TELECONFERENCE MEETING

STATE OF CALIFORNIA

HEALTH AND HUMAN SERVICES AGENCY

DEPARTMENT OF PUBLIC HEALTH

FORENSIC ALCOHOL REVIEW COMMITTEE

DEPARTMENT OF PUBLIC HEALTH

RICHMOND CAMPUS CONFERENCE CENTER

850 MARINA BAY PARKWAY

ROOM G-365

RICHMOND, CALIFORNIA

TWENTY-FOURTH MEETING

THURSDAY, MARCH 5, 2015

1:36 P.M.

REPORTED BY:
JULIE LINK

## APPEARANCES

### Review Committee Members

Dr. Paul Kimsey, Chairman (Richmond)

Mr. Dan Jeffries, Committee Member (San Diego)

Mr. Mark Slaughter, Committee Member (Sacramento)

Mr. Bruce Lyle, Committee Member (San Diego)

Mr. Kenton S. Wong, Committee Member

Ms. Jennifer Harmon, Committee Member

### Staff

Dr. Bahman "Bob" Moezzi, Acting Chief, Food and Drug Laboratory (Richmond)

Mr. Clay Larson, Chief, Abused Substances Analysis Section, Food and Drug Laboratory (Richmond)

Mr. Harbhajan Thandi, Research Scientist, Food and Drug Laboratory (Richmond)

Ms. Natallia Spell, Research Scientist, Food and Drug Laboratory (Richmond)

Mr. Wayne Tseng, Research Scientist, Food and Drug Laboratory (Richmond)

### Also Present

Peggy Campbell, Department of Public Health

Brian Hethcock, California Highway Patrol

Mr. Russ Huck, California Department of Public Health, Food, Drug and Radiation Safety Division (Sacramento)

Janine Miller

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PROCEEDINGS

1:36 p.m.

CHAIRMAN KIMSEY: This is the Twenty-Fourth meeting of the Forensic Alcohol Review Committee. Today is March the 5th and our stenographer's name is?

THE REPORTER: Julie Link.

CHAIRMAN KIMSEY: Julie Link. Thank you very much, Julie. And we sent out Agenda for everyone prior to the meeting. I hope everyone has a copy in front of you. We have a copy here for everyone in Richmond. I'm just going to -- does everybody feel comfortable with knowing who's on the line at this point?

We should probably go around the room here in Richmond. Besides Julie, our stenographer, we have?

COMMITTEE MEMBER THANDI: Harby Thandi, Food and Drug Lab.

COMMITTEE MEMBER WONG: Kenton Wong, (indiscernible) representative.

CHAIRMAN KIMSEY: Paul Kimsey, State Laboratory Director and the Chair of the Committee.

COMMITTEE MEMBER SPELL: Natallia Spell, research scientist.

COMMITTEE MEMBER LARSON: Clary Larson, Department of Public Health. Just a quick correction. I think you said, did you say 23rd meeting?

CHAIRMAN KIMSEY: Twenty-fourth.

COMMITTEE MEMBER LARSON: Okay. You said 24th. Okay. I'm sorry. Go ahead.

COMMITTEE MEMBER HARMON: Hey, Paul, we can barely hear those people in (inaudible) Diego.

CHAIRMAN KIMSEY: Okay. We'll have them try and get closer to the microphone.

COMMITTEE MEMBER HARMON: Thank you.

CHAIRMAN KIMSEY: And please, everyone, try to enunciate and speak clearly. Our stenographer would appreciate it, and everybody else. Bob, you want to introduce yourself?

COMMITTEE MEMBER MOEZZI: Bob Moezzi, Chief, Food and Drug Laboratory Branch.

COMMITTEE MEMBER TSENG: Wayne Tseng (inaudible).

CHAIRMAN KIMSEY: Okay. And so I think we've done introductions.

COMMITTEE MEMBER HARMON: Paul who was the last one?

COMMITTEE MEMBER TSENG: Wayne Tseng, (inaudible).

CHAIRMAN KIMSEY: Wayne Tseng, with the Food and Drug Lab.

COMMITTEE MEMBER TSENG: Yes.

THE REPORTER: And Bob, I'm sorry. I didn't get

your last name.

COMMITTEE MEMBER MOEZZI: M-o-e-z-z-i, Moezzi.

