



## **Long COVID in the Workplace: Impact & Accommodations**

*Chairperson:*

Abe Timmons, DO, MPH  
Medical Director, COEH

**Tuesday, March 26<sup>th</sup>, 2024**

**1:30-2:20pm**

**2024**

**Work Related Injuries  
Workshop**

# Interdisciplinary Clinical Guidance for the Assessment & Treatment of Patients with **Long COVID**



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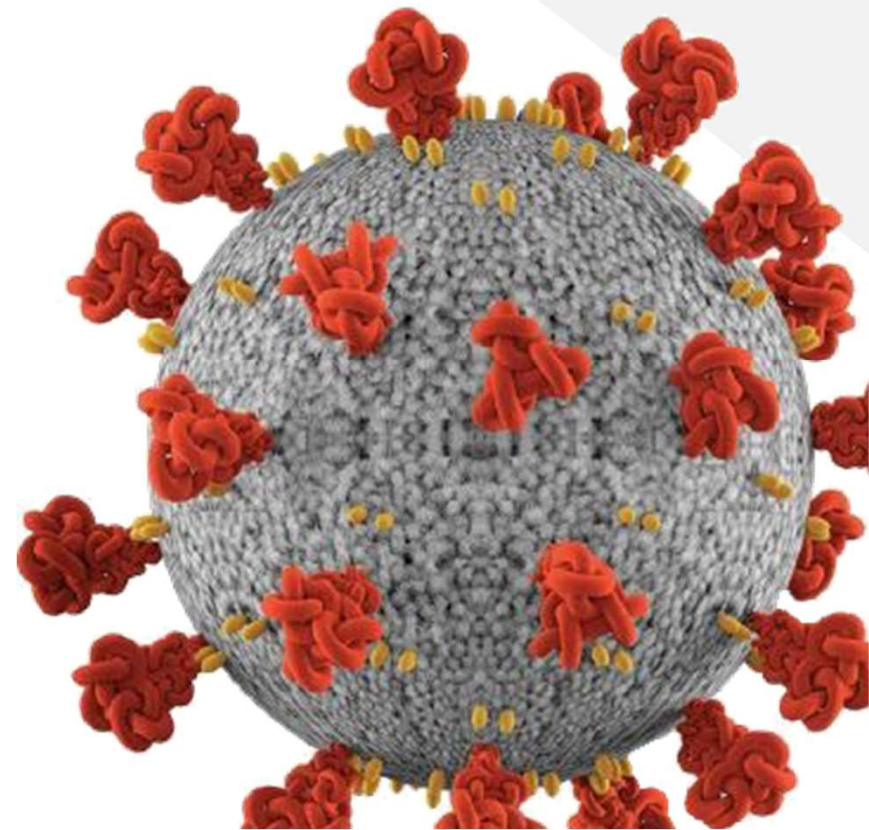


## **Symptoms and Effects of Long COVID**

## Definition:

Long-Haul COVID is called PASC...

The post-acute sequelae of SARS-CoV-2 infection (PASC) can manifest as a wide range of new, recurring or ongoing disabling symptoms or health problems that people can experience from the time of acute infection and persisting or starting 4 or more weeks after being infected with the virus that causes COVID-19



## The *Need* for Guidelines:

The American Academy of Physical Medicine and Rehabilitation (AAPM&R) Interdisciplinary PASC Collaborative (PASC Collaborative) was convened to address the pressing need for guidance in the care of patients with PASC



**Note:** Dr. Kaplan is now on the PASC Collaborative committee. Gaylord's COVID Program is one of only 40 in the country.



## A Growing Number of Symptoms:

More than 100 different symptoms have now been reported with PASC

### The more common symptoms include:

- Fatigue
- Shortness of Breath
- Chest Discomfort/Pains
- Palpitations
- Cognitive Dysfunction (Brain Fog)
- Sleep Disorders
- Fevers
- Gastrointestinal Symptoms
- Anxiety
- Depression



# Effects of COVID-19 by Body System

The most frequently reported  
body-system effects of COVID-19:

- Cardiac Impairments
- Neuropsychiatric Impairments
- Pulmonary Impairments
- Musculoskeletal Impairments
- Hematological Impairments
- Gastrointestinal Impairments
- Renal System Impairments



# Fatigue

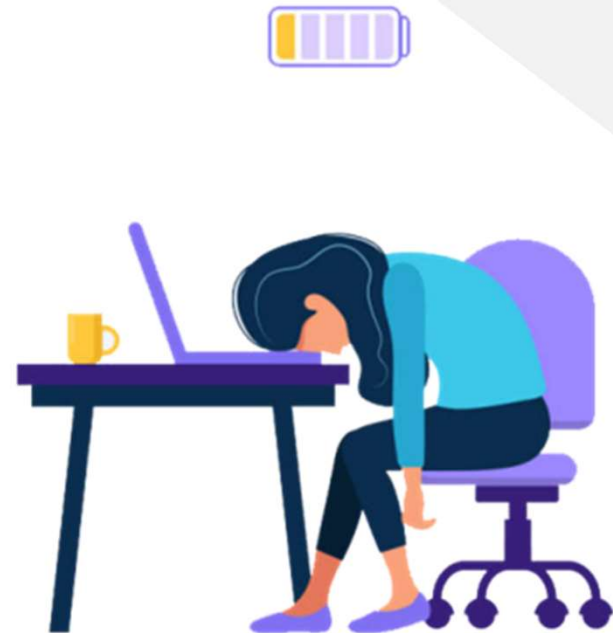
## Long-Term Symptoms:

- The most common symptoms were:
- Fatigue or muscle weakness (63%)
- Sleep difficulties (26%)
- Anxiety and depression (23%)

Greater than **20%** of patients were below the lower-limit of normal on the 6-minute walk test.

## Common descriptions of PASC-related fatigue include:

- Severe exhaustion after minimal physical or mental exertion
- The sense of being weighed down all day
- After having a “good day” of increased activity level, the feeling of “crashing” requiring several days of recovery
- Persistent tiredness or exhaustion after sleep/upon waking





# Neurologic Symptoms:

## Common Symptoms & Signs

### Symptoms:

- Headache
- Weakness
- Numbness
- Cognitive or communication dysfunction
- Difficult walking
- Bowel or bladder dysfunction

