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DIVISION 5. SAFETY IN EMPLOYMENT [6300 - 9254] (*Division 5 enacted by Stats. 1937, Ch. 90.*)

PART 1. OCCUPATIONAL SAFETY AND HEALTH [6300 - 6725] (*Heading of Part 1 amended by Stats. 1973, Ch. 993.*)

CHAPTER 3. Responsibilities and Duties of Employers and Employees [6400 - 6413.5] (*Chapter 3 repealed and added by Stats. 1973, Ch. 993.*)

6400. (a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein.

(b) On multiemployer worksites, both construction and nonconstruction, citations may be issued only to the following categories of employers when the division has evidence that an employee was exposed to a hazard in violation of any requirement enforceable by the division:

(1) The employer whose employees were exposed to the hazard (the exposing employer).

(2) The employer who actually created the hazard (the creating employer).

(3) The employer who was responsible, by contract or through actual practice, for safety and health conditions on the worksite, which is the employer who had the authority for ensuring that the hazardous condition is corrected (the controlling employer).

(4) The employer who had the responsibility for actually correcting the hazard (the correcting employer).

The employers listed in paragraphs (2) to (4), inclusive, of this subdivision may be cited regardless of whether their own employees were exposed to the hazard.

(c) It is the intent of the Legislature, in adding subdivision (b) to this section, to codify existing regulations with respect to the responsibility of employers at multiemployer worksites. Subdivision (b) of this section is declaratory of existing law and shall not be construed or interpreted as creating a new law or as modifying or changing an existing law.

(Amended by Stats. 1999, Ch. 615, Sec. 4. Effective January 1, 2000.)

6401. Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

(Repealed and added by Stats. 1973, Ch. 993.)

6401.5. No salvage of materials shall be permitted while demolition is in progress on any building, structure, falsework, or scaffold more than three stories high or the equivalent height for which a permit is required under subdivision (c) of Section 6500.

For this purpose salvage does not include removal of material from premises solely for the purpose of clearing the area to facilitate the continuation of the demolition.

(Added by Stats. 1976, Ch. 33.)

6401.7. (a) Every employer shall establish, implement, and maintain an effective injury prevention program. The program shall be written, except as provided in subdivision (e), and shall include, but not be limited to, the

following elements:

(1) Identification of the person or persons responsible for implementing the program.

(2) The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.

(3) The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.

(4) An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.

(5) The employer's system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

(6) The employer's system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

(7) A workplace violence prevention plan conforming to the requirements of Section 6401.9.

(b) The employer shall correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

(c) The employer shall train all employees when the training program is first established, all new employees, and all employees given a new job assignment, and shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the employer receives notification of a new or previously unrecognized hazard. An employer in the construction industry who is required to be licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code may use employee training provided to the employer's employees under a construction industry occupational safety and health training program approved by the division to comply with the requirements of subdivision (a) relating to employee training, and shall only be required to provide training on hazards specific to an employee's job duties.

(d) The employer shall keep appropriate records of steps taken to implement and maintain the program. An employer in the construction industry who is required to be licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code may use records relating to employee training provided to the employer in connection with an occupational safety and health training program approved by the division to comply with this subdivision, and shall only be required to keep records of those steps taken to implement and maintain the program with respect to hazards specific to an employee's job duties.

(e) (1) The standards board shall adopt a standard setting forth the employer's duties under this section, on or before January 1, 1991, consistent with the requirements specified in subdivisions (a), (b), (c), and (d). The standards board, in adopting the standard, shall include substantial compliance criteria for use in evaluating an employer's injury prevention program. The board may adopt less stringent criteria for employers with few employees and for employers in industries with insignificant occupational safety or health hazards.

(2) Notwithstanding subdivision (a), for employers with fewer than 20 employees who are in industries that are not on a designated list of high hazard industries and who have a workers' compensation experience modification rate of 1.1 or less, and for any employers with fewer than 20 employees who are in industries that are on a designated list of low hazard industries, the board shall adopt a standard setting forth the employer's duties under this section consistent with the requirements specified in subdivisions (a), (b), and (c), except that the standard shall only require written documentation to the extent of documenting the person or persons responsible for implementing the program pursuant to paragraph (1) of subdivision (a), keeping a record of periodic inspections pursuant to paragraph (2) of subdivision (a), and keeping a record of employee training pursuant to paragraph (4) of subdivision (a). To any extent beyond the specifications of this subdivision, the standard shall not require the employer to keep the records specified in subdivision (d).

(3) (A) The division shall establish a list of high hazard industries using the methods prescribed in Section 6314.1 for identifying and targeting employers in high hazard industries. For purposes of this subdivision, the "designated list of high hazard industries" shall be the list established pursuant to this paragraph.

(B) For the purpose of implementing this subdivision, the Department of Industrial Relations shall periodically review, and as necessary revise, the list.

(4) For the purpose of implementing this subdivision, the Department of Industrial Relations shall also establish a list of low hazard industries, and shall periodically review, and as necessary revise, that list.

(f) The standard adopted pursuant to subdivision (e) shall specifically permit employer and employee occupational safety and health committees to be included in the employer's injury prevention program. The board shall establish criteria for use in evaluating employer and employee occupational safety and health committees. The criteria shall include minimum duties, including the following:

(1) Review of the employer's periodic, scheduled worksite inspections; investigation of causes of incidents resulting in injury, illness, or exposure to hazardous substances; and investigation of any alleged hazardous condition brought to the attention of any committee member. When determined necessary by the committee, the committee may conduct its own inspections and investigations.

(2) (A) Upon request from the division, verification of abatement action taken by the employer as specified in division citations.

(B) If an employer's occupational safety and health committee meets the criteria established by the board, it shall be presumed to be in substantial compliance with paragraph (5) of subdivision (a).

(g) The division shall adopt regulations specifying the procedures for selecting employee representatives for employer-employee occupational health and safety committees when these procedures are not specified in an applicable collective bargaining agreement. No employee or employee organization shall be held liable for any act or omission in connection with a health and safety committee.

(h) The employer's injury prevention program, as required by this section, shall cover all of the employer's employees and all other workers who the employer controls or directs and directly supervises on the job to the extent these workers are exposed to worksite and job assignment specific hazards. Nothing in this subdivision shall affect the obligations of a contractor or other employer that controls or directs and directly supervises its own employees on the job.

(i) When a contractor supplies its employee to a state agency employer on a temporary basis, the state agency employer may assess a fee upon the contractor to reimburse the state agency for the additional costs, if any, of including the contract employee within the state agency's injury prevention program.

