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# The Informer

A monthly newsletter addressing workplace safety by Iowa Municipalities Workers' Compensation Association.

## Promoting railroad crossing safety

Railroad crossing safety has been an important issue for many years. New ethanol and bio-diesel plants opening across Iowa mean more trains are operating than in years past. More crossings are active, even those that may have been dormant for decades.

Unfortunately, Iowa is no stranger to incidents involving trains. In 2017, the Federal Railroad Administration reported that in Iowa there were 49 collisions, five fatalities and 24 injuries. These numbers are stunning, but actually reflect a positive trend since Operation Lifesaver, a national grassroots safety program aimed at reducing injuries and fatalities around railroad crossings, started its awareness programs in the 1980s.

For example, in 1981, nationally there were 9,461 collisions, 728 fatalities and 3,293 injuries. In 2017 those numbers had declined to 2,105 collisions, 274 fatalities, and 807 injuries. These are significant reductions due to increased awareness, better grade crossing controls, and signage.

Discussing railroad crossing safety with your employees is an important, yet often overlooked topic. Consider the number of times your employees cross active railroad tracks in the course of their work day. Add to that their commute to and from the job and it becomes apparent that the risks can be quite high. In fact, according to the National Highway Traffic Safety Administration, a motorist is almost 20 times more likely to die in a crash involving a train than in a collision involving

another motor vehicle.

Does this mean, as an employer, you have to become an expert on railroad safety issues? Not at all. Iowa Operation Lifesaver can assist any employer in providing effective safety training to employees.

As part of the city's monthly employee training program, the city of Glidden



recently scheduled Operation Lifesaver volunteers to come and share safety information with their employees. The City Clerk Suzanne Danner stated that, "The employees found the program very informative. We are small with only nine employees from library, office and public works. The volunteers attended our meeting and visited about one hour. He would speak as long as we wanted. The presentation was no charge."

The Iowa Operation Lifesaver Web site, [www.iowaoperationlifesaver.org](http://www.iowaoperationlifesaver.org), provides a wealth of information on the programs offered. Learn more about training opportunities from Francis L. Edeker, Iowa Operation Lifesaver State Coordinator, at (319) 415-4814 or [iowa4ol@butler-bremer.com](mailto:iowa4ol@butler-bremer.com).

## Surveillance in workers' compensation

Surveillance by definition is the monitoring of behavior or activities by closely watching someone. The methods used most often in the workers' compensation arena are video and mobile surveillance. It's common for these two types of surveillance to go hand-in-hand. Video surveillance is used to document any activity observed by an investigator.

While not many claims involve the use of surveillance it can be a useful tool in the right situation. IMWCA uses surveillance sparingly. Most employees are honest and hardworking, but workers' compensation fraud can be a problem and concern. Some of the "red flags" where fraud might be involved are:

- Reporting an injury on Monday morning that allegedly happened the week prior
- Inconsistencies of how the injury happened
- No witnesses to the injury
- History of workers' compensation claims
- Disgruntled employee
- Employee is hard to contact

Before we decide to use surveillance on a claim, we usually try to have a good "lead." This may come into play if there is reason to believe the injured worker is em-

bellishing their symptoms. Their injuries are way out-of-proportion to the objective medical evidence. Another reason to use surveillance is if we learn the injured employee is working another job while collecting benefits. Sometimes co-workers know the injured worker is exaggerating their symptoms or the legitimacy of the claim. This would be another reason to use surveillance.

IWMCA uses surveillance sparingly due to a couple factors. One of the factors is the cost. Investigation firms charge up to \$1000 per day. Possibly more if more than one investigator is needed. Also, even if we do obtain favorable surveillance it may not be enough to end benefits or close the claim. Many times we still need a medical opinion to back-up the surveillance, and this can sometimes be hard to get. Without a clear plan, surveillance costs can spiral out of control without any benefit.

So what can you, as an employer, do to prevent a claim from needing surveillance? The first thing you can do is hire new employees wisely. Perform background checks and verify references. You should also focus on safety, and when one of your employees is injured make sure to stay in contact with them. Finally, and perhaps most importantly, have a solid return-to-work policy in place.

### Having a fireworks display this summer?

IMWCA would like to remind all entities that oversee the detonation of fireworks displays that only individuals who have been certified as pyrotechnical technicians should be involved in tending, transporting and detonating fireworks. Anyone interested in training can contact Mark Woodburn of the Stumptown Shooters at [markstephenwoodburn@yahoo.com](mailto:markstephenwoodburn@yahoo.com).

