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CDC & OSHA PROVIDE GUIDANCE FOR PROTECTING EMPLOYEES FROM PANDEMIC INFLUENZA

In anticipation of potential H1N1 flu virus outbreaks, several government agencies have stepped up their efforts in recent months to provide guidance to employers on how to decrease the risk of an infected workforce, handle the inevitable onslaught of employee absences, maintain business continuity, and other related workplace topics. Most recently, the Center for Disease Control issued on August 19th an updated version of its *"Guidance for Businesses and Employers to Plan and Respond to the 2009-2010 Influenza Season."* Within the specific context of health care employment, OSHA has issued two helpful publications for employers: *"Pandemic Influenza Preparedness and Response Guidance for Healthcare Workers and Healthcare Employers"* and *"Healthcare Workplaces Classified as Very High or High Exposure Risk for Pandemic Influenza, What To Do To Protect Workers."* All employers' pandemic flu preparation processes should involve a close review of these instructive publications.

Links:

<http://flu.gov/plan/workplaceplanning/guidance.html>

http://www.cdc.gov/H1N1flu/business/toolkit/pdf/Business_Toolkit.pdf

http://www.osha.gov/Publications/OSHA_pandemic_health.pdf

<http://www.osha.gov/Publications/exposure-risk-classification-factsheet.html>

CDC's "Guidance for Businesses and Employers to Plan and Respond to the 2009-2010 Influenza Season"

The CDC predicts that, as the normal influenza season coincides with increased H1N1 outbreaks, employers will face even greater challenges to maintain normal business operations in the coming months. According to the CDC, employers should have already begun creating and testing flexible and effective pandemic flu preparation plans. To that end, it is recommended that employers take the following action steps:

- Review their normal seasonal absenteeism rates in order to increase their awareness of unusual spikes in those numbers;
- Engage state and local health departments to confirm channels of communication and methods for dissemination of local outbreak information;
- Allow sick workers to stay home without fear of losing their jobs;
- Develop flexible leave policies to allow workers to stay home to care for sick family members or for children if schools close;
- Involve employees in the outbreak planning and preparation process;
- Identify essential business functions, essential jobs or roles, and other critical elements required to maintain business operations; and
- Set up authorities, triggers and procedures for activating and terminating the company's response plan, altering business operations and transferring business knowledge to key employees.

Moreover, in the event of an outbreak, employers should be prepared to cancel

large business-related meetings and non-essential travel, and devise work-at-home strategies for workers that can conduct their business remotely. The CDC also suggests that employers consider actively screening employees who report to work and creating alternative work environments for employees at higher risk for complications of influenza (such as those who are pregnant or have an underlying chronic medical condition). Of course, to avoid an outbreak among your workforce, the CDC recommends requiring all sick individuals to stay home and away from the workplace, encouraging hand washing and the covering of coughs and sneezes, spacing healthy workers farther apart while on the job, discouraging informal "water cooler" gatherings of employees, routinely cleaning commonly touched surfaces, and encouraging employees to become vaccinated once the H1N1 vaccination becomes available.

OSHA's "Pandemic Influenza Preparedness and Response Guidance for Healthcare Workers and Healthcare Employers"

This publication contains much of the advice provided in the CDC's guidance, while also discussing additional considerations unique to the health care industry. In particular, OSHA recommends that health care employers use compliance strategies to reinforce the importance of employee hand hygiene, flu vaccines, the appropriate treatment of soiled linens, and the proper use of personal protective equipment (such as gowns, gloves, respirators, masks, goggles, etc.). Compliance strategies may include the re-education of staff on infection control policies and proper control precautions for suspected or confirmed pandemic influenza-infected patients. Moreover, in order to identify and track influenza-like illness, OSHA recommends the implementation of dependable surveillance equipment at all health care facilities and outpatient clinics.

Of particular interest in this publication is OSHA's prediction that hospital staff and health care workers will be affected by a pandemic flu outbreak more than any other subsection of the community. Consequently, these employees will be a limited resource at the height of an outbreak, thereby necessitating procedures and protocols for quickly integrating substitute staff and providing care with a depleted workforce. To that end, health care HR representatives should work to (i) identify community volunteer and available medical support professionals, (ii) develop processes for quickly training, credentialing, and communicating with community professionals, and (iii) plan for health and compensation concerns of health care workers. OSHA also suggests that HR representatives become involved in planning for other employee support concerns such as the possible need for housing, meals, places to rest, and child care services.

OSHA's "Healthcare Workplaces Classified as Very High or High Exposure Risk for Pandemic Influenza, What To Do To Protect Workers"

Because most hospitals and health care facilities are at a very high risk of exposure to pandemic influenza, OSHA has issued this separate publication to specifically describe the four categories of precautions employers should take to protect their workforce. This publication can serve as a quick, useful reference tool for employers.

1. *Engineering Controls:* These controls, which usually require employers to change the work environment, include (i) the use of isolation rooms when performing aerosol-generating procedures for patients with known or suspected pandemic influenza, (ii) installation of physical barriers such as clear plastic sneeze guards in reception or intake areas, and (iii) increasing housekeeping vigilance to control the spread of infectious agents through additional cleaning of contact surfaces and the prompt disposal of waste.
2. *Administrative Controls:* OSHA recommends that health care facilities

follow existing guidelines and facility standards of practice for identifying and isolating infected individuals and for protecting workers. Employers should post signs requesting patients and family members to immediately report symptoms of respiratory illness on arrival at the facility and use disposable tissues to cover the nose and mouth when coughing.

3. *Work Practices*: Employers should train workers in proper hand/facility hygiene and provide conveniently located masks, tissues and alcohol-based hand rubs for waiting areas and patient evaluation areas to reduce the spread of infection.
4. *Personal Protective Equipment (PPE)*: OSHA suggests use of the following equipment by those employees who work closely (within 6 feet) of people known or suspected to be infected with pandemic influenza - (i) NIOSH-certified respirators that are N95 or higher, (ii) gloves made of latex, vinyl, nitrile or other synthetic materials, (iii) isolation gowns, and (iv) goggles, masks, and other available eye and face protection.

Using the foregoing publications as a roadmap, employers should continue their preparation for a potential outbreak of H1N1 by creating a detailed plan that includes pre- and post-outbreak precautions. Should you have any questions or need assistance incorporating employee protections into your H1N1 outbreak plan, please do not hesitate to contact your regular Hall Render attorney, Travis Meek (tmeek@hallrender.com; 317-977-1489) or Jennifer Richter (jrichter@hallrender.com; 317-977-1477).

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