

FHMS COVID-19 Resource Center:

OSHA'S RECOMMENDATIONS FOR PROTECTING WORKERS FROM COVID-19

As we previously discussed [here](#), COVID-19 exposure claims from customers will likely involve allegations that the company failed to comply with government recommendations. In addition to the CDC recommendations for employers in medium-risk industries, the Occupational Safety and Health Administration (OSHA) has issued [recommendations](#) to protect workers in the same industries. These recommendations include:

- Encourage workers to report any safety and health concerns. It is illegal to retaliate against workers for reporting illnesses or for reporting unsafe or unhealthful working conditions.
- Promote personal hygiene. If workers do not have access to soap and water for handwashing, provide alcohol-based hand rubs containing at least 60 percent alcohol.
- Educate employees about the virus, how it spreads, and how to mitigate the spread.
- Encourage social distancing wherever possible.
- Adjust hours or stagger work schedules to limit the number of people in one place at one time.
- Encourage the use of personal protective equipment (PPE), including face coverings and gloves. Train workers how to properly put on, use/wear, and take off protective clothing and equipment;
- Monitor employee health with temperature checks and/or symptom screenings. Encourage workers to stay home if they are sick.
- Ensure easy access to information such as the steps an employee should take if she thinks she has or has been exposed to COVID-19. Monitor public health communications about coronavirus recommendations for the workplace and ensure that workers have access to and understand that information;
- Encourage respiratory etiquette, including covering coughs and sneezes.
- Limit non-essential visitors to offices, retail, and other locations where possible.
- Embrace digital or remote options that can replace person-to-person contact.
- Maintain regular housekeeping practices, including routine cleaning and disinfecting of workspaces and high-touch areas using EPA-approved cleaning agents

Also, OSHA provided specific guidance for certain industries, as detailed below.

A. [Specific Guidance for Retail Workers](#)

- Use a drive-through window or offer curbside pick-up.
- Practice sensible social distancing, which could include opening only every other cash register, demarcating six-foot distances with floor tape in checkout lines, temporarily moving workstations to create more distance and installing plexiglass partitions between workstations.
- Provide workers and customers with tissues and trash receptacles.

B. [Specific Guidance for Package Delivery Workers](#)

- Minimize interaction between drivers and customers by leaving deliveries at loading docks, doorsteps or other locations that do not require person-to-person exposures.
- Provide tissues, as well as disinfectants and disposable towels workers can use to clean work surfaces, including vehicle interiors
- Discourage workers from using other workers' tools and equipment.

C. [Specific Guidance for Manufacturing Industry Workers](#)

- For work activities where social distancing is a challenge, consider limiting the duration of these activities and/or implementing innovative approaches, such as temporarily moving or repositioning workstations to create more distance or installing barriers (e.g., plexiglass shields) between workstations.
- Discourage workers from using other workers' tools and equipment.
- Provide disinfectants and disposable towels workers can use to clean work surfaces.

D. [Specific Guidance for Construction Workers](#)

- Continue to use normal control measures, including PPE, necessary to protect workers from other job hazards associated with construction activities.
- Advise workers to avoid physical contact with others and direct employees, contractors, and visitors to increase personal space to at least six feet, where possible. Where work trailers are used, all workers should maintain social distancing while inside the trailers.
- To the extent tools or equipment must be shared, provide and instruct workers to use alcohol-based wipes to clean tools before and after use. When cleaning tools and equipment, workers should consult manufacturer recommendations for proper cleaning techniques and restrictions.
- Keep in-person meetings (including toolbox talks and safety meetings) as short as possible, limit the number of workers in attendance, and use social distancing practices.
- Clean and disinfect portable jobsite toilets regularly. Hand sanitizer dispensers should be filled regularly. Frequently-touched items should be disinfected.

E. [Specific Guidance for Restaurants & Beverage Vendors Offering Takeout or Curbside Pickup](#)

- Avoid direct hand-off, when possible.
- Display a door or sidewalk sign with the services available (e.g., take-out, curbside), instructions for pickup, and hours of operation.
- Reserve parking spaces near the front door for curbside pickup only.
- Practice sensible social distancing by maintaining 6 feet between co-workers and customers. Mark 6-foot distances with floor tape in pickup lines, temporarily move workstations to create more distance and install plexiglass partitions, if feasible.
- Encourage customers to pay ahead of time by phone or online.

