

## OSHA Injury & Illness Recording of Intoxicated Employee Injury

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A recent OSHA Interpretation indicates that a workplace injury an employee sustains when he/she is intoxicated must be recorded on the company's OSHA Injury and Illness Log.

OSHA stated that the exception for recording of an employee workplace injury when it results from "self-medication" does not apply.

OSHA stated that: "The intake of alcohol does not treat the disorder of alcoholism. Instead, drinking alcohol is a manifestation of the disorder."

Among other things, this could have an effect on a worker compensation claim and thus the employer's worker compensation insurance rates.

It should be noted that the question addressed is different than whether an employer could be responsible for a violation of OSHA standards based on the employee's conduct.

An "employee misconduct defense" could be asserted in response to any alleged violation caused by the employee's intoxication if the employer could establish that it had a rule against alcohol consumption during work/being under the influence, and that the employer effectively enforced it.

If you have any questions, please contact any other Miller Canfield attorney.

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