

## **Summary of OSHA's Subpart U – COVID-19 Emergency Temporary Standard**

### **Effective Date: June 21, 2021**

This summary is prepared to help an employer review some of the components of this Emergency Temporary Standard (ETS). It is not a substitution, however, for reading the entire ETS which can be viewed at <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.502>. This Standard is written in Sections starting with (a) and ending with (s). The sections addressed in this summary are indicated.

#### **§1910.502 Healthcare**

##### **Section (a) Scope and application**

The scope and application of this new Standard:

“Except as otherwise provided in this paragraph, this section applies to all settings where any employee provides healthcare services or healthcare support services.” Employers need to read this section of the Standard to determine whether or not they fall into this scope or one of the exceptions.

You are encouraged to read the entire Emergency Temporary Standard in order to ensure that you are complying with all of the requirements that pertain to your business model. This document is available

##### **Section (b) Definitions**

Some notable Definitions:

- Aerosol-generating procedure includes “and dental procedures: ultrasonic scalers; high-speed dental handpieces; air/water syringes; air polishing; and air abrasion.”
- “Close contact means being within 6’ of any other person for a cumulative total of 15 minutes or more over a 24-hour period during that person’s potential period of transmission. The potential transmission period runs from 2 days before the person felt sick (or, for asymptomatic people, 2 days prior to test specimen collection) until the time the person is isolated.”
- “Healthcare services mean services that are provided to individuals by professional healthcare practitioners (e.g., doctors, nurses, emergency medical personnel, oral health professionals)...”
- “Screen means asking questions to determine whether a person is COVID-19 positive or has symptoms of COVID-19.”

##### **Section (c) COVID-19 plan**

Employers must develop and implement a COVID-19 plan. Here are some key points about that plan:

- Employer with more than 10 employees must prepare a written plan.
- COVID-19 safety coordinator must be designated; this individual must be knowledgeable in infection control principles and practices as they apply to your workplace.
- A Hazard Assessment must be conducted that identifies the potential workplace hazards that relate to COVID-19. Note: Employer that wants to be exempt from providing controls based on employees’ fully vaccinated status must include policies and procedures to determine employees’ vaccination status.
- Seek input and involvement of non-managerial employees and their representatives, if any.
- Monitor the ongoing effectiveness of the plan and update as needed.
- Plan does not need to address each employee individually but can do so generally.

- Effectively communicate and coordinate the hazards and the controls implemented to employees.

Don't forget about the protection of temporary or contract workers. The ETS states that when employees of different employers share the same physical location, each employer must effectively communicate its COVID-19 plan to all other employers, coordinate to ensure that each of its employees is protected, and adjust its COVID-19 plan to address any particular COVID-19 hazards presented by the other employees. There are other requirements for notices in section (c)(7)(ii) that an employer must comply with as well. In that section it states that an employer with one or more employees are working in a physical location controlled by another employer must notify the controlling employer when those employees are exposed to conditions at that location that do not meet the requirements of this section.

#### **Section (d) Patient screening and management:**

"Employers need to monitor and limit entry when workers are providing patient care. They also need to screen patients, clients and visitors." It goes on to state to "screen and triage all clients, patients, residents, delivery people and other visitors and other non-employees entering the setting." Follow CDC's "COVID-19 Infection Prevention and Control Recommendations"

#### **Section (e) Standard and Transmission-Based Precautions**

Follow Standard and Transmission-Based Precautions in accordance with CDC's "Guidelines for Isolation Precautions".

#### **Section (f) Personal protective equipment (PPE)**

Personal protective equipment must be provided and employer must ensure that employees wear the PPE; facemasks must meet the definition in this ETS. Exceptions to facemasks are detailed in this section.

#### **Section (g) Aerosol-generating procedures on a person with suspected or confirmed COVID-19**

Aerosol-generating procedures on a person with suspected or confirmed COVID-19: just applies to employers who treat patients who are infected with COVID-19.

#### **Section (h) Physical distancing**

Physical distancing – separate by at least 6 feet when indoors unless employer can demonstrate that physical distancing is not feasible for a specific activity.

#### **Section (i) Physical barriers**

Physical barriers are required at fixed work locations outside of direct patient care areas (entry way/lobby, check-in desks, triage, hospital pharmacy windows, bill payment) where employees are not separated from all other people by at least 6 feet of distance. The barrier must be sized to block face-to-face pathways between individuals based on where each person would normally stand or sit. The barrier may have a pass-through space at the bottom for objects and merchandise.

