

**Practical Advice for Handling  
Workplace Injuries Properly  
and  
Workers' Comp COVID-19 Update**

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**DON'T MIND ME.  
JUST DISINFECTING THE PAGE**



**NOT SURE WHERE SOME OF  
YOU WEIRDOS HAVE BEEN.**

# Imagine, it's early on a Monday morning...

The sun is shining,  
the birds are singing,  
there was no traffic on your way in,  
there wasn't even a line at Starbucks,  
and you have just arrived at work when...



**...this happens!**



**Or, even worse...**



...this happens.



**Do you know  
what you should do?**



**Are you prepared?**

# Because...

...the decisions you make within the first few minutes will greatly impact:

- The likelihood of your employees fully recovering
- The likelihood of your employees returning to work—  
anywhere
- Your company's bottom line.

# During This Presentation:

I am going to introduce you to a series of Practical Tips to help **employers**:

- Save money
- Improve outcomes when injuries occur

We will talk about:

- Best Practices for handling your workplace accidents.
- COVID-19 cases in workers' comp.



# Types of Claims

Claims have two classifications:

- **Medical Only**
  - If the employee misses fewer than 8 days of work with physician statement
- **Lost Time & Medical**
  - If the employee misses more than 7 days of work with physician statement
    - Wage replacement benefits are due
- **January 1, 2020 through December 31, 2020**
  - 83,025 Reported injuries
- **An average of 227 per day!**
  - There have already been **12 workplace deaths** in 2021.

# When an employee gets injured at work, each party has certain rights

**Employees** injured at work have the right to the medical and wage replacement benefits specified in the Tennessee Workers' Compensation Act.

**Employers** have the right to limit their exposure and to control certain aspects of the claim as identified by the Act when notified of an at-work injury.

# Employee Rights

In Tennessee, an employee has a right to report an injury or illness he/she suspects was caused by work.

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COVID-19 is an illness and could be covered.  
We will talk about this again in a few minutes.



# How should an Employee make the report?

Does it have to be in writing?

- No

What if employers hear about it “through the grapevine” or from someone else?

- That's good enough

What if employers don't believe the claim?

- Report it to your adjuster anyway.
- Adjusters accept or deny claims, not employers



Many problematic cases arise when Employers refuse to even accept a report of injury

# Employer Rights

An employer has a right to expect that report to be provided immediately.

But what does **immediately** mean?

- 15 calendar days of when they knew or should have known

Does your company policy violate this law?

Do your employees know who to tell?

# Practical Tip

Make sure that your employees know who to report their injuries to by placing this

**Posting Notice** in a conspicuous spot.

- Available on our website
- English/Spanish



## TENNESSEE WORKERS' COMPENSATION INSURANCE POSTING NOTICE

### How to Report Work-Related Injuries

*What should be done if injured at work?*

#### Employee

1. Immediately report the injury to the employer representative named below.
2. Select a treating physician from a panel provided by your employer.
3. If you have questions or problems, contact the employer representative or the Bureau of Workers' Compensation.

#### Employer

1. Complete your company's internal "Workplace Injury form" and **notify your workers' compensation insurance company immediately**, even if you have concerns about the validity of the claim.
2. **Offer a panel of physicians to the employee via Form C-42 available on the Bureau's website.** In cases of emergency, call an ambulance and provide this form as soon as the injured employee has stabilized.

\_\_\_\_\_  
*Printed name and title of the employer representative to be notified in the event of a work-related injury*

\_\_\_\_\_  
*Printed name of an alternative employer representative to be notified in the event of a work-related injury*

\_\_\_\_\_  
*Telephone number of employer representative to notify in event of a work-related injury*

\_\_\_\_\_  
*Address of employer representative to notify in event of a work-related injury*

The Tennessee Bureau of  
Workers' Compensation is  
available to help both  
employees and employers.



