



Memorandum

Date: June 18, 2024

To: Autumn Gonzalez, Chief Counsel and Acting Executive Officer
Amalia Neidhardt, Principal Safety Engineer
Occupational Safety and Health Standards Board

From: Renee Jones, Senior Safety Engineer
Kevin Graulich, Principal Safety Engineer
Eric Berg, Deputy Chief of Health
Division of Occupational Safety and Health

Subject: Evaluation of Petition No. 603 to Rescind the COVID-19 Prevention Non-Emergency Regulations

1.0 INTRODUCTION

On March 12, 2024, the Division of Occupational Safety and Health (Cal/OSHA) received a petition from Ricardo Beas (petitioner). The petitioner proposes to amend California Code of Regulations title 8 by rescinding the COVID-19 Prevention Non-emergency Regulations sections 3205, 3205.1, 3205.2, and 3205.3

Labor Code section 142.2 permits interested persons to propose new or revised standards concerning occupational safety and health, and requires the Occupational Safety and Health Standards Board (Standards Board) to consider such proposals. California Labor Code section 147 requires the Standards Board to refer to Cal/OSHA for evaluation any proposed occupational safety and health standard.

2.0 COVID-19 PREVENTION NON-EMERGENCY REGULATIONS BACKGROUND AND REGULATORY HISTORY

On March 4, 2020, Governor Gavin Newsom declared a state of emergency in California in response to the novel virus SARS-CoV-2.¹ SARS-CoV-2 is the virus that causes the illness known as COVID-19. COVID-19 health effects range from mild to severe illness requiring hospitalization.

¹ Gavin Newsom, Governor of California. Executive Order N-33-20. March 4, 2020. <https://www.gov.ca.gov/wp-content/uploads/2020/03/EO-N-33-20-COVID-19-HEALTH-ORDER-03.19.2020-002.pdf>

Severe COVID-19 illness can result in death, particularly in individuals who have underlying health conditions and those who are older.^{2,3}

On May 20, 2020, the Standards Board received Petition No. 583⁴ requesting an emergency regulation and a permanent regulation to protect employees from COVID-19 who were not otherwise protected under section 5199 Aerosol Transmissible Diseases. The Standards Board found that emergency rulemaking was necessary to address the COVID-19 threat to employees and that regular rulemaking could not be completed in sufficient time to address the COVID-19 risk to employees.

The Standards Board granted Petition No. 583 agreeing in part that COVID-19 presented a hazard to California employees and that an emergency COVID-19 regulations would improve employee safety. The Standards Board requested Cal/OSHA to undertake emergency rulemaking for employees not otherwise protected under section 5199. Aerosol Transmissible Diseases for consideration at the Standards Board's November 19, 2020 meeting.⁵

The emergency rulemaking process resulted in the adoption of the first COVID-19 Prevention Emergency Temporary Standard (ETS) with the effective date of November 30, 2020. Three subsequent re-adoptions of the COVID-19 ETS occurred with effective dates on June 17, 2021, January 14, 2022, and May 6, 2022.

Ultimately, the Standards Board voted to adopt non-emergency COVID-19 prevention regulations that took effect on February 3, 2023. These non-emergency regulations are to remain in effect for two years after the effective date of February 3, 2023, except for the recordkeeping subsections that will remain in effect until February 3, 2026.

3.0 PETITIONER'S REQUEST AND BASIS FOR AMENDMENT OF TITLE 8 REGULATIONS

The petitioner specifically requests that the Standards Board conduct an emergency meeting and rescind the COVID-19 Prevention Non-Emergency Regulations. As justification for rescinding the COVID-19 regulations, the petitioner proclaims new information provided by confirmed scientific studies and federal health authorities. The petitioner identifies seven topics to justify the petition, of which are reviewed and analyzed herein. The petitioner asserts:

- The CDC (Centers for Disease Control and Prevention) has recently declared the SARS-CoV-2/COVID-19 virus to be, and to be treated as, nothing more than a typical flu. Dr. Fauci confirmed this would be the case on a paper he co-authored with Dr. Robert Redfield, then head of the CDC, on March 26, 2020, at the beginning of the pandemic,

² CDC. About COVID-19. Updated April 9, 2024. Accessed April 22, 2024. <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19.html>

³ CDC. People with Certain Medical Conditions. Updated April 15, 2024. Accessed May 1, 2024. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

⁴ Occupational Safety and Health Standards Board (Standards Board). Petition No. 583 submitted by Worksafe and the Labor & Employment Committee of the National Lawyers Guild. <https://www.dir.ca.gov/oshsb/petition-583.html>

⁵ Standards Board. Petition No. 583 Adopted Decision. September 17, 2020. <https://www.dir.ca.gov/oshsb/documents/petition-583-adopteddecision.pdf>

noting that, the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza.

