

**FINAL
SAFETY AND HEALTH CODES BOARD
PUBLIC HEARING AND MEETING MINUTES
Tuesday, January 12, 2021**

On January 12, 2021, the Safety and Health Codes Board (“Board”) held an electronic meeting pursuant to the budget language as amended by Chapter 1289 of the 2020 Acts of Assembly that states:

Notwithstanding any other provision of law, any public body, including any state, local, regional, or regulatory body, or a governing board as defined in § 54.1-2345 of the Code of Virginia may meet by electronic communication means without a quorum of the public body or any member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body or common interest community association as defined in § 54.1-2345 of the Code of Virginia and the discharge of its lawful purposes, duties, and responsibilities; (iii) a public body shall make available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of Virginia; and (iv) the governing board shall distribute minutes of a meeting held pursuant to this subdivision to common interest community association members by the same method used to provide notice of the meeting.

Given the nature of the emergency, that COVID-19 spreads easily from person to person, the Board held an electronic meeting utilizing **WebEx**.

Notice of the meeting was provided to the public as required by VA Code §2.2-3708.2 and Executive Order 14 (2018). The notice invited the public to witness the meeting remotely via **WebEx**. Notice was provided on the Virginia Regulatory Townhall’s website here: <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=31986>.

The Board members and Department staff listed below as “participating” were all participating via WebEx. There was no quorum of Board members *physically* assembled at one location. There was a quorum of Board members participating on WebEx for purposes of the meeting.

A recording of the meeting in its entirety is available here: <https://www.doli.virginia.gov/wp-content/uploads/2021/01/SHCB-Meeting-January-12-2021-Recording.mp4>

BOARD MEMBERS

PARTICIPATING:

Ms. Milagro Rodriguez, Chair
Mr. Patrick Bolling
Mr. Jerome Brooks
Mr. Louis J. Cernak, Jr.
Mr. John Fulton
Mr. Phil Glaize
Ms. Tina Hoover
Ms. Anna Jolly

Mr. Courtney Malveaux, participated for parts of the meeting, absences noted
Mr. Travis Parsons
Mr. Kenneth Richardson, II
Mr. Charles Stiff, Vice Chair
Mr. Thomas Thurston

BOARD MEMBERS ABSENT: Mr. Michael Luce

STAFF PARTICIPATING: Mr. C. Ray Davenport, Commissioner of Dept. of Labor & Industry
Mr. William P. Burge, Assistant Commissioner
Mr. Jay Withrow, Director, Legal Support, BLS, VPP, ORA, and OWB
Ms. Princy R. Doss, Director, Policy, Planning, & Public Information
Ms. Marta Fernandes, VOSH Safety Compliance
Ms. Jennifer Rose, Director Cooperative Programs
Ms. Christine Childress, Security Information Officer
Mr. Richard White, IT Project Manager
Ms. Holly Trice, Senior Staff Attorney
Mr. Alex West, Senior Staff Attorney
Ms. Cristin Bernhardt, Staff Attorney

OTHERS PARTICIPATING: Mr. Joshua Laws, Assistant Attorney General
Ms. Lisa Wright, Court Reporter, Chandler & Halasz, Stenographic Court Reporters

CALL TO ORDER

Chair Rodriguez called the Public meeting to order at 9:15am. A quorum was present. Chair Rodriguez made opening remarks informing the public that this meeting was an electronic meeting, held under Va. Code Section 2.2-3708.2, and using WebEx to allow panelists (Board members and DOLI staff) and participants to listen to the meeting by internet or telephone.

The purpose of the meeting was to consider for adoption 16VAC25-220 Final Permanent Standard: Infectious Disease Prevention SARS-Co2 Virus That Causes COVID-19 by the Virginia Safety and Health Codes Board pursuant to Va. Code 40.1-22(6a).

The Department prepared a document entitled "DRAFT Combined Board Amendments, Final Standard for Infectious Disease Prevention, COVID-19 ("combined board document") A copy of this document is available here: <https://www.doli.virginia.gov/wp-content/uploads/2021/01/DRAFT-Combined-Board-Amendments-Final-Standard-for-Infectious-Disease-Prevention-COVID-19-1.10.2021-FOR-PUBLICATION.pdf>. This document combined all the amendments the board members had introduced into one document as well as revisions the Department and the Administration wished to make. References to certain page numbers in motions that were made during this meeting, reference the page numbers of the above listed document.

