

# Program Manual



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## Requirements and Procedures for Certification of Workers' Compensation Risk Management Best Practices

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# SECTION I. GENERAL INFORMATION

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## A. Statement of Purpose and Operation

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The Workers' Compensation Risk Management Certification Program (the "Program") was established with the support of the National Association of Professional Employer Organizations ("NAPEO") by the Employer Services Assurance Corporation ("ESAC"). More information about these organizations can be found at [www.napeo.org](http://www.napeo.org) and [www.ESACorp.org](http://www.ESACorp.org), respectively. The purposes of the Program are to:

1. Provide a highly credible and reliable way for workers' compensation ("WC") insurance companies ("Carriers") to identify professional employer organizations ("PEOs") that have the capability and are in fact appropriately implementing proven risk management Best Practices that are recognized in the insurance industry as producing better than average WC loss experience;
2. Provide a cost-effective way to help participating PEOs improve their risk management program, thereby reducing workers' compensation losses, which in turn will have a positive impact on future costs of WC insurance premiums and collateral requirements which will improve overall profitability and cash flow;
3. Create through the Program Certification Board, a forum for WC Carriers and PEO leaders to work together on common objectives and to improve understanding and trust between the two industries with the goal of developing WC coverage options for certified PEOs that are profitable for the Carriers and desirable for the PEOs.

The Program is managed in the most objective and professional manner possible by a Certification Board composed of WC Carrier representatives and PEO leaders elected by the Program Participants. The Certification Process involves an experienced, certified Risk Management Professional verifying a Participant's risk management capability and appropriate implementation of risk management Best Practices, as established by the Certification Board.

The Certification Board relies on its Industry Advisory Board for technical review and comment regarding the effectiveness, feasibility and practicality of Certification Requirements and Procedures. The Industry Advisory Board is composed of experienced insurance brokers and risk managers from both the WC insurance and PEO industries. Input from the Industry Advisory Board is solicited by the Certification Board on all proposed material changes to the Certification Requirements and Procedures. The Certification Board also welcomes and considers unsolicited recommendations provided by the Industry Advisory Board or any other interested party.

Funding for the Program's operation is provided by application processing fees and certification monitoring fees established by the Certification Board and paid by the Participants.

The Certification Institute (CI) provides administrative support, offices and equipment for the Program on an as needed basis to minimize the fixed costs of Program operation. CI is an independent non-profit corporation established to develop and administer industry certification programs and to organize, support and advise program certification boards. The CI website, [www.CertificationInstitute.org](http://www.CertificationInstitute.org), provides Participants with an efficient online method of applying for certification and reporting ongoing compliance information in a secure and confidential manner. The website also provides WC Carriers and the public with a way to quickly verify the risk management certification status of any PEO and to learn more about the Program.

## B. Eligibility

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**IMPORTANT NOTE:** A PEO may be eligible for participation even though it enters into a service arrangement that does not conform to the requirements of this section if the non-conformance of the arrangement is due to a requirement of state or federal law, regulation or administrative rule applicable to PEOs operating in that jurisdiction.

1. Any Professional Employer Organization (PEO) or group of Affiliated Professional Employer Organizations (PEO Group) is eligible to apply for Certification of its WC risk management program.
2. A PEO is an organization that enters into professional employer arrangements with Clients. Such arrangements are defined as those whereby an Entity agrees to employ all or a significant part of a Client's workforce and where employer responsibilities for those employees are in fact allocated between or shared by the PEO and the Client. The employer responsibilities are deemed allocated between or shared by the PEO and the Client whenever the agreement between the Client and the PEO expressly provides for such allocation or sharing. The term "PEO arrangement" is to be liberally construed so as to include any and all arrangements meeting the above criteria by whatever term known. For these purposes, an "Entity" shall mean an organization, including but not limited to, a corporation, partnership, limited liability company, trust, association or joint venture, and shall also include an individual operating as a sole proprietorship.

“Employer responsibilities” shall mean responsibilities generally performed by an employer including payment of wages and taxes, the right to provide benefits and to hire, direct, control, discipline and terminate employees.

3. The following shall not be subject to this definition:
  - a. A temporary help arrangement whereby an Entity hires its own employees and assigns them to a Client to support or supplement the Client’s workforce in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects; or
  - b. Administrative service or business process outsourcing arrangements wherein an Entity does not in fact employ all or part of a Client’s workforce, and the services are provided to the Client for a fee without assumption of associated employer responsibilities and liabilities.

Nothing herein shall prohibit a firm that offers PEO services in addition to other service arrangements from being eligible to apply for certification of its PEO services.

## C. Confidentiality Provisions

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The fundamental credibility of the Program and CI depends on the trust by Participants that all information provided will be used appropriately and held in strict confidence. The following principles of conduct will be adhered to by Program Directors, Officers, staff, contract service providers, trusted advisors and CI:

1. The portion of Certification Board meetings, where matters related to specific Participants are scheduled for discussion, are closed to all persons except authorized representatives of the Participant to be discussed, Board members, Board advisors and CI staff, all of which shall have executed a legally binding confidentiality and non-disclosure agreement.
2. Every Participant must be provided with 10 business days’ prior written notice whenever any matter specifically pertaining to the Participant is included in the discussion agenda of any Board meeting.
3. Any Participant has the right to petition the recusal of any Certification Board member that the Participant reasonably believes possesses a bias against it, has a conflict of interest, or is otherwise unable to cast an objective decision on the matter at hand. Such petition must be received by the Certification Board or CI in writing at least 3 business days prior to such Board action and must include the reason why recusal is requested. A copy of the petition shall be provided to the Board member in question, and to challenge such a request, he or she shall be required to respond in writing. The Board will evaluate such petition and the Board member’s response, and will vote whether to require the recusal of the member as requested by the petitioner. The affected Board member shall not vote on the petition for his or her recusal. The Board shall be liberal in approving such requests for recusal based on receipt of factual justification.
4. The Certification Board and CI shall hold all information submitted by an applicant and the fact that an Applicant has applied for Certification in strict confidence, except the announcement of approved Applicants, and as specifically provided in this Manual and in the Participation Agreement (Exhibit A). The proceedings of the Certification Board or CI are not subject to any Freedom of Information or “Sunshine” laws. Such information is for the exclusive use by the Program, the Certification Board, and CI for the purpose of administering the Certification Process and is not released to anyone outside of the Certification Board and CI except upon an order from a court of competent jurisdiction or as specifically provided in this Manual.
5. All Program Officers, Directors, staff, advisors and service providers, and all CI Officers, Directors, staff, advisors and service providers are required to execute a comprehensive, enforceable non-disclosure agreement protecting the confidentiality of information submitted by Participants, and such individuals are subject to removal for violating the terms of such agreement.
6. Confidential information provided by a Participant and submitted to the Program or CI shall not be disclosed or provided by the Program or CI to any outside party without the written consent of the Participant, except for the Participant’s WC Carrier(s). No information related to a Client of the Participant shall be provided to any owner, officer, director, employee, agent or contractor of another PEO regardless of his or her affiliation with the Program or CI and including PEO Industry Directors on the Certification Board.
7. As a further protection for the confidentiality of Client information submitted by a Participant, the Participant will be required to provide all such information identified by a Client Identification Number rather than by Client name. The Client’s street address, mailing address and telephone number must be omitted or blacked out.
8. The Privacy Policy and privacy practices of CI and of CI’s website ([www.CertificationInstitute.org](http://www.CertificationInstitute.org)) used by Participants to provide information related to initial Application and ongoing compliance reporting is certified by TRUSTe and the website is certified as a VeriSign Secure Site with 128 bit encryption and Secure Socket Layer (SSL) firewalls to prevent unauthorized access. More information about these important certifications can be found at [www.truste.org](http://www.truste.org) and [www.verisign.com](http://www.verisign.com).

## D. Overview of Certification Process

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**Step 1:** An Applicant submits an online application at [www.CertificationInstitute.com](http://www.CertificationInstitute.com), executes a Participation Agreement, pays an Application Processing Fee, and provides the supporting information summarized in Table 1. The documents required for initial application are more fully explained in Table 3.

**Step 2:** CI's Risk Management Professional will review all materials submitted by the Applicant as part of the initial application process. Additional information may be requested by telephone or e-mail from the Applicant's senior management, risk management staff or service providers. Objectives of the review will be to determine: (a) if the Applicant has the necessary risk management capability in place (either in-house and/or by contract); and (b) if the necessary policies and procedures are in place and in compliance with each of the risk management Best Practices. To be considered for Certification, the Applicant must have the necessary risk management capability in place and have the necessary policies and procedures that are substantially in compliance with all of the Best Practices.

**Step 3:** Using the Client list submitted by the Applicant (in a confidentially coded manner without Client names or contact information), the Risk Management Professional will select a sample of Clients for verification of the appropriate implementation of each risk management Best Practice. In determining what "appropriate implementation" is, the Risk Management Professional will consider the risk exposures and available accident experience at each Client worksite. Clients with low risk exposure and/or favorable accident experience will not be expected to receive the same level of risk management as high risk Clients. The Applicant will be requested to provide the information outlined in Table 2 for each selected Client. The verification sample size for initial Certification will be a minimum of 5 Clients, with the authority to examine as many additional files as deemed necessary to conclusively verify Best Practice compliance. The selection of Clients will be random within Client groupings. Groupings will be made to ensure that the sample includes approximately equal numbers of New Clients and Existing Clients, if available, and represents various levels of risk, Client size, and geographic location.

**Step 4:** The Risk Management Professional will review the documentation provided by the Applicant for each Client in the verification sample. Clarification of findings will be obtained by telephone or e-mail from the Applicant's risk management staff or service providers as needed. Objectives of the review will be: (a) to verify the Applicant's compliance with its written policies, procedures and business plan; and (b) to verify if all risk management Best Practices have been appropriately implemented according to established policies and procedures for each Client worksite in the verification sample. A determination of "In Compliance" or "Out of Compliance" will be made with respect to each Client in the sample.

**Step 5:** The Risk Management Professional will document the findings of the reviews conducted in Steps 2 and 4 and will provide the results to a Certification Committee made up of three Directors appointed by the Certification Board. The Certification Committee may either approve or change the certification recommendation made by the Risk Management Professional or may request that additional information be provided for evaluation. Findings of the Certification Committee are final, subject to the Applicant's right to appeal to the Certification Board.

**Step 6:** The Risk Management Professional will begin to conduct annual ongoing monitoring by reviewing documentation provided by the Participant for a minimum of five (5) randomly selected Clients, with the authority to examine as many additional files as deemed necessary to conclusively verify Best Practices compliance. For PEOs that have successfully completed two annual reviews, a minimum of three (3) ~~five (5)~~ Clients will be randomly selected for evaluation. If the Participant elects the annual on-site compliance review, Participant shall reimburse CI for all of the travel expenses related to the on-site review by the Risk Management Professional.

**Step 7:** If the Participant is found to be "In Compliance" during Step 6, then Step 6 will be repeated annually as part of continued Certification. If the Participant is found to be "Out of Compliance," Step 6 will be repeated approximately 3 months after written notice of Non-Compliance has been provided to the Participant. The Participant's Certification will be terminated if the Non-Compliance is not corrected within 90 days of written notice. The Participant has a right to appeal any determination of Non-Compliance or Certification Termination to the Certification Board.

**Table 1. Summary of Document Submission Requirements**

<b>Submission Requirement</b>	<b>Initial Application</b>	<b>Annually</b>	<b>Upon Change</b>
Properly executed Participation Agreement	X		
Participant Information (including corporate structure, purpose of each entity, and type of WC coverage)	X	X	X
Attestation by management regarding compliance with each Best Practice	X	X	
Written risk management plan	X	X	
Client list and selected information (submitted online in specified format) using Client ID# (not Client name or mailing address) to ensure confidentiality	X	X	
Sales brochure(s) and example sales proposal(s)	X		X
Example Client Service Agreement(s)	X		X
Example employee handbook(s), WC-related procedures and written distribution procedures	X		X
Organization chart with job descriptions and resumes for key WC and HR staff and copy of service contract for any related outsourced functions	X		X
Risk assessment procedures and documentation confirming implementation of risk assessment activities required by the best practices	X		X
Written policies and procedures used to deliver and document appropriate loss prevention services to all clients and employees in workers' compensation program	X		X
Written policies and procedures describing how the required claims management activities will be performed and the documentation verifying implementation of claims management activities required by the best practices	X		X

**Table 2. Information Required for Verification of Best Practices Compliance for Selected Client Files**

Provide a copy of each of the following, if applicable, for each Client selected for verification.

