



AGENDA

**HUMAN RESOURCES COMMITTEE
A COMMITTEE OF THE BOARD OF DIRECTORS**

**REGULAR MEETING
Wednesday, January 15, 2025
9:00 AM
Administration
600 N. Highland Springs Avenue, Banning, CA 92220**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at (951) 769-2101. **Notification 48 hours prior to the meeting** will enable the Hospital to make reasonable arrangement to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

TAB

I. Call to Order S. Rutledge

II. Public Comment

A five-minute limitation shall apply to each member of the public who wishes to address the Human Resources Committee of the Hospital Board of Directors on any matter under the subject jurisdiction of the Committee. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Committee Action.) (PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.)

On behalf of the San Gorgonio Memorial Hospital Board of Directors, we want you to know that the Board/Committee acknowledges the comments or concerns that you direct to this Committee. While the Board/Committee may wish to occasionally respond immediately to questions or comments if appropriate, they often will instruct the CEO, or other Administrative Executive personnel, to do further research and report back to the Board/Committee prior to responding to any issues raised. If you have specific questions, you will receive a response either at the meeting or shortly thereafter. The Board/Committee wants to ensure that it is fully informed before responding, and so if your questions are not addressed during the meeting, this does not indicate a lack of interest on the Board/Committee’s part; a response will be forthcoming.

OLD BUSINESS

III. ***Proposed Action - Approve Minutes** S. Rutledge
 • September 18, 2024, Regular Meeting A

NEW BUSINESS

IV. A. Employment Activity/Turnover Reports A. Karam B

1. Employee Activity by Job Class/Turnover Report (09/01/2024 – 12/31/2024)
2. Separation Reason Analysis – All Associates (09/01/2024 – 12/31/2024)
3. Separation Reason Analysis – Full and Part Time Associates (09/01/2024 – 12/31/2024)
4. Separation Reason Analysis – Per Diem Associates (09/01/2024 – 12/31/2024)
5. FTE Vacancy Summary (09/01/2024 – 12/31/2024)
6. RN Vacancy Summary (09/01/2024 – 12/31/2024)

- | | | | |
|-------|--|-------------|---|
| B. | Workers Compensation report (12/01/2024 – 12/31/2024) | | C |
| V. | Education | A. Karam | D |
| | <ul style="list-style-type: none">• New 2025 Labor and Employment Laws: What Employers Need to Know• HR Manager’s Legal Alert for Supervisors | | |
| VI. | Future Agenda Items | S. Rutledge | |
| VII. | Next Meeting: April 16, 2025 @ 9:00am | | |
| VIII. | Adjourn | S. Rutledge | |

*** Requires Action**

In accordance with The Brown Act, Section 54957.5, all public records relating to an agenda item on this agenda are available for public inspection at the time the document is distributed to all, or a majority of all, members of the Committee. Such records shall be available at the Hospital office located at 600 N. Highland Springs Avenue, Banning, CA 92220 during regular business hours, Monday through Friday, 8:00 am - 4:30 pm.

Certification of Posting

I certify that on January 10, 2025, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of San Gorgonio Memorial Hospital Human Resources Committee, and on the San Gorgonio Memorial Hospital website, said time being at least 72 hours in advance of the regular meeting of the Human Resources Committee (*Government Code Section 54954.2*).

Executed at Banning, California, on January 10, 2025



Ariel Whitley, Executive Assistant

TAB A

REGULAR MEETING OF THE
SAN GORGONIO MEMORIAL HOSPITAL
BOARD OF DIRECTORS

HUMAN RESOURCES COMMITTEE
September 18, 2024

The regular meeting of the San Gorgonio Memorial Hospital Board of Directors Human Resources Committee was held on Wednesday, September 18, 2024, in Classroom C, 600 N. Highland Springs Avenue, Banning, California.

Members Present: Susan DiBiasi, Perry Goldstein, Ron Rader, Steve Rutledge (C)

Excused Absence: None

Staff Present: Steve Barron (CEO), Angela Brady (CNE), Annah Karam (CHRO), Ariel Whitley (Executive Assistant), John Peleuses (VP, Ancillary and Support Services), Dan Heckathorne (CFO)

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP
Call To Order	Susan DiBiasi called the meeting to order at 9:01 am.	
Public Comment	No public was present.	
OLD BUSINESS		
Proposed Action - Approve Minutes: July 17, 2024, Regular Meeting	Susan DiBiasi asked for any changes or corrections to the minutes of the July 17, 2024, regular meeting. There were none.	The minutes of the July 17, 2024, Regular Meeting were reviewed and will stand as presented.
NEW BUSINESS		
Reports		
A. Employment Activity/Turnover Reports		
1. Employee Activity by Job Class/Turnover Report (07/01/2024)	Annah Karam, Chief Human Resources Officer, reviewed the report "Employee Activity by Job Class/Turnover Report" for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.	

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP
through 08/31/2024)		
2. Separation Reasons Analysis All Associates (07/01/2024 through 08/31/2024)	<p>Annah reviewed the “Separation Reason Analysis for All Associates” for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.</p> <p>For this period, there were 21 Voluntary Separations and 5 Involuntary Separations for a total of 26.</p>	
3. Separation Reason Analysis Full and Part Time Associates (07/01/2024 through 08/31/2024)	<p>Annah reviewed the “Separation Reason Analysis for Full and Part Time Associates” for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.</p> <p>For this period, there were 10 Voluntary Separations and 3 Involuntary Separations for a total of 13.</p>	
4. Separation Reason Analysis Per Diem Associates (07/01/2024 through 08/31/2024)	<p>Annah reviewed the “Separation Reason Analysis for Per Diem Associates” for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.</p> <p>For this period, there were 11 Voluntary Separations and 2 Involuntary Separations for a total of 13.</p>	
5. FTE Vacancy Summary (07/01/2024 through 08/31/2024)	<p>Annah reviewed the “FTE Vacancy Summary” for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.</p> <p>Annah reported that the Facility Wide vacancy rate as of 08/31/2024 was 14.49%.</p>	
6. RN Vacancy Summary (07/01/2024 through 08/31/2024)	<p>Annah reviewed the “RN Vacancy Summary” for the period of 07/01/2024 through 08/31/2024 as included in the Committee packet.</p> <p>Annah reported that the Overall All RN Vacancy rate as of 08/31/2024 was 19.43%.</p>	
B. Workers Compensation Report		
Workers Compensation Report (08/01/2024 through	Annah reviewed the Workers Compensation Reports covering the period of 08/01/2024 through 08/31/2024 as included in the Committee packet.	

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP								
08/31/2024)										
Proposed Action – Recommend Approval to Hospital Board <ul style="list-style-type: none"> 2024 Associates Health Plan Benefits 	Annah Karam, CHRO, reviewed the Associates Health Plan Benefits package as included in the committee packet. ROLL CALL: <table border="1" data-bbox="407 516 1179 594"> <tr> <td>DiBiasi</td> <td>Yes</td> <td>Goldstein</td> <td>Yes</td> </tr> <tr> <td>Rader</td> <td>Yes</td> <td>Rutledge</td> <td>Yes</td> </tr> </table> Motion carried.	DiBiasi	Yes	Goldstein	Yes	Rader	Yes	Rutledge	Yes	M.S.C., (DiBiasi/Rader), the SGMH Human Resources Committee voted to recommend approval to the Hospital Board of the 2024 Associates Health Plan Benefits.
DiBiasi	Yes	Goldstein	Yes							
Rader	Yes	Rutledge	Yes							
Proposed Action – Recommend Approval to Hospital Board of Associate Holiday Gift Cards	Annah Karam noted that every year we present associates with holiday gift cards. The value of those gift cards will be as follows: Full time - \$100.00 Part Time - \$75.00 Per Diem - \$15.00 The total dollar amount is \$50,495.00. ROLL CALL: <table border="1" data-bbox="407 1129 1179 1207"> <tr> <td>DiBiasi</td> <td>Yes</td> <td>Goldstein</td> <td>Yes</td> </tr> <tr> <td>Rader</td> <td>Yes</td> <td>Rutledge</td> <td>Yes</td> </tr> </table> Motion carried.	DiBiasi	Yes	Goldstein	Yes	Rader	Yes	Rutledge	Yes	M.S.C., (Rader/Goldstein), the SGMH Human Resources Committee voted to recommend approval to the Hospital Board of the Associate Holiday Gift Cards.
DiBiasi	Yes	Goldstein	Yes							
Rader	Yes	Rutledge	Yes							
Education	Annah reviewed each education article as included in the committee packets: <ul style="list-style-type: none"> Reclaiming the Power of Hope 									
Future Agenda items	None.									
Next regular meeting	The next regular Human Resources Committee meeting is scheduled for January 15, 2025, @ 9:00 am.									
Adjournment	The meeting was adjourned at 9:28 am.									

