STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

COVID-19 PREVENTION SUBCOMMITTEE MEETING

In the Matter of:)
August 27, 2021 OSH)
COVID-19 Prevention)
Subcommittee Meeting)
_____)

TELECONFERENCE

PLEASE NOTE: In accordance with Executive Order N-29-20 and Executive Order N-33-20, the Subcommittee Meeting will be conducted via teleconference

FRIDAY, AUGUST 27, 2021

10:00A.M.

Reported by:
E. Hicks

APPEARANCES

BOARD MEMBERS:

Chris Laszcz-Davis, Subcommittee Chair and Management Representative on the Board
Laura Stock, Occupational Safety Representative on the Board
Nola Kennedy, Public Member on the Board and Liaison for the Subcommittee to the Division

BOARD STAFF PRESENT AT OSHSB OFFICE IN SACRAMENTO:

Christina Shupe, Executive Officer
Michael Manieri, Principal Safety Engineer
Autumn Gonzalez, Chief Counsel
Sarah Money, Executive Assistant
Jennifer Bailey, Sr. Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Lara Paskins, Staff Services Manager
Amalia Neidhardt, Senior Safety Engineer

DIVISION STAFF

Eric Berg, Deputy Chief of Health, Cal/OSHA
Michael Wilson, Cal/OSHA

TKO Staff

Rey Ursery, TKO
John Roensch, TKO
Brian Monroe
Maya Morsi

SPANISH INTERPRETERS
Estella Moll
Julia Elizarras

APPEARANCES (Cont.)

PUBLIC COMMENT:

Kevin Bland, Ogletree, Deakins, Nash, Smoak & Stewart
Helen Cleary, Phylmar Regulatory Roundtable
Bruck Wick, Housing Contractors of California
Michael Miiller, California Association of Winegrape Growers
Coby Marie Turner, Seyfarth Shaw LLP
Bethany Miner, HR professional
Rob Moutrie, California Chamber of Commerce
Cassie Hilaski, Nibbi Brothers General Contractors
Saskia Kim, California Nurses Association/National Nurses United
Maggie Robbins, Worksafe
Eddie Sanchez, Southern California Coalition for Occupational Safety and Health

I N D E X

Next Meeting: September 9, 2021
Teleconference and Video-conference
(In accordance with Executive Orders N-29-20 and N-33-20)

P R O C E E D I N G S

10:00 A.M.

BOARD MEMBER LASZCZ-DAVIS: Good morning. This Subcommittee Meeting of the Occupational Safety and Health Standards Board is now called to order.

I am Chris Laszcz-Davis, Subcommittee Chair and Management Representative on the Board. And the other Board Members present today for this subcommittee are Ms. Nola Kennedy, Public Member on the Board and liaison for the subcommittee to the Division; Ms. Laura Stock, Occupational Safety Representative on the Board.

Also present from our staff for today's meeting are Mr. Michael Manieri, Principal Safety Engineer; Ms. Autumn Gonzalez, Legal Counsel; Ms. Sarah Money, Executive Assistant; and Ms. Jennifer Bailey, Senior Safety Engineers who's providing technical support.

Supporting the meeting remotely are Ms. Lara Paskins, Staff Services Manager and Ms. Amalia Neidhardt, Senior Safety Engineer, who is providing support to Ms. Kennedy and providing translation services for our commenters who are native Spanish speakers via teleconference.

You'll have to forgive me. I'm missing a page here.

We are also joined today by Dr. Michael Wilson and Mr. Eric Berg, Deputy Chief of Health representing Cal/OSHA. Today's agenda and other materials related to today's proceedings are posted on the OSHSB website.

In accordance with Executive Orders N-29-20 and N-33-20, today's subcommittee meeting is being conducted via teleconference, with an optional video component.

This meeting is also being live broadcast via video and audio stream in both English and Spanish. Links to these non-interactive live broadcasts can be accessed via the "what's new" section at the top of the main page of the OSHSB website.

We have limited capabilities for managing participation during the public meeting. So, we're asking everyone who is not speaking to place their phones on mute and wait to unmute until they are called to speak. Those who are unable to do so will be removed from the meeting to avoid disrupting the proceedings.

As reflected in the agenda, today's meeting consists of two parts. First, we will hold a business meeting for the subcommittee to conduct its business. During the business meeting there will be an opportunity for the subcommittee to receive public comments. These comments are to be combined to be revised COVID-19 Emergency Temporary Standard, or ETS, recently adopted by the Board.

Please be all aware that the committee is capping the public comment period to 30 minutes and each speaker during the public comment period will be given two minutes to address the committee.

You are also invited to submit your comments in writing to the committee at oshsb@dir.ca.gov. Please be sure to specify that your written comments are for the COVID-19 Prevention ETS Subcommittee so that they are directed accordingly by the Board's staff.

During the public comment period, please listen for your name and invitation to speak before addressing the committee. And please remember to mute your phone or computer after commenting.

OSHSB staff can be contacted by email at oshsb@dir.ca.gov or via phone at 916-274-5721 to be placed in the comment queue. If you experience a busy signal or are routed to voicemail, please hang up and call again.

After the business meeting has concluded, we will conduct the second part of our meeting, which consists of subcommittee consideration or deliberation. For our commenters who are native Spanish speakers. We are working with Ms. Amalia Neidhardt -- forgive me. Working technology there, so bear with me.

We're working with Ms. Amalia Neidhardt to provide a translation of their statements into English for the committee. At this time, Ms. Neidhardt will provide instructions to Spanish-speaking commenters so they are aware of the public comment process for today's meeting. Amalia?

MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH] Public Comment Instructions.

"Good morning and thank you for participating in today's Occupational Safety and Health Standards Board COVID-19 Prevention Subcommittee Meeting. Board members present are Ms. Chris Laszcz-Davis, Subcommittee Chair and Management Representative on the Board, Ms. Nola Kennedy, Public Member on the Board and liaison to the Division for this subcommittee; and Ms. Laura Stock, Occupational Safety Representative on the Board.

"As reflected on the agenda, today's meeting consists of two parts. First, we will hold a business meeting for the subcommittee to conduct its business. During the business meeting, there will be an opportunity for the subcommittee to receive public comments. These comments are to be confined to the revised COVID-19 Emergency Temporary Standard, or ETS, recently

adopted by the Board. Please be aware that the committee is capping the public comment period to 30 minutes and each speaker during the public comment period will be given 2 minutes to address the committee. You are also invited to submit your comments in writing to the committee at oshsb@dir.ca.gov. Please be sure to specify that your written comments are for the COVID-19 Prevention ETS Subcommittee so that they are directed accordingly by the Board staff.

"During the public comment period, please listen for your name and an invitation to speak before addressing the committee, and please remember to mute your phone or computer after commenting. OSHSB staff can be contacted by email at oshsb@dir.ca.gov or via phone at 916-274-5721 to be placed in the comment queue. If you experience a busy signal or are routed to voicemail, please hang up and call again.

"After the business meeting has concluded, we will conduct the second part of our meeting, which consists of subcommittee consideration/deliberation if needed. We have limited capabilities for managing participation during the public comment period. We are asking everyone to keep their phones and WebEx audio on mute until your name is called to address the committee. Please remember to mute again after you have finished commenting.

"This meeting is also being live broadcast via video and audio stream in both English and Spanish. Links to these non-interactive live broadcasts can be accessed via the “What's New” section at the top of the main page of the OSHSB website.

"Please listen for your name to be called for comment. When it is

your turn to address the committee, please be sure to unmute yourself if you're using WebEx or dial *6 on your phone to unmute yourself if you're using the teleconference line. Please be sure to speak slowly and clearly when addressing the committee and please remember to mute your phone or computer after commenting. If you have not provided a written statement, please allow natural breaks after every two sentences, so that we may follow each statement with an English translation."

BOARD MEMBER LASZCZ-DAVIS: Thank you very much Amalia. That now brings us to the business segment of the meeting, the subcommittee liaison briefing. Nola, can I ask you to provide the briefing?

BOARD MEMBER KENNEDY: Yeah. Well, the subcommittee is -- Well, I've met twice with, and Board staff has met twice, with Cal/OSHA since our last subcommittee meeting.

And over the course of those two meetings, there's not much to report, except I would say that there has been a shift in the focus from exploring metrics that might be useful to trying to identify next steps and moving toward the next re-adoption. That's it.

BOARD MEMBER LASZCZ-DAVIS: Alrighty, thank you. Any questions for Nola?

MS. STOCK: Hi this Laura. Nola, do you have anything more that you can share around what that looks like in terms of moving to re-adoption? Have there been discussions about what that would … do you have a format for that?

BOARD MEMBER KENNEDY: There has been discussions and I would say that we have not -- or not we; Cal/OSHA have not settled on a format, at

least not that I have been made aware of yet.

MS. STOCK: Okay, thank you.

BOARD MEMBER LASZCZ-DAVIS: Any other questions? With that, what I'd like to do is move the over to the Division briefing then. Mr. Berg, will you please brief the subcommittee?

MS. SHUPE: I'm sorry. Chris, I believe Nola was going to be passing the Baton over to Amalia. We have a presentation from Amalia.

BOARD MEMBER LASZCZ-DAVIS: Oh, forgive me. Alright, forgive me. Sorry Amalia, it's all yours.

MS. NEIDHARDT: Good morning. Thank you. Now, Rey, we can have the presentation. Sorry. Thank you.

So good morning esteemed subcommittee members. At your request, I'm providing an update on actions of other states in response to COVID-19 and I have a lot of information.

So, I'm going to try to condense this information to hopefully have it easy presentable to you guys.

If I can have the next slide, Rey, please. Thank you.

The first thing I want to clarify is information is rapidly changing. So, please bear in mind that this information was accurate as of August 22nd, with a few exceptions.

The goal of this presentation is to talk about the findings and common trends observed when I did the analysis of some of these states. However, and then offered to condense this information -- I'm illustrating some states as examples of some of the strategies observed.

First, I'm going to give you some background in regards to CDC and

the OSHA updates.

Next slide, please.

Given the new evidence of the Delta variant, CDC updated the information for fully vaccinated people on July 27, 2021.

Infections happen in only a small portion of people who are fully vaccinated. However, preliminary evidence suggests that fully vaccinated people who do become infected with the Delta variant can spread the virus to others.

Therefore, CDC is recommending that fully vaccinated people should wear a mask in public indoor settings in areas of substantial or high transmission.

Now, the level of community transmission assessed by CDC, and what they recommend is that it be assessed by using at a minimum two metrics. The new COVID-19 cases per a hundred thousand people in the last seven days, and that percentage of positive SARS COVID test in the last seven days.

Note, the two indicators suggest different transmission levels. For instance, one indicator suggests moderate and the other one indicates substantial. Then the higher level is selected. And I will explain that in a couple of slides with more detail.

So, in addition to wearing masks in areas of high and substantial transmission, CDC recommends encouraging vaccination and using layer prevention strategies to prevent further spread. So, if you, for instance, if you are experiencing COVID-19 symptoms, regardless of vaccination status, they recommend that you be removed from the workplace.

And also, if you're fully vaccinated, but you have come in close contact with someone who is suspected or confirmed COVID-19, that you should be tested three to five days after exposure and wear a mask.

Now, CDC specifically calls out on schools to ensure that masks are wear by all teachers, staff, students, and visitors, regardless of vaccination status.

Next slide.

