

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

COVID-19 PREVENTION SUBCOMMITTEE MEETING

In the Matter of:)
)
June 9, 2021 OSH)
Standards Board)
Special Meeting)
_____)

TELECONFERENCE

*PLEASE NOTE: In accordance with Executive Order N-29-20 and Executive Order N-33-20,
the June 9, 2021 Board Meeting will be conducted via teleconference*

WEDNESDAY, JUNE 9, 2021

5:10 P.M.

Reported by:
E. Hicks

APPEARANCES

BOARD MEMBERS:

Dave Thomas, Chairman
Barbara Burgel, Occupational Health Representative
Kathleen Crawford, Management Representative
Dave Harrison, Labor Representative
Nola Kennedy, Public Member
Chris Laszcz-Davis, Management Representative
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT OSHSB OFFICE IN SACRAMENTO:

Christina Shupe, Executive Officer
Autumn Gonzalez, Chief Counsel
Michael Nelmidia, SR Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Michael Manieri, Principal Safety Engineer
Lara Paskins, Staff Services Manager
Jennifer White, Regulatory Assistant

TKO STAFF:

Brian Monroe
John Roensch
Maya Morsi
John Gotcher
Rey Ursery

ALSO PRESENT:

Eric Berg, Deputy Chief of Health
Dr. Tomás Aragón, California Department of Public Health

SPANISH INTERPRETERS:

Patricia M. Hyatt
Anabella Tidona
Alejandro Franco
Estella Moll

APPEARANCES (CONT.)

PUBLIC COMMENT:

Helen Cleary, Phylmar Regulatory Roundtable
Bruce Wick, Housing Contractors of California
Kevin Bland, representing California Framing Contractors Association, Western Steel Council, and Residential Contractors Association
Michael Miiller, California Association of Winegrape Growers
Bryan Little, California Farm Bureau
Katie Hansen, California Restaurant Association
Rob Moutrie, California Chamber of Commerce
Melissa Patack, Motion Picture Association, Inc.
Kristie Sepulveda-Burchit, Educate. Advocate
Lynn Mohrfeld, California Hotel and Lodging Association
Saskia Kim, California Nurses Association
Vick Osborn, Water Emergency Response Organization of Orange County
Len Welsh, representing himself, California Hotel and Lodging Association, Ironworkers Management Progressive Action Trust, Grower-Shipper Association of Central California
Mitch Steiger, California Labor Federation
Brian Mello, Associated General Contractors of California
Maggie Robbins, Worksafe
Janine Dorn, Self
Steve McCarthy, California Retailers Association
Sandra Martinez, Self
Sue O'Conner, Self
Steve Munday, Imperial County Public Health Officer
Lori Joseph, Self
Karen Tynan, Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Jennifer Mena, Self
Dr. Aimee Smith, Self
Tino Barragan, Santa Clara County
Giancarlo Rubio, Valley Industry and Commerce Association
Matt Allen, Self
Ken Smith, EH&S, University of California
Cassie Hilaski, Nibbi Brothers,
Fran Schreiber, Labor and Employment Committee of National Lawyers Guild
Zeb Hutchison, Self
Justin Shores, Self
Anne Katten, California Rural Legal Assistance Foundation
Brad Brinkman, Let them Breathe Reopen San Diego
Crystal Wibier, Self
Aaron Holmberg, County of Inyo

APPEARANCES (CONT.)

Karen Waltman, Self
Pam Ragland, AAAP, Association of Autistic and ADHD Parents
Samuel Plantowsky, Self
Jerilynn Martin, Self
Michael Lin, Self
Simone Sumeshwar, Sacramento Department of Utilities
Andrew J. Sommer, California Employers COVID-19 Prevention Coalition
Audra Morgan, Self
Jason Park, Self
Karena Kelley, Self
Kelli Hillard, Self
Elizabeth Huber, Self
Gina Ma, Self
Monique Lukens, LAUSD Employee and SAG-AFTRA, AEA, UTLA Union Member
Eric J. Conn, Chair, OSHA Practice at Conn, Maciel, Carey, L.L.P. -- on behalf of California
Employers COVID-19 Prevention Coalition

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II. SPECIAL MEETING – All matters on this Meeting agenda are subject to such discussion and action as the Board determines to be appropriate. The purpose of the Special Meeting is for the Board to consider new information from the California Department of Public Health on pending guidance regarding COVID-19 Prevention, and take action if appropriate.	
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P R O C E E D I N G S

JUNE 9, 2021

5:10 p.m.

CHAIRMAN THOMAS: Thank you and good evening. This meeting of the Occupational Safety and Health Standards Board is now called to order. I am Dave Thomas, Chairman. And the other Board Members present today are Ms. Barbara Burgel, Occupational Health Representative; Ms. Kathleen Crawford, Management Representative; Mr. David Harrison, Labor Representative; Ms. Nola Kennedy, Public Member, Ms. Chris Laszcz-Davis, Management Representative; and Ms. Laura Stock, Occupational Safety Representative.

Also present from our staff for today's meeting are Ms. Christina Shupe, Executive Officer; Ms. Autumn Gonzalez, Chief Counsel; and Mr. Michael Nelmidia, Senior Safety Engineer who is providing technical support. Supporting the meeting remotely are Mr. Michel Manieri, Principal Safety Engineer; Ms. Lara Paskins, Staff Services Manager; and Ms. Jennifer White, Regulatory Analyst. Via teleconference, we are joined today by Mr. Tomás J. Aragón, Director and State Health Officer representing the California Department of Public Health; Mr. Eric Berg, Deputy Chief of Health representing the Division of Occupational Safety and Health.

At this time, we ask those of you participating in the WebEx videoconference to please email your name and contact information to oshsb@dir.ca.gov which will become a part of the official record for today's proceedings. While supplying your information is not required, it is appreciated.

Today's agenda and other materials related to today's proceedings are posted on the OSHSB website. In accordance with Executive Orders N-29-20 and N-33-20, today's Board Meeting is being conducted via teleconference with an optional video

1 component. This meeting is also broad -- live broadcast via video and audio stream in
2 both English and Spanish. Links to these non-interactive live broadcasts can be accessed
3 via the What's New section at the top of the main page of the OSHSB website. We have
4 limited capabilities for managing participation during the public comment period, so
5 we're asking everyone who is not speaking to place themselves on mute and wait to
6 unmute until they are called on to speak. Those who are unable to do so will be
7 removed from the meeting to avoid disrupting the proceedings.

8 As reflected on the agenda, the Board Chair has called today's special
9 meeting specifically to consider new information from the California Department of
10 Public Health on pending guidance regarding COVID-19 prevention and take action if
11 appropriate. Bagley-Keene requires the Board make the finding of necessity prior to
12 commencing with the meeting, outlining factual reasons that make a regulatory notice
13 meeting a substantial hardship. The following finding of necessity is posted on the
14 Board's website with today's meeting documents.

15 This meeting has been called and noticed pursuant to Special Meeting
16 Provision of Bagley-Keene Open Meeting Act which allows for a meeting on less than
17 ten-days' notice under certain circumstances. The Occupational Safety and Health
18 Standards Board held a regular meeting on June 3rd, 2021 in which it voted to re-adopt
19 the COVID-19 Prevention Emergency Temporary Standard. The regulatory package was
20 then submitted to OAL where it is currently pending review. On Monday, June 7th,
21 2021, the Board received notification from the California Department of Public Health
22 regarding imminent changes to the state's requirements on the use of face coverings.
23 To align with guidance issued by the Centers for Disease Control and Prevention,
24 effective June 15, 2021, according to the CDPH notification, as of June 15th, face
25 coverings will no longer be required for fully vaccinated Californians in public settings

1 except in the settings where the CDC advises that all individuals should wear face
2 coverings regardless of vaccination status, such as healthcare settings and long-term
3 care facilities, public transit and sheltering operations.

4 The Board was not aware of these imminent changes when it voted at its
5 June 3rd, 2021 meeting. Immediate action is required to protect the public interest in
6 preventing the spread of COVID-19 in the workplace. By ensuring that the COVID-19-
7 related regulations are consistent with and reflective of the most up-to-date health and
8 safety guidance on the COVID-19 pandemic. Therefore, in order to ensure the COVID-19
9 prevention emergency temporary standards are in conformance with the most recent
10 guidance, the Board requires immediate briefings from both CDPH and the Division of
11 Occupational Safety and Health. Immediate action is also required to protect public
12 interest to avoid confuse -- confusion regarding the requirements of the workplace
13 safety standards, which would make both enforcement and compliance unduly difficult.
14 The Occupational Safety and Health Act's purpose is to assure safe and healthful -- sorry
15 about -- safe and healthful working conditions for all Californians.

16 The Board's further of this purpose -- the Board furthers this purpose --
17 hold on just a second. I'm sorry, folks. Some people keep calling my phone, so I have to
18 get it off the desk.

19 The Board furthers this purpose through the promulgation and effective
20 and enforceable standards. Because public -- State public health guidance will change
21 on June 15th to avoid confusion, the Board should consider before that date whether
22 changes to the ETS are necessary. Finally, complying with the ten day notice
23 requirements of Bagley-Keene would impose a substantial hardship on the Board. The
24 Board's ability to meet, receive briefings, and take necessary action prior to finalization
25 of the re-adoption of the COVID-19 prevention emergency temporary standards is

1 incumbent upon the Board holding a meeting prior to June 15th, when the above-
2 mentioned requirements for CDPH will go into effect. Based on the immediate need for
3 briefing from CDPH and Cal/OSHA prior to June 15. The Board finds that it would create
4 a substantial hardship to delay this meeting as further changes to the COVID-19
5 emergency temporary standard may be necessary for these reasons stated above. For
6 all these reasons, the Board has properly called and noticed this special meeting
7 pursuant to the Act.

8 Does the Board have points of discussion for the finding and necessity?

9 I see no questions. I -- do I have a motion to adopt the finding of
10 necessity?

11 MAN 1: Has the meeting started or are we waiting?

12 CHAIRMAN THOMAS: Yeah.

13 MAN 1: Or is the sound on right now?

14 BOARD MEMBER HARRISON: Dave? Dave, this is Dave Harrison.

15 CHAIRMAN THOMAS: Yes.

16 BOARD MEMBER HARRISON: I'd like to make a motion to the Board, find
17 in favor of the necessity for a special meeting for the factual reasons outlined by the
18 comments just made.

19 BOARD MEMBER LASZCZ-DAVIS: I second.

20 CHAIRMAN THOMAS: I have a motion and I have a second. Ms.

21 Gonzalez, will you please call the roll?

22 MS. GONZALEZ: Ms. Burgel.

23 BOARD MEMBER BURGEL: Aye.

24 MS. GONZALEZ: Mr. Harrison.

25 BOARD MEMBER HARRISON: Aye.

1 MS. GONZALEZ: Ms. Kennedy.

2 BOARD MEMBER KENNEDY: Aye.

3 MS. GONZALEZ: Ms. Laszcz-Davis.

4 BOARD MEMBER LASZCZ-DAVIS: Aye.

5 MS. GONZALEZ: Ms. Stock.

6 BOARD MEMBER STOCK: Aye.

7 MS. GONZALEZ: Ms. Crawford.

8 BOARD MEMBER CRAWFORD: Aye.

9 MS. GONZALEZ: Chair Thomas.

10 CHAIRMAN THOMAS: Aye. The motion passes. Thank you.

11 The Board will now hear from Dr. Aragón and have an opportunity to ask

12 questions. After Dr. Aragón's presentation, Mr. Berg will provide a briefing from the

13 Division, followed by an opportunity for public comment. Public comment is limited to

14 the briefings on tonight's agenda and any action the Board may take as a result.

15 Mr. Gotcher, is Dr. Aragón's slideshow ready?

16 MR. GOTCHER: Yes, it is. We'll get it going in just a second.

17 CHAIRMAN THOMAS: All right. And are you with us, Dr. Aragón?

18 DR. ARAGÓN: Yes, I am.

19 CHAIRMAN THOMAS: Thank you for joining us tonight. And I think we

20 can have the slideshow up. So, can you please brief the Board.

21 MS. SHUPE: Before you do, I hate to interrupt. But I do want to let

22 everyone know who's watching this meeting, that this slideshow is available on the

23 Board's website as well, under the meeting documents.

24 CHAIRMAN THOMAS: Thank you, Ms. Shupe.

25 Mr. Aragón, you may continue.

1 DR. ARAGÓN: Good afternoon. Thank you for giving me this time to
2 brief you today on the masking guidance from the California Department of Public
3 Health, which has already been posted online. Right now, California is doing very well
4 with respect to COVID. The daily case rate is down to 1.7 cases per 100,000 per day.
5 The test positivity is less than one percent. The reproductive number is less than one;
6 it's about .74. The vaccines that are currently being administered are highly effective.

7 WOMAN 1: Careful.

8 DR. ARAGÓN: We've seen continuing decreases in infection cases,
9 hospitalizations, and deaths. Currently, 78 percent of persons over the age of 65 have
10 received at least one shot. And for all Californians, we have 65 percent have received --
11 for those that are eligible, have received one shot. As we begin to open up the economy
12 on June 15th, when we retire the blueprint, we recognize that we will be stress-testing
13 our system because there will be a lot more mobility. Our goals during this transition
14 period is to contain transmission, to monitor the variants, and to get to herd immunity
15 by continuing our vaccines, and also, making sure that we can admin -- keep people
16 safe.

17 Not too long ago, the CDC did come out with guidance advising persons
18 who are fully vaccinated on what they could do safely. They also provided guidance on
19 settings where everyone should be masking. The California Department of Public Health
20 has been working to update out guidance, taking into account all -- taking into account
21 the CDC guidance with the goal of aligning with that guidance, and taking into account
22 the context that we currently have.

23 Next slide.

24 The key point I want you to think about when you look at this slide is that
25 SARS-COVID-2, the agent that causes COVID-19 is an airborne pathogen. We know that

11

1 there's asymptomatic transmission and indoors, it can cause superspreading events,
2 including long-range transmission. The second thing we want you to keep in mind is
3 that the vaccines that we have are the most effective countermeasure to prevent
4 transmission. That's followed by source control and respiratory protection. We also
5 want everyone to recognize that community transmission matters. So, community
6 transmission is a function of herd immunity in the community, persons' behavior and
7 then also infection control practices.

8 SARS-COVID-2 is transmitted by aerosols or droplets. With respect to
9 droplets, we think about distance or barrier protection. With respect to airborne, we
10 think about distance, diluting the aerosols, and filtration. In this schematic that you see
11 here, if you pay attention to where it says outdoors, person A is an -- is a person who's
12 infected. Nobody in the schematic is wearing a mask. Person A, as they talk, cough,
13 they're putting both large droplets and aerosols. And you can see here that the aerosols
14 are being diluted by wind. The person B, who's also not wearing a mask is susceptible to
15 infection. No one in this diagram is vaccinated. That person really is at risk by being
16 close to that person. So, here is where distance matters.

17 If we now take this setting and we go indoors, we see person A again,
18 who's still infected, talking to person C, also not wearing a mask. And we see person B
19 has now moved to another part of the room. Now, indoors, the risk increases
20 dramatically because the aerosols will concentrate indoors. So, person C is at risk from
21 being infected -- of being infected by person A, not just through large droplets, not just
22 through -- and through aerosols because that person is close to person A. What people
23 don't recognize sometimes, is that person B may believe that they're safe because
24 they're at a distance from person A. And the truth is is that person is not safe because
25 the aerosols travel far, and that person can be infected.

1 So, just to summarize in the two tables that we see on the right-hand
2 side. So, when we think about infection prevention mechanisms, the facemask are good
3 at source control by covering the mouth and reducing the aerosols that come out. They
4 also provide protection to the wearer by droplet protection; so, large droplets or splash,
5 protect the wearer. What it does not provide, it does not provide airborne protection.
6 However, a respirator like an N-95 is good for source control, droplet protection, and
7 airborne protection when it's fitted well.

8 The bottom table just also summarizes the -- thinking about the
9 mechanisms from a different perspective. And that is, barrier -- we think of barrier
10 against droplets. We can see that the facemask is effective there. N-95 is effective
11 there. We have two other types of interventions that happen in the environment. One I
12 put here, which is very simple, which is windows, opening up windows to allow
13 ventilation and dilution of aerosols. And the other one is engineering devices, for
14 example, that will filter out aerosols as well.

15 Filtration of aerosols. Facemasks are not designed to filter aerosols; N-95
16 are. Opening windows dilutes it but does not filter. And then of course, engineering
17 controls can do filters -- can do filtration.

18 And then the last one is going to be dilution of aerosols. So, we see
19 where window -- opening up windows and doors and engineering mechanisms. The
20 reason why I show you this is that there are all these different mechanisms available in a
21 setting to mitigate the risk of the transmission or SARS-COVID-2. And this is through the
22 background of the science that the CDC and the California Department of Public Health
23 uses to think through the issues. We have been focusing at CDPH primarily on indoor
24 risk. We think that mitigating indoor risk is the most important thing that we can do.

25 Next slide.

1 So, I'm going to take you, briefly, through the guidance that was posted
2 today. It's only two pages long, so it should not take very long. The COVID-19 vaccines
3 are effective in preventing infection, disease, and spread. Unvaccinated persons are
4 more likely to get infected and spread the virus, which is transmitted through the air
5 and concentrates indoors. About 15 percent of our population remains without the
6 option for vaccination, for example, children under 12 years old are not currently
7 eligible. As risk of COVID-19 exposure and infection will remain until we reach full
8 community immunity.

9 Next slide.

10 The purposes of this guidance is to align with CDC recommendations and
11 provide information about higher-risk settings where masks are required or
12 recommended to prevent transmission to persons with higher risk of infection, for
13 example, unvaccinated or immunocompromised persons; to persons with prolong
14 cumulative exposures, for example, workers; or to persons who's vaccination status is
15 unknown. When people who are not fully vaccinated wear a mask correctly, they
16 protect others as well as themselves, as I described in the initial slide. Consistent and
17 correct mask use by people who are not fully vaccinated is especially important indoors.

18 Next slide.

19 In workplaces, employers and employees are subject to Cal/OSHA COVID-
20 19 emergency temporary standards or in some workplaces, the Cal/OSHA aerosol
21 transmissible diseases standard and should consult those regulations for additional
22 applicable requirements.

23 Next slide.

24 So, here is where masks are required for everyone. Masks are not
25 required for fully vaccinated individuals except in the following settings where masks

1 are required for everyone, regardless of their vaccination status. So, public transit and
2 in transportation hubs, and the examples are listed there. Indoors, in K through 12
3 schools, childcare, and other youth settings. I do want to comment that we will be
4 updating this component of the guidance as soon as the CDC comes out with guidance
5 that we expect will be coming out soon. So, this will be changing. In healthcare
6 settings, in State and local correctional facilities and detention centers, in homeless
7 shelters, emergency shelters, and cooling centers. These all are consistent with CDC.
8 You see the citations. And on the last slide, you will see the specific citations for all of
9 these.

10 Next slide.

11 Additionally, masks are required for unvaccinated individuals in indoor
12 public settings and businesses, for example, retail, restaurants, theaters, family
13 entertainment centers, meeting, State and local government offices serving the public.
14 For additional information, individuals should refer to the CDC recommendations for
15 safer activities for additional guidance. So, except for those things that we're requiring
16 in the last few slides, we are referring to the CDC link that you see there below that
17 provides recommendations on how people should wear masks based on the type of
18 activity they're doing. They break it up into indoor versus outdoor in different types of
19 activities.

20 Next slide.

21 And then we provide a little bit of guidance for the venue operators in
22 settings where masks are required only for unvaccinated individuals. Businesses, venue
23 operators, or hosts may choose to provide information to all patrons, guests, and
24 attendees regarding vaccination requirements and allow vaccinated individuals to self-
25 attest that they are in compliance prior to entry; implement or -- implement vaccine

15

1 verification to determine whether individuals are required to wear a mask; or to
2 require all patrons to wear a mask. No persons can be prevented from wearing a mask
3 as a condition for participation in an activity or entry into a business.

4 The next slide.

5 We also continue to have exemptions for mask requirements. I won't
6 read these, but these are the exemptions that have always existed on all the guidances
7 [sic] that we have posted in the past.

8 Next slide.

9 And then these are the CDC references that we used to make this
10 guidance. We also have a FAQ document that is -- I believe it may be already posted
11 now, that goes into more detail for different types of scenarios that people may be
12 wondering about.

13 So, just to let you know, so our goal was -- is to try to protect the
14 public's -- public as we move through this transition period, as we open up the
15 economy, that also align with the CDC guidance that was recently posted. So, that
16 concludes my presentation. And I'm available for any questions.

17 CHAIRMAN THOMAS: Thank you, Mr. Aragón. Does the Board have any
18 questions for Mr. -- for Dr. Aragón? Sorry, Doctor.

19 BOARD MEMBER LASZCZ-DAVIS: Chris --

20 DR. ARAGÓN: No problem.

21 BOARD MEMBER LASZCZ-DAVIS: I do.

22 CHAIRMAN THOMAS: Go ahead, Chris.

23 BOARD MEMBER LASZCZ-DAVIS: And that was an excellent presentation,
24 so thank you very much. I struggled a little bit with trying to appreciate what you
25 shared today with what we considered a week ago. Where are the changes if there are

16

1 any?

2 DR. ARAGÓN: So, I -- so, what you saw a week ago was your initial ET --
3 the proposed ETS. Is that what you're asking me about? Because I think Mr. Berg is
4 probably in a better position to answer that. So, this guidance is new. This guidance has
5 not -- this is a brand-new guidance. Last time we updated our guidance was on May
6 3rd.

7 BOARD MEMBER LASZCZ-DAVIS: Oh, let me ask the question again.
8 Maybe it is for Eric when he gets to his briefing. But my question, just so that we can
9 hold it for later, is, no, we voted in the second proposal -- endorsed the second proposal
10 and I was led to believe that there was going to be an alignment of CDC guidelines with
11 perhaps that second proposal. Or at least we would have a better appreciation for
12 CDC's requirements so that we could take a look at that proposal we endorsed and see
13 what new changes needed to be made if any. And I was trying to figure out, what did
14 we learn today that wasn't already integrated in that second proposal that we endorsed.
15 Maybe that's a question for Eric later.

16 DR. ARAGÓN: Yeah, I think has to do with the ETS. Everything that I
17 presented to you today aligns with the CDC. We took longer just because the CDC was
18 updating their website with additional requirements around youth camps and masks.
19 And so, we wanted to make sure that we had as much information available to us so
20 that we can -- we could put something that we could put out on June 15th without
21 having to update often.

22 BOARD MEMBER LASZCZ-DAVIS: I see. Thank you very much.

23 BOARD MEMBER STOCK: So, I have some questions if I can.

24 CHAIRMAN THOMAS: Sure, Laura, go. Go ahead.

25 BOARD MEMBER STOCK: Thank you. And thank you so much for your

17

1 presentation, it was really helpful. I actually have two questions. So, the first question
2 about where you defined work settings or locations where you were going be requiring
3 masks of everyone, regardless of vaccination status. And I'm just wondering if you could
4 say a little bit more about why those workplaces and not other workplaces where
5 people are similarly closely congregating. And then after that, if I could reserve my time
6 to ask one more question. But first, I'll let you ask that -- answer that question.

7 DR. ARAGÓN: Right. So there, it's in indoor public settings. And there's
8 only three different -- the areas that we mentioned were public transit, indoor at
9 schools, healthcare settings, and then correctional facilities and detention centers, and
10 then basically shelters. Those were the only areas where we're requiring masking by
11 everyone. The next one is required for unvaccinated individuals.

12 BOARD MEMBER STOCK: Right.

13 DR. ARAGÓN: And that's in indoor public setting and businesses. And the
14 examples there were retail, restaurants, theaters, et cetera. So, for --

15 BOARD MEMBER STOCK: Yes, I understood that. But I was just curious
16 about what was the -- why is there that distinction? What is it about the -- on the first
17 slide where it says in those settings, everybody needs to versus the second slide where
18 it just was limiting to unvaccinated?

