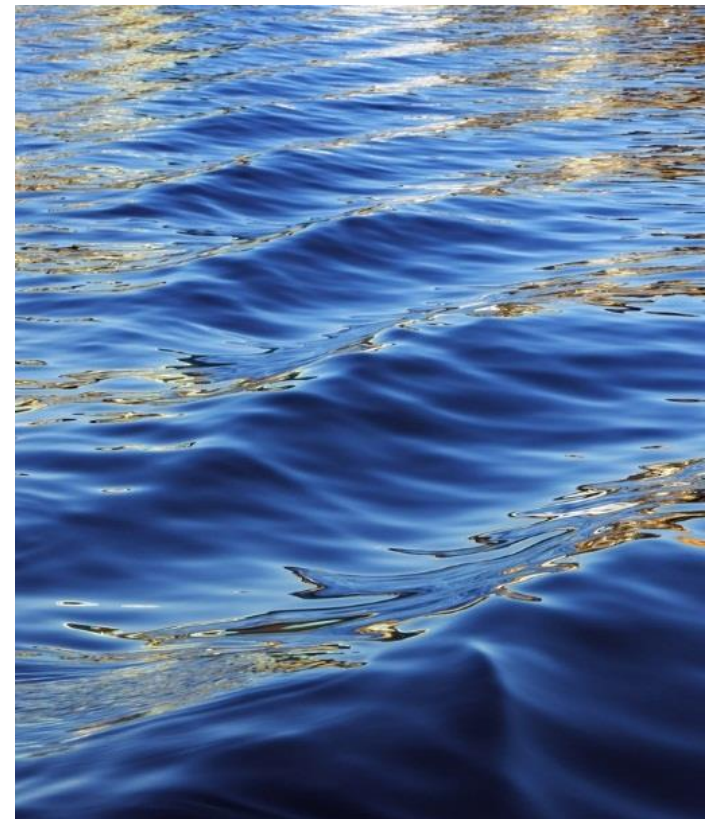




Workers' Compensation Advisory Council

FY 2023 Annual Report

Report prepared by Executive Director Maureen O'Connell. Council Members voted on the report December 13, 2023, and the report was issued on March 11, 2024. Hearing & conference queue numbers updated on March 18, 2024.



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Chairman's Welcome

Dear valued Shareholders,

We are delighted to present to you the Massachusetts Workers' Compensation Advisory Council Annual Report for FY'23. Most notably, we continue to transition to a post-pandemic administration process in FY'23. The Council appreciates the Department of Industrial Accidents for leading the process to modernize the system including digitizing insurance records and creating online accessibility of records on the DIA website. Phase II is underway, and the results will be meaningful for the work of the Council.

Thank you also to DIA Director Sheri Bowles for leading the team and effectively overseeing the management of teams, especially in a hybrid environment. Thank you also to Senior Judge Omar Hernández for leading the adjudicatory process in the aftermath of the COVID-19 pandemic, and to the entire DIA management team for their commitment to the Commonwealth of Massachusetts.

Over the past year, DIA has welcomed new employees, and acknowledged the retirement of some employees – we thank all employees for their hard work, contributions, and dedication to supporting injured workers and DIA's mission.

The Council believes that the Massachusetts Workers' Compensation system remains one of the highest valued systems in the country. As we look to the future, the Council will focus on collaborating with all stakeholders to improve the system.

The highlights from FY '23 include:

- The administration process and its impact during and after the COVID-19 pandemic
- The pandemic-related adjudication process
- The Impartial Physicians Roster
- The Section 36 adjustment

On Behalf of The Council,

John A. Pulgini, Esq.
Chairman

Todd R. Johnson JD, AIC, ARM-P, ARM-E
Vice Chairman

Statutory Responsibilities

The Council has specific statutory responsibilities set forth in MGL. CH 23E [§ 9](#) and [§ 17](#) and MGL Ch 152 [§ 53A](#) and [§ 65](#).

The Council meets on the second Wednesday of each month via WebEx.

On March 29, 2023, Governor Maura Healey signed into law a supplemental budget bill which extended the temporary provisions pertaining to the Open Meeting Law to March 31, 2025.

