

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:)
September 16, 2021 OSH)
Standards Board Meeting)
_____)

TELECONFERENCE

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

THURSDAY, SEPTEMBER 16, 2021

10:00 A.M.

Reported by:
E. Hicks

APPEARANCES

BOARD MEMBERS:

David Thomas, Chair
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
Sarah Money, Executive Assistant
Jennifer Bailey, Senior Safety Engineer

BOARD STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

Michael Manieri, Principal Safety Engineer
Lara Paskins, Staff Services Manager
David Kernazitskas, Sr. Safety Engineer
Jennifer White, Regulatory Analyst
Amalia Neidhardt, Sr. Safety Engineer

ALSO PRESENT:

Eric Berg, Deputy Chief of Health, Division of Occupational Safety and Health (Cal/OSHA)

TKO STAFF:

Brian Monroe
John Roensch
Maya Morsi
Rey Ursery
Erik Kuether

APPEARANCES (Cont.)

PUBLIC COMMENT:

Lillian Grace, WeTeach, LLP

Saskia Kim on behalf of Dolores Trujillo, California Nurses Association

Anne Katten, California Rural Legal Assistance Foundation

Maggie Robbins, Worksafe

Andrea Hedstrom, Self

Heather Hile, Self

Mitch Steiger, California Labor Federation, AFL-CIO

Bruce Wick, Housing Contractors Of California

Rob Moutrie, California Chamber Of Commerce

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1 PROCEEDINGS

2 SEPTEMBER 16, 2021

10:00 a.m.

3 CHAIR THOMAS: Good morning. This meeting of the Occupational Safety
4 and Health Standards Board is now called to order. I'm Dave Thomas, Chairman. And
5 the other Board Members present today are Ms. Barbara Burgel, Occupational Health
6 Representative; Ms. Kathleen Crawford, Management Representative; Mr. David
7 Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-
8 Davis, Management Representative; and Ms. Laura Stock, Occupational Safety
9 Representative.

10 Also present from our staff for today's meeting are Ms. Christina Shupe,
11 Executive Officer; Ms. Autumn Gonzalez, Chief Counsel; Ms. Sarah Money, Executive
12 Assistant; and Ms. Jennifer Bailey, Senior Safety Engineer, who is providing technical
13 support.

14 Supporting the meeting remotely are Mr. Michael Manieri, Principal
15 Safety Engineer; Ms. Lara Paskins, Staff Services Manager; Mr. David Kernazitkas, Senior
16 Safety Engineer; Ms. Jennifer White, Regulatory Analyst, and Ms. Amalia Neidhardt, a
17 Senior Safety Engineer who is providing translation services for our commenters who
18 are native Spanish speakers.

19 Via teleconference we are joined today by Mr. Eric Berg, Deputy Chief of
20 Health, representing Cal/OSHA.

21 Today's agenda and other materials related to today's proceedings are
22 posted on the OSHSB website.

23 In accordance with Executive Orders N-29-20 and N-33-20 today's Board
24 Meeting is being conducted via teleconference, with an optional video component.

25 This meeting is also being live broadcast via video and audio stream in

1 both English and Spanish. Links to these non-interactive live broadcasts can be
2 accessed via the “what’s new” section at the top of the main page of the OSHSB
3 website.

4 We have limited capabilities for managing participation during the public
5 meeting comment period, so we are asking everyone who is not speaking to place their
6 phones on mute and wait to unmute until they are called on to speak. Those who are
7 unable to do so will be removed from the meeting to avoid disrupting the proceedings.

8 As reflected on the agenda, today’s meeting consists of two parts. First,
9 we will hold a public meeting to receive public comments or proposals on occupational
10 safety and health matters. Anyone who would like to address any occupational safety
11 and health issues including any of the items on our business meeting agenda today may
12 do so at that time. Members of the public who have contacted staff either by email or
13 phone and asked to be placed in the public comment queue will be called on in turn.

14 Please listen for your name and an invitation to speak. When it’s your
15 turn to address the Board please be sure to unmute yourself if you are using WebEx, or
16 dial *6 on your phone to unmute yourself if you are using the teleconference line.
17 Please be to speak slowly and clearly when addressing the Board and please remember
18 to mute your phone or computer after commenting.

19 Today’s public comment will be limited to two minutes per speaker. And
20 the public comment portion of the meeting will extend for up to two hours, so that the
21 Board may hear from as many members of the public as is feasible.

22 The individual speaker and total public comment time limits may be
23 extended by the Board Chair if practical.

24 Board staff can be contacted by email at oshsb@dir.ca.gov or via phone
25 at 916-274-5721 to be placed in the comment queue. If you experience a busy signal or

1 are routed to voicemail please hang up and call back again.

2 After the public meeting has concluded, we will conduct the second part
3 of our meeting, which is the business meeting to act on those items listed on the
4 business meeting agenda. The Board does not accept public comment during its
5 business meeting unless a member of the Board specifically requests public input.

6 We will now proceed to the public meeting. Anyone who wishes to
7 address the Board regarding the matters pertaining to occupational safety and health is
8 invited to comment, except however the Board does not entertain comments regarding
9 variance decisions. The Board's variance hearings are administrative hearings where
10 procedural due process rights are carefully preserved. Therefore, we will not grant
11 requests to address the Board on variance matters.

12 At this time anyone who would like to comment on any matters
13 concerning occupational safety and health will have an opportunity to speak.

14 For our commenters who are native Spanish speakers we are working
15 with Ms. Amalia Neidhardt to provide a translation of their statements into English for
16 the Board. At this time, Ms. Neidhardt will provide instruction to the Spanish-speaking
17 commenters so that they are aware of the public comment process for today's meeting.
18 Go ahead Ms. Neidhart.

19 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH] Public Comment
20 Instructions.

21 "Good morning, and thank you for participating in today's Occupational
22 Safety and Health Standards Board public meeting. Board members present are Mr.
23 Dave Thomas, Labor Representative and Chairman; Ms. Barbara Burgel, Occupational
24 Health Representative; Ms. Kathleen Crawford, Management Representative; Mr. Dave
25 Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-

1 Davis, Management Representative and Ms. Laura Stock, Occupational Safety
2 Representative.

3 "As reflected on the agenda, today's meeting consists of two parts. First,
4 we will hold a public meeting to receive public comments or proposals on occupational
5 safety and health matters. Second, after the public meeting has concluded, we will hold
6 a business meeting to act on those items listed on the business meeting agenda.

7 "We have limited capabilities for managing participation during the public
8 comment period. We are asking everyone to keep their phones and WebEx audio on
9 mute until your name is called to address the Board. Please remember to mute again
10 after you have finished commenting.

11 "This meeting is also being live broadcast via video and audio stream in
12 both English and Spanish. Links to these non-interactive live broadcasts can be accessed
13 via the "what's new" section at the top of the main page of the OSHSB website.

14 "Please listen for your name to be called for comment. If you have not
15 provided a written statement, please allow natural breaks after every two sentences so
16 that we may follow each statement with an English translation. Today's public
17 comment will be limited to two minutes per speaker, and the public comment portion
18 of the meeting will extend for up to two hours, so that the Board may hear from as
19 many members of the public as is feasible. Gracias"

20 CHAIR THOMAS: Thank you, Ms. Neidhardt.

21 Rey, at this time do we have any commenters in the queue?

22 MR. URSERY: Yes, our first three commenters are Lillian Grace, Saskia
23 Kim, and Anne Katten, with first up Lillian Grace with WeTeach, LLP.

24 CHAIR THOMAS: Lillian, can you hear us?

25 MR. URSERY: If you called in by phone please unmute yourself by

1 pressing *6. If you're on WebEx, please go ahead and press unmute.

2 CHAIR THOMAS: Lillian, are you there? Yeah, I think we've got to go on
3 to the next.

4 MR. URSERY: Our next commenter —

5 MS. GRACE: You know what? I can now unmute myself. I was just
6 (indiscernible).

7 CHAIR THOMAS: Oh, there we go.

8 MS. GRACE: I apologize.

9 CHAIR THOMAS: Go ahead, Lillian.

10 MS. GRACE: Good morning, thank you for allowing me to speak this
11 morning. I have my specific comment is where is the current guidelines for OSHA when
12 it comes to the cannabis industry? We have over 37,000 clients under our belt for the
13 West Coast. California hosts its own OSHA regulations as well as the insertion
14 (phonetic) of the Federal OSHA.

15 We also have a great concern when it comes to our chief has left and
16 been appointed to Federal, without ever addressing memorandums that were issued
17 way back in 2018 by the prior chief, Ms. Sum. This is of great concern. We've gone two-
18 and-a-half decades with cannabis having no direct guidance for the workplace or the
19 workforce. I'd like to see that change.

20 Moving forward, I am sending in a petition or a modified version of the
21 OSHA-10, which I am calling currently OSHA-25. That petition will be backed by every
22 member of the workforce that I'm currently training with this modification, both inside
23 California and 31 other states as well. I would like for this to be an agenda item, so that
24 we can address it now as we move forward. Because Federal is currently looming, with
25 over three ballots in place that are moving through legislation for federal regulations.

