

Workers' Comp

ADVISOR

nysif.com

4th Quarter 2015

OSHA Compliance: What You Need to Know



CUSTOMER APPRECIATION

Some New York Institutions Have Long Ties to NYSIF



WCA FYI

NYSIF Lowers LCM

At its monthly meeting on September 16, 2015, the New York State Insurance Fund Board of Commissioners approved a 5% reduction in NYSIF's loss cost multiplier (LCM). This change took effect October 1, 2015, for policies renewing on or after that date.

"We are able to reduce our rates because of administrative expense efficiencies we've achieved through disciplined cost management," NYSIF Executive Director Eric Madoff said. "We are pleased to pass this savings on to policyholders."

NYSIF Board Chairman Kenneth R. Theobalds stated: "We are committed to holding down workers' compensation costs for our policyholders."

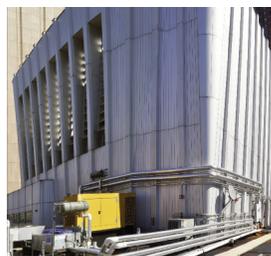
For policies renewing in October, the renewal bill mailed to policyholders did not reflect this reduction in rates. The reduced rate will be reflected in the next billing cycle. For all policies, renewal premium may be higher or lower than last year's premium as a result of the New York Compensation Insurance Rating Board's recent changes in loss costs (also effective October 1), as well as other factors that determine premium. In any case, policy premiums will be 5% lower than they would have been absent NYSIF's reduction in pricing.

Cooling Tower Regulations

Statewide regulations announced by Governor Andrew M. Cuomo for registering and testing cooling towers to protect New Yorkers against the spread of Legionnaires' disease took effect Aug. 17, 2015.

"The summer's outbreak of Legionnaires' disease caused concern in communities across the state, and we are moving forward to help prevent future outbreaks," Governor Cuomo said.

Emergency regulations adopted by the Department of Health (DOH) mandate registration, testing, inspection and certification of all cooling towers, and the reporting of all required actions to DOH. There is no cost to register a cooling



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Premium Audit Scheduling System: Re-Schedule an Appointment

Audit Type

*NYSIF Policy Number (Digits only)

Appointment ID can be found on the original audit appointment letter.

*Appointment ID (Digit only)
 -

Audit Scheduling Online!

Coming this fall, NYSIF is introducing its electronic Premium Audit Scheduling System (PASS). This new system will allow policyholders scheduled for a premium audit to go online to choose a more convenient audit date, time or location.

Policyholders or their representatives will be able to reschedule an audit appointment 24/7 without the need to call or email NYSIF for a new appointment.

"The new system is part of NYSIF's efforts to improve customer service," NYSIF Executive Director Eric Madoff said. "Customers can schedule audit appointments at their convenience and potentially avoid higher premium charges that may result from an estimated audit."

A policyholder or representative will be able to pick a new audit date and time by visiting [nysif.com](#) and entering the policy number and Appointment ID number found on their appointment letter. Users will receive confirmation of the new date and an email with a new appointment letter. They may also update contact information and the audit location.

Users can reschedule or cancel an audit once per policy period, but must reschedule within a prescribed time to avoid an estimated audit. Active policyholders who receive estimated audits also may schedule an actual audit online.

Now Accepting eSignature and App

NYSIF has introduced an electronic application for workers' comp policies. The paperless process allows prospective policyholders to sign and file an application for insurance, and pay a premium deposit, all on NYSIF's website.

Customers no longer need to print and mail an application to NYSIF for workers' comp insurance.

Healthcare Hazards Under Microscope

Shortly after publishing our previous edition of *Workers' Comp Advisor*, in which NYSIF reported on the New York State Safe Patient Handling Act, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) announced it was targeting some of the most common causes of workplace injury and illness in the healthcare industry.

OSHA said it is expanding its use of enforcement resources in hospitals and nursing homes to focus on musculoskeletal disorders (MSDs) related to patient or resident handling, among other hazards.

