
2024 Employment Law Updates

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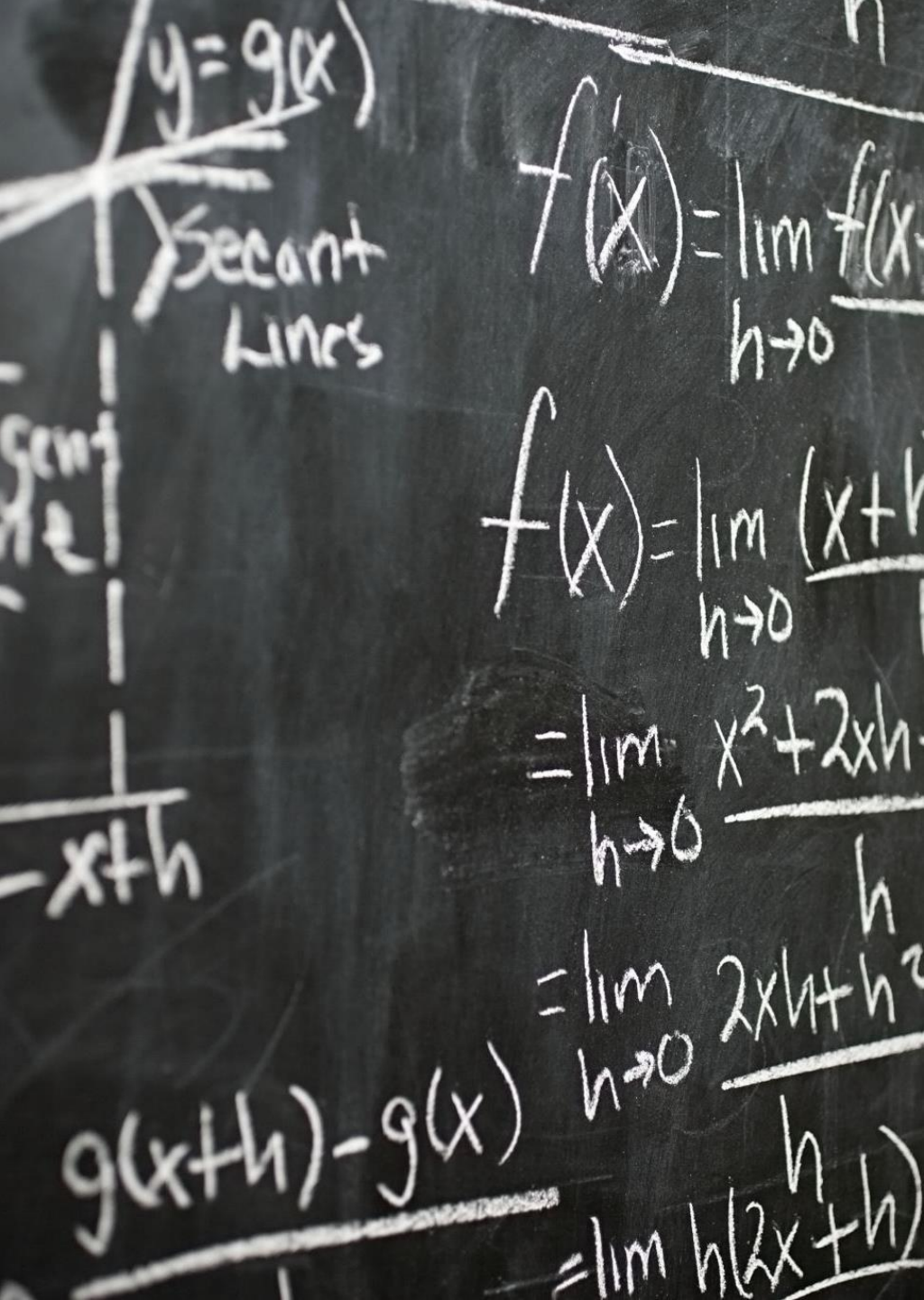
Paid Sick Leave Increases January 1, 2024

- California employees were entitled to 3 days (24 hours) of paid sick.
- Some cities and counties require larger amounts.
- **The state is now increasing the minimum to 5 days (40 hours).**

Accrual or Front load



- **This new law has increased this to 40 hours.**
- The Maximum Accrual Cap Will Increase.
- Paid Sick Leave does not get paid out at time of separation.
- Can still require that an employee use their paid sick leave after 90 days.
- It is always the employee's choice to use their paid sick leave.



