

March 5, 2013



By **Bruce A. Tollefson**

## PRESIDENT'S CORNER

The year 2014 will mark 30 years since Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) was incorporated. Its corporate formation helped implement extensive legislative changes to the workers' compensation system, which included updating MWCIA's status as Minnesota's workers' compensation data service organization. While MWCIA goes back 30 years, the history of the organization in its prior forms dates back to the creation of the Minnesota workers' compensation system in 1921.

This organization's long history has included a series of leadership changes as personnel aged and retired. Leading MWCIA is not just about assuring that this organization functions effectively. It is also about assuring that the next generation of leadership will fulfill our mission and expand and enhance our capabilities. As I approach retirement, that task has been my focus as well as our Board of Directors'.

In anticipation of this leadership change, the Board conducted a search to identify the next leader of this organization. I am pleased to announce that the Board has selected Brandon Miller. Brandon will join MWCIA as its Executive Vice President and my successor.

For those of us who have been in the Minnesota workers' compensation system for a number of years, Brandon is a well known and highly respected individual. I first met Brandon when I joined the MWCIA Board in the late 1990s. At the time, Brandon worked at the Minnesota Department of Labor & Industry as Director of the Special Compensation Fund. Prior to that, he was a Mediator, Senior Claims Manager, and later, the Director of Research/Rehabilitation and Medical Affairs Units.

Following this experience, he entered the for-profit world and worked for Hays Companies as Vice President in its Consulting Practice and

Ingenix as Vice President of Operations and Product Management – Property and Casualty Market. Most recently Brandon returned to public service at the US Department of Labor-Longshore Division, in Washington, DC as the Branch Chief for its Longshore Division-Finance Insurance and Assessments.

Brandon brings a unique mix of perspectives. He has worked in the Minnesota workers' compensation regulatory system. He has also worked in the private sector specializing in workers' compensation issues. Finally he has worked for the federal government handling longshoremen's liability. His unique experiences and management skills make him an ideal candidate to lead MWCIA.

Such broad perspective and skill sets will serve this organization well in the future. Two leaders ago, this organization's predecessor was lead by a General Manager and it was called the Minnesota Compensation Rating Bureau. The key management skill needed was the ability to manage a large clerical staff which received mountains of paper insurance policies and unit statistical plan cards.

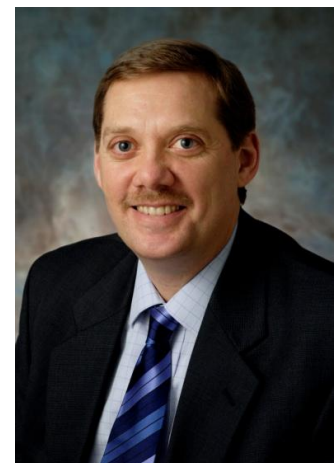
My immediate predecessor, John Hildebrandt, oversaw the early movement of this organization into the computer age. Paper submissions began to be replaced by electronic data submissions.

This period also saw the beginnings of organizations such as Spectrum Partners (our multi-state data processing software partnership) and ACCCT (our multi-state computer system research and development partnership).

During my tenure as President, the goal has been to maximize the efficiency of these tools and organizations and to build internal tools designed to make us more efficient and more useful to our members. Through ACCCT, I envisioned a "super highway" in the sky for the movement of data between member companies and the Data Collection Organizations (DCOs). Initially this was identified as Electronic Data Interchange

(EDI), but eventually became the Compensation Data Exchange (CDX), which is the internet data transfer portal for all of the Independent DCOs. Within Minnesota, we moved onto other internet tools such as Manage USR and Manage Policy, which are on-line data management tools used by our member insurers. We have also worked closely with the Workers Compensation Insurance Organization (WCIO) to develop and implement standardized data formats to add efficiency and quality to the whole data submission process.

MWCIA is no longer simply a Minnesota centric organization. It is Minnesota data service organization's intent, using the tools and skills developed and implemented both in Minnesota and elsewhere, to fulfill our statutory mission. When we began our process of looking for my successor, we sought an individual who had the perspective to continue this task. I believe that to be Brandon Miller's vision.



**Brandon A. Miller, Exec VP, MWCIA**

*As the preferred provider of quality Minnesota Workers' Compensation information, we are committed to developing products, services and markets that meet our customers' evolving needs, and to providing a work environment rich in opportunities for personal and professional growth.*

## **FROM THE IT CORNER**

### **ACCEDE Rewrite**

In 2012, the ACCEDE financial call software was rewritten to take advantage of new technology, provide additional features, and integrate carrier and DSO functions into a single, cohesive product. The new product, to be rolled out in 2013, includes enhanced validation and online correspondence capabilities, a self-audit form, expanded system administration functionality, and more. Also, calls can now be downloaded to dynamic Microsoft Excel templates.

