PEO INSIDER

PUBLISHED BY THE NATIONAL ASSOCIATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS®

THIS MONTH'S FOCUS

PEO RISK

ANALYSIS & ASSESSMENT

TRAINING & DEVELOPMENT

VALUE PROPOSITION

COVER STORY

CHARACTER FIRST: T&T STAFF MANAGEMENT, INC.

Thad Steele, Founder & CEO, T&T Staff Management, Inc.

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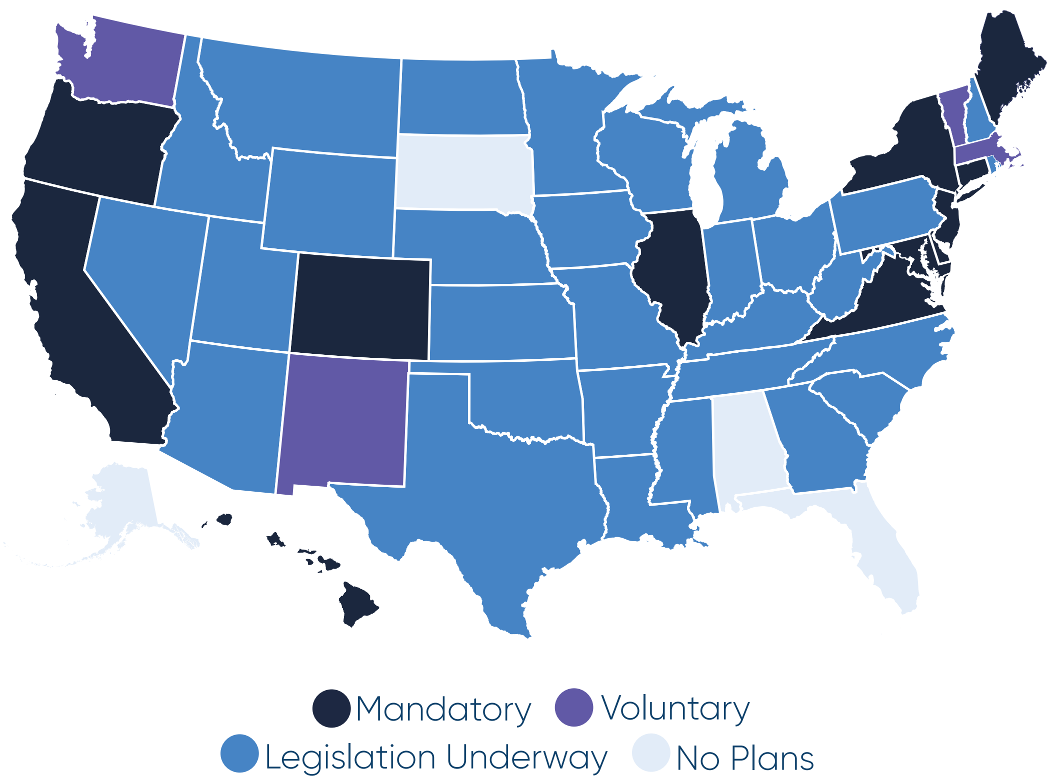
VOL. 27 ISSUE 3

APR 2023

State Mandated Retirement Plans for Small Businesses



Source: Georgetown University for Retirement Initiatives

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EVERY GAME MATTERS

BY KRISTEN J. APPLEMAN

March Madness is not just about the tournament's path to a National Championship, it is about the perseverance and grit of the players, sometimes playing from behind and seen as the underdog. It doesn't matter if you come in as a top seed. Every. Game. Matters. While we celebrate, and remember the game winning shot, it is the entire game that results in the win! The madness of March was not just in basketball; NAPEO ran each play with precision. I am proud of our many most valued players and plays of the game.

First off, a huge shout out to Emily Marsh for a win in New Mexico. At our last annual conference, I shared the importance of our work ahead in many states. In New Mexico, this was a game that went into multiple overtimes. We remained resolute through this multi-year journey that at times felt like one commercial break after another. I went back to my emails to remind myself when this first started. It was 2019, yes that's right folks, 2019. Cutting to the chase, HB 255 was signed by Governor Michelle Lujan Grisham on March 30 and specifically states that PEOs can sponsor large group health plans. Congrats and thank you to all those that were part of the win!

In March, our Board of Directors met in beautiful Sonoma for our first quarter board meeting and annual retreat. Focusing on the states, we strategized on how to elevate the role of our Leadership Council chairs. The board, along with our current LC chairs, expressed alignment of the LC chair's role as a liaison between the members of the state (or region) and NAPEO staff. Additionally, the LC chairs plug into the grassroots efforts in driving education and support of the PEO industry. A great example of this is the NY Advocacy Day in February. A team doesn't become a national champion by only playing in one game, it is a relentless pursuit of greatness over the course of a season. I am looking forward to sharing more about our progress of our Leadership Council and chair planning.

Pat also shared his decision to pass the torch to a new *Head Coach* of the NAPEO team as he plans to transition out as President and CEO at the end of 2023. I'd need a whole other page of the magazine to truly express the gratitude we have for his past 12 years. Luckily, we have many more games together and will ensure we do him proud!

While our time in the March highlight reel is winding down, I'd be remiss to not give a shout out to our *PEO Insider* team for winning the Gold Trendy Award for Monthly Trade Association Magazine. A high-five to Kristin Baldwin in running HB 394 down the court for the win as Governor Andy Beshear signed the cleanup measure on March 24. Several members of the NAPEO staff and I met with the Society of Human Resource Management (SHRM) to explore partnership opportunities at the end of March. My personal highlight was Capitol Hill visits and our continued push for awareness of PEOs and driving the forward movement of ERTC backlog resolution. I hope that you join me for the PEO Capitol Summit May 23-25th. It is our opportunity to meet with lawmakers to educate them on the critical role PEOs play in supporting businesses across the country.

We have more wins in sight! As my mantra goes...GSD!

Cheers! ■

KRISTEN J. APPLEMAN

2022-2023 NAPEO Chair
SVP, Health, Wealth, Tax, Compliance & Business Development
ADP TotalSource
Alpharetta, GA

ACQUISITION NEWS

PRESTIGEPEO ACQUIRES ADVANTAGE PERSONNEL RESOURCES, LLC

NAPEO member PrestigePEO recently announced that the New York-based PEO has acquired Advantage Personnel Resources, a PEO based in Gainesville, Florida. "The acquisition of APR supports our founding belief of building and expanding our enterprise through a broker-based growth strategy. PrestigePEO has advanced its industry leadership position over the past 25 years through the forging of successful partnerships and building solid broker relationships," said PrestigePEO founder and CEO Andy Lubash in a release announcing the acquisition.

C-SUITE NEWS

ENGAGE PEO NAMES STEVE SCOTT PRESIDENT

NAPEO member Engage PEO recently announced that it has promoted Steve Scott to the position of president in addition to his current role as chief operating officer, effective Jan. 1. "Steve has been a tremendous champion of process improvement at Engage since he joined us in 2016, which is why client experience and service quality have contributed so much to our growth. I am excited to elevate Steve to this role to deepen our leadership infrastructure for growth," said Jay Starkman, CEO of Engage PEO, in a release announcing the news.

SMALL BUSINESS

SMALL BUSINESS JOB OPENINGS TICK UP

The National Federation of Independent Businesses (NFIB) reports that 57% of small business owners did or tried to hire workers in the month of January. However, 91% of those owners reported having trouble finding qualified applicants, a persistent concern since workplaces re-opened after the pandemic. The report suggests that small businesses will continue to face labor shortage issues into 2023.

EMPLOYEE MORALE

GEN Z WORKERS REPORT FREQUENT BURNOUT ON THE JOB

A recent study of workers aged 22-28 focused on mental health and morale at work. The report found that more than half of Gen Z workers surveyed indicated feel burnout on the job at least once per week. These workers were also the most likely to report a desire to leave their current jobs within a year. They further indicated frequent barriers to accessing mental health services. This presents an opportunity for PEOs to provide mental health benefits as part of the PEO value proposition to entice younger client bases to partner with a PEO.

GRASSROOTS

ERTC LETTER WRITING CAMPAIGN KICKS OFF ON STRONG START

As part of our months-long effort to push the IRS and Congress to do something about extreme delays in processing ERTC claims, NAPEO recently began a grassroots campaign that gives PEOs and their clients the opportunity to tell their members of Congress how the ERTC backlog is impacting their businesses.

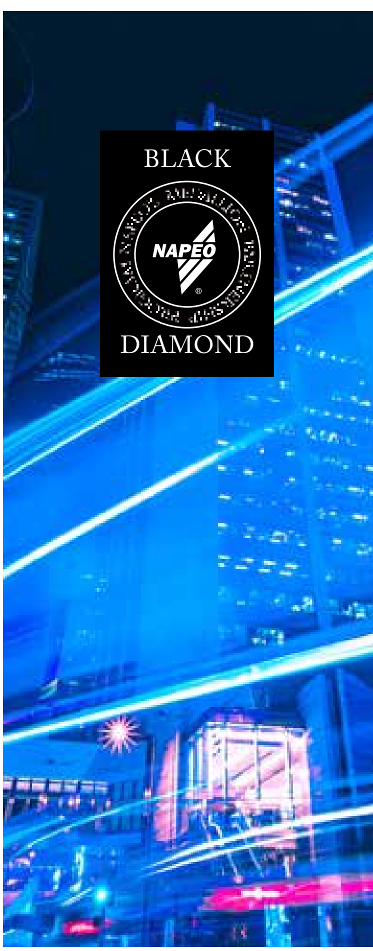
We're asking all members to send a letter to your respective representative and senators asking them to tell the IRS to clear this backlog. In addition, we encourage you to ask your clients that are waiting for ERTC refunds to be approved by the IRS to contact their senators and members of Congress about the impact of the ERTC delays on their businesses.

You can find the sample letter, sample email to clients, and the platform to easily submit the letter with just a few clicks at **napeo.org/grassroots.**

In the first few days of the campaign, NAPEO members have sent 180 letters to federal lawmakers, and PEO clients have sent 105 letters. We thank everyone who has helped make our collective voice heard thus far.

We will continue to hammer away on this issue and keep up the pressure until all PEO clients receive their ERTC funds.

Again, visit **napeo.org/grassroots** to access the sample letters and platform to contact lawmakers.



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LCF

2023 LEADERSHIP COUNCIL FORUMS

Be sure to mark our 2023 Leadership Council Forums on your calendar! These small, regional meetings provide forums for industry peers to learn and discuss issues affecting PEOs in a particular state or region. LCFs are open to all NAPEO members.

Our first LCF of the year is the Oregon/Washington/Alaska meeting on April 12 in Salem.

Here are the dates and locations for five upcoming LCFs. Be sure to stay on the lookout for more LCF dates to be announced soon. Of course, thank you to our 2023 LCF sponsors who help make these events possible: Amwins, MetLife, PrismHR, and Slavic401k

- **Mid-Atlantic (DC, DE, MD, KY, PA, VA, WV)**
  May 11 at Angel's Envy Distillery in downtown Louisville
- **Mid-West (IA, IL, IN, MN, WI)**
  Thursday, June 1 at 2pm (Virtual)
- **New England (CT, MA, ME, NH, RI, VT)**
  June 6 in Boston at the UMASS Club
- **Georgia**
  July 11 in Atlanta at the Whitley Hotel, Buckhead
  Book your room here by June 20!
- **Heartlands (KS, ND, NE, MO, MT, SD, WY)**
  August 9 in Overland Park, KS

You can learn more and register at **napeo.org/lcf.** ■

NAPEO's

FROS Financial Ratio & Operating Statistics Survey

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Do you know how your PEO stacks up against other PEOs? Are you tracking your PEO's performance on key ratios and KPIs year over year? If not, you're missing an opportunity to leverage a powerful management and benchmarking tool. Complete NAPEO's 2023 Financial Ratio & Operating Statistics Survey—the only comprehensive look at the financial and operational aspects of PEOs. Participants benefit from:

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Please complete your survey by June 2, 2023. There is no cost to NAPEO members to participate and your survey is submitted through a secure third-party portal, protecting your confidential data.

