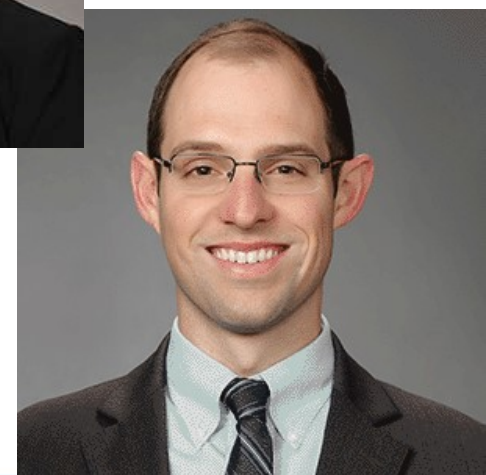


COVID-19 Update: Vaccines, Sick Leave, and Regulations

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What we're going to cover

- Quick Overall Update
- Vaccine Mandates – Federal & State
- Sick Leave
- Cal/OSHA COVID-19 Regulation
- Questions!



Quick Update: Masking

State-wide Mask Mandate ended on Feb 16 – but masking remains required under certain conditions under:

- CA's COVID-19 regulation
 - Local ordinances
 - CDPH guidelines
 - All individuals in public transit, schools, healthcare, homeless shelters, long-term care/senior care facilities
 - Unvaccinated individuals in indoor public settings
- (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>)



Quick Update: Case Rates

Almost returned to pre-holiday/Delta spike levels.

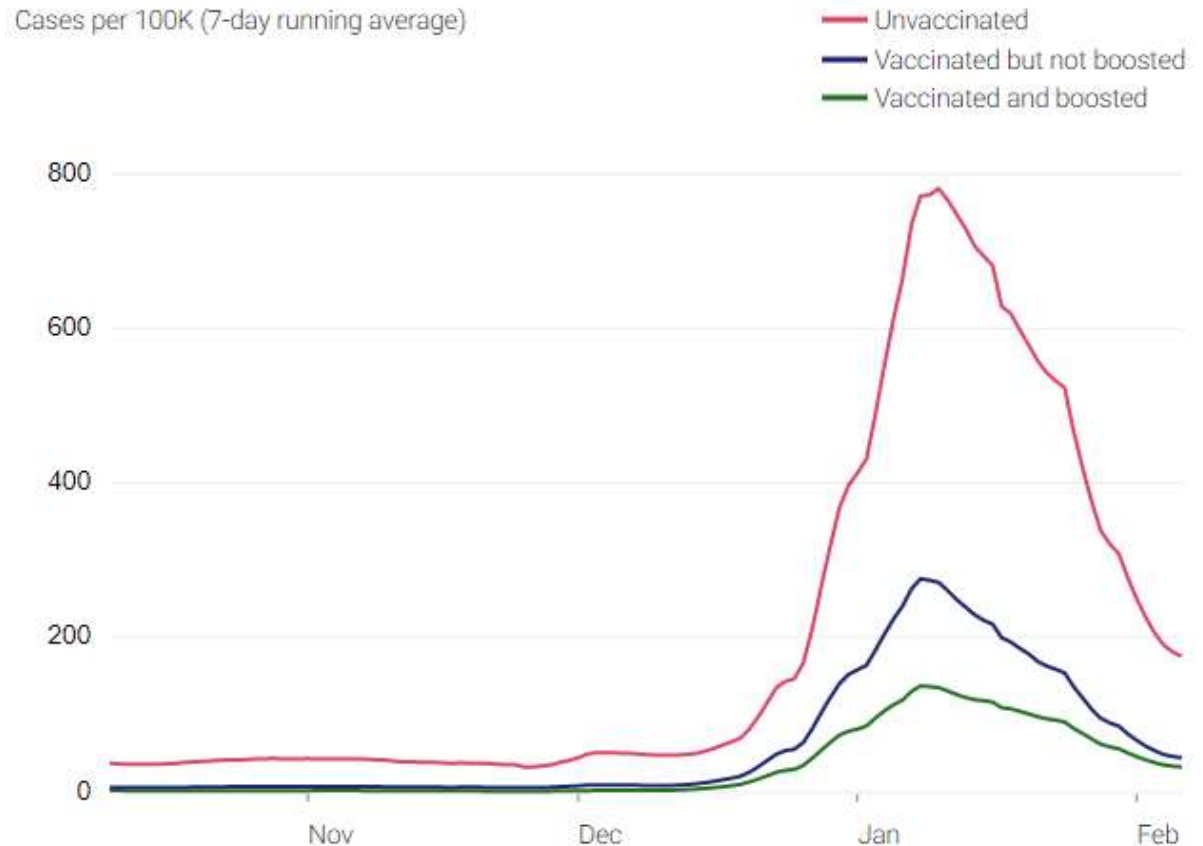
Cases per 100k as of Dec 14th, 2022:

- Unvaccinated: 48.8
- Vaccinated: 9.4
- Boosted: 3.4

Cases per 100k as of Feb 6th, 2022:

- Unvaccinated: 175.5
- Vaccinated: 44.6
- Boosted: 32.7

(Data as of 2/24/22 from <https://covid19.ca.gov/state-dashboard/>)



Quick Update: Hospitalization

Similarly returning to pre-holiday/Delta spike levels.

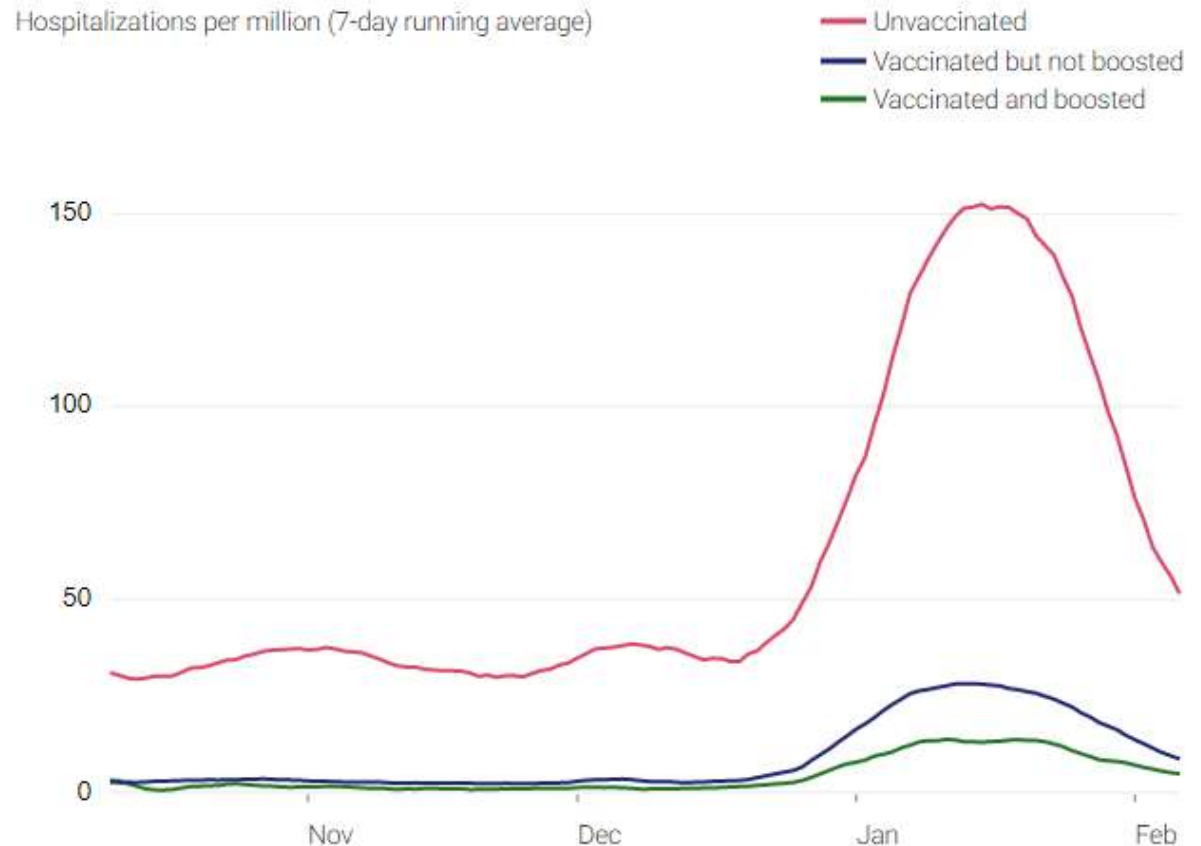
Hospitalizations per 1million as of Dec 14th, 2022:

- Unvaccinated: 35.3
- Boosted: 1.1

Hospitalizations per 1million as of Feb 13th, 2022:

- Unvaccinated: 51.5
- Boosted: 4.9

(Data as of 2/24/22 from <https://covid19.ca.gov/state-dashboard/>)



Quick Update: Endemic Transition

- Governor unveiled “SMARTERx” plan on Feb 17th, 2022
- Governor made clear this not be a hard transition, but instead would be a gradual process

(more information available here: <https://files.covid19.ca.gov/pdf/smarterplan.pdf>)



Vaccine Mandates: Federal Action

- Federal OSHA mandate for large employers struck questioned by SCOTUS, then withdrawn by Biden Administration.
- Federal contractor mandate presently being litigated in multiple federal circuits.
- Federal healthcare facility mandate in effect.



Vaccine Mandates: Local Actions

- San Francisco: Requires proof of vaccination to enter indoor dining, gyms, other indoor activities
- Los Angeles: Requires proof of vaccination to enter indoor bars, clubs, breweries, wineries, indoor public spaces
- Santa Clara: Required employers to track vaccination status of employees and independent contractors (*phased out June 2021*)



Vaccine Mandates: AB 1993 (Wicks, et al.)

Requires employers with 5+ employees to obtain proof of vaccination from all employees and independent contractors

- Hard mandate: no testing alternative
- Applies to public employers as well, including the Legislature
- Employers must affirm compliance to DFEH
- Expires when the CDC “determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals”

Vaccine Mandates: AB 1993 (Wicks, et al.)

Questions and Concerns

1. Document retention
2. Hard mandate vs. soft mandate
3. Enforcement
4. Independent Contractors



Vaccine Mandates: Reasonable Accommodations for Consumers and Employees

Fair Employment and Housing Act (employees)

- Medical/disability accommodations
- Religious belief accommodations

Unruh Civil Rights Act (consumers)

- Medical/disability accommodations
- *Unclear whether required*: religious belief accommodations

COVID-19 Paid Sick Leave: A History



For small or midsize employers, federal tax credits matched cost of sick leave up to a certain amount, generally. In effect from FFCRA (Apr 1, 2020) until Sept 30, 2021.

Federal tax credits expired.

COVID-19 Paid Sick Leave: SB 114

- Signed February 9 → Effective February 19
- Applies to employers with 26+ employees
- Two buckets of leave:
 - Up to 40 hours
 - Employee needs to quarantine or isolate
 - Employee or family member gets vaccine or recovers from it (up to 24 hours per appointment)
 - Employee is symptomatic and awaiting diagnosis
 - Employee is caring for child whose school or place of care is closed to COVID-19
 - Up to 40 hours
 - Employee tests positive
 - Family member tests positive
- Retroactive to January 1, 2022

COVID-19 Paid Sick Leave: What Other Leaves Are Available for COVID-19?

Labor Code 226:
Paid Sick Leave

California Family
Rights Act (CFRA)

Labor Code 230.8:
School or Child
Care Unavailability

Employer-provided
Leave

CalOSHA ETS
Exclusion Pay

Cal/OSHA's COVID-19 Regulation (29 CFR §3205)

- Also known as the “ETS” (Emergency Temporary Standard)
- Covers all non-healthcare workplaces in California
- Has been revised repeatedly over the last two years, leading to a lot confusion among employers
 - Most recent revision was over holidays – adjusted to match new CDC guidelines on exclusion from workplace.

Cal/OSHA's COVID-19 Regulation (29 CFR §3205)

Substantively, provides for:

- Information to employees on COVID-19 risks
- Notice of cases in the workplace
- Requires employers to retain data on vaccination or utilize more difficult protective measures
- Requires employers to provide masks to employees
- Requires testing be provided after exposures
- More stringent precautions in the event of multiple cases (3 cases/20 cases are two thresholds)

Cal/OSHA's COVID-19 Regulation (29 CFR §3205)

- Also requires exclusion pay for all employees if sick or exposed to COVID-19 ...(The overlap between these two is the source of a lot of confusion among employers.)
- ETS will be re-approved a final time in March 2022, and then potentially be made a permanent regulation in Dec 2022/Jan 2023

Any Questions?



(There are no dumb questions, so please ask whatever you're wondering! Odds are, we have been asked it by businesses or members previously.)