

NYSIA NEWS

May 2023

CHAIR CORNER

Dear NYSIA Members,

Welcome to Spring! I feel the energy of the organization has increased as we have come out of the COVID pandemic and relish the opportunity to hold our conferences in-person. In part, this may be due to the levelheaded leadership Tim Kemperle brought as Chair for the last two years. I am delighted to serve as the new Chair of the New York Self Insurer's Association for the next two years. There are a lot of exciting things happening at the Board, and we will be sure to update you as they occur.

The attendance for our Winter Workshop in January at the Marriott Marquis in NYC was one for the record books. Not to be outdone, we have also sold out this Spring Workshop at The Gideon Putnam in Saratoga Springs.

Last Spring, the 2022 Keynote address was presented by Hon. Clarissa Rodriguez, Chair of the NY Workers' Compensation Board, and this year, we are pleased to again be joined by Chairwoman Rodriguez for the 2023 Keynote Address.

NYSIA strives to keep our members current on the constantly changing legislative and regulatory landscape. NYSIA's conferences are key to

ensuring that our members receive up-to-date relevant information that have an impact on their businesses. For our Spring Workshop, our Board has put together one of the best content rich, but entertaining programs I can remember.

We have a great panel discussion on the role of pre-existing conditions for mental health claims, an in-depth discussion on whether and when to submit MSA's, and an interactive discussion titled: "Mock Trial Law & Order WCB Edition" with defense counsel and member participants as actors. The legislative updates will be presented by Paul Zaragoza, Deputy Chief of the NYC Law Department along with our own Special Counsel Annette Malpica.

We have an exciting, informative, and fun Spring Workshop planned in just a few weeks. I look forward to seeing everyone at the Welcome Reception at the Saratoga Winery!

Erika Graham, Chair



PROGRAM COMMITTEE REPORT

The January 11-13, 2023, meeting at Marriott Marquis in the heart of Times Square, New York City, had over 300 attendees and 25 exhibitors. Back to pre-pandemic participation levels. It was great to see everyone in person and reconnect. It is always wonderful to see our vendors and amazing sponsors in person. I also hope you were able to sample some of the best cupcakes of New York City provided spontaneously by some of the vendors.

Our goal is always to bring a meeting filled with relevant topics and engaging presenters. Based on January's evaluation forms we exceeded our goal. Jeopardy was educational, entertaining, and enjoyed by all. So, the games and competitions will continue. At our Spring 2023 meeting in Saratoga, we will once again challenge your WC knowledge and entertain you with WCB-I-N-G-O! As well as Mock Trial – Law & Order WCB Edition and best practices in handling pre-existing mental health, MSAs and more.

Bring your questions. You have a voice in our meeting planning. We carefully read all the completed evaluation forms when planning for our future meetings. Your suggestions have a great impact.

We look forward to seeing you soon!

Suzanne Oommen, Vice Chair



SPRING WORKSHOP

Our Spring Workshop is just around the corner – June 7-9, 2023 at the Gideon Putnam in Saratoga Springs, NY. All seminar information can be found on our website at www.nysselfinsurance.com.

If you have any questions regarding the Spring Workshop, please contact Heidi Mahoney at secretary@nysselfinsurance.com. Our updated Spring Workshop program is attached.

SURVIVOR RAFFLE



Our many thanks to the companies who donated prizes for our January “Survivor” raffle. Once again, the raffle was a great success, so we will be holding a “survivor” raffle on the Friday morning session at the Gideon Putnam. You must be present in the room at the time of the raffle to win a prize. Any company who can donate to this raffle should contact Heidi Mahoney or drop off your donation at the registration desk in June. Thank you!



WIN A STAY AT THE MARRIOTT MARQUIS IN NYC!

