



## Adult Family Home Industry Worker Safety Awareness Program

Module 1: Washington State Information on

# WISHA Overview, Standards, Inspections, and State Reporting Requirements

Washington State L&I Requirements & Information Washington State Industrial Safety and Health Act (WISHA)





## Adult Family Home Industry Worker Safety Awareness Program

Funding and support for this project has been provided by the state of Washington, Department of Labor & Industries, Safety & Health Investment Projects.

The Adult Family Home Council is solely responsible for the content of and views expressed in this report and related materials unless they have been formally endorsed by the Washington state Department of Labor & Industries.

These documents do not replace any standard or regulation and create no new legal obligations. They are advisory in nature, informational in content, and are intended to assist employers in providing a safe and healthful workplace.



## Purpose Of The Safety Awareness Program

- Assist Adult Family Home Industry employers, supervisors, and all workers in recognizing key safety hazards in their work environment and help them avoid and control these hazards
- Outcome: Create a safer work environment and significantly reduce injuries in Adult Family Homes





### Course Objectives



- Recognize the background & history of the Washington Industrial Safety & Health Act (WISHA)
- Identify the purpose and scope of WISHA
- Describe how the purpose, scope, and process of WISHA regulations apply to adult family homes
- Identify worker rights and employer responsibilities in the WISHA regulations
- Understand the basics of L&I's Division of Occupational Safety & Health (DOSH) inspection & consultation programs

Understand WISHA recordkeeping and reporting requirements



### Module 1A: Introduction to WISHA



What is your experience with the Washington state Dept. of Labor & Industries' worker safety inspections?



#### **Job Safety and Health Law**

It's the law! Employers must post this notice where employees can read it. (Chapter 49.17 RCW)

All workers have the right to a safe and healthy workplace.

Employees - Your employer must protect you from hazards you encounter on the job, tell you about them and provide training.

#### You have the right to:

- · Notify your employer or L&I about workplace hazards. You may ask L&I to keep your name confidential.
- Request an L&I inspection of the place you work if you believe unsafe or unhealthy conditions exist. You or your employee representative may participate in an inspection, without loss of wages or benefits.
- · Get copies of your medical records, including records of exposures to toxic and harmful substances or conditions.
- · File a complaint with L&I within 30 days if you believe your employer fired you, or retaliated or discriminated against you because you filed a safety complaint, participated in an inspection or any other safety-related activity.
- · Appeal a violation correction date if you believe the time allowed on the citation is not reasonable

The law requires you to follow workplace safety and health rules that apply to your own actions and conduct on the job.

Employers - You have a legal obligation to protect employees on the job.

Employers must provide workplaces free from recognized hazards that could cause employees serious harm or death.

#### Actions you must take:

- · Comply with all workplace safety and health rules that apply to your business, including developing and implementing a written accident prevention plan (also called an APP or safety program).
- · Post this notice to inform your employees of their rights and
- · Prior to job assignments, train employees how to prevent hazardous exposures and provide required personal protective equipment at no cost.
- · Allow an employee representative to participate in an L&l safety/ health inspection, without loss of wages or benefits. The L&I inspector may talk confidentially with a number of employees.
- If you are cited for safety and/or health violations, you must prominently display the citation at or near the place of the violation for a minimum of three days. You cannot remove it until you correct the violation.

Firing or discriminating against any employee for filing a complaint or participating in an inspection, investigation, or opening or closing conference is illegal.



Employers must report all deaths, in-patient hospitalizations, amputations or loss of an eye.

Report any work-related death or in-patient hospitalization to L&I's Division of Occupational Safety and Health (DOSH) within 8 hours. Report any work-related non-hospitalized amoutation or loss of an

eye to DOSH within 24 hours. For any work-related death, in-patient hospitalization,

amputation or loss of an eye, you must report the following information to DOSH-

- · Employer contact person and phone number.
- Name of business.
- · Address and location where the work-related incident occurred.
- . Date and time of the incident. · Number of employees and their names.
- Brief description of what

Where to report:

Any local L&I office or

■ 1-800-423-7233, press

1 (available 24/7)

Free assistance from the Division of Occupational Safety and Health (DOSH)

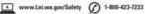
This poster is available free from L&I at

www.Lni.wa.gov/RequiredPosters.

- Training and resources to promote safe workplaces.
- · On-site consultations to help employers identify and fix hazards, and risk management help to lower your workers' compensation costs.



Division of Occupational Safety and Health



Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.

