THE TEMPORARY WORKFORCE: INTEGRATION WITH BEST PRACTICES IN OCCUPATIONAL AND ENVIRONMENTAL HEALTH NURSING

by

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Abstract

The onset of temporary staffing originally focused on clerical workers and has since expanded dramatically. Today's temporary workforce has great diversity in skills and education, including many professionals as well as clerical and manufacturing temporaries. The temporary worker has the opportunity "try out" an employer, work towards a career goal, receive specialized training, and identify flexible work to fit with family or school needs. Workers report they often choose temporary work for the flexibility or as a bridge to a permanent job. Regardless of the reason, more effort needs to be directed towards identifying where the workers are, what safety training has been provided, what type of injuries they have, and how the injuries can be prevented. The challenge is ensuring the safety of temporary workers at the worksite.

The OEHN is aptly positioned to identify ways to impact the health and safety of the temporary workforce and influence the denouement of tracking their injuries. The increasing number of temporary workers and the inadequacies of the current methods of tracking the location, type, and severity of the injuries provide the OEHN with a unique opportunity to plan, organize, lead, and control the improvement of the working conditions of temporary workers.

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Introduction

Tremendous improvements have been made in the occupational health and safety for workers in the 20th century. Since the inception of the Occupational Health and Safety Act of 1970 (OSHA, 2002), the number of work related deaths has been reduced by 50% while the workforce has doubled. At the same time dramatic changes in worker demographics have occurred, including increases in the number of older workers, younger workers between the ages of 16 and 24, women, minorities, and workers with disabilities. Workers over age 50 and under age 25 bring different risk factors than the general population (Barker & Christensen, 1998).

The contingent or temporary worker placement has become controversial for multiple reasons. Of great concern is the adequate provision of appropriate health and safety measures for the temporary worker. In an era of corporate downsizing, a general sense of job insecurity and distrust of the ethics of management has occurred: workers believe they have become disposable like many other commodities in America today. The largest employer in the United States (U.S.) is Manpower, the temporary staffing agency. Advocates for contingent staffing argue that it offers multiple benefits for the company: it increases staffing flexibility, cuts direct labor costs, reduces or eliminates benefit costs, and enhances the workers' leverage for increased wages. Those who criticize temporary staffing believe it can hurt productivity and quality by increasing turnover, decreasing worker loyalty, and leaving many workers without health insurance or pension

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coverage. Regardless of belief, the reality is that temporary staffing is not new and the numbers are increasing (Manpower, 2003).

The reporting and tracking of injuries of temporary workers is not as effective as it could be. The company that supervises the temporary worker is responsible to record temporary worker illness or injury on their OSHA 300 log. Generally supervision of the temporary worker is the responsibility of the company where the worker is placed. The temporary staffing company is responsible for providing the workers' compensation insurance. Often the customer may not be informed of an injury and the worker is simply replaced. As a result, many injuries may not be recorded. The purpose of this paper is to provide an overview of temporary staffing and identify possible strategies for the OEHN to positively impact the health and safety of the temporary worker.

Chapter 1   Temporary Staffing

History of Temporary Staffing

The beginning of the 20th century demonstrated a transformation from the small craft-based firms of the late 1800's into the large hierarchically controlled corporations of the 1900's. The workers were deep-rooted in the company, often retiring after having worked for the same company for forty years. Long-term employment relationships and loyalty to the company were intense; there was an expressed pride in working for a company. The worker's expectation was to work for the same employer from high school through retirement. Internal career ladders were the norm and provided opportunities for training, skill upgrading, and promotions. It seemed to be an ideal work world, and it may well have been for some of the population. However, as the world began to change and grow and as communication expanded into realms no one could anticipate, significant changes also occurred in the workforce. Since many men served in World War II, there was a shortage of workers and women went to work for the "good of the country". Following the war the unprecedented growth in the U.S. economy provided a need for more workers and even more diversification and flexibility in the workforce.

Two different staffing companies were developed at nearly the same time in history. In 1946, Kelly Services began with two employees in Detroit, Michigan. William Russell Kelly started this new company to meet the office and clerical needs of Detroit-area businesses. Russell Kelly Office Service provided calculating and inventory services, typing, and copying. Most of this work was cyclical, so Mr.

Kelly staffed his company with housewives and students—people who had flexible schedules. By December 1946, the Russell Kelly Office Service had 12 customers and $848 in sales. Currently Kelly Services is an international company with 4.2 billion dollars in annual sales (Kelly Services, 2003). The other company, Manpower, was established when attorneys and business partners, Elmer Winter and Aaron Scheinfeld of Chicago, were under a tight deadline to finish a legal brief. Finding themselves in need of supplemental administrative employees, they discovered there were no companies to provide this service. In 1948 they started Manpower and have since grown to be the largest employer in the United States (Manpower, 2003).

Temporary Staffing

The American Staffing Association (ASA) defines "temporary help service" as:

> *A service whereby an organization hires its own employees and assigns*
> *them to clients to support or supplement the client's workforce in work*
> *situations such as employee absences, temporary skill shortages, seasonal*
> *workloads, and special assignments and projects* (American Staffing
> Association, 2003a, ¶ 5).

How temporary is temporary work? The Bureau of Labor Statistics (BLS) (2000) estimates as many as 2.1 million people are employed as temporary workers on any given day in the United States. While the temporary worker can have a long-term assignment, the BLS (1997) estimates the majority of workers do not stay at

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their assignments or work very long as a temporary worker, as referenced in Figure 1.1.

A worker often chooses temporary staffing as an employment choice for the flexibility. Richard Wahlquist of ASA reports, "it's a real selling point because people value the flexibility of being able to choose when, where, and how they want to work" (Walquist, 2000, ¶ 3). Workers who are raising families generally prefer this option for the flexibility. Temporary staffing allows the flexibility to accommodate the schedule of small children and provide additional options for daycare. Figure 1.2 demonstrates the months worked in assignments for temporary workers.

Many workers view contract or temporary work as a bridge to a permanent position. A worker can try out a prospective employer and demonstrate her or his skills for the opportunity of a permanent job. Estimates as high as 72% of temporary workers obtain permanent jobs while working for a staffing agency (Bowmer, 1999).

Many workers choose temporary and contract work as an employment option. They have greater control over their scheduling and prefer to select from diverse and challenging assignments. For example, traveling nurses prefer these types of assignments. Temporary workers often encompass the younger as well as older worker. The younger worker's work schedule accommodates school life as well as providing diverse experience for her/his career path. The older worker

Figure 1.1
Temporary Help Employment by Tenure, 1997
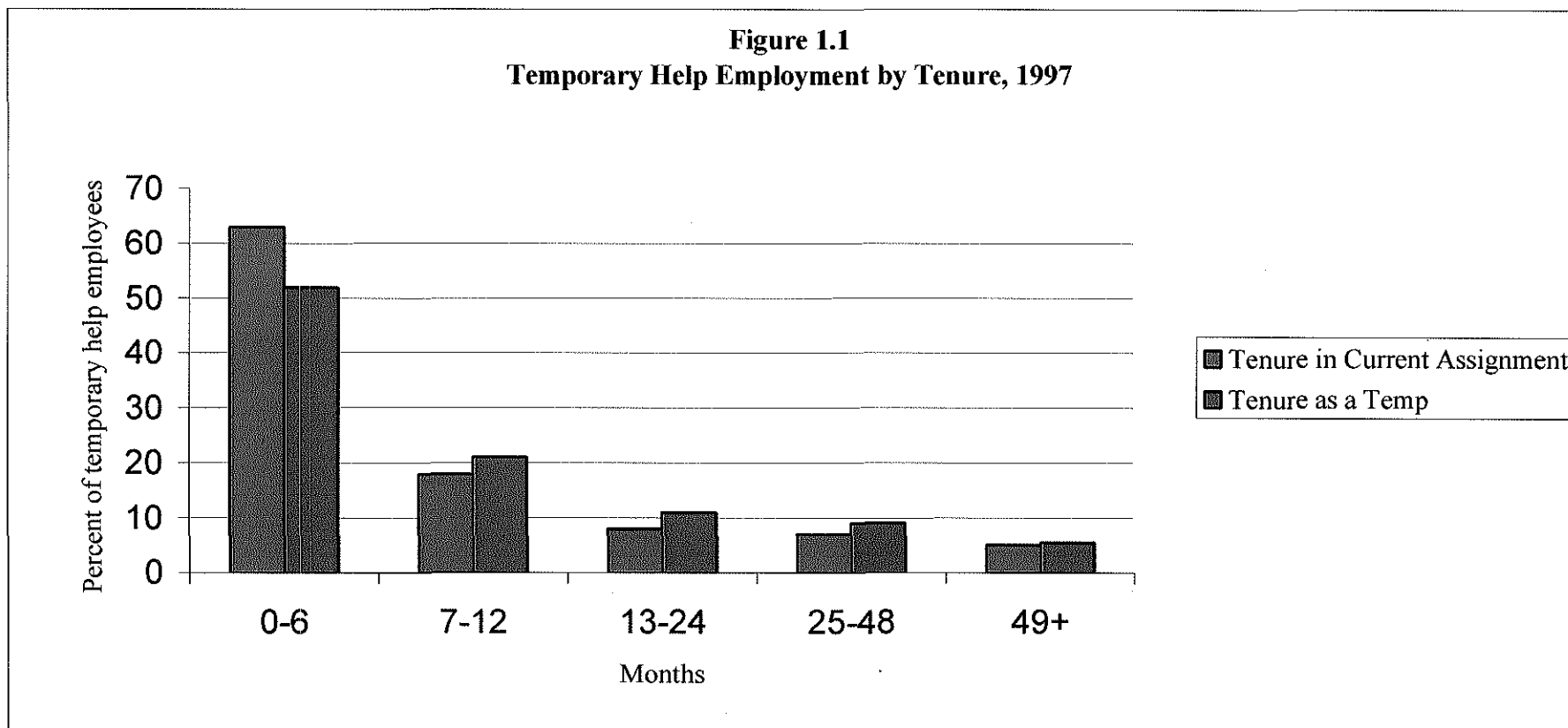
Source U.S. Department of Labor, Bureau of Labor Statistics, Current Population Survey, Contingent workforce supplement, 1995 & 1997.