(j) (1) The division shall prepare a Model Injury and Illness Prevention Program for Non-High-Hazard Employment, and shall make copies of the model program prepared pursuant to this subdivision available to employers, upon request, for posting in the workplace. An employer who adopts and implements the model program prepared by the division pursuant to this paragraph in good faith shall not be assessed a civil penalty for the first citation for a violation of this section issued after the employer's adoption and implementation of the model program.

(2) For purposes of this subdivision, the division shall establish a list of non-high-hazard industries in California. These industries, identified by their Standard Industrial Classification Codes, as published by the United States Office of Management and Budget in the Manual of Standard Industrial Classification Codes, 1987 Edition, are apparel and accessory stores (Code 56), eating and drinking places (Code 58), miscellaneous retail (Code 59), finance, insurance, and real estate (Codes 60-67), personal services (Code 72), business services (Code 73), motion pictures (Code 78) except motion picture production and allied services (Code 781), legal services (Code 81), educational services (Code 82), social services (Code 83), museums, art galleries, and botanical and zoological gardens (Code 84), membership organizations (Code 86), engineering, accounting, research, management, and related services (Code 87), private households (Code 88), and miscellaneous services (Code 89). To further identify industries that may be included on the list, the division shall also consider data from a rating organization, as defined in Section 11750.1 of the Insurance Code, and all other appropriate information. The list shall be established by June 30, 1994, and shall be reviewed, and as necessary revised, biennially.

(3) The division shall prepare a Model Injury and Illness Prevention Program for Employers with Seasonal or Intermittent Workers, and shall determine which industries have historically utilized seasonal or intermittent employees. An employer in an industry determined by the division to have historically utilized seasonal or intermittent employees shall be deemed to have complied with the requirements of subdivision (a) with respect to a written injury prevention program if the employer adopts the model program prepared by the division pursuant to this paragraph and complies with any instructions relating thereto.

(k) With respect to any county, city, city and county, or district, or any public or quasi-public corporation or public agency therein, including any public entity, other than a state agency, that is a member of, or created by, a joint

powers agreement, subdivision (d) shall not apply.

(I) Every workers' compensation insurer shall conduct a review, including a written report as specified below, of the injury and illness prevention program (IIPP) of each of its insureds with an experience modification of 2.0 or greater within six months of the commencement of the initial insurance policy term. The review shall determine whether the insured has implemented all of the required components of the IIPP, and evaluate their effectiveness. The training component of the IIPP shall be evaluated to determine whether training is provided to line employees, supervisors, and upper level management, and effectively imparts the information and skills each of these groups needs to ensure that all of the insured's specific health and safety issues are fully addressed by the insured. The reviewer shall prepare a detailed written report specifying the findings of the review and all recommended changes deemed necessary to make the IIPP effective. The reviewer shall be or work under the direction of a licensed California professional engineer, certified safety professional, or a certified industrial hygienist.

(Amended by Stats. 2024, Ch. 80, Sec. 100. (SB 1525) Effective January 1, 2025.)

6401.8. (a) The standards board, no later than July 1, 2016, shall adopt standards developed by the division that require a hospital licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code, except as exempted by subdivision (e), to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

(b) The standards adopted pursuant to subdivision (a) shall include all of the following:

(1) A requirement that the workplace violence prevention plan be in effect at all times in all patient care units, including inpatient and outpatient settings and clinics on the hospital's license.

(2) A definition of workplace violence that includes, but is not limited to, both of the following:

(A) The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

(B) An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

(3) A requirement that a workplace violence prevention plan include, but not be limited to, all of the following:

(A) Personnel education and training policies that require all health care workers who provide direct care to patients to, at least annually, receive education and training that is designed to provide an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training shall cover topics that include, but are not limited to, the following topics:

(i) How to recognize potential for violence, and when and how to seek assistance to prevent or respond to violence.

(ii) How to report violent incidents to law enforcement.

(iii) Any resources available to employees for coping with incidents of violence, including, but not limited to, critical incident stress debriefing or employee assistance programs.

(B) A system for responding to, and investigating violent incidents and situations involving violence or the risk of violence.

(C) A system to, at least annually, assess and improve upon factors that may contribute to, or help prevent workplace violence, including, but not limited to, the following factors:

(i) Staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence.

(ii) Sufficiency of security systems, including alarms, emergency response, and security personnel availability.

(iii) Job design, equipment, and facilities.

(iv) Security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas.

(4) A requirement that all workplace violence prevention plans be developed in conjunction with affected employees, including their recognized collective bargaining agents, if any.

(5) A requirement that all temporary personnel be oriented to the workplace violence prevention plan.

(6) Provisions prohibiting hospitals from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

(7) A requirement that hospitals document, and retain for a period of five years, a written record of any violent incident against a hospital employee, regardless of whether the employee sustains an injury, and regardless of whether the report is made by the employee who is the subject of the violent incident or any other employee.

(8) A requirement that a hospital report violent incidents to the division. If the incident results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel, the hospital shall report the incident to the division within 24 hours. All other incidents of violence shall be reported to the division within 72 hours.

(c) The standards board shall, by March 1, 2027, amend the standards adopted pursuant to subdivision (a) to include all of the following:

(1) (A) A requirement that a hospital implement a weapons detection screening policy that requires the use of weapons detection devices that automatically screen a person's body, as described in clause (iii), at the hospital's main public entrance, at the entrance to the hospital's emergency department, and at the hospital's labor and delivery entrance if separately accessible to the public.

(i) For purposes of this paragraph, a weapons detection screening policy shall include security mechanisms, devices, or technology designed to screen and identify instruments capable of inflicting death or serious bodily injury.

(ii) The use of handheld metal detector wands, while they may be used in connection with other weapons detection devices, may not be the sole equipment used. This clause does not apply to the following:

(I) Small and rural hospitals.

(II) Entrances with existing spacing limitations where the use of a weapons detection device other than a handheld metal detector wand would result in a violation of the standards in Title 24 of the California Code of Regulations.

(III) Hospitals that exclusively provide extended hospital care to patients with complex medical and rehabilitative needs, such as hospitals that are currently federally certified as long-term care hospitals or inpatient rehabilitation facilities.

(iii) The standards board shall define the list of applicable security mechanisms, devices, or technologies that meet the standard in this subparagraph.

