

**New ADA Return to Work
Interpretations covered in the
2015 Ultimate Guide to Mastering
Workers' Comp Costs**

March 24, 2015

New ADA Return to Work Interpretations

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Your Ultimate Guide to Mastering Workers' Comp Costs

- Workers' Compensation Insurance Basics
- Fundamentals of Cost Containment
- Training and Building Commitment
- Injury Management Best Practices Roles and Responsibilities
- Reporting the Claim
- Post-Injury Response Procedure
- Communication with Employees
- Working with Your Insurance Adjusters or TPA
- Safety and Loss Control
- Wellness Programs
- Return to Work and Transitional Duty
- Other Indemnity Cost Containment Methods
- Directing Medical Care
- Medical Cost Containment
- Fighting Fraud and Abuse
- Rehabilitating the Injured Employee
- Managing Prescription Drug Use and Abuse
- Claims Resolution and Settlements
- Federal Employees Compensation Act
- Appendix A: Glossary of Abbreviations
- Appendix B: Documents Referenced in Book

Learn more about Mastering Workers' Comp Costs: www.advisenltd.com/wcbooks

Today's Moderator: Rebecca Shafer

Rebecca Shafer, President, Amaxx Risk Solutions, Inc., Attorney/Risk Consultant



Rebecca Shafer is an acknowledged thought leader in the workers' compensation industry and co-author of 2015 Your Ultimate Guide to Mastering Workers Comp Costs. Shafer, an attorney and risk consultant, has worked for 20 years with companies helping them reduce workers' comp costs 20% - 50%. As litigation manager of a company with 89 operating units, she **reduced workers' comp costs 60%**. Her passion includes helping companies improve communications with employees and integrating claims administration more effectively with internal operations.

Shafer created injury management practices for Marsh and Aon, and managed the practices for those brokers. As CEO of Aon Management Institute, she developed **Comp Camp**[®], a CEU-certified training facility and has trained employers from as far away as China. She developed **Safety National's Tool Kit**[®] to identify best practices simultaneously in multi-divisional organizations.

Her clients have included: The NY Times, OfficeMax, First Group America, Wyeth, USAir and Universal Orlando. Shafer is licensed to practice law in CT and NH. She serves on the **LexisNexis Executive Committee** and the **National Workers Compensation & Disability Conference Board**.

Jennifer Christian, MD, President, Webility Corporation



Jennifer Christian, MD, MPH, FACOEM is a thought leader and advocate for improving medical outcomes and preventing needless work disability in workers' compensation and disability benefits systems. She is **board-certified in occupational medicine** and earned both her medical and public health degrees from the University of Washington in Seattle. She chairs the **Work Fitness & Disability Section of the American College of Occupational & Environmental Medicine (ACOEM)**. While practicing medicine in Alaska, she was chosen as **Physician of the Year**.

Her group, the **Work Fitness & Disability Roundtable**, is open to any professional who gets involved with these issues. She founded and led the **award-winning 60 Summits Project** to promote the work disability prevention model across North America which generated 20 multi-stakeholder conferences in 14 jurisdictions. She chairs the newly-formed **Praxis Partners Consortium**, a by-invitation community of diverse professionals known for their commitment to producing better life outcomes for working-age people whose lives have been disrupted by illness, injury, or aging.

She is **President of Webility Corporation**, a management consulting and training company. Most recently, she developed Webility's newest offering – the non-medical **Maze-Masters program** which provides educational and life coaching services directly to individuals who have gotten "lost in the system" to help them get their lives back on track.

Aaron Konopasky

Senior Attorney Advisor, Equal Employment Opportunity Commission



Aaron Konopasky is a **Senior Attorney Advisor** in the ADA/GINA Policy Division at the **U.S. Equal Employment Opportunity Commission (EEOC)** headquarters in Washington, D.C. He assists the Commission in interpreting and applying the statutes it enforces, and participates in drafting regulations, policy guidance, and other publications.

Dr. Konopasky joined EEOC after receiving his **J.D. from Stanford Law School**. Prior to law school, he received his **Ph.D. in philosophy from Princeton University**, and served as an adjunct professor of philosophy at Rutgers University, Tulane University, and the University of New Orleans.