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1 And California did it first. I'd like for us to get this right.

2 Thank you so much for allowing me to speak. My name is Lillian Grace.

3 CHAIR THOMAS: Thank you. Thank you, Ms. Grace.

4 Rey, who do we have up next?

5 MR. URSERY: Our next commenter is Saskia Kim. She will be reading a
6 statement on behalf of Dolores Trujillo with California Nurses Association.

7 CHAIR THOMAS: Go right ahead speaker.

8 MS. KIM: Thank you, Saskia Kim of the California Nurses Association.

9 Thank you for allowing me to read a statement from one of our nurse members, Dolores
10 Trujillo. Dolores had planned to make public comment today, but she had a family
11 medical emergency and cannot participate in the meeting and she sends her apology, so
12 thank you.

13 "Good morning. My name is Dolores Trujillo and I am a registered nurse
14 at Kaiser Roseville. I'm also a member of the California Nurses Association. Thank you
15 for the opportunity to comment on a petition, which will come before you this fall.
16 Petition 590 proposes to modify the ATD standard's annual tuberculosis testing
17 requirements for occupationally exposed healthcare workers. As my colleague from
18 Henry Mayo Newhall Hospital explained at last month's meeting, CNA opposes the
19 petition, because it threatens public health. Instead, CNA believes that annual testing of
20 occupationally exposed healthcare workers is an important protective element of TB
21 control.

22 "You may have heard the argument that annual testing of occupationally
23 exposed health care workers results in false positives and therefore should be reduced
24 or modified. CNA takes issue with this argument, which doesn't tell the whole story. In
25 fact, there has been a recent push for use of cost-saving IGRAs over tuberculin skin-

1 testing, TSTs. IGRAs use less staff time and fewer resources because they are one
2 blood draw. TSTs on the other hand require two visits in a specified timeframe.

3 “But the push for IGRAs has resulted in increased false positives, because
4 IGRAs are not as reliable as TSTs. The petitioner himself cited a study that found IGRAs
5 have a high rate of false positive compared to TSTs. Specifically, the study found that
6 false positives occurred six to nine times more frequently with IGRAs than TST.

7 “The CDC raised similar concerns in its 2005 guidance on the use of IGRA
8 QuantiFERON Gold when it stated that the test’s, 'ability to project who eventually will
9 have TB disease has not been determined and years of observational study of
10 substantial populations would be needed to acquire this information.'

11 “Despite this, the 2005 CDC guidance goes on to unequivocally
12 recommend the use of IGRAs instead of more reliable TSTs. The focus on employer cost
13 savings appears to be a driving force, prioritized over healthcare worker safety. This
14 preference for IGRAs over TSTs is reiterated in its 2017 guidance from the American
15 Thoracic Society, Infectious Diseases Society of America, and the CDC.

16 “And since 2005 CDC guidance has issued multiple peer-reviewed
17 publications and research has documented numerous issues with IGRAs, which can
18 result in false positives and unreliable results. Such as laboratory and analysis process
19 issues, conversions and reversions, and false positives occurring with factors such as skin
20 contamination.

21 “The CDC even cited to a number of these studies when it updated its
22 guidance in 2019. But nevertheless the CDC has failed to recognize the fact that the
23 problem is not annual testing of occupationally exposed healthcare workers, but instead
24 it's the need to use reliable diagnostics for latent TB infection.

25 “Responding to an increase in false positives, because of the push for

1 cost-saving IGRAs by reducing protections for occupationally exposed healthcare
2 workers is a dangerous and false solution. Instead we should be focused on increasing
3 diagnostic reliability.

4 “CNA asks that you prioritize occupational health protections for
5 healthcare workers by denying Petition 590 when it comes before you and maintaining
6 protections in the form of annual TB testing for occupationally exposed healthcare
7 workers. Thank you for the time today.”

8 CHAIR THOMAS: Thank you.

9 Who do we have up, Mr. Ursery?

10 MR. URSERY: Our next three commenters are Anne Katten, Maggie
11 Robbins and Andrea Hedstrom, with first up Anne Katten with the California Rural Legal
12 Assistance Foundation.

13 MS. KATTEN: Hi.

14 CHAIR THOMAS: Anne.

15 MS. KATTEN: Good morning.

16 CHAIR THOMAS: Good morning.

17 MS. KATTEN: This is Anne Katten from California Rural Legal Assistance
18 Foundation. And in the upcoming revision of the COVID ETS that should be made
19 permanent, it's critical to retain and shore up the basic requirements for detecting
20 COVID infections in the workplace, preventing their spread including having a workplace
21 assessment program still in place, training, contact tracing, exposure notification, and of
22 course outbreak reporting and response.

23 Testing should also be required for any employer exposed, because we
24 now know that asymptomatic vaccinated workers can also spread infection.

25 Vaccination should be facilitated through time off for vaccination and

1 recovery from any side effects.

2 And masking should, for all should be required indoors, at least until the
3 level of community transmission has dropped below substantial or high levels for
4 several weeks.

5 Employer provided transportation and housing should be covered by the
6 standard even if all occupants are vaccinated, given that we now know that
7 asymptomatic vaccinated workers can spread infection.

8 And along those lines in shared work vehicles and other areas with
9 limited ventilation, masks should be required until somewhat lower levels of community
10 transmission.

11 And for employer-provided housing physical distancing requirements
12 should be reinstated and HEPA filtration devices should be required in all bedrooms.

13 And also common areas if the natural and mechanical ventilation update capacity is
14 limited, again until community transmission is much lower than current.

15 Masks should also be provided and at very least use encouraged for
16 outdoor assembly-line type work like field packing where the crowd isn't as large as an
17 outdoor mega-event, but exposure lasts much longer over multiple days.

18 And then finally to assure adequate protection of all workers additional
19 layers of protection such as physical distancing, improved ventilation and periodic
20 testing should be triggered by characteristics of the work process or work site like
21 crowding, frequent contact with the public, or inadequate ventilation rather than
22 limited to certain major industries.

23 Thank you very much for all your hard work with this, in this very difficult
24 time.

25 CHAIR THOMAS: Thank you.

1 Rey, who is next?

2 MR. URSERY: Our next commenter is Maggie Robbins with Worksafe.

3 CHAIR THOMAS: Hello, Maggie.

4 MS. ROBBINS: Hi, Chair Thomas. So you can hear me? Thank you.

5 CHAIR THOMAS: Yes, go right ahead.

6 MS. ROBBINS: Thank you. So my name is Mary Robbins and I'm with
7 Worksafe and we have just a few comments. We are eagerly awaiting the proposed
8 second readoption language to come out of Cal/OSHA. And we do realize that the
9 advisory committee meeting to discuss that is set for next week, so I think we're all
10 sitting here really, really eagerly awaiting that so that we can wrap our heads around
11 proposed changes.

12 One of the concerns we have is that whatever the changes are that they
13 not undo the most common preventive measures that are currently in place to try and
14 identify and prevent COVID cases being transferred at work. So things such as the
15 prevention plan, the training, the case identification, and exclusion, the contact tracing,
16 and testing, emphasis on ventilation, specific response to outbreaks, which is a way of
17 tiering. That if you've got more cases in a work site then you need to step up your
18 protections at that work site, employer transportation and housing, as Anne Katten just
19 referred to, and things such as offering N95s to staff.

20 So we think all of these things need to be maintained while we move
21 ahead trying to combat the, what we hope, is the residual for this outbreak.

22 We're concerned that Cal/OSHA not be looking at excluding entire
23 industry categories, but instead focus on the high-risk conditions at work. Things such
24 as indoor work with close contact with other workers or with the public, indoor work for
25 long hours, and things such as that. Those, the looking at the risk of the work is more

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1 important than the job, the industry category that work may be in since workplaces
2 can differ dramatically within the same industry.

3 And lastly we do think that these layers of protections are important, but
4 we know some of them are more hot-button issues and more burdensome on many
5 individuals, such as face coverings indoors. But we do think as we've been doing lately
6 with the changes and recommendations on this that we do consider maintaining things
7 such as face coverings indoors during times of high or perhaps even moderate
8 community transmission going on looking at the rate of new cases in a geographic area.
9 And we do tend to have that data by the county level.

10 Anyway, we do look forward to each seeing what these new changes are
11 and we will be with you at the advisory committee meeting next week. Thank you.

12 CHAIR THOMAS: Thank you.

13 Rey, who do we have?

14 MR. URSERY: Our next three commenters are Andrea Hedstrom, Heather
15 Hile and Mitch Steiger, with first up Andrea Hedstrom, who is representing themselves
16 as a concerned citizen.

17 CHAIR THOMAS: Andrea, are you with us?

18 MS. HEDSTROM: Hello? Hello, can I be heard?

19 CHAIR THOMAS: Yes, go ahead.

20 MS. HEDSTROM: Oh great, I held for over two hours last time and was
21 denied comment as were many dozens of my friends related to the COVID agenda item.
22 So I'm pleased to be able to speak today. And again, do I have two minutes?

