

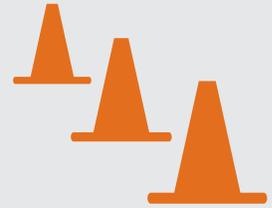
Workers' Comp & Safety News



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Safety

December 2008/January 2009

Volume 6 • Number 6

First Aid Fundamentals

OSHA regulations require businesses to provide employees with a safe and healthy workplace that is reasonably free of occupational hazards. That includes the provision of "first aid personnel and supplies commensurate with the hazards of the workplace." In most cases, that means more than keeping a first aid kit in a corner.



Improper first aid arrangements expose workers to unreasonable dangers and employers to damaging legal liabilities. And since prompt treatment of injuries and illnesses is the most effective way to minimize their severity, having a suitable first aid program in place will reduce days away from work and increase worker productivity.

Most employers fail to realize this, says Micah Bongberg, vice president of Annuvia, a first aid consulting and sales company. "OSHA leaves it up to organizations to decide their level of risk, but companies that take the minimum approach leave themselves open to liability," he says. "Generally speaking, many organizations are underperforming in

this area and don't have adequate standards."

Employers' basic first aid requirements differ vastly from sector to sector and from workplace to workplace. But the basic guidelines are laid out in a 2006 OSHA document called "Best Practices Guide: Fundamentals of a Workplace First-Aid Program," available at <http://www.osha.gov/Publications/OSHA3317first-aid.pdf>.

The guide details the four primary components of workplace first-aid programs.

- Identifying and assessing workplace risks
- Designing a program that is specific to the worksite and complies with OSHA first-aid requirements

- Developing written policies and teaching all workers about the program
- Evaluating and modifying the program to keep it current, including regular assessment of the first-aid training course.

Identifying Risks

Employers can use the OSHA 300 log, OSHA 301 forms and their workers' compensation carrier reports to help identify their first aid needs. The Bureau of Labor Statistics can provide insight into the risks faced by particular sectors (www.bls.gov/iif). The data can also provide information about the types of events and exposures that lead to injuries.

Bongberg also recommends a re-

This Just In

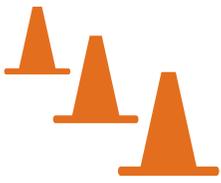
Pharmacy Costs Spike

Pharmacy costs in the U.S. workers' compensation industry spiraled by 11.91 percent per injured worker in 2007, according to the 2008 Annual Drug Trends report by pharmacy services provider PMSI. The rise easily outpaces inflation and the 8.67 percent rise seen in 2006.

The survey of the company's clients matched earlier data by the National Council of Compensation Insurance. It attributed 39 percent of the cost per worker increase to higher drug prices, with the remaining 61 percent coming from utilization.

Among the report's other findings:

- Six medications accounted for 65 percent of utilization increases
- More than 85 percent of costs were associated with claims more than three years old
- New brand-name medications in 2006 and 2007 contributed to 2.54 percent of spending
- Generic drugs launched in 2007 saved 1.97 percent
- Narcotic analgesics remain the top drug class, representing 35 percent of total drug spending
- Average claim age increased by 6.27 percent
- Narcotic analgesics accounted for nearly 50 percent of utilization growth.



Working Against Workplace Violence

The likelihood of workplace violence usually increases in tough economic times, as financial stress rises and layoffs abound. So after six years of declining trends, we may see a rise in workplace violence. Now is the time to make sure your company is doing its best to manage conflicts, identify potential problems and formulate a comprehensive plan to deal with workplace violence.



According to OSHA, some 2 million Americans are victims of workplace violence each year. A report in September by NCCI Holdings Inc, a research group affiliated with the National Council of Compensation Insurance, found that workplace homicide rates are trending decidedly lower, down 25 percent between 2000 and 2006 and down 61 percent since 1992. During that time period, robbery accounted for 68 percent of workplace homicides, with cab drivers, chauffeurs, security guards and workers with access to cash drawers particularly vulnerable.

Workplace assault rates have been more volatile on a year-to-year basis but also trended down. In 2005, assaults dropped 20 percent, but then they rose 6 percent in 2006, the last year for

which figures are available. The report found that workplace assaults continue to be concentrated in health services, social service and personal care occupations. Violence in the workplace is also a major component of workers' comp costs, the study said.

The economic downturn is likely to increase that risk, according to Richard D. Sem, president of Sem Security Management, an international workplace violence and security consulting firm. "We are finding, from law enforcement, security manager and client sources, that the challenging economy is already having the side effect of increased incidents of workplace and domestic threats and violence," he said. In addition to generally higher levels of stress, "terminations, lay offs, downsizings and restructurings can pre-

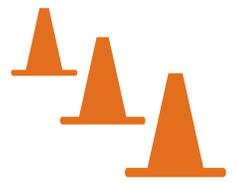
cipitate violence in some persons. A related threat that we are seeing is domestic violence spilling into the workplace," Sem said.

So what steps can you take to minimize such risks?

OSHA recommends a "zero-tolerance policy towards workplace violence," while the FBI says that "employers should adopt clear no-threats and no-violence policies and prevention plans." A business should prevent the root causes of workplace violence by "creating an atmosphere of fairness, trust and cooperation between employees and management," says the FBI's National Center for the Analysis of Violent Crime.

