Ohio Governor Unveils Industry-Specific Protocols for "Responsible Restart Ohio" Amid the COVID-19 Crisis

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On April 27, 2020, Ohio Governor Mike DeWine announced statewide protocols for businesses to reopen in phases starting on May 1, 2020, the date when the current stay-at-home order for Ohio expires. In the press conference announcing the plans, Governor DeWine identified the following dates when operations that are not permitted under the current order may resume: (1) May 1 for elective medical procedures not requiring an overnight hospital stay; (2) May 4 for manufacturing, distribution and construction and office businesses; and (3) May 12 for consumer, retail and service businesses.

In conjunction with the state's industry-by-industry approach, Ohio released sector-specific requirements in order for (1) manufacturing, distribution and construction; (2) general office environments; and (3) consumer, retail and services businesses to resume operations. The governor also confirmed that certain business environments where close physical contact is harder to control, such as dine-in restaurants, fitness centers and hair salons, must stay closed until further notice.

Protocols Applicable to All Businesses

- Ensure a minimum of 6 feet between people; if not possible, install barriers.
- Require face coverings for employees and customers at all times.
- Require employees to perform daily symptom assessments, including temperature taking. Require employees to stay home if symptomatic.
- Require regular handwashing and other good hygiene practices.
- Sanitize workplaces throughout the workday, including between shifts, and at the close of business.
- Limit capacity to 50 percent of fire code limits. Use appointments to limit congestion.

The following actions should be taken if an employee or customer is identified as having COVID-19:

- Report the individual to the local health department.

- Work with the local health department to identify potentially exposed individuals to help facilitate appropriate communication and contact tracing.
- Shut down the affected workplace for deep sanitation.
- Reopen in consultation with the local health department.

Additional Protocols for Manufacturing, Distribution and Construction Businesses to Reopen

Employees, Distributors and Guests

- Stagger or limit arrivals of employees and guests.
- hange shift patterns (*e.g.*, fewer shifts).
- Stagger lunch and break times.
- Consider splitting employees into subteams and limit contact across subteams.
- Consider reducing pace of production to allow fewer employees per line.

Physical Spaces

- Perform daily deep disinfection of high-contact surfaces.
- Space the factory floor to allow for distancing.
- Regulate maximum capacity in common spaces, including cafeterias.

Additional Protocols for Consumer, Retail and Services Businesses to Reopen

Employees

- Place hand sanitizers in high-contact locations.
- Clean high-touch items, such as shopping carts and baskets, after each use.
- Consider grouping employees by shift to reduce exposure.

Customers and Guests

- Specify hours for high-risk populations.
- Stagger entry of customers and guests.
- Ask customers and guests not to enter if symptomatic.
- Require customers and guests to wear face coverings while shopping or visiting.
- Place hand sanitizers in high-contact locations.

Physical Spaces

- Post social-distancing signage.
- Disinfect high-contact surfaces on an hourly basis.
- Clean merchandise before stocking if possible.
- Discontinue self-service food stations.
- Consider using contactless payment options.
- Consider maximizing available checkout space, such as by using floor markings.

Additional Protocols for General Office Environments to Reopen

Employees and Guests

- Stagger arrival of all employees and guests.
- Reduce sharing of work materials.
- Post signage on health safety guidelines in common areas.
- Limit travel as much as possible.
- Consider enabling natural workplace ventilation.
- Consider implementing health questionnaire for symptoms upon entry.
- Consider developing a temperature-taking protocol.

Physical Spaces

- Conduct frequent disinfection of desks, workstations and high-contact surfaces.
- Perform daily disinfection of common areas.
- Cancel in-person events when social-distancing guidelines cannot be met.
- Use disposable tableware and close buffet in cafeteria.

What This Means for Employers

In addition to the new protocols announced on April 27, 2020, Ohio employers should take note of earlier guidance the state released for employers, including the COVID-19 checklist for business and employers. Among other things, the checklist advises employers to ensure that their sick leave policies are "up to date, flexible, and non-punitive" to promote staying at home when employees need to care for themselves or family members.

Work-from-home options continue to be a key tool for employers to manage risk. In the press conference announcing the state's reopening plans, Governor DeWine urged Ohio employers to maximize telecommuting "as much as humanly possible" even when their business is permitted to resume in-person operations. To mitigate the potential risks associated with telecommuting, including wage-and-hour, privacy and information security concerns, employers may want to develop written protocols to guide employees and set expectations.

In the press conference, Governor DeWine encouraged employers to use a phased approach to returning employees to the workplace, with "high-risk employees" returning last. Of course, if Ohio employers choose to stagger the return of employees by potential risk factors, they need to comply with their legal obligations under federal laws, including the Americans with Disabilities Act and the Age Discrimination in Employment Act, as well as the Ohio Civil Rights Act and applicable local law.

In requiring businesses to ensure that employees and customers wear face coverings in certain circumstances, Ohio joins a growing number of states, including Pennsylvania, New Jersey and New York, which have adopted similar measures to combat the spread of the novel virus. Ohio employers may want to develop policies and provide training to employees, in consultation with healthcare professionals, to maximize the effectiveness of these protocols and enhance employee relations.

In this time of unprecedented change and challenge, Ohio employers in every sector will need to stay vigilant for updates on government-mandated protocols for managing the COVID-19 crisis. Businesses in Ohio are advised to consult with counsel to ensure their operations are in compliance with the fast-changing legal landscape.