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## Featured News

### **CAL/OSHA'S READOPTION OF ITS COVID-19 EMERGENCY TEMPORARY STANDARD**

On April 21, 2022, California's Occupational Safety and Health Standards Board met and approved what is expected to be the third and final readoption of the COVID-19 Emergency Temporary Standard ("ETS"). The readopted ETS will become law on May 5 and continue in effect until December 31, 2022. At that time, it is expected that a permanent standard will be put in place.

A majority of the readopted ETS will remain consistent with the current version of the ETS. This includes employer obligations for exclusion pay to positive cases, providing testing at no cost to symptomatic employees and close contacts, employee screening for symptoms, contact tracing, and notification obligations to employees of potential exposure.

The changes that are being made to the ETS are in line with California's relaxing of restrictions and provide greater alignment with the California Department of Public Health ("CDPH").

One of the relaxed restrictions allows the use of self-tests without the requirement of being proctored. Instead, employee's may conduct self-tests and provide "another means of independent verification of the results," such as a time-stamped photograph.

Additionally, isolation, quarantine and return to work requirements will now align with the CDPH. Only employees that test positive for COVID-19 are required be excluded from work. Upon testing positive, the employee must stay at home for at least five (5) days from the onset of symptoms or five (5) days from the date of the first positive test if the employee does not develop symptoms. The employee must then take a COVID-19 test on the fifth day or later. If the test result is negative and at least 24 hours have passed without a fever and other symptoms are resolving, the employee is able to return to work. If the employee is unable to test or if the employer does not require a test, the employee must isolate for ten (10) full days. Employers must provide exclusion pay for the entire time that the employee is isolated if the exposure is work-related. When employees return to work in less than ten (10) days, they must wear a face mask in the workplace until ten (10) days



have passed since the date that the COVID-19 symptoms began or, if asymptomatic, from the date of their first positive COVID-19 test.

Close contacts are no longer excluded from the work place under the new ETS standard. Instead, employers are required to “review current CDPH guidance for persons who had close contacts, including any guidance regarding quarantine or other measures to reduce transmission.” Currently, CDPH guidelines encourage close contacts to test three (3) to five (5) days after exposure and to wear a face covering for ten (10) days after exposure. Therefore, employers no longer need to provide exclusion pay to close contacts. Testing remains required for close contacts during outbreaks. If unable to test during outbreaks, the close contacts are required to follow the return-to-work requirements as if they were positive cases.

The new ETS will also eliminate the requirement to have disinfecting and cleaning procedures in place. This includes eliminating the requirement to regularly sanitize commonly touched surfaces such as doorknobs and bathroom surfaces.

Physical distancing and masking requirements have also been relaxed. Employees are no longer required to mask indoors regardless of vaccination status and all requirements regarding maintaining six (6) feet physical distance have been removed. Consistent with the elimination of masking and distancing requirements, the new ETS does away with the distinction between vaccinated and unvaccinated employees.

As stated above, the current ETS remains in effect except as modified by the new readopted ETS. This means that employers continue to be required to comply with Cal/OSHA’s health screening, mandatory testing and contact tracing requirements when applicable.

Cal/OSHA is expected to publish a new set of FAQs for the new ETS. In addition, we hope to see a draft permanent standard in the next few months.

If you have any questions regarding the new ETS, or any employment related issue, please contact Tonya D. Hubinger.



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