Other recommendations include:

- Communicate anti-violence policies for employees
- Survey employees to get their ideas about the risk of violence and preventive measures
- Train employees to recognize the warning signs of violence
- Provide violence prevention training for managers, especially regarding downsizing and termination procedures
- Provide physically secure workplaces
- Adopt staffing policies that keep staff safe on the job
- Cooperate with unions and other business on employee safety
- Formulate action plans so managers and supervisors know what to do when violence occurs



Contractor or Employee? That Is The Question

Hiring someone as an independent contractor can save businesses significant sums by eliminating the need to pay for workers' compensation insurance, employee benefits and payroll taxes. But there are complex rules to determine whether someone is an employee or a contractor. Getting them wrong can have serious consequences – back taxes, penalties, fines, lawsuits and damage to morale, to name just a few.

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“There is not one absolute factor that predisposes an individual to workplace violence,” says Eugene A. Rugala, supervisory special agent for the FBI’s National Center for the Analysis of Violent Crime. “Managers and employees should be familiar with each potential warning sign, but look at a totality of factors including the work environment, the employee’s home life and his or her behavior as a whole.”

However, managers and employers should beware of focusing too much on dysfunctional and violence-prone individuals, while not paying enough attention to the dysfunctional workplace, say Richard V. Denenberg and Mark Braverman, the authors of an influential book called *The Violence-Prone Workplace: A New Approach to Dealing with Hostile, Threatening, and Uncivil Behavior*. They identify failure to recognize and defuse conflicts as the primary causes of workplace violence.

“It is not enough to have an anti-violence policy on the wall and an employee manual on the shelf that purports to address the problem,” adds Larry Chavez, an expert on workplace violence and crisis communications. He recommends providing formal instruction for managers to recognize and eliminate organizational risk factors that have led to violence in other organizations. “They must also be instructed in defusing hostile employees so as to prevent an angry outburst from escalating into violence.”

For more information on preventing workplace violence, see OSHA’s Web site at www.osha.gov/SLTC/workplaceviolence/index.html or consult with a safety professional. We can also provide suggestions. ■

Discerning the difference between an independent contractor and employee can be a complex and imprecise art, especially when a massive growth in telecommuting is blurring the use of location as an indicator of employment. The IRS has a comprehensive list of factors that it uses to determine a worker’s status. Many states have additional requirements, which are supplemented by numerous legal rulings.

Generally speaking, the more independence workers have, the more likely they can be classified as independent contractors. Therefore, employers should also look at whether the worker advertises his services to others, employs assistants or purchases his own workers’ comp insurance. You can also fill out an IRS form SS-8 to determine worker status.

CONTRACTOR—continued on Page 4





view of employee records to ascertain possible allergies or risk factors such as diabetes. A site review can point out site-specific risk factors, such as stairwells, busy roadways and external factors such as flood and earthquake risks.

Program Design and Supplies

Companies should adopt reasonable policies appropriate for their level of risk. Bongberg recommends that a company should train between five and 20 percent of its employees to administer first aid and CPR. Courses are available from specialty training companies. Some even offer online training, which is more convenient and less costly. But they can also be less effective at dispelling one of the main barriers to effective training – employees’ lack of confidence about their ability to help a colleague in distress.

Providing good training also boosts morale by giving employees life-saving knowledge they can use at home or on the soccer field. Bongberg says there’s a strong overlap between companies that provide good first aid training and those ranked highly on the “best places to work” lists.

Of course, every first aid program needs a well-stocked first aid kit. Your kit should include a variety of bandages, antiseptics and lotions, pain killers and antihistamines. But companies should go beyond the bare minimum if they can. This would include the provision of disaster supplies and training. More and more companies are also purchasing automated external defibrillators – devices that shock the heart in the case of sudden cardiac arrest. Such devices cost around \$1,500 but can save 75 percent of heart attack victims when used within the first five minutes of a heart attack.

Written Policies

Display your first aid policies prominently so that workers become familiar with them. Such policies, often called an Injury and Illness Prevention Plan or IIPP, should be customized as much as possible to your firm’s premises and personnel. If you need assistance, an industrial hygienist, workers’ compensation and safety expert or your workers’ compensation carrier should be able to help you put together a program. For more information, please contact us. ■

Employee	Not
Worker must obey instructions concerning when or how to perform the job.	Worker responsible for the outcome of the job and can determine how it is to be done.
Company provides training.	Worker may be licensed by a state board; may have invested considerable sums in training.
The job is “integrated,” or central to the company’s operations -the more integrated, the more likely the worker will be considered an employee.	
Services must be performed by a particular person.	
The company hires, supervises or pays a worker’s assistants.	Worker can hire assistants and is responsible for their pay.
Worker has an ongoing relationship with the company.	Worker advertises or otherwise makes his/her services available to the general public.
Company sets the work hours.	Worker can set his/her own work hours.
Company requires full time work at its business.	Worker can work for more than one company at the same time.
Company controls where the work is performed.	
Company determines the order in which tasks are to be done.	
Company requires oral or written reports.	
Worker receives payment by hour, week or month.	Independent contractors are usually paid on a per job or commission basis.
Company provides tools and materials.	Worker has made significant investment in tools or facilities.
Company pays travel/ business expenses.	Worker can realize a profit or loss from a job.
Company can discharge a worker for reasons other than not meeting a contract’s terms.	
Worker can usually quit without liability for failure to complete a job.	Worker liable for completing a job according to contract.

The IRS lists three main factors to determine if a worker is an independent contractor or employee:

- **Behavioral Control** - Generally, anyone who performs services for you is your employee if you have the right to control what will be done and how it will be done.
- **Financial Control** - Independent contractors are in business for themselves, offer their services to the public, and have a significant financial investment in the facilities used in performing services. They can realize a profit or incur a loss.
- **Relationship of the Parties** - The substance of the relationship (Is it permanent? Are there benefits? Who pays the worker’s expenses?) determines whether workers are employees, not a job title or written contract.
 For assistance in determining whether a worker is an independent contractor or employee, please contact us.