23 CHAIR THOMAS: Yes, you do.

24 MS. HEDSTROM: Okay I'll begin. The currently available COVID-19
25 vaccines do not provide the strongest protection to the health and safety and actually

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1 expose its community to serious risks. They do not prevent transmission of SARSCoV2.
2 All the COVID-19 vaccine manufacturers' materials state that the vaccine clinical trials
3 endpoints were to reduce hospitalization and death by reducing symptoms. None of
4 these vaccine products were analyzed for transmission or prevention of SARSCoV2
5 infection.

6 The CDC has admitted that vaccinated persons can contract and transmit
7 the currently predominant variant Delta at even higher viral loads than those who are
8 not vaccinated, particularly those who have already naturally recovered from COVID-19.
9 Since these shots do not prevent contraction or transmission, they are not traditional
10 vaccines and are more akin to medicine used to reduce symptomology. They create an
11 undetectable risk of indiscriminate transmission of SARSCoV2 since vaccinated
12 individuals can transmit the virus with the same viral loads as unvaccinated individuals
13 without exhibiting symptoms.

14 We believe you at Cal/OSHA already understand this and yet you are
15 pushing the vaccines, you are pushing the masking. You are pushing a pharmaceutically
16 driven agenda that have little to do the needs of the people, the wishes of the people.
17 And frankly there's a censorship aspect to what's going on with this. We see this at
18 Board of Supervisors as they're pushing these resolutions, as the one that went down in
19 Sacramento County this week. A similar one went down in Monterey, one has gone
20 through San Diego County, the Legislature, HR-74.

21 And despite people coming at these various levels to speak in opposition
22 to these mandates that are unconstitutional, that are human rights violations, this
23 COVID medical product is still being foisted on the citizens. Citizens who don't want it,
24 citizens who have recovered from COVID-19 infection. They are marginalized. They are
25 being segregated. They're being told they have no right to work. They're being told

1 they have no right to enter places of business. And you're creating a class system
2 where there is a -- you're turning people against each other. You're pitting the
3 unvaccinated who have natural immunity against -- you're pitting the vaccinated
4 against the unvaccinated. And this segregation and discrimination, it really needs to
5 stop.

6 You at Cal/OSHA have a responsibility to protect and serve all of us, not
7 just people who have submitted themselves to what is essentially experimental
8 medicine. So I could continue to go on and on, I think you get my point. The mandates
9 have to stop. The segregation has to stop. The foisting of this pharmaceutical-driven
10 agenda has to stop. And you have to get back to listening to the wishes of the people
11 even if the wishes of the people are in the minority.

12 We live in a constitutional republic. It is not a direct democracy. And
13 even if the people who are recovered from COVID are in the minority they deserve
14 protection, they deserve dignity, and it is time that you at Cal/OSHA start listening to
15 the people. It's time that these boards of supervisors need to listen to the people, the
16 Legislature needs to listen to the people. And this pharmaceutical-driven agenda is
17 simply not acceptable. We the people will not put up with it. And I think I've gone over
18 my time and I appreciate you letting me speak today.

19 And please, extend comment if needed. Two hours is not enough for a
20 public hearing. As I indicated earlier many, many, many of us were denied public
21 comment and have been denied in prior meetings. You need to change the format.
22 Two hours is arbitrary. It's not acceptable. If you need to stay 12 hours to hear the
23 people the way they did at Board of Supervisor in San Diego then that needs to happen.
24 It needs to be arranged that the people's voices are heard. Thank you very much.

25 CHAIR THOMAS: Thank you, caller.

1 Rey, who do we have up next?

2 MR. URSERY: Our next commenter is Heather Hile, and they'll be
3 representing themselves.

4 CHAIR THOMAS: Heather, can you hear us?

5 MS. HILE: Good morning. Can you hear me okay?

6 CHAIR THOMAS: I can, go right ahead.

7 MS. HILE: Thank you. Yes my name is Heather Hile and I am a very
8 concerned citizen. And I work in the construction industry and in an office and I've
9 personally been discriminated against, because of my choice for my own personal
10 health. I've chosen not to take these gene therapy shots that are being passed off as a
11 vaccine and these are experimental drugs.

12 And it definitely goes against my human rights and it discriminates and
13 segregates me in the workplace, because I'm forced to continue to wear a mask even
14 though vaccinated persons can still contract and transmit COVID-19. And when I'm at
15 work I have to continue to wear masks, so it discriminates me and I have been
16 segregated against the other people in my office that has been vaccinated. So it show --
17 it basically puts me out there and we're pitting each other against each other. And it
18 creates a hostile work environment especially because so many people are so emotional
19 about who's vaccinated, who's unvaccinated.

20 And I'm very pro-choice and you should have the choice of how you want
21 to conduct your own healthcare. So I would never want to impose my beliefs on
22 somebody else and force them to do something against their will. And I appreciate the
23 same respect in turn. But with all these mandates coming down I'm possibly going to be
24 losing my job, because if my work has over 100 people in it, from the President's speech
25 just a few days ago, that they're going to try to pass that everybody in a workplace of at

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1 least 100 or more -- this is a human right violation.

2 And these are experimental drugs. These drugs, these shots they are --
3 they're not showing that they're eradicating the disease, the virus. Those people that
4 are vaccinated are still contracting and transmitting it just like an unvaccinated person.
5 And an unvaccinated person, if they've already had the virus they have their own
6 natural antibodies that have shown just as effective against the virus.

7 So these mandates need to stop. We need to stop discriminating against
8 people's health choices. And thank you very much for your time.

9 CHAIR THOMAS: Thank you.

10 Mr. Ursery, who do we have up next?

11 MR. URSERY: Our next three commenters are Mitch Steiger, Bruce Wick
12 and Robert Moutrie, with first up Mitch Steiger of the California Labor Federation.

13 CHAIR THOMAS: Hi, Mitch, you there?

14 MR. STEIGER: Yes, thank you Chair Thomas and members. This is Mitch
15 Steiger with the California Labor Federation, appreciate the opportunity to testify today.
16 Just wanted to touch on the COVID-19 ETS and largely to agree with the comments
17 offered by CRLAF and Worksafe, related to a lot of the points they raised.

18 I specifically wanted to really focus on the idea of I'm not really sure how
19 to describe it, I'm going to use the phrase "a tiered approach" to refer to a standard that
20 may kind of apply and then not apply, be effective and then not be affective, based on
21 where we are with the virus.

22 While we're not necessarily endorsing or opposing that idea we did want
23 to express concern regarding a concept that's been discussed to base that tiered
24 approach on hospitalization rates. Which, in addition to having a host of problems on
25 their own, we think don't really reflect the overall prevalence of the virus out there,

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1 which is really what should be the determining metric in deciding whether or not the
2 standard is in place or not in place. And that using something like a number of cases per
3 100,000 people or something like that we think would make a lot more sense than
4 hospitalization rates that really don't reflect what it is we think we need to be basing
5 that metric on.

6 I also wanted to argue that the standards should really be agnostic
7 towards vaccination. That it looks like while the vaccines are still extremely effective in
8 keeping you alive and keeping you out of the hospital, they don't do nearly as much as
9 we might have hoped to prevent transmission. And the standard as it stands right now
10 seems to reflect sort of an outdated view of the vaccines. That's not really backed up by
11 the science as we know it now where vaccinated people can still shed the virus.
12 Probably less so than unvaccinated people by virtue of not being sick as long and being
13 less likely to actually get a case, but still very possible for vaccinated people to get the
14 virus and spread it to others.

15 So we really think that if employers want to encourage vaccination they
16 have plenty of opportunities and other ways to do that. This standard itself shouldn't be
17 used as a way to do that given that the goal here is to protect all workers. And the way
18 the vaccinated workers can still spread the virus we think really works against that, so
19 the standard shouldn't really have this clear dividing line between vaccinated and
20 unvaccinated.

21 To that end we would also recommend reinstating the testing of the
22 vaccinated, but asymptomatic people who have been exposed. We think that really fits
23 in with where the science is now in making sure that a big outbreak doesn't happen at a
24 given workplace.

25 We would also point out that we are still very much oppose the idea of

1 self-attestation of vaccination status as a way to allow workers to take their masks off.
2 We had a lot of concerns about this idea when it was approved and we think it's even
3 less wise now, given where we are with the Delta variant. That a wear-a-mask order
4 isn't in place, maybe if we get to a spot where that's less important, that getting
5 vaccinated should be like -- being able to take your mask off should be the carrot
6 towards getting vaccinated. That we really do think that that is one way that it could be
7 encouraged. But that simply allowing people to self-attest to their own vaccination
8 status in order to take their mask off really doesn't seem like something that should still
9 be in the standard. We hope that gets taken another look at when we revisit later on.

