



St. Louis Chapter Newsletter



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Upcoming Events

January - No Meeting

Due to rising Covid rates and our commitment to keeping members safe, we will not be having our annual Membership Appreciation night in January. We are hopeful of rescheduling this event for May or June at a venue that will enable appropriate safety precautions.

February - Lunch Meeting

Please join us for a Virtual Chapter Meeting! There is no cost to attend, but we do need you to register prior to the meeting. The St. Louis Chapter has purchased a Zoom subscription to allow a high quality experience.

When: **Feb 8th, 2021 12:00 PM Central Time**

Speaker: **Amy Nariskin, PhD**

Topic: **Valuing Diversity:
How to Navigate Cross-cultural Conversations**

<https://zoom.us/meeting/register/tJArcOGurjorE9Sp9I7v22969NOuw6hIsv1M>

After registering, you will receive a confirmation email containing information about joining the meeting.

ASSP FEBRUARY MTG

MONDAY, FEBRUARY 8th, 2021
Noon till 1:00 pm

SPECIAL GUEST SPEAKER

Amy S. Narishkin, PhD
Chief People Officer
Cell: +1 (314) 401 0051
Email: Amy@EmpoweringPartners.com
Blog: <https://www.EmpoweringPartners.com/blog/>
Intercultural Development Inventory® - Qualified Administrator

**Valuing Diversity:
How to Navigate
Cross-cultural Conversations**

REGISTER HERE

<https://zoom.us/meeting/register/tJArcOGurjorE9Sp9I7v22969NOuw6hIsv1M>

March - No Professional Development Conference

Again, due to Covid rates and our desire to protect members, the PDC will be postponed. Leaders at both ASSP and AIHA are working to find a date in the fall that will be beneficial for all members.

Calendar of Events

Your chapter officers and committee members are working hard to provide meaningful meeting topics for you throughout the year. Check out what's scheduled so far! If you have ideas on what should be covered, or want to share something yourself, please reach out to the chapter board and committee members (contacts at the end of this newsletter).

<u>Date</u>	<u>Meeting Topic & Presenter</u>
February 8th, 2021 Monday Lunch	Dr. Amy Narishkin
March	No Professional Development Conference
April 12, 2021 Monday Lunch	Mark Woodward
May 10, 2021 Monday Lunch	Nicole Kreeger - Social Media

June ?, 2021 Monday Lunch	ASSP Scholarship Golf Tournament Fundraiser
July 12, 2021 Monday Lunch	J. Bradley Young, Harris Dowell Fisher & Young L.C. - Workers Compensation Update
August 9, 2021 Monday Lunch	Treasa Turnbeaugh
September 13, 2021 Monday Lunch	TBD
October 11, 2021 Monday Lunch	Total Worker Health
November 8, 2021	TBD
December 13, 2021 Monday Lunch	OSHA Update Speaker Bill McDonald (Area Director in St. Louis) or Maryanne Martin (Compliance Assistance Specialist) will provide his annual OSHA fiscal year update and quick review of new/old initiatives.

What Would You Do? A Bloodborne Pathogens Complaint

~Bill Kincaid, P.E., CSP, CIT

Topics befitting the sophistication and knowledge of our ASSP Chapter members are hard to find, so I thought we might try a thought-provoking exercise this month. A “What Would You Do?” exercise, playing the role of an OSHA Compliance Officer. Everyone in our profession has opinions of OSHA, good, bad or mixed. Being an OSHA Compliance Officer is not an easy job, regardless. And yes, there is a “right” answer and a wrong one, no matter how you respond to the question “What Would You Do?”

Scenario: an OSHA office received a call from an employee of a retail chain clothing store. This person told a story which started with a customer falling in the store. Why she fell is anybody’s guess. The customer banged her head on the sharp corner of a display on the way down. It resulted in a scalp laceration, and head injuries often bleed a lot. There was some blood on the floor. The Store Manager told an employee to get some paper towels and clean it up. Somebody had to do it, and the Manager was busy with other things.

