

Transcripts are generated automatically using AI and may contain errors or omissions.

Becca Rainey (00:00)

Welcome to The FP 5: Five Things for Your 9-to-5. We help employers make sense of the fast-moving world of workplace law and compliance by breaking down topics into five parts. I'm Becca Rainey from the Fisher Phillips Content team.

No employer wants a serious emergency happening at their workplace. But whether it's a medical crisis, an act of violence, or a natural disaster, what happens in those first few minutes can make all the difference. While employers can't prevent every emergency, they can plan to make sure their teams know what to do when something goes wrong.

Karl Kumli joins us today to walk through five emergency situations employers should be prepared for. Karl is Of Counsel in Fisher Phillips's Boston office, where he focuses on workplace safety, emergency planning and response, and regulatory compliance. Karl, thanks for joining us on the show.

Karl Kumli (00:57)

Thanks so much for having me, Becca. Pleasure to be here.

Becca Rainey (01:00)

Before we get into the five things, you've got an interesting background because you've worked both as an attorney advising employers on workplace safety and in emergency response itself. How has that experience shaped the way you help businesses prepare for these situations?

Karl Kumli (01:16)

You know, businesses generally tend to think of emergencies as problems that either they've prepared for and have something ready to go, or things that catch them totally flat-footed. As workplace safety attorneys, we tend to think of them as legal problems that come with defenses, plans, and regulatory requirements. But from the emergency services side, it really boils down to, you know, what can you do ahead of time and during the incident to minimize the impact on your employees and your facility?

Becca Rainey (01:54)

Alright, moving into our five-part conversation. Thing number one: Let's start with something that really could happen just about anywhere, a medical emergency. Karl, what should employers have in place so their employees can respond quickly when someone needs immediate medical attention?

Karl Kumli (02:11)

The biggest thing is to have some sort of Emergency Action Plan in place that your employees are familiar with and comfortable with. This EAP, as we refer to it, can lay out things like what sort of first aid kit is available on site, what sort of incidents or injuries your facility is capable of handling themselves, and what sort of things should be the cause for connecting to emergency services. It also includes information that emergency services is going to need, like if you work at a site that has a large parking lot and there's one point of access to your building; how to get there, because GPS often ends at the driveway.

Becca Rainey (02:52)

Yeah, and I wonder too, when you think about the broad spectrum of industries that we have throughout the United States, you would think that your emergency workplace plan would be a little different based on each workplace and based on, you know, what workers are experiencing in each workplace. So for a general audience, what type of medical emergencies should every workplace be prepared to handle, regardless of industry?

Karl Kumli (03:22)

You know, when we look across all of the industries from, you know, heavy manufacturing and resource extraction to offices and white collar workplaces, we see one kind of injury that is consistently front and center, and that's generally referred to as slips, trips, and falls. And that can be everything from someone who loses their footing high up and falls a distance that really can hurt them to someone who twists their ankle carrying a Banker's Box through a law office. But ultimately, that kind of preparation allows us to know, you know, what sort of medical supplies we might want to have on hand for first aid: things like an ice pack or some sort of brace, but also, you know, whether or not we have immediately available emergency services or places where employees can receive additional medical attention, if our first aid kit in the break room doesn't quite cut it.

Becca Rainey (04:28)

And speaking of first aid kits, you know, I wonder what are employers required to have on hand? Are there any specific regulations from the Federal Occupational Safety and Health Administration that employers should keep in mind?

Karl Kumli (04:43)

There are, and it's a little bit different between different industries. So generally, every workplace should have basic first aid supplies. OSHA requires that workplaces that are outside of three to four minutes—and that's a broad kind of, the language that OSHA uses—is “a reasonably immediate response.” And as lawyers, we love that kind of “reasonable” language, but over the years, OSHA has really honed that down to mean “Can emergency services, in this case a fire truck or an ambulance with a paramedic on board, get to your workplace within three or four minutes?” If not, then the workplace needs to have some sort of ability to administer first aid from folks on site who are trained in giving first aid care until emergency services arrives.

So that goes for, you know, places that you might obviously think of, like large construction sites or more rural work sites where emergency services may be delayed. But it also goes for areas where you're working perhaps in a really traditional office park, but you're in a more rural part of the country with slower emergency services, because OSHA can hold those employers to the same standard just based on emergency response times.

