



Using Warnings and Instructions to Increase Safety and Reduce Liability

June 5 – 8, 2023 ■ Online



WISCONSIN
UNIVERSITY OF WISCONSIN-MADISON



Interdisciplinary Professional Programs



Using Warnings and Instructions to Increase Safety and Reduce Liability



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Course Benefits

The most cost-effective way to increase the safety of your product while decreasing product liability exposure is by developing effective warnings and instructions.

Course Objectives

In this course, you will review factors useful in evaluating effective warnings and instructions to increase the safety of your product. You will examine the current legal duty to warn and instruct while evaluating recent court interpretations of this duty. You will also learn how to test and revise warnings and instructions. You will learn about ANSI Z535.4-2016 regarding product safety signs and labels, along with product safety issues in the global market place.

Who Should Attend

- Managers
- Engineers
- Technical writers
- Product safety specialists
- Anyone responsible for creating or reviewing instructions and warnings

Instructor Information

Cal Burnton has tried and won numerous complex toxic tort and product liability cases, earning a national reputation for his ability to coordinate, manage, and defend mass toxic tort and complex product liability cases with a special emphasis on high-risk matters involving novel legal, scientific, and environmental theories. His clients have included leading manufacturers and sellers of products such as chemicals, healthcare appliances, toys, medical devices, electrical equipment, firearms, printing presses, industrial machinery, and power tools.

Jen Paldino is the Director of Risk and Compliance for Jetson, a manufacturer of alternative transportation and electronic mobile solutions. She has worked in the Risk, Compliance and Claims field for over a decade. Her role includes establishing, building, and managing the Risk and Compliance function and in-house Legal Department, as well as leading the liability defense team to defend product liability claims.

Angela Lambert has over fifteen years of experience in product safety, warnings, and liability. In her role at Clarion Safety, she collaborates with manufacturers – as well as industry partners and advocates – on labels, signs and markings that can help reduce risk and protect people. Ms. Lambert is actively involved at the leadership level in the ANSI and ISO standards for product safety. She is chair of the ANSI Z535.1 subcommittee, a delegate representative to the general ANSI Z535 committee, the ISO/TC 145 SC2 WG 1 committee and to ISO/TC 283. Additionally, she is the liaison for ISO/TC 145 to ISO/TC 283, acting as a bridge between the international safety label/sign standards and workplace health/safety standards.

Dr. Eric Boelhouwer Ph.D., CSP, CPE, has been a Principal Consultant for Dorris and Associates International, LLC for over 10 years. Dr. Boelhouwer is a member of several ANSI Z535 subcommittees and currently serves as the chair of the ANSI Z535.7 subcommittee on Warnings in Electronic Media. Dr. Boelhouwer's primary responsibilities include the design and implementation of product safety research, including evaluations of human-machine interfaces, as well as the usability and effectiveness of precautionary information. He routinely provides expert testimony related to product safety and the evaluation of instructions, warnings, and other safety communications.

Mark Hickok is Vice President – Product Safety and Regulatory Compliance for Milwaukee Electric Tool Corporation. He brings over 30 years of product safety experience and has extensive background working in global new product development and leading product safety teams and activities. His work includes directing the development of warnings and instructions, performing hazard analysis reviews, ensuring compliance with a variety of standards and regulations (i.e. UL, CSA, OSHA, FCC, and DOT), and participating in the standards development process.

Michelle Hockers is a shareholder at Murphy & Prachthauer, S.C. Ms. Hockers practices exclusively personal injury law representing injured persons in cases involving product defects, motor vehicle accidents, and unsafe premises. Ms. Hockers has litigated numerous serious injury cases caused by defective products, automobile accidents, and other forms of negligent conduct in Wisconsin. She has also been admitted to practice in courts across the country including California and Minnesota on auto product cases.

Jared Frantz is a Human Factors Consultant for Applied Safety and Ergonomics, A Rimkus Company. He is a Certified Human Factors Professional who specializes in human factors/ergonomics, warnings, and product and occupational safety. He has extensive experience developing and evaluating warnings and safety symbols for a wide variety of consumer and commercial products and is a member of the American National Standards Institute (ANSI) Z535.4 Subcommittee on Product Safety Signs and Labels and Z535.7 Subcommittee on Product Safety Information in Electronic Media.

Earn Continuing Education Credit

By participating in this course, you will earn 14 Professional Development Hours (PDH) or 1.4 Continuing Education Units (CEU).