19 DR. ARAGÓN: Yeah. So, it's a little bit -- yeah. So, the example -- so,
20 from the very first one that we started with was in public transit. That we're aligning
21 100 percent with federal government. So, the federal government has already -- is
22 requiring public transport -- transit and transportation hubs to just have everybody
23 masked. And that makes sense from an epidemiologic perspective. You're going to
24 have all types of people going into public transit, little kids, pregnant moms,
25 immunocompromised persons. No one's going to know anybody else's vaccine status.

18

1 And yet -- and the simplest thing to implement is just everyone wear a mask. So, that's
2 there.

3 For the schools, we're sticking where we are right now with the schools.
4 We will be waiting for the CDC guidance and we'll adapt to that because they will come
5 out specific for schools. For healthcare settings, it's also very similar. When you go into
6 a healthcare settings, you have children, pregnant mom, persons on chemotherapy, you
7 have patients who are hospitalized and have no choice but to be exposed to people who
8 are coming inside the hospital. So, that's -- and that's -- all of the -- every -- all of this is
9 consistent with current CDC guidelines that -- in a healthcare setting, people should be
10 masking.

11 Same thing with correctional facilities. Again, you have people who are
12 going to have involuntary exposures because they have no choice but to be exposed to
13 people who are coming in that setting. And then the same thing for shelters. Think of
14 emergency shelters when there's a wildfire and people have to go a shelter, there's no
15 real -- they have to -- they have no choice but to go into that shelter. Again, you're
16 going to have diversity of people who may be unvaccinated, immunocompromised,
17 pregnant. You're not going to have time to check people's vaccination status. So, the
18 simplest thing to implement and -- in that type of setting is just to ask everybody to
19 wear a face covering. The other important thing is that it's not more restrictive than
20 what we currently have. So, there already is that cultural norm on -- in indoor settings
21 to wear a face covering.

22 BOARD MEMBER STOCK: So, thank you. I have my second question. But
23 my one quick comment on that is, I appreciate you recognizing the special challenges
24 when people are involuntarily -- when they have no choice about whether to be in a
25 setting or not. And I -- you know, I might say that that applies to a lot of workplace

1 settings. But certainly, the ones that you mentioned as well. So, I think that's an
2 important point. So, I appreciate that you mentioned that.

3 So, my last question is just related to the date you presented at the
4 beginning about the picture of where California is. I wanted to -- I spent a little bit of
5 time taking a look at your website where you list outbreak data and workplace cases.
6 And just to comment that that data is really, really important, particularly, you know, as
7 we contemplate, you know, changes to the ETS or -- it's just, that is really going to be
8 where we'll be looking to try to get the most up-to-date data of the impact of any
9 changes that we make in the workplace. And you know, just -- I haven't done a deep
10 dive into it.

11 But just -- I was looking at one chart where it showed that there's a
12 column that reflects the number of cases or outbreaks in the last 30 days. And just as
13 an example in looking in one view of the data, it says, for example, in retail trade all
14 settings, just in the last 30 days, there were 70 outbreaks, more than two a day, and
15 there was over 800 cases. And so, I just wanted to -- you know, so, that shows that in
16 fact, outbreaks are still occurring at a sort of unacceptably high rate. And so, I just
17 wanted to hear your comments on that and also, just wondering the last 30 days, how
18 often that gets updated. Is that just the month of May? Or would that be up until the
19 last 30 days from now? Or just -- will that continue to be updated? So, I just wondered
20 about your (indiscernible).

21 DR. ARAGÓN: Yes, that will continue to be updated. And outbreak data
22 is always challenging. It's easier to identify outbreak data -- outbreaks when there is a
23 setting where it's obvious that people have prolonged exposures. And in many other
24 settings, for example, transmission that it might happen in mass transit, is just hard to
25 measure those things. So, there's -- what you're seeing is really a biased sample of the

20

1 transmission that's happening out there in the community. We know there's
2 outbreaks happening in the other settings; they're just very difficult to measure.

3 BOARD MEMBER STOCK: Right. So, it's probably an undercounting in
4 fact?

5 DR. ARAGÓN: Yeah --

6 BOARD MEMBER STOCK: Because this probably -- just based on reported
7 outbreaks.

8 DR. ARAGÓN: Correct.

9 BOARD MEMBER STOCK: And both -- there might be workplace settings
10 where it hasn't been reported or it's much harder to monitor.

11 DR. ARAGÓN: All types of settings. Family gatherings -- there's other
12 settings where you just don't recognize that transmission is happening.

13 BOARD MEMBER STOCK: Thank you.

14 CHAIRMAN THOMAS: Any other questions?

15 UNIDENTIFIED FEMALE SPEAKER 2: Is anyone allowed to ask questions?

16 MAN 2: I have a question.

17 CHAIRMAN THOMAS: This is just for Board Members, please. I'm sorry
18 that -- it'll be open to the public after we do this. Any other Board questions?

19 BOARD MEMBER KENNEDY: This is Nola. I have a quick question.

20 CHAIRMAN THOMAS: Go ahead, Nola.

21 BOARD MEMBER KENNEDY: Dr. Aragón, thank you very much for that
22 presentation. How do persons who had the disease and may have some level of natural
23 immunity fit into this?

24 DR. ARAGÓN: That's a very good question. There's sort of several
25 different ways of looking at this. And we're still learning -- we're still -- there's a lot to

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1 learn about both people who have been infected and people who have been
2 vaccinated in terms of how long immunity lasts. Certainly, people who have been
3 infected are going to have some immunity after their infection. And that -- and more
4 information is coming out in terms of how long that's going to last. We do know that
5 reinfection does occur, but it doesn't occur -- it occurs rarely.

6 CHAIRMAN THOMAS: Thank you, Nola. Any other questions?

7 BOARD MEMBER HARRISON: Yeah, I have a couple of practical questions.

8 So, first, (indiscernible) presentation. You mentioned face coverings and
9 masks. And I just want to clarify, are we talking about face coverings or N-95s in your
10 presentation? My first question.

11 DR. ARAGÓN: Yeah. So, my -- our guidance is really directed towards the
12 general public, so we're really talking about masks. The use of N-95 respirators really
13 tend to be utilized in occupational settings, for example, in healthcare settings.

14 BOARD MEMBER HARRISON: Okay. And then my second question, you
15 referred to businesses. And I know we talked about employees a little bit, but you -- in
16 regards to the self-attestation for vaccination, does that -- are you again talking just
17 about general public? Or are we talking about employees here?

18 DR. ARAGÓN: So, this here, there's sort of two levels of -- yeah, this
19 guidance really directed to the general public and we refer people to -- employers and
20 employees to the ETS and the ATD in terms of what they need to do. And there's really
21 sort of two level of attestation that happens and we're not talking about this right now,
22 but there's the idea of being vaccinated, right? You can self-attest to being vaccinated
23 or you can show a card, for example. And so, that's -- there's that level of just being
24 vaccinated. And then there's another level, which is, if you post a sign -- you're a
25 businessperson and you post a sign, unvaccinated persons must wear a face covering, if

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1 I'm unvaccinated and I put on a face covering, you might infer -- I'm -- you might infer,
2 oh, this person must be unvaccinated. But the truth is, is that you don't know. We hope
3 that people will be honest and if they're unvaccinated, to put on a face covering.

4 BOARD MEMBER HARRISON: I love your optimism. Thank you.

5 CHAIRMAN THOMAS: I just have a question. You mentioned new CDC
6 guidance is coming soon. What is the new guidance expected to cover?

7 DR. ARAGÓN: The guidance that will be coming out is going to be around
8 schools. There's a lot of activity, really trying to understand how to deal with schools.
9 Schools is a special situation because you have children under 12 are not eligible for the
10 vaccine. But they're also less likely to become infected and less likely to transmit. So,
11 it's a special setting.

12 CHAIRMAN THOMAS: So, if we change the date, are we going to be --
13 well, we are going to be back here next week anyway, so. I think that answers my
14 question and I know that schools are a different environment altogether. I did want to
15 say one thing that I think is really --

16 WOMAN 2: You just cut out again.

17 CHAIRMAN THOMAS: Please -- this commentary is for the Board only.
18 Please don't -- please mute yourself if you're not on the Board. Thank you.

19 MS. SHUPE: This is just a quick reminder that this an official proceeding.
20 And that folks who are disruptive will be removed.

21 CHAIRMAN THOMAS: Thank you, Christina.

22 And I -- what I was going to say is one of the big takeaways from this for
23 me is that in the -- in an ordinary workplace, vaccinated are not going to have to wear
24 masks. I am correct in that, right, Doctor?

25 DR. ARAGÓN: My -- our guidance doesn't deal -- is not dealing specifically

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1 with employees. That's going to be the ETS.

2 CHAIRMAN THOMAS: Thank you.

3 Are there any other questions from the Board?

4 MS. SHUPE: Chris.

5 CHAIRMAN THOMAS: Oh, Chris. Go ahead, Chris.

6 BOARD MEMBER LASZCZ-DAVIS: Yeah, if you wouldn't mind. I've got one
7 more question. You know, in listening to your presentation, it certainly suggests that
8 the only face covering that's worth considering is the N-95. Is that a recommendation
9 for workplaces given the proximity in many cases of employees with other employees?

10 DR. ARAGÓN: So, I'm not -- our guidance focused on the general
11 population, really focusing on masks. I put that in the slide just to be complete because
12 it is an aerosol transmissible disease. But that's something that Cal/OSHA will handle.

13 BOARD MEMBER LASZCZ-DAVIS: All right. Thank you.

14 CHAIRMAN THOMAS: Thank you, Chris.

15 Any other questions for Dr. Aragón now?

16 BOARD MEMBER BURGEL: I have a question

17 CHAIRMAN THOMAS: Go ahead.

18 BOARD MEMBER BURGEL: Thank you. Thank you again, Dr. Aragón. As
19 far as you definition of face coverings or masks, does that include gators, turtlenecks,
20 bandanas? Or are we aligned in our -- what we adopted last week in our revised
21 definition of a face covering?

22 DR. ARAGÓN: Yeah. So, I can't speak to what you approved in the ETS.
23 So, in an occupational setting, you may have more precise definitions. The definitions
24 that we use are just from the CDC website. So, the CDC does have some guidance on --
25 in terms of having at least two -- to have masks that fit the face and you -- it has good

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1 filtration, it has several -- at least two layers of material. And so, the CDC has very
2 specific guidance. So, that's what we would -- we refer people to that type of
3 information.

4 BOARD MEMBER STOCK: And maybe just one final comment, kind of
5 following up, Chris, on your question. I understand you're not here to comment on
6 workplace exposure and we'll hear from Eric shortly. But just to reflect that the slide
7 that you showed us and the discussion that you had around that slide was to highlight
8 the difference between an N-95 and regular facemask and to emphasize the fact that to
9 protect against an aerosol -- you know, an airborne transmissible exposure or virus, like
10 COVID-19, the N-95 is the one that checked all those boxes. So, I just want to kind of
11 reflect that that -- though -- that you're not making the recommendation one way or the
12 other, that your slide did indicate that -- provide that information.

13 DR. ARAGÓN: Correct.

14 CHAIRMAN THOMAS: Thank you. Any other questions?

15 Thank you, Dr. Aragón. We appreciate your testimony today. At this
16 time, we're going to hear briefing from Mr. Eric Berg.

17 Eric, are you with us?

18 MR. BERG: Yeah, can you hear me okay?

19 CHAIRMAN THOMAS: Yeah, go right ahead, please. Thank you.

20 MR. BERG: All right. Thank you very much. We at Cal/OSHA are
21 reviewing the letter that the California Department of Public Health sent to the
22 Standards Board on Monday, June 7th, which outlines the new California Department of
23 Public Health masking guidance that was issued today that aligns with the CDC and the
24 latest science and data, which I understand the Board is considering during this special
25 meeting. We will bring recommended revisions to the COVID-19 emergency temporary

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1 standards to the Standards Board in time for consideration during the regular Board
2 meeting on June 17th. This is not meant to circumvent the Board's representative
3 subcommittee process as they work with Cal/OSHA to further update the COVID-19
4 prevention emergency temporary standard to ensure they reflect the most up-to-date
5 guidance from health experts.

6 And that's all I have. Thank you.

7 CHAIRMAN THOMAS: Thank you, Eric. Are there any questions for Mr.
8 Berg?

9 BOARD MEMBER STOCK: I guess -- so, it sounds like at this point you're
10 not prepared to be able to describe any of the changes might be contemplated? Or
11 anything -- is there anything more you can say about any of that at this point?

12 MR. BERG: Well, they will be consistent with the CDPH guidance that was
13 issued today. It was just issued today.

14 BOARD MEMBER STOCK: I see.

15 MR. BERG: So, it'll match those.

16 BOARD MEMBER STOCK: So, if we were to imagine that among the
17 things that will be considered in new language that it might be related to distinguishing
18 between vaccinated and unvaccinated people about what -- you know, in terms of their
19 requirement to wear a mask in the workplace. So, I guess, you know -- and maybe this
20 will be part of our discussion later, but I just want to highlight the critical importance of,
21 you know, vaccination status verification to be sure that the language that is there, that
22 does define fully vaccinated as having documented evidence that they've gotten at least
23 two shots or one shot, depending on the vaccine. So, I am, you know, hoping that that
24 language -- you know, particularly if we're moving in a direction that we're
25 distinguishing and need to make differences depending on vaccination status, that that

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1 will be clearly explained and that there will be, you know, clear instructions about how
2 to verify vaccination status that will provide information on that -- you know, effective
3 vaccination status where people can feel confident that the right decisions are being
4 made.

5 I just wanted to make that comment. I might have more later when we
6 discuss it later.

7 MR. BERG: Okay. Thank you.

8 CHAIRMAN THOMAS: Any other questions for Eric at this time?

9 Barbara, go ahead.

10 BOARD MEMBER BURGEL: Yeah. I just want to clarify the timeline. We
11 have voted to move forward our revision of last week that's under consideration by the
12 Office of Administrative Law and would be put into law in ten days if approved. Is that
13 correct, David?

14 CHAIRMAN THOMAS: At this point, the AOL [sic] has it. It hasn't been
15 fully submitted. So, I think the proper thing for us to do is, since we have this new
16 guidance -- and what we're going to ask later is to pull this emergency standard --
17 emergency temporary standard and to let the Division include this guidance that we just
18 had in the new ETS that we would be voting on. And I think it would be the next
19 meeting, which is the 17th.

20 MS. SHUPE: Mr. Berg did say that the Division would be able to deliver a
21 proposal--

22 CHAIRMAN THOMAS: Yes.

23 MS. SHUPE: -- in time for a Board vote on the 17th.

24 BOARD MEMBER STOCK: So, Dave, can I just clarify that it's what we --
25 what might be ended up recommending is not -- is what would be pulled is the revision.

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1 CHAIRMAN THOMAS: Correct.

2 BOARD MEMBER STOCK: In other words, the existing ETS would still be in
3 place.

4 CHAIRMAN THOMAS: Yes.

5 BOARD MEMBER STOCK: This is not a vote on revoking the ETS.

6 CHAIRMAN THOMAS: Oh, no.

7 BOARD MEMBER STOCK: So, I just wanted to clarify that.

8 CHAIRMAN THOMAS: Not at all.

9 BOARD MEMBER STOCK: Just to be sure. Yeah.

10 (Crosstalk).

11 MS. SHUPE: Just as a --

12 BOARD MEMBER STOCK: Yeah.

13 MS. SHUPE: -- point of order -- and I hope the Board will forgive me for
14 jumping in here. But just as a point of order, you cannot vote to repeal the ETS tonight.
15 That would be a regulatory action that would need to be noticed in advance.

16 BOARD MEMBER STOCK: Thank you, Christina. And I had one other
17 question for Eric and it's, again, following up on Chris's earlier questions about N-95.
18 You know, as I heard Dr. Aragón's presentation, it seemed clearly very --
19 you know, very clear that N-95s are the protection that unvaccinated people in the
20 workplace would need. And so, again, I know we're not seeing new language now. But
21 it just seems like it clearly supports the need to make that available to people who want
22 to use that to get the protection that they need as quickly as possible. So, again, I know
23 we're not looking at new language, but I just wanted to, again, reflect that that is -- that
24 seems consistent with what we heard from Dr. Aragón and consistent with at least part
25 of what we have -- had instituted last week.

1 MR. BERG: Yeah, I agree.

2 CHAIRMAN THOMAS: I have a question, Eric. If we're going to say that it
3 is N-95s, are we going to have a phase-in period for businesses to acquire those so that
4 we're not immediately out there citing people. We want to make sure that people have
5 time to acquire these for those who might need them. Is that something that might --
6 you might consider?

7 MR. BERG: Yes. I don't think it's been completed yet, so I don't know --
8 sure how that's -- what that's going to look like or what the -- if there's anything on N-
9 95s, what that's going to look like exactly.

10 CHAIRMAN THOMAS: Okay.

11 MR. BERG: But that will be out shortly.

12 CHAIRMAN THOMAS: Any other questions of Mr. Berg?

13 BOARD MEMBER BURGEL: Yes. Can I ask as far as -- maybe I'm a little
14 confused because Dr. Aragón presented face coverings, right? But we have in our --
15 what we adopted last -- June 3rd, was also physical distancing and partitions, and then
16 inclusive of some ventilation guidance. And so, what exactly -- it's sounds like as of the
17 15th of June -- our meeting is not until June 17th, correct? With the revised proposal --
18 a different language to look at. I'm just wondering what's going to happen on June
19 15th. Am I the only one that's a little confused?

20 MS. SHUPE: So, I can address that.

21 BOARD MEMBER BURGEL: Thank you.

22 CHAIRMAN THOMAS: Go ahead, Chris.

23 MS. SHUPE: Yeah. So, if the Board were to vote to withdraw the
24 revisions that they approved on June 3rd, then the November 2020 ETS would remain in
25 effect. So, it's the same as the last time, the November 2020 remains in effect until the

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1 Board adopts and -- new revisions that become effective.

2 CHAIRMAN THOMAS: And that would be on the 17th?

3 MS. SHUPE: Well, they would be --

4 CHAIRMAN THOMAS: Well --

5 MS. SHUPE: -- adopted on the 17th --

6 CHAIRMAN THOMAS: -- if they were adopted on the 17th, it would
7 become effective when?

8 MS. SHUPE: Approximately June 28th.

9 CHAIRMAN THOMAS: Everybody clear on that? And I think what we're
10 trying to accomplish here is, we had new guidance and we're trying to put into this ETS
11 the best guidance that we have right now. We're trying to be very proactive here and
12 give the Division a chance to include all of this so that it matches up with the CDC and
13 the California Department of Public Health so that we're all on the same page. That's
14 where -- that's what this is about. So, we're not out of step with everybody else. That's
15 the main focus here. And you know, it wouldn't been nice to have gotten this a couple
16 weeks ago. And it would've -- we would've already had it done, but it didn't happen
17 that way. So -- and I know the California Department of Public Health has to go through
18 its steps too. But we're trying to be proactive here and give the Division the best
19 method for it to include everything.

20 Any other question of -- oh, Chris, go ahead.

21 BOARD MEMBER LASZCZ-DAVIS: Yeah. Just a real quick question. You
22 asked if anybody was confused. I raised my hand. I'm confused. When Eric and the
23 Division started working on integrating CDC guidelines, will the baseline proposal that
24 they're working with -- is that the one we voted in last time?

25 CHAIRMAN THOMAS: I would say that would be the baseline. But the --

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1 that would be what -- yeah. That would -- they'd be working off of that. But we still
2 have the original one that would be in effect until we agree on the 17th of the new one.
3 And then that would go into effect the 28th.

4 BOARD MEMBER LASZCZ-DAVIS: All righty. Thank you.

5 CHAIRMAN THOMAS: Is that less confusing? Or is that -- thank you.
6 She's nodding her head yes, so I guess --

7 BOARD MEMBER HARRISON: I got a few comments, Dave.

8 CHAIRMAN THOMAS: Yeah, go ahead, Dave.

9 BOARD MEMBER HARRISON: I just -- a few things I'd like to see if we're
10 talking about a potential modification to the rule. I agree with Laura and as much as I
11 like the optimism of the presentation earlier, I think self-attestation in the workplace
12 isn't -- I don't support that and I would like to see something a little more concrete with
13 proof of vaccination in the workplace, some sort of record keeping on that. Also,
14 reasonable availability of N-95. So, if there's N-95s that are going to be required to be
15 available upon request for voluntary use, I'd like to see some sort of a reasonable
16 timeline there so that if an employee requests and N-95, we're not waiting a month or
17 two months before the employer provides them. And I don't want to force this huge
18 demand on employers to have a giant stockpile. But if I, as an employee, want access to
19 an N-95, I'd like to have it available within a reasonable time, whether it be, you know,
20 48 hours or a week. Something reasonable and I'm willing to discuss that.

21 And then the other thing, there's some employees that I've spoken with
22 since last week within the industry that have a vaccination and they still want to be --
23 have the availability of N-95s upon request. And I don't know that that's going to be a
24 large number of folks, but if that could be recognized somewhere in the rule, I think that
25 would be reasonable as well.

1 So, just wanted to make those --

2 CHAIRMAN THOMAS: Thank you, Dave.

3 BOARD MEMBER HARRISON: Thank you.

4 CHAIRMAN THOMAS: Appreciate that.

5 BOARD MEMBER STOCK: Yes, and --

6 CHAIRMAN THOMAS: Any other --

7 BOARD MEMBER STOCK: -- I want to just make a couple of others. I
8 agree with what Dave said, you know, and that issue around availability. I mean I think
9 we did hear last week that we're in a new phase of availability for N-95 than we were,
10 you know, a year ago. And I think we heard from a number of people that the supply
11 is -- it's possible to get them and I agree that employers should have something on hand
12 so that they can respond within 24 hours, 48 hours, something like that.

13 And as we're talking about it, there's just two other things I would want
14 to put out as the Division is working on a new version. One is the idea of a kind of a --
15 some recognition of -- you know, sort of a surge plan. We talked about this before, but
16 you know, as things open up and, you know, as -- when I -- as I said earlier, when I look
17 at the outbreak data that is on the CDPH website, it's sobering to see the continuing
18 number of workplace outbreaks and individual cases. So, the pandemic is not over. And
19 so, I think we need to -- we're going to be taking away some of the guardrails and I think
20 it's really important both to have accurate data so that CDPH continues to keep that
21 data and by workplace would be even better and that we would also have some
22 recommendation that if numbers rise in the workplace, that we would be able to
23 reinstate protections that we know have kept the -- you know, have been working so
24 far. And so, that's another thing that I hope can be considered in a new version that
25 we'd be looking at.

1 And the other thing is just to also recognize that there are -- as Dr.
2 Aragón mentioned, respiratory protection is just one part of a whole set of protections
3 that are in the workplace. And I know that the draft that we looked at before was going
4 to be eliminating physical distancing, which I see is, you know, important to a lot of
5 people who are concerned about opening at full capacity. But I do -- I am concerned
6 and would like to just offer the suggestion that we -- that the partition requirement,
7 which is something that theoretically employers still -- have already put in place, so it's
8 not an additional burden to put it in place, that if in fact -- when I think about
9 workplaces like meatpacking plants and others, where they may -- really may have
10 made a difference -- if in fact, once people do the required assessment of risk in the
11 workplace and if they determine that that risk can be controlled, which is required in
12 the ETS, through the use of some of those other measures, such as partitions, I'd like to
13 just offer the suggestion that that continue to be something that we require, particularly
14 it's a -- it's something that exists already and is not a new burden.

15 So, I just wanted to put those thoughts as the Division is developing a
16 new proposal. Thank you.

17 CHAIRMAN THOMAS: Thank you, Laura.

18 Do we have any other questions of -- yes, Barbara.

19 BOARD MEMBER BURGEL: I have a question. What I do like about the
20 CDPH guidance is the choice for individual businesses when they're dealing with the
21 public, when they have patrons, where they could do self-attestation or look -- you
22 know, verify vaccination or require everyone to wear masks. Somehow that choice
23 appeals to me. And I don't know how easy or difficult that would be to put in a
24 regulatory language. But I just wanted to put out that somehow that felt empowering
25 to me, if I was an employer, some kind of choice. And I, personally -- self-attestation is

1 used in a lot of different circumstances and I'm not too worried about it. I respect, you
2 know, Laura and Dave, your concern about it, but I think that that might be worthwhile
3 to explore.