Becca Rainey (06:09)

Got it. And we know timing can be critical in any medical emergency. Can you share an example from your emergency response experience that illustrates why those first few minutes really matter?

Karl Kumli (06:22)

You know, it really comes down to the kind of equipment that's available to you. One of the issues that we see frequently in all sorts of workplaces are cardiac incidents or things that look like cardiac incidents. You know, if someone suffers from a panic attack, if someone has some sort of other issue that can look like a heart attack, that can really be something that your coworkers and your employer can be better prepared to help with and really extend your opportunity and the chances of your survival.

One of the things that can be really helpful in that, is what's called an automatic electronic defibrillator or an AED. Those are things that you know don't require a ton of training to operate. They are something that your office should be familiar with and they should be maintained regularly. But the piece of equipment actually talks the user through what to do. The diagrams on the equipment are very simple and straightforward. And that piece of equipment can not only help to give someone a shock, if that's the appropriate course of treatment, it can also provide real-time statistics to dispatch and other responding emergency services to provide them additional medical information that wouldn't be immediately obvious simply by observing your coworker who's experiencing the medical issue.

Becca Rainey (07:54)

Alright, moving on to thing number two. The second emergency we'll cover today is one that's getting some attention from OSHA: opioid overdoses. The agency recently released guidance encouraging employers to prepare for overdoses and consider keeping reversal medications like naloxone on hand. Karl, what prompted this guidance and what exactly is OSHA recommending?

Karl Kumli (08:19)

So what prompted the guidance is the uptick that we've seen across the country in fentanyl use and fentanyl overdoses. And specifically, you know, workplaces are becoming more of a place where drug use can lead to sudden overdose because of the small quantities of these synthetic opiates involved.

The NIH reports that forty percent of American workers report chronic pain. Most opioid use starts with legitimate pain management. And that's where we get into this process. It's how these medications frequently become part of someone's routine at the workplace. But legitimate pain management can move to abuse fairly easily. And as that abuse increases and prescriptions expire, employees may start to look for synthetic opioids like fentanyl, which carry a significantly higher overdose risk.

Becca Rainey (09:13)

So what is naloxone and how does it work and what should employers understand about when and how it can be administered?

Karl Kumli (09:21)

So naloxone is a brand name, much like people refer to tissues as Kleenex. As the packaging says, it's an overdose reversal medication. It binds to the same receptors as the drugs in order to stop the body from interacting with the drug and reverse the process of the overdose. It's important to note that it doesn't replace calling 911. The coworker who's experiencing an overdose is still in serious medical risk, and naloxone or some other drug may need to be administered more than once, depending on the condition that the coworker is in. So it's important to get emergency services moving quickly, stay on the phone with dispatch, and stay with the patient who's coming down off of that overdose to make sure that they are receiving the care that they need until advanced medical services can arrive.

Becca Rainey (10:15)

So all of this came out in a guidance from OSHA. Does this guidance document create any new legal requirements for employers or is OSHA just really pushing people to be prepared?

Karl Kumli (10:27)

So it doesn't create any new OSHA standard, the way that we would think about fall protection or respirators, but it does identify a workplace hazard and it does make employers aware of the workplace hazard. And what that does is it creates the potential for OSHA to cite an employer under what's called the General Duty Clause. This is really OSHA's catch-all for any sort of workplace harm that they have not written a specific standard for.

So while it doesn't create a requirement for employers to have naloxone on site, it does create an understanding, especially among industries that are most heavily impacted, places like construction or transportation, that there may be a hazard here and they need to at least investigate it. Even if they ultimately determine that having naloxone on site is not necessary at their workplace in particular.

That being said, there are a couple of states that have implemented requirements for naloxone that have not gone into effect yet. New York, California, and Maryland have all passed state-level requirements that are under some form of review at this point. New York's is slated to take effect first in December of this year. Both California and Maryland are slated to roll out sometime in 2027. But those states specifically have created a requirement.

Employers need to keep track of what's going on at the state level as well, not just with federal OSHA, because those sorts of requirements are more likely to come from state level legislation than they are from federal rulemaking.

Becca Rainey (12:21)

Third thing, let's talk about workplace violence. We've discussed prevention on the FP 5 before, but I want to focus on the emergency response side today. So if an employee reports a serious threat or a violent incident is actually unfolding in real time, what should the employer's response look like?

