

SDRMA Spring Safety/Claims Education Day and Workers' Compensation Update

The SDRMA Spring Safety/Claims Education Day was held on Tuesday, March 30, 2010 at the Sacramento Red Lion Hotel. The SDRMA Board of Director's and staff would like to thank all those who attended this workshop. There were 147 attendees representing 84 Property/Liability and Workers' Compensation Program members. There were eight Claims/Safety sessions offered to attendees in addition to CSDA's separate Governance Foundation Workshop.

SDRMA sessions offered were:

- Board Member Liability
- Employment Practices Update
- Liability Claims for Public Entities
- Small Claims Court – Subrogation Recoveries
- Workers' Compensation – Legal Update
- Workers' Compensation – Claims Update
- Safety Training – Developing Injury & Illness Prevention Plan
- Safety – OSHA Recordable/Reportable Issues

The Board would also to thank the following individuals whose participation made this workshop one of the most successful:

- Robert Lapidus, Lapidus Safety Consulting
- James K. Ward, Esq., Evans, Weickowski & Ward
- Demetra G. Johal, Esq., Laughlin, Falbo, Levy & Moresi
- Tricia Baker, York Insurance Services Group
- Laura DeOrio, CSDA

SDRMA will again be hosting our Fall Safety/Claims Education Day in conjunction with the CSDA Annual Conference September 20 – 23, 2010 in Newport Beach.



Workers' Compensation Update

There is much in the news today about preventing workers' compensation fraud due to claims filed by employees alleging work injuries. But what about workers' compensation fraud committed on behalf of employers?

An article in the May 4, 2010 edition of the Sacramento Bee reported that Raley's supermarket chain paid \$550,000 in penalties and costs due to allegations that some store managers had discouraged injured workers from filing workers' compensation claims and requested that the injured employees use their own health insurance to treat for work related injuries. According to the Bee: "The local district attorney's office said that Raley's agreed to provide mandatory workers' compensation training for store managers, improved record keeping and contract with a medical advice



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company to evaluate worker injuries and recommend treatment.”

The article went on to further report: “In 2007, the Amador County District Attorneys’ Office and the State Department of Insurance began a criminal investigation of a complaint that store managers at the Bel Air store on Foothills Boulevard in Roseville had tried to stop an injured employee from filing a claim (Bel Air is owned by Raley’s). Two managers eventually were charged with multiple counts of insurance fraud... The Bel Air managers pleaded to misdemeanor violations, resulting in community service, three years’ probation and fines totaling \$15,000.” According

to reports, the managers did not want employees to file workers’ compensation claims because reported claims could affect bonuses that managers could receive for maintaining an injury free store.

SDRMA frequently receives questions from members regarding workers’ compensation claims and when the employer is required to provide the injured employee a DWC1 (Workers’ Compensation Claims Form). A critical element is to notify your employees as soon as you are aware of an incident that any employee has the right to file a claim for Workers’ Compensation benefits under California Labor Code.

California Labor Code §5401(a) states the following:

§5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the employee’s work shift at the time of injury or **which results in medical treatment beyond first aid, the employer shall provide**, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, “first aid” means any one-time treatment, and any follow up visit for the purpose of observation of minor scratches, cuts, burns, splinters or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and follow up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

What is notice of a potential work related injury?
§5402. (a) Knowledge of an injury, obtained from any source, on the part of an employer, his or her managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of a claim of injury sufficient to afford opportunity to

the employer to make an investigation into the facts, is equivalent to service under Section 5400.

Even if the employee states that he/she is not injured and is not going to seek any medical attention, you should always provide the injured employee with a DWC1 Form. If the employee declines medical treatments make sure that you have documented in writing that the employee has received the DWC1 Form and is declining medical treatment at that time.

It is critical as the employer to document all work related injuries however small so that SDRMA can document that the employer had notice of the incident and immediately notified the employee of their right to file a workers’ compensation claim and provided the employee with a DWC1 Form. ⚡

SDRMA is a self-insured Joint Powers Authority (JPA) registered with the California Department of Industrial Relations, Office of Self Insurance Plans.

Please contact SDRMA Chief Risk Officer Dennis Timoney at 800.537.7790 or email at dtimoney@sdrma.org if you have any questions.