



ETHICS webinar

28 April 2020

ETHICS WEBINAR 2 on Covid-19: Employee Safety Issues & Employee Volunteers





Webinar objective

- e This webinar is the second edition of a series of webinar organised by ETHICS.
- e The objective of this webinar is to allow healthcare compliance officers to share and discuss challenges brought about by the COVID-19 crisis. It addresses the impact of COVID-19 on Employee Safety Issues & Employee Volunteering during the pandemic.
- e Note: only personal opinions are expressed during this session



Agenda

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| Intro and welcome | Roeland Van Aelst, ETHICS President |
| How to balance employee safety and the urgent requirements of HCOs, the medical profession and the patient needs ? The Regulatory landscape : Insights on applicable laws and regulations, in countries like France | Cecile Zoro, Counsel in the Department Employment at Clifford Chance |
| "The Compliance Professionals' perspective : How can we help – Which points to consider?" | Sue Egan, Consultant in Corporate Governance, Compliance & Ethics |
| "Company Employees volunteering to work in hospitals during the pandemic" : Corporate policies to establish – questions to address" | Philippa Montgomerie, Senior Director Legal and Compliance EMEA at Medtronic |
| Questions and answers | All, moderated by Arthur Muratyan, ETHICS Secretary General |



COVID-19 EMPLOYEE SAFETY ISSUES

Cécile Zoro

Counsel in the Employment department of Clifford Chance Paris

Simonetta Candela

Partner in the Employment department of Clifford Chance Milan

28 April 2020

BALANCING EMPLOYEE SAFETY DURING THE COVID-19 PANDEMIC WITH HCO AND PATIENT NEEDS - FRANCE

- ❑ The lockdown measures should not lead to a shutdown of the country's economic activity, but to an adjustment of this activity to address the health crisis, while taking the appropriate measures.
- ❑ Regarding the employer's obligations attention must be made regarding the update of the risks assessment single document ("*document unique d'évaluation des risques*") and the reorganization of the work conditions to ensure the safety of the employees.
- ❑ Each workers have responsibility on health and safety and employees having reasonable grounds to believe that their work situation presents a serious and immediate danger for their life or health may refuse to come to their workplace and perform their duties based on their right of withdrawal ("*droit de retrait*").

BALANCING EMPLOYEE SAFETY DURING THE COVID-19 PANDEMIC WITH HCO AND PATIENT NEEDS - FRANCE

The update of the risks assessment single document

- ❑ The purpose of the risks assessment single document is to prevent and protect employees and to anticipate the new risks generated by the COVID-19.
- ❑ A mandatory information and consultation in order to adapt the risks assessment single document and to implement any measure likely to have a significant effect on work conditions is required.
 - ❖ Who must be informed and consulted?
 - ✓ The occupational doctor of the company;
 - ✓ The work council ("*comité social et économique*"), with the support of the health safety and working conditions commission (if any).
 - ❖ The occupational health services are required to support employers in this respect.

BALANCING EMPLOYEE SAFETY DURING THE COVID-19 PANDEMIC WITH HCO AND PATIENT NEEDS - FRANCE

The reorganization of the work conditions

- ❑ Employer must adapt as much as possible the work organization in the company's premises:
(e.g., team rotation, limit meetings to the strict necessary, limit employee gatherings in small spaces -event in catering room-, postpone or cancel not essential travels, implement the general health and safety measures recommended by the French government, enforce measures on social distancing, provide employees with guidance sheets by profession recommended by the French Ministry of labour, etc.)
- ❑ Employer must implement remote working when possible:
 - ❖ this measure is presented as imperative by the French government for all job positions for which it can be implemented;
 - ❖ the employer is entitled to compel the employees to work remotely with no formalism; and
 - ❖ the employer must pay a remote working allowance intended to reimburse the costs arising from remote working.
- ❑ *A faute inexcusable* of the employer can be recognized for an employee who is the victim of an accident at work or an occupational disease when said employee or a representative of the work council had reported a risk that has materialized, and the employer has not taken the necessary measures to prevent it.

BALANCING EMPLOYEE SAFETY DURING THE COVID-19 PANDEMIC WITH HCO AND PATIENT NEEDS - FRANCE

- In accordance with the instructions given by the employer, it is the **responsibility of each worker** to take care, in accordance with his training and according to his abilities, of his own health and safety and that of other individuals affected by his actions or omissions at work.
- **The right of withdrawal:**
 - ❑ Employees may refuse to come to work and perform their duties based on their right of withdrawal if they have reasonable grounds to believe that their work situation presents a serious and immediate danger for their life or health.
 - ❖ In such a case, employers cannot sanction the employees or deduct their salary except if the latter abuse of their right.
 - ❖ The right of withdrawal is aimed at a specific work situation and not a general pandemic situation.
 - ❑ Once all relevant health and safety regulations and measures have been set up and the work council consulted, the right of withdrawal cannot in principle be exercised.
 - ❖ In case of an unjustified refusal to work, employees can be subject to disciplinary sanctions, including redundancy.
 - ❖ Before any sanction, it is recommended to request the employee to return to his or her position.
 - ❑ *A faute inexcusable* of the employer can be recognized for an employee who is the victim of an accident at work or an occupational disease when said employee or a representative of the work council had reported a risk that has materialized, and the employer has not taken the necessary measures to prevent it.



