



## State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
P.O. BOX 386  
TRENTON, NEW JERSEY 08625-0386

PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lieutenant Governor

ROBERT ASARO-ANGELO  
Commissioner

October 31, 2018

Ellie Barbarash  
208 White Horse Pike  
Haddon Heights, NJ 08035

Re: Complaint File #C 74-01-023

Dear Ms. Barbarash:

In response to your formal complaint concerning safety and/or health hazards at:

Cornerstone Behavioral Health Hospital  
40 Watchung Way  
Berkeley Heights, NJ 07922

The Office Public Employees Occupational Safety and Health (PEOSH) conducted an inspection at the location listed above. That inspection was completed on October 15, 2018.

The results of our investigation of your complaint are enclosed for your information. These results were sent to the Public Employer and Public Employee Representative involved in that inspection.

If you do not agree with our inspection results, you may contact me for a clarification of the matter.

Thomas Lipski, Chief  
New Jersey Department of Labor and Workforce Development  
Office of Public Employees Occupational Safety and Health  
P.O. Box 386  
Trenton, NJ 08625-0386  
Ph.: (609) 984-1389

*New Jersey Is An Equal Opportunity Employer*

OFFICE OF PUBLIC EMPLOYEES' OCCUPATIONAL SAFETY & HEALTH  
(609) 984-1389 • (609) 292-3749

A review of this matter may be obtained by submitting a written statement of your position to the PEOSH Chief. The employer will be provided with a copy of such statement by certified mail. Your identity will be withheld unless you specifically request that it be revealed.

A request for review may be submitted to:

Thomas Lipski, Chief  
New Jersey Department of Labor and Workforce Development  
Office of Public Employees Occupational Safety and Health  
P.O. Box 386  
Trenton, NJ 08625-0386

Section 34:6A-45 of the Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq. provides protection for employees against discrimination because of their involvement in protected safety and health related activity. If you believe you are being treated disparately because of your safety or health related activity, you may file a complaint with PEOSH. Please be advised that PEOSH discrimination complaints must be filed within 180 days of the alleged discriminatory action.

Thank you for your interest in workplace safety and health.

Respectfully,

A handwritten signature in dark ink, appearing to read "Thomas Wilson", is written over a horizontal line.

Thomas Wilson, Assistant Chief  
PEOSH Enforcement

TL:stc

## NOTICE OF ORDER TO COMPLY

**To:**  
Edward Oatman, County Manager  
Union County  
10 Elizabethtown Plaza  
Elizabeth NJ 07207

**Inspection Number:** 1346360  
**PEOSH Number:** C 74-01-023  
**Inspection Date (s):** 08/08/2018-10/15/2018  
**Issuance Date:** 10/31/2018  
**CSHO:** S. Cobb  
**Reason:** Complaint Inspection

**Inspection Site:**  
Cornerstone Behavioral Health Hospital  
40 Watchung Way  
Berkeley Heights NJ 07922

*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.*

The enclosed Order to Comply describes violations of the Public Employees' Occupational Safety and Health Act. The violations referred to in this Order must be abated by the dates listed unless within 15 working days (excluding weekends and State holidays) from the issuance of this Order to Comply you mail a notice of intent to contest to the Department of Labor and Workforce Development at the address shown above. Please refer to the enclosed Public Employees' Occupational Safety and Health Act which outlines your rights and responsibilities and which should be read in conjunction with this form. The Order will become the Final Order if no notice of intent to contest is filed as provided for in the Act or, if contested, the Order is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Notice and the Order to Comply be posted immediately in a prominent place at or near the location of each violation 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 Order must remain posted until each violation cited herein has been abated, or for 15 working days (excluding weekends and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Office of Public Employees' Occupational Safety and Health during the 15 working day contest period by contacting the office shown above. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s).

If you are considering a request for an informal conference to discuss any issues related to the Order to Comply, a written letter of intent to contest must be submitted to the Office of Public Employees' Occupational Safety and Health within 15 working days of issuance of the Order. The contest period is not interrupted by a request for an informal conference.