WCA3Q2105 (r.) outlined the new state law and talked about preventing MSDs and other stress injuries in the healthcare industry in our cover story, "Eliminate the Lift."

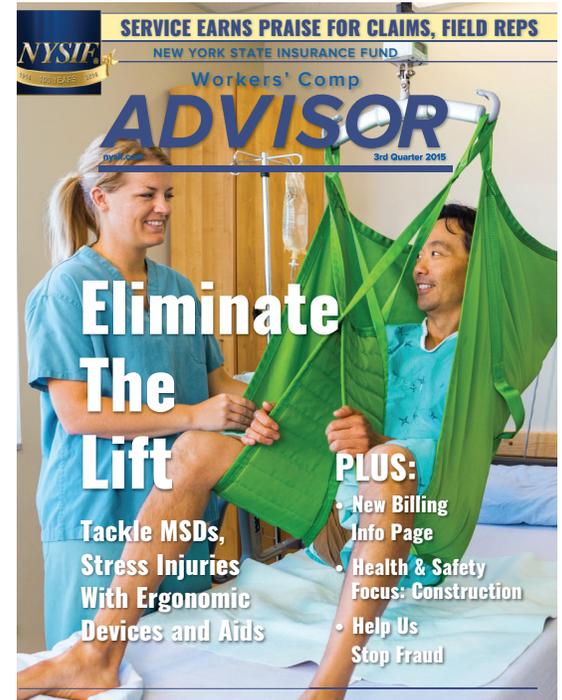
"The most recent statistics tell us that almost half of all reported injuries in the healthcare industry were attributed to overexertion and related tasks," Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels said. "Nurses and nursing assistants each accounted for a substantial share of this total. There are feasible solutions for preventing these hazards and now is the time for employers to implement them."

U.S. hospitals recorded nearly 58,000 work-related injuries and illnesses in 2013 (6.4 per 100 full-time employees), almost twice as high as the overall rate for private industry.

OSHA advised its inspectors to include a review of potential hazards involving MSDs, bloodborne pathogens, workplace violence, tuberculosis, and slips, trips and falls in all inspections of hospitals and nursing home facilities.

Dr. Michaels noted there are many resource materials available to help protect caregivers. "It's time for hospitals and the healthcare industry to make the changes necessary to protect workers," he said.

TARGET MSDs, VIOLENCE,
BLOODBORNE PATHOGENS,
SLIPS, TRIPS, FALLS



RESOURCES

Worker Safety in Hospitals

<https://www.osha.gov/dsg/hospitals/>

Safe & Health Topics – Healthcare Facilities

<https://www.osha.gov/SLTC/healthcarefacilities/>

Safe Patient Handling

<https://www.osha.gov/Publications/OSHA3708.pdf>

New Medical Provider Portal

Now is the time for medical providers and third-party billers to [register for a NYSIF online account](#) to access our new web portal featuring expanded medical claims payment information. As of Sept. 1, 2015, NYSIF's Customer Service Call Center no longer handles requests for routine medical bill payment information.

Registered providers and third-party billers can self-serve for medical payment information regarding their workers' comp patients, including an explanation of benefits, amounts paid, claims covered on an issued check, claim-by-claim pricing and payment accounting, and more.

The new portal requires a log-on to safeguard privileged information. Third-party billing companies that register for access receive a unique identifier code from NYSIF to share with the provider. When the provider approves the third-party biller, that vendor will have access to that provider's account. Only the medical provider can approve access to the portal for the third-party billing company.

To register, providers need a copy of their most recent NYSIF-issued check (within the last 12 months).

Register now here https://ww3.nysif.com/Home/Workers_Compensation/MedicalProviders.aspx.

