WIPAG

WY Infection Prevention Orientation Manual

Section #3, Authority of the Infection Preventionist

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Section #3: Authority of the Infection Preventionist

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Objectives

At the completion of this section the Infection Preventionist (IP) will have a broad understanding of:

- the authority provided to the IP through state laws and local, state, and federal regulations in order to take actions to prevent the transmission of communicable or infectious diseases
- the importance of having health care facility policies to support the activities of the IP.

Number of hours

• Key Concepts – 1 hour

Overview

This Chapter will acquaint the IP with the authority provided by local, state, and regulatory agencies for the activities of the IP in the health care facility. This discussion may not be exhaustive of the authority granted the IP in any given health care setting. The IP should always consult the health care facility's polices regarding the IP's authority to act in a particular health care situation or setting.

Key Concepts

The IP occupies a key position in a health care facility by working to prevent infectious disease from spreading within the institution, which in turn may protect the local community and perhaps even the state. To be successful, the IP position requires dedication, vigilance, and the willingness to institute preventive procedures and to take action when the situation calls for it. Support and authority for the IP's activities can be found in a variety of sources at the federal, state, and local level. It is important for the IP to understand the authority the IP has been given to act in specific situations.

Types of Authority

<u>"Authority"</u> is defined broadly as the right to exercise powers; to implement and enforce laws (or policies); to provide control over. "Express authority" is that authority which confers power to do a particular identifiable thing, set forth and declared exactly, plainly, and directly with well-defined limits. Express authority is not left to inference or implication, but is definite and explicit and is typically determined through laws and regulations.

In contrast, <u>"implied authority"</u> is derived from the conduct of the principal (the hospital or facility) to the agent (the IP) and includes only those acts that are necessary, usual, and proper to accomplish or perform the main authority expressly delegated to the IP. Implied authority may be found in the latitude a facility gives its IP to accomplish specific goals within the institution. Often, implied authority over time becomes codified and less informal through facility policies as express authority for the IP to act in a certain manner. For example, in the case of a health care worker who may have been exposed to a potentially infectious disease, the IP's implied authority would permit the IP to investigate the source and type of disease exposure. A facility policy could evolve from this broad implied authority to investigate, to detail specific steps permitted in the investigation, persons or departments to be contacted, and reporting requirements following the investigation.

Authority to Establish an Infection Control Program

The primary areas addressing the authority of the IP to establish and conduct an infection control program can be found in state-based regulations and through a national body which evaluates and accredits health care facilities, such as The Joint Commission (TJC) and DNV Healthcare Inc.

State-based Authority

One of the best examples of direct authority regarding the IP may be found in state regulations of the Wyoming Department of Health (WDH) for the licensure of hospitals. This regulation requires the establishment of an Infection Control Program, in conjunction with the hospital's quality assurance and performance improvement programs. It specifies lines of reporting for identified problems, methods for developing corrective action, and requires documentation of corrective action and outcomes be maintained. Specifically:

Section 24. <u>Infection Control Program</u>. An infection control program **shall** be established based on nationally recognized standards of practice. **The program shall prevent, identify, and control infections and communicable diseases**.

- (a) The infection control program is coordinated by the hospital administrator, the medical staff, and director of nursing services in conjunction with the hospital's quality assurance and performance improvement programs.
- (b) Problems identified are reported to the medical staff, nursing, administration, and addressed in the hospital's quality assurance and in-service training programs.
- (c) Documentation concerning corrective actions and outcomes is maintained.

Please refer to the WDH, Chapter 12, Rules and Regulations for Licensure of Hospitals, May 2012 (or the most current version) for more information.

The Joint Commission and the Centers for Medicare and Medicaid

TJC, a well-known accrediting body for health care facilities, provides specific requirements for infection prevention and control programs. Some of the requirements for hospitals include: 1) identification of individuals with clinical authority over the infection prevention program, 2) development and implementation of policies governing the control of infection and communicable diseases, 3) development of a system for identifying, reporting, investigating, and controlling infections and communicable diseases, 4) provision of access to information needed to support the infection prevention and control program, 5) development of an IP program with a written description of activities, including surveillance to minimize, reduce, or eliminate risk of infection, 6) investigation of outbreaks of infection, and 7) reporting infection surveillance, prevention, and control information to appropriate staff within the hospital. In addition, TJC requires the infection program to be practical and involve collaboration between departments and staff. TJC also requires the hospital to establish an annual staff flu vaccination program and evaluate the overall effectiveness of the infection prevention program.

