

The Communicator

T H E C A L I F O R N I A M O V I N G & S T O R A G E A S S O C I A T I O N

CMSA Counsel Advises Members to Attend Warehouse Lien Manual Educational Workshop

CMSA Counsel Mark Hegarty and CMSA staff are excited to announce the completion of a new "Guide to Warehouse's Lien Rights" manual. Upcoming workshops have been scheduled to offer warehouse lien training and support.

Written by: Mark Hegarty, Hegarty Law Offices

I am particularly looking forward to being the primary presenter at CMSA's upcoming Warehouse Lien Manual Educational Workshops to be held on October 12th in Long Beach and October 19th in Pleasanton. The reason is because Steve, the CMSA staff, and I worked so hard in preparing this substantially revised manual with several all-new sections. Valuable supplements have increased the text of the manual from 16 to 32 pages and 4 new Sample Forms for reference and template-use bring the total to 12. I am confident that the seminars and new manual will provide education and insight for novices and old-salts alike. As always, our emphasis will be on protecting your company's bottom line and avoiding liability. Here is a preview of what you can expect.

The morning session will be our chance to review the fundamentals and will set up our afternoon session. What warehouse claims are covered by the lien? Against which persons other than the depositor may the lien be asserted? Why is it important to differentiate between commercial goods versus household goods? Of course, a significant portion of our morning session will be devoted to reviewing the detailed procedural steps to foreclose a warehouse lien. In other words, how do we get to auction? I will

also emphasize the importance of using the revised Sample Forms templates for letters and notices that incorporate substantive changes to the law. Finally, at the end of the morning session or immediately after lunch, we will have two bonded auctioneers experienced in storage auctions to provide their unique perspective.

The afternoon session will focus on special cases where the depositor's status or circumstance requires the warehouse to deviate from the standard lien enforcement procedure. These cases do not come up too often but when they do, they can be tricky and expensive for the warehouse if not handled efficiently. We will discuss how to settle storage accounts of a deceased depositor and will identify the critical paperwork that the warehouse needs to review to get paid and release stored goods. We will discuss the depositor in bankruptcy and the timelines of which the warehouse must be aware. Also, we will discuss petitioning the court for relief from the automatic stay and even a strategy to appeal directly to the bankruptcy trustee to legally sidestep the automatic stay.

For seminar audience members that do work

(Educational Workshop cont. on page 4)

**Ready to register for a
Warehouse Lien
Manual Educational
Workshop?**

**Go to pages 10 & 11
for registration information.**

Chairman's Corner

By: Brian Larson



At the end of August, I had the pleasure of attending the CMSA's Chapter Presidents' Orientation in both Southern California and northern California. The southern chapter presidents met at the CMSA offices in Cerritos, CA, and the northern Chapter Presidents met in Sacramento, CA. These orientations are held every year in order to provide a guideline to the Chapter Presidents and Officers on organizing and running their local CMSA Chapter in the coming year.

The fall is fast approaching, and with it brings our local chapter dinners and numerous fund-raising events. The chapters' dinners offer Steve and I a chance to get together with our mover and associate members over a great meal while listening to various speakers present us with current information relevant to our individual companies and the moving and storage industry. The fund-raising events include golf tournaments, bocce ball, spaghetti and crab feeds, horse racing, Monte Carlo and much

more. The money raised from these events goes to the CMSA Scholarship Fund, the Special Olympics and the CMSA PAC fund.

The chapter dinners and fund-raisers are events that I ask all of our mover and associate members to attend with frequency this coming year. If you are a member of the CMSA and rarely go to a chapter dinner or fund-raising event, please put them on your calendar this year to attend. Your local Chapter President and Officers spend a great deal of volunteered time planning these events, the money raised goes to some great causes and you will have a full load of fun at the same time!

Starting in September, I will be travelling with Steve Weitekamp, and we look forward to seeing all of you soon at a chapter dinner or fund-raising event.

