Cal/OSHA Regulation Targets Aerosol Transmissible Diseases

Cal/OSHA in 2009 adopted a regulation to prevent the transmission of aerosol transmissible diseases (ATDs) at health care facilities, including nursing homes, correctional facilities, homeless shelters and drug treatment programs, and among specific service providers, such as emergency responders. Aerosol transmissible diseases include influenza—all types, chicken pox, tuberculosis and several more listed in the regulation’s Appendix A (available at the end of this article). Most dental practices and many specialty medical practices are exempt from the regulation as long as the practices comply with specific conditions. The regulation can be found in Title 8 of the California Code of Regulations Section 5199.

Exemption for Dental Practices
Dental practices may be exempt from the regulation per Section 5199(a)(2). To be exempt, dental practices must comply with all of the following conditions:

- The dental practice does not perform dental procedures on patients with aerosol ATDs or who are suspected ATD cases. (A common occurrence in a dental practice is the presentation of a patient with influenza. The patient should be rescheduled in this case and can be treated once the patient no longer presents a possible ATD exposure risk.)
- The dental practice’s Injury and Illness Prevention Plan includes a written procedure for screening patients for ATDs that is consistent with current CDC guidelines for infection control in dental settings, and this procedure is followed before performing any dental procedure on a patient to determine whether the patient may present an ATD exposure risk.
- Employees have been trained in the screening procedure. (This can be easily incorporated into existing infection control or Cal/OSHA training and does not require a separate class dedicated to ATDs.)
- Aerosol generating dental procedures are not performed on a patient identified through the screening procedure as presenting a possible ATD exposure risk unless a licensed physician determines that the patient does not currently have an ATD.

CDA Practice Support has updated its sample Injury and Illness Prevention Plan to help your practice comply with the requirements. Members can download the free sample plan from cda.org/practicesupport.

Included at the end of this article are links to online resources that assist dental practices in developing a patient screening protocol and a copy of the regulation’s Appendix F, which contains sample screening criteria.

Referring Employer
A dental practice that does not comply with the conditions for exemption from the regulation is a “Referring Employer” under Section 5199. A referring employer must (1) screen individuals for airborne infectious diseases (AirID); (2) refer any person identified as a case or suspected case of AirID; (3) not intend to provide medical services to AirID cases and suspected cases other than first aid; and (4) not provide transport, housing, or airborne infection isolation, as defined in the regulation, to any person identified as an Air ID case or suspected case, unless the transport provided is only non-medical transport in the course of a referral.
A Referring Employer is required to comply with subsection (c) Referring Employers and subsection (j) Recordkeeping of the regulation. A copy of these two sections is provided below.

**Resources**

“Tuberculosis Epidemiology, Diagnosis and Infection Control Recommendations for Dental Settings,” JADA, September 1, 2009 vol. 140 no. 9 1092-1099

CDC TB Fact Sheet: Infection Control in Healthcare Settings

CDC Pertussis (Whooping Cough) Fact Sheet: Signs and Symptoms
CCR 8 Section 5199 (c) Referring Employers

In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:

1. The employer shall designate a person as the administrator who will be responsible for the establishment, implementation and maintenance of effective written infection control procedures to control the risk of transmission of aerosol transmissible diseases. The administrator shall have the authority to perform this function and shall be knowledgeable in infection control principles as they apply specifically to the facility, service or operation. The administrator shall also identify in writing the job categories in which employees have occupational exposure to ATDs. When the administrator is not on site, there shall be a designated person with full authority to act on his or her behalf. The infection control procedures shall include procedures for the cleaning and disinfection of work areas, vehicles and equipment that may become contaminated with ATPs and pose an infection risk to employees. The written procedures shall be available at the worksite.

2. The employer shall establish, implement and maintain effective written source control procedures. For fixed health care and correctional facilities, and in other facilities, services and operations to the extent reasonably practicable, these procedures shall incorporate the recommendations contained in Respiratory Hygiene/Cough Etiquette in Health Care Settings. These procedures shall include the method of informing persons with whom employees will have contact of the employer’s source control measures.

