

# FMI

“AVOID THESE SEVEN COMMON MISTAKES IN WORK COMP CASES”

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# SEVEN COMMON MISTAKES

1. FAILURE BY EMPLOYERS TO RECOGNIZE SIGNIFICANT EMPLOYMENT LAWS THAT OVERLAPP WITH WORK COMP.
2. EMPLOYER OFFERING MONEY OR PROMOTION IN EXCHANGE FOR NOT FILING A LEGITIMATE WORKERS' COMPENSATION CLAIM.
3. EMPLOYERS' FAILURE TO SEND EMPLOYEE TO AN INDUSTRIAL CLINIC FOLLOWING A WORK INJURY.
4. FAILURE TO CONDUCT A PRE-EMPLOYMENT PHYSICAL.
5. SENDING THE EMPLOYEE OR APPLICANT ATTORNEY INFORMATION ABOUT THE INVESTGATION OF A CLAIM.
6. FAILURE TO IMMEDIATELY, CONSISTENTLY AND PROPERLY INVESTIGATE A WC INJURY.
7. FAILURE TO TAKE STEPS TO PREVENT INJURY.

# MISTAKE ONE



**FAILURE TO RECOGNIZE EMPLOYMENT  
LAWS THAT OVERLAP WORK COMP**

# MISTAKE TWO



**OFFERING MONEY  
OR A PROMOTION IN EXCHANGE  
FOR NOT FILING A  
WORKERS' COMP CLAIM**

# PERILS OF NOT USING THE WORK COMP SYSTEM

**Don't Do It...**

**Will likely Backfire!**

# MISTAKE THREE



**FAILURE TO SEND APPLICANT/EMPLOYEE  
TO AN INDUSTRIAL CLINIC FOLLOWING AN  
INDUSTRIAL INJURY**

# GET EMPLOYEES BACK TO WORK



# WHY APPLICANTS/EMPLOYEES SEEK LEGAL COUNSEL?



# WHY SENDING THE EMPLOYEE TO A CLINIC HELPS?

- Employer medical clinic can identify complaints which can assist in deposition and trial.
- Establish base-line for legitimate complaints if becomes litigated.

# MISTAKE FOUR



**PRE-EMPLOYMENT PHYSICAL.**  
**AN OUNCE OF PREVENTION...**

# FAILURE TO PERFORM PRE-EMPLOYMENT PHYSICAL

- Hiring candidates not able to perform essential functions of the job.
- Can lead to a serious and willful claim.

# MISTAKE FIVE



**SENDING EMPLOYEE OR EMPLOYEE'S  
ATTORNEY  
INVESTIGATION DETAILS**

# ONLY PROVIDE REQUIRED INFORMATION

Why send opposing attorney  
a breakdown of your investigation  
unless you are required to do so??

