

Berkley Life Sciences Fleet Safety Newsletter Article Series – Article 4 Are you evaluating your company drivers?

In an accident involving a company driver who rear-ended another vehicle resulting in the death of the other driver, a jury awarded \$22.7 million to the family of the deceased driver and \$12.3 million to another driver injured in the accident.¹ Multiple narcotics were found in the company driver's blood and it is estimated that he was driving 57 mph in the construction zone where the accident occurred and did not apply the brakes even though traffic was stopped. The driver had a history of speeding tickets.

Could this be one of your company drivers? What impact would a \$35 million judgment have on your company? What about the impact to your company's reputation should one of your drivers be involved in a fatal accident?

In addition to pointing out the need to have a solid drug and alcohol testing program in place, this case highlights the importance of ongoing monitoring of employee driving records and their compliance with fleet safety policies. Some practices that may have helped to identify and address problems with this driver include:

1. Establish criteria for acceptable motor vehicle records for your drivers and check the driver's Motor Vehicle Record (MVR) upon hire and periodically throughout the course of employment. Typically, strong policies will name violations that are not tolerated (for example DUI, reckless driving, suspension or revocation of driver's license, multiple speeding violations). *A driver with a history of speeding tickets would have been identified as having an unacceptable driving record under this type of policy.*
2. Ensure that drivers acknowledge in writing that they understand and will comply with the company fleet policy, including all required vehicle safety rules. *Driver acknowledgement of rules prohibiting aggressive driving (such as speeding) and driving under the influence lets them know that the company will not tolerate these behaviors in their drivers.*
3. Institute a disciplinary action plan including removal of driving privileges when drivers do not have acceptable driving records or when drivers are not complying with the company policy. *Multiple speeding violations would indicate an unacceptable driving record and non-compliance with a policy prohibiting aggressive driving and would have called for disciplinary action against this driver.*
4. Create reporting requirements for traffic violations, accidents and revocation or suspension of a driver's license. Drivers should also be required to notify the company when they are unfit to drive for certain health reasons including medications or illness. *Had this driver reported his multiple speeding violations and, if applicable, lawful use of prescribed narcotics to treat a medical condition, the company could have taken appropriate steps to address the safety issues.*

¹ Source: Automotive Fleet, <http://www.automotive-fleet.com/news/story/2016/05/jury-awards-22-7m-in-fatal-crash-case.aspx>

Telematics can be used to supplement these practices for evaluating drivers. Tracking devices hard wired into your vehicles can be used to monitor speed, acceleration and braking. If these devices are used, your company should have policies for monitoring and evaluation of data and follow up procedures.

[Berkley Life Sciences Fleet Safety Newsletter Article Series – Article 2](#), covers in more detail best practices related to verification of driver qualifications and acceptable driving records to manage your liability exposures related to your drivers.



Donii Fox, ARM, MSPH, CIH, CBSP, AVP, Sr. Life Sciences Risk Management Specialist

Donii Fox has over 20 years of experience in industrial hygiene and biological safety focusing on the biomedical research industry, academia and healthcare. Ms. Fox began her career managing industrial hygiene and biosafety programs at the University of New Mexico and later at the University of North Carolina. Her responsibilities included ensuring safe work practices for the handling of chemicals, infectious agents and recombinant DNA. In addition, she assisted in the development of operating procedures and policies, audited work areas and programs and provided input for the design and commissioning of containment laboratories (BSL3/ABSL3). Prior to joining Berkley Life Sciences, she was the ES&H Director at Lovelace Respiratory Research Institute where she managed all ES&H programs

including fire and life safety, OSHA safety, environmental programs, biological, radiation and chemical safety and emergency management.

Ms. Fox has extensive experience with industrial hygiene sampling, biosafety levels 1, 2 and 3, select agents and toxins, evaluating research protocols and providing input on laboratory design. She has a Bachelor of Science degree in Occupational and Environmental Health Management from Ferris State University and a Master of Science degree in Public Health from the University of North Carolina.

Maintaining safe operations and a safe facility in accordance with all laws is your responsibility. We make no representation or warranty, express or implied, that our activities or advice will place you in compliance with the law; that your premises or operations are safe; or that the information provided is complete, free from errors or timely. We are not liable for any direct, indirect, special, incidental or consequential damages resulting from the use or misuse of this information. You are not entitled to rely upon this information or any loss control activities provided by us and you may not delegate any of your legal responsibilities to us. All loss control activities are conducted solely for the purpose of providing insurance in accordance with our underwriting guidelines.

Products and services referenced are provided by one or more insurance company subsidiaries of W. R. Berkley Corporation. Not all products and services are available in every jurisdiction. Certain coverages may be provided through surplus lines insurance company subsidiaries of W. R. Berkley Corporation through licensed surplus lines brokers. Surplus lines insurers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds. In California, Berkley Life Sciences conducts business as Berkley LS Insurance Solutions, LLC, a licensed surplus lines broker (License Number 0H44165).

© 2019 Berkley Life Sciences, a Berkley Company. All rights reserved