

Answers To Your Employee's Tricky Return-To-Work Questions

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PS&H Partner and Chair of the Labor & Employment Group, Alicia Samolis, regularly counsels employers on how to handle the tricky COVID-19 questions employees are asking and was consulted recently by *Providence Business News* for her insight into the same.

Many employees are concerned that their employer's safety practices might not protect them. However, Alicia suggests that employees consult the applicable state orders and guidelines before leaping to the conclusion that their employer is violating safety standards. In particular, Alicia mentioned that while the CDC guidelines may contain "good suggestions and good guidelines, they don't necessarily create any legal obligation". Employees should also understand that "[i]f an employee has an anxiety disorder and can provide medical documentation, they might qualify for leave" but that generally employees are not protected when refusing to work due to COVID-19 fears without such a disability.

Other employees are concerned their employer's safety measures go too far and violate the employee's rights. In the interview, Alicia confirmed that *under the current pandemic conditions*, an employer is allowed to take an employee's temperature. Under normal circumstances, this would be a prohibited ADA medical inquiry and Alicia noted "[i]t could change when COVID-19 becomes less of a health issue." Alicia stated if there is "an employee who has a medical condition other than COVID-19 that results in [an employee] having a fever, they need to bring in documentation" to avoid work exclusion. Employers can also require testing for active COVID-19 infections and ask employees questions that relate to the virus. However, Alicia stated "employers can't ask medical inquiries that don't have a connection to the virus". The Equal Employment Opportunity Commission has recently also taken the position that an employer cannot implement mandatory antibody testing (voluntary antibody testing is still allowed).

Above all, employers should keep apprised of the latest developments in the law to appropriately respond to employee questions.

To read the full article, [click here](#). (Subscription required)

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