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Management of Acute Hyperglycemia in Urgent Care (Part 1)

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CLINICAL

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Urgent message: Acute hyperglycemia is a common and potentially challenging problem in urgent care that deserves to be managed appropriately based on the best available evidence and suitable consideration of the associated complexities.

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CORRECTION

The article "The Role of Urgent Care Centers in Regional Acute Coronary Syndrome Care" in the June 2012 issue reflected incorrect affiliation information for Lee Resnick, MD. Through the course of the study period, Dr. Resnick was Assistant Clinical Professor in the Department of Family Medicine at Case Western Reserve University School of Medicine and the Medical Director of Urgent Care for University Hospitals Health System in Cleveland, Ohio. At the time of publication, he is Chief Medical Officer and Chief Operating Officer of WellStreet Urgent Care in Atlanta, Georgia, and President, Institute of Urgent Care Medicine and Assistant Clinical Professor, Case Western Reserve University Department of Family Medicine. We apologize for the error.

IN THE NEXT ISSUE OF *JUCM*

In the urgent care setting, acute hyperglycemia (above 400 mg/dL) is common. In part 2 of our series on the condition, in next month's cover story, we discuss guidelines for diabetes, including new use of glycohemoglobin and causes of Type 1 and Type 2 diabetes. Our authors also review the role of oral agents for diabetes in urgent care and potential side effects associated with newer medications, such as DDP 4 inhibitors, GLP1 analogs, and pioglitazone.

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Mission Statement

JUCM *The Journal of Urgent Care Medicine* supports the evolution of urgent care medicine by creating content that addresses both the clinical practice of urgent care medicine and the practice management challenges of keeping pace with an ever-changing healthcare marketplace. As the Official Publication of the Urgent Care Association of America, *JUCM* seeks to provide a forum for the exchange of ideas and to expand on the core competencies of urgent care medicine as they apply to physicians, physician assistants, and nurse practitioners.

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Diabetes mellitus affects nearly 26 million people in the United States and nearly 7 million of them are undiagnosed. Not surprisingly, hyperglycemia is a common presenting condition at urgent care centers and it's also the subject of this month's cover story. As authors Anthony J. Pick, MD, CDE, David L. Pick, MD, FAAP, and Lowell R. Schmeltz, MD, underscore, an urgent care setting represents unique challenges for such a condition, in that most patients are discharged home and care is designed to be problem-focused and episodic, rather than focused on continuity. Their article reviews the literature on management of acute hyperglycemia in urgent care and offers a rational algorithm-based approach to it.

Dr. Anthony J. Pick is assistant professor of endocrinology, medicine, clinical, Feinberg School of Medicine, Northwestern University, Chicago, Illinois. Dr. David L. Pick is founding member of the Urgent Care College of Physicians, founding board. Dr. Lowell R. Schmeltz is assistant professor at Oakland University William Beaumont School of Medicine, Associated Endocrinologists, PC and Endocrine Hospital Consultants, PC, and Chief of Endocrinology, Detroit Medical Center-Huron Valley-Sinai Hospital, Detroit, Michigan.


In this month's case report, Erica Marshburn, BS, BA, and John Shufeldt, MD, JD, MBA, FACEP continue their series on back pain diagnostics with the case of a 60-year-old male who presents with a long history of low back pain and increasing severe low back pain and urinary incontinence. As this account underscores, neurologic complaints coupled with low back pain is a combination that could signal a serious condition.

Ms. Marshburn is an independent business consultant and the principal of Medical Business Technologies in Scottsdale, Arizona. Dr. Schufeldt is principal of Shufeldt Consulting and a member of the editorial board of *JUCM*.

In the first of a two-part practice management series, author Alan A. Ayers, MBA, MAcc presents a must-read article on federal labor laws with which urgent care operators—as employers and managers of people—need to be aware. This installment covers antidiscrimination laws and the Fair Labor Standards Act. Part 2, in the September issue, will cover the Uniformed Services Employment and Re-employment Rights Act, the Family Medical Leave Act, and the National Labor Relations Act.

