



SUBJECT

OSHPD Jurisdiction

CAN: 2-0

Effective: 7/15/2013

Revised: 1/10/2017



CODE SECTION

Section 7-103, Chapter 7 California Administrative Code (CAC)

7-103. Jurisdiction.

The following are within the jurisdiction of Office of Statewide Health Planning and Development:

- (a) For development of regulations in the *California Building Standards Code* and enforcement thereof.
 1. Hospital buildings as defined by Section 129725, Health and Safety Code. Correctional Treatment Centers shall certify to the Office in compliance with Section 7-156.
 2. Skilled nursing facilities as specified in paragraphs (2) and (3) of subdivision (b) of Section 129725, Health and Safety Code.
 3. Intermediate care facilities as specified in paragraphs (2) and (3) of subdivision (b) of Section 129725, Health and Safety Code.
- (b) For development of regulations in the *California Building Standards Code*.
 1. Clinics, as defined by Section 1200 and 129725 (b) (1), Health and Safety Code, are under the jurisdiction of the local building official for enforcement, except as otherwise specified in Article 21, Section 7-2104 (d) of this chapter.

EXCEPTION: When licensed under an acute care hospital and serving more than 25 percent inpatients pursuant to Sections 129725 (b) (1) and 129730, Health and Safety Code, the Office shall retain jurisdiction for enforcement.

2. Correctional Treatment Centers, as defined by Section 129725 (b) 6, 7 (A) or 7 (B), Health and Safety Code, operated by or to be operated by a law enforcement agency of a city, county or a city and county are under the jurisdiction of the local enforcing agency for enforcement.

Correctional Treatment Centers shall certify to the Office in compliance with Section 7-156.

- (c) For hospital buildings, skilled nursing facilities and intermediate care facilities, the Office shall also enforce the regulations of the *California Building Standards Code* as adopted by the Office of the State Fire Marshal and the Division of the State Architect/Access Compliance Section, for fire and life safety and accessibility compliance for persons with disabilities, respectively.

Correctional Treatment Centers shall certify to the Office in compliance with Section 7-156.

INTRODUCTION

The Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (HFSSA) preempts local jurisdictions from the enforcement of all building standards published in the Title 24, California Building Standards Code (CBSC) relating to the regulation of hospital buildings, acute psychiatric hospitals, skilled nursing facilities, intermediate-care facilities and under certain circumstances, some clinics as codified in the California Health and Safety Code (H&SC). The Office of Statewide Health Planning and Development (OSHPD) is designated as the enforcing agency for these health facilities, including plan checking and inspection of the design and details of the architectural, structural, mechanical, plumbing, electrical, and fire and panic safety systems, and the observation of construction.

Hospitals [OSHPD 1] H&SC preempts the local building jurisdiction plan review and approval and construction inspection of hospital buildings; and authorizes OSHPD to review and inspect these facilities. These facilities include: general acute care hospitals, acute psychiatric hospitals, and general acute care hospitals providing only acute medical rehabilitation center services. A hospital campus may consist of a number of structures, some under OSHPD jurisdiction; the rest under the jurisdiction of the local building authorities, as well as, various site improvements such as parking and landscaping.

Skilled Nursing Facilities [OSHPD 2] H&SC preempts the local building jurisdiction from plan review and approval and construction inspection of skilled nursing facilities and intermediate care facilities; and authorizes OSHPD to review and inspect these facilities. This authority is similar to that established for hospital buildings.

Clinics [OSHPD 3] While OSHPD is responsible for proposing the building standards for licensed clinics, the authority for review, permitting and construction inspection of “out-patient clinical services”, “primary-care clinics” and “specialty clinics” is typically under the jurisdiction of the local building official.

Correctional Treatment Centers [OSHPD 4] While OSHPD is responsible for proposing building standards for correctional treatment centers, plans for the construction or alteration of any hospital building prepared by, or on behalf of the Department of Corrections and Rehabilitation, or law enforcement agency of any city and/or county, do not require review and approval by OSHPD. In lieu of OSHPD review and approval, any such department, city or county certifies to OSHPD that their plans and construction are in conformance with applicable building standards.

