



A New Wave in Workplace Law

UPDATE AND GUIDANCE ON THE COVID-19 CORONAVIRUS

Howard A. Mavity
Workplace Safety and Catastrophe Management Group
hmavity@fisherphillips.com

March 4, 2020

Goals for Today – Hope for the Best but Prepare for the Worst.

- Engage in a “What-if” exercise.
- Balance efforts to calm people, including your employees with closed door preparation for more severe outcomes.
- It is highly unlikely that COVID-19 is the “Big One” or a deadly 1918 Spanish Flu outbreak.
- However, COVID-19 is unique among the 21st Century’s new Outbreaks, such as SARS, Avian Flu, Swine Flu, and MERS.
 - Until we confirm the characteristics of this virus, the uncertainties contribute to public fears and to a lesser extent, employer responses.
- Prepare for a wide spread but tailor responses to buttress public health efforts to limit spread. We cannot eliminate spread but we can limit it.
- Ensure Business Continuity.
 - Daily monitor developments and develop employee education strategies.
 - Provide leadership and expect employees to step up – we really are all in this together.
 - Develop practical strategies.
 - Avoid knee jerk decisions and legal issues.

COVID-19 is Unique Among the 21st Century's New Outbreaks, such as SARS, Avian Flu, Swine Flu, and MERS.

- Much still to learn and confirm.
- COVID-19 is a coronavirus, but appears to be more infectious than SARS, but less lethal than MERS.
- Unlike SARS, people with COVID-19 apparently can be infectious while asymptomatic.
- We're not sure if one can recover from the virus and then either again contract it or the virus reappear.
- COVID-19 is not as fiercely infectious as the measles, but may be more so than SARS.
- We believe that COVID-19 is not especially effectively transmitted in aerosol fashion, but may be more so than SARS.
- Transmission via hands touching the mouth, nose and eyes has been the main transmission route.
- Not sure how long it survives on surfaces.

COVID-19 is Unique Among the 21st Century's New Outbreaks.

- So far, in the US, COVID-19 has most harshly affected older people (70s and 80s up) and individuals with health vulnerabilities.
- While the current seasonal flu has been hard on the young, so far that's not been the case with COVID-19.
- Most people who develop COVID-19 have modest symptoms, and may not even associate their illness with the virus – which has been one of the reasons the virus spreads so effectively.
- The fatality rate may eventually be determined to be between 1.5 and as high as 3.4, which is much higher than the flu.

Daily Monitoring and Education.

WHO | World Health Organization x 20200302-sitrep-42-covid-19.pdf x

who.int/docs/default-source/coronaviruse/20200302-sitrep-42-covid-19.pdf?sfvrsn=d863e045_2

Coronavirus disease 2019 (COVID-19) Situation Report – 42

Data as reported by 10AM CET 02 March 2020

HIGHLIGHTS

- Six new Member States (Armenia, Czechia, Dominican Republic, Luxembourg, Iceland, and Indonesia) reported cases of COVID-19 in the past 24 hours.
- A team of WHO experts has arrived in Tehran, Iran to support the COVID-19 response. The objectives are to identify transmission dynamics and at-risk populations, and provide technical guidance. Further information can be found [here](#).
- Containment remains the top priority for all countries. Management for COVID-19 globally, however, is not a one-size-fits-all approach and must be tailored to the transmission scenario a country faces. Early robust measures are key to saving lives and halting transmission, notes the WHO Director-General. More information can be found [here](#).
- WHO's Operations Supply and Logistics team are working across numerous areas to support the COVID-19 response. Activities include working to establish a Supply Chain Coordination Cell and providing a technical briefing for G20 members on the personal protective equipment (PPE) market situation. More information can be found in the Subject in Focus.

SITUATION IN NUMBERS total and new cases in last 24 hours

Globally
88 948 confirmed (1804 new)

China
80 174 confirmed (206 new)
2915 deaths (42 new)

Outside of China
8774 confirmed (1598 new)
64 countries (6 new)
128 deaths (24 new)

WHO RISK ASSESSMENT

China	Very High
Regional Level	Very High
Global Level	Very High

Figure 1. Countries, territories or areas with reported confirmed cases of COVID-19, 02 March 2020

Distribution of COVID-19 cases as of 02 March 2020

Number of Confirmed cases*

- 1 - 2
- 3 - 10
- 11 - 100

Mainland China

World Health Organization

2:44 AM
3/4/2020

Step 1 – Monitoring.

