

香港公開大學

THE OPEN UNIVERSITY
OF HONG KONG

SEMINAR ON WORK INJURY MANAGEMENT: WESTERN AND LOCAL APPROACH

21 May 2009

HKIE-SSC, HKARMS, HKIUS, SRSO,
SOEHK, HKIE-MMNC, HKOSHA;
IMechE, ASME

By Maggie Wong

Agenda

1. NSW system vs HK system
2. General Problem
3. Advantages (Injured Person and Company)
4. Q & A

WORK INJURY MANAGEMENT

	Hong Kong	Sydney
WIM Legislation	Employees' Compensation Ordinance, Chapter 282 of the Laws of Hong Kong. No Reh. Requirement No RTW component	WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION (MEDICAL EXAMINATIONS AND REPORTS) ORDER 2009 under the Workplace Injury Management and Workers Compensation Act 1998

WIM co-ordinator	Nurse, Physiotherapist (PT), Occupational therapist (OT), HR...	<i>Nurse, Physiotherapist, Occupational therapist</i>
WIM co-ordinator status	Contractor	<i>Direct employee or contractor</i>
WIM Backup system	Doctor, PT, OT, +/- Clinical psychologist,	<i>Doctor, PT, OT, Ergonomist, Clinical psychologist, Rehabilitation Counselor, Vocational specialist, Social worker</i>
Medical Treatment	Up to \$280/day	Weekly compensation payments may be made under section 36, 38 or 40 of the 1987 Act.

A REVIEW OF WORK ACCIDENTS IN HONG KONG

- + Government statistics: ~ 57,000 work-related injuries a year
- + Employees' compensation
 - No fault scheme
 - Non-contributory
- + Employees' rights
 - Employees' Compensation and/or
 - Common law claim

CURRENT TRENDS IN EMPLOYEES' COMPENSATION

- + Pro-employee bias
 - Courts tend to rule in favor of employees
- + Employees can now easily get help
 - Lawyer, Legal Aid, Claims Company, Trade Unions
- + More and more exaggerated claims in the recent years

律師推介

孫楚蓮:樓宇買賣,按揭,債務重組,IVA,破產,交通傷亡 66899999

謝連豐:工傷,交通意外索償 82098778

謝連忠:婚姻監禮人,証婚律師 820 99999

鄧達明:破產,樓宇買賣,IVA,破產,刑事,改名 624 88888

黃鶴鳴:工傷,破產 64288888

許麗欣:離婚,撫養權,賠償費 653 66666

伍家賢:意外索償,工傷,遺產 675 99999

謝連輝:破產,離婚,工傷 68299999

更多律師...

法律精選

樓宇買賣,按揭,贈與,加名,轉名

工傷或交通意外索償人士注意!

本律師行不接辦索償公司轉介個案... 若閣下因索償公司或律師行打擊而遭罰,或遭索償公司遺棄,為你的利益起見,請致電謝連豐律師 82098778 免費諮詢。



找工作傷、交通意外索償律師
找謝連豐

在領匯上市事件中,有人指立法會議員甄志強(鄧大炳)記者公函,幫助公屋居民在法院打官司,因而向警方報案,指責鄧大炳觸犯相關罪行

- 包攬訴訟 (maintenance) 和 幫託 (champerty)

所謂包攬訴訟或包攬官司,是指有人在案中沒有利害關係,插手多管閒事。鄧大炳案件,相信會觸發警方就「不成功,不收費」的案件展開調查一些類似性質的個案,最明顯的是「不成功,不收費」的傷亡索償個案。

此因,如果律師或索償公司在案中採取「不成功,不收費」的方式,加以向原訴人(例如是工傷工人或交通意外中的傷者)提供金錢上的資助,支援他們打官司,便會等同包攬訴訟或幫託,而案中的當事人(即原告或索償者)亦變成案中共犯,惹

新聞 - 即時新聞 - 港聞 - 中國 - 國際 - 地產 - 財經 - 體育 - 副刊 - 娛樂 - 專欄

「不成功,不收費」法委會設基金 資產中產打官司

2007年7月10日

「不成功,不收費」法委會設基金... 資產中產打官司

今日備忘

- 第二屆福運會
- 康文署:透視社會風貌
- 光影特輯-攝影大師 羅達德、黃慶輝、黃貴權
- 光影特輯-攝影大師 羅達德、黃慶輝、黃貴權
- 宋樂聖文物珍品展
- 夢華生花-李卓區作品展

更多...

http://www.ecc.com.hk/

編輯(E) 檢視(V) 我的最愛(A) 工具(T) 說明(H)

【葉謝律師行】工傷索償 交通意外傷亡人身...

