

TOOLKITS

Managing Through Flu and Other Epidemics in the Workplace

Feedback

Overview

Throughout history, the influenza pandemics have had devastating consequences. Whenever any widespread virus, bacterium or other biological threat is presented, employers should take care to protect their human resources and their future business operations. Employers should anticipate that they will periodically face epidemics and other biological threats and take proactive steps to protect their employees and their organizations. "It's better to be prepared for something that doesn't happen than unprepared for something that does," says Michael Osterholm, director of the University of Minnesota's Center for Infectious Disease Research and Policy (CIDRAP).¹

This article provides a roadmap for managing an epidemic in the workplace based on four stages of a biological threat:

- Preparing for the threat.

- Implementing preventive measures.
- Getting through the flu season or other threat in the workplace.
- Managing business recovery post-epidemic.

The article also addresses global considerations and high-risk workplaces.

See, SHRM's Resource Spotlight: Communicable Diseases (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx).

Preparing for a Biological Threat

While some emergencies, such as flu epidemics or Midwestern blizzards, strike more often than others, the actions an organization takes to prepare for something as common as a flu epidemic will help it get ready for even graver environmental threats. Many disasters may also be accompanied by biological hazards, so businesses must prepare for a biological threat as they would for any other threat that could impair or completely halt their activities. See *Managing Through Emergency and Disaster* (www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/managingemergencyanddisaster.aspx).

BUSINESS CONTINUITY PLANNING

A business continuity plan is a logistical plan that details how an organization will recover interrupted critical business functions after a disaster or disruption has occurred. Employers should take actions to review existing business continuity plans currently in place to ensure that the plans will work in the event of an epidemic. If no business continuity plan exists, employers should begin to develop a plan for a worst-case scenario that may occur during a pandemic. See, *Where can I find a business continuity plan template?* (www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/business-continuity-plan-template.aspx)

Senior managers should be continuously committed to emergency preparedness and business continuity planning. It is important to enlist companywide, top-down support. A crisis such as a flu pandemic can precipitate confusion, and even panic, among employees—and even senior managers. Armed with a business continuity plan, executives can respond in an orderly, rational way. A business continuity plan allows decisions to be made along predetermined guidelines. Resources can be pre-placed to deal with the possible threat. If one can predict a threat, one can predict a response to the threat. By planning ahead, employers may be able to avoid having to make devastating public apologies.

The first step in business continuity planning is the creation of a business continuity team. The team should have a leader who has education or experience in disaster planning and emergency preparedness. This is likely to be the head of security or a health and safety officer. Once the team is established, it should set priorities and develop a plan for each priority.

A plan should not undergo its first test during a crisis. No matter how carefully crafted it is, the plan will probably reveal deficiencies during practice. A rehearsal will provide employees with valuable training. Simulated exercises may be used to test parts of the plan so that the entire organization does not need to be disrupted. The critical point is that employees know their role in crisis response and that they are proficient in the execution of their responsibilities.

PLANNING FOR HEALTH-RELATED EMERGENCIES

Employers should prepare for the possibility that a large portion of their workforce will be unable to work during the flu season. See *How to Handle Communicable Diseases in the Workplace* (www.shrm.org/ResourcesAndTools/tools-and-samples/how-to-guides/Pages/communicablediseasesinworkplace.aspx).

The business continuity plan's focus should be the solution to this problem. Questions the plan should answer include:

- How many absences can we handle before business operations are interrupted?
- How do we keep operations running during an interruption?
- What changes can we make to keep the business operating effectively?

Employers will likely need to review, modify or even create policies when planning for an epidemic. The changes, and the duration of the changes, will need to be communicated. In some instances, a policy change may only be temporary, which the employer should communicate as well.

LABOR RELATIONS CONSIDERATIONS

Employers operating in a unionized work environment have additional concerns regarding epidemic planning. During the business continuity planning process, unionized employers should closely review their collective bargaining agreements to determine whether special provisions have been made in the event of a disruption of business operations. For example, some agreements may have provisions that provide paid time off to union workers in the event of an emergency when employees are prohibited from reporting to work. Organizations should take such special considerations into account when developing a plan.