SAFETY COP

Gary Dombroff, CSC
NYSIF



Recordkeeping 101 for OSHA

Serious workplace accidents often trigger Occupational Safety and Health Administration (OSHA) investigations. Even if your business hasn't had an inspection-triggering event (fatality, amputation, hospitalization, employee complaint), an inspection can occur for other reasons. OSHA bases inspections on the need to protect workers. Highest priority is imminent danger: hazards that could cause death or serious physical harm. High-hazard, high-injury industries and workplaces also initiate inspections, as do national and local emphasis programs.

The 1970 OSH Act holds employers responsible for providing safe and healthful workplaces. Here, we address critical but often overlooked items such as records and paperwork that help prove you are doing that, must be readily available, and up to date at all times. According to a former OSHA compliance officer: "You may not get an inspection in your facility for the next 30 years. However, you always have to be ready."

<http://www.safetyandhealthmagazine.com/articles/11995-preparing-for-an-osh-a-inspection>

WHAT RECORDS DO YOU NEED?

Many businesses must keep OSHA injury logs. During an inspection, an OSHA Compliance Safety and Health Officer (CSHO) will ask for at least three years of OSHA 300 Logs and 300A summaries. Missing or incomplete records generate numerous citations each year.

Inspectors may also want accident records, personal protective equipment hazard assessments, written safety programs, training documentation, and evidence of compliance with OSHA safety standards required by your operations. Penalties accrue for failure to maintain any of these.

CSHOs can request records and/or documents such as the total hours worked, the average number of employees for each year, and a roster of current employees. They also may check whether there is an on-site medical facility, and the location of the nearest emergency room.

WHY YOU DON'T WANT FAULTY RECORDS

Make sure your accident records are accurate. The CSHO will perform a comprehensive records review when an employer's deficient records impair the ability to assess hazards or injuries. A safety consultant recalls how poor record

**Job Safety and Health
IT'S THE LAW!**

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request an OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. OSHA will keep your name confidential. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Report to OSHA all work-related fatalities within 8 hours, and all inpatient hospitalizations, amputations and losses of an eye within 24 hours.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

FREE ASSISTANCE to identify and correct hazards is available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.

Contact OSHA. We can help.

1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

Keep it posted

keeping turned one visit for specific hazards "in to a comprehensive, wall-to-wall inspection" when an employer failed to record an amputation on its injury log.

As this example shows, record accuracy influences an inspection's scope, outcome and fines. Faulty record keeping can cause costly "repeated" and "willful" penalties. OSHA also imposes fines for failing to make records available to current and former employees upon request.

GOOD RECORDS AND INTENTIONS REGARDING SAFETY ARE CRITICAL.

Demonstrating your intention to maintain a safe workplace is critical. Supervisors

and managers – especially those designated to escort the CSHO – should provide requested information in a reasonable time. This is important in large companies where division of duties may complicate record retrieval.

WHAT YOU HAVE TO POST

If you are required to keep the OSHA 300 Log, remember to post the summary sheet from February 1 through April 30. Penalties also accrue for not displaying the required OSHA poster "OSHA Job Safety and Health: It's the Law," (above) informing employees of OSHA protections and employer obligations. <https://www.osha.gov/Publications/poster.html>

Emergency telephone numbers must be conspicuously posted, including contact information for your first aid, fire brigade or other first responders. OSHA wants to see that employees know how and who to call in an emergency.

If you receive a citation, you must immediately post it, unedited, as close as possible to the alleged violation, or where it is readily observable by affected employees and their representatives. Citations must remain posted at least three working days or until abatement of all violations.

REQUIRED ABATEMENT EVIDENCE

OSHA may require records of hazard abatement efforts. Demonstrate that abatement is complete with photographic or video evidence, manufacturer's correspondence, receipts for purchase or repair of equipment, etc., and produce periodic progress reports when requested.

If a citation is for inadequate employee training, for example, have employees sign attendance sheets for all future training. Include topics covered, who taught them, and when. If you have a deficient safety program, such as a hazard communication program, retain copies of program documents subsequently developed and implemented.