Key Sources.

- CDC Coronavirus COVID-19 page.
- CDC Travel Alerts.
- State Department Travel Alerts.
- Department of Homeland Security (DHS) Airport restrictions.
- World Health Organization (WHO) Situation reports.
- WHO – Coronavirus Myth Busters.
- CDC Coronavirus Business Planning.
- State Public Health Departments.
- The New York Times has run the best practical content.
- Wall Street Journal.
- OSHA Coronavirus page.

Step 2 - List Your Issues.

- Getting employees to come to work.
- Protecting Employees and limiting opportunities for spread.
 - Office setting? Retail or Hospitality? Healthcare? Employees going to commercial or home sites? Travel?
- Excluding people who may have been exposed.
- How to keep sick employees from coming to work?
- PTO/Sick Pay?
 - How funded?
 - What happens when PTO is exhausted?
- Attendance rules.
- Wage Hour compliance.
- Avoiding setting precedents.

3 - Practical Steps to Protect Employees and Limit Spread.

Amazon.com: hand sanitizer - Hi

amazon.com/s?k=hand+sanitizer&rh=n%3A3760901%2Cn%3A2265897011&d&c&crd=1U72Q2P25Q8X7&qid=1583298609&rnid=2941120011&sprefix=hand%2Caps%2C326&ref=sr_nr_n_2

★ ★ ★ ★ ★ & Up
★ ★ ★ ★ ★ & Up
★ ★ ★ ★ ★ & Up

Brand

- Purell
- Bath & Body Works
- Germ-X
- Mountain Falls
- Babygnics
- Hand Sanitizer
- Wet Ones
- Cleanwell
- EO
- Genuine Joe
- Gojo
- Hempz
- BAC-D
- Nano Pure

[See more](#)

Price

- Under \$25
- \$25 to \$50
- \$50 to \$100
- \$100 to \$200
- \$200 & Above

\$ Min \$ Max Go

Subscribe & Save

- Subscribe & Save Eligible

Health & Personal Care Format

- Gels
- Foams
- Liquids
- Wipes
- Sprays

Health & Personal Care Feature

- Travel Size
- Scented
- Unscented
- Aromatherapy

[See more](#)

Packaging Option

- Frustration-Free Packaging

prime Get it as soon as **Tomorrow**, Mar 4

In stock on March 11, 2020.

FREE Delivery for Prime members

Case Pack = 2

PURELL Advanced Hand Sanitizer, Refreshing Gel, 8 fl oz Sanitizer Table Top Pump Bottles (Pack of 2) - 9652-06-EC2PK

★★★★★ ~ 40

Misc.

More Buying Choices

\$89.99 (4 used & new offers)

Case Pack = 2

PURELL Advanced Hand Sanitizer, Refreshing Gel, 8 fl oz Hand Sanitizer Counter Top Pump Bottles (Case of 12) - 3015-12-CMR

★★★★★ ~ 232

Misc.

More Buying Choices

\$249.00 (2 new offers)

Assured hand sanitizer 12 pack. 8oz each with pump

More Buying Choices

\$129.95 (13 new offers)

Case Pack = 2

PURELL Advanced Hand Sanitizer Soothing Gel, Fresh Scent, with Aloe and Vitamin E- 8 fl oz Pump Bottle (Pack of 2) - 9674-06-EC2PK

★★★★★ ~ 310

Misc.

