

Complaining With a Purpose: How To File An OSHA Complaint

NYSNA Continuing Education

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This course has been awarded 1.5 contact hours.

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How to Take This Course

Please take a look at the steps below; these will help you to progress through the course material, complete the course examination and receive your certificate of completion.

1. REVIEW THE OBJECTIVES

The objectives provide an overview of the entire course and identify what information will be focused on. Objectives are stated in terms of what you, the learner, will know or be able to do upon successful completion of the course. They let you know what you should expect to learn by taking a particular course and can help focus your study.

2. STUDY EACH SECTION IN ORDER

Keep your learning "programmed" by reviewing the materials in order. This will help you understand the sections that follow.

3. COMPLETE THE COURSE EXAM

After studying the course, click on the "Course Exam" option located on the course navigation toolbar. Answer each question by clicking on the button corresponding to the correct answer. All questions must be answered before the test can be graded; there is only one correct answer per question. You may refer back to the course material by minimizing the course exam window.

4. GRADE THE TEST

Next, click on "Submit Test." You will know immediately whether you passed or failed. If you do not successfully complete the exam on the first attempt, you may take the exam again. If you do not pass the exam on your second attempt, you will need to purchase the course again.

5. FILL OUT THE EVALUATION FORM

Upon passing the course exam you will be prompted to complete a course evaluation. You will have access to the certificate of completion **after you complete the evaluation**. At this point, you should print the certificate and keep it for your records.

Objectives

Upon completion of this course, the learner will be able to:

- Define the OSHA General Duty Clause.
- Identify worker rights and responsibilities under OSHA.
- Identify the responsibilities of employers related to workplace safety.
- List the steps necessary to document a complaint.
- Practice writing an actual complaint.

Introduction

As essential healthcare employees, nurses have the right to a safe and healthful work environment; indeed all workers have this right. That is why, in 1970, Congress passed the Occupational Safety and Health Act which requires employers to provide workplaces free from serious recognized hazards and to comply with occupational safety and health standards. The goal of the Occupational Safety and Health Administration (OSHA) is for every worker to go home whole and healthy every day. The agency was created by Congress to help protect workers by setting and enforcing workplace safety and health standards and by providing safety and health information, training and assistance to workers and employers.

In the event that the nurse identifies an existing or potential unsafe or unhealthful working condition and informs the employer, the nurse can file a complaint with OSHA provided that the employer has done little or nothing to correct the identified hazard. This course will help nurses to know their rights and responsibilities as well as the employer's responsibilities and how to prepare and file a complaint with OSHA. While this course is designed to assist the nurse with preparation of a complaint, it must be emphasized that filing a complaint is the last step in the resolution process after all attempts to resolve the issue within the facility have failed and have been documented.

About the Author

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Tom has developed and taught workshops on a State, Regional and National level on a variety of Health and Safety topics including: Vaccine Preventable Disease in Public Safety Workers, Crisis Intervention for First Responders, Emergency Preparedness for Nurses, Violence in the Workplace, Hepatitis A thru C, Infection Control, and Managing the Rehab Sector of Incident Command.

In his spare time Tom volunteers as an Assistant Chief with the Harriman Volunteer Fire Department. He also holds the position of Deputy Commander of the NY-4 Disaster Medical Assistance Team, part of the National Disaster Medical System under the Department of Homeland Security. Tom also serves on the Board of Directors for the New York State Association of Occupational Health Nurses.

How Common is the Problem of Unsafe Workplaces?

Since 1970, workplace fatalities have been reduced by half. Occupational injury and illness rates have been declining. But there is much more to do. Nearly 50 American workers are injured every minute of the 40-hour work week and almost 17 die each day.

In 2001, there were 5.2 million occupational injuries and illnesses among U.S. workers. Approximately 5.7 of every 100 workers experienced a job-related injury or illness, and 5,900 workers lost their lives on the job.

A total of 5,559 fatal work injuries were recorded in the U.S. in 2003, a small increase from the revised total of 5,534 fatal work injuries reported for 2002, according to the Census of Fatal Occupational Injuries conducted by the Bureau of Labor Statistics, U.S. Department of Labor. Despite the increase, fatal work injuries for both 2003 and 2002 were the lowest ever recorded by the fatality census, which has been conducted each year since 1992. The rate at which fatal work injuries occurred in 2003 was 4.0 fatalities per 100,000 workers, unchanged from the rate reported for 2002 (BLS, 2004).

