



Health Screening and Vaccination Best Practices

August 25, 2021

* Although we will be providing legal information during this webinar, we will not be providing legal advice.

Agenda

- **Introduction**
- **Vaccine guidance and policies**
- **Health screening now and moving forward**
- **HIPPA, the CCPA, & other privacy considerations**
- **Best practices and helpful resources**
- **Q&A**
- **Conclusion**

Vaccination Policy in the Time of Delta Part 1



- When it comes to vaccine policies, companies have three basic options:
 - **Require** employees to be vaccinated to return to company worksites;
 - **Encourage** employees to get vaccinated; or
 - **Don't act** by choosing not to adopt a vaccination policy.
- Some companies have recently changed their policies because of the Delta variant.

Requiring Vaccinations 1.1



- Only require them if employees are reporting to a worksite or interacting with others
- Legally allowed to require
 - EEOC
 - Mandating allowed for EAU
 - DOJ
 - Mandating EUA vaccines does not violate the FDA
 - Houston Methodist
 - Mandatory vaccination case brought by employees thrown out

Requiring Vaccinations 1.2



- FDA has officially approved the Pfizer vaccine for 16+
 - Still under EUA for 12-15
 - Still under EUA for 3d dose (although off-label use, like boosters, can be done w/ full approval)
- Changing Trends
 - Vaccinations on the rise w/ Delta
 - 1/3 of unvaccinated said they were more inclined to get a shot after full approval
 - Private companies mandating vaccination

Vaccination Policy in the Time of Delta Part 2



- Companies must also decide whether to **collect vaccination information**
- There are three basic options for collecting employee vaccination information:
 - Require proof of vaccination & keep a copy
 - Require proof of vaccination but do not keep a copy
 - Require employees to sign a form attesting to their vaccination status

Vaccination Policy in the Time of Delta Part 3



- Hybrid & Multi-Jurisdictional Workforce Considerations:
 - What about employees who work remotely and do not have in-person contact with co-workers or customers?
 - Is working from home a “reasonable accommodation” for individuals who have a medical condition or religious belief that prevents them from getting vaccinated?
 - Should the policies be different at different office locations?

