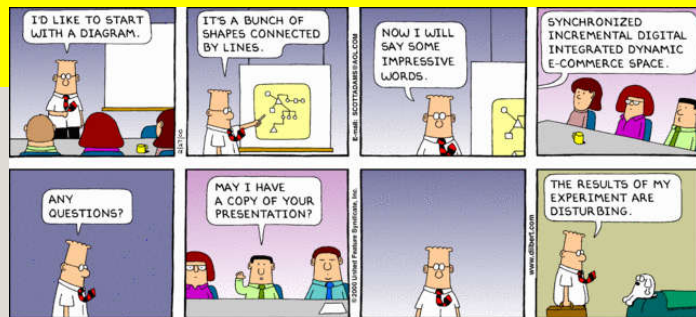




2 PRESENTED BY:  
**TOD STUPSKI, BUREAU  
 CHIEF  
 STATE EMPLOYEE  
 WORKERS'  
 COMPENSATION CLAIMS**

PAST RELEVANT  
 EXPERIENCE:  
 SENATE STAFF  
 NCCI  
 DEFENSE ATTORNEY



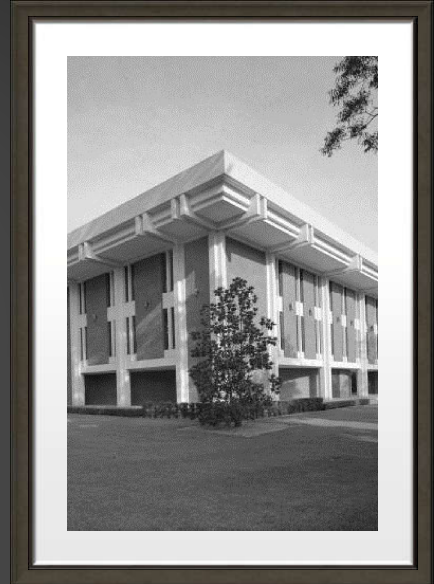
3

TOD'S EDUCATIONAL  
BACKGROUND:

FSU	20
MIAMI	19
FSU	31
FLA	13
BAMA	54
FLA	16

\*\*FSU/LOUISVILLE AND  
ALABAMA/CLEMSON SCORE  
CONVENIENTLY NOT LISTED\*\*  
(BECAUSE BOTH OF HIS ALMA  
MATER'S DID NOT PREVAIL)

DISCLOSURE: NO BIRDS OR  
BIG CATS WERE HARMED IN  
THE MAKING OF THIS SLIDE.



4



HOW MANY LAW SCHOOL  
STUDENTS ASPIRE TO  
PRACTICE WORKERS'  
COMPENSATION?

0  
Zero

## PRIZE QUESTION:

**WHAT IS THE TOTAL ANNUAL PREMIUM  
FOR WORKERS' COMPENSATION IN  
FLORIDA?**

6

+





# 3.6 BILLION!!

## \$45 BILLION COUNTRYWIDE

7

## HISTORY OF REFORMS



- 1994 – Major Contributing Cause
  - Social Security Disability Standard for permanent total benefits.
- 2002 – Florida had second highest rate of permanent total benefits in the country.
- 2003 – SB50A
  - Eliminated SSDI standard for permanent total benefits.
  - E/C/SA paid claimant attorney fees limited to a % of benefits secured.
- 2014 – Florida 28<sup>th</sup> nationally in Permanent Total rates.
  - Since 2003 rates decreased 60%.

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Castellanos v. Next Door Company  
192 So.3d (Fla. 2016)

Florida Supreme Court ruled that Employer/Carrier paid claimant lawyer fees must be "reasonable" and are not limited to a percentage of benefits secured.

Westphal v. City of St. Petersburg  
194 So.3d 311 (Fla. 2016)

Florida Supreme Court case extending the statutory length of temporary total benefits from 104 weeks to 260 weeks.

