

INTEROFFICE MEMORANDUM

Department of Insurance and Finance

February 26, 1993

TO: All OR-OSHA Professional Staff

FROM: Marilyn K. Schuster, Manager of Standards & Technical Resources

THROUGH: David Sparks, Deputy Administrator

SUBJECT: Interpretation of the First Aid Regulations, OAR 437-02-161

The changes in the recently adopted medical services and first aid standard, OAR 437-02-161, reflect a basic philosophical shift in our approach to the provision of emergency medical services. It is based on the concept that employers, in many cases, can rely on the system of emergency medical services that are relied on by all citizens in the community. There are, however, requirements for first aid trained persons in other specific standards that may apply.

The new first aid regulation is a performance standard requiring the employer to ensure the ready availability of Emergency Medical Services for treatment of all injured employees; and, if Emergency Medical Services are not in proximity to the place of employment, a qualified first aid person(s) must be available. When addressing this issue the courts have stated that "A standard designed to protect workers by provision for prompt treatment of injuries requires flexibility rather than specificity." Likewise, the requirement for first aid supplies is a performance standard. The employer must evaluate their injury history and based on that, and the number of employees, have the appropriate supplies available.

The most important aspect in evaluating whether the employer has met the obligation to ensure the ready availability of emergency medical services is to determine if they have an emergency medical plan. The emergency medical plan must identify whether they will be using their own qualified first aid persons or relying on outside emergency medical services. If they are using outside services the plan must include the identification of the emergency medical service that they will be accessing and the method that will be used to access it. The employer must be able to identify the location of the nearest response system and the approximate response time of that system.

If the employer has not determined the location of the nearest response system then they would have an inadequate medical plan. If the approximate response time is reasonable, then the employer would not be required to have a first aid trained person on site. Keeping in mind that if the response system is deemed reasonable for the surrounding community, it would be deemed reasonable for the employer.

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