

OSHA Launches COVID-19 Inspection Initiative for Healthcare Employers

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With its new inspection initiative, the Occupational Safety and Health Administration (OSHA) is taking steps to ensure certain healthcare employers continue to protect workers against COVID-19, even as falling case numbers across the country have prompted many state and local agencies to withdraw mask mandates and other COVID-19 precautions.

OSHA [announced](#) a “highly focused” inspection initiative limited to general medical and surgical hospitals, psychiatric and substance abuse hospitals, skilled nursing facilities, and assisted living facilities that treat or handle COVID-19 patients and have been previously cited or inspected for COVID-19 concerns. This initiative began March 9 and will continue until June 9, 2022, and it will comprise 15 percent of all inspections in a region.

In comments to a meeting of OSHA-focused attorneys hosted by the American Bar Association on March 8, 2022, Assistant Secretary of Labor for Occupational Safety and Health Doug Parker stated that the agency intends to be proactive and focus inspections on anticipated problems, such as new COVID-19 variants, and concentrate resources on this issue. Parker said that, after the 90-day period, OSHA will reevaluate and determine the initiative’s direction going forward.

OSHA [has been under pressure](#) by labor unions to reinstate the Healthcare Emergency Temporary Standard on Occupational Exposure to COVID-19 (which it withdrew on December 27, 2021) while the agency finalizes a permanent standard.

Selection of Healthcare Facilities

Facilities may be selected for inspection for any of the following reasons:

1. Follow-up of any prior inspection where a COVID-19-related citation or hazard alert letter was issued;
2. Follow-up or monitoring inspections for randomly selected closed COVID-19 unprogrammed activity, including COVID-19 complaints and Rapid Response Investigations; and
3. Monitoring inspections for randomly selected, remote-only COVID-19 inspections where COVID-19-related citations were previously issued.

What Inspections Will Cover

OSHA has directed its compliance officers to assess selected facilities’ COVID-19 mitigation strategies. Although the directive primarily focuses on the same practices and standards that have been commonly referenced throughout the pandemic, there will also be a review for compliance with vaccination protocols. OSHA will refer deficiencies related to vaccination protocols to the Centers for Medicare and Medicaid Services (CMS). CMS had issued a final rule requiring many healthcare employers to mandate

COVID-19 vaccination. (On January 13, 2022, the U.S. Supreme Court [held](#) CMS has the authority to mandate vaccination.)

During the walkaround portion of the inspection, compliance officers will focus on the employer's compliance with the Respiratory Protection Standard and documentation of any procedures and efforts to obtain appropriate and adequate supplies of personal protective equipment.

In addition, compliance officers will be determining whether the employer has implemented screening procedures, measures to facilitate physical distancing, and requirements related to the use of face coverings or facemasks by employees and visitors (based on current guidance from the Centers for Disease Control and Prevention). Since the onset of the pandemic, OSHA has made heavy use of the Respirator Protection Standard, particularly when healthcare providers care for patients or clients with known or suspected cases of COVID-19.

Covered employers that were the subject of OSHA's prior COVID-19 enforcement efforts are encouraged to confirm ongoing compliance with applicable OSHA standards, as well as the CMS vaccination rule.

If you have questions or need assistance with OSHA matters, please reach out to the Jackson Lewis attorney with whom you regularly work or any member of our [Workplace Safety and Health Practice Group](#).

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