4 The second is a question for Dr. Aragón if he's still on about the CDPH
5 guidance around megaevents, just to see if we are in alliance with our -- what we passed
6 week around vaccinated and unvaccinated people wearing face coverings, per our
7 definition and if -- you know, for megaevents over 10,000 people. So, I just wondered if
8 we were in alliance there. Was that aligned already with what we passed last week?
9 So, I don't know.

10 DR. ARAGÓN: Yeah. I don't know whether what you passed is in
11 alignment. For megaevents -- for indoor megaevents, unvaccinated persons are going
12 to have to wear face coverings.

13 MAN 3: (Indiscernible).

14 DR. ARAGÓN: For outdoor events, they're going to -- for outdoor events,
15 they will follow CDC recommendations which we point them to.

16 BOARD MEMBER BURGEL: Okay.

17 CHAIRMAN THOMAS: Thank you, Barbara.

18 Any other questions?

19 BOARD MEMBER CRAWFORD: Yeah, this is Kate. I have just a question. I
20 think this might be for the Doctor. First of all, thank you for coming this evening. It's
21 been very informative. But the thing that I want to ask about is kind of generalized. But
22 I know that there's been new testing guidance that was released. And so, I wonder if
23 you could just kind of review that with us and the though process behind it. And I'll also
24 have another question or a comment when we're done with that.

25 DR. ARAGÓN: Yeah. I really -- I do apologize. I did not come prepared to

1 review the testing guidance with you because I know that the topic tonight that's on
2 the agenda is just the masking guidance. So, I'm happy to come back at another time
3 when that's on the agenda.

4 BOARD MEMBER CRAWFORD: Oh, that was my misunderstanding. I
5 apologize.

6 DR. ARAGÓN: No.

7 BOARD MEMBER CRAWFORD: I would like to hear that piece. That is
8 important information. So, we'll have to figure that out.

9 And then the second item I have is not for you, Doctor, but more -- I think
10 a comment to Eric and to the Division, that I would like to see the conditions defined
11 that -- so, define the conditions within the State that eliminate the need for an ETS
12 related to COVID. So, that's my comment.

13 CHAIRMAN THOMAS: Thank you. Any other questions?

14 All right.

15 WOMAN 2: I have a question. Hi, everyone. My name's Carrie. Hi.

16 CHAIRMAN THOMAS: Ms. Carrie, this --

17 MS. SHUPE: This is not the time for public comment.

18 WOMAN 2: Oh, not yet?

19 CHAIRMAN THOMAS: We're just about to the -- so, everybody just listen
20 for a minute. This was the Board's questions. Now we're going to the public comment.
21 I was just going to go to that. So, the Board has no more questions. I want to thank
22 Eric -- Mr. Berg for being here.

23 So, now we invite the -- now we invite public comment on tonight's
24 briefings. Anyone who wishes to address the Board regarding the updated CDPH
25 guidance and Division's briefing is invited to comment at this time. The Board is unable

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1 to consider comments outside of these items. So, when you speak, we're speaking
2 about the items we talked about tonight and nothing else. Just those items. If you have
3 comments for the Board on topics outside of tonight's agenda, we invite you join our
4 next regular scheduled on June 17th, 2021.

5 Members of the public who have contacted staff either by email or
6 phone and asked to be placed in the public comment queue will be called on in turn.
7 Please listen for your name and invitation to speak before addressing the Board. Please
8 remember to mute your phone or computer after commenting. Tonight's public
9 comment will be limited to two minutes per speaker since we have only certain items to
10 speak on and the public comment portion of the meeting will be extended for up to two
11 hours so that the Board may hear from as many members of the public as is feasible.

12 Board staff can be contacted by email at OSHSB@dir.ca.gov or via phone
13 at (916)274-5721 to be placed in the comment queue. If you experience a busy signal or
14 are routed to voicemail, please hang up and call again. For our commenters who are
15 native Spanish speakers, we are working with an interpreter, Patricia Hyatt, to provide a
16 translation of their statements into English for the Board.

17 At this time, Patricia Hyatt will provide instructions to the Spanish
18 speaking commenters so that they are aware of the public comment process for today's
19 meeting. Ms. Hyatt?

20 (Instructions in Spanish provided by Patricia Hyatt.)

21 CHAIRMAN THOMAS: Thank you, Patricia.

22 Mr. Gotcher, do we have any commenters in the queue?

23 MS. SHUPE: Mr. Gotcher, before we get started -- and I apologize for
24 interrupting. This is Christina Shupe again. I just want to remind our commenters -- and
25 thank you for joining the queue, but I want to remind you that because this is a special

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1 meeting, the topics will be limited very specifically to the items that are on the agenda,
2 which are the briefing that the Board has received from CDPH, the briefing that the
3 Board has received from the Division, and any action that the Board may take as a result
4 of that. Thank you.

5 CHAIRMAN THOMAS: Thank you, Christina.

6 Mr. Gotcher, do we have commenters in the queue? I'm assuming we
7 have many.

8 MR. GOTCHER: We do. Our first commenters will be Helen Cleary, Bruce
9 Wick, and Bryan Little, with first, Helen Cleary from the Phylmar Regulatory Roundtable.

10 CHAIRMAN THOMAS: Hello, Helen. Are you with us?

11 MS. CLEARY: Hello. I am. Hear me okay?

12 CHAIRMAN THOMAS: Go right ahead.

13 MS. CLEARY: Great. Good evening and thank you for the opportunity to
14 speak. My name is Helen Cleary and I'm the director of PRR. Last week we asked the
15 Board to postpone the vote and send the proposed COVID-19 ETS back to the Division to
16 revise four sections. The dialogue and questions raised by Board Members during that
17 meeting was heartening and as was some discussion tonight. We also appreciate
18 hearing from the CDPH tonight. This direct briefing for the Board was long overdue. We
19 have a few questions that we hope the CDPH can answer.

20 Regarding N-95s for volunteer use, how many times should N-95 be
21 reused? Facial hair restricts (audio interference) on N-95 without proper fit test,
22 effectiveness is reduced as the doctor confirmed. For some, they are a health hazard.
23 Given these risks, should every employer in the State be encouraging their use? Also, is
24 CDPH aligned with CDC and the N-95s are for healthcare? If reinfection is rare, will
25 natural immunity be considered? And what is the transition period and what are the

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1 triggers that will roll the State back?

2 Despite the discussion to include new guidance, we are also concerned
3 that it is not enough. We support fully vaccinated employees not wearing face
4 coverings. However, simple edits will not change the need to track and enforce
5 requirements for two classes of people and documentation needs to be addressed. We
6 also strongly urge that respirators for volunteer use not be required. The ETS needs to
7 be pulled back and corrected. We are supportive of the Division given -- being given the
8 time to make those changes. Needed changes can still be small, but they need to
9 include more than face coverings.

10 I cannot follow the bouncing ball of messaging guidance and implications
11 being issued by State leaders, public health officials, and Cal/OSHA. In addition,
12 employers cannot plan with this high level of uncertainty. This process does not need to
13 be chaotic. It should be measured, transparent, and collaborative. We are disappointed
14 and frustrated with the confusion, the process, the substance, and the lack of
15 leadership, particularly since we are no longer at the height of the pandemic. However,
16 we are cautiously optimistic the Division can meet this extremely task. Thank you for
17 your time tonight.

18 CHAIRMAN THOMAS: Thank you, Helen.

19 MR. GOTCHER: Our next commenter is Bruce Wick from Housing
20 Contractors of California.

21 CHAIRMAN THOMAS: Bruce, can you hear us?

22 MR. WICK: Yes. Thank you, Chair Dave.

23 CHAIRMAN THOMAS: Go ahead.

24 MR. WICK: And thanks everybody and we do appreciate the monumental
25 work this Board is doing, staff, Division. Greatly appreciate the Department of Public

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1 Health coming and giving us a briefing. This has, I think, been long overdue.

2 We're in a difficult place. We're coming out of COVID; we've turned the
3 corner; we've worked really hard, you know? And yet we seem to have a regulation
4 that will get more complex. I'm really concerned that we have a regulation that will pit
5 workers against each other, cause workers to resent their employers intruding in some
6 of their private decisions.

7 So, I really think we should pull back what was talked about. I think we
8 need to pull this back. The N-95 respirators, you know, people tired of wearing a face
9 covering. And certainly, you know, N-95s are very helpful in many situations, but the
10 average worker is going to not appreciate having to not just not get rid of face coverings
11 but have the N-95s. So, I really encourage us -- let's take this thing apart. You can make
12 a case -- the ETS covers, when you look at the real data, the Worker's Comp data, two
13 percent of COVID issues. Two percent. Because all the healthcare workers are covered
14 by the ATD, they have been and will be covered by the ATD. And they rep -- thank you,
15 John -- and they represent a third of all the Worker's Comp claims.

16 So, this is really important for us to get it right. Please pull this thing back
17 and scale it back dramatically if we don't repeal it altogether because our workers -- you
18 know, California's supposed roaring back. And a confusing, difficult regulation for
19 employers to implement, pitting workers against each other is going to really,
20 significantly delete that roar.

21 Thank you.

22 CHAIRMAN THOMAS: Thank you, Bruce.

23 MR. GOTCHER: Next commenters will be Bryan Little, Kevin Bland, and
24 Michael Miiller, with next, Bryan Little from the California Farm Bureau.

25 CHAIRMAN THOMAS: Bryan, are you with us? Can you hear us, Bryan?

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1 Apparently not. Can we go to the next commenter and then we'll get
2 back to Bryan?

3 MR. GOTCHER: Our next commenter is Kevin Bland who is representing
4 CFCA, WSC, and RCA.

5 CHAIRMAN THOMAS: Kevin?

6 MR. BLAND: Hello, good evening, Chairman Thomas --

7 CHAIRMAN THOMAS: (Indiscernible).

8 MR. BLAND: -- and Board Members. I appreciate you guys having this
9 meeting and discussing this tonight. I want to talk a little bit about the complexity and
10 how we got here. As we can -- as we've figured out, we've already had changes since
11 the last time we met that came from CDPH in this constantly evolving guidance that
12 occurs. I want to remind everyone that, you know, we had the IIPP which was a viable
13 option, still is. I know this isn't for repeal discussion, so I'll leave it just at that for a later
14 discussion.

15 But I do want to make a point regarding the last adoption. As a
16 practitioner who practices with Cal/OSHA, part of that is providing guidance to
17 employers that want to comply. I spent the entire weekend -- and interestingly enough,
18 I'm pretty intimate with this regulation. I spent the entire weekend trying to be able to
19 write an opinion letter to a client of how to comply with the vaccination/non-
20 vaccination physical distancing July 31st, the face covering/no face covering, N-95
21 voluntary/involuntary, and N-95 mandatory, how all of that works and fits together for
22 someone to actually comply with it. I think at -- that can't be lost because a lot of times
23 we talk about these components in isolation. So, I'm hoping that that's taken into
24 consideration whenever this revision -- instead of making it more complex and more
25 difficult, we need something that can be followed.

1 And the other thing -- and Bruce Wick mentioned this and I can't go
2 without saying this, is we -- when we see the guidance from CDPH, that's great, but in
3 some of the contexts, for example, the -- it says the business can do what they want,
4 they can put a sign up or they can just require everyone to wear masks. We talked
5 about -- Bruce Wick talked about employee-to-employee difficulties and animosity
6 between each other. I'm vaccinated, I'm not. You -- because -- you have to wear a mask
7 because you're not. Same thing with that -- with clients, customers. Now we're pitting -
8 - now we're making the employer be the bad guy instead of the State of California be
9 the bad guy. And that's a difficult position to be in.

10 Thank you.

11 CHAIRMAN THOMAS: Thank you, Kevin.

12 Who's up next?

13 MR. GOTCHER: Our next commenter is Michael Miiller. And then we're
14 going to circle back to Bryan Little after him. So, next up is Michael Miiller from the
15 California Association of Winegrape Growers.

16 MR. MIILLER: Good evening, Chair --

17 CHAIRMAN THOMAS: (Indiscernible).

18 MR. MIILLER: Oh, thank you, Chair. Good evening, chair members. My
19 name is Michael Miiller with the California Association of Winegrape Growers. Today
20 I'm asking that you carefully consider the information that you just received from the
21 CDPH and Cal/OSHA today. That information makes it clear that the EPS [sic] should be
22 repealed at the June 17th meeting. Instead, the Board should follow your staff's
23 recommendation in November and rely on those same agencies, Cal/OSHA and CDPH, to
24 effectively adopt and enforce guidelines. This is consistent with what the Biden
25 Administration announced just today and I ask you to follow President Biden's

1 leadership. One week ago, very few California employees had any awareness of this
2 Board whatsoever.

3 Today the Board is incredibly unpopular. While this is not a popularity
4 contest, keep in mind that the public doesn't draw distinction between this Board and
5 the rest of the Newsom Administration. Consequently, your unpopularity is a huge
6 problem for Governor Newsom. While California's read news from this Board, what
7 they hear is the Newsom Administration say that wearing masks at work may be here to
8 stay. They also hear you advising vaccinated employees that vaccines are just not
9 enough. This is because you are telling them that their unvaccinated coworkers create a
10 workplace hazard even to vaccinated employees.

11 Contrary to what the proponents of the ETS are telling you, this message
12 from the Newsom Administration is well-received by the general public. Governor
13 Newsom is doing a tremendous job in getting people vaccinated. Dr. Aragón just made
14 it clear to you that the Governor's vaccine efforts are saving lives. Consequently,
15 Californians need to be able to continue to rely on Newsom's leadership. Putting a
16 speedbump in the road to reopening, this create -- ETS creates public doubt and erodes
17 public trust. A week ago, this Board rejected readoption of the ETS and then reversed
18 itself only a few minutes later. You were clearly struggling to make an appropriate
19 decision. It seems clear that the biggest problem in that debate last week was that
20 some Board Members erroneously believed the ETS to be effective.

21 I assure you, the ETS is an epic failure. California is where we are today in
22 spite of the ETS, not because of the ETS. The ETS has nothing to do with California's
23 successes. If you really want to make the workplace safe from COVID, get on the same
24 page with Governor Newsom and his efforts to vaccinate our California employees and
25 please repeal ETS.

1 Thank you very much for your time.

2 CHAIRMAN THOMAS: Thank you.

3 MR. GOTCHER: Our next commenter is Bryan Little from the California
4 Farm Bureau.

5 CHAIRMAN THOMAS: Bryan. He's either muted or --

6 MR. LITTLE: Hello? Can you hear me this time?

7 CHAIRMAN THOMAS: Thank you. Are you there, Bryan?

8 MR. LITTLE: Hello?

9 CHAIRMAN THOMAS: Yeah, are you there, Bryan?

10 MR. LITTLE: Hello? Yeah.

11 CHAIRMAN THOMAS: Go ahead.

12 MR. LITTLE: Okay. Great. Technology almost defeated me. So, a lot of
13 what I would've wanted to say, Michael said. We've called for repeal of the ETS and
14 think that's the best course of action. Bruce talked a minute ago about relying on
15 existing regulations and I point out that the Agency's already cited more than 200
16 employers and proposed more than \$5,000,000 in penalties against those employers.
17 Most of these -- for most of those things that occurred before the ETS was ever in place.
18 There's no reason why the Agency can't revert to that course of action.

19 Dr. Aragón told us a few minutes ago that vaccines are the most effective
20 remedy to the pandemic and to protect people. That's probably the best course to go at
21 this stage. To the extent that we're telling people that they have to continue masking
22 and then use the N-95 respirators, we're discouraging people from being vaccinated,
23 rather than encouraging people to be vaccinated. That's exactly the wrong course to go
24 down. The whole notion of continuing to provide N-95 respirators at the kinds of
25 numbers that you're potentially talking about here is going to have the -- is going to

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1 present a huge problem for outdoor employers of all kinds, particularly agricultural
2 employers who, I believe, are, again, going to struggle to procure N-95 respirators when
3 wildfire smoke season rolls around. I don't know what the weather is where you all are,
4 but where I am here today, the wind has been blowing all day long, drying up
5 vegetation. And so as soon as somebody lets the campfire get away from them, we're
6 going to have another bad wildfire season. So, doing anything that's going to decrease
7 the supply of N-95 respirators for outdoor employers is generally not going to be a good
8 idea.

9 I think at the end of the day, the best course of action for you is going to
10 pull back this -- the regulation you sent to OAL, do some of the things around clarifying
11 how you have to verify whether people are vaccinated or not vaccinated, radically
12 reduce the instances in which facemasks and N-95 respirators are going to be required,
13 and generally make this regulation as light a touch as you can.

14 Thank you.

15 CHAIRMAN THOMAS: Thank you.

16 MR. GOTCHER: Our next commenter is Katie Hansen from the California
17 Restaurant Association.

18 CHAIRMAN THOMAS: Katie, can you hear us?

19 MS. HANSEN: Yes, I can. Good evening. Katie Hansen with the California
20 Restaurant Association. We appreciate the Standards Board intentions to align the ETS
21 with CDPH and CDC guidance. U.S. Department of Labor, Secy. Walsh, testified earlier
22 this afternoon before the House Education and Labor Committee regarding the
23 Department's policies and priorities. When questioned regarding the delay of OSHA's
24 COVID-19 ETS, Walsh stated that the White House Office of Information and Regulatory
25 Affairs has completed its review and that the ETS will be issued tomorrow but will only

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1 apply to the healthcare sector given the risk of exposure to healthcare workers and
2 that it will not apply to other industries. He stated, however, that the updated guidance
3 for general industry, which reflect the CDC -- the latest guidance -- will be forthcoming.
4 That will include how to protect workers who have not yet vaccinated.

5 We, therefore, do not anticipate the federal OSHA ETS will directly impact
6 the restaurant and food service industry. We urge the Standards Board to consider the
7 rapidly changing environment at the state and federal level and take it into account
8 when creating an applicable ETS.

9 With regards to the Standards Board's efforts to revise the ETS, we urge
10 you to consider the following:

11 Requiring community restaurants to provide N-95s to unvaccinated
12 employees is a major cost to an employment community that is struggling financially.
13 Face coverings such as surgical masks, as defined, should suffice. N-95 should be
14 reserved for medical professionals, frontline responders that need to comply with the
15 emergency wildfire smoke regulations. Even though more than a large percentage of
16 adult Californians are fully vaccinated and that State has maintained a stable test
17 positivity rate that meets one percent, we have the lowest case rates in the nation, we
18 could be challenging in regards to comply with the ETS with restaurants requiring our
19 employees to wear facemasks unless they can verify all employees are fully vaccinated.
20 We are deeply concerned is CDPH's guidance is implemented within the confines of the
21 ETS, that it could mean restaurants have to require fully vaccinated employees to wear
22 masks until the end of the year.

23 Thank you for your consideration of our comments.

24 CHAIRMAN THOMAS: Thank you.

25 MR. GOTCHER: Our next commenter is Rob Moutrie, followed by Melissa

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1 Patack, with next, Rob Moutrie from the California Chamber of Commerce.

2 CHAIRMAN THOMAS: Rob, can you hear us?

3 MR. MOUTRIE: Good evening, Mr. Chair. Yes, I can. Can you hear me,
4 sir?

5 CHAIRMAN THOMAS: Good evening. Go right ahead.

6 MR. MOUTRIE: Thank you.

7 CHAIRMAN THOMAS: Yes, go right ahead.

8 MR. MOUTRIE: Good evening, Mr. Chair and members. And I'd like to
9 note before I begin I was ceded two extra minutes by my colleague, Louis Brown who
10 represents a number of agriculture employers and we did email that to the list. So,
11 hopefully, I'll be allowed those two minutes as well.

12 First, let me just thank the Board for this special meeting and the Division
13 and CDPH for their, kind of, rapid work on this front, particularly CDPH, it's -- thank you,
14 Dr. Aragón and giving us that direct interface. It's greatly appreciated on the
15 stakeholder side. I also appreciate Board Member Burgel's comment regarding
16 confusion. That is certainly something that we on the employer community side have
17 been dealing with and are glad to hear the Board is aware of it.

18 Substantively, I'd like to emphasize a few key points. First, we see the
19 issues with the ETS and the amended ETS just passed the Board last week as needing to
20 be separated to kind of two buckets, particularly given the timeline the Division is
21 talking about here with bringing a revised text back to the Board by June 17th.

22 First, we see the kind of three key issues for the employer community
23 that are in line with what was discussed last week by the Board and by stakeholders.
24 First, consistency with the CDC guidance regarding facemasking [sic] must be addressed.
25 And that is in line with CDPH's presentation tonight. Second, we agree that the issue of

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1 N-95 and availability and acquiring them is something that has to be addressed quickly
2 as employers look to this -- the new pathway towards opening. And third, as the Board
3 has noted just tonight, employers urgently need their clarity as to their -- thank you -- as
4 to -- clarity as to documentation regarding the vaccination and how employers can
5 handle that.

6 So, in our opinion, those three issues, specifically, need to be addressed
7 in the June 17th rewrite that basically the Division will have, as I calculate, about 48
8 hours to get ready. So, there's really not time, we think, to do more given what we've
9 heard tonight and get into the most complicated issues that were raised. We think
10 those are best reserved to the subcommittee process in a more lengthy discussion, but
11 that those three key pieces must go.

12 So, thank you for your time.

13 CHAIRMAN THOMAS: Thank you.

14 MS. SHUPE: I want to interject and I apologize because Mr. Moutrie did
15 follow the rules of the agenda and was granted four minutes. He did have someone
16 who ceded their time to him and that just didn't get communicated through staff fast
17 enough. Thank you.

18 MR. GOTCHER: Sorry about that.

19 MS. SHUPE: So, Mr. Moutrie, if you had additional comments you
20 wanted to share with the Board, I have a timer going and you're good to go for another
21 two minutes.

22 MR. MOUTRIE: No, I think I just rushed it enough that I got through all of
23 it. Hopefully, it was clear and audible to everyone involved. But no, I think I got through
24 just what I -- what needs to be said. Thank you.

25 CHAIRMAN THOMAS: Thank you, Robert. Appreciate it. Who do we have

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1 next, John?

2 MR. GOTCHER: Our next commenter is Melissa Patack from the Motion
3 Picture Association.

4 CHAIRMAN THOMAS: Melissa, can you hear us?

5 MS. PATAACK: Yes, I can. Can you hear me?

6 CHAIRMAN THOMAS: Yes. Go right ahead, please.

7 MS. PATAACK: Okay. Thank you so much. Melissa Patack on behalf of the
8 Motion Picture Association, the trade association for the leading producers and
9 distributors of movies, TV shows, and streaming programs.

10 Just as the blueprint for a safer economy is being retired, we also believe
11 that repeal and withdrawal of the ETS makes most sense. The Cal/OSHA Standards
12 Board, Cal/OSHA Division already has authority with regard to workplace safety during
13 COVID-19 and that's through the Illness and Injury Prevention Program. We've already
14 conducted investigates, assessed fines and penalties against employers and that really
15 speaks to the existing authority that you already have. It's also simply untenable and
16 impractical for companies to be modifying the workplace and workplace practices every
17 few weeks and -- you know, quickly and periodically, which is what it -- is expected
18 under the ETS. For our member companies who occupy acres and acres of space and
19 welcome every day thousands of employees and others with a business purpose, it's just
20 impractical to change and to pivot quickly on the timetables imposed under the
21 Cal/OSHA ETS.

22 I would also like to note that it was not until we were nine months into
23 the pandemic that the first ETS was issued in November. In our sector, we really didn't
24 wait for Cal/OSHA; we used public health guidance and we worked with public health
25 officed developed our health and safety protocols through working with labor and

1 management through our safety committee, our industry-wide labor management
2 safety committee and then with collective bargaining. We successfully prevented
3 transmission of COVID-19 on productions and we did that in the absence of any special
4 Cal/OSHA regulations. Now, as we emerge from the pandemic, it's really unnecessary
5 for Cal/OSHA to have separate regulations on COVID-19 and we would urge withdrawal
6 and at a minimum, it must align with public health guidance because we don't want a
7 different standard for people who are out in the -- and socializing with their family and
8 they're off worktime and then they have to come to work and have to live by a different
9 standard.

