To the Members of the Board

RE: New York Workers Compensation
Vocational Rehabilitation Facilities – Classification Procedures

The Rates Committee has adopted, and the New York State Insurance Department has approved, effective October 1, 2007, for new and renewal business, a change to the classification procedures for vocational rehabilitation facilities.

Currently, vocational rehabilitation facilities are assigned to Code 8837—Charitable or Welfare Organizations—All Operations—& Drivers and Code 9111—Professional Employees—& Clerical. Code 8837 is an A-rated classification whereby the Rating Board calculates an individual average rate for each insured subject to the classifications for the various operations of the insured.

These facilities provide workshop training for individuals who may be physically, mentally or emotionally challenged. Services such as, but not limited to, education, training, on-site counseling, client assessment, sleeping accommodations and meals are offered to their clients. Contracted services such as repacking of various types of goods and preparing catalog orders for shipment are also provided at these facilities.

The current classification procedure is to assign professional employees to Code 9111 and all other employees to Code 8837. The professional employees evaluate the clients to determine their eligibility for program services; trainers provide on-site workshop training, while others provide job coaching. Over the years it has become increasingly difficult to distinguish the professional from the non-professional employees as an individual’s duties may vary and may cross over from professional to non-professional.

A review of the classification procedures for these facilities has revealed that Code 8837 has been discontinued in most other jurisdictions and the National Council on Compensation Insurance has established a single code (8864) to apply to these facilities. Based upon this review, the A-rate procedure and Codes 8837 and 9111 will be discontinued in New York as well and Code 8864 will be adopted. The experience for Codes 8837 and 9111 will be combined as the basis for the new code.
Since the current calculated A-rate for some insureds may be significantly higher or lower than the published rate for Code 8864, the Rate Transition Program will apply to those insureds currently assigned to Code 8837.

Note that clerical employees were an inclusion both in New York and in the NCCI jurisdictions under the professional employee classifications for these facilities. With the adoption of Code 8864, clerical employees will no longer be an inclusion and can be classified under Code 8810 provided the employees meet the criteria for the application of this code.

Attached for your reference are Pages C-18, C-18a, C-18b, C-25, C-25a, C-25b and C-100 of the Classification section and Page D-32 of the Digest of Rulings and Interpretations section of the New York Workers Compensation and Employers Liability Insurance Manual that reflect these changes.

Printed manual pages will be distributed as soon as they become available.

Very truly yours,

Monte Almer

President

CD:tg
Encl.
CEMENT or Concrete DISTRIBUTING TOWER INSTALLATION, repair or removal 5403
Not applicable to contractors who erect, repair or remove concrete or cement distributing towers as an incidental part of their construction work. When so performed, such operations shall be included in the classification with which such work is associated.

CEMENT or Concrete WORK—FLOORS, DRIVEWAYS, yards or sidewalks— & Drivers 5221
Not available for division of payroll with Code 5222 "Concrete Construction in connection with Bridges or Culverts." Self-bearing floors, airport runways, warming aprons, street or road construction to be separately rated.

CEMETERY OPERATION & Drivers 9220

CHAIN MFG.—FORGED 3110

CHARCOAL MFG. & Drivers 1470
Includes distillation of alcohol, mfg. of creosote from wood tar or acetates.

CHAUFFEURS & Helpers NOC—commercial 7380
Subject to the standard exception manual rule.

CHEESE or Butter MFG. & Route Salespersons, Route Supervisors, Drivers 2070

CHEMICAL BLENDING or MIXING NOC—ALL OPERATIONS— & Drivers 4828
Shall not be assigned to a risk engaged in the manufacture of chemicals.

CHEMICAL MFG. NOC—ALL OPERATIONS— & Drivers 4829
Includes blending or mixing. Shall not be assigned to a risk that is engaged exclusively in the blending or mixing of chemicals. The following is a partial list of chemical manufacturing processes contemplated by Code 4829: alcoholysis; alkylation; amination; calcination; carboxylation; compression of gases; distillation; esterification; halogenation; nitration; oxidation; reduction; sulphonation.

CHEWING GUM MFG. 2041
Applies to, but not limited to, the manufacturing of candy bars, chocolate bars, chewing gum, glaced fruit, jellybeans, lollipops, licorice, breath mints and taffy.
Includes mfg. from cocoa beans.

CHILD DAY CARE CENTERS
Applies to facilities that offer day care services for children. These centers predominantly provide day care for younger children with a structured approach to learning social skills, language skills and early reading. Activities include singing, dancing and storytelling. Some facilities may also provide before and after-school care programs.
Not applicable to elementary schools that provide day care services at the same location.