PURI ICATION FA16-081-909 (09-2015)

WA L&I's Job Safety and Health Law Poster

### WISHA Background & History 1

- Washington Industrial Safety and Health Act
  - ❖ Chapter 49.17 RCW, Enacted in 1973
  - Empowers L&I to create and enforce safety
     & health regulations
  - Purpose is to ensure Washington employers provide their workers with safe & healthy workplaces
  - \* Requires employers to keep job sites safe & healthy for <u>all</u> employees
    - includes contractors, subcontractors, or employees of other companies
- Covers most employers and employees in Washington state
  - Including adult family homes
  - State plan, recognized by OSHA, that allows Washington rules & regulations to be more stringent than OSHA's, if needed







Washington State is one of only 2 or 3 states in the union that includes worker health & safety in its state constitution (since 1889). Photo copyright Oregon Historical Society (used with permission).

### WISHA Background & History 2

- Administered by the Department of Labor and Industries (L&I) through the Division of Occupational Safety and Health (DOSH)
  - L&I mission: Keep Washington safe and working
  - State equivalent of OSHA
  - Employers must comply with applicable state workplace safety & health rules
- DOSH develops & enforces safety & health rules
  - Inspects worksites for unsafe working conditions
  - Provides free on-site consultations to help employers create safe & healthy workplaces
  - Provides free training, safety & health programs, and other resources to help prevent, find, and fix workplace hazards







### WISHA Has An Important Role 1

 On average, 69 workers die every year from job related injuries in Washington





- 76 Washington workers died from workplace injuries in 2018
  - One healthcare & social services worker was killed by a stray bullet through an office window during a drive-by shooting
- 28 thousand compensable nonfatal workplace injuries and illnesses occurred in fiscal year 2018 (July 2017 – June 2018) compared to 41 thousand in fiscal year 2007
- The average cost of a compensable workers' compensation claim was \$21,304 in fiscal year 2018

### WISHA Has An Important Role 2

## Workers are Getting Hurt in Adult Family Homes in Washington





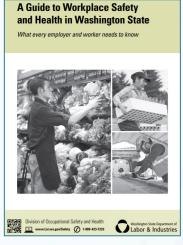
- Washington state Workers' Compensation data shows that there were over 12,000 reported injury claims in the risk class that includes adult family homes from 2012 through 2016
  - Over 100 serious injuries
- Safety inspections have cited several adult family homes for workplace safety violations



One adult family home received a citation for over \$18,000 for failure to meet safety requirements

## How Does WISHA Relate To Adult Family Homes?

- WISHA rules apply to healthcare & social service settings including adult family homes
- The rules cover important topics such as:
  - Providing a safe & healthy workplace
  - Written Accident Prevention Programs
    - ☐ Including hazard communication for dangerous chemicals & workplace violence
  - Employee involvement in safety programs through safety meetings or committees
  - Training and education requirements, such as posting the <u>Job Safety and Health Law poster</u>
  - \* Record keeping and reporting requirements
  - Personal protective equipment





## How To Contact L&I's DOSH Safety Program

Call 1-800-423-7233



- L&I General Website: Ini.wa.gov
- L&I DOSH Safety Website: www.lni.wa.gov/Safety
- Find a local L&I office near you: www.lni.wa.gov/Offices
- Request a free L&I
   worker safety consultation:
   <a href="https://lni.wa.gov/safety-health/preventing-injuries-illnesses/request-consultation/">https://lni.wa.gov/safety-health/preventing-injuries-illnesses/request-consultation/</a>







- What does WISHA stand for?
  - A. Washington Industrial Safety and Hygiene Act
  - B. Washington Institute for Safety and Health
  - C. Washington Industrial Safety and Health Administration
  - D. Washington Industrial Safety and Health Act



- What is the purpose of WISHA?
  - A. To inspect worksites for unsafe working conditions
  - B. To fine employers when they make mistakes
  - C. To ensure Washington employers provide their workers with safe & healthy workplaces
  - D. To eliminate all hazards in Washington state



- What does D.O.S.H. stand for?
  - A. Division of Occupational Safety and Health
  - B. Division of Occupational Safety and Hygiene
  - C. Department of Organizational Standards and Hygiene
  - D. Department of Occupational Safety and Health



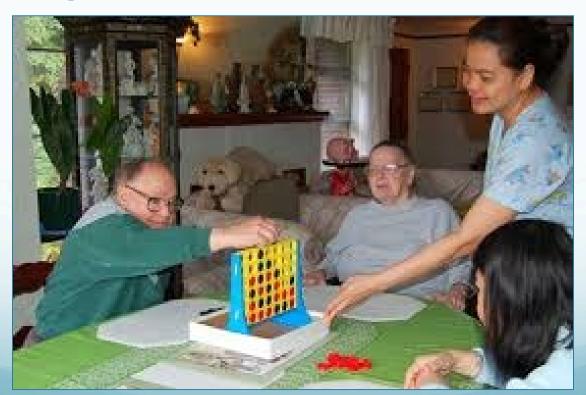
True or False: WISHA rules requires employers to keep job sites safe & healthy for <u>all</u> employees, including contractors, subcontractors, or employees of other companies