CHAIRMAN KIMSEY: Any other names that you need, or spellings?

THE REPORTER: That's it.

CHAIRMAN KIMSEY: Okay. Great. Thank you. So we have the Agenda. I'm going to give some opening remarks. Basically, the big news in our Department is that we have a new director. Dr. Ron Chapman announced that he was leaving at the end of January, late last fall, and it's my understanding he's still surfing in Hawaii.

It's been announced that we have a new director, Dr. Karen Smith, who's the current Health Officer of Napa County. She has been announced and appointed by the governor and will be starting officially Monday, March 23rd, and we're happy to have her.

Also, some other changes in the Department. The Chief Deputy for Policy and Programs, Kathleen Billingsly, has also left the Department as of the end of February, and her position has not been filled yet.

We have an Acting Director until Karen Smith comes on board. Michael Wilkening, from the Health and Human Services Agency is the Acting Director for the Department, and we hope to have filled the Chief Deputy for Policy and Programs here in the next few weeks. Any sort

of questions about our turnover or roles and responsibilities?

Being a Public Health Department, we also have the State Health Officer. That role is being filled by Dr. James Watt in our Division of Communicable Disease Control.

I don't really have any other remarks about the Department. Any discussion of the Agenda? If not, we'll move into it. I'd sort of like to add at the end maybe a bit of a discussion about Form 700s, just to sort of update, if no one else other than myself, on where we stand with Form 700s and this group.

So the first item on the Agenda is the Committee's review and discussion of the regulatory package that incorporates the Review Committee's revisions to Title 17. In your packet there should be a rather thick, 26-page, double-sided document representing the Committee's revisions to the regulations.

And just briefly, a little bit of the time line. We submitted this per the directions of the legislation, I think, Russ, your papers are pretty close to a mic. If you could be a little careful, please. I don't know. I don't see it, either, but every time there's -- it sort of creates a sound issue.

Our Forensic Alcohol Committee submitted our revisions to Agency per the legislation back in September

of 2013. Agency had 90 days for review. They did not change any of the Committee's revisions or recommendations and the package came back to the Department for promulgation of those regulations.

In early 2014, our Office of Regulations and Office of Legal Services worked on the package. Our Committee, as you may remember, set up a subcommittee of Jennifer Shen and myself. Pretty much, our direction was to respond to questions from the Department.

If we felt that we could answer the questions without involving the full Committee we were pretty much authorized to do that. We were also told if there was an issue that we felt needed, as a subcommittee, needed to come back to the full Committee for clarification, that we would do that.

Jennifer and I interacted with the Department starting in I want to say late spring, early summer, worked through the summer of 2014. There were some personnel changes, retirements in Office of Legal Services at the end of the summer and we took another re-look at the package, and Jennifer and I worked more with a new attorney to basically resolve some issues around the ISOR.

All of those were pretty much taken care of and the package went over to -- out of the Department over to Agency, I want to say in late -- around the holiday season.

And I don't know, someone in Sacramento may be able to update, you know, on exactly if Agency's approved it.

It's my understanding that Agency has approved it. It's now with the Department of Finance and we're waiting for direction from them. The part of the package besides an ISOR includes I think it's a Form 399, which talks about the money issues, the financial issues, and that's for Department of Finance Review, and that's my understanding of where the package is.

The process pretty much ends up for final approval at the Office of Administrative Law, and we're not sure exactly on our time frame. We think that's going to happen sometime in early 2016. So that's sort of an overview of the time frames from when we submitted the package back in September 2013.

Just to reiterate, there's been really no change to our recommended revisions, and a lot of this was about getting the package ready for the rule-making process, developing documents like an ISOR, looking at references, clarifications, et cetera, et cetera.

And I really want to thank Jennifer Shen and myself, actually, as the subcommittee for, you know, resolving those issues and I think it was a good idea to have the subcommittee. That way, this full Committee didn't have to meet, and I think that's -- unless there's

some questions, that's sort of the time frame of the history of the package, so to speak.

I don't know. Is there any further clarification in Sacramento about the exact status of the package at this moment?

DEPARTMENT OF FOOD DRUG AND RADIATION SAFETY HUCK: No. I believe it's what you said, Paul, is our understanding, as well.

CHAIRMAN KIMSEY: Okay. Any questions from the Committee?

