

## OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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### SUMMARY PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING October 20, 2016 Oakland, California

#### I. PUBLIC MEETING

##### A. CALL TO ORDER AND INTRODUCTIONS

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:05 a.m., October 20, 2016, in the Auditorium of the Harris State Building, Oakland, California.

##### ATTENDANCE

##### Board Members Present

Dave Thomas  
David Harrison  
Patty Quinlan  
Barbara Smisko  
Laura Stock

##### Board Member Absent

##### Board Staff

Marley Hart, Executive Officer  
Mike Manieri,  
Principal Safety Engineer  
Peter Healy, Legal Counsel  
David Kernazitskas,  
Senior Safety Engineer  
Sarah Money, Executive Assistant

##### Division of Occupational Safety and Health

Juliann Sum, Division Chief  
Eric Berg, Deputy Chief of Health

##### Others Present

Bill Benham, Bill Benham Consulting, LLC	Alejandro Madi, Unite Here Local 2
Eric Robles, UNAC	Alejandro Negmete, Unite Here Local 2
Dorothy Mosley, CNA	Carmen Conisti, CNA/NUU
Cynthia Perez, Unite Here	Jeanne Lee, CAN
Carol Kinser, RN	Priscilla Paras-Huerta, Unite Here Local 2
Alberta Sanchez, Unite Here Local 2850	Kevin Bland, Ogletree Deakins
Jamie Carlile, SCE	Maria Elena, SEIU 121 RN
Rosanna Mendez, SEIU Local 121 RN	Valerie Verity-Mock, CAN
Aldrin Valdez, CNA	Debra Sullivan, CWA
Carol Koelle, CMA	LuAnn Somers, CMA

Garr Wharry, SEIU  
Boudsa Khone Sundara Nunez, CNA  
Reina Lopez-Navarro, Office of ASM  
Bonta  
Irma Martin, CNA  
Mark Price, Riverside Community Hospital  
Amber Rose, Federal OSHA  
Kristen Garfinkel, Kaiser-SFO  
Robin Dewey & Kelsie Scruggs, LOHP, UC  
Berkeley  
Steve Johnson, Alliance Roofing Co.  
JoAnn Correa, CNA  
Patricia Brister, CNA  
Samantha Tsuba, CNA  
Deborah Burger, CNA  
Karen Boxley, CNA  
Sherri Stoddard, CNA  
Michael Musser, CA Teachers Association  
Adam Cohen, AIDS Healthcare Foundation  
Jane Thomason, CNA  
Yolanda Barron, Unite Here  
Francisco Carranza, Unite Here  
Anne Stewart, CMA  
Zeferina, Unite Here  
Maria Aguilar, Unite Here  
Candy Hu, Local 2  
Hector Azpikoeta, Unite Here Local 483  
Angie Nandin, Unite Here Local 2850  
Aisha Ealey, CNA  
Sean Tracy, CA Dept. of State Hospitals,  
Admin. Services/ Risk Management  
Kevin Quintero, Treasure Island Media  
Brandy Welch, CNA  
Charmaine Morales, UNAC  
James Pierson, CA Ambulance Association  
Lorraine Myrick, SEIU 121 RN  
Brad Vardersall, UC San Diego Health  
Kristie Elton, UC Office of the President  
Mikayla Davis, Adult Industry  
Jiz Lee, Independent Performer Adult  
Industry  
Janice Griffith, Adult Industry  
Laura Gomez, SEIU  
B.J. Wilson, SEIU 1021  
Rosario Sanchez, Office of ASM Bonta  
Marjorie Smallwood, UCSF Health  
Geoff Britton, UC Davis Health System  
Patricia Gaydos, Federal OSHA  
Ruby Sloan, John George Hospital  
Melissa Fogarty, MSJ Sacramento  
Ken Clark, BB&T  
Dan Leacox, Leacox & Associates  
Jessie Davenport, Summit Medical Center  
Oakland  
Zenisa Quebral, CAN  
Michelle McLean, CNA  
Kevin Thompson, Cal-OSHA Reporter  
Michael Chimuke, CNA  
Robert Ennis, CSATF  
Yupa Assawasunsant, CNA  
Erik Conradson, CNA  
Gail Blanchard-Saiger, CA Hospital  
Association  
Adrianna Carranza, Unite Here  
Robert Leyman, Unite Here  
Elsu Poneiue, Unite Here  
Tho Do, Unite Here  
Irma Dufelmeier, CNA  
Chizuko Calhoun, Unite Here Local 483  
Caryn Thornburg, Stanford Healthcare  
Valley Care  
N. Olsson, Cal/OSHA  
Gayle Batiste, L121RN  
Joel R. Riones, CNA  
Angelia Palacios, CNA  
Shawn McCoy, UNAC/UHCP  
Violeta Aguilar-Wyrick, SEIU 121 RN  
Rita Lewis, CCHCS, San Quentin State  
Prison, SEIU Local 1000  
Jessica Creepshow, Adult Industry  
Veronica Nelson, UC Office of the President  
Joan Silva, CNA  
Nicole Marquez, Worksafe

