



COVID-19: OSHA COMES KNOCKING

Preparing for an OSHA Inspection



Today's Host for the Webinar

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Learning Objectives

At the conclusion of this presentation, the participant will be able to:

- ❖ Recognize OSHA's regulatory role in LTC settings to investigate workplace safety, injuries and death.
 - Ongoing reporting for OSHA 300, 300A and 301.
- ❖ Prepare for OSHA COVID-19 investigation under the Interim Enforcement Plan.
 - Respond to the required investigation documents and attestation.
- ❖ Identify how whistleblower laws impact OSHA investigations.

OSHA & COVID-19

Occupational Safety and Health Administration (OSHA) increasing their numbers of nursing homes receiving investigations.

Nursing Home Compare data on COVID-19 deaths and illnesses for nursing home employee's data:

Through week ending May 30, 2020:

- 450 nursing home employee deaths
- Over 34, 000 nursing home employee tested positive

The data collected is submitted data from nursing homes to CMS.

- 80% of nursing homes across the country submitted their data.

OSHA Forms 300, 300A & 301

OSHA's Form 300 is the Log of Work-Related Injuries and Illnesses

OSHA's Form 300A is the Summary of Work-Related Injuries and Illnesses

OSHA's Form 301 is the Injuries and Illnesses Incident Report.

OSHA's Recordkeeping Requirements During the COVID-19 Pandemic

OSHA has issued temporary enforcement guidance related to the COVID-19 pandemic for Recording and Reporting Occupational Injuries and Illnesses required under 29 CFR Part 1904.

26 May 2020

On May 26, 2020, the April 13, 2020, memorandum on this topic was rescinded, and the new Updated Interim Enforcement Response Plan for COVID-19 went into and remains in effect until further notice

Recording cases of COVID-19 requirements

Employers are responsible for recording cases of COVID-19 if all the following requirements are met:

- The case is a confirmed case of COVID-19, as defined by the CDC;
- The case is *work-related*, as defined by 29 CFR § 1904.5; and
- The case involves one or more of the recording criteria set forth in 29 CFR § 1904.7 (*e.g.*, medical treatment, days away from work)



1

When several cases develop among workers who work within proximity of each other and there is no alternative explanation.

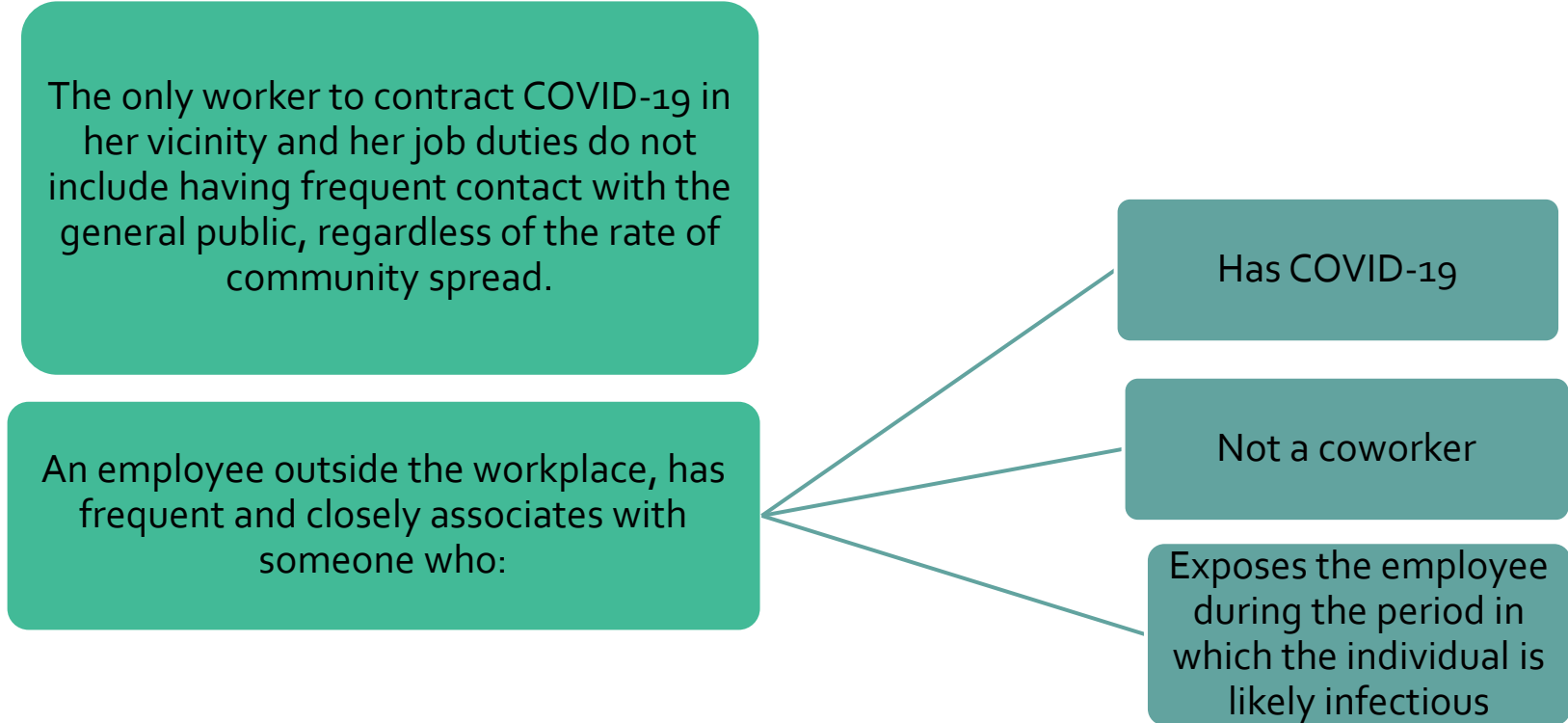
2

COVID-19 contracted shortly after lengthy, close exposure to a customer or coworker who has a confirmed case of COVID-19 and no alternative explanation.