Implementing Preventive Measures

An employer does not have to wait for disaster to strike before putting a plan into action. A positive aspect of influenza epidemic planning is that an employer can use a number of preventive measures to limit the effect of the illness on the workplace. Unlike other types of disasters, an employer has a certain degree of control over how the influenza virus will affect its workforce. The CDC's Information for Business & Employers (<https://www.cdc.gov/flu/business/>) for many helpful free resources.

COMMONLY USED PREVENTIVE MEASURES

Many of the most commonly suggested preventive measures are inexpensive and easy to obtain. They include providing tissues and hand sanitizers to employees. Employers can educate employees on proper ways of washing hands and what to do if flu-like symptoms develop. Communication on these precautions should occur frequently with employees, and employers should hang posters in bathrooms and eating areas on the proper way to stop the spread of germs. Depending on the industry and employee's proximity to others, an employer may also wish to provide respirators or masks to employees in the workplace to further hinder the spread of airborne germs. See, CDC Print Materials: Flu Posters (<http://www.cdc.gov/flu/freeresources/print.htm>) and Infectious Disease Control Policy (www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/Infectious-Disease-Control-Policy.aspx). Employers may also wish to add free CDC Flu content (<https://www.cdc.gov/flu/resource-center/freeresources/microsite-syndication.htm>) directly to their intranet for employee use.

The CDC also has COVID-19 coronavirus (www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/pages/COVID-19%20coronavirus) specific information and posters (<https://www.cdc.gov/coronavirus/2019-ncov/communication/factsheets.html>).

VACCINATIONS

A program of timely vaccinations is one of the best ways to control flu epidemics. However, in general, employers should not mandate that employees obtain a flu shot, primarily because of the Americans with Disabilities Act (ADA) and other legal issues. See Pandemic Preparedness in the Workplace and the American's with Disabilities Act (https://www.eeoc.gov/facts/pandemic_flu.html).

Nevertheless, in certain industries, such as health care, mandatory flu shots are essential for both employee and patient safety. See [How Can Health Care Workers Who Refuse to get Flu Shots be Accommodated?](http://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/health-care-workers-who-refuse-to-get-flu-shots.aspx) (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/health-care-workers-who-refuse-to-get-flu-shots.aspx)

Even in industries in which flu vaccinations are not mandatory, an employer can strongly urge employees to get flu shots and provide incentives to employees who do so. Incentives may include:

- Paid time off to get the shot.
- Providing the shot free to employees.
- Reimbursing employees for the cost of the shot.
- Hosting a flu shot clinic.

See [Make it Your Business to Fight the Flu](https://www.cdc.gov/flu/pdf/business/toolkit_seasonal_flu_for_businesses_and_employers.pdf)

(https://www.cdc.gov/flu/pdf/business/toolkit_seasonal_flu_for_businesses_and_employers.pdf)

SCREENING

Employers can also implement a screening program in the workplace. Screening can include providing free testing to employees who are exhibiting symptoms of the flu or requiring employees returning from high-risk areas to stay home for a predetermined amount of time to ensure that flu-like symptoms do not develop.

As part of a screening program, employers should consider how to handle employees who have not contracted the flu but have been exposed, such as an employee staying home to care for a sick child or spouse. The employer's response may include mandatory testing before employees return to work or imposing quarantine on these employees until the incubation period has passed. See [Prevention Strategies for Seasonal Influenza in Healthcare Settings](http://www.cdc.gov/flu/professionals/infectioncontrol/healthcaresettings.htm)

(<http://www.cdc.gov/flu/professionals/infectioncontrol/healthcaresettings.htm>).

Getting Through the Flu Season

Despite planning and implementation of preventive measures, disaster can strike. The key in such situations is to ensure that employees remain healthy and that operations are affected as little as possible. In the event that operations are severely limited, the focus should be to ensure that business operations resume as safely and quickly as practicable.