Karl Kumli (12:41)

Two very different situations with two very different requirements for the employer: If the employer hears about or learns about a serious threat to their employees or from an employee, they need to take immediate action to investigate that, to remove employees, patrons, or whoever may be the source of that threat from the workplace as effectively as possible.

But if a violent event is actually unfolding, then some of that is going to boil down to the prevention that has been talked about on previous episodes, of ensuring that employers have made their employees aware of where to go in case of an emergency, how to reach a space within the workspace that is safe. But a lot of it is also going to fall on the employer to make sure that they are contacting emergency services immediately to address the assault, ensuring that employees receive necessary medical attention, any kind of necessary support from their employer in pressing or deciding not to press charges, any sort of record keeping around that kind of issue should be immediately available, obviously.

But first and foremost, anyone in any kind of management or leadership position needs to do everything they can to remove the affected employee from the dangerous space and the dangerous person, whether that's a customer, whether that's a coworker, whether that's a member of the general public. As long as that threat is still present, our first job is to get our employees to safety.

Becca Rainey (14:21)

What are the most common mistakes employers make when developing workplace violence response plans?

Karl Kumli (14:27)

It's a really interesting question, Becca, because one of the biggest things that we see in workplace violence plans that employers have put together is that they really come to it with their own pre-conclusion about what workplace violence is going to look like. It's really important that all employers look at the problem holistically because it really can come from anyone, including our own employees as well as individuals that you may not think of as part of your normal business stream.

Specifically in the healthcare space, we have seen a significant increase in the number of workplace violence incidents that are perpetrated by family members or other people who come with a patient into the care space, who may get frustrated with the process, who may be overtired or just kind of at their wits' end by the time they get to an emergency room. And those are folks that generally our employers are less inclined to think about because they're not the focus, right? We're thinking about our employees, we're thinking about the people who need care in those situations. But it really is incumbent on employers to think about everyone who could be in their workplace in any capacity and address how they would handle a workplace violence incident that may arise from any of those folks.

Becca Rainey (15:57)

Yeah, I think that's really helpful and especially when, you know, these situations are obviously not something you can a hundred percent forecast, but being as prepared as possible, I think for these kinds of situations can be very, very helpful.

Karl Kumli (16:15)

And I think that's a really good point to go back to the preparedness podcast. And I certainly recommend that folks go back and listen to those, those are some great episodes. They are something where making sure that your employees feel prepared enough to be proactive comes down to their training. If they don't know what's expected of them, if they don't know what's allowed of them, if they don't know what they'll get in trouble for, they're less likely to act in a way that can keep them and their coworkers safe. So training really is a critical piece of preparing your employees to stay safe.

Becca Rainey (16:55)

You're listening to the FP 5. I'm Becca Rainey, and we're here with Karl Kumli. Karl is Of Counsel at Fisher Phillips in our Boston office, where he advises employers on workplace safety and emergency response. Today we're discussing five emergency situations employers should be prepared for.

Thing four: Let's turn to natural disasters and severe weather. You've written about wildfire risks, and depending on where an employer operates, they could be dealing with everything from hurricanes and flooding to tornadoes and extreme winter weather. What should a workplace emergency action plan include when it comes to evacuation, sheltering, and accounting for employees?

Karl Kumli (17:38)

That's an excellent question. And of course, this is really driven by the environment that each workplace is in. As you were just saying, you know, places that are experiencing hurricanes are probably not experiencing wildfires, although never underestimate Florida. That being said, the biggest issue for an emergency action plan is really differentiating between emergencies where employees need to stay and where employees need to leave. And

what I mean by that is there are going to be situations where it's appropriate for the employer to close the business and keep everyone from coming in, because the safest thing is to keep their employees at home. Alternatively, if conditions get very bad very quickly during a work shift, you may need to keep people on site because it's too dangerous for them to travel.

On the other side, if there's an emergency that is directly impacting the work site, or if there's a window of time where people can safely go from the workplace back to their homes where they will be safer, evacuating the work site might be the best option. So it's going to be something where we look at, you know, what exactly the emergency is, how fast it's moving, how quickly things are changing, and the specific needs of our employees: Are there folks who have mobility issues? Is there someone who has a particularly long commute? Or is taking public transit in severe weather that might be impacted or might really cause them a risk if they're standing on a platform waiting for a bus for forty-five minutes in subzero temperatures.

