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Dear Valued Contacts of Hirsch Roberts Weinstein LLP

We write to pass along practical information and preventative steps employers should consider related to H1N1, commonly known as swine flu.

Background Facts: According to the CDC, symptoms for swine flu are similar to the symptoms of seasonal flu in humans and may include some combination of the following: fever, greater than 100 degrees Fahrenheit, sore throat, cough, stuffy nose, chills, headache and body aches and/or fatigue. To prevent the spread of swine flu, the CDC recommends avoiding contact with ill persons, covering your nose and mouth when you cough or sneeze, throwing used tissues in a trash can, and, after you cough or sneeze, washing your hands with soap and water, or using an alcohol-based hand gel. Thus far, most swine flu cases in the United States have been relatively mild. As of the date of this notice, there are six confirmed cases in Massachusetts, none of which have resulted in death. More information about the disease and current statistics can be found at:

<http://www.pandemicflu.gov/>

Proactive Steps: If an employee or visitor has actually been diagnosed with H1N1, or you have reason to believe that persons in your workplace have been exposed to persons who are infected, you should closely monitor the situation and be prepared to take the following steps should the need arise:

- As a precautionary measure, if an employee tests positive for Type A influenza, and who therefore may have H1N1, that employee should not come to work and should remain isolated for up to seven days after the onset of symptoms.
- Employees exhibiting cough or flu symptoms should be relieved of duty, and instructed to see their health care provider. These employees should also limit their visits to public places. Anyone who has had close contact with an employee with influenza should also contact their health care provider.
- Employees with compromised immune systems, serious heart, lung, kidney or liver diseases, and diabetes should be urged to contact their health care provider for advice regarding precautionary measures.

- Consider postponing or canceling events involving larger scale social interaction, including events that can increase the risk of exposure to and the spread of viral infections.

Privacy, Confidentiality and Non-Discrimination: Employers need to be mindful of their legal obligations with respect to privacy, confidentiality and non-discrimination. In many instances, employers can take protective measures without disclosing an individual employee's name or medical situation. Employers should also be alert to situations that could result in national origin discrimination, for example, discrimination against Mexicans. Finally, while employers can and should encourage open communication on workplace health and safety matters, they must be careful not to violate legal prohibitions with respect to disability-related inquiries and testing of employees and applicants. The EEOC has issued a helpful guidance on ADA-compliant preparedness for H1N1: http://www.eeoc.gov/facts/h1n1_flu.html

Preparedness: All employers are encouraged to adopt a detailed crisis control plan, so that your business can stay in operation in the event of pandemic influenza, severe weather, terrorist attack or other crisis that may limit the available workforce. Visit <http://www.pandemicflu.gov/> for checklists and other helpful materials.

Communication: Consider distributing a memorandum to all employees with information about H1N1 and steps they can take to protect themselves and promote a healthy workplace. Encourage employees to alert you if they, or someone close to them, is ill. Clarify policies, practices and procedures with respect to time off.

Summary: Although the flu cases treated thus far in Massachusetts have been relatively mild, and the H1N1 Flu strain is not believed to pose a significant threat to healthy adults, employers should consider the above steps to reduce the potential impact of H1N1 on their business. Feel free to contact us for further information on this issue, and assistance with workplace crisis management.

David B. Wilson (617) 348-4314 dwilson@hrwlawyers.com

Catherine E. Reuben (617) 348-4316 creuben@hrwlawyers.com.