The math gets tricky

- Employers who use a different accrual method (i.e. accrual per pay period) need to make sure:
 - 24 hours of paid sick leave is available for use by an employee's 120th day of employment; and
 - All 40 hours are available to use by the 200th day of employment.

A few other paid sick leave considerations

- What about combining into PTO?
- Where the employee works (even part-time) matters
- Need to update handbooks
- Update 2810.5 Labor Code Form
- Change Your Labor Posters



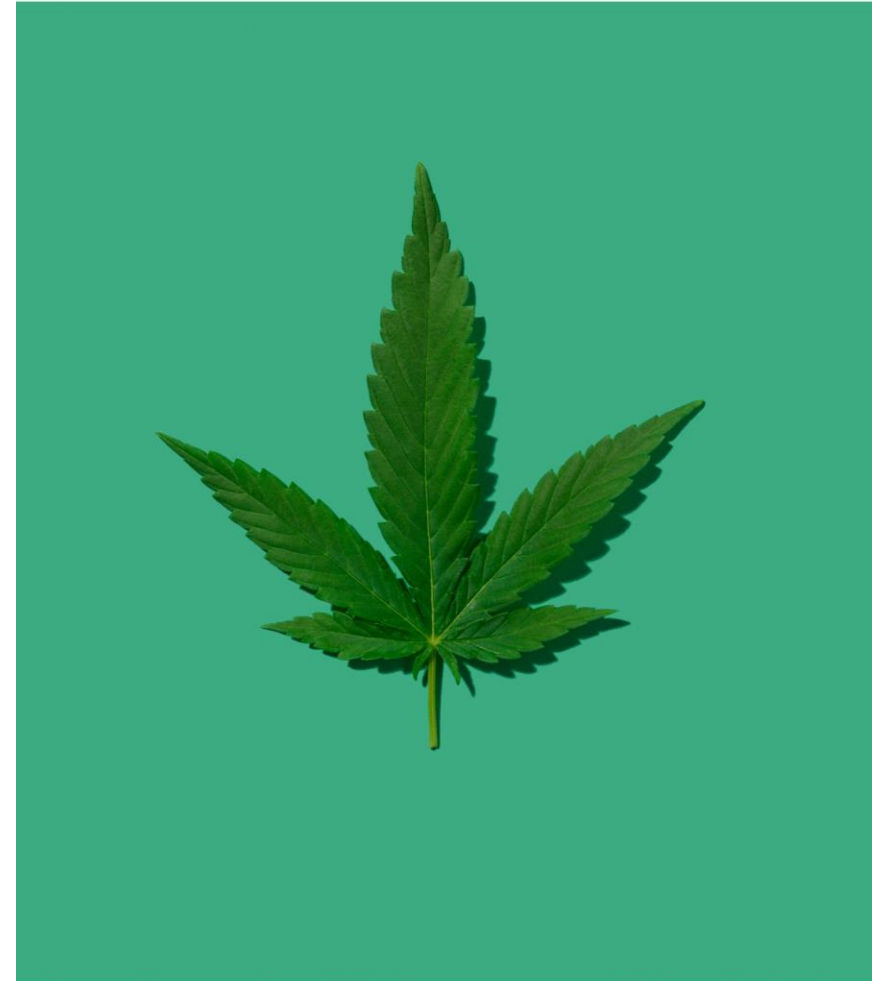
AB 2188: No discrimination based on off-duty use of marijuana

- Effective January 1, 2024.
- Unlawful to discriminate against individuals for cannabis use or drug test results under certain circumstances.
- Employer cannot take action based on: (1) off-duty cannabis use; or (2) the results of an employer-required drug screening test that has found individuals to have **nonpsychoactive cannabis** metabolites in their hair, blood, urine, or other bodily fluids.
- Can still maintain a drug and alcohol-free workplace.



FUHHGGETT ABOUT ASKING ABOUT MARIJUANA!

- SB 700 expands protections to applicants.
- **Unlawful to even ask a job applicant about past cannabis use.**
- Can't be impaired on the job.
- Can only test for psychoactive metabolites (i.e. active THC) after reasonable suspicion has been developed.
- Does not prohibit drug testing of federal contractor employees or others who are required to be tested under state or federal law.
- Does not prohibit background checks or inquiries regarding cannabis use for employees or applicants whose positions require a federal government background investigation or security clearance.





