

UPDATE:
June 29, 2021



Covid-19

Coronavirus / COVID-19
Response Team

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**OSHA's COVID-19
Emergency Temporary Standard for
Healthcare Employees**

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Agenda

- WHY is there an ETS?
- WHEN does the ETS apply?
- To WHOM/WHERE does the ETS apply?
- WHAT does the ETS require/HOW do I comply with the ETS?

WHY Is There An ETS?

- Purpose:
 - OSHA has determined that employee exposure to COVID-19 presents a grave danger to workers in healthcare settings where people with COVID-19 are reasonably expected to be present
- Compliance:

Type of violation	Maximum Penalty
Serious	\$7,000 per violation
Other-than-Serious (OTS)	\$7,000 per violation
Failure to Abate	\$7,000 per day beyond abatement period
Willful	\$70,000 per violation
Repeat	\$70,000 per violation

WHEN Does The ETS Apply?

- Announced: June 10, 2021
- Effective: June 21, 2021 (date of publication in Federal Register)
- Compliance dates:
 - Most provisions: July 6th, 2021 (within 14 days of publication)
 - Remaining provisions: July 21, 2021 (within 30 days of publication)
- Expiration:
 - OSHA Sec. 6(c)(3): Requires OSHA to promulgate a permanent standard within 6 months of promulgating an ETS
 - MIOSHA: December 22, 2021

To WHOM/WHERE Does The ETS Apply?

- Applies to “all settings where any employee provides **healthcare services** or **healthcare support services**.”
- Healthcare services:
 - Services that are provided to individuals by professional healthcare practitioners (e.g., doctors, nurses, emergency medical personnel, oral health professionals) for the purpose of promoting, maintaining, monitoring, or restoring health.
 - Delivered through various means, including: hospitalization, long-term care, ambulatory care, home health and hospice care, emergency medical response, and patient transport.

To WHOM/WHERE Does The ETS Apply?

- Applies to “all settings where any employee provides **healthcare services** or **healthcare support services**.”
- Healthcare support services:
 - Services that facilitate the provision of healthcare services.
 - Includes patient intake/admission, patient food service, equipment and facility maintenance, housekeeping services, healthcare laundry services, medical waste handling services, and medical equipment cleaning/reprocessing services.

Scope: Does Not Apply At All To:

1. Provision of first aid by an employee who is not a licensed healthcare provider;
2. The dispensing of prescriptions by pharmacist in retail settings;
3. Non-hospital ambulatory care settings where:
 - a) All non-employees are screened prior to entry, and
 - b) People with suspected or confirmed COVID-19 are not permitted to enter
4. Well-defined hospital ambulatory care settings, where:
 - a) All employees are fully vaccinated, and
 - b) All non-employees are screened prior to entry, and
 - c) People with suspected or confirmed COVID-19 are not permitted to enter
5. Home healthcare settings where:
 - a) All employees are fully vaccinated, and
 - b) All non-employees are screened prior to entry, and
 - c) People with suspected or confirmed COVID-19 are not present
6. Healthcare support services not performed in a healthcare setting
7. Telehealth serviced performed outside of a setting where direct patient care occurs

Limited Scope:

- Does not apply in full:
 - Where a healthcare setting is embedded within a non-healthcare setting, the ETS applies only to the embedded healthcare setting.
 - Where emergency responders or other licensed healthcare providers enter a non-healthcare setting to provide healthcare services, the ETS applies only to the provision of the healthcare services by that employee.
- Some requirements do not apply to employees who are fully vaccinated:
 - In well-defined areas where:
 1. there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present,
 2. some requirements (PPE, Physical Distancing, and Physical Barriers) do not apply to employees who are fully vaccinated.

Scope: Examples

- Dentist office
- School nurse
- Pharmacy
- Hospital lab, radiology services
- PT/OT/SLP clinic
- Home health
- Crisis Services facility
- Building that houses some healthcare services

WHAT Does The ETS Require?

1. COVID-19 Plan

- Employer must designate one or more workplace COVID-19 safety coordinators; identity of the safety coordinator must be documented in COVID-19 plan
- Conduct a workplace-specific hazard assessment to identify potential workplace hazards
- **NEW:** If invoking exceptions based on “fully vaccinated status,” employers COVID-19 plan must include policies/procedures to determine employees’ vaccination status
- **NEW:** Employer must seek input and involvement of non-managerial employees and their representatives in the hazard assessment and the development and implementation of the COVID-19 plan

1. COVID-19 Plan (Cont.)

- Employer must monitor ongoing effectiveness of the COVID-19 plan and update as needed
- COVID-19 Plan must address the hazards identified in the assessment and include policies to:
 - Minimize risk of transmission
 - **NEW:** Effectively communicate and coordinate with *other employers*
 - COVID-19 Plan
 - Notify “controlling employer” when that employer’s employees are exposed to hazardous conditions
 - Protect employees who enter into locations not covered by the OSH act

