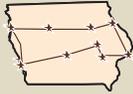


# Workplace

H E A L T H & S A F E T Y R E P O R T



A Newsletter of  
The University of Iowa's  
WORKSAFE IOWA Occupational  
Medicine Associates Network.  
Iowa's university-affiliated  
statewide network of  
occupational medicine providers.

Vol. 11 No. 2 Winter 2004



Page 4 BLS Reports Workplace Injury  
and Illness Rates  
New NIOSH Series:  
Workplace Solutions



Page 5 Family Medical Leave Act



Page 6 ASK THE EXPERT

## Smoking in the Workplace: Update 2004

by Del Bonney

It's been exactly 40 years since the US Surgeon General's office published its first report on tobacco, "Reducing the Health Consequences of Smoking" and inspired even more researchers to study the health effects of smoking. And they've come a long way, to the point where the Centers for Disease Control and Prevention (CDC) can now declare smoking a major cause of cancer and various diseases of the lungs and heart and the Environmental Protection Agency can classify second-hand smoke as a known human carcinogen.

Meanwhile, the societal changes have been just as profound. California leads the United States in its comprehensive approach to banning smoking in public places, but others—

Florida, New York, Maine, Washington (DC)—are also taking significant steps. Smaller municipalities have also taken action; the number of nonsmoking laws in US cities increased tenfold through the 1980s. On the world scene, entire countries are banning smoking in all their workplaces, the most recent being Ireland (with its 10,000+ pubs).

Perhaps understandably, the first industry in the US to go entirely smoke-free was the hospital industry. As smoking is increasingly linked with absenteeism, occupational injuries, industrial accidents and other problems, workplace policies that ban or restrict smoking have spread widely, from 27% of workplaces (with 50+ employees) in 1985 to nearly 60%

by 1992. No-smoking areas now extend beyond outdoor entrances and even to parking lots.

Workplace policies are influenced not only by health concerns and legislation but also by growing concern about legal liability. An employer's legal obligation to protect the health of all workers cannot help but be re-defined by the mounting  
*(Continued on page 2)*



## Conflict Resolution: Preparation is Key

by Del Bonney

**W**hy do we have conflict in our workplaces?

Perhaps the simple answer is that most of us work with other people and, as Randall Ney, JD, asserts, "conflicts involve people, not rules." As Director of the Iowa Mediation Service at the University of Iowa, he understands the importance of preparation before attempting to resolve a conflict.

*(Continued on page 3)*



# Smoking in the Workplace: Update 2004

(Continued from page 1) scientific evidence linking secondhand smoke with human disease. Further, the Surgeon General's 1986 report on "Involuntary Smoking" set aside the idea that separating smokers and non-smokers would eliminate the exposure problem.

On the positive side of the equation is the declining number of smokers. According to the latest figures, 22.8% of adult in the US smoked in 2001. Also positive is the number of smokers who say they want to quit—70% in Iowa, according to John Lowe, DrPh, who says that figure is comparable to national statistics. Lowe heads the Department of Community and Behavioral Health in the University of Iowa's College of Public Health and has worked in the area of smoking cessation for over 20 years.

He finds it significant that a majority of smokers also believe "public places," including workplaces, should be smoke free (although their definition of public places doesn't include bars).

Lowe says, "If an employer wants to save money—and what employer doesn't?—a smoking cessation program is a good investment." But quitting smoking can be very hard for some people, he asserts, and "smoking bans in the workplace should always come with access to



**"We know from years of study that each serious quit attempt increases the chance of succeeding the next time..."**

**Dr. John Lowe**

cessation programs." His and others' experience shows that the key to a successful workplace program is scheduling it during work hours—"because the key to any cessation program is getting the whole program, in other words following it through to completion."

The Fitness Center in the Quad Cities conducts a 4-week class that has been offered frequently in workplaces. In fact, 3 Quad Cities companies are scheduling the class in January. Employers often

offer classes to correspond to New Year's resolutions.

