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## *This Just In...*

### **California docs defend drug "repackaging"; insurers and employers aren't buying it.**

Statistics from that state show repackaged drugs cost insurance carriers and employers \$300 million over the life of workers' comp claims. Physicians often dispense drugs out of their office to patients who need medications immediately. But in California, physicians have been able to exploit a legal loophole that allows them to charge, in some cases, more than 400 percent of the fee schedule for these repackaged drugs.

The costs have prompted employers and organized labor to band together to end the abuse. Earlier this year, a draft regulation was proposed that would cap fees on repackaged drugs dispensed out of doctors' offices at MediCal levels; legislation is also waiting consideration in the state Senate.

**Hawaii consistently outranks other states when it comes to the number of days an injured worker stays off the job,** reported *The Pacific Business News*. Democrat Rep. Kirk Caldwell, who chairs that state's House Commit-

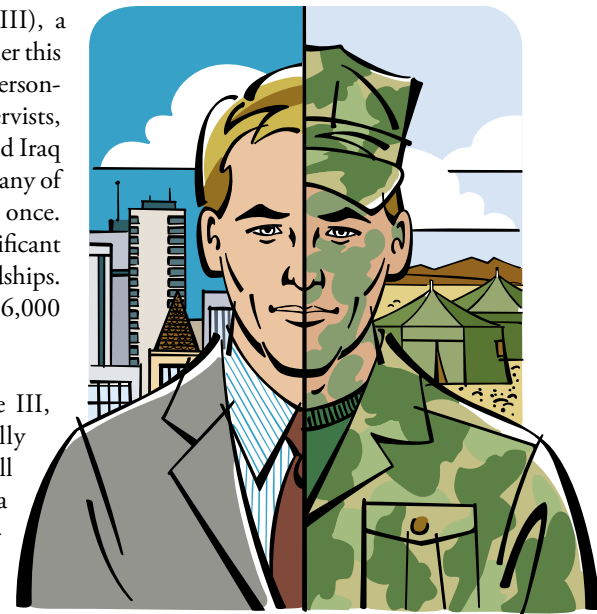
*This Just In – continued on Page 4*

## ADMINISTRATION

# Injured Veterans to Become a Comp Issue

The Insurance Information Institute (III), a nonprofit insurance association, noted earlier this year that more than two million military personnel, including National Guards and reservists, will have been deployed in Afghanistan and Iraq by the completion of major operations. Many of them will have been deployed more than once. The III added that most have endured significant physical, emotional and psychological hardships. More than 2,200 have died and well over 16,000 have been injured in Iraq alone.

Robert Hartwig, chief economist of the III, said that reintegration of the physically and psychologically impaired workers will likely present unexpected challenges to a generation of employers with no experience in dealing with such large numbers of returning veterans.



One of the issues employers will have to face is the aggravation of existing war injuries. Workers' compensation generally covers workplace injuries that primarily result from injuries originally sustained during military service, according to Hartwig. He also cautioned that employers will need to adhere to the Americans with Disabilities Act (ADA) when injured veterans return to their jobs from conflicts in Iraq and Afghanistan.

### **Second injury funds MIA**

Adding to the challenge, Hartwig said, is the decline in the number of state second injury funds, which pay additional benefits for the aggravation of an employee's prior injury. States reasoned that they no longer needed second injury funds with the enactment of the ADA in 1990. The ADA not only prohibits discrimination against disabled employees but also requires employers to make "reasonable accommodations" for them in the workplace.

For more information on workers' compensation benefits for returning military servicepeople, please contact us. □



# How Employers Can Reduce Traffic Accidents

*In 2004 (the last year for which complete statistics are available), work-related highway incidents accounted for about one-quarter of all workplace fatalities in the U.S.*

These 1,374 fatalities do not include nonhighway incidents, such as accidents on farms or industrial premises. During the same period, vehicular accidents accounted for nearly nine percent of nonfatal lost time work injuries. Employers pay for about 19 percent of injuries from motor vehicle accidents through their workers' compensation. Motor vehicle injury claims cost employers an average of \$74,000, which can jump to \$500,000 when a fatality is involved.

But the work-related injury and death statistics only tell part of the story. Nonwork-related motor vehicle accidents also cost employers. Each year, employers pay \$60 billion each year in medical care, legal expenses, property damage and lost productivity due to motor vehicle crashes.

