PROTECTING EMPLOYEES FROM ATDS IN THE HEALTH CARE WORKPLACE

Health care industry employers in California are now legally obligated to take steps to protect employees from Aerosol Transmissible Diseases ("ATDs") in the workplace. The ATD Standard, set forth in detailed regulations issued by the California Occupational Safety and Health Standards Board, took effect August 5, 2009. The regulations aim to establish a comprehensive approach to prevent and control the workplace transmission of diseases such as H1N1, seasonal flu, Avian flu, tuberculosis and SARS. The regulations impose significant obligations on health care industry employers to protect employees from ATDs in the workplace. Although the regulations are very broad and detailed, the requirements imposed will not be completely foreign to most physicians whose offices have an existing Injury and Illness Prevention Program and other office safety, training and recordkeeping policies, procedures and practices.

1. Are all health care industry employers covered by the ATD standard?

Nearly all health care industry employers are covered by the ATD Standard. The regulations set forth broad definitions of what and who they apply to, first defined by the work performed ("Covered Work"), then determined by the scope of exposure ("Full Scope Employer" or "Referring Employer"), with certain exceptions. Covered Work facilities, service categories and operations clearly include facilities such as community clinics and medical offices that provide medical services to individuals who seek diagnosis and treatment for the symptoms of an aerosol transmissible disease. However, a specific exemption applies for medical specialty practices which do not diagnose, treat, or perform aerosol generating procedures on cases or suspected cases of ATD, have implemented written screening procedures to detect potential ATD cases, and which refer the potential cases to an appropriate medical provider for further evaluation. The purpose of this exemption is to exclude from the ATD Standard those employers who have implemented procedures that will minimize the likelihood that employees would have occupational exposure. (www.dir.ca.gov/oshsb/atdISOR.pdf, pages 3, 7.) Primary care, general practice and family medicine practices do not qualify as specialty medical practices under the ATD Standard and thus, are obligated to fulfill the requirements imposed on a Referring Employer, Full Scope Employer or Laboratory.

COVERED WORK IN SPECIFIED FACILITIES, SERVICE CATEGORIES OR OPERATIONS

The ATD Standard expressly applies to work in specified facilities, service categories and operations (8 C.C.R. §5199(a)), most of which fall under the traditional health care industry umbrella. Specifically, Covered Work is work performed in the following health care facilities, service categories or operations:

- Hospitals
- Skilled nursing facilities
- Clinics, medical offices, and other outpatient medical facilities
- Facilities where high hazard procedures, as defined in subsection (b), are performed

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2. Is the work performed in an outpatient medical specialty practice considered covered work?

Not if certain conditions are met. First, the outpatient practice cannot be a primary care, general practice, or family medicine practice, as those are specifically excluded from the exemption extended to qualified medical specialty practices. (8 C.C.R. §5199(b).) Second, for the work performed in the outpatient medical specialty practice to be exempted, the practice must have a policy not to diagnose or treat ATDs. If such policy is in place, an outpatient medical specialty practice may be exempt from the requirements of the Standard if they meet all of the following conditions:

- The medical specialty practice does not perform aerosol-generating procedures on cases or suspected cases of ATD;

Compliance with the ATD Standard does not relieve an employer of its obligations under other applicable regulations, such as section 5192 governing hazardous waste or emergency response operations. (8 C.C.R. §5199(a)(1), Notes.) Many of the obligations imposed by the ATD Standard are already required in the same or similar fashion by other applicable regulations such as section 3203: Injury and Illness Prevention Program; section 3204: Access to Employee Exposure and Medical Records; section 5144: Respiratory Protection; section 5193: Bloodborne Pathogens; sections 5142 and 5143: re Ventilation; and sections 3380 et seq. re Personal Protective Devices and Measures. Given those other existing regulatory requirements, the Occupational Safety and Health Standards Board estimates that implementation and compliance with the ATD Standard will not impose significant additional costs or burdens on employers. (www.dir.ca.gov/oshsb/NoticeAug08.pdf.)
The Injury and Illness Prevention Program includes written screening procedures to identify potential ATD cases and then refer those patients for further evaluation to an appropriate medical provider; and

- Employees have been trained in appropriate screening procedures.

(8 C.C.R. §5199(a)(2)(B).) Similar exemptions apply for outpatient dental clinics or offices. (8 C.C.R. §5199(a)(2)(A).) For more information on every employer’s obligation to establish and maintain an effective Injury and Illness Prevention Program, see CMA ON-CALL document #1825, "Injury and Illness Prevention Programs."

Unless one of the two specific Covered Work exemptions apply, all employers whose employees perform Covered Work will need to determine whether they are a "Full Scope Employer," a "Referring Employer" or a "Laboratory," the designation which will govern their obligations under the ATD Standard.

DETERMINING THE EMPLOYER’S OBLIGATIONS UNDER THE ATD STANDARD

The ATD Standard sets up three levels of employer obligations to protect employees from ATDs. The three levels essentially distinguish between those employers whose employees diagnose and treat people with ATDs or handle their specimens and those that do not. The regulations impose extensive obligations on the former and strict yet less burdensome obligations on the latter. If an employer whose employees perform Covered Work does not qualify as a Referring Employer or as a Laboratory, then that employer is a Full Scope Employer. The obligations imposed on each type of employer are fully described in the remainder of this document and are summarized in the following chart for ease of reference:

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3. Is the employer required to bear the total cost of safeguards required for ATD protection?

Yes. All employers whose employees perform Covered Work under the ATD Standard must provide all safeguards required by the regulations at no cost to the employee, at a reasonable time and place for the employee, and during the employee’s working hours. This applies whether the employer is a Referring Employer, Laboratory or a Full Scope Employer and to any safeguards the employer is required to provide including personal protective equipment, respirators, training, and medical services. (8 C.C.R. §5199(a)(4).)

4. Which diseases and pathogens are targeted by the ATD standard?

The ATD Standard is intended to prevent or minimize employee exposures to airborne, droplet, and contact transmission of the following diseases and pathogens:
• Diseases/Pathogens Requiring Airborne Infection Isolation ("AII")
  • 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)/Varioloa 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 influenzae 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

(8 C.C.R. §5199, Appendix A).

5. **Who qualifies as a referring employer?**

The ATD Standard confers "Referring Employer" status on any employer that operates a facility, service or operation in which there is occupational exposure but which does not provide diagnosis, treatment, transport, housing, isolation or management to persons requiring AII; rather, those cases are referred out. Thus, to qualify as a Referring Employer under the Standard, the employer must operate a facility, service or operation that conforms to all of the following criteria:

• Screens persons for airborne infectious diseases ("AirID");
• Refers any person identified as a case or suspected case of AirID;
Does not intend to provide further medical services to AirID cases and suspected cases beyond first aid, initial treatment or screening and referral; and

Does not provide transport, housing, or AII to any person identified as an AirID case or suspected case, unless the transport provided is only non-medical transport in the course of a referral.

(8 C.C.R. §5199(a)(3)(A).)

6. What requirements do the ATD standards impose on a Referring Employer?

An employer who meets all four of the above criteria qualifies as a Referring Employer who must establish, implement, maintain and annually review effective written policies and procedures related to infection and source control, screening and referral, communication, and reducing risk of transmission of ATDs. A Referring Employer must also establish a system of medical services for employees and ensure that employees with occupational exposure participate in a training program on initial assignment and annually thereafter. Finally, a Referring Employer must comply with specific recordkeeping obligations. (8 C.C.R. §§5199(a)(3)(A), 5199(c).) The recordkeeping obligations of a Referring Employer are the same as the recordkeeping obligations of a Full Scope Employer and are discussed in detail below.

Referring Employers: Infection Control Administrator & Procedures

Referring Employers in facilities, services or operations in which there is occupational exposure must 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 ATDs. (8 C.C.R. §§ 5199(a)(3)(A), 5199(c)(1).) The administrator must have the authority to perform this function and must be knowledgeable in infection control principles as they apply specifically to the facility, service or operation. The administrator must also identify in writing the job categories in which employees have occupational exposure to ATDs. When the administrator is not on site, there must be a designated person with full authority to act on his or her behalf.

The infection control procedures must include procedures for the cleaning and disinfection of work areas, vehicles, and equipment that may become contaminated with Aerosol Transmissible Pathogens ("ATPs") and pose an infection risk to employees. These written procedures must be available at the worksite.

Referring Employers: Source Control Procedures

Referring Employers in facilities, services or operations in which there is occupational exposure must also establish, implement and maintain effective written source control procedures. (8 C.C.R. §§ 5199(a)(3)(A), 5199(c)(2).) To the extent reasonably practicable, these procedures must incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings, available at [www.edc.gov/flu/professionals/pdf/resphygiene.pdf](http://www.edc.gov/flu/professionals/pdf/resphygiene.pdf). The written source control procedures must also specify a method for informing persons with whom employees will have contact of the employer’s source control measures. (8 C.C.R. § 5199(c)(2).)

Referring Employers: Screening and Referral Procedures

In addition to infection control and source control procedures, a Referring Employer must also establish, implement, and maintain effective written procedures for the screening and referral of cases and suspected cases of AirIDs to appropriate facilities. (8 C.C.R. § 5199(c)(3).) The screening and referral procedure must provide for transfer within 5 hours of the identification of the case or suspected case, with certain exceptions. (8 C.C.R. § 5199(c)(3)(A).) When screening is provided by persons who are not health care providers, the employer must establish criteria and procedures for referral of persons to a health care provider for further evaluation within the timeframes set forth above for transfers. (8 C.C.R. §
For purposes of the ATD Standard, "health care providers" include a physician and surgeon, veterinarian, podiatrist, nurse practitioner, physician assistant, registered nurse, nurse midwife, school nurse, infection control practitioner, medical examiner, coroner and dentist. (8 C.C.R. §5199(b).)

