

RECORDKEEPING FOR WORK-RELATED INJURIES AND ILLNESSES OSHA'S NEW RULE

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I INTRODUCTION—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES UNDER THE NEW OSHA REGULATION

A. Background. The Occupational Safety and Health Act requires most private sector employers to prepare and maintain records of work related injuries and illnesses. The OSHA recordkeeping requirements, in place since 1971, were designed to help employers recognize workplace hazards and correct hazardous conditions by keeping track of work-related injuries and illnesses and their causes. In addition, this type of information serves to raise employees' awareness level of these concerns further enhancing the safety of the workplace.

B. OSHA. OSHA also uses this information to develop safety and health standards, evaluate the effectiveness of its enforcement program, and for directing OSHA's program activities including scheduled workplace inspections, and non-enforcement programs, such as targeted mailings of safety and health information to employers.

C. Revisions. On January 19, 2001, OSHA issued its long awaited revisions to the recordkeeping requirements for injuries and illnesses. OSHA set the effective date for the revised rule as January 1, 2002 in order to give covered employers the opportunity to learn the new requirements and make any necessary internal changes so as to come into compliance. Employers are to follow the old recordkeeping regulations for the reporting year 2001.

This document provides a summary of the new recordkeeping requirements for injuries and illnesses. However, this summary is no substitute for the actual text of the new rule. Employers, therefore, are encouraged to review the actual text of the rule in conjunction with this summary to assess the full breadth of their responsibilities under the new recordkeeping regulations.

II MAJOR CHANGES

The following summarizes some of the more important differences between the old and new recordkeeping rules:

- A. Janitorial services (such as building service contractors) are subject to the new recordkeeping requirements. Such companies were exempt under the old rule.
- B. New OSHA forms have been created for the purpose of recording occupational injuries and illnesses.
- C. Records may be maintained on computers.
- D. Additional exceptions have been added to the presumption of work related incidents.
- E. The new rule clarifies the work relationship of an injury that occurs when employees travel or work out of the home.
- F. Different criteria for recording work related injuries and work related illnesses have been eliminated. (The old rule required that employers record all illnesses.)
- G. New rules are established for counting days away from work, restricted work, and job transfer.
- H. The new rule provides for increased employee involvement.

III SCOPE OF COVERAGE FOR RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

A. Exempt Employers. The revised recordkeeping regulations exempt the following employers:

1. All employers with 10 or less employees at all times during the last calendar year.
2. All employers, regardless of the number of employees, that are in industries that are specifically exempted from the recordkeeping requirements (see Appendix A).

B. Covered Employers. The revised recordkeeping regulations apply to all employers who:

1. Had more than 10 employees at any time during the last calendar year; and

2. Are in an industry that is not specifically exempted from recordkeeping requirements (see Appendix A).

C. Manufacturers, Distributors, Janitorial Service Companies. Manufacturers and distributors of cleaning products, as well as providers of janitorial services, are subject to the recordkeeping requirements if they had more than 10 employees at any time during the previous calendar year.

IV CRITERIA FOR RECORDING INJURIES AND ILLNESSES

A. Basic Requirement. Covered employers must record each injury, illness and fatality that:

1. Is “work-related”; and
2. Is a “new case”; and
3. Meets one or more of the “general recording criteria” in 1904.7, or the criteria established for specific cases in 1904.8 through 1904.12.

B. Work-Related. An injury or illness is considered to be *work-related* if an event or exposure in the *work environment* either *caused* or *contributed* to the resulting condition or *significantly aggravated* a pre-existing injury or illness.

1. Work Environment. OSHA defines “work environment” to be the establishment and other locations where one or more employees are working or are present as a condition of their employment.

2. Presumption. If an injury or illness occurs as a result of an event or exposure in the “work environment”, it is presumed to be work-related.

