC"). The Industrial Commission ("Commission") determined that Melroy did not meet her burden of proof because she did not show that her husband died in the course of, or arising out of, his employment. Specifically, the SHO determined that because Herbert Melroy "was in the process of beginning" to change a truck tire when he died, the death was not in the scope of his employment. The Commission refused to hear Melroy's appeal and she filed a motion for reconsideration.

Melroy filed a motion for reconsideration pursuant to R.C. §4123.512. Here, Melroy asserted the Commission maintained continuing jurisdiction because the SHO made a clear mistake of fact by misstating the mechanism of injury. Specifically, the description that Herbert Melroy "was in the process of beginning" to replace a tire failed to take into account the necessary steps he took to change the tire through the acquisition of the replacement tire, loading the tire onto his truck, and the removal of the flat tire. The Commission agreed and allowed the claim. Belle Tire appealed this Order.

Belle Tire filed a mandamus action in the Tenth District Court of Appeals arguing that the Commission did not have grounds to exercise its continuing jurisdiction to reconsider the SHO's order denying Melroy's death claim. Additionally, Belle Tire filed an appeal pursuant to R.C. 4123.512 in the Lucas County Court of Common Pleas to contest the Order of the Commission that allowed the claim. The common pleas court stayed that matter pending a decision by the Tenth District in the mandamus action.

Referencing the *Alhamarshah* case, Melroy filed a motion to dismiss arguing that R.C. §4123.512 provided Belle Tire with a plain and adequate remedy at law through the right to appeal to a court of common pleas. (*citing State ex. rel. Alhamarshah v. Indus Comm.*, 142 Ohio St. 3d 524, 2015-Ohio-1357). Belle Tire contended that *Alhamarshah* did not apply because *Alhamarshah* did not involve continuing jurisdiction, and therefore, could not have decided the issue of whether continuing jurisdiction was appropriately exercised. It argued *Saunders* is applicable instead, since it specifically indicates that mandamus is the proper means to challenge

the Commission's use of continuing jurisdiction. (*citing State ex. rel. Saunders v. Metal Container Corp.*, 52 Ohio St.3d 85, 86 (1990)). The court granted Melroy's motion to dismiss following *Alhamarshah*, noting that R.C. §4123.512 provided Belle Tire with a plain and adequate remedy at law through the right to appeal to a court of common pleas. Belle Tire appealed to the Supreme Court.

Belle Tire argued that R.C. §4123.512 only permits right-to-participate issues, and whether the Commission properly exercised continuing jurisdiction is not such. It further argued that a mandamus action in the Tenth District is the proper remedy to correct procedural errors committed by the Commission. Both the Commission and Melroy argued that an R.C. §4123.512 appeal was the adequate remedy in this instance because the right to participate was the ultimate decision being challenged.

The Supreme Court rejected the Commission and Melroy's argument, determining that the continuing jurisdiction issue is separate from the right to participate, and that *Saunders* was the applicable precedent for when there are issues with the Commission's use of continuing jurisdiction. The Supreme Court held that an R.C. §4123.512 appeal is authorized when the order grants or denies the right to participate in the workers' compensation system and a mandamus action is appropriate when there is a legal basis to compel the Commission to perform, including when the Commission has abused its discretion in carrying out its duties.

Dissenting, Justice DeWine and Justice Kennedy argued that an appeal under R.C. §4123.512 affords a plain and adequate remedy. The dissenting justices felt that the Commission's determination that there was a mistake of fact was tied to the question of Melroy's right to participate in the workers' compensation fund, thus making an R.C. §4123.512 appeal appropriate. Because an appeal may result in an order to vacate the claim, the dissenting justices rejected Belle Tire's argument that an R.C. §4123.512 appeal did not provide adequate relief.

State ex rel. Penske Truck Leasing Co., L.P. v. Indus. Comm'n of Ohio

This matter involves an appeal regarding the allocation of a PTD award. The Supreme Court held that the failure to explain the allocation of costs constituted an abuse of discretion.

Deborah Fizer ("Fizer") had three injuries that contributed to her disability. Fizer was injured on November 10, 2001 and January 2, 2014 while unloading a trailer for Penske Truck Leasing Company, L.P. ("Penske"). She was injured again in 2007 while working for T.Q. Logistics. Fizer's last date of employment was June 19, 2008.

On January 3, 2014, Fizer filed for permanent-total-disability ("PTD") compensation for the three work-related injuries. Based on the evaluations from Dr. Bond and Dr. Chatterjee, the SHO granted Fizer's PTD application and apportioned 9% of the cost of the award to the 2001 claim, 13% to the 2004 claim, and 78% to the 2007 claim. The evaluations were the only cited evidence that the SHO based the allocations upon. The Commission denied Penske's request for

reconsideration, and subsequently Penske filed a mandamus action seeking a writ to vacate the Commission's order allocating PTD among the claims.

The Commission and Penske filed an appeal to the Tenth District Court of Appeals. The appellate court found that Dr. Bond's report contained no evidence upon which the Commission could base the allocation of PTD percentages upon.

Penske and the Commission appealed to the Supreme Court. The Supreme Court held that allocations must be consistent with the evidence that the Commission expressly relies upon. The Commission relied upon Dr. Bond's medical report, which did not attribute impairment to each claim, and the Commission failed to explain how the report resulted in the allocation of costs. The failure to explain the allocation of costs constituted an abuse of discretion, thus the writ was granted and the Order was remanded.

The State ex. rel. Daily Services, L.L.C. v. Morrison, Admr.

Daily Services is a temporary employment agency that was owned by Ryan Mason ("Mason") and focused on short-term staffing. Mason also owned I-Force, a long-term staffing agency. The businesses were located in adjacent buildings and each agency held its own workers' compensation policy. In 2008, I-Force had become delinquent with the BWC account. During an audit of Daily Services in April of 2009, BWC learned that I-Force had ceased all business over the weekend of March 21-22, 2009 and subsequently transferred to Daily Services all permanent staff, property, computer leases, and taxes, as well as, the right to use the I-Force name. Following an investigation, BWC determined Daily Services was the successor-in-interest to I-Force and combined their policies, leaving Daily Services responsible for all of I-Force's existing and future financial rights and obligations.

Upon receipt of the invoice for I-Force's unpaid premiums, Daily Services filed a protest to the BWC's determination that it was the successor-in-interest to I-Force. The protest was referred to an adjudicating committee of the BWC for a hearing on the merits. In 2009, the committee affirmed the bureau's decision to combine the experience of the two companies but did not mention the issue of successor liability. Daily Services did not appeal this decision.

After a collections proceeding in 2011 determined that the issue of successor liability was never decided, another BWC hearing was held in 2013 before the adjudicating committee. Here, it was determined that Daily Services *was* the successor-in-interest, based upon the maneuvering of I-Force business operations to Daily Services, which amounted to a voluntary transfer of services under former O.A.C. § 4123-17-02(C)(1). The adjudicating committee concluded that Daily Services wholly succeeded I-Force for the purpose of workers' compensation and denied the protest. Daily Services appeal to the administrator's designee affirmed the prior decision. Daily services appeal to the Tenth District Court of Appeals.

In its complaint for a writ of mandamus, Daily Services alleged that the BWC's denial of the 2009 protest was an abuse of discretion. The Court determined that "wholly succeeds" was not defined by case law or the Ohio Administrative Code in effect in 2009. The Magistrate granted the writ, finding that the facts did not support finding Daily Services wholly succeeded I-Force. The Tenth District confirmed the Magistrate's Order adding that, taking the most profitable portions of the business did not amount to "wholly succeeding" the business operations. The BWC appealed to the Ohio Supreme Court.

The Supreme Court majority found that the BWC did not abuse its discretion when it determined that the employer, Daily Services, wholly succeeded the business operations of I-Force for the purpose of transferring unpaid premium liabilities, overturning the lower court's decision. The Supreme Court agreed with the BWC that it maintains a statutory obligation to safeguard the workers' compensation fund and that this obligation authorizes the BWC to find a successor-in-interest when the employer attempts to evade workers' compensation liabilities. Further, the Supreme Court held that a successor-in-interest must be voluntary, can be a transfer of business in whole or in part, and may be made in a manner other than by a purchase.

On dissent, Justices Kennedy, O'Donnell, and DeWine applied statutory rules of construction to the word "wholly" to determine that Daily Services was not the successor-in-interest as defined by the administrative code. Reading "wholly" with the standard definition and in light of the surrounding text, the dissent disagreed that a partial assumption of business created a successor-in-interest. The majority focused on the abuse of discretion standard while the dissent focused on the interpretation of the former administrative code and came to opposing results.

