

Working in Harm's Way?

Understanding sharps safety compliance

by Ron Stoker



It has been almost five years since the groundbreaking citations were issued by OSHA to the Beaver Valley Nursing and Rehabilitation Home (BVNRH) and its parent company Northern Health Facility Inc., in Beaver Falls, Penn., and Montefiore Medical Center in New York City.

Those citations indicated that OSHA was expecting facilities to be in full compliance with the requirements to use safety-engineered sharp devices in all areas of medical facilities. Beaver Valley initially received fines of \$92,500 for violating several facets of the Bloodborne Pathogens Standard, including a failure to use safety-engineered sharps devices in all areas of their facility. The largest portion of the fine issued to the nursing home, \$70,000, was for the failure to use safety devices. According to the citation, “the employer did not utilize engineering controls in the form of sharps with engineered sharps injury protections that isolated or removed bloodborne pathogen hazards from the workplace when injecting medications and utilizing catheters and other medical devices.”

The Montefiore Medical Center was initially cited and fined a total of \$9,000 for serious violations of the Bloodborne Pathogens Standard including failure to use engineering controls. This citation listed 26 specific instances where safety-engineered devices should have been used. The citations were in response to complaints by medical residents serving at the Montefiore Medical Center—which is another reason to use safety

products, they keep your workforce safe and happy. What is the take-home message here? Institutions that continue to use conventional devices where safety alternatives are available are subject to citations and fines.¹ If an institution fails to use safety devices the OSHA fines can be substantial. Noncompliance can cost up to \$7,000, with willful and repeat offenses up to \$70,000. If caught falsifying records, the fine can be an additional \$10,000 and/or six months in jail.

Noncompliance Results in Serious Citations

Although many institutions have converted to sharps safety devices, there are many that still find areas of their facilities in noncompliance. The citations to Beaver Falls and Montefiore should have served as a wake-up call² to other institutions to get into full compliance and to monitor the actual use of safety devices in all clinical areas. Unfortunately, this has not been the case. OSHA is still giving significant citations for not using safety products and for related violations of the Bloodborne Pathogens Standard. Look at the following citations that have recently been issued by OSHA.³ The following represent just a small portion of citations issued.

- ▶ Physician office, Dunedin, Fla., **\$1,950**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment
- ▶ Dermatology office, Old Bridge, N.J., **\$10,950**
 - Failure to have an exposure control plan.
 - Failure to prevent bending, recapping, or removal of contaminated needles and sharps.
 - Failure to place contaminated sharps in appropriate containers immediately or as soon as possible after use.
 - Failure to ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the and during working hours.
- ▶ Retirement home, Louisville, Colo., **\$6,325**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment.
 - Exposure Control Plan does not document annually consideration and implementation of safety products.
 - Failure to prevent bending, recapping, or removal of contaminated needles and sharps.
- ▶ Gynecologist office, Atlanta, Ga., **\$8,700**
 - Failure to have an exposure control plan.
 - Failure to provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices.
- Failure to ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.
- Failure to prevent bending, recapping, or removal of contaminated needles and sharps.
- ▶ Medical center, Danville, Pa., **\$15,000**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment.
 - Failure to provide BBP training at least annually for each employee.
- ▶ Nursing home, Coraopolis, Pa., **\$12,000**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment.
 - Exposure control plan not updated at least annually and to document new tasks, procedures.
- ▶ Laboratory, East Brunswick, N.J., **\$15,000**
 - Failure to provide employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation following a needlestick.
 - Failure to identify and documentation the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law.
- ▶ Nursing home, Beaumont, Texas, **\$11,500**
 - Failure to have an exposure control plan.
 - Did not determine bloodborne pathogen exposure potential for employees.
 - Failure to ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.
 - Failure to make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.
 - Failure to make immediately available to an exposed employee a confidential medical evaluation and follow-up

Employers have a responsibility to train employees to avoid exposure to bloodborne pathogens by using engineering controls, including safer medical devices.

- ▶ Nursing home, Pittsburgh, Pa., **\$12,000**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment.
 - No bloodborne pathogen exposure determination.
 - Did not document job classifications in which employees have a potential of bloodborne pathogen exposure.
 - Failure to document implementation of compliance, vaccination and follow-up.
 - Failure to have a documented procedure for the evaluation of circumstances surrounding exposure incidents.
 - Failure to test the source individual's blood as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.
 - Documentation of the route(s) of exposure and circumstances under which exposure occurred.
 - Failure to provide medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.
 - Failure to provide training program at time of initial assignment.
 - Failure to provide documentation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan.
 - Failure to provide documentation which will prevent or reduce exposure including appropriate engineering controls, work practices and personal protective equipment.
 - Failure to provide documentation on of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available.
 - Exposure Control Plan not updated at least annually and to document new tasks, procedures.
 - The employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in such manner as to protect the confidentiality of the injured employee.

- ▶ Nursing home, Waterford, Conn., **\$13,475**
 - Exposure control plan not updated at least annually and to document new tasks, procedures.
 - Failure to document implementation of compliance, vaccination and follow-up.
 - Facility did not solicit input from non-managerial employees who are potentially exposed to injuries from contaminated sharps in the identification, evaluation and selection of effective engineering and work practice controls.
 - Failure to follow the health recommendations of the U.S. Public Health Service following a needlestick.