Federal and state OSHA programs have only about 2,500 inspectors to cover 100 million workers at 6 million worksites. Workers must play an active role in spotting workplace hazards and asking their employers to correct them.

The General Duty Clause

The general duty clause is invoked whenever a more specific standard is not applicable, for example the bloodborne pathogen standard. The general duty clause is contained in Section 5 of the OSH Act of 1970. It states:

Each **employer** shall:

1. Furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.
2. Comply with occupational safety and health standards promulgated under this Act.

Each **employee** shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

Employers must meet their general duty responsibility to provide work and a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and comply with standards, rules, and regulations issued under this Act.

Employers must not discriminate against employees who properly exercise their rights under the OSH Act.

Employer Responsibilities Related to Worker Safety

Employers have certain responsibilities under the Occupational Safety and Health Act of 1970. The following list is a summary of the most important ones. The employer must:

- Provide a workplace free from serious recognized hazards and comply with standards, rules and regulations issued under the OSH Act.
- Examine workplace conditions to make sure they conform to applicable OSHA standards.
- Make sure employees have and use safe tools and equipment and properly maintain this equipment.
- Use color codes, posters, labels or signs to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Provide medical examinations and training when required by OSHA standards.
- Post, at a prominent location within the workplace, the OSHA poster (or the state-plan equivalent) informing employees of their rights and responsibilities.
- Report to the nearest OSHA office within 8 hours any fatal accident or one that results in the hospitalization of three or more employees.
- Keep records of work-related injuries and illnesses. (Note: Employers with 10 or fewer employees and employers in certain low-hazard industries are exempt from this requirement).
- Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses ([OSHA Form 300](#)).
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Provide to the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection.
- Not discriminate against employees who exercise their rights under the Act.
- Post OSHA citations at or near the work area involved. Each citation must remain posted until the violation has been corrected, or for three working days, whichever is longer. Post abatement verification documents or tags.
- Correct cited violations by the deadline set in the OSHA citation and submit required abatement verification documentation.

The Right of Employees to a Safe Workplace

You have the right to a safe workplace. OSHA requires employers to provide a workplace that is free of serious recognized hazards and in compliance with OSHA standards. The OSH Act encourages workers to be active players in their workplaces' safety and health efforts. It gives you the right to:

- Review copies of appropriate standards, rules, regulations, and requirements that the employer is required to have available at the workplace;
- Request information from the employer on safety and health hazards in the workplace, appropriate precautions to take, and procedures to follow if the employee is involved in an accident or is exposed to toxic substances;
- Gain access to relevant employee exposure and medical records;
- Request an OSHA inspection if they believe hazardous conditions or violations of standards exist in the workplace;
- Accompany an OSHA compliance officer during the inspection tour, or have an authorized employee representative do so;
- Respond to questions from the OSHA compliance officer;
- Observe any monitoring or measuring of hazardous materials and see the resulting records, as specified under the OSH Act and required by OSHA standards;
- Review or have an authorized representative review the employer's Log of Work-Related Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner;
- Object to the timeframe set by OSHA for the employer to correct a violation by writing to the OSHA area director within 15 working days from the date the employer receives the citation;
- Submit a written request to the National Institute for Occupational Safety and Health for information on whether any substance in the workplace has potentially toxic effects in the concentration being used, and, if requested, have their names withheld from the employer;
- Be notified if the employer applies for a variance from an OSHA standard, and have an opportunity to testify at a variance hearing and appeal the final decision;
- Have their names withheld from their employer, by request to OSHA, if they sign and file a written complaint;
- Be advised of OSHA actions regarding a complaint, and request an informal review of any decision not to inspect the site or issue a citation; and
- File a complaint if punished or discriminated against for acting as a "whistleblower" under the OSH Act or 13 other federal statutes for which OSHA has jurisdiction, or for refusing to work when faced with imminent danger of death or serious injury and there is insufficient time for OSHA to inspect.