NOTE: For future cases, the Ohio Administrative Code was amended in 2010 and 4123-17-02(C)(2)(d) expressly provides that "the bureau shall transfer the predecessor's rights and obligations under the workers compensation law to the successor if ... the succession transaction is entered into for the purpose of escaping obligations under the workers' compensation law."

State ex rel. Jackson Tube Serv., Inc. v. Indus. Comm'n of Ohio, 2018-Ohio-3892

A recent Ohio Supreme Court case created the concept of impossibility as an affirmative defense to a violation of a specific safety requirement (VSSR) award. In other words, an employer will not be subject to pay a VSSR award if compliance with the safety requirement would be impossible.

In its decision, the Supreme Court offered a two-part test for employers to establish impossibility as an affirmative defense. An employer must show: (1) that it would have been impossible to comply with the specific safety requirement or that compliance would have precluded performance of the work; and (2) that no alternative means of employee protection existed or were available. A worker's incorrect suggestion that there may have been a way to comply with a safety requirement does not prevent the employer from prevailing on an impossibility defense.

Claimant's filed a VSSR application on the grounds that his employer violated a specific safety requirement under the Ohio Revised Code. The claimant's work injury involved equipment falling from a crane and both of his legs were broken as a result. Claimant alleged that additional equipment existed that his employer could have purchased to prevent the accident. The commission granted the VSSR award relying on the claimant's mistaken statement, despite evidence offered by the employer to the contrary. After a series of denied appeals that ultimately led to the Ohio Supreme Court, the Supreme Court held that the commission abused its discretion in granting the VSSR award because an alternative means of performing the work did not actually exist, and the employer established the defense of impossibility under the newly established two part test.

State ex rel. Klein v. Precision Excavating & Grading Co., 2018-Ohio-3890

In a big victory for employers, the Ohio Supreme Court overruled *State ex rel. Reiter Stucco, Inc. v. Industrial Commission*, finding that a disabled claimant who voluntarily removes himself from employment for reasons unrelated to the workplace voluntarily abandons himself from the workplace and is no longer entitled to temporary total compensation.

Previously, even if a claimant's separation from employment satisfied the criteria of voluntary abandonment, the claimant may still have been eligible for TTD compensation if the claimant was working restricted duty and unable to return to his *former* position at the time of separation. Or, in other words, where a claimant is released from employment for reasons unrelated to the injury, the claimant was still eligible to receive TTD compensation if they were not returned to work full duty in their former position when separated from employment. The Court here explains that this undermines an important principle of TTD: the loss of earnings must be causally related to the allowed conditions in the claim.

In *Klein*, the claimant sustained a work place injury on November 5, 2014 and was written off work until January 5, 2015. However, the Industrial Commission only awarded the claimant 13 days of TTD compensation from November 6, 2014 through November 19, 2014. The Court found that since there was sufficient evidence that before the injury occurred, the claimant planned on quitting his job and moving to Florida on November 20, 2014, and the claimant did, in fact, move to Florida on November 20th. The Court clarified that relocation itself does not constitute voluntary abandonment, but looking at the totality of the circumstances at the time of the abandonment, it was clear that the claimant planned to permanently leave his position and the claimant's own actions prevented his return to work.

This case specifically overrules the *State ex rel. Reiter Stucco v. Indus. Comm.* and *State ex rel. OmniSource Corp. v. Indus. Comm.*, effectively eliminating the distinction between terminated employees and those who voluntarily leave the workplace, for purposes of awarding temporary-total-disability.

TO: OMA Safety and Workers' Compensation Committee
FROM: Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: October 17, 2018

Overview

With the summer winding down and the campaign season in full effect, it has been quiet on the workers' compensation policy front. The U.S. Senate has yet to hold a confirmation hearing on BWC Administrator Sarah Morrison who was nominated by President Trump to serve as U.S. Federal District Court Judge for the Southern District of Ohio. The big news continues to be the rebate checks issued by the BWC. Employers are splitting \$1.5 billion in rebates.

Legislation and Rules

Senate Bill 118 / House Bill 161 – PTSD

New first responder PTSD bills were introduced last year in the General Assembly. The bills would provide workers' compensation benefits for first responders with post-traumatic stress disorder (PTSD) arising from employment, even without an accompanying physical injury or occupational illness. Benefits could be provided to qualifying claimants for up to one year.

The bills would create a fundamental shift from current workers' compensation law which requires a physical injury before allowing any mental health claims.

The Bureau of Workers' Compensation (BWC) board reviewed a report from the BWC actuarial staff quantifying the financial impact this bill and its companion, Senate Bill 118, would have on the local governments which would pay the claims.

It is estimated that the bill would cost up to an additional \$98.4 million annually in claims. For comparative purposes, currently all public entities in the State Insurance Fund combined pay approximately \$190 million in total annual premium today.

OMA and its business allies have long opposed opening the workers' compensation system to cover claims with no accompanying physical injury or occupational illness.

House Bill 161 had sponsor testimony last May. Senate Bill 118 has now had two hearings, including proponent testimony from Police and Firefighter groups. The OMA and its business community allies have been meeting with Senators reiterating opposition to the proposal.

House Bill 268 – Makes changes to Ohio's self-insurance workers comp laws

The bill would create a second self-insured guaranty fund for employers who currently cannot meet the financial metrics to go self-insured under today's laws. The bill also allows self-insured companies to purchase private insurance.

During the bill's third hearing the OMA testified in opposition of the bill. OMA Workers' Compensation Committee member Cathy Duhigg Gannon from Eaton provided OMA's opponent testimony.

House Bill 269 – Workers Compensation changes

The bill would rename the BWC to the Worker Safety and Rehabilitation Agency. It would require the agency to develop incentives for employers to participate in safety consultations and loss prevention programs. The bill requires an employee who is receiving temporary total disability compensation to comply with a return to work plan, and it makes changes with respect to compensation for permanent total disability and death benefits. The bill has had three hearings and is not expected to move.

House Bill 380 – Illegal Aliens

The bill prohibits illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. The bill is based off of the amendment that was eventually removed from the workers' compensation budget bill.

The House passed the bill in early December. The Senate had a first hearing on the bill in March. The subject was controversial in the Senate when this issue was debated during the BWC budget bill.

House Bill 459 – Group Self Insurance

The bill would allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law. The bill would leave it up to the BWC on how to structure and operate any such program. The bill has had several hearings and is supported by the Construction Employers Association. The OMA and other business allies provided opponent testimony.

BWC Subrogation Rule Goes into Effect

From OMA Connections Partner Bricker & Eckler: "Effective September 13, 2018, a change in Ohio workers' compensation laws permits employers to request subrogation for motor vehicle accidents where the at-fault, third-party is not issued a citation.

"Previously, employers could request to charge the surplus fund for at-fault, third-party motor vehicle accidents only if the at-fault party was issued a citation. This created problems for many employers ...

" ... The new law permits employers ... to file an AC-28 application even when the third-party is not issued a citation, so long as there is other documentation to demonstrate that the third-party was primarily liable.

"Additionally, the law will be applied retroactively to any claim occurring on or after July 1, 2017. The BWC is already accepting applications from employers where an AC-28 was previously denied. New applications for claims dating back to July 1, 2017, will be accepted after September 13, 2018."

If you have a claim involving a motor vehicle accident and your employee was not at fault, you may qualify for subrogation.

BWC Agency Notes

New Report: Ohio Workers' Compensation Costs Drop Sharply

According to a new report from the National Academy of Social Insurance: "In 2016, workers' compensation benefits paid and employer costs as shares of covered payroll dropped dramatically in Ohio compared to the rest of the U.S. ...

“In Ohio, workers’ compensation costs to employers as a share of covered payroll declined 13.8 percent in 2016. The decline in employer costs followed another large percentage decline in 2015. Altogether, workers’ compensation costs to Ohio employers fell 29.9 percent from 2014 to 2016, the largest two-year decrease in the country.”

Dr. Abe Al-Tarawneh, Chief of the Ohio Bureau of Workers’ Compensation (BWC) Division of Safety and Industrial Hygiene, was quoted in the report, saying: “Declines were primarily driven by continuous decreases in the frequency and severity of injuries coming into the system.”

\$10.8 Million in Uncashed Checks

The BWC reports that more than 5,500 Ohio employers are sitting on \$10.8 million in uncashed checks that it issued in conjunction with the \$1.5 billion back rebate.

