

New Jersey Governor Signs Executive Order Imposing Additional COVID-19 Safety Requirements on New Jersey Employers

By **Matthew J. Platkin** and **Julie Levinson Werner**

Effective November 5, 2020, New Jersey employers are required to take additional safety precautions to protect their workforce from COVID-19. As a result of Executive Order 192, New Jersey employers will be required to:

- Provide approved sanitization materials to employees and visitors at no cost to those individuals;
- Ensure that employees practice hand hygiene and have sufficient break time for that purpose;
- Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines;
- Conduct daily health checks, such as temperature screenings, visual symptom checking, self-assessment checklists, and/or health questionnaires, prior to each shift, consistent with CDC guidance;
- Exclude sick employees from the workplace and follow requirements of applicable leave laws;
- Promptly notify employees of any known exposure to COVID-19 at the worksite; and
- Conduct compliance and safety training.

Recognizing that many businesses have begun requiring their employees to return to work, the Executive Order reaffirms expectations that employers will take all necessary precautions with respect to social distancing, wearing masks, and the like. Notably, prior to an employee beginning work, employers will be required to conduct daily health checks, such as temperature screenings, visual symptom checking, self-assessment checklists, and/or health questionnaires, consistent with CDC guidance. Employers are also now expressly required, as a result of the Executive Order, to notify all employees of any known exposure

to COVID-19 in the workplace, consistent with confidentiality requirements under the Americans with Disabilities Act and other applicable law.

Among other enforcement measures, the Executive Order directs the Department of Labor and Workforce Development to establish an intake process for receiving complaints alleging violations of the Order. A business found to be in violation of the Order may be subject to penalties, including closure by the Commissioner of the Department of Health. In one saving measure for employers, the Executive Order states that it does not create a private right of action by employees against their employers for a breach of the Order. However, a host of other laws, including the Conscientious Employee Protection Act, still provide employees with such protection if they object to violations of the Order and their employer takes adverse action against them as a result. There are various other measures that **employers should also consider to avoid litigation by their employees.**

Lowenstein Sandler would be pleased to answer any questions you may have about Executive Order 192. **Matthew J. Platkin** is a partner of the firm and is the former Chief Counsel to Governor Murphy. He may be reached at mplatkin@lowenstein.com. **Julie L. Werner** is a partner of the firm and a member of the firm's **Employment Counseling & Litigation** practice group. She may be reached at jwerner@lowenstein.com.

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