

OSHA Healthcare Alert

OSHA Publishes Formal Request for Information

“The lack of adherence to voluntary infection control procedures is of particular interest to OSHA.”

“A weak culture of worker safety in this sector may be a contributing factor to this issue.”

OSHA Looking Hard at Healthcare Worker Infectious Diseases

OSHA thinks too many of an estimated 16.5 million healthcare workers are getting sick at work and that voluntary standards are not working, in large part due to poor safety programs and lack of regulatory oversight. The deadline for comments is August 4, 2010.

On May 6, 2010 OSHA published a Request for Information (RFI) to collect information from the healthcare industry on “occupational exposure to infectious agents in settings where healthcare is provided.” This includes hospitals, outpatient clinics, clinics in schools and correctional facilities and “healthcare-related” settings ranging from laboratories that handle infectious materials to medical examiner offices to mortuaries. OSHA is specifically interested in current infection control strategies and practices and will use the information to “determine what action, if any, the Agency may take to further limit the spread of occupationally-acquired infectious diseases in these settings.”

OSHA also feels that this action may reduce the rate of hospital-acquired infections (“...among the leading causes of death in the United States...”), blamed for 1.7 million infections and 99,000 deaths in 2002.

[Continued on Page 2](#)

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OSHA Looking Hard at Healthcare Worker Infectious Diseases

Exposure control deficiencies can already be cited under existing OSHA standards such as the Respiratory Protection standard or the General Duty Clause, which requires employers to furnish a place of employment “free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees,” but OSHA is interested in whether specific regulation is warranted. The new Cal-OSHA Aerosol Transmissible Diseases (ATD) standard looks to be a potential model for OSHA rulemaking, and was first used in April to cite three employers, including a hospital and fire and police departments, for nearly \$133,000 in penalties after two employees landed in intensive care from meningitis.

OSHA sees the healthcare industry as relatively high-risk and having a poor safety culture, and it appears that an occupational infection control regulation is coming. The RFI is collecting data on current practices, challenges and outcomes, and healthcare facilities should immediately begin preparing for OSHA intervention by implementing effective programs ranging from infection control to personnel and patient hygiene to ISO Management Systems. This is a wakeup call for senior healthcare managers to take decisive action and begin building a strong culture of safety in their facilities and across the industry.



Health Care Services

*OSHA 511 30-hr Course for Healthcare

*OSHA 10-hr Course for Healthcare

- Patient Handling Ergonomics
- Industrial Hygiene
- HICS and Mass Casualty Plans
- Exposure Control Plans
- ISO 14001 for Healthcare
- OHSAS 18001 for Healthcare
- TJC/DNV Program Elements

OSHA FactSheet

Your Rights as a Whistleblower

You may file a complaint with OSHA if your employer retaliates against you by taking unfavorable personnel action because you engaged in protected activity relating to workplace safety and health, commercial motor carrier safety, pipeline safety, air carrier safety, nuclear safety, the environment, asbestos in schools, corporate fraud, SEC rules or regulations, railroad carrier safety or security, or public transportation agency safety or security.

Whistleblower Laws Enforced by OSHA

Each law requires that complaints be filed within a certain number of days after the alleged retaliation.

You may file complaints by telephone or in writing under the:

- Occupational Safety and Health Act (30 days)
- Surface Transportation Assistance Act (180 days)
- Asbestos Hazard Emergency Response Act (90 days)
- International Safe Container Act (90 days)
- Federal Rail Safety Act (180 days)
- National Transit Systems Security Act (180 days)

Under the following laws, complaints must be filed in writing:

- Clean Air Act (30 days)
- Comprehensive Environmental Response, Compensation and Liability Act (30 days)
- Energy Reorganization Act (180 days)
- Federal Water Pollution Control Act (120 days)
- Pipeline Safety Improvement Act (180 days)
- Safe Drinking Water Act (30 days)
- Sarbanes Oxley Act (90 days)
- Solid Waste Disposal Act (30 days)
- Toxic Substances Control Act (30 days)
- Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (90 days)

Unfavorable Personnel Actions

Your employer may be found to have retaliated against you if your protected activity was a contributing or motivating factor in its decision to take unfavorable personnel action against you.

- Such actions may include:
- Firing or laying off
 - Blacklisting
 - Demoting
 - Denying overtime or promotion
 - Disciplining

- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

Filing a Complaint

If you believe that your employer retaliated against you because you exercised your legal rights as an employee, contact your local OSHA office as soon as possible, because you must file your complaint within the legal time limits. OSHA conducts an in-depth interview with each complainant to determine whether to conduct an investigation. For more information, call your closest OSHA Regional Office:

- Boston (617) 555-3960
- New York (212) 337-2379
- Philadelphia (215) 861-4900
- Atlanta (404) 562-2300
- Chicago (312) 353-2220
- Dallas (972) 950-4145
- Kansas City (816) 293-8745
- Denver (720) 264-6550
- San Francisco (415) 625-2947
- Seattle (206) 553-6959

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories. Some complaints must be filed in writing and some may be filed verbally (call your local OSHA office for assistance). Written complaints may be filed by mail (we recommend certified mail, fax, or hand-delivered during business hours. The date postmarked, faxed or hand-delivered is considered the date filed).

If retaliation for protected activity relating to occupational safety and health issues takes place in a state that operates an OSHA-approved state plan, the complaint should be filed with the state agency, although persons in those states may file with Federal OSHA at the same time. Although the Occupational Safety and

Healthcare at Risk for OSHA Whistleblower Claims

Employee complaints of unsafe work conditions or violations can lead to whistleblower claims especially if he or she feels that the facility retaliated for bringing up or reporting the issue. Take all employee reports seriously, and investigate and document the outcome. If an employee calls OSHA, they will investigate all credible claims. At a minimum this will include a thorough inspection. If OSHA feels that action against the employee was at least a contributing factor they will initiate action to reinstate and “make whole” any loss to the employee. Even if ruled not to be a whistleblower action, potential penalties and corrective actions apply for any violations found.