MS. STOCK: Excuse me Amalia. Can I ask you a quick question about the slide you just showed?

Amalia, I just wanted to ask the bullet about whether fully vaccinated people should be tested after close contact. Is that even if they're asymptomatic?

MS. NEIDHARDT: Yes. It basically said if you came in close contact with a suspect or confirmed case, right, that you are tested three to five days after exposure.

MS. STOCK: Okay. Thank you.

MS. NEIDHARDT: Good question. Rey, can I have the next one? Thank you.

And here to explain a little bit, so there's four different levels of community transmission. There's the low, moderate, substantial, and high.

In this particular image, please note that the period was from August 9 to Sunday, August 15. CDC recommends that you weekly check the level of community transmission.

But what I wanted to illustrate in the data access on August 17th is pretty much the majority of the state of California is found within the high

level of community transmission and CDC post this data online.

Next slide, please, Rey. Thank you. And let me know if I'm talking too loud, sorry. I feel like I'm talking too loud.

In the July 30th morbidity and mortality weekly reports, CDC included more information and not only they explained more about the community transmission level, but they -- first let me go back to the first bullet.

They're recommending, of course, vaccination remains the most effective means to achieve the control of the pandemic. However, in the short-term, multiple interventions are needed to minimize the spread of COVID-19.

Proven effective strategies beyond vaccination include using mask consistently and correctly, maximizing ventilation, both to dilution and filtration, and maintaining physical distancing and avoiding crowds.

Now, CDC is encouraging decision-makers to assess the following factors, to identify the need for layer prevention strategies, and these are factors that you see on your left.

Community transmission; again, there has to be low, moderate, substantial or high.

There's also the second item that you will see on the chart. You will see 05 in the chart to your right. Health coverage; to monitor the usage of the health system and the remaining capacity.

The third item, COVID 19 vaccination coverage. Not only to check the percentage of fully vaccinated people, but also to establish reported policies like allowing workers to receive vaccines during work hours, or take paid leave to get vaccinated.

Item four, capacity for early detection of COVID cases. Basically, the testing, because this could be used as an early warning signal.

And item five, to look at the population and decrease risk for severe outcomes for COVID-19. And this population will be not only the un-vaccinated that the amount of, or the percentage of population that could be immunocompromised, or it could be minorities are more vulnerable to the COVID-19.

Next slide, please.

So, the scope of the July 27 … excuse me, there was going to be a question. Yes, Chris, go ahead.

Okay, I thought there was going to be a question.

So, the scope of the CDC update, OSHA updated their guidance on August 13th, 2021. No, no. If we can go back to the slide from OSHA. Thank you.

Let's stay on this slide for a couple of seconds.

So, OSHA updated their guidelines. And the first thing is that OSHA encourages employers to take steps to make it easier for workers to get vaccinated.

So, not only … what I mentioned that encourage them that they get paid to get their vaccine, but that perhaps they also get paid time if they get ill from their vaccine.

OSHA recommends that employers use multiple layers of control. Again, not only mask wearing but physical distancing and increased ventilation. OSHA also, similar to CDC advices that employers remove from the workplace all infected people and basically all people experiencing COVID symptoms,

regardless of vaccination status. And urges fully vaccinated people in areas of substantial or high transmission to wear masks indoors.

Lastly, OSHA provides employers with a specific guidance for environments at a high risk for exposure, and that is the areas are here. For instance, workplaces at higher risk will be where there are close contact, for instance, assembly lines or prolonged close contacts with coworkers or with the public. For instance, shifts that could be 6 to 12 hours per shift, especially with the public that we do not know their vaccination status.

Also, areas that are poorly ventilated or yeah, like I said frequent contact with individuals into community settings, like homeless centers or schools. And OSHA, in their guidelines specifically recommends the schools continue to follow up applicable CDC guidance.

Thank you, Rey. Next slide. Thank you.

So, as an example, New Jersey lifted their COVID restrictions back in June 2021. However, they revised their guidance after the CDC came out, and they revised their guidance to educate employers and businesses about the right to implement or require a stricter mask policy.

And New Jersey does have some or additional prevention strategies. For instance, they require that all health workers, including workers in congregate living facilities, be fully vaccinated by September 1st 2021.

They require social distancing and masking in high-risk areas, such as transportation, correction facilities, homely centers, and schools. And for vaccinated and unvaccinated individuals, they continue to encourage that they wear masks in what they call high-risk indoor settings, which are the ones I

mentioned.

But of note, something recently that came up is that the governor issued a mask requirement for all students, educators, and staff and visitors, and this mandate that they were mask indoors for the entire school year 2021 to 2022.

Thank you. Next slide.

Washington; I selected Washington because it has two unique items. The first one that I wanted to illustrate, the state of Washington updated their policies in response to the Delta variant.

First, the governor issued a proclamation to extend the state of emergency. And this proclamation mandates that any worker that is not fully vaccinated be prohibited from engaging in work for a state agency or for an educational setting, or for a health care provider or an operator of childcare setting.

Washington's vaccination mandate is one of the strictest in the nation because the test out option is not available. It does allow exceptions for medical exclusions or sincerely held religious beliefs.

Then the secretary of health issue a proclamation mandating that every person -- and I want to say that again; every person, not just a worker, in the state of Washington must wear a face covering when they're in a place where any person outside their household is present. And this order went into effect on August 23rd.

So, they have mandate for vaccination for certain employees, and then they mandate that every person wear a mask. The only thing that is unique is that they do not accept self-attestation.

The next slide, please.

For Oregon; Oregon has a permanent rule. But if you recall, at my previous presentation I had made, I had mentioned that they had implemented temporary changes to that permanent rule. So, due to the Delta variant, again, they implemented another temporary change and this one puts back again in effect the requirement for masking in indoor workplaces.

So that went into effect on August 13, and it requires employers to comply with the newly adopted Oregon health authority rule, which basically requires everyone to wear masks.

Oregon also adopted a temporary amendment that restores Appendix A8, which requires that both private and public employees wear a mask in schools. So, that's that. Now, one recent change and this is an update, is that Oregon has now issued a proclamation that they were going to follow the same vaccination mandate as the state of Washington.

They will also require state employees, employees for healthcare and such to have a vaccine. And if not, they could lose work and they will not allow test out option.

Thank you. Can I have the next slide?

Now, here I will spend a few minutes. Something interesting about the state of Virginia that I thought you will benefit from hearing.

The state of Virginia has a final permanent standard. However, back in June, they proposed amendments to their final permanent standard. And most recently, in response to the CDC, they have proposed additional amendments.

So, with regards to additional amendments, they are proposing to

amend the definition of community transmission, to follow the guidance of CDC and use the words low, moderate, substantial, and high in their final permanent standard.

They also recommend to remove, what I had mentioned earlier -- the CDC has recommended, remove from the work site a COVID-19 positive employee, regardless of vaccination status.

Masks are required for fully vaccinated employees in areas of substantial or high community transmission. And something additional, right for fully vaccinated employees, they must share work vehicles.

Furthermore, Virginia requires under the requirements for higher risk workplaces that employers take additional steps. For instance, engineering controls, administrative and work practice controls, and PPE to mitigate the spread of COVID-19.

Examples of workplaces that they consider a higher risk are manufacturing, meat and poultry processing, high volume retail, groceries, transit, seafood processing, correctional facilities, and workplaces with unique factors such as employer provided housing or employer provided transportation.

Next slide, please. Thank you.

So, again, what you see in here is the black font is what they currently have in the permanent standard. And the highlighted yellow, the area highlighted in yellow is what they're proposing to amend on their final permanent standard.

So, this is in response to the CDC updated guidance. They are adopting, they would like to adopt the CDC recommendation using two metrics

or a minimum two metrics.

And what you see is a table on the right. The first metric will be new COVID-19 cases per a hundred thousand persons in the last seven days. And the second metric is a percentage of positive SARS-CoV-2 diagnostic tests in the last seven days.

And this is going to bear a little bit more you will see because of their substantial and high. So, they will have the requirement that I will show in a moment for substantial and workers are in substantial and high transmission areas.

If I can have the next slide, please.

Now the state of Virginia, again, they have a permanent standard and they have a 220-20, which is a mandatory requirement for all employers. All employers in the state of Virginia have to comply with this regulation. And what they're proposing is making the modifications that you see in yellow.

So, hopefully, you can see first on your left, I'm going to focus on workers that must share a work vehicle or other modes of transportation. If they are not fully vaccinated, the employees can request from their employer an N-95 or a face covering if they're not fully vaccinated.

If they are fully vaccinated, then these amendments will require that they wear a face covering. This is in workplaces where workers have to share work vehicles, almost transportation. That's one subsection.

On the right, you have subsection G, where previously they required that not fully vaccinated or unvaccinated employees wear face coverings. Now they're proposing to amend it to also include the fully vaccinated employees in areas of substantial or high community transmission,

wear face coverings.

There are some exceptions. For instance, if the employee works alone or while the employee is eating or drinking and if they're not fully vaccinated, then those employees have to maintain a six-feet distance away from someone else.

Next slide please.

And again, out of the entire regulation, I selected three items because I thought it will be of benefit to the subcommittee to inform you about these items that they have. The state of Virginia has a different subsection, the subsection 220-60 are additional requirements for higher risk workplaces, the ones that I had mentioned earlier.

So, these additional requirements are based on an increased risk of potential exposure to COVID-19. But workplaces that are under this category are required to implement either engineering controls. Actually, they take the steps spelled out to their subsection B, which is engineering controls, for instance, mechanical or dilution ventilation, increased filtration.

For administrative and work practices controls, they provide options, for instance, prescreening or surveying to verify the employees has no symptoms of COVID-19, staggering shifts to prevent that risk employees congregating during breaks or near time clocks, implementing flexible hours, requiring physical distancing, or requiring that they post signs requiring face coverage for their customers.

PPE, the final permanent standard requires that the employer conduct the workplace assessment and they select appropriate personal protective equipment, but it does extend from PPE fully vaccinated workers.

So, next slide.

Now, I'm giving you a lot of information. I'm trying to condense it. So, the first thing that I wanted to point out to make sure that you are aware is these are the strategies that I have observed from this variety of states that I looked at.

The first one is that they have masking in areas of substantial or high transmission risk. And with the exception that Washington and Oregon mandate, CDC and OSHA recommends it, also New Jersey. But Virginia will require it and Washington and Oregon mandates it.

They also have something in common. They have policies encouraging vaccination. Of course, I don't know if a mandate will be encouraging vaccination, but it is the laws for Washington and Oregon.

New Jersey has a mandate for healthcare workers and something unique about the state of Virginia to encourage vaccination, in the previous slide when I showed you that they have requirements for higher risk workplaces, they require that employers that fall on that category of higher risk workplaces, have written infectious disease, preparedness and response plan if they have 11 or more employees.

So, what they are doing is that if they are employers in this category, they are allowed to exclude fully vaccinated employees from that count. So, that's one way that they're encouraging employers to get more of their workers vaccinated.

The next item, fully vaccinated people should be wearing masks and get tests after exposure. You see that from recommendations, CDC and OSHA, and which in essence remove positive COVID-19 cases.

Next one, prioritizing anyone that is working in, regardless of vaccination status, they recommend that everyone wear a mask, or even fully vaccinated people wear a mask in areas like I mentioned before; the substantial or high transmission risk.

