

3 Things to Do When Employees Refuse Treatment for a Work Injury



What the First Aid Laws Require

Your primary responsibilities under first aid laws is to:

- Ensure that you have all the personnel, facilities and equipment the OHS regulations of your province require for a workplace in your particular industry and location; and
- Make appropriate arrangements to ensure that employees who need more advanced treatment can be immediately transported to hospitals and other off-site facilities.

What the First Aid Laws Don't Require

What the OHS laws *don't* require you to do is force employees to accept the treatment you offer them. Like any other patient, employees have the legal right to refuse to be treated for their injuries and illnesses. Your role is not to force employees to seek medical attention but to ensure they understand their need to receive it. If they say no, you may have no choice but to honour their refusal. But you must also manage the liability risks the situation poses.

3 Ways to Protect Yourself When Employees Refuse Medical Treatment

If employees get hurt on the job, you must offer them immediate medical care. If you can't provide the necessary care internally, you must refer or offer to transfer them to a nearby hospital or other medical facility. If they refuse treatment or transfer, you need to have a first aid attendant or other trained person on the scene take 3 steps to protect your company from liability:

1. Determine If Injured Employee Has Capacity to Refuse Treatment

Like any other consent or waiver of legal rights, the decision to decline medical treatment must meet certain standards to be considered legally valid. First, the individual must have the physical and mental capacity to make such a decision. Employees can't make a valid refusal if they're unconscious, woozy or otherwise impaired by the injury—even temporarily. Instruct the first aid attendant to make a judgment and recognize that if employees do lack capacity, you not only can but must ignore their refusals and force them to accept necessary medical treatment.

2. Advise Employee of Need for Medical Treatment

For a refusal to be valid, it must also be informed. So, have the first aid attendant on the scene notify injured employees of their right to treatment, their need to receive and the explaining the potential consequences of not getting it. In some jurisdictions, refusing medical treatment can result in the loss of workers' comp benefits.

3. Get Employee to Sign Refusal Form

Scenario

An employee cuts the tip of his index finger on the blade of the saw he's cleaning. He asks the first aid attendant to bandage the wound, which is gushing blood. The attendant tells him that the injury may be serious and advises that he be sent to a hospital emergency room for stitches and other medical treatment. But the employee refuses and insists on going back to work. As a result of not getting immediate treatment, the wound becomes infected and the fingertip must be amputated. The employee blames you for the injury.

Moral: Getting valid refusal won't protect you unless it's properly documented. The risk is that employees will deny the refusal and assert workers' comp and negligence claims. That's why you need to have employees sign a clearly written form acknowledging that they were offered and advised to seek medical treatment (and notified of the potential consequences of not getting it) but voluntarily chose not to do so. The refusal form should also list:

- The date and time of the incident;
- A description of the incident;
- A description of the employee's injury or illness;
- An assessment of the employee's level of consciousness and capacity to make a sound decision about his/her medical care;
- The employee's vital signs;
- Recommended treatment or procedures;
- Documentation of the employee's refusal;
- Documentation of your efforts to notify the employee of the dangers of refusing care; and
- Witness statements and signatures.

[Click here](#) for a Model Refusal of Medical Treatment Form you can adapt.

Don't Forget to Investigate & Report Injury

Last but not least, recognize that the refusal of medical treatment has no impact on whether you must investigate and report the incident to the OHS agency, workers' comp board, workplace joint health and safety committee or safety representative, union rep. or other parties.