

NYSIF[®]

H. SIDNEY HOLMES, III, 1944-2013

NEW YORK STATE INSURANCE FUND

Workers' Comp.

ADVISOR

nysif.com

3rd Quarter 2013

Back to Shop Class!

**PULL OUT & POST
CENTERFOLD:**

**EDUCATE AND TRAIN
WORKERS TO 'CHOOSE
RIGHT, USE RIGHT' WHEN
IT COMES TO HAND TOOLS**

*Responsibility
for Maintenance
and Use of All
Equipment Falls
to Employers*

Workers' Comp. Reform

**WHAT IT MEANS
TO NYSIF
POLICYHOLDERS**

**Q & A on the 2013-14
Business Relief Act**

Focus Group Eyes eClaims

NYSIF Outreach Convenes eFROI Users, WCB

The NYS Workers' Comp. Board (WCB) established implementation guidelines for *eClaims*, mandatory electronic claims filing that uses the national standard Electronic Data Exchange (EDI) of the International Association of Industrial-Accident Boards and Commissions (IAIABC). In adapting its current electronic claims filing system to accommodate the changes, NYSIF assembled a focus group to help achieve a smoother transition when NYSIF must implement the IAIABC standard by March 2014.

NYSIF met with safety group managers and their claims staff, along with the WCB, last March to discuss ways in which NYSIF could improve its current electronic first report of injury system, NYSIF eFROI®, in adopting the new *eClaims* requirements.

NYSIF Assistant Deputy Executive Director Robert Sammons noted "the importance of the focus group in gathering information from those who use the system every day."

He said NYSIF looked to "update NYSIF eFROI® to accommodate the new IAIABC *eClaims* requirements in such a way that NYSIF policyholders and safety group managers will be pleased with the results."

In the process, users indicated what they like about NYSIF eFROI®, including:

- Simple, user-friendly format;
- Quick reporting, instantaneous claim number;
- E-mail confirmations are great for claims tracking;
- Program lets you know if information is missing.

Learn more about [NYSIF eFROI®](#) at [nysif.com](#).



WCA 2Q2012 has more about *eClaims* and the responsibility of the employer in claims filing @ [nysif.com>Publications](#)

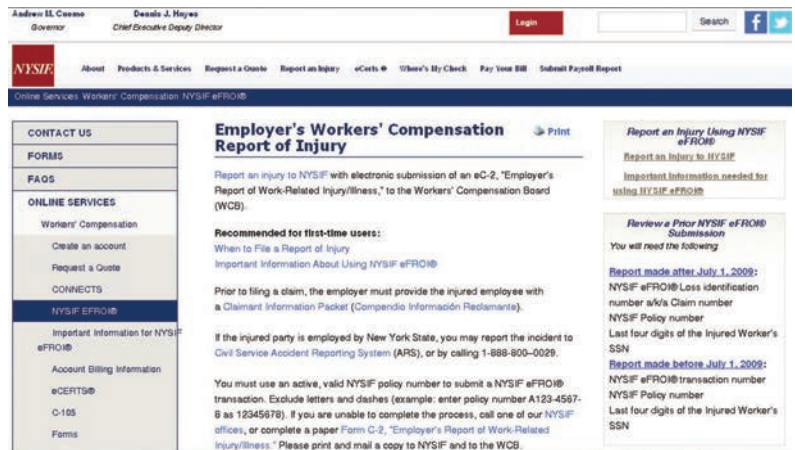
Waive Registration for ROC!

Policyholders no longer need to register to participate in NYSIF's Recommendation of Care program, which offers potential workers' comp. medical cost savings through a network of over 34,000 providers. See [nysif.com>Products & Services>Policyholders>Services>Policyholders>Recommendation of Care](#) to get started.

NYSIF Commissioner is A 'Corporate Champion'

NYSIF Commissioner Kenneth R. Theobalds (r.) was among the honorees selected by the White Plains YWCA for its fifth annual "In The Company of Women" benefit luncheon in May.

