



SURGICAL SMOKE

FREQUENTLY ASKED QUESTIONS

Surgical Smoke: Oversight & Regulation

1. If surgical smoke is a workplace hazard, why isn't it regulated by OSHA?

OSHA issued a Hazard Information Bulletin on the hazards of surgical smoke in 1988,¹ but there are currently no specific OSHA standards for laser/electrosurgery plume hazards. Under OSHA's general duty clause, employers are required to provide their employees with a place of employment that is "free from recognizable hazards that are causing or likely to cause death or serious harm to employees."² While employees could submit a complaint to OSHA about surgical smoke, in practice this rarely happens as employees have no assurances that an OSHA survey would result in facility-wide smoke evacuation, and instigating an OSHA survey can have unwanted consequences for both the individual and the facility.

2. Does the CDC/NIOSH recommend evacuation?

Yes, the CDC, through NIOSH, recommends evacuation. NIOSH specifically recommends that a smoke evacuator be on at all times when airborne particles are produced during all surgical or other procedures.³ Unfortunately, this recommendation is simply a recommendation, and does not require compliance.

3. Wouldn't a health care worker's illness be covered by workers' comp?

It is difficult to use a workers' compensation framework to compensate an injured employee when the injury is a result of ongoing toxic exposures. Even if an employee makes a successful claim, workers' compensation pays for medical services and usually provides disability pay at two-thirds of annual pay. Perioperative nurses do not want to become sick only to be out of work on disability at two-thirds' pay. Nurses want to preserve their health so they can continue to care for surgical patients and improve patient safety in our nation's operating rooms.

¹OSHA HAZARD INFORMATION BULLETIN, HAZARDS OF LASER SURGICAL SMOKE, April 11, 1988.

https://www.osha.gov/dts/hib/hib_data/hib19880411.html

² OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970, §5(A)(1).

³ CONTROL OF SMOKE FROM LASER/ELECTRIC PROCEDURES, DHHS (NIOSH) PUBLICATION NUMBER 96-128 (1996).

<https://www.cdc.gov/niosh/docs/hazardcontrol/hc11.html>

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4. If surgical smoke is so bad, shouldn't hospitals be afraid of malpractice liability?

The threat of malpractice liability has not solved many of the patient and health care worker safety issues in health care. For example, even with clear lines of legal responsibility, facilities still have not prevented or eliminated the 4000 surgical never-events that happen each year.

We cannot rely on the plaintiff's bar and the slow court system to protect our health care workers from the hazards of surgical smoke. Nurses should not have to become sick only to then seek recompense in a lengthy court battle. We owe all our nurses and surgical teams safe and smoke-free work environments and the time to regulate appropriately is now.

5. What does the Joint Commission say about surgical smoke? Don't they take care of this?

This bill would create a law that provides a path for the accrediting organizations, including the Joint Commission, to ensure that hospitals and ambulatory surgery centers adhere to their own policies on surgical smoke evacuation through the organization's accreditation processes.