

OCCUPATIONAL LEAD POISONING PREVENTION PROGRAM

“MODEL CONTRACT FOR A LEAD MEDICAL PROGRAM”

INSTRUCTIONS

The purpose of the attached model contract is to help employers and physicians develop medical programs for lead-exposed workers. The medical program is an important component of a workplace lead health and safety program. The medical program described in this agreement is consistent with Cal/OSHA's lead regulations for General Industry¹ and for the Construction Industry². The latter is the same as Federal OSHA Interim Construction Lead Regulations. This model contract contains minimum requirements as well as additional recommendations by the Occupational Lead Poisoning Prevention Program (OLPPP), California Department of Public Health.

In general, the model contract describes minimum responsibilities of both the Employer and the Medical Supervisor, and does not restrict either from providing a more extensive program. Use of this contract is voluntary.

To complete the contract, you must insert at least the following:

- legal name, address, and telephone number of your company, and signature of Employer;
- Medical Supervisor's legal name, address, telephone number, signature;
- payment terms;
- term of the contract and termination notice period.

You may wish to change some parts to suit your particular circumstances. Any changes in Sections I through III could result in failure to comply with the lead standards. Section VII contains generally accepted provisions used in contracts of this type.

Note that this contract will be legally binding only if both parties understand the agreement and are legally capable of forming such an agreement. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

MODEL CONTRACT FOR A LEAD MEDICAL PROGRAM

This contract is entered into on _____ by and between
(Date)

Company's Name

Address

Telephone Number

referred to as "Employer," and _____
(Insert Name of Medical Supervisor)

referred to as "Medical Supervisor."

I. PURPOSE OF CONTRACT

The purpose of this contract is to provide a medical program to prevent lead poisoning in the employer's work force. The medical program will be conducted according to Cal/OSHA regulations.^{1,2}

- Cal/OSHA General Industry Safety Orders, Title 8 CCR Section 5198
 - Cal/OSHA Construction Industry Safety Orders, Title 8 CCR Section 1532.1
- [employer checks one or both]

II. EMPLOYER'S RESPONSIBILITIES

A. Employer will pay Medical Supervisor for services provided under this contract.

Payment will be on the following terms: _____
(Attach Payment Terms)

B. Employer will provide Medical Supervisor with a list of all employees, along with their job duties and work area. Employer will designate the employees to be included in the medical program. For all included employees, Employer will also list their airborne exposure levels to lead and other toxins, any personal protective equipment required, and any medical opinions and blood test results in Employer's possession. This information will be kept up to date and confidential.

C. Employer will facilitate employee participation by giving employees the necessary time off work for medical appointments without loss of pay. Employees will not be charged for the medical services described in this contract.

D. Employer will inform Medical Supervisor in writing describing when and how each of the physician's recommendations was carried out.

- E. Employer will ensure that the employee is notified in writing of his/her blood test results within five (5) working days of receiving the results. Giving consideration to the employee's literacy level and language, the employer should ensure that the employee understands the meaning of the results.
- F. Employer will notify each employee of the right to have a second medical opinion to review any findings of the Medical Supervisor.
- G. Employer will keep records of (and provide employees access to) all exposure and medical records as required by law.³

III. MEDICAL SUPERVISOR'S RESPONSIBILITIES

A. Medical Evaluation

Medical Supervisor will review Employer's information listed in Section II(B) and assist Employer to ensure that all employees at risk for lead overexposure are included in the medical program.

Medical Supervisor will be responsible for providing the following services for each employee at risk for lead overexposure:

1. Medical evaluations, which will include at least a **medical** and **work history**, a **physical examination**, and **laboratory testing** as specified in the lead regulations, including any additional testing or evaluation the physician deems necessary by sound medical judgment and practice,
2. Medical evaluations conducted in a language the employee understands, using appropriate translators as necessary, and
3. If respiratory protection will be used, Medical Supervisor will assess pulmonary status and determine whether the employee is able to work while using the required respiratory equipment.⁴

Medical Supervisor will test employees' **blood lead level (BLL)** and **Zinc Protoporphyrin (ZPP)**, with analysis performed by a **laboratory** that is **Federal OSHA-approved**. Medical Supervisor will **notify Employer** in writing of all blood lead and ZPP test results. Employer will ensure that each employee is notified of his/her own results within five working days.

Medical Supervisor will conduct laboratory testing and medical evaluations pursuant to the requirements of the appropriate schedule below. If an employee falls into more than one category, Medical Supervisor will conduct the more intensive follow-up.

Please refer to the following **two** charts to determine which standard's requirements (i.e., General Industry or Construction Industry) must be included.