And the last item is coming obvious now, after reviewing some of this stuff is that they have more measures for higher risk workplaces and that's recommendations by CDC and federal OSHA, requirements by Virginia, and in the case of New Jersey, they have requirements for some workplaces like I said, correctional facilities, transportation, healthcare, and schools.

Next slide please.

So, in summary, I have three slides in summary. So, the first thing I wanted to have is key takeaways.

No state is exactly the same, but several states are using multiple prevention approaches, right? They're using either masking and regardless of vaccination status or masking for workers in high and substantial transmission community levels.

They're also either encouraging vaccinations and anyone that is not vaccinated they can have the opt-out test. But although states like Washington and now Oregon, they will mandate vaccinations for some workers like public workers and school workers, healthcare workers for areas that are higher risk or for areas where there's a high or a substantial community transmission.

And the additional item that I see there is there's a growing focus on higher risk workplaces, either what they call higher risk as commingling or vaccinated or non-vaccinated employees, or the factors that I saw before and I mentioned before. That there's prolonged contact, they have longer shifts and

they have more contact with their coworkers or the public, or they are in poor ventilated spaces.

And they're specifically calling out schools or setting schools outside for additional requirements.

Next slide, please.

Now, I want to take a moment back here. This is not just a comment metrics observed in this research but in the previous presentation that I did several meetings ago.

Several states had mentioned that they were going loosen restrictions once they achieved a vaccination rate of 70%, of 70% of the adult population.

They were going to either follow that or a deadline. But I want to mention because vaccination rate was one of the monitoring metrics they were mentioning.

So, there were some states that follow the metrics or they follow the Department of Public Health metrics for instance, Illinois. And I do not have a slide this time, but I had mentioned a while back.

They followed their department of public health metrics that shows the number of cases per a hundred thousand, number of deaths per a hundred thousand, and then test positivity or vaccination rate.

Then there was also Illinois and one other stat, but the name escapes me right now that they were going to be looking at also the number of employee complaints received and the number of employer-reported hospitalizations and fatalities.

And I want to stress, the recommendations from CDC and that is

being proposed to be amended in Virginia -- Rey, if I could bother you, could we go back to slide number five, please? I want to just go back on that. Thank you.

Yes. It's these particular factors, these metrics, the community spread, where they're determining whether the community transmission level is low, moderate, or zero in, when there is high or substantial.

The second, monitoring the health capacity, especially how much availability there is. Vaccination rate, early detection, doing testing. And then the population's risk, basically to keep in mind the number of people that can still be unvaccinated, immunocompromised, or their minorities are more vulnerable to COVID-19.

And if we can go down to slide 11, please.

So, these were five factors that I mentioned and notice how the state of Virginia is proposing to adopt that particular factor or the community transmission that I mentioned. They're focusing on the two metrics to determine whether community transmission is substantial, low, moderate, or high.

And those are the COVID-19 cases per a hundred thousand or that are positive diagnostic nucleic acid amplification tests as a home mappable. Anyway, we can go back to that slide, that was slide 11. Actually 16, sorry Rey. I'm jumping a lot where we have the metrics.

Yes. So that's what I wanted to bring to your attention. These are the metrics that I aforementioned in these states. The health capacities that are recommended by CDC and the percent of population at risk. So, that's with regards to metrics. Now, if I can have the next slide.

The COVID prevention strategies observed. As I mentioned, some of these states are using a layer approach. They're focusing their strategies, not only on worker populations at risk, on vaccinated, or not fully vaccinated, or if you're fully vaccinated, but you are located in areas of substantial and high risk.

So, layer approach is they're not stopping just at masking, they're using vaccination and possibly other ones like make sure that they have physical distancing or increasing ventilation.

They are prioritizing indoor settings. They're establishing policies to encourage vaccination. I particularly found that interesting of Virginia. But a lot of these for instance, their motivator -- I don't know if it's motivator, but Oregon and Washington, they will mandate vaccination.

But in other states, they're allowing that anyone that is not fully vaccinated, they can continue to do the testing, that we can test. And then that last item, mandating additional preventative strategies for workplaces with higher risks.

So, that's why I was trying to summarize this. There's a lot of information and it could well be that I missed some of these important factors, prevention strategies that some states are using.

So, if I can have the next slide and that's my presentation. Any questions?

BOARD MEMBER LASZCZ-DAVIS: That was an excellent presentation, Amalia. Are there any questions for Amalia?

MS. STOCK: Yeah, this is Laura. I had a couple of questions and comments.

Thank you so much Amalia. This was really, really helpful. It's a lot information to absorb as you've said. So, I think everybody's going to need to take some time to look at it more closely, some of the slides, I'm looking at the small screen couldn't get the details.

But a couple of things are standing out to me and maybe you could comment to see whether I'm understanding this right.

So, one thing that definitely kind of confirms the feeling that that I've had and others have mentioned about ways that the California ETS is not going as far as even just the CDC and the OSHA guidance in particular … the things that I pulled out is first of all, that recognizing that vaccinated people can transmit, get infected and transmit, and that vaccinated people indoors should wear masks. And it seems like CDC and OSHA have moved in that direction.

I also saw, you mentioned that there were recommendations that vaccinated workers should be tested if they'd been exposed, even if they're asymptomatic, which is again I believe different from ours.

And another thing that I've seen that's recommended in CDC and OSHA as well as in other states is this focus on multiple level of control. And again, our revised ETS standard is really putting most up there. You know, the focus on getting vaccinated, there's no longer a requirement for physical distancing, even though that does seem to be required in a number of these other states and recommended by OSHA and CDC.

Another thing that I think is just interesting to observe and is something we've started to talk about is this tiered approach which I know people have been discussing as a potential model for where we might go with a

permit standard.

And one of the things that I'm struck by that is the benefit of a tiered approach that's focusing on risk, is it's more preventive. And in California, more requirements are put into place in the case of major outbreaks. That's where physical distancing for example is once again required.

So, it waits for those outbreaks to occur versus these models where just knowing by the nature of the place of employment, if it's at a higher risk, then they should have those multiple levels of protection, which we no longer really have in most workplaces prior to major outbreaks.

So, it just, again, your presentation has highlighted for me areas where we need to strengthen our standard, and we are falling behind what many other states are recommending and what OSHA and CDC are recommending. And I wonder if you have any comments or if you think I'm interpreting anything that I've said wrong; you could correct any of my assumptions.

MS. NEIDHARDT: No, I just wanted to highlight what you're saying. I did observe that they're using a multi-layer approach, multiple strategies. They don't focus on just one. And also, that they are having the basics for most of the employers, but like you said, higher risk work sites, they have additional requirements. I found that in the state of Virginia and recommendations from CDC and OSHA.

That also struck me as interesting, that those are strategies. So, I will say that that's something that I observed.

MS. STOCK: And Amalia, I'm trying to remember which state again

in my mind, I'm always trying to compare it to what we're doing in California. And did I hear and again, I may be getting some details of what our current regulation says not exactly right, because it's changed.

But it sounded like there were some states or some recommendation in what you presented with people who are exposed, like who should be excluded if they've been exposed. And I know in California, it's symptomatic vaccinated workers; but did I hear you say that there were states that are recommending exclusion of vaccinated workers who are close contacts? Did I hear that right, even asymptomatic? Sorry, go ahead.

MS. NEIDHARDT: State of Virginia, if we go to the match matrix that we have the slide, I think it's slide 15. I'm sorry.

MS. STOCK: Yeah. I think I saw it on your matrix of the different-

MS. NEIDHARDT: Okay, slide 14. Sorry, my bad. One prior to that.

MS. STOCK: Right.

MS. NEIDHARDT: Yes. Yeah, so that one Virginia stands out to remove positive COVID-19 cases from the workplace even if they're vaccinated. That one-

MS. STOCK: And that includes asymptomatic workers. Is that correct?

MS. NEIDHARDT: Well, in the case of Virginia, they particularly talk about COVID-19, positive COVID-19 cases in Virginia. In the case of CDC, what they said, if you have been in close contact with someone that is suspect or confirm, what they recommend is that you be tested three to five days, but that you wear a mask for 14 days.

MS. STOCK: Right. Okay. And they are recommending that

vaccinated workers who are asymptomatic get tested if they have been in close contact?

MS. NEIDHARDT: Three to five days after, yes.

MS. STOCK: Okay, alright.

MS. NEIDHARDT: If they are suspect or confirmed.

MS. STOCK: Yeah. Thank you.

BOARD MEMBER LASZCZ-DAVIS: Amalia, that represents an incredible amount of work. I know you've worked very long and very hard on this. So very, very much appreciated.

MS. NEIDHARDT: Absolutely. Thank you, guys.

BOARD MEMBER LASZCZ-DAVIS: If there are no further questions, are there any other Division reports we need to consider at this point? Or at that point, at that time then, at this time rather -- that brings us to the public comment area.

MR. BERG: Chris, hold on. Yeah.

MS. SHUPE: We have a presentation from Eric Berg.

BOARD MEMBER LASZCZ-DAVIS: Alrighty. Thank you. I'm glad I asked the question. Alright. Go ahead.

MR. BERG: Thank you very much. So, right now, we're working on gathering enforcement statistics. Our enforcement statistics are not quite ready for release, but we're actively been working on these for some time and we'll send those to the Standards Board prior to the next subcommittee meeting.

And we're also borrowing from someone from enforcement branch of Cal/OSHA with specific expertise on the statistics to present the information

at the next subcommittee meeting, to be able to answer the questions you may have about those better with their expertise.

So, please look forward to that at the next subcommittee meeting. And then also right now, we'll have Dr. Michael Wilson provide an update on COVID-19. So, Dr. Wilson has a PowerPoint.

DR. WILSON: Great, thanks, Eric. Before we jump into the workplace outbreak data, the subcommittee asked for some sort of basic update on what we presented two weeks ago. And what I wanted to do was just to give people a sense sort of around looking at how infections and fatalities from COVID-19 are actually highly localized.

And we're seeing that worldwide, but we're also seeing that in California being stratified across counties, across income levels, household income, and across race and ethnicity.

And so, I'll just touch on a few points and I think this sort of puts a fine point on Amalia's presentation and what we're seeing with some key states focusing on higher risk workplaces and that are in many cases occupied by low-income frontline workers.

And so, I want to touch on just a couple of important sort of numbers here. So, what we're seeing nationwide is that COVID case numbers are now at about 12,000, per hundred thousand per day. That compares to the peak of January this year, which was about 10,000 cases per a hundred thousand per day.

So, we've exceeded our January peak. The death rate nationwide, however, is only about — and I say only, but it's a fraction of what we were seeing in January. In January, nationwide, we were experiencing about 3,500

COVID-19 fatalities per day. We're now at about 800 from the Delta variant.

The vast majority of these fatalities are from persons who are unvaccinated. And what's important to sort of, I think, understand around the way this virus is behaving, is if we look around worldwide at the 10 nations that have the highest death rates from COVID-19, the worst is the nation of Georgia with about one and a half deaths per a hundred thousand. And number 10 is Trinidad and Tobago with about 0.5 deaths per a hundred thousand.

If they were nations, three US states would be number two, three and four worldwide. And those are Mississippi, Louisiana, and Florida with 1.3, 1.2 and 1.1 deaths per a hundred thousand from COVID-19, whereas in California, we're seeing about 0.1 deaths per a hundred thousand, which is a little over 7% of the Mississippi death rate.