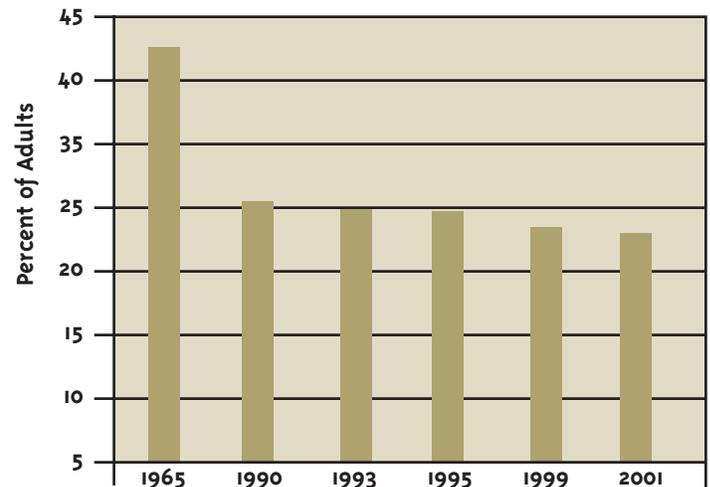
Convenience is an important feature of the "Breath Savours" program of the Iowa Methodist Medical Center in West Des Moines. In one 2-hour session, participants (and the "support person" of their choice) determine their own "profile" as a tobacco user, identify personal barriers to quitting, and end up with practical, specific ideas. The ideas cover not just quitting but avoiding high-risk situations that could cause relapse (something the Fitness Center program also emphasizes strongly).

Maintaining a new non-smoking habit can be easier with ongoing support such

as that available through Quitline Iowa. The toll-free telephone counseling service is staffed from 8 a.m. to midnight, 7 days a week, by trained health counselors. They help callers develop individualized quit plans that can be followed with or without assistance.

Lowe, who directs the Iowa Tobacco Research Center (ITRC) that operates the Quitline, explains the significance of the phone number: 1-866-U-CAN-TRY. "We know from years of study that each serious quit attempt increases the chance of succeeding the next time," he says, "so employers should do anything in their power to encourage smokers to try and quit."

Cigarette Smoking Among Adults in the United States



Center for Disease Control and Prevention (CDC) Morbidity and Mortality Weekly Report (MMWR)



This is a  
Non-Smoking  
Building

## A Decision Maker's Guide

Allen Occupational Health in Waterloo offers employers a comprehensive guide to creating a tobacco-free workplace. A worksheet entitled "Do the Math" helps employers identify tobacco's costs specific to their business setting. Other sections lay out steps toward a goal of providing a safe and healthful workplace for all employees, without stigmatizing those who smoke. A sampling of information in the guide:

### A complete ban on smoking inside buildings or company vehicles has various pros and cons:

#### Pros

- complies with all laws and ordinances
- greatly reduces secondhand smoke exposure for all employees
- provides best health and safety benefits for employees
- may reduce the number of cigarettes smoked by employees; may encourage employees to quit smoking
- decreases maintenance costs
- sends a clear message to employees easier to administer and enforce low cost to implement

#### Cons

- requires smokers to modify their behavior; some costs may be incurred if outside smoking shelters are constructed
- employees smoking directly outside the building impacts image; inconvenience to employees who smoke
- if not properly managed, smokers may be disproportionately absent from their workstations

### Some questions to consider in making a decision about a no-smoking policy:

- Given the employees' interests, health, and work environment, what policy will provide them the most protection?
- What policy will offer the greatest benefits to the company at the lowest cost?
- What policy will management find most supportable?
- What community ordinances exist governing smoking in public places or workplaces?
- What are the customers' or the community's expectations regarding secondhand smoke, given the policies in other similar workplaces and public sentiments regarding secondhand smoke?

For more information on the "Guideline to a Smoke-Free Workplace," contact Cristina Johari at (319) 235-3889 or [joharicm@ihs.org](mailto:joharicm@ihs.org).

## Conflict Resolution: Preparation is Key

(Continued from page 1)

He advises people first to consider how they see conflict generally. Can it be seen in terms of opportunities? Definitely, according to Ney—for example, conflict provides the chance to address a workplace problem that's being ignored. Also, when people with opposing views have to resolve something, it can produce new, original solutions that are a synthesis of their attitudes. And working together may even influence one or both of them to think differently from that point on. Conflicts also allow people to grow and improve valuable skills like communication, listening, advocacy, problem solving.

Ney asks, "How do you typically react to conflict?" Most people avoid it, sometimes reassuring themselves that "time heals all things." Ney has seen avoidance exact a huge price. "An unresolved, simmering conflict saps emotional energy, productivity and morale," he says. "You may not see a financial impact at first but you're spending human capital, and if a problem escalates you'll spend a lot more. Remediating damage that's been done is very costly."

