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COVID-19:

Employer Management

CA Workers' Compensation

Presumptive Acceptance Legislation,

SB 1159 & AB 685

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The information in this program is based upon the very dynamic and evolving outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in more than 100 locations internationally, including in the United States. The virus has been named “SARS-CoV-2” and the disease it causes has been named “coronavirus disease 2019” (abbreviated “COVID-19”). The information presented is current as of the date of this program, but it may change in the coming hours and days ahead. Participants are encouraged to refer to information from the U.S. Centers for Disease Control and Prevention (“CDC” at www.cdc.gov).

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Michael J. Costello

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Education

- Ventura College of Law, Ventura, CA
Juris Doctor, 2000
- Moorpark College, Moorpark, CA
Associate of Arts, Business, 1996
Associate of Science, Marketing, 1996

Michael Costello is the firm's General Counsel and Managing Partner of Continuing Education and he is located in our Santa Ana office. He has practiced in the field of workers' compensation for over 13 years, serving as counsel for employers, insurance carriers, adjusting agencies and state organizations. Additionally, Mr. Costello provides training as well as review and analysis of business and workers' compensation operations for the business community.

Mr. Costello gained vital experience and knowledge of business operations as a retail manager at a major drug store chain as well as a major office supply chain. He is skilled in management, human resource, public speaking, budgeting and marketing through 12 plus years in retail, travel and production management.

Mr. Costello continues to provide training and education to the business and insurance communities with past presentations to top Corporations and Insurance Companies.

In the March/April 2013 Risk Management Magazine, he authored an article concerning recent California legislation and continues to educate the risk management community on the changes.

As a former Vice President of the Professionals in Workers Compensation, Southern California Chapter, member of the Orange County Bar Association and as District Chair and Community Chair positions for the Boy Scouts of America, Mr. Costello continues to dedicate his time and energy to the local community.

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Shea Conway

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Education

- Western State University College of Law, Fullerton, CA
Juris Doctor, 1995
- Pacifica Graduate Institute, Carpinteria, CA
Master of Arts, Psychology, 2015
- Western State University College of Law, Fullerton, CA
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Shea Conway received his Juris Doctorate from Western State University College of Law in Fullerton, CA and was admitted to the State Bar of California in 1996.

Mr. Conway joined Testan Law in 2013. Since 2003 he has dedicated his legal career to defending workers' compensation claims, including claims of discrimination under Labor Code Section 132a and has obtained several "take nothings" in claims of Serious & Willful Misconduct. Mr. Conway has also resolved numerous third party C&R claims and dealt with resolution of subrogation issues related to the Workers' Compensation claims. Mr. Conway has advocated lien rights of the insured in Civil Mediations resulting in complete reimbursements to the client.

Mr. Conway has vast experience in defending permissibly self-insured employers, insurance carriers and third party administrators. He has successfully litigated claims receiving very favorable results in venues including Sacramento, Stockton and Redding. He brings expertise in managing cases with catastrophic exposure which require complicated structured settlements. Mr. Conway has extensive appellate experience before the Appeals Board, California District Court of Appeal, including a published opinion. He is an aggressive advocate for all of his clients with an eye on pushing claims towards resolution.

Prior to practicing in the area of workers' compensation Mr. Conway practiced in the area of personal injury, family law, probate, and business dispute litigation. He has conducted many trials including trial in front of a jury.

