

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
Website address www.dir.ca.gov/oshsb



**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
December 17, 2015
Sacramento, 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 10:00 a.m., December 17, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

ATTENDANCE

Board Members Present

Dave Thomas
Dr. Robert Blink
David Harrison
Patty Quinlan
John Sacco
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
Eric Berg, Acting Deputy Chief of Research
and Standards

Others Present

Dale White, Sutter Health	Ed Howard, Adventist Health
Marilyn Scheid, NNA/CNA	Katy Roemer, CNA
Kathy Dennis, CNA	Regem Corpuz, So Cal COSH
Laurel Goodreau, Pomona Valley Med. Ctr.	Summer Singh, CNA
Pascal Wilburn, CNA	Daryl Berreye, Staff RN
Rahat S. Khan, RN	Seyma Anajafi, CNA
Joan Romero, RN	Carly Wilkinson, CNA

Joyce Punton, CNA
Edita Pedic, CNA
Rita Lewis, SEIU Nurse Alliance
Tina Abraham Karukayil, SEIU 121 RN
Marcia Santini, CNA
L. Brandt, CNA
Helen Dango, CNA
Sandra Martinez, CNA
Molly McCarty, CNA
Jessica Cruz, CNA
Ron Weist, CNA
Teresa Mack, CNA
Susan Smuth, CNA
Jennifer Moore, Sutter Roseville
Nguyet Marquez, CNA
Mercedes Zertuche, CNA
Renee Altaffer, CNA
Stephanie Cline, CNA
Even Michael Quitasol, CNA
Caarito Gutierrez, UCLA/CNA
Luz B. Sagun, Villa/CNA
Valoria Russell-Benson, SEIU Local 121
RN
Angela Mayfield, UCI Medical Center
Angela Kent, CNA
Mike Unimuke, CNA
Amy Murnki, CNA
Lois Richardson, CA Hospital Association
Amalia Neidhardt, DOSH
Mark Catlin, SEIU
Diane McClure, CNA
John Consoli
Grace Corse, SEIU 721 Nurse Alliance
Maria Cristina Sandere, SEIU 721
Mark Stone, Alliant Insurance Services
Katherine Berberian
Amy Glass, CNA
Julie Mello
Yvonne Choong, CA Medical Association
Cynthia Landry, SEIU Local 1021
Maggie O'Buren
Michael Musser, CA Teachers Association
Eliana Kaemowitz, SEIU CA
Norlissa Cooper, SEIU 1021
Paul Leary, Fed OSHA
Mary Cudney, CNA
David Jones, AGC of California
Dennis King, SEIU 121 RN
Jean Jurschak, CNA
Becky Cherry-May, CNA
Helen Christon, SEIU 121 RN
Laurie Rambo, Palomar Health
Erik Cell, CNA
Irma Martin, LAMC
Debbie Cuaresma, CNA
Luana Augusta-Morris, CNA
Trian Debias, CNA
Carol Ann Kitzak, CNA
Quichè Itzà Cruz Rubalcava, CNA
Jen Yeoh, CNA
Andrea Seils, Sutter Roseville
Sherry Bruce, CNA
Rosemary Nowden, CNA
Javita Dominguez, CNA
Valoree Albee, CNA
Michael Quitasol, CNA
Aldrin Valdez, UCLA/PR/CNA
Lily Liggyon, Villa
Charleese Vicente, Palomar Health Villa
Pomerado
Emmanuel Balicanto, Palomar Health Villa
Pomerado
Cherr Dron, CNA
Marti Fisher, CalChamber
Andrew Vergowven, CNA
Cheri Hummel, CA Hospital Association
Gayle Batiste, SEIU 121 RN
Kristie Elton, University of California
May Louly, CNA
Dorlah Lawrence, SEIU Nurse Alliance
Carol Carroll, SEIU 721
Laurel Mildred, Mildred Consulting
Gary Passmore, CCS
Malinda Markowitz, CNA
Tamara Million, CNA
Dan Leacox, Greenberg Traurig
Alysabeth Alexander, SEIU 1021
Paul D. White, Securitas Healthcare Division
Joan Marie Reker
Ken Smith
Cathy Dickey, CNA
David Shiraishi, Fed OSHA
Karen Elwood, CNA
Bill Taylor, PASMA
Jeannie King, SEIU 121 RN
Aldrin Valdez, RN