The checks have a 90-day life and began expiring on Oct. 3.

BWC began sending the checks in batches on June 28. The first of the six batches expired Oct. 3 and all outstanding checks will expire by the end of October.

BWC has a plan for uncashed checks: BWC will credit an employer’s account the amount of their rebate if they do not cash their check. Credits will apply to any outstanding balances owed by the employer and a new check will be issued for any remaining credit on the account.

Note: Employers participating in group retrospective rating plans will receive their checks in mid-October

Medical Marijuana is Here (sort of). Is your Company Ready?

From OMA Connections Partner Bricker & Eckler: “Ohio is in for some turbulence as it enters the world of legalized cannabis. The state’s medical marijuana program was to be fully implemented by September 8, 2018. While much of the work of licensing growers, producers, dispensaries, and physicians has taken place, a number of glitches in the state’s screening processes have caused delays in getting product market-ready by this deadline. These delays present employers who have not taken certain steps to prepare for this change a brief reprieve. Please review your internal policies so you are prepared when the program is live.

BWC Introduces New Small Employer Program for Savings and Safety

The Bureau of Workers’ Compensation (BWC) has introduced a new program that is intended to help small employers lower their workers’ comp premiums and increase worker health and safety.

Private employers can now sign up for the new Policy Activity Rebate (PAR) program.

Under the program, employers earn credits for completing activities designed to improve workplace safety practices and encourage attentive management of their workers’ comp policies. Employers receive a 50% premium rebate, up to \$2,000. To be eligible for the rebate, they must select from among 33 available activities and earn 11 credits during the policy year that begins July 1.

Employers of any size can participate but must have an Experience Modifier of at least 1.0, a measurement of an employer's risk compared to the average risk of like employers. (If you buy OMA workers' comp services, you can look up your EM on the WCS dashboard.)

Also, employers participating in any of these programs cannot participate in the PAR program: Group-experience rating; group-retrospective rating; individual-retrospective rating; claim cost deductible; 100-percent EM capping; and One Claim Program.

According to Brian Jackson, Managing Director, OMA Workers' Compensation Services, the PAR program could benefit small employers but generally will not outperform group programs. Contact him if you have questions about what's best for your company.

Morrison Nominated for Judgeship

President Trump nominated BWC Administrator Sarah Morrison to serve as U.S. Federal District Court Judge for the Southern District of Ohio. Both U.S. Senators Rob Portman and Sherrod Brown recommended the President nominate Administrator Morrison for the vacancy in Columbus, Ohio, which was created upon the retirement of the Honorable Gregory L. Frost. The nomination will now be vetted by the Senate Judiciary Committee before being considered for confirmation by the full U.S. Senate. The Southern District has court locations in Cincinnati, Columbus, and Dayton and serves more than five million Ohioans in 48 counties.

\$1.5 Billion Back

The BWC Board approved a proposal giving Ohio employers \$1.5 billion in premium rebates. It was the largest rebate in 20 years. Checks were mailed over the course of the summer.

The rebate equals 85 percent of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers). It follows \$1 billion rebates issued in 2013, 2014 and 2017, as well as a \$15 million rebate in 2016 for counties, cities and other public employers.

Safety Issues

OSHA to Propose Rule to Better Protect Personally Identifiable Information

The Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) plans to issue a Notice of Proposed Rulemaking (NPRM) to better protect personally identifiable information or data that could be re-identified with a particular individual by removing provisions of the "Improve Tracking of Workplace Injuries and Illnesses" rule

OSHA Proposes to Modify Tracking Rule

From a Department of Labor Bulletin: "The Department of Labor's Occupational Safety and Health Administration (OSHA) has issued a Notice of Proposed Rulemaking (NPRM) to better protect personally identifiable information or data that could be re-identified with a particular individual by removing provisions of the "Improve Tracking of Workplace Injuries and Illnesses" rule.

"OSHA believes this proposal maintains safety and health protections for workers, protects privacy and reduces the burdens of complying with the current rule.

“The proposed rule eliminates the requirement to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. These establishments would be required to electronically submit information only from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).

“Under the current recordkeeping rule, the deadline for electronic submission of Calendar Year (CY) 2017 information from OSHA Forms 300 and 301 was July 1, 2018. In subsequent years, the deadline is March 2.

“OSHA is not currently accepting the Form 300 or 301 data and will not enforce the deadlines for these two forms without further notice while this rulemaking is underway. The electronic portal collecting Form 300A data is accepting CY 2017 data, although submissions after July 1, 2018, will be marked late.”

OSHA Extends Some Compliance Dates for Beryllium Standard

OSHA issued a final rule to extend the compliance date for specific ancillary requirements in the general industry beryllium standard to Dec. 12.

The extension applies to methods of compliance, beryllium work areas, regulated areas, personal protective clothing and equipment, hygiene facilities and practices, housekeeping, hazard communication, and recordkeeping.

During this time, the agency will prepare a Notice of Proposed Rulemaking to clarify certain provisions that maintain worker safety and health, and address employers' concerns with compliance.

OSHA Raises Penalty Amounts for 2018

From OSHA: “On Jan. 2, civil penalty amounts for violations of workplace safety and health standards increased by two percent from last year. In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the Department of Labor is required to adjust penalties for inflation each year. New penalties for willful and repeat violations are \$129,336 per violation; serious, other-than-serious, and posting requirements are \$12,934 per violation; and failure to correct violations is \$12,934 for each day the condition continues.”



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Paul Luzzi

H.B. 459

132nd General Assembly
(As Introduced)

Reps. Henne, Hambley, Becker, Romanchuk, Seitz, Kick, Hood

BILL SUMMARY

- Allows the Administrator of Workers' Compensation to grant self-insuring status to a group of employers.
 - Requires the Administrator to adopt rules necessary to implement the bill.
-

CONTENT AND OPERATION

Overview

In Ohio, an employer may provide workers' compensation coverage for the employer's employees in two ways: paying premiums into the State Insurance Fund, or being granted the privilege of paying compensation and benefits directly, known as self-insurance. An employer who wishes to be granted self-insuring status must satisfy factors specified in continuing law and any other factors specified by the Administrator of Workers' Compensation to demonstrate sufficient financial and administrative ability to assure that all of the employer's workers' compensation obligations are promptly met.¹ The bill allows the Administrator to grant self-insuring status to a group of employers and requires the Administrator to adopt rules implementing the bill.

Group self-insurance

Under the bill, groups of employers who can abide by the Administrator's rules and who have sufficient financial ability to pay their obligations under the Workers' Compensation Law² may be granted self-insuring status. An employer does not need to be

¹ R.C. 4123.35, not in the bill.

² R.C. Chapters 4121., 4123., 4127., and 4131.

a self-insuring employer to join a self-insuring group, and the Administrator cannot require an employer who wishes to join a self-insuring group to qualify individually for the right to self-insure.³

Rule adoption

Criteria for self-insurance groups

Under the bill, the Administrator must adopt rules to implement group self-insurance. In the rules the Administrator must establish criteria for determining whether a group wishing to be granted self-insuring status is financially and administratively capable of promptly meeting the obligations of a self-insuring employer. The bill also requires the Administrator to establish requirements that an employer must meet to join a self-insuring group.⁴

Under the bill the factors that the Administrator must consider to determine whether an individual employer demonstrates the ability to meet all of the obligations under continuing law do not apply to a group of employers who wish to self-insure under the bill.⁵ The continuing law requirements for individual employers vary depending on the type of employer and are summarized in the following table:

Factors the Administrator considers for private employers and boards of county commissioners that wish to self-insure sports facility construction projects ⁶	Requirements any other public employers who may self-insure must satisfy ⁷
The sufficiency of the employer's or board's assets located in Ohio to insure the employer's solvency in paying compensation directly.	For the two fiscal years preceding the application, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least 5% of the public employer's general fund revenues.
The employer or board has operated in Ohio for at least two years (the Administrator may waive this requirement for a private sector employer if certain conditions are met).	For the two years preceding the application, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the Administrator for that public employer.
If the employer or board previously paid into	For the five years preceding the application,

³ R.C. 4123.354(A) and (C), by reference to R.C. 4123.35(B) and (C), not in the bill.

⁴ R.C. 4123.354(B)(1) and (2).

⁵ R.C. 4123.354(A)(1) and (2).

⁶ R.C. 4123.35(B)(1) and (C), not in the bill.

