

# **The California Commission on Health and Safety and Workers' Compensation**



## **Summary of January 9, 2009 First Aid Cases Advisory Group Meeting**

### **CHSWC Members**

**Sean McNally (2009 Chair)**  
**Catherine Aguilar**  
**Allen Davenport**  
**Kristen Schwenkmeyer**  
**Robert B. Steinberg**  
**Darrel "Shorty" Thacker**  
**Angie Wei**

### **Executive Officer**

**Christine Baker**

**State of California**  
**Labor and Workforce Development Agency**  
**Department of Industrial Relations**

**April 2009**

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## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

### Background

At its November 6, 2008 meeting, the Commission on Health and Safety and Workers' Compensation (CHSWC) requested that staff prepare an Issue Paper on first aid and reporting criteria. The Commission also requested that an Advisory Group be convened to discuss issues and potential solutions to problems with reporting first aid cases. The Issue Paper and an up-to-date booklet on the current law for reporting occupational injuries and illnesses for workers' compensation and Cal/OSHA have been prepared (See Attachment C), and suggested legislative language has been drafted. (See Attachment D.)

Both employers and workers have raised problems involved with reporting first aid cases. For some employers, first aid cases are included in their reporting and therefore increase their experience modification (Ex-Mod) rating and their insurance premiums; other employers do not report first aid cases, so their Ex-Mods are not increased. For workers, either some first aid cases are fully taken care of under workers' compensation, which is required by law, or workers are not getting any care because they do not know that they have workers' compensation as a right, or there is care for the first aid case but it is not tied into the workers' compensation system. In addition, if there is permanent disability at a later stage, it may not be handled and compensated appropriately.

### Welcome

Christine Baker, Executive Officer, CHSWC, welcomed participants to the Advisory Group meeting on reporting first aid cases. (See Attachment A.) The meeting is at the request of the Commission to identify the issues and potential solutions to problems with reporting first aid cases; its objectives are to find ways to assure appropriate medical care, reduce administrative costs, discourage fraud by defining the process more clearly, and even the playing field for employers.

Christine Baker introduced Sean McNally, 2009 Chair of the Commission, and stated that Jill Dulich, a former Commission chair, was participating by phone. She also acknowledged Tom Rankin, a former Commission chair, representing labor. Advisory Group participants introduced themselves. (See Attachment B.)

### Framing of Key Issues

Lachlan Taylor, CHSWC, framed the issues, stating that first aid cases are in a gray zone which can lead to opportunities for error. There is often inconsistent treatment of first aid cases across different systems, such as OSHA and workers' compensation, as well as first aid cases within workers' compensation. The purpose of the meeting is to identify the problems and possible solutions.

First aid treatment is a benefit under workers' compensation law, the same as other medical benefits. For insured employers, it is covered by the insurance policy and subject to deductibles, if any, in the same way as other benefits. First aid cases do affect the employers' Ex-Mod for those employers that are experience-rated. There is a requirement that physicians complete a

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doctor's first report of injury (DFR) and submit it to the insurance carrier or the third-party administrator (TPA). There is no requirement, however, for the employer to provide a claim form to the employee and complete and file the employer's report of occupational injury (Form 5020), which means that the injured worker may not be informed about workers' compensation rights and the insurer may not learn about the injury.

Carol Reed, Monterey District Attorney's Office, spoke about what the office sees as patterns with fraud with first aid cases. She has seen cases where the physicians send the DFR to the employer instead of the insurer or TPA. The physician sometimes does not know who the insurer or TPA is; however, with a medical network, the insurer should be known and the form should be sent in. Often, the physician is waiting for information or direction/authorization, and the claim is not forwarded appropriately. Another problem is DWC-1 Forms coming in late or employer's first reports of injury coming in late. A pattern of forms coming in late could be an indication of fraud. These cases mostly do not get reported. That should lead to a mandate to report fraud on an FD-1 form. Other issues that involve actions by employers and physicians include: because an employer is not mandated to report first aid, the employer will state that the injury is first aid when actually it is beyond the level of first aid; and when the physician gives out samples, the question arises whether that is a case of use of prescription medication, which would not be a first aid case.

### Key Issues from Advisory Group Meeting Participants

Issues raised and goals suggested by individual Advisory Group participants included the following:

- Advisory Group objective:
  - Define the main client(s) to benefit from changes: e.g., Division of Workers' Compensation (DWC), Department of Industrial Relations (DIR), Workers' Compensation Insurance Rating Bureau (WCIRB), employer, worker, and physician.
  - Intent is to have an overall consistent reporting system.
- Reporting requirements:
  - Whether first aid cases have to be reported on the Cal/OSHA Log:
    - First aid cases do not have to be reported on the Cal/OSHA Log.
  - Small businesses need to know what the "rules" are so they are not liable for non-compliance.
  - Every claim has to be reported; there should be no threshold.
  - Physicians would prefer to report all claims; they would prefer a paper trail of all care.
    - Full physician reporting has been a safety net for keeping employers honest about what is more than a first aid injury.
    - If a case starts as first aid and then becomes more than first aid, the paper trail is critical to proving that adequate medical care has been delivered and that there was no fraud involved. This provides some insurance against medical malpractice.

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- The DFR should always be sent to the carrier. Costs should not necessarily be reported.
  - However, privacy issues start to become a factor if you send the DFR to an insurer.
  - There is a workers' compensation statute that says that only pertinent medical information may be disclosed to the employer. This information is used in the interactive process.
  - The DFR is ultimately sent to the Division of Labor Statistics and Research.
- Jurisdictional issues:
  - Should it be an Ex-Mod claim?
  - Ex-Mods are under the jurisdiction of the California Department of Insurance (CDI) and the WCIRB.
  - Claim cost information is sent to WCIRB; the claim is not coded to be defined as to whether it is a first aid claim.
- Costs to administer a claim:
  - There is a processing cost for opening and closing a claim. The cost to process a small medical-only claim can be much greater than the value of the claim.
- The definition of first aid:
  - There is confusion between the Cal/OSHA definition and the workers' compensation definition of first aid, with the Cal/OSHA definition being more detailed than the workers' compensation definition.
  - There should be a definition of "provider" as medical provider (physician) or a Physician's Assistant (PA).
    - There is a difference between administering medical care and ordering medical care:
      - A health care provider who is not a physician or PA can provide care, such as giving a shot or administering eye drops. However, a physician has to order an injection or eye drops.
      - The doctor has to sign off even if a PA sees a patient.
      - At an occupational health clinic, a physician often administers care.
  - The words "follow-up visit" need to be defined more specifically.
    - This is currently being interpreted as either one visit or more than one visit.
  - There are situations when an injured worker would go to a physician that is not defined by the Cal/OSHA definition.
  - The federal OSHA definition is largely the same.
    - DOSH website describes other differences between federal and Cal/OSHA record-keeping requirements.
  - The confusion leads to unintentional as well as intentional underreporting.
  - Physicians and employers generally use the Cal/OSHA definition.
  - Employers who are not knowledgeable about the definitions generally follow the physicians' lead; small employers rely on the broker.
  - Small businesses most often do not know that there are two definitions.

