

The New MIOSHA Emergency Rules

By: Rebecca Seguin-Skrabucha, Senior Associate, Workplace Law Group

The Centers for Disease Control and Prevention (“CDC”) recently announced that fully vaccinated individuals do not need to wear masks or socially distance in most settings, which the Michigan Department of Health and Human Services (“MDHHS”) quickly adopted through a relaxed Epidemic Order. On May 24, 2021, the Michigan Occupational Safety and Health Administration (“MIOSHA”) followed suit and issued its much-anticipated update to the Emergency Rules.

MIOSHA’s new Rules, effective between May 24 and October 14, 2021, no longer:

- Prohibit in-person performance of work that can feasibly be completed remotely, facilitating the state-wide return to work in offices;
- Mandate temperature screenings;
- Require notice to local health departments of confirmed COVID-19 cases;
- Necessitate “risk” classifications in COVID-19 Preparedness and Response Plans; or
- Require industry-specific standards.

Under the new Rules, employers must train employees on the following topics: workplace infection-control practices; information on vaccinations available for COVID-19; the proper use of personal protective equipment; how to report COVID-19 symptoms/diagnoses; and how to report unsafe working conditions. Also, the duration of the recordkeeping obligation is reduced to six months.

Significantly, the new Rules give employers the option to:

1. Track and maintain records of whether employees are fully vaccinated and (a) exempt those who are fully vaccinated from masking and social distancing requirements while (b) continuing to enforce masking and social distancing requirements for employees who have not been fully vaccinated.

OR

2. Refrain from tracking vaccination status and enforce masking and social distancing requirements for all employees without regard to vaccination status.

Employers choosing to monitor employee vaccination status should only ask whether an employee is vaccinated in accordance with Equal Employment Opportunity Commission guidance.

In addition, the new Rules suggest but do not require the following additional measures:

- Post signs in the workplace reminding employees who are not fully vaccinated to wear face coverings and maintain social distancing; and
- Allow or require remote work.

All employers must edit and redistribute their COVID-19 Preparedness and Response Plans, and employers that wish to distinguish between employees based upon vaccination status should proceed carefully to avoid violations of the Americans with Disabilities Act and Title VII.

Bodman has updated its template Plan. Employers should contact any member of **Bodman's Workplace Law Group** to receive a copy of the template Plan and to discuss the effectiveness and compliance of their COVID-19 and vaccination policies and procedures. 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 <i>Chair</i> 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
	REBECCA C. SEGUIN-SKRABUCHA 313.393.7594 rseguin-skrabucha@bodmanlaw.com	MICHELLE L. KOLKMEYER 248.743.6031 mkolkmeier@bodmanlaw.com	ALEXANDER J. BURRIDGE 313.393.7560 aburridge@bodmanlaw.com
	DAVID B. WALTERS 248.743.6052 dwalters@bodmanlaw.com	KAREN L. PIPER <i>Of Counsel</i> 248.743.6025 kpiper@bodmanlaw.com	