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Doing Business in New Jersey During the COVID-19 Pandemic

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The global COVID-19 pandemic has had a deep and profound impact on everyone, their families, their ways of life, and has especially impacted businesses and their employees at every level. Below are some issues which employers are currently facing and which they should be examining as they try to successfully maneuver through this crisis.

- Adopt and communicate effective policies and procedures regarding workplace safety which comply with Governor Murphy's Executive Orders, the State and local Departments of Health, the Centers for Disease Control ("CDC") and the Occupational Safety and Health Act ("OSHA"). Such policies should include:
 - Require employees who exhibit symptoms which are consistent with COVID-19 to immediately notify management, leave the workplace, stay home, and seek attention and treatment from an appropriate medical professional;
 - Promptly notify workers of any known exposure to COVID-19 at the workplace, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;
 - Regularly clean and disinfect the workplace in accordance with CDC guidelines;
 - Have employees continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and OSHA, as applicable, for maintaining a clean, safe and healthy work environment, including wearing face masks, gloves, practice social distancing, encouraging regular hand washing.
 - Require employees to self-quarantine if a member of their family/household contracts COVID-19;
 - Require employees to either receive medical clearance or a negative COVID-19 test prior to returning to work, or if such a test is not available then having the employee meet the CDC guidelines for returning to the workplace.
- Employers need to determine how to properly address certain employees who are healthy but who otherwise refuse to report to work out of fear of potential exposure to COVID-19. In addition, some employers may be faced with fictitious claims that an employee has contracted COVID-19 and employers need to know what their rights are in such situations.

- Employers whose workplaces have been shuttered due to the crisis must examine whether they are legally obligated to continue paying employees who cannot be working remotely, or whose hours have been severely reduced. In such instances, employers may want to explore temporary furloughs or layoffs. However, prior to implementing such measures, employers who have taken advantage of loans through the Paycheck Protection Program offered through the Small Business Administration or other governmental financing options, should seek counsel on the impact such furloughs or layoffs may have on the employer's ability to obtain forgiveness for the loan(s) in question.
- Employers need to determine how to properly treat work absences which may be occurring for a variety of reasons. Such absences may implicate the provisions of some of the following laws: The Family and Medical Leave Act, New Jersey's Paid Sick Leave Act, the CARES ACT, the Families First Coronavirus Response Act, short-term disability and other applicable leave laws and regulations. For example, the newly passed Families First Coronavirus Response Act, will mandate that covered employers provide up to two weeks of paid leave to employees who have had to miss work due to COVID-19 related issues.
- Employers need to begin working on re-opening plans and coordinating with their landlords, employees, and vendors to ensure a safe and productive work environment is provided. Such plans can include, but are not limited to, staggering employee workdays or shifts, maintaining social distancing, providing personal protection equipment and disinfectant, having employees avoid certain common areas and gathering spots.

The team at Carlin & Ward, P.C. remains committed and prepared to assist our clients, both existing and new, with effective and practical advice on how to navigate these, and the myriad of other, issues associated with the COVID-19 crisis.

For further information, please contact us here:

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