

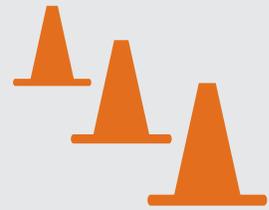
Workers' Comp & Safety News



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Prevention

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The Hidden Dangers of Shift Work

The Bureau of Labor Statistics reports that about five percent of American adults work in the evening. Permanent night workers and workers with irregular schedules make up another four percent. Still another four percent are rotating shift workers. These 15.5 million people face a higher risk of workplace injury. Read on to learn more about the hazards of shift work, and how you can minimize them.



The Occupational Safety and Health Administration considers a “normal” work shift one that lasts “no more than eight consecutive hours during the day, five days a week with at least an eight-hour rest. Any shift that incorporates more continuous hours, requires more consecutive days of work, or requires work during the evening should be considered extended or unusual.”

Individuals working outside these “normal” work hours have a much greater chance of experiencing a

fall, fracture or laceration at work, found a 2004 study of Texas workers’ compensation injuries. Even when adjusting for different occupations and worker fatigue (individuals are more likely to be tired at the end of their shifts than at the beginning), the study found substantially higher injury hazards late at night than during regular daytime work hours.

Non-traditional shifts and extended work hours may disrupt the body’s regular schedule, leading to increased fatigue, stress and lack of concentration. These effects lead to an increased risk of operator error, injuries and/or accidents.

This happens because body rhythms (also called circadian rhythms) tell night workers to be asleep at night. Night workers also must sleep during the day, when their circadian rhythm tells them to be awake. Because of this, day sleep is short and feels “light” or unsatisfying. Often, night workers don’t get enough sleep during the day to combat nighttime fatigue and sleepiness.

Those who work extended shifts also have problems, even if they work predominantly daytime hours. OSHA reports that working shifts longer than eight

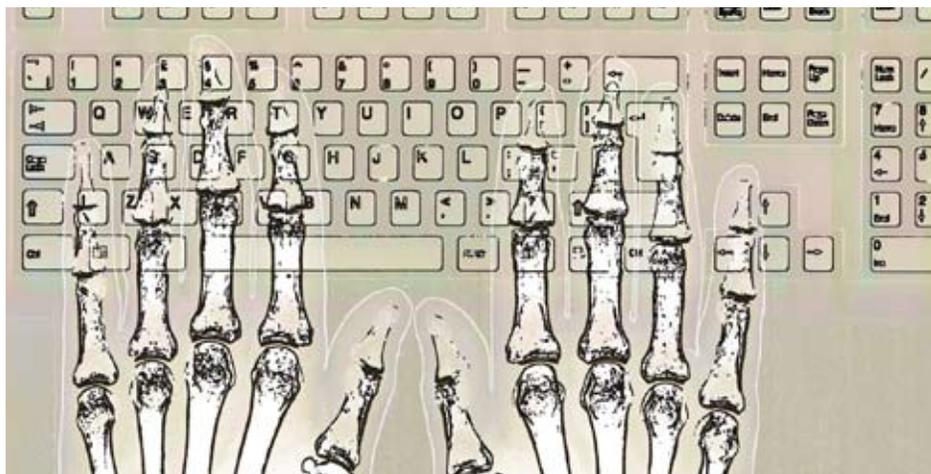
This Just In

Employers should expect increased enforcement of OSHA’s health and safety regulations. The federal Occupational Safety and Health Administration has 100 more compliance officers than it did a year ago, and has requested funds to add 25 more in 2011.

H.R. 2067, the Protecting America’s Workers Act, would also stiffen penalties for violating OSHA regulations. The bill “addresses three major weaknesses in the OSH Act,” said sponsor Rep. Lynn Woolsey, D-Calif. H.R. 2067 would extend OSHA coverage to state, county and municipal workers; increase protections to whistleblowers and increase civil and criminal penalties for violations of OSHA regulations.

