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**NONPROFITS ARE AFFECTED BY OSHA’S UPDATED RECORDKEEPING RULE
*plus: GUIDELINES FOR PROTECTING WORKERS FROM WORKPLACE VIOLENCE***

In recent months, the Occupational Safety & Health Administration (“OSHA”) has updated a recordkeeping rule regarding preparing and maintaining records of serious occupational injuries and illnesses and guidelines for protecting workers from workplace violence. This Legal Alert will help nonprofit managers and board members take appropriate steps to come into compliance with the recordkeeping rule and the guidelines to reduce or eliminate the risk of violence in the workplace.

Updated Recordkeeping Rule

OSHA’s revised recordkeeping rule includes two key changes:

First, the rule updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records and creates a list of industries that are newly required to keep such records. These lists have been revised based on updated occupational injury and illness rates. Therefore, some nonprofits are no longer required to maintain certain records, while others will now have to start maintaining these records.

It is important to note, however, that **organizations with a total amount of 10 or fewer employees at all times in the previous year continue to be exempt from keeping routine OSHA injury and illness records, regardless of their industry**, unless OSHA or the Bureau of Labor Statistics informs the organization in writing that they must keep these routine records.

To find out if your organization is now exempt or is newly required to prepare and maintain records under the updated rule, first determine your organization’s NAICS code by:

- Using the search feature at the U.S. Census Bureau NAICS main webpage: www.census.gov/eos/www/naics. In the search box for the most recent NAICS, enter a keyword that describes your business. Choose the primary business activity that most closely corresponds to your business.
- Industries that are **now** obligated to follow OSHA’s routine recordkeeping rules include:
 - individual and family services organizations

- community food and housing, and emergency and other relief services organizations
 - performing arts companies
 - museums, historical sites, and other similar organizations
- Industries that are **no longer** obligated to follow OSHA's routine recordkeeping rules include:
 - child care services
 - social advocacy organizations
 - civic and social organizations
 - elementary and secondary schools
 - educational support services and other schools and instruction
 - For a complete list of industries that are now or no longer obligated to follow OSHA's routine recordkeeping rules review tables 1 and 2 on OSHA's webpage, <https://www.osha.gov/recordkeeping2014/OSHA3744.pdf>.

Second, the rule expands the list of severe work-related injuries that ALL employers must report to OSHA, even if exempt from routine record keeping rules. The revised rule retains the current requirement to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

As a reminder, the OSHA routine injury and illness recordkeeping forms are:

- the Log of Work-Related Injuries and Illnesses (OSHA Form 300),
- the Summary of Work-Related Injuries and Illnesses (OSHA Form 300A), and
- the Injury and Illness Incident Report (OSHA Form 301).

Employers must fill out the Log and Incident Report only if a recordable work-related injury or illness has occurred. Employers must fill out and post the Summary annually, even if no recordable work-related injuries or illnesses occurred during the year. Failure to keep OSHA injury and illness records may result in penalties.

Updated Guidelines for Protecting Workers from Workplace Violence

Healthcare and social service workers face significant risks of job-related violence. In order to address the issue of workplace violence, OSHA recently released an update to its 2004 Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers. According to the updated guidelines, a written program for workplace violence prevention, incorporated into the organization's overall safety and health program, offers an effective

approach to reduce or eliminate the risk of violence in the workplace. The guidelines provide that an effective workplace violence prevention program includes:

- Management support of and employee participation in the program,
- Worksite analysis, which includes assessment of the workplace to find existing or potential hazards that may lead to incidents of workplace violence,
- Taking appropriate steps to prevent or control the hazards that were identified,
- Safety and health training for all workers, and
- Recordkeeping and program evaluation.

The updated guidelines can be found on OSHA's webpage, <https://www.osha.gov/Publications/osha3148.pdf>.

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Judith Moldover at (212) 219-1800 ext. 250 or visit our website at www.lawyersalliance.org for further information.

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