Source: [Mass.Gov | Open Meeting Law](https://www.mass.gov/info-details/open-meeting-law)

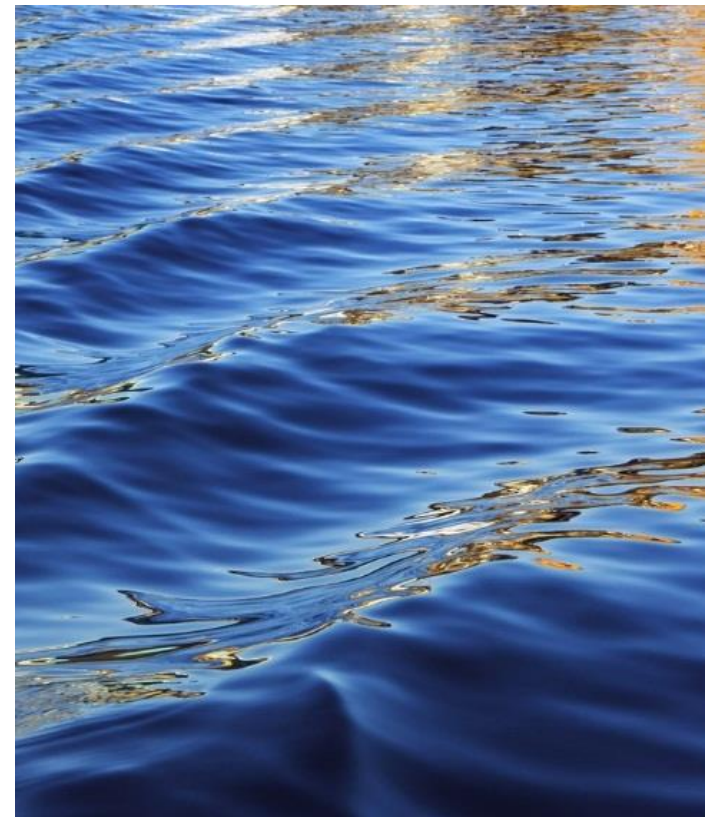
The Council is monitoring bills related to workers' compensation legislation and stakeholders' interest and will continue to follow legislation throughout the 2023-24 session.

- ❑ H 1880 | An Act providing benefits for permanent functional loss and disfigurement under the Workers' Compensation Act – an amendment was made to this bill: Section 36(k) of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "fifteen thousand dollars" and inserting in place thereof the following words: - 30 times the average weekly wage in the commonwealth as determined pursuant to subsection (a) of section 29 of chapter 151A.
- ❑ S 1165 | An Act to protect injured workers – several amendments were made to this bill, one of the amendments is highlighted here: SECTION 1. Section 3 of chapter 23E of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting, in line 46, after the word "claims" the following words: - ; and further provided that the department shall promptly undertake the investigation, hold an investigative conference to obtain any additional evidence or statements, and report the findings regardless of whether a case is open or active in the division of dispute resolution.

For a full list of bills visit <https://malegislature.gov/Committees/Detail/J43/Bills>



DIA | Boston & Regional Offices



DIA | Public Information Unit

The DIA has one 1) Boston office and four (4) regional offices throughout the Commonwealth [DIA Website](#)