Referrals must be provided for persons who:

- Have a cough for more than three weeks that is not explained by non-infectious conditions;
- 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;
- State that they have a transmissible respiratory disease, excluding the common cold and seasonal influenza; or
- State that they have been exposed to an infectious ATD case, other than seasonal influenza.

It is important to note that seasonal influenza does not require referral. (8 C.C.R. §5199(c)(3), Note.)

**Referring Employers: Procedures for Communicating re Infectious Disease Status of Referred Patients**

A Referring Employer must 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 must 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. (8 C.C.R. §5199(c)(4).)

**Referring Employers: Procedures to Reduce Risk of Transmission of ATDs**

Referring Employers must 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. (8 C.C.R. §5199(c)(5).) In addition to source control measures, these procedures must include, to the extent feasible:

- Placement of the person requiring referral in a separate room or area;
- Provision of separate ventilation or filtration in the room or area; and
- 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.

**Referring Employers: System of Medical Services For Employees**

A Referring Employer must establish a system of Medical Services for employees which meets the following requirements:

- The employer **must make available** to all health care workers with occupational exposure all vaccinations recommended by the CDPH. These include: Influenza; Measles; Mumps; Rubella; Tetanus, Diptheria, and Acellular Pertussis; and Varicella-zoster. These vaccinations **must be provided** by a PLHCP at a reasonable time and place for the employee;
- The employer must develop, implement, and maintain effective written procedures for exposure incidents;
• The employer must establish, implement, and maintain an effective surveillance program for Latent TB Infection ("LTBI"); and

• The employer must establish, implement, and maintain effective procedures for providing vaccinations against seasonal influenza to all employees with occupational exposure with seasonal influenza vaccine being administered during the period designated by the CDC.

(8 C.C.R. §5199(c)(6).) The Referring Employer must provide these safeguards in the same manner as the Medical Services required by Full Scope Employers, described more fully below.

**Referring Employer: Employee Training Program**

Referring employers must ensure that all employees with occupational exposure participate in a training program. Training must be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter. Additional training must 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 must be knowledgeable in the subject matter covered by the training program as it relates to the workplace. The training materials must be appropriate in content and vocabulary to the educational level, literacy, and language of the employees. At a minimum, this training must include:

• A general explanation of ATDs including the signs and symptoms that require further medical evaluation;

• Screening methods and criteria for persons who require referral;

• The employer’s source control measures and how these measures will be communicated to persons the employees contact;

• The employer’s procedures for making referrals of cases and suspected cases of AirIDs;

• The employer’s procedures for temporary risk reduction measures prior to transfer;

• Training related to Respiratory Protection whenever such protection is used;

• The employer’s Medical Services procedures, the methods of reporting exposure incidents, and the employer’s procedures for providing employees with post-exposure evaluation;

• Information on vaccines the employer will make available, including the seasonal influenza vaccine. For each vaccine, this information must include the efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

• How employees can access the employer’s written procedures and how employees can participate in reviewing the effectiveness of the employer’s procedures; and

• 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 must provide for interactive questions to be answered within 24 hours by a knowledgeable person.

(8 C.C.R. §5199(c)(7).)
Referring Employer: Annual Review of Infection Control Procedures

Any Referring Employer must 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. (8 C.C.R. §5199(c)(8).)

Referring Employer: Recordkeeping

A Referring Employer must establish and maintain training records, vaccination records, records of exposure incidents, and records of inspection, testing, and maintenance of non-disposable engineering controls. If the Referring Employer utilizes respirators, the employer must maintain records of implementation of a Respiratory Protection Program.

7. What requirements do the ATD standards impose on laboratories?

As explained above, the ATD Standard sets up three levels of employer obligations to protect employees from ATDs. The three levels essentially distinguish between those employers whose employees diagnose and treat people with ATDs or handle their specimens and those that do not. A laboratory is one of those three levels. The ATD Standard defines a Laboratory as a facility or operation in a facility where the manipulation of specimens or microorganisms is performed for the purpose of diagnosing disease or identifying disease agents, conducting research or experimentation on microorganisms, replicating microorganisms for distribution or related support activities for these processes. (8 C.C.R. § 5199(b).)

A laboratory facility or operation in which employees do not have direct contact with cases or suspected cases of ATD or with potentially infected cadavers must only comply with certain Laboratory-specific requirements (8 C.C.R. §5199(f)), and with the Training (8 C.C.R. §5199(i)) and Recordkeeping (8 C.C.R. §5199(j)) requirements described below. (8 C.C.R. § 5199(a)(3)(B).) An employer with laboratory operations in which employees do have direct contact with cases or suspected cases are required to comply with those Laboratory-specific requirements, as well as all of the requirements imposed on a Full Scope Employer, specifically, ATD Exposure Control Plan, Engineering & Work Practice Controls and Personal Protective Equipment, Respiratory Protection, Medical Services, Training and Recordkeeping. (8 C.C.R. § 5199(f)(1), Note.) These requirements are more fully described below.

8. What requirements do the ATD standards impose on full scope employers?

Any work settings, operations or facilities that include Covered Work within the scope of the ATD Standard that do not qualify as a Referring Employer or as a Laboratory must comply as a Full Scope Employer with all of the following requirements: ATD Exposure Control Plan, Engineering & Work Practice Controls and Personal Protective Equipment, Respiratory Protection, Medical Services, Training and Recordkeeping. (8 C.C.R. §5199(a)(3)(C).) Each of these requirements is extensive and is delineated in detail in the regulations.

ATD EXPOSURE CONTROL PLAN

Every Full Scope Employer must establish, implement, and maintain an effective, written ATD Exposure Control Plan that is specific to the work place or operation(s). However, employers with laboratory operations in which employees do not have direct patient contact may establish, implement and maintain an effective, written Biosafety Plan in lieu of an Exposure Control Plan for those operations. (8 C.C.R. § 5199(d)(1).) The required elements of a Biosafety Plan are set forth in the discussion of Laboratories below.

The Full Scope Employer’s ATD Exposure Control Plan must be reviewed at least annually by the program administrator and by employees regarding the effectiveness of the program in their respective work areas. Deficiencies found must be corrected. The review(s) must be documented in writing,
including 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. These records must be retained for three (3) years. (8 C.C.R. §§5199(d)(3), 5199(j)(3)(A).)

The written ATD Exposure Control Plan of Full Scope Employers must contain all of the following elements:

- The name(s) or title(s) of the person(s) responsible for administering the Plan. This person(s) must be knowledgeable in infection control principles and practices as they apply to the facility, service or operation.

- A list of all job classifications in which employees have occupational exposure.

- A list of all high hazard procedures performed in the facility, service or operation, and the job classifications and operations in which employees are exposed to those procedures.

- A list of all assignments or tasks requiring personal or respiratory protection.

- The methods of implementation of applicable Engineering and Work Practice Controls, cleaning and decontamination procedures, Personal Protective Equipment, Respiratory Protection, Medical Services, Training and Recordkeeping as they apply to that facility, service or work operation. Specific control measures must be listed for each operation or work area in which occupational exposure occurs. In establishments where the ATD Exposure Control Plan pertains to laboratory operations, it also must contain the methods of implementation for Laboratory-specific controls (described below), unless those operations are included in a Biosafety Plan.

- A description of the source control measures to be implemented in the facility, service or operation, and the method of informing people entering the work setting of the source control measures.

- The procedures the employer will use to identify, temporarily isolate, and refer or transfer AirID cases or suspected cases to AII rooms, areas or facilities, including:
  - the methods the employer will use to limit employee exposure to these persons during periods when they are not in airborne infection isolation rooms or areas
  - the methods the employer will use to document medical decisions not to transfer patients in need of AII in accordance with the AII Placement or Transfer required as part of the employer’s Engineering and Work Practice Controls (described below).

- The procedures the employer will use to provide medical services, including recommended vaccinations and follow-up, as required as part of the employer’s Medical Services obligations (described below). This must include the procedures the employer will use to document the lack of availability of a recommended vaccine.

- The procedures for employees and supervisors to follow in the event of an exposure incident, including how the employer will determine which employees had a significant exposure, in accordance with the employer’s Medical Services obligations related to Exposure Incidents, Information Provided to the PLHCP, Precautionary Removal Recommendations and Written Opinions (described below).

- The procedures the employer will use to evaluate each exposure incident, to determine the cause, and to revise existing procedures to prevent future incidents.
• The procedures the employer will use to communicate with its employees and other employers regarding the suspected or confirmed infectious disease status of persons to whom employees are exposed in the course of their duties, in accordance with the employer’s Medical Services obligations (discussed below).

• The procedures the employer will use to communicate with other employers regarding exposure incidents, including procedures for providing or receiving notification to and from health care providers about the disease status of referred or transferred patients, in accordance with the employer’s Medical Services obligations (discussed below).

• The procedures the employer will use to ensure that there is an adequate supply of personal protective equipment and other equipment necessary to minimize employee exposure to ATPs, in normal operations and in foreseeable emergencies.

• The procedures the employer will use to provide initial and annual training in accordance with the employer’s Training obligations (discussed below) to employees in job categories or classifications in which employees have occupational exposure.

• The procedures the employer will use for Recordkeeping (described below).

