May 22, 2014

TO: Deborah Gold, Division of Occupational Safety & Health
Amalia Neidhardt, Division of Occupational Safety & Health

RE: Comments: Hotel and Lodging Housekeeping Discussion Draft

The California Lodging Industry Association, the California Attractions and Parks Association and the California Chamber of Commerce jointly submit these comments regarding the discussion draft for hotel housekeeping. We represent small and large hotels and motels throughout California.

The hotel and lodging industry takes the safety and well being of our employees very seriously. As such, we have developed and provided to our industry best practices and a variety of safety resources. Respectfully, we disagree with the approach advocated by the division to address workplace hazards in lodging establishments for housekeepers. Current law requires all places of employment to have an Illness & Injury Prevention Program (IIPP), as well as to comply with the requirements of a repetitive motion injury program where warranted. As is current practice, we believe a more rational approach to effective workplace safety is to widely distribute and provide guidance and best practices to all lodging establishments in order to appropriately comply with current laws and create safe workplaces.

Unnecessary. A new regulation that encompasses and expands on existing regulations is unnecessary in light of existing law – California Code of Regulations, Title 8 sections 3203 and 5110. Given that all employers must have an Injury and Illness Prevention Program in compliance with 3203, and comply with 5110 - a separate regulation addressing repetitive motion injuries, the tools for enforcement are in place and create a framework within which to apply appropriate procedures to lodging establishments.

Furthermore, these existing regulations provide the tools for enforcement of employer's responsibility for hazard identification and correction. Compliance should not be a "gotcha" trap because the complex series of regulations cannot be deciphered by employers. Rather than confusing and prescriptive regulations, a compliance assistance approach would be most useful and effective within the existing framework.

Proposed draft is redundant and confusing. In order to fully understand and illustrate the redundant and overlapping nature of the discussion draft in relation to existing regulations, we have prepared the attached reference table. As you can see from the table, most provisions of the draft are duplicative, overlapping and in some cases different. These properties will serve to create confusion and complexity for compliance as well as for enforcement. Compliance should be a clear path for employers and this draft does not create clarity.

New unjustified precedent. A separate regulation for one job function within an industry will open the door to separate, specific regulations for segments of other industries and functions. There is neither justification nor precedent to create a stand-alone IIPP for this one job role in this single industry, as opposed to any other industry. If such a regulation were to be adopted, there would be nothing to prevent the adoption of separate regulations for others.

A few specific examples of concerns within the discussion draft language.

- Because of the redundancy of the draft with 3203 and 5110, the scope and application creates complexity and confusion by stating that this section does not preclude the application of other sections of Title 8.
- The draft specifically states that a musculoskeletal IPP is in accordance with 3203, when in fact there is no explicit musculoskeletal requirement in 3203. The IIPP is not a musculoskeletal IPP as stated as fact in the draft, which we believe goes beyond statutory authority of the labor code for the IIPP. This creates confusion and complexity. Furthermore, this definition is narrow – potential injuries are not limited to musculoskeletal. Does this mean that only these types of injuries are to be addressed in this program? Is this an end run to expand the scope 5110 and set precedent for other industries to escape the requirements of 5110?
- Job Hazard analysis requirements are overly prescriptive. The draft requires any measurement made in the course of the JHA to be recorded. What is a measurement?
- Reviewing JHA annually is excessive, when the IIPP includes triggers for review. Again, redundant.
- Reference to section 3204 is inappropriate and would effectively require all workplace injuries to be treated as occupational diseases without a proper and thorough vetting.

We respectfully submit these comments regarding the discussion draft presented at the most recent advisory committee. If you would like to discuss further, please contact any of us directly.

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