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Ms. Marley Hart
Executive Officer
California Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

RE: Petition for Promulgation of Safety and Health Standard to Provide Safe and Health Workplace for Adult Film Industry Workers

Dear Ms. Hart:

This petition is submitted in accordance with the Administrative Procedure Act, California Government Code, Section 11340.6, et. sec. and in conformance with petition procedures set forth by the Occupational Safety and Health Standards Board (OSHSB). On behalf of all adult film industry performers, producers, set workers, and production employees, Free Speech Coalition ("FSC"), please accept this petition for the OSHSB to promulgate a safety and health standard to address the unique health and safety needs and issues faced by the adult film industry.

The petitioners represent thousands of workers employed in the adult film industry throughout California and they understand the unique needs and issues these workers face in their profession. The petitioners are fully prepared to assist in the development of a standard that provides a healthy and safe workplace which provides protection for the workers in this unique profession. The petitioners are fully committed to provide testimony and evidence in favor of this petition. We have attached previously proposed standards in this petition which may assist your agency in providing protections that are at least as effective as current federal and state standards.

In a prior attempt at a rulemaking on this subject, the true stakeholders were left to the side without regard to concerns raised by a majority of regulated employers and performers. As a result, regulated employers and performers were left to wonder about the effect and overreaching nature of the previous proposed regulations and why the previous standards were written in a way that was confusing leaving the regulated community unable to understand the agency's priorities or to comply with its directives that ignored the health and safety needs of the workers in the adult film industry. Therefore, the petitioners request to be fully engaged and considered in any advisory committees that are convened to develop the standard as well as any hearings on the matter. This includes performers, health care providers specializing in providing medical treatment to industry professions, on set production company workers, and public health experts.

This petition addresses the challenges faced by adult film workers privacy, the need for personal choice concerning health and health provider decisions and accurate and effective medical testing. The petitioners have convened numerous community and health organizations to address the needs of the adult film workers health and safety and address the unique issues that go beyond that of mainstream industries. Among other issues, we ask for a regulation that addresses the following issues:

- The need for proven effective options for protection and prevention through testing protocols, medical advances, and other means that do not require the use of barrier protection.
- This petition asks that adult film workers have the ability to take advantage of current or future more effective prevention innovations.
- This petition includes medical understanding and protection against HPV and HSV based on sound methods that work in the adult film industry.
- The petition requests absolute control by the worker over which effective method of prevention they choose to best protect their personal and sexual health.
- Performers must have the right to patient-provider confidentiality as other worker in California industries receives.
- Performers need the ability to make personal medical decisions and have private discussions with their physicians and licensed health care provider without fear of those records being disclosed.
- This petition uses terms understood by the industry stakeholders and, unlike previous proposals, are not derogatory in nature or discriminatory toward performers and employees in the industry.

Mr. Scott Wiener of the San Francisco Board of Supervisors has stated that condoms are not the only solution. Mr. Wiener has stated that “while condoms continue to be an important prevention tool and one we continue to embrace in San Francisco, they are not the only such tool, and it is inconsistent with modern prevention approaches to suggest that they are. Robust testing and pre-exposure prophylaxis (PrEP) are also key tools. ... For more than 30 years, our dominant approach to HIV prevention was to urge people to use condoms. While condoms played a crucial role in reducing HIV infections, even after 30 years 85% of gay men did not consistently use condoms, and new HIV infections persisted. That is precisely why we have broadened our HIV prevention approach to include testing, PrEP, and quickly connecting newly infected individuals to anti-retroviral therapy in order to suppress their viral loads.” Mr. Wiener urges a science-based approach to the adult film regulations which is also the basis of this petition.

Further, this petition considers factors that cannot be ignored in the development of an effective standard for the adult film industry that will result in a safe and healthy workplace for its performers. The board must consider the following in its consideration of this petition:

Condoms cannot be the only option

The prevention toolkit consists of a wide variety of options. Condoms are one of those options, but not the only one. Condom failure rates must be considered. The standard cannot eliminate an employee’s choice and control over personal prevention options. For example, many female performers are harmed by the use of condoms through vaginal abrasions and other rash development. The result makes the performer more susceptible to STIs.

Universal Precautions

Universal Precautions (all bodily fluids are considered infectious) are intended for medical occupation environments where work practices can prevent intimate contact with bodily fluids. In intimate connections such as sexual contact and sexual practices in general this is an impossible task and has never been the focus of any public health efforts.

To focus on the need of Universal Precautions in an occupational environment where sexual intimacy is present makes this occupation and work to be performed impossible. The petition's proposal contains a robust training section for individuals on the various options available so that risk can be significantly reduced through a myriad of valid and proven personal protective options.

Prevention and Severity of HPV and HSV

Human Papilloma Virus (HPV)

HPV is transmissible through skin-to-skin contact. It is unrealistic that skin-to-skin contact can be avoided by employees.

HPV vaccinations are only recommended through the age of 26. The standard should not result in the exclusion of performers who have refused or aged out of the vaccination.

HPV is best educated about and should be discussed between employees and their chosen primary care physician.

Herpes (HSV-1 and HSV-2)

The most common type of Herpes is most commonly transmissible through kissing and affects 90% of the population. Both types of Herpes can cause genital herpes and this is best educated about and should be discussed between employees and their chosen primary care physician.

Prevention and Severity of Bacterial Infections

Gonorrhea, Chlamydia, Trichomoniasis, and Syphilis

These four infections are transmissible during oral-sex, and are curable with a brief course of antibiotics. From a public health standpoint regular testing which leads to detection and treatment is a key strategy to prevent these infections from spreading since condom use during oral sex is a highly unlikely and an uncommon method of prevention even though recommended. While Industry Testing Protocols do not block blood borne pathogens physically, they do prevent exposure and offer a substantial and real risk reduction due to the regularity of testing.

Prevention and Severity of Hepatitis Infections

Hepatitis A

Hepatitis A vaccines are available and should be discussed with a primary care physician if a person is not yet vaccinated. Mandating employer control over this poses a threat to the required continuity of the vaccination. Hepatitis A does not lead to a chronic infection and is the least dangerous for grown adults who aren't vaccinated. Hepatitis A can be acquired through food and drink.

Hepatitis B

Hepatitis B vaccines are available and should be discussed with a primary care physician if a person is not yet vaccinated. Mandating employer control over this poses a threat to the required continuity of the vaccination. Hepatitis B is primarily transmissible through blood.



Other bodily fluids are far less likely to transmit the infection. The infection generally requires cuts, abrasions, and/or open sores as a point of entry.

Hepatitis C

Hepatitis C is curable, and is primarily transmissible through subcutaneous blood to blood contact. It is under serious discussion whether this should be considered an STI. The Testing Protocols in the Adult Film Industry also cover Hepatitis C which is commendable.

Prevention and Severity of HIV

HIV/AIDS

General

It is important to understand that HIV, and even more so AIDS, unlike any other infection carries a severe stigma and unprecedented amount of common misconception through lack of knowledge. AIDS can develop in a person as an effect of a long-term untreated HIV infection. On average this takes about 10 years. It is unnecessarily stigmatizing and incorrect to refer to the infection as HIV/AIDS.

Testing

HIV testing can be done by looking for antibodies (different immunoglobulins), antigen, or RNA/DNA that indicate an infection. HIV RNA tests such as the Aptima HIV-1 RNA test have the shortest window period, which describes the amount of time it takes on average from exposure to the virus to the detection of it. The eclipse phase of HIV, which describes the amount of time it takes on average from exposure till the virus is infectious to others, is about ten days.

HIV testing is recommended in quarterly intervals for sexually active person by the CDC. The present Testing Protocols in the Adult Film Industry and proposed in attachments to this petition require HIV RNA testing within 14 days of a shoot. Further, we would require updated testing protocols as medical science advances. Do not forget that the last update to Section 5193 was 1994. In the last twenty-two years, there have been critical medical advances, and we should expect further advances in testing, prevent, treatment, and possibly a cure.

Prevention

HIV can only be transmitted during specific forms of contact if it is present and infectious. Effective treatment can reduce the infectiousness of the virus by more than 96%, which in turn is a significant reduction in risk of transmission. Pre-Exposure Prophylaxis as currently approved with daily doses of Truvada can significantly reduce the risk of transmission by more than 99%. Effective testing reduces the chance of an infection being present, which in turn is a significant reduction in the risk of transmission depending on the interval of testing.

Medical Advances

Antibiotic Pre-Exposure Prophylaxis (PrEP)

Current medical studies are evaluating the efficacy of a doxycycline PrEP for bacterial STIs such as Gonorrhea, Chlamydia, Trichomoniasis and Syphilis. So far this research shows great promise and the petitioners recommend to include such advances in the standard.

Antiretroviral Pre-Exposure Prophylaxis (PrEP)

Medical studies with over 20,000 participants have confirmed a high efficacy of HIV prevention based on HIV PrEP with Truvada. Latest research suggests efficacy rates of more than 99% if adherence to the daily regimen is between 4-7 of the 7 weekly doses. Again, the petitioners recommend including such advances in the standard for the safe and healthy option for the adult film performers.

Newer research explores options or bi-monthly or quarterly infections with PrEP qualified medication regimens, other research is currently exploring the use of HIV specific anti-bodies.

It is important for the safety of our workers and communities to include these options.

Treatment as Prevention (TasP)

Medical science has proven that virally suppressing HIV infections constitute a significant transmission risk reduction by no less than 96%. Virally suppressed HIV infections are so called undetectable and fall below 40 viral copies per ml blood.

Attached hereto, we have provided two exemplars of regulatory language that addresses the health and safety of all workers in the adult film industry. One of the examples of regulatory language sets forth possible changes to current Section 5193. The other example of regulatory language sets out possible language for an new section 5193.1. These exemplars recognizes that the current Title 8, Section 5193 regulations have not been updated since 1994. The petitioners' proposed language in the exemplars embraces advancements in STI prevention and provides a more effective, safe, and realistic approach for the adult film industry. A list of authorities and professionals that support the proposal's intent are attached as Appendix A.

Please grant this petition and commence the rulemaking process. The petitioners along with all of the workers represented by this petition look forward to working with the Board and staff to develop a clear standard that promotes compliance. This is a historic opportunity to create standards that embrace public health philosophies that have evolved and improved and can continue to embrace improving technology for workers.

Sincerely,



Eric Paul Leue

Appendix A

The White House Office of National AIDS Policy. (2010). *National HIV/AIDS Strategy for the United States*. Washington, DC.

<http://www.whitehouse.gov/sites/default/files/uploads/NHAS.pdf>

Mermin, J. (2011). The Science and Practice of HIV Prevention in the United States. 18th Conference on Retroviruses and Opportunistic Infections. Boston, Paper #19.

Davis, K. & Weller, S. (1999). The effectiveness of condoms in reducing heterosexual transmission of HIV. *Family Planning Perspectives*, 31(6), 272-279. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/10614517>

Smith, D. K., Herbst, J. H., Zhang, X., & Rose, C. E. (2014). Condom Effectiveness for HIV Prevention by Consistency of Use among Men Who Have Sex with Men (MSM) in the US. *Journal of acquired immune deficiency syndromes*.

