

**CFMA to Host Holiday Mixer December 10, 2009**

CFMA welcomes you to attend our annual holiday mixer. We hope you and a guest can join us for appetizers and drinks while getting to know other members and industry professionals.



**When:** Thursday, December 10, 2009; 5:30pm-8:00pm

**Where:** San Antonio Winery  
737 Lamar Street, Los Angeles 90031

**Price:** Complimentary for all CFMA members, only \$35 for non members.

**Registration:** Online at [www.cfma.com](http://www.cfma.com) or email [membership@cfma.com](mailto:membership@cfma.com)

**Do You Round Off Your Employees Work Time?  
What You Should Know.**

An Employer can rely on the "15 minute practice" available in California in order to round up or round down (or backward or forward) the employees' beginning and end of shift hours worked for payroll purposes. However, it must be done in a manner that, over a period of time, it will not result in the employer's failure to compensate the employees properly for all the time they actually worked. Therefore, the employer cannot only round down. Moreover, 15 minute rounding is the longest rounding period permitted by law.

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**BEAR and BHFTI Merge to Form BEARHFTI**

As the result of recent legislation, ABX 420, the Bureau of Electronic and Appliance Repair and the Bureau of Home Furnishings and Thermal Insulation have merged. The name of the bureau is the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (BEARHFTI).

The BEARHFTI will continue to protect consumers through the regulation of health and safety standards in the bedding, furniture, and thermal insulation industries.

Contact the BEARHFTI with any questions at 916-574-2041 or [www.bearhfti.ca.gov](http://www.bearhfti.ca.gov) The office is closed every Friday except the fourth Friday of the month until July 2010.

**Offset your annual dues with tangible member benefits.**

**CFMA's Member Programs**

- Members-only online document resource center
- 50% Savings on [Furnishings.com](http://Furnishings.com)
- Savings on worker's comp, liability, and group health insurance
- Free R&D Tax Credit Analysis
- Low rates on credit card processing
- Free seminars and sexual harassment training
- Labor Compensation Survey
- LifeLock Identity Protection - only \$77/year
- Purchase office supplies through Corporate Express and save 15-35%
- CFMA committees champion for legislation that is favorable for manufacturers



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### How the "15 Minute Practice" Works

Employee time from 1 to 7 minutes may be rounded back, and thus not counted as hours worked. But, employee time from 8 to 14 minutes must be rounded forward and counted as a quarter of an hour of work time. Here are some examples for the purpose of calculating hours worked for payroll based on an 8:00 a.m. to 4:30 p.m. shift:

Example 1: employee clocks in at 7:55 a.m. and clocks out at 4:37 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round forward the start time as if the employee started at 8:00 a.m. and round back the end time as if the employee ended at 4:30 p.m. Therefore, the employee is to be paid 8 hours straight-time and there is no overtime.

Example 2: employee clocks in at 7:50 a.m. and clocks out at 4:37 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round back the start time as if the employee started at 7:45 a.m. and round back the end time as if the employee ended at 4:30 p.m. Therefore, the employee is to be paid 8 hours straight-time and 15 minutes overtime for that day.

Example 3: employee clocks in at 7:55 a.m. and clocks out at 4:38 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round forward the start time as if the employee started at 8:00 a.m. and round forward the end time as if the employee ended at 4:45 p.m. Therefore, the employee is to be paid 8 hours straight-time and 15 minutes overtime for that day.

Example 4: employee clocks in at 7:52 a.m. and clocks out at 4:38 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round back the start time as if the employee started at 7:45 a.m. and round forward the end time as if the employee ended at 4:45 p.m. Therefore, the employee is to be paid 8 hours of straight-time and 30 minutes overtime for that day.