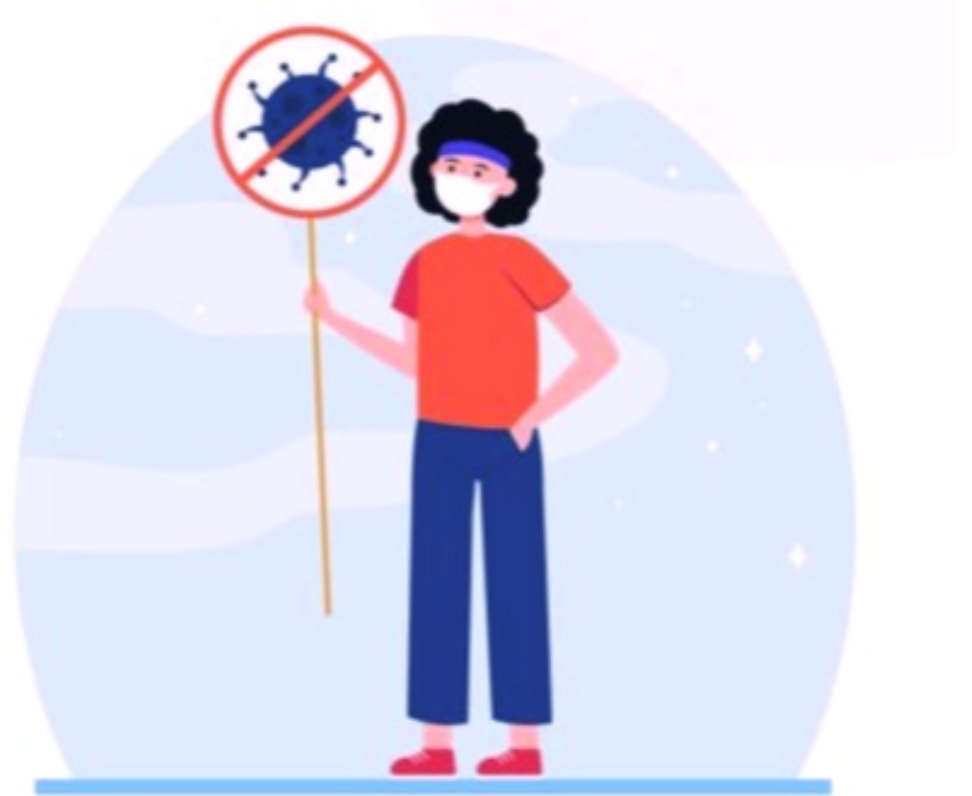
Health Screening Now



- Screening employees is required in a shrinking number of states, including California, Nevada, Rhode Island, and Washington.
- Employee health screening typically includes a questionnaire and/or temperature check.
- Employers can ask employees to screen themselves at home before coming to the workplace or can screen their employees when they arrive at the workplace.
- With available tools, health screening can be quick and relatively inexpensive.

Benefits of Health Screening

- Can help keep sick employees from coming to company worksites
- Can be leveraged for contractors, suppliers and visitors
- Can help companies maintain a record of who is working at company worksites
- Can help reenforce company policies and expectations regarding health and safety



Health Screening Moving Forward



- With the Delta variant bringing more breakthrough cases – cases in which vaccinated individuals contract COVID-19 – the use of health screening appears to be on the rise.
- Some companies – like SixFifty – are requiring individuals to both (1) be vaccinated and (2) fill out a daily health screener before coming to a company worksite.
- This trend may pick up additional steam as vaccine “booster shots” become more common and vaccinated individuals have differing levels of protection against infection.

COVID-19 Privacy Issues ADA



- ADA Applies if you have 15 or more employees
- Medical exams must be related to and consistent with business necessity
 - They qualify as such during the pandemic
 - Must be administered even-handedly
- What is a Medical Record/Exam?
 - Self-Screening
 - Health Professional Screening
 - Temperature Taking
 - Collecting Vaccination Card
 - Vaccination Self-Reporting
- Medical Records must be kept:
 - Confidential
 - Separate from personnel files
 - For at least 1 year following creation or employee termination, whichever is later

COVID-19 Privacy Issues OSHA



- Gives employees right to access medical records
- Must retain medical records for 30 years after employment
- Medical records include:
 - Records concerning your health status created or maintained by a health care professional
 - Health Professional Screening
 - Vaccination Card
 - Results of medical examinations and laboratory tests
 - Covid Test Result
- Medical records do not include:
 - Self-Screening
 - Vaccination Self-Report

COVID-19 Privacy Issues HIPAA



- HIPAA only applies to covered entities:
 - Health care providers
 - Insurers
 - Medical billing companies
- Is about the *release* of protected health information (PHI) without individual's consent
- Requires that PHI be kept confidential & safe from security threats
- Requires covered entities to train their employees
- HIPAA does not prevent an employer, a restaurant, or a gym, etc. from asking for your vaccination status

COVID-19 Privacy Issues CCPA



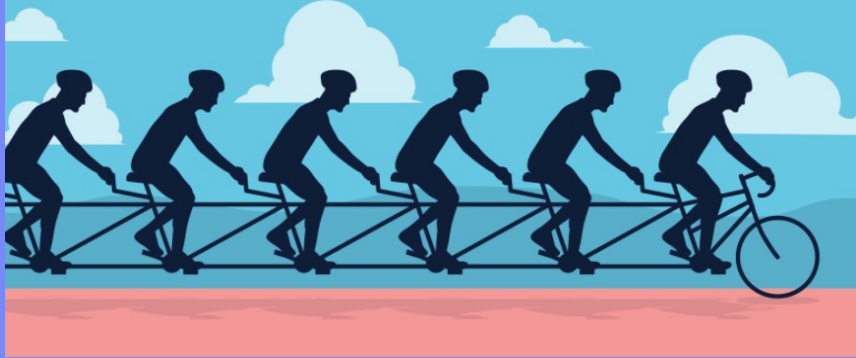
- Only applies if organization is a covered entity:
 - Is for-profit and collects or handles the PI of CA residents AND (at least 1 of the following):
 - Over \$25 million in annual revenue OR
 - Derives 50% or more of revenue from selling PI of CA residents; OR
 - Handles the PI of 50,000 persons, devices or households
- If dealing with CA residents' PHI, give proper notice to employees & non-employees
 - Limit info collected according to the notice
 - Limit use of data according to the notice
 - Limit sharing of data according to the notice
 - Afford non-employees you collect PHI about ways to exercise their CCPA rights

