

SAFETY IN THE WORKPLACE

By Sharon A. Stewart

January 28, 2005

The Occupational Safety and Health Act (OSHA) includes a General Duty Clause requiring employers to "furnish...a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees." The Occupational Safety and Health Act of 1970.. (Public Law 91-596, 84 STAT. 1590, 91st Congress, S.2193.) In general, the Act covers all employers and employees in the United States and its territories. There are, however, certain exceptions, many of which are governed by other similar Acts.

The OSHA general duty clause generally covers most types of health and safety situations, even when OSHA has not set forth specific guidelines or criteria. Information on OSHA standards and regulations can be obtained by checking the Federal Register. Many of them may also be found by checking the OSHA website (www.osha.gov).

In addition to helping your company comply with the general duty clause provided by OSHA, addressing the various safety issues in the workplace can significantly reduce your liability for workers' compensation accidents, as well as the cost of your workers' compensation insurance. It can also reduce absenteeism, lost wages, and lost production time due to accidents. Understanding the issues to be addressed and the proper way to address them should be paramount for the human resources department, as well as the safety department and the company's managers and supervisors. Below are several issues which need to be carefully considered when training your employees and supervisors, many of which can prevent accidents or, if an accident should happen, minimize the employer's exposure for workers' compensation benefits.

EDUCATION AND TRAINING OF EMPLOYEES:

Many studies have been performed by the Department of Labor, OSHA, and NIOSH (National Institute for Occupational Safety and Health, a division of the Center for Disease Control) which reveal that effective management of worker safety and health protection plays a decisive role in reducing the extent and severity of work-related accidents and illnesses. For effective management, however, managers, supervisors, and workers must be educated about the various risks, as well as the best methods for handling the risks of the various jobs and the after-effects of those risks. The same studies also have shown that effective management of health and safety issues also improves the morale and productivity of a company's employees. (www.osha.gov). Thus, an educational program is highly recommended.

Supervisors, managers, and employees all need to understand how to perform the various jobs, how to use any machines, and the purpose of the job being performed. They also should learn and understand the best practices, as well as the practices to avoid. Thus, continuing education programs on the various jobs, machines, etc. should help increase employees' awareness of the dangers inherent in each job, as well as the safest and most productive way to perform each job. As changes are made to the job, each employee and supervisor should be thoroughly updated on the specific changes in the mechanics of the job itself, as well as any changes that they themselves will need to make in order to perform the job safely and efficiently.

Understanding how the job works and how best to perform it productively and safely may reduce the risks of each job, as well as any possible stress the employee may feel in connection with the job, its operation, and his or her own safety. Because stress is a common cause of physical ailments, absences, and workplace injuries, reducing employee stress may play a large role in increasing the safety and productivity of your company.

Because the individual workers are generally the ones performing the job every day and become used to the quirks or problems of each job, their opinions on the safety, productivity, and set up of each job can be invaluable in reducing the number of accidents and increasing

performance. Thus, soliciting workers' input, even if anonymously through a suggestion box, can help a company increase its efficiency and cut down on risks..

Many times managers or supervisors are familiar with the general job parameters and goals, but because they do not actually perform the job or work on the machines regularly, they may lack understanding of the practical, day-to-day aspects of the job that may be giving employees problems, either physically or mentally, and thus lack the empathy that would allow them to take the steps necessary to correct the problems. Allowing employees input may also increase their job satisfaction, giving them a feeling of control over their jobs and allowing them to vent frustration and stress if a problem arises in the job.

ACTIVE SAFETY LEADERSHIP:

In addition to understanding the details and problems associated with the jobs that their employees perform, managers and supervisors have a responsibility to take an active role in the safety and supervision of the employees. Managers and the supervisors should maintain open lines of communication with the workers so that they are more likely to be informed of problems as they arise, rather than afterward, when it is too late to prevent a problem. Establishing and maintaining open lines of communication with employees is key in preventing work-related "accidents", both genuine and fraudulent.

