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Ohio Safety Congress & Expo

**WELL AT HOME.
SAFE AT WORK.**

**Session 931
Controlling
Workers'
Compensation
Costs**

Tom Kelly

9 a.m. to 4 p.m. Tuesday, March 27

Ohio Bureau of Workers' Compensation

**History of Workers' Comp
In the U.S.**

Before workers' compensation
Negligence liability: Workers had to show that their injury was the result of the employer's negligence.

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**History of Workers' Comp
In the U.S.**

Before workers' compensation
Employer could use three defenses:

- Worker assumption of risk;
- The worker's negligence partly caused the injury;
- A co-worker caused the injury.

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**History of Workers' Comp
In the U.S.**

Before workers' compensation
Many disabled workers received no compensation for legitimate injuries. An injured worker's successful lawsuit could financially devastate the employer.

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**History of Workers' Comp
In the U.S.**

1911: Mandatory, comprehensive workers' compensation was first legislated in Wisconsin and nine other states.

1912 through 1948: All states enacted laws addressing workers' compensation coverage.

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**The Ohio Workers'
Compensation Act**

Exclusive state fund established in 1913
Provides no-fault insurance
Protects both employers and employees

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The Ohio Workers' Compensation Act

Ohio Revised Code

"Sections 4123.01 to 4123.94, inclusive, of the Revised Code shall be liberally construed in favor of employees and the dependents of deceased employees."

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The Ohio Workers' Compensation Act

Injuries are compensable when all of the following are present:

- o Employer/employee relationship;
- o Physical injury;
- o Arising out of/in course of employment;
- o Ohio jurisdiction.

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The Ohio Workers' Compensation Act

Intentional tort

Workers' compensation is the sole remedy for workplace injuries unless an employer acted "with deliberate intent to cause an employee to suffer an injury, a disease, a condition or death." and with "Substantial certainty" that employee injury would occur.

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BWC is the Largest Exclusive State Fund In the U.S.

In fiscal year 2009:

- 261,000 employers covered;
- \$1.96 billion paid in medical and lost-time benefits;
- 101,791 medical-only claims;
- o Average cost of \$1,139;
- 15,428 lost-time claims;
- o Average cost of \$86,019.

BWC Board of Director's Actuarial report
February 22, 2011

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Controlling Workers' Compensation Costs

Section 2
Safety Culture Wheel

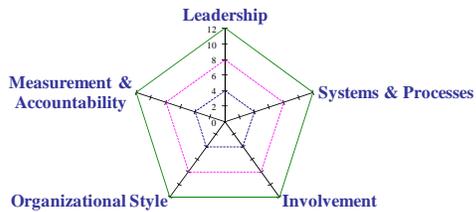
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Safety Culture

Why are we concerned about safety when discussing controlling workers' compensation costs?

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Safety Culture Wheel



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Safety Culture Wheel Instructions

Consider the questions in each category.
 Rate your company on a scale from 0 to 3.

- o 0 = Weakness
- o 1 = Some aspects covered
- o 2 = Could be improved
- o 3 = Strength

Total the points under each category.
 Plot the totals onto the corresponding axis.
 Connect the plotted points from axis to adjacent axis.

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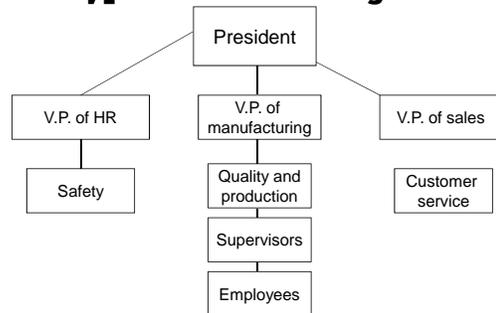
Defining Safety Culture

(#660065 in video library)

- What are the attitudes of top managers?
- Why do you think they felt this way?
- What is the most powerful safety tool ever invented?
- What was the bad water, bad fish thing about?