Grant, R., Lama, J., Anderson, P., et al. (2010). Preexposure chemoprophylaxis for HIV prevention in men who have sex with men. *New England Journal of Medicine*, 363(27):2587-99. Retrieved from <http://www.nejm.org/doi/full/10.1056/NEJMoa11107>

Grant, R., et al. Melbourne (2014). Ole, Pre-Exposure Prophylaxis (PrEP) Initiative: Open Label Extension. *Conference Report for NATAP 2014*. Retrieved from http://www.natap.org/2014/IAC/IAC_71.htm

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DRAFT ADULT FILM INDUSTRY PROPOSAL
8/11/2010

Subchapter 7. General Industry Safety Orders Group 16. Control of Hazardous Substances.
Article 109. Hazardous Substances and Processes.

Section 5193. Bloodborne Pathogens.

(a) Scope and Application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by subsection (b) of this section.

(b) Definitions. For purposes of this section, the following shall apply:

“Actor” is any person whose sexual activity is recorded in an adult film.

“Adult Film” means the production of any film, video, multimedia, or other recorded representation of sexual activities in which performers actually engage in masturbation, oral, vaginal, or anal penetration, including but not limited to, penetration by a penis, finger, or inanimate object, oral contact with the anus or genitals of another performer, or any other activity that may result in the transmission of blood and/or any potentially infectious materials.

“Adult Film OPIM/Other potentially Infectious Material” means semen, vaginal secretions or any other bodily fluid visually contaminated by blood.

“Barrier Protection” means various protective devices, medications, methods, or means used to prevent infectious contact with blood, vaginal secretions, semen or other contaminant agents.

"Biological Cabinet" means a device enclosed except for necessary exhaust purposes on three sides and top and bottom, designed to draw air inward by means of mechanical ventilation, operated with insertion of only the hands and arms of the user, and in which virulent pathogens are used. Biological cabinets are classified as:

(1) Class I: A ventilated cabinet for personnel protection with an unrecirculated inward airflow away from the operator and high-efficiency particulate air (HEPA) filtered exhaust air for environmental protection.

(2) Class II: A ventilated cabinet for personnel, product, and environmental protection

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having an open front with inward airflow for personnel protection, HEPA filtered laminar airflow for product protection, and HEPA filtered exhaust air for environmental protection.

(3) Class III: A total enclosed, ventilated cabinet of gas-tight construction. Operations in the cabinet are conducted through attached protective gloves.

"Blood" means human blood, human blood components, and products made from human blood.

"Bloodborne Pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).

"Chief" means the Chief of the Division of Occupational Safety and Health of the California Department of Industrial Relations or designated representative.

"Clinical Laboratory" means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

"Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on a surface or in or on an item.

"Contaminated Laundry" means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal. Decontamination includes procedures regulated by Health and Safety Code Section 118275.

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"Engineering Controls" means controls (e.g., sharps disposal containers, needleless systems and sharps with engineered sharps injury protection) that isolate or remove the bloodborne pathogens hazard from the workplace.

"Engineered Sharps Injury Protection" means either:

- (1) A physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, which effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal or other effective mechanisms; or
- (2) A physical attribute built into any other type of needle device, or into a non-needle sharp, which effectively reduces the risk of an exposure incident.

"Exclusive actor" is an actor who is contractually obligated to act for a single production company.

"Exposure Control Plan" (ECP) promotes the use of safer engineering controls and more effective work practices in adult film productions where occupational exposure to blood or OPIM may occur.

"Exposure Incident" means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

"Handwashing Facilities" means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

"HBV" means hepatitis B virus.

"HCV" means hepatitis C virus.

"HIV" means human immunodeficiency virus.

"Licensed Healthcare Professional" is a person whose licensed scope of practice includes an activity which this section requires to be performed by a licensed healthcare professional.

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"Needle" or "Needle Device" means a needle of any type, including, but not limited to, solid and hollow-bore needles.

"Needleless System" means a device that does not utilize needles for:

- (1) The withdrawal of body fluids after initial venous or arterial access is established;
- (2) The administration of medication or fluids; and
- (3) Any other procedure involving the potential for an exposure incident.

"NIOSH" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

"Non-exclusive actor" is any actor who is not an exclusive actor.

"Occupational Exposure" means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

"One-Hand Technique" means a procedure wherein the needle of a reusable syringe is capped in a sterile manner during use. The technique employed shall require the use of only the hand holding the syringe so that the free hand is not exposed to the uncapped needle.

"OPIM" means other potentially infectious materials.

"Other Potentially Infectious Materials" means:

(1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids such as emergency response;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

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(3) Any of the following, if known or reasonably likely to contain or be infected with HIV, HBV, or HCV:

- (A) Cell, tissue, or organ cultures from humans or experimental animals;
- (B) Blood, organs, or other tissues from experimental animals; or
- (C) Culture medium or other solutions.

"Parenteral Contact" means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

"Personal Protective Equipment" is specialized clothing or equipment worn or used by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

"Production Class Employee" means any person on a set who participates in the creation of the adult film.

"Production Facility" means a facility engaged in industrial-scale, large-volume or high concentration production of HIV, HBV or HCV.

"Regulated Waste" means waste that is any of the following:

- (1) Liquid or semi-liquid blood or OPIM;
- (2) Contaminated items that:
 - (A) Contain liquid or semi-liquid blood, or are caked with dried blood or OPIM; and
 - (B) Are capable of releasing these materials when handled or compressed.
- (3) Contaminated sharps.

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(4) Pathological and microbiological wastes containing blood or OPIM.

(5) Regulated Waste includes "medical waste" regulated by Health and Safety Code Sections 117600 through 118360.

"Research Laboratory" means a laboratory producing or using research-laboratory-scale amounts of HIV, HBV or HCV. Research laboratories may produce high concentrations of HIV, HBV or HCV but not in the volume found in production facilities.

"Set" means the area in which the performance occurs.

"Sexual Device" is an object or device that is primarily used to facilitate human sexual stimulation.

"Sexually Transmitted Infection or "STI" means any infection primarily spread by sexual contact, including but not limited to HIV/AIDS, gonorrhea, syphilis, Chlamydia, hepatitis, genital human papillomavirus infection, and genital herpes.

"Sharp" means any object used or encountered in the industries covered by subsection (a) that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills and burs.

"Sharps Injury" means any injury caused by a sharp, including, but not limited to, cuts, abrasions, or needlesticks.

"Sharps Injury Log" means a written or electronic record satisfying the requirements of subsection (c)(2).

"Source Individual" means any individual, living or dead, whose blood or OPIM may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinical patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals

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who donate or sell blood or blood components.

"Universal Precautions" is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other bloodborne pathogens.

"Vaccination Program" is the method and manner whereby producers, employers, and companies provide training and information to Production Class Employees and performers regarding recommendations for vaccines.

"Work Practice Controls" means controls that reduce the likelihood of exposure by defining the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique and use of patient-handling techniques).

(c) Exposure Response, Prevention and Control.

(1) Exposure Control Plan.

(A) Each employer having an employee(s) with occupational exposure as defined by subsection (b) of this section shall establish, implement and maintain an effective Exposure Control Plan which is designed to eliminate or minimize employee exposure and which is also consistent with Section 3203.

(B) The Exposure Control Plan shall be in writing and shall contain at least the following elements:

1. The exposure determination required by subsection (c)(3);
2. The schedule and method of implementation for each of the applicable subsections: (d) Methods of Compliance, (e) HIV, HBV and HCV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up, (g) Communication of Hazards to Employees, and (h) Recordkeeping, of this standard;
3. The procedure for the evaluation of circumstances surrounding exposure incidents as required by subsection (f)(3)(A).

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4. An effective procedure for gathering the information required by the Sharps Injury Log.

5. An effective procedure for periodic determination of the frequency of use of the types and brands of sharps involved in the exposure incidents documented on the Sharps Injury Log; Note : Frequency of use may be approximated by any reasonable and effective method.

6. An effective procedure for identifying currently available engineering controls, and selecting such controls, where appropriate, for the procedures performed by employees in their respective work areas or departments;

7. An effective procedure for documenting patient safety determinations made pursuant to Exception 2. of subsection (d)(3)(A); and

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments.

(C) Each employer shall ensure that a copy of the Exposure Control Plan is accessible to employees in accordance with Section 3204(e).

(D) The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary as follows:

1. To reflect new or modified tasks and procedures which affect occupational exposure;

2.a. To reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and

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- b. To document consideration and implementation of appropriate commercially available needleless systems and needle devices and sharps with engineered sharps injury protection;
- 3. To include new or revised employee positions with occupational exposure;
- 4. To review and evaluate the exposure incidents which occurred since the previous update; and
- 5. To review and respond to information indicating that the Exposure Control Plan is deficient in any area.

(E) Employees responsible for direct patient care. In addition to complying with subsections (c)(1)(B)6. and (c)(1)(B)8., the employer shall solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls, and shall document the solicitation in the Exposure Control Plan.

(F) The Exposure Control Plan shall be made available to the Chief or NIOSH or their respective designee upon request for examination and copying.

(2) Sharps Injury Log.

The employer shall establish and maintain a Sharps Injury Log, which is a record of each exposure incident involving a sharp. The information recorded shall include the following information, if known or reasonably available:

- (A) Date and time of the exposure incident;
- (B) Type and brand of sharp involved in the exposure incident;

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(C) A description of the exposure incident which shall include:

1. Job classification of the exposed employee;
2. Department or work area where the exposure incident occurred;
3. The procedure that the exposed employee was performing at the time of the incident;
4. How the incident occurred;
5. The body part involved in the exposure incident;
6. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated, and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism, if applicable;
7. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury; and
8. The employee's opinion about whether any engineering, administrative or work practice control could have prevented the injury.

(D) Each exposure incident shall be recorded on the Sharps Injury Log within 14 working days of the date the incident is reported to the employer.

(E) The information in the Sharps Injury Log shall be recorded and maintained in such a manner as to protect the confidentiality of the injured employee.

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(3) Exposure Determination.

(A) Each employer who has an employee(s) with occupational exposure as defined by subsection (b) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

1. A list of all job classifications in which all employees in those job classifications have occupational exposure;
2. A list of job classifications in which some employees have occupational exposure; and
3. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of subsection (c)(3)(A)2. of this standard.

(B) This exposure determination shall be made without regard to the use of personal protective equipment.

(d) Methods of Compliance.

(1) General. Universal precautions shall be observed to prevent contact with blood or OPIM. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

(2) Engineering and Work Practice Controls -General Requirements.

(A) Engineering and work practice controls shall be used to eliminate or minimize employee exposure.

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(B) Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

(C) Work practice controls shall be evaluated and updated on a regular schedule to ensure their effectiveness.

(D) All procedures involving blood or OPIM shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

(3) Engineering and Work Practice Controls -Specific Requirements.

(A) Needleless Systems, Needle Devices and non-Needle Sharps.

1. Needleless Systems. Needleless systems shall be used for:

a. Withdrawal of body fluids after initial venous or arterial access is established;

b. Administration of medications or fluids; and

c. Any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices.

