Cases of Legionnaires’ disease are on the rise. A recent report from the Centers for Disease Control and Prevention (CDC), Vital Signs, reported a nearly 300 percent increase in reported cases since 2000 in the United States and Canada.

Healthcare facilities are at an increased risk of an outbreak due to the combination of susceptible persons on-site and the numerous water sources present. The Legionella bacterium, which grows best in warm water, can cause a lung infection that is fatal for about one in 10 persons infected. It is believed that Legionnaires’ disease occurs when a person breathes in small water droplets contaminated with the Legionella bacterium.
The CDC states that those most susceptible to contract Legionnaires’ disease include:

- Adults 50 years or older.
- Current or former smokers.
- People with chronic lung disease.
- People with a weakened immune system.

The CDC also concluded that the following were the most likely sources of Legionella in building-associated outbreaks:

- Showers and faucets.
- Cooling towers (such as large centralized AC systems).
- Hot tubs.
- Decorative fountains and water features.

**Cause of Legionella Outbreaks**

It is well-known that Legionella grows best in buildings with water systems that are not well-maintained, specifically where disinfectant levels are not sufficiently maintained and where water temperatures are high enough to support bacterium growth. Therefore, the key to prevention is a water system maintenance program that adheres to current industry standards. The goal of the CDC’s recent analysis was to identify gaps between the impacted organization’s building water system maintenance programs and industry prevention standards, such as the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) consensus standard published in 2015. The CDC identified four categories of deficiencies within an organization’s water system maintenance program that can contribute to the growth and transmission of Legionella:

1. **Process failures**—missing or inadequate protocols.
2. **Human errors**—person did not perform set protocol as expected.
3. **Equipment failure.**
4. **Unmanaged external changes**—adjustments not made to external changes (i.e. nearby construction or renovation).
Twenty-three of the outbreaks analyzed contained sufficient information to determine the deficiency(ies) which led to the Legionella outbreak. Eleven of these cases were outbreaks within healthcare facilities. For the most part, the deficiencies leading to Legionella outbreaks in healthcare facilities mirrored those within all organizations who had an outbreak reviewed by the CDC.

**Steps and Tools for Prevention of Legionella Outbreaks**

An effective water management system is the key to preventing a Legionnaires’ outbreak. “Many of the Legionnaires’ disease outbreaks in the United States over the past 15 years could have been prevented,” said CDC Director Tom Frieden, M.D., M.P.H. “Better water system management is the best way to reduce illness and save lives, and today’s report promotes tools to make that happen.”

The CDC provides suggestions and tools that building owners and managers can follow to prevent future outbreaks of Legionnaires’ disease. They include:

  - A simple [worksheet](#) to determine if any part of your building is at increased risk for Legionella
  - An overview of a Legionella water management program
  - Information on common water quality problems and response options to reduce the risk for Legionella
  - Additional insight for healthcare workers
- A link to learn more about and how to follow the [standards for Legionella water management programs](#) that was published by ASHRAE in 2015.
- Determine if the water systems in their buildings are at increased risk of growing and spreading Legionella.
- Be vigilant in monitoring your water quality particularly when there is nearby construction or when floors or wings of a building have been unoccupied for some time. **This is especially critical for healthcare facilities where failure to respond to such an external change was commonly a contributing factor to an outbreak.**
The CDC also recommends specific steps for healthcare providers to take in the prevention and spread of Legionnaires’ disease:

- Educate patients about their risk of pneumonia, including Legionnaires’ disease, and the importance of seeking care quickly if they develop symptoms.
- Test patients for Legionnaires’ disease if they have serious pneumonia, especially those who have been staying at a healthcare facility, hotel, or on a cruise ship. Use a urinary antigen test and a culture from a lower respiratory specimen (e.g., sputum).
- If a patient tests positive, report the case to public health authorities quickly.

**Risk Transfer Solutions for Liability Arising from Legionnaires’ Outbreak**

Despite the best efforts of a healthcare facility to prevent the growth of Legionella, outbreaks of Legionnaires’ disease will occur. An environmental liability insurance policy can provide a backstop to an organization’s risk management program when such outbreaks do occur. General liability policies should not be relied on for coverage as most currently attempt to avoid such claims via pollution or mold/fungi exclusionary language.

Environmental liability policies can be structured to address multiple sources of financial loss related to the growth of Legionella including:

- Third-party litigation for bodily injury and property damage—damages and defense costs.
- Disinfection and emergency response expenses.
- Evacuation, relocation and business interruption expenses.
- Crisis response (image/reputation protection and restoration).
- Civil fines and penalties.

Given the frequency of Legionnaires’ outbreaks involving nearby construction or renovation, healthcare organizations should attempt to contractually transfer risk to contractors and their subcontractors, as well as confirm that the contractors have proper environmental liability insurance coverage in place.

The environmental liability coverage, within the healthcare organizations’ overall risk financing program structure, can be complex and varies for each organization. If interested in further discussion, contact a Lockton Associate to conduct a thorough review of your exposures and develop a comprehensive environmental liability insurance program.