10 Thank you very much for your consideration.

11 CHAIRMAN THOMAS: Thank you, Melissa.

12 MR. GOTCHER: Our next commenter is Kristie Sepulveda-Burchit from
13 Educate Advocate.

14 CHAIRMAN THOMAS: Kristie, can you hear us?

15 MS. SEPULVEDA-BURCHIT: Hi. Yes, I can.

16 CHAIRMAN THOMAS: Yes, go right ahead. Go right ahead.

17 MS. SEPULVEDA-BURCHIT: Thank you for taking the -- thank you -- thank
18 you for taking the time to hear public comment today. I am Kristie Sepulveda-Burchit of
19 Educate Advocate. We are a statewide, grassroots, non-profit organization that serves
20 families with children and adults with special needs and disabilities.

21 We urge this Board to terminate the Emergency Temporary Standard but
22 also to ensure that employers comply with the federal and Unruh Civil Rights Act,
23 ensuring vaccinated and unvaccinated persons are treated equally by all businesses and
24 governmental entities in California. It is immoral, unethical, and discriminatory to
25 segregate and isolate employees between the unvaccinated and vaccinated and

1 branding them with a scarlet letter of a face covering. This is discrimination and goes
2 against the Americans with Disabilities Act, where we have people being treated as
3 second class citizens in a two-tiered system of the vaccinated and unvaccinated. This
4 goes everything our State, counties, and communities were built on. Having the system
5 of vaccine verification or vaccine passport is also discriminatory and should be
6 discouraged by this body to all businesses that operate in our State. There should be
7 equity for those who have COVID and recovered and have antibodies, T cells, or B cells
8 for their natural immunity. Neither the CDC nor CDPH acknowledges this group, this
9 large group of people. Again, we urge this Board to terminate the Emergency
10 Temporary Standard, but also to ensure that employers comply with the federal and
11 Unruh Civil Rights Act, ensuring vaccinated and unvaccinated persons are treated
12 equally by all businesses and governmental entities in California.

13 Thank you. Thank you.

14 CHAIRMAN THOMAS: Thank you.

15 MR. GOTCHER: Our next commenters are Lynn Mohrfeld and Saskia Kim,
16 with next Lynn Mohrfeld from the California Hotel and Lodging Association.

17 CHAIRMAN THOMAS: Go ahead, Ms. Mohrfeld.

18 MR. MOHRFELD: Great. Thank you. Again, Lynn Mohrfeld from the
19 California Hotel --

20 CHAIRMAN THOMAS: Oh, sorry.

21 MR. MOHRFELD: -- Lodging Association.

22 CHAIRMAN THOMAS: Mr. Mohrfeld, sorry about that. Go right -- go
23 ahead, Lynn.

24 MR. MOHRFELD: No, that's all right.

25 Good evening, Mr. Chair and the Board, and thank you in your efforts and

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1 the opportunity to present these comments. And I'll keep these really brief.

2 We'd really like to Standards Board suspend the ETS at the earliest
3 possible moment. We understand that can't happen tonight. And we thank the
4 Governor for aligning with the State -- aligning the State with the CDC guidance and urge
5 the Standards Board to follow suit, to increase compliance and reduce confusion in the
6 workplace with a single set of rules. The IIPP standard is more than adequate for the
7 safety of our employees and Cal/OSHA should, instead, join the Governor's
8 administration in promoting vaccinations for all. This is clearly the path to safety.

9 As indicative of the ETS being implemented nine months after the
10 pandemic began and a continued inability to keep up with the ever-changing guidance
11 the CDC, federal OSHA, and even CDPH, we ask the Standards Board to rely on the
12 current IIPP regulations to the benefit of our employees.

13 Thank you very much.

14 CHAIRMAN THOMAS: Thank you.

15 MR. GOTCHER: Our next commenter is Saskia Kim from the California
16 Nurses Association.

17 CHAIRMAN THOMAS: Can you hear us, Caller? Hello?

18 MR. GOTCHER: Saskia Kim, are you on the line? If you dialed in by
19 telephone, you'll need to press star six to unmute yourself.

20 CHAIRMAN THOMAS: Hello?

21 MS. KIM: Hello, can you hear me now?

22 CHAIRMAN THOMAS: Yeah, go right ahead.

23 MS. KIM: Okay. Sorry about that.

24 Good evening. Saskia Kim with the California Nurses Association. Thank
25 you for the time. We've been outspoken with our concerns with the CDC's rollback in

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1 protective measures like masking and testing. It threatens the lives of patients, nurses,
2 other frontline workers, and children and other medically vulnerable people. As much
3 as we wish it were true, this pandemic is not over and we cannot rely on just one
4 intervention to prevent spread. We cannot vaccinate our way out of this crisis. New
5 science recently told us the Pfizer vaccine produces fewer antibodies against the highly
6 infectious, dangerous delta variant. This virus is evolving to escape the first generation
7 of vaccines and outbreaks are still happening more than 10,000 cases in the last month.

8 Please don't be persuaded by the argument that you should do away with
9 the ETS entirely. California is where we are today because of the protective measures
10 we've taken. That's no reason to get rid of them. Employers are legally required to
11 protect their workers. Showing up for work so that you can earn a paycheck to support
12 yourself and your family is not the same as deciding whether or not to go to a Sunday
13 backyard barbecue. Most workers do not have a choice about whether or not to
14 work. They must be protected when at that workplace.

15 Requiring employers to only provide N-95s to unvaccinated workers upon
16 request presumes that workers will request N-95s, which is potentially less likely to
17 happen as the use of face coverings by fellow vaccinated coworkers declines. And
18 second, it allows for the likely potential that an employer will not have N-95s on hand
19 and available for employees, as Mr. Harrison stated.

20 Do not also be swayed with arguments that providing N-95s to non-
21 healthcare workers will somehow take away these respirators from healthcare workers.
22 This spring, Kaiser Health News reported that U.S. mask manufacturers had a glut of
23 nearly 300,000,000 U.S.-made respirators sitting unused in warehouses and Cal/OSHA's
24 list of vendors who have at least 100,000 NIOSH-certified N-95s in stock and ready for
25 delivery is continually updated. As we have tested -- testified, most of our nurses are

1 covered by the ATD standard but we do not (audio interference) our nurses who are
2 covered by the ETS. And workers who are less protected against COVID could very well
3 become our patients and thus expose our nurses because what happens outside the
4 hospital, happens inside the hospital.

5 For all these reasons, CNA requests you maintain the highest level of
6 protection for workers. Thank you.

7 CHAIRMAN THOMAS: Thank you.

8 MR. GOTCHER: Our next commenters are Vick Osborn [sic] and Len
9 Welsh, with next Vick Osborn from the Water Emergency Response Organization of
10 Orange County.

11 CHAIRMAN THOMAS: Vick, can you hear us?

12 MS. OSBORN: I can. It's Vicki Osborn. Thank you.

13 CHAIRMAN THOMAS: Oh, sorry. Go ahead.

14 MS. OSBORN: No, that's okay.

15 CHAIRMAN THOMAS: I'm getting all confused.

16 MS. OSBORN: I appreciate the opportunity to address the Board and also
17 the ongoing conversation that's happening and that CDPH did provide the letter to
18 reopen the conversation for this meeting.

19 I agree a lot with the comments that were previously made by both Helen
20 and Bruce Wick. I do want to state also I appreciate the confusion that the Board has
21 expressed that they've had with some of these standards. Also, then to continue on
22 with the confusion is, I've been emergency management for over 26 years in the public
23 sector and we've often taught that we follow the direction of our local health officer and
24 also our state health officer, only to hear today that CDPH said, oh, we don't do for
25 businesses, now we're going to just point to OSHA, which is a little disconcerting

1 because they are in fact the medical experts. So, I would hope that we do pull back on
2 the ETS and do align it more with CDC because if you are all confused and CDPH is just
3 talking about general population, our workers are also in fact just general population
4 also. We are all going to be confused on when we have to and when we don't have to
5 wear face coverings or put additional protective measures in place.

6 Also, to the degree of outbreaks and having large outbreaks in
7 businesses, so it was reported by -- during last week's meeting that we had 900
8 outbreaks in 11,000 employees over 30 days. That was out of a workforce of
9 18,000,000. So, a lot of our organizations are doing the right things and we've had the
10 right things in place. In regards to N-95 respirators, CDC actually, when you talk about
11 masks and face coverings, they have what works okay, what works good, and works
12 best. And N-95 is under what's worked best, but that doesn't mean there's other face
13 covering options that aren't available that we could provide to those that are
14 unvaccinated. Just because you want the Porsche does not mean the Buick doesn't
15 work just as well. So, we need to take a look at what those options are for also our
16 employees.

17 I also think we should take a look at our organization and what's
18 happening in our county. The ETS was written as standard for across the State, but not
19 every county is impacted the same way with what the community transmission rate is.
20 So, I do want us to take a harder look.

21 Please pull back on the ETS and let's take a look at where we are going
22 after June 15th gets put in place. Thank you.

23 CHAIRMAN THOMAS: Thank you.

24 MR. GOTCHER: Our next commenters are Len Welsh, followed by
25 Lawrence Gayden, with next, Len Welsh, who is representing themselves, the California

1 Hotel and Lodging Association, the Ironworkers Management Progressive Action Trust,
2 and the Grower-Shipper Association of Central California.

3 CHAIRMAN THOMAS: Len, can --

4 MR. WELSH: Good evening, can you hear me?

5 CHAIRMAN THOMAS: Yes, I can. Go right ahead.

6 MR. WELSH: Thanks for the opportunity to comment.

7 You know, I guess I first want to point out, you know, the series of
8 stopgap Board meetings we've seen in the last several weeks really illustrates pretty
9 well how difficult it is for rulemaking to keep up with such a rapidly changing issue as
10 dealing with COVID and the advances we keep seeing. To me, that (audio interference).

11 CHAIRMAN THOMAS: Len, I think we lost you.

12 MR. WELSH: -- if we think credit should be give for how much progress
13 the State has made, you can't eliminate the fact that most of the enforcement that
14 OSHA's done has been by enforcing the IIPP, not by the ETS. It's the IIPP enforcement
15 and a culture of following guidance that really has gotten us to where we are.

16 The premise of this standard is that workplace exposure is more
17 concentrated than public exposure. That has been demonstrated to be true in a few
18 workplaces like meatpacking, for example. But in general, there's been no study of this
19 phenomenon. And there really isn't any factual basis to distinguish between public
20 exposure and workplace exposure. And I would also point out, I don't understand this
21 division between Department of Health and DOSH. DOSH relies on Department of
22 Health for all of its expertise on this issue. And you know, we should be having
23 Department of Health for those occupations that have been shown to involve greater
24 transmission, like meatpacking, give guidance on that. For occupations that have not
25 been shown, you know, pose any different hazard, it -- they should be treated just like

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1 the public. And Department of Health should be leading the guidance on that. We
2 should be using the IIPP to enforce that guidance. And as I mentioned, a couple times
3 now, there is a precedent for that in ATD standard, having the IIPP conform -- or having
4 the employer's IIPP conform to whatever (indiscernible) of time.

5 Thanks for the opportunity to comment, folks.

6 CHAIRMAN THOMAS: Thank you, Len.

7 MR. GOTCHER: Next commenter is Lawrence Gayden from the California
8 Manufacturers and Technology Association.

9 CHAIRMAN THOMAS: Go ahead if you can hear us. Hello?

10 MR. GOTCHER: If you have dialed into the WebEx, you'll need to press
11 star six to unmute yourself.

12 CHAIRMAN THOMAS: I think we should go on to the next and he'll
13 probably call back in.

14 MR. GOTCHER: Okay. Our next commenter is Mitch Steiger from the
15 California Labor Federation.

16 CHAIRMAN THOMAS: Mitch, can you hear us?

17 MR. STEIGER: Yes, I can.

18 CHAIRMAN THOMAS: Go right ahead.

19 MR. STEIGER: Thank you, Chair Thomas and members. Thank you. And
20 as always, thank you so much to Board staff and Cal/OSHA staff and everyone who's
21 been working on this. I know it's been a long, bumpy road and we very much appreciate
22 everyone's work.

23 The main point that we wanted to make is that, if we are going to go
24 down this road, if the decision is made to relax the face covering standard and relax the
25 respirator standard, then we need to follow the science. And if the science is saying that

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1 fully vaccinated workers don't need to wear masks but that vaccinated -- don't need to
2 wear masks but that unvaccinated ones do, then we need to make sure that's exactly
3 what we're doing. And the concept of allowing individuals to self-attest to their
4 vaccination status essentially means that we don't have any kind of face covering
5 standard at all. And we will need to more clearly define the phrase -- define the word
6 documentation if we are going to allow this to make sure that we are following the
7 science and protecting everyone, both vaccinated and unvaccinated from the pandemic
8 as much as possible.

9 And I think the outbreak figures that have been raised by many are really
10 instructive of just how bad the problem still is. By my count, there are something like 25
11 outbreaks per day reported to CDPH in workplaces across California, which works out to
12 something like 339 workers getting the virus every day at work, again, as reported to
13 CDPH. I'm sure it's far higher than that. But if we are going to do this, that we need to
14 make sure that employers have a good, reliable sense of who's vaccinated and who
15 isn't, that it includes showing that there's a vaccination card, there's a picture of a
16 vaccination card or some other at least as effective option to make sure that we don't
17 just take face coverings off of everyone --

18 WOMAN 2: Idiot.

19 MR. STEIGER: -- and the pandemic just continues and continues to get
20 worse. We would also respectfully ask that N-95s be made available for anyone who
21 wants one, including the vaccinated, given some points raised by Board Members.

22 Thank you for the opportunity to testify.

23 CHAIRMAN THOMAS: Thank you.

24 MR. GOTCHER: Our next commenters are Brian Mello, followed by
25 Maggie Robbins, with next, Brian Mello from the Associated General Contractors of

1 California.

2 CHAIRMAN THOMAS: Brian, can you hear us?

3 MR. MELLO: Good evening. We can.

4 CHAIRMAN THOMAS: Go ahead.

5 MR. MELLO: Mr. Chairman, members of the Board, thank you for
6 allowing us to provide suggestions based on the proposed finding of necessity. My
7 name is Brian Mello. I'm the safety manager for the Associated General Contractors of
8 California. The AGC of California strongly urges the Board to consider the different
9 options available, including utilization of IIPP. I'd also like to echo many of those
10 testifying to repeal this ETS within APA regulation. As we know, and the reason for this
11 specialty meeting, Cal/OSHA is currently not in alignment with Governor Newsom's
12 directive to reopen on the 15th. The emergency regulations have yet to be in alignment
13 and parallel with the continuously changing guidance established by CDC, causing the
14 Emergency Temporary Standard process to be ineffective at capturing updated science.

15 As Dr. Aragón mentioned, there are -- they are anticipating more changes
16 to guidance, to schools, as it shows the -- how fluid the situation is. Based on guidance
17 from CDPH and the presentation from Dr. Aragón, AGC of California urges Cal/OSHA
18 Standards Board and the Division to modify Subsection 3205(c)(7)(A), face coverings,
19 exception 6 by striking the words "when they are outdoors and do not have any COVID-
20 19 symptoms." This will help better align Cal/OSHA with the recent CDC guidelines,
21 which Deputy Eric -- Chief Eric Berg acknowledged being a goal of the Division and a
22 memorandum to postpone the vote during the May 20th meeting. It will reinforce the
23 May 17th announcement from the California Health and Human Services Agency, Secy.
24 Dr. Mark Ghaly, which said that California plans to implement the CDC guidelines
25 around masking to allow fully vaccinated Californians to go without a mask in most

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1 indoor settings, starting on June 15th.

2 AGC of California appreciates the opportunity to provide public
3 comments once again. Thank you.

4 CHAIRMAN THOMAS: Thank you.

5 MR. GOTCHER: Our next commenter is Maggie Robbins from Worksafe.

6 MS. ROBBINS: Hi, thank you all. I will be very quick here.

7 I think that we have a distinction between CDPH and Cal/OSHA in the
8 same way we have a distinction between the Centers for Disease Control and its
9 subunit, NIOSH, and OSHA because there is special situations at work which are not the
10 same as the general public. And I thought that the presentations today in particular
11 were recognizing that, that it's -- there are different rules in different locations for
12 reasons.

13 I actually think that people are savvy enough to understand that if we can
14 communicate it to people clearly. For example, in my town where I am, a lot of people
15 are knowing that if you go inside, you're still wearing a mask, but outside you can
16 choose to wear one or not. And people to that and they put it on and take it off. It's not
17 that hard. I think it's clarity. I understand that clarity is needed. We are still having
18 outbreaks; I won't reiterate that point. There are many other protections in the ETS
19 beyond face coverings and distancing. And those still need to be in place if there are
20 outbreaks, of which there 213, at least in the last 30 days. There still needs be outbreak
21 investigation, there still needs to be removal of cases from the worksite. There needs to
22 potentially be testing of people who aren't vaccinated and things like that.

23 So, we do need to keep the ETS in place for a while longer, not forever. It
24 is not a forever standard. And I look forward to seeing the proposals that Cal/OSHA will
25 put forward in time for the June 17th meeting so that we can evaluate the ways to

1 adapt the standard to last us a little while longer while we get our vaccination and
2 immunity rate up in the general workforce.

3 Thank you very much.

4 CHAIRMAN THOMAS: Thank you, Maggie.

5 MR. GOTCHER: Our next commenters will be Janine Dorn, followed by
6 Steve McCarthy, with next, Janine Dorn. And they will be representing themselves.

7 CHAIRMAN THOMAS: Janine, can you hear us?

8 MS. DORN: Yes, can you hear me?

9 CHAIRMAN THOMAS: Yes. Go right ahead.

10 MS. DORN: Can you hear me?

11 CHAIRMAN THOMAS: Yes.

12 MS. DORN: Okay. Thank you.

13 My name is Janine Dorn and I'm here to protest the new Cal/OSHA
14 revisions on face coverings in the workplace. I'm a small, private business owner and I
15 would like to see the Standards Board repeal the ETS. COVID-19 is a disease that has
16 expected and inexpensive proven treatments that have greatly censored by collusion of
17 the mainstream media which is funded and also receives many grants from the powerful
18 pharmaceutical industry. These treatments have a greater than 99 percent
19 effectiveness rate and have been used by many physicians with huge success. They are
20 now being used in hospitals across the country, including where I live and when used as
21 prophylactic has -- have afforded aware people excellent protection from the disease.
22 This makes face coverings obsolete.

23 But since you may need to hear the latest research, I give you this. It is
24 thoroughly established in peer reviewed clinical data that masks cause widely
25 demonstrated and clinically confirmed injuries to the brain, heart, and musculoskeletal

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1 system. Masks create hypoxic conditions due to a lack of oxygen and hypercapnia
2 which is an excess of CO2. CO2 is an asphyxiant and mild poison to the human body.

3 Demanding employees to wear a mask is demanding that they poison
4 themselves. It is demanding that they become fatigued and less able to make good
5 decisions to function on the job in a way that is most protective to themselves and to
6 their coworkers. In 2021, the International Journal of Environment Research and Public
7 Health did a study which included two meta-analyses, 44 experimental studies, and 65
8 publications which revealed that there are clear, scientifically, demonstrable adverse
9 effects from mask wearers, both on psychological, social, and physical levels. Finding
10 that it caused many relevant adverse effects. They've cause 82 percent rise in CO2, 72
11 percent drop in O2, huge vascular damage, neural pathological and cardiovascular
12 consequences.

13 If an employee would like to wear a mask and feels more secure as result,
14 then they should be aware of the adverse effects and masks should not be required of
15 all employees that are in room where there both unvaccinated and vaccinated
16 individuals present. The enormous pressure for the persons who choose not to be a
17 participant –

18 MR. GOTCHER: Two minutes.

19 MS. DORN: -- in the masking experiment should not bear the burden and
20 stigma of being the ones who are keeping others from working mask-free. This is
21 inhumane and coercive to those who value their own immune systems over the
22 manmade version that is still unproven to outdo our own natural immunity. Employees
23 must not face such discrimination in the workplace either from the employers or from
24 fellow employees.

25 Please, reverse this. This is absolutely wrong.

1 CHAIRMAN THOMAS: Thank you. Next commenter, John?

2 WOMAN 2: Hear, hear.

3 MR. GOTCHER: Our next commenter is Steve McCarthy from the
4 California Retailers Association.

5 CHAIRMAN THOMAS: Steve, can you hear us?

6 MR. MCCARTHY: Yes. Good evening and thank you, Chair Thomas and
7 Board Members.

8 On behalf of retailers, I urge the Board to better align this ETS with CDC
9 guidance and DPH guidance. The extent Cal/OSHA rules differ from well-publicized CDC
10 guidance, as well as the Governor's reopening guidelines, caused confusion and harm
11 our ability to reopen the economy to its fullest. The proposed rules on face coverings
12 would pit employees against each other based upon vaccination status. That will cause
13 disruptions in the workplace. For public-facing business, such as retail, it could also
14 mean that employees --

15 WOMAN 2: You're on mute.

16 MR. MCCARTHY: -- be interacting with customer, vendors, or other
17 persons in a room, however that is defined --

18 WOMAN 2: You're breaking up.

19 MR. MCCARTHY: -- and be forced to wear masks throughout the duration
20 of the ETS if they cannot confirm that every single person present is vaccinated. This,
21 too, is inconsistent with the CDC's new guidance on mask wearing as well as DPH's
22 guidance allowing self-attestation. Vaccinated employees should not be forced to wear
23 masks, nor should they be required to maintain physical distancing, which would be
24 required under this rule until July 31st, unless the employer is able to obtain a sufficient
25 stockpile of N-95 masks. That requirement to stock N-95 masks for non-fully vaccinated

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1 employees is also problematic as it will cause competition with healthcare and similar
2 sectors where their use is most needed right now, as it will with outdoor employers
3 seeking to comply with outdoor wildfire smoke rules.

4 Businesses should not be in the business of competing against hospitals
5 for respirator masks. We should not be put in the position of requiring vaccinated
6 employees to wear masks for the rest of the calendar year. And we do not need further
7 confusion. It is difficult enough to hire workers as it is.

8 Thank you and we ask for your consideration in revising ETS.

9 CHAIRMAN THOMAS: Thank you, Steve. Appreciate your comments.

10 MR. GOTCHER: Our next commenter is Sandra Martinez, and they will be
11 representing themselves.

12 CHAIRMAN THOMAS: Sandra, can you hear us?

13 MS. MARTINEZ: I can hear you. Can you hear me?

14 CHAIRMAN THOMAS: Yes. Go right ahead.

15 MS. MARTINEZ: Hello? Okay. Good evening.

16 I'm asking you to repeal the ETS. The proposed guidelines are ineffective
17 and dangerous. You're basing your guidelines on the CDC whose members have a
18 financial interest in the vaccine industry and receive funding from the pharmaceutical
19 industry. The CDC guidelines are designed to serve their personal interests to promote
20 vaccination and you don't have to follow their guidelines. This vaccine does not mee the
21 legal definition of a vaccine. According to the developers, it's a gene therapy. Gene
22 therapies do not provide herd immunity as their function is to enable the body to create
23 pathogens. These vaccines do, however, meet the legal definition of a bioweapon.

24 Masks are ineffective in stopping the virus. Even Dr. Fauci said so in his
25 emails. There are zero peer-reviewed studies that show fabric masks have any effect

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1 blocking the virus. The only double-blind controlled peer-reviewed study conducted
2 shows that masks are not only ineffective in preventing transmission and contraction of
3 a virus, but actually increase the probability of illness, that's McIntyre in 2015. The
4 droplet hypothesis has also been disproved.

5 Per your own OSHA standard, mask wearing decreases oxygen to
6 unhealthy and dangerous levels. Masks wearing increases carbon dioxide levels well
7 beyond what OSHA considers to be dangerous in just a matter of minutes. The purpose
8 of these guidelines -- if the purpose of these guidelines is to create dissention and a
9 medical apartheid, then you have successfully accomplished the goal. If the purpose is
10 to coerce people into participating in an experimental gene therapy trial, violating the
11 Nuremburg code and human rights, you could accomplish this goal. But it will never,
12 ever protect from a virus.

