REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED IN THE OFFICE OF

2014 JUL 31 PM 2:06

Debra Bowen

DEBRA BOWEN SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2013-0719-02	2014-0619-02S	

For use by Office of Administrative Law (OAL) only

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Office of Administrative Law

NOTICE

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OFFICE OF ADMINISTRATIVE LAW

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: Occupational Safety and Health Standards Board

AGENCY FILE NUMBER (If any):

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
General Industry Safety Orders 5120	Title 8	5120	August 2, 2013

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
[X] Notice re Proposed Regulatory Action [ ] Other	Marley Hart, Executive Officer	(916)-274-5721	(916)-274-5743

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	[ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/Withdrawn	2013, 312	8/2/2013

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Safe Patient Handling

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S):

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT: Section 5120

AMEND:

REPEAL:

TITLE(S): 8

3. TYPE OF FILING

- [X] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- [ ] Emergency (Gov. Code, §11346.1(b))
- [ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- [ ] Emergency Readopt (Gov. Code, §11346.1(h))
- [ ] File & Print
- [ ] Other (Specify)
- [ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- [ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

April 16, 2014 – May 5, 2014

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- [X] Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- [ ] Effective on filing with Secretary of State
- [ ] §100 Changes Without Regulatory Effect
- [ ] Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- [ ] Department of Finance (Form STD. 399) (SAM §6660)
- [ ] Fair Political Practices Commission
- [ ] State Fire Marshal
- [ ] Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Marley Hart	916.274.5721	916.274.5743	mhart@dir.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Marley Hart

DATE: 6/19/14

TYPED NAME AND TITLE OF SIGNATORY: Marley Hart, Executive Officer

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ENDORSED APPROVED

JUL 31 2014

Office of Administrative Law

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Add new Section 5120 to read:

§ 5120. Health Care Worker Back and Musculoskeletal Injury Prevention.

(a) Scope and Application.
This Section shall apply to all general acute care hospitals.
EXCEPTION (1): This Section shall not apply to general acute care hospitals within the Department of Corrections and Rehabilitation or the State Department of Developmental Services.
EXCEPTION (2): This section shall not apply to units within a general acute care hospital that are separately licensed as a distinct part under Title 22 Section 70625 and 70627.
NOTE to subsection (a): This section does not preclude the application of Section 3203 or other Title 8 safety orders to patient handling in health care facilities, services and operations not covered by this section, nor does it preclude the application of other sections of Title 8, including but not limited to Sections 3203 and 5110, to patient handling in general acute care hospitals.
(b) Definitions.
"Designated health care worker" means an employee responsible for performing or assisting in patient handling activities who is specifically trained to handle patient lifts, repositioning, and transfers using patient transfer, repositioning, and lifting devices as appropriate for the specific patient.
"Designated registered nurse" means a registered nurse who has responsibilities under the Plan required by subsection (c), including, but not limited to, the responsibilities of a designated health care worker, preparation of a safe patient handling instruction, the observation and direction of patient lifts or mobilizations, or the communication of patient handling information to patients or their authorized representatives.
"Emergency" means unanticipated circumstances that can be life-threatening or pose a risk of significant injuries to the patient, staff or public, requiring immediate action.
"Equipment" means a powered or non-powered device that effectively reduces the forces exerted by or on employees while they perform patient handling activities, including all accessories necessary for the operation of the device. Devices and accessories include replaceable and disposable items.
"General acute care hospital" (GACH) means a hospital, licensed by the California Department of Public Health as such in accordance with Title 22, California Code of Regulations.
"Lift team" means designated health care workers specifically trained to work together to perform patient handling activities using equipment as appropriate for the specific patient.
"Lifting" means the vertical movement of a patient or the support of part or all of a patient's body.
"Manual patient handling" means the lifting, transferring, repositioning, or mobilizing of part or all of a patient's body done without the assistance of equipment.

