



Occupational Disease: The Silent Violence

Workers' Compensation

By [Jon L. Gelman](#)

One of the most pressing challenges in the reformation of New Jersey's Workmen's Compensation system is in the area of occupational disease. Mere exposure to the environmental factors associated with a worker's employment may be fatal. The simple act of being on the job is all it takes to be a potential victim. The risks associated with the actual exposure may be unknown to the worker until many years after he has left the hazardous employment. The purpose of this article is to demonstrate where reform in the New Jersey Workmen's Compensation system is necessary for the protection of the health of all workers, if not the general public, from the effects of the "Silent Violence" of occupational disease.

The technological revolution has evolved at a much faster rate than occupational safety laws. The introduction rate of new, potentially noxious chemicals into industrial use is estimated to be one every 20 minutes. It has been further estimated that for the lack of adequate protection, hundreds of workers are dying each day from occupational diseases. The [United States Public Health Service](#) has declared that prolonged on-the-job exposure to toxic chemicals, dust, noise, heat, cold, radiation, and other industrial conditions each year results in the death of at least 100,000 workers and the development of disabling occupational diseases in 390,000 more.

CANCER ON THE MARCH

[Dr. Irving J. Selikoff](#) of the Mount Sinai Medical Center in New York City recently stated that "we are now reaping the environmental effects of the industrial revolution." His studies linking asbestos with cancer (mesothelioma) are world-renowned. The most recent discovery of an environmental hazard is that of vinyl chloride, a chemical used in the production of many modern plastics. In its gaseous state, it is now known to cause liver diseases and bone and circulatory changes in the fingers and toes. In its solid state of powdery form, it is suspected of injuring the lungs. In the last few weeks, at least 11 cases of angiosarcoma of the liver, a rare fatal cancer, have been linked to occupational exposure to vinyl chloride.

The far-reaching repercussions of the serious risk associated with industrial exposure reach into the general environment. The Environmental Protection Agency (EPA) believes that at least six percent of the six billion pounds of vinyl chloride which American industry uses each year is somehow "lost" into the general environment. As a direct result of the connection between vinyl chloride and occupational illness, the EPA has investigated certain aerosol products that use this chemical agent as a propellant. These include 41 products that are manufactured by 23 separate companies and which commonly appear on store shelves. It has been estimated by Dr. E. Cuyler Hammond, noted environmental scientist, in a recent address before the American Cancer Society that "There are 10,000 new chemicals put into production each year." How many may produce cancer in 20, 30, or 40 years is unknown.

INDUSTRIAL RESPONSIBILITY ESSENTIAL

The burden of preventing illness in the industrial environment should fall on Industry, and the risks should be treated as present costs. As of this time, the long-term effects of the majority of chemical and physical agents used in the industrial environment have not been proven, and little, if any, research is being conducted to determine these effects.

Dr. Selikoff, who believes 95% of all cancer is produced by environmental factors, has stated:

"No exposure of working people to this dust (asbestos) that could cause disease and could cause cancer should be tolerated if there is any way whatsoever to prevent it. Not one fiber should be in the air that a working man breathes if there is an engineering way of preventing this, and there are many engineering

ways. Are they expensive? Yes, they may be expensive, but so is losing a life."

The Workmen's Compensation Act, in theory, is social legislation. It provides an economic incentive to make Industry prevent accidents by making safety pay. The general corporate attitude seems to be that it is less costly to permit casualties than to prevent them. Therefore, the companies are reluctant to invest in new equipment and procedures.

WEAKNESS OF THE PRESENT LAW

The present Workmen's Compensation Act, N.J.S.A. 34:1-1, et seq. provides for full coverage of work-related diseases. Incidentally, the Act meets most occupational disease standards recommended by the National Commission on State Workmen's Compensation.

However, the present Workmen's Compensation Act does have a stringent time limitation within which a petition may be filed for benefits. Coverage is now limited to two years after the last exposure, or last payment, or one year after the employee knew or should have known of the disease. Five years after the exposure is the maximum time limitation except for exposure to radiation, siderosis, anthracosis, silicosis, mercury poisoning, beryllium poisoning, chrome poisoning, or lead poisoning. N.J.S.A. 34:15-34.

