

Best's Insurance Law Podcast

[Workers' Compensation Claims and Safety for Remote Employees - Episode #225](#)

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Guest Expert: Dr. Janine McCartney of [HHC Safety Engineering Services and HHC Safety Consulting Services, Corporation](#)

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John Czuba: Welcome to Best's Insurance Law Podcast, the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, managing editor of *Best's Insurance Professional Resources*.

Very pleased to have with us today expert service provider Dr. Janine McCartney of [HHC Safety Engineering Services and HHC Safety Consulting Services, Corporation](#) of Wilmington, Delaware and with an office in Houston, Texas as well. The companies provide safety consulting, safety engineering consulting, and expert witness services to law firms and the insurance industry.

Dr. McCartney is a senior safety engineer and expert witness. She has a certified safety professional and a construction health and safety technician designation with 31 years' experience in safety.

Dr. McCartney also has CSHO credentials. Her professional career has spanned over 45 years in private and government service with OSHA consultation. Dr. McCartney has worked in the oil and gas industry and the pipeline and construction industry as a regulatory expert.

In safety, she worked her way up from safety representative to safety manager, to safety officer 2, to manager, and then to an expert. She has extensive OSHA policies knowledge and has technical and historical knowledge in construction, telecommunication, utilities, manufacturing, food processing, distribution, oil and gas exploration and production, and property management.

Dr. McCartney is also an editor of *ScienceDirect*, *Heliyon*, and *Data in Brief*, and an editor and reviewer of *Science of the Total Environment*. She also works as an expert and consultant on a day-to-day basis. Dr. McCartney, we're very pleased to have you with us again today.

Dr. Janine McCartney: Thank you, John, and thank you for this opportunity.

John: Today's discussion is on workers' compensation claims for remote workers, which is a very timely topic in 2025. For our first question, Dr. McCartney, what should an employer be aware of with a work staff that previously worked from home and is now transitioning back to the office in 2025?

Dr. McCartney: Great question, John. As the employer transitions some or all of their employees back to the workplace, employers should be aware that, in 2025, claims from their new workforce of former workers working from home may include increases in psychiatric mental stress claims.

When the employer calls their workers back to the office, some employees may be excited about going back to the office. Other employees, however, may not be excited to return. Some employees may claim added stress coming back to the workplace because of long commutes, daycare scheduling, and school conflicts.

These factors could lead to an increase in psychiatric mental stress claims for the employer. The employer may choose to implement an employee assistant program to assist employees with their home issues and help find solutions for their employees via the EAP program.

John: Dr. McCartney, for employers who still allow some of their workers to work from home, why is there a concern with respect to claims for workers' compensation?

Dr. McCartney: That's another great question, John. According to IPMG, this employer has challenges with their worker's compensation program when their workers work at home, work remotely. This includes how to define the workplace, proving a worker's compensation injury, setting clear work hours for the employee, and ensuring a safe work environment.

John: Can you explain a little further why these four challenges prevent such an issue for claims adjusters and employers who allow their workers to work from home?

Dr. McCartney: Certainly. The challenges include defining the workplace. In a traditional setting, the workplace is clearly defined.

For remote employees, the line between personal-work environments are combined. Injuries sustained while the employee's working from home might be difficult to categorize as work-related or not. This makes it challenging for employers and insurance providers to establish the legitimacy of a claim.

The second challenge is proving the injury. Without the presence of colleagues or supervisors, it can be difficult to verify the circumstances of a remote worker's injury. In a physical office, witnesses or video surveillance might provide evidence. In a home office, the lack of direct oversight can lead to disputes about how and when the injury occurred.

The third challenge is setting clear work hours. Remote work often offers flexibilities in terms of hours. It allows employees to manage their own work schedules. However, this can lead to ambiguity when determining whether an injury occurred during work hours or personal time. This lack of clear boundaries can complicate workers' compensation claims.

Lastly, ensuring safe work environments. Employers are responsible for providing a safe work environment, remote workers, included. However, assessing the safety of an employee's home setup is not straightforward. Unsafe conditions such as poor ergonomics, where improper equipment can contribute to injuries that might have been preventable in the traditional office.

John: Dr. McCartney, what solutions have been proposed for employers that still allow their workers to work?

Dr. McCartney: Still a great question, John. There are six suggestions.

They are employers must develop an effective remote work policy. Employers must maintain open communication. Employers must provide ergonomic support to their employees. Employers must implement a clear reporting process. Employers may conduct virtual safety assessments with their workers. Employers must track work hours and activities. I'll explain each one.

First, employers must develop an effective remote work policy. One of the most effective ways to mitigate this challenge is to develop this policy. The policy should include work hours and expectations, the designated workspace in the employee's home, reporting procedures for injuries. By establishing clear guidelines, employers can more easily identify work-related injuries and avoid ambiguity.

Second, employers must maintain open communication with their employees. Frequent check-ins and open communication with remote employees is essential. Regular meetings provide an opportunity for employees to discuss concerns related to their work environment equipment or their physical well-being. This proactive approach can prevent potential injuries before they occur.

Third, employers must provide ergonomic support for their employees. Employers can help reduce the risk of injuries by offering ergonomic support and also provide proper equipment. By ensuring that employees have the right tools to work safely from home, businesses can prevent injuries caused by poor posture and inadequate equipment.

It's important to note that employers are still responsible for ergonomic workers' compensation injuries. It is my opinion that the ergonomic setups of an employee home workstation is an issue that must be addressed by the employer's safety department.

The only true way to assess an employee's workplace computer setup is to do an in-person assessment at the employee's home with the employee present. It's my opinion that the employer must be proactive in performing these ergonomic home assessments to avoid the employee developing a repetitive worker's comp injury.

