Key Milestones of the Workers' Compensation Claim Lifecycle Session 1: Initial Claim Evaluation, Investigation, and Filing

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The Full Series

- **Part I: "Initial Claim Evaluation, Investigation, and Filing"**
- **Part II: "Claim Management and Recognizing Complications"**
- **Part III: "When and How to Close a Claim"**
- **Part IV: "The World of Litigation and Board Appeals"**
- **Part V: "Knock, Knock, Look Who's Back"**

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Today's Agenda

1. Step 1: Who's Who?
2. Step 2: The Roles and Responsibilities
3. Step 3: Was there an Incident?
4. Step 4: Course of Employment
5. Step 5: The Initial Forms
6. Step 6: Investigation
7. Step 7: Deception

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Step 1: Who's Who?

- Employee – the injured worker most likely
- Employer – who the employee *actually* worked for, likely a school district
- PSWCT – A specially designated educational workers' compensation trust program under RCW.
- Claimant – What an Injured worker is called after they file a claim.
- Provider – Usually a medical professional that treats the Claimant during the claim
- In-House Attorney – for PSWCT that's Brad Jones; Legal guidance without the added charges of an outside attorney.
- LNI Claim Manager – Department of Labor and Industries representative assigned to the claim that works on claim administration.

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Step 2: The Roles

- Claims Administrator – Potentially you! The person in charge of moving the claim forward through the efficient administration of the claim process.
- Attending Physician – The person in charge of the I.W. medical care according to the Department. Must almost always be in the Provider Network.
- Outside Counsel – Me! An attorney outside the organization that typically takes on legally or medically complicated cases and/or litigation.
- Department of Labor and Industries – Administrative agency that deals with Workers' Compensation Injuries.
- Board of Industrial Insurance Appeals – An independent quasi-judicial agency that decides disagreements arising from LNI.
- Nurse Case Manager – Manages and facilitates the treatment of the I.W. and the resolution of the medical aspects of the claim.

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Step 2: The Roles

- Vocational Counselor – Helps get the employee back to work by analyzing the vocational aspects of the person's life and the JOI.
- Treating Provider – A medical provider that is actively treating the I.W. but may not be the attending physician.
- Witnesses – any individual that observed or has observed the circumstances that led to the I.W.'s conditions.

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STEP 3: WAS THERE AN INCIDENT?

- Industrial Injury:
  - "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt results, and such physical conditions as result therefrom.
- Occupational Disease:
  - A disease that "arises naturally and proximately out of employment." RCW 51.08.140

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INDUSTRIAL INJURY

- Usually, there is an actual incident. Something happened on this day at this time and somebody got hurt.
- RCW 51.08.100
- A pre-existing condition can be injured by a specific sudden and tangible happening.
- The injury does not need to happen because of work so long as it happens at work.
- Certain psychiatric/ mental injuries can qualify, but it is rare.
- Deadline to file: 1 year from the incident

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Occupational Disease

- Occupational Diseases are typically the types of injuries that come from certain conditions of employment when done continuously and/or repetitively over extended periods of time.
- Defined as such disease or infection as arises naturally and proximately out of employment.
- Deadline to file: 2 years from date provider notified worker in writing that they had a disease and that it is related to work activities. Strict Deadline, (*Nygaard v. Dept. of L&I*)
- Time is the big difference. I.I. is immediate, O.D. is over time.

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Occupational Disease

- Along with Timeliness there are 3 requirements:

1. **Legal Requirement** – The disease must arise naturally and proximately out of employment, and
2. Causal Requirement - The doctor must state, on a more probable than not basis, the disease is related to the work activities, and
3. Medical Findings – The doctor must substantiate the diagnosis with objective medical findings.

