COVID-19 AND CONTACT TRACING

Gale Burstein, MD, MPH, FAAP
Erie County Commissioner of Health
What is contact tracing?

- Case investigation and contact notification of exposure
- Core public health strategy to break chain of transmission of communicable diseases
COVID-19 Contact Tracing

- Notify individuals of positive COVID-19 test
- Place COVID-19 cases in isolation (10 days)
- Conduct a case investigation
  - Determine onset of infection
  - Identify close contacts during infectious period
- Notify close contacts of their exposure
- Place contacts in quarantine (14 days)
- Ensure person can isolate or quarantine safely

September 22, 2020
Business Roles: Case Investigation

- Identify close contacts to COVID-19+ employee
  - Check employee schedule, other staff schedules, COVID+ employee’s distance to other staff, customer records
  - Provide contact information for close contacts (employees, customers) so contact tracers can notify of exposure and place under quarantine
- Report employees testing COVID-19 positive to ECDOH

https://www3.erie.gov/covidform

September 22, 2020
Business Roles: COVID-19 Prevention

- Follow NY Forward guidelines for:
  - Maintaining records
  - Physical distancing, masks and PPE

- Employees: stay home when sick!!!!
Isolation and Quarantine

- **Isolation**: limits exposure to infected person who is contagious
  - 10 days = duration of infection
- **Quarantine**: limits exposure to a person at high risk of developing infection
  - 14 days = COVID-19 incubation period
Workers deemed “essential” for business operations or safety may go to work during quarantine period if employee:

- Remains asymptomatic and monitors for symptoms twice daily
- Wears a mask and maintains social distancing
- Travels only from home to work and back home
  - No errands, restaurants, gatherings, etc.
- Diagnostic COVID-19 testing strongly recommended
COVID-19+ Employee Return to Work: Time-based strategy

- Asymptomatic employee: 10 days after COVID-19+ test
- Symptomatic employee: 10 days after onset of COVID-19 symptoms
- Fever-free for at least 72 hours (3 days), without fever-reducing medications
- COVID-19 symptoms improving

Nursing homes’ return to work requirements differ

September 22, 2020
Goal: Erie County and WNY stays open for business. We cannot go backward.

- Every business responsible to keep employees and customers safe and healthy.
- Encourage employees to stay at home when possible.
  - Meet virtually
  - Avoid crowded places
  - Enforce physical distancing at work
- Prioritize health and safety.

September 22, 2020
Recent COVID-19 case data reveal:

- 2/3 COVID-19 cases symptomatic
  - Reported symptoms at time of test

- 1/3 COVID-19 cases asymptomatic
  - Reported no symptoms during infection

Asymptomatic people can have COVID-19 and transmit to others
Erie County COVID-19 Diagnostic and Antibody Testing

- Call (716) 858-2929 to schedule
- Antibody testing only
  - Schedule online at www.erie.gov/covidtest
- No cost – FREE THROUGH ERIE COUNTY!!
- No lab order/doctor referral needed
- Clinics throughout Erie County
- By appointment only
- Please, show up to your appointment
ECDOH Test Sites

- **Free Diagnostic Testing**
  - Williamsville (Mondays)
  - Orchard Park (Wednesdays)
  - Buffalo (Thursdays)

- **Antibody Test Sites:**
  - 9/25: Hillcrest Fire Department (Orchard Park)
  - 9/29: North Collins Fire Department
  - 10/1: Hamburg Senior Center

September 22, 2020
Erie County COVID-19 Test Sites

www.erie.gov/covidtestsites

- List subject to change
- Most sites require an appointment – call ahead for details & criteria
- Pharmacies are included in this map
Flu Season

- Flu & COVID-19 share similar symptoms
- Encourage employees to get a flu vaccination: vaccinefinder.org
- Masks work
- Encourage employees and customers to stay home when ill

September 22, 2020
Questions?

- Thank you.