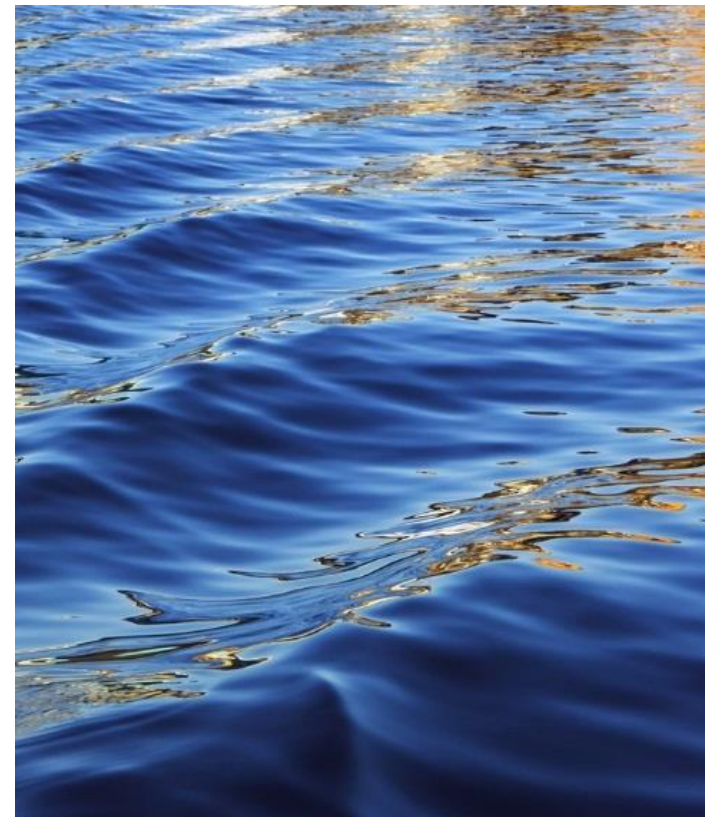
- ❑ 2 Avenue de Lafayette, Boston, MA. 02111 Tel: ~~(617) 727-4900~~
- ❑ 1 Father Devalles Boulevard, Fall River, MA. 02723 Tel: ~~(508) 676-3406~~
- ❑ 354 Merrimack Street #230 Lawrence, MA. 01843 Tel: ~~(978) 683-6420~~
- ❑ 100 Front Street #310, Worcester, MA. 01608 Tel: ~~(508) 753-2072~~
- ❑ 436 Dwight Street STE 105, Springfield, MA. 01103 Tel: ~~(413) 784-1133~~

For FY '23, the Public Information Unit collected data for all DIA offices, two of the main areas of focus are; phone inquiries and the number of visitors to each office. The DIA partners with the Office of Multilingual Services to gauge usage throughout the year | Total: 404 calls, 5,330 minutes, and \$2,462.80 in spending.

FY'23	Calls + Visitors
Boston	20,666
Fall River	2,110
Lawrence	811
Springfield	1,190
Worcester	1,451



DIA | Departments



DIA | Office of Claims Administration

- The Office of Claims Administration starts the dispute resolution process within the DIA when it receives a filing by employers, insurance companies, attorneys, and third parties.
- When an employee is incapable of earning full wages for 5 or more days or dies, as a result of a work-related injury or disease, an employer must submit the Employer's First Report of Injury or Fatality (FROI | Form 101). If the employer does not send the Form 101 to the insurer within 30 days of your injury, the injured worker can complete the DIA's Employee Claim (Form 110).

