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Occupational Disease
Legislation**

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THE PUBLIC HEALTH ADMINISTRATOR'S RESPONSIBILITY IN THE FIELD OF OCCUPATIONAL DISEASE LEGISLATION¹

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One of the important factors contributing to the progress made in health and safety in American industries has been the passage of constructive workmen's compensation legislation. Although such legislation has been in effect in other countries for many years, the United States was the last important industrial country to adopt the compensation principle. All but one State now provide compensation to workers for accidental injuries; however, there are only 25 States which make provision for compensating workers suffering from occupational diseases. Even in these 25 States, the laws are far from uniform and the diseases compensated vary from one in one State to any and all diseases which may be traceable to the occupation in other States.

The present paper does not concern itself particularly with the subject of compensation for occupational diseases, nor does it treat with the many controversial aspects of the problem. It does deal, however, with the role which the public health administrator can play in the development of such legislation and discusses certain responsibilities which such laws necessarily impose upon him.

PRESENT METHODS OF DEVELOPING FACTS FOR LEGISLATION

A review of our State occupational disease compensation laws will readily disclose that in certain instances a State with little or no knowledge of its own needs has merely copied what has been found to be expedient to enact in some other State. This has been especially true in the enactment of the so-called schedule type of law where the specific diseases for which compensation will be provided are listed. Of late, however, there has been a definite trend toward obtaining factual data on needs. This has been accomplished by the appointment, either by the governor of the State or the legislature, of an occupational disease commission, which is charged with the express duties of determining the nature and extent of the occupational disease problem of the State, and any other facts which may

¹ From the Division of Industrial Hygiene, National Institute of Health.

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be used as a guide in the development of a fair and just compensation law.

In most States these occupational disease commissions have realized that, along with certain legal and administrative questions, there are also health problems involved. For information on health the State health departments have usually been consulted. Because industrial hygiene has been, until recently, a new departure in many States, the State departments of health have looked to the Division of Industrial Hygiene, National Institute of Health, of the United States Public Health Service, for guidance in such matters. The Public Health Service has welcomed such requests for collaboration, since it realized that here was a rare opportunity to perform a dual service: First, the necessary information may be obtained for the guidance of the occupational disease commission; and second, the State department of health has the opportunity to define the State's industrial hygiene problem, and thus the opportunity to lay the foundation for a future program of prevention of industrial health hazards. This cooperative effort is illustrated by what has recently taken place in the State of Utah.

In 1936, the Industrial Commission of Utah requested the Federal Government to make a study of the nature and prevalence of occupational diseases in Utah industries. Following a number of conferences the Division of Industrial Hygiene, National Institute of Health, of the United States Public Health Service, agreed to undertake such a study with the cooperation of Utah State agencies, such as, among others, the Industrial Commission, the State Board of Health, industrial organizations, and labor groups.

In order that the objectives of the proposed study and the responsibilities of each agency affected would be understood, the Public Health Service prepared a memorandum in the form of an agreement, which could be used for the guidance of all organizations that were to take part in the proposed survey. As set forth in this memorandum the purpose of the study was to evaluate the various factors bearing on the health of Utah workers, in order that this information could be used as a guide in the drafting and enactment of legislation for the compensation of injury to health resulting from exposure to industrial health hazards. It was also pointed out that basic data such as would be revealed by these studies would be useful in the support and application of a program designed to control industrial health hazards.

In the memorandum submitted on October 6, 1936, the plan called for two studies: The first, of a preliminary and qualitative nature, was expected to be more in the form of a general inventory of working conditions to reveal the potential industrial health hazards existing in the State. It was thought that from this preliminary survey it would be possible to determine which particular health hazards were

in need of further study. The second survey was to be more detailed and specific, quantitative in nature, and to include medical examinations of workers, engineering studies of the working environment to determine the relationship between the environment and the health of workers, and investigation of any other factors throwing light on the industrial health problem. The responsibilities of all cooperating agencies were clearly defined in this memorandum, which was signed on February 24, 1937, by representatives of industry and labor.

The preliminary survey was conducted during the latter part of 1937 and the early part of 1938 by personnel from the Utah State Board of Health under the guidance of Public Health Service officers. The data were analyzed and the report was prepared and published by the Public Health Service. The report, issued in October 1938, showed the number of workers in the various industries in the State who were exposed to certain materials and conditions which might be considered potentially hazardous to health. As a result of this study it was possible to determine the major potential hazards in Utah industries, in which industries they occurred, and those which merited further study. The report also disclosed present facilities for coping with industrial health hazards in the State and specific data on the extent of control measures then in vogue.

