

# THE ADVISOR




## MONTHLY COMPLIANCE COMMUNICATOR

### HIPAA AND LAW ENFORCEMENT

When can you share protected health information with law enforcement? There are certain circumstances when the law allows you to share PHI. You should always keep the “minimum necessary” rule in mind whenever you are giving out information.

**Coroners/Medical Examiners:** Information needed to identify a body or determine cause of death can be sent to the coroner or medical examiner on request. We recommend that you get the request in writing on their letterhead. You can send the information in any secured manner such as fax, encrypted email, hand-delivery, or pick up by a representative from the coroner’s office or by a law enforcement officer. You cannot send it via a family member of the deceased as this destroys the chain of custody for the data. US mail, while considered secure, is usually not fast enough for the coroner’s needs.



**Subpoenas:** There are several different kinds of subpoenas. They all have one thing in common. You must respond. You need to be sure that your patient has been informed and had time to get the subpoena blocked through the courts if they want. You can verify this with a judge-signed subpoena, an authorization signed by the patient or an attorney signed document that states this process has already happened. You can even call and talk to your patient and document this. If your patient doesn’t want you to respond to the subpoena the patient has to provide a letter from their attorney or a court order to block the subpoena. *Continued on page 2*

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HIPAA OSHA INFECTION CONTROL BUSINESS ASSOCIATES



# HIPAA COMPLIANCE

HIPAA: Compliance Manuals, Facility Audit, and Training



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## HIPAA AND LAW ENFORCEMENT

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**Active Investigation:** If the police have an active investigation they can request information from you. They are NOT allowed to search your records to find information to open an investigation. You can verify this by asking them to sign a request that they give the following information:

- The case number
- The specific kind of information they want (DNA information requires a court order.)
- The officer's signature, name, rank and badge number
- Whether the disclosure needs to be withheld from the patient. (In order to protect the integrity of an active investigation, law enforcement can request that patients are not notified of a PHI disclosure until a specified end date or event such as the case is closed.) Otherwise it goes on an accounting of disclosures log in the patient's file.

**Crime on Premises:** If a crime has occurred on your premises you are allowed to report it the police and give them information to confirm the crime.

**Avert a Serious and Imminent Threat to Health and Safety of an Individual or the Public:** You can report to the police if you believe that someone poses a serious and immediate threat. This includes reporting someone who you know has escaped from lawful custody. You cannot report someone who you just believe has the capacity of causing harm based on counseling.

**Correctional Institutes:** You can provide information to the correctional institute that is necessary for health and safety of the inmate as well as the prison's personnel.

As with all disclosures, the doctor can make a determination to not release information if they feel it would endanger the health and safety of an individual. Only the doctor can make this determination and they may be required to appear before a judge to defend that decision.

## LUNG AND CHEST MEDICAL ASSOCIATES

*"We love Pam and all the support and input she gives us. TMC is a great resource that is invaluable for a small practice like ours."*

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# TMC COMPLIANCE TRAINING

## THE EMERGENCY PREPAREDNESS ACT & ACTIVE SHOOTER PROTOCOL

Congress passed a new set of laws on emergency preparedness that go into effect 11/15/2017. These laws are part of Medicare/Medicaid. The rule addresses concerns regarding the ability of healthcare facilities to plan and execute appropriate emergency response procedures for disasters, both manmade (e.g. terrorism, shooters) and natural (e.g. hurricanes, earthquakes, fires).

TMC will not be developing a procedure or policy plan for these laws as it is not part of HIPAA, OSHA or Infection Control and only a small percentage of our clients are covered by these laws. There are many resources available to aid in meeting the new requirements including federal money. You can get aid on the AMA website, your risk management company, medical society or medical board.

You have to be a Medicare/Medicaid provider or supplier in one of the following 17 categories to be covered by these regulations. All the categories deal in some way with patients that must be transferred or cared for in case of an emergency. Also, if you are already actively complying with Joint Commission rules you are well on your way to meeting the new regulations. [Continued on page 4](#)

- Religious Nonmedical Health Care Institutions (RNHCI)
- Ambulatory Surgical Centers (ASC)
- Hospices
- Inpatient Psychiatric Services for Individuals Under Age 21 in Psychiatric Residential Treatment Facilities (PRTF)
- Programs of All-Inclusive Care for the Elderly (PACE)
- Hospitals
- Transplant Centers
- Long Term Care (LTC) Facilities
- Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)
- Home Health Agencies (HHA)
- Comprehensive Outpatient Rehabilitation Facilities (CORF)
- Critical Access Hospitals (CAH)
- Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services
- Community Mental Health Centers (CMHC)
- Organ Procurement Organizations (OPO)
- Rural Health Clinics (RHC) or Federally Qualified Health Centers (FQHC)
- End-Stage Renal Disease (ESRD) Facilities

