

OSHA Enforcement in COVID-19 & Obtaining Specialty Consults

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OSHA Outline

- Proximity
- Hygiene
- Face Coverings
- Masks
- Respirators
- Smithfield Example Follow Up

Screenings

- Evolving testing
- Questionnaires
- Temperature checks
- If you build a system, follow your own rules

Monitor “Proximity”



Monitoring “Proximity”

- Monitor employees for compliance with appropriate social distancing practices (at least six feet) to limit the spread of COVID-19. Strategies include, but are not limited to:
 - Creating barriers, such as shields – even establish directional walkways; and
 - Using signs, tape marks, or other visual cues placed six feet apart to indicate where to stand in areas where congregation is likely

Personal Hygiene

- Provision of handwashing facility (or hand-sanitizer);
- Consider eye and hand protection; and
- Sanitizing surfaces regularly;
- Provide employees with cloth face coverings or allow them to use their own;

Are employers required to provide cloth face coverings to workers?

- Cloth face coverings are **not considered personal protective equipment (PPE)** and are **not intended to be used when workers need PPE** for protection against exposure to occupational hazards. As such, **OSHA's PPE standards do not require employers to provide them.**
- The General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act, requires each employer to 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 physical harm. Control measures may include a combination of engineering and administrative controls, safe work practices like social distancing, and PPE.
- However, employers **may choose to ensure that cloth face coverings are worn as a feasible means of abatement in a control plan designed to address hazards from SARS-CoV-2**, the virus that causes COVID-19. Employers may choose to use cloth face coverings as a means of source control, such as because of transmission risk **that cannot be controlled through engineering or administrative controls, including social distancing.**

How does OSHA define cloth face coverings?

- May be commercially produced or improvised (i.e., homemade) garments, scarves, bandanas, or items made from t-shirts or other fabrics.
- Are worn in public over the nose and mouth to contain the wearer's potentially infectious respiratory droplets produced when an infected person coughs, sneezes, or talks and to limit the spread of SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (COVID-19), to others.
- Are **not considered personal protective equipment (PPE)**.
- Will **not protect the wearer** against airborne transmissible infectious agents due to loose fit and lack of seal or inadequate filtration.
- Are **not appropriate substitutes for PPE** such as respirators (e.g., N95 respirators) or medical face masks (e.g., surgical masks) in workplaces where respirators or face masks are recommended or required to protect the wearer.
- May be used by almost any worker, although those who have trouble breathing or are otherwise unable to put on or remove a mask without assistance should not wear one.
- May be disposable or reusable after proper washing.

How does OSHA define Surgical Masks?

- Are **typically cleared by the U.S. Food and Drug Administration** as medical devices (though not all devices that look like surgical masks are actually medical-grade, cleared devices).
- Are used to protect workers against splashes and sprays (i.e., droplets) containing potentially infectious materials. In this capacity, **surgical masks are considered PPE**. Under OSHA's PPE standard (29 CFR 1910.132), **employers must provide any necessary PPE at no-cost to workers**.
- May also be worn to contain the wearer's respiratory droplets (e.g., healthcare workers, such as surgeons, wear them to avoid contaminating surgical sites, and dentists and dental hygienists wear them to protect patients).
- Should be placed on sick individuals to prevent the transmission of respiratory infections that **spread by large droplets**.
- **Will not protect the wearer** against **airborne** transmissible infectious agents due to loose fit and lack of seal or inadequate filtration.
- May be used by almost anyone.
- Should be properly **disposed** of after use.

How does OSHA define Respirators?

