Employer strategies for managing monkeypox risks in the workplace

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After having managed through COVID-19, employers are rightly thinking, "*another pandemic?*". Employers have built an internal resiliency from COVID-19 and can apply many of the lessons learned to monkeypox. As we saw from COVID-19, practical steps taken early on by employers in a pandemic can be beneficial for all stakeholders and employers often bear the brunt of the hard decisions.

Current status of the monkeypox outbreak

On July 23, 2022, the World Health Organization (WHO) Director General declared that the global monkeypox outbreak represents a public health emergency of international concern (PHEIC). A PHEIC is defined in the WHO International Health Regulations as an extraordinary event, which is determined as provided in those regulations, to constitute a public health risk to other states through the international spread of disease and to potentially require a coordinated international response. The WHO assesses that the risk of monkeypox is **moderate** globally and in all regions, except in the European region where the WHO assesses the risk as **high**.

On the same day, the Public Health Agency of Canada (PHAC) correspondingly issued an update on monkeypox in Canada. PHAC noted that monkeypox cases are "expected to continue to rise [in Canada] as the outbreak evolves", with 681 confirmed cases across five provinces as of July 23. PHAC also noted that it has seen a doubling of cases since July 1, the first case in a female and the first cases in Saskatchewan.

What is Monkeypox, how does it spread & how long can it spread?

The WHO notes that monkeypox is a viral zoonosis (a virus transmitted to human from animals) with symptoms similar to those seen in the past in smallpox patients, although it is clinically less severe.

The Centers for Disease Control and Prevention (CDC) summarizes that monkeypox spreads in different ways and can spread from person-to-person through:

- direct contact with the infectious rash, scabs, or body fluids;
- respiratory secretions during prolonged, face-to-face contact, or during intimate physical contact, such as kissing, cuddling, or sex;
- touching items (such as clothing or linens) that previously touched the infectious rash or body fluids; and
- pregnant people can spread the virus to their fetus through the placenta.

The CDC also notes that it is possible for people to get monkeypox from infected animals, either by being scratched or bitten by the animal or by preparing or eating meat or using products from an infected animal.

The CDC points out that monkeypox can spread from the time symptoms start until the rash has fully healed and a fresh layer of skin has formed, with the illness typically lasting 2-4 weeks. The WHO notes that symptoms usually start to show between 6-13 days after contact but it can take up to 21 days. PHAC advises that symptoms include a rash that can be painful and could affect any part of the body (including mouth, genitals, perianal, face, arms and legs, feet and hands), with the rash usually lasting between 14 to 28 days and finally forming scabs that later fall off. The rash can be accompanied by general symptoms such as fever, chills, swollen lymph notes, headache, muscle pain, joint pain, back pain and exhaustion. PHAC warns that a person is contagious from the onset of first symptoms until the scabs have fallen off on their own and the skin is healed. The WHO notes that the extent to which asymptomatic infection may occur is unknown.

The WHO notes that groups at the highest risk of severe disease from monkeypox include pregnant women, young children, and individuals who are immunocompromised. The WHO also advises that people at potentially heightened risk of infection include health-care workers, commercial sex workers, and household members and other close contacts of active cases, such as sexual partners.

The WHO indicates that the case fatality ratio of monkeypox has historically ranged from zero to 11 per cent in the general population and has been higher among young children and that, in recent times, the case fatality ratio has been around 3–6 per cent.

It is important not to stigmatize any group with respect to monkeypox. It is **not** a disease that is limited to any group or setting.

Vaccination

For employers, the limited supply of vaccines and likely limited supply of therapeutics, at least for the near term, may very well mean that it will have to manage situations where employees are dealing with monkeypox, either themselves or someone in their household. Employers are not new to this as they have managed through COVID-19, but monkeypox is not the same and will have some unique considerations.

Unlike the beginning of the COVID-19 pandemic, at this early point in time there is at least one Health-Canada approved vaccine that the National Advisory on Immunization has released recommendations for immunization against monkeypox. The Government of Canada has deployed over 70,000 doses of the vaccine, is providing treatments for

case management and is working to secure future national supplies of both vaccines and therapeutics.

