

THE ADVISOR



MONTHLY COMPLIANCE COMMUNICATOR

SURFACE DISINFECTION: CORRECT PRODUCT, CORRECT PROCESS

For most healthcare workers surface cleaning and disinfection is part of their daily routine. During the COVID19 pandemic, there has been an increased focus on surfaces and how they can be a source of transfer of infection. In fact, several infections can be spread simply by touching a contaminated surface, and then touching either the eyes, the nose, or the mouth. These infections include chicken pox, the common cold, conjunctivitis (pink eye), Hepatitis A and B, herpes simplex (cold sores), influenza, measles, mononucleosis, Fifth disease, pertussis, and adeno/rhino viruses.

Have you ever stopped and thought about how many times in just one month you perform surface cleaning and disinfection? Let's do a little math and estimate that you clean/disinfect clinical surfaces 10 times each day and work 5 days each week. Now, take that number and multiply it by 4 for a total of 200 times each month. If you would



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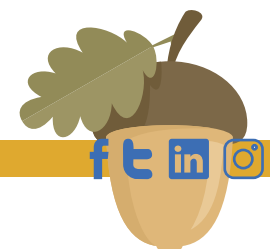
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OSHA COMPLIANCE

go just one step further and multiply by 50, hoping you get at least two weeks vacation you will see that number climb to 1000. Let that sink in. For many, that number is a low estimate. This is why surface cleaning is a very important process in reducing the spread of infection. Everyone must be doing it correctly, which means knowing the products being used and the safety precautions that are needed.

Identify Areas of Need

Are all potentially contaminated surfaces included in the cleaning/disinfection schedule? During this pandemic the list should also include any high touch surfaces both in clinical and non-clinical area. In clinical areas be sure to identify all surfaces which could be potentially contaminated either by splash or splatter of blood or other potentially infectious material, contaminated instruments or the healthcare provider's hands. These areas may include: any horizontal surface, light handles, radiograph equipment, drawer handles, and reusable product containers used for patient care. Do not forget computer keyboards! When surfaces are soiled, they must also be cleaned prior to disinfection.

Product Selection

Hopefully by now you have compared the product(s) you are using to List N on the EPA website which list disinfectants that meet EPA criteria for use against the SARS-CoV-2 virus. Many commercial products can both clean soiled surfaces and disinfect which eliminates the need to use multiple products. Along with effectiveness, consider the impact the chemical will have on surfaces and of course the workers' safety when using the product.

The Process

Prior to using the selected product, it is critical to read the directions for use. This will ensure the product is used appropriately and that the worker will utilize the appropriate personal protective equipment (PPE).



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If barriers are being used on difficult to clean/disinfect surfaces, remove and discard the barriers first. The surfaces under the barriers do not need cleaning/disinfecting as long as the barrier remained intact, and surfaces were not cross contaminated during the removal process.

Two processes for surface decontamination are described below.

Spray – wipe – spray: Spray all surfaces which need to be cleaned. Depending on the manufacturer's instructions, surfaces may need to stay wet for a designated time. For instance, one product requires the surface to remain wet for 30 seconds before wiping with a paper towel. The WIPE portion of this step is not using a commercial wipe, but simply wiping the surface for cleaning purposes. Once clean, the surface is sprayed with the product again, ensuring the surfaces remain wet for the required contact time (time the surface must remain wet) required to kill any pathogens remaining.



Use of wipes or towelettes: Many offices have moved away from spraying surfaces to utilizing pre-packaged wipes or towelettes. Again, following manufacturer's instruction is always crucial to the overall success of the process. Use a wipe or several wipes, depending on the size of the area to be cleaned. Once surfaces are clean, the process is repeated to disinfect the surfaces.

Did you know that newer products on the market may reduce the time for cleaning/disinfection? With these newer hydrogen peroxide-based products, if surfaces are NOT visibly soiled, cleaning and disinfection can take place at the same time. This could be a huge time saver for many practices! Be sure to closely follow the manufacturer's instructions for the current contact time.

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A word of warning for those preparing their own “wipes,” this is a process that should be avoided. Placing gauze in a jar/ container and filling the container with a cleaner/disinfection solution may seem like a good idea, but in fact, the disinfectant portion of the solution is negatively impacted by the presence of the gauze material. This may lead to surfaces which are not adequately disinfected.