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Occupational Disease

Legal Requirement

- Must be both 'naturally' and 'proximately' out of employment.
- Naturally –
  - The disease must arise from the distinctive job requirements rather than merely the workplace or everyday life.
  - Dennis Expansion: O.D. includes a work-related aggravation of a preexisting nonwork-related disease that is symptomatic or asymptomatic. (*Dennis v. Dept. of L&I)*

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Occupational Disease

Causal Requirement

- Proximate Causation
- Proximately –
  - Connection between disease and employment
  - The disease would not have been contracted *but for* exposure to the distinctive conditions in employment.
  - Proven through Medical Expert testimony.
  - *Simpson Logging Company v. Dept. of L&I* 202 P.2d 448

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Occupational Disease

Medical Requirement

- Provider opinion MUST BE based on a "more probable than not" basis
- (More than 50% likely)
- Establishes the connection between the work conditions and the disease.
- Objective medical findings are findings that can be seen, felt, or measured.
- Pain is almost always viewed as subjective.

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Occupational Disease

- The Date of Manifestation is the equivalent to the Date of Injury in an Industrial Injury claim.
- It is either the date the disease first required medical treatment or became totally or partially disabling, whichever occurred first.
- Likely the date the worker first saw their doctor.

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AGGRAVATION

- Both an injury or an occupational disease can aggravate a pre-existing disease or condition.
- Occurs when:
  - There is an underlying condition.
  - That condition became worse or disabling due to either the industrial injury or the occupational disease.
- The Board and Courts are constantly expanding the definition.
- The key is prior medical records.

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STEP 4: COURSE OF EMPLOYMENT

- RCW 51.08.013
  - States that acting in the course of employment means the worker is acting at his employer's direction or in the *furtherance of the employer's business* which shall include *time spent going to and from work on the jobsite*, insofar as such time is immediate to the actual time that the worker is engaged in the work process in areas controlled by his or her employer, *except the parking area.*

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COURSE OF EMPLOYMENT

- Injuries Generally Covered:
  - On worksite premises
  - During hours of work, even if not doing work for which you are paid.
  - During lunch period
  - During horseplay or personal comfort breaks

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COURSE OF EMPLOYMENT

- Injuries NOT Generally Covered:
  - Occurred while commuting – going and coming rule
  - Occurred in parking lot
  - Personal deviation
  - Not acting in furtherance of the employer's business.
- In WFH the home is typically considered a jobsite within reason

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Course of Employment

- In Washington, we are a "no-fault" system. Meaning it doesn't always matter if the reason for the injury was the claimant's fault, so long as they didn't intentionally injure themselves or commit a felony.
- Parking lot exemption needs to be exact. GPS photos of the location of the incident are helpful. Gather as much contemporaneous information as possible. Including any surveillance cameras.

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Step 5: The Initial Forms

- Self-Insured Form 2 (SIF-2): The most important form in a claim. The OG form.
- Providers Initial Report (PIR): The doctor form
- SIF-5a: The money form
- APF: The restrictions form
- Incident Reports: The employer reports

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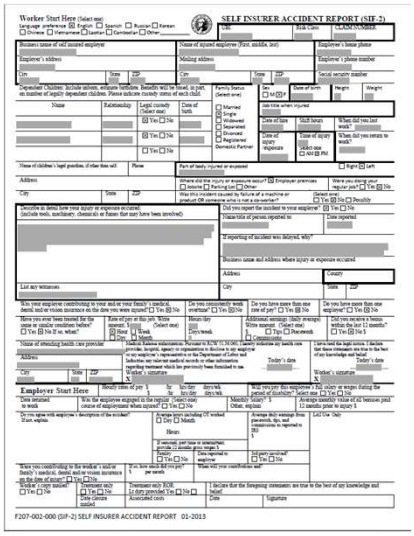
SIF-2