⁷ R.C. 4123.35(B)(2), not in the bill.



Factors the Administrator considers for private employers and boards of county commissioners that wish to self-insure sports facility construction projects⁶	Requirements any other public employers who may self-insure must satisfy⁷
<p>the State Insurance Fund, the amount of the buyout from the Fund.</p> <p>The employer's or board's financial records from the current year and the previous four years provide full financial disclosure (the Administrator may waive this requirement for a private sector employer if certain conditions are met).</p> <p>The employer's or board's organizational plan for the administration of the Law.</p> <p>The employer's or board's proposed plan to inform employees of the change to self-insurance, the procedures the employer or board will follow as a self-insuring employer, and the employee's right to compensation and benefits.</p> <p>The employer or board has an account in an Ohio financial institution or, if the account is with an out-of-state financial institution, the employer or board ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer or board clearly indicates that payment will be honored by an Ohio financial institution.</p> <p>The board provides a surety bond in an amount equal to 125% of projected losses as determined by the Administrator (does not apply to a private sector employer).</p>	<p>the public employer has complied fully with disclosure requirements established by the U.S. Securities and Exchange Commission, as applicable.</p> <p>For the five years preceding the application, the public employer has not had its Local Government Fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.</p> <p>For the five years preceding the application, the public employer has not been under a fiscal watch or fiscal emergency pursuant to state law.</p> <p>For the public employer's fiscal year preceding the application, the public employer has obtained an annual financial audit as required under continuing law that has been released by the Auditor of State within seven months after the end of the public employer's fiscal year.</p> <p>On the date of the application, the public employer holds a debt rating of Aa3 or higher according to Moody's Investors Service, Inc., or a comparable rating by an independent rating agency.</p> <p>The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims.</p> <p>For a public employer that is a hospital, the public employer submits audited financial statements showing the hospital's overall liquidity characteristics.</p> <p>The public employer satisfies any additional criteria that the Administrator adopts by rule</p>

Transfer procedures

The bill requires the Administrator to adopt rules to establish procedures for, and determine the liability of, an employer who transfers coverage between the State Insurance Fund and a self-insuring group.⁸ This liability might include the amount employers must pay to cover their liability for existing claims in the Fund, any administrative assessments paid by self-insuring employers under continuing law, and any payments made to the Self-Insuring Employers Guaranty Fund.⁹

Multiple employer welfare arrangements

Under the bill the Multiple Employer Welfare Arrangement Law¹⁰ does not apply to a group of employers that have been granted self-insuring status for purposes of the Workers' Compensation Law. Under the Multiple Employer Welfare Arrangement Law, only certain groups – such as a chamber of commerce or a business league – are permitted to establish, maintain, or operate a group self-insurance program under a multiple employer welfare arrangement.¹¹

HISTORY

ACTION	DATE
Introduced	01-09-18

H0459-I-132.docx/ts

⁸ R.C. 3123.354(B)(3).

⁹ See, e.g., R.C. 4123.35 and 4123.351, not in the bill.

¹⁰ R.C. Chapter 1739.

¹¹ R.C. 1739.02.





THE OHIO COUNCIL OF

Retail Merchants
The voice of retail since 1922



May 16, 2018

The Honorable Tom Brinkman
Chairman
House Insurance Committee
77 S. High St.
Columbus, OH 43215

Dear Chairman Brinkman:

Our organizations are jointly writing today to express our collective opposition to House Bill 459.

In Ohio there are currently two ways an employer may provide workers' compensation coverage for its employees. An employer may either pay premiums into the State Insurance Fund; or, if qualified, may be granted the privilege of paying compensation and benefits directly, known simply as self-insurance. Under the proposed legislation a new third option would become available to employers. House Bill 459 allows the Bureau of Workers' Compensation (BWC) Administrator to grant self-insuring status to a *group* of employers.

The bill itself is vague regarding how such a program would operate. The bill only states that the Administrator must adopt rules to implement group self-insurance. Within these rules the Administrator is supposed to determine whether a group of employers has sufficient financial and administrative ability to be viable and the Administrator is supposed to establish rules whereby an employer could join a group. No other specificity is provided in the bill.

Our organizations are wary of group self-insurance structures. As a monopolistic workers' compensation system, Ohio employers who are not self-insured must purchase coverage from the Ohio BWC. The system is designed to account for the risk of all employers. Because of this Ohio is both an insurer of first and last resort. By removing a percentage of state fund employers into group self-insurance, premiums for the remaining companies have the potential of being adversely impacted.

Ohio also has a strong self-insured program as exhibited in previous testimony before this committee. The prevailing reason that companies are not granted self-insurance in

Ohio is because their financial positions are not strong enough to cover expected losses from workers' compensation claims and insulate all participants from bankruptcies. Strong financials are necessary so that the Guaranty Fund, any guaranty fund, does not go bankrupt under financial pressure. During the Great Recession in 2008, the BWC and the self-insured community shared a significant concern that the Self-Insured Employers' Guaranty Fund would not be adequate to cover current and future liabilities as companies went out of business and others were teetering on the brink of bankruptcy, and this included some of the strongest and most financially stable companies. Imagine the potential crisis with groups comprised of much smaller and financially weaker employers.

While we appreciate Representative Henne's innovative work on House Bill 459, there remain far too many unknowns with the bill and our collective organizations oppose it at this time.

Sincerely,

Ohio Self Insurers Association

The Ohio Council of Retail Merchants

Ohio Chamber of Commerce

The Ohio Manufacturers' Association

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PRESS RELEASE: In Ohio, Workers' Compensation Benefits and Costs as a Share of Covered Payroll Drop Sharply

For Immediate Release: October 11, 2018

Contact: Griffin Murphy, (202) 452-8097
gmurphy1@nasi.org Adam Bradley, (301) 656-0348
adam@thehatchergroup.com

WASHINGTON, D.C. – In 2016, workers' compensation benefits paid and employer costs as shares of covered payroll dropped dramatically in Ohio compared to the rest of the U.S., according to a [new report](#) from the National Academy of Social Insurance (the Academy).

In Ohio, workers' compensation costs to employers as a share of covered payroll declined 13.8 percent in 2016. The decline in employer costs followed another large percentage decline in 2015. Altogether, workers' compensation costs to Ohio employers fell 29.9 percent from 2014 to 2016, the largest two-year decrease in the country.

The Academy's report, [Workers' Compensation: Benefits, Costs, and Coverage](#), also highlights five-year changes in workers' compensation benefits paid and costs to employers from 2012 to 2016. Over this period, the decline in employer costs in Ohio as a share of payroll far outpaced the rest of the country. In Ohio, employer costs fell by \$0.27 per \$100 of covered payroll, compared to a \$0.05 decline nationally (Figure 1). By 2016, workers' compensation costs as a share of payroll were \$0.51 lower in Ohio than the national average.

In Ohio, the majority of employers purchase workers' compensation insurance from an exclusive state fund. Some large employers are allowed to self-insure. According to the report, the state fund accounted for 82 percent of total benefits paid to injured workers and their medical care providers in 2016.

Workers' compensation benefits paid per \$100 of covered payroll in Ohio decreased by \$0.28 per \$100 of covered payroll over the five-year period, a 27.2 percent decline and the second-largest drop among all 50 states and the District of Columbia. The sustained decline moved Ohio from paying well above the national average in 2012, to well below the average in 2016 (Figure 2).

Dr. Abe Al-Tarawneh, Chief of the Ohio Bureau of Workers' Compensation (BWC) Division of Safety and Industrial Hygiene, said there have been no changes to the structure of benefits offered to injured workers over this period.

"Declines were primarily driven by continuous decreases in the frequency and severity of injuries coming into the system," said Dr. Al-Tarawneh. "We have also expanded the reach and effectiveness of BWC's safety programs and services. Over the past eight years, Ohio reduced occupational injuries coming into the system at a pace far surpassing the rest of the nation."

Ohio also differs from most other jurisdictions in the share of benefits paid for injured workers' medical care. Nationwide, medical benefits (paid to medical care providers) and cash benefits (paid to injured workers in compensation for lost wages) accounted for approximately equal shares of total benefits paid in 2016. In Ohio, however, cash benefits accounted for 61 percent of benefits paid, while medical benefits accounted for only 39 percent, among the lowest proportion in the nation.

"Ohio has made significant gains in managing the costs of workers' compensation through strong fiscal and financial stewardship, and by controlling and minimizing the effects of inflation on medical care costs," said Dr. Al-Tarawneh.

