

# THE ADVISOR



## MONTHLY COMPLIANCE COMMUNICATOR

### CREATING A SAFE PRACTICE

First impressions count. Do you know what is the first impression patients have of your practice? Does it include safety? Hopefully your office appearance says well-organized, efficient, and safety centered. As a challenge, the next time you enter your office, walk in the front door and visualize the space as a patient, potential new employee or even an OSHA or public health inspector. Now, ask yourself the following questions:

- ✓ Is the waiting area clean and organized?
- ✓ Do the silk plants have dust bunnies?
- ✓ Is the carpet in good repair?
- ✓ How old are the magazines?
- ✓ Are the clinical areas filled with items not in use?
- ✓ Are the counters free of clutter so surface disinfection can easily occur?
- ✓ Are sharps containers overfilled?
- ✓ Is the sterilization area clean and well organized?

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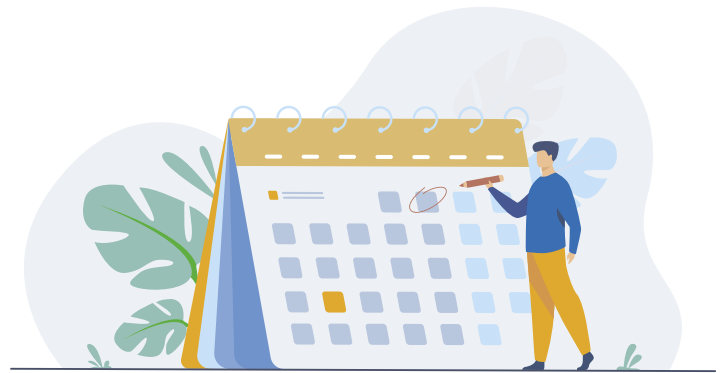


# INFECTION CONTROL COMPLIANCE

Perhaps you can see where this is going. There are some compliance basics that go along with appearance and overall, wellbeing of your physical location. When defining compliance, we will look at it from two different perspectives: employee safety and patient safety.

Employee safety standards are often referred to as OSHA standards. The following are some examples of safeguards which must be in place to ensure employees are provided a safe work environment.

- ✓ Training is essential in order for employees to understand safety measures in place in their work environment. Annual training is not only a best practice, bloodborne pathogen training is required by law on an annual basis.
- ✓ Written plans on exposure control and hazardous communication must be available at all times to employees. Each employee should know where to locate the written plan as well as where to locate Safety Data Sheets (SDS) for all chemicals they work with.
- ✓ Appropriate documentation of hepatitis B vaccination or vaccination declination.
- ✓ Personal protective equipment (PPE) provided by the employer at no cost to the employee. Employers must also provide laundering of reusable PPE. Employees should not take contaminated PPE home for cleaning.
- ✓ Availability and use of engineering controls was mandated by the Needlestick Safety and Prevention Act of 2001. Examples of engineering controls include sharps containers, safety scalpels, safety needles, and safety IV access devices.
- ✓ Written cleaning schedule outlining surfaces to be disinfected, frequency, and product to be used.



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# INFECTION CONTROL COMPLIANCE

**Walk through the practice and check for the following items.**

- ✓ GFIC outlets in restrooms and other outlets where there is the potential for splash or splatter of water.
- ✓ Clearance of at least three feet around breaker boxes and all breakers with appropriate labeling.
- ✓ Fire extinguisher visual checks on a monthly basis and annual maintenance by outside source to ensure proper functioning if needed.
- ✓ Sharps containers in direct areas of use.
- ✓ When transporting contaminated, reusable, sharps ensure employees are placing the sharps in a container that is leak proof on sides and bottom, closable and labeled.

Patient safety is provided in part by following established standards for infection control. The CDC issued multiple guidelines to address specific areas such as handwashing, disinfection, and sterilization. By following the established guidelines, overall risk from acquiring infection through the delivery of patient care can be reduced. Each practice should implement an infection control plan.