COVID-19 - Objectives

- Definition and General Rule
- Employer Management of COVID-19
- COVID-19 Presumptions
- COVID-19 Benefits
- Contract Tracing / Causation / Facts Known
- Data / Numbers / Round Table Discussion

COVID-19 DEFINITION & GENERAL RULE

- Airborne diseases / viruses
 - Increase risk above general public (y)(n)
- COVID-19
 - Periods outside of EO or Legislation
 - Executive Order / Legislation
- Burdens of Proof
 - Employee / Employer

COVID-19

Employer Management of COVID-19

- Preventive Policies / Guidelines
- Screening & Mitigation
- Reporting and Tracking

COVID-19

Employer Management of COVID-19

- Preventive Policies / Guidelines
 - Minimize / limit work force
 - Require masks
 - Signage

COVID-19

Employer Management of COVID-19

- Screening & Mitigation
 - (See handout on screening)
 - To protect and support workers, employers need to (CAL/OSHA):
 - 1) Let workers know when they need to stay home;
 - 2) Notify all workers of potentially exposed;

COVID-19

Employer Management of COVID-19

(continue)

- 3) Maintain confidentiality when communicating with other workers;
- 4) Provide healthcare consultations advising workers about their exposure;

COVID-19

Employer Management of COVID-19

(continue)

- 5) Provide information to close contacts about home quarantine, symptom monitoring, and testing options;
- 6) Provide information to affected workers about what to expect, including sick leave options and when they can return to work

COVID-19

Employer Management of COVID-19

To manage outbreaks, employers need to (CAL/OSHA):

- Identify and track suspected and confirmed cases among workers
- Report confirmed cases to the local health department where their business is located, and where the infected workers live (if different)

COVID-19

Employer Management of COVID-19

(continue)

- Develop a testing strategy to identify additional worker cases and close contacts to control further spread
- Work with their local health department to assist in contact tracing and quarantining of close contacts

COVID-19

Employer Management of COVID-19

- Reporting and Tracking
 - AB 685
 - Federal OSHA
 - State OSHA
 - Health Departments
 - City Ordinances or Requirements
 - Claim Filings

COVID-19

Employer Management of COVID-19

- AB 685
 - Potential COVID-19 Exposure (Notice)
 - Employed same worksite
 - During infectious period
 - Infection at worksite
 - Lab confirmed
 - Positive diagnosis
 - Isolation order by public health official
 - Death due to COVID-19 per County public health

COVID-19

Employer Management of COVID-19

- Notice Information
 - English and Spanish and language understood by majority of employees
 - One day time frame (warn others)
 - Communication consisted with similar employment related manner
 - If employees have representation (bargaining unit) they are to be informed as well
 - Keep notices in file for 3 years

COVID-19

Employer Management of COVID-19

- COVID-19 Related Benefits and Protections
 - All affected employees must be provided notice of benefits regarding leave under state, local and federal laws, includes protections as to retaliation

COVID-19

Employer Management of COVID-19

- Notice of Safety Plan in Response (CDC)
 - Who is to be informed
 - All employees, and subcontracts / vendors
 - What is the safety plan
 - Reporting / Communication
 - Disinfection Protocols
- Outbreak (over a 14 day period)
 - 100 or less employees, 4 employees @ site
 - 101 or more employees, 4% of employees
 - Recognize gov. declaring location closed

COVID-19

Employer Management of COVID-19

- Federal OSHA
 - Nothing new
 - Employer has general responsibility to maintain a safe workplace, this would include safety protocols recommended

COVID-19

Employer Management of COVID-19

- Cal/OSHA
 - Cal/Osha Employer Playbook 9-18-2020
(See packet handout)
 1. Responding to COVID-19
 2. Outbreak management
 3. Communication with third party
 4. Notify workers
 5. Knowledge of rules



Responding to COVID-19 in the Workplace for Employers

September 18, 2020

Released June 16, 2020

- Revised on September 18, 2020 to:
 - (1) require all employers to notify local health departments when they meet the reporting threshold of three or more cases of COVID-19 in their workplace within a two-week period.
 - (2) align return to work criteria with updated guidance from CDC on release from isolation, issued on July 17, 2020.
 - (3) provide employers information on how COVID-19 exposure or infection in the workplace may impact operations.