Likewise, the Centers for Medicare and Medicaid (CMS) have similar provisions for hospitals to designate an infection prevention officer to develop and implement policies governing control of

infections and communicable diseases. These requirements include a system for identifying, reporting, investigating, and maintaining a log of incidents related to infections and communicable diseases. Please refer to the CMS Conditions of Participation for Hospitals, Code of Federal Regulations (CFR) 42 CFR §482.42 for more information.

Authority to Access and Disclose Protected Health Information

Material to the activities of the IP is the ability to access and disclose or share protected health information, both within and outside the health care institution, related to the IP's infection control activities. In this instance, specific federal and state laws provide the needed express authority. Please refer to the Wyoming State Statutes §35-2-609(a)(ii)(A) (B) and (a)(iv) for more information.

A hospital may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information. If the disclosure is to any other person who requires health care information for health care education or to provide planning, quality assurance, and peer review or administrative services to the hospital or to assist the hospital in the delivery of health care, the hospital must reasonably believe that the person:

(1) Will not use or disclose the health care information for any purpose other than that for which it is disclosed, and

(2) Will use reasonable care to protect the confidentiality of the health care information. In addition, the hospital may disclose health care information to any person if the hospital reasonably believes that the disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual.

An IP may also find authority to disclose patient information under the provision of Wyoming laws (Wyoming Statutes §35-2-609[b][ii]). This statute states that a hospital may disclose health care information about a patient without the patient's authorization if the disclosure is to federal, state or local public health authorities, to the extent the hospital is required by law to report health care information or when needed to protect the public health.

Likewise, the federal Health Insurance Portability and Accountability Act (HIPAA) provides the express authority for health care providers considered to be covered entities under the federal regulations to use and disclose protected health information. For more information, please refer to 42 CFR §164.512(a)(l). This code states that a covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. Also, the hospital, acting through the express grant of authority from the WDH's Rules and Regulations cited above concerning the requirement to establish an infection control program to prevent, identify, and control infections and communicable diseases, and other health care providers considered covered entities under the federal regulations, are permitted to "disclose protected health information to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation." Please refer to the specific code 42 CFR §164.512((b)(1)(iv) for more information.

Authority and Requirement to Report Infectious Diseases to State Health Officer

Wyoming statutes provide a requirement for physicians, health care providers and laboratories to report immediately to the state health officer the communicable diseases or conditions from the WDH's published list of such reportable diseases and conditions. For specifics of this law, please refer to W.S. §35-4-107(a). Ambulatory surgical centers and assisted living centers are also required

through regulations of the WDH to comply with all laws and standards relating to communicable and reportable diseases and to have adequate policies and procedures in place to guide these operations. For more specific information, please refer to the WDH, Chapter 5, Rules and Regulations for Licensure of Ambulatory Surgical Centers, March, 2003 and Chapter 4, Rules and Regulations for the Licensure of Assisted Living Centers, June 2001.For the most up to date copies of this information, please visit the WDH Healthcare Licensing and Survey Office

website: <u>http://www.health.wyo.gov/ohls/index.html</u>. The IP's authority to report these diseases and conditions may be implied in this instance from the requirement of the health care provider, laboratory, ambulatory surgical center, or assisted living center to do so. The same authority to report or disclose protected health information without a patient's authorization may be found in a similar provision in HIPAA, at 42 CFR §164.512(b)(1)(i).

Authority to Share Information between Healthcare Facilities

The authority of the IP to share information regarding infection control activities, infectious diseases, and communicable conditions may be implied from a Wyoming Statute provision addressing the requirement of the department of health, county health officers, and all the state, county, city, and town officers to "cooperate to prevent the spread of diseases and for the protection of life and the promotion of health within the sphere of their respective duties." Please see W.S. §35-1-223 for specific details.

