

THE ADVISOR

MONTHLY COMPLIANCE COMMUNICATOR

RESPIRATORS IN HEALTHCARE

March of 2020 marked the beginning of a new era in public health. Healthcare workers and compliance experts in infection prevention and control have busy keeping up with everything there is to learn about the novel SARS-CoV-2 virus, and the corresponding changes needed to provide safe health care.

Wearing surgical masks has always been a part of the routine for healthcare workers. This standard precaution provides protection needed against certain illnesses, but coronavirus requires a higher level of protection referred to as transmission-based precautions and in particular, airborne precautions. There is evidence that this virus may be spread in an airborne manner, especially during aerosol generating procedures (AGP).

Microorganisms spread in an airborne manner are very tiny and can remain in the air for extended periods of time. Due to the size of the virus, a surgical mask does not provide the highest level of protection against inhalation of the organism. The designated level of protection, especially for AGPs, by both the CDC and OSHA is the N95 respirator or higher.



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RESPIRATORS IN HEALTHCARE

Once it is determined through a hazard assessment that respirator use will be implemented to reduce exposure to airborne pathogens [the Respiratory Protection Standard 1910.134](#) comes in to play and several items are required:

- Written respiratory protection plan
- Medical evaluation for employees who will use the respirator
- Initial and annual fit testing
- Training

The use of respirators, while providing a higher level of protection, has brought many challenges, with the two greatest being adequate supplies of the respirators and access to either fit testing supplies or the ability to have fit testing completed on impacted employees. Just recently a dental practice was [cited by OSHA](#) and a \$9,500 financial penalty was proposed. While the practice did have other compliance issues, the citation leads with issues related to the use of respirators.



OSHA cited the dental practice for failing to provide medical evaluations and fit testing for employees required to wear N-95 respirators as protection against coronavirus; lack of written programs related to respiratory protection, bloodborne pathogen exposure control and chemical hazard communication; insufficient bloodborne pathogen training and controls; and inadequate eyewash stations.

Faced with the listed challenges, just how do practices implement the use of respirators if needed and also comply with the recommended standards? Recently OSHA published a document, [Understanding Compliance with OSHA's Respiratory Protection Standard During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#).

There is helpful information about compliance and how to document and demonstrate compliance efforts. Part of the introductory paragraph acknowledges that OSHA does understand the challenge healthcare providers are facing:

“Shortages (either intermittent or extended) of both N95 filtering facepiece respirators (FFRs) and fit-testing supplies have posed tremendous challenges. In order to allow essential operations to continue, many employers have had to utilize contingency and crisis strategies that are ordinarily not compliant with OSHA's Respiratory Protection standard.”



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RESPIRATORS IN HEALTHCARE

While recognizing the challenges the document goes on to explain that in order to assist employers, several temporary enforcement guidance memoranda have been released. It is important and OSHA reminds that these are not permanent solutions and will end once shortages related to the pandemic have been resolved. The statement below is very clear that no waivers or exemptions have been issued for compliance. They do allow for enforcement discretion during the pandemic ONLY in circumstances when the employer can demonstrate that attempts were made to obtain supplies of respirators and fit testing supplies.



“It is important for employers to understand that these temporary enforcement guidance memoranda do not offer blanket waivers or exemptions for complying with any OSHA standards or provisions of such standards, including the Respiratory Protection standard (e.g., annual fit-testing requirements).”

To benefit from the enforcement discretion, it will be very important to have documentation to support your efforts to protect employees from exposure to this virus. Assuming the practice hazard assessment identifies high risk activities to include caring for a suspected or known COVID-19 patient or aerosol generating procedures and respirators are used, consider the following items:

- Written Respiratory Protection Plan in all other regards that outlines the process for procedures for medical evaluation of employees, fit testing, respirator maintenance and care, and employee training.
- Strategies to prioritize and conserve the use of N95s if supplies are short according to CDC PPE Optimization Strategies: N-95 and Other Respirators.
- Documentation of engineering controls to reduce the exposure risk. Some examples are working with an HVAC specialist to improve air circulation, high volume evacuation (suction) during aerosol generating procedures when possible and the use of Airborne Infection Isolation Rooms (AIIR) when indicated.
- Estimate respirator supply needs and make reasonable efforts to obtain NIOSH approved respirators. If unable to obtain N95 NIOSH approved respirators investigate other types of respirators such as elastomeric, powered air-purifying respirators, and foreign respirators that are on the [approved list which is Appendix A on the FDA website](#). It is always best to document these attempts as evidence of attempted compliance.
- Document all attempts to complete the fit testing process which may be attempting to obtain supplies or location of an individual/business who can perform the test.