Jurisdictional limits should not be thought of as a physical/spatial boundary, but as specifically related to the codes and regulations being enforced, as charged to the respective authorities. The extent of OSHPD’s jurisdiction is not simply everything inside the exterior skin (or 5 feet beyond) of those buildings or structures; and that everything outside the building remains under the jurisdiction of the local enforcing agencies. Some local jurisdiction is retained inside these buildings, and OSHPD does have some jurisdiction over certain elements of the site/campus outside the building.

The purpose of this CAN is to clarify the jurisdictional boundaries between construction and site improvements under OSHPD authority and those under local authorities.

BACKGROUND

California Building Code (CBC) Section 104 expressly authorizes and directs the “building official” to enforce the provisions of the Title 24, CBSC. The “building official” is defined as the “designated authority charged with the administration and enforcement of the building code”. The CBC identifies OSHPD as the enforcing agency for hospital buildings and as the enforcing agency for skilled nursing facilities; and identifies the local building department as the enforcing agency for clinics. Consequently, OSHPD is the “building official”, or building department for hospitals and skilled nursing facilities, and has the same authority over these facilities as the local building department would have over other facilities within the limits established by statute.

For the purposes of this CAN, “*enforcing agency*” is the legal entity having jurisdictional authority for the enforcement of applicable CBSC regulations and standards. This term includes the authority of the: “building official”; “*enforcing agency*”; “authority having *jurisdiction*”; and “fire code official” as used in various sections of the CBSC. OSHPD is the *enforcing agency* for OSHPD 1 and OSHPD 2 health facilities as specified by statute and stated in CBC Section 1.10. While having *jurisdiction* as the “fire code official”, OSHPD does not have a “fire department” with fire-fighting apparatus, thus it is the Office’s policy to work closely with the local fire departments regarding many aspects of fire and life safety relative to buildings and structures under its *jurisdiction*. The local building department [fire authority] is typically the *enforcing agency* for OSHPD 3 facilities.

For the purposes of this CAN, “*jurisdiction*” is the practical authority granted to various legal entities (e.g. OSHPD, local building official, county health department, etc.) to act as the *enforcing agency*, and to oversee and make binding decisions regarding the review, construction, remodeling, and alteration of buildings and structures. While there are certainly geographic boundaries to the extent of some *jurisdictions*, there are also “boundaries” associated with the scope of regulations that fall within the *jurisdiction* of any specific *enforcing agency*. It is the latter jurisdictional boundaries that often need clarification to avoid confusion due to what might appear as an overlap of authority over a particular element.

OSHPD’s jurisdictional authority as the *enforcing agency* is to enforce the “building standards” regulations of the CBSC, to the extent that statute permits, as they apply to the construction, repair, remodeling, and alteration of a hospital building, skilled nursing facility or intermediate-care facility. OSHPD does not typically have *jurisdiction* over clinics, but reviews and certifies plans submitted to the local *enforcing agency* for compliance with OSHPD 3 requirements, if requested to do so by the local building official or by the owner of a surgical clinic, chronic dialysis clinic, or outpatient clinical service. The local building official still plan checks the project for compliance with the balance of applicable code requirements of the CBSC, issues the building permit and inspects construction (refer to OSHPD CAN 1-7-2100, *Clinics*).

Typically, clinics are reviewed by the local building official. However, outpatient clinical services of a hospital provided in a freestanding building may be placed under OSHPD *jurisdiction* (including full CBSC plan review, permitting and inspection) at the request of the hospital (refer to CAC, Section 7-2104). Under certain circumstances a “hospital building” may be removed from acute care service and altered to provide “out-patient clinical services” where OSHPD will retain its *enforcing agency* “building official” *jurisdiction* (refer to CBC Section 3418A *Removal of Hospital Buildings From General Acute Care Services*).

As the building official for hospitals and skilled nursing facilities, OSHPD is authorized to enforce all applicable CBSC requirements in the design and construction, repair, remodeling or alteration of these facilities. OSHPD only preempts the local building official and recognizes the authority of

other local agencies that retain their respective *jurisdictions*. These agencies include but are not limited to: planning and zoning departments, local health departments, public works departments, fire departments, police departments, etc.

