

# **Submission to the New York State Exploited Workers Advisory Committee and Task Force**

**Prepared by  
Dr. Michael Lax  
Dorothy Wigmore  
Jeanette Zoekler**

**of the**

**Occupational Health  
Clinical Centers**

**OHCC of Central New York  
204 - 6712 Brooklawn Pkwy.,  
Syracuse, NY 13211**

**OHCC of North Country  
39 W. Main St.  
Canton, NY 13617**

**OHCC of Southern Tier  
840 Upper Front St.  
Binghamton, NY 13905**

**November 16, 2015**



# 1. Introduction

## 1.1 The context

It's difficult to separate the different types of exploitation and abuse that workers face in the targeted 14 industries. Therefore, attempts to end these unjust practices must recognize and account for the tangled webs involved. Proposals for changes also need to use a gender lens, with an understanding of the racialization and nature of the low wage workforce, particularly precarious/contingent/temporary/agency work.

We know this from our experience at the Occupational Health Clinical Centers, and in the state-wide [Network](#) to which we belong. While a lot of attention has been paid to wage theft, our experiences -- and studies -- tell us that employers who cheat their employees in one way also are likely to cut corners when it comes to protecting workers' health and safety, and more. It's typically worse for racialized workers (i.e., workers of color) and women.

On the occupational health and safety (OHS) front, this happens in various ways:

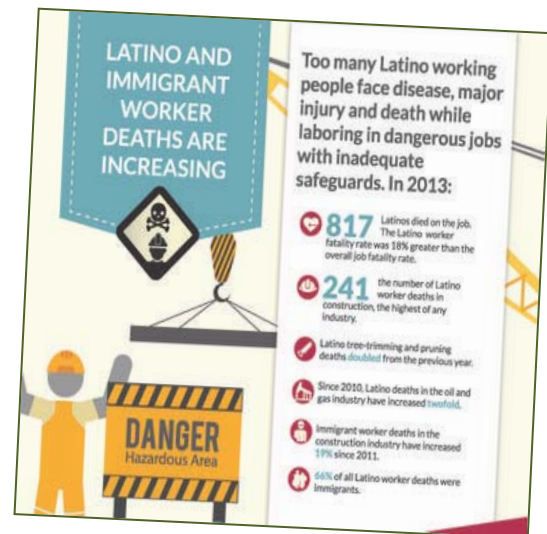
- workers -- especially those in low wage, temporary and/or vulnerable jobs -- often don't know about the hazards of their tasks or their legal rights[for lack of information and (effective) training];
- likewise, employees in the 14 sectors are commonly in the dark about resources that could help them identify and deal with job hazards, or use their rights;
- sometimes employers are in the same boat about the hazards in their workplace(s), and the most effective solutions for them;
- workers who are injured on the job, or get sick because of it, frequently do not know how to access medical care or workers' compensation;
- the workers compensation system does not deal fairly with occupational diseases in particular, claims are less likely to be accepted, and more and more injured and sick

*Despite a more-than-40-year-old legal obligation to provide safe workplaces, the unwillingness of many employers to prevent millions of work injuries and illnesses each year, and the failure of the broken workers' compensation system to ensure that workers do not bear the costs of their injuries and illnesses, are truly adding inequality to injury.*

Occupational Safety and Health Administration, [Adding inequality to injury: The costs of failing to protect workers on the job](#), 2015.

workers become poor while the public picks up most of the costs of treating and assisting them;

- retaliation for asking questions about hazards, rights and/or workers compensation, or reporting problems, is common, leading to justified fears about speaking up and under-reporting of hazards, injuries, illnesses and even deaths;
- there are nowhere near the number of inspectors needed to enforce health and safety “rules” (in 2013, OSHA had one for every 86,858 workers in New York State);
- federal health-related standards and penalties issued by federal and state agencies are totally inadequate, compared to what other agencies can do;
- Latino and immigrant worker deaths (and injuries) are increasing and New York State was fourth highest for foreign-born worker fatalities in 2013 at 60; and
- there are not enough unions, other organizations, or advocates to represent and speak up with and for these workers.



As we said earlier this year in *Healthy work in Syracuse? Conversations with low-wage workers*, low wage jobs have more hazards than higher-paying ones. “The resulting fatalities, injuries and illnesses force burdens on workers and their families. Increasing the proportion of low-wage jobs contributes directly to higher rates of chronic disease and disabling pain in the working population.” (Page 9 of the [report](#)).

As that 2015 report about low age workers, and a previous one from [2014](#), make clear, we also must acknowledge that it is difficult to separate working conditions from the larger social context of workers’ lives.

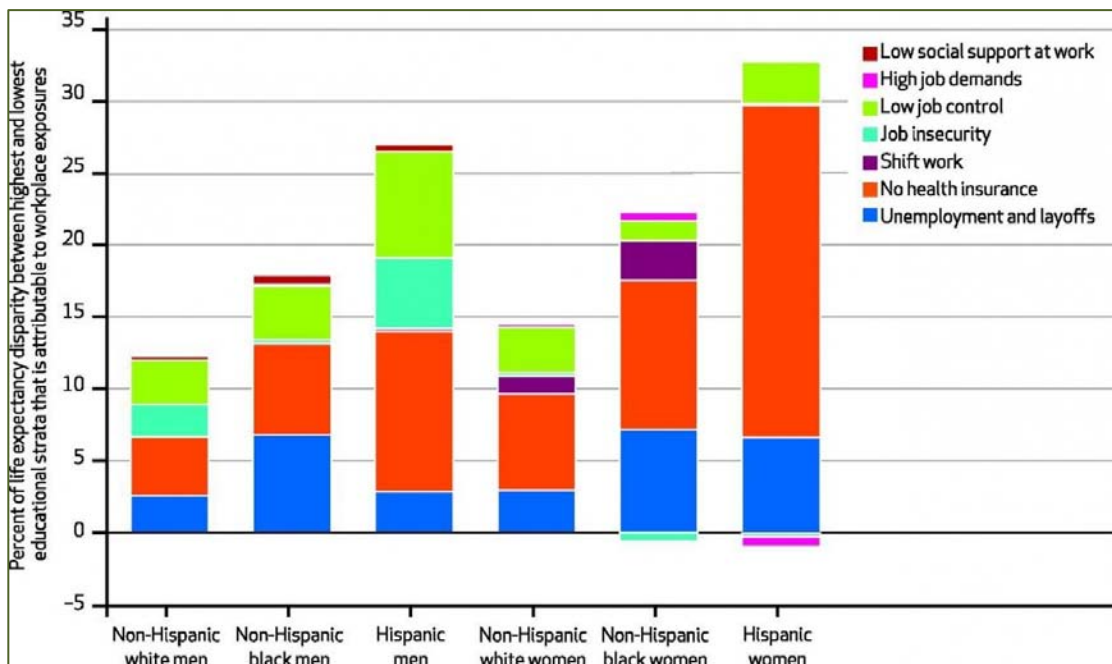
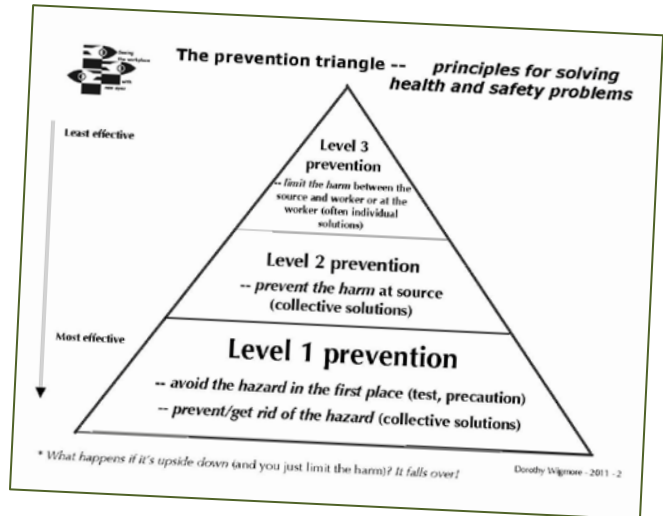
## 1.2 Prevention is the goal

As public health practitioners -- and as part of the Clinic Network -- we focus on preventing job-related injuries, illnesses, diseases and deaths.

Prevention is explained in the triangle (right), a visualization of the well-recognized principle of tackling hazards. Note the language used. Prevention is not about “controlling” a hazard (so that it is still there);

it is about avoiding and limiting harm. It's the public health approach of aiming for the most effective solutions. They protect the most people by preventing or getting rid of hazards. Limiting harm is the least effective solution, although it's often a necessary first step.