A. True

B. False

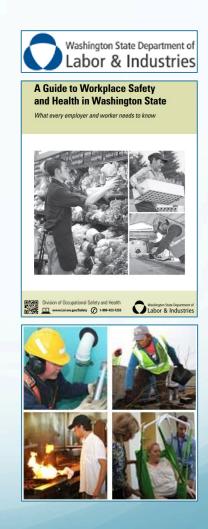


## Module 1B: WISHA Benefits, Standards, Rights & Responsibilities



### L&I WISHA Responsibilities

- Implement rules to eliminate or reduce workplace safety hazards
- Conduct no-fee onsite consultations to help employers find & fix workplace hazards
- Provide education, training tools, & resources related to workplace safety
- Inspect workplaces to find & eliminate safety hazards
- Investigate WISHA discrimination complaints
  - It is illegal to discriminate against a worker for filing a safety complaint

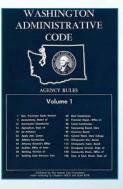


## State Safety & Health Laws & Rules Required for Adult Family Homes 1

- WISHA safety & health laws are found in the Revised Code of Washington (RCW):
  - Chapter 49.17 RCW
    https://app.leg.wa.gov/RCW/default.aspx?cite=49.17
- Washington Administrative Code (WAC) safety regulations further define state safety requirements:
  - Chapter 296-800, WAC core rules
    http://lni.wa.gov/safety/rules/chapter/800/default.asp
- State laws & rules must be at least as effective as federal OSHA standards, but can be more restrictive than federal requirements





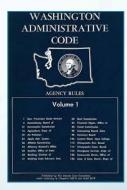


## State Safety & Health Laws & Rules Required for Adult Family Homes 2

- Adult family homes must comply with state safety laws, including the <u>General Safety</u>
   Standard of the WISHA Act, RCW 49.17.060
  - \*Requires employers to "furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees"
  - This clause is generally cited when no more specific standard applies to the hazard
- Adult family homes must also comply with the safety & health <u>core rules</u> in the Washington Administrative Codes Chapter 296-800





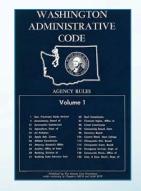


## Safety Core Rules Major Topics 1 (WAC 296-800)

- Safety Responsibilities & Administrative Requirements
  - Employer responsibilities: safe workplace
  - Employee responsibilities
  - Accident prevention programs, safety committees, & safety meetings
  - Safety data sheets (SDSs) as exposure records
  - Safety bulletin boards & WISHA safety poster
  - Accident reporting and investigation reports, releasing accident investigation reports, & protecting the identity of the source of confidential information
  - Using standards from national organizations and federal agencies







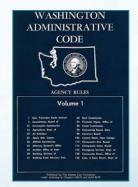


## Safety Core Rules Major Topics 2 (WAC 296-800)

- Physical Safety Requirements
  - \* First aid & personal protective equipment (PPE)
  - Emergency washing & eye wash requirements
  - Lighting, housekeeping, draining, & storage
  - Sanitation: Drinking water, bathrooms, washing facilities, waste disposal, & environmental tobacco smoke in the office
  - Stairs & stair railings & workplace structural integrity
  - Basic electrical rules
  - Exit routes, employee alarm systems, & portable fire extinguishers









## Employer Responsibilities Under WISHA 1

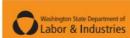
- Provide a safe and healthy workplace and comply with applicable rules
  - Visit www.Lni.wa.gov/Safety/Rules
- Develop, maintain, and implement a written safety and health program that addresses the hazards specific to your business
  - See module 2 on accident prevention programs





#### Required Safety & Health Poster

- Post the Job Safety and Health Law poster that explains the safety-related rights & responsibilities of employers & workers
  - You can order a free poster online at <u>L&I's required posters</u> webpage or call your local L&I office or 1-800-423-7233
  - Required under RCW 49.17
  - Washington State employers must post this notice where employees can read it



#### **Job Safety and Health Law**

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Employees — Your employer must protect you from hazards you encounter on the job, tell you about them and provide training.

#### You have the right to:

- · Notify your employer or L&I about workplace hazards. You may ask L&I to keep your name confidential.
- Request an L&I inspection of the place you work if you believe unsafe or unhealthy conditions exist. You or your employee representative may participate in an inspection, without loss of
- · Get copies of your medical records, including records of exposures to toxic and harmful substances or conditions.
- · File a complaint with L&I within 30 days if you believe your employer fired you, or retaliated or discriminated against you because you filed a safety complaint, participated in an inspection or any other safety-related activity.
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The law requires you to follow workplace safety and health rules that apply to your own actions and conduct on the job.

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- · Employer contact person and phone number
- Name of business.
- · Address and location where the work-related incident occurred.
- . Date and time of the incident.
- · Number of employees and their names.
- Brief description of what happened.