Strains & sprains accounted for **41%** of the injuries reported

- Total cases filed: 10,560
- Approximately 50% of cases resolve at conciliation

FY'19:
First
Reports
31,000

FY'20:
First
Reports
31,000

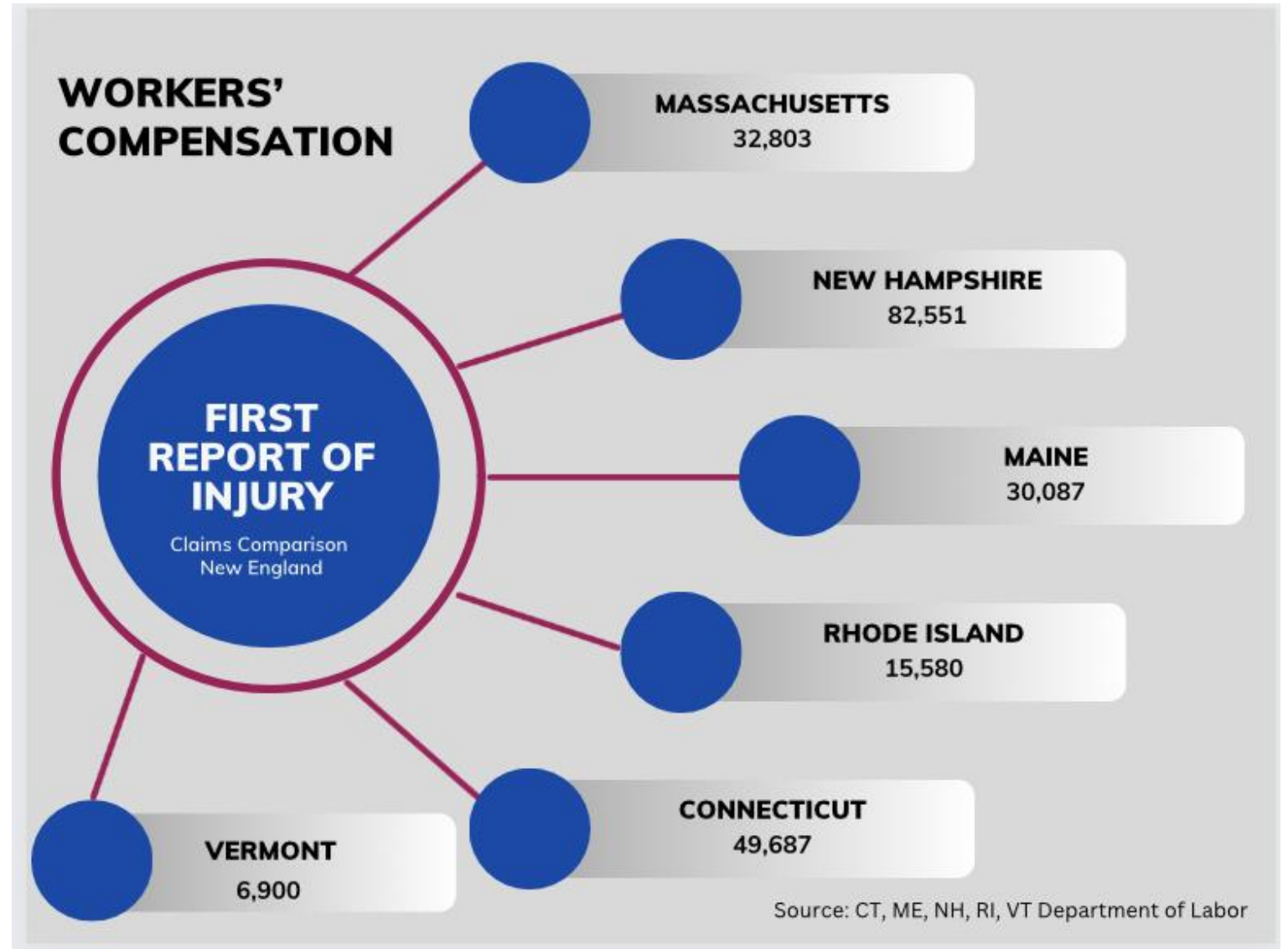
FY'21:
First
Reports
35,000

FY'22:
First
Reports
33,000

FY '23:
First
Reports
32,803



Claims Comparison | New England



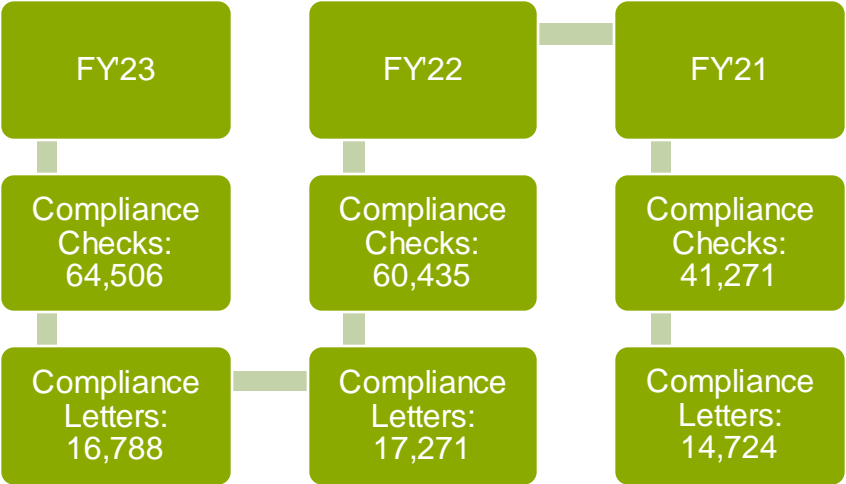
DIA | Compliance & Enforcement

The Office of Investigations monitors businesses and organizations across the Commonwealth to ensure that employers in Massachusetts have workers' compensation insurance. This office also handles Compliance and Enforcement.

Stop Work Orders (SWOs)

A Stop Work Order (SWO) is a citation that is issued to a company if the business does not have workers' compensation insurance as indicated by M.G.L. c. 152, § 25A. A SWO shall be issued by an investigator duly authorized by the Director of the DIA.

