NJSBA

PANDEMIC
TASK FORCE

Health Screening
and Monitoring

Prompt identification and isolation of potentially infectious individuals is a critical step in protecting workers, customers, visitors, and others at a worksite. Effective methods to reduce the likelihood of transmission of COVID-19 among employees are daily health screening and monitoring for potential exposure. While privacy concerns always exist, the Equal Employment Opportunity Commission (EEOC) permits reasonable symptom screening and potential exposure inquiries during a pandemic. Policies and protocols can be put in place to incorporate mandate regular symptom screening including daily temperature checks and other health monitoring.

GUIDING HEALTH AND SAFETY PRINCIPLE:
PREVENT TRANSMISSION OF COVID-19 AMONG EMPLOYEES

- It is imperative that the employer foster an environment where employees assess themselves daily for symptoms and the potential for exposure.

- EEOC directives indicate that during a pandemic, American Disabilities Act (ADA)-covered employers may ask such employees if they are experiencing symptoms of the pandemic virus.

- The U.S. Centers for Disease Control (CDC) has advised that people with the following symptoms may have COVID-19:
  - Fever or chills
  - Cough
  - Shortness of breath or difficulty breathing
  - Fatigue
  - Muscle or body aches
  - Headache
  - New loss of taste or smell
  - Sore throat
  - Congestion or runny nose
  - Nausea or vomiting
  - Diarrhea

- As public health authorities and doctors learn more about COVID-19, the list of associated symptoms expands. Employers should rely on the CDC, other public health authorities, and reputable medical sources for guidance on emerging symptoms associated with the disease.

- Exposure potential is also a permissible area of inquiry.
  - Employees may be asked if they have been exposed to individuals who may have COVID-19. This may include whether their household members have come into close contact with persons who have tested positive for COVID-19.
  - Employees may be asked if they have traveled to a state, country or region which has been under a U.S. Department of State travel advisory or quarantine recommendation.
  - Employees who have been away from the workplace may be asked to provide a doctor's note certifying their fitness to return and/or a local clinic's note certifying that the individual does not have COVID-19.

- The EEOC has stated that employers cannot exclude an employee solely because of an underlying health condition that the CDC has identified as placing an individual at a higher risk for severe illness upon contracting COVID-19.
  - Employees cannot be asked whether they have an underlying health condition in a screening questionnaire.

- Consider how best to conduct daily health checks and symptom screening of employees before they commence work onsite.
  - In-person health checks. If these are considered, conduct them safely and respectfully.
    - Use social distancing, barrier or partition controls, or personal protective equipment (PPE) to protect the screener. Recognize that reliance on PPE alone is a less effective control and is more difficult to implement, given PPE shortages and training requirements.
    - Complete the health checks in a way that helps maintain social distancing guidelines, such as providing multiple screening entries into the building.
    - CDC's "Should we be screening employees for COVID-19 symptoms?" section of General Business Frequently Asked Questions as a guide.
  - Virtual health checks.
    - These can be performed using third party, employer contracted services which use teledoc visits, emails, text messages and apps.
    - The following are examples of available health monitoring apps or services:
      a. United HealthCare Screening App (ProtectWell): healthcaredive.com/news/unitedhealth-microsoft-covid-19-screening-app-employers-work/578068/

      b. Sparrow: sparrow.org/OccHealthScreening

      c. VitalCheck: ehr.getvitalcheck.com

- ○ Employer administered symptom screening.
    - These may be conducted through daily questionnaires or surveys.
        - a. Go Canvass: gocanvas.com/toolkits/employee-health-screening
- ○ Self-report/honor system.
    - Employees review and certify to the absence of a comprehensive checklist of symptoms before leaving home.

- Consider daily temperature checks before the employee commences onsite work.
    - ○ The EEOC provided guidance on March 18 that employers may measure employees' body temperature. Remember: Some people with COVID-19 do not have a fever and some people with a fever do not have COVID-19.
    - ○ Consider making temperature checks a requirement for onsite work.
    - ○ Onsite administration is possible through self-test stations, designated employee administered, or retained medical professional administration
    - ○ Offsite administration may be a component of virtual health checks or self-certification.

