

U.S. Department of Labor

Occupational Safety and Health Administration
138 River Road
Suite 102, Shattuck Office Center
Andover, MA 01810
Phone: 978-837-4460 Fax: 978-837-4455



Notification of Failure to Abate Alleged Violations

To:
UHS of Westwood Pembroke, Inc., dba Lowell
Treatment Center
and its successors
391 Varnum Ave
Lowell, MA 01854

Inspection Site:
391 Varnum Ave
Lowell, MA 01854

Original Inspection Number: 1009746
Original Inspection Date: 11/20/2014 - 12/05/2014

Inspection Number: 1201136
Inspection Date(s): 01/05/2017 - 03/22/2017
Issuance Date: 06/29/2017

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

After the original inspection, a Citation(s) was issued to you in accordance with the provisions of the Occupational Safety and Health Act of 1970 (the Act), notifying you of certain violations of the Act and the dates by which they were to be abated. Based upon re-inspection, it is alleged that you have failed to abate the violation(s) listed below within the time prescribed, and the following additional penalties are proposed. The additional penalty is computed by multiplying a daily penalty times the number of days the violation(s) remained unabated. You are to notify the Area Director in writing of the date and nature of the corrective action taken. If you do not abate the violation(s), further penalties may be proposed and other enforcement action to compel abatement may be taken under section 11(b) of the Act.

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 Area Director of OSHA office issuing the citation and identified above. The certification **must** be sent by you within **10 calendar days** of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: 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 citations states the 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 certificate is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

You are further notified that you must pay the ADDITIONAL PENALTY unless you inform the Area Director in writing that you intend to contest the Notification or the Additional Penalty within 15 working days (excluding weekends and Federal holidays) from your receipt of this notification. If you do not contest within 15 working days after receipt, the Notification and the additional penalties will become the final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. Issuance of this Notification 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 the Notification is affirmed by the Review Commission.

Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance. You

can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Inspection Activity Data - You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with the OSHA to discuss the Notification of Failure to Abate Alleged Violations issued on 06/29/2017. The conference will be held by telephone or at the OSHA office located at 138 River Road, Suite 102, Shattuck Office Center, Andover, MA 01810 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Original Inspection Number: 1009746

Company Name: UHS of Westwood Pembroke, Inc., dba Lowell Treatment Center

Inspection Site: 391 Varnum Ave, Lowell, MA 01854

Issuance Date: 06/29/2017

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 138 River Road, Suite 102, Shattuck Office Center, Andover, MA 01810**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

NAME OF COMPANY OFFICIAL

DATE

TITLE

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review.



Notification of Failure to Abate Alleged Violation

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Inspection Number: 1201136

Original Inspection Dates: 11/20/2014 - 12/05/2014

Inspection Date(s): 01/05/2017 – 03/22/2017

Issuance Date: 06/29/2017

Company Name: UHS of Westwood Pembroke, Inc., dba Lowell Treatment Center

Inspection Site: 391 Varnum Ave, Lowell, MA 01854

Citation 1 Item 1

Section (5)(a)(1) of the Occupational Safety and Health Act of 1970: 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 in that employees were exposed to acts of workplace violence including, but not limited to: verbal threats of assault, physical assaults, choking, punches, kicks, human bites, scratches, and/or pulling of hair by patients.

Location: 391 Varnum Ave. Lowell, MA

Employees working at the UHS of Westwood Pembroke, Inc. dba Lowell Treatment Center were exposed to acts of workplace violence, including, but not limited to, verbal threats of assault, physical assaults, choking, punches, kicks, bites, scratches and/or pulling of hair. The employer's workplace violence prevention program, training, and other measures did not adequately address the hazards of verbal and physical assault that may be posed by patients.

Following the November 23, 2016 final abatement due date for the Formal Settlement Agreement, the employer continued to expose employees to the hazards of workplace violence by failing to implement the full settlement agreement. Workplace violence assaults and injuries continued to occur. During this time period there were at least three recordable injuries resulting from work place violence, including a lost time incident on December 19, 2016 resulting in 14 days away from work, when a case manager was punched repeatedly and scratched by a patient, resulting in a scratched cornea, black eye, blurred vision, head injury, and contusions and bruises to the body. On January 30, 2017 a lost time recordable injury occurred resulting from work place violence with one day away from work, when an aggressive patient kneed an employee in the stomach while being escorted and bruised the employees abdomen. On April 24, 2017, a lost time recordable injury occurred from workplace violence when a Nursing Supervisor was assaulted in the Adolescent Unit by a patient exhibiting violent behavior, which resulted in a concussion requiring the employee to lose at least 15 days away from work. Other documented cases involving workplace violence continued to occur as well, which involved punching, grabbing, charging at, etc., resulting in bruises to the face, hands, arms, back and shoulders; back, neck, and hip injury; face swelling, and breaking of eye glasses causing a black eye.



