



# Compliance

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## The Evolution of Healthcare Law and Compliance

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by Robin Singh, MSc-Law, MSc-IT, LPEC, CF

# Occupational Safety and Health Administration compliance for inpatient facilities

- » Healthcare facilities may actually be far more dangerous work environments when compared with others, especially in the context of occupational safety.
- » The risks the staff is exposed to while providing care in an inpatient setup are addressed in NEP's Guidance for Inpatient Healthcare Settings, to ensure that specific, high-risk areas are inspected diligently.
- » OSHA has set guidelines to manage risk through inspection to provide better patient care through managing internal occupational risks.
- » Compliance, in support of such guidelines through policies and a task force, ensures that there are fewer injuries to both staff and residents.
- » A safe work environment supports lower staff turnover, which reduces recruitment costs and assures that patients are cared for by more experienced staff.

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**S**afety at the workplace is a significant concern for both employees and employers. Each and every workplace has its share of risk factors and challenges that make it essential for the employer or business owner to pay attention to the implementation and update of

adequate safety measures. All work environments present their own unique risks, but the surprising fact is that healthcare facilities may actually be far more dangerous work environments when compared with others.

The U.S. Bureau of Labor Statistics measures the number of days away from work, restricted or transferred to another job (DART) due to injury or illness.<sup>1</sup> Studies indicate that, at healthcare facilities, the average

days lost per month due to workplace-related injuries stands at a DART rate of 4.5. Compare this with the national average for other workplaces in the private sector, and you can see that this is about three times as much.

Clearly, there is a definite need to take stringent action, and this action needs to be taken *now*. The government has stepped in to curb the incidence of risk in the workplace safety niche via the Occupational Safety and Health Administration (OSHA). However, the unique challenges presented by different work environments makes it difficult to have one standardized set of guidelines that can apply to all and be equally effective in all the situations.

## The National Emphasis Program

OSHA conducted a program termed the National Emphasis Program (NEP)<sup>2</sup> in healthcare facilities and also in long-term care providers. This 3-year program encompassed



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more than 1,000 inspections, including evaluations of ergonomic stressors in these workplace environments. As a result of the NEP's assessment, the common hazards in these environments became quite clear, allowing OSHA to address the same hazards in healthcare facilities where inpatient care was being provided. Every organization that offers inpatient care services and has many workplace illnesses/injuries can expect meticulous inspections by OSHA inspectors. This is expected to help enforce the guidelines more effectively and ensure that these healthcare facilities do not become high-risk environments for employees.<sup>3</sup>

### Safety measures enforcement initiatives

To address the high incidence of injuries in healthcare institutions, OSHA brought out the Inspection Guidance for Inpatient Healthcare Settings.<sup>4</sup> This can be viewed as an "enforcement memorandum" that prompts medical care facilities to establish effective safety features and norms, and facilities must also follow them diligently so that injuries and illnesses among the employees can be controlled better.

The main focus of the Inspection Guidance for Inpatient Healthcare Settings is to ensure that specific, high risk areas/operations within the healthcare institution are inspected diligently. These aspects, as highlighted via the NEP, will be given special attention during inspections to ensure that:

- ▶ Employees are protected from exposure to blood-borne pathogens;
- ▶ Employees have safety measures in place that reduce risk of developing muscular-skeletal disorders that typically result from handling patients incorrectly;
- ▶ Employees are effectively protected from violence during their work time;
- ▶ Employees are safeguarded from ailments such as tuberculosis; and
- ▶ Employees are safe from slips, trips, and falls.

Apart from these, the inspector may also give due attention to ensuring that:

- ▶ Employees are not exposed to multi-drug resistant organisms; and
- ▶ Employees are not exposed to hazardous chemicals (e.g., cleaning agents, anesthetics, dangerous drugs).

### A win-win situation for inpatients

The new inspection guidelines are a welcome addition as far as inpatients are concerned. In the words of Dionne Williams, Director of the Office of Health Enforcement, OSHA, this new policy is aimed at reducing exposure to hazards at the healthcare facility, thus paving the way for a healthier workforce. In turn, this healthier workforce is far better equipped to address the patients' issues and offer better care and compassion, which is an advantage for the inpatients.<sup>5</sup>

Another way in which better workplace safety helps is by improving employee retention. The inpatients benefit from this as well, because they get care from more experienced staff who have handled patients for a much longer span of time.

### Pros and cons of the OSHA inspection guidelines

The main advantages of the inspection guidelines are as follows:

- ▶ Inpatient care facilities have a structured set of guidelines to follow, making it easy for existing establishments to ramp up current facilities and features to desired levels;
- ▶ New healthcare institutions know all about the requirements, and this allows them to integrate safety features in the design of the facility, right from the beginning;
- ▶ It is possible to establish a standard for safety norms that has to be followed by all

healthcare facilities across board, making it easy for patients to understand what to expect and to know when a facility is falling below accepted standards; and

- ▶ It is easy to assess the safety measures during inspections and to quickly spot gaps between regulation and reality.