10 And also just generally wanted to close with a point that as we've learned
11 the hard way things can definitely always get worse as they have over the last few
12 months. And even if things get better as we get closer to December, and hopefully
13 readopt something that lasts through April, we may be in what looks like a much better
14 place. But new variants can always pop up. The vaccines are pretty clearly getting less
15 effective as time goes on. So we always need to prepare for the fact that this could
16 pretty suddenly get a lot worse than it is at any given point in time. And we would
17 really, really urge the Board to keep that fact in mind as we draft whatever replaces the
18 current ETS.

19 So thank you very much for the opportunity to testify. And thank you all
20 very much for your work on the issue.

21 CHAIR THOMAS: Thank you, Mitch.

22 And on that optimistic note who do we have up next, Rey?

23 MR. URSERY: Our next commenter is Bruce Wick with the Housing
24 Contractors of California.

25 MR. WICK: Thanks, Rey, and thanks Chair Thomas and Board Members

1 for the opportunity. I wanted to just bring up two things. The advisory committee
2 process that is happening is good. It's a representative group. And you can get a much
3 more productive discussion and that's a good thing.

4 That we're a week out and we don't have a draft for those committee
5 members to really be working through is not good. But even worse, we've had 1,000
6 people on some of our meetings. Workers and worker advocates, employers, employer
7 advocates can learn a lot by watching the advisory committee meeting and hearing the
8 debates and hearing the information as a regulation is promulgated. There is nothing
9 on the Division website or the Standards Board website about that meeting for the
10 public to find out. I understand the committee members have received notice and
11 some people have gotten an email, but you can't find it on the Division website and
12 that's not good.

13 And I would ask if there was even a possibility, while it's not a meeting of
14 the Standards Board, where we have information about the ETS maybe the Standards
15 Board could reference that there is a Division advisory committee meeting on that.
16 Because of the tremendous interest, but also the tremendous importance of people
17 understanding how we're combatting COVID and so forth.

18 And the second part is with what the Biden Administration is doing, and
19 maybe it's -- and I knew it wouldn't have been on the agenda already -- hopefully at this
20 meeting we could get a sense of what the Board intends to do in response to what the
21 Biden Administration is doing with their potential regulation. Because we will have to
22 translate that and do something with it potentially fairly quickly on the employer side.
23 And the more you can give us a heads-up about anticipated timelines would be
24 extremely helpful.

25 So thank you and thanks for the opportunity to speak.

1 CHAIR THOMAS: Thank you.

2 Who do we have up next, Rey?

3 MR. URSERY: Our next commenter is Robert Moutrie with the California
4 Chamber of Commerce.

5 CHAIR THOMAS: Robert, can you hear us?

6 MR. MOUTRIE: Good morning, Chair Thomas, I can, thank you. Good
7 morning to Chair and the Board Members. I'd like to make just two brief comments
8 both of which have been phrased slightly differently by those before me so I will thank
9 them. To Bruce's point regarding Biden's plan and the extended federal mandate
10 regarding vaccines, obviously there is some complicated issues there and there will be
11 logistical difficulties to be worked out. But I would like to say that at a core level the
12 Chamber really firmly believes these vaccines are a way out of this.

13 And I go to the President's phrase, it's I think largely though not
14 completely, a pandemic of the unvaccinated. So we're looking forward to that and
15 looking forward to any details we gain from staff about how that will be put into effect
16 in California. That would be appreciated regarding implementation via the state plan.

17 The second point I'd like to phrase for the regulation I'd like to echo the
18 point of Maggie Robbins here and also Bruce Wick, we are looking forward to the
19 advisory committee and taking part in that. And that to the extent that text can be
20 shared sooner, so we have time to analyze it and talk to our members it would be
21 appreciated, so we can make our comments as productive as they can be. That's all,
22 thank you for the time.

23 CHAIR THOMAS: Thank you, Rob.

24 Rey, who do we have up?

25 MR. URSERY: There are currently no other names on the list. But I'd like

24

1 to call out to we had a call-in user 3, who previously had their hand raised in the
2 WebEx meeting. I'd like to invite them to unmute themselves by pressing *6 if they
3 have a comment for the Board.

4 CHAIR THOMAS: Do we have a commenter on the line? (No audible
5 response.)

6 MR. URSERY: So looking at the participants now it looks like call-in user 3
7 has dropped out. There are no other commenters in the list at this time.

8 CHAIR THOMAS: Great, thank you, Rey.

9 The Board appreciates the testimony of the participants today. The
10 public meeting is adjourned and the record is closed.

11 We will now proceed with the business meeting. The purpose of the
12 business meeting is to allow the Board to vote on the matters before it, to receive
13 briefings from staff regarding the issues listed on the business meeting agenda. Public
14 comment is not accepted during the business meeting unless a member of the Board
15 specifically requests public input.

16 The proposed variance decisions for adoption, Ms. Gonzalez will you
17 please brief the Board?

18 MS. GONZALEZ: Good morning, Chair Thomas and Board Members.
19 Today on the consent calendar we have Items A through V ready for your review and
20 your possible adoption.

21 CHAIR THOMAS: That is A through what?

22 MS. GONZALEZ: V as in Victoria.

23 CHAIR THOMAS: Okay, thank you. Are there any questions from the
24 Board for Ms. Gonzalez?

25 BOARD MEMBER BURGEL: I have a question, Dave. I just wanted to

1 highlight that the first is a deny. I think --

2 BOARD MEMBER LASZCZ-DAVIS: Right.

3 BOARD MEMBER BURGEL: -- all the others are grants just to clarify and

4 confirm.

5 BOARD MEMBER LASZCZ-DAVIS: Yeah, that was going to be my comment

6 too, Barbara.

7 BOARD MEMBER BURGEL: Great.

8 CHAIR THOMAS: Okay. So we know that when we vote for this approval

9 of the consent calendar that A is a denial. The rest are --

10 MS. GONZALEZ: Correct.

11 CHAIR THOMAS: Okay.

12 MS. GONZALEZ: Thank you.

13 CHAIR THOMAS: Do I have a motion to adopt the consent calendar?

14 BOARD MEMBER LASZCZ-DAVIS: I so move.

15 CHAIR THOMAS: Do I have a second?

16 BOARD MEMBER STOCK: Second.

17 CHAIR THOMAS: So I have a motion and a second. Is there anything on the

18 question? Hearing none, Ms. Money will you please call the roll?

19 MS. MONEY: Just double checking, Laszcz-Davis was the motion and Stock

20 was second, correct?

21 CHAIR THOMAS: I believe so, yes.

22 MS. MONEY: Okay. Ms. Burgel?

23 BOARD MEMBER BURGEL: Aye.

24 MS. MONEY: Ms. Crawford?

25 BOARD MEMBER CRAWFORD: Aye.

1 MS. MONEY: Mr. Harrison?

2 BOARD MEMBER HARRISON: Aye.

3 MS. MONEY: Ms. Kennedy?

4 BOARD MEMBER KENNEDY: Aye.

5 MS. MONEY: Ms. Laszcz-Davis?

6 BOARD MEMBER LASZCZ-DAVIS: Aye.

7 MS. MONEY: Ms. Stock?

8 BOARD MEMBER STOCK: Aye.

9 MS. MONEY: Chairman Thomas?

10 CHAIR THOMAS: Aye. And the motion passes.

11 Right now we'll have a Division Update. Mr. Berg, will you please brief

12 the Board?

13 MR. BERG: All right, thank you very much. On September 23rd,

14 Cal/OSHA will convene a COVID-19 permanent regulation advisory meeting. Invitations

15 have been emailed out and notices have been emailed out. Cal/OSHA will have draft

16 language. The web link to listen in on the meeting and watch the meeting and

17 additional information will be posted very soon to the Cal/OSHA website.

18 Secondly and tentatively on October 14th Cal/OSHA will hold a Section

19 5199 Aerosol Transmissible Disease standard advisory committee meeting. We haven't

20 sent out invitations or notices on it yet, because the date's not yet confirmed, but we're

21 thinking around October 14th is our tentative date. And that will be to consider adding

22 COVID-19 to the list of airborne transmissible diseases for section 5199, and also

23 includes COVID-19 vaccine amongst the list of vaccines that are offered to workers that

24 have occupational exposure.

25 So both of those meetings will be by video conference and there will be

1 no physical meeting locations, only by video conference.

2 Next, and so I have a brief excerpt from a CDPH public press release,
3 yesterday September 15th had a little bit of data that they released publicly. It said,
4 “For the week of August 29th to September 4th the average COVID-19 case rate among
5 unvaccinated Californians over 16 is 71 per 100,000 and the average case rate among
6 vaccinated Californians over 16 is significantly lower at 8.9 for 100,000. The great
7 majority of new cases are among unvaccinated individuals. The rate among
8 unvaccinated is 8 times, or 800 percent higher than the rate among the vaccinated.” So
9 that I just read from a little piece from a CDPH press release from yesterday.

