

Be Prepared For Increased Scrutiny of Long Term Care Facilities from Cal/OSHA

By Michael Boldt, NHA, ARM

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Could having an effective “injury and illness prevention program” subject a long term care facility to an increased chance of OSHA scrutiny and fines?!!! The answer to that question is surprisingly “Yes”.

On September 30, 2008 the Occupational Safety and Health Administration (OSHA) issued a directive establishing procedures for increased inspections of employers in high injury businesses (e.g. nursing homes and other long term care facilities), who report low rates of injury. (www.osha.gov/OshDoc/Directive_pdf/CPL_02_09-08.pdf). Long term care providers have had little interaction with Cal/OSHA in recent history. In fact, the department of labor and statistics reports less than 15 Cal/OSHA inspections of nursing homes in each of the last few years; there are close to 2,000 facilities in the state. The overwhelming majority of these inspections were the result of a serious injury at the facility or a complaint filed by an employee or other party. The historically low level of interaction between Cal/OSHA and long term care facilities is likely to change as a result of the new directive cited above. In addition to the increased interaction, there have been many recent articles regarding the more hostile nature of routine inspections. Two years ago, a routine inspection would likely lead to a partnership with OSHA to mitigate any minor problems found by the inspector. Now the emphasis is on levying large fines as a deterrent to non-compliance. In light of these new developments, it is important for providers to prepare for increased scrutiny from Cal/OSHA inspectors.

Most facilities expend a great deal of energy preparing for surveys from the Department of Public Health or the Department of Social Services. Those two agencies are tasked with protecting the health of those who receive care. Cal/OSHA, on the other hand, focuses its efforts on worker safety. While there is a great deal of overlap in the subject of safety as it pertains to the caregiver and care receiver, the terminology and

approach to achieving safety are sometimes quite different. Besides asking to see your Cal/OSHA poster, the inspector will focus on three main areas: **Record Keeping**, **Injury and Illness Prevention Program**, and the **General Safety Environment** of the facility.

From the standpoint of a Cal/OSHA inspector, “**Record Keeping**” means: Training Records and the OSHA injury log. Since the new directive by congress, mentioned above, is directly related to record keeping, a facility should expect an emphasis on this area, during a routine Cal/OSHA inspection. The impetus for the new directive is the suspicion, among industrial hygienists, that many workplace injuries go unreported as a direct result of employer efforts to suppress such reporting. Practices that will be under particular scrutiny are safety incentive programs which reward workers for a lack of reported injuries. Inspectors will interview employees and the doctor(s) chosen by the facility to treat industrial injuries. The inspector will also inspect employee medical records. It is important for every employer to communicate to employees that all workplace injuries should be reported. Safety incentive programs are designed to encourage safety not to discourage the reporting of legitimate injuries.

Safety incentive programs are just one area typically covered by an **Injury and Illness Prevention Plan (IIPP)**. The state of California requires all employers, with over 10 employees, to have a written IIPP. To pass legal muster, your IIPP must:



1. Identify a person responsible for the management of the plan
2. Include provisions for enforcing the requirement of maintaining a safe workplace
3. Spell out how your facility's management team will communicate with their employees about safety
4. Contain procedures for identifying hazards that are specific to the facility
5. Specify how a facility will investigate occupational injuries or illnesses
6. Explain how the healthcare provider will correct hazards that come to its attention
7. Include specific procedures for providing safety training to employees

These seven basic requirements necessitate a continuously changing program that specifically addresses the occupational exposures of a particular facility and must include input from your staff. It is recommended that a well documented process of hazard identification and individual safety program review be done by a safety committee, which should include members from all the departments in the facility. Indeed, periodic safety meetings are required by regulation. Occupational hazards can be identified by reviewing several years' worth of workplace injuries at a facility; the source of any injury should be addressed in the facility's IIPP. There are also several sources of statistical data regarding injuries common to healthcare workers (e.g. The US Department of Labor and Statistics www.bls.gov/iif). Some safety programs that are specifically required of all long term care facilities are:

1. Emergency Action/Fire Prevention Plan
2. Blood borne Pathogens Exposure Plan (must include needle stick prevention measures)
3. Muscular Skeletal Disorder Prevention Program (Back Injuries)
4. Aerosol Transmissible Disease Exposure Control Program (New as of August 5, 2009)



Finally, a Cal/OSHA evaluator will observe and document the **general safety environment** at the facility. Is there a general sense of safety awareness and responsibility? Do employees participate in creating a safe workplace? How effective is the training? Is the facility tidy and free from obvious hazards? Is personal protective equipment and first aid available as needed to address any occupational exposure?

On April 19, 2010 a hospital in Oakland was fined over \$100,000 after an incident in which several healthcare workers contracted meningitis while treating a patient. The majority of the fine stemmed from a lack of an acceptable Injury and Illness Prevention Program rather than any one action by the facility. The hospital did not have a written Aerosol Transmissible Disease Prevention Program in place as required by regulations that went into effect in August of 2009. There was a lack of effective ongoing hazard identification on the part of the safety committee.

Facilities that implement and maintain an effective IIPP will not only avoid large fines from Cal/OSHA, but will also see a reduction in exposure to workplace injuries as a whole. Creating a safer workplace with the help of employees has a positive impact on workers compensation premiums and increases morale. Increased morale helps the retention rate for your best employees and makes the facility more attractive for prospective residents.

In short, your efforts to prepare for increased scrutiny from OSHA should have a positive impact on your facility, whether an inspector walks through the door or not.

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BRMS Insurance Services

7713 Beverly Blvd Ste 100
Los Angeles, CA 90036
(323)571-0127, BRMSinc.com