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"Mobilizing" means the putting into movement, or assisting in the putting into movement, of part or all of a patient's body.
"Musculoskeletal injury" means acute injury or cumulative trauma of the muscles, tendons, ligaments, bursa, peripheral nerves, joints, bone or blood vessels.
"Patient" means a person who is receiving diagnostic, therapeutic or preventive health services or who is under observation or treatment for illness or injury or for care during and after pregnancy.
"Patient care unit" means a unit or department that is included within a general acute care hospital's license that provides direct patient care including but not limited to nursing units, diagnostic imaging, emergency department, or rehabilitation and behavioral health.
"Patient handling" means lifting, transferring, repositioning or mobilizing of part or all of a patient's body.
"Repositioning" means changing a patient's position on a bed, gurney, chair or other support surface.
"Safe patient handling policy" means a policy that requires replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, and lift teams, as appropriate for the specific patient and consistent with the employer's safety policies and the professional judgment and clinical assessment of the registered nurse.
"Transferring" means moving a patient from one surface to another (for example from a bed to a gurney).
(c) Patient protection and health care worker back and musculoskeletal injury prevention plan. As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, each hospital covered by this section shall establish, implement and maintain an effective written patient protection and health care worker back and musculoskeletal injury prevention plan (Plan). The Plan shall be maintained and implemented at all times for all patient care units. The Plan may be incorporated into the IIPP, or may be maintained as a separate document. The Plan applicable to the unit shall be available to employees in each patient care unit at all times. The Plan shall include:
(1) An effective safe patient handling policy component reflected in professional occupational safety guidelines for the protection of patients and health care workers in health care facilities.
NOTE to subsection (c)(1). Examples of professional occupational safety guidelines for the protection and care of patients and health care workers are listed in Appendix A.
(2) The names and/or job titles of the persons responsible for implementing the Plan.
(3) The methods the hospital will use to coordinate the implementation of the Plan with other employers whose employees have work assignments that include being present on patient care units. These methods shall include how employees will be provided with the awareness training required by subsection (d)(4), and procedures for investigation and recording of injuries associated with patient handling. In addition, the hospital's Plan shall include procedures to ensure that the Plan is implemented for employees of other employers who are responsible for performing or assisting in patient handling activities, including the provision of training required for designated health care workers.

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(4) Procedures to ensure that supervisory and non-supervisory employees comply with the Plan and use specified procedures and equipment when performing a patient handling activity, in accordance with Section 3203(a)(2).
(5) Procedures for identifying and evaluating patient handling hazards, in accordance with Section 3203(a)(4) including all of the following:
(A) A procedure to determine the types, quantities and locations for powered patient handling equipment and other patient handling equipment required for each unit covered by the Plan. This procedure shall include determining where permanent and portable equipment should be placed in order to ensure its availability and accessibility at all times. The equipment needs for each unit shall be initially evaluated by {OAL to insert date 60 days after effective date} unless an initial evaluation meeting the requirements of this subsection was conducted after January 1, 2012. GACH facilities or units that become operational after {OAL to insert date 60 days after the effective date} shall have this procedure conducted prior to the start of patient handling operations in that facility. The procedures shall include how designated health care workers can participate in the evaluations.
(B) Procedures by which the designated registered nurse, as the coordinator of care, will assess the mobility needs of each patient to determine the appropriate patient handling procedures based on the nurse's professional judgment using assessment tools, decision trees, algorithms or other effective means, and prepare safe patient handling instructions for the patient. The Plan shall include the means by which health care workers and supervisors licensed in other disciplines can provide input to the designated registered nurse regarding the patient mobility assessment.
(C) Evaluation of the need for, use, availability, accessibility, and effectiveness of patient handling equipment and procedures. These evaluations shall be conducted:
1. When the Plan is first established;
2. Whenever the equipment or conditions change in a manner that may affect safe patient handling;
3. Whenever the employer is made aware of a new or previously unrecognized patient handling hazard; and
4. At least annually for each unit covered by the Plan.
(6) Procedures for the investigation of musculoskeletal injuries related to patient handling. To the extent that relevant information is available, this shall include:
(A) Review of any patient specific risk factors and the designated registered nurse's safe patient handling instruction;
(B) Review of whether the Plan was effectively implemented, including the availability and correct use of equipment, the availability and use of sufficient staff, and whether the employees involved had been trained as required by subsection (d); and
(C) Solicitation from the injured employee and other staff involved in the incident of their opinions regarding the cause of the incident, and whether any measure would have prevented the injury.
(7) Procedures for correcting hazards related to patient handling, including:

