

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

In the Matter of:

October 17, 2019 OSH)
Standards Board Meeting)
Minutes)
_____)

STATE OF CALIFORNIA

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

COUNTY ADMINISTRATION CENTER

ROOM 358

1600 PACIFIC HIGHWAY

SAN DIEGO, CALIFORNIA

THURSDAY, OCTOBER 17, 2019

10:00 A.M.

Reported by:

Martha Nelson

APPEARANCES

BOARD MEMBERS

David Thomas, Chair

Barbara Burgel, Occupational Health Representative

Dave Harrison, Labor Representative

Nola Kennedy, Public Member

Chris Laszcz-Davis, Management Representative

Laura Stock, Occupational Safety Representative

BOARD STAFF

Christina Shupe, Executive Officer

Michael Manieri, Principal Safety Engineer

Peter Healy, Legal Counsel

Sarah Money, Executive Assistant

Eric Berg, Deputy Chief of Health

PUBLIC COMMENT

Elizabeth Treanor, Phylmar Regulatory Roundtable

Ian O'Brien, Free Speech Coalition

Mark Schechter

Alan Evans, Adult Performers Actors Guild

Tim Woodman, Adult Performers Actors Guild

Kevin Bland, Western Steel Association, California
Framing Contractors Association, and Residential
Contractors Association

Stephen J. Derman, MediSHARE Environmental Health and
Safety Services

APPEARANCES

PUBLIC COMMENT

Gloria Chan, California Industrial Hygiene Council

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P R O C E E D I N G S

10:03 A.M.

SAN DIEGO, CALIFORNIA, THURSDAY, OCTOBER 17, 2019

CHAIR THOMAS: Good morning. This meeting of the Occupational Safety and Health Standards Board is now called to order.

Let's stand for the flag salute.

(The Pledge of Allegiance is recited.)

CHAIR THOMAS: Thank you. I'm Dave Thomas, Chairman. And the other Board Members present today are: Ms. Barbara Burgel, Occupational Health Representative; Mr. David Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-Davis, Management Representative; and Ms. Laura Stock, Occupational Safety Representative.

Also present from our staff for today's meeting are: Ms. Christina Shupe, Executive Officer; Mr. Michael Manieri, Principal Safety Engineer; Mr. Peter Healy, Legal Counsel; Ms. Lara Paskins, Staff Services Manager; Mr. David Kernazitskas, Senior Safety Engineer; and Ms. Sarah Money, Executive Assistant.

Present today from the Division of

1 Occupational Safety and Health is Eric Berg,
2 Deputy Chief of Health.

3 If you have not already done so, we
4 invite you to sign the attendance roster, which
5 is located at the table at the entrance to the
6 room. It will become part of the official record
7 of today's proceedings. When you sign the
8 attendance roster, please be sure to write
9 legibly so that we have your correct name and
10 contact information for the record. A copy of
11 today's -- copies of today's agenda and other
12 materials related to today's proceedings are also
13 available on the table next to the attendance
14 roster.

15 As reflected in the agenda, today's
16 meeting consists of two parts. First, we will
17 hold a public meeting to receive public comments
18 for proposals on occupational safety and health
19 matters. Anyone who would like to address any
20 occupational safety and health issue should come
21 up to the microphone when I ask for public
22 comment during the public meeting.

23 After the public meeting, we will conduct
24 the second part of our meeting which is the
25 business meeting, to act on those items listed on

1 the business meeting agenda. The Board does not
2 accept public comment during its business meeting
3 unless a Member of the Board specifically
4 requests input.

5 We will now proceed with the public
6 meeting. Anyone who wishes to address the Board
7 regarding matters pertaining to occupational
8 safety and health is invited to comment, except,
9 however, the Board does not entertain comments
10 regarding variance decisions. The Board's
11 variance hearings are administrative hearings
12 where procedural due process rights are carefully
13 preserved. Therefore, we will not grant requests
14 to address the Board on variance matters.

15 So at this time is there anyone who would
16 like to comment on any matters concerning
17 occupational safety and health? If you want to
18 make comments, please come up to the microphone.
19 I see you're already there. And state your name
20 and affiliation for the record.

21 MS. TREANOR: I just don't know my own
22 strength here.

23 CHAIR THOMAS: It will work without that.

24 MS. TREANOR: Okay. My name is Elizabeth
25 Treanor. I'm Director of the Phylmar Regulatory

1 Roundtable, a group of companies that is
2 committed to improving occupational safety and
3 health.

4 I know you all see me frequently at these
5 meetings. And sometimes you see other of the PRR
6 members, for instance, Mr. MacKenzie and Mr.
7 Carlisle, who come to speak before you. The
8 people that you don't see are the passionate
9 safety and health professionals that participate
10 in our groups.

11 And yesterday, we had a meeting at
12 Allergan up in Irvine and they talked about lock-
13 out/tag-out machine guarding, ergonomics, best
14 practices, how we can make things better in the
15 workplace. And this is why we have the
16 Regulatory Roundtable.

17 A side piece of it is regulatory
18 advocacy. And these people are committed to
19 advancing excellence in safety performance at
20 their companies and improving culture as well.

21 So I just wanted to respond to Board
22 Member Stock's comment last month at the close of
23 the meeting about there's no requirement for
24 consensus in any of the advisory committee
25 meetings. And she is absolutely correct. There

1 never has been a requirement for consensus. And
2 actually, I don't think most of us expect that
3 we're going to have consensus.

4 What we were asking for was more of a
5 dialogue to understand because there's interests
6 and values at stake that may be behind the
7 language that we propose. And there's interest
8 and values that are behind other opinions, other
9 views, as well. And it's useful to have an
10 understanding of those values so that changes can
11 be made that could possibly work for both. It
12 may not work for the Division. They may say,
13 well, I don't care what you all came up with. We
14 want to do it this way. But I think then people
15 will understand better, oh, I get it, now I
16 understand, which is not something that we have
17 right now in some of the interactions.

18 It's not really a dialogue. It's more
19 like a public forum, similar to this, where
20 people come forward and say their piece, and then
21 they sit down, and then the Division works very
22 hard and diligently on language and comes back,
23 and then we do the same thing.

24 But that's what we were looking for. And
25 we're not saying that there needs to be a

1 consensus. We were just saying it would be
2 helpful to have more of an exchange of views.
3 And so I just wanted to be clear.

