



RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE of RISK MANAGEMENT ★ JUNE 2010



RMTSA GUIDELINES

Have a safety question or need some assistance developing a risk management program? Help may just be a click away.

The success of any risk management program depends on the level of support the program receives from top management. A program fully supported by the state agency's board/commission and executive staff will be successful. The emphasis top management places on the program filters down and permeates the organization. A fully supported program that is communicated throughout the organization creates employee awareness that the elimination or reduction of risk is the most important aspect of every program, activity, job, and task.

For more information on developing an effective risk management program, visit www.sorm.state.tx.us/RMTSA_Guidelines/Volume_One/133.php.

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Claims Corner

Are volunteers covered by comp?

By Gordon Leff

Using volunteers can be a smart and efficient way to provide much needed assistance for state agencies. There are many situations where using volunteers is practical, from staffing during disasters to college internships or even prisoners performing odd jobs for the state's benefit. *Are volunteers covered under workers' compensation?* Generally, they are not.

To be covered under workers' compensation, the worker must be an employee of the agency. Remuneration for work need not be monetary. For example, a person working in return for a possible future benefit such as college credit may qualify as an employee for workers' compensation purposes.

There is an exception to the rule that volunteers are not covered by workers' compensation. The state may cover volunteer firefighters, police officers, emergency medical personnel, and other volunteers who are specifically named during a disaster or other scheduled emergency response or training. If a volunteer is injured while under the direction of an officer or employee of the state,

Volunteer Insurance Program

SORM's statewide Volunteer Insurance Program is available to Texas state agencies and institutions of higher education. For more information, please go to www.sorm.state.tx.us/Risk_Management/Bonds_and_Insurance/volunteer.php.

they are entitled to benefits. In other words, a volunteer assisting with a declared state of disaster under Chapter 418, Government Code, or another occurrence that initiates the State Emergency Management Plan, may be covered for medical expenses and minimum indemnity payments. To qualify, the injured employee must seek medical attention for his or her injuries within 48 hours of the injury or the earliest time when they knew or should have known that the injury occurred. The state may cover volunteers, but it is not mandated to do so.

To protect volunteers outside of workers' compensation, SORM has a Volunteer Insurance Program for (See "Coverage," page 2)

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Coverage for agency volunteers

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client state agencies. The program provides excess liability, excess automobile liability, and excess accident/medical coverage for registered volunteers of state agencies and institutions of higher education. This coverage is written through the CIMA Companies, Inc. - Volunteer Insurance Services. State agencies and universities have the option to select one, some, or all coverage lines for registered volunteers at competitive rates. One of the available components, excess accidental/medical coverage, includes a maximum payout of \$25,000 with the annual cost of the policy only \$3.75 per volunteer. Other options available through SORM's Insurance Program are equally affordable. To obtain coverage, complete SORM's Volunteer Insurance Application or contact SORM Insurance Specialist Michelle Tooley at michelle.tooley@sorm.state.tx.us. Policy information and coverage details can be found on

CIMA's website at www.cimaworld.com/htdocs/vis_accident_policy.pdf.

Agencies use volunteers in many ways and they may fill some gaps created by budget reductions. Any agreement entered into for the use of volunteers should spell out who is considered an employee and who will be responsible for workers' compensation benefits. If you are not sure about coverage when a volunteer is injured, you should submit a First Report of Injury and allow a SORM adjuster to review the claim. SORM employees are always ready to answer your questions.

SORM recognizes and commends the many volunteers who give their time and talents to the State of Texas and its citizens.

Gordon Leff is director of the Claims Operations division.

SORM DIRECTORY OF SERVICES

| | |
|---|--|
| Information | 512-475-1440 |
| Jonathan D. Bow, Executive Director | jonathan.bow@sorm.state.tx.us512-936-1502 |
| Andres Campo, Risk Assessment & Loss Prevention Director..... | andres.campo@sorm.state.tx.us512-936-1561 |
| Stuart B. Cargile, Accounting Director | brad.cargile@sorm.state.tx.us512-936-1523 |
| Sam Lawrence, Risk-Tex Editor..... | samuel.lawrence@sorm.state.tx.us512-936-1524 |
| Gordon Leff, Claims Operations Director..... | gordon.leff@sorm.state.tx.us512-936-1535 |
| Gail McAtee, Director of Administration | gail.mcatee@sorm.state.tx.us512-936-1501 |
| Barbara L. Klein, Deputy General Counsel..... | barbara.klein@sorm.state.tx.us512-936-1465 |
| Stephen Vollbrecht, General Counsel | stephen.vollbrecht@sorm.state.tx.us512-936-1508 |
| Gregg Wallace, Information Resources Director..... | gregg.wallace@sorm.state.tx.us512-463-1412 |

