



Submitted electronically to oshsb@dir.ca.gov.

Re: General Industry Safety Orders; COVID-19

Members of the California Department of Industrial Relations Occupational Safety and Health Standards Board (Cal/OSHA):

My name is Andrew Wylam, and I am the President of Pandemic Patients, which is a 501(c)(3) non-profit patient advocacy organization that works to relieve the harm caused by COVID-19 and Post-COVID Conditions. We believe that the most effective strategy for reducing the harm caused by COVID-19 is to prevent new infections from occurring.

General Industry Safety Orders

Pandemic Patients supports the implementation of workplace safety standards that are responsive to the danger presented by COVID-19.¹ We believe that state and federal regulatory agencies with jurisdiction over occupational health and safety must act with urgency to implement effective workplace safety standards to mitigate occupational exposure and community spread of COVID-19. I am writing to you to support the enactment of the General Industry Safety Orders (Safety Orders) published by the Occupational Safety and Health Standards Board on July 29, 2022.²

Occupational Exposure to COVID-19

An estimated 10 percent of American workers experience occupational exposure to disease or infection at least once per week, while 18.4 percent experience such occupational exposure at least once per month.³ The types of occupations that are associated with heightened exposure risk include healthcare, protective services, office and administrative support, education, community and social services, and construction.⁴ Specifically, occupational exposure to COVID-19 is disproportionately higher for minority groups, including black and Latino populations.⁵ Research conducted by Kaiser Permanente of Southern California and published in the *Annals of Internal Medicine* in August 2021 found that members of these minority populations have a heightened relative risk of being diagnosed with COVID-19, being hospitalized and receiving

¹ <https://pandemicpatients.org/policy-priorities/>

² <https://www.dir.ca.gov/dosh/doshreg/COVID-19-Prevention-Regulatory-Text.pdf>

³ <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0232452>

⁴ <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0232452>

⁵ <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0256085>

intensive-level care, and experiencing severe COVID-19 outcomes.⁶ Their heightened risk for occupational exposure and severe COVID-19 outcomes demonstrates how minority populations are left particularly vulnerable to COVID-19 by the absence of workplace safety standards. However, this also implies that strong workplace safety standards can achieve considerable health improvements by providing greater protection to the communities who have experienced the worst COVID-19 health outcomes. By implementing the Safety Orders to protect workers against occupational exposure to COVID-19, Cal/OSHA will accrue significant benefits to California's public health alongside a reduction in health expenditures.

Long COVID

COVID-19 interrupts business operations not only when workers are exposed to or become infected with COVID-19, but also when workers continue to experience symptoms following their recovery from an acute COVID-19 infection. A global analysis published in the *Journal of Infectious Diseases* on April 26, 2022, estimates that 49 percent of patients will continue to experience COVID-19 symptoms 120 days after infection.⁷ These persistent symptoms, referred to as "long COVID," include fatigue, difficulty breathing, pain, cognitive dysfunction, and many others, which can be severe and disabling.⁸ Current research suggests that the risk of developing such persistent symptoms increases each time a person is infected with COVID-19.⁹

Additionally, following their recovery from COVID-19, individuals have a heightened risk of developing one or more associated health conditions, known as Post-COVID Conditions.¹⁰ These conditions can affect nearly every major organ in the body, including the heart, lungs, brain, and kidneys, which can be fatal. Examples of Post-COVID Conditions include diabetes, depression, anxiety, impaired lung function, atrial fibrillation, and pulmonary embolism. Even asymptomatic and mild cases of COVID-19 place individuals at heightened risk of developing long COVID and one or more Post-COVID Conditions following their recovery.

Regarding cognitive dysfunction, the most common cognitive deficits associated with long COVID include reductions in processing speed, executive functioning, phonemic fluency, category fluency, memory encoding, and memory recall.¹¹ Cognitive deficits have a significant impact on workers' functional capacity and a significant number of long COVID patients continue to experience these symptoms for over a year following their recovery from COVID-19.¹² A study published by the University of Cambridge estimates that the magnitude of cognitive loss associated with severe COVID-19 is equivalent to 20 years of aging or losing 10 IQ points.¹³

⁶ <https://www.acpjournals.org/doi/10.7326/M20-8283>

⁷ <https://academic.oup.com/jid/advance-article/doi/10.1093/infdis/jiac136/6569364>

⁸ <https://pandemicpatients.org/long-covid/>

⁹ <https://www.researchsquare.com/article/rs-1749502/v1>

¹⁰ <https://pandemicpatients.org/post-covid-conditions/>

¹¹ <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2785388>

¹² <https://academic.oup.com/ofid/article/9/7/ofac355/6649885>

¹³ <https://www.cam.ac.uk/research/news/cognitive-impairment-from-severe-covid-19-equivalent-to-20-years-of-ageing-study-finds>

Disabling cognitive symptoms contribute to the rising number of long COVID patients who are unable to work. In our experience, cognitive impairment is the most common symptom experienced by long COVID patients who need assistance applying for disability benefits.