- Where to report:
- · Any local L&I office or 1-800-423-7233, press 1 (available 24/7)

This poster is available free from L&I at www.Lni.wa.gov/RequiredPosters.

#### Free assistance from the Division of Occupational Safety and Health (DOSH)

- Training and resources to promote safe workplaces.
- · On-site consultations to help employers identify and fix hazards, and risk management help to lower your



Division of Occupational Safety and Health www.Lni.wa.gov/Safety (7) 1-800-423-7233

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### Employer Responsibilities Under WISHA 2

- Provide training to your employees about job safety and health
  - See module 2 on accident prevention programs
- Involve employees in your safety program by either having a safety committee or holding monthly safety meetings, depending on the size of your business
  - Nearly all adult family homes are small businesses with 10 or fewer workers on a single shift, so you may choose whether to have monthly safety meetings or a safety committee
- Keep records of all work-related injuries and illnesses that meet the criteria specified by law







## Employer Responsibilities Under WISHA 3

 Report all employee fatalities or inpatient hospitalizations, including amputations or losses of an eye, within eight (8) hours



- Report any non-hospitalized employee amputations or losses of an eye within twenty-four (24) hours
- Where to report: Contact the <u>L&I office nearest you</u> by phone or in person, or call 1-800-423-7233



### Employer Rights Under WISHA

Employers have the right to require that employees follow Washington state workplace safety & health rules and your company's policies. Company policies can be greater than those found in the WISHA rules. You may require employees to:





- Follow safe work practices in their daily work
- Use & maintain any personal protective equipment you provide for them
- Never remove, displace, or damage any safeguards, notices, or warnings intended to provide a safe workplace
- Not wear torn or loose clothing while working around machinery such as Hoyer lifts, etc.
- Report any near misses or accidents promptly

#### Worker Responsibilities Under WISHA

- By law, workers must comply with safety and health rules that apply to their workplace. These include:
  - Read the <u>Job Safety and Health Law poster</u>. Your employer is required to display this poster
  - Follow your employer's safety and health rules
  - Wear any personal protective equipment your employer requires
  - Report any potentially hazardous conditions to your supervisor, safety committee, or employer
  - Report any on-the-job injury or illness immediately and get medical attention, if needed
  - Cooperate with inspectors from L&I's Division of Occupational Safety and Health (DOSH)







#### Worker Rights Under WISHA 1

- Every worker has the right to a safe and healthy workplace. If you know of potentially hazardous conditions and have reported them to your employer, and they remain uncorrected, you may file a confidential complaint with DOSH. DOSH will evaluate your complaint and may schedule an inspection of your workplace
  - Report hazards, unsafe work, or discrimination, at: https://lni.wa.gov/workers-rights/workplacecomplaints/safety-complaints or at your local L&I office, or call 1-800-423-7233
  - For more information about worker rights, see the <u>Pocket Guide to Workers Rights</u> found at: <a href="https://lni.wa.gov/forms-publications/F101-165-909.pdf">https://lni.wa.gov/forms-publications/F101-165-909.pdf</a>







### Worker Rights Under WISHA 2

- Specific worker rights include:
  - Bring job safety & health concerns to your employer's attention
    - ☐ This includes filing safety & health grievances
  - Discuss safety & health matters with other workers
  - Refuse a dangerous task under certain conditions:
    - ☐ The refusal must be genuine. It can't be a disguised attempt to harass your employer or disrupt business
    - ☐ A reasonable person (or most people) would agree that there is a real danger of death or serious injury if you were to perform the task
    - □ There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as DOSH
  - Participate in safety & health inspections with a DOSH inspector







#### Worker Rights Under WISHA 3

- Additional worker rights include:
  - File a complaint about workplace safety or health hazards with DOSH, OSHA, your local health or fire department, or any other appropriate government agency
    - You may ask that your name not be revealed if you file such a complaint
  - Testify before any panel, agency or court about job hazards
  - File a safety & health discrimination complaint and give evidence in connection with such complaints







## Do Workers Have The Right To Leave A Jobsite If It Is Unsafe?

- No. Workers do not have the right to walk off the job to protest unsafe conditions
  - Workers do have the right to refuse to do a specific task if they reasonably believe it is unsafe
  - Workers must stay on the jobsite until resolution
    - □ DOSH may not be able to protect you if you leave
- When refusing a task for safety reasons:
  - Ask your employer to fix the hazard & ask for other work in the meantime
  - Tell your employer that you won't do the task unless the hazard is corrected
  - Remain on the worksite until ordered to leave by your employer







## What Is Workplace Safety Discrimination?

• It is illegal for anyone to act against a worker for exercising their rights under WISHA. If that happens, it may be considered discrimination.