- Natural immunity, as has been known for hundreds of years, is the best way to be immunized COVID-19, and natural immunity last much longer than the COVID-19 vaccines.
- It has been proven that COVID-19 vaccines do not stop a person from getting COVID-19, as well as proven not to stop transmission to others.
- Masks have been proven to be worthless in trying to stop the transmission of a virus, including COVID-19.
- Dr. Fauci recently confirmed in a congressional meeting that the 6-foot distancing policy encouraged to avoid transmission has no scientific basis to it helping stop the transmission of COVID-19.
- Both Fauci and the World Health Organization have confirmed that alleged infected and asymptomatic carriers of the COVID-19 virus historically rarely transmit and are not the drivers of transmission of viruses to others, making it unnecessary to exclude from the job site any person that might test positive for COVID-19 without symptoms.
- PCR tests have been proven to not detect the COVID-19 virus specifically, and to give inaccurate and often false results as to whether a person is infected or not.

4.0 APPLICABLE TITLE 8 REGULATIONS

COVID-19 Prevention Non-Emergency Regulations are covered in title 8 sections 3205⁶, 3205.1⁷, 3205.2⁸ and 3205.3⁹. Section 3205 includes general requirements for COVID-19 prevention. Requirements for COVID-19 outbreaks are covered in section 3205.1. Sections 3205.2 and 3205.3 includes COVID-19 prevention requirements for employer-provided housing and employer-provided transportation respectively.

5.0 APPLICABLE FEDERAL OSHA REGULATIONS

The federal Occupational Safety and Health Administration (OSHA) adopted a Healthcare Emergency Temporary Standard (Healthcare ETS) to protect workers from COVID-19 on June 21, 2021. Specifically, the Healthcare ETS was implemented to protect workers in healthcare settings or healthcare support services. On December 27, 2021, OSHA announced that it was withdrawing the non-recordkeeping portion of the Healthcare ETS, anticipating that their final rule making could not be completed in a timeframe approaching the one contemplated by the OSH Act.

⁶ Title 8, Section 3205. COVID-19 Prevention. <https://www.dir.ca.gov/Title8/3205.html>

⁷ Title 8, Section 3205.1. COVID-19 Outbreaks. https://www.dir.ca.gov/Title8/3205_1.html

⁸ Title 8, Section 3205.2. COVID-19 Prevention in Employer-Provided Housing.

https://www.dir.ca.gov/Title8/3205_2.html

⁹ Title 8, Section 3205.3. COVID-19 Prevention in Employer-Provided Transportation.

https://www.dir.ca.gov/Title8/3205_3.html

While there is no current OSHA standard that specifically regulates exposure to SARS-CoV-2, OSHA does rely upon and enforce their “General Duty Clause” in section 5(a)(1) of the Occupational Safety and Health Act of 1970 which states the following:

Each employer shall furnish to each of his [sic] employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his [sic] employees;^{10, 11}

6.0 ANALYSIS

6.1 ANALYSIS OF PETITIONERS BASIS

6.1.1 Differences between COVID-19 and Influenza illness

While it is true that illness caused by influenza and SARS-CoV-2 share similar symptoms e.g. fever, cough, sore throat, etc., the Centers for Disease Control and Prevention (CDC) indeed recognizes dissimilarities between COVID-19 and influenza illness, in part concluding that:

- SARS-CoV-2 spreads more easily than influenza.
- SARS-CoV-2 has the potential to cause more severe illness in some people, may take longer to show symptoms, and may have a longer contagious period.
- SARS-CoV-2 can cause more severe symptoms including blood clots in the veins and arteries of the brain, heart and lungs. Multisystem Inflammatory Syndrome in Children (MIS-C) and in Adults (MIS-A) is also a risk.
- Anyone who has had SARS-CoV-2, even with mild or no symptoms, are at risk for Post-COVID conditions. Post-COVID Conditions can appear weeks after infection and the symptoms can last weeks or months after first being infected with SARS-CoV-2.¹²