#### **Section (j) Cleaning and disinfection**

Follow the CDC's "COVID-19 Infection Prevention and Control Recommendations" and CDC's "Guidelines for Environmental Infection Control", both of these are incorporated into this Standard.

### **Section (k) Ventilation**

Follow HVAC manufacturer's instructions and design specifications; maintain air filters and replace as necessary as well as ensuring intake ports are cleaned, maintained, and cleared of any debris that may affect the function and performance.

### **Section (l) Health screening and medical management**

Employers must screen each employee before each work day and each shift. It states that screening may be conducted by asking employees to self-monitor before reporting to work or may be conducted in-person by the employer. SafeLink's recommendation is that self-monitoring and onsite monitoring be conducted. Employees can self-monitor so they don't come to work if they are sick. The screening at the workplace would provide the best evidence of the employer not allowing an employee in who is suspected or confirmed with COVID-19. That evidence may be needed if an employee complaint is filed with OSHA.

This section details how the employer is to notify employees to inform employer of any COVID-19 illness or symptoms, exposure in the workplace. It states that if employees have exposure to a person with suspected or confirmed COVID-19 then a respirator must be worn by the employees. Another reason to continue with patient screening procedures to ensure you are not allowing anyone suspected of or confirmed with COVID-19.

#### **Medical removal from the workplace:**

Employee tests positive for COVID-19: Immediately remove from workplace.

Employee told by licensed HC provider that they are suspected to have COVID-19 or employee experiencing recent loss of taste and/or smell or is experiencing both fever of or greater than 100.4 degrees F and new unexplained cough associated with shortness of breath (Employer can use other symptoms as defined by CDC and add to this list.)

- Immediately remove from workplace
- Keep removed until
  - Receives guidance from a licensed HC provider or CDC's "Isolation Guidance" and CDC's "Return to Work Healthcare Guidance" OR
  - Keep employee removed and provide a COVID-19 polymerase chain reaction (PCR) test at no cost to the employee.
    - If test results are negative employee may return to work immediately.
    - If test results are positive employ must stay removed from workplace until they meet the Return to Work criteria
    - If employee refuses to take the test then employer must continue to keep employee removed from the workplace consistent with the Return to Work criteria. (Employer would not be obligated to provide the medical removal protection benefits.) Employer must make reasonable accommodations for employees who cannot take the test for religious or disability-related medical reasons.

If employer notifies employee of close contact in the workplace to a person who is COVID-19 positive:

- Immediately remove from workplace and either
  1. Keep employee removed for 14 days; or

2. Keep employee removed and provide COVID-19 test at least 5 days after the exposure at no cost to employee.
  - If test results are negative employee may return to work after 7 days following exposure.
  - If test results are positive employee must comply with Return to Work criteria.
  - If employee refuses to take test then same criteria as above applies.
- If employee have no symptoms and have been fully vaccinated against COVID-19 and 2 weeks or more has passed since the final dose OR employee had COVID-19 and recovered within the past 3 months, they do not have to be removed from the workplace.

**Medical removal protection benefits:**

- Employers with 10 or fewer employees on June 21, 2021 are not required to comply with this section.
- If employer allows employee to work remotely or in isolation employer must continue to pay the employee the regular pay and benefits had employee not been absent from work
- When employer removes an employee as stated in section above:
  - Employer must continue benefits and also pay same regular pay had employee not been absent from work – up to \$1,400 per week – until employee meets the return to work criteria.
  - Employer with fewer than 500 employees: Pay up to the \$1,400 per week but beginning in the 3<sup>rd</sup> week of removal the amount is reduced to only 2/3 of the same regular pay up to \$200 per day (\$1,000 per week in most cases)
  - This payment obligation is reduced by the amount of compensation the employee receives from any other source, such as publicly or employer-funded compensation program (paid sick leave, administrative leave) for earnings lost during the period of removal or any additional source of income the employee receives that is made possible by virtue of the employee's removal.
  - When employee returns they must not suffer any adverse action as a result of removal and must retain all rights and benefits including employee's right to their former job status.

CDC's "Strategies to Mitigate Healthcare Personnel Staffing Shortages" allows elimination of quarantine for certain healthcare workers, but only as a last resort.

**(m) Vaccination**

- Employer must support COVID-19 vaccination for each employee by providing reasonable time and paid leave (paid sick leave, administrative leave) to each employee for vaccination and any side effects experienced following vaccination.