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- They will sometimes put an arbitrary dollar amount ceiling on claims and report only those claims where costs are above that ceiling.
  - Many employers would like to have one definition.
  - Whether there would be any negative impacts from using the Cal/OSHA definition.
    - The change to a single definition would not affect WCIRB's process of experience rating because the first aid definition is not used to determine reporting status for experience rating purposes.
  - If there is a change to a single definition – or a unified definition:
    - There will have to be significant education efforts.
    - Critical issue would be to determine what gets reported and the different reporting purposes:
      - Compensation payment, Ex-Mod rating, identifying cases involving fraud, etc.
  - Whether there is any downside from using the Cal/OSHA definition.
    - Cannot modify parts of the Cal/OSHA definition without modifying the federal OSHA definition.
  - Whether the WCIRB could work with the Cal/OSHA definition:
    - Yes, since the first aid definition is not currently intended to be used to determine reporting status for WCIRB purposes.
    - Currently, if there is an injury, the standard policy contract requires the employer to report the case to the insurer, and insurers must report it to the WCIRB.
- Small businesses:
  - Small businesses need to know what the “rules” are so they are not liable for non-compliance.
  - Small employers need to know what types of first aid they do not have to report.
  - Every other type of medical care has to be reported; there should be no threshold.
  - Physicians do not usually talk to the small employer.
    - That would be the job of the broker.
- DWC-1 Form:
  - Is this a necessary form?
  - The WCAB puts more weight on the date the injury was communicated to the employer, not the date the DWC-1 Form was filed.
  - The DWC-1 is the most critical form for the employee, especially if there are complications, and should be required.
- Public access to insurance coverage information:
  - There should be a system for public access to insurance coverage information for all employers:
    - It might help enforce employer coverage.
    - It might facilitate physician reporting.
    - A bill for this has been vetoed twice:
      - Opposition to public access has been based on the potential for false negatives because there are differences between the time frames for reporting to WCIRB and the periods covered by insurance policy.

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- WCIRB has no objection to the bill as drafted.
- Feasibility issue -- the data system for WCIRB is not set up to do this but can be modified to provide public access to coverage information if WCIRB is given sufficient lead time to ensure that confidential and proprietary information is protected.
  - Insurance brokers see it as a competitive issue:
    - Expiration dates are treated as confidential information; a proof of coverage system would make expiration dates public, and could lead to an insurer trying to take away business from another insurer.
  - Employee and physician can look up who the carrier is.
  - Physician would know where to send the report if the employer is not providing that information.
  - 33 other states have such a system.
  - It could cut down on uninsured employers.
- Incentives:
  - Some physicians state that the employer will not tell the physician who the insurer is, so they have to send the report to the employer.
  - Some physicians market themselves to employers as being able to minimize the reporting of injuries.
  - Some contractor employers are motivated not to report first aid cases in order to have a competitive advantage in the contract bidding process.
  - Physicians have a financial incentive to have the employer pay directly, so that the bills are not run through the fee schedules and physicians can charge whatever they choose.
    - Fee schedules should be applied to first aid claims so that physicians would be required to charge according to the fee schedules, regardless of who pays.
  - Brokers sometimes instruct the employer community to use the OSHA definition instead of the workers' compensation definition and to submit only certain claims in order to reduce insurance claims.
  - Employers pay directly to the medical providers to circumvent the insurers, believing that this will control their workers' compensation costs. This is not necessarily true.
  - Having one party (physician) report and the other party (employer) not report creates inconsistencies.
  - Need to ensure that the employee gets the best possible medical care:
    - There should no penalty if an employer, out of an abundance of caution, wants the injured worker to see a physician; there should be a mechanism for that to happen.
  - Businesses (for example, Mobile Medical Assistance) have been set up to appeal to employers not to send the injured worker to a physician and offer to come to the company and care for the employee without medical care by a physician.
- Thresholds:
  - The Experience Rating Taskforce examined the issue of thresholds:

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- Many medical-only claims valued at \$2,000 or less are reported to WCIRB on a grouped basis and therefore cannot be individually identified from WCIRB records. WCIRB sees tens of thousands of small claims under \$500 but there may be even more. Experience rating is an actuarial prediction. An employer that has more claims is more likely to have greater losses in the future.
- Eliminating claims with cost less than \$2,000 was tested by the Commissioner's Experience Rating Task Force but ultimately rejected as it reduced the Plan's predictive values and negatively impacted employers who were loss free.
- Going to an even lower threshold, such as the first \$50, \$100, or \$500, was not tested, but that might not have as much impact as eliminating the first \$2,000.
- There is little market for a small deductible policy even though WCIRB has an advisory Plan for this. The large deductible is the most common.
- It may be valuable to have a threshold; then there may be fewer small deductibles going on underground.
- Self-insureds:
  - The issue is that there is constant confusion between the two definitions of first aid.
  - The self-insured employer pays for all medical care, so there may not be accurate distinction between occupational and non-occupational cases.
- Physicians:
  - Want everything recordable for liability issues.
  - Reportability is a different issue.
  - Need to have "follow-up" defined more specifically.
- What gets reported:
  - Insurance carriers may not want to take on the responsibility for reimbursing employers for first aid claims.
  - Administering the cost of the claim may be more than the value of the claim itself.
  - Reporting on the Log 300 generates statistical data for loss information for the Bureau of Labor Statistics (BLS) on injury and illness in the workplace.
    - Insurers can request more information from employers on cases listed on the Log 300.
      - Small employers do not have to do a Log 300.
    - There is a difference between BLS's statistical needs and WCIRB's statistical needs.
    - A consistent definition of the injuries and accidents would help make compliance with the OSHA Log 300 reporting easier.
    - There are other required pieces of information on the OSHA Log 300, such as modified duty.
- Process to change the definition:
  - The workers' compensation definition of first aid is embedded in statute.
    - The statute would have to be changed – cross off the words currently in place and insert new language.

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- The Administrative Director (AD) of the DWC could be allowed to define the definition (and examples) of first aid through regulations with the OSHA regulation as a guide, and this would allow for more flexibility, rather than just defining it in the Labor Code.
  - The problem with changes over time would be how the system could be priced and how it could be administered.
  - A question would be whether first aid cases would continue to be a covered workers' compensation benefit.
  - If this process is put in place to change the definition, then there would be consistency with Cal/OSHA.
- Fraud issues:
  - Whether this can be effectively addressed.
  - Public access to the coverage information would help stop a lot of fraud.
  - Employer fraud:
    - Employer does not report.
    - Very small employers do not have an experience rating.
      - This applies to employers with approximately 4-5 full-time employees or less.
      - About 80% of insurance policies are not experience-rated; they do not generate a lot of premium (20%).
      - Over 90% of sole proprietors in California have less than \$250,000 gross receipts.
  - Broker fraud: telling the employer not to report.
- Health and safety prevention:
  - Reporting all injuries could lead to identifying trends in safety issues and could assist employers in improving their injury and illness prevention program.
    - Often, the employer relies on the insurance company's compilation of accident information, so complete reporting of all injuries, including first aid cases, provides valuable information,

### Advisory Group Recommendations and Next Steps

Roundtable participants suggested the following possibilities:

- Develop a single definition of first aid that reflects Cal/OSHA's definition, but retain the last sentence of the current definition of first aid addressing toxic chemical exposures.
  - Consider including language about the AD having discretion to make adjustments to the definition.
- Do not make any changes to existing thresholds.
- Develop an educational factsheet.
- Ensure that there are resources available to make any changes part of public information:
  - Have a consistent message.
  - Include information in the poster for the workplace.
  - Include information in Employment Development Department (EDD) newsletter (sent out in hard copy).
    - This goes to every physician, claims adjuster, and employer.

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- Include information in the DIR's annual fraud warning notice to employers.
- Conduct further discussions about equity issues that arise when employers double pay (i.e., pay for first aid directly and pay through increased insurance premiums).
- Investigate and review the State of Oregon's handling of first aid cases.

### **Closing**

Christine Baker thanked participants for their comments and support and stated that a summary of the discussion will be prepared and distributed to everyone.

*Attachment A*

**Commission on Health and Safety and Workers' Compensation**

**First Aid Cases Advisory Group Meeting**

January 9, 2009

1515 Clay Street, 2<sup>nd</sup> Floor, Room 15

Oakland, CA

10:00 a.m. – 12:30 p.m.

**AGENDA**

- Welcome and Introductions 10:00 a.m.  
CHSWC Commissioner  
  
Christine Baker, Executive Officer
- Discussion: Issues and Concerns 10:15 a.m.
  1. Employers – appropriate premium charges
  2. Workers – workers' compensation medical care
  3. Insurers – claims handling, appropriate premium charges
  4. State agencies – fraud compliance
- Possible Solutions 11:30 a.m.
- Next Steps 12:15 p.m.