In connection with these findings, however, attention was called to the limitations of the data which were collected. Since no quantitative measurements of the working environment were made, and no medical examinations were conducted at this time, the information obtained disclosed only the potentialities involved, and in no way could exposure be implied to indicate actual injury. Likewise, the listing of control measures merely indicated that such control measures were available, and did not show whether or not they were effective. Hence, although it was known from this first study that conditions existed favoring the occurrence of certain occupational diseases, it was still necessary to determine to what extent these diseases occurred and the public health and economic implications involved. These answers could be obtained by carrying out the second series of studies as outlined in the original agreement of 1937. For this reason, the State legislature was requested to appropriate certain funds to help defray the expense of such a study. It was assured that the Public Health Service, in compliance with the original agreement, would assign personnel to work in cooperation with the State Board of Health and other agencies for the purpose of conducting detailed studies of industrial health hazards revealed in the first survey.

In March 1939, legislation was passed authorizing and directing the State Board of Health, in collaboration with the Public Health Service

and the State Industrial Commission, to carry out such a study. This legislation included an appropriation of \$25,000.

After analysis of the data obtained in the first survey, the Public Health Service considered that the major problems for detailed investigation in Utah were exposure to siliceous dusts, lead and other metallic dusts, fumes, and gases. The chief industries in which these hazards might exist were coal mines, nonferrous metal mines, and nonferrous smelters.

The time allowed by the legislature in which to complete this study necessarily limited the number of industries which could be investigated, and, hence, the study was confined to these three industries. There are potential health hazards in other industries of the State which are constantly being studied by the industrial hygiene personnel of the State Board of Health. Information already exists concerning the health hazards in some of these industries which should permit the planning of a preventive program for their control.

The United States Census for 1930 showed that there were approximately 170,000 persons gainfully employed in the State of Utah, out of a total population of over 500,000. The industries included in this study employed approximately 16,000 workers. Representative plants employing some 3,000 workers were selected for detailed study; the selection was made by the Public Health Service and was based on all available data obtained in the preliminary survey. Three coal mines, three metal mining enterprises, and two smelters were selected for intensive medical and environmental study.

The plant operators furnished certain services and facilities to assist the field staff in its study of working conditions in the plants and of the health of the employees. The local labor unions assumed the responsibility of supplying members for physical examination and assisted in various other ways with the study. Every available employee of each plant, including the clerical staff and officers, was examined. It was decided that all records obtained in the study were to become the property of the Public Health Service, and that all information obtained would be strictly confidential. In this connection, instead of recording the man's name, he was given a serial number. Physical examination findings of the individual were not revealed to the employer and the environmental findings of the plant were not revealed to the employees.

The field work was begun early in July 1939, and continued until the latter part of December. During this period occupational and medical histories, and physical and roentgenologic examinations were made on 2,839 men in the three industries. The medical examination included a complete oral examination by a dentist as well as the following laboratory examinations: serologic tests for syphilis, punctate basophilia and reticulocyte estimations for lead absorption, hemo-

globin determinations, and routine urinalyses. Also, 961 urine specimens, collected from workers who were exposed to various compounds of lead, were examined spectroscopically for lead content.

Engineering studies were made in each plant to evaluate the working environment in the various occupations by making determinations of the environmental factors which may have a bearing on health. In this connection, examinations were made as to the nature and concentration of various types of dust such as silica, lead, arsenic, and cadmium. Studies of ventilation and humidity were carried out, and exposure to various gases, such as sulfur dioxide, carbon dioxide, carbon monoxide, hydrogen sulfide, hydrogen cyanide, and methane, was determined. Moreover, methods and facilities for the control of health hazards, already in use by the industries, were investigated, with the view of recommending additional control measures which might be necessary to eliminate such hazards.

A general sanitary survey of these plants and the communities in which the workers lived was carried out by the Division of Sanitary Engineering of the Utah State Board of Health. Such items as water supply, sewage disposal, milk sanitation, housing, and other data pertinent to the problem were studied.