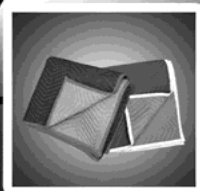
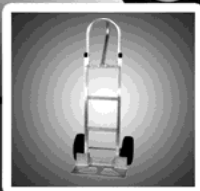
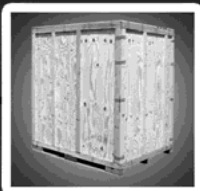
**For upcoming events,
check out our
Calendar of Events on page 12.**



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President's Comments

By: Steve Weitekamp



As fall 2010 begins we look back on a summer season that, thankfully, brought many members the increase in business that they haven't seen in the last several years. We look ahead to challenges and confusion in the regulatory environment, regarding the pending CARB On-Road Diesel Truck Regulations. We also are alert to an upcoming political season with the two major parties as far apart in ideology as they have ever been. With all that is going on the one thing of which we can be certain is that there will be change.

Frequent CARB workshops and delays seem to be a recurring theme and part of the regulatory process. I attended a late August CARB workshop in their El Monte field office. The workshop was intended to test drive proposed updates to the diesel emissions inventories and reveal their "new" report, *"Estimate of premature deaths associated with fine particle pollution (PM2.5) in California based on U.S. EPA's methods."* Industry representatives and advocates were displeased to learn that CARB decided not to conduct a review of their own previously discredited study, "The Tran Report" reviewed in previous columns, as promised in response to outrage regarding unethical behavior of the author. Their new plan is to use data from an EPA report that covers many diverse areas of the country. Some believe this data is not relevant to California's specific health effects, environmental impacts, or regulations. Regardless of one's political or scientific ideology it seems reasonable to expect the use of California based studies that address California health effects, especially if our state is going to step out alone in imposing regulations that will have economic impacts.

In last month's column I mentioned that the CARB Board had delayed their review of the regulation from September to November. At the recent workshop noted above, we were informed that the date of review by the board had been delayed again. The review, and staff

(President's Comments cont. on page 5)

(Educational Workshop cont. from page 1)

with the military, we will look closely at the Servicemembers Civil Relief Act (SCRA) of 2003 that replaces the repealed Soldiers and Sailors Act. Certain sections of the SCRA directly affect the rights of California warehouseman to foreclose a warehouse lien. If time permits, we will recommend warehouse best practices related to partial payment, access to goods, and record-keeping. Finally, we will discuss the carrier's lien that has been traditionally enforced in a very similar way to the warehouse lien. However, as a result of recent significant amendments to the PU Code, carrier's lien enforcement law is in flux and could represent a potential landmine for household goods carriers unaware of the state of the law. The carrier's lien material is not included in the manual so be prepared to take notes.

CMSA understands that budgets are tight and staffs are lean. However, I hope this detailed preview frames the seminar and the manual for what they are – a very important investment in your business. I am looking forward to meeting all of you in October.

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(President's Comments cont. from page 3)

proposed modifications, is now scheduled for the December board meeting. We were also informed that an additional round of workshops is planned for September/October. The upcoming workshops are planned to focus on revised staff regulatory proposals and will be an important opportunity to voice concerns and issues with the regulation and staff's modification. CMSA will keep members informed about the dates and locations of this next round of workshops.

Also in August, members of CMSA's Executive Board and staff met, in CMSA's Cerritos offices, with AMSA President Linda Darr and Vice President of Compliance Dave Hauenstein to discuss a possible State based ProMover program. The goal of a program would be to aid consumers by providing an identifiable measure of quality while, at the same time, enhancing the moving industry by encouraging and recognizing high professional achievement. Identify quality professional moving companies and promote uniform criteria with the CMSA at the state

level and with AMSA at the national level to the benefit of consumers.

We see value in a nationally marketed program that can enhance the image of professional movers in the perception of the moving public. AMSA's interstate program addresses the need for industry agreed and reviewed standards and accountability. From its inception CMSA has believed that in order for a national branding of the professional mover to be effective it should to be endorsed by the state associations as well. We have shared our thoughts and they have been well received. At our recent Convention in Lake Tahoe AMSA President Linda Darr met with CMSA's Executive Committee and an agreement was reached to further explore the concept of a proposed pilot program for California.

The photo on the back page of this issue identifies the participants in the most recent meeting at CMSA's offices in August. All are hopeful that a program that benefits CMSA members and enhances the image of California-based professional movers will be available in the near future.

