



# NEWS YOU CAN USE

## VITAS INSURANCE AGENCY

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### WORKERS' COMP

## Are Injuries on Commute or in Parking Lot Covered?

**W**HEN EMPLOYEES are injured on the job they are eligible for workers' comp benefits, but not if the accident occurs on their commute to or from work – in most cases, at least.

But how about if an employee is injured in your parking lot, or while running an errand for you after work? There are two rules that govern at which point a worker is eligible for benefits if they sustain an injury:

### The 'coming and going' rule

Typically, workers' comp benefits won't be paid for injuries sustained on a commute. This is known as the "coming and going" rule.

There are exceptions like whether the worker's travel was a benefit to the employer or related to their job duties. There are four exceptions:

1. **No fixed work site** -- The employee travels to multiple job sites. If a worker travels to multiple sites in one day and gets injured en route even to the first one, injuries would typically be compensable.
2. **Off-site work** -- This could include if the employee is injured while on a business trip. The worker is deemed to be acting in the scope of his employment the whole time while away on business, even at the hotel.
3. **Special assignment** -- If during his regular commute the employee also is performing a special errand or "mission" for his employer.
4. **Traveling worker** -- When an employee must travel in order to accomplish job duties, the coming and going rule does not apply.

### The 'premises' rule

If an employee is injured on the premises of your place of employment, they are more or less "at work" and should qualify for benefits.

Premises are not limited to areas owned or leased by the employer, but also to areas under their control. Various courts have held that employment starts when an employee arrives at a parking lot owned, maintained or used by the employer.

### The takeaway

One recent case dealt with both of these issues when an employee for a private military contractor was injured while driving to work. He crashed his car after entering an Air Force base where his employer had multiple worksites. He was injured one mile from the base entrance inside the base, but still three to five miles away from his worksite.

A California appellate court ruled that he was eligible for benefits under the workers' comp premises rule.

The bottom line is that there are some instances where even the best workplace safety regimen can't prevent a workplace injury. If a worker has an accident in the company parking lot there is a good chance they could file a workers' comp claim and receive benefits.

On the other hand, other dangers on your premises – think icy walkways – can be minimized with proper risk management, by alerting your landlord (if you rent), or fixing it yourself if you own the property. ❖



### CONTACT US



If you have a question about any of the articles in this newsletter or coverage questions, contact your broker at one of our offices.

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## HOMEOWNER'S CHECKLIST

# Keeping Your Home Safe to Thwart Disaster

**W**HILE YOU have your homeowner's insurance to protect against fires and other problems in your home, it's best if you can prevent the incidents that cause the claims from happening in the first place.

Many businesses have risk management programs to ensure that accidents and injuries are kept at a minimum – and you can apply the same concept in your home. As your agent, we want you to keep a safe home free of problems, so we present you with this loss prevention list.

### Fire protection

- Keep charged fire extinguishers in your garage and kitchen.
- Install fire/smoke alarms throughout your home. Test them regularly and it's advised that you replace batteries at least twice a year.
- Install a carbon monoxide detector and use the same battery regimen as for fire alarms.
- Try not to store flammables in the home or garage. The preferred choice is a detached storage shed in your yard.



### Electrical

- Extension cords should be used only temporarily. Before use, check them for fraying.
- Don't overload electrical outlets.
- Use surge protectors on major appliances, TVs, PCs, etc. With the ever increasing reliance on sensitive electronics, you may want to consider "whole house" surge protection that can be installed by an electrician. This greatly reduces the risk of surges through electrical and fiber optic/cable/satellite systems.
- Label all circuit breakers and check for tripping hazards.

### Plumbing & HVAC

- Consider purchasing a water-detection system. These systems are designed to detect a water leak immediately.
- Inspect your entire plumbing system for leaks annually.
- Know where your primary water shut-off valve is located, and keep a valve key in a secure place.



- Annually inspect your water heater, pan, piping and vent. Familiarize yourself with how to operate gas shut-off in case of emergency.
- Avoid using space heaters, either electrical or kerosene.
- Change filters monthly and clean ductwork every three years.
- Have your furnaces inspected and serviced each fall.

### Bathrooms

- Maintain tub and shower caulking and grouting around tiles.
- Remove mildew weekly with a mild bleach solution.
- If moisture builds up on ceilings or walls, check and correct bathroom ventilation.



### Other interior areas

- Make sure your dryer's vents are clean and unobstructed.
- Washing machine hoses should be periodically checked since these hose failures cause millions of dollars of water losses each year. Consider replacing flimsy rubber washing machine hoses with those that are steel braided to gain much improved protection.
  - Check basement and crawl space for dampness and take corrective action such as French drains, sump pump, etc.
  - Consider treating exposed crawl space wood with a borate solution to prevent mold and insect damage.
  - Check ceilings and attics for evidence of water damage – and correct immediately.
  - Check attic and crawl space ventilation for moisture build-up.
  - Check for ceiling, wall and joint separations and cracks, and take corrective action as warranted.

### Exterior areas

- Check roof for broken or missing shingles, and mildew. Hire a professional inspector to check the roof annually.
- Check chimney flashing, rain cap, mortar and caulking.
- Check gutters for debris, and consider a protective system such as Gutter Guard.
- Make sure downspouts direct water away from foundation.
- Grading should slope away from foundation.
- Check window and door sills and framework for weathering and moisture retention.
- Inspect fireplaces and roof areas for creosote build-up and clean annually.
- Inspect exterior brick and siding for gaps, missing mortar, etc.
- Clean vinyl/aluminum siding to prevent weathering. ❖

## RISK MANAGEMENT

# Protecting Your Firm as An Additional Insured

In the course of doing business, you may sometimes find yourself entering into contracts requiring that your business be named as an additional insured on another party's insurance policies.

