FOCUS OF THIS CHAPTER:

The focus of this chapter is to introduce the student to the basic concepts in a workers’ compensation system, including an outline of the basic premise of workers’ compensation where employees surrender certain rights in order to come under the coverage of the system and employers agree to pay into that system. This chapter also outlines the basic concepts of the benefit structure system that is found in the workers’ compensation system.

CHAPTER OUTLINE

Chapter 1—Introduction to Workers’ Compensation

I. Introduction: What Is Workers’ Compensation?
   A. The Basic Premise of Workers’ Compensation
   B. A Short History of Workers’ Compensation
   C. Exclusiveness of Remedy
   D. Do Workers’ Compensation Statutes Violate the U.S. Constitution?

II. Determining Who Is Covered by Workers’ Compensation Statutes
   A. Who Is Covered Under Workers’ Compensation?
   B. Persons Who Are Not Covered Under Workers’ Compensation
III. Workers’ Compensation Benefits
   A. Medical Expenses
   B. Income During Injury/Illness
   C. Death Benefits
   D. Burial Benefits
   E. Determining the Amount of Benefits
   F. Special Protections for Firefighters and Law Enforcement Officers
   G. Denying Benefits for Claims of Fraud

WEB SITES ANNOTATED

Legal Information Institute
http://www.law.cornell.edu/topics/workers_compensation.html
   Cornell Law School offers an excellent overview of the topic of worker’s compensation law.

Commission on Health and Safety and Workers’ Compensation
http://www.dir.ca.gov/CHSWC/chswc.html
   This is the workers’ compensation site for the state of California.

Alabama Department of Industrial Relations
http://dir.alabama.gov/wc/
   Alabama’s workers’ compensation site.

Colorado Division of Workers’ Compensation
http://www.coworkforce.com/dwc/
   Colorado’s workers’ compensation site.

New Jersey Department of Labor and Workforce Development
http://lwd.dol.state.nj.us/labor/wc/wc_index.html
   New Jersey’s workers’ compensation site.
Federal Workers’ Compensation and Tort Law in Workers’ Compensation

FOCUS OF THIS CHAPTER:
This chapter explains the federal workers’ compensation system as well as some of the common-law influences on state workers’ compensation law. The chapter introduces the concept of negligence as well as product liability and intentional torts and then differentiates between negligence theory and workers’ compensation administrative rules and regulations. After that, the chapter discusses the federal system in detail, including a brief history of that system and an outline of the federal employee’s compensation benefits available. In addition to the federal compensation system, the chapter also discusses the Federal Black Lung program, Social Security, Medicare, and Medicaid, as well as explaining the Defense Base Act.

CHAPTER OUTLINE
Chapter 2—Federal Workers’ Compensation and Tort Law in Workers’ Compensation

I. Introduction to Federal Programs
II. Common-Law Influences on Workers’ Compensation
   A. Negligence
      1. Duty
         a. Assumption of the Risk
   B. Product Liability
   C. Intentional Torts
      1. Injuries Caused by Coworkers

III. Federal Workers’ Compensation
   A. Federal Employees’ Compensation Act
      1. The Federal Workers’ Compensation System
      2. A Short History Lesson on Federal Workers’ Compensation
      3. Qualifying Under FECA
      4. Exceptions to Federal Workers’ Compensation
   B. Federal Workers’ Compensation Benefits
      1. Benefits Under the Federal System
         a. Continuation of Pay (COP)
   C. Filing a Federal Workers’ Compensation Claim
   D. Criminal Sanctions Under FECA

IV. Other Federal Programs That Provide Coverage for Employees
   A. Federal Black Lung Program
   B. Social Security
      1. History of Social Security
      2. Social Security Disability Insurance (SSDI)
      3. Supplemental Security Income (SSI)
   C. Medicare and Medicaid
      1. What Is Medicare?
      2. What Is Medicaid?
         a. Qualifying for Medicaid
      3. Comparing Medicare and Medicaid
   D. Coordinating Benefits on the State and Federal Level
      1. Fraud
   E. Becoming an Advocate for Others in Social Security and Medicare
      Hearings
      1. Compensation
F. The Defense Base Act
   1. Worker Benefits Under DBA
      a. Disability Payments
      b. Medical Benefits
      c. Death Benefits
   2. Who Is Covered Under DBA?

