

Employee Screening During COVID-19



Employers can screen employees wishing to enter the workplace if they determine screening is necessary to meet the occupational health and safety obligation to provide a safe workplace.

Employers can require employees to disclose circumstances which may materially increase the risk of an employee spreading COVID-19 in the workplace. The government of Saskatchewan, by a Public Health Order dated March 26, 2020 ("the Order"), has directed that all individuals who have been identified by a Medical Health Officer as a close contact of a person with COVID-19 must go into mandatory self-isolation for fourteen days from the date of last exposure. All individuals who are household members or contacts of a person with COVID-19 are also required by the Order to go into mandatory self-isolation. With limited exceptions, the Order likewise provides that all individuals who have travelled internationally must go into self-isolation for a fourteen day period. Employers can rely in part on the Order when determining if an employee should be screened prior to returning to the workplace.

Similar Public Health Orders exist in other provinces. Given the current circumstances of the pandemic, it is also reasonable for employers to require employees to report any symptoms of illness that are related to COVID-19 or otherwise.

Screening based on the above criteria can occur through employee questioning and testing, or alternatively, by the completing and signing of daily screening logs. Where an employer has reasonable cause to believe an individual is at risk of spreading the disease the employer is within their right to deny entry into the workplace and require medical clearance before entry. Screening of employees should occur generally and not be exclusive to only a few employees to avoid the risk of a human rights issue arising.

In terms of testing for COVID-19, the law in Canada provides that employers can require testing when there is reasonable cause to do so. Where there is an argument that a legitimate risk of spread of the virus exists, it is reasonable to test, if testing is available, or alternatively, the administration of temperature testing is also reasonable.

The MLT Aikins labour and employment team will continue to monitor the situation respecting the monitoring and testing of employees and will provide additional

updates on legal issues that may impact employers. In the meantime, please do not hesitate to reach out to our team if you have specific questions regarding the screening and testing of employees, or if you require more general assistance in getting your organization prepared for addressing the operational impacts of COVID-19.

Employers considering employee screening should also ensure that they consider privacy law requirements for any information collected in the process of screening. Please see our blog on these considerations for further information.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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