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### Key items to review in your practice include:

- ✓ Clearly identified process for cleaning instruments focusing on reduction in actual handling of soiled instrumentation, i.e., use of ultrasonic cleaner instead of scrubbing by hand. The use of heavy-duty utility gloves during this process should be expected of all employees.
- ✓ Proper monitoring of the sterilization process which includes the use of internal and external indicators in every package and performance of spore testing on a weekly basis for each sterilizer in use.
- ✓ Attention to the sterilization cycle focusing on appropriate loading of the unit, and removal of instrument packages at the end of the dry cycle. Packages should be dry when removed from the sterilizer. If packages are continually wet, there may be an issue with appropriate use of the equipment, overloading of the chamber, or an issue with the drying element.
- ✓ Single use devices must be discarded, not disinfected or sterilized after use. Following the manufacturer's directions is imperative from a risk management perspective. Single dose medications must be discarded after patient use even if solution remains.
- ✓ Is hand washing a top priority for all personnel? Research has proven this is a challenge in all health care environments, yet it is the one thing which will consistently reduce the likelihood of spread of infection.
- ✓ Is there a designated point person for oversight of the infection control program?

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# OSHA LOGS

So, how did you do? If there are opportunities for improvement start now to ensure your practice reflects a strong culture of both patient and worker safety.

Over the next several issues we are going to focus specifically on several of these topics including the role of the safety officer, proper sterilization of instruments and safe injection practices. Follow along to identify safety strategies that will create a safer workplace and a safe place for patients to receive care.

**Most medical and dental practices are exempt from having to maintain the Log of Work-Related Injuries and Illnesses (OSHA 300) and from having to post the Summary of Work-Related Injuries and Illnesses (OSHA 300A).**

## POSTING OSHA 300A LOGS

OSHA exempts all employers with less than 10 employees. Employers in selected industries such as most medical and dental practices are also exempt from this posting. This exception applies unless you are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), required by state law, or a state agency operating under the authority of OSHA or the BLS.

## **Breach Reporting by MARCH 1, 2022, to Health and Human Services (HHS)**

Just a reminder to those who have had a breach in the past year impacting less than 500 individuals. You have until March 1, 2022, to report those breaches to HHS. If you have not already done so. All such breaches **MUST** be reported to HHS no later than this date. If you have a breach, which needs reporting, go to the [HHS Breach Reporting webpage](#) to document the event.

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# SUBPOENAS 101

## SUBPOENAS 101

Your practice has received a subpoena for client records. What do you need to do?

Don't panic. This is not unusual. There are several things you need to know up front.

1. Read the entire subpoena carefully to determine who is asking for the information and, exactly what information you need to send.
2. Never send more information than is required.
3. Always send the information securely (e.g., mail, encrypted email, fax).
4. HIPAA allows a release of information for a valid subpoena.
5. Failure to respond in time could cause you to be in contempt of court and be fined.
6. You can notify your patient of the subpoena but are not required to do so. Patients cannot tell your practice not to release the information requested in a subpoena. If the patient doesn't want you to release the information they must go before a judge and then present you with a court order blocking the subpoena before the subpoena deadline.



Once you know who is requesting the information you can act appropriately. The subpoena is usually issued by one of the following:

- A judge for all or part of a patient record
- An attorney for all or part of a patient record
- An oversight committee (e.g., medical/dental board, OSHA, HIPAA) for one or more patient records and/or other office documentation

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# SUBPOENAS 101

## Judge Signed Subpoena

Subpoenas need to be read carefully. Sometimes there is a judge signature included in the subpoena that is for the case information, but the subpoena is actually signed by an attorney. Check where the information is to be sent. If the delivery address goes to an attorney, it is an attorney subpoena not a judge ordered subpoena.

If it is a judge ordered subpoena, unless one of the exceptions below apply, release a copy of the requested information to the court in the time frame dictated. You can be assured that your patient has been notified of the subpoena and has already had time to request that it be blocked if they wish. This is part of the court's required process. You do not need to contact the patient.



## Attorney Signed Subpoena

If the subpoena is from the attorney representing your patient it may be accompanied by an authorization or an access request signed by the patient. Under the current HIPAA rules an attorney subpoena does not need either. (A request from an attorney that is not a subpoena would need an authorization.) You can release the information on a subpoena to the attorney for your patient without further documentation.