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Based on the April 12, 2016 Formal Settlement Agreement between OSHA and UHS of Westwood Pembroke, Inc. dba Lowell Treatment Center (LTC), LTC has failed to implement the full agreement and employees continue to be exposed to hazards of workplace violence.

1. **4(B)(1)(a) of the 4/12/16 Formal Settlement Agreement** - Implement and maintain a stand-alone written Workplace Violence Prevention Program that includes the following elements:

- **4(B)(1)(c)** - Review and implementation of workplace controls and prevention strategies that maximize safety and minimize the likelihood of assaultive behavior toward staff. This would include environmental surveys to identify environmental risks for staff injury such as available means of egress, items that could be used as weapons, presence of secured and/or locked rooms/units, and spaces that could pose the risk of entrapment (i.e. staff working in spaces with their backs to unlocked doors and/or staff locked and barricaded in patient rooms due to not being equipped with double hinged styled doors). Risks discovered during the survey shall be promptly remedied, e.g. unlockable doors shall be made lockable, potential weapons removed from patient access and unsafe staffing areas reconfigured, etc.;
- **4(B)(1)(d)** - Training and education of staff on the specifics of Respondent's Workplace Violence Prevention Program;
- **4(B)(1)(e)** - Investigation and debriefing after each* act of workplace violence, including root cause or similar analysis, lessons learned, and corrective actions to prevent reoccurrence. The debriefing will include offering medical care and psychological counseling for workers involved in incidents of workplace violence. Respondent shall review and evaluate all* workplace violence incident reports after each workplace violence related incident and not on a case-by-case basis.
- **4(B)(1)(g)** - Respondent shall ensure staff involvement and solicit input from its staff in all aspects of its Workplace Violence Prevention Program. In addition, Respondent shall offer to include staff as full members of the Safety Committee.

2. **4(B)(2)** - Implement and maintain a system of determining the behavioral history of new/transferred patients. Utilize a system – such as log books – to identify patients with assaultive behavior (including threats of violence) or a history of violence, and to communicate such pertinent information to potentially exposed staff.

3. **4(B)(4)** - Implement and maintain training to ensure all* staff are aware of the Workplace Violence Prevention Program, and how that Program can be readily accessed. Training shall be conducted for all* staff; including but not limited to doctors that perform work on the units, at initial orientation and annually as refresher training. Training shall include;



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- **4(B)(4)(b)** - training staff, using a training program, on effective methods for responding during a workplace violence incident, involving a patient or other person;
- **4(B)(4)(c)** - training affected staff to recognize patients or others who are exhibiting aggressive behavior, and on techniques for timely de-escalating the behavior and what protective measures to take in cases where de-escalation is not sufficiently effective, to be provided with sufficient frequency and with hand-on exercises, practice drills, and worst-case scenarios drills, to improve staff skills and confidence in these areas;
- **4(B)(4)(d)** - instructing staff about risk factors that cause or contribute to assaultive behaviors;
- **4(B)(4)(f)** - ensuring staff are familiar with Respondent's procedures to be applied when confronted with an incident of workplace violence.

3. **4(B)(5)** - Maintain in good and working order sufficient numbers of communication devices such as two-way radios, walkie-talkies, duress/panic alarms, or other similar devices, in order to provide all* staff with a reliable way to rapidly summon assistance when needed at any time or place. Respondent shall ensure that such devices are available for each direct care worker on each shift so that there is one such device for each direct care staff member, with sufficient spare equipment available for immediate replacement in case equipment becomes inoperable during a shift.

Note: * Underline = emphasis added

Reference the above violation description for abatement.

Additional Penalty:

\$ 197,730.00

A handwritten signature in black ink, appearing to read "Anthony Covello", is written over a horizontal line.

