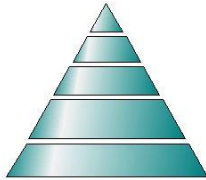




# The Supervisor's Role in a Safety Program

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Let me tell you a little about myself and why I think I have something to offer on this topic.

I'm a certified veterinary technician, and I've been in the veterinary field since 1979. I've been around the block a few times! I got my start in the veterinary field as a soldier in the army. Since then, I've worked in a lot of different capacities. I've worked as an assistant before I was certified, and I've worked as a hospital administrator, a technician. Worked in companion animal hospitals. I've worked in mixed animal practices. Then, back in the 90's, I was one of the people who actually traveled around the country and inspected veterinary hospitals for the American Animal Hospital Association's accreditation program. As a matter of fact, I was the very first veterinary technician to do that for AAHA. It was during that time that I really got the opportunity to work on all of this regulatory stuff as it applies to our profession.

Since the mid 1990's, my full-time job has been helping the veterinary profession decipher and understand governmental regulations and incorporating safety practices into the everyday procedures. I really try to teach folks how to achieve a balance between getting the job done and not hurting ourselves in the process.

This slide has my contact information on it. If you have an issue and think I may be able to help, don't hesitate to contact me. I'll do my best to help or to at least point you in the right direction. I know my phone number is listed and you can certainly give me a call, but you'll probably have to leave me a message because I'm frequently out of the office consulting with practices all over the country. Of course, I'll return your call when I return to the office, but honestly, email is the best way to get in touch with me.

## In this session:

### **We will discuss the:**

- Incorporating safety in an instructional program.
- Duties, responsibilities & liabilities of supervisors and safety coordinators
- Best ways to enforce the safety rules and still get the job done.
- Inspections - possibilities and reactions

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Welcome to The Manager's Role in the MVP Safety Program.

In this module we'll explain the duties and responsibilities of the manager, department head or shift supervisor. We'll explain why those folks are so important in ensuring our staff members stay safe in order to accomplish our mission of becoming the employer of choice in the profession!

We'll also dispel some myths about the personal liabilities of a supervisor when making decisions about workplace safety.

We're going to spend a little time talking about the objectives of the MVP safety plans and how we want to incorporate those plans into the everyday operations at our hospitals.

As a supervisor, you may be called upon to "redirect" a staff member's actions during a procedure, so we're going to talk

about how you can enforce the safety rules and still get the job done.

4

## Pop Quiz!

### **True or False?**

OSHA's safety rules apply to non-profit schools as well as for-profit businesses.

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Let's start this discussion with a Pop Quiz! Don't worry...it's not a hard question and you don't have to actually answer. Just think about this ...

### **True or False?**

OSHA's rules prohibit staff members from doing any dangerous or hazardous task.

5

## Pop Quiz!

### **True or False?**

OSHA's safety rules apply to non-profit schools as well as for-profit businesses.

**The correct answer is TRUE.**

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Some folks are surprised to learn the answer is FALSE - OSHA rules, or standards as they are known, are not intended to remove any possible hazard - that's just not possible.

The rules are intended to minimize the possibility of injury, but they can never remove the possibility altogether.

## Incorporating Safety in an Instructional Program

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So now that we know what a supervisor's role in the safety program should be, let's talk a little about what we're trying to achieve with our safety program!

## Incorporating Safety

- Responsibility to keep staff and students safe.
- Duty to model expected behavior.
- Professional expectations.
- Insurance and liability considerations.

## Incorporating Safety

### **A safety program must strive to balance the need for:**

- Productivity - getting the job done
- Quality patient care - doing a good job for our patients and clients, and
- Staff protection - preventing injuries or illnesses from our work.

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So, if we are not trying to remove every possible hazard, what are we trying to achieve? Good Question. The answer is BALANCE.

Our safety program is designed to balance the need to be productive - after all, the business must make money, or we would be without a job! However, that doesn't mean we should allow "we're too busy" to overrule safety or quality concerns.

Our program is designed to balance the need for quality care - That is, giving our patients and clients the best care we can, but that doesn't mean disregarding our own safety needs. There are lots of stories about folks getting hurt from the belief that "patients come first" means taking UNNECESSARY risks.

