



**Statement of the National Safety Council
U.S. House of Representatives
Committee on Education and Labor
Subcommittee on Workforce Protections
Hearing on,
“Examining the Federal Government’s Actions to Protect Workers from COVID-19”
Thursday, May 28, 2020**

Thank you for allowing the National Safety Council (NSC) to submit this statement for the record. NSC appreciates the Education and Labor Workforce Protections Subcommittee leading this hearing to better understand what actions the federal government is taking to protect workers.

NSC is a mission-based organization, focused on eliminating the leading causes of preventable death and injury. We focus our efforts and thought leadership on impacting safety through three strategic pillars: Workplace, Roadway and Impairment. Our more than 15,000 member companies represent employees at nearly 50,000 U.S. worksites. Throughout the coronavirus pandemic, NSC has focused on supporting worker safety and health and giving employers resources to do so. NSC guidance and recommendations have changed with the evolving public knowledge about this novel virus, but our focus on safety and health has not.

The manner in which we return Americans to their traditional work environments and routines will define our national response to this pandemic that has upended our lives and forever changed how our nation approaches workplace safety. NSC believes the goal of reopening the country should not simply be to restart the economy. If employers are not sure they can bring employees back safely, they should consider whether it is the right time to bring them back. Ensuring a sustainable and lasting economic recovery means keeping workers available, healthy and safe.

Employers face myriad challenges and questions to operating safely during the pandemic. With some workers never stopping their shifts, some returning to workplaces now, and some working from home or other locations they never expected to be, employers need help navigating information sources, and they need to be able to trust the information they receive. To help tackle some of these issues, NSC joined with large and small companies, nonprofits, legal experts, public health professionals, medical professionals and government agency representatives to launch the [SAFER](#) (Safe Actions for Employee Returns) task force.¹

The SAFER task force has released “one stop” playbooks that provide information, resources and tips for employers on topics including:

- Physical safety
- Medical issues
- Mental health and stress
- Employment, Legal and Human Resources (HR)

¹ www.nsc.org/safer

- Communications with employees
- External factors

Playbooks also cover different work settings such as:

- Office operations
- Closed industrial
- Open industrial
- Public interactions (e.g. retail)

These playbooks also include checklists so that employers can understand, for example, what to do when one of their employees has a confirmed case of COVID-19 and how to manage workplace hygiene. While large employers may already have these plans in place, many mid-sized and small businesses do not have the resources to develop plans and procedures to safely return their employees to work.

The resources produced by the SAFER initiative provide clear, expert guidance where it is needed. NSC urges the federal government to use these resources to govern the return-to-work decisions it is making for its workforce and as a basis for external communications to workplaces.

Even as employers safely bring employees back to the workplace, they must not lose focus on avoiding a second wave of COVID-19 infections. Employers must work with public health authorities to prioritize three key issues that will help prevent another shut down: testing, contact tracing and mental health.

Testing and Contact Tracing

Businesses can be important partners in conducting more widespread COVID-19 testing. In April, NSC and over 70 other organizations wrote a [letter](#) to Vice President Pence, as the Chair of the White House coronavirus task force, asking that he prioritize testing equipment to businesses after the healthcare sector.² NSC appreciates Congress recognizing the need to support testing for businesses through the Paycheck Protection Program and Health Care Enhancement Act.³ This law provides funding to the states for testing and calls out that the workforce and employers are necessary partners of a more complete testing protocol and an important part of keeping workers safe and healthy. NSC asks Congress to ensure its directions are followed in this regard, and we are ready to work with states as these business testing protocols are developed and implemented. The federal government must also work with states, local governments, public health officials and employers to provide adequate and validated testing resources.

Containing any communicable disease effectively requires adequate and diligent tracing. NSC believes participation in contact tracing by workplaces is a key component to stop the spread of coronavirus. Workplaces may inadvertently provide locations for virus transmission, and contact tracing among co-workers is key to prevent further spread. We encourage employers to share relevant information on employee contacts with the public health officials when an employee tests positive for COVID-19.

If employers are to fully participate in screening and testing employees, there are considerations to keep in mind. Currently, there are strong laws in place to protect the privacy of healthcare information

² <https://www.nsc.org/in-the-newsroom/nsc-and-partners-call-for-coronavirus-tests-for-all-us-businesses-worksites>

³ P.L. 116-139

and prevent discrimination. Agencies such as the U.S. Department of Health and Human Services (HHS), the Equal Employment Opportunity Commission (EEOC), the Occupational Health and Safety Administration (OSHA) and others have relaxed some of the laws through temporary emergency orders to help fight the spread of coronavirus. NSC believes these agencies should consider the following measures for the duration of the pandemic:

- Continue to allow healthcare screening of employees, contractors and visitors to facilities. This includes temperature and symptom screenings. If screenings are conducted by a third party, results of screenings that could impact the health of other workers should be confidentially shared with the employer.
- Continue to allow COVID-19 testing of workers, contractors and visitors to workplaces.
- Provide clear validation of testing equipment through the Food and Drug Administration process.⁴
- Allow sharing of positive worker (employee or contractors) COVID-19 test results by the testing entity with employers to make appropriate [notifications](#)⁵ to other workers in proximity to the positive worker.