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To participate, contact Melissa Viscovich at mviscovich@napeo.org or 703/739-8161

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PEO RISK

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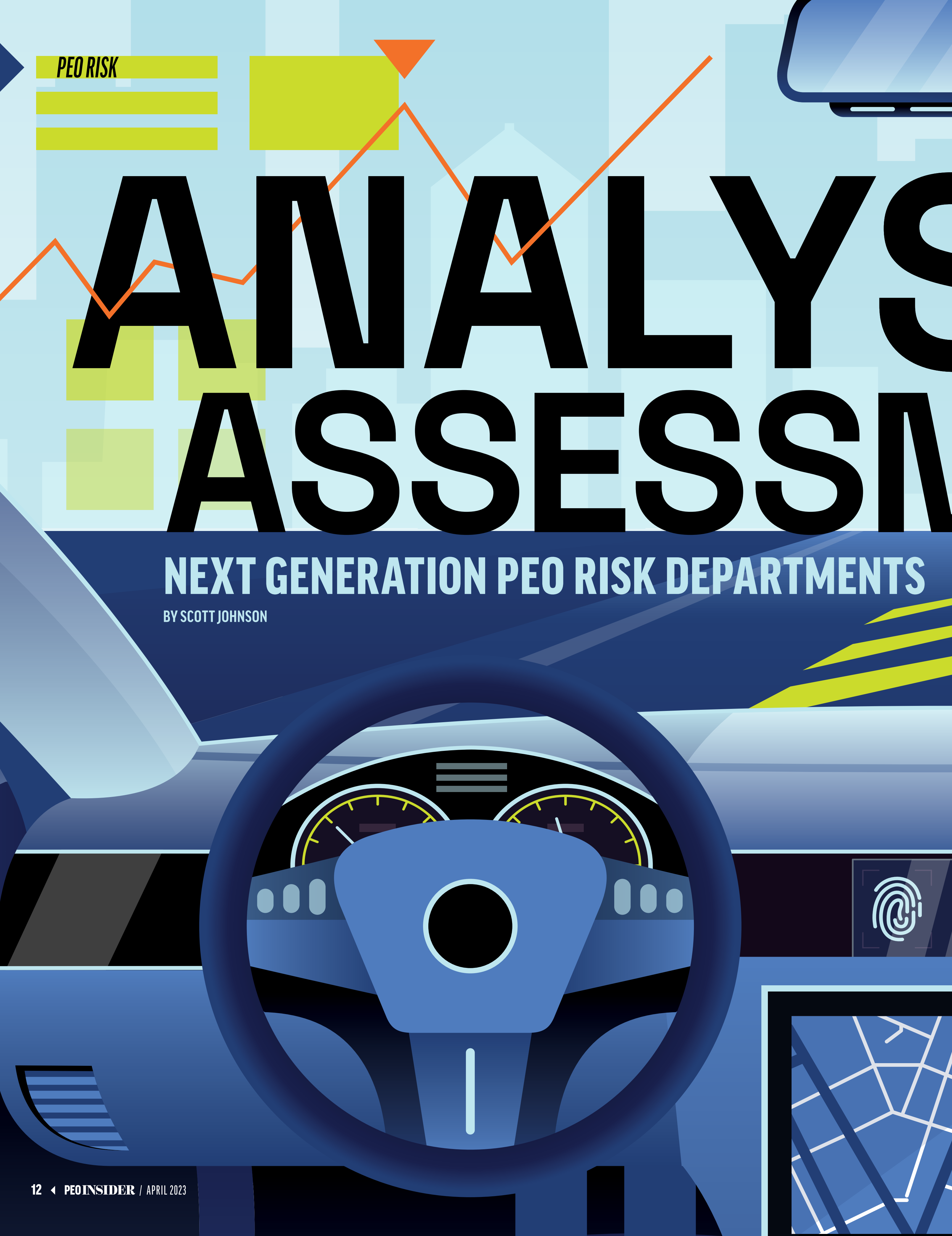
NEXT GENERATION PEO RISK DEPARTMENTS

BY SCOTT JOHNSON




SIS &
MENT

As we all know, the year is 2023, and as PEO risk managers it is important that we embrace the title of a Bob Dylan classic: "The Times They Are A-Changin'."

Given the myriad of changing issues facing the PEO risk manager, a detailed point-by-point examination of the evolving issues would be too lengthy to illuminate within the pages of this article. That being said, this article will focus on two emerging and evolving issues that the PEO risk manager should embrace: dynamic risk analysis and next generation risk department staffing.

NEXT GENERATION DYNAMIC RISK ANALYSIS

Proximity risk is a methodology/application to benchmark evolving PEO client risks as they occurr. In dynamic risk analysis management, the focus on risk is balanced with a enhanced emphasis on those risks that are likely to occur in the short to medium term. Risk analysis is a process that should be repeated at regular intervals, and the change in risk should be recorded over time. Regular reviews of risks that analyzes why previously identified risks did or did not materialize will help strengthen the PEO's risk department's ability to benchmark singular and accumulative events that point towards the emergence of a hazard and assess probability.

It's well known that risk is a function of impact and probability. The risk posed by a potential hazard increases as either the expected impact of the hazard increases or the probability that it will occur increases. When applied to the framework of needs assessments, dynamic risk analysis scenarios should be used to generate plans for possible risk reduction scenarios and actions. That, in and of itself, is the beauty and imperative need for PEO risk management departments to embrace this methodology as this approach anticipates, quantifies, and incorporates changes in the client's risk profile without having to wait for claims to occur.

This operational methodology gives insight into the impact of a client's evolving risk on the PEO's liabilities, thereby, making the analysis of change the core standard for forward-looking analysis.

NEXT GENERATION RISK DEPARTMENT STAFFING

The job description of PEO risk manager has evolved (rightly so) from a singular role focused on workers' compensation to a broader and holistic management of the PEO's risk profile. Most PEO risk departments manage all corporate risk exposures, including the more traditional singular focus of work-related incidents at a client worksite. The forward looking PEO risk manager will need to focus on other issues like EPLI, cybersecurity, and recruiting, hiring, developing, and retaining staff. In the course of this article, it is the latter and often overlooked issues of staffing PEO risk departments that we will focus on.

RECRUITING

Building core staff strength within a risk department is critical to a PEO's success, so recruiting the right talent must remain a priority. Start by rethinking your job descriptions. Focus on the results you'd like to see, rather than the type of qualifications that you think could deliver them. Highlighting the desired skills — the candidate's ability to perform certain tasks — gets to the same results without creating an unnecessary barrier to entry, like a requirement for a four-year degree. Evaluating employees and new hires based on their skill sets instead of their work history can help level the playing field, and might help companies recognzie the talent they already have. It also makes talent pools more diverse and often makes hiring more effective. This is the future of hiring: focusing on aquiring talent for performance and potential.

HIRING

Ensure that you partner with your PEO's HR professional to bring about a concerted and diligent focus on the employees that you hire. The risk department will have analytical functions as well as a client facing function; not all people have both of those inherent abilities. Remember that you will need adaptable, organized thinkers, some of which will need to have the ability to be human chameleons (adapting to the client environment). As a whole, the risk manager will need to focus on hiring individuals with these abilities or skills.

- Independent thinkers who can manage ambiguity and work independently.

In dynamic risk analysis management, the focus on risk is balanced with a enhanced emphasis on those risks that are likely to occur in the short to medium term. Risk analysis is a process that should be repeated at regular intervals, and the change in risk should be recorded over time.

- Communicators who can effectively interact with clients and coworkers.
- Interpersonal skills to build positive relationships through empathy.
- Proactive initiative takers who act on opportunities to enhance value.
- Collaborators to leverage teamwork with colleagues.
- Critical thinkers who solve problems by synthesizing information and data.

As an aside, it is imperative that when the risk manager has selected the candidate and formalizes the hiring process that you create a positive, exceptional, and memorable onboarding experience for the employee. It is the beginning of the journey with the risk department and setting the correct tone is an integral first step.

DEVELOPMENT

Workforce optimization is continuous development, and one of the most important launch points for individuals and teams is self-awareness. PEOs need to start weaving learning into their company cultures. Organizations slow on the uptake will be left behind and forced to deal with unsatisfied and unmotivated employees and significantly less innovation overall. At a time when talent is the number-one commodity in business, PEOs cannot afford to remain focused on traditional mindsets. It is a new world, and it requires a dynamic and evolving mindset. Ongoing subject matter expert (SME) education is integral to personal career growth, and can be done on company time. To help ensure a forward-thinking learning culture, the risk manager should encourage and coach departmental employees to block out company time for SME training.

RETAINING

Continuous, consistent and frequent input and feedback should be the norm when managing risk department employees. Think of this as relationship building. Build employee engagement in the frequency and earnestness of these meetings that will foster a true relationship with your employees. Disengaged employees are detrimental to the department and the PEO by bringing down morale, discouraging coworkers from achieving their best work, and creating aberrant work environments. Make recognizing and rewarding departmental employee successes and achievements a standard and consistent practice as it will foster that sense of belonging and appreciation. In all things and in all ways, create processes and policies that focus on "management to retain" the excellent employees that you have recruited, hired and developed. ■

