

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS
TITLE 8: Division 1, Chapter 4, Subchapter 7 Article 106
New Section 5120
Safe Patient Handling

SUMMARY

Pursuant to California Labor Code Section 142.3, the Occupational Safety and Health Standards Board (Board) may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

In 2011, the state legislature passed and the governor signed Assembly Bill (AB) 1136, the Hospital Patient and Health Care Worker Injury Protection Act (Act) which amended the Labor Code (LC) by creating new Section 6403.5, which took effect on January 1, 2012.

LC Section 6403.5 requires a general acute care hospital (GACH) to implement safe practices for handling patients as part of their existing Injury and Illness Prevention Plans (IIPP), already required by the Injury and Illness Prevention Program standard, Section 3203. More specifically, the LC Section requires the hospital to adopt “a patient protection and health care worker back and musculoskeletal injury prevention plan (Plan).” The Plan is intended to require a GACH to implement a safe patient handling policy that includes requiring the 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. LC Section 6403.5(b) also requires employers to provide training to staff members who conduct the patient handling to enable them to use the techniques and equipment that are to be used for this purpose. This LC section also provides employees with protection from discrimination by the employer for a refusal to conduct a patient handling action that seems unsafe to either the employee or the involved patient.

The Division of Occupational Safety and Health (Division) developed this proposal with the assistance of stakeholders through an advisory process in order to ensure that the proposed language provided sufficient protection for employees in these work settings and provided employers with sufficient flexibility to address these risks in the least burdensome manner.

There is no existing Occupational Safety and Health Administration federal standard that specifically and comprehensively addresses health care worker exposures to the patient handling risks that result in musculoskeletal and back injuries.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to improve and provide worker safety in general acute care hospitals in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that federal OSHA does not have a specific counterpart standard for safe patient handling in general acute care hospitals.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts and the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- The proposal will enhance the safety of employees and patients with the implementation of a health care worker back and musculoskeletal injury prevention plan, and is the least burdensome alternative for achieving compliance with LC 6403.5.

The purpose and factual basis of the standard proposed to be adopted as a permanent rule are outlined below:

New Section 5120 Health Care Worker Back and Musculoskeletal Injury Prevention.

Subsection (a) Scope and Application.

Proposed subsection (a) establishes that all GACHs are required to comply with the provisions of this section in order to be consistent with AB 1136, the Hospital Patient and Health Care Worker Injury Protection Act. Section 1(a) of the Act establishes 2008 reports of occupational musculoskeletal disorder cases in private industry as providing the basis for promulgating LC

Section 6403.5. LC Section 6403.5(b) establishes that the provisions of the section apply to each GACH in the state, and the necessity for this subsection.

Exception (1) establishes that the proposed section does not apply to GACHs within the Department of Corrections and Rehabilitation and the State Department of Developmental Services. This is necessary in order to be consistent with LC Section 6403.5(h) which excludes these institutions from the requirements of the section and to establish this exclusion.

Exception (2) establishes that there are units within general acute care hospitals that are designated by the California Department of Public Health, Licensing and Certification Division as “distinct parts” even though they are included in the license that is issued to the GACH that maintains the unit as specified in Title 22 Section 70625 and 70627. These units provide care that is similar in nature to skilled nursing facilities that are not covered by LC Section 6403.5, and consequently, are not covered by the requirements of the proposed section. This is necessary to be consistent with the Labor Code.

Note to subsection (a) establishes that this proposed section does not prevent the application of Section 3203 or other safety orders to patient handling issues in other health care facilities, services and operations that are not within the scope of this subsection. This is necessary to clarify that employers are still responsible for identifying and correcting health and safety issues as has been required by Section 3203 and other sections of these orders before this rulemaking. This note also establishes that this proposed section does not prevent the application of other Title 8 sections, such as Section 3203 and Section 5110 to patient handling in GACHs. This is necessary to clarify the relationship of this Section to other safety orders.

Subsection (b) Definitions.

The following definitions were proposed to establish the exact meanings for the terms as used within the context of the requirements of Section 5120. They are necessary to clarify that the terms, as used, may have more specific meaning for safe patient handling than they would in the more general usage.

Designated Health Care Worker is defined to identify the workers within a GACH who are directly affected by the requirements of this section because they may be involved with conducting or assisting in the performance of the tasks that are defined below as patient handling. This is necessary to establish that the requirements of the standard do not apply to other health care workers who do not perform these tasks with the exception of receiving training to be familiar with the hospital’s plan, as described below in subsection (d)(4).

Designated Registered Nurses are defined to separate the nurses who are involved in conducting or implementing safe patient handling activities as defined below from nurses who have no involvement with patient handling. This is necessary to establish that other nurses such as those who perform administrative duties and other functions that do not involve safe patient handling do not need to receive the training in subsection (d) with the possible exception of subsection (d)(4).