Far from being "job killers," prevention measures have led to lots of benefits in a wide spectrum of workplaces. In fact, lack of prevention is killing workers, shortening their lives and affecting their lives in many ways. It's worse for those in low wage jobs. For example, a recent study [reported](#) in the *Washington Post* on October 28, 2015 delved into how work shortens life expectancy for many in stressful jobs (a typical situation in low wage jobs). The figure below shows the effect of the factors studied:



### 1.3 Health and safety must be part of the solutions

For all these reasons, it is imperative that the Governor's Advisory Committee and the Task Force incorporate health and safety in their proposals to improve working conditions for workers who face abuse

and exploitation in the state. We offer recommendations about what needs to be included.

The “we” is a group of people with significant collective experience advocating for workers’ health and safety. Our recommendations -- and rationales for them -- are based on that experience and the Clinic’s work and experiences during the last 25-plus years. They also build on the State’s extensive governmental and community-based health and safety infrastructure, and draw on solutions implemented within the state, and elsewhere.

We start with those recommendations and short rationales for them, followed by a description of some of the barriers that led us to these solutions. We also include a few quotes from or about workers who face these injustices. In appendices, we list recommended legal remedies that the State pursue immediately, or in the longer-term (Appendix 1), and organizational resources within the state that are, or could be, used to deal with health and safety issues, especially in the Upstate area (Appendix 2). The final part of our submission (Appendix 3) lists some of the studies, reports and documents that inform our recommendations.

Please note that the tight deadline to submit recommendations prevented us from preparing a more thorough and complete set of proposals. We will provide more details and follow up with workers’ stories and other materials that illustrate and add to our points. We also will support submissions from other advocacy organizations (e.g., the Workers Justice Center) not focused on OHS.

**The OHCC is part of a network of occupational health clinic centers established by New York State in 1987.** The Network was created to respond to a serious need for clinical resources to diagnose, treat, and prevent occupational diseases.

A remarkable organizing effort led by New York's labor unions in coalition with academics, public health professionals, safety and health activists convinced the state legislature to fund a study of the problem of occupational disease. When that study showed the high incidence of work related deaths and illnesses, the large number of New Yorkers exposed to hazardous conditions, the tremendous costs associated with work related disease, and the lack of medical providers trained in occupational medicine, the legislature provided funding for the statewide network.

The funding came from a small surcharge on the Worker's Compensation insurance payments made by employers.

[http://ohccupstate.org/about\\_history.cfm](http://ohccupstate.org/about_history.cfm)

## 2. Approaches to prevention -- Recommendations to prevent health and safety exploitation and abuse of workers

### 2.1 Improve enforcement

1. Increase funding, staffing levels and other resources for State agencies that enforce relevant current regulations and laws. Start by restoring recent cuts. After developing the overall program to prevent abuse and exploitation in these sectors, determine what additional staff and financial resources are needed to implement the program, in consultation with staff, their representatives (and stakeholders like ourselves).

**Rationale:** Studies [show](#) that enforcement (i.e., inspections with penalties/citations) is the best way to change OHS conditions for the better. Workers' compensation, consultation activities, and the mere presence of laws and regulations do not work nearly as well.

More than 3,000 workers were cut from the State's workforce in the last several years, further reducing the State's ability to enforce current laws and regulations that reduce worker abuse and exploitation. Enforcement requires agencies have sufficient, and trained, staff; that's necessary but not sufficient. There never will be enough federal or state inspectors (e.g., OSHA needs to add 769 in New York State to achieve recommended levels, according to 2013 data). Therefore, we also recommend supplementing those numbers with worker representatives (see recommendation 2.2).

2. a. Determine which existing laws and regulations deal with wage theft, OHS, hours of work, and other working conditions, including those in the [Labor Law](#) and others administered by DOSH and the Department of Health. Ascertain where they are supplemented (or could be) by federal health and safety requirements or other regulations.
- b. Assess their relevance for:
  - low wage workers, using a lens that pays attention to women and workers of color,
  - preventing and reducing abuse and exploitation of workers in the 14 sectors, and
  - gaps in federal OSHA standards including those the agency (effectively) acknowledges in:

- [Transitioning to safer chemicals](#),
  - [Protecting temporary workers](#),
  - websites about anti-retaliation or [whistleblower](#) protection (and the related [Fairfax memo](#)), injury and illness [prevention programs](#), [record keeping](#) requirements, [young workers](#); and
  - its “Hot Topics” (on the [enforcement](#) page of its website).
- c. Do this in conjunction with reviewing the 2014 federal *Follow-up Federal Annual Monitoring and Evaluation (FAME) report* (about how well the PESH program is doing in terms of OSHA’s expectations and previous reports) for information about how well the public sector health and safety regulations are working and their relevance for (b) above.
3. Improve co-ordination among government agencies -- in the state, and with federal agencies -- that enforce workplace-related laws and regulations, and better integrate state-run and state-funded job development programs into the mix. Use methods such as [cross training](#) of state staff, regular [inter-agency meetings](#), and [inter-agency training](#) about all efforts to reduce abuse and exploitation of low wage workers. Do this in consultation with unions representing those state employees.

**Rationale:** Co-ordination among agencies -- within the state, and with federal agencies -- could ensure relevant state and county staff know more about essential OHS laws and regulations. This will build on their skills and knowledge to leverage improved protection for vulnerable workers.

For example, after abuse of 19 Latino immigrant workers by a food vendor at the New York State Fair was uncovered in 2010, representatives of state and federal agencies developed a joint plan to prevent future abuses. The workers came to regulators’ attention when two of them sought treatment at a medical facility for symptoms related to overwork and lack of breaks for proper meals and opportunities to drink fluids. The local Workers’ Center and the Occupational Health Clinical Center helped to document the extent of violations, including wage theft, living conditions, and the health and safety concerns.

Cross-training is an important step to enhance the reach of government agencies and increase their collective ability to deal with OHS issues. Numerous state and county government agencies have responsibilities that take them into workplaces.



This gives them an opportunity to interact with workers and employers, and to observe workplace conditions.

Trained staff can recognize blatant health and safety violations, if workers compensation coverage is available, and assist workers and employers to access appropriate resources. This should include information about employers' duties and workers' rights to healthy and safe jobs. As the federal agency tasked with primary responsibility to set and enforce OHS standards, the Occupational Health and Safety Administration (OSHA) is a crucial participant in these efforts (as it was in the examples cited above).

The idea is not new. California's Labor Enforcement Task Force ([LETEF](#)) targets the underground economy where immigrants frequently work. Multiple agencies work together to look for wage theft, health and safety, and employment taxes that should be paid to the state. Their sweeps are designed to prevent abuses, rather than reacting to worker complaints.

The City of San Francisco uses cross training in several ways. The Department of Public Health uses its authority to work with the City's Office of Labor Standards Enforcement (OLSE, which also enforces the paid sick leave and health care security ordinances), the state's Department of Labor Standards Enforcement (DLSE) and community-based organizations to improve employers' compliance with basic workers' rights. If the employers require a health permit to operate, the Department can start hearings to revoke it when there is an outstanding judgment for unpaid wages. The Department's Environmental Health Protection, Equity and Sustainability Branch oversees these activities. (For more details, see the "Current enforcement strategies" section of the 2013 [San Francisco Wage Theft Task Force Final Report](#).)

4. Ensure that all fines related to working conditions are effective incentives for change, whether they are for OHS, wage theft, hours of work, etc. Analyze enforcement, looking at when and how they are collected and publicized and recommend improvements to both. Ensure they are indexed to inflation, at least. Establish criminal sanctions for egregious violations of wage theft, workers compensation, health and safety and other working conditions.

**Rationale:** Fines are important incentives for employers to comply with OHS (and other work-related) laws and regulations.

Studies show that the most effective way to improve health and safety conditions is to enforce them with penalties and citations.

Given the current rates of injuries, illnesses, diseases and deaths in the state, particularly among low wage workers, the current fine structure does not provide incentives for meaningful changes. The *Labor Law* fines definitely need to be increased. It is important that the Advisory Committee and Task Force propose a quick examination of the current fine structure with instructions to update it and make it effective. The latter requires fines to be collected (i.e. enforcement) and publicized as OSHA does with its press releases about its enforcement activities.

Fines could provide income to support community-based or worker advocacy organizations. They can come in a variety of ways, including those possible under various articles of the *Labor Law*. For example, the criminal penalty for failing to train workers properly about toxic substances under article 28 of the *Labor Law* says:

*Any person who willfully and intentionally violates the provisions of this article is guilty of a misdemeanor and upon conviction shall be punished, for a first offense, by a fine of not more than five hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a subsequent offense by a fine of not more than one thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.*

5. Make the OHS complaint process accessible, simple, and non-threatening, especially for those who fear retribution.

**Rationale:** The complaint process needs to be reviewed to make it easier for workers to make a complaint about workplace conditions. They should be able to make complaints anonymously to minimize possible retribution. State staff need to know and tell workers about their rights under OSHA and deadlines for complaints (which are very tight at the moment).

