

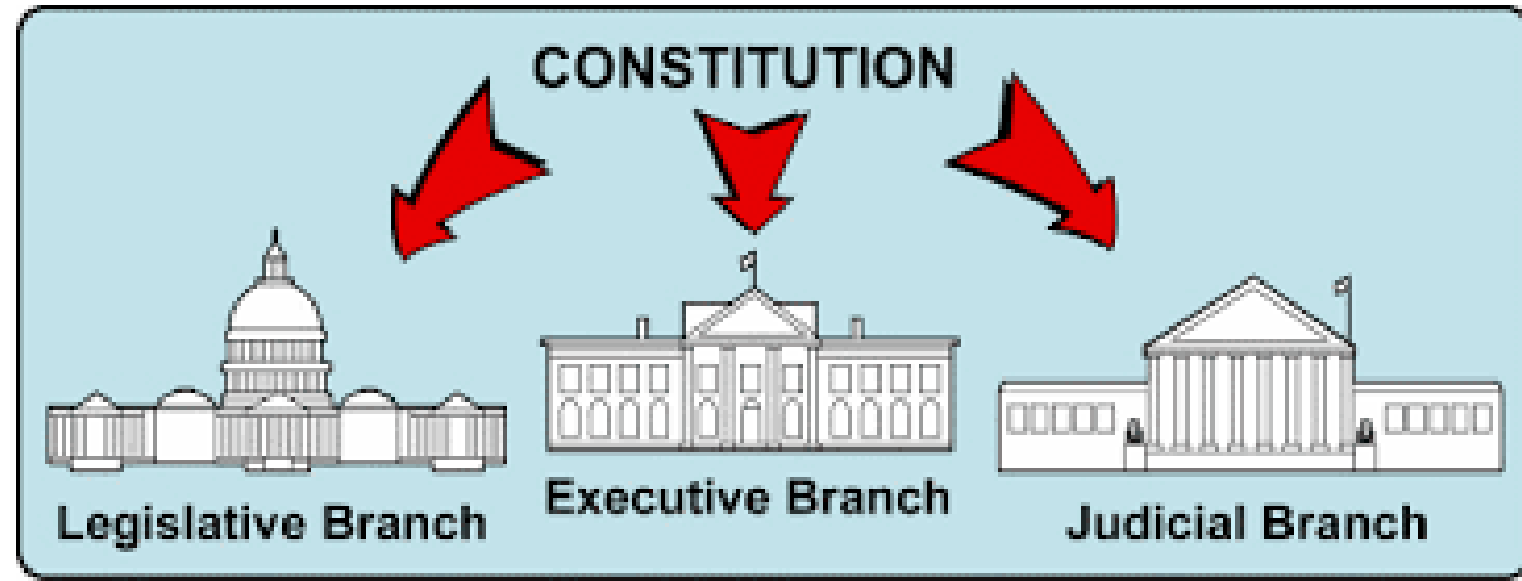
COVID-19 STATE LEGISLATION

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COVID-19 REGULATIONS AND LAWS

- Legislative bill
 - Emergency Temporary Standard
 - Presumption
- Executive order
- Emergency Rules



COVID-19 STATE LEGISLATION

- **State Action on COVID-19 as of 9/7/20**
- <https://www.ncsl.org/research/health/state-action-on-coronavirus-covid-19.aspx>
- Nationwide
 - 2,980 COVID-19 Bills
- Minnesota
 - 270 COVID-19 Bills, 91% failed, 9% adopted
- Michigan
 - 149 COVID-19 Bills, 80% pending, 16% adopted/enact



WORKERS COMPENSATION

- Employee files claim
- Increased risk from work
- Establish diagnosis
- Define exposure
- Literature review
- Causation opinion
 - Threshold definitions vary: state to state
 - More likely than not, proximate cause



STATE COVID-19 PRESUMPTIONS

- Presumptions shift burden of proof to employer/insurance company
- IL, MN, NJ, UT, VT, WI, WY- rebuttable presumption
- Alaska- emergency response and health care workers
 - Conclusive presumption
- Illinois- first responders, front line workers
- Wyoming: all workers



MN COVID-19 W/C PRESUMPTION

- Effective on 4/9/20
- An employee who contracts COVID-19 is presumed to have an occupational disease arising out of and in the course of employment:
 1. If employed as:
 - Licensed police officer, firefighter, paramedic, corrections or secure treatment facility workers
 - EMT, HCP, nurse, or assistive employee employed in health care, home care, or long-term care setting with direct COVID-19 patient care or ancillary work
 - Worker required to provide childcare to first responders and health care workers children under Executive Order



MN COVID-19 W/C PRESUMPTION

- AND
- 2. COVID-19 confirmed by positive lab test or if not available then diagnosed by employee's physician, PA, or APRN
- 3. If they met 1 & 2 then presumption shall only be rebutted if employer or insurer shows employment was not direct cause of disease.

