

COVID-19 AND THE HR POLICIES YOU NEED TO IMPLEMENT

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CONFLICT OF INTERESTS

The following information is presented by an employment attorney engaged in private practice who certifies that he has no affiliation or involvement with any organization or entity with any financial interest or non-financial interest in the subject matter or materials discussed in this webinar.



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ASSESSING THE NEEDS OF YOUR PRACTICE

Short-term and intermediate term needs

- What team members/associates are necessary for the next 30 days?
- What team members/associates are necessary for the next 6 months?



Effects of the Executive Order

- Assess what type of emergency treatment you can provide given the guidance of the ADA and CDA.
- Understand that the April dates for possible return to work are flexible and will likely be extended.

DIFFICULT DECISIONS

L a y o f f s

Employees terminated without a promise of return. No different than termination under other circumstances but make clear that employee is not responsible for separation and that employee is entitled to unemployment insurance benefits.

F u r l o u g h

Employees are not terminated but hours are reduced to zero for the time being.



DIFFICULT DECISIONS

Issues to Consider

Promise to bring furloughed employees back to work or increase their hours at some point in the future?

How will federal, state, and local laws impact employee benefits if they are sick or subject to a shelter in place order? Different for employees on furlough?

Can employees file for unemployment if they are laid off? If they are furloughed or working part time?





HOW TO LAY OFF STAFF

Written Notice

- Explain unfortunate situation and need to reduce staff due to COVID-19 and the ADA requirement that we only treat emergencies.
- Notice should include:
 - Last day of employment/amount of final paycheck (wages, accrued but unused leave, any severance you would like to offer);
 - You can express hope that you will bring them back in the future, but you cannot **promise** future employment;
 - Positive reference;
 - Urge them to file for Unemployment Benefits; and
 - COBRA notice regarding their health insurance.



HOW TO LAY OFF ASSOCIATES

Review Contracts

- Contract with an associate is effective and may govern.
- Does the contract include an advance notice of termination provision?
- Can you renegotiate the terms of the contract?
- If an associate is paid on production, you are not obligated to provide work to them instead of the owners.

MOVING FORWARD

What if an employee gets sick?

If employees believe they have been exposed to COVID-19 at work and begin to exhibit symptoms, they can file claims for workers' compensation.

Most workers' compensation insurance carriers will pay for testing. Depending on results, employee would have to prove that exposure at work caused the illness.

If they have been sheltering at home except to work in your office, they may be able to prove their claim and receive all treatment through the workers' compensation system.



MOVING FORWARD

U n e m p l o y m e n t I n s u r a n c e B e n e f i t s

Employees who are laid off should be told to immediately apply for Unemployment Insurance benefits. Termination letter should include link to Colorado Department Of Labor – Division of Unemployment.

Employees who are furloughed or even have reduced hours are eligible for benefits because they are “underemployed.”

What impact will this have on Unemployment Insurance rates?



MOVING FORWARD

Employee Health Insurance

If your employees are laid-off they will be eligible for health insurance continuation through COBRA and will need to receive this notice.

If full-time employees are either furloughed or work part time, they may be eligible for insurance benefits if their change in status is not intended to be permanent. Discuss the requirements to maintain health insurance benefits for your staff with your health insurance broker.

Employees who are furloughed or have reduced hours may not be able to pay their share of insurance benefits.





WHAT NOT TO DO

- Don't make promises you can't keep about rehiring.
- Don't have your employees sign a release of claims (i.e. work for free; agree not to apply for COVID-19 benefits).
- Don't threaten that they will not be eligible for unemployment insurance or other benefits if they don't sign documents .



TOMORROW'S TOPICS

- Paid Emergency Sick Leave (up to 80 hours) and when it is due and how to calculate.
- Paid FMLA (up to 10 weeks of paid sick leave) and limited circumstances on when it is due.
- Impact of Denver Shelter in Place Order and possible future state/federal/local orders of this nature.
- Any new developments.

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THANK YOU