(B) For purposes of this paragraph, the following definitions shall apply:

(i) "Main public entrance" means a singular entrance, as designated by the hospital, that serves as the primary point of access that patients and visitors use to enter the main hospital building.

(ii) "Small and rural hospital" has the same meaning as in subdivision (d) of Section 130076 of the Health and Safety Code for purposes of the Small and Rural Hospital Relief Program.

(C) The requirement described in this paragraph may not apply to the ambulance entrance.

(2) (A) A requirement that a hospital assign appropriate personnel, other than a health care provider, who meet training standards described in subparagraph (C), to implement the weapon detection screening policy, including the monitoring and operation of the weapons detection devices at each specified public entrance at all times the entrance is open to the public.

(B) A "health care provider" includes any health care professional licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(C) (i) A hospital shall implement training for personnel responsible for implementing the weapons detection screening policy that includes a minimum of eight hours of training on all of the following:

(I) The hospital's policies and procedures on how to respond if a dangerous weapon is detected at the point of screening.

(II) How to operate the hospital's weapons detection devices.

(III) De-escalation.

(IV) Implicit bias.

(ii) A hospital shall determine how the training described in this subparagraph is satisfied. The training topics described in clause (i) may be satisfied individually and on separate occasions or through one comprehensive training course, provided that the total amount of training received meets the minimum amount of time required in this subparagraph.

(D) No one other than trained personnel who have completed the requirements in subparagraph (C) shall search personal belongings at any hospital entrance or confiscate weapons if the hospital's policies include weapons confiscation by trained personnel.

(3) (A) A provision permitting a hospital to exclude current hospital employees or health care providers who enter a hospital wearing an identification badge bearing their name and title from undergoing weapons detection screening as described in subparagraph (A) of paragraph (1) of this subdivision.

(B) A requirement that the weapons detection screening policy include reasonable protocols addressing how the hospital will respond if a dangerous weapon is detected and reasonable protocols for alternative search and screening for patients, family, or visitors who refuse to undergo weapons detection device screening.

(C) If an individual triggers the weapons detection device, the individual shall have the right to leave the facility with the object and the right to return without the object and without being denied entry to the facility solely for the reason of previously possessing the detected object.

(4) A requirement that a hospital post, in a conspicuous location in a size and manner determined by the standards board, within reasonable proximity of any public entrances where weapons detection devices are utilized, a notice advising the public that the hospital conducts screenings for weapons upon entry but that no person shall be refused medical care, pursuant to the federal Emergency Medical Treatment and Active Labor Act (EMTALA).

(5) The division shall set an effective date that is no longer than 90 days after the standard is adopted for hospitals to comply with the requirements of this subdivision.

(d) By January 1, 2017, and annually thereafter, the division, in a manner that protects patient and employee confidentiality, shall post a report on its internet website containing information regarding violent incidents at hospitals, that includes, but is not limited to, the total number of reports, and which specific hospitals filed reports, pursuant to paragraph (8) of subdivision (b), the outcome of any related inspection or investigation, the citations levied against a hospital based on a violent incident, and recommendations of the division on the prevention of violent incidents at hospitals.

(e) This section shall not apply to a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation.

(f) This section does not limit the authority of the standards board to adopt standards to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require other employers, including, but not limited to, employers exempted from this section by subdivision (e), to adopt plans to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require an employer subject to this section, or any other employer, to adopt a workplace violence prevention plan that includes elements or requirements additional to, or broader in scope than, those described in this section.

(Amended by Stats. 2025, Ch. 241, Sec. 22. (SB 857) Effective January 1, 2026.)

6401.9. (a) For purposes of this section, the following definitions apply:

(1) "Emergency" means unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.

(2) "Engineering controls" mean an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard.

(3) "Log" means the violent incident log required by this section.

(4) "Plan" means the workplace violence prevention plan required by this section.

(5) "Threat of violence" means any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose.

(6) (A) "Workplace violence" means any act of violence or threat of violence that occurs in a place of employment.

(B) "Workplace violence" includes, but is not limited to, the following:

(i) The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

(ii) An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.

(iii) The following four workplace violence types:

(I) "Type 1 violence," which means workplace violence committed by a person who has no legitimate business at the worksite, and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.

(II) "Type 2 violence," which means workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.

(III) "Type 3 violence," which means workplace violence against an employee by a present or former employee, supervisor, or manager.

(IV) "Type 4 violence," which means workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.

(C) "Workplace violence" does not include lawful acts of self-defense or defense of others.

(7) "Work practice controls" means procedures and rules which are used to effectively reduce workplace violence hazards.

(b) (1) Except as provided in paragraph (2), this section applies to all employers, employees, places of employment, and employer-provided housing.

(2) Subject to paragraph (3), the following employers, employees, and places of employment are exempt from this section:

(A) Health care facilities, service categories, and operations covered by Section 3342 of Title 8 of the California Code of Regulations.

(B) Employers that comply with Section 3342 of Title 8 of the California Code of Regulations.

(C) Facilities operated by the Department of Corrections and Rehabilitation, if the facilities are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(D) Employers that are law enforcement agencies that are a "department or participating department," as defined in Section 1001 of Title 11 of the California Code of Regulations and that have received confirmation of compliance with the Commission on Peace Officer Standards and Training (POST) Program from the POST Executive Director in accordance with Section 1010 of Title 11 of the California Code of Regulations. However, an employer shall be exempt pursuant to this subparagraph only if all facilities operated by the agency are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(E) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(F) Places of employment where there are less than 10 employees working at the place at any given time and that are not accessible to the public, if the places are in compliance with Section 3203 of Title 8 of the California Code of Regulations.

(3) Notwithstanding paragraph (1), the division may, by issuance of an order to take special action, require an employer that is exempt pursuant to paragraph (1) to comply with this section or require an employer to include employees or places of employment that are exempt pursuant to paragraph (1) in their compliance with this section.

(c) (1) (A) An employer shall establish, implement, and maintain an effective workplace violence prevention plan.

(B) The plan shall be in writing and shall be available and easily accessible to employees, authorized employee representatives, and representatives of the division at all times. The plan shall be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation. The written plan may be incorporated as a stand-alone section in the written injury and illness prevention program required by Section 3203 of Title 8 of the California Code of Regulations or maintained as a separate document.

(2) The plan shall include all of the following:

(A) Names or job titles of the persons responsible for implementing the plan. If there are multiple persons responsible for the plan, their roles shall be clearly described.

(B) Effective procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the plan, including, but not limited to, through their participation in identifying, evaluating, and correcting workplace violence hazards, in designing and implementing training, and in reporting and investigating workplace violence incidents.

