

Protecting workers in the temporary staffing industry

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Background Workers hired through temporary staffing companies have a high rate of severe and fatal injuries despite the legally mandated, shared responsibility of the temporary staffing company and the host company to assure safe work.

Aims The aim of this study was to elucidate the perspective of temporary staffing personnel on approaches to mitigating injury risk among the workers they hire.

Methods Based on a conceptual model representing the interplay between work and health, we conducted a ‘brainstorm’ of temporary staffing personnel regarding perceived barriers to protecting temporary workers. A content/context analysis used standard qualitative methods, and the findings were triangulated with notes taken during the discussion.

Results Temporary staffing employers describe loss of control of the working conditions once workers are placed at host/client companies. Further, they describe a contentious relationship between temporary staffing and host companies, where it is difficult to hold host companies to account. Other barriers to providing temporary workers with a safe work environment include the temp companies’ lack of knowledge of site-specific hazards, the poor quality of onsite Occupational Safety and Health training, and ignoring Occupational Safety and Health Administration (OSHA) requirements.

Conclusions The perspective of temporary staffing companies should be considered to address the lack of cooperation and shifted responsibility described in this study. Policy and practice changes could include requiring contract language, implementing communication about safety, either sharing workers’ compensation purchase or removing exclusive remedy protections from hosts, and prescribing safety training, such as an OSHA 10-h programme. Suggested interventions need further study.

Introduction

Temporary staffing (TS) has increased in volume and importance, responsible for a substantial and growing segment of the US workforce [1]. TS companies have existed for nearly a century, touted as a way for companies to easily grow and shrink their employee census, and as a way for unemployed individuals to get a foothold in the workforce. Illinois has the third highest proportion of workers hired through TS companies in the USA, employing some 200 000 individuals at any point in time in over 1.2 million (mainly) short-term, person-jobs per year, and making up ~3% of the Illinois workforce [2].

TS is an atypical employment arrangement in that workers are hired by a TS company, but they are placed to work at a ‘host’ company. The TS employer does the human resources oversight—recruiting, hiring, payroll processing, purchasing workers’ compensation insurance policy, conducting disciplinary action and maintaining employment records; the ‘host’ company assigns workers to job tasks and directs their work activities. TS companies place workers across sectors and may be best known for placement in secretarial work and healthcare. However, workers who are hired through TS companies are overwhelmingly employed in manufacturing, transportation and warehousing [1]; these are among the most hazardous sectors of the economy [3]. Under federal and state laws, the TS

employer and the host employer have a shared responsibility for protecting these workers from workplace injury and illness [4–7]. There is a relatively high rate of injuries—particularly severe and fatal injuries—among temp workers suggesting that the ‘shared’ responsibility, instead, leaves a void in the implementation of safety measures [8–11].

What is known about protecting workers from illness and injury is based on employment arrangements whereby workers are directly hired and are paid, trained, overseen and insured by a single employer [3]. Few studies on health and safety have been published from the perspective of temporary workers [8–11], and none from the perspective of the TS employer. The aim of this study was to elucidate the perspective of TS personnel on challenges to mitigating injury risk among the workers they hire.

Methods

Given the increased risk of occupational injury among temporary workers, Federal Occupational Safety and Health Association (OSHA) in Illinois, USA, sponsored a seminar for TS companies to learn about their obligations under federal and state laws, how to protect the workers they hire and how to protect themselves from liability. Framed by the concepts of

Key learning points

What is already known about this subject:

- The vast majority of temp workers are precarious, with unstable employment, low wages, lack of social benefits and limited career advancement.
- Workers employed through temporary staffing have a higher rate of severe injuries.
- The temporary staffing employment arrangement is not transparent enough for vetting by enforcement agencies.

What this study adds:

- List of barriers to protecting temp workers.
- The perspective of temp staffing companies on barriers to protecting temp workers.
- Recommendations for policy changes.

What impact this may have on policy or practice:

- Improvement of the health, safety and working conditions of temp workers.

'precarious work' [12] and 'safety culture/climate' [13,14], and recognizing the unique opportunity to understand the perspective of TS employers about workplace health and safety, we sought to assess these employers' perceptions of the barriers to protecting the temp workers they hire and dispatch. This study was deemed to not be Human Subjects Research by the ethics review board at our university.