**(n) Training**

Training must be provided to each employee in language and at a literacy level employee understands and must include:

- How COVID-19 is transmitted
- Importance of handwashing
- Ways to reduce risk of spreading COVID-19 through covering nose and mouth

- Signs and symptoms of the disease
- Risk factors for severe illness
- When to seek medical attention
- Employer-specific policies and procedures on patient screening and management
- Tasks and situations in workplace that could result in COVID-19 infection
- Workplace-specific policies and procedures to prevent spread of COVID-19 that are applicable to employee's duties
- Use of common areas
- Use of shared equipment
- When PPE is required, limitations of PPE, how to don and doff PPE, how to care for, store, clean, maintain and dispose of PPE
- Work-specific policies and procedures for cleaning and disinfection
- Employer-specific policies and procedures on health screening and medical management
- Available sick leave policies, any COVID-19-related benefits to which employee may be entitled
- Identity of the safety coordinator(s) who are specified in the COVID-19 plan
- How employee can obtain copies of the ETS and any employer-specific policies and procedures including the written COVID-19 plan, if required

**Other training criteria:**

- Employer can rely on training completed prior to 6/21/2021 to the extent that it meets the relevant training
- Employer must ensure that additional training occurs when changes occur that affect employee's risk of contracting COVID-19 at work, policies or procedures change, or indication that employee has not retained the necessary understanding or skill.
- Training must be overseen or conducted by a person knowledgeable in the covered subject matter as it relates to the employee's job duties.
- Training must provide an opportunity for interactive questions and answers with a person knowledgeable in the covered subject matter as it relates to the employee's job duties.

**(o) Anti-Retaliation**

- Employer must inform each employee that:
  - Employees have a right to the protections required by the ETS, and
  - Employers are prohibited from discharging or in any manner discriminating against any employee for exercising their right to the protections required by the ETS or for engaging in actions that are required by the ETS.

**(p) Requirements implemented at no cost to employees.**

**(q) Recordkeeping for employers with more than 10 employees on 6/21/2021:**

- Retain all versions of the COVID-19 plan implemented to comply with this section while this section remains in effect.
- Establish and maintain a COVID-19 log to record each instance identified by the employer in which an employee is COVID-19 positive, regardless of whether the instance is connected to exposure to COVID-19 at work.
  - Log must contain employee's name, one form of contact information, occupation, location where the employee worked, date of the employee's last day at the workplace,

date of the positive test for, or diagnosis of, COVID-19, and the date the employee first had one or more COVID-19 symptoms, if any were experienced.

- Information must be recorded on log within 24 hours of employer learning that employee is COVID-19 positive and must be maintained as though it is a confidential medical record and must not be disclosed except as required by this ETS or other federal law.
- Log must be maintained and preserved while this section remains in effect.
- The ETS notes that the information on this log is intended to assist employers with tracking and evaluating instances of employees who are COVID-19 positive without regard to whether those employees were infected at work. The tracking will help evaluate potential workplace exposure to other employees.
- These records must be made available to OSHA by the end of the next business day after a request.
- Employers must continue to record all work-related confirmed cases of COVID-19 on their OSHA Forms 300, 300A and 301 or equivalent forms if required to do so under 29 CFR part 1904.

**(r) Reporting COVID-19 fatalities and hospitalizations to OSHA:**

- Report each work-related COVID-19 fatality within 8 hours of employer learning about the fatality.
- Report each work-related COVID-19 in-patient hospitalization within 24 hours of employer learning about the in-patient hospitalization.

**(s) Dates**

Effective date of the ETS is June 21, 2021. Employers must comply with all requirements except for requirements associated with *physical barriers, ventilation, and training* **by July 6, 2021**. Employers must comply with the requirements associated with *physical barriers, ventilation, and training* **by July 21, 2021**.

**§1910.502(f)(4)**

Respirators:

- Reuse of single-use respirators (e.g., filtering facepiece respirators such as N95 or KN95) is discouraged.
- Respirators can be reused if:
  - It is not visibly soiled or damaged;
  - It has been stored in a breathable storage container (e.g., paper bag) for at least 5 calendar days between use and has been kept away from water or moisture;
  - Employee does a visual check in adequate lighting for damage to the respirator's fabric or seal;
  - Employee successfully completes a user seal check
  - Employee uses proper hand hygiene before putting the respirator on and conducting the user seal check; and
  - The respirator has not been worn more than five days total