So Much Mask Confusion



In the US

Everybody is talking about it, everywhere! It'd been the topic of conversation for over a year, and if we thought we had it figured out, we don't.

On May 13, 2021, much of the United States celebrated news that the CDC had "changed its tune" and face masks were simply no longer required if an individual is fully vaccinated. But is that what the CDC really said?

The latest guidance for fully vaccinated individuals actually provides that fully vaccinated people can resume activities without wearing a mask or physically distancing, **except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance**.

So If an employer opts to loosen their COVID-19 face mask requirement, they should ensure that the state/municipality where their workplace is located has no COVID-19 face mask requirements in place that would prohibit their less restrictive policies.

While OSHA's guidance may change in the near future, employers should be aware that OSHA's position remains that employees "who are vaccinated must continue to follow protective measures, such as wearing a face covering and remaining physically distant."

If an employer is going to loosen COVID-19 safety policies based on the vaccination status of its employees, it becomes absolutely essential to know whether an employee is actually fully vaccinated, and in the US that can mean a conflict with EEOC, ADA or Title VII.

Many businesses are just beginning to return to the workplace. An employer's decision regarding COVID-19 face mask policies can have a significant impact on their ability to return employees to the workplace. Employers should carefully consider their workforce to determine whether it is practical to adopt policies allowing fully vaccinated individuals not to wear a mask while at work.

By Lilian Doan Davis of Polsinelli Law reprinted with permission from JD Supra

In Canada

A top Canadian public health official says Canada likely won't follow the lead of U-S health officials with its advice for people fully vaccinated against COVID-19.

Dr. Howard Njoo, deputy chief public health officer, says even as more Canadians get their shots, public health measures such as physical distancing, mask wearing and frequent hand washing remain key.

He adds the rate of new infections, the number of new cases resulting from each infection, test positivity rates and impact on the health-care system are all factors that should be weighed.

Njoo says 40 per cent of eligible Canadians over the age of 18 have now received one vaccine dose – which offers good, but not maximum, protection.

But seeing that vaccinations is the key to a return to normalcy should give Canadian's hope that in the next couple of months, as the supply of vaccines increases, masks may not be a required form of daily PPE.

Reality for the Workplace

No matter where you are, as an employer, you will always have employees that will want to continue wearing masks and some that want to take it off as soon as they can – and due to privacy laws, you cannot ask for proof of vaccination. So what is the answer? Having a masking policy that includes language about following public health guidelines, specifically for vaccinated employees, is a good start. Working with employees to have an inclusive work environment that respects and prioritizes safety is also a good step. And affording options for employees that have legitimate safety concerns should be a requirement.

With so many changes in public health guidance over the past 16 months, making sure you are regularly communicating with your employees is critical – especially given the misinformation that is so easily accessible.

What would we recommend?

Keep your policies up-to-date, keep aware of changing guidelines, and make proper COVID health protocols a regular part of your daily/weekly/monthly safety training.

Additional Pieces

Workplace Safety – Know When to Say When – Know When to Stop Work Infographic

While qualified electrical line workers and electricians are often willing to go above and beyond the call, some jobs require specific knowledge and experience. That's why it's important to stop and reassess a situation if there is ever a doubt about a job's task or a procedure's requirement. As qualified electrical workers, it is our job to ensure all trades are aware of danger related to unqualified electrical work.

Office Safety – Safety Talk

Office safety is a duty and moral responsibility of every company. The

Occupational Safety and Health Administration (OSHA) states office safety as an obligation and that employers must provide a workplace free from serious hazards. Ensuring office health and safety promotes the wellness of both employees and employers and avoids the likelihood of accidents that may result in property damage, injuries or, worse, loss of life.

Safety Signage SafetyTalk

Safety signs are one of the main means of communicating health and safety information to employees, contractors, service users and members of the public. Safety signs should be easy to understand and should also be easy to see and read.

Upcoming Webinars

May 26 – Compliance Considerations for a Remote Workplace

As we are in the second year of the pandemic, most offices have moved remote. In this webinar, we will look at the considerations and obligations of a remote office. Michael Cleveland provides employers with practical and timely advice on a wide variety of labour and employment law matters including employment standards, labour relations, human rights, occupational health and safety, privacy, and wrongful dismissals. He acts for employers in the provincial and federal sectors in both unionized and non-unionized workplaces.

May 26 – Ergonomics of Working from Home – 1 Year Later – Lessons Learned

The new Work from Home (WFH) model has now been a reality for over 40% of employees for over a year. However, the impact of this change on how we work continues to have ongoing effects on our well-being. Several Research Institutes are now releasing reports outlining the effects of this new reality on employees' mental and physical health and wellbeing.

RECORDED – Crossing the Rubicon: When is Bad Behaviour a Disability?

As an occupational health and safety risk, violence has galvanized the attention of legislators, mental health practitioners, employers, and organized labour in the wake of well-published incidents of workplace harassment, assaults, and in some cases, fatalities. It appears that we have reached, if not exceeded, what Malcolm Gladwell referred to as the "tipping point," a moment of critical mass, the threshold or the boiling point of a particular issue.