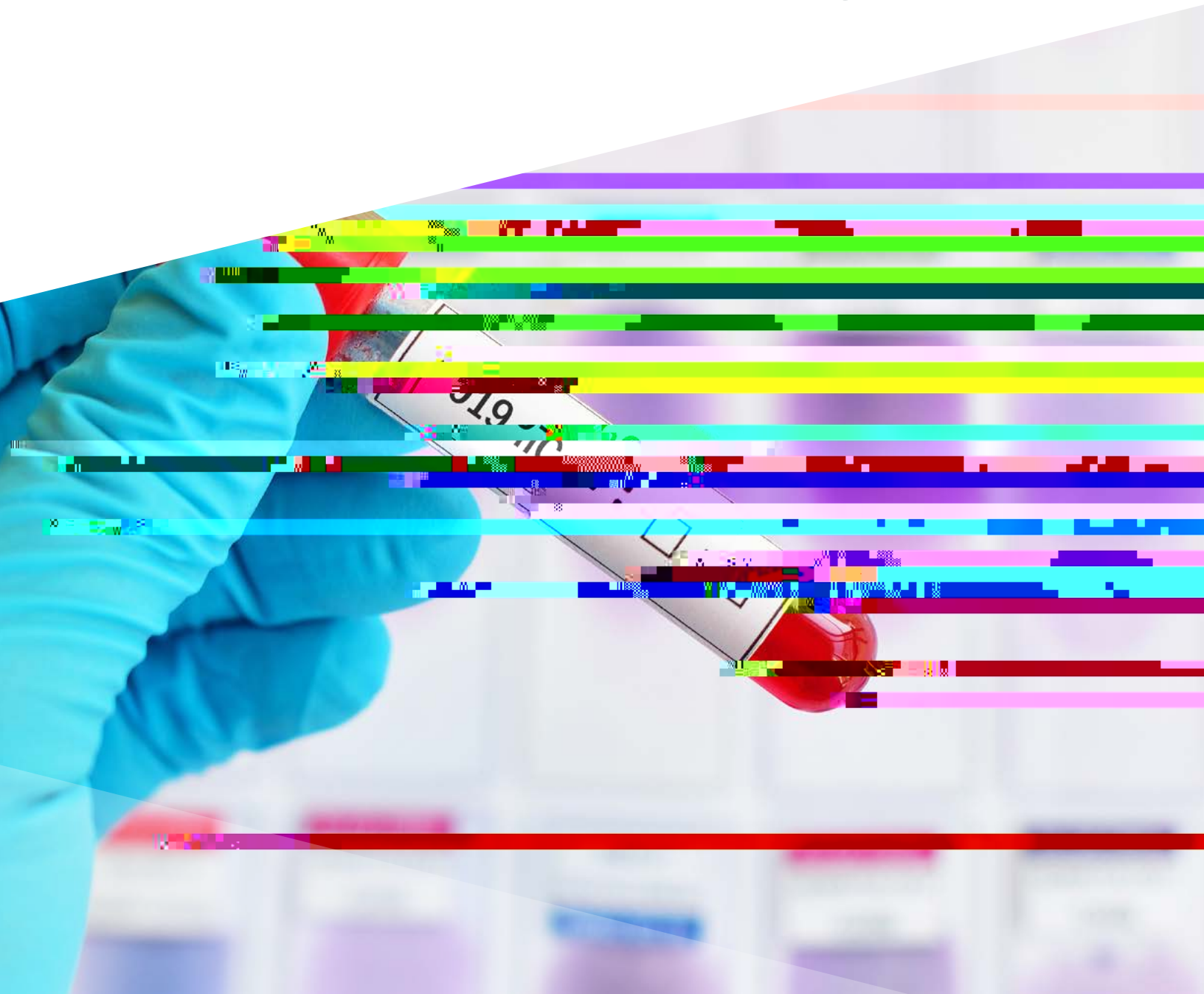


INSIGHTS

JANUARY 2020

Outbreaks, Epidemics, and Pandemics: Preparedness and Response Strategies





Introduction

Just over a century ago, the Spanish flu spread across the world, killing as many as 100 million people and causing devastating economic losses. Since then, tens of millions of lives have been claimed by pandemics and epidemics that also wreaked havoc on businesses and damaged national economies. Despite advances in medicine and improved infection control practices, the novel coronavirus (2019-nCoV) outbreak originating in Wuhan, China — which the World Health Organization (WHO) has declared a public health emergency of international concern — along with the Zika pandemic and outbreaks of the Ebola virus and Middle East respiratory syndrome coronavirus in the last decade are stark reminders of the dangers posed by rapidly spreading disease.

Although public health officials must lead much of the preventive work needed to limit the

When public confidence is eroded by public health crises, the effects can be felt on a company's bottom line. The risks can be particularly acute for organizations in such areas as retail, hospitality, entertainment, and airlines. For example, during the 2013-14 Ebola outbreak, airline stocks fell as investors anticipated a sharp decrease in travel after an Ebola case was reported at a Texas hospital, while several hundred airline workers did not

Response Planning

Organizational preparedness to manage a disease outbreak includes emergency response, business continuity, crisis management, and crisis communications. As they monitor the progress of emerging pandemics or epidemics, businesses should review, exercise, and update or otherwise adjust their response plans, including crisis management, crisis communications, and business continuity plans.

To remain resilient, organizations should seek to answer several critical questions. For example:

- Which products and/or services are of greatest value and how would revenue be affected by a disease outbreak?
- Will our plans work in the event of border closures, travel restrictions, or reduced exports of certain commodities?
- What if we lose critical people, or have staff working from remote locations?
- Will the fear of infection affect our key customer base?
- How should we engage with public health and government entities?
- Who should we involve in our response efforts?
- How can we position the organization to respond positively?