3. Exceptions to Presumption. An injury or illness that occurs in the work environment, but which falls under one of the following exceptions is not work-related, and therefore not recordable:

a) Employee present in the work environment as a member of the general public as opposed to as an employee

b) Signs or symptoms surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment

c) Injury or illness results solely from voluntary participation in a wellness program, or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.

d) Injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (i.e., an employee injured by choking on a sandwich while on employer's establishment).

e) Injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the workplace outside of the employee's assigned working hours.

f) Injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted.

g) Injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

h) The illness is the common cold or flu.

i) The illness is a mental illness, unless employee provides employer with an opinion from appropriate medical professional stating that the employee has a mental illness that is work related.

3. Significant Aggravation of a Preexisting Injury or Illness. A preexisting injury or illness has been significantly aggravated when an event or an exposure in the workplace results in any of the following that "would likely not have resulted" had it not been for the occupational event or exposure:

a) Death or loss of consciousness provided that the preexisting injury or illness would likely not have resulted in death or loss of consciousness but for the occupational event or exposure;

b) One or more days away from work, or days of restricted work or days of job transfer that otherwise would not have occurred but for the occupational event or exposure; or

c) Medical treatment in a case where no medical treatment was needed for the injury/illness before the workplace event/exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

4. Work Related Injuries/ Illnesses and Employees on Travel. Injuries and illnesses that occur while an employee is on travel status are considered work related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer.

a) Travel to and from customer contacts

b) Entertaining or being entertained to transact, discuss, or promote business

c) Exceptions

- Personal Detour
- Checked into Hotel

5. Work Related and Employees Working At Home. Injuries and illnesses that occur while an employee is working at home, including work in a home office, are considered *work related* if:

a) The injury or illness occurs while the employee is performing work for pay or compensation in the home; and

b) The injury or illness is directly related to the performance of work rather than to the general home environment or setting.

c) Example of Work Related Incident: Employee drops box of work documents on foot.

d) Example of Non-Work Related Incident: Employee trips over family dog while going to answer the telephone.

C. New Case. An injury or illness is considered to be a “new case” if:

1. The employee has not previously experienced a *recorded* injury or illness of the same type that affects the same part of the body; or
2. The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

D. General Recording Criteria. An injury or illness meets the “general recording criteria” if it results in: death; days away from work; restricted work or transfer to another job; medical treatment beyond first aid; or loss of consciousness.

Additionally, a case also meets the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional even if it does not resulting the events described in the paragraph above.

1. Death

- a) Record death on OSHA 300 Log
- b) Report work-related fatality to OSHA within 8 hours

2. Days Away From Work

- a) Record “days away from work” on OSHA 300 Log
- b) Begin counting days away on the day after injury occurred or illness began
- c) In the event a physician recommends days away from work, use that as the number to be recorded on OSHA 300 regardless if employee comes back to work sooner or later.
- d) Weekends, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.
- e) Cases in which a worker is injured or becomes ill on the **day before scheduled time off** (such as a holiday, a weekend, planned vacation, etc.) should be recorded as a case with days away from work if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked during the scheduled time off.

3. Restricted Work or Transfer to Another Job

- a) Record on OSHA 300 Log
- b) Restricted work—employer or physician keeps employee from performing one or more routine functions, or from working the full workday
- c) Routine function—work activity that employee regularly performs at least once per week
- d) No need to record restricted work/job transfer restriction/transfer if only for day on which injury occurred or illness began
- e) Transfer to another job occurs when an injured or ill employee is assigned to a job other than his or her regular job for part of the day
- f) Transfer to another job recorded in same manner as restricted work

4. Medical Treatment Beyond First Aid—Medical treatment is the management and care of a patient to combat disease or disorder.

- a) Record as such if medical treatment provided but injury/illness did not involve death, days away from work, restricted work or job transfer

b) Medical treatment does not include:

- Visits to a physician/health care professional solely for observation
- Conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic procedures (e.g., eye drops to dilate pupils); or
- First Aid (See Appendix B for “first aid” definition).