Some people, rather than avoiding conflict, want to charge in and fix things. While noting that a take-charge, fix-it approach is generally valued in the American workplace, Ney cautions that this may well be an impulse one should control in a dialogue situa-

tion—"and you can only control what you're aware of."

To further build self-awareness, ask: What's *really* bugging me? You can prepare for more fruitful dialogue by identifying your "hot buttons"—personality traits or behaviors that trigger your annoyance. Perhaps it's chronic lateness. For some people, authority or rules in general trigger resistance and resentment.

Underlying these "buttons" are often judgmental attitudes or biases. These go beyond the big "isms"—racism, sexism, etc. Perhaps you're impatient with people who you feel talk too much. Look closely and you may discover a belief that those people are less intelligent. Often Ney says he notices a bias against an "outsider"—a belief that no one outside the group can possibly make a valuable contribution.

People think these attitudes are well hidden, Ney says, but they slip out in their words or tone of voice and can destroy the conflict resolution process. He points out that a very different outcome can result from an employee who says, "When you exercise your authority in that way, I feel uncomfortable" and one who says, "You're a power-hungry woman."

When people come together to resolve differences, their dialogue will essentially recreate the conflict, so careful preparation beforehand will pay off in much more positive results.



## BLS Reports Workplace Injury and Illness Rates

The most current workplace injury and illness rates have been published by the US Department of Labor Bureau of Labor Statistics (BLS). There were approximately 4.7 million occupational injuries and illnesses reported in private industry workplaces during 2002. According to the report of December 18, 2003, the incidence rate for non-fatal occupational injuries and illnesses is 5.3 cases per 100 full-time workers.

The 2002 data cannot be compared with prior years (e.g. 5.7 per 100 workers in 2001) because of revisions



of OSHA's recordkeeping requirements. Still, OSHA Administrator John Henshaw applauded the news saying it was a "further indication of the progress we've achieved in making workers and workplaces safer than ever before."

The complete report can be found on the BLS website at <http://www.bls.gov/iif/oshwc/osh/os/osnro018.pdf>

## New NIOSH Series: Workplace Solutions

Workplace Solutions," a series of publications from the National Institute for Occupational Safety and Health (NIOSH), translates NIOSH research into occupational safety and health

practice. The series replaces the Hazard Controls and Hazard ID series. *Workplace Solutions* can be accessed at <http://www.cdc.gov/niosh/docs/wp-solutions>.

## MyOSHA, Quick Start Help Web Users Find Info

Two new resources are available on the OSHA website. MyOSHA can be used to create personalized links to OSHA online resources. Users can customize the content of their pages by choosing links from categories such as "Industry," "Safety and Health Topics," "Laws and Regulations," and "Working with OSHA." A tutorial walks users through the set up process.

MyOSHA also includes randomly rotating eTips that educate users about OSHA and the agency's website. The eTips will appear at the top of the user's personalized page and will change each time the user accesses their MyOSHA page.

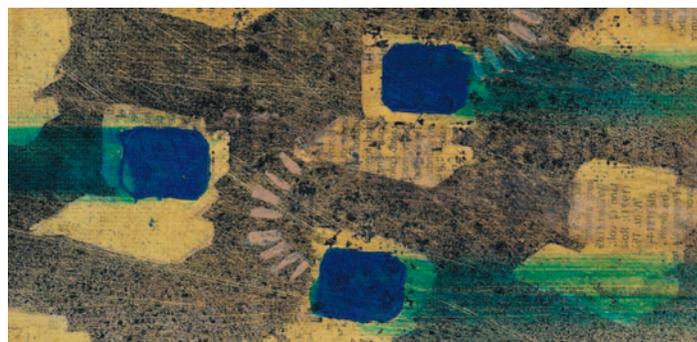
"Are you ready to learn more about how to prevent workplace injuries and illnesses and comply with the Occupational Safety and Health Act, but aren't sure where to start?" is the question that introduces the other new resource, called Quick Start. A step-by-step guide to identify requirements and guidance materials applicable to specific work-

places, it can be accessed through the agency's Compliance Assistance web page.

Quick Start presents information on recordkeeping and reporting requirements, as well as links to compliance assistance resources and information for developing a comprehensive safety and health program. It also includes a library of forms, fact sheets, publications, OSHA web pages and electronic tools, and sample programs.

Commenting on the new tools, OSHA Administrator John Henshaw said, "It's important that America's workers and employers know what OSHA can do and how we can help those who need it. These new resources can be especially useful for small and new businesses as an introduction to the compliance assistance resources on OSHA's website."

