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**LABOR  
COMMISSION  
STATE OF UTAH**

**QUARTERLY  
NEWSLETTER  
4th Quarter 2005**

**ON - THE - JOB**

R. LEE ELLERTSON, Editor-in-Chief

ROBYN B. BARKDULL, Editor

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# How to Tame the Monster?

By Bill Gerow, Information Technology Supervisor

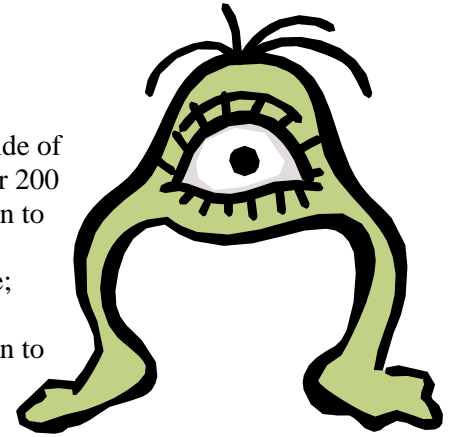
I have three sons attending college and all still living at home. I've given up hope they will ever move out. I've resigned myself to the fact they may be permanent fixtures at my house.

The only smart thing my wife and I did when we built our house was to put all their bedrooms in the basement. We only see them when they come up for food and to retrieve the clothes their mother has cleaned for them. We don't dare go into the basement ourselves for fear of being swallowed up in a vortex of clutter as big as our imagination can conjure. In reality it would probably only take my wife and I a day or two of good old fashioned sweat and elbow grease to clean whatever is down there, but with school schedules, social events, sports, neighborhood commitments and heaven forbid I should ever miss one episode of "The Apprentice"; we haven't much interest in tackling the horror down below. They're getting a good education and they aren't hurting anyone. Not yet anyway.

The situation with my sons is similar to the WEB site at the Labor Commission. It's taken on a life of its own. We have six divisions and within those are many sections. Each one of these divisions and sections has been throwing information to our *static* WEB pages for years. A *static* web page is one that just gives information or a printable form or something similar. This is opposed to a WEB application which interacts with the person viewing the page.

"We'd like to arrange these *static* WEB pages and the great information they contain into what Utah citizens like to see, what form they like to see it in, and then incorporate their favorite navigational aids".

As a result, the upside of this is there are over 200 pages of information to help people in our state. The downside; there are over 200 pages of information to keep track of from our end. With ever increasing work assignments, growing case loads, burgeoning hearing schedules, no one has the time or energy to examine each of these 200 pages to see if they still have pertinent information. And to admit the brutal truth, no one here has the



experience or expertise to mold this mass of information into an easily accessible and user friendly heap. It is a monster waiting for a champion to come along and whittle it into a tame and useful beast of burden.

Sometime in the near future the plan is to drag someone with a big sword to the Commission and  
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## How to Tame the Monster

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help us out. We'd like to arrange these *static* WEB pages and the great information they contain into

what Utah citizens like to see, what form they like to see it in, and then incorporate their favorite navigational aids. It needs to be much better than it currently is.

Oh, it really isn't as bad as I paint here. There are thousands of people who have visited our *static* WEB pages and found exactly the information they needed. We just have a desire to make it easier for the others out there that have yet to find out about us.

Of course what would be really nice is for someone out there in the private sector, maybe even someone reading this newsletter, to volunteer a bit of their time and energy to come give us the nudge we need in the direction we need to go with these *static* pages.

The area where we have excelled is *WEB application development*. We are currently developing a WEB application for our Boiler and Elevator Safety Division. The first phase of this application will let the boiler, pressure vessel and elevator inspectors from our agency look up information while they are at the job sight. They could be in Vernal, Moab, St. George, Logan or anywhere else in Utah and look up the information right then and there that is related to the inspection they are doing. Subsequent phases of this project will allow these same inspectors to send back inspection data in real time to the home office. They won't have to fill out a paper inspection report, carry it back to a computer in an office and type the same

information into the computer. It will all be done immediately and handled only once. Another phase

will allow other businesses related to the boiler, pressure vessel and elevator inspection business to look up and submit information the same way; immediately. And the final phase will allow owners of businesses to pay for these inspections across the



Labor Commission's IT Gang L to R: Anlene McCullough, Floyd Edwards, Mike Slyter (far back) Todd Duvall, Bill Gerow, DaNise Barney and Greg Clawson. Not pictured: James Hicks.

WEB. They will no longer have to wait for an invoice to be mailed to them a few weeks after the inspection and they won't have to mail a check or money order back to us. The inspector will come, inspect, submit the approved inspection, the owner will pay and all will be done and finished. A process that used to take a few weeks will now be done in a couple hours.