Proper cleaning and disinfection are essential as we continue to face the challenges of SARS-CoV-2 and the upcoming influenza season. With a strong written process, employee training, and the appropriate products your office can reduce the risk of spread of infection.

IT'S YOUR CALL

OSHA:

When was the Occupational Safety and Health Administration established by Congress?

HIPAA:

Does Health and Human Services have a tier for violations?

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HIPAA COMPLIANCE



HIPAA: DISCLOSING COVID-19 VACCINATION STATUS

HHS has published an article on the HIPAA Privacy Rule's effect on the disclosure of COVID-19 vaccination status for healthcare. The following are excerpts from the article. For the full text see: <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/hipaa-covid-19-vaccination-workplace/index.html>. Remember that HIPAA is not the only set of laws that regulate this information.

1. Does the HIPAA Privacy Rule prohibit businesses or individuals from asking whether their customers or clients have received a COVID-19 vaccine?

No. The Privacy Rule does not prohibit any person, including HIPAA covered entities and business associates, from asking whether an individual has received a particular vaccine, including COVID-19 vaccines. The Privacy Rule does not regulate the ability of covered entities and business associates to request information from patients or visitors. Rather, the Privacy Rule regulates how and when covered entities and business associates are permitted to use and disclose protected health information (PHI) that covered entities and business associates create, receive, maintain, or transmit.

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HIPAA COMPLIANCE

The Privacy Rule does not apply when an individual is asked about their own vaccination status or asks another individual, their doctor, or a service provider whether they or their workforce members are vaccinated. Other state or federal laws address whether individuals are required to disclose whether they have received a vaccine under certain circumstances.

2. Does the HIPAA Privacy Rule prevent customers or clients of a business from disclosing whether they have received a COVID-19 vaccine?

No. The Privacy Rule does not prevent any individual from disclosing whether they been vaccinated against COVID-19 or any other disease. The Privacy Rule does not apply to individuals' disclosures about their own health information.

3. Does the HIPAA Privacy Rule prohibit an employer from requiring a workforce member to disclose whether they have received a COVID-19 vaccine to the employer, clients, or other parties?

No. The Privacy Rule does not apply to employment records, including employment records held by covered entities or business associates in their capacity as employers. Generally, the Privacy Rule does not regulate what information can be requested from employees as part of the terms and conditions of employment. However, other federal or state laws do address terms and conditions of employment.

For example, federal anti-discrimination laws do not prevent an employer from choosing to require that all employees physically entering the workplace be vaccinated against COVID-19 and provide documentation or other confirmation that they have met this requirement, subject to reasonable accommodation provisions and other equal employment opportunity considerations. Documentation or other confirmation of vaccination, however, must be kept confidential and stored separately from the employee's personnel files under Title I of the Americans with Disabilities Act (ADA).



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HIPAA COMPLIANCE

4. Does the HIPAA Privacy Rule prohibit a covered entity or business associate from requiring its workforce members to disclose to their employers or other parties whether the workforce members have received a COVID-19 vaccine?

No. The Privacy Rule does not apply to employment records, including employment records held by covered entities and business associates acting in their capacity as employers. Thus, the Privacy Rule generally does not regulate what information can be requested from employees as part of the terms and conditions of employment that a covered entity or business associate may impose on its workforce, such as the ability of a covered entity or business associate to require its workforce members to provide documentation of their vaccination against COVID-19 or to disclose whether they have been vaccinated to their employer, other workforce members, patients, or members of the public.



Other federal or state laws address whether an employer may require a workforce member to obtain any vaccinations as a condition of employment and provide documentation or other confirmation of vaccination. Documentation or other confirmation of vaccination must be kept confidential and stored separately from the employee's personnel files under Title I of the Americans with Disabilities Act (ADA).

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OSHA CITATION PENALTIES

5. Does the HIPAA Privacy Rule prohibit a doctor's office from disclosing an individual's protected health information (PHI), including whether they have received a COVID-19 vaccine, to the individual's employer or other parties?

Generally, yes. The Privacy Rule prohibits covered entities and their business associates from using or disclosing an individual's PHI (e.g., information about whether the individual has received a vaccine, such as a COVID-19 vaccine; the individual's medical history or demographic information) except with the individual's authorization or as otherwise expressly permitted or required by the Privacy Rule.