SCOTT JOHNSON

PEO Safety Manager
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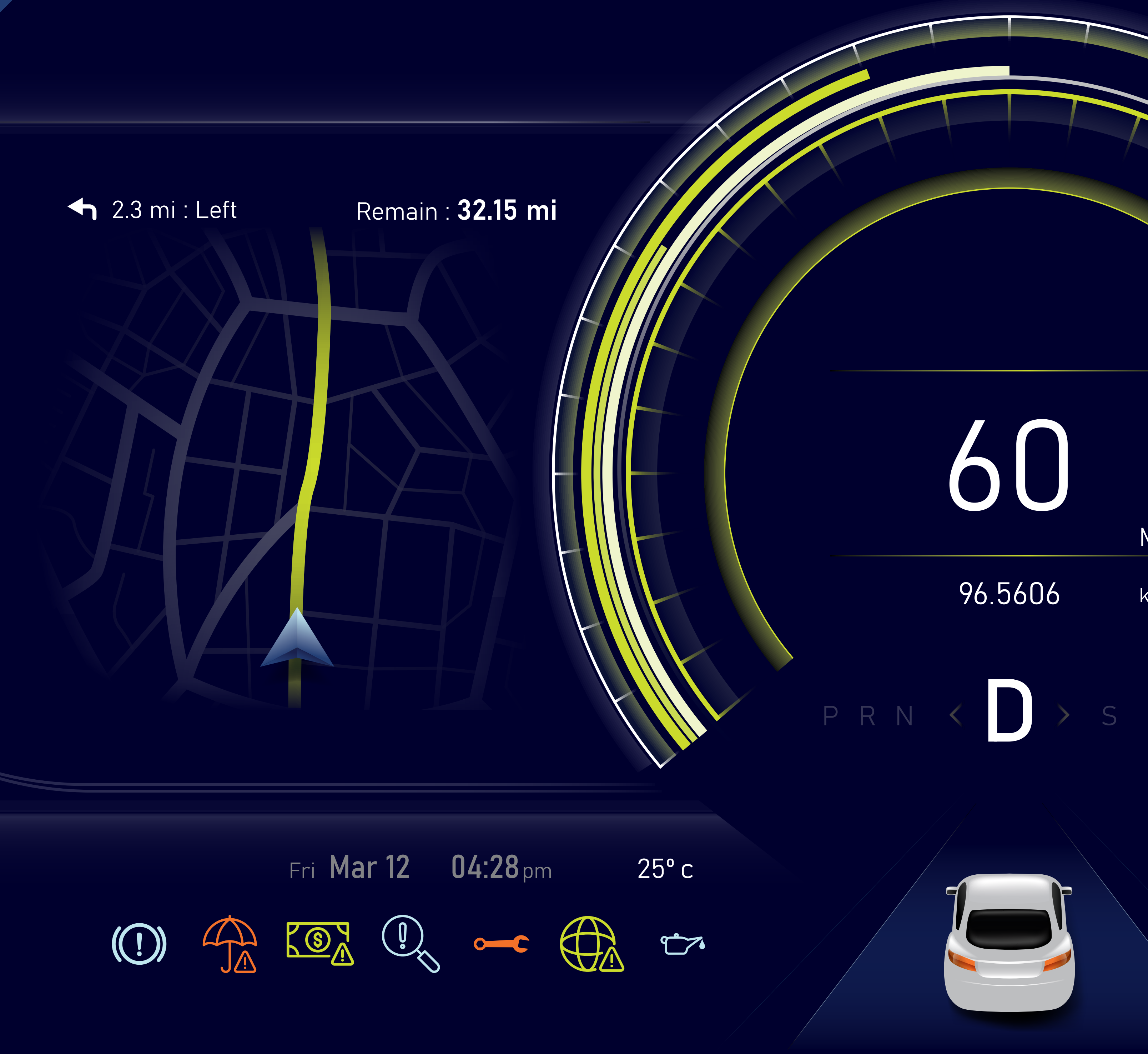
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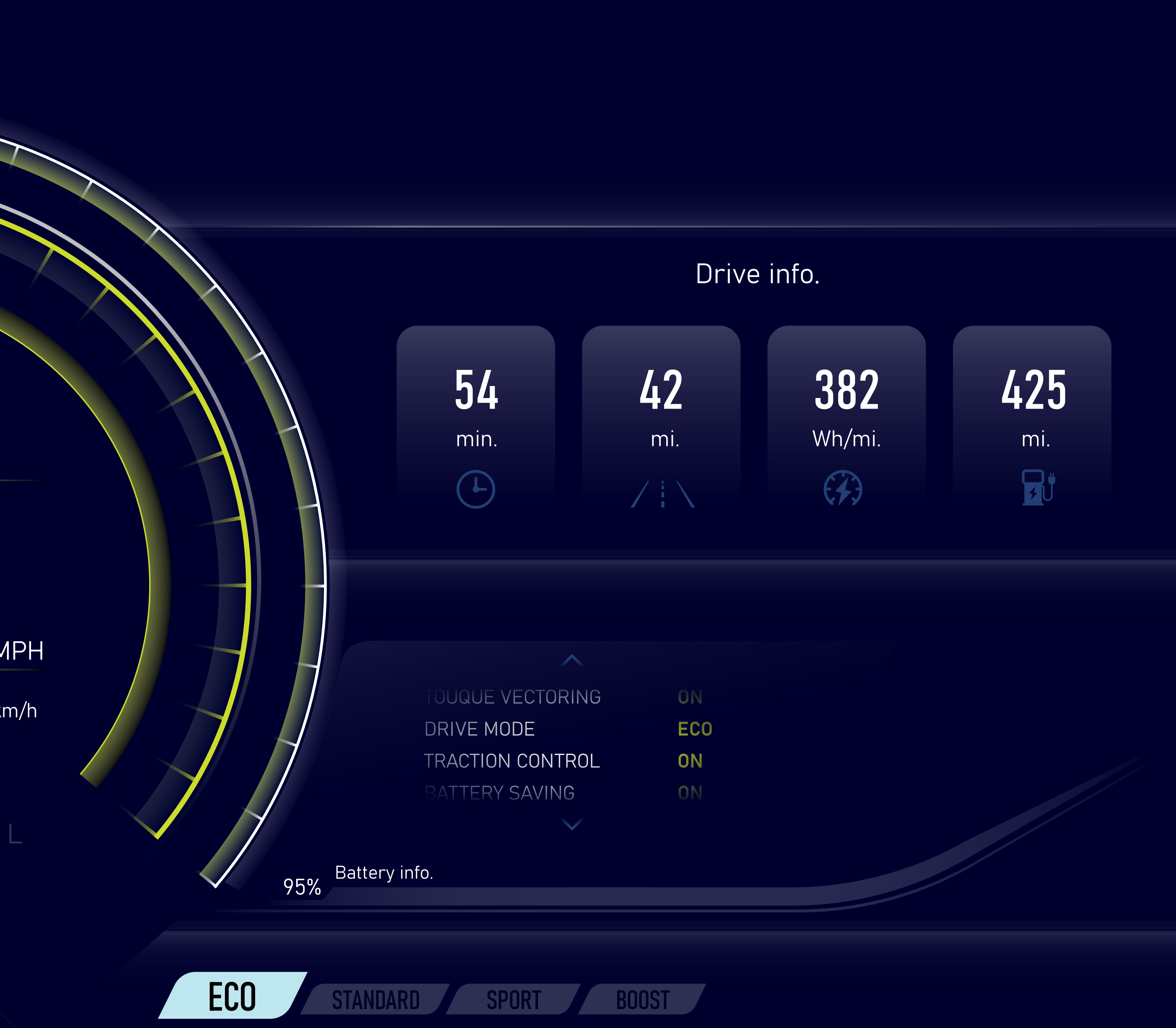

AVOIDING ROADBLOCKS: CREATING IDEAL RISK MANAGEMENT DASHBOARDS

BY FRANK HUANG

Key performance indicator dashboards instantly produce either awe or fear when brought up in conversation, and for good reason. They can be seen as straightforward, objective models that can do no wrong. Or, they can be seen as confusing, subjective, instruments rife with errors. While you have likely seen examples of many different types of dashboards (the good, the bad, and the ugly) it begs the question: what should a dashboard be in its most ideal form? More specifically, what is the most ideal dashboard for a PEO risk management professional?

There is no way in the span of this article to provide a complete blueprint for the most ideal risk management dashboard. I can, however, share three philosophies or bits of advice that will hopefully put you on the path towards profitable dashboarding.

Similarly, dashboards can allow you to grow yourself by tracking what you understand and pushing yourself to understand more. As your understanding of the risk space grows, you can introduce new metrics that build upon your existing knowledge.

DASHBOARDS FOR PROFESSIONAL GROWTH

Dashboards are a bit like rock climbing in that they're only useful if they fit your ability level. There's little benefit to starting with a wall that requires far more technical and athletic ability than you're able to produce. Instead, it may be easier to start off with easier walls for you to grow a foundation of climbing, practice certain concepts, and then gradually grow to more difficult walls.

Similarly, dashboards can allow you to grow yourself by tracking what you understand and pushing yourself to understand more. As your understanding of the risk space grows, you can introduce new metrics that build upon your existing knowledge. An invaluable goal is that your understanding will expand beyond the risk group and into the overall business such that you understand the role that risk plays in the operational and financial value of the firm.

DASHBOARDS FOR EVERY HAT

As your worldview grows, so too will the conversations that you'll have with colleagues above and below you. Since a CEO and a department head will value different metrics and goals, it is necessary to have dashboards that support your ability to excel in those different conversations. For example, knowing what your CEO cares about will allow you to tailor your dashboard to quantify how the risk group is contributing to those cases. Similarly, but in a different vein, understanding what your department head should be managing will allow you to tailor a dashboard to help them focus on the right areas.

Theoretically, there can even be relationships between the CEO dashboard and the department head dashboard, such that you can serve to bridge the gap between those levels, allowing the CEO visibility into the more task-oriented levels of the company and allowing department heads visibility into senior leadership concerns.

In addition to every hat, there may be dashboards tailored for specific purposes. A good example would be a client profitability dashboard that incorporates all revenue and cost aspects of a relationship over their entire tenure, such that it supports renewal discussions. It can also provide a point of comparison for prospective underwriting so that a firm understands how well or poorly they have fared in a particular industry or job class.

BUILD UPON WHAT YOU ALREADY HAVE

While all of the above may sound great, getting started may sound as pleasant as doing your own taxes. However, most risk professionals may be surprised at how many resources they have right under their nose without any additional cost.

For example, many brokers have dashboards already available to support client relationships. RMIS and payroll systems likewise may have dashboards and reporting features of which you are unaware. Spend time to inquire with those relationships to better understand what technology and dashboards are already included in your relationship at no additional cost.

Dashboards can only measure and track as little or as much a risk professional desires to manage. Peter Drucker's famous quote still rings true, "what gets measured gets managed." Start with what you have and understand, and then use dashboards to grow yourself and your business. ■

FRANK HUANG

Managing Director and P&C Practice Leader
Merlinos & Associates
Peachtree Corners, GA

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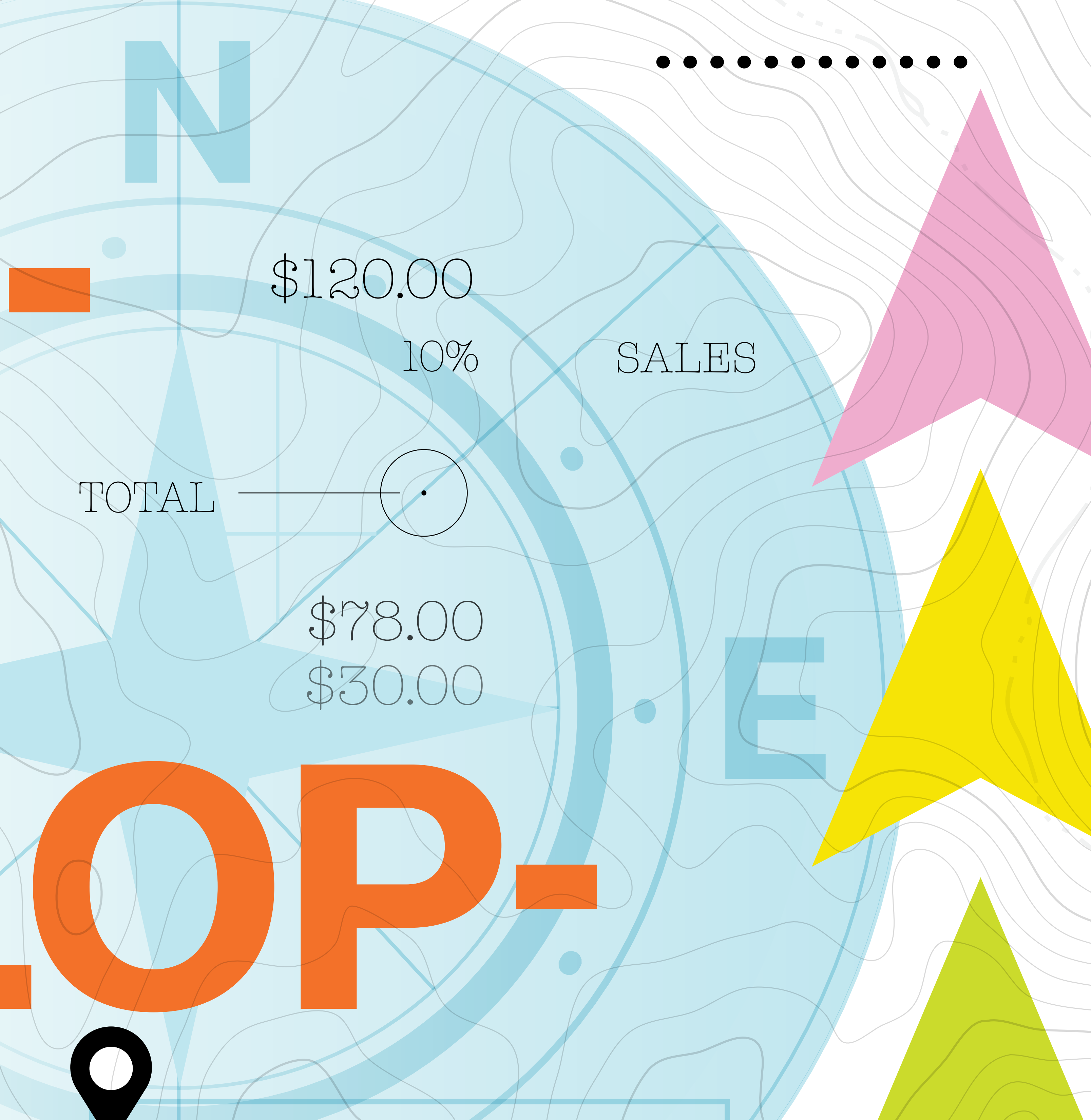


NOT SO RISKY BUSINESS: TACTICS TO FRAME YOUR RISK REDUCTION STRATEGY

BY STACY JENSEN

The opportunity for a PEO to help reduce a small business' risk is interminable. Monica Denler, the president and founder of my company, told me that 90% of clients express a desire to reduce their liability and risk with a PEO partnership during the sales process.