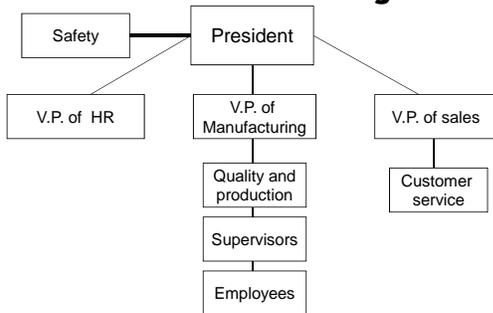
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Typical Line Management



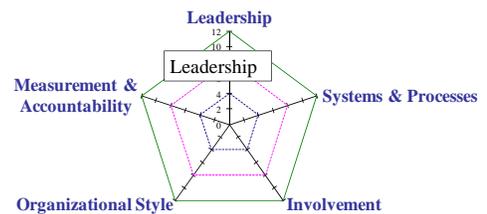
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Effective Line Management



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Safety Culture Wheel



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Leadership

- ___ Leadership commitment to safety is active, visible and lively.
- ___ A clear and inspiring vision has been established for safe performance.
- ___ Safety is viewed and treated as a line management responsibility.
- ___ Safety is clearly perceived as an organizational value on the same level with productivity and quality.

(Don't Score Yet)

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Leadership Commitment?

What does "leadership commitment to safety" look like?

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Leadership Commitment?

Sometimes it is easier to identify what leadership commitment does not look like.

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What commitment does not look like

- Management values production over safety.
- Management shows no leadership.
- Supervisors not held accountable.
- Supervisors fail to enforce safety rules.
- Supervisors violate safety rules.
- Management measures safety solely on number of injuries or injury costs.

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Leadership

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(Score Now)

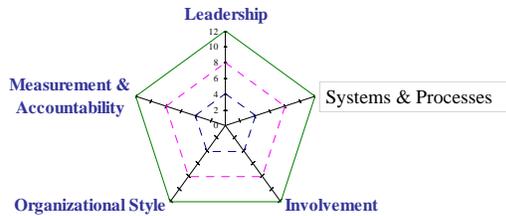
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Group Activity

Are accidents preventable?

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Safety Culture Wheel



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Systems and Processes

- ___ Supervisors and workers partner to find and correct systems causes of incidents.
- ___ Communication systems are abundant, effective and flow well in all directions.
- ___ Training systems deliberately and systematically create competency for the right people at the right time.
- ___ Safe operating procedures and policies are clearly defined and communicated.
(By Who?)

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Controlling Workers' Compensation Costs

Section 3
Money and Ratemaking

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Ratemaking

The main question is

How does BWC determine what an employer pays in premium?

- o BWC must collect enough money in premium to pay claims costs.
- o Costs must be equitably divided among all employers.

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Ratemaking

Simply put, claim costs drive rates.

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BWC Rating Concept

BWC compares actual claim costs to expected claim costs.

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What are claims costs?

Medical costs
Indemnity
Reserves

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Claims Costs

Medical costs

Money paid for doctor bills, diagnostic tests, drugs, etc.

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Claims Costs

Indemnity (compensation)

Money paid to injured worker to compensate for lost wages

Money paid to injured worker to compensate for permanent damage

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Claims Costs

Reserves

The projected total cost of the claim minus what has already been paid out

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Claims Costs

Reserve example

Injured worker, male, age 25, injury – sprain/strain of lumbar region of spine

Micro Insurance Reserving Analysis II (MIRA II) says this type of injury will cost \$100,000.

- o \$11,500 medical already paid
- o \$3,500 compensation paid
- o \$85,000 reserve (remaining cost of this injury)

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BWC Reserves

Reserves set using MIRA II

Built using data from 5.9 million Ohio claims

Allows employers to see what factors are driving the reserves

Weekly listing of claims with changed reserves

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BWC Reserves

MIRA assigns reserves to claims based on more than 180 individual characteristics of each claim.

ZIP code of worker
Age
Gender
Attorney involvement
Prescriptions
Manual classification
Marital status
Return-to-work date
Average weekly wage

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Why are Individual Claim Characteristics Important?

Two employees with identical broken legs

- o 22-year-old office worker
- o 55-year-old construction worker

1. Which one will go back to work sooner (receive less in compensation)?
2. Which one will heal faster (less medical)?

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Impact of Reserve

A large reserve has a significant impact on the value of a claim.

Claims with large reserves can be the driving factor in an employer's rates.