追討工傷、交通意外賠償 謝連豐律師

只為傷者、死者家屬索償,不替保險公司辯護 免費評估熱線: 82098778

索償家律師: 王君傑律師

主營: 謝連豐律師 免費評估熱線: 82098778

- 葉謝律師行管理合夥人
- 德仁來傑案主營
- 代表業主、香港保險公司
- 香港大學法律榮譽學士
- 執業律師、執業超過10年
- 英國律師公會會員
- 辦理過20宗索償案

律師會認可的法律持續進修課程(CPD)講者,題目: 僱員由工傷來法律

資深顧問: 謝連忠律師

- 葉謝律師行高級合夥人
- 曾獲多宗職工工傷、刑事案
- 曾代表客戶應密勒案行上訴,親赴美國密密院
- 執業18年
- 多次獲委任港台城市論壇、政策論壇講者; 題目包括盜賊刑事化、網上盜案刑事化、添著大事件等、包二控刑等
- 香港執業律師
- 港大社會科學院榮譽學士
- 倫敦大學法律榮譽學士
- 港大法律專業進修文憑
- 《香港電子法律》作者
- 公辦大學專業培訓提供律師會認可的法律持續進修課程講者, 題目包括電訊法規、電子交易和個人資料私隱
- 太陽報《監獄網》專欄作家

工傷補償案例疑難

僱主逾期支付工傷補償有何果?

僱主沒付工傷補償罰款多少?

僱主可否隨意解僱工傷僱員?

葉謝鄧【保証唔會瓜分您的賠償】

- 葉謝鄧律師行,在城中享負盛名,「服務多元、質高、量多」。
- 在電視宣傳節目中(無線翡翠台、有線電視),公開【保証唔會瓜分你的賠償】。保障賠償金不會被蝕,金額「水瓜打狗」,其他律師爭相跟隨。

<p>謝連輝律師 68299999</p>	<p>孫楚蓮律師 66899999</p>
<p>謝連豐律師 68389998</p>	<p>黃鶴鳴律師 64199999</p>
<p>鄧達明律師 62488888</p>	<p>伍家賢律師 67599999</p>

葉謝鄧律師行【工傷、交通意外索償】

- 圖: 葉謝鄧律師行謝連忠擔任城市論壇講者及後接受多間傳媒訪問。
- 查看: 傳媒訪問: 伸張傷者權益
- 13年歷史 16名律師 規模

六辦事處: 遍佈港九新界

- 提供「平宜、快捷、方便」的法律服務
- 熱線: 82099999 (灣仔地總站)
- 灣仔軒尼詩街中國海外大廈20樓
- 紅區: 68699999 (旺角地總站)
- 彌敦道二期1107、1127-8室
- 觀德: 68299999 (觀塘地總站)
- 開源道25號福昌大廈2字(匯豐對面、近APM)
- 荃灣: 62488888 (荃灣地總站)
- 南豐中心23樓
- 沙田: 67599999 (沙田火車站)
- 新城市中央廣場二樓2109室(宜家傢俖樓上) (沙田火車站步行3分鐘到站)
- 元朗: 64199999 (元朗大棠地總站)
- 元朗貿易中心28樓8室(麥當勞快餐店樓上)
- 目錄
- 必有內容
- 港九新界六辦事處:
- 灣仔銀行
 - 九龍旺角維多利亞中心
 - 荃灣南豐中心
 - 沙田新城市中央廣場
 - 九龍官塘佛照道
 - 元朗貿易中心
- 認識葉謝鄧律師行:
- 保証唔會瓜分您的賠償
 - 葉謝鄧工傷、車禍意外索償
 - 免費賠償估計師; 勝訴和賠償額
 - 關於葉謝鄧律師行

一個價錢兩種咁好! 織裙 + 雙胸

送你一個可愛遊戲室

每日送贈精美書券及 HK\$40 優惠券

《謀殺小說》

送您 Cool到樂Hit到盡 勁歌金曲系列

包攬訴訟首案開審 律師代理助追賠償

(明報)2009年5月12日 星期二 05:05

【明報專訊】律師行合伙人及索償代理人涉以「不成功，不收費」作招徠，稱可協助追討交通意外的賠償，抽取25%作酬勞，涉款逾86萬元，二人被控串謀干預訴訟及分享訴訟成果等罪名，昨日受審，成為本港首宗案例。

抽25%服務費 涉86萬元

無業的首被告張藹冰（39歲）及盧蔚恩黃淑薇律師行合伙人的次被告盧蔚恩（40歲），同被控串謀強行干預訴訟、教唆他人作假證供及教唆他人發假誓的交替控罪。張另被控盜竊、分享和企圖分享訴訟成果罪。