She then explained that, "though initially the conversation starts out with a want to save money by bundling on workers' compensation and benefits premiums, throughout the B2B education process, many businesses new to the PEO offering are unaware and very excited about the prospect of being offered the tools they need to protect their company from the HR risk perspective."

PEOs are in a unique situation of being the major—and sometimes only—source of HR services and expertise for many businesses that have varying levels of interest and time to put towards these issues. It's a bit like being an online lecturer at a major university for undeclared freshman. Several may stay after to graciously thank you for the revelations, though you may hear some snoring. Communicating with clients in ways they understand the seriousness of some issues is hard.

So what's a PEO to do? Customizing information in a variety of formats, and understanding the inherent limits to our business partners' time is the best way to get better sleep at night. That and by my estimation a good EPLI policy, and a Purple Pillow©.

FRAMING YOUR RISK REDUCTION STRATEGY

Blogs

Blogs are still very much relevant in 2023, but how much direct education is being provided by way of a PEO's blog, really? Is it better suited for marketing efforts? It could increase your own risk if it is not accurate and updated. Recently when I learned of a product modification by a vendor after having received the product, the vendor mentioned that the product revision was noted on their blog. I gave that some thought as it related to crucial HR updates. If that message was driven solely by my blog, with a readership the size of a ghost town with an operable tourist shop, did we deliver our promise of keeping employers abreast of compliance matters so they can safely operate in a reduced risk environment? I think not, dear readers. Blogs can be very help tools (especially for key word SEO), but it's important to keep your blogs updated with current information.

Training Sessions

Dacher Keltner, a psychologist and prominent happiness researcher at the University of California Berkeley, writes in his book "Awe: The New Science of Everyday Wonder and How It Can Transform Your Life," that finding awe just might be the key to happiness.

What is training and learning, if not delivering and receiving awe? That's right, HR education can be awe inspiring when it is done right. I once sat in a train-the-trainer session through a widely respected expert in employee training. She commenced the course with the statement that "there is no topic that cannot be made fun and interesting when delivered fun and interesting." I had my doubts thinking to myself how anti-sexual harassment could be fun and interesting. Completing your annual OSHA logs the right way could be fun and interesting? By the end of the session I got it, and I realized that when you have an energetic and informed trainer, the message gets across.

PEOs can deliver this sort of energetic and engaged training to clients that leads to reduced liability, and offers employees tools they need to be informed about their workplace rights. Plus, online training allows for any state mandated training, that many clients may be unaware of, to be delivered to employees easily. That is awe-some.

Webinars

At the height of the pandemic, PEOs and our clients were shook and overwhelmed with learning about the virus and health protocols, PPP loans, FFCRA, remote work arrangements, new unemployment eligibility, and staffing shortages.

While it was a terrifying and confusing time, it was also a real opportunity for PEOs to expertly inform clients in an effort to literally save their businesses and lives. Given the sheer volume of information that we needed to understand, we found that

"What is training and learning, if not delivering and receiving awe?

That's right, HR education can be awe inspiring when it is done right. PEOs can deliver this sort of energetic and engaged training to clients that leads to reduced liability, and offers employees tools they need to be informed about their workplace rights."

doing a couple of mass-attended webinars allowed for an easily accessible format to communicate the changes and updates to new and exisiting laws. Additionally, it saved us time in being able to open up a Q and A format and answer all of our clients' questions at once, instead of tackling them one by one in one-off fashion. Recording the session to send to any client who couldn't attend expanded the reach, and help further reduced their risk.

Employee Self-service Portal

Compliance related materials can best be handled for our clients by way of the employee self-service portal, or ESS, when electronic consent has been obtained by the employee. By allowing the PEO to handle these tasks, clients remain more compliant and save time and resources.

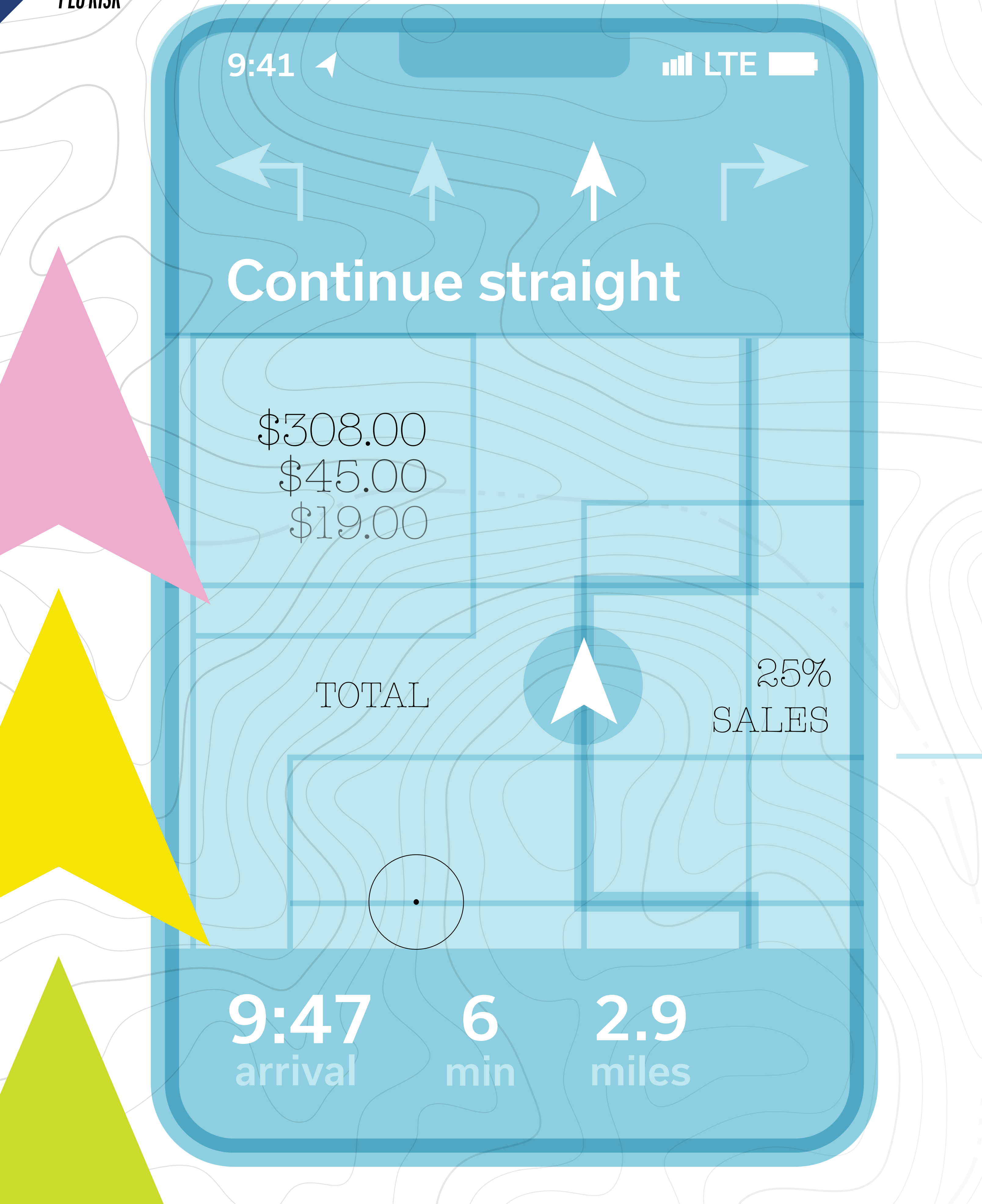
Email Blast

Last but not least is the good ole' fashioned email blast to clients. It's quick, and simply requires steadfast updating of the client VIP email list. Well crafted and frequent client communication email blasts are crucial in equipping our clients with the compliance updates they need to reduce their liability and conquer compliance.

Helping people, working through tricky scenariors, and diffusing stressful situations are hallmarks of PEOs. The business model and service design each of us puts forth is what ultimately drives the role we have in our client's reduction of HR, payroll, and safety related risk. Customized and tailored solutions and strong relationships set us apart. Effective communication with clients about ways to reduce risk is the key to a successful risk management strategy. ■

STACY JENSEN, SPHR

HR Director
InTANDEM HR
Denver, CO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THE EVOLVING ROLE OF THE PEO RISK MANAGER

BY DAVID E. CAROTHERS & HANK JOHNSON

Let's begin by covering some key facts to keep in mind and understand.

1. Workers' compensation is a product. When properly managed, it is a profit center. Rightfully it has remained a prominent focus of PEO risk management platforms. Depending on the PEO, workers' compensation can be a main product offering or secondary offering to its clients.
2. Workers' compensation rate decreases create pressure on revenue generation, program performance, and profit margin. This, coupled with high claim costs, makes continual program analysis a key component of the PEO's risk management department.
3. Alternative employment models are placing additional pressure on PEO workers' compensation programs.
4. The PEO risk environment has changed dramatically over the past 10 years. Emerging non-workers compensation' business risks require focused attention from PEO risk managers.
5. In addition to workers' compensation, other areas of risk to the PEO have become very prominent for the risk manager. These areas include cybersecurity threats, an uncertain economy, and overall profitability.

Here's why these facts matter. To protect their organizations, PEO risk managers need to expand their thinking and competencies to identify and address emerging risk exposures that threaten the reputation and operational ability of their PEOs.

A RAPIDLY CHANGING RISK ENVIRONMENT

A review of conference schedules from NAPEO's conferences over the past 10 years captures the broadening scope of PEO risks. Examples include:

- COVID and related impact on reduced payrolls and a remote workforce
- Employment practices liability retention and premium increases
- Cyberattacks/ransomware resulting in service interruptions
- Mergers and acquisitions activity
- Increasing use of alternative employment models
- Workplace violence
- Management/fiduciary liability
- International employees
- Disability management

In the most recent years, COVID, alternative employment models, cyber lability exposures, and mergers/acquisition activity have accelerated change.

COVID

COVID forced the PEO industry to redesign client services and risk management platforms. While initially projected workers' compensation claims and premium increases did not develop, the increase in remote employee exposure impacted underwriting, risk control, and claims service models.

As worksite employees begin returning to work locations, risk managers should anticipate an increase in workers' compensation claims. An increase in claims activity, coupled with lower workers' compensation base rates and reduced premiums, may result in increased loss ratios and experience modification rates.

Astute risk managers will adjust their service platforms to recognize this return to work exposure shift.

Client employer determinations regarding remote work eligibility, vaccination requirements, disclosure of medical status, and return to work have resulted in a range of discrimination, privacy rights, wrongful termination, and ADA claims. The PEO EPL insurance market has responded with higher self-insured retention and premium base rates.

Increasing Use of Alternative Employment Models

The traditional co-employment model may now require a workers' compensation "carve out" solution. PEOs are also utilizing non-coemployment (ASO) contracts to grow. Employer of Record (EOR) models are an emerging trend utilized as a substitute for traditional coemployment. Originally utilized for foreign employees, EOR is expected to grow at a compound annual growth rate of 6.9% during 2022-2028 according to Valuates Reports. The domestic EOR model is not well defined and not readily understood. Some PEO regulators are beginning to question the EOR model as it relates to the traditional PEO model.

Cyber Liability

Cyber exposures have accelerated in both frequency and severity. Acronis, a Swiss based cybersecurity company, is projecting ransomware damages will exceed $30

"As worksite employees begin returning to work locations, risk managers should anticipate an increase in workers' compensation claims. An increase in claims activity, coupled with lower workers' compensation base rates and reduced premiums, may result in increased loss ratios and experience modification rates."

billion in 2023. Ransomware attacks include supply chain attacks, double extortion, phishing, and the emergence of ransomware as a service (RaaS). PEOs present a prime target given the amount of personal information collected and their dependency on third party service partners (including payroll services). The PEO cyber insurance market has responded with stricter underwriting requirements and changes to coverage terms and conditions.

