

Top Ten Considerations for Businesses During the Ebola Crisis



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Businesses around the United States now recognize the potential impact of the Ebola crisis on their operations, reputation, and in some cases, bottom line. Healthcare providers found themselves on the front lines of the discussion from the time the first case was diagnosed in the United States. But in the weeks following, it has become clear that retailers, restaurants, airlines, cruise lines, and even real estate interests can be affected when a prior patron or customer is connected to the outbreak – either directly as someone diagnosed with Ebola or indirectly by coming into contact with someone diagnosed with the disease.

While the related topics and potential pitfalls continue to grow in complexity as the crisis unfolds, there are several basic considerations for businesses in varied industries. BakerHostetler's attorneys are seasoned in advising clients on emergency response, liability, employee issues (including policies and benefits), privacy/information security, patient care, regulatory reporting, infectious disease control, waste disposal, and contractual agreements – experience that we have coalesced into a cross-functional team to address Ebola-related issues for our clients. Below are ten key points for businesses to consider now:

- 1** Determine employee compensation when a business is closed or otherwise affected by a direct or indirect affiliation with an Ebola patient. Also handle development of compensation incentives and premiums for healthcare employees who will be trained to provide care for diagnosed patients.
- 2** Update infectious disease policies, including notice requirements upon employees who may have been exposed to the disease, work restrictions, and general employment restrictions resulting from outbreaks of highly contagious and/or deadly communicable diseases.
- 3** Evaluate the need for, or effectiveness of, infectious disease control training and preparations such as acquisition of hazardous material suits, contracts for waste disposal and remediation, amassing related medications and supplies, etc.
- 4** Address the stigmatization that may follow if an infectious disease incident occurs at the business or if a patient is thought to have visited the business prior to diagnosis. That may include deciding on appropriate measures to clean and prepare facilities affected directly or indirectly by Ebola – and to reassure various audiences of the business' continued safety.
- 5** Determine the need to bring in additional experts, report to authorities, and coordinate further activities with regulatory agencies.
- 6** Whether directly or indirectly affected by concerns about Ebola, maintain control of the public discourse involving the business through media relations, outreach to stakeholders or communications with patient/patron family members while maintaining compliance with privacy laws.
- 7** Review business interruption insurance and other related policies to identify any gaps in coverage.
- 8** Identify the source of potential lawsuits should there be the potential of actual exposure for other patrons/patients and develop a strategy to minimize the likelihood that a suit alleging the business' liability would be successful.
- 9** Navigate media and information-sharing issues related to patients or patrons – including what detail the business or facility can disclose in situations when authorization is required (such as in the case of healthcare entities and state/federal privacy laws).
- 10** Evaluate whether employer health plans do or should include an infectious disease-ready hospital within the network to provide care for employees who may need to be evaluated for possible exposure either at the business or through outside interactions.