Businesses should consider developing clearly defined pandemic response escalation thresholds specific to their operations so that individual facilities, divisions, and regions can identify potential health threats early and act appropriately to protect the organization, employees, resources, and revenue streams. Organizations should also review critical suppliers and vendors and potential operational or sales impacts if they were to be affected by an outbreak, while also considering alternative and/or geographically dispersed suppliers and vendors.

FIGURE
2

2019 Novel Coronavirus,
Wuhan, China

SOURCE: WHO, CDC, media reports

20+ countries

9,800+ confirmed cases

200+ deaths

(D

31

31)

Employee Well-Being

To effectively protect people, businesses should consider the nature of any disease — for example, its virulence, mortality rate, and public fears — and within that framework define the potential direct and indirect impacts on employees. Businesses should monitor guidance and updates from public health agencies, governments, industry groups, and other experts, and determine procedures, including notifications to health authorities, employees, and other stakeholders, in the event of a suspected case involving an employee, an employee's family member, or others visiting an area that is known to be affected by an outbreak.

Businesses should also:

- **Review or develop employee health procedures to minimize the potential for transmission of infectious diseases to other people, including employees, their families, and customers.** Among other actions, organizations should consider the need for individuals to be quarantined or isolated and define additional cleaning protocols that may need to be implemented.
- **Keep employees informed and educated about outbreaks and relevant health care precautions.** Consider the role of employee wellness programs, especially if an outbreak happens during cold and flu season. Encourage employees to remain home when sick and consider establishing a remote working policy to limit the spread of disease.



Insurance Considerations

Several forms of coverage may apply if an employee, employee's family member, or third party is infected, or if an insured property or a third party's property is contaminated or otherwise affected by an actual or perceived infectious disease threat. The insurance market has also developed parametric, indemnity-based insurance policies that can be triggered without direct property damage.

Ahead of an outbreak, risk professionals should understand the coverages they purchase and how each might be expected to respond to a pandemic.