2. Patient Screening And Management

- In settings where direct patient care is provided, the employer must:
 - Limit and monitor points of entry to the setting,
 - Screen and triage all clients, patients, residents, delivery people and other visitors, and other non-employees entering the setting,
 - Implement other patient management strategies in accordance with the CDC's COVID-19 Infection Prevention and Control Recommendations

3. Standard And Transmission-Based Precautions

- Employers must develop and implement policies and procedures that adhere to Standard and Transmission-Based Precautions in accordance with the CDC's Guidance for Isolation Precautions

4. Personal Protective Equipment

- **NEW:** Facemasks
 - Employers must provide and ensure that employees wear a “surgical, medical procedure, dental, or isolation mask that is FDA-cleared, authorized by the FDA EUA, or offered or distributed as described in an FDA enforcement policy.”

4. Personal Protective Equipment (Cont.)

- **Facemasks EXCEPTION**
 - When an employee is alone in a room
 - While an employee is eating and drinking at the workplace, provides each employee is at least 6 feet away from any other person, or separated from other people by a physical barrier
 - When employee is wearing respiratory protection
 - When it is important to see a persons’ mouth and conditions do not permit a facemask that is constructed of clear plastic; face shield required
 - When employees cannot wear facemask due to medical necessity or religious belief
 - Where the use of a facemask presents a hazard of serious death or

4. Personal Protective Equipment (Cont.)

- Respirators and other PPE for exposure to people with suspected or confirmed COVID-19
 - Employers must provide:
 - A respirator and ensure it is used in accordance with OSHA Resp. Protection Standard
 - Gloves, an isolation gown or protective clothing, and eye protection to each employee and ensure used in accordance with OSHA requirements
- Respirators and other PPE during aerosol-generating procedures performed on a person with suspected or confirmed COVID-19
 - Employer must provide:
 - A respirator to each employee and ensure it is used in accordance with OSHA Resp. Protection Standard

4. Personal Protective Equipment (Cont.)

- Respirators and other PPE during aerosol-generating procedures performed on a person with suspected or confirmed COVID-19 (cont.)
 - Gloves, an isolation gown or other protective clothing, and eye protection
- Use of Respirators when not required
 - **NEW:** Follow new “Mini Respiratory Protection Program”
 - Employee voluntary use: Employers must provide certain notices
 - Employer voluntary requirement:
 - Training
 - User seal check
 - Subject to and must monitor re-use requirements
 - Require discontinuing use of respirators

4. Personal Protective Equipment (Cont.)

- Respirators and other PPE based on Standard and Transmission-Based Precautions
 - Employer must:
 - Provide protective clothing and equipment to each employee in accordance with standard and Transmission-Based Precautions in healthcare settings in accordance with CDC's "Guidelines for Isolation Precautions", and
 - Ensure that the protective clothing in equipment is used

5. Aerosol-Generating Procedure On A Person With Suspected Or Confirmed COVID-19

- Employer must limit the number of employees present during the procedure to only those essential for patient care and procedure support,
- The employer must ensure that the procedure is performed in an "airborne infection isolation room" (AIIR), if available,
- After the procedure is completed, the employer must clean and disinfect the surfaces and equipment in the room or area

6. Physical Distancing

- Employer must ensure that each employee is separated from all other people by at least 6 feet when indoors unless the employer can demonstrate distancing is not feasible
- When the employer establishes it is not feasible, employer must ensure that the employee is as far apart from all other people as feasible

7. Physical Barriers: **By July 21**

- Each fixed work location outside of direct patient care areas where each employee is not separated from all other people by at least 6 feet, the employer must install cleanable or disposable solid barriers, except where the employer can demonstrate it is not feasible.

8. Cleaning And Disinfection

- Patient care areas, resident rooms, medical devices and equipment: Employer must follow standard practices in accordance with
 - CDC’s “COVID-19 Infection Prevention and Control Recommendations” and
 - CDC’s “Guidelines for Environmental Infection Control”

8. Cleaning And Disinfection (Cont.)

- All other areas, employers must:
 - Clean high-touch surfaces and equipment at least one a day,
 - When the employer is aware that a person who is COVID-19 positive has been in the workplace within the last 24 hours, clean and disinfect in accordance with CDC’s “Cleaning and Disinfecting Guidance” any areas, materials, equipment that have likely been contaminated by the person who is COVID-19 positive
- The employer must provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible hand washing facilities

9. Ventilation: **By July 21**

- HVAC is used in accordance with HVAC manufacturer's instructions and design specifications
- The amount of outside air circulated through HVAC and number of air changes per hour are maximized to the extent appropriate
- All air filters are rated MERV 13 or higher, if compatible with HVAC system
- All air filters are maintained and replaced as necessary to ensure the proper function and performance of HVAC
- All intake ports are cleaned, maintained, and cleared of any debris
- AIRR: Employer must maintain and operate in accordance with design and construction