You ask how is this possible? Well, all you have to do is refer the most new members in 2023 and you will win the a future two night stay at the Marriott Marquis in NYC. Prize will be awarded at our 2024 Annual Meeting in NYC. Membership application information can be found on our website at www.nysselfinsurance.com [Join NYSIA – NYSIA \(nysselfinsurance.com\)](http://www.nysselfinsurance.com)



NEW MEMBERS

We would like to welcome our new members for 2023 to date:

Bond Schoeneck & King PLLC
Representative: John Sweeney

Prescription Network
Representative: Jonathan Jacobs

Streamline
Representative: Anthony LaFrance

Frasco Investigative
Representative: Anthony Crofton

Best in Class MD
Representative: Kirsten Grueter

New York Power Authority
Representative: Margaret Henry

Applied DNA Sciences
Representative: Mitch Greenspan

PATTERNS AND PRACTICE:

2023 LEGISLATIVE UPDATE

They're Back

As the 2023 Legislative session winds down, four bills that Governor Hochul vetoed last year were reintroduced.

In the Midnight Hour

In the midnight hour of December 30, 2022, the Governor vetoed four bills. A6707, the temporary total bill, would fundamentally change the workers' compensation law in New York by potentially eviscerating the intent and impact of the caps negotiated during the 2007 historic reforms for those injured employees with permanent partial disabilities. The objective of A6707 is to amend the definition of temporary total disability (TTD) under WCL §15(2) to "consist of the injured employee's inability to perform his or her pre-injury employment duties or

any modified employment offered by the employer that is consistent with the employee’s disability.” If signed, this bill would expand the definition of total disability, increase SLU awards, prevent durational caps on cases that should be classified with partial disabilities (PPD), eliminate the defense of attachment to the labor market, and potentially allow for lifetime total disability awards. During the 2022 legislative negotiations, the New York Compensation Insurance Rating Board hired an actuarial consultant who priced this bill as increasing the cost of Workers’ Compensation to New York State businesses by approximately \$500 million annually. The consultant predicted that \$140 million would directly impact the self-insured community, a number we believe to be conservative.

A.2034/S.1161 and A.5745/S.6635 were also reintroduced by both houses. We believe A2034/S.1161 has strong momentum. This bill would establish a new minimum weekly indemnity rate which would be indexed to the State Average Weekly Wage (SAWW). Based on the current SAWW of \$1,718.15, injured employees receiving wages less than \$343.63 would receive their full weekly wages. This is an increase of more than double the current minimum indemnity rate of \$150/week. Although there is a perception that this bill would exclusively impact low wage earners, that perception is misleading. If signed, this bill would also impact mild disabilities for those injured employees receiving higher wages. For example, at a weekly wage of \$2000 at the 25% mild disability rate, an employee would be entitled to the higher \$343.64 weekly

rate instead of the 25% disability rate of \$333.34.

Then there is A.5745/S.6635, a bill that would expand coverage for certain work-related mental injuries to *all* employees, and not just certain first responders. This bill, if passed, would also eliminate the requirement that stress stems from a work emergency. Given the fact that close to half of all Americans in surveys complain of stress and the Governor’s 2023-2024 Executive Budget allocates \$1 billion for mental health, the cost of this bill could be substantial.

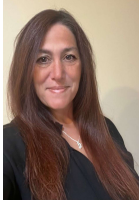
Additional bills have been introduced in both houses that would redefine extreme hardship, remove mandated labor market attachment for injured workers who have not been classified with PPDs, require an initial hearing on every claim, increase the number of non-physician treatment providers, and reclassify partially disabled workers who qualify for social security benefits as permanently totally disabled. All these bills have a significant impact and seek to overturn the compromise negotiated by business and labor during the reform legislation of 2007.

Employers should be prepared to have meaningful conversations with their legislators, lobbyists, and the Business Council to address the impact of these bills to all stakeholders.

Annette Malpica
Special Counsel to NYSIA




NYSIA BOARD OF MANAGERS 2023



Erika Graham, Chair
Port Authority of NY & NJ




Suzanne Oommen
Vice Chair, NYU



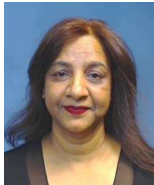
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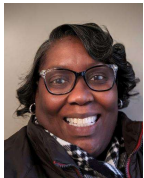
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Marriott



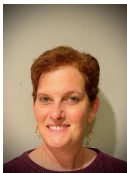
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