Mr. Ayers is Vice President, Concentra Urgent Care and Content Advisor, Urgent Care Association of America. He is also the Associate Editor, Practice Management for *JUCM*. ■

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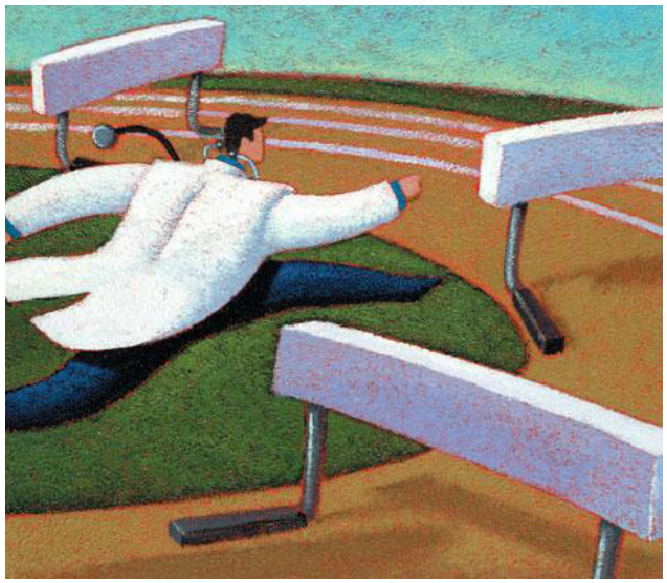
JUCM is distributed on a complimentary basis to medical practitioners—physicians, physician assistants, and nurse practitioners—working in urgent care practice settings in the United States. If you would like to subscribe, please log on to *www.jucm.com* and click on "Free Subcription."

Five Federal Employment Regulations Urgent Care Operators Need to Know (Part 1)

Urgent message: As employers and managers of people, urgent care operators are likely to encounter situations that invoke federal labor laws.

ALAN A. AYERS, MBA, MAcc

Urgent care centers are subject to a multitude of federal employment regulations and failure to comply with any of them could result in civil litigation or criminal penalties. Laws prohibiting discrimination, regulating wages and hours, permitting leave for military service and family or personal health issues, and affecting collective bargaining are commonly misunderstood, and as a result, violated by urgent care operators. The best protections are detailed human resources policies and an operating culture of integrity and compliance. As a start, managers and supervisors should be educated on the basics. This article is the first of a two-part series that offers specific cases illustrating five of the most significant federal employment regulations. This installment covers anti-discrimination laws and the Fair Labor Standards Act; the Uniformed Services Employment and Re-employment Rights Act, the Family Medical Leave Act, and the National Labor Relations Act will be covered in the second installment.



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Anti-Discrimination Laws

A variety of statutes regulated by the U.S. Equal Employment Opportunity Commission (EEOC) prohibit discrimination and retaliation on the basis of an employee's "protected" status. All job-related decisions must be made for legitimate business reasons and not on the basis of characteristics such as:

- Race
- Skin Color
- Sex
- Ethnicity
- Religion
- Age
- Military Status

Table 1 summarizes the major federal anti-discrimination statutes. If an urgent care operation is small—employing fewer than 15 people—most federal anti-discrimination laws will not apply. The one exception is the equal pay act, which applies to virtually all employers. The specific headcount limits are included

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Table 1 Federal Anti-Discrimination Legislation

Federal EEO Legislation[2]	Minimum Number of Employees	Protected Class
Age Discrimination in Employment Act (ADEA)	Applies to companies with 20+ employees.	Individuals age 40 or over.
Americans with Disabilities Act (ADA)	15+ employees	Individual with a disability, history of disability, perceived disability, or relationship to someone with a disability. Disability is defined as "a condition that substantially limits major life activities."
Equal Pay Act (EPA)	No specific size requirement	Women should receive pay equal to men for "substantially equal" work. Pay includes benefits, allowances, bonuses and overtime.
Genetic Information and Nondiscrimination Act (GINA)	15+ employees	Genetic information; individual and family medical history.
Title VII[3] (15+ employees)	15+ employees	Race, color, religion, sex, or national origin (birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.)
Pregnancy Discrimination Act (PDA) (This Act is an amendment of Title VII)	15+ employees	Women experiencing pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

in **Table 1,**[1-3] but it's important to note that many states have anti-discrimination laws that apply to smaller businesses and extend the number and scope of "protected" classes beyond what's prescribed by federal law.

For example, nearly half the states and many major cities have laws prohibiting employment discrimination on the basis of sexual orientation. Some jurisdictions also specifically prohibit discrimination based on gender identity, while others protect such categories as marital status, political affiliation, and height and weight.[1] Employers are responsible for understanding the laws in their areas and developing policies that incorporate provisions from each applicable regulation that confers the greatest protection to employees.