Becca Rainey (19:10)

Given your background in emergency response, can you share an example of something employers tend to overlook when prepping for natural disasters?

Karl Kumli (19:20)

Really, the biggest one that we see, and this betrays my background a little bit, I come from the fire service. I specifically come from the fire service in the Western US, where wildfires are one of the key issues. But this goes for natural disasters writ large.

Employers tend to think about the work site. And that's very appropriate. But it means that they frequently miss the connection between what's going on at the work site and what's going on at an employee's residence. To use the wildfire example, because it's really very cut and dried, I lived through the most destructive wildfire in Colorado's history that burned down more than a thousand homes in a 24-hour period. My house was evacuated, my neighbors were all evacuated, my children's school was evacuated, my office at the time was 25 minutes down the road, and you would not know that anything was going on.

And so, you know, making a plan as part of your broader emergency action plan for how you're going to react when employees' homes are impacted, employees' ability to get to work safely is impacted. This goes for things like hurricanes and flooding. You know, if there are folks who are needing to commute across areas that are more flood-prone, obviously bridges are a high hazard. Blizzards may also be an issue if there are folks who, you know, live further out in more rural areas and snow removal is not as immediately available.

Accommodating those sorts of requirements is something that employers tend to overlook, and it's actually something that can cause issues further down the line if the way that they handle those is not consistent across their locations. You know, if you have a location in Southern California and you treat fires one way and you have a location in Minnesota and you treat blizzards another way, that may be a sticking point for an employer down the road. So consistency and understanding why you're doing what you're doing can really help employers create a sense for their employees that there's a plan in place, the employer is interested in keeping them safe, and the way that things are handled makes sense based on the hazard that they're confronting.

Becca Rainey (21:41)

Fifth and finally, let's talk about emergencies brought on by chemicals or other materials found on the worksite. Karl, you recently co-authored an article explaining why every employer needs an environmental safety plan. And something that stood out to me was that these risks aren't limited to just factories or businesses handling dangerous chemicals. Even everyday materials like cleaning products can create problems.

So what kinds of environmental emergencies should employers be thinking about and why do so many businesses overlook these risks?

Karl Kumli (22:16)

I think that a lot of businesses tend to overlook these risks because they don't think of themselves in that category. When businesses think about environmental planning, environmental hazard assessments, they tend to think about chemical producers or large manufacturing sites, places that very clearly have some sort of interaction with the broader environment around them or create material that needs to be handled in a really specific way. That's just not the case because there are so many chemicals in our day-to-day lives that are subject to EPA regulation, that could create a hazard for employees from a safety standpoint. And employers need to be prepared for the big stuff all the way down to the cleaning materials that they use on a regular basis.

Becca Rainey (23:09)

Yeah, your article talks about starting with a workplace hazard assessment. What does that actually involve and how can employers identify risks that they might not even realize exist?

Karl Kumli (23:20)

Yeah, it's certainly a process. Some environmental risks are very evident. You know, if an employer has a large refrigeration system that runs on ammonia for a large refrigerated warehouse section, that's pretty obvious. You know, you just have to look at the giant wall full of panels to understand that there's something going on there that you really probably should plan for. But employers commonly have smaller amounts of hazardous materials.

Some shops may use solvents or oils that need to be managed in a particular way. And even some, you know, white-collar office building-type areas may have custodial staff that uses concentrated cleaners that then have to be diluted. And because we're dealing with things that are concentrated, the treatment and the protective equipment that are required are different than if you buy a bottle of Windex from the grocery store and take it home with you.

So it really comes down to looking for products that come with safety instructions or what are called safety data sheets. We commonly refer to them as SDSs, and they are a form that is produced in a standard format that lays out what the chemical is, what the hazards are, how to handle any kind of spill, any kind of treatment if the chemical is on your skin, or in your eyes, or ingested.

And that really is the place to start. It's something that should be consolidated into a single location for all of the chemicals that are on any given work site. And whether that's a hard copy binder or whether that's a centralized digital location where everyone has access to the information, anyone in the worksite should be able to walk up, find that material, find the chemical that they need to learn about and understand what's going on.

Becca Rainey (25:17)

Let's say an employee discovers a chemical spill or a leaking container. How should they know whether it's something they can safely handle or whether they need to evacuate and call in a trained responder?

