

How Businesses Can Prepare for COVID-19

Presented by:

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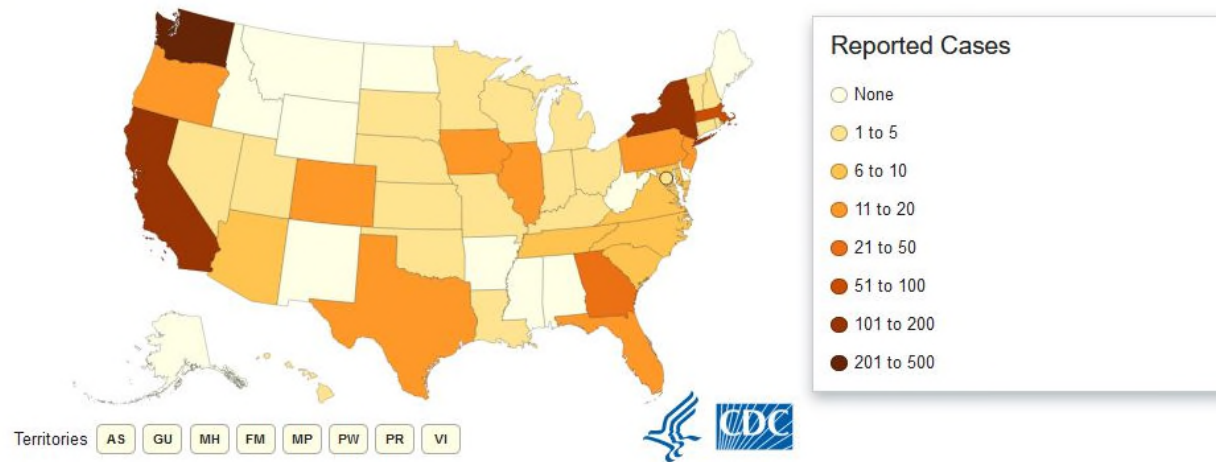
Agenda

- Considerations for Continuing Business Operations
- Anticipated Legislation
- OSHA
- Common Questions



COVID-19: The Latest in the U.S.

States Reporting Cases of COVID-19 to CDC*



- **U.S. At a Glance**
 - Total Cases: 1,629*
 - Total Deaths: 41
 - Jurisdictions Reporting Cases: 47

* As of March 13, 2020

Considerations for Continuing Business Operations

- Consider minimal operating income needed and whether you are able to maintain that for the next 2 months at least
 - Where will this money come from (Storage/operating account, new business, existing A.R.)
 - For Existing A.R. – think about whether clients will have ability to pay (state agencies likely will, but are there any concerns about processing)
- Consider whether the services provided to clients are necessary (some cases will be, others will not)
 - Safety of Employees
 - Safety of Clients
- Consider Your Obligations
 - To Employees
 - To Clients

IF REMAINING OPEN



Prepare the Workplace

- **Actively encourage sick employees to stay home**
 - Review and revise sick policies for flexibility
 - Consider remote working arrangements
- **Emphasize hygiene**
 - Avoid touching face
 - Soap & Water / Hand Sanitizer
 - Cough etiquette
 - Infographics
- **Environmental cleaning**



Communicate with Workforce

- Educate Employees on virus and policies
- Identify point-of-contact in case of exposure
- Travel Restrictions
- Company's response to COVID-19 exposure