And of course, a core objective of our safety plan is the need to protect ourselves while delivering our efficient, quality care. But

again, that doesn't mean we should expect to not do our job in the quest to avoid all risk.

We need to balance those three objectives in every task and situation.

## Incorporating Safety

**The Boss is not exempt from following the rules!!**

**The supervisor MUST:**

- communicate the rules to staff clearly and regularly.
- commit to FOLLOWING THE RULES THEMSELVES - LEAD BY EXAMPLE!

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When it comes to “following the rules,” the supervisor certainly must make sure that every staff member under their direction understands the rules AND this is important, the supervisor must follow the rules themselves!

Being the boss does not give one the authority to blow off the requirements. Everyone, even veterinarians must follow the safety rules.

## Duties, Responsibilities & Liabilities

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So let's start by talking about what a supervisor does and shouldn't do to make sure our safety plans are followed.

## Duties, Responsibilities & Liabilities

**The manager or supervisor is expected to be the most knowledgeable person in the equation.**

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The supervisor's involvement in a safety plan is so important, that governmental regulations assume the manager or supervisor is the person with the most knowledge, skills and authority to get the job done. Therefore, there's an expectation that the supervisor will be very active in watching out for and enforcing the safety rules in their department or division.

## Duties, Responsibilities & Liabilities

### **Supervisors, managers, department heads and shift leads must:**

- Ensure staff members are not allowed to perform a hazardous task until they have received appropriate instruction.
- Evaluate training records to make sure all staff members under their direction have completed the requisite safety training modules in a timely manner.
- Provide feedback to the training team about the efficacy and completeness of training methods.

## Duties, Responsibilities & Liabilities

**OSHA views the actions or inactions of the supervisor as "sanctioned" or "official" acts of the business.**

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We understand that being the leader of any team is difficult. Sure, we work with the folks on our team every day, so we want to be friendly, but it's vital that the supervisor always act in the best interests of the business, the client, the patient and the ENTIRE team. This means applying the rules uniformly and fairly and not ignoring problems in the hopes of them just going away. Although non-veterinarian supervisors don't have authority to direct veterinarians about MEDICAL or PATIENT CARE issues, they are expected to make sure EVERYONE in the department or division adheres to the rules, even the veterinarians.

Now, when it comes to enforcing the rules, we'll talk about some specific techniques in a few minutes, but understand this...OSHA expects the supervisor to have the authority AND INITIATIVE to make on-the-spot corrections for safety. In other

words, the supervisor has all the authority of the business owner when dealing with safety issues in the department or crew over which they are in charge, and they are REQUIRED to take action when necessary.

## Duties, Responsibilities & Liabilities

### **Supervisors are expected to:**

- KNOW the rules of the hospital,
- OBSERVE what is happening in the workplace, and
- ENFORCE the rules using corrective action promptly when a deficiency is discovered.

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Of course, staff members have a responsibility to understand and FOLLOW the safety rules, but the business, through their supervisors are expected to make sure those staff members are adhering to the rules.

Although disciplinary authority is likely vested in just a few people in the hospital, EVERY supervisor or team lead is tasked with being the eyes and ears of the leadership. Supervisors are expected to KNOW exactly how a given process or procedure is supposed to be done and stay OBSERVANT to make sure it is being done properly. There is no room for the supervisor to say, “It’s not my job to tell other people what to do!”

When the supervisor observes a staff member performing a task improperly - or simply doing something that isn’t right - the supervisor must act to ENFORCE the rules. Of course, the simplest action is to just ask the worker to do the task according

to the rules, but we know that doesn't always work. Later in this module we'll discuss some of the possible scenarios that a supervisor may encounter when enforcing the safety rules and the preferred actions for that scenario.

## Duties, Responsibilities & Liabilities

**Ask questions to ensure that expected tasks have been performed**  
- “Did you have any trouble getting xyz task done?”

**Check that assigned duties have been performed – trust but verify.**

**REPORT problems to the owner/administrator promptly – don’t keep them in the dark.**

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And when it comes to being those eyes and ears, the supervisor must actively check to ensure assigned tasks have been performed. One of the easiest ways to do that without it seeming like an inquisition is to simply ask the staff member a question like, “Did you have any troubles getting xyz procedure finished?”