Emergency is defined to describe unanticipated events that can be life threatening or pose a risk of significant injuries to the patient, staff, or bystanders and require immediate action such as assistance from designated health care workers. This is necessary to establish contingencies that require elements to be included in the employer's planning and training, as described in subsection (c)(7)(F).

Equipment is defined to establish that the devices that are acceptable in the context of the standard must lessen the risk of injuries by effectively reducing the force an employee must use to perform a task or by reducing the force that is exerted on the employee while doing the task. The term applies not only to the device itself, but also to the replaceable and disposable accessories needed to use the device properly. The devices may be powered or not powered. This is necessary to distinguish devices used for the purpose of safe patient handling and required by this section from other devices in a hospital that have not been designed or intended to assist the employee with patient handling.

General acute care hospital is defined to distinguish the establishments within the scope of the proposed standard from other health care facilities. Within the proposed standard, these are defined as a hospital as licensed by the California Department of Public Health in accordance with Title 22 of the California Code of Regulations. This is necessary to be consistent with the legislative intent of AB 1136 and with Title 22.

Lift team is defined to establish that designated health care workers who have been assigned to perform patient handling tasks as a lift team must be trained to work together, in concert, in order to conduct the task in a manner that reduces the risk of injury to them as well as the patient. This is necessary to assure that any set of employees that is assigned to routinely conduct the tasks defined in the standard as "lifting," "manual patient handling," or "patient handling" as a team are trained to coordinate the procedure properly. For example, they need to start and stop a procedure in unison so that the force applied by the procedure is borne evenly among the employees conducting the procedure and, when transferred between employees, the patient is not dropped or slid into a wall.

Lifting is defined as the vertical movement of a patient. This is necessary to distinguish this specific task from the other patient handling tasks that are specified in the standard.

Manual patient handling is defined to mean employee lifting, repositioning, supporting, or transferring of patients without using equipment defined by the standard. This is necessary to acknowledge that designated health care workers may be required to perform these procedures without the use of equipment based on the designated registered nurse's clinical assessment of the patient's needs, or during emergencies. The intended effect of this is to allow the standard to address patient handling activities that are performed without the assistance of powered or other devices.

Mobilizing is defined to mean putting into movement or assisting in putting into movement, of part or all of a patient's body. This is necessary to be consistent with LC Section 6403.5 which establishes that a nurse will be responsible for observing and directing this process.

Musculoskeletal injury is defined to mean an acute injury or cumulative trauma of the muscles, tendons, ligaments, bursa, peripheral nerves, joints, bone or blood vessels. This is necessary to establish that the standard is intended to protect designated health care workers from acute and cumulative damage to the physiological components of the body that are involved in conducting patient handling activities.

Patient is defined as a person who is at the hospital receiving diagnostic, therapeutic, or preventive health services or under observation or treatment for an injury or illness or for care during and after pregnancy. This is necessary to establish that many types of operations within a hospital must be included in the hospital's plan for safe patient handling, and to distinguish patients from individuals who are at the hospital for other reasons. This definition is also necessary to be consistent with Title 22.

Patient care unit is defined as a unit or department that is included within a GACH's license that provides direct patient care including but not limited to nursing units, diagnostic imaging, emergency departments, or rehabilitation and behavioral health units. This is necessary to clarify that any unit, except as noted in subsection (a) Exception 2, or department in the GACH license that provides direct patient care is considered a "patient care unit" and must be addressed according to the facility's patient handling policies. This definition is consistent with LC Section 6403.5(b).

Patient handling is defined to mean lifting, transferring, supporting, repositioning or mobilizing part or all of a patient's body. This is necessary to establish the specific activities that are subject to the requirements of the standard in a way that is consistent with LC Section 6403.5. These activities were recognized by stakeholders to be procedures that should be addressed by this proposed section due to hazards associated with patient handling.

Repositioning is defined to mean changing the patient's position on a bed, gurney chair or other support surface. This is needed to distinguish this type of maneuver from procedures that move a patient from one surface to another.

Safe patient handling policy is defined as a policy requiring 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 judgement and clinical assessment of the registered nurse. The necessity for this is to make clear the Legislature's intent regarding LC 6403.5 and to be consistent with that provision.

Transferring is defined to mean laterally moving a patient from one surface to another such as from a bed to a gurney. This is needed to distinguish this type of maneuver from repositioning a patient on one surface.

Proposed subsection (c) Patient protection and health care worker back and musculoskeletal injury prevention plan.