According to Woolsey, OSHA civil penalties “have not been increased in two decades and are extremely low...without a change in the penalty structure...they will never be high enough to be an effective deterrent, especially for those employers who are repeat violators.”

Jonathan L. Snare of the U.S. Chamber of Commerce said in testimony on the bill: “Penalties alone will not solve the problem [of workplace injuries and fatalities]—remember, penalties are imposed after the fact of an injury or fatality. The critical mission of OSHA is to assist employers to make sure these injuries and fatalities never occur in the first place.”



Reducing the Costs of Carpal Tunnel Syndrome

Carpal tunnel syndrome affects approximately two out of every 1,000 workers and is one of the most costly types of occupational injury. Researchers at Washington University Medical School estimated the average lifetime cost of a single carpal tunnel case at \$30,000 in medical bills and lost time.

What is carpal tunnel syndrome?

Carpal tunnel syndrome occurs when the median nerve that runs through the carpal tunnel—a narrow passageway at the base of the hand—becomes pinched or compressed. Injury to the wrist or swelling of the tendons in the carpal tunnel can cause the syndrome, as can non-occupational causes such as fluid retention. Symptoms include numbness and tingling of the wrist and hand, which can progress into sharp pain. If left untreated, permanent damage to the median nerve can result.

What causes carpal tunnel syndrome?

Doctors have associated wrist disorders with repetitive tasks since the 1960s. Carpal tunnel syndrome is also caused by force, cold temperatures, mechanical stress, vibration and poor posture.

Who gets carpal tunnel syndrome?

Carpal tunnel syndrome occurs three times more often in women than in men, possibly be-

cause women have a smaller carpal tunnel than men. Diabetics and those with other metabolic disorders, along with pregnant women, are also more likely to get carpal tunnel syndrome.

The manufacturing industry accounts for the highest percentage of carpal tunnel sufferers, with 45 percent; occupationally, 42 percent of carpal tunnel sufferers are operators, fabricators or laborers, and 31.4 percent are technical, sales and administrative staff workers. Increasing job fragmentation; an aging workforce; the increase in keyboard/computer use; improperly designed, one-size-fits-all workstations and machines; and increased workloads caused by downsizing all contribute to the explosion of carpal tunnel syndrome and related repetitive stress injuries.

Case management

Case management can help employers reduce the medical, disability and litigation costs of carpal tunnel syndrome. Case managers guide injured workers through treatment and rehabilitation after injury, acting as liaisons between physician and employer, and between injured

worker and employer. They can be your own employees, TPAs (third-party administrators) or your insurer's employees.

Case managers should analyze injured workers' job tasks, along with home activities and hobbies, past injuries and former occupations to determine possible origins of the injury and to prevent continued problems. The case manager should accompany injured workers on their first visit to the doctor, to review treatment options and become familiar with the treatment plan. This will help you set up alternative work accommodations for the worker, and creates a team atmosphere the injured worker can rely on.

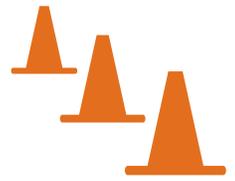
Treatments

Evidence shows the best ways to cut the incidence and severity of carpal tunnel syndrome involve changing work methods, retraining workers and modifying computers and other equipment to fit human forms and posture. For immediate symptom relief, the simplest treatments often work best. Your first choice of treatment should be to rest the affected joint as much as possible; common anti-inflammatory medications, such as ibuprofen, can reduce the swelling and pain. A brace or splint that keeps the wrist in a natural position can also reduce irritation and swelling.

Your occupational medicine specialist might recommend surgery when other treatments fail, or in very severe cases that threaten permanent nerve damage. Carpal tunnel surgery widens the carpal tunnel to relieve pressure on the median nerve. Often, the surgery can be performed arthroscopically, which means a smaller incision and less trauma to surrounding tissues.

