



NEW MEXICO
ENVIRONMENT DEPARTMENT
OCCUPATIONAL HEALTH & SAFETY BUREAU



SUSANA MARTINEZ
 Governor
 JOHN A. SANCHEZ
 Lieutenant Governor

525 Camino de los Marquez, Suite 3
 P. O. Box 5469
 Santa Fe, New Mexico 87502
 Phone (505) 476-8700 or (877) 610-6742 Fax (505) 476-8734
 www.nmenv.state.nm.us

DAVE MARTIN
 Secretary
 RAJ SOLOMAN, P.E.
 Deputy Secretary

October 1, 2011

New Mexico Occupational Health and Safety Bureau (OHSB) Directive 12-08

Subject: Local Emphasis Program (LEP) for Hospitals, Nursing Care Facilities, and Residential Care Facilities (NAICS 622110, 62311 and 623311).

- A. Purpose: This notice establishes an LEP for Health and Safety Hazards Associated with Hospitals, Nursing Care Facilities, and Residential Care Facilities (NAICS 622110, 62311 and 623311).
- B. Scope: This notice applies to the State of New Mexico OHSB.
- C. References: The following documents are referenced in or applicable to this instruction.
 - 1. New Mexico Field Operations Manual
 - 2. OSHA Instruction ADM 1-1.38, August 28, 2003, The IMIS Enforcement Data Processing Manual for use with the NCR, and subsequent changes.
 - 3. OSHA Instruction CPL 2-0.102.A, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEP).
 - 4. OSHA Instruction CPL 2-00-051, February 23, 2005, Exemptions and Limitations Under the Appropriations Act, with current Appendix A.
- D. Cancellation: This notice does not cancel any notice.
- E. Expiration: This notice expires on September 30, 2012.
- F. Action: OHSB Compliance, Compliance Assistance Specialists, and Consultation personnel will ensure that the procedures contained in this notice are followed.
- G. Background: OHSB is initiating this LEP to address high injury and illness rates in New Mexico hospitals and nursing and residential care facilities - industries that are anticipated to continue experiencing high employment growth rates and high injury and illness rates.

Information obtained from the New Mexico Department of Workforce Solutions projects employment growth between 2007 and 2017 for personal care to be 29.4% and for healthcare support to be over 20%.

Information obtained from the Bureau of Labor Statistics reveals that both the total recordable cases (TRC) and recordable cases with days away, restricted, or transferred (DART) rates are higher than the average for all industries. The TRC for Hospitals (NAICS 622) in 2009 was 6.7

compared with the state total rate of 4.8. The TRC for Nursing and Residential Care Facilities (NAICS 623) in 2009 was 9.0 compared with the state total rate of 4.8.

H. Compliance Procedures:

In FY 2012, the OHSB will conduct approximately ten (10) inspections at healthcare facilities classified by the NAICS codes 622110, 62311 or 623311; including at least one from the public sector.

1. An establishment list of employers to inspect will be created from the listing of hospitals provided by the New Mexico Hospital Association. A listing of employers in the nursing and residential care industry will be created using InfoUSA. These two lists will be used for assignments of programmed inspections.
2. Any fixed site establishment that has received a substantially complete inspection within the last three years will be deleted from the inspection cycle.
3. The list will be consecutively numbered and a random numbers table applied. The inspection cycle will consist of the first ten (10) randomly selected establishments. If a public facility is not among the 10 selected the process will be repeated to insure a public facility is chosen for inspection. Additional randomly selected establishments may be added to the list if an establishment is out of business or cannot otherwise be inspected. Comprehensive inspections will be conducted at the establishments selected.
4. OHSB reserves the right to re-inspect any establishment that has a fatality or catastrophe, or receives a complaint or referral at any time during the period covered by this notice.
5. The normal procedures described in the New Mexico Field Operation Manual will be used to conduct the inspection. In addition, the following guidelines will be followed for the special emphasis on ergonomic, bloodborne pathogen, and slips, trips, and falls issues.