**Advisory Group Meeting Participants**

Dave Bellusci  
Workers' Compensation Insurance Rating  
Bureau

Steve Cattolica  
U.S. Healthworks

Jill Dulich  
Marriott

Scott Hauge  
Small Business California and  
Cal-Insurance

Lori Kammerer  
Small Business California

Brenda Keys  
Workers' Compensation Insurance Rating  
Bureau

Sean McNally  
Grimmway Farms

Carrie Nevans  
Division of Workers' Compensation

Michael Nolan  
California Workers' Compensation Institute

Tom Rankin  
AFL-CIO, WORKSAFE!

Carol Reed  
Monterey District Attorney's Office

Meredith Saunders  
U.S. Healthworks

Joel Sherman  
Grimmway Farms

William Zachry  
Fraud Assessment Commission

**Project Staff**

Christine Baker, CHSWC  
Juliann Sum, UC Berkeley  
Lachlan Taylor, CHSWC  
Selma Meyerowitz, CHSWC  
Irina Nemirovsky, CHSWC

# The California Commission on Health and Safety and Workers' Compensation



## First Aid Issue Paper

*Prepared by CHSWC Staff with technical support by Juliann Sum*

### CHSWC Members

Angie Wei (Chair)  
Cathy Aguilar  
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Sean McNally  
Kristen Schwenkmeyer  
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Darrel "Shorty" Thacker

Executive Officer  
Christine Baker

State of California  
Labor and Workforce Development Agency  
Department of Industrial Relations

**October 2008**

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

### **Background**

Some employers arrange for medical providers to withhold the Doctor's First Report from their insurers in order to control their premiums. This constitutes fraud, which in turn raises premiums for employers that do allow the Doctor's First Report to be sent to their insurers. It can also lead to fraudulent denial of workers' compensation benefits to injured workers because of lack of notice to the insurer.

It appears that this type of fraud occurs most frequently with injuries that do not require treatment beyond first aid or time off beyond the employee's work shift at the time of injury ("first-aid cases"). Differences in reporting requirements for first aid cases may cause well-meaning employers to be confused about their obligations and may enable unscrupulous enterprises to exploit the confusion. Employers that correctly process first-aid cases with their insurers believe that they are paying disproportionate costs due to increased premiums resulting from the fraud committed by other employers, as well as high costs of administration and overhead with workers' compensation cases generally.

On June 26, 2008, the Commission on Health and Safety and Workers' Compensation voted to prepare an issue paper on problems with how first-aid cases are handled and recommendations to ensure consistent reporting and fair allocation of costs among all employers, while at the same time preserving injured workers' access to the workers' compensation system.

### *First Aid Cases*

### **Requirements:**

First aid treatment is included as medical care that all employers must provide for their injured employees (Labor Code section 4600).

Physicians who treat injured employees must file a "Doctor's First Report of Injury" (DFR) with the claims administrator, even if the case involves only first aid with no lost time from work beyond the date of injury or illness or beyond the employee's work shift at the time of injury (Labor Code section 6409(a)).

### **Summary of January 9, 2009 First Aid Cases Advisory Group Meeting**

Employers are not required to file an "Employer's Report of Occupational Injury or Illness" (form 5020) with the insurer if the injury or illness requires only first aid with no lost time from work beyond the date of injury or illness (Labor Code section 6409.1(a)).

Employers are not required to provide a Workers' Compensation Claim Form (DWC 1) to an injured employee if the injury or illness requires only first aid with no lost time from work beyond the employee's work shift at the time of injury (Labor Code section 5401(a)).

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

### Problems:

The California Department of Insurance (CDI) and the Department of Industrial Relations (DIR) believe there are improper arrangements in place between some medical providers and employers that allow the employer to dictate how injuries are to be classified by the physicians. In some cases, and at the request of the employers, the physicians send the DFR only to the employers and not to the insurance carriers. This arrangement occurs even though the injuries clearly require more treatment than just first aid. This agreement is often marketed to employers as a way to keep premiums from rising or to lower them. Such marketing practices are improper and may also contribute to possible criminal violations related to premium fraud and the fraudulent denial of workers' compensation benefits to injured workers. (Posted at Division of Workers' Compensation (DWC) website.)

Insurers count first aid cases the same as other medical-only cases in determining an employer's experience modification (x-mod). Therefore, employers that withhold first aid cases from insurers appear to have lower accident frequency and obtain lower x-mods than employers that allow reporting of all cases as they should. Because the net effect of x-mods is intended to be cost-neutral (i.e., for every premium dollar an employer saves due to a low x-mod, another employer in the same industry will pay a dollar more), lower x-mods and lower premiums for the employers who cheat mean higher x-mods and higher premiums for employers who follow the rules.

### Possible Solutions (Options):

1. Eliminate the DFR requirement for cases involving only first aid, and allow all employers to self-insure for these cases.
2. Eliminate the DFR requirement for cases involving only first aid, and allow all employers to purchase insurance with deductibles reflecting the cost of these cases.
3. Maintain the current DFR requirement and require employers to file an Employer's Report of Occupational Injury and Illness with the insurer even if the injury or illness involves only first aid. Also require employers to provide a Workers' Compensation Claim Form to the injured employee, and require the employer to process the form with the claims administrator.

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

### Issues and Concerns:

The DFR must ultimately be sent to the Division of Labor Statistics and Research (Labor Code section 6409(a)). What would be the consequences of eliminating the DFR for first aid cases?

Would it become more difficult for injured employees to receive first aid care if the employer must pay for it directly and not through insurance?

How would a deductible be established to cover the cost of cases involving only first aid? (For example, would it be per occurrence, and what would be the dollar amount?)

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Without the insurer receiving DFRs for cases involving only first aid, how would an employer document payment for these cases in order to show that a deductible has been used up?

Would an incentive be created for employers to arrange for doctors to give first aid only when further care is needed?

Would requiring the employer to file an Employer's Report and process a Claim Form for cases involving only first aid be too cumbersome?

Providers cannot file the DFR with the insurer if the worker does not know who the insurer is and the provider is unable to obtain this information from the employer. Should mechanisms be instituted to enable providers to access insurance coverage information?

DRAFT, 12/23/08

# **Reporting Occupational Injuries & Illnesses: Workers' Compensation & Cal/OSHA Requirements**

*By Juliann Sum*

*Institute for Research on Labor and Employment*

*University of California at Berkeley*

*December 2008*

This booklet describes the requirements in California for physicians and employers (or their workers' compensation insurers) to report occupational injuries and illnesses, provide medical care, and process forms and reports in a workers' compensation case. Also described, for comparison purposes, are employers' requirements to maintain and summarize records of occupational injuries and illnesses.

*This booklet was prepared for the California Commission on Health and Safety and Workers' Compensation. It was adapted from informational materials prepared for the Labor Occupational Health Program, University of California at Berkeley.*

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    2. State of California Form 5020, Employer's Report of Occupational Injury or  
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    3. Division of Workers' Compensation, DWC 1, Workers' Compensation Claim  
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# Reporting

*Labor Code sections 6409-6413.5*

*Calif. Code of Regulations, title 8, sections 330, 342, and 14000-14007*

## 1. Physicians' Reports

Physicians must send a Doctor's First Report (DFR) to the workers' compensation insurer or self-insured employer. In cases of pesticide poisoning, physicians must also send DFRs to the California Division of Labor Statistics and Research (DLSR) and must notify a local health officer. The DFR (Form 5021) is posted at the DLSR website: [www.dir.ca.gov/dlsr/dlsrform5021.pdf](http://www.dir.ca.gov/dlsr/dlsrform5021.pdf)

**Threshold:** Applies to any occupational injury or illness that the physician sees

Employers (or workers' compensation insurer if employer is insured) must send the DFR to DLSR.

**Threshold:** Applies to any occupational injury or illness that the physician sees

## 2. Employers' Reports

Employers (or workers' compensation insurer if employer is insured) must send an Employer's Report of Occupational Injury or Illness to DLSR. "Employer's Report" (Form 5020) is posted at the DOSH website: [www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf](http://www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf)

**Threshold:** Applies to cases involving lost time beyond the date of the injury or illness or medical treatment beyond first aid. First aid in this context is defined in Labor Code section 5401(a) (see Appendix A).

