APRIL 26, 2022 | LEGISLATIVE & STANDARDS BOARD UPDATES

Cal/OSHA Standards Board Approves Third Re-Adoption of COVID-19 Emergency Rule

As expected, on April 21st the Cal/OSHA Standards Board voted to adopt the proposed third re-adoption of the COVID-19 Emergency Temporary Standard. The Board voted 6-1, with management representative Kathleen Crawford casting the sole no vote. The new rule iteration is set to take effect on about May 2, 2022, once approved by the Office of Administrative Law, and will remain in effect until December 31, 2022. As mentioned in our prior blog post, the third re-adoption retains the core elements of the emergency rule but with various substantive changes.

DOSH Deputy Chief Eric Berg, in his briefing to the Board ahead of the vote, indicated that there will be FAQs issued to address the re-adoption. He also noted, in light of concerns over employees refusing testing, that employers can require testing. He cited the current Cal/OSHA FAQs referencing the Department of Fair Employment and Housing's FAQ on this topic. Notably, Mr. Berg clarified that while the April 6, 2022 California Department of Public Health (CDPH) guidance contains a broader definition of "close contact" than under the emergency rule, the broader CDPH definition does not currently prevail because it is not contained in a public health order or regulation (as required under the third re-adopted rule).