a. Guidelines for ergonomic issues

Inspections of resident handling risk factors will begin with an initial process designed to determine the extent of resident handling hazards and the manner in which they are addressed. This will be accomplished by an assessment of establishment incidence and severity rates, whether such rates are increasing or decreasing over a three year period, and whether the establishment has implemented a process to address these hazards in a manner that can be expected to have a useful effect. When assessing an employer's efforts to address these hazards, the Compliance Officer should evaluate program elements, such as the following:

- i. Program Management
 - Is there a system for hazard identification and analysis?
 - Who has responsibility and authority for compliance with the system?
 - Have employees provided input in the development of the lifting, transferring, or repositioning procedures?
 - Is there a system for monitoring compliance with the policies and procedures and for following up on deficiencies?
 - Have there been recent changes in the policies or procedures and what effect have the changes had on injuries and illnesses?
- ii. Program Implementation
 - How is resident mobility determined?

- What is the decision logic for using lift, transfer, or repositioning devices?
 - Who decides how to lift, transfer, or reposition residents?
 - Is there an adequate quantity and variety of appropriate lift, transfer, or repositioning devices available?
 - Is there an adequate number of slings available of varying sizes?
 - Are the policies and procedures appropriate to eliminate or reduce exposure to the manual lifting, transferring, or repositioning hazards at the establishment?
- iii. Employee Training
- Have employees been trained in the recognition of hazards associated with manual resident lifting, transferring, or repositioning?
 - Have employees been trained in the establishment’s process for abating these hazards?
 - Can employees demonstrate competency in performing lifting, transferring, or repositioning using the assistive devices?
- iv. Citing

The General Duty Clause, Section 50.9.5 of the Act may be used if the employer did not furnish a place of employment which was free from recognized hazards that were likely to cause serious physical harm to employees who were required to perform lifting tasks resulting in stressors that have caused or were likely to cause musculoskeletal disorders (MSDs). Consider the following language:

“Evaluation of the task of manually handling residents indicates that employees are exposed to a hazard which is causing or likely to cause MSDs. Employees were required to transfer non-weight bearing and partial weight bearing residents manually by lifting or partially lifting them, exposing employees to lifting related hazards resulting in injuries and disorders such as lumbar or back strain, herniated disks, and various shoulder injuries.

OHSB has determined that one method of addressing these stressors is to implement a no manual lift policy for transferring and lifting of non-weight bearing and partial weight bearing residents. This necessitates the use of mechanical lift assist and transfer devices.”

b. Guidance for bloodborne pathogen issues

The inspection procedures to be used are described in [CPL 02-02-069](#), Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens. The Compliance Officer will evaluate the employer’s written Exposure Control Plan by assessing the implementation of appropriate engineering and work practice controls. Areas to be evaluated include:

- i. Determine which procedures require the use of a sharps and whether the employer has evaluated, selected, and is using sharps with an engineered sharps injury protection and needleless system.
- ii. Confirm that all tasks involving sharps have been evaluated for the implementation of safer devices. For example, determine whether the employer has implemented a policy requiring use of safety engineered needles for pre-filled syringes and single-use safety engineered blood tube holders.

- iii. Determine whether non-managerial employees participated in the selection of safer devices.
- iv. Determine if a safer device would compromise the outcome of a medical practice.
- v. Ensure that work practices and personal protective equipment are in place.
- vi. Assess whether regulated waste disposal is performed properly.
- vii. Evaluate the availability of hand washing or skin cleansing facilities.
- viii. Ensure that a program is in place for immediate and proper clean-up of spills, and disposal of contaminated materials, specifically for spills of blood or other body fluids.
- ix. Ensure that the employer has chosen an EPA-approved disinfectant to clean contaminated work surfaces.
- x. Determine that the employer has made available (within 10 working days of initial assignment) the hepatitis B virus vaccination series to all employees with occupational exposure to blood and other potentially infectious materials.
- xi. Ensure that employees who have contact with residents or blood and are at ongoing risk for percutaneous injuries are offered an antibody test, in accordance with the U.S. Public Health Service Guidelines.
- xii. Ensure that adequate procedures are in place for post-exposure evaluation.
- xiii. Ensure that appropriate warning labels and signs are present.
- xiv. Determine whether employees receive training in accordance with the standard.
- xv. Citing
If the employer is in violation of the Bloodborne Pathogens Standard, the employer will be cited in accordance with [CPL 02-02-069](#).