Here’s a shocker - some folks will not tell the truth all the time! So even when the staff member says “Yes, it’s done.” the supervisor must still perform a cursory check to ensure it was done right! We’re not advocating an “audit level” review, but it’s certainly worth a “look-see” periodically to verify that it was actually done!

And there is another thing that the supervisor **MUST ALWAYS** do when it becomes necessary to step in and take enforcement action and that is to keep the hospital director informed! We’re

not talking “tattle tale” behavior for every little side-step, but we are talking about making sure the owner, hospital director or practice manager knows about behavior that is not in the best interest of the practice in a timely manner. A supervisor should handle issues within their authority, but they should never keep the higher-ups in the dark!

## Duties, Responsibilities & Liabilities

**OSHA does not fine or cite individual supervisors for errors or decisions.**

**Generally, OSHA and our liability system holds the business responsible for the actions or inactions of those with authority.**

**The only time a supervisor may assume some liability is in cases of INTENTIONAL misconduct.**

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So with all those responsibilities, what's the liability for a supervisor. Well, from a regulatory perspective, very little. OSHA does not have the authority to cite or fine individuals. A staff member acting in the role of supervisor, department head or shift lead is not personally liable for violations of OSHA rules.

However, that doesn't mean the supervisor can intentionally do something wrong and still avoid any liability. In the world of business liability, there is a legal doctrine sometimes referred to as "respondeat superior" --that's a Latin phrase that loosely translates to "let the responsibility lie at the highest level". That means the business is normally responsible for the actions of its employees, including supervisors. Now, this protection for the supervisor only applies if he or she is acting within the course and scope of their employment authority. In other words, the immunity to the person goes away if they are **doing something they shouldn't be doing** or if they **INTENTIONALLY** disobey the

**rules** when exercising their authority.

Another consideration is the liability when the supervisor is DERELICT in their duties and it contributes to someone being injured. Let me give you an example: Say a staff member reports a defect or malfunction in a piece of machinery that will make a safety feature of that device unreliable, and the supervisor just tells the staff member to “quit complaining and get the job done,” if the staff member is injured as a result of the failed safety feature, OSHA would still hold the business responsible, HOWEVER, the supervisor may have some civil liability in a legal action by the staff member. That’s because the supervisor is expected to act in a certain way - investigate the reported problem and if necessary, take the defective device out of service until it can be repaired. But in this example, they didn’t act in the expected way when they told the staff member to “quit whining and get the job done!”

Look, sometimes it sounds like a staff member is just complaining to avoid some work, but supervisors can never ignore a staff member’s safety complaint. No matter how busy they are, the supervisor should take the time to check it out and if a problem is found, it must be corrected or reported to the appropriate people in the hospital. Since the supervisor is the one charged with ensuring the safety rules are followed, they can’t just blow off that responsibility!

## Enforcing the Safety Rules

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We've mentioned that one of the primary duties of the supervisor is to enforce the safety rules. So let's talk a little about some scenarios the supervisor is likely to encounter when redirecting a staff member's behavior and the best ways to handle those situations.

## Enforce the Rules Equally

### **The supervisor must:**

- Act promptly. Don't delay – deal with it when it happens.
- Follow the discipline policy for ALL matters, including safety violations.
- Enforce the rules EQUALLY among all staff members - No Favorites.
- NOT NEGOTIATE with offenders.

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When a staff member violates the rules (safety or otherwise) the supervisor must take immediate corrective action or else that rule or procedure really doesn't mean much. Corrective action should be immediate in life-threatening situations, but thankfully those don't happen very often in our hospitals. For other matters, it's important to deal with the infraction on the day it happens whenever possible.

Of course, supervisors should become very familiar with the MVP policy on disciplinary or corrective action.

One of the easiest “traps” for a supervisor to fall into is the problem of dealing with a “good staff member” more leniently than one that is less than stellar. Correcting one staff member for an infraction and not another for the same infraction is a terrible idea. In the event of an OSHA inspection, the “preferential enforcement” will become evident and will likely

result in a citation for WILLFUL violation of one of the rules. Not to mention the headaches that come with that accusation during employment disputes.

And it's important for the supervisor to understand that the rules are not negotiable. Sure, there may be "options" or allowances for preferences in some cases, but COMPLIANCE with the rules is MANDATORY. Never let any staff member use the "I'll do this, if you do that" tactic.

