Workplace Advisory Memo 7.19.21

Interim Guidance Regarding the Status of the
Temporary Rule Addressing COVID-19 Workplace Risks (OAR 437-001-0744)

This memo provides the most current guidance regarding the temporary changes made to the rule adopted on May 4, 2021, as well as enforcement guidance regarding provisions of that rule that have currently been determined by Oregon OSHA to reflect merely technical violations of the rule that will not be cited. It incorporates both the temporary rule changes adopted June 30, 2021, and subsequent enforcement policy decisions.

A. The physical distancing requirements previously found in OAR 437-001-0744(3)(a) are no longer in effect outside health care settings and transit agencies.

The June 30 rulemaking revised OAR 437-001-0744(3)(a) to eliminate the general requirement to enforce physical distancing. At the same time, the requirement specific to health care settings was adopted as OAR 437-001-0744(4)(k).

References to physical distancing as part of the risk assessment, infection control plan, and training have not been removed from the rule text but are no longer being enforced outside health care and transit agencies, which are covered by Appendix A-5.

B. The mask, face covering, and face shield requirements previously found in OAR 437-001-0744(3)(b) are no longer in effect outside health care settings and transit agencies.

The June 30 rulemaking revised OAR 437-001-0744(3)(b) to eliminate the general requirement to enforce the use of masks, face coverings, or face shields. Employers must still allow employees to use either such facial coverings or filtering facepiece respirators on a voluntary basis. At the same time, the requirement specific to health care settings was adopted as OAR 437-001-0744(4)(l).

References to masks, face coverings, and face shields, as part of the risk assessment, infection control plan, and training have not been removed from the rule text but are no longer being enforced outside health care, which are covered by Appendix A-5.

C. The regular cleaning and sanitation requirements previously found in OAR 437-001-0744(3)(c) are no longer being enforced outside health care settings.

Although the provisions remain in the rule, the general cleaning requirements are now considered “de minimis” violations and therefore not being enforced. However, the provisions related to providing employees with supplies and the reasonable time necessary to clean (OAR 437-001-0744(3)(c)(A)) and to perform hand hygiene (OAR 437-001-0744(3)(c)(B)), as well as the provisions related to cleaning after an individual known or suspected to have COVID-19 has been in the work area (OAR 437-001-0744(3)(c)(C)) to be enforced.

D. The bulk of the appendices in Appendix A are no longer in effect, and many of the other requirements have been removed.


E. The remaining rule provisions remain in effect, although they all remain subject to modification during the coming weeks and months.