

CODE APPLICATION NOTICE

FILE NO.: 1-7-2100

Subject: Clinics

EFFECTIVE: 06/19/08

CODE SECTIONS:

- a. Article 21, Plan Review, Building Inspection and Certification of Surgical Clinics, Chronic Dialysis Clinics and Outpatient Services Clinics, 2007 California Administrative Code (CAC)
- b. OSHPD 3 amendments, Section 1226, and other applicable provisions in the 2007 California Building Code (CBC)
- c. 2007 California Mechanical Code (CMC), including Tables 4-A and 4-B
- d. 2007 California Plumbing Code (CPC)
- e. 2007 California Electrical Code (CEC)
- f. 2007 California Fire Code (CFC)

PURPOSE:

The determination of which clinics and outpatient facilities are subject to the OSHPD 3 requirements found in the California Building Standards Code is complex. This results in a lack of consistency in application of the model code and OSHPD 3 requirements to clinic facilities, and uncertainty regarding the roles of the local building jurisdiction and OSHPD in the plan review, certification and construction inspection processes.

Confusion exists, in part, because the use of the generic terms “outpatient facilities and clinics.” The OSHPD 3 requirements found in the code apply only to those outpatient facilities and clinics that are licensed pursuant to Health and Safety Code Section 1200 or 1250. There are variables in statute and regulations regarding the use and licensing of these clinic facilities, making consistent application of the regulations complex.

Another source of confusion is that the applicability of certain requirements is determined by factors that are normally out of the scope of work of the building department and designer. For example, sources of financial reimbursement and the specific type of license a clinic owner desires to obtain determine what regulations apply and who has jurisdiction for the project.

INTERPRETATION:

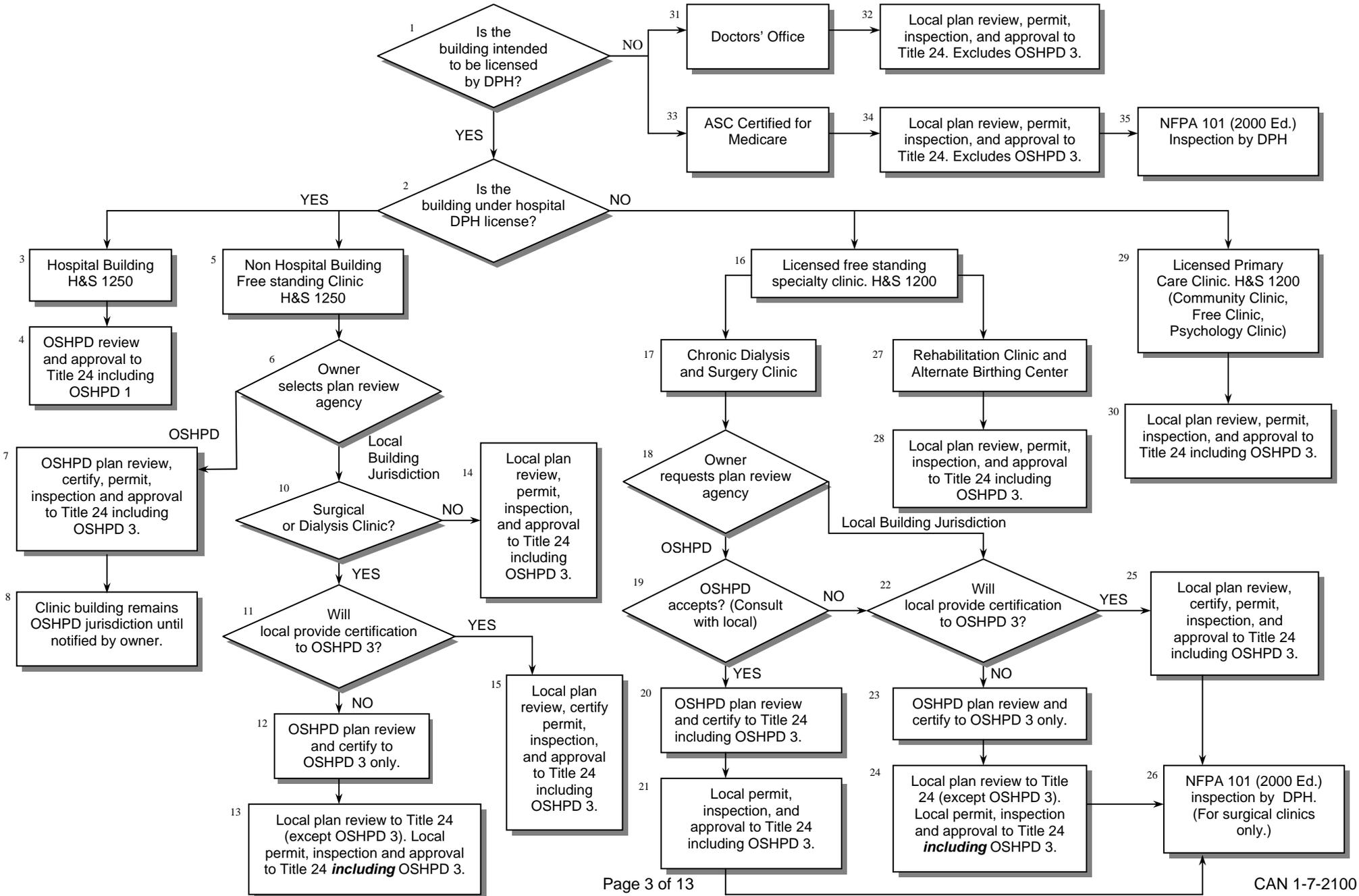
In order to determine the applicability of OSHPD 3 requirements, it is necessary to know if the clinic facility is licensed, and if so, how it is licensed. OSHPD 3 requirements for clinics only apply to clinics that are licensed pursuant to Health and Safety Code (H&S) Section 1200 (which includes primary care clinics and specialty clinics) or H&S 1250 (which includes outpatient clinical services of a licensed hospital). Where the term “clinic” or “outpatient facility” is used relative to OSHPD 3 requirements in the California codes, it shall mean a clinic or outpatient facility licensed pursuant to H&S 1200 or 1250.