WEB SITES ANNOTATED

Ohio Bureau of Workers’ Compensation
http://www.ohiobwc.com/
Ohio’s workers’ compensation site.

Alaska Division of Workers’ Compensation
http://labor.state.ak.us/wc/home.htm
Alaska’s workers’ compensation site.

Idaho Industrial Commission
http://www.iic.idaho.gov/
Idaho’s workers’ compensation site.

Oregon Workers’ Compensation
http://wcd.oregon.gov/
Oregon’s workers’ compensation site.
FOCUS OF THIS CHAPTER:
This chapter distinguishes between employers and employees in the workers’ compensation systems found on the state level. The chapter explains not only who qualifies as an employee under the system, but equally as important, who does not qualify under that definition. For example, the chapter explains the differences between an employee and an “independent contractor.” The materials also explain the important legal definitions of what constitutes an employer for purposes of workers’ compensation benefits and how that definition can be affected by various business organizational schemes.

CHAPTER OUTLINE
Chapter 3—Employers and Employees Under Workers’ Compensation

I. Introduction to Employers and Employees

II. Employers and Employees Under the Workers’ Compensation System
   A. Employers Under Workers’ Compensation
      1. Minimum Number of Employees
2. Multiple Employers  
   b. Court Doctrines That Determine Employer Status Under Workers’ Compensation

B. Employers Subject to the Workers’ Compensation Statute  
   1. Partnerships  
   2. Statutory Employers  
      a. Determining Statutory Employer/Employee Status  
   3. Charities and Non-Profit Organizations

C. Employers Who Wrongfully Deny Workers’ Compensation Coverage  
   1. What Is Casual Employment?

III. Employees Under Workers’ Compensation  
   A. Regular Employees  
   B. Employees Who Do Not Qualify for Workers’ Compensation  
   C. Compensation  
   D. Domestic Workers  
   E. Odd Jobs  
   F. Professional Athletes  
   G. Subcontractors  
   H. Independent Contractors  
      1. Determining Independent Contractor Status  
   I. New Restrictions on Employers Under Workers’ Compensation  
      1. Self-Insurers  
      2. Proof of Workers’ Compensation Coverage

WEB SITES ANNOTATED

Louisiana Workers’ Compensation Board  
http://www.laworks.net/WorkersComp/OWC_WorkerMenu.asp  
Louisiana’s workers’ compensation site.

Workers’ Compensation Board of Indiana  
http://www.in.gov/workcomp/  
Indiana’s workers’ compensation site.
Arkansas Workers’ Compensation Commission
http://www.awcc.state.ar.us/
The workers’ compensation site for the state of Arkansas.

State of Connecticut Workers’ Compensation Commission
http://wcc.state.ct.us/
Here is Connecticut’s workers’ compensation Web site.

Maine Workers’ Compensation Board
http://www.maine.gov/wcb/
Maine’s workers’ compensation Web site.

South Dakota Department of Labor
http://www.state.sd.us/applications/LD01DOL/frameset.asp?navid=1&filtertype=1
Web site about workers’ compensation in South Dakota.
FOCUS OF THIS CHAPTER:

Defining what constitutes an injury is the focus of Chapter 4. It is simple common sense to state that just because a worker is injured does not necessarily mean that the injury is covered under workers’ compensation law. The chapter explains injuries arising out of and in the course of employment as well as the implications for the employee for doctrines such as frolic, detour, and dual purpose trips. In addition, the chapter discusses and distinguishes between psychological injuries, horseplay, and acts of nature. Finally, the chapter explores issues surrounding preexisting injuries.