(C) Methods the employer will use to coordinate implementation of the plan with other employers, when applicable, to ensure that those employers and employees understand their respective roles, as provided in the plan. These methods shall ensure that all employees are provided the training required by subdivision (e) and that workplace violence incidents involving any employee are reported, investigated, and recorded.

(D) Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.

(E) Effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan in a manner consistent with paragraph (2) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.

(F) Effective procedures to communicate with employees regarding workplace violence matters, including, but not limited to, both of the following:

(i) How an employee can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of reprisal.

(ii) How employee concerns will be investigated as part of the employer's responsibility in complying with subparagraph (I), and how employees will be informed of the results of the investigation and any corrective actions to be taken as part of the employer's responsibility in complying with subparagraph (J).

(G) Effective procedures to respond to actual or potential workplace violence emergencies, including, but not limited to, all of the following:

(i) Effective means to alert employees of the presence, location, and nature of workplace violence emergencies.

(ii) Evacuation or sheltering plans that are appropriate and feasible for the worksite.

(iii) How to obtain help from staff assigned to respond to workplace violence emergencies, if any, security personnel, if any, and law enforcement.

(H) Procedures to develop and provide the training required in subdivision (e).

(I) Procedures to identify and evaluate workplace violence hazards, including, but not limited to, scheduled periodic inspections to identify unsafe conditions and work practices and employee reports and concerns. Inspections shall be conducted when the plan is first established, after each workplace violence incident, and whenever the employer is made aware of a new or previously unrecognized hazard.

(J) Procedures to correct workplace violence hazards identified and evaluated in subparagraph (I) in a timely manner consistent with paragraph (6) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.

(K) Procedures for postincident response and investigation.

(L) Procedures to review the effectiveness of the plan and revise the plan as needed, including, but not limited to, procedures to obtain the active involvement of employees and authorized employee representatives in reviewing the plan. The plan shall be reviewed at least annually, when a deficiency is observed or becomes apparent, and after a workplace violence incident.

(M) Procedures or other information required by the division and standards board as being necessary and appropriate to protect the health and safety of employees, pursuant to subdivision (h).

(d) (1) (A) The employer shall record information in a violent incident log for every workplace violence incident.

(B) Information that is recorded in the log for each incident shall be based on information solicited from the employees who experienced the workplace violence, on witness statements, and on investigation findings. The employer shall omit any element of personal identifying information sufficient to allow identification of any person involved in a violent incident, such as the person's name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person's identity. The log shall be reviewed during the periodic reviews of the plan required in subparagraph (L) of paragraph (2) of subdivision (c).

(C) For purposes of this section, at a multiemployer worksite, the employer or employers whose employees experienced the workplace violence incident shall record the information in a violent incident log pursuant to subparagraph (A) and shall also provide a copy of that log to the controlling employer.

(2) The information recorded in the log shall include all of the following:

(A) The date, time, and location of the incident.

(B) The workplace violence type or types, as described in clause (iii) of subparagraph (B) of paragraph (6) of subdivision (a), involved in the incident.

(C) A detailed description of the incident.

(D) A classification of who committed the violence, including whether the perpetrator was a client or customer, family or friend of a client or customer, stranger with criminal intent, coworker, supervisor or manager, partner or spouse, parent or relative, or other perpetrator.

(E) A classification of circumstances at the time of the incident, including, but not limited to, whether the employee was completing usual job duties, working in poorly lit areas, rushed, working during a low staffing level, isolated or alone, unable to get help or assistance, working in a community setting, or working in an unfamiliar or new location.

(F) A classification of where the incident occurred, such as in the workplace, parking lot or other area outside the workplace, or other area.

(G) The type of incident, including, but not limited to, whether it involved any of the following:

(i) Physical attack without a weapon, including, but not limited to, biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting.

(ii) Attack with a weapon or object, including, but not limited to, a firearm, knife, or other object.

(iii) Threat of physical force or threat of the use of a weapon or other object.

(iv) Sexual assault or threat, including, but not limited to, rape, attempted rape, physical display, or unwanted verbal or physical sexual contact.

(v) Animal attack.

(vi) Other.

(H) Consequences of the incident, including, but not limited to:

(i) Whether security or law enforcement was contacted and their response.

(ii) Actions taken to protect employees from a continuing threat or from any other hazards identified as a result of the incident.

(I) Information about the person completing the log, including their name, job title, and the date completed.

(e) (1) The employer shall provide effective training to employees, as specified in paragraphs (2) and (3). Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(2) The employer shall provide employees with initial training when the plan is first established, and annually thereafter, on all of the following:

(A) The employer's plan, how to obtain a copy of the employer's plan at no cost, and how to participate in development and implementation of the employer's plan.

(B) The definitions and requirements of this section.

(C) How to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal.

(D) Workplace violence hazards specific to the employees' jobs, the corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.

(E) The violent incident log required by subdivision (d) and how to obtain copies of records required by paragraphs (1) to (3), inclusive, of subdivision (f).

(F) An opportunity for interactive questions and answers with a person knowledgeable about the employer's plan.

(3) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the plan. The additional training may be limited to addressing the new workplace violence hazard or changes to the plan.

(f) (1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained for a minimum of five years.

(2) Training records shall be created and maintained for a minimum of one year and include training dates, contents or a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions.

(3) Violent incident logs required by subdivision (d) shall be maintained for a minimum of five years.

(4) Records of workplace violence incident investigations conducted pursuant to subparagraph (K) of paragraph (2) of subdivision (c) shall be maintained for a minimum of five years. These records shall not contain "medical information," as defined in subdivision (j) of Section 56.05 of the Civil Code.

(5) All records required by this subdivision shall be made available to the division upon request for examination and copying.

(6) All records required by paragraphs (1) to (3), inclusive, shall be made available to employees and their representatives, upon request and without cost, for examination and copying within 15 calendar days of a request.

(g) The division shall enforce this section by the issuance of a citation alleging a violation of this section and a notice of civil penalty in a manner consistent with Section 6317. Any person who receives a citation and penalty may appeal the citation and penalty to the appeals board in a manner consistent with Section 6319.

(h) The division shall propose, no later than December 31, 2025, and the standards board shall adopt, no later than December 31, 2026, standards regarding the plan required by this section. The standards shall include, at a minimum, the requirements of this section and any additional requirements the division deems necessary and appropriate to protect the health and safety of employees.

(i) Subdivisions (b) to (g), inclusive, shall be operative on and after July 1, 2024.

(Added by Stats. 2023, Ch. 289, Sec. 4. (SB 553) Effective January 1, 2024.)

6402. No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

(Repealed and added by Stats. 1973, Ch. 993.)

6403. No employer shall fail or neglect to do any of the following:

(a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

(Amended by Stats. 1983, Ch. 142, Sec. 113.)

6403.1. (a) The Legislature hereby finds that having access to a health care employer-level inventory of personal protective equipment in the event of a pandemic or other health emergency is vital to the health and safety of its health care workforce, as well as the general population, who both rely on the state's health care workforce for care and are susceptible to disease transmission should members of the health care workforce needlessly be infected with transmissible disease.

(b) For purposes of this section:

(1) "Department" means the Department of Industrial Relations.

(2) (A) "Health care employer" means a person or organization that employs workers in the public or private sector to provide direct patient care in a general acute care hospital setting as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a health facility as defined in paragraphs (1) and (2) of subdivision (c) of Section 1250 of the Health and Safety Code, a medical practice that is operated or maintained as part of an integrated health system or health facility, or a dialysis clinic licensed in accordance with paragraph (2) of subdivision (b) of Section 1204 of the Health and Safety Code.

(B) "Health care employer" does not include an independent medical practice that is owned and operated, or maintained as a clinic or office, by one or more licensed physicians and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment unless the medical practice is operated or maintained exclusively as part of an integrated health system or health facility or is an entity described in subdivision (l) of Section 1206 of the Health and Safety Code.

(3) "PPE" and "health care worker" have the same meanings as defined in subdivision (c) of Section 131021 of the Health and Safety Code.

(c) Except as provided in paragraphs (1) and (2) of subdivision (h), a health care employer shall maintain an inventory of unexpired PPE, as specified in this section, for use in the event of a state of emergency declaration by the Governor, or a local emergency for a pandemic or other health emergency. Personal protective equipment in the inventory shall be new and not previously worn or used. A health care employer who violates the requirement to

maintain an inventory of unexpired personal protective equipment prescribed by this section shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation, as specified in Section 6428.

(d) (1) Commencing January 1, 2023, or 365 days after regulations are adopted pursuant to subdivision (h), whichever is later, health care employers shall have an inventory at least sufficient for 45 days of surge consumption, as determined by those regulations. The regulations shall not establish policies or standards that are less protective or prescriptive than any federal, state, or local law on PPE standards.

(2) A health care employer shall provide an inventory of its PPE to the Division of Occupational Safety and Health upon request. An employer who violates this requirement shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation. This subdivision does not apply to a health care employer that provides services in a facility or other setting controlled or owned by another health care employer that is obligated to maintain a PPE inventory and report that inventory pursuant to this subdivision for all its owned or controlled facilities and settings.

(e) (1) If a health care employer provides services in a facility or other setting controlled or owned by another health care employer who is obligated to maintain a PPE inventory, the health care employer who controls or owns the facility or other setting shall be required to maintain the required PPE for the health care employer providing services in that facility or setting.

(2) A health care employer may apply for a waiver of some or all of the PPE inventory requirements of subdivision (d) by writing to the department, which may approve the waiver if the facility has 25 or fewer employees and the employer agrees to close in-person operations during a public health emergency in which increased use of PPE is recommended by the public health officer until sufficient PPE becomes available to return to in-person operations. This provision does not apply to health facilities as described in subdivisions (a), (b), and (c) of Section 1250 of the Health and Safety Code.

(3) If a health care employer's inventory of a type of PPE dips below the mandated level of supplies as a result of the health care employer's distribution of that type of PPE to its health care workers or another health care employer's workers during a state of emergency declared by the Governor or a declared local emergency for a pandemic or other health emergency, the health care employer shall not be subject to the civil penalty established by subdivision (c) for 30 days, provided the health care employer replenishes its inventory to the mandated level within 30 days if the department has determined there is not a supply limitation.

(f) The department may exempt a health care employer from a civil penalty prescribed by subdivision (c) if the department determines that supply chain limitations make meeting the mandated level of supplies infeasible and a health care employer has made a reasonable attempt, in the discretion of the department, to obtain PPE, or if the health care employer makes a showing that meeting the mandated level of supplies is not possible due to issues beyond their control, such as if the equipment was ordered from a manufacturer or distributor but the order was not fulfilled, or if the equipment was damaged or stolen.

(g) Consistent with existing law, a designated health care employer shall supply appropriate PPE to its health care workers, ensure that its health care workers use the PPE supplied to them, and provide appropriate PPE to its health care workers upon their request. This paragraph is declaratory of existing law.

(h) The department, by regulation and in consultation with the State Department of Public Health, shall set forth requirements for determining 45-day surge capacity levels for health care employer inventory as required by paragraph (1) of subdivision (d), including, but not limited to, the types and amount of PPE to be maintained by the health care employer based on the type and size of each health care employer, as well as the composition of health care workers in its workforce. The regulations shall require each health care employer to maintain sufficient PPE for all health care workers. The regulations shall consider the recommendations of the Personal Protective Equipment Advisory Committee established pursuant to Section 131021 of the Health and Safety Code.

(Amended by Stats. 2022, Ch. 28, Sec. 122. (SB 1380) Effective January 1, 2023.)

6403.3. (a) For purposes of this section:

(1) "Employer" means a person or organization that employs workers in the public or private sector to provide direct patient care in a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(2) "Personal protective equipment" means the equipment and devices necessary to comply with Sections 3380 and 5199 of Title 8 of the California Code of Regulations, provided that those requirements are at least as protective as those sections read on May 4, 2020.

(b) An employer shall supply personal protective equipment to employees who provide direct patient care or provide services that directly support patient care in a general acute care hospital. An employer shall ensure that employees use the personal protective equipment supplied to them.

(c) (1) Beginning April 1, 2021, an employer shall maintain a stockpile of the following equipment in the amount equal to three months of normal consumption:

(A) N95 filtering facepiece respirators.

(B) Powered air-purifying respirators with high efficiency particulate air filters.

(C) Elastomeric air-purifying respirators and appropriate particulate filters or cartridges.

(D) Surgical masks.

(E) Isolation gowns.

(F) Eye protection.

(G) Shoe coverings.