The application of OSHPD 3 requirements is independent of the determination of occupancy classification. A Group B Occupancy doctor’s office is subject to OSHPD 3 requirements if the office is licensed as a clinic pursuant to H&S 1200. Conversely, a surgical clinic classified as a Group I-2.1 occupancy is not subject to OSHPD 3 requirements if it is not licensed pursuant to H&S 1200 or 1250.

California Medical Clinic Guidelines Plan Review, Approval, Inspection and Certification

(Note: Unless otherwise noted, compliance to CCR Title 24 including OSHPD 3 is required.)

Number at upper left hand corner of boxes indicate notes in following section.



California Medical Clinic Guidelines**Plan Review, Approval, Inspection and Certification**

Explanatory Notes (Keyed to numbers at upper left corners of boxes on flowchart.)

Citations are from the Health and Safety Code and the California Administrative Code (CAC) Chapter 7.

1. If the clinic is not licensed by DPH, Licensing and Certification, compliance and certification to the requirements of OSHPD 3 are not required.
2. How a clinic is licensed will affect which sections of the regulations apply, how they are applied and by what agency (local building jurisdiction or OSHPD).
3. "Hospital building" is defined in Health and Safety Code section 1250. OSHPD preempts the local building jurisdiction for enforcement of the California Building Standards Code.
4. Hospital buildings are subject to OSHPD jurisdiction, and must comply with OSHPD 1 requirements in the 2007 CBC.
5. Free standing clinic buildings under the hospital license are normally subject to the local building jurisdiction, although they are licensed under Health and Safety Code section 1250.
6. The owner or governing authority may submit directly to the local building jurisdiction, or may select OSHPD to perform the plan review and certification for free standing hospital outpatient clinics.
7. If the governing authority selects OSHPD to perform the plan review and certification responsibilities for a free standing hospital licensed outpatient clinic, then the entire project, including plan review and approval (to Title 24 including OSHPD 3 requirements), building permit and construction inspection is under OSHPD jurisdiction. The requirement for written certification to OSHPD 3 requirements applies to surgical and dialysis clinics only.
8. Clinic buildings that have been reviewed by OSHPD will remain under the jurisdiction of the Office until the owner or governing authority notifies OSHPD otherwise in writing.
9. Not used.
10. Written certification of compliance to OSHPD 3 is required for surgical and dialysis clinics.
11. If plans are submitted to the local building jurisdiction, the local building jurisdiction must notify the owner or governing authority if their review will include written certification for OSHPD 3 conformance.