Workers' Compensation and Employers Liability

The facts of individual workers' compensation cases will vary, as will state and federal laws and an individual policy's terms and conditions, which could provide for coverage beyond what is mandated by law. Depending on the language in each state's statute regarding individual incidents or exposures to occupational diseases, workers' compensation insurance could provide coverage for medical expenses and reimbursement of lost wages for infectious disease-related disability, as long as the exposure meets the jurisdictional compensability standard.

Exposure Outside of the US

If an employee of a US-based company contracts an infectious disease while on assignment outside the US in the course and scope of employment, his or her claim may be found compensable. Disability claims by employees on work assignments in geographic areas where the risk is identified should be filed under the appropriate policy. Many states extend benefits to those injured outside of their borders (whether in another state or outside of the country), provided that the contract of hire was made in the state or the principal location of employment is in the state.

Employers liability coverage may also apply. But many employers prefer to address this exposure by arranging for a foreign voluntary workers' compensation (FVWC) benefits endorsement, or a separate standalone policy. Although terms and conditions can vary, a FVWC policy typically provides voluntary coverage for the workers' compensation benefits of a given jurisdiction to employees not covered by state workers' compensation law. Such a policy also typically provides coverage for an injury or death arising out of endemic disease, even if the disease is not covered under the domestic workers' compensation or occupational disease law of the designated US state.

It is important to note, however, that the definition of an "endemic" disease must be met for coverage to apply. Workers' compensation policies generally define endemic disease as any disease that is:

- Infectious and generally recognized as a public health hazard.
- Restricted or peculiar to a locality or region.
- Not caused or aggravated by the conditions of employment.

FVWC policies generally provide coverage for the cost of bringing an employee or his/her remains back to the US. Use of a medical helicopter can cost more than \$60,000. If an employee is brought back to the US via chartered plane with the proper isolation systems and medical supplies, the costs can also be high.

Exposure in the US

An employee who contracts an infectious disease within the US presents additional coverage questions. For example, employees in industries such as health care, hospitality, or airlines have a higher potential for exposure. If such an employee contracts an infectious disease during the course of employment, workers' compensation insurance would likely provide coverage for costs related to treatment of the illness, lost wages, and, in a worst-case scenario, death benefits.

But most state workers' compensation statutes do not characterize illness contracted due to exposure to fellow employees as a compensable occurrence since the exposure to illness is not usually limited to the workplace. The exposure likely would have to be proven to be solely a result of workplace activities, arising out of and in the scope and course of employment, to be considered for coverage under a standard workers' compensation policy. If an employee alleges a workplace exposure to an infectious disease, the employer should report the incident to its claims administrator and cooperate in any investigation. Compensability of each case will be determined by the facts of the situation, applicable policy wording, and the law of the relevant jurisdictional policy wording, and thurihe toblg, a(e)-4 (y)0.5 (wo)-(r a s)k3 Td[(a).Compcd csae worch cy the faril

Directors and Officers Liability

Public companies and their directors and officers have become increasingly

FIGURE
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Understanding a disease's "fear factor" can help in response planning

SOURCE: Metabiota

INDUSTRY FOCUS:

EDUCATION

frustration insurance policies can provide coverage for these counterparties if policyholders can meet certain financial criteria. Such policies can be designed to cover nonpayment, non-delivery, or contract cancellation for any reason, including the potential economic effects of an outbreak. Coverage may become more expensive or unavailable in the immediate aftermath of a crisis, so policyholders should consider purchasing such coverage before a pandemic or epidemic arises.

Property and Business Interruption

Under standard property policies, insured physical damage is necessary to trigger a covered loss. If the novel coronavirus were to manifest at an insured's premises, through people becoming ill, insurers could contend that contamination is not physical damage and also may maintain that possible contamination, proximity to other contaminated premises, or fear on the part of the public do not amount to physical damage. Property forms also typically contain "contamination" exclusions that insurers may seek to invoke.

Most property forms include some coverage extensions, including ingress/egress, civil or military authority, and decontamination. Such coverage typically is only provided due to insured physical loss or damage that follows a covered cause of loss. The presence or suspected presence of the virus alone is unlikely to trigger

these coverages. Similarly, absent insured physical loss or damage, reduced demand for goods and services and supply chain disruptions are unlikely to be covered.