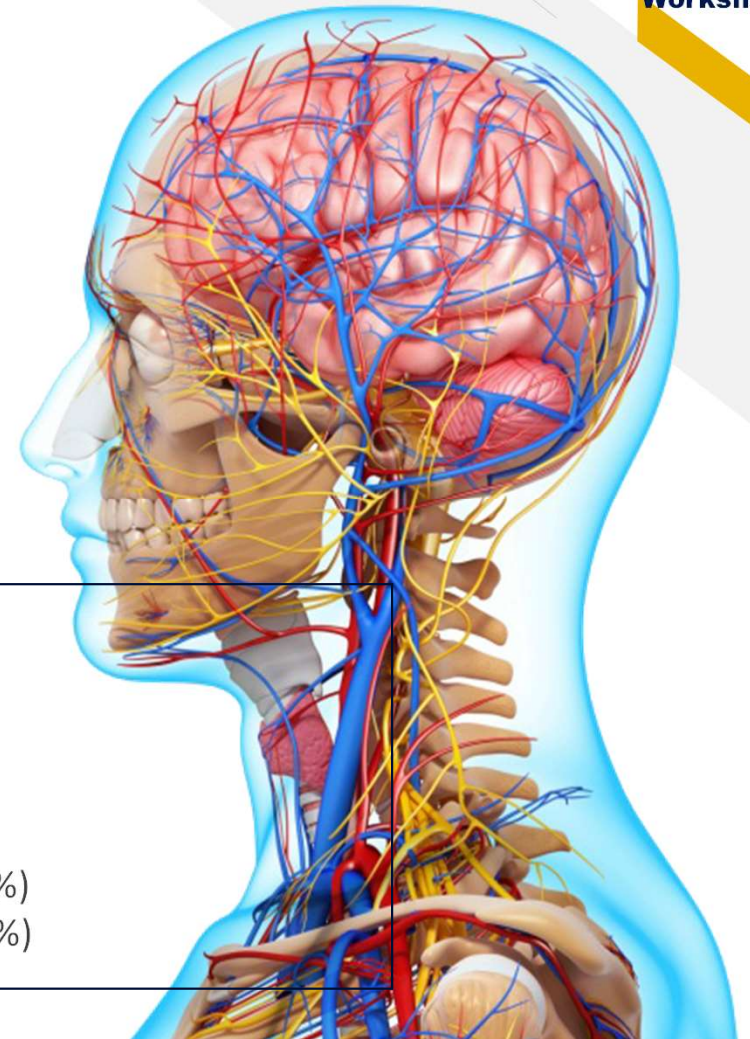
### Signs:

- focal weakness
- abnormal cognitive screening
- ataxia
- hyperreflexia
- aphasia
- aprosody

Neurological symptoms are present in **more than 80%** of hospitalized patients during the acute phase of the infection.

The most common symptoms are:

- |                     |                           |                  |
|---------------------|---------------------------|------------------|
| • “brain fog” (81%) | • numbness/tingling (60%) | • anosmia (55%)  |
| • headache (68%)    | • dysgeusia (59%)         | • myalgias (55%) |



# Cognitive Symptoms

It is important for clinicians to recognize that disease severity may not be a predictor of PASC symptoms as many patients presenting to outpatient COVID recovery centers experienced only mild initial SARS-CoV-2 infection.

## Primary cognitive symptoms include:

- Deficits in reasoning
- Problem solving
- Spatial planning
- Working memory
- Difficulty with word retrieval
- Poor attention



## Study: New Evidence Suggests Long COVID Could Be a Brain Injury

### Brain fog is one of the most common, persistent complaints in patients with long COVID

- **New study:** symptoms may be the result of a viral-borne brain injury that may cause cognitive and mental health issues that persist for years
- Researchers found: 351 patients hospitalized with severe COVID-19 had evidence of a long-term brain injury **a year** after contracting the SARS-CoV-2 virus
- Brain Deficits can equal up to 20 Years of Brain Aging
- **Problems include:** multitasking at work and in life, remembering details, meeting deadlines, synthesizing large amounts of information, and maintaining focus on tasks



Reference: New Evidence Suggests Long COVID Could Be a Brain Injury - Medscape - February 08, 2024  
<https://www.medscape.com/viewarticle/new-evidence-suggests-long-covid-could-be-brain-injury-2024a10002v0?form=fpf>

## PASC cognitive symptom assessment recommendations:

### Statement:

“The following basic lab workup should be considered to screen for reversible factors contributing to cognitive symptoms”.

### The initial lab workup in new patients or those without lab workup in the 3 months prior to visit including:

- Complete blood count
- Vitamin B12
- Thiamine
- Folate
- Homocysteine
- 1,25-dihydroxy vitamin D
- Magnesium
- Liver function tests
- Comprehensive metabolic panel
- Thyroid function tests



## Study: New Evidence Suggests Long COVID Could Be a Brain Injury

### Treatment

- Treatments may include speech, cognitive, and occupational therapy as well as meeting with a neuropsychiatrist for the treatment of related mental health concerns
- Even with treatment, long-term repercussions may cause the early onset of dementia and Alzheimer's in those who were already vulnerable to it
- Concern that some may be suffering from cognitive deficits that are more subtle but still impacting daily lives, are not getting the help they need
- **Still more to learn:** will anti-inflammatory or antiviral medications work at preventing it? Will steroids help to offset the damage?



Reference: New Evidence Suggests Long COVID Could Be a Brain Injury - Medscape - February 08, 2024

<https://www.medscape.com/viewarticle/new-evidence-suggests-long-covid-could-be-brain-injury-2024a10002v0?form=fpf>

## Common Symptoms & Signs

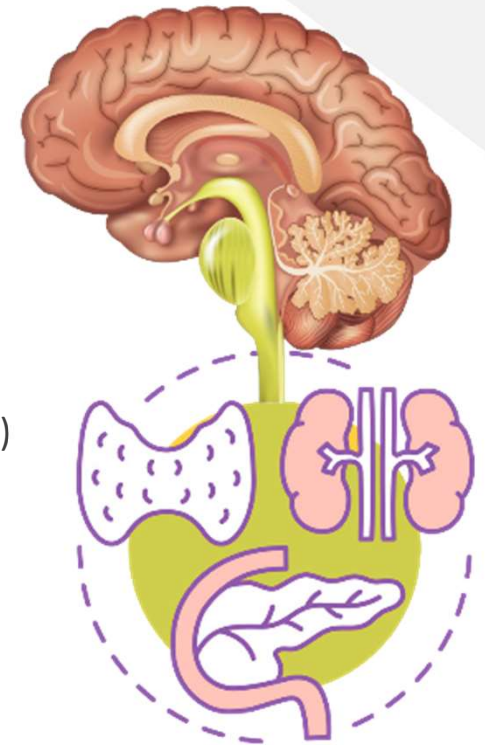
# Endocrine:

### Symptoms:

- Palpitations
- Fatigue, dizziness
- Weight gain/loss
- Sense of chills/fever
- Irregular menstrual cycle
- Poor diabetic control
- Excessive thirst/urination

### Signs:

- Tachycardia
- Poor activity tolerance
- Weight gain/loss
- Low/elevated temperature
- Elevated finger-stick/urine glucose
- Ketotic (fruity) breath
- Bone pain
- Risk factors for malnutrition  
(ex. “tea and toast” diet or alcohol abuse)



## Common Symptoms & Signs

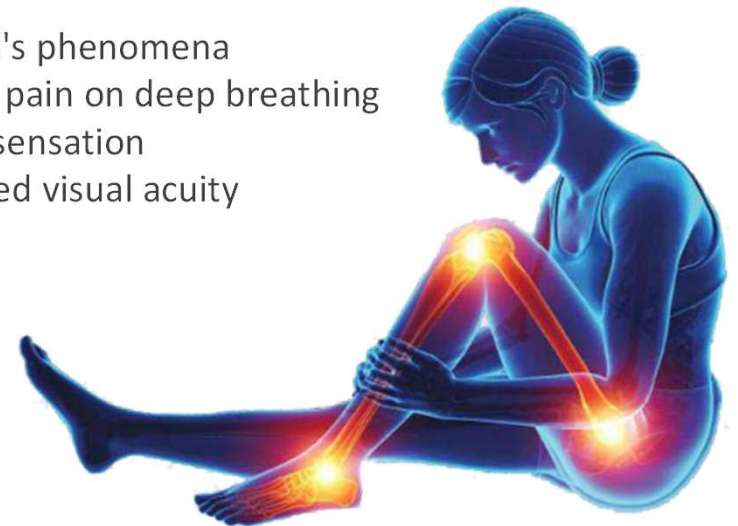
# Autoimmune or Infectious:

### Symptoms:

- Rash
- Joint/ muscle pain and stiffness
- Fever
- Mouth sores/ ulcers
- Cold/ pale/blue/red fingers
- Sharp chest pain
- Numbness/ tingling/ burning in fingers/ toes, blurry/ decreased vision

### Signs:

- Rash
- Arthropathy/ swelling/warmth
- Decreased range of motion
- Myopathy/ tenderness/ weakness
- Fever
- Raynaud's phenomena
- Pleuritic pain on deep breathing
- Altered sensation
- Decreased visual acuity



## Common Symptoms & Signs

# Mood Disorders:

### Symptoms:

- Anxiety
- Irritability
- Chest tightness
- Low frustration tolerance
- Depression
- Fatigue
- Mood swings
- Palpitations
- Change in memory/recall

### Signs:

- Flat affect/low mood
- Emotional lability
- Crying/laughing inappropriately
- Limited impulse control
- Psychosis





## Common Symptoms & Signs

# Sleep Disorders:

### Symptoms:

- Poor sleep - hard to get to sleep/ wakes frequently/wakes early
- Nonrestorative/refreshing sleep - “tired” upon waking
- Snoring
- Frequent urination at night
- Bad dreams/nightmares
- Falls asleep during the day

### Signs:

- Snoring
- Restless legs
- Observed apneic episodes
- Hypertension
- Arrhythmias
- Narcolepsy
- Congestive heart failure
- Impaired cognition
- Poorly controlled mood disorder
- Metabolic dysfunction: glucose intolerance



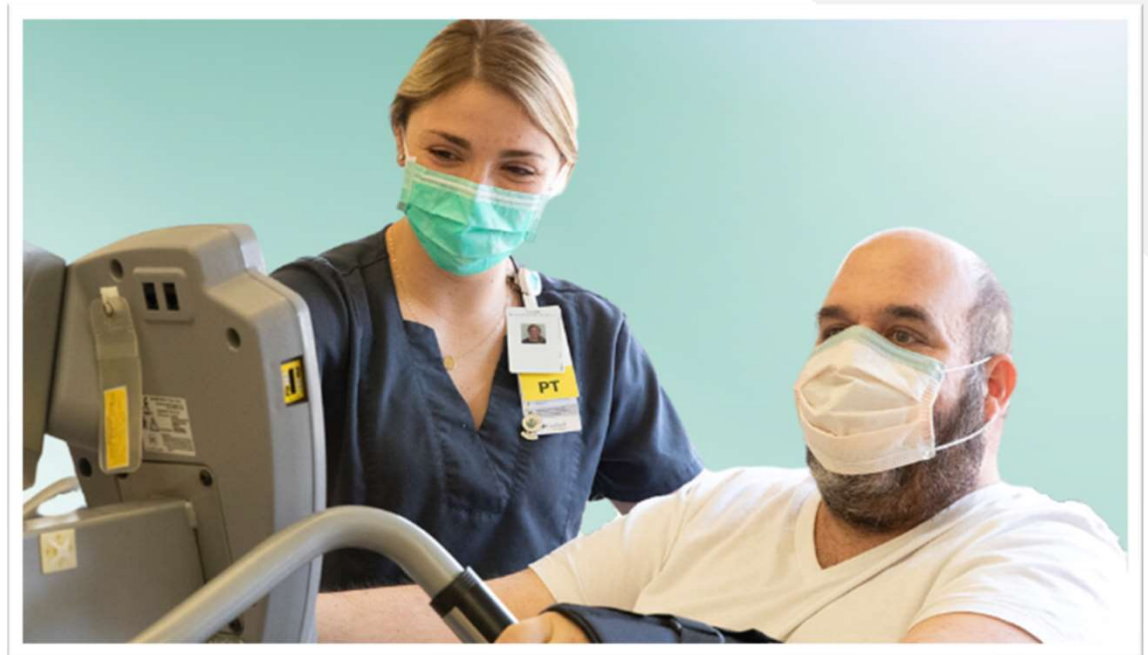


## **Interdisciplinary Treatment of Long COVID**

# Physical Therapy

Physical therapists can provide individualized rehabilitation programs to those with long COVID.

- Manage fatigue to improve exercise tolerance
- Provide targeted breathing exercises to strengthen respiration muscles
- Improve lung capacity
- Enhance overall strength, flexibility, and mobility



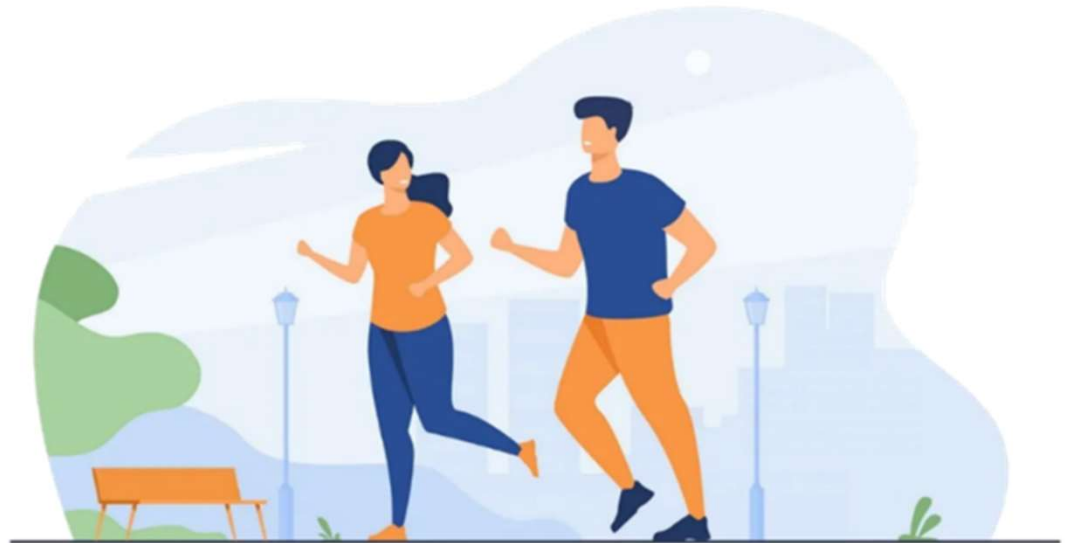
# Exercise Principles

## SAID principle

- Specific Adaptation to Imposed Demands
- The body will adapt to specific demands that are placed upon it

