

Pivoting Your Practice Forward in 2020

Addressing Your Questions and Key Concerns

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Pivoting Your Practice Forward in 2020

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- Employment law
- Government programs: SBA, EIDL
- PPP loan forgiveness
- Questions

Ready to restart: Employment law

Reopening readiness, risks and responses

Develop & maintain a safe workplace plan for your work environment

Sources of Guidance

CDC

OSHA

State/local orders



Develop Operating Protocols for Physical Workplace

Assess the workplace

Preparedness & controls

Plans for staffing



Develop Operating Protocols for Employees

Training

Health Screenings

Best Practices

Assess the workplace to developed and refine practices to maintain safety of employees and customers

Physical Distancing Measures Limiting # of Interactions

- Move part or all of your business online
- Enable employees to work from home, where possible
- Establish virtual service options
- Restrict number of customers/clients
- Change arrival and processing procedures

Social Distancing Measures Limiting Close Contact

- Conduct meetings virtually
- Limit attendance & time of meetings
- Use outdoor spaces to conduct business operations
- Use shields or other physical barriers between employees, clients, customers,
- Use masks in close-contact settings.
- Use floor markings

Social Distancing Measures Limiting Gatherings

- Implement social distancing at meetings
- Cancel unnecessary meetings
- Convert to virtual format
- Pre-meeting seating assignments
- Provide barriers

OSHA Standard

A workplace that is free from recognized hazards that are causing or likely to cause

The Plan

- Develop and implement a sanitation plan with increased cleaning schedules to ensure surfaces, shared equipment, and rooms are cleaned more frequently
- Identify who will be responsible for the increased cleaning schedule
- Ensure that those in charge of cleaning are provided with appropriate personal protective equipment
- Provide ample time for cleaning and disinfecting of stores and facilities
- Ensure quality assurance checks

The Process

- Train employees on infection prevention and control procedures
- Create or modify training modules to include implemented public health and social measures (e.g., infection control practices, physical distancing, etc.)
- Display signage and posters on handwashing and hygiene etiquette
- Identify means to distribute information on best practices in the workplace

The Practices

- Provide means by which individuals can sanitize objects or surfaces when interacting with them.
- Self-serve cleaning wipes and sanitizer
- Dedicated cleaner for handles, trolleys, baskets, and other high-touch surfaces
- Provide protective coverings for high-touch surfaces for easier cleaning (eg, touchscreens, keypads).
- Provide equipment to limit direct contact with high-touch surfaces (eg, gloves, single-use tools).

New OSHA Guidance puts burden on employers to determine if employee COVID-19 cases are work-related

Work-related cases must be recorded on the employer's OSHA Form 300 log

A COVID-19 case must be recorded on the OSHA 300 log if three criteria are met:

- A confirmed case of COVID-19
- Work-relatedness
- Illness resulting in death, days away from work, restricted work or the transfer to another job, medical treatment beyond first aid, or the loss of consciousness

Employers must make reasonable efforts to determine if the exposure might be ***work-related***

- Asking the employee limited questions about how the COVID-19 was contracted
- Making inquiries about the employee's work and nonwork activities, and possible exposure
- Investigating the employee's work environment to determine whether COVID-19 exposure was possible

Develop Response Scenarios to Address Employee Concerns

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Prepare for common scenarios by developing a resource of FAQs that can help managers navigate these situations safely, consistently, and fairly



Employee with a fever



Employee with ill family member



Employees in close contact

Understand leave options under the FMLA and FFCRA - Emergency Paid Sick Leave (“EPSL”) & Emergency Family and Medical Leave Act (“EFMLA”)

EPSL

What: 80 hours of emergency paid sick time

Multiple reasons for EPSL remain available upon return to work

Note: Employer may not require employee to use PTO first

Not available to healthcare workers

EFMLA

What: Up to 12 weeks of leave for child care

EFMLA for child care remains available upon return to work – and usage may increase

Note: FFCRA regs provide that only available for one caregiver at a time

Not available to healthcare workers

“Classic” FMLA

What: Up to 12 weeks of leave for a serious health condition

Employees who have coronavirus or are caring for a family member

Note: Employer may require standard FMLA medical certification

If FMLA exhausted, EPSL may still be used – if available

Employers remain obligated to comply with the ADA.