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Cases Cont.

Jones v. Food Lion

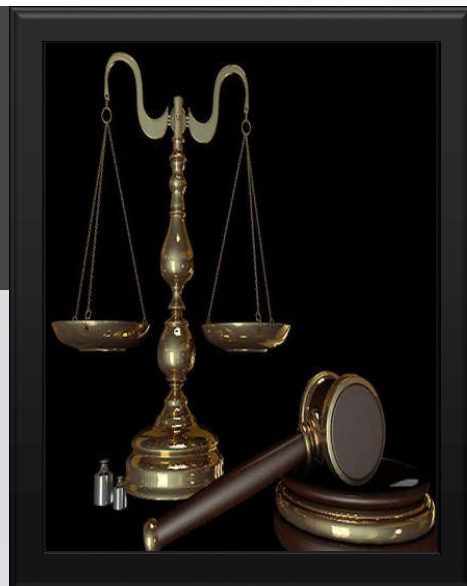
202 So.3d 311 (Fla. 2016)

First DCA case holding that the 104 week limit of temporary partial benefits was unconstitutional and extended this benefit to 260 weeks.

Miles v. Edgewater

190 So.3d 171 (1<sup>st</sup> DCA 2016)

First DCA case holding that a claimant must have the ability to freely contract with their attorney.







## RATE INCREASES

OIR approved a 14.9% rate increase effective December 1, 2016. A Circuit Judge ruled this order violated the Open Government Law.

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FLORIDA IS AN  
ADMINISTRATIVE  
PRICING STATE



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## NATIONAL COST DRIVE FACTORS

- Medical costs approximately 65-70% in Florida of total claim costs. Nationally, 58%.
- Medical workers' compensation costs since 1995 are 55% higher than medical care inflation.
- Prescription costs have increased 25% since 2011.
- 23% indemnity increase since 1995 over wage inflation.



15



## Legislative Proposals

- First Responder
- Cancer
- Attorney Fees
- Public Record



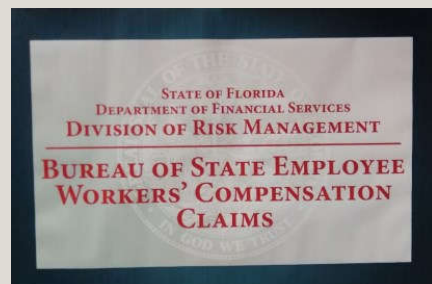
# BILLS THAT PASSED



18

## DEPARTMENT OF FINANCIAL SERVICES

- Your workers' compensation coverage is through the Division of Risk Management, Bureau of State Employee Workers' Compensation Claims.





## Advantages of Self Insurance

- The lack of underwriting promotes research and growth.
- Closer interaction with insureds
- Saves state funds





Prize  
Question:



How many state employees<sup>21</sup> are covered for workers' compensation through the Division of Risk Management?



Answer.....

200,000

By many measures we are one of the top 5 providers of coverage in the State!!



- FY 15/16 \$110,000,000 in claim costs
- In a typical year we receive 12,000 new claims
- 48 Funded Positions

## Loss Prevention Services Coordinated by Division of Risk Management

- Claim reporting.
- Safety & loss prevention training.
- Safety & loss prevention consultation.
- Risk management program evaluation.
- Claim data analysis.
- Return-to-work program monitoring.
- Support to the Interagency Advisory Council on Loss Prevention
- *Safety & Loss Prevention Outlook* e-newsletter.

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## Claim Reporting

The Division of Risk Management provides data reports to agencies & universities to assist them in tracking claims & targeting loss control efforts:

- Weekly TTD Report.
- Monthly Claim Report.
- Quarterly Report.
- University Quarterly Comparison
- Stop Light Report.
- Fiscal Year Trending Report.
- Customized reports.