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Employers must notify the California Division of Occupational Safety and Health (DOSH) in case of a serious injury or illness. "Serious injury or illness" includes conditions requiring hospitalization or treatment overnight, loss of a body member, or serious permanent disfigurement.

***Note regarding upcoming changes:*** AB 2181 requires reports of occupational injuries and illnesses to be filed electronically with the Division of Workers' Compensation (DWC) instead of with the DLSR. DWC must prescribe the electronic form to be used to file the report, and the report must contain the information required under federal OSHA recordkeeping requirements. These changes will become effective after DWC adopts implementing regulations.

# Workers' Compensation

*Labor Code sections 4061-4664, 5401*

*Calif. Code of Regulations, title 8, sections 9785-9785.4, 10116-10119*

## 1. Medical Care

Workers' compensation medical care must be provided for all occupational injuries and illnesses, even if the injury or illness requires only first aid.

**Threshold:** Applies to any occupational injury or illness

## 2. Physicians' Reports

Physicians must send periodic medical reports, including the Doctor's First Report (DFR), to the workers' compensation insurer or self-insured employer.

**Threshold:** Applies to any occupational injury or illness that the physician sees

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

### 3. Workers' Compensation Claim Form

Employers must give the injured employee a claim form within one working day of knowledge of injury. The claim form (DWC 1) is posted at the DWC website: [www.dir.ca.gov/dwc/DWCForm1.pdf](http://www.dir.ca.gov/dwc/DWCForm1.pdf)

**Threshold:** Applies to cases involving lost time beyond the work shift at the time of injury or medical treatment beyond first aid. First aid in this context is defined in Labor Code section 5401(a) (see Appendix A).

After the employee fills out and returns the claim form, the employer must fill out the employer section and send copies to the workers' compensation claims administrator (usually the workers' compensation insurer) and to the employee.

# Recordkeeping

*Labor Code section 6410*

*Calif. Code of Regulations., title 8, sections 14300-14300.47*

Federal OSHA recordkeeping requirements differ somewhat from the Cal/OSHA requirements described below. A summary of the differences is posted at the following webpage:  
[www.dir.ca.gov/dosh/dosh\\_publications/cal\\_fed.html](http://www.dir.ca.gov/dosh/dosh_publications/cal_fed.html).

## 1. Basic requirements

Employers must record injuries on the following forms:

- **"Log of Work-Related Injuries and Illnesses" on Cal/OSHA Form 300.** This form is available online: [www.dir.ca.gov/dosh/dosh\\_publications/oshalog300.pdf](http://www.dir.ca.gov/dosh/dosh_publications/oshalog300.pdf)
- **"Injury and Illness Incident Report" on Cal/OSHA Form 301.** This form is available online: [www.dir.ca.gov/dosh/dosh\\_publications/CalOSHAform301.pdf](http://www.dir.ca.gov/dosh/dosh_publications/CalOSHAform301.pdf)

**Threshold:** Death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, significant injury or illness diagnosed by a physician or other licensed health care professional. First aid in this context is defined in section 14300.7(b)(5)(B) of the regulations (see Appendix B).

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### 2. Exemptions

- **By size:** Employers that employed 10 or fewer employees at all times in the previous calendar year are exempt from the recordkeeping requirements, unless requested by federal OSHA or the Bureau of Labor Statistics (BLS) to complete a survey form.
- **By industry:** "Establishments" that are classified in certain retail, service, finance, insurance, and real estate industries are exempt from the recordkeeping requirements, unless requested by OSHA or BLS to complete a survey form. An "establishment" is defined as a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.
  - The exempted industries and their SIC Codes are listed in section 14300.2 of the regulations: [www.dir.ca.gov/T8/14300\\_2.html](http://www.dir.ca.gov/T8/14300_2.html)
  - SIC Codes are defined in the Standard Industrial Classification Manual. They can be searched at the OSHA website: [www.osha.gov/oshstats](http://www.osha.gov/oshstats)

### 3. Differences from workers' compensation

- Employers are not required to record an injury or illness resulting solely from voluntary participation in a wellness program or a medical, fitness, or recreational activity; whereas in workers' compensation, these injuries are compensable if the employee was expected to participate.

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- Employers are not required to record an injury or illness that is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption; whereas in workers' compensation, these injuries are compensable if they occurred during paid time or paid breaks.
- Employers must record a new episode or recurrence of an ongoing injury if caused by an event or exposure at work; whereas in workers' compensation, in some cases this will be considered part of the original injury, not a new injury.

#### 4. Posting

Every year from February 1 to April 30, employers must post the "**Annual Summary of Work-Related Injuries and Illnesses**" on **Cal/OSHA Form 300A**. This form is available online: [www.dir.ca.gov/dosh/dosh\\_publications/oshalog300A.pdf](http://www.dir.ca.gov/dosh/dosh_publications/oshalog300A.pdf)

#### 5. Employee access

If an employee or authorized collective bargaining agent requests records of injuries and illnesses, the employer must provide copies.

- **Form 300 logs and Form 300A annual summaries:** The employer must provide copies by the end of the next business day (except for employers in certain motion picture industries). The employer may not remove names or other information from Log 300 forms. However, with "privacy concern" cases, the employer must not record the particular employee's name on the form. Privacy concerns are described in section 14300.29(b) of the regulations (see Appendix C).
- **Form 301 incident reports:** When an employee requests a copy of the report describing that employee's injury or illness, the employer must provide it by the end of the next business day (except for employers in certain motion picture industries). When an authorized collective

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bargaining agent asks for copies of Form 301 for an establishment, the employer must delete personally identifying information and provide the copies within seven calendar days.

### **6. Federal agency requests**

If federal OSHA sends an "Annual OSHA Injury and Illness Survey" form, the employer must fill it out and return it.

If the Bureau of Labor Statistics (BLS) sends a "Survey of Occupational Injuries and Illnesses" form, the employer must fill it out and return it.

### **7. Retaining and updating records**

Employers must save the Form 300 logs, the privacy case list (if one exists), the Form 301 annual summaries, and the Form 301 incident reports for five years following the end of the calendar year that these records cover.

During the storage period, employers must update the Form 300 logs to include newly discovered injuries or illnesses and to show changes in previously recorded cases. Employers may update the Form 300A annual summaries and the Form 301 incident reports, but they are not required to do so.

## Appendix A

"First aid" in the reporting and workers' compensation requirements is defined in Labor Code section 5401(a) as follows:

As used in this subdivision, "first aid" means any one-time treatment, and any followup visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. "Minor industrial injury" shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302.

## Appendix B

"First aid" in the recordkeeping requirements is defined in section 14300.7(b)(5)(B) of the regulations as follows:

1. Using a nonprescription medication at nonprescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);
2. Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
3. Cleaning, flushing or soaking wounds on the surface of the skin;
4. Using wound coverings such as bandages, Band-Aids<sup>®</sup>, gauze pads, etc.; or using butterfly bandages or Steri-Strips<sup>®</sup> (other wound closing devices such as sutures, staples, etc. are considered medical treatment);
5. Using hot or cold therapy;
6. Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
7. Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, backboards, etc.);
8. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

9. Using eye patches;
10. Removing foreign bodies from the eye using only irrigation or a cotton swab;
11. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
12. Using finger guards;
13. Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
14. Drinking fluids for relief of heat stress.

## Appendix C

With "privacy concern" cases, employers may not include on the Log 300 form the particular employee's name. Privacy concern cases are described in section 14300.29(b) of the regulations as follows:

(7) How do I determine if an injury or illness is a privacy concern case?

