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OSHA POINTS EMPLOYERS TO INTERIM CDC GUIDANCE ON WORKER SAFETY DURING THE COVID-19 PANDEMIC

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On March 26, 2020, the Centers for Disease Control and Prevention (CDC) issued **interim guidance for businesses and employers** on how to plan for and respond to the coronavirus (COVID-19) outbreak. This guidance was prepared in coordination with the Occupational Safety and Health Administration (OSHA), which previously issued its own **Guidance on Preparing Workplaces for COVID-19**.

As many employers know, the Occupational Safety and Health Act (the “Act”) requires employers to comply with safety and health standards and regulations promulgated by OSHA or by a state with an OSHA-approved state plan. However, the Act’s “General Duty Clause” also requires employers to provide their employees with “a workplace free from recognized hazards likely to cause death or serious physical harm.” It is this mandate, which in many cases can be left to OSHA’s discretion, that can pose challenges to employers struggling to implement best practices that will satisfy this charge.

Yesterday’s CDC interim guidance provides valuable input for employers to consider in evaluating how best to protect their workers and to comply with their OSHA obligations. The CDC/OSHA guidance covers four topics: 1) preparing workplaces for a COVID-19 outbreak; 2) reducing transmission among employees; 3) maintaining healthy business operations; and 4) maintaining a healthy work environment.

Preparing Workplaces For a COVID-19 Outbreak

The **CDC guidance** encourages employers to plan to be flexible in response to this outbreak. OSHA has noted that most American workers will likely experience low to medium exposure risk levels at their places of employment.

In addition, businesses are strongly encouraged to coordinate with state and local health officials to ensure timely and accurate information to guide appropriate responses. The CDC stresses that local conditions will often influence community-level mitigation plans and employers are encouraged to review **CDC mitigation strategies**.

Reducing Transmission Among Employees

Above all, the **CDC advises** that employers actively encourage sick employees to stay home and not return to work until appropriate criteria for discontinuation of home isolation has been satisfied.

OSHA and CDC are also encouraging employees to identify where and how workers might be **exposed to COVID-19 in the workplace**. Employers are also being asked to consider ways to minimize face-to-face contact between relevant employees, immediately separate potentially ill employees from contact with others and educate employees about how they can best **reduce the spread of COVID-19**.

Maintaining Healthy Business Operations

CDC and OSHA encourage employers to identify COVID-19 workplace coordinators, and to implement flexible sick leave and supportive policies and practices. These include allowing employees to work from home to care for sick family members or to take care of children; creating “emergency sick leave policies”; ensuring human resources policies are consistent with up-to-date public health recommendations; and not requiring a positive COVID-19 test for employees to validate their illness or to qualify for sick leave.

Maintaining a Healthy Work Environment

Employers also are advised to support respiratory etiquette and **hand hygiene**, and to guide employees regarding most current **cough/sneeze etiquette** and hand cleaning policies.

Where any employee is confirmed to have COVID-19, employers are advised to follow appropriate **CDC cleaning and disinfection recommendations**.

Finally, OSHA and the CDC ask employers to take additional preparations for any traveling employee’s safety, as well as employees who may come into contact with a traveling employee. Employers are also asked to review the CDC’s most **current travelers health notices**.

However, before any travel occurs, the CDC and OSHA ask employers to carefully consider whether travel is absolutely necessary, consider using videoconferencing or teleconferencing alternatives, and to hold work meetings in open and well ventilated spaces.

If you have any questions related to this alert, please do not hesitate to contact your regular Smith Anderson lawyer or any other member of our firm. Additionally, please visit and bookmark our firm’s **Coronavirus (COVID-19) Business Resource Center** which is continuously updated with useful materials and resources related to COVID-19. This tool has been made available to ensure that our clients and the broader business community stay informed on key issues that may impact their operations and to navigate the related business and legal issues during these challenging times.

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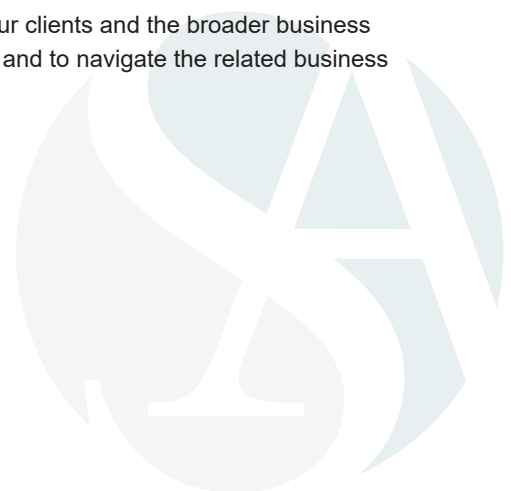
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