Sheri Hinkle, SEIU
Pierre A. Ungaro, CNA
Shirley Tom, CNA
Stephanie Fleming, CNA
Corinne Wilson, CNA
Kevin Melton, Pride Industries
Heather Rowe, CSATF
John Robinson, CAPA
Kevin Bland, Ogletree Deakins
Erin Silva, Pride Industries
Edward and Mieke Olswang, CAN/NNU
Bruce Wick, CALPASC
Virginia Licerio, Nurse
Bryan Little, CA Farm Bureau
Elizabeth Treanor, PRR
Juliana Rather, CNA
Maria Elena Diaz, SEIU 121 RN
Janina Sukhu, SEIU 121

Kumani Armstrong, DIR Office of the
Director
Liwen Mellinger, CNA
Kimberly Mackay, CNA
Jennifer Bales, American Medical Response
Milton Maristela, CNA
Isela Martinez, Unite Here Local 49
Athena Watkins, CNA
Michael Laperche, Pride Industries
Charito Gutierrez, UCLA
John Youngdahl, SEIU CA
Suzi Goldmacher, Worksafe
Dorie Snow, CNA
Mitch Seaman, CA Labor Federation
Grace Balleza, CNA
Lee Kauek, CNA
Gary Cooper, AMN Healthcare

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.

Kevin Bland, Ogletree Deakins, thanked the Board for its hard work and dedication during 2015.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:07 a.m.

II. PUBLIC HEARING

A. PUBLIC HEARING ITEMS

Mr. Thomas called the Public Hearing of the Board to order at 10:07 a.m., December 17, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

Mr. Thomas opened the Public Hearing and introduced the first item noticed for public hearing.

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

Mr. Berg summarized the history and purpose of the proposal and indicated that the proposal is ready for the Board's consideration and the public's comment.

Bonnie Castillo, Associate Executive Director, CA Nurses Association (CNA), stated that her organization strongly supports the proposed regulations, but there are some adjustments that need to be made. She said that her organization supports the wide scope and application that this proposal provides, as well as the inclusion of threats, the emphasis on prevention of workplace violence instead of criminalization, and the requirements for employee involvement in developing and implementing a workplace violence prevention plan and comprehensive training requirements. She stated that the proposal needs to extend the reporting requirements to all healthcare settings in order to build on the strength of the regulations and provide protections to all healthcare workers regardless of the setting that they work in. **Suzi Goldmacher, Worksafe**, echoed this comment. Ms. Castillo said that there is an epidemic of violence occurring against healthcare workers, and the procedures that employers currently have in place are not enough to prevent violent acts from occurring, or to respond properly when they do occur. She stated the healthcare workers cannot wait any longer for the protection that they deserve, and it is time to hold employers accountable for preventing and mitigating workplace violence. **Maria Cristina Sandere, Licensed Clinical Social Worker and member of SEIU 721**, echoed this comment. Ms. Castillo said that the regulations implement and build upon the strong protections that her organization fought so hard for in SB 1299, and she asked the Division to move this proposal forward quickly.

Katie Rohmer, Kaiser RN and member of CNA, stated that she strongly supports the proposed broad scope of the regulation that covers workers in all healthcare settings, including outpatient medical clinics, home healthcare and home-based hospice, paramedics and EMS services, drug treatment centers, and ancillary healthcare operations. She said that the regulations will implement a broad definition of workplace violence that incorporates actual acts of violence, as well as threats of violence and use of a dangerous weapon, regardless of whether or not an employee is injured. She stated that the threat of violence has very real impacts on healthcare workers, including psychological trauma and stress.