However, performing an at-home assessment may be problematic. The employer may consider developing these home assessment programs with the help of their legal team. The employer must also implement a clear reporting process. A streamlined reporting process for work-related injuries is essential.

The employer must ensure that remote employees know exactly how to report an injury, and the steps involved in filing a worker's compensation claim. Quick and thorough reporting can help resolve claims more efficiently.

Fifth, employers may conduct these virtual safety assessments of their workers' home workplaces, but this is problematic because the employer may see hazards only on that day. Employers may consider virtual safety assessments to evaluate working conditions, and this is side and separate from doing the ergonomic evaluations.

What the employer is going to see is hazards in that home set up only in a specific time period. This snapshot in time may not reflect all of the hazards. The employer must consider developing a home assessment program with the help of their legal team.

The employer should also track work hours and activities. Implementing tools to track work hours and activities can provide a clear picture of when work-related tasks are being completed. This data is valuable in determining whether an injury occurred during work hours and can serve as evidence in workers' compensation claims.

John: Dr. McCartney, what policy, if any, does OSHA have on home-based business worksite and home office?

Dr. McCartney: Another great question, John. OSHA has a directive which has not been modified since February 25th of 2000. The directive is CPL 2-0.125. This directive provides guidance to OSHA's compliance personnel, or COSHO's, about inspection policies and procedures concerning work sites in an employee's home.

OSHA defines a home-based business and home office in this directive. They define it as follows: a home-based work site is the area of an employee's personal residence where the employee performs work of the employer. A home office is office work activities in a home-based work site that is filing, keyboarding, computer research, reading, writing.

Such activities may include the use of office equipment, telephone, fax machine, computer scanner, copy machine, desk, and file cabinet. Until this policy is changed by the current administration, the policies of the Department of Labor are such that, they state, the Department of Labor strongly supports telecommuting and telework.

Family-friendly, flexible, and fair work arrangements, including telecommuting, can benefit individual employees and their families, employers, and society as a whole. They go on to state that the purpose of the OSH Act is to assure so far as possible, every working man and woman in the nation safe and healthful working conditions.

The OSH Act applies to a private employer who has employees doing work in a workplace in the United States. It requires these employers to provide employment and a place of employment that are free from recognized serious hazards and to comply with OSHA standards and regulations.

By regulation, OSHA does not cover, does not cover, individuals who, in their residences employ persons for the purpose of performing domestic household tasks.

The directive goes on to say that OSHA respects the privacy of the home and has never conducted inspections of home offices. While respecting the privacy of the home, it should be kept in mind that certain types of work at home can be dangerous or hazardous.

They go on to cite examples such as assembly of electronics, casting lead head jigs for fishing lures, use of unguarded crimping machines, and handling adhesives without protective gloves.

OSHA's policy for home offices is that OSHA will not conduct inspections of employee's home offices. They state that OSHA will not hold employers liable for employee's home offices and does not expect employers to inspect the home offices of their employees.

If OSHA receives a complaint about a home office, the complainant will be advised of their policy. If an employee makes a specific request, OSHA may informally let employers know of the complaint about the home office conditions but will not follow up with the employer or the employee.

OSHA's current policy for other home-based work sites is such that OSHA will only conduct inspections of other home-based work sites, such as home manufacturing operations when they receive a complaint or a referral that indicates it's a violation of a health and safety standard or something that threatens physical harm or imminent danger, including a report of a work-related fatality.

The scope of the inspection in an employee's home will be limited to the employee's work activities. The OSH Act does not apply to employee's house or furnishings.

John: Dr. McCartney, one final question today. What are employer responsibilities for home work sites?

Dr. McCartney: Great question, too, John. OSHA cites in their directive that employers are responsible in-home worksites for hazards caused by materials, equipment, work processes which the employer provides or requires to be used in the employee's home. OSHA states that there are other record-keeping requirements that apply to employers.

The record-keeping requirements state that employers, because of their size or industry, are to keep records of home-related injuries and illnesses.

These employers will continue to be responsible for keeping such records, regardless of whether the injuries occur in the factory, in a home office, or elsewhere as long as they are work-related and meet the recordability criteria of 29 CFR Part 1904.

Other than clarifying the policy on inspections and procedures about home-based work sites, the instruction does not alter or change employer's obligations to employees.

On March, 30th of 2009, OSHA issued a standard interpretation to guide the employer in how to determine if an injury case is work-related when the employee is working at home. This is what they said, "How do I decide if a case is work-related when the employee is working at home?" That was the question in the standard interpretation.

What they said was that injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home and the injury is directly related to the performance of work rather than the general home environment or setting.

If an employee drops a box of documents and injures their foot, the case is considered work-related. They clarify if an employee is injured because he or she trips on the family dog while rushing to answer the phone, the case is not considered work-related. If the employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

In closing, as an employer transitions its employees back to the office, an employer may consider proactively implementing an EAP program to assist employees who may be having problems with childcare scheduling and school issues to avoid experiencing an increase in employee stress claims.

For the employer who allows workers to work at home, it is still recommended that they develop an effective remote work policy. The employers may also want to keep current with 2025 trends in employment law. Norton Rose Fulbright has published its 2025 Annual Litigation Trend Surveys, and employers may consider reviewing these trends.

John, once again, I want to thank you for the opportunity to provide this information in this podcast to the AM Best Legal Talk audience.

John: Thank you, Dr. McCartney. It's always wonderful working with you on these podcasts.

Dr. McCartney: Thank you, John.

John: You just listened to Dr. Janine McCartney of [HHC Safety Engineering Services and HHC Safety Consulting Services Corporation](#), with offices in Wilmington, Delaware, and Houston, Texas. Special thanks to today's producer, Frank Vowinkel.

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I'm John Czuba, and now this message.

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