

Writing OSHA Complaints in a Time of Pandemic - 2020

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COVID-19: Members in Memoriam

As frontline healthcare workers, all HPAE members are valiantly serving, protecting, caring for, and healing patients during this unprecedented time, with little concern for themselves. For those who have lost their lives in the line of duty due to COVID-19, we, as your sisters and brothers in the HPAE family, honor you here.



Nancy Martell
Patient Care Technician
18 Years of Service
Local 5030 - Palisades
Medical Center



Susan Cicala
RN
8 Years of Service
Local 5089 - Northern State
Prison/Rutgers UCHC



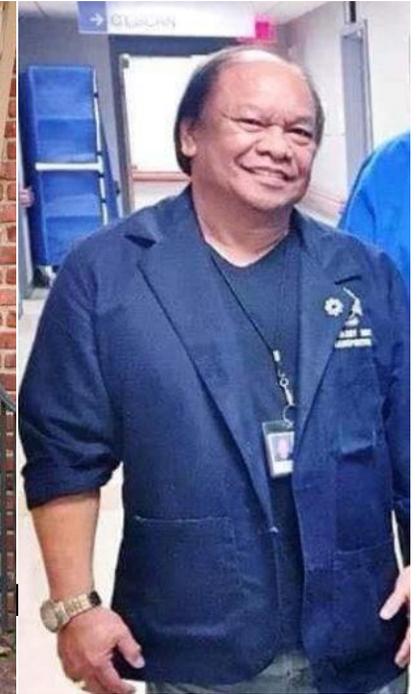
Nagi Abraham
Lab/Hematology
11 Years of Service
Local 5094 - University
Hospital



George Sisnero
Registered Nurse
31 Years of Service
Local 5089 - University
Hospital



Maria Luisa Lopez
RN
11 Years of Service
Local 5185 - Bayonne
Medical Center



Alfredo Pabatao
Transporter
18 Years of Service
Local 5030 - Palisades Medical
Center

Writing Complaints: KNOW THY REGS

➤ OSHA

- **Respiratory Protection** 29 CFR 1910.134
- **PPE** 29 CFR 1910.132
- **Hazard Communication** 29 CFR 1910.1200
- **Recordkeeping** 29 CFR 1904
- *BloodBorne Pathogen* 29 CFR 1910.1030

➤ CDC and State Recommendations

- *Mind the date- these keep changing.....*



Collect Worker Exposure Stories and Illness Information

- How were workers exposed?
- Notified by management?
- PPE used? Available?
- Tasks performed?
- Recent training?
- PPE and respirators reused?
- Storage and cleanliness?

Collect documentation:

- Texts
- Emails
- Tweets
- Formal report copies
- Photos
- Videos, recording, etc.



Collect Information from Management

- OSHA Logs

- 300s
- 300a
- 301 Incident Reports

- Collect established and new management policies and procedures – **and analyze**

OSHA's Form 300 (Rev. 01/2004)
Log of Work-Related Injuries and Illnesses

Note: You can type input into this form and save it. Because the forms in this recordkeeping package are "fillable" PDF documents, you can type into the input form fields and then save your inputs using the free Adobe PDF Reader. In addition, the forms are programmed to auto-calculate as appropriate.

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Year 20
U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0136

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

Identify the person			Describe the case			Classify the case				Enter the number of days the injured or ill worker was		Select the "Injury" column or absence case type of illness					
(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made worse. If (e.g., Second degree burn on right forearm from molten metal)	SELECT ONLY ONE box for each case based on the most serious outcome for that case				Absent from work		(M)					
						Death	Days away from work	Job transfer or restriction	Other recordable cases	(K)	(L)	(1)	(2)	(3)	(4)	(5)	(6)
Reset			month / day			<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time to review the instructions, search existing data sources, gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about this burden estimate or any other aspect of this data collection, include the OMB Department of Labor, OSHA (Office of Statistics), Arlington, VA 22201-4302, 200 Constitution Avenue, NW, Washington, DC 20535. Do not send the completed form to this office.

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Collect Information from Management

- *Formally contact management first about hazards before contacting OSHA!*
 - *Document what you did to alert the employer*
 - *Document all employer responses*

Make a TIMELINE!