13 Please consider people's health rather than faulty guidelines that offer no
14 benefit and only endanger lives. Thank you for your time.

15 CHAIRMAN THOMAS: Thank you.

16 WOMAN 2: (Cheers.)

17 MR. GOTCHER: Next commenter is Sue O'Conner, followed by Steve
18 Munday, with next, Sue O'Conner and they will be representing themselves.

19 CHAIRMAN THOMAS: Go right ahead, Caller.

20 MS. O'CONNER: Hi, my name is Sue O'Conner, and I am in the Central
21 Valley and I'm an employee. I'm not an employer.

22 And I am calling to ask you to not mandate mask wearing --

23 WOMAN 3: Soft tacos --

24 MS. O'CONNER: Are you guys hearing me? I can't --

25 CHAIRMAN THOMAS: Yeah, we can hear you. But we've got some

1 crosstalk. So --

2 MS. O'CONNOR: Thank you so much.

3 CHAIRMAN THOMAS: -- please be polite. Go ahead.

4 MS. O'CONNOR: Okay. Thank you. Can I -- I hope I get my time.

5 I think the rates are at one percent. Anyone that wants a vaccine can get
6 a vaccine. We're no longer in an emergency. We are now in a state of being.
7 Vaccinated people will be discouraged if we are required -- and I'm vaccinated, by the
8 way. If I'm required to wear a mask, regardless of my vaccinated status, that is a huge
9 discouragement. Somebody mentioned how badly this will reflect on Governor
10 Newsom. I agree completely. This will fuel the recall. So, the recall people will thank
11 you if you require this.

12 Also, N-95 masks need to be fitted properly. The average employer
13 doesn't know how to fit an N-95 mask. And I, as an employee, don't know how to fit an
14 N-95 mask. An N-95 mask should not even be considered. It is well over what the CDC
15 requires. And it should not be required of the average employer.

16 Mask wearing is not a cultural norm. I heard one of the Board Members
17 say that. Please understand, mask wearing is not a cultural norm. People are not okay
18 with masks. I have to wear a mask in my work setting and it is very difficult to breathe.
19 We take turns taking breathing breaks. And these are not N-95 masks. These are just
20 your typical paper masks that you get that fits into a box. It's very difficult. Thank you.
21 It sounds like a couple Board Members don't trust individuals to make health decisions.
22 Believe me, we are involved with our own health. We don't need you to be our nannies.
23 Do not exceed CDPH requirements or CDC requirements.

24 Thank you very much.

25 CHAIRMAN THOMAS: Thank you.

1 WOMAN 2: Hear, hear.

2 WOMAN 3: Amen.

3 WOMAN 4: No nannies.

4 MS. SHUPE: So, just a reminder for those that are not speaking, please
5 keep your phones muted. If you continue to unmute and disrupt the meeting, you will
6 be ejected. Thank you.

7 MR. GOTCHER: The next commenters are Steve Munday, followed by
8 Tina Sherwin, with next, Steve Munday from the Imperial County Public Health -- who is
9 an Imperial County Public Health officer.

10 CHAIRMAN THOMAS: Steve, are you with us?

11 MR. MUNDAY: Yes, sir, I am.

12 CHAIRMAN THOMAS: Go ahead.

13 MR. MUNDAY: Good evening. And I just want to say thank you to the
14 Board. I've been to all these meetings and I know how hard you guys are working.

15 My name's Steve Munday. I'm a physician. I'm the Imperial County
16 Public Health Officer. I'm also a practicing occupational physician and I was the
17 California Conference of Local Health Officers representative to the advisory group for
18 Cal/OSHA when they were proposing the language for the standard. So, I've been
19 involved in this process since the beginning.

20 I jumped on tonight because I just wanted to show there's a small error in
21 the language on page 15, which is under 11, return to work 2. And in that, they talk
22 about people who are in close contact and develop COVID-19 symptoms cannot return
23 to work until the requirements of this subsection have been met unless all of the
24 following are true. The first is they test negative --

25 MS. SHUPE: Dr. Munday?

1 MR. MUNDAY: -- to the PCR.

2 MS. SHUPE: Dr. Munday.

3 MR. MUNDAY: Yes, ma'am.

4 MS. SHUPE: I apologize that I need to interrupt you, but the subject of
5 tonight's meeting is limited specifically to discussion of the CDPH briefing that was
6 received and the Division briefing. It's not for in-depth review of regulatory proposals.

7 MR. MUNDAY: Okay. Well, there is an error in the document.

8 CHAIRMAN THOMAS: Thank you.

9 MR. MUNDAY: So then, I have emailed in regard to that. I want to make
10 sure they look at it.

11 Then I'll just limit my comments to the following. I listened to Dr. Aragón
12 whom I know and Mr. Berg and appreciate their presentations. Despite all this, I have
13 found the sections with regard to the voluntary use of N-95s very confusing and difficult
14 to follow.

15 MR. GOTCHER: Thirty seconds.

16 MR. MUNDAY: The prior voluntary use of an N-95 is always about the
17 comfort of the wearer and not for safety and now we're talking about voluntary use for
18 safety reasons. And I would note that Dr. Aragón did talk about the use of them for
19 protection against airborne or aerosols, but that assumes that the N-95 was fit-tested
20 and there was appropriate training and appropriate use.

21 So, I do think it's important for people to understand that an N-95
22 (indiscernible) --

23 MAN 3: (Indiscernible) once again what I said before. That's the problem
24 in California. They use filtering face pieces and they called them --

25 CHAIRMAN THOMAS: Can you please take that person off, Mr. Gotcher?

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1 MR. GOTCHER: Yeah. They have been removed.

2 CHAIRMAN THOMAS: Thank you.

3 Go ahead, Steve. Sorry about the interruption.

4 MR. MUNDAY: Thanks, Mr. Chair. Yeah. No problem.

5 But again, I just want to point out that it is important to understand that
6 when you're trying to discuss the difference between droplet versus aerosol and you're
7 talking about a mask versus an N-95, that you are presuming that it's been fit-tested and
8 that the person is trained and knows how to use it properly. That's a very different
9 thing than somebody who just uses an N-95 and doesn't have the proper training.

10 So, I will stop there. Thanks very much for your time.

11 CHAIRMAN THOMAS: Thank you, Steve.

12 MR. GOTCHER: Our next commenter is --

13 MS. SHUPE: Before we go to our next commenter, John -- I'm sorry. I
14 just have a quick housekeeping that I need to let everyone know about. So -- that -- in
15 order to ensure that the Board is able to engage in discussion and adjourn the meeting
16 at a reasonable hour, it's going to be necessary for us to conclude the public comment
17 portion of the meeting after two hours as outline in the agenda. Also, the Board will be
18 taking a 15-minute break at 7:30 p.m. So, there will be a break from 7:30 p.m. until 7:45
19 p.m. This time will not be counted towards the public comment period. Thank you.

20 CHAIRMAN THOMAS: Thank you.

21 MR. GOTCHER: The next commenter is Tina Sherwin, who is a Martinez
22 resident and a healthcare worker.

23 CHAIRMAN THOMAS: Tina, can you hear us?

24 MS. SHERWIN: Hi. Yes. Can you hear me?

25 CHAIRMAN THOMAS: Yes. Go ahead.

1 MS. SHERWIN: I wanted to speak to masks for healthcare workers
2 specifically. There are 15 California regulations around flu vaccines that state healthcare
3 workers must either get the flu vaccine each flu season by a specific date. I'm not sure if
4 it's November 1st or December 1st. But healthcare workers who fail to get the flu
5 vaccine by the deadline must wear a mask when in health and patient care areas for the
6 entirety of the flu season. The flu season is a set time period set by historic case rates.
7 Unvaccinated healthcare workers don't wear masks in non-patient care areas like
8 offices, laboratories, or employee work areas where patients aren't allowed.

9 Can't we adopt something similar for COVID? Meaning, vaccinated
10 healthcare workers don't wear masks and unvaccinated healthcare workers wear masks
11 only in patient care areas during a designated period of time determined by case rates.
12 If you look at the case rate graphs for the State, we are not in COVID season right now
13 and shouldn't be masking as if we were. California is clearly acknowledging that COVID
14 season is over by returning to normal, starting on June 15th. No county is currently in
15 the purple tier. COVID season is over. Vaccination rates are high. COVID
16 hospitalizations are minimal compared to their height in early January. Let's follow the
17 precedent set already for flu season and apply it to COVID season for healthcare
18 workers. You may encourage COVID vaccinations in healthcare workers by removing
19 masks like you do for the flu.

20 What are other states doing for masks in vaccinated healthcare workers?
21 Universal COVID testing of patients coming to hospitals protects healthcare and I heard
22 no mention of testing as another layer of protection of healthcare workers.

23 Thank you.

24 CHAIRMAN THOMAS: Thank you.

25 MR. GOTCHER: Our next commenter is Lori Joseph and they will be

1 representing themselves.

2 CHAIRMAN THOMAS: Lori, can you hear us?

3 MS. JOSEPH: I hear now. Can you hear me?

4 CHAIRMAN THOMAS: Yes. Go right ahead.

5 MS. JOSEPH: Hi. My name is Lori Joseph and I'm from Sunnyvale. I'm a
6 CPA working in the tech industry and I'm speaking tonight to ask that you end the
7 current Emergency Temporary Standard and ensure future standards do not create a
8 two-tier system of unvaccinated versus vaccinated as this creates discrimination,
9 isolation, and segregation. Either everyone should wear a mask or it should be
10 voluntary for all. California has high rates of vaccination and low rates of COVID-19.
11 And those vaccinated -- unvaccinated are not a threat, even if they do not wear a mask.

12 I am also asking for equity for those who have had COVID-19 naturally.
13 CDC guidance does not address this group of people either, only vaccinated versus
14 unvaccinated.

15 Thank you so much for your time. Have a good night.

16 CHAIRMAN THOMAS: Thank you.

17 MR. GOTCHER: Our next commenter is Karen Tynan from Ogletree,
18 Deakins, Nash, Smoak, and Stewart, P.C.

19 CHAIRMAN THOMAS: Can you hear us, Caller? Hello. Can you hear us? I
20 think we're going to have to move on, John. We can put her back in the queue.

21 MS. TYNAN: Can you hear me, Chair Thomas?

22 CHAIRMAN THOMAS: Oh, now I can. Yeah. Yeah.

23 MS. TYNAN: Oh, sorry. Chair Thomas --

24 CHAIRMAN THOMAS: (Indiscernible), ma'am. You had to wait. No, I'm
25 just kidding.

1 MS. TYNAN: Sorry, I --

2 CHAIRMAN THOMAS: Go ahead.

3 MS. TYNAN: I apologize. Kevin set up my computer. He caused it.

4 So, Chair Thomas and members, thank you for the CDPH presentation
5 and for Mr. Berg's briefing. I'd like to comment on that.

6 I reviewed the November 19th transcript in order to help inform myself
7 when listening to CDPH tonight. And the Division stated at that time the regulation is
8 based on the best evidence, is protective and consistent with public health standards.
9 He reminded us at that time that they were working closely in collaborating with CDPH.
10 That's the transcript on page 215. And what do we have now? We have a proposed
11 regulation that will hopefully be withdrawn that is inconsistent with public health
12 recommendations with no visible collaboration with CDPH, no consistency with CDPH
13 policies, and no consultation on feasibility. The June 3rd regulation is worse than
14 November 2020.

15 Also, on November 19th, 2020, the Division stated that the reason for the
16 six-foot distancing requirement was to have a consistent message with public health
17 messaging. What do we have now? We have inconsistency with public health
18 messaging.

19 Chair Thomas, on November 19th, you made a very powerful statement.
20 You said we've got to lead at some point; nobody else is doing it. That's on the
21 transcript on page 230. So, where we are now, this -- we do not have a stellar example
22 of leadership and we have inconsistent DOSH proposal, flip-flop votes, and frankly,
23 employers left flapping in the breeze. On November 19th, you noted, Chair Thomas,
24 that 300 people had died that day in Sacramento. Please compare that to the present
25 where covid19.ca.gov indicates that there are 20 deaths in all of California today, a

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1 trend drastically downward. It's time to repeal these regulations or eliminate the
2 massively inconsistent parts.

3 Thank you so much. And sorry for my technical difficulties.

4 CHAIRMAN THOMAS: Thank you.

5 MR. GOTCHER: Our next commenters are Jennifer Mena, followed by
6 Kailyn DeLeon-Peterson, with next, Jennifer Mena and they will be representing
7 themselves.

8 MS. MENA: Hi. Good evening, everyone. I'm Jennifer Mena and I live in
9 San Jose, California. I'm an employee working in the transportation industry. And this
10 evening, I do want to implore all of you to end the current Emergency Temporary
11 Standard and ensure future standards do not create a two-tier system such as this does,
12 of unvaccinated versus vaccinated individuals.

13 California has always been concerned with discrimination and it escapes
14 me as to how this vaccination issue is not seen as discriminatory in segregating and
15 isolating those who wish to remain naturalists in the healthcare. This is outright
16 discrimination. A person's health management is left up to each individual. This is the
17 United States of America where freedom reigns after all. California has high rates of
18 vaccination and low rates of COVID-19 currently. Those unvaccinated are not a threat
19 even if they do not wear a mask. As well -- in closing I'd like to say for those who have
20 already had COVID-19 naturally, there needs to be equity. The CDC guidance does not
21 address this group of people either.

22 Thank you so much.

23 CHAIRMAN THOMAS: Thank you.

24 MR. GOTCHER: Our next commenter is Kailyn DeLeon-Peterson from the
25 greater Bakersfield Chamber.

1 CHAIRMAN THOMAS: Go right ahead, Caller, if you can hear us. Can
2 you hear us, Caller?

3 MR. GOTCHER: If you have dialed into the WebEx, you'll need to press
4 star six to unmute yourself.

5 WOMAN 4: (Indiscernible).

6 MS. CHAMBERS: Hello.

7 CHAIRMAN THOMAS: Go ahead.

8 MS. CHAMBERS: This is Yvette Chambers calling in. Can you hear me?

9 CHAIRMAN THOMAS: Yes. Go ahead.

10 MS. CHAMBERS: Thank you. Thank you very much for taking my call
11 today. I wanted to say how happy I am that I've had the opportunity to be part of this.
12 Thank you for this public hearing. Dr. Tomás Aragón and then Dr. Laura Stock, I'm very
13 happy to have met you because we will be serving you with affidavits of legal not
14 liability. I wanted you to understand that your legal counsel should be fully informed
15 regarding the following lawful notices to you, all of you, because you are not in
16 compliance with the federal law. Aside from the federal law, which you should know, as
17 your job, you've all taken oaths, you should all know that the Journal of American
18 Medical Association has with unambiguous retorts that facemasks should not be worn
19 by healthy individuals to protect themselves from acquiring respiratory infections
20 because there's no evidence to suggest that the facemasks even work for healthy
21 individuals. You have to understand that what you're doing is you're causing people to
22 become sick. I understand that some of you need to have your form 700 looked at. We
23 need to see exactly who it is all of you are talking to because your bias is showing very
24 loudly. I think you should be wearing your bias on your shirtsleeves so we can know
25 who paid for you and to whom you have your allegiance because it is not to the

1 American citizens. It's unlawful under the FTC Act 15, U.S.C. 41 --

2 MR. GOTCHER: I'm sorry. Excuse me. Sorry. What did you say your
3 name was? Did I hear Yvette Chambers?

4 MS. CHAMBERS: My name -- that's correct.

5 MR. GOTCHER: Okay. Yeah. So, actually the next commenter was
6 supposed to be Kaelyn DeLeon-Peterson.

7 MS. CHAMBERS: I see. Okay. So --

8 MR. GOTCHER: Sorry.

9 MS. CHAMBERS: -- would you like me to wait and save --

10 WOMAN 2: Let her talk.

11 MS. CHAMBERS: -- my time? Thank you. Thank you.

12 WOMAN 2: Let her talk.

13 MS. CHAMBERS: You will have to take the next person after myself
14 because you have made the mistake.

15 CHAIRMAN THOMAS: Can you pull Heather off because I think she's in
16 line.

17 MS. CHAMBERS: You will have to take the next person after my --

18 CHAIRMAN THOMAS: And this person too, please. I'm sorry. I don't
19 need --

20 MAN 4: (Indiscernible). Let her talk.

21 CHAIRMAN THOMAS: I don't mean to be rude, but, you know, say what
22 you've come to say, that's fine. We don't need a cheering section in the back just
23 because you read something. That's fine.

24 MR. GOTCHER: The next caller is Dr. Aimee Smith and they will be
25 representing themselves.

1 CHAIRMAN THOMAS: Aimee, are you with us?

2 MS. SMITH: Yes. Yes. Thank you.

3 CHAIRMAN THOMAS: Go ahead.

4 MS. SMITH: Hi. I have a Ph.D. in material science from MIT and B.S. and
5 an M.S. at -- from Caltech. And I am very concerned that coercive policies are being
6 motivated by politics rather than sound science. I know you're all aware that there's
7 only an emergency use authorization for the current vaccines. They're called vaccines
8 and that's a debatable concept. But the things that are being promoted for people to
9 take and championed as helping slow the spread have not been proven to do so and are
10 still in phase 3 clinical trials that won't be ending until, at the earliest, the end of 2022.

11 And I hope you're aware of California health and safety code that -- it's
12 24172. It says when -- in regards to experiments -- medical experiments, that a person
13 be given the opportunity to decide to consent or not to consent to a medical
14 experiment without the intervention of any element of force, fraud, deceit, duress,
15 coercion, or undue influence on a subject's decision. So, making a person's job
16 dependent on disclosing personal, private information about an experimental gene
17 therapy intervention that has not been proven to stop the spread of this disease, is
18 completely unconscionable but it's also illegal. And so, I would hope that the
19 suggestions could be in line -- you know, with California law as well as the Nuremburg
20 principals.

21 But, you know, the masks are also emergency use authorization only.
22 And so are the PCR tests that depending on how they're used, they can have higher and
23 higher rates of false positives. So, coercing people into these policies with these
24 experimental interventions is wrong and illegal and it's not an emergency anymore.
25 People have treatments. We need to go back to normal.

1 I appreciate you for standing up for us. Thank you.

2 CHAIRMAN THOMAS: Thank you.

3 MAN 5: Amen.

4 WOMAN 5: Amen. I agree.

5 MR. GOTCHER: Next commenter is Tino Barragan from Santa Clara
6 County.

7 CHAIRMAN THOMAS: Is that Tino? John.

8 MR. BARRAGAN: Yes, can you hear me?

9 CHAIRMAN THOMAS: Yeah. Go right ahead.

10 MR. BARRAGAN: Okay. Tino Barragan, Santa Clara County, registered
11 Democrat. There are efforts to discriminate against and segregate people who have not
12 taken these experimental shots that are being distributed under emergency use
13 authorization. The shots are not FDA approved yet, although that's being rushed as
14 well. Different conversation, different day though.

15 WOMAN 6: Sir, they're FDA approved.

16 MR. BARRAGAN: Certain populations can't take the shots based on their
17 medical conditions. Many people have effective natural immunity, which is never
18 spoken about. We are not considering the rights of these groups of people. Beyond
19 that, there are citizens who do not want to take the shots yet or at all. There are over
20 5,000 deaths, tens of thousands of injuries, and hundreds of thousands of adverse
21 events that have been reported on VAERS, where adverse events have historically been
22 severely underreported. The effectiveness of masks has never been proven the way
23 we've been told in order to justify mask mandates. We've never conducted a study that
24 comes close to duplicating how the public actually wears them.

25 Do not make business-owners monitor their employees' vaccination

1 status. The latest mandates from the county and State are putting citizens against
2 citizens. The discrimination and segregation possibilities that exist for people who can't
3 take the shots or have decided against it cannot be allowed.

4 Finally, we need a full audit immediately for the PCR tests and cycle
5 thresholds which have contributed to the ongoing abuse of emergency powers.
6 Mandatory testing should not be allowed. Use the Freedom of Information Act like with
7 Fauci's emails. Stop abusing emergency powers and open up everything.

8 MR. GOTCHER: Thirty seconds.

9 MR. BARRAGAN: We have high vaccination rates with low cases and
10 hospitalizations. There is no emergency. Let people accept their own risk benefit
11 analysis. And if the shots work, then people who have taken the shots don't need to
12 worry. Let people work and live freely.

13 CHAIRMAN THOMAS: Thank you. John, who do we have next?

14 MAN 5: Hear, hear.

15 MR. GOTCHER: Our next commenter is Giancarlo Rubio from the Valley
16 Industry and Commerce Association.

17 CHAIRMAN THOMAS: Gian, are you with us?

18 MR. RUBIO: Hello. Can you hear me?

19 CHAIRMAN THOMAS: Yes, I can. Go right ahead.

20 MR. RUBIO: Yes, can you hear me?

21 CHAIRMAN THOMAS: Yeah.

22 MR. RUBIO: Hi. Hi. So, my name is Giancarlo Rubio and the legislative
23 affairs manager for the Valley Industry and Commerce Association.

24 The VICA is expressing concern of the Cal/OSHA readoption. In regards to
25 face coverings, the ETS should align with the CDC guidance to allow for fully vaccinated

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1 employees to remove face coverings indoors as long as unvaccinated individuals are
2 wearing face coverings and vaccine options are fully available to all Californians. In
3 regards to physical distancing, Section 6(a) requires social distancing to remain in place
4 until July 31st, 2021. Unless respirators are given out in accordance with Subsection (b),
5 this should end with the State physical distancing requirements end and not go beyond
6 them. When the CDC issues its updated guidance, starting -- stating fully vaccinated
7 individuals no longer need to wear masks in indoor settings, we fully expect the State to
8 conform with the most recent guidelines from the CDC and the rest of the scientific
9 community.

10 In regards to transportation, this essentially requires the employer to
11 actively consider two groups of transportation, one for fully vaccinated employees and
12 one for unvaccinated employees. We need exemption for no spacing on -- and
13 transporting so long as everyone is in a face covering, regardless of vaccine status,
14 consistent with guidelines for public transit. And in regards to close contact and
15 exposed groups, the definition of exposed groups should be limited to close contact
16 only. And in regards to the use of respirators, there are numerous provisions requiring
17 employees -- employers to offer or provide respirators for volunteer use. The ETS or
18 FAQs should make clear that employers should provide employees with reasonable
19 notice and information on how to obtain respirators for voluntary use.

20 We understand the California Department of Health decision to align with
21 the CDC guidelines on June 15th. Businesses of all sizes began making hiring and
22 reopening plans based on this announcement. The recently passed Cal/OSHA ETS
23 standards undermine the critical work being done to safely reopen on June 15th. The
24 ETS has created a lot of open-ended questions, questions can pertain from extensive
25 liabilities that the business community has to navigate. Confusing and contradictory

1 statements and regulations were coming from various levels of government. This is
2 why we're asking the governing -- the Governor to issue an immediate executive order
3 conforming workplace guidelines with the CDC and the California --

4 CHAIRMAN THOMAS: Thank you, Caller.

5 MR. GOTCHER: Our next commenters are Matt Allen, followed by Ken
6 Smith. But first, Matt Allen, and they will be representing themselves.

7 CHAIRMAN THOMAS: Matt, go right ahead. Can you hear us, Matt?

8 MR. GOTCHER: And --

9 MR. ALLEN: Can you hear me?

10 MR. GOTCHER: If you --

11 CHAIRMAN THOMAS: Yeah, Matt.

12 MR. ALLEN: Hello?

13 CHAIRMAN THOMAS: Matt, go ahead.

14 MR. ALLEN: Okay. Thank you. Just a moment.

15 CHAIRMAN THOMAS: You're on the clock.

16 MR. ALLEN: Okay. Dear Cal/OSHA -- am I coming through clearly? Can
17 you hear me?

18 CHAIRMAN THOMAS: Yes. Go right ahead.

19 MR. ALLEN: Okay. My name is Matt. I live in San Mateo County. I have
20 received the COVID-19 experimental gene therapy. I'm a teacher and I work for a school
21 district. Please end the current Emergency Temporary Standard and ensure that future
22 standards do not create a two-tier system of unvaccinated people versus vaccinated
23 people. This will cause discrimination, isolation, and segregation. Mask wearing should
24 be voluntary for all. California has high rates of vaccination and low rates of COVID-19.
25 Those unvaccinated are not a threat, even if they do not wear a mask. There must be

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1 equity for those who have had COVID-19 naturally. The CDC guidance does not
2 address this group of people. A person of natural immunity from exposure to and
3 recovery from the virus, they must be accounted for in the new plan. This group is
4 immune and pose no threat to anyone.