More Buying Choices

\$48.89 (1 new offer)

PhoneSoap 3 UV Smartphone Sanitizer & Universal Charger | Patented & Clinically Proven UV Light Disinfectant | (Pro Lavender)

Pro Lavender

\$119.95

prime FREE Delivery Thu, Mar 5

Price may vary by color

Purell Advanced Hand Sanitizer Refreshing Gel 8 oz

★★★★★ ~ 273

More Buying Choices

\$60.00 (1 new offer)

INSTANT HAND SANITIZER IMPROVED FORMULA

Sponsored

Hand Sanitizer Gel Travel Size - Instant Advanced Natural Hand

GENTLE CLEANSING AND MOISTURIZING

No stimulation

Non-toxic

Not hurt your hand

Sponsored

Multifunctional Disinfectant Spray Owill Alcohol-Free No

KONIX Hand Sanitizer 1.6 FL OZ Travel Size - Natural and Refres

Sponsored

Clorox Hand Sanitizer, Spray, 16.9 Ounces (02176)

★★★★★ ~ 316

(3 Pack) Assured Hand Sanitizer with Aloe Vera and Moisturizers

★★★★★ ~ 7

DermaRite Hand-E-Foam Alcohol Free Foaming Hand Sanitizer Pump, 8 Ounce. 12 Pack Case. Bulk Supply

8 oz

12:11 AM 3/4/2020

Practical Steps to Protect Employees and Limit Spread.

- Educate Employees.
- Increase Availability of Hand Cleaner, screen and keyboard wipes, and Kleenex.
- Evaluate jobs for improving social separation.
- Evaluate remote work opportunities.
- Improve workplace housekeeping.
- Encourage seasonal flu shots.
- Emphasize Wellness Program efforts to maintain general health.
- Eldercare assistance.
- Provide PPE as appropriate and document training.

Step 4 - Communications to Employees.

Confirm that Company is actively monitoring these fastmoving developments and will do whatever is necessary to protect employees.

Provide LINKs to CDC and other useful guidance.

- Stay home if they are sick; regardless of whether they have symptoms matching the coronavirus or not. We are still in a robust flu season and many of the symptoms are the same – so stay home.

(Managers need to back up this message and in a kind way send employees home if they report being sick.)

- Practice good coughing and sneezing hygiene – always cover your mouth and nose when sneezing.
- Wash your hands regularly – always before eating – count to 20 seconds and wash hands all over – 20-seconds is much longer than one thinks.
- Carry hand cleaner in your purse or pockets – and use it.
- Keep your hands away from your mouth, nose and eyes – that’s how most people get the virus – not by breathing it.
- When in public, including on public transportation, practice common sense separation and distancing – keep a reasonable distance from others in the public – 4’– 6’, but until the spread worsens – we DO NOT need to get weird and start refusing to be near people or to treat customers rudely.
- Sick people are more susceptible, so even if the seasonal flu vaccine is only 30 – 40% effective, it’s worth getting.
- When employees travel – wash and clean hands regularly – carry a few wipes and hand cleaner.
- Freely bring concerns to designated management.

What About Masks?

Amazon.com : n95 mask

amazon.com/s?k=n95+mask&crd=FBF7VBS29MTW&sprefix=n95%2Caps%2C285&ref=nb_sb_ss_i_1_3

Get It by Tomorrow

Department

- Tools & Home Improvement
 - Safety Respirators
 - Safety Masks
 - Eye Protection Equipment
 - Personal Protective Equipment & Safety Gear
 - Safety Masks & Respirators
 - Home Emergency Survival Kits
- Health & Household
 - Medical Supplies & Equipment
 - Sanitary Masks
 - First Aid Supplies
- Home & Kitchen
 - Decorative Masks
- Industrial & Scientific
 - Surgical Masks
 - Medical Face Masks

See All 13 Departments

Avg. Customer Review

- ★★★★★ & Up
- ★★★★☆ & Up
- ★★★☆☆ & Up
- ★★☆☆☆ & Up
- ★☆☆☆☆ & Up

Brand

- 3M
- Kimberly-Clark
- GUOER
- Cambridge Mask Co
- Muryobao
- 3M Safety
- 3M Personal Protective Equipment
- Amston
- ZWZCYZ
- TotalBoat
- TOMMHANES AMISGUOER
- Seffer

Subscribe & Save

Subscribe & Save Eligible

Tools & Home Improvement Product Color

- Black
- Grey
- White
- Red
- Yellow
- Green

Product 1: 8210 N95 Particulate Respirator Mask, 1- Box Of 20 MASKS
★☆☆☆☆ ~ 1
\$228⁹⁷ ~~\$249.79~~
FREE Shipping
More Buying Choices
\$220.00 (13 new offers)