Figure 1.2
Preference for Temporary Help Employment by Tenure, 1997
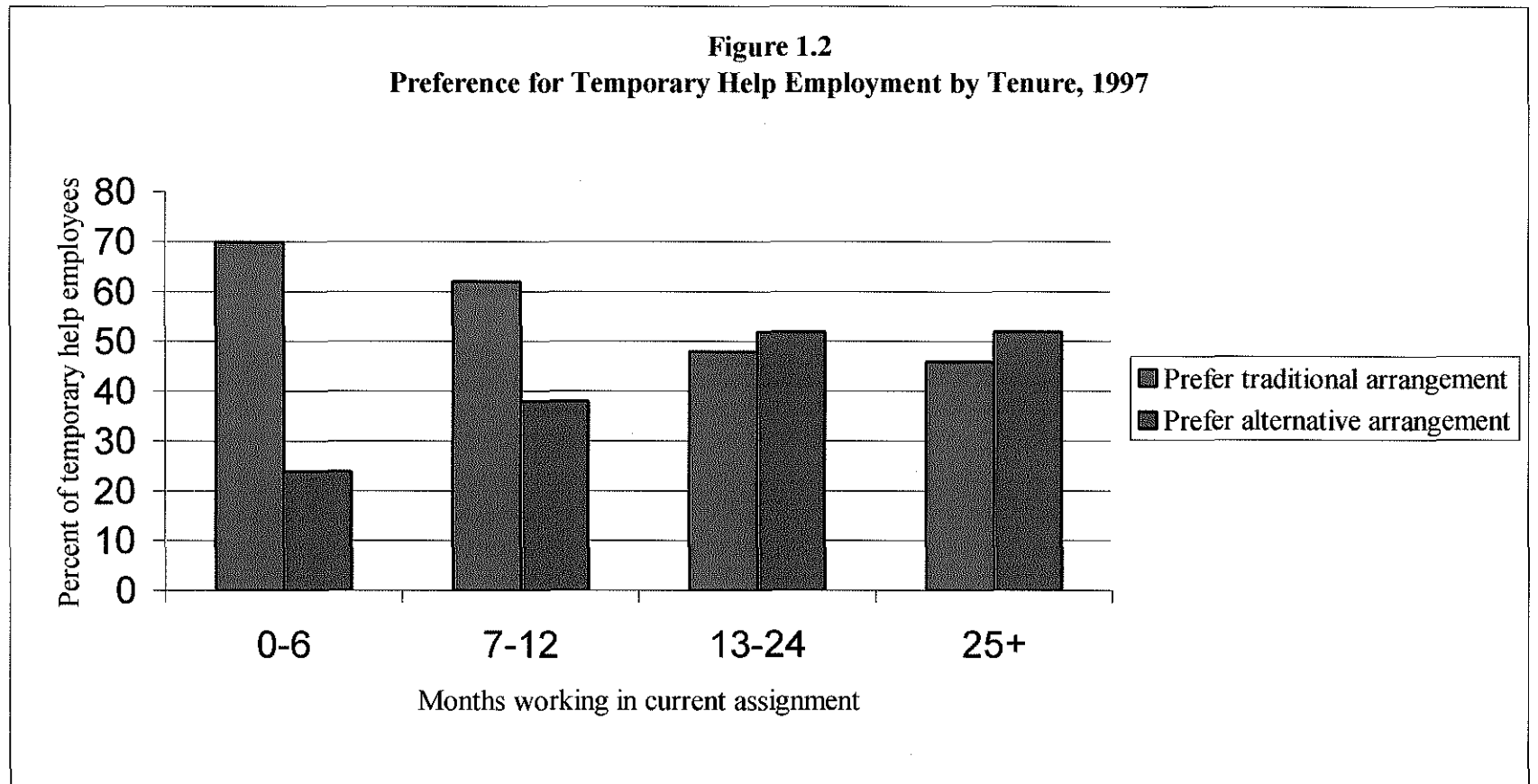
Note: Tenure by assignment Source: U.S. Department of Labor, Bureau of Labor Statistics, Current Population Survey, Contingent workforce supplement, 1995 & 1997.

may be looking for additional income, flexibility, a challenge, travel opportunities, and a way to remain active (Walquist, 2000).

One of the most significant reasons for choosing temporary work is the opportunity to obtain training to assist with a career path or goal. Many temporary employers have training programs in place to prepare workers for assignments. The training can range from basic word processing to management skills or specialized training in a medical field. In 1997, the U.S. Department of Labor conducted a survey to determine why workers choose temporary employment; the survey results are summarized in Figure 1.3.

To better understand the field of temporary staffing, commonly used terms will be discussed. These include employee leasing, outsourcing, managed services, payrolling, placement services, temporary-to-full-time work or "temp to perm", contingent workers, long-term staffing, independent contractors, and part-time worker.

Employee Leasing

The term "employee leasing" causes confusion in the temporary staffing world. It is a distinct service that assumes the legal and administrative services of an employer payroll, benefits, and other human resources functions on behalf of all or most of another company's workforce on a continuing basis. Employee leasing companies are often referred to as "professional employer organizations" (PEOs).

Figure 1.3
Reasons for Temporary Help Employment, 1997

Family/personal
obligations
2%

Desire permanent
employment
18%

Flexibility of schedule
16%

Only available work
35%

Other/ results not
available
25%

In school/training
4%

Source: U.S. Department of Labor, Bureau of Labor Statistics, Current Population Survey, contingent workforce
supplement, 1995 & 1997

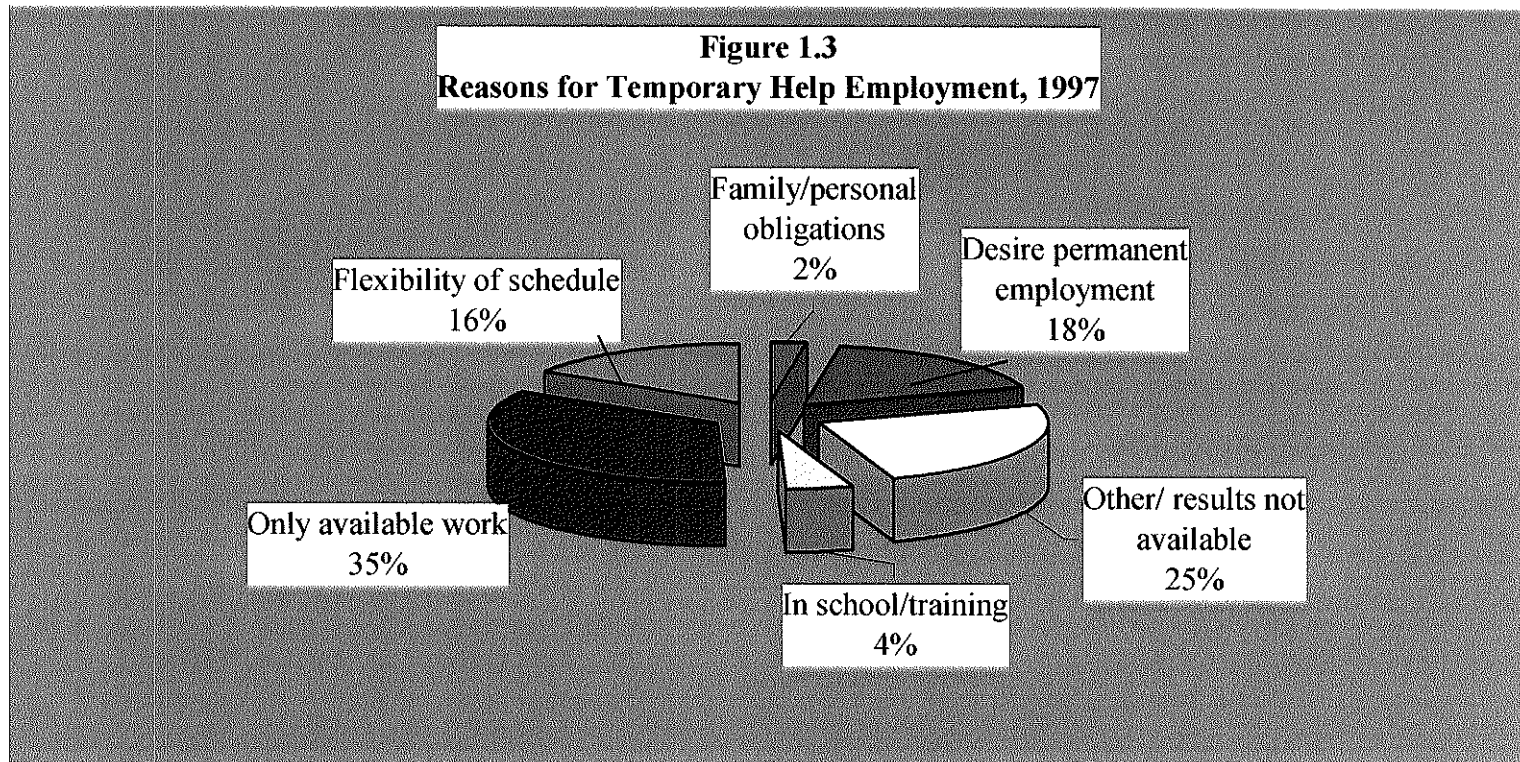These organizations or companies are not labor suppliers or temporary staffing organizations but are responsible for recruiting, screening, and training workers, and assume legal accountability for the work performed. Most PEO businesses do not consider themselves staffers unless they are a division of a larger staffing organization. The PEO arrangement is attractive to small and mid-size employers who find it more economical to contract out their human resources functions rather than hire in-house staff. The PEOs or leasing companies generally charge for their services based on a percentage of the total supplied payroll costs. Companies who are most likely to utilize a leasing service are those who have high injury rates. By leasing employees, the burden of workers' compensation costs revert to the leasing company (Lenz & Greco, 2000).

Some states have developed laws related to leasing employees to gain better control of the process and protect the workforce. Currently sixteen states have enacted laws specific to leased employees that include licensing and/or registration of employee leasing organizations. The laws are designed to ensure the provision of workers' compensation and unemployment insurance. Health and pension benefits for leased employees may also be subject to special treatment under federal law. Some of the states have adopted specific regulations requiring each customer of a leasing organization to be treated as a separate entity (Lenz & Greco, 2000). The regulation is designed to prevent "mod-swapping" which is the practice of averaging safety modification experience ratings over all leasing locations. This practice could favorably impact the leasing company's overall modification

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experience rating for workers' compensation. Therefore, the PEO or leasing

organizations should maintain separate workers' compensation policies for each

customer (Lenz & Greco, 2000).

Outsourcing

Outsourcing is defined as the assignment of one or more business processes

to an external provider who then owns, manages, and administers the selected

process based on defined and measurable performance metrics (Baumann, 2001).

