

Avoiding Legionella

Litigation:



How to create an A+ water management prevention program and how to respond when a patient tests positive anyway.

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Legionnaires' Disease ("LD"), is a severe sometimes fatal pneumonia which can occur in persons who have inhaled aerosolized droplets of water contaminated with the bacterium Legionella.



Legionella can grow in any part of a building water system, including sinks, showers, cooling towers, ice machines and medical equipment such as CPAP machines or a bronchoscope.

At risk populations:

- 50+ years old;
- Smokers;
- Immunocompromised;
- Lung disease;

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Centers for Disease Control - Legionnaires' outbreaks between 2000 and 2014 have been caused by:

- 56% from potable water (sporadic, isolated cases over many months)
- 22% from cooling towers (many cases over several weeks)
- 7% from hot tubs
- 4% from decorative fountains.



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A new report from the CDC provides an update on infections associated with drinking water in the U.S. from 2011-2012. During these two years, there were 32 outbreaks, causing at least 431 infections, with a quarter of them (102) requiring hospitalization, and 14 deaths. *Legionella* caused 21 (66%) of the outbreaks, 111 cases, most of the hospitalizations and all of the deaths.



Legionella pneumophila bacteria (Legionnaires' disease). Most deaths from Legionnaires' disease are tied to hospital and nursing home showers, not outdoor cooling towers, new government figures released Thursday, Aug. 13, 2015 show. The germ spreads into the lungs through water vapor or mist. (Janice Haney Carr/Centers for Disease Control and Prevention via AP)

Norovirus only was found to cause two outbreaks, but they involved 138 cases. Other bacterial causes of outbreaks included Shiga toxin-producing *Escherichia coli* (56), *Shigella sonnei* and *Pantoea agglomerans*, a bacteria associated with hospital-acquired bloodstream infections.

Disturbingly, hospitals or healthcare facilities were the site of half of the outbreaks (16, or 50%). Hotels ranked next, at 13%, then camps.

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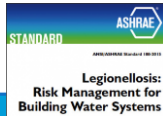
The Centers for Medicare & Medicaid Services ("CMS") expects Medicare certified healthcare facilities to have water management policies and procedures and a water management program to reduce the risk of growth and spread of *Legionella* and other opportunistic pathogens in building water systems.

Industry Standard of Care for a *Legionella* program

What are the three key documents you need to be aware of?

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1. ANSI/ASHRAE Standard 188: Legionellosis: Risk Management for Building Water Systems – June 26, 2015. (Updated 2018)
 - A published Industry Standard from the American Society of Heating, Refrigerating and Air Conditioning Engineers calling for the development and implementation of water management programs in large or complex building water systems to reduce the risk of Legionella.
 - Includes a bibliography with additional ASHRAE Standards and relevant codes



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2. CDC Tool Kit – 2016
 - Centers for Disease Control and Prevention (“CDC”) and its partners developed a toolkit to facilitate implementation of the ASHRAE Standard.



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3. CMS Center for Clinical Standards and Quality/Survey and Certification Group Memorandum to State Survey Agency Directors – June 2, 2017.
 - Sets forth relevant CMS Regulations and Expectations for Healthcare Facilities and Surveyors.



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Determine your patient's date of LD diagnosis in relationship to these three key documents:

1. ASHRAE 188 – 2015 and 2018
2. CDC Toolkit - 2016
3. CMS Memorandum - 2017

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Center for Clinical Standards and Quality/Summary and Certification Group – June 2, 2017

- Pertinent Regulations: Title 42 – Public Health - CFR:
 - Section 482.42
 - Section 483.80
 - Section 485.635
- Relate to CMS conditions of participation concerning Infection Control for Critical Access Hospitals, Hospitals and Long-Term Care Facilities

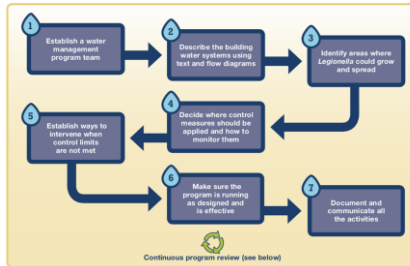
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Document Proactive Water ManagementDon't be Reactive.

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CDC TOOL KIT

Elements of a Water Management Program Diagram:



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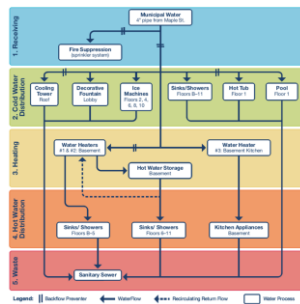
Water Management Program Team – Staff May Vary

- Maintenance and engineering employees;
- Someone who understand accreditation, standards or licensing requirements;
- Safety Officers;
- Outside water treatment professional;
- Risk and Quality Management staff;
- A clinician with expertise in Infectious Disease.



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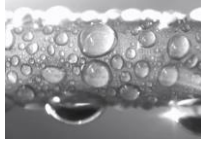
Describe your Building Water System Using Text and a Flow Diagram.