Commissioner Theobalds received the organization's Corporate Champion Award. As vice president of Government & Regulatory Affairs for Entergy Nuclear, He is responsible for Entergy's state and local government relations in New York, Massachusetts, Vermont and Michigan. Mr. Theobalds serves as a director and member of the executive committee of the Business Council of New York State, Westchester County Assoc., and the Business Council of Westchester. He is past chairman of the African American Chamber of Commerce of Westchester and Rockland, Inc.



Land Here: Landing page for [NYSIF eFROI®](#) on [nysif.com](#) is the place to start to learn about electronic claims filing with NYSIF

*NYSIF Workers' Comp. Advisor
July/August/September 2013*

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NYSIF Acting Chairman H. Sidney Holmes, III

NYSIF suffered the loss of Commissioner and Acting Chairman of the Board H. Sidney Holmes, III, who died on April 15, 2013, following an illness. He was 69.

NYSIF Chief Executive Deputy Director Dennis Hayes called Commissioner Holmes “a great New Yorker dedicated to public service.”

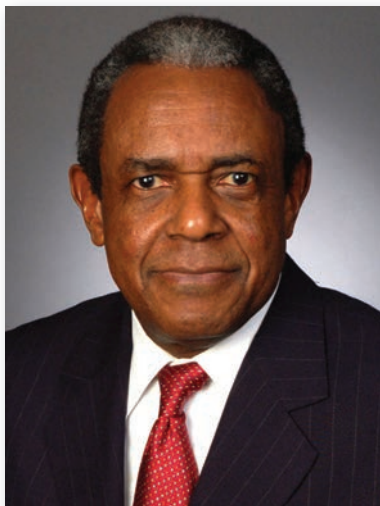
Commissioner Holmes served on the NYSIF Board of Commissioners from June 2008, as vice chairman from January 2010, and as acting chairman from October 2012.

He also served as a commissioner on the Board of the Port Authority of New York and New Jersey, and served on the Board of Directors at the Brooklyn Navy Yard Development Corporation.

“Chairman Holmes provided distinguished service to NYSIF in his time on the Board, particularly as vice chairman and acting chairman over the past two years, guiding the Fund through a period of growth and modernization,” Mr. Hayes said. “His leadership was instrumental to NYSIF’s sustained success during a period of significant changes in the workers’ compensation insurance industry.”

A senior counsel in the New York law office of Winston &

1944-2013



Strawn, LLP, Mr. Holmes had substantial experience in public finance, serving as bond counsel, underwriters’ counsel and bank counsel in virtually every type of municipal bond financing throughout the United States and its territories. His representative clients included state and local governmental agencies and major financial institutions. He had extensive experience in industrial and economic development revenue bond financing. In 33 years of practicing law, some of his most notable projects, and the ones he was most proud of, include the financings of the USTA National Tennis Center expansion, the Brooklyn Navy Yard, JFK International Airport, the Bank of America building and the rebuilding of 7 World Trade Center. In 2011, New York Super Lawyer Magazine recognized Mr. Holmes in the area of bonds

and government finance.

Chairman Holmes received a BA from Columbia University and a JD from Hofstra University School of Law. A Vietnam-era veteran, he served in the U.S. Army Finance Corps. Before attending law school, he co-founded a chain of health and beauty aid discount stores.

Deadline Draws Near for Training in New Standard



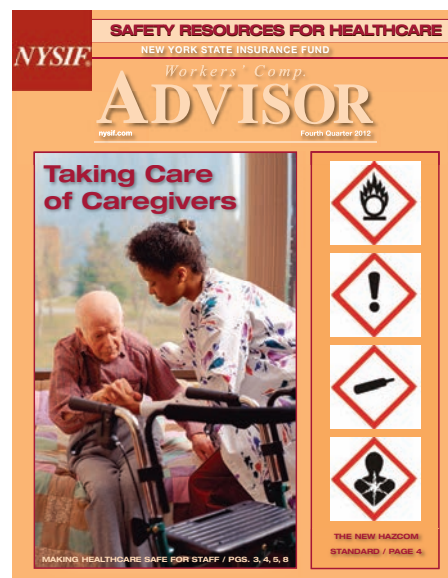
The Occupational Safety and Health Administration’s Hazard Communication Standard is now aligned with the United Nations’ Globally Harmonized System of Classification and Labeling of Chemicals [*WCA 4Q2012*, r.]. The updated HazCom Standard (HCS) provides a common and coherent approach to classifying chemicals and communicating hazard information on labels and safety data sheets.