So, we're highly stratified across the country for lots of reasons. But what we're seeing here in California now, is I'll just touch on some of our own stratifications that are happening; that in seven California counties, the hospitalization rate is at its all-time high for COVID-19. Those are-

MR. BLAND: Can I interrupt? I apologize for interrupting.

DR. WILSON: Yeah, for sure.

MR. BLAND: Are we supposed to be seeing different slides for what you're showing?

DR. WILSON: No.

MR. BLAND: Okay. Okay. I just wanted to make sure I wasn't having a glitch. Sorry about that.

DR. WILSON: Yeah, no, I appreciate the question. And we had graphics for these that didn't quite get through in time on the approval

process. So, I'm sort of hitting the key points, but yeah, I'm sorry, I don't have a visual for you. It's a little bit difficult to.

MR. BLAND: No worries. I just wanted to make sure I didn't have a glitch on my end. Okay. Sorry to interrupt.

DR. WILSON: Sure. Yeah, no, thanks. So, Amador, Del Norte, Humboldt, Lake Mendocino, Shasta and Tuolumne counties are now seeing their highest numbers of patients in ICU that they've seen since the beginning of the pandemic.

Also statewide, what we're seeing is quite a bit of stratification based on income. So, the case rate for communities in California that have a median income of less than $40,000 per year is about 34% higher than the statewide rate. So, the case rate for low-income communities that are with a medium income of less than $40,000 is 34% higher than the statewide rate.

That also breaks down by household income. So, if your household income is $40,000 or less, your case rate is twice that of households that have a median income of $120,000 or more. And so, those are in low-income households, $40,000 or less, we're seeing about 32 cases per a hundred thousand, and in higher income households that are $120,000 or more per year, we're seeing about 15 cases per a hundred thousand.

So, we're sort of stratified across income levels. And of course, our frontline workers that we talked about last week, many of them aside from those in sort of health services, registered nurses and physicians, the great majority of frontline workers are in that lower income category.

We're also seeing stratifications by race and ethnicity about the fatality rate for Latinx is about 20% higher than the statewide rate. And the

fatality rate for African-Americans is about 12% higher. And I think one of the points we made last week was that the Latinx workers are overrepresented in frontline jobs. So, they're about 38% of California workers, but about 50% of frontline workers. So, it's sort of not surprising that we're seeing a higher death rate, I suppose on Latinx.

So, then I'm going to just touch on a couple of things on vaccinations, just sort of bringing people up to date. We're seeing among unvaccinated Californians about 51 cases per a hundred thousand per day. And among vaccinated, we're seeing about seven cases per a hundred thousand per day.

And that's actually down from a little over eight that we saw earlier this month. 700% higher case rate among unvaccinated compared to vaccinated.

And so, we're still sort of hovering around 80% of Californians who are eligible to be vaccinated, have received at least one dose. That's sort of the benchmark that CDPH is tracking very carefully.

And vaccination status of course also varies by race and ethnicity. And we're seeing about a little over 45% of Latinx, and a little over 60% among white Californians. And so, there's still a lot of work there to do.

Okay. So, let's go to the first slide here from Amy.

So, this is COVID outbreaks by month of onset from January to July of this year. And these were reported to CDPH as of August 16th. And so, we're seeing quite a bit, a big increase actually for the month of July compared to actually what we showed two weeks ago, and that reflects reports that continue to come in to CDPH from employers that have … basically in the last

two weeks.

Let's go to the next slide.

And these are the industry sectors that we're seeing outbreaks in, the largest one by far being healthcare and social assistance. You can kind of get a sense from this list of where our sort of hot spots are in terms of industry sector.

And if we go to the next slide.

This just breaks it out with a little more granularity. So, looking at specific types of industries within those sectors. And again, we're seeing a lot of outbreaks in our residential care facilities, skilled nursing and not surprisingly in elementary and secondary schools, but restaurants and childcare continued to drive high numbers of outbreaks as well.

MS. STOCK: Mike, excuse me, this is Laura. I had a question on your previous slide. What was the timeframe for that? Is it also January through July?

DR. WILSON: It is. Yeah, if we could go back up to the previous slide, please? So, this is, yeah.

MS. STOCK: Oh, something about the way it's viewing. I didn't see that. Okay, thank you.

DR. WILSON: Yeah. And we reported it two weeks ago … the Division reported higher numbers. And after talking with CDPH, what we found was that some of our numbers were sort of reports from employers that had come in from 2020.

So, yeah, so CDPH has like carved out exactly basically from January 1st to July 24th actually. So, this is for this year. Yeah.

MS. STOCK: And if we want … I don't know, maybe you're going to come to this in later slides, and I think we saw that in previous presentations that we're looking at the outbreaks since June 15th. So, in other words-

DR. WILSON: Right. Yeah, that was in-

MS. STOCK: We saw that last time.

DR. WILSON: Yeah. If we could actually go up one more, go back up one more slide. Yeah, so this is now.

MS. STOCK: Oh, okay. Great.

DR. WILSON: This is, yeah, June to July is a big bump and what I understand from Amy is that they're actually expecting that this is going to go up more, even more in July. And if it's following the trends that we're seeing nationwide, it's going to be a lot higher for August.

You know, just to sort of put your mind around it, what we're seeing in general is that the cases per a hundred thousand in August will exceed June and July combined.

That's what we're seeing nationwide. So, that's probably what's going to occur in California soon. We're going to see August will be a larger number.

MS. STOCK: Thank you.

DR. WILSON: Yeah. Okay. So, I think that if we could go to the next slide.

And the next one, we already talked about this. I think that's it. Yeah, so that's our update for now.

BOARD MEMBER LASZCZ-DAVIS: Yeah. Thank you very much for that. Thank you very much for that, Mike. That was very, very helpful.

I'm curious, I know Kevin had asked whether or not we had any slides for your first set of data point. Will that be available at some point, or did you just plan for that to be a verbal briefing?

DR. WILSON: No, we've we prepared slides and we'll get them out once they've gotten through the approval process. We didn't quite have enough time to make all that happen, unfortunately. But yeah, we have all these in visual for you, so you don't have to just listen to the numbers. I know it's kind of hard to track.

BOARD MEMBER LASZCZ-DAVIS: Alrighty. Fair enough then. We'll look forward to that.

DR. WILSON: Thanks.

BOARD MEMBER LASZCZ-DAVIS: Laura.

MS. STOCK: Yeah. I have one other question or comment. So, the information that you gave us about the variations regionally and the variations in particular counties and stratification by race, ethnicity, et cetera -- to me really highlight the importance of getting work site specific data, not just industry specific.

Because when we look at those charts that you showed, it's not showing where they're occurring. And so, I don't know if you have any comment on that. I mean, once again, I know people have been calling to get more worksite specific that we can really identify what's happening in particular counties and locations that could then drive some strategies around prevention, strategies that should occur.

So, do you have any comments on that or how it's possible, is it going to be possible to look at that kind of data? I mean, work site specific is

ideal, but even county or location specific would be great.

DR. WILSON: Yeah. I think it's a great point. And it certainly, even just this week, we're seeing these counties that are really, really getting hit hard, more so than others. And but you're right. We're not able to marry the workplace outbreaks, the numbers of outbreaks and where they're occurring with the community outbreaks.

And so, I think it's a great question and maybe what we should do is have … we could pose that question to CDPH, that it's important for us to be able to understand what's happening with a little more, with a finer point. Because it's certainly, there's going to be counties that are going to be harder hit than others.

And so, I think that would make sense for the Division to sort of make that request to CDPH and kind of see how far they can take that. And then I agree with you, it's like having facility level information would be even better.

MS. STOCK: Yeah. That would be great. I mean, we've been asking … I mean, I know I've raised that a couple of times and so whatever you could do to kind of help us get that kind of data would be great if you could pose that across, we'd appreciate it.

DR. WILSON: Yeah, that sounds good Laura. I think Eric and I can talk about that on behalf of the Board making that request to CDPH.

MS. STOCK: Yeah. That'd be great. Thank you.

BOARD MEMBER LASZCZ-DAVIS: Eric are there any other Division reports we ought to be considering today?

MR. BERG: No, that's everything we have today. Thank you very

much for your time.

BOARD MEMBER LASZCZ-DAVIS: Now, thank you very much. That was very helpful. That now brings us to the public comment period. We will now proceed with the public comment period.

Anyone who wishes to address this committee regarding the revised COVID-19 emergency temporary standard or ETS recently adopted by the Board is inviting to comment, is invited to comment.

Once again, please listen for your name and an invitation to speak before addressing the committee. When it is your turn to address the committee, please be sure to unmute yourself, if you're using WebEx or dial *6 on your phone to unmute yourself if you're using the teleconference line.

Please be sure to speak slowly and clearly when addressing the committee and please remember to mute your phone or computer after commenting. Mr. Ursery, do we have any commenters in the queue.

MR. URSERY: Yeah. Our first three commenters are Helen Cleary, Bruce Wick and Michael Miiller. But first up, Helen Cleary with the Phylmar Regulatory Roundtable.

MS. CLEARY: Good morning, everybody. Thank you for the opportunity. My name is Helen Cleary, I'm the director of PRR. I have three topics to discuss today or wanted to address. I think the two of them are about data that I believe I'll have an opportunity to talk about in the second half of the meeting. But first I want to talk about next steps for the ETS.

The status update that Christina Shupe provided at the last meeting was extremely insightful. Thank you for that, Christina. The big takeaway that I heard was that the next version of the ETS will be the draft

that the Board votes on to become the permanent standard and that's going to happen as soon as December.

PRR is genuinely concerned about the next revision of the ETS becoming a permanent standard. We continue to experience that not only does the emergency rule making process not work, but a prescriptive approach during the pandemic does not either.

Why do we think that this time, which will be the last time the draft will work? We have a 26-page standard that needs to be followed during an emergency. Unless it's completely rewritten and a brand-new approach is taken, we're just not optimistic that we won't continue to experience the weaknesses and frustrations that we've seen play out since December, which was over eight months ago.

And that's not to say that creating a complete overhaul and taking an alternative approach is impossible. However, doing that successfully, especially when there's just one bite at the apple with no opportunity to try that new approach and revise as necessary because of the tight timeline and the rulemaking restrictions, it's highly concerning.

Unfortunately, we've all spent hours trying to make this work and do our best and we'll continue to do so. And so, part of us feel that those hours could have been spent focusing a hundred percent of our time on actual mitigation. This pandemic has been a complicated situation, but we believe there is a simpler way for Cal/OSHA to protect workers and support employers.

We encourage the subcommittee to explore alternative solutions to a prescriptive standard and to a permanent COVID-19 standard. We heard again from Amalia today that other states have taken different approaches to

creating mitigation measures, illustrating that there are other ways to effectively address COVID-19 in the workplace.

The focus seemed to be on states with actual requirements. It also illustrated that many of the requirements and the recommendations California does have in place and are aligned with other states. There are different paths to get to where we want to be.

For example, Oregon also has an industry approach that's written into their workplace standard and it's relying on governor mandates to supplement needed changes. Washington also has very high-level requirements and guidance. It's only two pages, but it hits all the requirements and they are, as Amalia said reliant on given mandates to fill in some of those gaps.

We think it's important to point out that much of what other states are doing, including the CDC and OSHA is guidance. That is how the agencies are able to make changes quickly. California has a regulation that cannot be easily updated just like Oregon and Virginia, the two other states with regulations that are trying to make adjustments in that framework.

