



Coronavirus: What are the obligations of an employer?



UNCOMMONLY INDEPENDENT

January 31, 2020

Note: The coronavirus outbreak is a fast-developing situation, and local health agencies should be consulted for the latest news and directives.

In December 2019, authorities in Wuhan, Hubei province, announced a cluster of cases of pneumonia associated with the Huanan/South China Seafood Wholesale Market, for which a cause had not yet been identified. On Jan. 8, a new coronavirus, “2019-novel coronavirus (2019-nCoV),” was identified as the cause of the illness. Dozens of other provinces in China have confirmed imported cases from Wuhan. Cases have also been exported from Wuhan into several other countries.

Whether a company has an employee in Eastern Asia on a short-term basis, or runs a significant operation in China, employers are understandably concerned for the health of their employees and the continuity of their business.

Here, Lockton’s experts address key considerations for employers:

- Property and casualty liabilities and insurance coverage
- Employee benefits and rights
- Employee health and welfare
 - Within China
 - Outside the outbreak zone

Employer considerations: *Property and casualty liabilities*

General liability

The primary liability exposure for employers will be alleged negligence. For example, employers may face assertions that they failed to protect a customer or other third party from being exposed to the virus.

Liability of directors and officers

Suits may arise against directors and officers in the event a company is considered inadequately prepared to handle a pandemic that negatively impacts the business. Shareholders may allege directors’ and officers’ failure to perform the necessary contingency planning or failure to disclose the risks a coronavirus outbreak could have on the company’s business and financial results.

Workers’ compensation and employers’ liability

In considering coverage for workers’ compensation claims, providers determine whether the injury occurred within the affected individual’s scope of work. Exposures to pandemic-type illnesses may also produce employers’ liability claims alleging contraction of the related illness due to employer negligence.

Recent global regulatory changes, such as the Duty of Care Act, forces companies to adhere to a standard of reasonable care when directing employees to perform duties on behalf of the company. Countries such as Australia, the U.K. and India have enacted this regulation. Companies that neglect their duty of care can be accused of an act of negligence and face legal action on behalf of the affected employee.

Property or business interruption

If organizations are forced to temporarily close their operations due to pandemic or disease, they may try to seek business interruption coverage under their insurance coverage. Most policies trigger coverage for business interruption only after the policyholder has experienced a direct physical loss to the premises in question caused by a covered peril.



Employer considerations: *Employee benefits and rights*

Coverage

The Chinese government has confirmed that all the necessary medical treatment expenses for confirmed cases in China will be fully covered by the government. The major insurance companies in China also confirmed they will cover coronavirus under the existing life and medical insurance.

Internal communication

Employers should closely monitor any government update on the current situation and publish an internal communication noting the following:

- Traveling guidelines, including prohibition from traveling when sick.
- Who to contact if employees develop symptoms.
- Preventive measures.

Employers should update these internal communications as the situation develops. In addition, employers may want to inform employees traveling outside China for business of emergency measures and notices (if any) regarding the coronavirus that the destination countries have imposed.

Employee rights in China

On Jan. 25, 2020, the Chinese government issued new employment rules for dealing with the coronavirus that prohibit employers from unilaterally terminating sick employees' employment contracts or initiating a layoff or a workforce reduction due to a coronavirus outbreak. In addition, employers are mandated, in accordance with the new legislation, to pay all the salary and benefits of their employees who meet any of the following conditions:

- Are a suspected patient.
- Have come into close contact with a coronavirus patient or a suspected patient.
- Are unable to work due to Chinese government quarantine or another government-imposed emergency measure.

Local employment bureaus will be providing notices and guidance to affected employers and are expected to increase labor supervision and enforcement to ensure employee's rights and interests are protected.



Extension of the Lunar New Year holiday

China's State Council on Monday announced plans to extend the Lunar New Year holiday to Feb. 2, 2020, as a key measure to control the coronavirus outbreak.