Responding to COVID-19 in the Workplace

This checklist is intended for use by employers identifying cases of COVID-19 in their workplace. In non-healthcare or non-residential congregate setting workplaces, CDPH requires employers to report cases of COVID-19 to the local health department (LHD) in the jurisdiction in which they are located and the LHD where the infected workers reside. Employers must use the **reporting threshold** of three or more laboratory-confirmed cases of COVID-19 among workers who live in different households within a two-week period to notify the LHDs. Employers should be proactive and keep in mind that identification of even a single positive case among workers may quickly develop into a large outbreak. As outbreak circumstances and work practices vary, employers may need assistance from their LHD to plan and coordinate a response that meets the needs of the workplace.

This guidance is not intended for use in managing or preventing outbreaks in healthcare, congregate living settings, or other workplaces where the California Aerosol Transmissible Diseases (ATD) standard (title 8 [section 5199](#)) applies.

Employers should also consult:

- CDC guidance for [businesses](#) and [small businesses](#) for information on preventing outbreaks;

- [Cal/OSHA guidance](#) to ensure that they are complying with legal requirements for worker protection; and
- the California statewide [industry-specific guidance](#) to reduce risk during and after reopening of businesses.
- [See Resources section](#) at end of document for links.

Outbreak Management



1. Employers should prepare for identification of COVID-19 cases in their workplace.

- Designate a workplace infection prevention coordinator to implement COVID-19 infection prevention procedures and to manage COVID-related issues among workers.
- Instruct workers to stay home and report to the employer if they are having symptoms of COVID-19, were diagnosed with COVID-19, or are awaiting test results for COVID-19.
 - a. Symptoms of COVID-19 include subjective or measured fever ($\geq 100.4^{\circ}\text{F}$ or 38°C), chills, cough, shortness of breath, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea, vomiting, or diarrhea.
 - b. Develop mechanisms for tracking suspected and confirmed cases among workers.
 - c. Ensure that sick leave policies are sufficiently generous and flexible to enable workers who are sick to stay home without penalty and ensure that workers are aware of such policies.
 - California has [additional services](#) for workers, including [supplemental paid sick leave](#) for food sector workers at companies with 500 or more workers nationwide. Covered employers must provide notice to their workers of this benefit.
 - The [Families First Coronavirus Response Act](#) requires certain employers to provide workers with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.
 - Some cities and counties require employers to provide sick leave benefits to workers.
- Identify contact information for the [local health department \(LHD\)](#) in the jurisdiction where the workplace is located.



2. Employers must prepare to share information with the LHD and other stakeholders.

- Employers must notify the LHD in the jurisdiction where the workplace is located if there is a known or suspected outbreak in the workplace. An outbreak in non-healthcare or non-residential congregate setting workplaces is defined as three or more laboratory-confirmed cases of COVID-19 among workers who live in different households within a two-week period. Employers are also encouraged to contact the LHD regarding any laboratory confirmed case of COVID-19 in the workplace.

- a. The LHD in the jurisdiction where the workplace is located may have specific additional criteria for outbreak reporting requirements. Employers must follow the specific instructions of their LHD, if available.
- b. LHDs regularly transmit and protect confidential health information. Securely sharing confidential information about workers with COVID-19 is critical for the LHD to provide comprehensive support to the employer and protect the health of the community.
- Workers in a workplace may live in counties/jurisdictions outside of where the workplace is located. When the case reporting threshold is met, employers must contact the LHD in any jurisdiction where a COVID-19 positive worker resides and let them know about the outbreak.
 - a. Typically, the LHD in the jurisdiction where the workplace is located gives guidance to the employer on managing the outbreak.
- Communicate with the LHD on how frequently the LHD expects updates from the employer on newly identified cases and symptomatic workers in the workplace.
 - a. Determine how this information will be shared (e.g., telephone, fax directed to a specified person, secure e-mail).
- Share a roster of all workers with the LHD in the jurisdiction where the workplace is located.
 - a. An employer may be asked by the LHD to provide additional information on the workers, including job description, location, work schedule, city and county of residence, and other details that could help inform the investigation and determine which other workers in the workplace may be at risk of COVID-19 infection.
- If workers in a facility are unionized, identify a union contact and clarify the role the union can play in communication with workers. If workers in a facility are not unionized, identify a worker representative to serve as a point of contact for the LHD.
- If the facility uses contract or temporary workers, identify who should communicate information and instructions on the outbreak to these individuals.
 - a. The host employer should notify temporary, contract, or other agencies that have workers in the workplace of the outbreak.
 - b. All workers in the workplace, regardless of employment arrangement, should follow all instructions for infection prevention and outbreak management measures from the host employer, the LHD where the workplace is located, and the LHD where they reside.



