Panic or Pandemic? Cal-OSHA Issues Flu Guidance for Employers

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Recent spread of the H1N1 Influenza Virus (the “Swine Flu”) drew worldwide headlines and speculation about a potential pandemic health crisis. Attention focused on Mexico and the United States, where infections seemed most likely to occur. This caused many concerns for California employers, whose customers and workers frequently visit (and often have family in) affected areas. For several weeks, California employment lawyers were inundated with questions about safety, workplace procedures, and specific employees who might have been exposed to the virus.

Swine Flu dropped out of the headlines for several weeks as new infections decreased. But the issue surfaced again as new cases occurred and the World Health Organization announced an official “pandemic.”

Few expect Swine Flu to create a true worldwide health crisis. Yet the situation provides an opportunity for employers to review their workplace policies during potential crisis periods as well as each year’s mini-pandemic: flu season.

On June 15, California’s Division of Occupational Safety and Health (“Cal-OSHA”) issued a “Guidance for Employers and Employees” discussing steps employers should take to address workplace health policies. The Guidance followed several documents published by the Federal Occupational Safety and Health Administration (“OSHA”) also discussing employer obligations. Every employer is required to maintain a safe and healthful workplace; OSHA and Cal-OSHA are the main agencies enforcing this obligation.

Under the California Guidance, employers are “encouraged to review their strategies for protecting the health of their employees” and to “update their plans and train their employees.” Employers whose employees “have significant public contact” are advised to review their procedures for reducing risks.

Health care workers are most at risk, according to Cal-OSHA, which plans to prepare more specific guidance for health-care employers’ safety obligations. Current suggestions focus on the use of approved respirators by employees caring for potential Swine Flu patients. Health-care employers should also post signs – like you may recently have seen at your doctor’s office – advising visitors to “cover your cough.” Similar suggestions are made for “higher risk” employers such as community shelter workers.
Health-care and home-health-care providers are also advised to screen patients for flu-like symptoms, provide face masks to visitors who are coughing, provide hand hygiene supplies, and to clean surfaces regularly.

The guidance is not limited to the health-care environment. All employers should consider (1) how to protect employees from illnesses brought in by customers and co-workers, and (2) how they would respond to a health crisis in their own or another area. Businesses with more than one location might consider how to support sites affected by a local event; others should plan how to protect inventory if supply comes from one or only a few areas. Employers should also identify risks specific to their environment (such as customer contact in restaurants, or interaction with sick customers by in-home installers or delivery employees). All employers may soon be required to identify and address these risks within their own Injury and Illness Prevention Programs (“1IIPP”).

State and federal guidance may be viewed at the state Department of Industrial Relations website (www.dir.ca.gov) and at the federal OSHA site (www.osha.gov).

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