

New—The COVID-19 Employer Playbook

Considerations For Employee COVID-19 Testing

July 27, 2020

On Friday the California Department of Public Health (CDPH) released the “COVID-19 Employer Playbook For a Safe Reopening.” Its purpose is to provide guidance for employers to mitigate the risks associated with COVID-19. It does not replace, but instead supplements guidance from other agencies such as the CDC, Cal/OSHA, and county health orders. In particular, employers should also consult the Industry-Specific Guidance and Checklists for their industry issued by the CDPH and Cal/OSHA.

There is far too much information in the Playbook to summarize here. Instead, below is a high level overview of what can be found in the Playbook. It is an essential resource for employers planning to reopen their business or for businesses that are already in operation. The Playbook can be found at <https://files.covid19.ca.gov/pdf/employer-playbook-for-safe-reopening--en.pdf>

STATE ISSUES THE COVID-19 EMPLOYER PLAYBOOK

The Playbook notes there is no one-size-fits-all approach to a safe reopening. Rather, local conditions must be considered and local health officials should be consulted. But at a minimum, all employers must implement (and update as necessary) a plan that:

- Is specific to your workplace,
- Identifies all areas and job tasks with potential exposures to COVID-19,
- Includes control measures to eliminate or reduce such exposures,
- Maintains healthy business operations,
- Maintains a healthy work environment,
- Provides effective training for workers, and
- Encourages workers to give input into an effective workplace plan.

The Playbook goes on to state: Before reopening, all facilities must:

1. Perform a detailed risk assessment and create a work site-specific COVID-19 prevention plan

2. Train workers on how to limit the spread of COVID-19. This includes how to screen themselves for symptoms and when to stay home
3. Set up individual control measures and screenings
4. Put disinfection protocols in place
5. Establish physical distancing guidelines
6. Establish universal face covering requirements (with allowed exceptions) in accordance with CDPH guidelines.

There is a separate appendix in the Playbook for further guidance for employers and workers on enforcing mask requirements.

The Playbook includes helpful charts summarizing information about:

- Outbreak Identification Preparedness Actions
- Considerations for Employers to Communicate Identified Cases of COVID-19 to LHD
- Considerations for Employers to Communicate Identified Cases of COVID-19 to Workers
- Actions for Preventing Further Spread in the Workplace

- Minimum Criteria for Return to Work [for employees who test positive or have symptoms]
- Cleaning Guide for Employers

There is also a section in the Playbook discussing Regulations and Guidance for Reporting and Providing Sick Leave as well as an appendix with links to various important informational resources for employers. Using the information in the Playbook increases the chances that the operation of your business will be able to safely navigate the evolving risks associated with the pandemic.

Testing

Close Contact Testing

If someone has a close contact exposure to a person who has tested positive for COVID-19, the Santa Barbara Public Health Department, for example, requires that the exposed person remain in quarantine for 14 days from the last contact with the positive COVID-19 person. Testing will not change that recommendation and as a result, given the limited testing capacity in the county we do not recommend that an employee who is off work due to a close contact pursue testing at this time. Even if a close contact gets tested, a negative does not provide assurance that the contact may not become infectious or symptomatic within 14 days of exposure. Some people can become infected with COVID-19 and spread illness to others but may not have any symptoms at all. As a result, if an employee had a close contact exposure with someone who tested positive during their infectious period it is important to isolate for 14 days from the last date of contact.

Test-based strategies are not necessary to return employees to work

As for requiring a negative test before allowing an employee with a confirmed case of COVID-19 to return to work, the CDPH is emphatic that **“because PCR tests can remain positive long after an individual is no longer infectious, proof of a negative test should not be required prior to returning to the workplace after documented COVID infection.** Rather, symptom or protocol-

based criteria should be used in determining when an employee is safe to return to the workplace.”

The CDC generally recommends symptom-based criteria in determining when an employee can end home isolation and return to work.

Employees with COVID-19 who have symptoms. The CDC advises that these employees can return to work under the following conditions: a) At least 10 days have passed since symptom onset and b) at least 24 hours since resolution of fever without the use of fever-reducing medications, and c) other symptoms have improved.

