# FASTEST 10 MINUTES IN WORKERS' COMP

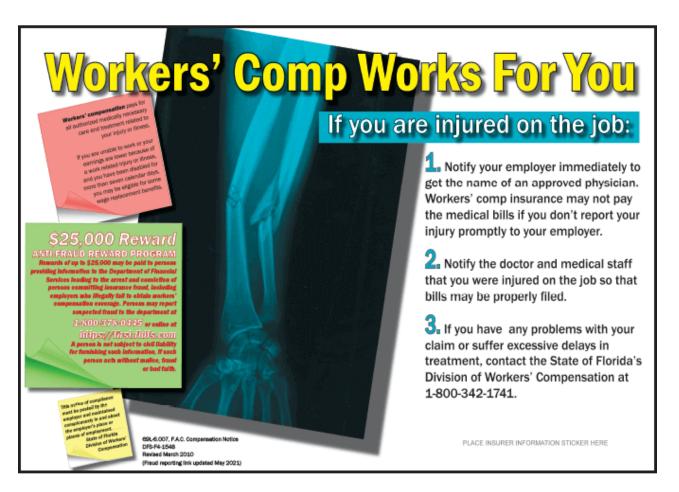
## TOP 10 ISSUES RIGHT NOW



Presented to EAF
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Rex Hurley

rhurley@hrlawflorida.com





### #10 – NOTICE OF INJURY

- Regular injury-- 30 days
- S 440.185
- Occupational disease -- 90 days
- S 440.151

# #9 – REMOTE WORKERS

- Sedgwick CMS/The
   Hartford/Sedgwick CMS v.
   Valcourt-Williams, 271 So.3d
   1133 (Fla. 1st DCA 2019)
- 271 So.3d 1133 (2019)
- Tripped over dog at home
- https://www.businessinsurance.c om/article/20221005/NEWS08/9 12352746/Remote-exposuresalter-complexion-of-workerscompensation-





Written, email, text

## #8 – JOB OFFER



Place, date, time, supervisor, rate of pay, expected days / hours



"You are assigned to the following which we understand to be within your restrictions...?



### #7 – DRUG DEFENSE

#### THREE TIERS:

- 1) Drug-Free Workplace / positive test
- 2) NOT Drug-Free Workplace / positive test
- 3) No test

# #6 – DRUG TEST

 Most ERs will not do for fear of not getting paid



# KNOW TESTS ALLOWED UNDER F.S. S 440.102(4)

- (a) An employer is required to conduct the following types of drug tests:
  - 1. Job applicant drug testing.—An employer must require job applicants to submit to a drug test & may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.
  - 2. Reasonable-suspicion drug testing.—An employer must require an employee to submit to reasonable-suspicion drug testing.
  - 3. Routine fitness-for-duty drug testing.—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
  - 4. Follow-up drug testing.

## #5 – WC PREMIUM RATE CUT

2021 – 4.7 % decrease

2022 - 4.9% decrease

2023 - 8.4 % decrease

- Seventh straight reduction
- Severity
- Frequency

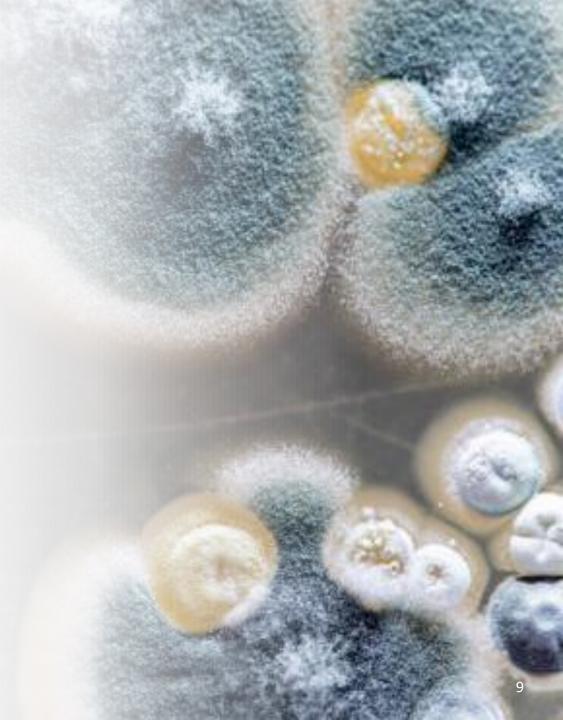
https://www.insurancejournal.com/news/southeast/2022/08/25/681976.htm