2. Needle Devices. If needleless systems are not used, needles with engineered sharps injury protection shall be used for:

a. Withdrawal of body fluids;

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- b. Accessing a vein or artery;
 - c. Administration of medications or fluids; and
 - d. Any other procedure involving the potential for an exposure incident for which a needle device with engineered sharps injury protection is available.
3. Non-Needle Sharps. If sharps other than needle devices are used, these items shall include engineered sharps injury protection.
4. Exceptions. The following exceptions apply to the engineering controls required by subsections (d)(3)(A)1.-3.:
- a. Market Availability. The engineering control is not required if it is not available in the marketplace.
 - b. Patient Safety. The engineering control is not required if a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgement, that use of the engineering control will jeopardize the patient's safety or the success of a medical, dental or nursing procedure involving the patient. The determination shall be documented according to the procedure required by (c)(1)(B)7.
 - c. Safety Performance. The engineering control is not required if the employer can demonstrate by means of objective product evaluation criteria that the engineering control is not more effective in preventing exposure incidents than the alternative used by the employer.
 - d. Availability of Safety Performance Information. The engineering control is not required if the employer can demonstrate that reasonably specific and reliable information is not available on the safety performance of the engineering control for the employer's procedures, and that the employer is actively determining by means of objective product evaluation criteria

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whether use of the engineering control will reduce the risk of exposure incidents occurring in the employer's workplace.

(B) Prohibited Practices.

1. Shearing or breaking of contaminated needles and other contaminated sharps is prohibited.
2. Contaminated sharps shall not be bent, recapped, or removed from devices.

Exception: Contaminated sharps may be bent, recapped or removed from devices if: a. The employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure; and b. The procedure is performed using a mechanical device or a one-handed technique.

3. Sharps that are contaminated with blood or OPIM shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
4. Disposable sharps shall not be reused.
5. Broken Glassware. Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.
6. The contents of sharps containers shall not be accessed unless properly reprocessed or decontaminated.
7. Sharps containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of sharps injury.

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8. Mouth pipetting/suctioning of blood or OPIM is prohibited.

9. Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

10. Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or OPIM are present.

(C) Requirements for Handling Contaminated Sharps.

1. All procedures involving the use of sharps in connection with patient care, such as withdrawing body fluids, accessing a vein or artery, or administering vaccines, medications or fluids, shall be performed using effective patient-handling techniques and other methods designed to minimize the risk of a sharps injury.

2. Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of subsection (d)(3)(D) as applicable.

3. At all time during the use of sharps, containers for contaminated sharps shall be:

a. Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

b. Maintained upright throughout use, where feasible; and

c. Replaced as necessary to avoid overfilling.

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(D) Sharps Containers for Contaminated Sharps.

1. All sharps containers for contaminated sharps shall be:

- a. Rigid;
- b. Puncture resistant;
- c. Leakproof on the sides and bottom;
- d. Portable, if portability is necessary to ensure easy access by the user as required by subsection (d)(3)(C)3.a.; and
- e. Labeled in accordance with subsection (g)(1)(A)(2).

2. If discarded sharps are not to be reused, the sharps container shall also be closeable and sealable so that when sealed, the container is leak resistant and incapable of being reopened without great difficulty.

(E) Regulated Waste.

1. General.

Handling, storage, treatment and disposal of all regulated waste shall be in accordance with Health and Safety Code Chapter 6.1, Sections 117600 through 118360, and other applicable regulations of the United States, the State, and political subdivisions of the State.

2. Disposal of Sharps Containers.

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When any container of contaminated sharps is moved from the area of use for the purpose of disposal, the container shall be:

- a. Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping; and
 - b. Placed in a secondary container if leakage is possible. The second container shall be:
 - i. Closable;
 - ii. Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and
 - iii. Labeled according to subsection (g)(1)(A) of this section.
3. Disposal of Other Regulated Waste. Regulated waste not consisting of sharps shall be disposed of in containers which are:
- a. Closable;
 - b. Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping;
 - c. Labeled and color-coded in accordance with subsection (g)(1)(A) of this section; and
 - d. Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.
4. Outside Contamination. If outside contamination of a container of regulated

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waste occurs, it shall be placed in a second container. The second container shall be:

- a. Closable.
- b. Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;
- c. Labeled and color-coded in accordance with subsection (g)(1)(A) of this section; and
- d. Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(F) Handling Specimens of Blood or OPIM.

Specimens of blood or OPIM shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

1. The container for storage, transport, or shipping shall be labeled or color-coded according to subsection (g)(1)(A), and closed prior to being stored, transported, or shipped. When a facility utilizes Universal Precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with subsection (g)(1)(A) is required when such specimens/containers leave the facility.
2. If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during collection, handling, processing, storage, transport, or shipping and is labeled or color-coded to the requirements of this standard.

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3. If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture-resistant in addition to the above characteristics.

(G) Servicing or Shipping Contaminated Equipment.

Equipment which may become contaminated with blood or OPIM shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible or will interfere with a manufacturer's ability to evaluate failure of the device.

1. A readily observable label in accordance with subsection (g)(1)(A)8. shall be attached to the equipment stating which portions remain contaminated.

2. Information concerning all remaining contamination shall be conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

(H) Cleaning and Decontamination of the Worksite.

1. General Requirements.

a. Employers shall ensure that the worksite is maintained in a clean and sanitary condition.

b. Employers shall determine and implement appropriate written methods and schedules for cleaning and decontamination of the worksite.

c. The method of cleaning or decontamination used shall be effective and shall be appropriate for the:

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- i. Location within the facility;
- ii. Type of surface or equipment to be treated;
- iii. Type of soil or contamination present; and
- iv. Tasks or procedures being performed in the area.

d. All equipment and environmental and work surfaces shall be cleaned and decontaminated after contact with blood or OPIM no later than at the end of the shift. Cleaning and decontamination of equipment and work surfaces is required more often as specified below.

2. Specific Requirements.

a. Contaminated Work Surfaces. Contaminated work surfaces shall be cleaned and decontaminated with an appropriate disinfectant immediately or as soon as feasible when:

- i. Surfaces become overtly contaminated;
- ii. There is a spill of blood or OPIM;
- iii. Procedures are completed; and
- iv. At the end of the work shift if the surface may have become contaminated since the last cleaning.

b. Receptacles. All bins, pails, cans, and similar receptacles intended for

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reuse which have a reasonable likelihood for becoming contaminated with blood or OPIM shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

c. Protective Coverings. Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

(I) Hygiene.

1. Employers shall provide handwashing facilities which are readily accessible to employees.

2. When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

3. Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

4. Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or OPIM.

(J) Laundry.

1. Contaminated laundry shall be handled as little as possible with a minimum of agitation.

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- a. Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

 - b. Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with subsection (g)(1)(A) of this standard. When a facility utilizes Universal Precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with Universal Precautions.

 - c. Whenever contaminated laundry is wet and presents a reasonable likelihood of soaking through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.
2. The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

 3. When a facility ships contaminated laundry off-site to a second facility which does not utilize Universal Precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with subsection (g)(1)(A).

(4) Personal Protective Equipment.

(A) Provision. Where occupational exposure remains after institution of engineering and work practice controls, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not

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permit blood or OPIM to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used. Note : For fire fighters, these requirements are in addition to those specified in Sections 3401-3411, and are intended to be consistent with those requirements.

(B) Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgment, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future. The employer shall encourage employees to report all such instances without fear of reprisal in accordance with Section 3203.

(C) Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

(D) Cleaning, Laundering, and Disposal. The employer shall clean, launder, and dispose of personal protective equipment required by subsections (d) and (e) of this standard, at no cost to the employee.

(E) Repair and Replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

(F) Removal.

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1. If a garment(s) is penetrated by blood or OPIM, the garment(s) shall be removed immediately or as soon as feasible.

2. All personal protective equipment shall be removed prior to leaving the work area.

3. When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

(G) Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, OPIM, mucous membranes, and non-intact skin; when performing vascular access procedures except as specified in subsection (d)(4)(G)4.; and when handling or touching contaminated items or surfaces. These requirements are in addition to the provisions of Section 3384.

1. Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

2. Disposable (single use) gloves shall not be washed or decontaminated for re-use.

3. Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

4. If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

a. Periodically reevaluate this policy;

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- b. Make gloves available to all employees who wish to use them for phlebotomy;
 - c. Not discourage the use of gloves for phlebotomy; and
 - d. Require that gloves be used for phlebotomy in the following circumstances:
 - i. When the employee has cuts, scratches, or other breaks in his or her skin;
 - ii. When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and
 - iii. When the employee is receiving training in phlebotomy.
- (H) Masks, Eye Protection, Face Shields, and Respirators.
1. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated. These requirements are in addition to the provisions of Section 3382.
 2. Where respiratory protection is used, the provisions of Sections 5144 and 5147 are required as applicable. Note : Surgical masks are not respirators.

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(I) Gowns, Aprons, and Other Protective Body Clothing.

1. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated. These requirements are in addition to the provisions of Section 3383.

2. Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery). These requirements are in addition to the provisions of Section 3383.

(e) HIV, HBV and HCV Research Laboratories and Production Facilities.

(1) General.

This subsection applies in addition to the other requirements of this section to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV, HBV and HCV.

Exception: This subsection does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs.

(2) Research laboratories and production facilities shall meet the following criteria:

(A) Standard Microbiological Practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens. Such methods are further specified in Health and Safety Code Section 118215.

(B) Special Practices.

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1. Laboratory doors shall be kept closed when work involving HIV, HBV or HCV is in progress.
2. Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled or color-coded container that is closed before being removed from the work area.
3. Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.
4. When OPIM or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with subsection (g)(1)(B) of this standard.
5. All activities involving OPIM shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these OPIM shall be conducted on the open bench.
6. Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.
7. Special care shall be taken to avoid skin contact with OPIM. Gloves shall be worn when handling infected animals and when making hand contact with OPIM is unavoidable.
8. Before disposal, all waste from work areas and from animal rooms shall

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either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

9. Vacuum lines shall be protected with liquid disinfectant traps and HEPA filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

10. Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of OPIM. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

11. All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

12. A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

13. Written biosafety procedures shall be prepared and adopted into the Exposure Control Plan of subsection (c)(1). Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

(C) Containment Equipment.

1. Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge

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rotors, and containment caging for animals, shall be used for all activities with OPIM that pose a threat of exposure to droplets, splashes, spills, or aerosols.

2. Biological safety cabinets shall be certified by the employer that they meet manufacturers' specifications when installed, whenever they are moved and at least annually.

(3) HIV, HBV and HCV research laboratories shall meet the following criteria:

(A) Each laboratory shall contain a facility for hand washing and an eye wash facility which is readily available within the work area.

(B) An autoclave for decontamination of regulated waste shall be available. Note : Treatment of medical waste should meet the requirements of Health and Safety Code Section 118215.

(4) HIV, HBV and HCV production facilities shall meet the following criteria:

(A) The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

(B) The surfaces of doors, walls, floors and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

(C) Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and

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shall be located near the exit door of the work area.

(D) Access doors to the work area or containment module shall be self-closing.

(E) An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area. Note : Treatment of medical waste should meet the requirements of Health and Safety Code Section 118215.

(F) A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area). The ventilation system shall conform to the requirements of Article 107.

(5) Training Requirements.

Training requirements for employees in HIV, HBV and HCV research laboratories and HIV, HBV and HCV production facilities are specified in subsection (g)(2) and they shall receive in addition the following initial training:

(A) The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV, HBV or HCV.

(B) The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV, HBV or HCV.

(C) The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be

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assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

(f) Hepatitis B Vaccination and Bloodborne Pathogen Post-exposure Evaluation and Follow-up.

(1) General.

(A) The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up for bloodborne pathogens exposure to all employees who have had an exposure incident. When an employer is also acting as the evaluating health care professional, the employer shall advise an employee following an exposure incident that the employee may refuse to consent to post-exposure evaluation and follow-up from the employer-healthcare professional. When consent is refused, the employer shall make immediately available to exposed employees a confidential medical evaluation and follow-up from a healthcare professional other than the exposed employee's employer.