Employers are responsible for ensuring that hiring processes don't adversely impact a protected group. Even large companies with extensive legal expertise are not immune from problematic processes that have a disparate effect on certain segments of the workforce. Consider a recent case against Pepsi.[4] The company conducted a routine background check of all applicants, but the screening did not just rule out applicants who had been convicted of a crime—it also excluded those who had been arrested but never convicted. This policy disparately affected African-Americans, although the EEOC did not accuse Pepsi of intentional discrimination. In January 2012, the company agreed to settle the claim for more than $3 million, plus training and job offers to affected applicants.

Bona fide occupational qualifications still do exist that allow hiring discrimination in some limited circumstances. For example, it would not be considered illegal discrimination for a hospital to hire only female technicians specifically for ob/gyn functions.[5]

Anti-discrimination legislation doesn't just impact hiring decisions, it also affects the treatment of current employees on the job. For example, under the Americans with Disabilities Act (ADA) an employee is entitled to ask for an accommodation to allow him or her to perform the essential functions of the job, despite a disability. Types of accommodation might include a physically modified workstation, restricted job responsibilities, or a flexible working schedule.[6] While an employer can refuse accommodations that would result in an undue hardship, factors such as cost alone will not necessarily constitute sufficient grounds to refuse.[7]

Remember that in many cases—particularly with a medical accommodation—the obligation is not necessarily to give the employee the specific accommodation he or she requests, but to provide an accommodation

Table 2 Fair Labor Standards Act Exemption Test

Exemption	Eligibility/Test
Administrative	Compensated more than $455/week, work directly related to the management or general business operations of the employer, exercises discretion and independent judgment on significant issues.
Computer	Compensated more than $455/week or $27.63 an hour; employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field; primary duty must consist of: systems analysis techniques and procedures, design, development, testing or modification of computer systems or programs.
Executive	Compensated more than $455/week; primary duty is managing the company, department or subdivision; must "customarily and regularly" direct the work of at least two full-time employees or their equivalent, and have the authority to hire or fire other employees, or strongly influence the decision.
Outside Sales	The employee's primary duty must be making sales, obtaining orders or contracts for services or facilities, and the employee must be customarily and regularly engaged away from the employer's place or places of business.
Professional	The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than $455 per week; primary duty must be the performance of work requiring advanced knowledge, in a field of science or learning and acquired by prolonged intellectual instruction.

that meets the employee's needs. If a suitable accommodation exists that better meets the employer's operational needs, the employer may select this accommodation instead of the employee's preferred suggestion. For example, although an employee may prefer to have a flexible working schedule, the employer might prefer to redistribute the job duties, and assign the employee to tasks that are not limited by the disability.

Disability is not the only factor requiring accommodation in the workplace. The employer must also consider requests for religious accommodation. One such case involved an urgent care facility that informed a Muslim physician during her interview that the facility had a "no hats" policy, which would prohibit her hijab (religious head-covering). The applicant questioned the policy with the organization's human resources department, which confirmed that the interviewer was correct—religious accommodation for her hijab would not be granted. After adverse news coverage and pressure from Islamic organizations, the company issued an apology and promised to clarify the policy, stating that the applicant would be hired and accommodated.[8]

A leader's obligation is to recognize discrimination

It's not enough just to have a policy prohibiting discrimination. Managers must actively recognize discrimination and enforce anti-discrimination policies accordingly. This mandate was made particularly clear with a June, 2011 U.S. Supreme Court decision reversing certification of a class of approximately 1.5 million Walmart female employees claiming that Walmart engaged in sex discrimination by systematically denying its female employees promotions and raises.[9] In Dukes vs. Walmart, the Supreme Court specifically noted that Walmart had a written anti-discrimination policy that it enforced, including penalizing those who violated the policy. This practice was important evidence to contradict the claim that Walmart had a general policy, practice, and culture of discriminating against women. In light of this decision, employers should be sure to update—and enforce—their employment policies, which may prove critical in avoiding and defending legislation.

Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act, known as FLSA, regulates the federal minimum wage and overtime requirements for non-exempt employees. The act also contains provisions for the employment of minors. While the Act regulates a variety of wage-and-hour related issues, state and local codes often contain more specific and detailed information that intersects with the FLSA regulations.

What the Fair Labor Standards Act DOES Regulate:

- Minimum wage of $7.25 per hour effective July 24, 2009.
- Overtime pay for non-exempt employees at a rate of not less than one and one-half times the regular rates of pay after 40 hours of work in a workweek.
- Reasonable break time and a place for an employee to express milk for her nursing child, for up to 1 year after

Fair Labor Standards Act: What Would You Do?

The following table describes some common scenarios that invoke FLSA's wage and hour regulations in urgent care settings. Read each scenario and determine how you might respond. The correct answer is provided.