**1. Risk Selection Documents**

- a. Request for Proposal (RFP) or equivalent information containing:
  - (1) Basic Client information (name, address, mailing address, telephone number, etc) used to make decision to accept Client's risk (from WC perspective).
  - (2) Names, addresses etc, and FEIN numbers of all subsidiary companies.
  - (3) All states in which prospect has employees.
  - (4) Description of prospect's operation and all subsidiary companies.
  - (5) Recap of number of employees by WC code, by state, by job/position description, and their associated WC wages for all subsidiary companies.
  - (6) Location address of any worksites with a concentration of 100 or more employees.
  - (7) Sign-off by Risk Manager (RM) that information has been reviewed and determination made as to need for worksite survey. If no worksite survey was required, provide brief explanation.
  - (8) Tax Receipts or payroll documents obtained to verify wage information.
- b. WC Policy Declaration Page  
Declaration page from prospect's current WC policy obtained prior to proposal. If not available, provide explanation.
- c. "Desktop" or Worksite Inspections  
"Desktop" inspection report or notes completed by the risk manager or responsible person.  
  
If a worksite inspection was conducted, provide report and any loss requirements generated by the inspection.
- d. Claims Reviews  
WC claims data on which risk selection decision was based and documentation of the analysis of the claims information by the risk manager or other responsible person. If no loss information was available for the assessment process, provide explanation.
- e. Financial Risk Assessment Information  
Include all information used to assess prospective client's financial stability and identify who analyzed the information and made the decision on the prospective clients' acceptability from a financial perspective.
- f. Referrals to the Carrier  
Where referrals are required, provide documentation that the prospective client was referred to the appropriate carrier and confirm that carrier's approval was obtained prior to contracting with the prospect.
- g. Final Approval/Declination  
Documentation noting who made the final decision to accept or decline prospect and the date the decision was made.

- h. Notice to Carrier of Client Addition/Deletion  
Documentation of notification to the carrier of new client's addition. If this notification is by a means other than faxes, e-mails or similar documents, provide an explanation and an example.

**2. Client Service Agreement**

Provide copy of current Service Agreement used with each of the sample clients.

**3. Loss Prevention "Needs Assessments" and Service Plans**

- a. Provide documentation, regardless of format, describing determination of the client's service needs and the planned services to address those needs. Service needs may be determined during the risk assessment phase or after the prospect has become a client. Note: this should include your company's standard operating procedure for providing certain services, regardless of any specific needs having been identified.
- b. On small, low-hazard risks, plan may only require a one-time site visit. If no service required, there should be an explanatory note in file.
- c. On larger, more complex risks, it is expected that loss-prevention service will focus on the identified loss sources and on assisting the client with implementing required controls. Providing a customized Employee Safety and Health Plan (Safety Manual) would be one example of a service objective.

**4. Loss Prevention Service Documentation**

- a. Provide internal memos, or equivalent documentation in any format, which provide a record of what was accomplished during each service visit. Unplanned visits can be conducted for a number of reasons, such as conducting accident investigations or responding to special requests by the client for assistance. These visits should be documented in similar manner.
- b. Submit copies of documentation for the services provided for the past 12 months. (Note: if no service was planned and none delivered, it is understood there will be no service documentation.)

**5. Employee Handbook**

Provide a copy of the page or pages from the employee handbook, which includes the client's name and your name, and explains the co-employment relationship. If you do not provide handbooks or otherwise cannot submit this information, please provide an explanation.

**6. Managed Care**

Provide a copy of the worksite posting notice identifying the selected medical provider for each sample client. If this notice cannot be furnished, please provide an explanation.

**E. Definitions**

- 1. "Affiliated Professional Employer Organization" means a PEO that: (a) is a member, along with the Participant, of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code, as amended ("the Code"); or (b) is a business, whether or not incorporated, which, along with the Participant, is under common control within the meaning of Section 414(c) of the Code.

2. "Applicant" means a legally recognized business entity engaged in providing services to Client businesses under a PEO Service Arrangement and that has submitted a completed application form, all required supporting documents and the associated fees for initiation of the Certification Process.
3. "Application Processing Fee" and "Certification Monitoring Fee" means those fees or assessments established by the Certification Board as necessary to accomplish the Program's purposes and payable by a Participant as provided by the Program Manual or as otherwise required by the Certification Board.
4. "Best Practice" means a workers' compensation insurance risk selection, risk management, safety, and/or loss control practice, policy, requirement or procedure that is generally recognized as a best practice by the workers' compensation risk management profession and by the insurance industry, and that, when applied in a consistent manner and over a period of time, will produce better than average employee accident experience and/or lower the cost of workers' compensation insurance claims, and which for purposes of this Program has been approved by the Certification Board as a requirement of Certification.
5. "Business Plan" means any written document that describes the plans of an Applicant or Participant for marketing, selling and delivering its services to Clients and managing its operations, finances and risks.
6. "Certification" means the issuance of a certificate by CI based on verification by the Certification Board and/or the Certification Committee that an Applicant or Participant has the capability and has implemented the Best Practices approved by the Certification Board in a manner generally considered appropriate by workers' compensation risk management professionals and the insurance industry and has met all other requirements established by the Certification Board for Certification.
7. "Certification Board" means the governing board of the Workers' Compensation Risk Management Certification Program.
8. "Certification Committee" means a committee appointed by the Certification Board and to which authority to issue Certifications has been delegated.
9. "Certification Institute" or "CI" means an independent non-profit Texas corporation established to develop and administer industry certification programs and to provide support for and advise the Certification Board.
10. "Certification Officer" means an individual approved by the Certification Board to administer the Certification Process and verify a Participant's compliance with established Certification Requirements.
11. "Certification Pending" means that an Applicant has not yet met the requirements for Certification. An Applicant cannot remain in Pending Certification status for more than 365 days from the effective date of such status.
12. "Certification Procedures" means those procedures established by the Certification Board that must be followed as a condition of Certification.
13. "Certification Process" means all actions required of the Applicant and the Certification Institute to verify an Applicant's eligibility for Certification.
14. "Certification Requirements" means those requirements established by the Certification Board that must be met as a condition of Certification.
15. "Certification Suspended" or "Certification Denied" means that an Applicant or Participant has been reviewed and initial or continued Certification has not been approved. If the Applicant or Participant wishes to restart the Certification Process it must do so by re-applying and paying a new Application Processing Fee.
16. "Certified" means that an Applicant or Participant is in compliance with all requirements for Certification and has been found to have appropriately implemented the workers' compensation Best Practices for both existing and new Clients.
17. "Claims Management Staff" means that person or persons responsible for (a) ensuring proper reporting of workers' compensation insurance claims to the Insurer, (2) tracking such claims, (3) providing claims case management and (4) reporting trends to the Risk Manager and/or senior management of the Participant. This function may be performed by in-house staff or it may be outsourced to an independent contractor or provided by the Insurer as part of its agreement to provide workers' compensation coverage, so long as the terms of such contract or agreement specifically provide for the performance of the required responsibilities and these responsibilities are in fact being performed in an appropriate manner.
18. "Client" means any entity that is being served by an Applicant or Participant under the terms of a Client Service Agreement. "New Client" means a Client that has become a Client within the most recent six (6) calendar months. "Existing Client" means a Client that has been a Client for more than six (6) calendar months.
19. "Client Service Agreement" means the contractual agreement between a Participant and its Client and containing the terms and conditions under which the Participant provides PEO services to the Client.

20. "Complaint" means a written or oral communication received by CI or the Certification Board alleging a failure to perform one or more of the obligations set forth in the Participation Agreement or the Program Manual.
21. "Employee Safety and Health Plan" means any safety manual or safety policies, procedures and controls provided to Clients for use in implementing employee safety and work-related health management activities, including state and federally mandated written policies and procedures that address specific hazards (e.g. Hazard Communications Program).
22. "Failure" means either a "Reported Failure" or a "Verified Failure" to comply with the Certification Requirements or Certification Procedures.
23. "In Compliance" means an Applicant or Participant's implementation of a Best Practice has been verified as having been appropriately implemented at the worksite, or the Certification Committee has determined that the Applicant or Participant has met the requirements for Certification. "Out of Compliance" or "Non-Compliance" means that the Certification Officer is unable to verify appropriate implementation of a Best Practice based on the documentation and information provided by the Participant, or the Certification Committee has determined that the Applicant or Participant has not met the requirements for Certification.
24. A "Controlling Person" is defined as:
  - a. Any individual owning or directly or indirectly controlling 10% or more of the voting stock of a PEO or the PEO's ultimate parent, if the PEO or its ultimate parent is a closely held company, or 20% or more of the voting stock of a PEO or of the PEO's ultimate parent, if the PEO or its ultimate parent is a publicly traded company. For these purposes, "voting stock" shall include stock which is convertible to voting stock or has voting rights upon occurrence of some condition or event and shall include other forms of equity that possess voting rights with respect to the Entity.
  - b. Any officer or manager of the PEO with apparent authority to obligate the PEO with respect to a material matter, including by rebuttable presumption the Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, and Chief Marketing Officer, or any equivalent position by whatever name used. Having been delegated the authority to sign checks on behalf of the PEO shall not alone be considered "authority to obligate the PEO."
  - c. Any director of the PEO; provided however, an individual who is a director, but neither an officer or employee, of a publicly traded PEO Entity that maintains an annual average aggregate market value in excess of \$100 million, shall not be considered a Controlling Person solely by reason of this paragraph 5.c.
  - d. Any person with apparent authority to obligate an Entity with respect to a material matter if that Entity owns more than 50% of the voting stock of the PEO, including by rebuttable presumption the Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, and Chief Marketing Officer of such Entity, or any equivalent position by whatever title used.
  - e. Any individual who is a Controlling Person or the equivalent thereof pursuant to any state licensing or registration law to which the PEO is subject.
  - f. Any other individual who has by contract or otherwise or in fact exercises the authority or power to control the operation or direction of the PEO or to obligate the PEO with respect to a material contractual matter such as entering into a service contract with a client company.
  - g. In the case of any publicly traded Entity that owns 20 percent or more of the stock of the PEO, provided that such Entity maintains an annual average aggregate market value in excess of \$100 million, such Entity may satisfy its Controlling Person requirements by virtue of ownership by disclosing the names of such Entity's officers and directors and putting forth one duly authorized and appointed officer as the Controlling Person representing the publicly traded Entity.
  - h. The determination of whether a person is a Controlling Person shall be made by CI based on information provided by the applicant or accredited PEO or otherwise obtained by CI, whose determination shall be conclusive and final.
25. "Industry Advisory Board" means an advisory board of volunteers appointed by the Certification Board and representing experienced WC insurance brokers and risk managers from the Insurance and PEO industries.
26. "Insurer" means the party to a workers' compensation insurance contract or a duly authorized self-insured workers' compensation plan who assumes the risk and undertakes to indemnify the insured for a workers' compensation claim.
27. "Loss Prevention Service Plan" means a written process used by the Loss Prevention Staff to deliver safety services to Clients and Worksite Employees and describes the frequency and type of service to be delivered, including strategies for bringing Clients into compliance with applicable state and federal occupational safety and health regulations.

28. "Loss Prevention Staff" means the person or persons responsible for delivering employee safety services at Client Worksites. Such services are designed to prevent employee accidents, injuries and employment related illnesses. This function may be performed by in-house staff or it may be outsourced to an independent contractor or provided by the Insurer as part of its agreement to provide workers' compensation coverage, so long as the terms of such contract or agreement specifically provide for the performance of the required responsibilities and these responsibilities are in fact being performed in an appropriate manner.
29. "Participant" means an Applicant or a former Applicant that has been certified by the Certification Board and whose Certification is in good standing.
30. "Probation" means the 90 calendar days from the date of receipt of written notice, as provided by the Program Manual and PEO Participation Agreement, in which a Participant has to cure a deficiency prior to revocation of Certification.
31. "Program" means the Workers' Compensation Risk Management Certification Program managed by the Certification Board with the assistance of CI.
32. "Program Manual" means the manual, in either paper or electronic form, which documents the Certification Requirements and Certification Procedures for the Program, which may be changed by the Certification Board from time to time. A copy of the most current Program Manual can be viewed at any time at [www.CertificationInstitute.org](http://www.CertificationInstitute.org).
33. "Step One of Certification" means that an Applicant: (a) has completed all requirements for application for Certification; (b) has the risk management capability required for Certification in place; (c) has been found to be appropriately implementing the Best Practices with at least some new Clients; (d) has committed in writing to appropriately implement the Best Practices on a going forward basis with all new Clients and for all existing Clients in a manner that will qualify the Participant for full Certification; and (e) meets all other requirements for Certification.
34. "Risk Assessment Report" means a report used by the Loss Prevention Staff to communicate their evaluation of an existing or prospective Client, and its findings are used in the risk selection and/or management process.
35. "Risk Management Professional" means a person who has achieved one or more individual certifications of professional competence from a safety or workers' compensation risk management certification organization recognized by the insurance industry and whose professional experience and certification has been reviewed and approved by the Certification Board.
36. "Risk Manager" means a person(s) responsible for the oversight and general management of the Workers' Compensation Loss Prevention and Claims Management policies, procedures and controls, including risk selection. This function may be performed by in-house staff, outsourced to an independent contractor, or provided by the Insurer as part of its agreement to provide workers' compensation coverage, so long as the terms of such contract or agreement specifically provide for the performance of the required responsibilities and these responsibilities are in fact being performed in an appropriate manner.
37. "Workers' Compensation" means payments as required by state law made to employees or to medical providers on behalf of employees who have suffered injury or illness due to job-related accidents or employment conditions and includes the coverage of the employer's liability per applicable state law for such injuries or illnesses.
38. "Worksite Employee" means any person whose employment status with an Applicant or Participant has been recognized by completion of Internal Revenue Service Form W-4, who is treated as an employee of the Applicant or Participant on its payroll records, and who provides services for an Applicant or Participant or their Client(s).