4 Thank you for your time.

5 MR. O'BRIEN: Good morning. My name is
6 Ian O'Brien. I'm the Deputy Executive Director
7 of the Free Speech Coalition, also referred to as
8 FSC. Our mission is to advocate for the rights
9 and protections of all members of the adult
10 industry. We also operate the Performer
11 Availability Screening Service Program, or PASS,
12 which administers the industry's sexually-
13 transmitted infection testing protocol. We work
14 with performers, production, and everybody in
15 between.

16 Today we're commenting on Petition 576
17 that proposes the new regulations for the adult
18 industry. We believe that the petition is
19 unnecessary because there is no medical evidence
20 of an emerging health issue within the industry.
21 And nearly all of the recommendations are already
22 being implemented.

23 FSC has built a strong coalition of
24 stakeholders from across the industry. And we've
25 worked tirelessly to ensure the health and safety

1 of performers, to codify standards of conduct,
2 both for performers and producers.

3 FSC has built a strong coalition of
4 stakeholders from across the industry. As
5 mentioned, we operate and administer the PASS
6 program and testing databases that tracks
7 performer clearance for work.

8 We administer the Performer Subsidy Fund
9 which offsets the cost of testing for performers.

10 We have developed a code of ethics that
11 all members agree to abide by.

12 And we also have coalition partners, like
13 APAC, the Adult Performer Advocacy Committee,
14 which you'll probably hear from, as well, and
15 production companies, like MindGeek or Geek.com
16 (phonetic) have built the Performer Bill of
17 Rights and Code of Conduct for producers.

18 We also have the INSPIRE Program which is
19 an onboarding toolkit for performers new to the
20 industry and instructs them about their rights
21 and protections and how to have a safe and
22 healthy work experience.

23 If the Board does decide to grant the
24 petition and move forward with an advisory
25 committee, FSC would like to be a part of that

1 Committee. And we recommend that it be limited
2 in scope to the five points of the Board Staff
3 evaluation. This would exclude much of the
4 original petition and the points in the Division
5 evaluation that go beyond the focus of health and
6 safety standards.

7 I do -- would like to reiterate that we
8 believe that continuing with the petition beyond
9 today's meeting is unnecessary because there's no
10 evidence of an emerging health issue within the
11 industry. Our work and that of our coalition
12 partners have been effective to date. And we are
13 expanding our programs and decreasing our efforts
14 to the continued health and safety of the
15 performers and plans by producers. These efforts
16 specifically address the five points in the Board
17 Staff evaluation. Item one reads, "When and how
18 producers could be required to pay for a PASS
19 system testing."

20 First off, many large production
21 companies do already pay for testing for the
22 performers. For performers who do pay for their
23 own test, the Performers Subsidy Fund helps to
24 offset that cost. The largest contributor to the
25 fund is MindGeek, who we are actively growing the

1 fund, seeking additional contributors for -- and
2 larger contributions. Our goal is to have each
3 test fully paid for through the subsidy.

4 Item two is about testing requirements
5 and the expansion of blood tests to include swab
6 tests. Making a rule that mandates specific
7 testing protocols makes it hard for us to be
8 responsive to the changing needs of population
9 health. It also prevents us from taking
10 advantage of the state-of-the-art tests and
11 testing procedures as they are developed and
12 makes it from being able to use effective and
13 lower-cost tests as they become available.

14 That being said, to address this, we have
15 convened a PASS advisory committee, half of whom
16 are performers and workers in the industry, but
17 also includes medical professionals, infectious
18 disease specialists, and other industry
19 stakeholders. The PASS advisory committee has
20 approved the current testing protocol and is
21 comprised of a blood test and urine test. It
22 includes HIV, syphilis, gonorrhea, chlamydia,
23 trichomoniasis, hep B and hep C.

24 Swabbing tests for gonorrhea and
25 chlamydia and other could protect infections in

1 other areas of the body, mostly pharyngeal and
2 rectal. But the most recent evidence that we
3 have, based on a pilot test, was no -- we found
4 it increased no significant detection of
5 infections. However, the PASS advisory committee
6 is actively monitoring this. And should we
7 determine that this is something that needs to be
8 mandated for the industry, we wouldn't hesitate
9 to do so. It isn't recommending adopting this at
10 this time because of a limited scope of
11 effectiveness currently, and also the high cost.
12 We'd almost double the cost of the testing for
13 performers, adding the swab to the protocol.

14 Item three mentions reporting
15 requirements for FSC regarding production holds.
16 We have well-documented procedures for calling a
17 production hold that start with receiving report
18 of any potential significant increase of risk to
19 the performer pool, such as a potential HIV
20 infection. These procedures have been developed
21 to protect the medical privacy of the performer
22 with the positive test, and as well as protect
23 all other in the industry.

24 Production is stopped immediately.
25 Anyone that could potentially be exposed is

1 notified. And all performers, regardless of
2 exposure, have their testing set as reset in
3 PASS. It must be -- get a new test to be
4 eligible to work once the production hold is
5 lifted, should that be deemed the most
6 appropriate course of action.

7 To this date, there has not been a single
8 transmission of HIV on a PASS-regulated set.

9 Item four requires that all testing in
10 PASS System are CLEA (phonetic) certified. We
11 currently require that all of our contractual
12 partners be testing certified. So everyone in
13 PASS is already CLEA compliant and all contracts
14 already have that written in.

15 Item five requires that education for
16 performers about PrEP, HIV pre-exposure
17 prophylaxis, again, we already have programs on
18 this. We educate performers about PrEP
19 specifically, as well as other health concerns,
20 partially through our INSPIRE Program, which is
21 an onboarding program for new performers in the
22 industry, as well as through a relationship with
23 community health centers to do PrEP navigation.

24 We agree with the Board that the health
25 and safety of performance is of the utmost

1 importance to the adult industry. And we are
2 staunchly committed to ensuring their well-being.
3 Our current practices and our increasing efforts
4 demonstrate not only this commitment but their
5 effectiveness in keeping our community safe.

6 We respectfully ask for the Board to
7 reject the petition on the basis there is no
8 emerging health issue in the adult industry.