California also has an IIPP that Cal/OSHA decided not to utilize and other states do not have that resource at all. So, I will say it again, I believe it’s utilizing the IIPP for the remainder of this pandemic and for future pandemics is the answer.

Regarding the enforcement data, interesting information was shared at the advisory committee meeting in July about COVID-19 enforcement activities. I actually reviewed it this morning, anticipating that we would see updates today, and it's disappointing not to hear additional insights today. I

understand there's a lot going on, but we look forward to learning more about that, hopefully at the next meeting. Cause I think that's going to be really important for us to understand.

Regarding the comments I have on data, I can speak to that now. I'm sure I'm hitting two minutes plus but it may be more appropriate to wait for the opportunity during the subcommittee consideration section of the agenda, because it is specific to the CDPH agenda data that was presented, and then data in general and next steps. So, I guess I'll wait.

MS. SHUPE: So, that's the call for the Chair. Chris, you, as the Chair, you get to make that call, whether you'd like to continue within the public comment or ask her to come back later.

BOARD MEMBER LASZCZ-DAVIS: You know what, why don't we go ahead and defer it to the second half of this meeting, if you wouldn't mind Helen.

MS. CLEARY: No, that'd be great. That's what I figured makes the most sense. Thank you. Thank you for your time today and look forward to more discussion.

BOARD MEMBER LASZCZ-DAVIS: Thank you.

MR. URSERY: So, next up, our next commenter is Bruce Wick, with the Housing Contractors of California.

MR. WICK: Thank you very much. I appreciate the opportunity. And again, thanks all of you subcommittee members for your extra work on behalf of the Board on this important topic. And it's frustrating that we had an hour of reporting on information that's informative, but we don't have the most salient data that's readily available presented to you.

Labor and management need this data as well. And it's there. Workers' comp data is updated daily by the CWCI organization. The Appeals Board now is updating every two weeks, the enforcement data that we can see between IIPP, ETS and the ATD, how enforcement is truly going because the Appeals Board is kind of the final arbiter.

And more importantly, Laura Stock continues to ask for more specific location data. And I don't think we're going to get specific addresses for a couple of reasons, including the recent San Diego appellate court ruling.

But every two weeks, CDPH does update their website and we know, okay, it's a little behind in some areas, but every two weeks it's updated and it breaks down 220 categories of work sites. So, we can take the 45% that are covered by the ATD and see where they're going, but we can break down the others.

It's not geographic, but we can break it down by work sites and every … and it's re-updated every two weeks, finalize monthly so we can see the trends. We need to see the trending. That's so important and all we saw was the overall trends.

It is there in the numbers, broken down by all these subclasses of work sites and that somebody can't take the half-hour it takes to put that on a spreadsheet and show us every two weeks the trends is really frustrating.

Cause you need it, the Board needs it, and we labor and management we're out here trying to protect our employees, we need that information. That's really helpful for us. So, please ask for the data that is most informative to what we're trying to go here. Thank you. Appreciate it.

MR. URSERY: Our next three commenters are Michel Miiller, Coby

Marie Turner and Bethany Miner. First up, Michael Miiller with the California Association of Winegrape Growers.

MR. MIILLER: Good morning Board Members, Chair, staff. I appreciate your great work in this issue. My name is Michael Miiller, with the California Association of Winegrape Growers. I greatly appreciate taking on this issue of workplace, health concerns relative to the pandemic. This is probably the most significant workplace safety challenge any of us will ever face.

Today, I would like to focus briefly on two very important issues. One I'm asking for clarity on the current rules and two, I would like to provide some clarity on the data that we believe should be demanded by the Board from CDPH and from Cal/OSHA.

First, California closed any clarity on the current requirements. In a news release on Wednesday, the Department of Industrial Relations stated as a best practice, Cal/OSHA encourages employers and workers to follow the recent update from CDPH recommending that all individuals wear face coverings while indoors, regardless of vaccination status.

So, to provide some clarity to our employers and employees on what is required in the workplace, my question is this: as Cal/OSHA has determined that this is “a best practice,” does Cal/OSHA expect responsible employers will follow this best practice and will Cal/OSHA then take enforcement action against employers who do not require vaccinated employees to wear masks.

Madam Chair, I appreciate that Cal/OSHA staff on the call, should I pause now to wait for an answer to that question?

BOARD MEMBER LASZCZ-DAVIS: I'm not really quite sure how to respond to that at this point. What would you suggest?

MS. SHUPE: No, I'd like to remind you that we're in public comment at this time, and this is not a venue for engagement with Cal/OSHA enforcement staff.

BOARD MEMBER LASZCZ-DAVIS: Thank you Christina.

MR: MIILLER: Thank you very much. I appreciate that. And perhaps, Mr. Berg can respond to that later, or somebody from Cal/OSHA can respond because this is why it's important. As an industry representative, I need to advise our members of the new recommendations that came out this week.

If employers are required to follow the best practice, Cal/OSHA and DAR suggest say so. The pandemic has no time for regulators to be coy. Just say it and be clear, please don't hide the ball.

My second issue is data. We have discussed the need for data ad nauseam, but we still have a found what we're looking for. I appreciate the data that Ms. Neidhardt and Mr. Wilson presented, but much of that data is focused on the community, not the workplace.

This Board's authority is to regulate workplace safety, not our homes, families, or social activities. So, let me be clear and that we believe is needed. We need to know how many people contracted COVID-19 at work. We need this data broken down by industry, occupation, vaccination status, and region, and we need this on a month-to-month basis.

Currently, the Board is getting a bunch of data from different sources, and frankly, you're trying to fit a square peg into a round hole. For

example, we keep hearing about outbreak data.

MR. URSERY: MR. Miiller, you're over your two-minute comment period. If you could please wrap it up.

MR: MIILLER: Madam Chair, may have a couple seconds more. This is very important. We keep talking around this issue of data and I want to provide some clear to that.

BOARD MEMBER LASZCZ-DAVIS: If you make it brief, absolutely.

MR: MIILLER: Okay. Alright. Thank you. The example of outbreak data, without consideration of outbreak data, what it really means if an employer has five cases of COVID at the same time that it turns out that all five cases got COVID out a motorcycle trip to Sturgis, California still counts us as an employer outbreak. This will seem laughable.

However, coming up on two years into a pandemic where 65,000 Californians have lost their lives to COVID, this is a tragic failure. The Board should be demanding this data. Why is it that in California when a person tests positive for COVID, CDPH doesn't immediately contact that person to determine how that person contracted COVID.

This data will also drive the need for increased testing and tracking. Without that data, this Board is as blind now as it was at the beginning of the pandemic. Please demand that data.

And again, the question is we need to know how many people contracted COVID at work. We need this data broken down by industry, occupation, vaccination status, and region. And we need this on a month-to-my basis.

Thank you again for your time. And you work on this very, very

important issue. It's greatly appreciated.

BOARD MEMBER LASZCZ-DAVIS: And Mike, I want to ask, will you be providing your request in writing as well?

MR. MIILLER: Yes. I'm happy to. Thank you very much for suggestion. Appreciate that.

MR. URSERY: Our next commentary is Coby Marie Turner with the Seyfarth Shaw LLP.

MS. TURNER: Good afternoon. Can you hear me, okay? Okay, great. Thanks.

So, I sent my questions in writing to the Board as well, because we've been having a number of questions arising from employers throughout the state of California.

And there has been, I would say at best patchwork guidance from some of the local health departments and we would really think it would be helpful if Cal/OSHA could issue some answers and/or work with its sister agencies to provide some guidance on a couple of very big picture issues.

So, one of the first issues that we have coming up a lot is what employers should be doing if an employee reports COVID like symptoms, but they don't have a known exposure either inside or outside of work. So, in particular, this is coming up a lot recently because of the wildfires and allergy season. There's been a lot of employees that have had issues with coughing, sore throats, runny nose.

And just in general, not feeling well, but that are probably not attributable to COVID, and employers are not sure whether or not they need to be quarantining these people based on the current guidance or whether or not

if with a negative test, they may be able to return these people to work or something in between.

So, it would be really helpful to have some guidance from the department about how to deal with these particular situations and whether or not there should be any differentiation based on vaccination status, especially at this point in light of Delta.

So, if you're vaccinated and you have these symptoms that may be attributable to something else, are you allowed to be back at work, but perhaps not if you're unvaccinated, that's a little unclear.

And then secondarily, one of the big picture issues that we have been dealing with a lot in particular recently as a number of employers have started implementing vaccination and testing mandates, is how the employment community should be handling requests for exemptions based on religious and or medical related issues.

This has been huge and I'll let you know that employers throughout the state have been inundated with exemption requests of, I would say, questionable validity that tend to be filled with lots of conspiracy theories, antigovernment sentiments, et cetera.

And so, but historically, it has been the case that with the respect to medical and religious exemptions, employees usually don't push back very hard.

But when it comes to the safety of their workforce now, this has become a real issue and to the extent that the department does want employers to encourage vaccination and frequent testing.

How are they supposed to be handling that in light of the

exemption requests or in particular, and especially maybe to the extent that we start differentiating based on industry -- are there going to be situations in which the Board should say that we should not be granting exemptions. Because it's not just people asking for exemptions from testing or vaccination, but oftentimes, we have people requesting exemptions even from the masking requirements.

So, they may say that they're not able to be tested-

MR. URSERY: Ms. Turner, excuse me. You were over your two-minute comment period.

MS. TURNER: Okay. Thank you. So, in any event, if the Board could provide some guidance on these issues, we would really appreciate it. Thank you.

MR. URSERY: Our next three commenters are Bethany Miner, Rob Moutrie and Cassie Hilaski. But first up, Bethany Miner, who is a HR professional.

MS. MINER: Good morning. My name is Bethany Miner. I'm an HR professional and have over 400 retail employees. I want to thank you all for your continued hard work and opportunity to allow comment.

I think that everyone can agree that going forward with either a new standard or whatever changes we make, that there must be flexibility and ability to pivot with real-time situations. We do not have a crystal ball. We don't know what the future holds, which makes creating long-term standards very challenging.

Personally, I think if the goal is to create standards for not only this pandemic, but also future pandemics, then we need to make additions to

the IIPP or create standards that have clear triggers to turn on or off different control measures. We don't know if the next pandemic will be airborne.

Masks, physical distancing, and hand washing might not be required or recommended next time. We just don't know. What if the next pandemic is transmitted by mosquitoes, if we have regulations for masks, when that pandemic needs pest control measures, then we have failed our future workforce who have to start all over again.

It's difficult to look beyond the moment we are in, but it is essential. We have limited time to achieve the goal of long-term safety for this and future pandemics. Thank you all for listening. And I look forward to the potential future discussions and dialogue.

MR. URSERY: Our next commenter is Rob Moutrie with the California Chamber of Commerce.

MR. MOUTRIE: Good morning Subcommittee Members and listeners. Rob Moutrie, California Chamber of Commerce, and I will try to be as quick as I can for the time window.

I think I'd like to start with, I think the most important and the most basic point that I fear we're getting lost in the subcommittee. We have spent a lot of time discussing data and looking for some broad strokes comparisons of other states and broad strokes data, some discussion nationwide, some discussion statewide.

What I fear we have not discussed much about is specific policies. I think Helen Cleary from PRR highlighted well that the timeline is very short for us to look at the next draft of the ETS and very short subsequently to look at the potential expiration of the ETS and a permanent standard F1 will occur

or guidance-based enforcement.