OSHPD's preemption of "building standards" enforcement does not relieve compliance with more restrictive requirements that have been adopted by the local *enforcing agencies*. OSHPD will enforce any locally adopted building standard or any conditions of prior discretionary approval (e.g. planning and zoning) that apply to the elements of the project under the Office's review and/or inspection. The local agencies shall keep OSHPD apprised of any such regulation or condition of approval in writing.

INTERPRETATION

OSHPD Jurisdiction

OSHPD is responsible for review of the design and details of the architectural, structural, mechanical, plumbing, electrical, and fire and panic safety systems, and the observation of construction of these systems, for buildings/structures under its *jurisdiction*.

The scope of authority for OSHPD includes the following types of health facility buildings:

- General acute care hospital buildings
- Hospital buildings removed from general acute care that remain under OSHPD *jurisdiction*
- Skilled nursing facilities
- Intermediate-care facilities
- Central plant buildings and non-building structures that provide utility services to buildings under OSHPD *jurisdiction*
- Free-standing buildings providing out-patient clinical services of a hospital when the hospital requests that OSHPD review and inspect the building. This places the building under OSHPD's *jurisdiction* from that point forward.

OSHPD does not typically have *jurisdiction* over non-hospital buildings on a campus. However, a non-hospital building may fall under OSHPD *jurisdiction* if:

- The building contains elements required for an acute care hospital;
- Duplicative basic or supplemental hospital services are provided in the building;
- Utilities, services or systems feeding a building under OSHPD *jurisdiction* pass through or under a non-hospital building; or
- A building has been removed from acute-care service and remains under OSHPD *jurisdiction* to meet any of the requirements associated with OSHPD CAN 1-7-2100, *Clinics* (e.g. maintaining a path of egress).

OSHPD may perform plan review and certification of conformance with OSHPD 3 requirements for projects that fall under local agency *jurisdiction* when:

- The owner of a surgical clinic or chronic dialysis clinic requests that OSHPD perform the plan review and certification; or
- The local *jurisdiction* requests that OSHPD perform the plan review and certification of a surgical clinic or chronic dialysis clinic.

In addition to review of the design and details of the building, OSHPD is responsible for the review of other aspects of construction that are associated with the building structure, such as:

- Demolition
- Building pad construction, including but not limited to grading, soil remediation, excavation, trenching, retaining, and shoring
- Temporary construction and barriers

The following items outside the building enclosure are also subject to OSHPD review:

Accessibility

- Verification that exterior routes of travel, accessible parking and other site features required to be accessible are in compliance with regulations of the CBC as adopted by the Division of the State Architect/Access Compliance Section. This compliance may be demonstrated by:
 - Standard OSHPD review and observation; or
 - Evidence of review and certification by an independent Certified Access Specialist (CAsp) retained by the health facility, for CBC compliance (inspection to be performed by project Inspector of Record); or
 - Evidence of plan review, construction inspection, and approval by the local building authority for CBC compliance.

Fire/Life Safety

- Fire water piping from the backflow preventer to the building, including verification of an adequate supply of water and a secondary water supply on-site (refer to OSHPD Policy Intent Notice (PIN) 5, *Review of Underground Fire Main Submittals*).
- Proximity of adjacent structures for wall and opening protection requirements.
- Fire apparatus access roads.
- Fire Department connections.
- Location of valves, post indicator valves, backflow prevention assemblies and hydrants.
- Exterior means of egress to public way, including site elements such as slope stabilization, retaining walls, pedestrian bridges and other features that could impact egress, required lighting under emergency power illuminating such egress, etc.
- Heliports/helistops when required by the licensed service (i.e. trauma center, etc.) or when located on a hospital building, for compliance with applicable requirements of the CBCSC.

Utilities

- Electrical service from the service point (utility vault, transformer or meter) to the point it enters a building or structure under OSHPD *jurisdiction*, and the essential electrical system (emergency power) including required on-site fuel supply.
- Water service routing from the service meter to the point it enters a building or structure under OSHPD *jurisdiction*, on-site emergency water supply storage.
- Wastewater lines from the sewer lateral connection to the point it enters a building or structure under OSHPD *jurisdiction*, and emergency sanitary drainage on-site holding tank or enclosure.
- Utilities from a central plant, or mechanical yard, to any building under OSHPD *jurisdiction*. Grading associated with site drainage related to such utilities remains under local *jurisdiction*.
- Utilities serving heliports/helistops, not located on a hospital building, that originate in a hospital building to the point of connection at the heliport/helistop.