The employee, knowing blood could carry diseases and being a little grossed out, refused. The Store Manager took the little dictator route, telling the employee if she didn’t clean it up, she was refusing to work, and she might be fired. The employee held fast, the Manager cleaned it up, nobody got fired, and the angry employee went to the break room to call 1-800-321-OSHA, the complaint number listed on the OSHA poster. OSHA listened to her complaint, sent her a form to sign, and still being angry, she signed it.

Thus, a written employee complaint was born.

The OSHA Officer who took the complaint call was handed the signed form when it came in. It was “his” now, because in many OSHA offices once you touch something it’s yours unless there’s some reason to pass it to someone else. This complaint didn’t seem to require any expertise he didn’t have, and he had room in his schedule, so off he went to the store.

He was feeling a little indignant about the injustice of trying to force an employee to clean up blood, but knew his perceptions should wait until he had a chance to talk with the Store Manager and look at what they were doing for safety at the store. Maybe the employee was exaggerating, who knows? You have to investigate before you can say for sure.

The Store Manager confirmed the employee’s story, even producing his notes of the verbal disagreement he had with the employee and his implied threat to fire her. He explained that this employee needed a little extra push sometimes to get her motivated and had recently been caught outside talking on her phone a couple times when it wasn’t break time. He felt the tough stance was justified.

The Manager took the OSHA person on a tour of the store. The accident area was clean and matched the employee’s description. The Manager seemed a little puzzled about Bloodborne Pathogens and didn’t even understand the abbreviation “BBP”. There was no Bloodborne Pathogens training, cleanup kit or Exposure Control Plan. The Store Manager seemed nice and asked a lot of questions. In the back room of the store, the OSHA Officer noticed a large plastic bin on wheels partially blocking the exit door. An employee trying to get out in an emergency would have to move it out of the way to exit. He took a photo.

The OSHA Officer was planning to give the nice Store Manager whatever minor break he could. It was a retail store, not a hospital, after all. He asked if perhaps the Corporate Office might know better about the ECP and the BBP training questions. He waited while the Manager called Corporate to see if Risk Management had an Exposure Control Plan, which they did not. Feeling he had tried his best to cover everything, the OSHA Officer returned to his office to do his report.

After checking the company’s citation history to make sure similar issues hadn’t been cited in the last five years, the OSHA Officer looked back on what he knew about BBP rules. The scope of the rule said it “applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b)” of 1910.1030.

This was his first BBP case in retail, so the Officer carefully searched interpretations of 1910.1030 for any clues as to how these rules applied to a clothing store or other non-healthcare, non-first aid situation. He checked paragraph (b)’s definition of occupational exposure and found “Occupational Exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee’s duties.” Although he couldn’t find a definition of “reasonably anticipated”, that term was simple enough.

So, he read the interpretations looking for a direction. He found multiple statements about the 1910.1030 BBP rules applying in non-healthcare environments, but mostly related to first aid or contaminated items turning up in trash. That wasn’t this situation.

He found a February 14, 2006 interpretation about a mechanic being asked to clean blood from a car seat, a task which he didn’t like but which didn’t seem “reasonably anticipated”. It said:

“Generally, the task you were assigned would not be considered to have “reasonably anticipated exposure,” and therefore, OSHA would not consider your employer to be required to implement all the provisions of the bloodborne pathogens standard.”

That was interesting.

After thinking a while about the blood cleanup incident and the blocked door, the OSHA Officer knew what he intended to do. He put the completed file on his supervisor’s desk the next day.

So, without reading ahead, if YOU were that OSHA person, what would YOU do?

You must do SOMETHING, because an employee has filed a formal complaint. You can't just drop the issue. Whatever you do has to pass the scrutiny of numerous people ranking above you, affecting your job performance ratings and promotion potential, and who may not be as nice as you are. Bungling a complaint inspection can inspire a complainant to call their US Congress person to complain, launching that most dreaded of dreadful things, a "Congressional". You have to answer a Congressional with piles and piles of documents testifying you and OSHA, did the right thing despite an employee saying you didn't. A government employee is always outranked by a voter. It takes much explaining to get out of trouble. NOBODY wants to be forced to answer a Congressional.