Malinda Markowitz, RN at Good Samaritan Hospital and President of CNA, stated that she is glad that the proposed regulations emphasize prevention of workplace violence instead of criminalizing patients. She said that patients are usually the perpetrators of violence against healthcare workers, but they should not be criminalized because they suffer from mental instability, addiction, side effects from medication, and other things that are beyond their control. She stated that locking up mentally ill patients is not the answer. She stated that the proposed regulations require employers to develop robust communication systems to communicate workplace violence hazards between co-workers, across shifts, between employees, paramedics and receiving facilities, EMS, and law enforcement. She said that this will ensure that important information is communicated and helps reduce the potential for violence. She stated that it requires employers to have assessment procedures in place to identify, evaluate, and correct environmental risks for each workplace. She said that it also requires employers to use engineering controls and work practices to mitigate or eliminate hazards by removing visual barriers, installing alarms and surveillance systems, and securing objects that can be used as weapons. She stated that the proposed regulations also emphasize that employers must have a sufficient number of staff trained and available to respond to potential workplace violence incidents, including sufficient security staff. She said that

understaffing and isolation can leave employees vulnerable to workplace violence. She stated that the proposed regulations also require employers to establish procedures to assess visitors and identify potential risk factors in patients that could lead to violence, such as mental status, medication status, history of violence, or any other aggressive, disruptive behavior displayed by the patient. She said that this proposal will help prevent violence from escalating into physical violence.

Seyma Anajafi, RN at Long Beach Memorial and member of CNA, stated that this proposal will require employers to get the active involvement of employees in all stages of the workplace violence prevention plan. She said that employees have a right to be involved in identifying and evaluating workplace violence hazards, including environmental hazards and patient-specific risk factors, and determining the best way to address them. She stated that this proposal will require employers to obtain active involvement of employees in developing and implementing the workplace violence prevention plan, as well as developing and implementing training for the plan and during the mandatory annual review of the plan. She said that the mandatory annual review requires employers to evaluate the effectiveness of the workplace violence prevention plan and look for ways to improve the plan. She stated that employees are the experts in what they deal with, and each setting is unique, so a one-size-fits-all approach to addressing workplace violence may not work. She said that this proposal will ensure that no risk is overlooked and that the employees who face these hazards on a daily basis are involved in the process to address them. She also stated that this proposal will require employers to allow employees to be involved with the violent incident logs, and will require employers to allow employees to complete the necessary parts of the log when a violent incident occurs. She said that this log will allow the employee to describe what happened, as well as the hazard that they faced, so that the situation can be properly addressed.

Kathy Dennis, RN at Mercy General Hospital Sacramento and member of CNA, stated that training is very important to prevent workplace violence, but many employers treat it as an afterthought. She said that the proposal contains thorough and comprehensive training requirements that require employers to provide workplace violence prevention training to all employees, including temporary workers, security guards, and peace officers. She stated that when workplace violence episodes occur, it is important for all employees to be on the same page, and breakdowns in communication can lead to someone getting hurt. **Irma Alcantar** echoed this comment. Ms. Dennis said that the proposal requires employers to get the active involvement of employees in developing and implementing workplace violence prevention training, conducting training sessions, and reviewing and revising training plans, since employees know firsthand the risks and hazards that they face. She stated that requiring employers to involve employees in developing and implementing workplace violence prevention plans and training ensures that important elements will not be overlooked. She said that the proposal also requires the training to include opportunities for interactive questions and answers with people who are knowledgeable about the workplace violence prevention plan, but it should go further by requiring security personnel to be present at every training session to interact with employees, practice drills, and answer questions. She stated that the proposal also requires that training sessions emphasize preventative measures, such as:

- How to recognize the potential for violence.
- How to counteract factors that contribute to the escalation of violence.

- When and how to seek assistance.
- Strategies to avoid physical harm.

She also said that employees who are trained to respond to workplace violence alerts must be specifically trained on the following elements:

- How to recognize aggression in patients and visitors.
- How to use verbal and physical maneuvers to diffuse and prevent violent behavior.
- Various restraining techniques, and employees must be given an opportunity to practice these techniques.

She stated that the training required by this proposal will prepare employees to deal with workplace violence when it occurs.