Employees who have little or no input regarding how they perform their jobs generally have less job satisfaction. The less job satisfaction they have, the more likely disgruntled employees are to cause problems., It is important to maintain not only open communication lines throughout the chain of command, but also to give employees an opportunity to have their complaints addressed outside of the normal chain of command. If employees have problems with their job and/or their supervisor, they often feel that they have no recourse. Allowing employees to discuss problems with other management members or supervisors outside the chain of command, or even anonymously, can contribute toward greater job satisfaction and prevention of

work place accidents. You might even consider allowing employees to provide written evaluations of their supervisors.

Managers and supervisors need to take an active role in investigating problems within the workplace. If they are alerted to a possible problem with a machine or a problem between workers or between workers and management, taking a proactive approach and discussing the problem or potential problem with the involved parties often can prevent further incidents.

If a work-related accident does occur, the supervisor should immediately listen to the injured employee, find out what happened, make arrangements for medical treatment, if necessary, and report the accident to his own supervisor. If possible, the supervisor should accompany the employee to obtain the necessary medical treatment. Accompanying the injured worker helps foster the feeling that the employer cares about him and his injury, thereby banishing feelings of abandonment by the employer that otherwise might arise.

If accompanying the employee to obtain medical treatment is not feasible, then contacting the employee on a regular basis to ascertain his or her condition can go a long way in accomplishing the same goals. Of course, if the employee retains counsel in connection with the work-related accident, contact regarding the injury by a representative of the employer must cease.

The supervisor must also inform the injured employee of his or her rights regarding the injury. Of course, this means that the supervisor must know what those rights are. As such, education of supervisors, managers, and human resources personnel is necessary to ensure that anyone who has the responsibility to deal with an injured employee knows what those rights are and can adequately explain the rights to the employee.

Management also should ensure that the panel of physicians and employee Bill of Rights are prominently posted. The panel and the injured employee's rights should be explained to the employees every so often. Regular safety meetings with all employees can ensure that all are

aware of and understand the proper procedures for reporting an accident and obtaining medical care in the event of an accident. It is helpful to keep a list of the people attending these meetings to ensure that if this becomes an issue later in a workers' compensation claim, adequate documentation is available to show that the employee was shown the panel and physicians and informed of his rights. Including this information in the employee handbook is also a method by which the employer can ensure that the employees are informed of their rights and the methods by which they can seek treatment for work injuries. Requiring employees to sign an acknowledgment form indicating that they received the handbook containing this information is also helpful in proving that the employee was informed of his rights and the procedures for obtaining medical treatment should it later become an issue.

In addition to handling the practical details of ascertaining what happened and ensuring prompt medical care is rendered, the supervisor should take immediate steps to ensure that the problem that caused the accident is addressed and fixed. Not attending to problems right away is a good way to ensure another accident.

RESPONSIBILITIES OF MANAGERS AND SUPERVISORS:

As stated above, managers and supervisors should take an active role in safety leadership. They should deal with problems immediately, ensure medical care is rendered properly if needed, and listen to their employees and solicit input regarding problems and suggestions.

In addition, however, managers and supervisors should take the time to thoroughly investigate the accident and make notes of pertinent information while it is still fresh in everyone's mind. The supervisor or management should interview all witnesses, obtain written statements if possible, and find out exactly who saw the incident happen. They should also determine whether the injury could have been avoided and, if so, how.

If an injury could have been avoided, it should be reported to the company's safety committee or safety director so that the appropriate steps can be taken to avoid future occurrences. If the supervisor suspects a fraudulent accident claim or believes that a claim arose out of employee misconduct, he or she should not publicize it to those with whom the employee works. Rather, such suspicions and the bases therefor should be communicated to upper level management and/or the insurance company.