CHAPTER OUTLINE

Chapter 4—Injuries Under Workers’ Compensation

I. Introduction to Injuries

II. Defining Injuries Under Workers’ Compensation
   A. Injuries “Arising Out of” and “in the Course of” employment
      1. Defining “Arising Out of”
      2. Defining “in the Course of”
III. Types of Injuries Under Workers’ Compensation
   A. Travel to and from Work
      1. Frolic
      2. Detour
      3. Dual Purpose Trips
   B. Horseplay
   C. Psychological Injuries
   D. Acts of God or Nature
   E. Assault
   F. Preexisting Injuries
      1. Subsequent Injury
   G. Suicide
   H. Intoxication
   I. Occupational Diseases
      1. Defining Occupational Diseases
   J. Activities Not Strictly Related to Work
      1. Personal Comfort Doctrine
      2. Emergencies

WEB SITES ANNOTATED

California Department of Health Services Prevention Services Program
http://www.dhs.ca.gov/ps/deodec/default.asp
   This site provides a good overview of occupational diseases.

Law Guru
http://www.lawguru.com/faq/22.html
   This site provides some excellent information about workers’ compensation law in one of our most populous states (California).

IWIF
http://www.iwif.com/
   This site is dedicated to providing information about workers’ compensation insurance.
Texas Workers’ Compensation Commission
http://www.tdi.state.tx.us/wc/indexwc.html
   This site provides some excellent workers’ compensation forms for claims arising under Texas law.

Nebraska’s Workers’ Compensation Court
http://www.wcc.ne.gov/
   Explore this site to learn more about the workers’ compensation system in Nebraska.

New Hampshire Department of Labor
http://www.labor.state.ny.us/workers_compensation.asp
   Check out this site to learn more about the workers’ compensation system in New Hampshire.

Delaware Department of Labor
http://www.delawareworks.com/industrialaffairs/services/WorkersComp.shtml
   Workers’ compensation in Delaware.

Maryland Workers’ Compensation Commission
http://www.wcc.state.md.us/
   This site provides an excellent overview of workers’ compensation in Maryland.

Tennessee Department of Labor and Workforce Development
http://www.state.tn.us/labor-wfd/wcomp.html
   You can find Tennessee’s workers’ compensation forms, FAQs, and additional information here.
FOCUS OF THIS CHAPTER:
This chapter explores the various types of benefits that are available under the state-based workers’ compensation systems. In addition to laying the foundation for medical benefits that are provided under workers’ compensation law, this chapter also explores in detail disability payments under the form of temporary partial disability or temporary total disability payments as well as permanent partial disability and permanent total disability payments. Students are introduced to the various concepts that underlie an award of benefits as well as to grading systems that help medical practitioners determine the extent of a particular worker’s injuries and how this rating system will affect the ultimate award in a case.

CHAPTER OUTLINE
Chapter 5—Benefits Under Workers’ Compensation

I. Introduction

II. Medical Benefits
   A. Waiving Medical Benefits
   B. Physical Rehabilitation
   C. Transportation
   D. Nonstandard Injuries or Illnesses
E. Preexisting Injuries or Illnesses

F. The “Healing Period”

III. Disability Payments
   A. Temporary Partial Disability
   B. Temporary Total Disability
      1. Differentiating Between Temporary and Permanent
   C. Permanent Partial Disability
      1. Defining Partial Disability
   D. Permanent Total Disability
   E. Lump Sum Disability Payments
   F. Awards for Pain and Suffering
   G. Earning Capacity
   H. Awards for Multiple Injuries
   I. Disfigurement
   J. Preexisting Conditions

IV. Vocational Rehabilitation and Job Placement Services
   A. Job Placement Services

V. Death Benefits

VI. Denial or Termination of Benefits
   A. False Representations by the Employee
   B. Refusing Medical Treatment
   C. Illegal Aliens, Immigration Status

VII. Case Management Issues in Workers’ Compensation
   A. Case Manager

VIII. Catastrophic Claims
   A. What Qualifies as a Catastrophic Claim?

WEB SITES ANNOTATED

Minnesota Department of Labor and Industry (Temporary partial disability payments)

http://www.doli.state.mn.us/sdstdp.html

This site provides an excellent overview of temporary partial disability payments in Minnesota.
Montana Permanent Partial Disability
This is Montana’s workers’ compensation site and it explains permanent partial disability payments very well.

