

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

IN RE: COVID-19 STATE OF EMERGENCY

EN BANC – NO. 8

Case No. MISC. NO. 267

Upon a unanimous vote of its members, the Appeals Board issues this decision as a whole as an en banc decision.¹ (Lab. Code, § 115.)

On March 18, 2020, the Appeals Board issued our decision In Re: COVID-19 State of Emergency En Banc (Misc. No. 260) in response to the March 4, 2020 declaration of a state of emergency issued by the State of California's Governor, Gavin Newsom,² and pursuant to WCAB Rule 10370. (Cal. Code Regs., tit. 8, § 10370.) The Appeals Board temporarily suspended specific WCAB Rules of Practice and Procedure in its decision, including the provision in WCAB Rule 10628 regarding the requirement for service by mail by the WCAB. (Cal. Code Regs., tit. 8, § 10628.)

In 2021, the Appeals Board proposed amendments to several of its Rules of Practice and Procedure, including amendments to WCAB Rule 10628.³ The amended version of WCAB Rule 10628 is effective as of January 1, 2022 and provides for electronic service by the WCAB made on or after its effective date.

Accordingly, the suspension of WCAB Rule 10628 remains in place from March 18, 2020, the date the In Re: COVID-19 State of Emergency En Banc (Misc. No. 260) was issued, through January 1, 2022, the date that amended WCAB Rule 10628 became effective.

¹ En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and WCJs. (Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].) This en banc decision is also adopted as a precedent decision pursuant to Government Code section 11425.60(b).

² Governor Newsom's proclamation may be accessed here: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>. (See Evid. Code, § 452(c).)

³ The proposed amendments to certain Rules including the amendment to WCAB Rule 10628 may be accessed here: <https://www.dir.ca.gov/wcab/WCABProposedRegulations/2021/WCAB-Rulemaking/Index.htm>.

Suspension of WCAB Rule 10500(b)(6) as outlined in the March 18, 2020 en banc decision remains in effect until further notice.⁴

For the foregoing reasons,

IT IS SO ORDERED.

WORKERS' COMPENSATION APPEALS BOARD (EN BANC)

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 3, 2022



SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

abs

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*

⁴ The suspension of WCAB Rules 10961(a), 10962(c), 10990(f)(3)(E), and 10995(c)(3) was rescinded with respect to petitions filed on or after September 1, 2020 pursuant to the July 16, 2020 In Re: COVID-19 State of Emergency En Banc – No. 4 (Misc. No. 263). The suspension of WCAB Rules 10755, 10756 and 10888 was rescinded pursuant to the October 27, 2020 In Re: COVID-19 State of Emergency En Banc – No. 5 (Misc. No. 264).