控方指出，女事主黃少英的兒子楊駿傑於2001年3月遇上交通意外，頭部重創，導致認知障礙。聲稱為顧問公司職員的張在醫院接近她，多番游說指可協助楊追討意外賠償，成功後收取其中25%作「服務費」，失敗則不收費，黃最終答允。楊於同年4月再遇上交通意外，張說可代楊索償，黃亦簽下文件，後來張稱賠償不多，故建議黃放棄。次被告盧蔚恩則為黃的委託律師並向高院入稟申索。

涉教唆傷者母親發假誓

有關索償案最終達成和解，法庭於2003年9月11日頒令楊可接納350萬元賠償，其中約115萬元須即時支付律師行再轉交黃；另張則要求黃交出約86萬元現金作「服務費」。

2004年，黃向高院申請被委任處理楊的財產，並由盧代表她出庭，翌年5月盧向黃表示，法官要求黃交代該筆約86萬元的去向，兩被告要求黃告知法庭款項被存入其銀行保險箱，並要黃簽下誓辭。盧代表黃向法庭承諾把80萬元存入楊的戶口，但兩被告沒向黃解釋申請結果，黃遂於10月另聘律師代表。

2006年2月，法庭宣布委派法定代表律師，調查該筆86萬元的下落。

根據法例，觸犯強行干預訴訟或分享訴訟成果罪，最高刑罰為監禁7年及罰款。聆訊今續。

【案件編號：DCCC610/08】

General Problem

- ⌘ How to determine whether the injury:
 - ⌘ Result from work?
 - ⌘ Result in any Permanent Disability?
- ⌘ Result in **any incapacity of earning?**
- ⌘ The employee has falsely represent his symptom?

WORK INJURY MANAGEMENT

CONCEPT:

- 1) Prevention
- 2) Early Intervention
 - Prevent formation of pain cycle and loss of function
 - Prevent loss of working status, negative psychological impacts and de-conditioning
- 3) Shared responsibility
 - Shared among employers, injured workers and occupational rehabilitation professionals
- 4) Monitoring
- 5) Evaluate the program

MAJOR CRITERIA

- + Early Notification
 1. Early Rehabilitation (Panel Dr., Therapy, Work-site assessment, +/- Home assessment)
 2. Early arrangement of any necessary investigational test
 3. Arrange suitable duties
 4. Early claims assessment (any liability?)

TIME

+ Early Notification!

+ Early Intervention!

+ Early Return to work!

Work Injury Management

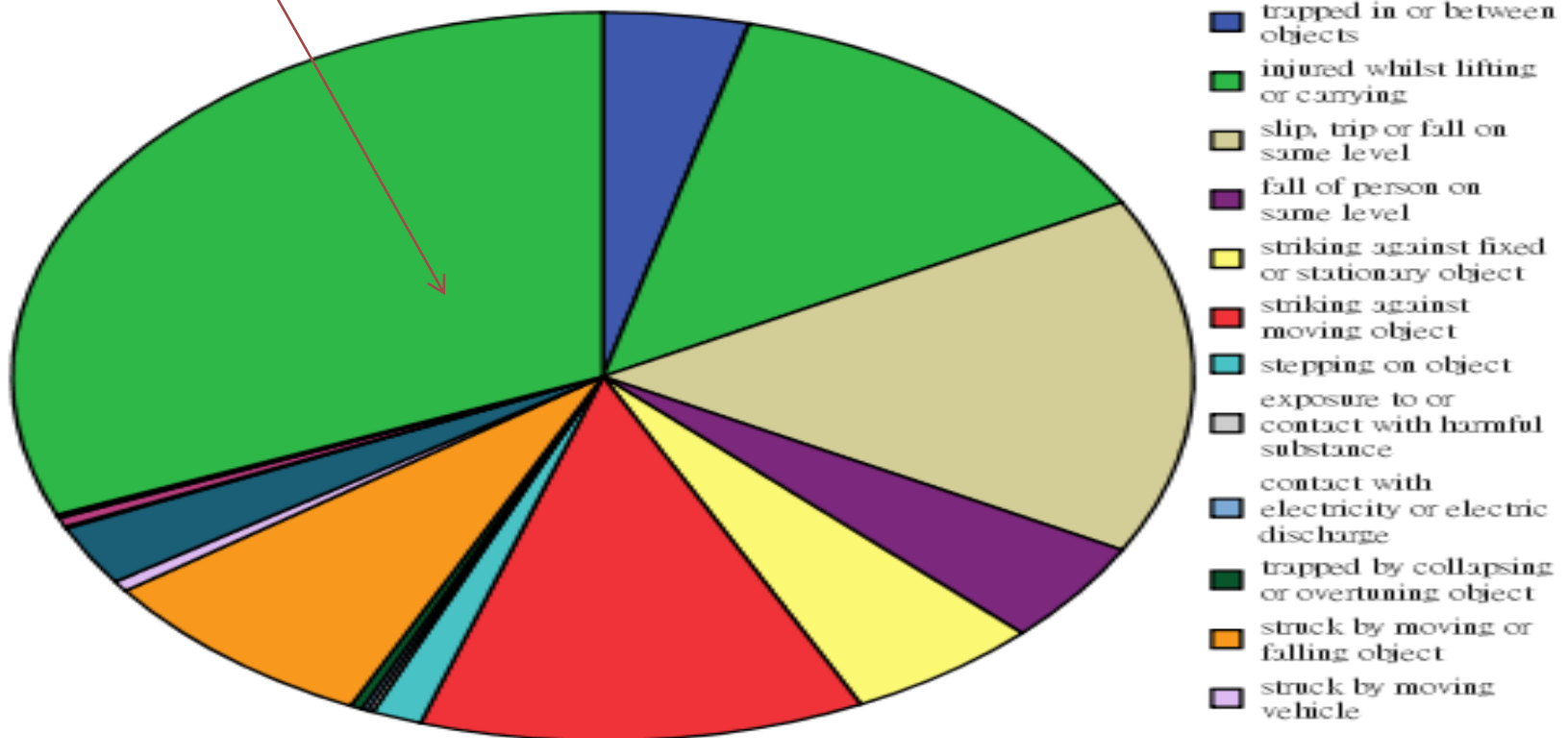
–It is a managed process involving **early intervention** with appropriate, adequate and **timely services** based on assessed needs, and which is aimed at maintaining injured or ill employee in, or returning them to, **suitable employment**