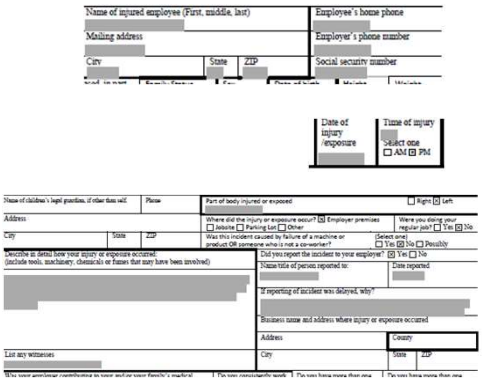

SELF INSURER ACCIDENT REPORT (SIF-2)

Employer Start Here

F207-002-000 (SIF-2) SELF INSURER ACCIDENT REPORT 01-2013

- Absolute Wealth of information.
- Used continuously throughout the claim process
- Must be signed, must be filled out, but not technically necessary for a claim to be filed.

SIF-2


Name of injured employee (First, middle, last)

Employee's home phone

Mailing address

Employer's phone number

City

State

ZIP

Social security number

Date of injury /exposure

Time of injury *Select one AM PM

Name of children's legal guardian, if other than self

Phone

Part of body injured or exposed

Address

Where did the injury or exposure occur?

Were you doing your regular job?

City

State

ZIP

Was this incident caused by failure of a machine or product OR someone who is not a co-worker?

Describe in detail how your injury or exposure occurred. (Include tools, machinery, chemicals or fumes that may have been involved)

Did you report the incident to your employer?

Name/title of person reported to

Date reported

If reporting of incident was delayed, why?

Business name and address where injury or exposure occurred

Address

County

City

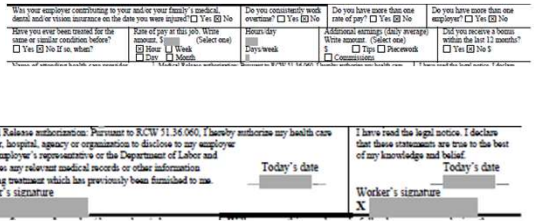
State

ZIP

List any witnesses

- How to get a hold of CM
- Used for investigation and claim filing
- All of the initial medical info

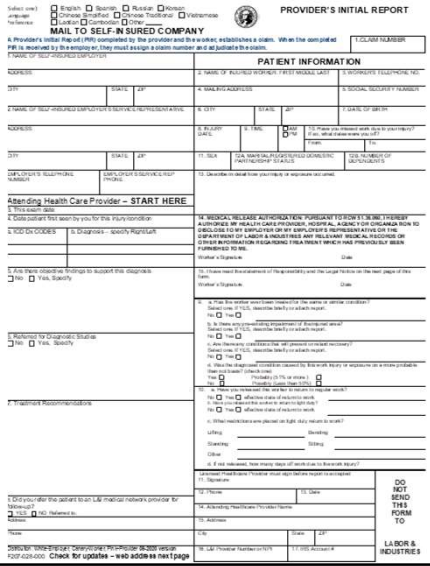
SIF-2



- Financial information for SIF-5A to be compared to ER reports

- One of the most useful pieces on this form, the full release for medical information.

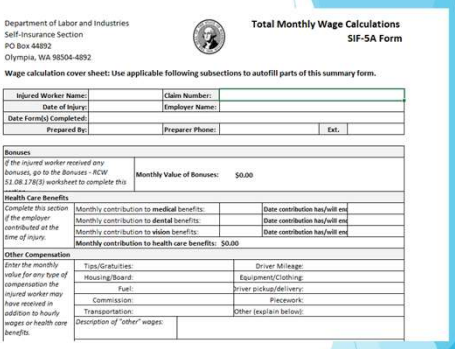
PROVIDERS INITIAL REPORT



- The initial form filled out by the attending medical provider.
- Not necessarily the same person who ends up being the Attending Physician.
- Pay close attention to Sections 5, 6, 7, 9, and 10.
- Always look at 9d.

SIF-5A

- Available in an excel fillable form via the Department
- Used to calculate Monthly Wages.
- Will be referred to numerous times in the future.
- Don't just take the claimant's word for their reported employment, check with employer, and make sure to ask if they think they have other employment.



