



QUESTIONS AND ANSWERS ON THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION EMERGENCY TEMPORARY STANDARD (ETS)

BRIEF EXECUTIVE SUMMARY

OSHA ETS for Health Care Issued

The Occupational Safety and Health Administration (OSHA) issued an [Emergency Temporary Standard \(ETS\)](#) to protect health care workers from exposure to COVID-19 in the workplace. Dentists provide ambulatory care in outpatient settings and are subject to the ETS.

A major exclusion of the ETS is when care is provided in a dentist's office "if the employer develops and implements policies and procedures to screen all non-employees prior to entry and does not permit those with suspected or confirmed COVID-19 entry into the facility. The employer could state that the office will not treat, and will reschedule appointments for, any patients who are experiencing symptoms of COVID-19 or are COVID-19 positive. This would exclude them from this ETS." (p. 189)

The comprehensive rule covers:

- A COVID-19 plan for the workplace to address hazard assessment
- Patient screening and management
- Standard transmission-based precautions
- The use of personal protective equipment (PPE)
- Aerosol-generating procedures on persons with suspected or confirmed COVID-19
- Physical distancing
- The use of physical barriers
- Cleaning and disinfection
- Ventilation with air filters rated at minimum efficiency reporting value (MERV) 13 or higher
- Health screening and medical management
- Vaccination
- Training
- Antiretaliation
- Recordkeeping/Reporting
- Mini Respiratory Program

Dentists have been mitigating the potential for introduction of COVID-19 in the workplace since March 2020 using screening of patients, increased use of PPE, enhanced infection control procedures, and other measures.

The AGD continues to assess the ramifications for general dentists' offices. AGD officers will interact with federal officials to mitigate unreasonable standards for general dentists.

Effective Date: The rule is in effect as of June 21, 2021.

Why did the OSHA issue the ETS?

The OSHA issued an emergency temporary standard (ETS) to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present.

What is the OSHA ETS?

The Occupational Safety and Health Administration (OSHA) published an [Emergency Temporary Standard \(ETS\)](#) in the Federal Register on June 21, 2021. The ETS is in effect now.

ETS WORKPLACE COVERAGE

Is my workplace covered by the OSHA COVID-19 Emergency Temporary Standard (ETS)?

Refer to the [OSHA Flow Chart: Is your workplace covered by the COVID-19 ETS? for guidance in determining if your practice is covered.](#)

Are dentists subject to the OSHA ETS?

Dentists provide ambulatory care in outpatient settings and are considered subject to the ETS. The ETS defines "ambulatory care" as "healthcare services performed on an outpatient basis, without admission to a hospital or other facility." Dentists' offices providing these types of services are considered ambulatory care. Dentists can claim an exception to the ETS by carefully prescreening anyone entering their facility.

How do we keep COVID-19 out of our practice to claim an exception to the OSHA ETS?

To meet this exception, the employer must not only screen patients and family members or others accompanying patients to their appointments, but also every non-employee who seeks to enter the non-hospital ambulatory care setting. This would include, for example, contractors who enter the setting to perform work (e.g., work on the HVAC system).

Pre-screening patients for COVID-19 symptoms is essential for keeping anyone out of your office with COVID-19 symptoms or who tests positive for SARS-CoV-2. Patients with SARS-CoV-2 or anyone with COVID-19 symptoms should wait until their symptoms subside until seeking dental treatment.

Review the AGD's [Return-to-Work Guidance](#) for instructions how to pre-screen patients and team members for COVID-19 symptoms.

Should we treat dental emergency cases of COVID-19 positive patients?

COVID-19 positive patients with dental emergencies should be treated in a hospital setting, not in your dental office. Hospitals generally are subject to all the requirements of the OSHA ETS.

WRITTEN PLANS

Does my practice need to have a written COVID-19 plan?

Dental practices that had more than 10 employees on June 21, 2021 must have a written COVID-19 plan. The OSHA developed a [COVID-19 Plan Template](#) that can be downloaded and customized for your practice.

SCREENING

What do I tell anyone when they ask me about why our office continues to pre-screen patients for COVID-19 symptoms?

Dentists' adherence to the prescreening of patients and keeping COVID-19 positive patients out of their practice are the essential components that qualify dentists' offices for the exemption to the OSHA ETS.

It is critical for dentists' offices to continue their prescreening and documentation protocols as they have been doing since April/May of 2020.

Dentists' offices may tell patients that the prescreening protocols are necessary to keep COVID-19 symptomatic or positive patients out of their offices and to maintain a safe and clean environment for dental treatment.

WHAT ARE THE EMPLOYEE SCREENING AND MEDICAL MANAGEMENT PROVISIONS IN THE ETS?