• An effective procedure for obtaining the active involvement of employees in reviewing and updating the ATD Exposure Control Plan with respect to the procedures performed in their respective work areas or departments, and who is responsible for documenting the review(s) and initiating action to correct deficiencies noted during the review(s).

• Surge procedures: Employers of employees who are designated to provide services in surge conditions, and employers of employees who are designated to provide services to persons who have been contaminated as the result of a release of a biological agent, must include procedures for these activities in the ATD Control Exposure Plan. The Plan must include Work Practices, decontamination facilities, and appropriate Personal Protective Equipment and Respiratory Protection for such events. The procedures must include how Respiratory and Personal Protective Equipment will be stockpiled, accessed or procured, and how the facility or operation will interact with the local and regional emergency plan.

(8 C.C.R. §5199(d)(2).) As more specifically set forth in the Recordkeeping section below, the ATD Exposure Control Plan must be made available to employees, employee representatives, the Chief and NIOSH for examination and copying. (8 C.C.R. §§5199(d)(4), 5199(j)(4).)

ENGINEERING, WORK PRACTICE CONTROLS & PERSONAL PROTECTIVE EQUIPMENT

Under the ATD Standard, Full Scope Employers are required to use feasible Engineering and Work Practice Controls to minimize employee exposures to Aerosol Transmissible Pathogens ("ATPs"). Where Engineering and Work Practice controls do not provide sufficient protection (e.g., when an employee enters an AII room or area) the employer is required to provide and ensure that employees use Personal Protective Equipment. The employer is also required to provide Respiratory Protection (discussed below) to control exposures to AirIPs. (8 C.C.R. §5199(e)(1).)

Engineering Controls

Full Scope Employers in workplaces that admit, house, or provide medical services to AirID cases or suspected cases are required to utilize Engineering Controls in the workplace to minimize employee exposures to ATPs. Workplace settings where home health care or home-based hospice care is being provided are expressly exempted from this requirement. (8 C.C.R. §5199(e)(4).)

Work Practice Controls

As set forth above, Full Scope Employers are required to use feasible Work Practice Controls to minimize employee exposures to ATPs. Appropriate Work Practice Controls may include, but are not limited to hand-washing and gloving procedures, the use of anterooms, and cleaning and disinfecting contaminated surfaces, articles and linens. (8 C.C.R. §5199(e)(1)(A), Note.)

Source Control Procedures

Full Scope Employers are required to implement written Source Control procedures. (8 C.C.R. §5199(e)(1)(B).) These procedures must identify the specific measures to be taken, engineering controls to be used, and other devices or materials to be used to minimize the spread of airborne particles and droplets from an individual who has or exhibits signs or symptoms of having an ATD, such as persistent coughing. (8 C.C.R. §5199(b).) For fixed health care and correctional facilities, and in field operations (operations conducted by employees that are outside the employer’s fixed establishments, such as paramedic and emergency medical services or transport, law enforcement, home health care, and public health) to the extent that it is reasonably practicable, these procedures must incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings, CDC, November 4, 2004, available at: www.cdc.gov/flu/professionals/pdf/resphygiene.pdf. The procedures must include methods to inform individuals entering the facility, being transported by employees, or otherwise in close contact with employees, of the source control practices implemented by the employer.

Decontamination Procedures

Full Scope Employers must develop and implement effective written decontamination procedures. These procedures must include appropriate engineering controls and must provide for the cleaning and decontamination of work areas, vehicles, personal protective equipment, and other equipment. (8 C.C.R. §5199(e)(2).)

Protection of Employees Involved in Transport of ATD Cases

The Engineering and Work Practice Controls developed and implemented by Full Scope Employers must include protections for employees who operate, use, or maintain vehicles that transport persons who are ATD cases or suspected cases. The employer must give consideration to implementing barriers and air handling systems where feasible. Employers must document the results and the basis for the results of their consideration process. These control measures must be included in the annual review of the ATD Exposure Control Plan (described above.) (8 C.C.R. §5199(e)(1)(C).)

Protection of Temporary Workers and Independent Contractors

In order to protect temporary workers and independent contractors, the ATD Standard requires Full Scope Employers to provide information about infectious disease hazards to any contractor who provides temporary or contract employees who may be reasonably anticipated to have occupational exposure so that the contractors can institute precautions to protect their employees. (8 C.C.R. §5199(e)(3).)
IDENTIFICATION AND HANDLING OF AirID CASES AND SUSPECTED CASES

Personal Protective Equipment for AirID Cases and Suspected Cases

Full Scope Employers are required to follow certain procedures to identify and handle AirID cases or suspected cases. These requirements do not apply to Field Operations and in settings where home health care or home-based hospice care is being provided. (8C.C.R. §5199(e)(5).) For all others, AirID cases and suspected cases must be identified and then, such individuals must be provided Personal Protective Equipment and placed or transferred into an isolation area. The Personal Protective Equipment to be provided includes disposable tissues and hand hygiene materials. AirID cases and suspected cases should also be masked or placed in such a manner that contact with employees who are not wearing Respiratory Protection is eliminated or minimized until transfer or placement in an AII room or area can be accomplished (8 C.C.R. §5199(e)(5)(A).) AirID cases or suspected cases must also be placed in an AII room or area or transferred to a facility with AII rooms or areas. The employer must ensure that this placement or transfer is effected in a timely manner. (8 C.C.R. §5199(e)(5)(B).)

Transfers of AirID Cases and Suspected Cases

Transfers to airborne infection isolation rooms or areas within the facility must occur within 5 hours of identification. If there is no AII room or area available within this time, the employer must transfer the individual to another suitable facility in accordance with the procedures governing transfers to other facilities. (8 C.C.R. §5199(e)(5)(B)(1).)

Transfers to other facilities must occur within 5 hours of identification, unless the employer documents, at the end of the 5-hour period, and at least every 24 hours thereafter, all of the following:

- The employer has contacted the local health officer, and
- There is no AII room or area available within that jurisdiction, and
- Reasonable efforts have been made to contact establishments outside of that jurisdiction, as provided in the ATD Infection Control Plan, and
- All applicable measures recommended by the local health officer or the Infection Control PLHCP have been implemented, and
- All employees who enter the room or area housing the individual are provided with, and use, appropriate Personal Protective Equipment and Respiratory Protection in accordance with the employer’s obligations under the ATD Standard (described below) and the Respiratory Protection standard applicable to the control of dust, fumes, mists, vapors and gases, available at: www.dir.ca.gov/title8/5144.html.

In cases where a treating physician determines that transfer would be detrimental to a patient’s condition, the patient need not be transferred. (8 C.C.R. §5199(e)(5)(B), Exception (1).) In such a case, the facility must ensure that employees use Respiratory Protection when entering the room or area housing the individual. The patient’s condition must be reviewed at least every 24 hours to determine if transfer is safe, and the determination must be recorded as described in the ATD Infection Control Plan. Once transfer is determined to be safe, transfer must be made within the prescribed time period.

In situations where it is not feasible to provide AII rooms or areas to individuals suspected or confirmed to be infected with or carriers of novel or unknown ATPs, the employer must provide other effective control measures to reduce the risk of transmission to employees. Those measures must include the use of Respiratory Protection in accordance with the employer’s obligations under the ATD Standard (described...
below) and the Respiratory Protection standard applicable to the control of dust, fumes, mists, vapors and gases. (8 C.C.R. §5199(e)(5)(B), Exception (2).)

**High Hazard Procedures Performed on AirID Cases or Suspected Cases**

High Hazard Procedures are those procedures performed on a person who is a case or suspected case of an ATD or on a specimen suspected of containing an Aerosol Transmissible Pathogen-Laboratory (“ATP-L”), in which the potential for being exposed to ATPs is increased due to the reasonably anticipated generation of aerosolized pathogens. Such procedures include, but are not limited to, sputum induction, bronchoscopy, aerosolized administration of pentamidine or other medications, and pulmonary function testing. High Hazard Procedures also include, but are not limited to, autopsy, clinical, surgical and laboratory procedures that may aerosolize pathogens. High-hazard procedures must be conducted in AII rooms or areas, such as a ventilated booth or tent. Persons not performing the procedures must be excluded from the area, unless they use the Respiratory Protection and Personal Protective Equipment required for employees performing these procedures. (8 C.C.R. §5199(e)(5)(C).)

Where no AII room or area is available and the treating physician determines that it would be detrimental to the patient’s condition to delay performing the procedure, High Hazard Procedures may be conducted in other areas. In such a case, employees working in the room or area where the procedure is performed must use Respiratory Protection, in accordance with the employer’s obligations under the ATD Standard (described below) and the Respiratory Protection standard applicable to the control of dust, fumes, mists, vapors and gases, available at: [www.dir.ca.gov/title8/5144.html](http://www.dir.ca.gov/title8/5144.html), and must use all necessary Personal Protective Equipment. (8 C.C.R. §5199(e)(5)(C), Exception.)

**Airborne Infection Isolation Rooms and Areas**

The ATD Standard sets forth very specific requirements for AII rooms and areas. (8 C.C.R. §5199(e)(5)(D).) Specifications are provided regarding: hospital isolation rooms; negative pressure and ventilation rates; filtration and exhaust methods and measures; discharge and recirculation; engineering controls; maintenance, inspection and repair schedules; construction, installation, inspection, operation, testing and maintenance of mechanical ventilation systems; documentation requirements; use of doors and windows; and post-occupancy ventilation. (8 C.C.R. §5199(e)(5)(D).) Employers setting up or making arrangements for Airborne Infection Isolation Rooms or Areas should consult with qualified professionals to ensure that the specifications are met.