In addition, whistleblower protection should be reviewed, strengthened, and complement federal provisions. (Federal OSHA is in the process of doing this for general purposes, having just revised the rules for transportation workers.)

## 2.2 Build and support community-based health and safety infrastructure

1. Enlist community-based worker advocacy groups and the Occupational Health Clinic Network to supplement enforcement and education to prevent exploitation and abuse of low wage workers. Give them rights (standing) to represent and speak on behalf of workers who can't easily do so, whether it's for making complaints, inspections, hearings, representing workers' voices in workplace discussions to identify hazards, fix them and evaluate the effectiveness of those "fixes", or having access to information (e.g., data sheets, injury report logs, monitoring results) that a "worker representative" is entitled to receive.

**Rationale:** OSHA recently [recognized](#) the key role that community based worker advocacy groups play for workers in non-union workplaces. Organizations such as worker centers and Coalition/Committee for Occupational Safety and Health (COSH) groups can participate in the OSHA complaint and protection process, file complaints for workers, accompany the OSHA inspector for an inspection, and participate in post-inspection conferences.

These kinds of groups need a similar standing with State agencies for the same reasons OSHA recognizes: to give a voice to workers who often are too intimidated to speak out on their own and provide resources to which they are entitled when they want to improve their working conditions.

OHCN staff also need standing, particularly to get workplace access and information about hazards, inspections, etc. This would enable them to properly assist patients (or those who don't want to become one) and their employers to prevent and reduce injuries, illnesses and diseases.

2. Increase capacity for the [Hazard Abatement Board's Occupational Health and Safety Training and Education Program \(OSHTEP\)](#) so they can fund far more activities to reach and represent low wage workers to identify and prevent job-related injuries and illnesses. Fund community-based worker advocacy groups, so they can hire more staff, offer more workshops and are better equipped to represent and advocate for workers' health and safety in particular. The Occupational Health Clinic Network (OHCN) also needs more funds for preventive outreach and education.

**Rationale:** The state established the Hazard Abatement Board (which funds OSHTEP) and the OHCN in the late 1980s, as part of its efforts to prevent occupational disease in particular.

OSHTEP awards enable groups (including unions, employers, COSHs, workers' centers, and other community based groups) to educate workers and employers about workplace hazards and how to prevent and reduce them. The Board also provides Capital Abatement Program grants to public employers for 75 percent of the cost of capital projects to fix workplace hazards following Public Employee Safety and Health Bureau (PESH) citations or consultants' recommendations.

Clinic medical staff diagnose job-related diseases and illnesses; other staff complement these activities with an outreach and education focus on prevention. The latter's activities are constrained by limited funding and difficulties reaching low wage workers without union representation or connections to community-based worker advocacy groups.

With inadequate support, groups such as COSHs, workers' centers, immigrant rights organizations, and farmworker rights advocacy groups have played an increasingly-important role in trying to improve OHS, alongside other workplace concerns. They do health and safety training, advocate for workers trying to access state and federal enforcement of OHS concerns, and help workers navigate the Workers' Compensation system when they are sick or injured because of their job(s). In the process, they have built trust with workers through long-term relationship building, and want to do more.

That trust and the experience and skills of these innovative programs would be invaluable in efforts to reach and provide services to workers and employers in the 14 target sectors and other low wage jobs. They can't do it without greatly-increased funding, more staff and greater mandates.

Revenue raised through fines levied by the various enforcement agencies could create a fund that would be used to support these efforts. (For an example, see Section [41.1](#) of the Alberta, Canada health and safety law, which allows fines from a prosecution to be directed towards relevant education and training programs.)

### 2.3 Increase education and outreach funding and mandates

Active outreach and education for employers and workers is crucial to the success of New York State's efforts to prevent and reduce hazards in the targeted sectors. Both need information about employers' duties, workers' rights, hazards in specific workplaces and jobs, steps to eliminate or reduce hazards, and resources about all these topics. Therefore, we recommend:

1. a. Develop effective multilingual educational materials and training programs about:
  - sector-specific hazards in all categories (i.e., safety and mechanical, chemical and mineral, ergonomic design, biological/communicable and work organization/stressors);
  - principles of prevention and short and long-term effective prevention methods;
  - employers' responsibilities; and
  - workers' rights (including OHS, no retaliation, hours of work, pay "rules", etc., whether county, state or federal).
- b. Ensure job development programs include the full spectrum of workers' rights and training about basic OHS principles. This should be done in consultation -- and with funded help from -- community-based worker advocacy groups as well as State agencies.

**Rationale:** Worker rights, including whistleblower protection (a.k.a. protection from retaliation), is an important element in training and education for both workers and employers.

It helps workers understand how their own efforts are critical to workplace changes to prevent or reduce hazards, and gives them an opportunity to discuss how to use their rights. Employers need training about their responsibilities and the specific laws and regulations that require their compliance. They also need to know about workers' rights, as their responsibilities flow from them.

It's important that these workshops be offered to workers without employers present, so the power imbalance does not interfere with open discussion. This should be recommended in the program materials.

There are many existing resources to draw on for these materials and programs, including the Clinic Network's outreach and

education staff, COSH groups (some of whom deliver OHS training that must be approved by OSHA under its Susan Harwood Grant program), workers' centers, and other organizations advocating for workers' rights.

2. Disseminate materials through all possible avenues including:

- State agency websites and social media;
- State agency personnel who visit workplaces;
- public libraries;
- via other outreach activities to public health and other health care providers;
- the Clinic Network;
- COSHs, workers' centers and other community-based organizations providing services to workers; and
- employer sectoral organizations.

3. Expand training capacity through increased funding for the Hazard Abatement Board Training and Education Program (OSHTEP).

**Rationale:** See recommendation 2 in section 2.2 about this.

**2.4 Improve information about hazards and injuries/illnesses in the 14 sectors (and other low wage jobs)**

1. Review current sources of injury, illness and disease data, and hazard information for the sectors, including those within the State and outside it. Develop processes and procedures to improve the State's information collection and keep it up-to-date.

**Rationale:** As Dr. Irving Selikoff used to say, "Statistics are people with the tears wiped away." To avoid the tears, it helps to have an accurate picture of those numbers.

For effective prevention, it is critical to have an accurate assessment of how many people are injured or made ill in the 14 industries, the types of injuries, illnesses, and diseases, emerging features, and past trends. Yet those studying occupational injuries, illnesses and diseases universally agree that existing systems routinely under-count workplace injuries and are extremely deficient in assessing the incidence of occupational disease and illness.

Hazard surveillance also is essential. Counting the effects of hazards is not public health; preventing them is. That's why we need to know the full range of hazards in each targeted sector.

Consequently, the State needs to systematically assess where this data currently is collected and determine (with a critical eye) how accurately it captures the actual numbers and range of hazards. In doing so, it needs to be creative; for example, census data told us that there are six nail salons in the North Country, while an internet and phone book search found 88. Once the picture is clearer, there needs to be a commitment to improving the identified deficiencies, particularly those within the State's purview.

Data collection should be linked to preventive actions as part of evaluating their effectiveness. This requires that the data be regularly updated and re-analyzed, and that the data be used to target specific problems or sectors. For example, OSHA used information from its inspections to set up Local Emphasis Programs in [Region 2](#) (which includes New York State) about a number of the sectors on the Governor's list (e.g., dairy farms, refuse handlers and haulers, construction) and about [health hazards](#) in particular.

2. Develop a system to notify employers and workers about emerging hazards or ones for which there is new information.

**Rationale:** For effective prevention of exploitation on the OHS front, the state needs at least one method to warn employers and workers of new hazards, no matter their sector. (There are low wage workers in State positions in some of the jobs/sectors on the Governor's list.) Otherwise, the workers are effectively guinea pigs or canaries.

California will soon have such a system, the result of [SB 193](#) getting through the legislative process last year. The state should look at the original version to understand what the authors truly hoped to achieve, not just the final negotiated bill. It allows a state public health agency to collect information about the supply and use of a chemical that is the subject of concern for a new or emerging hazard. They then can use that information to issue warnings about the hazard and to recommend effective protection measures. This information is not just useful to workers and employers, but to consumers as well.

