

Clarification on MIOSHA's Emergency COVID-19 Workplace Policies and Records

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On October 14th, the Michigan Occupation Safety and Health Administration ("MIOSHA") released emergency requirements for employers to help control, prevent, and mitigate the spread of COVID-19 amongst employees. Subsequently, MIOSHA issued guidance (Frequently Asked Questions) to clarify ambiguities in the Emergency Rules. The guidance includes the following issues.

Remote Work: The Rules require employers to create a policy prohibiting in-person work for employees to the extent that their work activities can "*feasibly*" be completed remotely. It is essential that employers have a thoughtful, reasoned policy for determining why work that is completed in person cannot be completed remotely. MIOSHA will ensure employers have a clear policy in place. However, MIOSHA will not evaluate the business' judgment of what work must be completed in person, unless there is obvious misapplication.

Daily Screening: Employers must also maintain a daily entry self-screening record for all employees and contractors who must enter the workplace that day. At a minimum, the questionnaire must cover symptoms and suspected or confirmed exposure to people who were possibly infected with COVID-19. If possible, the employer should also conduct a temperature check. An employer must either maintain copies of these daily questionnaires or maintain a log to record the date, employee/contractor name, and a pass/fail indication.

Face Coverings: Employees who are in the workplace must wear face coverings in all shared spaces, including during in-person meetings and in restrooms and hallways. According to MIOSHA, a shared space includes any area that (1) is accessible to or utilized by multiple individuals at the same time; (2) 6-feet of distance cannot be maintained between individuals within the space; or (3) the space lacks physical barriers separating individuals from contact with each other. Specifically, a cubical configuration which houses only one employee and allows 6-feet of distance between other employees is not a shared space. However, an employee's work that can "*feasibly*" be completed remotely is not permitted to utilize cubical or office configurations as justification to be in the workplace.

Employers should contact any member of **Bodman's Workplace Law Group** to ensure that their current COVID-19 policies and procedures comply with MIOSHA's Emergency Rules, recent local and state public health orders, and CDC guidance. 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.

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