- FY'23: 1,375 SWOs issued | \$936,757 Fines collected
- FY'22: 1,295 SWOs issued | \$797,974 Fines collected
- FY'21: 1,049 SWOs issued | \$167,729 Fines collected



The DIA conducted an average of 200 field investigations per month.
The DIA issued an average of 12,000 compliance checks each for field + office compliance checks.

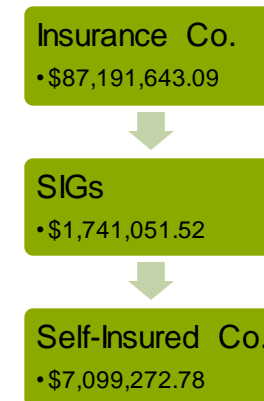


DIA | Office of Insurance & Office of Assessment & Compliance

The DIA's Office of Insurance maintains a record of the workers' compensation insurer for every employer in the state.



The total additional amount collected from insurance companies, self-insured + SIGS during FY'23



- ❑ The total number of assessments remitted to the DIA, from CPA reviews, during FY'23: 216,361
- ❑ The number of new self-insurance licenses issued during FY'23: 0
- ❑ The total number of self-insured employers (parent-licensed) in FY'23: 64
- ❑ The number of subsidiaries covered by these parent-licenses: 380
- ❑ The total number of inquiries to the insurance for historical information from the insurer register in FY'23: 1,577

DIA | Division of Dispute Resolution & Reviewing Board

Under the supervision of the senior judge, the Division of Dispute Resolution assists in the voluntary settlement of cases through a fair and efficient system for solving disputed workers' compensation cases.

FY'23

- **Conciliations resolved:** 5,629
- **Conference queue:** 495 (monthly average)
- **Hearing queue:** 1,309 (monthly average)

Reviewing Board

- **Appeals:** 135
- **Cases awaiting pre-transcript:** 67
- **Cases awaiting briefs:** 46
- **Cases awaiting panel assignment:** 116
- **Cases under panel deliberation:** 68
- **Reviewing Board Decisions:** 6

Additional Resources:

- **Impartial Physicians Roster** - This is a list of doctors who perform impartial medical examinations for the Department of Industrial Accidents after a conference order has been appealed. As of January 12, 2023, there were 72 physicians on the roster

<https://www.mass.gov/servicedetails/impar>

<https://www.mass.gov/dia-reviewing-board-decisions>





DIA | Office of Education & Vocational Rehabilitation

The Office of Education & Vocational Rehabilitation (OEVR) assists injured workers who have an accepted or established workers' compensation claim to return to meaningful employment. The goal of vocational rehabilitation services is to return an employee to their pre-injury average weekly wage. OEVR is responsible for overseeing these services.

In FY'23, OEVR was headed by a Director and staffed by 6 Rehabilitation Review Officers, and 2 Clerks. There are no Disability Analysts on staff.

❑ 1,357 cases were referred to OEVR

With 25 vocational rehabilitation providers approved, the encumbrances of the Trust Fund totaled \$0.00 for vocational rehabilitation services. All services provided by the OEVRs certified list of vocational providers are paid for by the employer's workers' compensation carrier.

- ❑ 88.5 % proceeded to a mandatory meeting
 - For those cases that received a meeting, 18.4 % were referred to the insurer/self-insurer for a referral to a vocational counselor
- ❑ In FY '23 there was a 72 % success ratio of those injured workers who completed plans & returned to work

Source: DIA Office of OEVR



DIA | Office of Health Policy & Health Care Services Board

The Health Care Services Board (HCSB) is a 14 member advisory group established by [MGL c. 152, § 13](#). The board members are appointed by the Director of the Department of Industrial Accidents. The members represent a variety of professions concerned with the treatment and care of injured workers.

- ❑ There were 3 complaints analyzed in FY '23

In FY '23 there were no medical treatment guidelines adopted - in FY '22, HCSB revised and the DIA adopted revisions to the Chronic Pain Treatment Guideline, the Neck and Back Treatment Guideline, and the Opioid-Controlled Substance Protocol.

- ❑ With two employees, the Office of Health Policy conducted 22 audits on utilization review agents, and there were no complaints for utilization review to analyze during FY'23.