Product 2: Wearing comfort
Elastic ear-loops with no pressure to the ears
Tight fit to prevent air pollution from entering
Non pressure nose
Disposable Respiratory Mask for Dust N95 Anti-Virus and PM2.5 Mask, FFP2 Mask Dust Face Mask QSA 2000, Flow Valve Smoke Ant...
★☆☆☆☆ ~ 3
\$45⁹⁰
FREE Shipping

Product 3: SAS Safety N95 NIOSH Approved Particulate Respirator Surgical Face Mask, Pack of 10 Individually Hygienically Sealed Masks
★☆☆☆☆ ~ 1
More Buying Choices
\$187.98 (3 new offers)

Product 4: 3M Unique exhalation valve helps direct exhaled breath and moisture downward
3M Medium Half Facepiece Reusable Respirator 7502/37082(AAD), Respiratory Protection, Medium
★★★★★ ~ 1,215
More Buying Choices
\$36.99 (30 new offers)

Product 5: 3M Full Facepiece Reusable Respirator 6900, Paint Vapors, Dust, Mold, Chemicals, Large
★★★★★ ~ 725
More Buying Choices
\$145.95 (45 new offers)

Product 6: Breathing Dustproof Mask - Safety Reuseable Washable Air Pollution Respirator with 4 Velvet Fabric Activated Carbon Filters - for Dust...
★★★★★ ~ 84
\$12⁹⁹ ~~\$22.47~~
FREE Shipping
More Buying Choices
\$11.89 (4 new offers)

Product 7: co2crea Hard Travel Replacement Case for GVS SPR457 / SPR451 Elipse P100 Half Mask Respirator + DEWALT DPG82-11 / DPG82-11CT...
★★★★★ ~ 47
More Buying Choices
\$22.00 (4 new offers)

Product 8: 5PACK Surgical Disposable Respiratory Mask for Dust N95 Anti-Virus Face Mask Folding Prevent PM2.5 Dust Protective mask Pack of 5
\$78⁵⁹
FREE Shipping

Product 9: Mask, Particulate Respiratory Masks - Adjustable Nose Clip, Comfort Nose Pad (20 PCS)
★☆☆☆☆ ~ 2
\$68⁹⁹ ~~\$88.88~~
FREE Shipping

Product 10: ESD8511 3MTM Particulate Respirator 8511(10 PER BOX)
★★★★★ ~ 10
\$119⁸¹
FREE Shipping
More Buying Choices

Product 11: 3M 8000 Particle Respirator N95, 30-Pack
★★★★★ ~ 330
More Buying Choices
\$185.00 (4 new offers)

Product 12: DISKIN Full Face Respirator CBRN Respiratory Safety Mask Made in Italy
★★★★★ ~ 22
\$199⁹⁹
FREE Delivery for Prime members

NOTE - miyoo is the manufacturer. miyoo is also the only seller of the miyoo brand and miyoo masks are only delivered to FBA (Amazon Logistics) to ensure the best service. Please note that if you are buying miyoo products from others, because they do not sell genuine miyoo masks, miyoo will not be responsible for assisting you with these orders or products.

2:40 AM 3/4/2020

Travel Issues – CDC Guidance.

AutoSave | March 4 Coronavirus Issues (002).pptx | Mavity, Howard

COVID-19 information for Travelers | cdc.gov/coronavirus/2019-ncov/travelers/index.html

Search COVID-19 risk assessment by country.

Healthcare Professionals +
Resources for Healthcare Facilities +
Resources for Health Departments +
Laboratories +
Communication Resources +

Get Email Updates
To receive email updates about COVID-19, enter your email address:
Email Address [input]
[What's this?](#) **Submit**

Geographic Risk Assessment for COVID-19 Transmission
CDC has established geographic risk-stratification criteria for the purpose of issuing travel health notices for countries with COVID-19 transmission and guiding public health management decisions for people with potential travel-related exposures to COVID-19. A number of factors inform the geographic risk stratification including size, geographic distribution, and epidemiology of the outbreak.
Click on the map to get country-specific travel health information about COVID-19.

Risk Assessment Level for COVID-19

- Widespread sustained (ongoing) transmission and restrictions on entry to the United States
- Widespread sustained (ongoing) transmission
- Sustained (ongoing) community transmission
- Limited community transmission

Widespread sustained (ongoing) transmission and restrictions on entry to the United States

CDC recommends that travelers avoid all nonessential travel to the following destinations. Entry of foreign nationals from these destinations has been suspended.

