

HR Quick Take: Taking Employee Temperatures

March 16, 2020

This content was published prior to the combination of Dentons Davis Brown. Learn more about Dentons Davis Brown.

Q: Given that there is coronavirus in several places in the United States, can I take the temperature of every employee when they walk in the door?

A: The answer to this question is industry-specific. The EEOC issued guidance several years ago to deal with various issues relating to the H1N1 virus. This guidance indicates that taking employee temperatures could, in many circumstances, be considered an inappropriate medical examination in violation of the ADA/ADAAA.

However, the EEOC also states that there may be clear business purposes for taking temperatures and that safety is a consideration. For certain industries like long-term care, health care, childcare and similar areas, the CDC, as well as CMS, has recommended taking the temperature of employees and visitors as one of their community mitigation strategies. For nursing homes, screening staff for fever and respiratory symptoms is now required and the absence of these symptoms must be documented. These recommendations by the CDC or any specific agency directive would, for those industries affected, demonstrate a clear business case.

A business case might also be shown if there is a significant cluster of COVID-19 infections in your area or you are subject to a state or county quarantine. The CDC is currently recommending that some cities with widespread community transmission (as of writing, Seattle, New Rochelle and Santa Clara County) perform regular health screening, such as temperature checks, for all employees upon arrival to work. It is like most things that involve the ADA, a complex balancing process.

If you are taking temperatures of those who come in, you will need to create a policy determination as to whether or not temperatures will be recorded. If they are recorded on a form, they will need to be stored securely and confidentially for a period of time. If your company has an employee health program, Employee Health or HR would be the custodians of those records.

Persons taking temperatures should be trained appropriately and should have significant conversations with the employer about the duty of confidentiality towards fellow employees regarding any issues that may occur.

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