



MassCOSH

May 11, 2020

Dear Governor Baker and members of the Reopening Advisory Board;

Over the last eight weeks we watched as thousands of essential workers in Massachusetts have become ill and even died as a result of their exposure to SARS-CoV-2 (the virus that causes COVID-19) in the workplace. It is clear that workplace exposure is a major way our residents are becoming ill and spreading the virus to their families and communities. Yet we have failed to fully protect these workers, often with tragic results. As we contemplate reopening the economy, *all* workers and the community need to be assured that safety and health is the first priority for all. It is with this in mind that we write to provide our recommendations to the Reopening Advisory Board.

The Massachusetts Coalition for Occupational Safety & Health (MassCOSH) is a 44 year-old non-profit organization dedicated to ensuring that all workers can go to work, earn a fair wage, be treated with respect and dignity, and return home to their families alive and well. MassCOSH is a member of the National Council for Occupational Safety & Health and the recommendations listed below have been informed not only by the local experts -- certified industrial hygienists, occupational health physicians, academicians, attorneys, epidemiologists, and other occupational health specialists-- listed on the bottom of this letter, but also by a task force of national experts. We are concerned that the Reopening Advisory Board you created does not include any essential frontline workers or members with occupational health and safety expertise. We hope that you and the Board will include these recommendations for those workplaces currently open and operating, as well as in any and all plans to reopen the economy in Massachusetts. Implementing these recommendations will save the lives of workers, their families, and members of their communities and the public. It will also prevent future disruptions to the Massachusetts economy from infection surges.

Our recommendations (with more detail listed below) are:

- 1. Massachusetts needs statewide, enforceable SARS-CoV-2 workplace health and safety standards to provide stringent health and safety protections for all workers that are designed with meaningful input by workers and unions and informed by science.**
- 2. Massachusetts needs a planned and detailed system of screening, testing, contact tracing, proper isolation and epidemiological surveillance.**

3. Massachusetts must protect workers' voice on the job and provide guaranteed job protection for those working and for those whose work was reduced, suspended, or eliminated because of the COVID-19 crisis.

As we refer to workers below, we mean *all* workers. This means anyone who performs labor, including fulltime and part-time, private, public, and non-profit sectors, permanent and temporary, independent contractors (including workers often referred to as “gig” workers), and employees of subcontractors or staffing or temp agencies.

1. Massachusetts needs statewide, enforceable SARS-CoV-2 workplace health and safety standards to provide stringent health and safety protections for all workers that are designed with meaningful input by workers and unions and informed by science.

COVID-19 has created an unprecedented worker health and safety crisis in Massachusetts. Many employers are failing to provide needed protection to prevent workers performing essential work from being exposed to the virus and developing illness. In one example of many, eighty-one workers at a Walmart in Worcester were sickened with COVID-19. The Occupational Safety and Health Administration (OSHA) has issued guidance that contains recommendations for safety and health standards, but it creates no legal requirement for employers. Similarly, the Centers for Disease Control has issued guidelines as well that provide extensive recommendations, but that are also not enforceable.

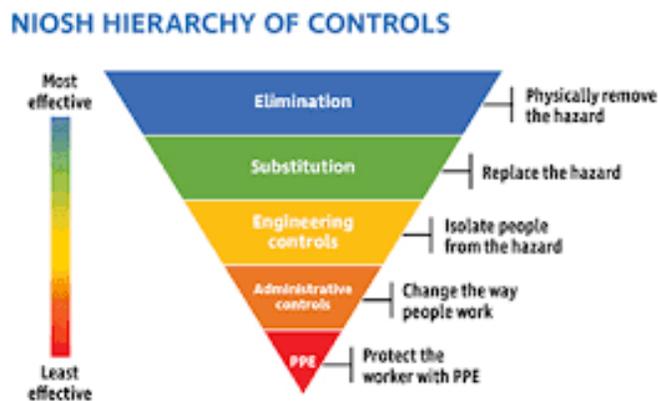
As a result, over the last eight weeks, when essential workers seeking the health and safety protections they deserve have turned to the Commonwealth’s Department of Labor Standards, Department of Public Health or Attorney General’s Office, they have received limited support. Workers have been left largely to fend for themselves, relying on collective actions, media attention, individual legal advice and in some cases, local boards of health, to force their employers to take appropriate action. “Essential” workers are not expendable, but they have been treated as such.

This must change before we consider adding thousands more “non-essential” workers into the workforce. **We urge the Governor to immediately issue an Executive Order to create statewide, enforceable SARS-CoV-2 health and safety standards.** Governors in states like Minnesota, Pennsylvania and New Jersey have already taken this action. We also urge the Governor to **create a single, multilingual, hotline number** to ensure that all workers, including those for whom English is not a first language, have a clear process for reporting dangerous conditions and receiving support and guidance.

