

# 2022 WASBO FALL CONFERENCE

The Osthoff Resort, Elkhart Lake, WI

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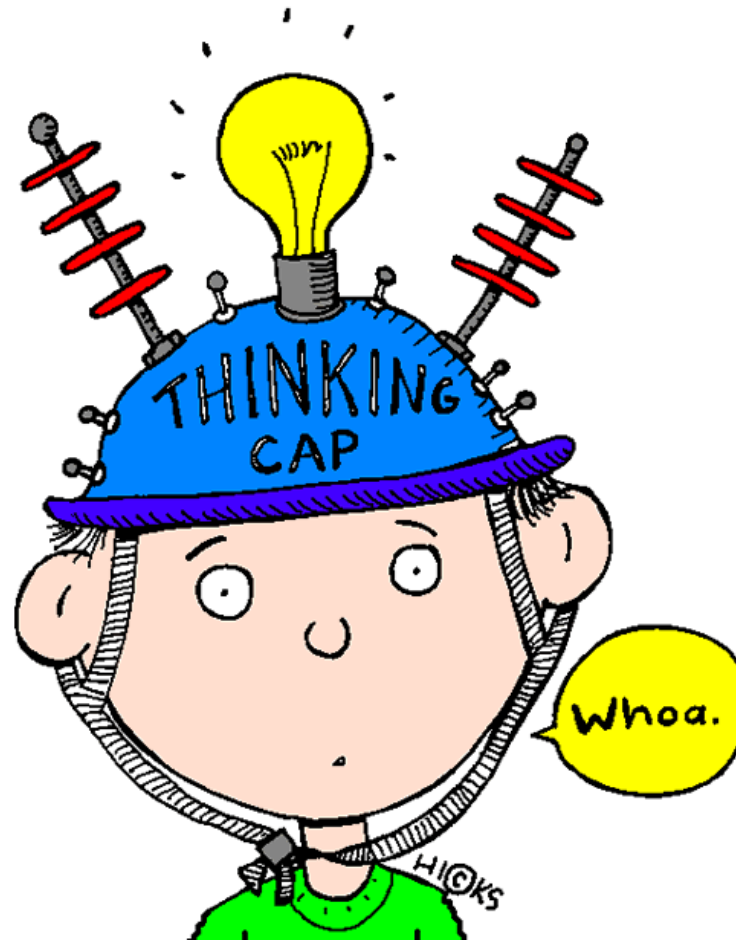
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# AGENDA

- Expectation Setting & Communication
- Incident Investigation
- Injury Management
- Medical Provider Relationships
- Return-to-Work Program
- Hearings & Settlements

# WHAT IS WORKERS COMPENSATION?



# WHAT IS WORKERS COMPENSATION?

- A system of “**no-fault**” insurance.
- Designed to be an exclusive remedy.
- Compensates for injuries or occupational diseases that occur within the course and scope of employment.
- Pays for medical treatment – physician, surgeon, physical therapy, chiropractic, prescriptions.
- WI is an “employee choice” state – employees may choose the medical provider.
- Pays wages while employee is unable to work:
  - Pays 2/3 salary, untaxed (*66.67% of average weekly wage*).
  - 3-day waiting period (*WI- retro after 7-days*).
  - Pays for any permanent disability and/or death benefits.



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# EXPECTATION SETTING & COMMUNICATION

- Does your School District have:
  - A well-understood processes and parameters for triaging, reporting and investigating work-related injuries?
  - Timely reporting of injuries to the WC insurance carrier?
  - An understanding of lag time and impact on claim value?

# EXPECTATION SETTING & COMMUNICATION

- Does your School District have an understanding of:
  - How WC benefits are paid and administered in Wisconsin?
    - ▶ *Lost time (indemnity) vs. Medical-Only impact?*
  - How to coordinate other benefits with WC:
    - ▶ *Running FMLA, ADA/WFEA concurrently.*
    - ▶ *Running policy/handbook-based leaves concurrently.*
    - ▶ *Why/how this is advantageous.*

# INSURANCE CARRIER & BROKER RELATIONSHIP

Develop a **STRONG** relationship with your insurance carrier and broker.

- **Dedicated Claims Team.**
  - If possible- identify dedicated claim adjusters.
  - Invite the claims team onsite to see your facilities and review jobs.
  - Keep lines of communication open and share information timely.
- **Create Special Handling Instructions.**
  - Outline communication touch points.
  - Identify specifically who to be involved and communicated with.
- **Participate in regularly scheduled Claim Review meetings**
  - Identify opportunities for safety improvements.
  - Review trending and loss indicators.
  - Stay advised on reserves, action plans and resolution timelines.
- **Advocate for communication and involvement in decision making.**
  - Ask questions and demand information if it is not forthcoming.