Anthony Covello
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
138 River Road
Suite 102, Shattuck Office Center
Andover, MA 01810
Phone: 978-837-4460 Fax: 978-837-4455



INVOICE / DEBT COLLECTION NOTICE

Company Name: UHS of Westwood Pembroke, Inc., dba Lowell Treatment Center
Inspection Site: 391 Varnum Ave, Lowell, MA 01854
Issuance Date: 06/29/2017

Summary of Additional Penalties for Inspection Number	1009746
Follow up Inspection Number	1201136
TOTAL ADDITIONAL PROPOSED PENALTIES	\$ 197,730.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on [OSHA Penalty Payment Form](#). The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

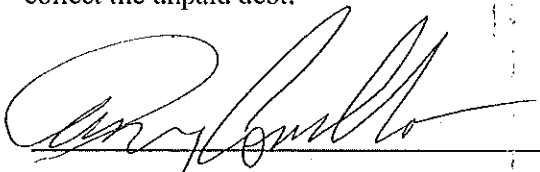
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

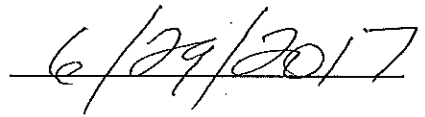
Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice to contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed occurring from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Anthony Covello
Area Director



Date

Este documento es muy importante. Si ud. No habla inglés,
busque un traductor o llame al (978) 837-4460.

U.S. Department of Labor

Occupational Safety and Health Administration
138 River Road Suite 102, Shattuck Office Center
Andover, MA 01810
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June 29, 2017

Dear Kerry McClure Gauthier,

On 11/20/2014, an OSHA compliance officer met with you or your representative as part of an inspection at 391 Varnum Ave Lowell, MA 01854. This letter includes the citations for the violations that were found (see summary below). Please choose one of the three options from the box to the right and complete the associated steps found on the following page **within 15 working days**. Please call us if you have any questions about the enclosed citation and/or penalties; we are here to help you choose the best option to resolve your citation as quickly as possible.

Sincerely,


Anthony Covello, Area Director

Your Citation Summary

UHS of Westwood Pembroke, Inc.
Inspection Number(s): Original Inspection
1009746 / Inspection # 1201136

Total Amount Due: \$197,730.00

**Payment Due Date: 15 working days
after receipt of
this letter**

You must correct each violation by the date listed in the Citation and Notification of Penalty. Please see the violations and the correction deadline for each violation starting on page 6.

Total Number of Violations : 1

Step 1 – Choose a Response Option and *Act within 15 working days*

Respond now before you lose the ability to discuss potential adjustments to penalty amounts and/or due dates. Please choose one option below and complete the steps on the next page.

Option #1 – Discuss with OSHA

I would like to discuss the citation with an OSHA representative. This may lead to changes in the penalty amount, due date or correction deadlines (if appropriate).

Option #2 – Correct and Pay

I agree with the citation, penalties, and correction deadlines, and do not contest.

Option #3 – Contest the Citation

I do not agree with the citation, penalties, and/or correction deadlines, and would like to contest.

Questions or Concerns?

If you have any questions or concerns regarding the citation, penalties, and/or correction deadlines, please call Shelagh Dean at 978-837-4476.

Step 2 – Complete One Option Checklist

Please post a copy of the citation at or near the place where each violation occurred, even if you plan to contest. You can use the checklist to the right to help plan your next steps. Please do not send in your checklist.

Option #1 – Discuss with OSHA

I will complete by:



1. Call: Shelagh Dean at 978-837-4476 as soon as possible to schedule a meeting with an OSHA representative that must occur **within 15 working days** of receiving this citation. Bring supporting documentation of existing conditions and corrections done thus far. If necessary, you can still contest the citation after this meeting. ****This meeting does NOT extend your 15 working day deadline to contest the citation.****

 ___ / ___

2. Fill in and post the attached "Notice to Employees OSHA Informal Conference" after scheduling meeting.

 ___ / ___

Option #2 – Correct Violations and Pay Penalty

I will complete by:



1. Correct violations, then complete and mail the attached "Certification of Corrective Action Worksheet" along with the appropriate evidence of repair (e.g. photos, purchase orders, etc.) to the OSHA office listed on the first page, **postmarked within 10 calendar days after each violation's correction deadline and include any required evidence. If these documents are transmitted by means other than mailing, the date the Agency received the documents is the date of submission.**

 ___ / ___

2. Pay the **Total Penalty** by using one of the following methods:
****Include your Inspection Number (see first page) on the payment.****

 ___ / ___

Pay Online: Search "OSHA" on www.pay.gov and complete the "OSHA Penalty Payment Form." Pay by debit, credit or Automated Clearing House (ACH) **within 15 working days**. Penalties over \$25,000 must be paid by ACH and require a Transaction ID (Call 202-693-2170 to obtain one).

Pay by Check: Mail check or money order payable to "DOL-OSHA" for the Total Penalty to the OSHA office listed on the first page **within 15 working days**.

Option #3 – Contest the Citation

I will complete by:



Mail a letter of intent to legally contest to the OSHA office listed on the first page, postmarked within **15 working days**.

 ___ / ___