



# **COVID-19: Coronavirus**

## **Presented by SDHR Consulting**



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# Key Objectives

**What is Coronavirus**

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**Providing a Safe Workplace**

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**Sick Leave and Benefits**

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**Office Closures and Flexible Work Arrangements**

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**Travel Considerations**

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**Discrimination and Harassment Concerns**

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# What is Coronavirus?

- Virus that can cause respiratory illness
- Most common symptoms include fever, cough and difficulty breathing, however some people don't have any symptoms
- There is currently no vaccine or treatment; most people (80% of cases) recover on their own but more severe cases may require hospital care
- Number of Reported Cases as of March 16<sup>th</sup>
  - SD County: 55   CA: 557   US: 4632   Worldwide: 181,546



# Who is at risk?

- According to the World Health Organization (WHO), those who are most at risk for severe complications from COVID-19 are people over 60 years of age, smokers, and those with underlying medical conditions; kids and pregnant women are not known to be especially at risk
- Workers with increased exposure risk include those involved in:
  - Healthcare (including pre-hospital and medical transport workers, healthcare providers, clinical laboratory personnel, and support staff)
  - Airline operations
  - Waste management
  - Travel to areas where the virus is spreading
- [CDC: Risk Assessment Tool](#)
- [CDC: Risk Assessment for Healthcare Personnel](#)

# Providing a Safe Workplace

## Occupational Safety and Health Administration (OSHA)

- The General Duty Clause requires employers to furnish to each worker “a place of employment which (is) free from recognized hazards that are causing or are likely to cause death or serious physical harm”
- Personal Protective Equipment (PPE) standards



## Cal/OSHA

- Aerosol Transmissible Diseases (ATD) standard is aimed at preventing worker illness from infectious diseases that can be transmitted by inhaling air that contains viruses
- Employers must also protect their workers from exposure to hazardous chemicals used for cleaning and disinfection
- Injury and Illness Prevention Program (IIPP) required for all CA employers to protect employees from workplace hazards

# OSHA follows CDC Guidelines on Preventative Measures



## ONE

Actively encouraging sick employees to stay home



## TWO

Performing routine environmental cleaning of shared workplace equipment and furniture



## THREE

Providing information and training to employees on:

- Cough and sneeze etiquette
- Hand hygiene
- Avoiding close contact with sick persons
- Avoiding touching eyes, nose, and mouth with unwashed hands
- Avoiding sharing personal items with co-workers (i.e. dishes, cups, utensils, towels)
- Providing adequate supplies - tissues, no-touch disposal trash cans and hand sanitizer

## FOUR

Advising employees to check CDC's Traveler's Health Notices prior to travel

# Handling Employee Safety Concerns

## **“Don’t Panic – If you do, they will”**

- An employee could refuse to go to work if they feel they are in “imminent danger,” but that “the threat must be immediate or imminent, which means that an employee must believe that death or serious physical harm could occur within a short time.
  - “Requiring travel to China or to work with patients in a medical setting without personal protective equipment at this time may rise to this threshold.” Fisher Phillips LLP
- Refer employees to Employee Assistance Program (EAP) resources as well as some health insurance carriers 24/7 hotline
- Whistleblower Protections – OSHA prohibits employers from retaliating against workers for raising concerns about safety and health conditions

# Sick Leave



- Employers can send employees home if they display influenza-like symptoms during a pandemic
- Employers are required to let employees use available sick time but cannot require they do.
- Paid sick leave can be used for absences due to illness or healthcare treatment for the employee or their family member
- Employees may be eligible for paid leave under an employer's policy, state disability or paid family leave benefits, or similar benefits through a private insurer (Note: CA - EDD has waived waiting period on SDI)
- FMLA/CFRA – Is Coronavirus a “Serious Medical Condition”?
- Be careful on making deductions for sick time for exempt employees. Can deduct from sick leave bank.



# Doctor's Notes

- An employer can require employees, who have been away from the workplace during a pandemic, to provide a doctor's note certifying fitness to return to work. However, doctors and other health care professionals may be too busy to provide this in a timely manner.
- Some recommendations would be:
  - Allow employers to work remotely while waiting to receive the certification
  - Reliance on local clinics to provide a form to certify that an individual does not have the pandemic virus
  - Encourage the use of telemedicine (cannot test remotely) and drive-through clinics instead of hospital and emergency room visits
- Avoid questions that are likely to elicit information about a disability, which could result in the employee revealing that they have a condition that is covered under the ADA



# Office Closures – No Work Available

- Employees are eligible to apply for unemployment due to reduced work hours or office closure, at no fault of their own
- In CA, workers who are temporarily unemployed due to COVID-19 and expected to return to work with their employer within a few weeks are not required to actively seek work each week.
- Also available for employees who have children's schools closed
- EDD has waived typical waiting period



- Exempt Employees
  - An exempt employee who performs no work at all during a week may have their weekly salary reduced
  - An exempt employee who performs any work during a week must be paid their full weekly salary, even if they do not work the full week because the employer failed to make work available
- In the absence of a contract, non-exempt employees are not required by law to be paid.