If the subpoena is from the attorney representing the opposite side in the court case, you will need certain assurances before releasing the information. The attorney must include in the subpoena or an accompanying letter that your patient (or their representative/lawyer) has been notified of the subpoena and has had an appropriate length of time to get the subpoena blocked by the court if they wish. If this wording is not included, you should contact the attorney who issued the subpoena and inform them that you cannot fulfill the subpoena until you have that assurance in writing. You can also contact

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# SUBPOENAS 101

the patient and verify that they have been notified and have no plans to block the subpoena. Be sure to document your conversations. Remember that you cannot ignore the subpoena on just the request of your patient. The patient must provide a court order prior to the deadline on the subpoena by which you must release the information. Remember that you need the written assurance from the attorney or a signed authorization from the patient to fulfill this subpoena.

## Oversight Committee Subpoena

Receiving a subpoena from an oversight committee is usually because of an investigation of your practice or a provider at your practice. An oversight committee investigation can include civil law, criminal law and/or ethics. Sometimes it is an investigation of another provider/practice where your records may offer insight into the case. HIPAA allows this kind of release. But if it is your practice being investigated you should get the advice of your attorney. Remember that you cannot ignore a subpoena.

## Exceptions

If the records requested contain substance abuse treatment information, they fall under the SAMSHA laws and require extra steps to make sure the subpoena is valid. Consult an attorney if you are not already aware of the rules.

If the doctor (and only the doctor can make this call) feels that the release of the records requested would cause harm to the safety or health of anyone you can appear before a judge and ask for the subpoena to be blocked. The judge will decide if the subpoena is upheld, blocked, or it is to be viewed only by the judge.

If the subpoena is issued by an out-of-state court, you should check with your attorney before releasing records. Many states have laws that may prevent these kinds of subpoenas.



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# IT'S YOUR CALL

## Final Notes

- Sometimes a subpoena requires that you deliver the requested information in person and/or to testify in person. If you cannot meet this date or be present on the date you can try to negotiate the terms. The terms are usually more flexible with an attorney subpoena. A judge ordered subpoena, or an oversight committee subpoena may require you to have your attorney help with any negotiations.
- If you need to share any protected health information with your attorney, such as to defend you with the oversight committee, your attorney becomes a Business Associate under HIPAA. You will need a Business Associate Agreement with your lawyer if you can't remove all identifiers from the data.

Follow these guidelines and you should be able to navigate through most subpoena cases. If at any time you question the validity of the subpoena or are confused about the request, you should seek the advice of your attorney.

## IT'S YOUR CALL

### OSHA:

**Q:** Has OSHA relaxed any of the covid-19 guidance for employers?

### HIPAA:

**Q:** Should volunteers in our office receive HIPAA training?

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# TMC ONLINE TRAINING

## TMC ONLINE TRAINING

It's been two years since we rolled out the new online training platform. As our clients worked with us to transition from the original platform to the new one, we've listened to the feedback and requests for new features. Our new admin functions are a great example of that. Here is a reminder of the new features implemented in 2021.

Our Online Training platform allows you to set up an admin for your practice. This has been a very successful bonus for our customers. Each client admin can now add or edit employees at their own pace and at their convenience. Client admins can also track their employee's progress. What else can a Client Admin do?

### Print Certificates

Print certificates from your account. From the blue navigation bar at the top of the page, click **Reports**. Then select **Print Certificates**.

### Assign Courses in Bulk

You can assign all your users to a particular course at the same time. Click **Manage** and then select **Courses**. You will see your courses listed with a person icon to the right of each course name. Click the icon. You can then move as many users as you want from the left box to the right box. Do not forget to assign an expiry date by which you want them to complete the course.



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# TMC ONLINE TRAINING

## See Previous Year's Data

You can easily see any of your user's history. Note that the system does not keep certificates year after year. When your account renews for a new year of training, the certificates are removed, but the data remains. We advise each learner, or client admin to print the certificate upon completion.

Click reports on the blue navigation bar at the top of the page, then click detailed usage report.

1. Click **Filter**, located next to the search bar. It has a funnel icon.
2. Click **All Subscriptions**.
3. Finish by clicking the orange **Submit** button.

Customer feedback is always important to us. If you have a few minutes, please let us know what you think by [clicking here](#).



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## MONTHLY COMPLIANCE COMMUNICATOR

SIGNATURE

PRINT

DATE

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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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