The prevalence of disability associated with long COVID is poised to cause a significant deterioration in the American workforce's production capacity and economic output, which is particularly troubling as the number of new COVID-19 infections continues to exceed 50,000 per day.¹⁴ The Brookings Institution published a report on August 24, 2022, which estimated that 16 million Americans are currently experiencing long COVID, with 2 to 4 million experiencing symptoms so severe that they cannot work.¹⁵ In addition to contributing to the national labor shortage, the lost wages of those workers is between \$170-230 billion each year.¹⁶ Additionally, the estimated cost of medical care and lost quality of life associated with long COVID exceeds \$500 billion each year.¹⁷

A study published in September 2022 by the National Bureau of Economic Research found that workers who experience a week-long work absence due to COVID-19 are 7 percent less likely to be in the labor force one year later.¹⁸ This same study found that COVID-19 has reduced the labor supply by approximately 500,000 people, with 90 percent of the lost labor supply occurring past the initial absence week.¹⁹ The reduction in labor force participation and the direct costs associated with long COVID harm America's economic interests on a national level while threatening the financial security of American families and communities. Implementing workplace safety standards to reduce the spread of COVID-19 will mitigate the lost production capacity caused by workers' direct occupational exposure to COVID-19 and the dire economic consequences associated with long COVID.

Recommendations

Pandemic Patients applauds Cal/OSHA for developing and issuing the proposed Safety Orders. We believe that the Safety Orders represent important progress in the United States' response to the coronavirus pandemic. If implemented, we are confident that the Safety Orders will limit workers' occupational exposure to COVID-19 in California and will prompt other states to follow California's example by implementing similar workplace safety measures.

While strongly supporting the proposed Safety Orders, Pandemic Patients submits the following amendments for consideration by the Occupational Safety and Health Standards Board:

¹⁴ <https://www.nytimes.com/interactive/2021/us/covid-cases.html>

¹⁵ <https://www.brookings.edu/research/new-data-shows-long-covid-is-keeping-as-many-as-4-million-people-out-of-work/>

¹⁶ <https://www.brookings.edu/research/new-data-shows-long-covid-is-keeping-as-many-as-4-million-people-out-of-work/>

¹⁷ <https://scholar.harvard.edu/cutler/news/long-covid>

¹⁸ https://www.nber.org/system/files/working_papers/w30435/w30435.pdf

¹⁹ https://www.nber.org/system/files/working_papers/w30435/w30435.pdf

1. Sec. 3205(c)(3)

Sec. 3205(c)(3) requires employers to provide training to employees “regarding COVID-19 in accordance with subsection 3203(a)(7).” Pandemic Patients supports this provision because it promotes greater awareness about COVID-19 in the workplace. However, we recommend that the final regulation include greater specificity regarding the information that employees must receive training on. We recommend that employers be required to provide training on COVID-19 symptoms, common viral transmission pathways, COVID-19 testing methods, how workers can protect themselves and others following a potential or confirmed exposure to COVID-19, the potential long-term health consequences of COVID-19 infection, and when to seek emergency medical care. We recommend that Cal/OSHA periodically issue standardized training materials to employers to ensure that the information they are providing to employees is up to date.

2. Sec. 3205(c)(4)(B)

Sec. 3205(c)(4) requires employers to establish procedures for investigating COVID-19 illness in the workplace, which includes encouraging employees to “report COVID-19 symptoms and to stay home when ill.” Pandemic Patients supports this provision because it encourages employees to respond properly by staying home if they begin experiencing COVID-19 symptoms. However, we are concerned that employees will not comply with this requirement due to the fear of wage loss or reprisal, even if additional measures already exist to protect them from retaliation by their employer.

We urge the Occupational Safety and Health Standards Board to implement additional measures to protect employees who report COVID-19 symptoms and stay home. Specifically, employers should be required to provide training to employees regarding any workplace benefits available to them that would support their ability to stay home from work if they are experiencing COVID-19 symptoms (e.g., paid sick leave). Additionally, employers should be required to instruct employees on the protections available to them under Sec. 6311 of the Labor Code as they relate to unsafe working conditions caused by COVID-19.²⁰ The Occupational Safety and Health Standards Board can incorporate these recommendations into Sec. 3205(c)(3).

3. Sec. 3205(c)(5)(E)

Sec. 3205(c)(5) requires employers to implement effective procedures for responding to a case of COVID-19 in the workplace, which requires them to exclude employees from the workplace following a potential or confirmed exposure. Upon exclusion, Sec. 3205(c)(5)(E) requires employers to provide the affected employee(s) information about any benefits related to COVID-19 they may be entitled to. Pandemic Patients supports this provision; however, we believe that additional employee benefits should be specifically noted in the Safety Orders. Accordingly, Sec. 3205(c)(5)(E) should require employers to provide information to employees regarding any available workplace disability benefits. Additionally, employers should be required to furnish a copy of any relevant coverage documents to employees at this time.

²⁰ <https://www.dir.ca.gov/dosh/whistleblowercomplaint.htm>

From our experience, employees are frequently unaware of the disability coverage that is available to them. Further, they are often unsure of where to find their policy documents. Including this information at the time they are excluded from work will help employees apply for these benefits if the need arises.

Conclusion

Thank you for considering our position on the proposed Safety Orders and our recommended amendments. If you have any questions or comments about our position on the Safety Orders, please contact me at a.wylam@pandemicpatients.org.

Respectfully,

A handwritten signature in black ink, consisting of the letters 'A' and 'W' in a cursive, stylized font. The 'A' is tall and the 'W' is wide, with a long, sweeping tail on the 'W'.

Andrew Wylam
President
Pandemic Patients