Outsourcing allows a company or industry to focus on the processes that it does

best and partner with a provider to manage and perform the essential non-core

business processes. The widespread adoption of outsourcing reflects a more

disciplined approach for an organization to streamline its processes and stay

focused on their primary product or service. Outsourcing represents a fundamental

shift in the way companies operate to remain competitive in today's global

economy (Hope, 2003).

Outsourcing was reevaluated in the 1980's as a means of increasing the

efficiency of an organization and its profitability. The public sector began

considering outsourcing as a solution to the long-term financial crisis of some of the

large city and state governments often referred to as privatization measures;

outsourcing was identified as a way to increase the efficiency of government (Hope,

2003).

For outsourcing to be effective, there must be interdependence between the

customer and provider, each striving for a long-term partnership as a means to

objectively evaluate the service and to understand how the business process is affected by the outsourcing. The risks of outsourcing for the customer include loss of workers with skills and expertise, loss of control of the work process, compromise of confidentiality, and the lack of cost monitoring. The risks can be minimized by:

- Carefully selecting a provider;

- Clarifying goals and expectations with measurable outcomes at the onset;

- Securing a confidentiality agreement;

- Developing a strong partnership;

- Focusing on communications; and

- Continuing commitment of upper management (Hope, 2003).

Managed Services

Managed services are also a form of outsourcing and sometimes referred to as facilities management. These services are generally provided by an organization that has expertise in operating a specialized function for the client. The company contracts with a provider not just to provide and supervise staff, but also to take full operational responsibility for the function that is often tangential to the company's core business. Examples of managed services include: mailroom operations, data processing center, cafeteria services, call centers, landscaping services, and security guard services. Managed services are differentiated from leasing and PEO services in that managed services assume operational responsibilities while PEO services

allow customers to retain day to day control over the work product (Defined Employee Management, 2003).

"Payrolling" Employees

Payrolling is a service provided by many staffing firms. The customer, not the staffing firm, recruits the worker and asks the staffing firm to hire and assign her/him to perform services for the customer location. This service is often utilized when a customer has a specialized service need and can identify the appropriate candidate for the required skill. Payrolling is differentiated from staff leasing as the individuals are on temporary assignments or projects and the arrangement does not encompass a significant percentage of the customer's total workforce. Payrolling is often provided at a lower percentage cost than staff leasing or temporary staffing since the customer is responsible for the recruiting and interviewing process.

Placement Services

Placement services are used when a customer identifies a need for an employee and then requests that the supplying agency recruit the potential worker for permanent full-time employment. There is generally a significant fee charged to the customer for the recruiting and screening effort. Many states require permanent employment agencies to be licensed or registered with the state. Since placement services do not hire these workers, few if any other regulatory issues arise.

Temporary-to-Full-Time

Temporary to full-time or "temp-to-perm" employment is a growth area that combines both temporary help and placement services. Staffing firms have a high level of expertise in recruiting, screening, and training workers. Many businesses are turning to staffing firms to provide services to assist with recruiting permanent workers. This arrangement allows both the worker and the customer to evaluate the relationship for a trial period, between 30 and 180 days, to determine if the relationship is workable for both parties. During the trial period, the staffing company employs the worker in the same manner as any other temporary worker. If the temporary worker and the customer agree to continue the relationship, the worker's relationship with the staffing firm is terminated. In general customers are not charged a placement fee under the temporary to full-time arrangements or the placement fee may be prorated based on the length of the trial period. The temporary staffing provider is responsible for all aspects of human resource regulation during the trial phase.

Contingent Worker

Audrey Freedman first coined the term contingent worker in 1985 as a description of a management method of hiring workers when needed (Polivka, 1996a). The term contingent soon became a catchall for part-time, temporary help service employment, employee leasing, self-employment, and home-based worker. According to Polivka (1996b), "The Bureau of Labor Statistics in 1989 developed the following definition of contingent work: Contingent work is any job in which an

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individual does not have an explicit or implicit contract for long-term

employment". This definition has skewed the collection of data related to

temporary staffing by including independent contractors, on call workers, and any

workers who fit into the above description.

Long-Term Staffing

Most staffing companies provide employees for long-term, indefinite

assignments. The staffing company recruits, screens, and assigns the workers in the

same manner as temporary staffing.

Independent Contractor

The independent contractor (IC) is a person who is in business for

her/himself rather than depending on an employer to earn a living. Independent

contractors are sometimes called consultants, freelancers, self-employed, or even

entrepreneurs and business owners. Independent contractors are often paid at least

20% to 40% more per hour than full-time employees performing the same work.

Hiring firms can afford to pay ICs more because they do not have to pay half of the

Social Security taxes, pay unemployment compensation taxes, provide workers'

compensation coverage or provide employee benefits like health insurance and sick

leave. All these items add at least 20% to 30% to employer payroll costs. Self-

employed people pay for these costs themselves, and they can only afford to do this

if they are paid more. Federal laws that govern whether or not a worker is an

independent contractor often cause a great deal of confusion and can result in

significant fines from the Internal Revenue Service if the laws are not carefully followed.

Part-Time Worker

Part-time work and temporary work are sometimes used interchangeably. However, there are two primary differences. First, part-time workers always work less than a forty-hour week. Second, part-time workers generally work a set schedule. The schedule may be changed but the relationship is on going and not usually restricted in duration. Each temporary assignment is expected to end at some point in time; however the part-time worker has no set stopping point. Another difference is that part-time workers are generally hired directly by the company. However, they could also be working through a staffing company who specializes in providing temporary part-time workers.

Globalization of Temporary Staffing

According to Bowmer (1999, ¶ 1) the CEO of Adecco Staffing Agency, "we are in the midst of a major evolution in the way the staffing industry operates. The first challenge for the future of the industry is globalization". There are a number of common global trends that impact staffing. The first trend is placement of workers with specialized skills. Another trend is movement of labor across borders. Finally, globalization also includes the practice of moving tasks to find suitable labor, often referred to as sending work offshore. One of the major factors affecting globalization is the Internet. The Internet will continue to be an effective resource for both sales and the recruitment of workers in the staffing industry. The

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Internet also provides standardized wage information which can be helpful to customers and workers alike.

Each country has a different government policy toward staffing. For example, Japan restricts staffing to very few classes of job descriptions; the Netherlands, though highly regulated, still has a very strong temporary work market (Bowmer, 1999). There are indications all over the world that skilled workers are going to be in short supply for the future. According to Bowmer (1999, ¶ 27), "a great story for the staffing industry is our clients need flexibility with their workforce, and people are looking for more flexibility in their work arrangements."

Health and safety is a significant concern in the globalization of staffing agencies. It is anticipated that the pace of work along with global competition and advances in technology will produce more challenges for training in occupational health and safety, skills development, and worker safety. Substantial changes in trade through global and regional agreements have provided opportunity for greater mobility of companies, equipment, supplies, subassemblies, finished goods, and investment. The health and safety implications are significant in that no standard measurement exists internationally for collecting information on work related injury and death. Without the standardization of data collection, it becomes nearly impossible to collect meaningful health and safety data internationally (Institute of Medicine, 2000).

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According to the Institute of Medicine (2000), there are several issues related to globalized training of occupational health and safety personnel. They include:

- Countries differ in their health and safety standards;

- Enforcement of health and safety regulations are variable;

- Hazard communication requires multilingual information and training materials; and

- Need for trained occupational health and safety personnel is increased.

The IOM (2000) further suggests that there will be a need for more health and safety personnel trained to decrease the shortage of professionals in less affluent countries. The companies will need to develop standardized surveillance data collection across country borders. In addition, there is a need to disseminate preventive practices and technologies based on cultural differences among the countries. Figures 1.4 and 1.5 reflect the breakdown of staffing throughout the world (Ward, 2002).

Future Trends in Temporary Staffing

Temporary staffing has continued to expand throughout the world. However, the staffing industry is as sensitive to the economic cycles as other industries. The primary reason customers choose temporary staffing is for flexibility in staffing, thus allowing the reduction in temporary help during an economic down turn rather than laying off permanent employees.

Figure 1.4
European Temporary Staffing Industry Sales, 2000

▦	United Kingdom
▦	France
☐	Germany
☐	Belgium
▦	Switzerland
▦	Spain
▦	Italy
▦	Other
■	Netherlands
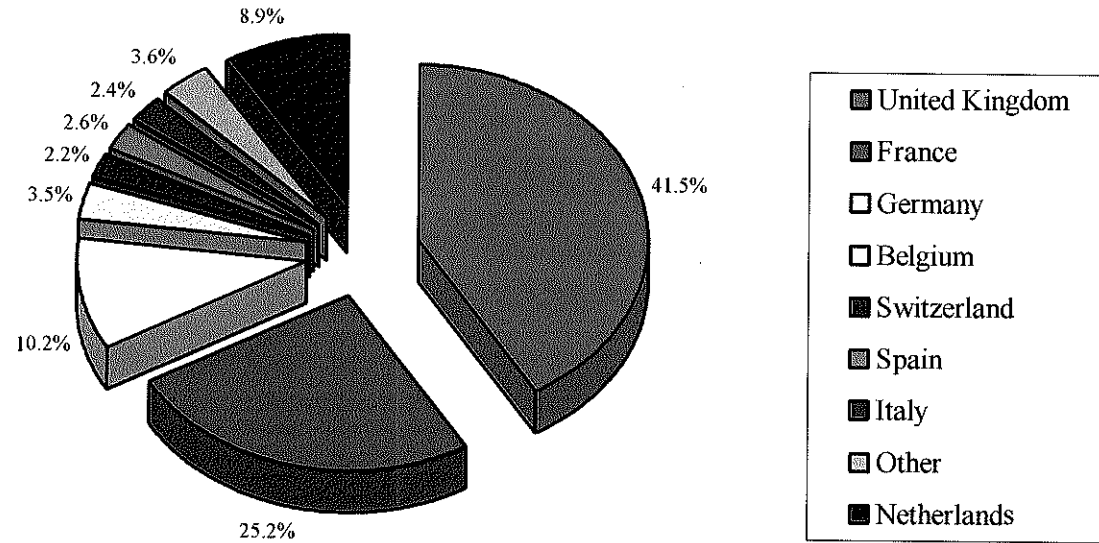
Ward (2000)