After this boiler, pressure vessel and elevator system is complete, our little IT group here at the Labor Commission should have all the knowledge and experience to create the same sort of systems for the other divisions at the Labor Commission. It will just depend on which business groups have the biggest need and shout the loudest to see who will have their system created first.

# Industrial Accidents

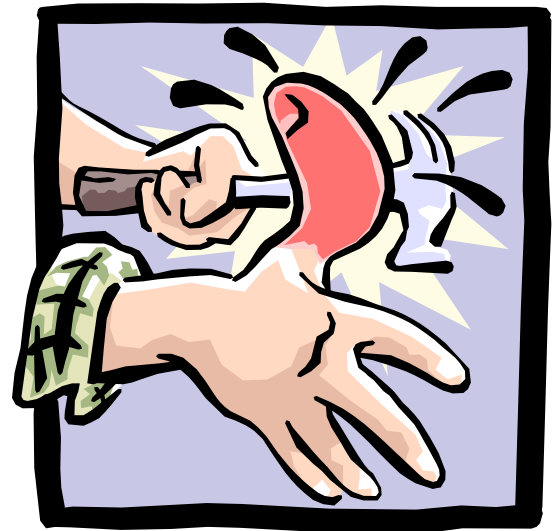
Joyce A. Sewell, Director, Industrial Accidents Division

The Industrial Accident's Division has given top priority this year to our outreach focus. It is our goal to better serve participants in the workers' compensation system by providing useful and updated information to employers and employees across the state.

One of our most important accomplishments and a valuable tool for Utah's workforce has been to add much more information pertaining to the workers' compensation program on the Labor Commission's website. We now have the entire Workers' Compensation law, as well as rules, medical fee guidelines, employee and employer guides, and all forms required for the program on the website. We also have links to the federal OSHA, Bureau of Labor Statistics, and the International Association of Industrial Accidents Boards and Commission (IAIABC) to provide the public with greater access to information related to injuries and illnesses in the workplace.

The "Employee's Guide" has been revised so an injured worker has answers to common questions relating to benefits, rights, and responsibilities. This booklet is made available to insurance carriers, employers, and physician offices in both English and Spanish at no charge for distribution to injured workers visiting those sites. The division also publishes an "Employer's Guide" to workers' compensation that is provided to any employer at no charge.

The Division also assists in educating employers on their rights and responsibilities for workers' compensation by presenting information to new employers at monthly seminars hosted by the Tax Commission. Larry Williams, policy supervisor for the Division, presented workers' compensation information to St. George businesses during the month of August.



A

seminar on treatment guidelines for the treatment of workplace injuries and illnesses for physicians, employers, and insurance carriers was held on September 20, 2005. A large number of physicians, insurance carriers and employers benefited from information discussed at the seminar regarding evidenced based treatment of injuries and illnesses.

The "Employee's Guide" has been revised so an injured worker has answers to common questions relating to benefits, rights, and responsibilities.

The Division has recently rearranged workloads among the staff which now allows part-time for one staff person to conduct onsite outreach for employers, medical care providers and employee groups. There are currently five

presentations planned for October and November. If you would like to have a presentation on the workers' compensation program, please contact Mary Betts at 801-530-6830 or by e-mail at [mbetts@utah.gov](mailto:mbetts@utah.gov)

We are excited about the expansion of our outreach program. Through the use of such tools as our website, updated and informative publications, and teaching throughout the community, we are closer to our goal of enabling the workers' compensation program to function as an administrative system, rather than a litigated system, and assisting injured workers in recovering and returning to the job in an efficient and cost effective manner.

# The Utah Antidiscrimination Division: Education and Service in Action

By Elena Bensor  
Education & Outreach Coordinator

**H**erbert Spencer, the renowned English philosopher, once wrote: “The great aim of education is not knowledge but action.” Thus, as the end of this year fast approaches, those of us at the Utah Antidiscrimination & Labor Division are compelled to reflect on the accomplishments of this year, and our goals for the upcoming future.

During the past year, our division has endeavored to solidify its standing in the community as a viable and expert resource in employment and fair housing issues through the continued development of partnerships. We have dedicated extensive resources and time in the development of new training sessions specifically designed around the needs of our Utah business community, human resources staff, landlords, real estate professionals and the general public.

Currently, the Division’s Education & Outreach Program continues to experience unprecedented growth due to the many training requests it receives, while at the same time intensifying efforts in maintaining a strong presence in the community. We at the Utah Anti-Discrimination Division, remain wholly dedicated to our goal of establishing recognition in the community as a responsive partner sensitive to the needs of our community.

During this year, we have hosted numerous information booths during community events, participated as conference presenters in events all around the state, and have served as a technical expert and source of contact for many employers, landlords, community agencies and the general public in need of technical assistance and information regarding employment issues, diversity training and fair housing law.