3. Understand requirements for reporting worker cases to Cal/OSHA.

- Any serious injury, illness, or death occurring in any place of employment or in connection with any employment must be reported by the employer to the local Cal/OSHA district office immediately but not longer than 8 hours after the employer knows. For COVID-19, this includes inpatient hospitalizations and deaths among workers.

- Employers must report serious injury, illness, and death, including hospitalization and death from COVID-19, even if work-relatedness is uncertain.
- Cal/OSHA prefers calls by phone but will also accept email reports (caloshaaccidentreport@tel-us.com). Details on reporting (<https://www.dir.ca.gov/dosh/coronavirus/Reporting-Requirements-COVID-19.html>), contact information for district offices (<https://www.dir.ca.gov/dosh/districtoffices.htm>), and the Title 8 section 342 requirement (<https://www.dir.ca.gov/title8/342.html>) are available online.



4. Identify additional worker cases and close contacts of cases to control further spread in the workplace.

- Testing all workers in a workplace should be the first strategy considered for identification of additional cases. Testing may be done at a single point in time or at repeated intervals.
 - a. Employers should seek guidance from the LHD when developing a testing strategy, including how testing can be arranged and how to prioritize testing of workers. Examples of strategies may include testing close contacts of laboratory-confirmed cases first; prioritizing workers in parts of the workplace with higher case counts; or, if testing capacity is limited, sample [pooled testing](#), also known as “group testing,” should be conducted to obtain critical information about the extent of infection with fewer testing resources.
 - b. Employers should offer on-site COVID-19 testing of workers or otherwise arrange for testing through the company’s occupational or general medical services provider. The employer is responsible for ensuring all workers are offered and provided testing. Employers should also provide information to workers who may prefer to contact their personal medical provider or visit a CA Coronavirus Testing Task Force site (<https://testing.covid19.ca.gov/>) for testing. LHDs may also be able to help facilitate testing options, if needed.
- When testing all workers is not available or not recommended by the LHD, consider alternative methods for controlling the outbreak, in consultation with the LHD, including but not limited to tracing all close contacts of confirmed cases and instructing those individuals to quarantine, conducting [sample pooling](#) (group testing), or temporarily closing the workplace and quarantining all workers.
- Conduct contact tracing and quarantining of close contacts of confirmed cases in the workplace.
 - a. Employers must provide information to the LHD on the confirmed COVID-19 case workers in the workplace, including job titles, work areas, close contacts in the workplace, dates of symptom onset, and shifts worked while infectious.
 - b. Establish if the employer, LHD, or both will conduct interviews of the cases to determine their close contacts.
 - c. Close contacts should be instructed to quarantine at home for 14 days from their last known contact with the worker with COVID-19. Close contacts should be tested for COVID-19 when possible.

- d. A close contact is someone who spent 15 minutes or more within 6 feet of an individual with COVID-19 infection during their infectious period, which includes, at a minimum, the 48 hours before the individual developed symptoms.
- e. Interview workers with laboratory-confirmed COVID-19 by phone to determine when their symptoms began, the shifts they worked during their infectious period, and to identify other workers with whom they had close contact during their infectious period.
- f. Use employment records to verify shifts worked during the infectious period and other workers who may have worked closely with them during that time period.
- g. While at home, close contacts should self-monitor daily for COVID-19 symptoms (e.g., subjective or measured fever ($\geq 100.4^{\circ}\text{F}$ or 38°C), chills, cough, shortness of breath, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea, vomiting, or diarrhea).