If you decide to request an informal conference, the Office of Public Employees' Occupational Safety and Health will schedule the conference, which will be conducted within 30 days of receipt of the request. Employees and/or employee representatives will be notified of their right to attend the conference. The Office of Public Employees' Occupational Safety and Health will arrange for representatives of the Department of Health to conduct conferences requested from Orders to Comply issued pursuant to a certification from the Commissioner of Health that an employer violation has been determined to exist within the Department of Health jurisdiction under the Act.

Any and all supporting documentation of existing conditions as well as any abatement steps taken thus far must be brought to the conference. If conditions warrant, an informal settlement agreement, which amicably resolves this matter without litigation or contest may be entered into.

**Right to Contest** - You have the right to contest this Order to Comply. You may contest all citation items or only individual items. You may also contest abatement dates without contesting the underlying violations. **Unless you inform the Office of Public Employees' Occupational Safety and Health in writing that you intend to contest the citation(s) and/or abatement dates within 15 working days of the issuance of this Order to Comply, then this Order to Comply shall become a final order.**

**Penalties** - The Act provides that if the time for compliance with an order of the Commissioner elapses, and the employer has not made a good faith effort to comply, the Commissioner shall impose a civil administrative penalty of up to \$7,000 per day for each violation of a provision of N.J.S.A. 34:6A-25 et seq., or of a standard or regulation promulgated under that act, or of an order to comply. Any employer who willfully or repeatedly violates the requirements of this section or any standard, rule, order or regulation promulgated under that act shall be assessed a civil administrative penalty of up to \$70,000 for each violation. Penalties imposed under this section may be recovered with costs in a civil action commenced by the Commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) in the Superior Court or a municipal court, either of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the Commissioner shall constitute an additional separate and distinct offense. If this penalty remains unpaid for more than 30 days, this order shall be recorded on the Judgment docket of the Superior Court.

Penalties will be based upon factors such as gravity of the violation, the probability that an injury or illness would result from the hazard, the good faith efforts of the employer to comply, the presence of meaningful safety and health programs and the history of previous violations.

**Request to Delay Issuance of Penalty Order to Comply** – When an employer submits a request to delay the issuance of an Order to Comply establishing penalties, the employer shall submit such written request 10 calendar days prior to the abatement date(s) established in the original Order to Comply.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the New Jersey Department of Health, PEOSH Program. This certification must be sent by you prior to the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.


**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 180 days after the employee first had knowledge that such discrimination occurred, with the Office of Public Employees' Occupational Safety and Health at the address shown above.

**Employer Rights and Responsibilities** - The enclosed copy of the Public Employees' Occupational Safety and Health Act outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Notice to Employees** - The law gives an employee or an employee 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 Office of Public Employees' Occupational Safety and Health at the address shown above and postmarked within 15 working days (excluding weekends and State holidays) of the issuance of this Order to Comply.

Howard Black, Assistant Commissioner  
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief  
Office of Public Employees Occupational Safety and Health

BY:   
Thomas Wilson, Assistant Chief  
Office of Public Employees Occupational Safety and Health

**New Jersey Department of Labor and Workforce Development  
Office of Public Employees' Occupational Safety and Health  
(OPEOSH)**

**NOTICE TO EMPLOYEES**

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions (Notice) issued on 10/31/2018. The conference will be held at the OPEOSH office located at: 1 John Fitch Way, 3rd Floor, P.O. Box 386, Trenton, NJ 08625 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**Notice of Unsafe or Unhealthful Working Conditions**

**Employer Name:** Cornerstone Behavioral Health Hospital  
**Inspection Site:** 40 Watchung Way  
Berkeley Heights NJ 07922

**Inspection Number:** 1346360  
**Inspection Date:** 08/08/2018-10/15/2018  
**Issuance Date:** 10/31/2018  
**PEOSH Number:** C 74-01-023  
**CSHO:** S. Cobb  
**Reason:** Complaint Inspection

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Citation 1 Item 1      Violation: **Serious**

**N.J.S.A. 34:6A-33(a):** The employer did not provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury, physical harm or death to his employees.

