Workers' Comp

On the Hot Seat: Political Uncertainty Clouds Heat-Related Work Injury Measures

June 16, 2025
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Tom Kerr (TK): Summertime is here, and while most of look forward to days at the beach, backyard BBQs, family road trips, rising temperatures can cause significant risks to employees in both outdoor and indoor environments, prompting new regulatory approaches and clinical interventions.

On today's Enlyte Envision podcast, we're joined by two experts who bring complementary perspectives to this critical topic. Michele Hibbert, Senior Vice President of Regulatory Compliance Management at Enlyte, will walk us through current and proposed legislation designed to protect employees from heat-related illnesses and help us understand the political landscape and challenges facing these protective measures.

Alongside Michele, we have Melissa Martinez, Clinical Operations Manager at Enlyte, who will discuss the clinical aspects of heat-related injuries, from early warning signs to emergency interventions and how nurse triage services can play a crucial role in early identification and prevention of heat-related conditions.

Together, they'll offer a comprehensive view of this growing workplace safety concern and provide practical guidance for employers looking to protect their employees.

Michele and Melissa, thanks for joining us.

Michele Hibbert: Thank you.

Melissa Martinez: Thank you for having us.

TK: Great. Melissa, to just set the tone for this conversation, can you talk about some of the risks employees face regarding heat?related issues?

Martinez: Absolutely, Tom. So, what we're seeing in the field can be concerning. Heat?related injuries exist in a spectrum. They can start from seemingly minor symptoms, like heat rash or muscle cramps, which many employees try to push through. However, these are actually warning signs that shouldn't be ignored because they can quickly progress to heat exhaustion and, worst case scenario, heat stroke. This is where employees experience dizziness or excessive sweating and nausea.

As I mentioned, the most alarming is heat stroke, which is genuinely life?threatening. At that point, the body literally stops sweating and the body temperature extremely elevates, sometimes above 103 degrees, and employees can become confused and even unconscious at that point. The terrifying thing about heat stroke is how quickly it can develop and that it requires immediate emergency treatment at that point.

What makes this particularly challenging is that different industries face unique vulnerabilities. You know, construction employees are directly exposed to sun while performing physically demanding work. Agricultural employees often have limited access to shade and may be in a rural area where emergency response is delayed. And it's not just outdoor employees, we also see serious issues in manufacturing environments where equipment generates tremendous heat, and sometimes in warehouses that have poor climate control.

Something that doesn't get enough attention also could be multiple risk factors such as preexisting conditions like heart disease or diabetes taking certain medications. And also, employees who haven't had time to acclimate to the hot conditions can be particularly vulnerable.

We especially worry about those new employees who might not speak up when they start to feel those symptoms.

TK: Thank you for that background in terms of the real dangers of heat?related work conditions. So, Michele, let's talk about regulations that are already be in place on the federal level to help protect employees from these types of injuries.

Hibbert: Well, to Melissa's point, a lot of what's being done or has been done has been promoted by Occupational Safety and Health Administration (OSHA) and their focus has really been on prevention and protection of employees.

There is new happenings at OSHA, but we're not sure how far they are going to progress. There was proposed rulemaking in August 2024, and it was really promoted by the Biden?Harris administration to outline new heat and injury and illness prevention, measures that are out there that don't exist today at OSHA.

There is a public hearing scheduled to begin June 16, and that's to allow all stakeholders to come in and provide any input on the proposed regulations. And of course, you'll likely hear from consumers, and industry trade and industry groups, like oil and gas and those that are really opposed to these kinds of things.

The key requirements that they're trying to put forth are to develop a heat injury prevention plan, provide protections and prevention by providing drinking water, rest breaks, and indoor heat controls, like Melissa was alluding to. Implement protections for new or returning employees who are not acclimated to heat because a lot of that is not on the books. It's only at some of the state and local level as far as rules go.

But what happened when the Trump administration came in is affecting OSHA a great deal. Shortly after taking office, they issued a regulatory freeze and halted all pending federal rules, and that included OSHA's Heat Injury and Illness Prevention Standard, this new standard that they're developing.

They also terminated all the heat safety experts from the National Institute for Occupational Safety and Health (NIOSH), which has been very instrumental in developing this rule. They're the backbone of it. Without them, OSHA may really, really struggle to defend the regulation during this upcoming hearing.

Like I mentioned, the oil and gas trade groups are lobbying to kill the proposal. They're arguing that it would increase costs and hurt energy production. And the American Petroleum Institute has been urging OSHA to abandon this regulation, citing concerns they would not have what they call workplace flexibility.

But right now, this public hearing is still on the books. But the Trump administration's stance suggests that this new rulemaking will be delayed or could be scrapped altogether.

TK: So let me just follow up on that, Michele. The workplace flexibility that you were talking about, can you explain what that is?

Hibbert: Yes. And when we get down to the state level and talk about states like Texas and Florida, that's really what it has boiled down to. It's giving employers the flexibility to do what they can afford to do, what makes sense for that employer type.