GENERAL INDUSTRY CAL/OSHA LEAD STANDARD

Title 8, California Code of Regulations, §5198

Schedule for Required Medical Services

CATEGORY OF EXPOSURE	MEDICAL EVALUATION	LABORATORY TESTING
Assigned to work with airborne lead exposure at or above 30 $\mu\text{g}/\text{m}^3$ * for more than 30 days per year	<p>Prior to assignment: General and lead-specific history and physical exam with special attention to hematological, neurological (central and peripheral), pulmonary, cardiovascular, gastrointestinal, musculoskeletal, renal and reproductive systems.</p> <p>Medical clearance to wear respirator, if used—applies to all categories.</p>	<p><u>Complete lab panel:</u> Blood lead level (BLL), Zinc protoporphyrin (ZPP), CBC with red cell indices and peripheral smear, serum creatinine, BUN, complete urinalysis. Sperm analysis or pregnancy test if employee requests. Any other test the physician deems necessary.</p> <p>Repeat BLL and ZPP every six months.</p>
Blood lead level (BLL) 40 $\mu\text{g}/\text{dl}$ * or greater at last test, but Medical Removal Protection (MRP)** not required	Annually (see above)	<p>Complete lab panel if not done within last 12 months (see above).</p> <p>Repeat BLL and ZPP every two months until two consecutive tests are below 40 $\mu\text{g}/\text{dl}$.</p>
Single BLL of 60 $\mu\text{g}/\text{dl}$ or greater, or average BLL 50 $\mu\text{g}/\text{dl}$ or greater based on the last three BLLs or all BLLs over the previous 6 months (whichever covers a longer time period)—Medical Removal Protection (MRP) required.**	As soon as MRP initiated (see above)	Complete lab panel (see above). Repeat BLL and ZPP at least monthly until two consecutive blood lead levels are below 40 $\mu\text{g}/\text{dl}$.
Reports signs/symptoms of lead toxicity, desires advice about effects of lead exposure (on reproductive system, child bearing, etc.), has increased risk of material impairment to health due to lead exposure, or has difficulty breathing with respirator use.	As soon as possible (see above)	As deemed appropriate by the physician based on individual case needs.

* $\mu\text{g}/\text{dl}$ = micrograms of lead per deciliter of whole blood

$\mu\text{g}/\text{m}^3$ = micrograms of lead per cubic meter of air

** Medical Removal Protection is the required removal of an employee from work with lead exposure, with full salary and benefits, until there are 2 consecutive BLLs below 40 $\mu\text{g}/\text{dl}$ and the physician authorizes return to the usual work.

CONSTRUCTION INDUSTRY CAL/OSHA LEAD STANDARD

Title 8, California Code of Regulations, §1532.1

Schedule for Required Medical Services

CATEGORY OF EXPOSURE	MEDICAL EVALUATION	LABORATORY TESTING
New employees or those newly assigned to lead work who are performing a specific trigger task* or who are exposed to airborne lead at or above 30 µg/m ³ ** for 1 to 30 days per year and prior BLL, if known, is below 40 µg/dl**	Medical clearance to wear respirator, if used—applies to all categories	Blood lead level (BLL) and Zinc Protoporphyrin (ZPP)
New employees or those newly assigned to work with airborne exposure at or above 30 µg/m ³ for more than 30 days per year and prior BLL, if known, is below 40 ug/dl	Same as above	BLL and ZPP Repeat every two months for six months, then every six months thereafter.
Blood lead level 40 to 49 µg/dl	Annually: General and lead-specific history and physical exam with special attention to hematological, neurological (central and peripheral), pulmonary, cardiovascular, gastrointestinal, musculoskeletal, renal and reproductive systems.	<u>Complete lab panel:</u> BLL, ZPP, CBC with red cell indices and peripheral smear, serum creatinine, BUN, complete urinalysis. Sperm analysis or pregnancy test if employee requests. Any other test the physician deems necessary. Repeat BLL and ZPP every two months until two consecutive BLLs are below 40 µg/dl.
Blood lead level 50 µg/dl or greater—Medical Removal Protection (MRP) required***	As soon as MRP initiated (see above)	Complete lab panel (see above). Repeat BLL and ZPP at least monthly until two consecutive tests are below 40 µg/dl.
Reports signs/symptoms of lead toxicity, desires advice about effects of lead exposure (on reproductive system, child bearing, etc.), has increased risk of material impairment to health due to lead exposure, or has difficulty breathing with respirator use	As soon as possible (see above)	As deemed appropriate by the physician based on individual case needs.

* Title 8, California Code of Regulations, Section 1532.1(d)(2)

** µg/dl = micrograms of lead per deciliter of whole blood

µg/m³ = micrograms of lead per cubic meter of air

*** Medical Removal Protection is the required removal of an employee from work with lead exposure, with full salary and benefits, until there are two consecutive BLLs below 40 ug/dl and the physician authorizes return to the usual work.

B. Medical Removal Protection

Removal from lead exposure:

Medical Supervisor will recommend in writing to Employer to remove an employee from exposure to lead at or above 30 $\mu\text{g}/\text{m}^3$ each time that any ONE of the following occurs:

1. **General Industry:**

- a. A single BLL is 60 $\mu\text{g}/\text{dl}$ or greater

or

- b. An average of the last three blood lead levels or all blood levels over the previous six months (whichever covers a longer time period) is 50 $\mu\text{g}/\text{dl}$ or greater

or

- c. The employee has a detected medical condition placing him or her at increased risk from lead exposure.