5. Consider whether to temporarily suspend operations due to COVID-19 infection in the workplace

- Businesses may elect to voluntarily suspend operations when a case of COVID-19, exposure to COVID-19, or an outbreak has occurred in the workplace. This would allow investigation of the exposure and thorough cleaning and disinfection. Businesses may elect to do this if the exposure is in a worker, customer, or visitor of the workplace. To understand more about if this decision is right for your business, you can contact your [local health department \(LHD\)](#) for guidance.
- The LHD in the jurisdiction where the workplace is located has the authority to close business operations while an exposure is being investigated or an outbreak is being managed. Cal/OSHA also has authority to prohibit use and access of affected areas of a workplace if it identifies an imminent hazard to workers.
- Criteria for making a determination for closure may include the size of the workforce, the number or percentage of the workforce impacted, the vulnerability of consumers who visit the business to severe COVID-19 infection, or many other local factors, including the epidemiology of disease spread in the community at large.
- LHDs may vary in their specific requirements for workplace outbreak investigations, reporting, and suspension of operations.



6. Notify and provide instruction to workers.

- Employers must maintain confidentiality of workers with suspected or confirmed COVID-19 infection when communicating with other workers.

- Employers should notify all workers who were potentially exposed to the individuals with COVID-19. Employers should provide any healthcare consultations needed to advise workers regarding their exposure, which may be especially important for those with [high-risk medical conditions](#) (e.g., immune compromise or pregnancy).
- Close contacts of cases should be given instructions on home quarantine, symptom monitoring, and COVID-19 testing.
- Provide any workers who are sent home before or during a shift with information about what to expect after they are sent home (e.g., instructions about testing, sick leave rights under federal, state, and local laws and company policies, return-to-work requirements, etc.).
- In some outbreaks, but not all, workers who were never symptomatic and did not have close contact with any of the laboratory confirmed cases may continue to work, as long as the employer has implemented all control measures as recommended by public health authorities, Cal/OSHA, or other regulatory bodies. The LHD will make this determination based on strategies being used to control the outbreak and identify new cases.



7. Determine when it is appropriate for cases and contacts of cases to return to work.

- Consult with the LHD and most recent CDC guidance for when a confirmed case may be released from home isolation and return to work. The local health department may recommend a strategy for return to work similar to the following, although some variation may occur by jurisdiction and outbreak.

	Minimum Criteria for Return to Work <i>(As of September 18, 2020)</i>	CDC Reference Page <i>(The most recent CDC guidance should be consulted prior to allowing the worker to return to work)</i>
Symptomatic Positive Workers with symptoms who are laboratory confirmed to have COVID-19	At least 10 days have passed <i>since symptoms first appeared</i> ; and at least 24 hours have passed <i>since last fever</i> without the use of fever-reducing medications; and symptoms (e.g., cough, shortness of breath) have improved.	For worker cases who did not require hospitalization: https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html For worker cases who require hospitalization: https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-hospitalized-patients.html

	Minimum Criteria for Return to Work <i>(As of September 18, 2020)</i>	CDC Reference Page <i>(The most recent CDC guidance should be consulted prior to allowing the worker to return to work)</i>
Asymptomatic Positive Workers who never had symptoms and are laboratory confirmed to have COVID-19	A minimum of 10 days have passed since the date of their first positive COVID-19 test. If they develop symptoms, then the criteria for laboratory confirmed cases with symptoms apply.	https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html
Symptomatic Negative Workers who had symptoms of COVID-19 but test result returned negative	Use the same criteria for return to work as laboratory confirmed cases.	
Asymptomatic Negative Workers who never had symptoms but were tested due to close contact with a laboratory-confirmed case patient and were negative	Workers should quarantine at home for 14 days after the last known close contact with the case patient. Symptoms can develop even after testing negative within 14 days after exposure. The LHD may consider allowing earlier return to work only for a worker in a critical infrastructure industry in which the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff can perform the same role.*	
Symptomatic Untested Workers who had symptoms of COVID-19 but were not tested	Testing is highly recommended. If the worker cannot be tested, use the same criteria for return to work as laboratory confirmed cases.	

