

U.S. COVID-19: PENNSYLVANIA ORDERS WORKPLACE TEMPERATURE SCREENINGS AND OTHER WORKPLACE HEALTH AND SAFETY MEASURES

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On April 15, 2020, the Pennsylvania Department of Health (“PDOH”) issued an order mandating that essential businesses (other than healthcare providers) which remain open and operational during the COVID-19 pandemic implement certain health and safety precautions.

The order contains a lengthy list of new requirements, including specific protocols for businesses that discover they have been exposed to a person, either an employee or visitor, with a probable or confirmed case of COVID-19. Among other things, a Pennsylvania business whose employees have been exposed to COVID-19 must implement temperature screenings for all of its employees. For employers in Pennsylvania and elsewhere developing temperature screening protocols for employees and visitors, refer to BCLP’s articles on this subject [here](#) and [here](#).

REQUIRED PRECAUTIONS FOR ALL NON-HEALTHCARE ESSENTIAL BUSINESSES

The order requires employers to take the following precautions to ensure appropriate social distancing and other best practices for a healthy workplace. Among other things, according to the order, employers must:

- Maintain cleaning protocols for high-touch areas, including those recommended by PDOH’s April 5, 2020 order regarding building safety and cleaning measures.
- Provide masks for employees to wear during their time at the business, and require employees to wear masks while at work, except when using break time to eat or drink, in accordance with guidance from the PDOH and the Centers for Disease Control and Prevention (“CDC”). Employers may approve masks obtained or made by employees in accordance with PDOH guidance.
- Stagger work start and stop times for employees when practicable to prevent large groups entering or leaving at the same time. Employers must also stagger employee break times to reduce the number of employees on break in common areas at any given time.

- Provide sufficient space for employees to have breaks and meals while maintaining a social distance of 6 feet (e.g., arrange seating to have employees facing forward and not across from each other in eating and break settings).
- Limit persons in employee common areas (such as locker or break rooms, dining facilities, training or conference rooms) at any one time to adhere to social distancing.
- Conduct meetings and trainings virtually (i.e., by phone or through the internet), limiting attendees to 10 or fewer for any meeting that must be held in person.
- Provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes and ensure that common areas are cleaned on a regular basis, including between any shifts
- Ensure that the facility has a sufficient number of employees to perform the measures required by the order, and ensure that the facility has a sufficient number of personnel to control access, maintain order, and enforce social distancing of at least 6 feet.
- Prohibit non-essential visitors from entering the premises.
- Inform all employees of these required procedures by communicating them, orally or in writing, in English and/or the employees' native preferred language.

PROTOCOL FOR POTENTIAL EXPOSURE TO COVID-19

The order sets forth additional requirements and a detailed list of action items any essential business must take when it has discovered that its operations have been exposed to a person who is a probable or confirmed case of COVID-19; for example, when an employee reports that he or she has tested positive for COVID-19, or has developed symptoms consistent with COVID-19.

Most notably, when an employer learns of a potential exposure to COVID-19, the employer must implement temperature screenings for all employees before entering the premises or facility, prior to the start of each shift, or before the employee starts work. An employer must send home any employee who registers a body temperature of 100.4 °F or higher.

Employers must also take the following precautions after learning about a potential exposure:

- Close off any areas visited by the ill person.
- Open outside doors and windows, and use ventilation fans to increase air circulation.
- Wait a minimum of 24 hours before beginning cleaning and disinfection, at which time the cleaning staff should disinfect all offices, bathrooms, and common areas used by the ill person;

- Identify employees who were in close contact (within about 6 feet for about 10 minutes) with the ill person from the period 48 hours before symptoms began to the time at which the ill person went into self-isolation.
- If the employee remains asymptomatic, the person should adhere to the practices set out by the CDC in its April 8, 2020 *Interim Guidance for Implementing Safety Practice for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19*, which allow for asymptomatic “critical infrastructure workers” to continue reporting for work after potential exposure, as long as certain additional precautions are followed;
- If the employee becomes sick during the work day, the person should be sent home immediately. Surfaces in the employee’s workspace should be cleaned and disinfected.
- Information on other employees who had contact with this ill employee 48 hours prior to symptoms should be compiled. Others at the workplace who had close contact with this employee would be considered “exposed” and should monitor their symptoms;
- Promptly notify employees who were in close contact with anyone with a known exposure to COVID-19, consistent with applicable confidentiality laws.
- Ensure a sufficient number of employees to perform the required protocols after a potential exposure, including employee temperature screenings, effectively and in a timely manner.
- Sick employees should follow CDC-recommended steps before returning to work, and the PDOH Guidelines for ending isolation depending on whether or not the employee develops symptoms consistent with COVID-19. Employees should not return to work until the CDC criteria to discontinue home isolation are met. Employers are encouraged to implement liberal paid time off for employees who do not return to work as set forth above.

ADDITIONAL PRECAUTIONS FOR BUSINESSES SERVING THE PUBLIC

Finally, the Order requires businesses that serve the public “within a building or defined area” (i.e., a grocery store, retailer, pharmacy) to additional precautions.

- Conduct business by appointment only where feasible. If that is not feasible, limit building occupancy to no greater than 50% of the occupancy number stated on the applicable certificate of occupancy to ensure social distancing and prevent crowding.
- Encourage online ordering by providing delivery or pick-up options.
- Require all customers to wear masks, and deny entry to individuals not wearing masks. The Order contains certain exceptions to this rule: a business providing medication, medical supplies, or food must provide alternative methods of pick-up or delivery of such goods.

However, individuals who cannot wear a mask due to a medical condition (including children under the age of 2 years per CDC guidance) may enter the premises and are not required to provide documentation of such medical condition.

- Maintain a social distance of 6 feet at check-out and counter lines, and place signage throughout the facility to mandate social distancing for both customers and employees.
- Alter hours of business to ensure sufficient time to clean, to restock, or both.
- Install shields or other barriers at registers and check-out areas to physically separate cashiers and customers, or take other measures to ensure social distancing of customers from check-out personnel.
- Designate a specific time for high-risk and elderly persons to use the business at least once every week (i.e., a grocery store designating its first hour of operations for senior citizen customers).
- In businesses with multiple check-out lines, only use every other register, or fewer. After every hour, rotate customers and employees to the previously closed registers. Clean the previously open registers and the surrounding area, including credit card machines, following each rotation.
- Schedule handwashing breaks for employees at least every hour.
- Assign an employee to wipe down carts and handbaskets before they become available to each customer entering the premises.

The COVID-19 pandemic and its impact on the workplace are rapidly evolving. Employers should regularly consult with legal counsel, the CDC website, and state and local health departments to ensure they have the most up-to-date information and guidance.

RELATED CAPABILITIES

- Employment & Labor

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