APPROVAL OF AGENDA

Chair Rodriguez asked the Board if there was any discussion on the agenda. There was none. Chair Rodriguez asked if there was a motion to approve the agenda. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 8:45

#1 Approval of Agenda	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

After approval of the agenda, Chair Rodriguez announced that no one from the public submitted a request to address the Board during the oral public comment period prior to the deadline of January 8, 2021 at 5:00 pm so there would be no public comment.

NEW BUSINESS

Next, Chair Rodriguez moved onto new business, which consisted of review and consideration of adoption of a final permanent standard for Infectious Disease Prevention, SARS-CoV-2 Virus that causes COVID-19. Chair Rodriguez recognized the Department and introduced Director of Legal Support, Jay Withrow. Before discussing the standard, Director Withrow gave an update on statistics of the Coronavirus both in Virginia and across the United States. He also discussed the Economic Impact Analysis (EIA). The EIA was not prepared pursuant to the Administrative Process Act (APA) as the Final Standard was not being promulgated pursuant to the APA. However, the Agency contracted with an outside firm, CHMURA, to conduct an EIA as the Agency had stated it would follow the regulatory steps laid out in the APA as closely as it could, taking into consideration the 6 month time frame for promulgation of the Standard laid out in Va. Code § 40.1-22(6a). The Board asked various clarifying questions throughout the presentation.

During the briefing by Director Withrow, there was a **10 MINUTE RECESS at 10:37 am; RECONVENE 10:47 am.**

During the briefing by Director Withrow, there was a **30 MINUTE RECESS for Lunch at 12:33pm; RECONVENE 1:03pm.**

After lunch, Director Withrow continued (on page 68 of briefing package) with Virginia COVID-19 statistics, including Virginia Worker’s Compensation Commission (VWCC) and Virginia Occupational Safety and Health (VOSH) COVID-19 case statistics. Chair Rodriguez then asked if Board members had any questions regarding the presentation. There were none. Holly Trice announced that Board member Malveaux emailed her to report he had to leave the meeting at 1:27pm. Director Withrow announced once discussion of the draft final standard began, Director Withrow would skip any amendments proposed by Malveaux until his return to the meeting.

Chair Rodriguez called for a 10 minute recess before the Department proceeded with the next portion of the meeting.

10 MINUTE RECESS at 2:07pm; RECONVENE 2:17pm

The Department proceeded with discussion of the draft final permanent standard using the document entitled “DRAFT Combined Board Amendments, Final Standard for Infectious Disease Prevention, COVID-19 (“combined board document”). Director Withrow announced that Member Malveaux would return around 2:30 and that Board Member Malveaux’ amendments would be considered upon his return.

Chair Rodriguez called for the next item. Starting from the beginning of the draft final standard, the Department had some highlighted changes on pages 1-6. The Department explained some non-substantive and numbering changes highlighted on pages 1-6.

Chair Rodriguez asked if someone would make a motion to accept the highlighted changes recommended by the Department. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 5:04:55

#2 Highlighted changes. Pages 1-6	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				

Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

The Department moved on to page 4 of the combined board document and discussed the comments of Board Member Parsons and Member Jolly regarding respiratory protection and PPE availability and striking the language proposed by the Administration in Sec. 10.C. The Board discussed the matter.

The Department supported the language as proposed, which addressed the revisions to Sec 10.C. put forth by the Administration. There was some concern by Board member Jolly and Member Parson regarding the term “commercially reasonable” and the ability for employers to avoid their responsibility to provide appropriate PPE. The Department explained that due to the supply issues with PPE, there would be no citation for the lack of PPE if employer could show good faith effort to provide PPE, and that there was still ability for DOLI to conduct onsite investigations to verify that either compliance or good faith efforts were made.

There was discussion about “commercially reasonable” for purposes of how to define the language in the standard. Member Hoover addressed the Board supporting the Department’s amendment explaining the reality of businesses having difficulty obtaining PPE and Board Member Hoover stated something should be in place to protect businesses from enforcement if PPE is not available. The Board discussed the need for the language to protect employers if VOSH can address those issues during investigation to determine if the employers made a good faith effort.