3

It is also likely work-related if the employee has frequent, close exposure to the general public in a locality with ongoing community transmission and there is no alternative explanation.

Likely Work-related COVID-19 illness



Likely *Not* work-related COVID-19 Illness

“Reasonable” employer Investigation to determine COVID-19 work-related injury

OSHA advises that it is sufficient to do the following upon learning of an employee’s infection:

- ❖ Ask the employee how they believe they contracted COVID-19.
- ❖ Discuss with the employee which of their in-work and out-of-work activities may have led to the COVID-19 illness (this discussion should be general enough to respect the employee’s privacy); and
- ❖ Review the employee’s work environment for potential COVID-19 exposure, taking into account any other workers in that environment that contracted COVID-19.

When you learn of a possible COVID-19 in your Facility

Conduct an initial investigation for all possible causation factors for the COVID-19 injury.

When conducting the investigation remember to include the following:

- Ask the employee how they believe they contracted COVID-19
- Discuss with the employee which of their in-work and out-of-work activities may have led to their COVID-19 illness
- Review the employee's work environment for potential COVID-19 exposure

COVID 19 Injury & OSHA

OSHA defines a COVID-19 injury as:

- Death
- Hospitalization from COVID-19
- Missed work due to positive COVID-19 test



A Suspected Work-Related COVID-19 Illness & OSHA

When OSHA suspects a work-related COVID-19 illness, OSHA will:

- Send the employer a letter regarding the COVID-19 activities
 - The letter will list the violations and/or hazards that are suspected
 - Request an immediate investigation of the alleged conditions
 - The employer will be asked to make any necessary corrections or modifications
 - The employer will be asked to reply in writing by a determined date the results of the investigation
 - Supporting documentation of the employer's findings will be requested

Photographs or videos that may be helpful



Description of any corrective action that may have taken or are in the process of taking place, including documentation of the corrected action.

Supporting Documentation

OSHA Requested Documents (1)

- ❖ Written pandemic plan. If your plan is part of another emergency preparedness plan, they will likely only review the pandemic plan.
- ❖ The facility's procedures for hazard assessment and protocols for PPE use with suspected or confirmed COVID-19.
- ❖ If a facility has been determined to have handled specimens with suspected or confirmed COVID-19 they will request to review laboratory procedures for handling specimens and procedures for decontamination of surfaces.
- ❖ Respiratory protection program and any modified respirator policies related to COVID-19 exposure or prevention
- ❖ Employee training records, including any records of training related to COVID-19 exposure prevention or in preparation for a pandemic when available.
- ❖ Documentation of attempting to obtain adequate supplies of PPE.

OSHA Requested Documents(2)

- ❖ If the facility has airborne infection isolation rooms, they request your procedure of the use of these rooms and any testing procedures.
- ❖ Documentation of attempting to obtain adequate supplies of PPE.
- ❖ If the facility has airborne infection isolation rooms, they request your procedure of the use of these rooms and any testing procedures.
- ❖ Procedures for transferring patients to other facilities in situations where appropriate isolation rooms/areas are unavailable or inoperable, and procedures for transferring COVID-19 patients from other facilities.
- ❖ The numbers and placements of confirmed or suspected COVID-19 patients under isolation at the time of inspection.
- ❖ The pattern of placements for confirmed or suspected COVID-19 patients in the preceding 30 days.
- ❖ Other relevant information may include medical records related to worker exposure incidents OSHA-required recordkeeping or any other pertinent information or documentation that they may deem appropriate to investigate.

Severe Injury Reporting

To make a severe injury report:

- Call the nearest OSHA office
- Call the OSHA 24-hour hotline at 1-800-321-6742 (OSHA)
- Report Online (Recommended)
 - **Be prepared to supply:**
 - Business name
 - Names of employees affected
 - Location and time of the incident
 - Brief description of the incident
 - Contact person and their phone number.

Properly Training Employees

Ensure proper training of your employees in the following areas:

- Use of PPE
- Proper isolation techniques
- Proper infection control techniques
- Provide knowledge as to how residents are cohorted based upon whether they are COVID-NEGATIVE, COVID-POSITIVE, COVID-PENDING
- Any Special Policies if you are managing COVID-19 wing or unit
- Policies related to what the employee should do to conserve PPE or if the facility is low on PPE supplies
- Be sure to communicate changes in policies or conditions within the building to your employees
- Respond when your employees ask questions about COVID concerns.
- Keep your training tools, policies, sign in sheets and proof of return demonstration in a file or binder in case you need to prove the work you did

Whistle Blower Protection Program

The OSHA Whistleblower Protection Program encourages workers who suffer retaliation from reporting a safety concern to submit a complaint to OSHA as soon as possible.





QUESTIONS

Resources

OSHA Interim Guidance available at:

<https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>



COVID-19 Guidance for Nursing Home and Long-Term Care Facility Workers

Available in the handout pane of this webinar





For Further Information about any of our Services Including our new Compliance Officer-Qualified Program and COVID-19 Focus Survey Preparedness Assessment



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