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Max Value Claim

Each employer assigned a maximum value for each individual claim

Based on employer size (determined by payroll)

Prevents large claims from negatively impacting small employers

Injured employee receives all benefits due

Amounts over max value are a shared liability

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4-year Calculation

Private Employers*

For policy year beginning July 1, 2011, BWC used data from calendar years 2006, 2007, 2008, 2009 for ratemaking purposes.

Each year, the oldest year drops off and a new year is added.

For policy year beginning July 1, 2012, BWC will use data from calendar years 2007, 2008, 2009, 2010 for ratemaking purposes.

*Public employers' rating year begins on Jan. 1.

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How the Four-year Calculation Impacts Your Premiums

The premiums private employers pay in February 2012 and August 2012 are based on cost of claims from as far back as 2006.

2011 claim costs will impact premiums paid in 2014, 2015, 2016 and 2017.

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Expected Claims Costs

The amount of claims costs an employer is expected to have, based on business pursuit and payroll level

Also, a four-year figure, based on the same time period as the actual claims cost figure

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BWC Ratemaking

Once actual claims costs and expected claims costs are obtained, BWC uses that information to determine the rate that the employer will pay.

Note that the BWC is revenue neutral when it comes to ratemaking.

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Base Rating

If an employer has less than \$2,000 in expected claims costs, it will be base-rated.

The company will pay the base rate established for its manual classification, regardless of the amount of claims costs it has. Experience Modifier (EM) is always 1.00.

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Experience Rating

When an employer has expected losses of \$2,000 or more, it is experience-rated.

Premium costs are driven by the level of claims costs.

An employer can be credit-rated or debit-rated.

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Experience Rating

Credit-rated

An employer has less claims cost than BWC would expect.

- o EM less than 1.00

Debit-rated

An employer has more claims cost than BWC would expect

- o EM is greater than 1.00

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Experience Rating

There is a limit on credit rating.

- Currently, an employer can be no more than 65% credit-rated (EM = 0.35).

There is no limit to debit rating (surcharge) for an employer.

- The higher the surcharge, the higher the premium paid by an employer.

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Savings Through Discount Programs and Optional Rating Plans

Group rating	Safety council rebate
Group-retrospective rating	\$15K program
Individual-retrospective rating	One Claim Program
Deductible Program	100% Cap on EM increase
Drug-Free Safety Program	Self-insurance

See Program Compatibility chart at end of section
See ohioabc.com for details. Click on Ohio Employers,
then Programs.

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Group-Rating Program

Employers combine payroll and experience as a group to earn a discount (Think safe driver pool).

Program allows an employer with low claims experience to earn a discount up front.

Maximum group discount = 51%
(EM = 0.35 plus a Break Even Factor)

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Group-Retrospective Rating

Employers join a group of like employers.

Employers initially pay premiums based on their own experience (no up-front discount).

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Group-Retrospective Rating

Claim costs for the group are evaluated after one, two and three years.

If the group as a whole does better than predicted, employers get a rebate.

If the group as a whole does worse than predicted, employers are billed the extra costs.

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Individual -Retrospective Rating

It's a semi self-insured program.

Employer selects:

- o an individual claim limit;
- o a maximum premium (ceiling of claim costs).

Employer receives up-front discount on their rates.

Employer is responsible for 10 years of claim costs, up to a per claim limit (deductible).

Must pay at least \$25,000 premium/year to qualify

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Deductible Program

It's just like car or house insurance.

Employer must be a state-fund or public employer.

Employer can select a deductible amount for claims that occur during that rating year.

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Deductible Program

Two levels of deductible

- Small Deductible: \$500, \$1,000, \$2,500, \$5,000 and \$10,000
- Large Deductible: \$25,000, \$50,000, \$100,000 and \$200,000

Depending on deductible selected, employers can receive between 1.4% to 77% discount on premiums.

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Deductible Program

BWC will pay all medical and compensation and bill employer monthly, up to deductible selected.

Employer is responsible for deductible cost of all claims that occur within the rating year participated.

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Drug-Free Safety Program

Two Levels

- Basic = 4-percent discount
- Advanced = 7-percent discount

Group-rated employers can enroll in Advanced Level and receive a 3-percent discount.

