

Medical Environment Update

- P6 Safety inspection checklist**
Use these tips to develop a checklist to prepare for your next OSHA inspection.
- P8 For your information**
Learn about new research linking workplace safety with patient safety, a new AHRQ report, and the fines a New Jersey ASC received for sharps violations.

Inside: This month's MEU quiz.

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Walking through an OSHA inspection: A step-by-step guide to safety compliance

Our experts tell you how to survive every phase of an inspection

If there's one sound that perks the ears of safety officers at any medical facility, it's a knock at the door from an OSHA inspector.

OSHA inspections can seem like a nerve-wrecking and stressful ordeal, particularly for smaller facilities, but with the right preparation, the inspection process can be relatively painless. This preparation revolves around having the appropriate documentation to provide the OSHA inspector, familiarizing yourself with every step of the inspection, and knowing how the current standards relate to the risks in your facility so that you can properly address any potential citations. (See p. 4 for a list of commonly cited standards.)

We have collected tips and advice from our safety experts that will walk you through every step of the OSHA inspection process—that way, when you hear the inevitable knock, you'll be thoroughly prepared.

What can you do to prepare for a possible OSHA inspection? How do you ensure this process runs smoothly?

In almost all cases, OSHA will come to your facility because of an employee

TRENDSPOTTING

41

In its latest report, the AHRQ reviewed 41 patient safety practices and analyzed how to improve outcomes.

22

The AHRQ identified 22 strategies to improve patient safety practices that are ready for adoption.

SOURCE: AHRQ.

\$68,000

A New Jersey ambulatory surgery center was fined \$68,000 by OSHA for sharps safety violations.

SOURCE: OSHA.

complaint. So, one proactive measure you can take to prevent the inspectors from showing up in the first place is to provide some kind of outlet for employees to bring up safety concerns, says **Kenneth Weinberg, BA, MSc, PhD**, a consultant in environmental health, safety, and toxicology at Safdoc Systems, LLC, in Stoughton, Mass.

Weinberg suggests setting up a hotline or a mailbox in which employees can leave anonymous messages about safety concerns.

“Then go investigate any issues immediately and leave a paper trail to work on resolving them,” he says. “That way, if the OSHA inspector comes in, you can say, ‘We already know about this and we have already fixed it.’”

If an OSHA compliance officer shows up at your doorstep, facilities should also have a process to ensure the inspector waits in the lobby until the safety officer or a designated administrator comes to get him or her.

“Make sure your staff knows not to let the OSHA compliance officer walk freely around the facility until someone from administration comes to the front desk and gets them,” says **Bruce Cunha, RN, MS, COHN-S**, manager of employee health and safety at the Marshfield (Wis.) Clinic.

The best way to ensure everyone is on the same page during an inspection is to develop a written protocol in advance so all staff members know what to do, says **Brad Hammock**, a partner with Jackson Lewis, LLP, in Reston, Va., and editor of the OSHA Law Blog.

“They essentially need to figure out how the office is going to handle an OSHA compliance officer on site, who is going to interact with the officer, and what the position of the company is going to be with respect to access,” Hammock says.

Weinberg also recommends developing a phone tree, starting with the secretary, to alert all department chairs or administrators that an OSHA inspector is in the building.

Before the inspector arrives, safety officers need to invest time in ensuring all of their safety plans are up to date, including bloodborne pathogens, hazard communication, and respiratory protection, says **Marge McFarlane, PhD, CHSP, CHFM, HEM, MEP, CHEP**, principal of Superior Performance, LLC, in Eau Claire, Wis. The compliance officer will want to see

all of this documentation to ensure everything is up to date. Reviewing these plans each year will identify any issues or deficiencies that need attention.

“They should designate a safety officer to be responsible for ensuring that the process is completed annually,” McFarlane says. “Management needs to support time for the safety officer to get these plans reviewed and annual training completed.”

What should you be prepared for during each section of the inspection process, from the opening conference to the walk-through to the closing conference?

The key to the opening conference is to find out what the compliance officer is there to review. Fortunately, most OSHA inspections on the clinic level are going to be fairly short, Hammock says, since there is a smaller area to inspect and the inspection itself should be fairly targeted.

