

Chapman Client Alert

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Current Issues Relevant to Our Clients

OSHA Guidance for Employers on COVID-19

As Employers are facing unprecedented health and safety issues in connection with the COVID-19 pandemic and the rapidly changing nature of government mandates put in place to contain the spread of the virus, the United States Department of Labor, Occupational Safety and Health Administration ("OSHA") has issued *Guidance on Preparing Workplaces for COVID-19*. The guidance is intended for planning rather than response purposes and creates no new legal obligations. That said, the guidance provides useful and important information that employers can utilize now and in the future when more businesses resume full operations.

In its guidance, OSHA suggests that employers develop an Infection Disease Preparedness and Response Plan ("IDPRP") in which employers consider and address the level(s) of risk associated with various work sites and job tasks. The types of measures set forth in the IDPRP to protect employees will depend on the risk of occupational exposure. For example, a plan developed for a hospital will be very different from a plan developed for an office or for a workplace where employees have regular contact with members of the public. An employer's IDPRP should take into account potential sources of exposure, risk factors associated with its employees (considering things such as job tasks, older workers and immuno-compromised employees), and the controls necessary to address those risks. The plan should follow evolving recommendations regarding contingencies, such as how to deal with increased absenteeism, the need for social distancing, options for conducting essential operations with a reduced workforce, and methods for handling interrupted supply chains or business functions.

OSHA advises that Employers consider the following steps:

1. Emphasizing and communicating basic infection prevention measures such as promoting frequent hand washing and other good hygiene practices and establishing policies and practices to allow for social distancing when necessary such as by allowing flexible work sites and hours and changing job shifts.
2. Developing policies and procedures for prompt identification and isolation of potentially infectious individuals. This can be done by encouraging employees to self-monitor for signs of illness or possible exposure, having policies for employees to report such symptoms and exposures, designating restricted locations within the

workplace where potentially infectious employees can isolate, providing personal protective gear (such as face masks for medium and high risk exposure employees), and instituting administrative controls to protect employees who may have come into close contact with a sick person.

3. Implementing workplace controls, such as engineering controls (high efficiency air filters, increased ventilation, physical barriers and the like), administrative controls (including flexible work from home policies, replacing face to face meetings with telework, discontinuing nonessential travel during outbreaks, utilizing emergency communication plans, and employee training), and safe work practices.
4. Communicating and training regarding workplace flexibility and protections in the workplace. This involves actively encouraging sick employees to stay home, formulating flexible sick leave policies, and training employees across jobs and on cleaning measures, proper hygiene, and the use of established engineering and administrative controls.

In addition to these encouraged practices, existing OSHA standards may apply to protecting workers from exposure to COVID-19. OSHA has standards relating to the use of gloves and eye, face and respiratory protection that apply generally to affected industries. 20 C.F.R. 1910 Subpart I. More comprehensive respiratory protection requirements apply to certain industries where respirators are required to be used even in the absence of a pandemic. 29 C.F.R. 1910.134 OSHA's bloodborne pathogens standard applies to occupational exposure to blood and other potentially infectious materials. 29 C.F.R. 1910.1030. In addition, OSHA's General Duty Clause

requires that all employers provide their employees with a workplace “free from recognized hazards that are causing or are likely to cause death or physical harm.” 29 U.S.C. 654(a)(1), Section 5(a)(1). OSHA also has reporting and recordkeeping requirements, although it is not yet clear how OSHA will ultimately handle illnesses resulting from COVID-19.

For more information, visit www.osha.gov and visit <https://www.osha.gov/Publications/OSHA3990.pdf> for a copy of OSHA’s Guidance on Preparing Workplaces for COVID-19.

For More Information

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