

CHAPTER 11

OCCUPATIONAL SAFETY AND HEALTH

BOARD OF HEALTH ROLE AT A GLANCE

- Refer complaints of hazards arising from workplaces and requests for assistance to the appropriate agencies.
- Investigate reports of workplace nuisances, and when confirmed, intervene to order operations to cease and the nuisance to be abated.
- Regulate trade or employment which may result in a nuisance or be harmful to public health.

OVERVIEW

Current estimates are that three million workers in the United States suffer occupational injuries each year that are serious enough to lose time at work. Seven thousand people die each year from job-related injuries and an additional 70,000 to 100,000 American workers die annually of work-related illness. This represents a loss of about 250 million person-days of work, resulting in more than \$1.5 billion in wages lost annually and \$8 billion in lost productivity.

Chemicals are used in almost every type of workplace in the country today. Each year in the United States, we produce more than 100 million tons of about 80,000 different chemicals that help generate valuable manufactured goods, pharmaceuticals, plastics, paints, and many other useful items. Through the use and disposal of toxic materials, workers and community residents may encounter health problems as a result of exposure to chemicals.

In addition to chemical hazards, workers in many different kinds of work places may be exposed to biological hazards, such as infectious agents; various physical hazards, such as overexposure to heat, cold, or radiation; ergonomic hazards such as lifting and repetitive movements, and occupationally-related stress. Workers may be exposed to safety hazards such as fire, explosives, electrical hazards, and dangerous machinery.

BOARD OF HEALTH RESPONSIBILITIES

The board of health should be aware of problems that may arise in the various industries located in and around its jurisdiction, and be prepared to refer complaints or requests for assistance to the appropriate agencies. The following scenarios represent a range of typical situations in which town officials, employees, employers, residents or health care providers might contact the local board of health for assistance on occupational health issues.

- A worker contacts the board of health regarding indoor air quality in his/her workplace.
- A resident wonders where to obtain information about the health effects of living near an auto-body repair shop.

- A physician in the community calls the board of health to report a case of occupational asthma.
- A police officer, called to the scene of a construction site where a worker has fallen to his death, wonders whether the case should be reported to someone in an official capacity.

Although referrals to appropriate agencies represent the typical role boards of health play in the realm of occupational safety and health, where an occupational hazard also represents a “nuisance,” the board of health may act under its authority to “examine into all nuisances, sources of filth and causes of sickness, within its town...which may, in its opinion, be injurious to public health...[and] destroy, remove or prevent the same...” (M.G.L. c. 111 §122). In addition, where an occupational hazard may become a “nuisance” the board may act under its authority to regulate “trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to public health, or may be attended by noisome and injurious odors” (M.G.L. c. 111 §143). In other cases, provisions of the Sanitary Code or the Environmental Code may apply. There may be applicable local ordinances which gives the BOH authority to take direct action regarding certain occupational health and safety issues as well. For example, many cities and towns have ordinances restricting or banning abrasive blasting. The following is an example of where the board should intervene directly because of immediate danger to occupational and public health and the environment:

A company is sandblasting leaded paint or asbestos-containing materials without proper shrouding, vacuum or other equipment, potentially causing a serious threat to the health of the worker, to the health of inhabitants of the building or passers-by. The board of health, acting pursuant to its authority to prevent nuisances, and, where applicable, its authority to order correction of violations of the state environmental code and/or to enforce any local ordinances which may restrict or ban abrasive blasting, should serve a written order on the person responsible, ordering the person to cease and desist operations and to abate the nuisance immediately or within a specified period, with whatever conditions the board deem necessary. In addition, the board should refer the matter to the Department of Labor and Workforce Development which has authority, under statutes and regulations regarding deleading, to protect the health and safety of the general public and to address safety procedures for renovations including but not limited to painting and remodeling (see M.G.L. c. 111 §§189A-199B and M.G.L. c. 149 §6 and 454 CMR 22.11).

STATE RESPONSIBILITIES

In Massachusetts, the three state governmental bodies most concerned with occupational safety and health are the Department of Labor and Workforce Development (DLWD), the Office of the Attorney General, and the Department of Public Health (DPH).

Responsibilities of the Department of Labor and Workforce Development (DLWD): Within DLWD, the Division of Occupational Hygiene, the Division of Workplace Safety and the Division of Asbestos and Lead Licensing and Enforcement have occupational safety and health responsibilities.

The Division of Occupational Hygiene (DOH) responds to requests for assistance and complaints concerning work place hazards from workers, employers, physicians, and/or agencies. DOH industrial hygienists conduct onsite assessments and issue orders and recommendations to employers for the correction of hazardous exposures. A fully-accredited environmental laboratory at DOH analyzes a broad range of work place contaminants and pollutants. DOH also houses the Occupational Lead Registry, which identifies lead-poisoned workers and conducts worksite interventions. The federal Occupational Safety and Health Administration (OSHA) Consultation Program, which is also administered by DOH, provides free-of-charge consultative inspections and OSHA compliance assistance to employers for both occupational health and occupational safety hazards.

The Division of Workplace Safety responds to requests for assistance and complaints concerning workplace safety hazards received from employers, employees and various governmental agencies.