COMMITTEE MEMBER HARMON: So Paul, you're telling us, so we can get back to our associations that the earliest you think this is going to be cleared is 2016?

THE REPORTER: I'm sorry. Who spoke?

CHAIRMAN KIMSEY: Ms. Harmon, could you identify yourself for the stenographer, please?

COMMITTEE MEMBER HARMON: Jennifer Harmon.

COMMITTEE MEMBER LYLE: Jennifer Harmon.

CHAIRMAN KIMSEY: The rule-making process, yes. It's out of the Department and it's going -- you know -- it's been up to Agency and approved. It's going over to Finance.

I don't know if someone in Sacramento can sort of speak to the other steps it has to take, but in our own internal tracking we're thinking that it's going to be, the

final approval from the Office of Administrative Law would be in early 2016. That's correct.

COMMITTEE MEMBER HARMON: Okay. Thank you.

CHAIRMAN KIMSEY: Any other questions from the Committee?

The next item on the Agenda, I mean, part of that, we'll move onto the Legislation 2425. Keep in mind that at the end we probably have a bit of discussion about how frequently the Committee wants to meet going forward, and possibly schedule, you know, a next meeting.

And we can have a little bit of discussion about maybe the role of the Committee. You'll see that some legislation came up last year in 2014. We'll have a discussion of that.

I think issues and legislation that come up as related to Forensic Alcohol, that it might be within the purview of our Committee to take some notice of that type of legislation and comment.

I think the technical expertise that the Committee represents is very valuable to the process, and we could be making recommendations or maybe resolving issues about the regulations or about legislation that might help the system, so to speak. That's my own personal opinion at the moment.

So I guess we'll move onto a discussion of the AB

2425. I think someone in Sacramento was going to walk us through that.

MS. CAMPBELL: This is Peggy Campbell. I'm with the Legal Office of the Department. Can you hear me?

CHAIRMAN KIMSEY: Yes, we can.

MS. CAMPBELL: Okay.

CHAIRMAN KIMSEY: San Diego, can you hear okay?

COMMITTEE MEMBER LYLE: Yes.

CHAIRMAN KIMSEY: Okay.

MS. CAMPBELL: Okay. AB 2425, I guess the most important things, they -- it promulgates two exemptions to the regulations, and this is under 100700(a)(2)(A) and (B), and these exemptions have to do with labs that are accredited by the American Society of Crime Lab Directors, Lab Accreditation Board in Forensic Alcohol Analysis.

And they exempt those laboratories from the requirement to establish the concentration of, "each lot of secondary alcohol standards it uses, whether prepared or acquired, by an oxidimetric method that employs a primary standard."

Second exemption is, "Those accredited labs are not limited to reporting analytical results to the second decimal place." And the specific regs that these two exemptions are referring to are 17 CCR 1220.2(a)(1)(B). That's for the first exemption. The second exemption

1220.4(b).

And then the other change the law makes is that it requires the Committee to meet once every three years instead of once every five years.

CHAIRMAN KIMSEY: And that Committee you mean is the Forensic Alcohol Committee, Review Committee?

MS. CAMPBELL: Yes.

CHAIRMAN KIMSEY: Okay.

MS. CAMPBELL: Yes. And my understanding is that the ASCLD/LAB does not a accreditation specifically in forensic alcohol analysis.

COMMITTEE MEMBER HARMON: That's correct.

MS. CAMPBELL: But under the discipline of toxicology there is a category for forensic alcohol, blood urine analysis. So I believe that would be the accreditation that they're looking for.

CHAIRMAN KIMSEY: Was there a comment from San Diego?

COMMITTEE MEMBER HARMON: She's correct that it's considered a sub-discipline, but there's nothing in this that actually says that they have to be accredited in forensic alcohol as a sub-discipline. It just says if they're an ASCLD/LAB accredited laboratory.

CHAIRMAN KIMSEY: So is that Jaimie?

COMMITTEE MEMBER HARMON: Jennifer.

CHAIRMAN KIMSEY: Jennifer. Okay. Thank you.

COMMITTEE MEMBER LARSON: Comment from the public. Are you through, Peggy? I don't want to interrupt you. But regarding Jennifer --

MS. CAMPBELL: Go ahead.

