

# Professional Safety

Journal of the American Society of Safety Engineers

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# 2012

## Symposium on Human Factors and Ergonomics in Health Care:

### BRIDGING THE GAP

Registration is open for this exciting first-time event, sponsored by the Human Factors and Ergonomics Society. The symposium aims to bridge the gap between the scientific and practice realms of the health care community.

Lucian L. Leape will present the opening plenary address. Invited and submitted authors will address a range of topics in three tracks:

- Patient and Health-Care Provider Safety
- Health-Care Information Technology
- Medical Device Design

## March 12–14, 2012

Baltimore Marriott Waterfront Hotel  
Baltimore, Maryland

Details are at <http://bit.ly/omoeTV>. Register at <http://bit.ly/pFn3D0>. Special rates are available at the Marriott Baltimore Waterfront Hotel: <http://bit.ly/qLmHhb>.

## Cell Phone Use While Driving & Employer Liability

According to attorney Todd Clement, the leading menace in the distracted driving epidemic is cell phone use, including sending texts and e-mails, while driving. In 2010, National Safety Council (NSC) estimated that 28% of all incidents and fatalities on U.S. highways were caused by drivers using cell phones. Cell phone use involves visual, manual and cognitive distractions. Even if you are at a red light, Clement says, cell phone use is unsafe because drivers still have road responsibilities at red lights. "We have to anticipate what's going on around us and respond properly when we receive a signal," he says. "If you're not properly responding, you can have someone rear-end you or you can get into a road rage situation."

Cell phone use and sending text messages while driving causes drivers to suffer from impaired visual scanning, inattention blindness, impaired ability to react appropriately and impaired situational awareness. "We look but we don't process what we see," Clement says.

Studies show that pedestrians or street signs, for example, can be present but unseen when people are cognitively distracted. "When we encounter something unexpected, cognitive distractions also cut down our reaction time," he says.

For those who think hands-free devices are okay, think again, Clement warns. A study conducted by University of Utah's David Strayer shows that hands free is not truly hands free; the acts of dialing and answering are distracting and result in a significantly increased crash risk. Another study by Strayer called "Super-taskers" demonstrates that only 2.5% of the population can safely drive while using a cell phone. According to Strayer, that small percentage shows no impairments whatsoever whereas the remaining 97.5% show substantial deficits when multitasking. The question, Clement says, is who is in the 97.5% and who is in the 2.5%. "Cell phone use is the one thing that people think that they can do safely but they desperately want everyone else to stop doing," Clement says.



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## Teens Aware of Texting Dangers, Yet Carry On

Teen drivers are becoming increasingly aware of the potential dangers of texting while driving, yet that awareness is not curbing the behavior. According to a 2011 teen-driving study by Liberty Mutual Insurance and Students Against Destructive Decisions (SADD), 53% of the 2,294 high-school students surveyed say they text while they drive at least sometimes, and 28% admit doing so often or very often. Despite these admissions, the study shows that more teens believe that texting while driving is a significant distraction. In 2008, only 38% of teens said texting while driving was very/extremely distracting. In 2009, that number rose to 48% and it climbed significantly to 59% in 2011.

According to the researchers, parents are a frequent recipient of these texts, which often share where/what the teen is doing. SADD's Stephen Wallace understands that it's important for parents to know where their children are and what they are doing, but "they need to take a firm stance against texting while driving and other distracted driving behaviors." Liberty Mutual's Dave Melton also says parents need to take responsibility for their teen drivers' actions. "The reality is, the 'don't talk on the phone while driving' conversation of a few years ago must today expand to 'don't use your cell phone, MP3 player or any computer device for any reason while driving.' If you're not talking about it, chances are they will do it."

Find additional resources on helping teens become safe, responsible drivers at [www.libertymutual.com/teendriving](http://www.libertymutual.com/teendriving).

According to Clement, the law of *respondent superior*, which is followed in most states, says that an employer is legally responsible for the negligent acts an employee commits while s/he is in the course and scope of employment. This is called derivative liability. In addition, an employer can be independently liable for failing to have proper cell phone or texting-while-driving policies in place and failing to enforce such policies. This is called direct liability and can give rise to punitive damages if the company is found grossly negligent, meaning the company knew the risks involved and proceeded with conscious indifference to the rights, safety and welfare of the others.

"You have to be proactive to engage your employees . . . so that this kind of activity and potential liability is not going on [each day]," says Clement, adding that the best way to protect employees, employers and the public is a combination of policy, education and enforcement:

•**Policy:** "You have to have an absolute policy banning cell phone use, texting and

e-mailing while driving," Clement says. Employees must buy into the policy. An employer should hold open meetings to discuss the need for the policy, discuss potential barriers and ask employees to offer solutions. Most importantly, employees must see and hear that top management follows and supports the policy.

•**Education:** "You have to educate and to tell people why we can't do this," Clement says. Remind employees that you are protecting them, the public and the business.

•**Enforcement:** Employers must enforce policies through stringent penalties, employee monitoring and blocking technology. Examples of blocking technology that prevent messages while a vehicle is moving include [www.zoomsafer.com](http://www.zoomsafer.com) and [www.getizup.com](http://www.getizup.com). Without enforcement, employers will be guilty of recognizing the significant danger yet addressing it only with a "lip service" policy, Clements cautions.

Learn more at [www.distractionlawyer.com](http://www.distractionlawyer.com).



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