As it pertains to Post-COVID Conditions, also known as Long COVID, the CDC has determined that Long COVID can result in chronic conditions and, in some cases, Long COVID can result in disability.¹³

Relatedly, results of a comprehensive evaluation of COVID-19 long-term outcomes conducted by Xu et al. determined that there is an increased risk of neurologic disorders in the post-acute phase of COVID-19 illness. The study found an increased risk of conditions such as ischemic and hemorrhagic stroke, peripheral nervous system disorders, Guillain-Barré syndrome, and encephalitis or encephalopathy following COVID-19 illness.¹⁴

¹⁰ Federal Occupational Safety and Health Administration. Statement on the Status of the OSHA COVID-19 Healthcare ETS. December 27, 2021. Accessed April 22, 2024. <https://www.osha.gov/coronavirus/ets>

¹¹ Federal Occupational Safety and Health Administration. Regulations. Accessed May 1, 2024. <https://www.osha.gov/coronavirus/standards>

¹² CDC. Similarities and Differences between Flu and COVID-19. Last Reviewed March 20, 2024. Accessed April 22, 2024. <https://www.cdc.gov/flu/symptoms/flu-vs-covid19.htm>

¹³ CDC. Long COVID or Post-COVID Conditions. Updated March 14, 2024. Accessed April 22, 2024. <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects/index.html>

¹⁴ Xu, E, Xie, Y & Al-Aly, Z. Long-term neurologic outcomes of COVID-19. Nature Medicine. November 2022; 28, 2406–2415. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9671811/pdf/41591_2022_Article_2001.pdf

In brief, the petitioner's assertion that the "SARS-CoV-2/COVID-19 virus to be, and to be treated as, nothing more than a typical flu" is inaccurate and contrary to current CDC guidance documents and recent research and findings.

6.1.2 Natural immunity versus vaccine induced immunity

The petitioner makes the argument for "natural immunity" versus immunity acquired through COVID-19 vaccines. It is important to note that the current COVID-19 regulations do not mandate COVID-19 vaccines nor do the regulations require employers to document employee vaccination status.

SARS-CoV-2 is a novel virus. There are not "hundreds of years" of understanding about COVID-19 illness-acquired immunity or vaccine induced immunity. The World Health Organization first learned of SARS-CoV-2 on December 31, 2019 following a report of cases of viral pneumonia in Wuhan, People's Republic of China.¹⁵ Researchers have endeavored to elucidate COVID-19 immune responses. According to Kapten et al., it is nearly impossible to present the full complexity of the SARS-CoV-2 mechanisms and the immune responses it elicits.¹⁶ However, CDC notes that immunity from SARS-CoV-2 infection decreases overtime and that *"Getting a COVID-19 vaccine is a safer, more reliable way to build protection than getting sick with COVID-19"* (emphasis added). COVID-19 vaccination protects people by creating an immune response without the potentially severe illness or Long COVID.¹⁷

6.1.3 COVID-19 vaccine and disease transmission

As mentioned previously, the current COVID-19 regulations do not mandate COVID-19 vaccines nor do the regulations require employers to document employee vaccination status. Though, in a clinical analysis conducted by Vitiello et al., researchers discuss scientific interpretation of clinical studies which demonstrates a correlation between decrease in SARS-CoV-2 viral load and infection probability and vaccinated individuals. The underlying hypothesis suggests that in vaccinated individuals, the SARS-CoV-2 virus may be present and structurally intact but covered with the individual's antibodies making the virus unable to infect other individuals. The clinical evidence demonstrates that COVID-19 vaccination protects against severe disease and is also important in decreasing the spread of SARS-CoV-2 and the infection rate.¹⁸

6.1.4 Face coverings for COVID-19

¹⁵ World Health Organization. Coronavirus disease (COVID-19) Q&A. March 28, 2023. Accessed April 24, 2024 <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/coronavirus-disease-covid-19>

¹⁶ Kapten K, Orczyk K, Smolewska E. Immunity in SARS-CoV-2 Infection: Clarity or Mystery? A Broader Perspective in the Third Year of a Worldwide Pandemic. *Archivum Immunologiae et Therapiae Experimentalis*. February 21, 2023;71(1):7. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9943048/pdf/5_2023_Article_673.pdf