Additionally, employees have the right to:

- Get training from your employer as required by OSHA standards.
- Get involved in any meetings or hearings to discuss any objections your employer has to OSHA's citations or to changes in abatement deadlines.
- File a formal appeal of deadlines for correction of hazards.
- File a discrimination complaint.
- Request a research investigation on possible workplace health hazards.

Complaining With a Purpose: How To File An OSHA Complaint

How to File an OSHA Complaint

The process by which an employee files a complaint is fairly straightforward. However, the steps that are necessary have to be followed in order to sustain a valid complaint. A complaint can be about a specific violation of an existing standard or as a complaint about a health and safety issue that is recognized as an occupational hazard that is causing or likely to cause serious harm or death.

The steps to file a complaint are:

1. Identify the issue in objective terms.
2. Gather the supporting data and evidence that substantiates the complaint.
3. Notify the employer of the issue and state a proposed resolution; also inform your nurse representative (if you are represented for collective bargaining), and the Safety Committee at your facility.
4. Document efforts to resolve the issue with management; including action or inaction on the employer's part toward resolution of the hazard.
5. Consider filing a grievance (if represented for collective bargaining) first, or along with the OSHA complaint.
6. Notify the employer that an OSHA complaint will be filed subsequent to their inaction.
7. Contact your local OSHA office for assistance in completing the Notice of Alleged Safety or Health Hazards form.
8. Notify OSHA of the complaint, in writing. Use the OSHA complaint form.
9. File the complaint with your Area OSHA Office.
10. Follow-up (phone call, accompany on a site visit, participate in post conferences).

Although putting your complaint in writing provides a useful paper trail, an employee may file a complaint through a number of means. Complaints can be filed by phone, mail, email, or fax with the nearest OSHA office; request an inspection if there are unsafe or unhealthful working conditions. When doing so, the employee may request that OSHA not reveal his or her name. If the OSHA area or state office determines that there are reasonable grounds for believing that a violation or danger exists, the office will investigate.

To file a complaint, call (800) 321-OSHA (6742); contact the nearest OSHA regional, areas, state plan, or consultation office; or file an online complaint at <http://www.osha.gov/pls/osha7/eComplaintForm.html>. The teletypewriter (TTY) number is (877) 889-5627.

Punishment for Unlawful Statements

Potential complainants also should keep in mind that it is unlawful to make any false statement, representation, or certification in any complaint. Violations can be punished under Section 17(g) of the OSH Act by a fine of not more than \$10,000, or by imprisonment of not more than 6 months, or by both.

The Steps OSHA Will Take on a Filed Complaint

OSHA evaluates each complaint to determine how it can be handled best--an off-site investigation or an on-site inspection. Workers who would like an on-site inspection must submit a written request. Workers who complain have the right to have their names withheld from their employers, and OSHA will not reveal this information. At least one of the following eight criteria must be met for OSHA to conduct an on-site inspection:

1. A written, signed complaint by a current employee or employee representative with enough detail to enable OSHA to determine that a violation or danger likely exists that threatens physical harm or that an imminent danger exists;
2. An allegation that physical harm has occurred as a result of the hazard and that it still exists;
3. A report of an imminent danger;
4. A complaint about a company in an industry covered by one of OSHA's local or national emphasis programs or a hazard targeted by one of these programs;
5. Inadequate response from an employer who has received information on the hazard through a phone/fax investigation;
6. A complaint against an employer with a past history of egregious, willful or failure-to-abate OSHA citations within the past three years;
7. Referral from a whistle blower investigator; or
8. Complaint at a facility scheduled for or already undergoing an OSHA inspection.

Phone/Fax Investigation

OSHA's phone/fax method enables the agency to respond more quickly to hazards where none of the eight criteria listed above are met or where the employee or employee representative requests the phone/fax method. OSHA telephones the employer, describes the alleged hazards and then follows up with a fax or a letter. The employer must respond within five days, identifying in writing any problems found and noting corrective actions taken or planned. If the response is adequate, OSHA generally will not conduct an inspection. The employee who filed the original complaint will receive a copy of the employer's response. If still not satisfied, the complainant may then request an on-site inspection.

