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EMPLOYER NEWSLETTER

Employer Alert: Coronavirus (COVID-19): Tips for the Workplace

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BACKGROUND

In late 2019, the new COVID-19 virus was identified in Wuhan, China. Since then, COVID-19 has spread across the globe and is now in the United States. On March 11, 2020, the World Health Organization (WHO) declared the outbreak a pandemic.

COVID-19 has alarmed health professionals because of its clinical severity in some vulnerable populations and its transmissibility (*i.e.*, how easily it spreads from one person to another). Most commonly, the disease spreads when a person coughs, exhales, or sneezes. The person ejects tiny droplets that land on objects and surfaces, with which another person comes in contact. Experts are currently uncertain whether it is possible to transmit COVID-19 before symptoms appear. Those symptoms are usually dry cough, fever, and difficulty breathing.

The Occupational Safety & Health Administration published [Guidance on Preparing Workplaces for COVID-19](#), which provides practical steps that employers should take to protect their workforce. The Guidance is particularly helpful because it offers suggestions based on “risk factors” associated with various workplaces.¹ Similarly, the Centers for Disease Control & Prevention (CDC) has published [Interim Guidance for Businesses and Employers](#).

PREVENTIVE MEASURES

- Employee Training & Prevention. Managers and employees should be trained to recognize COVID-19 symptoms. Employers should encourage employees to take the following preventive measures:
 - Stay home if you are sick.
 - Wash your hands often with soap and water for at least 20 seconds. If soap and water are not available, use an alcohol-based hand sanitizer.
 - Avoid touching your eyes, nose, and mouth with unwashed hands.
 - Avoid close contact with others, especially those who are sick.
 - Refrain from shaking hands with others for now.

¹ For example, “front line” health care workers serve in “high risk” occupations; school teachers, high-volume retail employees serve in “medium-risk” occupations; and office workers and those with minimum interaction with the public serve in “lower risk” occupations.

- Cover your cough or sneeze with a tissue, then throw the tissue away.
- Clean and disinfect frequently touched objects and surfaces.
- Employer Prevention. Employers should do the following:
 - Ensure that employees are able to wash their hands with soap and water (or use hand sanitizer) as much as possible.
 - Allow employees to work remotely, if possible.² Instead of in-person meetings, consider teleconferences.
 - Stagger work schedules or lunch breaks to avoid crowding in break rooms, common areas, elevators, rest rooms, etc.
 - Identify a person for employees to contact with health concerns/questions.

FREQUENTLY ASKED QUESTIONS.

Below are brief answers to **common questions** about dealing with COVID-19 in the workplace.

- Sick Employees. If an employee appears sick, you are permitted to ask them to seek medical attention and get tested for COVID-19. You are also permitted to send them home. If this occurs, they should be allowed to use paid sick time benefits, which are mandated by Arizona state law and soon may be required by federal legislation.
- Positive Tests. If an employee tests positive for COVID-19, you should inform employees who work in close proximity to the infected employee and advise them not to return to the workplace for 14 days. To the extent possible, you should not identify the employee who contracted the infection. You should also ensure that the affected area is deep-cleaned as soon as possible.
- Reporting Obligations. If an employee tests positive, you do not need to report the infection to the CDC. Rather, the health care provider who confirms the diagnosis will do so.
- Workers' Compensation. If an employee reports that they contracted COVID-19 at work, you should report the event as you would any other worker's compensation claim. Under current law, the claim would probably not be covered unless the employee is a health care worker or first responder. For other types of employees, a compensable workers' compensation claim is possible, but the analysis would depend almost entirely on the facts of the case.³
- Employees Who Refuse to Work. An employee can refuse to work if they reasonably believe there is a threat of imminent danger. The threat must be immediate or imminent, which means that an employee must believe that death or serious physical harm could occur

² The decision to allow remote work depends entirely on your business' circumstances and the types of work that your employees can efficiently and reasonably be expected to achieve. For some businesses, some employees could engage in productive work from home and for others that may be impossible. If you decide to allow remote work, you should adopt a telecommuting policy that makes clear it is subject to change based on the needs of the business and evolving conditions.

³ It is possible that states will enact legislation to clarify whether workplace exposure to COVID-2019 is compensable under state worker's compensation laws.

within a short time. Currently, there are few scenarios in the United States where this is the case – especially if the employer has adopted appropriate preventive measures.

- Masks. An employer may refuse an employee’s request to wear a mask at work. Per OSHA regulations, masks must be provided “when such equipment is necessary to protect the health of such employees.” 29 C.F.R. §1910.134. The WHO has stated that people need to wear face masks only if they are treating someone who is infected with the COVID-19 coronavirus. The WHO has also warned that wearing masks may create a false sense of security among the general public.

Conclusion

We will continue to monitor this rapidly developing situation and provide updates as appropriate. Please let us know if we can help answer your questions or help you implement appropriate policies and response plans. Mr. Clark’s contact information is (480) 844-0039 or etc@clarkfirm.com.