

# Statement on Interpretation Labor Code Section 5401

## Implementation of Incident Reporting

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University of California's mission is to provide a safe working environment for all employees and to minimize the adverse impact of work-related injuries. In this effort we provide a variety of safety, health and claims services for our employees. Our goal in requiring the reporting of incidents is to promote prompt notification of unsafe conditions so the prompt and appropriate remediation can take place.

Incident Reporting ensures that a record is on file with the employer. In no way does this waive the employee's right to workers' compensation benefits. If an incident takes place that results in an injury, First Aid may be appropriate in some cases. "First aid" means any one-time treatment, and any follow-up visit(s) for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment and follow-up visits for the purpose of observation are considered first aid even though provided by a physician or registered professional personnel. Filing of an incident report is not a filing of a workers' compensation claim. An employee retains their right to file a workers' compensation claim at a later date.

Our objective in treating first-aid cases as first aid, rather than workers' compensation claims, is four-fold:

- Change the mindset that every incident is a claim entitling one to benefits.
- Change the mindset that some incidents are more serious than in actuality.
- Improve accident history as perceived by insurance underwriters; and
- Create injury statistics that are more consistent and comparable with the rest of the world, wherein first aid claims are categorized as such.

Here are some examples of cases that historically were treated as workers' compensation claims which, under the Labor Code, may be better classified as first-aid treatment for workplace incidents of injury:

Injuries where only first-aid treatment is rendered. For example, ice packs are the only treatment rendered for a minor contusion.

Injuries wherein prescriptions are written for over-the-counter medications.

Exposures to chemical fumes/odors/smoke resulting in dry throat, cough, shortness of breath, headache, etc.

Prophylactic treatment (i.e., Exposure injuries wherein tetanus is administered, and needle-sticks or other exposures resulting in laboratory tests being conducted)

*Labor Code Section 5401 defines "first aid" as any one-time treatment, and any follow-up visits for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care (note: "any", meaning that there may be multiple follow-up visits for observation purposes). "Minor industrial injury" shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. "Serious exposure" means any exposure of an employee to a hazardous substance when the exposure occurs as a result of an incident, accident, emergency, or*

*exposure over time and is in a degree or amount sufficient to create a substantial probability that death or serious physical harm in the future could result from the exposure.*

*Interpretation of this language is if a needlestick initially warrants use of prophylactic medications, but the source patient is subsequently determined to be HIV and HBV negative, a "serious exposure" did not occur and thus treatment can be classified as First Aid. However, the best way to avoid the problem is to do rapid HIV testing of the source patient and if negative, no prophylactic meds are needed. In regard to TB exposure, no treatment is indicated (and this should not even be filed as a work compensation claim) unless the employee converts from a negative to a positive TB skin test (usually tested at time of exposure and again at 12 weeks post-exposure).*

In the past there has been confusion regarding First Aid for OSHA recordkeeping purposes versus First Aid for claim filing purposes. The regulations for OSHA recordkeeping are significantly different than under the Labor Code. The current claims system can track information necessary for producing the OSHA recordkeeping requirements, while also distinguishing incidents from workers' compensation claims. OSHA reporting is triggered through the RDMS system.

Changes are required to implement an Incident Reporting program, as follows:

- Sedgwick will not produce 5020's on incident/first-aid claims.
- Line managers and supervisors will provide injured workers with Incident Reporting Forms rather than DWC1's.
- Local Claims Managers and Occupational Health Clinics will be the control points for the DWC-1 and the 5020. Local Claims Managers and Occupational Health Clinics will provide the DWC-1 to injured workers within 24 hours from the time that medical treatment beyond first aid as defined in Labor Code Section 5401 takes place.

The Legislature has determined that filing a workers' compensation claim is a four-step process:

1. Employee gives notice or Employer has knowledge of an injury.
2. Employer provides claim form to employee when injury is beyond First Aid
3. Employee signs and returns claim form.
4. Employer investigates and may contest claim within 90 days

"At what point does UC set up a claim or incident in the iVOS system?"

