

**School:** ATEC – Claims  
**Course:** Subrogation 101: What's It All About?  
**Faculty:** Ryan Ihrke, Owner & Consultant, Iowa Specialty Claims Consulting LLC

### **Summary**

In the "Subrogation 101: What's It All About?" course, Ryan Ihrke of Iowa Specialty Claims Consulting delves into the complexities and nuances of subrogation in workers' compensation. With over 20 years of experience, Ihrke provides a detailed exploration of this often misunderstood process, emphasizing its critical role in recovering costs from third parties responsible for causing injuries to workers.

*Definition and Basic Concept:* Ihrke begins by defining subrogation as the right of a party to assume another party's legal rights to pursue and recover a debt or damages. In simpler terms, it involves stepping into someone else's shoes. For instance, if an insurance carrier pays for damages in an auto accident, it can pursue the at-fault driver to recover those costs. In the context of workers' compensation, subrogation involves pursuing third parties responsible for causing injuries to workers.

*Comparison with Workers' Compensation Claims:* Ihrke highlights that subrogation claims and workers' compensation claims, although arising from the same incident, differ significantly. Workers' compensation is a no-fault system that provides prescribed benefits regardless of negligence, while subrogation is based on proving negligence and fault of a third party. He emphasizes that subrogation is essentially a "claim within a claim," where the rights, methods of recovery, and coverage can vary widely by state laws and specific circumstances.

*Common Scenarios and Identification:* Several scenarios can give rise to subrogation opportunities, such as motor vehicle accidents, premises liability, machinery and product liability, assaults, and contractual liabilities. Identifying subrogation potential is a crucial part of any investigation. Tools like police reports, index matches, and examining contracts can help uncover potential subrogation opportunities. Photos and videos of the incident scene are also invaluable in supporting subrogation claims.

*Investigating and Proving Negligence:* To establish negligence, which is central to subrogation, Ihrke outlines a four-prong test: duty owed, duty breached, resulting damages, and proximate cause. For example, if a driver runs a stop sign and hits another vehicle, the duty to stop was breached, resulting in damages and injuries. This straightforward example helps illustrate the need for all four elements to establish a negligence claim. Different states may have varying negligence standards, such as pure, contributory, and comparative negligence, each affecting recovery differently.

*Subrogation vs. Liens:* Ihrke explains that while true subrogation involves directly stepping into the injured worker's claim against the at-fault party, most recoveries in workers' compensation come from liens. In lien situations, the workers' compensation adjuster essentially rides the coattails of the injured worker and their attorney, seeking recovery from the at-fault party's insurance. This approach is more common and involves informal or formal notices of lien to ensure the workers' compensation carrier's interests are represented.

*Conclusion:* The course concludes by encouraging participants to advance to "Subrogation 102," which will cover strategies for communicating subrogation efforts and maximizing recovery. Ihrke's detailed presentation underscores the importance of understanding subrogation in the workers' compensation landscape, providing valuable insights into the processes, legal principles, and practical steps involved in successfully managing subrogation claims.

### **Learning Objectives**

1. Understand the fundamental concept and definition of subrogation in the context of workers' compensation.
2. Identify the key differences between workers' compensation claims and subrogation claims.
3. Recognize common scenarios where subrogation might arise in workers' compensation cases.
4. Learn the steps and methods for investigating potential subrogation opportunities.
5. Understand the legal principles and different forms of negligence applicable in subrogation cases.

### **Primary Takeaways**

1. Subrogation allows a party to assume another party's legal rights to pursue and recover a debt or damages.
2. Workers' compensation and subrogation claims both arise from the same incident but involve different legal and recovery processes.
3. Common scenarios for subrogation include motor vehicle accidents, premises liability, machinery and product liability, assaults, and contractual liability.
4. Effective subrogation investigation involves examining police reports, contracts, photos and videos, and leveraging index matches.
5. Understanding the principles of negligence, including duty owed, duty breached, resulting damages, and proximate cause, is crucial in determining fault and potential recovery in subrogation cases.

## **Course Outline**

- 1) Introduction to Subrogation
  - a) Definition and Concept
    - i) Legal right to pursue and recover debt or damages
    - ii) Stepping into someone else's shoes
  - b) Importance in Workers' Compensation
    - i) Recovery from third-party fault
    - ii) Claim within a claim
  
- 2) Comparison of Workers' Compensation and Subrogation
  - a) Similarities
    - i) Arise from the same incident
    - ii) State-specific rights and responsibilities
  - b) Differences
    - i) Venue for hearings (administrative law vs. district court)
    - ii) Application of negligence
    - iii) Coverage limitations
  
- 3) Identifying Subrogation Opportunities
  - a) Common Scenarios
    - i) Motor vehicle accidents
    - ii) Premises liability
    - iii) Machinery and product liability
    - iv) Assaults or crimes
    - v) Contractual liability
  - b) Investigation Methods
    - i) Police reports
    - ii) Index matches
    - iii) Contracts
    - iv) Photos and videos
  
- 4) Understanding Negligence in Subrogation
  - a) Definition and Test
    - i) Duty owed
    - ii) Duty breached
    - iii) Resulting damages
    - iv) Proximate cause
  - b) Types of Negligence

- i) Pure negligence
  - ii) Contributory negligence
  - iii) Comparative negligence
- 5) Subrogation Process
- a) Subrogation vs. Liens
    - i) Direct pursuit of recovery
    - ii) Riding the coattails of the injured worker
  - b) Steps to Make a Recovery
    - i) Informal notices of lien
    - ii) Formal notices of lien
- 6) Conclusion
- a) Summary of Key Points
  - b) Next Steps: Subrogation 102

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