

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**SUMMARY  
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
July 16, 2015  
Pasadena, 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 10:01 a.m., July 16, 2015, in the Council Chambers of the Pasadena City Hall, Pasadena, California.

**ATTENDANCE**

**Board Members Present**

Dave Thomas  
Bill Jackson  
Patty Quinlan  
Barbara Smisko  
Laura Stock

**Board Member Absent**

David Harrison

**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**

Lisa Hall, CA Assoc. of Healthcare  
Facilities  
Dan Leacox, Greenberg Traurig  
Brandon Shelton, Dignity Health  
Steve Johnson, Condon-Johnson &  
Associates  
Ingela Dahlgren, SEIU N.A. of CA and  
SEIU 121 RN  
Marua Burgess, SEIU 721 & N.A.  
Gail Blanchard-Saiger, CA Hospital Assoc.

Dorlah Lawrence, SEIU 721  
Grace Corse, SEIU 721  
Monica Aleman, UNAC/UHCP  
Christina Griffin, Unite Here Local 11  
Kevin Graulich, DIR/DOSH  
Kevin Bland, Ogletree Deakins  
Michael Musser, CA Teachers Association  
Kevin Thompson, Cal/OSHA Reporter  
Bruce Wick, CALPASC  
Sarah Springer, SEIU 121 RN

Jorge Cabrera, SoCalCOSH  
Regem Corpuz, SoCalCOSH  
Kareen Elzein, UCLA IRLE  
Rev. Tera Little, Throop UU  
Jettie Deden – Castillo, UNAC/UHCP  
Denise Duncan, UNAC/UHCP  
Greg Lutz, UNAC/UHCP  
Penny Brown, UNAC/UHCP  
Megan Degenette, UNAC/UHCP  
Victoria Robson, UNAC/UHCP  
Kim Smith, UNAC,UHCP  
Charmaine Morales, UNAC/UHCP  
Domanique Bowle, UNAC/UHCP  
Richard Negri, SEIU 121 RN  
Mark Stone, EPIC Insurance Brokers  
Melonee Cuse, ASSE CGAC  
Aimee Baror, SEIU 121 RN  
Virginia Anders – Ellmore, Harbor UCLA

Linda Hippolyte, UNAC/UHCP  
Sunny Berana, UNAC/UHCP  
Neiussa Dizon, UNAC,UHCP  
Siew Low, UNAC/UHCP  
Jennifer Garcia, AFSCME  
Moises Alarcon, UNAC/UHCP  
Joy Pumar, UNAC/UHCP  
Jonathan Bestwick, UNAC/UHCP KBPRNA  
Amanda Steele, SEIU ULTCW  
Elizabeth Hawkins, UNAC/UHCP  
Tracy Best, UNAC/UHCP  
Jacqueline Asfall, UNAC/UHCP  
Linda Meyer, UNAC/UHCP  
Peter Sidhu, UNAC/UHCP  
Suzanne Delaney, UNAC/UHCP  
Pam Pressney, UNAC/UHCP  
Felix Jimenez, SEIU 721 RN

Mr. Thomas presented Mr. Jackson with a plaque on behalf of the Board and staff to recognize and thank him for his time and dedication during his tenure as a member of the Board from May 2007 to July 2015. Ms. Hart also presented Mr. Jackson with a special plaque that was made by the Board staff. She said that Mr. Jackson served a previous term on the Board from 1992 to 2001.

**Ms. Smisko, Ms. Quinlan, and Mr. Thomas** thanked Mr. Jackson for his service to the Board. The following individuals also thanked Mr. Jackson:

- **Kevin Bland, Ogletree Deakins**
- **Bruce Wick, CALPASC**
- **Steve Johnson, Condon-Johnson & Associates**

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.

**Reverend Tara Little, Throop Unitarian Universalist Church**, stated that simple solutions exist to make hotel housekeeping jobs safer, but employers do not take those steps, resulting in housekeepers getting injured repeatedly. **Christina Griffin, Unite Here Local 11 Los Angeles**, echoed this comment. Ms. Little asked the Division to move swiftly and put forth a meaningful regulation that can be enforced. She also asked the Division to put out a revised discussion draft of the proposal by August 1.

**Christina Griffin, Unite Here Local 11 Los Angeles**, stated that when hotel housekeepers are injured on the job, it can have a physical and financial effect on them. She said that the

discussion draft of the proposal for hotel housekeeper injury prevention that was released last year would require employers to perform a job hazard analysis, consider tools and work practices to make the job safer, and include hotel housekeeper participation in developing an injury and illness prevention plan. She stated that the discussion draft will be further strengthened if the comments received last year in response to the discussion draft are incorporated into the proposal. She asked the Division to move quickly and put out a revised discussion draft of the proposal by August 1.