Local Jurisdiction

The local government retains *jurisdiction*, as the *enforcing agency*, of all other elements of the health facility campus, including the location of a facility or structure on the property, the grounds, landscaping, grading or site work (except work associated with construction of buildings or structures under OSHPD *jurisdiction*), parking lot construction, and the general aesthetics of the site and building. Hospitals must recognize and account for local entitlements, design review, and site engineering approvals, which are completed outside of OSHPD *jurisdiction* but are required to be completed prior to issuance of an OSHPD permit. OSHPD requires evidence of the following prior to issuing a plan approval or a building permit:

- Certification of payment of any School District Fee prior to issuance of a permit (refer to OSHPD PIN 48, *School District Fee Compliance*) for projects that increase the area of an existing building and for all new buildings.
- Local planning/zoning approval, including any conditional use permit and California Environmental Quality Act (CEQA) approvals, for all new buildings and for projects that increase the area of an existing building.
- Compliance with local outdoor irrigation and landscaping standards (i.e. Model Water Efficient Landscape Ordinance (MWELO), California Green Building Standards Code, etc.).
- Any conditions of planning approval and/or more restrictive building standards adopted by the local authority. For example, OSHPD will only enforce equipment screening standards if notified by a local authority's requirements in writing. It is the hospital's responsibility to be aware of, and comply with, all local ordinances and requirements.
- Local authority's review of underground fuel storage tanks (refer to OSHPD PIN 2, *Installation of Underground Fuel Storage Tanks*).
- Local health department approval and approval from the California Department of Public Health, for OSHPD 1 projects that include dietary service.
- Local fire authority acceptance of any Alternate Method of Protection.

Planning and zoning authority is retained by the local agency, including but not limited to: enforcement of setbacks, general siting of buildings, height restrictions, parking, site lighting, light pollution, noise standards, design review, equipment screening, signage, landscaping, non-building structures such as cell towers (roof-mounted or free-standing), CEQA compliance, public hearings, discretionary approvals, entitlements, use permits and any conditions of approval.

Public Works/Engineering authority review of site engineering including, but not limited to: grading and drainage, utility trenching, site access, and off-site improvements, is retained by the local agency. Permits for the operation and monitoring of underground fuel storage tanks are the *jurisdiction* of the local city/county (refer to OSHPD PIN 2).

Local health departments govern issues related to operation of retail food storage, preparation and service areas in acute care hospital buildings and skilled nursing facilities (refer to OSHPD PIN 40, *Dietary and Food Services within a Health Facility*). Approval of emergency sewage holding structures may also be required.

Other local agencies may include air quality management districts (AQMD); water quality management authorities; flood control districts including review of transformers, boiler and generators, water runoff retention/detention; local police/sheriff review of site security; local fire authority including access, fire connections, hydrant locations, fire alarm connections, annunciation and control rooms; FAA and Caltrans; Cal/OSHA Elevator Unit; and public and private utilities. It is

the hospital's responsibility to ensure that it has obtained all other local, state, and/or federal approvals and/or permits outside OSHPD's *jurisdiction* before, during, or after construction as applicable.

Health care facilities must apply directly to the California Department of Public Health (CDPH) for licensing and certification before any patient care or related use can be provided. The hospital is responsible for compliance with all Title 22, California Code of Regulations and other, laws and/or regulations governing health care. OSHPD will review plans and observe the construction for compliance with the requirements of the Title 24, CBSC and will not take responsibility for CDPH acceptance for licensed use of any building, or portion of a building, intended for health care use. OSHPD does not enforce Title 22 licensing and certification requirements, NFPA 101 Life Safety Code, or other requirements outside of its statutory authority/mandate. Failure to comply with other jurisdictional requirements may result in:

- A delay in a plan approval or issuance of a building permit;
- OSHPD rescinding a plan approval;
- Issuance of a Stop Work Order;
- Delay or non-issuance of a Certificate of Occupancy; or
- Other appropriate action taken by OSHPD and/or other relevant agency.

