

Workers' Comp & Safety News

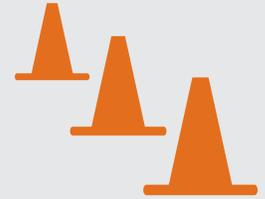


The Art
of Hospitality

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

October/November 2013

Volume 11 • Number 5

Have You Heard? October Is Protect Your Hearing Month

Occupational hearing loss is the most common work-related illness in the United States, costing U.S. employers an estimated \$242 million annually on workers' compensation disability costs alone.

Facts and Statistics

✦ Twenty-two million workers are exposed to potentially damaging noise each year.

- ✦ In 2007, approximately 23,000 cases were reported of occupational hearing loss that was great enough to cause hearing impairment.
- ✦ Hearing loss accounted for 14 percent of reported occupational illness in 2007.
- ✦ In 2007, approximately 82 percent of cases involving occupational hearing loss were reported among workers in the manufacturing sector.
Source: NIOSH

Most occupational hearing loss results from exposure to excessive noise. Noise-induced hearing loss occurs when structures or nerve fibers in the inner ear that respond to sound become damaged from exposure to excessively loud sounds. Neither

continued on next page

This Just In

In June, the American Medical Association (AMA) officially classified obesity as a disease. In its statement, the AMA said obesity is "a disease requiring a range of medical interventions to advance...treatment and prevention." The classification will also make it easier for physicians to obtain reimbursement from medical insurers for treating obesity and related conditions.

Proponents say "medicalizing" obesity will increase physician attention to the problem and remove its stigma. However, it could redirect resources currently devoted to wellness toward pharmaceuticals and surgery—both of which bring increased costs and complications.

continued on next page



surgery nor a hearing aid can help correct this type of hearing loss.

Short-term exposure to loud noise can also cause a temporary change in hearing (your ears may feel stuffed up) or a ringing in your ears (tinnitus). These short-term problems may go away within a few minutes or hours after leaving the noisy area. However, repeated exposures to loud noise can lead to permanent tinnitus and/or hearing loss.

Signs and Symptoms of Hearing Loss

Damage from noise exposure is usually gradual, so a person might not notice or might ignore signs of hearing loss until permanent hearing loss becomes evident. Signs of hearing loss can include the following:

- ✱ Muffled or distorted hearing
- ✱ Difficulty hearing sounds such as birds singing, crickets chirping, alarm clocks, watch alarms, telephones, or doorbells
- ✱ Difficulty understanding speech during telephone conversations or while participating in group conversations
- ✱ Tinnitus after exposure to excessively loud sounds.

Loud noise can also create physical and psychological stress, reduce productivity, interfere with communication and concentration, and contribute to workplace accidents and injuries by making it difficult to hear warning signals. Noise-induced hearing loss limits a person's ability to hear high frequency sounds, under-

stand speech, and seriously impairs the ability to communicate.

Workers' compensation pays the cost of evaluating and treating workers for occupational hearing loss. If the loss is permanent, your workers' compensation policy will also pay long-term disability costs.

Prevention

Noise-induced hearing loss can result from a one-time exposure to a very loud sound (at or above 120 decibels), blast, impulse or by listening to loud sounds (at or above 85 decibels) over an extended period. The louder the sound, the shorter the time period before hearing damage occurs.

OSHA legally limits the amount of noise a worker can be exposed to (the permissible exposure limit, or PEL) at 90 decibels (dBA) for an eight-hour day. These limits are based on a worker's time-weighted average over an 8-hour day. The OSHA standard uses a 5 dBA exchange rate. This means that when the noise level is increased by 5 dBA, the amount of time a person can be exposed to a certain noise level to receive the same dose is cut in half.

The National Institute for Occupational Safety and Health (NIOSH) has found that significant noise-induced hearing loss still occurs at the OSHA PEL, so it recommends a lower limit of 85 dBA for eight hours. It also recommends a 3 dBA exchange rate, so every increase by 3 dBA doubles the amount of the noise and halves the recommended amount of exposure time.

Research proves that obesity often leads to complications and longer healing in injury cases. But the workers' compensation system has usually regarded obesity as a co-morbid condition, or one that exists along with but independently of an occupational condition. The California Workers' Compensation Institute responded to the AMA's move by saying it could result in "an increasing number of claims that include obesity as a co-morbidity, as well as an increase in cases in which obesity is claimed as a compensable consequence of injury..."

Wellness programs can address obesity and its effects on both your medical and workers' compensation claims costs. Please call us for information.

Employers can use three types of controls to reduce employee exposure to potentially damaging noise levels: engineering controls, administrative controls and hearing protection devices.

Engineering controls involve modifying or replacing equipment, or making physical changes at the noise's source or transmission path to reduce noise levels at the worker's ear. Examples of inexpensive, effective engineering controls include:

- ✱ Choosing low-noise tools and machinery.
- ✱ Maintaining and lubricating machinery and equipment.

- ✦ Placing a sound barrier between the noise source and employees.
- ✦ Enclosing or isolating the noise source.

