



Webinar

# COVID-19 Employee Testing: Privacy and Risk Management Protocols

October 15, 2020



# Agenda

- Mandating testing
- Testing methods: virus vs. antibody
- Who & when to test
- Vendor selection
- Managing employee privacy
- Legal requirements: state & federal
- Testing implementation lessons learned



**Moderator**

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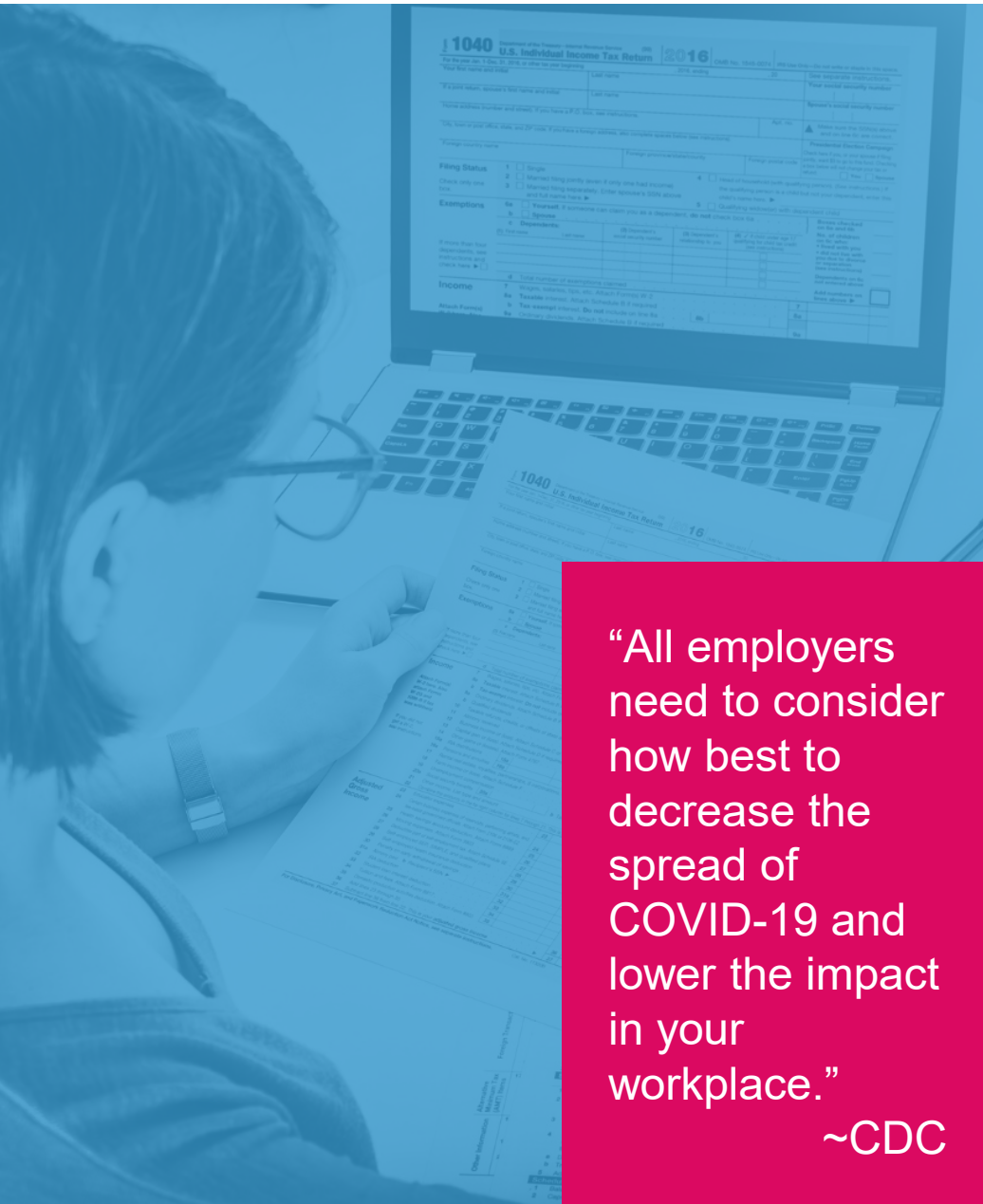


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Co-founder & CEO  
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**Centers for Disease  
Control and Prevention**  
National Center for  
Health Statistics





“All employers need to consider how best to decrease the spread of COVID-19 and lower the impact in your workplace.”

~CDC

## Comprehensive Plan

- ✓ Is specific to your workplace
- ✓ Identifies all areas and duties with potential exposure to COVID-19
- ✓ Includes control measures to eliminate or reduce exposure



**Daily Symptom  
Check**



**Regular On-Site  
Testing**



**Outbreak  
Prevention**

Who & When to Test	Where Testing is Helpful
<ul style="list-style-type: none"> <li>■ Initial testing of all workers before entering (or reentering) a workplace</li> <li>■ Periodic testing of workers at regular intervals</li> <li>■ Targeted testing of new workers</li> <li>■ Targeted testing of workers returning from a prolonged absence</li> </ul>	<ul style="list-style-type: none"> <li>■ When physical distancing is difficult, and workers are in close contact with co-workers or public for 15 minutes or more</li> <li>■ In remote settings where medical evaluation and treatment may be delayed</li> <li>■ Where continuity of operation is a high priority (i.e. critical infrastructure)</li> <li>■ Workplaces providing congregate housing for employees (i.e. farmworker, fishing vessel)</li> </ul>