Discriminatory actions include:

- Dismissal, demotion, or loss of seniority
- Reduction in pay or hours
- Assignment to an undesirable job or shift
- Denial of a promotion you would otherwise have received
- Denial of benefits such as sick leave, vacation time, or company housing
- Harassment
- Blacklisting with other employers
- Damaging your credit at banks or credit unions



## What To Do If You Think You Have Been Discriminated Against?

- Make a list of the facts
  - ❖ Do it quickly, while the information is still fresh
  - Record names, dates, addresses, & what happened
  - Identify when & where the incident happened, witness names, & anything that may be significant to the case
  - Keep any documents, pictures, letters, or notes related to the incident

ax: 360-902-54	nen Safety and He		are involved	ı			
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	rimination occurre u were discriminat		attach addi	tional sheets if r	needed)		

- Contact L&I's DOSH division
  - You must file your complaint within 30 days of the discriminatory action (Or within 90 days starting July 1, 2022)
    - You may file the complaint yourself, or authorize a representative to do it for you
    - You may file in person, by phone, by letter, or online at: <a href="https://www.lni.wa.gov/workers-rights/workplace-complaints/discrimination-in-the-workplace-workplace-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discrimination-in-the-complaints/discr





## Module 1C: State Safety & Health Inspections And Consultations



### L&I DOSH Program Inspections

- L&I's DOSH program is authorized to enter any factory, plant, establishment, construction site, or other workplace to inspect and investigate
- Yearly Number of DOSH inspections:
  - ❖ About 5,000 safety compliance inspections
  - About 2,500 additional free safety consultation visits
- Inspection Priorities:
  - 1. Reports of imminent danger
  - 2. Fatality or catastrophe investigations
  - 3. Complaints or referrals
  - 4. Follow-up or monitoring inspections
  - 5. Programmed inspections based on selection criteria





### WISHA Violations 1





### General violations

■ Where the hazardous condition cannot reasonably be predicted to cause death or serious physical harm to exposed employees but does have a direct & immediate relationship to their safety & health

### Serious violations

■ Where there is a substantial probability that death or serious physical harm could result from exposure to a hazard the employer knew about or, with reasonable diligence, could have known about



### WISHA Violations 2





### Violation Types:

#### Willful violations

- Where evidence shows either an intentional violation of the WISH Act or plain indifference to its requirements.
  - > A willful violation can be a first-time violation
  - ➤ Can be prosecuted as a criminal willful violation if the willful violation cased the death of an employee

### Statutory violations

■ Where a state law requires a penalty for violations related to requirements such as posting, reporting, recordkeeping, & employee access to records

### L&I Most Common Citations 1

 The 10 most common safety & health rules cited during L&I inspections

(PPF)





WAC Topic Area	L&I Safety Resources
1. Globally Harmonized System for Hazard Communication WAC 296-901-140	Chemical Hazard Communication and Globally Harmonized System (See AFHC Safety Awareness Program module 2 for more information)
2. Safety Committees and Safety Meetings <u>WAC 296-800-130</u>	Safety Meetings and Committees (See AFHC Safety Awareness Program module 2 for more information)
3. Accident Prevention Program WAC 296-800-140	Accident Prevention Program (APP) (See AFHC Safety Awareness Program module 2 for more information)
4. Personal Protective Equipment	

Personal Protective Equipment

## L&I Most Common Citations 2



ARE YOU READY?

 The 10 most common safety & health rules cited during L&I inspections

WAC Topic Area	L&I Safety Resources
6. First-Aid <u>WAC 296-800-150</u>	First Aid
7. Asbestos, Tremolite, Anthophyllite, and Actinolite <u>WAC 296-62-077</u>	Asbestos
8. Portable Fire Extinguishers WAC 296-800-300	Emergencies in the Workplace
9. Exit Route & Employee Alarm Systems <u>WAC 296-800-310</u>	Emergencies in the Workplace
10. Respirators: Medical Evaluations WAC 296-842-14005	Respirators

### WISHA Penalties 1





- Unless penalties are mandated by a statute, penalties for first instance general violations will not be assessed
- By statute, a penalty must be assessed when a violation is classified as serious or willful
- There is no regulatory requirement to assess a penalty when a violation is not serious or willful
  - Except for mandatory penalties for violating posting or similar statutory requirements
- Adjustment factors are applied for good faith, size, history,
   & abatement quick-fixes. These can raise or lower penalties
  - ☐ Small employers with 10 or fewer employees receive a 70% penalty reduction & those with 11-25 employees receive 60%
  - When applicable, increased penalties for failure-to-abate, repeated, & willful violations are applied
  - □ The good faith reduction for employers who demonstrate above average commitment to safety & health is -20%