“There are some exceptions, but generally they have the right to be there to inspect whatever is causing them to be there,” he says. “They can’t expand it unless there is a legal basis to do so. The take-home for the safety person is to find out why they are there and keep them focused on that issue as opposed to expanding it into other areas.”

Typically the compliance officer will come out and explain his or her purpose, but if not, Hammock recommends asking the inspector to explain his or her reason for coming to the facility.

However, just because inspectors show up in response to a particular complaint doesn’t mean they will ignore other violations if they see them, Weinberg notes.

Indeed, facilities should be prepared for inspectors to find and cite any potential hazards, says **Kathy Rooker**, safety officer and owner of Columbus Healthcare Consultants in Canal Winchester, Ohio.

“They should be prepared for anything and everything to do with OSHA compliance,” Rooker says. “Once the OSHA inspector enters your office, they have free rein over what they inspect, and it’s not just the complaint that they will review.”

Cunha recommends discussing any issues surrounding employee unions. OSHA complaints often arise after bargaining agreements if employees are not happy with their contracts.

During this time, you should also be prepared to provide any safety documentation, including the following:

- OSHA 300 logs for the last five years.
- Any OSHA programs related to the inspection, including bloodborne pathogen and exposure control plans, and hazard communication plans.
- Chemical inventory and how employees access the MSDS for each chemical.
- PPE hazard assessments and protection plans.
- Training records for all required safety areas, including bloodborne pathogens, hazard communication, and fire extinguishers. These records need to show that employees are appropriately trained at the intervals set by OSHA.
- Any supporting documents that show you are doing periodic retraining when necessary.
- Safety committee meeting minutes where plans are discussed.

During the walk-through, the safety officer should accompany the inspector at all times, taking notes and pictures along the way.

“If the inspector takes a picture, you want to take a picture of the same thing at the same time,” Cunha says. “If they take an air sample, you want to take a sample at the same time. They aren’t going to split their samples with you.”

It’s especially important that you take photos of any equipment that an OSHA inspector uses, including the settings on the equipment, McFarlane says.

During the walk-through, inspectors will often ask the safety officer questions, but both Cunha and Weinberg caution against offering more information than is requested. Safety officers, particularly those new to the facility, should also be aware of any past problems or citations at the facility, since repeated violations of the same issue could be interpreted as a willful violation.

“They aren’t your friend,” Weinberg says. “If they ask you a question, answer the question, no more and no less.”

Finally, during the closing conference, the compliance officer will review his or her findings and determine a corrective plan of action. The safety officer

Most commonly cited OSHA standards

The following are OSHA’s most commonly cited standards in “Offices and Clinics of Doctors of Medicine” from October 2011 to September 2012. Note that the top two citations involve bloodborne pathogens and hazard communications, both potentially sticky areas:

- Bloodborne pathogens
 - Total penalty amount: \$235,798
- Hazard communication
 - Total penalty amount: \$13,144
- General requirements
 - Total penalty amount: \$4,298
- Portable fire extinguishers
 - Total penalty amount: \$0
- Ionizing radiation
 - Total penalty amount: \$3,600
- Respiratory protection
 - Total penalty amount: \$4,000
- Maintenance, safeguards, and operational features for exit routes
 - Total penalty amount: \$1,530
- Asbestos
 - Total penalty amount: \$0
- Recording of criteria
 - Total penalty amount: \$600
- Design and construction requirements for exit routes
 - Total penalty amount: \$1,275
- Eye and face protection
 - Total penalty amount: \$1,400
- Medical services and first aid
 - Total penalty amount: \$1,033
- Wire methods, components, and equipment for general use
 - Total penalty amount: \$3,600

Source: OSHA.

should ask questions specific to those findings and the correlating standards, Weinberg says. Although the compliance officer may explain some of the citations during the walk-through, the closing conference is the appropriate time to question those findings.

“You can be a little more aggressive with them in those closing conferences,” Weinberg says. “When all else fails, they just quote the general duty clause, so you really want to question them very closely on why they cited something like that.”

Safety officers should ask about the specifics of each violation and any proposed penalties. Although the compliance officer may not divulge all of the information at that point, those questions should be asked to get as much information as possible about the inspector’s conclusions, Hammock says.