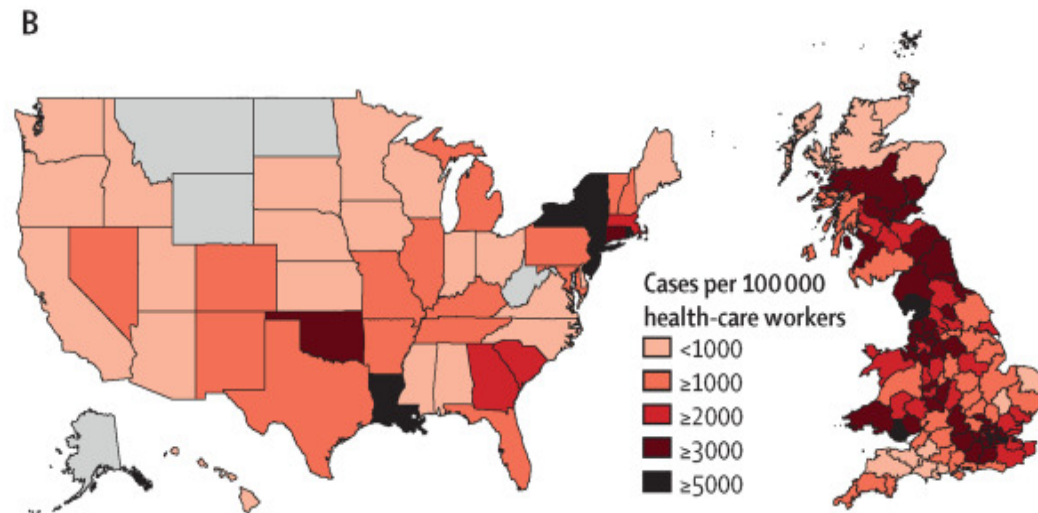
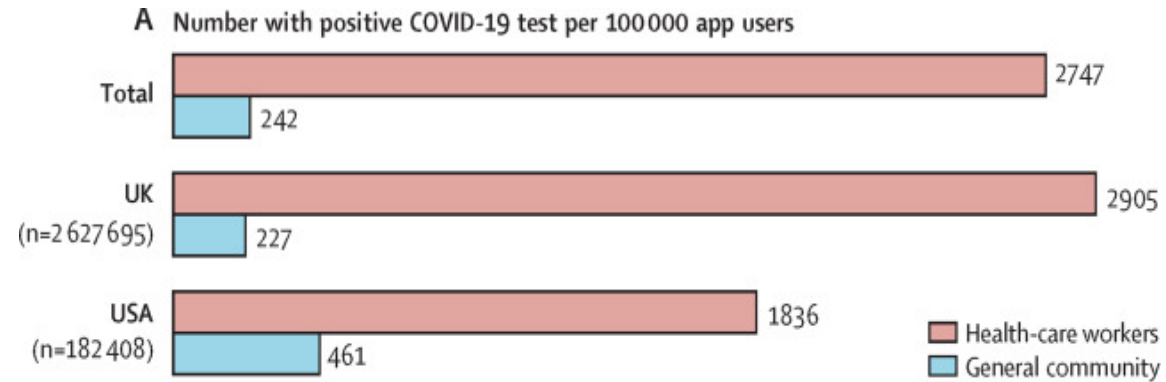


RISK OF COVID-19 AMONG HCW & GENERAL COMMUNITY

- [https://doi.org/10.1016/S2468-2667\(20\)30164-X](https://doi.org/10.1016/S2468-2667(20)30164-X)
- Frontline Health Care Workers vs General Community
- March-April 2020, US and UK
- COVID-19 positive test HR = 11.61
- Adjusted HR= 3.40
- Increased risk:
 - Inadequate PPE
 - Inpatient care
 - Nursing home



RISK OF COVID-19 AMONG FRONTLINE HCW & GENERAL COMMUNITY



PREVALENCE OF SARS-COV-2 AMONG HCW

- <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2769442>
- August 2020
- Roslyn, NY hospital
- 3,046 employees tested
- SARS-CoV-2 RT-PCR or Ab testing
- HCW had decreased risk compared to general population
 - 9.9% versus 16.7%
 - $P < 0.01$