10 Also there was a comment on cannabis. Cal/OSHA does have a web page
11 with a plethora of information about cannabis and Occupational safety and health and
12 applicable regulations. So we've had that web page for some time and it's still up and
13 it's still valid, so I just wanted to make people aware of that.

14 So that's pretty much all I have. Any questions?

15 CHAIR THOMAS: Any questions for Mr. Berg, Barbara?

16 BOARD MEMBER BURGEL: I just want to say thank you Eric. I did not
17 receive any notification for the Cal/OSHA advisory committee next week, the hearing.

18 MR. BERG: Oh, okay. Sorry

19 BOARD MEMBER BURGEL: And as Mr. Wick mentioned it's not on either
20 website.

21 MR. BERG: Yeah, they're working on getting that posted now, the web
22 team is working on that getting posted.

23 BOARD MEMBER BURGEL: Okay. So I don't know if other Board
24 Members, probably the subcommittee members knew about the advisory committee
25 next week. But —

1 BOARD MEMBER LASZCZ-DAVIS: Yes.

2 BOARD MEMBER BURGEL: -- I don't know, Dave Harrison. Kate if you --

3 BOARD MEMBER CRAWFORD: I did not, I did not receive notification of
4 it. So thanks for elevating that issue, Barbara.

5 BOARD MEMBER BURGEL: Correct, so there seems to be a gap in
6 communication.

7 BOARD MEMBER CRAWFORD: Correct.

8 MR. BERG: Yeah, sorry. I thought we had sent it out to our entire
9 Listserv, which is, I don't know, a couple thousand people. But I'll double-check on that.

10 BOARD MEMBER BURGEL: Yeah. I'm quite clearly not on that listserv. I
11 did get DIR notifications, but I did not get this.

12 MR. BERG: Okay, I'll double-check on that and make sure it went out to
13 all the listservs we have.

14 BOARD MEMBER BURGEL: Thank you.

15 CHAIR THOMAS: Thank you. Any other questions for Mr. Berg?

16 BOARD MEMBER CRAWFORD: Eric, this is Kate. I just want to get a little
17 bit more specific. When you say you are going to release that draft language very soon
18 what does that mean? Does that mean like this week do you think or by tomorrow? Or
19 can you just give us a little bit more detail on when?

20 MR. BERG: Yeah I believe it will be by end of this week. It's not within
21 my control so that's my best estimate that it'll be this week, end of this week.

22 CHAIR THOMAS: So tomorrow, Friday.

23 MR. BERG: Yeah, tomorrow is Friday. So by the end of tomorrow is my
24 best estimate when it'll be released, but as I said it's not under my control.

25 BOARD MEMBER CRAWFORD: Understood.

1 CHAIR THOMAS: Any other questions for Mr. Berg?

2 BOARD MEMBER BURGEL: Also just, again, I'm not on the subcommittee
3 and I know we're going to have a report, but I just wanted to echo my support for
4 looking at high-hazard working conditions as opposed to specific industries. And I also
5 obviously support the addition of COVID to the ATD standards, and including the
6 vaccination, so thank you very much.

7 CHAIR THOMAS: Thank you, Barbara.

8 Any other questions? All right, seeing that there are no other questions
9 COVID-19 Prevention Subcommittee Update, Ms. Stock, will you please brief the Board.

10 BOARD MEMBER STOCK: Yes, thank you. So we've had two
11 subcommittee meetings since our last full Board Meeting, so I'll start with the oldest
12 one and then the most recent.

13 So at the first subcommittee meeting there were a number of reports
14 from Board and Division staff. And I'll summarize a few of the key points. At that point
15 Amalia reviewed the status of COVID rates in other states and showed where there are
16 similarities and differences with our reg. For example, some states require that fully
17 vaccinated be tested even if asymptomatic, which is an issue that came up today.

18 Several emphasized the importance of multiple interventions including
19 physical distancing as well as tiered approach depending on levels of risks. Again, to
20 echo the point that others have made today.

21 Amalia also summarized OSHA's new guidance that had just come out
22 when we had that meeting, including also recommending multiple levels of controls and
23 a requirement for masking even if vaccinated.

24 Eric Berg gave a report as well about the fact that enforcement data was
25 going to be presented at a future subcommittee meeting.

1 And Mike Wilson gave a report that was providing an update on
2 outbreak data. And a couple of key points from his report, he showed that infections
3 and fatalities are highly localized. He listed, for example, seven counties with the
4 highest fatality rates. And also described that the greatest impact was on low-wage
5 workers in high-risk workplaces and occupations. And provided some statistics about
6 how the COVID case rate among low-income workers is considerably higher than the
7 state rate. And also among Latinx workers and among workers of color, black workers.

8 During the public comment for that subcommittee meeting there were
9 questions about enforcement of specific provisions including exclusion and quarantining
10 exposed workers with COVID symptoms and how to handle requests for exemptions
11 from vaccination requirements.

12 And many of the commenters at that time also agreed that we needed to
13 turn our attention more specifically to particular language rather than just metrics,
14 which has been the primary focus of our discussions from the beginning, particularly
15 given the deadlines for the next readoption vote.

16 A number of people highlighted the need for a multilayered approach not
17 just relying on vaccinations, given the possibility of breakthrough infections.

18 And there was some discussion at that point of tiered approach, including
19 are what should be the triggers from more protections.

20 At that meeting Chris Laszcz-Davis had asked for further presentations on
21 risk-assessment-based models with flexible and tiered options from other states.

22 And also a presentation at the next subcommittee committee meeting on
23 the pros and cons of different regulatory approaches.

24 So then moving on to the next subcommittee meeting, so in response to
25 that request Amalia Neidhardt presented on risk assessment models including

1 recommendations from CDC, which again recommend multiple strategies including
2 masking, physical distancing, ventilation in areas of high transmission. She also reported
3 on approaches in states including Virginia, Oregon, Washington, and maybe a few
4 others, which I'm forgetting. And summarized that their approaches include layered
5 levels of protection, prevention with the most protective measures in place in
6 workplaces that are at the highest risk.

7 And an example of what certain states were using to determine high risk
8 included elements such as density, public interaction, the length of interactions, close
9 contacts, etcetera that we've heard some people today testify to that.

10 Eric Berg reported that the Division was working on draft language. And
11 that there he did announce that a subcommittee meeting would be held next week as
12 you've all now heard. He explained that the new version would most likely be a tiered
13 approach with greater protections required where there is greater risk.

14 He also provided some information or in response to the requests by
15 Chris to describe the pros and cons of various regulatory approaches. So a few
16 examples of what he said, one of them was just to let the ETS expire and turn attention
17 to the general infectious disease standard. Then he pointed out that that would mean a
18 lag in protection of several years given the amount of time it would take to promulgate
19 a new regulation.

20 There was a lot of discussion on whether or not we could just go back to
21 the IIPP and not have a COVID-specific regulation. And in response to that he said that
22 the IIPP had -- for there were some questions about whether it covered COVID, but also
23 that the approach lacks specificity to address some specific provisions like ventilation,
24 testing, quarantining, and excluding exposed workers, risks in congregate housing,
25 etcetera.

1 He also asserted from the point of view of the Division that enforcement
2 is facilitated by the clear and specific regulations in the ETS.

3 He also reported that an updated and permanent reg, and the times
4 we're waiting to see the language for it, can be counter to specific hazard, lay out
5 specific measures, provide greater clarity, and can be linked more closely to public
6 health orders. That's one thing that was raised that there is now a gap between what
7 the ETS requires and what public health orders require and an updated reg could link
8 those more closely. And it also could provide flexibility as the pandemic grows or
9 recedes.

10 Debra Lee had an enforcement report about enforcement activity, and in
11 her report also confirmed that the ETS provided a clearer path to outline violations.

12 And finally, there was general concern expressed and sort of people
13 agreed that there was need for flexibility in the final standard. And hope that the
14 advisory committee next week will allow for the necessary engagement on the part of
15 stakeholders so we understand, we end up with a clear and flexible but protective
16 standard.

17 So that's my report on the subcommittee. I'm happy to answer any other
18 questions or have other subcommittee members weigh in if I've forgotten anything.

19 BOARD MEMBER LASZCZ-DAVIS: You did well, Laura.

20 BOARD MEMBER STOCK: Thank you, Chris.

21 CHAIR THOMAS: Do any of the Board Members have any questions or
22 any of the other committee members have any comments? (No audible response.)
23 None? Come on, nothing? Oh, go ahead.

24 BOARD MEMBER CRAWFORD: So thank you, Laura. That was a good
25 summary. I appreciate (indiscernible) that.

1 There is additional data that I think we need to ask for from the Division
2 is this in fact a --

3 MR. URSERY: Sorry to interrupt, Ms. Crawford, but we are having some
4 difficulty understanding you.

5 BOARD MEMBER CRAWFORD: Sorry everyone, this is the hazard of
6 taking the call from the airport. Can you hear me better now?

7 CHAIR THOMAS: Yes.

8 MS. LASZCZ-DAVIS: Yes.

9 BOARD MEMBER CRAWFORD: Okay, so that I'll just start over. So again,
10 Laura, thank you for the summary, that was excellent. I appreciate that.