Mergers and Acquisitions

While no specific data is available, mergers and acquisition (M&A) activity has been prevalent in the PEO industry in the past few years. For risk managers this means potentially:

- participating in due diligence on either the buy or sell side
- restructuring insurance programs/coverages
- assisting in the assimilation of the acquired entity into the acquiring entity
- restructuring client service platforms

It is widely accepted that the risk of poor assimilation of purchased entities results in acquisitions not reaching their projected value.

THE EVOLVED RISK MANAGER

PEO Industry risk managers that achieve their full potential will ultimately demonstrate the following skills:

- The ability to identify and prioritize threats to the PEO's reputation and operational ability.
- The ability to fortify the PEO's risk management culture.
- The ability to identify new risks and adopt a mitigation-response-resilience mindset.
- The ability to balance the PEO's risk appetite with the ability to control risk. With respect to workers' compensation, this means maintaining discipline in all aspects of the risk management process.
- The ability to balance prevention with value creation. This means balancing risk taking/risk avoidance with helping the PEO achieve growth and profitability goals.
- Increase the utilization of technology to create internal processing efficiencies.
- Maximize use of data and analytics to drive performance. This includes:
    - o development of key risk management process and performance indicators
    - o utilizing technology to evaluate and drive the performance of key risk management partners (for example claims professionals)
- The ability to work closely with other departments to identify risk to the PEO and to clients.
- Create a collaborative risk conscious culture.

The PEO business and threat environment will continue to change. PEO risk managers will be challenged to continue to effectively identify and mitigate risks while adding organizational value. ■

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AON
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Oklahoma City, OK

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VALUE PROPOS

It's no secret that small business owners have an overflowing list of responsibilities on their plates. Whether they are in the early stages of starting a business or have been operating for years, the stressors impacting small business owners often make it challenging for them to see beyond day-to-day tasks and short-term goals.

We know that's one reason why many small business owners turn to PEOs. The assistance with daily human resources tasks and expertise with HR management allows owners to focus on more important matters.

One important matter many small business owners often overlook is planning for a disaster. In fact, Mercer reported in 2020[1] that 51% of businesses globally don't have a disaster plan in place. Further, a lack of a plan can have a devastating impact. The Federal Emergency Management Agency (FEMA) reports[2] that 25% of businesses don't reopen after a disaster.

Getting back up and running as quickly as possible is also key to a business' survival. FEMA reports that for small businesses that are closed more than five days after a disaster strikes, a staggering 90% will fail within a year. FEMA's stats suggest that having a plan in a place and the support to successfully execute it are critical to survival.

These are eye-popping numbers, especially for PEOs, whose success is closely entwined with their clients' businesses. When businesses are impacted by disasters, the result often is lost revenue and unexpected added expenses which can lead to reduced profits and, as FEMA reports, permanently closing their doors for a quarter of impacted businesses. Therefore, it makes sense for PEOs to take a proactive approach to disaster planning with their clients, which helps ensure clients can protect themselves and successfully navigate disasters. That's good business for PEOs and clients.

HARNESSING EXPERIENCE AND EXPERTISE TO PROTECT CLIENTS

PEOs are well-positioned to harness their experience and expertise as risk management and human resources specialists to help clients prepare for events they can't anticipate or haven't encountered. From wildfires that cut off access to the office to major hurricanes to an executive team member being seriously injured and unable to work for an extended period of time, disaster can take many forms.

Each of these events presents unique challenges, but each is more manageable when a business has in place a thorough business continuity plan which outlines how a company will recover and stay operational during a business disruption.

tion

WHY IT'S GOOD BUSINESS FOR YOUR CLIENTS TO HAVE A BUSINESS CONTINUITY PLAN

BY ANDREW SCOTT

A well-prepared business continuity plan, for example, will designate a team responsible for evaluating and enacting the plan, department members to carry out critical tasks, and protocols for evacuations and communicating with employees.

The goal, of course, is to minimize downtime after a disaster strikes so businesses are impacted as minimally as possible. PEOs can help implement risk management policies into a company's business continuity plan and identify additional policies that will benefit the client. With a plan in place, small business owners can feel more confident in their ability to manage a disaster.

HELPING CLIENTS WHEN DISASTERS HIT

If a disaster should hit, business owners may understandably be focused on maintaining operations to service their customers, but from an HR standpoint, there's a litany of concerns to address during a disruption. For example, employees must be paid in a timely manner to avoid legal concerns or fines. Additional benefits may be necessary to aid employees during difficult times. Despite acting in an emergency, the company still must abide by regulations to maintain compliance and avoid costly penalties.

While these tasks are second nature to PEOs, they may be easily lost on the small business owner's mind during a disaster situation. But with a business continuity plan already in place, business owners can focus their energy on getting the business up and running quickly, while PEOs can ease owners' minds by handling HR-related tasks.

At G&A Partners, providing an excellent client experience is at the heart of what we do. One of our goals is to minimize disruptions that clients might experience during a major event.

Proactively working with clients to develop and implement a business continuity plan helps prepare them for a disaster, while consistently providing HR services especially in times of need gives owners peace of mind that they won't be one of the 25% to never reopen. ■

1 https://www.me.mercer.com/newsroom/covid-19-companies-have-no-business-continuity-plan-to-combat-coronavirus-outbreak.html
2 https://www.fema.gov/press-release/20210318/stay-business-after-disaster-planning-ahead

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.

ANDREW SCOTT

Director of Risk Management
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Houston, TX

DELIVERING VALUE THROUGH RISK MANAGEMENT

BY CHRIS SULLIVAN

Small to medium size companies rely on PEOs to effectively manage critical back-office functions of their businesses such as payroll, employment taxes, employee benefits, human resource functions, and workers compensation insurance. As a co-employer, PEOs specialize in the most efficient and effective means of supporting their clients by leveraging not only economies of scale, but a firm understanding of the ins and outs of workers compensation and risk management. Just like their PEO partners, carriers also have a positive incentive to improve the viability and efficiency of insureds workers' compensation programs.

When partnering with PEOs in risk management, a good workers' comp carrier helps take a proactive approach to controlling exposure and minimizing liability by suggesting strategies designed to reduce work-related injury, improve general workplace safety, and promptly resolve claims. According to recent data from the Bureau of Labor and Statistics (BLS), worker comp claims related to overexertion ($13.1 billion), falls ($10.4 billion) and being struck by either an object or equipment ($5.2 billion) make up three of the top 10 causes of disabling injuries in the workplace.[1] These are staggering numbers; however, research shows that 80-90% of these losses are caused by unsafe acts and are preventable. Providing loss analytics, both macro and micro, begin to set the atmosphere for essential loss control. In addition, supplying educational material and implementing procedures and guidelines designed to mitigate the potential for injuries such as these have proven effective in generating value back to the PEO. This is a good start.

LEVERAGING TECHNOLOGY & DATA

Supporting the unique business structure of a PEO can often prove challenging for carriers lacking the tools and experience necessary to properly monitor the details of each insured's specific workers' comp program. In partnership with PEOs, carriers, with the PEOs' risk managers, should closely monitor the claim performance of each insured by location. By closely analyzing claim factors such as causation, injury type, severity, reporting lag and jurisdiction, carriers can arm their partners with the information necessary to better identify leading indicators of exposure types. Once discovered, a plan of action may be formed on how to diminish injuries and prevent loss time and catastrophic claims. In some cases, this is accomplished through the intervention of an industry specific safety professional, whose objective is to evaluate operations to identify enhancements needed to the current safety program. As opposed to an OSHA inspector, a safety professional acts on good-will intent, a value-added resource assisting a location to promote better outcomes and claims frequency reduction.

CREATING A SAFETY MINDED WORK CULTURE

Taking a proactive approach to risk management begins with developing the training and tools necessary for workers to identify both good and bad safety practices. This creates an environment in which workers are comfortable advocating for their own safety and the safety of others around them. Empowering those closest to the facilities' day-to-day operations will generate innovative suggestions and encourage participation in the established safety program. A good way to empower employees is to maintain an open-door policy which encourages communication between workers and managers, allowing a direct means of receiving feedback regarding potential safety concerns.

Workers should also have access to the safety program and procedures in place and have opportunities to participate in its design and implementation. The

> **Taking a proactive approach to risk management begins with developing the training and tools necessary for workers to identify both good and bad safety practices. This creates an environment in which workers are comfortable advocating for their own safety and the safety of others around them.**

utilization of signs, bulletin boards, on-line safety trainings, increase workers' knowledge of these opportunities. Managers are responsible for communicating the importance of risk assessments with workers, the "why" this safety rule is in place, the "why" they are required to wear a particular glove, shoe, or face shield. Coming from management, "just be safe," or "be careful on the ladder," doesn't cut it.

If management wants employees to be engaged in safe work practices, they need to be trained properly and know the "why" behind every safety program, safe work-practice, and personal responsibility. Effectively and consistently relaying the potential hazards of their task and the controls in place to protect themselves and coworkers. Additionally, It is vital that workers do not fear retaliation from management or other team members when raising concerns for health or safety issues, reporting injuries, illnesses, or hazards. To deter this behavior, OSHA has ensured any retaliation is ruled illegal under OSHA's Whistleblower Protection Program[2].

Examples of retaliation include reducing pay or hours, demoting, firing, or denying benefits. Many establishments utilize an anonymous reporting structure to ensure employees are not deterred by the thought of repercussions resulting from communicating potential hazards.

PROTECTING EMPLOYEES & PROMOTING GROWTH

Helping support clients through the implementation and improvement of safety programs results in benefits to workers, the insured, PEOs, and carriers alike. In addition to reducing injury, better workplace safety increases productivity and reduces employee turnover. Cases where workers leave a position because of an unsafe environment have increased by almost 1000% since 2010[3]. Safety solutions should be as unique as your business, with recommendations that are specific to each client, industry level, hazard group, and jurisdiction. Not easy work, but very doable. By following these best practices for improving safety culture, your PEO can focus on growth and expansion, assuring the employees you support are better protected from hazards of their workplace. ■

1 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating state agencies.
2 OSHA: **https://www.osha.gov/sites/default/files/publications/OSHA3638.pdf**
3 2019 Retention Report. (2019).Work Institute.

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.

CHRIS SULLIVAN

Director of Risk Management
SUNZ Insurance
Bradenton, FL

CHARACTER FIRST: T&T STAFF MANAGEMENT

BY CHRIS CHANEY

PEO veterans will often repeat a familiar industry origin story: in the late 1980s and early 1990s businesses turned to PEOs as a solution for lower workers' compensation costs. There was no talk of talent acquisition, DEI training, mental health benefits, or any of the other many components to the services and benefits PEOs now provide. In the old days, businesses typically partnered with a PEO to save on costs.

And that's exactly why Thad Steele first encountered PEOs.

Now the CEO of T&T Staff Management, Inc. in El Paso, Texas, Steele worked as the general manager for a steel fabricating company in 1992. He was tasked with finding a cheaper workers' comp solution.

"The market was hard and expensive; we spent $1.45 for every $1 in payroll cost. I had heard of an employee leasing company that a drywall contractor used, so I contacted the company. We ended up signing up with their program and saved 30% in workers' comp costs," Steele recalls.

However, not long after this arrangement began Steele's company encountered a setback. A bank called in a line of credit which essentially shuttered the company's doors. Steele turned to his friend and the owner of the drywall company who offered Steele a job.

This individual was also an owner of the employee leasing company. Steele had grown to like the concept and inquired about the plans for the company.

"He told me he was planning to shut the company down because he didn't think regulators would permit the employee leasing model to operate in Texas much longer," Steele says.

Steele replied, "well, let me have it."

Steele flew to Oklahoma City where the company was based to meet with the other owners. He laid out a plan to bring the company to El Paso and revamp the model a bit. He purchased Paragon Services for $5,000, and (with another partner named Terry) re-named the company T&T Staff Management.

