



GRETCHEN WHITMER
GOVERNOR

State of Michigan
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
BARTON G. PICKELMAN, DIRECTOR

SUSAN CORBIN
ACTING DIRECTOR

MIOSHA GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH
STANDARD
PART 505 CORONAVIRUS DISEASE 2019 (COVID-19)
ADVISORY COMMITTEE MEETING

March 18, 2021 – 8:30 a.m.
Virtual – Teams Meeting

MEETING MINUTES

ADVISORY COMMITTEE MEMBERS PRESENT:

Andrew SmithMichigan Nurses Association
Nathan PhillipsWest Michigan Plumbers, Fitters and Service Trades Local 174
Steven ClaywellMichigan Building and Construction Trades Council
Neil Parish.....National Electrical Contractors Association
Paul WrzesinskiAssociated General Contractors of Michigan
Wendy BlockMichigan Chamber of Commerce
Renee SmiddyMichigan Health & Hospital Association
Cindy OstrowskiCAO Consulting LLC
Don Staley.....The Christman Co.
Scott EllisMichigan Licensed Beverage Association
Sean Egan.....State of Michigan – Labor and Economic Opportunity (LEO)
Amelia DrummMichigan Retailers Association
David WorthamsMichigan Manufacturer’s Association
Nicole ManlyBlue Cross Blue Shield of Michigan

MIOSHA STAFF PRESENT:

Bart PickelmanMIOSHA Director
Ron RayMIOSHA Technical Services Division Director
Shannon MatsumotoMIOSHA Standards and FOIA Section Manager
Daniela Garza.....MIOSHA Standards and FOIA Section Analyst
Toscha Klopp.....MIOSHA Standards and FOIA Section Secretary
Kristin Osterkamp.....MIOSHA CET Senior Industrial Hygienist
Eric AllenMIOSHA CSHD Health and Safety Manager
Matthew MacomberMIOSHA GISHD Industrial Hygiene Specialist 13
Mark Scott.....MIOSHA GISHD Industrial Hygienist Specialist
Lauren MillerMIOSHA Appeals Division Health Appeals Specialist

ABSENT:

Kelly Indish.....AFSCME Local 875

GUEST:

Brian TechlinMSU Federal Credit Union
Lawrence Hidalgo.....MIOSHA CSHD Director
Maria Ley.....MIOSHA Administration Analyst
Andrew ComaiUAW
Zoe Martinez.....
Sarah Alden.....
Charles Mead
Craig Anderson.....

Call to Order - Introductions

The March 16, 2021, General Industry and Construction Safety and Health Standard Part 505 Coronavirus Disease 2019 (COVID-19) advisory committee meeting was called to order by Mr. Worthams at 8:32 a.m.

Roll call was taken. A quorum of advisory committee members was present.

Approval of March 16, 2021 Minutes

Review of the minutes was conducted. A few edits were made. Motion made by Mr. Wrzesinski to accept the minutes with the amended changes. Mr. Parish seconded the motion. Without objection, the motion passed.

Committee member discussion

The committee continued with review of the draft rules at Rule 4.

Mr. Egan went over the workplace preparedness and response plan. Ms. Drumm inquired on how often does MIOSHA require an employer to have a plan be developed on other standards in this much detail and is it necessary to be in these rules if employers seem to be currently following the rules without an actual plan in place. Mr. Pickelman stated we do have several standards that require a plan (i.e., respiratory protection, confined spaces, hazard communication, cadmium, lead) but in the case of COVID-19 if the employer has all of the elements implemented, such as recordkeeping and the health screening and simply do not have the written program plan it would be a technical violation that comes with no penalty.

Ms. Smiddy inquired on if this rule could have a hospital cited if they were to run short on PPE due to another surge in cases. Mr. Pickelman stated this rule could be cited, but more than likely the PPE rule would be cited. The plan could be cited under these rules if it was not updated, but more than likely would be grouped with the PPE citation and no additional penalty.

Rule 4(1) – updated rule to remove what CDC stands for as it is previously defined within the rules.

Rule 4(1) – “The employer shall develop and implement a written COVID-19 preparedness and response plan, consistent with the latest guidance for COVID-19 from the CDC and the Occupational Health and Safety Administration (OSHA).”

Motion made by Mr. Smith to accept Rule 4(1) as amended. Mr. Wrzesinski seconded the motion. Without objections, the motion passed.

Discussion held on Rule 5. Mr. Egan gave a brief overview of Rule 5. He pointed out that the list of approved disinfectants is routinely being updated by the EPA, and that remote work is still recommended.

Ms. Drumm inquired on why it was proposed change “visitor” to “contractor” in Rule 5(1) and Rule 5(5). Mr. Pickelman explained it was to be consistent with the recordkeeping rules.

Mr. Staley inquired on who would be responsible for insuring cleaning/sanitizing under multi-employer situations. Mr. Pickelman advised it is a shared responsibility under the MIOSHA multi-employer worksite policy.

Mr. Smith inquired about schools as he wants to know if students are considered “customers”, and how are they covered.

Ms. Block stated she believes the definition of “employer” should be covered in our definitions. Mr. Pickelman pointed out the definition of “employer” and “employee” is in Act 154, and he read the definitions of both. Mr. Wrzesinski pointed out that MIOSHA rules cover employees, not necessarily customers or students, and that they would more than likely be covered by DHHS. MIOSHA’s jurisdiction is over employers and employees. Ms. Manly inquired on if the rule could be broader to say that the products would be available for everyone, not just employees.

Mr. Staley proposed amending Rule 5(1) to eliminate “workers, customers, visitors”. Mr. Ellis agreed.

Rule 5(1) – modified to “The employer shall promote frequent and thorough hand washing by providing a place to wash hands. If soap and running water are not immediately available, provide antiseptic hand sanitizers or alcohol-based hand towelettes containing at least 60 percent alcohol.”

Motion made by Ms. Block to accept Rule 5(1) as amended. Mr. Parish seconded the motion. Without objections, the motion passed.

Rule 5(5) – Mr. Smith feels we should leave “visitors’ in the rule. Ms. Ostrowski and Mr. Staley recommend the language be modified.

Ms. Ostrowski proposed to amend Rule 5(5) to state:

Rule 5(5) – “The employer shall establish procedures for disinfection in accordance with the latest CDC guidance if is suspected or confirmed that an employee or site visitor has a known case of COVID-19.”

Motion made by Mr. Smith to accept the proposed language for Rule 5(5). Mr. Phillips seconded the motion. With no objections, the motion passed.

Rule 5(8) – Ms. Block feels this rule is causing a lot of confusion on prohibiting in-person work.

Motion made by Ms. Block to strike Rule 5(8). There was no second to the motion. Motion failed due to lack of support.

Additional discussion was held. Mr. Staley questioned if DHHS would be able to better cover this rule. Mr. Smith recommends that the rule stay as written. Mr. Egan clarified that DHHS is a guidance, not an order and would not be able to cover the employee/employer workplace. Ms. Block commented that the rule may not be promulgated for 6-12 months and feels we would be in a better place then, with vaccinations and masks more available, and would not need this rule.

Mr. Egan pointed out that the word “prohibiting in-person work” appears to be the concern of the committee with this rule. He asked if changing it to say “promoting work from home” would help. Ms. Manly agreed that this would be a better way for the rule to read. Mr. Staley also agrees. Mr. Ellis questions will this become an issue on if an employer is indeed promoting the work from home and would that determination vary by employer. Mr. Smith agrees with some of the concerns but still feels it should stay as written. Ms. Drumm feels we need some safeguards. Mr. Egan responded to Mr. Ellis’ question that it would be up to the employer to determine if remote work is feasible. Mr. Staley pointed out employers are not mandating employees to get the vaccinations. Mr. Wrzesinski questioned do we need a policy for each area of a business, such as warehouse and/or an office. Ms. Block thinks “promoting” is an acceptable medium, but still feels it would not be needed 6-12 months from now. Mr. Claywell feels the rule is workable and should not be removed.

Mr. Smith questioned the mention of MIOSHA’s intent to sunset and/or rescind the rules when the pandemic ends. Mr. Pickelman stated we could put in a sunset date or just rescind the rules when the pandemic is over.

Motion made by Ms. Block to amend Rule 5(8) to state:

Rule 5(8) – “The employer shall create a policy promoting in-person work for employees.”

There was no second to the motion. Motion failed due to lack of support.

Mr. Worthams wants to ensure we do discuss a date regarding a sunset to the rules.

Mr. Egan reminded this is a COVID-19 standard so the rules apply only in regard to the disease.

Ms. Smiddy commented that the public health emergency will not last forever. Mr. Macomber pointed out that there will be an official hard end date, and this will become an endemic.

Ms. Smiddy proposed that we amend the rule to state:

Rule 5(8) – “The employer shall create a policy promoting remote work for employees to the extent that their work activities can feasibly be completed remotely.”

Mr. Wrzesinski would like it to stay the way it is, and objects to this change.

Mr. Smith made a motion to affirm all of Rule 5 as currently amended. Mr. Phillips seconded the motion. Discussion was held. Ms. Manly recommends additional wordsmithing of Rule 5(8). Mr. Staley feels we need to insert the sunset clause within this Rule. Those in favor of support for the motion are Mr. Claywell, Mr. Phillips and Mr. Smith. Opposed to the motion are Ms. Block, Mr. Wrzesinski, Ms. Smiddy, and Mr. Parish. Motion failed due to lack of support.

Motion made by Ms. Block to amend Rule 5(8) as Ms. Smiddy had proposed. Ms. Smiddy seconded the motion. More discussion held regarding the motion.

Mr. Smith commented he would like to move this item to a future meeting.

Mr. Pickelman pointed out that we can review the rules out of order if it helps to move through the review process. Mr. Staley concurs we should move to the next rule set and revisit Rule 5.

