

Workers' Comp & Safety News



The Art
of Hospitality

Hospitality Insurance Specialist:

- Custom Tailored Insurance Programs
- Loss Control and Risk Management
- Safety Compliance and Training

13950 Cerritos Corporate Drive, Suite A • Cerritos, CA 90703
800-466-8951 • 800-494-6829 fax
www.petrarisksolutions.com • Lic# 0817715



Prevention

April/May 2012

Volume 10 • Number 2

Getting Backs on Track

Occupational back injuries are seldom, if ever, fatal, but they cause a significant amount of pain, lost productivity and economic burden. They account for nearly 20 percent of all workplace injuries and illnesses and cost the nation an estimated \$20 billion to \$50 billion per year. As the average age of the workforce increases and medical costs go up, the incidence and cost of back injuries could increase.



What Causes Back Problems?

OSHA reports that back disorders result from exceeding the capability of the muscles, tendons and discs. They can also result from repetitive stress, or the cumulative effect of several contributors:

- A** Reaching while lifting.
- B** Poor posture.
- C** Stressful living and working activities—

such as staying in one position too long.

- D** Bad body mechanics.
- E** Poor physical condition.
- F** Poor design of job or work station.
- G** Repetitive lifting of awkward items, equipment or patients.
- H** Twisting while lifting.
- I** Bending while lifting.
- J** Maintaining bent postures.
- K** Heavy lifting.
- L** Fatigue.

continued on next page

This Just In

The National Football League is involved in several lawsuits in which players allege the NFL knowingly concealed the dangers of head injuries from them. Outcomes will likely turn on questions of workers' compensation law — players are seeking additional compensation, while the NFL asserts injuries are covered by the "exclusive remedy" of workers' compensation and the players' collective bargaining agreement.

The lawsuits point out the dangers of concussion, a traumatic brain injury (TBI) that may result in a bad headache, altered levels of alertness, or unconsciousness. However, most people who have a concussion never black out. You can have a concussion and not realize it. Any blow or fall to the head serious enough to cause headache or pain could cause a concussion and could require medical attention.

The following are emergency symptoms of a concussion. Seek immediate medical care if there are:

- ★ Changes in alertness and consciousness

continued on next page

- M** Poor footing, such as slippery floors, or constrained posture.
- N** Lifting with forceful movement.
- O** Vibration.

Other factors, such as congenital defects of the spine, an increase in static standing or sitting tasks, aging, decreases in physical condition and job dissatisfaction may also contribute to back injuries, but to a lesser degree.

Preventing Back Injuries

Step 1: Know which jobs pose a greater risk. You should have job descriptions for every position in your organization — if lifting or moving heavy materials is part of the job, determine how much weight a person must be able to lift easily to perform the job safely.

Step 2: Ensure applicants are fit for the job. Although any worker can suffer a back injury, material handlers and others whose jobs require lifting have a higher than average chance of job-related back injury. As a prior injury adds to the risk, can employers legally screen out workers who have had a previous injury?

The Americans with Disabilities Act (ADA) and amendments prohibit employers from asking disability-related questions and conducting medical examinations until after it makes a conditional job offer to the applicant. You also cannot discriminate against an employee on the basis of workers' compensation claims filed. Although employers may not ask disability-related questions or require medical examinations at the pre-offer stage, they can take these steps to evaluate whether an applicant is qualified for the job:

- a** Asking whether an applicant can perform specific job functions, for example, lifting a certain amount of weight.
- b** Asking about an applicant's non-medical qualifications and skills, such as education, work history and required certifications and licenses.
- c** Asking applicants to describe or demonstrate how they would perform job tasks.

Once you make a conditional job offer, you may ask disability-related questions and require medical examinations as long as the company requires exams for all entering employees in that job category. If you reject the applicant after a disability-related question or medical examination, be sure your reasons are justified and document your decision. If the applicant files a discrimination complaint, EEOC investigators will closely scrutinize whether the rejection was based on the results of that question or examination.

Step 3: Look at trends. Examine past claims for patterns — are there particular tasks that lead to back injuries? Do claims involve similar conditions — such as slippery or unstable footing, unusually large loads? And finally, look at the claimants themselves — do they share any characteristics?

Step 4: Observation. Take a closer look at any potentially problematic jobs or tasks.

- a** Ask employees about their opinion on the difficulty of the task as well as personal experiences of back pain.
- b** Observe worker postures and lifting.