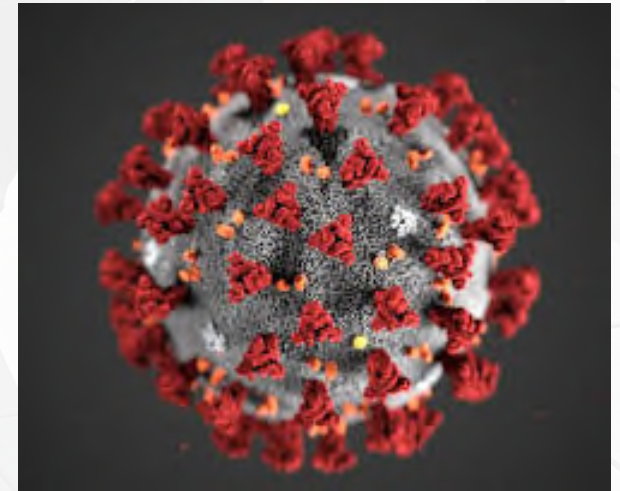


IF DECIDING TO CLOSE



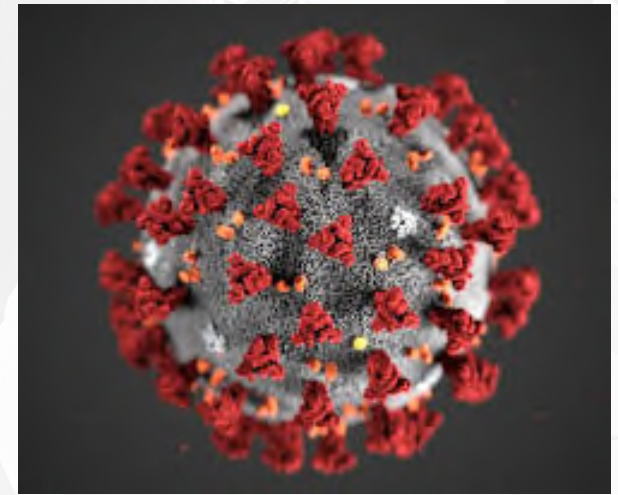
Leave Policies May Come Into Play

- **PTO/Sick Leave**
- **FMLA**
 - Own Serious Health Condition
 - Family Serious Health Condition
- **ADAA**
 - Could be a disability under the ADAA
 - Leave Can Be a Reasonable Accommodation
- **Workers Compensation**
- **Families First Coronavirus Act (not signed yet – Revised version passed house late Monday evening)**
 - Only for childcare related leave due to school/daycare closures
 - Capped amount of pay per day/aggregate



Other Things To Be Aware Of

- OSHA/CAL-OSHA
 - Health and Safety of Employees
- Unemployment benefits
 - CA - Partial/Work Share
 - Other States
 - Majority of states have relaxed their unemployment insurance benefits and requirements to allow employees on furlough, reduced hours/pay or temporary layoff to use UI funds



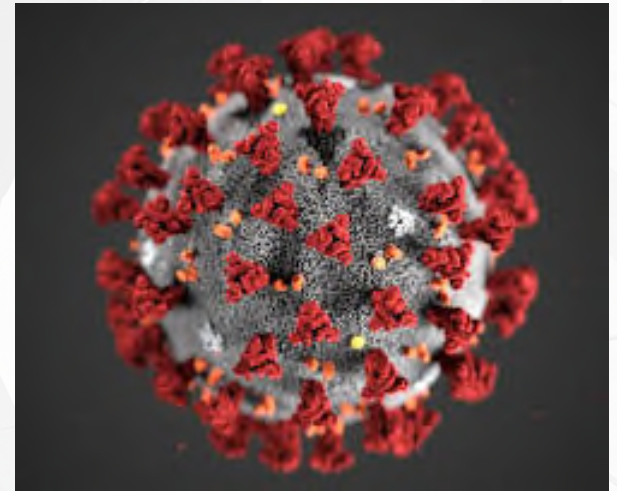
Questions Asked By Employers

- **How can I financially prepare for COVID-19?**

Unfortunately, there's no set formula or even guidance on how to prepare financially or how to weather the storm. One way we're seeing companies handle is to transition to some type of tele-medicine, or tele-conferencing options, whether it's using phones, Zoom, Portal or other existing technology.

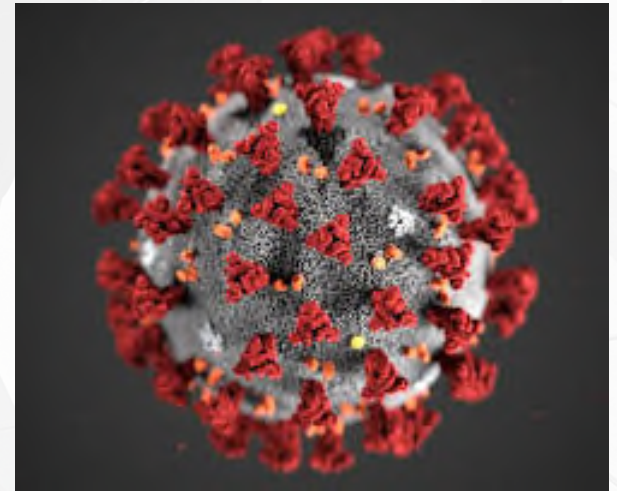
- **How to Continue Operations During Pandemic?**

Be creative. Every business will have unique needs and have to address those needs.



Questions Asked By Employers

- **How to Care for Employees During this Time?**
 - Paid leave options
 - Unemployment options
 - Work from home arrangements
 - Tele-conferencing arrangements where available
 - Childcare/back-up childcare



Paid Sick Leave Laws

- Every state will have specific paid leave requirements. If no paid leave requirements, consider whether company is able to offer paid leave. If not – look at state unemployment assistance options to help temporarily.
- 21 states have or have implemented some form of paid leave laws. For employers in CO – state passed Colorado HELP recently which requires 4 days of paid leave (and remains in place for 30-days or longer if emergency situation continues beyond 30-days).
- Other states that have enacted paid sick leave laws: Arizona, CA, Texas, Rhode Island, Vermont, Washington, Pennsylvania, Oregon, New York, New Mexico, New Jersey, Nevada, Minnesota, Michigan, Massachusetts, Connecticut, D.C., Illinois, Maine, Maryland.

Childcare/Back-up Childcare

- Can Employer Provide in-Office Childcare to workers who's kids are home due to school closure?
 - Depend on how many children and people will be participating.
 - There may be an OSHA component (both for any person/people the company will bring in to watch the children) as well as potential other state/regulatory issues to be aware of.
 - What those are will depend completely on the specifics of the situation.
 - At minimum, however, I would certainly recommend risk waivers for anyone making use of the service.
 - No prohibition against bringing kids to work – just be aware of above issues if hire a third party to watch children in the office.