- China ([Level 3 Travel Health Notice](#))
- Iran ([Level 3 Travel Health Notice](#))

2:52 AM 3/4/2020

CDC Travel Guidance.

AutoSave March 4 Coronavirus Issues (002).pptx Picture Tools Mavity, Howard

COVID-19 information for Travelers x +

cdc.gov/coronavirus/2019-ncov/travelers/index.html

Widespread sustained (ongoing) transmission and restrictions on entry to the United States

CDC recommends that travelers avoid all nonessential travel to the following destinations. Entry of foreign nationals from these destinations has been suspended.

- China ([Level 3 Travel Health Notice](#))
- Iran ([Level 3 Travel Health Notice](#))

Widespread sustained (ongoing) transmission

CDC recommends that travelers avoid all nonessential travel to the following destinations:

- South Korea ([Level 3 Travel Health Notice](#))
- Italy ([Level 3 Travel Health Notice](#))

Sustained (ongoing) community transmission

CDC recommends that older adults or those who have chronic medical conditions consider postponing travel to the following destinations:

- Japan ([Level 2 Travel Health Notice](#))

Limited community transmission

Travelers should practice usual precautions at the following destination:

- Hong Kong ([Level 1 Travel Health Notice](#))

Windows taskbar: 2:54 AM 3/4/2020

CDC Italy Travel Alert.

The screenshot shows a web browser window displaying the CDC website. The address bar shows the URL wwwnc.cdc.gov/travel/notices/warning/coronavirus-italy. The page title is "COVID-19 in Italy - Warning - Lev". The CDC logo and name are visible at the top. The main navigation bar includes "Travelers' Health". The breadcrumb trail reads "Travelers Health > Travel Notices > COVID-19 in Italy". A left sidebar contains a menu with items like "Travelers Health", "Destinations", "Find a Clinic", "Travel Notices", "COVID-19 in Italy", "Travel Advice and Resources", "Disease Directory", "Yellow Book", and "Frequently Asked Questions". The main content area features a red banner for "Warning - Level 3, Avoid Nonessential Travel", followed by "Alert - Level 2, Practice Enhanced Precautions" and "Watch - Level 1, Practice Usual Precautions". Below this is the heading "Warning - Level 3, Avoid Nonessential Travel—Widespread Community Transmission" and a "Key Points" section with a bulleted list of travel recommendations. The bottom of the page shows the start of the "What is the current situation?" section.

AutoSave March 4 Coronavirus Issues (002).pptx Mavity, Howard

COVID-19 in Italy - Warning - Lev x

wwwnc.cdc.gov/travel/notices/warning/coronavirus-italy

Centers for Disease Control and Prevention
CDC 24/7: Saving Lives, Protecting People™

Search

Travelers' Health

Travelers Health > Travel Notices > COVID-19 in Italy

- Travelers Health
- Destinations
- Find a Clinic +
- Travel Notices -
 - COVID-19 in Italy**
- Travel Advice and Resources +
- Disease Directory +
- Yellow Book +
- Frequently Asked Questions +

COVID-19 in Italy

Warning - Level 3, Avoid Nonessential Travel

Alert - Level 2, Practice Enhanced Precautions

Watch - Level 1, Practice Usual Precautions

Warning - Level 3, Avoid Nonessential Travel—Widespread Community Transmission

Key Points

- Italy is experiencing widespread community transmission of respiratory illness caused by the novel coronavirus (COVID-19).
- CDC recommends that travelers avoid all nonessential travel.**
- Older adults and people with chronic medical conditions may be at increased risk for severe disease.
- Travelers should avoid contact with sick people and clean their hands often by washing with soap and water for at least 20 seconds or using an alcohol-based hand sanitizer with 60%–95% alcohol.
- Travelers should stay home and monitor their health during travel and for 14 days after returning to the United States.
- Travelers who feel sick with fever or cough or difficulty breathing should seek medical advice. Call ahead before you go to a doctor's office or emergency room.

What is the current situation?