Mark Doyle Joins the National Van Lines Family



Maureen Beal, CEO National Van Lines is pleased to announce the appointment of Mark Doyle to the position of Vice President, Sales & Agency Development. No stranger to National Van Lines, Mark was first hired in 1986 and was promoted to this same position in 1994, leaving in 1997 to open his own successful agency.

According to Maureen, "We had been looking for a Vice President of Sales and Agency who would come to us with excellent experience, a good work ethic and an understanding of our culture. Most importantly, we were looking for someone with a great attitude. We feel we have found that person in Mark Doyle."

Mark returns to National with a purpose. With the knowledge of what it takes to succeed as an agent, combined with his corporate experience,

Mark is determined to focus on new agent recruitment and play an active part in the growth and development of existing agents. "I'm looking to rebuild the infrastructure of the department by developing a dynamic and consistent approach to recruitment, while at the same time serving as a working liaison promoting sales growth and providing a responsive agent-oriented development staff," states Mark.

A 10-year Certified Moving Consultant, Mark is committed to quality, demonstrated by his service on the Board of Directors for the Chicago and Northern Illinois Better Business Bureau. Mark adds, "The BBB promotes and endorses self-regulation and ethical business practices, and the culture and strategic vision of National Van Lines is a great example of that discipline."

Mark and his wife Erin have two daughters, Brittany (15) and Melanie (8). The Doyles reside in Naperville and enjoy bike riding, tennis, swimming and family golf outings.

AMSA Pushes DOD to Solve DP3 Issues; No Open Season This Year

As expected, there was more demand this year for moves during the busy weeks of the summer than capacity in the moving and storage industry. This imbalance, however, hit the military sector especially hard in the past few months as a result of DOD's transition to a new computer system in May, and a belief among drivers and agents that the rates filed by many carriers in the DP3 program were too low. AMSA pushed SDDC to convene a working group to discuss lessons learned and make changes prior to next summer's peak season to ensure these problems are minimized in 2011.

AMSA President and CEO Linda Darr and VP for Military/Government Affairs Scott Michael recently met with representatives from the Military Surface Deployment and Distribution Command (SDDC), the Joint Program Management Office (JPMO) responsible for developing the DPS computer system, and the military services, to review the lessons learned from this year's peak season and identify solutions.

In an unrelated development, SDDC announced last week it will not have an open season for new entrants this year. The command felt its resources were better used "fixing" the

DPS system and it is re-examining its policy regarding "paper companies" versus asset-based participants.

AMSA brought up other problems this summer including technical issues with the DPS computer system and lack of understanding of the new program rules. Military Transportation Offices (TOs) indicated that some movers were not performing pre-move surveys, and movers complained that TOs were not approving accessorial charges on time or at all. Storage-in-transit (SIT) was a particular area of concern due to delays in DOD approving SIT when necessary. AMSA urged SDDC to reconsider whether it needed to apply peak-season strategies, particularly with regard to SIT.

SDDC plans to report back in the next few weeks with its plans for changes to implement prior to peak season 2011, along with longer-term plans, and AMSA will continue to push for SDDC to reexamine its presumptions and implement industry recommendations. More information will be provided at several conferences this fall, culminating with the Nov. 4 Personal Property Forum in St. Louis.

CARB Critic Enstrom Appeals Firing Under Whistleblower Protection

A California professor who has questioned CARB's diesel emissions research will keep his job – at least until the appeals process runs its course.

Dr. James Enstrom, who has worked at UCLA for 36 years – the last 34 as associate research professor – was told his position ended as of Monday, Aug. 30, resulting from secret vote of faculty members in his department earlier in the month.

After being told he wouldn't be employed after Aug. 30, Enstrom filed an appeal under UCLA's Whistle Blower Protection Policies. Enstrom said Tuesday he received word that his employment would be extended until March 31, or "until the grievance process has been com-

pleted."

Enstrom made headlines in recent years after he questioned claims made by CARB regarding diesel particulate matter and public health. Enstrom's research on diesel emissions showed no causal link between diesel soot and early death for Californians.

He also said he may have made enemies when he questioned the Scientific Review Panel of Toxic Air Contaminates for not complying with state-required three-year term limits.