- a. The standard should require that employers provide effective and stringent health and safety protections, designed with meaningful input by workers and unions and informed by science. Employers should provide maximum health and safety protections, and at a minimum, meet all CDC and OSHA guidelines on social distancing, enhanced cleaning and disinfection and sanitization (using EPA-approved disinfectants and sanitizers), and handwashing. It should require that employers provide hot water, soap, paper towels at hand-washing stations and that employees be given ample time to wash hands regularly as recommended as well as hand sanitizers. Wherever possible, increased ventilation

rates should be provided and physical barriers to airborne transmission should be installed, such as plexi-glass windows in front of cashiers.

- b. Per OSHA guidelines, the standard should require that all employers have a written plan to identify, eliminate or reduce to the extent possible worker exposure to infectious disease hazards. The plan should include an assessment of how workers might be exposed to SARS-CoV-2 while at work and define clear workplace controls to eliminate, prevent, or reduce exposure (see number 2 below). The plan should also outline a process for communicating with workers about COVID-19 cases identified at the workplace and ensure that all communications be provided to workers in their native languages. As each occupation and industry will require different protective measures, the plan should be developed in collaboration with workers and unions, along with requirements to implement and evaluate the plan. The standard should require that for all novel infectious agents (like SARS-CoV-2), airborne transmission is a default assumption until scientific evidence proves this route of exposure does not occur.
 - i. As employers prepare plans to eliminate or reduce worker exposure to infectious disease hazards, the protections they provide must align with the “hierarchy of controls” that favors more protective elimination, substitution and engineering controls over less protective administrative controls and personal protective equipment.



- ii. To protect workers from SARS-CoV-2 (the virus that causes COVID-19), administrative controls and personal protective equipment (PPE) will also be needed. Appropriate types and amounts of personal protective equipment (PPE) are essential to protect workers who may be exposed to the virus, and must be made available.
 - iii. Controls must address the three primary ways transmission of the virus occurs:
 - via large droplets expelled by infected persons who cough, sneeze, etc.;
 - via virus particles that can collect on surfaces that are then touched;
 - via aerosol micro-droplets that float for distances in the air and are transmitted via breathing, talking, singing, sneezing or coughing.
 - iv. Health and safety training is also an integral part of any prevention plan, including topics such as basic rights on the job and proper fit-testing and donning and doffing for PPE. Training and training materials should be provided in workers’ native languages.
- c. The standard should require that all employers designate a COVID-19 health and safety officer.

- d. The standard should provide for strong whistleblower protections to protect and encourage workers' ability to report hazardous conditions and non-compliance. It should ensure vigorous protection and defense of whistleblowers who report dangerous workplace conditions that threaten to infect, make ill, or cause death from exposure to SARS-CoV-2.
- e. The standard should include strong worker rights to refuse dangerous work when adequate safety protections are not provided, with no loss of pay.
- f. The standard should require employer documentation of COVID-19 infections among workers and investigation of the cases to assess potential sources of workplace exposure and the controls that need to be implemented/improved to prevent future occurrences. It should also require that all cases of workers found to be positive for COVID-19 be reported to local boards of health and incorporated into the statewide health surveillance system for COVID-19.
- g. The standard should require that all co-workers who have been in close contact with a worker known to have COVID-19 infection be informed of their possible exposure to COVID-19 in the workplace, keeping the infected worker's identity confidential in accordance with the American with Disabilities Act.
- h. While current CDC guidance allows workers to remain in the workplace following a close household, community, or workplace contact as long as they are not showing symptoms, this standard should require that all workers with such a close contact be quarantined for 14-days, with pay.
- i. The standard should prohibit employers from enacting or continuing incentives or bonuses for not using sick time, for reporting to work for a certain number of days or weeks in a row, or related policies that discourage workers from being absent from work and from utilizing sick time.
- j. The standard should mandate that employers discontinue production and service quotas that promote speed-up and discourage safe work practices as they prevent work from being performed in a manner that will minimize possible SARS-CoV-2 transmission. Any rule or practice that limits workers' time for proper handwashing and sanitation should be eliminated.
- k. The standard should ensure that employers who fail to implement appropriate protective measures and expose workers to the risk of COVID-19 are assessed commensurate civil and criminal penalties for non-compliance.

2. Massachusetts needs a planned and detailed system of screening, testing, contact tracing, proper isolation and epidemiological surveillance:

- a. We are proud that Massachusetts is among the first states to fund and coordinate COVID-19 contact tracing. As we move forward, this program should be a vehicle to identify and quarantine co-workers who have been in close contact with infected workers to reduce spread of disease. To that end, contact tracers should collect data on whether the individual was employed outside their home in the 14 days prior to disease onset and occupation, industry and employer. Protocols should be implemented to allow for early identification of workplace clusters or outbreaks. Contact tracing protocols should be designed to protect the confidentiality of infected workers.
- b. By looking at patterns of COVID-19 across industry and occupation, it is possible to assess potential risks faced by different worker groups. As stated above, the statewide public health surveillance system should collect information about occupation, industry and employer of the infected workers and whether cases worked outside of their home in the 14 days prior to disease onset. The Massachusetts Department of Public Health's (MDPH) Occupational Health Surveillance Program (OHSP) has extensive experience tracking injuries and illnesses in relation to work and is a valuable resource. The MDPH Bureau of Infectious Disease and Laboratory Science and OHSP should collaborate to routinely report

on patterns of COVID-19 cases (fatal and non-fatal) by occupation and industry. These data will allow us to assess which jobs in the economy may put workers at risk of illness and use that information to improve workplace protection. They will also allow us to identify employers that are failing to implement adequate steps, such as paid sick leave for isolation and quarantine, as well as adequate ventilation, social distancing, paid time for hand washing, etc. We should ensure that data collection includes information on race and ethnicity to describe the unequal burden of COVID-19 on communities of color and reveal how work is contributing to that disproportion. To that end, we urge you to **support a new bill (SB2695/ HB4672-- An Act Addressing COVID-19 Data Collection and Disparities in Treatment) with an amendment to ensure that occupation and industry be added to the list of demographic data** to be collected by the Massachusetts Department of Public Health.

- c. Ensure that workers have access to free, accessible, reliable and rapid COVID-19 testing to take place on paid time. Results of the test should be communicated in writing, in multiple languages, and include information on how to seek medical care. If a worker is found to have COVID-19, local public health authorities and/or the employer should ensure that all worker contacts are tested and quarantined.
 - d. Investigate outbreaks or clusters of COVID-19 in workplaces to assure that interventions to prevent or reduce exposures are implemented. Seek input from affected workers and union representatives. Establish procedures for closing workplaces due to COVID-19 infections and outbreaks.
 - e. Ensure that stigma and discrimination is prevented by ensuring that determinations of risk are not based on race or country of origin, and that the confidentiality of those with confirmed COVID-19 is maintained.
3. **Massachusetts must protect workers' voice on the job and provide guaranteed job protection for those working and for those whose work was reduced, suspended, or eliminated because of the COVID-19 crisis:**
- a. Workers whose work was reduced, suspended, or eliminated because of the COVID crisis must receive paid leave during the time they are not working. This must include all public and private sector workers including independent contractors, persons performing work for an employer through a temporary services or staffing agency, and undocumented workers.
 - b. All workers who have been exposed to SARS-CoV-2 should have a right to quarantine with pay for 14 days.
 - c. Workers who have quit their jobs to protect themselves or were fired for refusing to work under what they reasonably believed were dangerous conditions should be granted "just cause", and deemed eligible for unemployment insurance. Furthermore, such "good cause quits" under UI should include a worker's need to quit to care for quarantined or sick family or household members.
 - d. Workers' Compensation benefits should be mandated, using a conclusive presumption, for *all* workers who are exposed to other workers or the public at the workplace and become infected with COVID-19.
 - e. For at least the duration of the pandemic, ensure health care benefits for all, including free mental health services, for workers not provided these benefits by employers; those on sick, family or related leave who are not receiving health care benefits; and those who are unemployed and not receiving health benefits.
 - f. Ensure workers' rights to job retention and protected right to return to work: For workers who have been laid off due to pandemic-related business location closure, ensure that they have the right to return to their job once the business or location resumes operations. In the case of a layoff due to lack of work resulting from the pandemic, such workers should be given priority to return to their position once re-hiring commences. Worker retention policies must include the protection of workers' jobs in the

event of subcontracting, bankruptcy reorganization, or a change in ownership that occurs as a result of the pandemic.

- g. Expand anti-discrimination, disability and accommodation protection for workers who have recovered but have sustained health impairments, for pregnant workers, and those who are in high risk categories (older workers, workers with underlying conditions, workers with impaired immune systems).
- h. To meet these goals, we urge you to support the passage of two bills:

HD5039-An Act relative to emergency paid sick time: would entitle employees in the Commonwealth that work 40 hours a week to up to 80 hours of emergency paid sick time if they are not otherwise entitled to leave under the Federal FFCRA.

HB4627-An Act providing certain state employees sick leave for COVID-19 related absences: would provide paid leave for the duration of a state employee's COVID-19 related absence.

Thank you for the opportunity to provide these recommendations which were compiled with the input of the occupational health and safety experts listed below. We are eager to help support efforts to implement these recommendations so please do not hesitate to reach out to us for guidance.

Sincerely,



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Executive Director

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