- Are used to **prevent workers from inhaling** small particles, including airborne transmissible or aerosolized infectious agents.
- Must be provided and used in accordance with OSHA's Respiratory Protection standard (29 CFR 1910.134).
- Must be certified by the National Institute for Occupational Safety and Health (NIOSH).
- OSHA has **temporarily exercised its enforcement discretion concerning supply shortages** of disposable filtering facepiece respirators (FFRs), including as it relates to their extended use or reuse, use beyond their manufacturer's recommended shelf life, use of equipment from certain other countries and jurisdictions, and decontamination.
- Need proper filter material (e.g., N95 or better) and, other than for loose-fitting powered, air purifying respirators (PAPRs), tight fit (to prevent air leaks).
- Require proper training, fit testing, availability of appropriate medical evaluations and monitoring, cleaning, and oversight by a knowledgeable staff member.
- OSHA has temporarily **exercised its enforcement discretion concerning annual fit testing** requirements in the Respiratory Protection standard (29 CFR 1910.134), as long as employers have made good-faith efforts to comply with the requirements of the standard and to follow the steps outlined in the March 14, 2020, and April 8, 2020, memoranda (as applicable to their industry).
- When necessary to protect workers, require a respiratory protection program that is compliant with OSHA's Respiratory Protection standard (29 CFR 1910.134). OSHA consultation staff can assist with understanding respiratory protection requirements.
- FFRs may be used voluntarily, if permitted by the employer. If an employer permits voluntary use of FFRs, employees must receive the information contained in Appendix D of OSHA's Respiratory Protection standard (29 CFR 1910.134).



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Should workers wear a face covering while at work?

- **Employers have the discretion to determine whether to allow employees to wear cloth face coverings in the workplace based on the specific circumstances present at the work site.** For some workers, employers may determine that wearing cloth face coverings presents or exacerbates a hazard. For example, cloth face coverings could become contaminated with chemicals used in the work environment, causing workers to inhale the chemicals that collect on the face covering. Over the duration of a work shift, cloth face coverings might also become damp (from workers breathing) or collect infectious material from the work environment (e.g., droplets of other peoples' infectious respiratory secretions). Workers may also need to use PPE that is incompatible with the use of a cloth face covering (e.g., an N95 filtering facepiece respirator).

If workers wear cloth face coverings,
do employers still need to ensure
social distancing measures in the
workplace?

- Yes! Cloth face coverings are not a substitute for social distancing measures.

Are surgical masks or cloth face coverings acceptable respiratory protection in the construction industry, when respirators would be needed but are not available because of the COVID-19 pandemic?

- No. Employers must not use surgical masks or cloth face coverings when respirators are needed.

Does wearing a medical/surgical mask or cloth face covering cause unsafe oxygen levels or harmful carbon dioxide levels to the wearer?

- No. Medical masks, including surgical masks, are routinely worn by healthcare workers throughout the day as part of their personal protective equipment (PPE) ensembles and do not compromise their oxygen levels or cause carbon dioxide buildup.

Is an employer required to notify other employees if a worker gets COVID-19 or tests positive COVID-19?

- OSHA **does not require employers to notify other employees if one of their coworkers gets COVID-19.** However, employers must take appropriate steps to protect other workers from exposure to SARS-CoV-2, the virus that causes COVID-19, in the workplace. These steps might include specific actions as a result of a confirmed case, such as cleaning and disinfecting the work environment, notifying other workers to monitor themselves for signs/symptoms of COVID-19, or implementing a screening program in the workplace (e.g., for signs/symptoms of COVID-19 among workers).
- The CDC Guidance for Business and Employers recommends employers determine which employees may have been exposed to the virus and inform employees of their possible exposure to COVID-19 in the workplace. However, employers should maintain confidentiality as required by the Americans with Disabilities Act (ADA), and the information disclosed and method of disclosure must comply with applicable federal, state, and local laws.

My employer is requiring me to sign a liability waiver upon returning to work.

Does this prevent me from filing a complaint about safety, health, or retaliation?

- Nothing in a liability waiver prevents or precludes an employee's right to file a complaint under the Occupational Safety and Health Act. The worker continues to have the right to file a safety or health complaint under section 8(f) and/or a retaliation complaint under section 11(c), regardless of any language contained in the waiver.

Smithfield Meatpacking Plant

- Although union representatives said that workers asked for coronavirus precautions and protections at the beginning of the pandemic, they were denied by Smithfield management.
- Instead, the company offered a \$500 responsibility bonus.

Smithfield Meatpacking Plant

- At least 1,294 Smithfield employees contracted coronavirus, and four employees died from the virus, the release states.
- A Smithfield study released in August reported 929 employees, or 25.6% of all employees at the plant, had been infected, along with 210 close contacts.