Exception: Designated first aid providers who have occupational exposure are not required to be offered pre-exposure hepatitis B vaccine if the following conditions exist:

1. The primary job assignment of such designated first aid providers is not the rendering of first aid.

a. Any first aid rendered by such persons is rendered only as a collateral duty responding solely to injuries resulting from workplace incidents, generally at the location where the incident occurred.

b. This exception does not apply to designated first aid providers who render assistance on a regular basis, for example, at a first aid station, clinic, dispensary, or other location where injured employees routinely go for such assistance, and emergency or public safety personnel who are expected to

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render first aid in the course of their work.

2. The employer's Exposure Control Plan, subsection (c)(1), shall specifically address the provision of hepatitis B vaccine to all unvaccinated first aid providers who have rendered assistance in any situation involving the presence of blood or OPIM (regardless of whether an actual exposure incident, as defined by subsection (b), occurred) and the provision of appropriate post-exposure evaluation, prophylaxis and follow-ups for those employees who experience an exposure incident as defined in subsection (b), including:

a. Provisions for a reporting procedure that ensures that all first aid incidents involving the presence of blood or OPIM shall be reported to the employer before the end of work shift during which the first aid incident occurred.

i. The report must include the names of all first aid providers who rendered assistance, regardless of whether personal protective equipment was used and must describe the first aid incident, including time and date.

A. The description must include a determination of whether or not, in addition to the presence of blood or OPIM, an exposure incident, as defined in subsection (b), occurred.

B. This determination is necessary in order to ensure that the proper post-exposure evaluation, prophylaxis and follow-up procedures required by subsection (f)(3) are made available immediately if there has been an exposure incident, as defined in subsection (b).

ii. The report shall be recorded on a list of such first aid incidents. It shall be readily available to all employees and shall be provided to the Chief upon request.

b. Provision for the bloodborne pathogens training program, required by subsection (g)(2), for designated first aiders to include the specifics of the reporting requirements of subsection (f)(3) and of this exception.

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c. Provision for the full hepatitis B vaccination series to be made available as soon as possible, but in no event later than 24 hours, to all unvaccinated first aid providers who have rendered assistance in any situation involving the presence of blood or OPIM regardless of whether or not a specific exposure incident, as defined by subsection (b), has occurred.

3. The employer must implement a procedure to ensure that all of the provisions of subsection 2. of this exception are complied with if pre-exposure hepatitis B vaccine is not to be offered to employees meeting the conditions of subsection 1. of this exception.

(B) The employer shall ensure that all medical evaluations and procedures, including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

1. Made available at no cost to the employee;
2. Made available to the employee at a reasonable time and place;
3. Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and
4. Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by this subsection (f).

(C) The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(2) Hepatitis B Vaccination.

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(A) Hepatitis B vaccination shall be made available after the employee has received the training required in subsection (g)(2)(G)9. and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

(B) The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

(C) If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

(D) The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in Appendix A.

(E) If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with section (f)(1)(B).

(3) Post-exposure Evaluation and Follow-up.

Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

(A) The employer shall document the route(s) of exposure, and the circumstances under which the exposure incident occurred;

(B) The employer shall identify and document the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

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1. The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV, HCV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

2. When the source individual is already known to be infected with HBV, HCV or HIV, testing for the source individual's known HBV, HCV or HIV status need not be repeated.

3. Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

(C) The employer shall provide for collection and testing of the employee's blood for HBV, HCV and HIV serological status;

1. The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

2. If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

3. Additional collection and testing shall be made available as recommended by the U.S. Public Health Service.

(D) The employer shall provide for post-exposure prophylaxis, when medically

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indicated, as recommended by the U.S. Public Health Service;

(E) The employer shall provide for counseling and evaluation of reported illnesses.

(4) Information Provided to the Healthcare Professional.

(A) The employer shall ensure that the healthcare professional responsible for the employee's hepatitis B vaccination is provided a copy of this regulation.

(B) The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

1. A copy of this regulation;
2. A description of the exposed employee's duties as they relate to the exposure incident;
3. Documentation of the route(s) of exposure and circumstances under which exposure occurred, as required by subsection (f)(3)(A);
4. Results of the source individual's blood testing, if available; and
5. All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain, as required by subsection (h)(1)(B)2.

(5) Healthcare Professional's Written Opinion.

The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation.

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(A) The healthcare professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

(B) The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

1. That the employee has been informed of the results of the evaluation; and

2. That the employee has been told about any medical conditions resulting from exposure to blood or OPIM which require further evaluation or treatment.

(C) All other findings or diagnoses shall remain confidential and shall not be included in the written report.

(6) Medical Recordkeeping.

Medical records required by this standard shall be maintained in accordance with subsection (h)(1) of this section.

(g) Communication of Hazards to Employees.

(1) Labels and Signs.

(A) Labels.

1. Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or OPIM; and other containers used to store, transport or ship blood or OPIM, except as provided in subsection (g)(1)(A)5., 6. and 7. Note : Other labeling provisions, such as Health and Safety Code Sections 118275 through 118320 may be applicable.

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2. Labels required by this section shall include either the following legend as required by Section 3341:



Or in the case of regulated waste the legend:

BIOHAZARDOUS WASTE or SHARPS WASTE

as described in Health and Safety Code Sections 118275 through 118320.

3. These labels shall be fluorescent orange or orange-red or predominantly so, with lettering and symbols in a contrasting color.

4. Labels required by subsection (g)(1)(A) shall either be an integral part of the container or shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

5. Red bags or red containers may be substituted for labels except for sharp containers or regulated waste red bags. Bags used to contain regulated waste shall be color-coded red and shall be labeled in accordance with subsection (g)(1)(A)2. Labels on red bags or red containers do not need to be color-coded in accordance with subsection (g)(1)(A)3.

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6. Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of subsection (g).

7. Individual containers of blood or OPIM that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

8. Labels required for contaminated equipment shall be in accordance with this subsection and shall also state which portions of the equipment remain contaminated.

9. Regulated waste that has been decontaminated need not be labeled or color-coded.

(B) Signs.

1. The employer shall post signs at the entrance to work areas specified in subsection (e), HIV, HBV and HCV Research Laboratory and Production Facilities, which shall bear the following legend:



(Name of the Infectious Agent)

(Special requirements for entering the area)

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(Name, telephone number of the laboratory director or other responsible person.)

2. These signs shall be fluorescent orange-red or predominantly so, with lettering and symbols in a contrasting color, and meet the requirements of Section 3340.

(2) Information and Training.

(A) Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.

(B) Training shall be provided as follows:

1. At the time of initial assignment to tasks where occupational exposure may take place;

2. At least annually thereafter.

(C) For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

(D) Annual training for all employees shall be provided within one year of their previous training.

(E) Employers shall provide additional training when changes, such as introduction of new engineering, administrative or work practice controls, modification of tasks or procedures or insitution of new tasks or procedures, affect the employee's occupational exposure. The additional training may be limited to

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addressing the new exposures created.

(F) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

(G) The training program shall contain at a minimum the following elements:

(1). Copy and Explanation of Standard. An accessible copy of the regulatory text of this standard and an explanation of its contents;

(2). Epidemiology and Symptoms. A general explanation of the epidemiology and symptoms of bloodborne diseases;

(3). Modes of Transmission. An explanation of the modes of transmission of bloodborne pathogens;

(4). Employer's Exposure Control Plan. An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

(5). Risk Identification. An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and OPIM;

(6). Methods of Compliance. An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, administrative or work practice controls and personal protective equipment;

(7). Decontamination and Disposal. Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

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(8). Personal Protective Equipment. An explanation of the basis for selection of personal protective equipment;

(9). Hepatitis B Vaccination. Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

(10). Emergency. Information on the appropriate actions to take and persons to contact in an emergency involving blood or OPIM;

(11). Exposure Incident. An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available and the procedure for recording the incident on the Sharps Injury Log;

(12). Post-Exposure Evaluation and Follow-Up. Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

(13) Signs and Labels. An explanation of the signs and labels and/or color coding required by subsection (g)(1); and

(14) Interactive Questions and Answers. An opportunity for interactive questions and answers with the person conducting the training session. Note : Additional training is required for employees of HIV, HBV, and HCV Research Laboratories and Production Facilities, as described in subsection (e)(5).

(H) Adult Film Industry Health Testing. Where barrier protection is not used, performers are required to obtain:

- 1) Blood test for:
HIV (by “PCR DNA”) every 28days
Syphilis (an “RPR” test)***

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Hepatitis A, B & C. every 6 months

- 2) Urine test for:
Gonorrhea (by “ultra-sensitive DNA amplification”) every 28days
Chlamydia (by “ultra-sensitive DNA amplification”) every 28days
 - 1) Casual performers. Where the employer employs casual performers, the employer shall:
 - a) Ensure that casual performers have an opportunity to obtain such screening;
 - b) Provide information on the value of Hepatitis B vaccinations;
 - c) Ensure that casual performers have an opportunity to obtain a Hepatitis B vaccination.
 - 2) Exclusive Performers. Where the employer employs exclusive performers, the employer shall:
 - a) Provide sexual health information;
 - b) Provide Hepatitis B vaccinations;
 - c) Production employees. Where the employer employs production employees, the employer shall provide Hepatitis B vaccinations;
 - 3) Barrier Protection. Where no health testing program is in place in accordance with section (1), all adult film actors shall:
 - a) Use a barrier protection for all sexual acts of vaginal or anal penetration.
 - b) All sexual devices will be cleaned with a sanitizing agent (or brand new) prior to being used by any performer and between performers.

(I) Adult Film Industry Training. Employees exposed to infectious materials shall be trained in accordance with Sections 5193 and 3203 to recognize the hazards associated with the activities to be performed and trained in the procedures to be followed in order to minimize the hazards associated with the work. Such training shall

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be documented in accordance with section 3203. The following topics shall be covered for all supervisory and non-supervisory employees:

- (1) The policies and procedures related to the company's exposure control plan;
- (2) A copy of our firm's ECP and (how to obtain additional copies)
- (3) STD Risk Chart
- (4) An explanation of the use and limitations of the work practices and requirements
- (5) An explanation on the types, uses, location, removal, handling, and disposal of PPE.
- (6) Information regarding the vaccination program including information on the hepatitis B vaccine including information in its efficacy, safety, method of administration, a medical provider location where the vaccination can be obtained, and the benefits of being vaccinated.
- (7) Information on the appropriate actions to take and persons to contact in an emergency involving blood or OPIM
- (8) An explanation of the procedure to follow if an unplanned exposure incident occurs including the method of reporting the incident and the medical follow-up that will be made available at no cost
- (9) Information on the post-exposure evaluation and follow-up that will be provided to employees and contractors at no cost following an unplanned exposure incident
- (10) Contact information for the workplace safety specialist for any questions that may arise.

(J) In addition to the above training in the adult film industry, all adult film industry actors shall be trained in the following topics:

- (1) How to perform STI self-examination;
- (2) Instruction regarding the visible signs of STIs;
- (3) Information on the value regular sexual health screening;
- (4) The employer's policy related to visible signs of an STI when seen in another employee, performer or themselves. The policy shall include

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advising a management representative immediately and immediately stopping the scene from proceeding;

(5) Information on transmission of STI.

(6) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

(j) Recordkeeping.

(1) Medical Records.

(A) The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with Section 3204.