Either way, we've spent very little time discussing the details and the hard questions that we will have to address in the next two months. And so, I would urge that to the extent we can going forward, we keep our discussions of information because there's always a glut of information in this age, focus as closely as we can to those questions.

Notably, Amalia called out many factors that could be useful in isolating the severity of COVID-19 in the area. And those are helpful, but as I understood it, those factors are things that CDPH may use to classify whether or not a county is in a substantial or high transmission area. That's helpful for them, but we need things that are broad and clear enough that we can define them in a standard to use if we're going to use them.

And so, saying, well if I understood it, local counties may use two or of these five to classify their count isn't the data we need. We need to pick which of those metrics are discreet and clear and up-to-date enough that we can use them to define how flexibility will work, not just now or next month, but a year from now if we're looking at that question.

And I feel like we are looking at data that is more broad than the precise questions that are coming before us, and that we need to really be lasering in on if we're going to be ready in a timely fashion.

Dr. Wilson and **[inaudible 01:27:51]** back, I really thank you. Amalia, I should have thanked you as well. Thank you for that data. There was a lot there, and I do appreciate the state-to-state comparison, despite the focus I think that we should talk about.

Dr. Wilson, I appreciate the focus on the disparity among counties

and states. And I think that's a huge point that we need to consider that if we're looking towards -- and this is not necessarily my preference; but if we're looking towards a statewide standard, we do need to consider a year or two years from now how we will have flexibility, not just saying in industry. Because two years from now, the huge assumption is to say, well, all these industries will always be this.

We need to look at that county-by-county metric that we may use to differentiate areas or are something to that effect. So, I think that's the biggest picture that I'd like to flag, which is to the extent we talk about data, I think we need to make sure we keep it focused on what we will look at drafting and approving in the next couple months and not get lost in the extent of the data, cause there's tons of it.

And not that it's not interesting and useful, it potentially is, but I think we need to laser focus as much as we can help ourselves in the next couple months.

Thank you for the time.

MR. URSERY: Our next two commenters are Cassie Hilaski and Saskia Kim. Next up Cassie Hilaski with Nibbi Brothers General Contractors.

MS. HILASKI: Hello Board. Can you hear me? Excellent. Okay. So, first of all, as always, thank you for your work. I know it's a lot of actual work and it is greatly appreciated.

I agree with comments and concerns expressed by Helen Cleary and Rob Moutrie. Just two main points today. First, a permanent regulation really needs to have a tiered system as an example like Virginia has done. I encourage the advisory committee to pursue a tiered system.

The system should identify how long me those metrics have to be met before being able to move to that level. And it should also include an exit level as I think we're all hoping for an end to the pandemic. So, that needs to be defined also in permanent standard for when we actually get to stop.

Second, if the advisory committee goes in the direction of identifying high risk industries that would implement a greater number of protocols, regardless of the tier system, again, an exit strategy also needs to be included.

So, at what point do the high-risk industries get relief from those extra protocols? Again, look into the hopeful end of the pandemic. I can't stress enough that I think a preliminary ablation used to have tiers for flexibility and include an exit strategy so that we're not forever wearing masks. We also hope that there is an end in insight. Thank you very much for your time.

MR. URSERY: Our next commenter is Saskia Kim with the California Nurses Association and National Nurses United.

MS. KIM: Thank you. Can you hear me, okay? Hello?

BOARD MEMBER LASZCZ-DAVIS: Yes.

MS. KIM: Thank you, Saskia Kim with the California Nurses Association. Thank you all for the hard work. Very much appreciated.

I just wanted to a moment to report on a troubling trend in other states regarding reporting of their COVID case data.

In Georgia, two state government websites recently stopped postings updates on COVID cases in prisons and long-term care facilities, just as the Delta variant has taken hold there. And then Florida, for example, now

reports COVID cases, deaths and hospitalizations once a week, instead of daily as before.

This has happened in other states as well. So, as I mentioned, Georgia gives updates on their overall numbers of COVID cases, hospitalizations, and deaths in the state only five days a week though. They recently stopped reporting their weekend COVID reporting and California actually likewise stopped updating on the weekends back in June.

Florida issue daily reports on cases, death and hospitalizations until the rate of positive test results dropped in June. And then even when caseloads sored in July and August, the state stuck with weekly reporting.

Nebraska has discontinued its daily COVID dashboard on June 30th and then they recently resumed some reporting, but again, only weekly. Iowa also reports only weekly and Michigan three days a week.

And so, these pullbacks in data transparency are concerning and I think important to keep in mind as we look at case numbers and case rates in other states. I just wanted to quickly mention that.

And finally, I'd just like to reiterate Amalia's comments and presentation on the need for a multi-layered approach. You've heard me talk about the Swiss cheese approach to virus protection in the past, this idea that one safety measure is not enough in and of itself but when you layer multiple layers on, you've achieved more protection. So, thank you for considering that.

MR. URSERY: Our next commenter is Maggie Robbins with Worksafe.

MS. ROBBINS: Hi, thank you. Can you hear me alright?

BOARD MEMBER LASZCZ-DAVIS: Yes.

MS. ROBBINS: Okay. Thank you very much. Maggie Robbins from Worksafe and I just have two brief comments.

One of them is I would like to once again agree with Rob Moutrie, it does happen from time to time that I think that the subcommittee very much needs to focus on what revisions to a standard might look like and begin to really dig teeth into.

We've talked about tiering, we've talked about exit strategies, we've talked about how we might use data. I think we really need to get more focus on wrestling with what these changes might look like. If we wait another month or two, we're not, I think going to get to the point where everybody feels well-informed before a vote is going to be required on a new draft. And I thought that really was the intention for this subcommittee.

The reports and data have been really interesting to get. I think everybody has a better feel for how we never have quite the information we want from the data. But it is what we've got and we have to keep working with it and that's one thing I think with the outbreak data is yes, it is reporting cases that come in from outside cause pretty much that's all we've got and it's not perfect data.

I agree with people's concerns that it's not perfect data. But it is a way of telling us just like community transmission rates are or vaccination rates are, it is a way to tell us for Worksite, are they having cases showing up which could potentially be transmitted at work, which means that they need to focus on keeping controls in place or enhancing their controls to make sure they don't end up with more transmission within their work site.

So, I encourage us not to just dismiss outbreak data as though

that's all about community transmission, because workplace transmission is related to community transmission. It's an imperfect set of data, but I think it can be very helpful and I wish we had it at a more localized level rather than broad brush statewide the way it's currently reported.

So, I do encourage that we try to get at that as another piece of information that we all can use to help us understand the movement of COVID within the state. Thank you very much.

MR. URSERY: There are no further commenters in the queue at this time.

BOARD MEMBER LASZCZ-DAVIS: Alrighty. Thank you very much for that. We certainly appear to be hearing a common trend amongst our commenters.

Now, what I'd like to do is take this to the next part of the meeting today and that's the subcommittee consideration.

Just wanted to make sure that we provided this opportunity before we got into a discussion. Let me go back and frame up what the purpose of our subcommittee was and is.

We were actually recruited or volunteered, I forget which we did in retrospect at this point; but the truth is given the nature of the COVID situation, given the fluidity, given the patchwork quilt of efforts, it was deemed important to have a process or a forum in place to accelerate the discussions, the data, and a bringing together of information.

Our ultimate role was not only to provide a forum for discussion such as we've had today, but the three of us (Nola, Laura and I), will ultimately, and I think we've begun to do that -- we need to present some

recommendations to the Standards Board and hopefully whatever we summarize as our findings, our key learnings is of help to the Division as well.

So, it's really, it should be a value add to both the Division as they move forward in their work and to the Standards Board in its deliberation. So, I just wanted to frame that up a little bit.

I promised at the last meeting, the concern was that a bunch of information was presented and nobody could really review it and comment at the last meeting. We can do that at this point. Does anybody have any comments or discussion of the 8/13/2021 presentations? Helen?

MS. CLEARY: Yeah. Sorry. I was looking for the hand or the mute. I wasn't quite sure.

Yeah, there were -- I wanted to talk about the CDPH data that was presented to the last meeting and again today, and then also wanted to give some input just on the next direction and how to look at the data. So, I'll start with the CDPH data if that's okay.

BOARD MEMBER LASZCZ-DAVIS: Absolutely. Go ahead.

MS. CLEARY: Okay. Alright. So, the outbreak data at the last meeting, and again today by Mike Wilson, it was very high level, but I think it did give excellent insight on the industry sectors that are higher risk.

Frankly, it wasn't that surprising based on the metrics provided healthcare and social assistance accounted for the highest number. Almost 50% of all outbreaks were in healthcare and social assistance.

It can be assumed that the majority of those workplaces are covered by the ATD standard. The next industry sector with the highest number of outbreaks is retail trade at 11%. That information aligned with the

information the Division provided in its presentation regarding frontline workers being the most at risk. They identify top occupations or registered nurses and cashiers.

The Division's data also stated that frontline workers make up 25% of California's workforce and implied that the reason frontline workers are at risk is because there is high contact with the public.

Diving deeper into the metric shared by the Division and the CDPH, they were modeled from data week apart. So, comparing the same 15 industry sectors from both presentations as of August 2nd, which was the CDPH data, there were 4,673 outbreaks. A week later on August 9th according to the Division's data, there were 8,746 outbreaks, and that's nearly double.

However, the percentage of outbreaks attributed to the industries are nearly identical. Healthcare and social assistance went from accounting for 45% of the outbreaks on August 2nd to 47% on August 9th. Manufacturing went from 8% to 10% and retail trade stayed the same at 10%. Transportation and warehousing also stayed the same at 5%.

The rest of the industry sectors followed the same trend and accounted for nearly the same percentage of outbreaks regardless of the total number of outbreaks.

So, despite being able to get into a lot of detail with the information that was presented, I think it's clear that mitigation measures and resources should be influenced by industry and exposure to the public, that CDPH has taken this approach with its mass requirements, focusing on healthcare, shelters, public transit, public settings.

The Division took this approach when it issued industry specific

guidance before the ETS. We've said it before that the one size fits all approach is not the answer and unfortunately, that's how the ETS has been designed.

So, again, we think it's imperative that we get this right. Yes, we are under a tight timeline of restrictions, but that should not be the reason that we force another draft that will have issues.

So, PRR suggests that alternative solutions to the next draft of the ETS becoming permanent are evaluated before making that decision.

BOARD MEMBER LASZCZ-DAVIS: Alright. Thank you very much for that, Helen. Any other comments on the August 13th presentation? Not hearing any at this point. Let me just-

MS. SHUPE: Chair, we have a raised hand from Eddie Sanchez.

BOARD MEMBER LASZCZ-DAVIS: Oh, my apologies. Go ahead, Eddie.

MR. SANCHEZ: I'm sorry. I actually pushed the button during public comment. I'll reserve my comments for next time. Sorry about that.

BOARD MEMBER LASZCZ-DAVIS: Anybody else Christina, that we need to consider?

MS. SHUPE: I don't see any other requests.

BOARD MEMBER LASZCZ-DAVIS: Alright. Fair enough then.

MICHAEL MANIERI: It's Mike Manieri. Just one thing, you might want to remind listeners they can email the Board at the website address oshsb@dir.ca.gov to request copies of these presentations.

BOARD MEMBER LASZCZ-DAVIS: Thank you very much for that, Mike.