B. OPENING COMMENTS

Mr. Thomas indicated that this portion of the Board's meeting is open to any person who is interested in addressing the Board on any matter concerning occupational safety and health or

to propose new or revised standards or the repeal of standards as permitted by Labor Code Section 142.2.

**Candy Hu, Unite Here Local 2 San Francisco**, stated that she used to work at the Hyatt Regency Hotel in San Francisco. She said that the most difficult part of her work was cleaning the glass shower doors. She stated that she had to stand on her tiptoes to reach the highest part, and she had to clean 28 showers per day. As a result of this, she injured her hands and feet. She said that she was so tired after work each day that she had to take a nap before making dinner for her family. She stated that the hotel housekeeping proposal still has many steps to go through before it is made law, but she is hopeful that it will be made law soon.

**Yolanda Barron, Housekeeper, Hyatt House Emeryville**, stated that she and her coworkers have been injured at work, but the hotel management does not listen to them on how to make their jobs easier. She said that many injured hotel housekeepers are not able to work long enough to get their pension because the injuries they sustain at work take a huge toll on them. She stated that many hotel housekeepers do not have unions to protect them, so the hotel housekeeping proposal needs to move forward faster. She said that many hotel housekeepers must continue to work even when they are injured. She stated that she hopes that any issues that are preventing the proposal from moving forward will be resolved by the end of 2016.

**Alberta Sanchez, Housekeeper, Sheraton Hotel Petaluma**, stated that it is hard to work in the hotel housekeeping industry because there are so few regulations to protect hotel housekeepers from injury. She said that she was injured on July 3, and it is difficult for housekeepers to work when they are injured while having to deal with workers' compensation and hotel management as well. She stated that she may have to undergo surgery to address the injury that she sustained at work on July 3, and she is worried about having to take time off after the surgery because she has to be able to financially support her kids. She said that she hopes the proposal will move forward and be noticed for public hearing before the end of the year. **Cynthia Perez, Unite Here**, echoed Ms. Sanchez's comments.

**Theresa Chang, Unite Here Local 2850 Oakland**, stated that she has seen many hotel housekeepers get injured while doing their work. She said that these injuries are preventable and often require surgery or leave hotel housekeepers permanently disabled. She stated her organization is concerned about the many steps that lie ahead before the hotel housekeeping proposal can be noticed for public hearing, and she asked for an explanation of what the next steps are. She said that if the hotel housekeeping proposal is implemented correctly by hotel managers and those in the hospitality industry, the number of injuries sustained by hotel housekeepers will be reduced. She asked the Division and Board staff to move the proposal forward to rulemaking before the end of 2016 because January 2017 will mark 5 years since her organization filed a petition to address this.

**Alejandro, Unite Here**, stated that his organization appreciates the monthly updates regarding the status of the hotel housekeeping proposal. He asked the Board to move today's update to the beginning of the business meeting so that the hotel housekeepers who are attending today's meeting can hear the update.

