



September 27, 2018

OSHA Docket Office
Docket No. OSHA-2013-0023, Room N-3653
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Submitted electronically to www.regulations.gov

Re: Tracking of Workplace Injuries and Illnesses [OSHA-2013-0023 | RIN 1218-AD17]

To Whom It May Concern:

The American Nurses Association (ANA) is pleased to comment on the Occupational Safety and Health Administration (OSHA) proposed rule “Tracking of Workplace Injuries and Illnesses”. ANA shares OSHA’s concerns regarding the potential disclosure of sensitive worker information contained in OSHA Forms 300 and 301 under the Freedom of Information Act (FOIA).¹ ANA stresses the importance of case-level data to perform root-cause analyses² to prevent incidents of workplace injuries and illnesses. As the OSHA and EPA fact sheet, “The Importance of Root Cause Analysis During Incident Investigation” states, “By conducting a root-cause analysis and addressing root causes, an employer may be able to substantially or completely prevent the same or a similar incident from recurring.” ANA encourages OSHA to maintain a robust audit process to ensure that employers take steps necessary to prevent such incidents in the future.

ANA is the premier organization representing the interests of the nation’s 4.0 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. RNs serve in multiple direct care, care coordination, and administrative leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members. ANA members also include the four advanced practice registered nurse roles (APRNs): nurse practitioners (NPs), clinical nurse

¹ American Nurses Association (2015). ANA’s Position Statement: Privacy and Confidentiality. <https://www.nursingworld.org/practice-policy/nursing-excellence/official-position-statements/id/privacy-and-confidentiality/>

² Occupational Safety and Health Administration and Environmental Protection Agency <https://www.osha.gov/Publications/OSHA3895.pdf>

specialists (CNSs), certified nurse-midwives (CNMs) and certified registered nurse anesthetists (CRNAs).³ ANA is dedicated to partnering with health care consumers to improve practices, policies, delivery models, outcomes, and access across the health care continuum.

Workplace injuries and illnesses are subjects of significant import to nurses. The rate of violence against healthcare workers has reached epidemic proportions. According to a 2012 report by the U.S. Government Accountability Office, healthcare workers in inpatient facilities experienced workplace violence-related injuries requiring days off from work at a rate at least five to twelve times higher than the rate of private sector workers overall.

Nurses are also at significant risk of occupational injuries, particularly needlestick injuries that carry a significant risk for transmission of bloodborne pathogens including Hepatitis and Human Immunodeficiency Virus (HIV),⁴ and musculoskeletal injuries associated with patient handling and movement.⁵ These risks are exacerbated by the fact that RNs experience significant barriers to reporting such incidents including the lack of awareness of a reporting system⁶, a belief that reporting will not change the current systems or decrease the potential for future incidents of violence⁷, and a lack of management and/or employer support.⁸

ANA shares OSHA's concern about potential disclosure of sensitive worker information under FOIA. ANA also appreciates OSHA's commitment to utilizing data from Form 300A to inform its targeting and enforcement activities. We do stress, however, that the case-level data from Forms 300 and 301 is critically important to actions that come from any OSHA enforcement activities. Case-level data are a crucial element in performing root-cause analyses intended to mitigate and prevent incidents of workplace illnesses and injuries. Furthermore, according to OSHA standard number 1904.8 - Recording criteria for needlestick and sharps injuries:

³ The Consensus Model for APRN Regulation defines four APRN roles: certified nurse practitioner, clinical nurse specialist, certified nurse-midwife and certified registered nurse anesthetist. In addition to defining the four roles, the Consensus Model describes the APRN regulatory model, identifies the titles to be used, defines specialty, describes the emergence of new roles and population foci, and presents strategies for implementation.

⁴ Hasak, Jessica M. et al. *Prevalence of Needlestick Injuries, Attitude Changes, and Prevention Practices Over 12 Years in an Urban Academic Hospital Surgery Department*. *Annals of Surgery*, 267(2): 291-296.

⁵ Nelson, Audrey, et al. *Safe Patient Handling and Movement: Preventing back injury among nurses requires careful selection of the safest equipment and techniques*. *American Journal of Nursing*, 103(3): 32-43.

⁶ Findorff, M., McGovern, P., Wall, M., & Gerberich, S. *Reporting violence to a health care employer: A cross-sectional study*. *AAOHN Journal*, 53(9): 399-406.

⁷ Gournay, K. *Mental Health Nursing in 2001: What happens next?* *Journal of Psychiatric and Mental Health Nursing*, 8(6): 473-476.

⁸ Privitera, M., Weisman, R., Cerulli, C., Tu X., Groman A. *Violence toward mental health staff and safety in the work environment*. *Occupational Medicine*, 55(6): 480-6.

Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in paragraphs 1904.29(b)(6) through 1904.29(b)(9)).⁹

ANA kindly requests clarification from OSHA regarding the viability to continue to require electronic submission of OSHA 300 Log for needlestick and sharp injuries, as standard 1904.8(a) requires protection of employees' privacy by way of not entering the employees name on the form. This practice would seem to protect the employee's privacy in the event of a FOIA disclosure, and the collection and reporting of this data would help to inform the future prevention of needlestick and sharps injuries.

OSHA's enforcement activities must ensure that employers with 250+ employees not only collect the case-level information on Forms 300 and 301, but that they also use this information to prevent future instances of workplace injuries and illnesses. OSHA must implement a robust auditing process to ensure that these employers collect and confidentially store the information on Forms 300 and 301 and that they utilize the data to perform root-cause analyses and implement policies to prevent instances of workplace injuries and illnesses. Doing so will address barriers to reporting and potentially prevent such incidents in the future.

ANA welcomes the opportunity to further engage with OSHA with respect to this proposed rule. If you have questions, please contact Kelly Cochran, MS, RN, Assistant Director of Health Policy, at (301) 628-5096 or kelly.cochran@ana.org, or Gregory Craig, Health Policy Advisor, at (301) 628-5395 or gregory.craig@ana.org.

Sincerely,



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cc: Pamela Cipriano, PhD, RN, NEA-BC, FAAN, ANA President
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⁹ <https://www.osha.gov/laws-regs/regulations/standardnumber/1904/1904.8>