- COVID testing may be requested or administered as a requirement to return onsite. Remember testing only detects current infection and does not change the necessity of other practices.
    - ○ If testing is relied upon, ensure that tests are accurate and reliable based upon Food and Drug Administration or other governmental guidance.

- Antibody testing cannot be required pursuant to EEOC guidance issued June 17, 2020. Employers cannot require COVID-19 antibody testing before permitting employees to re-enter the workplace.

- EEOC directives state that employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA. This includes medical information and records obtained through any version of health checks.

- Identify privacy obligations and concerns regarding health monitoring and health checks.
    - ○ To prevent stigma and discrimination in the workplace, make employee health screenings as private as possible.

- Do not make determinations of risk based on race or country of origin.
- Maintain required confidentiality of medical status and history for all employees.

- Evaluate wage and hour issues presented by health screening or monitoring.
  - Employees are "on the clock" while waiting for and being administered the test.
  - Employees sent home due to symptoms should be paid consistent with the paid time off policies of the firm generally or any pandemic-specific policies.
  - If an employee refuses to be tested, strongly consider sending the employee home.

- Contact tracing in the employer context is used to prevent the spread of infectious disease. In general, contact tracing involves identifying people who have a diagnosed (cases) and their contacts (people who may have been exposed) and working with them to interrupt disease transmission.
  - For COVID-19, this includes asking diagnosed individuals to isolate and their contacts to quarantine at home voluntarily.
  - Contact tracing for COVID-19 in the workplace usually includes the following:
    - Interview the person diagnosed with COVID-19 to identify everyone in the workplace with whom they had "close contact" during the time they may have been infectious.
      a. Current CDC guidelines suggest that for COVID-19, a "close contact" is defined as anyone who was within 6 feet of an infected person for at least 15 minutes starting from 48 hours before the person began feeling sick until the time the patient was isolated.
    - Notify contacts of their potential exposure.
    - Request contacts to quarantine at home voluntarily.
    - Offer contacts testing.
    - Checking in with contacts for signs and symptoms of COVID-19.
    - Connecting contacts with services they might need during the self-quarantine period.
  - To prevent the further spread of disease, COVID-19 contacts should remain offsite for at least 14 days after their last exposure to a person with COVID-19 or consistent with CDC and other public health current guidelines.

RESOURCES

cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html

cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html

cdc.gov/coronavirus/2019-ncov/community/resuming-business-toolkit.html

cdc.gov/coronavirus/2019-ncov/faq.html#Contact-Tracing

cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html

eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act

eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

nejm.org/doi/full/10.1056/NEJMsr2019953

osha.gov/Publications/OSHA3990.pdf

shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/eeoc-coronavirus-temperature.aspx

SAMPLE TEXT FOR CLIENT/GUEST QUESTIONNAIRE

Please be advised that you have been [permitted/invited] to enter the XXXXXXXXXXXXXX office at [time] on [date]. To ensure the safety of everyone who uses our space, you must respond to the following questions as a condition of visitation our office:

• Are you currently diagnosed with COVID-19?

• Are you currently experiencing symptoms associated with COVID-19? An updated symptom list can be found on the CDC website here: https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html. Such symptoms, unrelated to seasonal allergies or a pre-existing condition, include:
    • Fever or chills
    • Cough
    • Shortness of breath or difficulty breathing
    • Fatigue

- Muscle or body aches

- Headache

- New loss of taste or smell

- Sore throat

- Congestion or runny nose

- Nausea or vomiting

- Diarrhea

- Are you currently under orders or requests issued by a doctor or public health authority to isolate or quarantine?

- Have you travelled to any of the following countries, states, regions, or areas with in the past 14 days: XXXXXX?

- Is there any reason for you to believe that you have been exposed within the last 14 days to an individual diagnosed with COVID-19?

Based on your responses, your host [host's name] will inform you if you are cleared to enter our offices on the date and time specified above.

[Incorporate name, signature, date block]