We'll make this multiple choice. Here are your three options:

A. Whip out the 1910.1030 rules, figure out which would best apply to this situation, and cite them. Mandatory blood cleanup by an employee means occupational exposure. No Exposure Control Plan, no training, no gloves. Go for "Serious" violations because if someone was infected by contact with blood that could be a serious health condition. Case closed.

B. Since this occupational exposure doesn't sound like it could have reasonably been anticipated, stay away from the BBP rules. However, we still have the situation of untrained people doing a haphazard cleanup without gloves. Try to put together a "General Duty Clause" citation. To issue a General Duty Clause citation, you must prove, in writing:

- i) The employer failed to keep the workplace free of a hazard to which its employees were exposed.
- ii) The hazard was recognized.
- iii) The hazard was causing or was likely to cause death or serious physical harm.
- iv) A feasible and useful method to correct the hazard was available.

This sounds much easier than it ever turns out to be. Maybe that's why General Duty Clause citations only account for about 1.5% of OSHA's citations. In this instance it might be hard to prove to a judge that wiping up some blood off the floor with a towel was a serious or life-endangering hazard. And, before you even start writing, you must prove to your supervisor the 1910.1030 standards don't apply.

C. Try to figure out a good explanation why it's okay for an untrained employee to clean up potentially infectious blood using ineffective methods. Make sure to fully document your reasoning in the case file. Be prepared to do a lot of explaining. Remember if your lack of action disappoints the employee who complained, she might return the favor by snitching on you, the lazy government bureaucrat, to her representative in Congress.

So, what do you think? Cite the 1910.1030 Bloodborne Pathogens rules? Ignore the BBP rules and cite under General Duty Clause? Or write up a flowery explanation of how we can have untrained, unprotected employees pushing blood around with paper towels, and yet somehow, everything's fine?

At this time, decide what you would do.

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Here's what I think. Although I'm sure a lot of OSHA field people would disagree, I don't think 1910.1030 applies to this specific situation. I think the correct answer is "B". There is a problem we cannot neglect, so the OSHA Officer should see if there is enough basis for a General Duty Clause citation. If not, then the OSHA Officer could send out a letter warning there is a hazard suitable for General Duty Clause, but OSHA doesn't have enough basis to cite it now. In OSHA's terminology, that's called a 5(a)(1) letter. It's kind of a "well, at least you know we think this isn't safe" way of putting an employer on notice without citing them.

But don't take my word for it. I called the OSHA National Office in Washington D.C. and located one of their top BBP experts. He agreed that "reasonably anticipated" wouldn't apply to once-in-a-blue-moon or maybe-never exposures. He thought workplaces like this clothing store, where they could go decades without seeing a drop of blood, would be better served by a different approach. A clothing retail store is much different from, say, the first aid office in a metal smelting plant. Note that designating a person to

administer first aid in a place where there would be no reasonably anticipated blood exposure is an argument for another day, and it might be harder to win that one.

The national OSHA guy said there are ways to be ready in case one of those odd incidents happens, even if 1910.1030 doesn't apply here.

- Add a little BBP awareness to the employees' orientation training.
- Tell store managers if there ever were a need to clean up a little blood then they should call the Corporate Office for instructions.
- Identify supervisors with valid first aid certifications which include BBP training and standard precautions who could clean up blood using the proper materials and protection, if they felt comfortable doing it. These employees still need the safety training and PPE, but it doesn't necessarily have to match 1910.1030 if blood exposures aren't "reasonably anticipated".
- Be prepared to call a local cleanup contractor.

So, what really happened?

