



News & Trending
NEWS

TBJ ASKS ROSE KENYON AND STEVE PARASCANDOLA ABOUT CORONAVIRUS TESTING AND OSHA AS IT RELATES TO EMPLOYERS

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In the *Triangle Business Journal* article “**Lawyers: What employers should know about testing for coronavirus**,” employment lawyer Rose Kenyon and OSHA lawyer Steve Parascandola shared their insights on the law regarding employers testing for COVID-19 and potential issues with the Occupational Safety and Health Administration (OSHA). In the article, Rose acknowledged that “testing is a big issue – it’s almost the first question” employers are asking when considering re-opening business, and outside of testing, Steve noted that employers have to be sure to navigate OSHA guidelines, which can be “tricky” even outside of pandemics, and to have a plan for dealing with infectious diseases.

Rose said, “The Equal Employment Opportunity Commission (EEOC) has, in essence, agreed that the COVID-19 pandemic provides employers with a reason that is ‘job-related and consistent with business necessity’ for taking temperatures, making inquiries about symptoms and testing for COVID-19, along with following other CDC guidelines. Thus, the EEOC is recognizing that the pandemic presents justifiable reasons under the Americans with Disabilities Act (ADA) for following CDC guidance – and therefore, the ADA would not prevent following the CDC guidance.”

In regards to OSHA guidelines being “tricky,” the article mentioned the general duty clause of the Occupational Safety and Health Act which requires employers to provide a workplace that is “free from recognized hazards.”

“This clause is the bane of a lot of employers’ existence because, in a lot of cases, OSHA can’t point you to a specific rule,” Steve said. “First, we have to look closely at local, state and federal guidance to make sure employers are following those. Then we look at guidance from OSHA and the CDC and put together a plan,” he added. “If we cobble together what those agencies have been saying, I think one of the very first things an OSHA inspector will want to see for many businesses is an infectious disease response plan.”

Both Rose and Steve cautioned employers to be prepared to make changes in how employees interact and to look at options other than bringing everyone back into the workplace.

TBJ subscribers can read the full article [here](#).

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