**Jorge Cabrera, Southern California Coalition on Occupational Safety and Health**, stated that the Division's work on the hotel housekeeping standard is moving in the right direction to protect hotel housekeepers from being injured on the job. He said that many hotel housekeepers are immigrants who are paid very low wages, and therefore, they cannot afford to get injured. He stated that many injuries to hotel housekeepers occur as a result of job duties that require repetitive motion. He said that the proposed standard will prevent hotel housekeepers from injury, and he encouraged the Division to produce a revised discussion draft by August 1.

**Richard Negri, SEIU Local 121 RN**, stated that during the 5 advisory committees that were held regarding workplace violence in the healthcare industry, an agreement was reached on the definition of workplace violence, but the Division changed that definition in the proposal, along with several other things. He said that his organization received a copy of the changes on June 24 after formally requesting it, but none of the other advisory committee participants have seen it. He said that his organization found the following substantive changes in the draft that the Board needs to address when it evaluates and responds to the proposal:

- The definition of workplace violence has been revised to limit acts of violence or credible threats to only those that involve physical force. He said that there is a continuum of violence that occurs against healthcare workers that must be interrupted before it escalates, and this change in definition of workplace violence will do nothing to prevent workplace violence from happening.
- Limitations have been placed on the term "credible threat". He said that the definition does not specify who will be the one to decide whether or not a threat is credible. He stated that management has not done a good job determining whether or not a threat is credible.
- Necessary data elements have been removed from the violent incident log, which doesn't make sense. He stated that in one part of the Division's proposal, verbal and physical intimidation and post-incident stress were removed, but the examples that the Division uses in another part actually include this. He said that since healthcare workers experience a spectrum of workplace violence daily, and verbal and physical intimidation and threats can escalate to violence that involves physical force, this proposal needs to address both of those aspects.

Mr. Negri asked the Division to convene another advisory committee meeting before going to rulemaking on this issue to discuss why the Division made these changes. He said that if it is not possible to hold another advisory committee meeting before going to rulemaking, then the Division needs to return the definition of workplace violence to that of the federal OSHA

definition that was used in the last public draft of the proposal.

**Mr. Cabrera** stated that his organization is also concerned about the proposal regarding workplace violence in the healthcare industry. He said that the advisory committee process was not very democratic, federal OSHA's definition of workplace violence has not been included in the proposal, and a lot of the input that was given during the process was omitted from the proposal. He asked why his organization has not received a copy of the latest draft of the proposal. He also asked the Division to hold another advisory committee meeting, preferably in southern California, to address these issues.

**Karim Melzane, UCLA**, stated that the newly modified language in the proposal for workplace violence prevention in the healthcare industry fails the eye test. He said that the removal of specific language regarding threats and intimidation, as well as the abdication of psychological violence, weakens the standard. He stated that threats and intimidation are often precursors to violent events, and the best way to handle this type of hazard is to remove it. He asked the Division to reintroduce the language regarding threats and intimidation back into the proposal.

**Gail Blanchard-Saiger, California Hospital Association**, stated that there has not been agreement on the definition of workplace violence since the process began, and her organization has expressed their concern about the definition from the beginning. She said that her organization received a copy of the revised proposal around the same time that Mr. Negri did, and her organization has been grappling with the definition of the term "credible threat", and whether or not it is something that they can implement. She stated that they are concerned about who will make the determination as to whether or not a threat is credible, but they believe that this is still an effective standard. She said that employees need to report threats when they occur, and if management is properly trained to determine which threats are credible, they can decide if the threat is credible or not. She also stated that just because verbal intimidation has been removed from the definition of workplace violence does not mean that it is outside the scope of the regulation. She said that it is on the continuum of workplace violence and needs to be addressed when it occurs. She stated that the definition of workplace violence needs to be objective so that the standard will be effective.

**Lisa Hall, California Association of Health Facilities**, stated that the proposal for workplace violence prevention in the healthcare industry should not apply to intermediate care homes for the developmentally disabled. She said that these facilities are designed to have a home-like environment and have only have 6 to 12 beds, and these regulations would take away from that.

**Ms. Stock** stated that it seems clear from the level of interest and the testimony that has been received regarding workplace violence in the healthcare industry that this issue is critical, important, complicated, and has not been resolved. She said that she feels the rulemaking process for this proposal will be much smoother and more straightforward if the participants involved come together to discuss their viewpoints and come to a resolution. She stated that some of the constituents have not been given the opportunity to view the latest draft of the proposal. She said that she supports having another advisory committee to discuss these issues and further revise the proposal so that it is closer to what everyone is looking for. She asked how to get the Division to do that.

