



*Our Mission:
Providing protection, superior service and
education to those who matter most,
Our Customers.*



Commercial Insurance Personal Insurance Surety/Bonds Life/Health Risk Management

Flu Cases to Spur Homeowners' Claims?

Property and casualty insurers can expect to be hit by a swirl of claims arising from swine flu that include actions against homeowners and businesses, a medical malpractice defense attorney is predicting.

Charles Kutner, whose New York-based law firm defends individuals and institutions in the health industry, said he believes that P&C insurers may have to modify coverage to limit liability. As hypothetical examples of the kind of legal action the illness could create, Kutner suggested that a suit could arise if a guest contracted flu after attending a cocktail party where the host did not warn that their child had the illness.

Similarly, a homeowner could be at risk of becoming a defendant if they failed to vaccinate their child against flu and the youngster passed on that illness to children invited for a play date--one of whom sickens and dies. "The exposure is there [and] you've got a lawsuit on your hands," he warned.

Kutner said he thought malpractice actions could arise because of a lack of availability of flu vaccine, but he doubted they would be found to have merit. There are also possible actions from medical complications arising from a flu shot, because "invariably there are complications from vaccines and lawsuits." Employees, he said, can be encouraged to get flu shots, but, "Can you force employees to get flu shots? Probably not."

On the other hand, Kutner said that he believed an employer could be held liable "if you knew an employee was diagnosed with flu and you didn't tell everyone else on the staff." To prevent against that sort of liability, he noted, universities make it a point to announce it to everyone at their institution when a student has contracted a communicable illness such as meningitis.

The key to a defense, he said, is putting third parties on notice when you have information. When a suit is brought, Kutner explained, the key issues are "What did you know? When did you know? And, what did you do about it." Kutner suggested that with so much exposure, insurers "are going to have to start thinking about homeowners' policies and these big general liability policies."

"If there is a pandemic, it's potentially a major casualty loss," he said.

Article contributed by [National Underwriter P&C](#)

**Congratulations to WGBCO for Placing 3rd at the Annual
A+ Employers Awards**

We are very proud of our team and our continuing commitment to our employees which allowed us to finish 3rd in our category at the A+ Employers Awards Luncheon last month sponsored by the Sacramento Business Journal. Of the 200 businesses nominated, only a select few make it to the finals and we were happy just to be nominated!



**California Laws Focusing
on Workers' Comp**

California Governor Arnold Schwarzenegger has much on his plate these days, but that has not precluded him from attempting to affect laws designed to improve the state's Workers' Compensation system.

Workers' Compensation continues to be a focal point with opposing parties ranging from the California Chamber of Commerce, which champions laws that are equitable but skewed toward California's employers, to the organizations attempting to liberalize and rollback some of the reforms that took effect in 2004. Examples include Assembly Bill (AB) 361, which bars employers that authorize Workers' Compensation medical care from rescinding or modifying the authorization for treatment already provided.

The Governor also signed a bill removing a December 31 sunset date from a law that allows employees to designate, in advance, the doctor who would treat their Workers' Compensation injuries. Some employers opposed that bill (SB 186) because it allows a pre-designated physician to refer injured workers to specialists outside employers' provider networks.

It is our opinion that the Workers' Compensation legislative arena has become a bargaining chip during these budget squabbles, which smacks of "quid pro quo" and unfortunately leads to no one's benefit.

Stay tuned for more details.

**State of Nevada Toughens Worker
Training Requirements**

The recent passage of Nevada Assembly Bill No. 148 will require certain health and safety training for construction workers and supervisors. AB 148 was passed in response to a sharp increase in construction worker deaths and imposes a requirement for OSHA-10 training for all construction workers in the state.

Please go to our [link](#) regarding an article on this matter provided by Bullivant, Houser and Bailey. Thanks also to John Yonkus CSP and a noted safety consultant for his input on this story.



Educational Seminars
Stay tuned for information on our next seminar and for WGBCO's new and improved website.

OUR Team Becomes
Part of YOURS
Visit Our Website
www.wgbender.com >>

