

NDDA FAQs on Occupational Safety and Health Act (OSHA) Guidance for Dentistry
Workers and Employers
May 15, 2020

Q: Does the May 1, 2020 release of the [OSHA Guidance for Dentistry Workers and Employers](#) change any previous regulations and consequential enforcement?

A: No, this guidance document does NOT establish new requirements. It is offered as guidance only.

Q: What is the difference between a regulation and a recommendation or guidance?

A: A standard (or regulation) is a regulatory requirement established and published by the agency to serve as criteria for measuring whether employers are in compliance with the Occupational Safety and Health Act (OSHA) laws. Employers must comply with all applicable OSHA standards (regulations).

Guidance documents are not the same as standards or regulations, and create no new legal obligations. They do not alter or determine compliance responsibilities which are in OSHA standards.

Q: Is N95 mask use during aerosol generating procedures required by regulation?

A: The OSHA Respiratory Protection Standard ([29 CFR 1910.134](#)) requires respirators (i.e. masks) when there is a respiratory hazard and effective engineering controls are not feasible, or while they are being instituted.

If a dental employer's hazard assessment concludes that there will be worker exposure to airborne contaminants, including aerosols containing SARS-CoV-2 that cannot be mitigated by the controls put in place to protect them, then it's likely the respiratory protection standard would be triggered. The [OSHA Guidance for Dentistry Workers and Employers](#) notes that performing aerosol-generating procedures on *well* patients is a high risk procedure. As this document provides only guidance, it should be noted that it recommends N95s, but does not mandate use of them.

However, it does say that if a dentist treats a patient with *known* COVID-19, or a person *suspected* of having COVID-19, an N95 mask must be worn. Keep in mind that the NDDA has recommended that all member dentists not to see or care for known or suspected COVID-19 patients, as they will have screened them for common signs/symptoms and taken the patient's temperature. Patients that have symptoms raising any concerns should not be seen in standard practice settings and should be referred to the proper medical health authorities and local oral surgeons should be notified of potential patient.

Q: If an N95 mask is to be used, what else is required?

A: If the Hazard Assessment conclusion is that N95 are not required, but it still is preferred for use by the dentist or team member, the requirement to conduct the initial fit test, or the subsequent annual fit test, for employees is not required. However, the initial and annual fit tests are recommended.

If the conclusion is that the N95 is required for the particular circumstance, then the dentist is required to comply with all aspects of OSHA's respiratory protection program including the initial and annual fit test.

A seal check must be performed whenever an N95 mask is used.

Q: OSHA's guidance says you should assess the hazards that your workers may face, evaluate that risk, and select, implement and ensure employees use the controls you put in place to minimize risk. How do dentists do this?

A: OSHA has long required employers to assess occupational hazards to which their workers may be exposed. The OSHA [standards](#) for personal protective equipment (PPE) ([29 CFR 1910.132](#)) including respiratory protection ([29 CFR 1910.134](#)), have always included the requirement to conduct a hazard assessment.

So dentists must do a Hazard Assessment. This takes into consideration a number of factors, a few of which are:

- the incidence and prevalence of COVID-19 in their area
- the overall health and age of the patient
 - any co-morbidities such as heart disease, chronic respiratory diseases, cardiovascular disease, including hypertension, diabetes, obesity, chronic kidney disease and especially those on dialysis, chronic liver disease, and any immunocompromised patient
 - any current testing results for the patient
- the PPE available to the staff
- the aerosol production that will occur during any necessary procedures
- available aerosol reduction or mitigation methods, such as use of a rubber dam, availability of high speed evacuation, alternative treatment measures that might be employed

Of significance: the ADA is working with experts in the hazard assessment arena to develop a tool to aid dentists in accomplishing this task.

Q: OSHA says on its website that dentists should only be open for emergency procedures. Does that mean if my state has said dental offices can open for routine care, will dentists still be at risk of violating OSHA standards?

A: OSHA states as part of its [May 1 guidance](#) that “Employers should remain alert of changing outbreak conditions, including as they relate to community spread of the virus and testing availability, and implement infection prevention measures accordingly. As states or regions satisfy the [gating criteria](#) to progress through the phases of the guidelines for [Opening up America Again](#), employers will likely be able to adapt this guidance to better suit evolving risk levels and necessary control measures in their workplaces.”

Additionally, it may be worth noting that the CDC, which does not have regulatory authority over dental practice operations, states in its April 27 non-binding recommendation, that dental health care providers (DHCP) should regularly consult their state dental boards or other regulating agencies for requirements specific to their jurisdictions, as information is changing rapidly (see CDC’s [Dental Settings](#)).

Both of these statements indicate some deference to state and local assessments of risk evaluation that have resulted in states/locals allowing some form of return to practice beyond provision of emergency care.