(2) Single use equipment in the stockpile shall be unexpired, new, and not previously worn or used. An employer shall provide an inventory of its stockpile and a copy of its written procedures required pursuant to subdivision (f) to the Division of Occupational Safety and Health upon request. An employer who violates the requirement to maintain a supply of equipment prescribed by this subdivision shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation, unless the department determines that the employer could not meet the requirement due to issues beyond their control, such as the employer can demonstrate that equipment needed to meet the requirements of this section has been ordered from their manufacturer or distributor and not fulfilled, or has been damaged or stolen. The exemption from a civil penalty shall apply only to the type of equipment listed in paragraph (1) that is affected by issues beyond the employer's control. An employer shall still maintain the equipment that is not affected by issues beyond the employer's control.

(d) If an employer provides health care services in a facility or other setting controlled by another employer who is obligated to maintain a stockpile pursuant to subdivision (c), the employer who controls the facility or other setting shall maintain the required equipment for the employer providing health care services in that facility or setting.

(e) On or before January 15, 2021, an employer licensed under subdivision (a) of Section 1250 of the Health and Safety Code shall be prepared to report to the department, under penalty of perjury, its highest seven-day consecutive daily average consumption of personal protective equipment during the 2019 calendar year, upon request by the department. General acute care hospitals under the jurisdiction of the State Department of State Hospitals are exempt from this requirement. State hospitals shall make their highest seven-day consecutive daily average consumption of personal protective equipment during the 2019 calendar year available upon request to the Division of Occupational Safety and Health.

(f) An employer shall establish and implement effective written procedures for periodically determining the quantity and types of equipment used in its normal consumption.

(g) The division may enforce an alleged violation of this section through the issuance of a citation, pursuant to Section 6317.

(h) Subdivision (b) is declaratory of existing law.

(Added by Stats. 2020, Ch. 313, Sec. 2. (AB 2537) Effective January 1, 2021.)

6403.5. (a) As part of the injury and illness prevention programs required by Section 3203 of Title 8 of the California Code of Regulations, or any successor law or regulation, employers shall adopt a patient protection and health care worker back and musculoskeletal injury prevention plan. The plan shall include a safe patient handling policy component reflected in professional occupational safety guidelines for the protection of patients and health care workers in health care facilities.

(b) An employer shall maintain a safe patient handling policy at all times for all patient care units, and shall provide trained lift teams or other support staff trained in safe lifting techniques in each general acute care hospital. The employer shall provide training to health care workers that includes, but is not limited to, the following:

(1) The appropriate use of lifting devices and equipment.

(2) The five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation.

(3) The use of lifting devices to handle patients safely.

(c) As the coordinator of care, the registered nurse shall be responsible for the observation and direction of patient lifts and mobilization, and shall participate as needed in patient handling in accordance with the nurse's job description and professional judgment.

(d) For purposes of this section, "lift team" means hospital employees specifically trained to handle patient lifts, repositionings, and transfers using patient transfer, repositioning, or lifting devices as appropriate for the specific patient. Lift team members may perform other duties as assigned during their shifts. A general acute care hospital shall not be required by this section to hire new staff to comprise the lift team so long as direct patient care assignments are not compromised.

(e) For purposes of this section, "health care worker" means a lift team member or other staff responsible for assisting in lifting patients who is a hospital employee specifically trained to handle patient lifts, repositioning, and transfers using patient transfer, repositioning, and lifting devices as appropriate for the specific patient.

(f) For the purposes of this section, "safe patient handling policy" means a policy that requires replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, and lift teams, as appropriate for the specific patient and consistent with the employer's safety policies and the professional judgment and clinical assessment of the registered nurse.

(g) A health care worker who refuses to lift, reposition, or transfer a patient due to concerns about patient or worker safety or the lack of trained lift team personnel or equipment shall not, based upon the refusal, be the subject of disciplinary action by the hospital or any of its managers or employees.

(h) This section shall not apply to general acute care hospitals within the Department of Corrections and Rehabilitation or the State Department of Developmental Services.

(Added by Stats. 2011, Ch. 554, Sec. 3. (AB 1136) Effective January 1, 2012.)

6404. No employer shall occupy or maintain any place of employment that is not safe and healthful.

(Repealed and added by Stats. 1973, Ch. 993.)

6404.5. (a) The Legislature finds and declares that regulation of smoking in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the smoking of tobacco products in all (100 percent of) enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace smoking restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that an area not defined as a "place of employment" pursuant to subdivision (e) is subject to local regulation of smoking of tobacco products.

(b) For purposes of this section, an "owner-operated business" shall mean a business having no employees, independent contractors, or volunteers, in which the owner-operator of the business is the only worker. "Enclosed space" includes covered parking lots, lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (e).

(c) An employer or owner-operator of an owner-operated business shall not knowingly or intentionally permit, and a person shall not engage in, the smoking of tobacco products at a place of employment or in an enclosed space.

(d) For purposes of this section, an employer or owner-operator of an owner-operated business who permits any nonemployee access to their place of employment or owner-operated business on a regular basis has not acted knowingly or intentionally in violation of this section if the employer or owner-operator has taken the following reasonable steps to prevent smoking by a nonemployee:

(1) Posted clear and prominent signs, as follows:

(A) Where smoking is prohibited throughout the building or structure, a sign stating "No smoking" shall be posted at each entrance to the building or structure.

(B) Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is prohibited except in designated areas" shall be posted at each entrance to the building or structure.

(2) Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking in the enclosed workplace or owner-operated business.

For purposes of this subdivision, "reasonable steps" does not include (A) the physical ejection of a nonemployee from the place of employment or owner-operated business or (B) any requirement for making a request to a nonemployee to refrain from smoking, under circumstances involving a risk of physical harm to the employer or any employee or owner-operator.

(e) For purposes of this section, "place of employment" does not include any of the following:

(1) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph:

(A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) "Retail or wholesale tobacco shop" means any business establishment, the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

(2) Cabs of motortrucks, as defined in Section 410 of the Vehicle Code, or truck tractors, as defined in Section 655 of the Vehicle Code, if nonsmoking employees are not present.

(3) Theatrical production sites, if smoking is an integral part of the story in the theatrical production.

(4) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.

(5) Private residences, except for private residences licensed as family day care homes where smoking is prohibited pursuant to Section 1596.795 of the Health and Safety Code.

(6) Patient smoking areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(f) The smoking prohibition set forth in this section constitutes a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment and owner-operated businesses and supersedes and renders unnecessary the local enactment or enforcement of local ordinances regulating the smoking of tobacco products in enclosed places of employment and owner-operated businesses. Insofar as the smoking prohibition set forth in this section is applicable to all (100 percent) places of employment and owner-operated businesses within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to eliminate the need of local governments to enact enclosed workplace smoking restrictions within their respective jurisdictions.