MS. STOCK: Chris, can I just ask and maybe this is a question for Eddie because the public comment period is closed. I just wanted to be sure that if you had something you wanted to add to the conversation, since we're opening it up to the public, like Helen … I just want to give you that opportunity, but if you were not intending to, that's fine too.

MR. SANCHEZ: I appreciate the opportunity, Laura. I'll just simply say that I think everyone's efforts on this … the two points that I did want to throw out and I apologize if they're not germane to the current topic that we know the data is moving very fast, information's moving very fast. I saw that NIH put out that there's new methods of testing that are much quicker, and there's another report that came out about UV disinfectant.

So, I think imagining what our standard could look like, it almost feels like the technology and information is growing. So, I just want to mention that as a way for us to imagine like a higher bar or higher standard of how we address COVID in the workplace. Thank you all for your efforts.

MS. STOCK: Thank you.

BOARD MEMBER LASZCZ-DAVIS: Yeah. Thank you very much for that Eddie. Any other comments? We're moving into subcommittee deliberations. Helen?

MS. CLEARY: Thank you. This will be the last I promise. I wanted to make some recommendations about how data is utilized now that we're kind of closing down on the data discussion as we discussed the last meeting.

In July, PRR research started to answer the COVID-19 metrics that are available to the public. The ca.gov website has charted much of the information, there's multiple data sets that are downloadable on the CHHS

open data portal.

We identified at the July subcommittee meeting that the data sets on positive cases, deaths, hospitalizations, and even demographics included dates. But the outbreak data available does not follow the same format and doesn't include the specific date, only a month.

We are encouraged to hear Dr. Heinzerling acknowledge this as a limitation and confirm that CDPH is working to address this in order to reflect trends. I think that's really important.

At a previous meeting, Dr. Kennedy made the excellent point that it's easy to, I don't know, if she said go down the rabbit hole, but that's how I like to say it. When talking and looking at data, I did that in July, and I did it again this week.

We continue to be presented with a lot of varied information at these meetings and I think the question now should be what is being done with this information to drive decision making by both the Division and CDPH? How are the agencies utilizing the information to guide responses to the pandemic implementation of protective measures?

To be perfectly candid, it's difficult for the stakeholder to make these types of recommendations, because we don't have full access to the metrics that the agencies have. So, we've all acknowledged that the data sets are not perfect. However, we believe it's imperative that metrics are analyzed and to be candid, it would be reckless not to utilize the information that's out there.

There are many ways that data can clear and modeled. Our suggestion is to conduct a statistical analysis by date of cases, deaths, age,

workers' compensation, outbreak in industry. These data sets can be overlaid for comparison purposes, so they can be trended over time.

We acknowledge that it will not be a jet comparison due to limitations, but statistical variants can be built in. This will tell us a story about where we've been and help guide where we're going. For example, I'm willing to … if you align the outbreak data with community cases, there will be alignment. So, what happens if we take hospitalization and average working agent to account?

Based on historical trends, can we predict when and where outbreaks will occur and provide support to those communities in high-risk industries before major outbreaks occur? And if outbreaks track with county outbreaks, which I suspect they do, we can look at the public health conditions and the community as a driver that affects the workplace and not necessarily vice versa.

Mike Wilson touched on this when discussing community conditions today. It's not a foregone conclusion if the individual facility triggers the outbreak, which is only three cases, but the community brings into the workplace matters. And looking at it from that lens, we think would be a supportive, proactive approach to managing the pandemic.

If the agencies are looking at this information to drive decisions about mitigation measures, that's great. I'm sure in many ways they are, but we encourage the subcommittee to request those perspectives that they are shared, not just the raw data.

When we've discussed metrics of these meetings, it's been one directional and no explanation of how the information is or could be utilized.

We think that transparency is important and understanding is key, that will help us provide more effective feedback.

So, thank you for your time today and again, to everybody's efforts, I know it's a huge workload and Amalia, great work on doing that, those summaries as well. So, thank you everybody.

BOARD MEMBER LASZCZ-DAVIS: Yeah. Thank you, Helen. You know, it's interesting, I was listening to your thinking that as I was formulating my comments, hoping you guys would indulge me with some of my own comments as we move forward.

I have to agree with a lot of what you're saying. We have been over the last several subcommittee meetings, we've been enriched with a wealth of information that I don't think this Board has been presented with in the years that I've been on the Board.

It represents a lot of work, and it represents a lot of if you will cross in the aisle to make sure that the information is finally being pulled together in a way that's being presented to all of us.

However, I'm still left with now that we have a lot of data, my question, I mean, just myself, my own deliberations, what are we doing with it? What decisions are being made with it? Which of these data points -- it's a dashboard of data points, but which of these data points are actually being aggregated to serve as a metric, which drives action and policy changes.

And I'm not really clear on that. And I don't know to what extent we can get, we can have a presentation that really begins to align not only the data, the metrics being used, and how they're being used to drive change or shifts in behavior.

So, I don't know whether or not Eric and others have an opportunity to share anything at this point, or whether or not that should be a request for the next meeting?

MS. STOCK: Chris, I have a couple of comments on what you said, but maybe I want to pause to see if you were asking for a response at this point from Eric.

BOARD MEMBER LASZCZ-DAVIS: Let me ask Eric. Eric just got his camera on. Eric, could you respond to that before Laura moves in.

MS. STOCK: Yeah.

MR. BERG: Yeah, thank you for that. So, basically, want to know how all this data's been used to develop, I guess, next version of a possible re-adoption, at least the draft or the possible re-adoption of the ETS. So, that's something I can take to Cal/OSHA headquarters and provide a response in future meetings.

BOARD MEMBER LASZCZ-DAVIS: Okay. Thank you, Eric. Laura?

MS. STOCK: Yeah, just a couple of … I agree with a lot of things that I've heard and I agree with Maggie and with Rob and with others who have said, it's really time that we need to be, you know, shifting our conversation. We should have these metrics in our minds and certainly hearing Eric, whatever you'll tell us next time and anybody else about how you're interpreting and using these metrics.

But it seems like we have to start talking about what policies we're going to recommend based on the data that we have and perfect as it is, as we've all agreed. So just in terms of next meeting, I would definitely suggest that we start to move in that direct and that the presentations we have are on

policy alternatives.

I think that what Amalia has presented is really useful to that and to that effort, we've got some policy alternatives that people are looking at. And my sense is all of this metrics, it's designed to help us determine assuming that we moved or if we were to move into a tiered or trigger that when things are bad, you have to do more. When things are better, you have to do less. We need to be using some of these data to determine how we're going to operate those tiers.

And there's a couple of things that I've heard and that other states are doing. One is by cases or hospitalizations of like where there are actually people who are getting sick. But another model is by risk. And that's where we really look at where are the places and I think one of the -- I think Amalia presented that somebody, there was one example of where they're taking that, they're defining what creates a high risk workplace, people working in close contact, people coming into contact with the public, et cetera.

We can look at those kinds of circumstances, people working in … I think we saw in congregate housing or in shared transportation, we can look at where those risks are.

So, I really, I hope that we'll begin to define that. And then one thing I'll just -- maybe a comment Helen on what you were saying is, as you look at all of those industry cases, one of the things that jumps out at you is where people are in contact with the public.

But I would also say that we've seen and we're seeing outbreaks in places that are very, not public facing, but food processing, manufacturing, warehousing, where people are working in close contact.

So, I don't want to look exclusively at public facing, though I think that the people in those industries, retail, et cetera are at higher risk. So, I think defining, looking at data that can help us define risk and trying to target interventions where there are high risk work places, like some places are doing according to the data that Amalia has presented.

So, again, just to say in general, I think that's where all of this data analysis should be leading us. And hopefully, we can begin to start saying, so therefore, how would we look at what new policies would be? What triggers would we recommend and why do they make sense or not make sense and give the stakeholder community an opportunity to weigh in on that.

BOARD MEMBER LASZCZ-DAVIS: Alright. Thank you for that, Laura. Yeah, let me offer the following. I know it's a couple of commenters referred to this as well. It was particularly at the last subcommittee that I went through an aha moment, how fast is a standard moving or a potential re-adoption or a permanent standard. And I think the calendar is more short too and I think than we realize.

And from my standpoint, it's important for me to understand the upside and the downside, the different regulatory infrastructures that might occur, whether it's a re-adoption of the existing ETS, whether or not it's dovetailing an IIPP which already exists and apparently works well in California. Whether or not it's a standalone infectious disease standard, those options well on the table.

But what I truly do not appreciate are the upside or the downsides of the state taking, or assuming any one of those. And I'm wondering if we could ask the Division or whoever else should speak to this, to provide us with

a review as to the strengths, the vulnerabilities, and the implications of doing any of those reps.

Because I think they're germane to how we move forward and how our stakeholders can provide input as we move forward. So, just a question on the table. Eric.

MR. BERG: Yeah. Can you be more specific exactly what you would like? I'm not sure I understand.

BOARD MEMBER LASZCZ-DAVIS: Specifically, and bear with me on this one.

Right now, what I heard was we're potentially up for a re-adoption of the ETS. And from November, December, it might be a bit complete, a question. But if we actually endorse a re-adoption, does that make it a permanent standard? Or do we let the ETS run its normal course, don't readopt, but in parallel, begin work on a permanent standard performance.

So, otherwise, that is something that can be embraced by the infrastructure, the IIPP or a standard of infectious disease standard. I don't know what the upside or downside, and I think the Standards Board will ask those questions, should ask those questions. I think they're appropriate questions to ask so we understand the implications for the state, its employers and its workers. Does that make sense, Eric?

MR. BERG: Yeah, I understand. Yeah, so development of a more general broader infectious disease standards, not COVID-specific, just to infectious disease itself would probably be at least a two-year project. So, it's a huge gap if this expires and then before that one applies. So, that would leave a lot of workers without protections. I would not recommend that.

BOARD MEMBER LASZCZ-DAVIS: Would you be in a position Eric for the next meeting, just to provide us with a brief summary as to the upside, the downside of those three scenarios; ETS moving to a re-adoption and then a permanent standard, which would be basically a specification standard versus an IIPP, how that would work, and its implications versus a standalone infectious disease standard?

I think we just need some summary highlights to describe that for us. If you could do that, I think would be adequate.

MR. BERG: Okay, sure. Yeah, I can do that, I think.

BOARD MEMBER LASZCZ-DAVIS: Thank you very much, Eric. That brings me to on a shorter-term basis. I was advised that labor and management have come together and would like to propose a tiered system. One that is fluid in response to set of circumstances that we're presently dealing with.

And so, what I'm going to do is ask Nola, if Nola can work with the Division so that it can be presented at the next meeting. Can you do that Nola?

MS. KENNEDY: Yeah, I can do that and I will clarify for this question and your previous question. Do you want these presentations at the next subcommittee meeting or the next Board meeting?

BOARD MEMBER LASZCZ-DAVIS: Try to figure out what the advantages are. The advantages are probably … when is the next Board meeting, do you recall?

MS. SHUPE: So, Chris, at this time, I'm going to recommend that you set it for the next subcommittee meeting, because as Chair for the subcommittee, you can set the agenda for the subcommittee. However, the

Board Chair sets the agenda for the Board meetings.

BOARD MEMBER LASZCZ-DAVIS: Alright. The next subcommittee meeting is September 9th. Is that adequate time for you to bring back to the subcommittee? Nola?

MS. KENNEDY: I will speak …I know I can try. I will have to speak to Eric Berg and other people at Cal/OSHA and see if they can pull it together.