Washington State Workers’ Compensation Benefits
http://www.lni.wa.gov/ClaimsIns/Claims/default.asp
This site explains benefits, payments, and medical treatment under the workers’ compensation system in Washington state.

Vermont Department of Labor
Vermont’s workers’ compensation site.

Bureau of Labor Statistics
http://www.bls.gov/
At this site, you’ll find extensive links and information on a wide variety of jobs and activities.

District of Columbia: Department of Employment Services
http://www.does.dc.gov/does/cwp/view.asp?a=1232&Q=537428
Workers’ compensation in the District of Columbia

Massachusetts—Department of Industrial Accidents
http://www.mass.gov/dia/
This Massachusetts workers’ compensation site provides extensive resources for instructors, including information about claims, businesses, attorneys, and insurance.

U.S. Department of Labor
http://www.dol.gov/
The Department of Labor site is huge and extensive and provides a wealth of information on all aspects of worker issues.
FOCUS OF THIS CHAPTER:
In Chapter 6, the materials focus on the organization and structure of the workers’ compensation system. The chapter discusses the basics of filing a claim as well as what is involved in litigating a claim before the workers’ compensation board.

CHAPTER OUTLINE
Chapter 6—The Workers’ Compensation System

I. Introduction to the Workers’ Compensation System
   A. Benefit Disputes

II. Filing a Claim
   A. Statutes of Limitation
   B. Notice of Hearing
   C. Filing Forms

III. Preparing for the Hearing
   A. Discovery in Workers’ Compensation Hearings
B. Types of Discovery
   1. Depositions
      a. Video Depositions
   2. Interrogatories
   3. Request for Production of Medical Records
   4. Request for Independent Medical Examination
C. Refusal to Abide by Discovery
D. Reviewing the Workers’ Compensation File
   1. Adding Documents to the File

IV. Workers’ Compensation Hearings
   A. Benefit Review Conference
   B. Arbitration Hearings
   C. Hearings
      1. Location of the Hearing
      2. The Hearing Date
      3. Canceling the Hearing
   D. Representation at the Hearing
      1. Compensating Attorneys
   E. Evidentiary Rules

V. Administrative Law Judges
   A. Powers of the Administration Law Judge
   B. Communicating with Administrative Law Judges
   C. Requesting a Different Judge
   D. Administrative Law Judge’s Role at the Hearing

VI. Conducting the Hearing
   A. Witnesses
      1. Subpoenas
      2. Direct Examination
      3. Cross Examination
      4. Rule of Sequestration
      5. Refusal to Testify
VII. Initial and Further Hearings
   A. Recording the Hearing
   B. Concluding the Hearing
   C. Settling Workers’ Compensation Cases

WEB SITES ANNOTATED

Bureau of Labor Statistics—Work-related injuries
http://www.bls.gov/iif/#tables
   This site provides extensive information on work-related injuries and provides reports in PDF format.

Wisconsin Department of Workforce Development
http://www.dwd.state.wi.us/wc/workers/claim_flow.htm
   Remember to put an underscore between ‘claim’ and ‘flow’ and you’ll get an excellent claim flow chart brought to you by this Wisconsin workers’ compensation site.

Industrial Commission of Arizona
http://www.ica.state.az.us/workersCompensation/index.html
   This Arizona workers’ compensation site provides extensive links for forms and information about hearings.

State of Florida Division of Administrative Hearings
http://www.jcc.state.fl.us/jcc/
   This site is Florida’s workers’ compensation administrative hearing Web site and provides excellent information about how and when to bring a contested claim.