Since occupational diseases are of such a nature that they do not become evident until years after exposure, Assembly bill No. 1236 and Senate bill No. 882 are refreshing in their common position. "There shall be **no time limitation** upon the filing of claims for compensation for compensable disease...."(emphasis added).

If this legislation were enacted into law, the resulting insurance costs would then be sufficiently onerous to make it worthwhile for employers to spend money on safety precautions to combat the problem of occupational disease.

WEAKNESS OF OSHA

Furthermore, more adequate governmental standards and greater enforcement of compliance with the standard now in existence would permit the system to function more efficiently. Despite the passage of OSHA in 1970, which grants every American the right to safe and healthful working conditions, "the overwhelming majority of workers are not yet protected by the law "provisions." Federal efforts to survey problems, conduct research, and develop new standards have failed to meet up to the demands of technology. Fewer than 500 inspectors are available to inspect 4.1 million workplaces. Legal standards exist for fewer than 500 of the more than 15,000 toxic substances used in industry.

Congress's intent in the passage of OSHA was that the Federal program should be flexible to allow consideration of local problems, conditions, and resources. OSHA allows States, at any time, to assume responsibility for administration and enforcement of their own occupational and safety and health laws by developing plans "at least as effective as" the federal program. P.L. 91-596, §18. A state plan that fails to meet the criteria may be approved by OSHA if the State assures that it will develop its program to full effectiveness within a maximum of 3 years. The federal authority will not be relinquished until after at least one year of actual operation under the plan after all planned steps are completed.

The New Jersey State Plan was approved by the Federal Government on January 26, 1973. Federal approval of the New Jersey State plan will continue as long as the State plan and its implementation are considered by the United States Secretary of Labor to be "at least as effective as" the Federal regulatory and enforcement program. Pending before the New Jersey Legislature (Senate, No. 716 and Assembly, No. 833) are two identical bills that would provide comprehensive legislation to replace existing State statutes, resume regulatory and enforcement power in this field, expand State coverage of the law from 1.4 million workers to 3 million workers in New Jersey, and provide for research, information, education, training and technical assistance to employers and employee³ of the State.

If enacted, the State of New Jersey would not have to concede total jurisdiction over the safety and health field to the Federal Government but would resume regulation and enforcement in partnership with the Federal

Government. The State could then proceed to investigate areas that are of local concern. The State would receive federal grants for up to 50% of the total operational costs of the program's implementation.

RECOMMENDED LEGISLATION

Legislation on the State level should be enacted to provide for a more stringent investigation of and more widespread dissemination of information concerning the chemical agents and their individual uses. Only if a substance is defined as toxic on the U.S. Department of Health, Education and Welfare's annual list and is covered by a standard is the employee, under existing federal Laws, entitled to information about his exposure record. In addition, it should be mandatory for the employer to provide the individual worker with the results of any and all testing of chemical agents with regard to their effects on health and life. The results of all medical evaluations of the employee conducted by the employer at pre-employment, during employment, and post-employment physicals should be disclosed to the employee so that he may receive the necessary medical treatment immediately.

The burden should be placed on Industry to adopt protective work practices that would eliminate all environmental factors that could affect the employee's health and life, as well as the interests of the general public. The Workmen's Compensation system and the State's Occupational Health and Safety Laws must meet the challenge of the technological revolution. Prevention of disease in the 21st century is the order of the day in 1974. The worker injured by occupational exposure usually does not feel or understand the severity of his condition until it has become irreversible. "Silent Violence" must no longer be permitted to dominate the workplace.

The author, [Jon L. Gelman](#), practices law in Wayne, NJ. He is the author of [NJ Workers' Compensation Law](#) (Thomson-Reuters) and co-author of the national treatise [Modern Workers' Compensation Law](#) (Thomson-Reuters). For over five decades, the [Law Offices of Jon L Gelman](#) 1.973.696.7900 jon@gelmans.com have represented injured workers and their families who have suffered [occupational accidents and illnesses](#).

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