## RPE scale

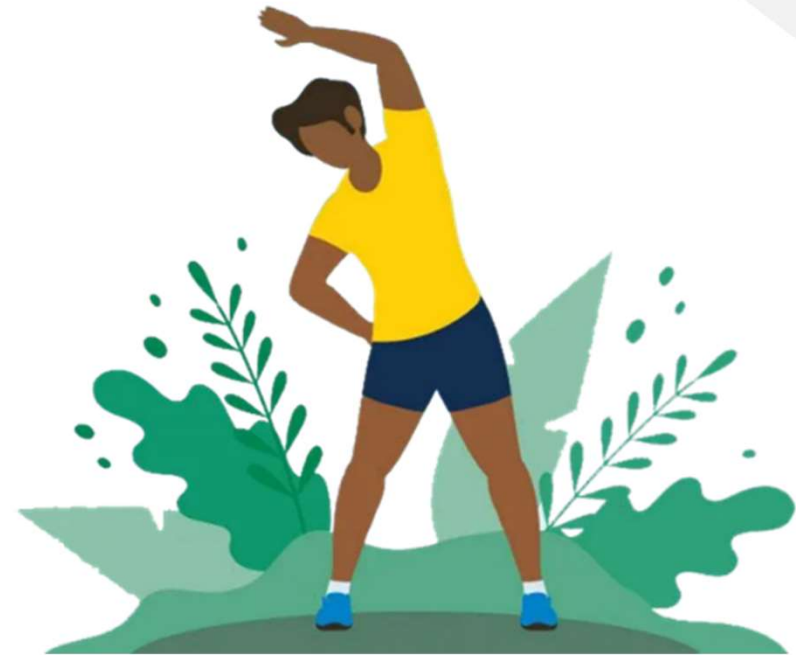
- Rate of Perceived Exertion
- Establish response to low levels of perceived exertion and build tolerance to increased levels of exertion throughout therapy



# Post COVID-19 Exercise Guidelines

## Phase 1: Extremely Light Intensity Activity (RPE 6-8)

- Diaphragmatic breathing if cough/ SOB persists
  - 1:2 Inspiration: expiration ratio
- Stretching and yoga exercises
- Whole body resistance and balance exercises
  - 1:1 or 1:2 work to complete rest ratio
- Short duration steady state cardio program



# Post COVID-19 Exercise Guidelines

## Phase 2: Light Intensity Activity (RPE 6-11)

- Increased duration steady state cardio
- Increased resistance with strengthening exercises

## Phase 3: Moderate Intensity Activity (RPE 12-14)

- 5 minute blocks of brisk walking, stair climbing, recumbent biking
- Increase number of intervals by one daily as tolerated
- 2:1 exercise to rest ratio



# Post COVID-19 Exercise Guidelines

## Phase 4: High Intensity Interval Training (RPE 15-16)

- Focus on coordination
  - Jogging
  - Sideways shuffling
  - Ladder drills
  - Carrying weighted items up/down stairs
- Increasingly challenging strength and balance exercises



# Cardiovascular Considerations

## Post-exertional Malaise (PEM):

- PEM is the worsening of symptoms following even minor physical or mental exertion, with symptoms typically worsening 12 to 48 hours after activity and lasting for days or even weeks
- Pacing strategies - include dividing daily tasks into smaller, manageable components to prevent symptom exacerbation





# Cardiovascular Considerations

## Postural Orthostatic Tachycardia Syndrome (POTS)

- A condition that causes a number of symptoms when you transition from lying down to standing up, such as a fast heart rate, dizziness and fatigue without a drop in blood pressure
- While there's no cure, several treatments and lifestyle changes can help manage the symptoms of POTS
- Exercise in supine or seated positions rather than standing up. Recumbent bike or pool not treadmill

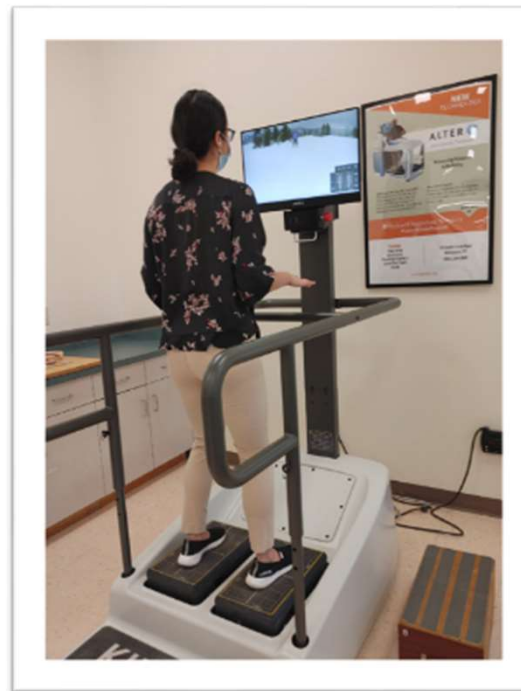


# Vestibular Considerations

## KINESIQ

- Multisensory virtual reality tool to objectively document, quantify and treat balance, gait, and cognitive impairment
- Dual motorized plates that sync with multimedia content to simulate real life scenarios
- Multi dimension dynamic balance system

<https://www.kinesiq.com/en/>

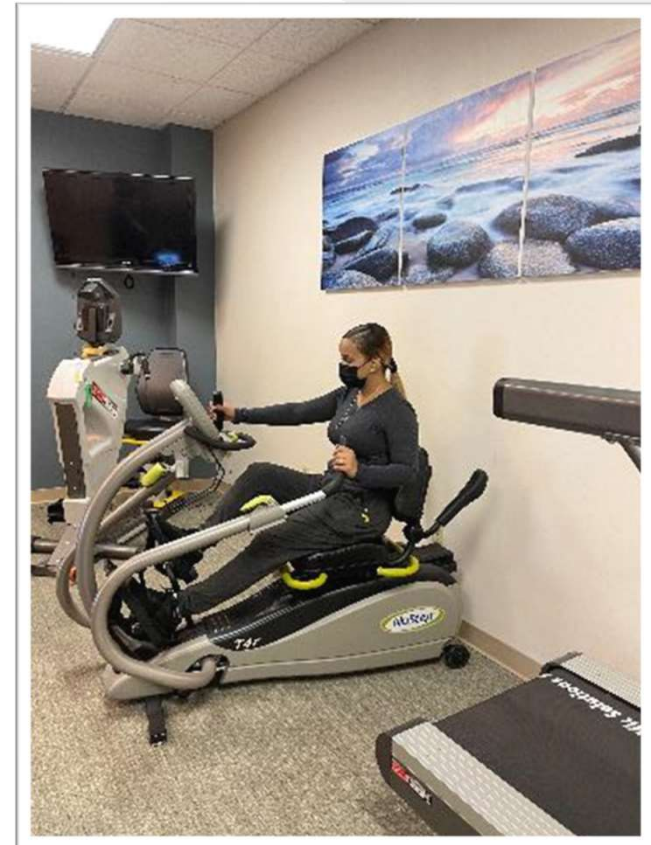


# Pulmonary Rehabilitation

Research supports the initiation of early physical therapy to promote functional mobility, decrease medical complications associated with bed rest, and return the patient to their prior level of function\*

- Strengthening exercises, aerobic training, and stretching help to return patients to their prior level of function
- Breathing retraining to improve ventilation
- Coughing techniques to improve secretion clearance
- Exercises to improve both diaphragmatic strength and muscles assisting in respiration

Source: <https://www.apta.org/patient-care/public-health-population-care/long-covid/benefits-of-physical-therapy-for-individuals-with-long-covid2>



