TO MASK OR NOT MASK: THE CDC'S UPDATED COVID-19 GUIDANCE

October 17, 2022

On September 23, 2022, the Centers for Disease Control and Prevention ("CDC") released revised infection prevention and control recommendations for healthcare personnel during the COVID-19 pandemic. New flexibility and options are now available to healthcare entities although compliance with related requirements, such as the CMS Vaccine Mandate and the Occupational Safety and Health Administration ("OSHA") Workplace Safety Requirements should not be overlooked based upon the CDC's updated guidance. The CDC guidance document provides routine infection and prevention control information, as well as recommendations for caring for patients with suspected or confirmed cases of COVID-19. It applies to all settings in which healthcare is delivered, including nursing homes and home health.

RECOMMENDED ROUTINE INFECTION PREVENTION AND CONTROL MEASURES

1. *Encourage everyone to remain up to date with all recommended COVID-19 vaccine doses*

Healthcare personnel ("HCP"), patients, and visitors should be offered resources and counseled about the importance of receiving a COVID-19 vaccine.

2. *Establish a Process to Identify and Manage Individuals with Suspected or Confirmed Cases of COVID-19*

Healthcare facilities should ensure everyone is aware of recommended infection and prevention control practices in the facility. For example, facilities may post signs/posters at the entrance and other strategic locations, such as waiting rooms, elevators, and cafeterias, that include current recommendations.

Facilities should also establish a process to ensure everyone entering the facility is aware of recommended actions to prevent transmission to others if they meet any of the following three criteria:

- A positive viral test for SARS-CoV-2,
- Symptoms of COVID-19, or
- Close contact with someone with COVID-19 (for patients and visitors) or a higher-risk exposure (for HCP). A higher-risk exposure generally involves exposure of an HCP's eyes, nose, or mouth to material potentially containing SARS-CoV-2, particularly if the HCP were present in the room for an aerosol-generating procedure.

For individuals who meet any of these criteria, HCP should be instructed to report to a designated point of contact and visitors should defer non-urgent in-person visitation until they have met the criteria to end isolation (discussed below).

3. *Implement Source Control Measures*

Source control refers to use of respirators or well-fitting facemasks or cloth masks to cover a person's mouth and nose to prevent the spread of respiratory secretions when they are breathing, talking, sneezing, or coughing. The CDC provides additional information about masks and respirators at: https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/types-of-masks.html. Individuals at high risk for severe illness should wear the most protective form of source control that they can.

Healthcare facilities may choose to offer well-fitting facemasks to visitors but should allow the use of a mask or respirator with higher-level protection that is not visibly soiled by people who chose that option based on their individual preference. Source control options for HCP include: (1) a NIOSH-approved particulate respirator with N95 filters or higher; (2) a respirator approved under standards used in other countries that are similar to NIOSH-approved N95 filtering facepiece respirators (Note: These should not be used instead of a NIOSH-approved respirator when respiratory protection is indicated); (3) a barrier face covering that meets ASTM F3502-21 requirements including Workplace Performance and Workplace Performance Plus masks; or (4) a well-fitting facemask. If used during the care of a patient for whom a NIOSH-approved respirator or facemask is indicated (*e.g.*, while caring for a patient with COVID-19 or during a surgical procedure), facemasks should be removed and discarded and a new one donned.

When COVID-19 Community Transmission[*] levels are high, source control is recommended for everyone. When COVID-19 Community Transmission levels are **not** high, healthcare facilities can choose not to require universal source control. However, source control is still recommended for individuals who:

- Have suspected or confirmed COVID-19 or other respiratory infection;
- Had close contact (patients and visitors) or a higher risk exposure (HCP) with someone with COVID-19, for 10 days after their exposure;
- Reside or work on a unit or area of the facility experiencing a SARS-CoV-2 outbreak (universal use of source control could be discontinued as a mitigation measure once no new cases have been identified for 14 days); or
- Have otherwise had source control recommended by public health authorities.

Additionally, individuals may choose to continue using source control based on their personal preference. HCP and healthcare facilities may consider using or recommending source control when caring for patients who are moderately to severely immunocompromised.