“Be polite and be professional,” Cunha says. “Let the compliance officer know that you take the safety of your employees very seriously and want to provide them with as safe a workplace as you can. Do not argue or express contempt, but you also do not need to cower in their presence.”

What happens if a citation is issued? What do you need to do in terms of appealing the citation or fixing issues by a certain date?

What happens after the compliance officer leaves your facility depends largely on the jurisdiction that your facility is in. If you are in a federal OSHA jurisdiction, then you have 15 days to file an appeal, Hammock says. Those that fall under state jurisdiction need to verify the time they have to file an appeal, but most are around that 15-day range.

During that time, facilities can request an informal hearing to discuss the citations.

“I typically recommend that facilities request an informal conference because oftentimes a citation can be resolved informally and then you don’t need to file an appeal,” Hammock says. “You just need to make sure you keep that 15-day period in the back of your head.”

Cunha recommends fixing any obvious violations immediately, if possible. You should also research each violation and compare it to the specific wording cited in the regulation.

“We had a citation for providing an employee a respirator without following the OSHA Respirator Standard,”

Cunha says. “We pointed out that the employee was wearing a surgical mask and not a respirator. We won that one.”

The notes and photos that you take during the walk-through can also help you identify any mistakes the inspector may have made, McFarlane says. During one OSHA inspection she was involved with, the compliance officer wanted to issue a noise citation since construction was occurring near the clinic setting, but the citation was later dismissed because of inaccuracies during the testing process.

“The OSHA inspector had a sound level meter set incorrectly and measured the decibels too close to the HEPA unit,” McFarlane says. “She wanted to issue a noise citation. The person from construction took photos of the settings and proximity to the HEPA unit, and research on that particular sound level meter indicated that it needed to be used with a windscreen and a certain distance from the HEPA unit on a specific setting.”

Hammock says that medical clinics should base their decision to appeal on three factors:

- Do you feel your facility violated the standard? No facility is perfect, Hammock says, and some legitimate violations do occur. In that case, fixing the mistake takes priority over trying to appeal it.
- What is the penalty amount, and how does it compare to your operative costs? If it’s a small penalty, it may not be worth going through the process of appealing.
- What do you need to do to abate the violation? You will need to prove to OSHA that you haven’t committed whatever citation it has levied against you. “Sometimes what OSHA has in mind for abatement is either not feasible or practical, or it will cause a lot of issues in the company,” Hammock says. “That’s an area where you may not want to accept that violation until you can work with OSHA to figure out what those abatement options are going to be.”

One thing to remember is that if you contest the violation and it proceeds to the litigation phase, the burden of proof is on OSHA to show that there was a violation in the first place, Hammock says.

For those that choose not to appeal, OSHA will

provide a very clear process and timeline to fix violations, but at the very least, requesting an administrative hearing may provide an opportunity to reduce any associated penalties and fines. However, it's important to remember that if OSHA issues an initial penalty that is published in the *Federal Register* and the penalty is later reduced, OSHA does not issue a correction, Weinberg says.

How should you prepare managers and employees for interviews with the OSHA compliance officer?

The walk-through portion of the inspection often

includes interviews with your clinic's employees and managers.

There are some important caveats to this process. First, supervisors and safety officers are not allowed in the room while the compliance officer interviews employees, Weinberg says. If your clinic has unionized workers, a union representative may accompany them, but that is it.

Secondly—and perhaps more importantly—employees have the right to refuse the interview with the inspector, Cunha says.

“There is no regulation that says an employee or

Developing an OSHA checklist

Bruce Cunha, RN, MS, COHN-S, manager of employee health and safety at the Marshfield (Wis.) Clinic, reviews what facilities can do now in terms of OSHA inspection preparation and the specific areas to which healthcare clinics should pay attention:


