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This webinar will start
shortly

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New OSHA Guidance

State Training and Prevention Plan
and Requirements

Clear Law Institute

April 7, 2021

Michael Johnson, CEO of Clear Law Institute

Shannon Magill Farruk, Senior Compliance
Advisor at Clear Law Institute





Clear Law Institute

Online compliance training for more than 1,500 employers:

- Preventing Workplace Harassment
- COVID-19 Workplace Safety
- Code of Conduct
- Numerous other compliance topics

Compliance & Policy Services:

- COVID-19 Prevention Plans & Policies
- Vaccination Policy
- Harassment Prevention Policy
- Employee Handbook
- Code of Conduct



Michael Johnson **CEO, Clear Law Institute**

- Provides compliance training and consulting to organizations around the world, including the EEOC, United Nations, and Google
- Former U.S. Department of Justice Attorney
- Graduate of Duke University and Harvard Law School
- mjohnson@clearlawinstitute.com

**New OSHA Guidance: State Training and Prevention
Plan Requirements**



Shannon Magill Farruk **Senior Compliance Advisor, Clear Law** **Institute**

- Advised Fortune 500 companies on all aspects of employment and discrimination laws for more than a decade.
- Practiced employment law at Dickstein Shapiro, Littler Mendelson, and the U.S. Department of Commerce.
- Graduate of Hamline University and University of Minnesota Law School
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AGENDA

- 1 — Updated OSHA Workplace Guidance
- 2 — Employee Training
- 3 — Workplace Prevention Plans and Policies



Recent Biden Administration Actions

Executive Order

January 21

- Directed OSHA to update workplace guidance
- Consider whether ETS needed to protect workers
- [Develop National Enforcement Program](#)

New OSHA Guidance

January 29

- OSHA issued **stronger** Guidance to Protect Workers from COVID-19
- COVID-19 Prevention Program & Training

Inspector General Report

February 25

- OSHA did not do enough to protect workers from COVID-19
- Recommended OSHA determine whether emergency temporary standard necessary to limit spread of COVID-19 as more employees return to work

Recent Biden Administration Actions

National Enforcement Program

March 12

- Focus on retaliation against workers with safety concerns
- Reduce COVID-19 exposure through inspections, outreach, and compliance assistance
- Target high-risk industries, e.g., healthcare, grocers, restaurants

Emergency Temporary Standard

March 15 ?

- OSHA did **not** issue ETS on March 15 or make determination
- OSHA reportedly told business groups it decided to issue an ETS, but needs more time to “get it right”

What's Next?

- Although OSHA missed 3/15 deadline, most workplace safety and legal experts believe an ETS is imminent



New OSHA COVID-19 Guidance

**New OSHA Guidance: State Training and Prevention
Plan Requirements**



New OSHA Guidance: State Training and Prevention Plan Requirements

Preview of OSHA Standard
Employee Training
COVID-19 Prevention Plans
Face Coverings
Social Distancing
Hygiene
Isolation/Quarantine
Ventilation
Cleaning & Disinfecting



State COVID-19 Standards

CALIFORNIA

Emergency Temporary
Standard
December 2020

MICHIGAN

Emergency Temporary
Standard
October 2020

*Proposed Permanent Standard
Pending*

OREGON

Emergency Temporary
Standard
November 2020

*Proposed Permanent Standard
Pending*

VIRGINIA

Permanent Standard
January 2021

*Permanent Emergency Standard
adopted 7/20*

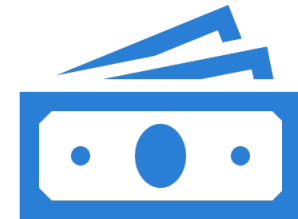
COVID-19 Workplace Liabilities



OSHA Enforcement



Litigation



**Workers'
Compensation**

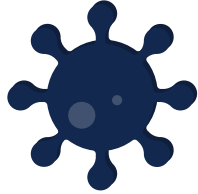


Employee Training

**New OSHA Guidance: State Training and
Prevention Plan Requirements**

OSHA Guidance: Employee Training

Basic COVID Facts

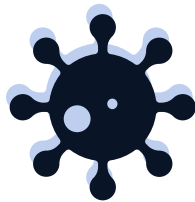
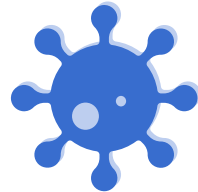