3. The employer shall establish, implement and maintain effective written procedures for the screening and referral of cases and suspected cases of AirIDs to appropriate facilities.
   A. Transfers shall occur within 5 hours of the identification of the case or suspected case, unless:
      i. the initial encounter with the case or suspected case occurs after 3:30 p.m. and prior to 7 a.m., in which event the employer shall ensure that transfer occurs no later than 11:00 a.m.; or
      ii. the employer has contacted the local health officer, determined that there is no facility that can provide appropriate AII, and complied with all of the conditions in (e)(5)(B)2.; or
      iii. the case meets the conditions of either of the exceptions to subsection (e)(5)(B).
   B. When screening is provided by persons who are not health care providers, the employer shall meet the requirements of this section by establishing criteria and procedures for referral of persons to a health care provider for further evaluation within the timeframes in subsection (c)(3)(A). Referrals shall be provided to persons who do any of the following:
      i. Have a cough for more than three weeks that is not explained by non-infectious conditions.
      ii. Exhibit signs and symptoms of a flu-like illness during March through October, the months outside of the typical period for seasonal influenza, or exhibit these signs and symptoms for a period longer than two weeks at any time during the year. These signs and symptoms generally include combinations of the following: coughing and other respiratory symptoms, fever, sweating, chills, muscle aches, weakness and malaise.
      iii. State that they have a transmissible respiratory disease, excluding the common cold and seasonal influenza.
      iv. State that they have been exposed to an infectious ATD case, other than seasonal influenza.

Notes to subsection (c)(3):
1. Seasonal influenza does not require referral.
2. Appendix F contains sample criteria for screening that may be adopted by employers in non-medical settings for the purpose of meeting the requirements of this subsection.

4. The employer shall establish, implement, and maintain effective written procedures to communicate with employees, other employers, and the local health officer regarding the suspected or diagnosed infectious disease status of referred patients. These shall include procedures to receive information from the facility to which patients were referred and to provide necessary infection control information to employees who were exposed to the referred person.
5. The employer shall establish, implement and maintain effective written procedures to reduce the risk of transmission of aerosol transmissible disease, to the extent feasible, during the period the person requiring referral is in the facility or is in contact with employees. In addition to source control measures, these procedures shall include, to the extent feasible:
   A. placement of the person requiring referral in a separate room or area;
   B. provision of separate ventilation or filtration in the room or area; and
   C. employee use of respiratory protection when entering the room or area in which the person requiring referral is located, if that person is not compliant with source control measures. Respirator use shall meet the requirements of subsection (g) and Section 5144, Respiratory Protection, of these orders.
   EXCEPTION to subsection (c)(5)(C): Law enforcement or corrections personnel who transport a person requiring referral in a vehicle need not use respiratory protection if all of the following conditions are met:
      i. A solid partition separates the passenger area from the area where employees are located;
      ii. The employer implements written procedures that specify the conditions of operation, including the operation of windows and fans;
      iii. The employer tests (e.g., by the use of smoke tubes) the airflow in a representative vehicle (of the same model, year of manufacture, and partition design) under the specified conditions of operation, and finds that there is no detectable airflow from the passenger compartment to the employee area;
      iv. The employer records the results of the tests and maintains the results in accordance with subsection (j)(3)(F); and
      v. The person performing the test is knowledgeable about the assessment of ventilation systems.

6. The employer shall establish a system of medical services for employees which meets the following requirements:
   A. The employer shall make available to all health care workers with occupational exposure all vaccinations recommended by the CDPH as listed in Appendix E in accordance with subsection (h). These vaccinations shall be provided by a PLHCP at a reasonable time and place for the employee.
   B. The employer shall develop, implement, and maintain effective written procedures for exposure incidents in accordance with subsections (h)(6) through (h)(9).
   C. The employer shall establish, implement, and maintain an effective surveillance program for LTBI in accordance with subsections (h)(3) and (h)(4).
   D. The employer shall establish, implement, and maintain effective procedures for providing vaccinations against seasonal influenza to all employees with occupational exposure, in accordance with subsection (h)(10).
   EXCEPTION to subsection (c)(6)(D): Seasonal influenza vaccine shall be provided during the period designated by the CDC for administration and need not be provided outside of those periods.