There are a few disadvantages as well. Namely, it may be impossible or unnecessary for all inpatient care facilities to follow

the same stringent guidelines irrespective of the kind of care they provide or the kind of patients they care for.

Secondly, the medical treatment for different ailments varies very widely, which makes it impossible for all inpatient care facilities to have similar environments or processes. In such cases, matching and implementing the guidelines and clearing inspections may be a challenge for the healthcare facility, despite their commitment to workplace safety.

### How compliance can help

Compliance helps ensure that there are fewer injuries to both staff and residents. The reputation of the healthcare facility hinges on this aspect quite heavily, and compliance plays a key role in making the facility a reputable, trustworthy one. An important point to consider is that reputation plays a significant role in determining which healthcare facility is chosen by the end user, the patient.

Compliance would need to develop robust programs, which would involve the management's buy-in to establish adequate resources and share equally in the burden of responsibility. This program would need to be signed off

by the person sitting on the top of the organizational pyramid. The key ingredients of the program would be to modify the usage of the hotline to a helpline; rather than just reporting mundane specific concerns, the employees should be allowed to "communicate" concerns

relating to the health-care environment. Although there are systems in place which do manage such communications, I would suggest promoting the helpline as a safety net to all the systems that exist in the

...compliance with safety regulations and guidelines makes it possible for employees to carry out their daily work without injuries or ailments.

organization, which would give an employee a sigh of relief, in case they are uncomfortable in reporting through the specific systems. However, before the employees can start communicating it, they would be equipped with adequate tools, such as appropriate trainings and robust and detailed policies and procedures. Additionally, the program should cover spot checks through a multi-disciplinary subject matter team that can identify the control weaknesses and plug the gaps with adequate controls.

In addition, compliance with safety regulations and guidelines makes it possible for employees to carry out their daily work without injuries or ailments. This translates into more working hours and fewer days lost for the employees. Employee productivity is also on the rise, because they are healthier and less anxious about health risks while they are on the job.

Policies are not the be all and end all of guidelines. The world is moving toward establishing committees/task forces, which continuously monitor the policies and exceptional cases so the polices can be continuously enhanced. Not limiting the committees'/

task forces' role to enhancement of policies ensures regular monitoring of cases in facilities and ensures adequate training is provided to the staff where the problems are frequent and regular. Compliance generally participates in such committees to oversee the role and ensure a strong and robust monitoring mechanism.

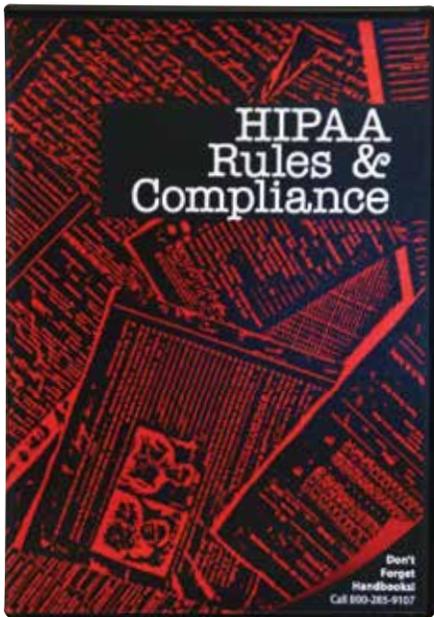
A better, safer work environment also means less employee attrition. For the management this means lowered recruitment costs and reduced cost of training new hires. There is also less risk of the establishment facing lawsuits arising from employee workplace injuries, which can translate into significant costs along with loss of reputation.

For the employees themselves, compliance means better health, an enhanced ability to work more days, a maximized earning capacity, and lower risk of long-term injuries that can impair their ability to work. In general, employees in better health elevate the reputation of the establishment as a whole. 

1. U.S. Department of Labor, Bureau of Labor Statistics: Injuries, Illnesses, and Fatalities. November 7, 2013. Available at <http://bit.ly/2cNvT9t>
2. U.S. Department of Labor, Occupational Safety and Health Administration, news release: "U.S. Labor Department's OSHA begins National Emphasis Program on recordkeeping to determine accuracy of worker injury and illness data" October 1, 2009. Available at <http://bit.ly/2dp8MVo>
3. U.S. Department of Labor: Compliance Assistance Quick Start, Health Care Industry, Step 1. Available at <http://bit.ly/2e023EC>
4. U.S. Department of Labor, memorandum: Inspection Guidance for Inpatient Healthcare Settings. June 25, 2015. Available at <http://bit.ly/2cMrMiK>
5. The Joint Commission: "Inpatient Workplaces Under the Microscope" EC News, January 2016, vol. 19, issue 1. Available at <http://bit.ly/2cXB19>

## [www.hcca-info.org/duphipaadvd](http://www.hcca-info.org/duphipaadvd)

The Health Insurance Portability and Accountability Act (HIPAA) has undergone several modifications since its enactment in 1996, from the Genetic Information Nondiscrimination Act (2010) to the HITECH Act. Recently, the Department of Health and Human Services issued the HIPAA Omnibus Rule to revise, enhance, and strengthen HIPAA yet again.



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