Surgery is a last resort, and will not succeed unless you modify an injured employee's work methods and equipment. You may not have to completely retool to make your business ergonomically sound — analyze the worksite to see whether retraining employees in proper equipment use will do the trick.

OSHA has several publications available with ergonomic safety tips and guidelines for instituting ergonomics programs at work. There are also testing devices on the market to measure the status of cumulative stress disorders on any employee. Outside consultants can review your worksite for ergonomic safety, too. Call us for more information about holding down carpal tunnel claims costs in your workplace. ■



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hours will generally result in reduced productivity and alertness. People who work an 8-hour shift will have 16 hours left in a day to do everything else, and also to get

some rest. People who work a 12-hour shift have only 12 hours to do everything else and to rest. The extra work hours mean more tiredness and less time for rest.

What Employers Can Do

OSHA currently has no specific standard for employees working extended or unusual work shifts. Still, employers should be aware of the special safety challenges shift work creates.

When there is a choice, managers should limit the use of extended shifts and increase the number of days employees work. When there is no choice, the following steps can help minimize fatigue and the chance of accident:

- Learn to recognize the signs and symptoms of fatigue. These include weariness, sleepiness, irritability, reduced alertness, lack of concentration, lack of motivation, increased susceptibility to illness, depression, headache, giddiness, loss of appetite, and digestive problems.
- Monitor night and extended-shift workers diligently for the signs and symptoms of fatigue. Any employee showing such signs should be evaluated and possibly directed to leave the active area and seek rest.
- Provide additional break periods and meals when employees work night or extended shifts. In addition to formal breaks such as meal breaks, encourage the use of micro breaks to change positions, move about, and shift concentration.
- Schedule tasks that require heavy physical labor or intense concentration for the beginning of the shift if possible.

- Make efforts, whenever feasible, to ensure that unavoidable extended work shifts and shift changes allow affected employees time for adequate rest and recovery. Extended shifts should not be maintained for more than a few days, especially if they require heavy physical or mental exertion.
- Allow permanent night and shift workers time to acclimate to their schedules. Studies suggest that it can take up to 10 days to adapt to a nighttime work schedule.
- Monitor and limit exposures to hazardous chemicals or substances. Working extended shifts may prolong exposure to hazards, which could exceed established standards.

For more suggestions on improving the safety of shift and other workers, please contact us. ■

Sources: National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA)

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workplace that permitted guns.”

Current Law

Many weapons-holders say that employer weapons bans violate

their Second Amendment right to bear arms. What does the law say?

The Second Amendment is one of the most widely disputed provisions of the Bill of Rights. Two opposing interpretations dominate the debate: one that the amendment is intended to protect an individual's right to bear arms, and the other that its purpose is to protect the states' rights to maintain militias.

Debate over weapons rights has recently centered on conflicts between the individual's right to bear arms and the rights of private property owners, such as employers, to prohibit firearms on their premises.

Forty states have “right to carry” laws, which allow individuals to carry weapons. Of these, 37

require individuals to apply for a permit; two have discretionary-issue carry permit systems. Vermont allows individuals to carry a weapon without permit, while Alaska and Arizona have a system whereby they will issue permits for permit reciprocity with other states.

Currently, only Illinois, Wisconsin and the District of Columbia ban private individuals from carrying a concealed weapon. (As this issue went to press, Congress was considering the Second Amendment Enforcement Act, which could loosen DC's strict gun rules by “reforming the District Council's authority to restrict firearms.”) Eight states limit permit holders' rights to carry concealed weapons; all others either permit license holders to carry concealed weapons or have permissive licensing systems. In most states, concealed weapons laws contain provisions that allow employers to prohibit possession of concealed weapons on their premises, and/or that prohibit carrying concealed weapons at certain “safety sensitive” sites, such as banks or schools.