# INCIDENT INVESTIGATION: TAKE THESE STEPS:

- Preservation of evidence – photos, video surveillance and written statements.
- Root Cause Analysis.
- Investigate **ALL** accidents/incidents.
- Investigate **immediately upon notification!**
- Gather facts- Talk to the injured person and witnesses.
- Gather facts- Look at the accident scene; take photos/review video.
- Study the facts – Look for root causes.
- Take corrective action.
- Follow-up to make sure action was taken and was effective.



# WHY INVESTIGATE INCIDENTS?

- To preserve evidence.
- To prevent future bodily injury and property damage.
- To determine how the incident occurred.
- To identify causes to implement corrective action.
- To prevent future incidents from occurring.
- To provide the foundation for a good injury prevention program.
- NOT to assign blame/fault.



# WHEN SHOULD YOU INVESTIGATE AN INCIDENT?

## Immediately upon notification!

- Within 24-hours.
- While the facts are clear.
- Before the scene is disturbed or evidence is removed.
- To record essential details to establish a valid claim.

# WHO SHOULD INVESTIGATE?

## Administration- Leadership Team

Initial investigations should be completed by leadership team.

- Know the work environment, processes and procedures.
- Take a personal interest in maintaining safe environment.
- Take immediate preventive action.
- Communicate effectively with employees.

# FACT FINDING

- **Talk to the injured person(s) involved.**
- **Talk to witnesses:**
  - Who saw it happen?
  - Who came to the scene after the accident?
- **Get information as soon as possible:**
  - Less time to alter facts.
  - Less likely to forget facts.
  - Shows management concern and commitment to safety.
- **Interviews:**
  - Ask unbiased, open-ended questions.
  - Let people tell their own story.
  - Avoid placing blame.
  - Make it informal, but private.
  - Ask the same questions to each person.

# KEY COMPONENTS OF PROACTIVE INJURY MANAGEMENT

- Early Reporting to Supervisor, HR and/or Leadership Team.
- Early Investigation and Root Cause Analysis.
- Early Reporting to WC insurance carrier.
- Right Care at the Right Time by the Right Provider.
- Communication with Employee, Provider, Carrier & Broker.
- Early Return to Work.

# WHY IS INJURY MANAGEMENT SO IMPORTANT?

- **Contains medical costs.**
- **Reduces severity of the claim.**
- **Leads to better outcomes for the injured worker** – right care, quicker healing, safety improvement, back to gainful employment.
- **Leads to better outcomes for the employer** – lower financial impact/ higher financial success, quality care, better morale, regulatory compliance .



# MEDICAL PROVIDER RELATIONSHIPS

- Invite local medical providers – urgent care and occupational health into your district for a tour and review your Return-to-Work Program.
- Ensure medical providers understand the nature of the jobs and job duties involved.
- Know the difference between a treating medical provider and an IME provider (2<sup>nd</sup> opinion).
- Recognize how HIPAA regulates the sending and receiving of information from the injured employee's medical provider.

# MEDICAL PROVIDER RELATIONSHIPS

- Send the following with the injured employee:
  - **Medical Provider Notice.**  
*Letter that informs the provider of WC insurance carrier information and that transitional light duty is an expectation.*
  - **Work Capabilities Form.**  
*Return to work form that allows the provider to easily identify the capabilities of the injured employee.*
  - **Fraud Notice.**  
*To promote awareness of the need to eliminate workers' compensation fraud and the its impact on school district expenses.*



# RETURN-TO-WORK PROGRAM

- District's responsibility to determine whether light duty exists and whether it is beneficial.
- District may or may not have a formal Return-to-Work program with modified duty job tasks & assignments outlined.
- District may or may not utilize Temporary Transitional Employment, if appropriate & beneficial.
- Offering light duty may impact the District's responsibility to offer light duty in ADA/WFEA disability cases.

# RETURN-TO-WORK PROGRAM

- Make sure available jobs meet the medical restrictions set by the medical provider.
- Monitor your program to make sure modified duty employees are compliant with restrictions both at work and outside of work.
- Utilize a Return to Work Restriction Agreement and Return to Work Job Log to maintain compliance.

# LEAVES OF ABSENCE

- WC is not a leave status.
- Utilize statutory leaves, e.g., FMLA, ADA, etc.
- Utilize unpaid leaves available through policy or handbook.
- If an employee has exhausted all available leaves, but is still unable to return to work, the District may terminate the employee's employment, but there are risks and considerations, including unreasonable refusal to rehire.