Figure 1.5
The Global Temporary Staffing Industry, 1998
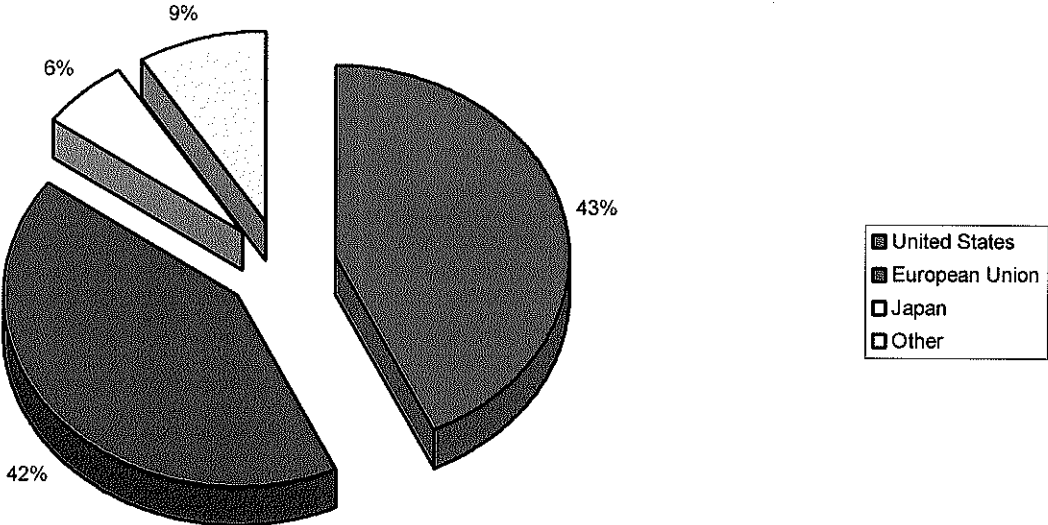
Ward (2000)

In an interview, Richard S. Toikka, the Employment Policies Institute's Chief

Economist reflected, "enhanced flexibility in labor markets will deserve as much

credit as Alan Greenspan for keeping the recession short and shallow" (Berchem,

2002, p. 5). While the staffing industry is not recession proof, it certainly is

recognized as an indicator for the downturn or recovery of the economy.

Depending on the source, either an increase or a decrease in the temporary

workforce is forecasted based on the occupation being evaluated. It clearly becomes

a supply and demand issue. The mid to late 1990's produced an exceptional

demand for workers skilled in computer technology such as programming and

technical support. Workers skilled in information technology (IT) were in great

demand and often preferred to work in temporary positions, which command higher

wages, and flexible benefit plans. The opportunities for nursing and radiology

technologists are similar with new staffing companies opening weekly. The

opportunity exists for these health care professionals to obtain higher wages and

benefits. This trend of increased wages based on demand for skilled workers and

health care professionals is expected to continue through the next decade. If history

continues to repeat itself, the staffing industry should follow the same trend. Figure

1.6 demonstrates the divisions of temporary staffing in 2001 (Bureau of Labor

Statistics, 2002).

Figure 1.6
Temporary and Contract Employees Work in All Occupations, 2001
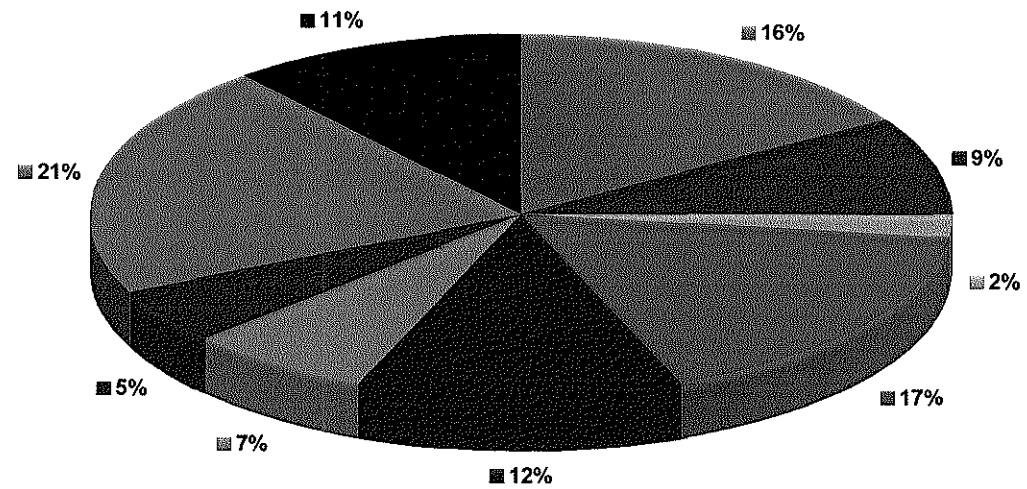
Professional specialty	Executives	Farming & forestry
Operators & laborers	Precision production, craft	Technicians
Sales	Admin support, clerical	Service

Bureau of Labor Statistics (2002)

Current predictions from the Bureau of Labor Statistics (2002) are that more jobs will be created in personnel supply services industry than in any other industry. As global competitiveness and the desire for flexibility increases, more companies and workers will choose to work with staffing companies.

Regardless of the future demand for workers, occupational health and safety issues of workers continue to be of concern. One of the challenges in the staffing industry is to ensure that health and safety regulations are being followed and enforced. The rights, safety, training, and tracking of injuries of temporary workers are essential to determine future preventive strategies.

Chapter 2   Legislative Influence

When the concept of staffing companies originated in the 1940's, their primary legal responsibility was compliance with the workers' compensation laws. Since that time the need for additional avenues for worker protection has motivated many changes in legislation. While the States passed workers' compensation laws, the U.S. enacted the Civil Rights Act of 1964, the Occupational Safety and Health Act of 1970, the Americans With Disability Act in 1990, and the Family Medical Leave Act in 1993. The issue of co-employment is the most recent worker protection issue to be resolved in the nation's legal system. These laws have had a significant influence on the temporary staffing workforce

Workers' Compensation

Worker injury compensation began in Germany in the late 1800's as the first social support program of the industrial revolution (Elgie, 1994). Great Britain enacted laws to protect worker's income following a work related injury in 1897 (LaDou, 1997). The first U.S. state to adopt a workers' compensation law was Wisconsin in 1911. The last state to adopt a workers' compensation law was Mississippi in 1948 (Levy & Wegman, 2000). Essentially, workers' compensation became the first limited liability, "no-fault" insurance system in the United States (American Association of State Compensation Insurance Funds, 2001-2002). The workers' compensations laws provide workers with compensation for injuries incurred at work and cover the cost of medical care, rehabilitation expenses, lost

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wages, and survivor benefits if applicable. The injured worker does not need to prove that the injury was caused by employer negligence.

Temporary staffing employers, like any other employer, are responsible for providing workers' compensation insurance. The insurance can either be purchased or the temporary staffing employer may choose to be self-insured. Workers' compensation data for the temporary workforce are generally not available for review nor is the process for managing an injury. Temporary staffing companies have a proclivity to protect the information, as it may be one of the few venues for the company to maintain profitability. When considering that all staffing companies have a similar group of customers and the same pool of temporary workers, it becomes clear that one of the processes that has the propensity to significantly impact company profitability is how workers' compensation is controlled and managed.

Part of the challenge in controlling and managing workers' compensation for the temporary worker as well as the temporary agency is the lack of control over the workplace. The location where the worker is placed has the day-to-day responsibility of maintaining a safe workplace. However, developing a return to work program at a customer site can be a daunting experience. Many customers believe the temporary staffing company has the sole responsibility for the injured worker and the return to work issues. As a result, the customer is reluctant to accommodate any return to work with restrictions. Often the only control the temporary agency has is the OSHA recordability of the injury, which is the

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responsibility of the company supervising the temporary worker. According to

Eileen Lesberg of Staffing Today, "Workers' compensation is the second greatest

expense after payroll for a staffing company" (Lesberg, 2002, ¶ 4). The success of

staffing companies may well depend on the management of workers' compensation

costs.

Civil Rights

The Civil Rights Act of 1964 -- Title VII prohibits employment

discrimination based on race, sex, national origin, or religion (WithyLaw, 2003).

Staffing agreements cannot be used to circumvent the law and shield companies

from civil rights compliance. In the 1984 New York case of *Amarnare v. Merrill

Lynch*, an employee alleged that she had been discharged from her assignment and

refused hire based on her sex, race, and national origin. Merrill Lynch tried to have

the case dismissed arguing that, as a temporary worker, there was no employer-

employee relationship. The final decision was that Merrill Lynch was in fact an

employer because it "controlled her work hours, workplace and work assignment

and training, and they ultimately discharged her" (Lenz & Greco, 2000, p. 62). This

finding permitted an inference that she was an employee of both the temporary

staffing firm and the customer, and set a precedent that every party to a staffing

arrangement may be liable for discriminatory acts.

In 1997 the Equal Employment Opportunity Commission (EEOC) further

solidified the dual responsibility for discriminatory conduct for the staffing agency

as well as the customer (Equal Employment Opportunity Commission, 1997). A

staffing company cannot discriminate against its employees nor can they accept a customer's discriminatory request. The customer can clearly be held accountable if they discriminate against a staffing company's worker.

Occupational Safety and Health Act

The Occupation Health and Safety Act (OSH Act) of 1970 is one of the federal government's greatest success stories. Since the beginning OSHA has successfully reduced worker deaths by 50% and decreased worker injuries and illnesses by 40% during years of exceptional growth in worker numbers (OSHA, 2002).

The General Duty Clause of the OSH Act requires employers to maintain a safe and healthy workplace. Safety and health concerns for temporary workers arise when it is unknown who is primarily responsible for insuring the safety and health of temporary workers. Following the promulgation of the OSH Act, there was confusion surrounding who was responsible for temporary workers' health and safety. The Occupational Safety and Health Administration (OSHA) compliance officers occasionally cited staffing companies for safety violations that occurred on customer locations. In 1977, Manpower Inc. was cited as being solely responsible for the safety violations that led to the death of one of its temporary workers; the customer where the temporary worker was placed received no citation. An administrative law judge reviewed the ruling and although Manpower was the employer and had the right to hire and fire under common law, it was not the responsible employer (Lenz & Greco, 2000). Since the focus of the OSH Act is

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prevention, the judge held that the government must first look to the employer who created the hazard and supervised the worker. It would be "unconscionable" the Judge said, to require temporary help firms to satisfy the safety requirements of each and every work situation (Lenz & Greco, 2000). Following this decision the OSHA compliance officers generally cite the party in direct control of the workplace and the actions of the worker. However, a temporary staffing company could be cited if they failed to correct the violation or knew the working conditions to be unsafe.

Recordkeeping guidelines require the customers to maintain the records of injuries and illnesses to temporary workers if the customer supervises the workers. In 1996 OSHA defined who must maintain the records:

> *Employees include persons who may be labeled as 'independent contractors,' or migrant workers, and persons who are provided by a temporary help service or personnel leasing agent when an employer utilizing their services supervises them on a day-to-day basis. Day-to-day supervision occurs when, in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished* (Lenz & Greco, 2000, p. 87).