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Drug-Free Safety Program

Requirements (both levels)

- Safety review, accident analysis training and accident reporting
- Employee/supervisor training
- Drug/alcohol testing

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Note

Under Ohio law (House Bill 80), construction contractors and subcontractors are required to have a drug-free workplace program (a BWC program or comparable program) to bid on or provide labor services on a State of Ohio funded construction site.

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Safety Council Rebate

Current fiscal year (July 2011 – June 2012), safety council members can receive up to a 4% rebate on premiums.

- 2% meetings attended
- 2% reducing severity or frequency by 10%

Check with local safety council in March 2012 for information on next year's rebate availability.

For list of safety councils: ohiobwc.com

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\$15,000 Medical-Only Program

Employer manages medical portion of claim in which injured worker is off no more than seven days.

Employer pays bills within 30 days.

Employer keeps record of the injury.

Benefit? Costs paid by employer are not included in premium calculations.

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One Claim Program

(40-percent discount from base rate)

State-fund employers only

Single significant claim entering experience from Green Year that caused removal from group rating program

Up to three medical-only claims in experience period

Attend one qualifying class each rating year (six hours total)

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100% Cap on EM Increase

Reduces impact of EM increase due to group rating removal or expensive claims(s)

Must be debit rated (1.01 EM) or greater

EM increase capped at 100% from previous year

Cap is automatic – employer must return U-18/19 form agreeing to complete required steps in 10-Step Business Plan. Failure to return form will result in cancellation of cap.

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Self-Insurance

Large employers (500+ employees)

Pay assessments to BWC

Pays all claim costs

BWC grants employers this privilege based on:

- Profit margin;
- Debt structure;
- Self-insured readiness.

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Controlling Workers' Compensation Costs

Section 4

Direct and Indirect Costs

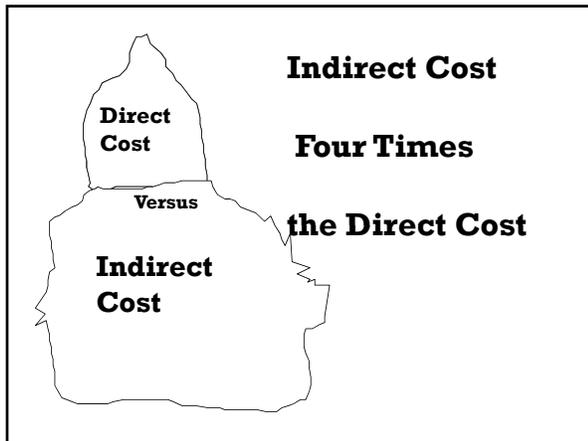
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Direct and indirect costs

Direct costs = insured costs

Indirect costs = uninsured costs
(not covered by workers' compensation)

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Direct and Indirect Costs

Medical costs	Hiring/training replacements
Compensation costs	Overtime (lost work)
BWC reserves	Legal expenses
	Product/tool damage
	Production delays

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Other Indirect Costs

- Morale
- Administration time
 - o Claims handling
 - o Supervisory duties
 - o Accident analysis
- J.I.T. operations
- OSHA
- Loss of business (customer goodwill)
- Violation of a specific safety requirement (VSSR)

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VSSR

An injured worker may receive additional compensation if employer is found to have violated a specific safety requirement that led to an injury. Award can be 15% to 50% of compensation paid (minors = 100%). This is an out-of-pocket expense for employer.

www.legislature.state.oh.us/laws.cfm
Ohio Administrative Codes
4123:1 Division of Safety & Hygiene

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If Indirect Costs Are Four Times Direct Costs

Medical and compensation costs.....	\$1,500
Compensation reserve.....	\$3,500
Total insured cost.....	\$5,000

Total insured (direct costs) *multiplied by 4*
 $\$5,000 \times 4 = \$20,000$ (indirect costs)
 Total insured (direct costs) + (indirect costs)
 $\$5,000 + \$20,000 = \underline{\$25,000}$

5% profit = \$0.5M in sales

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Safety Intervention Grants

2 to 1 matching safety grant for private/public employers
 Up to \$40,000 from BWC, matched by \$20,000 from employer
 Used to purchase equipment to reduce/eliminate risk of injury or illness