12. If the local building jurisdiction will not provide written certification to OSHPD 3 requirements, then plans shall be submitted to OSHPD for plan review and certification to OSHPD 3 requirements only. The local building jurisdiction shall review the plans for compliance to Title 24 excluding OSHPD 3.
13. Concurrent with OSHPD's review to OSHPD 3 requirements, the local building jurisdiction reviews the plans for compliance to Title 24, CCR, except OSHPD 3. The local building jurisdiction shall also issue the building permit and perform construction inspection to Title 24 including OSHPD 3 requirements.
14. Written certification from the local building jurisdiction to OSHPD 3 is not required for clinics other than surgical and dialysis clinics. However, conformance to OSHPD 3 requirements is required.
15. If the local building jurisdiction will provide written certification to OSHPD 3 requirements, then the entire project, including plan review and approval, building permit and construction inspection for the project is under the local building jurisdiction.
16. Licensed free standing specialty clinics are defined in Health and Safety Code Section 1200. Specialty clinics include surgical, chronic dialysis, and rehabilitation clinics and alternate birthing centers. All specialty clinics are required to conform to the requirements of OSHPD 3.
17. Written certification to OSHPD 3 is required for licensed surgical and dialysis specialty clinics and only these specialty clinics may be reviewed and certified by OSHPD.
18. The owner or governing authority must submit plans directly to the local building jurisdiction, or may request OSHPD to perform the plan review and certification for surgery and dialysis specialty clinics.
19. OSHPD must consult with the local building jurisdiction, and either accept or not accept the clinic project for plan review. One purpose for this consultation is to determine whether or not the local building jurisdiction will issue a building permit and inspect construction for a project for which OSHPD did the plan review. If the local building jurisdiction is unwilling or unable to do this, OSHPD cannot accept the review.
20. If, after consultation with the local building jurisdiction, OSHPD accepts plan review, then OSHPD must perform a complete plan review of Title 24 requirements, including OSHPD 3. The local building jurisdiction is not involved in plan review.
21. The local building jurisdiction must issue the building permit and perform construction inspection to Title 24 including OSHPD 3.

22. If plans are submitted to the local building jurisdiction, the local building jurisdiction must notify the owner or governing authority if their review will include certification for OSHPD 3 conformance.
23. If the local building jurisdiction will not provide written certification to OSHPD 3 requirements, then plans shall be submitted to OSHPD for plan review and certification to OSHPD 3 requirements only. The local building jurisdiction shall review the plans for compliance to Title 24 excluding OSHPD 3.
24. Concurrent with OSHPD's review to OSHPD 3 requirements, the local building jurisdiction reviews the plans for compliance to Title 24, CCR, except OSHPD 3. The local building jurisdiction shall also issue the building permit and perform construction inspection to Title 24 including OSHPD 3.
25. If the local building jurisdiction will provide written certification to OSHPD 3 requirements, then the entire project, including plan review and approval, building permit and construction inspection for the project is under the local building jurisdiction.
26. The Department of Public Health will inspect surgical clinics for compliance to NFPA 101.
27. Rehabilitation clinics and alternate birthing centers are not subject to OSHPD review or certification.
28. Rehabilitation clinics and alternate birthing centers are under the jurisdiction of the local building jurisdiction only. Conformance to OSHPD 3 is required.
29. Primary care clinics, as defined in Health and Safety Code Section 1200 are required to conform to the requirements of OSHPD 3, and certification to Primary Care Clinic OSHPD 3 may be required. Primary Care Clinics may include Community Clinics, and Free Clinics.
30. Primary Care Clinics are under the jurisdiction of the local building jurisdiction only. Conformance to OSHPD 3 is required.
31. Doctor offices not licensed as clinics are not subject to OSHPD 3 regulations or certification.
32. These buildings are reviewed by the local building jurisdiction, and are not subject to OSHPD 3 regulations or OSHPD plan review.
33. If an Ambulatory Surgical Center (ASC) licensed for Medicare reimbursement only is not licensed as a specialty clinic, conformance and certification to OSHPD 3 are not required.
34. These facilities are reviewed by the local building jurisdiction, and are not subject to OSHPD 3 regulations or OSHPD plan review.