7. Employers shall ensure that all employees with occupational exposure participate in a training program. Training shall be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter. Additional training shall be provided when there are changes in the workplace or when there are changes in procedures that could affect worker exposure to ATPs. The person conducting the training shall be knowledgeable in the subject matter covered by the training program as it relates to the workplace. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used. This training shall include:
   A. A general explanation of ATDs including the signs and symptoms that require further medical evaluation;
   B. Screening methods and criteria for persons who require referral;
   C. The employer’s source control measures and how these measures will be communicated to persons the employees contact;
   D. The employer’s procedures for making referrals in accordance with subsection (c)(3);
   E. The employer’s procedures for temporary risk reduction measures prior to transfer;
   F. Training in accordance with subsection (g) and Section 5144 of these orders, when respiratory protection is used;
   G. The employer’s medical services procedures in accordance with subsection (h), the methods of reporting exposure incidents, and the employer’s procedures for providing employees with post-exposure evaluation;
H. Information on vaccines the employer will make available, including the seasonal influenza vaccine. For each vaccine, this information shall include the efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

I. How employees can access the employer’s written procedures and how employees can participate in reviewing the effectiveness of the employer’s procedures in accordance with subsection (c)(8); and

J. An opportunity for interactive questions and answers with a person who is knowledgeable in the subject matter as it relates to the workplace that the training addresses and who is also knowledgeable in the employer’s infection control procedures. Training not given in person shall provide for interactive questions to be answered within 24 hours by a knowledgeable person.

8. The employer shall ensure that the infection control procedures are reviewed at least annually by the administrator and by employees regarding the effectiveness of the program in their respective work areas, and that deficiencies found are corrected.

9. The employer shall establish and maintain training records, vaccination records, records of exposure incidents, and records of inspection, testing, and maintenance of non-disposable engineering controls, in accordance with subsection (j). If the employer utilizes respirators, the employer shall maintain records of implementation of the Respiratory Protection Program in accordance with Section 5144, Respiratory Protection, of these orders.

CCR 8 Section 5199 (j) Recordkeeping

1. Medical records.

A. The employer shall establish and maintain an accurate medical record for each employee with occupational exposure, in accordance with Section 3204, Access to Employee Exposure and Medical Records, of these orders. Note to subsection (j)(1)(A): This record may be combined with the medical record required by Section 5193, Bloodborne Pathogens, of these orders, but may not be combined with non-medical personnel records.

B. This record shall include:
   i. The employee’s name and any other employee identifier used in the workplace;
   ii. The employee’s vaccination status for all vaccines required by this standard, including the information provided by the PLHCP in accordance with subsection (h)(5)(F), any vaccine record provided by the employee, and any signed declination forms;
      EXCEPTION to subsection (j)(1)(B)2.: As to seasonal influenza vaccine, the medical record need only contain a declination form for the most recent seasonal influenza vaccine.
   iii. A copy of all written opinions provided by a PLHCP in accordance with this standard, and the results of all TB assessments; and
   iv. A copy of the information regarding an exposure incident that was provided to the PLHCP as required by subsection (h)(7)(B).

C. Confidentiality. The employer shall ensure that all employee medical records required by this section are:
   i. Kept confidential; and
   ii. Not disclosed or reported without the employee’s express written consent to any person within or outside the workplace except as permitted by this section or as may be required by law.
      NOTE to subsection (j)(1)(C): These provisions do not apply to records that do not contain individually identifiable medical information, or from which individually identifiable medical information has been removed.

D. The employer shall maintain the medical records required by this section for at least the duration of employment plus 30 years in accordance with Section 3204, Access to Employee Exposure and Medical Records, of these orders.
2. Training records.
   A. Training records shall include the following information:
      i. The date(s) of the training session(s);
      ii. The contents or a summary of the training session(s);
      iii. The names and qualifications of persons conducting the training or who are designated to respond to
           interactive questions; and
      iv. The names and job titles of all persons attending the training sessions.
   B. Training records shall be maintained for 3 years from the date on which the training occurred.

