

BBF interpretive letter re: use of EMR for HCW labs after BBF exposure.

Geoffrey B. Korn, M.D., MPH  
2650 N. Lakeview #2202  
Chicago, IL. 60614

January 7, 2002

Ms. Rebecca Jones  
OSHA Bloodborne Pathogen Coordinator  
230 S. Dearborn St. - Room 3244  
Chicago, IL. 60604

Dear Ms. Jones:

Can you please clarify a question regarding the confidentiality of hospital employees' bloodborne pathogen post exposure medical records.?

This is the scenario: An employee of Hospital B suffers a needlestick. She goes to Hospital B's Employee Health Service where she receives appropriate care. Blood samples from the exposed employee and the source patient are sent to the lab at Hospital B. The exposed employee's name has not been given a special code to shield her identification.

Hospital B's lab reports both the exposed employee and source patient lab results on the hospital's computerized lab information system database, under the name of the exposed employee.

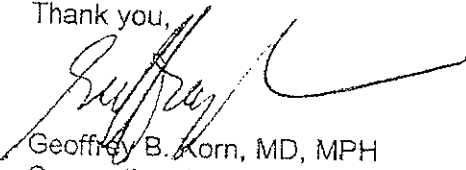
The laboratory personnel handling these specimens have knowledge of the names and bloodborne pathogen post exposure lab results of the exposed employee and her source patient.

In addition, other healthcare workers at Hospital B have access to the computerized hospital lab information system database. They are allowed to enter it via a security password. There is no way to prevent those with a lab information system security password from looking up the bloodborne pathogen post exposure lab results of both the exposed nurse and her source patient.

However, all healthcare workers can be tracked to see whose records they have looked at, and they can be disciplined for inappropriate use.

Is the above scenario in compliance with the employee medical records confidentiality requirements of the OSHA Bloodborne Pathogen standard 29 CFR 1910.1030?

Thank you,



Geoffrey B. Korn, MD, MPH  
Occupational Medicine Consultant

U.S. Department of Labor

Occupational Safety and Health Administration  
230 South Dearborn Street, Room 3244  
Chicago, Illinois 60604  
(312) 353-2220



JAN 25 2002

Geoffrey B. Korn, M.D., MPH  
Occupational Medicine Consultant  
2650 N. Lakeview #2202  
Chicago, Illinois 60614

Dear Dr. Korn:

This is an interim response to your letter of January 7, 2002, which was received in the Chicago Regional Office of the Occupational Safety and Health Administration (OSHA) on January 17, 2002, for a clarification of OSHA's Bloodborne Pathogens Standard, 29 CFR 1910.1030, and its application to employee confidentiality.

Please be advised that your letter has been forwarded to OSHA's Office of Health Compliance in Washington, D.C. and we have asked them to respond directly to you with a letter addressing your concerns. They may be contacted at the following address:

Richard E. Fairfax, Director  
Director of Compliance Programs  
200 Constitution Avenue, NW, Room N-3603  
Washington, D.C. 20210  
(202) 693-2190

Please feel free to contact Rebecca Jones of my staff at (312) 886-6288 if further assistance is required by our office.

Sincerely,

A handwritten signature in cursive script that reads "Ann E. Williams".

Ann E. Williams  
Assistant Regional Administrator  
Compliance Programs

## U.S. Department of Labor

Occupational Safety and Health Administration  
Washington, D.C. 20210

Reply to the Attention of:

APR 25 2002

Geoffrey B. Korn, MD, MPH  
2650 N. Lakeview #2202  
Chicago, IL 60614

Dear Dr. Korn:

Thank you for your January 7 letter to the Occupational Safety and Health Administration's (OSHA's) Chicago Regional Office regarding confidentiality of post-exposure medical records under OSHA's Bloodborne Pathogens Standard (29 CFR 1910.1030). Your letter has been forwarded to the OSHA National Office, Directorate of Compliance Programs, for a response. This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not delineated within your original correspondence. Your question is outlined below, followed by OSHA's response.

**Scenario:** An employee of Hospital B suffers a needlestick and goes to Hospital B's Employee Health Service, where he/she receives appropriate post-exposure evaluation and follow-up. Hospital B's lab reports both exposed employee's and source patient's lab results on Hospital B's computerized laboratory information system database. Other hospital staff has access to the database with a system security password, and is disciplined for inappropriate use if confidentiality of the exposed employee is jeopardized.

**Question:** Does this meet the requirements for confidentiality under the Bloodborne Pathogens Standard?

**Response:** No. A healthcare professional must conduct appropriate medical evaluation and follow-up after an exposure incident (e.g., a needlestick) (29 CFR 1910.1030 (f)(3)). Further, the healthcare professional must provide a written opinion limited to documentation that: (a) the employee has been informed of the results of the post-exposure evaluation, and (b) the employee has been told about any medical conditions resulting from the exposure. All other findings or diagnoses must remain confidential and must not be included in the written (or electronic) report submitted to the employer. Employee blood test results must not be included in the employer's report (29 CFR 1910.1030 (f)(5)(iii)).

Since your facility chooses to use its own employee health service to conduct diagnostic analyses of employee and source blood for hepatitis B virus (HBV), human immunodeficiency virus (HIV), and other bloodborne pathogens, these records must

remain confidential (i.e., free of personal identifiers) since employees in the facility have access to them. You mentioned in your letter that the name of the exposed employee remains on the lab tests that are housed in your computerized database. In that situation, some type of randomized numbering system or other coding system must be used to prevent any inappropriate access to this information.

Failure to keep an employee's post-exposure medical records confidential would be a violation of the standard. Please refer to paragraphs (f)(3), (4), (5), and (h)(1)(i) for specific requirements under 29 CFR 1910.1030, and the requirements for general employee medical records under 29 CFR 1910.1020.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact the Office of Health Compliance Assistance at (202) 693-2190.

Sincerely,



Richard E. Fairfax, Director  
Directorate of Compliance Programs