

Workplace First Aid – Responsibility or Liability?

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The OSHA general industry first aid standard can generate a great deal of confusion and controversy. Does every company fall under the standard? How many people must be trained in first aid? Does creating a first aid team increase or decrease a company's liability? This article will briefly address these issues.

STANDARDS

29 CFR 1910.151 (the general industry first aid standard) is a performance standard, not a specification standard. That is, it sets out goals but does not make clear how to reach them. Site-specific circumstances must be considered as the employer works toward compliance. The very short standard reads:

1910.151(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of plant health.

1910.151(b) In the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. Adequate first aid supplies shall be readily available.

1910.151(c) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

First aid requirements are also found in the permit-required confined space standard [1910.146(k)], the electrical power generation and transmission standard [1910.269(b)] and other OSHA standards. First aid providers can be exposed to human blood and body fluids, so every company which allows first aid to be provided must also follow the bloodborne pathogens standard [1910.1030].

In the construction industry, OSHA first aid requirements are in 29 CFR 1926.23 and 1926.50. Additional responsibilities are defined, such as checking each first aid kit weekly and providing weather-proof containers for first aid supplies.

Controversy stems from words such as "ready availability," "adequately," and "suitable." It is the employer's responsibility to assess the workplace and working conditions, determine the reasonable likelihood of injuries and incidents, and ensure that caregivers are properly trained and equipped to provide service when needed.

DESIGNATED OR *DE FACTO*?

Most employers respond to 1910.151 by publishing a list of designated first aiders and posting emergency telephone numbers at every phone. There should be one or more

trained first aiders available at all times. Some employers mistakenly believe they can avoid responsibility or liability by not formally designating specific employees as first aid providers. However, if the OSHA compliance officer can show that certain employees were providing first aid in the workplace over time, and management was aware of it (knew or should have known), and management did not act to stop it, then there is a *de facto* company approval for employees providing first aid.

IT'S ABOUT TIME

If life-threatening injuries can be reasonably expected in the workplace, OSHA expects employers to have trained responders to the patient within three to four (3-4) minutes. For example, if an employee is electrocuted and is not breathing, serious brain damage begins within 4-6 minutes. On-site first responders or first aid providers can make a critical difference in these first few minutes. This time period is so short that the employer cannot reasonably rely on 9-1-1 or community emergency services as the first aid providers, and must train its own first aiders.

If minor or serious but non-life-threatening injuries can reasonably be expected, trained responders must reach the patient with fifteen (15) minutes. For example, in an office setting an employee drops a coffee pot and is bleeding from a cut by broken glass. The employer will benefit from having its own first aiders, but given the environment it is not mandatory and the employer may rely on 9-1-1 services to render care.

Field settings require more thought. If an employer sends out a work crew to a remote location, or the crew provides mobile services, at least one member of the work crew must be trained and equipped to provide first aid based on risks anticipated. The crew must have the ability to summon emergency responders if needed, such as by a radio or cell phone.

SUPPLIES

General first aid kits can be purchased to serve populations of various sizes (25, 50, 75, or 100 people). These kits contain a variety of supplies for minor injuries, and are typically designed for "self-care." In a self-care scenario, the injured person cares for his/her own injury. If a workplace has the potential for major injuries (such as amputations, burns, or crushing), be sure additional supplies are provided to deal with these situations adequately. To make first aid supplies "readily available" many companies issue trauma kits to first aiders and also have items strategically located throughout the facility.

In first aid kits, avoid "shared use" items such as metal tweezers, unless there is a reliable system for cleaning and sanitizing between uses. These can become contaminated by one person and cause infection for the next patient. Use disposable items where possible. Also avoid providing items like "butterfly" wound closures, since a wound that needs a butterfly should be evaluated by a medical professional.

TRAINING

Quality first aid training courses are available from the National Safety Council, the American Red Cross, and other prominent organizations. Initial training should be followed by realistic periodic practice in the workplace to prepare for likely situations – chemical splashes, falls, electrical injuries, or other reasonably predictable incidents. Maintain qualifications as required by the training provider. Note that in most states, an EMT or Paramedic cannot perform EMT or Paramedic skills unless they are acting officially as part of a responding EMS system. In other words, no freelancing. They can provide basic first aid, with the benefit of their advanced knowledge. Check local regulations before simply relying on an employee with EMS training.

LIABILITY

A patient might allege a variety of things following an incident. The patient could allege he/she was treated incorrectly (wrong), or inadequately (not enough), or that treatment was denied to them (discrimination), or that treatment began but the caregiver left before treatment was completed (abandonment). It is important to have clear company policies which require every injury to be reported, every reported injury to be examined by a trained first aider, and every examined injury to be documented in a first aid report. These reports can be tracked to determine trends, and provide valuable data to prevent similar injuries. Many companies analyze first aid reports as “near-hit” incidents in order to improve safety.

For serious situations, always call for an ambulance. For example, if an employee passes out but regains consciousness fairly quickly, or has an episode of chest pain that subsides, call 9-1-1 anyway. If the EMS assessment finds that patient doesn’t need a doctor’s care, the patient can simply decide not to go. Usually in this case the patient will be asked to sign a “refusal of treatment and/or transportation” form. The person who calls 9-1-1 is not responsible for any related bill or fee, and in a refusal situation there is normally no fee anyway.

If an employee who is mildly ill or injured needs medical attention, provide a company vehicle for transportation, or call an ambulance or taxi. Don’t let patients drive themselves. Avoid using personal vehicles, as there could be issues with contamination from blood or body fluids, as well as potential liability in event of a motor vehicle accident. Some occupational health services will send a vehicle to pick up the patient at the workplace, and return them after treatment.

SUMMARY

Consult your company attorney for specific situations, but these general guidelines should allay most fears about first aid. In general, a company is better off to be proactive and have some employees trained to provide basic first aid. As long as a first aider is properly trained, holds a current training card from a reputable source, and acts within the scope of his/her training with good faith and best efforts, liability exposure is minimized.

If in any doubt about the proper treatment, or the need for further evaluation, err on the side of caution and send the patient to a nurse, clinic or hospital emergency department. For unusual situations, such as a patient telling co-workers not to call an ambulance when he/she clearly needs help, call 9-1-1 anyway to let the professionals assess the patient and document the circumstances.

First aid reduces suffering, saves lives, speeds return to work, satisfies the employer's responsibility to care for employees, saves money and improves morale and productivity. Be sure your company's first aid programs are up to speed today.

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