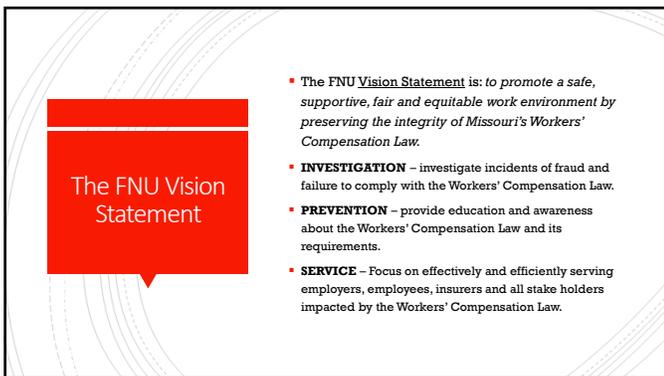


- The FNU was created by the General Assembly in 1993 to investigate fraud and failure to comply with the provisions of Chapter 287 RSMo. concerning Workers' Compensation Law.
- The FNU has ten Investigators, two support staff and one manager.
 - The Unit is based in Jefferson City, with one Investigator assigned in Kansas City, and another Investigator assigned in St. Louis.



- The FNU Vision Statement is: *to promote a safe, supportive, fair and equitable work environment by preserving the integrity of Missouri's Workers' Compensation Law.*
- **INVESTIGATION** – investigate incidents of fraud and failure to comply with the Workers' Compensation Law.
- **PREVENTION** – provide education and awareness about the Workers' Compensation Law and its requirements.
- **SERVICE** – Focus on effectively and efficiently serving employers, employees, insurers and all stake holders impacted by the Workers' Compensation Law.

The FNU Contact Information

- Our message to employers, employees, insurers and all stakeholders is to **contact us and contact us early so we can help!**
- Reporting:
 - fraudandnoncompliance@labor.mo.gov
 - *not a typo! No "e" in compliance!!
 - 1-800-592-6003
 - PO Box 1009, Jefferson City, MO 65102-1009
- General inquiries:
 - www.labor.mo.gov
 - 573-526-6630
 - 573-526-1441 (FAX)

WHO Can Report to the FNU (?) & 2018 FNU Stats.

- ANY person may file a complaint alleging fraud or noncompliance relevant to the Workers' Compensation Law (287.128.8 RSMo).**
- In 2018, the FNU conducted 421 investigations in 70 Missouri Counties, plus the City of St. Louis.
- 46% of the cases involved fraud allegations.
- 54% involved allegations of failure to comply with the Workers' Compensation Law's requirements.

HOW to Report to the FNU & WHO Reports??

- How to report to the FNU?**
 - 800#, email, DOLIR website, mail.
- Who makes reports to the FNU?**

Attorneys	9%
Employers	2%
Employees	19%
Insurers	24%
Healthcare	1%
Anonymous	45%
- Others? DES, DOI, FNU inquiries.

The FNU Workflow

- When a report is received by the FNU...
 - The Manager reviews the report and assigns the case for investigation.
 - The case is forwarded to a Team for a Supervisor to assign to an Investigator.
 - The Support Staff enters the case in to the FNU case management system.
 - An Investigator initiates an investigation.
 - The Investigator completes the investigation by submitting a report to the Supervisor with a recommendation for closure or referral.
 - The Manager reviews the case and recommendation.

FNU Reports

- **ALL** reports and records submitted or obtained to/by the FNU shall be confidential and not subject to the requirements of Chapter 610 RSMo. (*The Sunshine Law*).
- Cases closed by the FNU are kept on file and typically archived after approximately six months.
- Cases recommended for referral are submitted to the DWC Director.
- Recommended referrals approved by the DWC Director that determine *probable cause* exists and a violation(s) of the Workers' Compensation Law has occurred are referred to the Missouri Attorney General's Office.

What does the FNU Investigate?

- Common cases the FNU investigates are:
 - Employers who allegedly fail to insure their liability by obtaining or maintaining workers' compensation insurance, as required by law.
 - Failure to report an injured worker.
 - Fictitious or modified certificates of insurance.
 - Fraudulent injury claims, denying prior injuries, false information to employers, insurers, medical providers regarding injuries, claiming a non-work injury as work-related, false information or statements...**all related to acquiring or interfering with a claim or obtaining a benefit.**

The Statute of Limitations

- *The Statute of Limitations* for prosecution of Workers' Compensation Law violations (under 287.128 RSMo.) is **three years** from the date of discovery of the offense.
- These violations are misdemeanor offenses (for first-time offenses).
 - Some violations may result in significant fines.
 - Many violations receive *Deferred Prosecution Agreements* (DPAs).
- Worker Compensation Law violations are a crime!
 - The law ensures Missouri workers receive the benefits they are entitled to, and businesses operate on a level playing field and are protected from any unfair economic disadvantages.