If an employee claims a repetitive motion or cumulative trauma type injury, have an ergonomic team review the job for any necessary adjustments to prevent future trauma to the injured employee and his fellow employees. Workers come in all shapes and sizes and ensuring the job fits their physical abilities can go a long way toward reducing future accidents and workers' compensation claims. If the job cannot be modified to meet the needs of the employee, changes in job assignment or changes to the way the job is performed may need to be considered.

IMPORTANCE OF WRITTEN SAFETY PROGRAMS:

It is important to have at least the general principles of your company's safety program reduced to writing for easy reference. That way, if a question arises, an employee, manager, or supervisor will know where to look to find the answers. This is true regardless of whether they need to know who to contact, what to do the case of emergency, or how to run a machine in the most productive and safe way possible.

Writing down the safety program and the responsibilities of each group-employees, supervisors, middle or upper management, will eliminate or reduce confusion over who is responsible for performing certain acts with regard to issues of safety. For example, employees should know who to contact and how to get in touch with the proper person if they are having physical problems with the job, if a machine is broken and requires repair, or if they are having emotional/personal issues with an immediate supervisor or another employee. Reducing this type

of information to writing not only provides a valuable reference guide, but ensures that the proper party is notified as soon as possible so that remedial steps can be taken quickly.

The consequences for failure to comply with the requirements of the safety program should also be clearly outlined and defined so that there are no misunderstandings.

REPORTING:

With regard to workers' compensation injuries, management should ensure that employees understand that they are to report any and all injuries to their supervisor or another member of management as soon as practicable. Management also should ensure that the supervisors or other persons to whom employees are likely to report injuries are aware of the procedures to be followed, including the need to report it to the workers' compensation carrier or servicing agent immediately. Immediate reporting helps ensure that the proper forms are completed, prompt payment of indemnity benefits is initiated, if applicable, and prevents imposition of fines for the failure to report injuries and commence benefits in a timely fashion.

When an injury occurs, an employer should immediately complete a WC-1 First report of injury, as well as any intake forms required by the insurer. It should also provide wage information for thirteen weeks of wages prior to the injury, not including the week of the injury. The more promptly an employer provides wage information to the insurer, the more quickly indemnity benefits can be commenced, if owed.

Employers should also ensure that the insurer is notified upon the employee's return to work, either at full or reduced wages, if indemnity benefits are being paid. This helps minimize the possibility of overpayment of indemnity benefits that the employee may or may not be in a position to repay. The employer also should provide the insurer with any medical records it receives from the treating physician in connection with the work-related injury. The employer should also alert the insurer if it has any reason to believe that the claimed injury may not be genuine. If the employer promptly reports potential fraud, the insurer is in a much better position to address the potential fraud and deal with it accordingly.

The employer should also report to the insurer any prior accidents the employee has had while employed by the employer, especially if the same body part is affected by the current injury. It should also report any known pre-existing medical conditions or injuries. Currently, the Subsequent Injury Trust Fund provides for reimbursement of indemnity, medical and rehabilitative benefits if a pre-existing permanent impairment merged with a subsequent injury to result in greater disability, so long as the employer knew of the previous condition or injury and considered it both permanent and a hindrance to employment.

Because managers and supervisors know the employee and have a better understanding of the dynamics surrounding the accident and the employee's possible motivations than the insurer's representative does, any assistance or information the employer can give to the insurer is generally helpful.

WORK PLACE VIOLENCE:

Work place violence "is violence or the threat of violence against workers. It can occur at or outside the workplace and can range from threats and verbal abuse to physical assaults and homicide..."(U.S. Department of Labor, Occupational Safety and Health Administration, 2002.) Workplace violence may consist not only of violence done by one worker to another, but also by violence performed by people the workers are actually serving.

Close to two million workers nationwide are the victims of violence in the workplace each year. In fact homicide has become one of the leading causes of work-related injuries and death. Simple assault and aggravated assault also play a significant role in the number of work-related injuries each year. Although the press highlights co-worker on co-worker violence, the vast majority of violence in the workplace is committed against the workers by people who are being served by that worker or his company.