### WISHA Penalties 2

- Penalties (As of November 1, 2018)
  - The minimum civil penalties assessed are:
    - □ \$100 for serious violations
    - □ \$2,500 per violation for violations contributing to a fatality
    - □ \$5,000 for willful violations
  - Maximum penalties are \$7,000 for general or serious violations, or \$70,000 for willful violations
    - Adjusted annually in accordance with federal OSHA penalty levels
  - Penalties for serious violations that calculate below \$100 are assessed at a \$100 minimum
  - The penalty for first instance statutory violations is an adjustable \$1,000 penalty
    - □ For violating posting, reporting, recordkeeping, employee access to records, or similar statutory requirements
  - See L&I's <u>DOSH policy manual Chapter 6: Penalties for</u> more information about how penalties are determined





# WISHA Base Penalty Amounts 1

- The base monetary penalty amount per violation is determined by how severe of an injury a hazard might cause & the probability that the hazard will cause an injury
  - Severity levels are based on the maximum reasonably expected injury from a hazard, rated on a scale of 1-3
  - Probability levels are based on the likelihood that an injury or illness will occur based on the workplace conditions and practices, rated on a scale of 1-3
  - A combined gravity-based rating is determined by multiplying the severity rating by the probability rating
    - $\square$  For example, if the probability rating is a 2 and the probability rating is a 1, then the gravity rating is 2 (2x1=2)
  - ☐ The base penalty amount for a violation is found by either:
    - ☐ Multiplying the gravity rating by \$1,000 If the gravity rating is between 1 & 6 (For a base penalty range of \$1,000 to \$6,000)
      - Or, If the gravity rating is a 9, then the base penalty is \$7,000

# WISHA Base Penalty Amounts 2



Severity level definitions

Level	Definition	Examples
3.	<ul><li>Death</li><li>Permanent disability</li><li>Chronic, irreversible illness</li></ul>	Death, major amputation, long term major disability, extensive 3rd degree burns, loss of vision, paralysis, cancer
2.	<ul> <li>Disability of a limited nature</li> <li>Injuries or reversible illnesses resulting in hospitalization</li> </ul>	Broken bones requiring hospitalization, partial amputation like part of a finger, short term respiratory problems
1.	<ul> <li>Injuries or temporary, reversible illnesses resulting in serious physical harm</li> <li>May require removal from exposure or treatment without hospitalization for recovery</li> </ul>	Cuts without hospitalization, broken finger or arm not needing hospitalization, skin & respiratory irritants
General	<ul> <li>Non-serious injury or illness</li> <li>Violations of requirements with little impact on safety &amp; health</li> </ul>	Hazards that would not result in serious physical harm or treatment beyond first aid

## WISHA Base Penalty Amounts 3

Probability level definitions



Level	Definition	Considerations
3.	The likelihood of injury or illness would be higher than average	<ul> <li>Frequency &amp; duration of exposure</li> <li># of employees exposed</li> <li># of times the hazard is identified in the workplace</li> <li>How close an employee is to the hazard (proximity)</li> <li>Employee skill level &amp; training</li> <li>Employee awareness of the hazard</li> <li>The pace, speed, &amp; nature of the task or work</li> </ul>
2.	The likelihood of injury or illness would be average	<ul> <li>Use of personal protective equipment (PPE)</li> <li>Other factors (weather &amp; other working conditions)</li> <li>Mitigating circumstances (may lower probability)</li> <li>Specific safety or health instructions in place</li> <li>Effective training programs</li> </ul>
1.	The likelihood of injury or illness would be lower than average	<ul> <li>Evidence of correction underway</li> <li>Warning signs &amp; labels or special procedures</li> <li>Mandatory administrative controls giving some protection</li> <li>Contributing circumstances (may raise probability)</li> <li>Inappropriate or inadequate safety &amp; health instructions</li> <li>Inadequate or no training</li> <li>Widespread hazardous conditions or faulty equipment with little or no attempt at control</li> </ul>



 Repeat violations increase penalties based on the number of times the employer has been cited for the same infraction

Number of Prior Violations	Base Penalty Multiplier
1	X 2
2	X 5
3	X 8
4	X 12
5	X 15

- Willful violations
  - For willful serious violations and willful program violations, the adjusted gravity-based penalty is multiplied by 10



- For willful general and willful statutory violations, a penalty of \$5,000 will be assessed
- No reduction given for good faith, history, or abatement quick-fixes
- Egregious Violations.
  - For exceptionally flagrant cases involving willful violations, <u>each instance</u> of noncompliance is considered as a separate violation & a separate penalty is applied
  - Only the L&I Director may authorize & approve the assessment of egregious penalties



- Failure to abate
  - Used when an employer who has been cited for a WISHA violation fails to correct the violation on time



- ☐ Gives DOSH the <u>authority</u> to assess a penalty <u>for</u> <u>each day</u> a violation continues unabated past the abatement date
  - Normally penalties are not charged beyond 30 days, which gives a maximum penalty of 30 times the base penalty amount
- Allows a penalty potentially higher than the cap of \$70,000
- No reduction in the base penalty is given for good faith, history, or abatement quick-fixes