Figure 1. Workers' Compensation Costs per \$100 of Covered Payroll, 2012-2016: Ohio vs. U.S. Average (non-federal)

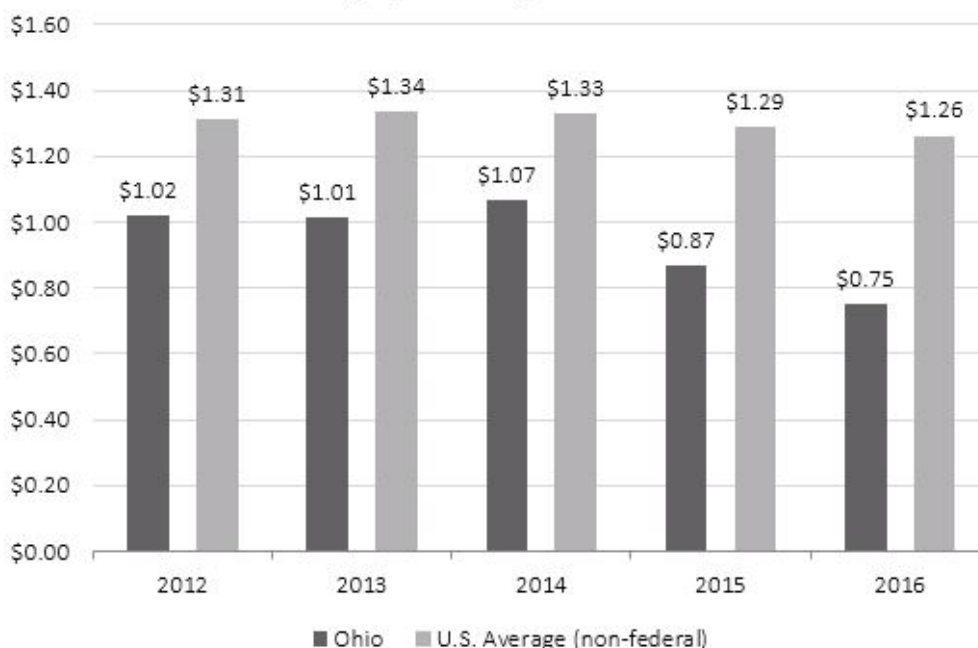
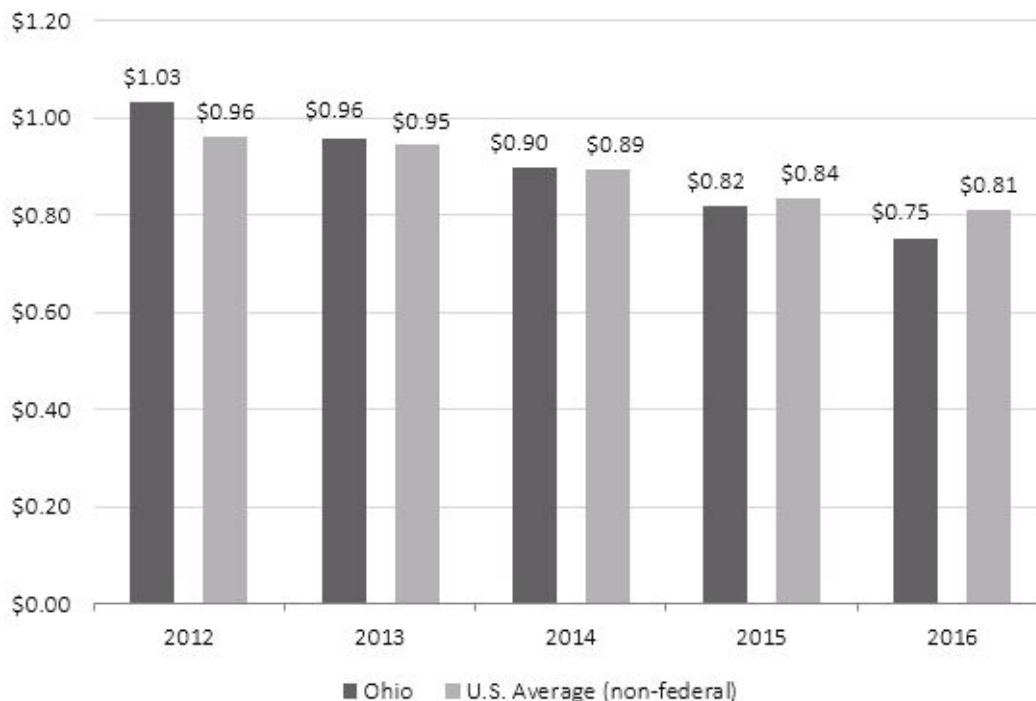


Figure 2. Workers' Compensation Benefits per \$100 of Covered Payroll, 2012-2016: Ohio vs. U.S. Average (non-federal)



Workers' Compensation: Benefits, Costs, and Coverage (2016 data) is the 21st in an annual series. The report provides the only comprehensive data on workers' compensation benefits, costs, and coverage, for the nation, the states, the District of Columbia, and federal programs.

EXPERTS TO CONTACT:

<p>Christopher McLaren</p> <p>National Academy of Social Insurance (202) 243-7280 cmclaren@nasi.org</p>	<p>Marjorie Baldwin</p> <p>W. P. Carey School of Business Arizona State University (480) 965-7868 marjorie.baldwin@asu.edu</p>	<p>Les Boden</p> <p>Boston University School of Public Health (617) 358-2651 lboden@bu.edu</p>
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The National Academy of Social Insurance is a non-profit, nonpartisan organization made up of the nation's leading experts on social insurance. Its mission is to advance solutions to challenges facing the nation by increasing public understanding of how social insurance contributes to economic security.

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More than **A** **BILLION** back again

Building a culture of safety across the state is at the heart of our work at the Ohio Bureau of Workers' Compensation. Reducing workplace accidents while returning injured workers back to the job and back to life helps both employers and workers thrive.

Safer workplaces and fewer injuries have helped us reduce rates to 30 year lows and deliver more than \$4 billion in rebates and credits to Ohio employers since 2011. That leaves more money in employers' hands to invest in their business.

Another factor supporting a robust workers' comp system in Ohio is wise management of the premium dollars BWC collects from 240,000 employers. BWC's financial position is solid with strong investment income and returns.

The result of prudent fiscal management, strong investments and falling claim numbers: We're poised to deliver our largest rebate in 20 years. That would bring the total returned to the economy to more than \$8 billion since 2011.

What does BWC's plan include?

A one-time rebate for private employers and public-taxing districts will total approximately \$1.5 billion.

How much would employers receive and when?

Most rebates would equal 85% of the employer's premium for the policy year ending June 30, 2017 (calendar year 2016 for public employers). BWC would begin sending checks in early July.

Private employers in the Group-Retrospective Rating Program would receive checks in the Fall.

Who will be eligible for the rebate?

Both private employers and public employer taxing districts that pay into the State Insurance Fund are eligible for the rebate. Generally, the employer must have been billed premium for the policy year ending June 30, 2017 (Dec. 31, 2016 for public employers), and be current in meeting their policy requirements. Employers with an outstanding BWC balance will have their rebate first applied to that balance. Employers that report through a Professional Employer Organization should receive their rebate from their PEO, which is required to pass a portion of the rebate on to their members.

How will the plan impact local governments and schools?

Local governments and schools have benefitted from three \$1 billion rebates since 2013 and a \$15 million rebate for Public Work Relief Employees' Fund. During that time, BWC has returned \$402 million — \$125 million to schools and \$277 million to local government entities. This rebate will add an estimated \$48 million to schools and \$111 million to local governments. As an example, a school district with \$12 million in payroll would have been paying \$96,000 in premium in 2011, and \$73,200 in 2018. That's \$124,000 in premium savings. That district would have also received \$288,000 in rebates and credits during that time, making for almost \$413,000 in savings.

How is it possible that BWC has \$1.5 billion to provide rebates?

Despite rate reductions and rebates and credits already totaling \$4 billion since 2011, our net position has continued to grow. The State Insurance Fund's net position stands at nearly \$11 billion, primarily due to strong investment income and returns. Investments earned a 7.8 percent return in 2017 and an average of 6.6 percent over the last five fiscal years. Prudent fiscal management and declining claims also factor into our financial strength.

Will this impact BWC's ability to operate as normal and continue to care for injured workers?