COMMITTEE MEMBER LARSON: Regarding Jennifer Harmon's comment, the specific language is that, "Laboratories that are accredited in forensic alcohol analysis by the American Society of Crime Laboratory Directors Board/Laboratory Accreditation Board."

So I think Peggy's described how that would be interpreted or how that can be interpreted, but there is language. So you mis-spoke, Jennifer. There is language that references a specific kind of, we call it sub-discipline for that accreditation.

COMMITTEE MEMBER HARMON: You're correct, Clay.

COMMITTEE MEMBER LARSON: I didn't hear you.

COMMITTEE MEMBER HARMON: You're correct.

COMMITTEE MEMBER LARSON: Okay. I'm sorry. I heard you.

CHAIRMAN KIMSEY: He's smiling.

COMMITTEE MEMBER LARSON: And the other thing, Peggy, there's also a requirement, in addition to meeting every three years, that the Committee in its future meetings consider certain things. Are you going to discuss

that? I did interrupt you.

MS. CAMPBELL: Oh, yeah. Sorry. The extra requirement under section (d) states: "In determining revisions, the review committee shall also take into consideration the advancement and development of scientific processes, including the reporting of results with an estimated uncertainty measurement."

CHAIRMAN KIMSEY: And this bill was signed by the governor, correct?

MS. CAMPBELL: Yes.

CHAIRMAN KIMSEY: Any discussion from the Committee?

(Pause.)

CHAIRMAN KIMSEY: Do we know, Peggy, how this affects our regulation package? Was this incorporated? I know that I think they were going to -- they may not have had time to sort of check to see if -- or is this going to require a separate regulation package from the Department or from the Committee?

MS. CAMPBELL: I don't see that it affects the regulation package, because the reg package would still apply to those labs that are not accredited in forensic alcohol analysis by ASCLD/LAB. So even though these particular requirements are in the reg package or, you know, are still in law, the exemption does not need to be

codified in the regs.

CHAIRMAN KIMSEY: Okay. Thank you. Any other questions about AB 2425?

COMMITTEE MEMBER LARSON: Comment from the public. As usual, I'm going to be doing all the talking, looks like. I think -- I don't think the statutes are codified in regulations. I think sometimes they're clarified in regulations.

I think the Committee actually addressed the issue of the determination of the concentration of the secondary standard in a manner that's somewhat similar. There may be some clarifying available. On the second issue, on the issue of reporting results and not being required to truncate the results to two decimal places, I mean, arguably, there's no reason why that would be limited to ASCLD/LAB accredited labs.

And the current regulations package that the Committee has proposed doesn't cover that issue at all. So I think it will be appropriate that the Department at some point promulgate language to clarify the statutes. In a second item, so far the packet does nothing.

CHAIRMAN KIMSEY: Any other comments? I mean, we can certainly, you know, get this issue clarified on whether or not additional regulations may or may not be needed as a result of the legislation.

COMMITTEE MEMBER HARMON: I --

CHAIRMAN KIMSEY: Go ahead.

COMMITTEE MEMBER HARMON: This is from Jennifer in San Diego. I think that when the Committee made those decisions it was probably maybe a little earlier in the process about not truncating.

I think the only problem is that ASCLD/LABs, the non ASCLD/LAB accredited labs, which would be ABFT or main, might actually want to have the same ability as the ASCLD/LAB accredited labs, but it is going to -- if it's going to extend the process, those laboratories would probably prefer to have the work completed and then change this one particular issue, as opposed to having to delay everything else that is in the regulations.

So it's something to be considered, because they've been waiting for these changes, now, we're going into year 10, so.

CHAIRMAN KIMSEY: Other comments? Thank you for that, Jennifer. I think we all agree or I haven't heard any disagreement. I'm seeing some nodding heads.

This brings up the role in the future of the Committee. Obviously, the legislative season, if I'm correct, I think the last bills were submitted last Friday. I don't know of any bills that currently, maybe the program knows of a bill that is active currently, but I don't know

of any bills currently that the Committee could be looking at.

But when issues come up to the Department with regards to the regulations, it strikes me that this Committee has the technical expertise to give the Department advice on the effects of new law or regulation changes. That's certainly, I think, personally within our purview.

The new legislation wants us to meet at least once every three years; whereas, previously it was once every five. We've been pretty much meeting as needed, even, you know, quarterly. So is there any feeling in the group that we as a Committee would like to be involved in these discussions, whether it's obviously, potential regulation changes, but potential bills, that type of involvement?