Department of Labor and Industries
Self-Insurance Section
PO Box 44892
Olympia, WA 98504-4892

Total Monthly Wage Calculations
SIF-5A Form

Wage calculation cover sheet: Use applicable following subsections to autofill parts of this summary form.

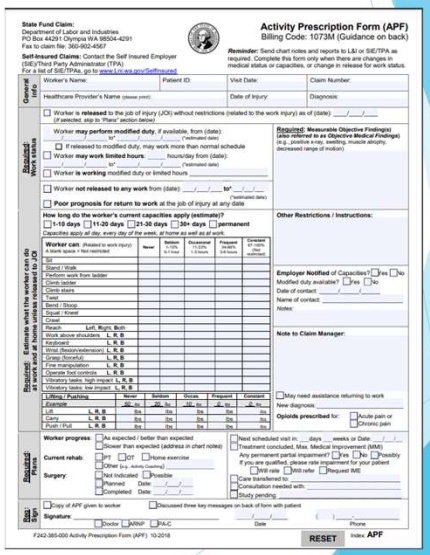
Injured Worker Name:		**Claim Number:**	
Date of Injury:		**Employer Name:**	
Date Form(s) Completed:			
Prepared By:		**Preparer Phone:**	**Ext.**

Bonuses		
If the injured worker received any bonuses, go to the Bonuses - RCW 51.08.178(3) worksheet to complete this section.	**Monthly Value of Bonuses:**	$0.00
Health Care Benefits		
Complete this section if the employer contributed at the time of injury.	Monthly contribution to **medical** benefits:	**Date contribution has/will end**
	Monthly contribution to **dental** benefits:	**Date contribution has/will end**
	Monthly contribution to **vision** benefits:	**Date contribution has/will end**
	Monthly contribution to health care benefits: $0.00	

Other Compensation			
Enter the monthly value for any type of compensation the injured worker may have received in addition to hourly wages or health care benefits.	Tips/Gratuities:	Driver Mileage:	
	Housing/Board:	Equipment/Clothing:	
	Fuel:	Driver pickup/delivery:	
	Commission:	Piecework:	
	Transportation:	Other (explain below):	
	Description of "other" wages:		

APF

- Activity Prescription Form
- Determines a worker's current physical abilities and limitations
- Take note of the measurable objective findings.
- Look at the Note to claim manager portion always.
- Try to keep in chronological order with the most recent on top. Knowing the current restrictions by each provider is helpful.



State Fund Claim:
Department of Labor and Industries
PO Box 44291 Olympia WA 98504-4291
Fax to claim file: 360-902-4567

Self-Insured Claims: Contact the Self Insured Employer (SIE)/Third Party Administrator (TPA).
For a list of SIE/TPAs, go to www.Lni.wa.gov/Selfinsured

Activity Prescription Form (APF)
Billing Code: 1073M (Guidance on back)

Reminder: Send chart notes and reports to L&I or SIE/TPA as required. Complete this form only when there are changes in medical status or capacities, or change in release for work status.

General Info

Worker's Name: | Patient ID: | Visit Date: | Claim Number:
Healthcare Provider's Name (please print): | Date of Injury: | Diagnosis:

Required: Work status

☐ Worker is **released** to the job of injury (JOI) without restrictions (related to the work injury) as of (date): ___/___/___
(if selected, skip to "Plans" section below)

Worker **may perform modified duty**, if available, from (date): ___/___/___ to* ___/___/___ (*estimated date)
☐ If released to modified duty, may work more than normal schedule
☐ Worker **may work limited hours:** _____ hours/day from (date): ___/___/___ to* ___/___/___ (*estimated date)
☐ Worker **is working** modified duty or limited hours _____

☐ Worker **not released to any work** from (date): ___/___/___ to* ___/___/___ (*estimated date)
☐ **Poor prognosis for return to work** at the job of injury at any date

Required: Estimate what the worker can do at work and at home unless released to JOI

How long do the worker's current capacities apply (estimate)?
☐ **1-10 days** ☐ **11-20 days** ☐ **21-30 days** ☐ **30+ days** ☐ **permanent**
Capacities apply all day, every day of the week, at home as well as at work.