9 Thank you.

10 CHAIR THOMAS: Thank you.

11 MR. SCHECHTER: Good morning, ladies and
12 gentlemen. My name is Mark Schechter. I've been
13 in the adult industry now for just over 20 years
14 in various capacities, my last seven years as an
15 active owner of one of the largest talent
16 agencies in the industry. I'm also serving on
17 the Board of Directors for the Free Speech
18 Coalition. And I'm also a participant in the
19 PASS advisory committee Board. So as you can
20 see, I'm very well active within the industry and
21 for the protection and health and safety for all
22 people within the industry.

23 I'd like to just point out a few points
24 in regards to the Petition number 576 that I
25 personally vehemently disagree with the petition

1 and request that it be denied.

2 I validate that there is a desired -- a
3 desire and a need for continued improvement with
4 regards to the health and safety of the workers
5 within the adult industry. Over the past few
6 years there have been monumental changes and
7 awareness to these issues.

8 The industry leaders and stakeholders,
9 like myself, will continue to devote the time and
10 energy towards the health and safety matters
11 pertaining to the workers within the industry. I
12 urge the Board to listen, involve and engage with
13 industry leaders and stakeholders, like myself,
14 to further understand the health and safety
15 issues and concerns of the workers and to
16 properly put in place policies and procedures to
17 assist us.

18 An anonymous petition has no credibility.
19 And it was drafted by a former disgruntled
20 industry worker. And from my recollection and
21 some information that I personally received, it's
22 known who this person is, so it's not even
23 anonymous.

24 After reading the petition there appears,
25 as it starts out, a personal axe to grind against

1 one of the companies in the industry, MindGeek.
2 You can't hold a single entity responsible for
3 the entire industry's policies and procedures and
4 responsibility for covering the cost of the
5 performers' testing. I mean, that's just one
6 company. Whether it's a major company in the
7 industry or a minor company, this anonymous
8 person just pointed out this one company. That,
9 in itself, is wrong. You can't hold one company
10 of an entire industry financially responsible.

11 The proposal alone should invalidate the
12 credibility of the petition. Most, if not all,
13 of the mentioned regulations in the petition, the
14 proposed regulations in the petition, are already
15 widely used and adapted by most of the major
16 production studios, as Ian, the gentleman just
17 before me, pointed out. There certainly are
18 variations to these regulations from studio to
19 studio. But the industry has a very sound and
20 regulated policy and procedures to ensure the
21 health and safety for its workers.

22 With that said, what is missing is
23 something I personally have drawn attention to
24 and awareness to is the lack and absence of a
25 regulatory committee that not only has a first-

1 hand receptor of complaints and concerns but,
2 more importantly, has the power of authority to
3 act upon any and all violations of regulations.

4 Any proposed -- oh, sorry.

5 Last but not least, I would like to draw
6 attention to the inclusion of the social media
7 content that was included in this petition. The
8 use of social media as a platform for expressing
9 concerns and issues within our industry, or any
10 industry for that matter, should be of great
11 concern to all of us. Young, innocent lives are
12 being destroyed by the proliferation of bullying
13 and hateful content, most of which are
14 unsubstantiated and without merit. Of course,
15 there is elements of truth, but social media
16 should not be the forum used to disseminate this
17 type of information.

18 I will share with you that I currently am
19 under attack on social media by a former
20 performer who I recently released from
21 representation by my agency primarily due to
22 constant bullying and attacking of industry
23 professionals on social media. I mean, the irony
24 of that. The result of my actions is now a
25 permanent social media account of false

1 information about me and my agency.

2 So part of that petition included social
3 media that you are reviewing. So I urge you to
4 not consider the social media as part of your
5 decision making.

6 The reason I bring this up to bring
7 awareness to the Members of the Board that in
8 order to properly and successfully continue to
9 improve the health and safety of the industry
10 workers, this can only be accomplished with the
11 participation of stakeholders and industry
12 leaders, like myself. I would like to state, for
13 the record, my desire and interest to be involved
14 if there is a formation of a proposed committee
15 by the Standards Board to further assist us in
16 the health and safety of our workers.

17 I thank you for your time.

18 CHAIR THOMAS: Thank you.

19 MS. EVANS: Good morning, ladies and
20 gentlemen. My name is Alana Evans. I am the
21 President of the Adult Performers Actors Guild.
22 We are not affiliated with FSC or with APAC. We
23 are the federally-recognized union for adult
24 performers in our industry. I'm speaking here
25 this morning on behalf of our members and workers

1 in the industry to voice our concerns and
2 opinions of this petition.

3 Petition 576 lists many concerns and
4 issues within the industry without realizing the
5 work of the union. Within the last two years,
6 our Guild has worked to change testing protocols
7 in our business beyond FSC's current guidelines.

8 Due to our work, clinics within the
9 business have added additional HIV testing to the
10 panel, regardless of FSC's control of the past
11 system. We are working to add swabbing to the
12 panels without need of forced regulation. We
13 currently assist performers in obtaining health
14 insurance. And we are creating a test -- excuse
15 me. We have created a testing system of our own
16 that does not violate HIPAA. It provides
17 performers the opportunity to be reimbursed by
18 their insurance.

19 As for PrEP, we believe it is
20 irresponsible to require employers, adult film
21 company owners, to teach performers about
22 medication. They have no medical background to
23 entertain such a conversation. Many performers
24 already use PrEP, while others have chosen not to
25 because of its major risks to women's health and

1 numerous, excuse me, side effects. At no point
2 should anyone be required to take medication to
3 work.

4 We do not agree that MindGeek should be
5 required to pay for testing for all performers.
6 Today's industry has changed. Companies, like
7 Gamma, Evil Angel, Wicked Pictures, Naughty
8 America, and Kink, film just as much content and
9 just as many performers as MindGeek.

10 As a 20-year veteran performer for
11 myself, I have spent more time on set with the
12 companies that I've listed as opposed to
13 MindGeek. So it's kind of insane to me to expect
14 MindGeek to pay for testing for performers who
15 might not even walk onto their set.

16 When performers complain of abuse on set,
17 workplace hazards of testing issues, the union
18 steps in. We have helped dozens of performers
19 with complaints, including many that were
20 mentioned in the tweets that were submitted in
21 Petition 576. And numerous of those performers,
22 thanks to the union, actually received financial
23 compensation from those companies that have
24 wronged them.