Subsection (c) requires general acute care hospitals to develop and maintain effective written Plans for all patient care units, and to maintain the Plans at all times in a way that assures that the Plan for each unit is available at all times. This is necessary to allow the designated nurses and health care workers working on all shifts to refer to procedures that should be followed as needed for patient handling. The subsection allows the Plan to be incorporated into the hospital's IIPP, or kept as a separate document. In the following subsections, subsection (c) establishes the basic elements that an employer would be responsible for incorporating into their IIPP under Section 3203, as required by LC Section 6403.5. They are as follows:

Subsection (c)(1) requires the safe patient handling policy to be based upon professional occupational safety guidelines for the protection of patients and health care workers, as required by AB 1136. The subsection also establishes that the Plan must be effective, within the meaning of Section 3203. The Note to this subsection establishes that there is an Appendix A that lists examples of the professional occupational safety guidelines that have been recognized by the stakeholders as relevant and useful for the purposes of this standard. This is necessary to be consistent with LC 6403.5.

Subsection (c)(2) requires that the names and/or the job titles of the individuals who are responsible for implementing the Plan are included. This is necessary to assure that there are specific individuals who have the responsibility for administering the Plan for the hospital, and to allow other administrators and employees to know who should be contacted if there are questions or difficulties with carrying out the Plan. This is also required to be consistent with Section 3203(a)(1).

Subsection (c)(3) requires the hospital to include in the Plan the methods to be used for coordinating the implementation of the Plan with other employers who have employees working in the hospital with duties that include being present in patient care units. This is to include providing awareness training as required by subsection (d)(4) for all employees, and more complete training for registered nurses who are responsible for the observation and direction of certain activities, and for the employees who actually conduct patient handling tasks. For example, the latter group will need to know how to coordinate lifts and transfers with other employees, and what equipment is available at the hospital. This requirement is necessary because many hospitals have health care workers working at their facility who are not their employees, and these diverse groups must be able to follow the individual hospital's Plan. This is also consistent with Title 22.

Subsection (c)(4) includes a process for assuring that all employees and supervisory personnel adhere to the requirements of the Plan and implement the Plan's procedures for safe patient handling. This is necessary to assure that it is clear to all personnel that the safe patient handling practices selected for the facility are the required job duties that supervisory and non-supervisory personnel must follow. In keeping with Section 3203(a)(2), this process may include methods such as retraining and discipline. However employees may not be disciplined for refusing to conduct patient handling if they feel that the procedure is unsafe for themselves or the patients.

Subsection (c)(5) establishes specific procedures to identify and evaluate patient handling hazards in a manner that is consistent with Section 3203(a)(4). This is necessary to assure that all the affected employers include these core procedures in their Plans. This does not prevent an employer from adding more procedures to the following required procedures:

Subsection (c)(5)(A) requires a procedure to determine the types, quantities, and locations for powered patient handling equipment and other patient handling devices that are necessary for each unit covered by the Plan. It also requires determining where permanent and portable devices should be located, so they will be available for designated health care workers. This is needed to assure that the inventory of permanently installed and portable equipment and other devices for safe patient handling is adequate and readily available for the designated health care workers. Equipment needs are to be evaluated within sixty days of the effective date of this regulation. The necessity for this is to allow hospitals sufficient time to conduct an evaluation of their facility as this subsection would require. Hospitals that conducted an assessment after January 1, 2012, but before the date defined above will not have to repeat this process if the assessment meets the requirements of subsection (c). This subsection also requires that the procedure includes the participation of designated health care workers and designated registered nurses in the evaluations.

Subsection (c)(5)(B) requires procedures for the designated registered nurse, as the coordinator of care, to use to assess the mobility needs of each patient in terms of the appropriate patient handling procedures. The selected procedures would be based on assessment tools, algorithms, decision trees, or other effective assessment means, and would be the basis for the designated registered nurse to prepare the safe patient handling instructions for the patient. This is necessary to assure that all designated registered nurses acting as the coordinator of care can select procedures that are based on their professional judgment and the capabilities of the equipment that is available. This subsection also requires the Plan to include procedures for incorporating the professional judgment of designated health care workers in other disciplines into the patient mobility assessment. This is meant to address the responsibilities and practices of other professionals who must perform patient handling in the course of their practice, such as physical therapists and occupational therapists. This is necessary to prevent conflicts with other laws and regulations that define professional practices.

Subsection (c)(5)(C) requires the employer to conduct inspections to evaluate the need for, use, availability, accessibility, and effectiveness of patient handling equipment and safe patient handling procedures in each unit covered by the Plan. These inspections are to be made when the Plan is first established, when equipment or conditions change in a way that may affect safe patient handling, when the employer is made aware of a new or previously unrecognized patient handling hazard, and at least annually. An inspection process is needed to assure that the safe patient handling equipment is adequately supplied and maintained in each unit, and to evaluate the performance of the equipment

to assure that it is adequate for the task it is intended. Periodic inspections of the patient care units is also necessary to be consistent with Section 3203(a)(4).

