

October 1, 2014

The Ebola Exposure: U.S. Workplace Considerations

By Thomas Benjamin Huggett

The World Health Organization (WHO) has declared that the Ebola outbreak in West Africa has reached the proportions of an international health emergency and the Centers for Disease Control and Prevention (CDC) confirmed that the first U.S. case of the disease was diagnosed in Dallas, Texas on September 30, 2014. There is currently no vaccine for this virus, although efforts are underway to develop a vaccine.

While it is too early to assert that Ebola will be a major health issue among the U.S. population, employers in the United States have started asking what preparations and actions they should be taking. Employers should consider the wide range of decisions that may arise, including: restricting international travel; medical inquiries and potential quarantines for employees who have traveled; leave from work; and educating management and employees.

Ebola Virus Disease

Ebola Virus Disease (EVD) is a severe illness in humans. It can be fatal without proper treatment and care.

Sudden onset of fever, intense weakness, muscle pain, headache and sore throat are typical signs and symptoms. This is followed by vomiting, diarrhea, rash, impaired kidney and liver function and, in some cases, both internal and external bleeding.

The incubation period, or the time interval from infection to onset of symptoms, is from two to 21 days. Patients become contagious once they begin to show symptoms. They are not contagious during the incubation period.

Other diseases can have similar symptoms, such as malaria, typhoid fever, shigellosis, cholera, leptospirosis, plague, rickettsiosis, relapsing fever, meningitis, hepatitis and other viral hemorrhagic fevers.

Transmission of the Disease

According to guidance from the CDC, Ebola is only transmitted through contact with blood and other bodily fluids of an infected person. For more information, see <http://www.cdc.gov/vhf/ebola/>. People can also become infected from indirect contact by having broken skin or mucous membranes come in contact with materials or utensils contaminated with the body fluids of an infected person. This is generally not casual contact, and thus the expectation for widespread transmission in the U.S. is very low.

Occupational Health and Safety Risks

U.S. workplaces will generally fall into two areas of concern—healthcare workplaces and all other workplaces.

Within the U.S., healthcare workers are at the greatest risk of infection. Because their workers may come into direct contact with EVD, healthcare employers need to review their infectious disease protocols to ensure they are prepared for the specific risks associated with the virus.

The risk of business travelers becoming infected with the Ebola virus during a visit to the affected areas and developing the disease after returning is extremely low, even if the visit included travel to the local areas in which primary cases have been reported. Indeed, although the U.S. Department of State has issued warnings, it has not issued travel restrictions for these areas.

Preventing EVD in the Workplace

Healthcare workers at all levels of the health system—hospitals, clinics, laboratories, health posts, laundries and transport—should be briefed on the nature of the disease and how it is transmitted, and strictly follow recommended infection control precautions. All staff handling suspected or confirmed cases of EVD or contaminated specimens and materials should use special personal protective equipment for working with biohazards, and apply hand hygiene measures according to WHO recommendations. If the recommended level of precaution is implemented, transmission of the disease should be prevented. Because other infectious diseases may have symptoms compatible with EVD, it is important to apply standard measures of precaution in all healthcare facilities—such as prevention of needle sticks and sharps injuries, safe phlebotomy, hand hygiene, rational use of personal protective equipment, regular and rigorous environmental cleaning, decontamination of surfaces and equipment and safe management of soiled linen and healthcare waste.

For all other workplaces, returning travelers are the primary concern. Affected countries are requested to conduct exit medical screenings of all persons at international airports, seaports and major land crossings for unexplained febrile illness consistent with potential Ebola infection. Nevertheless, returning business travelers from the affected areas should be notified of the symptoms and asked to be alert to their surfacing within 21 days after return.

Rights, Duties and Responsibilities of Workers and Employers

Employers, workers, and their organizations should collaborate with health authorities in the prevention and control of the EVD outbreak. Healthcare employers will have the greatest responsibilities in this area. Healthcare and other employees have the right to remove themselves from a work situation that they have reasonable justification to believe presents an imminent and serious danger to their life or health. When an employee exercises this right, he or she must be protected from retaliation for expressing a safety concern.

Under the Americans with Disabilities Act, U.S. employers may make inquiries into medical conditions only where they are job related and consistent with business necessity. Because there are not international travel restrictions and because the risk of transmission is very low, requiring a medical examination for returning travelers would likely not be considered a necessity. Employers should be aware that the Public Health Department in each locality has the primary authority and responsibility in this area. The Public Health Department will be tracking any illnesses and exposures and will notify employers when necessary. Nonetheless, employees should be required to report to their immediate supervisor any situation in which they present a danger to their co-workers. The Equal Employment Opportunity Commission (EEOC) has accepted that addressing communicable illnesses is a legitimate area of inquiry. Thus, requiring reporting diagnosis of a contagious illness (albeit without requiring specific identification of the illness) would be a legitimate action.

If an employee is actually diagnosed with EVD, communication with other employees for the protection of their health and safety will likely be necessary. In such situations, the medical privacy of the sick employee will need to be honored. Employers should seek guidance from counsel and follow the direction of the Public Health Department in any such situation.

[Ben Huggett](#) is a Shareholder in Littler's Philadelphia office. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com or Mr. Huggett at tbhuggett@littler.com.