- OSHA will not reveal your name if you indicate that you do not want it revealed.
 - OSHA may make a site visit (inspection of complaints) if the complaint is very serious, if the employer is uncooperative, if the employer has been cited in the past three years for a serious, willful or failure to abate hazard, or if the remedy the employer proposes is not sufficient.
 - OSHA will issue a citation and notice of penalty to the employer if the complaint has merit. Depending on the seriousness of the violation a monetary penalty will be attached.
 - OSHA will hold an informal conference at the request of the employer to discuss the citation and proposed penalties. You have a right to participate in this conference.
1. OSHA will propose a settlement of the violations based on several factors of employer compliance and willingness to abate the problem(s). The employer can either accept or contest the proposal.
- OSHA will issue an INVOICE / Debt Collection Notice for all uncontested penalties. Additionally, they will give the employer a notice of Abatement Certification form on which the employer must document the abatement which took place for each penalty.

Inspection Priorities

OSHA's top priority for inspection is an **imminent danger**--a situation where workers face an immediate risk of death or serious physical harm. Second priority goes to **any fatality** or

catastrophe—an accident that requires hospitalization of three or more workers. Employers are required to report fatalities and catastrophes to OSHA within eight hours.

Third priority is **employee complaints** and referrals. Lower inspection priorities include inspections targeted toward **high hazard industries**, planned inspections in other industries and, finally, **follow-up inspections** to determine whether previously cited violations have been abated.

Evaluating Employee Complaints

Before beginning an inspection, OSHA staff must be able to determine from the complaint that there are reasonable grounds to believe that a violation of an OSHA standard or a safety or health hazard exists. Therefore, in writing the complaint be sure to state in objective terms what you believe to be the hazard, include the specific areas where you believe the hazard exists, the duration of its existence, the number of employees affected, actual adverse or serious effects from exposure to the hazard, any objective data collected regarding the hazard and the account of efforts to resolve the hazard with your employer. If OSHA has information indicating the employer is aware of the hazard and is correcting it, the agency may not conduct an inspection after obtaining the necessary documentation from the employer.

Complaint inspections generally are limited to the hazards listed in the complaint, although other violations in plain sight may be cited as well. The inspector may decide to expand the inspection based on his/her professional judgment or conversations with workers.

Complaints are not necessarily inspected in "first come, first served" order. OSHA ranks complaints based on the severity of the alleged hazard and the number of employees exposed. That is why lower priority complaints can often be handled more quickly using the phone/fax method than through on-site inspections.

Worker Involvement in OSHA Inspections

The OSH Act gives the workers' representative the right to accompany the OSHA inspector during the inspection. The representative is chosen by the union (if there is one) or by the employees, never by the employer.

If the employees are represented by more than one union, each union may choose a representative. Normally, the representative of each union will not accompany the inspector for the entire inspection, but will join the inspection when it reaches the area where those union members work.

Workers have a right to talk privately to the inspector on a confidential basis whether or not a workers' representative has been chosen. Workers are encouraged to point out hazards, describe accidents or illnesses that resulted from those hazards and relate past worker complaints about hazards. Workers should also inform the inspector if working conditions at the time of the inspection are not the same as usually exist in the workplace.

Keeping Workers And Worker Representatives Informed

After OSHA conducts a phone/fax investigation or an on-site inspection, the agency sends a letter to the worker or worker representative who filed the complaint outlining the findings, including citations and proposed penalties. Copies of citations also must be posted by the employer at or near the site of the violation. This assures that all workers who might be exposed to a hazard are aware of it and understand the need and the schedule for correction.

