**<u>Providing A Safe Workplace For Employees To Return to Work
In A COVID-19 World</u>**

As Massachusetts continues implementing Governor Baker's four-phase plan to reopen the state, if you are a business owner and you have not yet implemented a plan for re-opening, including preparation of a COVID-19 Workplace Policy, you should do so immediately.

While guidance on the Massachusetts plan continues to develop, the Occupational Safety and Health Administration ("OSHA") has already issued guidance for various industries and employers to provide safe work environments for their employees. Of course, the Occupational Safety and Health Act of 1970 is not new. **This law states that employers have an obligation to assure safe and healthy working conditions for their employees**. If an employee has a "good faith belief" that their workplace is not safe, they can file a complaint with OSHA. In addition, the law also provides, that if an employer retaliates in any way against an employee for making a good faith complaint of an unsafe work environment, the employer can be liable for retaliation under the law. The attorneys at PIERCE DAVIS & PERRITANO are here to assist you in evaluating and responding to employee requests or concerns to ensure your compliance with applicable laws

In addition to general workplace sanitation, employers should do whatever is necessary to minimize fear due to unsafe working conditions in the workplace. In order to reduce the impact of COVID-19 outbreak conditions on businesses, workers, customers and the public, it is important to plan now.

1) First, ensure that you are complying with all Federal, State and Local orders, regulations and laws. See here for Massachusetts Reopening plans.

2) Understand what public health guidance is available to you from your state and local health departments.

3) Identify risk levels in your workplace and determine what you, as an employer, can do to mitigate and / or control exposure to the virus in the workplace **_before_** you reopen. For example, do you have space in your workplace such that employees can social distance? Can you make physical changes to the workplace, such as moving desks or installing plexiglass shields? Do you have a cleaning/sanitizing schedule in place? Do you have cleaning supplies and hand sanitizer? Do you have masks for your employees?

4) Finally, circulate your return to work policy in a digestible format and ensure ongoing access to guidelines.

For most employers, protecting workers will depend on emphasizing basic infection prevention measures. Promote frequent and thorough hand washing and provide hand sanitizer. Require the use of face coverings when social distancing is not possible. Discourage workers from using other workers' phones, desks, offices, computers, etc. To the extent employees can continue to work

remotely, encourage them to do so. Other alternatives could include rotating shifts or employees working outside of regular business hours in order to increase the physical distance between and among employees.

Require employees to stay home if they are sick. It is no longer acceptable for employees to come to work when coughing, sneezing, and exhibiting obvious cold and flu symptoms. Check employee temperatures when they arrive to work. Encourage employees to self-monitor for signs and symptoms of COVID-19 if they suspect possible exposure. Employers should develop policies and procedures for employees to report when they are sick or experiencing symptoms of COVID-19.

Note, however, that COVID-19 can be transmitted from both asymptomatic and pre-symptomatic carriers. Your employees could very well be carrying and transmitting the virus without any symptoms at all and therefore, it is imperative that your return to work policy institute guidelines to ensure social distancing and a focus on excellent hygiene throughout the workday and at home.

Lastly, ensure that your sick leave policies are up to date and are in compliance with all current federal and state laws and most importantly, make sure that your employees are aware of these policies. Maintain flexible policies that permit employees to stay home to care for a sick family member. Recognize that it may be difficult for employees to obtain a note from their healthcare provider.

Be aware of your employees' concerns about pay, leave, safety, health, and other issues that may arise due to COVID-19. Provide adequate and appropriate training, education, and informational material about business essential job functions and employee health and safety. Informed employees who feel safe at work are less likely to be unnecessarily absent and will appreciate the steps you take to keep them safe and healthy.

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