OSHA@50Y: INFECTIOUS DISEASE STANDARD FOR WORKERS EXPOSED TO COVID-19 URGENTLY NEEDED

DM Congress should pass legislation requiring OSHA to quickly issue a standard protecting healthcare workers exposed to Coronavirus. I know OSHA could do it quickly because we left a standard, a draft standard, in place that the Trump Administration stopped working on when we left.

PS There is no infectious disease standard from Federal OSHA, either for healthcare workers at high risk or for other workers. California is the only state that has an airborne [transmissible] disease standard. The unions fought for and won a blood-borne-pathogens standard to protect workers against HIV and AIDS, and we have been fighting and pushing for an airborne transmissible disease standards for decades.

JH Right now as we know, there is a shortage of both surgical face masks as well as filtering face piece respirators like the N95 which healthcare workers rely on. So, we have put out guidance about how to optimize the use of scarce resources like an N95. We’ve put out guidance about how you can extend the use of an N95, how you can re-use an N95, and most recently on our website we’re also going to put up guidance about how you decontaminate an N95 so you can re-use it multiple times.

[ musical interlude ]

AM Hello, welcome! This is the May 2020 podcast of the American Journal of Public Health. The May issue features occupational health and safety, an issue that is both timely and topical in the middle of the dreadful pandemic that is affecting the planet but that also affects, in particular, workers whose mission is to keep the economy and public health
functioning. Fifty years ago in 1970, a revolutionary law was passed relative to occupational safety and health. The Occupational Safety and Health Act, OSHA, instituted two agencies: The Occupational Safety and Health Administration, also abbreviated as OSHA, in the Department of Labor in charge of establishing work standards; and the National Institute for Occupational Safety and Health, NIOSH, which belongs to the Center for Disease Control and Prevention and is in charge of providing the evidence to support these standards. The Coronavirus pandemic sheds a new light on the record and future of OSHA and NIOSH. On the frontline, our workers in healthcare, fast food, warehouse, retail shops, and delivery industries—most of them belong to the so-called gig economy. They have low wages, no or little benefits, and great job insecurity. Will this pandemic be the watershed that will bring Congress to regulate the gig economy? Can we keep on allocating gig jobs to activities that are deemed essential for the health of the public? I explore these questions with three guests in this order: Dr. David Michaels, who is Professor of Environmental and Occupational Health at the George Washington University; Peg Seminario, who is a labor union leader involved in safety and health; and Dr. John Howard, who is the current Director of NIOSH. I am Alfredo Morabia, Editor-in-Chief of AJPH, and we are April 8, 2020.

My first guest is Professor David Michaels who has been Assistant Secretary of Labor for the OSHA from 2009 to 2017. I asked him what OSHA has accomplished in the past 50 years and what it can do for workers of the gig economy today. We are 50 years after that legislation was introduced. What would you say were the main achievements of OSHA?
DM  Well, the first is the sort of more existential one, this idea that employers have a
responsibility to provide a safe workplace and workers have the right to a safe workplace.
We take that for granted now, but that was a huge advance brought by the OSHA law.
As a result of that, there was a great deal of focus in workplaces, specifically first on
injuries; and fatal injuries have gone down dramatically. We used to have 37 deaths
every day, fatal injuries, in workplaces in the United States. That now has gone down to
about 14 per day with a work force twice as large, so we’ve made great progress in that
area. The other area I think OSHA’s made particular advance in is in certain toxic
chemical exposures, asbestos for example, which was actually uncontrolled before OSHA
and now asbestos exposure [in the] workplace still occurs but it’s pretty rare and at much
lower levels. So, there are a bunch of carcinogens—benzine, formaldehyde, asbestos of
course—where the exposures have really been placed much more under control as a
result of OSHA.

AM  How does this new situation, the pandemic and everything it shows, change what OSHA
should be doing?

DM  Infectious disease. OSHA has a very powerful standard protecting healthcare workers
from blood-borne pathogens, HIV and AIDS, and that was implemented at the height of
the AIDS epidemic. Right now, we’re the new pandemic involving an airborne
infectious exposure, Coronavirus. OSHA has no standard, and right now if a worker—
and this is happening every day—contacts OSHA and says my hospital, my nursing
home, is not giving me proper equipment to protect myself as I take care of patients,
OSHA writes back there is nothing we can do. Here, we have a condition that is
changing workplaces across the country, but particularly healthcare workplaces where
workers are put in danger; they’re not given proper equipment, they’re not given proper training.

AM We also reported that a large fraction of healthcare workers have salaries below the minimum wage; they live in situations of poverty; they have to combine several jobs. What can OSHA do to improve the situation of healthcare workers?