3. Records of implementation of ATD Plan and/or Biosafety Plan.
   A. Records of annual review of the ATD Plan and Biosafety Plan shall include the name(s) of the person conducting
      the review, the dates the review was conducted and completed, the name(s) and work area(s) of employees
      involved, and a summary of the conclusions. The record shall be retained for three years.
   B. Records of exposure incidents shall be retained and made available as employee exposure records in
      accordance with Section 3204. These records shall include:
      i. The date of the exposure incident;
      ii. The names, and any other employee identifiers used in the workplace, of employees who were included in
         the exposure evaluation;
      iii. The disease or pathogen to which employees may have been exposed;
      iv. The name and job title of the person performing the evaluation;
      v. The identity of any local health officer and/or PLHCP consulted;
      vi. The date of the evaluation; and
      vii. The date of contact and contact information for any other employer who either notified the employer or was
           notified by the employer regarding potential employee exposure.
   C. Records of the unavailability of vaccine shall include the name of the person who determined that the vaccine
      was not available, the name and affiliation of the person providing the vaccine availability information, and the
      date of the contact. This record shall be retained for three years.
   D. Records of the unavailability of All rooms or areas shall include the name of the person who determined that an
      All room or area was not available, the names and the affiliation of persons contacted for transfer possibilities,
      and the date of the contact, the name and contact information for the local health officer providing assistance,
      and the times and dates of these contacts. This record, which shall not contain a patient’s individually
      identifiable medical information, shall be retained for three years.
   E. Records of decisions not to transfer a patient to another facility for All for medical reasons shall be documented
      in the patient’s chart, and a summary shall be provided to the Plan administrator providing only the name of the
      physician determining that the patient was not able to be transferred, the date and time of the initial decision
      and the date, time and identity of the person(s) who performed each daily review. The summary record, which
      shall not contain a patient’s individually identifiable medical information, shall be retained for three years.
   F. Records of inspection, testing and maintenance of non-disposable engineering controls including ventilation
      and other air handling systems, air filtration systems, containment equipment, biological safety cabinets, and
      waste treatment systems shall be maintained for a minimum of five years and shall include the name(s) and
      affiliation(s) of the person(s) performing the test, inspection or maintenance, the date, and any significant
      findings and actions that were taken.
   G. Records of the respiratory protection program shall be established and maintained in accordance with Section
      5144, Respiratory Protection, of these orders. Employers who provide fit-test screening, in accordance with the
      exception to subsection [g](6)(B)3 shall retain the screening record for two years.
4. Availability.
   A. The employer shall ensure that all records, other than the employee medical records more specifically dealt with in subsection (j)(4)(C), required to be maintained by this section shall be made available upon request to the Chief and NIOSH and the local health officer for examination and copying.
   B. Employee training records, the exposure control plan and/or biosafety plan, and records of implementation of the ATD exposure control plan and biosafety plan, other than medical records containing individually identifiable medical information, shall be made available as employee exposure records in accordance with Section 3204(e)(1) to employees and employee representatives.
   C. Employee medical records required by this subsection shall be provided upon request to the subject employee, anyone having the written consent of the subject employee, the local health officer, and to the Chief and NIOSH in accordance with Section 3204 of these orders, Access to Employee Exposure and Medical Records, for examination and copying.

5. Transfer of Records.
   A. The employer shall comply with the requirements involving the transfer of employee medical and exposure records that are set forth in Section 3204, Access to Employee Exposure and Medical Records, of these orders.
   B. If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the Chief and NIOSH, at least three months prior to the disposal of the records and shall transmit them to NIOSH, if required by NIOSH to do so, within that three-month period.

CCR 8 Section 5199. Appendix A – Aerosol Transmissible Diseases/Pathogens (Mandatory)
This appendix contains a list of diseases and pathogens which are to be considered aerosol transmissible pathogens or diseases for the purpose of Section 5199. Employers are required to provide the protections required by Section 5199 according to whether the disease or pathogen requires airborne infection isolation or droplet precautions as indicated by the two lists below.