Smithfield Meatpacking Plant

- The Occupational Safety and Health Administration announced on 09/10/20 that it was fining the Smithfield Packaged Meats Corporation for \$13,494 for "failing to protect employees from exposure to the coronavirus," a news release states. The fine is the **maximum amount allowed by law.**

Consult Outline

- Know when a consult is helpful
- Demand an answer to a clinical question
- You (and the patient) should learn something
- Select a format for the consult
- Review the quality of the consult

1961 NEJM “Ecology of Healthcare”

- “[I]n a population of 1,000 adults over an average month, 750 reported an illness, 250 consulted a physician, 9 were hospitalized, and 5 were referred to another physician.”
- White KL, Williams TF, Greenberg BG, Ecology of Medical Care, N Engl J Med. 1961; 265 (Nov 2):855-892.

Consults on the Rise

- In the US from 1999 to 2009 the probability that an ambulatory visit to a PCP resulted in a referral to another physician increased from 5.8% to 9.9% (a 94% increase).
- Referrals from one specialty care provider to another also increased considerably

Should I place consult request?

- Have you completed your workup?
- Have you discussed the case with your colleagues?
- Have you ordered studies the specialist will need?
- Is a “curbside consult” style an option?

“No Dumping”

- Is the patient completely “worked up?”
- Rheumatology
 - Appropriate history and labs?
 - Medications attempted (short of biologics)
- Orthopedics (X-rays, Kenalog injections, PT)
- Cardiology (Zio patch? Echo?)
- Pulmonology (CXR? Spirometry)

Make your specialty “asks” clear

- What question do you want answered?
 - Find out if they CAN answer it prior to the visit
- What code do you recommend they use?
 - Next Slide
- Pick a physician you like / trust (do not schedule with “whoever is available” first)
 - Share your favorites with your PMD colleagues
- Ask that they NOT refer to another specialist
 - We want them to answer a question, not be a QB

Interprofessional Consultation Codes

99446	Ntrprof ph1/ntrnet/ehr 5-10	Interprofessional Consult Code	\$17.48
99447	Ntrprof ph1/ntrnet/ehr 11-20	Interprofessional Consult Code	\$35.29
99448	Ntrprof ph1/ntrnet/ehr 21-30	Interprofessional Consult Code	\$52.77
99449	Ntrprof ph1/ntrnet/ehr 31/>	Interprofessional Consult Code	\$70.39
99451	Ntrprof ph1/ntrnet/ehr 5/>	Interprofessional Consult Code	\$35.75