COMMITTEE MEMBER WONG: This is Kenton in Richmond. What would be the conduit of information exchanged for the Committee to even be aware of what's going on, on the horizons?

CHAIRMAN KIMSEY: I think the Department, as we hear about bills, would inform the Committee and, I mean, might even schedule a meeting of the Committee as a result of either a bill or some inquiry with regards to the regulations.

I mean, in my perspective, it sort of builds on our obvious regulatory involvement to maybe help clarify or give advice or perspective on, you know, potential legislation or potential changes.

COMMITTEE MEMBER HARMON: This is Jennifer. The Department was aware of AB 2425. Did you guys reach out to the Committee members at all?

CHAIRMAN KIMSEY: I informed a couple of the Committee members, but it wasn't official. We don't really have that official -- I mean, that's part of the reason of having the discussion. If the Committee would like to be, you know, included, we can certainly have that as a consideration.

It seemed logical to me that, like I said, with the expertise, that the Committee should be reacting to these types of issues.

COMMITTEE MEMBER LYLE: Bruce Lyle in San Diego. If it is the wish of the Committee to be brought to these things I think it does need to be official, and I think it does need to be systematic and regular. And I don't think it's a bad idea to have the Committee involved in foreseeing what's going on nationally, and maybe getting in front of some of those issues.

COMMITTEE MEMBER WONG: I agree. That was what my question was that, you know, the Committee's here, but

if we don't know about what's going on and we're sitting on the sidelines, things could be passing by and we wouldn't know.

CHAIRMAN KIMSEY: Yeah. I think, you know, that since the Department does have sort of the responsibility to administer the Committee and the Department Representative is the nominal Chairman, I think it would make some sense, and we can certainly review.

But if it's the wish of the Committee I'd certainly have the Department look into that role for the Committee. I've heard from two or three members that seem to think that it's a good idea. Anyone that thinks it's a bad idea?

COMMITTEE MEMBER HARMON: Well, this is Jennifer again from San Diego. I think my only concern with this is, is that if the Committee comes back with something that the Department doesn't agree with, is the Department going to represent what the Committee wants or what is best for the Department?

CHAIRMAN KIMSEY: That's a good question. I work with a number of other committees that advise the Department. These are public meetings. And so obviously, the Committee could have their perspective and maybe the Department has a different perspective.

I think what has helped us in other legislatively

mandated Advisory Committees as a department is to let the Department know what the regulated or technical expert in the fields think. Obviously, you know, the Committee could have one perspective and the Department could have a different perspective.

But it's not like I -- I don't think the Forensic Alcohol Committee's perspective would be buried. I mean, it's public meetings. We're all -- we represent organizations. And I think the advantage for the Department is hearing, you know, what the Committee has to say.

I'm quite sure in these circumstances that the Department would probably be taking the Committee's input under advisement, but these are issues that if the Committee wants to have this role we can certainly look at more in-depth from looking at the legislation and see what; there may be limitations on the role of the Committee. But if it's something the Committee would like the Department to look into, we certainly can.

COMMITTEE MEMBER LARSON: Comment from the public. And I don't mean to interrupt anymore Committee discussion, but actually, before we get too far down this road, what I'm going to offer now is a semi-legal opinion, and obviously, the appropriate people sitting at the table to offer that opinion are up in Sacramento, and they may

want to take time to think about this question, but that question is, the statutes seem to define a fairly specific, narrow role for the Committee.

The Committee was authorized to determine revisions to the regulations that insure -- provide that such revisions, insure the competence of the laboratories and employees to prepare and report the results of certain kinds of tests.

So it doesn't look, unlike the statutes that authorize certain advisory committees, which you'd liken this to, it doesn't look like those statutes. So I would be cautious, you know, before we spend too much, get too enthused about this, that it may, certainly from some kind of official capacity and expending state resources to organize more meetings, it may be that the expectation is that the Committee's role is more narrow than you're now describing.

CHAIRMAN KIMSEY: No, that may be true. I think my point was, you know, we're not going to know until we get a review and the perspective of the Committee. The Committee has to be, you know, willing to take on this role if it is even feasible.