Subsection (c)(6) requires the employer to have procedures for investigating musculoskeletal injuries related to patient handling for both acute and cumulative trauma cases. This is necessary to allow the employer to identify the contributing causes of the incident so that future incidents can be prevented or mitigated. The employer is to investigate the injuries to the extent that relevant information is available and the investigation is to include the following:

Subsection (c)(6)(A) requires an assessment of the patient risk factors involved in the injury including the designated registered nurse's patient handling instruction for the patient. This is needed to assure that a thorough evaluation of all the possible factors causing the incident is taken into account to identify the actual causes of the injury.

Subsection (c)(6)(B) requires that the investigation assess the availability of specified equipment and staff as specified in the Plan at the time of the incident. It also requires that the investigation assess whether staff had sufficient training. This is necessary to ensure that the investigation will discover factors that may need to be addressed in the contents or implementation of the Plan, in order to prevent future incidents.

Subsection (c)(6)(C) requires the employer to solicit the injured employee's opinion as well as the opinions of the other employees involved as to what caused the accident, and as to any measure that would have prevented the injury. This is needed to get the opinion of the people who were directly involved in the incident and best able to describe what occurred for the most accurate account.

Subsection (c)(7) requires the employer to have procedures for correcting hazards related to patient handling procedures that were identified in the process of implementing subsection (c)(5). This is necessary to assure that employers have implemented the following aspects of their patient handling Plan:

Subsection (c)(7)(A) establishes that there must be a procedure for selecting patient handling equipment that includes the involvement of designated registered nurses and other designated health care workers including lift teams where lift teams are used. This is necessary to assure that the individuals who will be using the equipment are able to provide their practical experience and expertise to select devices that will be effective and safe.

Subsection (c)(7)(B) requires employers to develop procedures to assure that sufficient and appropriate patient handling equipment, as determined in accordance with subsections (c)(5)(A) and (c)(7)(A), will be provided to each unit covered by this section. The procedures must cover procurement, inspection, maintenance, repair, and replacement of the equipment. This is necessary to assure that employers have implemented an initial and continuing process for providing the equipment.

Subsection (c)(7)(C) requires each GACH to establish procedures by which a designated registered nurse will observe and direct patient lifts and mobilizations on each patient unit in accordance with LC Section 6403.5 and Title 22, California Code of Regulations, Section 70215. This is necessary to ensure that each GACH implements procedures for compliance with LC 6403.5 and Title 22 in regards to the role of the registered nurse as coordinator of care.

Subsection (c)(7)(D) requires procedures for the designated registered nurse to follow to communicate the nurse's assessment of patient handling practices to the patient, patient's family or representative in accordance with Title 22, California Code of Regulations, Section 70215. This is necessary to assure that the patient, family or representatives understand the procedures that will be used to lift and mobilize the patient.

Subsection (c)(7)(E) requires employers to have procedures to assure that lift teams and other designated health care workers will be available to perform lifts and other patient handling tasks in each patient care unit at all times. Designated health care workers and lift teams must also follow the safe patient handling policy including the replacement of manual handling with the use of powered and non-powered devices as appropriate for the specific situation and patient. The necessity for this is to assure that the Plan has allowed for staff assignments that permit each patient care unit to have a sufficient number of designated health care workers or lift teams for the patient handling tasks that are done.

Subsection (c)(7)(F) requires designated health care workers and lift teams to be provided with procedures for performing patient handling tasks in normal circumstances, in emergencies as defined above, in situations where no designated registered nurse is present, and in situations where there is no applicable individual safe patient handling instruction. This is necessary to assure that the designated health care workers and lift teams have been provided with procedures for both normal operations, and contingencies for circumstances in which a designated registered nurse would not be immediately available.

Subsection (c)(7)(G) requires the employer to have procedures for correcting the problems found during the review of the Plan in accordance with subsections (c)(5)(C) and (c)(6). This is necessary to assure that employers incorporate a process for correcting problems related to safe patient handling as part of their normal operations. This is also necessary to be consistent with Section 3203(a)(6).

Subsection (c)(8) requires that there be procedures for communicating safe patient handling matters among employees. This is needed to assure that several requirements in other subsections involving communicating critical information, have a specific procedure for employees to follow. This is also already required by Section 3203(a)(3). These are as follows:

Subsection (c)(8)(A) requires a method for documenting and communicating the designated registered nurse's safe patient handling instruction for each patient to the designated health care workers and lift team members providing that patient's care. This is needed to establish a consistent process for a designated registered nurse to convey this information to the designated health care workers.

Subsection (c)(8)(B) requires a procedure for employees who have concerns about the performance of patient handling as instructed, without having to fear reprisals. This is necessary to be consistent with LC Section 6403.5(g), which prohibits retaliation against an employee who refuses to perform a procedure based on concern over safety.