For more information, visit <http://www.osha.gov> or contact: Frank Meilinger of the Occupational Safety and Health Administration, 202-693-1999.



# Family Medical Leave Act

*At the annual conference of the Northeast Iowa Association of Occupational Health Nurses in November, attorney John Bickel described some of the legal ramifications of the Family Medical Leave Act. Bickel is with Shuttleworth & Ingersoll P.L.C., in Cedar Rapids. Another presenter, Dr. Henri Cuddihy of UI HealthWorks, gave the physician's perspective (for several of his key points, see "Ask the Expert" on page 6).*

Since 1993 many employees have had previously unavailable legal protection when they must take off work to care for their or their family members' health problems. The Family Medical Leave Act covers only certain employers, however, and applies to eligible employees only.

## Employer Eligibility

To be covered by FMLA, an employer must have 50 employees (which includes part-time workers, workers on leave, and workers jointly employed by two employers). The employees must work at least 20 work weeks in a calendar year. Court cases have not determined whether an employer can come under the act's coverage by "adopting" provisions of the act or providing FMLA leave. Bickel therefore advises employers who are not clearly eligible not to use the provisions of the act.

Location of the employment may also be a factor in an employee's eligibility. If a worker is employed at a remote site, for example, he or she is FMLA-eligible only if the employer has the required 50 workers employed within 75 miles of that site.

## Employee Entitlement

A covered employer must give an employee who is eligible for FMLA up to 12 work weeks of leave. To be eligible for FMLA, employees must 1) have worked for the covered employer for at least 12 months and 2) have worked at least 1,250 hours during the previous 12 months. Bickel warns that an employer's failure to accurately determine an employee's hours of service before granting eligibility has not been legal grounds for revoking or challenging the eligibility at a later date.

Employees can take FMLA leave to attend to the birth/adoption of a child or a "serious health condition" (their own or a family member's)—an "illness, injury, impairment, physical or mental condition" that necessitates either inpatient care or continuing treatment by a health care provider.

Ordinarily a common cold or flu, upset stomach, or headaches (other than migraines) do not qualify as serious health conditions under FMLA. But it's best not to make that assumption, according to Bickel, because any of these conditions could qualify if they meet the

criteria related to incapacity.

## FMLA Leave

While FMLA is technically unpaid leave, an employer has the option for it to run concurrently with paid time off such as paid sick leave or vacation or with Workers' Compensation. A total of 12 weeks of leave must be made available to an eligible employee in a 12-month period. The leave can be taken all at once, intermittently, or as part of a reduced work schedule.

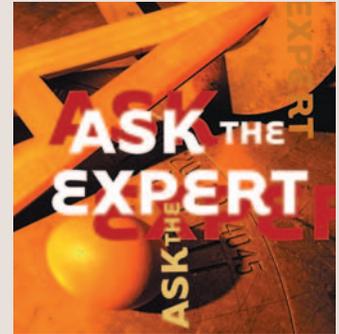
How to calculate the 12-month period? It can be figured on a calendar or fiscal year. One risk an employer may wish to avoid, according to Bickel, is having the FMLA leave period straddle a fiscal or calendar year, i.e. with an employee taking 12 weeks of FMLA leave before the end of the year and then being entitled to an additional 12 weeks starting January 1<sup>st</sup> (or the first day of the fiscal year). To avoid this consequence, a "rolling year" can be established, which is defined as a 12-month period measured backward from the date an employee uses FMLA leave. Since a 2002 Supreme Court decision, leave can now be counted that occurs prior to the employers' giving

notice to the employee that FMLA is in effect.

An employer must provide written notice to an employee designating a period of leave as FMLA (the optional form that cover all aspects of this communication is WH-381). If the employer is not aware of the reason for the leave, and it turns out to be FMLA, notice can still be given during the leave or within 2 days after the employee returns. The time off can be counted (retroactively) toward the 12 week total.

Bickel encourages employers to keep in mind the relation between the FMLA, the Americans with Disabilities Act (ADA), and Workers' Compensation. "We need to be aware of all 3 areas of law," he said. "At the end of FMLA leave, for example, if an employee cannot do the original job, you have to consider whether ADA provides protection and whether you will need to make 'reasonable accommodation' under that law."