We have also accomplished many of our goals and reinforced our commitment to providing

resources and information to our growing and  
**Education and Service in Action**



Elena Bensor, Education & Outreach Coordinator for the Antidiscrimination & Labor Division

diverse community, by focusing on specific outreach strategies designed to inform and educate Utah minorities about their employment and housing rights. The Division has also placed many of its efforts in the creation and design of publications and informational resources for limited English speakers.

Additionally, our division has supported community and advocacy organizations by providing staff and manager training sessions free of charge. Due to frequent requests from employers and landlords dealing with diversity issues, a portion of our training curriculum now focuses on diversity and cultural competency, while still educating our customers about equal opportunity in employment and housing.

So what is in store for the future? As an agency that continually strives to meet the demands of a growing and diverse population, a new area of expansion is the recently implemented **Youth Initiative**, which focuses on identifying programs serving youth and at-risk teens. The purpose of this initiative is to educate our younger workforce about employment rights, how to prevent sexual harassment in the workplace and increase awareness of existing government resources. By

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effectively networking with existing programs at high schools and applied technology campuses, presenting at sociology and discrimination courses designed for high school seniors, and hosting information tables at various community events, we hope to be successful in accomplishing our goal of being more accessible to younger adults within the community and preparing our emerging workforce.

In the upcoming year, our outreach efforts will be focused on providing user friendly resources through effective use of our website, and in the development of e-publications and information easily accessible electronically. We will also continue our efforts towards the development of new and innovative

medium based business owners, our younger workforce, and our increasingly diverse communities.

For more information about the many resources and training sessions available to you through our division, please contact:

Elena Bensor  
Education & Outreach Program  
Utah Anti-Discrimination & Labor Division  
[elenabensor@utah.gov](mailto:elenabensor@utah.gov)  
(801) 530-6918 Toll-free 1-800-222-1238

outreach strategies by continually adapting our services to better serve the needs of small and

# The “Rules Corner”

Pursuant to authority granted by the Utah Legislature, the Commission has recently adopted or is considering the following substantive rules. If you have questions or concerns about any of these rules, please call the Labor Commission at 801-530-6953.

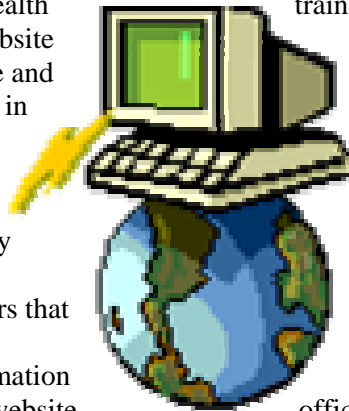


R612-4-2 Industrial Accidents	<b>Premium Rates for UEF and ERF.</b> Continues existing premium rates for Employers’ Reinsurance Fund at 7.25% and Uninsured Employers’ Fund at .25%	Discussed at Advisory Council and Open Public Meeting. Will be published 11/15/05.
R612-2-10 Industrial Accidents	<b>HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers:</b> Pursuant to legislation enacted last year, transfers procedures and standards for HIV and Hepatitis testing and reporting to the Commission’s Industrial Accidents Division.	Discussed at Advisory Council and Open Public Meeting. Will be published 11/01/05.
R602-2-3 Adjudication	<b>Medical Panels:</b> Increases compensation for physicians serving on the Commission’s medical panels.	Published 10/15/05. May become effective 11/15/05.
R608-1-8 UALD	<b>Fair Housing Procedure:</b> Reduces time for responding to Fair Housing complaints from 20 days to 10 days.	Effective 10/07/05.
Rule 616-2-3 Rule 616-3-3 Safety	<b>Engineering Codes:</b> Adopts recent amendments to ASME Boiler and Pressure Vessel codes and ASME Elevator and Escalator codes.	Published 11/15/05. May become effective 1/01/06.
R612-2-22 Industrial Accidents	<b>Medical Records:</b> Sets rules for use of medical records in workers’ compensation proceedings, in light of federal HIPAA standards.	Effective 7/02/05.
R612-2-5 Industrial Accidents	<b>Medical Fees:</b> Updates medical fee schedule for workers’ compensation cases. Increases fees in “evaluation & management” and “physical medicine categories.	Effective 7/02/05.
R612-2-18 Industrial Accidents	<b>Dental Treatment:</b> Clarifies procedures for payment of treatment expenses for dental injuries in workers’ compensation cases.	Effective 7/02/05.
Rule 612-1-3 Industrial Accidents	<b>Official Forms:</b> Defines circumstances in which employers and health care providers must file Forms 122 and 123.	Effective 7/02/05.
Rule 612-2-3 Industrial Accidents	<b>Filings:</b> Clarifies reporting requirements for first aid and other initial treatment of work related injuries	Effective 7/02/05.
R614-7-4 UOSH	<b>Occupational Safety &amp; Health:</b> Establishes safety standards for raising framed walls.	Effective 7/02/05.
R614-1-4 UOSH	<b>Occupational Safety &amp; Health:</b> Grants variance regarding methods for construction, repair and demolition of tall chimneys.	Effective 8/02/05.