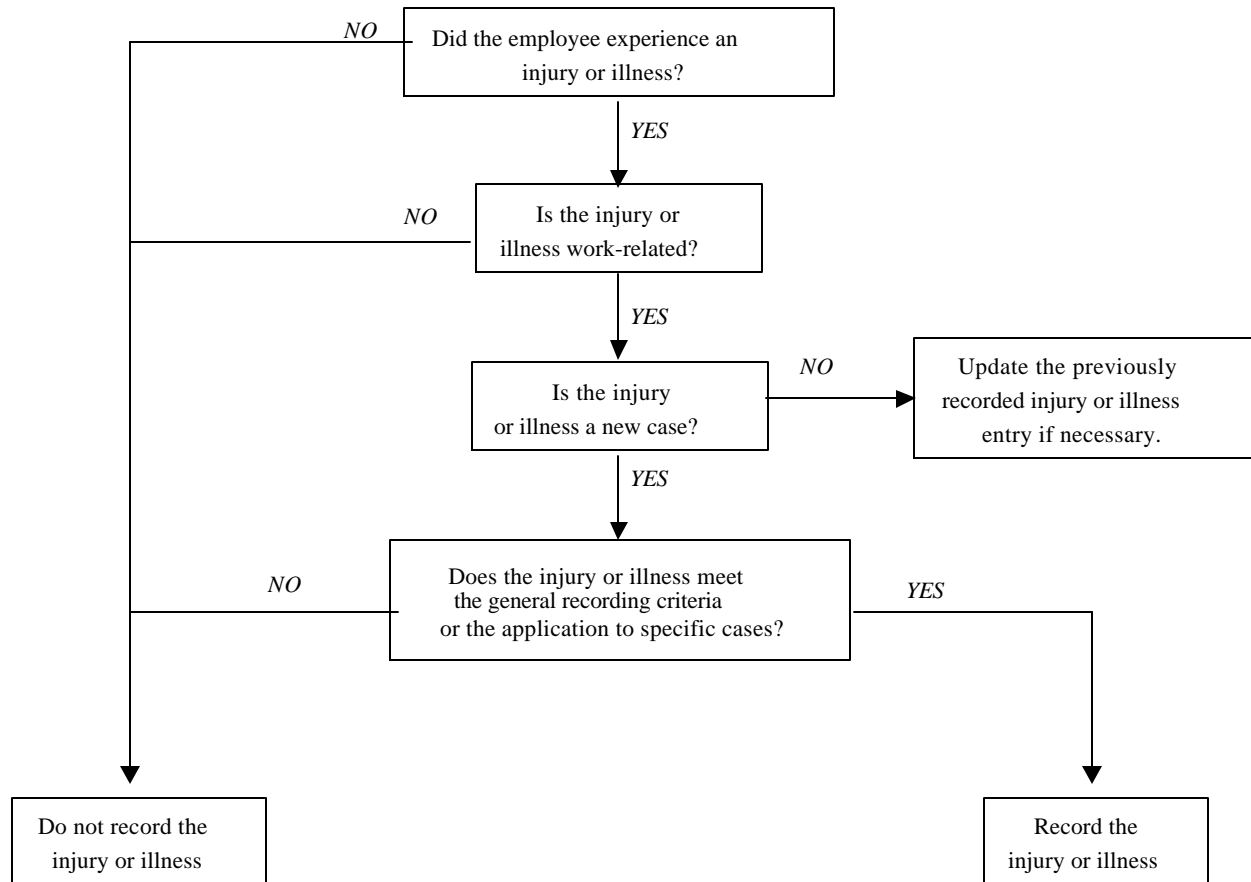
5. Loss of Consciousness. All work-related injuries/illnesses must be recorded if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

6. Significant Diagnosed Injury or Illness. There are some significant injuries, such as punctured eardrum or a fractured toe or rib, for which neither medical treatment, work restrictions, nor days away from work may be recommended. In addition, there are some significant progressive diseases such as silicosis, and some types of cancer, for which medical treatment, work restrictions, or days away from work may not be recommended at the time of diagnosis. These type of injuries and illnesses must be recorded at the time of the initial diagnosis.