## Safety & Loss Prevention Training

- Provided to assist agency safety coordinators in implementing their programs.
- Can be coordinated for safety team members, supervisors, workers' comp. coordinators, and/or other employees.
- Subjects include:
  - Employee accident investigations
  - Workers' compensation & return to work
  - Facility & equipment inspections
  - Defensive driving
  - Job safety analysis
  - State liability claims



## Safety & Loss Prevention Consultation

- Provided to assist with program development & implementation.
- Coordinated for safety coordinators and/or other agency personnel.
- May be offered in conjunction with claim/injury data analysis or program assessment.
- Subjects include:
  - Safety program development
  - Return-to-work program procedures
  - Workers' comp. claims process
  - Accident data analysis
  - Federal Civil Rights
  - Insurance coverage & premium calculation
  - Employment discrimination



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## Agency Risk Management Program Evaluation

- Review of agency programs to determine best practices & share claim loss strategies.
- Assists with program development & implementation.
- Provides documentation of agency's loss prevention efforts.
- Offers recommendations to reinforce program framework.
- May prompt follow-up consultation.



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## Claim Data Analysis

- Division of Risk Management examines claims to identify unsafe or inappropriate conditions.
- Communicates information to safety coordinators.
- Conducts follow up to determine status of any corrective actions.
- Provides agencies an additional level of claim monitoring.
- May also involve consultative assistance.



## Return-To-Work Program Monitoring

- Monthly RTW Report provides details on status of injured workers from previous month combined with data on employees out with older injuries.
- Assists agencies in monitoring amounts of time injured workers are out, where injuries are occurring, & whether modified/alternate duty is being provided.
- Division of Risk Management gathers RTW data from participating agencies & reports annually on RTW program efforts.

Claim Number	Claimant Name	Accident Date	Location	Injury Description	Modified/Duty Provided	Number Days Out	Comments
1	John Doe	10/01/2013	1000 - STATE AGENCY				
2	John Doe	10/01/2013	1000 - STATE AGENCY				
3	John Doe	10/01/2013	1000 - STATE AGENCY				
4	John Doe	10/01/2013	1000 - STATE AGENCY				
5	John Doe	10/01/2013	1000 - STATE AGENCY				
6	John Doe	10/01/2013	1000 - STATE AGENCY				
7	John Doe	10/01/2013	1000 - STATE AGENCY				
8	John Doe	10/01/2013	1000 - STATE AGENCY				
9	John Doe	10/01/2013	1000 - STATE AGENCY				
10	John Doe	10/01/2013	1000 - STATE AGENCY				
11	John Doe	10/01/2013	1000 - STATE AGENCY				
12	John Doe	10/01/2013	1000 - STATE AGENCY				
13	John Doe	10/01/2013	1000 - STATE AGENCY				
14	John Doe	10/01/2013	1000 - STATE AGENCY				
15	John Doe	10/01/2013	1000 - STATE AGENCY				

## Interagency Advisory Council on Loss Prevention

- Made up of safety coordinators from each department.
- Meets quarterly.
- Addresses safety & loss prevention issues.
- Forum for exchange of ideas & resources.
- Chaired & coordinated by Division of Risk Management.
- Attendance of safety coordinator or alternate indicated in statute.
- Authorized to provide for recognition of employees, agents, & volunteers who make exceptional contributions to reduction/control of job-related accidents.



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## *Safety and Loss Prevention Outlook E-Newsletter*

- Bimonthly e-newsletter.
- Distributed to state agencies & universities.
- Includes occupational health & safety news; trends; safety posters; & related links.
- Educational tool to promote employee safety awareness.
- Published on Division of Risk Management website.