Marsha Santini, ER Nurse at Ronald Reagan UCLA Medical Center and member of CNA, stated that her organizations support the reporting requirements in subsection (g) for general acute care hospitals, acute psychiatric hospitals, and special hospitals, but they are concerned because these requirements do not apply to all healthcare settings. She said that several of the exempt facilities have fewer administrative and environmental controls than those found in hospitals, leaving workers vulnerable to workplace violence. She also stated that retail healthcare clinics are a relatively new idea, so not much is known about the workplace violence that employees in these setting experience. She said that it is important to know what the risk is for workplace violence for these workers, and the only way to find that out is through mandated reporting of workplace violence incidents. She stated that these kinds of settings can also leave employees vulnerable to workplace violence because these locations can be accessed by any member of the public, they have large amounts of cash on hand, and some have on-site pharmacies that dispense highly-sought-after drugs, such as Oxycontin and Vicodin, which can invite criminal activity, such as theft, robbery, and shoplifting, into their workplace.

Dr. Richard Pan, State Senator, stated that this proposal is a major step forward in ensuring a safe workplace for healthcare workers. He said that healthcare workers deserve to be safe at their jobs, and when there is a lack of safety, it affects patient care. He asked the Board to consider the effects of psychological violence and threats on employees, in addition to physical violence. **Regem Corpuz, Southern California Coalition for Occupational Safety and Health (So. Cal COSH)**, echoed this comment.

John Youngdahl, SEIU California, stated that violence against healthcare workers can take on several forms, including physical, emotional, sexual, and verbal assaults. He said that social workers and healthcare workers make up 70% of the workplace violence that occurs annually. He asked the Division to remove the word “physical” as a qualifier for determining injury that occurs due to workplace violence. He also stated that social workers are the second most likely group of workers to be targeted for workplace violence. He asked the Division to add the phrase “emergency, including safe areas and evacuation plans” to address this.

Elizabeth Treanor, Phylmar Regulatory Roundtable, stated that her organization is concerned about the inclusion of employer on-site health clinics in this regulation. She said

that these clinics are not open to the public and can only be accessed by employees. She stated that there are no examples to show that workplace violence occurs at these clinics. She said that there are limited resources available for workplace safety and health programs, and for settings such as employer on-site health clinics that have a very low risk for workplace violence, it would be better to spend those resources on addressing the risks that exist for the employees who work at that workplace. **Bruce Wick, CALPASC**, echoed Ms. Treanor's comments.

John Robinson, CA Attractions and Parks Association, stated that the proposal is too broadly constructed, and further clarification and distinction is needed to distinguish ancillary healthcare operations, such as first aid providers at amusement parks, from other facilities that offer further care and are more likely to experience workplace violence. He said that amusement park patrons are screened by security as they enter the park, and any patrons that might cause a problem are dealt with accordingly or removed from the park. He stated that the parks only provide basic first aid services, and if further services are needed, the patron is referred or transported to a licensed healthcare facility. He asked the Division to provide a better definition of what an ancillary healthcare facility is so that facilities, such as amusement parks, which provide basic first aid services are not considered to be the same as a hospital or acute care facility. He stated that he suggested some language in his written comments to address that [Please see the file copy of the Board packet to view this written comment].

Amy Glass, RN at Kaiser Modesto and member of CNA, stated that this proposal will implement a broad definition of workplace violence which incorporates actual acts of violence, as well as threats of violence, regardless of whether or not an employee sustains an injury. She said that the threat of physical force or use of a dangerous weapon can have a serious and harmful impact on employees, such as psychological trauma and stress, and this proposal holds employers accountable for addressing it. She also stated that this proposal addresses harassment and intimidation by having procedures in place to assess visitors and identify patient-specific risk factors, including threatening, disruptive, aggressive, harassing, or intimidating behavior, before it escalates into actual violence.

Monica Aleman, UNAC/UHCP, stated that this regulation is a good start, but is still a work in progress. She said that as new threats emerge, new training and resources must also emerge. She stated that the definition for workplace violence needs to include harassment, intimidation, or other threatening or disruptive behavior that causes a person to fear for his or her safety. **Regem Corpuz, So. Cal COSH**, echoed this comment. Ms. Aleman said that the workplace violence prevention plan should allow union members to participate in the design, training, implementation, and compliance process, and the ongoing training should address new threats, as well as offer emergency drills and evacuation plans. She also stated that the regulation should require employers to maintain records of workplace violence for at least 5 to 10 years.

