

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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SUMMARY
PUBLIC MEETING AND BUSINESS MEETING
September 20, 2018
San Diego, 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., September 20, 2018, in Room 310 of the County Administration Center, San Diego, California.

ATTENDANCE**Board Members Present**

Dave Thomas
Dave Harrison
Chris Laszcz-Davis
Barbara Smisko
Laura Stock

Board Members Absent

Barbara Burgel

Board Staff

Mike Manieri, Principal Safety Engineer
and Acting Executive Officer
Peter Healy, Legal Counsel
Lara Paskins, Staff Services Manager I
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Chris Kirkham, Principal Safety Engineer

Others Present

Larry Wong, University of CA, Office of
the President
Marti Fisher, CalChamber
Elizabeth Treanor, PRR
Harvard R. Fong, Cal/EPA
Christina Shupe
Mark Wickens, DOSH Elevator Unit

Grace Delizo, DOSH
Jamie Carlile, SCE
Bryan Little, CFBR
Ann Graham, CA Industrial Hygiene Council
Kevin Bland, Ogletree Deakins
Dan Leacox, Leacox & Associates
Jay Weir, AT&T

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.

Mr. Thomas stated that Mr. Manieri has been appointed as the Acting Executive Officer while the Board and staff continue working on finding a candidate to fill the Executive Officer position.

Tim Shadix, Worksafe, stated that Petition 569 should be denied because it is unnecessary and could potentially put employees at increased risk for injury. He said that the current standard is sufficient to protect employees, and it is best for employees to quickly dispose of needles or sharps in a container, rather than adding another step that could expose them to injury or prick. He stated that under the current rules, employers still have the option of using the device that the petitioner is suggesting if they want to, but mandating that non-integral safety devices such as this be used could put healthcare workers at increased risk.

C. ADJOURNMENT

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

II. **BUSINESS MEETING**

Mr. Thomas called the Business Meeting of the Board to order at 10:07 a.m., September 20, 2018, in Room 310 of the County Administration Center, San Diego, California.

A. PROPOSED PETITION DECISIONS FOR ADOPTION

1. M.H. Schaffer, DMD
Petition File No. 569

Petitioner requests amendment of the Bloodborne Pathogen standard, Title 8, Section 5193, concerning Engineered Sharps Injury Protection exceptions.

Mr. Manieri summarized the history and purpose of the petition, and stated that the proposed recommendation is to deny the petition.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Laszcz-Davis that the Board adopt the petition decision denying the petition.

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 he is aware of no unresolved legal issues regarding items A-V on the consent calendar, and he believes that those items are ready for the Board's decision on the question of adoption.

MOTION

A motion was made by Ms. Stock and seconded by Ms. Laszcz-Davis to adopt the consent calendar.

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

C. OTHER

1. Cal/OSHA advisory committee findings and recommendations on the question of need to develop industry-specific regulations for marijuana (cannabis) establishments

Mr. Kirkham stated that the Division convened an advisory committee, as required by Labor Code Section 147.6, on January 31, 2018 to evaluate whether or not there is a need to develop industry-specific regulations for employers who are licensed under the Medicinal and Adult Use Cannabis Regulation and Safety Act. He said that the advisory committee meeting was well-attended by stakeholders, many of whom submitted comments following the advisory committee meeting. He stated that one of the recommendations that was brought up during the advisory committee is to update Title 8, Section 5148 to prohibit smoking cannabis products in certain enclosed workplaces. Section 5148, which currently prohibits smoking tobacco products in certain enclosed workplaces, does not prohibit smoking cannabis products in enclosed workplaces. As a result of this recommendation, the Division will undertake a rulemaking proposal to amend Section 5148 to prohibit smoking marijuana in enclosed workplaces. Prior to going to rulemaking, the Division will facilitate one or more advisory committees to gather input from stakeholders regarding the content of the proposed language to amend Section 5148, particularly addressing which kinds of enclosed workplaces should be included in the prohibition.

Mr. Kirkham also stated that the advisory committee consensus was that the cannabis industry is already covered by existing regulations, and that the existing regulations sufficiently address potential risks of combustion, inhalation of other harmful substances other than secondhand smoke, armed robbery, repetitive strain injuries, and employee training issues. He said that the standard regarding workplace violence prevention in general industry, which currently under development by the Division, is anticipated to cover the cannabis industry, so new regulations to address these hazards will not be needed, but if deficiencies are found in the future, the Division will do follow-up rulemakings to address those deficiencies.