35. The Department of Public Health will inspect Ambulatory Surgical Centers for compliance to NFPA 101.

DEFINITIONS**Certification:**

Certification for Medicare and/or Medicaid – (Not related to OSHPD 3 certification requirements) A process to determine the eligibility of health care providers for reimbursement under the Medicare and/or Medicaid (Medi-Cal) programs. Certification for Medicare is provided by CMS, based on recommendation by DPH. Certification for Medi-Cal is provided by DPH.

OSHPD 3:

Certification of Nonhospital Freestanding Building Outpatient Clinical Services (H&S 1250 and 129730): A written document from the local building jurisdiction or OSHPD stating that design drawings, specifications and/or construction for surgical or dialysis services licensed clinics are in compliance with applicable OSHPD 3 requirements. This certification is only for OSHPD 3 requirements, and is in addition to the normal plan review process provided by the local building official. Certification to OSHPD 3 requirements is a completely separate process from certification for Medicare and/or Medicaid.

Certification of Licensed Freestanding Specialty Clinics (H&S 1200): A written document from the local building jurisdiction or OSHPD stating that design drawings, specifications and/or construction for surgical or dialysis licensed clinics are in compliance with applicable OSHPD 3 requirements. This certification is only for OSHPD 3 requirements, and is in addition to the normal plan review process provided by the local building jurisdiction. Certification to OSHPD 3 requirements is a completely separate process from certification for Medicare and/or Medicaid.

Certification to Primary Care Clinic (H&S 1200) – A primary clinic may establish compliance with the minimum construction standards of adequacy and safety for the physical plant by submitting written certification from a licensed architect or a written statement from a local building jurisdiction that design drawings, specifications and/or construction for specified licensed clinics are in compliance with applicable OSHPD 3 requirements

Clinic – An outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours. (H&S 1200.1) (See also Outpatient Clinical Services of a Licensed Hospital.)

Dental Clinic – Provides comprehensive dental services, and is licensed as a Primary Care Clinic by DPH. A Dental Office provides comprehensive dental services to patients, but is not a licensed clinic.

Employee Clinic – Operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the

prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group. Employee clinics are specifically exempted from licensure requirements of H&S Code, Division 2, Chapter 1, Clinics. (H&S 1206(n))

Optometric Clinic – Provides comprehensive eye services to patients. May be licensed as a Primary Care Clinic or Surgical Clinic. An Optometric Office provides optometric services, but is not a licensed clinic.

Primary Care Clinic – Clinics specified in subdivision (a) of Health and Safety Code Section 1204:

Community Clinic – a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic. (H&S 1204(a)(1))

Free Clinic – a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic. (H&S 1204(a)(2))

Psychology Clinic – a clinic which provides psychological advice, services, or treatment to patients, under the direction of a clinical psychologist as defined in Section 1316.5, and is operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds, or contributions which may be in the form of money, goods, or services. In a psychology clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal taxation under paragraph (3), subsection (c) of Section (501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, shall operate a psychology clinic. (H&S 1204.1)

Psychology clinics are eligible for licensure pursuant to H&S Code, Division 2, Chapter 1, Clinics, but are not required to be licensed. (H&S 1206.1)

Specialty Clinic – Types of clinics specified in Health and Safety code subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, rehabilitation clinics and alternate birth centers. Specialty clinics must be licensed by Department of Public Health, **EXCEPT** for surgical clinics that are under a physician’s medical license or corporation.

Alternative Birth Center (ABC’s) – a clinic that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility (H&S 1204(b)(4)).

Chronic Dialysis Clinic (ESRD, End-Stage Renal Dialysis) – a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services. (H&S 1204(b)(2))

Rehabilitation Clinic – A clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice. (H&S 1204(b)(3))

Surgical Clinic – Provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure. (H&S 1204(b)(1))

Health and Safety Code Section 1200 (and following) – Pertains to licensed clinics not under a hospital license.

Health and Safety Code Section 1250 (and following) – Pertains to “health facilities,” which include general acute care hospitals, and outpatient clinics under a hospital license.