**Ms. Hart** stated that it is up to the Division to decide if it wants to convene another advisory committee. She said that it appears changes were made to the proposal for workplace violence prevention in the healthcare industry after the 5 advisory committees were held, but the Division did not provide the participants with an explanation as to what happened and why those changes were made. She recommended to the Division that they post draft language online after an advisory committee meeting is held so that all participants can review it, and if deviations are made from what the committee discussed, the Division should explain why the changes were made. She asked Mr. Berg if the Division may be able to provide a rationale for the changes that were made to the workplace violence prevention proposal.

**Ms. Stock** stated that that is a good idea, but it doesn't provide the whole answer to the issue. She said that she still thinks holding another advisory committee to discuss the changes that were made and provide recommendations regarding them. **Ms. Hart** stated that if the Division decides to convene another advisory committee, the Board staff will defer review of the proposal copy that they just received because changes may be made to it by the advisory committee members. She said that even if another advisory committee is convened, there may not be total agreement on how to address these concerns. She also stated that the legislative deadline by which this proposal must be in place is July 1, 2016. She said that the concerns that are being voiced right now should be voiced during the public hearing for this proposal, not prior to rulemaking. She asked Mr. Berg if the Division would consider posting the minutes from each of the 5 advisory committees online, along with the draft proposals and a rationale for each of the regulatory changes. **Mr. Berg** stated that he will make every effort to ensure that those documents get posted. He said that he will also speak to the Division Chief about having another advisory committee on this issue, and possibly in southern California.

**Ms. Quinlan** stated that she agrees with Ms. Stock. She said that although people may still not agree on everything in the proposal, another advisory committee meeting would be beneficial because many people were blindsided by the changes that were made. She stated that the Board has not even seen the proposal yet.

**Ms. Hart** stated that the Board staff will review the proposal and then send it back to the Division with comments and questions on things that are not clear. She said that the Board Members do not see a proposal until it is in its final format.

**Mr. Thomas** stated that it should not have taken 2 months to get this when everyone knew last month that there was disagreement regarding the changes that were made to the proposal. He said that the concerns that have been expressed are valid, and if another advisory committee meeting is needed to sort these issues out, then it needs to be done. He suggested that the Division go back to using the original language that was agreed upon during the advisory committee process.

**Katherine Hughes, SEIU Local 121 RN**, stated that intimidation is the first sign and symptom that something bad is about to happen, and when it occurs, it is the opportunity stop workplace violence in its tracks. She said that if it is not mentioned in the definition of workplace violence, then it is outside the scope. She also stated that everyone involved in this process is fighting for the same goal in different ways, and she believes that having another advisory committee on this issue would help all of the parties come together and address these issues.

**Ms. Blanchard-Saiger** stated that her organization has been concerned about the ambiguity and vagueness of the definition for workplace violence, and they have expressed that concern from the beginning. She said that there was a lot of friendly intimidation and general lack of respect for the opposing opinion from the other advisory committee participants during the meeting that was held in southern California that made her decide to stop expressing her comments regarding the definition of workplace violence. She also stated that during the process, a stakeholder representing labor suggested having a meeting with the California Hospital Association, the hospital industry, employer groups, and labor stakeholders to discuss these issues at that time, but the labor folks decided not to go through with it. She said she is also concerned about having another advisory committee meeting because the SB 1299 deadline is looming, and having another advisory committee may restart the entire process, thereby truncating the formal public comment period on this proposal.

**Mr. Thomas** stated that the intimidation factor needs to be taken seriously and needs to be included in the regulation. He said that the regulation should allow people to report intimidating behavior to their supervisor and have it be put on the record, and not having that in the regulation will create problems.

**Ms. Stock** stated that she believes that an agreement was not reached during the advisory committee process. She said that it seems that a large number of participants feel they did not get the time that they needed to fully participate in the advisory committee process on this issue, and for that reason, another advisory committee should be held. She stated that it may or may not change the proposal, but she feels that public input on this issue is critical because this standard will set the precedent for the standard that will address workplace violence prevention in all other California workplaces. She also said that she is cognizant of the SB 1299 deadline, and she feels that sorting out these issues in an advisory committee meeting before the proposal goes to formal rulemaking may help speed up the formal rulemaking process.

