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News You Can Use

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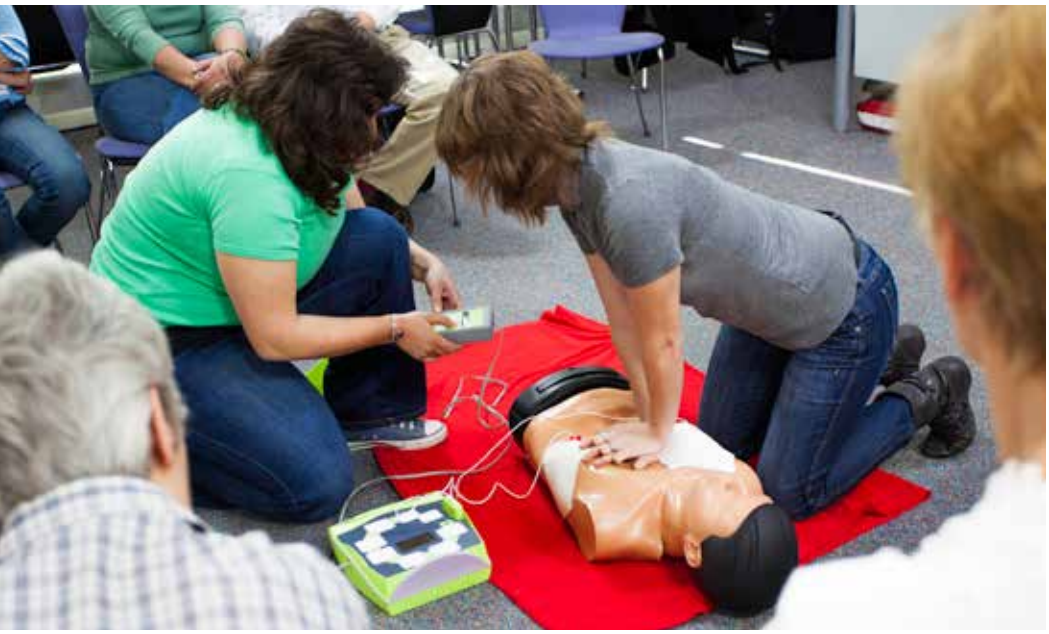
RISK MANAGEMENT

Could Your Staff Respond to a Medical Emergency?



IF ONE OF your employees or a customer had a serious medical emergency while at work, would your staff know how to respond?

Unfortunately, most workers are not prepared to handle cardiac emergencies in the workplace because they lack training in CPR and first aid, according to a new survey by the American Heart Association.

The AHA found that most employers don't train their workers in CPR and first aid, and half of workers could not locate an automated external defibrillator at work.

The findings reflect the poor preparation many people have for dealing with a medical emergency.

The AHA interviewed corporate safety managers, who pointed out the need for more frequent training. The survey found that:

- 33% of safety managers said that first aid, CPR and defibrillator training only became important and was offered after an incident demonstrated the need.
- 33% of safety managers said lives had been saved at home and at the workplace as a result of training provided at work.
- 75% of safety managers said injuries or medical conditions had been treated in the workplace with this training.
- 36% of safety managers felt it would be valuable to offer training more frequently than every two years (the current requirement).

FIRST AID BASICS

Training typically includes one-time, short-term treatments like:

- Cleaning minor cuts
- Treating minor burns
- Applying bandages
- Using non-prescription medicines.

What you can do

Under OSHA's General Industry medical and first aid regulation, if an employer determines that medical services are not in near proximity, then first aid training must be provided to ensure that someone with such training is available during all shifts.

See 'Have' on page 2

Contact Us

HEFFERNAN INSURANCE BROKERS

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OSHA RULES

Electronic Filing Deadline Extended to December

OSHA HAS issued final rules that delay for large employers and those in high-risk industries the electronic filing deadline for 2016 annual injury and illness records until Dec. 1, 2017.