Administrative controls reduce or eliminate the worker's exposure to noise by modifying the workplace. Examples include:

- ✦ Operating noisy machines during shifts when fewer people are exposed.
- ✦ Limiting the amount of time a person spends at a noise source.
- ✦ Providing quiet areas where workers can gain relief from hazardous noise sources (e.g., construct a sound-proof room).
- ✦ Restricting worker presence to a suitable distance away from noisy equipment. In open space, every doubling of the distance between the source of noise and the worker decreases noise by 6 dBA.

Hearing protection devices (HPDs), such as earmuffs and plugs, offer a less satisfactory but sometimes necessary option. Industrial hygienists recommend their use temporarily, when implementing engineering or administrative controls, when such controls are not feasible, or when workers' hearing tests indicate significant hearing damage.

Taking measures to evaluate noise levels and prevent or limit worker exposure can save money and prevent much suffering. For more information, please contact us. ■

Preventing Workplace Violence

As this issue went to press, investigators still did not know what triggered Aaron Alexis to shoot and kill 12 people at the Washington Navy Yard, but he had a history of violence and erratic behavior. Ironically, his security clearance might have made it easier for him to slip through the cracks with untreated mental health issues.

Preventing Violence

An average of two Americans dies due to violence in their workplace every work day. Some jobs are more likely to expose a worker to stranger-on-stranger violence—such as convenience store clerks who might be injured in a robbery. But many Americans suffer violent attacks from a co-worker or former co-worker. In either instance, the employer could be liable for workers' compensation benefits to the victim (or his/her family).

OSHA recommends a “zero-tolerance policy towards workplace violence,” while the FBI says “employers should adopt clear no-threats and no-violence policies and prevention plans.” An employer 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 local businesses on employee safety
- ✱ Formulate action plans so managers and supervisors know what to do when violence occurs.

“There is not one absolute factor that predisposes an individual to workplace violence,” said Eugene A. Regale, 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.”

Managers and employers should also 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 a 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.”

Guns in the Workplace?

After nearly every mass shooting, a public figure suggests that fewer people would have been killed if someone else on site had been armed. Should employers allow or even encourage employees to carry arms as a way to deter violence?

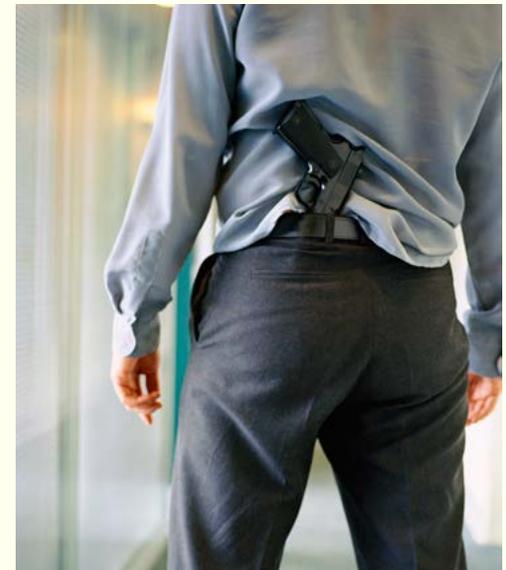
Researchers with the Injury Prevention Research Center at the University of North Carolina, Chapel Hill compared data from workplaces where employers allowed employees to carry firearms to those where employers forbade guns. The workplaces that permitted guns were five times as likely to experience a homicide as those that prohibited all weapons. The study also found an increased risk of homicide, albeit lower than where guns were permitted, in workplaces that allowed types of weapons besides guns. (Source: “Employer Policies Toward Guns and the Risk of Homicide in the Workplace,” Loomis, Marshall and Ta, *American Journal of Public Health*, May 2005)

Every situation differs, and in some instances an armed bystander might prevent a tragedy from escalating. But having procedures for reporting, referring and, where necessary, disciplining employees who exhibit violent behaviors could more effectively prevent employee-on-employee violence. Your procedures should also include steps for dealing with behaviors that are not violent, but that could indicate a deteriorating “fitness for duty.” These

include excessive absenteeism without approval or rationale, degenerating physical appearance or hygiene, poor work performance, evidence of alcohol/substance abuse, excessive complaining, insubordination, poor relationships with others in the workplace and expression of bizarre or inappropriate thoughts.

An employee assistance program (EAP) can help. With an EAP, supervisors who observe violent, threatening or suspicious behaviors in employees can refer them for confidential assessment and counseling. An EAP can also provide post-event counseling to help victims and bystanders cope with the emotional trauma caused by violent events.

For more information on preventing workplace violence, see OSHA’s Web site at www.osha.gov/SLTC/workplaceviolence/index.html or contact us for assistance. ■



Structured Settlements: Benefits for Employer and Employee

“Structured settlements have enjoyed widespread acceptance and have become an established part of our legal landscape over the past twenty-five years. More than \$6 billion is now paid each year to fund new structured settlements in the United States, and an estimated \$100 billion or more has been paid in the aggregate to fund structured settlements that are in force today.”*

Successful claimants in tort injury cases and workers' compensation injury claimants typically receive their settlements as a lump sum. In a structured settlement, the victim and defendant agree to a schedule of periodic payments. This arrangement has benefits to both employees and employers.

