



## **Gallagher Report: Responding to Coronavirus (COVID-19)**

As news headlines about the coronavirus (COVID-19) disease continue to increase, so has concern over its potential to affect employee welfare, disrupt global supply chains and slow business operations. Gallagher's experts are here to support you in the development and implementation of risk management policies and procedures during a pandemic.

In case of an increased threat in the U.S., the CDC is operationalizing its protection and preparedness plans in communities across the country. As a business leader, you too should take added measures to review key insurance policies and business continuity plans.

### **INSURANCE POLICIES THAT MAY RESPOND**

While specific policies for business loss due to a pandemic are uncommon, you should check with your insurance broker immediately to confirm what key coverages will be provided in a specific event.

#### **Workers' Compensation Policy**

Compensability for workers compensation will truly come down to whether or not the disease/illness is considered occupational. In order for it to be compensable, the disease would have to be contracted during the course of employment and due to conditions specific to the employees work. Various statutory intricacies will also come into play depending the particular state where your business operates. For example, healthcare workers, who find themselves interacting with ill people, are more likely to have workers' compensation compensability.

#### **General Liability Insurance**

General liability policies provide coverage for injury to persons (other than your employees) and damage to property of a third party for which you are legally liable. Liability for such injury or damage involving COVID-19 or a similar health emergency will arise chiefly out of a failure to protect others and their property against exposure to infection. Many general liability policies have exclusions that could preclude coverage for this kind of infection. Careful examination of the policy's coverage terms, conditions and exclusions will be necessary to determine if such a limitation applies to you. Additionally, Umbrella and/or Excess Liability policies may contain a communicable disease exclusion.

#### **Property/Business Interruption**

Standard property policies require that physical loss or damage to covered property, by an insured peril, occur for coverage to trigger. Contamination of property at an insured's location may constitute physical loss or damage, but policy exclusions for pathogenic organisms, viruses and disease or illness causing agents may restrict or exclude coverage. For business interruption coverage to trigger, the loss or damage must generally occur on the insured's premise. Business interruption extensions such as contingent business income, ingress/egress, loss of attraction and denial of access are subject to the same coverage parameters outlined above, although not necessarily occurring at an insured location.

Limited available coverage for communicable or infectious disease is offered on some property forms. This coverage is likely sub-limited and narrow in its coverage scope, especially outside of an insured location. Covered costs include cleanup, removal and disposal of contaminated property. Any business interruption extension will likely not apply to locations that are not owned or operated by the insured.

#### **Environmental Insurance**

In addition to the Property policy, consideration should be given to the Environmental Liability policy. Currently environmental liability policy forms do not identify COVID-19 as a pollutant and do not specifically exclude it by name. Some policies, however, do contain communicable disease exclusions that preclude coverage when a disease is transmitted by personal contact. However, they do not exclude transmission of the disease caused by the environment within the insured site.

If a “Pollution Event” has taken place, or a “Pollution Condition” exists, coverage may apply in cases of negligence or strict liability. In turn negligence can be the failure to prevent the spread of the disease on your premises, or the coverage may be triggered by strict liability as the result of a “Pollution Event” that has taken place, or a “Pollution Condition” under environmental laws.

### **Management Liability**

Management Liability insurance is being evaluated on a case-by-case basis as the COVID-19 threat is monitored. Many companies have made disclosures that COVID-19 has caused disruptions in production, staffing and sales. Accordingly, we may begin seeing COVID-19-related D&O claims, specifically securities class actions by shareholders to the extent that these disclosures cause a stock drop\*. Such disclosures may also bring about derivative action litigation, whereby plaintiff shareholders sue on behalf of the company against the directors and officers alleging that executive mismanagement of the situation cost the company significant revenues.

It remains to be seen whether employment practices liability policies are impacted. Employees impacted by quarantine and unable to work may be seeking accommodations or leaves of absence. It is unclear whether quarantine gives rise to obligations under FMLA or ADA.

*\*This does not apply to nonprofit organizations.*

### **Travel Accident Policy**

The [United States State Department](#) has increased the level of risk for travel to certain countries and continues to update its advisories as they monitor the threat. Some countries have instituted preventive measures for travelers that want to visit their countries, are requiring medical clearance before the traveler is permitted to enter the country or are instituting other measures, including a health quarantine.

As of early February, carriers and underwriters are no longer including the threat of coronavirus as a covered trigger for evacuation, cancellation and interruption benefits. Even the “cancel-for-any-reason” policies available in the market have excluded the coronavirus from their covered triggers. These policies will only cover a traveler who actually contracts the virus. Therefore, it is critical that you discuss this with your risk management team to determine the potential threat before you or your employees decide to travel.

24/7 travel assistance services are still available for travelers around globe to assist in booking passage home at the cost of the traveler.

### **ACTIONS YOU CAN TAKE NOW**

Gallagher’s National Risk Control team advises you on five key ways your organization can prepare for a pandemic and help ensure the safety of your employees.

#### **1: Review your business continuity plan and determine alternative business plans**

Check your business continuity and pandemic procedures to ensure your organization is prepared if your employees become ill. Your continuity plan should include the measures you will take if an employee is impacted, how to accommodate employees who don’t feel safe working in a communal space or whose home life may be impacted if schools or childcare centers are closed. It should also include a plan to address any employee who is at risk of infection while traveling in quarantined areas.

Identify critical people, process and technologies that have the biggest negative impact on your business and create recovery strategies to minimize any disruption. This could include outsourcing, allowing more flexible teleworking options or developing commuting alternatives for your employees if public transportation is not available. Work with your supply chain partners to ensure you have a back-up plan should there be a breakdown along the line. This may involve increasing inventory levels of high volume products/services.



## **2: Communicate with your employees, vendors, partners and customers**

Share information and official updates from organizations like the WHO or the CDC with your employees so they understand the potential threats. Encourage them to speak up if they start to develop symptoms and reassure them that self-reporting is safe. Ask them to quarantine themselves if they have been to areas where a virus has been reported.

## **3: Educate your employees**

Be transparent with internal and external stakeholders about how you're handling the pandemic at the workplace. Educate your employees on your continuity plans and procedures so they know what to expect if your company is impacted. Issue travel advisories and make sure they understand the resources available to protect them. Ongoing communication about the pandemic will help your employees feel informed and safe.

## **4: Prepare your physical workspace**

Review your physical workplace for potential points of transmission of infection like shared desks and telephones, conference rooms and common areas. Increase the frequency of office cleanings, provide more personal hygiene products like hand gel and/or masks for your employees, review your work-from-home policy and post educational signs on how employees can protect themselves around the office.

## **5: Contact your local hospitals and officials**

Communicate with the Emergency Preparedness Coordinator at your local hospital to understand what resources are available to you and your employees and to ensure there is a plan in place in case of an emergency. You can also contact the Infectious and Emerging Diseases at the Department of Health in your region to organize a response in the event of an emergency.

## **WHAT THIS MEANS FOR YOUR BUSINESS**

This is an evolving risk that Gallagher continues to monitor through the CDC and WHO. Please visit our [Pandemic Preparedness page](#) for the latest information or contact your Gallagher broker.