



National Right to Work Committee

A COALITION OF EMPLOYEES AND EMPLOYERS
NATIONAL HEADQUARTERS BUILDING

Mark A. Mix, *President*

March 3, 2022

VIA EMAIL: princy.doss@doli.virginia.gov

Jay Withrow, Director
Division of Legal Support, ORA, OPPPI, and OWP
Virginia Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, VA 23219

Re: Comments on Proposed Revocation of the
Virginia Standard for Infectious Disease Prevention of the
SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220

Dear Mr. Withrow:

We support revocation of the above referenced Standard. While the Standard arose out of a government declared emergency involving a finding of a “grave danger” to employees in the workplace from a rapidly spreading virus that health care providers did not yet know how to treat, such “grave danger” no longer exists.

With developing knowledge, expertise, and resources and with a large and growing portion of the population vaccinated or having immunity following infection and recovery, these regulations are no longer necessary. Indeed, the issue is not exclusively a workplace issue, but is one that impacts the community at large as the virus can be caught anywhere at any time, making it almost impossible to pinpoint exactly where an employee contracts the virus. As the U.S. Supreme Court recently ruled, “COVID-19 can and does spread at home, in schools, during sporting events, and everywhere else that people gather. That kind of universal risk is no different from the day-to-day dangers that all face from crime, air pollution, or any number of communicable diseases.” *NFIB v. OSHA*, 595 U.S. ____ (2022) (slip op. at 6-7).

Jose Phelps, President of Winchester Metals, Inc., made a very good point at the February 16, 2022 hearing: an employer can do all it can to mitigate the impact of COVID-19 in the workplace, yet what good does that do when employees can leave and go to happy hour unmasked, have dinner with friends the next night, and have one of their kid’s friends over the next night? Safety & Health Codes Bd. Mtg. Recording, 15:00–18:34, <https://www.doli.virginia.gov/wp-content/uploads/2022/02/Virginia-Safety-and-Health-Codes-Board-Meeting-in-Response-to-Executive-Order-6-20220216-1510-1.mp4>.

Virginia Department of Labor and Industry

March 3, 2022

Page 2

We urge DOLI to revoke the regulations and allow health conditions, prevention, and treatment to once again be private matters between individual employees and their physicians. They are quite capable of following the developing and changing guidance from the CDC and the medical community. Employers should not be forced into that relationship.

Sincerely,

A handwritten signature in blue ink, appearing to read "MAM/sbw". The signature is stylized and cursive.

MAM/sbw