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*E-NEWSLETTER*

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## Crisis Management and Business Continuity E-News

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### AVIAN FLU CONCERNS HAVE BROAD IMPLICATIONS FOR BUSINESS

A business should not take lightly the global concerns of a potential avian flu pandemic. Avian flu, caused by the H5N1 strain of the Influenza A virus, is particularly worrisome because of its ability to infect a wide range of hosts, including birds and humans, and because of its high mortality rate. Public health officials and medical professionals are uncertain about the effectiveness and anticipated shortages of a bird flu vaccine and antivirals. Because it is widespread among birds and is capable of mutating, the virus is cause for concern.

The federal government acknowledges, however, that avian flu is just one threat among a number of similar contingencies for which it must plan. Secretary of Health and Human Services Michael Leavitt, the Bush administration's point person on the subject, points out that the plan the government is developing does not solely target the H5N1 virus, but rather addresses flu pandemic readiness as a whole.

Many state governments are adopting their own measures to protect against and manage virus outbreaks. Wisconsin, for example, just announced its preparedness plan for a possible bird flu pandemic. The state revised and updated its current pandemic plan (a leader in influenza preparedness, Wisconsin has had a plan in place since 2001) to address new concerns for its agricultural industry, hospital capacities, and state and local abilities to utilize volunteer medical professionals through a registry.

It appears that federal and state government initiatives will not include mandates for businesses to take action. However, the absence of federal or state mandates does not imply that a business should not plan for the possibility of an influenza pandemic, or any type of comparable crisis.

The possibility of an avian flu pandemic poses a number of threats for businesses. For example, widespread absenteeism due to illness will impact employee productivity and in turn affect supply chains. Businesses should be prepared to address these consequences and communicate with employees should a pandemic strike.

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A business should:

- Cross-train employees to handle essential work functions to cover for employees out sick;
- Assess its technology infrastructure to enhance the ability of employees to work from home when they are contagious, limiting the spread of disease in the workplace;
- Re-evaluate its policy on allowing contagious employees to work from home to prevent them from transmitting the disease throughout the workplace;
- Then communicate to employees the company's policy. If the company allows sick employees to work from home in the event of widespread disease, then it should inform employees of this policy to prevent them from showing up at work while ill out of fear of losing wages or being reprimanded;
- Review and consider applying the NFPA 1600, recommended as the business "standard of care," to its crisis management plan, to reduce the risk of potential post-disaster liability. For more information on the NFPA 1600, see our previous newsletter, Crisis Management Standard of Care: What's Expected?

An integrated risk assessment and business continuity plan can address not only the threat of an influenza pandemic, but other potential crises if the plan is comprehensive. The same factors present in a public health emergency, such as a decreased workforce and the heightened need to communicate effectively with employees, customers and suppliers, can arise in a fire, natural disaster or terrorist event. If a business already has a crisis management plan, it should review the plan to assess whether it should make modifications for public health emergencies such as an influenza pandemic.

For more information on how to protect your business in the event of an avian flu pandemic or other crisis, please contact Jeff Clark or another member of the firm's Crisis Management and Business Continuity Team.

The Crisis Management and Business Continuity E-Newsletter is an electronic publication of the law firm of Reinhart Boerner Van Deuren s.c. and is prepared by attorneys on the firm's Crisis Management and Business Continuity Team. This publication is intended to afford timely notice to our clients and friends of current events in crisis management and business continuity and to provide general information about crisis management and business continuity issues. It is not intended, nor should it be used, as a substitute for specific legal advice regarding particular factual situations.



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