Susie Ingall, Staff Nurse at St. John's Regional Medical Center in Oxnard, and member of SEIU 121, stated that at her workplace, the violence starts off as verbal and then escalates to physical very quickly. **Suzi Goldmacher, Worksafe**, echoed this comment. Ms. Ingall said that the staff at her workplace have not received any training regarding workplace violence prevention, and there have been several staffing cutbacks. She stated that this regulation is necessary because it recognizes that threats and verbal violence can escalate quickly into

physical violence if it is not addressed promptly. She said that this proposal will require managers to maintain adequate staffing levels and provide workplace violence prevention training for employees so that workers will be properly protected.

Richard Webb, RN at Allview Medical Center, stated that he works with psychiatric patients who are the most violent and dangerous, and they are usually short staffed at his workplace. He said that his workplace needs to have a sheriff at the unit at all times, but they do not have one. He said that when a workplace violence incident occurred recently, he and his co-workers reported it to management, and the management responded by bullying them about it. He stated that bullying from management does not help to create a safe working environment. He said that this regulation will allow employees to work with management to help create a safe working environment. **Irma Alcantar** echoed Mr. Webb's comments.

Alysabeth Alexander, SEIU Local 1021, stated that healthcare workers suffer a lot of psychological stress and PTSD as a result of workplace violence. She said that this violence can come from co-workers, patients, or supervisors. She stated that workers are often told by supervisors not to report incidents of workplace violence, because if they do, it will do more harm than good and will put the facility at greater risk. She said that as a result of this type of bullying, many workers end up quitting their jobs or going on disability. She also stated that the current classification system for patients does not reflect the level of care that is needed, which makes staffing ratios inadequate. She said that staffing ratios do not lead to more hiring, and as a result, employees sometimes end up working mandatory overtime, which can lead to sleep deprivation and mistakes on the job.

Gayle Batiste, SEIU Local 121 RN, stated that the violent incident log that is listed in this proposal will allow employers to track incidents and establish a review process and action plan to address workplace violence that occurs. She asked the Division to add the following recommendations to the definition of workplace violence that is listed in the proposal:

- Warnings of job-related disciplinary actions.
- Unreasonable supervisory actions.
- Statements that point to an intent to inflict harm.

She said that intimidation and disruptive behaviors often come from officials in power, and verbal and psychological harm are not an HR issue. She also stated that workers who experience workplace violence can be affected by it to the point that they make mistakes at their job, which could be costly or deadly. She asked the Division to move this proposal forward to protect healthcare workers from workplace violence.

Katherine Hughes, SEIU Local 121 RN and Nurse Alliance of CA, thanked the Division for its work on this proposal and stated that it will go far in protecting healthcare workers from workplace violence. She said that her organization would like to see the two data elements regarding verbal and physical intimidation put back into the violent incident log.

Mitch Seaman, CA Labor Federation, stated that there is clear evidence that the regulations that are currently in place to address workplace violence prevention in healthcare are not working, so this standard is needed right now. He said that it gives employers who are already complying some tools to further improve what they are already doing to address workplace violence, and it forces non-compliant employers to start complying. He stated that this is not a

one-size-fits-all framework because it requires employers to seek active employee involvement in developing and implementing the workplace violence prevention plan, and through a variety of ways, employers can use that information to further customize the plan so that it makes sense for their workplace.

Jeannie King, SEIU Local 121 RN, stated that workers in healthcare who experience workplace violence are not given any kind of mental counseling following the incident. She said that mental counseling is very necessary for healthcare workers who experience workplace violence, and her organization would like for the Division to consider adding a provision for that to the proposal.

Paul White, Securitas Healthcare Division, stated that he has a lot of experience in helping healthcare facilities design and implement workplace violence prevention plans. He said that this regulation does a good job of addressing the loopholes in the current law, but it needs to include both law enforcement and security personnel in the notification process when a workplace violence incident occurs that requires outside assistance. He said that he encourages employees to call law enforcement for assistance when necessary, but when they do, they often do not also inform security as to what is happening, and when law enforcement responds, it takes extra time to inform the security staff about what is happening. He stated that he has seen many healthcare facilities have difficulty in getting employees involved in helping to develop and implement workplace violence prevention plans because employees do not show up to participate or the management decides that this will affect their employees' productivity, so they do not follow through. He said that hospitals should be required to make a diligent effort to involve employees in the development, implementation, and training on the workplace violence prevention plan, and employees who have been affected by workplace violence must be involved in that process.