In accordance with The Brown Act, *Section 54957.5*, all reports and handouts discussed during this Open Session meeting are public records and are available for public inspection. These reports and/or handouts are available for review at the Hospital Administration office located at 600 N. Highland Springs Avenue, Banning, CA 92220 during regular business hours, Monday through Friday, 8:00 am - 4:30 pm.

Minutes respectfully submitted by Ariel Whitley, Executive Assistant

TAB B

EMPLOYEE ACTIVITY BY JOB CLASS / TURN OVER REPORT

09/01/2024 THROUGH 12/31/2024

JOB CLASS/FAMILY	CURRENT	2023	YTD	CURRENT	2023	YTD	ACTIVE	LOA	CURRENT	ANNUALIZED	
	NEW HIRES	NEW HIRES	NEW HIRES	SEPARATIONS	SEPARATIONS	TERMS	ASSOCIATE	ASSOCIATE	TURNOVER	TURNOVER	
	09/01/2024 THROUGH 12/31/2024		01/01/2024 THROUGH 12/31/2024	09/01/2024 THROUGH 12/31/2024		01/01/2024 THROUGH 12/31/2024	AS OF 12/31/2024	AS OF 12/31/2024	AS OF 12/31/2024		
ADMIN/CLERICAL	6	9	10	6	11	13	81	5	7.41%	16.05%	1
ANCILLARY	10	24	20	11	17	26	82	1	13.41%	31.71%	2
CLS	0	5	0	1	4	1	4	0	25.00%	25.00%	3
DIRECTORS/MGRS	0	3	0	0	6	3	32	0	0.00%	9.38%	4
LVN	0	2	2	0	2	3	18	1	0.00%	16.67%	5
OTHER NURSING	9	27	17	5	31	14	61	0	8.20%	22.95%	6
PT	3	5	3	1	2	2	10	0	10.00%	20.00%	7
RAD TECH	3	5	6	1	6	4	31	1	3.23%	12.90%	8
RN	19	54	40	17	64	46	141	12	12.06%	32.62%	9
RT	0	3	2	0	3	1	22	1	0.00%	4.55%	10
SUPPORT SERVICES	18	59	28	24	51	47	103	8	23.30%	45.63%	11
FACILITY TOTAL	68	196	128	66	197	160	585	29	11.28%	27.35%	12
<i>Full Time</i>	46	115	78	44	104	89	404	22	10.89%	22.03%	13
<i>Part Time</i>	4	22	11	10	20	25	56	4	17.86%	44.64%	14
<i>Per Diem</i>	18	59	39	12	73	46	125	3	9.60%	36.80%	15
TOTAL	68	196	128	66	197	160	585	29	11.28%		16

Current Turnover: J22
Annualized Turnover: K22

Southern California Hospital Association (HASC) Benchmark:
 Turnover for all Associates = 2.70%
 Turnover for all RNs = 2.70%
 TOTAL ASSOCIATES ON PAYROLL = 614

Southern California Hospital Association (HASC) Benchmark:
 Turnover for all PER DIEM Associates = 8.90%
 Turnover for all PER DIEM RNs = 8.00%

SEPARATION ANALYSIS
ALL ASSOCIATES
09/01/2024 THROUGH 12/31/2024

REASON	Current Qtr % by Category	Length Of Service						Total Separations
		Less than 90 days	90 days - 1 year	1-2 years	3-5 years	6-10 years	10+ years	
Voluntary Separations								
Full-Time	51.5%	7	11	7	4	3	2	34
Part-Time	10.6%	2	3	2	0	0	0	7
Per Diem	15.2%	2	2	3	0	3	0	10
Subtotal, Voluntary Separations	77.3%	11	16	12	4	6	2	51
Involuntary Separations								
Full-Time	15.2%	2	2	2	1	0	3	10
Part-Time	4.5%	1	0	1	1	0	0	3
Per Diem	4.5%	1	1	0	0	0	0	2
Subtotal, Involuntary Separation	22.7%	4	3	3	2	0	3	15
Total Separations	100.0%	15	19	15	6	6	5	66

SEPARATIONS BY DEPARTMENT	1-LT 90 DAYS	2-90 DAYS TO 1YR	3-1 TO 2 YRS	4-3 TO 5 YRS	5-6 TO 10 YRS	6-10+ YRS	Grand Total
Involuntary	4	3	3	2		2	14
BHC		1					1
Dietary	1		1				2
ED	1					1	2
ICU			1				1
Joint Venture Phys Ther			1			1	2
Medical Clinic	1						1
MS				1			1
OR				1			1
Security	1	2					3
Voluntary	11	16	12	4	6	2	51
Accounting			2	1			3
BHC		2					2
Case Management					1		1
CT				1			1
Dietary	2	1					3
ED		2	3	1		1	7
Environmental Services		2	1				3
ICU		1					1
Laboratory		1	1	1	3		6
MS	3	1				1	5
OB	1		1				2
OR	1	1			1		3
PACU					1		1
Physical Therapy			1				1
Registration			1				1
Security	2	5	2				9
Social Services	2						2
SUSPENDED						1	1
Environmental Services						1	1
Grand Total	15	19	15	6	6	5	66