<http://www.myfloridacfo.com/Division/Risk/LossPrevention/Publications.htm>

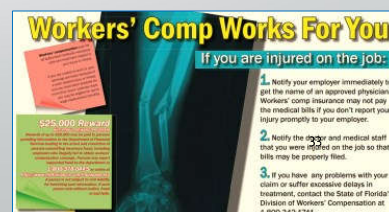
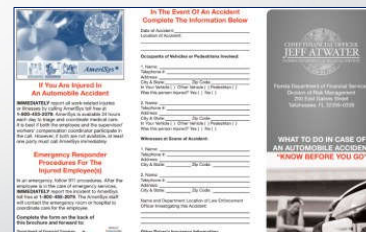
32



## Additional Loss Prevention Program Resources

- State Loss Prevention Standards (soon to be Agency Risk Management Program Evaluation Guidelines).
- Model Return-to-Work Program Guidelines.
- “WC Works for You” (“Broken Arm”) poster.
- “Know Before You Go” brochure.
- Division of Risk Management’s website.

<http://www.myfloridacfo.com/Division/Risk/>.



## Contact Information

For more information, please contact the Loss Prevention Section at [StateLossPreventionProgram@myfloridacfo.com](mailto:StateLossPreventionProgram@myfloridacfo.com)

**RISK MANAGEMENT**  
Loss Prevention and Claims Administration for State Agencies



# The Claim Process

Call in all claims or  
potential claims  
1-800-455-2079



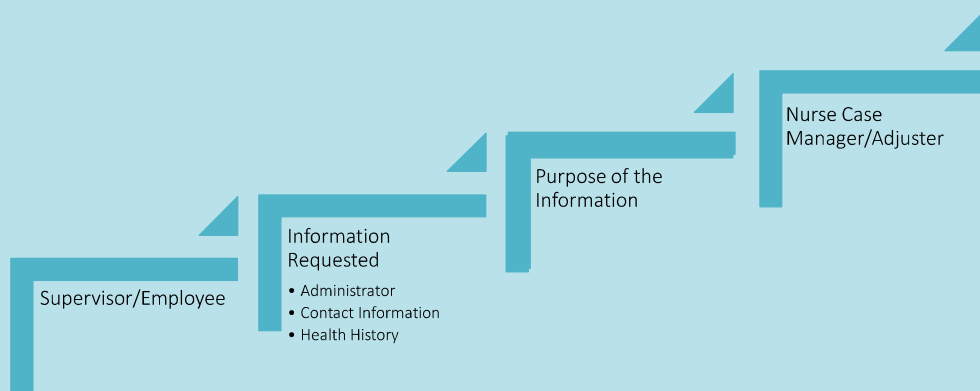
Amerisys



Claim Intake

35

# The Intake Process



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37

## BENEFITS OF WORKERS' COMPENSATION

- Medical benefits as long as the workers' compensation injuries are the major contributing cause of the need for treatment.
- Temporary Partial – Benefits payable if you have not reached MMI and your employer cannot accommodate restrictions (260 weeks).
- Temporary Total – Taken off work completely (260 weeks).
- Impairment
- Permanent Total Disability



## 38 PRIZE QUESTION



FOR A DATE OF ACCIDENT AFTER JULY 1, 2003, WHAT IS THE LENGTH OF PERMANENT TOTAL BENEFITS?



ANSWER:

At Age 75

## ENTITLEMENT TO PERMANENT TOTAL BENEFITS

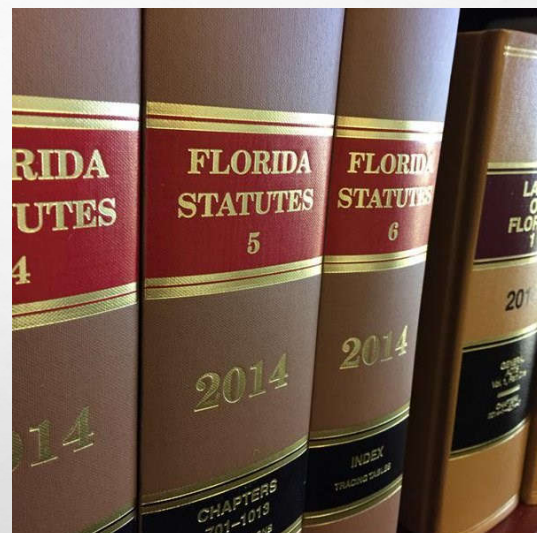
SECTION 440.15 (1) (6)