Authority to Take Action to Control Infectious Disease within a Healthcare Facility

Though no express authority in state statute is provided for the IP to take a specific action or conduct a specific activity to control infectious disease, broad authority is provided in the WDH Rules and Regulations, CMS Conditions of Participation for Hospitals, and requirements of TJC cited above to establish a program to identify, control and prevent infectious and communicable diseases. These provisions seem to suggest wide latitude in meeting the need for authority to control infectious disease within a healthcare facility. In this instance, and perhaps in others, the IP should look to the health care facility's internal policies to guide actions and activities such as the example policy in the Appendix.

Exercise #1: As applicable, meet with the risk manager, as well as someone from administration, to discuss and review the content of any authority statements and policies, as well as he hospital's position on the mechanism(s) of the IP's authority.

Documentation and Reporting

A record of each disclosure of protected health information by an IP should be maintained, in order for the IP or facility to comply with a request for an accounting of disclosures by the patient. Maintaining the record of disclosures is required for three years under state law (W.S. §35-2-606(b)). Federal law provides an individual a right to receive an accounting of disclosures for a six year period under 42 CFR §164.528. The IP's facility may have different requirements for documenting and maintaining a record of disclosures that are more restrictive than state or federal law and should be consulted as well.

Resources

Helpful/Related Readings

- Grota P, Allen V, Boston KM, et al, eds. *APIC Text of Infection Control & Epidemiology*. 4th *Edition*. Washington, D.C.: Association for Professionals in Infection Control and Epidemiology, Inc.; 2014.
 - Chapter 8, Legal Issues, by B Sheridan

- Code of Federal Regulations: 42 CFR §482.42. Available at: <u>www.ecfr.gov/cgi-bin/text-idx?SID=ea16c636d9cdebb4b99b47f4be1eb079&node=pt42.5.482&rgn=div5</u>
- Mayhall CG, ed. Hospital Epidemiology and Infection Control (4th Edition). Philadelphia, PA: Lippincott Williams & Wilkins, a Wolters Kluwer business; 2011.
 - Chapter 97, Legal Issues in Healthcare Epidemiology and Infection Control, by MA Bobinski

Helpful Contacts (in WY or US)

- Office of the Attorney General, Wyoming; 307-777-7841; <u>http://ag.wyo.gov/</u>
- Fran Cadez, Chief Legal Officer, Cheyenne Regional Medical Center; (307) 432-6621; <u>fran.cadez@crmcwy.org</u>

Related Websites/Organizations

- The Joint Commission: <u>www.jointcommission.org</u>
- The Centers for Medicare & Medicaid Services: <u>www.cms.gov</u>
- Wyoming Department of Health, Healthcare Licensing and Surveys: <u>www.health.wyo.gov/ohls/index.html</u>
- Wyoming Secretary of State (for copies of state statutes): <u>legisweb.state.wy.us/titles/statutes.htm</u> (Note: All health related state statues are under chapter 35)

My Facility/City/County Contacts in this Area

Position/Title	Name	Phone	Email Address
Chief Executive			
Officer			
Infectious Disease			
Specialist			
In-house or outside			
legal counsel to the			
facility			

References

- 1. Standards for Privacy of Individually Identifiable Health Information, 45 CRF Part 164.
- 2. Wyoming Statutes Annotated, §35-1-223; §35-2-606 and 609; §35-4-107.
- 3. The Joint Commission: <u>www.jcrinc.com/</u>
- 4. Centers for Medicare and Medicaid, Conditions of Participation for Hospitals, 42 CFR §482.42.

Appendix: Example of a policy expressly providing authority to the IP, Occupational Medicine and the Infectious Disease Specialist for Post-Exposure Guidelines

YOUR FACILITY NAME HERE			AREA: ADMINISTRATIVE	
TITLE: Infectious Disease Post- Exposure Guidelines				
NUMBER:	ADMIN-IC-5		Page 1 of 6	
ORIGINATOR: Infection Control			POLICY APPLIES TO: Entire Institution	
APPROVED BY: CEO: DATE		DATE:_	REVISION DATE: July 2013	
CNO:		_DATE:_	EFFECTIVE DATE: June 15, 2011	
Administrator of Quality:			POLICY REVIEW COMMITTEE (PRC) REVIEW DATE: July 2013	
POLICY REI	DATE: FERENCE:			

POLICY

It is the policy of <u>YOUR FACILITY NAME HERE</u> that all HCWs who have a work-related exposure to a potentially infectious disease will receive appropriate evaluation, treatment, and follow-up. In this policy, HCWs includes all employees, contract staff, volunteers, students/trainees, and Licensed Independent Practitioners.