In the original memorandum of 1937, the Public Health Service stressed the importance of a continuing program designed to control industrial health hazards. For this reason the Public Health Service agreed to assume full responsibility in carrying out the provisions of the law relative to this study, and in consideration of this, recommended to the Utah State Board of Health that it employ the \$25,000 appropriated by the legislature for the conduct of the study toward the development of a permanent industrial hygiene service in the State. This recommendation was adopted and such a service is now available in the State Health Department, the personnel consisting of a physician-director, an engineer, a laboratory technician, and a clerk, and provided with facilities and equipment necessary to carry out a program of industrial health conservation. The above personnel augmented the staff of the Public Health Service in carrying out all phases of the study, and thereby have gained practical training and experience in the practice of industrial hygiene.

In addition to the above services contributed by the Utah State Board of Health, all of the full-time district health officers of Utah took an active part in the medical field studies; serologic tests were conducted by the State public health laboratory; the dental division cooperated by furnishing the services of a dentist for the oral hygiene studies; the Division of Epidemiology furnished valuable statistical information concerning the extent of certain diseases in the communities in which the workers lived; and, finally, the Division of Sanitary Engineering carried out a sanitary survey as mentioned above.

Thus, it is evident that through the medium of these industrial hygiene studies, an earnest effort has been made in Utah to lay a basis for the modern approach to the industrial hygiene problem, integrating industrial hygiene services with the various other services of the State health department and cooperating with all other interested State agencies and organizations.

The Utah occupational disease compensation law, officially known as the "Utah Occupational Disease Disability Law", became effective July 1, 1941, two years after the State legislature authorized the making of the industrial hygiene studies. The law is administered by the Industrial Commission and provides for the compensation of specific diseases or conditions covered by a schedule containing 27 items. Reference has been made to the desirability, if not the necessity, of obtaining factual data on needs to facilitate the preparation of adequate occupational disease legislation. Furthermore, it is generally agreed at the present time that an occupational disease law should:

- (1) Provide for an agency for the administration of the law.
- (2) Unambiguously define the diseases or conditions to be compensated.
- (3) Make clear the liability of an employer for disease existing on the effective date of the law.
- (4) Provide for limitations relating to the filing and establishment of claims.
- (5) Provide for the diagnosis of disease, and the evaluation of disability.
- (6) Provide for the awarding of adequate compensation.
- (7) Impose the cost of compensation upon the employer responsible for the disablement, and relieve from liability an employer not responsible for the disablement.
- (8) Provide for alternate liabilities or remedies of employers and employees electing or rejecting compensation under provisions of the occupational disease law.
- (9) Provide for the prevention and control of occupational diseases.

No item of those listed is probably of more importance than the last which has to do with prevention and control. Since generally the various State occupational disease laws were not prepared with the idea of preventing and controlling occupational diseases, it is desirable to consider the subject, particularly, certain responsibilities created by the inclusion in the law of provisions for the prevention and control of occupational diseases.

LEGISLATION FOR THE PREVENTION AND CONTROL OF OCCUPATIONAL DISEASES

One of the inherent weaknesses of nearly all occupational disease laws which have been enacted in the United States is the omission of any provision for the prevention and control of occupational diseases. In nearly every instance, the desire has been to provide compensation for occupational disease injuries, whereas the prevention and control

of such diseases should be one of the prime considerations. As a matter of fact, the prevention of occupational diseases should be definitely desirable to both employer and employee. This is an obvious fact of tremendous socio-economic implications.

At the present time only a few States have made specific provision for occupational disease prevention in the compensation laws themselves. Notable for such provisions are the laws enacted in the States of Maryland, North Carolina, and Arkansas. While in many States either the labor department or the industrial commission performs certain functions in this field in cooperation with health officials, several States (Montana, Idaho, Connecticut, Mississippi, Minnesota, and Rhode Island) have by special law placed exclusive industrial hygiene jurisdiction in the health department. The problem being primarily one of health, legislators have realized the necessity for charging State health departments with the supervision, regulation, and control of industrial health hazards. The public health administrators should realize that the enactment of such legislation carries certain responsibilities.