OFFICE HOURS: 8 A.M.-5 P.M. MONDAY THROUGH FRIDAY

MAILING ADDRESS: STATE OFFICE of RISK MANAGEMENT, P.O. BOX 13777, AUSTIN, TX 78711-3777

MAIN NUMBER: 512-475-1440 TOLL-FREE: 877-445-0006 FAX NUMBER: 512-370-9025

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Article VIII agencies review

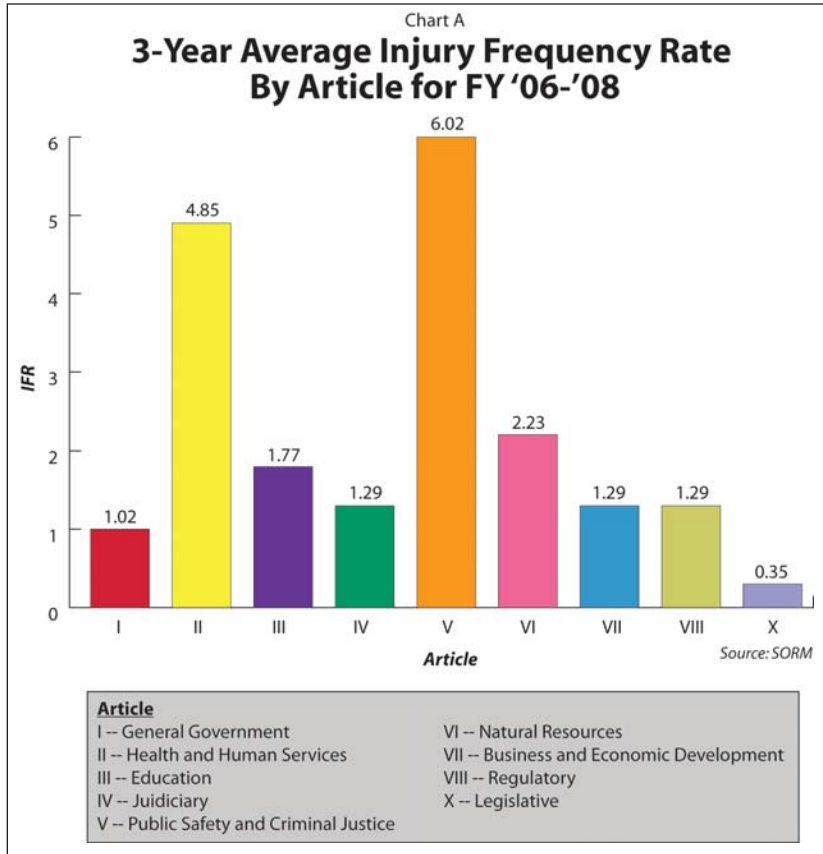
State's regulatory employers have low IFR, injury costs

By Sam Arant

In this issue of *Risk-Tex*, SORM will focus on the state agencies within Article VIII – Regulatory.

Article VIII agencies employed 2,530 full-time equivalents (FTEs) in 2008 or approximately 1.5 percent of the state agency workforce. As the title of the article suggests, agencies within Article VIII regulate a variety of services, industries, and processes for the citizens and employers of the State of Texas. The agencies that make up Article VIII are:

- Credit Union Department;
- Executive Council of Physical Therapy and Occupational Therapy Examiners;
- Health Professions Council;
- Office of Consumer Credit Commissioner;
- Office of Injured Employee Counsel;
- Office of Public Insurance Counsel;
- Office of Public Utility Counsel;
- Public Utility Commission of Texas;
- State Office of Administrative Hearings;
- Texas Board of Architectural Examiners;
- Texas Board of Chiropractic Examiners;
- Texas Board of Nursing;
- Texas Board of Professional Engineers;
- Texas Board of Professional Geoscientists;
- Texas Board of Professional Land Surveying;
- Texas Department of Banking;
- Texas Department of Insurance;
- Texas Department of Licensing and Regulation;



- Texas Department of Savings and Mortgage Lending;
- Texas Funeral Service Commission;
- Texas Medical Board;
- Texas Optometry Board;
- Texas Racing Commission;
- Texas Real Estate Commission;
- Texas Residential Construction Commission;
- Texas State Board of Dental Examiners;
- Texas State Board of Examiners of Psychologists;
- Texas State Board of Pharmacy;
- Texas State Board of Plumbing Examiners;
- Texas State Board of Podiatric

- Medical Examiners;
- Texas State Board of Public Accountancy;
- Texas State Board of Veterinary Medical Examiners; and
- Texas State Securities Board.