# Navigating the UOSH Website

By Shaheen Safiullah, Compliance Officer

Utah Occupational Safety and Health (UOSH) is launching a new website that would be easier to navigate and offer much needed information in an efficient manner. There is a wide range of information on our website and readers often get lost while trying to get a piece of information they need. The new format is based on the questions and suggestions of our readers that include all levels of management and employees. Their comments and information was helpful in determining where the website information needed to be improved. The objective of revising the website is to make comprehensive safety and health related information available to all interested parties. The website information includes outreach efforts, safety and health links,



training and presentations. These links will offer help through compliance assistance for individuals as well as industries as a whole.

For those people who are new to the website it will be easier to access the information they are seeking. The website address is: [www.uosh.utah.gov](http://www.uosh.utah.gov) and should be on-line by the first of the new year. There are UOSH officers available everyday to answer questions you may have on any safety and health topic in addition to the website information.

## Features currently available on the UOSH website

- Information on Spanish language trainers.
- Links on safety and health for Hispanic workers.
- Outreach programs include safety programs for specific industries (tree trimming, window cleaning, residential construction etc.).
- Sample safety programs (Hazard communication, Respiratory Protection, Lockout/Tagout etc.)
- How to file a complaint in English and Spanish on-line.
- Submit a GRAMA request for an inspection report.
- Private Sector Consultation: How industries in the private sector can request free surveys, training etc. You can submit request on-line.
- Public Sector Consultation: How the state and local sectors can benefit from free surveys, training etc. You can submit request on-line.
- Compliance Assistance: Request for presentations, training for organizations or associations, host booths at safety fairs.
- UOSH poster in English and Spanish.
- Voluntary Protection Program (VPP).
- Safety and Health Achievement Recognition Program (SHARP)

UOSH is committed to providing up to date safety and health information that will enhance the existing information on our website! The links to safety and health programs and training in the Spanish language will assist employers who do not have access to these resources. We hope to attract more readers and improve our outreach efforts.

Our ultimate goal is to see a reduction in the worker injury and illness rates in Utah below the national average. These resources will direct employers and employees to links that can be used to build up on their existing safety and health programs or develop new ones. UOSH welcomes any comments or suggestions that will help us improve our

website and meet your needs. You can contact us at (801) 530-6901 or toll free at 1-800-530-5090. Currently, there is information on UOSH Compliance and Consultation services

on the UOSH website. In addition to these services, this website contains the following links:

#### Links currently available on the UOSH Website:

- A variety of outreach materials.
- Sample safety programs such as hazard communication, respiratory protection program, etc.
- Construction CD that contains information specific to the Construction Industry. You can also obtain a copy of the CD from our office.
- For those people who are interested in Private or Public Sector Consultation you can get information on these services. However, at present you cannot submit a request on-line.
- Compliance Assistance information with contact phone numbers is also available for interested parties.
- Our website provides readers with information on Voluntary Protection Program (VPP) and Safety and Health Achievement Recognition Program (SHARP).
- You can download the UOSH poster in English and Spanish as well.
- The Bureau of Labor Statistics Division prepares injury and illness statistics and posts it on the UOSH website for the public. This information is typically used by companies to compare with their individual rates.

## Utah Court of Appeals Decisions

By Alan L. Hennebold, Deputy Commissioner

In Barnard & Burk v. Labor Commission, 2005 UT App 401 (Case No. 20040987; decision issued September 22, 2005), the Utah Court of Appeals considered the validity and application of the Commission's Rule 602-2-1.D, which establishes pleading requirements for affirmative defenses in workers' compensation cases.

The Commission's Rule 602-2-1.D requires that respondents plead their affirmative defenses "with sufficient accuracy and detail that an applicant may be fully informed of the nature of the defenses asserted." The Commission concluded that Barnard & Burk had failed to comply with the rule and had, therefore, waived its affirmative statute-of-limitations defense. Barnard & Burk then sought review of the Commission's decision by the the Utah Court of Appeals.

A two-judge majority of the Court of Appeals upheld the Commission's rule-making authority

and found the Commission's Rule 602-2-1.D to be consistent with the provisions of the Utah Administrative Procedures Act (Title 63, Chapter 46b, Utah Code Annotated). The majority then concluded that the Commission's application of the rule to Barnard & Burk was reasonable and rational.

In a dissenting opinion, the remaining Court of Appeals judge expressed the opinion that, although the Commission's rule was proper, the Commission had misapplied the rule to the circumstances of this case. The dissenting judge would have reversed the Commission's decision and allowed Barnard & Burk to proceed with its affirmative defense.