The National Structured Settlements Trade Association, whose members help arrange financing for structured settlements, says, “Independent surveys show that the more serious the injury, the greater the likelihood that a structured settlement will be used.”

Advantages for Employees

The Internal Revenue Code specifically excludes “damages received by an individual on account of personal injuries or sickness” from gross income.

Why would a claimant want periodic payments instead of a lump sum? Anyone receiving a sudden financial windfall can make unwise spending choices. A lottery winner might blow his winnings on cars and boats, but still return to work. In the case of a workers' compensation claimant, that lump sum could represent the cash she needs to live on the rest of her life. A structured settlement ensures that the victim of an occupational accident or illness will have income for life.

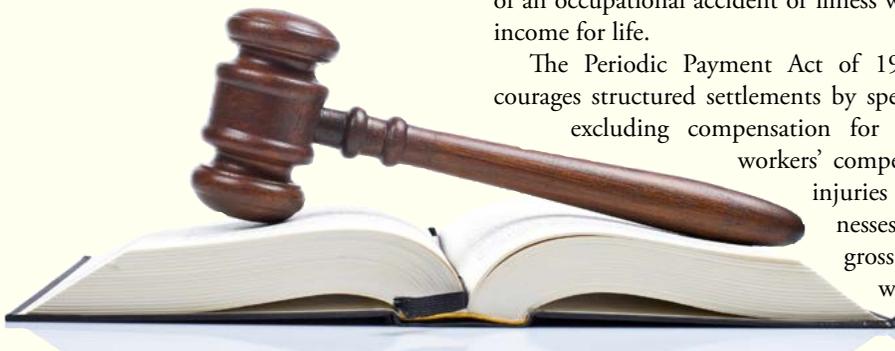
The Periodic Payment Act of 1982 encourages structured settlements by specifically excluding compensation for tort or workers' compensation injuries and illnesses from gross income whether

paid as lump sums or over time. It also generally excludes amounts an injury victim receives for agreeing to undertake an assignment when he/she uses that money to buy an annuity. This allows an accident victim to receive the earnings on his/her settlement tax-free, with a properly structured settlement.

Advantages for Employers

A structured settlement has benefits for employers and their insurers as well.

- ✦ Lower litigation costs. A structured settlement involves negotiations between the injured worker, the insurer and sometimes the employer. Bringing all parties to the table can reduce the possibility of litigation.
- ✦ Less animosity. Knowing he/she has income for life can reduce an injured worker's animosity toward the employer. And because negotiating a structured settlement involves experts, the process can enlighten a worker who might have unrealistic expectations of what he/she might expect to receive in a settlement.



- ✱ **Certainty.** A structured settlement typically closes a disability claim, although an injured worker may still be eligible for workers' compensation medical payments.
- ✱ **Savings.** Because a structured settlement uses the present value of money, it typically costs less to provide benefits over

time than in a lump sum.

- ✱ **Security.** Insurers or self-insured employers buy an annuity to fund the settlement, thus guaranteeing the funds will be available as scheduled.

Structured settlements are just one tool an insurer or claims administrator can use

to help employers manage the cost of claims. For more information on controlling workers' compensation costs in your organization, please contact us. ■

**Source: ABA Judges' Journal, Spring 2005, "Transfers of Structured Settlement Payment Rights..." by Daniel W. Hindert and Craig H. Ulman*

Are You Emergency-Ready?

Accidents happen. Someone chokes on an ice cube, gets stung by a bee or shows symptoms of a heart attack or stroke. Does your staff know how to respond?

Having someone on site who can perform CPR (cardiopulmonary resuscitation) could mean the difference between life and death in an emergency. Properly applied CPR can keep oxygen circulating through the bloodstream when a person's heart or breathing have stopped, keeping vital organs functioning until professional help arrives. Ideally, employers should have at least one employee at every shift who knows CPR.

Does anyone on your staff have first aid training? A simple injury might require only first aid treatment. But for more serious inju-

ries, a trained first aider can recognize when further treatment or emergency services are needed and help stabilize the victim until he or she gets professional help.

Employers should have first aid kits in visible locations to make them quickly and easily accessible when needed. A basic first aid kit includes the following supplies; employers might add additional supplies as their situation demands:

- 1 Gauze pads (at least 4 x 4 inches)
- 2 Two large gauze pads (at least 8 x 10 inches)
- 3 One box adhesive bandages
- 4 One package gauze roller bandage at least 2 inches wide
- 5 Two triangular bandages
- 6 Wound cleaning agent such as sealed

moistened towelettes

- 7 Scissors
- 8 At least one blanket
- 9 Tweezers
- 10 Adhesive tape
- 11 Latex gloves
- 12 Resuscitation equipment such as resuscitation bag, airway or pocket mask
- 13 Two elastic wraps
- 14 Splint
- 15 Directions for requesting emergency assistance.

The American Red Cross and other organizations provide training in CPR and first aid. To find your local chapter of the Red Cross, see www.redcross.org. ■

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. ©2013 SmartsPro Marketing. Tel. 877-762-7877. www.smartspromarketing.com