**RESPIRATORY PROTECTION**

Employers who are required to provide Respiratory Protection for employees must provide a respirator that has met the requirements of federal regulations ([www.cdc.gov/niosh/pt84abs2.html](http://www.cdc.gov/niosh/pt84abs2.html)), has been designed to protect the wearer from inhalation of harmful atmospheres, and has been approved by the Director of the National Institute for Occupational Safety and Health, CDC, or his or her designated representative (“NIOSH”) for the purpose for which it is used. (8 C.C.R. §§5199(b), 5199(g)(1).)

**9. Am I required to have a written respiratory protection program?**

Certain employers are required to establish, implement and maintain an effective written Respiratory Protection Program that meets the requirements imposed on all California employers who must provide respirators in the workplace to protect employees from occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays or vapors. (8 C.C.R. §5199(g)(2); 8 C.C.R. 5144.) Employers required to have a written Respiratory Protection Program, and to provide and ensure that employees use a respirator selected as specified by the ATD Standard, include those employers who have any employee whose occupational exposure is based on entering any of the following work settings or performing any of the following tasks:
• Entering an AI room or area in use for AI;
• Is present during the performance of procedures or services for an AirID case or suspected case;
• Repairs, replaces, or maintains air systems or equipment that may contain or generate aerosolized pathogens;
• Is working in an area occupied by an AirID case or suspected case, during required decontamination procedures (described above) after the person has left the area;
• Is working in a residence where an AirID case or suspected case is known to be present;
• Is present during the performance of aerosol generating procedures on cadavers that are suspected of, or confirmed as, being infected with aerosol transmissible pathogens;
• Is performing a task for which the Biosafety Plan or Exposure Control Plan requires the use of respirators; or
• Transports an AirID case or suspected case within the facility or in an enclosed vehicle (e.g., van, car, ambulance or helicopter) when the patient is not masked. Certain exceptions apply for helicopters and other vehicles and for law enforcement and corrections personnel under specified conditions. (8 C.C.R. § 5199(g)(4)(H)(1), (2).)

(8 C.C.R. §5199(g)(2), (g)(4).) Certain exceptions apply if deemed necessary by the results of an employee’s medical evaluation or fit testing. (8 C.C.R. §§5199(2), (g)(5), (g)(6).) The Respiratory Protection Program may be incorporated into the ATD Exposure Control Plan or the Biosafety Plan.

10. What if an employee requests but is not required to use a respirator?

Where respirator use is not required but is requested by employees, the employer may provide appropriate respirators or permit employees to use their own if the employer determines that the respirator use will not in itself create a hazard. If the employer allows voluntary respirator use, certain additional requirements apply. (8 C.C.R. 5144(c)(2).)

11. How do I select the appropriate respirator?

Generally, where respirator use is required for protection against potentially infectious aerosols, the employer must provide a respirator that is at least as effective as an N95 filtering facepiece respirator, unless the employer’s evaluation of respiratory hazards determines that a more protective respirator is necessary, in which case the more protective respirator must be provided. (8 C.C.R. §5199(g)(3)(A).) However, there are more specific requirements for situations where respirator use is required for protection of employees who perform high hazard procedures and for respirators used in laboratory operations.

Respirators for Employees Who Perform High Hazard Procedures

In particular, effective September 1, 2010, employers are required to provide a powered air purifying respirator ("PAPR") with a High Efficiency Particulate Air ("HEPA") filter(s), or a respirator providing equivalent or greater protection, to employees who perform high hazard procedures (discussed above) on AirID cases or suspected cases and to employees who perform high hazard procedures on cadavers potentially infected with ATPs, unless the employer determines that this use would interfere with the successful performance of the required task or tasks. This determination must be documented in accordance with the ATD Plan and must be reviewed by the employer and employees at least annually. (8 C.C.R. §5199(g)(3)(B).)
This more stringent requirement does not apply to a high hazard procedure that is performed by placing the patient in a booth, hood or other ventilated enclosure that effectively contains and removes the aerosols resulting from the procedure, and the employee remains outside of the enclosure. In such a situation, the employee may use a respirator meeting the general respirator requirements described above. The more stringent requirement of a PAPR also does not apply to paramedics and other emergency medical personnel in field operations for whom the ATD Standard allows use of a P100 respirator in lieu of a PAPR. (8 C.C.R. §5199(g)(3)(B).)

Respirators Used In Laboratory Operations

Respirators used in laboratory operations to protect against infectious aerosols must be selected in accordance with the Risk Assessment and Biosafety Plan required for Laboratories (described below). (8C.C.R. §5199(g)(3)(C).)

Other High Hazards

Where respirators are necessary to protect the user from other hazards, including the uncontrolled release of microbiological spores, or exposure to chemical or radiologic agents, respirator selection must also comply with the general Respiratory Protection regulations, www.dir.ca.gov/title8/5144.html, and the regulations governing Hazardous Waste and Emergency Response Operations, www.dir.ca.gov/title8/5192.html, as applicable.

12. Is a medical evaluation required before respirator use or fit testing?

Yes. Before an employee is fit tested or required to use a respirator, the employer must provide a medical evaluation to determine the employee's ability to use a respirator. The medical evaluation must be in accordance with the regulations governing Respiratory Protection in general: www.dir.ca.gov/title8/5144.html; see subdivision 5144(e). For employees who use respirators solely for protection against potentially infectious aerosols or because they perform high hazard procedures, the ATD Standard allows use of an alternate questionnaire. (8 C.C.R. §5199(g)(5), Appendix B.)

Fit Testing Requirements

The employer must perform either quantitative or qualitative fit tests in accordance with the Fit Testing Procedures outlined in Appendix A of the regulations governing Respiratory Protection in general, available at www.dir.ca.gov/title8/5144a.html. The fit test must be performed on the same size, make, model and style of respirator as the employee will use. When quantitative fit testing is performed, the employer cannot permit an employee to wear a filtering facepiece respirator or other half-facepiece respirator, unless a minimum fit factor of one hundred (100) is obtained. When fit testing single use respirators, a new respirator must be used for each employee. (8 C.C.R. § 5199(g)(6)(A).)

For each employee who is assigned to use a filtering facepiece or other tight-fitting respirator, the employer must ensure that each such employee passes a fit test: at the time of initial fitting; when a different size, make, model or style of respirator is used; and at least annually thereafter. (8 C.C.R. §5199(g)(6)(B).) However, the ATD Standard does allow for a phase-in of the annual fit testing requirement for employees who do not perform high hazard procedures and are not using respirators for protection against laboratory generated aerosols. For those employees, until January 1, 2014, employers may increase the interval for repeat fit testing to no more than two years. (8 C.C.R. §5199(g)(6)(B), Exception.) For any employee who is not fit-tested within the previous 12 months, the employer must provide a respirator fit-test screening that includes particular information and that obtains a response to certain questions (see Appendix G, included at the back of the On-Call Document). As of January 1, 2015, any employee who uses a respirator pursuant to the ATD Standard must have been fit-tested within the previous 12 months. (8C.C.R. §5199(g)(6)(B), Exception.)
The employer is required to conduct an additional fit test when the employee reports, or the employer, PLHCP, supervisor, or program administrator makes visual observations of changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight. (8 C.C.R. §5199(g)(6)(C).) If, after passing a fit test, the employee subsequently notifies the employer, program administrator, supervisor, or PLHCP that the fit of the respirator is unacceptable, the employee must be given a reasonable opportunity to select a different respirator facepiece and to be retested. (8 C.C.R. §5199(g)(6)(D).)

Respirator Training

For every respirator user, it is the employer’s obligation to ensure that the employee is provided with initial and annual training as specified in subsection (k) of the general Respiratory Protection regulations, available at: [www.dir.ca.gov/title8/5144.html](http://www.dir.ca.gov/title8/5144.html). The training provided must be comprehensive, understandable, and recur annually and more often if necessary. For employees who wear respirators when not required by regulation or by the employer to do so, the employer must provide certain basic information either orally or in writing ([www.dir.ca.gov/title8/5144d.html](http://www.dir.ca.gov/title8/5144d.html)). (8 C.C.R. §5144(k).)

Through training, the employer must ensure that each employee can demonstrate knowledge of the following at a minimum:

- Why the respirator is necessary and how improper fit, usage or maintenance can compromise the protective effect of the respirator;
- What the limitations and capabilities of the respirator are;
- How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;
- How to inspect, put on and remove, use and check the seals of the respirator;
- What the procedures are for maintenance and storage of the respirator;
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and
- The general requirements of the Respiratory Protections Standard.

Employee training must be conducted in a manner that is understandable to the employee and prior to the time the employee is required to use the respirator in the workplace. For new employees, if an employer is able to demonstrate that a new employee has received training within the prior 12 months that addresses the required elements of training, and that the employee can demonstrate knowledge of those elements, the employer is not required to repeat the training for that employee. If the previous training is not repeated initially by the new employer, training must be provided to the new employee no later than 12 months from the date of the previous training. In order to facilitate compliance with this training regimen, employers should obtain information about prior training from new employees in writing.

For all employees who are required to use a respirator, retraining must be administered annually, and when any of the following occur: changes in the workplace or the type of respirator render the previous training obsolete; inadequacies in the employee’s knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill; or any other situation arises in which retraining appears necessary to ensure safe respirator use.
13. Must The Employer Cover the Cost of Respirators, Training and Medical Evals?

Yes. Under the Respiratory Protection Standard, which is incorporated into the ATD Standard, the employer must provide respirators, training, and medical evaluations at no cost to the employees who are required to have respiratory protections. (8 C.C.R. §5144(c)(4).)