PROFESSIONAL EMPLOYEES & Clerical, Salespersons 8869
ALL OTHER EMPLOYEES & Drivers 9059
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
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<tbody>
<tr>
<td>CHIMNEY CONSTRUCTION— not metal</td>
<td>5000</td>
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<tr>
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<tr>
<td>Includes foundation and applies to stone, brick or concrete chimneys. Also includes guniting and lining operations.</td>
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<tr>
<td>CHOCOLATE, Candy, or Cocoa MFG.</td>
<td>2041</td>
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<tr>
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<td></td>
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<tr>
<td>Applies to, but not limited to, the manufacturing of candy bars, chocolate bars, chewing gum, glaceed fruit, jellybeans, lollipops, licorice, breath mints and taffy.</td>
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<tr>
<td>Includes mfg. from cocoa beans.</td>
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<tr>
<td>CIGARETTE, Cigar or Tobacco MFG.</td>
<td>2172</td>
</tr>
<tr>
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<tr>
<td>Includes the rehandling and warehousing of prepared tobacco.</td>
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</tbody>
</table>
Reserved for future use
## NEW YORK WORKERS COMPENSATION AND EMPLOYERS LIABILITY MANUAL

### Effective October 1, 2007

**DANCE CLUB, Bar, Lounge, Nightclub or Tavern–including entertainers and/or musicians**

- Applies to the operation of a bar, dance club, lounge, nightclub or tavern where the gross receipts of alcoholic beverages exceed 50% of the total receipts of food and non-alcoholic beverages.

Refer to Section III of the Digest of Rulings and Interpretations to determine the application of the appropriate restaurant and/or bar classification.

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**NEW YORK WORKERS COMPENSATION C-25**

**5th Reprint**

### DAY CARE CENTERS–CHILDREN

- Applies to facilities that offer day care services for children. These centers predominantly provide day care for younger children with a structured approach to learning social skills, language skills and early reading. Activities include singing, dancing and storytelling. Some facilities may also provide before and after-school care programs.

- Not applicable to elementary schools that provide day care services at the same location.

#### PROFESSIONAL EMPLOYEES & Clerical, Salespersons

- **8869**

#### ALL OTHER EMPLOYEES & Drivers

- **9059**

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**DEBRIS REMOVAL – construction or erection**

- Applies to specialty contractors engaged in removing construction or erection debris provided they are not engaged in construction or erection operations. Code 5610 also applies to debris removal employees of a construction or erection contractor provided that the payroll for the cleaners, timekeepers and watchguards is greater than all other payroll of the employer subject to construction or erection classifications at the same job or location. Code 5610 can be applied to debris removal employees that are working on different floors of the job site that have already been completed by the tradespersons or to debris removal employees after the tradespersons left for the day provided their payroll meets the criterion.

- Timekeepers and watchguards employed by construction or erection contractors are present during the construction or erection operations. Watchguards also work nights, weekends and holidays to assure that vandalism and theft do not occur.

- This code does not apply to cleaner/debris removal employees working in conjunction with the tradespersons. Such employees are considered laborers and subject to the same classification as the tradesperson.

- The removal of debris left by a demolition contractor, shall be classified as Code 6217 “Excavation NOC & Drivers.”

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**DECORATING & Drivers**

- Applies to interior or exterior work, including the hanging of flags or bunting for conventions or celebrations.

- **9539**

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**DECORATING or Painting NOC & Drivers**

- Includes incidental shop operations. Also includes the painting of metal storage tanks, fire escapes, staircases, balconies, shutters, window frames or sash.

- Painting ship hulls, metal structures over two stories in height or bridges to be separately rated.

- **5474**

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**DENTAL LABORATORY**

- **4692**

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**DENTIST & Clerical**

- Employees engaged in any type of service in or about premises, other than premises used for professional purposes, are to be separately rated.

- **8832**

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**DERRICK or Oil Rig ERECTION or DISMANTLING**

- Applies to rigs or derricks of metal, the construction of foundations or structures and the installation of equipment.

- Applies to rigs or derricks of wood, the construction of foundations or structures and the installation of equipment.

- **5057**

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**DETECTIVE or Patrol AGENCY & Drivers**

- Includes the operation of armored car services, watchmen, guards or patrol officers engaged in safeguarding property not owned or operated by the insured. Police officers, sheriffs, strike breakers or strike guards to be separately rated as Code 7720 “Police Officer & Drivers.”

- **7723**

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**DETINNING**

- Includes incidental mfg. of tin or tin compounds.