Provincial and territorial public health authorities have started vaccinating populations currently deemed to be at higher risk, although vaccination is not available to the broader public yet. Supplies of the vaccine are limited at the moment and governments are appropriately prioritizing who can get the vaccine.

Situation management steps for Canadian employers

Here are three steps for employers before there are more monkeypox cases in Canada as warned by PHAC, including potentially in employees or employees' family members. Many of these build upon steps that employers took to manage through COVID-19.

1. Consider potential employment issues (including business continuity) that may arise and legal considerations. Employment-related business issues to consider include:

a. *Implement preventative steps now*. Employers can take a number of preventative steps, including:
   i. reminding employees of respiratory etiquette and hand hygiene, including covering coughs and sneezes with the bend of one's arm or wearing a well-fitted mask;
   ii. encouraging sick employees to stay home, and special consideration should be given to the lengthy timelines related to monkeypox symptoms and infectiousness;
   iii. encouraging employees to avoid close physical contact with someone who is infected with or may have been exposed to monkeypox;
   iv. perform routine environmental cleaning, including cleaning and disinfecting high-touch surfaces and objects;
   v. advise employees before travelling to take steps such as reporting their travel locations to their employer;
   vi. consider limiting business travel to certain countries or regions;
   vii. encourage employees to inform employers if they are undergoing testing for monkeypox, particularly if there has been contact with others at the workplace;
   viii. encourage employees to inform employers if they have a sick family member at home with monkeypox;
   ix. inform employees that some people may be at higher risk for severe illness;
   x. cross-train employees to perform essential functions in case of workplace absences;
   xi. remind employees of cyber risk related to monkeypox, including not becoming a victim of monkeypox phishing email attacks;
   xii. consider whether flexible work hours (*e.g.*, staggered start times and/or shifts), remote work or other off-site arrangements would be acceptable to the business;
   xiii. reach out to key suppliers to ensure that the business will have uninterrupted goods and services during any outbreak;
   xiv. create or update human resources policies, including statutory and non-statutory leaves of absence policies and legal requirements, vaccination

policies, business continuity plans and pandemic response plans, including who in the chain of command can make a decision to close business locations; and

xv. assess whether the business has and will have sufficient inventory and supplies, including from a health and safety perspective (*e.g.*, tissues, no-touch disposal receptacles, soap and water, surface cleaning supplies, disposal wipes and hand sanitizers).

b. *If an employee shows up ill*. Employees who show up in the workplace appearing to have symptoms should be separated from other employees and/or, if appropriate, sent home without delay.
c. *If an employee refuses to work for safety reasons and/or employee informs employer that s/he or a family member at home is undergoing testing for monkeypox*. This will be a case-by-case determination. In these cases, key legal considerations for employers will be occupational health and safety legislation, employment standards legislation and public health guidance from reputable sources.
d. *Significant absences in the workforce*. Businesses should consider how they would deal with a significant number of absences, including for reasons of voluntary self-isolation or mandatory quarantine. Options include asking employees to work overtime, hiring temporary employees with appropriate employment contracts to mitigate risk, and engaging temporary help agencies for temporary workers.

2. Assess the nature of the business. It is important to have an objective assessment of the business and any unique risk factors that may be present in the environment. For example, retail businesses with a large amount of touch surfaces and face-to-face contact with members of the public will have somewhat different considerations than businesses that only employ workers that work remotely. Long-term care homes, retirement homes and airlines will also have unique considerations. Depending on the nature of one's business, certain steps will be necessary and/or appropriate to take that may not necessarily be necessary or appropriate to take for a business in a different sector. Again, context matters. Depending on the nature of the business, the monkeypox situation can have broader business impacts, including business transactions, contracts with other parties and supply chains.

3. Locate reputable sources for information and advice. As we saw with COVID-19, it is essential to base actions on evidence and facts. Employers should be cautious before relying on non-government sources, as misinformation abounds on the internet. Reputable sources include medical expert organizations such as:

- Public Health Agency of Canada
- CDC
- WHO

Leaders including executives, legal and human resources heads, should consider taking these concrete steps now. As we saw with COVID-19, it is better to be overprepared than underprepared.

For employment law advice with respect to workplace legal issues arising from monkeypox, our Labour and Employment Group is available to assist Canadian employers navigate through the monkeypox pandemic.

By

James Fu

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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