Subsection (c)(8)(C) requires the employer to have a process in which designated health care workers, lift team members, designated registered nurses, and supervisors can participate in reviewing the effectiveness of the Plan in their work areas or departments in conjunction with subsection (c)(10). This is necessary to assure that the staff within a unit have the opportunity to report and correct problems found with the Plan for their unit.

Subsection (c)(9) requires the employer to have a process for providing training to employees who are lift team members, designated registered nurses or other designated health care workers and their direct supervisors who may be present in patient care units. This is necessary to be consistent with LC Section 6403.5 and Section 3203(a)(7). This subsection also requires that other employees who have duties that include being present on patient care units receive awareness training as described in subsection (d)(4). This is necessary to ensure the effectiveness of the Plan and to be consistent with Section 3203(a)(7).

Subsection (c)(10) requires the hospital to list the corrective measures that were identified as required by subsection (c)(7) but could not be implemented by the effective date of this standard. The list will include the reason for the delay, the implementation method, and a schedule for implementation. These measures are to be implemented within one year of the effective date of the standard. This is necessary to assure that hazards related to patient handling are addressed in a timely manner while allowing the employer sufficient time to complete corrective measures.

Subsection (c)(11) requires procedures for reviewing, at least annually, the effectiveness of the Plan in each patient care unit, which shall include a review of injury data and trends. The review of injury data is necessary to provide a meaningful basis for determining if the Plan is working over time and in comparison with other, similar care units. The Plan must also include an effective procedure for obtaining the active involvement of employees in reviewing and updating the Plan with respect to the procedures performed by employees in their respective work areas or departments. This is needed to assure that the experiences and observations of the employees who implement the Plan and find problems are given a chance to report issues and discuss

resolutions. Deficiencies found during this review are required to be corrected, which is necessary to be consistent with Section 3203.

Subsection (d) requires the employer to provide training to employees whose work assignments include being present in patient care units, on safe patient handling activities they are reasonably anticipated to perform. The training content must be appropriate for the employees in terms of the educational level, literacy and language of the trainees. This general requirement is established by LC Section 6403.5(b) and Section 3203(a)(7). The details of the training as follows:

Subsection (d)(1) establishes the frequency of the different categories of training as follows:

Subsection (d)(1)(A) requires initial training to be provided when the Plan is first established, to all new employees, and to all employees given new job assignments for which training has not previously been received. This is consistent with Section 3203(a)(7). This is also consistent with Title 22, Section 70214. This is necessary to assure that an employee understands the policy and can use the equipment and patient handling procedures in each unit to which the employee is assigned.

Subsection (d)(1)(B) requires a refresher training to be conducted at least every twelve months for designated health care workers, lift team members, designated registered nurses and supervisors. This is necessary to assure that these employees maintain their knowledge of the procedures that are to be followed in their respective units as well as how to use the equipment and assure it is properly maintained. This also enables the results of periodic reviews of the Plan to be presented especially when changes to the Plan have been made to correct problems or improve procedures. This is consistent with requirements for competency assessments of medical staff required by Title 22, Section 70213.

Subsection (d)(1)(C) requires additional training when new equipment or work practices are introduced. This is necessary to assure that employees can safely use new equipment and perform new work practices, especially for lift teams. The subsection allows the additional training to be limited to addressing the new equipment or work practices in order to minimize the disruption and cost to the employers. This is also necessary to be consistent with Section 3203(a)(7).

Subsection (d)(2) establishes the content of the initial training for designated health care workers, lift team members, designated registered nurses and supervisors of employees who work in patient care units. The content is consistent with LC Section 6403.5(b). It requires the training to include at least the following elements that are applicable to the employee's assignment:

Subsection (d)(2)(A) requires instruction regarding the areas of the body exposed to injury and the types of injuries associated with patient handling activities that include

vertical and lateral movement, repositioning and ambulation, and patient handling. This is necessary to be consistent with LC 6403.5(b)(2). It also emphasizes the importance of early recognition and management. This is necessary to instruct employees about the risks involved with patient handling activities, and the importance of conducting the activities in a planned manner.

Subsection (d)(2)(B) requires instruction regarding the assessment of risk factors, such as the patient's bariatric condition, clinical condition, ability and willingness to cooperate, etc., and as to how employees should attempt to prepare and control them during patient handling tasks including the following: vertical lifts, lateral transfer, repositioning, and ambulation. This is necessary to provide an employee with a basic recognition of the risk factors and how problems during patient handling can be prevented or mitigated.

Subsection (d)(2)(C) requires instruction about how employees should communicate with patients regarding the use of patient handling procedures and equipment. This is needed to allow an employee to solicit the cooperation of the patient who might otherwise be intimidated or agitated by the equipment or the numbers of staff who appear to conduct a procedure.

