



UPDATE: August 14, 2020

**RETURNING TO THE WORKPLACE
FOLLOWING COVID-19 EXPOSURES, SUSPECTED INFECTIONS AND POSITIVE CASES**

On July 22, 2020 the Centers for Disease Control (CDC) updated their guidance for ending home isolation for individuals who have tested positive for COVID-19, are symptomatic and suspected to be infected with COVID-19, or were exposed to an individual with COVID-19. On July 27th, the Department of Labor and Industry published an Emergency Temporary Standard specific to COVID-19 in the workplace, **§16VAC-25-220 (ETS)** which includes Return to Work requirements for the above situations that exceeded the CDC guidelines. DOLI has since provided DHRM with interpretative guidance stating that employers who comply with the above-referenced change in the CDC guidelines issued July 22, 2020, will be considered to be providing protection equivalent to protection provided by complying with the requirements in the ETS. State agencies are advised to follow the below guidance published by the [Centers for Disease Control](#) (CDC) regarding their employees' return to the workplace as follows:

Exercise reasonable judgment in requesting documentation from medical practitioners, or laboratory test results to confirm illness from the virus or an employee's ability to return to duty in the work place.

- Testing capacity for COVID-19 may be limited during periods when the volume of community or regional outbreaks is high. VDH has advised guidance to clinicians regarding [testing criteria](#). COVID-19 testing may not be available or necessary for every patient with symptoms.
- Communities or regions that are not experiencing high volumes of COVID-19 positive cases will have greater availability of testing and access to medical practitioners providing increased opportunities for agencies to request and receive documentation from employees related to COVID-19 test results and medical diagnoses.
- Wait times for COVID-19 test results may range from several days to more than a week.
- Seasonal influenza, colds, sinus infections, and allergies produce symptoms that may replicate some of the COVID-19 symptoms. Employees experiencing similar symptoms are encouraged to remain at home. Medical practitioners will determine if a COVID-19 test is needed for these situations.
- Avoid requiring more stringent medical documentation requirements for employees to return to the workplace from minor illnesses such as those described above in the preceding bullet. These decisions may be contingent upon the amount of leave used for these situations, and if the nature of the agency's critical mission activities have a direct impact upon the safety and health of their clients and other stakeholders, such as residents, patients and employees who work in close contact with each other.
- The EEOC considers COVID-19 test results as medical evaluation documentation or Personal Health Information (PHI). All PHI must be maintained in a confidential medical file in HR (not in



the supervisor's desk file) with limited access to those who have a need to know for safety and health business reasons. Medical documentation must be maintained for the duration of the employee's employment with the agency and thirty years.

In accordance with CDC guidelines and the Department of Labor and Industry's Virginia Occupational Safety and Health (VOSH) program's [§16VAC-25-220 \(ETS\)](#) requirement for employees who have actually contracted COVID-19 or are suspected of being infected with COVID-19 can stop home isolation under the following conditions:

Option1: Symptom Based - Employee will not have a test to determine if they are still contagious. Must meet all three of these conditions:

- No fever for at least 24 hours (1 full day without the use of fever-reducing medicine); AND
- Other symptoms have improved (for example, cough or shortness of breath); AND
- At least 10 days have passed since the symptoms first appeared.

Option 2: Test-Based to determine if the employee is still contagious. Must meet all three conditions:

- The employee no longer has a fever (without the use of medicine that reduces fevers); AND
- Other symptoms have improved (for example, cough or shortness of breath); AND
- They received two negative tests in a row, at least 24 hours apart. The doctor should follow [CDC guidelines](#).

Employees who've had close contact with someone who is positive with COVID-19 should stay home for 14 days after their last exposure to that person.

Agencies who apply the above CDC guidance will be considered in compliance with the §16VAC-25-220 requirements established for Return to Work or they may follow the Return to Work requirements published in the Emergency Temporary Standard.