- Good to have a solid understanding of the sequence of events before you have OSHA investigating your case



Find Your Witnesses

- Aim for 5 – 8 witnesses
- Trustworthy & Consistent
- Clear
 - *Provide translator as necessary*



INTERVIEW WITNESSES FIRST – Understand the Issues

- Ensure workers would be willing to speak to OSHA inspector
 - *Allowed union or worker representation during interview!*
 - *Witness names kept confidential **UNLESS IT GOES TO COURT***

Start your OSHA Complaint **LETTER**

- Send letter to Area Director of regional OSHA or State office
- Find the jurisdiction/ office location online and find Director and staff names there
- Email and snail mail
- ***LASTNAME.FIRSTNAME@DOL.GOV***



Start your OSHA Complaint **LETTER**



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- Include in letter the facility name, employer's address, head person name, phone, contact info
- Define your authority: Who are you representing at workplace?
- Define problem: What is it?
- Define impact: How many people are potentially exposed?
- Define location: Where is the hazard happening?
- Define time period: How long has it been going on?

OSHA Complaint

- **List and Describe Hazards**
- Cross reference with OSHA regulations/ plus CDC/State guidance
 - *OSHA will not enforce State regs or CDC recommendations, but it does not hurt to show what the employer is responsible for*
- Detail:
 - Where hazards are found, whether local or systemic.
 - What job titles are affected and which tasks expose them to hazard. How many people could be impacted by hazards?
 - Who has already been hurt or sickened
- **SPELL OUT ALL YOUR ABBREVIATIONS at least once**
 - *Assume nothing*

OSHA Complaints



- Consider providing your timeline
- Consider providing choice documentation in complaint letter
 - Photographs
 - Witness statements
 - Copies of email exchanges with management about the hazard
- ***Provide witness names and contact numbers***
 - ***Best time to reach them***
- ***Your name and contact information***

Tips....

- Request that OSHA open a **Formal Investigation** into the hazards alleged.
 - *Communication will all be by email and phone during the pandemic unless things change.....*
- Request that YOU are included in all Opening, Closing and Informal Conferences; and that you receive copies of OSHA's **'Notice of Alleged Violations'** sent to employer
- **Give all your contact information to OSHA, and offer to make yourself available for any needed information**
- **Help the CSHO reach and set up employee interviews going forward**
 - **MAKE SURE THEY HAPPEN - THIS IS DIFFICULT TO ACHIEVE!**

After you send in the complaint....

- Wait for confirmation or acknowledgement of receipt
- Once you know who the assigned CSHO is, call them every week or so to make sure they are on track and following through. Check in and ask them how you can help them.
- IF things seem to be getting lost, find out who the OSHA Area Directors or Deputies are in your State, and cc: your check-in correspondences to them

Follow up...follow up...follow up



HPAE OSHA/ NJ PEOSH Complaints and Outcomes

Respiratory Protection Program RPP 1910.134

- Respirators not provided as required
- RPP written program inadequate
- No medical evaluation or clearance
- No fit testing
- No documentation of fit testing
- Improper training – Missing training on:
 - End of service life indicators
 - User seal checks
 - Medical conditions that mean you cannot wear a respirator
 - Donning and doffing during COVID
 - Storage and safe reuse
 - Training not provided on worker's paid scheduled time
 - Emails are not training



HPAE OSHA/ NJ PEOSH Complaints and Outcomes

Personal Protective Equipment 1910.132

- PPE not provided
- Training on PPE was inadequate



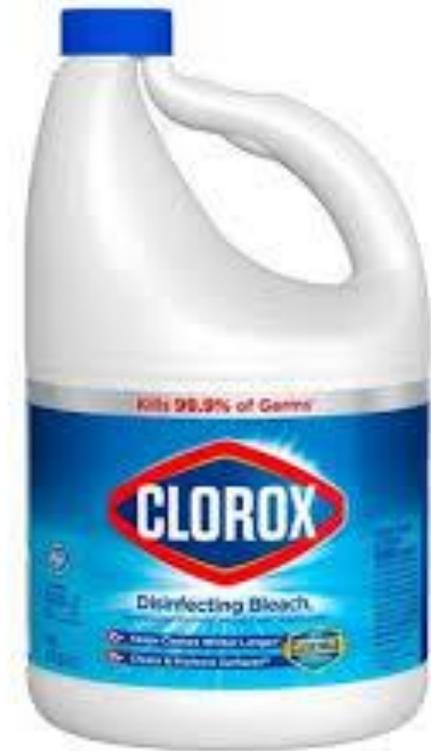
HPAE OSHA/ NJ PEOSH Complaints and Outcomes

Hazard Communication 1910.1200

- Training on chemical products was not provided

• BloodBorne Pathogens 1910.1030

- BBP plan not hazard specific or updated



HPAE OSHA/ NJ PEOSH Complaints and Outcomes



Recordkeeping 1904

- Fatalities not reported within 8 hours to OSHA
- Fatalities not included on OSHA logs
- COVID illnesses and hospitalizations not reported on OSHA logs
- (notably not included: that management did not provide OSHA log info to employee reps in a timely manner....)



Questions?



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