c. Guidance for slips, trips, and fall issues

The following guidance should be used for recognizing these types of hazards:

- i. Evaluate the general work environments and document hazards likely to cause slips, trips, and falls such as:
 - Slippery or wet floors
 - Uneven floors
 - Cluttered or obstructed work areas
 - Poorly maintained walkways, broken equipment
 - Inadequate lighting.
- ii. Note any policies, procedures, and or engineering controls used to deal with wet surfaces.
- iii. Citing
Where hazards are noted, the Compliance Officer should cite use subparts D and J of 29 CFR 1910.

I. Compliance Assistance Procedures

The Compliance Assistance specialist will conduct a minimum of five activities in FY12 such as:

1. Creation of an alliance with industry associations
2. Outreach activities at the annual conventions for industry associations.
3. Development and distribution of outreach materials and publications.
4. Development of materials to include on the OHSB web page.
5. Conducting informational presentations in collaboration with industry associations.

6. Conducting formal presentations and training.

J. Consultation Procedures

The OHSB Consultants will conduct a minimum of five activities in FY12 such as:

1. Participation in industry association conventions to solicit consultation requests and to distribute outreach materials.
2. Creation and distribution of a mailing which explains compliance section focus on healthcare and availability of resources to include compliance assistance and consultation services.
3. Electronic distribution of outreach materials.
4. Giving a high priority to consultation requests from healthcare facilities.
5. Conducting formal training and presentations as requested.

K. IMIS Recording:

Information pertaining to this healthcare initiative shall be recorded in the IMIS following current instructions in the IMIS manual. The identifier code will be "NURSING".

1. The identifier "NURSING" will be recorded in item 25c on the OSHA-1 form for all LEP inspections.
2. The appropriate strategic plan code "NURSING" will also be coded in block 25f of the OSHA-1, to link with the strategic plan.
3. Consultation visits completed under this initiative will be coded on the request (CONS-20, item 26) and Visit (CONS-30, item 29) as "NURSING".
4. Enforcement and Compliance Assistance interventions (OSHA-55, field 16) under this initiative, including partnerships, alliances, Voluntary Protection Programs, and other interventions, will be coded as "NURSING".
5. Consultation interventions (CONS-66, field 14) under this initiative will be coded as "NURSING".

L. Evaluation:

An evaluation of the effectiveness of this local emphasis program will be conducted at the end of FY12. An evaluation report will be written and submitted to the Bureau Chief within 30 days of the end of FY12. Elements to be considered in the evaluation include:

1. Compliance
 - a) Effectiveness of the Local Emphasis Program targeting system;
 - b) Number of establishments and/or operations inspected under the program;
 - c) Number of establishments and/or operations that appeared to be in violation of OHSB standards and/or general duty requirement of the OHS Act;
 - d) Number of employees removed from risk as a results of inspections; and,
 - e) Number of hazards abated as a result of inspections.
2. Compliance Assistance
 - a) Number of activities conducted by Compliance Assistance;

- b) Number of participants trained; and,
- c) Number of participants attending activities.

3. Consultation

- a) Number of activities conducted by the Consultation section;
- b) Number of employees removed from risk; and,
- c) Number of hazards corrected as a result of consultation.

By and Under the Authority of

Mary Uhl
Chief, Occupational Health and Safety Bureau