Worker can (Related to work injury) A blank space = Not restricted

	Never	Seldom 1-7 hrs/d	Occasional 1-3 hrs/d	Frequent 4-6 hrs/d	Constant 7-8 hrs/d (Not restricted)
Sit					
Stand / Walk					
Perform work from ladder					
Climb ladder					
Climb stairs					
Twist					
Bend / Stoop					
Squat / Kneel					
Crawl					
Reach: Left, Right, Both					
Work above shoulders L, R, B					
Keyboard/d L, R, B					
Wrist (flexion/extension) L, R, B					
Grasp (forceful) L, R, B					
Fine manipulation L, R, B					
Operate foot controls L, R, B					
Vibratory tasks: high impact L, R, B					
Vibratory tasks: low impact L, R, B					

Lifting / Pushing	Never	Seldom	Occas	Frequent	Constant
Example	30 lbs	20 lbs	10 lbs	5 lbs	1 lbs
Lift L, R, B	lbs	lbs	lbs	lbs	lbs
Carry L, R, B	lbs	lbs	lbs	lbs	lbs
Push / Pull L, R, B	lbs	lbs	lbs	lbs	lbs

Other Restrictions / Instructions:

Employer Notified of Capacities? ☐ Yes ☐ No
Modified duty available? ☐ Yes ☐ No
Date of contact: ___/___/___
Name of contact:
Notes:

Note to Claim Manager:

☐ May need assistance returning to work
New diagnosis:
Opioids prescribed for: ☐ Acute pain or ☐ Chronic pain

Required: Plans

Worker progress: ☐ As expected / better than expected ☐ Slower than expected (address in chart notes)
Current rehab: ☐ PT ☐ OT ☐ Home exercise ☐ Other (e.g., Activity Coaching)
Surgery: ☐ Not Indicated ☐ Possible ☐ Planned: Date: ___/___/___ ☐ Completed: Date: ___/___/___

☐ Next scheduled visit in: ___ days ___ weeks or Date: ___/___/___
☐ Treatment concluded, Max. Medical Improvement (MMI)
Any permanent partial impairment? ☐ Yes ☐ No ☐ Possibly
If you are qualified, please rate impairment for your patient
☐ Will rate ☐ Will refer ☐ Request IME
☐ Care transferred to:
☐ Consultation needed with:
☐ Study pending:

Req Sign

☐ Copy of APF given to worker ☐ Discussed three key messages on back of form with patient
Signature: _____ ☐ Doctor ☐ ARNP ☐ PA-C Date: ___/___/___ Phone: ( ) -

F242-385-000 Activity Prescription Form (APF) 10-2018

RESET Index APF

Incident Reports

- These come in a variety of different ways.
- What you are looking for is the Employer's report of what happened. The closer to the incident the better.
- Less likely to be found in occupational disease claims.
- Ask if there is video surveillance and get the video surveillance of the area if possible.
- Make a list of potential people you need to talk to.

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Step 6: Investigation

- Do not assume everybody is lying.
  - On top of the added bias that you will develop, it simply is not true.
  - It can also be a drain emotionally and mentally.
- You are the first line of defense, though, and the first opportunity to discover the truth.
- But in order to properly investigate you do not care about what is true; You care about what is false.
- You collect the Truths and chase the Lies.

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INVESTIGATION

- All basic tenets of the claim process should be investigated and verified. Every part of SIF-2 should be verified.

- Was the person an actual employee?
- What were the hours of employment?
- Did the EE work that day and time?
- Was the EE coming back from a leave or vacation?
- Did the injury happen as they said?
- Is there video surveillance?
- Who are the witnesses?
- Has an incident report at the employer been completed?