## Training vs Enforcement

- Tailor the correction to the REASON for the failure:
- Training will solve “lack of knowledge” problems. More training will not solve discipline problems.
- Deal with deficiencies with individuals – reprimands or redirection in staff meetings rarely affects the person that needs it!

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The corrective actions taken by the supervisor must be tailored to the REASON for the failure.

If the problem is lack of understanding, then it's a training or competency issue but if the staff member knows the rules and still disregards them, you have a discipline problem. You can correct training deficiencies with more training. You must correct discipline problems with appropriate enforcement actions. You will NEVER solve a discipline problem with more training.

And it's the temptation for a lot of managers and supervisors to use a staff meeting to address policy violations by a single person. This “retraining of the group” rarely alters the behavior of the violator and often makes the compliant staff members feel bitter about being cast in the same light as the one they see misbehaving.

Discipline problems – specifically people who intentionally violate rules – must be handled by the supervisor with the offender themselves.

**“I didn’t know.”**

- This is a training issue.
- Remedial training on the specific task.
- Follow-up to ensure message was understood.
- Works the first time, but don’t let an employee use this excuse all the time!

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Now let’s talk about some excuses the supervisor may encounter when dealing with a staff member who violated the safety rules:

We’ll start with the “I didn’t know” defense:

When a staff member hasn’t been instructed on the proper procedure or didn’t understand the instruction, there is a training failure. Sure, they may have attended the requisite classes or meetings, but if they say they don’t understand, the supervisor must repeat that training until the person does comprehend the information or the supervisor determines that he or she is incapable of performing the task.

Now once the staff member is “up to speed” and performing the task correctly, the problem is solved.

If the staff member repeats the same mistakes again, it's probably not a training problem, so be sure to consider some other possibilities.

**“I like to do it my way.”**

- Manager must take immediate corrective action, or the situation will escalate and spread.
- Treat a safety infraction in the same way as any other infraction
- Refer to the Safety Manual or Staff Handbook for the hospital's disciplinary policy.

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The second excuse the supervisor may encounter is the “I like to do it my way” excuse:

When a staff member says they don't like the company's procedure or policy and don't want to follow it, that's a real problem. If the supervisor allows any staff member to willfully violate a safety rule and doesn't take corrective action, then everyone will want to ignore the rules they don't like.

From a regulatory perspective, an OSHA citation for this scenario may be more serious than a “regular” citation. If the inspector thinks the hospital KNEW the employee was violating a rule and ALLOWED IT TO HAPPEN, the hospital may get hit with a WILLFUL violation and that's one of the worst kinds. Managers and supervisors must treat a safety infraction in the same way they would treat any other violation of company policy. Refer to the MVP Safety Manual or Staff Handbook for

details on the MVP disciplinary policy.

Of course, we must be open to suggestions from the staff members who actually perform the tasks. After all, those folks probably do know the process best. However, when the “I like to do it my way” staff member is not really improving the system but merely doing it because they are lazy or controlling, the supervisor must take corrective action to restore the correct procedure.

**“I don’t need the government telling me how to do my job.”**

- Still a discipline problem.
- May be able to persuade compliance using rewards or enticements.
- Must be willing to use disciplinary measures if they still refuse to follow the rules.

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Then there’s the “I don’t need the government telling me how to do my job” defense:

This staff member probably doesn’t like authority and is most likely bucking other rules of the job. The supervisor must find some sort of balance with this staff member but not allow them to flaunt the rules with impunity. The carrot AND the stick approach has to be used in these cases.

Sometimes just acknowledging their point of view is enough to win them over. Agreeing that the workplace is not the same as it was in years past, and that times change, will often get them off the mark and at least moving in the right direction.

However, it’s still important to make sure everyone in the hospital, including the “don’t tell me what to do” folks follow the rules. In the end, if the “carrot” doesn’t work, then the supervisor will probably need to use the “stick” of disciplinary

action to get this staff member to comply.

**“I don’ t need those (glasses, gloves, ear plugs, etc.) They make it hard to do my job.”**

- May be a training issue, but...
- Most likely just need to get proficient at the task with the correct gear.
- Make sure PPE is appropriate and let employees participate in selection

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A common excuse that a staff member may use when violating a personal protective equipment safety rule is the “I don’ t need those glasses, gloves, ear plugs, or whatever” defense. You know, it’s the “They make it too hard to do my job” position.