This is often done to make sure that your own insurance is not depleted by defense and indemnification costs for losses for which you may be legally liable as a result of the business relationship you have with the other party, and that are not due to your own firm's direct negligence.

An additional insured is defined as an individual or entity that is not automatically included as an insured under the policy of another, but for whom the named insured's policy provides a certain degree of protection.

There are many times when you may want your firm included as an additional insured on another's policy. Here are just a few examples:

- If you are a building owner, you want to be an additional insured on the property and general liability insurance of your tenants in case one of them damages your building or in case a visitor to the property is injured.

- If you are the owner or a contractor on a construction project, you want to be an additional insured on the general liability insurance of your contractors and subcontractors in case there is an injury to one of their employees.

- If you are a distributor or a retailer, you may want to be an additional insured on the insurance programs of the manufacturers of the products that you sell.

- If a contractor comes onto your property to perform work of any type, including erecting displays or other maintenance or structural work, you will want to be named as an additional insured on their policy in case the display falls on someone, or someone is injured due to the work they are performing. You don't want to be held responsible for any dangers or injuries created by their work.

If you are to become an additional insured on another company's policy, you need to confirm that the other party has indeed named your company as an additional insured with its insurance company. Their word

alone is not good enough.

You should demand a copy of the policy that explicitly lists your company as such. You want to see a copy of the policy and not the certificate of insurance, which is not sufficient proof that your company has been added.

Additional insured status is effectively conferred through an additional insured endorsement to the other party's original insurance policy. An endorsement essentially serves as an amendment to the terms of an insurance policy that is incorporated into the relevant insurance policy.

These amendments can take the form of an endorsement that specifically names a particular additional insured, or a general endorsement that identifies some class of parties as additional insureds.

But if there is ever a dispute about your company's status as an additional insured, you will want to have in hand not only the other party's certificate of insurance, but also a copy of the policy itself and the endorsement that makes your company an additional insured.

There are a few best practices that you can implement to help make certain your firm's status as an additional insured has been properly secured:

- At a minimum, always insist on receiving a copy of the relevant additional insured endorsement, as this is the instrument that establishes additional insured status;

- An additional insured endorsement does not, however, state an insurance policy's terms and conditions. In order to avoid being surprised by unexpected policy terms (such as strict notice requirement or unfavorable notice of cancellation provisions), you should ask for and receive a copy of the entire insurance policy under which you are an additional insured, and be sure to read it;

- Retain additional insured endorsements and the relevant insurance policies for as long as there is any potential that claims triggering those policies might be made. ❖



WORKPLACE SAFETY

# Essentials of an OSHA-approved First Aid Kit

**D**O YOU know what OSHA requires you to keep in the first aid kits at your place of business? Fed-OSHA Standard 1910.151 requires that “adequate first aid supplies shall be readily available.”

You should put a staff member in charge of inspecting first aid kits on a regular basis to make sure they have all the items required under the ANSI standard, and that items have not expired.

Over-the-counter medicines are fine for inclusion in first aid kits, but you should avoid

medications that could cause drowsiness – if a worker takes one of these and has an accident soon afterwards, the implication could be that you as the employer may be culpable.

If you do include over-the-counter medications, all meds should be wrapped in tamper-evident packaging as individual doses. You should not have any bottles. If you reasonably expect that workers treating other injured employees could come into contact with blood or other pathogens, you should also consider including personal protective equipment, such as latex gloves, masks, gowns and face shields. ❖



## First Aid Kit Requirements

A basic workplace kit should contain:

- 16 absorbent compresses (none smaller than 4 inches)
- 16 adhesive bandages measuring 1" x 3"
- One adhesive tape, 5 yards
- 10 antiseptic packages with at least .5 grams of fluid
- Six burn treatment packages weighing at least .5 grams each
- Two pairs of medical exam gloves
- Four sterile pads measuring 3" x 3" each
- One triangular bandage measuring 40" x 40" x 56"

Some state OSHAs also require:

- Eye dressing packets
- Tweezers and scissors
- Safety pins
- Cotton-tipped applicators
- Forceps
- Flashlight
- Magnifying glass
- Portable oxygen and breathing equipment
- Tongue depressors



### Color-coding requirements

First aid kits should be color-coded in the following manner:

- **Blue:** Antiseptics
- **Yellow:** Bandages
- **Red:** Burn treatments
- **Orange:** Personal protective equipment
- **Green:** Miscellaneous

## A Word about Automated External Defibrillators



WHILE OSHA does not require on-site defibrillators in the workplace, some employers may decide to have one on hand.

With recent advances in technology, automated external defibrillators (AEDs) are now widely available, safe, effective, portable, and easy to use. They provide the critical and necessary treatment for sudden cardiac arrest.

Using AEDs as soon as possible after sudden cardiac arrest, within three to four minutes, can lead to a 60% survival rate.

CPR is also important because it supports the circulation and ventilation of the victim until an electric shock delivered by an AED can restore the fibrillating heart to normal.

All worksites are potential candidates for AED programs because of the possibility of heart attack and the need for timely defibrillation.

Each workplace should assess its own requirements for an AED program as part of its first-aid response. ❖