Face Coverings

Protects others and you

Reduces spray of respiratory droplets

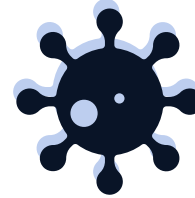
Wear face covering even if no symptoms



Hygiene

Handwashing & Sanitizer

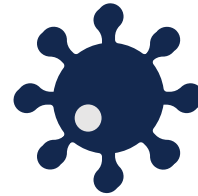
Cough and Sneeze Etiquette



Social Distancing

Stay 6 feet away from others

Not a substitute for face covering

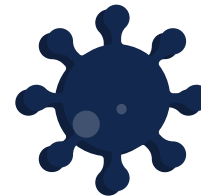


Workers Rights

Right to safe and healthy workplace

Who to contact with safety concerns

Retaliation prohibition



Employer's Plan & Procedures

Communicate workplace policies frequently

Use language employees understand

Employees, contractors, and others at worksite

COVID-19 Training Required

California

Illinois

Kentucky

Massachusetts

Maine

Michigan

Minnesota

New
Hampshire

New Mexico

New York

Oregon

Rhode Island

Vermont

Virginia

Washington

Common State Training Topics

COVID-19 Facts

How it Spreads

Symptoms

Vaccines

Hygiene

How to wash hands &

use sanitizer

Cough and sneeze etiquette

Face Coverings

Protects wearer and others

Proper wear and care

Health Screening

Symptom Checks

Temperature Screening

When not to report to work

Social Distancing

At least 6 feet from others

Mask not a substitute

Job Duties

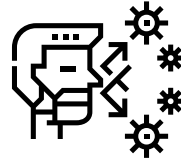
Workplace and job-task
specific safety measures
to reduce exposure

State-Specific Training Topics



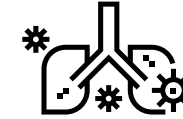
California

State and Local
Paid Leave Benefits



Kentucky

How to isolate and
report COVID cases



Illinois & Virginia

Explanation of
high-risk populations



Oregon

Infection Notification
Process



Massachusetts

When to seek medical
attention



Training Considerations

**New OSHA Guidance: State Training and
Prevention Plan Requirements**

COVID-19

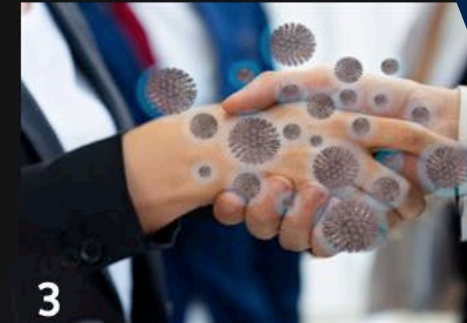
Workplace Training

CORONA = VIRUS FAMILY
SARS-COV-2 = VIRUS
1 COVID-19 = DISEASE

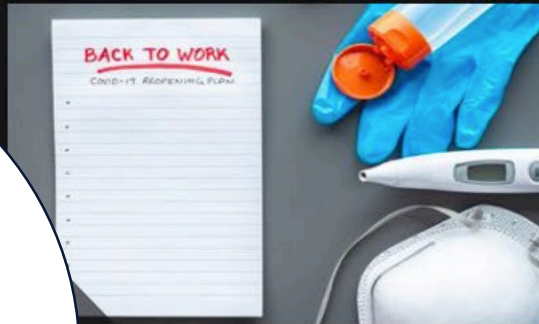
Introduction



2 What is COVID-19?



3 Preventing the Spread in the Workplace



Industry, State, and Employer-Specific Guidance



5 Conclusion

Consistent
with CDC &
OSHA
Guidance

50 State Compliant

- Face Coverings
- Social Distancing
- Hand Hygiene
- State Mandated Training Topics



Are These People Practicing Proper Social Distancing?