WHO is Affected by the Workers' Compensation Law?

- **EVERY Employer and Employee** is subject to the provisions of this law.
- There are some exemptions to the law:
 - Farm Labor, Domestic Servants (chauffeurs, house keepers, lawn care, etc.), volunteers of tax-exempt organizations, certain religious organizations.
 - The FNU verifies employment and claims with the DES & DWC databases.
- Insurance providers **SHALL** file a memorandum with the DWC (on a DWC form) when any WC policy is issued, renewed or cancelled.
 - The FNU verifies proof of coverage through NCCI (the designated state advisory organization).

What is "NONCOMPLIANCE" ?

- **Noncompliance** is defined as a failure to insure liability pursuant to the Workers' Compensation Law
- Failing to insure workers' compensation puts **employees** at risk of not receiving benefits they are entitled to, **employers** are exposed to substantial liability risk, and **taxpayers** are burdened with associated costs.
- Employers who do not provide workers' compensation insurance have an unfair economic advantage over employers who do provide the coverage
 - ...and it's a violation of the law!

What is an "EMPLOYER"?

- The Workers' Compensation Law defines an **EMPLOYER** as "every person, partnership, corporation, limited liability partnership or company, trustee, receiver, the legal representatives of a deceased employer and every other person using the services of another for pay.

What is an "EMPLOYER"?

- The Workers' Compensation Law states an **employer** *MUST* have **five or more employees**...except that **construction** industry employers (who erect, demolish, alter or repair and make improvements) *SHALL* be deemed an employer if they have **one of more employees** (including themselves).
- An employer's family member shall be counted in the determination of the total number of employees.
- **Part-time employees** also count in the determination of the total number of employees.

What is an "EMPLOYEE"?

- The Workers' Compensation Law defines an **employee** as a person in the service of an employer...under any contract of hire, express or implied, oral or written, or under any appointment or election.
- Some issues that commonly occur with identifying employees are:
 - Misclassification of employees
 - Subcontractors vs. employees

Employers & Employees

- All Corporation's officers (corporate & executive officers) and ALL Limited Liability (LLC's) members count toward the total number of employees.
 - Two-owner Corporations with no employees DO NOT count as employees.
 - Sole Proprietors and Partnerships DO NOT count as employees.
- The FNU verifies business registration with the Missouri Secretary of State.

What is "FRAUD"?

- The Workers' Compensation Law defines **Fraud** as *knowingly* making or causing to be made any false or fraudulent *material* statement or *material* representation for the purpose of obtaining or denying any benefit.
- *Knowingly* is intentional statements or actions to obtain or deny a benefit.
- *Material* is any statements, forms, claims, actions intended to obtain or deny a benefit.
- *Non-material* is any statement or action that will not affect or is irrelevant to an employer/employee/insurer receiving or denying a benefit.

Failure to Report

- EVERY **Employer** or **Insurer** , whether they accept or reject the provisions of the Missouri's Workers' Compensation Law, **shall within thirty (30) days after knowledge of the injury**, file with the DWC...a full and complete report of an injury or death to any employee for which the employer would be liable to furnish medical aid, treatment, lost time at work or compensation and furnish supplement reports as required
 - 287.380 RSMo.

Failure to Report

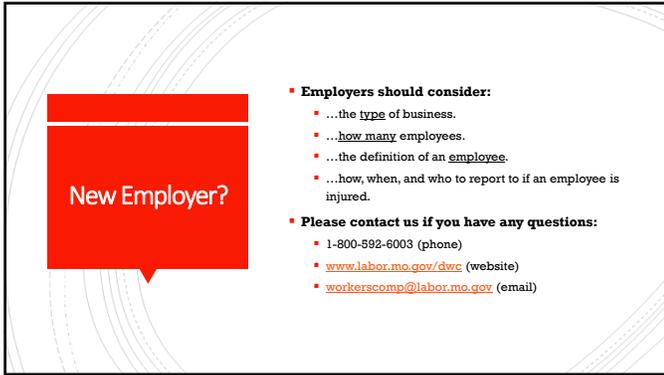
- **Employers SHALL** report the injury to their insurance carrier or third-party administrator **within five (5) days of the date on which the injury was reported to the employer by the employee.**
 - The **Insurer** or **third-party administrator SHALL** be responsible for filing the *Report of Injury* to the DWC.
 - *Failure to Report* is a misdemeanor offense.
 - The *Statute of Limitations* is thirteen (13) months.