- Resources
  - www.erie.gov/covid19
  - COVID-19 Info Line: (716) 858-2929
  - NY Forward: forward.ny.gov
WHAT TO DO WHEN A COVID-19 DIAGNOSIS HITS YOUR WORKPLACE... BECAUSE YOU KNOW IT WILL
DISCLAIMERS
(WE’RE LAWYERS, AFTER ALL)

- **Disclaimer 1:** This presentation is not designed to provide legal advice. For legal services, please contact us at The Coppola Firm 716-839-9700 or info@coppola-firm.com

- **Disclaimer 2:** Guidance changes frequently, so stay up to date!
NEW YORK MANDATED SAFETY PLAN

NY FORWARD SAFETY PLAN TEMPLATE

Each business or entity, including those that have been designated as essential under Empire State Development's Essential Business Guidance, must develop a written Safety Plan outlining how its workplace will prevent the spread of COVID-19. A business may fill out this template to fulfill the requirement, or may develop its own Safety Plan. This plan does not need to be submitted to a state agency for approval but must be retained on the premises of the business and must be made available to the New York State Department of Health (DOH) or local health or safety authorities in the event of an inspection.

Business owners should refer to the State's industry-specific guidance for more information on how to safely operate. For a list of regions and sectors that are authorized to re-open, as well as detailed guidance for each sector, please visit: forward.ny.gov. If your industry is not included in the posted guidance but your businesses has been operating as essential, please refer to ESD’s Essential Business Guidance and adhere to the guidelines within this Safety Plan. Please continue to regularly check the New York Forward site for guidance that is applicable to your business or certain parts of your business functions, and consult the state and federal resources listed below.

COVID-19 Reopening Safety Plan
EMPLOYEE TESTS POSITIVE

- Has s/he been on-site?
- Plan of action:
  - Send Employee Home
  - Secure Area
  - Clean
  - Communicate
    - Employees
    - Reporting to NYS/Local DOH
- Do others need to stay home?
  - Maybe, if there has been contact

BUT IT’S HIPAA!
It is probably not HIPAA, although it is private information
WHEN CAN THE EMPLOYEE(S) COME BACK?

- **Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure – NYS DOH (May 31, 2020)**

- **Tests Positive**: (symptomatic or asymptomatic) at least **10 days of isolation** from the onset of symptoms or 10 days of isolation after the first positive test if they remain asymptomatic.

- **COVID-19 Symptoms at Work**: at least **10 days of isolation** from the onset of symptoms OR upon receipt of a negative COVID-19 test result.

- **Close or proximate contact AND symptomatic**: at least **10 days of isolation** from the onset of symptoms.
  - Within 6 ft with a person with COVID-19 for a prolonged time (>10 mins)

- **Close or proximate contact AND asymptomatic**: 14 days of self-quarantine
  - Exception: essential and critical for the operation or safety of the workplace CAN RETURN if:
    - Documented determination by supervisor and HR consultation with appropriate state and local health authorities
    - Monitoring, masking, distancing, cleaning – quarantine when not at work
  - What you can do vs. what you should do
DO EMPLOYEES GET PAID WHEN THEY ARE OFF?

NY COVID-19 Sick Leave
1. Must be subject to a quarantine or isolation order
2. Must not have traveled to certain countries as designated by the CDC

EPSL (FFCRA)
1. State order: quarantine/isolation
2. MD: self-quarantine
3. COVID-19 symptoms & seeking treatment
4. Caring for someone (cat. 1 or 2)
5. Child out of school due to COVID-19

*Employees able to telework are ineligible for leave under either law.
POINTERS

- Use a payroll company
- Have written policies
  - FFCRA has tax benefits
  - New York Paid Sick Leave is coming – there will be some overlap with FFCRA and Expanded PFL
    - September 30, 2020 – employees start accruing
    - January 1, 2021 – employees can start using accruals
- Get a flu shot – encourage your employees to do the same (good health = increased productivity)
- Check your insurance policies
**REMINDER: NY PAID SICK LEAVE!**

- NEW paid sick leave requirements per the 2021 Budget Bill
- Covered employees will be entitled to begin accruing sick leave on September 30, 2020 (one hour is accrued per 30 hours worked)
- Employees may be restricted from utilizing accrued sick leave until January 1, 2021