Employee Screening

Employers must screen each employee before each workday and every shift. Some flexibility exists in terms of the screening methods used. Any of the following may be used:

- In person screenings of employees by the employer
- Self-monitoring by employees before reporting to work by conducting temperature checks, completing employee questionnaires, or using electronic screening apps.
- Employers who require COVID-19 tests must provide those to employees at no cost.

All screening records and test results must be securely maintained as employee medical records and in accordance with the appropriate regulations.

Medical Management

- Employees are required to notify the employer of a confirmed positive COVID-19 test, a diagnosis or suspicion of COVID-19 infection or of symptoms such as loss of smell or taste, or when experiencing a fever ($\geq 100.4^{\circ}$ F), or an unexplained cough.
- Notification can be in the form of verbal communication, e-mail/text, voice mail, a written letter from the employee, a family member, and/or physician or other licensed health care provider.
- When notified, employers must advise all employees within 24 hours of becoming aware of any COVID-19 exposure in the workplace.
- Additionally, employers must notify affected employees not wearing respirators of their close contacts with a COVID-19 positive person and delineate when the contact occurred and the location.
- Employers must immediately remove from the workplace any employee known to be COVID-19 positive or who has been advised by a licensed healthcare provider that they are suspected to have COVID-19, are experiencing symptoms, or were in close contact in the workplace to a person who was found to be COVID-19 positive.
- Employees who have been medically removed from the workplace must stay away until the appropriate return to work criteria are met or until the employer provides a polymerase chain reaction (PCR) test at no cost to the employee.
- Employers are not required to remove any employee who has been fully vaccinated (i.e., 2 weeks or more following the final dose); or who recovered from COVID-19 within the past 3 months, if the employee is not COVID-19 positive and does not experience symptoms.

AGD's [Return-to-Work Guidance](#) offers details on how to pre-screen patients and team members for COVID-19 symptoms.

RECORD KEEPING/REPORTING

How do I determine if the small employer exclusion for recordkeeping applies to me?

The ETS provides that small employers with 10 or fewer employees on July 21, 2021 are not required to comply with the recordkeeping provisions. This size exemption is based on the total number of employees in a firm, rather than the number of employees at a particular location or establishment. All individuals who are "employees" under the OSH Act are counted in the total, including full-time, part-time, temporary, and seasonal employees. For businesses that are sole proprietorships or partnerships, the owners and partners would not be considered employees and would not be counted. Unpaid volunteers would also not be counted to determine whether this small employer exclusion applies.

What do we dentists, with less than 10 employees, exactly need to do to comply with recordkeeping/reporting?

If a dental office has less than 10 employees, the office personnel does not need to establish a COVID-19 log of all employee instances of COVID-19.

However, reporting to OSHA within eight (8) hours of learning about a COVID-19 fatality is still required. Each work related COVID-19 in-patient hospitalization must be reported to OSHA within 24 hours of learning about the case.

What do we dentists, with more than 10 employees, exactly need to do to comply with recordkeeping/reporting?

If a dental office has more than 10 employees, you must establish a COVID-19 log of all employee instances of COVID-19 without regard to occupational exposure and follow requirements to make records available to all employees.

Employers are also required to report to OSHA within eight (8) hours of learning about a COVID-19 fatality. Each work related COVID-19 in-patient hospitalization must be reported to OSHA within 24 hours of learning about the case.

Where do I report an in-patient hospitalization or fatality?

Employers have three options for reporting work-related fatalities and in-patient hospitalizations to OSHA:

1. By telephone to the OSHA Area Office that is nearest to the site of the incident
2. By telephone to the OSHA toll-free central telephone number, 1-800-321- OSHA (1-800-321-6742)
3. By electronic submission using the reporting application located on OSHA's public website at www.osha.gov.

SERIOUS EVENT REPORTING ONLINE FORM

Employers may report work-related fatalities and in-patient hospitalizations to OSHA in person to the OSHA Area Office that is nearest to the site of the incident. However, because many OSHA Area Offices are closed to the public during the COVID-19 pandemic, employers must use one of the three options listed above.

If the OSHA Area Office is closed, an employer may not report a work-related fatality or in-patient hospitalization by leaving a message on OSHA's answering machine, faxing the Area Office, or sending an email. Instead, the employer must make the report by using the 800 number or the reporting application located on OSHA's public website at www.osha.gov.

Employers must give OSHA the following information for each fatality or in-patient hospitalization:

- The establishment name;
- The location of the work-related incident;
- The time of the work-related incident, the type of reportable event (i.e., fatality or in-patient hospitalization);
- The number of employees who suffered a fatality or inpatient hospitalization;
- The names of the employees who suffered a fatality or inpatient hospitalization;
- The employer's contact person and his or her phone number; and
- A brief description of the work-related incident.