Q. Jane works 1 hour of overtime without her manager's authorization. The center's policy states that overtime can only be worked with express advance authorization from the manager. Jane did not ask for permission, and the manager would not have granted it because other medical assistants were working. Can the center refuse to pay Jane for the time worked?

A. No. Under the FLSA, Jane is entitled to be paid for the time she worked, regardless of whether it was approved or not. If the time was in excess of 40 hours in the workweek, she is entitled to time and a half. However, the employer is entitled to discipline Jane for her violation of the policy.

Q. Jim has to stay 30 minutes late to deal with an urgent patient issue. Because of the economy, the urgent care center has restricted payment of overtime. Jim volunteers to make up the time by coming in 30 minutes later the next day. Is that allowed?

A. Yes. As long as the time is made up within the same workweek, an employee can adjust his or her hours to stay within a 40-hour workweek and not incur overtime charges. Note: In some jurisdictions, such as California, overtime is incurred for any time worked over 8 hours in a day.

Q. Marc, the 15-year-old son of one the center's nurses, is saving money to buy a car. His mother suggests to the owner that Marc help cut the lawn and trim the bushes using the owner's gas-powered lawnmower and electric clippers. Is that permissible?

A. No. The FLSA states that 14- and 15-year-olds cannot operate power-driven machinery other than certain office and food preparation machines[14].

Q. Blair, a medical receptionist, takes her lunch in the back and sorts the mail while she eats. Does she get paid for this time?

A. Yes. Because Blair is performing work, she is entitled to be compensated for the time.

Q. Blair, the medical receptionist, decides to eat lunch at her desk instead, while surfing the Internet. Does she get paid?

A. It depends. Assuming Blair is surfing the Internet for personal reasons and is not required to perform work duties during her lunch, the FLSA would not require her to be paid. However, if Blair is sitting at her desk because someone needs to provide cover for reception, or if she answers phones or assists patients during her break, she is entitled to be compensated. Because the line can be blurry between work and breaks—for example, just because a customer didn't happen to come in, doesn't necessarily mean the employee wasn't working reception—it would be good practice to make a clear distinction between lunch and breaks by requiring Blair to eat lunch in the break room.

the child's birth. The time is not compensated, assuming the employee is completely relieved from duty and would not ordinarily receive compensation for the break. A bathroom is not a permissible location.

- Youth employment activity restrictions and minimum wage.
- Employees must be paid for training, when the training is mandatory.

As with anti-discrimination laws, state laws may be more specific or prescribe greater requirements than the federal statutes. For instance, 16 states have a higher minimum wage than required by federal law.[10] Nevada, for example, has a statewide minimum wage of $8.00 per hour but employers who offer health insurance can pay the federal rate of $7.25. And while California has a statewide minimum wage of $8.00 per hour, the City of San Francisco sets the rate at $10.24. Throughout California, overtime must be paid for working more than 8 hours in a single day or more than 6 days in a single week—although federal law defines overtime as greater than 40 hours in a single week.[11]

What the Fair Labor Standards Act DOES NOT Regulate[12]:

- Leave time (vacation, sick pay, holidays, etc.)
- Mandated meal breaks or rest periods
- Double, triple or premium pay for weekends or holidays
- Salary increases or benefits
- Dismissal requirements or immediate payment of final wages to terminated employees

Remember that although the FLSA does not regulate the above items, state laws do typically control them. For example, the California labor code requires employers to give non-exempt workers an unpaid, uninterrupted 30-minute lunch break after 5 hours of work, provided that the workday is longer than 6 hours. In addition, California employees are entitled to a paid 10-minute rest break for every 3.5 hours worked. *Whenever state and federal laws differ—the employer must follow the regulation that most benefits the employee.*

Exempt and Non-exempt Employees

As the name suggests, "exempt" employees are those

who are exempted from the provisions of the FLSA. Several significant differences exist in the way employers treat exempt and non-exempt employees. Exempt employees are typically salaried and are not entitled to overtime pay. But an exempt employee must be paid for every day he/she works because partial-day deductions from an exempt employee's salary are not permitted except in specific circumstances, such as for unpaid time under the Family Medical Leave Act, to offset jury fees received by the employee or in the initial or terminal week of employment.[13]

The FLSA includes tests for several specific exemptions of broad classifications from the Act, as illustrated in **Table 2**.

FLSA standards are complex and go well beyond pay and scheduling and affect an urgent care center's staffing model, job descriptions, facility layout, and operating hours, among other factors. To test your knowledge of FLSA by reviewing the box on page 23 that lists wage and hour scenarios commonly encountered by urgent care operators.■

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