

THE ADVISOR

MONTHLY COMPLIANCE COMMUNICATOR

OSHA and Mold

While OSHA does not have specific laws that apply to mold in healthcare environments, they do have guidance on what is expected in these settings as does the CDC. A healthcare facility can be cited under the General Duty Clause that states that employers are required to provide a safe and healthy work environment. Mold is a recognized health hazard and practices across the country are frequently contacted by OSHA for reported mold problems.

Mold is very common throughout the United States, especially in the southern half of the country. Mold proliferates anywhere there is moisture and humidity. In buildings, mold will grow in places with excess moisture, such as around leaks in roofs, windows, or pipes, or where there has been flooding or abnormal condensation from air conditioning. Mold grows well on paper products, cardboard, ceiling tiles, and wood products. Mold can also grow in dust, paints, paper products, cardboard, ceiling tiles.

Detecting mold in a small infestation may require a professional to test the air quality. However, when mold infestations are large, they can usually be seen or smelled.

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Exposure to mold may cause a variety of health effects, or none. Indoor exposure to mold can cause upper respiratory tract symptoms, asthma symptoms in people with asthma, and hypersensitivity pneumonitis in individuals susceptible to that immune-mediated condition. A link to other adverse health effects has not been scientifically proven. Mold growth, which often looks like spots, can be many different colors, and can smell musty. Color is not an indication of how dangerous a mold may be. Any mold should be removed and the moisture source that helped it grow should be removed.

Cleanup means more than just treating the visible mold; you must eliminate the source and cause. The necessary action may require experts in correcting moisture problems. Replacement of carpet, ceiling tiles or other materials contaminated with mold may be necessary. Mold growing in homes and buildings indicates that there is a problem with water or moisture. This is the first problem to address.

1. Remove moldy items. Once mold starts to grow in carpet, insulation, ceiling tiles, drywall, or wallboard, the only way to deal with the problem is by removal and replacement.
2. It is important to properly clean and dry the area as you can still have an allergic reaction to parts of the dead mold and mold contamination may recur if there is still a source of moisture.
3. Scrub cleanable surfaces (such as wood, tile, stone) with soapy water and a bristle brush. Thoroughly clean all hard surfaces (such as flooring, molding, wood and metal furniture, countertops, and sinks) with water and dish detergent. Dry surfaces quickly and thoroughly after cleaning. If you have a fan, air conditioner or dehumidifier that was not affected use it to help the surfaces dry after you finish cleaning.
4. Mold growth can be removed from hard surfaces with commercial products, soap and water, or a bleach solution of no more than 1 cup (8 ounces) of bleach in 1 gallon of water to kill mold on surfaces. Never mix bleach with ammonia or other household cleaners.
5. If you have an extensive amount of mold and you do not think you can manage the cleanup on your own, you may want to contact a professional who has experience in cleaning mold in buildings and homes.

If you are unsure if you have a mold problem, you can contact a professional to test the air. Generally, it is not necessary to identify the species of mold. Regardless of the type, if you are susceptible to mold and mold is seen or smelled, there is a potential health risk. Furthermore, reliable sampling for mold can be expensive and standards for judging what an acceptable quantity have not been established.

What is the very best way to deal with indoor mold: Prevent it.

- Inspect for evidence of water damage and visible mold as part of routine maintenance;
- Control humidity levels to between 30% to 50%.
- Promptly fix leaks.
- Thoroughly clean and dry after flooding or leaking.
- Ventilate bathrooms, laundry, and cooking areas.

For more details on mold and the above information, search “mold” on the OSHA.gov or CDC websites. OSHA.gov also includes information on choosing professionals to help with the testing and clean-up phases.

OSHA new enforcement directive effective **March 26, 2023**

Each year OSHA publishes new Enforcement Directives. These directives set the agenda for inspectors to specifically take a close look at certain problems that are critical to the safety and health of employees. This new directive is explicitly focused on repeat and/or willful violators. The phrase “repeat” means a company has been cited previously for this violation but it continues to be a problem. “Willful” means this is a violation of which you have been warned about or it is common knowledge. In addition, they are including employers who repeatedly make decisions where cost considerations significantly outweigh safety concerns.