## 2.5 Workers need new regulations and laws, and policies and procedures to back them up

Achieving the goals of hazard and injury/illness elimination and reduction in the 14 targeted industries requires new regulations and legislation, some of which has been suggested in the preceding sections.

We recognize that public sector workers in the state are covered by the Department of Labor's Public Employee Safety and Health (PESH) program in the Department of Occupational Safety and Health (DOSHS). OSHA has responsibility for the private sector, although they are not allowed to do anything on farms with less than 11 non-family employees (common in New York State).

Interestingly, there also are a variety of OHS-related provisions in the state's [Labor Law](#), including some that deserve particular attention.

The state can advocate for changes to OSHA's activities, programs and regulations. On its own, it can develop standards and programs for any topic that federal OSHA does not cover, or improve upon existing OSHA regulations. It has taken advantage of this with the *New York State Sharps Safety Act*, developed a safe patient handling program, and developed innovative workplace violence prevention regulations (at least for the public sector).

### 1. Develop and implement a plan to change/introduce laws and regulations about topics

recommended in Appendix 1. There are general overall ones, and specific items such as:

- updating Section 203-B of Article 7 to provide seating for all workers who regularly stand at work, a common hazard for female workers in many targeted sectors (information about the importance of this hazard is in Appendix 1);
- extending the workplace violence prevention program to schools, and then all workers (as is done in other jurisdictions); and

*In the schools within Syracuse's inner city, which naturally have a population of low wage families, we are seeing a rise in violence and students "acting out", from an employee perspective (along with a current rise in violent crimes, outside of the schools). There are many disconnects (e.g. social-economic) between the school administration and the students, the school administration and the low wage workers working for the district. Many employees (especially low-wage) are scared to report acts of violence, if not encouraged not to report.*

Occupational Safety and Health Specialist  
CSEA Central Region Office, Syracuse



- developing a working alone regulation, particularly for cleaning, farming, home health care, janitorial services, and retail workers.

**Rationale:** The State has done, and can continue to do, things to prevent and reduce the OHS hazards facing low wage workers, particularly those in the 14 targeted sectors. Realistically, many improvements require legislative, regulatory and policy/procedure changes. The recommendations build on existing resources. While some address general issues, others pertain to specific groups of workers. We recognize that some will take longer than others.

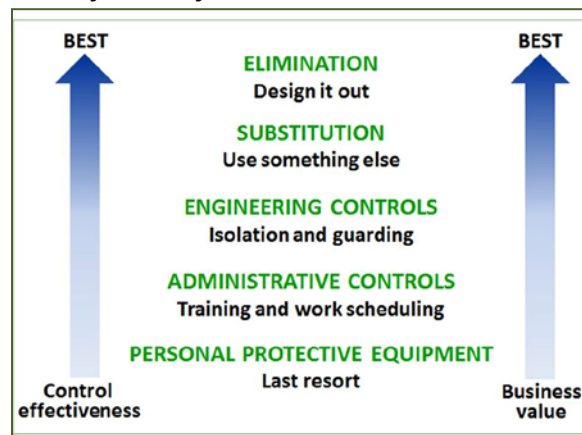
The State already has recognized the importance of violence prevention for most public sector workers. Unfortunately, schools are exempted, leading to school aides, school bus drivers and other low wage workers in the education sector -- as well as teacher and administrators -- facing everything from verbal abuse to physical assaults. Many fear reporting this abuse, and some in Central New York have been told they should not do so. "It's part of the job" is the message to them, retail workers, and many others.

Working alone is an important hazard behind workplace violence. Other jurisdictions (e.g., in Canada) recognized this years ago and introduced regulations about the need to establish rules, procedures, etc. about when working alone is allowed and how to protect workers in those situations. We can supply examples on request of regulations, policies and procedures.

### 3. Preventing injuries and illnesses: Barriers to prevention

The technical methods to prevent and reduce (control) hazards are often uncomplicated and straightforward. They usually are based on a hierarchy or set of levels that reflects the effectiveness of different measures. The prevention triangle (in Section 1 of this submission) sets out one way to describe this. The hierarchy of prevention diagram at the right is another.

The most effective -- and best business value -- is to design out the



hazard or use informed substitution (i.e., the alternative really is much less hazardous). The “last resort” is personal protective equipment.

Given that effective solutions often are available, fixing hazards and preventing health and safety consequences is typically the result of other issues. The recommendations in the preceding section are based on recognizing the important barriers to prevention and the necessity to address them. Key barriers are summarized below.

### **3.1 Perception that only the federal government (OSHA) is responsible for workplace safety and health**

It is true that OSHA standard setting and enforcement supersedes state authority -- where the federal agency has standards or the state's are less effective.

Unfortunately, OSHA is severely limited in its abilities to effectively carry out its mission. Constraints include:

- a shortage of inspectors ( limiting the number of workplaces the agency can inspect);
- out-of-date standards that do not reflect current knowledge (e.g., most permissible exposure limits for chemicals are based on data from the 1950s and 60s);
- an appropriations rider dating back to the 1970s, that forbids inspections and other activities on farms with less than 11 workers outside a family (relevant to one of the 14 priority sectors);
- “harmonization” that drives standards to lower common denominator, not the best protection (e.g., the latest version of the *Hazard Communication Standard*); and
- lack of standards for a wide range of known hazards (e.g., ergonomic design).

On the other hand, the State has many tools at its disposal to supplement and augment OSHA's efforts. New York State and its governor have found ways to improve workplace safety and health. Examples include the recent nail salon “rules”, legislation about safe patient handling, “safe” needles, and workplace violence prevention, and the [Green Procurement and Agency Sustainability Program](#). And there are other requirements in Article 28 of the *Labor Law* that should be enforced.

Addressing hazards in the 14 targeted sectors will require the State to do more of the same, after analyzing the gaps it needs to fill, whether it's the federal law or enforcement of existing state provisions. It also will need to co-ordinate activities with the regional OSHA office and state agencies. And it will need to be creative and firm about its rights to fill those gaps and step in where OSHA has not gone before, or doesn't do very well.

### **3.2 State agencies remain in their own 'silos'**

Some state agencies have responsibilities that include some aspect of workplace activities, so their staff visit workplaces in the course of their duties. For example, within OHS topics, the Department of Labor (DOL) has a Division of Safety and Health ([DOSH](#)) within the Worker Protection Bureau that oversees 10 programs (including [PESH](#) inspectors for the state's public sector workers). The Department of Health [oversees](#) a variety of things including some surveillance and an occupational hygiene [consultation service](#). It's unclear where Article 28 of the *Labor Law* fits in, and what's enforced or ignored at the moment.

Unfortunately, the departments and agencies often appear to be in their own silos, focused only on specific duties directly associated with those responsibilities. For example, at a recent discussion about nail salon workers rights, a DOL official did not seem to know that workers are protected by OSHA rules from retaliation for OHS activities (e.g., complaints, reporting hazards or injuries). The official presentation omitted this important right when it listed protections from retaliation. (The presenter said she would fix it for the next session, now that she knew about the federal right.) We also know of at least one instance where the DOL did not inform a worker about his rights to complain to federal OSHA, and the deadline to do so; once the worker found out, and tried, he was told he was far too late.

Cross training would ensure these kinds of gaps are kept to a minimum. Those extra "eyes" could help recognize and start the ball rolling to deal with the many hazards in the target sectors. It would encourage State staff to be alert to job health and safety hazards and the resources to address them.

Of course, this has to be made easy (e.g., with forms, reporting procedures) and staffing levels have to be increased to make it possible, and effective. Top agency managers also need to be committed to this broader view so that inspectors get the

appropriate support to feel comfortable going outside their “normal” purview.

The [Anti-Retaliation and Mediation Units](#) that the governor announced in October is a good first step in this direction.

### **3.3 Lack of information for employers and workers**

Employers must provide a safe and healthy workplace and job; that’s the law, as well as an ethical responsibility and human right.

If they don’t know the OHS hazards of the jobs for which they are responsible, or the regulations they need to obey, they cannot fulfill this obligation (although ignorance of the law is not a defense). Or they may be aware of the hazards and “rules”, but are uncertain about how to comply or how to control the hazards they have identified.

The [Hazard Communication Standard](#) -- also known as the workers’ right-to-know regulation -- provides a good illustration about what commonly happens. The federal regulation says employers must have a program that labels products, provides safety data sheets (SDSs) with information about the product, and delivers training to workers. Workers must get effective information and training about the chemicals around them when they start a new job and when new hazards are introduced. It must be done in a language and vocabulary they understand, according to a 2010 [memo](#). They are supposed to be able to understand the labels and data sheets, know about the *Standard* and where to find the employer’s program. The state has similar (and slightly-different) sets of requirements for public sector workers and in the *Labor Law* (see Article 28), although they has not been updated since the 2012 federal changes.