The only way to get good at something is to practice it. That’s true in medicine and sports and it’s true in business. Wearing protective glasses, gloves, aprons and even ear plugs is not a natural feeling for most people. Performing some tasks with those devices is awkward at first. The only way to work through that handicap is to keep doing it!

Of course, if the problem really is with the equipment – say it’s damaged or just plain doesn’t fit – then the supervisor needs to get the staff member the right stuff before they can expect them to perform. Sometimes letting the staff member choose the style of glasses, gloves or apron will help them get used to

the idea.

In the end, when a procedure calls for protective equipment, it's the last line of defense for a probable hazard and staff members can't be allowed to forgo that protection because they are just not used to the way it feels.

**“I don’t have time for that.”**

- Being busy is never an excuse for less than professional work.
- OSHA will not accept “we’re too busy” as a defense.
- More accidents happen when people are busy than when they are more leisurely.
- Really doesn’t take more time to do it right!

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Being busy at work is usually a good thing, but it’s not an excuse to bypass important parts of the job, so when the staff members tries to use the “I don’t have time for that” defense, the supervisor must still act.

If a staff member is injured on the job because they failed to follow a safety rule during a “busy time,” the workload will get WORSE without everyone available! So when we are busy or short-staffed, we must double down on following the procedure correctly!

If someone is seriously injured and it results in an inspection, OSHA will look closely at some other procedures in the practice to determine if the rules or expectations from the leadership are really enforced or are just “paperwork”. An inspector will not accept “we were busy” as a defense. Safety procedures must be incorporated into the procedures so that it doesn’t take any

more time to do it right than it takes to ignore an important step.

# Inspections

## Reasons for Investigations

### □ **An employee (or former employee) complaint,**

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And the answer to that question is complaints, referrals, incidents and emphasis. Let's take each of those in turn.

A complaint by an employee or a former employee is the number one “trigger” of OSHA investigations. When OSHA receives a complaint form an employee or former employee, they are **REQUIRED** to **INVESTIGATE**. I'll expand on that process in a few minutes.

OSHA will accept complaints from non-employees, but **ANY COMPLAINT** must be related to workplace safety. OSHA does not deal with patient care or visitor issues; their only authority is **EMPLOYEE SAFETY**. So, if a client gets mad at you because of the way you treated Fluffy, they can call OSHA all day long and “report” the problem. But unless the complaint centers around employee safety problems, OSHA doesn't get involved because they have no authority or no jurisdiction over animal care. The same when an employee or former employee complains to OSHA. Although the employee complaint will carry a little bit of weight, OSHA can only **ACT** on **WORKER SAFETY ISSUES**.

Listen, employees have the right to file complaints if they feel aggrieved. But OSHA is actually very good at recognizing when the complaint is an obvious attempt at a vendetta. They still must open an investigation. And you will still have to answer the alleged complaint, but I'll tell you... it's been my experience that OSHA is very good at realizing when a complaint is just “I want to make trouble for my ex-boss because they fired me” and they **DO** factor that into their approach to the process.

## Reasons for Investigations

- An employee (or former employee) complaint,
- **Referral from another agency**

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The second most common reason for an OSHA investigation is a referral from another agency. Ten years ago, other agency referrals to OSHA were pretty rare in the veterinary world, but they are becoming more common. Still not as common as employee complaints, but a little more common than in the past. Here's how that works...Let's say, for example, you have the state radiology department come by for their annual or biennial inspection of your hospital's radiograph machine. During that visit, the radiation department inspector, notices that there is a very strong odor of anesthetic gas. The radiology inspector may send a referral to OSHA for investigation.

And that's actually what happened to a hospital in New Jersey about 4 years ago. I got a call from the veterinarian after he was referred to OSHA by the state radiation inspection program folks for exceedingly high anesthetic gas odors while the inspectors were present. By the way - We'll talk about waste anesthetic gas issues in Module 3, so don't get hung up on the topic yet.

Now one of the odd things about this case was the veterinary practice was heavy into a holistic approach "without lots of drugs." -I They felt that masking their patients down for anesthesia was a more holistic approach than an injectable induction. Again, we'll talk about that issue in Module 3, but masking inductions are nearly impossible to scavenge properly, so it results in very noticeable fumes AND high exposure rates for workers.