SIGNS, SYMBOLS & HAZCOM

You can be cited for not meeting OSHA specifications for accident prevention signs, tags and labels. Exit signs, for instance, require illumination and minimum letter sizes.

Also identify non-exit doors that can be mistaken for exits. https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9794.

Symbols and words on chemical labels are important components of the new Hazard Communication Standard. Keep HazCom programs and labeling up to date. As of June 1, 2015, all chemical labels must contain official pictograms, a signal word, hazard and precautionary statements, product identifier and supplier identification. Verify that Safety Data Sheets (SDSs, formerly MSDSs) follow the new 16-part format, and are accessible to all employees. <https://www.osha.gov/dsg/hazcom/index.html>

COMPLIANCE STANDARDS

Document compliance with all applicable OSHA standards — the minimum protections needed for specific industries, workplaces or exposures. Where no specific standard exists, the General Duty Clause applies, requiring employers to “provide their employees with a workplace that is free of recognized hazards likely to cause death or serious physical harm.” See OSHA's website: https://www.osha.gov/dcsp/compliance_assistance/quick_starts/general_industry/gi_step1.html

Also see **Health & Safety Focus**: “Don't Blame Workers, Employ Caution”

COST OF NON-COMPLIANCE

The more serious the violation, or the more obvious it is that an employer has ignored it, the higher the potential fine. Penalties range from \$100 to six figures, depending on the gravity of the violation. Beyond fines, reputational risk and legal costs can both be high. The greatest cost, however, is a serious or fatal employee injury.

OSHA RECORDKEEPING AT A GLANCE

<https://www.osha.gov/recordkeeping2014/records.html>

Who is Exempt From OSHA Recordkeeping?

1. Employers with 10 or fewer employees at all times during the previous calendar year.
2. Employers in certain low-hazard industries.

Businesses Exempt From OSHA Recordkeeping:

<https://www.osha.gov/recordkeeping/ppt/RK1/exempttable.html>

Businesses Newly Required to Keep OSHA Records:

https://www.osha.gov/recordkeeping2014/reporting_industries.html

All Employers Must Report*:

1. All work related fatalities within eight hours.
2. All work related inpatient hospitalizations, amputations and losses of an eye within 24 hours.

*Only fatalities occurring within 30 days of work-related incident. Only inpatient hospitalizations, amputations or loss of an eye occurring within 24 hours of work-related incident.

Forms 300, 300A, 301

<https://www.osha.gov/recordkeeping/RKforms.html>

OSHA Inspections Factsheet

https://www.osha.gov/OshDoc/data_General_Facts/factsheet-inspections.pdf

OSHA Accident Reporting Rule Factsheet

<https://www.osha.gov/recordkeeping2014/OSHA3745.pdf>

OSHA Recordkeeping Fact Sheet

<https://www.osha.gov/recordkeeping2014/OSHA3746.pdf>

WCA4Q2006 “Empathetic Ear Prevents OSHA Surprises”

<http://www3.nysif.com/AboutNYSIF/~media/pdf/advisor/4thqtadvisor2006%20pdf.ashx>.

OSHA's toll free number to report fatalities, amputations, loss of an eye, workplace hospitalizations, or to obtain compliance assistance and more information is **800-321-OSHA (6742)**.

Health & Safety Focus

Don't Blame Workers, Employ Caution

Employers should know they need to do more than simply comply with safety regulations to protect workers from hazardous work. Speaking at the American Society of Safety Engineers 2015 Expo in Dallas, Occupational Safety and Health Administration Assistant Secretary Dr. David Michaels said employers are responsible for mitigating obvious hazards even if they've satisfied OSHA safety standards and regulations, reports *Business Insurance*.

He said OSHA's job is to help employers become compliant, but it also wants to help compliant employers become exemplary. Investigating close calls or near misses, as well

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PEOPLE

Louis J. Roberti, Jr.