This information and training is supposed to give workers the tools to know about all the hazards in their job(s) and the protection provided (e.g., administrative measures, ventilation, protective equipment). The idea is that they can then report hazards to get them fixed.

Reality often falls far short of theory in low wage workplaces like those in the 14 targeted sectors. Workers often get no training. If there is some form of education, it likely is not in a language or vocabulary they understand. Nor do they learn much about labels

or SDSs. Trainings often are rote, canned presentations that fulfill the letter of the law as quickly as possible, without discussions.

It also is unusual that employers tell workers about their OHS rights, especially protection from retaliation for bringing up health and safety concerns or reporting hazards or injuries. Nor is it likely that employer-provided training has information about government or community resources that can help them find out about their rights or get other information.

All these elements, and more, are needed to effectively inform workers, giving them the information tools they need. (And none of them address the ability to make changes to prevent or reduce hazards, i.e., the power to prevent illnesses, injuries, diseases and deaths.)

### **3.4 Employers often resist “outside interference”**

In our experience, employers often insist that they know their sector’s OHS needs and they have taken all necessary steps to keep workers “safe” (without explicitly talking about keeping them “healthy”). These employers typically resist any government attempts to regulate their industry, characterizing it as outside interference by bureaucrats who don’t really know the jobs they are trying to regulate.

These same employers also do not take it well when workers raise OHS concerns or involve outside advocates. “At will” employees -- those without a union contract -- can be dismissed or laid off at any time and for any reason (except, theoretically, for discrimination or retaliation for asserting workplace rights). In practice, it is simple for an employer who doesn’t appreciate employees asking for changes to reduce a hazard, to fire them. The reason often is that there is “not enough work” or a similar fabricated reason.

That is the power -- and threat -- that employers hold over employees, even in unionized jobs (e.g., construction). The textbooks call it “management prerogative” or the employer’s “the right to manage”.

### **3.5 Workers' fear of coming forward is real and strong**

Among low wage workers, and those without adequate representation or in precarious sectors, we see a pervasive sense of powerlessness and resignation about health and safety and their job conditions generally. "That's just the way things are," we're told.

This stems from lessons learned and reinforced over a lifetime of working, including witnessing and/or experiencing what happens to workers who do dare to speak up. A hostile employer can make a worker's life on the job miserable. S/he can fire someone with all the consequences that entails for the worker who lives paycheck to paycheck, including making it difficult to find another job.

In addition workers often see the legal and regulatory systems that are supposed to offer them protections as rigged in the employers' favor, far too slow and burdensome to be of practical value, and as ineffective. While a common refrain among politicians and others is that "Workers have rights, why don't they use them?", the reality of much low wage work makes this question either extremely naïve or disingenuous.

### **3.6 State and federal agencies responsible for health and safety are seriously under-funded and under-staffed**

Given the number of inspectors at the agency, it would take OSHA more than 131 years to inspect all the workplaces in NY state. Within the state, the workforce with responsibilities for working conditions (including OHS) has been slashed by several thousand positions in the last few years.

The lack of human power raises serious questions about the capacity of the state and federal agencies to effectively enforce current regulations, never mind needed new ones. They have trouble keeping up with everyday demands.

An aggressive new -- and necessary -- campaign to prevent abuse and exploitation of low wage workers will only add to this burden, unless staffing levels are at least restored and improved. Otherwise, resources will have to be shifted to this project (leaving significant other sectors deprioritized and without oversight) or the campaign will look great on paper and lack regulatory teeth to make it real.

### **3.7 State and federal agencies responsible for health and safety lack effective up-to-date standards and regulations**

OSHA struggles continuously with an extremely burdensome standard-setting process that has made it difficult to update outdated standards and to promulgate new ones. As a result, many workers are left seriously un- or under-protected by OSHA and by PESH or other state agencies when they does not step into the breach.

Witness the proposed new silica standard first on the agency's agenda at least 40 years ago. Or the ergonomic standard promulgated in the waning days of the Clinton administration and revoked as one of the first acts of the Bush administration (despite the fact that ergonomic design hazards are the largest single cause of work-related injuries). See OSHA's own statements about the totally inadequate Permissible Exposure Limits (PELs) it cannot change, even though the science behind many of them is two generations old.

Health and safety activists and public health professionals have long called for worker representatives, and specialists working with/for them, to be "deputized" as OSHA-like inspectors. They would have rights to inspect their own workplaces and bring in their own experts to help. (This system has been used in Sweden for years, and [Australia](#) has a "Provisional Improvement Notice" or [PIN](#) system for citations and enforcement. Ontario's OHS [law](#) requires "certified" worker and employer representative members on joint health and safety committees, who can stop hazardous activities/tasks.)

Recently, OSHA put some aspects of this idea into action. The agency gave official standing to community-based organizations such as workers' centers and COSHs identified by workers in non-union workplaces as their ally or representative. Representatives from the named organizations now can participate in the OSHA process at a workplace. Among other things, they can file complaints, participate in inspections, and be part of post-inspection conferences.

This is an important step to overcome the lack of OHS resources among low wage workers, and their understandable reluctance to come forward about OHS issues. At the same time, it improves OSHA's effectiveness and extends its reach.

New York State has stepped into the breach on some OHS issues where federal regulations are lacking. These have included legislation on safe needles, workplace violence prevention, and safe patient handling, and recent regulations for nail salon workers. However OSHA and state regulations have left behind a variety of low wage workers and sectors or types of work, including child labor, temporary workers, and workers in the retail, farm and domestic sectors.

### **3.8 Workers and employers lack knowledge of health and safety resources and information**

We consistently hear that workers do not come forward with OHS issues because they are not sure where to turn for help, or even what their rights are on the job. Their employers are not providing information or training, or protecting them, a sign they also may not know about hazards, or what to do about them, or their responsibilities.

### **3.9 Injured and sick workers don't have easy access to medical care**

Workers need medical attention for job-related injuries and illnesses to receive appropriate care. That care also is a critical source of data about workplace hazards and their consequences. A work-related diagnosis is one of the only ways they can come to public attention and lead to preventing hazards.

Unfortunately, New York State's workers' compensation system is so onerous and difficult to navigate that many medical providers have opted out. This leaves many injured workers with few options. They can ignore the work-relatedness of their health condition and just get care under health insurance, or they might not get care at all.

Employers also impede access to medical care when they direct

*As hard as it was to live without any money (because of delays in getting payments), my biggest complaint is the denial of necessary treatment. That was my biggest complaint about this system, because my neck would not be anywhere near as bad as it is, had I continued with the chiropractic care (which I wasn't allowed to do). And they just figured every way they could to keep me from doing that. Now, my neck is probably 100 times worse than it was when I quit work, because of that.*

Former North Country trucker,  
injured in a fall on ice at work



injured workers to specific providers who bill health insurance or take direct payment from the employer. In neither scenario is a workers' compensation claim filed, and public health data is lost.

Many injured or ill workers are unaware of their right to see a doctor of their own choosing (if they can find one). Others do not exercise this right out of fear for retribution or other reasons (e.g., lack of transportation).

*In my opinion, the insurance companies throw obstacles in your way to make your case harder to prove so that you either give in, give up, give out, or die before getting any help. I have talked to several people going through similar hardships with the systems, who have had to wait several years with no improvement and medical treatments that did more harm than good, and added to the disability.*

Southern Tier injured worker

### **3.10 Community-based health and safety organizations cannot meet the demands made of them**

A significant community-based occupational safety and health infrastructure has been established in New York State, thanks to a variety of federal and state funding mechanisms. (See the list in Appendix 2.) In the Upstate area, this includes COSHs, workers' centers, the Occupational Health Clinical Centers, and other worker-focused community organizations. There are parallel organizations in and around New York City. Additionally, the City University of New York Queens College has a strong OHS and safety program that provides services to low wage workers and organizations advocating for them.

The organizations provide services, including training and education, diagnosis and treatment of occupational disease and injury, hazard assessment, and how to prevent or reduce hazards. However, all these organizations struggle to meet the demand for their services with limited funding that often remains flat for years. Flat funding, in effect is actually a funding cut as year-by-year cost of living and other increased expenses take more resources to sustain.

### **3.11 Scant data about who gets ill or injured at work inhibits improving working conditions and preventing hazards**

Despite repetitive declarations in studies and reports in the state and outside it, there is a remarkable lack of data about how many people get injured or sick because of their work. This is especially true for occupational diseases. Obviously, this deficiency makes it difficult to choose and prioritize actions to improve OHS conditions and prevent job-related illnesses, diseases and injuries.