It is the policy of <u>YOUR FACILITY NAME HERE</u> that all HCWs will follow Standard Precautions, Respiratory Hygiene and Cough Etiquette, and Transmission Based Precautions with all patients and visitors. Each HCW is individually responsible for prevention of exposures to infectious diseases. <u>YOUR FACILITY NAME HERE</u> is responsible for providing personal protective equipment (PPE). Additionally, it is the responsibility of the facility to screening for work-related exposure to infectious diseases as well as make appropriate recommendations/case management as a result of a workrelated exposure. Exposure will be determined following the Center for Disease Control and Prevention (CDC) guidelines based on the disease involved and its route of transmission.

Attachments A, B & C of this policy include disease specific transmission, exposure route, and treatment information for these specific diseases: Meningococcal disease, Pertussis, HBV, HCV, and Tuberculosis. This policy and its attachments will be reviewed and approved by the Infection Prevention and Control Committee every 3 years or as needed.

If an exposure to a disease not listed here is identified, Infection Prevention and Control, Occupational Medicine, or Employee Health (EH), and the Infectious Disease Specialist will determine appropriate action.

TITLE: Infectious Disease Post-Exposure Guidelines NUMBER: ADMIN-IC-5 AREA: ADMINISTRATIVE

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PROCEDURE

Procedures/Interventions:

- 1. Infection Prevention and Control will receive notification of a potentially infectious disease. Notification may be from the laboratory, emergency department, HCW, or the County or State Health Departments.
- 2. Infection Prevention and Control will investigate the source and the disease involved and will consult with the Infectious Disease Specialist as necessary.
- Infection Prevention and Control will contact the supervisors/directors of the departments involved in the exposure. Departments may include but are not limited to: admissions, clinical staff, patient care staff, imaging, laboratory, therapy, transport, etc.
- 4. Department managers are responsible for initially identifying the HCWs from their department who had contact with the infectious disease.
- 5. These HCWs will be referred to the Occupational Medicine/EH office during normal business hours for further evaluation, counseling, education, and prophylaxis.
- Once an HCW has been notified of involvement in a potential exposure to Neisseria Meningitis or Pertussis they have 72 hours to report to the Occupational Medicine/EH office for screening.
- 7. An HCW involved in an **M. Tuberculosis (TB)** exposure has **1 week** to report to Occupational Medicine. In the event of a large exposure, managers/directors will be notified when employees should report to Occupational Medicine/EH.
- 8. The HCW will complete the Exposure Evaluation form which will be reviewed by Occupational Medicine/EH to determine if the HCW contact meets CDC exposure criteria. If a true exposure has occurred the HCW will be referred to the Occupational Medicine/EH Physician for antimicrobial prophylaxis. If the Occupational Medicine/EH Physician is not available, Employees will be referred to <u>YOUR FACILITY NAME HERE</u> Urgent Care. The Urgent Care is open 7 days/week, which allows exposed HCW adequate opportunity for treatment. The HCW does NOT need to register as a patient.
 - a. When appropriate, pregnant or breast feeding HCWs will be referred to their personal physician for treatment. If the HCW cannot be seen by their physician within the next 24 hours the HCW may report to the ED for treatment. If a pregnant or breast feeding HCW chooses to be treated in the ED they would check in as a patient. These cases will be covered through a Worker's Compensation case. The HCW will report to Occupational Medicine/EH as soon as possible, but no later than seven days, for Worker's Compensation-related paperwork.

