

# ROBINSON BROG

## **CORONAVIRUS (COVID-19) IN THE WORKPLACE:** **BEST PRACTICES FOR EMPLOYERS**

COVID-19 has heightened a myriad of concerns in the workplace that employers must address. The outbreak has rattled the global economy and unnerved confidence in the public health system throughout the United States. During this time of panic and uncertainty, calm and preparation is key.

Coronaviruses are a large family of viruses that are common in humans and cause a range of respiratory illnesses from the common cold to more dangerous and potentially lethal conditions. The disease is highly infectious and there is currently no known vaccine or anti-viral medication.

Employers are facing an increasing number of questions regarding how to protect their employees from the spread of the virus in the workplace. The U.S. Occupational Safety and Health Act requires that employers maintain a safe working environment. Moreover, employers should be mindful of risks from the coronavirus outbreak to the following areas of their businesses:

- (1) Business Interruption: Business closures due to contamination
- (2) Commercial General Liability: Third-party bodily injury claims resulting from exposure to the infection in the workplace
- (3) Employment Practices: Potential liability from employees who allege they were subject to discrimination or mistreated because they were disabled or perceived as disabled because they exhibited symptoms suggestive of having contracted coronavirus or because they belonged to certain races or nationalities where the virus is more prevalent
- (4) Directors and Officers: Liability because the employer failed to properly develop and activate a contingency plan
- (5) Cybersecurity: Increased threats as a result of teleworking.

Below is a summary of *best practices* to prepare for the coronavirus outbreak and mitigate the above risks.

## **Encourage Sick Employees to Stay at Home or to Work Remotely From Home**

The Center for Disease Control and Prevention (“CDC”) recommends that employees who have symptoms of acute respiratory illness symptoms (such as cough, shortness of breath or fever) should stay at home until they are free of symptoms for at least 24 hours. Employees who exhibit these symptoms in the workplace should be separated from other employees immediately and sent home. Employers should maintain flexible sick leave policies and communicate them clearly to all employees. Employers should implement procedures to respond to and monitor workplace absences.

Employers who enforce attendance policies to the point of hardship amid rising fear of a potential health scare could risk further spread of the disease, as employees may not disclose their travels or whether they exhibit signs of the illness. If the employer has adopted a lenient and non-punitive flexible leave policy, employees will likely consider staying home and not risk infecting others. Confidentiality pursuant to certain federal and state statutes, such as the Family and Medical Leave Act, must still be maintained. Offer the employee the ability to telework or place the employee on an administrative leave (paid or unpaid) for up to 14 days to ensure the employee does not show symptoms of the virus. Consider filing any workers' compensation claims necessary if the condition was contracted at work or in relation to a work-related activity, such as business travel.

## **Social Distancing and Telework**

Employers should advise workers to take precautions and avoid large gatherings. Employers also should reconsider offering communal food at office meetings and conferences and encourage employees to avoid sharing or leaving food out at their workstations. Employers should also cancel group gatherings or meetings and opt for email, video or telephone conferences. If technological infrastructure and security compliance support remote work and collaboration, employers should encourage their employees to work remotely from home.

## **Post Signs and Encourage Proper Hygiene Etiquette**

If employees are required to work from the office, employers should take reasonable precautions to make sure the workplace environment is clean and safe. Employers should provide basic hygiene products such as tissues, soap and hand sanitizer; enhance cleaning and sanitizing procedures to ensure that all frequently touched

services such as countertops, door handles, telephones, computers, keyboards and workstations are routinely cleaned; and remind employees by posting signs in visible areas of the workspace to follow recommended good hygiene practices such as covering their mouth with a tissue if they cough or sneeze and washing their hands often with an alcohol-based hand sanitizer or soap and water for at least 20 seconds.

### **Implement a Contingency Plan**

As the number of confirmed cases of coronavirus increases, employers should implement plans to identify and reduce the threat and risk of transmission among their workforce and minimize disruption to business operations. Employers should assess essential business functions and develop contingency plans in the event of a workplace closure or inability of employees to travel to work. A process should be established to timely and effectively communicate important information to employees. Employers should review telecommuting policies and prepare employees to work from home if feasible and necessary. Employers should provide guidance to their employees to ensure that all work performed at home is tracked accurately.

### **Limit Non-essential Business Travel**

Employers should consider limiting nonessential travel, especially to known coronavirus “hotspots,” including hotspots within the United States. Employees who are returning from travel or live with someone who has recently returned from an area or country with known cases of coronavirus should be carefully monitored. In some instances, it may make sense to ask that employee to work from home. If appropriate, employers should ask employees about the details of any recent trips on a case-by-case basis. Check the CDC website for up-to-date travel information for guidance.

### **Be Proactive**

Employers should take the initiative in devising and implementing plans to protect their employees, while limiting interruption to business operations. You should consult with human resources and public health departments for more information and guidance. Legal counsel should be consulted for advice. The attorneys at [Robinson Brog](http://RobinsonBrog.com) are available to assist. Please contact Lisa Alexis Jones, Esq., by email at [laj@robinsonbrog.com](mailto:laj@robinsonbrog.com) or by phone at (212) 603-6344 if you have any questions regarding these important considerations or other employment matters.

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