25 We help performers leave bad agencies.

1 But most importantly, we give performers, now
2 truly considered employees, the power to
3 collective bargain. We believe that many of the
4 listed concerns are already being handled by the
5 union. We believe that, given the opportunity,
6 if the Division decides to move forward to
7 creating this committee and continue to look at
8 Petition 576, we would like to have a member of
9 our group, the Adult Performers Actors Guild, be
10 included in this committee. We would like to
11 take the opportunity to open a dialogue with the
12 Board in hopes that communication can create a
13 healthy workforce and that we can continue self-
14 regulation.

15 Thank you.

16 CHAIR THOMAS: Thank you.

17 MR. WOODMAN: Good morning. My name is
18 Tim Woodman. I'm the recently elected Vice
19 President of APAC, who, I believe, you've already
20 heard of, so I won't go into that. My comments
21 will be regarding decision 576, as well --
22 Petition 576. I'm here to put a human face on a
23 group that is too often dehumanized and treated
24 with contempt and disregard.

25 You know better than I whether your

1 participation is needed in this situation, and I
2 will accept your decision either way. If you
3 should decide that an advisory committee is a
4 good idea at this time, we would simply that you
5 please allow us, the stakeholders, to be
6 involved. We know what we're doing. Despite
7 years of being mistrusted by government and
8 politicians, this body, OSHA, has proven willing
9 to listen to our input.

10 Facts have already been laid out for you.
11 There is no emerging health or safety crisis at
12 this time. You have evaluated our system before
13 and you know it works. I'm not here to ask you
14 to trust us or to leave us alone. I'm here to ask
15 you to help us to trust you by showing that you
16 are listening to us and treating us like you
17 would any other workforce under your
18 jurisdiction.

19 Thanks very much for listening. I hope
20 that we can work together whenever appropriate.
21 Thank you.

22 CHAIR THOMAS: Thank you.

23 MR. BLAND: Good morning, Chairman
24 Thomas, Board Members, Board Staff, Division.
25 Kevin Bland. For the first part, I'm

1 representing the Western Steel Council,
2 California Framing Contractors Association, and
3 the Residential Contractors Association.

4 I wanted to urge some movement, if we
5 can, on the construction personnel hoist issue,
6 Petition 577, in which we -- I forgot the term we
7 used -- ultra-expedited rulemaking, or something
8 to that effect, in which we were hoping, that was
9 back in June, to get somewhere with that very
10 quickly because it was an emergency. But we were
11 under the understanding that this would be faster
12 than actually doing an emergency regulation if we
13 could push it through.

14 So if we could get some feedback on where
15 we are on that, Christina, not to point you out
16 exactly but we're looking at each other, and the
17 Board for -- because the members are very
18 interested in getting that moving forward because
19 there's a lot of construction going on, a lot of
20 CPHs going on, a lot of confusion now throughout
21 the industry on that. So thank you. Any
22 movement we can get on that would be appreciated.

23 Briefly, I also -- separate hat. I
24 haven't been retained by anybody in the adult
25 film for this portion. But as you all know, I

1 was heavily involved in the prior rulemaking.
2 And I want to remind everyone of how many years
3 and how much time and effort was spent during
4 that period of time. And we feel like -- or I
5 feel like, based on what my experience is with
6 this Board, with the Division, and with this
7 issue, that I would urge to not move forward with
8 another ruling because I think we're going to --
9 we're not going to get where you expect we would.
10 And we've heard from everyone thus far here. I
11 haven't heard anyone necessarily in favor of it
12 moving forward. I don't think that there's a lot
13 of health and safety issues. The industry has
14 come a long way, actually, based on all the
15 activities and stuff we had before.

16 With that being said, if you do decide to
17 devise an advisory committee, I would urge the
18 participation and the makeup to be different than
19 the first go-around. I remember the first go-
20 around had like members that worked in a Nevada
21 brothel. That's a totally different industry,
22 totally different issue, folks that were not
23 directly involved in the industry. You heard
24 folks today talk about we're in the industry,
25 we're doing it today, we're firsthand. We have

1 the Guild. We have FSC. We have Mark. So any -
2 - I won't go through a list of folks that would
3 participate because I'm hoping there's a no vote
4 on the petition moving forward and won't have to
5 give it. But if there is, please reach out to me
6 and the folks to help assemble a good advisory if
7 that does move forward.

8 Thank you.

9 CHAIR THOMAS: Thank you.

10 MR. DERMAN: Good morning, Chairman,
11 Members of the Board. My name is Steve Derman
12 and I am from MediSHARE Environmental Health and
13 Safety Services, which is an organization that
14 primarily has been working with healthcare
15 organizations and biotech in developing and
16 establishing best practices.

17 Some of you may recognize me because I am
18 not only an industrial hygienist, I have been
19 very active with the American Industrial Hygiene
20 Association as past chair and now current lead
21 for the Healthcare Working Group that has
22 passed -- well, as past chair for the Biological
23 and Environmental Microbiology Committee for
24 AIHA, and as well as controlled banding. So I'm
25 not talking to you as somebody who, you know, is

1 discussing this out of the blue, but rather
2 somebody who has really paid attention to the
3 issues.

4 And over the years, we have actually
5 worked with FSC in reviewing the processes and
6 procedures to try to make sure that there are no
7 exposures and exposures can be as limited as
8 possible. And I think that what we've heard
9 today and what we've seen is that the past
10 system, the training, the effective cooperation
11 between the production studios, as well as the
12 performers, is something that works. It has been
13 extremely effective. And for numerous years
14 there haven't been any noted exposures, as was
15 demonstrated when the past system had been
16 reviewed.

17 I know that in the petition there were
18 several comments that were made regarding, let's
19 just say, human decency and interactions with
20 people. And let me just say that that is
21 something that cannot be condoned. That is
22 completely inappropriate under any circumstances.
23 Discrimination is something that I think we all
24 have the same values for. And if people are
25 treated inappropriately, there are appropriate

1 legal and civil standards and remedies that
2 should be addressed.

3 So I know that you were looking at the
4 five issues. And I would say, based upon, you
5 know, my interaction, and as well as my
6 organization's interaction with FSC, that it
7 seems like things are working. And if things are
8 working, you know, there's no exposure. And if
9 there's no exposure, then what's the hazard?
10 That's a question I throw out to you.

