Workers Compensation Law

C H A P T E R 7

**Key Terms and Definitions**

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| 7 | Duty to defend | An insurance company’s responsibility to provide |
|  | legal counsel for its insured against whom an |
|  | action has been filed. |
|  | Exclusion | The persons, types of losses, or damages not |
|  |  | covered by an insurance policy. |
|  | Fiduciary | A relationship in which one person, or entity, is |
|  |  | obligated to act in a trustworthy relationship to |
|  |  | the other. A fiduciary has the duty to act in the |
|  |  | best interests of the other. A common example of |
|  |  | a fiduciary relationship is the attorney–client |
|  |  | relationship. |
|  | Indemnify | Payment to the insured for a loss covered in the |
|  |  | insurance contract. |
|  | Premium | The insured’s payment to the insurance company. |
|  | Self-insurer | A company that acts as its own workers’ |
|  |  | compensation insurance provider. Also, a |
|  |  | statutory provision that allows companies |
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|  | with minimum financial requirements to act |  |
|  | as their own insurers. |  |
| Subrogation | The right of an insurance company to bring suit |  |
|  | to reclaim funds it has indemnified. |  |
| Underwriting | The process of reviewing many factors to |  |
|  | determine the risk of investment. |  |
|  |  |  |

**True/ False**

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| **1.** | T | F | It is always a good idea to get the employee’s oral |
|  |  |  | testimony about the accident in writing as soon after the |
|  |  |  | accident as possible. |
| **2.** | T | F | Insurance companies charge premiums to their |
|  |  |  | customers as payment for workers compensation |
|  |  |  | insurance coverage. |
| **3.** | T | F | An employer is a fiduciary to its employee. |
| **4.** | T | F | Insurance companies have only come into existence |
|  |  |  | since the early 1900s. |
| **5.** | T | F | Employers are required by state law to provide workers’ |
|  |  |  | compensation insurance for all eligible employees. |
| **6.** | T | F | The process of evaluating the risks involved with issuing |
|  |  |  | an insurance policy is called underwriting. |
| **7.** | T | F | An employer can act as a self-insurer if it meets certain |
|  |  |  | financial criteria. |
| **8.** | T | F | Maintaining valid workers’ compensation insurance |
|  |  |  | coverage is a statutory requirement. |
| **9.** | T | F | An insurance policy is construed by the courts in a way |
|  |  |  | that best suits the insurer. |
| **10.** | T | F | Insurers are legally permitted to insert exclusions in |
|  |  |  | their workers’ compensation insurance coverage. |

**Multiple Choice**

1. **When an insurance company is faced with the dilemma of trying to decide if it is obligated to provide a defense in a case, it will often file an action referred to as a (or declaratory action, in some states).**
   1. *Nunc pro tunc*
   2. Temporary restraining order
   3. Ad hominem
   4. Declaratory judgment
2. **An insurance company’s responsibility to provide legal counsel for its insured against whom an action has been filed.**
   1. Duty to defend
   2. Duty to respond
   3. Duty to insure
   4. Duty to regulate
3. **This type of insurance policy includes a number of exclusions and limitations on coverage.**
   1. Referred policy
   2. Limited policy
   3. Ill-defined policy
   4. Regulated policy
4. **States generally do not require proof of payment for any of the following reimbursements, except one. Which one does require documentation?**
   1. Travel expenses
   2. Minor medical bills
   3. Original claim
   4. Ambulance invoices
5. **The persons, types of losses, or damages not covered by an insurance policy.**
   1. Limitations
   2. Exclusions
   3. Defendants
   4. Exceptions

1. **An insurance rate is the fee structure that is assigned to a particular company based on several different factors and a formula that takes into account all of the following, except one:**
   1. Potential claims by employees.
   2. Expenses/losses of the insurer.
   3. Profits to be made from premiums.
   4. All of the above are part of the calculations for a fee structure.
2. **Workers’ Compensation Boards can regulate all of the following with respect to insurance coverage, except:**
   1. Rates
   2. Employer’s religion
   3. Premiums
   4. Classifications
3. **A statutory provision that allows companies that meet minimum financial requirements to act as their own insurers.**
   1. Self-insurers
   2. Remaindermen
   3. Proactives
   4. Final authorities
4. **The process of reviewing many different factors to determine the risk of investment.**
   1. Evaluation
   2. Consideration
   3. Reviewing
   4. Underwriting
5. **Which of the following is not an option for an employer seeking to meet the statutory requirements of valid workers’ compensation insurance coverage?**
   1. Enroll in a state-based insurance program
   2. Purchase private insurance
   3. Qualify as a self-insurer
   4. Postpone worker contracts for the following fiscal year

**Short Answers**

1. **What is a limited policy?**
2. **Explain how premiums are calculated.**
3. **Describe the purpose and function of underwriting.**
4. **An employer has three options to satisfy the require workers’ compensation coverage. What are they? Explain.**
5. **Is it possible for a company to have multiple workers’ compensation insurance policies? Why would a company opt for such an arrangement?**
6. **Explain subrogation.**
7. **Define the term “fiduciary.”**
8. **Describe the basic features of an insurance policy.**
9. **What is a duty to defend and what application does it have for workers’ compensation insurance?**
10. **Do state-based workers’ compensation insurance programs exist? If so, describe their features.**

**Case Study 1**

Stick It To ’Em Insurance has negotiated a policy with KLM Inc. This policy provides workers’ compensation insurance coverage for KLM that meets the minimum requirements imposed by statute. Kelly has filed a claim against KLM for injuries she sustained on the job.

