

# Emerging issues for life sciences attorneys amid COVID-19

Rubin Anders recently attended a Boston Bar Association webinar that featured a panel of firm and in-house attorneys discussing the emerging issues confronting the life sciences industry during the pandemic. Some key takeaways included:



## Employee safety and privacy

- Essential lab employees are scheduled in shifts to allow for distancing and cleaning.
- The name of an infected employee shouldn't be disclosed when alerting others.
- Anticipate new CDC and OSHA guidelines when employees return.



## R&D delays

- Lab staffing is limited for safety.
- Key materials may be difficult to get to and from labs due to shipping delays.
- Difficult to visit their CROs (contract research organizations).



## Clinical trial delays

- Delays vary depending upon the timing and nature of the trials.
- Companies are avoiding adding to the strain on hospitals and protect healthy patients.
- Patients with life-threatening illnesses are still receiving trial treatments.



## Commercial delays

- Providers are understandably busy.
- Sales and field forces are finding Zoom to be effective, but anticipate slow re-entry.
- Product launches will rely more on advertising and websites as direct sales are limited.



## Contract obligations

- Force majeure clauses tend to vary in specificity; review them carefully.
- The clause's set period of time may not extend as long as the pandemic.
- There are inherent conflicts in both trying to enforce and defend force majeure.
- New contracts should include COVID-19 clauses as it's no longer unforeseeable.
- Consider renegotiating terms to avoid the force majeure route.
- View the benefits of working it out from a business perspective.



## Business loss coverage

- As development, trials, launches, and sales are delayed there will be losses.
- Investigate whether you have "disruption of business" coverage.
- Keep in mind, it's untested as to what will be covered under COVID-19.



## Technology security

- Working remotely increases security and accidental disclosure risks.
- Be aware that videoconferences can be recorded and transcribed.
- Conversations are no longer as private; anything can be used to show intent.
- Make sure you know who's on a call / videoconference and use passwords.



## Industry collaboration on therapeutics

- Companies are testing compounds in their libraries to treat COVID-19.
- Emergency FDA approvals will speed the process but uncertain how quickly.
- Information is flowing freely amongst research groups and accelerating progress.

**View the BBA's full webinar discussion.** This content is not intended as legal advice.