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#### **Today's Topics**

- "MI Vacc to Normal" v. MIOSHA Rules- Current status
- Required workplace protocols
- Required office workplace protocols
- Does anybody's vaccination status matter?
- What if my employee does not want to return to work?

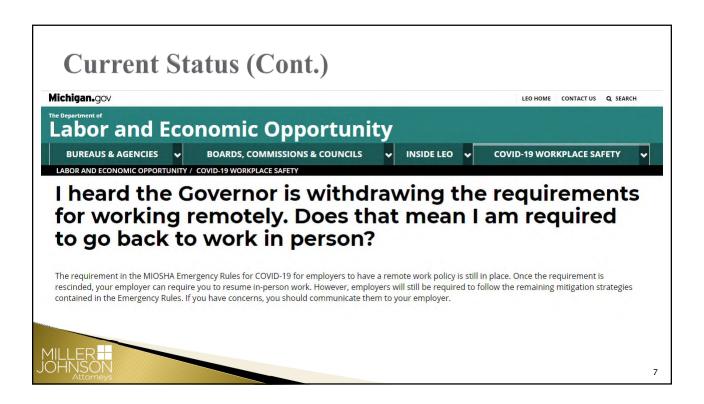




#### **Current Status**

- April 29: "MI Vacc to Normal"
  - 55% + 2 weeks allows in-person work
  - for all sectors of business
- May 10:
  - Announced that Michigan has reached 55% milestone, and in-person work is set to resume on May 24
- BUT
  - MIOSHA Emergency Rule 5(8): The employer shall create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.







## **Required Workplace Protocols**

- 11 MIOSHA Rules: Effective until October 14, 2021
  - Exposure determination for all employers
  - COVID-19 Preparedness and Response Plan for all employers
  - Basic infection prevention measures for all employers
  - Health surveillance for all employers
  - Workplace controls for all employers
  - PPE requirements for all employers
  - Industry-specific requirements
  - Training requirements for all employers
  - Recordkeeping requirements for all employers





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# **Required Office Workplace Protocols (Cont.)**

- Daily entry screening protocols
  - Isolation/quarantine requirements
  - Positive case protocol notifications
- Workplace controls
  - Social distancing
  - Masks
  - Shared spaces: Meeting rooms, break rooms, cafeterias, check-in areas, waiting areas, routes of entry and exit





## **Required Office Workplace Protocols (Cont.)**

- Training
  - Workplace infection-control practices
  - Proper use of PPE
  - Steps the employee must take to notify the business of any symptoms of COVID-19 or suspected or confirmed diagnosis
- Could there be others before May 24?
  - Return to Office Workgroup?



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# **Vaccination Status (Cont.)**

- Does it impact any COVID-19 rule employers have to follow?
  - Right now in Michigan: ONLY impacts quarantine requirements
    - CDC: "Refrain from quarantine and testing following a known exposure if asymptomatic"
    - COVID-19 ERA: Close contact "quarantine period" = CDC
- Can I ask? Yes
  - EEOC: Asking an employee and/or requesting proof of receipt of a COVID-19 vaccination is not a disability-related inquiry
  - Maintain record in a confidential employee file





#### **Vaccination Status**

- Can I require my employees get a vaccine? Yes
  - EEOC: Vaccine is not a medical exam
  - BUT:
    - Screening questions
    - ADA and Title VII considerations



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#### **Refusals To Return**

- Communication:
  - Recall letters
    - Why is the employee being called back?
    - Assurances on safety, screening protocols, cleaning/mitigation efforts
    - What workplace changes impact the employee
    - Provide resources for questions





## **Refusals To Return (Cont.)**

- Legal risks:
  - What is the *reason* the employee is refusing to return to work?
    - COVID-19 Employment Rights Act
      - Currently have COVID-19, COVID-19 symptoms, close contact?
    - ADA/FMLA/Michigan Paid Medical Leave Act
      - Some non-COVID condition that impacts an employee's ability to return
    - MIOSHA: Safety concerns?
    - Employer policy
- Practical risks:
  - Leave or discipline/discharge