[*] Please note that the **Community Transmission** metric, which measures the presence and spread of COVID-19, differs from the COVID-19 Community Level metric used for non-healthcare settings. The **Community Level** metric measures the impact of COVID-19 in terms of hospitalizations and healthcare system strain, while accounting for transmission in the community. **At this time, Community Transmission remains High in over 50 percent of U.S. counties**. https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=all_states&list_select_county=all_counties&data-type=Risk&null=Risk.

4. *Implement Universal Use of Personal Protective Equipment for HCP*

If SARS-CoV-2 infection is not suspected in a patient presenting for care, HCP should follow Standard Precautions and Transmission-Based Precautions (if required based on the suspected diagnosis).

When Community Transmission levels increase, healthcare facilities should consider implementing broader use of respirators and eye protection by HCP during patient care encounters. The CDC recommends specific personal protective equipment when Community Transmission is **High.**

5. *Optimize the Use of Engineering Controls and Indoor Air Quality*

Healthcare facilities should optimize the use of engineering controls to reduce or eliminate exposures by shielding HCP and other patients from infected individuals (*e.g.*, physical barriers at reception/triage locations and dedicated pathways to guide symptomatic patients through waiting rooms and triage areas). Facilities should also take measures to limit crowding in communal spaces, such as scheduling appointments to limit the number of patients in waiting rooms or treatment areas, as well as explore options, in consultation with facility engineers, to improve ventilation delivery and indoor air quality in patient rooms and shared spaces. While much of this work has been done, healthcare entities will need to decide which modifications they will incorporate permanently and which changes they wish to make as Community Transmission lowers.

6. *Perform SARS-CoV-2 Viral Testing*

Anyone with even mild symptoms of COVID-19, **regardless of vaccination status**, should receive a viral test for COVID-19 as soon as possible.

Asymptomatic patients with close contact with someone with COVID-19 should have a series of three viral tests. Testing is recommended immediately (but not earlier than 24 hours after the exposure) and, if negative, again 48 hours after the first negative test and, if negative, again 48 hours after the second negative test. This typically will be at day 1 (where day of exposure is day 0), day 3, and day 5. Testing is generally not recommended for asymptomatic people who have recovered from COVID-19 in the prior 30 days. For those who have recovered from COVID-19 in the past 31-90 days, an antigen test is recommended.

If implementing a screening testing program, testing decisions should not be based on an individual's vaccination status according to the CDC. To provide the greatest assurance that someone does not have COVID-19, if using an antigen test instead of a NAAT, facilities should use three tests, spaced 48 hours apart, as described above. In general, performance of pre-procedure or pre-admission testing is at the discretion of the facility, although admission testing is recommended for nursing homes. Performance of expanded screening testing of asymptomatic HCP (vaccinated or unvaccinated) without known exposures is at the discretion of the facility.

7. *Create a Process to Respond to COVID-19 Exposures Among HCP and Others*

If they do not already, healthcare facilities should have a plan for how COVID-19 exposures in a healthcare facility will be investigated and managed and how contact tracing will be performed. If healthcare-associated transmission is

suspected or identified, facilities might consider expanded testing of HCP and patients as determined by the distribution and number of cases throughout the facility and ability to identify close contacts. If an expanded testing approach is taken and testing identifies additional infections, testing should be expanded more broadly. If possible, testing should be repeated every 3-7 days until no new cases are identified for at least 14 days.

SETTING-SPECIFIC CONSIDERATIONS

The CDC also provides specific guidance for dialysis facilities; emergency medical services; dental facilities; nursing homes; and assisted living, group homes, and other residential care settings (excluding nursing homes), which can be found at: https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html#print.

CONCLUSION

As noted previously, employers should be aware that other local, territorial, tribal, state, and federal requirements may apply with respect to COVID-10 precautions, including regulations promulgated by OSHA. Notably, OSHA's General Duty Clause requires employers to furnish a worker with "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." Employers who fail to comply with the CDC's infection and prevention control measures may also run afoul of this OSHA requirement.

If you have questions or need assistance regarding compliance with these CDC requirements or other employment laws, please contact a member of Hancock Daniel's Labor & Employment team. For any other concerns arising from the pandemic, please contact a member of our COVID-19 Task Force.