YOUR FACILITY NAME HERE	AREA: ADMINISTRATIVE
TITLE: Infectious Disease Post-Exposure Guidelines NUMBER: ADMIN-IC-5	Page 3 of 6

- 9. The HCW will present a copy of the Exposure Evaluation to the Occupational Medicine/EH Physician. When appropriate, a Point of Care (POC) urine pregnancy test will be done. The results of the urine pregnancy test and Exposure Evaluation form will be presented to the physician for review and determination of appropriate prophylaxis treatment. HCWs that have been exposed to Pertussis will be offered antimicrobial prophylaxis whether or not they have been vaccinated with Tdap.
- 10. The HCW will fill the prescription at the pharmacy of their choice and must present the receipt to Occupational Medicine/EH for reimbursement.
- 11. Records related to exposure and treatment will be added to the HCWs health record in Occupational Medicine/EH.
- 12. If exposure occurs over the weekend or holiday when Infection Prevention and Occupational Medicine/EH are not available the AR will be notified.
 - The AR will contact the involved departments.
 - Based on the disease involved the AR will use the appropriate Exposure
 - Evaluation form to evaluate the degree of exposure and need for prophylaxis (See attachments A, B & C). These forms may also be found on the Intranet under the Occupational Medicine/EH Department.
 - HCWs who meet exposure criteria will be referred to the Occupational Medicine/EH Clinic, with the Exposure Evaluation form, for prophylaxis if indicated.
 - The completed form will become part of the HCW's health record In Occupational Medicine/EH.
- 13. All HCWs with a suspected or confirmed exposure to an infectious disease must complete an occurrence report within 72 hours.
- 14. The Occupational Health/EH Office will submit a Report of Illness to the Infection Prevention and Control Committee as requested.

References

-MMWR, May 27, 2005 / Vol. 54 / No. RR-7 Prevention and Control of Meningococcal Disease -MMWR, December 9, 2005 / Vol. 54 / No. RR-14 Recommended Antimicrobial Agents for Treatment and Postexposure Prophylaxis of Pertussis.

-Control of Communicable Diseases Manual, 18th Edition, David L. Heymann, MD Editor

Policy Cross Reference:

This policy replaces the following deleted policies:

Key Words: Meningitis, Pertussis, Tuberculosis, Prophylaxis, Exposure

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ATTACHMENT A

neissena (neningococcar) nening	tis Exposure Evaluation		
Employee Employee Resident	Medical/Allied Health Staff		
Name: Age:	Date:		
Job Title:	Badge #:		
Department:	Work Phone:		
Manager:			
Address:	Home Phone:		
	Cell Phone:		
Source Patient Data:			
Source Patient Initials & MR#: Meningococcal infection	Room #:		
	firmed		
Positive cultures: Blood CSF Other:			
Evaluation of Contact and Determination of Exposure/Need for Prophylaxis: Neisseria meningitidis Neisseria meningitidis Neisseria meningitidis or meningococcal meningitis, or through handling laboratory specimens. The risk of acquiring disease from casual contact (routine patient care, cleaning patient room, delivering food trays, etc) is negligible. (Source: Control of Communicable Diseases Manual 18th Edition, David L. Heymann, MD Editor) Exposure Date and Time:			
 YES – IF YES, Post exposure prophylactic treatment 	t is indicated		
HCW Information: Height: inches Weight: pounds Allergies Current medications:	nale age 12-55, do POC urine pregnancy test;		
EMPLOYEE HEALTH S	SECTION		
Exposure dates and times provided by IP:			
Occ Health Nurse Signature:	Date:		
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Neisseria (Meningococcal) Meningitis Exposure Evaluation

