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___ published article from journal

___ published government report

___ government inspection results

___ unpublished or internal report

___ unpublished presentation from conference

___ newspaper article

___ letter ✓ memorandum - 11/17/33

___ industry warning labels

___ industry sales literature

___ industry recommended practices

___ meeting agenda ___ minutes ___ attendee list

___ legal filing of defense

___ legal filing of plaintiff

___ legal deposition OR ___ legal testimony of:

___ legal deposition summary / index

DR. ARMSTRONG
THIRD VICE PRESIDENT

Attached is a copy of a communication just received from The Columbia Mills, a Group policyholder. It seems to me that this communication makes necessary the outlining of a definite policy which should govern us with respect to this type of request.

It has been our practice in the past to make hygienic studies of the plants of our Group policyholders, and occasionally non-policyholders, and on the basis of these studies submit to them a report outlining the conditions as we found them with definite recommendations for improvements. These reports are always confidential and are never given any publicity nor are they published without the consent of the firm for whom they were made. In the past we have never been concerned about the legal implications that might be attached to these field studies, but our recent experience in Charleston and this request from The Columbia Mills seem to me to make necessary a thorough understanding of what we may be letting ourselves in for.

The asbestos study was made several years ago before the general condition that now obtains with respect to damage suits for occupational diseases had become prevalent. In the Columbia Mills case, we were requested to make a dust study of their plant at West Pullman and this request was sanctioned by the Group Division. When Mr. Fehnel arrived at the plant, he found that they wished studies to be made only at certain points which, it since develops, were the places where there had been employed an individual who had filed a suit against the Columbia Mills. This firm now wishes to use this report in defending this suit. I have reason to suppose that similar requests are pending elsewhere.

It has been our purpose in making these industrial hygiene studies to ascertain what are the conditions affecting our policyholders in their places of employment and to determine methods of improving these conditions. Some of our studies, such as the asbestos study, have been on a rather wide and comprehensive basis and there is no question but that a great deal of good has resulted in many cases. There has been much favorable comment throughout industrial concerns. It seems to me that a study undertaken in this spirit and for the mutual benefit of ourselves as insurers and of the policyholders is somewhat different from the study made specifically to furnish the employer with material with which to defend a law suit.

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Dr. Armstrong - 2

I think we might outline the following policies:

I - That we will continue to make our industrial hygiene studies as in the past, based upon the approval of the Group Division and of ourselves, without any restrictions or limitations regarding the use of the results of these studies by the policyholder. In this case, we recognize frankly that not infrequently our reports will be brought into court by the employer in defending damage suits and one of our staff will be requested to appear in court to authenticate the report.

It is possible, of course, that the present state of affairs is a passing one and may gradually subside but the indications are that in the near future, at least, there will be a very marked demand for the use of our reports in damage suits.

or II- That we continue to make our industrial hygiene studies as we have in the past after same have been properly approved but with the understanding that we inform our Group policyholder that the study is made with the understanding that it will not be used in court action.

or III- It may be practicable to determine a policy midway between I and II. If such a compromise can be worked out, which would effectively be safeguarded against objectionable features, I would be inclined to favor it.

I do feel, however, that there is perhaps a danger that too much of our effort will be side-tracked into this damage suit work which, in turn, might result in our being compelled to adopt policy No. II in self-protection.

A. J. Lanza, M.D.
Assistant Medical Director

November 17, 1933

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