California Hospital Association

June 1, 2026

Christine Hoffman
Zohra Ali
Senior Safety Engineers
Department of Industrial Relations
Division of Occupational Health and Safety
1515 Clay St., Suite 1901
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Sent via email: rs@dir.ca.gov

Re: Occupational Exposure to Surgical Smoke Plume – April 24 Discussion Draft

Dear Ms. Hoffman and Ms. Ali:

California hospitals are committed to providing safe environments for patients, workers, and those who operate and perform surgical procedures in hospital facilities. Minimizing surgical smoke exposure is a critical piece to ensure patients and workers are healthy and safe.

On behalf of nearly 400 member hospitals and health systems, the California Hospital Association (CHA) respectfully offers the following comments to the Division of Occupational Safety and Health (Cal/OSHA) April 24, 2026, Discussion Draft ("April 24 Draft") of regulatory language regarding Assembly Bill 1007 (2023-2024: Occupational safety and health standards: plume).

Unfortunately, the April 24 Draft does not address the concerns CHA raised in its Sept. 30, 2025, letter in response to the Aug. 29, 2025, discussion draft ("Aug. 29 Draft"). Because CHA's concerns are still unresolved, CHA submits this letter in response to the changes reflected in the April 24 Draft and incorporates by this reference the concerns that were previously raised.

Concerns With April 24 Draft Revisions

1. Section (b) – Definition

"Capture device" - (b)(4)

This added term and definition is so narrowly defined that it will exclude viable evacuation systems that are equally effective at removing surgical smoke when used in accordance with the manufacturer's recommendations. All surgical smoke evacuation systems are designed to capture plume and there is no policy reason to separately define a particular system component or require the use of a product that has a device that meets this narrow definition. Although we recommend removing the defined term, in the alternative, we request the following changes:

"Capture device" means an accessory, ***component, or mechanism*** of a plume evacuation system that captures the plume near the site-of-origin **~~and passes it into the transfer tubing~~**. A capture device can be single use or reusable.

"Designated employee representative" – (b)(5)

Only an authorized employee representative, as defined, should have the right to access an employee's files upon authorization. Instead, the April 24 Draft allows "any individual or organization" to serve as a designated employee representative. The language could allow third parties with no legitimate connection to the workplace — including outside advocacy organizations, consultants, or other entities — to obtain access to sensitive records based solely on employee authorization. The definition also references a "recognized or certified collective bargaining agent" with no explanation as to who that individual would be or their connection to an employee.

Similarly important, the language allows access to records "for the purpose of access to employee exposure records and *analyses* using exposure or medical records …" (Emphasis added). It is unclear what kind of "analyses" would be available or provided under this definition, or the type of information this sentence looks to address.

To clarify and conform with existing workplace safety statutes and regulations, as well as preserve confidentiality and privacy of medical records and trade secret considerations, we request referencing to 8 CCR §3204 – Access to Employee Exposure and Medical Records. ("Section 3204")

To that end we request the following changes:

"Designated employee representative" for purposes of this section only, means any ~~individual or organization~~ ***authorized employee representative*** to whom an employee gives written authorization to exercise a right of access **pursuant to Section 3204 (e)(1). ~~A recognized or certified collective bargaining agent shall be treated automatically as a designated employee representative for the purpose of access to employee exposure records and analyses using exposure or medical records, but access to an employee's medical records requires the employee's written consent.~~ ~~their right to access records required by this section.~~**

"Medical-surgical vacuum" – (b)(12)

A medical-surgical vacuum may be a built-in or centralized system or a mobile unit that includes fully integrated ULPA and Organic Vapor filters. We would like to include the use of mobile medical-surgical vacuum systems as an acceptable device. Therefore, we request the following changes:

"Medical-surgical vacuum" means a method used to provide a source of drainage aspiration, and suction in order to remove body fluids from patients ***and may include mobile medical-surgical vacuum systems***.

"Qualified Person" – (b)(15)

Not all hospitals have a certified industrial hygienist, and such level of ability is not needed to supervise and ensure compliance with these regulations or adhere to plume excavation system manufacturer specifications and standards. We request the following changes:

"Qualified person" for the purposes of this section, means a person designated by the employer, and who by **extensive** instruction, knowledge, training, and experience, has demonstrated their ability to effectively identify, ***and*** evaluate~~, **and control**~~ the hazards of occupational exposure to plume. ~~**The qualified person shall be knowledgeable in this standard and shall be competent in industrial hygiene practice. A Certified Industrial Hygienist as codified in California's Business and Professions Code sections 20700-20705 is considered competent in industrial hygiene practice.**~~

2. Written Exposure Control Plan ("Plan")

Section (c)(1):

Requiring a "qualified individual" to supervise the development of a Plan is not necessary and inconsistent with other workplace safety regulations that also require employer safety plans. In addition, and as noted above, many hospitals do not have the resources nor level of staff to satisfy the "qualified individual" definition proposed here. Therefore, we request removing reference to a "qualified individual" consistent with similarly drafted workplace safety regulations.