The Steps the Employer Will Take on a Filed Complaint

1. Upon receipt of notification from the employee or employee representative that there exists a violation, the employer will meet with the employee(s) and cooperatively plan an abatement strategy, implement the plan and follow up.
2. Should the employer not complete step 1 and the OSHA complaint is filed and a citation is issued, the employer must post a copy of the citation in a prominent place or near the location of the violations(s) cited; it must be readily observable by all affected employees. They do not have to post the proposed monetary penalty.
3. The employer must take the necessary steps to abate the identified violations and provide OSHA with documentation verifying completion.
4. The employer may request an informal conference to discuss the citations and proposed penalties. The employer will usually request an informal conference within a 15-day period to discuss the citations, and often times can reach an amicable agreement to abate and reduce the proposed penalties.
5. The employer has to post a Notice to Employees of the requested informal conference, next to the Citation and Notification of Penalty, as soon as the time, date and place for the informal conference have been determined.
6. Within 15 days of the Citation, the employer has the right to contest all or some of the citations by providing OSHA with written notice that they contest the citation(s). (This usually happens after the informal conference has not been favorable to the employer.)
7. The employer must abate all remaining citations and pay all remaining penalties.
8. The employer **MAY NOT** take any discriminatory action(s) against any employee for filing a complaint or for exercising any rights under the OSH Act.

Rights of the Employee Regarding an OSHA Complaint

1. You have a right to make a complaint to OSHA about any condition which you believe is a health and safety hazard in the workplace.
2. You have a right to **NOT BE** discriminated against for exercising this or any other protected right under the OSH Act in which you advocate for health and safety on the job. If you believe that the employer has discriminated against you for exercising your rights, you have 30 days to file a complaint with the US Department of Labor Area Office of OSHA.
3. You have a right to participate in the informal post conference that your employer requests. You can bring with you any evidence or documentation pertinent to the citations which support the initial complaint.
4. You have a right to request an informal conference with OSHA to discuss the abatement dates established or any other issue of concern related to the complaint and abatement dates established.
5. You have a right to expect and receive employment and a place of employment that is free from hazards that are causing or likely to cause serious harm or death.
6. If the employer does not reach an agreement with OSHA and the contest goes to litigation, you have a right to file as a third party to the courts and participate as an interested third party.
7. If the employer has somehow managed to convince OSHA that it has abated the hazard and really has not, you have a right to file another complaint.

The Office of Investigative Assistance's Whistleblower Program

To help ensure that employees are, in fact, free to participate in safety and health activities, Section 11(c) of the Act prohibits any person from discharging or in any manner discriminating against any employee because the employee has exercised rights under the Act.

These rights include complaining to OSHA and seeking an OSHA inspection, participating in an OSHA inspection, and participating or testifying in any proceeding related to an OSHA inspection.

"Discrimination" can include the following actions:

- Firing or laying off
- Assigning to undesirable shifts
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denial of benefits
- Failure to hire or rehire
- Intimidation
- Transferring
- Reassigning work
- Reducing pay or hours

Any worker who believes that she or he has been punished for exercising safety and health rights must contact the nearest OSHA office within 30 days of the time they learn of the alleged discrimination. A union representative can file the 11c complaint for the worker, if applicable. The worker does not have to complete any forms. An OSHA staff member will complete the forms with the input from the employee.

Case Studies

The following 2 case studies provide the learner an opportunity to utilize content from this course in managing an unsafe work situation, outlining the steps you would take, up to and including filing a complaint if needed. Be as creative as you would like. You may take the role of the employer and respond to the employee complaint as either cooperative or not. Visit this website: <http://www.osha.gov/recordkeeping/new-osha300form1-1-04.pdf> and print 2 copies of the OSHA form. Then read each of the 2 case studies, outline how you would proceed and practice completing a form for each case study.

Case Study #1

The facility in which you work treats patients from an endemically active area for tuberculosis (TB). The employer has a written plan for TB control in which it states "all exposed or potentially exposed employees will be required to wear respiratory protection when caring for a patient with known or suspected TB." You have worked at this facility for a little over 2 years and so far have not converted on TB screening testing.

You consider yourself lucky because the facility does not actually have N95 respirators, has no written respiratory protection plan and has not done a medical clearance or fit test for use of the N95 respirators. (You are aware that the respiratory protection standard 29 CFR 1910.134 requires these components.) What they do provide are surgical masks and have arranged for one of the treatment rooms to be considered a "negative pressure" respiratory isolation room. The room so designated is never tested for negative pressure, and the door is always open.

Guidance

In making your case, you may use any or all of the guidance points here, or make up some of your own!