Since the inspector could smell the gas, it became a big deal. The radiology inspector made a referral, and OSHA opened an investigation. In this particular case, OSHA did include an on-site inspection as part of the investigation. The owner veterinarian's actions during the inspection made things worse. I'll give you some more details on this story in just a few minutes.

So a referral from another regulatory agency is the second most likely cause of an OSHA investigation.

## Reasons for Investigations

- An employee (or former employee) complaint,
- Referral from another agency
- **The death of an employee or an accident that required medical treatment of the employee and OSHA found the case "interesting"**

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The third most likely cause of an OSHA investigation is an accident that results in the death of an employee or one that required medical treatment of the employee and OSHA found the case “interesting.” For example, if an employee were to be hospitalized for over exposure to a chemical that rendered them unconscious.

And of course, if an employee dies on the job, I guarantee OSHA will investigate and probably do an on-site inspection. This doesn’t happen often, but it does happen. I remember a case a few years ago where a veterinarian was doing a pre-purchase exam on a horse, and the horse knocked him down. When he fell, he hit his head on the ground and became unconscious. He never regained consciousness and died two days later from brain injury. An incident like that would certainly result in an investigation.

## Reasons for Investigations

- An employee (or former employee) complaint,
- Referral from another agency
- The death of an employee or an accident that required medical treatment of the employee and OSHA found the case "interesting"
- **Fitting in with a current "emphasis" program.**

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The fourth most likely cause of an OSHA investigation is pursuant to a current “emphasis” program. The two biggest current “emphasis” programs right now are workplace violence and hazardous drugs. If you have an injury or a complaint that fits in one of those categories, it’s almost guaranteed that you’re going to have an investigation that probably will include an inspection.

Sure, there may be other reasons for an inspection, but these 4 account for 99% of OSHA investigations.

## Answering a Complaint Investigation

- Will usually call first then email the complaint papers.
- Step 1 – READ EVERYTHING CAREFULLY!
- Step 2 – Must inform employees of the investigation by posting the complaint paperwork on BB
- Step 3 – Respect Deadlines! - Must reply within a specified period of time. Take your time to formulate an answer but don't miss a deadline.
- Step 4 – Suggest you consult with an expert before answering

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So, here's how the complaint and investigation process usually works and how you should respond.

Most folks are led to believe that OSHA just shows up at the door. Although that can and has happened, it usually doesn't. Usually, OSHA will call the business owner or manager, identify themselves and say, "We've received a complaint. I'm going to fax you over the complaint paperwork. You have five days to let us know your response to these complaints. When we receive your response, we'll decide where to go from there."

When this happens, don't freak out! The reality is that most of these types of investigations are resolved in favor of the employer. If the employer proves they were doing it right in the first place or if they admit there was a minor problem, but it's been fixed, OSHA usually closes the case without further action. So don't freak out...follow this 4 step process.

**Step 1 – Carefully READ every piece of paper they send you.** Although only one sheet in all of paperwork they FAX over will actually detail the complaint, you need to read and follow the directions on every page because there are specific actions you need to take.

**Step 2 - Make sure you post the Notice of Investigation on the employee bulletin board as soon as you get it.** You're required to inform employees that the business is being investigated by OSHA for a complaint and that they have the right to speak to the inspector or report any information they feel is relevant without fear of retaliation. Failure to post that page on the employee bulletin board may result in a separate citation. It's a shame to have them dismiss the original complaint but then you get a citation for screwing up the paperwork!

**Step 3 – UNDERSTAND AND RESPECT DEADLINES.** Be deliberate in your response, but don't miss the deadline to respond. Read the complaint. Talk with folks to gather information. Take pictures. Consult with your lawyer or call a consultant to get some advice, but don't miss the deadline to respond!

**Step 4 – Although it's not a requirement, it really is a good idea to consult with your attorney or a safety consultant when drafting your response.** Your answer will determine whether the

case is closed quickly or whether OSHA decides to go to the next step in the investigation.