You must consider the following injuries or illnesses to be privacy concern cases:

- (A) An injury or illness to an intimate body part or the reproductive system;
- (B) An injury or illness resulting from a sexual assault;
- (C) Mental illnesses;
- (D) HIV infection, hepatitis, or tuberculosis;
- (E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see Section 14300.8 for definitions); and
- (F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

## Appendix D

1. State of California Form 5021, Doctor's First Report of Occupational Injury or Illness, available online at [www.dir.ca.gov/dlsr/dlsrform5021.pdf](http://www.dir.ca.gov/dlsr/dlsrform5021.pdf) (1 page) ..... 33
2. State of California Form 5020, Employer's Report of Occupational Injury or Illness, available online at [www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf](http://www.dir.ca.gov/DOSH/DoshReg/Form5020.pdf) (1 page) ..... 34
3. Division of Workers' Compensation, DWC 1, Workers' Compensation Claim Form, available online at [www.dir.ca.gov/dwc/DWCForm1.pdf](http://www.dir.ca.gov/dwc/DWCForm1.pdf) (3 pages) ..... 35
4. Cal/OSHA Form 300, Log of Work-Related Injuries and Illnesses, available online at [www.dir.ca.gov/dosh/dosh\\_publications/oshalog300.pdf](http://www.dir.ca.gov/dosh/dosh_publications/oshalog300.pdf) (1 page)..... 38
5. Cal/OSHA Form 301, Injury and Illness Incident Report, available online at [www.dir.ca.gov/dosh/dosh\\_publications/CalOSHAform301.pdf](http://www.dir.ca.gov/dosh/dosh_publications/CalOSHAform301.pdf) (1 page) ..... 39
6. Cal/OSHA Form 300A, Annual Summary of Work-Related Injuries and Illnesses, available online at [www.dir.ca.gov/dosh/dosh\\_publications/oshalog300A.pdf](http://www.dir.ca.gov/dosh/dosh_publications/oshalog300A.pdf) (1 page)..... 40

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STATE OF CALIFORNIA

### DOCTOR'S FIRST REPORT OF OCCUPATIONAL INJURY OR ILLNESS

Within 5 days of your initial examination, for every occupational injury or illness, send two copies of this report to the employer's workers' compensation insurance carrier or the insured employer. Failure to file a timely doctor's report may result in assessment of a civil penalty. In the case of diagnosed or suspected pesticide poisoning, send a copy of the report to Division of Labor Statistics and Research, P.O. Box 420603, San Francisco, CA 94142-0603, and notify your local health officer by telephone within 24 hours.			
1. INSURER NAME AND ADDRESS			PLEASE DO NOT USE THIS COLUMN
2. EMPLOYER NAME			Case No.
3. Address	No. and Street	City	Zip
4. Nature of business (e.g., food manufacturing, building construction, retailer of women's clothes.)			Industry
5. PATIENT NAME (first name, middle initial, last name)			County
6. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		7. Date of Birth	Age
8. Address: No. and Street		City	Zip
9. Telephone number ( )		Hazard	
10. Occupation (Specific job title)			Disease
11. Social Security Number - - -			Hospitalization
12. Injured at: No. and Street	City	County	
13. Date and hour of injury or onset of illness	Mo. Day Yr.	Hour a.m. p.m.	Occupation
14. Date last worked	Mo. Day Yr.	Return Date/Code	
15. Date and hour of first examination or treatment	Mo. Day Yr.	Hour a.m. p.m.	16. Have you (or your office) previously treated patient? <input type="checkbox"/> Yes <input type="checkbox"/> No
Patient please complete this portion, if able to do so. Otherwise, doctor please complete immediately, inability or failure of a patient to complete this portion shall not affect his/her rights to workers' compensation under the California Labor Code.			
17. DESCRIBE HOW THE ACCIDENT OR EXPOSURE HAPPENED. (Give specific object, machinery or chemical. Use reverse side if more space is required.)			
18. SUBJECTIVE COMPLAINTS (Describe fully. Use reverse side if more space is required.)			
19. OBJECTIVE FINDINGS (Use reverse side if more space is required.)			
A. Physical examination			
B. X-ray and laboratory results (State if non or pending.)			
20. DIAGNOSIS (if occupational illness specify etiologic agent and duration of exposure.) Chemical or toxic compounds involved? <input type="checkbox"/> Yes <input type="checkbox"/> No			
ICD-9 Code _ _ _ - _ _ _			
21. Are your findings and diagnosis consistent with patient's account of injury or onset of illness? <input type="checkbox"/> Yes <input type="checkbox"/> No If "no", please explain.			
22. Is there any other current condition that will impede or delay patient's recovery? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", please explain.			
23. TREATMENT RENDERED (Use reverse side if more space is required.)			
24. If further treatment required, specify treatment plan/estimated duration.			
25. If hospitalized as inpatient, give hospital name and location		Date admitted	Mo. Day Yr. Estimated stay
26. WORK STATUS -- Is patient able to perform usual work? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If "no", date when patient can return to: Regular work ___/___/___ Modified work ___/___/___ Specify restrictions _____			
Doctor's Signature _____		CA License Number _____	
Doctor Name and Degree (please type) _____		IRS Number _____	
Address _____		Telephone Number ( ) _____	

FORM 5021 (Rev. 4) 1992

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

State of California <b>EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS</b>		Please complete in triplicate (type if possible) Mail two copies to:		OSHA CASE NO.
				FATALITY <input type="checkbox"/>
Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.		California law requires employers to report within five days of knowledge every occupational injury or illness which results in lost time beyond the date of the incident OR requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within five days of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be reported immediately by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.		
EMPLOYER	1. FIRM NAME		1a. Policy Number	Please do not use this column <b>CASE NUMBER</b> <b>OWNERSHIP</b> <b>INDUSTRY</b> <b>OCCUPATION</b> <b>SEX</b> <b>AGE</b> <b>DAILY HOURS</b> <b>DAYS PER WEEK</b> <b>WEEKLY HOURS</b> <b>WEEKLY WAGE</b> <b>COUNTY</b> <b>NATURE OF INJURY</b> <b>PART OF BODY</b> <b>SOURCE</b> <b>EVENT</b> <b>SECONDARY SOURCE</b> <b>EXTENT OF INJURY</b> <b>Date (mm/dd/yy)</b>
	2. MAILING ADDRESS: (Number, Street, City, Zip)		2a. Phone Number	
	3. LOCATION if different from Mailing Address (Number, Street, City and Zip)		3a. Location Code	
	4. NATURE OF BUSINESS; e.g., Painting contractor, wholesale grocer, sawmill, hotel, etc.		3. State unemployment insurance acct.no	
INJURY	6. TYPE OF EMPLOYER: <input type="checkbox"/> Private <input type="checkbox"/> State <input type="checkbox"/> County <input type="checkbox"/> City <input type="checkbox"/> School District <input type="checkbox"/> Other Gov't. Specify: _____			
	7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)	8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM	9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM	10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)
	11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? <input type="checkbox"/> Yes <input type="checkbox"/> No	12. DATE LAST WORKED (mm/dd/yy)	13. DATE RETURNED TO WORK (mm/dd/yy)	14. IF STILL OFF WORK, CHECK THIS BOX: <input type="checkbox"/>
	15. PAID FULL DAYS WAGES FOR DATE OF INJURY OR LAST DAY WORKED? <input type="checkbox"/> Yes <input type="checkbox"/> No	16. SALARY BEING CONTINUED? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. DATE OF EMPLOYER'S KNOWLEDGE / NOTICE OF INJURY/ILLNESS (mm/dd/yy)	18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM (mm/dd/yy)
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g., Second degree burns on right arm, tendonitis on left elbow, lead poisoning				
20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)		20a. COUNTY	21. ON EMPLOYER'S PREMISES? <input type="checkbox"/> Yes <input type="checkbox"/> No	
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g., Shipping department, machine shop.		23. Other Workers injured or ill in this event? <input type="checkbox"/> Yes <input type="checkbox"/> No		
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g., Acetylene, welding torch, farm tractor, scaffold				
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g., Welding seams of metal forms, loading boxes onto truck.				
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g., Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY				
27. Name and address of physician (number, street, city, zip)			27a. Phone Number	
28. Hospitalized as an inpatient overnight? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes then, name and address of hospital (number, street, city, zip)			28a. Phone Number	
			29. Employee treated in emergency room? <input type="checkbox"/> Yes <input type="checkbox"/> No	
ATTENTION This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2. Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2.				
30. EMPLOYEE NAME		31. SOCIAL SECURITY NUMBER	32. DATE OF BIRTH (mm/dd/yy)	
33. HOME ADDRESS (Number, Street, City, Zip)		33a. PHONE NUMBER		
34. SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)		36. DATE OF HIRE (mm/dd/yy)	
37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours		37a. EMPLOYMENT STATUS <input type="checkbox"/> regular, full-time <input type="checkbox"/> part-time <input type="checkbox"/> temporary <input type="checkbox"/> seasonal	37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED	
38. GROSS WAGES/SALARY \$ _____ per _____		39. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Completed By (type or print)		Signature & Title		Date (mm/dd/yy)
* Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain state and federal workplace safety agencies.				



## Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

### Formulario de Reclamo de Compensación para Trabajadores (DWC 1) y Notificación de Posible Elegibilidad

If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Attached is the form for filing a workers' compensation claim with your employer. You should read all of the information below. Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If required you will be notified by the claims administrator, who is responsible for handling your claim, about your eligibility for benefits.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Your employer will then complete the "Employer" section, give you a dated copy, keep one copy and send one to the claims administrator. Benefits can't start until the claims administrator knows of the injury, so complete the form as soon as possible.

**Medical Care:** Your claims administrator will pay all reasonable and necessary medical care for your work injury or illness. Medical benefits may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, and medicines. Your claims administrator will pay the costs directly so you should never see a bill. For injuries occurring on or after 1/1/04, there is a limit on some medical services.

**The Primary Treating Physician (PTP)** is the doctor with the overall responsibility for treatment of your injury or illness. Generally your employer selects the PTP you will see for the first 30 days, however, in specified conditions, you may be treated by your pre-designated doctor. If a doctor says you still need treatment after 30 days, you may be able to switch to the doctor of your choice. Special rules apply if your employer offers a Health Care Organization (HCO) or after 1/1/05, has a medical provider network. Contact your employer for more information. If your employer has not put up a poster describing your rights to workers' compensation, you may choose your own doctor immediately.

Within one working day after an employee files a claim form, the employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to provide treatment until the date that liability for the claim is accepted or rejected. Until the date the claim is accepted or rejected, liability for medical treatment shall be limited to ten thousand dollars (\$10,000).

**Disclosure of Medical Records:** After you make a claim for workers' compensation benefits, your medical records will not have the same privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

**Payment for Temporary Disability (Lost Wages):** If you can't work while you are recovering from a job injury or illness, you will receive temporary disability payments. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

Si Ud. se lesiona o se enferma, ya sea física o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación para trabajadores. Se adjunta el formulario para presentar un reclamo de compensación para trabajadores con su empleador. Ud. debe leer toda la información a continuación. Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran, dependiendo de la índole de su reclamo. Si se requiere, el/la administrador(a) de reclamos, quien es responsable del manejo de su reclamo, le notificará a usted, lo referente a su elegibilidad para beneficios.

Para presentar un reclamo, complete la sección del formulario designada para el "Empleado", guarde una copia, y déle el resto a su empleador. Entonces, su empleador completará la sección designada para el "Empleador", le dará a Ud. una copia fechada, guardará una copia, y enviará una al/a la administrador(a) de reclamos. Los beneficios no pueden comenzar hasta, que el/la administrador(a) de reclamos se entere de la lesión, así que complete el formulario lo antes posible.

**Atención Médica:** Su administrador(a) de reclamos pagará toda la atención médica razonable y necesaria, para su lesión o enfermedad relacionada con el trabajo. Es posible que los beneficios médicos incluyan el tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio y las medicinas. Su administrador(a) de reclamos pagará directamente los costos, de manera que usted nunca verá un cobro. Para lesiones que ocurren en o después de 1/1/04, hay un límite de visitas para ciertos servicios médicos.

**El Médico Primario que le Atiende-Primary Treating Physician PTP** es el médico con toda la responsabilidad para dar el tratamiento para su lesión o enfermedad. Generalmente, su empleador selecciona al PTP que Ud. verá durante los primeros 30 días. Sin embargo, en condiciones específicas, es posible que usted pueda ser tratado por su médico pre-designado. Si el doctor dice que usted aún necesita tratamiento después de 30 días, es posible que Ud. pueda cambiar al médico de su preferencia. Hay reglas especiales que son aplicables cuando su empleador ofrece una Organización del Cuidado Médico (HCO) o después de 1/1/05 tiene un Sistema de Proveedores de Atención Médica. Hable con su empleador para más información. Si su empleador no ha colocado un poster describiendo sus derechos para la compensación para trabajadores, Ud. puede seleccionar a su propio médico inmediatamente.

El empleador autorizará todo tratamiento médico consistente con las directivas de tratamiento aplicables a la lesión o enfermedad, durante el primer día laboral después que el empleado efectúa un reclamo para beneficios de compensación, y continuará proveyendo este tratamiento hasta la fecha en que el reclamo sea aceptado o rechazado. Hasta la fecha en que el reclamo sea aceptado o rechazado, el tratamiento médico será limitado a diez mil dólares (\$10,000).

**Divulgación de Expedientes Médicos:** Después de que Ud. presente un reclamo para beneficios de compensación para los trabajadores, sus expedientes médicos no tendrán la misma privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un(a) juez de compensación para trabajadores posiblemente decida qué expedientes se revelarán. Si Ud. solicita privacidad, es posible que el/la juez "selle" (mantenga privados) ciertos expedientes médicos.

**Pago por Incapacidad Temporal (Sueldos Perdidos):** Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. recibirá pagos por incapacidad temporal. Es posible que estos pagos cambien o paren, cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de



## Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

### Formulario de Reclamo de Compensación para Trabajadores (DWC 1) y Notificación de Posible Elegibilidad

**Return to Work:** To help you to return to work as soon as possible, you should actively communicate with your treating doctor, claims administrator, and employer about the kinds of work you can do while recovering. They may coordinate efforts to return you to modified duty or other work that is medically appropriate. This modified or other duty may be temporary or may be extended depending on the nature of your injury or illness.

**Payment for Permanent Disability:** If a doctor says your injury or illness results in a permanent disability, you may receive additional payments. The amount will depend on the type of injury, your age, occupation, and date of injury.

**Vocational Rehabilitation (VR):** If a doctor says your injury or illness prevents you from returning to the same type of job and your employer doesn't offer modified or alternative work, you may qualify for VR. If you qualify, your claims administrator will pay the costs, up to a maximum set by state law. VR is a benefit for injuries that occurred prior to 2004.

**Supplemental Job Displacement Benefit (SJDB):** If you do not return to work within 60 days after your temporary disability ends, and your employer does not offer modified or alternative work, you may qualify for a nontransferable voucher payable to a school for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law based on your percentage of permanent disability. SJDB is a benefit for injuries occurring on or after 1/1/04.

**Death Benefits:** If the injury or illness causes death, payments may be made to relatives or household members who were financially dependent on the deceased worker.

**It is illegal for your employer** to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) benefits. Call State Employment Development Department at (800) 480-3287.

You can obtain free information from an information and assistance officer of the State Division of Workers' Compensation, or you can hear recorded information and a list of local offices by calling (800) 736-7401. You may also go to the DWC web site at [www.dir.ca.gov](http://www.dir.ca.gov). Link to Workers' Compensation.

**You can consult with an attorney.** Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (415) 538-2120 or go to their web site at [www.californiaspecialist.org](http://www.californiaspecialist.org).

impuestos. Los pagos por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estatales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado(a) de noche, o no pueda trabajar durante más de 14 días.

**Regreso al Trabajo:** Para ayudarle a regresar a trabajar lo antes posible, Ud. debe comunicarse de manera activa con el médico que le atienda, el/la administrador(a) de reclamos y el empleador, con respecto a las clases de trabajo que Ud. puede hacer mientras se recupera. Es posible que ellos coordinen esfuerzos para regresarle a un trabajo modificado, o a otro trabajo, que sea apropiado desde el punto de vista médico. Este trabajo modificado, u otro trabajo, podría extenderse o no temporalmente, dependiendo de la índole de su lesión o enfermedad.