One such panel member was Dr. John Froines, who was recently kicked off the panel after serving 26 years. Froines, who earned no-

(CARB Critic continued on page 7)

(**CARB Critic** continued from page 6)

during political riots in the late '60s as one of the "Chicago Seven," now teaches at the UCLA School of Public Health.

In interviews with *Land Line* in August, Enstrom said he likely irked top officials at CARB between 2008 and 2009, when he questioned science used to justify the implementation of CARB's Truck and Bus rule, also known as the Retrofit Rule. The rule requires trucking fleets to install diesel particulate filters and upgrade their truck engines beginning in 2012, though several amendments to the rule are scheduled to be presented this fall.

The rule is estimated to cost trucking companies between \$6 and \$10 billion.

In December 2009, a scandal emerged when it was revealed that CARB Chairman Mary Nichols told some, but not all, CARB board members that the agency had learned its

top researcher for the Truck and Bus Rule, Hien Tran, had faked his resume and lied repeatedly to his superiors at the air quality agency.

Tran, Enstrom said, ordered his doctoral degree online for \$1,000.

Tran claimed that he had a doctorate degree in statistics from the University of California at Davis, but that was later found to be untrue. Nichols told some board members about the lie. Other board members who were kept in the dark for nearly an entire year, were outraged. Some board members called for a review of the science behind the Truck and Bus Rule.

Tran is still employed at CARB.



Source: *Land Line Magazine*,
www.landlinemag.com

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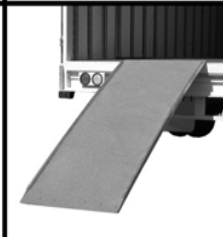
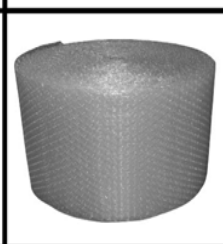
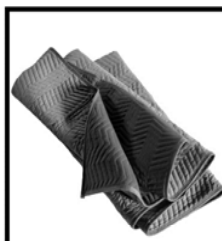
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FMCSA Fines Moving Van Lines, Inc. \$281,000 for Violating Multiple Federal Regulations

WASHINGTON - The U.S. Department of Transportation's Federal Motor Carrier Safety Administration today announced \$281,000 in fines against Moving Van Lines, Inc. of Tampa, Florida for violating multiple federal regulations including holding consumers' property hostage and requiring moving fees in excess of the original binding contractual agreement.

"Consumers should not have to fear the loss of their property at the hands of fraudulent household goods movers," said Transportation Secretary Ray LaHood. "Companies that violate federal regulations and take advantage of consumers will be held accountable and they will face serious legal and financial consequences."

"Ensuring that consumers can access safe, reputable household goods movers is a priority," said FMCSA Administrator Anne S. Ferro. "We will continue to use every resource at our disposal to expose unscrupulous movers and protect consumers."

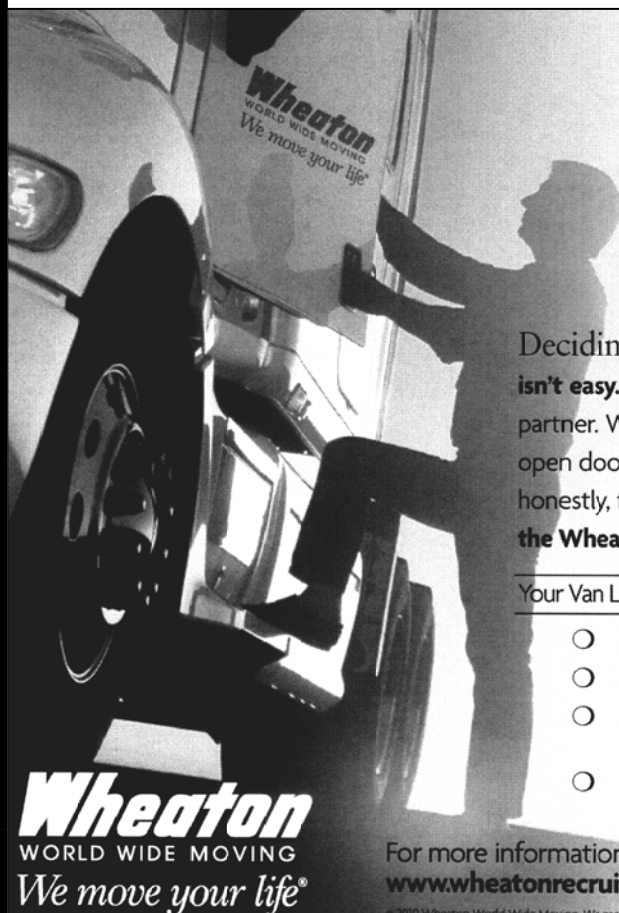
FMCSA issued these citations and fines against Moving Van Lines, Inc. following an ex-

