If a compliance officer from the Occupational Safety and Health Administration (OSHA) arrives at your ambulatory surgery center (ASC), will you be ready?

OSHA’s mission is to ensure every working man and woman has a safe place to work. To carry out this mission, the agency develops standards that employers must comply with. Failure to comply may result in a financial penalty. To ensure employers are abiding by the standards, an OSHA compliance officer can come to any workplace—including ASCs—to conduct a compliance inspection.

Though OSHA is a federal agency, 28 states have their own occupational safety and health programs, which must meet or exceed the federal requirements. ASCs aren’t a prime target for OSHA because they aren’t considered high-hazard workplaces like the construction industry or nursing homes. Still, they can be the subject of a planned inspection, notes Adrian Estes, RN, PhD, RSP, REO, director of the International Board of Environmental Health & Safety (IBOEHS, www.iboehs.org), a Tucson, Ariz-based nonprofit organization that provides certification for safety officers.

Estes discussed what ASC managers need to know to make sure their facilities comply with OSHA standards and to be prepared for a possible inspection.

The most likely reason for an OSHA officer to come to an ASC is an employee or patient complaint, he says. For example, a staff member might be concerned about the number of sharps injuries and call OSHA, which is an employee’s right. Or a patient might witness a working condition he or she thinks is unsafe and contact the agency. Regardless of how a complaint reaches OSHA, it must be followed up, which could mean a visit to the facility.

Over the past year and a half, 20 ASCs have had an OSHA compliance inspection, Estes says. Of these, 13 were the result of a complaint, and 4 were from referrals by other government agencies, such as the fire marshal, state surveyor, or even state elevator inspector.

From these inspections, ASCs were cited with 20 serious violations with over $20,000 in financial penalties. The 3 most common OSHA standards cited were:
- 1910.1047 Ethylene Oxide
- 1910.1030 Bloodborne Pathogens

One ASC received a $500 citation for improper recordkeeping related to maintenance of the OSHA Form 300 Log of Work-Related Injuries and Illness. The 300 Log is a record of occupational injuries and illnesses kept by calendar year. There is a partial exemption for ASCs for maintaining this form, Dr Estes notes, but the exemption applies only if the ASC is 100% owned by medical doctors.

What happens during an inspection?

What can you expect if an OSHA compliance officer arrives at your facility?

First, the compliance officer must identify himself or herself, show credentials, and explain why he or she is at the facility, Estes notes. Next, the officer will ask for an opening conference. This is the time when the ASC demonstrates it is in compliance by showing its safety programs, documentation of employee training, and the OSHA log (if applicable) for the past 5 years.

After reviewing the paperwork, the compliance officer conducts a walk-through inspection to verify information presented during the opening conference. The offi-
cer asks questions of the employees and observes their actions as well as conditions in the facility. The officer may take pictures so be reminded about patient rights and privacy.

With the walk-through inspection completed, the compliance officer will conduct a closing conference.

“A lot of times they will try to do this by telephone, though you have the right to have a face-to-face closing conference,” Estes says. During the closing conference, the officer discusses the alleged violation. The violation is only alleged unless or until the ASC actually receives a Notice of Proposed Penalty by certified mail.

If an OSHA citation is issued, it will arrive at the facility within 180 days by certified mail. The facility has 15 working days to file a Notice of Contest if it wishes to appeal the citation.

But before filing a Notice to Contest, Estes strongly recommends that a facility contact the OSHA office that issued the citation to request an informal conference. At the informal conference, the facility has an opportunity to present its views and supporting documents to the compliance officer who conducted the inspection and the OSHA area director who issued the citation. In many cases, if a facility demonstrates it has taken positive steps toward correcting the violations, the penalty amount will be reduced, Dr. Estes notes. If the facility still disagrees with the results of the informal conference, it has the right to file a Notice to Contest. This is a formal letter filed with OSHA, which will in turn arrange with the Occupational Health and Safety Review Commission, an independent agency, for a court date.

5 keys to safety

Avoiding an OSHA citation means being in compliance with the standards applicable to your ASC.

“Various written safety programs are available for purchase on the Internet,” Estes says. “But keep in mind that a store-bought program needs to be tailored to each facility.” A canned program cannot address the specific needs of a surgery center. Also, as a defense for contesting an OSHA citation or contesting an OSHA citation or civil lawsuit, he says it is imperative for a facility to have an original safety program that covers its own workplace.

To aid ASCs in assessing their compliance with OSHA standards, Estes has developed a checklist, which is available in the OR Manager Toolbox at www.ormanager.com.

