DECEMBER 31, 2021 | LEGISLATIVE & STANDARDS BOARD UPDATES

Cal/OSHA Aligns with CDC's Updated Guidance for Isolation and Quarantine Time

CDC recently updated and shortened its recommended isolation and quarantine periods for the general population. To be precise, CDC issued a media statement laying out its new guidance, but CDC's actual Isolation Guidance webpage has not yet been updated. CDC explained in a statement that "[b]oth updates [to the isolation and quarantine periods] come as the Omicron variant continues to spread throughout the U.S. and reflects the current science on when and for how long a person is maximally infectious."

Then just yesterday, California issued public health guidance that effectively aligns the Cal/OSHA COVID-19 Emergency Temporary Standard's (ETS) return-to-work criteria with this CDC guidance.

How Does CDC's New Guidance Impact Isolation and Quarantine Periods?

With respect to isolation (which relates to behavior after a confirmed infection), CDC states: "[g]iven what we currently know about COVID-19 and the Omicron variant, CDC is **shortening the recommended time for isolation from 10 days for people with COVID-19 to 5 days, if asymptomatic, followed by 5 days of wearing a mask** when around others." Explaining the change, CDC maintains that it is "motivated by science demonstrating that the majority of SARS-CoV-2 transmission occurs early in the course of illness, generally in the 1-2 days prior to onset of symptoms and 2-3 days after. Therefore, people who test positive should isolate for 5 days, and if asymptomatic at that time, they may leave isolation if they mask for 5 days to minimize the risk of infecting others."

Additionally, with respect to quarantine (which refers to the time following exposure to the virus or close contact with someone known to have COVID-19), CDC states:

"[f]or people who are unvaccinated or are more than six months out from their second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, CDC now recommends quarantine for 5 days followed by strict mask use for an additional 5 days." CDC also provides that, "[a]lternatively, if a 5-day quarantine is not feasible, it is imperative that an exposed person wear a well-fitting mask at all times when around others for 10 days after exposure."

For **individuals who have received their booster shot, CDC states that such individuals do not need to quarantine following an exposure, but should wear a mask for 10 days** after the exposure.

Finally, for all those exposed to the virus or who experienced a close contact, CDC provides that best practice would also include a test for SARS-CoV-2 at day 5 after exposure, and that, if symptoms occur, individuals should immediately quarantine until a negative test confirms symptoms are not attributable to COVID-19.

To summarize the new recommendations, CDC provides the following graphics:

How Does CDC's New Guidance Affect Cal/OSHA's COVID-19 ETS?

Cal/OSHA's COVID-19 ETS – as approved for a second re-adoption effective January 14, 2022 – includes requirements for isolation and quarantine periods considerably more limiting than under current CDC guidance. This revised draft shows in redlined text the latest changes from the current emergency regulation. Specifically, the Cal/OSHA ETS requires that employees testing positive for COVID-19 (or otherwise considered "COVID-19 cases") not return to work for at least 10 days after COVID-19 symptoms first appeared, or, where employees did not develop COVID-19 symptoms, a minimum of 10 days must have passed since the date of specimen collection of the first positive COVID-19 test.

In addition, employees having a close contact but never developing any COVID-19 symptoms may return to work after 14 days have passed since the last known close contact, subject to two exceptions recognizing a shorter duration where specific requirements are met. First, the quarantine period may be shortened to 10 days since the last known close contact if the employee wears a face covering and "maintains six feet of distance from others while at the workplace" for 14 days following the last date of close contact. Second, the quarantine period may be shortened further to 7 days since the last known close contact if the employee (1) tested negative for COVID-19 using a COVID-19 test with the specimen taken at least 5 days after the last known close contact, and (2) for 14 days following the last date of close contact wears a face covering and maintains six feet of distance from others while at the workplace. The requirement to "maintain" physical distancing is infeasible in most workplaces making these exceptions illusory.

In a promising development for California employers, however, Governor Newsom recently announced that "California will align with the CDC's updated guidelines for isolation and quarantine time." Then yesterday on the heels of this announcement, the California Department of Public Health (CDPH) issued guidance "for local health jurisdictions" on isolation and quarantine of the general public. In that guidance document, CDPH updated isolation and quarantine recommendations for the general public, in accordance with timeframe recommendations from the CDC.

CDPH provides the following graphics summarizing the new recommendations:

Based on CDPH's new guidance, the isolation and quarantine periods under the COVID-19 ETS's return-to-work criteria (Sec. 3205(c)(10)) are replaced by operation of existing executive order. Specifically, Executive Order

N-84-20 states that "[t]he exclusion periods required in California Code of Regulations, Title 8, section 3205(c)(10) and the periods for which a worker shall not return to work specified in section 3205(c)(11) shall be suspended to the extent that they exceed the longer of:

a. ***Any applicable quarantine or isolation period recommended by the CDPH***, including in the December 14, 2020 Updated COVID19 Quarantine Guidelines; or

b. Any applicable quarantine or isolation period recommended or ordered by a local health officer who has jurisdiction over the workplace.

We understand that DOSH will update its posted Frequently Asked Questions (FAQs) clarifying that the new CDPH recommendations replace what is required in the Cal/OSHA ETS's return-to-work criteria pursuant to Executive Order N-84-20.

So there you have it. A timely reprieve from Cal/OSHA's onerous isolation and quarantine periods as we head into the New Year.