CDC recommends that travelers avoid all nonessential travel to Italy. There is limited access to adequate medical care in affected areas. Widespread, sustained community spread of a respiratory illness caused by a new coronavirus (COVID-19) has

Windows taskbar: 3:01 AM 3/4/2020

US State Department travel Advisories.

AutoSave March 4 Coronavirus Issues (002).pptx Drawing Tools Mavity, Howard

Travel Advisories

travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/

Embassies & Consulates

Travel.State.Gov
U.S. DEPARTMENT of STATE — BUREAU of CONSULAR AFFAIRS

Search

U.S. Passports International Travel U.S. Visas Intercountry Adoption International Parental Child Abduction Records and Authentications

Travel.State.Gov > Travel Advisories

Print Email Facebook Twitter + More

Travel Advisories

Travel Advisories

As a first step in planning any trip abroad, check the Travel Advisories for your intended destination. You can see the world at a glance on our [color-coded map](#).

Note that conditions can change rapidly in a country at any time. To receive updated Travel Advisories and Alerts, choose the method that works best for you at [travel.state.gov/stayingconnected](#).

For more details and FAQs about our safety and security information, please see [travel.state.gov/travelsafely](#).

Learn about your destination

Country or area

Filter: Travel Advisories

Advisory	Level	Date Updated
Liechtenstein Travel Advisory	Level 1: Exercise Normal Precautions	October 8, 2019
North Macedonia Travel Advisory	Level 1: Exercise Normal Precautions	December 23, 2019
		April 2, 2019

Take 90 Seconds for Safer Travel

Travel Advisories and Alerts for ...
WITH COUNTRY INFO, EMBASSIES, AND CONSULATES

Travel Advisory Levels

- 1 Exercise normal precautions
- 2 Exercise increased caution
- 3 Reconsider travel
- 4 Do not travel

2:57 AM 3/4/2020

Travel Advisory – Italy.

The screenshot shows a web browser window displaying the U.S. State Department's Travel.State.Gov website. The browser's address bar shows the URL: travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Italy.html. The website header includes navigation links for Home, Travel Advisories, Newsroom, About Us, Contact Us, Careers, MyTravelGov, and Find U.S. Embassies & Consulates. The main navigation menu is highlighted on "International Travel".

The main content area features a breadcrumb trail: [Travel.State.Gov](#) > [International Travel](#) > [Country Information](#) > Italy International Travel Information. Below this, the "Italy" section is titled "Italian Republic". A prominent orange banner displays the "Travel Advisory" for "Italy - Level 3: Reconsider Travel", dated February 29, 2020. The advisory text states: "Reconsider travel to Italy due to a recent outbreak of COVID-19". A "[READ MORE]" link is provided.

Below the advisory, there is a section for "Embassy Messages" and "Alerts". It lists several updates: "COVID-19 Information" (Sat, 29 Feb 2020), "Travel Advisory: Updated Travel Advisory for Italy February 29, 2020" (Sat, 29 Feb 2020), "Travel Advisory: Updated Travel Advisory for Italy February 28, 2020" (Fri, 28 Feb 2020), and "Health Alert: U.S. Embassy Rome, Italy, February 23, 2020" (Sun, 23 Feb 2020). A link to "View Alerts and Messages Archive" is also present.

On the right side of the page, a "Travel Advisory Levels" section provides a visual scale from 1 to 4: 1. Exercise normal precautions (blue), 2. Exercise increased caution (orange), 3. Reconsider travel (yellow), and 4. Do not travel (red). Below this is a section for "Assistance for U.S. Citizens".

The browser's taskbar at the bottom shows the system tray with the date and time: 2:59 AM, 3/4/2020. The taskbar also displays various application icons including Windows, Edge, Chrome, and several Microsoft Office applications.

Does it
work against
viruses?



What About Masks?

- CDC, WHO and other public health organizations strongly recommend against use by the public.
- If voluntarily use N95-type masks, the employer must provide the explanatory Appendix to OSHA Standard 1910.134.
- May be ineffective if improperly used.
- Surgical or similar masks do not prevent all aerosol exposure.
- Can an employer prohibit use of a mask?
- What if the outbreak worsens?

MASKING THE PROBLEM?

