

# Luper & Neidenthal Logan

ATTORNEYS

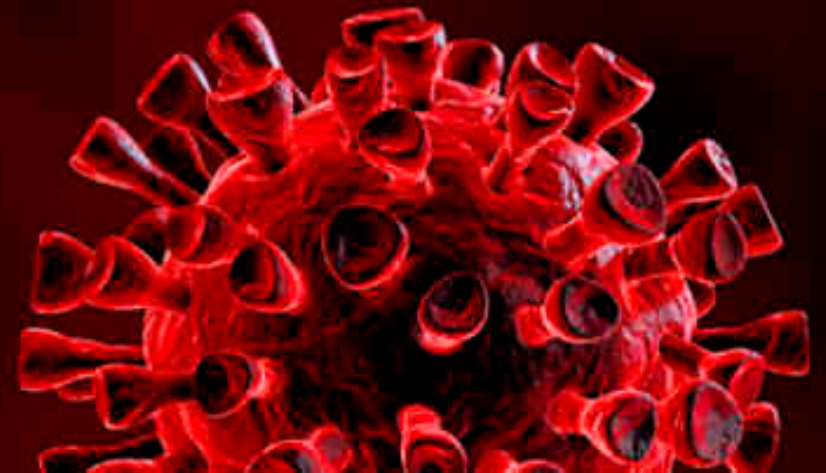
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# COVID-19 — CURRENT LANDSCAPE

- March 14, 2020 – Executive Order Declaring State of Emergency
  - An additional 45 Executive Orders/Health Director's Orders in Ohio since March 14, 2020
- Most Recent Pertinent Order: April 30, 2020 – Director's Stay Safe Ohio Order
  - Reopens businesses, with limited exceptions and sets forth expected standards
- CDC "Interim Guidance for Businesses and Employers Responding to Coronavirus Disease"
  - View also: OSHA/HHS Guidance: "Guidance on Preparing Workplaces for Covid-19"
- CDC "What Long-haul Truck Drivers Need to Know about COVID-19"
  - View at: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/long-haul-truck-drivers-COVID-19.pdf>
- Multiple terminals/locations out of state?
  - View other state orders at: <https://web.csg.org/covid19/executive-orders/>



# FACE MASKS — WHAT'S REQUIRED OF MY BUSINESS?

- Must allow (i.e. no need to require) all customers, patrons, visitors, contractors, vendors, and similar individuals to use facial coverings, except under limited circumstances.
- Must require all employees to wear facial coverings, except for one of the following reasons:
  - Facial coverings in work setting prohibited by other law or regulation;
  - Facial coverings are in violation of documented industry standards;
  - Facial coverings are not advisable for health reasons;
  - Facial coverings are in violation of the business's documented safety policies;
  - Facial coverings are not required when the employee works alone in an assigned work area; or
  - There is a functional (practical) reason for an employee not to wear a facial covering in the workplace
- Be prepared to provide written justification, upon request, explaining why an employee is not required to wear a facial covering.

Source: Director's Stay Safe Ohio Order, April 30, 2020





# SOCIAL DISTANCING — JUST DO IT

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## What's Expected?

- Designate Six Foot Distances
  - Tape, Signage
  - Restrict access to tight spaces (copy rooms, bathrooms, kitchen/break room)
- Hand Sanitizer and Sanitizing Products
  - Readily available for employees and guests
  - Make your own, if necessary
- Separate operating hours for vulnerable populations, as applicable
- Encourage Work-From-Home, as feasible
- Internal Written Policy/Procedure

# SICK POLICIES — A GOOD TIME TO UPDATE THEM

- Sick Employees
  - Send them home. If needed, restrict their access to the business until recovered (deactivate key-fob, etc.)
- Guidelines:
  - Not tested for COVID-19: Stay home until at least three full days have passed since recovery (no fever without use of fever-reducing medications AND at least 10 days have passed since onset of symptoms)
  - Tested for COVID-19: Stay home until there is no fever without use of fever-reducing medications AND improvement in symptoms AND negative COVID-19 results on at least two consecutive lab tests collected 24-hours apart