# Flexible Work Arrangements

- Telework is an effective infection-control strategy.
- Update work from home policies so performance can still be monitored for remote workers
- Provide training to managers on how to manage remote workers, both exempt and non-exempt
- If employees are required to work from home, be prepared to reimburse related expenses (i.e. phone, internet, computer, printer)
- Ensure non-exempt employees continue to accurately record their hours worked and take all applicable meal and rest breaks
- Coordinate with IT to ensure your systems are prepared for an increase in employees working from home
- Encourage use of chat software to stay in frequent communication



# Personal Travel Considerations



- Employers can request that employees notify the employer if they do/will travel to an area that is CDC Level 2 or 3. (All of the US is now listed as a Level 2).
- Employers can also warn employees that if they choose to engage in such travel, they may be asked to work from home upon their return and demonstrate they are symptom-free before returning to the worksite
- When an employee returns from travel during a pandemic before developing influenza symptoms, the employer can ask questions about exposure to pandemic influenza during the trip
- [CDC Travel Health Notices](#)

# Work Travel Considerations



- Can you require employees to travel to high risk areas?
- Do you require them to be quarantined when they return? If so, how do you pay them? (Work from home)
- What if employees travel and get quarantined, are employers obligated to pay for hotel and meals?

# Workers' Compensation Claims

- Depends on whether the employee contracted the virus at work and whether the contraction of the disease was “peculiar” to their employment.
- Employees with highest likelihood related to their employment:
  - Health care workers
  - First Responders
  - Employees traveling on business into infected areas or those stationed permanently or semi-permanently in high-risk areas
  - A person who works with the general public might have a claim if they can prove they were exposed at work
- Recommend - employees and employers whose work is related to coronavirus should maintain detailed records identifying potential exposures.
- Policyholder, insurers and brokers should review Liability and Workers' Compensation policies and work together to evaluate potential claims as early as possible.



# Positive Tests for Coronavirus

- Act swiftly but avoid panic
- Respect privacy of employee
- Inform follow employees of possible exposure
- Send home all employees who worked closely with that employee for 14 days (Refer to Flexible Working Arrangements)
- Take steps to decontaminate or temporarily shut down the workplace
- Health care provider has obligations to report employee positive result to authorities





# Harassment and Discrimination Concerns

- CDC has explicitly warned the public not to assume that someone of Asian descent is more likely to have coronavirus
- Federal, state, and local laws prohibit employers from discriminating against or harassing employees based on certain protected characteristics
- Be careful to implement policies, procedures and protocols in a way that does not single out employees based on any protected characteristic, but particularly national origin or ethnicity
- Take all complaints seriously and launch a prompt, thorough, and impartial investigation into the complaint



# Resources for Employers

## Federal Agencies

- [CDC: Coronavirus Disease 2019](#)
- [CDC: Travel Health Notices](#)
- [WHO](#)
- [OSHA](#)

## Other Resources

- [Fisher Phillips](#)
- [Crowdsource Document](#)

## California Agencies

- [CDPH](#)
- [Cal/OSHA](#)
- [DLSE](#)
- [EDD](#)