## **SECTION II. APPLICATION AND CERTIFICATION PROCEDURES**

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### **A. Initial Application**

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1. Applicants for Certification must submit an online application located on the CI website at [www.CertificationInstitute.org](http://www.CertificationInstitute.org), provide a properly executed Participation Agreement (Exhibit A), and provide the additional documents required for confidential review as specified in Table 3 before the Certification Process can begin. The CI website maintains confidentiality of data through 128-bit encryption and secure socket layer (SSL) firewalls to prevent unauthorized access. CI's website is certified by both TRUSTe and GoDaddy.com online privacy and security organizations.
2. In addition to submitting the online Application and supporting documents, the first year Application Processing Fee, as determined by the schedule shown in Exhibit B, as amended, also must be received by CI before the Certification

Process will begin. In the event the Certification Process is halted due to an incomplete Application or missing documents, additional fees will not be charged to resume the Certification Process after the missing information has been received, so long as such information is received within 90 days of the effective day of the Participation Agreement.

3. Applicants must also provide a list of all confidentially-coded Clients and related information in the electronic format specified in Exhibit C. This information should be converted to the required format and uploaded online from the Applicant's confidential Home Page on the CI website at [www.CertificationInstitute.org](http://www.CertificationInstitute.org).
4. The Certification Process will normally be completed within 60 days of the completion of all application requirements.

**Table 3. Initial Application Document Requirements**

**1. Full Service**

- a. Example sales brochures used during current policy period.
- b. Typical sales proposal(s) and the forms and procedures used to gather prospect's information to assess risk and prepare proposal.
- c. Worksite supervisory manual or supervisory policies and procedures used at Client worksites.
- d. Generic or example employee safety & health manual or equivalent printed information for Client worksites.

**2. Written Risk Management Plan**

Risk Management Plan(s), regardless of form, for the current calendar year, including (a) description of key service offerings; (b) target market demographics (including list of states and size range/types of clients); (c) sales and marketing strategy to achieve controlled growth; (d) growth projections vs. track record; (e) Client retention goals vs. track record; (f) overview of Client risk assessment and formal periodic review procedures; and (g) overview of risk management strategy.

**3. Organizational Structure/Staffing**

- a. Organization Chart including all senior management at VP level and above, human resources management staff, and all risk management personnel (with e-mail and phone numbers), including Risk Manager(s), Loss Prevention Staff, and Claims Management Staff
- b. Biographies or resumes of all risk management personnel (including HR personnel if involved in WC risk management) and copy of each position's job description, including their decision-making authority in Client acquisition, renewals and terminations.
- c. Service contracts used to outsource any risk management functions to an independent service provider and the qualifications of the provider personnel. If the WC Carrier performs any risk management services, include that portion of the policy (or other document) describing the functions that are performed and the method and frequency of service delivery.

**4. Basic Record Retention**

- a. Example of current list or other form of information used to provide WC carrier with Client Hazard Group Ratings. *Note: this requirement is fulfilled through the PEO's upload of the confidentially coded client list used to randomly select sample clients for review.*
- b. List of Clients terminated during past 3 years, reasons for termination, and a copy of written termination notices sent to worksite employees of 3 terminated Clients.
- c. Example payroll report showing WC wages by Client and worksite employee and by WC class code (to demonstrate software capability to provide such information to WC carrier).
- d. Description of how and when Client additions and deletions are communicated to the appropriate WC carrier.

**5. Employee Handbook**

Example Employee Handbook(s) provided during current policy period and method for distributing and documenting its receipt by worksite employees.

**6. Controllable Business Structure**

- a. Copies of most recent annual IRS Form 940 for each PEO entity including Parts I, II and III with any attachments.
- b. Declaration Pages for all current WC policies sponsored by the PEO. For multiple coordinated policies, provide information for master policy only.

**7. Client Service Contract**

Copy of each version of Client Service Agreement(s).

**8. Client Risk Assessment**

- a. Written procedures for (1) notifying WC carrier when a new client has been brought on and a client has been deleted from the client list; (2) obtaining and documenting your WC carrier's pre-approval for prospective clients whose risk level exceeds the approval authority granted by your carrier; and (3) final authority for approving a prospective client and how his/her approval is documented.
- b. Copy of information gathering documents (Request for Proposal), which includes items in the best practices.
- c. Copy of carrier provided forbidden risk list. If you do not have such a list, please provide an explanation and provide your PEO's internal forbidden risk list or list of acceptable risks, either of which must be consistent with the risk management expertise of your internal staff and/or contract service provider.
- d. Procedures for (1) ordering and/or obtaining a pre-contract worksite risk assessment inspection for the risk assessment process, including your criteria for ordering the inspection; (2) verifying if any significant subcontractor exposures exist and if prospective client has a system for tracking WC certificates; (3) verifying employee wage data submitted for WC class codes using the prospect's tax records or payroll reports; (4) obtaining and evaluating prospective clients' WC claims experience, using carrier provided loss runs and/or OSHA logs (include details of all WC claims with incurred losses exceeding \$25k); (5) obtaining and evaluating financial stability of prospective clients, including "sign off" by a qualified person; (6) including in the service agreement any critical loss prevention requirements identified during the risk assessment process; (7) maintaining documentation used in risk assessment process for at least six months, whether the risk was approved or declined; and (8) stating how you will conduct the required risk assessment of clients that may be with a PEO that you plan to acquire if acquisition is one of the growth strategies identified in your business plan.

**9. Loss Prevention Requirements**

- a. Procedures describing how loss prevention requirements are communicated to Clients, including addition of critical loss prevention requirements to the service agreement.
- b. Example, if available, of worksite inspection resulting in either client termination due to significant loss prevention issues or the addition of "critical" requirements to the client service agreement. Provide explanation if neither issue is applicable.
- c. Procedures for assessing loss prevention service needs of prospective or existing Clients and creating corresponding service plans to meet identified needs, including the requirement that a pre- and/or post-employment background investigation be performed for certain high risk jobs. Include procedures describing documentation of service visits or other activities required by service plan.
- d. Procedures for conducting investigations of occupationally-related accidents resulting in employee injury and/or illness.
- e. Examples of accident investigations where the accident cause was identified and the Client was required to apply correction action(s).

- f. Procedures for evaluating effectiveness of prospective or existing Clients' system for tracking subcontractor WC certificates.
  - g. Example of a worksite inspection report where the certificate tracking system was evaluated and/or a recommendation made to implement or improve a system.
  - h. Example of requirement submitted to Client to implement pre- and/or post-employment background investigation for employees in high risk jobs, if such a requirement is appropriate for any of your Clients.
  - i. Procedures for conducting and documenting monthly (at a minimum) reviews of each Client's WC claims activity to identify clients with frequency and/or severity issues and the response to those issues.
  - j. Documentation of the most recent 3 monthly (or more frequent) claims review, which identify clients with claims frequency or severity issues and describing how such issues were addressed.
- 10. Claims Management**
- a. Procedures for qualified claims person's contact with severely injured employees to minimize litigation.
  - b. Example case file documents describing injured employee contacts by claims management for cases involving severe injury or lost time in excess of seven days, if such claims have occurred. Provide explanation if no cases are available.
  - c. Procedures describing quarterly or more frequent review with WC carrier(s) to discuss status of open claims, reserve issues and general claims adjudication.
  - d. Example documentation of WC carrier reviews verifying discussion of open claims, claim adjudication
- e. information submission, and reserve adjustments as appropriate.
  - f. "Fraud Hotline" policy and method of communicating the policy to the worksite employees.
  - g. Example from claim file notes of a case involving potential fraud or copy of "fraud tip call log" or information indicating no tip calls received for past 12 months.
  - h. Procedures for conducting and documenting a monthly review of the claims activity for each WC policy. This review should include an update of WC claims information for each policy showing status of existing claims, amounts incurred, amounts paid, remaining reserves, new claims since prior month's review and the details of any claims in excess of \$25,000, lost time in excess of 7 days, or with settlements over \$10,000.
  - i. Procedures for returning an injured employee to work including: (1) method for identification of light duty or alternate jobs before occurrence of claim; (2) use of the doctor's release to place injured employee; and (3) method of communicating policy at the employee level.
  - j. List of light duty jobs created for a client and/or an example of an injured employee being returned to work in a light duty or modified duty position.
  - k. Claims reporting procedures and process for monitoring timely reporting of WC claims.
  - l. Copy of past six month's (at a minimum) WC claims lag report showing percentage of claims reported on-time and follow-up activities performed to correct late claims reporting issues.
  - m. Policies and procedures used to select managed care providers for WC injuries and to communicate selected provider(s) to worksite employees.

## B. Verification of Best Practices Implementation

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The appropriate implementation of the risk management Best Practices (Exhibit D), to which the Applicant's president or CEO has attested, will be verified through a review of information for Clients randomly selected from the Applicant's Client list. The information required for each selected Client, as available, is specified in Table 2, above. The Risk Management Professional assigned to the Applicant by the Certification Committee or CI will conduct the review.

The random selection procedure will consist of removing all terminated Clients and then selecting a minimum of five (5) Clients. Approximately one-half of the sample will be chosen from New Clients, if available, and one-half of the sample will be chosen from Existing Clients, if available. The Client sample to be used for verification will be chosen at random from categories of Clients selected to represent the full range of exposures identified on the Applicant's Client list. CI reserves the right to request additional client files if the review of the initial 5 files produces inconclusive results.

### ***Methodology for Evaluating the Client Verification Sample***

1. The Applicant's Application, attestation form, all supporting documents, and the information provided for each Client as specified in Table 2 will be used in determining the degree of Best Practices compliance for sampled Clients. The evaluation will take into account the level of Best Practices' implementation appropriate for each Client's size, risk profile and loss history.
2. The verification process may require telephone or e-mail communication with one or more of the Applicant's staff, service providers or Clients, but any Client contact will be fully coordinated with the Applicant prior to occurrence. If a Client-sensitive issue exists, the Certification Officer will work with the Applicant to accomplish the required verification in a manner acceptable to the Applicant, including verification at another Client worksite chosen by the Certification Officer.
3. The Certification Officer, using an electronic form that parallels the Best Practices Attestation form, will record an objective evaluation of the Applicant's implementation of each Best Practice at each selected Client location.

## ***Non-Conforming Best Practices***

1. Discrepancies and/or omissions of required Best Practices implementation found in the evaluation of the Client sample will be recorded on the evaluation form and uploaded to the Applicant's confidential application database on the CI website along with recommendations and/or "Required Corrective Actions" which, if implemented, will bring a Best Practice to "In Compliance" status.
2. The Applicant will receive e-mail notification to log into the confidential application database to address or respond to any documented deficiencies.
3. The Certification Process will be "Pending" until any Best Practices for which corrective action is required attains "In Compliance" status. An Applicant's "Pending" status will be allowed to continue for up to 365 days from the effective date of the Participation Agreement at which time the Applicant's Application will no longer be valid if "In Compliance" status has not been achieved for all Best Practices. During the "Certification Pending" period, an Applicant may request another review by the Certification Officer at any time provided evidence that the item(s) requiring corrective action has been furnished. However, if more than one additional review is requested by the Applicant during the "Pending" period, an additional fee equal to one-half the initial Application Processing Fee must accompany the request (see Exhibit B).

## **C. Certification Approval and Issuance**

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The Certification Board, by a majority vote of a quorum of Directors, has final authority over the granting and termination of Certification. The Certification Board has delegated its certification authority to a Certification Committee made up of three Directors appointed by the Certification Board. However, an Applicant may appeal any decision of the Certification Committee to the Certification Board as provided in Section III of this Manual.

The Certification Process is conducted under the direction of a Certification Officer and a Risk Management Professional. The Certification Officer has the authority to recommend to the Certification Committee that an Applicant or Participant be certified or that Certification be suspended or denied.

The Certification Officer and Risk Management Professional shall use the following criteria in making recommendations to the Certification Committee:

1. The Applicant has provided a complete and properly executed Application with all required supporting documents and materials, and all such items have been found to be in compliance with all risk management Best Practices and Certification Requirements;
2. The Applicant has paid the required Application Processing Fees in full;
3. The Applicant has provided a fully-completed up-to-date Client list in the specified electronic format; and
4. Based on an evaluation of requested materials and information provided for each Client in the Client verification sample, the Applicant has an "In Compliance" rating for a sufficient number of the Best Practices to qualify for Certification in the judgment of the Certification Committee using the standards and procedures approved by the Certification Board.

