

# OSHA Recordkeeping Made Easy

One fundamental obligation of nursing home, assisted living, and other long term care employers is to ensure that all work-related injuries and illnesses are properly recorded per OSHA's recordkeeping rule, found at 29 CFR Part 1904. OSHA has imposed this obligation for three primary reasons: (1) to assist in the collection of national statistics related to workplace injuries and illnesses; (2) to help OSHA target its enforcement resources in a cost-effective manner; and (3) to help *employers* understand the types of injuries and illnesses occurring at their facilities so that they can take steps to prevent them from occurring in the future.

OSHA recordkeeping can be difficult, but for employers who take the following 3-step approach to it, recordkeeping can be made easy!

## **STEP 1 Determine if an injury or illness is work-related and recordable**

Step 1 in tackling OSHA recordkeeping is to determine whether an injury or illness reported by an employee is work-related and otherwise recordable. This determination is probably the most critical in the recordkeeping process and one where employers often make basic mistakes. To make this determination correctly, employers should adhere to the following basic decision logic. If an employer answers all of the following questions with a "yes," the injury or illness should be recorded on the OSHA 300 Log:

### **QUESTION #1 – Did an injury or illness occur in the first instance?**

The first question that must be asked is whether an injury or illness actually occurred in the first instance. OSHA's recordkeeping rule defines injury or illness as: "an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning." This is a very broad definition, encompassing a number of different conditions typically considered injuries or illnesses. Two important exceptions to the definition of injury or illness, however, are the common cold and flu, which are not required to be recorded on the OSHA 300 Log.

If an employee reports an injury or illness and the employer answers "yes" to the first question, it is on to Question Two.

## QUESTION #2 – Is the injury or illness work-related?

The second question that must be asked is whether the injury or illness is “work-related” under the rule. An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness.

What is an event or exposure in the work environment? According to OSHA, it can literally include almost anything that happens in the workplace, including walking, tripping, climbing a staircase, sneezing, or bending down. Put simply, work-relatedness is presumed for injuries and illnesses occurring in the work environment, unless they meet specific enumerated exceptions, which are as follows:

- (1) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
- (2) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
- (3) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
- (4) The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee’s assigned working hours.
- (5) The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted.
- (6) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- (7) The injury or illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).
- (8) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

If the injury or illness is work-related, the employer should proceed to Question Three.

### QUESTION #3 – Is the injury or illness a new case?

If the employer answers “yes” to the first two questions, the next step is to determine if the injury or illness constitutes a “new case.” An injury or illness constitutes a new case if:

- The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body; or
- The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs or symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

If the determination is made that the work-related injury or illness is a new case, then an employer goes to the fourth question below. If the case is not new, but is a re-occurrence or re-aggravation of a previous injury, the employer must go back to the Log and update the previous injury or illness. In order to make this determination, an employer may – but does not have to – seek the advice of a Health Care Professional to determine whether a case is a new case. If the employer does seek the advice of a Health Care Professional, however, the employer must follow his or her advice.

### QUESTION #4 – Does the injury or illness meet the general recording criteria?

Fourth and finally, if an employer gets this far, the employer must determine if the injury or illness meets the “general recording criteria” of the rule. An employer must consider an injury or illness to meet the general recording criteria and be recordable, if it results in any of the following: (1) Death; (2) Days away from work; (3) Restricted work or transfer to another job; (4) Medical treatment beyond first aid; (5) Loss of consciousness; and (6) Significant injury or illness diagnosed by a physician.

First aid includes – but only includes – the following remedies:

- using a non-prescription medication at non-prescription strength (prescription medication given as a precautionary measure is still medical treatment);
- administering tetanus immunizations;
- cleaning, flushing or soaking wounds;
- using wound coverings such as bandages, Band-Aids, Gauze pads, etc.;
- using hot or cold therapy;
- using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;
- drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
- using eye patches;
- removing foreign bodies from the eye using only irrigation or a cotton swab;
- removing splinters or foreign material from areas other than the eye by simple means;
- using finger guards;
- using massages; and
- drinking fluids for relief of heat stress.

## **STEP 2 If work-related and recordable, record on the OSHA 300 log**

Once the employer makes the determination that an injury is work-related and recordable, of course the employer must actually record the case on the OSHA 300 Log. Specifically, the employer must:

- (1) add the employee's name to the log (unless classified as a privacy case);
- (2) list the job title, date of injury, and where the injury occurred;
- (3) provide a detailed description of the injury or illness;
- (4) classify the most serious outcome of the injury or illness (i.e., death, days away from work, job transfer or restriction, or other recordable cases);
- (5) give the number of days away from work or restricted work; and
- (6) check the box of the type of injury or illness (i.e., injury, skin disorder, respiratory condition, poisoning, hearing loss, or all other illnesses).

Common mistakes made in completing the form are:

- *Not providing a detailed description of the injury or illness.* OSHA requires employers to describe the injury or illness, the body parts affected, and the objects or substance that directly made the employee injured or ill. OSHA expects employers to include enough information so that they can draw conclusions from the data and prevent the injuries or illnesses from re-occurring. Vague and general descriptions will not satisfy OSHA.
- *Not recording the most severe outcome.* OSHA requires employers to record the most severe outcome from an injury or illness. Thus, for example, if an employee is injured and misses days away from work *and* is also put on restricted duty, the employer must record the case as a days away from work case. A common mistake is for employers to record the case on the log, but not record the most severe outcome, potentially leading to citations if OSHA investigates further.
- *Not updating the log.* Finally, OSHA expects employers to treat the log as a "living document," updating it to reflect additional information gathered after the injury or illness is first recorded. The rule requires employers to record an injury or illness within seven days of the injury being discovered or reported. However, employers have an obligation to update entries throughout the rule's five year retention period.



### **STEP 3      Review the logs and address any hazards reflected in the entries**

In many ways the most important part of recordkeeping, is the part that is most frequently forgotten – to review the Log to identify where hazards exist and take action to address the hazards. Simply recording an injury or illness and placing the Log in a locked filing cabinet will do little to improve safety and health, or put the facility in a strong compliance position. Remember: OSHA compliance officers will always review an employer’s OSHA 300 Log at the start of an inspection and it is critical that hazards identified in the Log are addressed by real action by the employer.

\* \* \* \* \*



***OSHA recordkeeping can be made easy!** But it takes sustained effort and a desire to be accurate and follow through on safety and health measures. Integrating these few steps in your recordkeeping process and safety and health management system can lead to positive results in terms of injury and illness prevention and OSHA compliance.*



**All we do is**  
**work**®

*Workplace Law. In four time zones and forty-nine locations from coast to coast. With 700+ attorneys, Jackson Lewis LLP sets the national standard, counseling employers in every aspect of employment, labor, benefits and immigration law and related litigation.*

**jackson|lewis**

*Preventive Strategies and  
Positive Solutions for the Workplace®*