2. **Construction Industry:**

- a. A single BLL is 50 $\mu\text{g}/\text{dl}$ or greater

or

- b. The employee has a detected medical condition placing him or her at increased risk from lead exposure.

Return to work:

Medical Supervisor will recommend in writing the return of the employee to his/her usual job, following removal due to an elevated BLL, when one of the following occurs:

1. **General Industry:** two consecutive BLLs are below 40 $\mu\text{g}/\text{dl}$

2. **Construction Industry:** two consecutive BLLs are below 40 $\mu\text{g}/\text{dl}$

OLPPP recommends that consecutive blood lead tests be at least one month apart to allow for mobilization and excretion of the lead burden. Employees removed for specified BLLs, or for other reasons such as pregnancy or signs/symptoms commonly associated with lead toxicity, should be returned to their usual work when a final medical determination is made that they are no longer at increased risk from lead exposure, that symptoms or any other clinical manifestations of toxicity have resolved, and that the employer has taken steps to control the lead exposure.

C. Written Medical Opinions

Medical Supervisor will provide Employer and every employee undergoing a medical evaluation with a brief written medical report containing the physician's opinion as to whether the employee is at increased risk from lead exposure, any recommended limits to be placed on his/her lead exposure or use of respirators, and the results of blood lead and ZPP testing. Medical Supervisor will disclose to employee, but not to employer,

findings unrelated to the employee's occupational exposure.

D. Exposure Control

If Medical Supervisor notes a progressive increase in blood lead levels (even if the levels have not reached the point necessitating Medical Removal Protection), new reports of symptoms consistent with lead poisoning, or any other indication that the employee(s) is (are) at risk of excessive lead exposure, Medical Supervisor will inform Employer and the employee(s) in writing and recommend that Employer evaluate the problem and take remedial steps.

E. Chelation

Medical Supervisor will not engage in prophylactic chelation of any employee at any time. Chelation therapy to prevent the rise of blood lead levels is illegal under the Lead Standards. The use of chelating agents with any ongoing lead exposure is inappropriate medical practice.

IV. TERM OF CONTRACT

The term of this contract will be from _____ until termination.
(Insert Date)

Either Party may terminate this contract by giving _____ days
(Insert Number of Days)

written notice to the other party. After termination, Medical Supervisor will deliver to Employer a copy of all written medical opinions only.

V. EMPLOYER'S AND/OR MEDICAL SUPERVISOR'S REPRESENTATIVE(S)

Employer and/or Medical Supervisor may designate in writing representatives for purposes of all notices and other communications between the parties.

EMPLOYER:

Name

Address

City State Zip Telephone

MEDICAL SUPERVISOR:

Name

Address

City State Zip Telephone

VI. COMMUNICATION AND NOTIFICATION

All requirements for notification and communication shall be deemed to have been satisfied by the mailing of such notices/communications using ordinary United States Postal Service mail.

VII. GENERAL PROVISIONS

A. Compliance with Applicable Law

Medical Supervisor and Employer agree to comply with all relevant state and federal statutes and regulations, if any, in performing their obligations under this contract.

B. Applicability to Subcontractors, Consultants, etc.

Medical Supervisor and Employer shall require their subcontractors, employees, consultants, agents, and representatives to comply with the applicable terms of this contract in the performance of activities relating to this contract.

C. Interfering Conditions

Medical Supervisor shall promptly and fully notify Employer of any condition which interferes with, or threatens to interfere with, the successful carrying out of his/her duties and responsibilities under this contract, or the accomplishment of the purposes thereof. Such notice shall not relieve the Medical Supervisor of his/her duties and responsibilities under this contract.

D. Independent Contractor

Medical Supervisor shall perform his/her duties and obligations under this contract in the capacity of an independent contractor, and for no purpose shall any of his/her officers, directors, members, employees, subcontractors, or agents be considered an employee of Employer or the entity with which Employer has entered into the prime contract.

E. Assignment

Without the written consent of Employer, this contract is not assignable by Medical Supervisor either in whole or in part.

F. Modification

No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or contract not incorporated herein shall be binding on any of the parties hereto.

G. Entire Agreement

This contract contains all of the contracts, representations, and understandings of the parties hereto and supersedes and replaces any and all previous understandings, commitments, or contracts, oral or written.

H. Partial Invalidity

If any part, term, or provision of this contract shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this contract, the validity of the remaining portions or provisions shall not be affected thereby.

I. Governing Law

All matters pertaining to the validity, construction, and effect of this contract shall be governed by the laws of the United States of America and the State of California. The term "this contract" as used herein includes any further written amendments made in accordance herewith.

J. Contractual Disputes and Arbitration [*OPTIONAL. Eliminate this section if you do not wish to settle disputes through binding arbitration.*]

Any controversy or claim arising out of or relating to this contract, or breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

FOR EMPLOYER:

Signature

Name/Title

Date

FOR MEDICAL SUPERVISOR:

Signature

Name/Title

Date

- ¹Title 8, California Code of Regulations, §5198
²Title 8, California Code of Regulations, §1532.1
³Title 8, California Code of Regulations, §3204
⁴Title 8, California Code of Regulations, §5144