Subsection (d)(2)(D) requires instruction about the appropriate use of powered and non-powered equipment in their work areas to reduce injuries to patients and employees. Employees need to be trained on how to operate powered equipment, and how to properly clean and maintain a device to prevent the spread of infection. They also need to learn to operate non-powered equipment in a safe manner, especially if the use of the equipment requires a coordinated effort on the part of lift teams or other groups. Effective training requires that employees practice using the types and models of equipment that lift team members and other designated health care workers will be expected to use.

Subsection (d)(2)(E) requires instruction about the procedures designated health care workers will follow in order to safely perform manual patient handling when necessary. This is necessary to assure that employees can conduct each manual patient handling task such as lifting or mobilizing with the proper posture and technique that will minimize the risk of incurring an injury or injuring the patient.

Subsection (d)(2)(F) requires instruction about the process designated health care workers are to use for reporting concerns regarding equipment availability, condition, storage and maintenance, and concerns regarding unavailability of sufficient staff to perform patient handling activities.

Subsection (d)(2)(G) requires instruction about the elements of the employer's Plan and safe patient handling policy and how the Plan will be made available to employees. This is necessary to assure that employees know how to implement the Plan to carry

out patient handling activities safely and how they can see and review the Plan when needed.

Subsection (d)(2)(H) requires training regarding the right to refuse to perform an unsafe patient handling activity, and how a designated health care worker can communicate concerns regarding the specific activity to an appropriate supervisor. This is necessary so that employers can comply with the requirement of LC Section 6403.5(g) which provides protection against discrimination against designated health care workers who refuse to perform a task that they feel is unsafe to them or to patients.

Subsection (d)(2)(I) requires instruction about the role of the designated registered nurse as the coordinator of care and how that nurse will be responsible for the observation and direction of patient lifts and mobilization. This is necessary to assure that designated registered nurses learn their role within a given patient care unit of making assessments as required by LC Section 6403.5(b) and how to select staff for the activity. It is also necessary to establish procedures to coordinate with other health care professionals such as physical and occupational therapists in accordance with their scope of practice.

Subsection (d)(2)(J) requires training of supervisors of employees covered by the Plan to be familiar with their role in the Plan, the safe patient handling policy, and the patient handling hazards in their unit. This is needed to assure that the supervisors of designated health care workers and lift team members know what is required in the Plan, how to assure that sufficient resources are available for safe patient handling, and how to resolve issues that arise in the course of these patient care activities.

Subsection (d)(2)(K) requires information for the designated health care workers as to how they can request additional training. This is necessary to provide a system that allows those who have missed crucial training about safe handling equipment or techniques or have not fully learned to carry out these activities properly.

Subsection (d)(2)(L) requires the employer to include in the training session an opportunity for interactive questions and answers. This is needed to assure that employees can ask for clarifications about the training content before it is forgotten.

Subsection (d)(2)(M) requires that, in addition to the content of subsections (d)(2)(A) through (d)(2)(L), supervisors are to receive training on the hospital's policy that a designated health care worker may not be disciplined for refusal to lift, reposition or transfer a patient due to concerns about patient or worker safety or the lack of equipment trained designated health care workers. This is needed to assure that supervisors can follow and apply the policy that the employer has adopted to comply with LC Section 6403.5(g).

Subsection (d)(2)(N) requires that, in addition to the training specified in subsections (d)(2)(A) through (d)(2)(I), designated registered nurses who assess patients in

accordance with subsection (c)(5)(B) are to receive training on assessing patients' mobility needs, communicating with patients and their families and representatives, and communicating with supervisors, designated health care workers, and other health care workers regarding safe patient handling practices for specific patients. These nurses need to be able to assess mobility needs according to the criteria the employer has chosen based on the equipment available and the mobilization techniques that have been developed for the patient care unit where the nurse works. For employee and patient safety, these nurses need to be able to communicate with the patients and their families or representatives about the procedures that will be conducted to ensure maximum coordination and cooperation while the procedure is being performed. These nurses also need to be able to convey to other staff the specific patient handling needs of the individuals to assure that the correct equipment and techniques are followed.

The Exception to subsection (d)(2) establishes that employers who have already provided training for safe patient handling prior to the inception of this standard may limit the content of training to elements listed in (d)(2)(A)-(d)(2)(N) that were not included in the previous training. This is necessary to make the training requirement less burdensome for employers who have complied with LC 6403.5(b), while assuring that the content of this subsection is provided to their employees.

Subsection (d)(3) establishes that the content of the refresher training for designated health care workers, lift team members, registered nurses and supervisors shall include at least the following elements as applicable to the employee's assignment:

Subsection (d)(3)(A) requires a review of the proper use of the powered and non-powered patient handling equipment that the trainee is expected to use in the patient care unit assignment. This is to include practice using the types and models of equipment that designated health care workers will be expected to use. This is necessary to assure that staff members are using equipment properly. Most hospitals already have competency tests for staff using equipment for this purpose to comply with Title 22 Section 70213. This is to assure that this type of review not only identifies staff deficiencies but also provides useful instruction.