220 French Landing Dr. 1-B  
Nashville, TN 37243-2667

**800-332-2667**

615-532-4812 TTD: 800-332-2257  
[tn.gov/workerscomp](http://tn.gov/workerscomp)

*Workers' Compensation law requires this notice to be posted in a conspicuous place at the work site at all times.*

# Practical Tip

When an injury is reported, you should immediately begin to **protect your rights**

But how is that done?

- By providing a panel of physicians
- Choice of Physician Form C-42
- Available on our website
- English/Spanish

TN



Tennessee Bureau of Workers' Compensation  
220 French Landing Drive, I-B  
Nashville, TN 37243-1002

FORM C-42

## EMPLOYEE'S CHOICE OF PHYSICIAN

An employer must provide a partially-completed form listing at least three physicians to an employee upon the report of a workplace injury. The employee must complete and then sign and date the section below that indicates the physician chosen. A copy of the fully-completed form should be provided to the employee with the original kept on file by the employer. If the employee refuses to accept medical services from the chosen physician, the employee's rights to benefits may be delayed. **NOTE:** Employees traveling more than 15 miles one way to or from medical treatment may seek reimbursement of their travel expenses from the insurance carrier.

### TO BE COMPLETED BY THE EMPLOYER:

Employer				Date of Injury		
Employer Contact				Phone		
				Email		
Physician Name				Phone		
Address				City	State	Zip
Physician Name				Phone		
Address				City	State	Zip
Physician Name				Phone		
Address				City	State	Zip

### TO BE COMPLETED BY THE EMPLOYEE:

I have selected the following physician from the list provided to me by my employer:

Physician Name				Date Selected		
Employee Name				Appt Date/Time		
Address				City	State	Zip
Phone				Email		
Employee Signature				Date		



# Practical Tip

At least 3 physicians on the panel

- 2 of the 3 can be in practice together but must be in different offices
- Within the community (125 miles)
- Can be of any specialty
  - No longer must include a chiro

# Practical Tip

Have the employee provide you with a written statement, especially if you have doubts:

- How did the injury occur?
  - Who, what, when, where, why
- Witnesses



# There is no doubt...your injured employees will have questions

The only question is where will they seek advice?

- Spouse
- Friends and Neighbors
- Co-workers
- That lawyer that advertises on TV
- **Don't you want them to come to you?**



# Practical Tip

When an injury is reported, you should immediately begin to work to **gain the trust and cooperation of your employee**

But how is that done?

- By providing a copy of our "Beginner's Guide"
- On our website
- English and Spanish

TN



## A Beginner's Guide to Tennessee Workers' Compensation

*Basic facts about the Tennessee Workers' Compensation System for dates of Injury on or after July 1, 2014.*

### How the Doctor is Selected

You will select your **Authorized Treating Physician** from a panel of three doctors that your employer gives you. That physician will provide the medical care needed to help you return to your health and to your job.



Medical treatment for your work-related injury is provided at the employer's expense. Sign an **Agreement between Employer/Employee Choice of Physician** (Form C-42), which should be provided to you by your supervisor, to indicate which doctor you select to become the authorized treating physician. If emergency treatment is required, the supervisor should provide the panel after the injury is stabilized.

### Keep up with your records



Request and keep a copy of your signed Form C-42 for your records. If you do not sign the form, but accept medical treatment from a doctor on the form, it may be considered that you have chosen that doctor.

### Have Questions?

Call the Ombudsman Program of the Tennessee Bureau of Workers' Compensation at **800-332-COMP (2667)** if you have any questions.

An ombudsman will assist with any questions from employees, employers and insurance companies that do not have attorney representation.

Learn more online and download forms at:  
[www.tn.gov/workerscomp](http://www.tn.gov/workerscomp)



### Benefits that Injured Employees May Be Entitled to Receive

Employees who have suffered a compensable injury, meaning that the authorized treating physician has determined the injury to be work-related, may be entitled to receive the following:

#### Medical treatment, at no cost to the employee

This treatment must be provided for as long as required by the authorized treating physician. Medical treatment recommended by the authorized treating physician that is denied by the insurance company's utilization review agent can be submitted to the Bureau's Utilization Review Program for additional review and consideration.

