

# 3 Things to Do If a Worker Refuses Treatment for a Work Injury



## What the First Aid Laws Require

When it comes to first aid, your primary responsibility 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 workers 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 OHS laws *don't* require you to do is force workers to accept the treatment they need. Like any other patient, workers have the legal right to refuse to be treated for their injuries and illnesses. Your role is not to force workers 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 recognize the liability risks the refusal creates for you.

## 3 Ways to Protect Yourself When Workers Refuse

## **Medical Treatment**

You must offer all workers immediate medical care for their injuries and illnesses. If they say no, 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 Worker 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. Workers 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 workers do lack capacity, you not only can but must ignore their refusals and force them to accept necessary medical treatment.

### **2. Advise Worker 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 workers 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 Worker to Sign Refusal Form**

#### **Scenario**

A worker 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 worker 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 worker blames you for the injury.

Moral: Getting valid refusal won't protect you unless it's properly documented. The risk is that workers will deny the refusal and assert workers' comp and negligence claims. That's why you need to have workers 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 worker's injury or illness;
- An assessment of the worker's level of consciousness and capacity to make a sound decision about his/her medical care;
- The worker's vital signs;
- Recommended treatment or procedures;
- Documentation of the worker's refusal;
- Documentation of your efforts to notify the worker 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.