The company opened its doors in 1992, and 31 years later it's a strong, well-known brand in El Paso. In fact, T&T has been named as the largest private employer in El Paso every year since 2010. Only a few school districts and a United States Army base employ more people than T&T.

THE OSHA ALLIANCE

As the company grew and attracted more clients, Steele and his team have managed to maintain a hands-on approach. He describes his company as a regional PEO that serves west Texas and southern New Mexico. Client office visits happen frequently, sometimes on a weekly basis.

"We even have two runners who hand deliver paystubs," Steele explains.

"There's a culture in El Paso where the owner still wants to see the paystub in his hand even though the check is deposited electronically."

Steele says that one positive of the COVID experience was convincing a larger number of his clients to go paperless.

Steele's construction background led to him attracting a large amount of construction clients. Workplace safety is concern for any business, but it is especially important for construction companies.

In 2004, T&T began participating in OSHA's Alliance program. The agency describes the program as voluntary, collaborative relationships with organizations that are committed to workplace safety. As such, T&T conducts safety training courses on a wide range of topics like slips, falls, ladder safety, forklift operation, and much more.

"We do 10 and 30 hour OSAH courses and train about 3,800 employees each year. We've trained around 70,000 employees since we joined the Alliance," Steele says.

The company also just sponsored an annual OSHA Update in El Paso. The event is open to the public and provides a forum for OSHA representatives to share valuable safety and regulatory information with the public. It's also great exposure for T&T. Safety training and expertise is part of T&T's brand identity, and a strong selling point. Steele describes it as his blue ocean.

The four OSHA-certified safety trainers on staff are Steele's main eyes and ears in the field with clients. He describes them as also wearing the client service representative hat. If they visit a client to address a safety issue, but an HR issue arises, they jump in to handle the issue and ensure the HR team is involved.

CHARACTER FIRST

When Steele opened the company's doors the name above represented the first names of the two business partners: Thad and Terry. However, 15 years ago Steele bought his partner out of the business.

"We like to say that T&T stands for Thad and team now," Steele says.

Many members of his team are members of his family, too. Steele's wife is a vice president, and so is his son. His son is also a licensed insurance agent and wears many other hats.

"He does a little of whatever Dad tells him to do," Steele laughs.

Steele's daughter Allison is the president of T&T. She was promoted to the role a few years ago after her leadership during a crisis impressed him. T&T

The company opened its doors in 1992, and 31 years later it's a strong, well-known brand in El Paso. In fact, T&T has been named as the largest private employer in El Paso every year since 2010. Only a few school districts and a United States Army base employ more people than T&T.

Rock art depicting the Jumano Indians encounter with de Espejo.

unfortunately had suffered a cybersecurity incident, but Allison guided the company through by developing a workaround that allowed the company to process 6,000 paychecks in just four days without the help of payroll software.

"She inherited my leadership gene," Steele says.

But don't think this means Steele has slowed down at all.

"I'm the one who locks the doors at night," he says.

He's proud of his team and the good work they do serving clients. The company is united around a set of principles based on a values-based leadership training program called Character First! In 2007 T&T joined the Southwest Character Council, a local chapter of Character First!

The program teaches nearly 50 different character traits like compassion, diligence, generosity, virtue, wisdom, and many more. Steele wanted character training to be a core part of his company's identity. During regular staff meetings a different team member will pick one of the traits and speak on how to live out that trait in the workplace. It's an opportunity for the team to come together and grow professionally and morally. It all leads back to the Steele's desire for his team to be honest, forthright, and transparent in how clients are treated.

MEYER'S SPRING RANCH

If you ever have the chance to visit Steele's office, you'll notice game animals mounted on the walls. An avid hunter, he's amassed an impressive trophy haul including the coveted North American sheep grand slam. It's a term hunters use to describe the successful hunt of all four species of wild North American sheep: Dall, Stone, Big Horn, and Desert.

"I keep them here because my wife doesn't allow me to have them in the house; she doesn't think it's a good decoration," he jokes.

As a lifelong Texan, animals and agriculture have always been a part of Steele's life. His father, Thad Sr., had a farm on the Texas-Oklahoma border that was a part of his family's homestead. Thad Jr. served as the president of Future Farmers of America in high school and spent summers working on the farm. His college degree is in agribusiness. However, his dad sold the farm while he was in college. Now, he's a rancher thanks to the success of T&T. Steele owns a 10,000 acre ranch in West Texas called Meyer's Spring. It's an exotic game ranch with many different types of species from Texas javelina, to whitetail and mule deer, to blackbuck, gemsbock (antelope), aoudad (sheep), kudu, and wildebeests.

Steele's son is the ranch manager (remember the many hats?), and while they do allow hunters on the ranch, it's primarily a breeding operation for super exotic species. It can be a lucrative business venture. One herd of Sable antelope on the ranch (25 females and 1 bull) is worth more than $1 million.

The ranch takes its name from an old U.S. Army camp of the same name that once stood on the site. From 1880 to 1884, the camp served as an outpost for Fort Clark. Lt. John Bullis, who commanded a regiment of Black Seminole Scouts, was stationed there to fend of Apache Indians raiding settlements and to fend off raiding parties from nearby Mexico. The group was a fearsome fighting force.

The ranch's history traces much further back, though. A rock pictograph wall lined with artwork that can be traced back 4,000 years is also present. Steele says this is the longest pictograph wall that has been discovered in the United States. It captures many phases of human history, but one that is particularly interesting is the depiction of a conquistador.

Archeologists who have studied the art believe it depicts an expedition led by the conquistador Antonio de Espejo. Experts believe this interaction was recorded as a drawing to signify the Jumano Indians' first encounter with Europeans in the late 1500's.

Researchers and archeologists have spent a lot of time on the ranch studying the artwork and site of the military camp. Advanced technology and satellite imagery is facilitating the re-construction of the miliary camp, Steele says. One researcher who has led the effort, Tom Ashmore, has recorded several videos about the project and ranch on his YouTube channel. You can visit the channel at www.youtube.com/@historicalarcheology to watch them.

BOOTS ON THE GROUND

As a member of NAPEO's board of directors and a past Texas Leadership Council Chair, Steele is active and involved with the association. Plus, he enjoys getting together with his fellow Texans and friends at NAPEO events.

He says he enjoys the work of fighting for the industry and advocating for PEOs' interests. The challenges change day by day and keep things interesting. Like many PEOs right now, T&T is tackling the ERTC issue. The arduous application process eats up a lot of time for his staff, and clients are frustrated with the situation. However, he says he's fortunate that T&T has received several batches of ERTC checks from the IRS.

Serving the industry and helping lead the association is a responsibility in his view.

"We have a duty to give back as best we can," he says, "every once and while I have a good idea." ■

CHRIS CHANEY

Editor, PEO Insider
NAPEO
Alexandria, VA

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NAPEO'S 2023 PEO CAPITOL SUMMIT

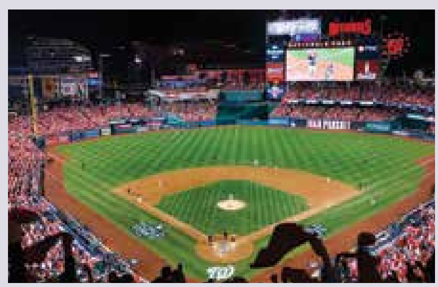
MAY 23 TO 25, ARLINGTON, VIRGINIA

Laws and regulations that impact PEOs change every day, and NAPEO's PEO Capitol Summit is the only event focused specifically and exclusively on compliance and emerging legal issues for PEOs. Attendees will benefit from the opportunity to gather in the nation's capital with PEO owners, senior managers, legal advisors, and HR professionals for valuable policy discussions, legal analysis, and lobbying opportunities. Highlights of the conference include industry expert discussions of PEO industry hot topics that deliver practical information on applying legal concepts to your management decisions and day-to-day operations, a chance to ask the experts your burning questions, and the opportunity to hear from leading lawmakers and policy gurus. **Stay tuned for more details. Learn more and register at napeo.org/capsummit.**

PEO ADVOCACY DAY *TUESDAY*

PEO Advocacy Day is our chance to make our mark on Capitol Hill and spread the good news about the positive impact of PEOs on small to mid-size businesses and their employees; to make the case for policies and regulations that support and advance the PEO industry. We'll enjoy lunch on Capitol Hill and hear from leading lawmakers on critical issues impacting PEOs. This is also your opportunity to visit Congressional offices to share your story and explain how your PEO helps many small businesses thrive.

EVENING EVENT AT NATIONALS PARK *TUESDAY EVENING*



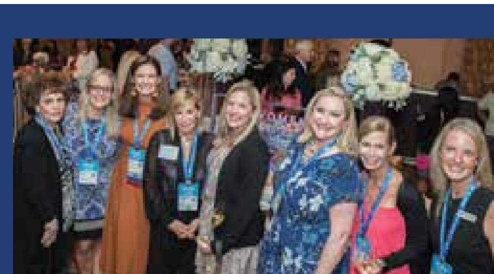
What could be more American than baseball in the nation's capital? Join us on Tuesday evening as we venture to Nationals Park, home to Major League Baseball's Washington Nationals! Juan Soto and the San Diego Padres will take on the Nats, and we'll enjoy the game from club level party suites.

Don't forget to pack your ballcaps!

LEGAL EDUCATION SESSIONS *TUESDAY EVENING*

Each year PEO Capitol Summit offers practical, PEO-specific education on hot button legal issues. Take a look at this year's topics!

- State of Restrictive Covenant Agreements
- Data Privacy Laws and Retention Policies for PEOs
- Employer of Record
- State Pay Transparency Laws
- Benefits & Tax Update
- Anti-Money Laundering Act: Know your obligations
- Case Law Update
- Ethics: You Be the Judge



WOMEN IN NAPEO (WIN) DINNER *WEDNESDAY EVENING*

Join your Women in NAPEO friends for an elegant dinner and networking on Wednesday evening.

SCHEDULE OF EVENTS

MONDAY, MAY 22, 2023

8:00am – 6:00pm	**Registration Open**
8:00am – 9:00am	**NAPEO PAC Committee Meeting**
9:15am – 10:30am	**NAPEO Federal Government Affairs Committee Meeting**
10:45am – 12:00pm	**NAPEO State Government Affairs Committee Meeting**
12:00pm – 1:00pm	**NAPEO Board of Directors Lunch**
1:00pm – 4:00pm	**NAPEO Board of Directors Meeting** *(Open to all NAPEO members)*
4:00pm – 6:00pm	**NAPEO PAC Fundraiser**
6:00pm – 10:00pm	**CEO Forum Dinner** *(Additional registration and fee required to attend)* *Meet in the lobby for bus departure*

TUESDAY, MAY 23, 2023

8:00am – 6:00pm	**Registration Open**
8:30am – 10:30am	**Breakfast & Keynote Speaker**
10:45am – 11:00am	**Buses Depart for Capitol Hill**
12:00pm – 2:00pm	**Capitol Hill Events & Lunch**
4:00pm – 5:30pm	**Legal Advisory Council Meeting**
6:00pm – 10:00pm	**Evening Event at Nationals Park**

WEDNESDAY, MAY 24, 2023

8:00am – 5:00pm	**Registration Open**
8:00am – 8:45am	**Associate Member Breakfast** *Hosted by the Associate Member Committee* *(Open to all associate members of NAPEO)*
8:30am – 9:00am	**Continental Breakfast**
9:00am – 11:00am	**Keynote Presentation & General Session**
11:00am – 11:30am	**Networking Break**
11:30am – 12:30pm	**Legal Education Session**
12:30pm – 2:00pm	**Luncheon Presentation**
2:00pm – 5:00pm	**Legal Education Sessions**
5:00pm – 6:00pm	**Networking Reception**
6:00pm – 9:00pm	**Women in NAPEO (WIN) Dinner**

THURSDAY, MAY 25, 2023

8:00am – 1:00pm	**Registration Open**
8:00am – 8:30am	**Continental Breakfast**
8:30am – 11:00am	**Legal Education Sessions**
11:00am – 11:15am	**Networking Break** *Sponsored by Libertate Insurance LLC, Pro Software, LLC, Scopelitis, Garvin, Light, Hanson & Feary, and SUNZ Insurance Company*
11:15am – 12:30pm	**Legal Education Session**
12:30pm – 1:30pm	**Closing Luncheon** Join us for lunch or grab your lunch to go

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5 WAYS PEOS CAN MINIMIZE WORKPLACE SAFETY LIABILITY IN CALIFORNIA

BY HANNAH SWEISS, ESQ. & COLLIN COOK, ESQ.