- Non-reporting and disturbing the scene
  - \* A general violation is normally issued for:
    - ☐ Failure to report a workplace death or inpatient hospitalization within 8 hours
    - ☐ Failure to report the loss of an eye or amputation without hospitalization within 24 hours
    - Disturbing an accident investigation scene before L&I gives a release
- Violations of statutory requirements
  - \* Failure to meet posting requirements is a general violation with a base penalty of \$1,000
    - Employers are required to post the Job Safety and Health Law Poster, the OSHA 300 Summary Report, any WISHA citations, Notices Regarding Appeals and Corrective Notices, variances, applications for extensions of abatement dates, & violation correction documents





# DOSH Safety Consultations



- L&I Safety and Health Consultations
  - Safety or Industrial Hygiene consultants can assist with building your safety program, training, identifying, & controlling hazards, and following applicable safety rules.
  - \* No fines or penalties will result from issues uncovered during a consultation
    - However, consultants will ask you to correct any serious issues & offer assistance
  - If you disagree with the results of a consultation, ask to speak to the consultant's supervisor to request a review





# Other Consultation Types



### L&I Risk Management Consultations

Risk management consultants can review your workplace injury history and provide a step-by-step plan to help you prevent injuries and control industrial insurance costs

### L&I Ergonomic Consultations

Ergonomic specialists can help you find solutions to prevent sprain and strain injuries. These injuries are associated with high worker's compensation costs





# L&I Consultation Benefits



- Consultants can help you create & maintain an effective safety program
  - Promotes a safer & healthier work environment
- An effective safety & health program keeps your worker's compensation premiums as low as possible
- Helps prevent costs from workplace injury claims
  - Enhances job performance & productivity
  - Reduces absences & avoids short- or long-term disabilities





# Request A Consultation



- To request a free & confidential safety consultation, contact Washington state's Department of Labor & Industries' DOSH Consultation Program by:
  - \*Calling 360-902-5554
  - Going to L&I's Request Consultation webpage: https://www.lni.wa.gov/safety-health/preventinginjuries-illnesses/request-consultation/
- If you disagree with the results of a consultation, ask to speak to the consultant's supervisor to request a review







# State Safety & Health Inspections & Consultations Quiz Question 1



- What is the normal maximum base penalty for a serious safety violation?
  - A. \$100
  - B. \$1,000
  - C. \$5,000
  - D. \$7,000
  - E. \$70,000

# State Safety & Health Inspections & Consultations Quiz Question 2



- When determining the penalty for a repeat serious safety violation that has been previously cited three times before, you would multiply the base penalty by?
  - A. 30 times
  - B. 8 times
  - C. 5 times
  - D. 3 times

# State Safety & Health Inspections & Consultations Quiz Question 3



- L&I safety & health consultants can help you with the following at no charge:
  - A. Building your safety program
  - B. Training
  - C. Identifying & controlling hazards
  - D. Following applicable safety rules
  - E. All of the above
  - None of the above

# Module 1D: L&I Safety & Health Reporting, Investigating, & Recordkeeping



# WISHA Accident Reporting Requirements



- Report all workplace fatalities, hospitalizations, amputations, or losses of an eye to L&I's Division of Occupational Safety & Health at 1-800-423-7233
  - All work-related fatalities or inpatient hospitalizations within 8 hours
  - All work-related non-hospitalized amputations and losses of an eye within 24 hours
  - Reporting to L&I also satisfies federal OSHA reporting requirements
- If you, as an employer or an agent of an employer, do not learn about the incident when it takes place, you must still report it within these time frames after you are notified

# WISHA Accident Reporting: What to Report



- When reporting an incident, make sure to provide:
  - The name & phone number of the best person to contact
  - The name of the establishment/business
  - The location/address where it happened
  - The date & time it happened
  - The names & number of employees harmed
  - \* A brief description of the incident
- Preserve the scene for the L&I safety investigation
  - You may move equipment as necessary to assist victims or to prevent further harm, but you must preserve the scene of work-related incidents until L&I has investigated. This includes not moving machinery, tools, or personal protective equipment involved in the incident (WAC 296-800-32010)

## **Accident Investigations**





- A fatality, in-patient hospitalization, amputation, or loss of an eye
- You are also required to investigate other accidents that cause serious injury and/or illnesses (WAC 296-800-320)

### Recommended investigations

- Accidents requiring only first aid, or "close calls" (i.e., near-misses) where no one is hurt, are not required to be reported or investigated
- However, it is still recommended that you investigate all accidents or near misses, including minor ones, because they can help predict and prevent future accidents