FULL AND PART TIME ASSOCIATES
09/01/2024 THROUGH 12/31/2024

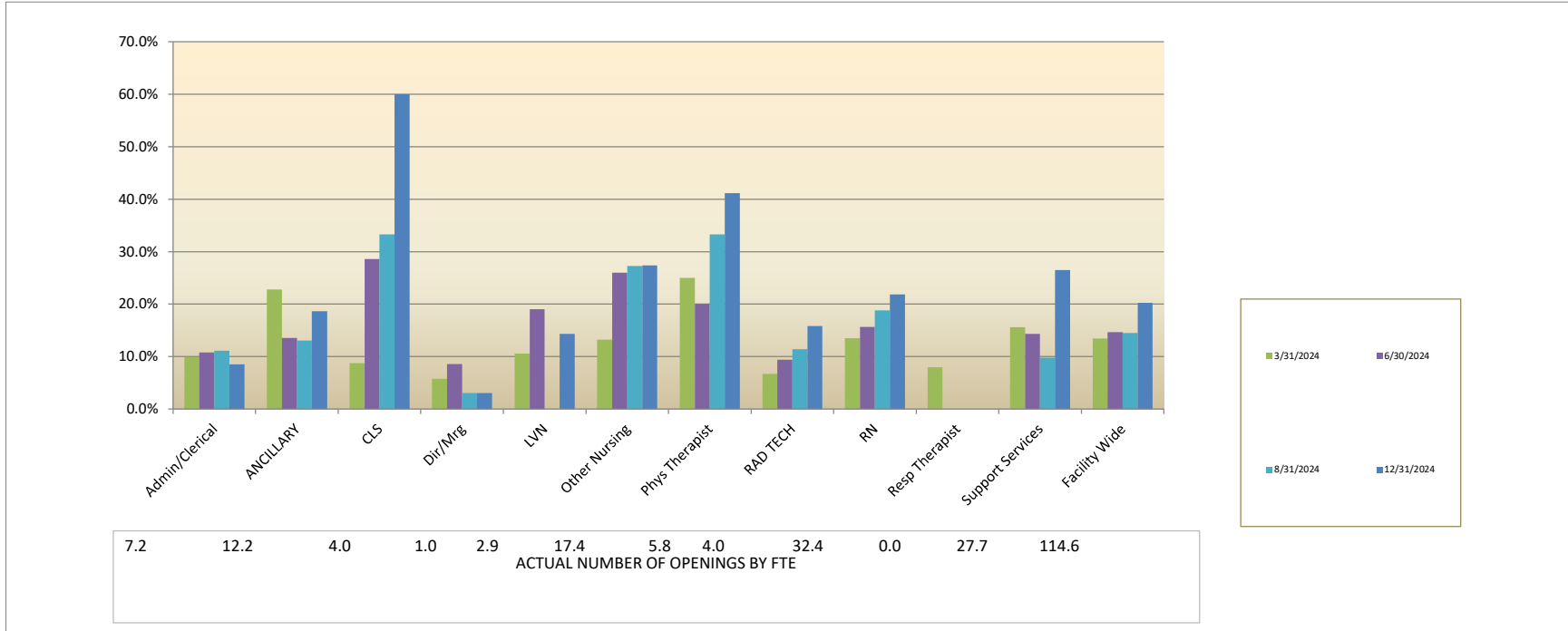
REASON	Current Qtr % by Category	Length Of Service						Total Separations
		Less than 90 days	90 days - 1 year	1-2 years	3-5 years	6-10 years	10+ years	
Voluntary Separations								
Did not Return from LOA	1.9%	0	0	0	0	0	1	1
Employee Death	0.0%							0
Family/Personal Reasons	20.4%	2	3	4	1	0	1	11
Job Abandonment	5.6%	1	2	0	0	0	0	3
Job Dissatisfaction	9.3%	0	2	1	0	1	1	5
Medical Reasons	0.0%							0
New Job Opportunity	31.5%	5	5	4	1	2	0	17
Not Available to Work	1.9%	1	0	0	0	0	0	1
Pay	0.0%							0
Relocation	5.6%	0	1	0	2	0	0	3
Retirement	0.0%							0
Return to School	1.9%	0	1	0	0	0	0	1
Unknown	0.0%							0
Subtotal, Voluntary Separations	77.8%	9	14	9	4	3	3	42
Involuntary Separations								
Attendance/Tardiness	0.0%							0
Conduct	16.7%	2	2	2	1	0	2	9
Death	0.0%							0
Expired Credentials	3.7%	0	0	1	1	0	0	2
Didn't meet scheduling needs	3.7%							0
Poor Performance	1.9%	1	0	0	0	0	0	1
Position Eliminations	0.0%							0
Temporary Position	0.0%							0
Subtotal, Involuntary Separations	22.2%	3	2	3	2	0	2	12
Total Separations	100.0%	12	16	12	6	3	5	54

Separation Reason Analysis
Per Diem Associates Only
09/01/2024 THROUGH 12/31/2024

REASON	Current Qtr % by Category	Length Of Service						Total Separations
		Less than 90 days	90 days - 1 year	1-2 years	3-5 years	6-10 years	10+ years	
<i>Voluntary Separations</i>								
Did not Return from LOA	0.0%							0
Employee Death	0.0%							0
Family/Personal Reasons	16.7%	0	1	0	0	1	0	2
Job Abandonment	0.0%							0
Job Dissatisfaction	8.3%	1	0	0	0	0	0	1
Medical Reasons	0.0%							0
New Job Opportunity	41.7%	0	0	3	0	2	0	5
Not Available to Work	0.0%							0
Pay	0.0%							0
Relocation	0.0%							0
Retirement	0.0%							0
Return to School	8.3%	0	1	0	0	0	0	1
Unknown	8.3%	1	0	0	0	0	0	1
<i>Subtotal, Voluntary Separations</i>	83.3%	2	2	3	0	3	0	10
<i>Involuntary Separations</i>								
Attendance/Tardiness	0.0%							0
Conduct	8.3%	0	1	0	0	0	0	1
Didn't meet certification deadline	0.0%							0
Didn't meet scheduling needs	0.0%							0
Poor Performance	8.3%	1	0	0	0	0	0	1
Position Eliminations	0.0%							0
Temporary Position	0.0%							0
<i>Subtotal, Involuntary Separations</i>	16.7%	1	1	0	0	0	0	2
Total Separations	100.0%	3	3	3	0	3	0	12

FTE Vacancy Summary: 09/01/2024 THROUGH 12/31/2024

	<u>Admin/Clerical</u>	<u>ANCILLARY</u>	<u>CLS</u>	<u>Dir/Mrg</u>	<u>LVN</u>	<u>Other Nursing</u>	<u>Phys Therapist</u>	<u>RAD TECH</u>	<u>RN</u>	<u>Resp Therapist</u>	<u>Support Services</u>	<u>Facility Wide</u>
3/31/2024	9.89%	22.78%	8.70%	5.71%	10.53%	13.19%	25.00%	6.67%	13.48%	8.00%	15.60%	13.44%
6/30/2024	10.75%	13.54%	28.57%	8.57%	19.05%	26.03%	20.00%	9.38%	15.64%	0.00%	14.29%	14.67%
8/31/2024	11.11%	13.04%	33.33%	3.03%	0.00%	27.27%	33.33%	11.43%	18.78%	0.00%	9.76%	14.49%
12/31/2024	8.51%	18.63%	60.00%	3.03%	14.29%	27.38%	41.18%	15.79%	21.83%	0.00%	26.49%	20.26%



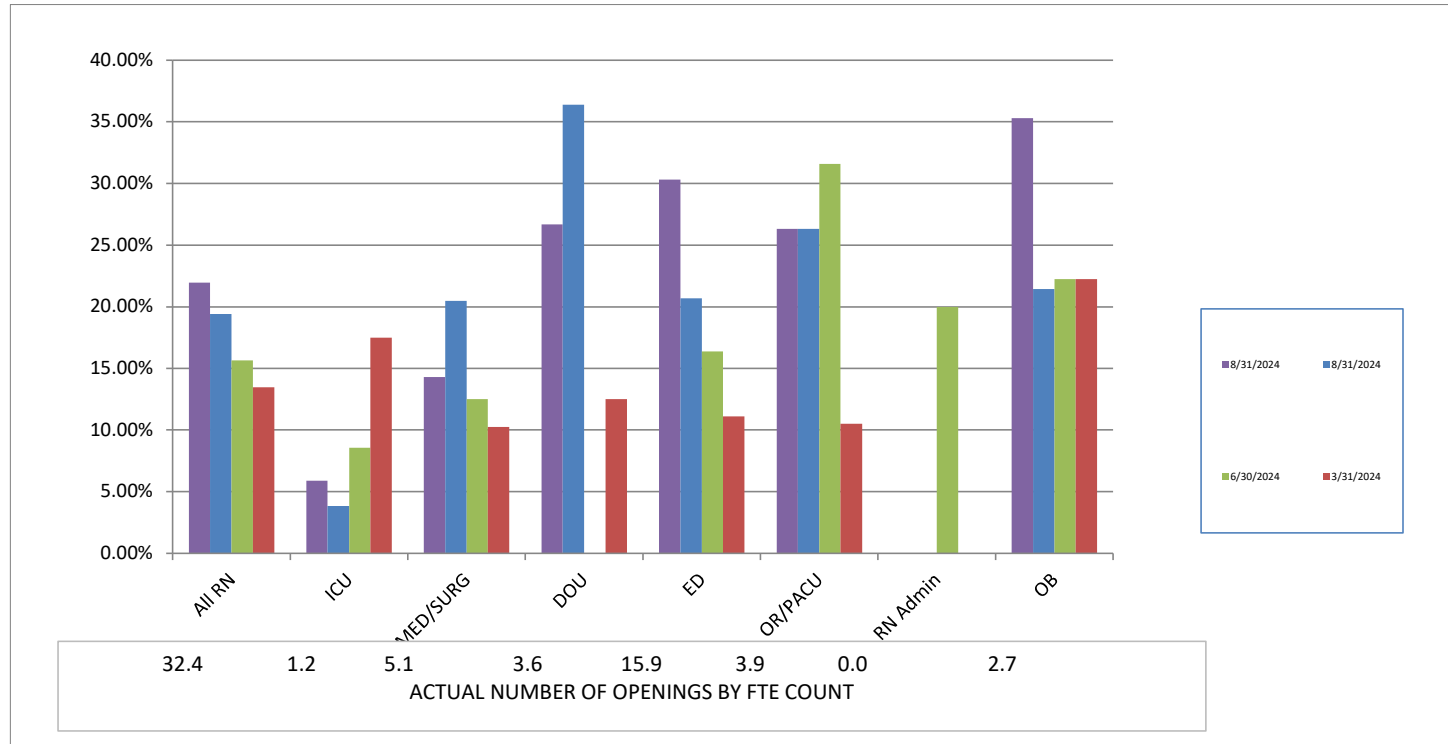
VACANCY RATE = Number of openings/(total staff + openings)