## **Appendix 1**

**Recommended  
regulatory/legislative changes to  
prevent and reduce abuse and  
exploitation of low wage workers'  
health and safety**



## 1. General

### 1.1 To get a business license, require employers to:

- demonstrate they have coverage for workers' compensation and unemployment insurance;
- prepare a written hazard analysis of their facilities, detailing safety and health hazards, that:
  - includes worker participation in the process of identifying and fixing hazards, and
  - must be updated annually or when changes occur to tasks/jobs or in the workplace, that could affect employees' safety and health (e.g., new chemicals or processes);
- prepare a written program of worker health and safety training for all hazards, including procedures that comply with OSHA's Hazard Communication Standard and the State's current regulations, with annual refresher training;
- prepare a written violence prevention program which includes worker input in the identification and prevention of hazards, that must be updated annually (this already is required in the public sector and was recently expanded to those in the non-profit sector who receive State funding);
- prepare a written program about the use and care of personal protective equipment (PPE) that complies with OSHA's PPE standard (except that employers must provide PPE at no cost to employees, as required in California), and covers appropriate use and training;
- prepare a written whistle-blower (non-retaliation) protection policy that is distributed to all workers and supervisors in the appropriate language(s), and covers reporting of health and safety concerns, hazards, injuries, and illnesses;
- post information about workers' rights, the programs above, injury reports, and the no-retaliation/whistle-blower policy; and
- take a class in which their legal obligations to employees (including those hired through agencies) are spelled out, with annual or biannual refreshers.

## 2. Specific topics

- ### 2.1 Establish a unit to specifically oversee enforcement of child labor laws within the Department of Labor. Set up an electronic filing system so information can be shared easily between the Departments of Education and Labor. (Currently, working papers

are filed with schools and administered by the Department of Education. The Department of Labor does not use the filed documents to ensure that employers comply with child labor laws.)

Specifically, require employers who employ youth below the age of 18 to:

- file with the State's Department of Labor;
- provide all employees under the age of 18, and their parents, with a notice detailing the limitations on hours of work for young workers required by state and federal laws;
- provide evidence that they are following the new Environmental Protection Agency's [Worker Protection Standard](#) that bans children under 16 from handling pesticides (although it would be better to set the bar at 18 years and make no exemptions for family farms); and
- certify that all employees under the age of 18 have had, or will have, appropriate training about their rights under the State's labor law, OSHA and other required training about job-related hazards.

## 2.2 Enact Bills of Rights for:

1. Temporary workers. These workers should be covered, no matter the number employed by an employer. The bill of rights should:
  - require temporary agencies give workers basic information about the job for which they are being hired, in the language which the temporary agency usually communicates with the worker;
  - specify the information required, including rate of pay, hazards and protection from them, and what fees are legal;
  - make explicit who is responsible for all required safety and health training, record keeping and personal protective equipment;
  - includes OSHA's [information](#) about temporary workers and the COSH Network's [recommendations](#) to OSHA; and
  - is informed by the issues raised by Sarah Horowitz in the New York Times in [September, 2015](#).
2. Retail workers. Aside from providing seating (as required currently for women by the State's *Labor Law*), and expanding it

to male workers (as recommended elsewhere), the bill of rights should:

- promote full-time work and access to hours encourage full-time employment before hiring additional part-time workers;
- encourage fair, predictable schedules, and discourage erratic, unpredictable “on-call” scheduling practices, by requiring employers to post schedules at least two weeks in advance, pay employees one hour of pay at their regular rate for schedule changes made with less than a week’s notice and two to four hours of pay for schedule changes made with less than 24 hours’ notice;
- provide equal treatment for part-time workers so that employers cannot discriminate against them in terms of their starting rate of pay, access to employer-provided paid and unpaid time off, or access to promotion opportunities; and
- encourage worker retention and job security so that if a company is bought or sold, the workers must keep on at their jobs for at least a 90-day trial period.

3. Domestic workers. To be at least consistent with the Massachusetts [\*Domestic Workers Bill of Rights\*](#), the rights should include:

- being paid for all working time;
- days of rest;
- not paying for food and beverages, in most circumstances;
- limited restrictions on free lodging;
- protection against trafficking through civil enforcement;
- asking for a written evaluation;
- a written employment agreement;
- document retention and notice of rights;
- notice/lodging/severance before termination of live-in domestic worker without cause;
- protection against retaliation; and
- OSHA and other required training about job-related hazards.

2.3 Pass A.7528/Nolan et al./S.3884/Flanagan et al. ([\*An Act to amend the labor law in New York State\*](#)). This is designed to provide protection for farm workers, including:

- collective bargaining rights;
- allowing farm workers one day of rest each week;

- coverage under provisions about overtime compensation and unemployment insurance;
- changes to the public health law about the application of the sanitary code to all farm and food processing labor camps for migrant workers;
- amendments to the workers' compensation law, so that farm laborers are eligible for workers' compensation benefits and must be given claim forms if they are injured or become ill;
- amendments to the labor law, about fair pay for young workers.

2.4 Provide for criminal prosecution of negligent employers. It is very difficult for District Attorneys to bring criminal charges against employers whose negligence results in workplace deaths or serious illnesses or injuries. As one lawyer has said about this, "If I go into your house and take your \$400 TV and \$1,000 worth of jewelry, I get jail time. If I steal money from workers by not paying overtime or minimum wage, I get a fine." The same is true for health and safety violations.

Prosecution is an important incentive for employers to comply with health and safety laws, regulations, and best practices. (For examples of what could be done, see [\*Prosecuting worker endangerment: The need for stronger criminal penalties for violations of the Occupational Safety And Health Act\*](#), the work of lawyer Harry Glasbeek [e.g., [\*Crime, Health and Safety and Corporations: Meanings of the Failed Crimes \(Workplace Deaths and Serious Injuries\) Bill\*](#)], and Canada's federal legislation about this ([Bill C-45](#)).

2.5 Adopt indoor and outdoor heat standards. See OSHA's website about heat stress (<https://www.osha.gov/SLTC/heatstress/standards.html>) and the recent [decision](#) by California's Occupational Safety and Health Appeals Board about indoor heat. As climate change takes its toll, this will become even more important as a health hazard to low wage workers in particular.



- 2.6 Update and enforce the requirements for seating in Article 7 (Section 203-B) of the Labor Law. Expand coverage to all workers (as is done in California’s Wage Orders). Standing is not the answer to sitting all day. It has its own significant hazards as cashiers, retail workers and others can testify. One did in our [Healthy work in Syracuse? Conversations with low-wage workers](#):

*Pretty much every part of me hurts because I am standing all the time. Mainly, my feet and my lower back hurt. When I go on break, I feel the throbbing. At the end of the day, my legs are tired, exhausted.*

Those reports are backed up by studies, particularly about the need for a gender perspective on the hazard. For example, see chapter 3 of Dr. Karen Messing’s most recent book, [Pain and Prejudice: What science can learn about work from the people who do it](#).

OHCC staff have talked to cashiers about chairs, which are common in those jobs in places such as Europe, Morocco and Brazil. These are excerpts from their documents about the topic:

On a slow night at Wegman’s, for example, you will see cashiers standing, shifting or attempting to relieve their aching feet, legs, and backs. “I’ve gone to HR and when I came in, he didn’t even take his feet off the desk, and proceeded to tell me it wasn’t dignified to be sitting down for customers,” one cashier said.

Another reported cashiers can get chairs if they have a doctor’s note. “I’ve never seen one, but that’d be like wearing a dunce cap at school -- who wants to be ‘special’?” the male worker said, gesturing with his hands.

“It’s too expensive to maintain,” was the response a Price Chopper cashier got when she asked for a chair.

- 2.7 Expand the workplace violence prevention program to all workplaces, and develop a related working alone regulation/standard to go with it. New York State’s program covers the public sector at the moment -- except for schools. The low wage workers, and others, in schools need protection too. Expand the definition of violence to include severe verbal abuse, part of the spectrum of workplace violence. Working alone regulations are common in Canada, dating back to the 1980s. For examples, see the British Columbia and Manitoba rules, referred to in the Canadian Centre for Occupational Health and Safety’s [web page](#) about workplace violence.
- 2.8 Expand the state’s “green purchasing” program to sectors where cleaning products are used, especially in contracts issued by the state. The successes reported in the [Third Progress Report](#) need to be replicated in all places where cleaning products are used.



## Appendix 2

**New York State organizations that play a role in workplace safety and health and government agencies focused on issues that bring them into contact with workplaces, employers and/or employees**



## **Introduction**

Though an agency such as local Health Department food inspectors do not have responsibility for safety and health, they can play a role in spotting potential OHS and other problems with working conditions. With proper training and systems, they can then bring them to the attention of the appropriate resources.