A motor vehicle death occurs once every 11 minutes, and an injury once every 13 seconds, making it likely that one of your employees will be injured in a motor vehicle accident. Employers can take steps to reduce this likelihood by creating and enforcing a driver safety program. An effective program would include:

- 1 Management support. Make sure upper management understands the economic and human costs of traffic accidents and supports any driver safety program.
- 2 Written safety policies and procedures. Your policies should:
  - ☀ Prohibit alcohol and drug use while driving for company business. Note: Many legally prescribed drugs can cause drowsiness or delayed reaction time; include a cautionary statement to drivers to check their prescription labels for such warnings and to refrain from driving while using these drugs. You might have to assign an employee who regularly drives to alternative duty while he/she is taking such drugs.
  - ☀ Require employees to wear seat belts at all times while operating a company-owned vehicle or while driving any vehicle on company business. All passengers in company-owned vehicles or employee-operated vehicles should wear seat belts as well.
  - ☀ Require employees to obey all traffic and speed laws.
  - ☀ Limit the number of miles/hours an employee can drive during

#### Federal regulation determines hours of service for commercial truck drivers.

Under rules set in 2003, they can drive 11 hours after 10 consecutive hours off-duty. They may not drive beyond the 14<sup>th</sup> hour after coming on-duty, following 10 hours off-duty. They may not drive after being on-duty for 60 hours in a seven-consecutive-day period or 70 hours in an eight-consecutive-day period. For details, check the U.S. Department of Transportation at [www.dot.gov](http://www.dot.gov).

a 24-hour period or during the work week. More than 100,000 traffic accidents each year result from drowsy driving. Specific federal laws apply to commercial truck drivers; however, no such rules apply to salespeople and others who drive for work. If you don't want to set specific limits,

at a minimum your policy should require drivers to take a break and get out of the car to stretch every two hours when driving long distances. Encourage employees to pull off the road in a safe location and nap when they become drowsy, rather than relying on caffeine to stay awake.

- ☀ Set safety rules for cell phone use. Some companies require employees to pull over while using cell phones in the car. Others allow the use of hands-free models, although studies have shown that the actual conversation, not dialing or holding a phone, creates driver distraction. Determine a rule that will be realistic and enforceable for your workers.
- 3 A procedure to check applicants' MVRs (motor vehicle records) before making a final job offer. Set criteria for making a job offer—studies show that drivers with citations for moving violations are more likely to become involved in traffic accidents. What kinds/numbers of violations will disqualify a candidate?
  - 4 Applicants' written consent to check their MVRs before hire and at regular intervals while employed — at least once per year. Obtaining consent upfront will save you the hassle of obtaining written consent during each annual record check.
  - 5 Applicants' consent to submit to drug and alcohol tests periodically and after accidents and near-misses. Even if you don't actively test for drug and alcohol use, requiring applicants to agree to testing can weed out some potentially problematic candidates.
  - 6 Accident reporting procedures. Require employees to report all



**Reminder:** Federal child labor law prohibits 16-year-olds from driving as part of their job and allows 17-year-olds to drive only under limited circumstances. Some states have more restrictive laws. For information on child labor laws, see [www.youthrules.dol.gov](http://www.youthrules.dol.gov).

# To Cut Comp Costs, Communicate!

*When employers want to cut their workers' compensation costs, they work on improving safety programs or training. But have you thought about improving your employee communications?*

## Communications before the injury

Communicating with employees before a claim occurs may cut workers' compensation costs. Intracorp, a managed care company, conducted a survey of injured workers' attitudes on the workers' compensation process. Nearly half the injured workers surveyed said their employer had never provided information on what to do if they became ill or injured on the job. More than a quarter said they didn't know how to go about getting treatment for a work-related ailment. With so many workers uninformed about their workers' compensation benefits, it's no wonder that so many turn to attorneys for guidance!

## Communications after the injury

Most injured workers surveyed by Intracorp also said ongoing personal contact from the employer affected their attitude, recovery and decision to return to work. Yet only half the survey respondents reported that their employers had kept in contact with them while they were off the job. Gary Gyscek, manager of claims for the Tarrytown, N.Y. office of American International Group, agreed that communications are important. "When a real injury occurs and the employer doesn't take an active role to keep the employee in the loop, the employee's attitude is 'they don't care about me.' It almost alienates their employee from the [work] environment, and that promotes malingering," said Gyscek in an interview with *Business Insurance* magazine.

Intracorp's findings point out the importance of frequent contact with injured workers. But the type of contact is also important. While positive contacts encourage an injured employee to return to work, negative communications can do more damage than no communications at all. By implying that a worker is malingering or faking, you may discourage him or her from ever returning to the job.

## Tips for communicating with injured workers

The following tips can help you start a program for communicating with injured workers.

- 1 Have a supervisor or manager, preferably the immediate supervisor, stay in contact. Supervisors should call on a regular (weekly or every-other-week) basis.
- 2 Express the company's concern. Remember, you're dealing with people who are sick or injured — a little sympathy can make them feel better.
- 3 Ask about their progress and when they expect to return to work.
- 4 Keep them informed about important events at the office. This includes "people news" as well as updates on current projects. This will help them feel less cut off while they're out of the office.
- 5 Encourage co-workers to stay in touch with injured workers.
- 6 Stay in touch with your workers' compensation claims manager. He or she should provide you with regular updates on existing claims.