KEEPING EMPLOYEES HEALTHY

A key strategy in getting through the flu season is to keep the workforce as healthy as possible. Depending on the severity of the situation, organizations can take various actions, including:

- Sending symptomatic employees home.
- Implementing quarantines for employees returning from high-risk areas.
- Limiting face-to-face meetings.
- Allowing for telework.
- Temporarily shutting down operations.

The Centers for Disease Control and Prevention (CDC) has identified several categories of individuals who are at an exceptionally high risk for developing flu-related complications. They include pregnant women, individuals 65 years of age and older, and individuals with certain chronic health conditions. Additional steps may need to be taken to ensure the health and ongoing work of these employees.

Employers may wish to provide information to employees regarding these high-risk categories to encourage vaccination and screening for the virus. See *People at High Risk of Developing Flu–Related Complications* (http://www.cdc.gov/flu/about/disease/high_risk.htm).

BENEFITS CONSIDERATIONS

How to handle paid leave benefits is one of the biggest concerns businesses struggle with during the flu season. With certain legal exceptions, employers are free to establish their own paid leave benefits and administer those benefits according to the best interests of the business. Before an epidemic strikes, employers should review their existing paid leave policies to determine whether modifications should be made. See *Are Your Workers Making Customers Sick?* (www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/chipotle-outbreaks.aspx)

Questions to ask when reviewing paid leave policies and practices include:

- How will the organization handle "excessive" absences related to employee illness?
- How does the employer's current policy accommodate family illnesses?
- How will the organization apply its paid leave policy in the event of a school or child care facility closing?
- In the midst of an epidemic, will the employer still require the same level of leave substantiation (e.g., doctor's notes) that it normally requires?
- Is the implementation of flexible leave policies an option—even if temporary?
- How will the employer address employee absences related to obtaining the vaccination for themselves and their families?

Because of the risk of complications with the flu virus or other epidemics, eligible employees may need to use Family and Medical Leave Act (FMLA) leave. Employers should prepare for an increase in FMLA leave requests as well as an increase in administration of FMLA leave during the flu season. See *The Flu: Coordinate Compliance Among FMLA, ADA, Paid Leave Laws* (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/flu-coordinate-compliance-leave-laws.aspx).

Depending on the impact of the flu in a workplace or if employees are operating in a high-risk industry, quarantine is another option to curb widespread influenza in the workplace. Quarantine is the mandatory isolation of an individual in an effort to contain something dangerous. Employers can impose quarantine if they believe employee safety or the business is at risk by requiring employees with symptoms or known exposure to stay home for a certain period of time. The CDC recommends that people with influenza-like illness remain at home until at least 24 hours after they are free of fever (100° F [37.8°C]) or signs of a fever without the use of fever-reducing medications.²

COMPENSATION CONSIDERATIONS

Employers must decide whether to pay employees during health-related absences. If pay is provided, the next question to address is, at what point does the employer stop paying the employee when the employee is not performing work. This issue is addressed mainly through sick leave policies, FMLA policies and disability insurance. Resolution of this issue also requires examination of federal, state and local law.

The Fair Labor Standards Act (FLSA) is the cornerstone of wage and hour law in the United States. Employers should consider applicable provisions of this law, as well as applicable state laws, before deciding not to pay an employee for an absence. Generally, under the FLSA, hourly, nonexempt employees need only be paid for actual hours worked, unless there is a policy or practice that promises pay to employees for these types of absences. Nonexempt employees paid a salary may fall under different rules. See *Can employers dock the pay of salaried, nonexempt employees for absences?* (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/Can-employers-dock-the-pay-of-salaried-nonexempt-employees-for-absences.aspx)