In accordance with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) Directive Number CPL 02-01-058: Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence; The Office of Public Employees Occupational Safety and Health (OPEOSH) conducted an inspection due to a formal safety complaint received on August 2, 2018 regarding workplace violence within Cornerstone Behavioral Health Hospital of Union County, specifically alleging violent patients were assaulting staff.

**LOC:** Cornerstone Behavioral Health Hospital, Direct Care Providing Staff in Contact with Patients

On or before August 2, 2018, employees providing direct care services were exposed to punches, kicks, scratches, spitting, throwing of objects, and being taken down. The recordable incidents of assaults were documented by the employer on their NJOSH 300 logs of Work-Related Injuries and Illnesses.

A review of the NJOSH 300 logs of Work-Related Injuries and Illnesses provided on August 24, 2018 for years 2015, 2016, 2017 and up to and including August 8th, 2018 identified that the employer had multiple instances of serious injuries reported as a result of workplace violence related incidents (see graph below).

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

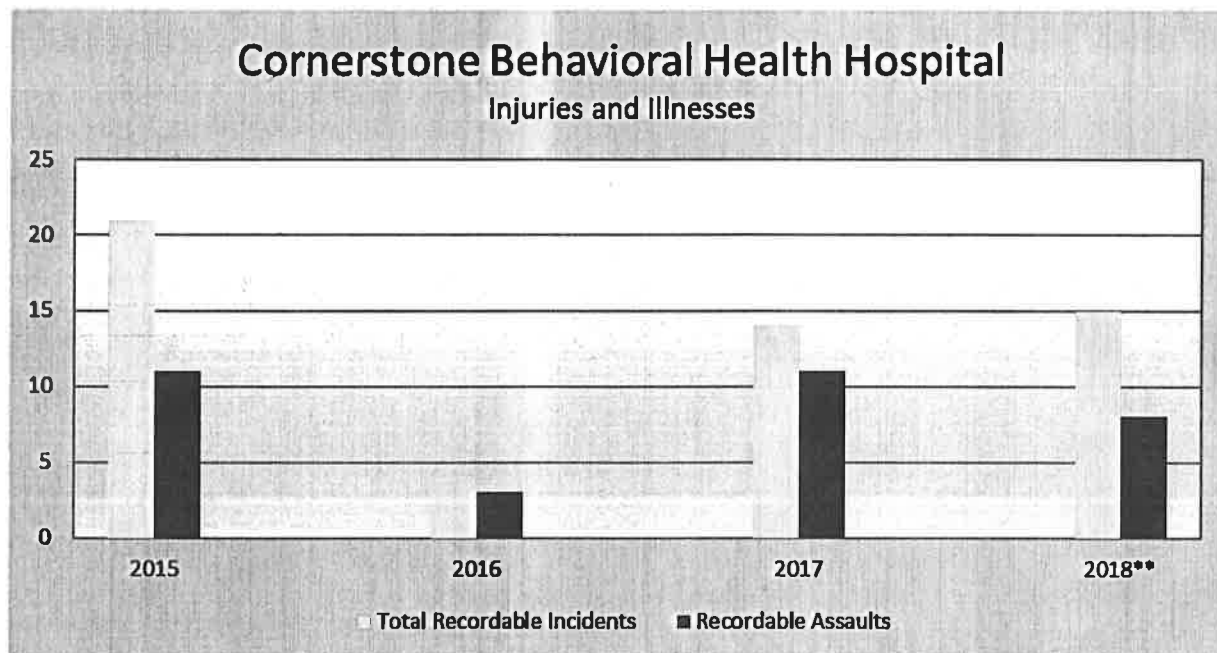
**Notice of Unsafe or Unhealthful Working Conditions**