Hospital Building – Hospital building is any building used for a health facility of a type required to be licensed pursuant to Section 1250 of the Health and Safety Code. The facility may also need to comply with NFPA 101 requirements for CMS and JCAHO standards under the Environment of Care. “Hospital building” does not include any building in which outpatient clinical services of a health facility licensed pursuant to Section 1250 are provided that is separated from a building in which hospital services are provided. If any one or more outpatient clinical services in the building provide services to inpatients, the building shall not be included as a "hospital building" if those services provided to inpatients represent no more than 25 percent of the total outpatient visits provided at the building. Hospitals shall maintain on an ongoing basis, data on the

patients receiving services in these buildings, including the number of patients seen, categorized by their inpatient or outpatient status. Hospitals shall submit this data annually to the Department of Public Health.

License – A written authorization to operate a health facility and/or clinic issued by the Department of Public Health.

Local – See Local Building Jurisdiction.

Local Building Jurisdiction (LBJ) – city, county, or city and county building department, and fire authority responsible for enforcing the California Building Standards Code.

National Fire Protection Association (NFPA) STANDARD #101 – Life Safety Code, published by NFPA. Inspections for compliance to 2000 edition of NFPA 101 are performed by DPH.

Outpatient Clinical Services of a Licensed Hospital – A service under a hospital license that provides non-emergency health care services to patients. The Clinic needs to comply with Title 24 requirements including OSHPD 3. NFPA 101 requirements for CMS and JCAHO standards under the Environment of Care may also be applicable. The number of inpatients may represent no more than 25% of the total number of patients served by the clinic. Services provided may include those enumerated in Health and Safety Code section 129730.

OSHPD 3 – Regulations promulgated by OSHPD that apply to licensed clinics and hospital outpatient clinical services provided in freestanding, nonhospital building. See Title 24, Parts 1, 2, 3, 4 and 5 for requirements.

Title 24 (T24) – California Code of Regulations (CCR), Title 24, also known as the California Building Standards Code. It includes the following parts:

Part 1 – California Building Standards Administrative Code

Part 2 – California Building Code

Part 3 – California Electrical Code

Part 4 – California Mechanical Code

Part 5 – California Plumbing Code

Part 6 – California Energy Code

Part 7 – California Elevator Safety Construction Code (See Title 8 CCR)

Part 8 – California Historical Building Code

Part 9 – California Fire Code

Part 10 – California Code for Building Conservation

Part 12 – California Reference Standards Code

Roles of Agencies Involved

California Medical Board – Responsible for licensing physicians to provide medical care.

Department of Public Health (DPH) – Verifies that operational requirements are met and issues a license to operate a licensed clinic. DPH also conducts the life safety portion of the survey, enforcing the 2000 edition of NFPA 101, Life Safety Code. Clinics must meet both State and Federal standards as a condition of participation in the Medicare program.

Local Building Jurisdiction (LBJ) – Responsible for plan review, building permit issuance, building construction inspection, and issuance of certificate of occupancy. A written certification of conformance with OSHPD 3 amendments is required for Surgical and Dialysis Clinics. When the local building jurisdiction provides certification, it shall certify within 30 days of the completion of construction that the applicable clinic provisions have been met. The local building jurisdiction may choose not to provide this certification, requiring submittal to OSHPD for plan review and certification.

Local fire department – Enforces all fire and life safety requirements of SFM in Title 24.

Office of Statewide Health Planning and Development (OSHPD) – In consultation with the Community Clinics Advisory Committee, OSHPD shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics as found in the California Building Standards Code. Additionally, OSHPD may perform a role in the plan review, building inspection and certification process as described in Title 24, Part 1, Article 21, “Plan Review, Building Inspection and Certification of Surgical Clinics, Chronic Dialysis Clinics and Outpatient Services Clinics.”

ACRONYMS

ABC	Alternative Birthing Center
ASC	Ambulatory Surgical Center
CCR	California Code of Regulations
CMS	Center for Medicare/Medicaid Services (formerly known as Healthcare Financing Association (HCFA))
DPH	Department of Public Health
ESRD	End Stage Renal Dialysis
H&S	Health and Safety Code
JCAHO	Joint Commission Accreditation Hospitals and Organizations known as the Joint Commission
LBJ	Local Building Jurisdiction
NFPA	National Fire Protection Association
OSHPD	Office of Statewide Health Planning and Development
SFM	State Fire Marshal