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Chapter 7. Division of Labor Statistics and Research
Subchapter 1. Occupational Injury and Illness Reports and Records
Article 2. Employer Records of Occupational Injury or Illness

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§14300.35. Employee Involvement.

(a) Basic requirement. Your employees and their representatives must be involved in the recordkeeping system in several ways.

(1) You must inform each employee of how he or she is to report an injury or illness to you.

(2) You must provide limited access to your injury and illness records for your employees and their representatives.

(b) Implementation.

(1) What must I do to make sure that employees report work-related injuries and illnesses to me?

(A) You must set up a way for employees to report work-related injuries and illnesses promptly; and

(B) You must tell each employee how to report work-related injuries and illnesses to you.

(2) Do I have to give my employees and their representatives access to the injury and illness records required by this article?

Yes. Your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the injury and illness records required by this article, with some limitations, as discussed below.

(A) Who is an authorized employee representative?

An authorized employee representative is an authorized collective bargaining agent of employees.

(B) Who is a "personal representative" of an employee or former employee?

A personal representative is:

1. Any person that the employee or former employee designates as such, in writing; or
2. The legal representative of a deceased or legally incapacitated employee or former employee.

(C) If an employee or his or her representative asks for access to the Cal/OSHA Form 300 and annual summary when do I have to provide it?

When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored Cal/OSHA 300 forms or a current or stored annual summary for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant Cal/OSHA 300 forms and annual summaries by the end of the next business day.

Exception: If your establishment is in SIC Code 781, you must give the requester the information within 7 calendar days.

(D) May I remove the names of the employees or any other information from the Cal/OSHA Form 300 before I give copies to an employee, former employee, or employee representative?

No. You must leave the names on the Cal/OSHA Form 300. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the Cal/OSHA Form 300 for certain "privacy concern cases," as specified in Sections 14300.29(b)(6) through 14300.29(b)(9).

(E) If an employee or representative asks for access to the Cal/OSHA 301 Incident Report, when do I have to provide it?

1. When an employee, former employee, or personal representative asks for a copy of the Cal/OSHA Form 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the Cal/OSHA 301 Incident Report containing that information by the end of the next business day.

Exception: If your establishment is in SIC Code 781, you must give the requester the information within 7 calendar days.

2. When an authorized employee representative asks for copies of the Cal/OSHA 301 Incident Reports or equivalent forms for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within seven (7) calendar days but with the following personally identifying information deleted:

1. Name;

2. Address;

3. Date of birth;

4. Date of hire;

5. Gender;

6. Name of physician;

7. Location where treatment was provided;

8. Whether the employee was treated in an emergency room; and

9. Whether the employee was hospitalized overnight as an in-patient.

(F) May I charge for the copies?

No. You may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(c) With the exception of provisions to protect the privacy of employees in subsections (b)(2)(D) and (b)(2)(E) of this section and in subsections (b)(6) through (b)(10) in Section 14300.29, nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

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Cal/OSHA California's Employer Records of Occupational Injury and Illness

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California Recordkeeping Standard

14300.29 - Forms

(a) Basic requirement. You must use Cal/OSHA 300, 300A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The Cal/OSHA Form 300 is called the Log of Work-Related Injuries and Illnesses, the Cal/OSHA Form 300A is called the Summary of Work-Related Injuries and Illnesses, and the Cal/OSHA Form 301 is called the Injury and Illness Incident Report. Appendices A through C give samples of the Cal/OSHA forms. Appendices D through F provide elements for development of equivalent forms consistent with Section 14300.29(b)(4) requirements. Appendix G is a worksheet to assist in completing the Cal/OSHA Form 300A.

(b) Implementation.

(1) What do I need to do to complete the Cal/OSHA Form 300?

You must enter information about your establishment at the top of the Cal/OSHA Form 300 by entering a one or two line description for each recordable injury or illness, and summarizing this information on the Cal/OSHA Form 300A at the end of the year.

(2) What do I need to do to complete the Cal/OSHA Form 301 Incident Report?

You must complete a Cal/OSHA 301 Incident Report form, or an equivalent form, for each injury or illness required to be entered on the Cal/OSHA Form 300.

(3) How quickly must each injury or illness be recorded?

You must enter each recordable injury or illness on the Cal/OSHA Form 300 and Cal/OSHA Form 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(4) What is an equivalent form?

An equivalent form is one that has the same information, is as readable and understandable to a person not familiar with it, and is completed using the same instructions as the Cal/OSHA form it replaces.

(5) May I keep my records on a computer?

Yes. If the computer can produce equivalent forms when they are needed, as described under Sections 14300.35 and 14300.40, you may keep your records using a computer system.

(6) Are there situations where I do not put the employee's name on the forms for privacy reasons?

Yes. If you have a "privacy concern case," as described in subsection (b)(7) of this section, you may not enter the employee's name on the Cal/OSHA Form 300. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the Cal/OSHA Form 300 under Section 14300.35(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) How do I determine if an injury or illness is a privacy concern case?

You must consider the following injuries or illnesses to be privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system;

(B) An injury or illness resulting from a sexual assault;

(C) Mental illnesses;

(D) HIV infection, hepatitis, or tuberculosis;

(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see Section 14300.8 for definitions); and

(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

(8) May I classify any other types of injuries and illnesses as privacy concern cases?

Cal/OSHA

OSHA 300 Log

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No. This is a complete list of all injuries and illnesses considered privacy concern cases for purposes of Article 2.

(9) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?

Yes. If you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the Cal/OSHA forms 300 and 301. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) What must I do to protect employee privacy if I wish to provide access to the Cal/OSHA forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives?

If you decide to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by Sections 14300.35 and 14300.40), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the forms with personally identifying information only:

(A) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(B) to the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(C) to a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR. 164.512.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

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