Rhode Island Workers’ Compensation Court
http://www.courts.state.ri.us/workers/defaultnew-workers.htm
   This site will take you to Rhode Island’s Workers’ Compensation Court and provides information about court processes, court calendars, access to appellate decisions and forms.

State of South Carolina Workers’ Compensation Commission
http://www.wcc.state.sc.us/

Georgia State Board of Workers’ Compensation
http://sbwc.georgia.gov/02/sbwc/home/0,2235,11394008,00.html;jsessionid=DAD281A8EEF59C7E092AABE362C9D7
Although the site is long, it does take you directly to Georgia’s State Board of Workers’ Compensation site devoted to filing claims, forms, and publications.

Michigan Workers’ Compensation Agency
http://www.michigan.gov/wca

This is Michigan’s workers’ compensation site.

West Virginia Insurance Commission
http://www.wvinsurance.gov/boardofreview/index.htm

This is West Virginia’s Web site devoted to hearings and appeals of workers’ compensation cases.
Workers’ Compensation Insurance

FOCUS OF THIS CHAPTER:

In Chapter 7, the student is introduced to the concept of workers’ compensation insurance, including an overview of the basic arrangement between the insured, the insurer, and the employee. The chapter also examines the state mandates that require workers’ compensation insurance for employers. In addition, the chapter also reviews the basic arrangements in an insurance policy, including rates, premiums, binders, and the methods used to calculate premiums.

CHAPTER OUTLINE

Chapter 7—Workers’ Compensation Insurance

I. Introduction to Insurance

II. Workers’ Compensation Insurance

A. Multiple Workers’ Compensation Insurance Policies

B. The Requirement to Provide Insurance

1. Enrollment in a State-Based Insurance Program
2. Purchasing Private Insurance
3. Self-Insurance
4. Requirement to Invest Funds Collected
III. State Regulation of Workers’ Compensation Insurance
   A. Rates
   B. Premiums
      1. Calculating Premiums
      2. Risk Exposure
   C. Classifications
   D. Refusal to Pay Benefits
   E. Verifying Coverage
   F. Penalties for Failing to Maintain Workers’ Compensation Coverage

IV. Practical Applications of Insurance Coverage
   A. Policy Ambiguities
      1. Font Sizes
      2. Exclusions
      3. Documentation to be Submitted to the Workers’ Compensation Board
      4. Duty to Defend
         a. Declaratory Judgments

WEB SITES ANNOTATED

North Carolina Industrial Commission
http://www.comp.state.nc.us/

This site provides a broad range of information on workers’ compensation issues.

Pennsylvania Department of Labor and Industry
http://www.dli.state.pa.us/landi/cwp/view.asp?a=151&q=209835

Pennsylvania’s web site includes downloadable forms and an anti-fraud division.

Virginia Workers’ Compensation Commission
http://www.vwc.state.va.us/

Virginia’s workers’ compensation site.

Labor Commission of Utah

Utah’s workers’ compensation site.
Vermont Department of Labor and Industry
http://www.state.vt.us/labind/wcindex.htm
   Vermont’s workers’ compensation site.

Hawaii Department of Labor and Industrial Relations
http://hawaii.gov/labor/
   Hawaii’s workers’ compensation site.

Mississippi Workers’ Compensation Commission
http://www.mwcc.state.ms.us/
   Mississippi’s workers’ compensation site has an excellent FAQ link.

Oklahoma Workers’ Compensation Court
http://www.owcc.state.ok.us/
   Oklahoma’s workers’ compensation site provides forms in PDF format, among other things.
FOCUS OF THIS CHAPTER:

This chapter examines the various phases of a workers’ compensation case post-hearing. For instance, a case may be resolved through settlement. In this chapter, we examine the various ways that litigants evaluate a settlement and the procedure used to settle a case. In addition to settlement, the chapter also discussed the appellate function of the state Workers’ Compensation Board, as well as the structure and organization of the state appellate court system. Finally, the chapter addresses the powers of appellate courts and the filing of briefs to bring an appeal of a finding in a workers’ compensation case.