Special Construction

Mobile Units used for Outpatient Hospital Services

Placement of a "special purpose commercial coach" or "commercial modular" unit used to temporarily provide medical, diagnostic or treatment services are excluded from the definition of a "building". Therefore, these units are not subject to CBSC requirements and are not under OSHPD's *jurisdiction*. However, in accordance with the California Fire Code, Section 102.9 and Title 19, California Code of Regulations, Section 3.14, OSHPD does have authority to review drawings for the installation of a mobile unit to ensure that an accessible path of travel between the hospital and the mobile unit is provided and the hospital building is protected from adjacent hazards and exposures. This includes, but is not limited to verifying that egress, openings and site utilities servicing the hospital building are protected when applicable. Local agency *jurisdiction* may be required including, but not necessarily limited to planning, zoning, and/or fire department reviews and approvals (refer to OSHPD PIN 34, *Mobile Units used for Outpatient Hospital Services*).

Decontamination Facilities

Permanent, semi-permanent, and temporary decontamination facilities may be placed in, attached to, or separated from the hospital building(s). If placed in a hospital building, they are subject to OSHPD review. If attached to a hospital building, they are subject to OSHPD review and may include local planning, public works, and/or fire authority review. If located away from the hospital building, they are subject to local building department review. When utilities for a decontamination facility are obtained from the hospital building, OSHPD will review the utility connections to ensure that the hospital utilities will not incur any potential adverse impact (refer to OSHPD PIN 35, *Healthcare Decontamination Facilities*).

Surge Tents

Temporary tent facilities erected to accommodate a surge in demand for health care are governed by the local fire department and OSHPD. OSHPD has the responsibility and authority to ensure the safety of the hospital building relative to adjacent hazards and exposures. OSHPD will need to

CODE APPLICATION NOTICE (CAN)

review drawings for any surge tent installation and any utility hookups that originate in or pass through any hospital building, and ensure that there is access and any required means of egress is not compromised. Coordination with the local planning/zoning department may also be necessary.

<u>Original signed</u>	<u>1/10/17</u>
Paul Coleman	Date

APPENDIX

STATUTORY REFERENCES

California Health and Safety Code Sections 129675 and 129680

§129675. This chapter shall be known and may be cited as the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

§129680. (a) It is the intent of the Legislature that hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster, shall be designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds. In order to accomplish this purpose, the office shall propose proper building standards for earthquake resistance based upon current knowledge, and provide an independent review of the design and construction of hospital buildings.

(b) Local *jurisdictions* are preempted from the enforcement of all building standards published in the California Building Standards Code relating to the regulation of hospital buildings and the enforcement of other regulations adopted pursuant to this chapter, and all other applicable state laws, including plan checking and inspection of the design and details of the architectural, structural, mechanical, plumbing, electrical, and fire and panic safety systems, and the observation of construction. The office shall assume these responsibilities.

(c) Where local *jurisdictions* have more restrictive requirements for the enforcement of building standards, other building regulations, and construction supervision, these requirements shall be enforced by the office.

TITLE 24, CALIFORNIA BUILDING STANDARDS CODE REFERENCES

California Building Code

Section 1.10

Office of Statewide Health Planning and Development

1.10.1 OSHPD 1. *Specific scope of application of the agency responsible for enforcement, enforcement agency and the specific authority to adopt and enforce such provisions of this code, unless otherwise stated.*

Application – *General acute care hospitals and acute psychiatric hospitals, excluding distinct part units or distinct part freestanding buildings providing skilled nursing or intermediate care services. For structural regulations: Skilled nursing facilities and/or intermediate care facilities except those skilled nursing facilities and intermediate care facilities of single-story, Type V, wood or light steel-frame construction.*

Enforcing agency – *Office of Statewide Health Planning and Development (OSHPD). The office shall enforce the Division of the State Architect-Access Compliance regulations*

and the regulations of the Office of the State Fire Marshal for the above stated facility types.