## Inspections – Employee Engagement

- Show me the SDS for this (picks up a bottle) product.
- What are your responsibilities in the event of an emergency evacuations?
- Where is your eyewash station?
- Describe for me the protective equipment you regularly use to restrain animals for radiographs.
- What are the three chemical products to which you are most commonly exposed in your duties? How do you know what precautions you must take to use those products safely?

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When those interviews happen, I guarantee you this fact: no matter how loyal the employee, they probably not going to lie for you. Generally, the inspector is not going to ask employees to testify against you. They're not even going to tell the employee what the complaint is. So the employee won't be able to come up with an answer they think you'd want them to give. Overwhelmingly, they're going to tell the truth. They're going to try their best to explain their answers to make sure they're not getting in trouble, but they are going to tell the truth as they know it. The employer does not have the right to be present during those private interviews with employees and the employer does not have the right to know what was said. That is not released to the employer as part of the investigation. I know it sounds absolutely awful, but that's the way it is...confidentiality of the "whistleblower" is protected.

So here's some of the questions an inspector is likely to ask during "open" employee interviews:

One of their favorites is to just pick up a bottle of a chemical, hand it to the employee, and say, "Show me the Safety Data Sheet for this product" and then follow the employee over to where they get it.

Another one of their favorite questions is talking to the employee and saying, "Tell me, what are your responsibilities in the event of an emergency evacuation because of a fire."

Where is the nearest fire extinguisher to here? Have you ever been taught how to use a fire extinguisher?

Where is your eyewash station?

During the "private" interviews, the questions will probably be more in-depth. Remember back on Slide number 9 when I mentioned the practice in New Jersey that was inspected because of a referral by the state radiology service? In that case, in addition to the citation for excessive levels of waste anesthetic gasses, the inspector questioned all the employees about their TRAINING on operating the machine, including pre-use check out procedures. In private, without the boss present, NOT A SINGLE ONE of the assistants could do a leak check on the anesthesia machine. So the practice was cited for failure to provide adequate training for employees even though the manager had a piece of paper with their names on it saying they watched a video. Remember our discussion last week about the need for training to result in COMPETENCE and it's not just an event and check box.

Another story I'd like to share. I worked with a practice in Wisconsin a few years ago that underwent an on-site inspection as part of an investigation initiated by an ex-employee. One of the complaints was that the veterinarian did not MAKE the staff wear protective gloves when they were taking radiographs. Now although we were never told and we never attempted to find out, we know the complainant was a long-time technician who recently went through a long and bitter divorce. Over a year or so, her performance declined and her attitude soured, so they finally let her go. To say she was mad at everybody is an understatement. Now while she was there, she was the biggest violator of the requirement to wear gloves when taking radiographs rule. But she made that complaint because she KNEW there was a problem!

During the inspection, the veterinarian said, "We've got the gloves back there. I tell them to use them. If I'm not standing in the room with them, how do I know that they're not following my directions? When I catch them, I discipline them."

And that's where it went wrong. The inspector asked for any disciplinary records for employee safety violations in the last two years. And of course they couldn't produce them. Please remember our discussion in week 2 about DISCIPLINE for violating safety rules!

And during the inspection, the investigator asked the rest of the employees in private interviews, "Tell me what protective equipment you wear when you're taking radiographs and you have to restrain the animal." The employees will always say, "Well, we wear an apron." Sometimes they'll say, "We wear a thyroid collar," but if they don't regularly wear gloves, then they're not going to say that. And when specifically asked "do you ALWAYS wear gloves when restraining for radiographs?" they won't lie. They'll probably say "most of the time" but by that time, it's over.

So no matter how well you prep the employees on answers, when they get into that interview, they are going to tell it like it is!

## Inspections – Employee Engagement

- Do you think you have the training to do your job safely?
- Have you ever been injured while performing your duties? Explain what is different as a result of that incident.
- What is your workplace's policy on where it's acceptable to eat or drink?
- How often do you or your co-workers perform leak checks on your anesthesia machine? Explain how to do that.
- What is your hospital's policy regarding first aid or emergency assistance to people?

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I'm not going to spend a lot of time on this slide, but here's a few more questions that inspectors are likely to ask employees during an inspection interview. You'll be able to see these questions in the transcript of the session so let's move on to Mock Inspections.