The staffing company may elect to keep the records for the customer and should ensure the records are maintained in the customer's name so the injury is attributed to the worksite employer and to the appropriate classification (Lenz & Greco,

2000). Customers are also required to train temporary workers for many OSHA standards such as:

- Hazcom or hazard communication;

- Lockout-tagout;

- Bloodborne pathogens; and

- Confined space.

These rulings have held that the customer location has the primary responsibility for maintaining a safe and healthy worksite. However, the temporary staffing company has the responsibility to take reasonable steps to determine the conditions at the worksite and advise workers as to how they can obtain more specific information. Reasonable steps are defined as having an occupational health and safety professional inspect the worksite prior to placing temporary workers and conducting regular monthly walkthroughs with the customer to ensure the heath and safety procedures are continued. The temporary agency can share specific information from the OSHA website with workers or the temporary workers can call or visit the OSHA website to obtain information on their own. Information needs to be provided to workers so they can understand it, such as in their native language.

The customer is responsible for maintaining the OSHA recordkeeping related to her/his workplace for both the permanent workers and the temporary workers. Thus the customer may be more willing to ensure a healthy and safe workplace for all workers and also work with the temporary agency to facilitate

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timely return to work for temporary workers with restrictions to relieve some of the lost time injury days (Lenz & Greco, 2000).

Americans With Disability Act

President George Bush signed the Americans With Disabilities Act (ADA) into law July 26, 1990. On July 26, 1992 the law became effective for employers with more than 25 employees, and on July 26, 1994 the act became effective for employers with more than 15 employees (Keim, 1999). The focus of the ADA is accessibility, transportation, communication, and employment for individuals with disabilities.

According to Folska (2001, p. 1),

People with disabilities make up the largest minority in America.
It is a group that any one of us can join in time. Fifty-four million people
have disabilities: 70% of them are unemployed, and of that 70%, 90% want
to work. Only one-quarter of people with disabilities need an
accommodation to do a job. And the average cost of the accommodation is
only $50.00 to $500.00.

The ADA is clear that staffing firms cannot discriminate against their disabled workers or applicants. This includes refusing to accept discriminatory staffing requests from customers. If a customer refuses to accept a qualified candidate because of a disability it would be unlawful for the staffing firm to continue to fill the order. The staffing firm is responsible to make reasonable accommodations to allow the disabled worker to perform the essential job

functions. Reasonable accommodations for a staffing customer do not encompass making physical changes to the customer premises. For example, the staffing agency would not be expected to provide modifications to entrances and exits to accommodate wheelchairs for a worker. However, the staffing company might be expected to provide the worker with a step stool to enable a vertically challenged person to perform the job (Equal Employment Opportunity Commission, 2000). The ADA falls short of addressing a customer's obligation to accommodate contractor workers. EEOC's enforcement to date leaves little doubt that customers are responsible for making reasonable accommodations for temporary workers as well as their permanent workers (Lenz & Greco, 2000). Unfortunately, there is little available information on what constitutes reasonable accommodation when considering the generally short time periods temporary workers are employed by a customer. Staffing companies need to collaborate with their customers to comply with ADA.

HirePotential Inc. is one company which exhibits best practices in hiring disabled workers. The president initiated a program to recruit disabled workers by tapping into public sector agencies, private sector organizations, and state vocational rehabilitation programs. Within 18 months the company had placed more than 170 workers with an average assignment of six months (Folska, 2001).

The EEOC further refined the issue of staffing temporary workers with additional guidance in 2000, by addressing the concerns of disability related inquiries and medical examinations prior to the offer of employment. The EEOC

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acknowledged that temporary jobs might become available on short notice and last for only brief periods of time. Therefore the guidance provides that, if a reasonable accommodation cannot be provided quickly enough for the worker to begin, it would be considered as an "undue hardship". If the worker is qualified for an assignment even if no specific assignment is available, medical questions under the ADA may be asked (Lenz & Greco, 2000).

Family Medical Leave Act

The Family Medical Leave Act (FMLA) became effective on August 5, 1993. FLMA applies to all public agencies, including state, local, and federal employers, local education agencies, private-sector employers who employ 50 or more employees in 20 or more workweeks in the current or preceding calendar year and who are engaged in commerce or in any industry or activity affecting commerce. In order to be eligible, the employee must work for a covered employer for at least 12 months, with a minimum of 1,250 hours during the previous 12 months. The covered employer must employ at least 50 workers within a 75-mile radius and be located in the U.S. or in any territory or possession of the U.S. (Department of Labor, 2002). The leave is designed to provide a total of 12 work weeks of unpaid leave for one or more of the following reasons:

- Birth and care of the newborn child of the worker;
- Placement of an adoption or foster care child;
- Care of an immediate family member; or

- ▪ Personal medical leave when the worker is unable to work because of serious health condition (Department of Labor, 2002).

Like the antidiscrimination laws, the FMLA extends protection to temporary workers. The staffing agency and the company using the temporary workers generally are considered joint employers for purposes of the FMLA. According to Ballard, Spahn, Andrews & Ingersoll, LLP. (2000), the staffing agency usually is responsible for giving the required FMLA notices, providing FMLA leave, and maintaining health benefits. The staffing agency also is responsible for restoring the worker to her or his job following the leave. However, the employer who used the temporary worker prior to the leave is responsible for accepting the worker back after the leave, so long as that company continues to use temporary workers from the staffing agency. Additionally, the FMLA prohibits a company using temporary workers from interfering with the temporary worker's rights under the Act; the employer/customer could be held liable under the FMLA for doing so. If the customer discontinues the services of the temporary company or the job is no longer available, the temporary company is responsible to find an equivalent job with another customer. If no equivalent job is available the worker then goes to the "head of the line" at the temporary company and is given priority for other assignments for which they are qualified (Lenz & Greco, 2000).

Co-Employment

Co-employment is a term often used to refer to the relationship between staffing vendors and their customers. The legal issues from that relationship can

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cause significant problems if the companies do not partner to provide the worker protection from working for an employer/customer for an extended period of time without being provided with the benefit package of regular full-time workers. The best definition of co-employment is from the American Staffing Association:

> *A relationship between two or more employers in which each has actual or potential legal rights and duties with respect to the same employee or group of employees* (Lenz & Greco, 2000, p. 17*).*

In 1997 a lawsuit brought the "co-employment" issue to the forefront. The problem began when Microsoft classified temporary workers as "independent contractors" but later admitted in court the workers were its employees. As a result, Microsoft was forced to pay $97 million in a class action settlement to the temporary workers, including retroactive benefits (Principe, 2001).

The "co-employment" issue has caused considerable concern to customers and staffing firms. Many companies have turned to using time limits to avoid the benefits liability issues. Time limits to differentiate the worker as temporary are determined by each customer. The time limits allow the temporary workers to work at the same location for a limited time of somewhere between six and twelve months. Once the temporary worker has worked at the location for the predetermined time limit, they can no longer work for the customer. Customers also provide a time qualifier for when the temporary worker can return to the location and it is generally following a six to twelve month sabbatical.

Table 2.1 provides recommendations for responsibilities for temporary workers consideration in co-employment relationship.

Advocates argue that temporary staffing offers multiple benefits for the company, such as increasing staffing flexibility, cutting direct labor costs, and enhancing workers' leverage in the market place. Critics on the other hand maintain that temporary workers increase turn over, limit development of company specific knowledge, and weaken worker loyalty and representation. In addition, critics maintain a large number of temporary workers are left without the safety net of health and pension coverage. In many ways both are correct. Recognizing that Manpower is currently the largest employer in the United States and one of many large temporary agencies, the health, safety, and benefit issues of temporary workers need to become a priority. In addition, tracking temporary worker injuries and where they occur is essential to understanding what parameters must be established to protect this growing population of the workforce.

It is encouraging to recognize that the laws apply to temporary workers and full-time workers alike. How these laws are interpreted and addressed by both the temporary staffing companies and their customers may create ethical concern.

Table 2.1

Co-Employment Responsibilities

Federal and State Regulations	Staffing Company	Customer
Workers' Compensation	Staffing company manages the workers' compensation and is the exclusive remedy for the injury.	
OSHA	Identify potential safety hazards. Discuss hazards with customer. Provide worker with source of information for protection in workplace.	Maintain a safe worksite. Maintain recordkeeping for temporary worker if supervising day to day.
Employment Discriminations Laws FMLA	Staffing company must provide 12 weeks unpaid medical leave.	The customer cannot interfere with a temporary worker's rights to FMLA.
Civil Rights	Staffing company cannot discriminate against its employees.	The customer can be held accountable for discriminating against a staffing company's worker.
ADA	Staffing service cannot discriminate based on disability and cannot accept a discriminatory order.	Customer to work hand in hand with customer to achieve purposes of the ADA.
Labor Relations	Temporary workers have the right to unionize. Temporary workers may be required by the contract to belong to the union.	
Wages	Temporary staffing company is responsible for keeping record of time and paying appropriate overtime.	Should not discuss or set pay rates.
Discharge/Termination	Temporary company has obligation to determine the customer has legitimate reason to end assignment.	Obligation for fair and impartial reason for termination.

Chapter 3   Ethics

Ethical Philosophies

In 2002 new challenges and ethical concerns have occurred in the business community. Corporations have digressed to deceptive practices that have impacted worker jobs, financial security and virtually destroyed any trust that existed previously. While new personal freedom infringements protect against terrorism, corporate bankruptcies and misuse of funds, Enron and WorldCom alone have overspent, oversold stock, and jeopardized worker retirement. Their chief operating officers secured their own financial security while depleting company funds (Spagat & Chin, 2002). These companies and others like them reinforce the need to maintain a business culture based on dedication and integrity. Worker concerns of job security, pension fund stability, health, safety, and security all need to be balanced with ethics. Temporary staffing generates ethical issues common to employment situations. Unfortunately, legislation does not resolve all of the ethical concerns.