- **3372**
### DEVELOPMENTAL ORGANIZATIONS—incl. workshop—ALL EMPLOYEES & SALESPERSONS, DRIVERS 8864

Applicable to organizations that are engaged in providing services to individuals who are mentally, physically and emotionally challenged. A broad range of services such as clinical, educational, counseling and recreational are provided. These organizations have workshops that train individuals in various types of tasks to educate and prepare them for employment or future placement at residential facilities.

Group homes, halfway houses, temporary shelters and independent supportive living homes shall be separately rated as Code 8865 “Homes for the Mentally Impaired – All Employees – & Clerical” provided there is no nursing or medical personnel on staff.

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>3384</td>
<td>DIAMOND CUTTING or Polishing</td>
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<td>2594</td>
<td>DIAPER SERVICE &amp; Route Salespersons, Drivers</td>
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<td>Includes the rental and cleaning of diapers.</td>
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<tr>
<td>1925</td>
<td>DIE CASTING MFG.</td>
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<td>Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 1925 are conducted as a separate and distinct business.</td>
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<tr>
<td>6005</td>
<td>DIKE or Revetment CONSTRUCTION—ALL OPERATIONS to completion—&amp; Drivers</td>
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<td>Applies to river work only. Pile driving to be separately rated as Code 6003.</td>
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<tr>
<td>1470</td>
<td>DISTILLATION—wood—&amp; Drivers</td>
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<td>Includes distillation of alcohol, mfg. of creosote from wood tar or acetates.</td>
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</tbody>
</table>
Reserved for future use
WEBBING MFG.

Jute webbing mfg. to be separately rated as Code 2348 "Jute or Hemp Spinning."

WEIGHERS, Samplers or Inspectors of MERCHANDISE ON VESSELS or DOCKS or at Railway Stations or Warehouses:

Coverage under U.S. ACT

Coverage under STATE ACT ONLY

These classifications include mending or prepacking of damaged containers. Operation of warehouses to be separately rated.

WELDING or Cutting NOC & Drivers

Applies to both shop and outside work and incidental machine operations connected therewith.

Not available for division of payroll, except work performed under air pressure shall be rated as Code 6257 "Caisson Work—pneumatic," or Code 6260 "Tunneling pneumatic," work in connection with demolition jobs shall be rated as Code 5709 "Wrecking," etc; work in connection with the erection of iron or steel frame structures or bridges, and provided such erection is properly classed as Code 5040 "Iron or Steel Erection," shall be so rated; work in connection with oil or gas pipe line construction shall be rated as Code 6233 "Oil or Gas Pipeline Construction & Drivers."

WHIP MFG.

WHITING MFG.

Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 5954 are conducted as a separate and distinct business.

WILLOW, Rattan or Twisted Fiber PRODUCTS MFG.

Includes upholstering.

WINERY—ALL OPERATIONS

Includes bottling.
Carpentry

Code 5645 “Carpentry—Detached Dwellings” and Code 5651 “Carpentry—Dwellings—Three Stories or Less” cover not only new construction work but also apply to general carpentry repairs, other than roofing, in connection with buildings of the types described by these classifications.

Carpets—See Rugs

Carving—See Wood Carving

Castings Mfg.—metal—by lost wax process ................................................................. 3336

Cattle—See Breeding

Cement—receiving, screening and packing only ......................................................... 1701

Cemetery Removal—opening graves, removing and reinterring remains—incl. drivers .......... 9220

Chauffeurs—See Drivers, Chauffeurs and their Helpers

Chickens—incubating and shipping day-old chicks—no farm operations .................. 8018

Christmas Trees—planting, cultivating and harvesting .............................................. 0005

Churches—household servants in rectory ................................................................. 0913

Cigar Band Mfg.—See Labels

Cigarette Lighters—assembling from purchased parts only ........................................ 3381

Cigarette Lighters—fabricating parts and assembling .................................................. 3270

Cleaning—Other Than Buildings:

Cesspool cleaning—incl. drivers ............................................................................. 9402

Cleaning and Scaling of Ships’ Boilers .................................................................... 3726

Cleaning Cabins, Quarters and Companionways on Vessels—by contractors ............ 9030

Cleaning Oil Tanks on Land .................................................................................... 3726

Cleaning Steel Barrels and Drums—including painting—no repair ......................... 8391

Cleaning Swimming Pools—by specialist contractors ............................................. 9030

Cleaning Waste or Sewer Lines—building connections—using portable rotating equipment—incl. drivers .................................................................................. 5183

Cleansing Powders and Preparations

Risks engaged solely in compounding cleansing powders, regardless of whether or not soap or soap powder is used, and provided that they do not actually make soap, shall be rated as Code 4828 “Chemical Blending or Mixing NOC” or Code 4829 “Chemical Mfg. NOC” if they manufacture chemicals.