



Contact Tracing in the Age of COVID-19

As Connecticut commences its phased reopening plan, business owners should be aware of contact tracing efforts designed to prevent further spread of the COVID-19 virus. The Centers for Disease Control (“CDC”) has explained that contact tracing is a disease control measure that identifies and records people who are carrying infectious diseases and people who may have been exposed to such infectious diseases. Typically, contract tracing is accomplished by public health workers interviewing patients to help them recall everyone with whom they had close contact during the period they may have been infectious. Those close contacts are then provided with information and support to evaluate their risk, to monitor themselves for symptoms, and to prevent spreading to others. The current guidance from the CDC concerning contact tracing is located [here](#).

A summary of the most relevant contact tracing practices is as follows:

- Contact tracing is to be conducted for close contacts (i.e. any individual within 6 feet of an infected person for at least 15 minutes) of individuals with laboratory-confirmed or probable COVID-19.
- Wherever possible, case investigation and contact tracing should be performed remotely to reduce the risk of spreading COVID-19. In-person meetings should only occur after remote options have been exhausted.
- Testing should be performed on all close contacts of confirmed or probable COVID-19-infected individuals.
- Individuals who test positive for COVID-19, whether or not they are symptomatic, should be managed as a confirmed COVID-19 case.
- Asymptomatic contacts who test negative for COVID-19 should self-quarantine for 14 days from their last exposure to the individual with confirmed or probable COVID-19.
- If testing is not available, symptomatic close contacts should self-isolate and be managed as a probable COVID-19 case.
- If testing is not available, asymptomatic close contacts should self-quarantine and be monitored for a period of 14 days following their last exposure, with linkage to clinical care for those who become symptomatic.

Connecticut has launched ContaCT, a statewide voluntary and confidential software system for contact tracing and monitoring the health of those who may have been exposed to COVID-19.

Under the ContaCT system, health department staff and volunteers collect names and locations of recent contacts from people who test positive for COVID-19 and then reach out to those who may have been exposed. This is done primarily through texting, email, and other remote communications. ContaCT collects basic information regarding symptoms, the individual's ability to self-isolate and the individual's access to basic needs (i.e. food, housing, healthcare), and based on that information, connects the individual to essential resources.

In its reopening plan, Connecticut has also indicated that all businesses reopening in all sectors are required to maintain a log of employees on the premises to support contact tracing efforts. The employee log will help identify close contacts in the event that an individual tests positive for COVID-19. This requirement is included in the State's guidelines for all sectors, which can be found [here](#).

Additionally, the rules require an employer to perform daily health checks on its employees by asking employees if they are experiencing any of the symptoms of COVID-19. In the event that an employee tests positive for COVID-19, they are required to inform their employer and follow state testing and contact tracing protocols.

While ContaCT will be performing its own contact tracing, employers are encouraged to do their part if and when an employee or customer who had recently been in the workplace has tested positive for COVID-19. If an employee or customer has been diagnosed with COVID-19, supervisors may be interviewed and a business may be asked to provide security footage or business logs. Employees and third parties who were in close contact with the individual up to 48 hours before the individual became symptomatic should be notified as soon as possible, and those employees should be sent home to self-quarantine for 14 days in order to monitor their possible infection.

Additionally, updated OSHA guidelines which went into effect on May 26 require employers to conduct investigations into the cause of an infected employee's COVID-19, specifically to determine whether the infection was work-related and subject to OSHA's recordkeeping requirements. Recognizing the potential onus that such investigations could place on the employer, OSHA explains that employers "should not be expected to undertake expensive medical inquiries" and that in most circumstances, it is sufficient for employers to ask the employee how they think they were infected with COVID-19, discuss work and out-of-work activities "while respecting employee privacy," and review the work environment. OSHA also indicated that it will be exercising its enforcement discretion in these matters.

Notwithstanding the above requirements and recommendations, businesses should also maintain confidentiality and not identify the COVID-19-positive employee. The CDC recommends that in order to protect an employee's privacy, contacts should be informed only that they may have been exposed to an individual with COVID-19. The name of the infected individual should not be shared with contacts. Similarly, employers should conduct interviews with employees about their COVID-19 status in a manner that protects confidentiality (e.g. in a location where conversations cannot be overheard). The ADA and state medical privacy laws generally prohibit an employer from disclosing the confidential medical information of its employees to other employees.

As is the case with any other health-related data, employee medical data related to COVID-19 is protected health information and must be stored confidentially and separately from the employee's personnel file.

Further, if an employer plans on using technology to personally monitor data related to their employees' exposure to COVID-19, the Connecticut Electronic Monitoring Act (Conn. Gen. Stat. § 31-48d) requires that employers give prior written notice to all employees who may be affected, informing them of the types of monitoring which may occur.

Employers should also be aware that proposed federal legislation could impact the use of a contact tracing application to monitor their employees for COVID-19 exposure. U.S. Senate lawmakers have proposed a bill to regulate all contact tracing applications. The bill, entitled the Exposure Notification Privacy Act, would protect individuals unwilling to use a contact tracing application and would prohibit the use of any data collected to be used for commercial purposes.

For further information on the implications of COVID-19 on healthcare, or other healthcare related questions, please contact [Jennifer Groves Fusco](mailto:jfusco@uks.com) at (203) 786-8316 or jfusco@uks.com.

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