

### Tuberculosis and the Workplace

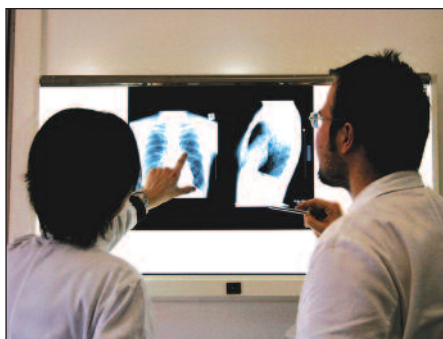
Tuberculosis (TB) is an infectious and sometimes deadly bacterial disease, prevalent in many parts of the world. While it most commonly affects the lungs, it can also afflict other bodily systems and functions. According to the World Health Organization (WHO), eight million people contract tuberculosis annually, and two million people die from the disease worldwide. In 2004, approximately 14.6 million people had active cases of TB; nine million of which were new.



Tuberculosis has received a great deal of media attention following news of a US citizen, living in Atlanta, who learned he had TB in January 2007. In May, doctors realized his particular strain of TB was especially difficult to treat because it was resistant to traditional drug therapies. According to news reports available now, despite being warned of the dangers, the patient boarded a commercial flight to France and returned from Europe 12 days later (to get married and take a honeymoon). Concern was based on a perception that all passengers aboard those flights were at risk since they had been exposed to the infected passenger. Critics argue that better safeguards should have been in place to restrict travel by someone who posed what many regard as a serious health risk.

Public health authorities are emphasizing that the risk to the man's fellow travelers is low. Under normal conditions, the quality of the air on board commercial airliners should not pose greater risk than exposure to air quality maintained inside most modern buildings. Moreover, although passengers traveling on lengthy flights may be at higher risk of becoming infected with TB if they sit near someone with active TB, that risk would be similar to what it is in other circumstances where people are together in a confined indoor space. The bottom line is that brief contact with an infectious individual poses little-to-no risk for becoming infected with TB.

Since the early 1950s, the incidence of TB has been reduced tenfold. However, there has been some resurgence in the last 20 years. More than half the US cases occur in individuals born outside the US in "high TB-prevalent" areas, primarily in Asia, Africa and Latin America. The resurgence has also been associated with factors such as homelessness and HIV. Although TB is still generally well-controlled in the US, and while we do not want to raise undue



alarm or fear, the possible spread of TB serves as a reminder that employers should have procedures in place to deal with infectious diseases in the workplace — especially those employers who have workers traveling to foreign countries.

...the possible spread of TB serves as a reminder that employers should have procedures in place to deal with infectious diseases in the workplace – especially those employers who have workers traveling to foreign countries.

Employers are paying close attention to how this TB incident might affect the workplace given the high profile response from the US Centers for Disease Control (CDC). CDC officials have already requested changes in the US quarantine laws in order to gain easier access to airline and ship passenger lists, provide patients with a clearer appeals process when subjected to quarantines, and give health officials explicit authority to offer vaccinations and medical treatment to quarantined people. Given these developments, what should employers be doing about the TB incident, and as generally relates to other workplace health concerns?



### What Employment Issues Are Involved?

Even though the TB threat by the airline passenger has been identified and contained, employers should in general be

prepared to respond to potential safety and operational challenges highlighted by this incident. At present, business travel to TB-prevalent areas is most likely the greatest concern.

Some observers say that employers may have a legal obligation under the Occupational Safety and Health Act (OSHA) to take steps to protect the health of employees traveling to such areas on business. Although OSHA regulations offer only limited guidance about TB (e.g., OSHA record-keeping requirements, mandatory protective equipment rules and other generalized duties), a “general duty clause” requires employers to provide a workplace “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” Although some employers will be hard-pressed to provide a workplace absolutely free of all recognized hazards, employers should seek to proactively train employees about travel safety.

Some observers say that employers may have a legal obligation under the Occupational Safety and Health Act (OSHA) to take steps to protect the health of employees traveling to such areas on business.

When travel to high-risk areas cannot be postponed, employees should be trained about the risks of exposure to, and the protocols for reducing the incidence of, infection. In addition to recommending common sense steps, such as making sure all vaccinations are up-to-date before departing, travelers should



be advised to assemble a health kit containing basic first-aid and medical supplies. Travelers should also review their health plans for medical evacuation coverage and identify health care resources available in their destination country before leaving the US.



After returning, travelers should carefully monitor their health. If they exhibit symptoms, they should immediately consult with a healthcare provider and report their recent travel. Employers should also emphasize common sense policies that encourage workers to stay home if they are sick so that they will not infect others.

### What Are the Legal Implications?

Employers should also use common sense in responding to conditions created by their unique operations, work environment and geographic locations. By so doing, most employers will avoid running afoul of OSHA guidelines relating to any workplace health threat. Employers familiar with the Americans with Disabilities Act (ADA) and other federal nondiscrimination laws may think that such laws run counter to OSHA rules. However, the ADA in particular, contains special exceptions that govern situations where someone poses a “direct threat” to workplace safety.

Still, employers must use caution to avoid violating federal and state employment laws, particularly those governing the use of employee medical information and prohibiting discrimination on the basis of a perceived disability.

### Tuberculosis Incident Has Caused Some Unnecessary Fear

A very low probability exists of the patient in question infecting fellow travelers because 1) he did not have a cough and 2) the duration of the exposure was relatively short. Even so, the CDC wants to assess people who spent at least eight hours on either of the two flights.