tensive investigation of consumer complaints against the moving company. FMCSA issued a final order on August 16, 2010, and found the company in violation of 28 counts of failing to relinquish possession of a household goods shipment (hostage load), and 1 count of collecting fees more than the original binding estimate.

FMCSA encourages consumers to file any complaints involving household goods or other commercial motor carriers through FMCSA's nationwide complaint hotline at 1-888-368-7238 (1-888 DOT-SAFT) and to visit the National Consumer Complaints Database at <http://nccdb.fmcsa.dot.gov>.

The agency also encourages consumers planning an interstate move to visit the federal government's "Protect Your Move" website at <http://www.protectyourmove.gov>, which provides information on shippers' rights and responsibilities and information on how to research USDOT registered household goods carriers.

Source: FMCSA website, www.fmcsa.dot.gov



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CMSA SEMINAR

WAREHOUSE LIEN MANUAL

EDUCATIONAL WORKSHOP



Mark Hegarty
Hegarty Law Offices

Mark Hegarty of Hegarty Law Offices, CMSA's longtime Legal Counsel, has many years of experience handling moving industry legal issues with the PUC, corporate entities and private parties. At the workshop, he will be addressing the following topics:

- **Revisions and Entirely New Sections of the Warehouse Lien Manual**
- **Which Forms to Use & When to Use Them**
- **Strategies to Stay on Schedule**
- **Real World Examples**

CMSA President Stephen Weitekamp will be sharing his insights in executing Warehouse Lien rights. He will also review with members what they should be aware of when setting up an auction and how to avoid costly mistakes.



Stephen Weitekamp
CMSA President

INCLUDING SPECIAL PRESENTATIONS BY:

John Cardoza of Storage Auction Experts &
Thomas Hayward of Thomas Hayward Auctioneers

• TWO SEMINAR DATES •

October 12, 2010
10 am - 2:30 pm
Holiday Inn - Long Beach Airport Hotel
2640 N. Lakewood Boulevard
Long Beach, CA 90815
(Special room rates available.
See registration form for details.)

October 19, 2010
10 am - 2:30 pm
Four Points by Sheraton Pleasanton
5115 Hopyard Road
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(Special room rates available.
See registration form for details.)

CMSA Members: \$150.00

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Prices include 2010 Warehouse Lien Manual (Member's Price: \$95) & Lunch

The CALIFORNIA MOVING & STORAGE ASSOCIATION
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WAREHOUSE LIEN MANUAL WORKSHOP

Tuesday, October 12, 2010

10:00 am – 2:30 pm

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- **Revisions and Entirely New Sections of the Warehouse Lien Manual**
 - **Which Forms to Use & When to Use Them**
 - **Strategies to Stay on Schedule**
 - **Real World Examples**

Presenters:

**CMSA Legal Counsel Mark Hegarty, Hegarty Law Offices
CMSA President Steve Weitekamp**

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Attendee Name _____ **City Attending** _____ **Date** _____