DM Well, healthcare workers are an interesting group in that the injury rate of healthcare workers, of hospital workers, nursing home workers, psychiatric facility workers, is higher than the injury rate of construction workers or coal miners. It’s often forgotten. People don’t think of that as a high-hazard job, but it is. OSHA standards have little to do with healthcare facilities in terms of infectious disease or workplace violence which is a huge issue in healthcare. OSHA would have to be given new powers to issue standards quickly to protect those workers and then have more enforcement capability to go out to those institutions, those healthcare facilities, and say, and insist that workers be protected. Right now, they’re the biggest category of workers that have high injury rates with relatively little or no protection. But, OSHA’s invisible in this case. They have really no role, so they need to be given the authority to play a stronger role, but also we need to look at [thing], this is, for this pandemic that’s true, but there [are] also some other conditions as well that OSHA needs to be strengthened in order to be able to address.

AM But David, you’ve been, you’ve led OSHA for many years. Give us a road map. How would this empowering of OSHA with respect to healthcare workers, how can this occur?

DM Look, I ran OSHA for more than seven years under President Obama. We were working on a standard to protect healthcare workers from airborne exposure and also contact exposure diseases like MRSA. The normal OSHA standard-setting process takes, every
standard takes years and often decades. We issued a standard for silica exposure in 2016 that OSHA started in 1997. That’s obviously unacceptable. Two things: First is, Congress should pass legislation requiring OSHA to quickly issue a standard protecting healthcare workers exposed to Coronavirus. I know OSHA could do it quickly because we left a standard, a draft standard, in place that the Trump Administration stopped working on when we left. That’s the first thing they could do immediately; but the larger issue is to change OSHA standards setting process so OSHA can issue standards quickly, and that would have a huge effect, not just in healthcare, but really across the board.

[musical interlude]

AM My second guest is Peg Seminario from the American Federation of Labor and Congress of Industrial Organizations which is also known as AFL-CIO. I asked her what OSHA has represented for the American working class and what the workers of the gig economy on the frontline of the fight to slow down the pandemic should expect from OSHA. So, why did we have to wait until 1970 to get the OSHA?

PS Well, why we had to wait is like everything. It takes a long time and it takes a long struggle to get protections for working people in this country; and prior to OSHA, safety and health was regulated in a very ad hoc, uneven manner by the states. It wasn’t until there were major disasters, in this case a major coal mining disaster in the state of West Virginia, the Farmington mine disaster in 1968 which killed at least 78 coal miners, and the coal miners went out on strike and they shut down the state of West Virginia and the coal mining in the country. From that came the Coal Mine Health and Safety Act in 1969 and then came the Occupational Safety and Health Act to protect all other workers. This was also at the same time when the environmental movement was becoming very active,
when there were demands on the Congress and government to take action to clean up the air and clean up the water. So, it all came at a time when there was a great movement for increased protections, but it took direct action by workers to get the Congress to act to put in place legal rights to safe jobs for workers in this country.

AM So, 50 years later, what would you say has been the major contributions and impact of OSHA?

PS So, the combination of the standards, the enforcement, and the enhanced worker rights have really made a difference. The other thing that’s made a difference is NIOSH, the research agency. OSHA was the standards and enforcement; NIOSH was set up to do research and conduct investigations of emerging hazards. So, NIOSH has played a very, very important role in doing the basic research but also getting out into workplaces and finding out what is going on, identifying the emerging hazards, and identifying those sentinel health effects and the actions that are needed to address them. So, the two agencies have been very important.

AM In terms of exposure, now there is kind of a new one, predictable but still unexpected at this time. This is the current pandemic with Coronavirus, so there are all these workers who are, you know, enormously exposed to it, whether they work in warehouse, in retail store, in, they are healthcare workers, they are fast-food workers, they do deliveries, et cetera. So how will the current pandemic change the agenda of the priorities of OSHA and NIOSH in the coming months, from a union perspective?

PS Well, let’s, before we talk about how it will change the agenda, let’s talk about what needs to be done to protect these workers. There is no infectious disease standard from Federal OSHA, either for healthcare workers at high risk or for other workers. California
is the only state that has airborne [transmissible] disease standard. The unions fought for and won a blood-borne pathogens standard to protect workers against HIV and AIDS, and we have been fighting and pushing for an airborne transmissible disease standards for decades. You know, first for tuberculosis, then trying to do it for pandemic flu and influenza, and now with the Coronavirus, the government, the federal government and OSHA, have failed to act and refused to act. So, right now what we have is we have no standards, legally binding standards. OSHA as an agency is refusing to do any enforcement, and we have very weak guidelines from their Centers for Disease Control which they keep rolling back in, over the last couple of weeks because they say that, uh, we’re in a crisis, we don’t have equipment. So rather than actually saying what needs to be done to protect workers and direct our resources to doing that, the first response from some of the employers is to roll back protections, and the government has been giving them cover to do that. So, I think what comes out of this, unfortunately, if action is not changed is a very significant and tragic loss of life of our healthcare workers, particularly because they are really on the frontlines, and we have exposures of all kinds of other workers as you mentioned, those who are in essential services that are in the grocery stores in particular, providing the foods, those who are working in manufacturing facilities producing the medical goods and producing the food so that the rest of us can stay safe. Those workers are not being protected, and so the legacy of this is, unfortunately, going to be massive death of our population from the Coronavirus and the failure to plan and respond quickly to the pandemic and equally tragic loss of life amongst the working people who are trying to respond to save lives [and] protect the public.
Yeah, and, Peg, absolutely, and if the tragedy unfolds as you say, how do you see that this will impact the way we deal with OSHA and NIOSH? I mean, again, I insist on the agenda because I think that we will have to rebuild a new public health after this, and I would like you to tell us what will be the occupational component of this new public health?