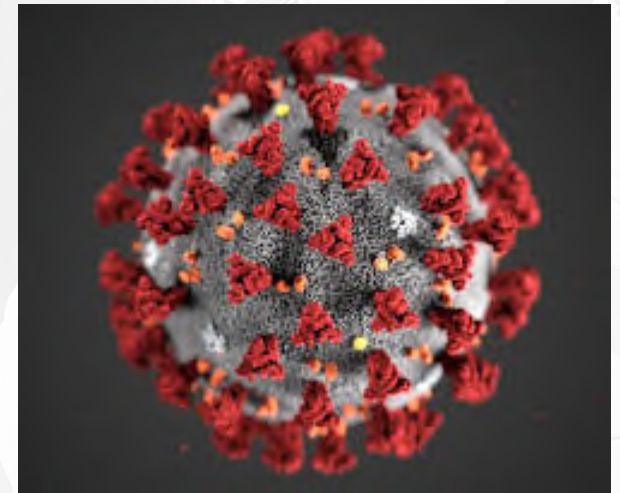
Questions Asked By Employers

- **Can an employee refuse to come to work due to fear of being infected?**
 - Potentially. May be protected under OSHA, but only in circumstances where they reasonably believe that the assignment involves “a risk of death or serious harm”, and certain other conditions are met.
- **What are the requirements when respirators are provided by employers for voluntary use? What if the employer mandates respirator use?**
 - Generally, the CDC does not recommend the use of respirators or masks for most categories of workers. However, providing facemasks may be appropriate or even required for certain categories of workers, such as health workers, as well as required by applicable Occupational Safety and Health Administration (OSHA) standards.



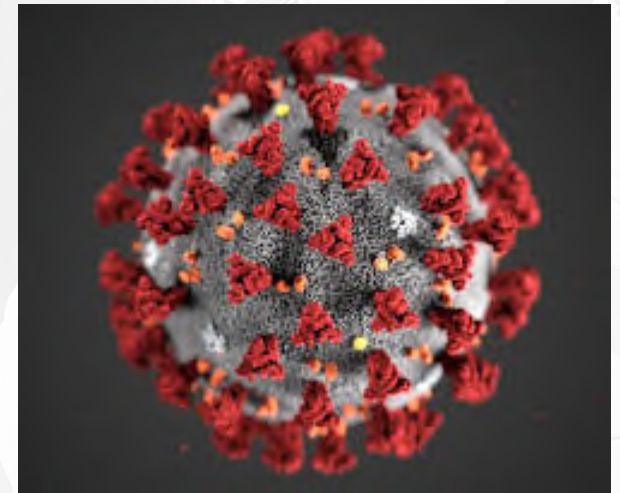
Questions Asked By Employers

- **Can an employer require a worker who is quarantined to exhaust paid sick leave?**
 - No. Employees get to choose if/when to use paid sick time. But this doesn't prohibit an employer from requiring that employee exhaust paid sick time before using any other paid benefits (particularly voluntarily provided benefits such as emergency pay, etc.)
- **Can an employer require a worker to provide information about recent travel to countries considered to be high-risk for exposure to the coronavirus?**
 - Yes. However, employees have a right to medical privacy, so the employer cannot inquire into areas of medical privacy.



Questions Asked By Employers

- **What options are available other than layoffs to handle economic shut for business?**
 - Mandatory Furloughs
 - Voluntary Separation Programs
 - Reduction in Force
 - Federal law requires pay for all hours worked
 - Regardless of reason that a non-exempt employee does not work, federal law does not require employee to be paid
 - Strategies
 - Substitution of paid PTO/vacation/sick leave for missed work
 - Compensating employee at reduced rates for missed work



Wage Reductions/Fewer Shifts/Shift Changes/Eliminations

- Wage Reductions
- Moving to fewer shifts
- Hours changes/reduced schedules
 - Employment Agreements and Contracts/CBA
 - Results in Reduction in Wages/Change in Hours – state law notices
 - Business Reasons/Disparate Impact Analysis
 - WARN- 50% reduction of hours for 6 months or more= employment loss – could require 60 days notice

Mandatory Furloughs/Voluntary Separation

- Mandatory Furloughs
 - Review current policies
 - Employment Agreements and Contracts/CBA issues
 - Decide structure based upon legitimate business reasons/Disparate Impact
 - Comply with FLSA
 - WARN - layoff exceeding 6 months
- Voluntary Separation
 - Assist with Company goodwill vs. a RIF
 - Use a standard formula of who is eligible
 - Utilize a release as a condition of the severance
 - Analyze utilizing an ERISA plan
 - Comply with OWBPA in Release



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Reduction in Force

- Analyze and Base Upon a Business Need
- Analyze ERISA Plan
- Follow Severance Policies
 - Utilize a release
 - Follow OWBPA
- Disparate Impact Analysis
- Be Mindful of CBA (if applicable)

Recommendations

- Remain Calm and Measured.
- Monitor the latest guidance.
- Communicate Regularly with Workforce.
- Be flexible, but consistent.
- Communicate and analyze individual issues with HR and Legal.

Thank You!

➤ QUESTIONS?



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