- ✦ **Convulsions (seizures)**
- ✦ **Muscle weakness on one or both sides**
- ✦ **Persistent confusion**
- ✦ **Persistent unconsciousness (coma)**
- ✦ **Repeated vomiting**
- ✦ **Unequal pupils**
- ✦ **Unusual eye movements**
- ✦ **Walking problems**

For more information on preventing head injuries, please contact us.

- c** Determine weight of objects lifted.
- d** Determine the frequency and duration of lifting tasks.
- e** Measure the dimensions of the workplace and lift.
- f** Videotape the work task for evidence of recognized musculoskeletal hazards.

Step 5: Prevention and control.

- a** Eliminate the task if possible — for example, instead of having employees manually lift boxes onto shelves, have them use a power lift.
- b** Where eliminating a task is not possible, use engineering controls to minimize risk. In other words, alter the task to eliminate the hazardous motion and/or change the position of the object in relation to the employee's body — such as adjusting the height of a pallet or shelf.

A workers' compensation professional can help you evaluate problem areas and develop solutions. For more information, please contact us. ■

Preventing Workers' Comp Fraud

Earlier this year, the National Insurance Crime Bureau (NICB) reported that all types of “questionable” insurance claims were up sharply between 2009 and 2011, increasing 19 percent. Studies from 2000 estimated that one to two percent of workers’ compensation claims nationwide were fraudulent. If the NICB’s results apply to workers’ compensation claims, the percentage of fraudulent workers’ compensation claims could be way up. Knowing the signs could save you money.

A study by the Florida Division of Insurance Fraud found that fraudulent claims by employees accounted for the largest number of workers’ com-

pensation fraud cases in that state in 2010—about 39 percent. On a national level, the NICB reported that fraud cases involving claimants increased 8 percent between 2010 and 2011 overall. More specifically, claims involving prior injuries not related to work increased by 18 percent (possibly reflecting lower health insurance coverage rates), and false disability claims increased 6 percent, but “working while collecting” cases decreased by 7 percent.

Warning Signs

There are many warning signs that employees are committing workers’ comp fraud. Any one sign may not indicate a problem, but if you see several, you need to investigate. Be aware of employees who:

- ✱ Do not have a witness to their injury.
- ✱ Delay reporting the injury.
- ✱ Have discrepancies in their story.
- ✱ Are vague on details, and the details change.
- ✱ Report being injured on a Monday.
- ✱ Report an injury just prior to a layoff.

- ✱ Do not return calls.
- ✱ Cancel doctor’s appointments.

Preventing Fraud

The first place to fight workers’ comp fraud is on the front line — with your employees. They need to believe that the company is committed to a safe, healthy work environment. They need to know they are receiving good training, so they can perform their jobs in a consistently safe manner.

Next, you need to make sure your employees understand the role of workers’ comp insurance and that it represents a significant cost to the company. Employees need to understand that the claims costs are ultimately paid by the company. These expenses affect profits and can contribute to cost-cutting measures, especially in a tough economy.

Finally, employees need to know that workers’ comp fraud is a felony (in most states), and that you will prosecute any employees who try to defraud the company. Workers’ compensation insurers aggressively pursue fraud as well.



Investigating Fraud

Many insurance companies now use sophisticated software to detect fraud as soon as the first notice of loss is filed. When that happens, your carrier may call you before you call them.

Insurers also hire outside investigators to conduct legal surveillance of suspected cheats. They use GPS, night-vision lenses and other high-tech electronics to record workers doing strenuous physical activities or working a second job.

Some investigators also comb through Internet sites such as Facebook to track the activities of suspects. They use “Web crawlers” that track all references to a person — more thoroughly than a Google search. Some “injured” employees brag online about their insurance scams. Others simply provide information that leads to surveillance.

According to Patty Kotze, managing partner at Diversified Risk Management in Downey, Calif., it is important to understand privacy issues when doing a Web search. “It’s not ethical to become someone’s Facebook friend and then investigate their activities,” Kotze said.

If you suspect fraud, contact our agency or your workers’ comp carrier as soon as possible. The insurance company will take the lead in investigating, but will need your continuing help.

Safety Communications and the Language Barrier

You might think your company has an effective hazard prevention and safety training program. But how effective is it if your workers don’t understand it?



According to the most recent census figures, approximately 12 percent of the population is foreign-born; many of these are less than proficient English speakers. As minority groups grow as a percentage of the population, employers will face new challenges in making their workplaces safe

for all employees. To determine if your safety communications are effective, evaluate the following factors:

- ✱ English proficiency of your workforce — spoken, auditory and written.
- ✱ Languages other than English your workers

can speak or read fluently.