Karl Kumli (25:29)

So to go back to the last question we were talking about, really those SDS forms are going to be a huge driver of that sort of information. Those forms include spill response protocols, whether materials need to be isolated away from water sources, because there are some materials that people may use in their process that if they mix with water can cause additional hazards, such as gases or even explosions.

So it's something where we want to back everybody away from a leak because a leak is never a good thing. From an emergency response standpoint, I would much rather have someone clear everyone else to the far side of the building, get the SDS, learn as much as they can, communicate to dispatch as much as they can.

I've been on a lot of hazmat calls where there was no reason for the fire department to be there. And that's really okay. The fire department's a public service for a reason. Nobody should think about whether or not it costs too much to have those folks show up. Most fire departments have really well-trained hazmat technicians. And if it's not a problem, then everybody goes home and it's a simple opportunity to check in on the safety protocols and find out exactly what those response times happen to be.

But if it is a bigger problem and if it is something that needs to be addressed either by the fire department or by state agencies or federal agencies based on the size of the spill or anything like that, the sooner that we can get that information out there and the sooner we can provide accurate information to responders, the better. So I always encourage employers to err on the side of calling for backup.

Becca Rainey (27:19)

Alright. Karl, we've covered some pretty serious situations today, so let's switch gears a little. This is the part of the episode where we get to know our guests a little better with five quick questions. You ready?

Karl Kumli (27:31)

Sure.

Becca Rainey (27:32)

Alright, first question. You've spent years working in emergency response. What's one skill you've picked up that comes in handy in everyday life?

Karl Kumli (27:42)

It's gotta be situational awareness. Whether it's being at a job site for a client or just driving in Boston, it's never a bad thing to have.

Becca Rainey (27:50)

Ah, right, next question: Mountains or beach?

Karl Kumli (27:53)

I'm a born and raised Coloradoan. It's gotta be mountains.

Becca Rainey (27:57)

Beach is just too sandy and then you get dry from the saltwater depending on where you are.

Karl Kumli (28:03)

No, believe me, my wife and my kids have convinced me of the upsides to the beach. But mountains have a special place in my heart.

Becca Rainey (28:12)

That's fair, that's fair. All right, third question. What's one place you haven't visited yet but would love to?

Karl Kumli (28:20)

Oh, New Zealand is pretty high on my list.

Becca Rainey (28:22)

Ooh, I've never been there either. I wonder how long that flight is.

Karl Kumli (28:26)

I've looked before and I think it's like fifteen or sixteen hours.

Becca Rainey (28:30)

Oof, yeah, that's a long time to be sitting and then it's like if you want to do first class, it's like double the cost. So, you know.

Karl Kumli (28:39)

And I think there's at least one, if not two, stops involved, so ...

Becca Rainey (28:43)

That's a rough trip, yeah. All right, question number four. If you weren't a lawyer, what would you be doing?

Karl Kumli (28:53)

I do regularly miss emergency services. I'd probably still be there, although at my age I'd be getting towards retirement.

Becca Rainey (29:00)

Right, right. So the high pressure and the stress doesn't get to you. Is it more the excitement of just having something new and unpredictable each day?

Karl Kumli (29:10)

You know, it's a lot of what we do here in the safety and health group. You know, it's trying to help people out with some of their worst days.

Becca Rainey (29:19)

Alright, last question. What's your favorite way to unwind after a long week?

Karl Kumli (29:25)

I have two kids who are four and seven, so I get to come home on Friday night and just kind of jump into whatever world they're currently living in. That's pretty alright.

Becca Rainey (29:36)

Doesn't sound like unwinding, but it sounds fun.

Karl Kumli (29:39)

It's a lot of fun.

Becca Rainey (29:42)

Alright, well that's all the time we have for now. Thanks again for joining us, Karl.

Karl Kumli (2:47)

My pleasure, thanks so much for having me.

Becca Rainey (29:50)

And thank you for listening to the FP 5. You can find links to OSHA's new opioid overdose guidance and other workplace emergency preparedness resources in this episode's show notes. If you enjoyed this week's episode, please consider rating the FP 5 in your favorite podcast app. We'll see you next week.

Listening to this podcast doesn't constitute legal advice and doesn't establish an attorney-client relationship. For more information, visit [fisherphillips.com/legal-notices](https://www.fisherphillips.com/legal-notices).