The CDC recommends that all US residents and citizens onboard Air France #385/Delta #8517 departing Atlanta on May 12 and arriving in Paris on May 13, and on Czech Air #0104 departing from Prague and arriving in Montreal on May 24, seek TB testing and evaluation. **Passengers traveling on these flights please call 1-800 CDC INFO for further information.**

An employer may require workers who are at a higher risk for TB, or who may exhibit symptoms, to obtain medical certification before returning to work in order to ensure the safety of other employees in the workplace. Wage and hour laws may present challenges for employers who prohibit employees from returning to work after traveling to TB-affected areas – particularly in cases where workers are being asked to stay home. When affected employees are represented by a union, an employer may have a duty to consult with the union before implementing TB-related measures.

Should employers encounter a situation that demands immediate action, workers should be given time off with pay if they are required to stay home due to TB concerns. Above all, the employer should fully document the basis for its decisions and use reasonable care to ensure that workers are treated fairly and that their privacy rights are respected.

## Helpful Information

Employers should note several excellent sources for obtaining international travelers' health information. The CDC maintains a useful web site that provides both general and geographically specific information.

General travel considerations can also be found at the Mayo Clinic's web site, which features a special section entitled: *International travel: Staying healthy far from home*. The Mayo Clinic link covers general topics such as vaccinations, health coverage review, prescription medication reminders, and safer eating choices at the destination. The WHO web site has information geared for educating human resources professionals and employees about TB.

- <http://www.cdc.gov/travel/>
- <http://www.mayoclinic.com/health/vaccines/HQ00760>
- <http://www.who.int/en/>

Other useful sources:

- <http://www.osha.gov/SLTC/tuberculosis/standards.html>
- <http://www.worldhealth.net>

## Willis Strengthens Employee Benefits Knowledge Base

The Willis EB Practice recently announced the appointment of Dr. Michael Neren as Senior Vice President and Chief Medical Officer of the Willis National Employee Benefits Practice. In this position, Dr. Neren, who is based in Minneapolis, assists with consumer-driven health care initiatives including wellness and disease management, interpreting analytical tools and audits, and interfacing with vendors for Willis clients.

Dr. Neren is Board certified in internal medicine, pulmonary medicine and was certified in quality

management by the American Board of Quality Assurance and Utilization Review Physicians. Dr. Neren has a diverse background in clinical medicine and healthcare management, with more than 15 years of experience in co-founding, practicing and managing a pulmonary practice. He has also held an assortment of senior positions within hospital, healthcare consulting and managed care organizations. Dr. Neren's special interest is in improving healthcare through collaborative use of the best clinical, quality and managed care practices.

Other accomplishments by Dr. Neren include an Internal Medicine Residency (1975-1977) and Pulmonary Fellowship (1975-1977) at the University of Minnesota as well as a Bush Medical Fellowship in quality medicine (1988-1990). He also earned an M.B.A from the University Of Minnesota Carlson School Of Management in 1990. In 2002, Dr. Neren completed the Harvard School of Public Health's Health Care Negotiation and Conflict Resolution program. He served on a national expert panel for VA guidelines and developed outcome management tools for InterStudy.

With his extensive knowledge in the field, Dr. Neren has assisted in the development and implementation of successful wellness and disease management programs and works to ensure Willis is using the best practices and vendors in the marketplace.

# Key Contacts

## US Benefits Office Locations

Atlanta, GA  
404 224 5000

Farmington, CT  
860 284 6147

Minneapolis, MN  
763 302 7100

San Diego, CA  
858 678 2000

Austin, TX  
800 861 9851

Florham Park, NJ  
973 410 1022

Mobile, AL  
251 433 0441

San Francisco, CA  
415 981 0600

Baltimore, MD  
410 527 1200

Ft. Worth, TX  
817 335 2115

Naples, FL  
239 659 4500

San Jose, CA  
408 436 7000

Birmingham, AL  
205 871 3871

Grand Rapids, MI  
616 954 7829

Nashville, TN  
615 872 3700

San Juan, PR  
787 725 5880

Boston, MA  
617 437 6900

Greenville, SC  
864 232 9999

New Orleans, LA  
504 581 6151

Seattle, WA  
206 386 7400

Cary, NC  
919 459 3000

Houston, TX  
713 961 3800

New York, NY  
212 915 5422

Tampa, FL  
813 281 2095

Charlotte, NC  
704 376 9161

Jacksonville, FL  
904 355 4600

Omaha, NE  
402 391 1044

Washington, DC  
301 530 5050

Chicago, IL  
312 621 4700

Knoxville, TN  
865 588 8101

Orange County, CA  
949 885 1200

Wilmington, DE  
302 477 9640

Cincinnati, OH  
513 762 7855

Las Vegas, NV  
702 432 7100

Orlando, FL  
407 805 3005

*Executive Signal is produced by Willis' Legal & Research Group. The information contained in this publication is not intended to represent legal advice and has been prepared solely for educational purposes. You may wish to consult your attorney regarding issues raised in this publication.*

Cleveland, OH  
216 861 9100

Long Island, NY  
516 941 0260

Philadelphia, PA  
610 964 8700

Columbus, OH  
614 766 8900

Los Angeles, CA  
213 607 6300

Phoenix, AZ  
602 787 6000

Dallas, TX  
972 385 9800

Louisville, KY  
502 499 1891

Pittsburgh, PA  
412 586 1400

Denver, CO  
303 218 4020

Memphis, TN  
901 248 3100

Portland, OR  
503 224 4155

Detroit, MI  
248 735 7580

Miami, FL  
305 373 8460

Roswell, NM  
505 317 3397

Eugene, OR  
541 687 2222

Milwaukee, WI  
414 271 9800

St. Louis, MO  
314 721 8400