**Employer Name:** Cornerstone Behavioral Health Hospital  
**Inspection Site:** 40 Watchung Way  
Berkeley Heights NJ 07922

**Inspection Number:** 1346360  
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**Cornerstone Behavioral Health Hospital**  
**Injuries and Illnesses\***

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018**</u>
<b>Total Recordable Incidents</b>	21	4	14	15
<b>Recordable Assaults</b>	11	3	11	8
<b>Percent of Recordable</b>				
<b>Incidents as Assaults</b>	52%	75%	79%	53%
<b>Annual Average No. of EEs:</b>	89	85	89	unknown



\* as per the provided 2015, 2016, 2017, & 2018 OSHA 300 logs of Work-Related Injuries and Illnesses

\*\* ( 15 Recordable Injuries and 8 Recordable Assaults [53%] as of 8/8/18 - Opening Conference)

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Notice of Unsafe or Unhealthful Working Conditions**

**Employer Name:** Cornerstone Behavioral Health Hospital  
**Inspection Site:** 40 Watchung Way  
Berkeley Heights NJ 07922

**Inspection Number:** 1346360  
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Although Cornerstone Behavioral Health Hospital had an existing Violence Prevention Committee in place during the PEOSH inspection, the Committee did not develop and maintain, as required, a detailed written Violence Prevention Plan that identifies workplace risks and provides specific methods that address all elements of *C.26:2H-5.17 Violence Prevention in Healthcare Facilities Act (VPHFA)*. The provided documents were general in nature and did not represent an active and living program specific to the Cornerstone Behavioral Health Hospital. Additionally, the annual 2017 Comprehensive Risk-Assessment was not performed.

**Feasible means of abatement could include, but are not limited to;**

Establishment of a Violence Prevention Program that is compliant with *C.26:2H-5.17 Violence Prevention in Healthcare Facilities Act*.

**NOTE:** Additional information is available on the Federal Occupational Safety and Health Administration's (OSHA) new webpage in reference to Workplace Violence Prevention in Healthcare settings;

[https://www.osha.gov/dsg/hospitals/workplace\\_violence.html](https://www.osha.gov/dsg/hospitals/workplace_violence.html)

<https://www.osha.gov/Publications/OSHA3148.pdf>

As noted, the new OSHA web page was developed to provide employers and workers with strategies and tools for preventing workplace violence in healthcare settings. Workers in hospitals and other healthcare facilities face significant risks of workplace violence. Many factors contribute to this risk, including working directly with people who have a history of violence. In addition to Cornerstone Behavioral Health Hospital having an obligation to meet the requirements of *C.26:2H-5.17 Violence Prevention in Healthcare Facilities Act*, OSHA has compiled a suite of resources to help build and implement a comprehensive workplace violence program in your healthcare facility.

**ABATEMENT DOCUMENTATION REQUIRED**

**Date By Which Violation Must be Abated:**

**February 05, 2019**

**Per Diem Penalty if not Abated:**

**\$7000.00**

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**Notice of Unsafe or Unhealthful Working Conditions**

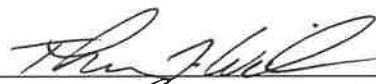
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Signed on 10/31/2018 pursuant to the authority vested by law  
in the New Jersey Department of Labor and Workforce Development.

Howard Black, Assistant Commissioner  
Division of Public Safety and Occupational Safety and Health

Through Thomas Lipski, Chief  
Office of Public Employees Occupational Safety and Health

BY:   
Thomas Wilson, Assistant Chief  
Office of Public Employees Occupational Safety and Health

DISCRIMINATORY ACTS AGAINST EMPLOYEES ARE UNLAWFUL – N.J.S.A. 34:6A-45 – No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this section. Any employee who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of this section, may within 180 days after the employee first has knowledge such violation did occur, file a complaint with the Commissioner of Labor and Workforce Development alleging that discrimination.

c: Complainant  
Howard Black, Assistant Commissioner  
Employee Representative(s)

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.