Diseases/Pathogens Requiring Airborne Infection Isolation
- Aerosolizable spore-containing powder or other substance that is capable of causing serious human disease, e.g. Anthrax/Bacillus anthracis
- Avian influenza/Avian influenza A viruses (strains capable of causing serious disease in humans)
- Varicella disease (chickenpox, shingles)/Varicella zoster and Herpes zoster viruses, disseminated disease in any patient. Localized disease in immunocompromised patient until disseminated infection ruled out
- Measles (rubeola)/Measles virus
- Monkeypox/Monkeypox virus
- Novel or unknown pathogens
- Severe acute respiratory syndrome (SARS)
- Smallpox (variola)/Variola virus
- Tuberculosis (TB)/Mycobacterium tuberculosis – Extrapulmonary, draining lesion; Pulmonary or laryngeal disease, confirmed; Pulmonary or laryngeal disease, suspected
- Any other disease for which public health guidelines recommend airborne infection isolation

Diseases/Pathogens Requiring Droplet Precautions
- Diphtheria pharyngeal
- Epiglottitis, due to Haemophilus influenzae type b
- Haemophilus influenzae Serotype b (Hib) disease/Haemophilus influenzae serotype b – Infants and children
- Influenza, human (typical seasonal variations)/influenza viruses
• Meningitis
  ° Haemophilus influenzae, type b known or suspected
  ° Neisseria meningitidis (meningococcal) known or suspected
• Meningococcal disease sepsis, pneumonia (see also meningitis)
• Mumps (infectious parotitis)/Mumps virus
• Mycoplasmal pneumonia
• Parvovirus B19 infection (erythema infectiosum)
• Pertussis (whooping cough)
• Pharyngitis in infants and young children/Adenovirus, Orthomyxoviridae, Epstein-Barr virus, Herpes simplex virus,
• Pneumonia
  ° Adenovirus
  ° Haemophilus influenza Serotype b, infants and children
  ° Meningococcal
  ° Mycoplasma, primary atypical
  ° Streptococcus Group A
• Pneumonic plague/Yersinia pestis
• Rubella virus infection (German measles)/Rubella virus
• Severe acute respiratory syndrome (SARS)
• Streptococcal disease (group A streptococcus)
  ° Skin, wound or burn, Major
  ° Pharyngitis in infants and young children
  ° Pneumonia
  ° Scarlet fever in infants and young children
  ° Serious invasive disease
• Viral hemorrhagic fevers due to Lassa, Ebola, Marburg, Crimean-Congo fever viruses (airborne infection isolation and respirator use may be required for aerosol-generating procedures)
• Any other disease for which public health guidelines recommend droplet precautions

CCR 8 Section 5199. Appendix F. Sample Screening Criteria for Work Settings Where No Health Care Providers Are Available (non-mandatory)
This appendix contains sample criteria to be used by non-medical employees for screening purposes in settings where no health care providers are available. Coordination with local health departments, including TB control programs, may be necessary for the success of this referral policy. Employees should be instructed in how clients’ privacy will be maintained during screening procedures.

1. For screening a coughing client with potential TB – privately ask the person
   A. if he/she has had a cough for more than three weeks.
   B. if, in addition to cough, he/she has had one or more of the following clinical symptoms of TB disease:
      i. Unexplained weight loss (>5lbs)
      ii. Night Sweats
      iii. Fever
      iv. Chronic Fatigue/Malaise
      v. Coughing up blood
   A person who has had a cough for more than three weeks and who has one of the other symptoms in b. must be referred to a health care provider for further evaluation, unless that person is already under treatment. Consider referring a person with any of the above symptoms, if there is no alternative explanation.
2. In addition to TB, other vaccine preventable aerosol transmissible diseases, including pertussis, measles, mumps, rubella (“German measles”) and chicken pox should be considered when non-medical personnel screen individuals in non-health care facilities. The following is a brief list of some findings that should prompt referral to a health care provider for further evaluation when identified through a screening process:
   A. Severe coughing spasms, especially if persistent; coughing fits may interfere with eating, drinking and breathing
   B. Fever, headache, muscle aches, tiredness, poor appetite followed by painful, swollen salivary glands, one side or both sides of face under jaw
   C. Fever, chills, cough, runny nose, watery eyes associated with onset of an unexplained rash (diffuse rash or blister-type skin rash)
   D. Fever, headache, stiff neck, possibly mental status changes

3. Any client who exhibits any of the above described findings and reports contact with individuals known to have any of these transmissible illnesses in the past 2-4 weeks should be promptly evaluated by a health care provider.

4. Health officials may issue alerts for community outbreaks of other diseases. They will provide screening criteria, and people must be referred to medical providers as recommended by the health officer.