The Lunar New Year holiday, which started on Jan. 24, 2020, was originally set to end on Jan. 30, 2020. The holiday extension goes to the ninth day of the first lunar month of the lunar calendar. For Shanghai, the holiday will be extended to Feb. 9, 2020.

Colleges, schools and kindergarten will have delayed starts for semester

According to the State Council notice, the start of the spring semester for all colleges, schools and kindergartens across the country will be suspended. The Education Department will issue separate notices about starting times.

Next steps

Employers in China should closely monitor any local employment bureaus' notices and guidance to ensure compliance with government regulations. Employers should be prepared for a potential disturbance in production and a likely increase in employees taking leave.

Employers may want to do the following:

- Consider arranging for telecommuting and working from home to minimize work disruptions.
- Develop and implement a detailed action plan with steps to prevent and deal with an outbreak of the coronavirus within the workplace (e.g., providing enough supplies of face masks, alcohol wipes and gloves in the workplace and offering rehabilitation for sick employees returning to work, etc.).
- Direct employees to report suspected cases of coronavirus within the workplace.
- Screen employees and customers before allowing them to enter the workplace, so long as it is possible logistically and compliant with privacy regulations.

Employee considerations: *Residing in or traveling to China*

Prevention

At the time of publication, no known treatment or vaccine is available for this coronavirus. As a result, education around the disease and ways to prevent infection is critical. According to a U.S. State Department update on Jan. 28, travel to the Chinese province of Hubei should be avoided; with deferment of nonessential travel to the rest of mainland China.

Those traveling or currently on the ground in the affected areas should exercise extreme caution:

- Avoid direct contact with animals, alive or dead, and surfaces that maybe contaminated with droppings.
- Avoid activities where you're likely to be exposed to large groups of people.
- Avoid people who are obviously sick.
- Maintain good personal hygiene.
- Wash your hands frequently, carry hand sanitizer and avoid touching your face.
- Wear a face mask.
- If there is any suspicion of infection, local health authorities should be contacted immediately. The coronavirus shares many symptoms with the common cold, including runny nose, headache, cough, sore throat and fever.

Business travel accident and medical insurance coverage

Travel accident and medical policies are often secured to facilitate the movement and payment for an injured or sick employee. While there is no exclusion for medical evacuation if someone were to be diagnosed with coronavirus, the voluntary evacuation of employees is typically not covered. Any covered evacuations are subject to the approval of health authorities in both the originating and receiving country. For example, if the U.S. government were to decide not to allow the medical evacuation of a patient known or suspected to have coronavirus, the insurer could be stopped from performing the services.

Another consideration is the availability of flights and possible cancellations of evacuation flights due to security concerns. This may result in evacuation carriers willing to repatriate an employee but unable to proceed due to logistics and restrictions.



Employee considerations: Outside China

Chinese officials have restricted travel in and out of Wuhan and other cities in the Hubei Province.

For employees returning from China in the last few weeks and feeling sick:

- Reach out to your doctor. Let them know before coming into the doctor's office about your recent travel and symptoms.
- Avoid contact with others.
- Do not travel while sick.
- Cover your mouth with a tissue when coughing or sneezing.
- Wash your hands frequently with soap and water.

For employees who haven't been to China or interacted with anyone who recently has, they likely don't need to worry. But it's important for everyone to stay informed of the developing story and any precautions needed.

Visit <https://wwwnc.cdc.gov/travel/notices/warning/novel-coronavirus-china> for updates and more information. It also doesn't hurt for everyone to wash their hands frequently and avoid people who are sick.

Conclusion

On Jan. 30, the World Health Organization declared the coronavirus outbreak a "public health emergency of international concern." For details about this declaration, visit the [WHO website](#).

The latest outbreak of coronavirus is deadly and wide ranging in its spread and has affected many companies and organizations around the world both directly and indirectly. Companies face risks to their employees as well as to their revenues. By staying informed on the latest developments, developing or activating contingency plans, educating employees to prevent the spread and infection of the disease, and using available insurance, companies can reduce the impact of this outbreak.

