

**State of California
Office of Administrative Law**

In re:
Department of Public Health

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 22, California Code of Regulations

OAL File No. 2013-0425-01 S

Adopt sections:

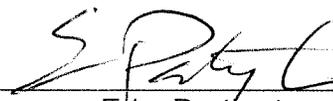
Amend sections: 70723, 71523, 71835,
72535, 73525, 74723,
75051, 75335, 76539,
76874, 76919, 78429,
79331, 79781, 79795,
79805

Repeal sections:

This rulemaking action by the Department of Public Health amends title 22 of the California Code of Regulations to replace outdated tuberculosis screening terms with the requirement that screening tests be licensed by the Federal Food and Drug Administration (FDA) and recommended by the Centers for Disease Control (CDC).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 5/30/2013.

Date: 5/30/2013



Eric Partington
Staff Counsel

For: DEBRA M. CORNEZ
Director

Original: Dr. Ron Chapman, MD, MPH
Copy: Dawn Basciano

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-0208-01	REGULATORY ACTION NUMBER 2013-0425-015	EMERGENCY NUMBER
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ENCLOSED 100
2013 MAY 30 PM 2:00

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For use by Office of Administrative Law (OAL) only

<p>NOTICE</p>	<p>REGULATIONS</p>
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2013 APR 25 11:30:48
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
California Department Public Health

AGENCY FILE NUMBER (if any)
DPH-10-013

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2013-8-2		PUBLICATION DATE 2/22/2013

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) TB Screening Testing	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)						
<table border="1"> <tr> <td>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</td> <td>ADOPT</td> </tr> <tr> <td></td> <td>AMEND</td> </tr> <tr> <td></td> <td>REPEAL</td> </tr> </table>	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		AMEND		REPEAL
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT					
	AMEND					
	REPEAL					
TITLE(S) 22	per agency request and 79805					

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Dawn Basciarone	TELEPHONE NUMBER 916-440-9367	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Belinda B. Whitsett</i>	DATE 4-23-2013
TYPED NAME AND TITLE OF SIGNATORY Belinda Whitsett, Acting Deputy Director and Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 30 2013

Office of Administrative Law

Title 22, California Code of Regulations
Division 5. Licensing and Certification of Health Facilities, Home Health Agencies,
Clinics, and Referral Agencies

(1) Amend § 70723 to read:

§ 70723. Employee Health Examinations and Health Records.

(a) Text Unchanged

(b) Text Unchanged

(1) Initial examination for tuberculosis shall include a ~~tuberculin skin test using the Mantoux method using a 5 Tuberculin Unit dose of PPD tuberculin stabilized with Tween 80, the result of which is read and recorded in millimeters of induration~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If the result is positive, a chest film X-ray shall be obtained. A ~~skin test~~ If a person has a previously documented positive tuberculosis test result, a test for tuberculosis infection need not be done ~~on a person with a documented positive reaction to PPD~~ but a baseline chest X-ray shall be obtained.

(2) Policies and Procedures that address the identification, employment utilization and medical referral of persons with positive ~~skin~~ tuberculosis tests including those who have converted from negative to positive shall be written and implemented.

(3) An annual ~~skin~~ tuberculosis test ~~for tuberculosis~~ shall be performed on those individuals with a previously documented negative ~~tuberculin~~ tuberculosis ~~skin~~ test. If an individual with a previously documented negative ~~skin~~ tuberculosis test has a subsequent positive tuberculosis ~~reaction~~ test result, a chest X-ray shall be obtained.

(4) Text unchanged

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections ~~208(a)~~ and 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1276, 121362, 131050, 131051 and 131052, Health and Safety Code.

(2) Amend § 71523 to read:

§ 71523. Employee Health Examinations and Health Records.

(a) Text unchanged

(b) A health examination performed under the direction of a physician shall be required as a requisite for employment and must be performed within one week after employment. Written examination reports signed by the physician which verify that employees are able to perform assigned duties shall be maintained. Repeat examinations shall be performed whenever necessary to ascertain that employees are free from symptoms indicating the presence of infectious disease and are able to perform their assigned duties. Upon initial examination, and at least annually, the employee shall have a ~~skin~~ test for tuberculosis using ~~Purified Protein Derivatives intermediate strength~~ infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) or a chest X-ray. ~~A Ppositive reaction to result from the skin tuberculosis~~ test shall be followed by a ~~35.56 cm x 43.18 cm (14" x 17")~~ chest X-ray.