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(A) The evaluation and selection of patient handling equipment, including the involvement of designated registered nurses and other designated health care workers, and, where utilized, lift team members;
(B) How sufficient and appropriate patient handling equipment, selected in accordance with subsections (c)(5) and (c)(7)(A), will be made available on each unit covered by this section. This shall include procedures for procurement, inspection, maintenance, repair, and replacement of appropriate patient handling equipment. Where equipment is shared between units, these procedures shall also include the means by which the current location of the equipment can be determined;
(C) The procedures by which the designated registered nurse will observe and direct patient lifts and mobilizations on each patient care unit, in accordance with Labor Code Section 6403.5 and Title 22, California Code of Regulations, Section 70215;
(D) The procedures by which the designated registered nurse will communicate the nurse's assessment regarding patient handling practices to the patient and patient's authorized representatives, in accordance with Title 22, California Code of Regulations, Section 70215;
(E) The procedures by which lift teams and/or other designated health care workers will be available to perform lifts and other patient handling tasks in each patient care unit at all times in accordance with the Safe Patient Handling Policy. An employee is not considered to be available if the employee's other assignments prevent the person from participating in the patient handling tasks within the timeframe determined to be necessary by the person designated to observe and direct the patient lifts and mobilizations in accordance with subsection (c)(7)(C) and (c)(7)(F). Designated health care workers and lift team members shall follow the safe patient handling policy, including replacement of manual patient handling with powered patient transfer devices and lifting devices as appropriate for the specific situation and patient.
(F) The procedures to be followed by designated health care workers and lift team members in performing patient handling tasks under normal circumstances, in emergencies, in situations in which there is no designated registered nurse present, in situations in which patients are not cooperative with the safe patient handling instruction, and in those situations in which there is no applicable individual safe patient handling instruction.
(G) Procedures for correcting problems found during the review of the Plan.
(8) Procedures for communicating with employees regarding safe patient handling matters, including:
(A) The method by which the designated registered nurse's safe patient handling instruction for each patient will be documented and communicated to designated health care workers and lift team members providing care to that patient;
(B) The means by which employees may communicate without fear of reprisal their concerns regarding performing a patient handling activity as instructed, and the means by which concerns and reported hazards will be investigated and corrected as necessary; and
(C) The means by which designated health care workers, lift team members, designated registered nurses, and their supervisors can participate in reviewing the effectiveness of the Plan in their work areas or departments.

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(9) Procedures for providing training to employees who may be present in patient care units in accordance with subsection (d).
(10) For facilities or units in existence as of {OAL to insert effective date}, a list of the patient handling equipment identified in (c)(7)(B) that cannot be implemented by the effective date of the standard shall be made. For each listed item, this shall include the reason for the delay, and the schedule by which the equipment will be put into use, and alternative measures to protect employees until the equipment is put into use. In any event, any equipment identified shall be put into use no later than one year after {OAL to insert the effective date of the standard}.
(11) Procedures for reviewing, at least annually, the effectiveness of the Plan in each patient care unit, which shall include a review of injury data and trends. The Plan shall include an effective procedure for obtaining the active involvement of employees in reviewing and updating the Plan with respect to the procedures performed by employees in their respective work areas or departments. Deficiencies found during this review shall be corrected, in accordance with subsection (c)(7) and Section 3203.
(d) Training. The employer shall provide training to all employees whose work assignments include being present on patient care units, that effectively addresses the activities they are reasonably anticipated to perform under the Plan. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.
(1) Frequency of training. Employees shall be trained as follows:
(A) Initial training shall be provided when the Plan is first established, to all new employees, and to all employees given new job assignments for which training has not previously been received;
(B) At least every twelve months, designated health care workers, lift team members, designated registered nurses and their supervisors shall also receive refresher training.
(C) Employers shall provide additional training when new equipment or work practices are introduced. The additional training may be limited to addressing the new equipment or work practices.
(2) Initial training for designated health care workers, lift team members, designated registered nurses and their supervisors shall include at least the following elements as applicable to the employee’s assignment:
(A) The areas of body exposure and types of injuries associated with manual patient handling activities including risk associated with vertical and lateral movement, bariatric patients, repositioning and ambulation, and the importance of early recognition and management.
(B) How risk factors, such as the patient’s ability and willingness to cooperate, bariatric condition, clinical condition, etc., are assessed and controlled during patient handling tasks including the following: vertical lifts, lateral transfer, repositioning, and ambulation.
(C) How to communicate with patients regarding the use of patient handling procedures and equipment.
(D) The appropriate use of powered and non-powered equipment to reduce injuries to patients and employees. This shall include practice using the types and models of equipment that lift team members and other designated health care workers will be expected to use.
(E) Procedures to be followed in order to safely perform manual patient handling when necessary.

