

# Take These 5 Steps When an Employee Gets COVID-19

By Nancy Cleeland

**T**he bad news might come from a phone call or a routine screening at work. Either way, on learning that an employee has tested positive for COVID-19, employers should act immediately to ensure the safety of the employee's co-workers and comply with all applicable laws.

Based on guidance from the U.S. Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA), as well as the advice of attorneys who've already guided clients through a COVID-19 response, here are five basic steps to take in the aftermath of an employee's COVID-19 diagnosis.

## SHRM RESOURCE SPOTLIGHT

Coronavirus and COVID-19 ([www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx](http://www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx))

### 1. Send the employee home to quarantine.

If the employee is at work and does not require urgent care, tell him or her to contact a health care provider and quarantine for at least 10 days. Even if the employee shows no symptoms, he or she may still be able to spread the virus during that time frame, according to the CDC ([www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/cdc-osha-updates.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/cdc-osha-updates.aspx)).

Certain states or localities with high rates of transmission may take a more cautious approach and require a longer quarantine period, said Gina Fonte, co-chair of the OSHA, workplace safety and whistleblower claims team at Holland & Knight in Boston.

It's a good idea to notify local public-health authorities if they are not already aware of the diagnosis, and Fonte advised that some states now require such notification.

### 2. Vacate (if possible) and clean areas recently used by the employee.

Clean and sanitize workspaces and common areas that were used by the infected employee in the days prior to diagnosis. The CDC has issued guidance for cleaning and disinfecting (<https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>) such areas, including recommendations for cleaning materials. (A tip from the agency: If approved cleansers are not available, one-third cup of bleach added to one gallon of water works just fine.)

Time and fresh air are also powerful disinfection agents. If an area is left vacant for seven days or more, only routine cleaning is required, the CDC said, "because the virus that causes COVID-19 has not been shown to survive on surfaces longer than this time." Likewise, outdoor areas don't need to be disinfected, and "spraying disinfectant on sidewalks and in parks is not an efficient use of disinfectant supplies," the CDC explained.

Those who do the cleaning are at risk of exposure to the virus, as well as to potentially toxic cleaning chemicals, and they should be supplied with appropriate personal protective equipment such as gloves and face masks, the CDC said. Also, to comply with OSHA requirements, employers should obtain safety data sheets for the cleaning materials used and make them available to employees, Fonte said.

### **3. Notify potentially exposed co-workers without divulging the employee's identity.**

To the extent possible, employers should retrace the activities of the infected employee and notify any co-workers who might have had contact with that person in the days before the diagnosis. The CDC has determined that COVID-19 exposure risk begins when someone is within 6 feet of the infected person for 15 minutes or more (<https://www.cdc.gov/coronavirus/2019-ncov/php/principles-contact-tracing.html>). The agency also notes that infected people can spread the virus 48 hours before the onset of symptoms.

Prompt notification and follow-up reduces the risk that even more employees will be exposed to the virus, and so these actions fall under OSHA's general duty requirement to provide a safe workplace, attorneys said.

But employers must not divulge the employee's identity when making those notifications. "A key issue is to provide enough information such that co-workers can take precautions and self-monitor for symptoms without improperly or inadvertently divulging private information of the affected employee," Fonte advised. Developing a simple notification form in advance will save time when notification is needed, she added.

Per the CDC, exposed employees should isolate for 14 days. However, in sectors considered critical, such as health care, CDC guidelines say exposed employees can continue to work ([www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/new-cdc-guidance-says-essential-employees-can-continue-working-after-coronavirus-exposure.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/new-cdc-guidance-says-essential-employees-can-continue-working-after-coronavirus-exposure.aspx)) onsite while self-monitoring and wearing a face mask.

### **4. Determine when the employee may return, but not by testing alone.**

The CDC advised employers not to require a negative COVID-19 test before employees return to work, but instead to follow these guidelines:

- Those who never develop symptoms can end isolation 10 days after testing positive.
- Those with moderate to mild symptoms can end isolation after 10 days if at least 24 hours have passed without a fever and other symptoms have improved.
- Those with severe symptoms may need to continue isolation for a full 20 days or longer.

*[SHRM members-only HR form: COVID-19 Employee Self-Certification to Return to Work ([www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/COVID-19-Employee-Self-Certification-to-Return-to-Work.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/COVID-19-Employee-Self-Certification-to-Return-to-Work.aspx))]*

Travis Vance, a partner with Fisher Phillips in Charlotte, N.C., said employers often want the reassurance of a negative test result, and testing for COVID-19 is allowed by the Equal Employment Opportunity Commission. But he advises against it because testing is inconvenient for the employee, and test results can sometimes take a week or longer. In addition, the CDC recently advised that people can test positive for COVID-19 for three months after infection (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html>), long after they are no longer contagious.

### **5. Record the infection if it is work-related and report it to OSHA if required.**

Employers must record all work-related employee COVID-19 cases on their OSHA 300 logs, but determining whether a case is work-related is often challenging ([www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/how-can-employers-tell-if-covid-19-is-work-related.aspx](http://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/how-can-employers-tell-if-covid-19-is-work-related.aspx)). In late May, OSHA clarified (<https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>) that a case should not be considered work-related if there is an alternative explanation for how the employee contracted the virus. A case is more likely to have been contracted at work if there is a cluster of positive employees or an employee tests positive soon after exposure to an infected co-worker.

As always, employers should check state health and safety laws for any variations. For example, California presumes a COVID-19 case is work-related (<https://www.dir.ca.gov/dosh/coronavirus/Reporting-Requirements-COVID-19.html>) unless the employer can disprove it.

In the unlikely event that an employee contracts COVID-19 at work and is hospitalized or dies within 24 hours, that case must be reported to OSHA immediately.

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