



[Staying Ahead of the Pain – A Workers’ Comp Legal Audit](#)

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After surgery, nurses and doctors often offer a sage piece of advice: “Stay ahead of the pain.” It’s a tried-and-true adage because an ounce of pain-reliever now may stave off a bushel of agony later. The same is true in the area of workers’ compensation. Any business – larger or small – should consider investing in a good workers’ comp legal audit that could save thousands of dollars down the road.

A workers’ comp audit can be narrow or wide-ranging, but here are some of the basic items that one should address:

- **Review reporting procedures** – Employees and supervisors sometimes are in the dark about what to do when an injury occurs. Employers should establish an intake system for injury reports, with standard operating procedures. Some of the procedures might include standard forms for documenting the occurrence, nature of the injury, date, and witnesses, and treatment providers. A follow-up interview with the employee can be mandated, either in person or by phone. Updates might be required every week or two weeks. The employer should establish a go-to person for these reports, along with appropriate back-ups.
- **Establish proper causation files** – Sometimes a claim triggers suspicions. A good causation file can help provide a defense against spurious claims, and help the employee who is trying to justify a legitimate claim. A causation file typically includes an incident report in the employee’s own handwriting, statements from witnesses and co-workers, photos of the scene of the injury, written records of each conversation with the injured employee as treatment continues, and a signed authorization granting access to medical records.
- **Review communications with carrier or third-party administrator** – Far too often, an employer reports a comp claim to its carrier or third-party administrator, and then hears nothing. Good communication while the claim is ongoing can be key. The carrier or TPA may lack testimony to contest the claim, such as statements to co-workers or Facebook postings that co-workers have seen. It may need accurate information about the physical requirements of a job for return-to-work options. An important hearing date may be looming, with the employer unaware. Regular reporting procedures, with a list of items to be covered, can insure a speedy and cost-effective closing of a claim.
- **Review current claims for best practices** – Employers face a host of issues in ongoing claims. One of the biggest is returning the employee to work. Employers

may have a variety of options at their disposal to insure a safe return to some kind of work, and avoid payment of ongoing wage benefits. Employers also may have serious questions about whether an employee has or will ever have the capacity to return to a previous job, and there are medical as well as employment options to weigh in those areas. In addition, an ongoing claim may involve the actual testimony of co-workers or supervisors, and they need to be ready for such hearings or depositions.

- **Review possible multi-state issues** – Employers must be alert to multi-state issues that might be land mines. Especially in the Tri-State, companies send employees to perform work across the borders. In certain circumstances, an employee performing work in Kentucky for an Ohio employer can claim Kentucky workers' compensation, and vice versa. A review of such work is essential when examining premiums. An Ohio employer who is not covered in Kentucky may need to consider purchasing extra coverage, in order to insure it does not have to foot the entire bill for a Kentucky claim. However, these are tricky areas and need to be examined on a case-by-case basis.

Of course, this list is hardly comprehensive. Employers might have other concerns ranging from premiums and deductibles to policy questions to reimbursement issues. Regardless of the scope of the audit, however, the relief achieved by having good procedures and solid answers can go a long way toward much less painful claims.

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