CALENDAR OF EVENTS

Sept. 14th, Tuesday	Mid Valley Chapter Meeting	Oct. 19th, Tuesday	Warehouse Lien Manual Workshop (Pleasanton)
Sept. 15th, Wednesday	San Diego Chapter Meeting	Oct. 19th, Tuesday	Northern Region Chapter Meeting
Sept. 15th, Wednesday	Central Valley Chapter Meeting	Oct. 20th, Wednesday	North Bay Chapter Meeting
Sept. 16th, Thursday	Central Coast Chapter Meeting	Oct. 21st, Thursday	Sacramento Chapter Meeting
Sept. 21st, Tuesday	Twin Counties Chapter Meeting	Oct. 26th, Tuesday	Los Angeles Chapter Meeting
Sept. 21st, Tuesday	Los Angeles Chapter Meeting	Nov. 9th, Tuesday	Twin Counties Chapter Meeting
Oct. 1st, Friday	Monterey Bay Golf/Bocce Tournament	Nov. 10th, Wednesday	San Diego Chapter Meeting
Oct. 12th, Tuesday	Warehouse Lien Manual Workshop (Long Beach)	Nov. 11th, Thursday	Orange County/Beach Cities Chapter Meeting
Oct. 13th, Wednesday	Ventura/S. Barbara Chapter Meeting	Dec. 11th, Saturday	No. Region Crab Feed Fundraiser

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At American Alliance Drug Testing (AADT), one of the largest national drug and alcohol testing businesses, we have firsthand knowledge of the importance of implementing a Drug and Alcohol Policy. We receive calls on a daily basis from CHP and DOT inspectors inquiring whether or not we provide a sample company policy for our clients.

The U.S. Department of Transportation (DOT) Federal Motor Carrier Safety Administration (FMCSA) Code of the Federal Regulations, Title 49 Code of Regulations (CFR) Part 382 Subpart F, §382.601 requires an applicable employer (those who operate vehicles in excess of 26,000 lbs. GVW) to establish a policy on the misuse of alcohol and use of controlled substances (drugs).

Each company is responsible for having a

Substance Abuse and Alcohol Misuse Policy implemented prior to physically initiating any drug and/or alcohol testing. In addition, any company with employees must have a Designated Employer Representative (DER) that has completed the requirements pertaining to "training of supervisors" §382.603.

Drugs, whether illegal or prescribed, are tightly controlled because of their effects on human behavior and health. It is an established fact that enacting a drug-free workplace program within your company can ensure employees are aware of the dangers of substance abuse and alcohol misuse, and can help to minimize on-the-job accidents, absenteeism, tardiness, and even employment turnover. Businesses that have an established drug-free workplace program typically experience an increase in staff morale, motivation and productivity, which in turn leads to increased customer satisfaction.

Every employer knows having employees is a very costly yet necessary element of their

(Drug and Alcohol Policy cont. on page 14)



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FOR ALL YOUR MOVING AND PACKING NEEDS

(Drug and Alcohol Policy cont. from page 13)

business. There are wages, employer taxes, benefits, insurance, and the time and effort invested into product knowledge and training unique to each person's position. When these operating costs are factored in along with the additional burden of accidents or incidents associated with legal expenses, insurance, unemployment or disability claims, theft, destruction, or damage to the company's assets (vehicles, machinery or equipment), the potential savings become very evident. Then, there is the issue of the potential loss of your industrious efforts spent building your business and one catastrophic accident claim that could jeopardize

your business' future.

Additionally, many insurance products including workers' compensation programs offer savings through incentive programs, some in the form of a

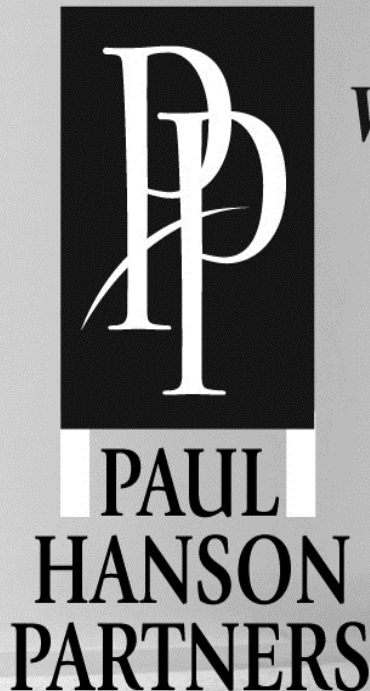


discount on premiums or a percentage of their fees returned due to a reduction in filed claims.

Currently, there are no federal laws prohibiting employers from pre-employment drug testing their employees. However, there are several states, cities and counties that restrict or question an employer's ability to "randomly" drug test employees who are not in "safety-sensitive" positions. Some federal and state laws have certain restrictions on how the specimen may be collected from the donor. Therefore, it is extremely important that employers familiarize themselves with the various federal and state laws that may apply to their organization, and consider seeking the advice of legal counsel or a labor relations specialist prior to implementing a drug-free workplace program.