# Occupational Therapy

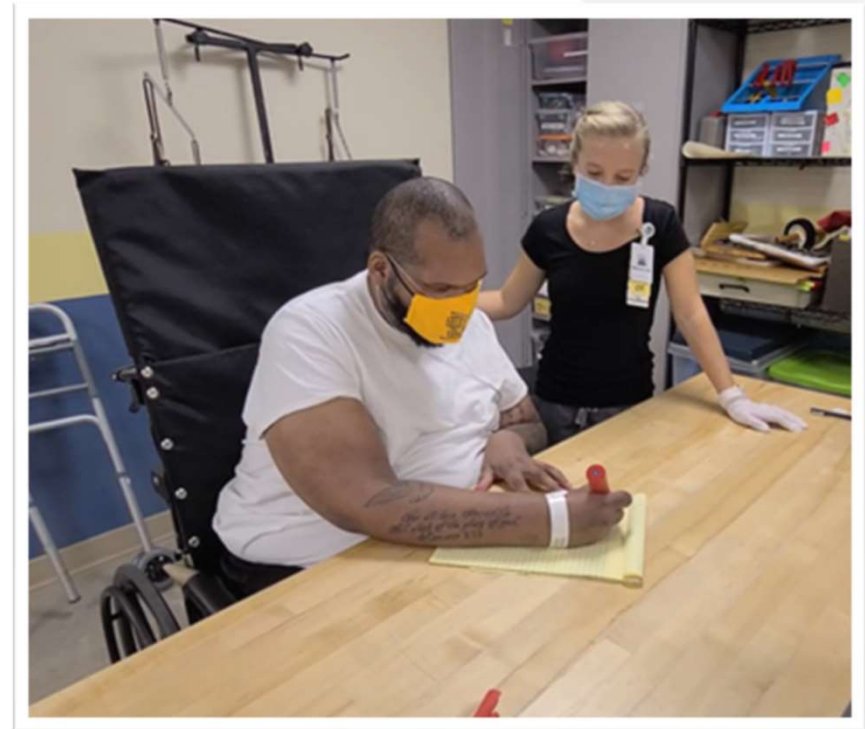
## Occupational Therapy Treatment for Long COVID Fatigue

The goal of treatment is to repeatedly replenish energy and improve wellbeing through:

- Pacing
- Good nutrition
- Good sleep
- Managing stress

Energy is used physically, cognitively and emotionally so all areas of a client's lifestyle should be considered including:

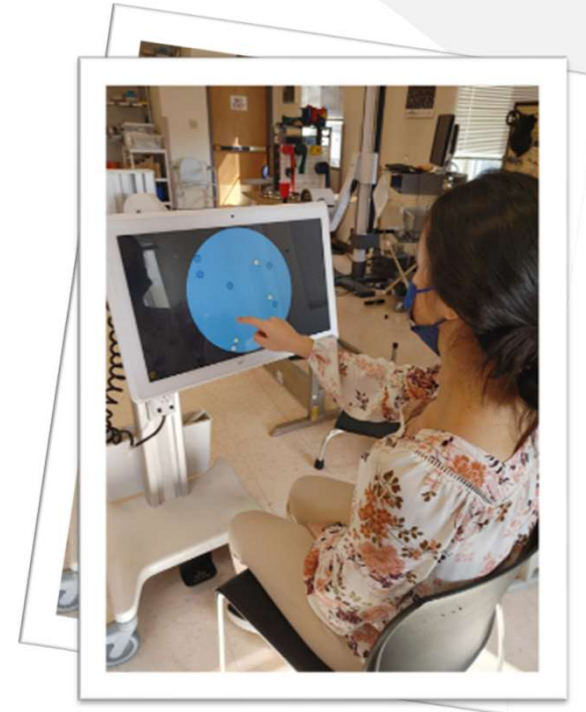
- Daily tasks
- Relationships
- Work
- Education



# Bioness Integrated Therapy System (BITS)

- Multidisciplinary tool for vision, motor, cognition & balance training
- Multiple assessment and therapy programs
- Tracks patient progress allow document objective outcomes

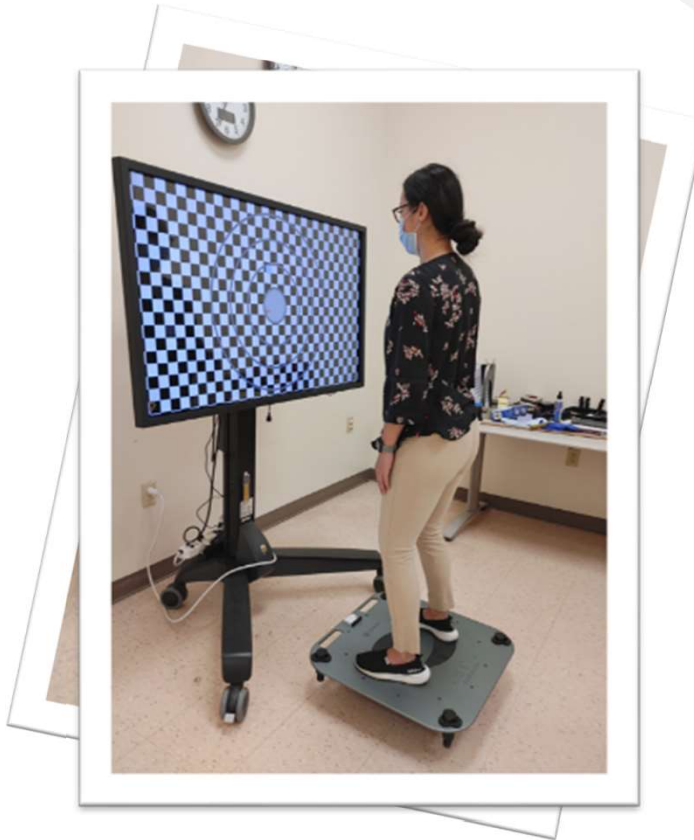
<https://bionessrehab.com/bit/>



# BITS Balance

- Versatile balance tracking using a balance platform to detect posterior, anterior and lateral movements

<https://bionessrehab.com/bit/>



# Speech Therapy

## Cognitive communication areas impacted by PASC:

- **Cognition:** Brain fog can prevent a return to work and interfere with life. Speech therapists work with a patient to improve memory, attention, organizational problem solving and social interactions
- **Communication:** Low oxygen levels associated with COVID may be linked to speech and language difficulties, including talking, reading, writing and word recall. Speech therapists have methods for helping a patient to improve communication and understanding skills
- **Voice:** Post COVID patients may experience hoarse voice or other vocal cord problems. Speech therapy can help improve vocal quality, reduce hoarseness, or rough sounding voice and reduce vocal strain

Source: Speech Therapy is Vital in Treating Long COVID-19 - Great Speech

<https://greatspeech.com/>



# Psychology

## Psychologists play a crucial role in the treatment of PASC:

- Collaboration and Patient Trust
- Robust Mental Health Support
- Increasing Family and Caregiver Support
- The need for care after transitioning from the hospital
- Help for psychological symptoms that appeared after initial mild or moderate symptoms subsided

## Treatments that can aid many of the psychological symptoms of COVID:

- Trauma therapy
- Cognitive behavior therapy for establishing new behaviors like sleep hygiene
- Acceptance and commitment therapy for those struggling with the uncertainties of their illness

Source: <https://www.apa.org/monitor/2021/07/treating-long-covid>





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# Back to the Guidelines...

## AAPM&R Multidisciplinary PASC Collaborative Guidelines:

- Mental Health Guidance Statement
- Neurological Symptoms Guidance Statement
- Pediatrics Guidance Statement
- Autonomic Dysfunction Guidance Statement
- Cardiovascular Guidance Statement
- Fatigue Guidance Statement
- Breathing Discomfort Guidance Statement
- Cognitive Symptoms Guidance Statement

**Guidelines can be found on:**

[www.aapmr.org](http://www.aapmr.org)

**aapm&r**

American Academy of  
Physical Medicine and Rehabilitation

## References:

- **Post-acute Assessment & Treatment of Cardiac Complications in PASC Patients:**  
**Multi-disciplinary collaborative consensus guidance statement on the assessment and treatment of breathing discomfort and respiratory sequelae in patients with post-acute sequelae of SARS-CoV-2 infection (PASC)**  
<https://www.aapmr.org/education>  
Jason H. Maley MD, George A. Alba MD, John T. Barry PT, DPT, Matthew N. Bartels MD, MPH, Talya K. Fleming MD, Christina V. Oleson MD, Leslie Rydberg MD, Sarah Sampsel MPH, Julie K. Silver MD, Sabrina Sipes PT, DPT, Monica Verduzco-Gutierrez MD, Jamie Wood PhD, Joseph D. Zibrak MD, Jonathan Whiteson MD  
**First published: 13 December 2021**
- **Post-acute Assessment & Treatment of Fatigue in PASC Patients:**  
**Multidisciplinary collaborative consensus guidance statement on the assessment and treatment of fatigue in postacute sequelae of SARS-CoV-2 infection (PASC) patients**  
<https://www.aapmr.org/education>  
Joseph E. Herrera DO, William N. Niehaus MD, Jonathan Whiteson MD, Alba Azola MD, John M. Baratta MD, MBA, Talya K. Fleming MD, Soo Yeon Kim MD, Huma Naqvi MD, Sarah Sampsel MPH, Julie K. Silver MD, Monica Verduzco-Gutierrez MD, Jason Maley MD, Eric Herman MD, Benjamin Abramoff MD, MS  
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- **Post-acute Assessment & Treatment of Cognitive Symptoms in PASC Patients:**  
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<https://www.aapmr.org/education>  
Jeffrey S. Fine MD, FAAPMR, Anne Felicia Ambrose MD, MS, Nyaz Didehbani PhD, Talya K. Fleming MD, Lissette Glashan MS, CCC-SLP, CBIS, Michele Longo MD, MPH, Alexandra Merlino MS, CCC-SLP, Rowena Ng PhD, Gerald J. Nora MD, PhD, Summer Rolin PsyD, Julie K. Silver MD, Carmen M. Terzic MD, PhD, Monica Verduzco-Gutierrez MD, Sarah Sampsel MPH  
**First published: 13 December 2021**

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**QUESTIONS?  
THANK YOU!**



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# **Long COVID in the Workplace: Impact & Accommodations**

Debra Dyleski-Najjar, Esq.

Founder, Najjar Employment Law  
Group

# DISCLAIMER

- The information contained in this presentation is educational and intended for informational purposes only. It does not constitute legal advice, nor does an attorney client relationship exist.
- If you require legal advice, you should consult a licensed attorney in your jurisdiction.



# Agenda

- The Workplace Issues: Long COVID a Mass Disability Event
- Setting the Workplace Stage: Long COVID Workplace Impacts
- Accommodating Long COVID: EEOC Guidance
- Job Accommodation Network: Recommendations and Resources
- Medical Support for the Accommodation Request: Long What?
- Long COVID – Long and Here to Stay
- Questions



# Setting the Workplace Stage:

The National Emergency and Long COVID Today

# Lingering Pandemic Issues

- Although the National Emergency officially ended almost a year ago, the effects of COVID (and the virus) persist and impact our workplaces.
- Long COVID may require a disability accommodation in the workplace
- Long COVID also impacting staffing for employers
- Impact on health insurance costs/premiums?



# HHS Report in Association with Coforma

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- The November 2022 publication by Coforma calls Long COVID a “Potential Endemic” or Mass Disabling Event
- <https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf>

# Census Bureau: Pulse Survey

- The U.S. Census Bureau, in collaboration with multiple federal agencies, launched the Household Pulse Survey to produce data on the social and economic impacts of COVID-19 on American households. \*
- The Household Pulse Survey was designed to gauge the impact of the pandemic on employment status, consumer spending, food security, housing, education disruptions, and dimensions of physical and mental wellness.
- The federal government's Household Pulse Survey estimates that approximately 10% of people infected with SARS-CoV-2 — the virus that causes COVID-19 — live with ongoing, relapsing, or new symptoms that can affect nearly every tissue and organ in the body which can last for weeks, months, or years.
- Recent PULSE Survey released February 2024, suggests that long covid population has expanded with about \$14M people reporting Long Covid symptoms out of \$16M reporting current COVID, of which 10M reported an impact on their daily activities.
- A HHS funded report stated that 5-30% of people with COVID develop Long Covid <https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf> at 10.
- The recent PULSE Survey suggests the number of people experiencing Long Covid after COVID is much higher; closer to 90% of people infected with COVID.

# COVID-19 symptoms lasting 3 months or longer

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	Total	Long-term symptoms reduce ability to carry out day-to-day activities			
		Yes, a lot	Yes, a little	Not at all	Did not report
Yes	13,899,709	3,032,388	7,852,132	3,011,375	3,814
No	21,252,008	-	-	-	21,252,008
Did not report	78,908	-	-	-	78,908

<https://www.census.gov/data/tables/2024/demo/hhp/cycle01.html> (Feb. 22, 2024)



# Workplace Issues

Pandemic may be over, but its impacts continue in the workplace

# Workforce Impact: Labor Shortage

- As many as 4 M US workers are projected to be out of work due to Long Covid.\* A recent HHS sponsored report estimates a much higher number: between 7.7 and 23 Million Americans <https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf> at 14
- A Minneapolis Fed Reserve Bank study found that 25.9% people with long Covid have had their work “impacted” (meaning that they are either out of work or working reduced hours), and finding that long-haulers who reported long-haul COVID affected work are 10 percentage points less likely to be employed and, on average, work 50% fewer hours than individuals without prior COVID infection.\*\*
- A 2021 study published in The Lancet in July 2021, found that 22% of people with long Covid were unable to work due to ill health, and another 45% had to reduce hours worked.\*\*\*\*
- \*<https://www.brookings.edu/research/new-data-shows-long-covid-is-keeping-as-many-as-4-million-people-out-of-work/>
- \*\*<https://www.minneapolisfed.org/research/institute-working-papers/long-haulers-and-labor-market-outcomes> (July 7, 2022)
- \*\*\*\*[https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370\(21\)00299-6/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(21)00299-6/fulltext)

# UK Report of Long COVID: Getting Worse

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- A UK Trades Union Congress (TUC) report in January 2, 2023 stated that 2 million people in the UK were experiencing Long Covid (up from its 2021 survey).
- The 2023 Report stated that 60 per cent of respondents said they had been experiencing symptoms for over a year.
- Six in 10 respondents (63 per cent) said that their ability to carry out normal day to day activities had been limited substantially.
- A further third (33 percent) reported that their ability to carry out day to day activities had been limited to some extent.
- <https://www.tuc.org.uk/sites/default/files/2023-03/LongCovidatWork23.pdf>



# Law of Accommodation

COVID Considerations

# EEOC Guidance

- On May 15, 2023, the U.S. Equal Employment Opportunity Commission (EEOC) issued a number of updates to its COVID-19 technical assistance, “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws”\*
- \*<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>



# Key Updates

- Key updates include:
  - The end of the COVID-19 public health emergency does not mean employers can automatically terminate reasonable accommodations that were provided due to pandemic-related circumstances. However, employers may evaluate accommodations granted during the public health emergency, and, in consultation with the employee, assess whether there continues to be a need for reasonable accommodation based on individualized circumstances.
  - For employees with Long COVID, the updates include common examples of possible reasonable accommodations, including a quiet workspace, use of noise cancelling devices, and uninterrupted worktime to address brain fog; alternative lighting and reducing glare to address headaches; rest breaks to address joint pain or shortness of breath; a flexible schedule or telework to address fatigue; and removal of “marginal functions” that involve physical exertion to address shortness of breath. Many of these are low or no-cost accommodations.
  - For employers, the updates include tips about remaining alert for COVID-related harassment of applicants or employees with a disability-related need to continue wearing a face mask or take other COVID-19 precautions at work.