- ▶ Hospital, Aliquippa, Pa., **\$7,700**
 - Failure to use engineering and work practice controls to eliminate or minimize employee exposure. Failure to use personal protective equipment.

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- Failure to provide Hepatitis B vaccination within 10 working days of initial assignment to all employees.
- Failure to provide an opportunity for interactive questions and answers with the person conducting the BBP training session.

These citations indicate that many institutions are still not in full compliance with many facets of the Bloodborne Pathogens Standard. One of the most frequent Bloodborne Pathogens Standard violations is the failure to provide engineering and work practice controls to eliminate or minimize employee exposure. Typically, this citation means that an institution is not using safety needles and other safety sharps devices. With many facilities struggling with compliance there is an apparent lack of understanding of the requirements of the law.

Safety Compliance Q & A

Q WE HAVE NEVER HAD A NEEDLESTICK INJURY IN OUR DEPARTMENT. ARE WE REQUIRED TO USE SAFETY PRODUCTS?

A The purpose of implementing the OSHA Bloodborne Pathogens Standard was to provide the appropriate framework to prevent occupational injuries and illnesses. Employers have a responsibility to train employees to avoid exposure to bloodborne pathogens by using engineering controls, including safer medical devices.

Q WE ARE NOT AWARE OF A SAFER OPTION FOR THE MEDICAL DEVICE THAT WE ARE USING. WHAT DO WE NEED TO DO?

A OSHA does not require facilities to be magicians! If there is no safer option for a medical device you are using where there is an exposure to blood or other potentially infectious materials, it is not required to use something other than the device you are currently using.

Q WHAT ARE MY RESPONSIBILITIES TO SEARCH OUT FOR NEW SAFETY PRODUCTS? IF I DON'T KNOW ABOUT A SAFETY PRODUCT, CAN I GET FORGIVENESS FOR NOT USING IT?

A Although we are not required to use a safety device if it is not available, it does not exempt us from looking at new safety products. OSHA requires, on at least an annual basis, you research to find what safer products are available. This annual review of devices must be documented in your exposure control plan. In addition to reviewing safety products, there should also be an evaluation of the safety products and implementation of those that pass your review.

Q IF THERE IS A SAFETY PRODUCT THAT IS AVAILABLE FOR A PROCEDURE, IS IT REQUIRED TO USE THAT PRODUCT?

A As indicated, it is required that safety products are evaluated for potential use. This evaluation must not be one that is based upon cost. The safety product must then be used by clinicians. If, however, it is determined that the device would interfere with the clinical procedure by increasing the risk to the patient or the clinician, then the product would not be required to be used. If an institution decides to exempt the use of the safety product, then the specific reasons for not selecting and implementing the use of the product must be documented in the exposure control plan. A facility would be required to continue to look for new safety products that might not raise the same objection.

Q WHO SHOULD BE INVOLVED IN THE EVALUATION OF SAFETY PRODUCTS?

A Each employer has a responsibility to determine the type of evaluation that should be used to determine the appropriateness of safety medical devices. OSHA requires that frontline workers be involved in the evaluation and selection of safety devices. This allows for better acceptance of these devices by all clinicians. Not every healthcare worker needs to be involved in this evaluation and selection process. However, a sample of workers who will represent all those in a particular area or department is preferred. Make sure the solicitation of employees who have been involved in the input and evaluation process of safety medical devices is documented in the exposure control plan.

Q THIS EVALUATION PROCESS SOUNDS LIKE IT COULD TAKE A LOT OF TIME. DOESN'T OSHA JUST HAVE A LIST OF AVAILABLE SAFETY PRODUCTS?

A OSHA does not have a list of approved safety medical devices. It is the responsibility of each employer to determine which engineering controls might be the most appropriate for avoiding specific hazards. Each employer must determine what is appropriate for a specific procedure and determine what safety products are commercially available.

Q WHAT IF OUR FACILITY HAS A GROUP PURCHASING ORGANIZATION WE BELONG TO; IS IT OKAY TO ONLY EVALUATE SAFETY PRODUCTS PROVIDED BY THE GPO?

A The OSHA Bloodborne Pathogens Standard mandates that frontline workers are involved in the identification and evaluation of safety devices. All devices identified by these frontline workers should be evaluated—not just those proved by the group purchasing organization. After evaluation, the decision the safety medical device(s) selected as appropriate for adoption by the facility or department should be made on the particular needs, procedures and preferences of the frontline workers and not based upon cost or the availability on the GPO contract.

Conclusion

Facilities successful in the implementation of safety products throughout their facility know they are in compliance, and as a result will not be subject to OSHA citations and fines. More importantly, these facilities benefit from higher employee retention—employees value a safe environment where the employees' health is of greater value than the bottom line. †

References

1. Ground-Breaking Citations Issued By OSHA For Failure to Use Safety Devices, <http://www.healthsystem.virginia.edu/internet/epinet/oshacitations.pdf>.
2. OSHA cracks down on sharps-safety violators, by Jane Perry, MA, and Janine Jagger, MPH, PHD, http://accessmedicalusa.com/pdf/OSHA_Cracks_Down.pdf.
3. Not all citations are listed. Dollar amounts are initial fines assessed and may have been reduced. Dollar amounts may be total of all citations issued by OSHA during inspection. Source: OSHA Web site www.osha.gov.



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