Taken as a group, the Article VIII agencies share the same general exposures to loss as other office-based environments, but also have exposure risks unique to their agency. Field staffs may operate or participate in broad-based programs including auditing, investigating, or driving activities.

Employees at the regulatory agencies range from program specialists, investigators, accountants, purchasers, (See "Review," page 4)

Training videos now online



SORM announces a new online training opportunity for state employees in the form of online videos focusing on a variety of safety and workers' compensation topics.

The short online videos provide state agencies with an easy, quick way to train employees. State agencies can choose to broadcast the videos in a meeting setting or ask employees to view them from the comforts of their desk computers.

Two videos are now available on the

SORM website by clicking on the "Multimedia" link on the homepage, www.sorm.state.tx.us. The videos are presented in two categories: *Claims Coordinator Corner* and *SOS - Spotlight on Safety*.

The "When to File a Claim" video discusses the circumstances of filing a workers' compensation claim with SORM. The "Heat-Related Illness" video helps employees understand the dangers of working in the heat.

Review of Article VIII agencies

(Continued from page 3)

lawyers, and executive administrators. Article VIII agencies have a comparable rate of injuries to Article IV (judiciary) and Article VII (business and economic development) agencies as seen in Chart A.

The three-year average cause and cost of injuries (FY '06-'08) for Article VIII agencies are contained in Chart B. The primary causes of injury to Article VIII agencies are fall/slip, strain injuries (lifting), and motor vehicle. These major causes of injuries are indicative of Article VIII employees who work primarily in office environments and agency employees who travel on agency business, and is in alignment with observations by SORM's risk management specialists, who also note that the cost of injuries would be higher for the state regulatory agencies if these agencies did not have strong workplace and driving safety programs.

This reduction in loss is reflected in the three-year average workers' compensation costs found in Chart C. Article VIII agencies had an 81 percent less average workers' compensation payments value for FY '06-'08 than the average for all agencies during this same time frame. All other loss categories values were less than or

| Chart B 3-Year Average (FY '06-'08) Loss Amounts by Cause of Injury | | |
|--|---------------------|---------------|
| Fall/Slip Injury | \$113,652.02 | 68.4% |
| Strain, Injury By | \$27,624.22 | 16.6% |
| Motor Vehicle | \$11,628.08 | 7.0% |
| Struck, Injured By | \$3,989.38 | 2.4% |
| Striking, Against/Stepping On | \$3,856.39 | 2.3% |
| Miscellaneous Causes | \$2,365.90 | 1.4% |
| Caught In/Between | \$2,070.71 | 1.2% |
| Rubbed, Abraded By | \$802.96 | 0.6% |
| Cut, Puncture, Scrape, Injured By | \$234.75 | 0.1% |
| Grand Total | \$166,224.41 | 100.0% |

| Chart C 3-Year Average (FY '06-'08) Losses by Category and FTE | | | | |
|---|-----------------|-----------------------|-------------------|--------------|
| Loss Category | All Agencies | Article VIII Agencies | \$ Difference | % Difference |
| Workers' Compensation Payments | \$256.56 | \$48.54 | (\$208.02) | -81% |
| Lost, Damaged, Destroyed Property | \$81.76 | \$41.46 | (\$40.30) | -49% |
| Property Insurance Claims | \$43.21 | \$6.33 | (\$36.88) | -85% |
| Total Losses | \$381.53 | \$139.29 | (\$285.20) | -75% |

equal to average losses encountered at all state agencies during FY '06-'08. Taken all together, Article VIII agencies experienced 75 percent less dollar losses per FTE than the average for all agencies over the FY '06-'08 period.

In conclusion, Article VIII agencies sustain a lower frequency of injuries, a lower cost of workplace injuries, and a lower number of casualty claims compared to other state agencies. A proactive approach to

identifying potential risks, along with a willingness to emphasize loss prevention and control, contributes to a positive risk management culture found in Article VIII agencies.