11 I thank you very much.

12 CHAIR THOMAS: Thank you.

13 MS. CHAN: Hi. I'm Gloria Chan. I'm
14 representing California Industrial Hygiene
15 Council today.

16 And I just wanted to put on record that
17 the CIHC did submit comments on the discussion
18 draft of 5141.1, Protection for Wildfire Smoke.

19 CIHC was founded in 1999 and represents
20 the occupational and environmental health
21 professions in California and is also affiliated
22 with the National AIH.

23 CIHC is of the opinion that the original
24 intent of the petition and request for regulation
25 has been lost. And CIHC appreciates your

1 consideration and look forward to your response
2 to our comments if you guys decide to go forward
3 with the temporary emergency regulations to a
4 permanent one.

5 Thank you.

6 CHAIR THOMAS: Thank you.

7 Is there anyone else who wishes to
8 address the Board at this time?

9 Seeing that there aren't any, thank you
10 very much for your comments. The Board
11 appreciates your testimony. And the public
12 meeting is adjourned and the record is closed.

13 We will now proceed with the business
14 meeting. The purpose of the business meeting is
15 to allow the Board to vote on the matters before
16 it and to receive briefings from staff regarding
17 the issues listed on the business meeting agenda.
18 The Board does not accept public comments during
19 its business meeting unless a Board Member
20 specifically requests public input.

21 Proposed petition decisions for adoption.

22 Petition File number 576, Petitioner
23 requests adult film regulations to supplement
24 Title 8, General Industry Safety Orders, Section
25 5193, Bloodborne Pathogens.

1 Ms. Shupe, will you please brief the
2 Board?

3 EXECUTIVE OFFICER SHUPE: Am I on? Am I
4 on? Yeah. Okay. Thank you.

5 The Petitioner requests the Board adopt
6 certain Title 8 General Industry Safety Order
7 requirements specific to the adult film industry.
8 The petition has been thoroughly evaluated by
9 both Division and Board Staff.

10 The Petitioner requests the Board adopt
11 new regulatory requirements including but not
12 restricted to: new definitions specific to the
13 adult film industry; establish an adult
14 performers occupational safety health complaint
15 line; establish requirements for the provision of
16 medical monitoring and related testing for adult
17 film performer at no expense to employees;
18 require performers to sign a worker consent
19 contract that specifies a scene intensity index;
20 establish a code of conduct and performers bill
21 of rights.

22 The Board has received multiple petitions
23 specific to the adult film industry in recent
24 years. And those have informed both the Division
25 and Board Staff evaluations. In each of these

1 prior instances, the Board granted the petition
2 in part, and advisory committee process was
3 undertaken, and a Division rulemaking proposal
4 was formally considered but not adopted by the
5 Board.

6 This background illuminates the number of
7 challenging issues associated with potential
8 rulemaking specific to this industry.

9 While both Board Staff and the Division
10 acknowledge specific issues of concern in the
11 petition, several petitioner requests were
12 identified as falling outside the jurisdiction of
13 the Board and Cal/OSHA. The Division, therefore,
14 recommends the petition be approved to the extent
15 that an advisory committee be convened by
16 Division to create a regulation to protect adult
17 film workers that contains elements specific to
18 employer-provided safeguards, medical testing,
19 workplace violence, consent provisions, and safe
20 and healthful work practices.

21 Similarly, Board Staff recommends the
22 petition be approved to the extent an advisory
23 committee be convened by the Division to consider
24 a regulation to adult -- to protect adult film
25 workers that contains elements specific to

1 employee medical tests, reporting requirements,
2 certification of testing labs, and employee
3 training.

4 Consistent with the analysis and
5 recommendations of both Division and Board Staff,
6 the decision before you today proposes granting
7 the petition to the limited extent the Division
8 is requested to convene an advisory committee of
9 stakeholders, inclusive of Petitioner, to further
10 discuss potential development of a proposal for
11 safety order protections specific to the adult
12 film industry.

13 The advisory committee topics for
14 discussion should be restricted to items
15 consistent with: one, the existing requirements
16 of Title 8, Section 5193, Bloodborne Pathogens;
17 two, recommendations of Board Staff and Division
18 evaluations for Petition 576; and three, the
19 subject matter jurisdiction of the Board.

20 The decision is now ready for your
21 consideration.

22 CHAIR THOMAS: Thank you, Ms. Shupe.

23 Do I have a motion to adopt the petition
24 decision?

25 BOARD MEMBER BURGEL: Are we going to

1 discuss it? Don't we discuss it first?

2 CHAIR THOMAS: If you want to discuss it
3 but I usually ask for the motion first. So if
4 you --

5 BOARD MEMBER STOCK: So moved.

6 CHAIR THOMAS: Do I have a second?

7 BOARD MEMBER LASZCZ-DAVIS: Second.

8 CHAIR THOMAS: Is there anything on the
9 question?

10 BOARD MEMBER BURGEL: Yes.

11 CHAIR THOMAS: Go ahead.

12 BOARD MEMBER BURGEL: How -- I am
13 interested in pursuing --

14 CHAIR THOMAS: I think your mike is not
15 on

16 BOARD MEMBER BURGEL: Oh. Thank you.
17 Okay. Thank you.

18 CHAIR THOMAS: There you go.

19 BOARD MEMBER BURGEL: I am interested in
20 reviewing the Division recommendations, there
21 were eight points, specifically around workplace
22 violence, which is not really mentioned or
23 brought up in our staff report. And so I think
24 that the petition specifically brought up,
25 certainly, bloodborne pathogens and some of the

1 sexually-transmitted infections. But I think the
2 other major concerns was workplace violence.

3 And I know that we have a discussion
4 around a general industry workplace violence
5 standard then going forth. And so I'm just
6 wondering if there was some way we could merge
7 the adult film industry concerns with that
8 general industry violence prevention standard?
9 So that's just a comment.

10 I certainly am interested in looking at
11 the eight points from the Division analysis and
12 integrating them into the five points for
13 advisory committee discussion.