Westchester businessman Louis J. Roberti, Jr., was confirmed by the State Senate as a NYSIF commissioner on June 16, 2015. Commissioner Roberti is president of Arroway Cadillac Chevrolet, Inc., in Mount Kisco, and managing partner and principal dealer of Arroway Chrysler Dodge Jeep in Katonah, NY.

Commissioner Roberti has held all executive offices for the New York State Automobile Dealers Association, including chair in 2013-2014, and currently serves as vice chair of the Legislative Committee. He also is a board member of New York State Auto Dealers Association Safety Group 430.

A graduate of Archbishop Stepinac High School in White Plains, he entered the business world after attending Westchester Community College. In 1984, he became president of Arroway Chevrolet, Inc., initially based in Katonah.

Mr. Roberti supports local charities including Friends of Karen and the Boys and Girls Club of Northern Westchester, and is a licensed pilot and a member of Angel Flight Northeast, an organization providing free air transportation for medical care to patients and their families since 1996.

Cooling Tower Regs | From 2

tower with the state. DOH set up a toll free number for questions about the regulations, **1-888-769-7243**.

The regulations required collection and culture sample testing within 30 days of the announcement and every 90 days thereafter. A positive test requires immediate disinfection. All owners of buildings with cooling towers must implement a maintenance plan by March 1, 2016, including a schedule for routine sampling and emergency procedures for disinfection. Buildings must maintain a copy of the plan on premises for DOH inspectors upon request.

All cooling towers must be certified compliant by Nov. 1, 2016, and thereafter annually by November 1. Owners must register new cooling towers prior to initial operation.

The emergency regulations remain in effect for 90 days, during which they may be amended before becoming permanent. DOH suggested the following links for help in meeting the requirements:

Water Treatment Professionals

http://www.awt.org/find_water_treatment_professional/

Licensed Engineers

<http://www.op.nysed.gov/prof/pels/pecounts.htm>

Industrial Hygienists

<http://www.abih.org/about-abih/public-roster>

Labs

<http://www.wadsworth.org/labcert/elap/elap.html>

Certified Pesticide Applicators and Technicians

<http://www.dec.ny.gov/permits/209.html>

Health & Safety Focus | From 5

as accidents are keys to a strong injury and illness prevention program.

OSHA would rather not use inspections and penalties to motivate employers, according to *BI*.

“We don’t want to inspect, we want

changes to occur before the next worker is hurt,” Dr. Michaels was quoted, cautioning that blaming the worker when an accident occurs is almost a sure way to initiate an inspection. “Human error is a consequence, not a cause.”

‘Willful Disregard’

On the other end of the spectrum, OSHA cited a contractor who “willfully disregarded demolition safety protocols” that could have prevented the death of a 46-year-old worker in a Staten Island building collapse last November. OSHA cited the company for \$121,000 in fines, including these alleged violations:

- It never conducted a required pre-demolition engineering survey to determine the building’s stability.
- It ignored required safety practices by removing load-supporting walls and floors before upper-level sections of the building were demolished and removed, and failed to conduct ongoing inspections to identify hazards created by weakened or deteriorated walls and floors.
- It didn’t train its employees to recognize and avoid demolition hazards, and didn’t keep a record of on-the-job injuries and illnesses.

Nail Salon Bonds & Training



Governor Andrew M. Cuomo announced that New York State would begin enforcing a new wage bond requirement for nail salon owners on Oct. 6, 2015. Owners face penalties for failure to secure a wage bond and sufficient liability coverage.

Bond requirements, a wage bond calculator, and approved wage bond form are available at http://www.dos.ny.gov/licensing/nails_wage_calc/wagebondcalc.html. In addition, free registration for nail specialty training is now open to all unlicensed, current and would-be nail salon workers regardless of citizenship or residency status. Applications in 10 languages are available at www.dos.ny.gov/licensing/nails/traineregis.html.