# LITIGATION- HEARINGS & SETTLEMENTS

- Litigation Timelines.
- Settlement Discussions.
  - Engage broker, carrier and legal team to roundtable.
  - If you don't feel heard, may need to involve broker or general legal counsel.
- Understand the “non-adversarial” nature of WC and the impact on litigation.
- Attorney Client Privilege with Appointed Legal Counsel.
  - The attorney appointed to represent the School District in a WC claim has duties and responsibilities to the School District.



QUESTIONS?



THANK YOU!



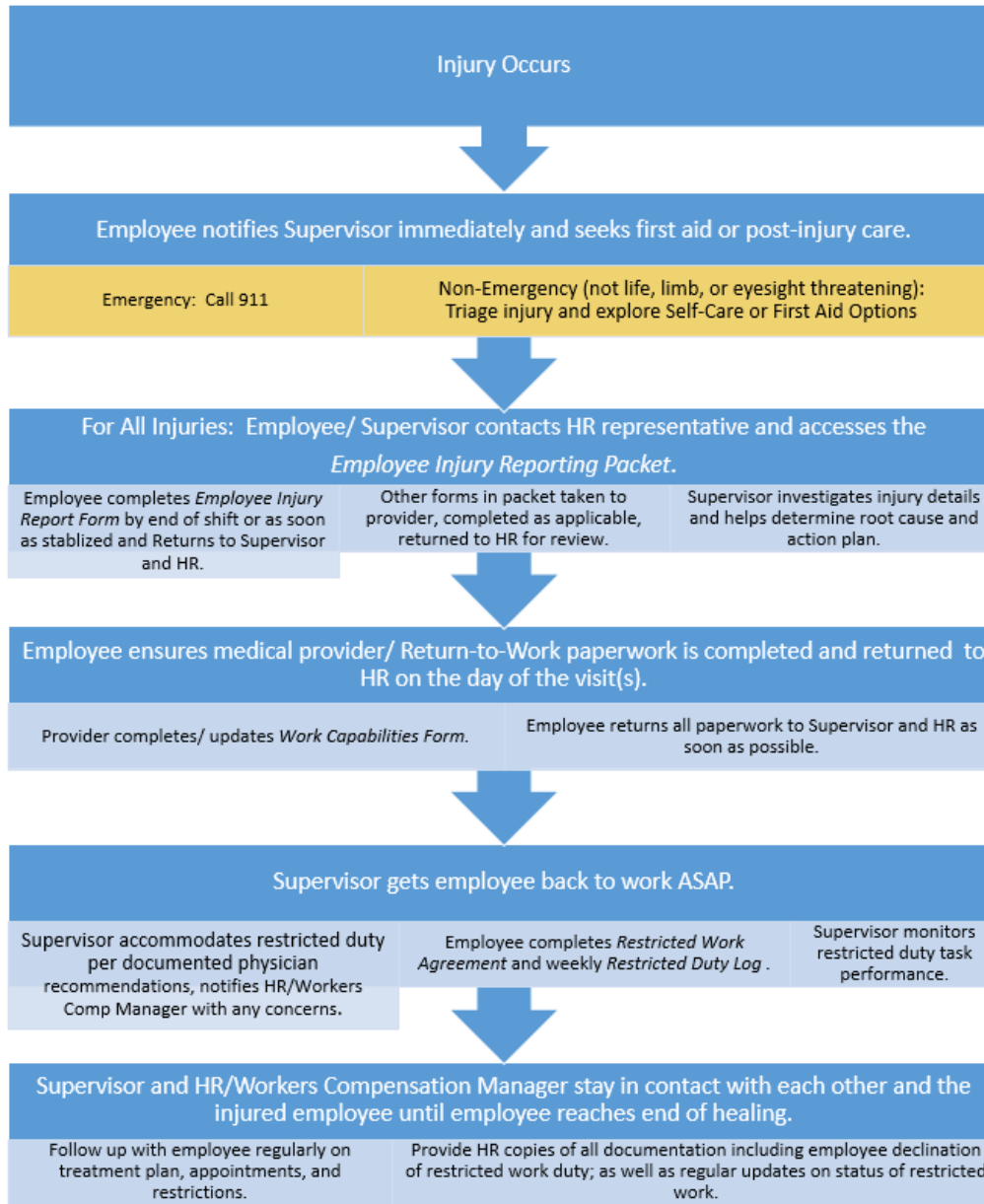
# RESOURCES TO TAKE BACK TO YOUR DISTRICT