(g) This section does not prohibit an employer or owner-operator of an owner-operated business from prohibiting smoking of tobacco products in an enclosed place of employment or owner-operated business for any reason.

(h) The enactment of local regulation of smoking of tobacco products in enclosed places of employment or owner-operated businesses by local governments shall be suspended only for as long as, and to the extent that, the (100 percent) smoking prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100 percent) smoking prohibition is no longer applicable to all enclosed places of employment and owner-operated businesses in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment and owner-operated businesses within their jurisdictions, including a complete prohibition of smoking. Notwithstanding any other provision of this section, an area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (e), is subject to local regulation of smoking of tobacco products.

(i) A violation of the prohibition set forth in subdivision (c) is an infraction, punishable by a fine not to exceed one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation within one year, and five hundred dollars (\$500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body.

(j) Notwithstanding Section 6309, the division is not required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (i) of a third violation of subdivision (c) within the previous year.

(k) If a provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(l) For purposes of this section, "smoking" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(m) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2023, Ch. 182, Sec. 3. (SB 626) Effective January 1, 2024.)

6405. No employer, owner, or lessee of any real property shall construct or cause to be constructed any place of employment that is not safe and healthful.

(Repealed and added by Stats. 1973, Ch. 993.)

6406. No person shall do any of the following:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice, or warning, furnished for use in any employment or place of employment.

(b) Interfere in any way with the use thereof by any other person.

(c) Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment.

(d) Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

(Repealed and added by Stats. 1973, Ch. 993.)

6407. Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

(Amended by Stats. 1977, Ch. 62.)

6408. All employers shall provide information to employees in the following ways, as prescribed by authorized regulations:

(a) Posting of information regarding protections and obligations of employees under occupational safety and health laws.

(b) Posting prominently each citation issued under Section 6317, or a copy or copies thereof, at or near each place a violation referred to in the notice of violation occurred.

(c) The opportunity for employees or their representatives to observe monitoring or measuring of employee exposure to hazards conducted pursuant to standards promulgated under Section 142.3.

(d) Allow access by employees or their representatives to accurate records of employee exposures to potentially toxic materials or harmful physical agents.

(e) Notification of any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels exceeding those prescribed by an applicable standard, order, or special order, and informing any employee so exposed of corrective action being taken.

(Repealed and added by Stats. 1973, Ch. 993.)

6409. (a) Every physician as defined in Section 3209.3 who attends any injured employee shall file a complete report of that occupational injury or occupational illness in a manner prescribed by the administrative director of the Division of Workers' Compensation. The report shall include a diagnosis, the injured employee's description of how the injury or illness occurred, any treatment rendered at the time of the examination, any work restrictions resulting from the injury or illness, a treatment plan, and other content as prescribed by the administrative director. The form shall be filed electronically with the Division of Workers' Compensation and the employer, or if insured, with the employer's insurer, within five days of the initial examination. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall also, within 24 hours of the initial examination, file a complete report with the local health officer by facsimile transmission or other means. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall not be compensated for the initial diagnosis and treatment unless the report is filed with the Division of Workers' Compensation, the employer, or if insured, with the employer's insurer, and includes or is accompanied by a signed affidavit which certifies that a copy of the report was filed with the local health officer pursuant to this section.

(b) As used in this section, "occupational illness" means any abnormal condition or disorder caused by exposure to environmental factors associated with employment, including acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

(Amended by Stats. 2016, Ch. 868, Sec. 13. (SB 1160) Effective January 1, 2017.)

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, of each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial Relations or, if an insured employer, with the insurer, on a form prescribed for that purpose by the department. A report shall be filed concerning each injury and illness which has, or is alleged to have, arisen out of and in the course of employment, within five days after the employer obtains knowledge of the injury or illness. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file with the division immediately upon receipt, a copy of the employer's report, which has been received from the insured employer. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the reported injury or illness, the employer shall file an amended report indicating the death with the department or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. A copy of any amended reports received by the insurer shall be filed with the division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or through a specified online mechanism established by the division for this purpose. Until the division has made such an online mechanism available, the employer shall be permitted to make the report required by this subdivision by telephone or email. An employer who violates this subdivision may be assessed a civil penalty of not less than five thousand dollars (\$5,000). Nothing in this subdivision shall be construed to increase the maximum civil penalty, pursuant to Sections 6427 to 6430, inclusive, that may be imposed for a violation of this section.

(Amended by Stats. 2019, Ch. 199, Sec. 1. (AB 1804) Effective January 1, 2020.)

6409.2. Whenever a state, county, or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury or illness, or death occurs, the responding agency shall immediately notify the nearest office of the Division of Occupational Safety and Health by telephone. Thereafter, the division shall immediately notify the appropriate prosecuting authority of the accident.

(Amended by Stats. 2002, Ch. 885, Sec. 7. Effective January 1, 2003.)

6409.3. In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

(Added by Stats. 1979, Ch. 889.)

6409.5. (a) Whenever any local public fire agency has knowledge that a place of employment where garment manufacturing operations take place contains fire or safety hazards for which fire and injury prevention measures have not been taken in accordance with local fire and life safety ordinances, the agency may notify the Division of Occupational Safety and Health. This referral shall be made only after the garment manufacturing employer has been given a reasonable amount of time to correct violations.

(b) Whenever the Division of Occupational Safety and Health has knowledge or reasonable suspicion that a place of employment where garment manufacturing operations take place contains fire or safety hazards for which fire and injury prevention measures have not been taken in accordance with local fire and life safety ordinances, the division shall notify the appropriate local public fire agency.

(c) Whenever the Division of Occupational Safety and Health receives a referral by a local public fire agency pursuant to subdivision (a) which informs the division that a place of employment where garment manufacturing operations take place is not safe or is injurious to the welfare of any employee, it shall constitute a complaint for purposes of Section 6309 and shall be investigated.

(d) Whenever a local public fire agency receives a referral by the Division of Occupational Safety and Health pursuant to subdivision (b) which informs the local public fire agency that a place of employment where garment manufacturing operations take place is not safe or is injurious to the welfare of any employee, the local public fire agency may investigate the referral at its discretion.

(e) (1) If the Division of Occupational Safety and Health acquires knowledge that the garment manufacturing employer is not currently registered, it shall notify the Division of Labor Standards Enforcement.