–A progression to incorporate occupation rehabilitation into a more **comprehensive approach to the management of injury, injury prevention and cost of injury at the workplace.**

RETROSPECTIVE ANALYSIS ON 1225 OCCUPATIONAL INJURY CASES (2002 TO 2006)

Lifting and carrying

Type of accident



COMMON ISSUES:

- + Prolong injury leave
- + Reasonable medical assessment
- + Suspicious case assessment
- + Proper suitable duty arrangement
- + Other proper arrangement with Government, Insurance Company and Employees

THE PROBLEM

Around 10% of workers had >60 days injury leave who used up 80% of compensation money...

CAUSING THE GAP

The majority of lost-time cases, 60% to 80%, involve medically unnecessary time off from work

THE GAP...

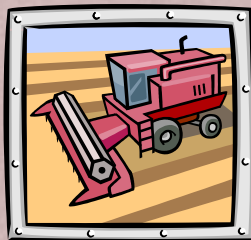
- + the treating physician is unwilling to force a reluctant patient back to work (the most common reason cited);
- + the treating physician is not equipped to determine the right restrictions and limitations on work activity;
- + the employer cannot find a way to temporarily modify a job;
- + the treating physician feels caught between the employer's and the employee's version of events;
- + the treating physician has been given too little information about the physical demands of the job to issue a work release for the patient; and
- + a conflict exists between the opinions of two physicians.

PREVENTION:

- 1) Risk assessment
- 2) Task analysis
- 3) Risk management
- 4) Continue monitoring
- 5) Evaluation of the system

PREVIOUS SERVICE IN HK

Company	No. Staff
1. Construction industry	±7,800
2. Retail service	±11,000
3. Security industry	±5,000
4. Food service	±17,4000
5. Property Management	±3,000
6. Cargo Service	±2,500
7. Aviation Service	±1,500
8. Lift Service	±1,000



CASE MANAGEMENT

- + Early intervention
- + Managed care
- + Early return to work
 - Return to work program