- ✱ Literacy levels. Don't assume that only non-native speakers may have problems reading and writing. Although the U.S. has an official literacy rate of 99 percent, a 2003 survey by the U.S. Department of Education found that 14 percent of adults in the U.S. had prose (text-reading) skills at the "below basic" level, 12 percent had document (chart or form-reading) skills at the below basic level, and 22 percent had quantitative skills at the below basic level.
- ✱ Your current safety communications. Are they written only? Written and illustrated? Video or audio? In English, Spanish or other languages? If you're providing written-only communications in English only, are you sure your workers can understand them?

To improve the effectiveness of your safety communication program, consider taking any of the following steps that may be appropriate for your company.

- ✱ Translate existing documentation into Spanish or other primary languages read fluently by your workers.
- ✱ Ensure communications are written at or below the Grade 4 to 6 range, the level usually recommended for general audiences.
- ✱ Consider adding pictograms or symbols to your company's warning signs and safety-related documents. The Occupational Safety and Health Administration commissioned a study on hazard communications, which found that "[w]arnings containing a pictorial, color, or an icon elicited significantly faster response times among subjects than warnings without them." However, if you

use pictograms or symbols, educate your employees on what these symbols mean. Even brief training — simply stating the symbols' meaning — can help increase comprehension.

- ✱ Consider the needs of disabled and older workers. In addition to having safety communications and signage in a format accessible to disabled workers, take into account diminished hearing and visual capabilities of older workers. Depending on the needs of your workforce, you might have to change signage and other visual communications to improve visibility by using larger type, more

contrast or brighter lighting. Make audio communications more easily understandable by increasing volume and decreasing speed.

- ✱ Don't limit your safety training efforts to simply posting signs or handing employees a safety manual. Meet with them — either in a classroom situation or one-on-one at the job site — to ensure they understand any work-related hazards and how to avoid them.

For more suggestions on improving safety in your workplace, please call us. ■



Stretching to Prevent and Relieve Back Pain

Flexible and strong muscles in the back, stomach, hips and thighs better support the spine and reduce the chances of injury. And it's a myth that a person should avoid exercise if experiencing minor back pain or injury. For most back problems, light activity helps speed the healing process. Gradual activity and stretching may reduce back pain and reduce the likelihood of re-injury.

You can help employees prevent and relieve back pain by encouraging them to perform simple stretching and strengthening activities regularly, at least three times per week, with a doctor's approval.

The Benefits of Stretching

- 1 **Reduced injuries:** When a person stretches, the muscles relax and lengthen. Relaxed muscles withstand stress better than tight ones. Typically, the more flexible people are, the less likely they are to suffer back pain.
- 2 **Improved performance:** Stretching can

increase range of motion, making an individual more effective at work and in other activities. It may also help your employees become more efficient in performing daily tasks.

Stretching Done Right

Although stretching should focus primarily on the back, it is also important to stretch and strengthen the stomach, arms and legs. For example, the hamstring muscles, located at the back of the upper thigh area, play a large role in lower back function. Tightness in the hamstrings limits motions of the pelvis and can place undue stress on the lower back.

Follow these simple guidelines:

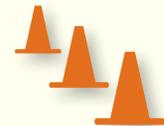
- * Stretch until a mild tension is felt, then hold for 5-10 seconds.
- * Hold the stretch steady and do not bounce.
- * Never stretch to the point of numbness, tingling or pain.

- * Focus on the activity and avoid any distractions.
- * Take your time — do not rush.
- * Do not hold your breath — breathe freely; relax for better results.
- * Repeat the activity three to five times on each side.
- * Make sure you stretch and strengthen all of the major muscle groups, which include your legs, arms, shoulders and back.

In addition to stretching, strengthening the muscles can help prevent injury. If the muscles are weak, back injuries are more likely and recovery is more difficult. Strong hip and leg muscles are important for lifting.

For a free, illustrated guide to simple and safe back stretches, please see www.nlm.nih.gov/medlineplus/tutorials/backexercises/hp319104.pdf ■

Workers' Comp & Safety News



The information presented and conclusions within are based upon our best judgment and analysis. It is not guaranteed information and does not necessarily reflect all available data. Web addresses are current at time of publication but subject to change. This newsletter is FINRA-compliant; SmartsPro Marketing does not engage in the solicitation, sale or management of securities or investments, nor does it make any recommendations on securities or investments. This material may not be quoted or reproduced in any form without publisher's permission. All rights reserved. ©2012 SmartsPro Marketing. Tel. 877-762-7877. www.smartspromarketing.com