EEOC is providing practical guidance on managing COVID-19 risks while complying with the ADA

Accommodations

Employers have an obligation to consider accommodations to reduce the risks for disabled employees who may make them more susceptible to contracting COVID-19

Also, employers should be alert for heightened issues faced by employees with mental health disabilities such as anxiety, PTSD that may be exacerbated by COVID-19 concerns

Interactive Process

Employers must still engage in the interactive process and may request information from an employee, including medical documentation

However, employers may choose to forgo or shorten the exchange of information that is part of the interactive process and/or implement temporary accommodations

Confidentiality

Questionnaires, screening, and testing will result in employers having medical information that they do not normally solicit or maintain

Employers must maintain this information confidentiality and must take steps to ensure that managers understand this obligation

Employers should consider how the working relationship has been impacted and what promises and expectations have been communicated

Reduced schedule

Employee continuing to work a reduced schedule – may or may not have been remote

Expectation is that work hours will return to previous level

Furloughs

Generally understood to be a temporary reduction in hours or work due to economic or operating conditions

Expectation that employee will return to work

Lay offs

May be like a furlough in in that is a temporary cessation of work or may be a permanent break in employment

What the employer communicated will be particularly critical

RIFs

Permanent break in employment that has typically impacted a group of employees

Expectation is that employees will not return to work



Sorry, but I'm just too worried about being exposed to COVID-19 to come back to work

- Generally, fear of getting an illness is not a sufficient reason to miss work or even for a leave
 - *Is it different in this situation?*
- **Factors to consider:**
 - Is there a genuine COVID-19 related reason?
 - Is there a basis for leave or an accommodation?
 - Is telework possible?
 - Is unpaid leave/time off possible?
 - Has this been handled consistently with other employees?
- **Communicate return to work expectations**
 - Explain health and safety measures
 - State return to work expectations
 - Indicate potential consequences – benefits cease, no unemployment, loss of employment

- Businesses that reopen may not be able to bring back all workers or may have bring back workers at reduced schedules
 - Some employees may not be able to return to work, due to child care requirements, health, etc.
- Many states, including OH have expanded unemployment benefits to cover COVID-19 related work losses
- CARES Act unemployment stipend (\$600) also remains in effect through the end of July

THE WALL STREET JOURNAL.

Coronavirus Relief Often Pays Workers More Than Work

- ***Considerations in handling the return to work disincentive***
 - Partial return to work as an option with some unemployment benefit continuation
 - Workshare program option
 - Establish return to work expectations and report work is available

Review and update policies to reflect changed and new workplace realities

Attendance

While an employer may be open for business, some employees still may not be able to return to the office

Employers should be prepared to address these attendance issues

- * High risk employees
- * Employees fearful about coming to work

Child care

Child care will likely still be an issue for many workers

FFCRA leave provisions (EFMLA and EPSL) will still apply through the end of the year

Employee policies should reflect how EFMLA leave and EPSL may be used in relationship to normal FMLA leave and PTO/sick leave

Time off policies

Evaluate how existing policies interact with new obligations

Is it necessary to supplement or amend leave, vacation, or PTO policies to provide clarity to employees as they return to work?

New policies to consider

Social distancing

Handwashing

Temperature check

Meetings/gatherings

Return to work after Covid19

Ready to Restart

The changed nature of the workplace

- The changes that we have seen will have a long term impact on the work place
 - Remote onboarding
 - Remote work
 - Office design
 - Innovative processes
 - Enhanced preparedness
 - Workplace health and safety
 - Workplace and personal privacy



Business adjustments and government financial assistance programs

- Most practices substantially or entirely closed during as a result of the Pandemic
- The restart or rebuild process is likely more difficult than closing
- Doctors and other employees may no longer be able to or willing to work in the same manner as before
- States continue to encourage work from home
- Cash flow likely has substantially changed