### **WEBSITE JAVA Conversion**

This past year, MWCIA began a two-year effort to convert all website Java applications to Microsoft.Net. Completion of this project will result in standardization of our development and support environments, thus reducing training demands and simplifying maintenance. It also eliminates our dependence on technology which may no longer be as well-supported in the future. Consequently, some website applications might take on a slightly different look and feel.

If you have any questions or curiosity about this step into the future, feel free to contact Muhammad Kashif @ 952 897-6404 or e-mail Muhammad @ [Muhammad.Kashif@mwcia.org](mailto:Muhammad.Kashif@mwcia.org).

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## **FROM THE UNDERWRITING CORNER**

### **Circulars & Filings**

Since our last issue of [MWCIA News](#), the following circulars have been filed and approved for use in MN:

#### **Circular Letter 12-1628**

#### **Minnesota Department of Commerce Bulletin 2012-2**

This circular announces release of Bulletin 2012-2 by the Department of Commerce which clarifies the reporting of the Special Compensation Fund (SCF) Premium Surcharge in the NAIC Annual Statement.

#### **Circular Letter 13-1629**

#### **4-1-2013 Assigned Risk Rates**

This Circular announces the 2013 Assigned Risk Rates and Miscellaneous Values effective 4/1/2013.

#### **Circular Letter 13-1630**

#### **Revisions to the *Minnesota Basic Manual* - Officials of Political Subdivisions**

This Circular updates the *Minnesota Basic Manual* to amend the verbiage on how to

compute payroll for officials of political subdivisions to make it consistent with Minnesota Statute §79.211.

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### **Amendment to MN Stat. §181.723 Building Construction Contractor Registration**

The MN Department of Labor and Industry, recently introduced a two year pilot project for the registration of construction contractors. The program amends the standards for determining when individual construction workers are considered employees. The law applies to both independent contractors (individuals) and business entities (such as LLC's and corporations) that provide public- or private-sector commercial or residential building construction or improvement services in Minnesota on or after **September 15, 2012**.

The program replaces the Independent Contractor Exemption Certificate program (ICEC). Refer to [Circular Letter 12-1618](#) and [Circular Letter 12-1624](#) for further information.

With the implementation of this program, the MN DLI published a “**Checklist for Construction Contractors in the Building Construction Industry**” which is an excellent tool and resource document not only for contractors but also agents, brokers, and carriers. Here's a snapshot of this tool:

#### **Checklist for Construction Contractors in the Building Construction Industry**

#### **Building construction contractors must:**

Register or, if required, hold a current license, with the Department of Labor and Industry (DLI).

▪ Register online at no cost at <http://www.dli.mn.gov/CCLD/register.asp>

▪ Determine whether any exemptions from contractor registration apply at <http://www.dli.mn.gov/CCLD/PDF/registrationFAQ.pdf>

▪ Apply or renew a residential, electrical, plumbing or high-pressure-piping contractor license online at

<https://secure.doli.state.mn.us/license/initi alapp.aspx>

Maintain current registration, if required, with the Secretary of State and with DLI.

Enter into contracts, submit invoices and receive payments in the name of the business entity.

Meet the nine-factor test at [http://www.dli.mn.gov/CCLD/Register\\_nine\\_factors.asp](http://www.dli.mn.gov/CCLD/Register_nine_factors.asp).

Comply with all applicable employment, tax and workers' compensation and unemployment insurance laws.

#### **When hiring subcontractors:**

Verify that all subcontractors are registered or licensed with DLI or are exempt at

<https://secure.doli.state.mn.us/lookup/licensing.aspx>.

Verify each subcontractor that is required to be registered with the Secretary of State has an active business filing at <http://mbportal.sos.state.mn.us/>.

Verify the subcontractor can meet the nine-factor test at [http://www.dli.mn.gov/CCLD/Register\\_nine\\_factors.asp](http://www.dli.mn.gov/CCLD/Register_nine_factors.asp).

Enter into **written** contracts with each subcontractor for the construction services.

Obtain invoices from and pay the business entity, not the individual owner(s) of the business.

Verify subcontractors are meeting workers' compensation insurance coverage requirements at <http://www.inslookup.doli.state.mn.us/>.

Do not coerce a person to adopt independent contractor status or form a business entity.

Do not misrepresent or misclassify an individual as an independent contractor.

**If you have questions**, contact DLI at (651) 284-5074 or via e-mail at [dli.register@state.mn.us](mailto:dli.register@state.mn.us). View frequently asked questions about Minnesota Statute §181.723 at <http://www.dli.mn.gov/CCLD/PDF/registrationFAQ.pdf>.

