

MANAGING RISK



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RISKNotes

The Liars Index is up. Jude M. Werra & Associates, an executive recruiting firm from Milwaukee, publishes an annual Liars Index that tracks the percentage of candidates that lie or otherwise misrepresent their educational credentials. In 2004, 12 percent of resumes contained at least some false information regarding academic credentials—an all-time high for the Index. Why should employers care? See the article on this page for more information.

Aging Boomers are less likely to return to work after an injury than their younger peers, reported the Workers Compensation Research Institute (WCRI). Workers over the age of 55 who are injured on the job are 12 to 35 percent less likely to return to work than workers between the ages of 25 and 39. They are also out of work 62 to 276 percent longer, according to a new study by the WCRI. The study, "Return-To-Work Outcomes of Injured Workers: Evidence from California, Massachusetts, Pennsylvania, and Texas," also found that a worker's education level was a key factor in the likelihood of return to work and the duration of time off. Workers with a high school education returned to work 10 to 60 weeks faster than those with less education.

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- Preventing Equipment Thefts
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Liability

Negligent Hiring: A New Legal Hurdle for Employers?

Kroll Inc., a firm that conducts background searches, has found that at least 30 percent of resumes and job applications include some element of untruth. These include "puffing," or exaggeration of job duties, achievements or responsibilities, exaggeration of college degrees or technical knowledge, exaggeration of employment starting and termination dates to cover up unemployment or incarcerations, falsification of military service, rank and/or training; listing family members for business references; claiming credentials that have expired; claiming to be a member or founder of an organization; claiming international travel or training, thinking no one will check; and lies about criminal record, drug use and reasons for leaving past employers.



So you don't know your employees as well as you thought. Why should you care?

A long-established legal doctrine called respondeat superior ("let the master answer") holds employers liable for the wrongful acts their employees commit during the scope of employment, under certain circumstances. A newer doctrine, called "negligent hiring," holds the employer liable for placing an unfit employee in a position to harm another person, when the employer knew, or should have known, that harm could occur. Negligent hiring broadens an employer's liability by holding the employer liable *even if the act occurs outside the course of employment*.

Scary thought, isn't it? It gets scarier, too. Consider the following:

- * At least 28 states currently recognize the doctrine of negligent hiring.
- * Homicide is the number two cause of death at the workplace. Many workplace homicides are committed by current or ex-employees.

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Risk Tip: Layering to Prevent Equipment Theft



Equipment theft is a growing and expensive problem. While there are several available physical security measures that can be taken, many work sites are difficult to secure, so anything that can be done to make equipment more safe or less desirable to thieves is vital. Because some equipment is more at risk than other types, and some security techniques cost more than others, it is useful to place equipment security techniques in layers – the easiest and cheapest at the bottom, the more expensive at the top:

Layer 1 – All units should already have a serial number on them. This must be recorded somewhere to have any chance of recovering stolen equipment.

Layer 2 – Add your serial numbers to a secure national database that is used by police to identify suspicious equipment. This allows police to identify you as the owner of your equipment if it is found during an investigation, even before the theft has been discovered.

Layer 3 – Add as many high-quality company decals to the equipment as possible. Although a thief can remove these, this will leave a trace that may help in an investigation.

Layer 4 – Paint all or parts of your equipment an unusual and bright

color. This will deter thieves who fear being seen moving such easily recognizable equipment.

Layer 5 – Add Owner Applied Numbers (OANs). Ideally these will be stamped on the equipment in both a visible and hidden location, but even stenciled numbers can be useful as thieves often overlook them.

Layer 6 – Use locks and immobilizers. If there is equipment nearby with no lock, it is that equipment that will be stolen.

Layer 7 – Install tracking devices. More information on this technology is at www.irmi.com/Expert/Articles/2003/Shillingford03.aspx.

To assess which layers to apply to what equipment, it is helpful to know what type of equipment is most often stolen. Reports with this and other national equipment theft statistics can prove helpful.

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Yvonne Kauffman & Joseph T. Merchant Join Addis

Yvonne is an assistant account manager in the Personal Lines Division of The Addis Group. Her responsibilities include reviewing all policies at renewal for accuracy in rating and coverages, obtaining quotations from desired markets and addressing customer questions, concerns and requests while providing prompt, accurate and courteous service to both clients and insurance company personnel. She has more than fifteen years' experience in the insurance industry.



Prior to joining The Addis Group, Yvonne worked in many areas of the insurance industry, servicing both commercial and personal lines accounts. She has completed various industry seminars and workshops.

Yvonne resides in Blue Bell, Penn. with her husband, Ray. They have three children: Nicole, Ray and Cody. She enjoys painting, drawing and spending time with her family. Yvonne has been active in her community's youth sports programs and now enjoys watching sports — especially baseball and football.



Joe, an account executive and vice president, has extensive experience handling the risk management and insurance needs of the business community. Prior to joining The Addis Group, he worked in the insurance brokerage field for more than 30 years and served as vice president of a large regional brokerage firm.

He is a graduate of LaSalle University and holds the

Chartered Property Casualty Underwriter (CPCU) designation.

Joe has three sons and resides with his wife, Jane, in Broomall, Penn. He enjoys sports, spending time with his family, and is active in his community's youth sports programs.

Spotting & Handling Fraudulent Claims

The best way to control your workers' compensation costs is to prevent injuries. However, fraudulent or inflated claims can eat up a significant portion of your workers' compensation dollars. The United States Chamber of Commerce believes that about ten percent of all workers' compensation claims may involve fraud.

