

# THE ADVISOR



## MONTHLY COMPLIANCE COMMUNICATOR

### OSHA EMERGENCY TEMPORARY STANDARD (ETS) FOR COVID

OSHA published new regulations for healthcare on June 21, 2021. The standard is listed as temporary and is scheduled for 6 months. After the 6 months OSHA will decide whether to revoke the regulations, extend them for a longer, or make them permanent.

Regardless of the choice, these standards are now law for those states that are strictly under federal OSHA control. The ETS is not yet in effect for those states and territories that have [state OSHA Plans](#) (AK, AZ, CA, HI, IA, IN, KY, MD, MI, MN, NC, NM, NV, OR, SC, TN, UT, VT, WA, WY and Puerto Rico). These states had to declare to federal OSHA whether they were going to adopt the federal regulations or have state laws that are equal or better by July 6. Then, they have until July 21 to lay out the state plan. Some states have already implemented their own laws like CA and VA but may choose to add additional pieces to match or exceed the federal regulations. As the states make and announce their plan, TMC will update our website to keep you informed.

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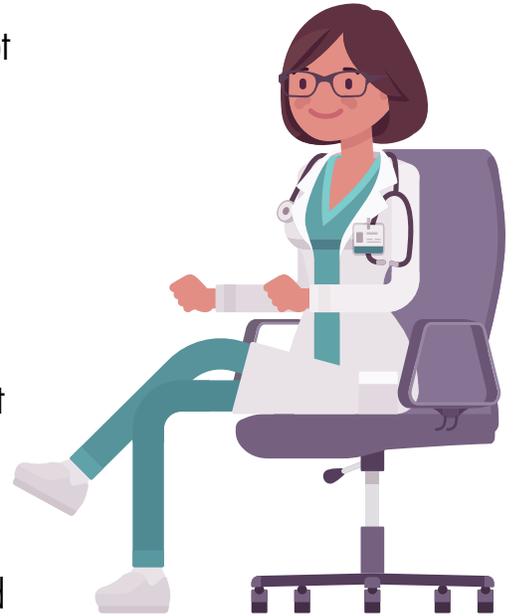
# OSHA COMPLIANCE

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## IS MY PRACTICE EXEMPT FROM THE NEW ETS?

Medical and Dental practices who are not part of a hospital setting will be exempt from the federal law if they can meet BOTH of the following requirements.

- 1** Screen every non-employee before they enter your practice. Redirect and deny entry to anyone known or suspected to have COVID. You can set up a drop-off station just inside for deliveries and pickups so you do not have to screen those people but if they penetrate your practice or stay for any length of time they must be screened. Taking temperatures is not required but asking about exposures or symptoms is required.
- 2** You cannot deliberately see known or suspected COVID patients. If you do COVID testing for diagnosis (not screening) at the practice, you would be seeing suspected patients and thus are subject to the ETS rule.



**Those employees who cannot be vaccinated due to medical disabilities or religious requirements will not impact this exemption and must be protected from the hazards of COVID.**

Practices that are part of a hospital setting but have separate and controllable entrances can be exempt if they meet the above requirements plus have documented proof that all their employees who can be are vaccinated. Those employees who cannot be vaccinated due to medical disabilities or religious requirements will not impact this exemption and must be protected from the hazards of COVID. However, if there is one employee who can be vaccinated but chooses not to the practice will not be exempt from the ETS.

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# OSHA COMPLIANCE

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## HOW DOES THE ETS COORDINATE WITH THE CDC GUIDANCE?

The following is a direct quote from the ETS: “Note 2 to paragraph (a): Employers are encouraged to follow public health guidance from the Centers for Disease Control and Prevention (CDC) even when not required by this section.” This means OSHA can cite you under the General Duty Clause, for not following the CDC Guidelines even if you are exempt from the ETS.

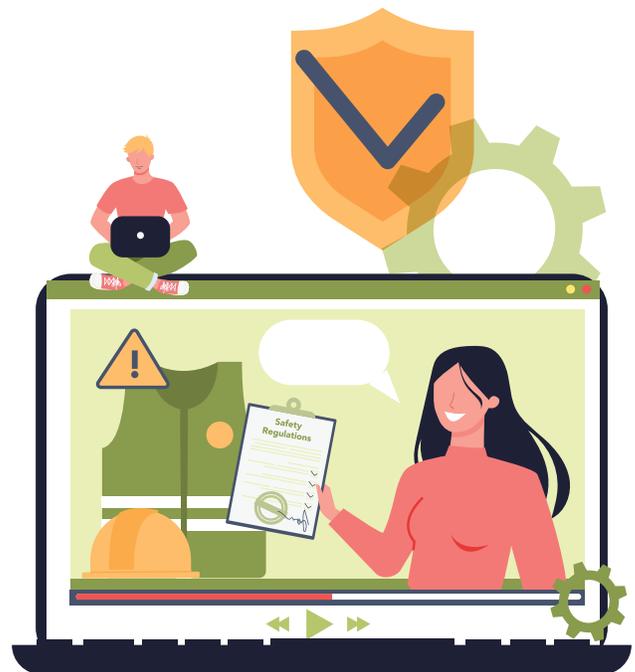
## WHEN DOES THE ETS LAW BECOME EFFECTIVE?

For Federal-only states it was effective June 21 with certain sections coming due 14 days to 30 days depending. States with a federally approved state plan (see list above) have an additional 30 days where the states have to approve the federal plan or come up with one that is equal or more stringent. The effective dates of state plans should be available by July 21. OSHA has acknowledged that the time frame is tight, and they will take into consideration your efforts to meet the law. The American Medical Association (AMA) has petitioned OSHA asking that they delay enforcement for 6 months. At the current time we have seen no response from OSHA on this petition.