11 One of the things that I kept thinking about as I was looking in on that last
12 subcommittee meeting is that the data is incomplete unless we have something
13 complete in comparison. So is this the right time to ask for some additional data from
14 the Division?

15 MS. SHUPE: Any requests that you would like to make related to the
16 subcommittee is appropriate to address at this time, yes.

17 BOARD MEMBER CRAWFORD: Okay, great. So I truly believe that we are
18 just looking at partial data. And we need to ask the Division --

19 MS. SHUPE: Ms. Crawford?

20 BOARD MEMBER CRAWFORD: Yes?

21 MS. SHUPE: I'm sorry, you're still very difficult to understand.

22 BOARD MEMBER CRAWFORD: Oh, I thought you were (indiscernible)
23 difficult.

24 No, I think that there is specific data that we need to request from the
25 Division. And I think that it includes a broader citation history by industry code. I think

1 that we need to layer into this the actual Workers' Comp data, both fatalities and
2 injuries. I think that the percentage of outbreaks by industry code are important to talk
3 about. So I think that all of this data and all this information, both the historic
4 information and then future by month, is going to actually inform a better decision and
5 it will inform the conversation of the advisory committee in a different way. So I would
6 like to make those requests for data.

7 And really I think that what I'm asking for is clear assessment at that
8 point. So that we're not working specifically to an outcome, we are gathering the data,
9 so that we can determine what is the most appropriate outcome to go forward.

10 BOARD MEMBER STOCK: Kate, can I just add one point in response to
11 your comment? So I do want to say, and hopefully this has been sent out to all Board
12 Members, where at most of our subcommittee meetings we've had longer
13 presentations of charts on outbreaks by industry code and we've had some discussions
14 on Workers' Comp. It's a level of detail that's hard for me to include in my monthly
15 reports, but I did want to be sure that all Board Members have received all the
16 PowerPoints that were provided over the last couple of months.

17 There may still be data gaps from -- I am still struggling a little bit to hear
18 what you're saying -- but there's so might be some data gaps from what you said. But I
19 think some of what you mentioned you may find more information if you look at those
20 specific charts and PowerPoints that were presented. So I just wanted to make sure
21 that that's been available to everybody.

22 BOARD MEMBER CRAWFORD: And I appreciate that, Laura, that's
23 excellent. And I think that there is an additional point that is that all of it needs to be
24 completely available and easily read and already compiled for those going into the
25 advisory committee process, so that it's like any spreadsheet. If you can at a glance

1 understand what it's telling you, get the message from it and take the key elements it's
2 much better than taking four or five PowerPoints and trying to go back and forth
3 between them. But I do appreciate your point, Laura.

4 And I don't want there to be any misunderstanding. I think there has
5 been communication, I think that it's just now time to focus it from an incomplete
6 comparison to a complete comparison.

7 I also think that the Biden Administration is going to affect some of the
8 decision-making, going forward. I'm going to go on mute just because of the
9 background noise that is coming (indiscernible).

10 CHAIR THOMAS: Thank you.

11 Barbara, did you have a comment?

12 BOARD MEMBER BURGEL: Yeah I just wanted to --

13 CHAIR THOMAS: Oh, we lost you.

14 BOARD MEMBER BURGEL: Whoops, am I back?

15 CHAIR THOMAS: Yes.

16 BOARD MEMBER BURGEL: Okay. I just wanted to add a caveat about
17 Workers' Compensation data, which does not accurately reflect work-related
18 transmission of COVID. It may in the fatality data be accurate, but certainly not in the
19 infectious cases that are related to work transmission.

20 Again, in my academic medical center, which is the campus and medical
21 center environment where I worked for 11 months, we had 33 percent of our cases that
22 we saw were most likely related to work transmission, either if they were in direct
23 patient-care settings or in coworker transmission. And that held through for the first 11
24 months of the COVID pandemic. We probably out of the 800 or so cases had, again a
25 third of those would be work-related. We had probably 10 or 14 employees that went

36

1 in the Workers' Compensation system.

2 Everyone was sent to 24-hour claim form, and told that they had rights to
3 submit for Workers' Compensation if they had a COVID case, even if it was community
4 acquired. So they were notified that they were eligible, potentially eligible, for Workers'
5 Compensation claims status if they wanted to go for it. And only about 14 to 20 of
6 those at the time in that first 11 months went in the Workers' Compensation system
7 where we had what we thought was closer to 250 cases that were work-related. So only
8 those individuals who had persistent symptoms, because there was a fairly -- each
9 employee was eligible for three weeks of paid time and so most people weren't
10 hospitalized.

11 And so it's again the Workers' Compensation data really would reflect, I
12 think, the more serious cases that have symptoms in a prolonged fashion. Or, of course,
13 fatality data related to work-related transmission. So I'm sure the subcommittee is
14 aware of the limitations of the Workers' Comp datasets.

15 MS. SHUPE: Right.

16 CHAIR THOMAS: Chris, you had a comment?

17 BOARD MEMBER LASZCZ-DAVIS: Yeah, I do have a comment. I'm
18 assuming, Eric, that when the invitation goes out or went out to people about the
19 advisory committee they had the benefit of viewing all the PowerPoints in the
20 presentations that were made during the subcommittee hearings. Am I correct in that
21 assumption?

22 MR. BERG: We haven't posted the meeting information yet, so we're
23 getting ready to post information.

24 BOARD MEMBER LASZCZ-DAVIS: Okay. I would encourage you to do
25 that. Just a general comment about the metrics and the data. We've gone through a

1 number of subcommittee meetings where we have heard nothing but information
2 about the metrics and the data, the strengths and the downsides of each of the data
3 points. And I think we're at a point where it's become apparent that it's all been good
4 data, but it needs to be mined for input that Eric and his staff need to use and any kind
5 of tiered approach they're considering at this point.

6 But as a general comment I think the subcommittee certainly heard very
7 strongly that while we have a lot of metrics on the horizon, we're not sure if it tells us
8 the story as an aggregate that we need to be told. But we're certainly clear about the
9 fact that whatever we do has got to address high-risk areas and there are certain
10 protocols that will apply to each.

11 And I think we're ready to start moving, which is why we asked for a
12 review of the different regulatory protocols. We've had a lot of data, but I think we
13 need to begin to shift, certainly consider the data and how best to be used, and its
14 impact to the extent that we can elaborate upon this.

15 But we need to begin to look at what were the regulatory options right
16 before us because these deadlines are looming. And what are we going to do to ensure
17 that whatever we end up with as an ETS, in fact provides the proper protection at the
18 best risk levels and provides the fluidity that we need in any kind of final regulation.

19 So I don't know if that helps or doesn't but I'd certainly encourage as we
20 post the information on the advisory committee meeting coming up, post all the
21 presentations that were made. It's incredible how much data we have that we asked for
22 it that the Division was very good in providing for us. But it was all new data for many of
23 us.

24 MR. BERG: Okay, I will forward that request.

25 CHAIR THOMAS: Thank you.

1 MS. SHUPE: If I can just add for all of our attendees and the Board
2 Members, a lot of the presentations that were given to the subcommittee members and
3 subsequently sent to the full Board are available via request at oshsb@dir.ca.gov. There
4 are some problems with posting some of that data on our website, so that would be the
5 quickest and most reliable way to obtain any of those presentations if you're interested.

6 Additionally, the subcommittee meetings are also posted on our website.

7 BOARD MEMBER LASZCZ-DAVIS: Thank you, Christine.

8 CHAIR THOMAS: Any other questions of Laura, or any of the other
9 committee members? All right, seeing that we have none -- oh wait, I see a hand up.

10 BOARD MEMBER CRAWFORD: Sorry, Dave.

11 CHAIR THOMAS: Go ahead.

12 BOARD MEMBER CRAWFORD: I just wanted to circle back for a moment.

13 Barbara, did you say that in summary that you think the Workers' Comp data is 33
14 percent low, with kind of in a (indiscernible)?

15 BOARD MEMBER BURGEL: Oh no, I would say definitely it's
16 underreported. So again, it does not accurately represent the amount of workplace
17 transmission of COVID. So obviously only a subset of -- and that's true of all work-
18 related illness. A lot of people don't enter the Workers' Compensation system. And so
19 there's a lot of factors, and this has been documented, that contribute to
20 underreporting in the Workers' Compensation system.

21 But it tends to, and specifically in COVID, and I don't think our industry is
22 unique, I think a lot of people did not enter into the Workers' Compensation system is
23 their case once transmitted at work. So if --

24 BOARD MEMBER STOCK: Can I just -- I'm sorry, Barbara.

25 BOARD MEMBER BURGEL: Yeah, go on.

1 BOARD MEMBER STOCK: I'm just going to add another comment just on
2 the subject of Workers' Comp and underreporting. Just to support what you're saying I
3 think this is those of us who looked at this over the last many years it's not just in COVID
4 it's often underreporting. And there's a lot of issues that influence whether or not
5 people report, there are retaliation, lack of access to support or information.