- Under OSHA’s respiratory protection standard, a respirator must be provided to employees only “when such equipment is necessary to protect the health of such employees.”
- OSHA rules provide guidance on when a respirator is not required: “an employer may provide respirators at the request of employees or permit employees to use their own respirators, if the employer determines that such respirator use will not in itself create a hazard” (29 C.F.R. 1910.134(c)(2)).



saturdayeveningpost.com

CONSIDERATIONS FOR WORKFORCES THAT TRAVEL

Issues concerning employees returning from travel:

- Pursuant to the Americans with Disabilities Act (ADA), employers can require a medical evaluation if it is job-related and consistent with business necessity.
- The ADA allows employers to request medical information or order a medical examination when an employer has a reasonable belief (based on objective evidence) that an employee poses a “direct threat” because of a medical condition.
- The State Department and CDC Alerts on travel to China and other Countries and DHS restrictions make employer decisions to require returning employees to stay home for up to 14 days more likely to be found reasonable. The EEOC’s Pandemic Guidance directs employers to take direction from the CDC or state/local public health authorities in determining whether an illness is a direct threat.

Protecting traveling employees.

CONSIDERATIONS FOR WORKFORCES THAT TRAVEL

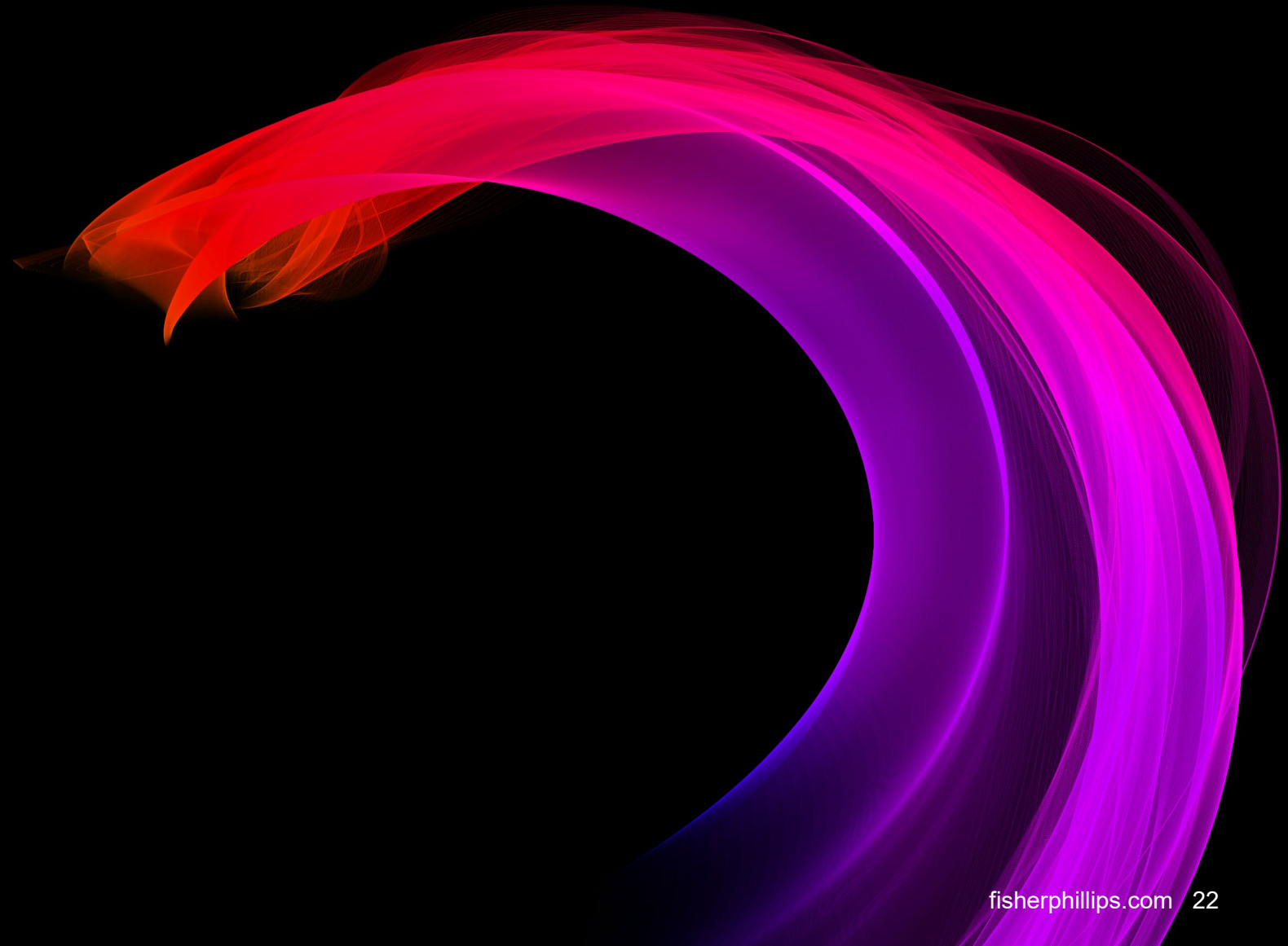
- Response to employee's objection to traveling:
 - Under the federal OSH Act, employees can only refuse to work when a realistic threat is present. Travel to China likely meets this threshold. A reasonable person would agree that there is a real danger of death or serious injury. Travel to other areas may also present the necessary threat.
 - Working around other people or the public does not meet this threshold. An exception would be employees in the medical field if proper protective equipment is not provided.
 - If employees in your workplace are required to clean up or be exposed to blood or other bodily fluids as part of their regular job, they must be provided bloodborne pathogen training and proper personal protective equipment (e.g. gloves/goggles) and the company must develop an exposure control plan.
 - Can you ask employees to stay at home if they exhibit symptoms of coronavirus or the flu? Yes, you can ask them to stay at home to help prevent the spread of the virus.
 - Can you ask an employee why he or she missed work? Yes.

