

# ADVISOR

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July, August, September 2007



**O**n March 13, Governor Eliot Spitzer signed historic legislation that fundamentally reforms the New York State workers' compensation system.

## Reform!

Governor Spitzer (seated) inks landmark workers' compensation reform bill

The legislation, effective immediately, increases benefits for injured workers for the first time in more than a decade and is expected to reduce employer costs by 10 to 15%.

“Workers’ compensation reform is a critical component of restoring the state’s competitiveness,” Governor Spitzer said as he announced the legislation. “Today, New York is reversing a trend that hampered business growth for years and we are better protecting workers in the event of job-related injury.”

### Key Provisions



Pages 4-5



*This was time well spent.*

Cameron Ruiz, LI Child & Family  
Development Services

*Everyone was very helpful, friendly and professional.*

Margaret Roberts, Verona Oil Co.

*Very good effort to make policyholders aware of resources.*

J. Nunoz, SYNCO Chemical Corp.

*Program was very beneficial for my duties handling claims and working with our insureds.*

Connie Smith, First Niagara Risk Management

*Ten years ago, I would not have expected this type of program from NYSIF...Very beneficial.*

Karl Semkon, Food Bank of Westchester

*NYSIF staff were very helpful at the forum.*

Jeffrey Mets, Rivershore, Inc.

*Thank you for bringing valuable staff to Binghamton.*

Gaynor Young Pierce, Corning YMCA

*Excellent forum.*

Becky Howard,  
Christiana Millwork, Inc.

## For NYSIF Customers, Forums Educate, Resonate

**A**lmost 800 policyholders, safety group managers and insurance representatives registered for the 2007 NYSIF Policyholders' Educational Forums held in locations throughout the state March 28-May 10, and the response was overwhelmingly positive.

There's no reason to fret, however, if you weren't able to attend one of the eight, fully-booked day-long sessions. Much of the information disseminated at the forums is available on NYSIF's web site.

Just visit [www.nysif.com](http://www.nysif.com) for complete information on the following topics and more:

**Risk Management:** Safety and loss prevention services, Code Rule 59, Small Business resources, Payroll reporting and premium audit, Claims reporting, Limiting liability, Detecting fraud - Common red flags, and a full complement of downloadable safety resources.

**Workers' Compensation:** Policyholder responsibilities, Filing a claim, Claim outcomes, Auditing and payroll reports, Steps to implementing a return-to-work program.

**Disability Benefits:** Coverage, application process, rates, dividend programs and FAQs.

**Online Services:** Premium quotes, Electronic claims filing, Electronic certificates of insurance, Account information, Claims tracking, Claim payment and medical bill inquiries, Download forms, Report fraud, Contact your case manager and underwriter.

*NYSIF is a company that cares about the policyholder, as evidenced by this forum. You are proactive in providing information and services to reduce costs and efficiently process claims for the policyholder.*

Patricia Costello, JKLD, Inc.



NYSIF CEO David Wehner helps a forum attendee navigate NYSIF's web site

# Reforms Hold the Key to System Overhaul

**O**n March 13, Governor Eliot Spitzer signed historic legislation that fundamentally reforms the New York State workers' compensation system.

The legislation, effective immediately, increases benefits for injured workers for the first time in more than a decade and is expected to reduce employer costs by 10 to 15%, the governor said.

"Workers' compensation reform is a critical component of restoring the state's competitiveness," Governor Spitzer said as he announced the legislation. "Today, New York is reversing a trend that hampered business growth for years and we are better protecting workers in the event of job-related injury."

The statute raises benefits for injured workers and indexes maximum benefits to the state's average weekly wage. At the same time, it injects financial responsibility into the system by providing a maximum number of years that permanent partially disabled claimants may receive benefits, while providing a safety net for severely disabled workers who demonstrate extreme hardship.

"This is a remarkable win-win situation for both workers and employers," Governor Spitzer said. The governor said the reform agreement was the result of careful negotiations with the Legislature and extensive input from both the business and labor communities.