E. Summary of Criteria for Recording Injuries and Illnesses. Employers must record each injury, illness and fatality that:

1. Is “work related”; and
2. Is a “new case”; and
3. Meets one or more of the “general recording criteria”.

F. Decision Tree



V RECORDING CRITERIA FOR SPECIFIC TYPES OF INJURIES OR ILLNESSES

Under the revised rule OSHA has established particular recording criteria for a number of specific types of injuries and illness that may occur in the work environment.

A. Musculoskeletal Disorders. When the final rule was published originally in January 2001, OSHA set forth specific recording criteria for and a definition of musculoskeletal disorders. Since that time OSHA has had the occasion to revisit the issue of MSDs and ergonomics injuries in general. As a consequence, *the Agency has postponed for one year the special recording criteria for MSDs or other soft tissue injuries.*

This delay in the effective date of the recordkeeping provisions for MSDs, however, does not affect an employer's obligation to record soft tissue disorders (including those involving subjective symptoms such as pain) as injuries/illnesses if they meet the criteria set forth in Sections 1904.4 to 1904.7. Employers, however, will not have to determine which injuries should be classified under the category of MSDs during the calendar year 2002.

Specifically, in regard to MSDs OSHA requires employers to record disorders affecting the muscles, nerves, tendons, ligaments, and other soft tissue area of the body if such disorders are:

1. Work-related;
2. A new case; and
3. Meets one or more of the general recording criteria set forth in 1904.7

If the soft tissue disorder met the above criteria, employers must check either the "injury" or the "all other illnesses" column, as appropriate, on the OSHA 300 Log.

B. Other Cases. OSHA has also established specific recording criteria for other special cases including:

1. Needlestick and sharps injuries (1904.8)
2. Medical removal cases (1904.9)
3. Occupational hearing loss (1904.10)

Note: OSHA has also delayed for one year the new recording provisions for occupational hearing loss. However, employers must still continue to record work-related shifts of an average of 25 dB or more at 2000, 3000, and 4000 hertz (Hz) in either ear on the OSHA 300 Log. When a recordable hearing loss occurs, the audiogram indicating the hearing loss would become the new baseline for determining whether future additional hearing loss by the individual must be the "injury" or the "all other illness" column, as appropriate.

4. Tuberculosis (1904.11)

VI RECORDKEEPING FORMS FOR OCCUPATIONAL INJURIES AND ILLNESSES

The revised recordkeeping regulations require employers to use new recordkeeping forms, which replace the old OSHA forms 200 and 101.

A. New Forms. Employers must now use OSHA forms 300 (Log of Work-Related Injuries and Illnesses), 300-A (Summary of Work-Related Injuries and Illnesses), and 301 (Injury and Illness Incident Report) for recording work-related injuries and illnesses.

B. Timing. Employers must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within 7 calendar days of receiving information that a recordable injury or illness has occurred.

1. Multiple Establishments. In situations where a single company operates multiple business establishments, the employer must maintain a separate OSHA 300 Log for each establishment.

In such situations, the employer may keep records for all establishments at a central location provided the employer can:

- a) Transmit information about injuries/illnesses from its establishments to the central location within 7 days of receiving information that a recordable injury/illness has occurred; and
- b) Produce and send the records from the central location to the establishment within the time frames required for providing such information to employees, former employees, employee representatives, or to government representatives.

2. Record Retention. Employers must save the OSHA 300 Log and the OSHA 301 Incident Report forms for 5 years following the end of the calendar year that these records cover.

3. Updating. During the 5-year retention period, employers must update the filed OSHA 300 Logs to include newly discovered recordable injuries or illnesses, and to indicate any changes that have occurred in regard to the previously recorded injuries and illnesses.