<table>
<thead>
<tr>
<th>Employers with four or fewer employees in a calendar year and a net income of $1 million or less:</th>
<th>Employees are eligible to receive 40 hours of <strong>unpaid</strong> sick leave each calendar year.</th>
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<tbody>
<tr>
<td>Employers with four or fewer employees in a calendar year and a net income of greater than $1 million:</td>
<td>Employees are eligible to receive 40 hours of <strong>paid</strong> sick leave each calendar year.</td>
</tr>
<tr>
<td>Employers with 11-99 employees in a calendar year:</td>
<td>Employees are eligible to receive 40 hours of paid sick leave each calendar year.</td>
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<tr>
<td>Employers with 100 or more employees in a calendar year:</td>
<td>Employees are eligible to receive 56 hours of paid sick leave each calendar year.</td>
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LIABILITY
(THINK “GETTING IN TROUBLE” OR “GETTING SUED”)

- Employee exposure at work - workers’ compensation
- Lawsuits for customer/visitor exposure at your business
- Employment Law Claims
- Reports to the DOH
- Reports to the DOL
HOW DO I *NOT* GET SUED?!

Nothing can stop someone from suing you
  • Even if someone does not have a good case, you may still get sued

BUT, you can dissuade people from suing you by showing them how compliant you are

AND, you will insulate your business as best as possible (from workers’ comp and lawsuits)
Employees who contract COVID-19 while “work[ing] in an environment where exposure risks are significantly higher” are more likely to be eligible for benefits.

Workers’ compensation claimants must demonstrate that they worked in an environment where “exposure to COVID-19 was prevalent” in order to be eligible for benefits, and provide a medical report from an authorized workers’ compensation medical provider stating that the claimant’s work caused their illness.

Trends

- Difficult to pin down the nexus of infection
  - Where exposure is *known* to be at work, and no other exposures – likely to be sustained
- Will employee file a claim?
  - Employee may use other leaves and not report
  - If you learn of a potential workplace exposure – notify your carrier, work with them
- Defending a claim (employee did not get COVID at work)
  - Excellent safety practices (compliant with NYS, CDC, OSHA guidance)
  - Strong written policies
  - Employee who can testify about both
A Whole New World (in other words…even lawyers don’t know all the answers)

Likely will need to show exposure at defendant business – like workers’ comp, may difficult to show

Best defense

- Excellent compliance with government rules
  - Standard of Care
  - Sets the “floor” for minimum steps business should take
- Well trained employees
- Do not overstate in your advertisements
EMPLOYMENT LAW CLAIMS (ACCOMMODATIONS & DISCRIMINATION)

- Employees with COVID
- High risk groups
  - Immunocompromised Employees
  - Older Employees
- Have Policies and Procedures – and follow them
TYPES OF INSURANCE

WORKERS’ COMPENSATION

GENERAL LIABILITY COVERAGE

EMPLOYMENT PRACTICES COVERAGE

BUSINESS INTERRUPTION COVERAGE
COMMON QUESTIONS

- Can I turn away customers who refuse to wear a mask?
  - Yes.
- Can I make employees wear masks?
  - Yes, and you need to provide them.
- Can an employee refuse to come in because s/he is afraid of getting COVID?
  - Not without more.
- Can I force my employees to get COVID tested?
  - Can suggest it – lots of resources in Erie County
- Can I prohibit my employees from traveling to the “hotspots”?
  - No, but you can require them to tell you, keep them out of the office during quarantine periods
- How do I encourage my employees to stay healthy?
  - Teleworking?
    - It might just be working well…
    - IT security
    - Could avoid exposures, claims, unhappy employees
- Can employees take time off if their kids are home from school? Does it need to be paid?
  - Yes. See next slide.
Emergency Family Medical Leave Expansion Act (“EFMLA”)

- 12 weeks of leave (ten paid) for eligible employees who need leave to care for a qualifying son or daughter whose school or place of care is closed due to COVID-19 precautions

- Applicable to “Hybrid” Times

- Note: “hybrid” time off is NOT considered intermittent
A FEW MORE RESOURCES

- Attitude is everything…and modeling good behavior goes a long way
  - Acts of generosity vs. mandates
- Testing!
  - https://www2.erie.gov/health/
- How to wear a mask (World Health Organization)
  - https://www2.erie.gov/health/
- How to wear gloves  (World Health Organization)
  - https://www.who.int/gpsc/5may/Glove_Use_Information_Leaflet.pdf