(B) This record shall include:

1. The name and social security number of the employee;
2. A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by subsection (f)(2);
3. A copy of all results of examinations, medical testing, and follow-up procedures as required by subsection (f)(3);
4. The employer's copy of the healthcare professional's written opinion as required by subsection (f)(5); and
5. A copy of the information provided to the healthcare professional as required by subsections (f)(4)(B)2., 3. and 4.

(C) Confidentiality. The employer shall ensure that employee medical records required by subsection (h)(1) are:

1. Kept confidential; and

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2. Not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

(D) The employer shall maintain the records required by subsection (h)(1) for at least the duration of employment plus 30 years in accordance with Section 3204.

(2) Training Records.

(A) Training records shall include the following information:

1. The dates of the training sessions;
2. The contents or a summary of the training sessions;
3. The names and qualifications of persons conducting the training; and
4. The names and job titles of all persons attending the training sessions.

(B) Training records shall be maintained for 3 years from the date on which the training occurred.

(3) Sharps Injury Log.

The Sharps Injury Log shall be maintained 5 years from the date the exposure incident occurred.

(4) Availability.

(A) The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the Chief and NIOSH for examination and copying.

(B) Employee training records required by this subsection shall be provided upon request for examination and copying to employees, to employee representatives, to the Chief, and to NIOSH.

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(C) Employee medical records required by this subsection shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the Chief, and to NIOSH in accordance with Section 3204.

(D) The Sharps Injury Log required by subsection (c)(2) shall be provided upon request for examination and copying to employees, to employee representatives, to the Chief, to the Department of Health Services, and to NIOSH.

(5) Transfer of Records.

(A) The employer shall comply with the requirements involving transfer of records set forth in Section 3204.

(B) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify NIOSH, at least three months prior to their disposal and transmit them to the NIOSH, if required by the NIOSH to do so, within that three month period.

(i) Appendix.

Appendix A to this section is incorporated as a part of this section and the provision is mandatory.

Appendix A-Hepatitis B Vaccine Declination
(MANDATORY)

The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the following statement as required by subsection (f)(2)(D):

I understand that due to my occupational exposure to blood or OPIM I may

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be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or OPIM and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

Note: Authority cited: Sections 142.3 and 144.7, Labor Code. Reference: Sections 142.3 and 144.7, Labor Code; Sections 117600 through 118360, Health and Safety Code.

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Subchapter 7. General Industry Safety Orders Article 109. Hazardous Substances and Processes

Section 5193.1. Risk Reduction in the Adult Film Industry¹ ~~Sexually transmitted infections.~~

(a) Scope and Application.

(1) Scope.

This section covers all workplaces in which employees have occupational exposure to bloodborne pathogens and/or sexually transmitted pathogens due to one or more employees engaging in sexual activity with another individual. Work processes covered by this section include, but are not limited to, activities during the production of any film, video, multi-media or other recorded or live representation where one or more employees have occupational exposure.

(2) Application.

(A) This section applies to all employees who have occupational exposure in the workplaces described in subsection (a)(1), including employees who engage in sexual activity and employees who are present when this activity occurs, or who are responsible for cleaning or decontaminating the work area, including equipment and laundry.

(B) Compliance with this section constitutes compliance with Section 5193 in workplaces to which this section applies, except for workplaces in which sharps, other than personal care sharps, as defined below, are used, in which case, the employer shall also comply with requirements in Section 5193 regarding the use and disposal of sharps.

(C) Exception: This section does not apply to employers who have no direction and control over the creation of a production.²

(3) The employer shall provide all safeguards required by this section, including ~~barriers,~~ personal protective options (such as condoms, testing, etc.) equipment, training, and post-exposure follow-up medical services, at no cost to the employee, at a reasonable time and place for the employee, and during the employee's working hours.³

¹ Amend Title

² Add (2)(C) 'Exception'

³ Amend (a)(3)

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(b) Definitions. For purposes of this section, the following shall apply:

~~“Barrier” means a condom or other physical block that prevents the passage of blood and OPIM-STI to another person.⁴~~

"Blood" means human blood, human blood components, and products made from human blood.

"Bloodborne Pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

“CDC” means the United States Centers for Disease Control and Prevention, including the U.S. Public Health Service.

“CDPH” means the California Department of Public Health.

"Chief" means the Chief of the Division of Occupational Safety and Health of the California Department of Industrial Relations or designated representative.

“Chlamydia” means the disease caused by the bacterium *Chlamydia trachomatis* (CT).

~~“Consortium PLHCP” means a PLHCP who provides medical services on behalf of one or more employers in accordance with this standard and who meets the requirements in subsection (e)(1)(C).⁵~~

"Contaminated" means the presence or the reasonably anticipated presence of blood or OPIM-STI⁶ on a surface or in or on an item.

“Contaminated Laundry” means laundry which has been soiled with blood or OPIM-STI or which may contain sharps.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling,

⁴ Remove “Barrier”

⁵ Remove ‘Consortium PLHCP’

⁶ Remove ‘STI’

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use, or disposal. Decontamination includes procedures regulated by Health and Safety Code Section 118275.:

"Engineering Controls" means controls (e.g., sharps disposal containers, ~~barrier protection~~ personal protection options such as condoms or testing protocols, use of simulated ejaculate) that isolate, reduce, or remove exposure hazards to the bloodborne pathogens and/or sexually transmitted infections ~~infectious pathogens~~ or other potentially infectious materials (OPIM-~~STI~~) from the workplace.⁷

"Exposure Incident" means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or OPIM-~~STI~~ that results from the performance of an employee's duties, when personal protection options were not used or have been compromised.⁸

~~"Genital Herpes" means the disease caused by herpes simplex virus when it occurs in or on the genitals.~~⁹

"Genitals" means the penis, vulva, vagina, urethra, and anus, and adjacent structures. ~~and mucous membranes.~~¹⁰

"Gonorrhea" means the disease caused by the bacterium *Neisseria gonorrhoeae* (GC).

"HAV" means hepatitis A virus.

"HBV" means hepatitis B virus.

"HCV" means hepatitis C virus.

"HIV" means human immunodeficiency virus.

"HPV" means human papilloma virus.

"HSV" means herpes simplex virus.

"Local Health Officer" (LHO). The health officer for the local jurisdiction responsible for receiving and/or sending reports of communicable diseases, as defined in Title 17,

⁷ Amend "Engineering Controls"

⁸ Amend "Exposure Incident"

⁹ Remove "Genital Herpes"

¹⁰ Amend "Genitals" 'and mucous membranes.'

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California Code of Regulations (CCR). Note: Title 17, Section 2500 requires that reports be made to the local health officer for the jurisdiction where the patient resides.

"NIOSH" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

~~"Occupational Exposure" means reasonably anticipated contact of the skin, eye, mouth, genitals or other mucous membranes with genitals of another person, or with blood or OPIM—STI that may result from the performance of an employee's duties. Simulated activities, in which there is no potential for actual contact of a person's eyes, skin, mouth or mucous membranes with a source individual's genitals or with blood or OPIM—STI, are not considered to create occupational exposure.~~

"Occupational Exposure" means skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties, when personal protection options were not used or have been compromised.¹¹

~~"Other Potentially Infectious Materials—Sexually Transmitted Infections" (OPIM—STI) means bodily fluids and other substances that may contain and transmit sexually transmitted pathogens. These fluids include, but are not limited to, pre-ejaculate, ejaculate, semen, vaginal secretions, fecal matter and rectal secretions, secretions from wounds or sores that are potentially infected with sexually transmitted pathogens, and any other bodily fluid when visibly contaminated with blood or all bodily fluids in situations where it is difficult or impossible to differentiate between bodily fluids.~~

"Other Potentially Infectious Materials" means:

(1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids such as emergency response;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(3) Any of the following, if known or reasonably likely to contain or be infected with HIV, HBV, or HCV:

¹¹ Restore and Amend Original Definition of "Occupational Exposure"

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(A) Cell, tissue, or organ cultures from humans or experimental animals;

(B) Blood, organs, or other tissues from experimental animals; or

(C) Culture medium or other solutions.¹²

"Parenteral Contact" means piercing mucous membranes or the skin barrier through such events as intentional piercing, needlesticks, human bites, cuts, and abrasions.

"Personal Care Sharps" means razors, scissors, and similar tools used by an individual to perform cosmetic procedures on herself or himself, such as shaving. Personal care sharps do not include tools intended for piercing the skin, or for the purpose of applying tattoos or other permanent cosmetics.

"Personal Protection Options" means options, including but not limited to, personal protective equipment such as condoms, personal protective procedures such as testing, or any other protocol utilized to significantly reduce risk of STI transmission.¹³

~~"Personal Protective Equipment" is any garment, device (such as a condom), or equipment used to prevent contact of an employee's eyes, skin, mucous membranes, or genitals with the blood or OPIM-STI of another.~~

"Personal Protective Equipment" is specialized clothing or equipment worn or used by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protection equipment.¹⁴

"Personal Protective Procedures" means procedures such as testing or other technology or approved medical methodology that significantly reduce the risk of STI transmission.¹⁵

"Physician or other Licensed Health Care Professional" (PLHCP) means an individual whose legally permitted scope or practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by this section.

¹² Restore Original Definition of "Other Potentially Infectious Materials"

¹³ Add "Personal Protection Options"

¹⁴ Restore Original Definition of "Personal Protective Equipment"

¹⁵ Add "Personal Protective Procedures"

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“Producer” means the employer who has direction and control over the creation of a production.¹⁶

“Production” means depiction, recorded or live, in which one or more employees engage in sexual activity. A production may consist of one or several scenes.

“Scene” means a depiction, recorded or live, in which one or more employees engage in sexual activity, and which is a continuous portion of a production.

“Set” means the area in which a performance occurs.

“Sexual Activity” means actual contact of an employee’s genitals, eyes, or mouth with the genitals or OPIM-STI of another person.

“Sexually Transmitted Infection” (STI) means any infection spread by sexual contact, including but not limited to HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis B, hepatitis C, and genital herpes, trichomoniasis and human papillomavirus infection.¹⁷

~~“Sexually Transmitted Pathogen” (STP) means is a pathogen that transmitted by sexual contact, including but not limited to HIV, GC, *Treponema pallidum*, CT, HBV, HCV, HSV, Trichomonas vaginalis and HPV.~~¹⁸

“Source Individual” means an employee or other person whose blood or OPIM-STI may be a source of occupational exposure to an employee.

“Syphilis” means the disease caused by the bacterium *Treponema pallidum*.

“Testing” is a personal protective procedure and refers to health screenings according to Appendix C of this section.¹⁹

“Testing Protocols” refers to Appendix C of this section that significantly reduce the risk of STI transmission.²⁰

“Trichomoniasis” means the diseases caused by the protozoa *Trichomonas vaginalis*.

¹⁶ Add “Producer”

¹⁷ Amend “Sexually Transmitted Infection”

¹⁸ Remove “Sexually Transmitted Pathogens”

¹⁹ “Testing” new definition

²⁰ “Testing Protocols” new definition

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~~"Universal Precautions" is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human bodily fluids are treated as if known to be infectious.~~²¹

"Work Practice Controls" means controls that reduce the likelihood of exposure by defining the manner in which a task is performed (e.g., procedures for changing condoms, verifying performer availability according to testing protocols,²² use of lubricant, simulation of part or all of a sexual act, procedures for handling laundry).

(c) Exposure Prevention and Response.

(1) Exposure Control Plan (Plan).