#### Key elements include:

- Maximum weekly benefits for new claims as of 7/1/07 increase to \$500 in the first year, \$550 in the second year, \$600 in the third year, and two-thirds of the New York average weekly wage thereafter, subject to annual indexing;
- Minimum weekly benefits for new claims as of 7/1/07 increase to \$100;
- Weekly benefits for permanent partial disabilities as of 3/13/07 are capped based on percentage loss of wage earning capacity for a minimum of 4.33 years and a maximum of 10.10 years [see chart, Page 5];
- A safety net will be created to help these workers return to gainful employment, and to intervene in cases of extreme hardship;
- Penalties and sanctions for workers' comp. fraud by businesses and employees will increase;
- The Second Injury Fund and the Special Disability Fund will be phased out;
- The New York Compensation Insurance Rating Board (NYCIRB) will sunset on 2/1/08;



Governor Spitzer announces accord on workers' compensation reform

- Premium-based incentives for safety and return-to-work programs.

#### Regulatory streamlining

In addition to the statutory reforms, the governor has asked the superintendent of insurance to ensure that system savings are reflected in premium reductions. The governor directed the superintendent, along with the Workers' Compensation Board and Dept. of Labor, to work with appointees of the Legislature, business and labor on additional initiatives, including:

- Collect and assess data relating to worker-related injuries and claims;
- Streamline the claims review process;
- Design new diagnostic and treatment protocols for medical professionals; and
- Develop training materials that will assist administrative law judges in making consistent case determinations.

In June, the superintendent recommended proposed regulations that are designed to expedite the hearing process and reduce litigation.

While the statute strengthens penalties for fraud and abuse, the governor said it also sets into motion significant return-to-work programs to help workers return to gainful employment. The resulting savings are expected to reduce premiums to New York employers and lower the cost of doing business in New York. The governor said the reforms were particularly important to the upstate economy.

## Reformed Benefits' Structure

### Benefit Rates

*Applicable to accidents on or after 7/1/07*

As a result of workers' compensation reform legislation in 2007, maximum weekly indemnity benefits levels are raised from \$400 for new accidents as follows:

- \$500 for accidents or deaths on or after 7/1/07;
- \$550 for accidents or deaths on or after 7/1/08;
- \$600 for accidents or deaths on or after 7/1/09;
- Two-thirds of the New York State average weekly wage for accidents or deaths on or after 7/1/10, reindexed to the state average weekly wage annually on 7/1 thereafter;

The minimum weekly rate is raised from \$40 to \$100 for accidents on and after 7/1/07. If the claimant's wages are less than \$100 per week, claimant will receive his or her full wages.

### Caps on Permanent Partial Disability Indemnity Benefits

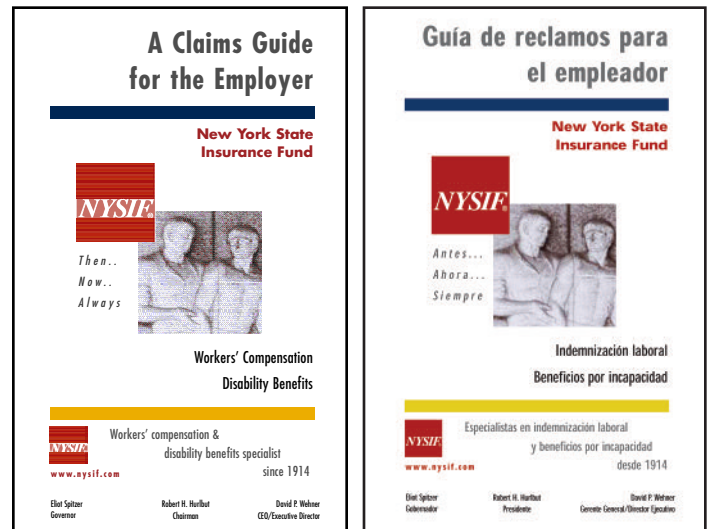
*Applicable to accidents on or after 3/13/07*

Compensation for claimants classified with permanent partial disabilities continues at two-thirds of the difference between the average weekly wage and the claimant's wage earning capacity.