Guidance For Complying With Respiratory Protections Requirements

The Department of Occupational Safety and Health publishes a Practical Guide For Small-Business Employers to help them comply with Respiratory Protection requirements. It is available on-line at www.dir.ca.gov/DOSH/dosh_publications/Respiratory.pdf. Although that Guide was written before the ATD Standard went into effect, it should be helpful as the Respiratory Protection regulations (8C.C.R. §5144) are incorporated into the ATD Standard. (8 C.C.R. § 5199(g)(2).)

MEDICAL SERVICES

14. Must the employer provide medical services to employees with occupational exposure?

Yes. The ATD regulations require an employer who has an employee with occupational exposure to provide the employee with medical services for tuberculosis and other ATDs, and infection with ATPs and ATPs-L, in accordance with applicable public health guidelines, for the type of work setting and disease. When an employer is also acting as the evaluating health care professional, the employer is required to advise the employee following an exposure incident that the employee may refuse to consent to vaccination, post-exposure evaluation and follow-up from the employer-health care professional. When the employee refuses to give that consent, the employer must immediately make available a confidential vaccination, medical evaluation or follow-up from a PLHCP other than the exposed employee's employer. (8 C.C.R. §5199(h)(1).)

As required by the ATD regulations, medical services provided to an employee may include vaccinations, tests, examinations, evaluations, determinations, procedures, medical management and follow-up. To be deemed compliant, all such services must be performed by or under the supervision of a PLHCP, provided according to applicable public health guidelines, and provided in a manner that ensures the confidentiality of employees and patients. Test results and other information regarding exposure incidents and TB conversions must be provided without providing the name of the source individual. (8 C.C.R. §5199(h)(2).) All laboratory tests must be conducted by an accredited laboratory. (8 C.C.R. §5199(h)(4).)

Except for research and production laboratories where M. tuberculosis containing materials are not reasonably anticipated to be present, the employer is required to make assessment for LTBI available to all employees with occupational exposure. The assessment procedures utilized must be in accordance with applicable public health guidelines. (8 C.C.R. §5199(h)(3).) TB tests and other forms of TB assessment must be provided at least annually, and more frequently if applicable public health guidelines or the local health officer recommends more frequent testing. Employees with baseline positive TB test must be given an annual symptom screen. (8 C.C.R. §5199(h)(3)(A).)

If an employee experiences a TB conversion (a change from negative to positive as identified by TB test results based on current CDC or CDPH guidelines for interpretation of the TB test), the employer must refer the employee to a PLHCP knowledgeable about TB for evaluation. Upon such referral, the employer is required to provide the PLHCP with a copy of the ATD Standard and with the employee’s TB test records. If the employer has determined the source of the infection, the employer must also provide the PLHCP with any available diagnostic test results including drug susceptibility patterns relating to the source patient. (8 C.C.R. §5199(h)(3)(B)(1).) The employer is also required to request that the PLHCP, with the employee’s consent, perform any necessary diagnostic tests and inform the employee about appropriate treatment options. (8 C.C.R. §5199(h)(3)(B)(2).) Finally, the employer must request that the PLHCP determine if the employee is a TB case or suspected case; if the employee is determined to be a
TB case or suspected case, the employer must request that the PLHCP inform the employee and the local health officer, consult with the local health officer and inform the employer of any infection control recommendations related to the employee’s activity in the workplace, make a recommendation to the employer regarding precautionary removal due to suspect active disease, and provide the employer with a written opinion containing specified information. (8 C.C.R. §§5199(h)(3)(B)(3); 5199(h)(9).)

An employer who has an employee with a case of a TB conversion must record that case under the regulations governing Occupational Illness and Injury Reports and Records, available at www.dir.ca.gov/t8/ch7sh1a2.html. (8 C.C.R. §5199(h)(3)(C).) Unless it is determined that the TB test conversion is not occupational, the employer must investigate the circumstances of the conversion, and correct any deficiencies found during the investigation. The employer is required to document the investigation in accordance with the ATD Standard recordkeeping requirements (discussed below). (8 C.C.R. §5199(h)(3)(D).)

15. What vaccinations must the employer provide?

**Seasonal Influenza Vaccine:** Under the ATD Standard, the employer must make seasonal influenza vaccine available to all employees with occupational exposure. (8 C.C.R. §5199(h)(10).) The seasonal influenza vaccine must be provided during the period designated by the CDC for administration and does not need to be provided outside of those periods. (For more information, see the CDC’s webpage for medical professionals at: www.cdc.gov/flu/professionals/.)

**Other Vaccines:** Effective September 1, 2010, the employer must make available to all susceptible health care workers with occupational exposure all of the following vaccine doses:

<table>
<thead>
<tr>
<th>Vaccine</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Influenza</td>
<td>One dose annually</td>
</tr>
<tr>
<td>Measles</td>
<td>Two doses</td>
</tr>
<tr>
<td>Mumps</td>
<td>Two doses</td>
</tr>
<tr>
<td>Rubella</td>
<td>One dose</td>
</tr>
<tr>
<td>Tetanus, Diptheria, and Acellular Pertussis (Tdap)</td>
<td>One dose, booster as recommended</td>
</tr>
<tr>
<td>Varicella-zoster (VZV)</td>
<td>Two doses</td>
</tr>
</tbody>
</table>

(8 C.C.R. §5199(h)(5), Appendix E). Employees in laboratory operations outside of health care settings and within laboratory operations where employees perform procedures capable of aerosolizing ATPs-L must be provided with vaccines in accordance with applicable biosafety requirements for the specific laboratory operations. (8 C.C.R. §5199(h)(5).)

16. How is occupational exposure determined?

Under the ATD Standard, occupational exposure is defined as exposure from work activity or working conditions reasonably anticipated to create an elevated risk of contracting any disease caused by ATPs or ATPs-L if protective measures are not in place. In this context, "elevated" means higher than what is considered ordinary for employees having direct contact with the general public outside of the facilities, service categories and operations covered by the ATD Standard. Occupational exposure is presumed to exist to some extent in each of those facilities, services and operations. (8 C.C.R. §5199(b).)
Whether a particular employee has occupational exposure depends on the tasks, activities, and environment of the employee, and therefore, some employees of a covered employer may have no occupational exposure. For example, occupational exposure typically does not exist where a hospital employee works only in an office environment separated from patient care facilities, or works only in other areas separate from those where the risk of ATD transmission, whether from patients or contaminated items, would be elevated without protective measures. It is the task of employers to identify those employees who have occupational exposure so that appropriate protective measures can be implemented to protect them as required. Employee activities that involve having contact with or being within exposure range of cases or suspected cases of ATD are always considered to cause occupational exposure. Similarly, employee activities that involve contact with or routinely being within exposure range of populations served by correctional facilities, homeless shelters and drug treatment programs are considered to cause occupational exposure. Employees working in laboratory areas in which ATPs-L are handled or reasonably anticipated to be present are also considered to have occupational exposure. (8 C.C.R. §5199(b).)

17. How soon after occupational exposure should the vaccinations be offered?

Recommended vaccinations must be made available to all employees who have occupational exposure after the employee has received the training required to be provided by their employer (whether a Referring or Full Scope Employer) and within 10 working days of initial assignment unless: (1) the employee has previously received the recommended vaccination(s) and is not due to receive another vaccination dose; or (2) a PLHCP has determined that the employee is immune in accordance with applicable public health guidelines; or (3) the vaccine(s) is contraindicated for medical reasons. (8 C.C.R. §5199(h)(5)(A).) If new applicable public health guidelines are issued recommending an additional dose of a required vaccine, the employer must make the additional vaccine doses available to employees within 120 days. (8 C.C.R. §5199(h)(5)(B).) The employer cannot make participation in a prescreening serology program a prerequisite for receiving a vaccine, unless applicable public health guidelines recommend this prescreening prior to administration of the vaccine. (8 C.C.R. §5199(h)(5)(C).)

18. What if the employee declines to be vaccinated?

For any employee who declines to accept the seasonal influenza vaccine, the employer must ensure that the employee signs and dates either an influenza vaccine declination statement accepted to the CDPH for purposes of California Health and Safety Code section 1288.7, or the "Seasonal Influenza Vaccination Declination Statement (Mandatory)" set forth in Appendix C2 of the ATD Standard. (8 C.C.R. §5199(h)(10).)

For any employee who declines to accept any of the other recommended and offered vaccinations, the employer is required to ensure that for each declined vaccine the employee signs and dates the "Vaccination Declination Statement (Mandatory)" set forth in Appendix C1 of the ATD Standard. (8 C.C.R. §5199(h)(5)(E).)

If an employee initially declines a vaccination but at a later date, while still covered under the ATD Standard, decides to accept the vaccination, the employer must make the vaccination available within 10 working days of receiving a written request from the employee. (8 C.C.R. §5199(h)(5)(D).)

19. Are there limitations on what vaccination and immunity-status information the employer can request?

Yes. The employer is obligated to request that the PLHCP administering a vaccination or determining immunity provide only the following information to the employer:

• The employee’s name and employee identifier;
• The date of the vaccine dose or determination of immunity;

• Whether the employee is immune to the disease, and whether there are any specific restrictions on the employee’s exposure or ability to receive vaccine; and

• Whether an additional vaccination dose is required, and if so, the date the additional vaccination dose should be provided.

(8 C.C.R. §5199(h)(5)(F).)