This list shows that New York State has a significant corps of resources that can be brought to bear on OHS problems in the 14 targeted sectors and for low wage workers in general. Co-ordinated and co-operative planning and action among these groups would greatly increase the chances of effective action where the need is high and services have been restricted.

## **Government agencies**

### **Federal**

- OSHA
- Department of Labor

### **New York State**

- Department of Labor
  - OSHA consultation service
- Department of Health
- Department of State (??)
- Workers' Compensation Board

### **Local Health Departments**

- Food inspectors

## **Grant-funded OHS infrastructure**

- Hazard Abatement Board's Training and Education Program
- Occupational Health Clinic Network
- OSHA Susan Harwood Training Grants

## **Community Based Organizations**

- Councils/Committees for Occupational Safety and Health (COSH groups)
- Workers' centers

## **Academic (not affiliated with the OHCN)**

CUNY/Queens College

**Labor unions**

OHS staff

OHS committees

Local representatives

Labor councils

**Employers**

OHS staff

OHS consultants

**Industrial medicine and hospital based occupational health programs**

**Medical providers**

Community Health Centers

Providers serving low income communities

## **Appendix 3**

# **Reports, studies and other documents used to inform our submission**





## 1. Introduction

### 1.1 The context

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) (2015) *Death on the job*. Available at <http://www.aflcio.org/Issues/Job-Safety/Death-on-the-Job-Report>  
<http://www.defendingscience.com/sites/default/files/Health%26Safety%20Final%202015%20Web%20version.pdf>

Jamie Smith Hopkins (November 5, 2015) "Worked to Death: How victims are shut out of the workers' comp system by big bills, bad laws, and companies that will do anything but pay." [http://www.slate.com/articles/news\\_and\\_politics/politics/2015/11/workers\\_comp\\_is\\_failing\\_to\\_pay\\_victims\\_of\\_occupational\\_disease\\_center\\_for.html](http://www.slate.com/articles/news_and_politics/politics/2015/11/workers_comp_is_failing_to_pay_victims_of_occupational_disease_center_for.html)

Jargowsky, P.A. (2015) *Architecture of segregation: Civil unrest, the concentration of poverty and public policy: A Report of the Century Foundation*. Available at <http://apps.tcf.org/architecture-of-segregation>

Krisberg, K. and Monforton, C. (2012) *Mom's off work 'cause she got hurt. The economic impact of workplace injuries and illnesses in the U.S.'s growing low-wage workforce*. Available at [http://defendingscience.org/sites/default/files/Borkowski\\_Monforton\\_Low-wage\\_Workforce.pdf](http://defendingscience.org/sites/default/files/Borkowski_Monforton_Low-wage_Workforce.pdf)

Krisberg, K. and Monforton, C. (2015) *The year in U.S. occupational health & safety, Fall 2014 – Summer 2015*. Available at <http://www.defendingscience.com/sites/default/files/Health%26Safety%20Final%202015%20Web%20version.pdf>.

Occupational Safety and Health Administration (OSHA) (2015) *Adding inequality to injury: The costs of failing to protect workers on the job*. Available at <http://www.dol.gov/osha/report/20150304-inequality.pdf>.

Rosen, J. (2013) *New York State injured workers speak out about a failing NYS workers' compensation system. A report from New York Council on Occupational Safety and Health (NYCOSH)*. Available from <http://nycosh.org/wp-content/uploads/2014/07/Injured-Workers-report-final-1-9-14.pdf>

San Francisco Department of Public Health, Work Environment Program. *Wage theft and health fact sheet*. Available at <http://www.sfhealthequity.org/component/jdownloads/summary/35-wages-and-health/215-wage-theft-and-health-fact-sheet?Itemid=0>

Van Arsdale, D. (2008) Recasualization of blue collar workers: Industrial temporary help work's impact on the working class. *Labor Studies in Working Class History of the Americas*, 5(1):75–99.

Zoeckler, J., Lax, M. and Zanoni, J. (2015) *Healthy work in Syracuse? Conversations with low-wage workers*. Occupational Health Clinical Centers, Syracuse. Available at <http://www.ohccupstate.org/pdfs/Low%20WageWork%20Syracuse%2020154.pdf>

Zoeckler, J., Lax, M., Gonos, G., and others. (2014) *Low-Wage Work in Syracuse: Worker Health in the New Economy*. Occupational Health Clinical Centers, Syracuse. Available at <http://coshnetwork.org/sites/default/files/uploads/Low-Wage Work Syracuse.pdf>.

## **1.2 Prevention is the goal**

Goh, J., Pfeffer, J. and Zenios, S. (2015) Exposure to harmful workplace practices could account for inequality in life spans across different demographic groups. *Health Affairs*, 34(10): 1761-1768.

U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). *The Business Case for Safety and Health*. Available at <https://www.osha.gov/dcsp/products/topics/businesscase/>

Worksafe (2011) *Prevention pays: Solutions to help workers and businesses thrive*. Available at [http://worksafe.typepad.com/files/prevention\\_pays\\_web.pdf](http://worksafe.typepad.com/files/prevention_pays_web.pdf)

## **1.3 Health and safety must be part of the solutions**

General:

Institute for Work & Health (2015) *Inspections with penalties linked to lower injuries*. *At Work*, Issue 81. Toronto. Available at <http://www.iwh.on.ca/at-work/81/inspections-with-penalties-linked-to-lower-injuries-iwh-review>.

Lax, M. (1992) The Occupational Health Clinical Center Network in New York State: Achievements, prospects, and constraints. *New Solutions - A Journal of Environmental and Occupational Health Policy*, 3(1).

Lax, M. (2013) Occupational Health in Central New York: A publicly funded occupational health clinical center after 25 Years. *Revista Brasileira de Saúde Ocupacional*, 38 (127): 149-161. Available at <http://www.scielo.br/pdf/rbso/v38n127/v38n127a16.pdf>

## **2. Approaches to prevention -- Recommendations to prevent health and safety exploitation and abuse of workers**

### 2.1 Improve enforcement

OSHA:

*Transitioning to safer chemicals: A toolkit for employers and workers*. Available at [https://www.osha.gov/dsg/safer\\_chemicals/index.html](https://www.osha.gov/dsg/safer_chemicals/index.html)

Protecting Temporary Workers. Available at [https://www.osha.gov/temp\\_workers/](https://www.osha.gov/temp_workers/)

The Whistleblower Protection Programs. Available at <http://www.whistleblowers.gov/>

The Fairfax Memo. Available at <https://www.osha.gov/as/opa/whistleblowermemo.html>

Injury and Illness Prevention Programs: White Paper 2012. Available at <https://www.osha.gov/dsg/InjuryIllnessPreventionProgramsWhitePaper.html>

OSHA's Recordkeeping Rule. Available at <https://www.osha.gov/recordkeeping2014/index.html>

Young Workers. Available  
at <https://www.osha.gov/youngworkers/>

OSHA Enforcement. Available  
at <https://www.osha.gov/dep/index.htm>

State of New York Publish Employee Safety and Health (PESH Bureau). FY 2014 *Follow-up Federal Annual Monitoring and Evaluation (FAME) Report*. Available  
at [https://www.osha.gov/dcsp/osp/efame/2014/ny\\_report\\_2014.pdf](https://www.osha.gov/dcsp/osp/efame/2014/ny_report_2014.pdf)

Kim Bobo (2009) *Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid*. The New Press.

Institute for Work & Health (2015) *Inspections with penalties linked to lower injuries: IWH review*. Available  
at <http://www.iwh.on.ca/at-work/81/inspections-with-penalties-linked-to-lower-injuries-iwh-review>

New York State Fair (2010 press coverage). Available  
at [http://www.syracuse.com/news/index.ssf/2011/04/vend\\_or\\_abused\\_mexican\\_workers.html](http://www.syracuse.com/news/index.ssf/2011/04/vend_or_abused_mexican_workers.html)

*Occupational Health Clinic Network - Prevention and Protection for the NYS Workforce*. Available  
at [https://www.health.ny.gov/environmental/workplace/clinic\\_network.htm](https://www.health.ny.gov/environmental/workplace/clinic_network.htm)

Riley, K. and Morier, D. (2015) *Patterns of work-related injury and common injury experiences of workers in the low-wage labor market*: Report to the Commission on Health and Safety and Workers' Compensation, California Department of Industrial Relations. Available  
at [http://www.irle.ucla.edu/publications/documents/Patterns\\_Work\\_Related\\_Injury.pdf](http://www.irle.ucla.edu/publications/documents/Patterns_Work_Related_Injury.pdf)

San Francisco (2013) *Wage Theft Task Force Final Report*. Available  
at <http://www.sfgsa.org/modules/showdocument.aspx?documentid=11224>

State of California, Department of Industrial Relations. *Labor Enforcement Task Force*. Available  
at <http://www.dir.ca.gov/letf/letf.html>

Zabin, C. (2004) *The hidden public costs of low-wage jobs in California*, University of California Institute for Labor and Employment, U.C. Berkeley. Available at [http://laborcenter.berkeley.edu/pdf/2004/workingpoor\\_summary.pdf](http://laborcenter.berkeley.edu/pdf/2004/workingpoor_summary.pdf)

## 2.2 Build and support community-based health and safety infrastructure

CPWR (2014) *Bending Toward Justice: How Latino immigrants became community and safety leaders*. Available at <http://www.cpwr.com/sites/default/files/publications/Bending%20Toward%20Justice.pdf>

Fine, J. (2006) *Worker Centers: Organizing Communities at the Edge of a Dream*, EPI/Cornell University Press.