By communicating with injured workers, you demonstrate the company's concern for its employees. This can improve the morale of injured workers — and their co-workers as well. For more information on workers' compensation communications, please call our office. ☐



## ACCIDENTS – continued from Page 2

accidents, whether they result in injury or not, within 24 hours. Develop an appropriate incident reporting form, which includes spaces to record information on time, location, people involved and circumstances leading to the accident. These forms can provide valuable information that could help you prevent future accidents. Assign someone the responsibility of reviewing accident reports and notifying insurers of claims and potential claims when appropriate.

- 7 Goals, such as reducing employee traffic citations, accidents or near-misses. When setting goals, consider how they fit in with other fleet objectives, such as on-time deliveries and customer service, and how safety ranks among your other goals.

- 8 Maintenance and inspection schedules for company-owned vehicles and procedures for follow-through.
- 9 Maintenance/licensing agreements for employee-owned vehicles. Require employees who drive their own vehicles for work to agree, in writing, to keep their vehicles licensed and in good working order.
- 10 Disciplinary procedures for employees who fail to adhere to the safety policy. Disciplinary actions can include suspension of driving privileges, removal of company car and dismissal for serious violations.

For more information on protecting your employees from motor vehicle accidents, please call us. ☐

# Ergonomics: Safety by Numbers

*Employers who think that ergonomic problems don't apply to their workplace might want to consider the following statistics:*

- ✱ In 2004, MSDs accounted for 402,700, or 32 percent, of the injuries and illnesses with days away from work.
- ✱ Service industries accounted for 69 percent of all MSD cases in 2004. The trade, transportation and utilities industry sectors reported for the most musculoskeletal disorders, with 131,980 or 32.8 percent of all MSD cases. MSDs are the most common work-related affliction among office workers.
- ✱ The National Institute of Occupational Safety and Health (NIOSH) says MSDs cost U.S. employers \$2.1 billion in workers' compensation costs and \$90 million in indirect costs (hiring, training, overtime, and administrative costs) each year. However, NIOSH says that workers' compensation costs "undoubtedly underestimate the actual magnitude of these disorders."
- ✱ Employees with MSDs experienced a median of 10 days away from work due to their condition.
- ✱ MSDs are chronic, painful and affect workers' quality of life.

A well-designed ergonomic program can reduce MSDs—and your workers' compensation costs—at little cost. Despite this, fewer than one-third of U.S. employers currently have an ergonomics program. Need more evidence? The following statistics might convince you that reducing MSDs makes sound financial sense:

- ✱ It costs an average of \$150 annually to modify a job so it will not cause a MSD.
- ✱ Each MSD prevented saves an average of \$22,500 in direct costs alone.
- ✱ An OSHA booklet lists 30 real solutions to ergonomic problems that can be implemented for less than \$100.
- ✱ A survey by the consulting firm Intracorp found, "Those businesses investing in [disability] prevention services are less likely to have high rates of repetitive motion/cumulative trauma (RM/CT) injuries, while those without a specific lost-time prevention budget are more likely

- to have high rates of RM/CT injuries."
- ✱ The General Accounting Office's review of more than 90 case studies indicates that successful ergonomics programs reduce injury rates an average of 80 percent.
- ✱ Numerous companies that have implemented ergonomic programs have experienced real drops in their injury rates and claim costs.



## Defining MSDs

The U.S. Department of Labor defines a musculoskeletal disorder (MSD) as an injury or disorder of the muscles, nerves, tendons, joints, cartilage or spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents or similar accidents. MSDs are often called repetitive motion injuries, or RMIs. Repetitive motions and excessive vibrations can cause these painful and debilitating conditions, such as carpal tunnel syndrome.

How can my company reduce the incidence and cost of MSDs?

If your company has never experienced an MSD, you may need only a basic ergonomics program. Assign someone to be responsible for ergonomics, who will provide information to employees on the risk of injuries, signs and symptoms to watch for and the importance of reporting problems early; and set up a system for employees to report signs and symptoms.

If your company has experienced an MSD claim, your state department of occupational safety and health might require a more formal prevention program. Contact your local OSHA office or our office for more information.

The National Institute of Occupational Safety and Health (NIOSH) offers a free publication called "Elements of Ergonomic Programs-A Primer Based on Workplace Evaluations of Musculoskeletal Disorders," Publication No. 97-117. It provides basic information to help employers and workers design effective programs to prevent and evaluate work-related musculoskeletal disorders in the workplace. To order, call NIOSH at 800-35-NIOSH or download it at [www.cdc.gov/niosh/97-117pd.html](http://www.cdc.gov/niosh/97-117pd.html)

We can help you minimize your workers' compensation exposures—for more information, please call us. ☐

## THIS JUST IN – continued from Page 1

tee on Labor and Public Employment, attributed the reason to simple economics. "Employers say they don't want to take back employees and pay them 100 percent when these workers can do only light-duty work," Caldwell told the newspaper. "As long as the worker stays out of work, the insurance company will pick up the tab." To discourage this, Caldwell wants companies to start return-to-work programs and wants insurers to give them reduced premium rates for putting these programs in place.



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