DIA | Office of Safety

Workplace Safety Grant Application Update: The DIA Office of Safety has improved the application process for the Workplace Safety Grant from paper format to a digital system. For more details: [Click here](#)

The Workplace Safety Grant Program accepted applications from April 11, 2022, to September 30, 2022. The application deadline was extended to accommodate the high volume of new applicants throughout the Commonwealth.

Operating with an \$800,000 budget, the Office of Safety paid out \$779,514.

Source: DIA | Office of Safety website

Sample of annual safety grants by County

Barnstable County	Hampden County	Middlesex County	Norfolk County	Suffolk County
Concrete Co providing safety to employees	Arbor service	Co providing services to families in need	Cleaning Co: providing OSHA, CPR & First Aid training	Maintenance for residential & commercial buildings
Grant: \$7,200	Grant: \$3,180	Grant: \$10,400	Grant: \$6,900	Grant: \$10,400



DIA | Workers' Compensation Trust Fund

The Workers' Compensation Special Fund and Workers' Compensation Trust Fund were established pursuant c. 152 § 65. The proceeds are expended for the operating expenses for the DIA, the payment of uninsured claims, Sections 34B, 35F, 37, 37A.

Both the Special Fund and the Trust Fund are funded by revenues generated from **assessments** imposed on all insured employers subject to MGL c. 152.

- ❑ In FY'23: 95 new Section 65 injuries were recorded. Construction + Transportation had the highest uninsured claims by industry

FY'23: \$7,726,621

FY'22: \$6,924,993

FY'21: \$5,385,046

The Civil Litigation Unit makes every effort to recover money owed by utilizing the authority of MGL Chapter 152 to recover money paid on uninsured claims through legal action against the employer in question ->

FY23: \$1,061,271

FY22: \$1,283,640

FY21: \$972,368

The amount WCTF issued in payments against open claims.

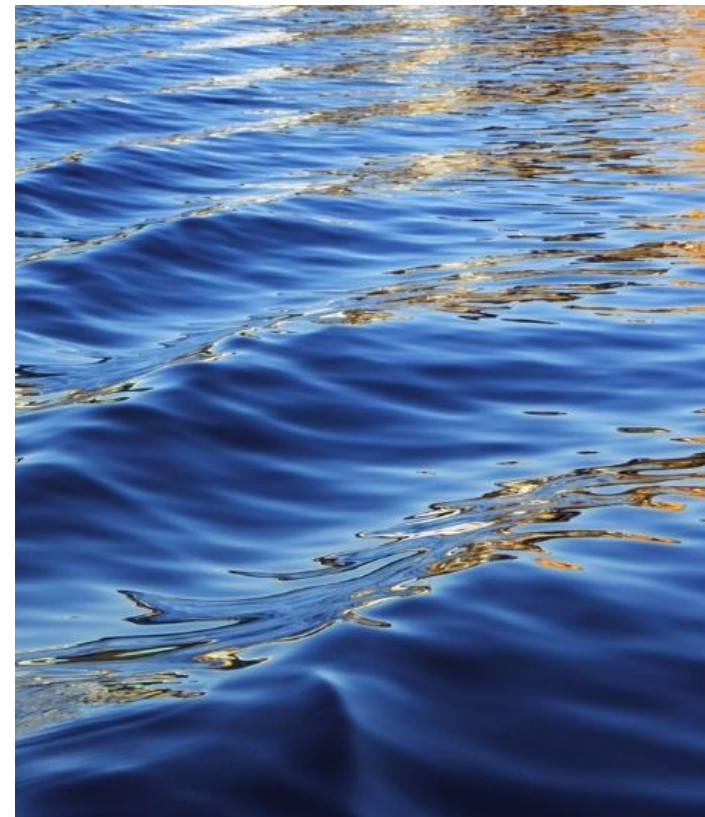


The National Institute for Occupational Safety and Health (NIOSH)

- **Workers' Compensation Studies | Temporary Workers:** Researchers found that workers employed in temporary agencies had **higher** overall workers' compensation claim rates than permanently employed workers performing comparable work from 2001 to 2013 among Ohio BWC-insured private employers. Read more about the study on this [NIOSH Science Blog](#) and access the full research study [here](#).



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VACANT

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Executive Director | Maureen O'Connell

Workers' Compensation Advisory Council
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