No. Even with a \$1.5 billion rebate, BWC's finances will remain strong, allowing us to continue providing injured workers with the care they need to heal and return to work. In fact, we are developing a proposal to invest a significant amount into worker safety and wellness, which should benefit Ohio workers by further reducing workplace injuries.

What else has BWC done to help Ohio businesses?

Once the latest rebates have been distributed, BWC will have saved Ohio businesses \$8 billion through rebates, credits and rate reductions since the beginning of 2011. That includes:

- \$1 billion rebates in 2013, 2014 and 2017;
- \$1.2 billion in credits to transition to a modern billing system at no cost to employers;
- Rate reductions for private employers of an average of 28.2 percent*. That means BWC collected \$1.7 billion less from employers than if 2010 rates had remained unchanged;
- Rate reductions for public employers of an average of 33.9 percent, or \$434 million less than had 2010 rates remained steady;
- Moving from the third highest rates in the country in 2008 to the 11th lowest.

**This rate will increase to 35% on July 1, 2018*



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Medical Marijuana is here (sort of). Is your company ready?

September 6, 2018



By Marie-Joëlle C. Khouzam

Ohio is in for some turbulence as it enters the world of legalized cannabis. The state's medical marijuana program was to be fully implemented by September 8, 2018. While much of the work of licensing growers, producers, dispensaries and physicians has taken place, a number of glitches in the state's screening processes have caused delays in getting product market-ready by this deadline.

These delays present employers who have not completed preparation for this change a brief reprieve. What can employers do now to ensure workplace safety as Ohio's law is fully implemented?

1. **Understand what the new law, O.R.C. 3796 *et seq.*, states.** Employers are not:
 - a. Required to permit or accommodate an employee's use, possession, or distribution of medical marijuana;
 - b. Prohibited from refusing to hire, discharging, disciplining or otherwise taking an adverse employment action against a person because of that person's use, possession or distribution of medical marijuana, or
 - c. Prohibited from establishing and enforcing substance abuse policies.
2. **Understand the law in relation to disabilities laws.** Employers must know and abide by any obligations that may arise under state or federal disabilities laws, when considering the *underlying* medical condition for which an individual may

KEY CONTACT



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be using medical marijuana. The new law identifies 21 qualifying conditions, the most commonplace being “pain that is either chronic and severe or intractable”.

3. **Review and update your company’s substance abuse policy.** With medical marijuana now legal, pay close attention to definitions of permissible and impermissible conduct.
4. **Review and update your company’s smoking policy.** While the new law prohibits smoking medical marijuana (combustible materials), it expressly permitted vaping it via an e-cigarette type of device.
5. **If your company is a party to a collective bargaining agreement, consider your obligation to bargain in good faith over any change to a drug testing policy.**
6. **Revisit all job descriptions, particularly those for safety-sensitive positions.** A well-established side effect of consuming marijuana is its impact on various motor and cognitive skills, including movement, sensation, vision, judgment and coordination.
7. **Understand how to screen applicants consistently and in compliance with laws affecting drug screening.** What is your policy on pre-employment screening? At what stage of the hiring process is this occurring?
8. **Know the requirements of customers or business partners that may have your employees on their job sites.** What is your policy if your employees pass your hiring requirements but cannot pass those of the site to which they may be assigned?
9. **Train management and supervisory staff on how to discern and document possible impairment or working under the influence.** Managers and supervisors are the eyes and ears that can help protect employees and their co-workers from harm. Providing them with the proper tools to ensure safety procedures are followed when someone is suspected of being under the influence can often save a life or limb, not to mention workers’ compensation claims and costly litigation.
10. **Consult with legal counsel if you need assistance with any of the above.**

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Medical Marijuana and its IMPACT ON BWC

What does OHIO'S medical marijuana LAW SAY?

In 2016, the Ohio General Assembly set up the framework to legalize medical marijuana in Ohio, effective Sept. 8, 2018. It was approved for certain medical conditions, including pain that is either chronic and severe or intractable, PTSD, and traumatic brain injuries. At this time, the only legal forms of medical marijuana will be edibles, oils, patches, plant material and tinctures. Vaporization is permitted. It cannot be smoked or combusted. Home growth is prohibited.

The Ohio Department of Commerce is tasked with regulating the licensure of medical marijuana cultivators and processors, as well as the laboratories that test medical marijuana. The state of Ohio Board of Pharmacy will license retail dispensaries and register patients and their caregivers. Additionally, the State Medical Board of Ohio will regulate physicians' requirements and procedures for applying for and maintaining certificates to recommend medical marijuana and maintain the list of conditions for which medical marijuana can be recommended.

What is the IMPACT of the new law ON BWC?

The impact of the new law on BWC and its programs is limited. It does not adversely affect the Drug-free Safety Program, will not require BWC to pay for patient access to marijuana, and expressly states that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation.

Specifically:

- 1 Nothing in the law requires an employer to accommodate an employee's use of medical marijuana;
- 2 The law does NOT prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana;
- 3 The law specifies that marijuana is covered under "rebuttable presumption." In general, this means that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation. This is the case regardless of whether the marijuana use is recommended by a physician;
- 4 While the law does not specifically address reimbursement for medical marijuana recommended for injured workers, Ohio law already has rules and statutes in place that limit what medications are reimbursable by BWC.
 - Administrative code provides that drugs covered by BWC are limited to those that are approved by the United States Food and Drug Administration. Marijuana has not been approved by the FDA and remains a Schedule I illegal drug under federal law.
 - BWC-funded prescriptions must be dispensed by a registered pharmacist from an enrolled provider. Medical marijuana will be dispensed from retail marijuana dispensaries, not from enrolled pharmacies.
 - BWC only reimburses drugs that are on its pharmaceutical formulary, which is a complete list of medications approved for reimbursement by BWC. Drugs not on the list are not eligible for reimbursement, and under BWC's current rules, it cannot be included in the formulary, nor is it otherwise eligible for reimbursement.

What can EMPLOYERS DO?

The best way employers can protect their workers and themselves is to establish a **drug-free workplace**, or, if they already have one, to review and update it if necessary. This is important because certain sections of the new law reference the use of medical marijuana in violation of an employer's drug-free workplace policy, zero-tolerance policy or other formal program or policy regulating the use of medical marijuana. For what this means to your specific workplace, consult your human resources or legal department.

New BWC program targets safety at small Ohio workplaces

NEWS RELEASE

June 4, 2018

COLUMBUS – Ohio small employers have a new option for lowering their workers' comp premiums and increasing worker health and safety.

Private employers can now sign up for the new Policy Activity Rebate (PAR) program.

“Even small employers can save money and improve workplace safety by better understanding Ohio's workers' compensation system,” said Kevin Abrams, Chief Operating Officer for the Ohio Bureau of Workers' Compensation (BWC). “PAR offers a flexible alternative for smaller employers to improve safety and become more engaged in their risk management programs.”

Under the program, employers earn credits for completing activities designed to improve workplace safety practices and encourage attentive management of their workers' comp policies. Employers receive a 50 percent premium rebate, up to \$2,000. To be eligible for the rebate, they must select from among 33 available activities and earn 11 credits during the policy year that begins July 1.

Abrams added that employers have a variety of options, including attending safety training, bringing an employee back to work on light/modified duty and enrolling employees in BWC's Better You, Better Ohio! wellness program.

Public and private employers of any size can participate but must have an Experience Modifier of at least 1.0, a measurement of an employer's risk compared to the average risk of like employers.

Public employers can begin signing up Dec. 1.

Visit bwc.ohio.gov for more details on PAR.

#

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Established in 1912, the Ohio Bureau of Workers' Compensation is the exclusive provider of workers' compensation insurance in Ohio and serves 242,000 public and private employers. With 1,800 employees and assets of approximately \$29 billion, BWC is the largest state-run insurance system in the United States. Our mission is to protect Ohio's workers and employers through the prevention, care and management of workplace injuries and illnesses at fair rates. For more, visit www.bwc.ohio.gov.

Publications

OSHA Proposes Revision to Electronic Recordkeeping Rule

July 31, 2018 | Legal Alerts

Daniel R. Flynn and Anna Claire Skinner

Yesterday, as expected for some time, OSHA issued a proposed rule to rescind the requirement from the May 12, 2016 “Final Rule to Improve Tracking of Workplace Injuries and Illnesses” that establishments with 250 or more employees must electronically submit information from the OSHA Form 300 – Log of Work-Related Injuries and Illnesses and Form 301 – Injury and Illness Incident Report. These establishments will still be required to electronically submit information from their Form 300A summaries as scheduled in the original rule. As justification for the rescission, OSHA determined that requiring the submittal of the Form 300 and 301 data increased the risk that sensitive worker information could be exposed under Freedom of Information Act requests and there were uncertain benefits to collecting this detailed information.

