

THE ADVISOR

MONTHLY COMPLIANCE COMMUNICATOR

SHREDDING BLUES

It is amazing how much paper a practice generates even with electronic records. Almost all of this paper contains protected health information (PHI).

How do you protect all the paper you generate each day? All the paper that doesn't need to be kept must be destroyed promptly. The easiest solution is to shred it or contract with a Business Associate to shred it for you. As paper is generated throughout the day, it is inconvenient and time consuming to jump up with each piece and run to the shredding box. What is your solution?

A great many practices use a method that is a ticking time bomb for a major breach. A box is placed at each station to store these papers until the end of a shift when the employee is supposed to take it to the shredding machine or pickup box. The pickup boxes are locked but the station boxes are not. The information in those temporary containers is available to anyone who walks by it. You may say, "Only employees walk by that area." Even if it is true, not all employees are supposed to have access to all information. Even if you have followed the rules on limiting electronic access, you may have missed access to paper PHI. An employee at their station would notice if someone took something from the box; but employees take breaks, go to lunch, run errands, etc.

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SHREDDING BLUES

If someone is not monitoring the paper it should be secured. The biggest danger, and the one that has caused a number of breaches, is that employees forget to empty the box before they leave for the day. This can especially happen if they are sick or distracted. The cleaning crew comes in later and discards the papers in the regular trash. Now the PHI is in a dumpster, a dump truck or a land fill just waiting to be exposed.

This box of paper with PHI should be protected as well as you protected patient files in the days before electronic files. The consequences of a breach from paper are steep. If something happens to that box it will be very difficult to identify what information has been released on what patients. This means that you have to notify every patient in your practice, put a notice on the front page of your website, notify the major media that covers your area, notify HHS and install a toll-free line to handle any questions. The result will cost you time, money and reputation. It will also make it highly probable that you will receive an audit from OCR (Office of Civil Rights) whose responsibility it is to enforce HIPAA regulations.

What can you do to make this process safer? Here are some ideas that clients have suggested.

1. Have the employee empty the box each time they leave their station.
2. Clearly mark the box NOT TRASH or FOR SHREDDER.
3. Place the shredder or pickup box where it is more convenient for frequent disposal of items.
4. Put a personal shredder in the station or use a sealed box with a letter slot.
5. Assign someone to do an end-of-day walk-through to ensure all boxes are emptied.



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OSHA GUIDELINES

MAKING SENSE OF CURRENT REGULATIONS AND GUIDELINES

Along with the holiday break came several key updates to OSHA regulations and CDC guidance. The information below is a brief review of key points so that you are aware of the regulatory landscape moving into this new year.

OSHA Vaccination and Testing Emergency Temporary Standard (ETS) Has Been Blocked

OSHA released the ETS on vaccination and testing in November 2021. This standard required employers with 100 or more employees, regardless of whether they care for COVID-19 patients, to ensure employees are vaccinated and if not, the employees must be tested weekly. This standard has driven a flurry of judicial activity finally concluding with the Supreme Court blocking the ETS on January 13, 2021.

What does this mean for your practice?

Employers with 100+ employees are not bound by the requirements of this standard.

Vaccination is still considered the best protection against severe illness.

CMS Vaccine Regulation

The CMS regulation requiring vaccination of eligible staff at health care facilities that participate in the Medicare and Medicaid programs will move forward. Only the facilities listed below are impacted by this requirement:

Ambulatory Surgical Centers, Hospices, Programs of All-Inclusive Care for the elderly, Hospitals, Long Term Care facilities, Psychiatric Residential Treatment Facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities, Home Health Agencies, Comprehensive Outpatient Rehabilitation Facilities, Critical Access Hospitals, Clinics (rehabilitation agencies, and public health agencies as providers of outpatient physical therapy and speech-language pathology services), Community Mental Health Centers, Home Infusion Therapy supplies, Rural Health Clinics + Federally Qualified Health Centers, and End-Stage Renal Disease Facilities.



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OSHA GUIDELINES

OSHA COVID-19 Healthcare ETS

Many dental practices and some medical practices were able to claim exemption from the requirements of this ETS, but practices caring for or providing diagnostic testing for COVID-19 were required to follow the outlined requirements. On December 27, 2021 OSHA announced the withdrawal all of the requirements of this ETS **except** for the COVID-19 log and reporting COVID-19 fatalities and hospitalizations to OSHA. This announcement also documented OSHA's intent to issue a final standard to protect healthcare workers from COVID-19 hazards, indicating more to come.

While OSHA has withdrawn the standard the announcement did provide the following direction regarding employer obligations:

As OSHA works towards a permanent regulatory solution, OSHA will vigorously enforce the general duty clause and its general standards, including the Personal Protective Equipment (PPE) and Respiratory Protection Standards, to help protect healthcare employees from the hazard of COVID-19. The Respiratory Protection Standard applies to personnel providing care to persons who are suspected or confirmed to have COVID-19.