Review organization documents

- Confirm all owners have signed relevant agreements
- Check to see that state registration information is current
- Assess buyout and buy-in pricing is consistent with current situation

Communicate with third-parties

- Coordinate deliveries and processes with vendors
- Obtain sufficient sanitizing supplies – and inform employees
- Increase communication about current business status

***SBA announced on June 15 that the portal to submit applications had reopened**

***Current focus on coordinating refinancing EIDL with PPP**

EIDL Eligibility

- Small business concerns (including sole proprietorships)
- 500 or fewer employees with some exceptions
- Independent contractors
- Cooperatives and employee owned businesses
- Private non-profits

CARES Act expands eligibility for EIDL loans beyond the previous definition of “Small Businesses” by the SBA.

EIDL Terms

- Loan amount – determined by SBA.
- Interest rate of 3.75% for small businesses.
- Interest rate of 2.75% for non profit organizations.
- Loan maturity terms up to a maximum of 30 years.
- Borrowers must be in business as of January 31, 2020.
- SBA's “credit elsewhere” test is waived.
- No personal guarantees for loans under \$200,000.
- No collateral requirements for loans under \$500,000.

- Currently more than \$100 billion still available to loan
- Loan amount = 2.5 x average payroll costs
- Interest rate = 1% per year
- No loan fees
- No guarantees
- No collateral required

Payroll costs =

- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of State or local tax assessed on the compensation of employees

- Loan program launched by Federal Reserve
- Minimum size is \$250,000
- Interest rate = LIBOR plus 3% per year
- Loan origination fees
- Borrower required to provide certifications and comply with restrictions

Program Benefit

Primarily will benefit businesses with cash needs not supported by current lenders, but not an urgent or desperate cash flow situation

Loan forgiveness under the Paycheck Protection Program

“Building an airplane while you are flying it”

- Borrower does not have to pay back PPP loan if spent for certain Covered Expenses during the Covered Period.
- Amount forgiven is not taxable income.
- BUT, expenses paid for with PPP loan are not deductible.
- If cannot get the whole amount forgiven, then remainder is a 1% loan that must be repaid.

- Unless you are a sole proprietor with no employees, this stuff can get really complicated.
- The rules are frequently ambiguous, constantly changing, and require lots of non-intuitive calculations.
- Perspective to help plan to spend the money the right way.
- Application requires certifications that can result in civil and criminal penalties if not accurate. SBA will audit all borrowers with loans over \$2mm and can choose to audit others.

- Payroll Costs (at least 60%)
 - Cash Compensation (capped at \$100,000 salary) + Health Benefits + Retirement Benefits + Payroll Taxes
 - Different rules for employees than for owners
- Non-Payroll Costs (started before February 15, 2020)
 - Mortgage Interest (real and personal property)
 - Rent (real and personal property)
 - Utilities – electric, gas, water, transportation, phone, Internet access

- Forgiveness Amount = sum of “costs incurred and payments made during the covered period” – read “and” as “or”
- 8 weeks under the CARES Act
- 24 weeks under the Paycheck Protection Program Flexibility Act, but can choose to use 8 weeks
- “Alternative Payroll Covered Period” – simplifies application by starting Covered Period on next payroll date but only applies to payroll costs

- It matters what type of entity you own – LLC / S Corp / C Corp
- Self-Employed and Partners - deemed expenses included based on 2019 amounts, rather than actual amounts paid to them during Covered Period.
- "Owner-Employees" – C or S Corp Owner
 - C corporation owner treated like a regular employee (health, retirement)
 - S corporation owner modification (get retirement but not health)
- Cap for all owners of lesser of (i) 8/52 (8 CP) or 2.5/12 times (24 CP) 2019 amounts or (ii) \$15,385 (8 CP) or \$20,833 (24 CP).