CHAPTER OUTLINE

Chapter 8—Appealing a Workers’ Compensation Award

I. Introduction

II. Settlement in Workers’ Compensation Claims
   A. Compromise and Release
      1. Factors to Consider Before Attempting to Settle
      2. Evaluation of Claims for Settlement Purposes
   B. Creating a C&R Settlement
III. The Workers’ Compensation Board
   A. Petition for Reconsideration
      1. Deadlines

IV. The Workers’ Compensation Appeals Board
   A. Procedure at the Workers’ Compensation Appeals Board
      1. Actions by the Appeals Board

V. The State Court of Appeals
   A. The Organization of Court Systems in the United States
   B. Courts of Appeal
      1. Terminology in Appellate Courts
   C. The State Supreme Court
      1. Certiorari
         a. Grounds for Granting Cert
   D. The Federal Appellate Court System
   E. The U.S. Supreme Court

VI. Bringing an Appeal
   A. Notice of Appeal
   B. Appellate Briefs
      1. Contents of an Appellate Brief
         a. Title Page
         b. Statement of Facts
         c. Enumerations of Error
         d. Argument
         e. Conclusion

VII. Powers of Appellate Courts
   A. Affirming a Decision
   B. Reversing a Decision
   C. Modifying a Decision
   D. Remanding a Case
WEB SITES ANNOTATED

California Workers’ Compensation Appeals Board
http://www.dir.ca.gov/wcab/wcab.htm
  California’s appellate board provides forms for appealing a workers’ compensation ruling.

Nevada Division of Industrial Relations
http://dirweb.state.nv.us/
  Nevada’s workers’ compensation site.

Indiana Workers’ Compensation Board
http://www.in.gov/workcomp/
  Indiana’s workers’ compensation site.

Illinois Workers’ Compensation Commission
http://www.iwcc.il.gov/
  Workers’ compensation in Illinois.

Missouri Department of Labor and Industrial Relations
http://www.dolir.missouri.gov/wc/
  Missouri’s workers’ compensation site.
FOCUS OF THIS CHAPTER:

The final chapter in the text focuses on various issues and proposals linked to the workers’ compensation system. For instance, many employers have initiated preemployment screenings of employees to avoid problems before they occur. In addition, workers’ compensation systems across the country have embraced medical utilization schemes that try to maximize medical benefits and limit costs. There have also been numerous proposals to change the workers’ compensation system, including initiatives to impose stricter medical fee schedules, to adopt evidence-based medicine principles, and to engage in better training of physicians in disability ratings and better fraud detection.

CHAPTER OUTLINE

Chapter 9—Medical Utilization Issues in Workers’ Compensation

I. Introduction

II. Preemployment Screening

III. Employer Initiatives to Decrease On-the-Job Injuries
   A. “Near Miss” Reports
   B. Enhanced Safety Training
IV. Medical Utilization Issues
   A. Tracking Medical Costs
   B. Income-Based Disparities?

V. Proposals to Change the Workers’ Compensation System
   A. Medical Fee Schedules
   B. Evidence-Based Medicine
   C. Train Physicians in Disability Ratings
   D. Generic Drug Initiatives
   E. New and Better Training Programs for Claims Handlers
   F. Revisions to Sanctions and Fines Under the Workers’ Compensation System
   G. Streamline Grievance Procedures
   H. Better Fraud Detection

WEB SITES ANNOTATED

American College of Occupational and Environmental Medicine
http://www.acoem.org

State of Wyoming Department of Employment
http://wydoe.state.wy.us/doe.asp?ID=9

   Wyoming offers extensive information on rehabilitation therapy utilization.

North Dakota Workforce Safety and Insurance
http://www.workforcesafety.com/

   North Dakota provides a broad overview of medical utilization under the link “Utilization Review.”