	8/31/2024	8/31/2024	6/30/2024	3/31/2024
All RN	21.94%	19.43%	15.64%	13.48%
ICU	5.88%	3.85%	8.57%	17.50%
MED/SURG	14.29%	20.45%	12.50%	10.26%
DOU	26.67%	36.36%	0.00%	12.50%
ED	30.30%	20.69%	16.36%	11.11%
OR/PACU	26.32%	26.32%	31.58%	10.53%
RN Admin	0.00%	0.00%	20.00%	0.00%
OB	35.29%	21.43%	22.22%	22.22%

	OPEN POSITIONS	TOTAL STAFF
All RN	43	153
ICU	2	32
Med Surg	6	36
DOU	4	11
ED	20	46
OR/PACU	5	14
RN Adm.	0	3
OB	6	11

VACANCY RATE
21.94%
5.88%
14.29%
26.67%
30.30%
26.32%
0.00%
35.29%

FTE
32.4
1.2
5.1
3.6
15.9
3.9
0
2.7



TAB C



DASHBOARD REPORT

Fiscal Year Basis: July

San Geronio Memorial Hospital

Data as of 12/31/2024

Reporting Period 12/1/2024 - 12/31/2024

SUMMARY DATA

FiscalYear	ValuationDate	Values			Open Count
		Total Paid	Total Reserves	Total Incurred	
2015-2016	2024-12-31	845,278	148,060	993,338	3
2016-2017	2024-12-31	205,546	-	205,546	-
2017-2018	2024-12-31	72,312	-	72,312	-
2018-2019	2024-12-31	91,892	49,405	141,297	2
2019-2020	2024-12-31	68,021	-	68,021	-
2020-2021	2024-12-31	438,204	219,003	657,207	3
2021-2022	2024-12-31	111,249	65,334	176,584	2
2022-2023	2024-12-31	173,627	124,242	297,869	3
2023-2024	2024-12-31	403,233	221,744	624,977	7
2024-2025	2024-12-31	26,315	73,962	100,277	9
Grand Total		2,435,678	901,750	3,337,428	29

DASHBOARD REPORT

Fiscal Year Basis: July

San Geronio Memorial Hospital

Data as of 12/31/2024

Reporting Period 12/1/2024 - 12/31/2024

TOP TEN CLAIMS

Claim Number	Claimant	Department	Cause	DOI	Status	Total Paid	Total Reserves	Total Incurred
20805905		Surgical Services	Fall, Slip or Trip Injury	2020-08-04	Open	284,224	87,705	371,928
16000811		Environmental Services	Fall, Slip or Trip Injury	2016-05-31	Open	173,385	47,840	221,225
16000026		Obstetrics	Fall, Slip or Trip Injury	2016-01-05	Open	138,013	62,541	200,553
21000657		Environmental Services	Fall, Slip or Trip Injury	2021-03-16	Re-Open	60,842	86,411	147,253
23001495		Laboratory	Fall, Slip or Trip Injury	2023-07-11	Open	138,040	6,897	144,937
22002677		Medical Surgical	Strain or Injury By	2022-11-20	Open	61,030	38,278	99,308
16001005		Medical Surgical	Burn or Scald - Heat or Cold Exposures	2016-07-21	Closed	98,814	-	98,814
23001964		Obstetrics	Fall, Slip or Trip Injury	2023-09-03	Open	61,649	35,022	96,671
16000233		Environmental Services	Strain or Injury By	2016-02-20	Closed	93,934	-	93,934
24001902		Emergency Department	Strain or Injury By	2024-06-04	Open	24,813	62,782	87,595

FREQUENCY BY DEPARTMENT					SEVERITY BY DEPARTMENT				
Department	Claim Count	% of Claims	Total Incurred	% of Total Incurred	Department	Claim Count	% of Claims	Total Incurred	% of Total Incurred
Medical Surgical	40	18.60%	737,739	22.11%	Environmental Services	38	17.67%	743,648	22.28%
Environmental Services	38	17.67%	743,648	22.28%	Medical Surgical	40	18.60%	737,739	22.11%
Emergency Department	29	13.49%	226,517	6.79%	Surgical Services	9	4.19%	409,708	12.28%
Dietary	22	10.23%	42,399	1.27%	Obstetrics	6	2.79%	354,523	10.62%
Laboratory	10	4.65%	221,028	6.62%	Emergency Department	29	13.49%	226,517	6.79%
Surgical Services	9	4.19%	409,708	12.28%	Laboratory	10	4.65%	221,028	6.62%
Intensive Care Unit (ICU)	8	3.72%	59,995	1.80%	Nursing Administration	5	2.33%	135,145	4.05%
Security Department	7	3.26%	92,286	2.77%	Security Department	7	3.26%	92,286	2.77%
Obstetrics	6	2.79%	354,523	10.62%	Medical Staff	6	2.79%	69,218	2.07%
Medical Staff	6	2.79%	69,218	2.07%	CT/Echotechnology	2	0.93%	64,766	1.94%
FREQUENCY BY CAUSE					SEVERITY BY CAUSE				
Cause	Claim Count	% of Claims	Total Incurred	% of Total Incurred	Cause	Claim Count	% of Claims	Total Incurred	% of Total Incurred
Strain or Injury By	70	32.56%	913,651	27.38%	Fall, Slip or Trip Injury	35	16.28%	1,687,205	50.55%
Fall, Slip or Trip Injury	35	16.28%	1,687,205	50.55%	Strain or Injury By	70	32.56%	913,651	27.38%
Burn or Scald - Heat or Cold Exposures - Contact	25	11.63%	133,953	4.01%	Miscellaneous Causes	12	5.58%	226,851	6.80%
Struck or Injured By	24	11.16%	182,514	5.47%	Struck or Injured By	24	11.16%	182,514	5.47%
Cut, Puncture, Scrape Injured by	19	8.84%	76,893	2.30%	Burn or Scald - Heat or Cold Exposure	25	11.63%	133,953	4.01%
Exposure	13	6.05%	62,327	1.87%	Cut, Puncture, Scrape Injured by	19	8.84%	76,893	2.30%
Miscellaneous Causes	12	5.58%	226,851	6.80%	Exposure	13	6.05%	62,327	1.87%
Caught In, Under or Between	12	5.58%	9,997	0.30%	Motor Vehicle	2	0.93%	31,133	0.93%
Striking Against or Stepping on	3	1.40%	12,903	0.39%	Striking Against or Stepping on	3	1.40%	12,903	0.39%
Motor Vehicle	2	0.93%	31,133	0.93%	Caught In, Under or Between	12	5.58%	9,997	0.30%

