

THE ADVISOR

MONTHLY COMPLIANCE COMMUNICATOR



COMMUNICATING WITH SCHOOLS: HIPAA AND FERPA

Discussing healthcare with schools can be confusing because there are two sets of laws that have to be considered: HIPAA and FERPA (Family Educational Rights and Privacy Act).

- HIPAA is a set of laws under Health and Human Services (HHS) that protect the privacy of health information. The laws apply to healthcare providers who participate in any of the covered electronic transmissions of protected health information such as billing.
- FERPA is a set of laws under the Department of Education that protect the privacy of student records including treatment records. The laws apply to schools that get government funding.

Healthcare providers do not have to abide by FERPA laws unless they work for the school as a school nurse or a school clinic worker. School healthcare centers must abide by FERPA laws and may have to abide by HIPAA as well if they provide electronic transmission of Protected Health Information (ePHI).

Most of the questions TMC receives concerns one of the following topics:

1. Immunization records
2. Treatment discussions between a school and an outside provider
3. Treatment change
4. Healthcare provider working at a school, and a separate practice that share a student-patient
5. Absence reports

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HIPAA OSHA INFECTION CONTROL BUSINESS ASSOCIATES



TMC HIPAA COMPLIANCE

COMMUNICATING WITH SCHOOLS: HIPAA AND FERPA

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Immunization records

Under HIPAA, a covered health care provider may disclose proof of a student's immunizations directly to a school nurse or other person designated by the school to receive immunization records, if the school is required by State or other law to have such proof prior to admitting the student, and a parent, guardian, or other person acting in loco parentis has agreed to the disclosure. See 45 CFR 164.512(b)(1)(vi).

Treatment discussions between a school provider and an outside provider

The HIPAA Privacy Rule allows covered health care providers to disclose PHI about students to school nurses, physicians, or other health care providers for treatment purposes, without the authorization of the adult student or minor student's parent. For example, a student's primary care physician may discuss the student's medication and other health care needs with a school nurse who will administer the student's medication and provide care to the student while the student is at school. See 45 CFR 164.512(b)(1)(vi).

Treatment change

Although the law allows a discussion of treatment between the outside provider and the school nurse or doctor, treatment plan changes should be discussed and decided on with the parent/guardian or student (if they are an adult) prior to a change. If it is an emergency the laws of FERPA and HIPAA allow the doctor to use their best judgment.

Healthcare Provider working at a school and a separate practice that share a student-patient

This can be a tricky situation requiring great care. It is best to consider the two jobs as being held by two different people. PHI gained at the school or at the practice should only be shared with the other site if it is allowed or required by law. If in doubt, consult an attorney familiar with HIPAA and FERPA as well as state law.

Absence reports

Be careful if someone from the school calls your non-school related practice to verify an absence report sent by your office. Nothing in HIPAA allows a disclosure of this information except by law enforcement with an open case or by subpoena. What you can do (but are not required to do) is have the notice in question sent to your office by US Mail or fax, and you can verify that it is your form as you wrote it. Any further questions about the situation should not be discussed without parental consent.

For more information on FERPA: <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html?src=rn>

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STERILIZATION OF SLOW SPEED HANDPIECES AND MOTORS

Sterilization of slow speed handpieces including motors has been a frequent topic of questions and discussion. On April 11, 2018, the CDC issued a statement which clearly outlines how to appropriately reprocess handpieces so they are safe for patient care. There were three different topics addressed in the CDC statement.

1. Handpieces which are attached to dental units
2. Handpieces which do not attach to air and water lines
3. Handpieces with no clearance or instruction.

Handpieces which are attached to dental units.

This is the statement from the CDC's Guidelines for Infection Control in Dental Health-Care Settings, 2003 about units that may be removed from the air and water lines of dental units.

Handpieces and other intraoral devices that can be removed from the air and waterlines of dental units should be cleaned and heat-sterilized between patients. Follow the manufacturer's instructions for cleaning, lubricating, and sterilizing these devices. These devices include high-speed, low-speed, electric, endodontic, and surgical handpieces, as well as all handpiece motors and attachments, such as reusable prophylaxis angles, nose cones, and contra-angles.

This is not a new guideline, but it has caused a great deal of confusion. The rationale for cleaning and sterilization of the entire handpiece, including motors and attachments is based on research that documents cross contamination of the internal components of the handpiece during the delivery of care. Without proper reprocessing, it is possible for these contaminants to be expelled into the mouth of future patients. Manufacturer's instructions for use should provide very clear direction on the proper steps from cleaning to sterilization.

Handpieces which do not attach to air and water lines

There are many of these types of handpieces available on the market. When selecting a device, ensure the device has FDA clearance and that validated instructions are included for safe reprocessing.

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STERILIZATION OF SLOW SPEED HANDPIECES AND MOTORS

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Handpieces with no clearance or instructions

If a handpiece does not have FDA clearance or does not have validated instructions for use, the CDS recommends that practices do not use the device. In 2015 the FDA published updated guidance on reprocessing of medical instruments. This guidance document provides manufacturer's clear direction on the process for writing instructions for use and scientifically validating these instructions are correct. When followed as written, the instrument should be appropriately cleaned and sterilized and safe for use. If utilizing handpieces which were manufactured prior to 2015, the instructions for use may be inadequate to ensure the device is appropriately reprocessed. The FDA cautions that in some cases these instruments may not be safe for reuse.