The following individual also commented in support of the current hotel housekeeping proposal:

- **Maria Aguilar, Housekeeper, Hyatt House Emeryville**

**Ms. Hart** stated that the documents for the hotel housekeeping proposal were returned to the Board staff at the end of September, and the Board staff is currently reviewing and finalizing the economic and fiscal impact statement. She said that the Board staff anticipates returning the documents to the Division by the end of the month. She stated that once all of the documents are finalized, including identifying all of the costs associated with the proposal, the documents will be submitted to the Department of Industrial Relations, the Labor and Workforce Development Agency, the Budget Office, and the Department of Finance, for their approval and signatures. She stated that these signatures must be obtained prior to the proposal being submitted to the Office of Administrative Law (OAL) for publication. She said that it is unknown how long it will take to get those signatures, but once that is done, the proposal will be submitted to OAL for noticing. She stated that the notice is published 10 days after the proposal is submitted to OAL for noticing, and on the day that the notice is published, the 45-day comment period starts, as well as the one-year time clock in which the Board must take action on the proposal.

**Nicole Marquez, Worksafe**, stated that workers should not have to sacrifice their lives or personal safety when they go to work. She said that the proposal regarding workplace violence prevention in healthcare will ensure that workplace violence incidents don't happen over and over again. She stated that this proposal will set an example for the nation to follow by giving employees the proper tools and training to protect themselves from workplace violence, and it will ensure that employers know their responsibilities and how to set up those policies.

Ms. Marquez also stated that the proposal regarding hotel housekeeping will address issues such as unreasonable room quotas, inadequate training on how to use cleaning chemicals, and inadequate training on how to properly lift heavy mattresses and other furniture. She said that a housekeeper came to her organization when the hotel management refused to pay her for coming in early, and staying late, to clean enough rooms to meet the room quota. She stated that the housekeeper was pregnant at the time and had also suffered an injury when her coworker accidentally hit her with the cart while rushing to the next room. She said that this injury has left the housekeeper unable to work. She said that this proposal will also combat the issue of economic instability by giving workers resources. She stated that many low income workers who are injured are often forced to leave their jobs or continue working while they are injured. She asked the Division to expedite this proposal so that it can be heard at a public hearing soon.

**Charmaine Morales, United Nurses Association of California/Union of Health Care Professionals (UNAC/UHCP)**, stated that the proposal regarding workplace violence prevention in healthcare is a big step in the right direction to curb workplace violence, but there is more work that needs to be done to address issues such as bullying. She said that the proposal does not address the workplace violence that goes on in outpatient medical offices and clinics. She stated that workplace violence incidents that occur in these settings need to be addressed in this proposal to keep them from happening.

**Bonnie Castillo, California Nurses Association (CNA)**, stated that her organization supports the proposal regarding workplace violence prevention in healthcare that is on the agenda to be voted on during the business meeting. She said that this proposal is wide in scope, emphasizes prevention over criminalization, and includes protection from threats and physical acts of violence. She stated that healthcare workers face violence on the job every day, and management is not willing to do something about it. She said that workplace violence presents an extreme risk to healthcare workers, especially healthcare workers in acute care facilities, that is getting worse by the day. She stated that this proposal needs to be passed as efficiently and quickly as possible to protect workers, and it will serve as a model for other states, and the nation, to follow.

**Deborah Burger, CNA**, stated that the proposal for workplace violence prevention in healthcare does an excellent job of implementing the Healthcare Workplace Violence Prevention Act (SB 1299). She said that her organization is sad that some healthcare settings that were covered under the original proposal have been removed, but her organization supports the speedy passage of this proposal. She stated that many healthcare workers feel that their employer's workplace violence prevention procedures are not enough to prevent violent acts from occurring, or to respond adequately when they do happen. She said that healthcare workers are often singled out or blamed by management when violent acts occur, rather than blaming the lack of support from the hospital administration. She said that healthcare workers are at high risk for physical violence, psychological harm, death, and loss of potential income or their jobs. She stated that healthcare workers cannot wait any longer, and violence should not continue to be considered part of the job. She asked the Board to pass the proposal as quickly as possible.

**Kathy Onhue, CNA**, stated that her organization was disappointed when several healthcare settings that were covered under the original version of the proposal regarding workplace violence prevention in healthcare were removed. She said that all healthcare workers in all healthcare settings are equally deserving of protection. Despite that, her organization supports the proposal because it emphasizes prevention instead of criminalization. She stated that patients are usually the perpetrators of violence against healthcare workers, and they are criminalized for it when they should not be. She said that many patients become violent because they are mentally unstable, suffering from addiction, experiencing side effects to medication, or other conditions that are beyond their control. She stated that locking up more mentally ill patients is not the answer.