Monitor
federal and
state
guidance

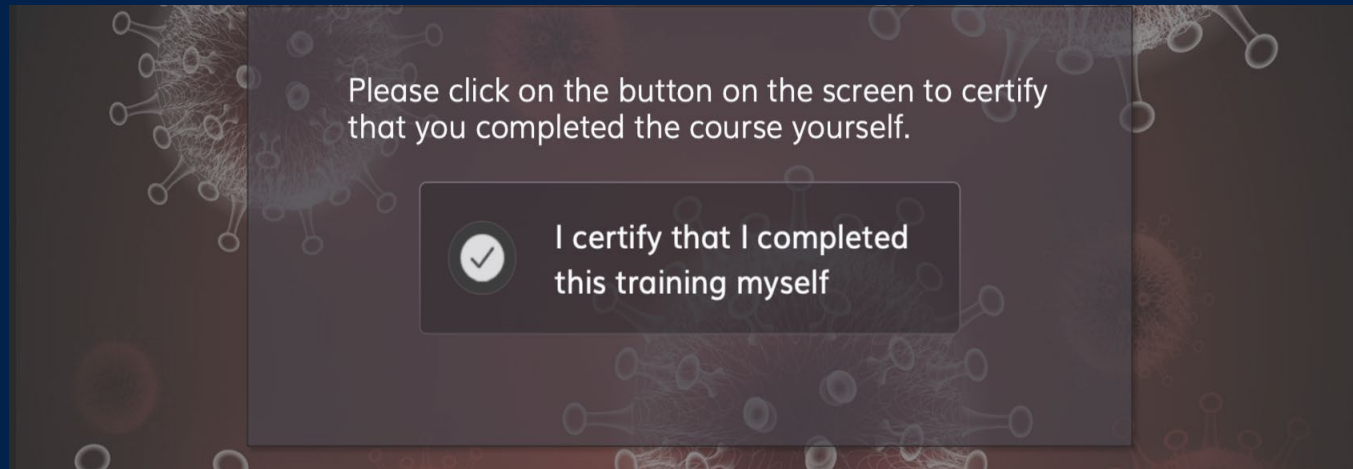
Up-to-date
with current
workplace
safety guidance



Yes

No

Recordkeeping



COVID-19 Safe Workplace Training



COMPLIANT

—
OSHA & CDC
STATE MANDATES



UP-TO-DATE

—
TRAINING
UPDATED WITH
CHANGES



ONLINE

—
COMPUTER
TABLET OR
PHONE



TECH

—
TECH SUPPORT
RECORDKEEPING



COVID-19 Prevention Plans

**New OSHA Guidance: State Training and
Prevention Plan Requirements**

COVID-19 Prevention Plan

New OSHA Guidance



COVID-19 Prevention Plan

New OSHA Guidance



Health Screen

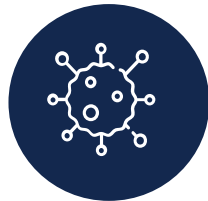
Follow state law - screening

Isolate workers with symptoms



Minimize Impact

Telework, paid sick leave, FFCRA



Testing

Inform employees of testing options



Reporting

Record work-related COVID-19 infections/deaths

Report outbreaks to health dept



Cleaning

Enhanced disinfection after suspected or confirmed COVID-19 case



Vaccines

No cost vaccines

Do not differentiate between vaccinated and unvaccinated

State Prevention Plan Requirements

California

Indiana

Massachusetts

Michigan

Minnesota

New York

Oregon

Rhode Island

Vermont

Virginia*
Washington*

*in certain circumstances

Clear Law Institute COVID-19 Prevention Plans

Step-by-step Process

Guided through
customized tool to
develop Plan

Review & Consult

Compliance Advisory
Team develops
personalized and
compliant Plan

Analysis

Series of customized
questions and prompts
collects information

Employee Certification

Electronic
acknowledgment
confirms employee read
and understands Plan

Vaccine Policies

- **EEOC guidance** makes clear that employers can require vaccination as condition of working onsite
- Mandating employee vaccinations comes with **legal risk**
- Compliance with **workplace safety guidelines** still necessary for vaccinated employees



Vaccination Mandate Considerations

Disability

Religious
Beliefs

Pregnancy

State
Law

EUA
Refusal

Workers
Comp

COVID
Spread
Unknown

Continue
Safety
Measures

Encourage Employee Vaccination



Follow CDC Guidance for
Workplace Vaccination Program



Encourage vaccination through information
about vaccine safety and benefits



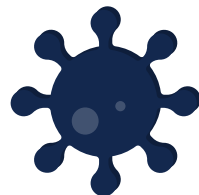
Tell employees how to get COVID-19 vaccine
in your state and county