¹⁷ CDC. Benefits of Getting A COVID-19 Vaccine. Updated September 22, 2023. Accessed April 24, 2024. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>

¹⁸ Vitiello A, Ferrara F, Troiano V, La Porta R. COVID-19 vaccines and decreased transmission of SARS-CoV-2. *Inflammopharmacology*. Published online July 19, 2021. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8287551/pdf/10787_2021_Article_847.pdf

When implementing infectious disease prevention protocols, wearing respirators and face coverings is one strategy to help protect the individual wearer and others. Notably, masking is a critical tool for preventing the spread of SARS-CoV-2 where any type of mask is better than no mask.¹⁹ When masks are worn by an individual with an infection, they reduce viral spread to others. Some masks also can protect the wearer from breathing in larger infectious particles, acting as a filter to reduce the number of germs inhaled.²⁰

Properly fitted respirators are known to provide the highest levels of respiratory protection, with respirators fitting closely to the face to filter particles out of the air that is breathed. Respirators also prevent the spread of infectious germs to others by filtering out the droplets in exhaled breath.²¹

In summary, masks (i.e. face covering and respirators) are not worthless. A study by Wang et al. concluded that masks of all kinds, despite their design differences, effectiveness, and functions, will reduce the overall risk of SARS-CoV-2 infection.²²

6.1.5 COVID-19 physical distancing

The petitioner makes the argument against “the 6-foot distancing policy.” It is important to note that the current COVID-19 regulations do not mandate a “6-foot distancing policy”.

There are multiple strategies to help lower the risk of spreading a respiratory virus and physical distancing is one of them. While it is true that no single number delineates a “safe” distance since viral spread has many factors, the CDC has determined that putting physical distance between infectious subjects and others can help lower the risk of spreading viruses. This is due in part because respiratory particles and droplets accumulate closer to the infectious individual.²³

Summarizing the importance of physical distancing as a means to reduce COVID-19 transmission, researchers Blanken, et al. concluded succinctly that physical distancing behavior was key in mitigating SARS-CoV-2 spread during the COVID-19 pandemic.²⁴

6.1.6 COVID-19 asymptomatic transmission

¹⁹ CDC. CDC updates consumer mask website to emphasize protection, fit, and comfort. Last Reviewed January 14, 2022. Accessed April 30, 2024. <https://www.cdc.gov/media/releases/2022/s-0114-mask-protection-fit.html>

²⁰ CDC. Masks and Respiratory Viruses Prevention. Last Reviewed March 1, 2024. Accessed April 24, 2024. https://www.cdc.gov/respiratory-viruses/prevention/masks.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprevent-getting-sick%2Fmasks.html

²¹ CDC National Institute for Occupational Safety and Health. Community Respirators and Masks. Last Reviewed May 16, 2023. Accessed April 24, 2024. <https://www.cdc.gov/niosh/topics/publicppe/community-ppe.html>

²² Wang Y, Deng Z, Shi D. How effective is a mask in preventing COVID-19 infection? Medical Devices & Sensors. February 4, 2021. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7883189/pdf/MDS3-4-0.pdf>

²³ CDC. About Physical Distancing and Respiratory Viruses. Last Reviewed March 1, 2024. Accessed April 24, 2024. <https://www.cdc.gov/respiratory-viruses/prevention/physical-distancing.html>

²⁴ Blanken, T F, Tanis, C C, Nauta, F H et al. Promoting physical distancing during COVID-19: a systematic approach to compare behavioral interventions. Scientific Reports. September 30, 2021. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8484546/pdf/41598_2021_Article_98964.pdf

To begin this discussion, it is helpful to distinguish between asymptomatic and pre-symptomatic conditions. The terms refer to individuals without current symptoms. The distinction is that pre-symptomatic individuals are infected with SARS-CoV-2 who will go on to have symptoms but have not yet developed symptoms. Asymptomatic individuals are individuals who are infected with SARS-CoV-2 but never develop symptoms.²⁵

While both concepts are important as it pertains to SARS-CoV-2 transmission, the petitioner only mentions asymptomatic transmission. To address the petitioner's statement about asymptomatic transmission of COVID-19, their statement will be addressed in two parts:

- Asymptomatic COVID-19 Positive Transmission- Whether "alleged infected and asymptomatic carriers of the COVID-19 virus historically rarely transmit and are not the drivers of transmission of viruses to others" and
- Asymptomatic COVID-19 Positive- Exclusion From the Workplace- Whether it is "unnecessary to exclude from the job site any person that might test positive for COVID-19 without symptoms"