In many States the reporting of occupational diseases is mandatory, such reports as a rule being made to the State health department. Reporting of occupational diseases in this country has been very incomplete. There are many reasons for this, and it is not intended to dwell upon these now, except to indicate that a fair degree of success can be anticipated only when close contact is maintained between each reporting physician or management and the agency to which occupational disease reports are sent. This implies the necessity for an educational effort on the part of the public health administrator and a service in prompt follow-up of the cases reported. Physicians should be made to realize that they must adopt the same attitude toward the reporting of occupational diseases which now exists with regard to the reporting of communicable diseases. The recurrence of such diseases may be obviated by prompt investigation on the part of a State industrial hygiene service of those conditions in the plant which may be the causative agent. Once this has been established, prompt measures may be taken for the control of the environmental conditions responsible for the diseases.

Another responsibility to be assumed by public health administrators is that dealing with the formulation of reasonable rules and regulations designed to prevent and control occupational diseases. Even if the health agency is not charged by law to establish such rules, it should be in a position to render the necessary scientific consultation services to the State agency so charged. The Idaho law which established a bureau of industrial hygiene in the State health department specifically provides that such consultation services should be given by the industrial hygiene bureau to the industrial accident

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commission. On the other hand, the Maryland compensation law specifically charges the State health department and Baltimore city health department with the duty of formulating, adopting, and administering rules and regulations designed to prevent and control occupational diseases.

It is unnecessary at this time to discuss one of the main functions of an industrial hygiene service, namely, the systematic and prompt investigation of industrial establishments for the purpose of evaluating and controlling hazards to health. Activities of this kind constitute the major function of divisions of industrial hygiene, and the correction of conditions inimical to health should be the main goal of public health administrators. However, there is one aspect of such investigations in need of clarification. There appears to be a belief among certain individuals and agencies that industrial hygiene divisions in health departments use their findings only for educational purposes, attempting to convince management by persuasion that it would be desirable to effect the necessary changes to correct hazardous plant conditions. This is true to a great extent, since experience has shown that often much more can be accomplished by persuasive tactics than by the use of force, yet one should not get the impression that health agencies do not resort to force when necessary. Every health department has sufficient power under its basic organic act to take drastic measures in the prevention and control of health hazards. Although the regulation of working conditions is usually a function of labor departments or industrial commissions by specific legislative enactment, health departments have more than sufficient authority in this connection and in certain recalcitrant cases have not hesitated to use this authority.

There is one other responsibility which should be assumed by public health administrators, namely, assistance to workmen's compensation agencies in the adjudication of claims. From time to time a compensation commission needs impartial facts which might throw light on a claim. The facts may vary from a health appraisal of the claimant to a study of the working environment where the alleged disease has been contracted. It is our firm belief that public health administrators should be prepared to render such services whenever called upon to do so, unless specific legislation prohibits the use in litigation of results of investigations. It is often claimed that the division of industrial hygiene will lose the confidence of the employer if it testifies to certain findings of a study made in the plant involved in litigation. This argument works both ways, since the facts may also tend to disprove the employee's claim for compensation. It has been our observation that an industrial commission can, in most instances, settle a claim on the evidence submitted and the number of times a commission calls upon a study of the workroom environment

or an examination of the worker is limited to a few cases a year. No intelligent employer or employee should have any fault to find with a clear and impartial statement of the facts, based upon scientific inquiry. The proponents for establishing industrial hygiene services within the very agency which adjudicates compensation claims for occupational diseases are on untenable ground, since such an agency is no longer unbiased, being in the unhappy role of judge and prosecutor. The employee, the employer, and the agency adjudicating a compensation claim should welcome the investigation and report of conditions by an impartial agency on an impartial basis.

SUMMARY

An attempt has been made to emphasize some of the responsibilities and opportunities confronting public health administrators in the development, enactment, and administration of occupational disease legislation. Some of these opportunities and responsibilities have been discussed and an example of certain procedures has been given by citing the study made in the State of Utah. The results of the Utah study materially helped to establish the extent and nature of the industrial health problem in that State, thereby furnishing basic information to the occupational disease commission on which to formulate a constructive compensation law for occupational disease injuries. In addition, the study yielded sufficient data on which to base a permanent program in industrial hygiene, one which is now in full progress. The foresight shown in the organization and development of an industrial hygiene service in the State of Utah in 1939 has made it possible for the State industrial hygiene division to meet the present demands made on it by those industries now engaged in the production of vital defense materials. The services this unit is now rendering to these industries should add greatly in eliminating one of the most serious bottlenecks in our defense program, namely, the time lost due to disabilities of all types, which even under normal conditions exact a heavy toll in health, wages, and production.



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