AREA: ADMINISTRATIVE

TITLE: Infectious Disease Post-Exposure Guidelines NUMBER: ADMIN-IC-5

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ATTACHMENT B

Pertussis Exposure Evaluation

	Employee		Employee	Resident	Medical/Allied Health Staff	Student
Name:			Age:		Date:	
Job Title:					Badge #:	
Departm	ent:				Work Phone:	
Manager						
Address:					Home Phone:	
					Cell Phone:	
Source F	Patient Data:				-	
Source	Patient Initia		R#:		Room #:	
Pertus	sis infection		Suspected	🗖 Con	firmed	
			-	ted? 🗆 yes 🗆		
Evaluation of Contact and Determination of Exposure/Need for Prophylaxis: <u>Pertussis</u> is caused by the bacteria Bordetella pertussis and is transmitted by direct contact with discharges from respiratory mucous membranes of infected patients via large droplets during coughing/sneezing/talking, medical procedures, etc. Indirect spread through the air or contaminated objects is rare. (Source: Control of Communicable Diseases Manual 18 [®] Edition, David L. Heymann, MD Editor)						
Exposure	Date and Ti	me:				
Has the H	HCW had ext		unprotected	contact (no ma	ask) with an infected patient w	hich
included:			una within 0 fe	at of sumstand	tic (coughing) patient	
				ral or nasal secr		
					exam of the mouth, nose, & th tic patient for > 1 hour	iroat
					ttic patient for > 1 nour	
🗆 🗆 N	0 – If NO, S1	FOP HE	RE; No proph	ylaxis indicated		
ΟY	es – If yes ,	Post e	kposure proph	ylactic treatmen	t is indicated	
HCW Inf	ormation:					
Height	:	inches	Weight:	pounds	1	
Allergi			· -			
· ·	t medications	s:				
	t medical cor					
HCW is/could be pregnant: □ n/a □ no □ yes (If female age 12-55, do POC urine pregnancy test; attach result.) Refer pregnant HCW to their primary care physician if they can be seen within 24 hours. HCW is breastfeeding: □ n/a □ no □ yes						
		Ŭ		E HEALTH S	ECTION	
Evener	datas and th		wided by IP:		LOTION .	
				Educat	and hand at size a start	
	port complete				onal handout given: 🗆 yes	
					If no, given today? 🗆 yes 🕻	on C
	tion and Pat					
					g orally every day on days 2-5	5
				& nursing mother		
🗆 TMI	-SMZ (Bactr	im®) On	e DS tab twice	e a day for 14 da	ays (Use for persons allergic to A	zithromyain)
Other	er:					
Prescribi	ng Physician:					
Occ Hea	th Nurse Sig	nature:			Date:	
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ATTACHMENT C

M. Tuberculosis Exposure Evaluation

Employee Employee Resident	Medical/Allied Health Staff		
Name: Age:	Date:		
Job Title:	Badge #:		
Department:	Work Phone:		
Manager:			
Address:	Home Phone:		
	Cell Phone:		
Source Patient Data:	•		
Source Patient Initials & MR#:	Room #:		
Tuberculosis infection: Suspected Confirmed			
TST placed or IGRA drawn: ☐ yes ☐ no Result:			
Sputum for AFB collected: □ yes □ no Result:			
Evaluation of Contact and Determination of Exposure/Ne <u>Mycobacterium Tuberculosis</u> is transmitted through prolonged from the respiratory mucous membranes of infected patients du procedures such as bronchoscopy or intubation. (Source: Control of Heymann, MD Editor)	d exposure to airborne droplet nuclei expelled ring coughing/sneezing/talking, and medical		
Exposure Date and Time: Has the HCW had extensive, unprotected contact (HCW not wearing a respirator(PAPR or N95) and patient not wearing a mask) with an infected patient which included: • Face to face exposure within 3 feet of symptomatic (coughing) patient • Direct contact with the patient's respiratory, oral or nasal secretions • Performed medical exam of the nose/mouth/throat, intubation, bronchoscopy, induced sputum collection, or administration of aerosolized pentamidine • Shared a confined space with symptomatic patient for > 1 hour			
 NO – If NO, STOP HERE; No further follow-up indicated YES – IF YES, Post exposure follow-up is indicated 			
HCW Information: Date of last TST / IGRA / Symptom screen: (If > 3 months, get new baseline within 1 week of TB exposure Date of last CXR (if applicable): Result			
EMPLOYEE HEALTH S	ECTION		
Exposure dates and times provided by IP:			
	onal handout given: 🛛 yes 🗖 no		
Date new baseline:			
TST read on: Induration:	mm		
□ IGRA result:			
Symptom screen: In o symptoms symptoms Date of follow-up TST / IGRA / Symptom screen: (8-10 weeks post-exposure):			
TST read on: Induration: mm			
□ IGRA result:			
□ Symptom screen: □ no symptoms □ symptoms (If TST/IGRA converts from negative to positive, get CXR and schedule MD follow-up.)			
Date of CXR: Result:			
Date of scheduled follow-up: MD:			
Occ Health Nurse Signature:	Date:		
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WIPAG welcomes your comments and feedback on these sections. For comments or inquiries, please contact:

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