The new rule changes an Obama-era federal OSHA regulation that required employers with 250 workers, in addition to firms with 20 or more employees operating in various high-risk industries (such as construction, agriculture, manufacturing, transportation and retail) to file their 2016 Form 300A electronically. The original deadline was July 1.

OSHA also said that the delay would give employers more time to prepare their systems for electronic submissions and get familiar with the new rules. In addition, the agency said it would use the delay to review the new electronic reporting requirements prior to implementation.

Under the new rules delay, the following deadlines take effect for the aforementioned employers:

- **2016** – Affected employers have until Dec. 1, 2017 to file their Form 300A electronically with OSHA.
- **2017** – Affected employers have until July 1, 2018 to file all their forms (300A, 300 and 301) electronically with OSHA.
- **2018** – Affected employers have until March 2, 2019 to file all their forms (300A, 300 and 301) electronically with OSHA. ❖

New Notice Requirement for Victims of Violence

ON JULY 1, a new notice requirement went into effect for California workplaces concerning the rights of victims of violence or stalking.

Under the new rule, employers with 25 or more workers must provide new employees with written notice about the legal rights of victims of domestic violence, sexual assault or stalking to take time off for medical treatment and legal proceedings.

Under the law, affected employers must provide this information to:

- New workers when hired; and
- Current workers upon request.

California protections

The notice basically requires employers to make workers aware of their rights under existing regulations. Labor Code Section 230 requires companies to provide an employee who is a victim of domestic violence, sexual assault or stalking with time off from work to:

- Obtain a restraining order
- Appear in court
- Seek medical treatment for injuries
- Seek services from domestic violence shelters
- Seek services from programs or crisis centers
- Seek psychological counseling or safety planning services.

The law requires firms with 25 or more employees to provide employees with a reasonable accommodation, when requested, for their safety at work.

Such accommodations may include, but are not limited to:

- A transfer
- A reassignment
- A modified work schedule, or
- A change in work telephone number. ❖

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Have at Least One Person on Every Shift Who Knows CPR

Employers can contact organizations such as the American Red Cross or a local private institution for training.

OSHA does not require that you have staff who know CPR and how to use a defibrillator, but it's a good idea to have someone trained.

OSHA recommends CPR and defibrillator training as a best practice but doesn't require it, except for a few high-hazard industries.

The AHA recommends that all employers offer first aid, CPR and defibrillator training because it can save lives.

If someone suffers a heart attack at work they have only a 5 to 7% chance of surviving while waiting for emergency medical services to arrive. Workers who receive immediate defibrillation, however, have up to a 60% survival rate one year after cardiac arrest, according to the AHA.

Safety experts recommend having at least one person on every shift that is trained in CPR and how to use a defibrillator. In fact, the more employees who are trained, the better.

All employees should know who on staff is trained so they can fetch them in case of an emergency.

The best approach is to have a full staff training manual on first aid, CPR and defibrillator use, which you should consider keeping in your office.

Everyone in your organization should know where the nearest defibrillator is located. It should be in a conspicuous place, like hanging on a wall. ❖

WEBSITE RISK

'Surf-by' ADA Lawsuits a Growing Legal Tsunami

NO DOUBT you've heard of the "drive-by" Americans with Disabilities Act lawsuits that are filed by plaintiffs who see ADA violations at businesses (like entrances that are inaccessible by wheelchair) just by driving by the location.

Now, recent court decisions could pave the way for a new class of ADA claims where disabled individuals have trouble navigating a company's website – call them "surf-by" claims.

The claims come in various forms, including complaints that sites don't work well with equipment visually impaired inviduals use when online and/or that the sites don't contain enough information about accessibility of a physical location.

Courts have recently ruled in favor of plaintiffs who have sued retailers claiming violations of Title III of the ADA by having websites that could not be used by visually impaired individuals.

Additionally, some retailers and hotels have been sued for not including on their websites information to help disabled customers navigate their facilities.