And so, they've been able to successfully lobby that their workplace flexibility would be jeopardized in doing offshore oil rig work and such that have heat?related concerns. You know, the employees who work in these areas, their time on the job is very different, and the employers' fear is that OSHA would influence that and prevent them from using employees the way that they had intended or were hired to do.

So that's the big deal really. It's the economics and the flexibility of the employer in applying these rules. They want to be able to be autonomous.

TK: So, Michele, a lot of workers' comp is controlled at the state level. You talked about the federal level and some concerns there. What's happening at the states' state level? How are they tackling this issue?

Hibbert: Well, we have what I will call a handful of states that actually have standards for heat?related injuries and protections for employees. California, Oregon, Washington, they have heat stress standards that require employers to provide water, shade, rest breaks. They're really trying to prevent bad things from happening to the outdoor employee in particular.

Colorado and Minnesota have heat?related workplace protections, but they're not as comprehensive as those in California and Washington for sure. And then, what's interesting is Maryland recently is working on what they call their indoor?outdoor heat standard, which could be finalized fairly soon. I don't know if you have ever been to Maryland, but it's very humid there. And to protect the employees from heat?related illnesses, both indoors and outdoors, the Maryland Occupational and Safety and Health (MOSH) issued heat stress standards, which became effective last year in September.

This regulation applies to workplaces where the heat index reaches 80 degrees or higher, which can be completely miserable depending upon what you're doing in Maryland indoor, outdoor, areas. This regulation applies to training and prevention and management of heat stress.

There was also a bill in Maryland, House Bill 722, which passed in 2020, but it is evolving over time. It gave the commissioner of Labor and Industry, basically, permission to do rulemaking. So, the commissioner can write heat?related illness prevention plans, including providing drinking water, implementing rest breaks, and ensuring proper training for employees working in heat areas.

So, it allows them to do things faster and, more importantly, specific to the state of Maryland. And we'd like to see more of that in workers' comp throughout the US.

TK: So, when we talk about seeing more of that, what initiatives are currently in place in terms of t bills, legislation that's being discussed, that other states are looking to implement or maybe push back on?

Hibbert: Well, I would like to address that Texas and Florida have been difficult states to get anything passed. They've been blocked by the local governments from implementing heat protections for employees. So, we can talk more about that later.

But on the positive side, we have California, which is still considering Senate Bill 1299 which applies specifically to agriculture employees. It takes the burden of proof to employees who fail to comply with heat illness prevention standards and it ensures compensation for medical treatment, disability, indemnities, and so forth.

If death from heat-related work injury, unfortunately, should occur, it establishes what they call a Farmworker Climate Change Heat Injury and Death Fund to help cover costs. The issue with this particular bill is that it was vetoed by Gov. Newsom. His veto statement expressed concerns about tying workers' compensation claims to employer compliance with California or Cal OSHA standards, arguing that the enforcement issues could complicate the bill's effectiveness.

There are supporters though, for 1299, including a couple of senators who have vehemently criticized this veto, and the farm employees are still vulnerable to this extreme heat condition, especially in California. Since the bill was vetoed by the governor, it really now depends on the California legislature to decide whether they're going to override this veto. Unfortunately, it's unlikely, given the historical difficulty of overriding governor vetoes in California. That's just our opinion at this point.

The second bill, which has a likelihood of passage is one in Colorado. Senate Bill 21?087 would require employers to implement heat safety procedures when temperatures reach 80 degrees or higher. And when I stated in the beginning about issues such as economics and political makeup, this one will likely pass because of the current political makeup. It's a Democratic majority in the Colorado legislature, so they are promoting this a great deal.

TK: OK, and Melissa, in listening to what Michele says is being proposed, does it fall in line with the types of things you are hearing when employees call nurse triage for heat?related issues? And are the bill recommendations in line with those you offer to employees?

Martinez: Yes, Tom. When I consider the bills and regulations that have been referenced in California, and the heat protection standards in Oregon and Washington, I'm looking at them through clinical and practical perspectives. What's promising about these initiatives is they are incorporating elements that medical research shows actually work.

For example, California's existing heat illness prevention standards requiring water, shade, and rest breaks directly address the primary interventions we know prevent heat illnesses, and promote hydration, cooling, and recovery time.

The research is clear that these measures, when properly implemented, can reduce heat?related incidents. And what I find particularly effective is when legislation includes specific measurable requirements like the Oregon rule for instance, requiring increasing rest times at temperatures when they rise above certain thresholds. And this kind of graduated response based on environmental conditions does align perfectly with how heat illnesses develop physiologically. The indoor heat protection being developed in Maryland are addressing a critical gap, we've seen heat?related cases we handle also do occur in indoor environments, that we typically don't always take into consideration. So, I do feel that it does align with where we are able to assist our employees when they call us in regard to heat?related illnesses.

Hibbert: And Tom, I just wanted to add on to what Melissa was saying. If you even go back to the core of OSHA at the federal level, it's all about prevention, and those guidelines being brought down to the state level for workers' compensation. They're not looking to blame people for things. They're looking to prevent people from being harmed by the heat by doing actions that would prevent it from occurring. So that, I think that's a great point.

Martinez: Absolutely agree with that. Prevention is definitely key.

TK: And you would think that it would be a cost?effective way of doing things as well.