6 And I think also reflecting back on the presentation I mentioned that
7 Mike Wilson gave where he really highlighted that there is low-wage workers, workers
8 of color, and those workers are disproportionately impacted greater. And many of those
9 communities also have that there may be more fear of retaliation, less knowledge about
10 workers' rights, other issues in play. So I just want to support the idea that Workers'
11 Comp really is just the tip of the iceberg as you said, Barbara.

12 And just to say that I know this has been, come up a number of times in
13 the subcommittee meeting where people have been asked for that data. And I think
14 some has been provided. And I think the limitations of that data, I remember I think we
15 had a presentation from CDPH and the person who did that presentation concurred that
16 that data provides some information. But it's not tremendously representative or useful
17 when it comes to determining the level of workplace transmission. I just wanted to
18 second what you are saying Barbara.

19 CHAIR THOMAS: Any other comments or questions?

20 BOARD MEMBER CRAWFORD: I just want to comment that I just
21 appreciate the open conversation around all of this and the willingness to talk about the
22 data in more than one way, so thank you.

23 CHAIR THOMAS: Thank you, Kate.

24 Any other comments or questions? All right seeing that there aren't any
25 we'll move on to the Legislative Update. Ms. Gonzalez, will you please brief the Board.

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1 MS. GONZALEZ: Sure, so we are in recess. The first part of this two-year
2 session is now over. A few bills that are on your legislative update in your Board
3 package have actually made it to the Governor's desk. That would include AB 361,
4 which would allow Bagley-Keene agencies such as the Board to continue to hold their
5 meetings via teleconference through January 31st, 2022. So we're waiting to see if the
6 Governor signs that.

7 And also AB 701, which is the warehouse distribution center bill by
8 Lorena Gonzalez. This is regarding quotas in warehouses. That one has also passed and
9 is waiting for the Governor's signature, or veto. The Governor has until October 10th to
10 go ahead and sign or veto those bills, so we should have a good update for you next
11 month.

12 CHAIR THOMAS: Thank you. Are there any questions for our Ms.
13 Gonzalez? (No audible response.)

14 Hearing none, Executive Officer's Report. Ms. Shupe, will you please
15 brief the Board.

16 MS. SHUPE: Thank you, Chair Thomas. I have a few substantial items to
17 update the Board on today so I will be stopping periodically to ask for questions from
18 the Board before I complete my report.

19 As the Board is aware the White House announced last week plans for a
20 mandate related to vaccine requirements for employees with more than 100
21 employees. OSHSB staff are actively monitoring the adoption of Federal OSHA
22 regulations. Once Federal OSHA adopts regulations they will be evaluated as are all
23 federal regulations, to determine whether or not our current plan is at least as effective
24 as the regulations adopted by the Fed.

25 This is a requirement for our state plan and one that can't be ignored.

1 OSHSB will then determine at that point whether a Horcher rulemaking will be
2 pursued, which would be an adoption of the federal language whole sale. Or if
3 incorporation into the December COVID-19 ETS readoption is appropriate. Or if an
4 independent rulemaking is required to make California's regulations at least as effective
5 as the federal standard.

6 So before I move on are there any questions from the Board about the
7 pending mandate?

8 CHAIR THOMAS: It does not look like it. Oh, Laura, go ahead.

9 BOARD MEMBER STOCK: Sorry, I'm just curious. I don't even know
10 though when the federal rule is effective, goes into place and maybe I missed that and
11 just what the timing is. Is there a requirement to come into compliance with that within
12 a certain particular amount of time?

13 MS. SHUPE: So it really depends on the action that Federal OSHA takes.
14 At this time they have not adopted regulations. We expect that they will at some point
15 within the next several weeks. It really depends on what happens at that point.
16 Generally, Cal/OSHA has a 30-day timeframe in which to evaluate those and then
17 respond to the Feds with our plan.

18 CHAIR THOMAS: Any other questions for Ms. Shupe? All right you may
19 continue.

20 MS. SHUPE: Thank you. So as Ms. Gonzalez highlighted there is pending
21 legislation that would impact our Bagley-Keene requirements. The Board's October
22 meetings were -- or its October board meeting was notice about two weeks ago, as we
23 send those notices out 45 days in advance.

24 The Executive Order that suspended in-person meeting requirements is
25 set to expire on September 30th, so we had planned a hybrid meeting, because at that

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1 time the Board would once again need to comply with the requirements for physical,
2 publicly accessible meeting space.

3 Additionally, Board Members would be required to participate from a
4 publicly accessible location and remote attendance would no longer be feasible.

5 However, the Legislature is aware of the impact those rollbacks would have, not only on
6 OSHSB, but on all Bagley-Keene governed state bodies. And in light of the current
7 pandemic they have passed AB 361, which we expect will be signed by the Governor. So
8 we are closely tracking that and are waiting to — we'll update our website and our
9 meeting plans once we have a definitive signature on that item.

10 Are there any questions on that section? (No audible response.) Okay,
11 thank you.

12 And then moving forward to October, the Board will consider three
13 petitions. The first, Petition 588, seeks to amend Title 8, Section 462 of the Unfired
14 Pressure Vessel Safety Orders to permit the use of polyethylene, also known as HDPA
15 plastic pipe to convey compressed air in California mines.

16 Second, Petition 589 seeks to amend Title 8, Construction Safety Orders,
17 Article 14, Construction Hoists to more closely align with ANSI/ASSE A10.4-2016
18 requirements concerning equipment, responsibilities and safety.

19 And the third, Petition 590, seeks to amend Title 8, General Industry
20 Safety Orders, section 5199 to repeal or amend the requirements for annual
21 Tuberculosis testing in health care workers.

22 Proposed decisions are currently being worked on and will be posted
23 with the October meeting agenda.

24 On a final note, I'd like to recognize Mr. Michael Manieri. Mr. Manieri
25 joined the OSHSB staff in 1985 and has served as our Principal Engineer since May of

1 2000.

2 After an extensive and dedicated career in public service Mr. Manieri has
3 decided that he will be retiring from state service in November of this year. I'd like to
4 extend my personal thanks for the wealth of institutional knowledge Mr. Manieri has
5 shared with me over the past three years, his dedication to this Board and its mission,
6 and his ongoing assistance with the engineering team's succession plan.

7 Mr. Manieri, at this time would you like to address the Board?

8 MR. MANIERI: Yes, Christina, thank you very much. I do have a couple of
9 thoughts. Well, when I think of my Board career I recall someone once said choose a job
10 you love and you'll never have to work again in your life. Well that kind of describes it in
11 one sentence. I want to thank everyone for the well wishes that they have expressed to
12 me and also to the Board for the fabulous support that's a given, not just myself, but my
13 staff -- staffs plural -- over the years.

14 A great deal of excellent work has been accomplished together, but
15 judging from today's meeting you can see where there is still miles to go before we
16 sleep as one famous poet once said.

17 I think there may be further opportunities for further service to the Board
18 through this wonderful annuitant program that some of you may have heard about and
19 I will certainly consider it. I plan to be present for the next two Board meetings
20 definitely. So with that I can say my story may continue, just I think that's going to be a
21 good thing.

22 Honestly it's been an honor and a pleasure to serve the Board since 2000
23 as principle and to serve it as associate when I came here in 1985, which was I think just
24 at the draw of the closure of the last Ice Age.

25 But at any rate no, it's been a pleasure and an honor to serve the Board

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1 and I thank you very much. Thank you.

2 CHAIR THOMAS: Hey, any comments from any of the Board Members for
3 Mike?

4 BOARD MEMBER LASZCZ-DAVIS: Oh I would like to say, you know, Mike,
5 I've seen you operate for many, many years. I too have been working for many years.
6 Whether in industry or government I always looked upon you with great respect.
7 You've always been a great wealth of information and professionally so. And having
8 worked with you on the Standards Board I'll tell you what you've been a lifesaver on
9 many occasions and quite frankly it's been an honor to have worked with you.

10 BOARD MEMBER STOCK: Yeah, I just want to second. I want to
11 congratulate you on making that decision. I know it's not always easy and I congratulate
12 you on getting there. And I hope you have now this gives you the opportunity to do all
13 the other things you might want to be doing. But I also want to just thank you.

14 Also it's been a pleasure to work with you, really appreciate everything
15 that you've offered to the Board. And it's just been really fun to get to know you over
16 the years when we were in in-person meetings, traveling to different places. You've just
17 been a pleasure to work with, so thank you so much. I hope we will have an opportunity
18 to see you again in the future but not — also hope that you take the time to do what
19 you really want to do now whatever that might be. So thanks again (indiscernible).