Generally, where a covered entity or business associate is permitted to disclose PHI (treatment, payment, healthcare operation or required by law), it is limited to disclosing the PHI that is reasonably necessary to accomplish the stated purpose for the disclosure.

In other circumstances, the Privacy Rule generally requires a covered entity to obtain an individual's written authorization before disclosing the individual's PHI, such as disclosure of whether the individual has received a vaccine, to, for example:

- a sports arena,
- a hotel, resort, or cruise ship,
- airline or car rental agency.

In conclusion, HIPAA only applies to covered entities and Business Associates use of patient information, not to the general public or employee information.

OSHA CITATION PENALTIES

A lot of our clients ask us what the OSHA penalty is for a particular violation. OSHA citations and the accompanying penalties do not work that way. There is no schedule that says an overfilled sharps container is \$900 or failure to provide appropriate protective equipment is \$2500.

OSHA citations are based on failure to comply with a regulation, any OSHA regulation. The same fee schedule applies to all regulations. OSHA can also cite a practice using the General Duty Clause for things that effect the safety and/or health of an employee but do not have a specific OSHA regulation, such as a CDC recommendation.

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OSHA CITATION PENALTIES

When your practice is assessing the risks involved with a failure to comply with OSHA regulations remember that OSHA penalties are the tip of the iceberg. The real monetary risks are the civil suits that can result from injuries or illness to a workforce member.

All OSHA citations are charged at the top amount depending on the type of violation as listed below. Most penalty types can be modified to a lesser charge.



- **Non-Serious Violation = \$13,653** (can be and usually is modified down). This is usually involved with a violation that does not cover an immediate risk to an employee.
- **Serious Violation = \$13,653** (can be modified down).
- **Repeat Violation = \$136,532** (unlikely to be modified down). A repeat violation means OSHA has cited the practice or the same violation in a previous inspection.
- **Willful Violation = \$136,532** (can be reduced due to the degree of imminent danger, minimum \$9,753). A willful violation means the practice/owner broke the regulation knowingly (e.g., coming to work with an infectious disease).
- **Failure to Correct a Violation = \$13,653** per day past the stated date to correct (unlikely to be modified down).

The citations are based on the number of regulations broken, not on the number of times it is broken. For example, one employee not trained equals one citation and penalty, and ten employees not trained equals one citation and penalty. Although it would be one citation, the number of employees affected could alter any modification to the penalty amount.

One incident can lead to multiple citations/penalties depending on the regulations broken by that incident. For example, failure to use an N95 respirator when required, could also include citations for no hazard assessment, no medical evaluation, no written respiratory plan, no initial fit testing, no annual fit testing, and not providing proper PPE to employees.

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OSHA CITATION PENALTIES



Modifiers to Penalties

OSHA takes into consideration the employer's ability to pay as well as their sincere efforts to comply. Most penalties can be reduced by the following modifiers.

- 60% reduction for small business (less than 250 employees).
- 0% to 45% on the remainder for having an OSHA Program, depending on the completeness of the plan.
- Up to 35% off the remainder for a good argument or proposed settlement during the Informal Conference.
- Discretionary reduction based on the imminent danger to employees.

When a practice receives penalties, it has 15 days to request an informal conference with the OSHA inspector's Area Manager. You should always take this opportunity. OSHA can never go up on penalties, but a significant reduction can be negotiated. This is your right and you are never condemned or penalized for exercising your right.

If you are a TMC client, we have experts on hand that can help you respond to OSHA complaint letters and help you prepare for contesting citation/penalties in an informal conference. We can even accompany you during the informal conference.

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CYBER SAVVY WINNER

Cybersecurity Savvy Winner

Last month was Cybersecurity Awareness Month. Many of you participated in our contest. A correct answer to the question below gave respondents a chance to win a Bluetooth speaker. And the answer is D. All of the above. All of these options are true and our winner is Robyn of Signature Healthcare!

Which of these are true about a phishing email?

- A** Emails from strangers that include attachments or links
- B** Spelling errors or broken sentences
- C** Suspicious emails that ask for personal data
- D** All of the above



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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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