For accidents and dates of disablement on or after the legislation's effective date (3/13/07), weekly benefits for permanent partial disabilities are capped based on percentage loss of wage earning capacity according to the following schedule:

% Loss of Wage Earning Capacity	Maximum Benefit Weeks	Number of Years
1% - 15%	225	4.33
16% - 30%	250	4.81
31% - 40%	275	5.29
41% - 50%	300	5.77
51% - 60%	350	6.23
61% - 70%	375	7.21
71% - 75%	400	7.69
76% - 80%	425	8.17
81% - 85%	450	8.65
86% - 90%	475	9.13
91% - 95%	500	9.62
96% - 99%	525	10.10

## Updated in Two Languages



NYSIF's *A Claims Guide for the Employer* English/Spanish edition includes changes effective with 2007 workers' comp. reform, including new benefits structure (chart, I.) and phase out of Second Injury and other special funds. Call **212-312-9121** for your copy.

## New York State Requirement for Out-Of-State Employers

The New York State Workers' Compensation Board announced that effective September 9, all out-of-state employers with employees working in New York State will be required to carry "a full, statutory NYS workers' compensation insurance policy."

An employer has a full, statutory New York State workers' compensation insurance policy when New York is listed in Item 3A on the employer's workers' compensation insurance policy information page.

Contact the WCB Compliance Bureau, **866-298-7830**, if you have questions regarding this requirement.

## More Ways to Reach Us

New ways for customers to retrieve information and report workplace injuries are just ahead at NYSIF.

NYSIF is testing an Interactive Voice Response system that uses voice recognition to assist telephone callers with inquiries regarding claims, policies, quotes, disability benefits, or our web site. The system provides contact information for case managers or underwriters before transferring callers to their parties. The same contact information is available at [www.nysif.com](http://www.nysif.com).

In addition, NYSIF's Metro Group 90 Office is piloting a NYSIF eFROI telephone component allowing callers to report injuries through the new system. NYSIF eFROI (First Report of Injury) is always available to policyholders for reporting injuries to NYSIF 24/7 at [www.nysif.com](http://www.nysif.com).

# OSHA Ramping Up Electrical Standards

Part 1 of this article (“Deadly Serious About Electric Exposure,” *WCA* Apr-Jun’07) discussed basics of electrical safety. Sometimes, however, greater precautions are needed. The use of electric appliances and power tools in kitchens and bathrooms, near water or in damp areas, for instance, requires extra safeguards. OSHA will incorporate certain protections of modern building and electrical codes into its electrical standard this August.

Gary Dombroff, WCP

**Safety Cop**



For years, outlets equipped with ground fault circuit interrupters (GFCIs) have been required in residential kitchens and bathrooms. GFCIs compare the amount of current going into electric equipment with the amount of current returning from it. If a short circuit occurs, or the difference in current exceeds five milliamperes, these devices interrupt the flow of electricity in about 1/40th of a second to prevent electrocution.

## GFCI REQUIREMENTS EXPANDING

Many building codes make GFCIs mandatory in new and rehab construction. **The new OSHA electrical standard will require that they be installed in workplace bathrooms and on rooftops. It will also require GFCI protection for all receptacle outlets on temporary wiring installations that are used during “maintenance, remodeling or repair of buildings, structures or equipment, or during similar construction-like activities.”** OSHA estimates that between 30 and 45 deaths per year are caused by 120-volt ground faults on construction sites.

Testing GFCI outlets regularly is important. Manufacturers usually recommend a monthly test, which involves pushing a “test” button on the outlet. This simulates an electrical fault, which should immediately cut off the power. Pressing the “reset” button restores normal operation. (Since GFCI capability can be incorporated into circuit breakers, outlets on protected circuits can be marked as such. Testing would be done from the panel box.)

GFCIs are also available as portable units or built into extension cords to protect outdoor workers and for construction job sites.



## To Recap

From Part 1 previously in the *Advisor*: *Electricity flowing through the body can be lethal, even in small doses. The simple safety rule is: Avoid exposure to electric currents. An average of one American worker is electrocuted on the job every day. NYSIF statistics show no fewer than 12 electrocution death claims in the years 2001-2005, not to mention non-fatal electrical exposure injuries. Any shock exposure has the potential to be deadly.*

## LOCKOUT/TAGOUT

Another critical electrical hazard arises during equipment servicing or maintenance, when circuitry is exposed and safety features may be bypassed. To prevent electrocution, current must not only be stopped, it must be prevented from accidentally starting again. This OSHA standard is commonly known as Lockout/Tagout, named for devices used to lock power lines in the off position after equipment shutdown. (This standard covers all power sources, including hydraulic and pneumatic.)