	Minimum Criteria for Return to Work <i>(As of September 18, 2020)</i>	CDC Reference Page <i>(The most recent CDC guidance should be consulted prior to allowing the worker to return to work)</i>
<p>Asymptomatic Untested</p> <p>Workers who had close contact to a laboratory-confirmed case patient at work, home, or in the community and do not have symptoms.</p> <p>OR</p> <p>Workers who refuse or are unable to be tested after close contact with a laboratory-confirmed case, despite recommendation for testing from LHD or healthcare provider, and do not have symptoms.</p>	<p>Workers should be quarantined at home for 14 days after the last known close contact with the case patient. Testing is highly recommended; if testing has not occurred, the LHD may consider allowing a worker who had close contact to a confirmed case to continue to work only in a critical infrastructure industry in which the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff can perform the same role.*</p> <p>Workers who develop symptoms of COVID-19 while in quarantine should contact their healthcare provider. Even if they are not tested, the same criteria for return to work should be used as laboratory-confirmed cases.</p>	<p>https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html</p>

*** Critical infrastructure workplace outbreak**

- **asymptomatic negative workers**
- **workers who were close contacts to confirmed cases**

Where 14-day quarantine would compromise essential operations, the LHD may determine that some workers in these two groups may return to work sooner than 14 days by considering certain criteria specific to the workplace and worker:

- The worker is able to wear a surgical mask throughout the workday, except while eating, and comply with all infection prevention procedures. A cloth face covering may also be used in the event of mask shortage.
- The facility has implemented all best practice infection prevention procedures, as determined by the LHD.

- Pre-screening to assess worker temperature and symptoms prior to starting work has been implemented, ideally before entering the facility.
- Worker is able to self-monitor for temperature and symptoms at home and work.
- Worker is able to maintain a minimum of six feet of distance from other workers in the workplace. Of note, six feet does not prevent all transmission of SARS-CoV-2.
- Physical barriers are in place between fixed work locations to supplement distancing.
- Cleaning and disinfection of all areas and shared equipment can be performed routinely in the workplace.

Be aware that testing reflects a worker's status at a single point in time only. If a worker tests negative, they may still develop COVID-19 infection from a recent or subsequent exposure and should be instructed to quarantine at home if that occurs. Testing may be needed at repeated intervals to capture all positive cases, especially if an outbreak is ongoing.



8. Perform more frequent cleaning and disinfection, as well as deep/enhanced cleaning and disinfection after workers with COVID-19 have been at work.

- Work areas of infected workers should not be entered by workers until they have been cleaned and disinfected with products approved by the EPA for COVID-19. Work should be performed by cleaning staff trained on their safe use and supplied with all required and recommended PPE.
- Perform ongoing enhanced cleaning/disinfection of work areas when a worker with COVID-19 is identified, following CDC recommendations: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>
- Continue to identify and regularly clean and disinfect frequently touched surfaces throughout the workplace, such as doorknobs, equipment, and handrails.
- Workers should not share headsets or other objects that may come into contact with their face, mouth, or nose.
- Minimize sharing of other equipment between workers; for equipment that must be shared, conduct frequent cleaning between worker use.
- Train workers on safe use of cleaners and disinfectants and provide necessary protective equipment.