Open Claims

San Gorgonio Memorial Hospital

Fiscal Year Basis: July

Data as of 12/31/2024

Reporting Period 12/1/2024 - 12/31/2024

							Values				
Loss Date	Claim #	Status	Claimant Name	ClaimantTypeDesc	InjuryCauseGroup	Litigated (1=	Count	Paid	Outstanding	Incurred	Lost Time
2015-08-20	15001161	Re-Open		Future Medical	Strain or Injury By	0	1	27,087	37,679	64,766	0
2016-01-05	16000026	Open		Future Medical	Fall, Slip or Trip Inju	1	1	138,013	62,541	200,553	749
2016-05-31	16000811	Open		Future Medical	Fall, Slip or Trip Inju	1	1	173,385	47,840	221,225	730
2018-07-09	18752164	Open		Indemnity	Miscellaneous Cause	1	1	-	5,000	5,000	0
2019-02-11	19000235	Open		Future Medical	Fall, Slip or Trip Inju	0	1	29,752	44,405	74,157	0
2020-08-04	20805905	Open		Indemnity	Fall, Slip or Trip Inju	1	1	284,224	87,705	371,928	728
2021-03-16	21000657	Re-Open		Indemnity	Fall, Slip or Trip Inju	1	1	60,842	86,411	147,253	327
2021-04-30	21001003	Open		Indemnity	Strain or Injury By	0	1	2,233	44,888	47,121	0
2021-08-13	21001795	Open		Future Medical	Strain or Injury By	0	1	33,280	40,127	73,407	70
2022-01-23	22000651	Re-Open		Future Medical	Fall, Slip or Trip Inju	0	1	31,833	25,207	57,040	106
2022-11-20	22002677	Open		Future Medical	Strain or Injury By	0	1	61,030	38,278	99,308	200
2022-12-02	22002737	Open		Indemnity	Strain or Injury By	0	1	5,172	46,642	51,814	11
2023-03-07	23000477	Open		Future Medical	Fall, Slip or Trip Inju	0	1	36,780	39,321	76,101	125
2023-07-11	23001495	Open		Indemnity	Fall, Slip or Trip Inju	1	1	138,040	6,897	144,937	112
2023-09-03	23001964	Open		Future Medical	Fall, Slip or Trip Inju	0	1	61,649	35,022	96,671	154
2023-10-01	23003282	Open		Indemnity	Miscellaneous Cause	0	1	4,294	16,206	20,500	0
2024-01-09	23003107	Open		Future Medical	Strain or Injury By	0	1	7,025	33,368	40,393	22
2024-01-11	24000701	Open		Indemnity	Miscellaneous Cause	1	1	11,577	42,923	54,500	0
2024-02-23	24000340	Open		Indemnity	Fall, Slip or Trip Inju	0	1	34,750	24,546	59,297	100
2024-06-04	24001902	Open		Indemnity	Strain or Injury By	0	1	24,813	62,782	87,595	94
2024-07-22	24001567	Open		Indemnity	Strain or Injury By	0	1	9,276	11,558	20,834	22
2024-08-05	24001690	Open		Medical	Cut, Puncture, Scrap	0	1	1,350	2,150	3,500	0
2024-09-06	24001960	Re-Open		Indemnity	Miscellaneous Cause	1	1	682	32,436	33,118	0
2024-09-15	24002020	Open		Indemnity	Strain or Injury By	0	1	9,548	10,917	20,465	65
2024-10-23	24002364	Open		Indemnity	Strain or Injury By	0	1	1,228	4,484	5,713	5
2024-11-07	24002481	Open		Medical	Burn or Scald - Heat	0	1	-	1,700	1,700	0
2024-11-20	24002649	Open		Indemnity	Fall, Slip or Trip Inju	0	1	-	300	300	0
2024-11-27	24002638	Open		Indemnity	Fall, Slip or Trip Inju	0	1	953	10,416	11,369	8
2024-12-28	24002800	Open		Medical	Cut, Puncture, Scrap	0	1	-	-	-	0
Grand Total							29	1,188,816	901,750	2,090,566	3,628

TAB D

New 2025 Labor and Employment Laws: What Employers Need to Know

By James W. Ward, Employment Law Subject Matter Expert/
Legal Writer and Editor



SHARE THIS WHITE PAPER:



We're coming to the end of October, which means the annual legislative cycle has ended. California Governor Gavin Newsom signed hundreds of bills into law touching on a wide variety of issues, including labor and employment.

But employers are still catching their breath after the incredibly busy year we've already had, including California's [new workplace violence prevention laws](#), [Private Attorneys General Act \(PAGA\) reform](#), [indoor heat illness prevention regulations](#) and the recent federal [Pregnant Workers Fairness Act regulations](#), to name a few. Still, employers need to be ready for new 2025 labor and employment laws so here's a quick look to help prepare. Unless otherwise stated, these new laws are effective January 1, 2025.

Minimum Wage

California's minimum wage isn't technically a new law, but it does increase on January 1, 2025 — plus local minimum wage ordinance updates, a recently triggered health care worker minimum wage and a November ballot proposition make it more complicated.

On January 1, 2025, the general California [statewide minimum wage](#) is scheduled to increase to \$16.50 per hour. However, the November 2024 ballot has [Proposition 32](#), which, if approved, would increase the minimum wage for employers with 26 or more employees to \$17 per hour for the rest of 2024 and increase to \$18 per hour on January 1, 2025. Proposition 32 would also raise the minimum wage for small businesses with 25 or fewer employees to at least \$17 per hour on January 1, 2025, with another increase in 2026 to \$18 per hour.

Employers should remember that any increase to the state minimum wage will trigger an increase in the salary test for employees classified under California's "white collar exemptions," which require employees to earn a minimum monthly salary of no less than two times the state minimum wage for full-time employment. Industry-specific minimum wages, such as the new health care worker minimum wage (discussed below) and the fast food worker minimum wage that went into effect in April 2024, impose separate salary tests for exempt employees in those industries.

In addition to statewide minimum wage changes, after several delays, the long-awaited [California health care worker minimum wage](#) law took effect on October 16, 2024. Signed last year and originally scheduled to take effect in June 2024, this law eventually had three potential start dates depending on certain triggers, and on October 1, 2024, it was triggered, creating a 15-day window for the health care worker minimum wage to be implemented.

Covering 20 different facility types, the health care worker minimum wage law implements different rates and scheduled rate increases depending on the facility type. Plus, covered health care employers must post a [supplemental minimum wage](#) notice in the workplace alongside the regular statewide minimum wage notice. Employers who are unsure whether their facilities are covered should consult with legal counsel.

Finally, employers should keep in mind any applicable local minimum wage ordinances increases. On January 1, the following jurisdictions are expected to increase their local minimum wage: Belmont, Burlingame, Cupertino, Daly City, East Palo Alto, El Cerrito, Foster City, Half Moon Bay, Hayward, Los Altos, Menlo Park, Mountain View, Novato, Oakland, Palo Alto, Petaluma, Redwood City, Richmond, San Carlos, San Diego, San Jose, San Mateo, Santa Clara, Santa Rosa, Sonoma, South San Francisco, Sunnyvale and West Hollywood. Some localities have already announced their new 2025

local minimum wage; for instance, Mountain View's will increase to \$19.20/hour (up from \$18.75/hour), Santa Clara's will increase to \$18.20/hour (up from \$17.75/hour) and West Hollywood's will increase to \$19.65/hour (up from \$19.08/hour).

Leaves of Absence

[AB 2499](#) expands and moves crime victims' leave from the Labor Code to the Fair Employment and Housing Act (FEHA) meaning the California Civil Rights Department (CRD) will have enforcement authority. It also similarly moves jury and witness duty leave, but while that leave effectively remains the same, crime victims' leave expands on existing requirements.

For example, while employers with 25 or more employees must still provide employees who are victims of a crime with time off for treatment and various other reasons, the new law expands those reasons plus employers must provide employees with time off to help family members who are victims of a crime.

The new law also broadens the definition of "victim" to someone who suffers a "qualifying act of violence," encompassing everything covered by existing law and also includes, for example:


- When an individual brandishes a dangerous weapon at someone;
- Threatens to use force to injure someone; or
- An act that causes bodily injury or death to another.