Employee points to be made

1. There is a written program that is not backed by action or equipment.
2. The standard is being violated because there are no medical clearances, no fit testing and the respirators are not available.
3. There has been no training.
4. Employees have repeatedly complained to one another and to the unit manager that the written program doesn't make any sense without the actions and equipment.
5. Although employees have been allowed to come to the safety meetings, they have not been given the time off the shift to attend.
6. The negative pressure room doesn't seem to actually be a negative pressure room, no one has explained it's use to the nurses.

Employer points to be made

1. There is a written program and it is up to the nurses to follow the program.
2. The facility is in compliance with the standard and the written program proves it, furthermore, no one has put a written request to replace the N95 respirators.
3. The annual employee health evaluation is what the facility uses for medical clearance, a doctor, by the standard, is not necessary for the evaluation and the employee health nurse can and does conduct the evaluation.
4. The negative pressure room is maintained by facilities management staff and the nurses do not have to get involved with its operation or function; that is not their role.
5. Safety meetings have and always will be open to any employee who wants to attend. Staff must arrange their time so as to be able to attend.

Case Study #2

Your hospital had a good Bloodborne Pathogen (BBP) plan 10 years ago, but has not reviewed it in 6 years. They are using sharps technology that you believe is at least 3 years out of date. The injury rate from sharps has risen 3% in each of the past 4 years. The evaluation committee has not met in at least 6 years. Injuries are highest in the Emergency Department, Ambulatory Surgery and Geriatric Clinic.

Administration claims to be on top of this with purchasing. They show a document that has recently been dated as reviewed and attribute the injury rate to an influx of new nurses. They so add that a recent Joint Commission on Accreditation of Healthcare Organizations (JCAHO) survey did not cite the program. However, they stated they would refer the matter to the Environment of Care (EOC) committee for review and final decision. That was 2 years ago.

As in the previous case study, attempt to complete an OSHA complaint utilizing the OSHA form. For real-life non emergency situations this form is accessible online at <http://www.osha.gov/pls/osha7/eComplaintForm.html>.

OSHA-7(Rev. 9/93)

U. S. Department of Labor Occupational Safety and Health Administration Notice of Alleged Safety or Health Hazards

This form is provided for the assistance of any complainant and is not intended to constitute the exclusive means by which a complaint may be registered with the U.S. Department of Labor.

Sec 8(f)(1) of the Williams-Steiger Occupational Safety and Health Act, 29 U.S.C. 651, provides as follows:

Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists, he shall notify the employees or representative of the employees in writing of such determination.

NOTE: Section 11(c) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

For Federal Employees

This report format is provided to assist Federal employees or authorized representatives in registering a report of unsafe or unhealthful working conditions with the U.S. Department of Labor. The Secretary of Labor may conduct unannounced inspection of agency workplaces when deemed necessary if an agency does not have occupational safety and health committees established in accordance with Subpart F, 29CFR1960; or in response to the reports of unsafe or unhealthful working conditions upon request of such agency committees under Sec.1-3,

Executive Order 12196; or in the case of a report of imminent danger when such a committee has not responded to the report as required in Sec. 1-201(h).

INSTRUCTIONS

Open the form and complete the front page as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found at the worksite. If there is any particular evidence that supports your suspicion that a hazard exists (for instance, a recent accident or physical symptoms of employees at your site) include the information in your description. If you need more space than is provided on the form, continue on any other sheet of paper. After you have completed the form, return it to your local OSHA office.

NOTE: It is unlawful to make any false statement, representation or certification in any document filed pursuant to the Occupational Safety and Health Act of 1970. Violations can be punished by a fine of not more than \$10,000. or by imprisonment of not more than six months, or by both. (Section 17(g)) Public reporting burden for this collection of information is estimated to vary from 15 to 25 minutes per response with an average of 17 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of IRM Policy, Department of Labor, Room N-3101, 200 Constitution Avenue, N.W., Wash., D.C. 20210; & to the Office of Management & Budget, Paperwork Reduction Project (1218-0064), Wash., D.C. 20503.