# EEOC Q&A Guidance

- D.19. What are examples of reasonable accommodations that may assist employees with Long COVID? (5/15/23)
  - The possible types of reasonable accommodations to address various symptoms of Long COVID vary, depending on a number of factors, including the nature of the symptoms, the job duties, and the design of the workplace.
  - Some common reasonable accommodations include: a quiet workspace, use of noise cancelling or white noise devices, and uninterrupted worktime to address brain fog; alternative lighting and reducing glare to address headaches; rest breaks to address joint pain or shortness of breath; a flexible schedule or telework to address fatigue; and removal of “marginal functions” that involve physical exertion to address shortness of breath.
  - The Job Accommodation Network has information on a variety of possible reasonable accommodations to address specific symptoms of Long COVID.
  - <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

# When is Long Covid a Disability?

- Section N of the Guidance includes a discussion of Long COVID as a disability and a discussion of ADA considerations when other disabilities arise from conditions that were caused or worsened by COVID-19.
- The EEO Guidance refers to HHS and DOJ guidance for more information:
  - On July 26, 2021, the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) issued “Guidance on ‘Long COVID’ as a Disability Under the ADA, Section 504, and Section 1557” (DOJ/HHS Guidance).
  - HHS has also issued a report addressing various aspects of living with Long COVID.
- The EEOC notes “whether called COVID, Long COVID, or any other name, the ADA’s three-part definition of disability applies to COVID-related conditions in the same way it applies to any other medical condition.”
  - <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> (Section N)

# The ADA Three Part Definition

- The ADA's three-part definition of disability applies to COVID-19 and Long COVID in the same way it applies to any other medical condition.
- A person can be an individual with a "disability" for purposes of the ADA in one of three ways:
  - "Actual" Disability: The person has a physical or mental impairment that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning, or operation of a major bodily function);
  - "Record of" a Disability: The person has a history or "record of" an actual disability (such as cancer that is in remission); or
  - "Regarded as" an Individual with a Disability: The person is subject to an adverse action because of an individual's impairment or an impairment the employer believes the individual has, whether or not the impairment limits or is perceived to limit a major life activity, unless the impairment is objectively both transitory (lasting or expected to last six months or less) and minor.
- The Guidance states that the definition of disability is construed broadly in favor of expansive coverage, to the maximum extent permitted by the law.

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> (section N1)

# EEOC Guidance: Actual Disability

- A person with COVID-19 or Long COVID has an actual disability if the person's medical condition or any of its symptoms is a "physical or mental" impairment that "substantially limits one or more major life activities."
- A person infected with the virus causing COVID-19 who is asymptomatic or a person whose COVID-19 results in mild symptoms similar to those of the common cold or flu that resolve in a matter of weeks—with no other consequences—will not have an actual disability within the meaning of the ADA.

# Actual Disability

- Depending on the specific facts involved in a particular employee's medical condition, an individual with COVID-19 might have an actual disability, as illustrated below.
  - **Physical or Mental Impairment:** Under the ADA, a physical impairment includes any physiological disorder or condition affecting one or more body systems. A mental impairment includes any mental or psychological disorder. COVID-19 and Long COVID are physiological conditions affecting one or more body systems. As a result, they are each a “physical or mental impairment” under the ADA.
  - **Episodic Conditions:** Even if the symptoms related to COVID-19 or Long COVID come and go, COVID-19 or Long COVID is an actual disability if it **substantially limits a major life activity** when active.

# Major Life Activities/Substantially Limiting

- **Major Life Activities:** “Major life activities” include both major bodily functions, such as respiratory, lung, or heart function, and major activities in which someone engages, such as walking or concentrating.
- COVID-19 or Long COVID may affect major bodily functions, such as functions of the immune system, special sense organs (such as for smell and taste), digestive, neurological, brain, respiratory, circulatory, or cardiovascular functions, or the operation of an individual organ. In some instances, COVID-19 or Long COVID also may affect other major life activities, such as caring for oneself, eating, walking, breathing, concentrating, thinking, or interacting with others.
- An impairment need only substantially limit one major bodily function or other major life activity to be substantially limiting. However, limitations in more than one major life activity may combine to meet the standard.

# Substantially Limiting

- **Substantially Limiting:** “Substantially limits” is construed broadly by the EEOC, and should not demand extensive analysis.
- COVID-19 or Long COVID **need not** prevent, or significantly or severely restrict, a person from performing a major life activity to be considered substantially limiting under Title I of the ADA.
- The Guidance notes that:

“the limitations from COVID-19 or Long COVID do not necessarily have to last any particular length of time to be substantially limiting. They also need not be long-term. For example, in discussing a hypothetical physical impairment resulting in a 20-pound lifting restriction that lasts or is expected to last several months, the EEOC has said that such an impairment is substantially limiting. App. to 29 C.F.R. § 1630.2(j)(1)(ix). By contrast, “[i]mpairments that last only for a short period of time are typically not covered, although they may be covered if sufficiently severe.” Id.
- <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> (Section N2)



# Without Regard to Mitigation

- Mitigating Measures:
  - Whether COVID-19 or Long COVID substantially limit a major life activity is determined based on how limited the individual would have been **without the benefit of any mitigating measures**— i.e., any medical treatment received or other step used to lessen or prevent symptoms or other negative effects of an impairment. At the same time, in determining whether COVID-19 or Long COVID substantially limits a major life activity, any negative side effects of a mitigating measure are taken into account.
- Examples of mitigating measures for Long COVID include medication or treatment, respiratory therapy, physical therapy, and mental health therapy.
- Episodic Conditions:
  - Even if the symptoms related to COVID-19 or Long COVID come and go, COVID-19 or Long COVID is an actual disability if it substantially limits a major life activity when active.
- <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> (N2)

# What Other Accommodations?

- The EEOC Guidance refers employers and employees to other resources to assist in evaluating possible accommodations including:
  - U.S. Department of Labor Blog, Workers with Long COVID-19: You May Be Entitled to Workplace Accommodations.  
<https://blog.dol.gov/2021/07/06/workers-with-long-covid-19-may-be-entitled-to-accommodations>
  - The Job Accommodation Network



# The Job Accommodation Network

JAN

# Job Accommodation Network (JAN)

- In response to COVID-19, many people are requesting to work at home *as an accommodation* to isolate from others in the workplace, or to take leave. But remote work requests are being made for various reasons.
- An employer must focus on **who** is requesting the accommodation and **why**, in order to determine if the Americans with Disabilities Act (ADA) applies to the “accommodation.”
- Employees who are requesting “accommodations” include individuals with and without disabilities, individuals who are pregnant, older workers, and caregivers of individuals with disabilities or young children.
- For the ADA to apply, an employer must know that the individual who is requesting accommodation is doing so for **their own** disability-related reason.

