



## **Another Way Of Looking At The Obesity Problem**

Insights

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One well-known trend in American demographics may be responsible for the emergence of a new concern in the healthcare employment setting – a trend that is spurring the Department of Labor's Occupational Safety and Health Administration (OSHA) to action.

It's well known that the obesity rate in America has risen dramatically over the last several decades. Currently, approximately 34% of adult Americans are considered obese, which is more than double the percentage of adult Americans who were considered obese in 1980. Obesity, of course, is linked to numerous other health problems, which, unsurprisingly, often results in such individuals seeking treatment in healthcare facilities. As an increasing number of overweight Americans enter healthcare and long-term care facilities, employers need to address the growing number of workplace injuries related to the care of such patients.

### **Increased Injury Rate to Healthcare Workers**

Data recently released by the Bureau of Labor Statistics showed an increase in injuries to workers in healthcare facilities. According to the data, the number of injuries increased 6% last year for healthcare support workers in general, a rate that is nearly 2.5 times the rate for all private and public workers. The injury rate for nursing aides, orderlies and attendants rose 7%. Perhaps most notably, the rate of musculoskeletal type injuries increased 10% for nursing aides, orderlies and attendants.

In response to this trend, Assistant Labor Secretary David Michaels announced last November that OSHA intended to develop a national emphasis program (NEP) that will focus on worker safety at nursing homes and other healthcare facilities. OSHA has not released a start date yet, but the proposed NEP would have an initial term of up to three years and would involve increased inspections of healthcare facilities and nursing homes. While OSHA did not specifically link obesity to the increased rate of worker injuries in its announcement, it seems likely that the risk posed by overweight patients was at least one motivating factor. As Assistant Labor Secretary Michaels noted in the announcement, one area of focus will be on "back injuries from resident handling or lifting patients."

It's possible that Assistant Labor Secretary Michaels' announcement may foreshadow another OSHA announcement in the coming year. In January 2010, OSHA proposed a rule that that would have required employers to check a box in a separate column on the OSHA Injury and Illness (Form 300) Log for work-related musculoskeletal injuries to employees. In the face of criticism from the

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business community, OSHA temporarily withdrew its proposal in January 2011. But in light of the 10% increase in musculoskeletal injuries to healthcare workers and OSHA's recent announcement that it intends to focus on back injuries to workers in the industry, employers should prepare for the possibility that OSHA will revisit this proposed rule.

### **What This Means To Nursing Home And Long-Term Care Employers**

Employers in the long-term care profession should take particular note of this increasing injury rate and the OSHA announcement. Baby boomers are now hitting retirement age and will likely have an enormous impact on long-term care in the coming years. Recent data indicates that this segment of the population – some 77 million strong – may not be entering long-term care facilities in ideal shape. A poll released by the Associated Press in July found that baby boomers are more obese than any other generation.

As a result, long-term care workers may soon be assisting heavier patients than at any time before. Because long-term care workers regularly provide physical assistance to patients, the incidence of injuries (particularly musculoskeletal injuries) seems likely to rise unless employers have adequate procedures in place to prevent such injuries.

Nursing homes and other healthcare facilities need to prepare plans for responding to the increased rate of worker injuries and the likelihood that OSHA will increase its inspection of facilities as part of the proposed NEP. Now is the time to take necessary measures to minimize or mitigate such workplace injuries by conducting an audit of existing safety training programs, or creating new programs if none exist.

A modest investment of time and resources now will pay dividends if an OSHA inspector comes calling in the future. Moreover, use this as opportunity to ensure that *all* OSHA records are in order. For assistance with these or other labor and employment matters, contact your Fisher Phillips attorney.

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