Martinez: Absolutely.

TK: Certainly, if you can prevent an injury, it's going to be more efficient than actually have to deal with something more serious, like Melissa said, such as heat stroke, dehydration, those type of things.

Melissa, you mentioned a lot of people when they think of heat?related illnesses, they think of being out in the sun, dealing with heat and humidity. But you mentioned a couple times here about indoor?related heat injuries.

If you're working in a factory or an environment like that, what are some ways you can try to prevent those types of injuries from occurring?

Martinez: A good question. So, circulation in the environment is essential here. Oftentimes, we see that is not something that occurs in that type of environment, and sometimes the higher humidity prevents sweat evaporation which is the body's primary cooling mechanism.

The areas where improvements can be made are especially those where employees are working under metal roofs and where there's inadequate climate control. During heat waves, these buildings essentially become heat traps, which particularly is concerning for these indoor employees.

Also, having someone who's not acclimated to the heat can definitely put them at higher risk because they are not familiar with how their body's speaking to them. Another concern is if the facilities lack cooling stations to properly hydrate. So, improving the circulation, having proper cooling stations, which a lot of people will not associate with occurring in indoor facilities, and having proper hydration protocols would be essential.

And Maryland's focus on the indoor regulations reflects this growing recognition that some of our most vulnerable employees are actually indoors as well in the invisible heat danger zones.

TK: Michele, I know that you talked on this a little in terms of where some of these bills might go, but is it likely that some of these bills at least have a good chance of passing, or are there major challenges ahead for the bills that are being proposed in certain states right now?

Hibbert: I think, politically, there are major challenges, as well as the lobbying efforts by big business that may be impacted economically if these proposals are implemented. So, I think ultimately what we're going to see is a little more done at the state level because the lawmakers are a little less noticed politically.

It's kind of the "three P's" — protection, prevention, and you don't want to get to presumption, [laughs] because that's where the money is spent. And if we can get it done locally, that would be a lot more efficient and more appropriate for the states that actually need to push these efforts forward.

I think everyone looks to the OSHA standards, but because of what we're seeing being done at the federal level, that's going to be delayed. But it doesn't make sense to not protect employees. So, I think common sense will prevail at some point.

TK: And if that common sense doesn't prevail on the legislative side, you always have employers who will look at this issue and say, "Hey, it's best to protect my employees, and implement these rules even if I'm not regulated so much to do so."

So, with that, Melissa, what are some initiatives that employers can implement to help prevent heat?related injuries on the job? I know we talked about some of the indoor, uh, heat?related issues, but what are some other ways that employers can better protect their employees from these types of injuries?

Martinez: This is something that is exciting to speak about because our goal is to ensure and support that our employees are being properly taken care of in relation to these heat?related injuries. There are so many practical steps that employers can take that do make a real difference.

I like to think about this in terms of physical solutions, procedural changes, and training. On the physical side, creating designated cooling stations, as we've mentioned, where employees can take breaks in an air-conditioned setting can be game?changing.

At minimum, having shaded areas for rest or over work areas if they're stationary. I've learned of some innovative ways companies have worked to integrate physical aids. Some are using reflective roof treatments to reduce building temperatures and investing in mechanical aids to reduce physical exertion in hot conditions.

I've also learned that companies provide cooling vests, as a form of PPE and personal cooling technologies for employees in extreme environments. In terms of procedural changes, simply adjusting work schedules can be increasingly effective.

Shifting heavy labor to early mornings or evening hours during heat waves is a very simple adjustment to make. Implementing formal water, rest, shade programs with specific protocols takes the guesswork out of heat management. Having a buddy system, where employees make check on each other to ensure no one's missing signs and symptoms of heat illnesses is also effective.

In terms of training, this is very crucial because supervisors need to know what early warning signs look like. And employees need to have clear permission to speak up when they feel like they're experiencing these symptoms. There are mobile apps that can send heat alerts and reminders about hydration and rest breaks. It's something that, hopefully, will be on the rise in terms of usage.

Supervisors trained to intervene immediately when signs of heat illness appear can prevent mild symptoms from becoming medical emergencies within hours or even minutes in extreme conditions. So, education is very essential when it comes to preventing heat?related injuries on the job.

TK: And where does nurse triage fit into that, Melissa?

Martinez: So, having 24/7 access to nurse triage for clinical guidance means employees can call immediately when they're concerned about heat exposure symptoms. Our nurses use standardized assessment protocols to ensure consistent care guidance, and we often intervene early before a situation becomes an emergency.

What's valuable about 24/7 nurse triage is it's a preventive approach that can benefit both employee safety and business operations. Implementing these programs does require investment and adjustment, but many organizations find these costs are generally offset by reduction in heat?related incidents, associated productivity losses, and potential workers' compensation claims.

It represents an area where workplace safety measures can align with practical business considerations.

TK: And that does it for today's podcast, but you can find more information on the unique role specialty services play in preventing heat-related work injuries by reading the complementary article "Specialty Solutions Spotlight: Ensure Effective Care for Injured Employees Affected by Extreme Heat." Until then, stay cool and thanks for listening.