**Questions About Case Study**

1. **Who is the fiduciary in this arrangement?**
   1. KLM Inc.
   2. Kelly
   3. Stick It To ’Em Insurance Company
   4. None of the above
2. **After settling the case against Kelly, the insurance company discovers that Kelly’s claim was fraudulent. They bring suit**

**against Kelly to recover the funds that they paid out through a clause in their policy with KLM. What is this clause called?**

* 1. Termination clause
  2. Exposition clause
  3. Enforcement clause
  4. Subrogation clause

1. **As part of the policy agreement with KLM, the insurance company agrees to pay any legitimate claims made against KLM. What is this arrangement called?**
   1. Indemnification
   2. Recertification
   3. Reimbursement
   4. Utilization

**Case Study 2**

MNO Inc has recently opened for business. It plans to hire 50 employees and company officers realize that the company must obtain workers’ compensation insurance. The company will be engaged in making composite steel and cement beams for new construction. The manufacturing process can be dangerous, but MNO plans on using all of the latest safety techniques.

**Questions About Case Study**

1. **Which of the following is not a viable option for MNO to meet its state requirement to obtain workers’ compensation cover-age?**
   1. Become a self-insurer
   2. Become part of the state-based program
   3. Obtain private workers’ compensation insurance coverage
   4. All of the above are viable options for MNO
2. **MNO has decided to obtain private workers’ compensation insurance coverage. During the review process, the insurance company decides that the manufacturing process is even more dangerous than MNO had at first stated. They refer to a**

**measure that determines that the policy premiums for MNO will be larger than normal and it will be grouped with other similar companies. What is this measure called?**

* 1. Median
  2. Classification
  3. Premium
  4. Visage

1. **MNO decides that the premiums are costing the company too much money and they allow their insurance policy to lapse. Which of the following is the best description of what is likely to happen to the company?**
   1. The corporation will be dissolved.
   2. The corporation will be allowed to continue without coverage until a reasonable period of time has passed.
   3. The corporation will face a fine, criminal sanctions and a require-ment that the employer must pay the injured worker’s medical and compensation benefits.
   4. There will be no action taken against the corporation.

**ANSWERS**

CHAPTER 7

True /False

1. True

2. True

3. False

4. False

5. True

6. True

7. True

8. True

9. False

10. True

Multiple Choice

1. D

2. A

3. B

4. C

5. B

6. D

7. B

8. A

9. D

10. D

Short Answers

1. A limited policy is insurance that has numerous exclusions and only focuses on a very narrow area of coverage.

2. When an insurance company calculates the base premium for a company, it bases its calculations on the employer’s payroll. The more employees a company has the higher the premium.

Smaller companies are charged lower premiums.

3. The process of evaluating the risks involved is called underwriting. An underwriter evaluates various factors, including the inherent risks of the employer’s business, the history of work injuries at the company facilities, previous claims and numerous other factors.

4. The three basic options for an employer are:

• Enroll in a state-based insurance program

Each state provides a state program that provides basic workers’ compensation coverage for eligible employers.

• Purchase private insurance

Employers can seek policies from private companies who are in the business of providing workers’ compensation insurance.

• Qualify as a self-insurer

An employer who meets minimum financial requirements can qualify as its own insurance provider.

84 ONLINE STUDY GUIDE WORKERS’ COMPENSATION

5. It is not only possible, but often advisable to have multiple policies. One insurance company might not be willing to cover a large company’s entire workers’ compensation insur-ance needs, simply because of the sheer volume of potential claims, but if the risk were spread around to several compa-nies, each insurance company might be more willing to write a policy.

6. Subrogation refers to the power of the insurance company to sue in the name of the policy holder to recoup the money it paid out on the insurance claim.

7. A fiduciary is a person or company who owes a duty of trust and loyalty to another.

8. An insurance policy provides that in exchange for a premium, the company will issue a policy that specifies how, when and under what circumstances it will provide coverage to an employer.

9. An insurance company is required to provide legal counsel to an insured employer if an employee files a claim against the employer for workers’ compensation benefits and the benefit award will be contested.

10. Most states have some form of state-based insurance fund. Employers can enroll in the program by paying fees. Once they have joined the system, it works much like any insurance policy. The state fund will pay workers’ compensation benefits and medical expenses for injured employees.

Case Study 1

1. A

2. D

3. A

Case Study 2

1. D

2. B

3. C