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Question of the Day: Minnesota Preparedness Plan Requirements

Legal Update

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Question

What are the requirements for a Minnesota “Preparedness Plan” in order to reopen a business or continue operating a critical business?

Answer

On June 5, 2020, Governor Tim Walz issued Executive Order 20-74, which, among other things, required nearly every business, including critical businesses, to establish and implement a COVID-19 “Preparedness Plan” by June 29, 2020, in order to remain open, or no later than the date the business decides to reopen if not already open. If your business does not yet have a Preparedness Plan, now is the time to implement one!

Each Preparedness Plan must provide for the business’ implementation of guidance for its specific industry or, if there is no specific guidance, general guidance for all businesses, as well as Minnesota OSHA standards and MDH and CDC guidelines in its workplace. The various requirements are set forth in guidance available on the Stay Safe Minnesota website. The Minnesota Department of Labor and Industry provided updated guidance and templates on the Stay Safe Minnesota website on June 15, 2020.

In short, **every** plan must address policies, protocols and precautions being taken in the following areas:

- require work from home whenever possible;
- ensure that sick workers stay home;
- social distancing;
- worker hygiene and source control;
- cleaning, disinfection and ventilation protocols; and

Question of the Day: Minnesota Preparedness Plan Requirements

- communications and training practices and protocols.

Furthermore, businesses that have all or some of their operations that fall within particular industries must include additional protections and protocols provided in their specific industry guidance that are applicable to their business. Some of the industry-specific guidance includes restaurant and bar businesses, personal care and salon businesses, places of worship, retail businesses, entertainment businesses, health care facilities, schools and child care, construction, manufacturing, and gyms/studios/fitness centers.

If you fall within one of these industries, you need to review the industry-specific guidance to determine if you also need to include the following:

- additional protections and protocols for customers, clients, guests and visitors;
- additional protections and protocols for personal protective equipment (PPE);
- additional protections and protocol for access and assignment;
- additional protections and protocol for sanitation and hygiene;
- additional protections and protocols for work clothes and handwashing;
- additional protections and protocol for distancing and barriers;
- additional protections and protocols for managing occupancy;
- additional protocols to limit face-to-face interaction; and
- additional protections for receiving or exchanging payment.

When determining what protections and protocols are mandated for your business, use the following guidelines – if the guidance includes the terms “ensure,” “prohibit” or “must” – these words mean the action is **mandatory**. If the guidance uses terms such as “encourage” or “consider,” then those actions are not required but recommended.

Note that if your Preparedness Plan was drafted and implemented in May – based on the earlier template provided by Minnesota DLI – you may need to update your Plan to incorporate additional provisions that are found in the June 15, 2020, updated template. Additionally, the industry specific guidance and requirements were not issued until June. Therefore, if you fall within one of the designated industries, your plan must meet the requirements specific to your industry and your plan should be updated accordingly.

Finally, simply drafting a Preparedness Plan is not enough. Businesses must identify a senior management member that will be responsible for signing and certifying the plan, affirming their commitment to implement and follow the plan. Businesses must also take proactive steps to disseminate the plan in writing to all workers, physically or electronically post the plan for workers to review, and provide training to workers on the contents of the plan and required procedures so that all workers understand and are able to perform the precautions necessary to protect themselves and their

Question of the Day: Minnesota Preparedness Plan Requirements

coworkers.

Takeaway

The requirements for Preparedness Plans under Executive Order 20-74 can be difficult to follow and implement. It is not always clear what guidance applies to a particular business. And even then, the guidance is not always clear on what requirements are mandatory and what parts of the guidance are merely suggestions. To complicate matters further, the Minnesota DLI published its updated guidance for these plans with little notice and time for businesses to develop compliant plans.

If you need help drafting, reviewing or implementing a Preparedness Plan for your business, contact your Fredrikson & Byron Employment & Labor attorney.

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