OSHA also reiterated its position from an April 30, 2018 press release that employers in all states must comply with the Form 300A requirement. Employers’ 2017 Form 300A electronic data was due to OSHA on July 1, 2018. Employers can still electronically submit their 2017 Form 300A data to OSHA but it will be flagged as “Late.” OSHA noted in the proposed rule that it had identified thousands of establishments that did not submit their 2016 Form 300A data and it “is currently taking steps aimed at reducing the number of non-responders for the 2017 reporting year.” OSHA has not issued any specific guidance discussing whether it plans to initiate enforcement actions against late reporters. However, following the December 2017 deadline for submittal of 2016 Form 300A data, OSHA issued interim enforcement procedures stating that “failure to submit records would be classified as an Other Than Serious violation.” Further, employees could avoid a penalty if they were able to immediately abate the violation by providing an enforcement officer with a paper copy of the Form 300A. Thus, according to the guidance issued after the 2017 deadline, employers who immediately

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abate the failure to submit the Form 300A information will, at worst, receive a citation for an Other Than Serious violation.

It is also worth noting that OSHA is proposing to add an additional requirement “for employers to submit their EIN along with their injury and illness data reporting” because it “could reduce or eliminate duplicative reporting.” This proposal would make it easier for the Bureau of Labor Statistics to match data it collects under the Survey of Occupational Injury and Illness with data that employers submit electronically to OSHA. The proposed rule does not address the revisions that OSHA made to 29 C.F.R. § 1904.35(b) in the May 12, 2016 final rule. These anti-retaliation provisions impact employers’ illness and injury reporting programs, drug testing policies and incentive programs and remain unchanged by the proposed rule.

OSHA stated that the Form 300A information submitted by each employer gives it “a great deal of information to use in identifying high-hazard establishments for enforcement targeting” and the Form 300 and 301 information is not necessary. OSHA has “designed a targeted enforcement mechanism for industries experiencing higher rates of injuries and illnesses based on the summary data” from Form 300A. Although OSHA has not released details on this targeted enforcement mechanism, we expect it to resemble OSHA’s former site-specific targeting program. Employers must therefore remain vigilant in ensuring that their facilities remain as safe and healthful as possible.

Comments on the proposed rule are due on September 28, 2018.

Safety & Workers' Compensation

In a Group Retrospective Plan? Your Billion Back is Coming **October 12, 2018**

The Bureau of Workers' Compensation has indicated that it will start sending Billion Back rebates the week of October 22nd to employers that participate in a group retrospective rating program. *10/11/2018*

New Report: Ohio Workers' Compensation Costs Drop Sharply **October 12, 2018**

According to a new report from the National Academy of Social Insurance: "In 2016, workers' compensation benefits paid and employer costs as shares of covered payroll dropped dramatically in Ohio compared to the rest of the U.S. ...

"In Ohio, workers' compensation costs to employers as a share of covered payroll declined 13.8 percent in 2016. The decline in employer costs followed another large percentage decline in 2015. Altogether, workers' compensation costs to Ohio employers fell 29.9 percent from 2014 to 2016, the largest two-year decrease in the country."

Dr. Abe Al-Tarawneh, Chief of the Ohio Bureau of Workers' Compensation (BWC) Division of Safety and Industrial Hygiene, was quoted in the report, saying: "Declines were primarily driven by continuous decreases in the frequency and severity of injuries coming into the system."

Read **more here**. *10/11/2018*

Vote for Safety Webinar Topics for 2019 **October 5, 2018**

We are planning our 2019 calendar of monthly safety webinars.

We want to plan programming that is valuable to you. Please take just a minute to tell us which topics are of the most interest to you. Vote for as many topics as you want.

We will prioritize the topics for 2019 based upon the highest member interest, shown by number of member votes.

Click here to select your topics now! *10/4/2018*

\$10.8 Million in Uncashed Checks **September 28, 2018**

The BWC reports that more than 5,500 Ohio employers are sitting on \$10.8 million in uncashed checks that it issued in conjunction with the \$1.5 billion back rebate.

The checks have a 90-day life and will begin expiring on Oct. 3.

BWC began sending the checks in batches on June 28. The first of the six batches will expire Oct. 3 and all outstanding checks will expire by the end of October.

BWC has a plan for uncashed checks: BWC will credit an employer's account the amount of their rebate if they do not cash their check. Credits will apply to any outstanding balances owed by the employer and a new check will be issued for any remaining credit on the account.

Note: Employers participating in group retrospective rating plans will receive their checks in mid-October. *9/26/2018*

Upcoming webinar: Active Violence Situation in the Workplace **September 21, 2018**

Our October safety webinar is **Active Violence Situation in the Workplace**, on Thursday, October 4 from 10:00 – 11:00 a.m.

While we hope no one ever needs to use this information, our goal is to increase the overall awareness of participants and prepare them to respond using best practices during any potential incident of active violence.

Register **here**. No charge for OMA members. *9/17/2018*

Workers' Comp Offers for 2019/20 Now Online
September 14, 2018



OMA members who buy OMA Workers' Compensation Services can find their 2019/20 policy year offer online on their WCS Dashboard.

Online offers are available 100% of the time.

The dashboard also contains a variety of useful reports and information to help members manage claims and lower premium expense.

Not yet an OMA Workers' Compensation Services customer? Apply **easily here** for your no-cost, no-obligation proposal. *9/13/2018*

How Manufacturers Can Keep Temporary Workers Safe
September 14, 2018

From OMA Connections Partner Dinsmore, **this article** by David Flynn, Partner, discusses OSHA requirements and business considerations for keeping temporary workers safe. *9/12/2018*

Medical Marijuana is Here (sort of). Is your Company Ready?
September 7, 2018

From OMA Connections Partner Bricker & Eckler: "Ohio is in for some turbulence as it enters the world of legalized cannabis. The state's medical marijuana program was to be fully implemented by September 8, 2018. While much of the work of licensing growers, producers, dispensaries, and physicians has

taken place, a number of glitches in the state's screening processes have caused delays in getting product market-ready by this deadline. These delays present employers who have not taken certain steps to prepare for this change a brief reprieve. What can employers do now to ensure workplace safety as Ohio's law is fully implemented?"

Read these **10 recommendations for employers** from OMA's employment law attorney, **Marie-Joëlle C. Khouzam**, Partner, Bricker & Eckler, (614) 227-2311. *9/6/2018*

BWC's Fact Sheet on Medical Marijuana
September 7, 2018

Medical marijuana will soon be legal in Ohio, and the Bureau of Workers' Compensation (BWC) has developed a **fact sheet** outlining the impact of medical marijuana on Ohio's workers' compensation system. *9/5/2018*

BWC Subrogation Rule Goes into Effect
September 7, 2018

From OMA Connections Partner Bricker & Eckler: "Effective September 13, 2018, a change in Ohio workers' compensation laws permits employers to request subrogation for motor vehicle accidents where the at-fault, third-party is not issued a citation.

"Previously, employers could request to charge the surplus fund for at-fault, third-party motor vehicle accidents only if the at-fault party was issued a citation. This created problems for many employers ...

"... The new law permits employers ... to file an AC-28 application even when the third-party is not issued a citation, so long as there is other documentation to demonstrate that the third-party was primarily liable.

"Additionally, the law will be applied retroactively to any claim occurring on or after July 1, 2017. The BWC is already accepting applications from employers where an AC-28 was previously denied. New applications for claims dating back to July 1, 2017, will be accepted after September 13, 2018."

If you have a claim involving a motor vehicle accident and your employee was not at fault, you may qualify for subrogation. Contact your

OMA workers' comp account manager or Bricker's **Sue Roudebush** for more information. 9/5/2018

Caught Red-Handed **August 31, 2018**

Jim Wernecke, Director, BWC Special Investigations Department says it's getting harder and harder for the criminally minded to rip off BWC and the State Insurance Fund and get away with it.

Jim recently presented Special Investigations Department's annual report for FY2018, which closed June 30, to the BWC board.

He reported:

- We closed 1,622 fraud cases, 448 more than in 2017.
- We secured 101 convictions of claimants, employers and health care providers who defrauded our agency.
- For every dollar we spent on our efforts, we saved the state fund nearly five (\$4.81), or \$1.33 more than last year.
- We reduced our investigation time per case by 23 days on average, our lowest number on this measure since 2005.
- All told, we saved the state fund \$60.1 million in 2018, a 44 percent jump over 2017's numbers.