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OSHA COMPLIANCE

Remember Flu Season

It is October and influenza season is upon us, in addition to this ongoing pandemic. Respirator protection remains a priority in every healthcare environment. Ensure you have performed a hazard assessment to identify risks for all employees and implement the highest levels of protection to ensure their safety.

TMC has a respiratory protection live webinar coming up November 18, 2020. It is complimentary for TMC Clients if you would like additional information on this topic. We have also created a [Written Respiratory Protection Plan](#) to help your practice be compliant. Register now for [Understanding Respiratory Protection and COVID-19 Webinar](#).



Pandemic Preparedness Plan

TMC is pleased to announce an updated, more robust Pandemic Preparedness Plan. Every healthcare facility should have a written plan which clearly outlines how both patients, visitors and employees will be protected while in the office. This written plan which is customizable includes a very thorough hazard assessment, screening tools for patients, workers and visitors, PPE posters and more.

TMC clients receive this as a value-added service and can find this document in the Client Portal. For all others, the plan is available for purchase in the [Online Store on the TMC website](#).



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HIPAA COMPLIANCE



Simple Inventory Lists Reduce Risk

Keeping track of your equipment, office furniture, and similar items for financial purposes is a routine part of business. It is tough to protect something if you do not know where it is or that it even exists. That is why making an inventory list of devices and software your office owns and uses, particularly those that access, transmit, or store ePHI is a powerful tool to include in your annual risk analysis. An inventory list like this can also help keep warranty information together in one place.

The OCR's Summer 2020 Cybersecurity Newsletter covered IT asset inventories in great detail and lines up with its long-standing emphasis on the importance of both covered entities and business associates doing "accurate and thorough" risk analyses. Since the beginning of 2019, half of OCR's enforcements have focused on failures to conduct a regular risk analysis. These penalties are almost 6 times higher than other areas of OCR's HIPAA enforcement, like its patient's Right of Access Initiative. The highest yet, issued last month, was \$6.85 million. The cause of the breach that brought about that investigation and enforcement was malware that was installed via a phishing email that went undetected for 9 months. Over that time, over 10 million records were breached. This shows how important it is to check systems and devices on your inventory list so issues like malware, theft, and breaches do not go undetected.

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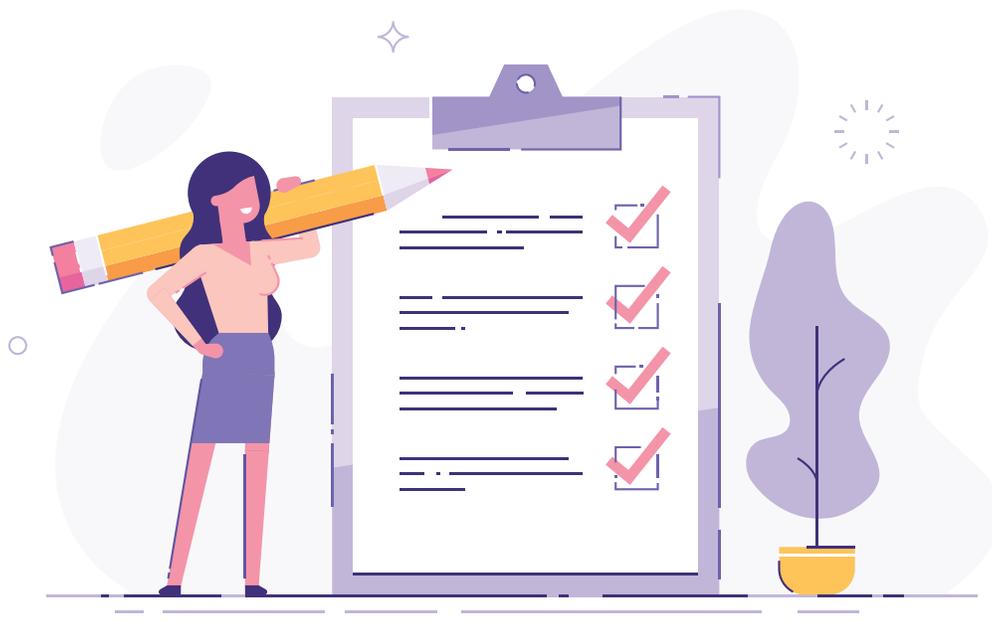
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HIPAA COMPLIANCE