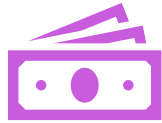
SB 848 Reproductive Loss



Business with 5 or more employees.



Employers must provide **5 days of unpaid leave** following a reproductive loss event.



Employee is covered for multiple losses in one year, up to a total of 20 unpaid days.



SB 553: OSHA, workplace violence, restraining orders

- This law affects all employers except for those who operate locations not open to the public where fewer than 10 employees work at a given time.
- Injury Illness Prevention Plan (“IIPP”) Updates Required.
- Must adopt and implement a written Workplace Violence Prevention Plan.
- Training after plan implemented and annually thereafter.
- Must record every workplace violence incident in a log.
- Employer can seek TRO on behalf of employee, expanded to harassment, not just threat of violence.
- Enforcement begins **July 1, 2024**.

SB 699: NONCOMPETE AGREEMENTS – DON'T USE THEM ANYMORE! AB 1076: REVOKE OLD AGREEMENTS

- Extends reach to non-compete agreements signed outside of CA
- YIKES!! It authorizes employees – and applicants - to directly sue employers for attempting to enforce an invalid non-compete agreement.
- Damages, injunctive relief, and attorney fees.
- AB 1076 requires employers to notify current employees and former employees (employed after January 1, 2022) in writing by February 14, 2024, that any noncompete agreements they may have signed before are void!
- This does not apply to the narrow exemptions for non-competes



SB 365: Civil procedure: Arbitration

- This new law affects employers seeking to compel civil actions to arbitration.
- Before, if a motion to compel arbitration was denied and the party appealed, the trial court was *required* to stay, until the appeal is resolved.
- SB 365 **makes a stay discretionary**.
- Federal court incentive.



AB 1355: Employment Benefits: Electronic Notice and Documents

- Current law requires employers to give certain notices to employees by providing printed materials in person or by mail.
- Applies to Notices of Eligibility for specified income tax filing assistance programs and state and federal antipoverty tax credits, printed statements regarding rights to unemployment insurance benefits.
- **AB 1355 allows employers to provide these Notices via email instead with the employee's written consent.**
- The law expires on January 1, 2029.



Minimum Wage for Health Care Workers; Could this apply to physical therapists?

- 5 separate minimum wage schedules for covered health care employees, as defined, depending on the type of employer.
- The 5 categories of employers are:
 - (1) health care facility employers;
 - (2) hospitals;
 - (3) specified clinics;
 - (4) skilled nursing facilities;
 - and (5) all other covered health care facility employers, as defined.
- **CAVEAT: This may be paused for further negotiation.**

“Covered health care employee”

- A “covered health care employee” is defined as an employee of a facility that provides patient care, health care services, or other services supporting the provision of health care.
- The law applies to traditional health care jobs
- The law also extends the definition of “employees” to include independent contractors.





“Clinics”- includes community clinics, rural health clinics, and urgent care clinics as defined in the California Health and Safety Code will increase as follows

