

Interoffice Communication

RECEIVED
OCT 19 1979

To R. E. Lehmkuhl - Houston
From Robert L. Lembke, M.D. - Ponca City
Date October 17, 1979
Subject GUIDELINES FOR EMPLOYMENT IN CHEMICAL PLANTS

After receiving your interoffice communication on the above subject dated August 27, 1979, I read it carefully and then circulated it to the other physicians and industrial hygienists in the Medical Division for their information and for any comments which they might like to make regarding its contents. Just yesterday, the interoffice communication was returned to me because in the interim many of the physicians and industrial hygienists were away from the office on company business.

All of us concur that the guidelines as set forth by you are appropriate and none of us disapprove of any statements which you have made.

Robert L. Lembke

Robert L. Lembke, M.D.
Medical Director

jr
cc:
R. W. Gerwig, Stamford
J. D. Burns, Houston
D. A. Kuhn, Houston
D. L. Norwood, Houston
M. A. Fisher, Houston
T. D. Montgomery, Houston

*We will proceed - it is well with letter
for Dr. Segurino*

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RECEIVED
SEP 28 1979

Interoffice Communication

To R. E. Lehmkuhl
From D. E. Nicholson
Date September 24, 1979
Subject Guidelines for Employment in Chemical Plants

I have reviewed your letter of August 27, 1979, outlining a revised policy which effectively removes restrictions on employment of females in plants where there exists the potential for exposure to carcinogenic, mutagenic and teratogenic causing agents. I agree that the revised policy will serve to enhance, professional recruiting and affirmative action efforts. I also share your concern that our current policy of restricting females of child-bearing capability would be difficult to defend if challenged.

The proposed program does raise some questions which I believe should be answered prior to adopting the revised policy.

1. Regulating agencies (perhaps the courts) take the position that most or all physical conditions are afforded protection by the Rehabilitation Act. Failure to hire an otherwise qualified, pregnant female would likely be viewed as a discriminatory act by the EEOC or OFCCP. A charge could conceivably arise under Sex or Handicapped protection; or both. Will (or should) our Corporate Medical Department approve a pregnant female for employment in a Chemical Plant?
2. Regulations require that reasonable accommodations be made to employ a person who has a physical impairment. A pregnant female whose attending physician restricts her from performing her normal duties may demand a temporary assignment to accommodate such restrictions. Plants may find it difficult to make such accommodations considering restricted duty practices and collective bargaining agreement seniority provisions.
3. Because our policy of requiring that medical conditions be reported involves only reporting following disability absences, a female employee may choose to not report a pregnancy until mid-term or after. Should we adopt a policy of requiring notification of pregnancy earlier in the term in order to limit exposure to risk? Even considering the issues such as right to privacy and disparate treatment, it appears that such a reporting requirement can be justified on the basis of need-to-know.

D. E. Nicholson

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DEN:dg

BENZENE HAZARD

Interoffice Communication

To R. L. Lembke, M.D., D. E. Nicholson
 From R. E. Lehmkuhl
 Date August 27, 1979
 Subject GUIDELINES FOR EMPLOYMENT IN CHEMICAL PLANTS

Any comprehensive policy for employment of men and women in our chemical plants must be compatible with sometimes conflicting restraints. It must give workers ample protection from hazards in the workplace yet be non-discriminatory where there is no reason to employ one sex but not the other. The subject guidelines are believed to strike a balance that will satisfy both requirements even in plants where chemicals such as benzene or vinyl chloride are found. The policy is not without risk to employees or Conoco. Indeed, we cannot provide a "risk-free" workplace for anyone. We believe, however, that the policy satisfactorily balances the needs to provide ample employee protection, maintain equal opportunity and keep the risk of costly litigation for Conoco low.

Please review this program and determine if it represents an acceptable course for Conoco Chemicals.

POLICY

- (1) Maintain the workplace in compliance or better with pertinent OSHA standards. Where OSHA standards do not exist, abide by industry consensus standards. When neither of these exist, establish Conoco standards, comply with them and exercise prudent control of all other chemicals.
- (2) Explain in detail to each employee at the time of initial hire and on a regular basis thereafter:
 - (a) What chemicals are present in the workplace and the safe practices for working near and handling these chemicals;
 - (b) What information we have about the potential carcinogenic, mutagenic, teratogenic, and other health effects of any chemicals in the workplace, the levels at which these effects have been known to occur and the fact that we maintain our exposures below these levels.
- (3) Assure that the safe practices are enforced.
- (4) Employ anyone capable of performing the job satisfactorily without regard to sex, race, age, or other non-performance standard.

BENEFITS OF THESE GUIDELINES

- (1) We maintain a workplace that amply protects the safety and health of everyone.

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R. L. Lembke, M.D., D. E. Nicholson

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- (2) We have a policy that responds properly to the requirements of occupational safety and health as well as equal opportunity.
- (3) We are able to reach our goals of employing more women in our operations, especially female chemical engineers at entry level jobs for future assignments in management.
- (4) We open up for our recruiting a larger resource base (women) where there are qualified candidates. Our success with this group may be better because other companies exclude them from consideration.

RISKS

If a claim is brought by a worker against the company for an alleged injury or illness when we are fully complying with OSHA, consensus or Conoco standards, it is likely that we would be liable for workmen's compensation alone and would not be susceptible to a negligence suit. On the other hand, the developing fetus is not a "worker" so presumably a malformed child could sue the company for putting him at an unacceptable risk in the workplace. Since there is no precedent for this kind of case, I cannot imagine what the outcome would be. However, considering the number of women in our employ, the number who will get pregnant, the known percentage of birth defects as well as the probability of suit, and the burden on the plaintiff to establish a causal link between the malformation and the parent's exposure to chemicals, the likelihood of such a suit is small. Further, while the risk of liability is not eliminated through this policy, our present policy does not eliminate the risk of such a suit on behalf of the deformed fetus as a result of the father's exposure to toxic chemicals.



R. E. Lehmkuhl

ajo

cc	R. W. Gerwig	- Stamford
	J. D. Burns	- Houston
	D. A. Kuhn	- Houston
	D. L. Norwood	- Houston
	M. A. Fisher	- Legal, Houston
	T. D. Montgomery	- Legal, Houston

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