

The OSHA General Duty Clause

Protecting workers in the absence of a regulation.

? How can I get the hospital where I work to protect me from known hazards even if there are no OSHA regulations for them?

Hospitals and other types of health care settings are considered some of the most dangerous places to work in this country. Exposure to numerous types of occupational hazards leads to work-related injury and illness rates for health care workers that compare to hazards in heavy industries such as mining, construction, and agriculture. Injuries and illness among nurses especially, although troubling enough, can lead to other problems such as short staffing, longer and extra work hours, and decreasing quality of patient care. With so many hazards threatening the health and safety of nurses, many ask what protections are in place to address them.

Employers in the health care industry are required to comply with regulations from the Occupational Safety and Health Administration (OSHA). These regulations are enforced by either a state-based OSHA or federal OSHA, depending on where you live.

Some OSHA regulations apply to health care work settings and serve to protect the health and safety of staff. For example, the OSHA Bloodborne Pathogens Standard requires health care employers to provide safer needle and sharps devices as well as offer the hepatitis B vaccine. But for many other haz-

ards in the health care workplace, such as manually lifting patients, infectious communicable agents, chemical sterilants (glutaraldehyde), and workplace violence (physical assaults), to name a few, there are currently no formal OSHA regulations. Employers, therefore, are not required to provide protective measures for these. This leaves nurses and other health care workers at high risk for exposure to these dangers and, ultimately, a work-related injury or illness.

Although OSHA regulations don't cover many existing occupational hazards in the health care workplace, workers can rely on the OSHA General Duty Clause, also known as "5(a)(1)" of the Occupational Safety and Health Act of 1970, which states that "each employer shall 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." OSHA inspectors can use the General Duty Clause to cite employers for an occupational hazard not addressed by OSHA.

For OSHA inspectors to cite an employer using the General Duty Clause, four criteria must be met:

- The employer failed to keep the workplace free of a hazard to which employees of the employer were exposed.
- The hazard was recognized.
- The hazard was causing or was likely to cause death or serious physical harm.
- There was a feasible and useful method available to correct the hazard.

The General Duty Clause is available to cover workplace hazards not specifically regulated by the federal OSHA or state OSHAS. In fiscal year 2004 the General Duty Clause was the seventh highest ranked regulation for which federal OSHA assessed the highest penalties.

Many hazards in health care workplaces remain uncontrolled despite available and effective solutions and approaches. If you notice an unregulated hazard that meets the four criteria of the General Duty Clause, it's your right to file a confidential OSHA complaint without being legally disciplined or fired. Manual patient handling is an example of a workplace hazard that could be cited for the General Duty Clause based on these four criteria: nurses are constantly exposed to manually lifting heavy patients; employers are aware that nurses perform patient lifts manually; scientific research has shown that manual patient lifts lead to back injuries and other musculoskeletal disorders; and mechanical lifting equipment is available for patient care and is cost effective. The same case can be made for other hazards as well.

Working as a nurse shouldn't be dangerous. A job taking care of the injured and ill shouldn't make you injured or ill. OSHA regulations, including the General Duty Clause, are intended to keep workers safe. They are important to ensure that health care employers care for those who care.

Complaints can be filed on the OSHA Web site:

www.osha.gov/as/opa/worker/index.html ▼

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