**Pago por Incapacidad Permanente:** Si el doctor dice que su lesión o enfermedad resulta en una incapacidad permanente, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, su edad, su ocupación y la fecha de la lesión.

**Rehabilitación Vocacional:** Si el doctor dice que su lesión o enfermedad no le permite regresar a la misma clase de trabajo, y su empleador no le ofrece trabajo modificado o alternativo, es posible que usted reúna los requisitos para rehabilitación vocacional. Si Ud. reúne los requisitos, su administrador(a) de reclamos pagará los costos, hasta un máximo establecido por las leyes estatales. Este es un beneficio para lesiones que ocurrieron antes de 2004.

**Beneficio Suplementario por Desplazamiento de Trabajo:** Si Ud. no vuelve al trabajo en un plazo de 60 días después que los pagos por incapacidad temporal terminan, y su empleador no ofrece un trabajo modificado o alternativo, es posible que usted reúna los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo entrenamiento y/o mejorar su habilidad. Si Ud. reúne los requisitos, el administrador(a) de reclamos pagará los costos hasta un máximo establecido por las leyes estatales basado en su porcentaje de incapacidad permanente. Este es un beneficio para lesiones que ocurren en o después de 1/1/04.

**Beneficios por Muerte:** Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a los parientes o a las personas que vivan en el hogar, que dependían económicamente del/de la trabajador(a) difunto(a).

**Es ilegal que su empleador** le castigue o despidan, por sufrir una lesión o enfermedad en el trabajo, por presentar un reclamo o por atestiguar en el caso de compensación para trabajadores de otra persona. (El Código Laboral sección 132a). Si es probado, puede ser que usted reciba pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios, y gastos hasta un límite establecido por el estado.

Ud. tiene derecho a estar en desacuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su administrador(a) de reclamos, para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios de Seguro Estatal de Incapacidad (SDI). Llame al Departamento Estatal del Desarrollo del Empleo (EDD) al (800) 480-3287.

Ud. puede obtener información gratis, de un oficial de información y asistencia, de la División estatal de Compensación al Trabajador (*Division of Workers' Compensation - DWC*), o puede escuchar información grabada, así como una lista de oficinas locales, llamando al (800) 736-7401. Ud. también puede ir al sitio electrónico en el Internet de la DWC en [www.dir.ca.gov](http://www.dir.ca.gov). Enlázese a la sección de Compensación para Trabajadores.

**Ud. puede consultar con un(a) abogado(a).** La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un(a) abogado(a), sus honorarios se tomarán de sus beneficios. Para obtener nombres de abogados de compensación para trabajadores, llame a la Asociación Estatal de Abogados de California (*State Bar*) al (415) 538-2120, ó vaya a su sitio electrónico en el Internet en [www.californiaspecialist.org](http://www.californiaspecialist.org).

Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

State of California  
 Department of Industrial Relations  
 DIVISION OF WORKERS' COMPENSATION



Estado de California  
 Departamento de Relaciones Industriales  
 DIVISION DE COMPENSACIÓN AL TRABAJADOR

**WORKERS' COMPENSATION CLAIM FORM (DWC 1)**

**PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)**

**Employee:** Complete the "Employee" section and give the form to your employer. Keep a copy and mark it "Employee's Temporary Receipt" until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at (800) 736-7401. An explanation of workers' compensation benefits is included as the cover sheet of this form.

**Empleado:** Complete la sección "Empleado" y entregue la forma a su empleador. Quédese con la copia designada "Recibo Temporal del Empleado" hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la División de Compensación al Trabajador al (800) 736-7401 para oír información gravada. En la hoja cubierta de esta forma esta la explicación de los beneficios de compensación al trabajador.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them.

Ud. también debería haber recibido de su empleador un folleto describiendo los beneficios de compensación al trabajador lesionado y los procedimientos para obtenerlos.

**Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.**

**Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonía".**

**Employee—complete this section and see note above      Empleado—complete esta sección y note la notación arriba.**

1. Name. *Nombre.* \_\_\_\_\_ Today's Date. *Fecha de Hoy.* \_\_\_\_\_
2. Home Address. *Dirección Residencial.* \_\_\_\_\_
3. City. *Ciudad.* \_\_\_\_\_ State. *Estado.* \_\_\_\_\_ Zip. *Código Postal.* \_\_\_\_\_
4. Date of Injury. *Fecha de la lesión (accidente).* \_\_\_\_\_ Time of Injury. *Hora en que ocurrió.* \_\_\_\_\_ a.m. \_\_\_\_\_ p.m.
5. Address and description of where injury happened. *Dirección/lugar dónde ocurrió el accidente.* \_\_\_\_\_
6. Describe injury and part of body affected. *Describe la lesión y parte del cuerpo afectada.* \_\_\_\_\_
7. Social Security Number. *Número de Seguro Social del Empleado.* \_\_\_\_\_
8. Signature of employee. *Firma del empleado.* \_\_\_\_\_

**Employer—complete this section and see note below.      Empleador—complete esta sección y note la notación abajo.**

9. Name of employer. *Nombre del empleador.* \_\_\_\_\_
10. Address. *Dirección.* \_\_\_\_\_
11. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* \_\_\_\_\_
12. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* \_\_\_\_\_
13. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* \_\_\_\_\_
14. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia administradora de seguros.* \_\_\_\_\_
15. Insurance Policy Number. *El número de la póliza de Seguro.* \_\_\_\_\_
16. Signature of employer representative. *Firma del representante del empleador.* \_\_\_\_\_
17. Title. *Título.* \_\_\_\_\_ 18. Telephone. *Teléfono.* \_\_\_\_\_

**Employer:** You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within one working day of receipt of the form from the employee.

**Empleador:** Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de un día hábil desde el momento de haber sido recibida la forma del empleado.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

Employer copy/Copia del Empleador       Employee copy/ Copia del Empleado

Claims Administrator/Administrador de Reclamos       Temporary Receipt/Recibo del Empleado

Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

Cal/OSHA Form 300 (Rev. 4/2004) Appendix A  
Log of Work-Related Injuries and Illnesses

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29(b)(5)-(10)

Year 20\_\_  
Department of Industrial Relations  
Division of Occupational Safety and Health



You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in CCR Title 8 Section 14300.8 through 14300.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (Cal/OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local Cal/OSHA office for help.

Establishment name \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Identify the person		Describe the case				Classify the case				Enter the number of days the injured or ill worker was:		Check the "Injury" column or choose one type of illness					
(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness (e.g. month/day)	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from oxy/acety torch)	Death	Days away from work	Restricted of work		On job transfer or restriction	Days away from work	(M) Injury	Illness - skin disorder	Illness - respiratory condition	Illness - hearing loss	Illness - other	
						(G)	(H)	(I)	(J)	(K)	(L)	(1)	(2)	(3)	(4)	(5)	(6)
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Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

Cal/OSHA Form 301  
Injury and Illness Incident Report

**Attention:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8, 14300.29(b)(6)-(10)



Department of Industrial Relations  
Division of Occupational Safety & Health

This *Injury and Illness Incident Report* is one of the first forms you must fill out when a recordable work-related injury or illness has occurred. Together with *Log of Work-Related Injuries and Illnesses* and the accompanying *Annual Summary*, these forms help the employer and Cal/OSHA develop a picture of the extent and severity of work-related incidents.

Within 7 calendar days after you receive information that a recordable work-related injury or illness has occurred, you must fill out this form or an equivalent. Some state workers' compensation, insurance, or other reports may be acceptable substitutes. To be considered an equivalent form, any substitute must contain all the instructions and information asked for on this form.

According to CCR, Title 8 Section 14300.33 Cal/OSHA's recordkeeping rule, you must keep this form on file for 5 years following the year to which it pertains.

If you need additional copies of this form, you may photocopy and use as many as you need.