The Division of Asbestos and Lead Licensing and Enforcement licenses asbestos and lead contractors and related disciplines and conducts compliance inspections at asbestos and lead worksites. Under a cooperative agreement with OSHA and MassHighway Department, division inspectors and engineers conduct consultative and compliance inspections at highway bridge deleading worksites. The Division also oversees and sets standards for renovations in residences which result in the disturbance of lead paint. The addresses and telephone numbers for these three Divisions are:

Division of Occupational Hygiene (DOH)
1001 Watertown Street, 2nd floor
West Newton, MA 02165
(617) 969-7177

Division of Workplace Safety
100 Cambridge Street, Rm. 1107
Boston, MA 02202
(617) 727-3452

Division of Lead and Asbestos Licensing and Enforcement
100 Cambridge Street, Rm. 1106
Boston, MA 02202
(617) 727-7047

Responsibilities of the Office of the Attorney General: In 1993, the state Office of the Attorney General took over labor law enforcement responsibilities from the Department of Labor and Workplace Development. The Fair Labor and Business Practices Division is charged with the investigation and enforcement of all laws pertaining to workplace safety, child labor, nonpayment of wages, minimum wages, overtime, prevailing wage and fair competition for bidders on public construction projects. Individuals with questions about wage and hour regulations, child labor laws, or workplace safety issues should call the Fair Labor and Business Practice Division of the Attorney General's office.

All workplace fatalities and serious injuries (hospitalizations) must be reported by all private-sector employers to the Fair Labor and Business Practices Division of the Attorney General's Office and to OSHA for investigation. All municipal public-sector employers must also report all workplace fatalities and serious injuries to the Fair Labor and Business Practices Division for investigation.

The Attorney General's Office also has an Environmental Strike Force which is responsible for investigating and prosecuting a variety of environmental violations affecting work safety. These include asbestos, hazardous waste, air pollution, water pollution and solid waste violations. Technical, legal, and police officials work as a single unit to protect citizens of the Commonwealth and its resources. The addresses and telephone numbers for these two Divisions are:

Fair Labor and Business Practices Division
200 Portland Street
Boston, MA 02114
(617) 727-3465

Environmental Strike Force
One Winter Street, 3rd floor
Boston, MA 02108
(617) 556-1000

Responsibilities of the Department of Public Health (DPH): Physicians practicing in Massachusetts are required to report certain occupationally-related diseases and conditions (listed below), as well as certain infectious and communicable diseases, within 10 days of identification to the Occupational Health Surveillance Program (OHSP). (See M.G.L. c. 111 §6 and 105 CMR 300 et.seq.) OHSP collects data on the extent and distribution of work-related injuries, illnesses, and deaths in the Commonwealth in order to target and evaluate prevention efforts. Physicians with questions about occupational health or the reporting law should be referred to OHSP.

Occupational disease and injuries reportable to the Department's OHSP are:

- occupational lung disease: asbestosis, silicosis, beryllium disease, chemical pneumonitis, and asthma caused or aggravated by workplace exposures;
- work-related carpal tunnel syndrome;
- work-related acute chemical poisoning: carbon monoxide poisoning, pesticide poisoning, and any other case of poisoning believed to be related to over-exposure of chemicals at work;
- work-related traumatic injury to persons less than 18 years of age;
- heavy metal absorption: mercury (blood ≥ 15 ug/l, urine ≥ 35 ug/grams creatinine), cadmium (blood ≥ 5 ug/l, urine ≥ 5 ug/grams creatinine), and any other case of heavy metal absorption believed to be related to over-exposure at work. Lead levels ≥ 15 ug/dL in blood are reported by laboratories to the DLWD's Occupational Lead Registry; and clusters of cases of any work-related condition.

OHSP also investigates work-related deaths in order to identify the factors that contribute to occupational fatalities. In addition, OHSP has a number of education projects focusing on enhancing the occupational health and safety of teenage workers.

A number of other agencies and organizations exist in Massachusetts to assist workers, employers, and physicians with occupational health questions. For a complete list, contact:

Occupational Health Surveillance Program (OHSP)
250 Washington Street, 6th floor
Boston, MA 02108
(617) 624-5632

FEDERAL RESPONSIBILITIES

Primary responsibility for occupational safety and health at the federal level falls to the federal Department of Labor's Occupational Safety and Health Administration (OSHA). OSHA was established by the Occupational Safety and Health Act of 1970 (OSHAct). This was the first federal law to provide legal health and safety rights to most American workers. The OSHAct requires that the workplace be free of recognized hazards which may cause death or serious injury. It also requires that standards be set to prevent workers from suffering illness or injury due to exposure to specific hazards.

The OSHAct established the Occupational Safety and Health Administration as well as two other important agencies: the National Institute for Occupational Safety and Health (NIOSH), and the Occupational Safety and Health Review Commission (OSHRC). NIOSH, housed in the federal Department of Health and Human Services, is responsible for conducting health and safety research. OSHRC adjudicates cases forwarded to it by OSHA when disagreements arise over the results of inspections performed by that agency.

OSHA establishes and enforces national occupational health and safety standards in the private sector. As noted above, all private-sector employers must report all workplace fatalities and serious injuries (hospitalizations) to the nearest OSHA office. OSHA does not cover employees in the public sector. OSHA will conduct work site investigations in response to worker and physician complaints. If a worker feels that he/she has been discriminated against and/or lost his/her job for insisting on certain health related standards, referral should be made to OSHA.

In Massachusetts, workers who wish to contact OSHA should call the office nearest them. OSHA also offers free consultation to employers upon request. There are three OSHA offices in the Commonwealth; the addresses and telephone numbers for these offices are :

Methuen office - (617) 565-8110
Braintree office (includes Boston) - (617) 565-6924
Springfield office - (413) 785-0123

OSHA Consultation Service (7C-1 Program)
1001 Watertown Street
West Newton, MA 02165
(617) 969-7177