**Katie Roehmer, CNA**, stated that the proposal regarding workplace violence prevention in healthcare requires employers to have effective procedures for involving employees in the development, implementation, and review of the workplace violence prevention plan. She said that workers are on the front lines and know the true risks that they face every day on the job, and without their input, crucial aspects of the workplace violence prevention plan may be overlooked for an employer's ease or convenience. This proposal will ensure that the true experts on what happens are consulted. She stated that the requirements regarding the violent incident logs emphasize employee involvement and give employees the opportunity to document their perspective when incidents occur, as well as describe hazards that exist. This is crucial to ensuring that the same mistakes are not repeated again. She asked the Board to approve this proposal.

**Sherri Stoddard, CNA**, stated that the proposal regarding workplace violence prevention in healthcare emphasizes prevention over criminalization by requiring the following:

- It requires employers to develop effective systems for communication about workplace violence hazards, such as those between coworkers, across shifts and units, and between paramedics and law enforcement. This will ensure that important information does not fall between the cracks and will allow employers to take steps to prevent acts of violence from occurring.
- It requires employers to identify and evaluate environmental risk factors for each individual facility, unit, service, or operation, and to address them using engineering and work practice controls to mitigate or eliminate hazards by removing sight barriers, installing alarm systems, and securing items that could be used as weapons.
- It requires employers to ensure that they have sufficient staff trained and available to address violent incidents when they occur, including a sufficient number of security personnel.
- It requires employers to implement procedures to assess visitors and identify patient-specific risk factors that could lead to violence, such as a patient's mental status, medication status, history of violence, and any other disruptive, aggressive, harassing, or threatening behavior displayed by a patient. **Allison Welch, CNA**, echoed this comment.

**Allison Welch, CNA**, stated that the proposal regarding workplace violence prevention in healthcare will implement a broad definition of workplace violence that incorporates actual acts of violence, as well as the threat of violence and the use of a weapon, regardless of whether or not an employee is injured. She said that the threat of physical force or use of a dangerous weapon can have a real and lasting impact on employees, including psychological trauma and stress, so employers need to be held accountable for addressing these hazards. She also stated that this proposal does not ignore harassment or intimidation.

**Brandy Welch, Registered Nurse at a children's hospital**, stated that she was injured last year by an aggressive patient who attempted to throw a chair at her. She injured her right arm while trying to stop him from throwing the chair, and as a result, she developed tendonitis in her arm. She said that tendonitis makes it difficult to do daily tasks and her work, and it is an injury that will be with her for many years to come. She also no longer feels safe at work. She said that the proposal regarding workplace violence prevention in healthcare could have prevented her from being injured because the engineering controls in the proposal might have required her facility to affix large furniture to the floor to prevent them from being used as weapons. She said that this proposal will require employers to train their employees on how to handle and de-escalate workplace violence, as well as require employers to seek employee input regarding the workplace violence prevention plan. She said that there is currently only one option available to control violent patients: putting restraints on them. However, putting restraints on a patient traumatizes the patient and often makes their behavior worse. She asked the Board to approve the proposal for workplace violence prevention in healthcare.

**Paula Vegan, CNA**, stated that the fear of not being prepared to deal with workplace violence situations when they arise is real for healthcare workers, and management often considers training to be an afterthought when it comes to health and safety. She said that the training requirements in the proposal regarding workplace violence prevention in healthcare are the best way to ensure that everyone is prepared. She stated that the training requirements emphasize preventive measures such as the following:

- How to recognize the potential for violence.
- How to counteract factors that can lead to the escalation of violence.
- When and how to seek assistance.
- Strategies to avoid physical harm.

**Millicent Borlan, CNA**, stated that healthcare workers face an unacceptable level of workplace violence at their jobs. She said that workplace violence can lead to injury, psychological trauma, time off of work, and fear and insecurity while at work. She said that employers are unprepared to handle workplace violence incidents and are unwilling to take steps to prevent it from happening. She asked the Board to approve the proposal regarding workplace violence prevention in healthcare so that the workplace violence epidemic can be curbed.

