

# Table of Contents

<b>Introduction.....</b>	<b>xvii</b>
<b>Chapter 1: Policy Organization, General Section Policy</b>	
<b>Organization.....</b>	<b>1</b>
Policy Organization .....	1
General Section.....	2
<b>Chapter 2: Workers Compensation Insurance.....</b>	<b>5</b>
To “Pay Promptly When Due the Benefits Required by Law” .....	5
How This Insurance Applies.....	5
We Will Pay .....	6
We Will Defend .....	8
We Will Also Pay .....	8
Other Insurance.....	9
Payments You Must Make .....	9
Recovery from Others.....	9
Statutory Provisions.....	10
<b>Chapter 3: Employers Liability Insurance.....</b>	<b>11</b>
How This Insurance Applies.....	12
Arise Out of and in the Course of Employment .....	12
We Will Pay .....	14
Employers Liability Exclusions.....	15
We Will Defend .....	16
We Will Also Pay .....	17
Other Insurance.....	17
Limits of Liability.....	17
Recovery from Others.....	18
Actions against Us .....	18
<b>Chapter 4: Other States Insurance .....</b>	<b>21</b>
Notice Clauses .....	22
<b>Chapter 5: Duties after Injury Occurs/Conditions.....</b>	<b>25</b>
The Duties of the Insured .....	25
Conditions.....	27

<b>Chapter 6: Endorsements.....</b>	<b>31</b>
Alternate Employer Endorsement WC 00 03 01 A .....	31
Designated Workplaces Exclusion Endorsement WC 00 03 02 .....	31
Employers Liability Coverage Endorsement WC 00 03 03 B.....	32
Joint Venture as Insured Endorsement WC 00 03 05 .....	32
Medical Benefits Exclusion Endorsement WC 00 03 06.....	32
Medical Benefits Reimbursement Endorsement WC 00 03 07 .....	33
Partners, Officers and Others Exclusion Endorsement WC 00 03 08 .....	33
Sole Proprietors, Partners, Officers and Others Coverage Endorsement WC 00 03 10 .....	33
Voluntary Compensation and Employers Liability Coverage Endorsement WC 00 03 11 .....	33
Voluntary Compensation and Employers Liability Coverage for Residence Employees Endorsement WC 00 03 12 A .....	34
Waiver of Our Right to Recover from Others Endorsement WC 00 03 13 .....	35
Workers Compensation and Employers Liability Coverage for Residence Employees Endorsement WC 00 03 14 A.....	35
Domestic and Agricultural Workers Exclusion Endorsement WC 00 03 15 .....	35
Employee Leasing Client Endorsement WC 00 03 19 .....	36
Labor Contractor Exclusion Endorsement WC 00 03 21 .....	36
Employee Leasing Client Exclusion Endorsement WC 00 03 22 .....	36
Anniversary Rating Date Endorsement WC 00 04 02 .....	36
Experience Rating Modification Factor Endorsement WC 00 04 03 .....	37
Pending Rate Change Endorsement WC 00 04 04 .....	37
Premium Discount Endorsement WC 00 04 06 or WC 00 04 06 A.....	37
Contingent Experience Rating Modification Factor Endorsement WC 00 04 12 .....	37
Retrospective Premium Endorsement One Year Plan WC 00 05 03 D.....	37
Retrospective Premium Endorsement Three Year Plan WC 00 05 04 D.....	38
Retrospective Premium Endorsement One Year Plan—Multiple Lines WC 00 05 12 D.....	38
Retrospective Premium Endorsement Three Year Plan—Multiple Lines WC 00 05 13 D.....	38
Benefits Deductible Endorsement WC 00 06 03 .....	38

<b>Chapter 7: Nonprivate Insurance.....</b>	<b>39</b>
Monopolistic State Funds .....	39
Residual Markets .....	44
<b>Chapter 8: Federal Workers Compensation Coverage.....</b>	<b>47</b>
The Longshore and Harbor Workers Compensation Act.....	48
Employer’s Liability .....	51
Third Party Actions.....	52
Compensation .....	52
The L&HWCA and the Workers Compensation Policy .....	53
State vs. Federal Coverage .....	54
The Jones Act.....	55
Definition of “Seaman” .....	57
Jurisdiction of the Jones Act.....	58
Federal Workers Compensation Endorsements .....	59
Defense Base Act Coverage Endorsement WC 00 01 01 A .....	60
Federal Mine Safety and Health Act Coverage	
Endorsement WC 00 01 02 B.....	60
Federal Employers Liability Act Coverage	
Endorsement WC 00 01 04 .....	61
Longshore and Harbor Workers Compensation Act Coverage	
Endorsement WC 00 01 06 A.....	61
Nonappropriated Fund Instrumentalities Act Coverage	
Endorsement WC 00 01 08 A.....	62
Outer Continental Shelf Lands Act Coverage	
Endorsement WC 00 01 09 C.....	62
Maritime Coverage Endorsement WC 00 02 01 B .....	63
<b>Chapter 9: Premium .....</b>	<b>65</b>
Our Manuals .....	66
Basic Manual for Workers Compensation and	
Employers Liability Insurance .....	67
Experience Rating Plan Manual for Workers Compensation and	
Employers Liability Insurance .....	69
Retrospective Rating Plan Manual for Workers Compensation and	
Employers Liability Insurance .....	70
SCOPEs Manual .....	70
Classifications.....	72
COVID-19 Pandemic—Assignment of Classification .....	75
Remuneration.....	77
Premium Payments .....	83
Final Premium .....	84
Records .....	85
Audit .....	86