Sue Yell, Social Worker, stated that she is very pleased with this proposal for healthcare workers, and she would like to see it extended to all other workplaces as well. **Michael Musser, CA Teachers Association**, echoed this comment. Ms. Yell asked the Division to consider including public sector workers who work in social services, including social workers, eligibility workers, CPS, and other workers who regularly interact with the public, when it develops a similar standard that will apply to other workplaces. She asked the Division to include threats and intimidation in the proposal, especially those that are inflicted by those in higher authority, including management and supervisors.

Mark Catlin, SEIU, Washington, D.C., asked the Division to continue moving this proposal forward. He said that employers should already have some form of a workplace violence prevention program in place because it is required in their injury and illness prevention plan (IIPP), so they can build on that. He also said that employees working in off-site facilities should not be exempt from this regulation because there have been cases where employees at these facilities have been murdered by family members. He stated that healthcare is becoming more decentralized and is moving further away from hospital and institutional settings, and this is all the more reason why these employees should be included in the regulation.

The following individuals also commented in support of the proposal:

- **Ching, RN at St. Jude Medical Center Fullerton**
- **Regem Corpuz, So. Cal COSH**
- **Maria Cristina Sandere, Licensed Clinical Social Worker and member of SEIU 721**
- **Irma Alcantar**
- **Elsa Monroe, RN and SEIU member, representing RN's at San Quentin State Prison**
- **Grace Corse, SEIU Nurse Alliance and Local 721**
- **Tami Olenik, LA County USC Medical Center**
- **Kathleen Berberian**
- **Jonathan Sully, SEIU Member**
- **Theresa Rutherford, Shop Steward at Laguna Honda Hospital**

Yvonne Choong, CA Medical Association, stated that providing guidance to employers regarding the need for a workplace violence prevention plan, and the elements that should be included in the plan, is a valuable resource, but establishing a regulatory mandate to develop and implement a plan, employee training, and record keeping with highly prescriptive requirements could place a substantial burden on physician practices that could impact patient care. She said that this proposal is a one-size-fits-all approach framework that applies the same to small physician practices as it does to large hospitals. She also stated that the definition of workplace violence that is listed in the proposal could be interpreted very broadly to include conflicts, such as employee conflicts, that do not rise to the level of workplace violence. She said that these incidents would have to be logged in the violent incident log and would take up a lot of time and resources to do so, which creates an administrative burden for the employer. She also stated that because this regulation is very complex, employers will need additional time to implement it. She said that while large healthcare facilities may already have some kind of a workplace violence prevention plan in place, other smaller facilities may not, and they may have additional issues to address, such as leasing office space and physical plan issues, so that they can develop a robust plan that complies with the regulation, and the additional time to do that would be beneficial.

Jedd Hampton, Leading Age CA, stated that his organization is concerned about this regulation because it seems to apply a one-size-fits-all framework to all healthcare facilities that is more suited for larger healthcare facilities. He said that many of the healthcare facilities that will be affected by this regulation are small facilities that are set up as residential healthcare settings in rural areas. He also stated that his organization is concerned about how healthcare facilities will be assessed under this new regulation. **Gary Passmore, Congress of CA Seniors**, echoed Mr. Hampton's comments.

Laurel Mildred, Mildred Consulting, representing 221 adult day health centers in CA, urged the Division to exempt community-based long term service and support (LTSS) programs, including adult day health centers, from this regulation. She said that her organizations are concerned that this regulation extends to community-based LTSS programs, and they feel that this standard was not designed for community-based LTSS settings. She stated that this regulation is fundamentally misaligned with the character mission and

requirements of LTSS settings, and this is probably due to the fact that no LTSS providers or CA Department of Aging representatives were included in the process of developing these regulations. She said that by exempting community-based LTSS programs from this regulation, it will allow stakeholders, providers, and government agencies who oversee LTSS programs to come together and develop workable standards that will prevent workplace violence in community-based LTSS programs while recognizing their unique home- and community-based settings. She stated that LTSS programs that provide healthcare and social service supports are not institutional in character, and therefore, they do not have the same workplace violence concerns, infrastructure, or resources as hospitals, nursing homes, or emergency departments. She said that this proposal brings an institution-type culture to home- and community-based programs, which would put providers of these programs at odds with the federal requirements and guidance issued by the CMS, which could jeopardize their ability to get federal funding for these programs. **Gary Passmore, Congress of CA Seniors**, echoed Ms. Mildred's comments.

