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California's COVID-19 Emergency Protocols and Mandatory Notice to Employees

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Cal/OSHA Emergency Temporary Standards

Effective immediately, employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which shall include:

- 1) A system for communicating;
- 2) Identification and evaluation of COVID-19 hazards;
- 3) Investigating and responding to COVID-19 cases in the workplace;
- 4) Correction of COVID-19 hazards;
- 5) Training and instruction to employees;
- 6) Physical Distancing;
- 7) Face coverings;
- 8) Other engineering controls, administrative controls, and personal protective equipment;
- 9) Reporting, recordkeeping, and access;
- 10) Exclusion of COVID-19 cases; and
- 11) Return to work criteria.

Cal/OSHA Emergency Temporary Standards (continued)

3) Investigating and responding to COVID-19 cases in the workplace. . . .

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine day and time.

2. Determine who may have had a COVID-19 exposure.

3. Give notice of the potential COVID-19 exposure, within one business day.

a. Employees

b. Independent Contractors

4. Offer COVID-19 testing at no cost to employees during their working hours.

5. Investigate.

Cal/OSHA Emergency Temporary Standards

- Exclusion of COVID-19 cases from the workplace
 - COVID-19 cases excluded until return-to-work requirements met
 - Exclude employees “with COVID-19 exposure” for 14 days after exposure
 - Employees must maintain earnings, seniority and benefits while excluded
- Return to work criteria for COVID-19 cases
 - With symptoms, employee shall not return until
 - At least 24 hours since temperature of 100.4
 - COVID-19 symptoms have improved
 - At least 10 days since COVID-19 symptoms first appeared
 - Without symptoms, minimum of 10 days since date of collection of first positive COVID-19 test

Ca/OSHA Emergency Temporary Standards (continued)

Multiple COVID-19 Infections and COVID-19 Outbreaks:

- Location of a COVID-19 outbreak (three or more COVID-19 cases in an exposed workplace within a 14-day period).
 - COVID-19 testing
 - “Exposed workplace” means any work location, working area, or common area at work used or accessed by a COVID-19 case during the high-risk period, including bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The exposed workplace does not include buildings or facilities not entered by a COVID-19 case.
 - Once immediately, then again one week later. After the first two tests, continuous testing of employees who remain at the workplace at least once per week.
 - Exclude COVID-19 cases and immediately investigate.

Ca/OSHA Emergency Temporary Standards (continued)

Multiple COVID-19 Infections and COVID-19 Outbreaks (continued):

- Contact the local health department within 48 hours
- Total number of COVID-19 cases
 - name, contact information, occupation, workplace location, business address, the hospitalization and/or fatality status, and North American Industry Classification System code of the workplace of the COVID-19 case, and any other information requested by the local health department.

Ca/OSHA Emergency Temporary Standards (continued)

Major COVID-19 Outbreaks:

- 20 or more COVID-19 cases in an exposed workplace within a 30-day period.
 - Shall apply until there are no new COVID-19 cases detected in a workplace for a 14-day period.
- Twice a week COVID-19 testing to all employees present at the exposed workplace during the relevant 30-day period(s) and who remain at the workplace.
 - No cost to employees during employees' working hours.

Cal/OSHA Emergency Temporary Standards (continued)

Major COVID-19 Outbreaks (continued):

- Exclusion from the workplace and investigate illness.
- COVID-19 hazard corrections:
 - In buildings or structures with mechanical ventilation;
 - Respiratory protection program or changes to an existing program;
 - Halt some or all operations at the workplace; and
 - Any other control measures deemed necessary by Cal/OSHA.

California AB 685

Effective January 1, 2021, and repealed January 1, 2023

- Cal/OSHA may shut down an operation or process or prohibit entry into such place of employment
 - Limited to the immediate area in which the imminent hazard exists.
- Notice not to be removed except by an authorized Cal/OSHA representative, and until made safe and the required safeguards or safety appliances or devices are provided.

California AB 685 (continued)

Definitions:

- “Qualifying individual” means any person who has any of the following:
 - a) A laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health.
 - b) A positive COVID-19 diagnosis from a licensed health care provider.
 - c) A COVID-19-related order to isolate provided by a public health official.
 - d) Died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county.
- “Worksite” means the building, store, facility, agricultural field, or other location where a worker worked during the infectious period. It does not apply to buildings, floors, or other locations of the employer that a qualified individual did not enter. In a multiworksite environment, the employer need only notify employees who were at the same worksite as the qualified individual.
- “Notice of potential exposure” means any of the following:
 - a) Notification to the employer or representative from a public health official or licensed medical provider that an employee was exposed to a qualifying individual at the worksite.
 - b) Notification to the employer or representative from an employee, or their emergency contact, that the employee is a qualifying individual.
 - c) Notification through the testing protocol of the employer that the employee is a qualifying individual.
 - d) Notification to an employer or representative from a subcontracted employer that a qualifying individual was on the worksite of the employer receiving notification.

California AB 685 (continued)

If an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer shall take all of the following actions within one business day of the notice of potential exposure:

- 1) Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19 in a manner the employer normally uses to communicate employment-related information (shall be in both English and the language understood by the majority of the employees).
- 2) Provide a written notice to the exclusive representative, if any, of employees under paragraph (1).
- 3) Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee.
- 4) Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, on the disinfection and safety plan that the employer plans to implement and complete per the guidelines of the federal Centers for Disease Control.

California AB 685 (continued)

- A COVID-19 “outbreak”: at least three COVID-19 cases among workers at the same worksite within a 14-day period.
- Within 48 hours, notify the local public health agency of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual.
 - business address and NAICS code of the worksite where the qualifying individuals work, subsequent laboratory-confirmed cases of COVID-19 at the worksite.

Cal/OSHA Notes

- Employer-provided housing
- Employer-provided transportation
- Cal/OSHA Model CPP:
 - www.dir.ca.gov/dosh/dosh_publications/ CPP.doc

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