The first deadline in the implementation phase is Dec. 1, 2013, the date by which employers must train workers on the new label elements and safety data sheet.

A new fact sheet from OSHA discusses training topics that

employers must cover for the initial Dec. 1, 2013 deadline. OSHA has additional materials explaining the new requirements of the HCS, including QuickCards, fact sheets, a list of frequently asked questions and a brief on labels and pictograms. These and other materials are available on OSHA’s [Hazard Communications page](#).

“Safety Cop” Gary Dombroff covered the new HazCom Standard in *WCA 4Q2012* (r.), available from the *Workers’ Comp. Advisor* page on [nysif.com](#)



Toolbox Talk

Back to Shop Class!

Gary Dombroff, CSC
Safety Cop NYSIF 

Tools are in every workplace, from the finest machine shops to the office utility drawer. We all use hand tools without a second thought, and usually without injury. But hand and power tools do cause serious accidents due to misuse or improper maintenance. Fortunately, the basic rules for workplace tool safety are the same ones learned in high school shop class: Choose the right tool; use it properly.

Hand tools, including anything from axes to wrenches, are non-powered and pose their greatest hazards from misuse and improper maintenance.

CHOOSE RIGHT, USE RIGHT

Never force a tool to do a job it's not supposed to do. It's easy to settle for the wrong tool. Habit or laziness could cause using an incorrect size or type of screwdriver for the job. Worse, using a screwdriver instead of a chisel, for example, could cause the tip of the screwdriver to break off and fly, hitting the user or other employees. If the fragment hits an eye, a serious, permanent injury may result.

Using plier handles to pry open cans, or using a letter opener as a chisel or screwdriver are other examples of misuse. These "makeshift" tools can slip and injure the user. At the very least, they do an inefficient or inadequate job. **You can never repeat the mantra, "Use the right tool for the job," too often.**

The Occupational Safety and Health Administration (OSHA) holds all employers responsible for the condition of tools and equipment used by employees, including tools and equipment furnished by employees. OSHA requirements state: "Employers shall not issue or permit the use of unsafe hand tools."

SPECIAL RULES FOR HAND TOOLS

OSHA has specific rules – not just suggestions – for specific hand tools. Wooden handles need to be free of splinters or cracks, and kept tight in the tool. If a wooden handle on a hammer or an axe, for example, is loose, splintered or cracked, the head of the tool can fly off and strike the user or another worker. Tools with taped handles may have hidden cracks.

Do not allow use of impact tools, including chisels, punches or wedges, if they have mushroomed heads. "Mushrooming" is not safe. It occurs when tool surfaces become soft and expanded from repeated striking. The heads might shatter on impact, sending sharp fragments flying.

Wrenches are subject to wear and tear. Replace wrenches – including adjustable, pipe, end, and socket wrenches – when



worn jaws are sprung to the point where slippage occurs. Worn or sprung jaws allow the wrench to slip and can cause injury.

The OSHA General Industry Standard requires the use of insulated hand tools when working near exposed energized conductors or circuit parts. (The Construction Standard, however, does not apply the same requirement for similar conditions.)

RESPECT POWER TOOLS

Powered hand-held tools are really miniature machines. As such, these tools deserve the respect given to their full-sized relatives. The Power Tool Institute, a consortium of power tool manufacturers, offers important, basic advice for all users: "Power tools...require operator respect in specific ways. They must be used carefully and kept in safe operating condition."

Don't forget the word "class" in shop class. Careful use and maintenance of power tools requires the training and educating of all users in learning the proper way to use and maintain each kind of tool.

The operator's manual for each tool can be a primary source of instruction. "The warnings and instructions on the power tool and in its operator's manual provide the best source of safety information for the tool," the Institute advises. "Read and understand the contents and follow the...operator's manuals on each specific power tool and all related accessories. This is considered essential to the safe operation of any power tool."

The Institute's own manual, "[Safety Is Specific](#)," contains tool-specific safety advice for many types of power tools.