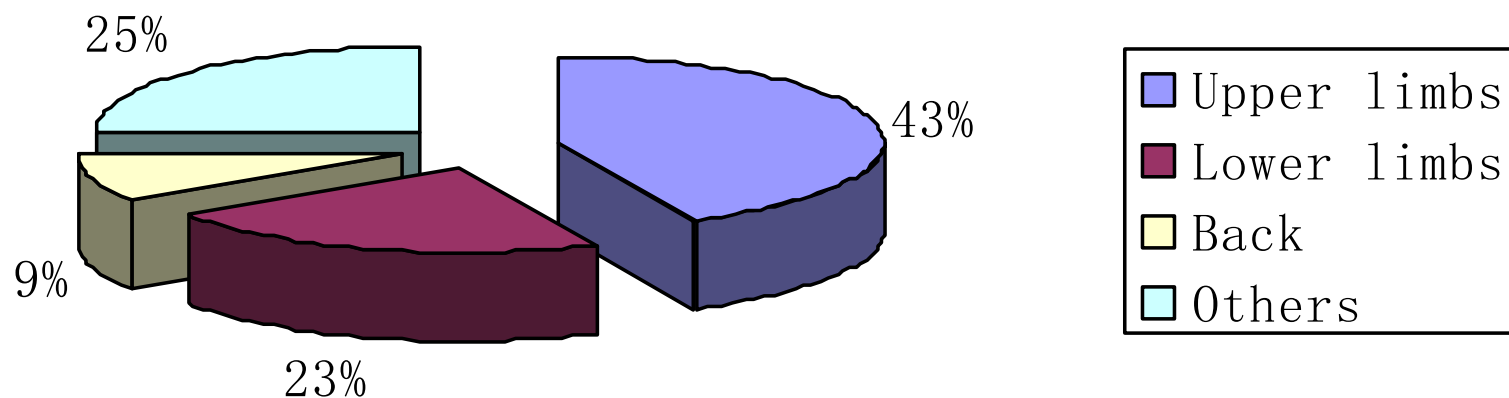
CLAIMS MANAGEMENT

- + Immediate investigation
 - Claims assessors
 - Panel loss adjusters
- + Proactive settlement
 - Claims negotiators
 - Panel legal advisers
- + Improved Claims History
 - Reduce compensation & common law exposures

PROGRAM MANAGEMENT

- + Effective triage
 - Cases screening
- + Progress targeting & monitoring
- + Managed performance
 - Comprehensive information system
 - Risk management Analysis