The rulings for the plaintiffs in the cases could have consequences essentially for any business that has a website, as they could be used as precedent for similar lawsuits by any enterprising plaintiff by just surfing the Internet.

In a Florida case, *Gill vs. Winn-Dixie Stores*, a visually impaired plaintiff claimed he was unable to properly use the grocery store chain's website, alleging it failed to interface well with his computer access technology software. While the company does not sell anything online, customers can download coupons and search store locations.

INCLUDE ACCESS INFORMATION

A HOTEL TRADE association advised its members that they could face a legal threat if their websites don't offer enough information to disabled users.

It cited examples such as not listing on the website if the hotel has rooms with roll-in showers or a strobe emergency system for visually or hearing impaired guests.

The man sued under Title III of the ADA, claiming that he was deterred from shopping at one of the company's stores because he could not review and choose digital coupons and could not easily locate the store nearest him on the website's "store locator" feature.

He said he was also unable to use the website's system for ordering prescription refills online for in-store pick-up later.

The judge, after a short trial, held that the website was a service in connection with a place of public accommodation covered by Title III because it offered services that had a nexus to the physical stores: coupons, locations and prescription refills. As a result, the website must be accessible under the ADA.

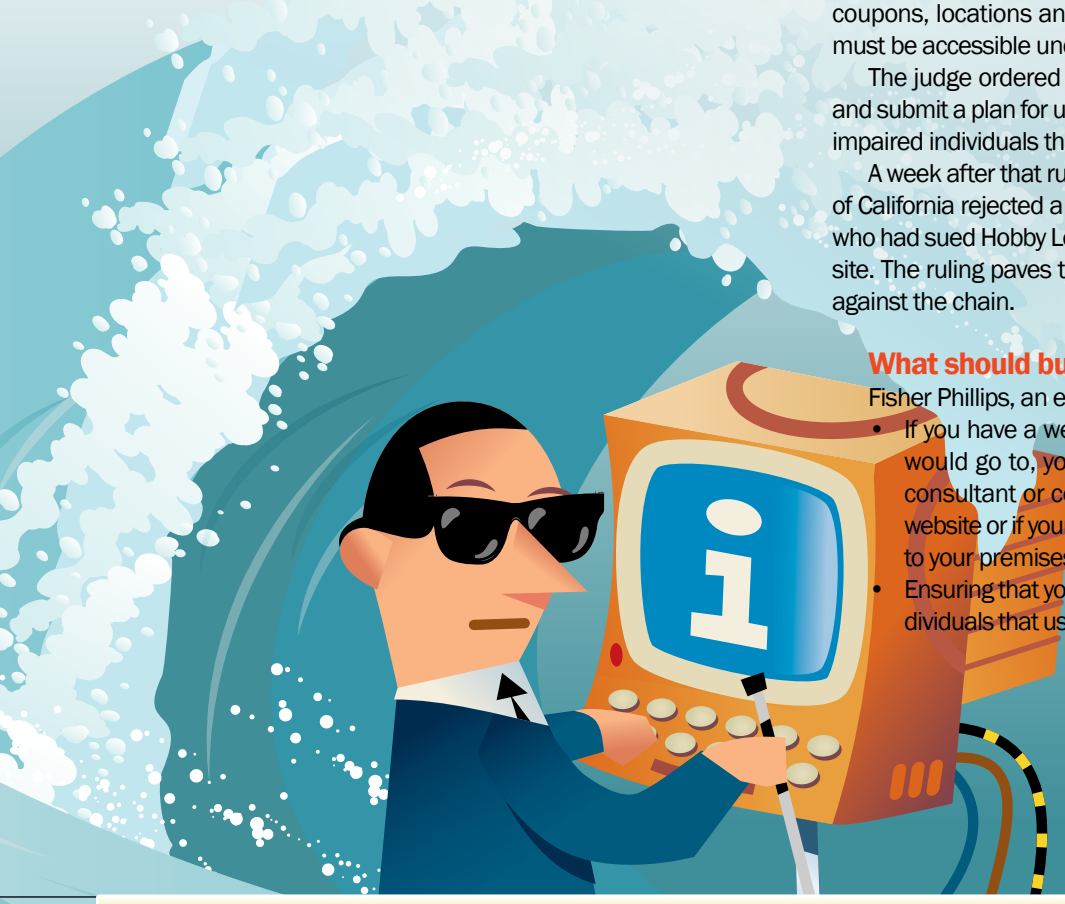
The judge ordered the chain to pay the plaintiff's attorneys fees and submit a plan for upgrading the website to accommodate visually impaired individuals that use computer-assisted technology.