EXECUTIVE ORDERS OR EMERGENCY RULES

- Presumptions
- California, Florida, Kentucky, Michigan, Missouri, New Hampshire, New Mexico
- California- all workers
- Florida- frontline workers
- New Mexico- certain state workers and volunteers



CALIFORNIA EXECUTIVE ORDER

- Rebuttable presumption that worker infected with COVID-19 contracted it on the job if:
 - 1. Employee tested positive for or was diagnosed with COVID-19 within 14 days after a day employee worked at employee's place of employment
 - 2. Day of service on or after 3/19/20
 - 3. Employee's place of employment not the employee's home or residence
- Diagnosis made by physician licensed in California and confirmed with further testing within 30 days of diagnosis



MICHIGAN EMERGENCY RULES

- Filed 3/30/20
- Unless proven otherwise, a first response employees suffers a personal injury that arises out of and in the course of employment if they diagnosed as COVID-19 by physician or as a result of a test
- Denial of that claim violates the Worker's Disability Compensation Act unless denial is based on facts demonstrating employee not exposed to COVID-19 at work

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The Department of

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BUREAUS & AGENCIES " BOARDS, COMMISSIONS & COUNCILS " INSIDE LEO " COVID-19 WORKPLACE SAFETY

COVID-19: Get the latest updates and resources from the State of Michigan.

MICHIGAN EMERGENCY RULES

- First response employee includes:
- Ambulance operations, emergency medical services, nursing homes, hospitals
- Home health agency or visiting nurses
- Physician, PA, nurse, EMT, paramedic, respiratory therapist
- Police officer, fire fighters, emergency rescue team
- State police
- State or local correctional officers

MICHIGAN COVID-19 PRESUMPTION

- Proposed August 2020, not passed?
- HB 6040 by Rep. Brian Elder
- Essential worker who contact coronavirus during emergency declared by governor sustained a person injury on the job unless employer is able to rebut presumption
- Essential worker = any required to work outside home



MICHIGAN EO 2020-145

- Safeguards to Protect Michigan's Worker from COVID-19
- All business or operations that require employees leave home for work must:
 - Develop a COVID-19 Preparedness and Response Plan
 - Designate ≥ 1 supervisor to implement, monitor and report on COVID-19 control strategies
 - Provide COVID-19 training
 - Workplace infection control practices
 - Use of PPE
 - How to notify business of symptoms, suspected, or confirmed COVID-19 diagnosis
 - Report unsafe work practices



MICHIGAN EO 2020-145: SAFEGUARDS TO PROTECT WORKERS

- Conduct daily entry self screening for employees or contractors entering workplace
- Keep everyone 6 feet apart to maximum extent possible
- Provide face covering or masks to employees
- Require face covering if can't consistently keep 6-foot separation
- Increase facility cleaning and disinfection

REPORT CONFIRMED COVID-19 CASES IN EMPLOYEES

- Immediately to local public health department
- Within 24 hours to co-worker, contractors or suppliers with contact
- Confirmed or suspected COVID-19 can only RTW if no longer infectious per CDC guidelines and released from quarantine or isolation by local health departments
- Can't discipline or retaliate against employees who stay home or leave work when they are at particular risk of infecting others with COVID-19

MICHIGAN EO 2020-145: SAFEGUARDS TO PROTECT WORKERS

- Specific requirements for:
 - Construction industry
 - Manufacturing facility
 - Research laboratories
 - Office
 - Outpatient health care facilities
 - Provide in-homes services

MICHIGAN EO 2020-145: SAFEGUARDS TO PROTECT WORKERS

- Specific Requirements for:
 - Restaurants and bars
 - Barbers, cosmetology, massage, etc.
 - Fitness centers, gymnasiums
 - Sports and entertainment venues
 - Meat and poultry processing plants



MICHIGAN EO MCL 333.2253

- Mandatory Testing, Preventative Measures and Safe Housing for Ag Workers
- Mandatory testing if symptoms or suspected COVID-19 exposure
 - All owners or operators of migrant housing camps
 - All ag employers with > 20 worker on site at a time
- If worker or resident tests positive then employer and housing operator
 - Take necessary precautions per CDC guidelines
 - Exclude from work until meet all RTW criteria per CDC
 - Exclude any worker with known exposure to individual with COVID-19 within 6 feet for ≥ 15 minutes



MICHIGAN EO: AG WORKERS

- State may make available options for housing suitable for isolation or quarantine for ag workers with COVID-19 or exposure to COVID-19
 - Agricultural workers and their families
 - Workers at food manufacturing facilities





COVID-19 EMERGENCY TEMPORARY STANDARDS

- As of 9/8/20
- Virginia adopted ETS
- Proposed or considering: California, Oregon
- Executive Orders instead- Michigan, Washington
- Health Department Guidance: Minnesota

US OSHA EMERGENCY TEMPORARY STANDARD?