See ohiobwc.com for details

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Examples of Approved Grants

Hoisting equipment
In-floor scales
Automatic lid sealer machine
Counterbalanced drills
Automatic feed machine
Cranes mounted in pickups
Motorized bleachers in gyms
RF readers for gas meters
Powered equipment to replace manual operations

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Items Not Authorized

Floor/ceiling patient lifting devices, electric beds
Forklifts, powered dolly equipment
Skid steerers, front-end loaders, bobcats
All earth-moving equipment
Weaponry, including tasers
Vehicles, including cars and trucks
Exercise equipment
Patient bathing and toileting chairs
Personal protective equipment

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Traditional Safety versus Contemporary Safety

Compliance focused
Enforced by management
Punish unsafe behavior
Top down decision making
Dictate policy/procedures
Rigid, consistent
Confrontational

Values focused
Exemplified by mgmt.
Positive reinforcement of safe behavior
Shared decision making (ownership)
Delegate and empower
Flexible, innovative
Confidence and trust
Wellness programs

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Why Is a Wellness Program Part of Controlling Workers' Compensation Costs?

Can reduce use of workers' compensation and health insurance
Likelihood of on-the-job injury is decreased
Healing is faster after injury

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Return On Investment (ROI) for Wellness Programs

ROI between is \$2 and \$10 for every dollar invested.

- Less absenteeism
- Fewer sick days
- Reduced disability claims
- Lower insurance costs
- Increased productivity
- Higher employee morale

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Resources for Wellness Programs

Local resources

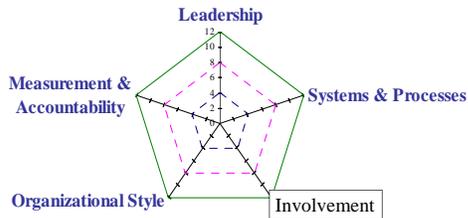
- OCOSH course "Wellness in the workplace"
- Local hospitals
- Local colleges and universities

Websites

- Center for Disease Control (www.cdc.gov)
- National Institute for Occupational Safety & Health (www.cdc.gov/niosh)
- Wellness Councils of America (www.welcoa.org)

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Safety Culture Wheel



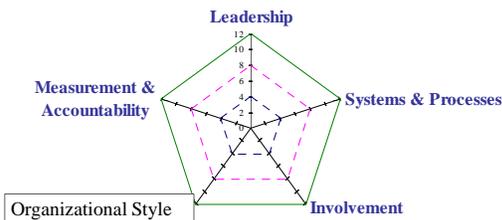
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Involvement

- ___ Workers are skilled at problem solving and decision making.
- ___ Labor and management work together to address safety systems issues.
- ___ Team orientation achieves involvement and cooperation.
- ___ Innovation, participation and suggestions are encouraged at all levels.

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Safety Culture Wheel



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Organizational Style

- ___ Trust and openness are the norm.
- ___ Positive reinforcement is used regularly. Not negative!
- ___ Bureaucratic obstacles are removed.
- ___ There is formal and informal recognition for great performance at all levels.

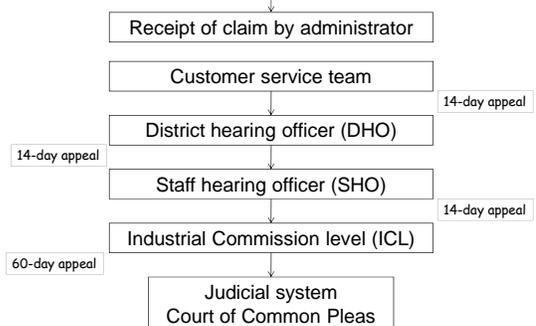
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Controlling Workers' Compensation Costs

Section 5
Risk Management Strategies

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Hearing Process



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Who are the players?

- Injured worker
- Employer
- Managed care organization (MCO)
- BWC
- Third-party administrator (TPA)

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The Injured Worker's Role

- Reports all workplace injuries to management regardless of treatment
- Notifies employer if a claim is filed
- Follows medical restrictions
- Keeps employer informed of progress and obstacles encountered

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The Employer's Role

Employer and/or MCO reports claim timely.
Employer investigates accident promptly.
Employer decides to certify or reject the claim.