Drug-free workplace programs vary based on each organization's specific needs. Whether it is a simplified version that defines the basic zero-tolerance with immediate termination, or a detailed version defining the company's philosophies and rehabilitation expectations, a written drug-free workplace policy is the foundation of a drug-free workplace program.

(Drug and Alcohol Policy cont. on page 15)



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(Drug and Alcohol Policy cont. from page 14)

Develop A Drug-Free Policy

Typically, a drug-free policy should provide written guidelines that prohibit employees from the possession, use, sale, or manufacture of illegal drugs and intoxicants while on company property, during work hours or while on company-related functions. Define what is considered company property (i.e., desks, lockers, tool boxes, company vehicles, employee vehicles on company property, or job sights). A provision regarding fitness for duty should also be included, stating that employees are expected to be in suitable mental and physical condition and able to perform their assigned job duties satisfactorily at all times. The policy should emphatically communicate the company's position on illegal drugs, substance abuse and alcohol misuse and what employees can expect if the policy is violated. The policy must be carefully communicated with adequate notice to all employees. Deviation from the policy is a sure bet



for setting your program up for failure.

Determine Who Will Be Tested

Evaluate when, how and for whom drug and/or alcohol testing will be conducted (i.e., job applicants, all employees, employees in job involving safety or security, employees in a supervisory position, etc.). Another consideration is whether testing will be periodic and announced, or random and unannounced. If an employee has been involved in an accident, will post-accident testing be required? If so, under what circumstances? Will testing be a requirement for employees that have been on an extended leave of absence?

Train Supervisors/DERs

Training for managers and supervisors is critical in identifying and preventing substance abuse cases. Supervisory training should address the physical, behavioral, speech and performance indicators of probable alcohol misuse and the use of controlled substances, proper documentation of questionable behavior, and

(Drug and Alcohol Policy cont. on page 16)

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(Drug and Alcohol Policy cont. from page 15)

how to constructively confront the employee. Managers and supervisors must be familiar with the disciplinary consequences of violating the company's drug-free policy, and be consistent with the enforcement of those consequences.

Educate Employees

Education plays a key factor in the success of a drug-free program. Formal education programs will help your employees to better understand the dangers of drug abuse and alcohol misuse in the workplace. The benefits are wide-ranging and include the enhancement of a safe and productive working environment. A drug and alcohol education program provides employees with a workplace program that clearly communicates the consequences that may be imposed on employees for being under the influence or possessing drugs and/or alcohol on the job.

Employers also need to explain that there are many help programs available through drug and/or alcohol counseling, rehabilitation, and assistance for those in need. Sometimes employers even provide company-wide training to

supervisors and employees regarding the dangers of illegal drug use and alcohol misuse by outside consultants or substance abuse professionals.

If it is determined that employees are using drugs and/or alcohol, companies need to determine whether they will allow time or even establish a program for the rehabilitation of the employee. Otherwise, if the company's policy is termination, this has to be clearly spelled out in the policy. Also, if suspicion is a factor (whether it is post-accident or reasonable cause), suspension pending an investigation of the issue may be an appropriate recourse.



Determine If Company Assistance Will Be Provided

Experienced employees can be a valuable asset to a business and costly to replace. Employee assistance programs (EAPs) are a

(Drug and Alcohol Policy cont. on page 17)

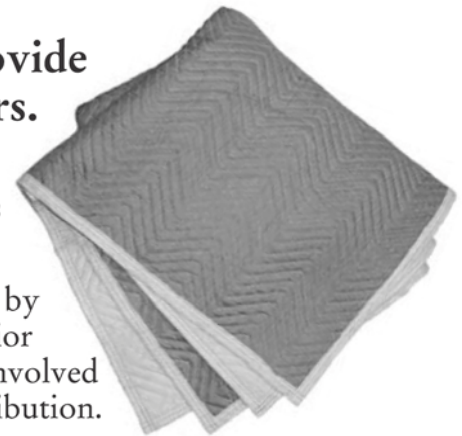
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(Drug and Alcohol Policy cont. from page 16)

cost-effective means of addressing poor work performance that may stem from employees' personal problems, including substance abuse. Through an EAP, an employee is offered individual counseling with a private therapist or substance abuse professional (SAP) to get to the root of the problem and to suggest a rehabilitation program tailored to the employee's individual needs. Rehabilitation programs vary and can range from self-help group counseling to in- or out-patient addiction treatment centers. After-care treatment with follow-up testing, in some cases, is mandatory or optional in others, but can be monitored by the individual employer or a substance abuse counseling service.

