

NEWSBLAST
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H1N1 Virus Pandemic
Don't Panic – Be Proactive

On April 29, 2009 the World Health Organization raised its H1N1 Virus alert level to Phase 5, only one rating level short of an official global pandemic. In addition to tragic human loss, the presence of a pandemic could profoundly affect business.

How would a pandemic affect my organization?

Pandemic refers to the spread of an illness or disease across a wide, geographic area. It has been estimated that between 1/3 and a 1/2 of a given human population will become sick at some point during a pandemic. This includes employees.

Legal Considerations

If the H1N1 Virus is found to create a serious public health risk, sweeping measures could be proclaimed in Canada, similar to those already declared in Mexico. The Federal and Provincial governments have extensive authority to declare an emergency and curtail public and private activities, which can result in orders prohibiting travel, requiring individuals to remain at home and closing down institutions and private businesses (*i.e., via employment standards acts, occupational health and safety acts, human rights codes, Quarantine Act, Emergency Management and Civil Protection Act, etc.*)

If an emergency is declared employers should be aware that statutory provisions exist which protect employees' jobs. In Ontario, for example, for so long as a declared emergency is in effect, the *Employment Standards Act* requires an employer to grant unpaid leave and maintain any applicable benefits plan for any employee unable to attend work due to the emergency. Employees' jobs are also protected if they have to be absent from work due to being needed to care for an ill family member, or in order to care for a child who must stay home due to closure of a school or daycare facility.

Business Considerations

Planning for an employee shortage, and determining how to manage employees during a crisis, are vital components of any business, pandemic preparedness plan. Consider the following issues:

Containment

- Are employees trained in ways to stop or slow the spread of the virus within the workplace?
- Have you directed sick employees to stay home?

Pandemic Preparation and Response Team

- Create a team. Ensure representatives have expertise in human resources, operations, health and safety and communications (if possible).

Identification & Communication

- How will your organization communicate with employees at the workplace and at home?
- Is there an early warning system to alert management of illness in the workplace?
- How should employees report their status during a pandemic; what information are they required to communicate to the employer; and when are they are expected to not report to work?

Impact on Your Workplace

- How is work performed in your organization?
- What vulnerabilities exist?
- How will labour shortage affect operations, your supply chain (locally and internationally) and your ability to serve customers?

Proactive Preparedness

- Conduct an audit of your workplace.
- Can business operations be reorganized in the face of a pandemic?
- How flexible is your workforce?
- Are there factors that may limit flexibility (e.g. the terms of a collective agreement and/or employment contract, etc.)?
- If the workplace is unionized, will the union cooperate and assist?
- What is the minimum number of employees necessary to keep the organization functioning?
- In which capacities?
- Are employees trained to assume other roles if necessary?
- Are employees able to work from home or in alternative locations?
- Can work be done without direct human-to-human contact (*i.e.*, teleconferencing or video conferencing)
- Does the organization's insurance provide sickness or disability coverage, including for employees who may be ordered to stay in quarantine but who are not sick?
- Are there security or shut-down issues that require particular consideration?

To learn more and/or for assistance preparing your organization, contact Sherrard Kuzz at 416.603.0700 or through our 24 hour line which is always answered by one of our lawyers: 416.420.0738

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