14 EXECUTIVE OFFICER SHUPE: Let me just
15 address --

16 BOARD MEMBER BURGEL: I'm not sure if
17 that's right but --

18 EXECUTIVE OFFICER SHUPE: I'm going to
19 address very quickly.

20 So the Division evaluation, the proposed
21 decision before you, recommends considering those
22 in total. So it's not --

23 BOARD MEMBER BURGEL: Okay.

24 EXECUTIVE OFFICER SHUPE: -- it's not a
25 competing --

1 BOARD MEMBER BURGEL: Okay. All right.

2 EXECUTIVE OFFICER SHUPE: -- solution.

3 BOARD MEMBER BURGEL: Thank you.

4 EXECUTIVE OFFICER SHUPE: Yeah.

5 BOARD MEMBER BURGEL: Thank you. So they

6 would both --

7 EXECUTIVE OFFICER SHUPE: They would --

8 BOARD MEMBER BURGEL: -- both reports?

9 EXECUTIVE OFFICER SHUPE: Both reports --

10 BOARD MEMBER BURGEL: Okay.

11 EXECUTIVE OFFICER SHUPE: -- would be

12 taken into --

13 BOARD MEMBER BURGEL: All right.

14 EXECUTIVE OFFICER SHUPE: -- context

15 when --

16 BOARD MEMBER BURGEL: Thank you.

17 EXECUTIVE OFFICER SHUPE: -- as part of

18 the A/C.

19 And as for including that in the larger

20 workplace violence regulation, given the unique

21 concerns of the adult film industry, I think that

22 the consensus would most likely be that this

23 would be a more effective way to establish change

24 for this particular --

25 BOARD MEMBER BURGEL: Industry.

1 EXECUTIVE OFFICER SHUPE: -- issue.

2 Yeah.

3 BOARD MEMBER BURGEL: Thank you.

4 CHAIR THOMAS: Question?

5 BOARD MEMBER STOCK: I was actually just
6 going to say what you just said, Christina, that
7 my understanding at the -- of it is that it does
8 include both of them.

9 EXECUTIVE OFFICER SHUPE: Yes.

10 BOARD MEMBER STOCK: So what we would be
11 voting on is an advisory committee that would
12 consider both the Division recommendation and the
13 Board recommendations?

14 EXECUTIVE OFFICER SHUPE: Yes.

15 CHAIR THOMAS: Any other questions?

16 Hearing none, Ms. Money, will you please
17 call the roll?

18 MS. MONEY: Ms. Burgel?

19 BOARD MEMBER BURGEL: Yes.

20 MS. MONEY: Mr. Harrison?

21 BOARD MEMBER HARRISON: Aye.

22 MS. MONEY: Ms. Kennedy?

23 BOARD MEMBER KENNEDY: Aye.

24 MS. MONEY: Ms. Laszcz-Davis?

25 BOARD MEMBER LASZCZ-DAVIS: Aye.

1 MS. MONEY: Ms. Stock?

2 BOARD MEMBER STOCK: Aye.

3 MS. MONEY: Chair Thomas?

4 CHAIR THOMAS: Aye. And the motion
5 passes. And here we go again. Thank you.

6 Proposed variance decisions for adoption
7 are listed on the consent calendar.

8 Mr. Healy, will you please brief the
9 Board?

10 MR. HEALY: Good morning, Chair Thomas,
11 Board Members.

12 Regarding Consent Calendar items on your
13 agenda today, it's asked that Consent Calendar
14 Item O in File number 18-V-364 not be taken up by
15 the Board at this time to allow for Hearing Panel
16 consideration of recently received submissions
17 from the parties.

18 As for Items A through N, I believe there
19 are no unresolved procedural issues and believe
20 Consent Calendar Items A through N are ready for
21 your consideration on the question of adoption.

22 CHAIR THOMAS: Thank you, Mr. Healy.

23 So do I have a motion to adopt the
24 Consent Calendar A through N and --

25 EXECUTIVE OFFICER SHUPE: Excluding --

1 CHAIR THOMAS: -- excluding O?
2 EXECUTIVE OFFICER SHUPE: Right.
3 BOARD MEMBER HARRISON: So moved.
4 CHAIR THOMAS: Do I have a second?
5 BOARD MEMBER STOCK: Second.
6 CHAIR THOMAS: I have a motion and a
7 second. Is there anything on the question?
8 Hearing none, Ms. Money, will you please
9 call the roll?
10 MS. MONEY: Ms. Burgel?
11 BOARD MEMBER BURGEL: Aye.
12 MS. MONEY: Mr. Harrison?
13 BOARD MEMBER HARRISON: Aye.
14 MS. MONEY: Ms. Kennedy?
15 BOARD MEMBER KENNEDY: Aye.
16 MS. MONEY: Ms. Laszcz-Davis?
17 BOARD MEMBER LASZCZ-DAVIS: Aye.
18 MS. MONEY: Ms. Stock?
19 BOARD MEMBER STOCK: Aye.
20 MS. MONEY: Chairman Thomas?
21 CHAIR THOMAS: Aye. The motion passes.
22 Rulemaking progress update.
23 Ms. Shupe, will you please brief the
24 Board?
25 EXECUTIVE OFFICER SHUPE: Thank you,

1 Chair Thomas. I'm going to address just a couple
2 of the more high-profile rulemakings that we're
3 working on right now.

4 For the Wildfire Emergency rulemaking, we
5 will be agendizing a 90-day re-adoption for the
6 emergency regulation at the December Board
7 meeting. This is the first of two anticipated
8 90-day re-adoptions that will allow the emergency
9 regulation to stay in effect through July of
10 2020.

11 The Standards Board has received a number
12 of questions from Department of Finance, who will
13 need to approve the fiscal analysis prior to any
14 permanent adoption of a wildfire smoke
15 regulation. And Board Staff is currently working
16 with Division to respond to those questions to
17 Department of Finance's satisfaction.

18 Upcoming November, Fall Protection and
19 Telecommunications. This regulation will be
20 agendized for a Board vote next month in order to
21 meet the OAL deadline for adoption within the 12
22 months allowed for rulemaking. At this point,
23 though, we do not have a final signed fiscal
24 approval from Department of Finance. This
25 regulation entered fiscal review on August 1st.

1 And the Standards Board has clearly -- Standard
2 Board Staff has clearly communicated the OAL
3 deadlines for adoption. We're anticipating that
4 approval is forthcoming. But if we do not
5 receive it, we will need to pull the proposal
6 from the agenda and restart the rulemaking
7 process.

