

COVID-19 Workplace Safeguards Still Apply to Vaccinated Employees

By: Rebecca Seguin-Skrabucha (Senior Associate) and Alexander Burrige (Associate),
Workplace Law Practice Group

Vaccines have arrived, prompting hope that the COVID-19 pandemic can be effectively and nationally controlled in the near future. In recognition of this positive trajectory, the Centers for Disease Control and Prevention (“CDC”) recently determined that vaccinated individuals need not quarantine after close contact with a confirmed case of COVID-19 so long as they: (1) are fully vaccinated; (2) received the final dose in the vaccine series within the preceding three months; and (3) have remained asymptomatic since the close contact.

This guidance, though, does not affect the obligations of Michigan employers, which may not yet relax their COVID-19 workplace safeguards, including quarantine requirements for employees who have experienced close contact.

The Michigan Occupational Safety and Health Administration (“MIOSHA”) released its Emergency Rules in October 2020, and, to date, no exemptions have been articulated for vaccinated individuals.

The federal Occupational Safety and Health Administration (“OSHA”) agrees, advising employers to treat vaccinated and non-vaccinated employees the same in its recent guidance, “Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace.” OSHA explains, “Workers who are vaccinated must continue to follow protective measures . . . because at this time, there is not evidence that COVID-19 vaccines prevent transmission of the virus from person-to-person.”

An employer that chooses to follow the CDC’s guidance instead of the MIOSHA Emergency Rules potentially risks the following:

- MIOSHA investigation and issuance of a citation and/or fine for workplace safety violations, which are commonly deemed “serious” violations if related to COVID-19 precautions;
- Workers’ compensation claims from other onsite employees who can demonstrate that they contracted COVID-19 because a vaccinated employee was not instructed to quarantine appropriately; and

- Additional employee absences and work interruptions should multiple employees contract COVID-19 at the worksite.

In short, until MIOSHA modifies its Emergency Rules, employers should treat vaccinated and non-vaccinated employees the same.

Bodman will continue to monitor the ongoing developments from MIOSHA, OSHA, CDC, MDHHS, and other state and federal entities. Employers with specific questions related to vaccines and workplace safety measures should feel free to contact any member of **Bodman's Workplace Law Group**. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

WORKPLACE LAW PRACTICE GROUP	AARON D. GRAVES Chair 313.392.1075 agraves@bodmanlaw.com	JOHN T. BELOW 248-743-6035 jbelow@bodmanlaw.com	JOHN C. CASHEN 248.743.6077 jcashen@bodmanlaw.com
	GARY S. FEALK 248-743-6060 gfealk@bodmanlaw.com	JOHN DAVID GARDINER 616.205.3123 jgardiner@bodmanlaw.com	MELISSA M. TETREAU 248.743.6078 mtetreau@bodmanlaw.com
	BRENT R. SCOTT 616.205.3317 bscott@bodmanlaw.com	REBECCA C. SEGUIN-SKRABUCHA 313.393.7594 rsequin-skrabucha@bodmanlaw.com	KATHERINE F. CSER 248.743.6031 kcser@bodmanlaw.com
	MICHELLE L. KOLKMEYER 248.743.6031 mkolkmeyer@bodmanlaw.com	DAVID B. WALTERS 248.743.6052 dwalters@bodmanlaw.com	ALEXANDER J. BURRIDGE 313.393.7560 aburridge@bodmanlaw.com
			KAREN L. PIPER Of Counsel 248.743.6025 kpiper@bodmanlaw.com