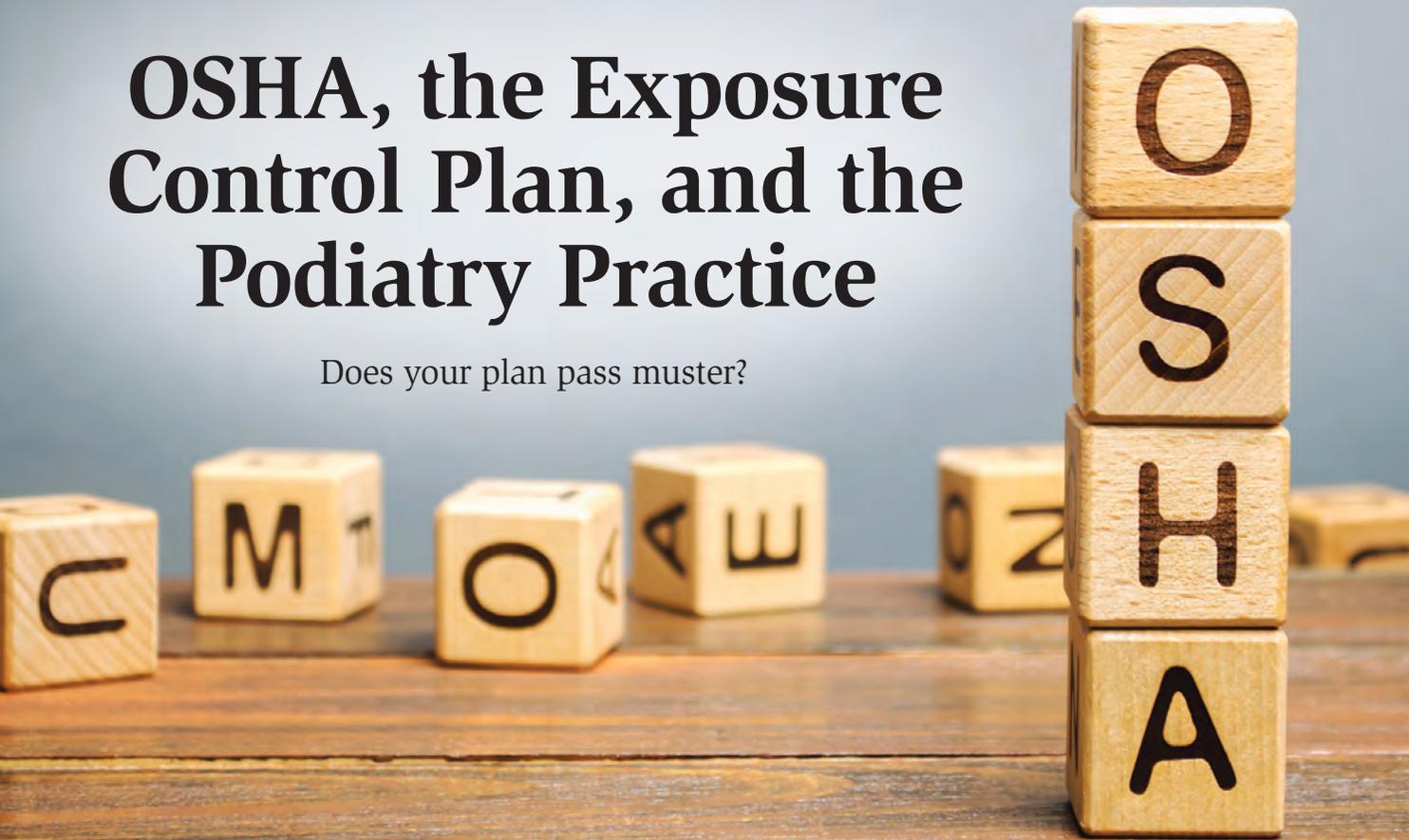


# OSHA, the Exposure Control Plan, and the Podiatry Practice

Does your plan pass muster?



BY LAWRENCE F. KOBAK, DPM, JD

**O**SHA, the Occupational Safety and Health Act, became federal law at the end of 1970. All podiatrists with one or more employees come under the rubric of OSHA. This would not include sole practitioners or partners with no employees. It would include any employees of a solo practice or partnership. The sole practitioner or partner could be cited for not following the rules of OSHA with any employee, even an office assistant. The purpose of OSHA is to provide a safe work environment free from known dangers that can cause serious physical injury or death. Due to the ongoing COVID-19 pandemic, the importance of OSHA has been reinforced. This article will begin to explore the rather wide reach of OSHA on the practice of podiatry.

OSHA first issued its standards involving bloodborne pathogens 30

years ago, in 1991. Podiatrists deal with blood just about every day they are in the office. These standards are distinguished from airborne pathogens. Unbelievably, as this is being written, OSHA has not drafted any

certain state promulgations, these standards are not required by OSHA.

OSHA does, however, have a required standard when dealing with blood borne pathogens (BBP). Let's first define some terms. OSHA states

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airborne pathogen protocols. We are all too familiar, during the COVID-19 pandemic, with wearing masks and social distancing, but these are CDC recommendations, not OSHA requirements. You're also undoubtedly familiar with various types of filters that can be incorporated into your HVAC system; but while appropriate air borne standards should be followed, and might be required by

that "occupational exposure" includes the employee, whether podiatrist, medical assistant, or front desk administrator. This person could be reasonably anticipated to have contact with the skin, eye, mucous membrane or contact via an injection. This does not include contact via inhalation.

When the OSHA regulations mention "blood", they are referring to

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human blood or human blood products. “Other Potentially Infectious Materials” (OPIM) refers to body fluids that could be contaminated by blood, Purulence, and human tissue that was biopsied, would be considered OPIM.