OSHA is making a hard run at agriculture, maritime and construction industries but by including “general industry” in the list it can target healthcare too. Of particular concern to all practices are respiratory protection and recordkeeping rules (including whistleblower protection).

By stating that they will not be bundling charges, this means if one situation violates several laws the employer will be given the full charge for each law violated as opposed to the normal inspection that could bundle these laws into one charge. To make matters worse, any violation that is considered repeat or willful is cited at 10 times the normal maximum charge and no discounts are applied, including the normal 60% discount for a business with fewer than 250 employees. This charge for federal states (or states that have adopted the new federal states) is \$156,259.00 per law violated.

The full text of the OSHA announcement is listed below:

OSHA Regional Administrators and Area Office Directors now have the authority to cite certain types of violations as "instance-by-instance citations" for cases where the agency identifies "high-gravity" serious violations of OSHA standards specific to certain conditions where the language of the rule supports a citation for each instance of non-compliance. These conditions include lockout/tagout, machine guarding, permit-required confined space, respiratory protection, falls, trenching and for cases with other-than-serious violations specific to recordkeeping.

The change is intended to ensure OSHA personnel are applying the full authority of the Occupational Safety and Health Act where increased citations are needed to discourage non-compliance. The new guidance covers enforcement activity in general industry, agriculture, maritime and construction industries, and becomes effective 60 days from Jan. 26, 2023. The current policy has been in place since 1990 and applies only to egregious willful citations.

In a second action, OSHA is reminding its Regional Administrators and Area Directors of their authority not to group violations, and instead cite them separately to more effectively encourage employers to comply with the intent of the OSH Act.

"Smart, impactful enforcement means using all the tools available to us when an employer 'doesn't get it' and will respond to only additional deterrence in the form of increased citations and penalties," explained Assistant Secretary for Occupational Safety and Health Doug Parker. "This is intended to be a targeted strategy for those employers who repeatedly choose to put profits before their employees' safety, health and wellbeing. Employers who callously view injured or sickened workers simply as a cost of doing business will face more serious consequences."

HIPAA and the letter excusing a return to the workplace

With the pandemic drawing to a close in May, many employers are requiring their workers to return to the physical workplace. Patients that are afraid that their medical situation makes that return too risky at this time are requesting a letter from the doctor preventing that return. If the doctor believes this to be valid, they generate the letter. This is causing concerns about the risk to the patient's privacy as well as how to handle requests from the employers for more details. Some practical ideas will help you navigate between caring for your patient and complying with HIPAA regulations.

What kind of authorization is need for the doctor to give this information to the patient's employer?

If you treat this like you do an absentee notice to schools or employers, no authorization is required. Give the letter to the patient and have them deliver it to their employer. Then, you are not the one releasing the information, and the responsibility is on the patient. If you must send the letter directly to the employer, a standard authorization clearing detailing the information to be released will be needed.

What should you do when an employer contacts the office to verify the letter?

Have them fax you a copy of what they received. You can verify the doctor generated the letter and that it has not been altered. That is all. Do not give that information prior to receiving a copy of the letter. Do not even acknowledge that the employee is a patient until you receive the letter. Accept this copy only by fax, US Mail, or encrypted email. (This works for truancy officers from a school, too.)

What should you do when an employer contacts the office to request more details?

Inform the employer that this request must be directed to their employee who must request and authorize a release of this information from the doctor. Otherwise, this information can only be obtained by a valid subpoena.

Should you get a disclaimer signed that details that your patient could be terminated by pursuing this course of action?

This is not your responsibility. This issue should be handled by the patient with their employer. If your lawyer advises this disclaimer, do not include the disclaimer on your authorization form. The HIPAA regulations are clear that an authorization document cannot include anything but another authorization. A disclaimer will invalidate the authorization form. The purpose of this distinction is to make it clear to the patient what they are signing.