5 Thank you.

6 CHAIRMAN THOMAS: Thank you.

7 MR. GOTCHER: Our next commenters are Ken Smith, followed by Cassie
8 Hilaski, with next, Ken Smith from EH&S, University of California.

9 CHAIRMAN THOMAS: These will be our last two commenters tonight.
10 So, Caller, go ahead. Or not of the night, but of -- before we take a break.

11 MR. SMITH: Thank you.

12 CHAIRMAN THOMAS: Go ahead, Caller.

13 MR. SMITH: Yeah, thank you, Chair Thomas and distinguished members
14 of the Board.

15 It would be helpful for those of us attending the public meeting like
16 myself if during the Board's deliberations later, there could be an explanation from the
17 Board's counsel as to how the Board may be permitted to proceed under the public
18 participation procedures for the adoption of regulations included in Article 5 of the
19 California Government Code. Of particular interest, what actions is the Board permitted
20 to -- permitted either at this meeting or the upcoming June 17th meeting in terms of
21 either changing or repealing the ETR? (Audio interference).

22 CHAIRMAN THOMAS: I'm sorry, Caller. We're having a little crosstalk.
23 Can you continue? I think we're okay now. Go ahead.

24 MR. SMITH: Yes. I'm confused by some of the comments in today's
25 meeting about the Board having the ability to ask for a redo of the first approved

1 readoption of the regulation. That revision has, as you know, already been approved
2 by the Board, submitted to the OAL by Ms. Shupe on June 7th, and posted to the OAL's
3 website and is actually already open for the required five-day public comments. How,
4 specifically, is the Board going to ask for a redo of this? One might argue that any
5 further revision by the Board of the ETS might actually count as the second readoption
6 and the final permitted action of this Board.

7 That aside, there are three specific questions I offer the Board to consider
8 in its deliberations. First, it would be helpful to understand and clear explanation about
9 the five-day required period to provide the public a copy of any proposed regulation.
10 It's unclear to us if it's five days prior to the Board considering it at this meeting or five
11 days submitting to OAL. Second, if the Board was to repeal the regulation, is there also
12 a five-day permitted period? And last, I may note that you formed this meeting under
13 the special meeting considerations of Article 6 and perhaps that gives you a pathway to
14 take action sooner, as there's a clause in Article 6 that allows for a faster pathway.

15 Thank you very much for your consideration tonight.

16 CHAIRMAN THOMAS: Thank you. And then -- John, we have the last
17 caller who is?

18 MR. GOTCHER: It's Cassie Hilaski, who's going to be taking four minutes
19 because Brian Miller ceded his time.

20 CHAIRMAN THOMAS: Okay. Go ahead, Cassie. You have four minutes
21 and then we will break at --

22 MS. HILASKI: I'm actually happy to wait until 7:45 if you wanted to take
23 your planned 7:30 break now.

24 CHAIRMAN THOMAS: You know, that sounds really good. Let's do --

25 MS. HILASKI: That's fine with me.

1 CHAIRMAN THOMAS: Let's do that and then we will -- we're going to
2 adjourn for 15 minutes. We'll be back at 7:45 and then we'll reconvene with Cassie.

3 Thank you very much and we're going to break now. And we'll reconvene
4 at 7:45. Thank you.

5 (The Board takes a recess at 7:30 p.m.)

6 CHAIRMAN THOMAS: Good evening. We are back in session. We are
7 going to take comments for one more hour until 8:45. And our first commenter right
8 now is Cassie.

9 Are you with us, Cassie?

10 MS. HILASKI: Yes, I am. Can you hear me?

11 CHAIRMAN THOMAS: We can. Go right ahead.

12 MS. HILASKI: All right. Thank you.

13 So, first of all, I want to thank the Board for your expediency in trying to
14 keep up with the changing conditions of the pandemic. And while there are no perfect
15 answers today, I do believe it's clear that it does not make sense for Cal/OSHA
16 regulations to be in conflict with the CDPH and the CDC. I also think it's clear that it's
17 time to move towards repealing the ETS in any form as Cal/OSHA's mandatory standards
18 making rules really make it impossible to keep up with the rapidly changing
19 circumstances.

20 When the pandemic started, there was no vaccine. So, the only way to
21 protect employees was to implement face coverings, physical distancing, and all the
22 other COVID-19 protocols put into place by the local governmental agencies. Also, with
23 everyone under lockdown orders, it made sense at that time that those employees
24 deemed essential be provided protections by their employers since they did not have the
25 option to stay at home to ensure their own well-being.

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1 Today, neither of those things is true. The vaccine available to anyone
2 who wants it. Indeed, California leads the nation in vaccinations. And no one is under
3 mandatory lockdown. Therefore, the virus is no longer specific only to the workplace.
4 Even so, the IIPP regulations still stands in place for those situations where it is obvious
5 that the workplace is acting irresponsibly and not following the CDPH and CDC
6 guidelines. I think it's also important to note that while the Governor will be lifting
7 many protocols on June 15th, he will not be rescinding the state of emergency order
8 and therefore, will be able to continue to respond to the pandemic appropriately as
9 conditions change and in real time.

10 Therefore, I urge the Board to come in line with the CDPH as expediently
11 as possible. But more importantly, please start planning an end to the regulations so
12 employers can more easily keep up with current science and guidelines issued by the
13 CDC and the CDPH. I really do respect all the work the Board and Division has done and
14 your desire to be as proactive as possible. But I do think it's time to recognize how tied
15 your hands are from being able to keep up with current science and regulation -- and
16 guidelines and how unfair that really is to both employers and employees.

17 Thank you so much for your time.

18 CHAIRMAN THOMAS: Thank you, Cassie.

19 MR. GOTCHER: Our next commenters are Brad Brinkman, followed by
20 Fran Schreiber, with next, Brad Brinkman from Let Them Breathe Reopen San Diego.

21 CHAIRMAN THOMAS: Brad, can you hear us?

22 MR. GOTCHER: Brad Brinkman, are you on?

23 CHAIRMAN THOMAS: I think we should go to the next one, John.

24 MR. GOTCHER: Okay. Okay. Our next commenter is Fran Schreiber
25 from the Labor and Employment Committee of the National Lawyers Guild.

1 CHAIRMAN THOMAS: Fran, can you hear us?

2 MS. SCHREIBER: (Audio interference) you all. And I'm speaking as one
3 of the original petitioners and -- on behalf of the Labor Committee of the Guild. The
4 CDC --

5 CHAIRMAN THOMAS: Fran, can you get closer to your microphone?
6 We're having trouble hearing you.

7 MS. SCHREIBER: Okay. The CDPH speaks to public protection, not to
8 worker protection. And interestingly, having pointed out the CDC exceptions, for
9 example, the folks who are in public transit, CDPH actually makes my argument that
10 workers who still must go to work -- not -- it's no different now than it was at the
11 beginning of this pandemic, must still go to work to support their families, should have
12 the same right to be safe as the public who are forced to use public transit. This is not a
13 question of conforming to what the public is required to have. It is a question of
14 protecting workers, which is what the law in California requires.

15 Alternatively, we must have verifiable information on vaccination in the
16 workplace as Mitch Steiger suggested, despite the fact that people have objections to
17 that. Workers have a right to go to work and be safe at their workplace. Mr. Raycus
18 made a difference and that is despite the comments of some of those wishing to repeal
19 it. And we are not out of the woods yet with 213 outbreaks in the past month. And I
20 don't care whether that it is out of X-number employees in the State of California.
21 Those workers have a right to be safe.

22 The fourth point is that guidance --

23 WOMAN 6: (Indiscernible).

24 MS. SCHREIBER: Excuse me. Guidance is not enforceable. The fifth
25 point is the Injury and Illness Prevention Program is also not adequate as it lacks the

1 specificity needed to achieve a level playing field. Our thanks to those employers who
2 do the right thing. But workers who have employers who don't do the right thing, need
3 a means of –

4 MR. GOTCHER: Thirty seconds.

5 MS. SCHREIBERG: Thank you. Finally, repealing this regulation and just
6 relying on IIPP means workers will continue to be at risk and again, the Labor Code says
7 we have a right to a safe place to work.

8 Thank you.

9 CHAIRMAN THOMAS: Thank you, Fran.

10 MR. GOTCHER: Our next commenter is Zeb Hutchinson and they will be
11 representing themselves.

12 CHAIRMAN THOMAS: Zeb, can you hear us?

13 MR. HUTCHINSON: Hi. Yeah. Thanks --

14 CHAIRMAN THOMAS: Go ahead.

15 MR. HUTCHINSON: -- to the Board for taking my call. I really appreciate
16 it.

17 And I just wanted to say that I've heard a lot of concerns from people
18 about -- basically saying that the vaccination is safe and the way to go. I'd like to start
19 out by saying that -- the disease is 99.7 percent curable; everybody recovers from it. So,
20 there's that. If there's long term -- the other thing about the vaccination is there's a
21 long term -- emergency use authorization only on the vaccinations, but there's no long-
22 term data on the vaccination, whether it's safe or not. They keep saying it's safe, it's not
23 even approved yet by the FDA. So, there's that.

24 And just regarding what the Board has voted on, I just think it's really
25 important that families like mine not (indiscernible) California because the votes require

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1 additional mask wearing for employees in the presence of others who are
2 unvaccinated, for allowing employers to track employees vaccinated and unvaccinated
3 is just going to cause a lot of animosity between employees in the workplace. So, saying
4 that the vaccination is going to protect you isn't necessarily true.

5 Also, I'd like to say that the proof is in the pudding. Other places who
6 have dropped mask mandates and fully reopened like Florida, Arizona, a lot of other
7 places, they have the same numbers as California. So, saying that previous guidelines
8 that have been put into place to protect us also could be -- you know, it's not necessarily
9 true. Also, OSHA has a long -- has a longstanding standard based on many NIOSH
10 studies that show a mask is taxing to the cardiopulmonary system and that long-term
11 use is dangerous. We would be remiss as local, logical, free thinkers that throw away --

12 MR. GOTCHER: Thirty seconds.

13 MR. HUTCHINSON: -- that OSHA NIOSH had prescribed the long time use
14 of masks. Having said, I just think we need to follow -- you know, follow what other
15 states have done, reopen California, get back to life as normal, or you're going to lose a
16 lot of good people that are not going to tolerate these onerous safety standards and
17 people are going to leave the State, people like me and my family.

18 Thank you.

19 CHAIRMAN THOMAS: Thank you.

20 MR. HUTCHINSON: Thank you.

21 MR. GOTCHER: Our next commenters are Justin Shore [sic], followed by
22 Anne Katten, with next, Justin Shore. They will be representing themselves.

23 CHAIRMAN THOMAS: Justin, can you hear us?

24 MR. SHORES: Yes, can you hear me?

25 CHAIRMAN THOMAS: Yeah. Go right ahead.

1 MR. SHORES: Thank you. Yeah, I think I'll just tell my story. I'm a
2 worker. I've worn a mask for 16 months. I work outside. It's very, very psychologically
3 draining. And think you guys look at all the pros of -- or you say -- think you know the
4 pros of masks, but there's a lot of cons to it too. There's a lot of mental health issues
5 with mask. I hate it. I can't take it anymore, guys. There's one case in my town. One
6 case. I boycotted after your meeting the other day because I just couldn't wear it
7 anymore. And I almost lost my job, okay? I almost -- they said I have to go home. I
8 almost lost my job and I'm outside wearing a mask, okay? So, you guys have so much
9 power. You guys are using it in a way that is hurting me. Like, I am one of the best at
10 what I do in the nation, and I'm going to quit my job and leave this State because I can't
11 take this. You know, this is crazy. Look at Florida, they did not mask. There's studies
12 right now, guys, Zuckerberg paid for a study. Masks do not help. It's safer for me to be
13 at work than it is to be at home right now because I have a cubicle and you're making
14 me wear a mask there.

15 Your requiring employees to wear employees to wear masks sets the
16 stage for contracting an infection, including COVID-19. It's going to make it worse. The
17 consequence will be greater. You guys have to realize that. It's -- we're in your hands,
18 guys, okay? Your highnesses, that's what we should call you because everyone's looking
19 to you, your Board. All the school boards are saying OSHA, OSHA, OSHA, they're in
20 control, they have it, they're doing this because OSHA won't listen to you; they won't
21 listen the hundreds of people, the doctors, the businesspeople calling and pleading,
22 saying, please, give us a little control back, let us have a choice. I just begged you guys.
23 Please, look at the reality of what you're doing and how much power you have and what
24 you're doing with it. You are everything.

25 CHAIRMAN THOMAS: Thank you, Justin. I appreciate your comments.

1 WOMAN 2: No, he doesn't.

2 MR. GOTCHER: Next commenter is Anne Katten from the California Rural
3 Legal Assistance Foundation.

4 MR. MIILLER: Mr. Chair, I think the last speaker may need some help. Do
5 we want to inquire about whether he needs some assistance? He seemed pretty
6 distressed and distraught. Do we want to, like, maybe ask if we can help him?

7 WOMAN 2: (Indiscernible).

8 CHAIRMAN THOMAS: I don't know if we have any way to contact that
9 person --

10 MR. MIILLER: I'm sorry.

11 CHAIRMAN THOMAS: All right.

12 MS. SHUPE: Staff is already looking --

13 CHAIRMAN THOMAS: Thank you.

14 MS. SHUPE: -- into whether or not we can reach Mr. Shores. Thank you.

15 MR. MIILLER: Okay. Thank you, Christina. Thank you.

16 CHAIRMAN THOMAS: Thank you, Michael. Okay. So, I'm --

17 WOMAN 2: People don't care about anyone's health.

18 CHAIRMAN THOMAS: Anne, are you with us?

19 MS. KATTEN: Yes, I'm here. Hi.

20 WOMAN 2: Find your mask holes.

21 CHAIRMAN THOMAS: Go ahead, Anne.

22 MS. KATTEN: Yeah. Good evening. This is Anne Katten from California
23 Rural Legal Assistance Foundation. And I am encouraged by the low average statewide
24 COVID infection rate. But we need to keep in mind that counties in the Northern San
25 Joaquin Valley and the Sacramento Valley continue to be disproportionately affected

1 with infection rates, two to three and a half times higher than the statewide average.
2 There's some disparities in vaccine access that need to be resolved. And statewide,
3 there were over 700 workplace outbreaks reported in the past month. Workers who
4 much be in close contact with others many hours still need protection from risk of
5 infection analogous to DPH -- to CDC and CDPH protection requirements for public
6 transportation. If a decision is made to eliminate face covering requirements indoors, at
7 the very least employers should be required to verify vaccination and maintain records
8 before allowing mask removal by indoor workers or visitors, such as customers.

9 It's also crucial to protect workers who cannot be vaccinated or who have
10 health issues that make the vaccination ineffective. And to this end, we support
11 maintaining distancing and barriers indoors for these workers, providing N-95s,
12 requiring maximization of ventilation, and maintaining outbreak response requirements,
13 including pay for quarantine and sick leave and having triggers to active -- to reactivate
14 controls, possibly on a localized basis if there are infection surges.

15 And thank you all very much for your hard work and attention to this
16 issue. Thank you.

17 CHAIRMAN THOMAS: Thank you, Anne.

18 MR. GOTCHER: Our next commenter is Brad Brinkman from Let Them
19 Breathe Reopen San Diego.

20 CHAIRMAN THOMAS: Was that Brad? Are you with us?

21 MR. BRINKMAN: Yes, sir. Can you hear me?

22 CHAIRMAN THOMAS: Yes. Go right ahead.

23 MR. BRINKMAN: Okay. Great. Yeah, so, I am a member of the
24 letthembreathe.org and reopensd.org. And this is for the Board Members who voted
25 to -- that unvaccinated employees be segregated from vaccinated employees. And I just

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1 wanted to say to those Board Members that have voted for that, especially the ones
2 that voted to mask employees until further notice, that's kind of going full Hermann
3 Goering. You might need to look him up just before you go to beD tonight because it's
4 important. His name is Hermann Goering. He once answered a question -- and I'll tell
5 you what the question that he answered in just a second -- but he answered this
6 question with, the job of the government is to put the people in fear and if you can keep
7 them in fear, you can get them to do whatever you want them to do, and they'll turn
8 into sheep. And so, the question that he was asked that he gave that response was,
9 how did you get some of the most intelligent and tolerant people in world in the
10 Weimar Republic in the country of Germany -- how did you convince these people who
11 were so well educated and awakened and turn them into obedient slaves and
12 committed some of the most heinous, barbaric, and inhumane crimes in all of history
13 that ended in the mass genocide of over 17 million people, otherwise known as the
14 Holocaust. And he said -- again, that was really --

15 MR. GOTCHER: Thirty seconds.

16 CHAIRMAN THOMAS: No, Caller, you're kind of off the subject here. If
17 you'd like to finish up with what we're trying to accomplish tonight, go ahead.
18 Otherwise, we get your comments but that's enough. Let's go on.

19 MR. BRINKMAN: Yeah, so the job -- just to -- again, I just wanted to say I
20 don't agree with the -- that unvaccinated employees should be segregated from
21 unvaccinated [sic]. That's creating a fearful environment and it doesn't make it safe at
22 all. That turns people against each other. It makes them suspicious, resentful, angry,
23 and it makes them fearful. And you should think about the long-term effects of that.

24 CHAIRMAN THOMAS: Thank you. Appreciate that. Who do we have
25 next, John?

1 MR. GOTCHER: Our next commenters are Crystal Wibier, followed by
2 Marcos Solada. First, Crystal Wibier, they will be representing themselves.

3 CHAIRMAN THOMAS: Crystal, can you hear us?

4 MS. WIBIER: Yes, I can.

5 CHAIRMAN THOMAS: Go right ahead.

6 MS. WIBIER: Good evening. My name is Crystal Wibier and thank you for
7 this opportunity to speak. As I have heard numerous excuses from the government
8 entities stating that they have the ability to control and prevent people from becoming
9 sick with COVID-19. This is an impossibility. To control and prevent anyone from being
10 sick, listening to the CDPH director, Tomás Aragón, on how they still are learning, it
11 shows causes of inconsistency with the plan laid out. They cannot use the community
12 as a science project to enforce control and force vaccinations and/or mask coverings. I
13 am asking you to withdraw and terminate the decision from June 4th. There are too
14 many inconsistencies with the information provided by CDC. As a person who is exempt
15 from wearing a mask as it causes me and my fellow employees, if we are exempt, we
16 are not allowed to state that we do not want to wear masks. If we have asthma or
17 underlying conditions, it -- we are still forced to wear masks.

18 So, the long-term effect in regards to our health is affected. As children
19 in schools have also breathing conditions, my daughter, especially, was forced to wear a
20 mask, causing nosebleeds, headaches, high blood pressure. No one is talking about the
21 200 percent in regards to the mental instabilities of their children in our community.
22 200 percent of child abuses have gone up because of the school closures. In regards to
23 these masks and the employers that are forcing them, parents that are home with their
24 children every -- to single day, have no other resources. People that can't wear masks
25 can't bring their kids to school and are stuck in foresaid home are only causing more

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1 mental health for the whole entire community.

2 The CDC and the CDHP [sic] have the inability to provide the same
3 guidelines that everyone can follow. As restaurants and businesses try to stay open and
4 follow these guidelines that make no sense to science when a person has to wear a
5 mask to a restaurant, sit amongst a full restaurant full of people and employees, and the
6 employees still have to wear a mask. They are breathing heavily, having headaches,
7 complaining, and still getting underpaid. They do not have to work.

8 The State of California needs to understand that in order for people to
9 want to go to work, they need to encourage that they can go to work without masks.
10 This is absolutely absurd and -- okay.

11 That's it.

12 CHAIRMAN THOMAS: Thank you, Crystal. Appreciate your comments.

13 MS. WIBIER: Thank you.

14 WOMAN 7: Look at Florida.

15 MR. GOTCHER: Our next commenter is Marcos Solada and they will be
16 representing themselves.

17 CHAIRMAN THOMAS: Was that Marco?

18 MR. GOTCHER: Yeah, Marcos.

19 CHAIRMAN THOMAS: Marcos --

20 MR. GOTCHER: Marcos Solada.

21 CHAIRMAN THOMAS: -- are you there? Marcos? Let's move on to the
22 next, John.

23 MR. GOTCHER: Okay. Our next commenter is John Webb from the City
24 of Lompoc.

25 CHAIRMAN THOMAS: John, can you hear us? John?

1 MR. GOTCHER: And if you have called in, then you need to press star six
2 to unmute yourself.

3 CHAIRMAN THOMAS: John, can you hear us? John, let's go to the next.
4 We're not getting anything.

5 MR. GOTCHER: Okay. Our next commenter is Kayla Courting from Valley
6 Industry and Commerce Association.

7 CHAIRMAN THOMAS: Kayla, can you hear us? Kayla? If you called in,
8 press star six. I'm not getting anything. Go ahead.

9 MR. GOTCHER: Okay. Our next commenter is Aaron Holmberg from the
10 County of Inyo.

11 CHAIRMAN THOMAS: Mr. Holmberg, can you hear us?

12 MR. HOLMBERG: Hi. This is Aaron Holmberg, County of Inyo.

13 CHAIRMAN THOMAS: Go right ahead.

14 MR. HOLMBERG: Thank you. And two things -- (indiscernible), sorry
15 about that. One, thank you very much for turning the chat off. It was incredibly
16 distracting.

17 CHAIRMAN THOMAS: We can't hear you very well. Can you get closer to
18 your mic, wherever that is?

19 MR. HOLMBERG: Sure.

20 CHAIRMAN THOMAS: There you go.

21 MR. HOLMBERG: Does that work?

22 CHAIRMAN THOMAS: There you go.

23 MR. HOLMBERG: Is that working?

24 CHAIRMAN THOMAS: Yeah, go right ahead.

25 MR. HOLMBERG: Hi. Now you can see that I just ate.

1 So, thank you for turning the chat off. The chat was really distracting
2 last time. I was trying to pay attention. So, thanks for that.

3 The other thing is the -- I'm concerned at how practical it's going to be to
4 require documentation from employees on a daily basis. If the employees only work in
5 one little building in one place, then I can see practically how the supervisor would see
6 everybody's vaccination card and know everybody and know that they were all
7 vaccinated. But when your employees work in multiple locations, responding to
8 multiple supervisors, that means they basically have to carry their vaccinated like carry
9 their papers around everywhere they go. And I don't think that's what you're looking
10 for.

11 MAN 6: (Indiscernible) don't have them.

12 WOMAN 8: I'm not going to do that. So, that's off the table.

13 MAN 6: So, there's no strategy at all?

14 CHAIRMAN THOMAS: Let's all --

15 WOMAN 8: No. You --

16 CHAIRMAN THOMAS: We -- please, people. We got --

17 MR. GOTCHER: You should be good to continue.

18 CHAIRMAN THOMAS: Oh, thank you. I'm sorry. Go ahead. Go ahead.
19 Go ahead.

20 MR. HOLMBERG: That's really all I was trying to say, how impractical it
21 might be if we -- if I have to ask our employees to carry around a vaccination card so
22 every time they walk into a new room, everybody has to see it so we can know that we
23 don't need to give them a mask. Just from a practical standpoint, it's going to be
24 difficult.