Lois Richardson, CA Hospital Association, stated that her organization has three main concerns regarding this proposal:

- Her organization is concerned that the effectiveness of a hospital's workplace violence prevention plan will be measured on whether or not a workplace violence incident occurs. She said that even with workplace violence prevention plans in place, workplace violence will still occur. She stated that her organization believes that hospitals should be held accountable for having a good workplace violence prevention plan in place, along with proper training, but when an incident occurs, the Division should look at the hospital's workplace violence prevention plan instead of automatically concluding that the hospital should be penalized because something occurred.
- Her organization would like to see confirmation in the proposal that allows the employer to retain the discretion to determine appropriate staffing levels, and that a dedicated security staff is not required at all times in every setting, recognizing that other staff would have to be appropriately trained if there is no security staff.
- Her organization is concerned about the short timeframe for developing and implementing workplace violence prevention training. She said that the final version of this regulation will come out in July, but employers must comply by October. She stated that large hospitals that provide multiple types of care may have to develop multiple workplace violence prevention plans to properly suit their needs, and then they must train their thousands of employees on it, and with such a limited timeframe, they may not be able to get it done in time.

Bill Taylor, PASMA, stated that his organization is concerned about the fact that paramedics and firefighters are included in the scope and application of this regulation in Section (a)(1)(D). He said that this will pose significant costs to fire and emergency medical agencies statewide while doing little to prevent workplace violence. He stated that the training component alone will cost them \$14 million because there are 40,000 firefighters and paramedics throughout the state who will have to be trained. He said that it does not make sense to subject firefighters, paramedics, and other first responders to this regulation while

leaving out others, such as police officers, who have a much higher risk of experiencing workplace violence. He also stated that the definition of ancillary healthcare operations is too broad and should not include settings such as nurses working at a first aid station at a convention.

Mr. Thomas called for a break at 12:05 p.m. and reconvened the meeting at 12:15 p.m.

Ms. Smisko stated that violence seems to be a growing problem in our society, and there are many types of violence, and various sources that it comes from, when it comes to workplace violence in healthcare. She said that there is a wide range of healthcare settings, and the key to making this proposal work is to balance the amount of detail that is in the regulation, especially in the sections regarding risk assessment and engineering and administrative controls, to allow enough flexibility to cover the wide variety of settings and situations that healthcare workers experience. She also stated that this proposal will have a potential impact on patient care. She said that its implementation will impact what patients see and feel in a healthcare facility. She stated that the compassion, openness, and fair treatment that is expected from those who work in the healthcare industry could be affected, so that needs to be considered when implementing this regulation.

Mr. Sacco stated that SB 1299 specifically applies to hospitals, but the proposal goes further than that, and he feels that it will be difficult for small physician's offices to implement. He asked the Division to review subsections (b) thru (g) of the scope of the proposal and come up with some compelling reasons why firefighters, paramedics, and first aid providers should be included. He said that he does not see any reason why firefighters and paramedics should be included, and first aid providers should be exempt. He also asked the Division to revisit its assessment of the costs to implement the required training. He said that there will be a lot of additional required training that is beyond what is covered in the IIPP in Section 3203, and he feels that the cost for that training will be significant.

Dr. Blink stated that some of the issues regarding workplace violence in healthcare are very complicated, so the breadth of this proposal needs to be thought through very carefully. He said that the issue regarding ancillary healthcare operations should be researched further to make sure that this proposal does not cause detriment to good things, such as employee on-site health clinics. He asked the Board staff to consider how employees working in small facilities and homes will be protected, and whether or not it is reasonable to address these issues with one approach. He also asked the Board staff to consider whether or not it is appropriate to include firefighters in this regulation.