The OSHA Officer decided the store should be cited for not having an Exposure Control Plan. The store should also be cited for not providing PPE, mainly gloves, for employees who clean up blood. Since simple paper towels aren't a way to disinfect a surface, the store should be cited for not providing disinfectants and of course, cited for not providing any training on BBP, cleanup etc. If the store had merely followed 1910.1030's requirements, this little cleanup could have been a safe, orderly process.

The Officer found several rules within the 1910.1030 regulation which he could cite. All would be classed as "Serious", but the OSHA Officer decided to do a little grouping of similar items to make it less punishing. He added a citation for the partially blocked exit but called it "Other Than Serious" because of the bin having wheels. It only seemed fair. The OSHA supervisor liked the citations, so he signed off on them and off they went in the mail. Over \$16,000 in penalties were attached.

My opinion is the BBP rules were incorrectly applied. If it had been a General Duty Clause case, or more preferably a 5(a)(1) letter, the employer's abatement measures could have been much simpler. I also think this employer might have won in court and gotten some of it tossed if they had challenged the use of 1910.1030. But this employer didn't have much fight in them over a mere \$16,000. They arranged an informal conference where they traded a 50% fine reduction for their acceptance of all the items.

Today, they have a full exposure control plan like you'd have in a hospital. It's been sent out to 200 stores where Corporate hopes to see all the complex provisions maintained by 200 very busy Store Managers, at least for the next five years where any slipup could result in a Repeat citation. None of these Managers are healthcare professionals. It could have been so much easier.

I don't fault the OSHA Officer for choosing to apply this rule incorrectly to this situation, because this rule is widely misunderstood, and some form of action was necessary. I just think he picked the wrong action and was backed up by his management.

That's a snapshot of what this very difficult, important job involves. We'll explore some other topics in future columns to give you more opportunities to decide ***"What Would You Do?"***

Greater St. Louis Safety and Health Conference - Oct 14, 2021

~ shared by Mary Beth Proost

Save the Date

18TH ANNUAL GREATER ST. LOUIS SAFETY AND HEALTH CONFERENCE

Thursday, October 14, 2021
Saint Louis University
Busch Student Center

Newsletter Contributions

~Dan Bembower

We are always looking for additions to the newsletter. If you have something to share with the St. Louis safety community, please reach out and let me know at either updates@stl.assp.org or contact me directly at dan.bembower@usi.com. Thanks for reading!

St. Louis Chapter Executive Board Contacts

President - Steve Williams - swilliams@frenchgerleman.com
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President - Mark Woodward - mwoodwar@mem-ins.com
Vice President - Paul Krewson - paul@peakergo.com
Secretary/Treasurer - David Attebery - david.attebery@labor.mo.gov

Chapter Committee Chairs

Website – Dave Callies – dcallies@kelpe.com

Maintains website with updated news, chapter events, and job postings

PDC Chair – Dennis Pivin – DPivin@aegion.com

Coordinates logistics of professional development activities

Membership – Dianne Gibbs – dianne@ideasftp.com

Ensures new members are recognized & introduced at membership meetings

Public Relations – Steve Williams – swilliams@bellelectrical.com

Promotes chapter activities to the general public. Coordinates poster contest

Newsletter – Dan Bemhower – dan.bemhower@usi.com

Publishes and distributes the chapter newsletter to all chapter members

Awards & Honors – Bill Kincaid – billkincaid@yahoo.com

Recognizes member achievement through chapter awards

Scholarship – Rob Miller – robertmiller91@yahoo.com

Promotes student scholarships & continuing education scholarships for members

Golf Scholarship – Sydney White – sydney.white@wwt.com

– Nick Zahner – nzahner@murphynet.com

Organizes and runs the annual golf tournament supporting local safety focused students

Programs – Tim Michel – tmichel@keeleycompanies.com

Plans the program time and needs for presentations & coordinates schedule

Social Media – JaNola Rigsby – jrigsby@qualsafesolutions.com

Maintains Face book & Twitter accounts promoting discussion with local membership

Please contact a board member or committee chair with comments or if you would like to participate in any of the chapter activities.

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