- Set up mock inspections. It's often helpful to bring in someone from another facility to do a walk-through and give you safety suggestions. This provides a new pair of eyes to look at your processes.
- Review your OSHA programs at least annually to make sure you are in compliance and no adjustments need to be implemented. Document any changes or reeducation. The areas that are probably going to be scrutinized the most for healthcare include:
 - Bloodborne pathogens:
 - Review your safety sharps program and ensure you are reviewing and updating it annually. It must include all needles, scalpels, and sharps used on patients. OSHA will not accept statements such as, “We can't use X product in Y area because the providers don't like them.”
 - Make sure you are using appropriate cleaning/disinfecting products in all areas with the potential for blood exposure.
 - Make sure your OSHA log has all your needlesticks recorded and that they are listed as anonymous.
 - Periodically check your sharps containers to see that employees are activating your safety sharps. If you have some warning of a compliance visit, change out all sharps containers prior to the inspection.
 - Hazard communication:
 - Review your plan, including any adjustments you need to make as part of the transition to the Globally Harmonized System, which requires all employees to be trained by December 1, 2013.
 - Ensure your PPE assessments are completed for each department and make sure employees have been trained on the use of the PPE that they are expected to wear. You should also conduct periodic audits to ensure employees are using the correct PPE.
 - Update the list of chemicals and hazardous products in your facility. If you do not have a complete list, put one together.
 - Lifting:
 - Review how your staff are handling heavy patients. Do you have lifting equipment? Training programs? Transfer equipment?
 - Lockout/tagout and confined spaces:
 - If you have a maintenance department, do you have a policy for lockout/tagout and for confined spaces?

manager *has* to talk to an OSHA compliance officer,” he explains. “They are going to ask that you set up a room where they can interview employees and managers, which is fine, but we let our employees know that they can refuse to talk to OSHA.”

However, there is a fine line between coercing an employee into not talking to OSHA inspectors and simply making them aware of their right to refuse, Cunha adds.

Ultimately, facilities should create a section in their inspection policy that addresses compliance officer interviews and how they are handled. In many cases,

employees receive so much training they often forget what has been covered, so it can be helpful to periodically review the information to ensure the interviews go smoothly.

“One thing I recommend is that every once in a while, even if it’s once a year, you literally sit employees down and have a training session about what your safety program is and what training they receive,” Hammock says. “Just so that in periodic increments they are reminded about what the safety plan is, and that hopefully will carry over into the interview stage.” 

- Are power tools properly guarded? Things like grinding wheels need to have guards in place and tool rests adjusted. Check that guards are also being used for power saws.
- Ladder safety:
 - Ensure maintenance staff are using ladders properly. You don’t want to have a maintenance worker on the top step of a ladder in your hallway as an OSHA inspector is coming through.
- Electrical safety:
 - If you have maintenance that works on the electrical system, you need to be in compliance with the OSHA electrical standard.
 - Extension cords are a common medical violation. Per OSHA, extension cords cannot be used as a substitute for permanent wiring. Check your use of extension cords; limit cord use to a single event and for no more than one day. Add electrical plugs or lengthen power cords if needed.
 - Ensure that there is proper clearance (30 inches) in front of all electrical panels.
- Eyewash stations:
 - Ensure there are adequate eyewash systems within immediate reach of any area where staff are working with corrosive chemicals. OSHA does not require you to follow ANSI Z351.8 on eyewash standards, but you should have a formal eyewash station and not just a bottle of flush on the wall.
- Toxic exposures:
 - Review your chemical inventory and identify any areas where employees may be exposed to hazardous chemicals or physical agents (e.g., sound, heat, light, lasers, or radiation).
- Make sure you have monitored those exposures. Do not assume the exposure levels are within amounts allowed by OSHA standards—you need to document that they are. Some chemicals to consider:
 - Glutaraldehyde
 - Nitrous oxide (OR or procedure rooms)
 - Waste gas anesthetics
 - Ethylene oxide
 - Formaldehyde
 - Alcohol, if used in lab or in machines where it may vaporize and cause exposure
- Reduce noise caused by building services personnel or in any area where exposure to loud noise may occur (e.g., mail room).
- Pressurized cylinders
 - Ensure all oxygen tanks and other gas cylinders are properly secured or in proper stands/racks.
 - Check gas storage areas to ensure incompatible gases are not stored together.
- Signage:
 - Make sure you have proper signage in areas where they are needed, such as medical waste storage areas and hazardous chemical storage areas. Ensure there are noise warning signs in generator areas and OSHA notification posters in employee areas.