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NEW JERSEY SUPERIOR OFFICERS ASSOCIATION

Affiliated with the Fraternal Order of Police as NJSOA Lodge 183

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Wednesday October 12, 2005

Mr. Craig L. Conway, Director
State of New Jersey
Department of Corrections
Office of Training
P. O. Box 438
Sea Girt, NJ 08750-0438

Re: Respiratory medical questionnaire

Sir,

I am in receipt of your letter dated September 28, 2005, which is in response to my concerns with regard to the confidentiality aspect of the respiratory medical questionnaires being completed by our members.

You attached a memorandum to your letter, which is directed to "Training Staff" and "Institutional Fire Marshals." You state in your September 28th letter that the issue of confidentiality of employee medical information is addressed in the aforementioned memorandum to training staff and fire marshals. You indicate that the matter of medical information confidentiality is addressed, in that your directive calls for the employee to place his medical information into a sealed envelope. However, your memorandum then directs that the employee must surrender this confidential medical information to the training department.

Also in your September 28th letter, you indicate that you are "unaware of any requirement to provide a stamped and addressed envelope to mail the questionnaire to a licensed physician in the PEOSH standards." As you are aware, the department has adopted PEOSH standards with regard to respiratory protection of our employees. However, you may not be aware that PEOSH created its program in compliance with the

Code of Federal Regulations. 29 CFR 1910.134 provides that employees will be provided with a stamped and addressed envelope for mailing the questionnaire to the physician or other licensed health care professional (PLHCP). This is also contained in PEOSH's "Respiratory Protection Model Program" booklet. I have attached a copy for your convenience. I would direct your attention to page 9, which directs that medical evaluations are administered confidentially during normal work hours. I would also direct your attention to page 24, which contains a "model policy" for medical evaluation. The next to last paragraph of this model policy directs that all affected employees will be given a copy of the medical questionnaire to fill out, along with a stamped and addressed envelope for mailing the questionnaire to PLHCP.

While I appreciate your effort to ensure the protection of our employees' confidential information, I hope that you understand our concerns with ensuring that the department complies with confidentiality standards and guidelines that already exist. In light of the fact that no one from the department can confirm the whereabouts of the medical questionnaires previously filed by DOC employees, and also the fact that the department has no policy or procedure in place for the secure storage of these confidential documents, I feel that we must be even more concerned with the security of the questionnaires.

Please review the attached PEOSH guideline, as well as pertinent OSHA standards and the Code of Federal Regulations. I again request that the department provide to each employee, a copy of the medical questionnaire, along with a stamped and addressed envelope for mailing the questionnaire to PLHCP. No non-medical personnel should have any access to the medical questionnaires.

We hope to resolve this confusion, and are prepared to assist the department in ensuring that all employees are medically evaluated so that they may utilize respiratory protection should the need arise. If you have any questions, or wish to discuss this issue further, please reach me through any of the contact information provided. I look forward to your response. Thank you for your time and attention in this important matter.

Sincerely,



Jeffrey Smith, President

CC:
Mario Iavicoli, Counsel
Membership
File