- (A) Each employer having any employee(s) with occupational exposure as defined by subsection (b) of this section shall establish, implement, and maintain an effective Plan which is designed to eliminate or minimize employee exposure and which is also consistent with Section 3203.
- (B) The Plan shall be in writing and shall contain at least the following elements:
1. An exposure determination that includes the following:
 - a. A list of the tasks or activities that involve or may involve occupational exposure to blood or OPIM—~~STH~~ if control measures are not implemented. This determination shall be made without regard to the use of personal protective equipment ~~or personally worn barrier protection~~, such as condoms or personal protective procedures such as testing protocols.²³
 - b. A list of the job classifications in which all employees have occupational exposure.
 - c. A list of the job classifications in which some employees have occupational exposure.
 2. The selection of²⁴ control measures that will be used for each task or activity, or group of similar tasks or activities, as required by subsection (d).
 3. The procedures for the evaluation of circumstances surrounding exposure incidents as required by subsection (e).
 4. The schedule and method of implementation for medical services and information, including ~~provision of~~²⁵ vaccinations, medical tests and examinations, and post-exposure evaluation as required by subsection (e).

²¹ Universal Precautions clarity

²² Amend "Work Practice Controls"

²³ Amend (c)(1)(B)1.a.

²⁴ Amend (c)(1)(B)2. 'selection of'

²⁵ Amend (c)(1)(B)4. 'and information'

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5. The procedures for providing training, in accordance with subsection (f).
 6. The procedures for record keeping in accordance with subsection (g).
 7. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan.
- (C) Each employer shall ensure that a copy of the Plan is available at the worksite at all times that employees are present.
- (D) The Plan shall be reviewed and updated at least annually and whenever necessary to ensure that effective control measures are implemented for every task involving occupational exposure. Employees shall be involved in the plan review.
- (E) The Plan shall also be reviewed after each exposure incident to determine the cause of the incident and to determine whether any change in control measure is necessary.
- (F) The Plan shall be made available to affected employees and their representatives, the Chief or NIOSH or their respective designee, upon request, for examination and/or copying, in accordance with subsection (g).
- (d) Methods of Compliance.

~~(1) Universal Precautions. Universal precautions shall be observed to prevent contact with blood or OPIM—STI. Under circumstances in which differentiation between bodily fluid types is difficult or impossible, all bodily fluids shall be considered potentially infectious materials.²⁶~~

~~(1)~~ (2) General Control Measures. Each employer is required to maintain engineering and work practice controls sufficient to protect employees from exposure to blood and/or OPIM—STI. When simulation of sexual activity using acting, production, and post-production techniques, and/or personal protective procedures are is not used, or does not prevent all minimize or eliminate the risk of occupational exposure, all of the following control measures are required:²⁷

- (A) Ejaculation onto surfaces other than the genitals, eyes, mouth or other mucous membranes or non-intact skin of another person;
- (B) Provision of and required use of condoms or other protective barriers to prevent genital contact of one person with the genitals of another person;
- (C) Provision of condom-safe water-based or silicone-based lubricants to facilitate the use of condoms;

²⁶ Remove '(d)(1) Universal Precautions'

²⁷ Amend(d)(2) 'General Control Measures'

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- (D) Provision of and required use of condoms or other protective barriers to prevent genital contact with the blood or OPIM—STH of another person;
- (E) Development and implementation of work practices for the use of condoms and other barriers, in accordance with Appendix B.

(3) Other Prohibited Practices.

- (A) Personal care sharps shall not be reused on a different individual, unless the items have been decontaminated in accordance with Section 5193.
- (B) Where Personal Protective Options have not been implemented, objects that have become contaminated with blood or OPIM—STH ~~at one anatomic site~~ shall not be reused ~~on another anatomic site~~, or on another person, unless the object has been appropriately decontaminated.²⁸
- (C) Broken Glassware. Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.
- (D) The contents of sharps containers shall not be accessed unless properly reprocessed or decontaminated.
- (E) Sharps containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of sharps injury.

(4) Specific Control Measures.

- (A) Contaminated Sharps.
 1. The use, disposal, and disinfection of all contaminated sharps other than broken glass and personal care sharps shall be in accordance with Section 5193.
 2. Immediately, or as soon as possible after use, all contaminated personal care sharps and broken glass shall be disposed of in appropriate containers. These containers shall be rigid, puncture resistant, leakproof on the sides and bottom, and capable of being completely closed. These containers shall be closed and sealed prior to disposal.
- (B) Contaminated Waste. Non-sharps waste contaminated with blood or OPIM—STH shall be disposed of in plastic bags or other impermeable containers, which are closable, constructed to contain all contents and prevent leakage during handling, storage, transport or shipping, and closed prior to removal. If

²⁸ Amend(d)(3)(B) insert 'Personal Protective Options'

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outside contamination of a container of contaminated waste occurs, it shall be placed in a secondary container that meets the requirements of this subsection.

(C) Cleaning and Decontamination of the Worksite.

1. The employer shall ensure that the worksite is maintained in a clean and sanitary condition.
2. The employer shall provide plastic coverings or other disposable materials to facilitate cleaning of the work area.
3. The employer shall determine and implement appropriate written methods and schedules for cleaning and decontamination of the worksite.
4. The method of cleaning or decontamination used shall be effective and shall be appropriate for the type of surface or equipment to be treated, the type of soil or contamination present, and the tasks or procedures being performed in the area.
5. All equipment and environmental and work surfaces shall be cleaned and decontaminated after contact with blood or OPIM—STH at the end of each scene, and no later than at the end of each day of production.
6. Employers shall ensure that cleaning and disinfection methods that are used for sex toys and other objects that may have contact with an employee's genitals, eyes, skin, or other mucous membranes do not cause irritation or other harm to the employee.
7. Receptacles. All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or OPIM—STH shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

(D) Hygiene.

1. Employers shall provide hygiene facilities, including toilet facilities, washing facilities, shower facilities, and change rooms meeting the requirements of California Code of Regulations, Title 8, Division 1, Chapter 4, Subchapter 7, Article 9.
2. Where Personal Protective Options have not been implemented, the employer shall establish work practices to ensure that body areas contaminated with blood or OPIM—STH are cleaned between sexual acts with ~~the same or~~²⁹ different persons.
3. The employer shall ensure that soaps and other cleaners are not irritating to or otherwise damaging of the employee's skin or mucous membranes.

²⁹ Amend (d)(4)(D)2. insert 'Personal Protective Options'

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(E) Laundry.

1. The employer shall ensure that contaminated laundry is handled as little as possible, and is bagged at the site of usage.
2. The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other personal protective equipment that is necessary to prevent contact with blood or OPIM-STI.

(5) Personal Protection Equipment Options. Employees shall have the choice of Personal Protection Options to protect their sexual health. They may choose either Personal Protective Equipment or Personal Protective Procedures or both to significantly reduce the risk of STI transmissions. Condoms will be made available on all sets at no cost to employees.³⁰

(A) Personal Protective Equipment.

1. Where occupational exposure remains after institution of engineering and work practice controls general control measures, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, condoms, gloves for cleaning, and, if contact of the eyes with OPIM-STI is reasonably anticipated, eye protection. Personal protective equipment will be considered "appropriate" only if it prevents blood or OPIM-STI from passing through to or reaching the employee's eyes, mouth, or other mucous membranes, or non-intact skin under normal conditions of use and for the duration of time which the protective equipment will be used.
2. The employer shall ensure that the employee uses appropriate personal protective equipment. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic materials, including Food and Drug Administration approved non-latex condoms, shall be readily accessible to those employees who are allergic to the equipment normally provided.
3. The employer shall clean, launder, and/or dispose of personal protective equipment required by subsection (d) of this standard at no cost to the employee. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.
4. If a garment(s) is penetrated by blood or OPIM-STI, the garment(s) shall be removed immediately. All personal protective equipment shall be removed

³⁰ Amend (d)(5), change 'Personal Protection Options'

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prior to leaving the work area. When personal protective equipment is removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

5. Gloves shall be worn when employees are cleaning and decontaminating work areas, and when handling contaminated laundry. Gloves shall be appropriate for the use and shall provide protection from chemicals that can cause skin irritation or other harm in accordance with Section 3384.

6. Barrier protection for the eyes, skin, mouth, and mucous membranes. The employer shall not permit ejaculation onto the employee's eyes, non-intact skin, mouth or other mucous membranes. If work activities may expose the employee's eyes, non-intact skin, or mucous membranes to blood or OPIM—STI, the employer shall provide condoms or other suitable barrier protection.

(B) Personal Protective Procedures.

1. Testing Protocols, as detailed in Appendix C, significantly reduce the risk of transmission of all STIs defined in this section to acceptable levels where additional personal protective equipment may be recommended, but is not required.

2. If performers choose to utilize personal protective equipment during anal and/or vaginal intercourse, but not during oral intercourse testing protocols must at least significantly reduce the risk of transmission of gonorrhea, chlamydia, trichomoniasis, syphilis.

3. If the performers choose bio-medical protective procedures, health screenings must first confirm same sero-status or that no acute or untreated STIs are present.

4. If not all performers in a scene have chosen the same personal protective procedure, then all performers participating in the same scene shall use personal protective equipment.³¹

(e) ~~Medical Services and Post Exposure Follow-up~~ Medical Services³²

³¹ Add (d)(5)(B) 'Personal Protective Procedures'

³² Amend (e) 'Post Exposure Follow-up Medical Services'

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(1) General.

(A) The employer shall establish, implement and maintain a system of medical services and ~~that consist of~~ post-exposure evaluation and follow-up for all employees who have occupational exposure, when personal protection options were not used or may have been compromised. All medical services required by this section as a result of occupational exposure shall be provided at no cost to the employee, ~~made available at a reasonable time and place and during the employee's working hours, performed by or under the supervision of a PLHCP, and provided according to the requirements of this section, and the recommendations of the CDC and CDPH current at the time these evaluations and procedures take place.~~³³

~~(B) Employers may contract with a consortium PLHCP to provide some or all of these services, and may make arrangements to share costs with other employers so long as none of these costs are borne by employees.~~

~~(C) The employer(s) shall only contract with a consortium or other PLHCP who agrees to do all of the following:~~

- ~~1. Report communicable diseases to the local health department as required by Title 17, California Code of Regulations, and for occupational injuries or illnesses, to complete and file the Doctor's First Report of Occupational Injury or Illness in accordance with Sections 14003 and 14006.~~
- ~~2. Cooperate with the local health officer to investigate and control communicable diseases.~~
- ~~3. Maintain the contact information for each contracting employer, and provide that information to the Chief, the local health officer, and the California Department of Public Health upon request.~~

~~(D) When a consortium PLHCP is acting as the evaluating health care professional after an exposure incident, the employer shall advise the employee that the employee may refuse to consent to post-exposure evaluation and follow-up from the PLHCP. When consent is refused, the employer shall make immediately available to exposed employees a confidential medical evaluation and follow-up from a different PLHCP.~~³⁴

~~(E) (B)~~ The employer shall ensure that all post-exposure³⁵ laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(2) Vaccinations.

³³ Amend (e)(1)(A)

³⁴ Remove (e)(1)(B) to (e)(1)(D) —

³⁵ Amend (e)(1)(E)

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(A) ~~General.~~ The employer shall provide information concerning access to the first dose and/or recommended follow-up doses of HAV, HBV and HPV vaccine to all employees who have occupational exposure.