(2) Local public fire agencies may make referrals of individuals not registered as garment manufacturers to the Division of Labor Standards Enforcement.

(3) Whenever the Division of Labor Standards Enforcement is informed by the Division of Occupational Safety and Health or by a local public fire agency that a garment manufacturing employer is unregistered, the Division of Labor Standards Enforcement shall take measures it deems appropriate to obtain compliance.

(Added by Stats. 1991, Ch. 7, Sec. 2. Effective December 13, 1990. Operative January 1, 1991, by Sec. 3 of Ch. 7.)

6410. (a) The reports required by subdivision (a) of Section 6409 and Section 6413 shall be made in the form and detail and within the time limits prescribed by reasonable rules and regulations adopted by the Department of Industrial Relations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Nothing in this chapter requiring recordkeeping and reporting by employers shall relieve the employer of maintaining records and making reports to the assistant secretary, United States Department of Labor, as required under the federal Occupational Safety and Health Act of 1970 (P.L. 91-596). The Division of Occupational Safety and Health shall prescribe and provide the forms necessary for maintenance of the required records, and shall enforce by citation and penalty assessment any violation of the recordkeeping requirements of this chapter.

(c) All state and local government employers shall maintain records and make reports in the same manner and to the same extent as required of other employers by this section.

(Amended by Stats. 2012, Ch. 46, Sec. 111. (SB 1038) Effective June 27, 2012.)

6410.1. It is the intent of the Legislature that the division maintain strong workplace injury and illness reporting standards.

(Added by Stats. 2018, Ch. 538, Sec. 5. (AB 2334) Effective January 1, 2019.)

6410.2. (a) The division shall monitor rulemaking and implementation of the United States Department of Labor's Occupational Safety and Health Administration's Improve Tracking of Workplace Injuries and Illnesses rule as published in the federal Register (81 FR 29624) with respect to the electronic submission of workplace injury and illness data.

(b) If the division determines that the Occupational Safety and Health Administration (OSHA) has eliminated or substantially diminished the requirement that employers electronically submit OSHA injury and illness data pursuant to 81 FR 29624, the division shall, within 120 days of the determination, convene an advisory committee to evaluate how to implement the changes necessary to protect the goals of the Improve Tracking of Workplace Injuries and Illnesses rule, as issued May 12, 2016. The committee shall be composed of parties in both management and labor and include parties that are required to keep injury and illness records under Article 2 (commencing with Section 14300) of Subchapter 1 of Chapter 7 of Division 1 of Title 8 of the California Code of Regulations.

(c) This section does not require the disclosure of information prohibited under Section 6412.

(Added by Stats. 2018, Ch. 538, Sec. 6. (AB 2334) Effective January 1, 2019.)

6410.5. The reports required by subdivision (a) of Section 6409, subdivision (a) of Section 6409.1, and Section 6413 shall contain, prominently stated, the statement set forth in Section 5401.7.

(Added by Stats. 1991, Ch. 116, Sec. 34.)

6411. Every employer or insurer receiving forms with directions from the Department of Industrial Relations to complete them shall cause them to be properly filled out so as to answer fully and correctly each question propounded therein. In case of inability to answer any questions, a good and sufficient reason shall be given for such failure.

(Amended by Stats. 2012, Ch. 46, Sec. 112. (SB 1038) Effective June 27, 2012.)

6412. No report of injury or illness required by subdivision (a) of Section 6409.1 shall be open to public inspection or made public, nor shall those reports be admissible as evidence in any adversary proceeding before the Workers' Compensation Appeals Board. However, the reports required of physicians by subdivision (a) of Section 6409 shall be admissible as evidence in the proceeding, except that no physician's report shall be admissible as evidence to

bar proceedings for the collection of compensation, and the portion of any physician's report completed by an employee shall not be admissible as evidence in any proceeding before the Workers' Compensation Appeals Board.

(Amended by Stats. 1987, Ch. 1019, Sec. 7.)

6413. (a) The Department of Corrections and Rehabilitation, and every physician or surgeon who attends any injured state prisoner, shall file with the Division of Occupational Safety and Health a complete report, on forms prescribed under Sections 6409 and 6409.1, of every injury to each state prisoner, resulting from any labor performed by the prisoner unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment.

(b) Where the injury results in death a report, in addition to the report required by subdivision (a), shall forthwith be made by the Department of Corrections and Rehabilitation to the Division of Occupational Safety and Health by telephone or telegraph.

(c) Except as provided in Section 6304.2, nothing in this section or in this code shall be deemed to make a prisoner an employee, for any purpose, of the Department of Corrections and Rehabilitation.

(d) Notwithstanding subdivision (a), no physician or surgeon who attends any injured state prisoner outside of a Department of Corrections and Rehabilitation institution shall be required to file the report required by subdivision (a), but the Department of Corrections and Rehabilitation shall file the report.

(Amended by Stats. 2012, Ch. 46, Sec. 113. (SB 1038) Effective June 27, 2012.)

6413.2. (a) With regard to any report required by Section 6413, the Division of Occupational Safety and Health may make recommendations to the Department of Corrections and Rehabilitation of ways in which the department might improve the safety of the working conditions and work areas of state prisoners, and other safety matters. The Department of Corrections and Rehabilitation shall not be required to comply with these recommendations.

(b) With regard to any report required by Section 6413, the Division of Occupational Safety and Health may, in any case in which the Department of Corrections and Rehabilitation has not complied with recommendations made by the division pursuant to subdivision (b), or in any other case in which the division deems the safety of any state prisoner shall require it, conduct hearings and, after these hearings, adopt special orders, rules, or regulations or otherwise proceed as authorized in Chapter 1 (commencing with Section 6300) of this part as it deems necessary. The Department of Corrections and Rehabilitation shall comply with any order, rule, or regulation so adopted by the Division of Occupational Safety and Health.

(Amended by Stats. 2012, Ch. 46, Sec. 114. (SB 1038) Effective June 27, 2012.)

6413.5. Any employer or physician who fails to comply with any provision of subdivision (a) of Section 6409, or Section 6409.1, 6409.2, 6409.3, or 6410 may be assessed a civil penalty of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) by the director or his or her designee if he or she finds a pattern or practice of violations, or a willful violation of any of these provisions. Penalty assessments may be contested in the manner provided in Section 3725. Penalties assessed pursuant to this section shall be deposited in the General Fund.

(Amended by Stats. 1987, Ch. 1019, Sec. 8.)