## Accident Investigation Benefits

### Accident Investigations help you:

- Identify hazards to prevent future accidents
  - Preventing accidents keeps everyone safer & reduces costs
- Discover & correct deficiencies in training, work practices, and/or equipment
- Reduce direct & indirect costs associated with accidents, including workers' compensation costs
- Improve worker's confidence & morale
- Strengthen your required accident prevention program (See module 2 for more information)



## How To Investigate An Accident

- Have a plan in place before an accident occurs!
  - An investigation plan can reduce the chaos during an incident and helps ensure a safe & efficient investigation
  - For best results, make finding the "root cause/s" the focus of your investigations, not fault finding





- Once your plan is in place, be sure to inform and train everyone so they know who does what
  - Revisit your plan when it might need updating & keep everyone informed and trained on any changes you make
- For more information on conducting an accident investigation, see:
  - L&I's Accident Investigation Basics at: http://wishatraining.lni.wa.gov/training/presentations/AccidentInves.pps

## What To Do When Investigating 1

- Preserve the scene & keep unauthorized people away
  - Check for danger & ensure the victims' safety
  - Cones, warning tape, & people to guard the scene can help you do this





- Document the scene
  - \* Take notes & use photos, videos, and/or sketches
    - ☐ Detail the who, what, where, when, and how details about the incident
- Collect information from witnesses
  - Obtain other relevant information like equipment manuals, safety data sheets, and company documents (like safety policies, operating procedures, training & injury records, logs, reports, etc.)

# What To Do When Investigating 2



- Determine the root causes and best corrective actions to take
  - This requires technique (e.g., keep asking "Why" questions) and time for a deep evaluation, but will make it easier to focus on the most effective corrective actions to take to prevent further incidents



- Implement corrective actions
  - Eliminate or control the identified hazards
  - Some actions may take more planning & implementation time than others

# L&I Safety & Health Recordkeeping Requirements

- Safety & health records to keep:
  - Accident Prevention Program (written)
  - Employee medical and exposure records
  - Federal OSHA 300 Injury/Illness records
  - Records related to specific workplace hazards
  - Safety data sheets for hazardous chemicals, including hazardous medications
  - Safety meeting records (dates, meeting topics, and workers in attendance)
  - Safety training records (training topics, dates, and workers in attendance)
- Keep Records for 4 Years (Current year plus 3 previous)
  - Other agencies may require you to hold records longer



# Reporting, Investigating, & Recordkeeping Quiz Question 1



- All work-related fatalities or inpatient hospitalizations must be reported to L&I'S DOSH program within:
  - A. 7 days
  - B. 48 hours
  - C. 24 hours
  - D. 8 hours

# Reporting, Investigating, & Recordkeeping Quiz Question 2



- WISHA rules require employers to investigate any accident that results in:
  - A. A fatality
  - B. An in-patient hospitalization
  - C. An amputation
  - D. The loss of an eye
  - E. Any accident that causes a serious injury or illness
  - F. All of the above
  - G. None of the above

# Reporting, Investigating & Recordkeeping Quiz Question 3



- How long should you keep records required under the WISHA rules?
  - A. 7 years
  - B. 4 years
  - C. 2 years
  - D. 1 year
  - E. There are no WISHA record retention requirements





# Questions?



For questions or additional information about these educational materials, contact the Washington state Adult Family Home Council at 1-888-439-8999 or at their <u>website</u>.



### Introduction to WISHA

- Quiz question 1: What does WISHA stand for?
  - D is the correct answer (Washington Industrial Safety and Health Act)
- Quiz question 2: What is the purpose of WISHA?
  - C is the correct answer (To ensure Washington employers provide their workers with safe & healthy workplaces)



### Introduction to WISHA

- Quiz question 3: What does D.O.S.H. stand for?
  - A is the correct answer (Division of Occupational Safety and Health)
- Quiz question 4:
   True or False:
   WISHA rules require employers to keep job sites safe & healthy for all employees, including contractors, subcontractors, or employees of other companies
  - A is the correct answer (True)

### State Safety & Health Inspections & Consultations



• Quiz question 1:

What is the normal maximum base penalty for serious safety violations?

- D is the correct answer (\$7,000)
- Quiz question 2:

When determining the penalty for a repeat serious safety violation that has been previously cited three times before, you would multiply the base penalty by?

- B is the correct answer (8 Times)
- Quiz question 3:
   L&I safety & health consultants can help you with the following at no charge:
  - E is the correct answer(All of the above)

### Reporting, Investigating, & Recordkeeping



• Quiz question 1:

All work-related fatalities or inpatient hospitalizations must be reported to L&I's DOSH program within:

- D is the correct answer (8 hours)
- Quiz question 2: WISHA rules require employers to investigate any accident that results in:
  - F is the correct answer (All of the above)
- Quiz question 3: How long should you keep records required under the WISHA rules?
  - B is the correct answer(4 years)