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California Department of Public Health Issues New Quarantine Guidance

December 18, 2020

As described in detail in our previous alert, the Cal/OSHA emergency temporary standard with respect to COVID-19 went into effect on November 30. Since then, the California Department of Public Health (CDPH) and Governor Gavin Newsom have issued new guidance on required quarantine periods, thus updating the Cal/OSHA Emergency Temporary Standards applicable to COVID-19.

The original regulations required that those workers with "COVID-19 exposure" (defined as being within six feet of a "COVID-19 case" for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the "high-risk exposure period") must be excluded from the workplace for 14 days. Shortly before the Cal/OSHA regulations went into effect, the CDC published guidance stating that individuals without symptoms could end a quarantine on day 10 without testing (or on day seven after receiving a negative test result). This CDC guidance was *not* incorporated into the Cal/OSHA emergency temporary standard.

However, on December 14, the CDPH published its own quarantine guidance that provides that all asymptomatic COVID-19 exposures may discontinue quarantine after day 10 with or without testing. The CDPH quarantine guidance also provides that, during critical staffing shortages, exposed asymptomatic healthcare workers, emergency response workers and social service workers who work face to face with clients in the child welfare systems or in assisted living facilities may discontinue quarantine after day seven if they receive a negative COVID-19 PCR test result from a specimen collected after day five. Critically, also on December 14, Governor Newsom issued Executive Order N-84-20, which suspends the exclusion period for COVID-19-exposed workers set forth in the Cal/OSHA regulations to the extent that it exceeds the longer of: (i) the quarantine period recommended by the CDPH, or (ii) any applicable quarantine or isolation period recommended or ordered by a local health officer who has jurisdiction over the workplace.

Thus, the exclusion period for those with "COVID-19 exposure" and no symptoms under the Cal/OSHA emergency temporary standard is now the longer of: (i) 10 days (except that it may be shorter for certain healthcare and social service workers), and (ii) the applicable quarantine period for those with COVID-19 exposure provided by a local health order.

Immediate reactions and recommendations

These changes bring the regulations more in line with the CDC's guidance on quarantine post-COVID-19 exposure and potentially shorten the period of quarantine for asymptomatic COVID-19 exposures. It's important for employers to keep in mind that if they are located within a county with a stricter health order that requires quarantine of COVID-19 exposures for more than 10 days, the stricter county health order will apply.

In addition, employers should continue to monitor the FAQs for additional guidance published by Cal/OSHA. Cal/OSHA will be holding a stakeholders meeting on Friday, December 18, from 12:00 pm to 5:00 pm to discuss the emergency temporary standard, which includes an open discussion on key provisions and proposals for specific clarifications. We would expect the FAQs to be updated at some date following the stakeholders meeting to provide further guidance on implementation of the regulations.

If you have any questions about the emergency temporary standard or any other employment issues that have arisen from the emergency temporary standard, please reach out to a member of the Cooley employment & labor practice.

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Key Contacts

Selin Akkan **Palo Alto**	**sakkan@cooley.com** **+1 650 843 5076**
Ann Bevitt London	abevitt@cooley.com +44 (0) 20 7556 4264
Wendy Brenner Palo Alto	brennerwj@cooley.com +1 650 843 5371
Leslie Cancel San Francisco	lcancel@cooley.com +1 415 693 2175
Helenanne Connolly Reston	hconnolly@cooley.com +1 703 456 8685
Joshua Mates San Francisco	jmates@cooley.com +1 415 693 2084
Gerard O'Shea New York	goshea@cooley.com +1 212 479 6704
Summer Wynn San Diego	swynn@cooley.com +1 858 550 6030

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