Thinking this process through beforehand and following these steps can lower your risk of inadvertently causing a breach of information while still accommodating your patient's needs. Remember to always give out the minimum information when fulfilling any documentation.

It's Your Call

- What is the current Federal OSHA citation for a serious violation?
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- Can you add a consent or acknowledgement to a Release of Information document?



Our Online Human Resource Courses Have Been Refreshed!

TMC is always looking for the latest information to ensure that our clients have the most up-to-date and relevant tips, tricks, and material available for your practice. In light of that, we are excited to reintroduce our online Human Resource courses that are available for you now!

Our most popular and relevant online courses have been updated with the latest statistics and information. The following training courses are available now for you and your employees to enroll in:

- Sexual Harassment (40 min): This training will help your practice be proactive in creating a safe workplace with tools for recognizing sexual harassment, understanding its impact, reporting guidelines, and how to prevent it in your practice.
- Diversity Training (40 min): Diversity training is about more than simply learning about differences: it is understanding, appreciating, and respecting differences in individuals. This training will teach how to respond to differences in the workplace, how to promote respect, and how to improve communication.
- Conflict Resolution (40 min): Understand the impact of conflict in the workplace, recognize different types and reasons for conflict, and learn methods of managing conflict and resolution options.
- Implicit Bias (40 min): This training will teach you what implicit bias is, why we all have implicit biases, recognize how it may influence decisions, its effect in the workplace, and identify strategies and solutions to reduce its influence.
- Workplace Violence Prevention (40 min): Participants will learn to identify workplace violence, discuss the impact, review risk factors, and create a workplace violence prevention plan. Review workplace conduct rules and legal liability and learn how to address and prevent harassment in your workplace.

Each course is self-paced and provides a thorough overview of each topic. Upon completion of a course, you'll receive a digital certificate you can download as a PDF or save in our learning management system.

Keep your practice up to date on topics relating to Human Resources. Enroll your practice in these new courses (and check out our other courses) through our online store today!

[Total Medical Compliance and EmergeOrtho partner to provide OSHA compliance for North Carolina healthcare practices](#)

Indian Trail, NC – March 2, 2023 /EINPresswire.com/ – Total Medical Compliance (TMC), a leading provider of healthcare compliance solutions, is pleased to announce their partnership with EmergeOrtho. This partnership will provide and enhance EmergeOrtho's OSHA compliance training to support their healthcare network in federal and state compliance regulations.

"We're excited to bring EmergeOrtho into our ever-expanding compliance programs," said Bill Fivek, TMC President and CEO. "We look for partners that have similar business values and who emphasize their employee and patient safety." Lynne DeVenny, EmergeOrtho's Compliance Program Manager states, "We have been extremely impressed by the thorough audit reports and customized OSHA materials TMC provides for each location, as well as the availability of their knowledgeable consultants to answer our OSHA questions any time."

TMC is a national provider of compliance services and customizes their offerings to their customers, whether that involves online training or their on-site expertise. To learn more about TMC's compliance programs, contact us for a free quote.

About EmergeOrtho

With an unparalleled team led by board-certified, fellowship-trained specialists, EmergeOrtho provides comprehensive, patient-centered orthopedic, spine and pain management care—all with the goal of helping you emerge stronger, healthier, and better able to lead an active life. For more about EmergeOrtho, visit emergeortho.com.

About Total Medical Compliance (TMC)

Total Medical Compliance has been trusted by healthcare practices and business associates for over 25 years to be their HIPAA and OSHA compliance partner. We deliver customized, expert compliance solutions with extraordinary customer support to achieve a safe environment for patients and employees. Support in the compliance process is available from online training through inspections and audits. We allow you to concentrate on your patients, not compliance.

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Instructions

Print and post newsletter in office for staff review. Each member should sign this form when completed. Keep on file as proof of training on these topics.

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Need to contact us? Scan the QR code for all the ways to get in touch!