Previously, the law defined victim largely in relation to crimes and domestic violence as defined by California Family and Penal codes. Employers should review this new law and update their policies as necessary.

Another new law, [SB 1105](#), revises California's paid sick leave, expressly allowing agricultural employees to use accrued paid sick leave to avoid smoke, heat or flooding conditions created by a local or state emergency. The bill states that the revision doesn't constitute a change in the law; rather, it's a clarification of, or "declaratory of," existing law to the extent that the sick days are necessary for an employee's preventive care.

One more notable leave of absence change is AB 2011, which makes the CRD's Small Employer (5-19 Employees) Mediation Program permanent as it was scheduled to end this year. The program is also expanded to cover reproductive loss leave disputes in addition to California Family Rights Act (CFRA) and bereavement leave disputes.

Finally, California's State Disability Insurance (SDI) and Paid Family Leave (PFL) programs have two changes. First, [AB 2123](#) eliminates employers' current ability to require employees use up to two weeks of accrued vacation before — and as a condition of — receiving PFL wage replacement benefits. Employers that maintained this practice should update their policies by January 1.



**Employers
must provide
employees with
time off to help
family members
who are victims
of violence.**

The second change is based on a 2022 law that revised the formulas for determining benefits under both the SDI and PFL programs for periods of disability beginning on or after January 1, 2025. So, beginning next year, the wage replacement rate will increase to between 70 to 90 percent of the wages the employee earned in the highest quarter of the base period (currently it's between 60 to 70 percent), depending on the individual's wages earned.

Employer Speech

One significant new law concerns employer speech; [SB 399](#) seeks to end so-called captive audience meetings during work hours. Specifically, the law prohibits an employer from subjecting — or threatening to subject — an employee to discrimination, retaliation or any adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive or listen to any employer communications about the employer's opinion on religious or political matters.

**SB 399
creates new
employer speech
restrictions
regarding religious
or political
matters.**

“Political matters” is defined broadly as matters relating to elections for political office, political parties, legislation, regulations and the decision to join or support any political party, or political or labor organization. “Religious matters” is similarly broadly defined as matters relating to religious affiliation and practice, and the decision to join or support any religious organization or association.

The law provides that an employee who is working at the time of the meeting and elects not to attend must continue to be paid while the meeting is being held.

The law has a few narrow exceptions — like it doesn't apply to certain religious corporations and political organizations. Additionally, the law does not restrict employers from engaging in communications or training mandated by law or necessary for job performance.

CalChamber tagged SB 399 as a [job killer bill](#) this year.

Discrimination, Harassment and Retaliation Prevention

Two new bills add to California's anti-discrimination laws. First, [SB 1100](#) continues the recent trend of regulating what employers can say during the recruiting and hiring process. This law prohibits employers from listing a driver's license as a preferred qualification for job candidates unless certain conditions are met.

Specifically, employers cannot include a statement in a job advertisement, posting, application or other materials that an applicant must have a driver's license, unless the employer both:

- “Reasonably expects” driving to be one of the job functions for the position; and
- “Reasonably believes” that using an alternative form of transportation would not be comparable in travel time or cost to the employer.

Thus, even if driving is a position's job function, employers still can't require a driver's license unless they carefully consider and conclude that alternative forms of travel, including using ride-share services, taxis and bicycles, carpooling, or walking, would not work.

Then, [SB 1137](#) clarifies that the FEHA, the Unruh Civil Rights Act and the Education Code's anti-discrimination provisions prohibit discrimination not only based on individual protected characteristics, but also on any combination of protected characteristics — a concept often referred to as intersectionality. In this bill, the California Legislature specifically affirmed a Ninth Circuit Court of Appeals decision recognizing that when an individual alleges discrimination based on multiple protected characteristics, it may be necessary to determine whether discrimination occurred based on the combination of characteristics instead of in isolation (University of Hawai'i, 40 F.3d 1551 (9th Cir. 1994)).

Required Poster and Notice Updates

Current California law requires employers to post a notice that provides employees with their rights under workers' compensation laws. Under [AB 1870](#), employers will need an updated workers' compensation poster that informs employees that they may consult with a licensed attorney to advise them of their rights under workers' compensation laws in addition to existing requirements.

Similarly, California law requires employers to display a list of employees' rights and responsibilities under the state's whistleblower laws. Now, [AB 2299](#) requires the California Labor Commissioner to develop a model notice that otherwise complies with existing requirements. Employers posting the Labor Commissioner's model poster will be deemed in compliance with the law.

Finally, California employers must provide notice to employees of their rights under the state's laws providing leave for crime and abuse victims. With AB 2499's expansions to these leave provisions (discussed in Leaves of Absence above), employers will need to provide an updated notice next year. Specifically, AB 2499 directs the CRD to create a model form that employers may use to comply with notice requirements, but employers don't have to comply until the CRD's model form is posted. The CRD has a July 1, 2025, deadline for their model form, but it's unlikely CRD will wait that long so employers should prepare for a new notice by January 1, 2025.

Independent Contractors

Following a [similar Los Angeles City law](#), [SB 988](#) creates the Freelance Worker Protection Act, which imposes requirements on employers that form agreements with freelance workers providing “professional services” (limited to those listed in Labor Code section 2778) for the employer that are worth \$250 or more.

If a contract falls under the Freelance Worker Protection Act’s scope, the law requires that the contract be in writing and include certain information (e.g., names, dates, list of services and payment information). Additionally, payment must be made on the date specified in the contract or no later than 30 days after completion of services. Discrimination or retaliation against individuals exercising their rights under the law is prohibited.

Workplace Safety

First, on January 1, 2025, certain provisions from last year’s [SB 428](#) take effect; it expands the scope of the state’s workplace violence temporary restraining order (TRO) laws. Currently, an employer can seek a TRO on behalf of an employee who has suffered unlawful violence or a credible threat of violence that was or could be carried out at the workplace. Beginning January 1, 2025, the employee’s collective bargaining representative can also seek a TRO, not just the employer.

Also in January, workplace TROs may be sought when an employee suffers “harassment,” which in this case means a “knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.” The conduct must be something that causes a “reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress.”

New for this year are [AB 2975](#) and [AB 1976](#); both direct the Occupational Safety and Health Standards Board — the standards board within the California Division of Occupational Safety and Health (Cal/OSHA) — to address certain topics through rulemaking in the future.

Specifically, by March 2027, AB 2975 requires the board to revise the existing violence prevention in health care regulations to include a requirement that a hospital implement a weapons detection screening policy. By December 2027, AB 1976 directs the board to submit a draft rulemaking proposal to include opioid antagonists — medications that block the effects of opioids — with required first aid materials. These are in addition to existing directives to consider revising existing outdoor heat illness prevention and wildfire smoke regulations by December 31, 2025.

And keep in mind, the federal Occupational Safety and Health Administration (OSHA) is considering a [national indoor and outdoor heat illness prevention standard](#), which could prompt Cal/OSHA to make conforming changes to its regulations next year.

Though these measures have no immediate impact, it’s worth noting that employers will see some regulatory updates in these areas in the near future.

Lastly, Cal/OSHA's COVID-19 regulations will end next year: the two-year COVID-19 regulation that succeeded the COVID-19 Emergency Temporary Standards will remain in effect only through February 3, 2025.

Social Compliance Audits

Wrapping up next year's most notable new labor and employment laws is [AB 3234](#), which is ultimately aimed at protecting minor employees. Employers that opt to voluntarily undertake a "social compliance audit" will be required to post a link on their website to a report detailing the audit's findings regarding the employer's compliance with child labor laws.

According to the new law, a social compliance audit is "a voluntary, nongovernmental inspection or assessment of an employer's operations or practices to evaluate whether the operations or practices are in compliance with state and federal labor laws, including, but not limited to, wage and hour and health and safety regulations, including those regarding child labor."

Though the audit may cover a variety of issues, the specified report must include certain information related only to child labor law compliance. Employers that undertake this type of audit should review the new law and consult legal counsel with any questions.