GEARS, GRINDERS AND MOVING PARTS

Power tools with hazardous moving parts should have safeguards. Guards should be provided on power tools, when necessary, to protect the operator and others from exposed points of operation, in-running nip points, reciprocating or rotating parts, and flying chips and sparks. Belts, gears, shafts, pulleys, sprockets, spindles and chains, for example, must all have guards if exposed to operators. These guards prevent unwanted contact with moving tool parts.

Toolbox Talk

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Certain rules apply to the ubiquitous bench grinder: Keep work rests not more than one-eighth inch from the wheel surface. This prevents jamming the work between the wheel and the rest, which may break the wheel. Check the wheel's condition before use, and never adjust a rotating wheel.

ELECTRIC TOOLS

Employees using electric tools must be aware of several dangers. The most serious is the possibility of electrocution. Among other hazards are burns and slight shocks, which can cause serious injuries. Even a small amount of current can result in fibrillation of the heart and death. Shocks cause users to fall from ladders or other elevated work surfaces.

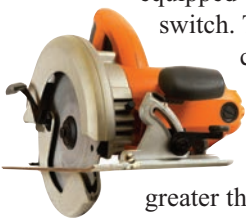


Protect against shock by using tools with a three-wire cord with ground (making sure they are actually grounded), double insulated tools, or tools powered by a low-voltage isolation transformer. Three-wire cords contain two current-carrying conductors and a grounding conductor. **Any time a worker uses an adapter to accommodate a two-hole receptacle the adapter wire must be attached to a known ground.** Never remove the third prong from the plug.

Double insulation is more convenient. This protects the user and the tool in two ways: by insulation on the wires inside and by a housing that cannot conduct electricity to the operator in the event of a malfunction.

SAFETY SWITCHES

Another way of protecting users is the switch used to activate the tool. Some hand-held power tools require special switches that allow for a quick stop when released. Drills, fastener drivers, some grinders with wheels larger than two inches in diameter, disc and belt sanders, saber saws, reciprocating saws and similar tools must be equipped with a momentary contact "on-off" control switch. They also may be equipped with a lock-on control, if turned off by a single motion of the same finger or fingers that turn it on.



Hand-held powered tools such as circular saws having a blade diameter greater than two inches, chain saws, and percussion tools without positive accessory holding means must be equipped with a constant pressure switch that will shut power off when released – similar to the "dead man" switch used by train operators. Workers must never defeat the switch by taping it down, or carry tools with their finger on the switch.

Tools that present lesser hazards may be equipped with only a positive "on-off" switch. These include platen sanders, disc sanders with discs two inches or less in diameter, grinders with wheels two inches or less in diameter, routers, planers, laminate

trimmers, nibblers, shears, scroll saws and jigsaws with blade shanks one-fourth of an inch wide or less.

PERSONAL PROTECTION: HANDS, FACE, EARS!

Use Personal Protective Equipment (PPE) when required to protect key body parts, including eyes, face, head, hands and arms. Just as important, protect hearing from loud noise. According to the National Institute for Occupational Safety and Health, many common power tools exceed the OSHA standard of 90 decibels and require that users wear hearing protection.

Workers should wear proper apparel that does not include loose clothing, dangling objects or jewelry. Restrain long hair when operating power tools. Do not wear gloves when using certain power tools, as they may hinder safe operation. **Always check the user manual for the proper precautions.**

THE BOTTOM LINE

Our familiarity with common tools, and their ease of use, can prevent us from seeing how dangerous they are when used or maintained improperly. Always read the instructions and heed the manufacturer's warnings for power tools. There are many types of power tools; employers must provide appropriate training and personal protective equipment for *each one*. Do not ignore tool safety. Choose right, use right, and make your shop teacher proud!