TMC helps its clients with their annual risk analyses. This includes developing an inventory list of hardware and software, creating a list of business associates, and providing other tools necessary to help think of all the places ePHI might be accessed or stored and get them on the list. During a risk analysis, you should check with your IT support company to ensure any hardware or software purchased since your last risk analysis are added to the inventory list. If it is time to replace desktops, servers, or tablets, be sure the ePHI is properly removed, and document the method used to remove the ePHI. Update your inventory list to show when it was replaced. Do you know if any employees' personal devices have access to your systems? If they do, add those to your inventory list and be sure to put a "Bring Your Own Device" policy in place and enforce it. Employee devices can create serious vulnerabilities to the security of ePHI.

You can think of the inventory process like making sure there is a lock on each door and window of your house. An inventory list of each door and window, allows you to easily check each one off as you go so you do not forget one. Then your risk of someone getting into your house goes down. Once you have the list, it is easy to update, more accurate than memory, and it helps pinpoint problems down the road faster. You will know what needs to be protected, and your patients will thank you for that. You will thank yourself, too, if you find yourself hosting an OCR investigator.



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LOGIN TO TMC ONLINE TRAINING

We hope you are enjoying our new state of the art online training platform! It is smoother, faster, and a better user experience. If you haven't checked out the new Online Training platform yet, let's take a walk through the login process together.

First, let's review the login for the Client Portal on the TMC website. After that, we'll go to the Online Training Platform.

TMC Client Portal

- ✓ Start on the www.totalmedicalcompliance.com homepage.
- ✓ Click the CLIENT LOGIN button on the navigation bar at the top. → 
- ✓ Type in your username and password. These credentials were given to you when you became a TMC Client.
- ✓ Use the TMC Client Portal to download electronic OSHA & HIPAA compliance forms, see officer webinars, see your eSDS online, take advantage of TMC Client discounts in our online store, and more.

TMC Clients Area

 <p>Online Training For Employees</p> <p>We have a new Online Training process.</p> <ul style="list-style-type: none">• Absolutely free! Upgrade now to our new 2020 Online Training	 <p>Officer Webinars Officer Training</p> <ul style="list-style-type: none">• HIPAA Privacy/Security Officer• OSHA Safety Officer• Infection Control Webinars• Complimentary Understanding Respiratory Protection and COVID – 19 Webinar	 <p>Respiratory & Pandemic Plans</p> <ul style="list-style-type: none">• Virginia Infectious Disease Preparedness Plan• Respiratory Protection Plan• Complimentary Pandemic Preparedness Plan
 <p>Compliance Information & Forms</p>	 <p>eManual Information Update</p>	 <p>TMC Web Badges Endorsement</p>

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LOGIN TO TMC ONLINE TRAINING

Online Training

Your new login credentials, instructions, and link for the new platform will be sent via email once you sign up to switch over to the new platform. Each one of your employees will receive an email. If they do not see it, please have them check their junk mail. Once you click the new link in the email, this is what you will see. Login with the credentials provided in the email.



If you do not want to keep referring back to your email for the online training link, you can save it in your Favorites in your browser or you can access it from the TMC website homepage.

Click the **LOGIN TO ONLINE TRAINING** button on the navigation bar at the top.

[LOGIN TO ONLINE TRAINING](#)

IT'S YOUR CALL

OSHA:

We have KN95 face filtering respirators (FFRs) from China. What is OSHA's guidance about a written respiratory plan and fit test for respirators?

HIPAA:

Are there certain hacker groups that target the healthcare industry?

[CLICK HERE FOR ANSWERS](#)

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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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