20. What is required in the event of a vaccine shortage?

If an employer cannot implement the vaccination procedures required by the ATD Standard because of the lack of availability of vaccine, the employer must document reasonable efforts made to obtain the vaccine in a timely manner and inform employees of the status of the vaccine availability, including when the vaccine is likely to become available. The employer is required to check on the availability of the vaccine at least every 60 calendar days and inform employees when the vaccine becomes available. (8 C.C.R. §5199(h)(5), Exception.)

Reporting Requirements – Local Health Officials

The ATD Standard sets forth detailed requirements for any reportable aerosol transmissible disease ("RATD"), which is any disease or condition which a health care provider is required to report to the local health officer and which also meets the definition of an ATD, i.e., a disease or pathogen for which droplet or airborne precautions are required (see list above). If the employer of a health care provider, defined to include a physician and surgeon, veterinarian, podiatrist, nurse practitioner, physician assistant, registered nurse, nurse midwife, school nurse, infection control practitioner, medical examiner, coroner and dentist, determines that a person is an RATD case or suspected case, the employer is required to report, or ensure that the health care provider reports, the case to the local health officer. For more information about a physician’s obligations to report communicable diseases, see CMA ON-CALL document #1506, "Requirements for Reporting Communicable Diseases, Including Tuberculosis and Diseases Related to Bioterrorism."

Reporting Requirements – Other Employers

The employer that originates the report to local health officials must also determine, to the extent that the information is available in the employer’s records, whether the employee(s) of any other employer(s) may have had contact with the case or suspected case while performing work related activities. If so, the report-originating employer is required to notify the other employer(s) within a timeframe that will both provide reasonable assurance that there will be adequate time for the employee to receive effective medical intervention to prevent disease or mitigate the disease course, and will also permit the prompt initiation of an investigation to identify exposed employees. In no case can the notification be made more than 72 hours after the report to the local health officer. The notification provided must include the date, time, and nature of the potential exposure, as well as any other information that is necessary for the other employer(s) to evaluate the potential exposure of his or her employees. The notifying employer must not provide the identity of the source patient to the other employers. (8 C.C.R. §5199(h)(6).)

Examples of employees of other employers who are likely to have had contact with the case or suspected case of RATD while performing work related activities include, but are not limited to, paramedics, emergency medical technicians, emergency responders, home health care personnel, homeless shelter personnel, personnel at referring health care facilities or agencies, and corrections personnel. (8 C.C.R. §5199(h)(6)(B), Note 1.)
**Action Required By Employer Who Learns of Possible Exposure Incident**

The ATD Standard sets forth the following information about effective responses to various diseases: Some diseases, such as meningococcal disease, require prompt prophylaxis of exposed individuals to prevent disease. Some diseases, such as varicella, have a limited window in which to administer vaccine to non-immune contacts. Exposure to some diseases may create a need to temporarily remove an employee from certain duties during a potential period of communicability. For other diseases, such as tuberculosis, there may not be a need for immediate medical intervention, however prompt follow up is important to the success of identifying exposed employees. (8 C.C.R. §5199(h)(6)(B), Note 2.) This information, in turn, is used to guide the actions required by an employer who learns of a possible exposure incident with an employee.

Under the ATD Standard, an employer who becomes aware that his or her employee(s) may have been exposed to an RATD case or suspected case, or to an exposure incident involving an ATP-L, is required to do all of the following:

- **72 Hours-Conduct an Exposure Analysis:** Within a timeframe that is reasonable for the specific disease, as determined by the information set forth above, but in no case later than 72 hours following, as applicable, the employer’s report to the local health officer or the receipt of notification from another employer or the local health officer, conduct an analysis of the exposure scenario to determine which employee(s) had significant exposures. This analysis must be conducted by an individual knowledgeable in the mechanisms of exposure to ATPs or ATPs-L, and must record the names and any other employee identifier used in the workplace of persons who were included in the analysis. The analysis must also record the basis for any determination that an employee need not be included in post-exposure follow-up because the employee did not have a significant exposure or because a PLHCP determined that the employee is immune to the infection in accordance with applicable public health guidelines. The exposure analysis must be made available to the local health officer upon request. The name of the person making the determination, and the identity of any PLHCP or local health officer consulted in making the determination must be recorded.

- **96 Hours-Notify Employees:** Within a timeframe that is reasonable for the specific disease, as determined by the information set forth above, but in no case later than 96 hours of becoming aware of the potential exposure, notify employees who had significant exposures of the date, time, and nature of the exposure. A significant exposure is an exposure to a source of ATPs or ATPs-L in which the circumstances of the exposure make the transmission of a disease sufficiently likely that the employee requires further evaluation by a PLHCP.

- **As Soon As Feasible-Provide Post-Exposure Medical Evaluation:** As soon as possible after becoming aware of a significant exposure, the employer must provide a post-exposure medical evaluation to all employees who had a significant exposure. The evaluation must be conducted by a PLHCP knowledgeable about the specific disease, including appropriate vaccination, prophylaxis and treatment. For *M. tuberculosis*, and for other pathogens where recommended by applicable public health guidelines, the medical evaluation must include testing of the isolate from the source individual or material for drug susceptibility, unless the PLHCP determines that it is not feasible.

- **Obtain Advice and Opinion:** When an employer becomes aware that his or her employee(s) may have been exposed to an RATD case or suspected case, or to an exposure incident involving an ATP-L, the employer is required to obtain from a PLHCP a Precautionary Removal Recommendation and a Written Opinion.

- **Determine Secondary Exposure:** An employer who becomes aware that his or her employee(s) may have been exposed to an RATD case or suspected case, or to an exposure incident
involving an ATP-L, must determine, to the extent that the information is available in the employer’s records, whether employees of any other employers may have been exposed to the case or material. The employer must then notify these other employers within a time frame reasonable for the specific disease (see Reporting Requirements-Other Employer section above), but in no case later than 72 hours of becoming aware of the exposure incident, of the nature, date, and time of the exposure, as well as the contact information for the diagnosing PLHCP. The notifying employer must not provide the identity of the source patient to other employers.

(8 C.C.R. §5199(h)(6)(C)(1)-(5), (h)(8), (h)(9).)

21. What information should be provided to the physician providing medical services?

Whenever a PLHCP is making determinations and performing procedures as part of the Medical Services required by the ATD Standard, the employer must ensure that all such PLHCPs are provided with a copy of the ATD Standard as well as applicable public health guidelines. (8 C.C.R. §5199(h)(7)(A).) If a respirator medical evaluation is being performed, the employer must provide the PLHCP with information about the type of respiratory protection used, a description of the work effort required, any special environmental conditions that exist (e.g., heat, confined space entry), additional requirements for protective clothing and equipment, and the duration and frequency of respirator use.

In the event of an exposure incident, each employer involved must ensure that the PLHCP who evaluates an employee is provided with a description of the exposed employee's duties as they relate to the exposure incident and of the circumstances under which the exposure incident occurred. Each employer must also ensure that the PLHCP is provided with any available diagnostic test results, including drug susceptibility pattern or other information relating to the source of exposure that could assist in the medical management of the employee. Finally, each employer must also ensure that the PLHCP is provided with all of the employer’s medical records for the employee that are relevant to the management of the employee, including tuberculin skin test results and other relevant tests for ATP infections, vaccination status, and determinations of immunity. (8 C.C.R. §5199(h)(7)(B).)

22. What should the employer obtain from the physician providing medical services?

Precautionary Removal Recommendation

Each employer who provides an employee(s) with a post-exposure medical evaluation or an evaluation of an employee’s TB conversion must request that the PLHCP provide an opinion regarding whether precautionary removal from the employee’s regular assignment is necessary to prevent spread of the disease agent by the employee and what type of alternate work assignment may be provided. The employer must also request that the PLHCP convey to the employer any recommendation for precautionary removal immediately via phone or fax and that the PLHCP document the recommendation in the Written Opinion to be provided after medical evaluation (see below). (8 C.C.R. §5199(h)(8)(A).)

With Precautionary Removal, Employer Must Maintain Employee’s Rights and Benefits

If the PLHCP recommends precautionary removal, or where the local health officer recommends precautionary removal, the employer must maintain, until the employee is determined to be noninfectious, the employee’s earnings, seniority, and all other employee rights and benefits, including the employee's right to his or her former job status, as if the employee had not been removed from his or her job or otherwise medically limited. (8 C.C.R. §5199(h)(8)(B).) However, this requirement does not apply to any period of time during which the employee is unable to work for reasons other than the precautionary removal.

23
Written Opinion of Physician Providing Medical Services

Each employer who provides an employee(s) with a post-exposure medical evaluation or an evaluation of an employee’s TB conversion must obtain, and provide the employee with a copy of, the written opinion of the PLHCP within 15 working days of the completion of the medical evaluation. (8 C.C.R. §5199(h)(9)(A).) As discussed below, there are specific limitations on what information is to be included in the written opinion. All other findings or diagnoses must remain confidential and must not be included in the written report. (8 C.C.R. §5199(h)(9)(D).)

If a respirator-use medical evaluation is conducted, the physician’s written opinion must contain only the following information: (1) Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator; (2) The need, if any, for follow-up medical evaluations; and (3) A statement that the PLHCP has provided the employee with a copy of the PLHCP’s written recommendation. (8 C.C.R. §5199(h)(9)(B); 8 C.C.R. §5144(e)(6)(A).) All other findings or diagnoses must remain confidential and must not be included in the written report. (8 C.C.R. §5199(h)(9)(D).)