Why lock out an energy source? Flipping a circuit breaker or a switch, or unplugging a power cord, isn't enough protection. Locks or tags put a physical barrier or warning at the power source to prevent a machine or process from operating. Moreover, de-energizing and locking an electrical line prevents power flow in exposed circuitry, wires or panels when they are opened for installing, upgrading or repairs. Without such safeguards, tragedies occur to mechanics, electricians, operators or coworkers.

If your business has electrical equipment or machinery, implement and enforce an energy control program. The program must include training employees about the standard and the hazardous energy they may come in contact with, and procedures for locking out and restarting specific machines. OSHA will review your energy control program



if you undergo an inspection or investigation. (For more details, see *WCA* Jan-Mar '04.) Training must be documented, reviewed annually and provided as needed.

### LOCK AND TAGS

Lockout involves placing padlocks or lockable devices on a control; in tagout, a durable warning tag is affixed to the control once it has been placed in the off position. OSHA requires that locks and tags must be sturdy, withstand exposure to the environment in which they are used, and not be easy to remove unintentionally.

New or overhauled equipment must be capable of being locked out. When locks cannot be used, tags may be substituted. Tags must provide the same level of warning and protection as locks. Locking out is preferred to tagging out.

### GUARDS AND SIGNS

Preventing physical contact with electrical current is another way to thwart electrocution. According to OSHA, this involves locating or enclosing electric equipment to make sure people don't accidentally come into contact with its live parts.

Effective guarding requires equipment with exposed parts operating at 50 volts or more to be placed where it is accessible only to authorized people qualified to work with it. Recommended locations are a room, vault, or similar enclosure; a balcony, gallery, or elevated platform; or a site elevated eight feet or more above the floor. Sturdy, permanent screens also can serve as effective guards.

Conspicuous signs must be posted at the entrances to electrical rooms and similarly guarded locations to alert people to electrical hazards and to forbid entry to unauthorized people. Signs may contain the word "Danger," "Warning," or "Caution," and beneath that, appropriate concise wording that alerts people to the hazard or gives an instruction: "Danger / High Voltage / Keep Out."

## Be Wary of These Seasonal Hazards

### Power Line Safety

Overhead power lines are especially hazardous because they carry extremely high voltage. Fatal electrocution is the main risk, but burns and falls are also hazards.

- Look for overhead power lines and buried power line indicators.
- Stay at least 10 feet away from overhead power lines.
- Assume that power lines are energized.
- Use non-conductive wood or fiberglass ladders when working near power lines.

When storms knock down power lines, always assume that they are carrying current. Do not touch them. Notify police, fire departments and local electrical utility companies. Untrained responders and passers-by should not attempt to rescue

## NYSIF & Safety Group Managers Working Together



NYSIF Policyholder Services Rep. Augusto Bortoloni (l.) teamed with Robert LaBombard, of Lovell Safety Management, to conduct 10-hour Occupational Health and Safety Administration courses for NYSIF policyholders in construction and general industry trades.

### Monthly Safety Topics

Find safety topics under *Small Business in the Safety & Risk Management* section at [www.nysif.com](http://www.nysif.com)

**July** Preventing Back Injuries

**August** Proper Ergonomics

**September** Hand and Power Tool Safety

someone still in contact with a cable.

### 'QuickTip' from OSHA

With warmer weather and longer days upon us, employers and employees in the landscaping industry are beautifying the nation's parks, highways and yards.

Following a few simple safety precautions can help prevent injuries to you and your employees. Make sure everyone:

- Has proper hearing protection;
- Has proper eye protection;
- Wears the proper footwear;
- Practices proper lifting techniques.

OSHA's Safety and Health Topic Page on [Landscape and Horticultural Services](#) is a good resource for more information at [www.osha.gov](http://www.osha.gov).



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*75 Years With NYSIF*

**NYSIF Thanks Hudson River Dist.**



Glenn A. LaFave (l.), executive director of the Board of Hudson River Black River Regulating District, a NYSIF policy that dates back to April 19, 1932, received an anniversary plaque in appreciation for the district's 75-year association with NYSIF. Policyholder Service Rep. John McCarthy presented the award.



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