Under the FLSA, exempt employees must generally receive a guaranteed weekly salary regardless of the number of hours they work during the week. However, employers may deduct from pay for full-day absences due to sickness or disability when the employer offers a bona fide sick leave plan and the employee is not yet eligible for or has already exhausted the benefit. In the absence of such plans or practices, employers may not deduct for sickness absences of exempt or salaried employees. In addition, employers may not reduce an exempt employee's salary for absences directed by the employer. If the employer tells the employee to stay home, the employer will likely be obligated to pay an exempt employee for that time. However, under the FLSA, no pay is required for any workweek in which an exempt employee performs no work, regardless of the reason. See *When Disasters Strike: Pay, Leave and Related Issues* (www.shrm.org/resourcesandtools/hr-topics/compensation/pages/disasters.aspx).

To further encourage sick employees to stay home, employers may want to consider implementing leave donation plans for extended absences that allow employees to donate leave to co-workers who have exhausted their paid-time-off benefits. See *How to Create a Leave Donation Program* (www.shrm.org/ResourcesAndTools/tools-and-samples/how-to-guides/Pages/howtocreataleavedonationprogram.aspx).

The flu season can also affect work that independent contractors or consultants have been hired to perform. Employers should review contracts with these individuals and consider how to handle excessive absences or missed deadlines in the instance of an influenza outbreak or other epidemic. Since independent contractors and consultants are not employees, the FLSA rules mentioned above would not apply to these individuals.

EMPLOYEE RELATIONS CONSIDERATIONS

Employers should also make decisions regarding the application of attendance policies. Employers with no-fault attendance policies may decide to temporarily forgo counting absences during a flu epidemic. They will need to decide how stringently to apply sick leave and unscheduled absence rules. See *Managing Employee Attendance* (www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/managingemployeeattendance.aspx).

The federal government has established an online resource (<http://www.cdc.gov/flu/>) to help educate and prepare the public during a potential flu epidemic. The site is searchable to find guidance on how to handle possible employment situations.

Dealing with illness in the workplace can be challenging under normal circumstances, but it is even more so when there is a potential epidemic. Without proper communication, employees can become worried about their exposure to the bacteria and viruses, and these worries can affect their productivity. Employer communications should provide relevant information and encourage employees to remain calm. Organizations should keep the following in mind when developing employee communications:

- Inform employees that the company will take any reasonable and necessary steps to ensure a safe and healthy work environment.
- Identify the biological threat, including typical symptoms.
- Include information on how to protect against getting the illness.
- Advise employees of any changes to policies.
- Notify employees of any discontinued travel.
- Ask employees with concerns to contact HR.

Communications regarding a potential epidemic will help maintain order in the workplace and reduce employee concerns. See *Communicating with Employees During a Crisis* (www.shrm.org/hr-today/news/hr-magazine/1116/pages/communicating-with-employees-during-a-crisis.aspx).

During an outbreak of a communicable disease, employers may be uncertain about whether to tell employees that there has been a reported case in the workplace. Generally, employers do not need to reveal the identity of a particular employee or an employee's family member with a contagious illness or disease to achieve the objective of maintaining a healthy workplace. Employers can notify employees and other relevant parties that contagious illnesses may be present in any workplace and list precautionary steps suggested by medical professionals, such as the CDC or the Department of Health and Human Services. Depending on the particular facts involved, information regarding illness of an employee or family member may be protected under the Health Insurance Portability and Accountability Act (HIPAA), the ADA or both. Even when not specifically required by law, it is important for business effectiveness to maintain the privacy of individuals with a contagious illness. Further, these matters are best handled delicately to prevent unnecessary panic in the workplace.

In some instances, healthy employees may unreasonably refuse to come to work due to fear of contracting a disease. In these situations, the employer should make attempts to address employees' fears and answer questions. If healthy employees continue to refuse to come to work despite communication attempts to address fears and misconceptions, these employees may need to be informed that there is little from a legal standpoint that protects them in this situation. The Occupational Safety and Health Act (OSHA) generally does give employees the right to refuse to come to work under certain circumstances when the employees reasonably believe that coming to work would put them in serious and immediate danger. In addition, the National Labor Relations Act, while often considered a union law, also describes certain protected concerted activities that apply both to nonunionized and unionized workers, when two or more employees address the employer about improving their working conditions. However, both of these statutes create narrow exceptions, and an employee who is concerned about coming to work due to a flu outbreak or an employer preparing to discipline an employee in these circumstances should consult with legal counsel before relying on either of these statutes as a reason for work absences.

