New U.S. DOL Emergency Temporary Standard for Healthcare Workers

Thursday, June 24, 2021


The ETS includes numerous requirements applicable to employees working in healthcare settings where suspected or confirmed COVID-19 patients are treated. This includes employees in hospitals, nursing homes, and assisted living facilities; emergency responders; home healthcare workers; and employees in ambulatory care facilities. The ETS includes carveouts for specific workplaces, including certain workplaces where all workers are fully vaccinated and people with suspected or confirmed COVID-19 are not present.

The key provisions of the ETS require employers to:

- Develop and implement a COVID-19 plan that includes, among other things, policies and procedures to minimize the risk of COVID-19 transmission to employees;
- Screen and triage patients and other non-employees, limit and monitor points of entry to settings where direct patient care is provided, and implement patient management strategies;
• Provide and ensure each employee wears a facemask when indoors and when operating a vehicle with other people for work purposes; provide and ensure employees use respirators and other PPE under specific circumstances;

• Keep people at least 6 feet apart when indoors;

• Install cleanable or disposable solid barriers at each fixed work location in non-patient care areas where employees are not separated from other people by at least 6 feet;

• Satisfy specific requirements regarding the cleaning and disinfection of surfaces and equipment;

• Satisfy specific requirements regarding HVAC systems;

• Screen employees before each workday and shift; and require employees to notify the employer when the employee is COVID-19 positive, experiencing symptoms, or is suspected of having COVID-19;

• Notify certain employees within 24 hours when a person who has been in the workplace is COVID-19 positive; follow requirements for removing employees from the workplace; and, if the employer has more than 10 employees, provide certain medical removal protection benefits to employees;

• Provide reasonable time and paid leave for vaccinations and vaccine-related side effects;

• Ensure all employees receive COVID-19 specific training;

• Comply with certain recordkeeping and reporting requirements; and

• Inform employees of their rights to the protections provided by the ETS.

All of the ETS’ requirements must be implemented without any cost to employees, and no employees can be retaliated against for exercising these rights or for engaging in any actions required by the ETS.

Employers must comply with most provisions within 14 days, and with provisions involving physical barriers, ventilation, and training within 30 days. OSHA stated that it will use its discretion to avoid citing employers who are making a good faith effort to comply with the ETS. OSHA will continue to monitor trends in COVID-19 infections and deaths as more of the workforce and the general population become vaccinated and the pandemic continues to evolve. OSHA will update the ETS as appropriate in light of new information.

This article is not intended to be an exhaustive description of OSHA’s COVID-19 related guidelines, but instead represents a general summary of the ETS’ requirements. Employers should refer to the full text of the ETS which can be found at 29 CFR 1910.502 or here.

Additionally, this article does not address the potential impacts of the numerous other local, state and federal orders that have been issued in response to the