For TB conversions and all RATD and ATP-L exposure incidents, the written opinion of the PLCHP must be limited to the following information: (1) The employee's TB test status or applicable RATD test status for the exposure of concern; (2) The employee's infectivity status; (3) A statement that the employee has been informed of the results of the medical evaluation and has been offered any applicable vaccinations, prophylaxis, or treatment; (4) A statement that the employee has been told about any medical conditions resulting from exposure to TB, other RATD, or ATP-L that require further evaluation or treatment and that the employee has been informed of treatment options; and (5) Any recommendations for precautionary removal from the employee’s regular assignment. (8 C.C.R. §5199(h)(9)(C).) All other findings or diagnoses must remain confidential and must not be included in the written report. (8 C.C.R. §5199(h)(9)(D).)

TRAINING

For any employee(s) with occupational exposure as defined in the ATD Standard (see above discussion), the employer is required to ensure that such employee(s) participates in a training program. The training must be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter, not to exceed 12 months from the previous training. (8 C.C.R. §5199(i)(1),(2).) For employees who received training on ATDs between August 5, 2008 and August 5, 2009, only limited training need be provided. (8 C.C.R. §5199(i)(2)(C).) Training must also be provided when changes, such as introduction of new engineering or work practice controls, modification of tasks or procedures or institution of new tasks or procedures, affect the employee's occupational exposure or control measures. The additional training may be limited to addressing the new exposures or control measures. (8 C.C.R. §5199(i)(2)(D).)

As part of the training program, the employer must provide training materials appropriate in content and vocabulary to the educational level, literacy, and language of employees. (8 C.C.R. §5199(i)(3).) At a minimum, the training program must contain all of the following elements:

- An accessible copy of the regulatory text of the ATD Standard and an explanation of its contents;
- A general explanation of ATDs including the signs and symptoms of ATDs that require further medical evaluation;
- An explanation of the modes of transmission of ATPs or ATPs-L and applicable source control procedures;
• An explanation of the employer's ATD Exposure Control Plan and/or Biosafety Plan, and the means by which the employee can obtain a copy of the written plan and how they can provide input as to its effectiveness;

• An explanation of the appropriate methods for recognizing tasks and other activities that may expose the employee to ATPs or ATPs-L;

• An explanation of the use and limitations of methods that will prevent or reduce exposure to ATPs or ATPs-L including appropriate engineering and work practice controls, decontamination and disinfection procedures, and personal and respiratory protective equipment;

• An explanation of the basis for selection of personal protective equipment, its uses and limitations, and the types, proper use, location, removal, handling, cleaning, decontamination and disposal of the items of personal protective equipment employees will use;

• A description of the employer’s TB surveillance procedures, including the information that persons who are immune-compromised may have a false negative test for LTBI (Research and production laboratories do not need to include training on surveillance for LTBI if \textit{M. tuberculosis} containing materials are not reasonably anticipated to be present in the laboratory);

• Information on the vaccines made available by the employer, including information on their efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

• An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available, and post-exposure evaluation;

• Information on the employer’s surge plan as it pertains to the duties that employees will perform. As applicable, this training must cover the plan for surge receiving and treatment of patients, patient isolation procedures, surge procedures for handling of specimens, including specimens from persons who may have been contaminated as the result of a release of a biological agent, how to access supplies needed for the response including personal protective equipment and respirators, decontamination facilities and procedures, and how to coordinate with emergency response personnel from other agencies; and

• An opportunity for interactive questions and answers with a person who is knowledgeable in the subject matter of the training as it relates to the workplace that the training addresses and who is also knowledgeable in the employer’s ATD Exposure Control Plan or Biosafety Plan. If training is not given in person, the employer must provide a means for interactive questions to be answered within 24 hours by a knowledgeable person, as described.

(8 C.C.R. §5199(i)(4), (5).)

**Additional Training Requirement For Employees Who Use Respirators**

In addition to the requirements set out above, training provided to employees who use respirators in the workplace must comply with specifications related to the control of dust, fumes, mists, vapors and gases. This additional training must be provided prior to requiring the employee to use a respirator in the workplace and in a manner that is understandable to the employee. Employees who elect to wear respirators even though they are not required to do so by the ATD Standard or by their employer must be provided with basic information on respirators in oral or written format (a sample written format is contained in 8 C.C.R. §5144, Appendix D, available at: [www.dir.ca.gov/title8/5144d.html](http://www.dir.ca.gov/title8/5144d.html).) For
employees whose assignment includes the use of a respirator, the employer must ensure that each such employee can demonstrate knowledge of at least the following:

- Why the respirator is necessary and how improper fit, usage or maintenance can compromise the protective effect of the respirator;
- What the limitations and capabilities of the respirator are;
- How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;
- How to inspect, put on and remove, use, and check the seals of the respirator;
- What the procedures are for maintenance and storage of the respirator;
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and
- The general requirements of regulations governing Control of Dust, Fumes, Mists, Vapors and Gases (available at [www.dir.ca.gov/title8/5144.html](http://www.dir.ca.gov/title8/5144.html)).

An employer who is able to demonstrate that a new employee has received training within the prior 12 months that address the above elements of required training is not required to repeat such training as long as the long can demonstrate knowledge of the elements identified. However, previous training not repeated by the employer must be provided no later than 12 months from the date of the previous training. (8 C.C.R. 5199(i)(4)(I); 8 C.C.R. §5144(k).) For respirator-use employees, retraining must be administered annually, as well as when changes in the workplace or type of respirator render previous training obsolete, inadequacies in the employee’s knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill, or any other situation arises in which retraining appears necessary to ensure safe respirator use. (8 C.C.R. 5199(i)(4)(I); 8 C.C.R. §5144(k).)

**RECORDKEEPING**

The ATD Standard imposes significant recordkeeping obligations on employers related to medical and training records and records of implementation of the ATD Exposure Control or Biosafety Plan. (8 C.C.R. §5199(j).)

**Employee Medical Records**

The employer is required to establish and maintain an accurate medical record for each employee with occupational exposure in accordance with existing regulations governing Access to Employee Exposure and Medical Records, available at: [www.dir.ca.gov/title8/3204.html](http://www.dir.ca.gov/title8/3204.html). The medical record required by the ATD Standard may be combined with the medical records required by the Bloodborne Pathogens regulations, available at: [www.dir.ca.gov/title8/5193.HTML](http://www.dir.ca.gov/title8/5193.HTML), but it may not be combined with non-medical personnel records. (8 C.C.R. §5199(j)(1)(A).) The employer is required to maintain these medical records for at least the duration of employment plus 30 years except that the following types of records need not be retained for any specific period:

- Health insurance claims records maintained separately from the employer's medical program and its records;
- First aid records (not including medical histories) of one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and the like which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job, if
made on-site by a non-physician and if maintained separately from the employer's medical program and its records; and

- The medical records of employees who have worked for less than (1) year for the employer need not be retained beyond the term of employment if they are provided to the employee upon the termination of employment.

(8 C.C. R. §5199(j)(1)(D); 8 C.C.R. §3204(d)(1)(A).)

The medical record established and maintained by the employer must include the following:

- The employee’s name and any other employee identifier used in the workplace;
- The employee's vaccination status for all vaccines required by the ATD Standard, including the information provided by the PLHCP regarding vaccination and immunity (see discussion in Medical Services above), any vaccine record provided by the employee, and any signed declination forms (for seasonal influenza vaccine, the medical record need only contain a declination form for the most recent seasonal influenza vaccine);
- A copy of all written opinions provided by a PLHCP pursuant to the ATD Standard, and the results of all TB assessments; and
- A copy of the information regarding an exposure incident that was provided to the PLHCP (discussion of employer’s obligation to provide such information is set forth in Medical Services section above).

(8 C.C.R. §5199(j)(1)(B).)

Confidentiality of Employee Medical Records

The ATD Standard specifies that the employer is required to ensure that all employee medical records required are kept confidential and are not disclosed or reported without the employee’s express written consent to any person within or outside the workplace except as permitted by the ATD regulations or as required by law. However, neither the confidentiality requirement nor the prohibition on disclosure and reporting applies to records that do not contain individually identifiable medical information or from which individually identifiable medical information has been removed. (8 C.C.R. §5199(j)(1)(C).) The ATD Standard defines individually identifiable medical information as medical information that includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual’s identity. (8 C.C.R. §5199(b).)

Training Records

The ATD Standard requires an employer to maintain training records. Training records must include at least the following information:

- The date(s) of the training session(s);
- The contents or a summary of the training session(s);
- The names and qualifications of persons conducting the training or who are designated to respond to interactive questions; and
• The names and job titles of all persons attending the training sessions.

These training records must be maintained for three (3) years from the date on which the training occurred. (8 C.C.R. §5199(j)(2).)

**Records of Implementation of ATD Exposure Control Plan and/or Biosafety Plan**

The ATD Standard requires employers to maintain records related to the implementation of their ATD Plan and or their Biosafety Plan. The following list delineates the numerous required components of the employer’s implementation records:

• Records of annual review of ATD Exposure Control Plan and Biosafety Plan: these records must include the name(s) of the person conducting the annual review, the date(s) the review was conducted and completed, the name(s) and work area(s) of employees involved, and a summary of the conclusions. These records must be retained for three (3) years. (8 C.C.R. §5199(j)(3)(A).)