CAN AN EMPLOYEE SIMPLY REFUSE TO WORK?

- An employee's right to refuse to do a task is protected if all of the following conditions are met:
 - Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; and
 - You refused to work in "good faith." This means that you must genuinely believe that an imminent danger exists; and
 - A reasonable person would agree that there is a real danger of death or serious injury; and
 - There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.
- At this point in the outbreak, the conditions are likely not met.

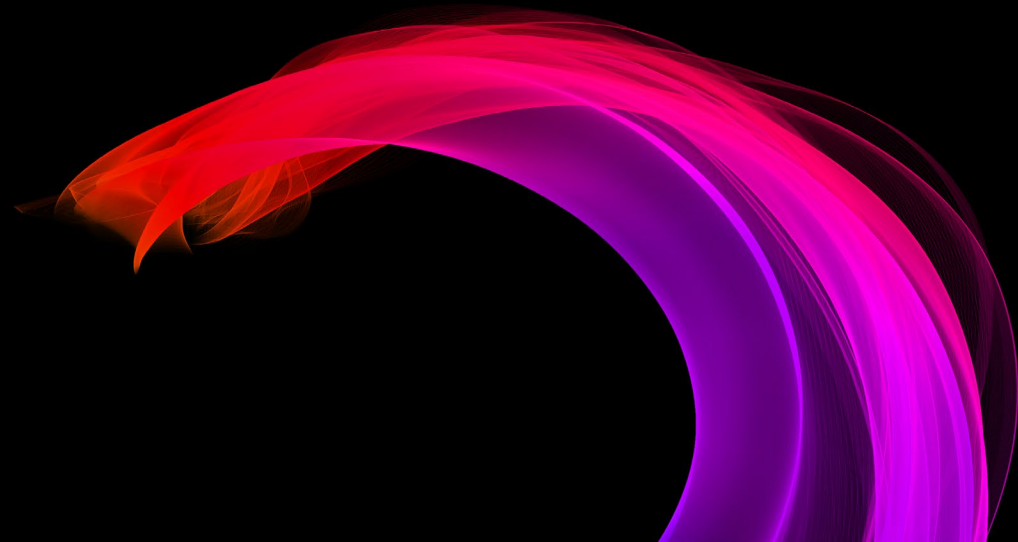


Questions?



The logo for Fisher Phillips, featuring the company name in white text on a red, angular background.

Fisher
Phillips



Thank you

Howard A. Mavity
hmavity@fisherphillips.com
404-231-1400