Occupational Health Clinics Network. Available at [https://www.health.ny.gov/environmental/workplace/clinic\\_network.htm](https://www.health.ny.gov/environmental/workplace/clinic_network.htm)

OSHA interpretation of “worker representative”. Available at [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=28604](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=28604)

## 2.4 Improve information about hazards and injuries/illnesses in the 14 sectors (and other low wage jobs)

Anderson, NJ., Bonauto, DK., Adams, D. (2014) Prioritizing industries for occupational injury prevention and research in the services sector in Washington State, 2002-2010. *Journal of Occupational Medicine and Toxicology*, 9(1): 37. doi: 10.1186/s12995-014-0037-2.

Leigh, JP. (2012) *Number and costs of occupational injury and illness in low-wage occupations*. Center for Poverty Research and Center for Health Care Policy and Research, University of California Davis. Available at [http://defendingscience.org/sites/default/files/Leigh\\_Low-wage\\_Workforce.pdf](http://defendingscience.org/sites/default/files/Leigh_Low-wage_Workforce.pdf).

Meitrod, J. (2015) *Tragic Harvest* (a four-piece series about the hazards of small “family farms”). Available at <http://www.startribune.com/deadliest-workplace-the-family-farm/330403811/>

Tolbert, DV., McCollister, KE., LeBlanc, WG, and others. (2014) The economic burden of disease by industry: Differences in quality-adjusted life years and associated costs. *American Journal of Industrial Medicine*, 57(7):757-63. doi: 10.1002/ajim.22322.

2.5 Workers need new regulations and laws, and policies and procedures to back them up

*New York State Sharps Safety Act* (2002) Available at <https://www.health.ny.gov/professionals/ems/policy/02-09.htm>

Zero Lift Task Force (2015) *Breakdown of Legislative Requirements for Safe Patient Handling*. Available at <http://www.zeroliftforny.org/breakdown-of-legislation-requirements/>

### **3. Preventing injuries and illnesses: Barriers to prevention**

3.1 Perception that only the federal government (OSHA) is responsible for workplace safety and health

Feldman, J. (2011) *OSHA inaction: Onerous requirements imposed on OSHA prevent the agency from issuing lifesaving rules*. A report from Public Citizen. Available at <https://www.citizen.org/documents/osha-inaction.pdf>

Michaels, D. (2007) *New York Times covers OSHA inaction on diacetyl and other hazards*. Available at <https://thepumphandle.wordpress.com/2007/04/25/new-york-times-covers-osha-inaction-on-diacetyl-and-other-hazards/>.

OSHA (2012) *Transitioning to safer chemicals. A toolkit for employers and workers*. Available at [https://www.osha.gov/dsg/safer\\_chemicals/index.html](https://www.osha.gov/dsg/safer_chemicals/index.html).

Public Citizen (2011) *OSHA Inaction: Onerous requirements imposed on OSHA prevent the agency from issuing lifesaving rules*. Available at <https://www.citizen.org/documents/osha-inaction.pdf>.

Rabinowitz, R. (2015) *Missed opportunities: How OSHA should ensure worker safety in the fissured workplace. A report of the Occupational Safety & Health Law Project*. Available at [http://www.coshnetwork.org/sites/default/files/uploads/Rabinowitz\\_Missed\\_Opportunities.pdf](http://www.coshnetwork.org/sites/default/files/uploads/Rabinowitz_Missed_Opportunities.pdf)

### 3.3 Lack of information for employers and workers

Krisberg, K. (2014) *California Board votes to maintain better worker's right-to-know*. Available at <http://scienceblogs.com/thepumphandle/2014/03/24/california-board-votes-to-maintain-better-workers-right-to-know/>

### 3.4 Employers often resist “outside interference”

Amick, BC., Hogg-Johnson, S., Latour-Villamil, D., and Saunders, R. (2015) Protecting construction worker health and safety in Ontario, Canada: Identifying a union safety effect. *Journal of Occupational & Environmental Medicine*. Available at [http://amcontario.ca/wp-content/uploads/2015/09/Protecting\\_Construction\\_Worker\\_Health\\_and\\_Safety.99044.pdf](http://amcontario.ca/wp-content/uploads/2015/09/Protecting_Construction_Worker_Health_and_Safety.99044.pdf).

### 3.7 State and federal agencies responsible for health and safety lack effective up-to-date standards and regulations

Eidelson, J. (September 3, 2015) *OSHA is still working on silica*. Available at <http://www.bloomberg.com/news/articles/2015-09-03/osha-is-still-working-on-silica-dust>

Government of Ontario. *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1. Available at [http://www.ontario.ca/laws/statute/90o01?\\_ga=1.155689211.1546398414.1447632696](http://www.ontario.ca/laws/statute/90o01?_ga=1.155689211.1546398414.1447632696)

Page, S. (2002) *Worker Participation in Health & Safety: A Review of Australian provisions for worker health and safety representation*. <http://www.hse.gov.uk/research/misc/pinreport.pdf>

Rosner, D., and Markowitz, S. (2006) *Deadly dust: Silicosis and the on-going struggle to protect workers' health*. University of Michigan Press.

3.10 Community-based health and safety organizations cannot meet the demands made of them (Closer looks at local levels)

Chinese Progressive Association (September, 2010) *Check, please! Health and working conditions in San Francisco Chinatown restaurants*. Available at [http://cpasf.org/sites/default/files/ExecSum\\_ENG.pdf](http://cpasf.org/sites/default/files/ExecSum_ENG.pdf).

Mujeres Unidas y Activas, La Raza Centro Legal, and DataCenter (2007) *Behind closed doors: Working conditions of California household workers*. Available at <http://www.datacenter.org/wp-content/uploads/behindcloseddoors.pdf>

San Francisco Department of Public Health. *Tales of a City's Workers: A Profile of Jobs and Health in San Francisco*. Available at <http://www.sfhealthequity.org/elements/work>.

Siqueira, E. (2005) *Project COBWEB: A report on Brazilian immigrant workers in Massachusetts*. Available at [http://works.bepress.com/cgi/viewcontent.cgi?article=1029&context=carlos\\_siqueira](http://works.bepress.com/cgi/viewcontent.cgi?article=1029&context=carlos_siqueira)

3.11 Scant data about who gets ill or injured at work inhibits improving working conditions and preventing hazards

We consistently hear from workers and their advocates that they do not come forward about health and safety issues because they are not sure where to turn for help, or even what their rights are on the job. Their employers do not provide information or training, a sign they also may not know about hazards, or what to do about them, or their responsibilities.

Committee on Education and Labor (2008) *Hidden Tragedy: Under-reporting of workplace injuries and illnesses*. Available at <http://edlabor.house.gov/publications/20080619WorkplaceInjuriesReport.pdf>

Messing, K., Fortin, S., and Rail, G. (2005) Standing still: Why North American workers are not insisting on seats despite known health benefits, *International Journal of Health Services*, 35(4):745-63. Available



at <http://www.researchgate.net/publication/7447980> Standing Still Why North American Workers are Not Insisting on Seats despite Known Health Benefits.

#### **Appendix 1 - recommendations about seating**

Messing, K. (2015) Is sitting worse than static standing? How a gender analysis can move us toward understanding determinants and effects of occupational standing and walking. *Journal of Occupational and Environmental Hygiene*, 12 (3): D11-7 Available at <http://www.researchgate.net/publication/269416604> 2014 William P. Yant Award Lecture Is Sitting Worse Than Static Standing How a Gender Analysis Can Move Us Toward Understanding Determinants and Effects of Occupational Standing and Walking.