But being on the periphery of 2425 last year, there was a lot of discussion and, you know, in the part of the Department about the meaning of the legislation and the

potential conflict with the Committee's role, to some extent, because obviously, this bill was about Title 17, which also the Committee has some responsibility for.

So we don't need to listen to a motion, but if I can summarize, I mean, I haven't heard a negative part of having the Department review the authority of the Committee to be involved in commenting or giving an opinion on legislation, and maybe the Committee is asking the Department to see if that fits in with, as Clay mentions, the legislative mandate that the Committee currently has.

Is there anybody -- several people from the Committee have spoken in favor. Is there anybody in the Committee that thinks the Committee doesn't want to go down this road, doesn't even want to find out if they can have this role?

Okay. Then we'll certainly look into it and see what the bill authorizes, what role the bill can authorize the Committee to function in. Other questions about -- I didn't mean to totally sidetrack us, but I think we had sort of finished on 2425. Any other questions on 2425?

COMMITTEE MEMBER JEFFRIES: This is Dan Jeffries in San Diego.

CHAIRMAN KIMSEY: Yes.

COMMITTEE MEMBER JEFFRIES: I think some of the background of this comes from one of my colleagues from the

Santa Clara County DA's Office, Chris Boscia. And he contacted Assemblymember Quirk’s Office to get this whole thing rolling, mostly to try and address an issue they have in their county and some other places around the state on these measurement of uncertainty issues.

And I know he's been in contact with Jennifer Shen about that particular issue, and I think it was his desire to try and resolve some of the measurement of uncertainty issues that we did not deal with in our original work on Title 17. And I think that may be where this legislation, at least part of it, was going, is can we address that issue while we're dealing with the Title 17 issues.

CHAIRMAN KIMSEY: Thank you for that background. At our next meeting do we want to have more of an in-depth discussion about measurements of uncertainty?

COMMITTEE MEMBER JEFFRIES: I think from the California District Attorney's Association that was what our colleague from Santa Clara wanted to do. We wanted to try and address that and see if it would be appropriate to modify Title 17 to deal with that issue.

COMMITTEE MEMBER HARMON: This is Jennifer Harmon. I think the only concern that you're going to get from some of the Committee members is ASCLD/LAB accredited laboratories are under certain mandates for accreditation

about how we do that reporting.

So you're going to, again, get into a situation where you may be in conflict with an accrediting body and regulations. So I just -- a word of caution there, because you're basically -- you're going to doubly regulate laboratories, especially if they're ASCLD/LAB accredited.

CHAIRMAN KIMSEY: Well, thank you for pointing that out, Jennifer. And from my perspective, not being part of the regulated community, I think that really speaks to us maybe having the discussion so we are aware of what the consequences of some changes might be to the regulated industry, and conflicts and, you know, confounding information and kind of a situation.

So I appreciate the perspective and I think that does speak to, you know, a discussion at a technical level that this Committee represents. Other comments about 2425? Any objection to put a discussion of measurement of uncertainty on the next Agenda? Okay.

I think our next Agenda item is a presentation to our Committee on some revisions to the Bagley Keene Open Meeting Act.

MS. CAMPBELL: Yeah. Alex is not here to give that presentation, but the main change to Bagley Keene for this year is that if there is a vote on an action item, the meeting minutes have to actually record the vote, you know,

by name and what their vote was.

CHAIRMAN KIMSEY: So as an example, I guess, in our Committee Agenda today, you know, we had three Agenda items and we had Committee discussion. We did not vote on anything. It was mainly a discussion. So since we didn't vote we wouldn't be identifying each Committee member by name, which we've done in the past, and recorded their vote.

So I get the impression that we have been recording votes by name I don't want to say all along. It's been too many years, but that strikes me as something that we had already been doing.

MS. CAMPBELL: Yeah. I don't recall if it's actually in the meeting minutes with the name and how they voted, but that's the main clarification of the new law.

CHAIRMAN KIMSEY: Okay.

MS. CAMPBELL: But since it is a teleconference meeting, votes should be taken by roll call.

CHAIRMAN KIMSEY: Okay.

MS. CAMPBELL: But that's been part of the law all along.

Another issue, there was a bill last year that did not get signed by the governor, but it's proposed again this year, is that a subcommittee will now -- a two-member subcommittee would have to operate under the open meeting

laws. So that can certainly be an issue, because I know we've used two-member subcommittees in the past. So we should keep an eye on that one.