https://floir.com/newsroom/archives/item-details/2021/11/12/oir-approves-a-4.9-decrease-in-workers'-compensation-insurance-rates-for-2022



# #4 – MOLD COMPENSABILITY

- Almost impossible
- F.S. §440.02(1)
- "An injury or disease caused by exposure to a toxic substance, including, but not limited to, fungus or mold, is not an injury by accident arising out of the employment unless there is clear and convincing evidence establishing that exposure to the specific substance involved, at the levels to which the employee was exposed, can cause the injury or disease sustained by the employee."





# #3 – MEDICAL MARIJUANA

- Florida Statute §381.986(15)
- (15) APPLICABILITY.—This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy. This section does not require an employer to accommodate the medical use of marijuana in any workplace or any employee working while under the influence of marijuana. This section does not create a cause of action against an employer for wrongful discharge or discrimination. Marijuana, as defined in this section, is not reimbursable under chapter 440.

#### **MEDICAL MARIJUANA**

- (15) APPLICABILITY.—
- (a) This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.
- (b) This section does not require an employer to accommodate the medical use of marijuana in any workplace or any employee working while under the influence of marijuana.
- (c) This section does not create a cause of action against an employer for wrongful discharge or discrimination.
- (d) This section does not impair the ability of any party to restrict or limit smoking or vaping marijuana on his or her private property.
- (e) This section does not prohibit the medical use of marijuana or a caregiver assisting with the medical use of marijuana in a nursing home facility licensed under part II of chapter 400, a hospice facility licensed under part IV of chapter 400, or an assisted living facility licensed under part I of chapter 429, if the medical use of marijuana is not prohibited in the facility's policies.
- (f) Marijuana, as defined in this section, is not reimbursable under chapter 440.

## #2 – DOCTOR CHOICE / ONE-TIME CHANGE

- 440.13
- In Florida, carrier chooses all providers unless failure or acquiescence
- 440.13(2)(f)
- Only ONE one-time change
- Five days to respond





# #1 – GOING & COMING CASE

- Driving to and from work; Section 440.092
- Driving to and from work in a company vehicle
- Kelly Air Sys. V. Kohlun, 337 So.3d 883 (Fla. 1st DCA 2022)

# THANK YOU FOR YOUR TIME!

Visit us here for a copy of the presentation:

https://www.hrlawflorida.com/fastest-10-minutes-in-workers-comp/



#### **DEERFIELD BEACH**

700 W. Hillsboro Boulevard Suite 2-107

Deerfield Beach, FL 33441 TEL: (954) 794-6933

FAX: (954) 794-6934

#### **FORT MYERS**

4460 Camino Real Way Suite 2

Fort Myers, FL 33966

TEL: (239) 939-2002

FAX: (239) 939-2247

#### **FORT PIERCE**

603 North Indian River Drive

Suite 102

Fort Pierce, FL 34950

TEL: (772) 489-2400

FAX: (772) 489-8875

#### **MIAMI**

80 SW 8<sup>th</sup> Street

Suite 2000

Miami, FL 33130

TEL: (305) 423-7182

FAX: (305) 908-7601

#### **TALLAHASSEE**

1701 Hermitage Boulevard

Suite 103

Tallahassee, FL 32308

TEL: (850) 222-1200

FAX: (850) 222-5553

#### WINTER PARK

1560 Orange Avenue

Suite 500

Winter Park, FL 32789

TEL: (407) 571-7400

FAX: (407) 571-7401