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# WORK INJURY PROCESS WORKFLOW



# POST INJURY MANAGEMENT CHECKLIST

## Post-Injury Management Checklist

Item	Yes	No	Comment
<b>At the Time of the Injury</b>			
<ul style="list-style-type: none"> <li>• Employees report injury to supervisor within the shift.</li> </ul>			
<ul style="list-style-type: none"> <li>• Employees know how to report injuries after hours and on weekends.</li> </ul>			
<ul style="list-style-type: none"> <li>• Supervisor triages injury and determines need for immediate emergency care, treatment at occupational clinic, or self-care.</li> </ul>			
<ul style="list-style-type: none"> <li>• If injury can be treated with self-care, supervisor discusses first aid options.</li> </ul>			
<ul style="list-style-type: none"> <li>• If non-emergency medical care is required, supervisor discusses options with employee, such as doing immediate first aid and then scheduling medical appointment with provider at earliest availability.</li> </ul>			
<ul style="list-style-type: none"> <li>• If injury requires immediate emergency treatment, employee is transported by family member or cab to ER or Urgent Care.</li> </ul>			
<ul style="list-style-type: none"> <li>• Supervisor is aware of preferred providers and offers this option to employees who don't have a provider preference.</li> </ul>			
<ul style="list-style-type: none"> <li>• Supervisor provides employee with appropriate forms:                             <ul style="list-style-type: none"> <li>○ Provider letter</li> <li>○ Employee letter</li> <li>○ Pharmacy first-fill</li> <li>○ Authorization to release medical information</li> <li>○ Work restriction/capabilities form</li> </ul> </li> </ul>			
<ul style="list-style-type: none"> <li>• In 24 hours, supervisor checks back with employees who did self-care to determine if further medical treatment is needed or if self-care can continue.</li> </ul>			



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# POST INJURY MANAGEMENT CHECKLIST

<b>Root Cause Analysis</b>			
• Supervisor gathers information regarding circumstances of injury.			
• Supervisor interviews injured employee.			
• Supervisor interviews witnesses.			
• Supervisor views the area where the injury occurred.			
• Supervisor identifies potential causes and solutions.			
<b>During the Period of Disability</b>			
• Employee provides supervisor with updated restriction form after every visit with care provider.			
• Supervisor immediately provides HR with updated reports.			
• Supervisor communicates closely with HR to prepare for early return-to-work.			
<b>Upon Return-to-Work</b>			
• Supervisor works with HR to assign tasks within employee's restrictions. Refers to pre-established task list.			
• Employee signs Restriction Agreement, agreeing to work within restrictions at work and at home.			
• Supervisor maintains daily light duty log, describing job duties for the day. Signed by employee and supervisor.			
• Supervisor checks with employee to ensure that job tasks are being tolerated.			
• Supervisor continues to collect restriction form after every doctor visit and forward to HR.			



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## Return-to-Work Restriction Agreement

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

Position: \_\_\_\_\_ Date of Injury: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Injury: \_\_\_\_\_

*Restrictions are attached from Dr.* \_\_\_\_\_

*Dated on:* \_\_\_\_\_

*Restrictions are in effect through:* \_\_\_\_\_

(Note: It is your responsibility to obtain an updated restriction form from your doctor when your current restrictions expire. If you do not, you will be assumed to be able to return to full-duty work once current restrictions expire.)

I hereby acknowledge that I have been notified of and understand the following:

- The Return-to-Work recommendations as outlined by the treating physician apply to both work and home life and are not to be exceeded.
- If asked to work outside of these restrictions, immediately contact:

\_\_\_\_\_

- <insert company name> will adhere to the following restrictions for the above named employee and assure that work performed will be in consistent compliance of limitations outlined by the physician.

Employee Name & Date: \_\_\_\_\_

Employer Name & Date: \_\_\_\_\_



# Return-to-Work Log



Employee Name:

Supervisor:

Dates	Hours Worked		Tasks Performed	Comments Regarding Employee's Tolerance of Modified Duty Tasks	Employee Initials	Supervisor Initials
	In	Out				
Sunday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Monday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Tuesday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Wednesday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Thursday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Friday <input type="text"/>	<input type="text"/>	<input type="text"/>				
Saturday <input type="text"/>	<input type="text"/>	<input type="text"/>				

I clearly understand, take responsibility for and acknowledge the limitations my physician, Dr.  has placed on me while participating in this temporary, transitional work program.

Employee Signature:

Date: