

Are COVID-19 Pandemic Restrictions Over?

By: Alexander J. Burrige, Associate, Workplace Law Group

The Michigan Department of Health and Human Services' ("MDHHS") Emergency Orders are [rescinded](#) and the Michigan Occupational Safety and Health Administration's ("MIOSHA") Emergency Rules are [superseded](#). For the general public, rescission of MDHHS' Emergency Orders eliminates indoor capacity limits and face mask requirements for unvaccinated individuals. For Employers, MIOSHA's new rules create legal obligations for healthcare employers only. All other employers are subject to the federal Occupational Safety and Health Administration's ("OSHA") "Protecting Workers" guidance.

OSHA's "Protecting Workers" guidance articulates best practices for all non-healthcare employers in their provision of a "safe and healthful workplace." The guidance recommends, but does not require:

1. **Granting Paid Leave to Incentivize Vaccination.** Under the [American Rescue Plan](#), employers with 500 or fewer employees that voluntarily provide employees paid leave to obtain and recover from vaccination may be eligible for refundable payroll tax credits.
2. **Instructing Certain Employees to Stay Home from Work.** Employees who are diagnosed with or display symptoms of COVID-19 should not be permitted in the workplace. Unvaccinated employees who report close contact with a confirmed COVID-19 case should also be denied entrance.
3. **Social Distancing for Unvaccinated and At-Risk Employees, Visitors, and Customers.** Maintaining six feet of distance, limiting the number of people in one place at any given time, setting fixed workstations, and installing transparent shields or other solid barriers continue to be ways to prevent the spread of COVID-19 in the workplace. This recommendation applies to employees who are unvaccinated or at-risk, not others.
4. **Masking.** Employers should continue to provide masks to unvaccinated and at-risk persons and require their use.

5. **Performing Routine Cleaning and Disinfection.** Employers should document and implement a daily cleaning procedure. If someone in the workplace is suspected of having, or has a confirmed case of, COVID-19, close off the area and disinfect in accordance with [CDC recommendations](#).
6. **Maintaining Ventilation Systems.** Ensure HVAC systems are operating in accordance with manufacturer's instructions and design specifications to limit the concentration of viral particles in indoor air and reduce the risk of virus transmission to unvaccinated employees.
7. **Educating Employees on COVID-19 Policies and Procedures.** Employers should inform employees about basic COVID-19 risks, workplace policies implemented to protect employees from COVID-19 hazards, vaccine policies, and the right to raise workplace safety and health concerns free from retaliation. Employers should document the training provided to employees.
8. **Recording and Reporting COVID-19 Infections and Deaths.** Employers must continue to record confirmed COVID-19 infections and deaths on OSHA's Form 300 logs when: (a) an event or exposure in the work environment either caused or contributed to an infection; and (b) the infection affected an employee's ability to work. [Adverse vaccine reactions](#) do not need to be recorded.

Daily health screenings are no longer required. However, employers should consider posting signs that instruct employees not to report to work if they are sick or are unvaccinated and have had close contact with a confirmed case of COVID-19.

Following OSHA's guidance and continuing to maintain COVID-19 preparedness and response plans should provide a legal shield against claims that employees were not provided a "safe and healthful workplace."

Employers with questions about OSHA or MIOSHA workplace safety rules should 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 <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	