Michael Stack

Principal, *Amaxx Risk Solutions, Inc.*, CPA



Michael Stack is the Principal of Amaxx Risk Solutions. He is an expert in employer communication systems and helps employers reduce their workers comp costs by 20% to 50%. He resides in the Boston area and works as a **Qualified Loss Management Program** provider working with high experience modification factor companies in the Massachusetts State Risk Pool.

As the **senior editor of Amaxx's publishing division**, Michael is on the cutting edge of innovation and thought leadership in workers compensation cost containment. He stays in tune with the latest industry challenges, and pursues partnerships with industry leaders to provide the go-to resource for best practices.

In almost every problem, Michael believes some facet of the cause is communication. In the case of Workers Compensation, **poor communication is not only causing emotional strains on the employee and employer, but also unnecessary strain on the employer's bottom line**. He believes the root of a good Workers Comp Cost Reduction system must be Win-Win to be successful.

Michael brings a unique CPA background to the workers compensation space, and focuses on the impact of workers compensation cost containment on a companies bottom line. He is dedicated to writing, speaking, and masterminding with others for the purpose of continuous improvement in an area so vitally important to companies and individuals.

Introduction: ADA Basics



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q1: When do the employer's obligations under the ADA kick in for a workers' comp injury?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q2: What should the “interactive process” required by the ADA look like -- in workers’ comp?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q3: What's the difference between light/modified/transitional duty and a reasonable accommodation?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q4: Can an employer set a policy about how long a transitional duty position can last?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q5: Can an employer require an employee to return to work after an injury? Can the injured employee refuse to accept a transitional work assignment?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q6: Are “indefinite” periods of time out of work permissible?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q7: How long does an employer have to wait before terminating an employee who can't come to work?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q8: Can the employer offer an employee an assignment at a different location such as a different division of the same company or at a charitable organization, if there are no suitable jobs at the original location?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q9: When is an employer allowed to ask for a medical exam in addition to those required/allowed under the workers' comp system?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

Q10: At what points in the process are employers most likely to violate the ADA? Where have employers run into the most problems?



David Bradford



Rebecca Shafer



Jennifer Christian



Aaron Konopasky



Michael Stack

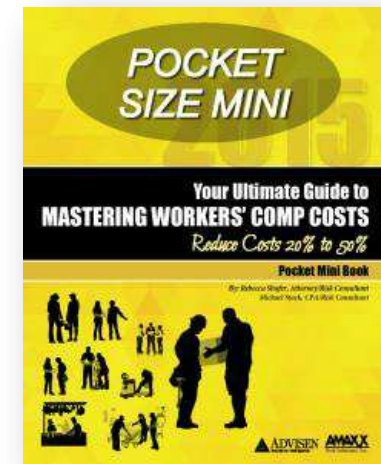
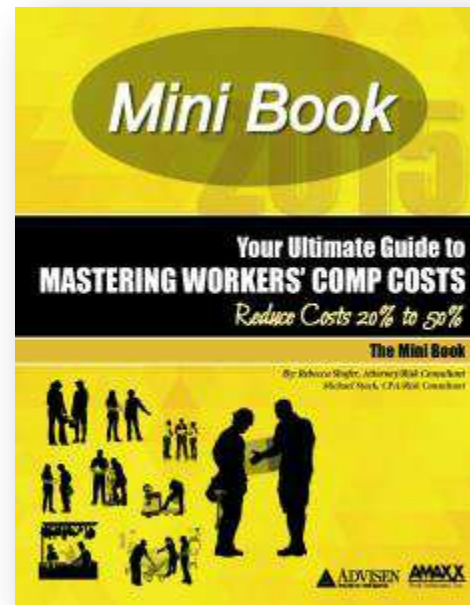
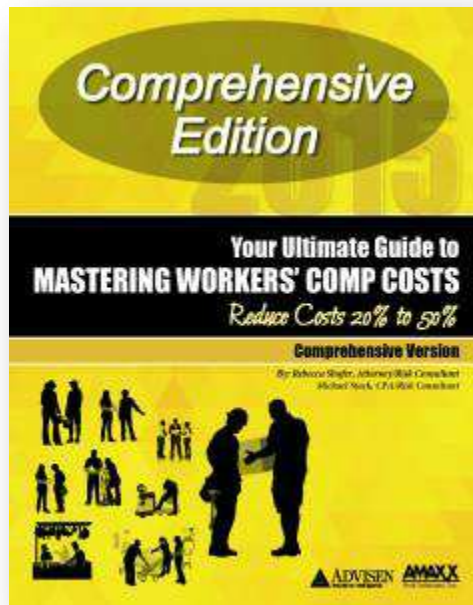
Reasonable Accommodation	Undue Hardship	Employer Best Practice
Eliminate Marginal Job Function	Significant Operational Difficulty or Expense	Return to Work / Transitional Duty
<p>Example: A cleaning crew works in an office building. An injured worker with a broken leg in a cast can perform essential functions of the job, but has trouble with the stairs. Swapping the stairs assignment with another able bodied employee for ground level cleaning duties is a reasonable accommodation.</p>	<p>Example: A small employer being required to install lifts in each stairwell would likely constitute an undue hardship.</p>	<ul style="list-style-type: none"> • Communicate transitional duty policy at time of hire, prior to injury • Establish transitional duty job bank to place injured workers during recovery • Discuss reasonable accommodations and begin interactive process at time of injury • Communicate with medical provider to obtain work restrictions • Assign productive TD position to employee based on restrictions