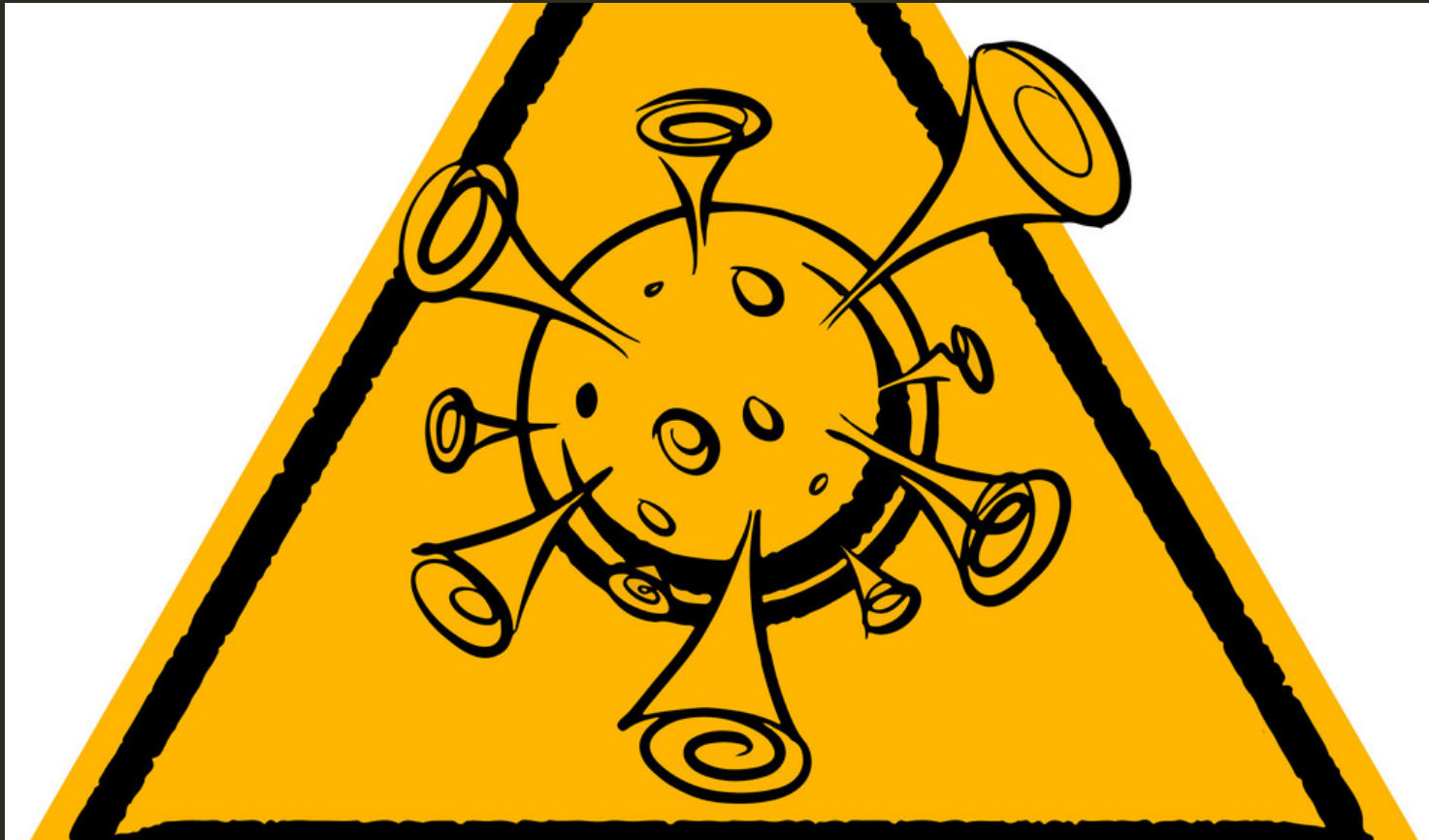
# WORK FROM HOME NOT PRACTICAL? — STAGGER HOURS



# PROTECTING DRIVERS

- Review CDC Guidance – “What Long-haul Truck Drivers Need to know about COVID-19”
- Educate
  - How COVID-19 spreads, best hygiene tips, handwashing, etc.
- Provide drivers with all PPE (including vests, safety glasses, hard hats) that they might need while on the road so that driver does not need to borrow PPE from shippers.
- Provide alcohol-based hand sanitizers containing at least 60% alcohol for truck cabs.
- Avoid ride-alongs or team driving. When team driving necessary, consider removable barrier that does not obstruct the task of driving and/or to separate sleeper berth.
- Work with shippers to encourage contactless deliveries.
- Implement virtual training methods.
- Make a plan – what to do if driver becomes sick on the road, where to stop, where and how to seek medical advice and treatment, and alternative plans for freight delivery. Designate an employer-contact to notify in the event driver becomes sick.
  - DO NOT encourage a driver to make a delivery prior to seeking medical attention.
- Consider having drivers keep alternative records of who they come in contact with and when – to enable contact-tracing.





# PROCEED WITH CAUTION

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- EEOC Supplemental Guidance
- Americans with Disabilities Act
- Be mindful of unintended audiences on virtual meetings



# EEOC AND ADA

Employers may screen employees who enter the workplace, but may not exclude an employee from the workplace solely because the employee has a medical condition that puts them at a higher risk for severe illness due to COVID-19.