#### Travel Expenses

Reimbursement for mileage to and from medical treatment may be requested if travel exceeds 15 miles one way.



#### Temporary Disability Benefits (Wage Replacement)

Disability begins when the authorized treating physician takes you off work. Temporary disability benefits replace lost wages and are due beginning on the eighth day of the disability. If the disability lasts fourteen (14) days or longer, benefits will be paid back to the first day of disability. Temporary disability benefits are usually two-thirds of your average weekly wages earned during the 52 weeks prior to the injury. The Bureau of Workers' Compensation does not pay these benefits. Benefits are paid by your employer's insurance carrier.

If you are able to work, but your average weekly earnings are reduced because of work restrictions, you may be entitled to partial disability benefits.

If the authorized treating physician restricts your ability to work, such as limiting the number of hours worked or the type of work performed, it is very important that the physician's instructions and restrictions are followed at all times. **Failure to report for light duty offered by your employer may terminate your temporary disability benefits.**

### Keep in Touch

Stay in contact with your employer if you are taken off work by the doctor.

# Practical Tip

If you are unsure how to answer their questions, give employees the phone number to our **Ombudsman Program**:

**800-332-2667**





# The Duties of an Ombudsman

- Advising parties of the basics of workers' compensation laws and procedures
- Answering questions
- Assisting in the completion of forms
- Acting as a liaison with the parties to help open communication and increase the efficiency in administration of claims

# The benefits of helping your employees help YOU!

One of the problems with workers' compensation is its name.

It should have never been called

workers' **compensation**.

# The benefits of helping your employees help YOU!

Imagine if it had been called

Workers' recovery

instead of Workers' Compensation.

Whether your employees consider it as workers' compensation or workers' recovery depends on your workplace culture.

# Improving your WC culture is as simple as The Golden Rule

What would you want your employer to do for you if you were hurt on the job?

- Help make doctor/PT appointments?
- Help ensure your benefits were received timely?
- Feel as though you were missed?
- Receive a phone call from the supervisor occasionally?



Does your company do any of these things?



# Do You Have a Drug Free Policy?

If so, it likely has three basic objectives:

- To promote a drug-free workplace,
- To discourage the abuse of alcohol and drugs in the workplace, and
- To penalize employees who choose to engage in alcohol and drug abuse.



# Did You Know...

...that most employees who fail post-accident drug tests do not automatically lose their rights to workers' compensation benefits?

- Even if it violates your policy
- Even if they are fired

# Drug Free Policies

If an employer **is not** a member of the Tennessee Drug Free Workplace Program, **injured workers are:**

- **Entitled to benefits** if injured at work, even if they have drugs/alcohol in their system...
- **Until the employer proves** that the drugs/alcohol are the proximate cause of the injury

# TN Drug Free Workplace Program

If an employer is a current member of the Program:

- They can **deny** benefits until the injured worker proves that they would have gotten injured regardless of the drugs/alcohol

# Practical Tip

Give strong consideration to joining the Tennessee Drug Free Workplace Program.

[www.tn.gov/workforce/article/drug-free-workplace-program](http://www.tn.gov/workforce/article/drug-free-workplace-program)



# Introducing the REWARD Program



Returning **E**mployees to **W**ork **A**nd **R**educing **D**isabilities



The purpose of the Program is to reduce the negative impact of work-related injuries on everyone.

- Designate a Return-to-Work Coordinator dedicated to working with injured employees during their recovery.
- Find transitional jobs that will allow employees to return to work even with restrictions.
- Saves employers money on their WC premiums and helps injured workers return to their full wages sooner.