9. Employers should regularly check for and follow new and updated guidance on their specific industry from the following sources:

- Governor's Office Resilience Roadmap
 - a. Guidance for multiple industries: <https://covid19.ca.gov/industry-guidance/>

- Cal/OSHA
 - a. General Industry guidance: <https://www.dir.ca.gov/dosh/coronavirus/General-Industry.html>
 - b. Guidance for specific industries: <https://www.dir.ca.gov/dosh/coronavirus/Health-Care-General-Industry.html>
- CDC
 - a. Landing page for workplaces: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>
 - b. Landing page for industry specific worker safety guidelines: <https://www.cdc.gov/coronavirus/2019-ncov/community/worker-safety-support/index.html>

Additional Resources

CDC guidance:

- For employers: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
- For office buildings: <https://www.cdc.gov/coronavirus/2019-ncov/community/office-buildings.html>
- For childcare, schools, and youth programs: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/index.html>
- Worker safety and support for a variety of industries: Worker Safety and Support
- For small businesses: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-small-business.html>
- For meat and poultry processing employers: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>
- Grocery and Food Retail: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/grocery-food-retail-workers.html>
- Transportation and Delivery: <https://www.cdc.gov/coronavirus/2019-ncov/community/transportation/index.html>
- Conserving and Extending Filtering Facepiece Respirator Supply in Non-Healthcare Sectors: <https://www.cdc.gov/coronavirus/2019-ncov/community/conserving-respirator-supply.html>
- Communities, Schools, Workplaces, and Events - Guidance for Where You Live, Work, Learn, Pray, and Play: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>
- First Responders and Law Enforcement: <https://www.cdc.gov/coronavirus/2019-ncov/community/first-responders.html>

Cal/OSHA guidance:

- <https://www.dir.ca.gov/dosh/coronavirus/Health-Care-General-Industry.html>
- For general industry: <https://www.dir.ca.gov/dosh/coronavirus/General-Industry.html>
- For agricultural employers: <https://www.dir.ca.gov/dosh/Coronavirus/COVID-19-Infection-Prevention-in-Agriculture.pdf>
- For childcare programs: <https://www.dir.ca.gov/dosh/Coronavirus/COVID-19-Infection-Prevention-in-Childcare-Programs-Guidance.pdf>
- For construction: <https://www.dir.ca.gov/dosh/coronavirus/COVID-19-Infection-Prevention-in-Construction.pdf>
- For grocery stores: <https://www.dir.ca.gov/dosh/Coronavirus/COVID-19-Infection-Prevention-in-Grocery-Stores.pdf>
- For logistics employers: <https://www.dir.ca.gov/dosh/coronavirus/COVID-19-Infection-Prevention-in-Logistics.pdf>
- For mortuaries and funeral homes: <https://www.dir.ca.gov/dosh/coronavirus/COVID-19-Infection-Prevention-in-Mortuaries.pdf>
- Interim Guidance on COVID-19 for Health Care Facilities: Severe Respirator Supply Shortage: <https://www.dir.ca.gov/dosh/coronavirus/Cal-OSHA-Guidance-for-respirator-shortages.pdf>

Governor's Office Resilience Roadmap guidance and employer checklists:

- Multiple industries: <https://covid19.ca.gov/industry-guidance/>



COVID-19

Employer Management of COVID-19

- Cal/OSHA
 - AB 685 – Increase Authority
 - If determined imminent hazard to employees may prohibit entry
 - Eliminates 15 day notice before closing down
 - Authorization to levy fines without notice however employer still may contest

COVID-19

Employer Management of COVID-19

- 9/18/2020 – Requires all employers to notify local health departments
 - 3 or more cases in their workplace within 2 weeks or
 - Outbreak (see prior definition)
 - Notification within 48 hours
 - Names/numbers/occupation/worksites

COVID-19

Employer Management of COVID-19

- Health Departments (continue)
 - OCDH – 800-564-8448
 - LA County – 888-397-3993
 - San Diego – 888-950-9905
 - Sacramento -
<https://www.saccounty.net/COVID-19/Documents>

COVID-19

Employer Management of COVID-19

- See Packet (PDF example of Sacramento form for employee with COVID-19)