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Course Outline

SECTION 1: The Legal Duty to Warn Duty to Warn and Instruct

- What are your Legal Responsibilities?
- How did we get here and the theories of liability: Negligence/strict liability
 - Factors in determining whether a duty exists
- Open and Obvious Hazards and Warnings
- Foreseeable/Unintended/Unforeseeable Misuse
 - Modifications of Products and their impact on your responsibility
- Adequacy of warnings
- Causation: Did the Failure to Warn Cause the Accident?
- Post-Sale Duties: Warnings/retrofit/recalls
- ANSI Z535 Standards for Manuals
- Cases Hot off the Press
- How to Improve Your Product and organization

SECTION 2: Post Sale Issues Facing Manufacturers

How to protect a company with indemnity contracts and tender of defense obligations.

- Evaluate situations from a post-sale standpoint.
- Steps to mitigate risk
- Post-sale warnings
- Recalls and retrofits
- Ramifications of design change.

SECTION 3: Warnings and Instructions-Understanding the National and International Standards which Apply

The Role of On-Product Warnings in Safety/Liability

- Why are safety labels important?
- Elements of an effective label
- Legal duty to warn and adequate warnings
- How risk assessment, labels, and manuals are related

Key Standards and Requirements for Labels in the U.S. and Internationally

- Levels of standards and a legal perspective on standards
- ANSI Z535 standards, including guidelines for label structure/content, color, translations, durability/materials, and complex messaging
- ISO 3864-2 standards, including symbol use and design, and wordless label format options
- Standards harmonization
- EU Machinery Directive

Winning Strategies and Latest Trends

- Latest updates to the ANSI/ISO standards
- The evolution of label formats
- Analyzing your intended audience
- A systems approach to safety labeling
- Digitalization and automation considerations

Team-Based Workshop Activity

- Evaluate warnings
- Develop recommendations
- Team presentation of findings

SECTION 4: ANSI Z535.7 standard in development: Applying Z535 style to digital media

As your organization offers additional methods of digital communication to your customers, how should the safety messages on your website, product-related videos, your app, and other digital media be presented and formatted? The proposed ANSI Z535.7 standard will address the application of Z535 style formatting conventions to the presentation of safety-related messages across various forms of digital media, including dynamic media.

SECTION 5: Developing Warnings and Instructions for Product Safety

- Integrating Product Safety into your product line
- Warning and Instruction Development and what to consider.
- Practical Considerations in the development of warnings and instructions.

SECTION 6: Danger: Plaintiff's Lawyer - Warnings Liability and Cautionary Tales

- Screening for Warnings Cases – What are Inadequate Instructions or Warnings?
 - Hierarchy of Safety
 - Wisconsin – Statutory Requirements for Warnings Case
 - Compliance with Standards
 - Uses of the Product – Reasonable vs. Foreseeable Misuse
 - Users of the Product
 - Sophisticated User vs. General Public
 - Purchaser vs. Third Party
 - Case Specific Examples
 - Ineffective Warnings and Instructions
 - Shifting Responsibility on Duty to Warn
 - Warnings Improving over Time

SECTION 7: Considerations for evaluating warnings and instructions.

- Evaluation Considerations
 - When to evaluate
 - Evaluation methods
 - When and how to document
 - Evaluation workshop

Schedule

Live synchronous instruction will be held online via Zoom web conference

Day 1

8:00 a.m. to 8:30 a.m. Registration

8:30 a.m. to 12:30 a.m. Class

Day 2 – 4

8:30 a.m. to 12:30 a.m. Class

Testimonials

"The program is very well-rounded and covers each of the elements of warnings and instructions in a thorough, effective, and interesting manner."

"I'd be hard pressed to say what was best—there was so much useful information, and the outside experts were super."

"Good, consistent information throughout the presentations. Everyone had the same message for action by companies for warnings and instruction."

Have Questions?

Call toll free 800-462-0876 and ask for

Program Director: Susan Ottmann
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Program Support: Sarah Ferran
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or email custserv@interpro.wisc.edu



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General Information

Fee Covers Course materials and online instruction.

Course Materials Although not required, course attendees are encouraged to bring ANSI Z535.4 and ANSI Z535.6 to class.

Cancellation If you cannot attend please notify us at least seven days prior to the course start, and we will refund your fee. Cancellations received after this date and no-shows are subject to a \$150 administrative fee per course. You may enroll a substitute at any time before the course starts.