Be Proactive!

Many times, employers procrastinate implementing a drug-free workplace program due to the misconception that it is too costly to develop a written policy, or they have perceived it to be almost an overwhelming company change and don't know "how to even start."

The U.S. Department of Labor's Working Partners website (www.dol.gov/workingpartners)

is one of the most extensive resources for assistance in implementing a drug-free workplace program. The Working Partners program guidance and information is available to the public at no cost. There's a tremendous amount of information there to help you build a tailored, drug-free workplace written policy, and it all can be easily found by clicking on the Drug Free Workplace Advisor link on the right hand side of the main screen.

Although establishing a drug-free workplace program may appear to create an additional-cost burden for your business; once you factor in all the many benefits identified in this article, in the long run, a drug-free workplace program can prove to be a measurable cost savings and benefit for your business. Who doesn't need that today?

Source: American Alliance Drug Testing (AADT)



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Employers' Frequently Asked Questions Regarding I-9 Forms

The following are frequently asked questions and answers regarding I-9 forms:

Q: How long do we have to complete the I-9 Form?

A: Recently, the U.S. Citizenship and Immigration Services (USCIS) stated in an E-Verify training program that employers have three days after the date of hire to complete the I-9 Form. While this appears to be inconsistent with all prior information on the time to complete the I-9-within three business days of hire, the USCIS has confirmed that if an employer is in an E-Verify program, they have one additional day to complete both E-Verify and Section 2 of the form. Employers that are not in an E-Verify program should stick with the requirement to complete the form within three business days of hire.

Q:How long do we wait until an employee brings us a work authorization document? The employee was given 90 days but it has

now been six months and we have no document.

A: Assuming that the employee is a new hire, there is no grace period under the 2009 regulations to produce an original document. All original documents must be presented at the time that the I-9 is certified. Under the old regulations, a new hire had 90 days if the employee could produce a receipt that showed that they had gone down and applied for a document. Now, there is no grace period if the new hire fails to produce a document within three days of hire.

If the employee was originally hired with a work authorization document and that document has expired, there is no grace period either under the current or prior regulations. The employee is required to produce a document prior to the original expiration date in order to remain authorized to work.

(I-9 Forms continued on page 19)



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(I-9 Forms continued from page 18)

Q: Some of our I-9 Forms are very old and don't look so good, since a new I-9 Form came out last year should we just go ahead and have everyone complete a new form?

A: No, there is no expiration date on an I-9 Form and there is no requirement that a new form be filled out whenever I-9 Forms are revised. The original form that was completed at the time of hire is the form that should be retained throughout employment. The fact that it does not look so good is irrelevant as long as it is legible.

Q: We have found many I-9 Forms with expired driver's licenses or U.S. passports, should we have them fill out a new I-9 Form?

A: No, identity documents such as a driver's license or a U.S. passport need only be current at the time of hire. Only work authorization documents need to be kept current throughout employment.

Q: Are we required to make and keep copies of documents with the I-9 Form?

A: No, the I-9 Form instructions do not require that you make or retain a copy of any document presented. Originally, when the law was first passed, employers were concerned about being able to prove that they had, in fact, seen the documents. The only requirement is that you certify that you have seen original documents. While you may choose to keep copies, a concern is the potential for identity theft.

Q: How long do we keep I-9 Forms? We were confused and went through and discarded all I-9 Forms that were older than three years.

A: I-9 Forms should be retained for all employees throughout their employment. After employment has ended, an I-9 Form must be retained for at least three years from the date of hire, or one year from the date of termination, whichever is longer.

Source: California Chamber of Commerce, *Alert*

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