KEEPING THE BUSINESS RUNNING

After organizations establish an approach for handling workplace absences during an epidemic, the next step in dealing with a flu outbreak or other epidemic is to determine how to keep the business running smoothly despite high rates of unplanned absences.

HR professionals and top management should prepare written guidance for managers instructing them how to handle such situations. Organizations must adapt quickly during an epidemic or other environmental emergency. Managers should provide constant communication to employees and upper management on staffing considerations. In turn, senior management should educate and empower frontline managers to make quick decisions affecting business operations and staffing. It is important to think creatively during such crises and to use temporary measures that may not have been appropriate before the crisis arose. Some staffing strategies that managers may want to consider during the flu season include:

- Increasing telecommuting arrangements or relaxing requirements to come into the office. See, Memo: Temporary Telecommuting Arrangements (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/Memo-Temporary-Telecommuting-Arrangements.aspx).
- Implementing staggered shifts or other alternative work schedules so that fewer employees are in the office together at the same time. See Managing Flexible Work Arrangements (www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/managingflexibleworkarrangements.aspx).
- Employing social distancing measures among employees and customers.

Employers should also look to their IT departments for technology strategies that could help businesses function despite employees' inability to work together in the same room. For employees scheduled to travel to high-risk areas, alternatives to face-to-face meetings include videoconferencing, teleconferencing and webcasts. Businesses may wish to use less formal technologies such as social

networking sites (e.g., Twitter, Facebook and LinkedIn) or free instant messaging services to enable employees to communicate with one another quickly while working miles apart. If these staffing strategies fail to keep operations at full capacity, the organization should make plans on how to operate at a reduced capacity.

Business Recovery

Once an epidemic has ended and business begins to return to normal, employers should take steps to ensure a seamless recovery from emergency operations to normal operations.

The first step in returning to normal operations is communication to all employees. Organizations should notify employees that any policies or rules that were temporarily lifted, added or changed to accommodate the flu season are now back to normal. In addition, post-epidemic communications to employees should remind them of what the normal operating policies are and let them know when these rules will return.

Global Considerations

Whether an organization has employees in London or Timbuktu, it should follow recommendations for global pandemic planning. HR professionals should assess the risk to the employee and the risk to the business if something were to happen to a particular employee. See *Coronavirus Concerns in the Workplace* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/address-workplace-coronavirus-concerns.aspx) and SHRM's Resource Spotlight: *Coronavirus and Other Communicable Diseases* (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx).

GLOBAL PANDEMIC PLANNING

Because the typical workplace pulls employees together in close daily contact, a contagious disease outbreak may cause heightened concerns for multinational employers. Multinational companies have a keen interest in keeping staff healthy and in containing the spread of a disease, not only for the obvious reason of employee welfare but also to keep worldwide business operations running, to minimize liability exposure and to avoid adverse publicity. No cruise line wants to be in the news for being rampant with the norovirus, and no airline wants to be identified with carrying passengers with tuberculosis. To respond to these concerns, multinationals may decide to launch global pandemic plans.

The elements in an effective pandemic plan vary widely by employer—with the medical issues interrelating with the legal. Pandemic plans tend to address topics as varied as:

- Workplace safety precautions.
- Employee travel restrictions.
- Stranded employee travelers unable to return home.
- Mandatory medical check-up/vaccination/medication.
- Mandatory reporting of exposure (employee reporting to employer and employer reporting to public health authorities).
- Employee quarantine/isolation. See *Can we require employees returning from an infected pandemic area take leave or work from home until the incubation period for communicable disease is over?* (www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/returningfrommexicoswineflu.aspx)
- Facility shut-downs.