**Mr. Negri** stated that he was the labor stakeholder that Ms. Blanchard-Saiger was referring to regarding setting up a meeting with the California Hospital Association and SEIU. He said that the reason that he decided not to have the meeting was because he had received advice from his organization to not have that meeting because it would not be held in a public forum where the organization's members could participate. He stated that there is a great deal of things that can be sorted out in an advisory committee meeting regarding this issue, and he is cognizant of the approaching SB 1299 deadline.

**Mr. Thomas** asked Mr. Negri to explain what happened regarding the change in the definition of workplace violence from that of the federal OSHA definition that it seemed all stakeholders agreed upon at the end of the 5 advisory committee meetings. **Mr. Negri** stated that after they petitioned the Board for this standard, his organization reviewed several definitions of workplace violence and determined that federal OSHA's definition was the best one because it was the most comprehensive. He said that the first day of the first advisory committee meeting was spent discussing the definition of workplace violence, and various people who participated supported federal OSHA's definition for the same reasons that his organization supported it. He stated that there appeared to be a lot of support for that definition. He said that the two public drafts that were released after that contained federal OSHA's definition, so his organization assumed that that definition would be used. He stated that after the advisory

committee process, a new definition was introduced that narrows the regulation of the hazard.

**Ms. Smisko** stated that it appears that the federal OSHA definition of workplace violence is just for guidance and does not have an enforcement portion to it. She said that the advisory committee may need to discuss whether or not this definition can be enforced if it is included in the regulation. She also stated that the continuum part of this issue needs more discussion about the following:

- Where does the continuum cut off between human resources issues and safety issues?
- Where does it go into enforceable issues?
- How are the continuous human resources issues and safety issues resolved, who does it, and under what conditions?

**Mr. Negri** stated that the federal OSHA definition of workplace violence is part of a guidance document that was issued in 2011, which is not a regulation. He said that the reason that the federal OSHA definition was chosen was because it had been thoroughly researched for many years and his organization has used that definition for their training.

**Mr. Melzane** stated that it is very easy to prevent workplace violence, and 90 to 95% of the workplace violence that occurs in the healthcare industry comes from patients and visitors. He said that when it comes to workplace violence prevention, it is better to be safe than sorry and use common sense to keep workers safe. He stated that if organizations like the California Hospital Association believe that training staff to recognize and address intimidation and threats is a common sense thing to do, then it should be included in the regulation.

**Ms. Blanchard-Saiger** stated that this discussion has been very helpful, and she believes that there is a need for further conversation on this issue. She said that she feels that there is a lot more agreement than disagreement between stakeholders on this issue, and she looks forward to sitting down and discussing this issue further with the other stakeholders.

**Michael Musser, California Teachers Association**, stated that he participated in the advisory committee process for workplace violence prevention in the healthcare industry, and he recommended going back to using the workplace violence definition that was agreed upon during the advisory committee process. He said that intimidation does happen at the worksite, and therefore, this regulation must address it. He stated that if another advisory committee meeting is necessary to address these issues, then the Division should move forward on that. He also said that he is looking forward to expanding this regulation to cover all California workplaces.

#### C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 11:17 a.m.

## II. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 12:00 p.m., July 16, 2015, in the Council Chambers of the Pasadena City Hall, Pasadena, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8:      **CONSTRUCTION SAFETY ORDERS**  
Section 1710  
**Multi-Story Skeletal Steel Construction-Metal Decking  
Replacement (Horcher)**

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 Ms. Stock and seconded by Mr. Jackson 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**  
Section 3411  
**Private Fire Brigades—Foot Protection**

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. Jackson 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.

3. TITLE 8:      **SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING  
ORDERS SECTION 8397.4(b)**  
Section 8397.4(b)  
**Water Supply - Access to Drinking Cups (Horcher)**

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 Ms. Quinlan 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.

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that he sees no issues that could prevent the Board from adopting the items on the consent calendar.

MOTION

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

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

C. OTHER

1. Executive Officer’s Report

Ms. Hart stated that the Board staff has started the process for putting together an advisory committee meeting regarding residential fall protection trigger heights. She said that she and Mr. Manieri met with federal OSHA after last month’s meeting to discuss it. She stated that since then, the Board staff has reached out to management and labor folks separately and given them some background information and data so that they can help the Board staff get the right people involved in the advisory committee process, as well as discuss the main issues that will be addressed during the advisory committee. She said that the Board staff anticipates holding the advisory committee meeting in early November.

**Ms. Stock** asked why this is not going through the horcher process. **Ms. Hart** stated that California has different language for fall protection that is at least as effective as the federal standard, but federal OSHA is disputing whether or not it is at least as effective as the federal standard. She said that this will be discussed at the advisory committee meeting, and federal OSHA is going to participate.

