



## Swine flu creates anxiety at some small businesses

By JOYCE M. ROSENBERG AP Business Writer

Posted: 05/06/2009 03:17:05 PM PDT

Updated: 05/06/2009 03:17:10 PM PDT

NEW YORK—Some small businesses are stocking up on disinfectant wipes and spray. Others are asking employees returning from vacations to Mexico to stay home for a few days.

While the swine flu cases diagnosed in this country appear to be mild, they are causing anxiety at some small companies. Human resources consultants say they've gotten more inquiries from employers who want to prevent an outbreak or need information about sick time policies.

Staffers at **Patricia Thorp's** Coral Gables, Fla.-based public relations firm are concerned about flu germs in the workplace.

"I had a couple of staffers saying, 'what are we doing?'" said Thorp, president of **Thorp & Co.** So she's been buying disinfectant wipes and hand sanitizers, and the office kitchen is being cleaned each day by the firm's employees, not just the landlord's cleaning crew.

Thorp also had to deal with a flu-related issue when one of the vice presidents was sick. The message from the boss was, don't come to work.

"You have to stay home all week. None of this being a hero," Thorp said she told the staffer, who turned out not to have the swine flu. "It's for yourself but also for everyone else."

Human resources consultants say many owners are wondering if it's legal to force sick staffers to leave work.

The answer: "You can ask people to go home if you think there's a reasonable suspicion that they have the flu," said Alecia Latimer, HR services manager for

AlphaStaff, a Fort Lauderdale, Fla.-based company that provides human resources outsourcing. Latimer said her company has a large number of worried clients in Orange County, Fla., where tourism is the dominant industry, and in Texas, where there is concern because of its proximity to Mexico. The swine flu is believed to have originated in Mexico.

Labor lawyer Martin Gringer with the firm Franklin Gringer & Cohen in Garden City, N.Y., is also fielding more inquiries. One company asked about two workers who had gone to Mexico but weren't sick.

"They didn't want the couple to come back to work," Gringer said. And, just as with sick staffers, employers do have the right to tell workers they shouldn't come in—as long as the companies aren't discriminating in some way. Gringer warned that employers who tell staffers of Mexican descent that they shouldn't come in might be seen as creating the hostile environment that could be the basis of a discrimination lawsuit.

What isn't clear is whether a staffer sent home or told not to come to work must under the law be paid. HR and legal experts have differing opinions. But many advise owners to pay the staffers so they won't be tempted to come to work just to be paid.

"If people are really sick you want to encourage them to stay home," Gringer said.

Latimer's company is also getting questions about sick time policies, and what they need to do if an employee is sick for an extended period of time.

Owners are not required under federal or most state laws to grant employees paid time off when they're sick, but the federal Family and Medical Leave Act of 1993, known as the FMLA, might require that companies give workers unpaid sick leave.

Owners should also keep in mind that granting sick time is a benefit that makes them more competitive employers. A draconian sick time policy is likely to make good employees leave, and make your best prospects think twice about working for you.

A more difficult question is what to do if workers have used up all their sick time. Should an owner give them some more time or dock their pay?

Latimer and Gringer say that's something each owner needs to decide, but if they do opt to give staffers more time off, they have to do the same for all staffers. Which means the slack you're cutting your best employees you also have to cut the worst ones.

Many owners are likely to be flexible. Thorp, who has already been pondering the question, said, "I would just give people the extra day off."

Depending on the type of work a small business does, an owner can get around the issue of more sick time if an employee could telecommute, working on a PC at home. That's not so easy if the company is a manufacturing operation, and the worker has to be physically present to get the work done.

Gringer said employees can in some cases be fired if they're too sick to work, but that step should only be taken in consultation with a labor lawyer or HR specialist. The

Americans with Disabilities Act covers some workers who have medical problems, and firing them could mean a lawsuit.

Gringer said employees frequently calling in sick need to be handled case-by-case. While some are legitimately sick, there are some who always seem to out sick on a Friday.

But, Gringer said, "most employers know who's abusing the system and who's not." And the abusers can indeed be dismissed.

Owners who want to learn more about the laws that deal with employee illnesses, including the FMLA and the ADA, should look online.

Information about the FMLA can be found on the Department of Labor Web site at <http://www.dol.gov/dol/topic/benefits-leave/fmla.htm>. Information about the ADA can be found on the site for the Equal Employment Opportunity Commission, <http://www.eeoc.gov/types/ada.html>.

new New Deal is not new at all for most locally-owned and managed banks. In the last few years, most have shown slow but measured and steady growth.