When an employer certifies a claim, it is stating that:

1. An injury occurred at work;
2. The injured person was its employee.

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The Employer's Role

Follows up with its injured worker
Coordinates remain-at-work/return-to-work strategies with MCO, medical providers and BWC

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The MCO Role

- Every employer has an MCO
- Paid by BWC
- Manage medical
- Approve medical treatment
- Drive return-to-work programs

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The BWC Role

- Investigate and determine claim allowance
- Manage lost time benefits
- Adjudicate additional conditions
- Determine eligibility for rehab
- Assist with bringing the claim to resolution

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TPA Role

Private contract between employer and TPA

Manage claims for employer

Settle claims and pursue handicap reimbursements

Represent employer at Industrial Commission of Ohio (IC) hearings

Note: Employer is not required to have TPA.

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Cost-Control Strategies

Handicap reimbursement

Subrogation

Recreational waiver

Fraud control

Claim management

Timely reporting of claims

Wage/salary Continuation

Claim settlement

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Claim Management

Remain at work

Transitional work

Return to work

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Timely Reporting of Claims

Company policy to report injuries on same work shift?

Immediate reporting of claim

- o Better medical management
- o Earlier return-to-work
- o Reduced indemnity costs

Reporting more than seven days after injury can increase costs.*

- o 14 – 21 days = 13% - 18% increase
- o 29 – 35 days = 45% increase

More than 31 days = 113% increase in litigation (i.e. attorney involvement)*

*International Association of Industrial Accident Boards & Commissions (IAIABC) March 25, 2004

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Wage/Salary Continuation

Employer continues to pay employee their normal wage.

Employee continues to accrue seniority, retirement, leave, etc.

Health insurance continues, if employer provides it.

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Claim Settlement

A formal agreement needs to be completed before the experience period snapshot.

- o Submit by Oct. 15 for private employers
- o Submit by May 15 for public employers

Thirty days must be allowed for IC approval.

Reserve drops to zero.

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Company Settlement Policy

Settlement efforts should be ongoing.
 Create a system in which human resources automatically contacts your TPA or attorney when an employee departs

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Settlement Benefits

BWC pays for the settlement, not employer.
 A \$5,000 settlement may reduce the employer's premium \$10,000 a year.
 Settlement may lower an employer's EM.

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Settlement example

	Before settlement	After settlement
Medical paid	\$21,237	\$21,237
Indemnity paid	\$8,833	\$8,833
Reserve	\$39,980	\$0
Settlement	\$0	\$5,000
Claim cost	\$70,050	\$35,070

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Handicap Reimbursement

Twenty-six allowed conditions
 Discount based on relationship to injury
 o Prolongs healing process
 o Contributes to the injury
 The percent of discount is charged to the surplus fund.

Diabetes
Epilepsy
Arthritis
Cardiac Disease

See list in manual for complete listing

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Impact of 50% Handicap Reimbursement

EM/premium before 50% handicap reimbursement

- 1.11 \$129,551

EM/premium after 50% handicap reimbursement

- 0.99 \$116,131

\$13,420 savings

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Subrogation

It's the right to recover benefits from a third party because of negligence.

For FY2010, BWC recovered \$22 million in subrogation cases.

BWC credits monies recovered to the employer.

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Most Common Third Party Accidents

- Motor vehicle
- Malfunctioning products
- Medical malpractice
- Exposure to toxic fumes
- Machinery accidents
- Animal bites

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Group Discussion

Your boss asks you to help organize a company picnic on a Saturday. This will be during non-working hours and attendance is voluntary by all employees.

During a softball game, you slide into second base and break your leg.

Is this a workers' compensation claim?

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Recreational Waiver

Legal liability versus workers' compensation claim

When does your workday *BEGIN* and *END*?

Use *Waiver of Workers' Compensation Benefits for Recreational or Fitness Activities (C-159)* form.

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Group Discussion

One of your employees is off on temporary total disability, which means he cannot work at all.

His co-workers report to you that they have observed him riding his Harley-Davidson motorcycle over the weekend.

Is this fraud?