Property policy forms may include one or more of the following clauses that could

INDUSTRY FOCUS: MARINE

Commercial vessels and seaports carry more than 80% of global trade by volume, according to the United Nations Conference on Trade Development's Annual Report 2017, making the maritime community particularly vulnerable to communicable disease outbreaks. For example:

- Port closures due to pandemics could frustrate voyages and threaten contractual obligations if goods are unable to be delivered or loaded.
- Because some diseases can be spread via cargo and crew members, vessels and crew that leave areas affected by pandemics may be barred from entering other ports. Infections to crew may only become apparent while vessels are at sea, where treatment or evacuation may be difficult.
- In countries where other infrastructure is limited, vessels and seaports may be the most effective way of transporting medical supplies to respond to a pandemic, which could inadvertently accelerate disease transmission.

Several forms of insurance coverage could respond to these risks. These include protection and indemnity insurance (specifically for vessel owners), maritime employers liability insurance, charterer's legal liability policies, and delay in startup coverage for projects that may be affected by pandemics. Maritime companies — and others that rely on marine transport — should review their insurance programs to ensure they have adequate protection from the potential effects of pandemics.

Beyond insurance, owners and operators of ships and seaports can take other actions to reduce pandemics' potential impact on people and operations. Crisis management and response plans should be tested ahead of an event to ensure they will be effective in a crisis; among other items, these plans should address how to impose quarantines, if necessary. Ship owners and charterers should also be prepared to choose backup ports in the event that preferred ports are closed because of a pandemic.

- Any tracking costs incurred by insureds, in addition to effects on receipts.

Insurance policies that can provide coverage for pandemic risk without physical damage triggers are now available and can help businesses fill some of the coverage gaps that are present in current BI policies.

Environmental Liability

Depending on the virulence of an infectious disease or how it is transmitted, organizations may need to clean up or remove waste or other materials at an infected individual's workplace or home. A government authority could order a property to be closed while such activities are completed. Whether coverage exists under a pollution legal liability (PLL) policy will depend on the facts of the claim and any specific wording contained within the policy. This includes, but is not limited to, policy definitions and exclusions related to viruses and bacteria.

A number of insurers offer environmental policies for the health care industry that may contain language providing a degree of coverage for disinfection, cleanup, and emergency response costs related to "pollution conditions" that may include, among other things, viruses and bacteria. But policyholders should carefully review their PLL policies for specific language or terminology that may limit or exclude coverage. Policy language may, for example, restrict coverage to "facility-borne illnesses," and it is unclear how carriers will interpret this language as it relates to specific diseases. The existence of relevant environmental laws or cleanup standards may also play a role in determining whether the policy is triggered. And coverage may be conditional upon a written recommendation by a certified industrial hygienist or written requirement from a local health authority, such as the CDC.

Insureds outside of the health care industry may also receive claims for cleanup costs and loss of income as a result of contamination following an infectious disease case. If this occurs, any PLL policies that are available should be reviewed carefully for potential coverage. The availability of coverage under a PLL policy may depend on the policy's definitions of "pollution condition" and "government orders."

A PLL policy's definition of pollution typically refers to solid contaminants and waste, but does not specify viruses. The question of coverage may therefore depend on state law. Many policies drafted to take into account mold or legionella contain language referring to "microbial matter," fungi, or bacteria, but insurers may argue that viruses do not fit within these definitions. Some policies contain specific language dealing with infectious diseases, which might exclude or limit coverage, require coinsurance, set sublimits, or impose other terms and conditions that could limit an insured's recovery.

PLL policies also typically restrict coverage to cleanup undertaken in response to a government order, and some policies further specify that such orders must be issued under governing environmental laws. It is unclear whether an insurer would accept a decontamination or disposal order issued by a health authority, but policies that provide coverage for mold frequently expand beyond

environmental laws to include health laws and regulations. PLL

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