Violence in the workplace can strike anyone in any profession. However, there are several types of workers who are more at risk of being victims of workplace violence. Those with a higher risk include workers who exchange money with the public, deliver passengers or goods

and services, work alone or in small groups, work late at night or in the early morning hours, work in high crime areas, or work in fields in which they have extensive contact with the public.

If the employer has employees that fall within these higher risk groups, there are a number of steps it can take to help reduce the risk to the employees. For example, the employer can secure the workplace, by adding surveillance and limited entry devices or programs, provide field communication devices, implement a buddy system, instruct employees not to enter any area where they feel unsafe, etc. The employer also can provide safety training to help employees recognize potentially dangerous situations and learn the best method for dealing with the situations they may meet.

There are many steps the employer can take to reduce stress and emotional trauma if a violent incident occurs. Suggestions include having employees log and report all forms of violence or threats of violence, encouraging reporting of such incidents to local law enforcement, offering stress debriefing sessions and counseling, if necessary, and investigating and immediately attending to all violent threats or instances of violence to employees both outside and within the workplace.

When dealing with worker-on-worker violence, it is important to determine the cause of the problem and address it early. According to OSHA and NIOSH, there are several environmental and social dynamics that increase the risk of work place violence.

Extreme stress can have multiple effects, many of which result in emotional and physical complications. These complications sometimes lead to workplace violence or sometimes simply to increased absenteeism or work-related injuries or accidents. Stress can often cause headaches, sleeplessness, loss of appetite, depression, short temper, back ache, high blood pressure, ulcers, and heart disease. There are many stressors in the workplace, including physical and environmental factors, psychological factors, organizational factors, sociocultural or interpersonal factors, and sometimes the work setting itself.

It has been found that certain types of work settings may be more likely to contribute to stress and/or violence in the workplace. One example is rapidly changing shift work. Other types of workplace settings also have been associated by one study group or another to workplace violence, including low staffing levels, working alone, working late at night or early in the morning, working with money or prescription drugs, long waits for services by customers, clients or patients, and a lack of normally available services. Many of these higher risk settings can be addressed by both additional security measures and varying administrative controls, such as training to deal with certain potential volatile situations, additional staffing, and recording accidents, verbal abuse and "near misses". For additional details and suggestions see the OSHA and NIOSH web sites.

It is important to let employees know what acts, comments, etc. will not be tolerated in the work place. There is some debate on whether an employer should adopt "zero tolerance" policy regarding workplace violence. Some studies indicate that "zero tolerance" is the best way to keep employees safe. Others, however, suggest that such policies tend to result in under-reporting of violent comments or incidents because such policies lack flexibility and employees often are hesitant to report actions or comments by another employee that might result in termination of that employee under the company's "zero tolerance" policy. Thus, you should carefully consider the various ramifications when developing and implementing your workplace safety programs.

Employers and managers should look carefully at their workplace violence policy. The policy should be intended to ensure the protection of all employees. In addition to being cited by OSHA for failure to comply with the General Duty Clause, employers that do not take the appropriate steps to prevent or abate a recognized violence hazard may be held liable in court. Thus, it is to your company's benefit to develop an efficient and workable workplace safety program.

OSHA and NIOSH offer multiple suggestions and information on workplace violence programs and reducing the risk of violence against employees, both by co-workers and the

customers the employees service. Various program and information services are available that can be of great value to your company in developing a workplace safety program,

Workplace safety should be taken seriously by all. Not only does workplace safety affect the protection of the company's workers, but failing to ensure a safe working environment can substantially increase the costs of doing business. Maintaining open lines of communication and taking steps to promote adequate work place safety will not only increase the productivity and morale of your employees, but will decrease your overall business costs in the long run. In short, your business will be more profitable if you ensure the safety of your employees.