A week after that ruling, a U.S. district judge of the Central District of California rejected a motion to dismiss a lawsuit by a blind plaintiff who had sued Hobby Lobby over the accessibility of the retailer's website. The ruling paves the way for the plaintiff to continue his lawsuit against the chain.

What should businesses do?

Fisher Phillips, an employment and labor law firm, recommends:

- If you have a website and a physical location that customers would go to, you may need to consult with an accessibility consultant or counsel to identify any barriers to use on your website or if your site fails to include information on accessibility to your premises.
- Ensuring that your website accommodates visually impaired individuals that use specialized equipment for surfing the web. ❖



PREMISES SAFETY

Your Liability Every Time Someone Enters Your Facility

ONE SURE-FIRE way for a business to get sued is if a visitor – a customer, vendor or anyone else – injures themselves while on your premises.

While you may already do all you can to keep employees and customers safe, you are likely still exposed to being sued if someone injures themselves in one of your facilities.

Although the most common situation that comes to mind is the slip and fall accident, your liability for injuries sustained on your property extends far beyond such injuries.

What you need to know

It doesn't matter if you own your building or rent an office as once someone steps inside, you have a duty to make sure they are safe.

Someone who injures themselves in an office that is rented will likely go after both the landlord and the tenant (you), but if they are in your offices, you will likely be the main defendant. Also, many landlords have clauses in their contract that require tenants to assume full responsibility for maintaining safety in the areas they rent.

Besides someone slipping and falling on your premises, there is a host of other liability risks that you may face, including:

- A visitor or an employee assaulting another visitor.
- A visitor being injured by machinery or equipment.
- Hazardous material that is seeping from your grounds into adjacent property or making neighbors sick.

While most commercial general liability insurance policies will cover many of the expenses of a premises liability lawsuit, lawyers' fees alone can be expensive.

How to protect visitors and your firm

First, you should purchase a basic commercial general liability insurance policy. Besides that, you should do the following to make sure your facilities are safe:

Inspect the facility – Form a committee with employees from each department to inspect all areas a visitor might enter. Look at individual workspaces and the overall facility. Doing this can help you detect potential risks before they injure someone.

Make corrections – Once you find an unsafe condition, you must correct it immediately. If that's not feasible, shut that area down until it can be addressed.

Post a warning – If you detect or know of a dangerous situation, you should put up a warning sign that alerts employees and visitors to be careful and avoid the hazard until you can fix it. This even includes posting a "wet floor" sign after an area has been mopped.

Remember: If it's your premises, whether rented or owned, it is your responsibility to keep your visitors safe. It's not only common sense, but can also save you a lot of money and grief if you can avoid an accident and an expensive lawsuit. ❖

PROVING NEGLIGENCE

If someone is injured on your property, in order to hold you liable, they need to prove negligence on your part and show that:

1. You knew a dangerous condition existed, or could exist.
2. You had a reasonable amount of time to repair the danger, but failed to do so.
3. The dangerous condition was the direct and proximate cause of their injuries.
4. They didn't know the condition existed, or if they did, couldn't avoid it.
5. Their reckless conduct didn't contribute to the injury.
6. They didn't agree to assume the risk or indemnify the owner from injuries.