Read **more here**. 8/24/2018

BWC's New Rule on Health and Behavioral Assessment Intervention Explained **August 24, 2018**

OMA Connections Partner Dinsmore posted this good description about how the BWC's new health and behavioral assessment intervention (HBAI) rules are intended to work: "... the BWC has taken on a new initiative to address cognitive, emotional, behavioral, social and psychological issues in a claim that are not directly related to the allowed conditions. It believes that these kinds of issues increase the

risk of prolonged pain and disability. ... Codified as OAC 4123-6-33, the rules provide that when an injured workers' physician of record (POR) determines recovery may be delayed due to either behavioral or health issues, the POR can request an assessment of the injured worker by an independent medical provider who will determine any potential behavior issues which may serve as a barrier to overall recovery."

Per Dinsmore: "The purpose of HBAI services is to attempt to speed up the recovery of injured workers, thereby reducing claims' costs and time off of work. While these are worthy goals, it is unclear how frequently these requests will be seen in actual practice. It is also unclear how emotional/behavioral barriers to recovery can and will be differentiated from the treatment of psychological conditions, which are not part of the underlying workers' compensation claim and which is excluded under the rules. "

Read the **full post** from Dinsmore. 8/17/2018

BWC Medical Chief Earns Industry Recognition **August 24, 2018**



The **chief medical officer for the Ohio Bureau of Workers' Compensation has earned** a distinction recognizing him as one of the nation's most accomplished and influential physician leaders.

Terrence B. Welsh, MD, earned the prestigious Certified Physician Executive (CPE) certification from The American Association for Physician Leadership. The designation indicates a physician has achieved superior levels of professional excellence and management education while also demonstrating effective health care industry knowledge and leadership skills.

The American Association for Physician Leadership is the nation's largest organization solely focused on leadership education and management training for physicians.

Welsh oversees all medical components of BWC and directs medical policy. *8/20/2018*

OSHA Extends Some Compliance Dates for Beryllium Standard **August 17, 2018**

OSHA issued a final rule to extend the compliance date for specific ancillary requirements in the general industry beryllium standard to Dec. 12.

The extension applies to methods of compliance, beryllium work areas, regulated areas, personal protective clothing and equipment, hygiene facilities and practices, housekeeping, hazard communication, and recordkeeping.

During this time, the agency will prepare a Notice of Proposed Rulemaking to clarify certain provisions that maintain worker safety and health, and address employers' concerns with compliance. *8/16/2018*

Compliance Assistance Resources for OSHA's Silica Standard **August 17, 2018**

OSHA's silica standards require employers to limit worker exposures to respirable crystalline silica and take steps to protect workers. OSHA has several new resources to help employers meet the requirements of the standards. Visit this **OSHA page**. *8/16/2018*

OSHA Redesigned Regulations Webpage **August 10, 2018**

OSHA redesigned the **Law and Regulations webpage** that features information on standards and rulemaking.

Users can now search standards by keyword or number, find a list of key resources, and see the latest updates on active rulemaking. The page also features information buttons to explain regulatory language that may be unfamiliar to some users. *8/7/2018*

Ideas for Excellence in Safety Management **August 10, 2018**

Here's a couple recently recorded webinars about achieving safety excellence: **How to Design and Hold Great Safety Meetings** from the American Society of Safety Professionals and **Managers and Supervisors as EHS Leaders** from OMA. *8/7/2018*

OSHA Proposes to Modify Tracking Rule **August 3, 2018**

From a Department of Labor Bulletin: "The Department of Labor's Occupational Safety and Health Administration (OSHA) has issued a **Notice of Proposed Rulemaking (NPRM)** to better protect personally identifiable information or data that could be re-identified with a particular individual by removing provisions of the "Improve Tracking of Workplace Injuries and Illnesses" rule.

"OSHA believes this proposal maintains safety and health protections for workers, protects privacy and reduces the burdens of complying with the current rule.

"The proposed rule eliminates the requirement to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. These establishments would be required to electronically submit information only from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).

"Under the current recordkeeping rule, the deadline for electronic submission of Calendar Year (CY) 2017 information from OSHA Forms 300 and 301 was July 1, 2018. In subsequent years, the deadline is March 2.

"OSHA is not currently accepting the Form 300 or 301 data and will not enforce the deadlines for these two forms without further notice while this rulemaking is underway. The electronic portal collecting Form 300A data is accepting CY 2017 data, although submissions after July 1, 2018, will be marked late."

Here's an **analysis of the OSHA action from OMA Connections Partner Dinsmore**. *7/31/2018*

Show Off Your Safety Innovation
August 3, 2018

Has your organization developed a new piece of equipment, tool or process to reduce risk to your workforce? Have you made changes to an existing method to improve safety and health in your workplace? If so, you could earn a cash prize for your ingenuity by applying for a BWC Safety Innovation Award.

The BWC is accepting applications until Sept. 30, 2018. Finalists will receive cash awards, ranging from \$1,000 to \$6,000 and statewide recognition at the Ohio Safety Congress & Expo in Columbus March 6 to 8, 2019.

Last year's finalists included innovations such as a remote-controlled vacuuming system for cleaning clarifier tanks and an articulating arm that assists workers when doing weld tear-downs on truck cabs.

Learn **more here**. *8/1/2018*

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on October 16, 2018

- HB27** **WORKERS' COMPENSATION BUDGET** (BRINKMAN T) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 6/30/2017 - **SIGNED BY GOVERNOR**; eff. 6/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-27>
- HB28** **INDUSTRIAL COMMISSION BUDGET** (BRINKMAN T) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/28/2017 - **SIGNED BY GOVERNOR**; eff. 6/28/17
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-28>
- HB99** **WORKERS COMPENSATION-PNEUMOCONIOSIS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 3/21/2018 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-99>
- HB133** **DISASTER RELIEF ACT** (RYAN S) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster.
Current Status: 6/29/2018 - **SIGNED BY GOVERNOR**; eff. 9/28/18
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-133>
- HB161** **WORKERS COMPENSATION-PTSD** (PATTON T) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law for up to one year and to prohibit such a person from receiving a disability benefit from a state retirement system for post-traumatic stress disorder arising from employment without an accompanying physical injury during the time period the person receives compensation and benefits under the Workers' Compensation Law for the disorder.
Current Status: 5/24/2017 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-161>
- HB268** **WORKERS COMPENSATION-SELF-INSURERS** (HENNE M) To make changes to the Workers' Compensation Law with respect to self-insuring employers.
Current Status: 12/13/2017 - House Insurance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-268>
- HB269** **WORKERS COMPENSATION OVERHAUL** (HENNE M) To rename the entities who carry

out workers' compensation functions in this state, to require the Administrator of Worker Safety and Rehabilitation to develop incentives for employers to participate in safety consultations and loss prevention programs, to require an employee who is receiving temporary total disability compensation to comply with a return to work plan, and to make changes with respect to compensation for permanent total disability and death benefits.

Current Status: 12/13/2017 - House Insurance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-269>

HB380 **WORKERS COMP-ILLEGAL ALIENS** (SEITZ B, HOUSEHOLDER L) To prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law.

Current Status: 3/13/2018 - Senate Insurance and Financial Institutions, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-380>

HB459 **WORKERS COMP-SELF-INSURING EMPLOYERS** (HENNE M) To allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law.

Current Status: 5/23/2018 - House Insurance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-459>

SB118 **PTSD TREATMENT-FIRST RESPONDERS** (LAROSE F, BROWN E) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law for up to one year and to prohibit such a person from receiving a disability benefit from a state retirement system for post-traumatic stress disorder arising from employment without an accompanying physical injury during the time period the person receives compensation and benefits under the Workers' Compensation Law for the disorder.

Current Status: 4/17/2018 - Senate Insurance and Financial Institutions, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-118>

SB140 **PUBLIC-PRIVATE PARTNERSHIP GRANTS** (SCHIAVONI J) To create the Public-Private Partnership Grant Program for fiscal years 2018 and 2019 to develop, enhance, and promote educational programs to address regional workforce needs; to create the Sector Partnership Grant Program for fiscal years 2018 and 2019 to identify and provide grants to industry partnerships; to support programs that improve access to workforce training opportunities for students; to support economic development and revitalization programs; and to make an appropriation.

Current Status: 6/19/2018 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-140>