## ***Certification Notice and Certificate Issuance***

The Applicant will be notified in writing in a confidential manner within 10 business days of the Certification Committee's determination. If the determination is for Certification, a PDF version of a signed certificate and press release will be made available on the Applicant's confidential home page and the public portion of CI's website at [www.CertificationInstitute.org](http://www.CertificationInstitute.org) will be updated to reflect the certification status.

## **D. Certification Maintenance**

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The Certification of an Applicant ("Participant") will remain in effect so long as the Participant adheres to the Certification Maintenance Requirements for periodic monitoring and evaluation, provides timely updates of the online "Participant Information" as specified in Table 1, above, and retains an "In Compliance" rating for the Best Practices specified in this Manual.

### ***Maintenance Requirements***

**Maintenance Reviews:** A Participant may elect either (1) an online review of randomly selected client files submitted to CI, or (2) an annual on-site compliance review by the Risk Management Professional with resulting travel expenses to be reimbursed by the Participant. The Risk Management Professional will evaluate sample Client file information for a minimum of five (5) Clients, with the authority to examine as many additional files as deemed necessary to conclusively verify Best

Practices compliance. For PEOs that have successfully completed two annual maintenance reviews, a minimum of three (3) Clients will be selected for evaluation. The information specified in Table 2, above, must be provided by the Participant for each sample Client for all maintenance reviews within thirty (30) days of request.

Participant Information: As part of its regular Maintenance Reviews, the Participant must update its online “Participant Information” forms and complete the “Documentation” requirements as specified in Table 1, above. Additionally, if at any time, the Participant has significant changes to its operations including changes in Controlling Persons or a change of 10% or more in ownership, a reduction in risk management staff, acquisition by another entity, change in WC providers, or if a WC carrier terminates WC insurance coverage, the Participant must notify and provide details to CI within thirty (30) days of each such change or transaction. If CI becomes aware of such changes from sources other than the Participant, CI will request the Participant to provide written details of such changes within ten (10) days of notification, and may also request additional information or documentation or conduct an on-site review to verify continued compliance with program requirements.

“Out of Compliance” Status: If during any of the maintenance or on-site reviews, a Participant is found to be “Out of Compliance,” a “Probation” notice will be provided in writing to the Participant outlining the items that must be brought into compliance. Another review will be conducted after 90 days to determine if the Participant has corrected these items and is otherwise “In Compliance.” Certification will be terminated if the Participant is again found to be “Out of Compliance” after the 90-day Probation period. Notwithstanding the above provision, if the PEO is found to be “Out of Compliance” with any of the requirements of the “Operationally Responsible” best practice (Section A. PEO Basic Requirements), certification shall be terminated unless the deficiency as determined by the Certification Board in its sole discretion is fully cured within 10 days of written notice.

### ***Additional Information Needed for Maintenance Reviews***

In addition to the information specified in Table 2, above, the following general information also must be provided for all maintenance reviews, as appropriate, within thirty (30) days of request. If not available or not appropriate, the Participant should provide a written explanation.

1. Changes made to risk selection and risk management policies, procedures and controls (if any) since the last review.
2. Changes to the forbidden list of WC codes (if any).
3. Material changes to the Participant’s risk management plan, Client service agreement, and risk management-related staff or service providers.
4. Claims lag report showing the timeliness of claims reporting to the Carrier.
5. Documentation of follow-up action on deviations from the claims reporting standard.
6. Documentation of claims review conferences with the Carrier.
7. A confidentially coded list of all Clients covered by the current workers’ compensation policy or policies. The list must be in the specified electronic format and must include all Clients, including those covered by multiple coordinated policies. The Client list may either be uploaded or updated online in a totally confidential manner from the Participant’s confidential Home Page at [www.CertificationInstitute.org](http://www.CertificationInstitute.org).

### ***Certification Termination***

Certification and all associated rights and privileges will be terminated if the PEO fails to appropriately respond to CI’s request for information, or if at the end of a 90-day period following the notification of “Probation,” the Participant has failed to cause the deficient Best Practice(s) to be “In Compliance” and there has been no Appeal of the “Probation” or the Appeal has been denied, or the Maintenance Review conducted at the end of the 90-day Probation period again shows the Participant to be “Out of Compliance.” Notwithstanding the above provisions, in the event of a failure to comply with any of the requirements of the “Operationally Responsible” best practice (Section A. Basic PEO Requirements), certification and all associated rights and privileges will be terminated immediately upon the Certification Board’s confirmation of the Certification Committee’s finding of a violation following a determination of probable cause and subsequent investigation. Such termination shall be subject to a right of Appeal according to Appeal Procedures outlined in Section E of this Manual.

### ***Certification Renewal***

Certification will remain in effect so long as the maintenance reviews show continued compliance with all Certification Requirements, annual Certification Monitoring Fees are paid in a timely manner, and the Participant does not violate or otherwise terminate the Participation Agreement.

# SECTION III. OTHER INFORMATION

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## A. Authority of the Certification Board

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1. The Certification Board and its authorized representatives have the authority to require the submission of any document or other information deemed necessary to grant or continue Certification and to communicate directly with a Participant's WC Carrier or any member of the Participant's staff or service providers including limited and fully coordinated communication with select Participant's Clients as described in Section II.B, above.
2. The Certification Board and its authorized representatives have the authority to inspect a Participant's business locations and/or Client worksites upon ten (10) days written notice and shall be given access to all records as needed to conduct site reviews, verifications, or investigations of allegations or claims. Provided, however, no PEO director of the Certification Board that is in any way affiliated with or otherwise has a conflict of interest with another PEO shall contact, visit or have access to information about a Client of a Participant. Site reviews may be conducted by the Certification Board as the result of an investigation of a complaint, a discovery of a possible failure to comply, or as part of an ongoing program of random selection and compliance monitoring. Such visits and reviews and any findings related thereto shall be conducted and handled in a professional and confidential manner in conformance with the confidentiality provisions of this Manual and the Participation Agreement. Any Client contact will be fully coordinated with the Participant prior to occurrence.
3. The Certification Board and its authorized representatives have the authority to correspond with insurers, their agents, third party administrators, regulators and government agencies to inquire about or verify information relative to a Participant.
4. The Certification Board and the Certification Committee have the authority to approve, deny, suspend or revoke Certification and to issue a letter of warning to place the Participant on Probation, and to conduct such investigations, reviews and hearings, as it deems necessary related thereto.
5. The Certification Board has the authority to change the Certification Requirements, Procedures and fees contained herein with 90 days prior written notice to the Participant, except in cases where the change is required by law or by the Certification Institute's surety or insurance carriers in which case such mandatory changes shall be made effective immediately with written notice to the Participant. Except for such mandatory changes, all changes shall be made by majority vote of the Certification Board after considering review comments made by the Industry Advisory Board and any other comments that have been received since the Program Manual was last updated.

## B. Prohibitions

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1. No Applicant or Participant shall represent its Application for or its Certification to mean more than factually supported by the Certification Requirements and Procedures and authorized by the Certification Board.
2. A Participant's Certification may not be transferred to another person or entity without the express written permission of the Certification Board. Approval of a request for transfer of Certification shall not be granted in cases where the transfer involves a merger with a non-Certified PEO or the Participant will be under common ownership control with a non-Certified PEO, whose services shall be marketed under the same trade name, marketed by one or more common sales representatives, or covered by the same WC Carrier.

## C. Grounds for Revocation of Certification

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Any of the following violations by a Participant shall be considered grounds for termination of Certification:

1. Failure to meet or maintain any of the Certification Requirements or Procedures as contained in this Manual, as may be amended from time to time, or failure to comply with the terms and conditions of the Certification Participation Agreement (Exhibit A).
2. Failure to provide requested information or access to the Participant's records or premises in a timely manner upon prior written notice as provided herein.
3. Failure to abide by the terms of any conditions of Probation as established by the Certification Board and provided in writing to the Participant.
4. Allowing the use of the Participant's Certification status by an affiliated entity or any other PEO or their representatives that is not currently Certified by the Certification Board.

5. Knowingly providing incomplete, false or forged information or purposefully withholding relevant information.
6. Knowingly representing its Certification under this Program to be more than is supported by the Certification Requirements and Procedures and/or authorized by the Certification Board or failing to immediately cease and desist from continued misrepresentation if so notified in writing by CI.
7. Being convicted of or found guilty of, or entering a plea of nolo contendere, regardless of adjudication, of willfully failing to pay any insurance company or Insurer its lawfully due insurance premiums or otherwise engaging in or conspiring to defraud any insurance company or Insurer.
8. Failure to inform the Certification Board or CI within 10 days of discovery of any material fact adversely affecting the Participant's Certification status.
9. Failure to pay Certification Monitoring Fees when due.
10. Providing workers' compensation coverage through an unauthorized insurer.
11. Failure to ensure that all Worksite Employees are covered by workers' compensation insurance, where required by law.
12. Being found by an insurance regulator, following a hearing, to be operating its insurance operations in a condition hazardous to the general public and/or transacting the business of insurance in violation of state law.
13. Engaging in an acquisition of Worksite Employees and clients, other than in the ordinary course of PEO sales and marketing, without timely and accurately informing the workers' compensation carrier of the material aspects of such acquisition and obtaining the prior approval of the workers' compensation carrier, if required, consistent with the program's Best Practices.

## **D. Rights of Applicants and Participants**

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1. Any Applicant or Participant has the right to request by prior written notice the recusal of any Board member it reasonably believes possesses a bias against it, has a conflict of interest, or is otherwise unable to make an objective decision on the matter at hand.
2. Any party to a proceeding who is adversely affected by an order or finding of the Certification Committee has the right to file a motion for appeal to the Certification Board, and any other party to such proceeding has the right to file a response to a motion for appeal, in which case the findings of the Certification Committee, if ratified by a majority vote of the Certification Board of Directors, shall be final.
3. Applicants or Participants have the right to cure deficiencies in their Application or Certification compliance as stated in a notification letter from the Certification Committee.
4. All Participants have the right to use their Certification within the guidelines and restrictions established by the Certification Board and CI, as may be amended from time to time.

### ***Loss of Rights and Privileges***

The Certification Committee will investigate an Applicant or Participant that allegedly fails to comply with the Certification Requirements and Procedures. Upon a finding of a violation by the Certification Committee, and upon a failure of the Applicant or Participant to cure such violation within the prescribed time period, the Applicant or Participant will lose all rights and privileges of being an Applicant or Participant and will not represent itself in any fashion to be in good standing with the Program. Upon such finding by the Certification Committee, the Applicant or Participant's status as an Applicant or Participant and its participation in the Certification Process shall be terminated. A terminated Applicant or Participant shall not be entitled to a refund of any certification fees.

## **E. Procedures for Handling Alleged Non-Compliance Issues, Certification Terminations and Appeals**

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The following procedures shall be used for reporting and handling an allegation of a failure to comply with Application or Certification maintenance requirements and procedures, or a failure to comply with the terms of the Participation Agreement (Exhibit A), as may be amended from time to time. If these procedures conflict in any manner with the terms of the Participation Agreement (Exhibit A), the terms of the Participation Agreement shall prevail.

The Certification Board reserves the right to amend and exercise its best judgment with regard to these procedures depending on the nature and severity of the alleged failure to comply. In all cases, the goal will be to preserve the right of each Applicant

or Participant to due process and to considerate, confidential and professional treatment, while making fair and impartial decisions that are in the best long-term interest of the Applicant or Participant and the Program.

### ***Certification Committee***

A Certification Committee, established by the Certification Board of Directors in accordance with its Bylaws, shall handle all reported or discovered failures to comply, and any other allegations made against an Applicant or Participant. The Board shall determine the size and composition of the Certification Committee on a case-by-case basis depending upon the nature and urgency of the matter to be considered. At a minimum, the standing Certification Committee shall be made up of three Directors appointed by the Certification Board.

The Certification Committee shall be responsible for conducting or supervising investigations by staff or professional advisors, determining probable cause, conducting mediation hearings, conducting arbitration hearings, reporting findings, establishing appropriate corrective measures, and rendering final judgments. All final decisions and findings of the Certification Committee shall be made by majority vote and signed by the Committee chair.

An Applicant or Participant shall have the right to an appeals hearing before the Certification Board. Such hearings shall be granted liberally by majority vote of the Certification Board based on factual justification presented by the Applicant or Participant in a written motion filed within ten (10) days of receipt of the final decision of the Certification Committee.

An Applicant or Participant shall have the right to request the recusal of any Certification Committee member. Such request shall be made in writing and shall set forth the justification for such recusal along with any supporting evidence. Requests for recusal shall be acted upon by majority vote of the Certification Board and shall be granted liberally for just cause based on factual information provided by the requesting entity.