Josh Laws provided Black’s law definition of “commercially reasonable” as well as UCC definition in order to provide context of the phrase as it would apply in the standard. Commissioner Davenport addressed the Board that Administration had put a lot of time and effort with comments of various state agencies to include this language.

During the discussion, Board member Malveaux returned to the meeting.

Vice Chair Stiff asked for a motion on what was proposed and Chair Rodriguez asked if someone would make a motion to accept the Administration’s revisions to 10.C. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 5:33:10

#3 Sec.10.C. pg 4 Department recommendation for this section that no enforcement for lack of PPE “commercially reasonable” available	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. (“Lou”) Cernak Jr.		1			

Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	8	5	0	1	

Chair Rodriguez called for the next item by the Department. Board member Malveaux returned so Director Withrow went back to page 1 to address Member Malveaux' proposed amendment to Sec. 220-20, Title to strike "Final Permanent" and insert "Emergency Temporary" as well as changes to Sec 220-20.C. effective date to provide continuing standard as a Temporary standard with a sunset provision. The Department explained they did not believe they have legal authority to extend the temporary standard past the 6 months ending January 27, 2021. Member Malveaux asked to enact another temporary standard instead of extending the current ETS. The Board discussed the motion as it related to the temporary nature of the pandemic and the need for such a standard would eventually not be necessary.

Assistant Attorney General Josh Laws addressed the Board, giving his advice regarding the Board's authority of enacting an emergency temporary standard and a permanent standard under Va. Code § 40.1-22(6a). Member Malveaux respectfully disagreed with the interpretation. The Board continued to provide their comments regarding the "permanent" language of the standard.

Vice Chair Stiff made a motion to accept Board member Malveaux's proposed amendments. The motion was made, properly seconded, and a roll call vote was conducted. The motion was defeated.

Meeting Recording Time of Vote: 5:52:30

#4 Malveaux proposed amendment to change title to temporary as well as Sec.20.C. effective date with a sunset provision	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling		1			
Mr. Jerome Brooks		1			
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				

Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II		1			
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston		1			
TOTALS	4	9	0	1	

Chair Rodriguez called for the next item. The Department announced that Member Malveaux removed his proposed language on page 5. The Department then moved to page 7 of the document, with the Department removal of Sec. 10.F. which states "This standard shall not conflict with requirements and guidelines applicable to businesses set out in any applicable Virginia executive order or order of public health emergency." After discussions with legal counsel, the Department recommended removal of the above language. The language was considered redundant in light of Executive Order 72, which states that if any conflicts exist, EO 72 shall control. Josh Laws referenced separation of powers and conflicts between branches of government and constitutional issues.

Board Member Malveaux had a proposed amendment before the Board to keep the language in the standard in order to make clear to the employers which rule applies.

After discussion by the Board, Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation to remove Sec. 10.F. language on bottom of page 7 of the combined document. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 6:17:20

#5 Sec. 220-10.F. pg 7 Dept recommendation to strike this section.	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13		0	1	

Chair Rodriguez called for the next item where Member Malveaux proposed some substitute language to Section 10.F. to include back the language with the addition of "if" into the standard. Chair Rodriguez

asked if there was any discussion on the matter where Department expressed its opposition to the motion. Board Member Malveaux asked the Department to provide clarifying language to any conflicts and Director Withrow explained that those conflicts are resolved outside the standard.

Chair Rodriguez then asked if someone would make a motion to make the changes suggested by Member Malveaux on page 7 Sec. 10.F. The motion was made, properly seconded, and a roll call vote was conducted. The motion was defeated.

Meeting Recording Time of Vote: 6:27:30

#6 Sec 10.F. CM proposal for substitute language ETS governs if conflicts with EO/OPH	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling		1			
Mr. Jerome Brooks		1			
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize		1			
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II		1			
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston		1			
TOTALS	3	9	0	1	

Chair Rodriguez called for the next item. The Department moved to page 8 and an amendment proposed by Board member Malveaux. Member Malveaux presented his amendment to strike the current language in Sec. 10.E. and substitute the following language, "[t]o the extent that an employer complies with requirements contained in CDC publications to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by this standard/regulation, the employer's actions shall be considered in compliance with this standard/regulation." The Department presented its position that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections. The standard's language assures such protections. The original language was proposed by the Administration.