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Fraud versus Abuse

Requires "knowledge and intent"

Overt act

Intentional omission

Excessive use or misuse of workers' compensation system

Cannot be criminally prosecuted under the law

Dealt with through administrative channels (IC)

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FY10: BWC identified \$66M in fraud

Red Flag Indicators of Injured Worker Fraud

Can't be reached

Tips from co-workers

No witnesses to accident

Cross-outs, white-outs and erasures on forms

Date, time and place of accident unknown

Specific details of injury not recalled

Fraud

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Red Flag Indicators of Medical Provider Fraud

- Billing for services not provided
- High cost of medical care relative to injury
- Length of treatment inconsistent with injury or disability
- Injured worker receives an unusually high number of prescriptions.

Fraud

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Red Flag Indicators of Employer Fraud

- No workers' compensation coverage
- Misreporting payroll (excessive payroll reported to clerical manual)
- Current Certificate of Coverage but system indicates lapsed coverage

Fraud

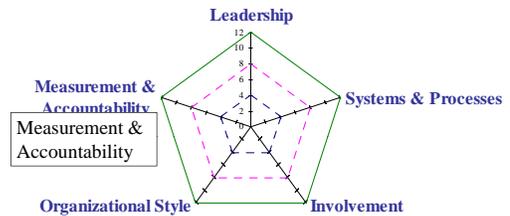
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Controlling Workers' Compensation Costs

Section 6
Accountability

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Safety Culture Wheel



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Measurement and Accountability

- Define expectations
- Provide the tools and skills
- Measure performance
- Reward positive behavior

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Measurement and Accountability

Measure and reward activities, not just results.

If we achieve the desired results, how did we get there?

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Measurement and Accountability

- All levels of the organization have safety goals and process responsibilities clearly defined.
- The process of achieving results is a key safety measure.
- Performance reviews include accountability for safe performance at all levels.
- Supervision is accountable to perform safety observations and feedback.

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So what options does an employer have to control workers' compensation costs?

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Discount/Rating Programs

DFSP
One Claim Program
100% EM Cap
Deductible
Group rating

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Discount/Rating Programs Continued

Individual-retrospective rating
Group-retrospective rating
Safety council rebates

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Claim strategies

Settlement
Subrogation
Rehabilitation
Return to work
Remain at work

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Claim strategies continued

Fraud awareness
Wage continuation
Recreational waivers
Handicap reimbursement
Attend IC hearings

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Safety Process

- Establish written programs/policies
- Include safety in performance reviews
- Employee involvement in safety process
- Positive reinforcement

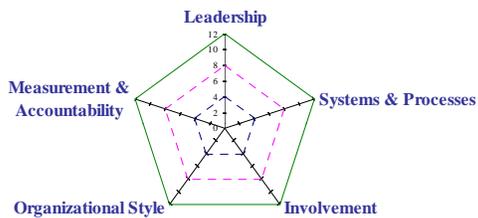
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Safety Process Continued

- Safety intervention grants
- Supervisor accountability for safety
- Investigate all accidents/incidents
- Promote values and not compliance
- Improve your safety culture

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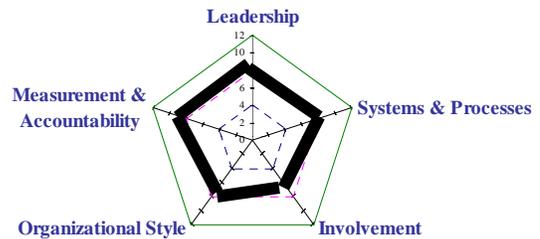
Safety Culture Wheel



Take the score from each "spoke" and plot it on the Culture Wheel. Connect the dots to see where your strengths are and where your weaknesses are.

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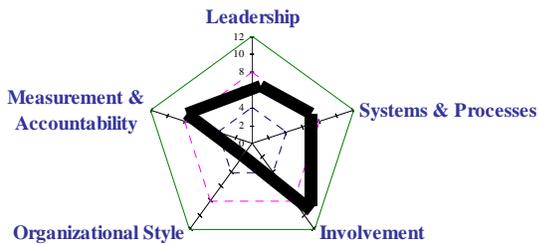
Safety Culture Wheel



Does your wheel look like this?

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Safety Culture Wheel



Or This?

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This course was designed to provide you, the employer, with an understanding of how the Ohio workers' compensation system works, and a discussion of potential strategies you can use to prevent and/or manage workplace injuries, and thereby **controlling workers' compensation costs.**

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