Asymptomatic COVID-19 Positive Transmission

According to the CDC, SARS-CoV-2 spreads when infected individuals breathe out particles and droplets that contain the virus. People near the infected individual can breathe in the particles and droplets, or the particles and droplets can land on their mouth, eyes, or nose. Infected individuals can spread the virus even if they are without symptoms.²⁶

Asymptomatic COVID-19 Positive- Exclusion From the Workplace

Currently, the COVID-19 Prevention Non-Emergency Regulations do not require isolation or exclusion of asymptomatic COVID-19 cases as the definition of infectious period has changed. Effective January 9, 2024, the California Department of Public Health (CDPH) updated their definition of "infectious period" which is included by reference into the COVID-19 Prevention Non-emergency Regulations. Of note, for COVID-19 cases with no symptoms, there is no infectious period for the purpose of isolation or exclusion.²⁷

6.1.7 COVID-19 and polymerase chain reaction (PCR) testing

For COVID-19, there are two types of diagnostic tests identified by the United States Food and Drug Administration (FDA). There are antigen tests that detect the antigens from the virus and molecular tests such as polymerase chain reaction (PCR) that detect genetic material from the virus.²⁸

²⁵ World Health Organization. Coronavirus disease (COVID-19): How is it transmitted? Q&A. Updated December 23, 2021. Accessed April 25, 2024. <https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted>

²⁶ CDC. About COVID-19. Updated April 9, 2024. Accessed April 24, 2024. <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19.html>

²⁷ Cal/OSHA. COVID-19 Prevention Non-Emergency Regulations FAQs. February 1, 2024. Accessed April 24, 2024. <https://www.dir.ca.gov/DOSH/Coronavirus/Covid-19-NE-Reg-FAQs.html#workCases>

²⁸ United States Food and Drug Administration. COVID-19 Test Basics. September 07, 2023. Accessed April 24, 2024. <https://www.fda.gov/consumers/consumer-updates/covid-19-test-basics>

The PCR laboratory technique uses selective primers to “copy” segments of the virus’s DNA sequence. SARS-CoV-2 PCR testing uses primers that match a segment of the virus’s genetic material, allowing copies of the material to be made. This is used to detect whether the virus is present or not. While PCR testing is not specifically called for in the regulations, the testing is reliable. According to the National Institutes of Health National Human Genome Research Institute, PCR testing is sensitive and incredibly accurate, is sometimes referred to as molecular photocopying and a positive COVID-19 PCR test means that SARS-CoV-2 is present.²⁹ CDC notes that PCR tests are considered the “gold standard” for COVID-19.³⁰

6.1.8 Petitioner’s conclusions

In the petition conclusion, the petitioner asserts that their request is based on the fact that the COVID-19 non-emergency regulations pose an inconvenient, time consuming, costly, and unnecessary burden on employers in the state of California. The argument that regulations are inconvenient and time consuming is not an appropriate metric in assessing the need for protective regulations for employee safety and health. Furthermore, the fiscal impact and estimates for compliance were reviewed and adequately addressed in the Standardized Regulatory Impact Assessment (SRIA)³¹ for the formal rulemaking of the non-emergency COVID-19 regulation and approved by the California Department of Finance.

The petitioner further asserts that failure to rescind these regulations would be arbitrary and capricious, and an abuse of discretion. *Merriam Webster* defines arbitrary as an act which is not restrained or limited in the exercise of power, ruling by absolute authority.³² This does not describe the COVID-19 Prevention Non-Emergency Regulations rule making by which these historic regulations were promulgated. The adoption of the COVID-19 Prevention Non-Emergency Regulations by the Standards Board were governed by the California Administrative Procedure Act in the Government Code and included public hearings, comments, and testimony to evaluate the evidence and need for said regulations. It is the Standards Board’s stated policy that all standards must be enforceable, reasonable, understandable, and contribute directly to the safety and health of California employees. This basic policy extends to all standards regardless of the source with few exceptions for standards substantially the same as federal standards.³³

²⁹ National Institutes of Health (NIH) National Human Genome Research Institute. Understanding COVID-19 PCR Testing Fact Sheet. Last updated January 18, 2022. Accessed April 24, 2024. <https://www.genome.gov/about-genomics/fact-sheets/Understanding-COVID-19-PCR-Testing>