For more information about how these new laws will affect your workplace, join CalChamber's 2025 Employment Law Update seminars, where our legal experts delve into recent California and federal laws, regulations and court cases — registration opens soon for both in-person and virtual sessions taking place in January 2025!

Employers should consult with legal counsel to address any questions they may have and help ensure compliance with the laws covered here.

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4 Legal Nightmare

Woman transitioning to man upset when boss calls him "baby girl."

Employee called 'old lady,' told to 'hurry up and retire already'

Fired due to her own discriminatory behavior, older woman sues

The scenario

An older woman dreaded going to work because of the discriminatory animus she faced due to her age. On a daily basis, several of her coworkers called her "old lady" and "grandma."

Even when she was in the bathroom, she was subject to ageist comments such as, "Hurry up old lady; why are you in there so long?"

The woman's coworkers also left offensive Post-It notes on her computer keyboard. The notes, which appeared regularly, said things such as "Time to retire, old lady,"

"Hurry up and retire already, grandma" and "hearing aid?"

Meanwhile, a Black female coworker reported that she

was uncomfortable working with the older woman. She said the white woman had told her that she didn't look Black, referred to Chinese people as "chinks," asked customers to speak English and said immigrants were being thrown over the wall.

The employer substantiated the complaints made by the Black woman, so the older woman was asked to stop using inappropriate language. The woman refused to change her behavior, so she was terminated for violating the employer's code of conduct.

Legal challenge

The older woman sued for a hostile work environment motivated by her age.

The ruling

The employer lost. The court said the woman endured severe and pervasive hostility based on her age, pointing to the ageist comments and notes directed at her. In fact, she couldn't even go to the bathroom without enduring ageism.

The skinny

It's best to have zero tolerance for unacceptable comments. Consider: A woman who refused to stop engaging in discriminatory behavior still beat her former employer in court.

Cite: *Schneidmeyer v. NYU Grossman School of Medicine*, U.S. District Court, S.D. New York, No. 21-cv-7179, 9/10/24.

Race bias? White supervisor says she's tired of Black people complaining about slavery

African American woman says her boss made several inappropriate comments, sues

"It's unfortunate that Claudia's white boss made some comments that were racially insensitive," said Supervisor Nathan Hawkins.

"Yes, several of the statements were disturbing," said HR Director Carolyn McGill. "To top it off, Claudia just filed a race discrimination lawsuit against us, claiming that we fired her because she's Black."

"Claudia is mistaken," said Nathan. "Besides, she resigned

her position, so she didn't even experience an adverse employment action."

"According to Claudia," said Carolyn, "she was forced to quit."

Unable to budget

"I don't know about that," said Nathan. "I mean, yeah, Claudia's white boss made some comments that weren't appropriate. Apparently, the boss once told Claudia that Black people don't know how

to budget and that if they did know how to budget, they'd be Republicans. The boss also told Claudia that she was tired of Black people complaining about slavery, and alleged that most abortions are performed on Black women.

"Those comments were flat-out wrong," continued Nathan. "However, again, Claudia wasn't terminated, so I'm not sure what she's suing us for."

"Claudia contends that she was forced to quit because of

the unprofessional manner in which we responded to her complaint about a customer," said Carolyn. "Apparently, the customer directed several disturbing comments about race, abortion and politics at Claudia."

Investigation launched

"As soon as Claudia reported the unfortunate customer interaction," said Nathan, "we launched an

(Please see *Slavery* ... on p. 2)

Slavery ...

(Continued from p. 1)

investigation. We decided to end our relationship with the customer, but we gave her 30 days to make arrangements to move her business elsewhere.”

Another 30 days

“Claudia insists that we needed to cut off the customer right away,” said Carolyn. “She says the customer could’ve still harassed her for another 30 days.”

“But we told Claudia that she didn’t have to deal with the customer anymore,” said Nathan. “Someone else would take care of her. But despite our assurances, Claudia wasn’t satisfied. She went home and never came back. Keep in mind that we later learned that Claudia had told a coworker that she was planning her exit

strategy. We think she used the customer interaction as an excuse to resign.”

“Claudia’s justification for leaving the job was weak,” said Carolyn. “We’ll challenge this lawsuit.”

Result: The company won. The court dismissed the case.

The judge said the Black woman failed to prove that she was forced to resign her position. As such, her claim of constructive discharge lacked merit, which meant that she didn’t experience an adverse employment action and couldn’t pursue her allegation that she was constructively discharged because of her race.

Prompt response

The court pointed out that the employer responded promptly to the woman’s complaints about the

customer by launching an investigation and taking quick action to end its relationship with the customer. It wasn’t unreasonable for the company to provide the customer with 30 days to move her business elsewhere. Plus, the Black woman had told a coworker that she was planning her exit strategy, further weakening her claim of constructive discharge.

No adverse action

And while the woman endured several racist comments from her boss, they weren’t enough to prove bias, given that the staffer quit the job and didn’t suffer an adverse employment action.

Cite: *Russo v. The Bryn Mawr Trust Co.*, U.S. Court of Appeals 3, No. 22-3235, 8/9/24.

What it means to you

Remember the importance of responding promptly to all allegations of potentially inappropriate behavior. In this case, when the Black woman reported that a customer had behaved poorly, the company investigated her claim right away and ended its relationship with the customer. Because of its prompt and effective response, the employer was in a much stronger legal position when the woman later sued.

Your takeaway: As soon as a staffer alerts you to potentially discriminatory behavior, let the person know that you’ll act quickly to address the situation. Then follow your employer’s procedures. Chances are, you’ll want to let your HR manager know what’s going on.

Bonus: Be sure to keep the worker updated on what’s being done to address the complaint.

You make the call

Was woman fired because she took lactation breaks?

“I know Jenny was really unhappy when we changed our policy on lactation breaks,” said Supervisor Margie Brunton. “However, I find it hard to believe that she’s suing us.”

“Unfortunately,” said HR Manager Alan Frankel, “Jenny is suing us, claiming that we terminated her in retaliation for taking lactation breaks.”

“We didn’t fire Jenny in retaliation for pumping breast milk,” said Margie. “We dismissed her because she secretly recorded a meeting with her boss. That was a clear violation of our personal-

conduct policy, which specifically forbids covert recordings.”

Policy changed

“What prompted Jenny to request a meeting with her boss?” asked Alan.

“Jenny had been taking lactation breaks for several months,” said Margie. “She was being paid for those breaks. When we changed our company-wide policy to unpaid lactation breaks, Jenny was very unhappy and she requested a meeting with her boss.”

“I don’t believe we had a legal obligation to pay for lactation breaks,” said Alan.

“That’s my belief as well,” said Margie. “However, unbeknownst to her supervisor, Jenny recorded the meeting. When we later found out what she had done, we let her go.”

“Jenny contends that her use of lactation breaks was a so-called protected activity,” said Alan, “and that we fired her in retaliation for taking the breaks.”

“We terminated Jenny because she violated our personal-conduct policy,” said Margie, “not because she was pumping breast milk. We should fight this lawsuit.”

Did the company win?

■ **Make your call, then please turn to page 4 for the court’s ruling.**

HR Manager’s **LegalAlert** FOR SUPERVISORS

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I O B P
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legal news for supervisors

The No. 1 bias claim made by U.S. workers

Proceed cautiously before taking a so-called adverse employment action against a worker who has alleged unlawful discrimination.

Reason: The adverse action could prompt an allegation of retaliation. In fact, according to data recently released by the Equal Employment Opportunity Commission (EEOC), retaliation is the No. 1 bias claim made by U.S. workers against employers.

The data was included in a new EEOC report on diversity in the high-tech workforce compared with the general workforce. The report revealed that 53.4% of the charges submitted by all workers to the agency in 2022 included a retaliation claim. In the high-tech sector, 54.4% of the charges mentioned retaliation.