AEROSOL GENERATING PROCEDURES (AGP)

What are the Aerosol Generating Provisions in the ETS?

The OSHA explains that they find the ETS necessary "...to protect these workers through requirements including patient screening and management, respirators and other personal protective equipment (PPE), limiting exposure to aerosol-generating procedures, physical distancing, physical barriers, cleaning, disinfection, ventilation, health screening and medical management, access to vaccination, and antiretaliation provisions and medical removal protection..." (p. 37)

For the purposes of the ETS, only the following procedures are considered AGPs: Open suctioning of airways, sputum induction, cardiopulmonary resuscitation, endotracheal intubation and extubation, non-invasive ventilation (e.g., BiPAP, CPAP), bronchoscopy, manual ventilation, medical/surgical/ postmortem procedures using oscillating bone saws, and dental procedures involving ultrasonic scalers, high-speed dental handpieces, air/water syringes, air polishing, and air abrasion. (p. 67)

Special precautions need to be taken when using aerosol generating procedures on those patients with suspected or COVID-19 positive cases.

However, dentists should not be treating those with suspected or confirmed cases of COVID-19 in their offices. Instead, dentist offices should prescreen and keep those patients with COVID-19 symptoms out of their practice until such time as the patients are not experiencing symptoms any longer and are COVID-19 negative.

PHYSICAL DISTANCING

What are the Physical Distancing Provisions in the ETS?

Dental team members should practice physical distancing of at least six feet, when feasible. Obviously, direct patient care will occur in less than six feet. The OSHA suggests reducing the number of patients in one area at one time, use floor markings and signage to indicate appropriate distancing, allow for distancing in team break rooms, and stagger work schedules so as not to overlap team members congregating together.

Dental team members should use a hierarchy of controls such as the use of facemasks, respirators, ventilation, and hand hygiene when physical distancing cannot solely be employed.

PHYSICAL BARRIERS

What are the Physical Barriers Provisions in the ETS?

Physical barriers are not required in direct patient care areas. Barriers can be placed in areas where employees have fixed workstations. Dental team members should use a hierarchy of controls such as the use of facemasks, respirators, ventilation, and hand hygiene when physical distancing cannot solely be employed.

VENTILATION

What are the Ventilation Provisions in the ETS?

Heating and air conditioning (HVAC) systems should be used in accordance with manufacturer's instructions and technical specifications. Ventilate with air filters rated at minimum efficiency reporting value (MERV) 13 or higher.

COVID-19 VACCINATION

What are the Vaccination Provisions in the ETS?

Employee Time Off

- Employers are required to support COVID-19 vaccination for each employee through reasonable time off during work hours and paid leave (e.g., paid sick leave, administrative leave, etc.) for the full vaccination series (i.e., each required dose) and any side effects experienced following vaccination.
- The period for paid leave to get each dose of the vaccine is presumed to be up to four hours for each dose.
- The period for paid leave for any side effects of vaccination is up to 16 hours (or eight hours per dose).
- Employers are not required to grant time or paid leave to employees who opt to receive the vaccine outside of work hours.
- Employers are not required to reimburse employees for transportation costs associated with traveling to/from a vaccination site.

Determining Employee Vaccination Status

Employers can assess employees' vaccination status through various methods by:

- Questioning individual workers and documenting their responses;
- Maintaining copies of employees' vaccination cards;
- Discussing vaccinations during a staff meeting;
- Requesting that employees produce proof, such as a communication from a healthcare provider, etc.

Condition of Employment

Employers may require vaccination as a condition of employment.

RESOURCES

AGD's Return-to-Work Guidance

AGD's [Return to Work Guidance](#) and supplemental forms to help dentists keep COVID-19 out of their practices.

What are some OSHA Resources that I can use for my practice?

- [Materials Incorporated by Reference](#)
- [Fact Sheet - Subpart U - COVID-19 Healthcare ETS](#)
- [Summary - COVID-19 Healthcare ETS \(Spanish\)](#)
- [Fact Sheet - COVID-19 Healthcare ETS \(Spanish\)](#)
- [Fact Sheet - Mini Respiratory Protection Program](#)
- [Fact Sheet - Workers' Rights \(Spanish\)](#)
- [Is Your Workplace Covered by the ETS?](#)
- [FAQs](#)
- [Executive Order](#)
- [COVID-19 Plan Template](#)
- [Serious Event Reporting Online Form](#)
- [OSHA ETS as printed in Federal Register, June 21, 2021](#)

Consult OSHA's guidance on [Hazard Recognition](#) and [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#) for more information.

Additional [Guidance by Topic](#) available from the OSHA addresses such topics as:

- [Face Coverings](#)
- [Hand Hygiene](#)
- [Respiratory Protection](#)

For additional questions, please contact practice@agd.org.