Example 5: employee clocks in at 8:05 a.m. and clocks out at 4:34 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round back the start time as if the employee started at 8:00 a.m. and round

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Sounds good but, in the real world, these unauthorized providers continue to submit their bills to the insurer and, eventually, the bills become "Medical Liens". Unfortunately, the Workers' Compensation Appeals Board (WCAB) Judges have the power to force resolution of these Liens. The cost of fighting the Liens is expensive. As a consequence, insurers, under pressure from the WCAB Judges, eventually settle the Liens at some percentage of the original billing. It is most frustrating to be ready to settle the claim and be told the Liens must be resolved first. The cost of these Liens adds significantly to the cost of the claim and, ultimately, to the cost of insurance.

Recently, WCAB Judge Mark Kahn dismissed \$70,000,000 of Medical Liens filed by Premier Medical Management Systems, Inc. PMNS was a medical billing mill. Many believe this could be the start of a change in attitude toward Medical Liens. The Insurance Commissioner has publically criticized the WCAB Judges for forcing Lien payments on employers, particularly, in Southern California. We hope this portends a trend and that some of these outlandish Lien payments are stopped.

### Change in the Way Cost Containment Charges are Reported to WCIRB

The Workers' Compensation Insurance Rating Bureau (WCIRB) recently announced that they have asked the Insurance Commissioner to approve a new way of recording "cost containment" expenses. As a refresher, cost containment expenses include the cost an insurer incurs for bill review, medical utilization review, medical fee panel reviews and expenses incurred for PPO Networks and HCO's. Until now, these expenses have been included as part of incurred medical payments and have been included in the calculation of Employer Experience Modifications.

The Insurance Commissioner pressured the WCIRB to separate these costs so they could be identified and quantified separately from the cost

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back the end time as if the employee ended at 4:30 p.m. Therefore, the employee is to be paid 8 hours of straight-time and there is no overtime for that day.

Example 6: employee clocks in at 8:08 a.m. and clocks out at 4:37 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round forward the start time as if the employee started at 8:15 a.m. and round back the end time as if the employee ended at 4:30 p.m. Therefore, the employee is to be paid 7 hours and 45 minutes and there is no overtime for that day.

Example 7: employee clocks in at 8:08 a.m. and clocks out at 4:39 p.m. For the purpose of calculating hours worked for payroll, the employer needs to round forward the start time as if the employee started at 8:15 a.m. and round forward the end time as if the employee ended at 4:45 p.m. Therefore, the employee is to be paid 8 hours of straight-time and there is no overtime for that day.

The 15 minute practice does not apply to lunches. The employer must make sure that the employees get at least 30 minutes (relieved of all work duties) for lunch. Moreover, while under federal and California labor laws, the employer is not required to maintain time clocks, employers are required to keep accurate time records for their employees.

Finally, even though employers are required to pay employees for all time worked, rounded back or forward per your rounding off payroll practice, employers can discipline employees who frequently punch in early and/or late (such as warnings, write-ups and, in excessive cases, termination of employment).

Feel free to contact Pascal Benyamini via email at [PascalBenyamini@Reish.com](mailto:PascalBenyamini@Reish.com) should you have any questions concerning these matters or any other employment matter.

Pascal Benyamini is a Partner with the law firm of Reish & Reicher focusing on Labor & Employment Law and Employment Litigation. He successfully defends employers in state and federal court proceedings against claims of wrongful terminations, discrimination, harassment, wage and hour and unlawful employment practices. [www.reish.com](http://www.reish.com)

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"We are very excited to have formulated the framework that will enable WHFA to grow by creating unquestioned value for members and industry partners," said Sharron Bradley, WHFA executive director. "We look forward to more discussion and idea generation from our board and partners as we implement our plan."

The inclusion of industry manufacturers and service providers was such a great success, that WHFA is looking into incorporating the idea into future Board Meetings. Manufacturers, service providers and retailers left the meeting feeling a new sense of hope and support. "It appeared to me that for some in that room just getting to talk about all that's going on with others from their industry was almost healing in nature because they were able to walk away reminded that they are not the only one struggling and together we can make a difference," Mawyer added. The next WHFA Board meeting will be held during the Winter Las Vegas Market in February.

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