The COVID-19 pandemic caused workplace safety to be viewed through a lens of magnified importance, but as the world regains a sense of normalcy three years later, many employers have placed it on the back burner. However, now is not the time for complacency in California, particularly considering Cal/OSHA's vacillating view of PEOs.

BRIEF HISTORY

In the 1990s, Cal/OSHA signaled a heightened interest in pursuing "dual-employer" issues. At that time, the most common situation involved temporary agencies (i.e., "primary employers"), who provided employees to work at a worksite under the supervision and control of another company (i.e., "secondary employers"). The general rule was that so long as the primary employer ensured the worksite employees were covered by an effective injury and illness prevention plan (IIPP), received training, and were provided with personal protective equipment (PPE)—and the primary employer didn't exercise supervision and control over the work activities at the secondary worksite—the primary employer would not be held liable for safety violations.

In 2017, Cal/OSHA commented on PEOs and stated that PEOs with a degree of direction and control over employees and/or their job sites could be subject to citation regardless of the terms of any contract between the PEO and client employer. The agency also opined that PEOs should (1) establish, implement, and maintain IIPPs; (2) ensure employees have appropriate PPE; and (3) inform employees they could refuse to work if presented with dangerous conditions at secondary worksites. PEOs experienced mixed results under this standard, depending on the facts and circumstances of each situation and the individual PEO's practices.

Workplace safety was further thrust into the spotlight in 2020 for obvious reasons—and Cal/OSHA continued to use the dual-employer rubric to evaluate whether multiple employers were liable for COVID-19-related safety violations at the secondary worksites of client employers. The agency at times brought PEOs into situations where there were allegations of failure to provide PPE to worksite employees and questions regarding whether an adequate IIPP was maintained.

As we move past the pandemic, workplace safety remains in the spotlight and should not be relegated to the back burner. Below are five steps PEOs can take to minimize liability in an uncertain legal environment.

1. LABELS MATTER

PEOs should push back on the "primary employer" label. The label was intended for businesses that literally "assign" workers to identifiable job sites, in which case the assigning employer has the ability to assess and control safety. The PEO model is very different.

2. HANDLING CAL/OSHA INVESTIGATIONS

PEOs should cooperate in any workplace safety investigation. However, go into investigations knowing that Cal/OSHA routinely conflates PEOs with temporary staffing companies. Be prepared to explain the key differences between the two. If there is an investigation, reiterate that PEOs delegate to customers the control of day-to-day worksite activities impacting safety, and customers are contractually responsible for safety at job sites. Be aware that your customer may not provide an accurate explanation of this to Cal/OSHA without some help.

3. PEO OBLIGATIONS

PEOs should remain cognizant of Cal/OSHA's typical position that PEOs are obligated to ensure an IIPP exists for

> *As we move past the pandemic, workplace safety remains in the spotlight and should not be relegated to the back burner.*

each customer. PEOs handle this subject differently depending on their business model. Some provide an IIPP template

As with everything in the PEO model, the contract language is important. It may be worth having separate language just for California worded in the way Cal/OSHA is most likely to understand.

to customers. Others just make it a contractual requirement for the customer to have an IIPP. Remember that, if the PEO has internal staff in California, an IIPP is needed for them as well. Providing appropriate PPE should be addressed as a customer obligation in the contract since PEOs generally do not provide PPE to worksite employees. However, Cal/OSHA may or may not respect PPE contract provisions, depending on the overall evidence of the PEO's role. Last, PEOs should consider putting language in worksite employee documentation stating that employees can refuse to perform work if they believe it is dangerous.

4. CLIENT SERVICE AGREEMENTS

As with everything in the PEO model, the contract language is important. It may be worth having separate language just for California worded in the way Cal/OSHA is most likely to understand. Note that Cal/OSHA and potentially other safety regulators pay very close attention to any contract language that appears to give the PEO actual control over safety. Such language will be construed against the PEO if it is subject to interpretation. For example, Cal/OSHA has on occasion viewed PEO mandatory post-accident drug testing language as evidence of control. The same for PEO rights to inspect job sites. While those somewhat common provisions are not necessarily problematic, their wording matters to Cal/OSHA.

5. WORKPLACE SAFETY AT CLIENT EMPLOYER WORKSITES

Cal/OSHA sometimes views PEO safety consulting services as evidence that the PEO controls safety to the point the PEO is responsible for customer violations. Sometimes the issue is just the wording of safety consulting. In other cases, it is the actual substance of what the PEO is doing. PEOs should evaluate whether it may be beneficial to outsource certain services or alter their approach. ■

This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.

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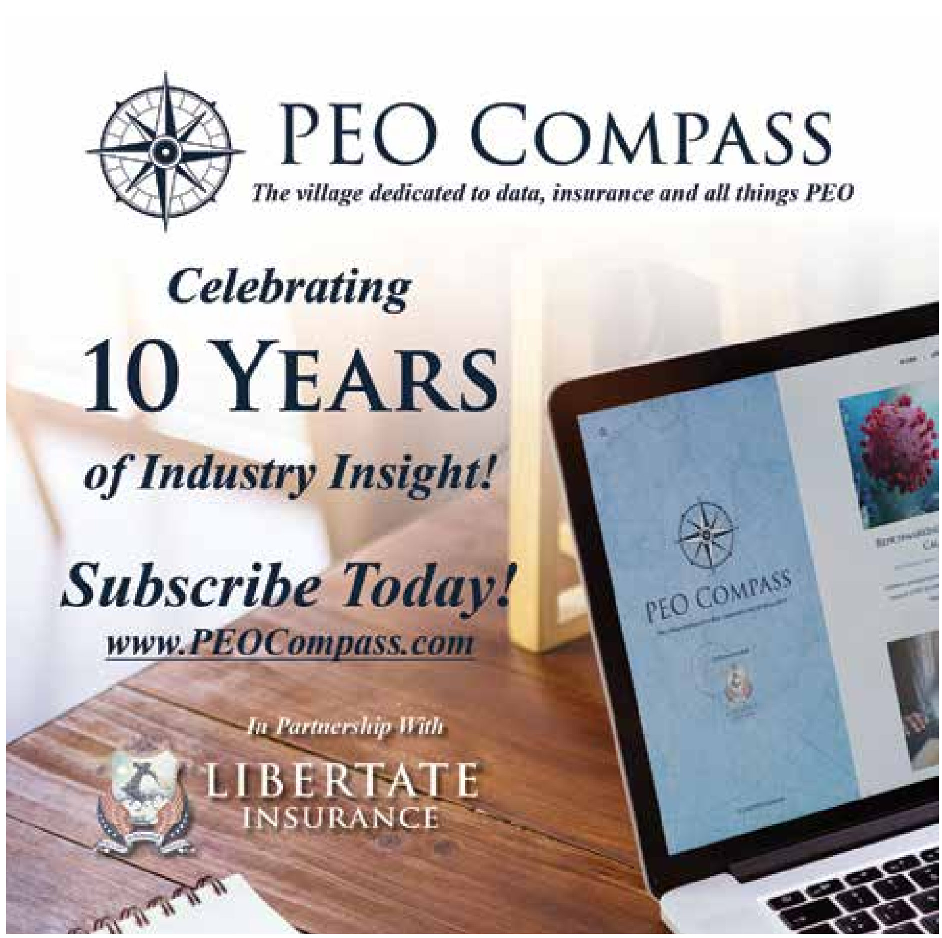


THE PEO PERISCOPE: A LOOK UNDER THE INSURANCE MARKET

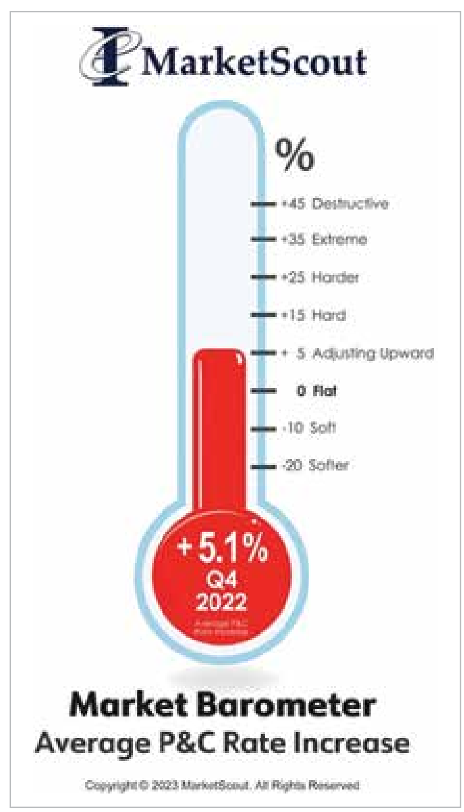
BY PAUL HUGHES

By utilizing the most current and credible information available, *Insurance Trends* provides quarterly feedback and insights on the insurance industry and its impact on the PEO community. It provides current analysis and futuristic expectations on the terms and conditions that should be anticipated for property and casualty lines of business insurance that impact a PEO and its client companies.

2023 OUTLOOK

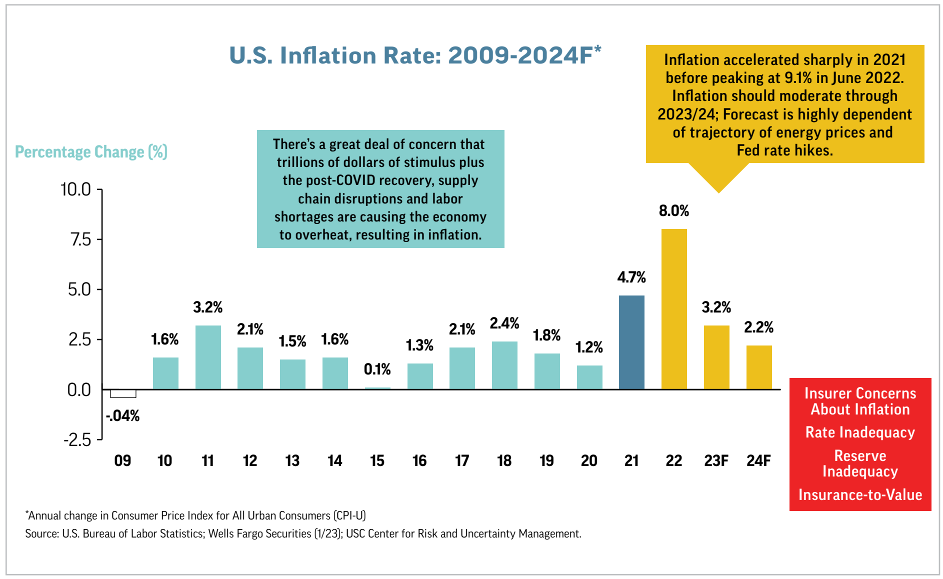
Our friends at MarketScout see an overall 5.2% increase in the sector with CEO Richard Kerr saying, “If there is a slowdown in the economy and/or the Federal Reserve continues to increase interest rates, we may well see moderation in insurance rates. In the early 1980s, insurers did account for an interest income float on premiums received, better known as cash flow underwriting. This concept was mostly applied to longer tail casualty lines. Arguably, an insurer could write at a 100% combined loss ratio because the interest they received on booked premiums was 12% to 20%.”