# Required Employee Testing Notices



1

Name, manufacturer and purpose of the test; who will pay for it

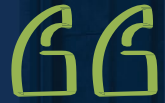
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Reliability, limitations and how the test will be performed; consequences for declining

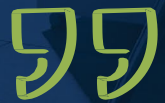
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How to understand results; who will receive them; how they will be used; actions the employee must take if +/-





The ADA requires employers keep confidential any medical information they learn about an applicant or employee. – EEOC.gov



## Maintaining Employee Privacy

- Testing must be job related and consistent with necessity
- Employers must maintain symptom and testing information as confidential medical records, including information stored in the cloud or on devices
- Employer must limit who has access to this confidential information

## Top 5 Elements of a Testing Program

1

Symptom screening and on-site testing of employees

2

Daily monitoring of results with dashboard

3

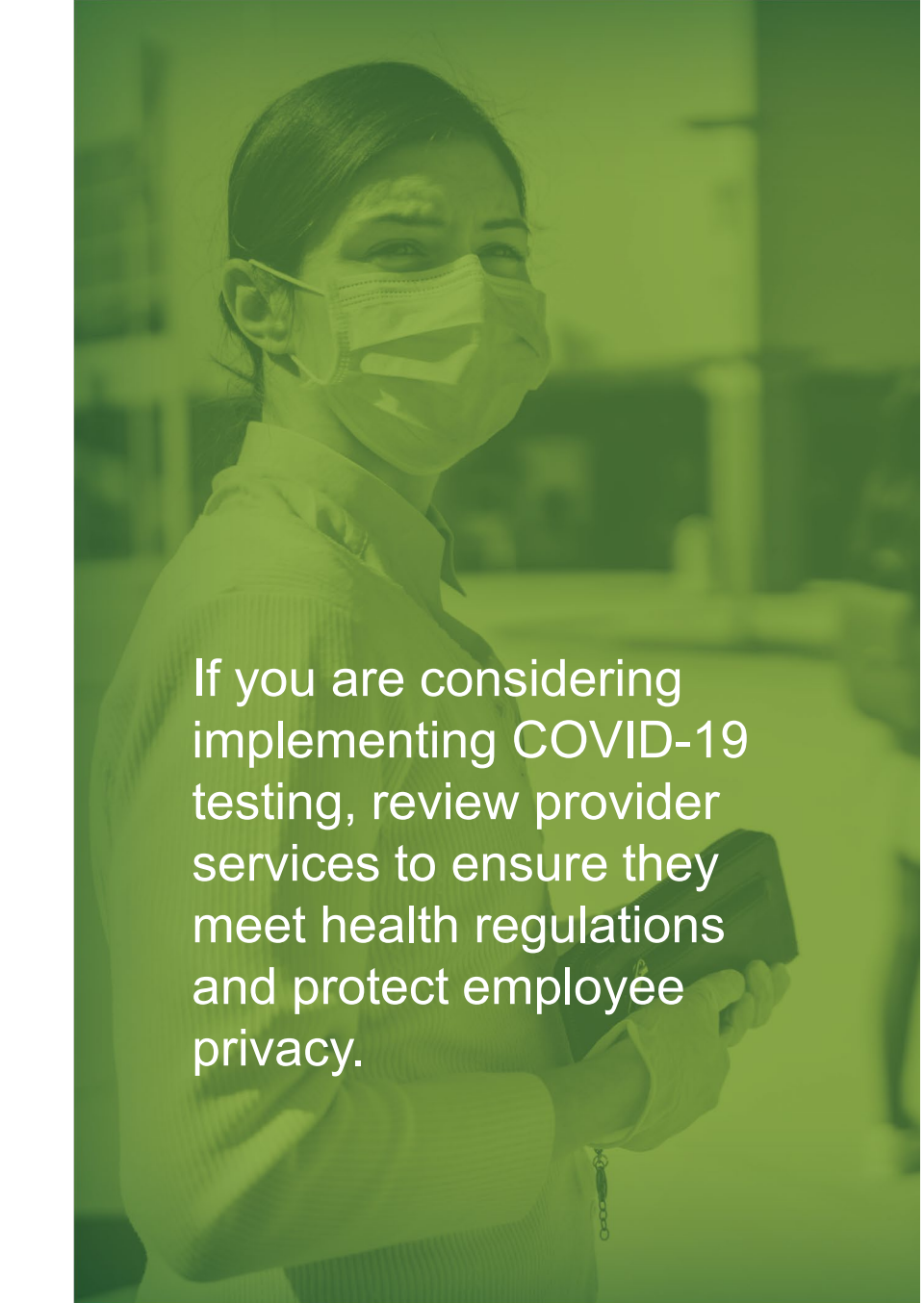
Preestablished plan for employees testing positive, including employer notification

4

Contact tracing and health department notification

5

Strong data privacy and recordkeeping protocols



If you are considering implementing COVID-19 testing, review provider services to ensure they meet health regulations and protect employee privacy.

# Resources

- **CDC:** [Businesses & COVID-19 FAQs](#)
- **CDC:** [Employer COVID-19 testing](#)
- **DFEH:** [COVID-19 FAQs](#)
- **DOL:** [FFCRA Leave FAQs](#)
- **EEOC:** [COVID-19 & the ADA](#)
- **Kyla:** [COVID-19 testing services](#)
- **Little:** [COVID-19 litigation tracker](#)
- **Manatt:** [Mitigating risk related to COVID-19](#)
- **OSHA:** [Documenting COVID-19 cases](#)



Thank  
You!



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