Ethics have confounded great philosophers for many centuries. The Internet Encyclopedia of Philosophy (2002, ¶ 1) defines ethics as:

> *Ethics, also called moral philosophy, involves systematizing, defending, and recommending concepts of right and wrong behavior. Philosophers today usually divide ethical theories into three general subject areas: metaethics, normative ethics, and applied ethics. Metaethics investigates where our ethical principles come from, and what they mean. Are they merely social*

inventions? Do they involve more than expressions of our individual

emotions? Metaethical answers to these questions focus on the issues of

universal truths, the will of God, the role of reason in ethical judgments,

and the meaning of ethical terms themselves. Normative ethics involves a

more practical task, which is to arrive at moral standards that regulate

right and wrong conduct. Should I borrow my roommate's car without first

asking him? Should I steal food to support my starving family? Ideally,

these moral questions could be immediately answered by consulting the

moral guidelines provided by normative theories. Finally, applied ethics

involves examining specific controversial issues, such as abortion,

infanticide, animal rights, environmental concerns, homosexuality, capital

punishment, or nuclear war. By using the conceptual tools of metaethics

and normative ethics, discussions in applied ethics try to resolve these

controversial issues. The lines of distinction between metaethics, normative

ethics, and applied ethics are often blurry. For example, the issue of

abortion is an applied ethical topic since it involves a specific type of

controversial behavior. But it also depends on more general normative

principles, such as the right of self-rule and the right to life, which are

litmus tests for determining the morality of that procedure. The issue also

rests on metaethical issues such as, "where do rights come from?" and

"what kind of beings have rights?

While this philosophy is helpful in developing standards or ethical codes, it is not as useful to health and safety providers as they deal with the frustrating day-to-day challenges. In evaluating occupational health and safety ethics, Rogers (1994) recommends utilizing the basic principles of ethics described by Beauchamp & Childress, 1988. Table 3.1 outlines these basic ethical principles.

Edgar (2002) applied the Institute for Global Ethics Ethical (IGE) Fitness Model to the practice of occupational health ethics. He recommended utilizing Kidder's IGE's Checkpoints for Ethical Decision-Making, as illustrated in Table 3.2.

The four paradigms listed in the checkpoints are similar to the ethical principles used by Dr. Rogers (2000). The four paradigms for ethical decision-making are identified in Table 3.3.

Regardless of the process used for ethical decision-making, the occupational health and safety professional needs to be able to recognize and resolve ethical dilemmas in the workplace. This is true for the staffing industry as well. A code of ethics provides a basis for decision-making and should be succinct, workable, and measurable (Edgar, 2002). The American Staffing Association has developed a code as it applies to the placement of temporary workers.

Table 3.1

Ethical Principles Facing Occupational and Environmental Health Nurses (OEHNs)	
Autonomy:	The right to self-determination: a form of personal liberty
Nonmaleficence:	The duty to do no harm
Beneficence:	Actions that contribute to the welfare of other
Justice:	Fairness or giving persons what is due to them

(Rogers, 1994)

Table 3.2

Checkpoints for Ethical Decision Making
1. Determine the moral issue.
2. Determine the actor.
3. Get the facts.
4. Determine if the moral issue is right versus wrong.
5. Test for right versus wrong by assigning one of the four dilemma paradigms.
6. Apply resolution principles: Ends based, rules based or care based.
7. Identify if a trilemma or third option exists.
9. Reflect on the decision.

Edgar (2002)

Table 3.3

Ethical Decision Making Paradigm	
1. Truth versus loyalty:	Disclosure versus confidentiality.
2. Justice versus mercy:	Fairness versus compassion.
3. Short term versus long term:	Immediate individual needs versus conservation for future needs.
4. Individual versus community:	Autonomy versus collective rights of larger community.

Edgar (2002): (Adapted from Kidder)

Staffing Code of Ethics

The American Staffing Association requests voluntary compliance with a code of ethics as a condition of membership. The Code asks members to strive to comply with the following:

- Comply with the laws and regulations and maintain the standards of highest ethical conduct;

- Treat all applicants and employees with dignity and respect, provide equal employment opportunity based on bona fide job qualifications, without respect to race, color, religion, national origin, sex, age, or disability;

- Maintain the highest standard of integrity in all advertising;

- Determine the qualifications of the applicant as the staffing firm deems appropriate or as may be required by law;

- Explain to employees their wage rate, benefits, and hours of work prior to assignment;

- Satisfy all applicable employer obligations; social security, state and federal unemployment, and worker compensation;

- Determine that employees are assigned to worksites that are safe, that they understand the nature of the work without injury to themselves or others, and that they receive any safety training that may be necessary or required; and

- Take prompt action to address employee questions, concerns or complaints (American Staffing Association, 2003b).

Certainly, this is a noble beginning to expectations for temporary agencies, and for other companies who wish to comply with the Code of Ethics.

Occupational Health Nursing Code of Ethics

The American Association of Occupational Health Nurses has developed a Code of Ethics (American Association of Occupational Health Nurses, 1998), and this document also applies to the temporary staffing arena.

American Association of Occupational Health Nurses

Code of Ethics

1. Occupational and environmental health nurses provide healthcare in the work environment with regard for human dignity and client rights, unrestricted by considerations of social or economic status, personal attributes, or the nature of the health status.

2. Occupational and environmental health nurses promote collaboration with other health professionals and community health agencies in order to meet the health needs of the workforce.

3. Occupational and environmental health nurses strive to safeguard employees' rights to privacy by protecting confidential information and releasing information only upon written consent of the employee or as required or permitted by law.

4. Occupational and environmental health nurses strive to provide quality care and to safeguard clients from unethical and illegal actions.

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5. Occupational and environmental health nurses, licensed to provide health care services, accept obligations to society as professional and responsible members of the community.

6. Occupational and environmental health nurses maintain individual competence in health nursing practice, based on scientific knowledge, and recognize and accept responsibility for individual judgments and actions, while complying with appropriate laws and regulations (local, state, and federal) that impact the delivery of occupational and environmental health services.

7. Occupational and environmental health nurses participate, as appropriate, in activities such as research that contribute to the ongoing development of the profession's body of knowledge while protecting the rights of subjects.

An interpretive statement of the first code defines the responsibility of the nurse to regard temporary workers the same as permanent workers: "The OEHN is dedicated to the promotion, protection and preservation of the life and health of every client (American Association of Occupational Health Nurses, 1998). The OEHN should ask questions such as:

- How are temporary worker injuries being classified?

- How are the injuries and illness of temporary workers being counted?

- What systems are in place to be certain this is being accomplished?

- Who provides the safety training and what training is being provided?

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- Is there a difference in the safety training for temporary worker and
  permanent workers?

- Are the needs of the younger and aging worker being met and is any
  special consideration being provided for the different needs of these age
  groups?

- How can the OEHN impact the lack of health insurance and benefits for
  the temporary worker?

When these questions are addressed the OEHN should have a response, a
solution, and a plan of action in place.

Classification of Contingent Workers

The Bureau of Labor Statistics (2002) identified four alternative
employment classifications for contingent workers: independent contractors,
workers who are on call, temporary agency workers, and contract company
workers.

In 1997 approximately 12.6 million or 10% of the workforce were classified
into one of these four alternative employment arrangements. By far the largest is
the independent contractor with 8.5 million workers, followed by on-call workers
with 2 million, temporary help agency workers with 1.3 million, and lastly the
contract company employees with 800,000 workers. The number of workers in the
contingent workforce increased by approximately 3% between 1995 and 1997. The
majority of the temporary help agency workers were employed as clerical workers
and machine operators, with many working full-time and 25% staying on their

current assignment for more than a year. One third of the temporary workers preferred their current arrangement to a traditional job (Cohany, 1998).

While the BLS has collected significant data on temporary workers, the injury and illness data continues to be identified through the worksite rather than the work status, making it difficult to determine how many of the injured were temporary workers. The BLS continues to investigate ways to better classify contingent workers. When a consistent method of identifying and recording temporary workers' injuries and illnesses is determined, their health and safety risks will be recognized and quantified.

Temporary Worker Safety

Temporary workers employed through agencies are covered by OSHA's recordkeeping standard and workers' compensation as it relates to workplace injuries. The most vulnerable group is the true contract worker who is self-employed. This is best illustrated when 23 independent contract workers were killed and another 232 were injured in a massive explosion at Phillips 66 Chemical plant in 1989. A subsequent OSHA study revealed that the contract workers experienced a higher accident rate than did permanent workers for several reasons:

- They are more likely to be engaged in high risk maintenance and renovation;
- They are less experienced at the workplace;
- They receive less safety training; and

- The training they receive is less effective in reducing injuries (Barker &

   Christensen, 1998).

A significant ethical issue for contingent or temporary workers is whether or not they are hired for more hazardous jobs than other full-time workers and what has been done to minimize that risk.

Temporary Worker Training and Surveillance

OSHA states that the host location is responsible for providing the safety training of the temporary worker, as is illustrated in the Hazard Communication Standard. OSHA has provided grant opportunities for companies to develop training programs for temporary workers. OSHA Administrator Charles N. Jeffress (2000, ¶ 3) stated,

> *One of my top priorities has been the expansion of OSHA's outreach and*
>
> *education capabilities. These grants enable us to work with many partners*
>
> *to greatly increase the number of workers the agency can reach, especially*
>
> *those workers most in need of training and education to protect themselves*
>
> *against safety and health hazards on the job.*

OSHA permits safety training to be completed through alternative arrangements with temporary worker agencies. The host location and the temporary worker company can decide contractually who will provide and document the training. Ultimately the host employer is responsible for ensuring that the training and surveillance have been completed. However, the host location will need to have

copies or access to the training materials and documentation if it is provided at an alternative location.

Some construction contractors have implemented a program called Safe to Work. This program provides workers with a swipe card to record safety programs they have taken. In addition, the workers have stickers on their hard hats identifying the safety modules that they have completed. Workers have to meet the scheduled safety program requirements to continue working at the site or with contractors who use this type of training.

Younger Temporary Worker at Increase Risk

The BLS indicates 25% of the temporary workforce is less than 25 years of age (Polivka, 1996a). In 1995, NIOSH issued an alert stating, "each year approximately 70 adolescents die from work related injuries and hundreds more are hospitalized and tens of thousands require emergency room treatment" (NIOSH, 1995, p. 11). The risk of work injuries is higher for adolescents than adults due to their general lack of work experience, inability to judge and organize work, lack of training and supervision, variability in growth and development, and inconsistency in health and risk behaviors (Brezler, 1999). The younger workers are often ill prepared for their assignments resulting in increased numbers of injuries. NIOSH estimates that nearly 64,000 adolescents required treatment in hospital emergency room for work-related injuries in 1992 (NIOSH, 1995).

In spite of this knowledge, adolescent injuries continue to occur. In 2000 the number of injuries for workers under age 25 was 241,043. The number of deaths for

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workers under age 25 was 10% of the total number of worker deaths for 2000 or 591 (Higgins, et al. 2002). This is a significant ethical concern, as the problem has been identified but the recommendations are ineffective.