CHAIRMAN KIMSEY: Okay. Yeah. Part of that discussion in regards to the Committee was just the ease of having a two-person subcommittee resolve, you know, I don't want to -- well, for lack of a better word -- minor issues with the understanding that if the subcommittee felt that the full Committee should, you know, be involved that the subcommittee would, you know, make that recommendation.

So that is legislation, I guess, we will need -- that might have, if it does continue, might have an effect on the Committee. Anything else from Bagley Keene, Peggy?

MS. CAMPBELL: No, that's it.

CHAIRMAN KIMSEY: Any questions on the changes?

It's also -- I know I got in my email inbox, it's that time of year to do Form 700s, and if I remember correctly, I have to file the Form 700 for a number of reasons, and I think I'm finding a Form 700, part of it, is as my role on this Committee. So I just, is that still the case, Peggy, that this group is required to do Form 700s?

MS. CAMPBELL: You know, that I don't know. I know there have been changes so that some people in the Department aren't required to do it any longer, but I don't know with respect to the Committee.

CHAIRMAN KIMSEY: Yeah. It's my feeling, I should have looked it up, but I know that I included this Committee last year on my Form 700. And so I'm assuming that that means -- and it's not -- I haven't been told that I'm not including it this year, but it's obviously not clear in my mind.

So those that have submitted Form 700s last year, unless you hear differently, you're submitting Form 700s with your role on this Committee. So if that's not the case we'll get back to the full Committee.

So we're onto sort of next steps and scheduling of future meetings. What is the feeling of the Committee? We talked a bit about -- obviously, we can update the Committee on the future movement of the regulation package that we have submitted.

We have a request that we would like to have a discussion of the measurement of uncertainty issues and the consequences of that. And there may be a role, an additional role for the Committee as it relates to possibly legislation.

What's the feeling of the Committee on when they would like to meet next? Quarterly? Next year?

COMMITTEE MEMBER JEFFRIES: This is Dan Jeffries in San Diego. The issue of the measurement of uncertainty is coming up in trial courts from time to time, and it does

seem to be more of a pressing issue in certain areas of the state than in others.

And so from that perspective, our preference, the CDA's preference, would be to move along with it as quickly as we can, at least to start discussions of what we can do legislatively, or revisions to Title 17.

CHAIRMAN KIMSEY: Other feelings? I mean, you're thinking, then, maybe meet, you know, three months again from now, Dan? Is that what -- maybe meet in May or June?

COMMITTEE MEMBER JEFFRIES: I think that might be a very good idea.

CHAIRMAN KIMSEY: Other feelings from the Committee about another meeting in May or June?

COMMITTEE MEMBER LYLE: Bruce in San Diego. I'm okay with a meeting in three months, but will we be able to have some answers or at least some direction on what the role of the Committee will be in future legislation? Will we be able to answer some of those questions in three months?

CHAIRMAN KIMSEY: I would like to think so.

COMMITTEE MEMBER LYLE: Okay.

MS. CAMPBELL: I can look into that.

COMMITTEE MEMBER LYLE: Thank you.

CHAIRMAN KIMSEY: Other feelings about meeting in May or June?

COMMITTEE MEMBER HARMON: Is there a possibility of adding another site, Paul, maybe in Orange or L.A. County?

CHAIRMAN KIMSEY: We can certainly look into that. I know that, you know, we're limited on the number of places we can video conference. Another site would have to be available to the public, is my understanding. We can look into an additional site in L.A. or Orange.

Do you have a place that you could recommend? I mean, you know, in San Diego or in other places, you know, we usually ask a sister government agency for meeting space that can be used as a public meeting space. Do you have a recommendation for L.A. or Orange County?

COMMITTEE MEMBER HARMON: I can get back to you.

CHAIRMAN KIMSEY: Sure.

COMMITTEE MEMBER HARMON: Actually.

THE REPORTER: Is that Harmon?

COMMITTEE MEMBER JEFFRIES: Jennifer Harmon.

CHAIRMAN KIMSEY: That was Jennifer, correct?

COMMITTEE MEMBER HARMON: Yes.

CHAIRMAN KIMSEY: Thank you.

COMMITTEE MEMBER LARSON: If you do it in Disneyland, I'll come.

(Laughter.)

