

A photograph of two business professionals in an office setting. In the foreground, a man with a beard and glasses, wearing a light blue surgical mask and a light-colored blazer over a blue shirt, is looking down at a document. In the background, a woman with blonde hair, also wearing a light blue surgical mask and a black and white checkered blazer, is working on a laptop. The desk is wooden and has a smartphone and a white cup. The overall scene suggests a professional meeting or collaborative work environment during the COVID-19 pandemic.

Coronavirus (COVID-19) Safety Considerations as Workplaces Reopen

May 6, 2020



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Cleaning and Disinfecting

Before you begin...

- Consult CDC and OSHA guidance
 - Cleaning *followed by* disinfection is the best practice measure
- Create a checklist on new cleaning protocols
 - Who is cleaning (e.g., cleaning company, employees?)
 - What areas are being cleaned vs. cleaned *and* disinfected
 - How often – may depend on frequency of usage
 - What is necessary (e.g., gloves, masks, cleaning products)
- Review inventory of cleaning supplies and ensure cleaning equipment is in good working order
- Prepare training materials and signage to communicate new cleaning protocols
- Plan to maintain cleaning protocol after reopening



Cleaning and Disinfecting

How...

- Cleaning **followed by** disinfection is the best practice measure
- Cleaning - Use a detergent or soap and water.
- Disinfecting –
 - EPA-registered household disinfectants approved for use against the virus that causes COVID-19 – to be used according to the manufacturer's instructions (e.g., application method, contact time, etc.)
 - Diluted household bleach solutions if appropriate for the surface
 - Alcohol solutions with at least 70% alcohol
- Provide disposable alcohol-based wipes or alcohol solutions containing at least 70% alcohol so that commonly used hard surfaces can be wiped down by employees before and after each use.



Cleaning and Disinfecting

What and When...

- Surfaces and objects not frequently touched
 - Clean with soap and water
 - Scheduled cleaning
- Frequently touched or shared objects (e.g., doorknobs, light switches, faucets)
 - Clean *and* disinfect
 - At least once daily – more objects may require cleaning and disinfection
- Heavily trafficked areas (e.g., entrances, breakrooms, restrooms)
 - Frequent cleaning **or** cleaning *and* disinfection depending on area
- Area been occupied within the last 7 days? No – then routine cleaning is enough



Cleaning and Disinfecting

Who...

- Determine who is responsible - Custodial staff, employees, cleaning company?
- Provide masks, gloves and other PPE based on products being used and risk of splash
- Educate and train
 - General and object/area-specific protocols
 - How to safely clean and disinfect
 - *Safely* remove and dispose of disposable gloves, gowns and other PPE
 - Wash hands after removing gloves
- Communicate!
 - Signs, checklists, emails, newsletters...



Face Coverings and PPE

- Personal Protective Equipment (PPE) - OSHA standard
 - COVID-19 is a recognized hazard so employers must protect against it
 - Requires training and education
 - PPE should be selected based on a hazard assessment and workers specific job duties.
 - Examples: Respirators (N95 masks), gowns, gloves, surgical masks
- Face coverings– governed by PPE standard?
 - Depends
 - Type of mask
 - May have to pay – for mask, time spent donning and doffing
 - Provide for all those who enter the workplace (e.g., office, retail store, warehouse)



Face Coverings and PPE

Safety challenges...

- | | |
|--|--|
| ▪ Proper Training | ▪ Obstructed Vision |
| ▪ Contamination (e.g., dirty hands, splash from processing meat) | ▪ Entanglement in machinery |
| ▪ Medical conditions (e.g., underlying respiratory condition can lead to asphyxiation) | ▪ ADA liability (e.g., employee with compromised immune system refused permission to wear when not required or encouraged as work) |
| ▪ Refusal to Wear | ▪ Lack of Supply |



Configuring the “New” Workplace

The 6 feet workplace...

- Prepare a plan – no right answer so be creative!
 - Determine who will be responsible for implementing plan
 - Consider size and layout of the location, number of personnel returning, shifts
 - Determine level of risk to workers, customers, vendor – everyone!
 - Implement OSHA recommended controls
 - Engineering controls (e.g., plexiglass dividers, higher ventilation rates)
 - Administrative controls (e.g., alternating shifts, remote work)
 - PPE (e.g., face masks, gloves)
 - Remember industry regulations, state and local codes



Configuring the “New” Workplace

Consider...

- Controlling access to facility
- Conducting temperature screenings before entry into the facility
- Providing hand sanitizer, wipes and masks at entry and throughout
- Alternating shifts, staggering arrival and departure times
- Redesigning plans – floor, seating, assembly line...- for social distancing
- Installing dividers – between desks, those at assembly lines, cashiers/customers...
- Restricting use of shared spaces – conference rooms, elevators, cafeterias, locker rooms...
- Designating one-way traffic down hallways and around the workplace
- Removing high-touch objects – whiteboards/markers, touchscreen panels, remote controls...



Configuring the “New” Workplace

Must...

- Communicate!
 - Acknowledges the fear and anxiety and that measures have and will continue to be taken
 - Signage - Post at entry ways and around the workplace
 - Educates employees, vendors and customers of what is expected (e.g., wearing of masks)
 - Stresses good hygiene (e.g., hand washing) and social distancing
 - Alerts them of what to expect once they enter the workplace (e.g., one way hallways)
 - Written notice - Provide to each employee
 - Via email, intranet page or postal letter
 - Inform them of the steps that have been taken and will continue to be taken
 - Ask for their commitment to adhere to the new protocols and restrictions – a “social contract”



Temperature Checks and Testing

How things have changed...