## WILL TMC PROVIDE ASSISTANCE IN MEETING THE ETS?

Absolutely. We are developing a separate program from our OSHA service which can be added for a reasonable fee, for those who are not exempt from the ETS. This law is close to 1,000 pages. Some of the many parts required are listed below:

- A written plan detailing the practice’s policies, procedures, and actions to protect the workers. This plan can be verbal if you have 10 or fewer employees. (TMC is developing a fill-in plan and management training to meet this.)
- A documented assessment of the hazards to the employees.



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- Employee training that covers the overall hazards. (TMC will have this available in several formats as time allows: live and recorded webinar and, as fast as possible, an on-line training module.) This training must include documentation, proof of employee comprehension and the ability for employees to get questions answered.
- Employee training on the practice's specific plan to meet the requirements. (TMC will provide guidance for practices to do this.)
- A Respiratory Plan for those practices which must use a respirator under the CDC guidance and a voluntary-use plan for those who are not required to use a respirator. (TMC already has these available, but they will be included at no additional cost in the ETS package.)



## **WHAT ARE THE CHANGES TO PAID SICK LEAVE IN THE ETS?**

All practices must provide paid time off for employees to receive and recover from vaccination. This and other paid sick leave policies are dependent on the size of the practice and their current sick leave programs. Make sure your HR department or company is up to date on these rules.

Keep visiting our [COVID-19 & OSHA ETS Resource Page](#) for further updates and resources.

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# HIPAA COMPLIANCE



## AUDIT LOGS – NO AUDITING EXPERIENCE REQUIRED

HIPAA requires regular monitoring and review of user activity, log-in attempts, and other activity in software and on networks. These reports are generally referred to as audit logs. They can help identify system performance issues, inappropriate access and other security incidents or breaches. You might think of them as a very detailed internet browser history report. All machines, networks, and software systems have some form of audit log.

Your IT Support should monitor complex system logs for things like network security and performance. However, it is your responsibility to review user login and activity in systems that contain PHI for which you manage user accounts. The main reason to review audit logs is to detect threats to PHI and prevent unauthorized access and breaches.

A user with administrator rights can typically access reporting features for auditing. Check with your software provider or user manual for specific instructions. This is a critical feature for all software that is required to comply with HIPAA.

Audit logs may contain a very large amount of data, and it can be difficult to figure out just what it is you need to review. In fact, there are entire software systems dedicated to analyzing audit logs from other systems. It is not necessary to review every single line of an audit log report every day or month. A visual overview can be acceptable. What you should try to look for are trends in user activity such as someone logging-in and out multiple times in a short time frame or the same type of activity on specific records that may belong to that user's friend,

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# OSHA COMPLIANCE

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relative, or a well-known patient. You can also focus on specific issues in the same way one would review credit card or bank account statements and look for abnormal edits or activity during non-working hours. Look for any red flags that are outside the norm for your practice's routines. Likely causes for common issues can include:

- A log-in report from your EHR showing a high volume of unsuccessful log-in attempts by a user. This may indicate that a hacker is trying to guess a user's password to gain unauthorized access to your system. Contact your IT Support for assistance.
- A log-in to an account of an employee who no longer works at your practice. Disable the account immediately, document the incident and assess the potential for breach. Remember to always disable accounts and change passwords when employees or other workers exit the practice.
- A report on the activity or history of a user. You should not see a user accessing a particular patient's record more often than necessary or accessing records of patients they are not directly treating. This might be someone accessing the record of a friend or family member out of curiosity. This could be an indication of a workflow or training problem or possible identity theft.

If you find something wrong, contact your Privacy/Security Officer and follow your HIPAA security incident policies and procedures. This may include contacting your IT Support for further investigation.

HIPAA requires a patient to be notified of a breach within 60 days of its discovery, so it is a good idea to set a calendar reminder to review log-in and user activity at least every 30-45 days. It is not necessary or practical to retain entire audit logs due to their size. However, it is important to retain a record that documents the date of each review. Keep any portion of the log or report applicable to an incident or breach for 6 years to show compliance with HIPAA. A sample audit log tracker that provides report examples is available on the TMC Client Portal.

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# 25 YEARS OF TMC

## 25 Years in Business Means **25% Off** For You!

Take advantage of this hot summer deal.  
Get 25% off manuals\* using **promo code: JULY25**



This year marks 25 years of Total Medical Compliance helping practices like yours meet their compliance needs and we couldn't be more thankful for your support! From humble beginnings, we've grown our early OSHA compliance support to include HIPAA compliance and custom on-site and online programs that help practices across the country create a safe and enjoyable workplace for patients and employees. We owe our success to you and are grateful for your ongoing support. In appreciation, we started off the month with sharing an exciting offer to support you and your staff in continued compliance. Please join us in celebrating our 25th anniversary by taking advantage of our 25% off for our compliance manuals before the month's end!



For the month  
of July, enjoy a

**25%  
off**

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# IT'S YOUR CALL

## IT'S YOUR CALL

### OSHA:

What should we know about the B.1.617.2 (Delta) variant?

### HIPAA:

How do you know if a link in an email is safe to click?

- A. Click on it and hope for the best
- B. Assume no links are safe and delete the email
- C. Hover over the link before clicking to see if the popup address is accurate

[CLICK HERE FOR ANSWERS](#)

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**SIGNATURE**

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### INSTRUCTIONS

Print and post newsletter in office for staff review. Each member should sign this form when completed. Keep on file as proof of training on these topics.

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