25 And I thank you for going through all this process.

1 CHAIRMAN THOMAS: Thank you, Mr. Holmberg. I appreciate your
2 comments.

3 MR. GOTCHER: Our next commenter is Karen Waltman and they will be
4 representing themselves.

5 CHAIRMAN THOMAS: Karen, can you hear us?

6 MS. WALTMAN: Yes, can you hear me?

7 CHAIRMAN THOMAS: Yes, go right ahead.

8 MS. WALTMAN: Yes, can you hear me?

9 CHAIRMAN THOMAS: Yes.

10 MS. WALTMAN: Thank you.

11 We are very frustrated with the rules constantly changing without a
12 logical explanation. We were told that California was going to fully reopen June 15th
13 and life would go back to normal. Please define normal because mandating my kids to
14 wear masks all day is not my definition of normal. My freshman and sophomore just
15 finished another abnormal school year, isolated from friends and sitting in front of a
16 computer all day. I told them come June 15, things would fully reopen and they would
17 both be able to receive the vaccine like my husband and I. They have both been
18 vaccinated. We planned trips to amusement parks to celebrate after June 15th, only to
19 now find out it was all just a poor joke. There isn't any intention of us going back to
20 normal or ditching the masks come June 15th.

21 This is devastating to all of us who have been vaccinated when the
22 positive COVID cases are very low compared to the population. Wearing a mask at work
23 for eight-plus hours is causing mental exhaustion. It makes no sense to mandate
24 vaccinated individuals to continue to wear the mask when we have continued to allow
25 unvaccinated people to travel between states and countries. Unless we stop all travel,

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1 we should not mandate wearing masks for those that reside in California and have
2 been vaccinated.

3 Please, do the right thing and allow us to make our own choices in
4 regards to wearing masks so my kids and my family can enjoy life once again. Thank
5 you.

6 CHAIRMAN THOMAS: Thank you very much.

7 MR. GOTCHER: Our next commenters are Stewart Waldman, followed by
8 Pam Ragland, with first, Stewart Waldman from the Valley Industry and Commerce
9 Association, VICA.

10 CHAIRMAN THOMAS: Go ahead, Caller.

11 MR. GOTCHER: And if you dialed in, you need to press star six to unmute
12 yourself. And the current commenter is Stewart Waldman.

13 CHAIRMAN THOMAS: Thank you, John.

14 Stewart, are you there? I think we're going to have to go on to the next
15 person, John.

16 MR. GOTCHER: Okay. Our next commenter is Pam Ragland from AAAP,
17 Association of Autistic and ADHD Parents.

18 CHAIRMAN THOMAS: Pam, can you hear us?

19 MS. RAGLAND: Thank you for your patience to the Board.

20 I'm very concerned about this policy and listening to everything that was
21 said tonight. It really, literally means masks forever. It's coercive and it's illegal as
22 previously stated. I sent an email with (indiscernible). I won't cover them here. But just
23 reiterating everything is experimental. Really good news is that California seems to
24 have half of the cases and half of the deaths of other states, so these regulations which
25 are more restrictive are very curious. The one thing -- something it doesn't consider is

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1 people with adverse events, for example, my neighbor who went into heart failure
2 after his first Pfizer vaccine, cannot take the continued vaccine, he could never complete
3 that trial. And this does not even consider his situation. The same thing with people
4 with natural immunity, that what hasn't been said is that there's actually studies now
5 showing people who had COVID are actually more likely to have an adverse event if
6 they have the vaccine. So, we really should be looking first for immunity, not for these
7 vaccines.

8 The recent Pfizer documentation shows for the kids, four-fifths of the
9 kids in the age 12 to 15 range are having adverse events. So, that's very concerning to
10 try to force this into the schools. And they're one percent behind in their reporting right
11 now -- it looks like at three months behind. That would mean we could have as many as
12 more than a million deaths and 52,000,000 adverse events because, again, these are
13 experimental procedures. This is just nothing that should be coerced.

14 Another thing that I take issue with is saying that there's asymptomatic
15 spread. There's actually an NIH study and a China study showing --

16 MR. GOTCHER: Thirty seconds.

17 MS. RAGLAND: -- there's no such thing. That's the basis of all of the mask
18 regulations to begin with. So, that really needs to be taken a look at. Further, the
19 people who are vaccinated seem to be transmitting people into other people [sic]. I
20 already mentioned it before that even the N-95s violate Prop 65. Really, this is setting
21 up a situation where the businesses are going to get sued and they've already been
22 harmed enough. I'm a business-owner also. I would recommend repealing and instead,
23 if you're going to mandate anything, mandate early treatment.

24 Thank you very much.

25 CHAIRMAN THOMAS: Thank you.

1 WOMAN 9: Hear, hear.

2 MR. GOTCHER: Our next commenter is Samuel Plantowsky and they will
3 be representing themselves.

4 CHAIRMAN THOMAS: Samuel, can you hear us? Samuel?

5 MR. PLANTOWSKY: Okay. For over a year now, Cal/OSHA's got in to
6 place businesses between a rock and a hard place. What is a business to do? Do they
7 follow Cal/OSHA's guidance, thus risking genetic and medical discrimination lawsuits for
8 legal standing afforded to them -- afforded to California so that CalGINA – GINA Act
9 mimics the Unruh Civil Rights Act? Or do they ignore Cal/OSHA's guidance, thus risking
10 citations from Cal/OSHA and legal battles if they so choose to fight those citations in
11 court? CDPH June 7th, 2021 letter provided three advisements for where masks are
12 required for the vaccinated, to allow individuals to self-attest to their vaccine status, to
13 implement vaccine certification measures, and to require all patrons to wear masks.

14 The problem with the first two is they require disclosure of protected
15 health information and they would also -- medical information, which would violate the
16 CalGINA Act. The third one was -- is also a violation of the CalGINA Act that do --
17 would -- a mask is authorized as a (indiscernible) as a medical device and violate the
18 CalGINA Act.

19 To conclude, it should be simple whether someone chooses to receive or
20 not to receive any vaccination medical test or to wear a mask a not. It's individual
21 choice and it should not be unduly coerced or provided with unequal amenity. As such,
22 I urge the Board today to not issue any guidance or requirements that place businesses
23 or other entities liable for discrimination or citations, to begin the process to revoke all
24 ETS related to COVID-19.

25 Thank you for your time.

1 CHAIRMAN THOMAS: Thank you.

2 MR. GOTCHER: Our next commenter is Jill 619 and they will be
3 representing themselves.

4 CHAIRMAN THOMAS: Jill, can you hear us? Jill?
5 Not getting anything, John.

6 MR. GOTCHER: Okay. Our next commenter is Kristoff Meier from
7 AFSCME.

8 CHAIRMAN THOMAS: Kristoff, can you hear us? Kristoff?
9 All right. I don't know if we're having technical difficulties or they're just
10 hanging up. But let's move on to the next.

11 MR. GOTCHER: Yeah. And if you have dialed into the WebEx, the code to
12 unmute yourself is star six.

13 Okay. Moving on. Our next commenter is Lisa Spalding from San Diego.

14 CHAIRMAN THOMAS: Lisa, can you hear us? Lisa, press star six if you
15 called in.

16 All right, John.

17 MR. GOTCHER: Okay. Our next commenter is Jerilynn Martin and there
18 is no affiliation here.

19 CHAIRMAN THOMAS: What was the first name?

20 MR. GOTCHER: Jerilynn.

21 MS. MARTIN: Yeah. Can you hear me?

22 CHAIRMAN THOMAS: Yes. Go right ahead.

23 MS. MARTIN: Okay. Great. Thanks so much.

24 So, listening to this conversation tonight makes me so upset with the
25 absolute disinformation and confusion that's being forced upon the people of California.

1 The unending, unsafe, unproven, unscientific requirements being mandated in
2 California has not made us any safer but has served only to harm each and every one of
3 us physically, emotionally, and financially, especially our children that have almost zero
4 chance of getting sick, yet you have forced them into masks and isolation. Now these
5 new mandates suggest it's too dangerous to be in a building with other people if not
6 vaccinated. Pitting Californians against one another, all while we've been in Costco,
7 Sam's Club, Target, and every other type of store for the past several months, all while
8 the COVID rates are dropping. How is this nonsense still going on when many other
9 states in the country are thriving without these unnecessary, unscientific mandates?

10 Let's talk about immunity. Tonight, the doctor mentioned that 60 to 65
11 percent of Californians have been vaccinated. Let's add to that number the number of
12 people who have already had COVID and have natural immunity. If you include the
13 huge number of mostly underreported, natural immune population along with the
14 vaccinated, we've already met herd immunity. Yet, there is crickets when it comes to
15 this factual information. Please explain, why is there no mention and no consideration
16 of those who already have antibodies? The fact that all -- the already immune
17 population is excluded from all data points paints a clear picture to the deception that is
18 taking place in California. Not to mention the exclusion of all the natural therapeutics
19 that are available and dismissed from every conversation about controlling this virus.

20 Lastly, let me remind you, California law prohibits employers and anyone
21 else from asking our personal medical history. Forcing some sort of verification system
22 violates our rights as well as the rest of these barbaric and scientific measures that
23 you're mandating. The emergency needs to end. I'm asking tonight to end the
24 unconstitutional emergency measure along with all the restrictions.

25 Thank you.

1 CHAIRMAN THOMAS: Thank you, Jerilynn.

2 WOMAN 9: Keep going. Do it.

3 MR. GOTCHER: Our next commenter is Michael Lin and they will be
4 representing themselves.

5 CHAIRMAN THOMAS: Michael, can you hear us?

6 MR. LIN: Yes.

7 CHAIRMAN THOMAS: Go right ahead.

8 MR. LIN: Okay. Hi. This is Michael. I'm calling from Los Angeles County.
9 And yes, I'm calling because I oppose the mask mandates (indiscernible) two weeks to
10 slow the spread, here we are over 15 months later and things have gotten worse and
11 things aren't going to get better unless we demand that things get made better. And I
12 would like to just say that masks have been proven by the CDC -- their documents, it's
13 been revealed that masks actually don't work. In fact, masks actually harm people's
14 health. By forcing people to wear masks for eight hours at their work, that's actually
15 going to negatively impact their productivity as well as their health. And this is proven.
16 When you (indiscernible) capacity that 15 percent and you do it for long periods of time,
17 consistently, that's going to have long-term consequences, negative consequence, and I
18 encourage Cal/OSHA to completely eliminate the mask mandate requirement for places
19 of work and businesses. And it'll be for the benefit of -- it'll be in the best interest of
20 Cal/OSHA to do this because, like I said, masks -- the masks have been proven to actually
21 cause more harm than good.

22 And in addition, I would like to just touch on the subject of this
23 experimental COVID injection. It is not a vaccine. It is crazy how the media and
24 everywhere is just promoting this as if it's some wonderful thing, when in fact, it is
25 something that is very damaging and it's causing so many negative side effects that are

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1 being covered up. And there is (indiscernible) in that why there needs to be, you
2 know, a coverup on something that would be so great. If it was so great, there's no
3 reason to coverup the side effects and the people who are speaking out against it,
4 doctors who are whistleblowing. Why are they being silenced? Please do not mandate
5 masks, vaccines. And I just encourage everyone -- we just would like to go back to
6 normal.

7 Thank you very much.

8 CHAIRMAN THOMAS: Thank you. Before we go on to the next caller,
9 Christina, you had an announcement, please.

10 MS. SHUPE: Yeah. I just have some housekeeping to take care of. And
11 so, this is a reminder to everyone that the public comment portion was limited per the
12 agenda to two hours. We are going -- we've already gone over that, but we will
13 continue until 8:45 tonight. So, in order to ensure that the Board is able to engage in
14 discussion and adjourn the meeting at a reasonable hour, it's necessary for us to
15 conclude the public comment portion of the meeting at 8:45. We'll be with your -- I'm
16 sorry. We're ready to resume again. I'll be back at 8:45.

17 CHAIRMAN THOMAS: Thank you.

18 MR. GOTCHER: Our next commenter is Simone Sumeshwar from
19 Sacramento Department of Utilities.

20 CHAIRMAN THOMAS: Go ahead, Caller.

21 MS. SUMESHWAR: Hi.

22 CHAIRMAN THOMAS: Yeah, we can hear you.

23 MS. SUMESHWAR: Okay. So, I think that there's just a lot of disconnect
24 because a lot of the basis for what people feel are mandatory is based off of numbers.
25 And I think anyone who's working with contact tracing knows that the numbers that our

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1 counties reflect are not based off of mandatory testing. It's people who are going in
2 for a specific reason. So, our numbers are actually a lot higher than reflected in those
3 actual data points. Most departments that I work with have people who have
4 symptoms who are not able to work. And those people are not required to test because
5 our protocol allows them to isolate and come back to work. So, you -- those numbers
6 are not reflected in what you're saying. So, as a result, the rest of the group wants to
7 continue wearing masks. And it's because they've been educated, and they understand
8 exactly what they are being exposed to. So, I think that until you understand exactly
9 what exposure is and how it affects your group, that you're not going to understand
10 why these protections are being put into place. And it's unfortunate that Cal/OSHA has
11 to be the one to put this into place since the public, CDPH is for public protection. But
12 that's why Cal/OSHA exists.

13 So, I'd like to just say I support whatever decision you make but
14 understand that there are repercussions to having to try to implement things like
15 vaccine verification and N-95. Those are things that are very difficult. So, maybe just
16 think into -- take into consideration keeping in place the current standard until we are
17 able to really figure out what we're looking at since a lot of this is not based of what our
18 current strain is, but what we're looking at in the future. A lot of EHS professionals are
19 preparing for phase 2 in late fall, so.

20 I appreciate it. Thank you.

21 CHAIRMAN THOMAS: Thank you, Simone.

22 MR. GOTCHER: Next commenter is Andrew J. Sommer from the
23 California Employers COVID-19 Prevention Coalition.

24 CHAIRMAN THOMAS: Good evening.

25 MR. SOMMER: Good evening, Chairman Thomas. Good evening -- and

1 members of the Board. Andrew Sommer, counsel for the California Employers COVID-
2 19 Prevention Coalition.

3 We registered concerns at the last meeting, and we are pleased to hear
4 that the Board is considering or reconsidering the adopted revisions. As other speakers
5 have shared, the U.S. Department of Labor announced earlier today that the federal ETS
6 will only apply to the healthcare industry. Secy. Walsh acknowledged that the
7 Government's vaccination program and the CDC's latest guidance have changed the
8 nature of the pandemic, prompting the decision to refrain from issuing a rule that would
9 have placed mandates on all employers.

10 Following the lead of the Biden Administration, clearly focused on the
11 science and the considerable progress we've made within the State on vaccinations and
12 lowering the COVID case count as highlighted by Dr. Aragón earlier this evening, we urge
13 the Standards Board to repeal the Cal/OSHA ETS. As a practitioner, I've seen Cal --
14 COVID-19-related citations frequently cited under the IIPP and the ATD. And those
15 standards will remain in effect well after the repeal. Should the ETS not be immediately
16 appeal -- repealed, we support the Board pulling back the ETS from OAL, immediately
17 revising the standard to conform to CDPH guidance on face coverings, and then utilizing
18 the subcommittee process to meaningfully address outdated and unnecessary ETS
19 provisions.

20 We also strongly urge the Board against adopting any requirement that
21 employers provide N-95 respirators to all vaccinated employees. We still have not
22 resolved the supply chain crisis. No matter anyone says tonight, employers have in their
23 toolbox a variety of measures to address COVID-19 spread and control in the workplace
24 through engineering administrative controls. And the requirement that we reserve
25 scarce N-95 respirators for the -- a large segment of the workforce will have a dire

1 impact on the healthcare sector that still needs N-95 respirators regardless of
2 vaccination status, as well as in the wildfire season context, as the respirators are
3 required under the Cal/OSHA law prior smoke rule.

4 Thank you for the opportunity to comment.

5 CHAIRMAN THOMAS: Thank you, Andrew.

6 MR. GOTCHER: Our next commenter is Audra Morgan and they will be
7 representing themselves.

8 CHAIRMAN THOMAS: Audra, can you hear us?

9 MS. MORGAN: I can. And I'm actually with We the People in California
10 1776, so.

11 CHAIRMAN THOMAS: Thank you.

12 MS. MORGAN: Thank you for allowing us to comment.

13 And I would just like to say please consider researching the CalGINA Act
14 because you're setting yourself up to be sued in 2022 for the OSHA citings of 2021.
15 OSHA and EEOC put out policies different from CDC guidance -- EEOC and OSHA that
16 declare that employer -- that the employer is able to provide accommodations for
17 employees who have apparent COVID-19 symptoms. CDC declared, do not medically
18 discriminate employees. That is from the California CDC website. EEOC and OSHA
19 declared that employers need to take count on employees who are vaccinated.

20 Employers are told by OSHA so incentive -- incentivize businesses to have
21 employees vaccinated and present their vaccination text information to be used as an ID
22 at work. Employers cannot request a third-party to have an employee take genetic
23 testing then show genetic information results as a condition of work. Look up genetic
24 discrimination on genome.gov because we still have laws in this State. The CalGINA Act,
25 a Congressional Act, not a word like mandate or guideline or policy, which prohibits

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1 employers from making medical history IDs mandatory such as vaccine cards of
2 providing medical health information. Federal 2 of GINA is implemented by the Equal
3 Employment Opportunity Commission and prevents employers from using genetic
4 information in employment decisions such as hiring, firing, promotions, pay, and job --
5 and assignment -- and job assignments.

6 Furthermore, GINA prohibits employers or other covered entities,
7 employment agencies, labor organizations, joint labor management training programs
8 from requiring or requesting genetic information under genetic tests as the condition of
9 employment. GINA has implications of individuals participating research studies. To
10 comply with GINA, informed consent must -- should be -- include information on any
11 risk associated with participation in research projects and statements describing how
12 they confidentially -- how the confidentiality of records will be maintained, to which
13 employers have disclosed any risk on taking a vax. That's not what EEOC and OSHA
14 made aware to employers.

15 Thank you.

16 CHAIRMAN THOMAS: Thank you.

17 MR. GOTCHER: Our next commenter is Beth Ann Williams and they will
18 be representing themselves.

19 CHAIRMAN THOMAS: Beth Ann, can you hear us? Beth? Can you hear
20 us.

21 MR. GOTCHER: If you joined WebEx by phone, please press star six to
22 unmute yourself.

23 CHAIRMAN THOMAS: Are you there, Beth? All right. I guess not.

24 We'll go onto the next, John.

25 MR. GOTCHER: Our next commenter is Kathleen Jones, who is a private

1 citizen.

2 CHAIRMAN THOMAS: Kathleen, can you hear us? Press star six if you've
3 called in. Kathleen?

4 All right, John. To the next.

5 MR. GOTCHER: Our next commenter is Jason Park and they will be
6 representing themselves.

7 MR. PARK: Good -- can you hear me?

8 CHAIRMAN THOMAS: Yeah, Jason, go right ahead.

9 MR. PARK: Good evening, Chairman and the Board Members. My name
10 is Jason Park. I am a retail worker at Target. I am speaking today about not wearing
11 masks at the workplace because me and my coworkers are fully vaccinated and wearing
12 masks has been very uncomfortable and it's been a big burden there in the past year. I
13 urge Cal/OSHA to revise the ETS to comply with the CDC and the CDPH guidance for the
14 fully vaccinated workers starting June 15th.

15 Thank you for your time.

16 CHAIRMAN THOMAS: Thank you.

17 MR. GOTCHER: Our next commenter is Karena Kelley, who will be
18 representing themselves.

19 CHAIRMAN THOMAS: Karena?

20 MS. KELLEY: Hi. Karena Kelley from San Diego.

21 CHAIRMAN THOMAS: Go ahead.

22 MS. KELLEY: And I was calling -- hello?

23 CHAIRMAN THOMAS: Go right ahead.

24 MS. KELLEY: Oh, okay. I worked in San Diego throughout the pandemic
25 doing the United States census for the Department of Commerce. And now that we are

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1 at a place where the CDC has changed the guidelines to be more employee/employer
2 friendly, I believe that all this critiquing around who's vaccinated, who isn't, who's
3 wearing a mask, who's not wearing a mask, frankly, it's ridiculous because if you take
4 personal responsibility for your own health, then you've made a decision to either be
5 vaccinated or not be vaccinated. The people that are not vaccinated are no harm to the
6 people that have been vaccinated, of course, unless there's the looming variant theory
7 that Dr. Fauci is hoping for. Now, we have been in a gloom, doom, horrible situation,
8 pretty much for the past, I don't know, 18 months. Now is not the time for the
9 bureaucracy to get involved with people coming back to work, back to our economy.
10 The CDC regulations should be more than enough.

11 And before I lose my time, I want to thank John Roensch and his team
12 that made it possible for all of us to call in WebEx, whatever this evening, that we be
13 heard even though we're very far away. So, everyone, please give a round of applause
14 to John and his team.

15 CHAIRMAN THOMAS: Thank you, Caller.

16 MS. KELLEY: Thank you.

17 MR. ROENSCH: Thank you.

18 MR. GOTCHER: Our next commenter is Kelli Hillard and they will be
19 representing themselves.

20 CHAIRMAN THOMAS: Kelli, can you hear us?

21 MS. HILLARD: Hi. This -- yes, I can. Can you hear me?

22 CHAIRMAN THOMAS: Yes. Go right ahead.

23 MS. HILLARD: Thank you. Again, my name is Kelli Hillard. I live in San
24 Diego. Thank you for allowing us. I echo the caller previously who -- thank you for
25 making this forum available for citizens to call in. I'm sure that all of you probably have

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1 enjoyed up until now a certain level of anonymity on the Cal/OSHA Board, but I'm
2 afraid not for long as, you know, it's been making news headlines.

3 I would like to just say first of all that gentleman who called in on the
4 brink of tears will probably be haunting all of us tonight as we go down and lay our
5 heads on the pillow to go to bed. That was so, so heartbreaking to hear. But one thing
6 that I can understand is I have a son who's in a treatment center right now for
7 depression. And I have a daughter who is an educator at Sea World. She wears a mask
8 for six to eight hours a day, outside with the fishes, in the sunshine, speaking to all of
9 the visitors through her mask and comes home with -- she's very tired, she has skin
10 issues from the mask. I mean, you know, I'm afraid that we're probably going to have a
11 time where there'll be these commercials on the TV that said, did you -- were you part
12 of the pandemic of 2020, do you have health issues because your employer made you
13 wear a mask; you may be eligible for pain and suffering damages.

14 So, you guys, I think, are setting yourselves up for terrible lawsuits, which
15 have been previously talked about. So, I just want to just -- I want to express a little bit
16 of my astonishment at the tone deafness of the presentation of Dr. Urgawan [sic] --
17 Argowan [sic] -- Tomás -- Dr. Tomás. But then, the draconian controls of the State of
18 California are the reason for the mass exodus of our State.

19 So, the choice between having an experimental therapy that's resulted in
20 a 4,500 deaths and wearing a mask, which has a whole nother set of health
21 consequences, I foresee a class-action lawsuit using the Nuremburg code as a defense.
22 And Civil Rights attorneys are going to line up to take what will be a precedent-setting
23 case.

24 CHAIRMAN THOMAS: Thank you, Caller.

25 John, let's go to the next caller, please. Thank you.

1 MR. GOTCHER: Our next commenter is Elizabeth Huber and they will be
2 representing themselves.

3 CHAIRMAN THOMAS: Elizabeth, can you hear us?

4 MS. HUBER: Yes, hi. Can you hear me? Yes, I can. Can you hear me?

5 CHAIRMAN THOMAS: Yes, we can. Go ahead. Yes.

6 MS. HUBER: Okay. Great.

7 So, I have a Ph.D. in chemical engineering and I'm also a faculty member
8 at a California university. Firstly, the CDC website itself cites published, peer-reviewed
9 articles that indicate "little to no transmission from asymptomatic case patients." As an
10 example, I'm referring to the article by Bender-Brander, et al., published in the Journal
11 of Emerging Infectious Diseases in April 2021 and cited on the CDC website. Even the
12 World Health Organization has publicly stated that asymptomatic spread is extremely
13 rare.

14 Secondly, I think you have not taken into account individuals who have
15 already caught COVID and have recuperated. There is a significant body of evidence
16 that suggests that people who have developed natural immunity do not contribute to
17 further spread and do not catch the virus again.