Ms. Stock stated that it is important to ensure that the scope of the workplace violence prevention regulation for general industry is broad enough to cover this industry. She also asked about the status of the OSHA 30 training for workers and supervisors. **Mr. Kirkham** stated that he checked the Governor's website regarding that, and according to the website, it is on the Governor's desk awaiting his signature. **Ms. Stock** asked Mr. Kirkham what will

happen if the Governor does not sign it. **Mr. Kirkham** stated that the Division believes that sufficient training requirements already exist in Title 8 regulations to address this issue.

2. Division Update on Rulemakings and Advisory Committees

In addition to the written update that was provided in the Board packet [Please see the file copy of the Board packet to view this document], Mr. Kirkham provided the following updates:

Antineoplastic Drugs: The Division is working on addressing issues related to the economic impact analysis and preparing rulemaking documents. The Division plans to submit the rulemaking documents to the Board staff before the end of 2018.

First Aid Kit Contents: The Division and Board staff are finalizing the documents for submission to Labor Agency for review and approval.

Indoor Heat: The Division has convened 3 advisory committee meetings and posted the latest revision to the draft language on May 16, 2018. The Division is still receiving and reviewing comments submitted in response to the latest draft and preparing changes to the draft text in response to those comments.

Lead in Construction and General Industry: The Division is preparing the standardized regulatory impact analysis (SRIA) for submission to the Department of Finance. After the Department of Finance approves the SRIA, the Division will revise the Initial Statement of Reasons accordingly. Once that is done, the Division will submit the draft rulemaking to the Board staff, and they hope to do that in late 2018.

Naturally Occurring Asbestos: The Division is planning the first advisory committee meeting to discuss this, and it will take place sometime in the first half of 2019.

Surgical Plume: The Division is planning the first advisory committee meeting to discuss this, and it will take place sometime in November 2018.

Permissible Exposure Limits: The Health Experts Advisory Committee (HEAC) met on September 4, 2018 and discussed the following substances:

- Butyl-acetate
- Methyl Isobutyl Ketone (MIBK)
- Butanols
- Sulfur Dioxide
- Manganese

The HEAC will continue to get advice from stakeholders regarding these substances. The Division is also finishing up draft rulemaking projects for several other substances, and depending on the substance, the Division plans to submit these draft rulemaking projects in either 2018 or 2019.

Workplace Violence Prevention in General Industry: The Division held the second advisory committee meeting in January 2018 to discuss this. The Division is currently receiving and

reviewing comments received in response to the advisory committee and is updating the draft language.

Ms. Stock stated that there has been a lot of discussion regarding recording and reporting requirements for occupational injuries and illnesses, and about how California will conform with the federal regulations. She said that the federal regulations are becoming more uncertain, and federal OSHA may even be pulling back some of their requirements. She asked Mr. Kirkham if the Division will continue to go forward and work on this even if the federal requirements change. **Mr. Kirkham** stated that this is being handled by people at the Division's headquarters, so he is not sure what is happening, but he can find out from the Division what is going on with that.

3. Legislative Update

Mr. Healy stated that none of the previously tracked bills advanced to the Governor's desk, so none of them will become law during this legislative session.

4. Executive Officer's Report

Mr. Manieri stated that on August 21, the Governor appointed Barbara Burgel to the Board as the occupational health representative. He said that Ms. Burgel was unable to attend today's meeting, but will be at next month's meeting in Sacramento.

Mr. Manieri thanked Mr. Thomas for appointing him as Acting Executive Officer and said it is a privilege to be able to serve the Board and staff in that capacity again. He said that he served as Acting Executive Officer for 3 months in 2007 before Marley Hart became Executive Officer.

Mr. Manieri stated that the Board staff recently held 2 advisory committee meetings: one regarding snow avalanche blasting on August 7, and one regarding technical diving operations on September 13.

Mr. Manieri stated that the Board staff has received draft rulemaking documents pertaining to the Group V Elevator Safety Orders. He said that it will take the Board staff several months to review it because it is a massive package. He stated that Conrad Tolson will review the Form 9's associated with it and pass them to the analysts for review. He said that the package will probably be ready for public hearing sometime next year.

5. Future Agenda Items

Ms. Stock asked for an update from the Division regarding the federal OSHA requirements for recording and reporting occupational injuries and illnesses, and how the Division plans to handle getting California into compliance with those requirements.

D. CLOSED SESSION

Pursuant to Government Code Section 11126(e)(2)(C), the Board will confer with counsel concerning a prospective litigation issue.

E. RETURN TO OPEN SESSION

1. Report on any Closed Session Action

Mr. Thomas stated that during the closed session, the Board took action. A motion was made by Mr. Thomas, and seconded by Mr. Harrison, directing the Board staff counsel to confer with the general counsel at the Labor and Workforce Development Agency (LWDA) concerning the closed session agenda item D.1 prospective litigation item. All members present voted "aye". The motion passed.

F. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 11:00 a.m.