**Expert:**

*Henri Cuddihy, MD*, Medical Director, UI HealthWorks, North Liberty, Iowa; Associate Clinical Professor, Pulmonary and Occupational Medicine, University of Iowa Roy J. and Lucille A. Carver College of Medicine; and Associate Professor, College of Public Health, Department of Occupational and Environmental Health, Iowa City, Iowa.

**Question:**

**How often can an employer ask an employee to have medical certification forms for FMLA filled out?**

**Answer:**

The employer may accept medical certification for more than 30 days; however, the employer is prohibited from requesting a signed medical certification more frequently than 30-day intervals.

**Question:**

**What form must be used for medical certification?**

**Answer:**

WH380 is a form proposed by the FMLA Act. An employer is not required to use this form; however, it is recommended. Any other form must substantially comply with this model.

**Question:**

**Who may sign form WH380?**

**Answer:**

Any "health care provider" may sign the form. This is defined broadly as a doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor (with specific limitations), nurse practitioner, nurse-midwife, clinical social worker, Christian Science practitioner, or any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits. There are further specific requirements for these practitioners, so employers should refer to the FMLA Act or other federal guidance literature.

**Question:**

**Can the employer call the employee's physician to obtain additional medical information?**

**Answer:**

No! The employer is not authorized under the Family Medical Leave Act to obtain additional medical information from the employee's treating physician. A company physician or physician authorized to provide work-related health care services can obtain medical clarification from the treating physician if needed. This is clarification only—not new or additional medical information.

**Question:**

**Can the employer request employee medical records from the physician as part of the FMLA approval process?**

**Answer:**

No! The Family Medical Leave Act is designed to protect the confidentiality of the employee. The employer is only authorized to request and obtain the medical certification form used to approve and deny FMLA leave.

**Question:**

**Can employers challenge the FMLA status of an employee?**

**Answer:**

Yes. The employer may request a second opinion and select the physician to provide the evaluation. The chosen physician cannot be the company physician nor the one used to provide other work-related health care services. The employer is also prohibited from using the same physician for all FMLA issues. The regulations strive to have a neutral party providing an opinion. These restrictions may be waived in areas where there are few physicians in the region.

**Who pays for the second opinion?**

The employer must pay for the second opinion.

If the employee disagrees with the second opinion, a third opinion is required. The physician selected to provide the third opinion must be mutually agreed upon by the employee and the employer. Neither party may unreasonably withhold their approval. This third and final opinion will serve as binding arbitration to determine the FMLA status.

**Who pays for the third opinion?**

The employer must pay for the third opinion.

**Question:**

**Where can I find additional information on FMLA?**

**Answer:**

There are many sources of information on this topic including industry organizations, seminars, and commercial guides. The following website is also helpful: <http://www.dol.gov/esa/regis/compliance/whd/1421.htm>

## Upcoming Occupational Health Courses

### NIOSH-Approved Spirometry Training for Workers Screening Course

April 15-16, 2004

July 29-30, 2004

November 4-5, 2004

The University of Iowa, Oakdale Hall, Iowa City, Iowa

This NIOSH-approved course is designed to provide a comprehensive theoretical framework combined with practical training necessary to conduct spirometry testing and screening for workers. Enrollment is limited to 10 for each course date listed above. For details or to register, contact Colleen Gross-Advani at 319/335.4684 or colleen-gross-advani@uiowa.edu

### CAOHC-Approved Occupational Hearing Conservationist Certification

March 3-5, 2004

University of Iowa College of Nursing, Iowa City, Iowa

A CAOHC-certified course director teaches this 3-day Hearing Conservationist certification course. For more information or to register, contact Jennifer Clougherty, College of Nursing, The University of Iowa, Iowa City, Iowa, at 319/335.7119 (fax 319/335.7129) or e-mail jennifer-clougherty@uiowa.edu

### CAOHC-Approved Occupational Hearing Conservationist Recertification

March 4, 2004

University of Iowa College of Nursing, Iowa City, Iowa

A CAOHC-certified course director teaches this 1-day Hearing Conservationist recertification course. For more information or to register, contact Jennifer Clougherty, College of Nursing, The University of Iowa, Iowa City, Iowa, at 319/335.7119 (fax 319/335.7129) or e-mail jennifer-clougherty@uiowa.edu

### 7th Annual Occupational Health Conference

March 5, 2004

Sponsored by Trimark Corporate Health, Fort Dodge, Iowa

For details, call Mary Jo Miller-Grandfield, RN, BSN, at 515/574.6894.