Medical Insurance and Benefits

One of the greatest travesties of our time is that an estimated 18,314 people die in the U.S. each year because they lack preventive health care and receive an untimely diagnosis or inappropriate care (Sternberg, 2002). This often occurs because people do not have health insurance. The Institute of Medicine completed the second in a planned series of six reports examining the impact of the nation's fragmented health system. Among the study's findings is a comparison of the uninsured with the insured:

- Uninsured people with colon or breast cancer face a 50% higher risk of death;

- Uninsured trauma victims are less likely to be admitted to the hospital and receive the full range of needed services and are 37% more likely to die of their injuries; and

- About 25% of adult diabetics without insurance for a year or more went without a checkup for two years increasing their risk of death, blindness, and amputations (Institute of Medicine, 2000).

The contingent workforce is among the highest of the uninsured population. *Depending on the source the percentage of contingent workers who had health insurance from any source places only 31% of the contingent*

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workers with health insurance coverage received at work compared with

66% of workers in non-contingent jobs (Barker & Christensen, 1998, p. 51).

The OEHN is ethically accountable to work with the community health agencies and other health professionals to assist the workforce in meeting their health needs (American Association of Occupational Health Nurses, 1998). The workers will need assistance in identifying available resources in the community who will help identify available health insurance alternatives.

Chapter 4   The Role Of the Occupational and Environmental Health Nurse

Occupational and environmental health nursing is the specialty practice that

focuses on the promotion, prevention, and restoration of health within the context

of a safe and healthy work environment. It is a research-based, autonomous

specialty emphasizing reduction of health hazards, prevention of injury, and

independent nursing judgments in providing health care and other occupational

health services (Rogers, 1994). It includes the prevention of adverse health effects

from occupational and environmental hazards. The occupational and

environmental health nurse provides for and implements occupational and

environmental health and safety programs for workers, worker populations, and

community groups.

Occupational Health Nursing History

The relationship of injury and illness to work has been studied since the

time of Ramazzini in the 1700's. Occupational health nursing was first reported in

the United States in 1888 when a group of coal mining companies hired Betty

Moulder, a graduate of Philadelphia's Blockley Hospital School of Nursing, to care

for ailing miners and their families (American Association of Industrial Nurses,

1976). The first community to provide an organized industrial nursing effort was

Boston, MA when an industrial nurse registry was established in 1913. This may

have been the first effort of temporary nurse staffing in occupational health. The

Boston Industrial Nurses Club was initiated four years later. By 1918 more than

1,200 nurses were employed by 871 businesses. Industrial nursing continued to

grow, and during the 1920's several colleges and universities offered short courses

in industrial hygiene in which nurses could participate. During the 1930's nearly

3,200 nurses were employed in the industrial setting and provided emergency care,

follow-up, and home visits for ill and injured workers (Institute of Medicine, 2000).

The 1940's brought the creation of the American Association of Industrial

Nurses (American Association of Industrial Nurses, 1976). The purpose was to

improve industrial nursing practice and education, increase interdisciplinary

collaboration, and act as the professional voice for industrial health nurses. By the

1970's there were many changing roles and educational opportunities for nurses.

Many of the three-year "diploma" nursing programs were being replaced by either

four-year baccalaureate degree nursing programs or two-year associate degree

nursing programs. During this same time the OSH Act provided new awareness to

the manufacturing industry of the need for nurses. NIOSH provided educational

funding in academic settings to better prepare OEHNs at the graduate level. In

1977, AAIN adopted the name American Association of Occupational Health

Nurses (AAOHN) and replaced "industrial nurse" with occupational health nurse.

The expansion of the occupational health nursing role in the 1980's included more

involvement with health promotion, management and policy development, cost

containment, research, and regulatory issues affecting practice (Rogers, 1994).

OEHN Expertise Leading the Direction for Change

The OEHN is perfectly positioned to effect change for the temporary

worker. The OEHN is one of the few players who will see both permanent and

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temporary workers who present with an injury either at work or in the hospital

clinic. The OEHN will function as the worksite assessment specialist or the case

manager.

As the year 2010 approaches there are predictions of change in the

workforce demographics. Continued growth is expected, although slower than

during the past decade (Institute of Medicine, 2000). The labor force will be drawn

from a smaller birth cohort than in previous decades as the birthrate decreased when

new forms of birth control were introduced in the 1960's and 1970's. An expected

24 million more jobs may be added between 1998 and 2010 (Barker & Christensen,

1998), particularly in computer data processing and personnel supply firms.

Personnel supply numbers or staffing agency placements are expected to more than

double during the next decade (Bercham, 2002). Health service is expected to grow

by 1.8 million jobs (Barker & Christensen, 1998). Bowman (1999) predicts

significant changes in the demographic composition of the labor force. Male worker

rates will remain essentially unchanged, while female rates will continue to

increase. By 2008 the workforce will approach an average age of 41 years, a level

not seen in several decades.

Immigration will continue to play a major role in the growth of the U.S.

labor force. The Hispanic labor force will expand nearly four times faster than the

rest of the labor force, accounting for 12.7% of the labor force in 2008 compared

with 10.4% in 1998 (Bowman, 1999). Computer and health related careers could

dominate the list of fast growing jobs. As changes occur in the pattern of

employment, there will also be changes in educational requirements. Occupations requiring an associates degree or higher accounted for 25% of all jobs in 1998 and will account for 40% of job growth in 2008. Unfortunately, the jobs requiring no education or training beyond high school will grow by 57% (Carré, et al., 2000). Historically, this group tends to be staffed by temporary staffing companies. Occupational and environmental health nurses must prepare themselves to meet the needs of the temporary worker population using the managerial functions of planning, organizing, leading, controlling, and evaluating.

Planning

It is important to set aside time to plan as a means to prepare for change (Haney & Amann, 2001). The OEHN can be the driver of change through appropriate planning and forecasting. One of the projected needs is planning for the increase of temporary workers in the workplace, both nationally and globally.

In planning for future educational needs, OEHNs should be able to communicate in other languages, such as Spanish. However, other languages should be considered based on the local community demographics. Multilingual hazard communication education and training will need to be addressed.

As the globalization of trade continues to expand, OEHNs must understand its impact on workers and the work organization. This may include wholesale translocations of business to Mexico or Central America, competition driven changes in performance efficiency that may involve greater automation, changed work processes, greater stressors, and new employment arrangements.

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Consequently, OEHNs need to be aware of the stressors of fear, possible job loss, or relocation faced by full-time and temporary workers. Different countries may have different health and safety standards and have different safety recordkeeping requirements. The countries may vary in how they enforce the safety regulations.

Resources are available to research information needed for foreign locations. The Centre for International Safety (CIS), a division of the International Labour Office (ILO), was established to collect all relevant information about occupational safety and health (OSH) being published around the world, whatever the format and language. CIS is a worldwide service dedicated to the collection and dissemination of information on the prevention of occupational injuries and illnesses. It is assisted by more than 120 national institutions around the world dealing with OSH matters in their own countries (International Occupational Safety and Health Information Centre, 2002).

Organizing

Webster's Dictionary (n.d.) defines organizing as:

- Forming into a coherent unity or functioning whole;
- Arranging elements into a whole of interdependent parts; and
- Arranging by systematic planning and united effort.

This is truly the essence of the OEHN manager's role in establishing an effective occupational health department. The OEHN needs to merge the occupational health department into one united force. Dr. Rogers (1994) describes organization as a formal structure that provides for the coordination of resources to

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accomplish the objectives and determine position qualifications and descriptions. While planning is the key to effective management, the organizational structure provides the formal framework for getting the job done.

Peters & Waterman, (1982) evaluated companies searching for common characteristics of best practices. Many of the same characteristics apply today. They found that the excellent companies were brilliant at performing the basics that are summarized in eight attributes of excellence:

1. A bias for action: try a lot of new things and keep what works;

2. Close to the customer: listen and learn regularly and intently from the customer;

3. Autonomy and entrepreneurship: encourage creativity even if it causes mistakes;

4. Productivity through people: respect and involve individuals in their work;

5. Hands-on, value driven: emphasize a practical drive for achievement;

6. Stick to the knitting: do what you know best;

7. Simple form, lean staff: keep a simple and lean organizational structure; and

8. Loose-tight properties: balance control with freedom, while maintaining values.

Regardless of the organizational philosophy, the OEHN needs to have clearly defined roles for the occupational health department. The organization needs to have a vision, goals, teamwork, and structure, followed by standards and accountability, and recognition and rewards. This framework will help to guarantee

effectiveness. The staff, whether permanent or temporary, will be positively affected by the department's organization.

Leading

In order to accomplish the organizational goals, the OEHN manager must apply leadership skills and facilitate the work of the staff efficiently and effectively (Rogers, 1994). Nursing leadership cannot be accomplished in a vacuum. To manage changes that are occurring in health care, professionals need to become involved in politics and policy development. Professional nursing organizations such as AAOHN provide opportunities to become involved in creating as well as managing change.

To effectively lead, the OEHN needs to understand leadership skills. Leadership is based on respect for those who have come before and understanding that true growth builds on existing strengths within either the work or professional organization.

Many different leadership styles have been studied, including the two main styles of Theory X and Theory Y. Theory X is basically a negative approach to leadership in that most workers are presumed to be unhappy, lazy, and need direct supervision. The assumption is that workers will avoid work whenever possible and must be forced to complete the assigned work. Theory Y assumes that workers like their jobs and accept the goals of the organization. Theory Y also states that workers are self-motivated and require very little supervision. Certainly this is a very simplistic approach to leadership and most workers fall somewhere in the

middle of the continuum between X and Y. The key to good leadership skills is applying different approaches for different workers. The urgency of the task at hand will also influence the leadership style used. Most leaders need to have a solid foundation for leading, a vision, and a process for bringing the vision to fruition. While there are many leadership styles, the ones that will qualify as "best practice" have to be individualized to fit within the organization's culture and accomplish the vision. The process may need to be adapted to meet the needs of either the permanent or temporary workforce.

Controlling

For the OEHN to be successful at controlling the work environment, there must be standards of operational procedures. Once standards are set, a measurement tool must be established as a basis of comparison. Human behavior and modification of the behavior may not be within the control of the OEHN. However, by controlling the system, one can influence worker performance through management systems and leadership behavior. According to Riboldi (2001), control of the workplace can be achieved through the following six steps:

1. Set a challenging measurable target;

2. Share the purpose behind the actions;

3. Conduct a thorough assessment of the situation;

4. Involve everyone affected in finding a solution;

5. Support people in the process; and

6. Follow up on progress regularly.

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This set of six steps can be utilized to control the work environment for a workplace staffed with either permanent or temporary workers.

