

The Municipal RISK MANAGER

SUMMER 2019

A Publication of the Maine Municipal Association

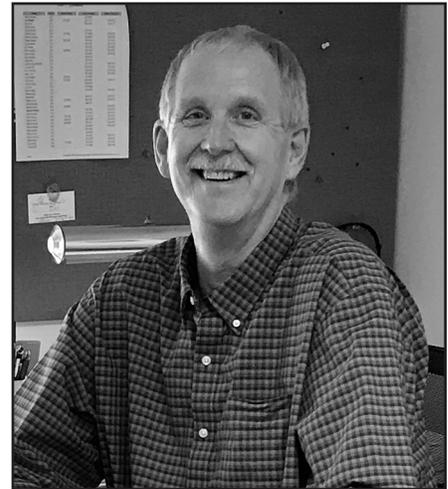
MMA Risk Management Services Welcomes New Loss Control Manager Robert Thomas

Please join us as we welcome Robert (Bob) Thomas as our new Loss Control Manager. Bob joined RMS in December 2003 as a Senior Loss Control Consultant. In 2019, Bob was promoted to Manager of our Loss Control department. Bob is an active participant in several (in-house) committees and outside associations working to address safety & health issues.

Bob has an associate degree in Applied Science from Eastern Maine Vocational Technology Institute. He is CUSA certified (Certified Utility Safety Administrator), and has served on many committees including New England Electric Council of Safety Committees ASTM F-18, EEI (Edison Electric Institute), and the Northern New England

Safety & Health Conference Planning Committee. In 2018, Bob became a FAA certified SUAS pilot holding a Part 107 permit to fly small unmanned aerial systems. Bob is one of two certified drone pilots at MMA, operating a DJI Phantom 4 Pro Plus drone for aerial surveys of insured properties.

Bob will maintain the strong member partnerships that he values and says "I am looking forward to continuing service to our members with a focus on streamlining Loss Control visits by utilizing innovative technology in the hands of our very experienced and knowledgeable staff". Bob also says "not to worry, you will still see me traveling around the State of Maine, meeting with members, and I will always be



available to the membership of MMA by telephone or email if you have questions or need assistance." 🏠

Workers' Compensation Legislative Update

Throughout this Legislative session 27 workers' compensation bills were introduced. Many had the potential to dramatically increase Workers' Compensation cost. Of particular concern was the potential for the elimination of durational caps and retroactive increases in benefits. Ultimately LD756 was the only LD that was voted out of committee, this bill was a compromise bill



that, while it does increase cost, it is not as significant as it could have been. A majority of these changes are not retroactive and will apply to dates of injury on or after Jan. 1, 2020.

It is our understanding that Governor Mills has indicated there will be no further nonconsensual workers' compensation legislation while she is governor. This is important as it

provides some stability of the Workers' Compensation system which will be especially important as we begin to better understand the full impact of LD756 in the coming years.

The following provides some highlights of the changes and increase in benefits

Section 211 Maximum Benefit Rate

The maximum compensation rate will increase from 100 percent of the State average weekly wage (SAWW) to 125 percent of the SAWW.

Section 102, sub-§4, ¶H Fringe Benefits

Fringe benefits that are discontinued following a work related injury will be

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Workers' Compensation Legislative Update *(cont'd)*

included in the average weekly wage, to the extent inclusion does not result in a weekly benefit amount that is greater than 2/3 of the new max rate of 125 percent of the state average weekly wage. An increase from 2/3 of the state aww.

Section 212 sub-§4 Cost of Living Adjustment for Total Incapacity Benefits

Annual cost of living adjustments (COLA) on total benefits paid under §212 after 260 weeks of benefits have been paid on an injury, or injuries, contributing to the §212 benefits. Weeks of benefits paid on an injury which does not contribute to the total benefits being paid under §212 will not be included in the 260 weeks, but weeks of total or partial benefits paid on an injury which does contribute to the §212 status *will* be included. Adjustments will equal the percentage increase or decrease in the SAWW for the previous year, or 5 percent, whichever is less. Benefits paid for partial incapacity under §213, even if paid at the total rate, are not subject to a COLA.

Section 213 sub-§1 ¶C Durational Limit on Partial Incapacity Benefits

Durational limit for partial compensation under §213 increased from 520 weeks to 624 weeks (12 years) of

benefits. There may still be an extension of partial benefits for extreme financial hardship, but otherwise this is a hard cap. An extension for "long-term" partial incapacity will not be available, except for employees with dates of injury on or after Jan. 1, 2013 and before Jan. 1, 2020.