COMMITTEE MEMBER HARMON: Well, in that case,

certainly, Clay.

CHAIRMAN KIMSEY: So I'm not hearing any groans or serious objections to a meeting in May or June. We'll start with that in mind, and obviously, people's schedules get complicated starting about that time of year. So should we have some discussion on times of day or days that work better for people than others?

Is that productive, or should we just do all that via email and -- I mean, this is, let's see, this is like the second Thursday of the month, well, the first Thursday of the month. So the first Thursday of the month of June, does that clash with any Committee members' vacations at this point or known?

So why don't we tentatively look at that first Thursday in June as a possibility.

COMMITTEE MEMBER HARMON: I'm in a conference. Jennifer Harmon.

CHAIRMAN KIMSEY: Shucks. Can we come?

(Laughter.)

CHAIRMAN KIMSEY: How about the second Thursday of June? Do we have a date for that? Do you know, Jennifer, what the second Thursday is?

COMMITTEE MEMBER JEFFRIES: The 11th.

COMMITTEE MEMBER LYLE: June 11th.

COMMITTEE MEMBER HARMON: That's June 11th.

CHAIRMAN KIMSEY: June 11th. So why don't we tentatively shoot for June 11th, then, and we'll get that information out. We have a question from the public.

MEMBER OF THE PUBLIC SPELL: Natallia Spell. I think it's more like technical question. Is it possible to do some kind of presentation on this meeting so people can see a whiteboard or something like that?

CHAIRMAN KIMSEY: You're thinking of maybe like a webinar?

MEMBER OF THE PUBLIC SPELL: Yeah.

CHAIRMAN KIMSEY: We'll have to see how that goes with Bagley Keene, but I don't think that's -- I mean, just off the top of my head, I mean, obviously, it's still a public meeting, I guess. We'll certainly have to look into that, but it --

MEMBER OF THE PUBLIC SPELL: Because it goes about uncertainty, and it's very technical issue and it's good to have some kind of presentation and numbers and data in there (indiscernible) --

CHAIRMAN KIMSEY: Yeah. No. No. And it might facilitate lots of presentations.

MEMBER OF THE PUBLIC SPELL: And if it's a webinar there would be -- many, many people can view it, not only Committee members.

CHAIRMAN KIMSEY: Right. We will certainly look

into how that interacts with Bagley Keene Open Meeting. If it's a webinar, it's open. I don't know how -- yeah.

MEMBER OF THE PUBLIC SPELL: We can invite every lab director.

CHAIRMAN KIMSEY: Be a great discussion. Other comments from the Committee or the public? I think we're sort of getting to winding down here. Any other comments, suggestions, objections?

Well, hearing none, I want to thank everybody for their participation. This is probably my last meeting as the Chair. I think the Department is going to be looking for another representative, and I wish him luck. And I want to thank everybody that's hung in here for all these years with this process and project.

I'd especially like to recognize Jennifer Shen, even though she's not here today, just because of the last year's worth of work that we did together on the subcommittee. If there's no other information, I'll declare the meeting closed, and thank you all very much.

COMMITTEE MEMBER LYLE: Can I ask you a question, Paul? This is Bruce in San Diego.

CHAIRMAN KIMSEY: Sure.

COMMITTEE MEMBER LYLE: I have the sign-in sheet right here. Where do I mail it?

CHAIRMAN KIMSEY: You could probably fax it to

the program.

COMMITTEE MEMBER LYLE: Okay.

CHAIRMAN KIMSEY: Fax number?

COMMITTEE MEMBER MOEZZI: 510-412-6280.

COMMITTEE MEMBER LYLE: Thank you very much.

CHAIRMAN KIMSEY: Thank you, all.

COMMITTEE MEMBER LYLE: Thank you, Paul.

(Thereupon, the California Department of Public Health Forensic Alcohol Review Committee meeting adjourned at 2:25 p.m.)

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**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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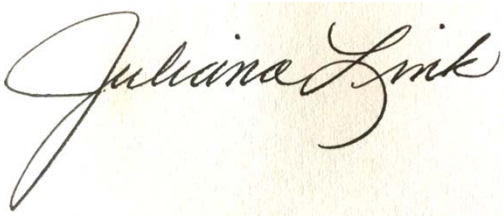

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March, 2015.

Elizabeth Reid-Grigsby
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