

CLIENT UPDATE: OSHA Issues New COVID-19 Recordkeeping Requirements

April 13, 2020

On Friday April 10, 2020, the Department of Labor's Occupational Safety and Health Administration (OSHA) issued new guidance regarding an employer's duty to record and report cases of COVID-19. OSHA's new guidance specifies recording requirements based on industry type, maintaining current recording requirements for those in correctional institutions, healthcare and emergency response organizations, but narrowing the requirements for other industries.

Correctional Institutions, Healthcare and Emergency Response Organizations

Unfortunately, employees in these fields are more likely to be exposed to COVID-19 in their workplaces. Therefore, employers in these industries must continue to record COVID-19 cases when: 1) the case is confirmed by health care officials, 2) the case is "work-related," and 3) results in death, days away from work, restricted work, or medical treatment. COVID-19 is "work-related" when the illness results from events or exposures in the work environment, including when exposure in the work environment "either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness." This is a fact-specific analysis, and employers should consult with counsel before recording a case of COVID-19.

Other Industries

With community transmission so widespread, employers in other industries may have difficulty determining if an employee's confirmed COVID-19 case is truly "work-related." Under OSHA's new guidance, employers in other industries while there is ongoing community transmission must record COVID-19 cases only when: 1) there is objective evidence that a COVID-19 case may be work-related, and 2) the evidence was reasonably available to the employer.

OSHA's guidance is available [here](#), and is in effect until further notice. For more information, please contact Peter Lowe at plowe@brannlaw.com or 207-754-5674, or Dan Stockford at dstockford@brannlaw.com or 207-607-3290.