Johns-Manville

Internal Correspondence

To: R. B. Von Wald 2-18 Date: December 22, 1977

From: W. B. Reitze 1-06

Copies: P. Kotin, M.D.; W. R. Paul, M.D.

Subject: PITTSBURG WORKERS' COMPENSATION LIABILITY

Just a bit of history--

Several weeks ago, George O'Dair held a meeting to discuss possible workers' compensation cases that might be filed in the future. This request was in part based upon the surprise that management got regarding the liability at the Waukegan location. At this meeting it was decided to survey the other five plants that could be heavily involved with occupational disease claims, that is, Billerica, Nashua, Long Beach, Marrero and Pittsburg. The information was already available for Waukegan, and at the Manville location 90% of our hourly force have already filed claims.

Four locations were able to leaf through the medical files and come up with the desired information. At the fifth location--Pittsburg--because of the method of recordkeeping of the local physician, it was difficult if not impossible to do this. The Employee Relations Manager then went to our present contract physician, Donald Smith, M.D., and asked him to review the medical files and make a determination of those individuals that had occupational disease but had not yet filed a claim. Dr. Smith informed us that he was morally and legally bound to advise any of these employees if he discovered adverse findings in their X-rays or medical files. Many of these people are retired for a number of years and others have long since left our employ.

Employee Relations Manager Emmett Randolph indicates that there are between 250 and 500 files dating back from approximately 1943 until 1965. We are quite sure from a preliminary review of 10 files conducted by Dr. Smith (4 out of 10 had adverse findings) that we may well uncover large numbers of occupational disease cases. Under normal circumstances, this would not present too many problems dollarwise, insomuch as we could handle these claims under our usual workers' compensation procedures. However, because of our pending litigation in the Kent Wise matter, these newly discovered cases could have considerable influence upon the outcome. At present, Dr. Smith is not reviewing any additional cases, and we are awaiting a ruling by your department regarding whether he should continue his review.

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From past experience, I would have to agree with Dr. Smith that if he reviews the records and finds any adverse conditions, he is morally and legally obligated to convey such findings to the employee patient. The suggestion has been made that we have two options: (1) not to have the records reviewed, and (2) to have the records reviewed and be prepared for not only an onslaught of workers' compensation cases, but also other probable penalties, again relating to the Kent Wise litigation. I feel, however, that we have only one option--that of looking through the records and advising the employee patients regarding their conditions. Not to inform these past employees would not only be morally wrong, but may well create additional problems for us down the line.

One option that I feel should be considered is to have the records, including the X-rays, sent here to headquarters for evaluations by Dr. Bill Paul and/or Dr. George Wright. Although I am quite certain that Dr. Smith is a fine physician, there are few physicians that have had the breadth of experience that Drs. Wright and Paul possess. Again, we must keep in mind that if Dr. Wright and/or Dr. Paul indicate the person has disease, we are still obligated to inform him of this fact.

W. B. Reitze

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