Employers are not required to update the Annual Summary or the OSHA 301 Incident Reports, but may do so if they wish.

4. Computer Records. Employers may retain these records on a computer provided that they can produce equivalent forms when they are needed.

C. Annual Summary. At the end of each calendar year, employers must review the OSHA 300 Log to verify entries as complete and accurate, create an annual summary of injuries and illnesses (OSHA 300-A), certify the summary, and post the annual summary.

- 1. Location.** The summary must be posted in each establishment in a conspicuous place where employee notices are customarily posted.
- 2. Timing.** The summary must be posted no later than February 1 of the year following the year covered and must be posted until April 30.
- 3. Summary and Posting of 2001 Data.** If you were required to maintain OSHA 200 Logs in 2001, you must post a 2001 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment from February 1, 2002 to March 1, 2002.

D. Transition Period.

- 1. 2001:** Record injuries and illnesses under the “old” rule
- 2. February 2002:** Post OSHA 200 Summary Form in February
- 3. 2002:** Record injuries and illnesses under the “new” rule
- 4. 2003:** Post OSHA 300A Summary, Feb. 1 to Apr. 30

E. Privacy Cases. The revised recordkeeping requirements provide for cases in which an employee’s privacy must be protected. In these privacy cases, employers must not enter the employee’s name on the OSHA 300 Log. Instead, employers must enter “privacy case” in the space normally used for the employee’s name. A separate confidential list of the case numbers and employee names for privacy cases must be maintained by employers so they can update the cases and provide information to the government when requested.

According to the revised regulation, employers must consider the following injuries and illnesses a “privacy case”:

- 1.** An injury or illness to an intimate body part or the reproductive system
- 2.** An injury or illness resulting from a sexual assault
- 3.** Mental illness
- 4.** HIV infection, hepatitis, or tuberculosis
- 5.** Needlestick injuries and cuts from sharp objects that are contaminated with another person’s blood or other potentially infectious material

6. Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

F. How to Complete OSHA 300 Log

1. Identify the employee involved
2. List date and location of event
3. Describe the injury or illness, part of body affected, object/substance that directly injured or made person ill
4. Classify the case
 - a) Death, Days Away from Work, Job Transfer/Restriction, Other
 - b) Record the most serious outcome
5. Enter the number of days on job transfer, job restriction, or days away from work
6. Record as injury or illness
 - a) Injury: Wound or damage to the body, generally as the result of a single exposure/event
 - b) Illness
 - Skin Disorder
 - Respiratory Condition
 - Poisoning
 - All Other

VII EMPLOYEE INVOLVEMENT

In general, employers must ensure that employees and their representatives must be involved in the injury and illness recordkeeping system in a number of ways.

A. Implementation. Employers must establish a way for employees to report work-related injuries and illnesses promptly and inform each employee of how he or she is to report such incidents.

B. Access to Records. Employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records.

1. OSHA 300 Log. If employee, former employee, personal representative, or authorized employee representative requests current or stored OSHA 300 Log, employer must provide by the end of the next business day.

2. OSHA 301 Incident Report. If employee, former employee, or personal representative requests a copy of OSHA 301, employer must provide by the end of the next business day.

If authorized employee representative requests OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, employers must provide copies within 7 calendar days. However, employee information and physician information must be removed.

VIII ADDITIONAL REPORTING REQUIREMENTS

In addition to the requirements addressed above, the OSHA recordkeeping regulations impose several other reporting obligations upon employers as described below.

A. Reporting Fatalities and Multiple Hospitalization Incidents. Within 8 hours of the death of any employee from a work-related incident or the in-patient hospitalization of 3 or more employees as a result of a work-related incident, employer must report the fatality/multiple hospitalization by telephone or in person to OSHA

1. Where to Report. Generally employers should report such incidents to the OSHA Area Office that is nearest to the incident. If the office is closed you must report the incident to OSHA's toll-free central telephone number at 800-321-6742.