Certificates of Insurance

- Cities and Counties that issue business licenses to contractors shall require a **Certificate of Insurance (COI)** for workers' compensation coverage or an affidavit that the contractor is exempt.
 - Applicants are denied licenses without insurance coverage.
 - It is unlawful to provide fraudulent information in order to obtain a business license.

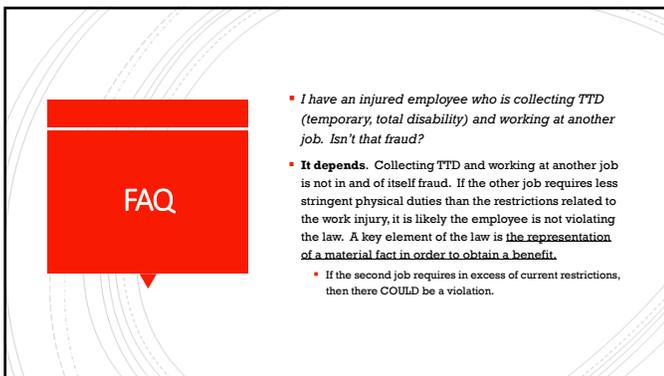
Notice

- **Employers SHALL post a notice** at their place of employment and/or notify each employee:
 - The **employer** is operating under the provisions of the Workers' Compensation Law.
 - **Employees MUST** report injuries immediately to their employer within thirty (30) days or they **MAY** lose their right to compensation.
 - The **Insurer** or designated person's contact information and the DWC 800#.
 - That fraudulent activity by an **employer, employee, or other person** is unlawful.



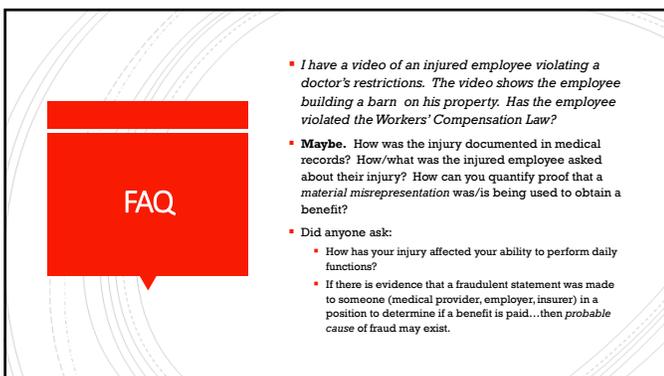
New Employer?

- **Employers should consider:**
 - ...the type of business.
 - ...how many employees.
 - ...the definition of an employee.
 - ...how, when, and who to report to if an employee is injured.
- **Please contact us if you have any questions:**
 - 1-800-592-6003 (phone)
 - www.labor.mo.gov/dwc (website)
 - workerscomp@labor.mo.gov (email)



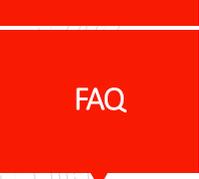
FAQ

- *I have an injured employee who is collecting TTD (temporary, total disability) and working at another job. Isn't that fraud?*
- **It depends.** Collecting TTD and working at another job is not in and of itself fraud. If the other job requires less stringent physical duties than the restrictions related to the work injury, it is likely the employee is not violating the law. A key element of the law is the representation of a material fact in order to obtain a benefit.
 - If the second job requires in excess of current restrictions, then there **COULD** be a violation.



FAQ

- *I have a video of an injured employee violating a doctor's restrictions. The video shows the employee building a barn on his property. Has the employee violated the Workers' Compensation Law?*
- **Maybe.** How was the injury documented in medical records? How/what was the injured employee asked about their injury? How can you quantify proof that a *material misrepresentation* was/is being used to obtain a benefit?
- **Did anyone ask:**
 - How has your injury affected your ability to perform daily functions?
 - If there is evidence that a fraudulent statement was made to someone (medical provider, employer, insurer) in a position to determine if a benefit is paid...then *probable* cause of fraud may exist.



- *I have a business in Missouri AND Kansas. I have three employees in Missouri and five in Kansas, plus some others in both states that are part-time. I don't have to have workers' compensation insurance in Missouri because I only have three full-time employees there, right?*
- **No.** The law does not state five employees in Missouri. If the sum of all employees for the business is five or more (one or more for construction), then the employer must carry workers' compensation insurance. The Law views this business as having at least eight employees
 - Also, the Law does not differentiate between full-time or part-time employees.



- **FNU Investigator**