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INVESTIGATION

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INVESTIGATION

- Where to gather Evidence?
  - Medical Records from previous medical treatment and providers
  - Video evidence
  - Any recorded statements
  - Checked against previous claims, can be done in CAC now.
  - Washington Court Records search.
  - Personnel files
- In Claim possibilities:
  - Comparative analysis of accident explanation from all sources
  - Corroborating diagnostic testing
  - Provider hint vocabulary (Function or central origin; pain behavior; non-anatomical findings)

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INVESTIGATION

- Any investigatory notes made in the file can potentially be discoverable by claimants and claimant's representatives.
- Be respectful, direct, and honest.
- Have the receipts. Document and point to the specific information that is drawing you to the conclusion.
- If it is a gut feeling, figure out why and back it up.

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Step 7: Deception

- The intentional concealment, distortion, or fabrication of information for the purpose of gaining an advantage or leading another into an erroneous conclusion.
- There are 3 types of lies:
  1. The Lie of Commission
     - Aka fabrication
  2. The Lie of Omission
     - Aka hiding something
  3. The Lie of Influence
     - Aka changing perceptions

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Deception

- Irrefutable and/or common facts:
  - The bookends of truth.
  - Irrefutable Facts – Facts backed by science or general knowledge
  - Common Facts – Facts backed by continuity across multiple parties
- Check your Bias at the door.
  - We all have bias, the only way to address it is to do so directly every single time.
  - Bias can be both positive and negative; constructive and destructive.
- Divide your material v. immaterial facts.

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Deception

- Always be thinking in 4-dimensions – Individual Perception is key.
- Establish your baseline metrics
  - Deviation and alteration in individual behavior is the name of the game.
- Deception can be written, verbal, or non-verbal behavior.
- Just because you know somebody is being deceptive does not mean you know what they are being deceptive about.

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Detecting Deception on Paper

- Inconsistency is your best tool for detecting deception in writing. The lie being committed could fall under any of the three categories.
  - Commission lie: "I fell off the 4th rung of the ladder" (didn't actually fall)
  - Omission lie: "I fell off the 4th rung of the ladder" (slipped off the ladder but also was in a motorcycle accident day before)
  - Influence lie: "I fell off the 4th rung of the ladder" (it was actually the 1st rung)
- You're most likely to find a lie of influence or a lie of omission.

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Deception: Active Listening

- Passive listening v. active listening.
- Active listening allows the conscious mind to evaluate the responses in real-time.
- You need to activate the L-Squared Mode
- Mindfulness and meditation. Practice certainly helps

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5-seconds is all you Have

- The average human speaks at roughly 125-150 words per minute.
- The average human brain thinks at roughly 1250 – 1500 words per minute.
- In 5 seconds, the average human has spoken roughly 10.5 – 12.5 words and thought about roughly 105 – 125 words.
- By 5 seconds, the stimuli has become psychologically stale.

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CLUSTERS

- A deceptive indicator does not necessarily mean a person is lying.
- It is a sliding scale of deception, the more deceptive indicators that are present the higher the likelihood that a deception has occurred.
- These groups of deceptive indicators are called clusters. The larger the cluster (i.e. the more deceptive indicators present within 5 seconds) the more likely the person is lying.
- A cluster must occur within the 5-second rule.

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VERBAL DECEPTIVE INDICATORS

- Failure to Answer
- Denial Problems
- Reluctance or Refusal to Answer
- Repeating the Question
- Non-answer Statements
- Inconsistent Statements
- Going into Attack Mode
- Inappropriate questions
- Overly Specific Answers
- Inappropriate level of politeness
- Inappropriate level of concern
- Process or Procedural complaints
- Failure to understand a simple question
- Referral Statements
- Invoking Religion
- Selective Memory
- Qualifiers
- Convincing Statements

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Throat Clearing or Swallowing

- Sometimes throat clearing and swallowing is just physically necessary; other times it is a deceptive indicator.
- The difference is the degree to which a person clears their throat or swallows. You are looking for a sudden choking type sensation or Adam's apple movement. Timing also matters, if a person swallows before the answer it can be an indicator, after the answer it is less likely.
- Physiologically the question may have caused a spike in anxiety and that spike can cause discomfort and dryness in the mouth and throat necessitating swallowing or throat clearing.