OSHA Standards Development

- OSHA can begin standards-setting procedures on its own initiative, or in response to petitions from other parties, including NIOSH; state and local governments; any nationally-recognized standards-producing organization; employer or labor representatives; or any other interested person.



VIRGINIA EMERGENCY TEMPORARY STANDARD

- Effective July 2020
- <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf>
- Infectious Disease Prevention: SARS-CoV-2 Virus that causes COVID-19
- In compliance, if comply with CDC guidelines
- Enforced by Virginia Department of Labor and Industry/Virginia OSHA



VIRGINIA ETS

- Employers shall assess workplace for hazards and job tasks that could potentially expose employees to SARS-CoV-2 virus or COVID-19 disease
- Encourage employees to self monitor for signs and symptoms of COVID-19
- Serologic testing (antibody testing) shall not be used to make RTW decisions

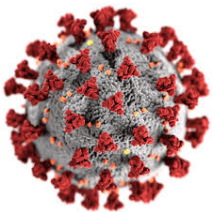


IMPLEMENT POLICIES AND PROCEDURES

- Implement policies and procedures for employees to report when they are experiencing symptoms c/w with COVID-19 and no alternate diagnosis made
 - To extent feasible, ensure sick leave policies flexible and c/w public health guidance
 - Employees designed as “suspected to be infected with SARS-CoV-2 virus”
 - Can’t report to or remain at work till cleared to RTW (could telework)
 - Also applies to contractors or temporary employees

REPORT POSITIVE TESTS

- Establish system to receive positive SARS-CoV-2 RNA tests results within 14 day from date of positive test and notify within 24 hours:
 - Own employees who may have been exposed
 - Other employers with employees at same worksite
 - Building/facility owner
 - Virginia Department of Health
 - Virginia Department of Labor and Industry of ≥ 3 employees present at place of employment within 14-day period testing positive for SARS-CoV-2



VIRGINIA ETS RTW

- RTW Policies and Procedures for known or suspected to be infected with SARS-CoV-2 virus employees depending on local healthcare and testing circumstances
 - Symptom based:
 - No RTW until ≥ 72 hours since recovery (no fever + improvement in respiratory symptoms) AND at least 10 days since symptoms first appeared
 - Test based:
 - Resolution of fever and improved respiratory symptoms AND at least 2 negative SARS-CoV-2 RNA test collected ≥ 24 hours apart



VIRGINIA ETS

- Ensure employees observe physical distancing (unless otherwise stated)
 - If unable to physical distance, ensure compliance with respiratory protection and PPE
- Control access to common areas, breakrooms, lunchrooms
- Hand washing facilities and hand sanitizer where feasible
- Sanitation and Disinfection

SPECIFIC REQUIREMENTS FOR DIFFERENT EXPOSURE RISKS

- Based on COVID-19 related hazards present or job tasks undertaken
 - Very high exposure risk – aerosol generating procedures, autopsy
 - High exposure risk- high potential for employee exposure within 6 feet with known or suspected SARS-CoV-2 patients
 - Health care delivery and support services
 - Home health care, long term care, dental care
 - First responder, medical transporters
 - Mortuary



SPECIFIC REQUIREMENTS FOR DIFFERENT EXPOSURE RISKS

- Medium- require more than minimal contact within 6 feet with people who may be infected with SARS-CoV-2 virus but not known or suspected SARS-CoV-2 cases
 - Poultry and meat processing
 - Agricultural laborer
 - Commercial transport by air, land or water
 - Schools, colleges, universities
 - Restaurants, bars
 - Grocery stores, retail stores
 - Manufacturing



SPECIFIC REQUIREMENTS FOR DIFFERENT EXPOSURE RISKS

- Lower risk exposure- minimal occupational contact with employees, public such as office setting or able to achieve minimal occupational contact with implementation of controls
 - Telecommuting
 - Delivering services remotely
 - Staggered work shifts
 - Floor to ceiling barrier in convenience store with only one employee at a time