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# TMC OSHA COMPLIANCE

OSHA: Compliance Manuals, Facility Audit, and Training



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## THE EMERGENCY PREPAREDNESS ACT & ACTIVE SHOOTER PROTOCOL

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In the proposed rule, four core elements are included to make a more comprehensive framework of emergency preparedness for the various Medicare/Medicaid-participating providers and suppliers.

- Risk assessment and emergency planning
- Policies and procedures
- Communication plan
- Training and testing

On a final note, to meet the new requirements you need to communicate with state and federal emergency services so that patient care and necessary transfers can be coordinated.

## RESOURCES:

Given the recent rise in active shooter events across the country this year, it is prudent for medical and dental practices to add this scenario to your risk management program. Several agencies, INCLUDING Homeland Security, FBI, Law Enforcement and HHS, have worked together to address this issue and offer guidance on developing a plan and training. This is available in the Active Shooter Protocol booklet ([www.dhs.gov/xlibrary/assets/active\\_shooter\\_booklet.pdf](http://www.dhs.gov/xlibrary/assets/active_shooter_booklet.pdf)). This is not a law but a valuable resource for how to handle the problem identified in your risk analysis.

For more information, the Emergency Preparedness Laws and Commentary are available online.

[www.federalregister.gov/documents/2016/09/16/2016-21404/medicare-and-medicaid-programs-emergency-preparedness-requirements-for-medicare-and-medicaid](http://www.federalregister.gov/documents/2016/09/16/2016-21404/medicare-and-medicaid-programs-emergency-preparedness-requirements-for-medicare-and-medicaid)

Congratulations to Deborah G. from Trinity Hand Specialists who was our October pink basket winner.

We're not stopping with just two! There's another \$50 gift card and gift basket that may have your name on it! Enter to win your Thanksgiving basket by telling us what you are thankful for and counting the number of Turkey Legs you see in our newsletter.

[Click here](#) to enter for a chance to win!

## Gift Basket Contest



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# TMC INFECTION CONTROL

*Infection Control: Webinars, Facility Audit, and Training*

## FOUR CRITICAL STEPS IN INSTRUMENT PROCESSING

Patient safety is at the center of many conversations in the health care community. While many processes may impact the safety of a patient, appropriate instrument management should rank at the top of the list of safety priorities.

In this article we will address four critical steps in instrument processing, but before we start, the impact of manufacturer's instructions for use should be discussed. Instruments to be processed, equipment used, sterilization wraps, and any chemicals used in the processing cycle all have instructions for use. It is imperative that these instructions are reviewed and followed. For instance, sterilization pouches may have directions that establish an end date on use of the instrument once it is sterilized and stored appropriately. These dates may range from one to three years. Ensure that you have a copy of all pertinent instructions and only then are you ready to begin!

**1.** All instruments must be appropriately cleaned. After the safe transport of instruments from the clinical area, removal of any residual debris, including blood, bloody fluids, and tissue is the first step in instrument processing. Cleaning can occur by using a mechanical means such as an ultrasonic or washer with an added detergent, or by hand. Because of the risk of a sharps injury try to limit handwashing of contaminated instruments. The appropriate personal protective equipment must be used and may include face protection, cover gown and heavy-duty utility gloves. Once the instruments are clean they should be dried prior to being wrapped for sterilization.

**2.** All instruments should be packaged in a FDA cleared product. There are many different packaging types available on the market. Choose the type that is appropriate for the type of sterilization process and instruments to be sterilized. Examples of packaging include: peel packs, rigid containers and woven and non-woven wraps. Once wrapped, all packages must be labeled with the sterilizer number if more than one unit is used, the load number and the date. Using an ink that does not run, label packages on the sterilization tape or on the plastic side of the peel pack. The packages are now ready to be appropriately loaded into the sterilizer.