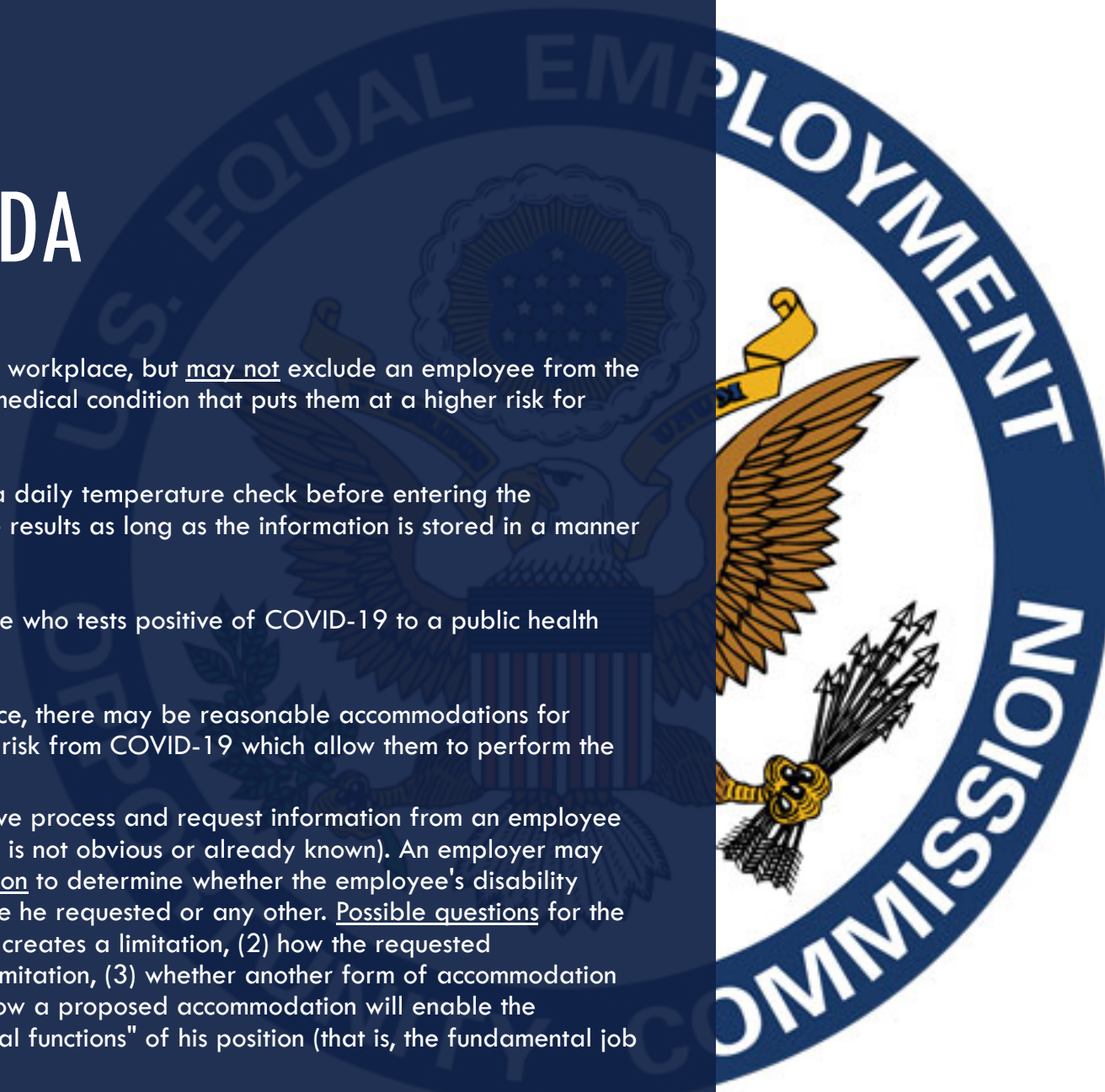
If an employer requires all employees to have a daily temperature check before entering the workplace, the employer may keep a log of the results as long as the information is stored in a manner that maintains confidentiality.

Employer may disclose the name of an employee who tests positive of COVID-19 to a public health agency. No requirement to do so.

If a job may only be performed at the workplace, there may be reasonable accommodations for individuals with disabilities who are at a higher risk from COVID-19 which allow them to perform the job.

An employer may still engage in the interactive process and request information from an employee about why an accommodation is needed (if it is not obvious or already known). An employer may ask questions or request medical documentation to determine whether the employee's disability necessitates an accommodation, either the one he requested or any other. Possible questions for the employee may include: (1) how the disability creates a limitation, (2) how the requested accommodation will effectively address the limitation, (3) whether another form of accommodation could effectively address the issue, and (4) how a proposed accommodation will enable the employee to continue performing the "essential functions" of his position (that is, the fundamental job duties).

If accommodations are requested, we recommend consulting your employment attorneys





ADA prohibits storing of medical information in an employee or driver's personnel or driver qualification file.

Employers should be careful not to disclose confidential / possibly protected employee health information to others.

# PERSONNEL FILES / DISCLOSURE TO OTHERS

# HAVE A PLAN

Be ready.

Develop a team.

Designate point people for:

Employees, Drivers, Media.

Be prepared to temporarily shift all operations to remote work.

Have a “disaster”/ industrial clean up crew in place for expedited cleaning of office.

Make the investments now.

## Stages of crisis management



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