Subsection (d)(3)(B) requires a review of the procedures staff are to follow in order to safely perform manual patient handling when necessary. This training is to include practice in performing tasks involving multiple employees. This is necessary to remind staff of safe techniques for mobilizing patients, and how to coordinate tasks conducted by lift teams or other designated health care workers who have been assembled to conduct handling procedures.

Subsection (d)(3)(C) requires a review of the items included in the initial training. This is necessary to assure that the knowledge of the initial training is retained, and that revised procedures have been taught to all the personnel who will need to follow them. This is not intended to include the full content of the initial training.

Subsection (d)(3)(D) requires the trainees to have an opportunity for interactive questions and answers with a person knowledgeable about the Plan and safe patient handling equipment and procedures. This is needed to assure that trainees can ask for clarifications about the training content while the training is occurring to ensure that an employee gets maximum benefit from the training.

Subsection (d)(4) requires that the training for employees other than those identified in subsections (d)(2) and (d)(3) whose job assignment includes being present on patient care units includes recognition of the patient interactions that require the involvement of designated health care workers or lift teams, how to obtain that involvement when necessary, and procedures to follow for emergencies relating to safe patient handling. This is necessary to assure that other health care workers who have duties in patient care units know that there is a Plan for patients who have specific handling needs and designated health care workers who are able to conduct the handling safely. This typically includes notifying a designated health care worker if the patient seems to need this type of assistance, especially if there is an emergency such as the patient falling. This requirement is consistent with Section 3203(a)(3) and (a)(7).

Subsection (e) establishes records that are to be created and maintained for the purposes of this Standard. The employer shall develop and maintain the following records:

Subsection (e)(1) establishes that records of inspection which include hazard identification and evaluation are to include:

Subsection (e)(1)(A) requires records for the evaluation, selection, and placement or installation of patient handling equipment or devices. This is needed so that the rationale for choosing equipment can be reviewed if there is a need to replace it or select alternatives if the equipment fails to perform as expected or the conditions for using the equipment change. This is consistent with Section 3203(b)(1). General acute care hospitals that are operated by local governmental entities are subject to Section 3203(b)(2)C Exception No. 4 and thus may not be required to keep records concerning the steps taken to implement and maintain the Plan.

Subsection (e)(1)(B) requires records of the initial and periodic inspection of patient handling procedures as required by subsection (c)(4)(C). This is consistent with Section 3203(b) by providing documentation that problems associated with safe patient handling have been identified and corrected. General acute care hospitals that are operated by local governmental entities are subject to Section 3203(b)(2)C Exception No. 4 and consistent with that exception they will not be required to keep records concerning the steps taken to implement and maintain the Plan.

Subsection (e)(1)(C) requires records of investigation of occupational injuries and illnesses related to safe patient handling that are required by subsection (c)(5). This is necessary to provide records that document compliance with that requirement and to provide the employer with a method of determining if there is a hazardous condition

that needs correction, training that should be provided, or a need to review work practices. This is necessary to be consistent with Section 3203(b)(1).

Subsection (e)(2) requires employers to have records of the training established in subsection (d). These records are necessary to assure that employees have received the training required by this Section and to be consistent with Section 3203(b)(2). The subsection requires that the records are to include the following information: training dates are needed for documentation and assurance of compliance with the requirement for annual training; the contents or a summary of the training sessions are needed to assure that all the required subjects are covered; the types and models of equipment practiced during training are needed to assure that employees have received the training for the equipment they use and is already often done as competency evaluations for staff; the names and qualifications of persons conducting the training are needed to assure that questions can be answered in a competent manner; and the names and job titles of all persons attending the training sessions are necessary to document that personnel have been trained. The subsection also establishes that these records are to be maintained for a minimum of one year to assure that the administrative personnel overseeing the training process can identify the personnel who require training over time and comply with the refresher training requirement.

Subsection (e)(3) requires that the records required by this subsection are to be made available to the Chief of the Division and his or her representatives for examination and copying. This is consistent with Section 3204 and numerous other Sections in Title 8 and is necessary to allow the Division to determine if an employer is complying with the requirements of this Section.

Subsection (e)(4) requires the records required by subsection (e) are to be made available to employees and their representatives for examination and copying as employee exposure records in accordance with Section 3204(e)(1). This is necessary to be consistent with Section 3204 and LC Section 6408.

Subsection (e)(5) requires that records of injury investigations not include medical information, as defined by Civil Code Section 56.05(g). This is necessary to ensure that employers and employees can review injury investigations without compromising medical confidentiality.