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 121362, 131050, 131051 and 131052, Health and Safety Code.

(3) Amend § 71835 to read:

§ 71835. Certification Training and Competency Evaluation Program.

(a) – (e) Text Unchanged

(f) Text Unchanged

(1) This examination shall include:

(A) A medical history and physical examination.

(B) A ~~purified protein derivative, intermediate strength intradermal skin test~~ for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), unless medically contraindicated. If a positive ~~reaction~~ test result is obtained, a chest X-ray shall be taken, unless medically contraindicated.

(2) Text Unchanged

(g) – (n) Text Unchanged

NOTE: Authority cited: Sections ~~208(a), 1275, and 1338.3, 121357 and 131200~~, Health and Safety Code. Reference: Sections 1250, 1337.3, and 1337.6, 121362, 131050, 131051 and 131052, Health and Safety Code.

(4) Amend § 72535 to read:

§ 72535. Employees' Health Examination and Health Records.

(a) Text Unchanged

(b) The initial health examination and subsequent annual examination shall include a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). A chest X-ray is indicated if the employee has previously had a positive ~~reaction to a tuberculosis skin test result~~ or is currently being treated for tuberculosis. ~~A P~~Positive reaction to the skin tuberculosis test result shall be followed by a ~~35.56 cm x 43.18 cm (14 " x 17 ")~~ chest X-ray. Evidence of tuberculosis screening within 90 days prior to employment shall be considered as meeting the intent of this Section.

(c) Text Unchanged

NOTE: Authority cited: Sections ~~208(a), and~~ 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1276, 121362, 131050, 131051 and 131052, Health and Safety Code.

(5) Amend § 73525 to read:

§ 73525. Employees' Health Examinations and Health Records.

(a) Text Unchanged

(b) The initial health examination and subsequent annual examination shall include a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) or a chest X-ray. ~~A P~~positive reaction to result from the skin tuberculosis test shall be followed by a ~~35.56cm x 43.18cm (14 "x 17 ")~~ chest X-ray.

(c) Text Unchanged

NOTE: Authority cited: Sections 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 121362, 131050, 131051 and 131052, Health and Safety Code.

(6) Amend § 74723 to read:

§ 74723. Employee's Health Examinations and Health Records.

(a) – (b) Text Unchanged

(c) The written health assessment report shall:

(1) – (3) Text Unchanged

(4) Provide for a tuberculosis screening which shall be administered to all new employees who have direct patient contact and annually thereafter using ~~the 5-TU (Tuberculin Units) Protein Purified Derivative (PPD) tuberculin skin test.~~ a test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA).

(A) The tuberculosis test shall be administered by a licensed health care professional who is specifically trained for the procedure.

(B) Employees who present evidence of a previous positive ~~tuberculin skin~~ tuberculosis test or that he or she has previously been treated for tuberculosis infection or disease shall be excluded from the ~~tuberculin testing~~ tuberculosis screening testing program.

(d) – (f) Text Unchanged

NOTE: Authority cited: Sections 1734, ~~and~~ 100275, 121357 and 131200, Health and Safety Code. Reference: Sections 1727(f), 1727.5(e), ~~and~~ 1734, 121362, 131050, 131051 and 131052, Health and Safety Code.

(7) Amend § 75051 to read:

§ 75051. Health Examination and Health Records of Persons Working in the Clinic.

(a) Text Unchanged

(b) The initial health examination and subsequent annual examination shall include a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) or a chest X-ray. ~~A Ppositive reaction result to from~~ the skin tuberculosis test shall be followed by a ~~35.56 cm x 43.18 cm (14 "x 17 ")~~ chest X-ray. Evidence of tuberculosis screening within 12 months prior to employment shall be considered as meeting the intent of this regulation.

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections ~~208(a), and~~ 1225, 121357 and 131200, Health and Safety Code. Reference: Sections 1200, 1226, 1226.1, 121362, 131050, 131051 and 131052, Health and Safety Code.

(8) Amend § 75335 to read:

§ 75335. Employee Health Examinations and Health Records.