# Working is good for us

Bringing injured workers back to work, as quickly as possible, is good for everyone

- Studies **prove** that the longer a worker stays off work, the less likely he/she is to ever return to work
- If you view them as disabled, they will view themselves as disabled
- People who work live longer



# When someone reports an injury

## Seven important steps to take:

1. Provide a panel of physicians on the proper form
2. Provide a copy of the Beginner's Guide to Tennessee Workers' Compensation & Ombudsman's Phone #
3. Have the injured employee provide you with a written statement
4. Complete your internal Notice of Injury Form

## 7 Steps to take (continued)

After someone reports an injury:

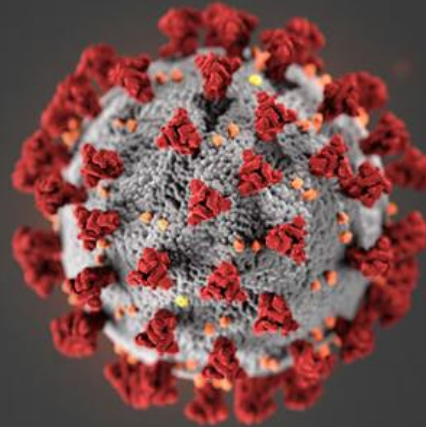
5. Notify your insurance adjuster
6. Start your investigation if you have doubts or concerns
7. Work to eliminate the possibility of someone else being injured

# Not Taking Injuries Seriously Can Have Repercussions

- Employers can be assessed a **25% penalty** if wage replacement benefits are not provided in a timely manner
- A **penalty of up to \$5,000** can be assessed against an employer if a valid panel is not provided timely

# COVID-19 Update

Coronavirus  
(COVID-19)



# Is COVID-19 a compensable claim?

It depends.

“Injury” and “personal injury” mean an injury by accident, a mental injury, **occupational disease including diseases of the heart, lung** and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee; provided, that:

(B) An injury **“arises primarily out of and in the course and scope of employment”** only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the injury, considering all causes;

(C) An injury causes death, disablement or the need for medical treatment **only if it has been shown to a reasonable degree of medical certainty** that it contributed more than fifty percent (50%) in causing the death, disablement or need for medical treatment, considering all causes;

(E) The opinion of the treating physician, selected by the employee from the employer's **designated panel of physicians** pursuant to § 50-6-204(a)(3), **shall be presumed correct** on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence;

# Is COVID-19 a compensable claim?

Some have made the argument that COVID-19 is a “disease of life” and it’s impossible to know where an exposure occurred.

- Providing benefits under workers’ compensation could save money.
  - Avoid possible pain and suffering claims

All workers’ compensation claims are fact specific. To qualify for benefits, employees must prove their claim.

- How many co-workers have contracted the virus
- How many family members of an infected employee contracted the virus
  - Did the family members have it before the employee was diagnosed or afterwards?

# Is COVID-19 a compensable claim?

What does the treating physician say?

- Work-related or not?

Does the treating physician have any presumption of correctness?

- Chosen from a panel or not?

Historically, occupational diseases have been covered

- Black lung, Carpal tunnel, Hearing loss, Silicosis, etc.

Some states have introduced “presumptions” for some workers

- California
- Illinois
- Vermont
- Kentucky

# Is COVID-19 a compensable claim?

As of February 21, 2021

- 7,133 work-related claims had been reported to us
  - 137 average per week
- 1,812 had been denied by the insurance carrier.



# Is COVID-19 a compensable claim?

So far, no claim has been presented to a Workers' Compensation Judge for a compensability determination.

Until then, the issue remains unresolved, but many claims have been accepted and benefits have been paid.

IMPORTANT NOTE—It is a TOSHA Recordable if it is work-related and meets their criteria (in-patient hospitalization, death, etc.)

# The Bureau is Here to Help You!

- Assistance to help **everyone** understand the process
- Emphasis on resolving disputes in mediation
- Improved medical treatment
  - Fewer delays
    - Quicker return to pre-injury jobs
- Faster delivery of benefits and faster access to court



*Thank You*  
DOCTORS, NURSES & HEALTHCARE WORKERS  
**PLEASE STAY SAFE!**

Questions?

**Your presenter**

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