He points out, however, that a checklist alone is not sufficient. He suggests implementing these 5 keys to safety:

1. Assign the responsibility for safety to all levels of management and to an individual who will handle day-to-day safety activities.
2. Develop and implement a comprehensive, written health and safety program. The plan should include an accident prevention plan and safety programs to protect employees from specific hazards such as bloodborne pathogens and chemical hazards.
3. Make a management commitment to safety and employee training. OSHA mandates a considerable amount of training regarding its standards. The employer is responsible to determine which standards apply and which employees are affected by the standards. Many of the standards require employee training to be conducted:
   • upon initial assignment
   • annually
   • whenever an employee changes jobs or there is a change in procedure.
   OSHA rarely mandates a time limit for training; the only requirement is that the employer is responsible to ensure that employees understand the training.
   To demonstrate compliance, the ASC must show the compliance officer documentation of training.
4. Conduct safety inspections frequently enough to be able to identify a workplace hazard in a timely manner.
5. Enforce a safety disciplinary action policy. Establish a policy such as 3 strikes and
you’re out for safety infractions: The first violation can be a written warning, the second can be a written warning plus appearance in front of the safety committee, and the third violation is grounds for termination.

**Employee education**

Employee education videos and manuals on the OSHA standards are also available. OSHA does allow training videos, Estes notes. “But someone must be readily available to answer questions,” he says. Unfortunately, no one video covers all of the topics mandated by OSHA. To provide the needed training, an ASC would need to use a number of videos, which can be time consuming. (Sources of OSHA training materials for health care are in the sidebar.)

To assist ASCs with OSHA compliance, Estes is assembling a Safety Kit for ASCs, similar to one he prepared for the nursing home industry a few years ago. The kit, which is scheduled to be available in early August, will include:

- A manual explaining the 5 keys to safety and providing a sample health and safety program specific to ASCs
- A resource book on the fundamentals of occupational safety
- A 20-minute, no-frills video covering OSHA-mandated training applicable to an ASC, with a reproducible 10-question quiz suitable for documenting employee training.

For more information on the Safety Kit for ASCs, contact Adrian Estes at Dr.Estes@comcast.net.

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**Most common OSHA citations**

These are the most-cited OSHA standards in ambulatory surgery centers. Use this checklist to see if your ASC is in compliance with the major requirements.

**Ethylene Oxide 1910.1047**

Ethylene oxide (EO) is a sterilant used for items that cannot be steam sterilized. EO has a variety of physical and health hazards. The OSHA permissible exposure limit (PEL) is 1 part per million (ppm) over an 8-hour time-weighted average with a 5 ppm excursion level.

**Compliance checklist:**

Last reviewed: __________

___ Is there a workplace assessment for the PEL?
___ Is there periodic monitoring by breathing zone air samples representative of 8-hour time-weighted average and 15-minute short-term limit?

**Bloodborne Pathogens 1910.1030**

The standard covers exposure to blood and other potential infectious materials and life-threatening bloodborne pathogens such as hepatitis B virus, hepatitis C virus, and HIV.

**Compliance checklist:**

___ Is there an Exposure Control Plan designed to eliminate or minimize employee exposure? The plan must be reviewed and updated at least annually.

Last reviewed: __________

___ Has there been an exposure determination for employees?
___ Has there been a schedule and method of implementation for:
  • methods of compliance
  • hepatitis B vaccination and postexposure evaluation and followup
  • communication of hazards to employees
___ Recordkeeping: is there a procedure for the evaluation of circumstances surrounding exposure incidents?
Hazard Communication 1910.1200(e)

The standard covers exposure to hazardous chemicals used in the surgical area, such as peracetic acid and methylmethacrylate (MMA) bone cement. The standard requires employers to inform employees of chemical hazards and have Material Safety Data Sheets for all hazardous chemicals used in their facilities.

Compliance checklist:
Last reviewed: __________________
___ Is there a list of hazardous chemicals known to be present in the facility?
___ Is there a procedure for reviewing labels and other forms of warning on hazardous chemicals?
___ Is there a procedure for making available instructions on Material Safety Data Sheets?
___ Is there a procedure for employee information and training?
___ Is there a policy on methods to be used to inform employees of hazards of nonroutine tasks?

More help on complying with these standards is in the etools section of the OSHA web site at www.osha.gov/STLC/etools/hospital/central/central.html

OSHA resources

Coastal Training Technologies
Publisher of employee training materials has videos, handbooks, CD-ROMs, and web-based courses. Phone 800/725-3418 or visit www.coastal.com.

Eagle Associates, Inc
Publishes American Practice Advisor, a monthly journal, for $160 a year. Also offers an on-line training program for $20 per person annually for firms with 20 or fewer employees. Phone 800/777-2337 or visit www.eagleassociates.net.

HCPro

HealthStream
Company provides online education on OSHA and other regulatory agencies. Phone 800/933-9293 or visit www.healthstream.com.

International Board of Environmental Health & Safety (IBOEH)
Plans to have a Safety Kit for ASCs available in August. Contact Adrian Estes at Dr.Estes@comcast.net.

Occupational Safety and Health Administration
The etools section of OSHA web site has summaries of standards and educational materials. Go to www.osha.gov and look under the Compliance heading for etools.

The Training Network
Company offers videos, DVDs, CDs, and manuals on workplace safety and human resource training issues. Phone 800/397-5125 or visit www.trainingnetwork.com.