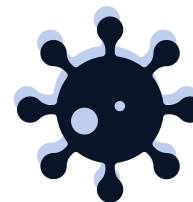
Offer paid leave or time off for vaccine side
effects

COVID-19 Workplace Policies

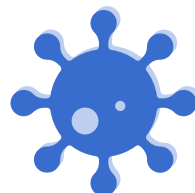
Telework



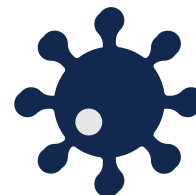
Health Screening



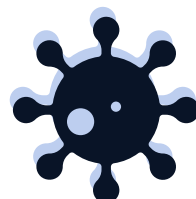
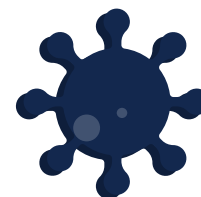
Social Distancing



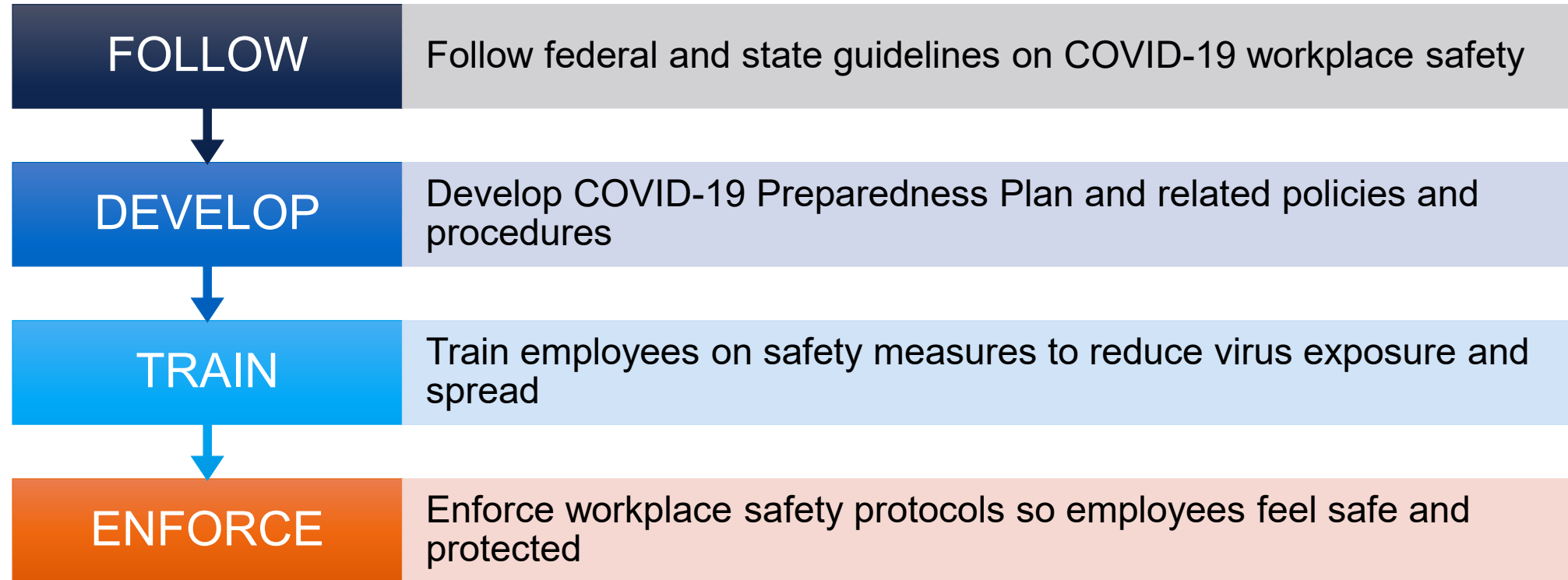
Face Coverings & Exceptions



Handwashing & Breaks



Reduce COVID-19 Risk in the Workplace





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State COVID-19 Training
Requirements
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XpertHR

free demo of online COVID-19 Training

free consultation on COVID-19 Plans

Email: info@clearlawinstitute.com



Questions?

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Thank you

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