18 Thirdly, a peer-reviewed, randomized controlled study from Denmark of
19 roughly 6,000 individuals concludes that "the recommendation to wear a surgical mask
20 to supplement other public health measures does not reduce the SARS-COVID-2
21 infection rates among wearers by more than 50% in a community with modest infection
22 rates." This study published in the Annals of Internal Medicine is the largest mask study
23 currently available.

24 Finally, using publicly available data for this from the State of California,
25 the number of new daily cases has flatlined.

1 MR. GOTCHER: Thirty seconds.

2 MS. HUBER: Moreover, the number of daily deaths has continued to
3 decrease since April. These two pieces of information suggest that herd immunity is
4 very close to being attained. Therefore, the requirements that you wish to put into
5 action serve no purpose other than to cause discrimination and animosity between
6 vaccinated and unvaccinated persons and unintended consequences in the workplace
7 could turn out to be very, very grave.

8 Thank you.

9 CHAIRMAN THOMAS: Thank you.

10 MR. GOTCHER: Our commenter is Gina Ma, and they will be representing
11 themselves.

12 CHAIRMAN THOMAS: Gina --

13 MS. MA: Good evening. Can you hear me?

14 CHAIRMAN THOMAS: Yes. Go right ahead.

15 MS. MA: Okay. Thank you to the Board and thank you to Dr. Aragón for
16 his presentation this evening.

17 I'll just make my statement quickly. The ETS and revisions are a blanket
18 standard that don't take into account the wide and varied industries in the State. I
19 agree with other commenters that the ETS and revisit -- revisions should be rescinded
20 and employers should continue to update and revise their IIPP to take into account their
21 employee population and the type of work that is carried out in their workplace.
22 Deferring to the IIP [sic] will also allow employers to make real-time changes as new
23 information and guidance from regulatory agencies is released. The ETS and revisions
24 already call for employees to self-attest to COVID symptoms and potential COVID
25 exposure. Why would self-attestation of vaccination status also not suffice?

1 On the topic of N-95s, as many commenters pointed out, unless they are
2 NIOSH approved and properly fit, they protection to the wearer. I will also remind the
3 Board that along with proper fit, employees should be medically cleared to wear and N-
4 95. Employees may have underlying respiratory issues such as COPD or ARDs that
5 would disqualify them from being able to wear and N-95. This medical clearance should
6 also include routine pulmonary function tests to ensure no airway or respiratory
7 damage is being caused by their prolonged use.

8 And finally, I feel the need to say to the antivaxxers citing California's high
9 vaccination rate as reason for rescinding the ETS, on behalf of those who are fully
10 vaccinated, you're welcome.

11 Thank you.

12 CHAIRMAN THOMAS: Thank you.

13 MR. GOTCHER: Our next commenter is Monique Lukens from LAUSD --
14 who is an LAUSD employee and a SAG-AFTRA, AEA, UTLA union member. Yeah.

15 Monique, are you with us?

16 MS. LUKENS: Yes. Thank you. I am an employee. So, I am -- my
17 thoughts don't represent their thoughts, but I am an employee.

18 So, I'm very concerned with the cloth masks still being mandated
19 because, from what I understand, they can actually cause transmission. Why aren't
20 there waste -- special biohazard waste baskets around if people are being made to wear
21 these which cut off your oxygen?

22 If you're going to make anyone wear a mandatory mask, then they need
23 to absolutely work. They can't be under an EUA, emergency-use authorization, because
24 they're experimental. And that means you go against state law, federal law, and the
25 international Nuremburg code. Three times I had masks on, during the summer mainly,

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1 and I almost fainted. In addition, there are some people, including myself, that feel
2 violated religiously because there are some religions that wear a mask. Others don't.

3 Now, another thing I wanted to mention is, I would suggest looking at Dr.
4 Reiner Fuellmich. He's an international tribunal attorney. And he is looking into crimes
5 of humanity. He practices law in Germany and in California. He states that the mask is a
6 sign of obedience.

7 So, in conclusion, please, if you're going to have any mandates for masks,
8 have it at least be something that's not under experimental use. It could maybe be a
9 hazmat. But people have to breathe. And it's not fair to shut off their nostrils and their
10 mouth.

11 And regarding the vaccine. Absolutely, it's not vaccine. But it should
12 be -- it shouldn't be required of anyone. Again, it's an EUA and there are plenty of
13 doctors that are actually saying it's a bioweapon.

14 Thank you for your time. Dr. Jenny Leichowitz, Sherri Tenpenny. Put
15 these doctors up. Kieran McCollough. Thank you.

16 CHAIRMAN THOMAS: Thank you.

17 John, this will be our last caller of the evening. It's 8:44.

18 WOMAN 10: Please read all of Fauci's emails.

19 CHAIRMAN THOMAS: I'll be sure and do that. Thank you.

20 MR. GOTCHER: Our last caller is Eric J. Conn from OSHA Practice at Conn,
21 Maciel, Carey, L.L.P. on behalf of the California Employers COVID-19 Prevention
22 Coalition.

23 CHAIRMAN THOMAS: Eric, are you there?

24 MR. CONN: Yes, thank you. Good evening, Board Members. Thanks for
25 the opportunity to speak this evening.

1 We wanted to make sure that the Standards Board did consider the
2 decision that the Biden Administration announced earlier today, that Federal OSHA will
3 not be issuing an ETS that will apply to general industry, that is to non-healthcare
4 workplaces in general industry. And this is not the decision of a -- some reckless
5 jurisdiction that has rejected the science around COVID-19. This Administration has
6 been very serious about the response to COVID-19 and in consultation with the CDC,
7 recognize that the nation's vaccination program has been wildly successful. And so, and
8 ETS is no longer necessary.

9 Federal OSHA has also already publicly affirmed that employers should be
10 following the CDC's updated guidance about masking and distancing for vaccinated
11 individuals in the workplace without qualification, except, of course, in those healthcare
12 settings and a couple of others that have been discussed today.

13 So, I encourage the Board to accept the win, move on from the ETS.
14 Focus on enforcing the ATD standard for healthcare and rely on the IIPP rule and other
15 existing requirements to address conduct that flouts recognized CDC and CDPH
16 guidance and archive the ETS.

17 But if we are still going to be living under an ETS after June 17th, I ask
18 that -- do consider the actual science in making the decisions about masks and N-95
19 respirators. Despite clear messages from the CDC and now from CDPH, I'm still sensing
20 some reluctance from the Division and Board to allow fully vaccinated workers to go
21 without masks in the workplace because of some imagined scenario that the risk is
22 greater in the workplace. And that is not what the CDC has said. Dr. Walensky
23 specifically said that these -- that workers, sitting eight hours a day next to each other, if
24 you're vaccinated, you're safe.

25 The last thing I do want to comment on is about verification of

1 vaccination status. We hope -- wholeheartedly disagree that a mandate for employer -
2 - employees to produce a vaccine card to their employers. Our member -- Coalition
3 members are already experiencing huge employee relations issues with vaccine
4 verification. The notion that my employer does not trust me to be truthful, we just ask
5 that you don't create a regulatory environment that forces employers to send that clear
6 signal of distrust to their employees.

7 And I would just say, one last point about the prevalence of fake or blank
8 vaccine cards for sale online and the ease of making a fake vaccination card essentially
9 make no difference between the self-attestation and someone who may be willing to
10 produce a fake vaccine card. So, don't let that (indiscernible) the barrier.

11 CHAIRMAN THOMAS: Thank you for -- Eric. Appreciate your comments.

12 WOMAN 11: Free your face. Free your face.

13 CHAIRMAN THOMAS: All right. That was interesting.

14 MS. SHUPE: So --

15 CHAIRMAN THOMAS: Christina, please.

16 MS. SHUPE: A little housekeeping. So, at this time, in order to ensure
17 that the Board is able to engage in discussion on the briefings received tonight as well as
18 the public comment received and adjourn the meeting at a reasonable hour, it's
19 necessary to conclude the public portion of the meeting as was notice in the agenda.

20 The Board's next regular meeting will take place on June 17th at 10 a.m.
21 We invite you to join us for the public meeting where the Board will accept public
22 comments on those topics that fall within their jurisdiction.

23 Chair Thomas?

24 CHAIRMAN THOMAS: Thank you. We will now proceed with the Board
25 consideration of the briefings and public comment and the impact of the presented

1 information on the COVID-19 Emergency Temporary Standards.

2 Do Board Members have any additional points of discussion regarding
3 tonight's briefings or any new questions to pose to Dr. Aragón, the Division, or Board
4 staff? So, Board Members, do you have any questions, comments?

5 I'm not hearing anything.

6 BOARD MEMBER LASZCZ-DAVIS: Hey, Dave? This is Chris.

7 CHAIRMAN THOMAS: Chris, go ahead.

8 BOARD MEMBER LASZCZ-DAVIS: Yeah, got a question. And I go back to
9 the first question I asked after the presentation was made. I struggled with trying to
10 understand how the CDPH guidelines modified the proposal we endorsed about a week
11 ago. What is it that is being suggested that we do or not that we had on the table
12 before?

13 CHAIRMAN THOMAS: I think that would be a question for Mr. Aragón or
14 Mr. Berg.

15 Mr. Berg, are you with us?

16 MR. BERG: Yeah, I'm here. I can speak to that.

17 CHAIRMAN THOMAS: Please. Please do.

18 MR. BERG: Yeah, the CHP -- CDPH guideline that came out today, if we
19 adopt that, it would not require masks for any vaccinated people indoors or outdoors in
20 3205. And outdoors, no one would wear a mask, regardless of vaccination. So, I think
21 those are two of the big points. I think there are some other things, but off the top of
22 my head, those two things.

23 BOARD MEMBER LASZCZ-DAVIS: Okay. Let me ask you one more thing,
24 Eric, while I've got you captive here. You know, if you look at the charts that were
25 posted, it certainly suggests that the N-95 is the only choice when it comes to masks. I

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1 mean, I question that but I -- the suggestion is certainly there. And I'm wondering
2 what your thoughts are on that.

3 MR. BERG: Well, I mean, SARS is spread by a variety of size of droplets.
4 So, the very large droplets can be protected by a good face covering but does not
5 protect at all against the smaller droplets or airborne transmission, which is a significant
6 part of COVID. So, only N-95 has known filtration efficiency for the smaller droplets,
7 microscopic droplets that are invisible. So, that's the difference.

8 BOARD MEMBER LASZCZ-DAVIS: All right. Thank you.

9 CHAIRMAN THOMAS: Thank you, Chris.

10 Any questions of any other Board Members?

11 I just have one question, Eric. Are -- from what I understand, what we've
12 heard, is there any chance that a vaccinated person -- well, is there any reason that a
13 vaccinated person would need to wear a mask at work?

14 MR. BERG: Under these guidelines, if we adopt them, no, a vaccinated
15 person would not have to wear a mask.

16 CHAIRMAN THOMAS: To work?

17 MR. BERG: At work, yeah.

18 CHAIRMAN THOMAS: Okay. I just wanted that answered because I think
19 we were hearing some --

20 BOARD MEMBER BURGEL: Just a point of clarification, unless they
21 worked in healthcare, sheltering --

22 CHAIRMAN THOMAS: Right. Correct.

23 BOARD MEMBER BURGEL: Correct. Okay.

24 MR. BERG: Yeah.

25 CHAIRMAN THOMAS: I understand that.

1 MR. BERG: Yeah, there's some exceptions, right?

2 CHAIRMAN THOMAS: There's good reasons for that. And I think what
3 the concern is here is for who people have pre-existing conditions that cannot get
4 vaccinated and need protection and those that have -- do not want to get vaccinated,
5 they still need protection. And I'm not aware of this war between the vaccinated and
6 the unvaccinated. That hasn't come to my attention yet and I don't think it's out there.

7 WOMAN 12: It is.

8 CHAIRMAN THOMAS: Vaccinated people don't have anything to worry
9 about.

10 WOMAN 12: Exactly.

11 WOMAN 13: Yes, it is.

12 WOMAN 12: So, why do they worry about unvaccinated people.

13 CHAIRMAN THOMAS: I'm sorry that -- you are not part of this part of the
14 meeting. Thank you.

15 And I'm just -- that's just my comment. Does -- do any of the other Board
16 Members have any comments?

17 All right. Seeing none. In light of the information that we have received
18 tonight, do I have a motion to withdraw the June 3rd revisions from the Office of
19 Administrative Law?

20 BOARD MEMBER CRAWFORD: So moved.

21 CHAIRMAN THOMAS: Do I have a second?

22 I'll second it.

23 It's moved and seconded that the Board withdraw the June 3rd, 2021 ETS
24 revisions.

25 Ms. Gonzalez, can you --

1 BOARD MEMBER STOCK: Is there any -- excuse me. Is there any
2 discussion? Do we have an opportunity to discuss that, Dave? Or are we --

3 CHAIRMAN THOMAS: Yeah. Yeah. Go right ahead.

4 BOARD MEMBER STOCK: So, I just want to understand sort of the
5 implication of this. A couple of things I just want to clarify and just restate. If that
6 revision was withdrawn, again, the existing ETS would remain in effect. So, I just want
7 to be sure that that's crystal clear. And I -- the -- what this would mean is that there
8 would be another opportunity for the Division to develop a draft that would incorporate
9 some changes, potentially relating to these new CDPH guidelines that would come
10 before the vote -- for a vote on Thursday. So, just to confirm, that that is the case. Is
11 that correct?

12 CHAIRMAN THOMAS: That's the case. So that the Division can update
13 their regulation according to the new update that we got from the California Division of
14 Public Health. Is everybody understanding that?

15 BOARD MEMBER STOCK: And just to, kind of, underline that, so, it feels
16 like, you know, prior to the public comment, a number of us kind of expressed our views
17 on what we would want to see if there were a new draft being developed, you know, if
18 this -- if the current one was going to be withdrawn and is -- the assumption is that, you
19 know, some of those comments would be taken into account as the new draft was
20 developed. Eric, is that the case?

21 CHAIRMAN THOMAS: Hello? Eric, are you there?

22 MR. BERG: Sorry about that. What's the question? Sorry.

23 BOARD MEMBER STOCK: I guess I'm trying to understand. We
24 obviously -- a number of Board Members expressed certain suggestions of issues that
25 they would want to -- if there was going to be some sort of revised version that would

1 come in front of the Board next Thursday. A number of us discussed things about
2 vaccination verification, used -- finding provision of N-95s. I mean, and you know, I
3 think Nola was saying about considering natural immunity. So, there -- you've gotten a
4 number of comments from Board Members about things that they would like to see if
5 there were revised drafts. So, I'm just wondering, will there be an opportunity for the
6 Division to take those comments into account?

7 MR. BERG: Yeah. We haven't completed the draft, so we can take those
8 comments into considering, yes.

9 CHAIRMAN THOMAS: Okay. Do we have any other questions?

10 BOARD MEMBER HARRISON: So, I got a question. Procedurally, do we
11 have to undo the June 3rd action to be able to move forward with new language?

12 MS. SHUPE: So, this is Christina.

13 BOARD MEMBER HARRISON: Potentially.

14 MS. SHUPE: And I can address that for you. So, if you choose not to
15 withdraw the current ETS, then you will be using one of your readoptions. The Board
16 may recall that you get your initial adoption and then you get two readoptions. If you
17 were to choose to allow the current ETS revisions, the June 3rd revisions, to stay in place
18 and immediately adopt new revisions on the 17th, you would effectively be able to only
19 use that readoption for two weeks.

20 BOARD MEMBER LASZCZ-DAVIS: Okay. That makes sense.

21 CHAIRMAN THOMAS: Yes.

22 BOARD MEMBER HARRISON: That helps. Thank you.

23 BOARD MEMBER STOCK: Now -- I'm sorry. Could you just -- when you
24 say only use that readoption for two weeks, I'm sorry, you mean the revision would just
25 be in place for two weeks and then -- I'm sorry, I -- could you explain that --

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1 MS. SHUPE: Sure.

2 BOARD MEMBER STOCK: -- one more time. I'm sorry.

3 MS. SHUPE: Let me step through it again because I know it can be quite a
4 bit to follow.

5 So, the Board has the original adoption -- the original emergency
6 adoption that occurred in November of 2020. You are, by the Administrative Procedure
7 Act, allowed two readoptions and you are limited very strictly to two readoptions.

8 The June 3rd vote is currently at OAL. If it stays a OAL and is approved
9 and becomes effective and the Board subsequently chooses to approve a new proposal
10 on the 17th that becomes effective on June 28th, you will no longer have any adoptions
11 left.

12 CHAIRMAN THOMAS: And that's --

13 MS. SHUPE: You will have no future options to modify --

14 CHAIRMAN THOMAS: Yeah.

15 MS. SHUPE: -- this.

16 CHAIRMAN THOMAS: And I'm sorry if that wasn't clear why we were
17 having this meeting today. But that makes it -- I hope that makes it perfectly clear why
18 we're doing this. We don't want to waste one if we don't have to. And we don't have --

19 BOARD MEMBER HARRISON: It's been a very -- it's been very clear but
20 it's gone back and forth so many times, I had to ask the question. Thank you.

21 CHAIRMAN THOMAS: I thank you for that clarification, Christina, and
22 thank you for the question.

23 MS. SHUPE: You've got Chris.

24 CHAIRMAN THOMAS: Chris, are you --

25 BOARD MEMBER LASZCZ-DAVIS: Yeah. This is another question here,

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1 Dave, so bear with me.

2 CHAIRMAN THOMAS: Sure.

3 BOARD MEMBER LASZCZ-DAVIS: Sure. You know, we're not the only
4 state moving through this kind of decision making. Has there been an opportunity to do
5 any benchmarking, any calibration with other states who are also dealing with COVID
6 regulations? How are they approaching this? And are there any lessons learned that we
7 might apply?

8 CHAIRMAN THOMAS: I am not -- Eric may be aware. Dr. Aragón may be
9 aware. I'm not aware of any other states' OSHA standards at this point. I think we've
10 been concerned with our own. But if Eric or -- if Eric knows of any in other states that
11 are different than what we're doing or -- any information would be helpful.

12 MR. BERG: Yeah, there are other states that have COVID prevention
13 plans. They are different than ours. But I'm not prepared to answer, like, what changes
14 are going now. I'd have to do some research and get back to you.

15 BOARD MEMBER LASZCZ-DAVIS: All right.

16 BOARD MEMBER BURGEL: Oregon and Virginia did adopt permanent
17 standards. Oregon most recently has, I think, May 26th -- you know, third week of May.
18 But I -- yeah.

19 BOARD MEMBER LASZCZ-DAVIS: Yeah, they look different than ours.

20 BOARD MEMBER BURGEL: Yeah.

21 BOARD MEMBER LASZCZ-DAVIS: Which is one of the reasons I asked.

22 MR. BERG: Yeah, Virginia has a lot on healthcare, which of course we
23 don't have because we already have ATD standards, so. It mostly concentrates on
24 healthcare. But they do address other industries, but they spend a lot on healthcare
25 and we don't spend any of it on healthcare.

1 BOARD MEMBER LASZCZ-DAVIS: Yeah, and you know, Eric, it just may
2 not be a fair request. But you know, most of the states are beginning to open up. No
3 great surprise. But I wonder if there's anything we can learn from their approaches that
4 we might be able to adopt here in this state and it would have to do with respirators,
5 self-attestations, you know, people who developed antibodies. I mean, other states
6 have begun to have these discussions and I don't know whether or not you have the
7 time or the bandwidth to do it at this time because all of this is on such a short
8 timeframe.

9 MR. BERG: Yeah. We have about a day to do our draft, so --

10 BOARD MEMBER LASZCZ-DAVIS: Yeah.

11 MR. BERG: -- not much time.

12 CHAIRMAN THOMAS: And I would just add, you know, I believe that we
13 should support this because we don't want to waste one of our chances to add anything
14 significant and that's one of the reasons why I asked for this meeting today. And the
15 other thing is if we do learn things that have worked in other places, then we would
16 have that last time to readjust our regulation. And I don't want to just use one for no
17 reason when we don't have to.

18 MS. SHUPE: I, perhaps, can add one more procedural element that
19 would be helpful for the Board. At the June 3rd meeting, you voted to create a
20 subcommittee to work with the Division on subsequent revisions. If the current ETS
21 goes forward, then -- and then you vote to approve a second one on the 17th, the
22 subcommittee will have not been able to meet prior to the final readoption being used.

23 CHAIRMAN THOMAS: And we fully intend to keep the subcommittee as
24 long as we have this ETS. We're going to have -- we want to have a subcommittee to
25 advise the Division.

1 Any other questions?

2 BOARD MEMBER KENNEDY: I just have a quick one.

3 CHAIRMAN THOMAS: Sure.

4 BOARD MEMBER KENNEDY: And I -- and it's really just I want to confirm
5 an assumption. And that is that the revision that Eric and his group are working on that
6 we'll look at for the June 17th meeting is really just going to focus on the parts of the
7 last proposal we saw that were out of alignment with the CDC and the now current
8 CDPH guidelines and not so much the other portions. Is that correct?

9 CHAIRMAN THOMAS: That is correct. That's what we're looking at, the
10 changes that the CD -- California Department of Public Health made and we can align
11 with that. That's the intent of this.

12 Any other questions?

13 All right. Hearing none, Ms. Gonzalez, will you please call the roll?

14 MS. GONZALEZ: Ms. Burgel.

15 BOARD MEMBER BURGEL: Aye.

16 MS. GONZALEZ: Mr. Harrison.

17 BOARD MEMBER HARRISON: Aye.

18 MS. GONZALEZ: Ms. Kennedy.

19 BOARD MEMBER KENNEDY: Aye.

20 MS. GONZALEZ: Ms. Laszcz-Davis.

21 BOARD MEMBER LASZCZ-DAVIS: Aye.

22 MS. GONZALEZ: Ms. Stock.

23 BOARD MEMBER STOCK: Aye.

24 MS. GONZALEZ: Ms. Crawford.

25 BOARD MEMBER CRAWFORD: Aye.

1 MS. GONZALEZ: Chairman Thomas.

2 CHAIRMAN THOMAS: Aye.

3 And the motion passes.

4 I want to thank everybody for their time this evening. It's been a long
5 night. I want to thank all the commenters for their diligence in hanging in there for
6 some -- many hours, three or four, whatever it is.

7 MS. SHUPE: Four.

8 CHAIRMAN THOMAS: And we do appreciate the comments. I appreciate
9 the Board.

10 And I'd like the public to know, we're not bureaucrats. We all have jobs
11 that are not this. We get paid \$100 a month to do this. And it's -- people that make
12 these comments should know this, but of course they don't really care about that. But
13 you know, this is our public service. This is what we do -- we all come from different
14 points of view and different parts of the public, occupational health representative --

15 MAN 7: (Indiscernible) removed.

16 CHAIRMAN THOMAS: -- management representative, labor, the public,
17 to come together to make these decisions. And I just think that it is -- you know, I've
18 heard a lot of things tonight and I saw a lot of things in the chat box -- chatroom last
19 meeting that were very disturbing. And you know, we have this form of government.
20 This is citizens run this country. It's not the elite. It's not rich people. It's citizens, from
21 schoolboards to federal government. Citizens start, they run for office, they get
22 involved. I suggest that a lot of people that are out here get involved, find out what's
23 going on, know why it's happening. Don't just jump in with both feet when you're not
24 really sure what it's about. And -- because it is a little bit disturbing to all of us that, you
25 know, people come to these meetings and they really don't know what has been going

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1 on for the last 16 months except that they've been inconvenienced. Well, I tell you
2 what, we all have. And none of us really like this, but I'll tell you what, I'd rather be
3 alive, get vaccinated, wear a mask than not be. And that's what the science says, that's
4 what we've told, that's what we've tried to do, everybody's trying to protect themselves
5 and their family. So, let's --

6 WOMAN 14: That's not what the science says.

7 CHAIRMAN THOMAS: -- continue down that road.

8 And thank you very much for your attention tonight. This meeting is --
9 oh, we will be back June the 17th, 2021 via teleconference and video conference.
10 Please visit our website and join our mailing list to receive the latest updates.

11 Thank you for your attendance today. This meeting is adjourned. Thank
12 you very much.

13 (The Special Meeting adjourned at 9:07 p.m.)

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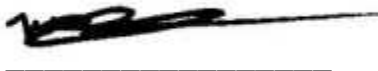
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