Chair Rodriguez asked if someone would make a motion to accept Member Malveaux proposed amendment language on page 8. The motion was made, properly seconded, and a roll call vote was conducted. The motion was defeated.

Meeting Recording Time of Vote: 6:38:40

#7 Sec 220-10. Malveaux motion to change language on pg 8. regarding compliance if follow CDC guidelines	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling		1			
Mr. Jerome Brooks		1			
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II		1			
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	5	8	0	1	

Board member Malveaux announced that he had to leave the meeting and would be returning as soon as he was available.

Chair Rodriguez called for the next item. The Department moved on to page 9-12 and the proposed "clean up" changes recommended by the Department. Chair Rodriguez asked if someone would make a motion to accept the changes recommended by the Department. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 6:45:00

#8 Highlighted changes pg 9 through Adoption Process pg 12	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Rodriguez called for the next item. The Department moved to page 13 of the combined board document and Sec. 220-70.B relating to the Infectious Disease Preparedness and Response Plan. The Department recommended the effective date of training requirements to take effect March 26, 2021, the same 60 day time period as temporary standard.

Chair Rodriguez asked if there was any discussion on the matter. Board members Jolly and Parsons expressed concern that these requirements [for an Infectious disease preparedness and response plan] were in the original ETS and questioned why the final standard also provided 2 months to comply with already existing requirement. Parsons commented that this created a period of time where there would be a lack of employee protection.

Director Withrow explained that this was in response to public comments received and the Department does not believe this was an unreasonable request. Director Withrow explained that new businesses were being opened on a regular basis and should be afforded a sufficient time to develop a plan. Therefore the recommendation was to keep 60 day effective date time period. Vice Chair Stiff asked the Department about the experience with the ETS and Withrow indicated that so far there had been no citations issued for violating this section.

Member Jolly made a motion for a 30 day time period and an effective date of February 25, 2021 for requirements for an Infectious disease preparedness and response plan. The Department was asked if they would approve of a 30 day time period and Director Withrow indicated they prefer the 60 days. Chair Rodriguez asked if there was a second on member Jolly’s proposal for Sec. 220-70 effective date of February 25, 2021. The motion was made, properly seconded, and a roll call vote was conducted. The motion was defeated.

Meeting Recording Time of Vote: 67:00:10

#9 Member Jolly amendment for Sec 70 eff date of 2/25/2001	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks		1			
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Mr. John D. Fulton		1			
Mr. Phil Glaize		1			
Ms. Tina Hoover		1			
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II		1			
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff		1			
Mr. Thomas A. Thurston	1				
TOTALS	6	6	0	2	

Chair Rodriguez called for the next item. The Department moved to their recommendation on page 13, that Section 220-70 take effect on March 26, 2021. There was a motion to accept the Department’s recommendation for March 26, 2021 effective date. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:02:50

#10 Motion 220-70.B. eff date 3/26/2021 Recommended by Dept	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks	1				
Mr. Louis J. (“Lou”) Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez		1			
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	7	5	0	2	

Member Jerome Brooks announced that he would need to leave the meeting at 4:30pm.

Chair Rodriguez called for the next item. The Department moved to their recommendation on page 13 that Section 220-80 relating to the training requirements of the standard. The Department recommended an expanded time for employee training from 30 days to 60 days in response to employer concerns expressed during multiple public comment opportunities about the ability to develop and provide effective training to management personnel and employees in 30 days. Member Jolly expressed her position that there was essentially no difference in the requirements from the temporary standard that was currently in effect and; therefore, no reason to give employers 2 additional months.