I think the occupational component has to be both foundational and central to all of this. It would, perhaps people will finally understand that for most Americans, work is a big part of their lives, and to protect Americans and protect our health, we have to protect their health at work. This pandemic is showing how fragile our systems of public health and protections are in this country, how unprepared we are, and again, because of that, because of that not being prepared and because of the lack of a coordinated response, many citizens and workers are going to die. And so, hopefully as we move forward and try to build a public health system and a response system to actually be effective at dealing with these kinds of threat, the protecting workers as part of that will be central and core, and the labor movement and all of us who care about worker safety and health are going to be fighting to make sure that that is the case.

[musical interlude]

My third guest is Dr. John Howard, Director of NIOSH. I asked him what NIOSH was currently doing to support the workers exposed to the Coronavirus. A response to disaster has become the new normal, I think, in public health. Does it represent now a very important part of NIOSH activity?

Yes, I think you’re exactly right. NIOSH started after 9/11 a dedicated office in the Office of the Director at NIOSH called EPRO. So, we have people who work in there all
year long. There are many types of responses that we give guidance to that don’t make
the newspaper, for instance. There are oil spills of a smaller nature than the Deepwater
Horizon that occur all the time all over the United States. So, you’re right, it is a sea
change in public health and in occupational health.

AM And, John, so what is NIOSH doing now? I think our listeners will be very interested in
that. What NIOSH doing now with respect to the Coronavirus pandemic?

JH Well, again, our primary role which is unique is how do you protect healthcare workers
from getting Covid-19, or the Coronavirus, right now in their work lives. We want
healthcare workers to be protected because we all depend on them to help us if we get
sick from Coronavirus. So, our mission is to figure out how we best protect them, what
kind of personal protective equipment should they be wearing, what should their
respiratory protection be. Right now as we know, there is a shortage of both surgical face
masks as well as filtering face-piece respirators like the N95 which healthcare workers
rely on. So, we have put out guidance about how to optimize the use of scarce resources
like an N95; we’ve put out guidance about how you can extend the use of an N95; how
you can re-use an N95; and most recently on our website, we’re also going to put up
guidance about how you decontaminate an N95 so you can re-use it multiple times. So,
we’re doing what we always do in any of these disasters, except in this Coronavirus
pandemic, our focus is on healthcare workers.

AM And what about those who will have to produce [those] personal protective equipment,
you know, the manufacturers who will have to process them and I mean ramp up this
production? Is this also something that NIOSH is looking into?
Well, one of the parts of NIOSH which came into NIOSH in the mid-90s and it’s called the National Personal Protective Technology Laboratory, or NPPTL which is located in Pittsburgh, Pennsylvania, [a] relatively recent addition to NIOSH, they certify respirators for use, and so if you look at an N95 you often see the word NIOSH-Certified on the respirator. That means that the manufacturer sent the respirator to us; we put it through all sorts of testing that our regulations require; and we certified it. And that’s very important because OSHA health standards require that employers use NIOSH-certified respirators, but in the case what you’re describing now where we have a national shortage of respirators, manufacturers who have certifications from us are, as you say, ramping up their production in order to meet the demand. In addition, we have non-traditional manufacturers, companies who don’t normally make N95 respirators, for example, or surgical face masks or ensemble wear, stepping up as part of this national emergency and saying we want to make an N95. So that’s happening also. The production that is going on in China, for instance, has ramped, and those N95s are now more available in the United States. So hopefully, within a short period of time we will not be in the severe shortage situation that we are now.

[musical interlude]

Alright, the overall picture that emerges from these interviews is sobering. Coronavirus represents a type of infection risk on the workplace for which no standards have been adopted yet by Congress. As we have repeatedly shown in AJPH, the workers most at risk to be infected by Covid-19 in the healthcare, fast-food, shipping, and delivery and other industries are already socially and occupationally vulnerable. Their gig-worker condition compounded with infectious risk and the shortage of personal protective
equipment may result in a tragic excess of preventable deaths among them. NIOSH is trying to fix the shortage of N95 respirators as soon as possible, but hopefully the ordeal will lead Congress to recognize that workers who are deemed essential when the health of the public is threatened are also entitled to a good job.

I’m grateful to all my interviewees for their time and willingness to share their ideas. I also thank Emily D’Agostino and Michael Constanza for comments and edits on an earlier version of the podcast. Francis Jacob paraphrased a folk song which reminds that justice towards the workers exposed to Covid-19 can help build a bridge over these troubled times. This is Alfredo Morabia at AJPH. For more podcasts including podcasts in Chinese and Spanish, visit us at www.ajph.org or subscribe to it on your usual podcast app. A full transcript of the podcast is available on the AJPH website for persons with hearing disabilities. That’s it, thank you for listening, and stay safe.

[musical postlude]