



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF LABOR AND INDUSTRY

Gary G. Pan  
COMMISSIONER

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February 16, 2022

The Honorable Glenn A. Youngkin  
Governor of the Commonwealth of Virginia  
Patrick Henry Building  
1111 E. Broad Street  
Richmond, VA 23219

SUBJECT: Executive Order 6 Report to the Governor

Virginia Safety and Health Codes Board Action on the Virginia Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 (Virginia Standard)

Dear Governor Youngkin:

In accordance with Executive Order 6,<sup>1</sup> and on behalf of the Virginia Safety and Health Codes Board (Board), I report the following:

1. The Board met on February 16, 2022<sup>2</sup> to consider the Department of Labor and Industry's (DOLI) proposal to revoke the Virginia Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 (Virginia Standard) with the following results:
  - a. The Board adopted DOLI's proposed finding that the SARS-Cov-2 virus no longer poses a "grave danger" to employees under Va. Code §40.1-22(6a),<sup>3</sup> and
  - b. The Board adopted DOLI's proposed recommendation that the Virginia Standard be revoked, and that the such proposed revocation will be the subject of a 30-day

<sup>1</sup> <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/eo/EO-6-Keep-Virginia-Open-COVID-Workplace-Standards.pdf>

<sup>2</sup> <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=34796>

<sup>3</sup> <https://law.lis.virginia.gov/vacode/40.1-22/>

written comment period, a public hearing (during the 30-day period), and a second Board meeting to vote on final revocation of the Virginia Standard.

NOTE: If the Virginia Standard is revoked, the Department plans on issuing a guidance document to replace the current regulation.

2. DOLI, on behalf of the Board, sought guidance from the Office of the Attorney General (OAG) "regarding whether the proper legal and administrative procedures were followed during adoption and promulgation of the Permanent Standards."

After reviewing DOLI's request for legal advice, the OAG responded: "EO6 orders the Board and DOLI to seek guidance from the OAG regarding whether the proper legal and administrative procedures were followed during adoption and promulgation of the Permanent Standard. The answer is yes: the proper legal and administrative procedures were followed during adoption and promulgation of the Permanent Standard, as affirmed by the Richmond Circuit Court and the Virginia Court of Appeals."

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary G. Pan", with a long horizontal flourish extending to the right.

Gary G. Pan, Commissioner  
Virginia Department of Labor and Industry