THE COMPLIANCE PROFESSIONALS' PERSPECTIVE: HOW CAN WE HELP – WHICH POINTS TO CONSIDER?

By Sue Egan, Consultant in Corporate Governance, Compliance and Ethics



Pressure Points for Individuals

- ☉ How can I protect my own physical health and mental wellbeing?
- ☉ How can I protect my family's physical health and mental wellbeing?
- ☉ Do I have enough food (and toilet paper!) at home?
- ☉ How can I safely get more when needed?
- ☉ Is my job secure?
- ☉ Is my pay secure?
- ☉ Will I get my bonus payment?
- ☉ What do I need to do to get my bonus payment?



What Can We Do To Help?

- ☺ Work with leaders, HR, legal and Health & Safety colleagues to set out guidance to implement local government advice
- ☺ Communicate the clear expectations of the company
- ☺ Ensure availability of employee helplines
- ☺ Prioritise helpline reports related to COVID-19
- ☺ Do not start any new initiatives (except those needed for COVID-19)
- ☺ Take the initiative on bonus payments (with HR and leaders) to encourage appropriate behaviours
- ☺ Lead our teams
- ☺ Be available as Trusted Advisors*
- ☺ Be human!



Effective Safety Measures

- Ensure that everyone who could work from home is able to do so – and does!
- When on-site working is necessary, follow simple rules:
 - Stagger start and end times so not everyone is coming in or going out at the same time
 - Stagger break times to reduce numbers in rest areas
 - Decide whether staff must bring all their own food and drinks
 - Ensure all surfaces are cleaned at least daily
 - Increase distances between seats in all areas to 2m or more
 - Provide materials to enable staff to clean their own working areas (including telephones and keyboards) as needed
 - Provide gloves and / or masks depending on local conditions



The Future

- Ⓞ Review what worked and what did not work well
- Ⓞ Understand which relationships could (should?) have been better before, during and after the crisis – and work on these
- Ⓞ Update policies and procedures as necessary
- Ⓞ Improve training and communication mechanisms where needed
- Ⓞ Review employee helpline effectiveness and implement improvements

28 APRIL 2020

ETHICS COVID 19 WEBINAR

COMPANY EMPLOYEES VOLUNTEERING TO WORK IN HOSPITALS DURING THE PANDEMIC

PRESENTED BY
PHILIPPA MONTGOMERIE
SENIOR DIRECTOR
LEGAL & COMPLIANCE EMEA
MEDTRONIC



Medtronic
Further, Together

EMPLOYEE VOLUNTEERING IN HOSPITALS PROCEDURE

SUMMARY GUIDANCE RE SUPPORT TO HOSPITALS IN COVID-19 CRISIS:

Key principles:

- Personal decision to volunteer / provide other support – no pressure from Medtronic even if HCO requests
- Manager approval – managed through RVP approval governance, and in accordance with local HR requirements
- Medtronic’s conflict of interest policy should be considered
- Not applicable to commercial offerings ie where Medtronic is paid to provide services
- Any employee providing this support that comes into contact with COVID-19 must comply with Medtronic protocols re return to work

Situation 1: Volunteers

Situation 2: Continuing / increasing training on Medtronic products

Situation 3: Medically qualified professionals (doctors or nurses) currently employed by Medtronic

EMPLOYEE VOLUNTEERING IN HOSPITALS PROCEDURE

SUMMARY GUIDANCE RE SUPPORT TO HOSPITALS IN COVID-19 CRISIS:

Situation 1: Volunteers

- Medtronic employees may choose to do this in a personal capacity. You are not providing any services on behalf of Medtronic
- Medtronic's volunteer policy allows up to 5 days paid time off to volunteer – in EMEA extended to [10 days]
- Get prior approval from your manager. If you're volunteering as a HCP ensure (i) your registrations and practicing certificates are up to date (ii) the institution you are volunteering at covers you for professional liability / other insurance as this is not covered by Medtronic

Situation 2: Continuing / increasing training on Medtronic products

- Medtronic field sales / clinical / technical employees support Medtronic devices and therapies. There is no difference to the current procedure ie they should not practice medicine, carry out any part of the intervention / medical procedure, deliver medical care
- Remote support guidance provided
- Sufficiently qualified employees may provide additional support work outside of their usual employment with the approval of their manager and in line with the conflict of interest policy

Situation 3: Medically qualified professionals (doctors or nurses) currently employed by Medtronic

- This will only apply in response to a specific request from a HCO for employees that hold a CURRENT PRACTISING CERTIFICATE and will be under a formal secondment contract with the HCO
- Most activity should fall within situation 1 re volunteering



THANKS FOR YOUR ATTENTION

STAY SAFE AND ETHICAL