OSHA Directive To Its Inspectors
Occupational Exposure to Tuberculosis

By: Edward M. Ranier, Esquire

On June 30, 2015, OSHA published Directive CPO 02-02-078 entitled “Enforcement Procedures and Scheduling For Occupational Exposure to Tuberculosis.” The purpose of the instruction was to provide OSHA inspectors general enforcement policies and procedures to be followed when conducting inspections and issuing citations relating to occupational exposure to tuberculosis. It applies OSHA wide in the federal system and in state plan states, such as Maryland, where an equivalent Directive is required for the state plan.

The instruction updates the agency’s inspection procedures, covers additional workplaces regarded as health care settings, such as sites where medical emergency services are provided and laboratories handling clinical specimens that may contain M.Tuberculosis, the introduction of a new excreting method for analyzing blood for tuberculosis and a classification system for health care settings as low risk, medium risk or potential ongoing transmission. It also reduces the frequency of TB screening for workers.

Of interest to funeral service is that “embalming rooms” is included as an inpatient setting, subject to inspection where workers might share airspace with persons with TB disease or come into contact with clinical TB specimens. This is despite the testimony given, at a recent SEBREFA hearing on a proposed OSHA Infectious Disease Standard, where clear testimony was provided that there was no airborne exposure to infectious agents, such as tuberculosis, in the preparation process and that the preparation process was adequately covered by the embalmer’s compliance with the Bloodborne Pathogen Standard. Apparently this testimony was not shared with the OSHA compliance division for its compliance inspectors.

Tuberculosis is spread by aerosolization which would not occur during the preparation process. The preparation process is not invasive, as would be an autopsy, and does not create aerosolization of M.Tuberculosis.

Given this Directive, and the clear, separate reference to embalming rooms, a funeral home can expect compliance inspections, on both a federal and state level, for potential workplace exposure to tuberculosis and may be subject, per the Directive, under the General Duty Clause, under the OSHA Respiratory Protection Standard, under a standard covering specifications for accident prevention signs and tags, under the OSHA standard regulating access to employee exposure and medical records, and the general requirements for personal protective equipment., to citation and penalty. A compliance inspection could also result in required, but totally unnecessary and costly, engineering controls.

The General Duty Clause requires each employer to furnish to each of his employees employment and a place of employment which is free from recognized hazards that are causing or likely to cause death or serious physical harm. The Directive indicates that the CDC Guidelines can be used to show industry recognition of the hazards associated with occupational TB and contain widely accepted standards of practice that employers should follow when carrying out the responsibilities under the OSHA law.
The CDC also recommends that employers develop a written TB infection control plan that outlines a protocol for early identification of individuals with suspected or confirmed TB that should be updated annually and that employers conduct initial ongoing evaluations of the risk for TB transmission regardless of whether patients with suspected or confirmed TB are expected to be encountered in the workplace setting.

Funeral professionals should be prepared to inform compliance inspectors that aerosolization is not inherent in the preparation process, that exposure to infectious disease during the preparation process is covered by compliance with the OSHA Bloodborne Pathogen Standard and that the hazard to aerosolized tuberculosis is non-existent.

As a final point, it has been suggested, on prior occasions, that barrier protection such as saran wrap or a surgical mask can be used on a non-autopsied remains to prevent the exhaling of trapped air in the lungs of the deceased when the body is moved. Autopsied remains would not require this protection.

If you have any questions regarding this most recent OSHA Directive or any OSHA related or workplace issue questions you can contact Edward M. Ranier, Esquire at (410) 967-1801 or at ranierlaw@gmail.com.

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