For questions or comments, please contact Sam Arant at (512) 936-2926 or at samuel.arant@sorm.state.tx.us.

Sam Arant is the deputy director of the Risk Assessment and Loss Prevention division.

What are your training needs?



Do your employees know how to
**investigate a workers'
compensation claim**
or how to
safely operate a lift truck?

SORM offers a variety of workers' compensation, risk management, and safety training courses. Some of our most popular courses are Training for Claims Coordinators, Additional Duty Safety Officer (ADSO) Orientation, Driving Safety, and Lift Truck Safety Train-the-Trainer. View our course list and training calendar online.



Find out more at www.sorm.state.tx.us

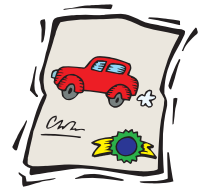


**WHAT'S
ON THE
SORM
WEBSITE**

SORM's Bonds and Insurance Section

Has this thought crossed your mind?

An employee driving a state vehicle in the course of employment wanders over the center line while looking for the location of the next inspection. All of a sudden,



crash! The state vehicle has sideswiped an oncoming vehicle, causing bodily injury and property damage. The resulting damages are over \$100,000. How will your agency pay for those damages?

A manager or supervisor is accused of harassment by an employee. The Office of the Attorney General has presented a very good case on behalf of the accused, but the jury finds in favor of the employee and orders a judgment of \$500,000. Is your agency protected?



How might the risk manager reduce the cost and finance the loss?

If you have thought about these scenarios and you don't have a solution, check out the Bonds and Insurance section of SORM's website to view the lines of insurance considered for state agencies.

www.sorm.state.tx.us/Risk_Management/Bonds_and_Insurance/insurance.php

Pharmacy transparency

By Dennis Sponer

SORM's pharmacy benefits management (PBM) service provider, ScripNet, values the issue of transparency in its relationships with customers and partners. Recently, transparency received attention in the national health care reform legislation.

Although it won't affect workers' compensation in a direct way as it will health care plans in the Exchange or Medicare Part D, the call for PBM transparency made its way into both Senate and House health care reform bills.

The House bill called for "(C) An estimate of the aggregate average payment per prescription under the contract received from pharmaceutical manufacturers, including all rebates, discounts, prices concessions, or administrative, and other payments from pharmaceutical manufacturers, and a description of the types of payments, and the amount of these payments that were shared with the plan." The House bill also called for "(E) Information on the percentage and number of cases under the contract in which individuals were switched because of PBM policies or at the direct or indirect control of the PBM from a prescribed drug that had a lower cost for the QHBP (Qualified Health Benefit Plan) offering entity to a drug that had a higher cost."

The Senate bill was more explicit in its call for "(3) The aggregate amount of the difference between the amount the health benefits plan pays the PBM and the amount that the PBM pays retail pharmacies."

In the latter part of 2009, SORM selected ScripNet through a comprehensive competitive bidding process for PBM services. During its previous 9-year history of providing customer service and medical cost containment services to the state workers' compensation program, ScripNet demonstrated its transparency in cost-

plus pricing and its win-win business arrangement. SORM and ScripNet work together to contain pharmacy costs by taking advantage of negotiated drug discounts from ScripNet's pharmacy network, the use of formularies to ensure the appropriateness of drugs, and programs that promote generic over brand name drugs, to name a few. The SORM-ScripNet relationship demonstrates that both quality health care and cost containment can be advanced in a fully competitive environment.

Yet transparency provisions in both congressional bills imply that there is no competition or incentive for medical cost containment. In fact, transparency language in the health care reform bills is more appropriate for a "vendor monopoly" environment, where customers have no buying/negotiating power themselves. In addition, provisions in the House bill that call for tracking incidences where a PBM policy switches a customer from a lower cost (e.g. generic) to a higher cost (brand) are contrary to the basic value proposition of a PBM, that of cost containment. While there may be some PBMs that engage in these types of practices, carriers and self-insured organizations have the ultimate responsibility to keep their vendors honest and forthright through competitive bidding processes that result in transparency in both pricing and contracts and programs that contain costs. As a case in point, the SORM-ScripNet relationship can be seen as a model for the health care industry to foster competition, cost containment, and transparency, without the need for government intervention.

Dennis Sponer is president and CEO of ScripNet. SORM contracts with ScripNet to provide pharmacy benefit management services to covered employees.

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