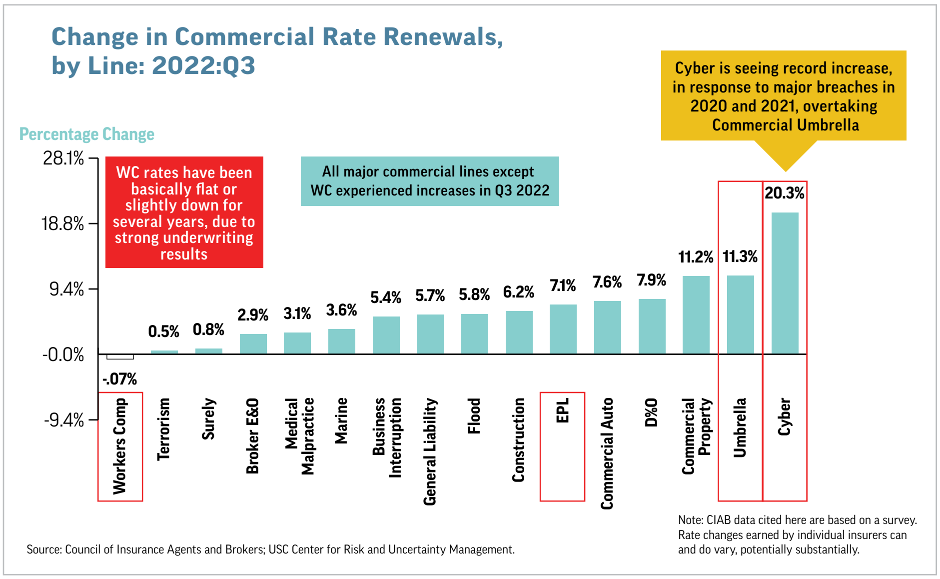
It should be noted that Kerr’s statements were made prior to the recent banking meltdown which could drastically impact further upward swing in interest rates. The insurance premiums that insurers charge are dramatically influenced by the economic conditions of the overall economy. Gross domestic product and inflation rates directly increase or decrease premiums in most part because of the cost to replace assets. An excellent example is the in personal and commercial property markets where the cost to rebuild a home has exponentially increased based on the surge in lumber costs over the pandemic.



MarketScout’s market barometer. Reprinted with permission.

Inflation rates and the Consumer Price Index are two core drivers of insurance rates. As the price of goods increases due to inflation, such as the cost to build, there is more value to insure and replace, and thus higher premiums to be charged. 2021 and 2022 inflationary results were both anomalies when considering the last 15 years of activity. Specifically, the rate was never above 3.2% going back to 2009 but hit 4.7% and 8% respectively in 2021 and 2022. While the expectation at this time was for the rates to taper off based on an increase in the Fed rates, the recent banking crisis, is now a very big unknown as to what the Federal Reserve





does next. Surprisingly, medical inflation is slower than overall inflation thereby holding health insurance trend on renewals generally under 5%.

While workers' compensation has had negative rate trends for almost a decade, other lines of insurance have not been as fortunate. Casualty insurance with a specific focus on areas of cyber and EPLI are most relative to the overall marketplace. There has also been a surge in "mega-claims" (>$2.5m) which has fueled rate increases in umbrella coverage.

Other drivers to understand the foundational increase in cost of casualty insurance policies:

- Increasing propensity/frequency of litigation
- Jury award size (2x over 5 years)
- Plaintiff-friendly courts
- Distrust of "Big Business" and "Great Resignation"
- Litigation financing
- Litigation advertising
- Venue shopping

CONCLUSION

Outside of workers' compensation, where rates are expected to continue to be flat or decreased in 2023, all lines should expect a 5% upward trend without considering individual performance. Double-digit increases and an extreme variance in terms and conditions will drive cyber and EPLI and umbrella layers in the higher limits. In storm-prone areas such as the southeast and California, property rate increases will be extreme, and deductibles continue to push upward. ■

PAUL HUGHES

Principal
Libertate Insurance LLC
Orlando, FL

A SAFE PREDICTION: USING A PREDICTIVE MODEL WILL ACCELERATE GROUP HEALTH SALES, IMPROVE PRICING, AND BOOST RETENTION

BY DAN BECKER, FSA, MAAA

When it comes to signing up new employer groups in your PEO's health insurance pool, collecting questionnaires has always been a sticking point. Today's clients are like any other consumers; they demand seamless and nearly instant purchase experiences.

Personal health questionnaires (PHQs) can take days or weeks to gather, causing delays that are less and less acceptable in an increasingly real-time business environment. They're also only as accurate as employees are conscientious.

If anything, general health questionnaires (GHQs) can be more problematic. When submitted with complete data, they provide a basis for sound medical underwriting, but they're a burden on your potential client, and their protective value is often little better than underwriting based on standard rate tables. Even in a best-case scenario, GHQs cannot meet the needs of PEOs who are under pressure to deliver quotes at the speed of competition.

So, skip them. I've been working with predictive models in the group health space for years, so I'm not surprised that more PEOs are adopting them to rapidly assess a new group's health risk without compromising the medical underwriting requirements expected by master policy holders. Not only can a model drastically cut the time it takes to prepare a quote (usually down to a few minutes), but the best models are statistically superior to conventional underwriting, making it easier for you to strategically price your new group and manage your entire book at the same time.

IT'S TIME TO DEMYSTIFY PREDICTIVE MODELS

Some insurtech companies trumpet their artificial intelligence tools as if predictive models were one step away from the sentient robots in science fiction movies. The truth is that predictive models aren't particularly futuristic or mysterious; they're just tools that use machine learning to find patterns in huge troves of data. But they do it very quickly and very effectively.

The first predictive model for underwriting in the group health space has been in the market for over a decade. Virtually all carriers depend on models to rapidly assess risk when they lack high-quality claims experience. Now, PEOs are finding they can reap the same benefits of speed and predictive reliability and are progressively incorporating this established technology into their workflows.

REPLACING PHQS AND GHQS WITH DATA

In the case of group health assessment, the data that powers predictive models usually consists of prescription histories and medical records. Machine learning searches through the health records of millions of people, looking longitudinally at lives over periods of years, often considering thousands of data points per life. A key advantage of this approach is that it allows for more nuanced risk assessment. It doesn't just assign the same rate increase to every person with a given condition; in some instances, the model may identify unique data patterns associated with lower morbidity.

This complex data science all happens in the training and model-building phases. After that, it's remarkably easy to use: One merely inputs the group's census data and lets the model predict future claims risks based on previously observed trends. It will usually kick out a single, easily actionable risk metric for the end user in moments.

The best part about this may be the most obvious difference: There are no questionnaires involved. All a PEO needs to provide is a simple group census consisting of basic demographic details. Some models don't even require employees' Social Security numbers. You don't need to worry about HIPAA authorizations, because even though the models input members' individual health records, personal health information is deidentified and scores are delivered at the group level.

NOT JUST EASIER, MORE ROBUST AND MORE LIKELY TO HIGHLIGHT LOW RISKS, TOO

In retrospective studies, models powered by prescription histories and medical data have consistently produced actual-to-expected claims ratios that are closer to the pin than questionnaire-based medical underwriting. Using a high-quality model lets you aggressively price less-risky groups to win their business, while you right-price high-risk groups. With this approach, you can strategically manage your entire pool without putting it all at risk of unexpected rate adjustments that can lead to clients looking elsewhere instead of renewing.

Not only can a model drastically cut the time it takes to prepare a quote (usually down to a few minutes), but the best models are statistically superior to conventional underwriting, making it easier for you to strategically price your new group and manage your entire book at the same time.

While questionnaires and conventional medical underwriting can be useful in avoiding high risks, another advantage of models is that they will give insight into the cost differences among "good risk" groups where little information is disclosed on a typical questionnaire.

Of course, one can imagine situations in which a questionnaire could yield information that a model would miss. In such cases, a hybrid approach, using a model and questionnaire in tandem could result in the best risk assessment of all. But the more scrupulous the responses, the longer it takes to process the questionnaire. Indeed, almost any use of questionnaires serves to underline another advantage of models: consistency. Given the same input, models will always produce the same output. That's simply not a trait that applies to humans, whether they're employees answering health questions—or underwriters interpreting those answers.

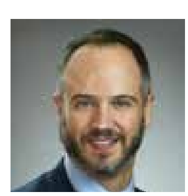
NOT ALL PREDICTIVE MODELS ARE CREATED EQUAL

Models are only as good as the data that they're trained on. Data quantity is usually measured in millions of lives in the training data. But data quality is just as important. What data is being analyzed and how is it weighted? If you want to model group morbidity, knowing that a group member has been treated for alcoholism is more relevant than knowing what brand of beer he prefers.

Few PEOs have the time or resources required to run a retrospective analysis on their own data, so choosing your model provider comes down to choosing a company with actuarial and clinical skills you trust.

Some providers also deliver predictive model results through a conventional underwriting rules engine. That can serve as a useful set of guard rails, providing additional information when you want it and giving you the confidence you need to trust the output.

Predictive models aren't the future of group health quoting—they're the present, and PEOs not using them may be at a severe competitive disadvantage. Are they superior to questionnaires? If you ask me, there's no question about it. ■



DAN BECKER

Product Director for Curv® Group Health
Milliman IntelliScript
Brookfield, WI

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AD INDEX

Boldface type indicates NAPEO Medallion Partner

ALL THINGS MUST PASS

BY PAT CLEARY

As you likely know by now, last month I informed the board of my plans to depart NAPEO when my current contract expires at the end of this year. It's been a good run. I've been here 12 years, the longest I've been anywhere, if you don't count Butler, NJ. As I told the board, I have fuel in the tank, I just don't have a full tank, and this job requires a full tank. It takes someone with all the energy this job requires. And every organization needs to be refreshed every so often. We're no exception. I'll stay in the industry in one way or another, keep my hand in things. We'll see what that looks like. I don't intend to pack my life in cotton, to paraphrase Steinbeck.

When I interviewed our newest hire, Andrea Desmond, I asked her if she had any questions for me. She asked a few and then, "What are you most proud of?" It gave me pause—no one had ever asked me that before. My answer was clear: The team and the culture. I have said a million times that I have been blessed with a great team here at NAPEO. I joke that we split the burden evenly: They do the work, I take the credit. Turns out, it's not a joke. They have carried me for 12 years, and it's a parade I'm proud to be in front of. All the victories are theirs, the failings are mine alone.

And the culture. If you've been around us at all, you know it, you feel it. This gang is funny, irreverent, fun, smart, and hard-working, with a laser focus on you, the members. Check out the results of the recent member survey, napeo.org/survey22results. They are off the charts—and for good reason. This team delivers, every day.

Looking more broadly at the industry, I'm proud of the tremendous growth we've achieved together. When I arrived, there was a small cadre of members who controlled the organization and who seemed focused on fighting with one another. We pivoted, turned our focus outward. Our marketing/communications budget grew from $50,000 to $1.4m, and the industry quadrupled in size. Go figure.

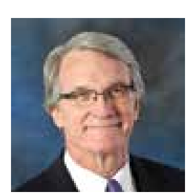
And again, the culture: Come to any NAPEO conference and it is there. Again, the member survey noted the unbridled optimism among our members. And why shouldn't we be optimistic? PEO continues to be the single greatest value proposition for a small business.

I'd be remiss if I didn't thank the board and our leadership. They have been nice—a funny word, I know, but apt—supportive, smart, and collaborative. Again, it wasn't always thus. In the early days, there was a lot of interpersonal enmity and infighting. Luckily, most of those folks have moved on, and we are left with a very different group. They've been great, and I thank them.

By now, you've received an email from our Chair, Kristen Appleman. There's a search committee and a search firm, a transition plan, etc. All is well. Again, you are lucky to have a good, solid, responsible board who takes their jobs very, very seriously.

As for NAPEO, as the Maren Morris song says, the bones are good. This is a solid organization, financially strong and with a team that runs like a machine—you've seen it. Everything will be OK. As for me, I will play 'til the buzzer, whenever it sounds.

So you'll have me to kick around for a little while longer, and hopefully we'll see one another this year and in my life after NAPEO, whatever that may look like. I can tell you it's been a helluva ride, and I am grateful for all of you who made it so. ■



PAT CLEARY
President & CEO
NAPEO
Alexandria, VA

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