³⁰ CDC. COVID-19 Testing: What You Need to Know. Updated Sept. 25, 2023. Accessed April 24, 2024. https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Ftesting%2Fdiagnostic-testing.html

³¹ California Department of Industrial Relations, Division of Occupational Safety and Health. April 2022. <https://dof.ca.gov/wp-content/uploads/sites/352/Forecasting/Economics/Documents/COVID-19-Prevention-SRIA-FINAL-05-2022-AF.pdf>

³² Definition of “Arbitrary.” Merriam-Webster.com. Updated April 21, 2024. Accessed April 30, 2024. <https://www.merriam-webster.com/dictionary/arbitrary>

³³ Standards Board. About OSHSB. Accessed April 24, 2024. <https://www.dir.ca.gov/oshsb/aboutOshsb.html>

The Standards Board's rulemaking procedures were appropriately followed and were lawful. As such, the COVID-19 Prevention Non-Emergency Regulations are neither arbitrary nor capricious nor an abuse of discretion.

6.2 The COVID-19 Prevention Non-Emergency Regulation Is Lawful and Contains An Integrated Time Limit

The COVID-19 Prevention Non-Emergency Regulation's importance, value, fiscal impact and legality has already been vetted and approved through the Standards Board's rigorous rule-making process. Of note, the Standards Board exercised discretion and thoughtful foresight in limiting the duration of the non-emergency COVID-19 regulation.³⁴ It has been nearly 4 years since the beginning of the COVID-19 pandemic and our understanding of SARS-CoV-2 is still evolving. As such, there is no need to convene an emergency meeting to rescind the COVID-19 Prevention Non-Emergency Regulations. The regulation already has an integrated time limit and it will expire after February 3, 2025, except for the recordkeeping requirement.

6.3 Long-Term Management Phase of COVID-19

On May 5, 2023, the World Health Organization (WHO) determined that COVID-19 is no longer a public health emergency of international concern, entering into the long-term management phase of SARS-CoV-2.³⁵ However, the COVID-19 hazard has not been eliminated. According to Maria Van Kerkhove, the interim director of the WHO's Department of Epidemic and Pandemic Preparedness and Prevention, "The virus is here. It's evolving. It's killing. It's causing Post-COVID conditions [also called long COVID]. And we don't know the long-term effects. It's a virus that is here to stay."³⁶

The petitioner argues against vaccines, face coverings, physical distancing, and testing and isolation for the control of COVID-19 illness, but these are the basic tenets of airborne infectious disease control for viruses, including SARS-CoV-2. The aforementioned strategies have been proven to be effective against SARS-CoV-2 transmission.³⁷

Standards Board should not rescind COVID-19 protections for California employees as the COVID-19 hazard still exists with the potential to cause severe illness, long term disability, and potentially death to employees. As the world navigates the long-term management phase of SARS-CoV-2, the public has some ability and discretion to self-protect against infectious diseases in their

³⁴ Title 8, Section 3205. COVID-19 Prevention. <https://www.dir.ca.gov/Title8/3205.html>

³⁵ World Health Organization. Statement on the fifteenth meeting of the IHR (2005) Emergency Committee on the COVID-19 pandemic. May 5, 2023. Accessed April 24, 2024. [https://www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-coronavirus-disease-\(covid-19\)-pandemic](https://www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-coronavirus-disease-(covid-19)-pandemic)

³⁶ Scientific American. Interview with Maria Van Kerkhove. Rampant COVID Poses New Challenges in the Fifth Year of the Pandemic | Scientific American. February 6, 2024. Accessed April 24, 2024. <https://www.scientificamerican.com/article/rampant-covid-poses-new-challenges-in-the-fifth-year-of-the-pandemic/>

³⁷ Christie A, Brooks J T, Hicks L A, et al. Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage. Morbidity and Mortality Weekly Report. July 30, 2021. <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7030e2-H.pdf>

private lives. Conversely, employees cannot unilaterally self-protect against infectious diseases at work and rely on regulations to ensure that employers implement adequate health and safety measures to protect them while working. The COVID-19 Prevention Non-Emergency Regulations accomplish this objective and should not be rescinded.

7.0 CONCLUSION

Cal/OSHA recommends that Petition No. 603 be DENIED.

Cc: Debra Lee, Chief