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Visual Deception Indicators

- Hiding the Mouth or Eyes
- Hand-to-face Activity
- Anchor-point Movement
- Grooming Gestures

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Verbal/ Nonverbal Disconnect

- Our brains align our body's movements with our verbal actions.
- When the two do not connect, it is a indicator of deception.
- Examples: nodding while saying "no" or moving the head side to side while saying 'yes'
- Only effective and useful in a narrative answer instead of a direct single word answer.
- Mind your baseline.

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Myths about Deception

- Eye Contact
- Closed Posture
- General Nervous Tension
- Pre-emptive Responses
- Blushing or Twitching
- Clenched Hands
- Baselining alone
- Sweating

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Reacting to Deception

- Remain calm. Think strategically. Don't show a tell.
- You are being evaluated just as much as you are evaluating.
- Showing a tell in the middle of an interview may afford the other person the chance to rehabilitate their story causing you to lose the advantage.
- Go down the rabbit hole, you do not yet know what they are being deceitful about.

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Recap on Deception

- Obtain your fact bank.
- Prepare your mind.
- 5-second rule
- Clusters
- Types of verbal and visual deception
- Go down the rabbit hole.
- Don't React.
- Follow-up with necessary parties.
- The open-ended finisher.

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In Conclusion

- When in doubt, ask for help. We are all a team.
- Document as much as you can.
- Industrial Injuries are sudden and Occupational Diseases occur over time.
- Pre-existing conditions can be aggravated
- Remember to double-check your Key Forms.
- Investigate the lies and collect the truths.
- Deception can take three forms: commission, omission, or influence.

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Thank You!

We look forward to seeing you at Part 2!
Claim Management and Recognizing Complications

June 27th, 2023, at 10:00am See you there!

Contact me with any questions:

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tim@reevelawfirm.com
206.818.2900

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QUESTIONS?

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Owner & Founder, Reeve Law Firm PLLC

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In Association with:
Puget Sound Workers' Compensation Trust and the Puget Sound Educational Service District
May 25, 2023

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The Full Series

- Part I: "Initial Claim Evaluation, Investigation, and Filing"
  - May 25, 2023
- Part II: "Claim Management and Recognizing Complications"
  - June 27, 2023
- Part III: "When and How to Close a Claim"
  - July 20, 2023
- Part IV: "The World of Litigation and Board Appeals"
  - September 14, 2023
- Part V: "Knock, Knock, Look Who's Back"
  - October 26, 2023

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Key Milestones of the Workers' Compensation Claim Lifecycle

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UPCOMING TRAININGS

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AVAILABLE MEMBER SERVICES

Worker Compensation Trust

- Claim Intake / Reviews / Investigation
- Compensability Determination
- Disability Management / Vocational Rehabilitation
- Exposure Analysis
- Incident Reporting
- Legacy Claims Management
- Industrial Hygiene
- Litigation Management
- Loss Control and Prevention
- Management Reporting
- Medical Cost Management
- Return-to-Work Planning

Unemployment Pool

- Claim Management
- Compliance Management
- Legislative Updates
- Management Reporting
- Review, Hearings, Appeals
- Training & Education

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Connecting With PSESD

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PSESD Twitter

PSESD YouTube Channel

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Thank You!

We appreciate your time and participation!

We invite you to complete the post-event survey.

Your feedback will inform our efforts to continually enhance the value of these events!

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FEEDBACK SURVEY

Qualtrics Survey | Qualtrics Experience Management

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