Precarious work is an emerging social determinant of health, defined by jobs that are contingent, temporary/unstable, low paying, lacking in social protections and with limited employment rights [12]. TS is a type of precarious employment in that the place of employment is not controlled by the worker's employer (i.e. the TS company versus the place where the employee works), wages are lower, health insurance is not provided and employment can be terminated at any time [15]. We based this study on the idea that safety climate [13] in the TS scenario is forged through a shared understanding and commitment of the temp employer and the host employer and is manifested by implementing good safety practices, including training.

According to the Illinois Department of Labor, there are over 139 separate, registered day and temporary labour agencies with 653 branch offices in Illinois [5]. The sample for this study comes from participants in a safety training session; personnel from every registered TS company were invited by Federal OSHA and the Illinois Department of Labor through an online flyer inviting them to a seminar to learn about their legal obligations for protecting hired temp workers. The content of the seminar was advertised as covering both occupational safety and health protections and employment protections, enforceable by Federal OSHA and the Illinois Department of Labor.

Held in an auditorium at a community college in Illinois in October 2019, there were 80 attendees at this meeting. In addition to presentations from OSHA on the TS industry's obligations for compliance with federal legislation to protect the workforce from health and safety hazards, the Illinois Department of Labor presented the requirement to register the staffing company at the state level and follow wage and hour laws. A company-wide safety professional of one large transnational TS agency presented an interactive session on workers' compensation issues in TS, including encouraging reporting by workers and engaging with host companies to protect workers. A workers' compensation attorney discussed the contractual arrangements between the TS company and the host/client that expresses shared liability for work-related injuries. One of the authors (Forst) gave

a 20-min slide presentation called, Preventing Injuries in the TS Industry. This displayed data on injuries among TS workers as well as the perspectives of physicians and public health practitioners on prevention of workplace injury and discussion questions to gain interaction between the presenter and audience.

Two approaches were taken to gain salient insights into the perceptions of TS companies as regards the health and safety of temporary workers. First, two public health students (co-authors, A.L. and M.M) undergoing training in exposure assessment and industrial hygiene attended as observers and took notes on the discussion that occurred among speakers and the audience throughout the half-day session. These students combined their notes into one document under headings created to summarize the data.

Second, the brainstorming phase of Concept Mapping was chosen as the method to understand the perspective and produce a dataset from TS companies [16]. 'Brainstorming' poses a question to a defined group of individuals. Each individual is allowed to write as many separate responses as they would like. Each response is handled (analyzed) as a separate item using a qualitative analysis.

As part of her presentation, Forst posted a statement on a slide and asked participants to handwrite responses on a piece of paper, which were to be handed in:

One of the ways addressing "health and safety" is challenging for TS companies is...

Note: "health and safety" means ways to prevent injury among temp employees.

Participants were invited to write in as many single responses as they wanted. Thirty individuals, 37% of attendees, passed in written responses. Participants listed 84 separate items, mostly short phrases of 6–20 words; a few included a short paragraph of explanation.

We used a content and thematic analysis to explain safety culture, safety climate and safety performance issues in the TS industry [17,18]. Investigators looked to the data to answer the question of how the seminar participants—employees of TS companies that do the human resources work—perceive protection of the temp workers they hire.

Participant responses were analyzed using two cycles of coding by two independent coders [18]. Coder 1 (Chaudhry) is pursuing a PhD in public health and has undergone formalized qualitative research training, but no formal training in

occupational health; Coder 2 (Forst) holds a medical degree with specialization in occupational medicine and is an established researcher in the field of occupational health and safety. Coder 1 conducted the first cycle of coding using an inductive approach, resulting in mainly descriptive codes guided by the analytic questions ‘what do the data say?’ Coder 2 conducted the second cycle of coding using a deductive approach informed by her experience and knowledge of occupational health and research related to TS, with the aim of framing the output in a way that is actionable. An experienced qualitative researcher (Hebert-Beirne) reviewed and advised the adjustment of codes.

Findings were corroborated with notes from the discussions that occurred throughout the seminar. We presented findings to two workers’ compensation attorneys who are particularly active in policy related to TS to corroborate our findings and assumptions.