### Respirators: What You Need To Know to Protect Workers

March 10, 2004

Sheraton Hotel, Iowa City, Iowa

This 1-day workshop will provide information on the OSHA respirator standard, qualitative and quantitative fit testing, and the selection of respirators to best protect workers. No previous experience or knowledge of respirators is required. Contact Colleen Gross-Advani at 319/335.4684 with questions. For details or to register, access the following website <http://www.uiowa.edu/~confinst/production/occupational/index.htm>

### 6th Annual Occupational Health Symposium

March 11-12, 2004

Sheraton Hotel, Iowa City, Iowa

Presenters at this interdisciplinary symposium will discuss safety & preparedness at work; workers' compensation (medical and legal); health effects of metalworking fluids; assess the work-related injury; chronic back pain; noise hazards; occupational medicine; specialized glasses for work; primary care at the workplace and OSHA Voluntary Protection Programs (VPP). The symposium will also provide important resources and networking opportunities to keep one current in occupational health. Contact Colleen Gross-Advani at 319/335.4684 with questions. For details or to register, access the following website <http://www.uiowa.edu/~confinst/production/occupational/index.htm>

### Hearing Conservation Course

May 20-22, 2004

Allen College, Waterloo, Iowa

Sponsored by Allen Occupational Health. For additional information contact Marlys Nelson at nelsonmj@ihs.org or 319/235-3523.

### Agricultural Occupational Health Training: A Certificate Program for Health and Safety Professionals

Session I — May 19-21, 2004

Session II — June 9-11, 2004

The University of Iowa, Iowa City, Iowa

The purpose of this course is to provide basic information and skills to enable the health care professional to function as a practitioner in the prevention of occupational illnesses and injuries in the farm community. For training details or to receive a detailed course syllabus, contact Kay Mohling at 319/335.4219 or kay-mohling@uiowa.edu

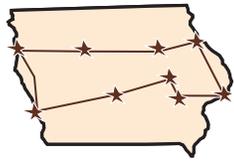
### Case Management Nursing Conference

October 22, 2004

Holiday Inn of Iowa City/Coralville, Coralville, Iowa

This 3rd annual conference is designed for case managers, occupational health nurses, and others who perform case management and return-to-work of employees. The 1-day program is designed to provide information and state-of-the-art solutions used in case management. For further information contact Kimberly J. Gordon, RN, MA, COHN-S, at 319/335.4423 or kimberly-gordon@uiowa.edu

For updated course listings, visit <http://www.public-health.uiowa.edu/Heartland/continuinged.htm>



# WORKSAFE IOWA Occupational Medicine Associates Network

**Work Well Clinic**

St. Luke's Hospital  
Cedar Rapids, IA  
(319) 369-8153

**Iowa Methodist  
Occupational Health**

Iowa Methodist  
Medical Center  
West Des Moines, IA  
(515) 241-2020

**Tri-State Occupa-  
tional Health  
Medical Associates  
Clinic**

Mercy Health Center  
Dubuque, IA  
(563) 584-4600

**Trimark Corporate  
Health Services**

Trinity Regional  
Medical Center  
Fort Dodge, IA  
(515) 574-6810

**St. Luke's Occupa-  
tional Health Services**

St. Luke's Health  
System  
South Sioux City, NE  
(402) 494-2065

**Methodist Health  
System Business Health  
Services**

Occupational Medicine  
Clinic  
Council Bluffs, IA  
(712) 328-7009

**Work Fitness Center**

**John Deere Health  
Care**  
Trinity Health Enterprises  
Quad Cities  
(309) 764-9675

**Allen Occupational  
Health**

Allen Memorial  
Hospital  
Waterloo, IA  
(319) 235-3885

**UI HealthWorks**

University of Iowa  
Health Care  
North Liberty, IA  
(319) 665-2111



The Workplace Health and Safety Report is published quarterly by WORKSAFE IOWA for members of its Occupational Medicine Associates Network. WORKSAFE IOWA is an occupational and environmental health outreach program of the Department of Occupational and Environmental Health, College of Public Health, The University of Iowa. For more information on the WORKSAFE IOWA Occupational Medicine Associate in your area, please refer to the list at left.

**Editors:** Kimberly J. Gordon, RN, MA, COHN-S  
Del Bonney, MSW

<http://www.public-health.uiowa.edu/worksafe>

WORKSAFE IOWA  
The University of Iowa  
100 Oakdale Campus  
Iowa City, IA 52242-5000  
(319) 335-4433

44254/2-04