Subsection (e)(6) is necessary to inform employers that occupational injury and illness occurrences may require separate records that are required by Title 8, Division 1, Division of Labor Statistics and Research, Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records. These include the Cal/OSHA Form 300, Log of Work-Related Injuries and Illnesses; the Cal/OSHA Form 300A, Summary of Work-Related Injuries and Illnesses; the Cal/OSHA Form 301, Injury and Illness Incident Report; or equivalent forms, as well as the Form 5020, Employer's Report of Occupational Injury or Illness Form; and Form 5021, Rev. 4, Doctor's First Report of Occupational Injury or Illness.

Proposed Appendix A (Non-Mandatory)

Four current professional guidelines relating to recognizing and assessing patient handling needs, and implementing programs are listed in this appendix to provide the employers with a basis to comply with subsection (c)(1). This is necessary to comply with LC 6403.5(a). These guidelines were agreed upon by the advisory members as acknowledged references in the health care industry.

DOCUMENTS RELIED UPON

1. *Patient Handling and Moving Assessments (PHAMA): A White Paper*, The Facilities Guideline Institute, April 2010, http://www.fgiguideines.org/pdfs/FGI_PHAMA_whitepaper_042810.pdf#zoom=125
2. *Beyond Getting Started: A Resource Guide for Implementing a Safe Patient Handling Program in the Acute Care Setting*, Association of Occupational Health Professionals in Healthcare (AOHP), 2nd edition, 2011, <http://www.aohp.org/About/documents/GSBeyond.pdf#zoom=100>
3. *Safe Patient Handling Training for Schools of Nursing, Curricular Materials*, Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication No. 2009-127, November 2009, <http://www.cdc.gov/niosh/docs/2009-127/pdfs/2009-127.pdf>
4. *Facility Safe Patient Handling Policy (Template)*, U.S. Department of Veterans Affairs, March 22, 2010, http://www.visn8.va.gov/VISN8/PatientSafetyCenter/safePtHandling/PolicyTemplate_SP_H_032210.doc
5. Dunham, Cassie. Email dated January 31, 2013, to Deborah Gold. RE: Questions for Licensing regarding Safe Patient Handling.
6. Advisory Committee attendance sheets and minutes. They may be accessed via: <http://www.dir.ca.gov/dosh/DoshReg/5120Meetings.htm>

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. Assembly Bill 1136, passed in 2011, amended the Labor Code creating LC 6403.5 that went into effect on January 1, 2012. LC 6403.5 required general acute care hospitals to implement safe patient handling procedures and adopt a policy for doing so by adding it to the existing Injury and Illness prevention programs that are required by Labor Code 6401.7 and CCR T8 GISO 3203 enforced by the Division of Occupational Safety and Health. This proposed standard establishes more detailed language to clarify the more general requirements in AB 1136. These requirements are consistent with Section 3203 and existing requirements in Title 22, already followed by general acute care hospitals, without creating requirements that were not established by the legislation, and therefore do not impose costs beyond what have been created by the legislation itself. The proposal also exempts general acute care hospitals within the State Department of Corrections and Rehabilitation or the State Department of Developmental Services.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Economic Impact Analysis

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Assembly Bill 1136, passed in 2011, amended the Labor Code creating LC 6403.5 that went into effect on January 1, 2012. LC 6403.5 required general acute care hospitals to implement safe patient handling procedures and adopt a policy for doing so by adding it to the existing IPPs that are required by LC 6401.7 and CCR T8 GISO 3203 enforced by the Division . This proposed standard establishes more detailed language to clarify the more general requirements in AB 1136. These requirements are consistent with Section 3203 and existing requirements in Title 22, already followed by acute care hospitals, and therefore do not impose costs beyond what have been created by the legislation itself.

Therefore, the adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

This regulatory proposal is intended to provide worker safety at places of employment in California.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 175000 through 17630.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses. This proposed standard establishes more detailed language to clarify the more general requirements in AB 1136.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

These requirements are consistent with Section 3203 and existing requirements in Title 22, already followed by acute care hospitals, without creating requirements that were not established by the legislation, and therefore do not impose costs beyond what have been created by the legislation itself.

BENEFITS OF THE REGULATION

This proposal should reduce the number of injuries, many of which are career-ending, suffered by health care workers who conduct patient handling procedures by requiring GACH employers to identify and utilize equipment and techniques that reduce the force required to lift and maneuver patients. This should also reduce the number of injuries to patients by lowering the risk that they will be inadvertently dropped or otherwise injured. Consequently the number of workers' compensation claims and patient injury claims against GACHs should also decrease. Labor Code 6403.5 (AB 1136) requires GACHs to address safe patient handling through various means. This proposal creates an enforceable regulation that provides clear guidance to employers and employees regarding how to implement this law.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.