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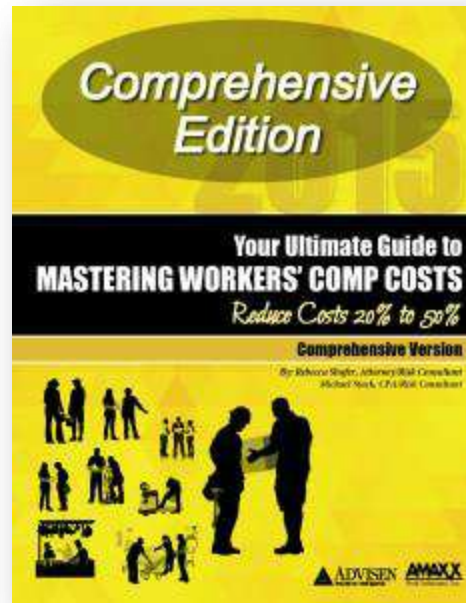
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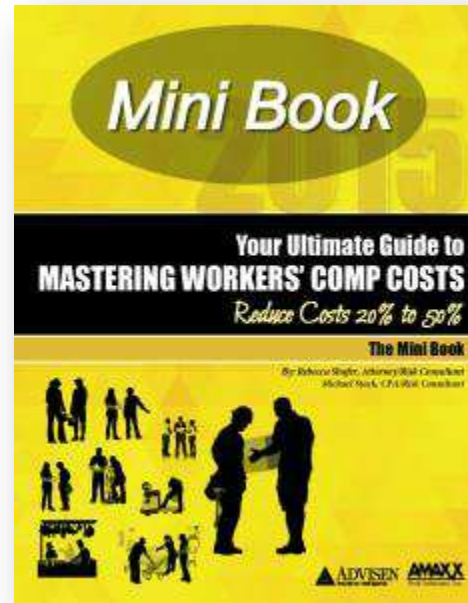
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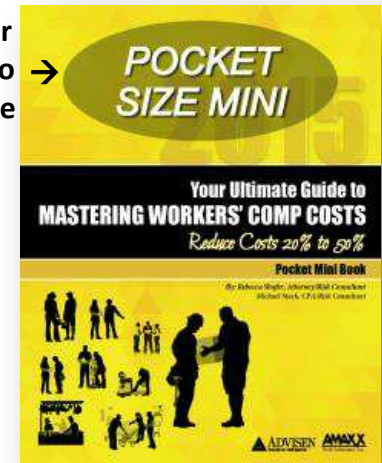
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<http://www.advisenltd.com/research/broker-compensation-services-report/>

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