(a) A health examination, performed by a person lawfully authorized to perform such an examination shall be performed as a prerequisite for employment within six months prior to employment or within one week after employment. Written examination reports, signed by the person performing the examination, shall verify that employees are able to perform assigned duties and do not have any health condition that would create a hazard for the employee, fellow employees, patients or visitors. The initial health examination shall include a ~~tuberculosis screening test consisting of a purified protein derivative intermediate strength intradermal skin test~~ for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) and a chest X-ray if the ~~skin~~ tuberculosis test is positive. The psychology clinic shall establish a policy regarding subsequent health examinations and tuberculosis screening tests based on an assessment of the following:

- (1) – (2) Text Unchanged
- (b) – (c) Text Unchanged

NOTE: Authority cited: Sections ~~208(a) ad~~ 1225, 121357 and 131200, Health and Safety Code. Reference: Sections 1204.1, and 1226, 121362, 131050, 131051 and 131052, Health and Safety Code.

(9) Amend § 76539 to read:

§ 76539. Employees' Health Examination and Health Records.

(a) The licensee and all employees working in the facility shall have a health examination within 6 months prior to employment or within 15 days after employment and at least annually thereafter by a person lawfully authorized to perform such examinations. Each such examination shall include a medical history, physical evaluation and laboratory work as indicated. The report signed by the examiner shall indicate that the individual is sufficiently free of disease to perform assigned duties and does not have ~~ay~~ any health condition that would create a hazard for the employee, fellow employees, visitors or clients.

(b) The initial health examination and subsequent annual examination shall include a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) or a chest X-ray. ~~A P~~Positive reaction result to ~~from~~ the skin tuberculosis test shall be followed by a ~~35.56 cm x 43.18 cm (14 "x 17 ")~~ chest X-ray.

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections 208(a), 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1276, 121362, 131050, 131051 and 131052, Health and Safety Code.

(10) Amend § 76874 to read:

§ 76874. Health Support Services -Physician Services.

(a) Text Unchanged

(b) Testing for tuberculosis shall consist of a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If a positive ~~reaction~~ result is obtained from the ~~skin~~ tuberculosis test, the client shall be referred to the attending physician to determine if a chest X-ray is necessary.

(c) – (g) Text Unchanged

NOTE: Authority cited: Sections ~~208.4 and 1267.7~~, 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1276, 121362, 131050, 131051 and 131052, Health and Safety Code.

(11) Amend § 76919 to read:

§ 76919. Employees' Health Examination and Health Records.

(a) Text Unchanged

(b) At the time of employment, testing for tuberculosis shall consist of a ~~purified protein derivative intermediate strength intradermal skin~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If a positive ~~reaction~~ result is obtained from the ~~skin~~ tuberculosis test, the employee shall be referred to a physician to determine if a chest X-ray is necessary. Annual examinations shall be performed only when medically indicated.

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections ~~208.4 and 1267.7~~, 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1276, 121362, 131050, 131051 and 131052, Health and Safety Code.

(12) Amend § 78429 to read:

§ 78429. Employee Records.

(a) Text Unchanged

(b) Each employee record shall contain at least the following:

(1) Text Unchanged.

(2) A health record containing a report of the following:

(A) Chest X-ray or ~~purified protein derivative intermediate strength~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) performed not more than 12 months prior to employment or within 7 days of employment.

(B) Text Unchanged

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections 121357 and 131200, Health and Safety Code.
Reference: Sections 1580, 121362, 131050, 131051 and 131052, Health and Safety Code.

(13) Amend § 79331 to read:

§ 79331. Employee Health Examinations and Health Records.

(a) Text Unchanged

(b) A health examination performed by a person lawfully authorized to perform such an examination shall be required as a prerequisite for employment and shall be performed within one week after employment. The written health examination report shall be signed by the person performing the examination and shall verify that the employee is able to perform assigned duties and is free from symptoms indicating the presence of infectious disease. Repeat health examinations shall be performed whenever necessary to ascertain that employees continue to be free from symptoms indicating the presence of infectious disease and are able to perform their assigned duties. Upon initial examination, and at least annually, the employee shall have a skin test for tuberculosis using purified protein derivatives, intermediate strength infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) or a chest x-ray. ~~A Positive reaction result to from the skin tuberculosis test shall be followed by a 35.56 cm x 43.38 cm (14 "x 17 ") chest x-ray.~~

(c) – (d) Text Unchanged

NOTE: Authority cited: Sections ~~208(a), 1275, and 1275.2~~, 121357 and 131200, Health and Safety Code. Reference: Sections 1250, 1250.3, and 1275.2, 121362, 131050, 131051 and 131052, Health and Safety Code.

