Over the last six years Mike Piper reported several accidents at the paper mill where he works, but most of them were not serious enough to require first aid. So Piper, president of Local 880 in West Groton, Mass., was stunned when his employer, specialty paper maker Hollingsworth & Vose, issued warnings to him and 16 other employees that threatened them with termination if they got hurt again.

“It’s easier to blame the workers than to try and fix the problems,” said Piper, who recalls being cut by a knife, burned on an industrial dryer and shocked by a static electric charge from a fly roll that had a cracked Teflon cover.

Michele Kardon, who works in the beater room where paper making ingredients are mixed, was disciplined after she was hurt stepping in an uncovered hole in the floor. Four other accidents she reported were related to equipment problems.

“I’m ridiculous,” she said.

Injury discipline policies like those Piper and his co-workers faced are not new, but are increasingly popular among employers who are looking for ways to hold down injury and illness statistics. They are the ugly twin of “safety incentive” programs that offer rewards to workers when they do not report injuries on the job.

Fear and intimidation

“Employers are using the iron fist,” said USW safety and health specialist Steve Sallman. “It’s basically fear and intimidation. People fear heavy discipline up to being fired, so people are not reporting injuries or illnesses for fear of disciplinary action. This is creating a false sense that the workplace is now safer … when that is not the reality.”

In Piper’s case, the company’s action came about a year after the local union suggested a proactive approach to curb rising injury rates: “The company basically told us to stuff it,” Piper said. “And so things began to deteriorate.”

With the assistance of Nancy Lessin, a USW health and safety expert based in New England, local members beat back the company’s negative approach using federal Occupational Safety and Health Administration (OSHA) standards as tools.

A provision in OSHA’s record keeping standard (29 CFR 1904.36) reminds employers that Section 11(c) of the Occupational Safety and Health Act prohibits them from discriminating against workers for exercising their rights.

The same provision also makes clear that reporting a work-related injury or illness is a protected right under OSHA. That means those employers who issue verbal or written warnings, discharge or threaten to discharge workers for reporting work-related injuries or illnesses are in violation of the Act.

Individual complaints filed

Roughly half of the 17 disciplined workers at Hollingsworth & Vose filed individual complaints with OSHA about the threatened retaliation. After being contacted by OSHA, the company agreed to halt the injury discipline policy and withdrew the warnings.

This tool is available to unions if their employers are covered by OSHA. While the charge can be difficult to prosecute, Lessin said just letting an employer know that the union is assisting its members in filing OSHA 11(c) cases has deterred employers.

Even though Hollingsworth & Vose backed off the disciplinary program, the intimidation had an impact, employees said. Many of those who declined to file were apparently worried about retaliation from the company.

Managers “did their job by scaring people,” Kardon said. “If it is the point where no one wants to report anything, which is going to make it worse.”

“When even they backed off, they didn’t apologize,” said Clayton Woodward, a maintenance worker whose list of reported injuries included burning his arm on an unprotected steam pipe and bumping his head on an exposed angle iron. “They still say it’s our fault.”

Those filing complaints also included an electrician who slipped and fell in the company parking lot because of snow and ice while answering a middle of the night call to fix a problem.

“They told him he needed to walk more carefully or choose a better parking spot. It was a company lot,” Piper said. “We’ve complained about snow removal for years and years and people are still falling down.”

Not the only company

In all industries the relentless drive to increase productivity can create conditions that increase the risk of workplace injury and illnesses.

Workers in general are putting in longer workdays and working understaffed and with heavier workloads as management combines jobs and intensifies work.

Rotating shifts and 12-hour workdays that are sometimes made longer by mandatory overtime are becoming more commonplace. Preventative maintenance is not always timely and is sometimes the exception instead of the rule.

“When employers downsize, when they are understaffed, when they push production, when they have people work extended hours — all of these things contribute to negative health and safety effects,” Lessin said. “Injury rates go up.”

As injury rates rise, employers have begun figuring out how to hide the injuries rather than make the workplace safer for employees.

One of the ways this is done is through injury discipline policies like the one introduced at Hollingsworth & Vose. There are also safety incentive programs that provide prizes and rewards to workers when they do not report injuries.

Employers benefit when they continue to blame workers for accidents and instigate “safety incentive” and productivity programs to persuade workers not to report their injuries. Here’s how:

• The fewer injuries and illnesses that workers report, the lower the number of “OSHA recordables” that must be entered on a company’s OSHA 300 log of work site injuries and illnesses. The lower the injury rate on a firm’s log, the lower the chance that the employer will be targeted by OSHA for an inspection.

• When workers don’t report injuries and illnesses as work related, they also may not file workers’ compensation claims. This in turn can reduce an employer’s workers compensation costs.

Workers, workplaces suffer

While employers can escape OSHA scrutiny and save money, workers and their workplaces suffer. Here are some of the ways:

• When workers are discouraged from reporting work-related injuries and illnesses, they may not receive early diagnostic scrutiny and treatment for ailments, as well as the compensation they deserve.

• When job injuries and illnesses are not reported, the work site hazards that caused them are not identified and targeted for elimination or correction. Hazards that are not eliminated or reduced will go on to hurt or maim other workers.

Protecting Your Rights

In many cases, the grievance procedure is an available avenue to fight injury discipline policies. Members can both file a grievance and pursue a complaint with OSHA.

Unions covered by the National Labor Relations Act (NLRA) or state labor law that tracks the NLRA can also request to bargain over a new or changed injury discipline policy. The NLRA prohibits employers from making unilateral changes in mandatory subjects of bargaining without notifying the union and providing an opportunity to bargain.

Health and safety discipline are both mandatory subjects of bargaining.

Help is available from the USW’s Health, Safety and Environment Department at 1-800-562-2581 or online at safety@usw.org.

If you go the OSHA route, the 11(c) complaints must be filed within 30 days of the adverse action. Complaints can be made in a brief letter as there is no federal form available.

Local unions can assist members in writing and filing OSHA 11(c) complaints. The local may consider information in the letter that the union will be assisting members in submitting complaints for each discriminatory act.

Call 1-888-261-OSHA for the closest OSHA office. It is always best to file OSHA complaints by certified mail with return receipt requested. That way you will have a record that the complaint was received.

Karen Blood and Michael Piper

Photo by Scott LaPrade