- Non-Payroll Expenses Capped at 40%.
- Dollar adjustment for reduction in salary / hourly wages during CP for employees who made <\$100k in 2019.
- Pro rata adjustment for reduction in Full-Time Equivalent Employees during CP.
- Can eliminate adjustments by restoring the reduced amounts by the earlier of December 31, 2020 or the forgiveness application date.

- EZ Form – one page with all data summarized.
 - Self-employed with no employees
 - No wage reduction and no FTE reduction
 - No wage reduction and HHS/CDC/OSHA rules limited operations
- Full Form – requires schedules with calculations of amounts. Detailed information about all employees.
- All applicants (even EZ filers) need to run the numbers.
- Due date: 10 months after end of Covered Period.

- Written documents to support the calculations on the application – payroll records, payroll/unemployment returns, invoices, cancelled checks, etc.
- Best Practices – compile the documentation as you are spending the money.
- Written documents to support the certification of need.

- "Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant."
- This will be reviewed upon audit of the loan forgiveness request.
 - More than \$2mm – automatic audit, prove need
 - \$2mm or less – discretionary audit, deemed to have need

QUESTIONS?



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RESOURCES



<https://www.physiciansupportline.com/>

A screenshot of the Physician Support Line website. The background is a close-up of a person's face wearing a blue surgical cap and mask. The text is overlaid on the right side of the image. At the top, there is a navigation menu with links for 'About', 'News & Updates', 'PSL In The Media', and a 'Volunteer Portal' button. Below the navigation, the main heading reads 'Physician Support Line' followed by the phone number '1 (888) 409-0141'. Underneath, it states 'Helping our colleagues all over the U.S. on the front lines of COVID-19', 'Free & Confidential | No appointment necessary', and 'Open 7 days a week | 8:00AM - 12:00AM EST'. A 'Call Now' button is located at the bottom right of the banner.

About News & Updates PSL In The Media Volunteer Portal

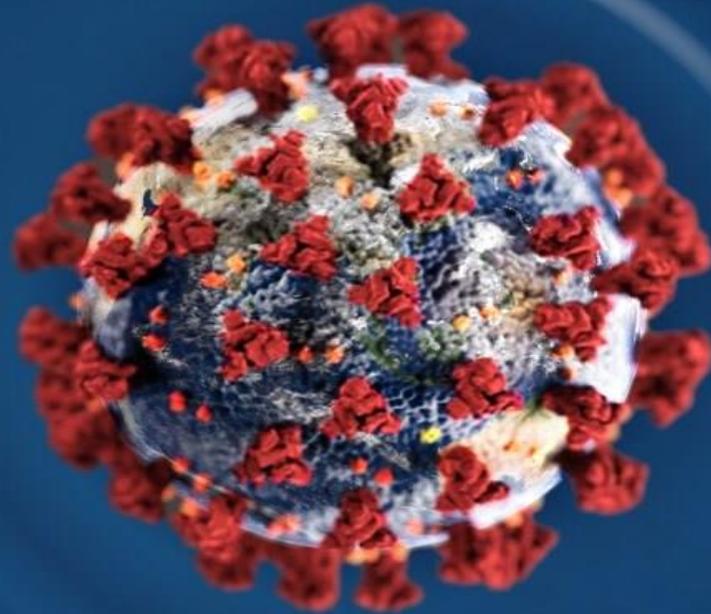
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AOA Resources



www.osteopathic.org/covid-19

On-demand Covid -19 Webinars

- **How to Rebuild Your Practice Now and After COVID-19**
- **Physician Contract Issues in Light of COVID-19**
- **Navigating HIPAA and Telemedicine during COVID-19**
- **Get Paid for Telehealth; New Rules for Documentation and Technology**
- **Billing and Coding Under New Telehealth Rules**



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Upcoming Webinars

Advance Well-Being During and After a Pandemic

July 28 7:00 PM CT

Reopening your Medical Practice

JULY ? 7:00 PM CT

Protect Patients & Staff From COVID-19 Stress-Induced Violence

TBD 7:00 PM CT

Cybersecurity & HIPAA Security Operating during the COVID-19 Crisis

TBD 7:00 PM CT

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