### ***Reporting of a Failure to Comply***

Allegations or complaints involving an Applicant or Participant may be reported to the Certification Committee or CI by e-mail, fax, courier or mail, or by telephone followed by a method of written verification.

An alleged failure may be discovered and reported by the Program staff, by an Applicant or Participant, a WC Carrier or insurance broker, or by any other third party. A \$250 filing fee is required to discourage frivolous allegations in the case of an allegation made by a third party not having a material interest in the Applicant's or Participant's affairs through a client service agreement, employment relationship, insurance policy, Certification, or by regulatory authority. The complainant shall pay such filing fee at the time of filing the written complaint. If the allegation is found to be true, the filing fee will be returned to the complainant. If the allegation is found to be untrue, the filing fee will be paid to the accused Applicant or Participant.

### ***Procedure for Handling an Allegation of a Failure to Comply***

The following general procedure will be followed by the Certification Committee upon discovery or receipt of an allegation of a possible failure to comply:

1. The Certification Committee and/or staff shall gather preliminary facts by telephone from the complainant and the accused Applicant or Participant and report such findings to the Certification Committee within 10 days of discovery or receipt of the allegation.
2. At any time during the proceedings, from the time the written complaint is received until a final determination is made, the Applicant or Participant may decline to contest some or all of the allegations. In order to do so, the Applicant or Participant must provide the Certification Committee with written assurance that it will not contest in any manner the allegation. The Certification Committee shall then determine if further investigation is warranted.
3. The Certification Committee shall consider the information gathered by staff, conduct such additional investigation as it deems appropriate, and make a determination of probable cause. If the Certification Committee determines that probable cause does not exist, the matter shall be dismissed and a report of findings shall be distributed to the accused Applicant or Participant, the complainant(s), if any, and the Certification Board.
4. If probable cause is found to exist, the Certification Committee shall schedule and conduct a mediation hearing by telephone conference within 30 days of the probable cause determination.
5. If the matter is not resolved in the mediation hearing, the Certification Committee shall conduct any other investigation that it deems appropriate and shall issue a written ruling of findings and required cures if any. Such findings shall be distributed to the Applicant or Participant, the complainant(s), if any, and to the Certification Board.
6. Upon receipt of the Certification Committee's final ruling following mediation, the Applicant or Participant shall have 10 days to file a motion to appeal the Certification Committee's findings to the Certification Board. The Board shall schedule

the appeals hearing at such time and place as it deems appropriate with at least 30 days prior written notice to all involved parties. The ruling of the Certification Board at the end of the appeals hearing, if one is held, shall be final.

7. All information, communications, investigative reports, hearing records, findings and related materials, other than public information, shall be considered confidential and shall be kept in strictest confidence by the Certification Committee, Certification Board, and related staff, advisors and service providers to the extent allowed by law except as specifically provided by these procedures and by the terms of the Participation Agreement (Exhibit A), as may be amended from time to time.
8. Notwithstanding the above provisions, in case of a violation of any of the requirements of the "Operationally Responsible" best practice in Section A. Basic PEO Requirements, as determined by the Certification Committee in its sole judgment following a determination of probable cause and due investigation, certification shall be terminated immediately upon confirmation of the Certification Committee's findings by the Certification Board, and such termination shall be final subject to an appeal filed by the terminated PEO with the Certification Board according to the Appeals Procedure outlined below.

### **Standards for Hearings**

The following standards shall apply to the conduct of Certification Committee and Certification Board Hearings.

1. Types of Hearings: A hearing may be held for the purpose of mediation, arbitration, consideration of a motion for an extension of time to cure a failure to comply, or appeal of a decision of the Certification Committee to the Certification Board.
2. Hearing Tribunal: The "Hearing Tribunal" shall consist of a quorum of the Certification Committee or the Certification Board, which shall appoint a "Hearing Officer."
3. Location and Time: All hearings may be conducted telephonically or at a mutually agreed upon location, at a time and date set by the Hearing Tribunal.
4. Notice: Notice of a hearing shall be mailed confidentially to the parties by certified mail or overnight courier, return receipt requested. A copy of the written complaint and investigative report shall also be mailed to all involved parties.
5. Procedure: The Hearing Officer shall preside over the hearing making the final determination as to the procedures to be followed. The Hearing Tribunal shall consider all evidence it deems relevant to its final decision. Final decisions of the Hearing Tribunal shall be made by majority vote, documented in writing and signed by the Hearing Officer.
6. Representation: One or more members of management and other representatives, including legal counsel, may represent the Applicant or Participant. Legal counsel may also represent the Program or CI.
7. Order of Presentation: The following is intended to serve as a general guide to the conduct of a hearing:
  - a. The opening statement by the Hearing Officer should include the guidelines of the hearing, its purpose, and the rights and privileges of parties involved.
  - b. The opening statement on behalf of the Applicant or Participant, not to exceed 10 minutes in length, should concisely indicate what he/she intends to show. This statement may be deferred until the conclusion of the investigator's presentation at the option of the Applicant or Participant.
  - c. The Certification Committee's investigation report will be presented by the party(ies) who conducted the investigation and will not exceed 10 minutes. It shall outline all of the relevant matters contained in the investigative report, as discussed above.
  - d. The Certification Committee's investigator(s) shall present such testimony and exhibits as deemed appropriate, not to exceed 20 minutes.
  - e. The Applicant or Participant under investigation and related witnesses, if any, may present testimony and exhibits, not to exceed 30 minutes.
  - f. Cross-examination of witnesses by opposing parties, not to exceed 30 minutes by each party for all witnesses, will be allowed and shall not count against the time permitted for a party to present its case.
  - g. If desired, the investigator(s) and the Applicant or Participant may present a summation, not to exceed 10 minutes per party.
  - h. At the conclusion of the hearing, the Hearing Tribunal will make a ruling as to the allegation and its effect on the Applicant's or Participant's Certification, or as to continuance of investigation or hearing. If the hearing is to be continued, the date shall be determined at the time of the hearing. The findings shall be set forth in a written order

setting out the parties involved, the nature of the allegations, the findings, the actions required to correct any deficiency, and the effect on Certification, if any.

8. **Burden of Proof:** The complainant shall have the burden of establishing the Applicant's or Participant's Non-Compliance with a Certification Requirement or Procedure by a preponderance of the evidence.
9. **Admissibility:** Statutory and case-made rules relating to the order of proof, conduct of the hearing, and presentation and admissibility of evidence shall not be applicable to such hearings. Any relevant evidence shall be admitted by the Hearing Officer if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of business affairs, regardless of the admissibility of such evidence in a court of law.
10. **Participants and Witnesses:** Each participant is responsible for providing its own witnesses, including the payment of all expenses associated with their participation in the hearings. All witnesses shall give testimony under oath or other affirmation administered by the Hearing Officer.
11. **Exhibits:** Not less than 10 days prior to the hearing, each party will provide the other party with a list of witnesses that the party intends to call and provide copies of all exhibits to be introduced at the hearing. At the hearing, both parties shall provide each member of the Hearing Tribunal with copies of exhibits when introduced in evidence. Documentary evidence must be of a size consistent with the ease of handling, transportation, and filing. Large exhibits may be used during the hearing, but reduced copies must be provided for the record.
12. **Non-Responsiveness by the Applicant or Participant:** In the event that the Applicant or Participant being investigated does not appear for the hearing, or does not supply information requested as part of the investigative process, the Applicant or Participant's Certification status will automatically be suspended pending a final decision by the Hearing Tribunal.

### ***Appeals Procedure***

The following procedures shall apply to allow for the appeal of a final judgment rendered by the Certification Committee:

1. The Applicant or Participant that is adversely affected by a finding of the Certification Committee, and that appeared at the hearing, if any, may file a motion for appeal, in which case a decision of the Certification Committee that has been ratified by the Board of Directors shall be final. Such motion for appeal must be filed within 10 days of the party's receipt of the written finding. All motions to appeal shall be considered by the Certification Board.
2. The Certification Committee may file a response to a motion to appeal within 10 business days of service of the motion to appeal.
3. Such motions and responses will be filed in writing with the Certification Board with copies provided to all involved parties.
4. A finding of the Certification Committee shall not be effective until the time to file a motion to appeal has expired or until a motion to appeal has been denied.
5. Failure to file a motion to appeal within the specified time limit will constitute waiver of the right to do so.
6. Upon the timely filing of a motion for appeal and following the time period within which a response may be filed, or following the filing of a timely response, the Certification Board shall consider the motion and response, if any, and shall either grant or deny an appeal hearing. Consideration by the Certification Board of such motion and response, if any, may be by telephone conference. If an appeal is granted, the Certification Board shall set a date and time for the appeal hearing, which may also be by telephone conference.
7. The Applicant or Participant making the appeal shall have the burden of showing that the findings of the Certification Committee were clearly erroneous.
8. Filing a motion to appeal shall automatically stay the effective date of the finding until the Certification Board issues a finding on the motion.
9. All findings on matters of appeal shall be final and not subject to further reconsideration or appeal.
10. Any motion filed pursuant to these procedures shall contain a concise statement of the grounds for appeal.

# Exhibit A. PEO Participation Agreement

THIS AGREEMENT is made and entered into by and between the Certification Institute, a nonprofit corporation (“CI”), and \_\_\_\_\_, a \_\_\_\_\_ corporation (“Participant”).

## A. PURPOSE.

The purpose of this Agreement is to set forth the rights and obligations of the Participant and CI under the terms of the Workers’ Compensation (“WC”) Risk Management Best Practices Certification Program (“Program”) through which the Participant may receive and maintain a Certificate verifying the Participant’s capability and appropriate implementation of certain specified Best Practices that are specific to the management of workers’ compensation insurance risks.

## B. DEFINITIONS.

1. “Applicant” means a legally recognized business entity engaged in providing services to Client businesses under a PEO Service Arrangement and that has submitted a completed application form, all of the required supporting documents and the associated fees for initiation of the Certification Process.
2. “Application Processing Fee” and “Certification Monitoring Fee” means those fees or assessments established by the Certification Board as necessary to accomplish the Program’s purposes and payable by a Participant as provided by the Program Manual or as otherwise required by the Certification Board.
3. “Best Practice” means a workers’ compensation insurance risk selection, risk management, safety, and/or loss control practice, policy, requirement or procedure that is generally recognized as a best practice by the workers’ compensation risk management profession and by the insurance industry, and that, when applied in a consistent manner and over a period of time, will produce better than average employee accident experience and/or lower the cost of workers’ compensation insurance claims, and which for purposes of this Program has been approved by the Certification Board as a requirement of Certification.
4. “Certification” means the issuance of a certificate by CI based on verification by the Certification Board and/or the Certification Committee that an Applicant or Participant has the capability and has implemented the Best Practices approved by the Certification Board in a manner generally considered appropriate by workers’ compensation risk management professionals and the insurance industry and has met all other requirements established by the Certification Board for Certification.
5. “Certification Board” means the governing board of the Workers’ Compensation Risk Management Certification Program.
6. “Certification Committee” means a committee appointed by the Certification Board and to which authority to issue Certifications has been delegated.
7. “Certification Institute” or “CI” means an independent non-profit Texas corporation established to develop and administer industry certification programs and to provide support for and advise the Certification Board.
8. “Certification Officer” means an individual approved by the Certification Board to administer the Certification Process and verify a Participant’s compliance with established Certification Requirements.
9. “Certification Process” means all actions required of the Applicant and the Certification Institute to verify an Applicant’s eligibility for Certification.
10. “Certification Requirements” means those requirements established by the Certification Board that must be met as a condition of Certification.
11. “Certification Procedures” means those procedures established by the Certification Board that must be followed as a condition of Certification.
12. “Certification Suspended” or “Certification Denied” means that an Applicant or Participant has been reviewed and initial or continued Certification has not been approved. If the Applicant or Participant wishes to restart the Certification Process it must do so by re-applying and paying a new Application Processing Fee.
13. “Client” means any entity that is being served by an Applicant or Participant under the terms of a Client Service Agreement. “New Client” means a Client that has become a Client within the most recent six (6) calendar months. “Existing Client” means a Client that has been a Client for more than six (6) calendar months.
14. “Client Service Agreement” means the contractual agreement between a Participant and its Client and containing the terms and conditions under which the Participant provides PEO services to the Client.
15. “Complaint” or “Dispute” means a written or oral communication received by CI or the Certification Board alleging a failure by CI or the Certification Board to perform one or more of the obligations set forth in this Agreement or the Program Manual or finding or written or oral communication alleging a Failure of an Applicant or Participant, which the Applicant or Participant denies.
16. “Failure” means either a “Reported Failure” or a “Verified Failure” to comply with the Certification Requirements or Certification Procedures.
17. “In Compliance” means an Applicant or Participant’s implementation of a Best Practice has been verified as having been appropriately implemented at the worksite, or the Certification Committee has determined that the Applicant or Participant has met the requirements for Certification. “Out of Compliance” or “Non-Compliance” means that the Certification Officer is unable to verify appropriate implementation of a Best Practice based on the documentation and information provided by the Participant, or the Certification Committee has determined that the Applicant or Participant has not met the requirements for Certification.
18. “Insurer” means the party to a workers’ compensation insurance contract or a duly authorized self-insured workers’ compensation plan who assumes the risk and undertakes to indemnify the insured for a workers’ compensation claim.
19. “Participant” means an Applicant or a former Applicant that has been certified by the Certification Board and whose Certification is in good standing.
20. “Probation” means the 90 calendar days from the date of receipt of written notice, as provided by the Program Manual and PEO Participation Agreement, that a Participant has to cure a deficiency prior to revocation of Certification.
21. “Program Manual” means the manual, in either paper or electronic form, which documents the Certification Requirements and Certification Procedures for the Program, which may be changed by the Certification Board from time to time. A copy of the most current Program Manual can be viewed at any time at [www.CertificationInstitute.org](http://www.CertificationInstitute.org).
22. “Program” means the Workers’ Compensation Risk Management Certification Program managed by the Certification Board with the assistance of CI.
23. “Step One of Certification” means that an Applicant or Participant: (a) has completed all requirements for application for Certification; (b) has the risk management capability required for Certification in place; (c) has been found to be appropriately implementing the Best Practices with at least some new Clients; (d) has committed in writing to appropriately implement the Best Practices on a going forward basis with all new Clients and to appropriately implement the Best Practices for all existing Clients in a manner that will qualify the Participant for full Certification; and (e) meets all other requirements for Certification.
24. “Workers’ Compensation” means payments as required by state law made to employees or to medical providers on behalf of employees who have suffered injury or illness due to job-related accidents or employment