Motion made by Mr. Wrzesinski to move the review of Rule 5(8) to a future meeting date. Mr. Smith seconds the motion. Those in favor of support for the motion are Mr. Smith, Mr. Wrzesinski, Mr. Claywell, Mr. Phillips, and Mr. Parish. Opposed to the motion are Ms. Block and Ms. Smiddy. Motion passes.

Discussion held on Rule 6. Mr. Egan gave a brief background. Committee discussion was held.

Ms. Smiddy would like modifications to Rule 6(1) regarding the daily screening.

Ms. Block would like to address Rule 6(4) regarding reporting to local health departments. Many employers are having problems with getting into contact with the health department and for getting an authorization for release to return to work for employees who have tested positive and were under quarantine. Mr. Wrzesinski agrees as all health departments are not being consistent. It is understood that the COVID-19 testing sites are notifying the health departments of the positive cases, so the question was asked on if it is being duplicative to require an employer to report. Ms. Drumm agrees as well as most health departments are saying they do not want the information from the employer. Mr. Staley questions which county health department do they contact, the home county, the employers' main office county, or the county the work may have been conducted in.

Motion made by Ms. Smiddy to strike rule 6(1) and Rule 6(4)(a). Ms. Block seconded the motion. Committee discussion was held. Mr. Egan pointed out there is a free app for the daily entry self-screening and the rule is still necessary, and that he agrees to the rescinding of Rule 6(4)(a). Mr. Pickelman agrees that the self-screening is essential and needs to stay in some form. Ms. Ostrowski also agrees it should remain, but the language modified. Mr. Staley mentioned his company utilizes an app and feels that employees are being honest when they fill it out and it is keeping those that are ill out of the workplace. He would like to keep this rule as well with

possible modification regarding the temperature screening, he wonders if it is required at the establishment. Ms. Manly stated her company is also using an assessment app and if employees fail the assessment, they do not get passed to go to the facility. If approved to report to the facility, the second step of the assessment is a temperature check upon arrival and before entry of the facility.

Ms. Block asked that each rule be voted on separately, after discussion.

Ms. Block would like an amendment to rule 6(5).

Ms. Smiddy modified her motion to separate her motion of the two rules into separate votes.

Motion made by Ms. Smiddy to strike Rule 6(1). Ms. Block seconded the motion. Those in favor of support for the motion are Ms. Smiddy and Ms. Block. Opposed to the motion are Mr. Claywell, Mr. Phillips, Mr. Smith, Mr. Wrzesinski, and Mr. Parish. Motion failed due to lack of support.

Motion made by Ms. Smiddy to strike Rule 6(4(a)). Ms. Block seconded the motion. Those in favor of support for the motion are Ms. Smiddy, Ms. Block, Mr. Parish, and Mr. Wrzesinski. Opposed to the motion are Mr. Claywell, Mr. Smith, and Mr. Phillips. Motion failed due to lack of support. Further discussion was held in which Mr. Egan and Mr. Pickelman both agreed it would be ok to remove this subsection to eliminate burden on employers. Based on Mr. Egan and Mr. Pickelman's comments, Ms. Block would like to know if we should have a new vote.

Motion made by Ms. Block to amend Rule 6(1) to state:

Rule 6(1) – “The employer shall conduct a daily self-reported health screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature check.”

Ms. Smiddy seconded the motion. With no objections, the motion passed.

Motion made by Mr. Wrzesinski to strike Rule 6(4)(a). Ms. Smiddy seconded the motion. With no objections, the motion passed.

Rule 6(4)(b) would become Rule 6(4). There were recommendations to change “suppliers” to “customers”. Mr. Smith and Ms. Drumm disagree with the recommendation. Mr. Phillips wonders if it could say “known customers” for those who do keep track of all who are at their establishment.

Motion made by Ms. Smiddy to amend the language to add “supplier”. There was no second to the motion. Motion failed due to lack of support.

Motion made by Mr. Wrzesinski to amend Rule 5 to state:

Rule 6(5) “The employer shall allow employees with a known or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the CDC.”

Ms. Block seconded the motion. With no objections, the motion passed.

Motion made by Mr. Parish to accept all of Rule 6 as amended. Ms. Smiddy seconded the motion. Mr. Smith opposes unless we revisit Rule 6(4). Those in favor of support for the motion are Ms. Block, Ms. Smiddy, Mr. Parish, and Mr. Wrzesinski. Opposed to the motion are Mr. Smith and Mr. Phillips. Motion failed due to lack of support.

Old Business – R408.2(1)(a) “Close Contact”

Due to timing, this will be added to the next agenda.

Public Comment

Mr. Worthams opened the floor to public comment. Mr. Andrew Comai with the UAW stated he appreciates all of the hard work the committee members are putting in. He feels the self-screening is very helpful and useful and is happy to see that it was not removed from the rules.

Next Meeting

Tuesday, March 23, 2021 at 8:30 a.m.

Adjournment

Mr. Worthams thanked the committee for the work done and the MIOSHA staff for the technical support.

Motion by Mr. Wrzesinski to adjourn the meeting. Ms. Smiddy seconded the motion. Meeting adjourned at 11:58 a.m.