IN ALL OTHER CASES, IN ORDER TO OBTAIN PERMANENT TOTAL DISABILITY BENEFITS, THE EMPLOYEE MUST ESTABLISH THAT HE OR SHE IS NOT ABLE TO ERASE IN AT LEAST SEDENTARY EMPLOYMENT WITHIN A 50-MILE RADIUS OF THE EMPLOYEE'S RESIDENCE, DUE TO HIS OR HER PHYSICAL LIMITATION.

BLAKE V. MERCK 43 SO.3D 882 (FLA 1<sup>ST</sup> DCA/2010)

### THREE PRONG TEST FOR PTD BENEFITS

1. EVIDENCE OF PERMANENT MEDICAL INCAPACITY TO PERFORM EVEN LIGHT WORK UNINTERRUPTEDLY.
2. EVIDENCE OF PERMANENT WORK-RELATED PHYSICAL RESTRICTIONS COUPLED WITH AN EXHAUSTIVE BUT UNSUCCESSFUL JOB SEARCH.
3. EVIDENCE OF PERMANENT WORK-RELATED PHYSICAL RESTRICTIONS THAT, WHILE NOT ALONE TOTALLY DISABLING, DO PRECLUDE PERFORMING LIGHT WORK UNINTERRUPTEDLY, WHEN COMBINED WITH VOCATIONAL FACTORS.



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## WHY SHOULD I CARE ABOUT WORKERS' COMPENSATION?

- I could be injured on the job.
- I might supervise an injured worker.
- I might have my own business.
- I can impress folks at parties.

As a claimant, what can I do to assist in my recovery and help the system?

- ❖ Attend all medical appointments.
- ❖ Consider receiving prescriptions by mail.
- ❖ Return to work.
- ❖ Claim costs are State funds.



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As a supervisor what  
can I do to make the  
system work?



- Communicate with injured workers.
- Manage Safety – See something, do or have done something.
- Manage Travel.
- Encourage Return to work.
- Be mindful of s.440.205.
- Encourage health/wellness programs.

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## HOT TOPIC MISREPRESENTATION





## SECTION 440.09 (4)(a) FLORIDA STATUTES

(a) An employee shall not be entitled to compensation or benefits under this chapter if any judge of compensation claims, administrative law judge, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the acts described in [s. 440.105](#) or any criminal act for the purpose of securing workers' compensation benefits. For purposes of this section, the term "intentional" shall include, but is not limited to, pleas of guilty or nolo contendere in criminal matters. This section shall apply to accidents, regardless of the date of the accident. For injuries occurring prior to January 1, 1994, this section shall pertain to the acts of the employee described in [s. 440.105](#) or criminal activities occurring subsequent to January 1, 1994.

(b) A judge of compensation claims, administrative law judge, or court of this state shall take judicial notice of a finding of insurance fraud by a court of competent jurisdiction and terminate or otherwise disallow benefits.

(c) Upon the denial of benefits in accordance with this section, a judge of compensation claims shall have the jurisdiction to order any benefits payable to the employee to be paid into the court registry or an escrow account during the pendency of an appeal or until such time as the time in which to file an appeal has expired.

