

# WEB EXCLUSIVE: BLAST FROM THE PAST? HANDLING TUBERCULOSIS FEARS IN THE MODERN WORKPLACE

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Until the 1950s, tuberculosis terrified people in both developed and undeveloped countries, causing thousands of sanitariums to “isolate” patients. No real cure existed. Partly in response to the 400 percent increase in TB in devastated post-WWII Europe, a worldwide campaign led to vaccines and better treatments. But still, many people of a certain age grew up hearing horror stories about the dangers of TB, and continue to be haunted to this day.

Several factors conspired to thrust TB back into our pantheon of modern fears, including the spread of HIV infection, the emergence of drug-resistant strains of infection, and the importing of the disease from other countries given the ease of global travel. Now, the mere mention of TB results in often unreasonable fears and an incorrect assumption that the disease is always terribly infectious. Never underestimate the power of rumor and ignorance to fan concerns into near-hysteria.

Almost all employers will, at some point, have to deal with reports that an employee has TB (or similarly unnerving conditions such as MRSA, HIV/AIDS, or hepatitis). In the case of TB, an employer is immediately hit with two challenges: making sure that you protect your coworkers, customers, and the public; and reassuring those potentially affected without violating the Americans with Disabilities Act (ADA). Fortunately, U.S. public healthcare regulations protect and assist employers in managing affected employees, as well as protecting and calming coworkers.

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## FIRST STEPS

Typically, you will first learn of a potential TB situation when an employee submits a doctor's note informing you they have contracted the disease, or when coworkers report that an employee told them that they tested positive for TB. Quite often, the shocked employer will immediately go online to the Centers for Disease Control (CDC) or National Institute for Occupational Safety and Health (NIOSH) websites, or similar state and county health department sites, in order to educate themselves.

In such a situation, you have little choice but to approach the employee. If the employee has formally notified you of testing positive or of an active infection, your first step should be to contact your local county Health Department. Without exception, the county will maintain a robust TB Control Office or department and website for TB concerns. A telephone call or an email usually gets a fast response, and you will discover a willingness to not only educate you, but to also assist in calming coworkers.

You will reassuringly learn that every state maintains laws requiring medical providers to notify the health department of TB cases; failure to do so can even result in criminal prosecution. Physicians may often seek to protect patients against employers to a fault, but they do not mess around with the TB regulatory scheme. Likewise, you can generally trust that a medical provider would not release a patient to return to work if they posed a reasonable infection risk.

On occasion, an employer may first learn of the employee's diagnosis with TB when contacted by the local Health Department. Where the Department believes that a risk of transmission exists, they will proactively approach the employer and conduct a contact survey, including questionnaires and tests. The officials will meet with employees and try to calm them.

Nevertheless, regardless of how you learn about the situation, it is generally appropriate for you to request that the employee's medical provider provide assurance that the employee can perform the essential functions of the job, with or without reasonable accommodation, and that the employee does not pose a direct threat to the safety of others.

## WHAT TB CONDITIONS ARE OUT THERE? UNDERSTAND THE JARGON

Around this point, you will begin to get an education about TB, learning that a TB diagnosis or report can actually mean many things. According to the NIOSH site, TB bacteria can live in the body without making one sick. This is called **latent TB infection**. For most people who breathe in TB bacteria and become infected, the body is able to fight the bacteria to stop them from growing. People with latent TB infection have no visible symptoms and don't feel sick. According to NIOSH, these people cannot spread TB bacteria to others. However, they usually have a positive TB skin test reaction or positive TB blood, and may, in fact, develop the TB disease if they do not receive treatment for latent TB infection.

Many people who have latent TB infection never develop TB disease. In these cases, the TB bacteria remains inactive for a lifetime without causing disease. But in other people—especially those with a weak immune system, such as HIV sufferers—the bacteria become active, multiply, and cause TB disease.

In the case of **TB Disease**, the bacteria become active if the immune system can't stop them from growing. People with TB disease are sick. They may also be able to spread the bacteria to people they spend time with every day.

However, positive test results do not automatically mean that a person has a TB infection. A positive TB skin test or TB blood test only tells that a person has been infected with TB bacteria. It does not tell whether the person has **latent TB infection** or if it has progressed to **TB disease**. Other tests, such as a chest x-ray and a sample of sputum, are needed to see whether the person has TB disease.

Thus, in many cases, the employer learns that the affected employee poses no risk to coworkers. Some health departments will ask for the name of the employee and confirm that their medical provider has already reported them, and that the patient is being properly managed.

## WHAT HAPPENS IF THERE IS A RISK OF INFECTION IN THE WORKPLACE?

TB bacteria are spread through the air from one person to another. The TB bacteria are put into the air when a person with TB disease of the lungs or throat coughs, speaks, or

sings. However, TB is not spread by shaking someone's hand, sharing food or drink, touching bed linens or toilet seats, sharing toothbrushes, or kissing. According to the CDC and local health departments, coworkers in most settings are less likely to contract the disease than family members, romantic partners, or roommates.

## **FURTHER QUESTIONS**

Once you have eliminated unreasonable fears, you can determine how to handle the employee, implement common sense protections against the spread of the disease, go about educating coworkers, and determining if special risks are presented that need to be addressed. For more information on how to handle such a situation, contact your Fisher Phillips attorney or any member of the firm's [Workplace Safety and Catastrophe Management Practice Group](#).

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