8 For Construction Personnel Hoists,
9 section 1630, draft language for this regulation,
10 which Mr. Bland requested information about
11 earlier, that was completed by the end of June.
12 And Board Staff spent approximately six weeks
13 preparing a fiscal analysis for Labor Agency and
14 Department of Finance review and approval.

15 The proposal was forwarded to DIR for a
16 Secretary Action Request review, which is the
17 fiscal -- first step in the fiscal review. On
18 August 9th, we responded to questions and
19 received a signed 399 from DIR on September 18th
20 with notification of a pending approval.

21 However, on October 3rd, we received
22 another round of questions on the fiscal analysis
23 for that rulemaking and we're currently waiting
24 to find out how that goes. If we don't receive
25 that by Monday, it will not be able -- we won't

1 be able to notice it this year. It won't go out
2 until January.

3 One other. We also have an IIPP. The
4 SAR has been submitted and was approved. It is
5 currently -- the 399 is over at Finance. And I'm
6 sorry, I don't have full information on that.

7 So, yeah, that's what I have for you
8 today.

9 CHAIR THOMAS: Thank you.

10 EXECUTIVE OFFICER SHUPE: YES.

11 CHAIR THOMAS: Any questions?

12 BOARD MEMBER STOCK: I just want to ask
13 about a couple of others.

14 EXECUTIVE OFFICER SHUPE: Yes.

15 BOARD MEMBER STOCK: So the workplace
16 violence in a general industry -- or maybe that's
17 Eric who would be able to give the update?

18 EXECUTIVE OFFICER SHUPE: That would be
19 Eric.

20 BOARD MEMBER STOCK: Can I ask him now?

21 EXECUTIVE OFFICER SHUPE: Yes.

22 CHAIR THOMAS: Would you like to give an
23 update, Eric?

24 EXECUTIVE OFFICER SHUPE: Are you
25 prepared?

1 MR. BERG: We still haven't -- should I
2 come to the mike?

3 CHAIR THOMAS: Come up to the mike
4 please. Not to put you on the spot or anything,
5 but --

6 MR. BERG: My name is Eric Berg. B-E-R-G
7 is the name, last name.

8 Yeah, no, we haven't posted yet a new
9 draft. We're still working on that but we'll
10 post it soon, an update on workplace violence in
11 the general industry, but it will be much -- it
12 will be much more generic than something that
13 would be found in the adult film.

14 BOARD MEMBER STOCK: Right.

15 MR. BERG: Yeah.

16 BOARD MEMBER STOCK: And when you say it
17 hasn't been posted yet, can you estimate when
18 that might happen or what might influence the
19 timeframe?

20 MR. BERG: Well, there's other work we're
21 doing on that's delaying this, lead, wildfire
22 smoke --

23 BOARD MEMBER STOCK: So as a result of
24 that --

25 MR. BERG: -- and other --

1 BOARD MEMBER STOCK: -- what would you
2 estimate when that might be able to --

3 MR. BERG: Hopefully within -- by the
4 next meeting. That's our plan, to get it done
5 this month.

6 BOARD MEMBER STOCK: Wait. What? I
7 sorry. Could you just say --

8 MR. BERG: To post a draft, hopefully,
9 by -- well, we have to get approvals, too,
10 internally, but hopefully within --

11 BOARD MEMBER STOCK: Of the workplace
12 violence in general industry?

13 MR. BERG: Yeah, a draft for people --

14 BOARD MEMBER STOCK: There might be --

15 MR. BERG: -- to comment on.

16 BOARD MEMBER STOCK: -- a draft posted --

17 MR. BERG: Yeah.

18 BOARD MEMBER STOCK: -- by the next
19 meeting?

20 MR. BERG: And we'd ask for people to
21 comment on it.

22 BOARD MEMBER STOCK: Okay.

23 MR. BERG: Yeah.

24 BOARD MEMBER STOCK: Well, that's
25 helpful.

1 MR. BERG: Yeah. I mean, that's
2 what's -- that's our plan. That might not --

3 BOARD MEMBER STOCK: Okay.

4 MR. BERG: -- come to fruition, but I
5 hope.

6 BOARD MEMBER STOCK: Maybe we could just
7 plan, you know, just have it as a running agenda
8 item to just --

9 MR. BERG: Yeah.

10 BOARD MEMBER STOCK: -- give you a little
11 bit, so that you don't be on the spot to kind
12 of -- anything more you have to report, that
13 would be great, but that would -- that's been in
14 the pipeline a long time.

15 And then just sort of similarly, indoor
16 heat, is that still just getting the financial
17 review?

18 MR. BERG: Yeah, we're doing this. We
19 are working with a contractor. They've come up
20 with a draft SRIA and we have a lot of input on
21 that.

22 BOARD MEMBER STOCK: Um-hmm.

23 MR. BERG: So we're still working with
24 them on the SREAs. But --

25 BOARD MEMBER STOCK: Okay.

1 MR. BERG: -- that will take some time
2 to --

3 BOARD MEMBER STOCK: Do you have any
4 ballpark estimate of a time for that?

5 MR. BERG: Probably be done by sometime
6 early next year.

7 BOARD MEMBER STOCK: Okay.

8 CHAIR THOMAS: Bless you.

9 BOARD MEMBER LASZCZ-DAVIS: Now I'm just
10 unsure on something else.

11 CHAIR THOMAS: Yeah. Sure.

12 BOARD MEMBER LASZCZ-DAVIS: You know,
13 actually, you don't need to step down. Who
14 knows. You may be part of the response here.

15 You know, when we had the wildfire
16 advisory safety committee meetings in Oakland, I
17 know there were a number of concerns expressed
18 during and after the meeting that revolved around
19 not having the opportunity to dialogue. And has
20 there been any thought given as to -- as we move
21 forward, what will change process-wise, so there
22 is more exchange than we evidenced at that
23 meeting?

24 MR. BERG: Yeah. We'd want to try
25 for -- I guess once the regulation is finalized,

1 I mean, get into more details on that for, I
2 guess -- what do you call it? -- Version 3.0. I
3 mean, the emergency regulation, we call it
4 Version 1.0, finalizing that into a regulation so
5 it doesn't expire what we call 2.0, and we don't
6 have time to do advisory committee for that. But
7 after that's done, then we plan on doing one more
8 like the Standards Board Staff does their
9 advisory meetings, so more with, I guess, like a
10 roundtable with participants dialoguing back and
11 forth.