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Identify Areas where Legionella could Grow and Spread

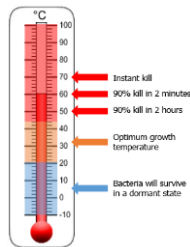
- Medical procedures where exposure to water droplets;
- Locations in facility ie, oncology clinics, ICU and ice machines.



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Control Measures and Corrective Actions:

- Identify control points;
- Assess control measures.
 - Disinfectant.
 - Elevate water temperatures.
- Document corrective actions.



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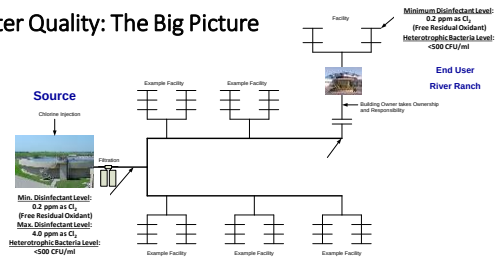
Decide where control measures should be applied.

- Measure water quality;
- Maintain water temperature;
- Measure disinfectant and other chemical levels;
- Decide How to Monitor your Control Measures; and
- Establish ways to Intervene when Control Limits are not met.



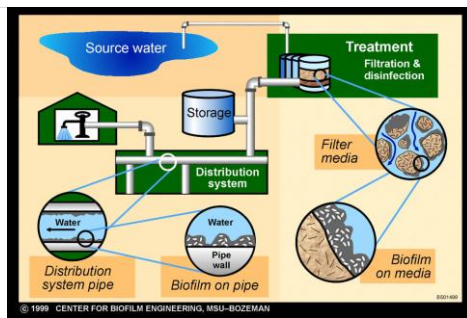
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Water Quality: The Big Picture



Goal: To maintain water quality or improve it compared to how it was received

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Make sure the Program is Running as Designed and is Effective.

- Verification: Are we doing what we said we would do?
- Validation: Is your program actually working to control the hazards?
 - Testing protocol should be specified and documented in advance.
 - Sample PVT Test Report Summary.

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You must work Collaboratively with Local Department of Public Health and the Illinois Department of Public Health. Center for Disease Control and Prevention Epidemiology Field Officers are imbedded in the Chicago Department of Public Health.

What the local health department will want you to do:

- Create timeline of actions steps by Administrator, DON, Maintenance and Outside Contractor.
- If you do not already have a Legionella independent contractor call them immediately – can be best advocate for the building – provide CDPH/IDPH with contact information.

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What the local health department will want you to do:

- Determine residents with recent pneumonia symptoms going back three months from onset of resident who is Legionella positive.
- Remain vigilant for Legionella cases in the next three months.
- Do not perform urine antigens on symptom free patients.
- Tell Department of Public Health if patient or employee with compatible symptoms.
- Immediate coordination of your Water Management Team and Water Management Program.

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What the local health department will want you to do:

- Your Water Management Team and Water Management Program will:
 - Consider recommendations for restricting water or other immediate control measures.
 - Consider modifications for ice and drinking water.
 - Consider options for showers (sponge baths or Point of Use Filters).
 - Consider a flushing program, including removal of aerators and flushing water in each room of the facility. Residents should not be in room during flushing or the bathroom door should be closed.
 - Be aware of spoliation argument related to flushing program.
 - Review the Water Management Program for existing Hazard Control and Validation data.
 - Develop plan for additional Water System Analysis
 - Perform an environmental assessment. Specimens should be processed by a CDC Elite Certified Lab.
 - Apply additional Hazard Controls where appropriate.
 - Review and revise the water management program.
 - Determine the length of heightened disease surveillance and environmental sampling.

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Create a Legionella Binder with sample documents:

- Water Management Program – including all steps in the process.
- Data from Log Sheets as defined by the Water Management Program:
 - Water Temperatures
 - Disinfectant Levels (i.e. water chlorination level results)
 - Flushing Log – to increase and maintain disinfectant levels and discharge water-borne pathogens
 - Scheduled maintenance (i.e. treatment of cooling tower, ice machines, etc.)
- Water management meeting dates and participants;
- A family letter – what Legionella is, how it is passed, precaution steps – facility is following CDPH recommendations and testing will be completed asap.

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Here comes the Media!

- Explore if media insurance coverage;
- If coverage, preferred media consultant firm?;
- HIPAA creates an asymmetric and limiting communications environment;
- We are confident we will be vindicated when we get to tell the full story.
- We are cooperating with investigating authorities.
- Communications must take legal and reputation implications into consideration;
- HIPAA Rules and the Attorney Client Privilege;

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Here comes the Media!

- Get Business Associates Agreements in place;
- No uniform test re: Attorney Client Privilege - case law is in progress.
- Post incident reputation recovery efforts are often overlooked;
- Identify an appropriate spokesperson;
- Communicate with a single point of contact;
- Provide easy to understand resources for employees;
- Create a media log of inquiries;
- Increase communication initially and expect continued communication needs.

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