• Records of exposure incidents: these records must be retained and made available as "employee exposure records" in accordance with regulations governing Access to Employee Exposure and Medical Records, available at: [www.dir.ca.gov/title8/3204.html](http://www.dir.ca.gov/title8/3204.html). (8 C.C.R. §5199(j)(3)(B).) These records must include:
  • The date of the exposure incident;
  • The names, and any other employee identifiers used in the workplace, of employees who were included in the exposure evaluation;
  • The disease or pathogen to which employees may have been exposed;
  • The name and job title of the person performing the evaluation;
  • The identity of any local health officer and/or PLHCP consulted;
  • The date of the evaluation; and
  • 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.

• Records of the unavailability of vaccine: these records must 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. These records must be retained for three (3) years. (8 C.C.R. §5199(j)(3)(C).)

• Records of the unavailability of AII rooms or areas: these records must include the name of the person who determined that an AII room or area was not available, the names and the affiliation of persons contacted for transfer possibilities, 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 must not contain a patient’s individually identifiable medical information and must be retained for three (3) years. (8 C.C.R. §5199(j)(3)(D).)

• Records of decisions not to transfer a patient to another facility for AII for medical reasons: records of these decisions must be included in the patient’s chart. Additionally, a summary must 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 must not contain a patient’s individually identifiable medical information and must be retained for three years. (8 C.C.R. §5199(j)(3)(E).)

- Records of inspection, testing and maintenance of non-disposable engineering controls: records reflecting 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, must 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. These records must be maintained by the employer for a minimum of five (5) years. (8 C.C.R. §5199(j)(3)(F).)

- Records of the Respiratory Protection program: these records must be established and maintained in accordance with the regulations governing Respiratory Protection in the Control of Dusts, Fumes, Mists, Vapors and Gases, available at: www.dir.ca.gov/title8/5144.html. Fit test records must be retained for respirator users until the next fit test is administered (or for two years if the phase-in provision for fit testing on non-high hazard employees is elected) (8 C.C.R. §§5199(j)(3)(G), 5199(g)(6)(B)3, 8 C.C.R. §5144(m)(2)(B).)

Required and Permissible Disclosure of ATD Records

The ATD regulations require the employer to ensure that all ATD-related records required to be maintained, other than the employee medical records that are more specifically addressed above, be made available upon request for examination and copying to the Chief of the Division of Occupational Safety and Health of the Department of Industrial Relations or his or her designated representative (“Chief”), the Director of the National Institute for Occupational Safety and Health, CDC, or his or her designated representative (“NIOSH”) and the local health officer. (8 C.C.R. §5199(j)(4).)

For those employee medical records that an employer is required to maintain, the employer must provide those records, upon request, for examination and copying, to the subject employee, anyone having the written consent of the subject employee, the local health officer, the Chief and NIOSH in accordance with the regulations more specifically governing Access to Employee Exposure and Medical Records, www.dir.ca.gov/title8/3204.html (8 C.C.R. §5199(j)(5).)

Employee training records, the ATD 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, must be made available as employee exposure records to employees and employee representatives. Specifications for providing access to these records as employee exposure records are set forth at www.dir.ca.gov/title8/3204.html, see subdivision (e)(1), as well as Appendix A thereto which is a sample form that may be used to establish specific written consent for access to employee medical records. (8 C.C.R. §5199(j)(4)(B).)

Transfer or Disposal of ATD-Related Records

If an employer wishes to transfer or dispose of ATD-related records, the employer must comply with the following requirements:

- Whenever an employer is ceasing to do business, the employer must transfer all required ATD records to the successor employer. The successor employer must receive and maintain these records;

- Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the required ATD records, the employer must notify affected employees of their
rights of access to these records at least three (3) months prior to the cessation of the employer's business;

- Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer must:
  - Transfer the records to the Director of NIOSH if so required by a specific occupational safety and health standard; or
  - Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

- 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 must notify the Chief and NIOSH, at least three months prior to the disposal of the records and must transmit them to NIOSH, if required by NIOSH to do so, within that three-month period; and

- Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least three (3) month's notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

(8 C.C.R. §5199(j)(5)); 8 C.C.R. §3204(h).)

LABORATORIES

Laboratory operations where employees perform procedures capable of aerosolizing ATPs-L, are subject to certain requirements under the ATD Standard. A laboratory facility or operation in which employees do not have direct contact with cases or suspected cases of ATD or with potentially infected cadavers is required to comply with the general provisions of the Standard, the laboratory-specific provisions, as well as the Training and Recordkeeping requirements. (8 C.C.R. §5199(a)(4).) Employers with laboratory operations in which employees do have direct contact with cases or suspected cases are also required to comply with applicable portions of the ATD Standard regarding the ATD Exposure Control Plan, Engineering & Work Practice Controls and Personal Protective Equipment, Respiratory Protection, and Medical Services, in addition to the Training and Recordkeeping requirements (all discussed above.) (8 C.C.R. §5199(f)(1).)

ATPs-L are those pathogens that meet one of the following criteria: (1) the pathogen appears on the list in Appendix D; (2) the Biosafety in Microbiological and Biomedical Laboratories (BMBL) recommends biosafety level 3 or above for the pathogen; (3) the biological safety officer recommends biosafety level 3 or above for the pathogen; or (4) the pathogen is a novel or unknown pathogen. (8 C.C.R. §5199(b).) ATPs-L are particular agents that, when reasonably anticipated to be present, require a laboratory to comply with the ATD Standard for laboratory operations by performing a risk assessment and establishing a biosafety plan that includes appropriate control measures.

Biological Safety Officer and Risk Assessment Requirement

All Laboratories are required to have a Biological Safety Officer, defined as a person who is qualified by training and/or experience to evaluate hazards associated with laboratory procedures involving ATPs-L, who is knowledgeable about the facility Biosafety Plan, and who is authorized by the employer to establish and implement effective control measures for laboratory biological hazards. The Biological Safety Officer must be assigned to perform a risk assessment for each agent and procedure involving the handling of ATPs-L. That risk assessment must be done in accordance with the methodology set forth in Section II of the Biosafety in Microbiological and Biomedical Laboratories, Fifth Edition, CDC and

30
The Biosafety Officer must record the safe practices required for each evaluated agent/procedure in the Biosafety Plan. (8 C.C.R. §5199(f)(2).)

Engineering and Work Practice Controls in the Laboratory

Laboratory employers are required to implement feasible engineering and work practice controls that address the findings of the risk assessment performed and are designed to minimize employee exposures to ATPs-L. Where exposure still remains after the institution of engineering and work practice controls, the employer is required to provide, and ensure that employees use, Personal Protective Equipment and, where necessary to control exposure, Respiratory Protection. Control measures must be consistent with the recommendations in BMBL, referred to above. (8 C.C.R. §5199(f)(3).)

Biosafety Plan

The laboratory employer must establish, implement, and maintain an effective written Biosafety Plan ("BSP") to minimize employee exposures to ATPs-L that may be transmitted by laboratory aerosols. The BSP may be incorporated into an existing Exposure Control Plan for bloodborne pathogens or an ATD Exposure Control Plan, and must do all of the following:

- Identify a biological safety officer(s) with the necessary knowledge, authority and responsibility for implementing the BSP;
- Include a list of all job classifications in which all or some employees have occupational exposure, and a list of all tasks and procedures in which employees have occupational exposure;
- Include a list of ATPs-L known or reasonably expected to be present in laboratory materials and the applicable biosafety measures;
- Include a requirement that all incoming materials containing ATPs-L are to be treated as containing the virulent or wild-type pathogen, until procedures have been conducted at the laboratory to verify that a pathogen has been deactivated or attenuated;
- Identify and describe the use of engineering controls, including containment equipment and procedures, to be used to minimize exposure to infectious or potentially infectious laboratory aerosols;
- Establish safe handling procedures and prohibit practices, such as sniffing in vitro cultures, that may increase employee exposure to infectious agents;
- Establish effective decontamination and disinfection procedures for laboratory surfaces and equipment;
- Identify and describe the use of the appropriate personal protective equipment to be used to minimize exposure to infectious or potentially infectious laboratory aerosols;
- Identify any operations or conditions in which Respiratory Protection will be required (see discussion above for Respiratory Protection requirements);
- Establish emergency procedures for uncontrolled releases within the laboratory facility and untreated releases outside the laboratory facility, including an effective means of reporting such incidents to the local health officer;
• Include a Medical Services program, including the provision of all vaccinations as recommended by applicable public health guidelines for the specific laboratory operations, and the methods for providing investigation and medical follow up for exposure incidents (laboratory), defined as a significant exposure to an aerosol containing an ATP-L, without the benefit of applicable exposure control measures required by the ATD Standard. (Research and production laboratories in which it is not reasonably anticipated that materials containing *M. Tuberculosis* will be present need not provide surveillance for LTBI);

• Include procedures for communication of hazards and employee Training as described above, including training in the employer’s Biosafety Plan and emergency procedures;

• Include an effective procedure for obtaining the active involvement of employees in reviewing and updating the Biosafety Plan with respect to the procedures performed by employees in their respective work areas or departments on an annual or more frequent basis;

• Include procedures for the Biological Safety Officer(s) to review plans for facility design and construction that will affect the control measures for ATPs-L;

• Include procedures for inspection of laboratory facilities, including an audit of biosafety procedures, requiring inspections to be performed at least annually and requiring that hazards found during the inspection and actions taken to correct hazards be recorded.

(8 C.C.R. §5199(f)(4).)

**Laboratory Recordkeeping Requirements**

All laboratory employers are required to comply with the same recordkeeping requirements imposed on other employers covered by the ATD Standard (see discussion above.) (8 C.C.R. §5199(f)(5).)

We hope this information is helpful to you. CMA is unable to provide specific legal advice to each of its more than 30,000 members. For a legal opinion concerning a specific situation, consult your personal attorney.

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