Cloth Face Coverings: Federal, State and Local Recommendations and Requirements

As the COVID-19 pandemic has continued, public health authorities have begun recommending – and in some cases mandating – that individuals wear face coverings when outside of their residences. Rental housing providers need to be aware of these requirements to ensure that they and their employees follow these requirements and are aware of related legal requirements.

Summary of Public Health Measures

Recently, the Centers for Disease Control began recommending the wearing of cloth face coverings (non-medical masks) to slow the spread of COVID-19 in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.

Earlier in April, the California Department of Public Health (CDPH) issued guidance on use of cloth face coverings by the general public when outside the home conducting essential activities. The guidance does not mandate the use of face covering. It specifically provides that “Counties that choose to introduce policies promoting face coverings for their residents should make sure that these policies do not put increased demand on medical grade respirators, such as N95 and surgical masks. Counties should emphasize the use of face coverings in conjunction with evidence-based interventions such as staying at home, physical distancing when completing essential activities and washing hands.”

The CDPH guidance also states that “Individuals outside of counties with recommendations on face coverings, should wear coverings if they feel comfortable doing so, and practice strict hand washing before and after touching and adjusting the mask. They are reminded that face coverings are not a replacement for other evidence-based measures such as physical distancing, frequent hand washing practices, and remaining at home when not doing essential activities.”

A number of counties and the City of Los Angeles responded to the CDPH guidance by issuing orders that require that cloth face coverings be worn. These orders vary – some require that employer-provided cloth face covering be worn by employees that have contact with the public, while others require that all persons wear face coverings. At this time, some counties only recommend the use of cloth face coverings, although this is likely to change of over time.

CDC Recommendation

CDPH Guidance

Local Governments Mandating Face Coverings

A limited list of city and county orders requiring the use of cloth face coverings appears below. CAA recommends that its members and all employers check with their local health department for the latest information on this issue.
Considerations for Employers

California Labor Code Section 2802 requires California employers to reimburse employees for all necessary expenditures incurred in the performance of their duties. If the employee is required to wear a face covering, the employer must either provide the face coverings or reimburse the employee for the cost of the face covering. If the face covering the employee is required to wear requires special maintenance, the employer may also be required to reimburse the employee for maintaining the covering.

Employers should also be aware that state and federal occupational safety and health regulations may require the employer to take additional steps before requiring, or providing for voluntary use, face coverings. For example, Section 5144 of Title 8 of the California Code of Regulations requires that in any workplace where respirators are required by the employer, the employer is required to establish and implement a written respiratory protection program with worksite-specific procedures that covers topics such as procedures for selecting respirators for use in the workplace, medical evaluations of employees required to use respirators, and procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators. Similar requirements apply where respirators use is voluntary. It’s unclear whether and/or how these and related requirements apply to requirements and voluntary use of cloth face coverings.

CAA recommends that rental housing providers who have employees consult with a knowledgeable employment attorney to ensure all applicable legal requirements are met.