Section 215 sub-§1 ¶B Death Benefits

If death results from an injury occurring on or after Jan. 1, 2020 and the employee had no dependents, death benefits must be paid to the employee's parents during their lifetime, up to 500 weeks. "Parents" may be natural or adoptive, so long as parental rights were not terminated. In addition, for deaths resulting from injuries occurring on or after Jan. 1, 2019 and before Jan. 1, 2020, death benefits paid, or payable, to the State under §355, sub-§14, ¶F will be transferred to the parents.

§301 Notice within 60 days

For dates of injury on or after Jan. 1, 2020, notice must be given within 60 days. This is an increase from the current 30 day notice requirement.

§325, sub-§6 Attorneys' Fees

For injuries on or after Jan. 1, 2020, attorneys' fees for lump sum settlements will be capped at 10 percent, replacing the current sliding scale. An Administrative Law Judge will review any amount allocated for past due benefits.

LD 756 Rulemaking, Study and Work Group:

Rulemaking

The Workers' Compensation Board may consider adopting a rule to establish time frames for the filing of petitions following unsuccessful mediation.

Advocate Pay Study

The Workers' Compensation Board will conduct a pay study of the advocate program and make recommendations for changes before Jan. 1, 2020, so that legislation on the subject can be reported out in the next regular session.

Working Group on Work Search, Vocational Rehabilitation and Uninsured Workers

The Workers' Compensation Board will convene a working group of stakeholders on issues of work search, vocational rehabilitation and protections for wrongfully uninsured workers and report the group's recommendations to the Labor and Housing Committee by Jan. 30, 2020, so that legislation on the subjects can be reported out in the next regular session.

Excerpts provided courtesy of Elizabeth Brogan, Executive Director, Workers' Compensation Coordinating Council and Maine Council of Self-Insurers. 🏠



The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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**MMA Risk Management Services is
happy to welcome the newest members:**

Property & Casualty Pool

City of Bangor

Town of Enfield

Town of Kennebunkport

The Old Customs House Inc.

We thank our dedicated members for their partnership.

Complementary Police Driver Training

*Class offered on September 17th, 2019 at Maine Municipal Association
Program will begin a 9:30AM with lunch provided. Space is limited register early!*

In an effort to help protect the Law Enforcement Community, MMA Risk Management Services is excited to sponsor **Vehicle Operation Liability and Legal Concerns for Law Enforcement**, presented by Scot Mattox of Dirigo Safety, LLC. MMA claims data has revealed that motor vehicle accidents account for 74% of all Law Enforcement claims. Over the past ten (10) years, motor vehicle accidents for Law Enforcement has resulted in 128 injuries and over \$4,779,000 in property damage.

The MMA Property & Casualty Pool and Workers' Compensation Fund are sponsoring this training for its members at no cost. The presentation will be on Tuesday, September 17, at the MMA office in Augusta. Coffee and light refreshments will be offered starting at 9:30am with the presentation beginning at 10:00am, with a break at noon for a lunch provided by Maine Municipal Association. This class will provide tools to help officers control exposures and understand potential dangers associated with vehicle operations. Topics covered includes:

- Safety, liability awareness, and legal concerns during routine patrol, emergency operation, and pursuits.
- Officer safety, liability awareness and legal concerns for checkpoints and roadblocks.
- National and State statistics on vehicle operation in law enforcement.
- Relevant national and state case law including: Norton v. Hall.
- Ministerial Activities v. Discretionary Functions and the Maine Tort Claims Act M.R.S. 14 Chapter 741.
- Understanding M.R.S. 17-A 203; 29-A 2054; and 25 Sec. 2806 as they relate to vehicle liability.
- Maine Chief's Model Policy on: Routine and Emergency Vehicle Opera-



tion, Roadblocks, and Pursuits.

Vehicle Operation Liability and Legal Concerns for Law Enforcement is a great class that will provide helpful reminders for both new and experienced officers about why they need to use more caution when driving. The class discusses the dangers of multitasking while driving, emergency response / pursuit, the effects of shiftwork and being tired while driving, and the liability (both personal and agency specific)

that police officers can incur from accidents while driving.

Vehicle operations is one of the most dangerous activities that officers routinely perform. This class is designed to increase all Law Enforcement Officers' awareness and understanding of the liability and legal concerns arising out of the use of vehicles in police operations.

Maine Municipal Association is committed to providing participants in our Workers' Compensation Fund and/or Property & Casualty Pool the highest quality educational experience.

Training is provided at no cost to you, as a value added service.

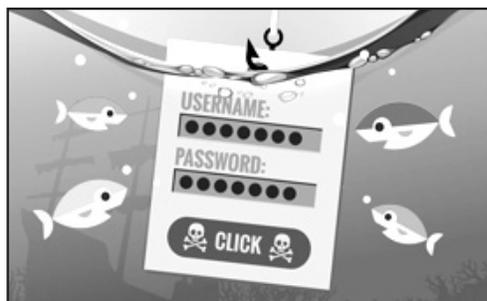
For registration and/or questions, please contact us by phone at: 1-800-590-5583, or e-mail: (rmslosscontrol@memun.org) or visit: www.memun.org

Don't Take the Bait!