**Joan Silva, CNA**, stated that her hospital's administration hired a full-time security guard in 2014, but only after the hospital administration received a death threat. She said that before that, the administration felt that hiring a security guard was too expensive. The full-time security guard sits in the emergency room lobby and monitors the security cameras while another part-time security guard works from 3 a.m. to 7 a.m. monitoring the rest of the facility and parking lots. She stated that these guards are not trained in non-violent crisis intervention or de-escalation techniques, and they are not allowed to touch patients or visitors. She also said that when nurses need help, they must call the sheriff or the highway patrol because they don't have a police department. She stated that the proposal regarding workplace violence prevention in healthcare is needed to help employers develop policies and training to keep workers and patients safe.

**Yupa Assawasunsant, CNA**, stated that a supervisor harassed, stalked, and intimidated her before throwing a bloody stool sheet across her face. She reported the incident to the management, but instead of getting disciplined, the supervisor was promoted. She also said that she has had to work with combative patients and has never gotten any training on how to protect herself against violent patients. She asked the Board to approve the proposal regarding workplace violence prevention in healthcare.

**Gail Bautiste, SEIU Local 121 RN**, stated that her organization supports this proposal and would like for the Board to approve it, but there are some concerns regarding online training that will need to be addressed in the future:

- Employers currently require online training to be done during work hours while also providing patient care. These things cannot be done at the same time. Even if employees do get time to do the training, they are constantly interrupted, which can affect the employee's ability to focus on the training content.
- Online training is not interactive. It gives the employee the name and phone number of someone to call to answer their questions, but that person may not respond right away, if they respond at all. It is better for employees to have interactive training so that their questions can be answered right away.

**Rita Lewis, San Quentin State Prison and SEIU Nurse Alliance**, stated that she is disappointed that the Department of Corrections did not participate in the process to develop the proposal regarding workplace violence prevention in healthcare, but she is hopeful that the 30 correctional facilities around the state will be expected to meet or exceed the requirements listed in it, and that SEIU will be included in the monitoring process. She said that she feels proper monitoring of incidents, following up with everyone involved, and doing a root cause analysis following the incident will prevent these incidents from happening again in the future. She asked the Board to adopt the proposal today.

**Elsa Monroe, Registered Nurse in the California Department of Corrections**, stated that although healthcare workers in the Department of Corrections are not included in the proposal regarding workplace violence prevention in healthcare, they do urge the Board to approve the proposal, but to not forget the healthcare workers who work in Corrections. She said that a survey was conducted in November of 2011, and in one 7-day period, nearly 1 in 10 emergency room nurses experienced physical violence. She stated that healthcare workers in Corrections often perform the same tasks on their patients as those who work in emergency rooms, but they treat a much higher number of violent and resistant patients than those who work in emergency rooms.

**Michael Musser, California Teachers Association**, stated that his organization supports the proposal for workplace violence prevention in healthcare. He said that it will provide protection for healthcare workers on school campuses. He also stated that his organization is looking forward to starting the process to develop a proposal to protect all California workers from workplace violence.

The following individuals also commented in support of the proposal regarding workplace violence prevention in healthcare:

- **Valerie Verity-Mock, CNA**
- **Hai Chin Chia, Registered Nurse**
- **Ingela Dahlgren, SEIU Nurse Alliance**
- **Allah Hernandez, SEIU California**
- **Kimberly Rosenberger, SEIU, on behalf of Dr. Richard Pan**
- **Mark, Long Term Care Facility Worker in Oakland**
- **Mark Catlin, SEIU**
- **Kathy Hughes, SEIU Local 121 RN**
- **Sasha Cutler, San Francisco General Hospital**

**James Pierson, California Ambulance Association**, stated that there was no collaboration with the first responder industry when the proposal regarding workplace violence prevention in healthcare was developed. He asked the Board to remove the term in the proposal regarding “emergency medical services and medical transport, including these services when provided by firefighters and other emergency responders”. He said that removing this term from the proposal will not impede the language that protects other healthcare workers, but will allow more work to be done on the parts that pertain to first responders. He stated that the language pertaining to first responders needs to be further clarified.

**Gail Blanchard-Saiger, California Hospital Association**, stated that her organization is not opposed to the proposal regarding workplace violence prevention in healthcare, but they do have some concerns about putting it into operation that should be addressed. She asked the Division and the Board to commit to working on these issues before the proposal is finalized because they will make it much more difficult to implement these regulations if they are not addressed.