~~(B) Each vaccination series required by this section shall be made available to all employees who have occupational exposure, unless the employee has previously received the complete vaccine series. The vaccine shall be made available after the employee has received the training required in subsection (f)(2)(G)10, and prior to the employee's initial assignment. Vaccines need not be provided if the PLHCP determines that the vaccine is contraindicated for medical reasons. For HBV vaccine, the series shall include documentation of adequate serologic response, and if necessary, additional vaccine doses, as recommended by the PLHCP consistent with the recommendations of the CDC and GDCPH.~~

~~(C) HBV vaccine need not be provided if serological testing reveals that the employee is immune. However, the employer shall not make participation in a prescreening program a prerequisite for receiving HBV vaccine.~~

~~(D) If the employee initially declines an offered vaccine, but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available the vaccine at that time.~~

~~(E) The employer shall assure that employees who decline to accept HBV vaccination offered by the employer sign the statement in Appendix A-1. The employer shall assure that employees who decline to accept HPV vaccination offered by the employer sign the statement in Appendix A-2. The employer shall assure that employees who decline to accept HAV vaccination offered by the employer sign the statement in Appendix A-3.~~

~~(F) If a routine booster dose(s) of HBV, HAV, or HPV vaccine is recommended by the CDC or GDCPH at a future date, such booster dose(s) shall be made available in accordance with this subsection.³⁶~~

~~(3) Periodic Medical Services. After the employee has received the training required by subsection (f)(2)(G), and at the time of, or immediately prior to, the employee engaging in activities involving occupational exposure, the employer shall provide the employee with the confidential medical services included in Appendix C. For the purposes of this subsection, the term "immediately prior to" means the 14 day period immediately preceding the activity.~~

~~(A) The medical services included in Appendix C, and any other medical services required by the employer or recommended by the PLHCP shall be provided at no cost to employees.~~

³⁶ Amend (e)(2) Vaccinations.

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(B) The employer shall obtain the following documentation of the provision of medical services:

1. For an employee who accepts medical services, a copy of the PLHGP's written opinion, as required by subsection (e)(6).
2. For an employee who declines medical services, the employer shall assure that the employee signs the statement in Appendix D.

Note to subsection (e)(3)(B)2.: The declination in Appendix D shall be signed only if the employee declines all medical services. No documentation is required by this standard if an employee declines any specific test or examination offered by a PLHGP. The employer must assure that an employee who declines a vaccination signs a declination in accordance with subsection (e)(2)(E).³⁷

(4) (3) Post-exposure Evaluation and Follow-up. Following an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, and cooperate with evaluating physician providing information as requested, ~~available to the producer that the PLHGP determines is medically necessary~~, including at least the following elements:

(A) The employer shall document the route(s) of exposure, and the circumstances under which the exposure incident occurred.

(B) The employer shall identify and document the source individuals involved in the exposure incident, unless the employer can establish that identification is infeasible or prohibited by state or local law. The employer shall provide the following medical services:

1. The blood of all source individuals shall be collected and tested as soon as feasible and after consent is obtained in order to determine HBV, HCV, HIV, and syphilis infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When one of the source individuals is already known to be infected with HBV, HCV, or HIV, testing for that individual's known HBV, HCV, or HIV status need not be repeated.
2. If an employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.
3. As soon as feasible after consent has been obtained, each source individual shall be tested for other STI's by urine, by throat and rectal

³⁷ Remove (e)(3) Periodic Medical Services

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- specimens, and by swabs of any other area determined by the PLHGP to potentially create a risk of transmission based upon the routes of exposure.
- ~~4. While guarding the source individual's anonymity, results of each source individual's testing shall be made available to the other exposed employees to the extent permitted by law, and the employees shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.~~
- ~~5. Additional collection and testing shall be made available as recommended by the U.S. Public Health Service, the GDPH or the local health officer.~~
- ~~(C) The employer shall provide for post-exposure prophylaxis for exposed employees, when medically indicated, as recommended by the U.S. Public Health Service, and for pathogens not included in the USPHS recommendations, the GDPH or local health officer.~~
- ~~(D) The employer shall provide for counseling of employees, and evaluation of reported employee illnesses.~~
- ~~(E) The employer shall investigate all exposure incidents to determine whether control measures were in place, whether procedures for exposure incidents were followed, and whether control measures need to be modified to prevent further incidents. These records shall be created and maintained in accordance with subsection (g)(3)(B).~~
- ~~(F) The employer shall ensure that all exposure incidents, post-exposure evaluations, and employee infections and illnesses are recorded in accordance with Title 8, California Code of Regulations, Division 1, Chapter 7.~~
- ~~(G) If an employee declines to participate in post-exposure medical follow-up, the employer shall ensure that the employee signs the declination statement in Appendix D.~~

Note to subsection (e)(4)(G): The declination in Appendix D shall be signed only if the employee declines all medical services. No documentation is required by this standard if an employee declines any specific test or examination offered by a PLHGP. The employer must assure that an employee who declines a vaccination signs a declination in accordance with subsection (e)(2)(E).³⁸

(5) Information Provided to the PLHGP:

- ~~(A) The employer shall ensure that the healthcare professional responsible for the employee's HAV, HBV, and/or HPV vaccination is provided a copy of this regulation.~~

³⁸ Amend (e)(4) Post-exposure Evaluation and Follow-up.

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~~(B) The employer shall ensure that the PLHCP evaluating an employee after an exposure incident is provided the following information:~~

- ~~1. A copy of this regulation;~~
- ~~2. A description of the exposed employee's duties as they relate to the exposure incident;~~
- ~~3. Documentation of the route(s) of exposure and circumstances under which exposure occurred, as required by subsection (e)(4)(A);~~
- ~~4. The contact information for any PLHCP known to the employer to have performed testing on a source individual, or to have provided medical services required by this section to the employee or the source individual;~~
- ~~5. All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain, as required by subsection (g)(1)(B)2.³⁹~~

~~(6) PLHCP's Written Opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation:~~

~~(A) The healthcare professional's written opinion for HAV, HBV and/or HPV vaccination shall be limited to whether the vaccination(s) is indicated for an employee, and if the employee has received such vaccination:~~

~~(B) The healthcare professional's written opinion for periodic medical surveillance and post-exposure evaluation and follow-up shall be limited to the following information:~~

- ~~1. That the employee has been informed of the results of the evaluation and has been provided with the results of any medical tests; and~~
- ~~2. That the employee has been told about any medical conditions resulting from exposure to blood or OPIM=STI which require further evaluation or treatment.~~

~~(C) All other findings or diagnoses shall remain confidential and shall not be included in the written report.⁴⁰~~

~~(7) Medical Recordkeeping. Medical records required by this standard shall be maintained in accordance with subsection (g)(1) of this section.⁴¹~~

(f) Communication of Hazards to Employees.

(1) Labels and Signs. Where sharps, other than personal care sharps, are used the employer shall comply with Section 5193(g)(1).

(2) Information and Training.

³⁹ Remove (e)(5) Information provided to the PLHCP

⁴⁰ Remove (e)(6) PLHCP's Written Opinion

⁴¹ Remove (e)(7) Medical Recordkeeping

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(A) Employers shall ensure that all employees with occupational exposure participate in a training program, which must be provided at no cost to the employee ~~and during working hours. All training, including initial and annual training sessions and safety meetings shall be documented in accordance with subsection (g)(2).~~⁴²

(B) Training shall be provided:

1. At or prior to the time of initial assignment to tasks where occupational exposure may take place and prior to performance of those tasks.
2. At least annually thereafter.

Exception to subsection (f)(2): For employees who have received training on bloodborne pathogens and STIs in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

(C) Annual training for all employees shall be provided within one year of their previous training.

(D) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

(E) Employers shall conduct a safety meeting prior to any employee engaging in sexual activity. The employer shall provide information to all individuals who will participate in the activity, or the production of any recordings or other representations of the activity, regarding the control measures to be used, and specific information regarding the employer's procedures for emergencies, exposure incidents, and post-exposure evaluation and follow-up.

(F) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

(G) The training program shall contain, at a minimum, the following elements:

1. Copy and Explanation of Standard. An accessible copy of the regulatory text of this standard and an explanation of its contents.
2. Epidemiology, Signs, and Symptoms. A general explanation of the epidemiology, signs, and symptoms of bloodborne diseases and STIs. This shall include how employees may perform self-examination for signs of STIs and recognize those signs in partners. This training shall also include the information that many STIs may have no symptoms or visible signs even though they may be transmitted.

⁴² Amend (f)(2)(A) training program requirements

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3. Modes of Transmission. An explanation of the modes of transmission of bloodborne pathogens and STIs and the possible health effects that may result from treated and untreated infections.
4. Treatment. A general explanation of the treatment for STIs including hepatitis A, B, and C, and HIV infection, and treatment for viral, bacterial and parasitic STIs. This shall include the risks, benefits, and alternatives to current recommended treatment.
5. Employer's Exposure Control Plan. An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan.
6. Risk Identification. An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and OPIM-~~STI~~.
7. Methods of Compliance. An explanation of the use and limitations of methods that will prevent or reduce exposure, including appropriate engineering controls, administrative or work practice controls, and personal protective equipment [protection options](#)⁴³.
8. Decontamination and Disposal. Information on the types, proper use, location, removal, handling, decontamination, and disposal of laundry, personal protective equipment, sex toys, and other contaminated items.
9. Personal Protective Equipment. An explanation of the basis for selection of personal protective equipment.
10. Vaccination. Information on the HAV, HBV and HPV vaccines, including information on their efficacy, safety, method of administration, the benefits of being vaccinated, and ~~that the vaccines and vaccinations will be offered free of charge.~~ [information on how and where vaccinations can be obtained.](#)⁴⁴
11. Periodic Medical Services. A description of the medical services that the employer provides, including that the employee can consent or decline any specific testing or examination, and that the results of all medical examinations and testing will be maintained by the PLHCP as confidential.
12. Emergency. Information on the appropriate actions to take and persons to contact in an emergency involving blood or OPIM-~~STI~~.
13. Exposure Incident. An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available; if sharps other than

⁴³ Amend (f)(2)(G)7. Methods of Compliance 'personal protection options'

⁴⁴ Amend (f)(2)(G)10. Vaccination

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personal care sharps are used, this shall include how the information required by Section 5193(c)(2) will be collected.

14. Post-Exposure Evaluation and Follow-up. Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident.

15. Labels and Signs. An explanation of the labels and signs and/or color coding required by subsection (f)(1).

(H) Interactive Questions and Answers. The employer shall provide an opportunity for interactive questions and answers with the person conducting the training session.

(I) Due to the intermittent nature of employment in this industry, one or more employers may arrange to conduct training as a consortium on the general elements of subsection (f)(2)(G), so long as each employer ensures that all the required training elements are provided.

(g) Recordkeeping.