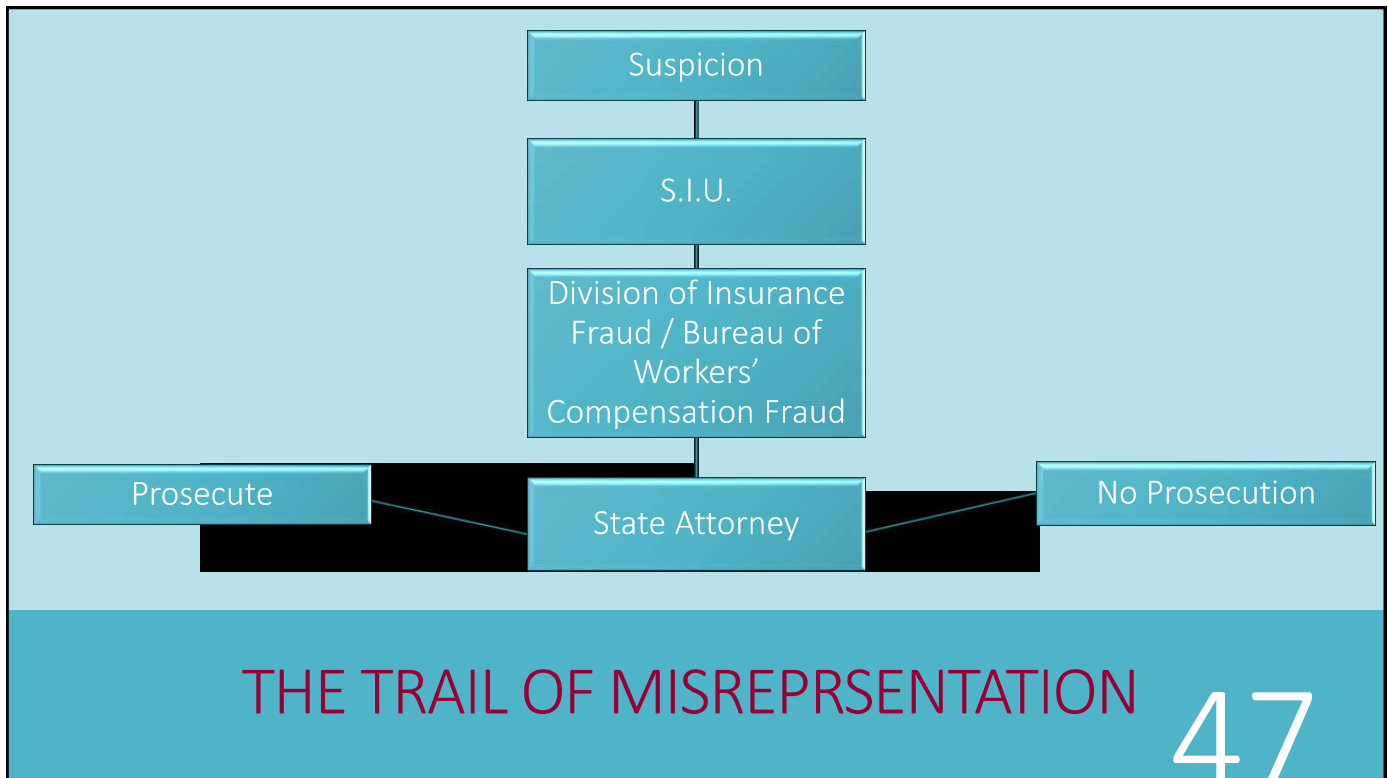


## SECTION 440.105 (1) (a) FLORIDA STATUTES



(1)(a) Any insurance carrier, any individual self-insured, any commercial or group self-insurance fund, any professional practitioner licensed or regulated by the Department of Health, except as otherwise provided by law, any medical review committee as defined in [s. 766.101](#), any private medical review committee, and any insurer, agent, or other person licensed under the insurance code, or any employee thereof, having knowledge or who believes that a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this chapter is being or has been committed shall send to the Division of Investigative and Forensic Services, Bureau of Workers' Compensation Fraud, a report or information pertinent to such knowledge or belief and such additional information relative thereto as the bureau may require. The bureau shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violations of this chapter. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the bureau's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the bureau of the reasons for the lack of prosecution.

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Misrepresentation Savings....

\$7 MILLION in FY 15/16

48