2. Contents. In such instances, employers should report the following information to OSHA:

- a) The name of the establishment;
- b) The location of the incident;
- c) The time of the incident;
- d) The number of fatalities or hospitalized employees;
- e) The names of any injured employees;
- f) The name of the employer's contact person and phone number; and
- g) A brief description of the incident.

3. Fatality by Heart Attack. Employers must report fatalities that were caused by heart attack while at the work place.

4. Fatality/Hospitalization that Occurs at a Later Date. If the fatality or multiple hospitalizations occurs within 30 days of a workplace incident, the employer must report to OSHA under these provisions. Otherwise there is no obligation to report.

B. Providing Records to OSHA. Upon request, employers must provide copies of the records maintained under section 1904 to OSHA and other appropriate government representatives within 4 business hours.

C. Annual OSHA Injury and Illness Survey. If an employer receives OSHA's annual survey form, the employer must complete it and return it to OSHA.

Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the Standard Industrial Classification (SIC) codes, listed on the next page, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see §1904.39).

APPENDIX A

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware Stores	725	Shoe Repair and Shoeshine Parlors
542	Meat and Fish Markets	726	Funeral Service and Crematories
544	Candy, Nut, and Confectionery Stores	729	Miscellaneous Personal Services
545	Dairy Products Stores	731	Advertising Services
546	Retail Bakeries	732	Credit Reporting and Collection Services
549	Miscellaneous Food Stores	733	Mailing, Reproduction, & Stenographic Services
551	New and Used Car Dealers	737	Computer and Data Processing Services
552	Used Car Dealers	738	Miscellaneous Business Services
554	Gasoline Service Stations	764	Reupholstery and Furniture Repair
557	Motorcycle Dealers	78	Motion Picture
56	Apparel and Accessory Stores	791	Dance Studios, Schools, and Halls
573	Radio, Television, & Computer Stores	792	Producers, Orchestras, Entertainers
58	Eating and Drinking Places	793	Bowling Centers
591	Drug Stores and Proprietary Stores	801	Offices & Clinics of Medical Doctors
592	Liquor Stores	802	Offices & Clinics of Dentists
594	Miscellaneous Shopping Goods Stores	803	Offices of Osteopathic Physicians
599	Retail Stores, not elsewhere classified	804	Offices of Other Health Practitioners
60	Depository Institutions (banks & savings institutions)	807	Medical and Dental Laboratories
61	Nondepository Institutions (credit institutions)	809	Health and Allied Services, not elsewhere classified
62	Security and Commodity Brokers	81	Legal Service
63	Insurance Carriers	82	Educational Services (schools, colleges, universities and libraries)
64	Insurance Agents, Brokers, & Services	832	Individual and Family Services
653	Real Estate Agents and Managers	835	Child Day Care Services
654	Title Abstract Offices	839	Social Services, not elsewhere, classified
67	Holding and Other Investment Offices	841	Museums and Art Galleries
722	Photographic Studios, Portrait	86	Membership Organizations
723	Beauty Shops	87	Engineering, Accounting, Research, Management, and Related Services
724	Barber Shops	899	Services, not elsewhere classified

APPENDIX B

For the purposes of Part 1904, “first aid” means the following:

(A)	Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for recordkeeping purposes);
(B)	Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
(C)	Cleaning, flushing or soaking wounds on the surface of the skin;
(D)	Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages, Steri-Strips™ (other wound closing devices such as sutures, staples, etc. are considered medical treatment);
(E)	Using hot or cold therapy;
(F)	Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
(G)	Using temporary immobilization devices while transporting an accident victim (e.g., splints, neck collars, back boards, etc.)
(H)	Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
(I)	Using eye patches;
(J)	Removing foreign bodies from the eye using only irrigation or a cotton swab;
(K)	Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
(L)	Using finger guards;
(M)	Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
(N)	Drinking fluids for relief of heat stress.