20 MR. MANIERI: Thank you.

21 BOARD MEMBER STOCK: And thanks again.

22 MR. MANIERI: Oh thank you, Laura. I appreciate it. Thank you very
23 much. Thank you.

24 CHAIR THOMAS: Dave?

25 BOARD MEMBER HARRISON: Yeah, I would just like to say Mike, you and

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1 I worked on quite a few things together whether it was off-road diesel exhaust retrofits
2 around the CARB standards or the crane standard. Anytime there was an issue I'd go,
3 "Man, who is the person most knowledgeable? I mean this is such an abstract issue." It
4 was always you.

5 You would always push me and you always had the right answer, you had
6 great guidance. Your knowledge is going to be missed. Looking forward to working with
7 you as a retired annuitant and I want to thank you for your leadership and all your
8 support for the Board and myself personally over the years.

9 MR. MANIERI: Thank you, Dave. Thank you.

10 BOARD MEMBER HARRISON: And remember when you retire hit them
11 straight. (Laughter.)

12 MR. MANIERI: Yeah, I'll have to work on that a little bit more. Yeah
13 definitely, yes.

14 CHAIR THOMAS: Any other comments from the Board, Barbara, go
15 ahead.

16 BOARD MEMBER BURGEL: I just want to say congratulations, Mike.

17 MR. MANIERI: I appreciate it, Barb.

18 BOARD MEMBER BURGEL: You know, and I do miss seeing you. These
19 virtual meetings are just not the same.

20 MR. MANIERI: I know, yeah. No it's not.

21 BOARD MEMBER BURGEL: Congratulations.

22 MR. MANIERI: Thank you, thank you.

23 CHAIR THOMAS: Nola?

24 BOARD MEMBER KENNEDY: Yeah, I just wanted to say thank you Mike.
25 You are a scholar and a gentleman and I've always enjoyed working with you. And I'm

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1 so thankful to hear you talk about the RA program, so.

2 MR. MANIERI: Well thank you very much.

3 BOARD MEMBER KENNEDY: I'm glad you'll be (indiscernible).

4 MR. MANIERI: Well I hope -- maybe I'll trade places with you where
5 you're sitting right next to me in the not-too-distant future. Or on some island, I mean
6 I'm not particular, I'm not choosy. Any (indiscernible) will do.

7 BOARD MEMBER KENNEDY: Come on over.

8 MR. MANIERI: Yeah. Thank you.

9 CHAIR THOMAS: Yeah, Michael, I just wanted to say that for most of us
10 when we first started on this Board we really didn't know what to expect. And there
11 was a lot of reading involved and maybe didn't understand everything that was being
12 thrown at you, but when you got behind the mic and you explained the regulation and
13 you gave us all the considerations there was usually never any doubt about what the
14 regulation was and if it should be passed or not. And I appreciate that, I really
15 appreciate that because you made it so plain and clear.

16 And I think for all of us you did the same thing, because when you walk
17 into this job you feel like you have a lot of weight on you for the people that you
18 represent. And he made it so easy for us to understand everything that was going on
19 and walk us through it. And I really greatly appreciate that. And I'm going to miss you
20 but I know you will still be around.

21 MR. MANIERI: I will.

22 CHAIR THOMAS: But anyway even if you don't hit them straight at least
23 you're hitting them and that's what's important.

24 BOARD MEMBER BURGEL: So true.

25 MR. MANIERI: Thank you. Thank you.

1 CHAIR THOMAS: And anybody else?

2 BOARD MEMBER CRAWFORD: Hey, Dave? It's Kate, can I just --

3 CHAIR THOMAS: Yeah, go ahead. Go ahead.

4 BOARD MEMBER CRAWFORD: So first of all, Mike, I just want to ditto on
5 everything that everyone else said and just add to it. I never actually thought I would
6 find myself with tears in my eyes at a Standards Board meeting and look at what has
7 happened. I am sure I am not the only one who is crying with happiness for you, that
8 you are making this decision for your life. But also sadness for the rest of us, because
9 we have to carry on. And we appreciate is not nearly a strong now. We are moved to
10 tears by the fact that you are going to carry on with your life. So thank you sincerely for
11 everything.

12 MR. MANIERI: You're welcome. You're welcome. Yes, thank you.

13 CHAIR THOMAS: Thank you. Any final words, Mike? Yeah I think he's
14 speechless now.

15 MR. MANIERI: I am. I am. Well, all I can say is I'll tell you what John
16 McCloud told me through the meetings I had with Crane Operator Certification, which
17 David knows all well and good how difficult that was. And that is to persevere to the
18 Nth degree, listening to all the sides and never assuming anything, taking the input with
19 value, and value it from everyone in the regulatory process. That's what I tried to live by
20 all these years and with fairness in that process.

21 And sure if I don't know the answer I came back later. I took it under
22 advisement. But the important thing is to listen, we must be really good listeners in this
23 work and consider carefully with a great deal of consideration and patience what
24 everyone has to say. That is not an easy task particularly during these very challenging
25 times, so that's my advice to the Board moving forward. But I'll still be around to live up

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1 to that.

2 CHAIR THOMAS: Thank you so much, Mike. Go ahead, Chris.

3 BOARD MEMBER LASZCZ-DAVIS: Might I just say one very last thing to
4 Mike? You know, actually your comment just now triggered this for me. All the years
5 that I've seen you operate you have always honored and respected the opinions of
6 everybody. Never ever have I seen you be so transparent as to disagree or otherwise.
7 But you dealt with all of us with great respect. And that is a skill and a characteristic we
8 all need to aspire to.

9 CHAIR THOMAS: Thanks, Chris.

10 MR. MANIERI: Thank you.

11 CHAIR THOMAS: And I just want to say that Mike will be at the next
12 Board meeting. It will be WebEx again, but I mean at that time -- because people were
13 I'm sure caught a little bit by surprise, but there will be plenty of time to send your well
14 wishes to Mike at that meeting. So thank you so much Mike. Thank you for your service
15 and we're still going to see you around.

16 MR. MANIERI: You're welcome. Thank you.

17 CHAIR THOMAS: Thank you.

18 MR. MANIERI: Thank you.

19 CHAIR THOMAS: So what do we have up? Next future agenda items,
20 does any of the Board Members have any questions for Ms. Shupe regarding any future
21 agenda items or the Division? Go ahead.

22 BOARD MEMBER STOCK: This probably goes without saying based on
23 what you just reported, Christina, but I just wanted to formally get an update on the
24 actions the Board might be taking around the vaccine mandates that the President
25 announced. So I just wanted to -- if we can add an update on that.

1 And I assume we will also be getting an update on the advisory
2 committee meeting that occurs. So that probably goes without saying.

3 MS. SHUPE: Obviously OSHSB staff will be attending the advisory
4 committee meeting. And as soon as we have federal regulations we will be updating
5 the Board on what our path forward might be.

6 CHAIR THOMAS: All right, any other questions regarding future agenda
7 items?

8 All right, we don't have a closed session today?

9 MS. SHUPE: We do not have a need for closed session today.

10 CHAIR THOMAS: All right then, so before I adjourn I just want to make a
11 couple of quick comments, and briefly. I was just looking through some of the data and
12 I think we're back to 1,943 deaths, 7-day average. We gained on it when the vaccine
13 started. And then sometime around two-and-a-half, three months ago, people just
14 decided that they didn't need to do it. And I don't know why. It doesn't make sense to
15 me. But the only way we are going to get out of this is through the vaccine, that's the
16 only sure way.

17 And when people say, and I've heard this before, "My body, my choice,"
18 well it's not just your body and it's not just your choice. You're affecting everybody
19 around you with that decision. Everybody who's not vaccinated. Even people that are
20 vaccinated, because there are breakthrough cases where people that are vaccinated can
21 get it. It's a very small percentage, but it does happen. But I don't know how to say to
22 people you really need to do this.

23 I know people have certain fears and there is so much misinformation
24 going on out there, but that really truly is the only way we're going to get past this. And
25 the longer we take to get to basically where we have 80 or 90 percent, the longer we

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1 take to get there there's going to be another variant. There will be something else that
2 comes up besides this last strain, which has been virulent.

3 So I hope, I'm just encouraging people to really think about it, because it
4 is not just you. It is not just your body. It is everybody around you. And I think you
5 really have to take that in consideration, because nobody wants to be the one in the
6 end where you know that you've given somebody this. And we don't know. We don't
7 know who's going to make it and who is not going to make it. I heard today that 1 in
8 500 deaths are from COVID. That is 1 in 500 people die from COVID. Who would have
9 thought that two years ago?

10 But we need to be vigilant in pushing the vaccine. And not in a way that
11 offends people. But I really do believe, and I heard this, the vaccine is a gift from God.
12 That's what has helped us survive this up to this point the way we have. And I just
13 encourage people to think about it and think about the ones around you.

14 Anyway with that our next Board meeting will be October 21st, 2021.
15 And it will be by WebEx. And at this time if there's no further comments or business
16 then this meeting will be adjourned. Thank you very much, appreciate it.

17 Thank you, Mike.

18 (The Business Meeting adjourned at 11:3` a.m.)

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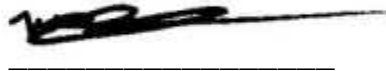
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