Gun rights advocates say that employer weap-

ons bans violate their Second Amendment right to bear arms. And at least 12 states, including Alaska, Arizona, Florida, Georgia, Kansas, Indiana, Louisiana, Kentucky, Minnesota, Mississippi, Oklahoma and Virginia have laws that either expressly allow individuals with carry permits to keep weapons in their locked cars, or expressly prohibit employers from banning employees from keeping weapons in their locked cars while in the employer's parking lots. (Most of these laws do restrict the right to bring firearms into safety-sensitive areas, such as prisons, schools, etc.)

In most instances, employers can still exercise their private property rights and prohibit employees from bringing firearms into their buildings if they post notices conspicuously at all entrances. And many safety experts recommend banning weapons to protect employee safety and limit the employer's liability for weapons-related injuries and deaths. Before implementing a weapons ban, however, employers should know the weapons laws that apply in their state or municipality. For information, contact an attorney. ■





Weapons at Work: Employers' Rights vs. Employees'

When Major League Baseball players returned for spring training this year, they found signs saying: "Individuals are prohibited from possessing deadly weapons while performing any services for MLB." ConocoPhillips also banned employees from carrying weapons on their premises, which led to court challenges. When it comes to weapons at work, what is the current state of employers' liabilities and rights vs. employees' rights?

Although workplace fatalities have been declining for decades, homicide remains the second leading cause of workplace deaths. Approximately 75 percent

of all workplace homicides involve guns. U.S. Department of Labor Statistics records show that 67 percent of workplace homicides involve robbery. Fifteen percent stem from disputes between

employees or employees and supervisors, 11 percent result from domestic violence that enters the workplace, and 8 percent involve disputes between workers and clients or customers.

Employers' Liabilities

Workplace violence of any kind can create liability exposures for employers. The general duty clause of the Occupational Safety and Health Act of 1970 requires "each employer" to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees..."

In addition to the OSH Act, workers' compensation statutes and court decisions could make employers liable for violent acts that harm an employee while he or she is at work. Workers' compensation covers many injuries resulting from violent acts; however, workers' compensation generally excludes intentional injuries.

When an employee commits a violent act, victims or their families may sue employers for liability on the grounds of negligent hiring, supervision or retention. This doctrine applies if the employer knew, or should have known, that violence could occur. To protect the safety of employees and to minimize liability exposures, many employers have banned anyone—from employees to vendors to customers—from bringing weapons onto their premises as a way to prevent accidental or intentional injuries.

Does banning weapons at the workplace keep employees safer? A study by epidemiologists at the University of North Carolina at Chapel Hill found that banning weapons appears to make workers safer. Dana Loomis, one of the study authors, told the *Christian Science Monitor*, "We saw a statistically significant increase in the chances of having a killing in any

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To minimize their exposure to workplace violence, employers should take the following steps:

- Hire wisely. Run a routine background check before you hire an applicant. Verify information on resumes, look for criminal convictions (to the extent allowed in your state), and check driving records. These simple steps will weed out some dangerous workers and demonstrate that you were not careless in your hiring practices.
- Establish a zero-tolerance policy toward workplace violence against or by employees.
- Establish a workplace violence prevention program or incorporate the information into an existing accident prevention program.
- Secure the workplace.
- Encourage employees to report and log all incidents and threats of workplace violence, even those that don't result in injury.
- Provide prompt medical evaluation and treatment after an incident.
- Report violent acts to the local police promptly.
- Inform victims of their right to prosecute perpetrators.
- Refer employees who have experienced a violent incident to your employee assistance program (EAP) for debriefing and counseling services.
- Investigate all violent incidents and threats.
- Take disciplinary action immediately. An employer that knows or should have known a worker presents a danger can be liable for "negligent retention" for failing to terminate a worker after a threat or act of violence.
- Monitor trends. Examine your workers' compensation claims reports for any incidents involving violence. If you see any trends or recurring problems, take corrective action.

For more information on protecting your employees from violence, and protecting your organization from liability, please contact us. ■