- Her organization is concerned about the limitation of the scope to exclude medical office buildings and clinics. There is no rational basis for excluding these facilities. Hospital-based facilities will be covered under the regulation while non-hospital based facilities will not be covered, even though they provide the same services. Employees in each of these facilities will be treated differently under the regulation, even though they are exposed to the same workplace violence risks. It is important that medical office buildings and clinics are covered under this regulation because violence in stand-alone and urgent care clinics is increasing.
- Regarding the training obligations listed in the proposal, the Division’s interpretation is that every employee who crosses the threshold, regardless of who their employer is, must be trained on the workplace violence prevention plan. There is no way for employers to do that. If this proposal is approved, a cost benefit analysis must be done to show if there is a cost benefit to implementing this, and who needs to be trained.
- There is no provision in the proposal that recognizes the training that has already been provided by some employers. The training will only be recognized if it is conducted within one year following the effective date. Some hospitals have already begun conducting training that is compliant with this regulation, but if this regulation passes, that training will not be recognized. Some facilities have thousands of employees that need to be trained, so they needed to start early, and this proposal needs to recognize the compliant training that has already taken place.
- The provision regarding reporting needs to be removed and worked on further. There are technical challenges with the reporting system that the Division has developed. There are things that still need to be determined, such as what data is collected, how it is collected, how it is used, and how it will be reported on the Division’s website. It is premature to include this provision in the regulation until these issues have been addressed.

- Her organization is concerned about the provision regarding patient-specific risk factors because it is ambiguous as to whether or not the risk factors are patient-specific or based on a patient's diagnosis. This may result in patients with certain diagnoses being automatically labeled as a higher risk for violence, which may or may not be true. The patient-specific risk factors should be based on the patient's behavioral indicators, not their diagnosis.
- Her organization was not consulted about the cost impact, and as a result, the cost impact of this proposal is understated in the Final Statement of Reasons (FSOR). This is an unfunded mandate that needs to be clear regarding the actual costs of this proposal. The FSOR includes the following estimates that are understated:
  - It will only take 80 hours of administrative time to implement the requirements during the first year of the plan, including the time that it will take to develop the training. Hospitals that are part of her organization have already invested thousands of hours to do this.
  - It will only take 40 hours per year to maintain the workplace violence prevention plan and 20 hours per year to fulfill the reporting requirements listed in the proposal. Her organization feels that these estimates are too low.
  - Employees will only need 1 hour of training on the workplace violence prevention plan, and it will only cost \$25 per hour. Her organization feels that \$25 per hour is an understated cost, and 1 hour of training is not sufficient. Her organization feels that proper training can take 2 to 4 hours, and up to 8 hours in some cases.
  - This proposal will reduce workplace violence by 50%. Her organization feels that this is too optimistic.

Mr. Thomas called for a break at 11:50 a.m. and reconvened the meeting at 12:05 p.m.

Mr. Thomas stated that one of the Board Members has to leave the meeting early, so the public meeting portion of the meeting will resume after the business meeting.

## **II. BUSINESS MEETING**

Mr. Thomas called the Business Meeting of the Board to order at 12:05 p.m., October 20, 2016, in the Auditorium of the Harris State Building, Oakland, California.

### **A. PROPOSED SAFETY ORDERS FOR ADOPTION**

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Section 3273  
**Working Area Catwalk Exception**

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is now ready for the Board's adoption.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock that the Board adopt the proposal.

A roll call was taken, and all members present voted “aye.” The motion passed.

2. TITLE 8:        **GENERAL INDUSTRY SAFETY ORDERS**  
New Section 3342  
**Workplace Violence Prevention in Health Care**

Ms. Sum summarized the history and purpose of the proposal and indicated that the proposal is now ready for the Board’s adoption.

MOTION

A motion was made by Ms. Smisko and seconded by Ms. Stock that the Board adopt the proposal.

**Mr. Harrison** stated that the economic impact analysis for this proposal seemed to lack sustenance and leaves a lot of unanswered questions. He said that he is not 100% comfortable with that, but he does not believe the proposal should be discarded because of that. He stated that he will support this proposal.