conditions and includes the coverage of the employer's liability per applicable state law for such injuries or illnesses.

25. "Worksite Employee" means any person whose employment status with an Applicant or Participant has been recognized by completion of Internal Revenue Service Form W-4, who is treated as an employee of the Applicant or Participant on its payroll records, and who provides services for an Applicant or Participant or their Client(s).

### C. TERM.

This Agreement shall begin on the date the Agreement is signed by a duly authorized representative of CI, following execution of the Agreement by a duly authorized representative of the Applicant. The Agreement shall remain in effect until terminated in accordance with the provisions of Article G as set forth below.

### D. CONDITIONS OF PARTICIPATION.

The following shall be conditions which an Applicant must meet on the effective date of this Agreement and which must be continually met during the term of participation:

1. **Compliance With Certification Requirements.** A Participant must comply with all of the applicable Certification Requirements and Certification Procedures as outlined in the Program Manual and as requested by the Certification Board, the Certification Committee or the Certification Officer, including requiring staff and service providers to promptly provide information requested as part of the Certification Process. In this regard, the Participant hereby authorizes the Certification Board and its representatives to contact directly the Participant's WC Carrier, Risk Manager(s), Sales Manager(s), or any member of the Participant's Loss Prevention Staff, Claims Management Staff, or independent contractors that provide such services to the Participant, and its Clients after appropriate coordination with the Participant.
2. **Payment of Certification Monitoring Fees.** The Participant must pay when due all certification fees as established by the Certification Board, which certification fees may change from time to time.
3. **Permission to Disclose Specific Information.** The Participant authorizes the Certification Board and CI to disclose upon request to any person or entity the Participant's then current Certification Status. The Participant also authorizes the Certification Board and CI to provide the Participant's WC Carrier with access to the confidential information provided to CI or developed as part of the Certification Process. This provision does not authorize the Certification Board or CI the right to disclose any other confidential information to any unauthorized person or entity except as specifically provided herein and in Section J, below.
4. **Representations and Warranties.** The representations and warranties contained in Article F shall be true and correct at all times while this Agreement is in effect.

### E. INDEMNIFICATION AND RELEASE.

Participant agrees to indemnify, protect and hold harmless CI, the Certification Board, the Certification Committee, the National Association of Professional Employer Organizations, and the Employer Services Assurance Corporation, and their Officers, Directors, employees, members, agents, representatives, attorneys, trustees, successors and assigns of each with respect to actions taken in any official or supportive capacity related to the Program as an employee, volunteer or contractor (all of the aforementioned indemnified parties referred to as "Indemnified Parties") from and against any and all liability, expense (including court costs and attorneys' fees), and claims for damage of any nature whatsoever, whether known or unknown as though expressly set forth and described herein, which Indemnified Parties may incur, suffer, become liable for, or which may be asserted or claimed against one or more Indemnified Parties as a result of performing responsibilities related to the Program with respect to the Participant or to the Certification of the Participant or the termination or denial of Certification, provided the Indemnified Parties did not act willfully with the malicious intent to damage the Participant. The duty to indemnify includes the duty to pay any award imposed by an

administrative agency or judgment or settlement reached in a court action.

The indemnification contained in this Agreement shall specifically include all costs, including court costs, reasonable attorneys' fees and expenses incurred in connection with the enforcement of any such indemnification. If it is necessary for an Indemnified Party entitled to indemnification to pay any judgment, order or decree, all costs and expenses thereof incurred by Indemnified Party entitled to indemnification, including all court costs and reasonable attorney's fees, costs and expenses, and further including any such attorneys' fees or expenses incurred in enforcing the provisions of such indemnification, shall be paid by the Participant to the Indemnified Party entitled to indemnification within ten (10) days from receipt of written demand by the Indemnified Party entitled to indemnification, together with interest from the date of payment of the amount to be paid at 5% per annum over the prevailing Federal Discount Rate on the date or dates of payment.

No Indemnified Party shall be liable for any decision, election or other action or non-action taken or not taken provided such person acted in good faith in so acting. On behalf of itself, its affiliates, officers, directors, agents, representatives and successors and assigns, the Participant releases each and every Indemnified Party for any decision, election or other action or non-action taken or not taken provided such person acted in good faith in so acting, without regard to fault or negligence.

The Participant, on behalf of itself and its successors and assigns, releases any person, including without limitation, all Indemnified Parties and all other Participants, from any claim that the Participant, its affiliates, officers, directors, employees, agents, representatives, successors or assigns might have, either now or in the future on account of, or arising out of, any allegation of a Complaint or Failure hereunder so long as such person acted in good faith. It is intended that the foregoing release shall constitute qualified immunity from liability for defamation, libel and slander. Such qualified immunity shall not apply only if it is shown by the Participant that such allegation was false and made willfully with the intent to damage or injure the Participant or was otherwise made with malice.

### F. PARTICIPANT'S REPRESENTATIONS AND WARRANTIES.

The Participant makes the following representations and warranties that shall remain true and correct so long as this Agreement shall be in effect:

1. The Participant is a legal business entity operating as a professional employer organization (PEO) in compliance with all state and federal laws.
2. All information provided by the Participant as part of its initial application for Certification and as part of its ongoing compliance with the Certification Requirements and Certification Procedures is complete, true and correct to the best of the Participant's knowledge.

### G. TERMINATION AND RIGHT OF APPEAL.

1. This Agreement shall be terminated upon: (a) failure of the Participant to provide the documentation, materials and information required for initial Certification or for periodic reviews or reporting as specified in the Program Manual; (b) failure to pay Certification Monitoring Fees in a timely manner and failure to cure such deficiency within 10 days of written notice; or (c) failure of the Participant to comply with any of the Certification Requirements or Certification Procedures; and in such case, to further fail to cure such deficiency within 90 days of receipt of written notice provided by the Certification Officer, the Certification Committee, or the Certification Board.
2. In the event of any such termination of this Agreement, CI will provide written notice as soon as practical to the Participant and to its workers' compensation Insurer. The Participant shall have 10 days from the receipt of the termination notice to file an appeal with the Certification Board according to procedures contained in the Program Manual.
3. The termination of this Agreement shall not affect the obligations of the Participant with regard to relinquishment of all rights and privileges associated with the Certification, including claiming or representing in any manner that the Participant is certified under the Program.

### H. LIMITATION OF LIABILITY.

No Indemnified Party, as defined in Section E, shall be liable for any decision, election or other action or non-action taken or not taken in their official capacities, provided such person acted in good faith, without regard to fault or negligence. No other participant in the Program or in any other program

administered by CI has any liability or obligation to the Participant, or any other person whatsoever with respect to the obligations of the Program, the Certification Board, or CI with respect to this Agreement.

## I. DISPUTE RESOLUTION.

1. **Mediation.** If a dispute arises out of or relates to this Agreement, or breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to attempt in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to arbitration, litigation, or other dispute resolution procedure.
2. **Arbitration.** If at any time during the course of this Agreement or following the termination of the Agreement, a dispute arises out of or under the Program or this Agreement or with respect to its terms, its interpretation, a breach thereof, any aspect of the parties' relationship and the transactions contemplated herein, or any action cognizable under the Federal Arbitration Act, the parties agree to submit to alternative dispute resolution through arbitration. Such arbitration shall be conducted by the American Arbitration Association. No civil action concerning any dispute within the scope of this arbitration provision, which the parties intend to be broad in scope, shall be instituted before any court but shall be submitted to final and binding arbitration as herein provided. Such arbitration shall be conducted in accordance with the rules of such Association before a single arbitrator. All arbitration proceedings shall take place at a location mutually agreed by the parties, otherwise in a city and state specified by the Certification Board. All costs of arbitration, including attorneys' fees and other costs attendant thereto, shall be allocated among the parties according to the arbitrator's discretion, who may award all costs to one party or allocate the costs between the parties. Further, the arbitrator's award resulting from such arbitration may be confirmed and entered as a final judgment in any court of competent jurisdiction and enforced accordingly. The parties expressly agree that proceeding to arbitration and obtaining an award there under shall be a condition precedent to bringing or maintaining any action in any court with respect to any dispute arising under this Agreement, except for the institution of a civil action to maintain the status quo, subject to each party's right of adequate protection, during the pendency of any arbitration proceeding.

## J. CONFIDENTIALITY.

1. Except as provided below, "Confidential Information" means any information, including, without limitation, any technical, financial, product, service, marketing and/or Client information and any information relating to the present and future business operations or financial condition of the Participant, whether such information is written or oral, and which is (i) if in writing, clearly marked as "confidential" or "proprietary," or (ii) if not in writing, designated as confidential or proprietary in writing at the time of disclosure to CI or any other party related to the Program. It is understood that the term "Confidential Information" does not include information which:
  - a) has been or becomes published or is now or is in the future in the public domain through no action of CI or the Program;
  - b) subsequent to disclosure hereunder, is lawfully received by CI or the Program from a third party with no restriction of rights to disseminate and without other notice of any restriction;
  - c) is disclosed with the prior written approval of the Participant;
  - d) is obligated to be produced under order of a court of competent jurisdiction or a valid administrative or congressional subpoena;
  - e) is obligated to be produced to federal or state regulatory authorities as required by law; or
  - f) in the event of Mediation or Arbitration or a legal proceeding involving the Participant or a successor or assignee thereof, to the extent necessary to prosecute or defend any claim in such proceeding.
2. Except as permitted in Section 1 above, CI nor any other party related to the Program shall not disclose any Confidential

Information to any party other than to its directors, officers, employees, or agents who have executed a nondisclosure agreement prohibiting the disclosure of Confidential Information as necessary to accomplish CI's or the Certification Board's responsibilities in administering the Program as provided for in this Agreement, its Bylaws, and Program Manual, as such may be amended from time to time. CI and the Certification Board shall cause all of their directors, officers, employees, contractors and professional advisors to be bound by this confidentiality provision, and shall use its best efforts to obtain a substantially similar agreement from any other entity that CI or the Certification Board reasonably believes may come in contact with Confidential Information. Notwithstanding the preceding provisions, Confidential Information of the Participant shall not be disclosed or made available to any owner, director, officer, employee, or agent of any other Participant or of any other PEO regardless of their affiliation, role or responsibility related to the Program.

3. Notwithstanding any other provision of this Section J, the Participant's authorization for the Certification Board and CI to disclose certain specific confidential information as provided in Section D.3., above, is hereby acknowledged.