- Normally prohibited under the Americans with Disabilities Act (ADA)
- Per the EEOC - temperature checks, medical inquiries and testing is now allowed under the ADA's "direct threat" exception
 - An individual with COVID-19 poses a "direct threat" to the health of others



Temperature Checks and Testing

How things have changed...

- Testing and Temperature checks (100.4 and higher should be sent home)
 - Provide notice (e.g., poster, email, letter) to employees, vendors and customers
 - Conduct check or test before entry into the building, if possible
 - Be consistent
 - Ensure those waiting are standing 6 feet apart from one another
 - Determine who will conduct temp check and/or test
 - Provide those administering the temperature check or testing with training and appropriate PPE (e.g., gloves, mask)
 - Take privacy measures, if possible
 - Remember that the time spent waiting and being screened/tested may be compensable



OSHA Compliance

General Duty Clause – “The Catchall”

- No enforceable COVID-19-specific requirements, practices, or policies that employers must implement to protect workers
- However, General Duty Clause...
 - Requires employers to furnish each worker with "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."
 - COVID-19 is a “recognized hazard” – doesn’t matter if hazard is to coworkers, customers...
 - Any safety-related complaint would arise out of an alleged violation of the GDC
 - NO PPE
 - NO steps taken to achieve social distancing
 - NO measures to protect workers from the COVID-19 (e.g., infectious disease or pandemic plan, training)



OSHA Compliance

Don't forget...

- Employees have the right to:
 - A safe and healthy workplace
 - Report an unsafe and unhealthy workplace
 - Be free for retaliation for reporting unsafe conditions
 - File a whistleblower complaint online or via phone if they believe they have been retaliated against
- OSHA actually issued a “reminder” to employers not to retaliate
- OSHA also urging workers to “contact OSHA immediately” if they believe they experienced retaliation



OSHA Inspections

OSHA inspections..

- *An interim enforcement response plan (4/13/2020)*
 - Outlines the agency's priorities for COVID-19-related inspections
 - Directs inspectors to identify potentially hazardous occupational exposures
 - Prioritizes fatalities and imminent danger exposures related to COVID-19 for inspections, with particular attention given to health care organizations and first responders
- Uptick in inspections and enforcement efforts at health care facilities and meat processing
- OSHA can still conduct respond to workers' complaints and conduct other investigations via phone



OSHA Inspections

Be prepared...

- Documentation demonstrating recognition of the COVID-19 exposure risks and steps to mitigate:
 - Records showing efforts made to obtain and provide appropriate PPE
 - Training records related to COVID-19 prevention or preparedness, written plans
 - Written pandemic plans
 - Medical records related to worker exposure incidents
 - Recordkeeping logs
 - Industry-specific records, testing and training materials



OSHA Recordkeeping

Is an employee diagnosed with COVID-19 recordable?

- OSHA - a COVID-19 case is recordable if:
 - The worker has a *confirmed positive* diagnosis of COVID-19;
 - The case is work-related, e.g., worker infected as a result; and
 - The case involves one or more of the general recording criteria (e.g., days away from work).
- If all the criteria are met, the employer must record the illness on:
 - OSHA Form 300 within 7 days of receiving indications a recordable illness has occurred; and
 - OSHA Form 300A Summary
- But how can an employer really trace the infection to its workplace?



OSHA Recordkeeping

OSHA doesn't seem to know either...

- Issued guidance stating that unless there is objective evidence of work-relatedness, it will not enforce the recordkeeping standard against many employers due to the difficulty of determining whether an employee contracted COVID-19 at work.
- Health care industry employers, emergency response organizations (e.g., emergency medical, firefighting and law enforcement services) and correctional institutions are still required to record cases of COVID-19 that meet the criteria.



OSHA Reporting

Is a COVID-19 case reportable?

- Reporting obligations have not changed
- A *positive confirmed diagnosis* of COVID-19 is reportable if:
 - The case is work-related and
 - The employee is hospitalized in an in-patient treatment facility or employee dies
- The timing obligations for reporting have also not changed:
 - A fatality* - within 8 hours of learning
 - An in-patient hospitalization – within 24 hours of learning

*Fatality occurs within thirty (30) days of the work-related incident



OSHA Knows...

That these are unprecedented times so...

- OSHA provided guidance to employers in recognition of the challenges that employers are facing in meeting OSHA's compliance requirements and standards.
- Provides that when an employer demonstrates a good-faith attempt, but is unable to comply with certain requirements due to workplace closures, OSHA will take such efforts into consideration in determining whether to cite a violation.
- If an employer cannot demonstrate a good-faith effort to comply, a citation may be issued



Employees Know...

That these are unprecedented times so...

- Acknowledge their anxiety
- Show them you care
- Demonstrate you took and will continue to take measures to protect them
- Educate them on how to protect themselves and others
- Treat them (and vendors and customers!) with respect



How XpertHR Can Help

- [Health and Safety](#)
- [Anticipating and Addressing Employees' Return-to-Work Concerns Post-Pandemic](#)
- [Wage and Hour](#)
- [Discrimination and Accommodation Considerations](#)
- [Coronavirus \(COVID-19\) Pandemic Return From Furlough Letter](#)
- [Respond to a Positive Coronavirus \(COVID-19\) Test Checklist](#)
- [Self-Certification to Return to Work After COVID-19 Symptoms/Exposure Form](#)
- [Possible Employee Exposure to COVID-19 Letter](#)

The logo for XpertHR, with 'Xpert' in a white sans-serif font and 'HR' in a white sans-serif font inside a white square. The background of the top half of the slide is a blurred image of a woman's profile with long brown hair, looking out over a city at night with bokeh lights.

XpertHR

Thank You!

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