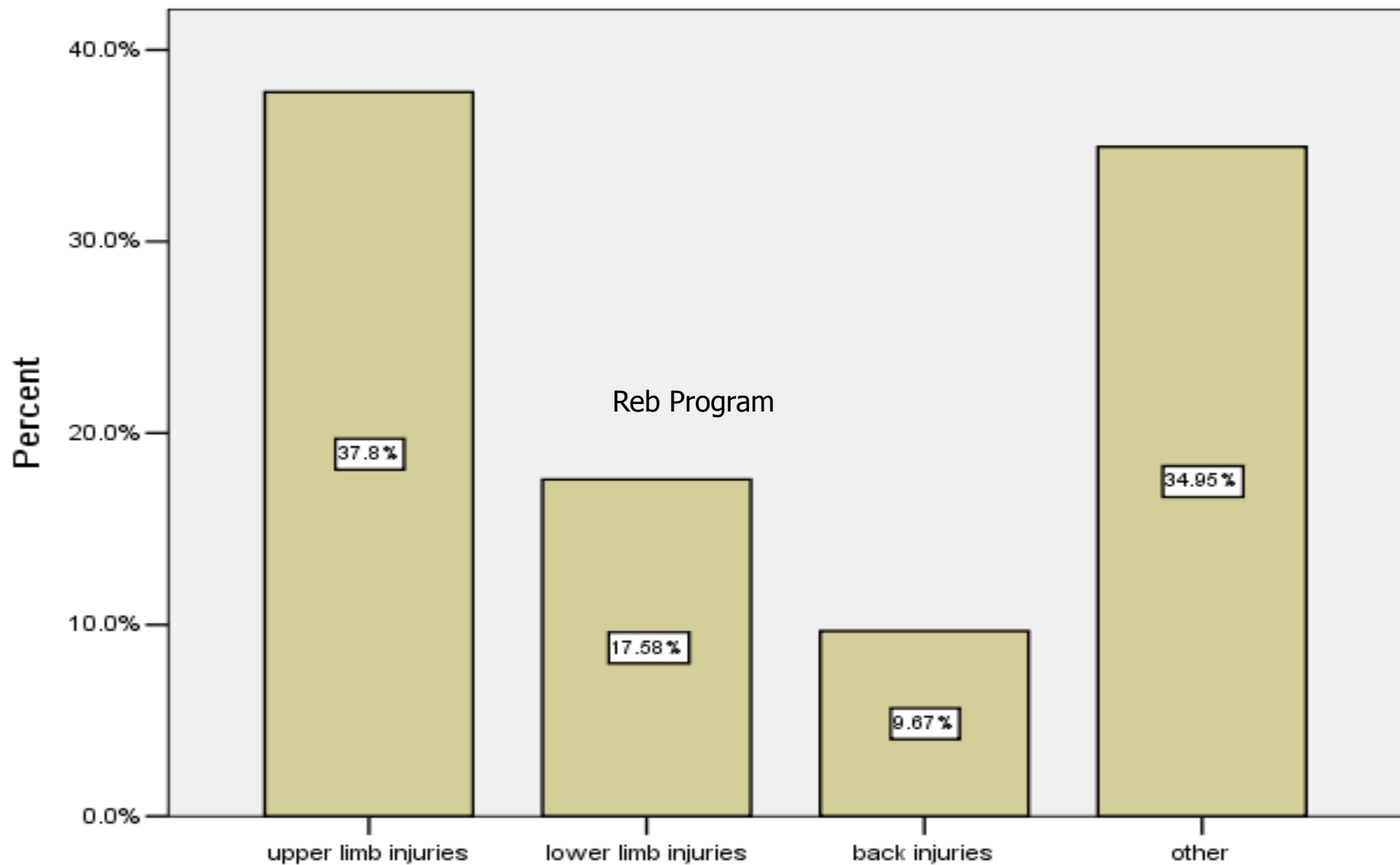
PREVALENCE OF OCCUPATIONAL INJURIES



Distribution of non-fatal cases by injury parts in 2002

(sources: Dept. of Labor, Hong Kong. n=47,912)

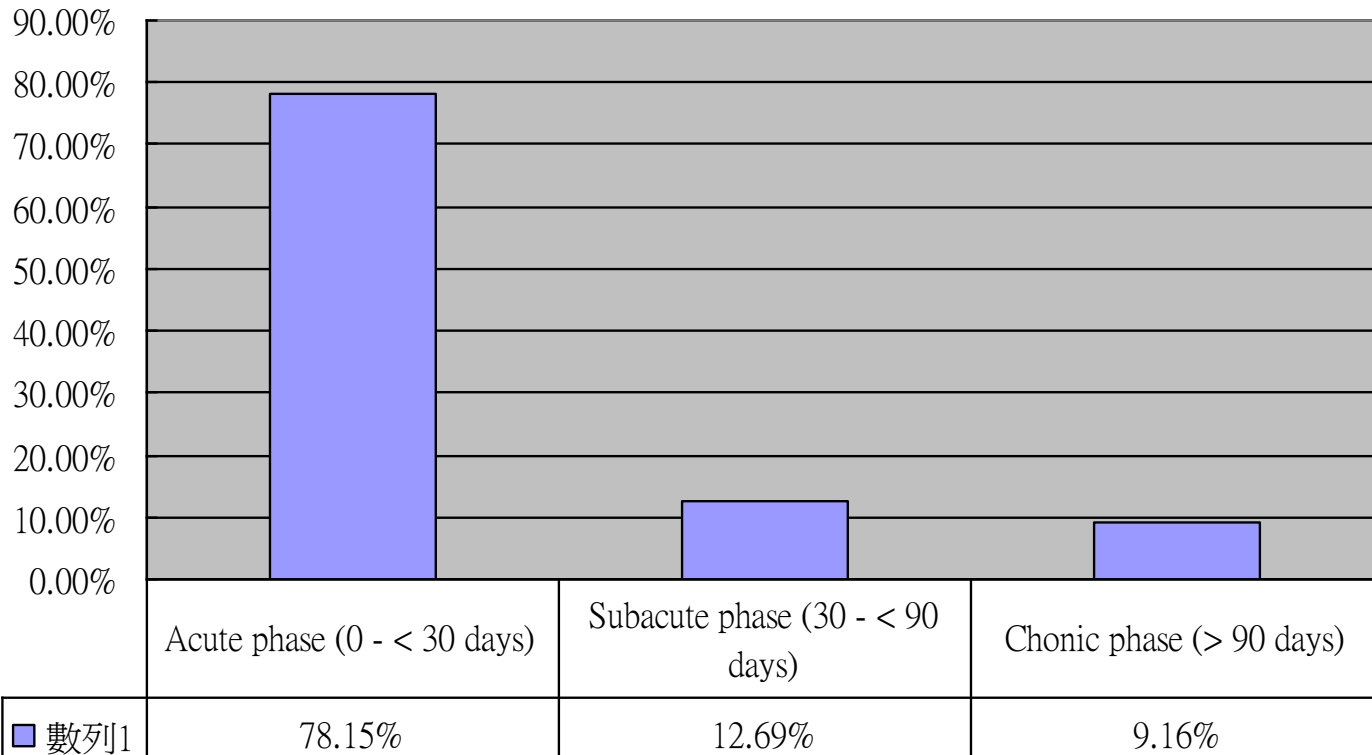
2002-2006 RESULTS FROM A COROPRATE STUDY