Mental Health

The coronavirus crisis has impacted mental health in both clear and unseen ways and will continue to do so as the crisis evolves. Because employees may not realize the impact stress has on their mental health and wellbeing, every return to work strategy must include assistance for employees to address mental health. That means leveraging employee assistance programs (EAPs), providing employees with contact information for mental health services, and openly acknowledging and discussing the impacts of COVID-19 on mental health.

Before this pandemic, the U.S. was in the midst of an overdose epidemic, and opioid overdoses were the leading cause of overdose deaths. For nearly a decade, NSC has been [working with employers](#)⁶ to help them understand the positive role they can play to help those with a substance use disorder (SUD) to find and receive treatment and return to work.

Opioid overdose related fatalities were beginning to decline in the U.S. before the coronavirus pandemic. However, as of June 2020, over 20 states have reported increases in opioid-related deaths.⁷ Further, much of the fallout from the coronavirus has triggered SUDs and other [mental health](#) issues.⁸ Extended isolation increases the risk for substance misuse and development of SUDs, increases risk for relapse, negatively impacts sleep quality and cognitive function, increases the risk of depression and other negative mental health impacts, and can cause suicidal thoughts. Mental health impacts may be prolonged or delayed and manifest differently in each employee—sometimes taking weeks, months, or even years to do so.

⁴ <https://www.google.com/url?q=https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations%23coronavirus2019&sa=D&ust=1589484095845000&usg=AFQjCNF1gZZduRenKB8jvSrPINbdJ1evzg>

⁵ See: https://www.nsc.org/Portals/0/Documents/NSCDocuments_Advocacy/Safety%20at%20Work/covid-19/safer/qh-confirmed-case-notification-protocol.pdf?ver=2020-05-29-132909-503

⁶ <https://safety.nsc.org/rxemployerkit>

⁷ <https://www.ama-assn.org/system/files/2020-06/issue-brief-increases-in-opioid-related-overdose.pdf>

⁸ https://www.nsc.org/Portals/0/Documents/NSCDocuments_Advocacy/Safety%20at%20Work/covid-19/safer-playbooks/mental-health.pdf?ver=2020-05-14-180954-763

Employers with short- and long-term response plans will be the best equipped to help their workers. Some key factors for workplaces should incorporate into their strategy include:

- Build a culture of mental health safety in workplaces, including training leadership and supervisors
- Establish resources and benefits to provide treatment and access to help needed
- Think about and shift language used in human resources and other documents to describe SUDs and mental illnesses to ensure it is non-stigmatizing
- Lead education and awareness opportunities for all staff so that they can protect themselves from the mental health and stress related to COVID-19 and practice safe coping mechanisms
- Communicate frequently with employees to ensure they know that they are supported in seeking any help they need

NIOSH and OSHA

The National Safety Council has been a longtime supporter of the U.S. National Institute for Occupational Safety and Health (NIOSH) and OSHA. This year, NSC led a request for increased funding for both agencies because of the critical missions they execute. We have requested \$677.4 million for OSHA and \$354.8 million for NIOSH, including a restoration of funding for the Agriculture, Forestry and Fishing and Education and Research Centers programs.

NIOSH has been a great resource for workers and employers during this time. NIOSH experts have shared information in a timely manner to promote safe workplaces. NSC has incorporated much of this information and used it as a basis for recommendations as part of the SAFER initiative. However, NIOSH is not a regulatory agency.

Unlike NIOSH, OSHA is empowered with the authority to issue emergency temporary standards when quick action is needed to protect workers' safety and health. The coronavirus pandemic is such a time. NSC believes OSHA should exercise its emergency authority to issue a temporary emergency standard to protect workers from occupational exposure to COVID-19. This action should remain in place for the duration of the current COVID-19 pandemic and its possible reemergence to limit the spread of the virus in workplaces, protect worker safety and health, and provide clear rules for workplaces. Without this action, states will act. That will create a patchwork of requirements instead of what employers and workers need – one level of safety that is clear and understandable to everyone.

Thank you for holding this hearing. Businesses should follow federal guidance, but it is the floor – not the ceiling. Employers must go beyond this guidance, because now is not the time for minimum. Additionally, it is clear that to ensure a sustainable and lasting economic recovery, workers must be safe and healthy. NSC is working toward this end, and we welcome an opportunity to partner with this Committee and Congress to make this a reality.