

## CASE MODEL

### THE "CONTENTIOUS" HEALTHCARE EMPLOYEE

Mackenzie Miller was a new employee at a local outpatient EHO and her continued employment was not contingent on receiving a hepatitis B vaccination. Although not a registered nurse or medical professional, she was nevertheless deemed a candidate for vaccination because of her occupational exposure. Appropriately, the day and time of the vaccination was scheduled by a physician and was to be conducted by a licensed healthcare professional at no cost to Ms. Miller. She was also provided with a copy of the OSHA regulations and standards.

However, on the appointed day, she adamantly refused the hepatitis B vaccination!

#### KEY ISSUES:

What are the key issues for the facility in dealing with Ms. Miller, the "contentious" employee?

- 1) Was she provided with adequate education and training about the hepatitis B vaccination?
- 2) What is the facility's legal standpoint when an employee opts not to have the vaccination?
- 3) Is the facility liable for any infection that might occur, regardless of Ms. Miller's refusal to accept the vaccination?
- 4) Can the facility terminate her employment due to her refusal to accept the vaccination?

#### RESOLUTION

The facility should provide adequate training about the risks of contracting hepatitis B to any employee who may have occupational exposure. If the employee initially declines hepatitis B vaccination but at a later date, while still covered under the OSHA Bloodborne Pathogen Standard, decides to accept the vaccination, the employer should make it available at that time. The employer cannot fire an employee if he or she refuses to be vaccinated. However, the employer should ensure that employees who decline to accept hepatitis B vaccination sign a statement worded exactly as the one below:

*I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.*

**Requires employee signature, witness, and date**

Source: 29 CFR 1910.1030 Appendix A

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