10. Health Screening And Medical Management Screening

- Must screen each employee before each work day and each shift
- If COVID-19 testing is part of screening, provide COVID-19 test to each employee at no cost
- Employee Notifications to Employer
 - Employer must require each employee to notify their employer when employee (any):
 - COVID-19 positive
 - Has been told by a licensed healthcare provider that they are suspected to have COVID-19
 - **NEW:** Experiencing recent loss of taste or smell with no other explanation
 - **NEW:** Is experiencing both a fever and new unexplained cough associated with shortness of breath

10. Health Screening And Medical Management Screening (Cont.)

- **Employer Notifications**
 - Within 24 hours
 - Notify each employee who was not wearing a respirator and any other PPE *and* has been in close contact with the person *in the workplace*
 - Notify all other employees who were not wearing a respirator and any other required PPE *and* worked in a well-defined portion of the workplace where the person was present
 - Notify other employers whose employees were not wearing respirator and any other PPE *and* have been in close contact with that person or worked in a well-defined portion of a workplace in which the person was present
- Maintain confidentiality
- Notification *not* triggered by presence of a patient with confirmed COVID-19 in the workplace

10. Health Screening And Medical Management Screening (Cont.)

- **Medical removal from the workplace**
 - Employee who has tested positive for COVID-19
 - Employee is suspected to be positive for COVID-19/ displaying symptoms
 - Keep removed until employee meets RTW criteria, *or*
 - Keep employee removed and provide PCR test to employee
 - If PCR negative: Employee can RTW immediately
- **Close contact: But only if that employee**
 - Was not wearing a respirator and any other required PPE, *and* has been in close contact with the COVID-19 positive person *in the workplace*, *OR*
 - Is NOT fully vaccinated *OR*
 - Has NOT recovered from COVID-19 in the past 3 months
- **Remove until:**
 - 14 Days, *or*
 - Test at Day 5/Return at Day 7 (if negative)

10. Health Screening And Medical Management Screening (Cont.)

- **NEW:** Medical removal protection benefits
 - Employers with 10 or less employees: Not required to provide benefits
 - Employers with more than 10 employees:
 - Must pay the employee the same regular pay the employee would have received had the employee not been absent from work, up to a \$1,400/week cap, until employee meets RTW criteria
- Fewer than 500 employees?
 - Beginning in the 3rd Week: 2/3 of same regular pay the employee would have received, up to \$200/day week cap.
- Employer may meet payment obligations via publicly or employer-funded compensation program (e.g., paid sick leave, administrative leave)
- **Return to Work timelines**
 - Guidance from licensed healthcare provider, or CDC's Isolation Guidance, or CDC's "Return to Work Healthcare Guidance"

11. Vaccination

- **NEW:** Employer must support COVID-19 vaccination for each employee by providing reasonable time and paid leave (such as paid sick leave) to each employee for vaccination and any side effects experienced following vaccination.

12. Training: **By July 21**

- Provide Information on:
 - COVID-19, including information on transmission, importance of hand hygiene, reducing spread by covering the nose and mouth, signs and symptoms of the disease, risk factors of severe illness, when to seek medical attention;
 - **NEW:** Employer-specific policies and procedures on patient screening and management;

12. Training, Including Information On (Cont):

- **NEW:** Tasks and situations in the workplace that could result in COVID-19 infection;
- **NEW:** Workplace-specific policies and procedures to prevent the spread that are applicable to the employee's duties;
- **NEW:** Employer-specific multi-employer workplace agreements related to infection control policies and procedures, the use of common areas, the use of shared equipment that affect employees at the workplace;
- **NEW:** Employer-specific policies and procedures for PPE
- **NEW:** Workplace-specific policies and procedures for cleaning and disinfection;
- **NEW:** Employer-specific policies and procedures on health screening and medical management;

12. Training, Including Information On (Cont):

- **NEW:** Available sick leave policies, any COVID-19 related benefits that the employee may be entitled under applicable law and other supportive policies and practices;
- **NEW:** The identity of the safety coordinator(s) specified in the COVID-19 plan;
- **NEW:** How the employee can obtain copies of the ETS and any employer-specific policies and procedures developed because of the ETS, including the employer's COVID-19 Plan.
- **NEW:** Additional training as needed (changes to risks, policies, employee's understanding).
- **NEW:** Knowledgeable person must oversee or conduct training.
- **NEW:** Training must provide opportunity for interactive Q&A with knowledgeable person.

13 & 14: Anti-Retaliation and No Cost

- 13. NEW:** Anti-retaliation: Employer must inform each employee that:
- Employees have a right to protections required by ETS
 - Employers are prohibited from discharging/discriminating against employee for exercising rights protected by ETS

14. No Cost

16. Reporting

- Fatality: Work-related COVID-19 fatality within 8 hours
- In-patient hospitalization: Work-related COVID-19 in-patient hospitalization within 24 hours



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