However, a limited number of persons with severe illness may produce replication-competent virus beyond 10 days that may warrant extending duration of isolation for up to 20 days after symptom onset. In those cases, consider consultation with infection control experts. See <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-hospitalized-patients.html>

Employees with COVID-19 without symptoms. Persons infected with COVID-19 who never develop symptoms may discontinue isolation and return to work 10 days after the date of their first positive test.

Test-based strategy. The test-based strategy requires the absence of a fever without the use of fever reducing medications, improvement of respiratory symptoms, and negative test results from two samples taken at least 24 hours apart. The test-based strategy would require that an employee receive not one, but two tests to be cleared to return to work. However, as noted by the CDC, except for rare situations, a test-based strategy is no longer recommended to determine when to allow an employee to return to work.

Putting Testing Considerations Into Perspective

The COVID-19 Employer Playbook discusses what to do if an employer discovers that an employee has tested positive or has symptoms of COVID-19. It states the employers “should make sure the worker does not remain at work, and the employer should work with their LHD [local health department] to follow

guidance about isolation or quarantine, possible testing, and when it is appropriate for the worker to return to work.”

We hope the information in this Client Alert proves of assistance in when struggling with the decision about when employees should be tested in varied situations including when an employee shows COVID-19 symptoms, has been in close contact with someone who has the virus, or for other business reasons.

To help put this in perspective, it is important to consider the guidance to public health officials, health care providers and laboratories issued by the CDC on July 23rd to help determine the priority in which persons should be tested for the virus. Given limitations on testing availability and the time it may take to obtain test results, the CDC lists 4 tiers, with Tier 1 Priority for testing being persons hospitalized with symptoms.

At Tier 2 Priority are “all other individuals with COVID-19 symptoms,” individuals who had close contact with confirmed cases of COVID-19, and other specific situations. The CDC currently defines close contact generally as: “Someone who was within 6 feet of an infected person for at least 15 minutes starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to specimen collection) until the time the patient is isolated.” However, other factors enter into determining what constitutes close contact including “proximity, the duration of exposure (e.g., longer exposure time likely increases exposure risk), whether the individual has symptoms (e.g., coughing likely increases exposure risk) and whether either person was wearing an N95 mask. However, considering whether either or both persons were using fabric face coverings is not recommended as a factor to consider in evaluating what constitutes a close contact.

For more information go to: <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

Tier 3 Priority goes to workers in certain industries who have no symptoms of COVID-19 such as workers in retail, manufacturing, food service, agricultural, food manufacturing, public transportation and education, who have frequent interactions with the

public, students (in the case of education workers) or “work in an environment where it is not practical to maintain at least six feet of space from other workers on a consistent basis.” Whether or not to conduct these precautionary tests depends on several factors, including the infection rate in the community, the availability of testing, and prior outbreaks/cases at the workplace. In many work environments, requiring routine testing will not be recommended.

Down at Tier 4 Priority are individuals not specified in one of the other Tiers including “those who are asymptomatic but believe they have a risk for being actively infected as well as routine testing by employers.”

For more CDC guidance on testing go to: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/testing-non-healthcare-workplaces.html>

When considering whether an employee should be tested, considering asking the employee to contact their primary care physician (“PCP”)

Given the limited resources available for testing and the fact that negative test results can prove to be unreliable, the employee’s PCP can provide the best guidance about whether testing is appropriate. For example, in Santa Barbara County patients of Sansum Clinic who have a primary care doctor can use My Chart to ask whether testing should be conducted.

There are other resources for employees who do not have a PCP. For example, in Santa Barbara those employees can contact CottageCareNow at <https://www.cottagehealth.org/carenow/> (or call 805-456-6545).

We all know that testing is a vital component of our community’s response to the pandemic. However, testing for employees is not always the appropriate response. Employers should feel comfortable relying on other CDC methods of protection before directing employees to use this valuable community testing resource.

We are available to assist

Please do not hesitate to reach out to us for assistance in dealing with the effects of the COVID-19 pandemic on your company.

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