

OSHA Reporting and Recordability Requirements for Overdose

Background

Opioid use and misuse occur in workplaces, and sometimes, opioid misuse may be preceded by injuries that happen in the workplace, with the consequences affecting both an individual's working life as well as their home life.¹ More than one million people have died since 1999 from a drug overdose.² More than 75% of drug overdose deaths in 2021 involved an opioid.³ Further, nearly 10% of on-the-job deaths are due to drug overdose.⁴



The ability for workplaces to address this growing concern has improved with the availability of opioid overdose reversal medications like naloxone. The Food and Drug Administration (FDA) approved the use of the first nonprescription naloxone nasal spray for opioid overdoses in March of 2023. Currently, two types are approved. The FDA approval of nonprescription naloxone nasal sprays makes them more accessible to employers and the public to have them on hand in case of an overdose. Employers may have questions about the Occupational Safety and Health Administration's (OSHA) injury reporting and recording requirements when these medications are used in workplaces, and the National Safety Council (NSC) provides information below for consideration.

OSHA Recordability Guidance

OSHA currently does not have any letters of interpretation or frequently asked questions related to overdose recordkeeping recordability questions or requirements for naloxone in first aid kits or other locations. NSC sent a letter to OSHA requesting clarification. Currently, existing "similar" OSHA interpretation states that administering first aid treatment using a nonprescription medication at nonprescription strength is not considered medical treatment and therefore not recordable under OSHA recordkeeping requirements (29 CFR 1904.7[b][5][ii]).

With some forms of naloxone recently becoming available without a prescription, the administration of naloxone in the workplace may not be a recordable injury or illness and therefore would not be recorded based solely on the administration of naloxone alone. Administration of naloxone may become recordable when treatment beyond first aid is provided and if it is administered in conjunction with other general recording criteria contained in 1904.7. Under OSHA recordkeeping requirements, an employer must record new work-related injuries and illnesses meeting one or more of the general recording criteria or meet the

¹ <https://www.cdc.gov/niosh/topics/opioids/default.html>

² [https://www.cdc.gov/drugoverdose/deaths/index.html#:~:text=More%20than%20one%20million%20people,1999%20from%20a%20drug%20overdose.&text=In%202021%2C%20106%2C699%20drug%20overdose,2021%20\(32.4%20per%20100%2C000\).](https://www.cdc.gov/drugoverdose/deaths/index.html#:~:text=More%20than%20one%20million%20people,1999%20from%20a%20drug%20overdose.&text=In%202021%2C%20106%2C699%20drug%20overdose,2021%20(32.4%20per%20100%2C000).)

³ <https://blogs.cdc.gov/nchs/2023/05/18/7365/#:~:text=The%20only%20state%20in%20which,82%2C310%20in%20the%20previous%20year.>

⁴ <https://injuryfacts.nsc.org/work/safety-topics/overdose-deaths/>

recording criteria for specific types of conditions. Recordable work-related injuries and illnesses are those that result in one or more of the following: death, days away from work, restricted work, transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness.

OSHA Reporting Guidance

With overdoses becoming more prevalent on the job, NSC recommends and has asked OSHA to require all employers integrate opioid overdose reversal medications into their emergency preparedness and first aid programs. NSC also recommends all employers train workers on administration of these medications.

NSC also requested interpretative guidance from OSHA on other questions regarding work relatedness and plans to share the response when available. Under OSHA, the issue on work relatedness is based on where the event or exposure impacting the employee took place. Note that OSHA requirements may not align with state workers' compensation requirements, and NSC recommends employers refer to their respective state workers' compensation board for more information and details. In the interim, NSC encourages employers to follow the guidance provided below.

1904.39(b)(10) - Do I have to report an inpatient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an inpatient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each inpatient hospitalization that involves care or treatment.

What if someone uses drugs at home, comes to work and overdoses? This would not be work related if solely attributable to the overdose at home and therefore not recordable.

What if someone uses drugs at work, goes home and overdoses? OSHA would not consider the case to be work related and recordable if the worker took drugs while working in the interest of the employer and now overdoses at home. However, if a worker was taking drugs at work and experienced a fatality, injury or illness while working in the interest of their employer this would be considered work related and recordable. The work-related exception [29 CFR 1904.5\(b\)\(2\)\(vi\)](#) – “The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted” – would not apply if the worker took drugs at work and overdoses.

What if someone uses drugs at home, comes to work impaired and is injured operating equipment? This too would be considered work related.

Because some forms of naloxone are no longer prescription-based and are considered over-the-counter medicine, would administering a nonprescription version of this medication be considered first aid treatment and not recordable? Yes, administration of over-the-counter medications are considered first aid treatment and not recordable as long as treatment beyond first aid is not provided under 29 CFR 1904. NSC recommends following the medical advice of first responders for subsequent treatment in the case of an overdose.

For more information on the Respond Ready Workplace program, visit nsc.org/respondready or please contact respondready@nsc.org