

**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.

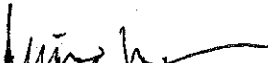
**Not Valid:** OSHA monitoring conducted on 09/17/08 did not reveal exposure above NIOSH's Recommended Exposure Level and ACGIH's Threshold Value Limits. However, there is evidence that a likelihood of employee overexposure could exist in the future unless certain safety precautions are implemented. 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

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

*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 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.

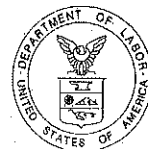
**Notification of Corrective Action** - For violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Area Office in writing of 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

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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

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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

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**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

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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:

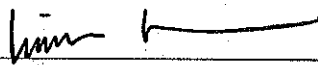
a) NYU College of Dentistry, Weisman Pediatric Clinic-9W, New York NY

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

**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:** "<http://www.osha.gov>"



## INVOICE/ DEBT COLLECTION NOTICE

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**Company Name:** NYU College of Dentistry - Weisman Ped. Clinic 9W  
**Inspection Site:** 421 First Avenue, New York, NY 10010  
**Issuance Date:** 01/30/2009

**Summary of Penalties for Inspection Number 312497522**

<b>Citation 1, Serious</b>	= \$	<b>7000.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	= \$	<b>7000.00</b>

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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.

OSHA does not agree to any restrictions or conditions 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 or conditions, or endorsements 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 or 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.

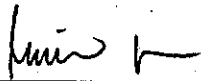
Interest charges are assessed at an annual rate determined by the Secretary of Treasury. This rate is currently 3%.

**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 the debt amount becomes due and payable (penalty due date). The current interest rate is 3%. 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 of 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 accruing 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.



Richard Mendelson  
Area Director

1/30/09  
Date

**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>



February 5, 2009

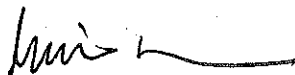
Mr. Greg Succop  
636 Broadway - Suite 614  
New York, NY 10012

Dear Mr. Succop:

This is to invite your participation in the informal conference being held at the request of NYU College of Dentistry-Weisman Ped Clinic 9W **in this office on 02/18/2009 at 11:30 a.m.**

If you have any questions, please call me at the above number.

Sincerely,

  
Richard Mendelson  
Area Director

RM:as

**Greg Succop**

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**From:** Lisa Kuhnle-Biagas [lkb5@nyu.edu]  
**Sent:** Tuesday, February 10, 2009 1:01 PM  
**To:** ucats@erols.com  
**Subject:** RE: OSHA

Hi Greg,

The Citation and Notification of Penalty was posted in the Pediatric Dentistry supply storage room, (where all sedation units are stored, and where dental assistants have access to), on Friday afternoon, February 3, 2009 at approximately 4:15 PM. As an Informal Conference has been scheduled with OSHA, page 5, the Notice to Employees of Informal Conference, has been modified to reflect the meeting date and time; Wednesday, February 18th at 11 AM. (Please note, page 5 had been posted since Friday afternoon, the meeting date and time was added at 12:30 this afternoon).

If I can be of further assistance, please call upon me at your convenience.

Thanks,

L

Lisa Biagas, EdD, MBA, MS, PHR  
Executive Director for Human Resources and Organizational Effectiveness  
New York University College of Dentistry  
Office of Human Resources and Faculty Services  
250 Park Avenue, 6th floor  
New York, NY 10003-1402  
Mail Code: 9476

T: (212) 998-9808  
F: (212) 995-4737

[lisa.biagas@nyu.edu](mailto:lisa.biagas@nyu.edu)

**CONFIDENTIALITY NOTICE:** This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this information, you are notified that any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you receive this in error, please notify the sender by reply e-mail and delete this message.

-----Original Message-----

**From:** UCATS3882 [mailto:[ucats@erols.com](mailto:ucats@erols.com)]  
**Sent:** Tuesday, February 10, 2009 12:14 PM  
**To:** 'Lisa Kuhnle-Biagas'  
**Subject:** OSHA

Lisa-

Could identify the location and confirm posting the recent OSHA citations? Additionally when did they go up?

Sincerely,

Greg Succop  
Organizer  
UCATS Local 3882

2/10/2009