Ms. Stock stated that she is concerned about the fact that this proposal only requires acute care facilities to report incidents of workplace violence to the Division. She said that this new regulation is the first of its kind in the nation, so therefore, there is no data available regarding its effectiveness at addressing workplace violence, and in order to get that data to measure its effectiveness at all healthcare facilities, all of the facilities included in this proposal should be required to report incidents of workplace violence to the Division. She stated that this data will help determine if this proposal is effective in reducing workplace violence in healthcare and will help identify and address issues that arise. She also said that the violent incident log should include verbal, physical, and psychological threats and harassment. She stated that by

logging these incidents in the violent incident log, they can be monitored and tracked in the log so that they will be less likely to escalate into physical violence. She said that this proposal is very flexible and allows all healthcare facilities to come up with a workplace violence prevention plan that best suits them. She also stated that this would be a good time to begin looking into developing a workplace violence prevention proposal that will apply to all California workplaces, and that may have some bearing on some of the issues that are being discussed today for workplace violence prevention in healthcare.

Dr. Blink stated that the requirements for record keeping and reporting violent incidents to the Division could be very burdensome for facilities whose patients frequently make threats. He said that the Division and Board staff need to find a way to simplify that for employees in those facilities so that they are not buried by paperwork for no particular reason or benefit. He stated that some facilities have a much lower risk for workplace violence than others, so the flexibility of this proposal needs to be expanded so that it is appropriate for the situations that workers find themselves in. He also said that there is no definition listed in the proposal for the term “non-employee personnel” that is used in item number 4 in Section (f)(4). He stated that this brings up the issue regarding the many types of contractors who work in healthcare facilities, and the Division and Board staff need to determine how to cover these employees and protect them from workplace violence, and how to include them in the details of the workplace violence prevention plans for the facilities that they work at.

Mr. Harrison thanked all of the folks who came to speak on this issue today. He said that instead of narrowing the scope of this regulation, he would rather see it applied with a phased-in approach beginning with large healthcare facilities and hospitals, and then applying it to ancillary healthcare facilities shortly after that.

Ms. Quinlan stated that she feels this proposal is very flexible for healthcare settings and will not be burdensome on employers. She said that all employers are required to maintain injury and illness prevention plans, and violence is part of that, so that might be a good place for employers to start when developing workplace violence prevention plans. She also stated that employee on-site health clinics should be included in the regulation because even employees who have been vetted can get violent for some reason.

Mr. Thomas thanked all of the folks who have brought this issue forward. He said that this regulation is an all-encompassing approach to addressing workplace violence in healthcare. He stated that this regulation does not apply a one-size-fits-all framework because it has plenty of flexibility to fit the needs of each healthcare facility. He said that all types of violence occur everywhere and must be taken seriously, and the more that workplace violence is reported and documented, the better it can be addressed.

B. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 12:44 p.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 12:44 p.m., December 17, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

A. 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 adopting the items on the consent calendar.

MOTION

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

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

B. OTHER

1. Executive Officer’s Report

Ms. Hart stated that the minutes for the advisory committee regarding residential fall protection trigger heights are almost done and will be sent out to the Board Members when they are done. She asked the Board Members to read and consider the minutes, and to call or email her if they have any questions, before next month’s meeting because it will be placed on the January agenda, either during the public meeting portion or the business meeting portion of the meeting, for the Board to discuss the advisory committee’s findings, as well as talk with federal OSHA and others who may wish to provide input about it. She said that this issue is very controversial, and in the near future, the Board will have to provide direction on how to proceed regarding this issue.

Ms. Stock stated that she would like to get some information regarding the technical feasibility of the 6-foot trigger height, how it is working for other states who have implemented it, and how it can be done. **Ms. Hart** stated that the Board staff can ask federal OSHA for information, but there is not a lot of accessible data right now because it is so new for many states. She said that federal OSHA would like the Board to make a decision on how it is going to proceed as soon as possible, and she has invited them to attend the January meeting so that they can provide input. She stated that she is unsure whether she will place it on the public meeting or the business meeting portion of the January agenda, but if she places it on the business meeting portion, that will allow the Board to take action, if the Board determines that action is necessary, without having to put it on a future agenda for action.

Ms. Hart also stated that Marty Tamayo and Conrad Tolson are retiring on December 30, and the Board staff is working to fill their positions. She also thanked the Board and the staff for all of their hard work in 2015.

2. Future Agenda Items

No other future agenda items were suggested.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 1:00 p.m.