The Resource List

Free resources @nysif.com under Products & Services>Safety & Risk Management:

- Safety Basics
- [Hand and Power Tool Safety Basics](#)
- [Power Tool Safety Tips](#)
- [Personal Protective Equipment Basics](#)

[Personal Protective Equipment Tips](#)

- Safety Matters
- [Machine Guarding](#)
- [Personal Protective Equipment](#)

Additional Resources

- OSHA Hand and Power Tools Page
<http://www.osha.gov/SLTC/handpowertools/index.html>
- OSHA Publication 3080, Hand and Power Tools
<http://www.osha.gov/Publications/oshap3080.pdf>

NIOSH On Nail Gun Safety

The National Institute for Occupational Safety and Health (NIOSH) has a new publication titled, Straight Talk About Nail Gun Safety, also available in Spanish. The new publication uses a comic format to illustrate the risks of using nail guns and how they can be reduced, but nail gun injuries are no joke. In some cases, nails fired from cartridge powered hammers have caused as much damage as bullets. Visit <http://www.cdc.gov/niosh/docs/2013-149/>

NYS 2013 Workers' Comp. Reform

Questions and answers about the 2013-14 Business Relief Act and what it means to NYSIF customers

► The Business Relief Act signed into law by Governor Andrew M. Cuomo as part of the 2013-14 NYS Budget includes sweeping reforms to the state workers' compensation system projected to save \$800 million for employers. Here is a summary of what the changes mean for NYSIF customers.

Workers' Comp. Board Assessments

» How will the new assessment work?

The Workers' Comp. Board (WCB) will charge employers one unified annual assessment starting Jan. 1, 2014. WCB will determine an assessment methodology that charges all employers based on a common factor, such as premium, and publish this information by Nov. 1, 2013, and annually thereafter. All carriers, including NYSIF, must now remit the assessment amount to the WCB as it is collected.

This one unified assessment includes, but is not limited to, assessment for the Special Fund for Disability Benefits, and for WCB administrative costs related to the Disability Benefits Law, the Volunteer Firefighters' Benefit Law, and the Volunteer Ambulance Workers' Benefit Law.

» Will employers see higher assessment rates with the new methodology?

For NYS employers in general, the change in assessment methodology may result in some employers paying a slightly higher or lower share of the overall assessment. However, changes in the law regarding the Fund for Reopened Cases (FRC) [Section 25-a] and the Special Disability Fund (SDF) [Section 15(8)] are expected to reduce overall assessment costs, projecting a savings of \$800 million for employers.

» How will this impact NYSIF policyholders?

NYSIF policyholders will see a change in their bills to reflect the new assessment procedures starting with policies that take effect or renew on or after Jan. 1, 2014. As a service to customers, NYSIF will ensure that current policyholders do not pay higher assessment charges due to the change in the assessment formula for calendar years 2014 and 2015.

» How is this different from the way NYSIF now collects assessments?

Previously, NYSIF charged policyholders for assessments and reserved funds for future assessments. NYSIF grew its reserves for assessments through prudent investments and containment of its administrative costs. In recent years, NYSIF did not charge policyholders for the full cost of the assessments and, instead, paid a portion of the annual assessments for its customers out of these reserves. Starting in 2014, NYSIF must charge policyholders for all assessments and remit the payments to the WCB as they are collected.

» Will employers receive an itemized accounting of assessment components?

No. The WCB is combining the assessments into a single methodology to improve administrative efficiency. The assessment will show up as a single charge on policyholders' bills. The WCB plans to publicize the various components of the assessment and how the assessment is calculated.

» What changes were made to Section 25-a?

FRC will close to new cases on Jan. 1, 2014. Under 25-a, carriers could transfer liability for certain claims to FRC after seven years from the date of accident and three years since the last payment of compensation to the claimant. FRC, which does not exist in most other states' workers' compensation systems, generated significant litigation and costs for a small number of claims. Private carriers and NYSIF now assume the responsibility for handling these claims on behalf of their respective policyholders. The closure of FRC is expected to produce savings for businesses while having no impact on injured workers.

» What will happen to Section 15(8) Special Disability Fund cases?

Assessments for SDF (i.e., second injury fund) will be made against affected employers rather than against insurers and self-insured employers. The WCB will provide direct oversight of the operations and streamlining of the cases.

NYSIF Reserves

» Why are NYSIF reserves being transferred to the State?

The Business Relief Act removes approximately \$2 billion in assessment liabilities from NYSIF's balance sheet. Since reserves for assessments are no longer necessary, the Business



What Workers' Comp. Reform Means To You

2013-14 Business Relief Act Q & A

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Relief Act directs NYSIF to transfer these reserves to the WCB Chair for distribution to the state's General Fund as administered by the New York State Director of the Budget.