OSHA will accept compliance with the terms of the Healthcare ETS as satisfying employers' related obligations under the general duty clause, respiratory protection, and PPE standards. Continued adherence to the terms of the healthcare ETS is the simplest way for employers in healthcare settings to protect their employees' health and ensure compliance with their OSH Act obligations.



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OSHA GUIDELINES



What does this mean for your practice?

- This standard initially impacted only states that fell under federal OSHA jurisdiction, but many state programs adopted the standard as written. If your state OSHA program adopted the standard as written, the removal of the standard would also apply to your state. For those states who have their own specific COVID-19 standards, your practice must still comply with applicable standards.
- Exposure to COVID-19 is still a risk in the healthcare community and appropriate protections must be in place to reduce the risk to workers.
- Review your policies and procedures related to patient and worker screening and be sure they are followed consistently.
- For those caring for COVID-19 suspect or confirmed patients, the use of N95 respirators is the standard of care. Respirators should also be used for aerosol generating procedures (AGP) in practices where community transmission is at a moderate to high levels.
- When using respirators, ensure that a written respirator protection plan has been created and is being followed.

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OSHA GUIDELINES

CDC Work Restrictions for Healthcare Providers with SARS-CoV-2 Infection and Exposures

In recent weeks the CDC has updated guidance on both isolation and quarantine for healthcare providers AND the general public. Understanding the difference between isolation and quarantine is important when applying the guidance.

Isolation: Limiting contact with others after a confirmed infection

Quarantine: Limiting contact with others after an exposure to the virus or close contact with someone known to have COVID-19

The general public guidance was updated on December 27, 2021 to include the following, which may be helpful when determining when to see a patient for a routine visit.

- People with COVID-19 should isolate for 5 days and if they are asymptomatic or their symptoms are resolving (without fever for 24 hours), follow that by 5 days of wearing a mask when around others to minimize the risk of infecting people they encounter.
- Individuals who have received their booster shot do not need to quarantine following an exposure but should wear a mask for 10 days after the exposure.
- For people who are unvaccinated or are more than six months out from their second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, CDC now recommends quarantine for 5 days followed by strict mask use for an additional 5 days. Alternatively, if a 5-day quarantine is not feasible, it is imperative that an exposed person wear a well-fitting mask at all times when around others for 10 days after exposure.
- For all those exposed, best practice would also include a test for SARS-CoV-2 at day 5 after exposure. If symptoms occur, individuals should immediately quarantine until a negative test confirms the infection is not COVID-19

Return to work guidance for healthcare providers has also been updated. When reviewing the guidance, criteria are shortened from previous guidance, BUT that is only when testing is performed.

This is a BRIEF review of the current guidance. To review the complete information, go to the [CDC Interim Guidance for Healthcare Workers webpage](#).

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OSHA GUIDELINES

HCP Who Has Been Exposed

HCP	PPE Used by HCP	Work Restrictions COVID-19 Vaccines + Booster Doses	Work Restrictions Not Fully Vaccinated
Higher Risk: Prolonged close contact with patient, visitor, or other HCP with confirmed infection	<ul style="list-style-type: none">Not wearing a respiratorNot wearing a mask and the infected individual is not wearing a maskNot wearing eye protection and the infected individual is not wearing a maskNot wearing all required PPE when performing an AGP	<ul style="list-style-type: none">No work restrictions unless a positive test is obtained, or symptoms begin.Perform testing after 24 hours of exposure and if negative again at 5 -7 daysFollow all infection prevention and control recommendations such as masking and self-monitoring.	<ul style="list-style-type: none">Exclude from work for 7 days after exposure if viral test is negative and they do not have symptoms. The test should be completed within 48 hours of returning to work ORExclude from work for 10 days after exposure if they do not exhibit symptoms.

HCP with COVID-19 Infection

Work Restrictions Mild to moderate illness Not moderately/severely immunocompromised	Work Restrictions Asymptomatic infection Not moderately/severely immunocompromised
<ul style="list-style-type: none">At least 7 days if a negative antigen or NAAT is obtained within 48 hours prior to returning to work10 days since symptoms first appeared if testing is not performed or a positive test at day 5-7 andAt least 24 hours have passed since last fever without the use of fever-reducing medications, andSymptoms (e.g., cough, shortness of breath) have improved.	<ul style="list-style-type: none">At least 7 days if a negative antigen or NAAT is obtained within 48 hours prior to returning to work10 days since symptoms first appeared if testing is not performed or a positive test at day 5-7

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IT'S YOUR CALL

Additional [scenarios](#) are described for HCP who have severe illness and/or who are severely immunocompromised as they may be infectious for a longer period of time.

TMC is committed to keeping you up to date on this seemingly ever-changing situation. The SARS-CoV-2 virus seems to change frequently and while it is encouraging that the Omicron variant seems to create a less severe illness, those in healthcare must remain diligent. Additional updates will be provided through the TMC Blog and our Social Media posts.

Happy New Year Ya'll!

IT'S YOUR CALL

OSHA:

Q. What were the top Federal OSHA citations in healthcare during the pandemic?

HIPAA:

Q: My co-worker is loud when he talks to patients. Does the HIPAA Privacy Rule say anything about talking to patients if one might be overheard?

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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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