BOARD MEMBER LASZCZ-DAVIS: Alright. We're counting on you Nola.

MS. STOCK: And just one comment that if it gets discussed at the next subcommittee meeting, in our report back to the Board about our deliberations in the subcommittee, we would then have the opportunity to share what we had learned at the subcommittee with the Board and it would fit into that agenda item that is already on the agenda for the full Board meeting.

BOARD MEMBER LASZCZ-DAVIS: Thank you for that Laura. You're absolutely right. Sequentially, that makes sense. So, Nola, you're going to go ahead, work with the Division, bring that information to us. And while there is a proposed tier system that's been proposed by both labor and management of what I don't want to have lost, is Eric's assessment of the different regulatory schemes. Because I think that's information that would inform us as to how we ultimately vote or consider.

And I have to ask Nola a question; we as the subcommittee ask for data from a lot of people and it represents a lot of good work, a lot of information, but is there any information that the Division could use just for us to deliberate in these subcommittee meetings? Is that maybe an ask you can share with them?

MS. KENNEDY: Yeah. And if it meets our protocol, I would ask Eric to respond to that now, if he has anything.

MR. BERG: Nothing occurs to me on the top of my head, but something we could think about.

BOARD MEMBER LASZCZ-DAVIS: Okay, good. Yeah. Just occurred to me, that means oftentimes it's a one-way street. We're asking for information, but this also ought to be a forum for you. There's something we can do to be value added, then let us play that role for you guys as well.

MR. BERG: Okay. Thank you.

MR. MANIERI: Chris?

BOARD MEMBER LASZCZ-DAVIS: Yes Mike.

MR. MANIERI: Mike Manieri. There's a lot of stones here that we've turned over, but there the seems to be a few more still left.

I had tentatively looking ahead to September 9th, a look at the workers' compensation data, which we've received a number of comments from folks on wanting to look at that, give it a look, and also, the appeals Board data.

Would the subcommittee want to bring those two issues into the spotlight on the ninth and then leave the discussions about the ETS and alternatives policy recommendations, and maybe a description by the Division on how they're using this data to formulate the next … if there's going to be another addition of the ETS for the 23rd of September.

I'm trying to space things out and acquire the resources and the time it takes to get those lines-

MS. SHUPE: And Mr. Manieri, while I appreciate that

recommendation from you, and I understand the desire to manage the agenda, we are coming up on a hard deadline with the ETS. And so, if we need to extend the time of the September 9th meeting to include additional data, if the subcommittee wants to do that, that's something they can consider now. But my recommendation is that you do not delay what Chris has asked for in those consideration of alternatives and what a tiered system might look like.

MR. MANIERI: So, in other words combine?

MS. STOCK: Yeah, I want to just second that. I think that we heard from most of our stakeholders, and I think we share this feeling that we need to move ahead towards policy implementation.

And so, I would either expand it or I would switch the order, maybe add the workers' comp data. I know we were going to get a report on enforcement data.

So, again, I don't know how long that discussion. I mean, if we can get some of those recommendations, those reports sort of in 15, 20 minutes, but I think we wouldn't want to interfere with the primary goal, which is to review some of the policy implications. So, I agree with you, Christina that that's critical.

BOARD MEMBER LASZCZ-DAVIS: You know what, given that we're moving to a time crunch, we're moving through a real narrow shoot at this point and if we need to allocate a little bit more time, I think we should go ahead and do that. So, we can deal with the additional data requests that have been made. And I think you're right, Laura, we can move through those.

If each presentation were 10 to 15 minute max, we could move through the data elements that were still requested. I think we need to hear

from Nola and the Division about the three-tiered system that's been proposed by labor management, that really tries to address the fluidity of practices moving forward.

And then I think we need a summary compare against to the … a very regulatory infrastructure option and what they need or don't need for both employers and workers in the state of California. Does that sound reasonable?

MS. STOCK: Yeah. And can I just ask one other question that maybe could be part of this, or maybe Nola if you could answer that now, because I know you said that … or maybe Chris, you said this; that labor and management have come together on this sort of general support for a tiered system. Can you give us more information about who we're referring to?

I know that we have a lot of both labor and management stakeholders and I just want to be sort of transparent about that and to be sure that we … not everybody might agree on that. So, is there more information you can provide about who you're referring to when you said that?

BOARD MEMBER LASZCZ-DAVIS: Yeah, not from me, Laura, I don't know who specifically is part of the saturated people.

MS. SHUPE: This is Christina. I think that I can clarify. I highlighted for Chris that we had received several comments in the last Board meeting from both labor and management representatives referencing either a multilayered approach or a tiered approach. And that that might be something we want to look at.

MS. STOCK: Okay. So, it's kind of, sort of summarizing the general comments we've gotten from a range of stakeholders as opposed … yeah.

Okay. So, that's helpful.

And I do think the idea that if there is this idea of a tiered approach that might be discussed and presented at least in extremely conceptual terms, if not something more specific at our next meeting on the 9th. And that would be an opportunity where we would really encourage labor management and other stakeholders to be able to weigh in on what they think of that approach.

BOARD MEMBER LASZCZ-DAVIS: Agreed. Any other comments, suggestions? So, if I recap, we're looking at a September 9th agenda that encompasses some information on data or trending, preferably trending, some information on the proposed three tiers, and then a summary of the regulatory infrastructure is available to us as we move forward.

I mean, that makes for a very full agenda, but I think we're in a time crunch. So, I think we just need to do what we need to do moving forward here in short order. Anything else before we move on and begin to wrap up? Any other sub -- I almost hate to ask, are there any subcommittee agenda items you want to consider?

MS. SHUPE: Chris, it's up to you. It looks like Helen Cleary has raised her hand.

BOARD MEMBER LASZCZ-DAVIS: Helen?

MS. SHUPE: But it's at this point in the agenda, it's up to you, whether or not you want to engage in further discussion.

BOARD MEMBER LASZCZ-DAVIS: Helen, if you can make it quick.

MS. CLEARY: No, super quick. Thank you. I just want to respond to the comment about labor and management working together on the tiered.

PRR is not aware of that and it hasn't seen anything, and if that's happening, would like to know more about it. Kind of honestly makes my heart race a little bit to hear that that's in the process and it hasn't been discussed.

So yeah, we haven't heard anything about that. So, I just wanted to share that with everybody.

BOARD MEMBER LASZCZ-DAVIS: Alright. Thank you.

MS. SHUPE: And I'm happy to fall on my sword here. I may have misstated Chris. So, what I will do is I will go back through our last Board meeting and public comments, which are all posted on our website and publicly available. And I'll highlight those and we'll go ahead and get those out.

MS. KENNEDY: It looks like Bethany Miner's hand is up too.

BOARD MEMBER LASZCZ-DAVIS: Whose hand is up?

MS. KENNEDY: Bethany Miner.

MS. MINER: Thank you very much Nola. I was one wondering if you might want to ask stakeholders for something specific on the next meeting. Is there information that we can help you guys with or are there specific questions that you have concerns about, whether it be a tiered system or some other policy where we can give better feedback during these meetings?

BOARD MEMBER LASZCZ-DAVIS: And that's an excellent question. The way that we're structured is it's a little frustrating I think to all of us. We present at one meeting, but it's the first time you're often seeing the data or the information, which is why we say we'll talk about it at the subsequent meeting.

So, we'll have a number of things presented at the September 9th meeting, and it'll probably be the first time that you'll cast your eyes on it.

And it won't be till a subsequent meeting. But unless there's some immediate reaction to some of the information presented, perhaps a more robust reaction to it at the subsequent meeting, it's just the way the process is set up.

It doesn't lend itself to real robust interaction, but yes, and stakeholder input is absolute critical to anything that gets presented here.

MS. MINER: And I totally understand what you're saying. I was just thinking it might be beneficial to kind of pre-plan if you want to focus on one or two things for us to start thinking about now, but totally whatever works for you guys.

BOARD MEMBER LASZCZ-DAVIS: Alright. Well, thank you for that. And we hear you and absolutely, we'll try to figure out what we can do process-wise to provide the engagement that I think is necessary.

MS. KENNEDY: I will interject to sort of answer Bethany's question. I mean, we have outlined what questions the subcommittee is going to be presenting on and considering at the next meeting, and they're the ones that we've been talking about for the last 15 minutes or so. So, I would imagine if you want to think in those directions, that's where the conversation should be.

MS. MINER: Okay. Thank you, Nola.

MS. KENNEDY: Okay.

MR. WILSON: Chris, I have a quick question for you, just following up from Nola, could you restate -- you sort of summarized three concise topics. I'm wondering if you could restate that sort of to the interest of Bethany's question.

BOARD MEMBER LASZCZ-DAVIS: Alright. Hopefully, it's the same restatement I provided.

So, I'm shifting as we have more discussion here. I still think there is a sense that we need some additional data points or metrics. Workers' comp, enforcement, appeals and then there is a call by Mike Miiller for these data points are great, but give us some information on trending. So, that was one bucket.

The second bucket, if you will, was this proposal for a three-tier system. And the third proposal for the agenda item, would be Eric's review of the different regulatory infrastructures in terms of how we move forward on a more permanent basis when it comes to the ETS.

Do we stay within ETS, the re-adoption, or is it ultimately being a permanent standard? Do we let the ETS run out and begin looking at an IIPP longer term permanent version? Or do we move towards a specification infectious disease standard? Which of those infrastructure schemes best serve the state of California workers and employers? Does that help Mike?

MR. WILSON: It does. Thank you for running us through that Chris. I appreciate that.

BOARD MEMBER LASZCZ-DAVIS: I'm just grateful it was what I said earlier.

MR. BERG: I don't think there's any Appeals Board decisions yet on COVID that I'm aware of. There might be, but I'm not aware of any. I think working on Appeal Board … excuse me.

BOARD MEMBER LASZCZ-DAVIS: You know, Eric, let's see what we end up in terms of information for the next meeting though.

MR. BERG: Okay.

BOARD MEMBER LASZCZ-DAVIS: Alright. I think unless somebody

else has something to suggest, we're moving into an adjournment here.

MR. URSERY: Excuse me, this is Rey. I just wanted to check really quick, Chris; we saw that Rob Moutrie may have been raising his hand physically in this video. Just wanted to check if he had a comment.

BOARD MEMBER LASZCZ-DAVIS: Oh, thank you for that.

MR. MOUTRIE: Thank you for the note. I was simply trying to, much to Mike's comment, revisit the topics and remind everyone that also we have asked Nola to interface with the Division to seek areas where input might be helpful. So, I think that we may have better areas of guidance where we can be helpful based on those conversations. Thank you.

BOARD MEMBER LASZCZ-DAVIS: Okay. Thank you, Rob. Alright. With that, let's begin the wrap up.

The next subcommittee meeting is scheduled for September 9th 2021 via teleconference and video conference. Please visit our website, join our mailing list to receive the latest updates. We thank you for your attendance today.

There being no further business to attend to, this meeting is adjourned.

Thank you very much for joining us today.

MS. STOCK: Thank you. Bye.

MR. BERG: Thank you.

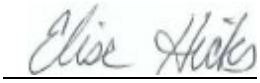
(The subcommittee meeting adjourned at 12:12 P.M)

CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of November, 2021.



ELISE HICKS, IAPRT CERT**2176

1

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of November, 2021.

Myra Severtson
Certified Transcriber
AAERT No. CET**D-852