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#### **Executive Officers Payroll Threshold Changes**

Are you aware of the changes that took effect January 1, 2013, in the minimum and maximum individual weekly remuneration

applicable to executive officers, partners, and sole proprietors?

**\$190,528**.....Maximum Individual Remuneration applicable to executive officers, partners, and sole proprietors in connection with *Minnesota Basic Manual* Rule 2-E-1-b and Rule 2-E-3-a, electing members/owners of a Limited Liability Company in connection with *Minnesota Basic Manual* Rule 2-E-2-b, Code 9178--"Athletic Sports or Park: Non-Contact Sports", and Code 9179--"Athletic Sports or Park: Contact Sports"

**\$31,772**.....Minimum Individual Remuneration applicable to executive officers, partners, and sole proprietors in connection with *Minnesota Basic Manual* Rule 2-E-1-b and Rule 2-E-3-a, and electing members/owners of a Limited Liability Company in connection with *Minnesota Basic Manual* Rule 2-E-2-b .

Note the new thresholds apply to all MN Workers' Compensation Assigned Risk Plan policyholders effective April 1, 2013.

For additional insight, please refer to [Circular Letter 12-1626](#)

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### **Ownership Changes and Combination of Entities—it's all about the mod (Part 1)**

This is part 1 of a 4 part series on the subject of ownership changes and combination of entities and the impact those changes can have on an entity's loss experience and experience modification.

In part 1, we discuss the ownership reporting requirements and reporting tools and define the various types of ownership changes along with a high level look at their impact.

In part 2, we'll explore the subject of Combination of Entities including qualifications for combinability, determination of combinability (aka "rulings"), and multiple combinations.

In part 3, we discuss what happens to the experience (loss experience) when there is a change in ownership or combination of entities. This is extremely important information to know and can be a significant factor in one's decision (due diligence) to purchase a business or not purchase a business.

In part 4, we'll identify those conditions under which the loss experience of an entity

undergoing a change in ownership is excluded from future experience ratings. We'll also review the recalculation and application of experience rating modifications and the rules regarding the application of an experience rating modification when a change occurs.

We hope you find this 4 part series to be of value whether this is new information to you or simply a review.

### **Reporting Requirement**

The Notification of Change in Ownership Endorsement (WC 00 04 14) which forms part of the policy provides that changes in ownership and/or combinability status **must be reported** by the employer to its carrier(s) within 90 days of the date of the change. This shall be accomplished by submitting:

- A completed Confidential Request for Information Form (ERM-14 Form) which can be found on the MWCIA website: <http://www.mwcia.org/Downloads/Forms/ConfReqInfo.pdf>), or;
- The information in narrative form on the letterhead of the employer, signed by an officer of the insured entity.

Failure to report changes in ownership according to Endorsement WC 00 04 14 may be considered modification evasion.

The employer, carrier(s), or agent(s) of the employer may submit the ownership and/or combinability status information to MWCIA. MWCIA reviews the information submitted regarding each change and determines the impact, if any, on the experience rating modification(s) of the entities involved.

The complexity of certain transactions may require MWCIA to request additional information. MWCIA may also research public and/or other available records to verify provided information. This information is used to assist in clarifying complex situations or possible modification evasion.

### **Ownership Changes**

Changes in ownership interest may affect the use of an entity's experience in future experience ratings. Based on the rules of this Plan, when a change occurs, MWCIA will determine whether to exclude or retain an entity's experience.

In addition, if MWCIA determines that the ownership transaction improperly affected the experience rating modification, it will take necessary actions.

### **Types of Ownership Changes**

A change in ownership **includes** any of the following:

- (1) Sale, transfer, or conveyance of all or a portion of an entity's ownership interest;
- (2) Sale, transfer, or conveyance of an entity's physical assets to another entity that takes over its operations;
- (3) Merger or consolidation of two or more entities;
- (4) Formation of a new entity that acts as, or in effect is, a successor to another entity that:
  - (a) Has dissolved;
  - (b) Is non-operative;
  - (c) May continue to operate in a limited capacity.
- (5) An irrevocable trust or receiver established either voluntarily or by court mandate.

A change in ownership **does not** include the following:

- (1) Entities entering or leaving employee leasing arrangements;
- (2) Creation or dissolution of joint ventures;
- (3) Wrap-up projects;
- (4) Establishment of or change in a revocable trust;
- (5) Establishment of "debtor in possession" status;
- (6) Entities entering or leaving affiliation, franchise and/or management agreements;
- (7) Probate proceedings (until a disposition of the estate is complete).

### **Impact of Ownership Changes**

Ownership changes may result in a change in:

- a. Experience rating modification;
- b. Combinability status with other entities;
- c. Premium eligibility status-an entity may or may not qualify to be experience rated;
- d. Rating effective date.