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## RALEIGH NEUROLOGY ASSOCIATES, PA

*"Linda is wonderful! My employees are always impressed that she can take a dull topic like OSHA/HIPAA and make it interesting."*

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# TMC INFECTION CONTROL

*Infection Control: Webinars, Facility Audit, and Training*



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## FOUR CRITICAL STEPS IN INSTRUMENT PROCESSING

3. Ensure the sterilization process is appropriately monitored. There are three different monitoring process that must occur.
  - a. Manual indicators for steam sterilizers – Time, temperature, and pressure are required for steam sterilization to work effectively. These elements should be recorded for each sterilizer and on every load run during each workday. Documentation should include the date, the time the load began and whether the unit successfully met all the required parameters.
  - b. Chemical indicators – Chemical indicators are designed to detect local problems associated with incorrect packaging, incorrect loading or a problem with equipment functioning. Each package must have a chemical indicator located inside the package if the internal indicator is not visible.
  - c. Biological indicator – A biological indicator must be run at least weekly and with any implantable device. A failed spore test can be an indication of improper functioning of the unit which may impact sterilization of instruments. It is important to determine the cause of the failed test ensure instruments are safe for use.
4. Ensure instruments are properly stored prior to use. Instruments must be cool and dry prior to removal from the sterilizer. If instruments are handled when they are damp, contaminants from the workers hand may wick through the packaging and contaminate the instruments making them unsafe for use. Processed instruments should be stored in a cool, dry area and handled as little as possible prior to use to reduce the likelihood of contamination. Based on manufacturer's instructions for use, dates vary on how long packaged instruments can be stored and used in the delivery of care.

Correct sterilization of instruments is critical to the overall success of many practices. Hopefully your practice is following these basic guidelines. If not, begin now to change your processes to protect both your employees and patients.

If you would like more information on this very important process, please join TMC for a webinar, Tips on Instrument Processing on December 19 at 12 noon EST.

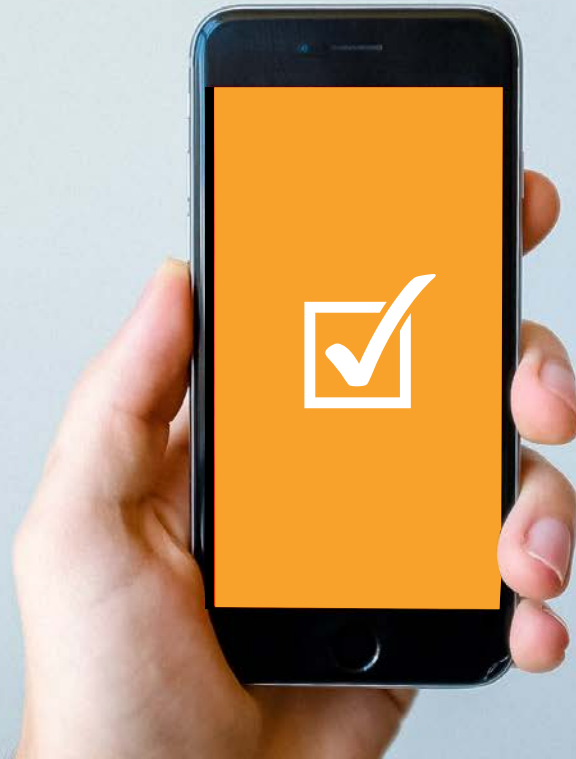
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# IT'S YOUR CALL



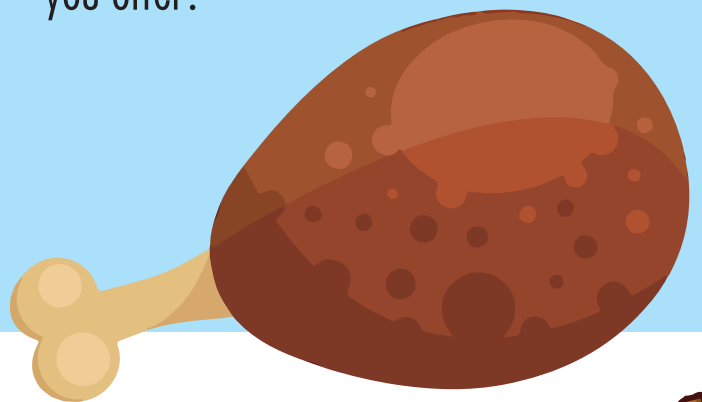
## OSHA Situation:

Your local news has just reported an increase in active TB cases. What employee documents should be in place in light of this information?

[VISIT OUR BLOG FOR THE ANSWERS](#)

## HIPAA Situation:

A provider has inquired about the safest way to transport a few paper records with protected health information (PHI) between sites. What suggestions would you offer?



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## MONTHLY COMPLIANCE COMMUNICATOR

**SIGNATURE**

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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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