**Ms. Stock** stated that she is excited to be part of this historic vote, and she is glad to see that California will serve as a model in helping to prevent workplace violence in healthcare. She said that this proposal is not perfect, but the Division and Board staff will continue to work on the areas that need improvement, and she urged the Board to vote “aye” on this proposal. She also stated that this proposal will be an excellent blueprint on which to begin working on a proposal that will address workplace violence in all California workplaces. **Ms. Quinlan and Ms. Smisko** echoed Ms. Stock’s comments.

**Ms. Quinlan** urged the Board to vote “aye” on this proposal and stated that it needs to be expanded to include the clinics and medical office buildings that were removed because they experience a lot of violence too.

**Mr. Thomas** stated that this proposal is needed because unnecessary threats and actions of violence continue to happen. He thanked the unions, healthcare workers, and other stakeholders for their participation in the process to develop this proposal.

**Ms. Hart** stated that after today’s vote, the rulemaking package will be finalized for submittal to the Office of Administrative Law (OAL) for its review, but the fiscal impact has not been signed off by the Department of Finance (DOF). She said that DOF’s signoff will be needed before she can sign the declaratory statement in the rulemaking that says the rulemaking is ready for OAL’s review. She stated that the Division is meeting with DOF this week to get this final approval.

A roll call was taken, and all members present voted “aye.” The motion passed.

B. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Daniel Gallet  
**Petition File No. 559**

Petitioner requests the Board amend Title 8, Construction Safety Orders, Section 1541.1.

Ms. Hart summarized the history and purpose of the petition, and stated that the proposed recommendation is to adopt the petition decision to deny the petition.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Quinlan that the Board adopt the proposed decision.

A roll call was taken, and all members present voted “aye.” The motion passed.

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that he was aware of no unresolved legal issues that would prevent the Board from considering all items for adoption on the consent calendar, with the exception of item G regarding OSHSB File No. 16-V-074, Metalco Inc. He said that item G should be removed from the consent calendar because it is not ready for the Board to vote on it.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock to adopt the consent calendar as modified.

A roll call was taken, and all members present voted “aye.” The motion passed.

D. OTHER

1. Division Update on Possible Rulemakings and Advisory Committees

Mr. Berg read the Division’s written update aloud [Please see the file copy of the Board packet to view the Division’s written update]. He said that the date for the first advisory committee meeting regarding sexually transmitted infections has been changed from November 10, 2016 to January 31, 2017.

2. Legislative Update

Mr. Healy provided updates on the following bills:

- AB 1050: This bill was vetoed by the Governor on September 27. The veto message from the Governor is listed in the Board packet.
- AB 2272: This bill was vetoed by the Governor on September 30. **Ms. Hart** stated that since the veto message from the Governor was not listed in the Board packet, it will be provided to the Board Members. She said that the veto message is very important because it expresses the Board's responsibility to be able to consider and make decisions based on its own thorough evaluations, instead of being mandated to do specific things.
- SB 1167: This bill passed the Assembly and Senate and was signed by the Governor on September 29. It pertains to indoor heat illness and requires the Division to develop, and the Board to adopt, a proposal that addresses indoor heat illness. This bill also allows the Division and the Board to limit the scope of the regulation to certain industries if appropriate.

### 3. Executive Officer's Report

Ms. Hart stated that an advisory committee will be convened on December 14 in Sacramento to discuss the silica rule that was adopted last month, and to review the Construction Safety Orders so that other cutting methods can be considered. She said that this process will need to move quickly, since the effective date for the federal OSHA silica standard is June 23, 2017.

Ms. Hart stated that the 2017 Board Meeting schedule will be released next month. She said that the meetings will continue to be held on the third Thursday of every month except for September. She said that there is a Jewish holiday on the third Thursday in September 2017, so the meeting will be moved to either the second or fourth Thursday in September.

### 4. Future Agenda Items

No other future agenda items were suggested.

#### A. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 12:37 p.m.

### III. CONTINUATION OF THE PUBLIC MEETING

The public meeting resumed at 12:37 p.m.

