

## CLIENT ALERT

### DOs AND DON'Ts OF MANAGING EMPLOYEE ILLNESS IN THE AGE OF COVID-19

In light of the coronavirus pandemic, employers are taking precautions to stem the spread of COVID-19 and prevent transmission in the workplace. As part of these precautions, many employers are implementing temperature checks and other measures to ensure employees exhibiting potential symptoms of COVID-19 are excluded from the workplace. While the Equal Employment Opportunity Commission has issued guidance permitting employers to do temperature checks and inquire into COVID-19 symptoms, and exclude symptomatic employees from the workplace, an employer must ensure compliance with various standards to avoid potential legal liability. These DOs and DON'Ts provide guidance on basic steps an employer should take. If you have any questions about proper policies and procedure, contact Lisa Petersen ([lpetersen@ck.law](mailto:lpetersen@ck.law)) or Caitlin McKelvie ([cmckelvie@ck.law](mailto:cmckelvie@ck.law)).<sup>1</sup>

#### Temperature Checks and Inquiring About Symptoms

**DO:** Have a uniform policy in place. An employer can elect to either take the temperature of all employees uniformly or of all employees that are exhibiting other symptoms, such as a cough. An employer of essential workers should also take the temperature of any worker who has been exposed to COVID-19 before the worker enters the workplace.

**DO:** Pay employees for the time the employee is waiting for and undergoing a temperature check.

**DO:** Take proper precautions to protect against the transmission of COVID-19 as a result of temperature checks.

**DON'T:** Ask an employee whether the employee has any symptoms not related to COVID-19.

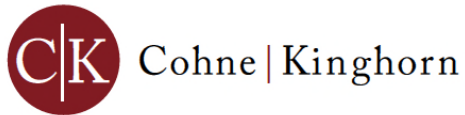
#### Maintaining Confidentiality

**DO:** Treat the result of all temperature checks as confidential medical information under the ADA.

**DO:** Let employees who have potentially come into close contact with an employee who is suspected to have COVID-19 know of the potential exposure.

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<sup>1</sup> This Client Alert is provided for informational purposes only. It is not intended as, and does not constitute, legal advice. Further, access to or receipt of this Client Alert by anyone does not create an attorney-client relationship. As such, it is not reasonable for anyone to rely upon this Client Alert with respect to any particular legal matter. Rather, readers are encouraged to retain a licensed attorney to provide individualized and current legal advice.



**DO:** Have policies in place for handling confidential information and notifying employees of potential exposure.

**DON'T:** Share the identity of an employee that potentially has COVID-19, beyond the few management officials necessary to ensure proper notification is made to other employees who may have been exposed.

### **Excluding Symptomatic Employees from the Workplace and Permitting Return to the Workplace**

**DO:** Have a uniform policy in place for excluding symptomatic and potentially exposed employees from the workplace and permitting their return to work.

**DO:** Rely on guidance from the Centers for Disease Control and other Federal, State, and local health departments in setting the standards for excluding symptomatic and potentially exposed employees from the workplace and permitting their return to work.

**DO:** Consider implementing a standard teleworking policy that identifies the positions that are permitted to telework and the circumstances under which teleworking is permissible.

**DO:** Provide the employee any leave to which the employee is entitled under the Families First Coronavirus Response Act.

**DON'T:** Discriminate against an employee who has been excluded from the workplace due to symptoms or potential exposure to COVID-19.