Contact the manufacture if for any reason there is confusion or concern about whether the handpiece is safe for use. The manufacturer should be able to provide documentation of FDA clearance for the device. In order to provide every patient safe care, instruments must be properly reprocessed. It is the manufacturer's responsibility to provide the appropriate validated instructions for use, but the dental care provider must also follow those instructions to ensure instruments are appropriately cleaned and sterilized.

Resources:

CDC Infection Prevention and Control in Dental Healthcare Settings Webpage - <https://www.cdc.gov/oralhealth/infectioncontrol/guidelines/index.htm>

Summary of Infection prevention Practices - <https://www.cdc.gov/oralhealth/infectioncontrol/pdf/safe-care2.pdf>

CDC Position Statement on Handpiece Reprocessing - <https://www.cdc.gov/oralhealth/infectioncontrol/statement-on-reprocessing-dental-handpieces.htm>



What does this pictogram stand for?

Is everyone in your practice current on the United Nations Globally Harmonized System of pictograms that communicate hazardous chemicals? Each month we will print a GHS pictogram. If you can identify it correctly, you will be entered in a drawing to win a \$25 gift card. At the end of the year we will have one big drawing for the grand prize! Don't wait! [Click here](#) to enter by May 30th for your chance to win!

Last Month our pictogram was acute toxicity. Many got it right but we had to pick only one winner and it was Paula H. of South Carolina. Congratulations Paula!

CLICK HERE TO ENTER

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TMC OSHA COMPLIANCE

OSHA: Compliance Manuals, Facility Audit, and Training



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TOOL BOX FOR NEW HIRE ORIENTATION

New hire orientation is more than giving the new hire a tour of the office and handing them a list of job tasks. It is also teaching them how to work safely in their new environment. Statistics show that somewhere between 75 and 80% of workers do not receive information or training on how to do their jobs safely. New employees are more likely to get hurt on the job than experienced workers. A recent study by the Bureau of Labor Statistics has shown that of 6 million employees injured on the job, 40% have been with the company less than one year. New hire orientation can not only increase production and save money, it could also save a life.

Common Mistakes

Orientation for both the employer and new hire can be overwhelming. Often due to an urgency to get the new hire working, orientation is rushed, packed with too much material in a single day, and can include long, dry videos with an overload of self-study. Orientation can be useless if it does not contain up-to-date information and current processes. Sometimes orientation does not occur at all. Many times, there is no preplanning for the new hire, with no written job description or job title, no planned review of office policies and procedures, and a complete lack of safety training. Bloodborne Pathogen Training requirement for new hires and existing staff is the number one cited OSHA violation for healthcare. Having a tool box for new hire orientation can help employers provide a high level, stress free training experience.

- 1) Checklist:** The most valuable tool in an orientation tool box is a checklist. Total Medical Compliance has organized common orientation tasks for healthcare into a useful, time saving checklist. The Orientation Checklist can be found under the forms tab in OSHA manual. This checklist allows the trainer, (could also be the manager, supervisor, or a designee) to track the completion of tasks to be trained, the date the training was completed, and the initials and signatures of the employee and trainer for confirmation. It includes space for comments, so the trainer can document new hire's progress.
- 2) Online Training Modules:** Access to an online training is a valuable tool for an orientation tool box. The TMC website (www.totalmedicalcompliance.com) provides easy access to online training modules and webinars that are useful for new hires and is a great refresher for existing employees. At just the right length, these training tools are interesting and thought provoking, especially for your new hires.
- 3) OSHA Manual:** TMC's OSHA manual is the perfect instructional tool. This manual details OSHA's safety requirements and site-specific methods for addressing safety and compliance. The OSHA manual should be available for review by all staff at any time.

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TOOL BOX FOR NEW HIRE ORIENTATION

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- 4) Required Forms:** Include all required forms to document OSHA compliance and any company specific forms for new hires in your tool box. TMC forms can be found in the OSHA manual under the forms tab.
- 5) Your Consultant:** TMC consultants are always available for support, advice, reassurance and information. As experienced trainers, TMC consultants can coach managers and supervisors on how to make training fun, interactive and interesting for the new hire.
- 6) Client Services:** Be sure to put Client Services in your speed dial. They will be more than happy to assist you in accessing our webpage, registering for webinars, finding required forms and connecting you with your consultant. They can also help you by suggesting new TMC offerings to simplify training, management and compliance.

Proper new hire orientation can raise safety awareness, prevent costly injuries and lead to an increase in production.

Prepare and organize your new hire orientation Tool Box before you need a new hire!

IT'S YOUR CALL

OSHA Situation:

What is the risk of Hepatitis C infection from a needlestick exposure to a positive Hepatitis C patient?

HIPAA Situation:

Several patients have requested a copy of their records, and the office manager has denied their request. Is this a violation?

[CLICK HERE FOR THE 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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