F. [Specific Guidance for Rideshare, Taxi, and Car Service Workers](#)

- Ensure door handles and inside surfaces are routinely cleaned and disinfected.
- Advise drivers to lower vehicle windows to increase airflow.
- Ask customers to wear masks over their nose and mouth to prevent spread of the virus.
- Provide alcohol-based hand rubs containing at least 60 % alcohol for both drivers and customers.
- Provide drivers with disposable towels and cleaning chemicals for disinfecting surfaces.
- Provide drivers and customers with tissues and trash receptacles.
- Limit the number of passengers drivers can transport at a single time.
- Install plexiglass partitions between driver and passenger compartments where possible.

G. [Specific Guidance for Retail Pharmacy Workers](#)

- Install clear plastic barriers between workers and customers at order/pickup counters.
- Use signage and floor markers to keep waiting customers at least six feet from the counter, other customers, and pharmacy staff.
- Encourage drive-through or curbside pickup and home delivery, where feasible.
- Encourage customers to submit prescriptions online or by phone. Allow customers to provide their insurance information verbally or virtually (e.g., through mobile apps or the pharmacy's website).
- Specify hours dedicated to vulnerable populations (the elderly, people with underlying health conditions, etc.).
- Increase the use of self-serve checkout to minimize worker interaction with customers.
- Limit the number of customers allowed inside the facility at any point.
- Provide gloves and eye and face protection, as necessary, for workers in the pharmacy.
- Pharmacists providing clinical services to patients, such as immunizations, might need additional protections. Consult OSHA's healthcare worker and employer guidance.

H. [Specific Guidance for Stock Room / Loading Dock Workers](#)

- Stock displays (e.g., shelves, freezers) during slow periods or shifts during which stores are closed to minimize contact with the public.
- If stocking occurs while stores are open, use barriers or markers to physically separate employees from customers.
- Maintain at least six feet between co-workers and customers, where possible.
- Coordinate with vendors and delivery companies to minimize the need for stockroom and loading dock workers to have contact with delivery drivers.
- Discourage sharing of tools or equipment. Disinfect tools that must be shared after each use.

As businesses reopen, here are some tips for small businesses to reduce their potential liability and mitigate exposure:

- Ensure your business is allowed to open under local, state, and federal orders.
- Assign one person to be in charge of new safety procedures, including keeping up to date on new recommendations issued by state and federal agencies.
- Double-check your policy coverage with your insurance agency and have contractors verify that any required insurance coverage is in place.
- Develop a written reopening plan that contains safety policies and procedures for all employees to follow.
- Develop and implement a process for identifying and notifying management if an employee shows symptoms of the virus.
- Ensure open lines of communication between management and employees for purposes of conveying updates or concerns.
- If you utilize a waiver to avoid COVID-19 liability, determine its enforceability. Information about how the courts in PA may determine the enforceability of a waiver are discussed [here](#).

FHMS is closely monitoring the COVID-19 exposure claims filed against business and are prepared to defend them. Information about those cases, efforts to obtain immunity from such claims, and more, can be found in our [FHMS COVID-19 Resource Center – Premises Liability](#).

Fowler Hirtzel McNulty & Spaulding, LLP

Casualty Department

Jacqueline E. Campbell, Esquire
jcampbell@fhmslaw.com
215-789-4844

Zoe A. Otway
zotway@fhmslaw.com
267-570-3400



Jacqueline E. Campbell is a partner in the firm's Casualty Department who focuses her practice on defense of commercial vehicle, construction accident, and premises liability cases. Her experience includes the representation of insured and self-insured commercial entities in cases with questionable liability and catastrophic injuries. She has coordinated numerous post-accident investigations and handles all aspects of litigation from initial pleadings through jury trial and appeal. For questions, please contact her directly at **215-789-4844**.

DISCLAIMER: The contents of this document are intended for informational purposes only. It is not intended as professional advice, legal advice, or the provision of legal services, and it should not be construed as such. The material presented herein is presented with the understanding and agreement that Fowler Hirtzel McNulty & Spaulding, LLP is not engaged in providing legal or other professional services by providing this material. The services of a competent professional should be sought if legal or other specific expert assistance is required. Any unauthorized use of material contained herein is at the user's risk. Transmission of the information and material herein is not intended to create, and receipt does not constitute, an agreement to create an attorney-client relationship with Fowler Hirtzel McNulty & Spaulding, LLP or any member thereof.

Copyright © 2020 Fowler Hirtzel McNulty & Spaulding, LLP. All Rights Reserved.