

ATTACHMENT

For Item

#05

Tuesday,
May 18, 2021

PUBLIC COMMUNICATION RECEIVED BY THE
CLERK OF THE BOARD

DISTRIBUTED 05/18/2021

From: diane@reopensd.org
Subject: Notice to Lawmakers from ReOpen San Diego
Date: Monday, May 17, 2021 11:05:52 AM

This notice was mailed to all the Board of Supervisors, the Sheriff and the Clerk of the Board

ReOpen San Diego members would like to notify you that we will go to the Board of Supervisors meeting on Tuesday morning May 18 to speak in person at the meeting, as is our right under the Brown Act. We have been notified that you intend to impose a requirement of facial coverings and temperature checks for anyone who wants to go inside the Board Chambers. We want to remind you that there is no legal basis for these requirements and therefore we will NOT wear a facial covering or have our temperatures taken.

In the absence of your ability to provide any specific legal basis for these requirements, we fully expect your acknowledgement that these requirements are invalid.

We note that we are able to go to Walmart, Home Depot, Target, Sprouts, our church and more with no mask and with no temperature check. We can also go inside the Orange County and Riverside County Board of Supervisor meetings without doing these things.

Also, forcing a medical device or procedure upon an individual as a condition to participate in society is illegal, unlawful, immoral and reprehensible and is a violation of our God-given rights, natural rights, and Common Law rights, as expressed and confirmed in the American Declaration of Independence, and as reflected in the Constitution of this state and the Constitution of the United States.

To reiterate our position:

1. There is no emergency. There never has been one. The numbers don't support it.
2. You are perpetuating the notion of an emergency merely to get CARES Act and similar money, an act which is not only fraudulent but is a felony and punishable with a prison sentence.

Your assertion of an emergency is invalidated the following law: California Health and Safety code 101080 states that a local health emergency can only be called where there is an 'IMMINENT AND PROXIMATE THREAT of the INTRODUCTION of a contagious disease...' and this local health emergency EXPIRES AFTER SEVEN DAYS. The local health emergency was called in Feb of 2020; this is 15 months later. THERE IS NO EMERGENCY! There is no imminent and proximate threat of an introduction of a contagious disease.

You don't go into the emergency room with a broken leg and stay in the EMERGENCY until your leg is healed. You get a cast on your leg – and then you are released from the EMERGENCY room – because IT IS NO LONGER AN EMERGENCY, even though your leg is not yet healed.

3. Even if this could be called an emergency, no emergency suspends one's rights. Rights cannot be taken from an individual.
Masks and temperature checks can never be required as a condition for

attending a Board of Supervisors meeting in person. Below are among the many laws that protect individuals from the excess power of government trying to impose forced medical procedures and treatments:

Forced masks is unlawful discrimination, discriminating against those who have medical exemptions or religious exemptions.

California Constitution, Article 1, Section 4 Free exercise and enjoyment of religious expression without discrimination. If covering one's face intrudes on the religious expression of an individual, that right to religious expression may not be denied.

California Business and Professions Code 2052: Practicing medicine without a license. Requiring someone to wear a mask is a medical intervention. Unless you are a licensed medical professional, you have no authority to recommend such a practice. Further, a surgical mask is designated by the FDA as a "medical device." You have no legal authority responsibility or liability to require that of either the public or your employees. No "emergency order" supersedes established law. Any "health order" related to mask-wearing is unlawful and unenforceable by law.

California Civil Code 51: Free and Equal Access to Public Accommodations. Your establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition, disability or religious views. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. Just as you would not be able to deny entry to someone wearing a turban, you may not deny entry to someone not wearing a mask.

Having them call into the meetings on their phone is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as required by law. A claim may be pursued through Department of Fair and Employment and Housing (DFEH) or a private lawsuit.

California Civil Code 54: Individuals with disabilities or medical conditions have the same right. Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places. Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask. Having them call in to the meeting is NOT a reasonable accommodation as it denies the "full enjoyment and equal access to facilities, services and accommodations," as required by law. A claim may be pursued through DFEH, or a private lawsuit. The ADA also handles these complaints, and info may be gotten by calling (800) 514-0301.

California Civil Code 54.1: Disabled have full and equal access. Individuals with disabilities or medical conditions have the same right as the general public in attaining full and equal access to all public accommodations and their advantages, facilities and privileges to places of public accommodation, amusement or resort; and to other places to which the general public is invited, including public modes of transportation private schools, hotels, hospitals and public buildings, such as courthouses, government buildings. Aggrieved persons may recover

up to three times the actual damages or a minimum of \$1,000, injunctive relief and reasonable attorney's fees. A claim may be pursued through DFEH, or a private lawsuit. The Attorney General, the Department of Rehabilitation, or the district city attorney may bring an action to enjoin any violation of Civil Code section 54.1 111545.

(A) CA GOV Code 51 protects FREE AND EQUAL access to ALL PUBLIC ACCOMMODATIONS. Public Accommodations are "private businesses engaged in commerce." That means retail stores, banks, restaurants, recreation, transportation – any entity, location or establishment that is open to the public is prohibited from discriminating against the entry of a member of the public.

(B) CA GOV CODE 12926 (q) protects one's religious liberty and practice, including the ability to NOT PARTICIPATE in practices that violate one's sincerely held religious beliefs.

(C) CA GOV CODE 37100 – prevents any creation, application or enforcement of a law or policy that violates the California Constitution or the Constitution of the United States.

Temperature checks violate the right to privacy which is protected, secured and guaranteed by the 4th Amendment of the US and the constitution of this state.

California Constitution, Article 1 – Declaration of Rights

Section 1 provides all Californians with a guaranteed right to privacy.

Information Practices Act (IPA) – Civil Code 1798.78

This law expands on the constitutional guarantee of privacy by providing limits on the collection, management and disclosure of personal information by state agencies.

California Business and Professions Code 2052: Practicing medicine without a license. Requiring someone to have their temperature taken is a medical intervention. Unless you are a licensed medical professional, you have no authority to do such a practice. No "emergency order" supersedes established law. Any "health order" related to temperature taking is unlawful and unenforceable by law.

ReOpen San Diego
www.reopensd.org