1.10.1.1 Applicable administrative standards.

1. Title 24, Part 1, California Code of Regulations: Chapters 6 & 7.
2. Title 24, Part 2, California Code of Regulations: Sections 1.1 and 1.10, Chapter 1, Division I, and Sections 101-105.1.2, portions of Section 105.2 as indicated in the adoption matrix and Sections 105.3-116, Chapter 1, Division II.

1.10.1.2 Applicable building standards. California Building Standards Code, Title 24, Parts 2, 3, 4, 5, 6, 9, 10 and 11.

The provisions of Title 24, Part 2, as adopted and amended by OSHPD, shall apply to the applications listed in Section 1.10.1

OSHPD 1 adopts the following building standards in Title 24, Part 2:

Chapters 2 through 10, 12, 14, 15, 16A, 17A, 18A, 19A, 20, 21A, 22A, 23, 24, 25, 26, 30, 31, 32, 33, 34A, 35, and Appendix L.

1.10.2 OSHPD 2. Specific scope of application of the agency responsible for enforcement, enforcement agency and the specific authority to adopt and enforce such provisions of this code, unless otherwise stated.

Application – Skilled nursing facilities and intermediate care facilities, including distinct part skilled nursing and intermediate care services on a general acute care or acute psychiatric hospital license, provided either are in a separate unit or a freestanding building. For structural regulations: Single-story, Type V skilled nursing facility and/or intermediate care facilities utilizing wood or light steel-frame construction.

Enforcing agency – Office of Statewide Health Planning and Development (OSHPD). The office shall also enforce the Division of the State Architect-Access Compliance regulations and the regulations of the Office of the State Fire Marshal for the above-stated facility type.

1.10.2.1 Applicable administrative standards.

1. Title 24, Part 1, California Code of Regulations: Chapter 7.
2. Title 24, Part 2, California Code of Regulations: Sections 1.1 and 1.10, Chapter 1, Division I, and Sections 101-103, portions of Section 104 and 105 as indicated in the adoption matrix and Sections 106-116, Chapter 1, Division II.

1.10.2.2 Applicable building standards. California Building Standards Code, Title 24, Parts 2, 3, 4, 5, 6, 9, 10 and 11.

The provisions of Title 24, Part 2, as adopted and amended by OSHPD, shall apply to the applications listed in Section 1.10.2.

OSHPD 2 adopts the following building standards in Title 24, Part 2:

Chapters 2 through 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, and 35.

1.10.3 OSHPD 3. *Specific scope of application of the agency responsible for enforcement, enforcement agency and the specific authority to adopt and enforce such provisions of this code, unless otherwise stated.*

Application – *Licensed clinics and any freestanding building under a hospital license where outpatient clinical services are provided.*

Enforcing agency – *Local building department.*

1.10.3.1 Applicable administrative standards.

1. *Title 24, Part 1, California Code of Regulations: Chapter 7.*

2. *Title 24, Part 2, California Code of Regulations: Sections 1.1 and 1.10, Chapter 1, Division I, and portions of Section 101 as adopted, Sections 102-103, portions of Sections 104-107 as indicated in the adoption matrix, and Sections 108-116, Chapter 1, Division II.*

1.10.3.2 Applicable building standards. *California Building Standards Code, Title 24, Parts 2, 3, 4, 5, 6, 9, 10, and 11.*

The provisions of Title 24, Part 2, as adopted and amended by OSHPD, shall apply to the applications listed in Section 1.10.3.

OSHPD 3 adopts the following building standards in Title 24, Part 2:

Chapter 12.

California Mechanical Code and California Plumbing Code

Section 203.0 - Authority Having Jurisdiction. The organization, office, or individual responsible for enforcing the requirements of a code, or standard, or for approving equipment, materials installations, or procedures. The Authority Having Jurisdiction shall be a federal, state, local, or other regional department or an individual such as a plumbing official, mechanical official, labor department official, health department official, building official, or others having statutory authority. In the absence of a statutory authority, the Authority Having Jurisdiction may be some other responsible party. This definition shall include the Authority Having Jurisdiction's duly authorized representative. [HCD 1, HCD 2, OSHPD 1, 2, 3 & 4 and SFM] "Authority Having Jurisdiction" shall mean "Enforcing Agency" as defined in Section 207.0 of this code.