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(F) The importance and process for reporting concerns regarding equipment availability, condition, storage and maintenance**,** and concerns regarding availability of sufficient staff to perform patient handling activities.
(G) The elements of the employer's Plan and safe patient handling policy and how the Plan will be made available to employees.
(H) The right to refuse to lift, reposition, mobilize, or transfer a patient due to concerns about patient or worker safety or the lack of trained personnel or equipment, and how a health care worker can communicate concerns regarding the designated activity to an appropriate supervisor.
(I) The role of the designated registered nurse as the coordinator of care, and how the registered nurse will be responsible for the observation and direction of patient lifts and mobilization.
(J) The role of the supervisor to be familiar with the Plan, the safe patient handling policy, and the patient handling hazards in their unit.
(K) How the employee can request additional training.
(L) An opportunity for interactive questions and answers with a person knowledgeable about the Plan and safe patient handling equipment and procedures.
(M) In addition to the training specified in subsections (d)(2)(A) through (d)(2)(L), supervisors of employees covered by the Plan shall also be trained on the hospital's policy that a health care worker may not be disciplined for refusal to lift, reposition or transfer a patient due to concerns about patient or worker safety or the lack of trained designated health care workers or equipment.
(N) In addition to the training specified in subsections (d)(2)(A) through (d)(2)(L) designated registered nurses who will assess patients in accordance with subsection (c)(5)(B), shall be trained in how to assess patients' mobility needs, how to communicate with patients and their authorized representatives, and how to communicate with supervisors, designated health care workers, and other health care workers regarding safe patient handling practices for specific patients.
EXCEPTION to subsection (d)(2): For employees who have received initial training in the year preceding the effective date of the standard, only training on the elements which were not included in the training need be provided.
(3) Refresher training for designated health care workers, lift team members, designated registered nurses and supervisors shall include at least the following elements as applicable to the employee's assignment:
(A) The use of powered and non-powered equipment to handle patients safely. This shall include practice using the types and models of equipment that the lift team members and/or designated health care workers will be expected to use.
(B) Procedures to be followed in order to safely perform manual patient handling when necessary. This training shall include practice in performing tasks involving multiple employees.
(C) A review of the items included in the initial training.
(D) An opportunity for interactive questions and answers with a person knowledgeable about the Plan and safe patient handling equipment and procedures.
(4) Awareness Training. Training for employees, other than those identified in subsections (d)(2) and (d)(3), whose job assignment includes being present on patient care units, shall address the recognition of the patient interactions that require the involvement of designated health care

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workers, or lift teams, how to obtain that involvement when necessary, and procedures to follow for emergencies relating to safe patient handling.

(e) Records.

(1) The hospital shall develop and maintain the following records in accordance with Section 3203(b) as records of the implementation of the Plan:

(A) Records of inspections, including hazard identification and evaluation, shall include:

1. records regarding the evaluation, selection, and placement or installation of patient handling equipment or devices and the availability of this equipment at all times on each unit covered by the Plan;

2. records of initial and periodic inspection of patient handling procedures; and

3. records of investigation of occupational injuries and illnesses related to safe patient handling.

(B) Training records shall be created and maintained for a minimum of one year and include the following information: training dates; contents or a summary of the training sessions; types and models of equipment practiced during training; names and qualifications of persons conducting the training; and names and job titles of all persons attending the training sessions.

(C) All records required by this subsection shall be made available on request to the Chief of the Division of Occupational Safety and Health and his or her representatives for examination and copying.

(D) All records required by this subsection shall be made available on request to employees and their representatives for examination and copying in accordance with Section 3204(e)(1) of these orders.

(E) Records of injury investigations shall not include “medical Information” as defined by Civil Code Section 56.05(g).

(F) Records required by Division 1, Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records, of these orders shall be created and maintained in accordance with those orders.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 6403.5, Labor Code.

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Appendix A (Non-Mandatory):

The following are examples of professional occupational safety guidelines for the protection of patients and health care workers in health care facilities:

Facility Guidelines Institute Patient Handling and Movement Assessments: A White Paper by the 2010 Health Guidelines Revision Committee, April 2010 (http://www.fgiguidelines.org/pdfs/FGI_PHAMA_whitepaper_042810.pdf)

Association for Occupational Health Professionals AOHP Beyond Getting Started: A Resource Guide for Implementing a Safe Patient Handling Program in the Acute Care Setting, Summer 2011 (http://aohp.org/aohp/Portals/0/Documents/AboutAOHP/BGS_Summer2011.pdf)

Centers for Disease Control National Institute of Occupational Safety and Health, NIOSH Safe Patient Handling Training for Schools of Nursing DHHS Publication No. 2009-127 November 2009 (http://www.cdc.gov/niosh/docs/2009-127/)

Safe Patient Handling and Mobility Interprofessional National Standards, American Nurses Association 2013 (http://www.nursingworld.org/sphm)

Safe Patient Handling Guidebook For Facility Champions/Coordinators, Matz, 10/29/2013

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 6403.5, Labor Code.