COVID-19

Employer Management of COVID-19

- SB 1159 (ER Reporting)
 - Labor Code 3212.88 (i)
 - ER knows or should know of positive COVID-19 test , must report the incident to claims administrator within 3 days
 - (1) No identifiable information should be provided unless it is being asserted as industrial
 - (2) Date of test positive (date of actual test)
 - (3) Specific location of employment during 14 day window

COVID-19

Employer Management of COVID-19

- SB 1159 (ER Reporting)
 - Labor Code 3212.88 (i)
 - (4) Highest number of employees at that location in past 45 days
 - Labor Code 3212.99(j) Intentional false or misleading information or fails to submit fine up to \$10,000.

COVID-19

Employer Management of COVID-19

- SB 1159 (ER Reporting)
 - Labor Code 3212.88 (k)(2)
 - ER aware of a positive test after 7/6/2020 but before 9/17/2020 shall report those to claims within 30 days, same information as 3212.88(i)

COVID-19

COVID-19 Presumptions

- Claim Filings

- 3/19/2020 – 7/5/2020

- (30 day window for all employees) LC 3212.86(e)

- 7/6/2020 – 1/1/2023

- (30 day window for public service) LC 3212.87

- 7/6/2020 – 1/1/2023

- (45 day window for all others) LC3212.88(f)

COVID-19

COVID-19 Presumptions

- 3212.88 Presumption Issues
 - (b)(3) Positive test during outbreak
 - (e)(2) Evidence of measures in place of employment to reduce exposure as well as conduct of employee

COVID-19

COVID-19 Presumptions

- Tip 1
 - Positive test look to the date
- Tip 2
 - Provide reasonable medical 1st 30 days or until denied
- Tip 3
 - FFCRA applies before TTD

COVID-19

COVID-19 Presumptions

- Tip 4
 - Death benefits to state are not applicable therefore dependency info is crucial
- Tip 5
 - Specific place of employment needs to be known
- Tip 6
 - Timeline window of virus, symptoms and test positive

COVID-19

COVID-19 Presumptions

- Tip 7
 - What is a California employer's responsibility to Federal OSHA reporting
- Tip 8
 - Employee place of employment – what if location is shared among other employers?

COVID-19

Benefits for COVID-19

- FFCRA to be used first
- Benefits specific for COVID
- TTD benefits
- PD benefits
- Death Benefits
 - Funeral
 - Dependent compensation

COVID-19

Benefits for COVID-19

- Medical
 - 1st 30 days or during delay stage of claim
 - \$10,000 cap while on delay
 - Reasonable medical to cure and relieve

COVID-19

Contact Tracing / Causation / Facts Known

- Date of positive test
- Date of symptoms
- 14 day window preceding symptoms
- 2 to 6 day window preceding symptoms
- Family / dwelling house members symptoms or test positive

COVID-19

Contact Tracing / Causation / Facts Known

- Avg for symptoms 5 to 6 days but up to 14 (WHO)
- 2 to 14 days (Mayo Clinic)
- Fever: 99% / Fatigue:70% / A dry cough: 59%
Loss of appetite: 40% / Body aches: 35% /
Shortness of breath: 31% / Mucus: 27%
- Median incubation 5.1 days (Johns Hopkins)

COVID-19

Contact Tracing / Causation / Facts Known

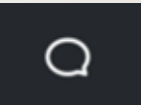
- 7.8% gym
- 8.5% bar or coffee shop
- 40.9% dinning out (indoor)
- (CDC September 11, 2020)

COVID-19 ER Timeline Summary

- Notice of positive employee (1 business day notice)
- Notice to local health department within 48 hours (see local rules for exceptions)
- Report to claims within 3 business days
- 7/6/2020 to 9/17/2020 inform claims no later than 10-19-2020

COVID-19 Round Table

Questions & Answers

- Feel free to put a question in the chat box, click on the chat bubble;  type in your question.