## K. GENERAL.

1. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives or heirs of the respective parties.
2. **Captions.** Captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement.
3. **Counterparts.** This Agreement may be executed in counterpart copies, all of which shall constitute but a single instrument.
4. **Governing Law, Jurisdiction and Venue.** This Agreement shall not be effective until accepted and executed by CI in Little Rock, Pulaski County, Arkansas; and shall be governed by and construed in accordance with the laws of the State of Arkansas. Subject to the provisions requiring Mediation and Arbitration as set forth in Article I above, this Agreement may be enforced in the Circuit or Chancery Courts of Pulaski County, Arkansas in Little Rock, Arkansas. By execution of this Agreement, the parties agree to the jurisdiction of the Circuit and Chancery Courts of Pulaski County, Arkansas, to enforce the provisions of this Agreement, and agree that this Agreement is one that will be performed, in part, within the State of Arkansas, and that the Circuit and Chancery Courts of Pulaski County, Arkansas shall have personal jurisdiction over it in any action or actions.
5. **Integration.** This Agreement, together with any Exhibits that are hereby incorporated by reference word for word, constitutes the entire Agreement between the parties with regard to the subject matter, and no other agreement, statement, promise, or practice between the parties relating to the subject matter shall be binding upon the parties. All prior and contemporaneous agreements, whether written or oral, are merged herein. This Agreement may be changed only by written amendment in accordance with Section K.6 below.
6. **Amendment.** CI may amend the terms of this Agreement at any time in its sole discretion, provided ninety (90) days prior written notice is given to the Participant, except in the case of any amendment required by CI's or the Program's insurance companies or any Regulatory Agency, in which case such amendment shall be effective on the date set forth in the notice of amendment.
7. **Notices.** Notices to the parties with respect to this Agreement shall be delivered by (a) certified mail, return receipt requested, (b) overnight courier service, (c) hand delivery with receipt, or (d) facsimile, e-mail or telephone followed by one of the above, to:  
Certification Institute  
Three Financial Centre  
900 S. Shackelford Road, Suite 401  
Little Rock, Arkansas 72211  
Phone: (501) 219-2045 • Fax: (501) 219-2603  
E-mail: info@CertificationInstitute.org
8. **Survival.** The representations, warranties, and indemnities provided herein shall survive the termination of this Agreement.

9. **Third Party Beneficiaries.** The parties specifically agree that no persons, other than the parties hereto, have any interest in this Agreement, no persons shall be considered intended third party beneficiaries and no persons, other than the parties hereto, shall be entitled to rely upon the provisions of this Agreement for any purpose.

10. **Waiver.** Failure of either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement, or any part hereof, shall not prejudice either party as to any subsequent performance, actions, or breaches.

**IN WITNESS WHEREOF**, this Agreement has been executed on the dates written below.

**PARTICIPANT:**

**By:** \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or print name and title)

**Date:** \_\_\_\_\_

**CERTIFICATION INSTITUTE:**

**By:** \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or print name and title)

**Date:** \_\_\_\_\_

## Exhibit B. Certification Fees

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### ***Application and Certification Monitoring Fee***

An initial application fee is paid upon application submittal and a certification monitoring fee is paid annually thereafter. NAPEO members and ESAC accredited PEOs receive a discount since their member and participation fees helped underwrite program development. The fee amount is determined by the following schedule based on the firm's most recent year-end IRS Form 940 annual wages.

Annual Gross Wages	Annual Fee		Initial Application Fee	
	NAPEO / ESAC Discounted Fee	Non-Discounted Fee	NAPEO / ESAC Discounted Fee	Non-Discounted Fee
Less than \$15 million	\$2,450	\$3,675	\$3,450	\$4,675
\$15 to \$24,999 million	\$2,950	\$4,425	\$3,950	\$5,425
\$25 to \$49,999 million	\$3,250	\$4,875	\$4,250	\$5,875
\$50 to \$149,999 million	\$4,750	\$7,125	\$5,750	\$8,125
\$150 to \$299,999 million	\$6,450	\$9,675	\$7,450	\$10,675
\$300 to \$499,999 million	\$6,950	\$10,425	\$7,950	\$11,425
\$500 million and above	\$7,450	\$11,175	\$8,450	\$12,175

### ***Refund Policy***

Application Processing Fees and Certification Monitoring Fees are considered fully earned upon receipt. The Best Practices and all related Certification Requirements and Procedures are fully described in this Manual, and any PEO or PEO Group can qualify for Certification if they are willing to implement the required Best Practices. No refunds will be made if Certification is denied or if a Participant's Certification is terminated or suspended either voluntarily or due to a Failure to Comply.

### ***Reinstatement Fee***

The fee to reinstate the Certification Process in the event that Certification is voluntarily relinquished by the Participant or is suspended for any reason will be according to the above Fee schedule and will require the submittal of a new application.

### ***Fee for Multiple Reviews Requested by a Participant***

For an Applicant or Participant who has completed "Step One" of Certification or is "Pending Certification," the initial Application Processing Fee will cover the expense of the initial Certification evaluation and one subsequent evaluation within 365 days of the effective date of the Participation Agreement, if or when requested by the Applicant or Participant. If Certification is granted as a result of this second evaluation, the Participant's renewal date for the purpose of paying the second-year Certification Monitoring Fee will be the anniversary date of the Participation Agreement. If an Applicant or Participant who has achieved "Step One" of the certification process wishes to request more than one evaluation of new information during this status period, an additional fee of one half (1/2) the annual fee, as stated above, will be assessed for each subsequent review made at the request of the Applicant or Participant. This requirement does not apply to additional requested information submitted by the Participant as part of the initial Certification Process within 90 days of the effective day of the Participation Agreement.

**Exhibit C. Client List & Related Information**

Name of PEO: Example PEO				WC Carrier: Example Insurance Co.	Policy Period: 6/1/01 - 6/1/02			
Client ID #	Domicile (State)	Add Date	Termination Date	Description of "Core" Business	*State	**WC Class Codes	***WC Wages	# of EEs
1189	AL	2/3/01	9/11/01	Mfg. of plastic parts for auto industry	AL	8810	\$15,285	1
1189	AL	2/3/01	9/11/01	Mfg. of plastic parts for auto industry	AL	4484	\$343,388	25
4323	AL	2/3/02		Clerical and outside sales	AL	8810	\$27,000	3
4323	AL	2/3/02		Clerical and outside sales	AL	8742	\$150,000	4
4323	AL	2/3/02		Clerical and outside sales	MN	8810	\$147,250	3
4323	AL	2/3/02		Clerical and outside sales	MN	8742	\$36,000	1

\* State means the State in which the employee is domiciled unless the employee has a worksite that he or she regularly reports to in another State. That State then becomes the State to which the employee is assigned for rating purposes.

\*\*NCCI or comparable codes applicable for that state.

\*\*\*Should reflect most recent 12 months of wages

## Exhibit D. WC Risk Management Best Practices

**Preface:** The term “best practices” as used in this document refers to operational risk management practices that are recommended by the insurance industry to achieve above average workers’ compensation insurance claims experience. Please note that it is acceptable to outsource the performance of many of these best practices to qualified third parties as appropriate.

Score	Criteria	Frequency	Verification Method
<b>A. Basic PEO Requirements Identified as Best Practices</b>			
	<u>Financially Responsible</u> – The PEO should have the verifiable financial ability from company (as best demonstrated by audited financials), personal or other sources to assure payment of the ultimate expected loss risk. <sup>1</sup> This is the risk contractually assumed by the PEO under the current workers’ compensation policy or plan as determined by actuarially-sound methods for calculating loss development. At the same time, the PEO should also meet all other financial employer responsibilities, including outstanding loss exposure remaining from prior workers’ compensation policies or plans.	Per WC insurance carrier requirements	Financial review to be performed by the PEO’s WC carrier and is not included as part of the risk management certification program.
	<u>Operationally Responsible</u> -- The PEO and its Controlling Persons must have a history of meeting its contractual obligations and complying with all state and federal laws, including state registration and licensing laws, WC coverage requirements, and payment of all employer obligations, including timely payment of wages, payroll taxes, and all amounts due under insurance policies and employee benefit plans. Where multiple insurance policies coexist, the PEO should ensure there is transparency of coverage with the ability to document the appropriate payment of premium and the assignment of clients to each policy in a clear and unambiguous manner.	Ongoing	Staff and the Certification Committee shall investigate any alleged violations or any information available in the public domain that suggests a potential violation. Investigations may include requesting relevant information or documentation from the PEO and/or an onsite compliance audit.
	1. <u>Full Service</u> – The PEO should contractually establish and in fact assume appropriate PEO employer responsibilities and liabilities, including: a) Payment of wages and taxes; b) Right of direction and control of worksite employees; c) Ensuring the provisions of workers’ compensation coverage, as required by state law, and proactive loss prevention & claims management services; d) Sponsoring or co-sponsoring employee benefits; e) Establishing appropriate workplace employment and risk management	Initial application & with any material change	Review answers to questionnaire attested to by management. Verify by reviewing sales brochure(s), sales proposal, website, client service agreement, employee handbook, supervisory handbook or equivalent, and workplace safety materials, and by phone interviews with key service personnel.

<sup>1</sup> In assessing the ultimate expected workers’ compensation loss risk and the PEO’s financial ability to assure payment of the assumed liability, consideration must be given not only to the PEO’s actual loss experience for prior years but also to the projected losses for future policy years and the resulting accumulation of outstanding claim reserves. The PEO’s projected rate of growth, trends or known changes in the mix of Client risk types being served, and factors that may influence future loss development, such as trends in claims cost in the primary states of business growth, all should be considered. Best practice in this regard includes a plan to carefully control the rate and risk characteristics of future growth commensurate with the PEO’s financial ability to assure payment of the amount of loss risk assumed.

<p>policies and procedures;  f) Providing other HR services; and  g) Shared involvement in worksite employee hiring, discipline and termination.</p>		
<p>2. <u>Written Risk Management Plan</u> – The PEO should maintain a written risk management plan that is updated at least annually and communicated to all internal employees. The plan should include:  a) Description of key service offerings;  b) Target market demographics (including list of states and size range/types of clients);  c) Sales and marketing strategy to achieve controlled growth;  d) Growth projections vs. track record;  e) Client retention goals vs. track record;  f) Overview of Client risk assessment and formal periodic review procedures; and  g) Overview of risk management strategy.</p>	<p>Initial application &amp; annually thereafter</p>	<p>Review written plan attested to by management and updated at least annually. Request and review an annual report of # of employees and amount of wages by state, by SIC code and by WC class code in comparison to prior projections. Review quarterly Client list for conformance of actual growth and target markets to business plan expectations.</p>
<p>3. <u>Organizational Structure/Staffing</u> – The PEO should maintain and document that it has adequate internal staff and/or outsourced capabilities, including qualifications and authority appropriate for delivering promised services to target markets in the areas of HR/legal compliance, WC risk assessment, safety and loss prevention, and WC claims management. If some of these requirements are outsourced, the PEO should be able to provide a copy of the service contracts and descriptions of the staff and qualifications of each service provider. Authority should be delegated with clear separation between responsibility for sales and responsibility for Client risk assessment, pricing and termination.</p>	<p>Initial application &amp; thereafter upon any material change</p>	<p>Review organization chart, job descriptions and resumes of key staff members and any related contracts for outsourced services. Verify with phone interviews with key staff. Capabilities must be adequate to cover Client risk exposures.</p>
<p>4. <u>Basic Record Retention</u> – The PEO should maintain the following current Client information, including additions and deletions: Client ID#, state, start date and termination date, brief general description of Client operations, number of employees, hazard group rating, and payroll by class code. Records should include a list of terminated Clients for at least the past three years and proof of written termination notices sent to all worksite employees of terminated Clients. Records should be readily available to the WC carrier.</p>	<p>Initial application &amp; quarterly thereafter</p>	<p>Review Client list and related reports to verify availability of all required information.</p>
<p>5. <u>Employee Handbook</u> – Handbook should clearly define the employment relationship and set forth key workplace policies and procedures. The handbook should also discuss procedures for claims reporting, return-to-work, general safety rules and safety incentive programs, if any. Receipt of handbook by all worksite employees should be documented.</p>	<p>Initial appl. &amp; upon material change</p>	<p>Review employee handbook(s) and related procedures used for Client locations. Request copies of receipt documentation for a randomly selected sample of Clients.</p>
<p>6. <u>Controllable Business Structure</u> –  a) A PEO should not engage in contractual or other business arrangements</p>	<p>Initial appl. &amp; quarterly</p>	<p>Review Client list and management attestation. Request the client service agreements for a randomly selected sample of Clients.</p>