Fire departments that only monitor displays for fire suppression are not required to be certified.

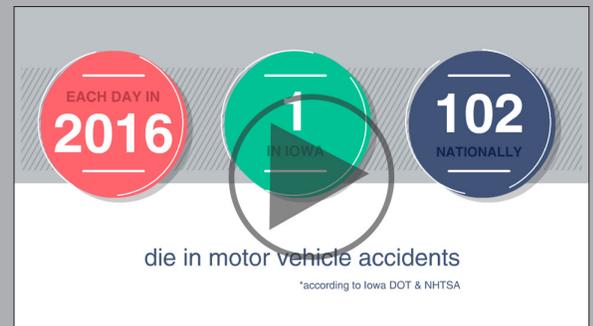


**Ideas wanted**

Do you have information or ideas for articles or videos? Has your entity experienced a safety success? Have you taken advantage of any of IMWCA's resources, and want to encourage your peers to do the same?

Let us know at (800) 257-2708 or [bethanycrile@iowaleague.org](mailto:bethanycrile@iowaleague.org).

### Simple safety saves lives



In 2016, the use of seat belts in passenger vehicles saved an estimated 14,668 lives of occupants ages 5 and older, according to the U.S. Department of Transportation (DOT). May 14 – June 3 the Click It or Ticket campaign, sponsored by the DOT, will focus on safety education and strong seatbelt laws.

In the April issue of the Informer we talked about the simple safety tool that can save lives. If you missed that article or the accompanying video check them out at [www.imwca.org](http://www.imwca.org).

## EEOC's most-reported workplace discrimination category

According to the U.S. Equal Employment Opportunity Commission (EEOC), in 2017, 84,254 workplace discrimination charges (complaints) were filed with their agency. It would be easy to assume that the protected class with the highest number of charges was sex. However, this is incorrect. Retaliation leads the way with 48.8 percent of all charges filed.

Retaliation charges are filed in response to the employer taking action against an employee participating in a protected activity. This is why retaliation claims are frequently secondary claims, but note they don't have to be. Retaliation charges can be independent charges as well.

People often think of retaliation as an employee getting terminated for complaining. Unfortunately, adverse actions are not always this obvious. Retaliation can be a reprimand, demotion or a threat. It can also be making the employee's job more difficult, such as changing to a less desirable work schedule or increasing scrutiny of the employees work.

For retaliation to be considered unlawful the following steps usually must occur.

1. The employee participates in a protected activity.
2. The employer takes action against the employee or witness.
3. There is a correlation between the protected activity and the action taken against the employee.

Various laws have language that protect employees from retaliation. Many laws enforced by the EEOC make it unlawful to retaliate against an employee who makes a complaint. Iowa Occupational Safety and Health Administration (IOSHA) provides employees whistleblower protection, which protects employees from retaliation if they report an unhealthy or unsafe working environment or condition. There are other statutory and common law protections for employees as well; these can better be explained by your attorney. It is always beneficial to consult your attorney prior to terminating an employee who has participated in or witnessed a protected activity. It is the responsibility of the employer to know and understand the rights of your employees.

## Service on Board of Trustees

IMWCA is in the process of identifying interested representatives from the membership to serve on the board. You must be an elected or appointed official from a member to be eligible for election to the board.

The IMWCA Board of Trustees governs the operations of the association and meets five times a



year with staff from the Iowa League of Cities who provides the administrative services for the association. The nine-member board is comprised of five city and four county officials. Each trustee is elected to a three-year term with no limit on the number of terms.

If you're interested in serving on the IMWCA Board of Trustees contact Jeff Hovey, director of risk services, at (515) 244-7282 or [jeffhovey@iowaleague.org](mailto:jeffhovey@iowaleague.org). IMWCA especially needs representatives from city members.

IMWCA Informer is a monthly newsletter published by the Iowa Municipalities Workers' Compensation Association (IMWCA) in cooperation with the Iowa League of Cities. View past issues online at [www.imwca.org](http://www.imwca.org).

Comments or suggestions: contact Bethany Crile, newsletter editor, at (515) 244-7282 or [bethanycrile@iowaleague.org](mailto:bethanycrile@iowaleague.org).

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