Completed by \_\_\_\_\_  
Title \_\_\_\_\_  
Phone (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Information about the employee

- 1) Full name \_\_\_\_\_
- 2) Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_
- 3) Date of birth \_\_\_\_/\_\_\_\_/\_\_\_\_
- 4) Date hired \_\_\_\_/\_\_\_\_/\_\_\_\_
- 5)  Male  
 Female

Information about the physician or other health care professional

- 6) Name of physician or other health care professional \_\_\_\_\_  
\_\_\_\_\_
- 7) If treatment was given away from the workplace, where was it given?  
Facility \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

- 8) Was employee treated in an emergency room?  
 Yes  
 No
- 9) Was employee hospitalized overnight as an inpatient?  
 Yes  
 No

Information about the case

- 10) Case number from the Log \_\_\_\_\_ (Transfer the case number from the Log after you record the case)
- 11) Date of injury or illness \_\_\_\_/\_\_\_\_/\_\_\_\_
- 12) Time employee began work \_\_\_\_\_ AM / PM
- 13) Time of event \_\_\_\_\_ AM / PM  Check if time cannot be determined
- 14) What was the employee doing just before the incident occurred? Describe the activity, as well as the tools, equipment, or material the employee was using. Be specific. Example: "climbing a ladder while carrying roofing materials"; "spraying chlorine from hand sprayer"; "daily computer key-entry."
- 15) What happened? Tell us how the injury occurred. Example: "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."
- 16) What was the injury or illness? Tell us the part of the body that was affected and how it was affected; be more specific than "hurt," "pain," or "swell." Example: "strained back"; "chemical burn, hand"; "carpal tunnel syndrome."
- 17) What object or substance directly harmed the employee? Example: "concrete floor"; "chlorine"; "radial arm saw." If this question does not apply to the incident, leave it blank.
- 18) If the employee died, when did death occur? Date of death \_\_\_\_/\_\_\_\_/\_\_\_\_

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Cal/OSHA Form 300A (Rev. 4/2004)

Appendix B

Annual Summary of Work-Related Injuries and Illnesses



All establishments covered by CCR Title 8 Section 14300 must complete this Annual Summary, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employees, former employees, and their representatives have the right to review the Cal/OSHA Form 300 in its entirety. They also have limited access to the Cal/OSHA Form 301 or its equivalent. See CCR Title 8 Section 14300.35, in Cal/OSHA's recordkeeping rule, for further details on the access provisions for these forms.

**Number of Cases**

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
_____	_____	_____	_____
(G)	(H)	(I)	(J)

**Number of Days**

Total number of days of job transfer or restriction	Total number of days away from work
_____	_____
(K)	(L)

**Injury and Illness Types**

Total number of ...	
(M)	
(1) Injuries _____	(4) Poisonings _____
(2) Skin disorders _____	(5) Hearing loss _____
(3) Respiratory conditions _____	(6) All other illnesses _____

**Establishment information**

Your establishment name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Industry description (e.g., Manufacturer of metal tools) \_\_\_\_\_

Standard Industrial Classification (SIC), if known (e.g., SIC 3715) \_\_\_\_\_

**Employment information** (If you don't have these figures, use the optional Worksheet to estimate.)

Annual average number of employees \_\_\_\_\_

Total hours worked by all employees last year \_\_\_\_\_

**Sign here**

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company executive \_\_\_\_\_ Title \_\_\_\_\_

Phone \_\_\_\_\_ Date \_\_\_\_\_

Post this Annual Summary from February 1 to April 30 of the year following the year covered by the form.

## Appendix E

	<b>How is "first aid" defined?</b>	<b>How must "first aid" cases be handled?</b>
<b>Reporting</b>	See Appendix A	<p>Physician must send a Doctor's First Report to the insurer. Insurer must send the report to the state Division of Labor Statistics and Research (DLSR).</p> <p>Employer is not required to send an Employer's Report of Occupational Injury or Illness to DLSR unless the case involves lost time beyond the date of the injury or illness or medical treatment beyond first aid.</p>
<b>Workers' Compensation</b>	See Appendix A	<p>Workers' compensation medical care must be provided to the injured employee, even if the injury or illness requires only first aid.</p> <p>Physician must send a Doctor's First Report to the insurer. Insurer must send the report to the state Division of Labor Statistics and Research (DLSR).</p> <p>Employer is not required to give a claim form to the employee unless the case involves lost time beyond the work shift at the time of injury or medical treatment beyond first aid.</p>

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	<b>How is "first aid" defined?</b>	<b>How must "first aid" cases be handled?</b>
<b>Recordkeeping</b>	See Appendix B	Employer is not required record an injury or illness on Log 300 unless the case involves death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or significant injury or illness diagnosed by a physician or other licensed health care professional.

*Attachment D*

***Suggested Legislative Language to Adopt OSHA Definition of First Aid in Workers' Compensation***

***DRAFT January 26, 2009***

The People of the State of California do enact as follows:

Section 1. It is the intent of the Legislature to clarify and streamline regulatory requirements by coordinating the requirements under workers' compensation law for an employer to provide a claim form with the requirements under the Federal Occupational Safety and Health Act for an employer to maintain records of occupational injuries and illnesses. It is intended that the criteria for the state and federal requirements should ordinarily be identical except where the express provisions of statute require differences or where California regulations may be adopted to reduce ambiguities.

Sec. 2. Section 5401 of the Labor Code is amended to read as follows:

5401(a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, ~~which if the injury results in lost time beyond the employee's work shift at the time of injury or which results in medical treatment beyond first aid~~ death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness, or if the case involves a significant injury or illness diagnosed by a physician or other licensed health care professional even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. ~~As used in this subdivision, "first aid" means any one-time treatment, and any followup visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. "Minor industrial injury" shall not include~~ The administrative director may by regulation adopt reasonable definitions of the terms used in this subdivision that are consistent with definitions set forth in the recordkeeping regulations adopted under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596) and under Section 6410. Prior to the adoption of those regulations, the terms used in this subdivision are defined as set forth in the California Code of Regulations, title 8, section 14300.7. "First aid," however, does not include observation of serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at district offices of the Employment Development Department and the division. Claim forms may be made available to the employee from any other source.

(b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured employee to fully read the notice of

## Summary of January 9, 2009 First Aid Cases Advisory Group Meeting

potential eligibility. The form and content of the notice and claim form shall be prescribed by the administrative director after consultation with the Commission on Health and Safety and Workers' Compensation. The notice shall be easily understandable and available in both English and Spanish. The content shall include, but not be limited to, the following:

(1) The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.

(2) A description of the different types of workers' compensation benefits.

(3) What happens to the claim form after it is filed.

(4) From whom the employee can obtain medical care for the injury.

(5) The role and function of the primary treating physician.

(6) The rights of an employee to select and change the treating physician pursuant to subdivision (e) of Section 3550 and Section 4600.

(7) How to get medical care while the claim is pending.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The following written statements:

(A) You have a right to disagree with decisions affecting your claim.

(B) You can obtain free information from an information and assistance officer of the state Division of Workers' Compensation, or you can hear recorded information and a list of local offices by calling (applicable information and assistance telephone number(s)).

(C) You can consult an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (telephone number of the State Bar of California's legal specialization program, or its equivalent).

(c) The completed claim form shall be filed with the employer by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent. Except as provided in subdivision (d), a claim form is deemed filed when it is personally delivered to the employer or received by the employer by first-class or certified mail. A dated copy of the completed form shall be provided by the employer to the employer's insurer and to the employee, dependent, or agent who filed the claim form.

## **Summary of January 9, 2009 First Aid Cases Advisory Group Meeting**

(d) The claim form shall be filed with the employer prior to the injured employee's entitlement to late payment supplements under subdivision (d) of Section 4650, or prior to the injured employee's request for a medical evaluation under Section 4060, 4061, or 4062. Filing of the claim form with the employer shall toll, for injuries occurring on or after January 1, 1994, the time limitations set forth in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402. For purposes of this subdivision, a claim form is deemed filed when it is personally delivered to the employer or mailed to the employer by first-class or certified mail.