Chair Rodriguez asked if there were any other comments from the Board. Board Member Bolling recommended the same dates for both the plan in Sec. 70 and the training in Sec. 80. There was a motion to accept the Department’s recommendation for March 26, 2021 effective date for the training requirements of Sec. 220-80. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:11:10

#11 Sec. 80 training eff date 3/26/2021 Recommended by Dept	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				

Mr. Jerome Brooks	1				
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	7	5		2	

Chair Rodriguez called for the next item. The Department moved to page 14 of the combined board document and discussed several pages of "clean up" revisions. The Department recommended that the board adopt the Department's small revisions in yellow and blue highlights found on pages 14-18 as well as an amendment by Member Malveaux on page 16 that the Department did not take issue. In addition, there was discussion about the Department addition to 220-20.C. starting at the bottom of page 14 where Vice Chair Stiff had a clarifying question regarding the Board process for determination of the need to continue the standard.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation to adopt the revisions found on pages 11-18. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:18:50

#12 Recommended changes by Department on pages 11-18 & Malveaux amendment pg 16	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks				1	
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

Chair Rodriguez called for the next item. The Department moved to page 18 of the combined board document and the proposed amendment of Board member Malveaux. Member Malveaux was not present at the meeting, but the Department did not have any issue with the changes requested. Board Member Bolling provided the VDH prospective with use of “effective” and therefore decision was made to wait until Member Malveaux was present.

Chair Rodriguez asked if there was any discussion on the matter. Board member Malveaux explained the reasoning behind adding “effective” to the definition of disinfecting. After some discussion, he withdrew his proposal and no motion was made.

The Department continued with page 18 of the combined board document that included some highlighted changes to the definition of “duration and frequency of employee exposure.” The Department explained those highlighted changes as well as the suggested amendment made by Board member Jolly. Member Jolly explained her reasoning for the clarification in the definition and Director Withrow made some suggested language that would address Member Jolly’s concerns. The change suggested was “the greater the frequency or length of time of the exposure...” Member Jolly was fine with the proposed changes made by the Department. Continuing to page 19, the Department wanted to note that the amendment proposed by Member Malveaux has been withdrawn.

Chair Rodriguez asked if someone would make a motion to accept the changes on page 18-20 discussed. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:28:00

#13 Motion to accept definitional changes in yellow and blue highlighted and discussed during meeting on pg 18-20	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks				1	
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

Chair Rodriguez called for the next item. The Department continued with the combined board document and the amendment to definition of “economic feasibility” on page 20 and “exposure risk level” on page

22 proposed by Board member Malveaux. Director Withrow announced that the Department supported the proposed changes. Chair Rodriguez asked if there was any other discussion on the matter. There was none. Next, the Department discussed the proposed change by Member Jolly to the definition of “employee” and noted that the definition as written in the draft final standard is a well established definition that the Department did not support changing the definition. Member Jolly acknowledged and withdrew her proposal. The Department requested the motion include the amendment by Member Malveaux on page 22 that was supported by the Department.

Chair Rodriguez asked if someone would make a motion to accept proposed changes discussed by the Department on pages 20-22. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:32:50

#14 pg 22 Malveaux proposed amendments on pages 20, 22. DOLI supports	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks				1	
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

Chair Rodriguez called for the next item. The Department moved onto page 23 and the recommended adoption of the small changes highlighted on pages 23, 25, and 28 as well as the highlighted language that was stricken at the top of page 30. The Department noted that the amendments of Member Malveaux on pages 24, 26, 28, 29 were withdrawn. The amendment proposed by Member Thurston on page 25 would be discussed separately and not included in this discussion/motion.

Chair Rodriguez asked if there was any discussion on the matter. Chair Rodriguez asked if someone would make a motion to accept the Department’s recommendation to adopt the discussed changes to pages 23-29 and top of page 30. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:37:10

#15 DOLI proposed highlighted changes pgs. 23-29 & strike through language at the top of pg. 30.	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks				1	
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

Chair Rodriguez mentioned that it was 4:54 pm and close to the end of the day and asked the Department if this would be a good time to adjourn for the day. Director Withrow agreed that it would be a good stopping point and the next item to consider in tomorrow's meeting would be Member Thurston's amendment on page 25.

Chair Rodriguez asked if someone would make a motion to adjourn the meeting for the day and continue the meeting tomorrow morning at 9:15 am as scheduled. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 7:40:00

#16 Motion to Adjourn and continue January 13, 2021	Yea	Nay	Abstain	Absent	Other
Mr. Patrick Bolling	1				
Mr. Jerome Brooks				1	
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff				1	
Mr. Thomas A. Thurston	1				

TOTALS	10	0	0	4	
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There being no further business for the day, a motion was properly made and seconded to adjourn the meeting and continue at 9:15 am on January 13, 2021. The meeting adjourned at 4:57 p.m.