Citation and Notification of Penalty

To:
State of Vermont Department of Mental Health
and its successors
280 State Drive, NOB 2 North
Waterbury, VT 05671

Inspection Site:
350 Fisher Road
Berlin, VT 05602

Inspection Number: 1219448
Inspection Date(s): 02/06/2017-05/22/2017
Issuance Date: 06/08/2017

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.

This Citation and Notification of Penalty (this Citation) describes violations of the Vermont Occupational Safety and Health Act. 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 20 calendar days from your receipt of this Citation and Notification of Penalty you either call to schedule an informal conference (see paragraph below) OR you mail a notice of contest to the Vermont Department of Labor and Industry office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. 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 Board 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 request one with the VOSHA Manager during the 20 calendar day contest period. 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).

See pages 1 through 2 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.
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 a written letter of intent to contest must be submitted to the VOSHA Manager within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 3 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.

**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 VOSHA Manager in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 20 calendar days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Vermont Occupational Safety and Health Review Board and may not be reviewed by any court or agency.**

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to “VOSHA”. Please indicate the Inspection Number on the remittance. VOSHA 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 and Industry promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform VOSHA 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, copies of required programs, etc.

**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 and Industry 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.

**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 Department of Labor and Industry office at the address shown above and postmarked within 20 calendar days 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 VOSHA to discuss the Citation(s) issued on 06/08/2017. The conference will be held at the VOSHA office located at P.O. Box 488, 5 Green Mountain Drive Montpelier, VT 05601 on __________ at _________________.

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

Company Name: State of Vermont Department of Mental Health
Inspection Site: 350 Fisher Road Berlin, VT 05602

Citation 1 Item 1  Type of Violation: Serious

Vermont Statute, Title 21 Labor: Chapter 3. Safety: Occupational Health: 223. Duties: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees;

Location: VPCH Units A, B, C, D in facility located at 350 Fisher Road, Berlin, Vermont.

Violation: On or about March 3rd, 2017 on units A, B, C, and D at the Vermont Psychiatric Care Hospital employees providing inpatient care to patients were exposed to the hazard of workplace violence, including but not limited to physical assaults such as spitting, biting, kicking, punching, scratching, and choking that resulted in minor to serious physical injury.

Among other methods, feasible and acceptable means to abate the hazard of workplace violence include:

Develop and implement a written comprehensive workplace violence prevention program which should include:

a. Evaluate and modify the Pro-Act policy and the Workplace Violence policy to include the following.

i. Clear written description on how to report intimidation and verbal abuse as well as guidelines on when to call police.

ii. A clear written statement that employees will not experience retaliation for reporting incidents of threats or violence or for calling police.

iii. Information of how and where employees can seek emotional support and mental health care including after hours.

b. Development of workplace violence controls, including implementation of engineering and administrative controls and methods used to prevent potential workplace violence incidents.

i. Develop a committee of at least 50% front line employees to evaluate and determine the appropriate
number of staff needed in each unit based on acuity to ensure a safe workplace for employees. Ensure the staffing levels are met daily and on each shift.

ii. Provide all employees with a reliable and readily available means of communication that are effective throughout the facility. Develop a policy to maintain the effectiveness of the communication devices such as hand-held radios. Inform all employees of this policy. Enforce the policy as necessary.

iii. Perform a workplace hazard assessment of the units.

iv. Evaluate the need and appropriateness of devices employees can use to protect themselves during a crisis such as but not limited to blocking pads, arm guards, or other protective devices.

v. Ensure employees utilize a buddy system while providing service to patients with a history of violence.

vi. Encourage employees to promptly report all incidents regardless of severity or injury occurrence.

c. A recordkeeping system designed to report any violent incident. The reports must be in writing and maintained for review after each incident and at least annually to analyze incident trends.

i. Require and ensure that employees report all acts of violence to a supervisor or manager, regardless of severity. Investigate all violent incidents as soon as possible.

ii. Review and analyze all crisis interventions with staff involved to determine root cause, what actions worked correctly and any necessary improvements.

iii. Make any necessary changes to the patient's evaluation quickly.

iv. Implement appropriate recommendations resulting from incident investigations.

d. Determine the appropriate length of time between refresher classes and ensure employees received the training within that timeframe. Ensure refresher training includes hands on training; add training in how to break various holds and take a punch or kick. The training shall also include the employer's workplace violence prevention program, de-escalation techniques, the employer's policies and requirements for recording and documenting a patient's aggressive or assaultive behavior, and how and
when to complete an Incident Report.

e. Annual review of th

**Date By Which Violation Must be Abated:** June 27, 2017

**Proposed Penalty:** $7000.00

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

29 CFR 1910.132(a): Application. Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

Location: VPCH, Units A, B, C, D at facility located at 350 Fisher Road, Berlin, Vermont.

Violation: Employees work with patients suffering varying degrees of mental distress who often display aggressive behavior such as biting, kicking, punching. Personal Protective Equipment such as arm guards, shin guards, chest guards, mouth guards are not available and not required to be worn when dealing with patients engaging in assaultive behavior.

**Date By Which Violation Must be Abated:** June 27, 2017

**Proposed Penalty:** $7000.00

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

29 CFR 1910.132(d)(1): The employer shall assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE). If such
hazards are present, or likely to be present, the employer shall:

Location: VPCH, Units A, B, C, D at facility located at 350 Fisher Rd, Berlin, Vermont

Violation: Employer has not completed a workplace hazard assessment with respect to workplace assaults on employees by patients at the facility, and made a determination as to PPE required if a patient turns violent.

Date By Which Violation Must be Abated: June 27, 2017
Proposed Penalty: $0.00

Daniel A. Whipple
VOSHA Manager
INVOICE/DEBT COLLECTION NOTICE

**Company Name:** State of Vermont Department of Mental Health  
**Inspection Site:** 350 Fisher Road Berlin, VT 05602  
**Issuance Date:** 06/08/2017

**Summary of Penalties for Inspection Number:** 1219448

| Citation 1 Item 1, Serious | $7000.00  
| Citation 1 Item 2a, Serious | $7000.00  
| Citation 1 Item 2b, Serious | $0.00  
| **TOTAL PROPOSED PENALTIES:** | **$14000.00** |

To avoid additional charges, please remit payment promptly to the VOSHA office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to "VOSHA". Please indicate VOSHA's Inspection Number Number (indicated above) on the remittance. Please forward payment to:

Vermont Department of Labor  
PO Box 488  
Montpelier, VT 05601-0488

VOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Daniel A. Whipple  
VOSHA Manager  
6/9/2017  
Date