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**To: Robert A. Taft Laboratories, MS-C34****Date: November 16, 2009**

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**Company: NIOSH Docket Office****Fax: 513-533-8285**

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**No. of Pages (including cover sheet): 4****Phone:**

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**From: Dr. William G. Buchta's Office****Fax: 507-284-4251**

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**Phone: 507-284-3211**

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**Message:****To Whom It May Concern:****Attached please find correspondence from Dr. William G. Buchta's Office regarding Docket Number: NIOSH-150.****Thank you**

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**William G. Buchta, M.D., M.P.H.**  
Division of Preventive, Occupational,  
& Aerospace Medicine  
Department of Internal Medicine

November 16, 2009

NIOSH Docket Office  
Robert A. Taft Laboratories, MS-C34  
4676 Columbia Parkway,  
Cincinnati, OH 45226

RE: Docket Number NIOSH-150; Request for Information on Alternative Duty: Temporary Reassignment for Health Care Workers Who Work With Hazardous Drugs

To Whom It May Concern:

Please accept my comments on the notice described above, which was published on September 16, 2009 in the Federal Register (Volume 74, Number 178).

I am providing information relative to one of the items of requested information in the notice, namely, (7) Guidelines and/or recommendations for alternative duty/temporary reassignment policies in the health care or other industries where exposures cannot be controlled by conventional methods (engineering controls, *etc.*).

Our organization has a policy on reproductive hazards which directs employees to our employee occupational health service for counseling relative to questions or concerns about possible exposure to infectious agents, chemicals, radiation, hazardous drugs, or any of a number of other possible exposure risk in the healthcare setting.

We educate our employees on the reproductive risks of their jobs, provide them with appropriate equipment and resources to protect themselves, and reinforce safe work practices. Employees are encouraged to voice concerns about reproductive hazards, and we investigate and provide experts to counsel concerned employees on the risks. We do not routinely reassign workers.

#### Discussion Point (1)

It is our belief that alternative duty and reassignment are not practical or useful in situations where exposures are controlled through the appropriate application of the hierarchy of controls. Simply working with hazardous drugs or handling hazardous drugs is not, in and of itself, sufficient to require alternative duty or reassignment.

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Although we do not agree with all of its recommendations, NIOSH Publication No. 2004-165, Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings, is a great source on information to help providers understand potential control methods.

It is important that any future NIOSH recommendations regarding reassignment are linked to an appropriate level of control but not necessarily to full implementation of all of the controls published in the 2004 NIOSH Alert.

An option for NIOSH to consider would be risk-based criteria for who should be considered for alternative duty or reassignment. The criteria could include employees who work in an area that has not implemented a hazardous medication exposure control program but requires employees to prepare, administer or otherwise handle hazardous medications at least 2 times per week during at least 26 weeks annually. Additional employees could be included in the program as determined on a case-by-case basis.

#### Discussion Point (2)

The ACOEM report cited in the federal register notice contains a section titled "Recommended or Required Notification of Pregnancy" which suggests voluntary or mandatory employee reporting of intended pregnancy as options to trigger alternative duty or re-assignment. This statement was based on literature that was published before engineering controls or personal protective equipment had become common in the handling of hazardous drugs. As an ACOEM member, I am aware that this reference is no longer an active position paper and is superseded by the Medical Center Occupational Health guidance document of 09/03/08

([http://www.acoem.org/uploadedFiles/Policies\\_And\\_Position\\_Statements/Guidelines/Guidelines/MCOH%20Guidance.pdf](http://www.acoem.org/uploadedFiles/Policies_And_Position_Statements/Guidelines/Guidelines/MCOH%20Guidance.pdf)), which does not endorse such practices.

Such a requirement would be highly problematic for staffing of clinical departments, and there are likely legal issues in requiring employees to report intent to conceive.

For example, an employee of child bearing age could use this clause to request reassignment indefinitely. On the flip side, the Americans with Disability Act would not likely allow an employer to ask employees upon hire if they plan to conceive during their employment before conveying an offer of employment.

In summary, proper education, training, engineering controls, personal protective equipment, appropriate medical monitoring, prompt reporting of accidental exposure, and options for confidential medical counseling regarding workplace hazards should be sufficient to mitigate risk without resorting to draconian procedures such as reassignment based on employee fertility.

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Should future exposure measurement linked to reliable biomarkers and clinical outcomes indicate a significant risk despite the controls noted above, we would welcome further direction and discussion on this topic.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Bugha', with a long horizontal line extending to the right.

William G. Bugha, MD, MS, MPH, FACOEM  
Medical Director, Employee Occupational Health Service  
Mayo Clinic Rochester