COVID-19 Privacy Issues GINA



- **Genetic Information (GI) Nondiscrimination Act**
 - Employers prohibited from requesting, requiring, or purchasing GI
 - GI includes family medical history, such as manifestation of disease in a family member
- Screening
 - Ask about close contacts, not family members
- Vaccination & Employers under GINA:
 - May administer vaccines to employees & employee family members
 - May ask employees for proof of vaccination
 - May offer incentives to both employees & their family members for being vaccinated
 - May not offer incentives to the employee for employee's family members to be vaccinated by the employer
 - May offer incentive if family members provide proof of vaccination

Best Practices



- Strong leadership and culture
- Proactive approach to changing circumstances
- Clear communication channels
- Strong policy foundation
- Focus on health and wellness

Helpful Resources



- Leverage industry groups, chambers of commerce, and networks to find best practices and innovative approaches to problem solving.
- Make full use of government resources, including guidance from the CDC and state and local governments.
- Look for ways that technology can make problem solving easier and less expensive.

← Dashboard

- All
- Return to Work**
- All
- RTW - Assessment - Updated
- RTW - Company Policy - Updated
- RTW - Employee Certification
- RTW - Employee Screening
- RTW - Employee Survey
- RTW - Legacy Assessment
- RTW - Legacy Company Policy
- DEI Program
- Cal OSHA
- Employee Handbook
- Policy Library

AII > RETURN TO WORK

[New Document +](#)

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RBP Test 2 RTW - Company Policy - Updated <i>Regeneration Needed</i>	me	August 12, 2021 at 08:41am	↓ ✎ 🗑️
Untitled Document RTW - Assessment - Updated	me	July 12, 2021 at 12:23pm (Draft)	--- ✎ 🗑️
Untitled Document RTW - Assessment - Updated	me	July 12, 2021 at 08:14am (Draft)	--- ✎ 🗑️
Connor Test 2 RTW - Assessment - Updated <i>Regeneration Needed</i>	Connor Christensen	August 11, 2021 at 09:56pm	↓ ✎ 🗑️
Untitled Document RTW - Legacy Company Policy	me	July 01, 2021 at 08:06am (Draft)	--- ✎ 🗑️
RBP Test 2 RTW - Assessment - Updated <i>Regeneration Needed</i>	me	June 26, 2021 at 04:17am	↓ ✎ 🗑️
RBP Test 2 RTW - Legacy Assessment <i>Regeneration Needed</i>	me	June 08, 2021 at 09:44pm	↓ ✎ 🗑️
RBP Test 1 RTW - Legacy Assessment	me	June 17, 2021 at 09:25am	↓ ✎ 🗑️
Connor Test 1 RTW - Legacy Assessment	Connor Christensen	June 08, 2021 at 09:44pm	↓ ✎ 🗑️

Return-to-Worksite Update 8/25/21

Latest Return-to-Worksite Updates

Written by **Connor Christensen**
Updated in the last 15 minutes

We continue to update the Return-to-Worksite Toolset based on developments in federal, state and local laws and guidance. Included below is a summary of some of the most recent updates to the Return-to-Worksite Assessment. For more information about any of these changes see the **RTW Assessment, Question 13** for updates on federal guidance and **Question 14** for updates on state and local guidance.

- The **FDA** has [approved the Pfizer-BioNTech COVID-19 vaccine](#) for individuals 16 years of age or older. The vaccine also continues to be available under emergency use authorization, including for individuals 12 through 15 years of age and for the administration of a third dose in certain immunocompromised individuals.
- **California** has [updated its guidance for mega events and indoor events](#), and extended the date of the Beyond the Blueprint program until November 1, 2021. As a part of this update, California also removed self-attestation as a mode for vaccine verification and for verification of a negative COVID-19 test for indoor events scheduled after September 20, 2021.
- **Los Angeles County** [updated its health order](#) to reflect California's change on mega events as well as to add specific requirements for youth sports.

Questions and Answers

www.SixFifty.com