Evaluating

Evaluation of a program or process is a fundamental component in the occupational health role. Many companies today have adopted some form of continuous quality improvement as part of the evaluation method. There are many different processes that have been developed in the past 30 years. Evaluation is an essential component in any health and safety program. Kirkpatrick recommends four crucial components of program evaluation:

- Qualitative: utilizing surveys either electronic, telephonic, or one on one;

- Quantitative: data/outcomes measurement, actual cost of the service, do the numbers reflect what was promised;

- Performance: have the goals been met, timely completion;

- Results: cost effectiveness; were outcomes as expected, better than expected, worse than expected (Worthen, et al., 1997).

Evaluation in the occupational health nursing setting includes making a determination about desired outcomes to be met. The outcomes need to encompass both the permanent and the temporary worker.

OEHN as the Host Employer

Whether the OEHN is the host employer to occupational health nursing staff or to other temporary workers, the structure of the occupational health department will need to change to accommodate the future workforce projections.

The Institute of Medicine (2000) reports companies consisting of fewer than 100 workers now employ the majority of workers in the U.S. Small companies have shown the largest growth in employment during the last decade and this growth is expected to continue. It is anticipated that more work will be contracted, outsourced, or achieved on a part-time basis in the future. Substantial numbers of workers may hold more than one job and many will work from home. The occupational health world is projected to be dramatically different than the work world of the past. The numbers of workers represented by unions have decreased by half in the past 20 years.

The role of the OEHN needs to change to embrace greater interaction with the temporary worker. The OEHN may be responsible for evaluating and monitoring the temporary workforce working in both the health department and other areas of the company. Is the worker working more than one job? If so, what other workplace exposures, safety protection, and training are experienced by the worker at other worksites? The OEHN will need to be vigilant in maintaining the surveillance records for the full-time and temporary workers. Safety training and OSHA required training might need to be done in an electronic format. Most electronic safety training programs provide rapid access to reports on who, what, where, and when safety training programs have been completed. It is essential the OEHN monitor the temporary worker agency if they have accepted the responsibility for training.

Knowing is not enough: we must apply

Willing is not enough: we must do (Goethe, 2002, ¶ 3).

As the manager, the OEHN should be involved with the vendor selection process. Whether or not the vendor relationship is part of the health department, it is essential that the OEHN be at the table during initial assessment of the vendor and bid process and to provide input about health and safety components needed at the location. The OEHN can facilitate the discussion as to who will be responsible for safety, health, training, recordkeeping, and OSHA compliance process. If a temporary worker has a recordable injury and has been supervised by the company/customer supervisor, the injury is recorded on the OSHA 300 log. The OEHN can be instrumental in insuring all parties have the same interest in providing training, surveillance, keeping the worker safe, and if an injury does occur, returning the worker to work in a timely manner.

OEHN as the Temporary Employer Representative

Temporary staffing companies do not generally employ an OEHN to ensure the health and safety of the temporary workers. Some of the staffing companies have a safety professional to assist with health and safety issues once a high numbers of injuries have occurred. Unfortunately, the safety professional is rarely included in the initial contract phase of the staffing agreement and generally the OEHN is not included in the contract process. As a result, many of the concerns surrounding health, safety, and training of temporary workers go unnoticed. The temporary worker population often falls through the cracks of safety, wellness, case management, and the opportunity for a timely return to work. Many of these

workers do not have health insurance and may utilize workers' compensation as the only resource they have to obtain needed health care. Often the workers are paid at minimum wage and cannot afford the health insurance or health care. The OEHN could assist with identifying low cost health resources that may be available to the worker and the worker's family. In addition, the OEHN as a temporary worker representative could assess the worksite prior to worker placement to evaluate worker safety, training, personal protective equipment (PPE), and other regulatory requirements.

OEHN as a Temporary Worker

As the nursing shortage continues to escalate, nursing may become one of the exploding workforces in the temporary work environment. A major contributing reason for this upsurge is the ability to attract higher wages while working as a contingent or travel nurse.

The nursing workforce has long been neglected from an occupational health and safety perspective. It is challenging to project what the impact of the increased shortage of nurses, temporary work, and travel nurse positions will have on health and safety of the nursing workforce. One can only assume the nurses will have to become more knowledgeable about the work environment and become their own advocates for health and safety in the workplace.

The OEHN as a temporary worker experiences many rewards as well as many challenges. The position is rewarding in that temporary staffing often offers the OEHN an opportunity to obtain experience in this nursing specialty. The nurse

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inexperienced in occupational health needs to find a temporary nurse staffing agency that will provide training and mentorship for any occupational health position. A few select occupational health nursing temporary agencies will provide career path opportunities as well. In the role of a temporary employee, the OEHN has an opportunity to work at a variety of industries to help determine which would best fit personal career goals and often lead to full-time. Temporary nurse staffing can often lead to a full-time permanent position. The temporary OEHN may enjoy the flexibility offered by the temporary arrangement and may wish to continue in that setting.

Challenges also exist for the temporary OEHN. As a temporary OEHN, the nurse may encounter reluctant acceptance from the permanent staff based on prior experiences with inexperienced temporary staffing OEHNs. The temporary OEHN may find she/he is held to a higher accountability level than the full-time staff, or asked to complete a record or a task that is beyond her/his comfort level or experience, or outside the scope of nursing practice. These situations can be dilemmas, as the temporary nurse may fear not being asked back if she/he does not comply. For example, three nurses were working together: two nurses were employed through a staffing agency and one was a permanent employee at a manufacturing location. The permanent occupational health nurse was a brittle diabetic and insisted the two agency nurses provide medical treatment outside of their scope of practice. The agency nurses were prescribing intravenous glucose, regulating insulin dosage, hiding the treatment from the on site physician, and

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covering for inappropriate decisions related to worker care. The nurses provided

treatment on more than one occasion. This action eventually resulted in the

termination of the two agency nurses, notification of the State Board of Nursing,

and a restricted nursing license for 12 months. The two agency nurses reported that

they complied with the full-time nurse's request as they feared for their job. An

alternative approach should have been reporting the request to the staffing agency

for appropriate intervention. The permanent nurse was disciplined and continued in

employment with no compromise of nursing license.

The temporary OEHN can be subject to violence or sexual harassment issues as

can full-time personnel. If this occurs the temporary nurse has the same rights

within the temporary staffing company as any full-time worker and should report

the harassment for the appropriate resolution to occur. The customer where the

nurses are placed are generally very willing to address any of the aforementioned

concerns once it is brought to their attention. As with any nursing position the

temporary OEHN needs to be knowledgeable about:

- The nurse practice act within the state of practice;

- What standing orders are physician approved and signed;

- What recourse is available if asked to complete a task outside the scope of
  practice; and

- Where to find support if harassment occurs.

The OEHN needs to understand state as well as federal employment regulations to

practice nursing appropriately within the work environment.

Chapter 5   Conclusion

Temporary staffing is and will continue to be an increasing segment of the work environment. The staffing industry is growing at an unprecedented rate around the world. Individuals who choose to work in temporary staffing often prefer to fit work into their life rather than living for work. Temporary workers can be male or female, young or old, English speaking or non-English speaking. Many choose the temporary staffing avenue as an opportunity to be hired by the customer where they are placed. What is not known is how closely the temporary or contingent workforce is screened for health and safety surveillance, safety training, and monitoring of the workplace.

The workforce trend is moving towards short-term relationships between employer and employee. This exists not only in the United States but globally as well. The change in employment will continue to place more responsibility on the worker to secure health insurance, prepare for retirement, and understand health and safety in the workplace. Not all workers are prepared to accept this responsibility. The legislature and OSHA have done an admirable job of improving the health and safety of workers. However, there needs to be an increase in academically prepared occupational health and safety professionals. Are there international standards for health and safety of temporary workers? How do the international standards meet or exceed the standards in the United States? What standards will be needed to ensure the health and safety of temporary workforce internationally?

The OEHN can be instrumental in collaborating with the professional organization and using political activism to change the current method by which BLS gathers statistics about the temporary workforce. For example, one estimate of temporary workers was 2.1 million (Bureau of Labor Statistics, 2002); the same year another BLS (2002) report stated there were 1.3 million temporary workers.

Another opportunity for the OEHN to be the driver of change and developer of best practices is through changing the system of identifying temporary worker injuries in the workplace. Once temporary workers are no longer grouped with full-time workers on the OSHA 300 log, a more accurate count of temporary worker deaths, injuries and illness can be determined.

The OEHN has the opportunity to lead her/his company in ethical decision making insuring that temporary workers are not placed in the most hazardous jobs. This can be accomplished by working with management and the staffing company from the onset of the vendor selection process through integration of the temporary workforce into the company environment.

One of the best practices in occupational health is emulating customer/employer safety training so that the temporary workers and full-time workers who are operating side by side have the same training. In addition to complying with OSHA, the emulated training provides a comfort level to all workers if they have the same preparation to safely perform their job. The OEHN can be instrumental in providing the training information to the temporary placement company and ensuring their compliance.

Teens and young adult workers have an increased risk for death and injury. The OEHN can implement best practice guidelines by utilizing NIOSH recommendations. This will provide greater protection of the younger workforce at the company location for both permanent and temporary workers.

The OEHN can further develop best practices by provide assistance to the uninsured temporary worker by identifying local, state, and federal resources for improved health care. This will not only help the temporary worker but also reduce the potential misuse of the workers' compensation system by the uninsured worker.

Another essential tool for accomplishing best practices is for the OEHN to learn a second language prevalent in the community. How reassuring it would be to the temporary or full-time worker to be able to discuss health concerns or injuries in her/his native language.

It is of utmost importance for the OEHN to be aware of the company's global efforts in making recommendations for health and safety. The OEHN needs to be at the table so that direction can be provided for managing the offshore location, documenting injuries on a recordkeeping system, insuring safe food and water through the cafeteria, and providing housing free of hazards.

The OEHN is positioned to lead the protection of all health care personnel. The temporary health care worker is increasing in numbers and will require great vigilance by the hospital OEHN to ensure all temporary workers comply with all OSHA and Joint Commission of Accreditation of Health care Organizations

(JCAHO) requirements. By insuring compliance, the permanent worker, temporary worker, and patient population will be healthy and safe in the hospital environment.

Additional research is needed to determine if the temporary workers are appropriately trained in safety and health. Does the host company provide surveillance required by OSHA? How can improvements be made in the recordkeeping system for counting temporary worker illness and injury? Programs need to be developed to address how the safety, surveillance, and training could best be provided to the temporary worker population. The OEHN is perfectly positioned to lead the research and development of best practices where none exist, and to plan, organize, implement, and evaluate change for the temporary workforce in all venues.

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