**Dan Leacox, Leacox & Associates, representing the National Elevator Industry, Inc.**, stated that machine-room-less (MRL) elevator sales have risen from 14% in 2005 to 52% in 2015, while the rates of lost time accidents and reportable accidents, as compared to total hours worked, have fallen to 29% and 37% of their former values. He said that this safety trend has occurred because the design of the machine-room-less elevators has improved. He

said that more tests are done electronically with a handheld computer than mechanically with a high energy tool or other dangerous means. He also stated that machine-room-less elevators are designed for better serviceability of elevator components. He said that car tops on machine room elevators are crowded with equipment that must be maintained, in addition to equipment in the hoistway that must be maintained on the car top. He stated that underslung MRL elevators have obstruction-free car tops with clear platforms and work surfaces, and overslung MRL elevators have very few obstructions on the car top. He said that newer models of MRL elevator car tops have rails on them. These things provide a better working environment for components in the hoistway and easier serviceability than older models.

Mr. Leacox stated that machine rooms are not sanctuaries of safety. He said that it is difficult to move heavy equipment up and down stairs to get it into and out of a machine room, and doing this can injure a mechanic. He stated that having the machine in the hoistway allows a mechanic to hoist it down to the car top and move it out of the elevator through the doors. He also said that having the machine in the hoistway allows the manufacturer to control the design of the hoistway and the machine and make provisions for easier work processes such as hoisting the machine. He stated that the hoistway offers a safety domain that is exclusive to the manufacturer and is predictable in the contemplation of standard work practices.

Mr. Leacox stated that standard work processes greatly facilitate training and consistent use of work safety practices. He said that uniformity of elevator codes is very important because code variations between jurisdictions create confusion. He stated that the Division should consider this as it continues to work on a rulemaking that opposes MRL elevators. He said that his organization feels it would be best to continue following the ASME code.

**Kevin Quintero, Treasure Island Media and Free Speech Coalition (FSC)**, stated that the adult film industry has successfully regulated itself and protected workers from injury, threats, and harassment. He said that Petition 560 seeks to expand upon these self-regulations tactics that have proven to be very successful in preventing the transmission of HIV and other serious sexually transmitted infections (STI's) in the industry. He asked the Board to adopt Petition 560. He also said that the FSC is looking forward to participating in the advisory committee regarding this on January 31, 2017.

**Ruckus, Adult Film Performer**, stated that performers should have a choice when it comes to protection against STI's. He said that he stands by the industry's current testing system that is highly sensitive and very effective. He stated that Proposition 60 will strip performers of their rights to bodily autonomy and set a dangerous precedent that limits their basic human right to make an informed consensual decision regarding their own bodies. He said that Petition 560 is an excellent alternative to Proposition 60.

**Jiz Lee, Adult Film Performer**, stated that she is thankful for the work that has been done by the Adult Performer Advocacy Committee (APAC) and the FSC regarding Petition 560. She said that the AIDS Healthcare Foundation (AHF) does not talk to, or work with, performers to develop regulations that address performers' needs. She stated that she is looking forward to the advisory committee meeting on January 31 so that she, APAC, and the FSC can work with the Division to develop regulations to protect adult film workers from sexually transmitted infections.

**Adam Cohen, AIDS Healthcare Foundation (AHF)**, stated that his organization hopes that the advisory committee scheduled for January 31, 2017 will be the only advisory committee that will be held regarding Petition 560 because there is no new information to discuss, except for the fact that Petition 560 will allow performers to take antibiotics prior to performing in order to prevent transmission of STI's. He said that it is dangerous for performers to take antibiotics prior to performing in order to prevent transmission of STI's because many STI's, such as gonorrhea, are already very resistant to antibiotics. He stated that many of the other things mentioned in Petition 560 were proposed during the advisory committees that took place following the adoption of Petition 513 and do not need to be discussed again. He said that the Division has been listening to performers' voices ever since the advisory committee process began for Petition 513. He stated that the Division's website shows that at these advisory committee meetings, performers have been well represented and their voices are being heard.

**Janice Griffith, Adult Film Performer**, stated that AHF is not a stakeholder in the adult film industry, and therefore, it does not know how to best protect performers from STI's. She said that Petition 560 contains all of the regulations that the industry has developed and used to regulate itself and takes into account what performers need as far as regulations go. She stated that it also allows performers to have absolute control over which effective method of prevention they choose to use to best protect their personal and sexual health. She said that pre-exposure prophylaxis (PREP) is an effective tool to use to prevent STI's. She stated that the current bloodborne pathogen protection standard does not apply to adult film workers because adult film workers know that they are going to come into contact with another person's body fluids during their work, and they are consenting adults who are willing to take on that risk.

A. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 12:56 p.m.