

# GEORGIA STATE BOARD OF WORKERS' COMPENSATION

## EMPLOYER INFORMATION

### HOW THE WORKERS' COMPENSATION LAW APPLIES TO EMPLOYERS

**PURPOSE:** The Workers' Compensation Act defines the responsibility of the employer to provide prompt medical and disability benefits for injuries sustained on the job by workers, resulting in partial or total incapacity or death. In return, the employer is shielded from tort liability for these injuries.

**EMPLOYER:** Every employer, individual, firm, association, or corporation, regularly employing three or more persons, part-time or full-time, shall provide workers' compensation insurance coverage. Exempted officers of corporations or exempted members of limited liability companies shall not reduce the number of employees for this purpose.

**EMPLOYEE:** "Employee" or "worker" shall include every person, including minors, working full-time or part-time under a contract of hire, written or implied.

**CORPORATE OFFICERS/LIMITED LIABILITY COMPANY MEMBERS:** Corporate officers and limited liability company members are considered employees of the company. Any officer or member of a limited liability company (maximum of 5) may exempt themselves from coverage by filing a Form WC-10 with their insurance company. The exemptions shall not decrease the number of employees for purposes of determining the employer's obligations under the Workers' Compensation Act.

**PARTNER/SOLE PROPRIETOR:** A partner or sole proprietor is not an employee of the business unless he/she wishes to be included as an employee in the coverage provided and so advises his or her insurance company on Form WC-10.

**CONTRACTOR:** A contractor who sublets any part of his or her contract work to a subcontractor may be liable for coverage for the employees of the subcontractor if the subcontractor has not obtained workers' compensation insurance coverage.

**COVERAGE:** Every employer subject to the workers' compensation law must insure payment of benefits to injured workers by securing a policy of insurance or by qualifying as a self-insurer. Employers desiring insurance should contact an insurance agency representing a company licensed to write workers' compensation insurance in this state.

**RATES:** Employers having questions regarding insurance rates or premiums should contact the State Insurance Commissioner, 2 Martin Luther King, Jr. Drive, S.W., Suite 704, West Tower, Atlanta, GA 30334. The telephone number is (404) 656-2056.

**SELF-INSURANCE:** Employers desiring to be self-insured must file an application with the Board and include three years audited financial statements and a \$500.00 application fee made payable to the Georgia Self-Insurers Guaranty Trust Fund. If the application is approved by both the Board and the Trust Fund, a surety bond or letter of credit will be required. The amount of security that is required is determined after a thorough review of the application and financial statements.

**LIABILITY:** An employer failing to provide coverage as required by law shall be held responsible for compensable injuries in the same manner as an employer having coverage. In addition, the Board may assess attorneys' fees, civil penalties and a 10% increase in compensation to the employee.

**CIVIL PENALTIES:** Any person who willfully fails to file any form or report required by the Board, fails to follow any order of the Board, or violates any rule or regulation of the Board shall be assessed a civil penalty of not less than \$100.00 or more than \$1,000.00 per violation.

Any person who knowingly and intentionally makes any false or misleading statement for the purpose of obtaining or denying benefits or payment under the law may be assessed a civil penalty of not less than \$1,000.00 or more than \$10,000.00 per violation.

The Board may assess a civil penalty of not less than \$500.00 or more than \$5,000.00 per occurrence for violation of an employer's duty to provide coverage under the Workers' Compensation Act.

**CRIMINAL PROVISION:** Employers refusing or willfully neglecting to secure insurance coverage as required by law shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$1,000.00 or more than \$10,000.00 or imprisonment not to exceed 12 months, or both.

**ENFORCEMENT UNIT:** An Enforcement unit has been established at the Board. The number to call to report fraud including failure to secure workers' compensation coverage is (404) 657-7285.

**NOTICE:** Employers must post a notice of compliance with the law and post the STATE BOARD OF WORKERS' COMPENSATION BILL OF RIGHTS FOR THE INJURED WORKER in a conspicuous place.

The insurance company's name must be posted, or if self-insured, the certificate of self-insurance must be posted in a prominent place.

**REPORTING:** Immediately upon knowledge of an injury, an employer must complete and file with its insurer's or self-insurer's claims office an Employer's First Report of Injury or Occupational Disease (Form WC-1). Injuries involving seven or more days of lost time must be reported to the Board within 21 days of the employer's knowledge of disability. Failure to file timely reports with the Board and/or make timely payment of

income benefits will result in late payment penalties and may result in late filing penalties and the assessment of attorney's fees.

**LAW AND RULES:** For \$37.00 prepaid, Matthew Bender, 1275 Broadway, Albany, N.Y. 12214-4024, 1-800-533-1637, will furnish a copy of the Workers' Compensation Law and the Rules and Regulations of the Board, W/CD.

**MEDICAL CARE FOR INJURED EMPLOYEES:** Employers must select ONE of the following three options to provide medical care for injured employees. The choices will be known as Option 1, Traditional Panel Of Physicians; Option 2, Conformed Panel Of Physicians and; Option 3, a panel listing a Workers' Compensation Managed Care Organization certified by the Board.

Option 1. The employer may maintain a Traditional Panel of Physicians that shall consist of at least six non-associated physicians, but is not limited to six. However, the Board may grant exceptions to the required size of the panel where it is demonstrated that more than six physicians or groups of physicians are not reasonably accessible. The minimum panel shall include an orthopedic physician, and no more than two physicians shall be from industrial clinics. This panel shall include a minority physician, where feasible.

Option 2. The employer may maintain a list of physicians that shall be known as the Conformed Panel of Physicians, which shall include a minimum of 10 physicians or professional associations. The physicians and groups listed on the panel shall be counted as a separate choice from the others listed only if they are not associated with other physicians or groups on the panel. This panel shall include the same physicians required in the Traditional Panel of Physicians plus a chiropractor and a general surgeon.

Option 3. The employer or workers' compensation insurer of an employer may contract with a Workers' Compensation Managed Care Organization certified by the Board. A "Workers' Compensation Managed Care Organization" means a plan certified by the Board that provides for the delivery and management of treatment to injured employees under the Georgia Workers' Compensation Act. The managed care organization must include minority providers.

The employer must post in prominent places the type of panel chosen. An employee may select any physician on the panel and may make one change to another physician on the panel without approval of the employer. Further changes require approval of the employer/insurer or the Board. Employers must fully explain the purpose of the panel to all employees and must assist employees in obtaining medical care when an injury occurs.

Failure to comply with this regulation results in the employee's freedom to select any physician to provide them with care for his or her injuries, and may result in an assessment of penalties and attorneys' fees against the employer.

**SUBSEQUENT INJURY:** The Official Code of Georgia was amended by adding Chapter 34-9-368 establishing June 30, 2006 as the last date of injury eligible for reimbursement by the Fund. For information, about the Subsequent Injury Trust Fund, write or call the Administrator, Subsequent Injury Trust Fund, 1720 Peachtree Street, NW, Suite 500, North Tower, Atlanta, GA 30309-2462, (404) 206-6360 or visit their website at [www.sitf.georgia.gov](http://www.sitf.georgia.gov).

**INFORMATION:** For additional information, you may call (404)656- 3818 in the Atlanta area or 1-800-533-0682 outside the Atlanta area.