Distribution of injury parts, n= 495

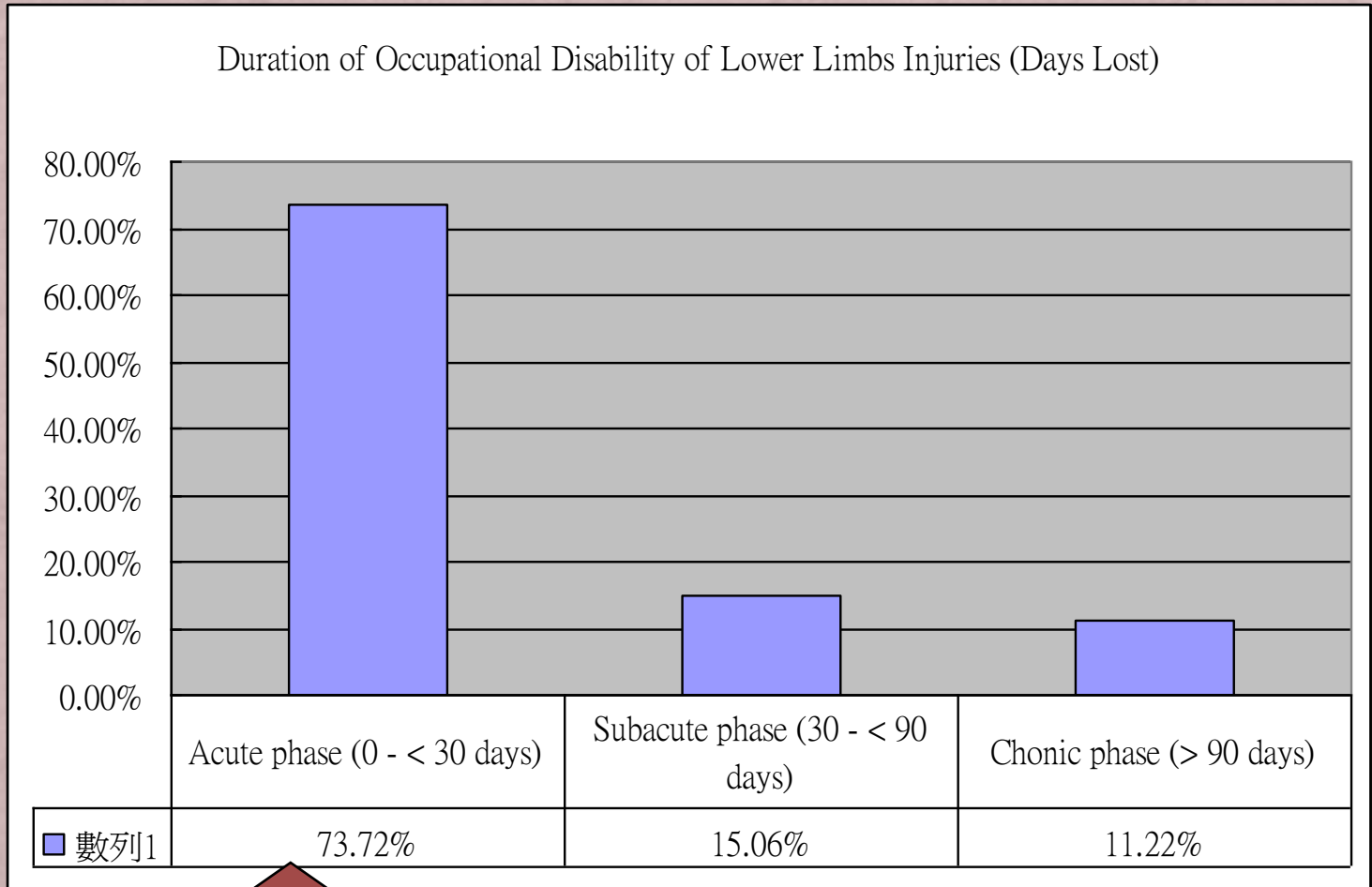
RESULTS

Duration of Occupational Disability of Upper Limbs Injuries (Days Lost)