The other top allegations made by workers in the general workforce and the high-tech workforce were:

- disability (34.4% of the general workforce; 35% of the high-tech workforce)
- race (28%; 27.2%)
- gender (24.6%; 24.3%)
- religion (21.4%; 23.2%)
- age (14.9%; 19.8%)
- national origin (7.3%; 8.7%)

Key point: Workers who file an internal or an external allegation of bias and are subsequently punished for having done so, e.g., a demotion or termination, usually have a viable claim of retaliation.

No interactive process prior to termination

One employer just found out the high cost of failing to engage in the interactive process: \$400,000.

That's how much Pilot Air Freight LLC has been forced to pay in order to resolve a disability discrimination lawsuit pursued by the EEOC.

According to the lawsuit, Thomas Hunt was hired to work at a Pilot facility in Atlanta. A few days after he started, he told his boss that he needed some time off to meet with his doctor to discuss his recent diagnosis of mouth cancer.

A short time later, Hunt was fired, allegedly due to a reduction in force. Hunt reached out to the EEOC, which sued. The agency noted that Pilot Air Freight refused to meet with Hunt to discuss accommodation options, which meant the company failed to engage in the legally mandatory interactive process.

Based on EEOC v. Pilot.

New legal rulings

Employee wanted to take immediate leave

Staff members must provide you with reasonable notice of their need for leave.

What happened: Before his employer had completed an investigation of him for potential attendance violations, a worker emailed his manager and said he was immediately taking time off under the Family and Medical Leave Act (FMLA). He was fired.

Legal challenge: The staffer sued for FMLA interference.

Company's response: He tried to take leave to avoid discipline.

Ruling: The employer won. The crew member was required to provide the organization with reasonable notice of his need for leave. An email sent right before his planned leave time wasn't sufficient notice.

Cite: *Covington v. Union Memorial Hospital*, U.S. District Court, D. Maryland, No. DKC 22-2655, 8/13/24.

Man paid \$20,000 more than woman

Make sure you have a solid reason – such as experience or education – for paying male workers more than females.

What happened: A woman who'd performed a job on a part-time basis was disappointed to learn that the man hired for the job full time was being paid \$20,000 more than she was.

Legal challenge: The woman sued for gender discrimination based on unequal pay.

Company's response: She had less experience and education.

Ruling: The company won. The employer was justified in paying the man more because he had 13 years of relevant experience and a degree while she had five years of relevant experience and lacked a degree.

Cite: *Woods v. Edelman Financial Engines LLC*, U.S. District Court, D. Kansas, No. 2:23-cv-02259, 8/26/24.

focus: microaggressions

How to respond to subtle behaviors that could cause your people to feel devalued

Here's a statistic that might surprise you: More than one-quarter of U.S. employees who responded to a recent survey reported that they'd definitely experienced a microaggression at work; another 22% said they might have suffered a microaggression on the job.

These numbers show that microaggressions are fairly common in the workplace, and they help explain why you need to respond to them quickly in order to reduce the chances that someone who suffers a microaggression will pursue a costly lawsuit.

Microaggressions, which are subtle behaviors that lead someone to feel devalued, can take many

different forms, including microassaults, which are overt actions meant to cause harm, e.g., hanging up a photo of a scantily clad woman.

Harm not intended

Another type of microaggression is a microinsult, which isn't intended to cause harm and is often driven by unconscious bias or cultural ignorance. Example: Telling a Black person that he or she is articulate, which implies that Black people aren't expected to be articulate.

And microaggressions sometimes take the form of microinvalidations – talking over someone or blatantly interrupting a coworker. For

instance, a male employee might “manterrupt” a female colleague.

As a supervisor focused on stamping out unacceptable conduct such as microaggressions, it's important to act promptly and decisively when you become aware of a potential microaggression that has upset a crew member.

Speak to the person who has committed the microaggression, and carefully explain to him or her the difference between intent and impact. Example: “I know you didn't intend for your comment to come off as discriminatory, but your coworker perceived the statement to be offensive to her national origin.”



legal developments

Man suffers allergic reaction to coworker's cologne, sues for disability discrimination

Supervisor's take-home: The process of identifying an accommodation for a disabled crew member is supposed to be interactive. You can't just give a worker a take-it-or-leave-it offer and end the conversation.

What happened: A staff member began to experience an allergic reaction to the cologne worn by another worker in a nearby cubicle. He sent an email to his manager seeking an accommodation for his severe allergies.

What people did: The manager promised to work with the staffer to identify an accommodation. However, a few days later, without even speaking to the worker, the manager said the disabled man could work at home

fulltime. The worker rejected that proposal, saying he didn't have room at home for an office and that he didn't want to miss the chance to interact with his colleagues. He sent several emails to his manager suggesting that he be moved to a private office, but his emails were ignored. His boss later told him that he'd been offered the accommodation of working from home fulltime, so the employer had done everything it was legally required to do.

Legal challenge: The worker sued for disability discrimination, arguing that the employer failed to engage in the interactive process.

Result: The employer lost. The court said a jury should

decide whether the organization's offer of working from home fulltime was reasonable. The judge said the employer had a duty to participate in the back-and-forth process required to find an accommodation. It wasn't enough to give the worker a take-it-or-leave-it offer and prematurely end the interactive process.

The skinny: Courts expect employers to act in good faith when identifying potential accommodations for disabled staffers. Organizations that prematurely shut down the interactive process rarely win in court.

Cite: *Ali v. Regan*, U.S. Court of Appeals D.C., No. 22-5124, 8/9/24.

You make the call: The Decision

(See case on page 2)

Yes. The company won. The court dismissed the lawsuit. The judge ruled that the woman wasn't terminated because she took lactation breaks. She was legitimately let go because she secretly recorded a meeting with her boss in violation of the employer's conduct policy.

Even though the woman had been allowed to take lactation breaks, the organization had no legal duty to pay her for those breaks. So the employer was on solid ground when it decided to stop paying her as well as other women who needed lactation breaks.

And once the company discovered that the woman had secretly recorded a conversation with her boss, the employer was justified in dismissing her for violating the personal-conduct policy, decided the court.

What it means: Avoid costly retaliation lawsuits

You might be surprised to learn that more than half of employment-related lawsuits involve allegations of retaliation, so it wasn't unusual for this employer to face a retaliation lawsuit.

However, the woman here was unable to make her case stick because the company offered a legitimate, non-discriminatory justification for dismissing her.

Key: Make sure you have a solid reason for terminating someone who has recently alleged biased behavior. Doing so will significantly reduce the chances that your employer will get entangled in a costly retaliation lawsuit.

Based on *Spagnolia v. Charter Communications LLC*.



legal nightmare

After worker begins to transition to male from female, his boss calls him 'baby girl'

Overview

After deciding to transition to a male from a female, a staff member was taunted by his coworkers who frequently referred to him as "ma'am" and a supervisor who called him "baby girl."

The scenario

Shortly after starting his job with the Georgia Department of Corrections at Rogers State Prison, Reidsville, GA, Tyler Copeland decided to socially and medically transition to a man from a woman. He underwent hormone replacement therapy, legally changed his name and decided to openly live as a man.

When Copeland informed his employer about the

change in his gender identity, things didn't go well. Without Copeland's approval or knowledge, his manager told the entire prison staff about Copeland's transition.

From that day on, Copeland was misgendered by his bosses and coworkers. Crew mates finished their radio transmissions by calling him "ma'am." One coworker said Copeland must have a dildo in his pants. Others referred to him using the pronouns "that" and "it." His supervisor taunted him by calling him "baby girl."

The offensive behavior even became physical. As Copeland was entering the prison one day, Sheila Holland, a fellow officer,

blocked the doorway and confronted Copeland, saying, "We can fight." She also said she was unhappy Copeland objected when he was called ma'am, claiming that she was "proud to be a woman."

Legal challenge

Copeland sued for a hostile workplace motivated by his transgender status.

The ruling

The employer lost. The worker endured severe and pervasive harassment that occurred almost every day. Worse, said the judge, his supervisors were among those who harassed him the most.

Based on *Copeland v. Georgia Department of Corrections*.