See

Coronavirus Grounds Business Travel (www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/Pages/Coronavirus-Grounds-Business-Travel.aspx)

Companies Cut China Travel Due to Coronavirus (www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/travel-to-china-cut-due-to-coronavirus.aspx)

CDC Flu Information for Travelers (<http://www.cdc.gov/flu/travelers/index.htm>).

CDC Coronavirus 2019 Information for Travelers (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>)

COMPLYING WITH DIFFERENT LAWS IN DIFFERENT COUNTRIES

A multinational employer will need to implement a pandemic plan across its worldwide operations. However, local laws, including labor, employment and health laws, could affect the plan's legality on a local basis—both in terms of the plan's content and its implementation. Failure to take into account local laws could create local legal liability for the multinational employer.

A best practice is to draft a global pandemic response plan template that accounts for legal compliance internationally and then to adapt that template in each local jurisdiction accounting for local law. As a practical matter, a comprehensive pandemic policy drafted for the flu virus should be broad enough to account for other pandemics and perhaps for emergencies beyond pandemics, such as floods, earthquakes and tidal waves.

In much of Latin America and Europe, employers must appoint health and safety representatives, or employee health/safety committees, and confer with them on workplace health/safety policies. Rolling out new pandemic procedures requires amending existing local plans, and this process needs to follow local laws and involve local health/safety representatives. Neglecting this step by unilaterally imposing a pandemic policy may be deemed an unfair labor practice in countries where the employer sponsors health/safety representatives.

Health/safety representation aside, many countries impose obligations on employers similar to mandatory subjects of bargaining in unionized U.S. workforces. Labor representatives may not have an absolute right to veto a new pandemic plan, but they will likely have power to void one that organizations unilaterally implement. In some countries, local government labor agencies will also have a voice. A similar issue exists in Japan and elsewhere where employers need to post written work rules.

High-Risk Workplaces

Certain industries are at an increased risk for a flu pandemic. These industries need to take special precautions to ensure that employees, customers and the business are protected. The CDC provides information specific to high-risk populations such as health care workers (<http://www.cdc.gov/flu/professionals/index.htm>) and those in the travel industry (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>).

Templates and Tools

Communicable Diseases Policy (www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/cms_009257.aspx)

Infectious Disease Control Policy (www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/Infectious-Disease-Control-Policy.aspx)

How to Handle Communicable Diseases in the Workplace (www.shrm.org/resourcesandtools/tools-and-samples/how-to-guides/pages/communicablediseasesinworkplace.aspx)

Poster: Stop the Spread of Germs at Work (www.shrm.org/ResourcesAndTools/tools-and-samples/Pages/stop-the-spread-of-germs-at-work.aspx)

Poster: Social Distancing Guidelines at Work (www.shrm.org/ResourcesAndTools/tools-and-samples/Pages/social-distancing-guidelines.aspx)

Memo: Temporary Suspension of Nonessential Business Travel (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/Temporary-Suspension-of-Nonessential-Travel-.aspx)

Memo: Coronavirus and Flu Prevention (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/Memo-Coronavirus-and-Flu-Prevention.aspx)

ENDNOTES

1 Zeidner, R. (2009, Sept. 23). H1N1 flu presents management challenges. SHRM Online. Retrieved from <https://www.shrm.org/ResourcesAndTools/hr-topics/risk-management/Pages/SwineFluPresentsManagementChallenges.aspx> (www.shrm.org/ResourcesAndTools/hr-topics/risk-management/Pages/SwineFluPresentsManagementChallenges.aspx)

2 CDC. (2009, Oct. 23). CDC recommendations for the amount of time persons with influenza-like illness should be away from others. Retrieved from <http://www.cdc.gov/H1N1flu/guidance/exclusion.htm> (<http://www.cdc.gov/H1N1flu/guidance/exclusion.htm>)

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