	<p>(e.g. “piggybacking”) that would result in or otherwise appear to provide workers' compensation coverage to Worksite Employees that are not covered by or subject to a client service agreement executed with, or purchased by, a PEO that is a named insured on the policy of workers' compensation or is the sponsor of a duly authorized plan of self-insurance. Without limitation, the foregoing shall apply to any transaction or series of transactions that are either not fully disclosed or otherwise deceptive to the workers’ compensation carrier or to the PEO’s clients, or the substance of which is insufficient to establish an employment relationship between the Worksite Employees to be covered by workers’ compensation and the PEO that is a named insured on the policy of workers’ compensation or is the sponsor of a duly authorized plan of self insurance.</p> <p>b) The PEO should be in compliance with the “single coverage” statutes of states where such statutes exist, and not allow any Clients or worksite employees served by a single business entity (i.e. same federal identification number) to be covered by more than one workers’ compensation carrier (i.e. no “split coverage” or “separation of coverage” within a single business entity).</p>	thereafter	
<p><b>B. Client Service Contract:</b>  A PEO should execute with all Clients a written client service agreement (CSA) that includes the following best practice provisions. If one or more specific provisions are missing from the PEO’s existing CSA, the PEO should incorporate these provisions into the CSA to be used for all new Clients going forward and for existing Clients whenever re-contracting is otherwise required. The PEO should also immediately implement as appropriate the substantive requirements of each of these best practices with all existing Clients regardless of whether the CSA in effect for a given Client specifies the exact best practice wording shown below.</p>			
	<p>1. <u>Drug-Free Workplace</u> – The CSA should require the Client to cooperate with the PEO’s requirements in establishing and implementing a drug-free workplace policy or program as permitted by applicable state and federal law or collective bargaining agreements.</p>	Initial application & with all material changes	Review all materially different versions of client service agreements (CSA) used by the PEO. Require annual attestation by management that the CSA has not materially changed during the prior year.
	<p>2. <u>Effective Employment Date</u> – The CSA should provide a specific procedure for establishing the beginning date of employment for existing worksite employees and also delineate when all future hires are deemed to be co-employees of the PEO.</p>	Ditto	Ditto
	<p>3. <u>Termination</u> – This provision must give the PEO the specific right to promptly terminate a Client for:</p> <p>a) Failure to pay for PEO’s services;</p> <p>b) Failure to properly report all time worked and wages of worksite employees;</p> <p>c) Failure to disclose key information regarding the nature of work duties, business operations and locations of workers;</p> <p>d) Changes in business operations, financial conditions or workforce that would materially change the cost and/or risk of providing the promised</p>	Ditto	Ditto

	services; or e) Non-compliance with terms of the CSA or workplace policies related to employment practices, safety and return-to-work programs, or timely injury reporting.		
	4. <u>Notice of Termination</u> – The CSA should include a statement that in the event of Client termination, the PEO shall provide all worksite employees with immediate written notice of termination.	Ditto	Ditto
	5. <u>Client Cooperation and Compliance</u> – The CSA should have a requirement that the Client cooperate with PEO in implementing and enforcing workplace safety and risk management policies and require Client’s compliance with applicable state and federal OSHA regulations.	Ditto	Ditto
	6. <u>Records and Worksite Inspection</u> – The CSA must provide the PEO and its workers’ compensation carrier the right to inspect the Client’s records and worksite to verify job duties and compensation of employees and to verify compliance with safety requirements during the term of the service agreement, as well as the right of the WC carrier to audit the Client’s records and worksite for up to one year after the end of any policy period, even if the CSA has been terminated.	Ditto	Ditto
<b>C. Client Risk Assessment:</b>			
PEOs deemed to be following best practices are those that have established and consistently follow a written risk assessment plan, as outlined below:			
	1. <u>Written Carrier Notification Procedures</u> – The PEO should establish and consistently follow written procedures for: a) identifying Clients requiring WC carrier pre-approval and documenting the decision, and (b) timely notifying the WC carrier of Client additions, deletions, and new worksite locations.	Randomly request reports for 1 qtr/year	Confirm that such reports are being provided by periodically comparing report copies with new Clients added to Client list.
	2. <u>Segregation of Responsibility and Authority</u> – There should be clear and meaningful segregation of responsibility and authority between sales and Client risk assessment/pricing, including workers’ compensation insurance and related services.	Initial appl. & annually	Review organizational chart and job descriptions including scope and level of authority and confirm by phone interview with key managers.
	3. <u>Sound Risk Assessment for New Clients</u> – The PEO should consistently follow sound risk assessment procedures for new Client acquisition including:	Initial appl. & annually	Review copies of procedures, forms used and randomly selected Client examples. Use quarterly Client list to pull random samples of Clients for verification. Verify by phone interviews with responsible staff members and/or current insurer.
	a) Requiring a workers’ compensation information form (i.e. application) acceptable to the WC carrier that requests at a minimum: (1) A description of the business operations, adequate for determining nature of WC risk, of all related companies (with tax IDs) and states of operations; (2) Estimated wages, number of employees, job/position description, and state by class code and copies of tax and/or payroll reports used to verify wages;	Ditto	Ditto

	<p>(3) Location address of any worksites with a concentration of 100 or more employees;</p> <p>(4) Three years of loss runs; if unavailable, three years of OSHA logs;</p> <p>(5) Copy of OSHA worksite citation reports, if any;</p> <p>(6) Copy of prior WC carrier policy declaration sheet, if available;</p> <p>(7) Copies of any existing safety manual or policies, if available;</p> <p>(8) Copy of drug-free workplace policy or program, if available; and</p> <p>(9) Copy of policy and procedures for pre- or post-employment background investigations of New Hires in positions with significant risk exposure, if available.</p>		
	b) Comparing the nature of each prospective Client’s business with a prohibited list of high risk hazard classes before giving further consideration. Such list shall conform with any carrier-provided prohibited list. In the absence of a carrier provided list, the PEO shall maintain an internal prohibited list that is reasonable and demonstrably compatible with the expertise of the PEO’s loss prevention staff or contract service providers.	Ditto	Ditto
	c) Identifying potential contingent workers’ compensation exposures arising from uninsured subcontractors.	Ditto	Ditto
	d) Obtaining a site assessment report as appropriate for the level of risk exposure and acceptable to the WC carrier.	Ditto	Ditto
	e) Using NCCI Basic Manual and SCOPES Manual to verify accuracy of all class codes in view of the description of operations and the site assessment report.	Ditto	Ditto
	f) Confirming the accuracy of estimated wages by class code by comparing wages reported for the prior policy period with wages reported on state/federal employment tax reports. Confirm the accuracy of data submitted by the prospective Client with the Client’s actual first payroll.	Ditto	Ditto
	g) Submitting for WC carrier pre-approval, as required by carrier agreement, if prospect is in a carrier-defined high-risk category.	Ditto	Ditto
	h) Evaluating the prospective Client’s accident frequency for each of the three most recent years using loss runs and/or OSHA 300 logs to look for trends and evaluate all losses over \$25,000, and to determine the risk management practices that could be used to reduce frequency.	Ditto	Ditto
	i) Obtaining a credit report, financial statement, or performing some other form of financial risk assessment to determine the financial stability and credit worthiness of the Client.	Ditto	Ditto
	j) Following established risk assessment criteria approved by the WC carrier to make final risk assessment decisions as well as to formulate any special safety and risk management requirements to be included in the client	Ditto	Ditto

	service agreement.		
	k) Maintain assessment documentation on all prospective Clients whether approved or declined for at least the previous 6 months.	Ditto	Ditto
	l) A PEO that is planning to acquire another PEO or the Clients of another PEO should inform its workers' compensation carrier in a timely and accurate manner of the material aspects of such acquisition and obtain prior approval of the carrier if the acquired risk is to be covered by the PEO's current carrier during the current or subsequent policy periods. The PEO should begin implementation of its risk management best practices program on a going-forward basis at the acquired Client worksites, as appropriate for each Client's risk exposures and prior accident history, within 60 days of the date of acquisition. Without limitation, "acquisition" includes acquisition of all or part of the ownership interests or assets of another PEO, the assignment of client service agreements, mergers, consolidations or other types of acquisitive reorganizations, and options to acquire any interest in ownership or assets of another PEO.	Ditto	Ditto
<b>D. Loss Prevention Management:</b>			
Best practices include having established and consistently implemented a sound, written workers' compensation loss prevention program consisting of the following elements:			
	1. <u>Compliance with Loss Prevention Requirements</u> – The PEO must establish and follow written procedures for requiring the Client to comply with requirements that are considered to be "critical" to the continued acceptability of the Client. The procedures should include a description of the methodology for: (a) communicating requirements to the Client, (b) establishing target dates for compliance, (c) taking the appropriate action if the Client fails to comply, and (d) documenting the action(s) taken.	Ditto	Ditto
	2. <u>New Client "Needs Assessment"</u> - The PEO must establish and follow written procedures for conducting a "needs assessment" of each new Client and produce a service plan that is consistent with the needs assessment. This assessment should consider the Client's operational exposures, controls and loss history as well as compliance with any state or federal safety regulations. It should also consider any Client request for specific service and any loss prevention requirements included in the CSA. The procedures must include how the assessment and service plans will be documented and used. The service plan should include a description of any visits that are to be "standard operating procedure" such as "conducting an annual worksite survey of all clients in Hazard Group II or greater."	Ditto	Ditto
	3. <u>Providing Appropriate Loss Prevention Services</u> – Written procedures must be established and followed for delivering loss prevention services to the Client consistent with the service plan. The procedures must include a	Ditto	Ditto

	discussion of how service delivery is to be documented and how the documentation is to be maintained.		
	4. <u>Accident Investigation</u> -- Written policies and procedures should include a provision requiring investigation of employee accidents when such accidents result in a work related injury and/or illness and subsequently reported as a claim to the PEO. Procedures should describe which accidents will be investigated (medical only, lost time and/or certain types of injuries), the method to be used (telephone vs. on-site), and the form or format documenting the investigation results.	Ditto	Ditto
	5. <u>Certificate Tracking Confirmation</u> – Where applicable, the PEO should confirm that clients with material contingent workers' compensation exposures have appropriate certificate tracking processes in place.	Ditto	Ditto
	6. <u>Background Investigations</u> – Where applicable, the PEO should require as part of the service plan and as a provision of the client service agreement that Clients cooperate with the PEO in conducting pre-employment and/or post-employment (with continued employment contingent on results) background investigations, as permitted by law, for job positions with significant exposures such as truck drivers (MVR review), security guards and other high risk jobs.	Ditto	Ditto
	7. <u>Claims Review</u> – The PEO's Risk Manager should review and document at least monthly claims experience and resulting recommendations for clients with claims frequency or severity issues. Results of these reviews should be used to implement client-specific corrective actions where warranted such as terminating the client, placing the client on a watch-list, providing loss prevention services, or monitoring claims development.	Ditto	Ditto
<b>E. Claims Management</b>			
Best practices for claims management mean that a PEO has a written claims management plan, including the following elements:			
	1. The PEO must establish and follow written procedures to ensure that an experienced claims management person immediately contacts injured workers (or family), who are involved in lost-time accidents over 7 days. The purpose for the contact is to show concern and to help educate them regarding their rights and benefits under workers' compensation law to help prevent unnecessary litigation.	Initial appl. & annually thereafter	Review procedures/reports and management's attestation. Confirm by review of randomly selected Client examples.  Review job description and resume and conduct phone interview with staff and/or contract claims manager.
	2. The PEO must establish and follow written procedures to ensure an experienced Claims Manager reviews open claims with the carrier's claims adjusters to ensure timely and appropriate administration of claims and adjustment of claim reserves. Such reviews should be conducted at least quarterly unless the carrier requires other procedures.		
	3. <u>Fraud Hotline</u> – The PEO should provide a workers' compensation fraud hotline with a reward for the confidential reporting of fraudulent claims that	Ditto	Ditto

	lead to conviction of fraud, unless provided by the WC carrier or not justified based on risk exposure and PEO size.		
	4. <u>Claims Analysis</u> – Using carrier generated loss runs and/or an internal claims tracking program, the PEO should monitor and update at least monthly WC claims performance for each WC policy by noting (a) the addition of new claims, (b) changes in the status (open or closed and movement from medical only to lost time) of all claims, (c) the total amount incurred for each claim, and (d) changes in both the amount paid (medical and indemnity), and the outstanding reserve amounts. A brief description of injuries or illnesses and the expected disposition of the claim should be provided for any claims with incurred losses in excess of \$25,000, lost time in excess of 7 days, and/or with evidence of claims handling strategies that include pending settlement offers.	Ditto	Ditto
	5. <u>Return-to-Work</u> – The PEO should establish up-front and communicate appropriately in writing to all employees a specific Return-to-Work program including job descriptions of potential light duty work and compensation and obtain each Client’s agreement to participate as required by the client service agreement.	Ditto	Ditto
	6. <u>Compliance with Timely Reporting Requirements</u> – The PEO should require and monitor its own compliance with timely reporting of all accidents and claims to the WC carrier. Policy should require that employees and supervisors report all accidents on the day of occurrence to the designated worksite manager before leaving work, and all worksite managers are to report claims to the designated PEO claims manager by the next business day to ensure timely centralized reporting of all lost time claims to the WC carrier within three business days of the date of injury unless earlier notification is required by the WC carrier or state or federal law. However, if acceptable to the carrier, the PEO may use the carrier’s lag report for managing this process.	Ditto	Provide copy of WC claims lag report.
	7. <u>Managed Care Providers</u> – The PEO should use managed care providers, where available, to treat injured workers consistent with WC carrier requirements and state law.	Ditto	Review procedures/reports and management’s attestation. Confirm by review of randomly selected Client examples.