

A MESSAGE FROM THE DISTRICT ATTORNEY

Workers' compensation Insurance exists to protect both the employer and employee. While there are exceptions, the State of California legally requires employers have Workers' Compensation Insurance. Workers' compensation insurance provides injured employees with medical care, monetary benefits and other beneficial care. Workers' Compensation Insurance is in place to assist injured workers who have legitimately been hurt on the job, as well as to protect employers against potential future lawsuits.

Workers' compensation fraud is a local and statewide issue. According to the California Department of Insurance, workers' compensation fraud is a \$30 billion problem annually in the United States, and in the State of California, it is estimated that workers' compensation fraud costs the state between \$1 billion to \$3 billion per year. Insurance Commissioner Ricardo Lara called it "a multi-billion dollar drain on our state's economy." The Sonoma County District Attorney's Office is committed to prosecuting workers' compensation criminal fraud cases. Conviction of workers' compensation fraud carries serious consequences ranging from time in jail, to large fines and other collateral effects.

As your District Attorney, I urge you to review this article and learn to recognize the red flags indicating potential workers' compensation fraud. Insurance companies are required to report suspected workers' compensation fraud to the California Department of Insurance and are allowed to provide copies of those reports to the local District Attorney for investigation and possible prosecution. Working together to combat fraud will save millions of dollars and will result in more effective, efficient treatment for legitimate injuries.

Injuries, accidents and illnesses can occur while at work and most are legitimate. Occasionally they are not. Fraud can also occur in a legitimate injury claim when someone makes a material misrepresentation to obtain additional benefits they would not be otherwise qualified to receive. It is important to recognize the red flags associated workers' compensation fraud. Here are some of the red flags that may be associated with a fraudulent workers' compensation claim:

- An unexplained or unreasonable reporting delay of the injury by the employee,
- the injury happened at an odd time (break or lunchtime), in a location where the employee wasn't supposed to be, or when no witnesses could see it,
- difficulties reaching the employee at home while they were supposed to be off work due to an injury,
- known weekend activities that could explain the "first thing Monday morning" type of injury claim,
- knowledge the employee is active in certain sports, hobbies or is engaged in activities similar to what could have caused the work injury,
- employee has known preexisting medical condition similar to the work injury,
- employee has another job or they volunteer,
- employee have a history of short-term employment, is disgruntled, soon-to-leave or retire, or facing imminent dismissal,

- employee disputes a physician-approved return to work,
- employee's injuries never seem to improve, or
- friends or coworkers have reported seeing the employee engaged in activities that are restricted while off work.

"Red Flags" are not always an indication of fraud, but they can suggest taking a closer look at the claim. As always, prevention is key, and attention to the areas listed below can be helpful.

One way to prevent fraud is to show your employees that you take their safety and wellbeing while working seriously. Companies that prioritize safe work places, and who treat their workers fairly, have fewer job injuries and fraudulent claims. Institute an injury/illness prevention program. The State of California offers an assistance program through the Cal/OSHA Consultation Services Branch that is free and helps employers maintain a safe workplace and prevent occupational injuries and illnesses. Their contact number is listed below.

Educate your employees about workers compensation. Employers need to ensure their employees are aware of their workers' compensation rights and responsibilities. Every employee should understand the benefits they are legally entitled to, their responsibilities in making a claim, as well as the penalties for making a fraudulent claim. Don't be afraid that with proper information they'll abuse the system.

Establish accident reporting procedures. Familiarize your employees and supervisors with workers' compensation reporting procedures. Make sure to have the appropriate forms on hand and a designated contact person. Train supervisors to appropriately verify the facts of a claimed injury thoroughly from the start of the claim.

Publicize your tough stance against fraud. Inform employees that all suspicious claims will be investigated and evidence of wrongdoing will be turned over to the California Department of Insurance and/or the District Attorney's Office for criminal investigation and prosecution.

Investigate suspected fraud immediately. While memories are fresh, talk to each employee or witness separately and verify what they know about the injury/accident/illness. Discuss your findings with your insurance carrier's claims adjuster. Be sure and relay all your suspicions of fraud.

Prepare for a smooth return to work for your employee. Keep in touch with the injured employee and let them know that wherever possible, they will be welcomed back to work when their doctor approves it. Employees who feel valued are less likely to abuse the system.

Never deny or confirm a suspicious claim. You may get suspicious phone calls or letters from medical or legal professionals asking you to verify an employee's injuries. Refer ALL questions directly to your insurance carrier without discussion. What you may say could be used to legitimize unnecessary medical or legal services.

If you wish to report or discuss possible workers' compensation fraud, please call the Sonoma County District Attorney's Fraud Unit at **(707) 565-2558**, or visit us at: <http://da.sonoma-county.org/>

Other Agencies for assistance with fraud or workplace safety:

Cal/OSHA Consultation Services
1(800) 963-9424 or email them at infocons@dir.ca.gov

California Department of Insurance
<http://www.insurance.ca.gov/>

California Department of Industrial Relations
<http://www.dir.ca.gov/>

California State Compensation Insurance Fund
<http://statefundca.com/>

The Sonoma County District Attorney's Office is committed to enforcing workers' compensation laws. Those who commit fraud are subject to criminal prosecution. Penalties may include up to five (5) years in jail and up to \$150,000 in fines. Our goal is to ensure that Sonoma County continues to be a place where honest businesses thrive. With your help and partnership we can create a safe work industry, combat insurance fraud, and continue to grow as a business community.

JILL RAVITCH

Sonoma County District Attorney