Section (c)(2)(C):

This paragraph would require hospitals to have effective procedures for identifying and evaluating *hazards associated with plume to include identifying unsafe conditions, work practices, and potential exposures* (Emphasis added) in their Plan. The purpose of these regulations is to ensure proper control measures are in place and safety equipment is used to **avoid** hazards associated with or caused by plume. This new language adds a causation component that is unrelated to the prevention of workplace exposure to plume and should be excluded from the paragraph.

Allow for integration into an existing Injury and Illness Prevention Plan (IIPP):

All hospitals must have a site-specific Injury and Illness Prevention Plan (IIPP). Consistent with other workplace safety statutes and regulations, we propose allowing hospitals to either incorporate the Plan as a stand-alone section in an IIPP or as a stand-alone document. We request the following changes:

Proposed New Section (c)(3): ***The written plan may be incorporated as a stand-alone section in the written injury and illness prevention program required by Section 3203 or maintained as a separate document.***

3. Control Measures – Section (d)

Engineering Controls – Plume Evacuation Systems Section (d)(1)(A)(1)-(4)

Excluding mobile medical-surgical vacuum systems in Section (d)(1)(A)(1) places an undue financial burden on hospitals by requiring them to replace medical-surgical vacuum systems that are equipped with an ULPA and gas filter with equally comparable equipment. This also introduces an unintended hazard by prohibiting use of acceptable controls to reduce exposure to surgical plume.

Similarly, in Sections (d)(1)(A)(3) & (4), requiring compliance with 8 CCR § 5143 ("Section 5143") will exclude portable units, mobile units, and medical-surgical vacuum systems that are widely used and effective when operating per the manufacturer's recommendations. Because Section 5143 only applies to built-in/centralized local exhaust ventilation systems, hospitals that have been using other systems will be forced to retrofit operating rooms and surgical centers to comply — a significant financial burden that is unnecessary. What is practical and included in the proposal is the requirement to follow the manufacturer's instructions — a requirement that is also aligns with the Conditions of Participation established by the Centers for Medicare & Medicaid Services.

We therefore request removal of references to Section 5143 and that all medical-surgical vacuums intended for plume evacuation be allowed when used in accordance with the manufacturer's requirements.

General Ventilation – (d)(1)(B)

Room ventilation requirements are set by the California Mechanical Code. CHA encourages referencing the current California Mechanical Code requirements to prevent undue confusion and maintain consistency with building code requirements, particularly as building requirements may change.

Training – Section (e) (8)

Consistent with other workplace safety regulations, including 8 CCR § 3342 - Violence Prevention Healthcare, we believe questions should be limited to the employer's written exposure control plan rather than exposure to plume generally. Similarly, we suggest including language that accommodates remote training and the opportunity to ask and respond to questions electronically.

To that end, we request the following changes to paragraph (8):

> An opportunity for interactive questions and answers with a person knowledgeable about ~~**occupational exposure to plume and the specific equipment to utilize to scavenge plume**~~ *the employer's written exposure control plan. Training not given in person shall provide for interactive questions to be answered within one business day by a person knowledgeable about the employer's written exposure control plan.*

Recordkeeping – Section (f)

We strongly encourage conforming Section (f) with Section 3204 (e)(1), which governs access to employee exposure and medical records for consistency, medical privacy, and trade secret considerations. Hospitals, employees, and employee representatives are familiar with the processes and requirements of Section 3404 (e)(1) and cross-reference to this provision will avoid confusion in interpretation and application of these new regulations.

Concerning newly added paragraph (4) and reference to Section 3204 generally, without more clarification, it is unclear what provisions of Section 3204 apply here. Additionally, it appears this paragraph is seeking to ensure hospitals maintain a record of when the Plan is reviewed, by whom, and the findings, but the language also requires documentation of "unsafe conditions and work practice" — vague and ambiguous terms that will only lead to confusion. Further, because Section (c) specifies what the Plan must include and when it must be reviewed, evaluated and updated, there is no reason to re-state what the Plan must include here.

To that end we request the following changes:

> (**4) Records** *related to review of the written exposure control plan pursuant to Section 51XX(c)(3),* ~~**of the annual review of the exposure control plan to identify unsafe conditions and work practices, including person(s) conducting the inspection, the unsafe conditions and work practices that have been identified and action taken to correct the identified unsafe conditions and work practices**~~ *shall be maintained in accordance with Section 3204 and available for review pursuant to Section 3204(e)(1).*

CHA looks forward to continued discussions to ensure that the final standards consider the various possible exposure scenarios and provide a risk-based approach to protecting the workplace safety of workers and patients.

Sincerely,

Erika Frank

Erika Frank
Vice President, Legal Counsel
California Hospital Association