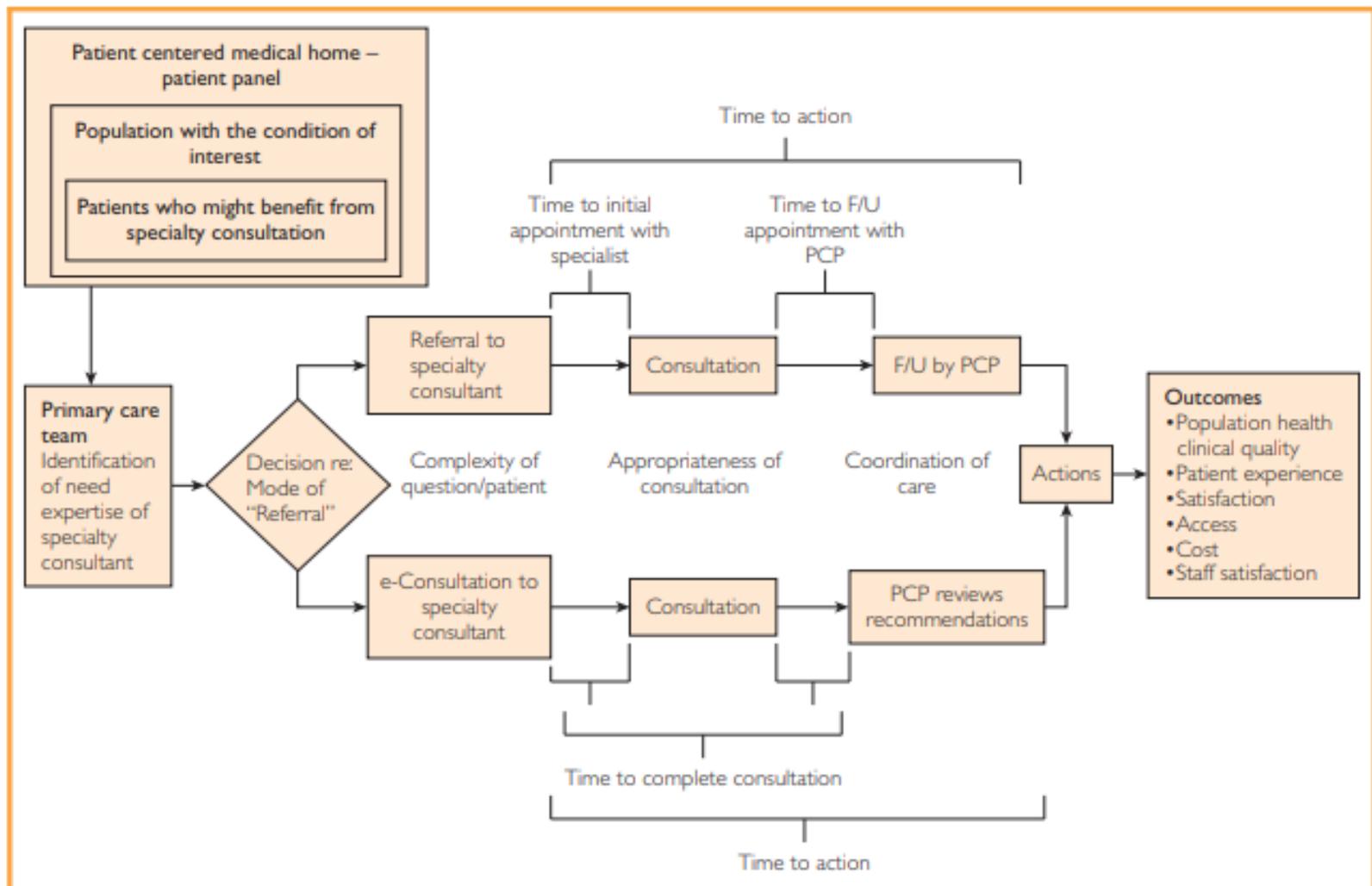


FIGURE. A model for the process of delivering specialist expertise in the context of the PCMH. Patients who might benefit from specialist expertise are identified by the PCP or a member of the primary care team. The patient is one of the subset of those patients with a particular condition; these patients constitute part of a panel. A consultation is obtained, information is exchanged, and actions are undertaken that result in changes to patient care. We illustrate a comparison between e-consultation and referral of the patient for a specialty consultation. However, the mode of "referral" could be any one of several that are tabulated in the Table. Potential outcomes are also illustrated. F/U = follow-up.

Mayo Proceedings

TABLE. Mode of Specialist Support for Patient Care vs Characteristics of Specialist Support

Mode	Specialist input intensity	Synchronous, Y/N	Patient present, Y/N	Formal (note placed in record by specialist), Y/N
Consult in person	++++	N	Y	Y
Teleconsult	++++	N	Y	Y
Teleconference case discussions	+++	Y	N	N
E-consult with access to EHR	++	N	N	Y/N
E-consult without access to EHR	+	N	N	N
Curbside consult	+	Y	N	N
Decision support	None	Y/N	Y/N	Not applicable
Preemptive consult	++	Y/N	Y/N	Y/N

*Y = yes; N = no; + = characteristic; - = not characteristic.

*Intensity rated on a scale of + to +++++.

Mayo Proceedings

Specialist Support^{a,b}

Formal (note placed in record by specialist), Y/N	Preconsult exchange	Formal consult	Comanagement/shared management for the disease	Comanagement/ principal care for the disease	Transfer of all care to the specialist
Y		+	+	+	+
Y		+	+	+	
N	+/-	+	+		
Y/N	+	+/-			
N	+	+/-			
N	+				
Not applicable					
Y/N					

Order of Operations

- Ask your PMD colleagues
- Ask a specialist in an asynchronous manner
 - No schedule coordination needed
- Schedule a telemed visit
 - 3 parties need to agree on a time
- Schedule a traditional visit
 - 2 parties need to agree on a time
 - Now you learn less & face increased risk of an unanswered question

Questions?