12 BOARD MEMBER LASZCZ-DAVIS: Okay.

13 CHAIR THOMAS: And that would be for 3.0?

14 MR. BERG: 3.0, yeah.

15 CHAIR THOMAS: Okay.

16 MR. BERG: Because 2.0, we're out of time
17 already, so --

18 EXECUTIVE OFFICER SHUPE: Then I'd like
19 to raise that we just had the cone and bar
20 barricade A/C, which was very much stakeholder
21 involved. And Eric brought several of his senior
22 safety engineers to that.

23 BOARD MEMBER LASZCZ-DAVIS: Okay.

24 MR. BERG: Yeah. It was a good learning
25 experience for us. I thought it worked really

1 well, so --

2 BOARD MEMBER LASZCZ-DAVIS: Okay. Good.

3 CHAIR THOMAS: Any other questions?

4 Anything else?

5 Legislative Update.

6 Mr. Healy, will you please brief the

7 Board?

8 MR. HEALY: Thank you again, Chair Thomas
9 and Board Members. We do have a few remaining
10 bill statuses to provide.

11 AB 35, concerning worker safety and blood
12 lead level reporting, the bill establishes within
13 the Health and Safety Code a 20 microgram of lead
14 per deciliter of an employee's blood as a
15 threshold level within a laboratory report at or
16 above which the State Department of Public Health
17 would need to forward the reported results to the
18 Division, Cal/OSHA as a complaint charging a
19 serious violation of Division-enforced safety
20 orders.

21 It also establishes within the Labor
22 Code, per New Section 147.3, a requirement that
23 the Division treat any such report as a
24 governmental agency charging a serious violation.
25 And as such, per existing Labor Code

1 requirements, initiate an investigation within
2 three days of receipt. And on October 10th,
3 2019, that was approved by the Governor, so that
4 is now law. That explains the present tense
5 description.

6 AB 203, concerning valley fever hazard,
7 requires construction employees engaged in
8 specific -- or construction employers engaged in
9 specific work activities or vehicle operations in
10 counties where valley fever is highly endemic,
11 defined as one case per 5,000 population per
12 year, to provide effective initial and annual
13 awareness training on valley fever to all
14 potentially exposed employees, typically those
15 within proximity of reasonably-anticipated dust
16 disturbances, construction excavation being the
17 most prominent amongst them.

18 The bill also requires dust exposure
19 mitigation measures where feasible and,
20 otherwise, when those are not feasible,
21 respirator use. And AB 203 does not specifically
22 call of the Standards Board to regulate in this
23 subject area but, instead, sets out the
24 mitigation, protection and training requirements
25 directly in the Labor Code, and that was approved

1 by the Governor on October 10th.

2 SB 1 would have required specific
3 agencies to take prescribed actions regarding
4 certain federal requirements and standards
5 pertaining to air, water, protected species, and
6 labor protections, and also occupational safety
7 and health standards. It would have established,
8 as a protective baseline, federal regulations as
9 they existed on January 19th, 2017, and would
10 have called of the agencies, including the
11 Standards Board, to publish, at least quarterly,
12 a list assessing whether any ensuing changes to
13 Fed OSHA requirements or those other applicable
14 federal regulations were less stringent than
15 those existing on the January 19th, 2017. And if
16 reductions were found to have occurred, the
17 agencies were then called upon to at least
18 consider emergency rulemaking to preserve
19 California's preexisting protections.

20 And that was vetoed by the Governor on
21 September 27th. It is in the senate for
22 consideration of the override but at this point
23 it is a vetoed bill.

24 And there's -- the last one is SB 364.
25 And this is concerning violent incident reporting

1 for state hospital facilities. SB 364 would have
2 required three types of state hospital facilities
3 to confidentially -- and those three being those
4 of the Department of State Hospitals,
5 Developmental Services, and Corrections and
6 Rehabilitations -- for these types of state
7 hospital facilities to confidentially report the
8 total number of assaults against employees on a
9 quarterly basis to bargaining unit
10 representatives of affected employees and
11 annually to the legislature. That was vetoed by
12 the Governor on October 13th.

13 EXECUTIVE OFFICER SHUPE: Peter, just to
14 clarify, you said SB 364, but the --

15 MR. HEALY: 363.

16 EXECUTIVE OFFICER SHUPE: Thank you.

17 MR. HEALY: It does make a difference.
18 Yes, 363.

19 And that concludes the Legislative
20 Update.

21 CHAIR THOMAS: Thank you, Peter -- or Mr.
22 Healy. Sorry.

23 Executive Officer's Report.

24 Ms. Shupe, will you please brief the
25 Board?

1 EXECUTIVE OFFICER SHUPE: I have nothing
2 to report at this meeting. Thank you.

3 CHAIR THOMAS: And I think we've covered
4 future agenda items.

5 At this time, we're going to move into
6 closed session, so we're going to have to excuse
7 you guys, leave the room. And -- but we'll call
8 the meeting back to order after we go through our
9 closed session. We don't have anywhere else to
10 go.

11 EXECUTIVE OFFICER SHUPE: We need you to
12 read that card.

13 CHAIR THOMAS: Oh, I have to read this
14 first, so pursuant to Government Code sections
15 11125.4(a)(1), the Board shall enter a closed
16 session to confer with Counsel regarding pending
17 litigation matters listed on today's agenda.

18 We ask that the members of the public and
19 staff please clear the room at this time.

20 After the closed session is concluded I
21 will reconvene the meeting and we will report on
22 any closed session action.

23 Thank you.

24 (Off the record at 10:56 a.m.)

25 (On the record at 11:14 a.m.)

1 CHAIR THOMAS: We're back in order.

2 During closed session, no action was
3 taken.

4 So the next -- huh? -- yeah, the next
5 Standards Board regular meeting and hearing is
6 scheduled for November 21st, 2019, in Oakland.

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

9 Thank you.

10 (The Board meeting concluded at 11:15 a.m.)

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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 13th day of December, 2019.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

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.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

December 13, 2019