Results

TS respondents identified five major areas of challenges in addressing health and safety on the part of temporary companies, the host employer and temp workers. Table 1 provides a detailed list of the themes (areas), involved parties, specific issues that are barriers to keeping temporary workers safe at work and supporting quotes.

Discussion

Temp workers report musculoskeletal symptoms of the upper extremity, lower self-rated health and depression along with other mental health conditions [10]. There is a demonstrated association between their status as a temp worker and an increased risk of paced and repetitive work, work in awkward postures, intensive use of vibrating tools and machinery, and a lack of autonomy in their use of special skills at work [8–11,19–22]. Temp workers have an increased rate of work-related injuries—a rate that is 2–3 times higher in the manufacturing sector [9]—compared to their directly hired peers. Temp workers are less likely to return to work following an occupational injury [23].

The OSHA, the standard-setting and enforcement agency in the USA, established the Temporary Worker Initiative in 2015 in response to high-severity injuries and fatalities among temporary workers [4]. OSHA spells out the joint responsibility of the staffing company and the host company to assure a safe work environment: (1) provide requisite safety measures (engineering, administrative and behavioural controls); (2) provide requisite health and safety training (listed in general legislation for specific hazard types); (3) record injuries that require more than first aid; and (4) immediately (within 24 h) report fatalities, hospitalizations, amputations and eye enucleations. In public health, a severe injury or death is indicative of a failure of prevention [24].

In the TS arrangement, severe injuries are recorded on the host company’s OSHA 300 log [25]. There is no variable to indicate the injured worker as hired through TS, and the TS employer is not required to report these injuries. Our national occupational injury surveillance system, the BLS Survey of Occupational Illness and Injuries, is unable to systematically detect workplace injury among temp workers and, therefore, cannot report injuries among temporary workers. This prohibits public health efforts to prevent injuries among temp workers

in specific sectors, specific companies or by injury mechanism. In addition, examining the influence of the TS employment arrangement as a contributing factor is rendered impossible.

Workers’ compensation is another injury deterrent that is blurred in the TS scenario [26]. The TS company generally purchases workers’ compensation insurance for temp workers. Although these workers get injured at the host’s worksite, it is the temp company’s workers’ compensation insurance policy that pays out the claim. In addition, both the temp and the host employers are protected from a legal action on the part of the injured worker, since workers’ compensation is the exclusive remedy for a work-related injury. This lack of liability removes an incentive for the host to provide a safe workplace.

The Illinois Day and Temporary Laborer Services Act (820 ILCS 175/) [5] was legislated in response to labour violations. The IDTLA also has a section on workplace health and safety, allowing a private right of action on the part of the worker in the case of employer negligence (Section 95(a) 2). Although a lawsuit is not easy to bring, this statute bespeaks the need for additional mechanisms to protect temp workers’ health.

The State of Washington has recently passed a law (HB1206) requiring that host employers in high-hazard industries provide and document the completion of site-specific training [7]. This law also requires the host to notify the TS employer and temp workers of any changes in tasks or jobs and the attendant hazards.

In the brainstorm question (‘one of the ways addressing “health and safety” is challenging for TS companies is...’), we sought to understand the barriers to providing a safe workplace for temp workers from the perspective of TS companies. In a practical sense, the temp company often does not know the details of job tasks or safety practices of the host company, and they are generally not on site to observe the work. The responses indicate that they feel that host companies do not meet their legal obligation to train temp workers, adjust safety protocols when needed, share information about injuries or treat temp workers the way they treat their own, directly hired employees.

Safety culture and safety climate are leading indicators for injury [13,14]. Safety culture describes management’s commitment to protecting the health of the workforce and is evidenced by protocols and oversight that ensure safety performance [13]. Safety climate refers to the workers’ perception of the commitment of their employer to safety [14]. In the TS arrangement, safety climate necessarily depends on a mutual understanding of safety performance protocols and actions needed to protect workers in each workplace and job title.