<https://askjan.org/articles/Engaging-in-the-Interactive-Process-During-the-COVID-19-Pandemic.cfm>

# Disability Analysis

- Is the person disabled as a matter of law?
  - Fear of Contagion (not based on physical disability)?
    - Age; pregnancy; mental health
  - Family Member immune compromised?
  - Own “Disability”?
    - Able to perform essential job duties?
    - Direct Threat to Self or Others?
    - Reasonable Accommodation?
  - Need Medical Assessment (with health care professional up to speed on Long COVID!)
  - Employers also need good job descriptions with essential functions!

# Supporting Employees with Long COVID

2024

Work Related Injuries  
Workshop

- JAN has issued guidance for employers about supporting employees with Long COVID. <https://askjan.org/publications/upload/Supporting-Employees-with-Long-COVID-A-Guide-for-Employers.pdf>
- The succinct JAN guidance document includes hyperlinks to more detailed information.
- The Guidance links to another JAN resource, Accommodation and Compliance: Long COVID at <https://askjan.org/disabilities/Long-COVID.cfm>
- JAN recognizes that the diagnosis of Long COVID can be complicated because the person may not have tested, and health care professionals still need more education.

# Long COVID: Impairs Other Organ Systems

**2024**

**Work Related Injuries  
Workshop**

- JAN notes that some people experience multiorgan effects from Long COVID that can involve many body systems, including the heart, lungs, kidneys, skin, and brain.
- As a result of these effects, people who have had COVID-19 may be more likely to develop new health conditions such as diabetes, heart conditions, or neurological conditions compared with people who have not had COVID-19.

# Manifestations of Long COVID

- Shortness of breath or difficulty breathing
- Tiredness or fatigue
- Difficulty thinking or concentrating (sometimes called "brain fog")
- Depression or anxiety
- Insomnia
- Fast-beating or pounding heart (known as heart palpitations)
- Joint or muscle pain
- Headache



# Actual Accommodations

- JAN provides specific accommodation ideas based on both the limitation and the Work Related Function.
- JAN also provides links to external resources:
  - [CDC Long COVID or Post-COVID Conditions](#)
  - [DHHS Long COVID](#)
  - [DMEC Long COVID: Assessing and Managing Workforce Impact](#)
  - [EEOC's Reasonable Accommodation and Undue Hardship Guidance Under the ADA](#)
  - [EEOC's What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws, section N.](#)
  - [Environmental Protection Agency \(EPA\) Clean Air in Buildings Challenge](#)
  - [HHS and DOJ Guidance on “Long COVID” as a Disability Under the ADA \(titles II and III\), Section 504, and Section 1557](#)

# Other Resources:

- HHS National Research Action Plan on Long COVID
- HHS Services and Supports for Longer-Term Impacts of COVID-19
- Lancet: Proposed Non-infectious Air Delivery Rates (NADR) for Reducing Exposure to Airborne Respiratory Infectious Diseases
- Long COVID: A Guide for Health Professionals on Providing Medical Evidence for Social Security Disability Claims
- ODEP Coronavirus Resources: COVID-19 and Long COVID-19
- Office of Science and Technology Policy (OSTP): Clean Indoor Air Benefits Everyone
- OSHA's Workplace Stress
- OSTP Fact Sheet: Departments and Agencies Commit to Cleaner Indoor Air Across the Nation

<https://askjan.org/disabilities/Long-COVID.cfm#publications>

# Workplace Long COVID Accommodations Requested:

What changes did you ask for and what changes did your employer put in place? Please select all that apply. 2			
	Asked for	Put in place	Difference
Flexibility to support fluctuations	53%	32%	-21%
Longer/more frequent breaks	42%	29%	-13%
Amended duties	48%	38%	-10%
Physical changes to the workplace	14%	5%	-8%
Flexi hours	37%	29%	-7%
Permanent hours change	15%	8%	-7%
Additional equipment	14%	8%	-6%
Different job	10%	5%	-5%
Ongoing home working	34%	29%	-4%
Changed workplace location	22%	18%	-4%
Temporary hours change	51%	50%	-1%
Phased return to work	56%	63%	6%
Support from occupational health	43%	49%	6%

<https://www.tuc.org.uk/sites/default/files/2021-06/Formatted%20version%20of%20Long%20Covid%20report%20-%20v1.3.pdf>



# **Walking the Talk: Training and Awareness for Supervisors**

# Walking the Talk: Harassment and Retaliation?

- Training of staff and supervisors will be essential.
- Employees with Long COVID reported supervisor and co-worker disbelief about their medical condition, and supervisors may fail to honor the reasonable accommodations provided.
- Long term impact on promotional opportunities, training, culture, wage increases?
- Maintaining the company culture of inclusion?

# Remember the ADA Legal Obligation

- An employer must provide a reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability unless it can show that the accommodation would impose an undue hardship.
- Interactive Dialogue
- Usually requires Medical Opinion based on job duties
- No worker accommodation for a disabled family member; but be aware of FMLA and state leave laws.



# **Medical Support: Long COVID – What's That?**

# Educating Medical Professionals

- In June, 2023, the SSA issued guidance to assist health care professionals in understanding Long COVID as a “disability.”  
<https://www.ssa.gov/disability/professionals/documents/EN-64-128.pdf>
- It is challenging to find medical professionals who are well versed (or even familiar with) Long COVID diagnosis, signs, symptoms, and manifestations and difficult to get a Long COVID clinic referral.  
<https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf> at 10
- Difficult to get a physician to support an ADA Accommodation request.  
<https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf> at 44.



# HHS: Health + Long COVID

- In November 2022, the HHS (with Coforma's Health+ Program) issued a human centered report on Long COVID <https://www.hhs.gov/sites/default/files/healthplus-long-covid-report.pdf>
- Discusses the reality and the need for better education of health care professionals, schools, and employers.
- Long COVID patients do not want to become “professional patients”, but there is a very long advocacy and awareness campaign needed.

## US DOL

- The U.S. Department of Labor (DOL), as part of an effort to better understand workplace challenges related to long COVID, initiated an ePolicyWorks online dialogue in the summer of 2022.
- The Report issued in early 2023 describes many of the challenges facing patients, health care professionals and employers managing Long COVID.
- [https://epolicyworks.com/wp-content/uploads/2023/02/Dialogue-Summary-Report\\_Long-COVID-At-Work2\\_Accessible.pdf](https://epolicyworks.com/wp-content/uploads/2023/02/Dialogue-Summary-Report_Long-COVID-At-Work2_Accessible.pdf)

# CDC Guidance and Resources

- The CDC also has issued additional guidance for health care professionals as well as the general public, and included more robust resources as well as on-going research information.
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-care/post-covid-conditions.html>



# **Long COVID: Long and Here to Stay**

# Long COVID – LONG and Here to Stay





- With 30% or more people – each time – infected with the COVID virus experiencing Long COVID manifesting weeks or months after the acute infection, Long COVID is endemic and/or may become a mass disability event.
- Employers need to prepare for this wave of disability and the impact it will have on the workplace.
- Patients, as well as physicians, also need to educate themselves about the signs and symptoms of Long COVID.
- Much more research is needed and more awareness.



**QUESTIONS?**



# Thank You!

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