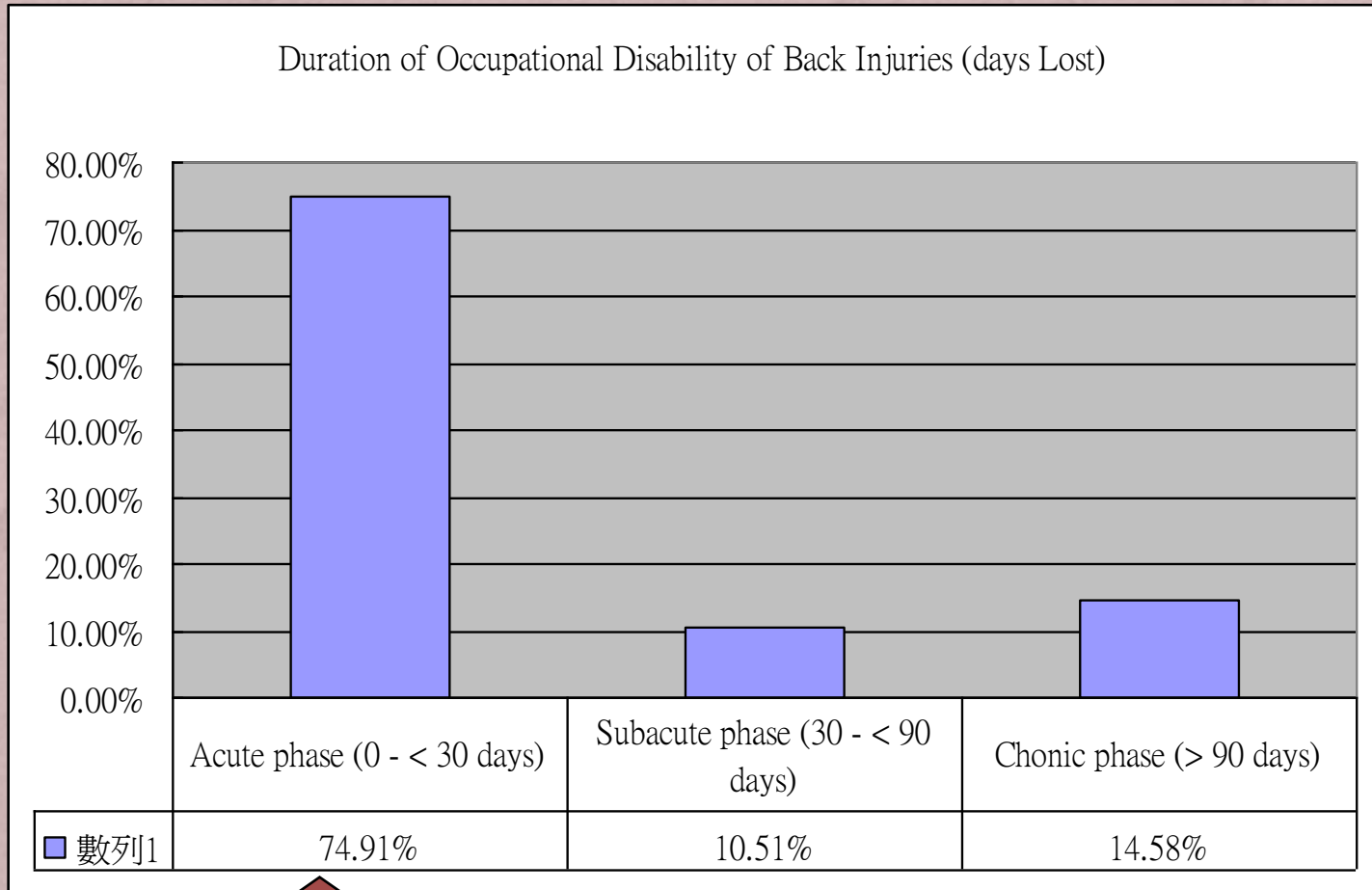
Reb Program
Mean: 19.75 days

RESULTS



Reb Program
Mean: 24.35 days

RESULTS



Reb Program
Mean: 28.27 days

RESULT OF THE WORK INJURY MANAGEMENT IN HK

Construction:

Claims costs saving : 40%-60%

Cases reduced by:25%

Premium saving : 45%

Cargo terminal handling

Claims costs saving : 30%-45%

Cases reduced by:30%

Premium saving : 50%

SUCCESS OF WORK INJURY MANAGEMENT

- + Line managers responsibility**
- + Suitable duties in every circumstance**
- + Employee / Case Manager input**
- + whole system approach**
- + Induct, train and monitoring the program properly**

- + Action Item 1: Develop a Return-to-Work Policy
- + Action Item 2: Establish a Return-to-Work Team
- + Action Item 3: Develop Functional Job Descriptions
- + Action Item 4: Identify Opportunities for Transitional Duty
- + Action Item 5: Educate

ACTION ITEMS 6-10 ARE STEPS TO FOLLOW WHEN AN INJURY HAS OCCURRED.

- + Action Item 6: Report Injuries Promptly
- + Action Item 7: Obtain Medical Treatment Promptly
- + Action Item 8: Communicate
- + Action Item 9: Investigate the Incident
- + Action Item 10: Return the Employee to Work

KEY BENEFITS REALIZED FOR:

- + Injured employees/ injury employees family
- + Employers
- + Safety professionals
- + Insurance companies
- + Public Medical System eg Hospital Authority
- + The Government / the Labour Department
- + Society

Q & A