## SDHRC Resources

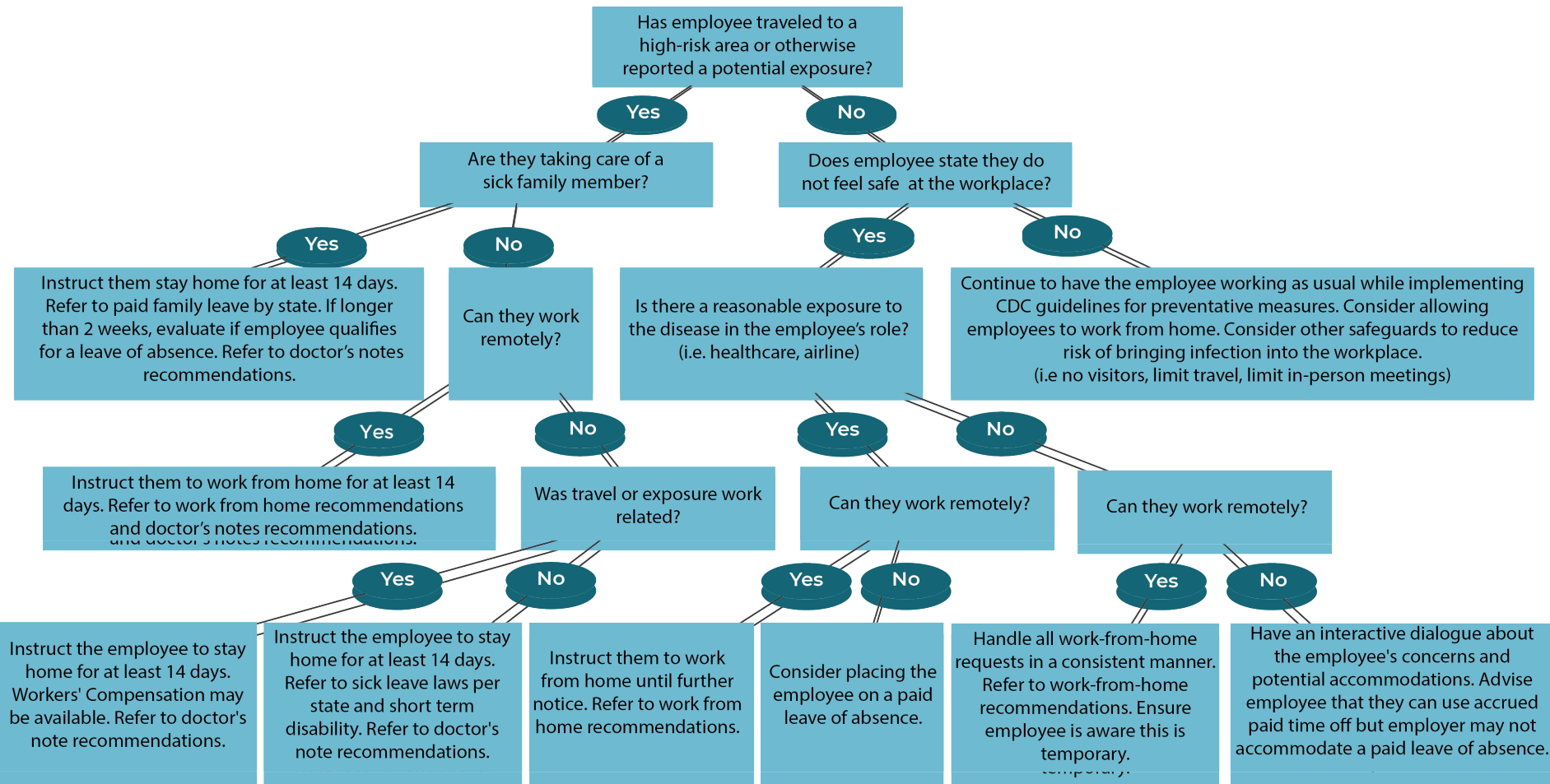
- [COVID-19 Resources](#)
- [Transition to Remote Workforce](#)
- [Communication Template](#)

# Resources for Employers (CA - EDD)

Reduced Work Hours	Potential Closure or Layoffs	Tax Assistance
<p>Employers experiencing a slowdown in their businesses or services may apply for the UI Work Sharing Program.</p> <p>This program allows employers to seek an alternative to layoffs — retaining their trained employees by reducing their hours and wages that can be partially offset with UI benefits</p>	<p>Employers can get help through the Rapid Response program.</p> <p>Rapid Response teams will meet with you to discuss your needs, help avert potential layoffs, and provide immediate on-site services to assist workers facing job losses.</p>	<p>Employers may request up to a 60-day extension of time from the EDD to file their state payroll reports and/or deposit state payroll taxes without penalty or interest.</p> <p>A written request for extension must be received within 60 days from the original delinquent date of the payment or return.</p>

# Paid Leave by State

State	Sick Leave Requirements and Accrual	Family and Medical Leave	Family and Medical Leave Pay
California	Yes, 1 hour for 30 hours worked; additional policies for some counties/cities	Yes – CFRA, unpaid leave	Yes – Paid Family Leave (EDD), up to 6 weeks partial pay
Colorado	Yes – Emergency Rules effective 3/11/20. May require up to 4 days paid leave while being tested	Yes - Colorado Family Care Act, runs concurrent with FMLA	No
Louisiana	No, only New Orleans Living Wage Ordinance	No	No
Nevada	Yes, Eff 1/1/20, 50+ EE, 0.01923 hours for every hour worked	No	No
Oregon	Yes, 10+ EE in Oregon or 6+ EE in Portland. If less, unpaid leave. 1 hour for 30 hours worked	Yes – Oregon FMLA, unpaid	No – Paid Family Leave beginning 2023
Pennsylvania	Yes, Eff 3/15/20, Pittsburgh required sick leave. 1 hour for every 35 hours worked	No	No
Washington	Yes, 1 hour for every 40 hours worked. Additional policies for Seattle and Tacoma	Yes – Family & Medical Leave	Yes



# How Can SDHRC Help You?

- Creation & Revision of Injury and Illness Prevention Plan (IIPP)
- Virtual Workplace Policy Creation & Implementation
- Virtual Workplace Transition Support
- Managing People in a Virtual Workplace Environment
- Technology Transitions & Requirements for a Virtual Workplace Environment
- Handling Performance Issues in a Virtual Workplace Environment



employershield@sdhrconsulting.com  
1-866-EShield



SDHR Consulting  
<https://sdhrconsulting.com>  
hr@sdhrconsulting.com  
888-220-9286