



**CALIFORNIA  
HOSPITAL  
ASSOCIATION**

*Providing Leadership in  
Health Policy and Advocacy*

March 9, 2012

Robert Nakamura  
Senior Safety Engineer  
DOSH Research and Standards Health Unit  
Cal/OSHA  
1515 Clay Street  
Oakland, CA 94612

*Via E-mail: [bnakamura@dir.ca.gov](mailto:bnakamura@dir.ca.gov)*

Dear Mr. Nakamura:

On behalf of more than 400 member hospitals and health systems, the California Hospital Association (CHA) respectfully offers additional comments for consideration as Cal/OSHA begins the process of drafting regulations to implement California's Safe Patient Handling Law, California Labor Code § 6403.5. This letter supplements our earlier March 2, 2012 submission.

CHA has developed draft regulatory language regarding Labor Code 6403.5(g) concerning discipline. As the proposed language reflects, CHA attempted to balance the rights of employees, patients and hospitals, while also recognizing that each case will be fact specific.

CHA has also reviewed Labor Code 6403.5(b)(2). While we do not have any specific proposed language with regard to this section, we note that it appears the terms used are incongruous. In particular, bariatric would appear to relate to a patient population while the other terms listed appear to relate to types of movement. Moreover, this section is limited to areas for training. Given this ambiguity, we would request that Cal/OSHA provide further direction on its expectations regarding training on these issues.

As noted in our earlier letter, CHA's recommendations should not be considered an exhaustive list, but an initial submission during this pre-notice period. Moving forward, CHA is ready to assist Cal/OSHA as it develops regulations and its enforcement policies in an effort to provide employees with a safe work environment. Thank you for the opportunity to comment. We look forward to working with you.

Sincerely,

/s/

Gail M. Blanchard-Saiger  
Vice-President, Labor & Employment

Attachment

Cc: Deborah Gold, Deputy Director for Health, Cal/OSHA

**Labor Code 6403.5(g):**

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

Proposed Regulatory Language:

- (a) Where the employer has implemented a Safe Patient Handling Policy and the employee's conduct is in contravention of that policy, the employer may discipline the employee in accordance with 8 C.C.R. § 3203(a)(2).
- (b) Employees have an obligation to promptly bring concerns about patient or worker safety, or the lack of trained lift team personnel or equipment to the employer's attention. Further, any refusal to lift, reposition or transfer a patient under this section must be undertaken in a manner to minimize delay to or adverse effects on patient care.