

March 22, 2016

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FROM: California Hotel & Lodging Association  
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American Hotel & Lodging Association  
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California Association of Bed & Breakfast Inns  
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Independent Lodging Industry Association  
California Travel Association (CalTravel)  
National Federation of Independent Business

Subject: Hotel Housekeeping Musculoskeletal Injury Prevention program  
Discussion Draft Dated February 23, 2016

The above signed organizations submit these comments regarding the discussion draft dated February 23, 2016. We represent small and large hotels, motels and resorts throughout California.

We take the safety and well being of our employees very seriously. Respectfully, we continue to disagree with the proposed approach to address workplace hazards in lodging establishments for housekeepers. Current law requires all places of employment – including hotels and lodging establishments - to have an Illness & Injury Prevention Program (IIPP), as well as to comply with the requirements of a repetitive motion injury program where warranted.

We assert that a separate stand alone program specifically for the prevention of MSDs exclusively for housekeepers is unwarranted, as follows:

- The draft program is overly prescriptive, departs from the plain language and intent of the IIPP model and assumes that housekeeping is hazardous and must be corrected.
- The draft discusses correcting, rather than controlling or reducing/minimizing chance of injury. As a job that is physical in nature, and at times strenuous, there is no way to eliminate the physical nature of the work. It can only be minimized. As DOSH's experience under California's ergonomics standard has demonstrated, every physical or strenuous job does not necessarily cause injury.
- If it is intended to be a mirror of an IIPP, but more specific to housekeeping, it should track more closely with the IIPP provisions and not be more prescriptive.
- The proposal is redundant to and subordinates the existing ergonomics standard 5110 which already exists to address the potential exposures addressed in the draft

While we appreciate the changes to the draft in this version, we still have a number of concerns, and offer alternate language to address them.

(b) Definitions

"Union Representative" means a recognized or certified collective bargaining agent representing housekeepers.

This definition implies that any union, not specifically signatory to the workplace would be invited to represent the housekeepers at their worksite. This proposed rule would include union representatives where there is no union representation. Additionally, we have concerns that the union representative would be privy to discussions of proprietary methods in the process of developing the employer's program, and subsequent meetings. We would suggest clarification in the language to reflect that the "union representative" does not mean the union can represent in a workplace at which they are not recognized as the collective bargaining agent of the employees.

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"Worksite evaluation" means the identification and evaluation of workplace hazards in each housekeeping task, process, or operation of work with respect to potential causes of musculoskeletal injuries to housekeepers, that is specific to each workplace.

The IIPP regulation is a "find and fix" regulation which establishes a process and program to discover workplace hazards and, if they exist, to fix them. If this MIPP is intended to be a mirror of an IIPP, but more specific to housekeeping, it should track more closely with the IIPP provisions and not be more prescriptive. As such, Section 3203 (a) (4) uses the verbiage "Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards." We would suggest the same language that employers currently comply with, and understand, as follows:

"Worksite evaluation" means the identification and evaluation of workplace hazards including scheduled periodic inspections to identify unsafe conditions and work practices in each housekeeping task, process, or operation of work with respect to potential causes of musculoskeletal injuries to housekeepers, that is specific to each workplace.

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(c) Housekeeping musculoskeletal injury prevention program.

(c) (2) A system for ensuring that supervisors and housekeepers comply with the MIPP, follow the employer's safe workplace housecleaning practices, and use the housekeeping tools or equipment deemed appropriate for each cleaning housekeeping task

This provision takes a one-size-fits-all approach to housekeeping tools which we assert is not safest method. A system for ensuring housekeepers use the tools deemed appropriate for each cleaning task mandates that housekeepers will not have choices as to what they themselves deem to be most appropriate for their tasks. Disciplining employees for choosing the method and tools that they themselves deem safest is an approach we cannot support. Science has not identified a proven set of tools and methods of using such tools which are the safest for everyone. The industry trains its housekeepers in best practices, but it also benefits from the creativity and flexibility in sequence and emphasis when it comes to housekeeper choices in how to clean, arrange and organize. Therefore, our members would prefer a performance standard that would allow the provision of a variety of tools, and training as well as suggested methods of use, rather than the prescriptive method proposed. Suggested language also incorporates language consistent with the IIPP:

