New OSHA Guidance on COVID-19

Following the CDC's recent changes, OSHA has again updated its guidance to employers on COVID-19 preventions in the workplace. OSHA now recommends that employers in substantial and high transition areas, which includes almost all of Texas, require all employees to wear a mask in public indoor settings regardless of vaccination status.

In another change, OSHA now advises employers to require <u>vaccinated</u> employees who have close contact with someone with suspected or confirmed COVID-19 to mask in public indoor settings for 14 days after exposure or until they receive a negative test result. The COVID-19 test should be taken no earlier than 3 to 5 days after possible exposure. Vaccinated employees generally do <u>not</u> have to quarantine after a close contact but should mask. Unvaccinated employees must quarantine after a close contact.

OSHA set out roles of employers and workers in responding to COVID-19 with new guidance:

1. **Facilitate Employees getting vaccinated**. Employers should grant paid time off for employees to get vaccinated and recover from any side effects.

2. **Instruct any infected workers, unvaccinated workers who have had close contact with someone who tested positive for SARS-CoV-2, and all workers with COVID-19 symptoms to stay home from work** to prevent or reduce the risk of transmission of the virus that causes COVID-19.

3. **Implement physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers.**

4. **Provide workers with face coverings or surgical masks as appropriate, unless their work task requires a respirator or other PPE.** In addition to unvaccinated and otherwise at-risk workers, the CDC recommends that even fully vaccinated people wear masks in public indoor settings in areas of substantial or high transmission. Fully vaccinated people may appropriately choose to wear masks in public indoor settings regardless of community level of transmission, particularly if they are at risk or have someone in their household who is at risk or not fully vaccinated.

5. **Educate and train workers on your COVID-19 policies and procedures using accessible formats and in languages they understand.** Train managers on how to implement COVID-19 policies. Communicate supportive workplace policies clearly, frequently, and via multiple methods to promote a safe and healthy

workplace. Communications should be in plain language that unvaccinated and otherwise at-risk workers understand.

6. **Suggest or require that unvaccinated customers, visitors, or guests wear face coverings in public- facing workplaces such as retail establishments, and that all customers, visitors, or guests wear face coverings in public, indoor settings in areas of substantial or high transmission.** This could include posting a notice or otherwise suggesting or requiring that people wear face coverings, even if no longer required by your jurisdiction. Individuals who are under the age of 2 or are actively consuming food or beverages on site need not wear face coverings.

7. **Maintain Ventilation Systems.** The virus that causes COVID-19 spreads between people more readily indoors than outdoors. Improving ventilation is a key engineering control that can be used as part of a layered strategy to reduce the concentration of viral particles in indoor air and the risk of virus transmission to unvaccinated and otherwise at-risk workers in particular.

8. **Perform routine cleaning and disinfection after a COVID-19 positive report.**

9. ***Record and report COVID-19 Infections and deaths:*** Under **mandatory OSHA rules in 29 CFR part 1904,** employers are required to record work-related cases of COVID-19 illness on OSHA's Form 300 logs if the following requirements are met:
    (1) The case is a confirmed case of COVID-19;
    (2) The case is work-related (as defined by 29 CFR 1904.5); and
    (3) The case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment, days away from work).
    Employers must follow the requirements in 29 CFR part 1904 when reporting COVID-19 fatalities and hospitalizations to OSHA. More information is available on OSHA's website. Employers should also report outbreaks to local health departments as required and support their contact tracing efforts.

10. ***Implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards:*** Section 11(c) of the OSH Act prohibits discharging or in any other way discriminating against an employee for engaging in various occupational safety and health activities.

11. **Follow other applicable mandatory OSHA standards*:***
    - Requirements for PPE
    - respiratory protection
    - protection from blood borne pathogens and,
    - OSHA's requirements for employee access to medical and exposure records

For more information, please contact Mike Schiff or Tony Stergio.