### Exposure Control Plan

How does OSHA obtain your cooperation with these regulations? They do that by requiring you to use an appropriate “Exposure Control Plan”. Are there pre-written plans that one can purchase? While there might be templates with blank spaces to fill in, due to the nature of what is required, each will be unique to the practice setting. In fact, the CDC website has such a template named “*Model Plans and Programs for the OSHA Bloodborne Pathogens and Hazard Communications Standards.*” However, there are only minimum requirements for your Bloodborne Pathogens Standard Exposure Control Plan.

Your plan must be written specifically for each facility where you are potentially exposed to bloodborne pathogens. Even if the facilities are similar, there may be a different number of employees, rooms, or just a different layout of the office. For example, these variables can influence where a required sign is placed, or where an eye wash station is required. The plan must be reassessed and revised each year to reflect any changes. The list of your employees may have changed; perhaps you added a closet or changed the position of a door.

The plan must discuss the positions or technology used to decrease exposure to blood or body fluids—in other words, your plan must deal with how your practice or facility complies with the plan. A copy of the plan must be available to all covered employees. Additionally, employee education of the plan is required.

The plan will list the names of the people responsible for the various parts of the plan. Examples of this would be the person in charge of personal protection equipment (PPE), the name of the person responsible for training and documentation, who is doing the laundering, the name of the person responsible for ensuring that

all medical actions required under the plan are carried out. Who is sterilizing the instruments? Whose responsibility is it to ensure that the machines are being properly maintained?

The plan must also go into detail as to the PPE (personal protection equipment) available and how to use it. Equally important is how to safely dispose of the PPE. Where is the eyewash station? When would you use it? How do you use it? Is a record kept of anyone who does use it? As an aside, the employer is responsible to pay for the PPE used in the

price for a practice of your size. There is no black and white answer, only your documented reasoning.

Let’s say there is an exposure incident. How is that incident assessed? Your office must go into that employee’s training, the PPE used at the time of the incident, the location of the incident and what was being done at the time, the work practices that governed what was being done at the time of the incident as well as what devices were being used to insulate or remove the bloodborne pathogens risk from the office. You

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## There are minimum requirements for your Bloodborne Pathogens Standard Exposure Control Plan.

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office. Where are the sharps disposal containers? When are they disposed? Which company picks up your sharps disposal containers? Is there a record of this pickup?

Keep a record of training provided as to the importance of obtaining a hepatitis B vaccination. Keep documentation of prior Hepatitis B vaccination, a test result showing the employee has the antibodies for Hepatitis B or that there is a medical contraindication. Keep the list updated. If the employee refuses to be vaccinated for hepatitis B, have them sign a letter of declination. Remember that the vaccine should be provided to the employee free of charge. OSHA has no authority as to making the vaccination a mandatory condition of employment.

### The Gray Areas

Let’s get into the gray area for a bit. It is required for your practice to “eliminate or minimize occupational exposure.” When safer alternatives are available and appropriate to your practice, they should be obtained. Your plan should reflect the change. Not every “safer device” is appropriate for every practice or even practicable. The practice must use reasonable or appropriate judgment prior to the selection or declination of selection of safer devices. Certain types of PPE might be more appropriate in some types of practices than others. Certain machines might be safer, but truly prohibitive in

are performing a root cause and proximate cause analysis of the incident. It should be documented, dated, and signed by the person in charge of the exposure reports.

“Universal Precautions” are required by OSHA to protect employees from contact and exposure to blood and OPIM. The concept is to consider all blood or OPIM as if it were infectious for HIV, HBV, or any other bloodborne pathogen. If you are performing surgery on a patient, nail, bone, or otherwise, assume the patient is infectious. For sure, this requires the use of PPE such as eye shields of some kind, gloves, masks, and gowns.

Another term you often hear used is “Engineering Controls”. According to the National Institute for Occupational Safety and Health, a subdivision of the CDC, “engineering controls protect workers by removing hazardous conditions or by placing a barrier between the worker and the hazard.” Needleless systems or self-covering needles, would be prime examples of engineering controls. A safer way to remove a blade from a scalpel would be another example. Ways to minimize spray or leakage of blood or OPIM would also qualify as engineering controls. Your podiatry practice should be evaluating these types of controls for practicality of use and affordability in your facility. As always, document, document, document.

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Drilling down a bit, employees are required to wear gloves while drawing blood. However, OSHA does not require gloves to be worn during an injection if contact with blood or OPMC is not reasonably expected. Of course, your office can require the use of gloves during an injection. Your individual office or hospital's safety measure may require the use of gloves when providing an injection.

While we are reviewing the use of gloves, they must be changed after they have become contaminated or penetrated. For certain, it is required to change gloves between patients.

Diluted bleach solutions and disinfectants found effective against HIV and HBV are acceptable to use on surfaces exposed to blood or OPIM. An operating room table might well need more frequent cleaning than an examining room, due to its nature. The surface should be cleaned after

each exposure. Keep a list of the disinfectants in current use.

### Safety First

It is time to double back to the beginning of this article concerning entities not covered by OSHA. It is highly inadvisable for solo practitioners, or partners, without employees, to think they can "get away" with offices that have an unsafe environment. State and city departments of health as well as state professional licensing bodies can easily investigate and punish practitioners who foster unsafe professional working environments.

Why so many rules about safety? They are necessary. Compare your office to the typical podiatry office in the 1950s. Think of all the safety features in today's office that we take for granted thanks to the push practitioners have received from state and federal governing bodies such as OSHA. As a podiatry student back in the early 1970s, gloves were optional at best.

Medical waste and sharps were treated differently. Bloodborne infection protocol was not in force. Our profession's response to office safety has evolved with additional knowledge and enforcement. Our patients and staff are all the better for it. **PM**

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