

Compliance Today – March 2018

Safety is the law: Occupational safety compliance

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Prior to 1970, workplace safety was somewhat ad hoc — employers responded to state regulations, workers compensation costs, liability concerns, and contract language. In 1970, the federal Occupational Safety and Health Act (OSH Act or the Act) was passed and the Occupational Safety and Health Administration (OSHA)^[1] was created.^[2]

The Act allows a state agency to supersede OSHA if the state agency has regulations more stringent than OSHA.^[3] Employers should be aware of which agency is the authorized enforcement agency and the details of the regulations.

For editorial purposes we will refer to OSHA and OSHA regulations. The first step for the organization is to determine which agency enforces safety practices in your state. We will focus on the federal regulations, but each organization should build a reference collection of applicable federal and/or state regulations.

The healthcare scene

As modern medicine developed, so did modern safety practices and especially infection controls. Workplace safety became a political issue and was formalized into law in 1970. The next wave of regulation came during the AIDS/HIV crisis, when universal precautions and related practices were formalized into law.

The AIDS/HIV crisis created a new concern — working in healthcare can have lethal consequences. There was a necessary and quick improvement in medical safety practices, and these practices were quickly codified into the blood-borne pathogen standards.

With more than 40 years since the passage of the OSH Act and about 30 years since universal precautions were codified, every health organization should be in a best practices state of operations. Time pressures, resource pressures, and just the daily rush of practice operations may put safety on a back burner. Constant efforts should be made to review and refresh safety practices.

The General Duty clause

This is the “everything else” section of the law that covers the types of safety issues applicable to all employers, regardless of industry (Section 5.(a)).^[4] These regulations cover everything from trip-and-fall to electric shock to burn hazards, and all other common means of workplace injury (e.g., falling objects, vehicles, lifting injuries, ladder issues, pinching and cutting injuries).

Ever walk into a room and find an employee using an office chair as a step ladder? Probably yes. Ever seen the

multi-plug turned wiring octopus? No doubt. The employer is always responsible for bad outcomes.

Liability for general duty violations follows this checklist:

1. A hazard exists
2. The hazard is likely to cause harm
3. The employer knew or should have known of the hazard
4. An incident was foreseeable
5. Workers were exposed to the hazard
6. Injury occurs and is reported to OSHA

With the General Duty clause, the recognition of a hazard is always established if the employer knew about the hazard. An employee, supervisor, or a compliance officer may put the organization on notice.

This section interacts with the local fire and building codes as well as with the Americans with Disabilities Act (ADA). If leasing, be certain responsibility for fire and building codes are clearly assigned. Know if your facility is accredited with any relevant accreditation standards. Your workers compensation and general liability carrier may also have guidelines and standards.

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