

# HR Insights

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## Planning for a Communicable Disease Outbreak

As an employer, you have a responsibility to protect your employees from health and safety hazards, and part of that responsibility includes being prepared to respond to unexpected threats. A communicable disease outbreak is one health and safety threat that your organization must be prepared to handle.

### Workplace Policies

Your organization should develop a communicable disease policy in the workplace requiring employees to notify the company of any possible exposure to certain diseases. This will allow you to take proactive preventive measures against the spreading of the disease. As part of the policy, employees may be asked to work reduced hours, work from a remote location and/or may be removed from nonessential job duties until they are no longer contagious. Other considerations for preventing the spread of communicable disease are as follows:

### Travel and Quarantine Policies

Employee travel should comply with all advisories from the Centers for Disease Control and Prevention (CDC) and U.S. Department of State. As a result, those who are traveling to areas with current communicable disease outbreaks should be required to obtain all recommended vaccinations and follow all health recommendations. If an employee travels to a region of the world for which he or she must be quarantined upon arrival back to the United States, he or she should notify you immediately to arrange for telecommuting or leave.

### Leave Policies

Social distancing may be of the highest importance when trying to prevent the spread of a communicable disease in the workplace. Employees may be subject to quarantine, may be ill and need to stay home, or may be home caring for sick relatives. As a result, these individuals should remain away from the workplace to reduce the likelihood of infecting others. Beyond this, other employees may fear that they will come in contact with a disease while being in the workplace and may consequently refuse to come to work. In response, consider devising policies to address these concerns and leave issues.

Leave policies should address the following issues:

- Compliance with the directives of the CDC with regard to social distancing
- Maintenance of company operations
- Sustaining a functioning workforce to minimize the effects of employee absenteeism
- Limiting unnecessary social interaction
- Compliance with applicable laws, including the Family and Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA), and compliance with overtime stipulations of the Fair Labor Standards Act (FLSA) for telecommuting employees



- Address the following logistical concerns:
  - How employees should request communicable disease leave
  - Requirements for regularly reporting medical conditions
  - Whether leave is paid or unpaid
  - Whether benefits are provided or accrued during the leave period
  - If leave becomes exhausted, whether employee will return to work

### Other Legal Concerns

In addition to the laws mentioned above, there are other laws that may affect a communicable disease policy and its ramifications:

- The Privacy Rules under the Health Insurance Portability and Accountability Act (HIPAA) require employers to protect the privacy of all employee medical information. As a result, employers must determine what diseases employees must report, who will have access to this information and whether reporting this information to public health officials is necessary. If other employees must be notified of a possible communicable disease case in the workplace, all necessary precautions must be taken to protect the privacy of the infected individual.
- Under FMLA, employers with 50 or more employees who have worked for the company for 12 months and have worked 1,250 hours within that period, are entitled to up to 12 weeks of unpaid leave due to a “serious health condition.” Most communicable diseases will likely be considered applicable under this legislation.
- Employees who suffer permanent health problems affecting major functions of their daily lives may be entitled to protections under the Americans with Disabilities Act (ADA).
- Under the Employee Retirement Income Security Act of 1974 (ERISA), employers must confirm that employees under their health plan receive an updated summary plan description (SPD) of the health benefits. If employees do not receive a SPD

(or if an employer cannot prove that employees received a revised one), the provisions allowing the plan to change may not be enforceable.

### Creating a Communicable Disease Response Plan of Action

Creating a communicable disease response plan is an effective way to communicate with employees clearly while also complying with local, state and federal guidelines for pandemic responses. Plans should be concise, easy to understand, and effective in preserving the health and safety of all employees. Plans should include the following items:

- The designation of a person within the workplace who is responsible for all disease planning and emergency actions
- Communication of the policy and required steps for requesting leave
- Development of protocol with regard to reduced job performances due to absence or quarantine
- Development of a monitoring program to track employees who cannot return to work immediately due to illness
- Development of social distancing strategies to limit transmission risks
- Plan distribution timeline and format (online, hard copy, etc.)

In the very worst of situations, employers must be flexible and creative to continue to run their business while also protecting their employees and maintaining stability in the workplace. By expanding employee assistance initiatives, proactively creating applicable policies and planning ahead, you can prepare your organization for a communicable disease outbreak.