



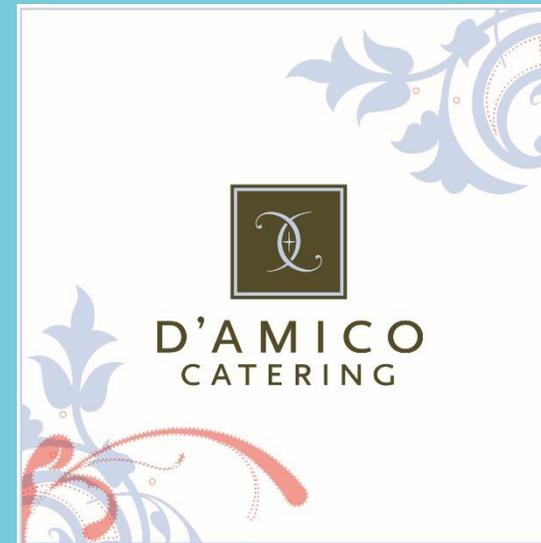
Hospitality MINNESOTA

RESTAURANT, LODGING, RESORT AND
CAMPGROUND ASSOCIATIONS

SPECIALTY SESSION:
**CORONAVIRUS/COVID-19 AND
MANDATES ON EMPLOYERS**

MARCH 16, 2020

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SPECIALTY SESSION:
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MANDATES ON EMPLOYERS



CORONAVIRUS DISEASE 2019 (COVID-19)

LEGAL CONSIDERATIONS FOR EMPLOYERS IN THE HOSPITALITY INDUSTRY

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CDC interim Guidelines for Employers

Recommended strategies

- Actively Encourage Sick Employees to Stay Home.
- Separate Sick Employees.
- Perform Routine Environmental Cleaning.
- Inform Employees of Possible Exposure
(consider ADA restrictions when doing so)
- Create an Infectious Disease Response Plan.

Legal Issues to Consider

- ❑ Minnesota Human Rights Act (MDHR)
- ❑ Americans with Disabilities Act (ADA)
- ❑ Minnesota Workers' Compensation Act
- ❑ OSHA
- ❑ FMLA
- ❑ Minneapolis and St. Paul Sick and Safe Leave Ordinances
- ❑ Countless other laws, regulations, rules and other potential traps for Employers

Hypothetical 1:

A customer enters your restaurant wearing an N95 surgical mask. The customer is not coughing and has no other obvious indications that he is ill. Your longtime employee Fran, who has worked for your business for 30 years and is 68 years old refuses to wait on the customer. What do you do?

Does your response change if the customer is repeatedly coughing?

Hypothetical 2:

Fatima is a relatively new employee. She has been working in your kitchen for less than 2 months. She has many family responsibilities and has not yet accrued any Paid Time Off. Fatima by all appearances is healthy. Her 7 year old son, however, has come down with a fever. He attends a local elementary school which is known to have had a teacher who contracted the Coronavirus. Fatima's coworkers approach you and demand that you send Fatima home because they are fearful that they will contract the virus from Fatima. What do you do?

Hypothetical 3:

John is a college student and part-time host at your restaurant who requests time off, sharing that he plans to take a spring break trip with his buddies to the country of Eurasia. Eurasia is not currently under quarantine or travel restrictions, but is on a list of countries the CDC has identified as currently being at high risk. What are your options?

He goes on the trip despite the warnings. What now?

Hypothetical 4:

Chen is a Chinese immigrant who works in your kitchen. He's been with you for five years, and while he's traveled back to China a few times to visit family, he hasn't taken any vacation at all in the last year or so, and you have no reason to think anyone he lives with has been traveling either. You receive an anonymous complaint from another employee, stating that employees are uncomfortable working with Chen because they're afraid they'll catch the coronavirus from him. What do you do? If he has traveled recently does your answer change?

Hypothetical 5:

Rachel is a longtime server at your restaurant. She's a consummate professional and a customer favorite, never coughs or snuffles in a front-of-house location, and is the most sanitary person you know, using a pump of the hand sanitizer you've provided every time she comes or goes in the kitchen. However, you've noticed her looking a bit peaked, and coughing and sneezing quite a bit (into her elbow and away from other employees!) in the kitchen. You've approached her about taking some time off, but Rachel insists she's fine and needs the hours. What do you do? Can you require Rachel to allow you to take her temperature? Can you require a note from her doctor?

Hypothetical 6:

Paul Bunyan's Blue Ox Burgers is a beloved local restaurant. Unfortunately, due to an outbreak in the local area business has slowed to almost nothing. In order to cut expenses and survive the downturn the owner has decided to close the restaurant for one week. Several of the employees ask Paul if they can use their PTO during the one week shut down. Paul's restaurant is in a very difficult financial situation and would like to avoid that expense. What should Paul do? Paul's salaried management staff will be working the first day of the shut down to catch up on paperwork. Does Paul need to pay those employees for the entire week?

Hypothetical 7:

Your restaurant has had a number of employees calling in sick. Sue works the lunch shift at your restaurant. She feels great and is ready and willing to come in for her regular shift. Unfortunately, her children's school is closed as a result of the Coronavirus outbreak. Sue calls in to tell you that she will not be able to come into work today and will be taking PTO. What do you do? Would the answer be different under the Minneapolis Sick and Safe Time Ordinance?

Sample Infectious Disease Policy

XYZ Infectious Illness Policy 2020

XYZ is monitoring the coronavirus situation, including applicable CDC and health authority guidance, to help protect the health of our employees. Below are action items that all employees should take on a routine basis:

- Practice good hygiene habits (washing hands with soap, covering your mouth and nose with a tissue when you cough or sneeze, etc.).
- Know the location of hygiene items (hand sanitizer, tissues, etc.) at all work sites.
- Review your accrued paid time off (PTO) and the reporting procedures for absences.

Employees must refrain from reporting to work when symptomatic of an infectious illness. Infectious illness refers to all types of illnesses or communicable diseases that are infectious and may be contracted by others through routine daily interactions. **In support of this policy, and to encourage employees to stay home when ill, XYZ is providing all employees two (2) additional paid sick days to use in 2020.** These additional sick days may be used for illness under the same terms and conditions as regular PTO, and will be added to your PTO bank immediately. However, unused sick days will not be carried over into 2021, and will not be paid out upon termination. You must notify your supervisor as soon as possible when you need to use a sick day(s). Unless other arrangements are made, if you are absent for more than one day, you must provide your supervisor with a daily status report until you return to work.

Employees exhibiting symptoms of an infectious illness may be sent home from work (with forced PTO). As with any illness, employees may be required to provide a doctor's note before returning to work after: (a) being diagnosed with an infectious illness; or (b) being quarantined in connection with any such illness. Employees who are permitted to return from work, but who may still be infectious under CDC guidelines, may be required to observe precautions such as wearing a mask, gloves, or other protective gear. XYZ will limit all information on an employee's infectious illness to those with a need to know such information.

Employees with a verified infectious illness (such as coronavirus) must work with their supervisor to address the situation. XYZ will work with employees on an individual basis to address leave issues such as a running out of PTO and extended leaves of absence.

Employees who may do their job remotely must work with their supervisor to create a work-from-home plan in the event an employee must be absent from work, as a result of an infectious illness (such as the coronavirus), for an extended period of time. The plan must include:

- Hours of work;
- Expectations regarding frequency and method of communication (for example, daily phone calls or video chat);
- Days of work;
- Attendance at remote meetings; and
- Confirmation of a remote work environment free of distractions.

The above policy is effective immediately through December 31, 2020, or as otherwise determined by XYZ.

QUESTIONS?

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