Labour laws spell out employers’ legal obligations and are based on societal values and best practices. As evidenced by the continued high rate and occurrence of severe injuries [27], TS is falling through the cracks. Written contracts between TS and host companies might allow for strengthening the terms of the relationship between the two parties. While communication requirements could be spelt out, uniform implementation might best be compelled by the law. Contracts between temp and host companies could be reviewed and requisite language developed to assure shared responsibility for workers’ rights, including health and safety. Contractual language could include the frequency, type and documentation parameters of formal communication between the two parties.

On a more granular level, training could be specified and mandated. A version of the OSHA 10-h training programme, required for certain jobs [28], could be developed to cover common

Table 1. Themes identified in responses of temporary staffing employers to health and safety challenges for temp employees

Theme	WHO/entity	Issue	Quote
Lack of control	Temp employer not onsite	<ul style="list-style-type: none"> No opportunity to assess the worksite or job tasks before worker is placed Cannot control the work environment Cannot control the work demands Cannot convey information to temp workers while they are working Cannot assure that requisite training is being provided 	<p>'One of the reasons it is challenging as a staff agency would be because our associates work on a site. Aside from the training done upon hiring, we do not have daily interaction to remind [them about] safety issues'.</p> <p>'Since we aren't where the temp reports to every day, it's hard to get them to come into the office for frequent safety meetings. We have CDL drivers all over the country and not all at one customer location'.</p> <p>'...lack of day-to-day contact of supervision of a safety conscious individual onsite'.</p>
Lack of health and safety knowledge	Host company	<ul style="list-style-type: none"> May not understand safety issues on their own site May not know what a worker needs to learn to work safely 	<p>'Client companies are often uneducated so if the staffing representative is also uneducated nothing will change'</p>
	Temp employer	<ul style="list-style-type: none"> Impossible to be knowledgeable about safety issues attendant with the diverse array of jobs that their temp employees do 	<p>'Temp employees think they can do job and don't need training, for example, if forklift certified, can work the forklift or pallet jack'.</p>
	Temp worker	<ul style="list-style-type: none"> Thinks they can do the job and therefore don't need training (like forklift drivers who know a technical skill, but not necessarily the associated hazards or how to minimize them) 	
Not following the rules (re: training, reporting and maintaining a safe workplace)	Host company	<ul style="list-style-type: none"> Feel that host, itself, is not taking responsibility for temp workers Make it difficult to track injuries Make it difficult to track training Does not report injuries (Forst note: to temp co? on OSHA log?) 	<p>'Enforcing the site training with the customer [host]'</p> <p>'Not reporting work injuries during occurrence'</p> <p>'Employer sometimes thinks they are on the radar [of enforcement once they report] workplace issues'.</p>
	Temp employer	<ul style="list-style-type: none"> Management of the temp company does not provide consistent messaging about covering general safety or safety of specific job titles 	<p>'Employee might think that reporting health and safety concerns will lead to unwanted attention or extra supervision from managers'</p>
	Worker	<ul style="list-style-type: none"> Afraid to report an injury—may get unwanted attention, excess supervision, or lose job <i>Lack of knowledge about workers' compensation</i> <i>Does not know s/he won't have to pay out of pocket for an injury</i> <i>Afraid of drug screening</i> <i>Lack of knowledge about how reporting can be helpful to the worker</i> <i>Safety bonuses cause peer-pressure and discourage reporting of an injury</i> 	
Training issues	Host company	<ul style="list-style-type: none"> Is supposed to provide site-specific training Workers turn over so much, need to repeat training a lot Don't want to pay workers for the time they are in training Shift work means workers may have to be trained at different times Need refresher training 	<p>'Safety training not being given by host employers'</p> <p>'Getting proper safety training before sending them out on the floor'</p> <p>'Transient work force'</p> <p>'High turnover of temps, fast paced environment makes it difficult for onsite agencies to address knowledge of temp workers'</p>
	Temp employer	<ul style="list-style-type: none"> Does not know the hazards of all the jobs they send workers to, so does not know what to train them on Expects the host to do specific training, but cannot oversee this 	<p>'To train, [it is difficult to] meet when everyone works a different shift'.</p> <p>'New hire orientation based on the number of applicants on a daily basis, difficult to schedule training'.</p>
	Worker	<ul style="list-style-type: none"> Thinks they know the hazards, when they do not actually know 	<p>'Refresher training. Again, once an employee is placed, getting them back into a training'</p>
Relationship of temp co. with host employer	Temp employer	<ul style="list-style-type: none"> Feel that Host, itself, is not responsible for temp workers Host uses temp staffing company as a scapegoat Unwillingness to remediate a hazard even after injury and even after they are informed by the temp company Building mutual trust is important Host unwilling to change There is a disconnect between Temp and Host employers <i>Hosts in rural areas are less knowledgeable about how temp employment works (who is responsible for what)</i> 	<p>'Some host employers/client companies use staffing agencies as a scapegoat to bypass their safety obligations'.</p> <p>'Host employer poor cooperation or low commitment'</p> <p>'Some host employers feel that temporary workers are not their responsibility'</p> <p>'Suggestions given to host employer after an injury and practices ...needed to prevent an injury are not corrected'</p> <p>'These groups make it difficult to track training, injury/illness, disposition, etc, accurately. Building mutual trust is important'.</p>

