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Additional Information and Resources

*More information
about providing
a safe workplace*

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Support for Workplace Policies

Comprehensive tobacco policies, including facility-wide tobacco-free policies, are not new. However, tobacco-free policies have received a significant boost over the last 10 years as evidence of the risks associated with exposure to secondhand smoke has mounted and the public has become more aware of these risks.²³ In Wisconsin, 75% of people support tobacco-free workplaces.¹

Corporate Image

Corporate image is important for many businesses. With nonsmokers accounting for almost 80% of adult American consumers, it is easy to see why many companies and organizations implement tobacco-free sites to influence consumers' opinions of the company.

Such actions can improve corporate image not only in the marketplace but also in hiring. Companies that demonstrate concern for the health and well-being of their workforce are more likely to be able to recruit and retain high-quality employees.

Because so many worksites are already tobacco-free, employers who have not instituted tobacco-free policies need to consider complying with community standards and expectations.

“People in Wisconsin, over 75%, want tobacco-free workplaces. This includes 55% of smokers. Wisconsinites recognize that smoking is damaging their health.”

— David Ahrens, M.S., lead author
“*Secondhand Smoke: Awareness, Attitudes and Exposure Among Wisconsin Residents*” 2005.

Health Priorities: Capitalizing on Life-Saving, Cost-Effective Preventive Services

Partnership for Prevention ranked the health impact and cost-effectiveness of 25 preventive health services. The rankings offer key information employers can use to inform their medical plan design and employee health programs.

Highest-Ranking Preventive Services for Health Impact and Cost-Effectiveness:

1. Discuss daily aspirin use
2. Childhood immunizations
3. **Smoking cessation advice and help to quit – tobacco use screening and brief intervention – screen adults for tobacco use, provide brief counseling and offer medication**
4. Colorectal cancer screening
5. Hypertension screening and treatment
6. Influenza immunization
7. Pneumococcal immunizations
8. Problem drinking screening and counseling
9. Vision screening
10. Cervical cancer screening

Source: Partnership for Prevention Employer's Guide:
<http://www.prevent.org/images/stories/clinicalprevention/employersguide.pdf>

Partial list of Wisconsin employers providing coverage for tobacco treatment medication or counseling:

| | | |
|-----------------------------|-------------------------|----------------------|
| 3M | Fiserve | Quad Graphics |
| AICan Packaging | Fox Valley Tool & Die | SC Johnson |
| All Saints Healthcare | General Motors | Security Health Plan |
| Appleton Paper | Graphic Packaging Corp. | SNE Enterprises |
| Aspirus Medical System | Greenheck Fan Co. | St. Mary's Hospital |
| Aurora Healthcare | Hoffers, Inc. | State of Wisconsin |
| Automatic Fire Protection | Kimberly-Clark | Stora Enso Paper Co. |
| Barich Engineering | L&S Electric | Stoughton Trailers |
| Blackhawk Technical College | M&I Bank | Trane Co. |
| Brewer & Associates | Madison Kipp Corp. | United Healthcare |
| Capital Newspapers | Marshfield Clinic | United Industries |
| Cascade Tissue | Health Plan | UW Health |
| City of Beloit | Medical Associates | Wausau Paper Co. |
| City of Madison | Meriter Hospital | Wausau Supply |
| Com-Tec, Inc. | Ministry Medical Group | Weyerhaeuser |
| County Concrete Corp. | Pace Industries, Inc. | WI Cheese Group |
| Digital Diversified | Pacon Corp. | WI Public Power |
| Fairbanks Morse Engines | Penda Corp. | WPS Health Insurance |

Providing a Safe Workplace

Because no one has the right to impose a health risk on others and because an employer has a responsibility to provide a safe and healthy workplace, liability is a significant issue for employers. Because secondhand smoke has been classified as a Group A carcinogen, it would be difficult to argue that an employer who has not reduced secondhand smoke to the lowest possible levels has provided a safe workplace.

Americans With Disabilities Act

The Americans With Disabilities Act (ADA), enacted by Congress in 1990 and taking effect in 1992, is a federal civil rights act for the disabled. It prohibits discrimination against individuals who have a disability in private employment, public transportation and public accommodations.

Businesses that serve the public and employers are legally required to reasonably accommodate disabled individuals, including those with a respiratory illness that makes them sensitive to tobacco smoke.

The respiratory disabled include people who have asthma, chronic bronchitis, emphysema, lung cancer and/or other lung illnesses. For these individuals, secondhand smoke can be life threatening.

For employers, accommodation may include making facilities accessible by banning smoking, restricting duties, providing part-time or modified work schedules, or other reasonable means of providing a sensitive nonsmoker with a workplace in which he/she can function.

The right of access to these facilities is also protected under the ADA. A cloud of tobacco smoke near an entryway is just as great a barrier to an asthmatic as a flight of stairs is to a person in a wheelchair.



Smoking in the Workplace: Smokers' Rights?

Tobacco use is not necessary to job performance and, therefore, cannot be used as a basis for asserting any right in a legal sense. That fact has not stopped smokers from suing for the so-called “right to smoke,” but their claims have been consistently rejected by the courts. They have sought their “right to smoke” based principally on one of the following legal arguments:

- 1. Discrimination on the basis of a handicap:** Smokers might threaten to sue on the basis of handicap. This argument is not allowable under either the Federal Rehabilitation Act of 1976 or the Americans With Disabilities Act (ADA) of 1990. In one case, a smoker sought protection under the Federal Rehabilitation Act, which protects disabled persons from job discrimination. The smoker claimed her addiction to tobacco constituted a disability. The court, however, dismissed the suit as having no merit. The ADA specifically states that smoking may be banned in workplaces to protect individuals with bonafide disabilities from tobacco smoke.
- 2. Constitutional right to smoke:** Although the tobacco industry likes to refer to smokers' “rights,” smoking is not protected under the Constitution and smokers do not have a legal right to smoke in the workplace. Employers are free to set policies and implement restrictions that are necessary to provide a safe and healthy working environment. The courts have consistently upheld the constitutionality of statutes and rules that restrict or prohibit smoking in the workplace.

Note: Several states have instituted “smoker protection laws,” which prohibit employers from discriminating against employees and prospective employees with respect to hiring, compensation, promotion or the terms, conditions and privileges of employment, because of their legal use of tobacco products during non-work hours. These laws do not prevent an employer from regulating tobacco use at the workplace or during work hours.

Source: www.no-smoke.org

Additional Resources

Tobacco Dependence Treatment Research and Information

UW-Center for Tobacco Research and Intervention
1930 Monroe Street, Suite 200
Madison, WI 53711
608-262-8673
www.ctri.wisc.edu

Wisconsin Tobacco Quit Line

800-QUIT-NOW
www.wiquitline.org

Wisconsin Department of Health and Family Services

Division of Public Health
Tobacco Prevention and Control Program
1 West Wilson Street, Box 2659
Madison, WI 53701-2659
608-266-8526
www.dhfs.state.wi.us/tobacco

Tobacco Prevention Resource Center

800-248-9244
www.tobwis.org

American Cancer Society

Madison Office
8317 Elderberry Road
Madison, WI 53717
608-833-4555
www.cancer.org

American Lung Association of Wisconsin

800-LUNG-USA
www.lungwi.org

American Heart Association

South Central Wisconsin
2850 Dairy Drive, Suite 300
Madison, WI 53718
608-221-8866
www.americanheart.org