(14) Amend § 79781 to read:

§ 79781. Required Committees.

(a) –(c) Text Unchanged

(d) Committee composition and function shall be as follows:

(1) Patient Care Policy Committee.

(A) – (G) Text Unchanged

(2) Infection Control Committee.

(A) –(C) Text Unchanged

(D) The functions of the infection control committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for investigating, controlling and preventing infections, including tuberculosis, in the correctional treatment center. These policies and procedures shall be reviewed and revised per 79779(b), and shall be based on the-1990 recommendations of the Centers for Disease Control and Prevention (CDC).

2. Maintaining, documenting, reviewing and reporting statistics of the number, types, sources and locations of infections within the facility. This shall include maintaining a confidentiality log which contains the dates and results of ~~Mantoux tuberculin-skin tests~~ for tuberculosis infection that are recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) recorded in millimeters of induration and chest X-ray results of all correctional treatment center employees and inmate-patients.

(E) Text Unchanged

(3) Text Unchanged

NOTE: Authority cited: Sections ~~208(a) and 1267.10(a),~~ 1275, 121357 and 131200, Health and Safety Code. Reference: Sections 1250(j), 1254, 1315, 1316, and 1316.5, 121362, 131050, 131051 and 131052, Health and Safety Code.

(15) Amend § 79795 to read:

§ 79795. Employee Health Examinations and Health Records.

(a) Text Unchanged.

(b) The initial health examination shall include a ~~tuberculin skin test using the Mantoux method using a 5 Tuberculin Unit dose of Purified Protein Derivative (PPD) stabilized with Tween-80, the result of which is read and recorded in millimeters of induration~~ test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If the result is positive, a chest ~~film~~ X-ray shall be obtained. ~~A tuberculin skin test~~ If a person has a previously documented positive tuberculosis test result, a test for tuberculosis infection need not be done on a person with a documented positive reaction to PPD but a baseline chest X-ray shall be obtained.

(1) Policies and procedures that address the identification, employment utilization and medical referral of persons with positive ~~skin~~ tuberculosis tests, including those who have converted from negative to positive, shall be written and implemented.

(2) An annual ~~skin~~ test for tuberculosis shall be performed on those individuals with a previously documented negative ~~tuberculin skin~~ tuberculosis test. If an individual with a previously documented negative ~~skin~~ tuberculosis test has a subsequent positive ~~reaction~~ result, a chest X-ray shall be obtained.

(c) Text Unchanged

NOTE: Authority cited: Sections ~~208(a) and 1267.10(a)~~, 1275, 121357 and 131200, Health and Safety Code. Reference: Sections ~~1250(j)~~, and ~~1254~~, 121362, 131050, 131051 and 131052, Health and Safety Code.

(16) Amend § 79805 to read:

§ 79805. Inmate-Patient Health Record Content.

(a) Each inmate-patient's health record for inpatient services shall consist of at least the following:

(1) – (2) Text Unchanged

(3) Admission medical history and physical within 24 hours of admission. This shall include written documentation of a ~~Mantoux tuberculin skin test~~ for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA) within the past year, unless a previously positive ~~reaction~~ result can be documented or completion of adequate preventive therapy or adequate therapy for active disease can be documented. If no written documentation is available, ~~the Mantoux tuberculin skin a tuberculosis~~ test shall be administered within 24 hours of admission, and the result recorded ~~in millimeters of induration~~. The result of the tuberculosis test shall be reported as recommended in current guidelines of the Centers for Disease Control and Prevention regarding tuberculosis testing.

(4) – (9) Text Unchanged

NOTE: Authority cited: Sections ~~208(a) and 1267.10(a)~~, 1275, 121357 and 131200, Health and Safety Code. Reference: Sections ~~1250(j)~~, and 1254, 121362, 131050, 131051 and 131052, Health and Safety Code.