The issues from the coding of responses are listed first; the issues that arose during the discussion are added in italics, under the appropriate categories. Additional challenges raised in the general discussions throughout the seminar (italicized).

hazards faced by temp workers across multiple worksites (e.g. falls, machine safety, lifting injuries and forklift safety). Safety performance could be enhanced by requiring this training for temp workers, while being paid their hourly wage for 10 h of training, at regular intervals. OSHA provides training content that could be easily adapted for TS.

A bigger hammer for safety violations could be imposed. This might entail greater engagement with OSHA or state departments of labour. Additionally, requiring that both parties purchase workers' compensation insurance or removing the exclusive remedy protection of workers' compensation for host companies would allow for penalizing both parties with increased insurance premiums for both parties when a temp worker is injured [26].

Finally, monitoring temp worker injuries over time, by sector and by individual employers would focus on the need for protective measures. For example, recording temp injuries on both the temp and host company's OSHA 300 logs would capture them in the BLS Survey of Occupational Illnesses and Injuries. This would require the host to report a temp worker injury to the TS provider. Alternatively, the companies that contract for temp employees (hosts) could be required to record whether a temp worker was the injured party.

There are several limitations to this study. No demographics or organizational information was collected from the respondents, and therefore, we do not know their job titles, the sizes of their companies, how long they worked for the staffing company or the industries where they place workers. There are nearly 140 separate staffing companies listed in Chicago in 2021 [5]. There were 80 attendees, which is likely to represent a large proportion of companies. There may have been selection bias in this sample—those who attended the conference could be the most conscientious about health and safety or, conversely, could have more experience with violations. However, an invitation and presentations from state and federal enforcers are likely to draw participation from most TS companies, who might be concerned about OSHA and Illinois Department of Labor enforcement activities; conversely, non-attendees (i.e. staffing companies who do not send employees of the TS company) could be regarded by OSHA or the Illinois Department of Labor as uninformed or uninterested in workplace health and safety. For this reason, we are likely to have had good representation.

Those who listened to these presentations could have been influenced by the content of the seminar, reiterating some of the problems identified—either because they learned something new or because of social desirability. However, discussion notes taken during the entire seminar corroborate the findings.

Since completing this study, the National Institute for Occupational Safety and Health has published a 'best practices' document that was developed by a broad coalition of government agencies, TS companies, universities, insurance companies and worker advocacy groups [29]. The NIOSH document supports ongoing evaluation of jobs and work practices; inclusion of specific language about job tasks, training and use of personal protective equipment; documentation and communication of responsibilities related to worker qualifications, ongoing risk assessment, changes to job tasks; OSHA reporting and workers compensation entitlement. These are the same issues described in this manuscript, though the proposed solutions differ.

In conclusion, TS is a unique employment arrangement, and there is a shared responsibility for worker health and safety under the US OSHAct. Collaborative protection of

workers could be compelled through legislation that requires specific language in contracts, regular meetings between temp and host companies, changing reporting pathways for occupational injuries, regular audits/inspections by enforcement agencies, prescribed safety training and shared workers' compensation insurance policies. Our study, which elucidates perceived barriers to protecting the health and safety of workers on the part of the TS employer, will inform efforts to overcome resistance to new legislation and NIOSH's recommendations.

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