(2) A system for ensuring that supervisors and housekeepers comply with safe and healthy housecleaning practices the MIPP, follow the employer's safe workplace housecleaning practices, and use the safe housekeeping tools or equipment deemed appropriate for each housekeeping task. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices;

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(4) Procedures for identifying and evaluating housekeeping hazards through a ~~job hazard analysis~~ **worksite evaluation**:

(A) The initial ~~job hazard analysis~~ **worksite evaluation** shall be completed within three months after the effective date of this Section or within three months after the opening of a new lodging establishment.

(B) The procedures shall include an effective means of involving housekeepers and their **union** representative in designing and conducting the **worksite evaluation**.

(C) Housekeepers shall be notified of the results of the ~~job hazard analysis~~ **worksite evaluation** in writing or by posting it in a location readily accessible to them. The results of the ~~job hazard analysis~~ **worksite evaluation** shall be in a language easily understood by housekeepers.

(D) The ~~job hazard analysis~~ **worksite evaluation** shall be reviewed and updated:

1. Whenever new processes, practices, procedures, or renovation of guest rooms or equipment are introduced that may change or increase housekeeping hazards;

2. Whenever the employer becomes aware of a new or previously unrecognized housekeeping hazard;

3. **Based on the findings and recommendations of injury investigations conducted in accordance with subsection (c)(5)**;

4. At least annually for each worksite.

Consistent with Title 8, Section 5120, 5 (C), the language should be changed to reflect existing regulatory language:

1. When the Plan is first established;

2. Whenever the equipment or conditions change in a manner that may affect housekeeper safety;

3. Whenever the employer is made aware of a new or previously unrecognized hazard; and

4. At least annually for each unit covered by the Plan.

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(E) The ~~job hazard analysis~~ **worksite evaluation** shall address, at a minimum, the potential injury risks to housekeepers including but not necessarily limited to: (1) slips, trips and falls; (2) prolonged or awkward static postures; (3) extreme reaches and repetitive reaches above shoulder height, (4) **lifting or forceful whole body or hand exertions**; (5) torso bending, twisting, ~~lifting~~, kneeling, and squatting; (56) pushing and pulling; (67) falling and striking objects; (78) pressure points where a part of the body presses against an object or surface; (89) excessive work-rate; and (910) inadequate recovery time between housekeeping tasks.

This provision assumes a causal relationship between housekeeping and injury. The IIPP model directs employers to identify hazards, then minimize or control those hazards. This provision assumes risks and mandates employers to address them, rather than to identify the potential exposures. We reiterate our concern that the science has not determined a specific cause and injury relationship that this provision applies. Furthermore, both (9) and (10) above go to the issue of a safe work rate, which has already been deleted in the section immediately following. Both provisions should be deleted.

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(e) Records

(1) Records of the steps taken to implement and maintain the MIPP, including any measurements taken or evaluations conducted in the worksite evaluation job hazard analysis process, shall be created, maintained, and made available in accordance with Section 3203(b).

This section requires excessive record keeping and documentation, above and beyond what is required by the IIPP. This section should be stricken.

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Appendix A (Non-Mandatory)

Non-California governmental sources should be deleted. Conversely, include "Evaluation of Musculoskeletal Disorder Risk in Hotel Housekeeping Jobs" by Steven F. Wiker, Ph.D, CPE, as well as the California Hotel & Lodging Association's IIPP Development Guide, the sole industry-specific resource.

Conclusion

The above signed organizations are opposed to the discussion draft provisions as proposed, and have recommended revisions here in our comments. We look forward to the opportunity to work with you regarding creating a regulation that will help minimize injuries in a rational manner.