

## New OSHA Compliance Activities Related to Employees who may be Exposed to H1N1 Virus

**For assistance in  
assessing your  
agency's risk and in  
developing an OSHA-  
compliant policy to  
reduce healthcare  
workers' exposure  
to the H1N1 virus,  
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The Occupational Safety & Health Administration ("OSHA") recently issued a Directive to OSHA inspectors regarding healthcare workers' occupational exposure risks to the H1N1 flu virus. Among other things, the Directive advises health care facilities to develop written plans to prevent the spread of H1N1 and to adopt a host of other policies and procedures to address the illness and its ramifications. We wanted to bring the Directive to your attention and provide you with some recommended preventative steps you may want to take to limit or mitigate exposure should your agency be inspected. The hyperlink to the Directive is:

[http://www.osha.gov/OshDoc/Directive\\_pdf/CPL\\_02\\_02-075.pdf](http://www.osha.gov/OshDoc/Directive_pdf/CPL_02_02-075.pdf)

The Directive applies to "healthcare workers." It then broadly defines a "healthcare worker" to include any "person whose occupational activities involve contact with patients or contaminated material in a healthcare or clinical laboratory setting." The Directive's applicability is limited to the inspection of workplaces where healthcare workers are likely to have "very high" or "high" occupational exposure risks to the H1N1 virus. A "very high exposure risk" is defined as "a job task or activity involving a medical or laboratory procedure during which there is a potential of occupational exposure to high concentrations of suspected or confirmed 2009 H1N1 influenza virus." "Very high exposure risk" activities include performing aerosol-generating procedures on suspected or confirmed patients. A "high exposure risk" is defined as "a job task or activity involving a high potential for exposure to suspected or confirmed 2009 H1N1 influenza virus." "High exposure risk" activities include working in close contact with suspected or confirmed H1N1 patients. Because some of your employees may fall into these categories, we wanted to make you aware of the existence of this new Directive.

The Directive provides that OSHA Compliance Safety and Health Officers ("inspectors") will conduct workplace inspections in response to a complaint by a healthcare worker, a referral, or as part of a fatality/catastrophe inspection. While the Directive's scope is applicable to arguably every inpatient and outpatient health care setting, the Directive states that "hospitals, emergency medical centers, doctors' and dental offices and clinics will typically be the focus of inspection activities."

In the event of an inspection, the inspectors will review the employer's injury and illness records to identify any workers with recorded illnesses or symptoms associated with exposure to patients with suspected or confirmed H1N1 flu virus. Further, the inspectors will ensure that the employer has implemented a "hierarchy of controls" and adopted work practices recommended by the Center for Disease Control ("CDC"). Therefore, employers who employ healthcare workers at risk of occupational exposure to H1N1 should consider adopting the CDC recommendations. Since the CDC recommendations are lengthy and their applicability depends on the factual circumstances which exist at your agency, we recommend you review them at:

[http://www.cdc.gov/h1n1flu/guidelines\\_infection\\_control.htm](http://www.cdc.gov/h1n1flu/guidelines_infection_control.htm)

While long-term care facilities, ICFs/MR and group homes are not the stated focus of OSHA's inspection activities under the Directive, and while OSHA will only inspect a workplace in response to a complaint or catastrophic event, individual health care employers should evaluate their employees' potential occupational exposure and consider taking appropriate protective measures depending on their level of risk.

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This client alert is for general information purposes and should not be regarded as legal advice.