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES

U. S. Department of Labor, Occupational Safety and Health Administration
Notice of Alleged Safety or Health Hazards
Complaint Number _____

Establishment Name _____

Site Address _____

Site Phone _____ **Site FAX** _____

Mailing Address _____

Mail Phone _____ **Mail FAX** _____

Management Official: _____

Title: _____

Telephone: _____

Type of Business _____

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

Has this condition been brought to the attention of:

- Employer
- Other Government agency (specify) _____

Please Indicate Your Desire:

- Do NOT reveal my name to my Employer
 - My name may be revealed to the Employer
- _____

The Undersigned believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form. (Mark "X" in ONE box)

- Employee
- Federal Safety and Health Committee
- Representative of Employees
- Other (specify) _____

Complainant Name _____ Telephone _____
Address (Street, City, State, Zip) _____

Signature Date _____

If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:

Organization Name: _____ Your Title: _____

Conclusion

Nurses have the right, as provided in OSH Act of 1970 to a workplace that is free from recognized hazards that may cause, or have the potential to cause, death or serious physical harm to employees. Active participation by workers is sought in the Act; it is the right of nurses to participate in safety and health activities of the employer and to work to correct problems when they exist.

Given that occupational injuries and fatalities, although down from past years, have not been eliminated, nurses and other workers may have to file a complaint with OSHA. This course has provided the background information needed to file such a complaint, the responsibilities and rights of the employee, the responsibilities of the employer and what action can be expected from OSHA. Until the workplace is a truly safe and healthy one, this information may be critical to keep nurses safe.

References

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Complaining With a Purpose: How To File An OSHA Complaint Course Exam

After studying the downloaded course and completing the course exam, you need to enter your answers online. **Answers cannot be graded from this downloadable version of the course.** To enter your answers online, go to e-leaRN's Web site, www.elearnonline.net and click on the Login/My Account button. As a returning student, login using the username and password you created, click on the "Go to Course" link, and proceed to the course exam.

1. The Occupational Safety and Health Administration was formed in 1970 by Congress in order to protect workers from workplace safety and health hazards.
 - A. True.
 - B. False.

2. Although 5.7 of every 100 workers were injured in 2001, the fatality rates in 2002 and 2003 were the lowest ever recorded.
 - A. True.
 - B. False.

3. The General Duty clause of the OSH Act of 1970 requires that
 - A. Employers furnish to employees a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees.
 - B. Employers comply with occupational safety and health standards promulgated under the OSH Act.
 - C. Employees comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.
 - D. All of the above.

4. Employer responsibilities as outlined in OSH Act of 1970 include all the following **EXCEPT**:
 - A. Examine workplace conditions to make sure they conform to applicable OSHA standards.
 - B. Make sure employees have and use safe tools and equipment and properly maintain this equipment.
 - C. Transfer and/or assign to undesirable shifts, those employees who make a complaint to OSHA.
 - D. Report to the nearest OSHA office within 8 hours any fatal accident or one that results in the hospitalization of three or more employees.

5. An employee who files a complaint with OSHA does not have the right to accompany the investigator, nor does the employee's representative have this right.
 - A. True.
 - B. False.

6. In order for employees to participate in the safety and health activities any employee who files a complaint with OSHA has the right to be free of discrimination from the employer.
 - A. True.
 - B. False.
7. Filing a complaint with OSHA can only be done in writing utilizing a facsimile of the form that appears in this course.
 - A. True.
 - B. False.
8. When filing a complaint with OSHA, the nurse should utilize the following steps:
 - A. Identify the issue in objective terms; gather the supporting data and evidence that substantiates the complaint.
 - B. Notify employer of the issue, state a proposed resolution; also notify your union representative (if applicable) and the Safety Committee. Document efforts made or not made to resolve the issue.
 - C. File an OSHA complaint, alerting the employer of your action; seek assistance from the Area OSHA office.
 - D. All of the above.
9. When investigating a safety and health hazard, OSHA considers employee complaints a high priority. They are superseded only by situations where workers are in imminent danger or where a fatality or catastrophe has occurred.
 - A. True.
 - B. False.
10. Once the employer has been issued a citation in response to a complaint to OSHA, the employer must do all of the following **except**
 - A. Post a copy of the citation in a prominent place or near the location of the violations(s) cited.
 - B. The citation must be readily observable by all affected employees.
 - C. Post the proposed monetary penalty in the same location.
 - D. Notify the employees if they plan to contest the citation.