Visit www.ny.gov/nailsalonsafety for more information, or contact the Nail Salon Task Force hotline, **888-469-7365**

CUSTOMER APPRECIATION



D. Maldari and Sons, 85 Years, Brooklyn

Daniel and Chris Maldari are the third-generation owners of the family business D. Maldari & Sons, the western hemisphere's largest and oldest manufacturer of extrusion dies and inserts for the food industry. Founded in 1901 by their grandfather, Donato, and carried on by his sons, Ralph and Dan, the company's product line includes a full range of standard and customized dies for pasta, cereal, snacks, chocolate and pet food, as well as cutting and die machinery and pasta factory accessories. The business has been featured by The History Channel, Fox Business, Staten Island Live, and in the New York Daily News.

Photo (l.-r.): Daniel Maldari, NYSIF Field Rep Eugene Korytny, Chris Maldari



Staten Island Museum, 85 Years

The Staten Island Museum began in 1881, when 14 young naturalists on Staten Island pooled their collections and research efforts because of the concern that "the rapid growth of the community has already obliterated many of our most interesting natural objects." Their goal was to maintain a record for future generations against the anticipated loss of plant and animal species, and to be advocates for environmental preservation long before that became fashionable. Today, the museum continues to maintain and build an unbroken record of the region's changing biodiversity, in authentic specimens, photographs and field notes, spanning more than 150 years. The museum's focus expanded to works of art and important documents by 1905 and its influence grew throughout the 20th Century to be instrumental in the founding of the S.I. Zoo, S.I. Historical Society and New York Botanical Garden.

Photo (l.-r.): David Businelli, Ralph Branca, Cheryl Adolph, NYSIF Field Rep Divesh Patel, Henry Salmon

On the cover (l.-r.): NYSIF Field Rep Divesh Patel, Ralph Branca, Cheryl Adolph, Jack Cuffe, Robin Lefkowitz, Frank Perkins, Dorothy Pinkston, David Businelli, Henry Salmon, Sal Calcagno. A building renovation is expanding the museum by adding over 10,000 square feet of public space filled with art works and natural science artifacts that have been out of the public eye for many decades.



Edward Holmes Detective Bureau, New York, 75 Years

Holmes Detective Bureau was founded in 1928 by Edward Z. Holmes, who served in the U.S. Secret Service through the terms of four presidents. He joined with other members of local, state and federal agencies to open the original office on the second floor of the Pioneer Hotel in Rockaway Park, NY. Holmes later became a consultant to the NYPD in techniques that would eventually be known as the science of gun detection. The company is located today in Manhattan, where a previous NYSIF appreciation plaque resides. Photo: Steven Tavlin, president

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 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.

WCB Revised List of Workers' Comp Fee Cuts

The Workers' Comp Board (WCB) recently revised a list of fees eliminated in the 2015-16 New York State Budget announced by Governor Andrew M. Cuomo.

Governor Cuomo announced the cuts as part of an ongoing commitment to remove financial and bureaucratic burdens of doing business in New York and promote small business growth.

The WCB estimated the cuts will save \$3 million annually.

Eliminated Fee	WCL Section	Amount/Frequency
Licensing Compensation Medical Bureaus/Labs	13-c	\$200 per year/office; \$50 per lab
Physician (MD/DO) Arbitration	13-g	Per regulation/arbitration
Hospital (In-patient and Outpatient) Arbitration	13-g	Per regulation/arbitration
Physical & Occupational Therapists Arbitration	13-g	Pre-regulation/arbitration
Podiatrist Arbitration	13-k	Per regulation/arbitration
Chiropractor Arbitration	13-l	Per regulation/arbitration
Psychologist Arbitration	13-m	Pre-regulation/arbitration
Licensed Hearing Representatives	24-a	Not to exceed \$100 per year
Licensed TPAs	50 (3-b)	\$100 per license/ \$500 per authorization

(WCL = Workers' Compensation Law)

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