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### **Quarterly Class Code Quiz**

How would you classify the following risks?

1. Boat dock installation
2. Lawn mowing
3. Landscaping
4. Massage therapist
5. Nannies

You can check your answers by comparing them to the "**most recent top 5 class code inquiries received by MWCIA**" found on the MWCIA website. Click on the following link:



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**ASSIGNED RISK NOTABLES**

**Assigned Risk Plan Volume  
(As of January 1, 2013)**

<u>Policy Count</u>	25,995	(-0.1%)
<u>Premium</u>	\$ 47,361,500	(+2.40%)
<u>Policy Average</u>	\$ 1,822	

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**New Assigned Risk Small Employer  
Payroll Verification Program**

The Minnesota Workers' Compensation Assigned Risk Plan (MWCARP) – Minnesota's market-of-last-resort for Minnesota employers unable to obtain workers' compensation insurance coverage in the voluntary market – is pleased to announce a new program, effective January 1, 2013, designed to provide enhanced payroll audit services to qualifying policyholders. It is called the **Small Employer Payroll Verification Program (the Program)**.

Payroll audits completed through *the Program* will provide the basis for any necessary premium adjustments as estimated payrolls are confirmed, just as they are confirmed in the normal payroll audit process conducted by plan servicing carriers.

The MWCARP is utilizing the highly talented payroll audit expertise of the MWCIA to provide plan policyholders that normally don't receive an on-site payroll audit (or only receive one once every three years) with a comprehensive on-site audit review.

The MWCARP has decided to implement this new program as a one-year pilot. A thorough review of *the Program* will help to determine its overall effectiveness and impact on achieving the Plan's goal of providing an effective and efficient Plan for Minnesota

employers.

Policyholders fitting the general criteria noted above will be selected on a random basis to be participants in *the Program*. Policyholders that have been randomly selected as participants in *the Program* can expect to receive a letter from MWCIA's special auditor outlining not only the specific types of financial records that must be available for review, but also, the date and time of the review.

Policyholders selected for *the Program* will be expected to cooperate in the same manner as they would when presented with a mail audit. Failure to cooperate will jeopardize their ability to keep and maintain their MWCARP policy.

We shall keep you informed of the progress of *the Program* once we have achieved a participation level that will yield relevant results.

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**REMINDERS**

**Important (final) Notice to Insurance Carriers**

Starting with the 2013 assessment, companies will be assessed in the same manner as they file their Financial Calls. If a group of companies files separate Financial Calls for each company, they will be assessed accordingly. Also, beginning in 2013, we will be sending our invoices for the assessments electronically. Please be certain we have your correct e-mail address on file. If you have any questions or comments concerning this change in procedure, please contact either Leann Hayes at [leann.hayes@mwcia.org](mailto:leann.hayes@mwcia.org) or Karen Ose at [karen.ose@mwcia.org](mailto:karen.ose@mwcia.org).

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**Training and Education**

MWCIA continues to offer and conduct workers' compensation training and educational classes throughout the state.

These classes have been presented to agents, brokers, employers, trade associations, and insurance carriers. Topics presented have included: **Experience Rating; Revisions to the Experience Rating Plan Primary/Excess Split Point Value and Maximum Debit Modification Formula (eff. 1/1/13); 2013 MN Ratemaking Report; How to Classify a Risk; Classification Changes; Independent Contractors vs. Employee; Ownership; Employer Paid Claims, Legal or Not Legal; Controlling and Minimizing WC Costs through Loss Prevention and Loss Reduction Techniques; WC Pricing Tools, etc.**

The presentations have been enhanced through the participation of Philip Moosbrugger, JD, Ombudsman for the MN Department of Labor and Industry. Phil's role in the presentations has been invaluable as Phil brings with him a wealth of seasoned workers' compensation legal expertise.

If any of these topics are of interest to you or if your organization has any other workers' compensation training needs, contact Glenn Colby, CPCU, Senior Communications and Underwriting Specialist, at [glenn.colby@mwcia.org](mailto:glenn.colby@mwcia.org), tel. (952) 897-6411. There is no charge for this training so why not take advantage of this opportunity to expand your workers' compensation knowledge base?

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***MWCIA News** is a periodic publication of the Minnesota Workers' Compensation Insurers Association as a service to its members and the workers' compensation industry. Please direct any questions, comments or suggestions you may have concerning this publication to Glenn Colby, CPCU, editor of MWCIA News, c/o MWCIA; 7701 France Avenue South, Suite 450; Minneapolis, MN 55435. You may also contact Glenn by phone (952 897-6411), fax (952 897-6495), or e-mail ([glenn.colby@mwcia.org](mailto:glenn.colby@mwcia.org)).*

**MWCIA PURPOSE**

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