All incidents or claims should be set up in the iVOS system upon employer knowledge.

1. A 5020 will be generated in the system once data entered reflects that a DWC-1 claim form was returned and the injury resulted in treatment beyond first aid.
2. A first aid/incident will be generated in the system when either the incident did not result in treatment beyond first aid, or the claim form has not yet been returned.

# University of California

## INCIDENT REPORT

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This report to be completed when an injury occurs that does not require medical treatment beyond first aid and follow-up visits.

Campus Name: \_\_\_\_\_ Clinic: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### **INJURED EMPLOYEE COMPLETES THIS SECTION**

Name: \_\_\_\_\_ Sex: M or F DOB: \_\_\_\_\_ Date of Hire: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ SSN: \_\_\_\_\_ Occupation: \_\_\_\_\_  
Date of Injury: \_\_\_\_\_ Time of Injury: \_\_\_\_\_ Time Started Work: \_\_\_\_\_ Last Day Worked: \_\_\_\_\_  
State All Parts of Body and Type of Injuries Involved: \_\_\_\_\_

Describe How Accident Occurred: \_\_\_\_\_

Name of Witness (First and Last): \_\_\_\_\_

Did You Work Before the Date of Injury? Yes \_\_\_\_\_ No \_\_\_\_\_ If No, Give Reason: \_\_\_\_\_

Who Did You Report the Injury To? (name): \_\_\_\_\_ Date Reported: \_\_\_\_\_

What Type of First Aid Treatment Did You Receive? \_\_\_\_\_

Have You Injured the Same Part of Body Before? Yes \_\_\_\_\_ No \_\_\_\_\_ When?: \_\_\_\_\_

**I, the injured employee, herein certify the information above is true and to best of my knowledge. I acknowledge that by accepting first aid treatment that it does not waive my rights to statutory workers' compensation benefits. I understand that should I require further medical treatment beyond first aid that I am to notify my manager/supervisor and I will be directed to the proper medical facility for treatment and will be instructed on completing the required form to file for workers' compensation benefits.**

Date: \_\_\_\_\_ Signature of Employee: \_\_\_\_\_

### **TREATER COMPLETES THIS SECTION:**

Name of Individual Rendering First Aid Treatment: \_\_\_\_\_ Date of Treatment: \_\_\_\_\_

Description of First Aid Treatment Rendered: \_\_\_\_\_

Type of Injury (sprain/laceration/bruise/burn/etc.): \_\_\_\_\_

Body Part: \_\_\_\_\_ Area of Body (left/right/upper/lower): \_\_\_\_\_

Location or Address Where Accident Occurred: \_\_\_\_\_

What Was Employee Doing When Injured? \_\_\_\_\_

Detailed Description of Accident (who/what/when/where/how): \_\_\_\_\_

Equipment Involved: \_\_\_\_\_ Witnesses: \_\_\_\_\_

Reason for Unsafe Act or Condition: \_\_\_\_\_

What Practical Corrective Action Will Be Taken by Supervisor to Prevent Recurrence? \_\_\_\_\_

Did the Employee Continue to Work Same Day? Yes \_\_\_\_\_ No \_\_\_\_\_ If no, date returned to work: \_\_\_\_\_

Date: \_\_\_\_\_ Treater Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Distribution Key: Original – Fax to (888) 888-8888 within 24 hours. Provide 1 copy to employee and maintain 1 copy at campus.

Note: if employee at a later date requests medical treatment beyond first aid, please contact the Workers' Compensation Department immediately and initiate the filing of a workers' compensation claim. Seeking first aid treatment and completion of this report does not waive the employee's right to file a workers' compensation claim and seek benefits in accordance with statutory workers' compensation laws. A physician who treats an injured employee is required to file a DFR ("Doctor's First Report of Injury") with the claims administrator for every work illness or injury, even first aid cases where there is no lost time from work.