



YOUR COVID-19 PREPAREDNESS AND RESPONSE PLAN

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WELCOME

- Welcome
- COVID-19 Response Team Introduction
- Bodman's COVID-19 Resources Webpage (<http://www.bodmanlaw.com/practices/covid-19-response-team>)
- Bodman is following the fast-moving developments associated with the COVID-19 pandemic and the related governmental action and analyzing the impacts on our clients.



WORKPLACE SAFETY AND PREPAREDNESS PLAN

- On June 5, 2020, Governor Whitmer issued Executive Order 2020-114:
 - Affirming the requirement that businesses continuing in-person work maintain a “COVID-19 preparedness and response plan”;
 - Must be developed by June 1 or within 2 weeks of resuming in-person ops, whichever is later
 - Requiring designation of one or more worksite supervisors to implement, monitor, and report on P&R plan;
 - Requiring COVID-19 training to employees;
 - Requiring social distancing, face coverings, and increased facility cleaning/disinfection;
 - Adopting daily screening processes;
 - Implementing “any other social distancing practices and mitigation measures recommended by the CDC;”
 - And more!



WORKPLACE SAFETY AND PREPAREDNESS PLAN

Additional industry-specific requirements for:

- Outdoor businesses or operations;
- Construction industry;
- Manufacturing facilities;
- Research laboratories (but not labs performing diagnostic testing);
- Retail stores open for in-store sales, libraries, and museums;
- Offices;
- Restaurants and bars;
- Outpatient healthcare facilities;
- In-home services (cleaners, repair persons, painters);
- Barbers, salons, spas, etc.;
- Sports and entertainment venues
- Gyms and exercise facilities



WORKPLACE SAFETY AND PREPAREDNESS PLAN

- A “COVID-19 preparedness and response plan” must address the following:
 - Prevention efforts and workplace controls, including cleanliness and social distancing techniques;
 - Procedures to identify and isolate sick and/or exposed employees, including self-monitoring, daily screenings, and return-to-work processes; and
 - Summary of workplace flexibilities and potential benefits available to affected employees.



CLEANLINESS AND SOCIAL DISTANCING

- Grant telework arrangements when possible.
- Delineate cleanliness measures (e.g., the provision of hand sanitizer, increased air circulation, and the requirement that employees clean work stations daily).
- Identify high-risk areas and set forth measures to be taken to minimize risk.
- Inform employees of location of cleaning supplies and PPE.
- Explain social distancing precautions (e.g., cancellation of large/staff gatherings, employee maintenance of distance, staggered and/or reduced scheduling).



EMPLOYEE RISK CLASSIFICATION

- The Preparedness Plan is based upon OSHA’s “Guidance on Preparing Workplaces for COVID-19.”
- Employers must classify their workforce into categories depending on exposure risk, which may necessitate additional protective and/or preventative measures. Employees are:
 - **Low Risk** - workers do not frequently and/or closely interact with general public and maintain social distancing (six feet) from coworkers;
 - **Medium Risk** - workers frequently and/or closely interact with general public or coworkers in confined spaces;
 - **High Risk** - workers have a high potential for exposure to known or suspected sources of COVID-19; or
 - **Very High Risk** - workers have a high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures.



EXPOSURE NOTIFICATIONS

- In response to a confirmed diagnosis or display of COVID-19 symptoms, employers should:
 - Inform all employees with and near whom the diagnosed/symptomatic employee worked in the past 48 hours of a potential exposure;
 - Remove from the worksite those employees who worked in sustained, close proximity to the diagnosed/symptomatic employee;
 - Sustained, close proximity = within 6 feet for 10 or more minutes.
 - Were both employees wearing masks?
 - Keep confidential the identity of the diagnosed/symptomatic employee; and
 - Conduct deep cleaning of the diagnosed/symptomatic employee's workstation, as well as those common areas potentially infected by the employee.

IDENTIFY AND ISOLATE SICK AND EXPOSED EMPLOYEES

- Require that employees self-monitor and stay home if exhibiting COVID-19 symptoms, or if exposed via close contact to a confirmed diagnosis or symptomatic individual.
 - Look to the CDC for your list of COVID-19 symptoms.
- Daily Screenings
 - Inquire about COVID-19 symptoms, close contact, and international travel.
 - Executive Order 2020-36: Stay home if exposed to individual with confirmed COVID-19 diagnosis or displaying one or more principal symptoms.
 - Principal symptoms are fever, atypical cough, or atypical shortness of breath.
 - Temperature checks? COVID-19 tests? Antibody tests?
- Define return-to-work criteria.
 - Test-based strategy or symptom-based strategy?



EMPLOYEE LEAVE OPTIONS

- Unemployment Compensation Benefits
 - Executive Order 2020-76 expands eligibility for benefits.
 - The CARES Act increases the amount and duration of benefits.
- Families First Coronavirus Response Act (“FFCRA”)
 - Paid leave is available under the EPSLA and EFMLA.
- Executive Order 2020-36
 - Anti-retaliation protections for those suffering COVID-19 symptoms or exposed to COVID-19 via close contact.
- Family and Medical Leave Act (“FMLA”) and Americans with Disabilities Act (“ADA”)
 - Traditional leave and accommodation rights.



COVID-19 TRAINING

- **REQUIRED!**
- **Must cover, at a minimum:**
 - Workplace infection-control practices;
 - Proper use of PPE;
 - Steps employees must take to notify business of COVID-19 symptoms, exposure, or diagnosis; and
 - How to report unsafe working conditions.
- **No specific format**



PLAN EXTRAS

- Preparedness Plans must be maintained at headquarters and/or job sites.
- Plans must be made readily available to employees, labor unions, and customers
- Health-Related Documentation/Information
 - Risk and exposure determinations are made without regard to protected characteristics.
 - Keep medical documentation separate from personnel documentation.
- Preparedness Plan Updates
- Expiration of effectiveness of COVID-related policies.



FREQUENTLY ASKED QUESTIONS

- What should I do if an employee refuses to report to work?
 - Step One: Written Statement
 - What reason does the employee cite for his/her refusal?
 - Reason protected under the FFCRA, FMLA, and/or ADA?
 - Reason which entails NLRA, OSHA considerations?
 - Reason which creates eligibility for unemployment compensation benefits?
 - General fear to continue in-person work?
 - Step Two: Assess Comparators
 - Step Three: Modify Incentives
 - Step Four: Identify Decisionmaker – Employer or Employee?



Q&A

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