The monies released became available by the elimination of reserves held by NYSIF for future payments of state assessments. Any reserves held by NYSIF for future claimant benefits and medical costs remain intact and are not impacted. Furthermore, this transfer does not affect NYSIF discounts and dividends. NYSIF's commitment to pricing policies and implementing dividends, discounts or differentials based solely upon risk and experience remains the same.

» How does the Act affect NYSIF investments?

The Workers' Compensation Law previously limited investments that NYSIF could make to grow its surplus and reserves. The Business Relief Act permits NYSIF to invest up to 10% of surplus in securities of American institutions, regardless of the company's debt rating, and 15% of surplus under a prudent person standard.

Minimum Benefit Increase

The minimum weekly benefit increases from \$100 to \$150 for all injury claims on or after May 1, 2013, subject to the existing rule that compensation benefits plus current earnings

(or earning capacity) may not exceed one's average weekly wage prior to the accident.

Compliance

» How does the state ensure that employers correctly report both their occupational classifications and their payroll?

The WCB currently collects this information from all employers. The legislation gives the WCB the power to audit all employers, including self-insured employers, and thereby ensure the accuracy of the data used in the assessment calculations. Moreover, the legislation permits the WCB to conduct periodic audits of any employer, private insurer, or NYSIF regarding any assessment payment. It also provides for payment of any amount underpaid, along with 9% interest. Any insurance carrier or employer that knowingly makes a material misrepresentation of information concerning WCB assessments may be subject to a class E felony.

Prior law requires the WCB to assess a penalty of \$2,000 for each 10-day period that an employer fails to secure workers' compensation coverage. The legislation permits the WCB to assess a lesser penalty, allowing flexibility to assist employers with compliance.

» What happens if a policyholder does not pay its assessment?

All carriers, including NYSIF, are now required to treat the non-payment of an assessment by a policyholder the same as a non-payment of premium for cancellation purposes. An employer's policy may be cancelled for not paying its premium or state assessment if notice is given.

Other Changes to Workers' Comp. Law:

Among other changes, the Business Relief Act also amends Chapter 57, Laws of 2013, Part GG, dealing with New York State Workers' Comp. Law, as follows:

- Removes the requirement for licensed physicians to be a member of the Chiropractic Practice Committee and the Psychology Practice Committee.
- Provides for arbitration of disputed health care bills of \$1,000 or less by a single arbiter, rather than a three-person panel. Applicable to all types of providers, who also may elect to have a single arbiter for bills of more than \$1,000.
- Amends the Volunteer Firefighters' Benefit Law and the Volunteer Ambulance Workers' Benefit Law to change the term "surviving wife" to "surviving spouse."

NYSIF

Customer Appreciation



Utica Cast Stone, Inc. - 75 Years

Workers' Comp. Advisor

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Disability Benefits Claims & Service **1-866-697-4332**
Business office contact information nysif.com

Send WCA comments to jmesa@nysif.com

A NYSIF 'U' REFRESHER

NYSIF's education and information series for employers.



Preventing Injuries, Illnesses; Promoting Well-Being

■ OSHA published a new slide presentation on the value of injury and illness prevention programs to help employers find and fix workplace hazards before work injuries. Not only are these programs effective at reducing injuries, illnesses and fatalities, but also employers report they have transformed their workplace culture and led to higher productivity and quality, reduced costs and greater worker satisfaction. View the downloadable presentation (r.) at OSHA's [Injury and Illness Prevention Programs webpage](#).



■ The Lucian Leape Institute at the National Patient Safety Foundation released a report asserting that patient well-being is closely tied to the safety and health of the workers who care for them. The white paper, *Through the Eyes of the Workforce: Creating Joy, Meaning, and Safer Health Care* (PDF, r.), calls on healthcare organizations to initiate broad organizational changes to reduce physical and psychological harm to healthcare workers. The report represents the experiences and opinions of frontline practitioners, leaders of healthcare organizations, scholars, government representatives and professional societies.



[If you have a question for NYSIF 'U' e-mail jmesa@nysif.com]