Practical Information—Workers Compensation Rating Bureaus.....	87
Treatment of Executive Officers, Sole Proprietors, Partners and LLC Members .....	89
Other Rating Factors.....	89
Predictive Analytics in Workers Compensation Premium Computation .....	93
<b>Chapter 10: Experience Rating .....</b>	<b>95</b>
Who Oversees Experience Rating Programs? .....	96
General Points.....	97
Eligibility .....	98
The “Mod” Factor.....	103
Anniversary Rating Date .....	104
Mod Worksheet Input Data.....	105
Making the Mod Calculation.....	107
The Mod Worksheet.....	107
Mod Factor .....	109
Additional Factors .....	110
Applying the Mod.....	111
Recent Covid-19 Decision Pertaining to Experience Modifications.....	112
Recalculation and Revisions.....	114
One Risk or Two? .....	115
Recent Development—Rating Split Point Change.....	116
Schedule Rating .....	119
Summary.....	120
<b>Chapter 11: Financial Plans.....</b>	<b>123</b>
Types of Financial Plans.....	125
Guaranteed Cost Plans.....	127
Dividend Plans.....	128
Fixed Plans .....	129
Sliding Scale Plans .....	130
Retention Plans.....	131
Retrospective Rating Plans .....	133
Retrospective Rating Formula .....	134
Excess Loss Premium.....	136
How a Retrospective Rating Plan Works .....	136
Optional Retro Premium Components .....	139
Audit vs. Retro Calculation .....	140
Retro Policy Cancellation .....	140
Retrospective Rating Forms.....	141
Incurred Loss vs. Paid Loss Plans .....	141
Large Deductible Plans.....	142

Deductible Program Design Considerations.....	144
Deductible Program Documents.....	145
Collateral Issues.....	145
<b>Chapter 12: Cost Management Issues.....</b>	<b>151</b>
Managing Overall Costs .....	152
Timely Notice of Accident.....	153
Claims Handling Instructions .....	154
Return to Work Programs .....	156
Managed Care Services .....	158
Bill Review .....	158
Medical Case Management .....	159
Cost of Managed Care Services.....	159
ADA and FMLA Implications.....	161
Safety Incentive Programs.....	163
Premium/Cost Allocation Systems .....	165
Summary.....	167
<b>Chapter 13: Issues in Workers Compensation .....</b>	<b>169</b>
Exclusive Remedy Rule.....	169
Dual Capacity .....	169
Intentional Tort .....	171
Third-Party-Over .....	172
Other Alternatives.....	174
Mental Stress Claims .....	175
Accidental Injury .....	177
Arising Out of and In the Course of Employment.....	178
“In the Course Of” .....	178
“Arising Out Of” .....	179
The Coming-and-Going Rule .....	180
Work-From-Home .....	181
Social Activities and Employment.....	184
Workplace Violence.....	186
Workers Compensation and “Illegal” Employment.....	188
Illegally Employed Minors .....	188
Employment of Illegal “Aliens” .....	190
Principals and Agents .....	191
Employee Status .....	191
Controlling the Work .....	193
Responsibility for Workers Compensation .....	194
Due Precaution Exception .....	194
Homeowners, Construction, and Workers Compensation .....	196
Wrap-Up Insurance Programs .....	196
Leased Employees .....	198

Leasing Agreements .....	199
Borrowed Employees and Commercial General Liability .....	200
Alternate Employer Coverage .....	201
Stop Gap Coverage .....	204
Workers Compensation and Volunteers .....	204
Miscellaneous Workers Compensation Doctrine and Rules .....	205
Positional Risk Doctrine .....	206
Increased Risk.....	206
Odd-Lot Doctrine .....	207
Usual Exertion Doctrine .....	208
Unusual Exertion .....	208
Last Injurious Exposure Rule .....	209
Second Compensable Injury .....	210
Personal Comfort Doctrine.....	211
Emerging Issues COVID-19 Compensability.....	212
Terrorism Risk Insurance.....	213
<b>Chapter 14: Fraud .....</b>	<b>215</b>
Three Keys to a Successful Workers’ Compensation Fraud Investigation .....	215
What Is Insurance Fraud? .....	217
Evaluating the Potential Case .....	218
Investigating Suspected Fraud .....	219
Post-filing Investigation and Discovery .....	221
Workers Compensation Fraud Case Law.....	221
Clear-cut Fraud by an Employee .....	222
Questions of Subjective Intent or Insufficient Evidence .....	222
Fraudulent Acts of an Employer .....	223
<b>Chapter 15: Canadian Workers Compensation .....</b>	<b>225</b>
The “Meredith” Principles.....	225
Similarities and Differences between the United States and Canadian Workers Compensation Systems .....	226
Convention.....	226
Funding.....	226
Cost Drivers .....	227
Workplace Safety and Insurance Board (WSIB).....	227
Employer Schedules .....	227
Return to Work Programs .....	227
Second Injury Fund .....	228
Experience Rating.....	228
Maximum Assessable (Insurable) Earnings for 2021 .....	228
Assessments and Premiums.....	229

Roles and Responsibilities.....	230
Workers Compensation Fraud .....	231
Department Contacts .....	232
<b>Appendix A .....</b>	<b>237</b>
<b>Appendix B .....</b>	<b>241</b>
<b>Appendix C .....</b>	<b>242</b>
<b>Appendix C1 .....</b>	<b>248</b>
<b>Appendix C2.....</b>	<b>252</b>
<b>Appendix C3.....</b>	<b>253</b>
<b>Appendix C4.....</b>	<b>262</b>
<b>Appendix D .....</b>	<b>264</b>
<b>Appendix E .....</b>	<b>268</b>
<b>Appendix F.....</b>	<b>273</b>
<b>Appendix G.....</b>	<b>277</b>
<b>Index.....</b>	<b>285</b>