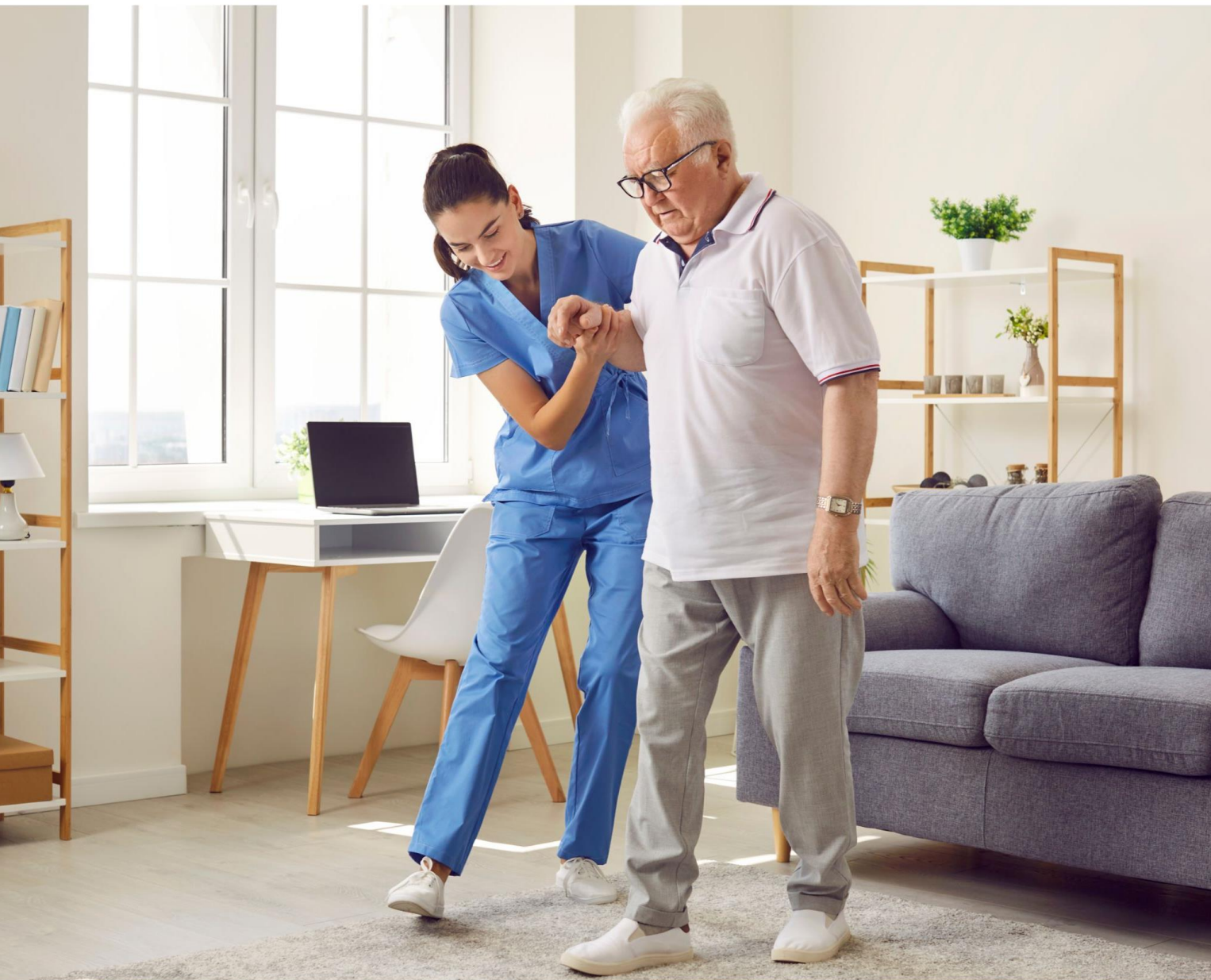
- \$21.00/hour on 6/1/24
- \$22.00/hour on 6/1/26
- \$25.00/hour on 6/1/27



Other health care facilities

For other health care facilities, the minimum wage for covered employees will increase as follows:

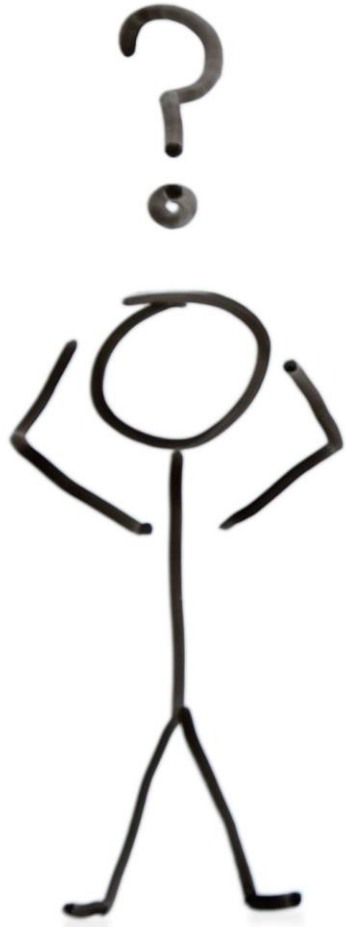
- \$21.00/hour from 6/1/24
- \$22.00/hour on 6/1/26
- \$25.00/hour on 6/1/28



Skilled nursing facilities, as defined:

The minimum wage increases for “skilled nursing facilities” is as follows:

- \$21.00/hour on 6/1/24
- \$23.00/hour on 6/1/26
- \$25.00/hour on 6/1/28



What should you do?

- Contact counsel for analysis of whether you are a covered health care entity as defined in this bill.
- This bill impacts not only your workers and subcontractors, but also your exempt employees as well: Exempt employees must earn 200% of the state minimum wage or 150% of the health care worker minimum wage, whichever is greater!
- Need to update wage notices and job postings
- What about your competition?