~~(1) Medical Records.~~

~~(A) The employer shall establish and maintain an accurate record for each employee with occupational exposure in accordance with Section 3204. These records may be maintained with an off-site PLHCP, so long as the medical records are immediately available at all times when post-exposure evaluation may be necessary.~~

~~(B) This record shall include:~~

- ~~1. The name and any employee identifying number, if one is used by the employer;~~
- ~~2. A copy of the employee's HAV, HBV, and HPV vaccination status including the dates of all vaccinations and post vaccination immunity testing, and any medical records relative to the employee's ability to receive vaccination as required by subsection (e)(2);~~
- ~~3. A copy of the documentation of provision of periodic medical services, as required by subsections (e)(3), (e)(4) and (e)(6).~~
- ~~4. The employer's copy of the healthcare professional's written opinion as required by subsections (e)(5) and (e)(6); and~~
- ~~5. A copy of the information provided to the healthcare professional as required by subsections (e)(4) and (e)(5).~~

~~(C) Confidentiality. The employer shall ensure that employee medical records required by subsection (g)(1) are:~~

- ~~1. Kept confidential; and~~

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- ~~2. Not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.~~
- ~~(D) The employer shall maintain the records required by subsection (g)(1) for at least the duration of employment plus 30 years in accordance with Section 3204.⁴⁵~~
- (2) Training Records:
- (A) Training records shall include the following information:
- ~~1. The dates of the training sessions;~~
 - ~~2. The contents or a summary of the training sessions;~~
 - ~~3. The names and qualifications of persons conducting the training; and~~
 - ~~4. The names and job titles of all persons attending the training sessions.~~
- ~~(B) Training records shall be maintained for three years from the date on which the training occurred.⁴⁶~~
- (3) (1) Records of implementation of the Exposure Control Plan.
- (A) Records of annual review of the Plan shall include the name(s) of the person conducting the review, the dates the review was conducted and completed, the name(s) and job categories of employees involved, and a summary of the conclusions. The record shall be retained for three years.
- (B) Records of the evaluation of exposure incidents shall be retained and made available as employee exposure records in accordance with Section 3204. These records shall include:
1. The date of the exposure incident.
 2. The names, and any other employee identifiers used in the workplace, of employees and other persons who were included in the exposure evaluation.
 3. The type of work activity being performed and the employer's control measures for that activity.
 4. A summary of how the exposure incident occurred, and whether exposure resulted from a lack of use of specified control measures, a failure of control measures, or other factors.
 5. A statement as to whether the exposure was reported and appropriate medical follow-up was provided in a timely manner.
 6. The date of the evaluation.
 7. A description of any corrective action taken, and the date of that action.
- ~~(4) Each employer shall create and maintain a log of information for all scenes or other representations produced or purchased. The log shall contain the information~~

⁴⁵ Remove (g)(1) Medical Records

⁴⁶ Remove (g)(2) Training

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~~listed in subsections (g)(4)(A) through (G)(4)(E). The records required by this subsection shall be maintained for a minimum of five years:~~

~~(A) The date the activities involving occupational exposure were performed.~~

~~(B) The street address, city and state where the production occurred.~~

~~(C) The stage name, legal name, residence address, and phone number for each person who participated in the production, including production crew, actors, and directors.~~

~~(D) The name, address, and phone number of the entity responsible for the production, and the name, address and phone number of any employer or other producer to which the video, film, or other representation was sold or purchased.~~

~~(E) A record of the engineering and work practice controls and personal protective equipment used during the production.~~

~~(5) Availability:~~

~~(A) The employer shall ensure that all records, other than the employee medical records more specifically dealt with in subsection (g)(5)(C), required to be maintained by this section shall be made available upon request to the Chief, NIOSH, the California Department of Public Health, and the local health officer for examination and copying.~~

~~(B) Employee training records, the Plan, and records of implementation of the Plan, other than medical records containing individually identifiable medical information, shall be made available as employee exposure records in accordance with Section 3204(e)(1) to employees and employee representatives.~~

~~(C) Employee medical records required by this subsection shall be provided upon request, to the California Department of Public Health, the local health officer, and in accordance with Section 3204, to the subject employee, anyone having the written consent of the subject employee, the Chief, and NIOSH, for examination and copying.~~

~~(6) Transfer of Records:~~

~~(A) The employer shall comply with the requirements involving the transfer of employee medical and exposure records that are set forth in Section 3204.~~

~~(B) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the Chief and NIOSH at least three months prior to the disposal of the~~

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~~records and shall transmit them to NIOSH, if required by NIOSH to do so, within that three-month period.⁴⁷~~

(h) Appendices A1, A2, A3, B, C and D to this section are incorporated as a part of this section and the provisions are mandatory.

Appendix A1-Hepatitis B Vaccine Declination (MANDATORY)

The employer shall assure that employees ~~who decline to accept~~ **are given information concerning** hepatitis B vaccination offered by the employer ~~sign the following statement as required by subsection (e)(2)(F)~~ **and provided information on how to access the vaccinations:**

I understand that due to my occupational exposure to blood or other potentially infectious material – sexually transmitted Infections (OPIM-STI), I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given **information about how and where to be vaccinated with hepatitis B vaccine** the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. ~~I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious and potentially life-threatening disease which may result in cirrhosis, liver cancer or death. If in the future I continue to have occupational exposure to blood or OPIM-STI and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.~~

Appendix A2-Human Papilloma Virus Vaccine Declination (MANDATORY)

The employer shall assure that employees ~~who decline to accept~~ **are given information concerning** human papilloma vaccination offered by the employer ~~sign the following statement as required by subsection (e)(2)(F)~~ **and provided information on how to access the vaccinations:**

I understand that due to my occupational exposure to other potentially infectious

⁴⁷ Remove (g)(4) to (g)(6)

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material – sexually transmitted infections (OPIM=~~STI~~), I may be at risk of acquiring human papilloma virus infection. I have been given information about how and where to be vaccinated with human papilloma vaccine. ~~the opportunity to be vaccinated with human papilloma vaccine, at no charge to myself. However, I decline human papilloma vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring human papilloma virus, an incurable infection that may be transmitted to others, and may increase the risk that I may develop cancer of the cervix, vulva, anus, penis and throat. If in the future I continue to have occupational exposure to blood or OPIM-STI and I want to be vaccinated with human papilloma vaccine, I can receive the vaccination series at no charge to me.~~

Appendix A3-Hepatitis A Vaccine Declination (MANDATORY)

The employer shall assure that employees who decline to accept are given information concerning hepatitis A vaccination offered by the employer sign the following statement as required by subsection (e)(2)(F) and provided information on how to access the vaccinations:

I understand that due to my occupational exposure to other potentially infectious material – sexually transmitted infections (OPIM=~~STI~~), I may be at risk of acquiring hepatitis A virus infection. I have been given information about how and where to be vaccinated with hepatitis A vaccine. ~~the opportunity to be vaccinated with hepatitis A vaccine, at no charge to myself. However, I decline hepatitis A vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis A virus, an infection that may be transmitted to others, and may cause serious disease including hepatitis, liver failure and death. If in the future I continue to have occupational exposure to blood or OPIM-STI and I want to be vaccinated with hepatitis A vaccine, I can receive the vaccination series at no charge to me.~~⁴⁸

Appendix B: Use of Protective Barriers (Mandatory) Condoms

⁴⁸ Amend Appendix A1, A2 and A3 to clarify requirements

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When utilizing condoms as a personal protective equipment, these These procedures shall include⁴⁹:

1. Only latex, polyurethane, or other FDA-approved condoms will be used. Barriers will be made of latex, polyurethane, or other non-permeable material.
2. Condoms that do not contain nonoxynol-9 and other spermicides shall be available at all times when work requiring condoms is performed.
3. Condoms will not be used with lubricants capable of compromising the integrity of the condom barrier (e.g. latex condoms will not be used with oil-based lubricants).
4. Condoms will be used with sufficient lubricant to minimize potential breakage. Lubricant shall not be irritating to mucous membranes.
5. No condom will be used that is past the marked expiration date. Condoms (internal or external) will be used according to the manufacturer's instructions and FDA approval.
6. No condom or other barrier will be reused.
7. Barriers will be used so that only one side has contact with a performer's genitalia, anus, or OPIM—STI.
8. No condom will be used if the interior of the condom has contact with another performer's blood/OPIM—STI prior to being put in place for use.
9. The same condoms or other barriers will not be used for different anatomical sites or different performers.
10. If Condoms and other barriers are chosen as the Personal Protection Option, then the condom will be put in place prior to any contact with blood or OPIM—STI.⁵⁰

~~Appendix C: Minimum Requirements for Medical Services~~ (MANDATORY)

~~All of the following medical services shall be offered to each employee within the scope of this standard. An employee may decline any or all of these tests or services:~~

- ~~1. Provision of HAV, HBV and HPV vaccine, unless the employee is already fully vaccinated or immune, or another dose is not indicated at the time.~~
- ~~2. No less frequently than every three months, and more frequently if requested by the employee or if recommended by the CDPH or LHO:

 - ~~a. Testing of the blood for human immunodeficiency and hepatitis C viruses and antibodies, and for syphilis.~~~~

⁴⁹ Amend Appendix B Title and Applicability

⁵⁰ Additional Language Appendix B 10.

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- ~~b. For employees who have not been vaccinated against HBV, testing of the blood for HBV surface antigen.~~
- ~~c. Testing of urine or vaginal fluids, and by swab of the pharynx and rectum for Chlamydia and gonorrhea.~~
- ~~d. Testing of the urine or vagina for trichomoniasis.~~
- ~~e. For employees with a cervix, cervical examination and specimen collection for cervical disease and HPV screening.~~
- ~~f. Physical examination for signs of STIs.~~

Appendix C - Use of Testing Protocols

When utilizing Testing Protocols as personal protective procedures, these procedures shall include:

1. Specimen for testing collected within 14 days prior to production according to industry standards where test panel is at least as effective as:
 - HIV (by "PCR RNA" Aptima)
 - Hep B (Surface Antigen)
 - Hep C (Antibodies)
 - Syphilis (TRFP-SURE™) cascading to RPR. Performers who have had syphilis in the past RPR with doctor's approval after reviewing titers.
 - Gonorrhea (by "ultra-sensitive DNA amplification")
 - Chlamydia (by "ultra-sensitive DNA amplification")
 - Trichomonas Vaginalis
2. Confirmation of availability to work, according to industry standards, that is at least as effective in both maintaining accountability and protecting privacy as:
 - a. Acknowledgement of availability to work from approved source which confirms appropriate test panel has been taken, no acute infection is present, and tests have not expired.
 - b. This acknowledgement of availability to work is in a sufficient form to be maintained by employer as proof of compliance
 - c. Does not reveal performer medical information or test results to employers, coworkers, or anyone other than performer, and maintains that storage of all medical information will be only with the treating medical facility.
 - d. Compliance with all HIPAA and State patient privacy regulations
 - e. Testing facilities are associated with a PLHCP⁵¹

⁵¹ Replace Appendix C

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Appendix D – Declination of ~~Periodic or~~ Post-Exposure Medical Services (Mandatory)

The employer shall assure that employees who decline to accept ~~periodic or~~ post-exposure medical services, as offered by the employer sign the following statement as required by subsections (e)(3) and (e)(4)⁵²:

I understand that due to my occupational exposure to blood or other potentially infectious material – sexually transmitted infections (OPIM-STI), I may be at risk of acquiring sexually transmitted infections including HAV, HBV, HCV, Chlamydia, gonorrhea, syphilis, and trichomoniasis. I have been offered an opportunity for a confidential medical examination, which will be provided at no charge to myself. I understand that the medical provider will provide any or all medical tests to which I consent. However, I decline to participate in a medical examination or testing at this time. I understand that by declining these services, I may be at risk of developing serious disease, which I may transmit to others, even if I have no symptoms. If in the future I continue to have occupational exposure to blood or OPIM-STI and I want to participate in a medical examination or testing, I can receive these services at no charge to me.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

⁵² Amend Appendix D