Ms. Hart stated that she and Mr. Healy have been discussing new ways for scheduling variance hearings. She said that it has been difficult to get all of the variances heard in a timely fashion without a schedule, and she and Mr. Healy came up with the following ideas for scheduling variance hearings, and she asked the Board Members for their input:

- Conducting variance hearings using videoconference equipment. She stated that by allowing Board Members to attend variance hearings via videoconference, it cuts down on travel time and costs. She said that Ms. Quinlan attended a variance hearing last month via videoconference, and it does work well. However, she also stated that the Board staff’s current videoconferencing equipment makes it difficult to do that because it does not always connect directly to a particular location, and therefore, connections have to be made with other videoconference sites in order to make it work.

- Conducting variance hearings with only one Board Member on the hearing panel. She stated that having only one Board Member on a hearing panel would not be a good idea for hearings regarding non-routine variances because more expertise and balance is sometimes needed. She also said that this could present a problem if the Board Member that is scheduled to be on the hearing panel is unable to attend the hearing at the last minute.
- Conducting variance hearings after the Board meeting, at the OSHSB office, on Board meeting days when the Board meets in Sacramento. She stated that this will also cut down the amount of travel that the Board Members will have to do for variance hearings, since they will already be in Sacramento for the Board meeting. She said that it will also make it easier for the Board Members by not asking them to be available on an additional day.
- Conducting variance hearings on a set schedule every month. She stated that by picking a particular day of the month (i.e. the fourth Tuesday of the month), this will also help with Board Member availability because it is a predictable schedule. She also said that by having variance hearings on a predictable schedule, it will help the Division to set its deadlines by which its evaluations on variances must be submitted to the Board staff in order for the variance to be heard.

**Ms. Stock** stated that having a schedule for variances sounds like a good idea, and being able to connect to hearings for routine variances via videoconference is also a good idea. She said that she hopes the videoconferencing will not be too much additional work for the Board staff. **Ms. Hart** stated that it can be done, but it may involve connecting with other videoconference sites, and if any of those connections don't work, the hearing could be conducted via teleconference if necessary. **Ms. Stock** stated that having only one Board Member on the hearing panel for routine variances would work out alright, but for controversial variances, she would prefer to have 2 Board Members on the hearing panel. **Ms. Hart** stated that it would be a good idea to hold variance hearings on a routine schedule so that Board Members can notify Mr. Healy if they are available on that day to serve on the hearing panel, and as the day gets closer, Mr. Healy can determine who is available and how many Board Members will be needed for each hearing panel.

**Mr. Healy** stated that certain elevator variances that occur every month may be deemed routine, but, pre-judging any variance to be controversial or not to be controversial would be a problem and should be avoided. **Ms. Smisko** stated that it might be a good idea to require that the hearing panel for all variances that are not for elevators have two Board Members. She said that the routine scheduling of variance hearings, videoconferencing, and holding hearings after Board meetings that are held in Sacramento, are very efficient.

**Mr. Thomas** stated that he feels that setting a particular day of the month to hold variance hearings is a good idea. He also said that it is a good idea to have two Board Members on each hearing panel whenever possible.

**Ms. Stock** asked about the timeline for the hotel housekeeping proposal. **Mr. Berg** said that he will find out about that and will provide that information at next month's meeting. **Ms. Stock** asked where the August 1 date came from that people mentioned today. **Ms. Hart** and **Mr. Berg** said that they are not sure. **Ms. Hart** stated that at last month's meeting, the Division provided its quarterly update, and in that update, the Division indicated that they are going to hold another advisory committee for the hotel housekeeping standard. She also said that the attendees at last month's meeting asked the Division to release a revised draft for the stakeholders to review, since it had been over a year since the first draft was released. **Mr. Berg** stated that the Division is currently redrafting the language and Amalia Neidhardt is in charge of this project, and he will find out the date for the next advisory committee meeting. **Ms. Hart** stated that this item will be listed on next month's agenda to get this information from the Division and asked Mr. Berg to find out if the revised proposal will be released shortly.

Mr. Thomas called for a break at 11:45 a.m. and reconvened the meeting at 11:55 a.m.

D. CLOSED SESSION

The Board discussed only the closed session item listed on the Agenda, and no action was taken during the closed session.

E. RETURN FROM CLOSED SESSION

2. Future Agenda Items

No future agenda items were mentioned, other than a Division report on the hotel housekeeping proposal.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 12:07 p.m.