Insurers also see workers' compensation fraud as a problem. In a survey by the Insurance Research Council (IRC), insurers identified workers' compensation and private passenger auto as the two most fraud-prone lines of insurance. They also identified two types of fraud and their perpetrators: 1) "soft fraud," or "exaggeration of otherwise legitimate claims, often committed by individuals acting alone," and 2) "hard fraud," which is a "deliberate attempt to stage losses, often committed by organized rings."

How do you spot workers' comp fraud?

Although fraud, particularly "soft fraud," may be difficult to detect, some red flags can help you pinpoint claims that merit additional investigation. They include:

- ✦ Delays in reporting
- ✦ Ambiguities involving time, place or circumstances of the injury
- ✦ Injuries involving equipment or materials an employee does not usually use
- ✦ Injuries with no witnesses
- ✦ Post-termination or psychological stress claims.

How can you prevent fraud?

- 1 Have your claims administrator examine the first report of injury within 24 hours. This investigation should include:
 - ✦ Contacting the claimant to check on his/her condition and verify contents of the report
 - ✦ Contacting the treating physician
 - ✦ Interviewing any witnesses
 - ✦ Examining the location for conditions that may have contributed to the accident, such as missing safety equipment or wet floors.

If your claims administrator spots any inconsistencies between this information and the first report of injury, he or she should investigate further.

- 2 Have your claims examiner review the treating physician's diagnosis. Is it consistent with the type of injury the employee reported? Is the physician's treatment plan consistent with other injuries of this type?



"The United States Chamber of Commerce believes that about ten percent of all workers' compensation claims may involve fraud."

Providers may also commit fraud—by overbilling or billing for services never provided. Indications of provider fraud include:

- ✦ Claims involving a doctor and/or attorney who have been involved in questionable claims before.
 - ✦ Treating physician reports that read almost identically to other claimants' reports. Check for reports where sections appear to be photocopied, such as injury description, and others typed in.
 - ✦ Claims involving stress or emotional disturbance without an underlying physical condition, or claims involving subjective conditions, such as headaches, inability to sleep, pain with no apparent cause.
 - ✦ Claims where the insurer's first notice of injury comes from an attorney or medical clinic.
 - ✦ Claims where an attorney's letter of representation or demand for payment predate any medical information.
- 3 Have your claims administrator stay in regular contact with the injured worker and the treating physician. IRC research found that 5 percent of U.S. adults think it is "acceptable to stay out of work longer than medically necessary to get a higher insurance settlement." Expressing the company's concern and keeping the injured worker "in the loop" can encourage him or her to return to work more quickly. If you frequently have trouble contacting a worker who is supposedly home sick, particularly if he or she only provides a post office box instead of a street address, you may want to investigate.

★ Negligent hiring cases tend to bring winning plaintiffs large damages. Multi-million dollar settlements occur with some frequency. These include a \$10.5 million settlement against a California school district that hired a convicted child molester, who went on to molest more children at his new job. The district hadn't checked his references. An apartment building owner had to pay a tenant \$5 million after she was raped by a manager who had a history of violence against women. The building owner hadn't done a background check. A furniture store paid \$2.5 million to a woman who was raped and stabbed by a deliveryman who had a history of psychiatric hospitalizations and drug abuse. The store hadn't done a background check.

If you haven't guessed it already, one of the best ways to prevent negligent hiring suits is to check applicants' backgrounds. The following specific actions will help protect you from this exposure:

Avoid hiring problem employees by checking references. Admittedly, this can be difficult, since many employers fearing libel suits will only confirm an ex-employee's dates of employment, position and salary. If you have any doubts about a job candidate, conduct a more thorough background search, after obtaining the candidate's permission. However, you will want to conduct background searches on all employees who work with vulnerable populations, such as children, the elderly or disabled. If an applicant refuses you permission to conduct a background search, eliminate him or her as a candidate.

Verify the applicant has any professional licenses, certifications or education required for the job by contacting the appropriate board or institution.

Document your reference-checking process, including records of phone conversations regarding a candidate. If a former employer refuses to provide information other than dates of employment, position and salary, record that—if that employee later harms someone, your records will show that you attempted to obtain a reference.

Evaluate employees at regular intervals. Behavioral problems such as violent or threatening language, inappropriate outbursts or drug or alcohol abuse warrant closer examination. Does this person's behavior indicate he or she could become violent toward another employee or customer? If so, you might want to consult an employment attorney for information on how to handle the situation.

Respond to any violent or inappropriate acts by an employee. Investigate the circumstances, interview any witnesses and document findings.

Insure the company for employment practices liability. No matter how careful you are, you can't control for every situation. An employee with no prior history could turn violent or, in the case of skilled professionals, someone with false or expired credentials could slip through your screening system. Employment practices liability insurance (EPLI) can protect a company from the financial costs of a lawsuit that arises if these employees harm a third party. For more information, please call your account manager at The Addis Group. □

4. Work with the treating physician, the employee's supervisor and the employee to develop a return-to-work plan as soon as possible, using a modified duty position if necessary. Modified duty can include a reduction in hours, a reduction in workload or a change of position, if the injured worker's position involves essential tasks that could aggravate the injury.
5. Educate workers about the workers' compensation system. A survey by the Hartford Financial Services Group found that only 62 percent of workers knew that medical costs related to an on-the-job injury would usually be covered by workers' comp. Some of the others mistakenly believed that the employer's group medical insurer would cover injuries. These employees may be less likely to inflate their claims if they knew the employer ultimately had to pay, rather than the insurer.

For more information on controlling workers' compensation costs, please call your account manager or risk management consultant at The Addis Group □.

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This trend, along with the aging of the Baby Boomer generation, could have an impact on your workers' compensation. The number of workers age 55 and older will grow by 49 percent, or 11 million workers, by 2012 — four times the growth rate projected for the overall U.S. labor force.

Please call your account manager at the Addis Group for suggestions on managing workers' compensation claims.



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