

in this issue:

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In light of recent news reports, employers face workplace concerns about antibiotic resistant, super-staph MRSA infections spreading among coworkers, contamination risks in the workplace, and the precautions needed for a safe work environment.

OSHA

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Staph Infections in the Workplace

By Donald W. Benson

Recent news reports detail super-drug-resistant staph infections in schools across the country and school closings for the cleaning of shared surfaces, particularly with respect to shower areas and shared sports equipment.¹ Employers should prepare for anticipated questions from employees about rumors of such super-staph infections among coworkers, contamination risks in the workplace, and precautions that the employer is implementing to maintain a safe work environment.

What is MRSA Staph Infection?

Staphylococcus aureus (staph) are bacteria that are commonly found on the skin or in the nose of healthy people. Approximately 25% to 30% of the population are "colonized" (i.e. bacteria are present without causing infection) in the nose with such staph bacteria. Although staph bacteria are some of the most common causes of skin infections in the United States (such as pimples and boils), staph bacteria can also cause serious infections including surgical wound infections, bloodstream infections and pneumonia.²

Some staph infections are resistant to some antibiotics. MRSA (methicillin-resistant *Staphylococcus aureus*) is a staph that is

resistant to beta-lactam antibiotics, which include common antibiotics such as oxacillin, penicillin and amoxicillin. While 25% to 30% of the population may be colonized with staph bacteria, only about 1% are colonized with MRSA.

An article in the October 17, 2007 issue of the Journal of the American Medical Association³ adopted a different method of counting cases and reported a significantly higher number of deaths (94,360) in 2005 due to MRSA infection. According to the article, approximately 18,650 persons died during a hospital stay related to such serious MRSA infections. Serious MRSA disease is still predominantly related to exposures in the healthcare industry. About 85% of all invasive MRSA infections were associated with healthcare. Of that 85%, two-thirds occurred outside of the hospital setting in nursing home or extended care facilities. Only about 14% of over-all cases were infections occurring in persons without an obvious exposure to healthcare services.

How is it Spread?

The Centers for Disease Control and Prevention ("CDC") has investigated clusters of CA-MRSA skin infections among athletes, military recruits, children, Pacific Islanders, Alaskan Natives, native Americans, men who

¹ See "Staph Infections Reported At Schools Across The Country," The New York Times, Oct. 17, 2007, available at <http://nytimes.com/2007/10/17/us/17school-cnd.html>; Guest Column: Finding the facts on student infections, Frances B. Phillips, Maryland Gazette, Oct. 17, 2007 (commenting on two weeks of reports about skin infections primarily affecting county high school students).

² "Community-Associated MRSA Information for the Public" at http://www.cdc.gov/ncidod/dhqp/ar_mrsa_ca_public.html.

³ Journal of the American Medical Association, 2007; 298(15):1763-1771.

have sex with men, and prisoners. Factors associated with the spread of MRSA skin infections include: close skin-to-skin contact, openings in the skin like cuts or abrasions, contaminated items and surfaces, crowded living conditions and poor hygiene.

Prevention

Prevention of staph or MRSA skin infections includes good hygiene practices:

1. Clean hands regularly with soap and water or using alcohol-based hand sanitizer.
2. Keep cuts and scrapes clean and covered with dry bandages.
3. Avoid contact with other people's bandages or wounds.
4. Avoid sharing personal items like razors or towels.

People with weakened immune systems, including those with HIV infection, may be at risk for more severe illness if they get infected, but the CDC at this point recommends only that such persons exercise the same good hygiene practices.⁴

Employers need to consider how to educate employees and visitors on such "good hygiene" practices and whether "health monitors" or disciplinary actions might be appropriate as part of the program. Additional steps might include: increased cleaning of commonly shared work spaces, ensuring the availability of soaps and alcohol wipes, proper disposal of wipes, towels and bandages, personal protective equipment for first aid providers, sick bay precautions and protocols, and communication plans to inform employees of possible infections and precautions without raising privacy issues or promoting panic.

Treatment

Staph infections and MRSA infections are treatable. For many staph infections, treatment may not even include antibiotics but may be accomplished by a healthcare provider

draining the abscess or boil and dressing the wound with a dry bandage. MRSA infections are treatable with some antibiotics. Patients should take all of the doses of prescribed antibiotics and not share or save unfinished antibiotics for use at another time.

Employer Responses

At this stage of OSHA public information⁵ and CDC guidelines, employers would be well advised to beware of the general duty clause of the OSH Act,⁶ which imposes on employers a duty to avoid certain recognized hazards in the workplace, and other potentially relevant OSHA requirements, like an employer's bloodborne pathogens program.⁷

An employer faced with an employee who self-discloses that he or she has an MRSA infection needs to be mindful of several potential legal pitfalls. The employee may well be entitled to the protections of the Americans with Disabilities Act, including protection from retaliation and reasonable accommodation, which might entail time and a location to change bandages or leave from work to obtain on-going treatment. Employees may be entitled to FMLA leave or other company-provided leave to care for themselves or an infected family member. Furthermore, such shared confidential medical information also raises privacy concerns and potential HIPAA obligations, particularly as an employer takes steps to disinfect and clean the workplace or takes other contamination precautions.

MRSA infections also raise a relatively new problem for employers similar to the challenges of preparations for avian flu, SARS, drug-resistant tuberculosis, and other pandemic illnesses. Each of these highly-contagious health threats creates new demands on employers to prepare emergency health plans involving all facets of their operations. Such emergency planning might include examining how normal operations and the worksite could be changed to minimize face-to-face

interactions of employees and promote social distancing (greater than three feet) in times of a pandemic flu epidemic, securing and training employees on the use and disposal of personal protective equipment including masks and gloves, monitoring employees' use of good hygiene practices in the workplace, such as skin-to-skin contact and cough etiquette, arranging for the proper disposal of tissues and bandages, increased cleaning of shared work spaces and gathering locations, helping employees not to infect each other or the public, maintaining IT and financial data processing during employee absences, and shifting operations to non-infected areas. Employers need to plan for significant worker shortages as employees may be too sick to work, absent to provide care to others, or too scared to come to work. The challenge is not only to maintain operations during high absenteeism, but to plan for an orderly and prompt period of recovery. Employment concerns raised by these highly contagious illnesses call for a level of sophistication about health issues, proactive emergency planning, and employee communication protocols that extend far beyond the issues raised by how to respond to a single sick employee.

Donald W. Benson is a Shareholder in Littler Mendelson's Atlanta office. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com, or Mr. Benson at dbenson@littler.com.

⁴ CDC recommendations for patient care related to prevention and management of the transmission of MRSA in hospitals may be found at *Management of Multidrug Resistant Organisms In Healthcare Settings, 2006*, available at CDC "Infection Control guidelines" at <http://www.cdc.gov/ncidod/dhqp/guidelines.html>.

⁵ OSHA at this stage has merely issued public information on its website paraphrasing the CDC information and recommendations. "Hospital eTool-HealthCare Wide Hazards Module: MRO-Multi-Resistant organisms," at <http://www.osha.gov/SLTC/etools/hospital/hazards/mro/mro.html>.

⁶ Each employer "shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious harm to his employees." 29 U.S.C. § 654.

⁷ The Bloodborne Pathogens Standard requires precautions when dealing with blood and other potentially infectious materials. 29 CFR §§1910.1030, et seq.