

U.S. Department of Labor

Occupational Safety and Health Administration
Manhattan Area Office
201 Varick Street, Room 908
New York, New York 10014
212-620-3200 Fax: 212-620-4121
OSHA Website: <http://www.osha.gov>



January 30, 2009

Greg Succop
636 Broadway, Suite 614
New York, NY 10012

RE: Complaint # 206927394

Dear Mr. Succop:

In response to your formal complaint concerning safety and/or health hazards at: **NYU College of Dentistry - Weisman Ped. Clinic 9W, 421 First Avenue, New York, NY 10010**, the Occupational Safety and Health Administration conducted an inspection there. That inspection was completed on 09/17/08.

The results of our investigation of your complaint items are as follows:

Dental assistants and faculty servicing patients in Weisman Pediatric Clinic-9W have been exposed to high levels of Nitrous Oxide.

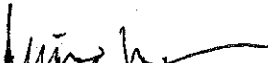
Not Valid: OSHA monitoring conducted on 09/17/08 did not reveal exposure above NIOSH's Recommended Exposure Level and ACGIH's Threshold Value Limits. However, there is evidence that a likelihood of employee overexposure could exist in the future unless certain safety precautions are implemented. There were deficiencies with regard to nitrous oxide and a Hazard Alert letter was forwarded to the employer. See attached letter.

Also, attached for your information is a copy of the OSHA-2, Citation and Notification of Penalty, which was sent to your employer on 01/30/09 and should have been posted at the workplace for at least three days after receipt.

Section 11(c) of the OSH Act provides protection for employees against discrimination because of their involvement in protected safety and health related activity. If you believe you are being treated differently or action is being taken against you because of your safety or health activity, you may file a complaint with OSHA. You should file this complaint as soon as possible, since OSHA normally can accept only those complaints filed within 30 days of the alleged discriminatory action.

Thank you for your concern for a safe and healthful workplace.

Sincerely,


Richard Mendelson
Area Director
Enclosure

U.S. Department of Labor

Occupational Safety and Health Administration
Manhattan Area Office
201 Varick Street, Room 908
New York, NY 10014
Phone: (212)620-3200 FAX: (212)620-4121
OSHA Website Address: <http://www.osha.gov>



Citation and Notification of Penalty

To:
NYU College of Dentistry - Weisman Ped. Clinic 9W
and its successors
250 Park Avenue, 6th Floor
New York, NY 10003

Inspection Number: 312497522
Inspection Date(s): 08/18/2008-11/12/2008
Issuance Date: 01/30/2009

Inspection Site:
421 First Avenue
New York, NY 10010

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

**Attn: Lisa Biagas, Senior Director for
Human Resources & Facility Services**

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please read the following paragraphs which outline your rights and responsibilities. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or , if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may call to request one with the Area Director **before** the 15 working day contest period ends. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you decide to request an informal conference, call our office at (212) 620-3200 between 8AM and 4PM for an appointment. Complete, remove and post the page 5 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest **after** the informal conference, should you decide to do so. Please keep in mind that, if you intend to contest, a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance. OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

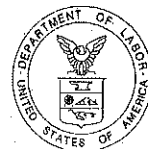
Notification of Corrective Action - For violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Area Office in writing of the abatement steps you have taken and of their dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. Attached is a letter with a form to assist you in meeting this requirement.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Internet Posting Notice: You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at "<http://www.osha.gov>". If you have any dispute with the accuracy of the information displayed, please contact this office.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 01/30/2009. The conference will be held at the OSHA office located at Manhattan Area Office, 201 Varick Street, Room 908, New York, NY, 10014 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1 Item 1a Type of Violation: **Serious**

29 CFR 1910.1020(g)(1)(i): The employer did not inform current employees upon their first entering into employment and at least annually thereafter, of the existence, location, and availability of any records covered by 29 CFR 1910.20:

a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants take dental x-rays of patients and are required to wear radiation dosimeters. The employer did not inform current employees at initial employment or annually thereafter of the existence, location and availability of x-ray dosimetry results that are collected monthly.

b) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants are exposed to nitrous oxide during administration to pediatric patients. The employer did not inform current employees at initial employment or annually thereafter of the existence, location and availability of nitrous oxide monitoring results.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated:	03/19/2009
Proposed Penalty:	\$ 2000.00

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

Citation 1 Item 1b Type of Violation: **Serious**

29 CFR 1910.1020(g)(1)(ii): The employer did not inform current employees upon their first entering into employment and at least annually thereafter, of the person responsible for maintaining and providing access to records covered by 29 CFR 1910.1020:

a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants take dental x-rays of patients and are required to wear radiation dosimeters. The employer did not inform current employees at initial employment or annually thereafter of name of the person responsible for maintaining and providing access to records covered by 1910.1020.

b) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants are exposed to nitrous oxide during administration to pediatric patients. The employer did not inform current employees at initial employment or annually thereafter of the person responsible for maintaining and providing access to records covered by 1910.1020.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated: 03/19/2009



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

Citation 1 Item 1c Type of Violation: **Serious**

29 CFR 1910.1020(g)(1)(iii): The employer did not inform current employees upon their first entering into employment and at least annually thereafter, of each employee's rights of access to the records covered by 29 CFR 1910.1020:

a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants take dental x-rays of patients and are required to wear radiation dosimeters. The employer did not inform current employees at initial employment or annually thereafter of each employee's rights of access to the records covered by 29 CFR 1910.1020.

b) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants are exposed to nitrous oxide during administration to pediatric patients. The employer did not inform current employees at initial employment or annually thereafter of each employee's rights of access to the records covered by 29 CFR 1910.1020.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated: 03/19/2009



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

Citation 1 Item 1d Type of Violation: **Serious**

29 CFR 1910.1096(n)(1): The employer did not maintain records of the radiation exposure of all employees for whom personnel monitoring is required under Paragraph (d) of this section and did not advise each employee of individual exposure on at least an annual basis:

- a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants take dental x-rays of patients and are required to wear radiation dosimeters. The employer did not maintain and/or advise each employee of individual exposure on at least an annual basis.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated: 03/19/2009



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1 Item 2a Type of Violation: Serious

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

- a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants are exposed to nitrous oxide during administration to pediatric patients. The employer has a program in place but did not implement a training program that effectively address serious health hazards as 29 CFR 1910.1200(f), (g), and (h) requires.

NOTE: THE EMPLOYER IS REQUIRED TO SUBMIT ABATEMENT CERTIFICATION FOR THIS ITEM, FAILURE TO COMPLY WILL RESULT IN AN ADDITIONAL PENALTY OF \$1000.00 AS PER 29 CFR 1903.19.

Date By Which Violation Must be Abated:	03/19/2009
Proposed Penalty:	\$ 5000.00



Citation and Notification of Penalty

Company Name: NYU College of Dentistry - Weisman Ped. Clinic 9W
Inspection Site: 421 First Avenue, New York, NY 10010

Citation 1 Item 2b Type of Violation: **Serious**

29 CFR 1910.1200(h)(1): Employees were not provided information and training as specified in 29 CFR 1910.1200(h)(2) and (3) on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard was introduced into their work area:

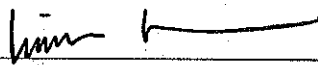
- a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

On or about 09/17/08,

Dental Assistants are exposed to nitrous oxide during administration to pediatric patients. Dental Assistants were not effectively trained on the physical and health hazards of the chemicals in their work area and the effects of exposure above the permissible exposure limits (PEL).

NOTE: BECAUSE ABATEMENT OF THIS VIOLATION IS ALREADY DOCUMENTED IN THE CASEFILE, THE EMPLOYER NEED NOT SUBMIT CERTIFICATION NOR DOCUMENTATION OF ABATEMENT OF THIS VIOLATION AS NORMALLY REQUIRED BY 29 CFR 1903.19.

Date By Which Violation Must be Abated: 03/19/2009


Richard Mendelson
Area Director

