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Contacts

If you have questions or would like more information, please contact any of the attorneys listed at the end of this Alert. Hunton & Williams' [labor and employment law practice](#) covers the entire spectrum of labor and employment litigation, arbitration, administrative practice before the NLRB, EEOC, and the DOL, federal contract compliance, wage-hour standards, workplace safety and health standards, workers' compensation, contractual rights and remedies, Sarbanes-Oxley and whistleblower claims, workplace investigations and client counseling under federal and state labor and employment laws.

Hunton & Williams LLP provides legal services to corporations, financial institutions, governments and individuals, as well as to a broad array of other entities. Since our establishment more than a century ago, Hunton & Williams has grown to more than 1,000 attorneys serving clients in 100 countries from 19 offices around the world. While our practice has a strong industry focus on energy, financial services and life sciences, the depth and breadth of our experience extends to more than 100 separate practice areas, including bankruptcy and creditors' rights, commercial litigation, corporate transactions and securities law, intellectual property, international and government relations, regulatory law, products liability, and privacy and information management.

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Swine Flu Pandemic Preparedness

A "pandemic" requires four factors. First, the virus involved has to be novel, so that people have no natural immunity. Second, the virus has to be pathogenic, so that a large number of people can be efficiently exposed to the virus. Third, the virus has to be capable of sustained human to human transmission. And, fourth, the virus has to have a death rate of at least 50 percent of all exposed people. The current swine flu emergency satisfies the first three criteria. Reliable information does not yet exist regarding the exposure/death rate; at present the death rate appears far below 50 percent. However, the first cases were reported only a few weeks ago and the future is unclear. Thus, employers should have a plan in place in the event that swine flu, or any other widespread communicable disease, impacts their workforce.

Employers should take certain steps immediately. First, they should establish a task force to manage this issue. One person in this task force should monitor the progress of the disease globally and keep key staff informed. Someone also should develop training materials that address the nature of the disease, its transmission and the means by which individuals can limit their risk of exposure. The task force should make decisions in advance, so that if the worst happens these decisions will not be made piecemeal. Advance planning and consistent application will prevent

employers from compounding a terrible situation with follow-on employment liability due to inconsistent or inaccurate application of policies or legal obligations.

The task force should evaluate benefits/insurance issues, review vendor/supplier contacts and evaluate travel needs so that decisions can be made in advance regarding these issues. Attendance and pay create specific problems. Employers must determine in advance which job skills are critical, which jobs require on-site work, which jobs can be done via telecommuting and which jobs are not critical. For critical jobs, employers who have no "bench" in these critical skills should consider cross-training to increase flexibility. Employers also should consider a quarantine area where critical-skills employees who may have been exposed to illness could still work without interaction with others. For jobs that can be handled by telecommuting, employers should evaluate whether the necessary equipment and training are in place for work to continue from home or from remote locations.

Employers must determine in advance who will be paid in the event of widespread absenteeism. Most employers will not be able to afford to pay employees who cannot work and who have exhausted sick leave. These difficult decisions must be made up-front, so that management does not treat people differently and

expose the company to claims of discrimination or favoritism. These plans must be carefully developed so that there is no incentive for employees to come to work sick, nor is there an incentive for able-bodied workers to stay home. This is a delicate balance that will be different for every employer.

Some employers may desire to enhance their benefits offerings so that employees can have insured (either at their own group-rate cost or subsidized) income continuation when sick or have greater life insurance benefits. Mental health benefits also will be important. Employers should know how many individuals their

current EAP provider can serve and what their provider's staffing plans are in the event of widespread illness.

Employers also should make certain that emergency contact lists, beneficiary lists and other insurance matters are all up-to-date. If someone becomes ill at work, the company will not want to be responsible for transport of that person home or to medical care. Make sure that there is a list of contact people who would be able to come on-site to pick up the employee and/or transport them to medical care.

Travel issues must be evaluated. Travel should be prioritized. If a pandemic

occurs, commercial travel will not be available for sick individuals. Also, in case the disease progresses internationally as anticipated, companies whose workers travel internationally should consider establishing a relationship with an international medical transport company. If a worker becomes ill in a country with substandard medical care, medical transport may be necessary to get that worker access to anti-viral medications and effective care.

Hunton & Williams has developed a training program on these issues, which can be provided either over the phone or in person. Please contact one of the attorneys listed for further information.

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