More than half of all computer security breaches are the result from human error. Employees that are not properly trained may pose one of the greatest risks to your cyber security.

Many computer security breaches are the result of phishing attacks. A phishing attack tricks email users to click a malicious link in a seemingly legitimate email or to divulge sensitive information, such as usernames, passwords, or account numbers.

Phishing is one of the primary means of gaining access to business computer systems. It's estimated that one in ev-



ery 2,000 emails worldwide is a phishing email. That may sound insignificant until you consider the sheer volume of emails sent every single day—about 270 billion! That's

about 135 million phishing attacks attempted every day.

Spear phishing, a more advanced variation of the phishing message, aims at specific groups or even certain individuals within an organization. Spear phishing emails may look like they come from someone you would trust, possibly even a department within your

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Do you need Money for Safety?

If your entity is in need of money for safety equipment or education we are here to help. The Maine Municipal Association Workers Compensation Fund offers their members two grant programs to assist with safety efforts: the Ed MacDonald Safety Enhancement Grant and Scholarship Grant Programs. These programs offer financial incentives to members of the Fund by supporting their purchase of safety equipment or safety services that will assist in reducing the frequency and/or severity of workplace injuries.

The Maine Municipal Association has been proudly awarding safety grants to Members of their Workers Compensation Fund since 1999. The Ed MacDonald Grant programs have bestowed over **\$ 4.3 Million** of safety enhancement grants and scholarship grants. The Spring grant period witnesses a near record amount of grant requests and we are happy to announce that we were able to award **119 grants for a total of \$161,592.**

For more information about any of the Maine Municipal Association Risk Management Service programs, including the Ed MacDonald Safety Enhancement Grants eligibility and applications, please visit our website at www.memun.org and click on the Risk Management Services link, or call us at 1-800-590-5583. 🏠

Honorable Mention

“With our recent fire at the public works garage, MMA Risk Management Services Property & Casualty Pool was there the very next day. MMA has been working closely with us to replace the loss, in fact we have not had one disagreement over value or replacements. Deb Marquis Property Claims Adjuster, is a tremendous asset and assisted us in everything we requested.

We had a concerned citizen who was in the insurance business for over 40 years review our policy page by page and made an announcement at a town meeting “Do not ever leave this insurance plan, you will never get this type of coverage at this price in the private industry”

Several years ago, we had a fire truck explode and catch on fire, it was a total loss and with the agreed value we were able to purchase a new truck and Marcus Ballou dropped off our insurance check about a week after the accident.” 🏠

Jay Feyler, Town Manager, Town of Union

Don't Take the Bait! *(cont'd)*

own organization. They may contain your personal information to gain your trust in the message. They create a sense of urgency about responding or taking action.

The best defense against phishing attacks is employee training and education. A good security awareness program is most effective when you communicate through multiple formats. Consider awareness posters in common areas, helpful hints distributed to employees via email, and classroom training sessions. MMA Risk Management Services Online University offers the course, “Preventing Phishing”, which raises employee awareness and offers practical advice on avoiding phishing attempts.

Training your employees to detect phishing and other fraudulent activity is one of the most important safeguards against cybercrimes. If you need assistance with employee training, contact the MMA Risk Management Services at 800-590-5583, or find online training at www.memun.org. 🏠

FREQUENTLY ASKED QUESTIONS:

Question:

When do I file a claim?

Answer:

The best defense of a potential claim is achieved through early reporting and investigation. Timely reporting is essential and will provide assurance that you have coverage for an event even if the formal claim is not made until years later.

Prompt Claims Reporting:

a) Members can file claims electronically at: www.memun.org/InsuranceServices/RiskManagementServices.aspx or by calling 1 (800) 590-5583.

b) Don't be concerned that filing a potential claim will increase your annual contribution. In fact the opposite is true. Timely reporting has proven to save money.

c) Timely reporting allows RMS Adjusters to proactively manage your claim and provide you an assessment, explanation of coverage, defenses and recommendations.

REMINDER:

If you fail to report a “lost time” injury to the Workers’ Compensation Board within 7 days, you will incur a \$100.00 fine.

Maine Department of Labor requires that all fatalities must be reported within 8 hours to (207) 592-4501. Also, all serious physical injuries that require hospitalization, including amputation, loss or fracture of any body part be reported within 24 hours.

Please look for this new Frequently Asked Questions section of the Municipal Risk Manager each quarter. If you have a question you would like to ask please email Marcus Ballou at mballou@memun.org