**RESPECT**

**IS TREATING AN  
INJURED WORKER AS IF SHE IS  
“THE ENEMY”  
HELPFUL?**

# APPROPRIATE COMMUNICATION

**EMPLOYERS CAN COMMUNICATE WITH THEIR**

**EMPLOYEE WHEN THEY ARE REPRESENTED**

**EXPRESSIONS OF CONCERN BY EMPLOYER**

**EMPLOYER HAS A DUTY TO COMMUNICATE**

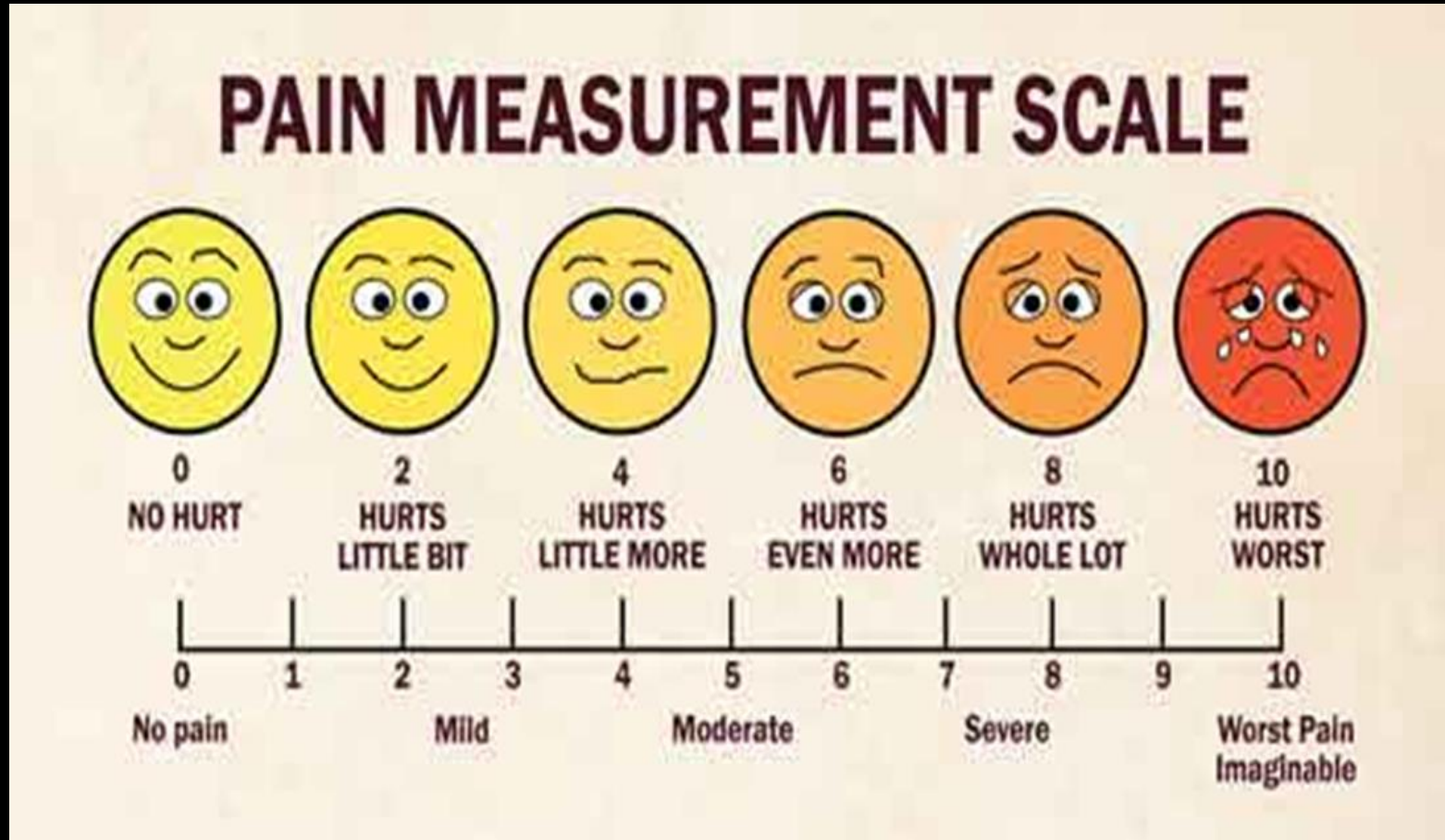
**ABOUT DISABILITY STATUS**

# MISTAKE SIX



**FAILURE TO IMMEDIATELY, CONSISTENTLY  
AND PROPERLY INVESTIGATE A WORKERS'  
COMPENSATION INJURY**

# PAIN DIAGRAM



# OBTAIN WITNESS STATEMENTS



# OBTAIN PICTURES AND OR VIDEOS



# **OBTAIN THE ACCIDENT REPORT WITH SIGNATURE**

# FAILURE TO TIMELY PROVIDE CLAIM FORM TO THE CARRIER

What can happen if employer keeps the  
claim form beyond 90 days?

“Take nothing” is overturned.

# **EMPLOYERS MUST SEND/POST MPN NOTICES**

# MISTAKE SEVEN



**FAILURE TO PREVENT and DOCUMENT  
INJURIES**

**WARNING SIGNS ARE CHEAP**

# REPAIR AND PROPER MAINTENANCE

- Repair and proper maintenance of Equipment is likely a fraction of the cost of a serious injury

# EFFECTIVE PERFORMANCE MANAGEMENT

- Document performance issues
  - Document safety violations
  - Document behavioral problems
- 
- Who is your audience for this document?
  - Why are you preparing the document?
  - How can this document help you in the future?

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