AB 800: Workplace Readiness: Work permits



- This new law affects employers hiring minors.
- If an employer is asked by a minor to sign a required document – a “Statement of Intent to Employ a Minor and Request for a Work Permit-Certificate of Age,” the employer must provide the minor with a document explaining **basic labor rights** before or at the time of providing the signature of the verifying authority.
- The law’s provisions go into effect on August 1, 2024.



SB 497: Presumption of Retaliation **This new law affects all employers.**

- SB 497 makes it easier for employees to establish a prima facie case of retaliation.
- Rebuttable presumption of retaliation if an employee is disciplined or discharged within 90 days of certain protected activity.
- The employer must then articulate a legitimate, nonretaliatory reason for the alleged retaliation.



AB 594: Labor Code: Alternative Enforcement

- AB 594 authorizes public prosecutors to prosecute an action, either civil or criminal for a violation of specified Labor Code provisions without the specified direction of the DLSE.
- An individual agreement between a worker and an employer that is meant to limit representative actions or to mandate private arbitration shall not affect the public prosecutor's authority to enforce the Labor Code.
- This bill authorizes the recovery of willful misclassification penalties by the employee as a statutory penalty.
- An employee also may either recover statutory penalties under these provisions or enforce civil penalties under a specified provision of the Private Attorneys General Act ("PAGA"), but not both for the same violation.

STATE OF EMERGENCY: SB 1044



- Allows employees to leave work or refuse to show up to work if employee feels unsafe regardless of existing health and safety standards/protections.
- An employer, cannot take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee feels unsafe.

Other Industry Specific Laws

Agriculture – AB 1066 reminder.

This bill, over time, phases out the overtime exemption under IWC Wage Order No. 14 for agricultural workers, and phases in overtime according to the prescribed schedule.

- **Fast Food Workers-** effective April 1, 2024, \$20/hr. minimum wage for covered national fast food chains
- **Computer Software Exemption:** January 1, 2024, minimum hourly rate of pay exemption will be \$55.58. The minimum monthly salary exemption will increase to \$9,646.96 and the minimum annual salary exemption will be \$115,763.35.
- **Licensed Physicians and Surgeons Exemption:** January 1, 2024, minimum hourly rate increased to \$101.22



CA minimum wage and mileage increases

- Effective January 1, 2024 – CA minimum wage will increase to \$16.00/hr for non-exempt
- Employee count does not matter
- Exempt employee salary threshold: \$66,560 annual minimum if meet job duties analysis
- Other cities (and industries) have higher minimum wages
- IRS mileage rate increased to 67 cents as of January 1, 2024.





Cal Savers Reminder

- SB 1234 if you have 5 or more employees, you already had to sign up for CalSavers or offer a private plan and register with CalSavers.
- As of December 31, 2025, SB 1126 will increase the requirement to employers with at least 1 eligible employee.
- This does not include a sole proprietor.

The last vestiges of COVID-19

- Cal/Osha adopted Covid Non-Emergency Regulations (CNR) to replace the Emergency Standards in effect until **February 3, 2025**
- Cal/Osha follows CDPH Isolation and Quarantine Orders
- Outbreaks: CNR does not require employers to report COVID-19 cases or outbreaks to their local health departments (unless local rules require it).
- For major outbreaks, employers must report the outbreak to Cal/OSHA.
- Still must provide written notice or post when employee or contractor exposed to COVID positive person during infectious period within one business day.



Case Law Updates

- **Adolph v. Uber Techs., Inc.**, 14 Cal. 5th 1104 (2023) • Aggrieved employees can pursue a non-individual representative action under the Private Attorneys General Act (PAGA) on behalf of other employees even after the employee's individual claim has been compelled to arbitration.
- **Doe v. Superior Court**, 95 Cal.App.5th 346 (2023)
 - Confirmed an employee can go back to court if an employer fails to pay arbitration fees and costs on time. • An employer must actually pay arbitration fees and costs by the due date. Proof that the “check was in the mail” by the due date is not enough. An employer loses all rights to enforce the arbitration agreement for late payment.
- **YoLaCour v. Marshalls of California LLC**, 94 Cal.App.5th 1172 (2023) • Emergency Rule 9, which tolled statutes of limitations for 6 months due to the COVID-19 pandemic, is valid and operates to extend the time to file a civil suit for a PAGA claim as well as the time period to provided a PAGA notice to the Labor & Workforce Development Agency.



Thank you for watching

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