## Inspections - Fines

### Base fine – 2025 base fine is \$16,550

□ [www.osha.gov/penalties](http://www.osha.gov/penalties)

### Compounding factors

- Willful violation
- Repeat violation
- Failure to Abate

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Let's talk about the fines themselves.

OSHA does not deal in hundreds. They deal in thousands. Under the Occupational Safety and Health Act of 1970 which established the office of OSHA and gave them the authority to do all this kind of stuff, they put in a base fine back in 1970 and said we are going to index it for inflation. Every year OSHA publishes what they consider to be their base fine which is indexed for inflation. In 2023 the standard for the base fine is \$15,625 per infraction. I said that right, you heard it right, \$14,502 per infraction but it can go up from there. If you want to read it by the way, that website on your screen, [www.osha.gov/penalties](http://www.osha.gov/penalties), is the place to find that info.

If it is a willful violation, remember we talked about willful violations already, it is one in which the business owner, the business knew the hazard exists, knew the requirement to deal with it but failed to act. A willful violation is seven times the base fine. Then if it is a repeat violation, let's say they caught you doing this before, the fine is higher

And here's a little "whoa" minute when we discuss a repeat violation - the repeat violation can be tacked on if ANY location of a business was cited for that violation in the past! Dollar General Stores in the United States have a lot of stores and OSHA has been fining Dollar General Stores left and right for blocking emergency exits with merchandise on truck delivery day. Most of those stores don't have big store rooms in the back. They bring the merchandise off the truck and put it in the aisle ways and put it up. If they put a pallet of material in front of the back emergency exit door and it blocks the exit door, and the inspector catches it, it is a citation. What they found is it is a real common practice in those types of stores around the country. Since they have cited Dollar General Stores for that violation in the past any store, even one they haven't inspected before, if they cite them for a blocked fire entrance because of merchandise in front of it, it is actually considered a repeat violation even at that store because the company has been fined for that before. A repeat violation will also result in an increased fine. Although we are not seeing this yet in corporate owned veterinary practices, we will. It'll take time but eventually OSHA will figure out that the veterinary profession isn't all "mom and pop" clinics anymore and their attitude towards fines will change...I guarantee it!

Then the big one is if they fine you and they cite you for a violation and you don't correct the problem. They call that a failure to abate that and then the fine is 10 times the original amount. Those are big numbers, huge numbers. Sometimes those things can add up. That is why you see \$100,000 fines.

# Summary

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Let's summarize what we discussed in this module.

## Summary

- The manager/supervisor is expected to be the most knowledgeable person in the equation
- Supervisors must act in the best interests of the business, client, patient AND collective staff
- Must lead by example!
- Use training to instill knowledge and discipline to enforce expected behavior
- Address issues promptly
- Inspections happen but we are rarely “targets” of an emphasis program.

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The manager or supervisor is expected to be the most knowledgeable person on the tasks they are charged with overseeing.

They are not only the folks who make sure everyone stays safe while getting the tasks completed, they are the “eyes and ears” of the hospital to ensure our procedures maintain our quality-of-care standards.

In order to hold others to a performance standard, the supervisor must meet the same standard. There is no room for the “Do as I say, not as I do” philosophy. Leaders are expected to adhere to all the rules of the hospital just like everyone else.

When it comes time to be “the enforcer,” the supervisor must choose an approach based on the CAUSE of the problem. If the staff member just didn’t know about a rule or was never

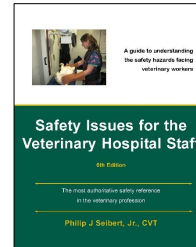
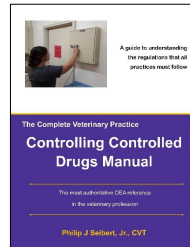
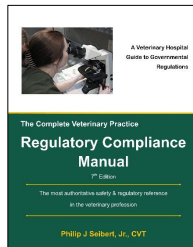
instructed on the proper procedure, then training is the answer. But once the staff member knows the rule but CHOOSES not to follow the rule, it becomes a discipline issue, and no amount of additional training is going to make a difference.

And don't wait. Corrective action must happen promptly. If it's life-threatening, then the supervisor must step in and immediately stop the process. However, most of the time, handling the correction a little later in the day is acceptable to avoid embarrassment or disruption of the hospital, but the correction should occur on the day of the problem to be most effective.

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