International Society
of Certified Employee Benefit Specialists

HR & Benefit Leadership Resilience Strategies For Leading Your People & Operations Through COVID-19 Uncertainties & Disruptions

Cynthia Marcotte Stamer, Esq.

DFW Chapter ISCEBS
September 10, 2020

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HR & Benefit Leadership Resilience Strategies For Leading Your People & Operations Through COVID-19 Uncertainties & Disruptions

Presented To

DFW IFCEBS

September 10, 2020

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SOLUTIONS LAWYER™

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COVID-19 AS CRISIS/CATASTROPHE

CRISIS IS "ANY EVENT THAT HAPPENS SUDDENLY, DISRUPTS ROUTINES, HURTS COMPETITIVE POSITION AND DEMANDS IMMEDIATE ATTENTION IS A CRISIS."*

* Chubb Insurance

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COVID-19 Health Care Emergency Has Created Multiple Crises

- Health care
- Economic Crisis
- Business Operational & Financial Crisis
- Individual Life Crisis
- More

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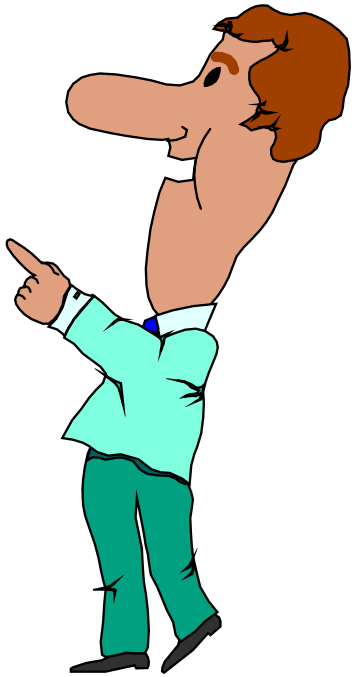
CHUBB DISASTER STATISTICS

- 45 % NEVER REOPEN
- 28 % FAIL WITHIN 3 YEARS
- 23 % FULLY RECOVER



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Survival & Competitive Edge Come From Quickly & Effectively Managing Challenges Better Than Competition

UNANTICIPATED BUSINESS LOSS, CLOSURE, CASH FLOW, EXPENSE & OTHER OPERATIONAL DISRUPTIONS

OSHA/OCCUPATIONAL INJURY, CUSTOMER, BUSINESS PARTNER EXPOSURE LIABILITIES

UNCERTAIN & EVOLVING KNOWLEDGE, GUIDANCE & STANDARDS

CONSTRICTED FINANCIAL, FACILITIES & STAFF RESOURCE CONSTRAINTS

HIGH EXPECTATIONS

CURRENT & POST – OUTBREAK LITIGATION, ENFORCEMENT & REGULATION

INSURANCE, INDEMNITY & OTHER RISK COVERAGE GAPS

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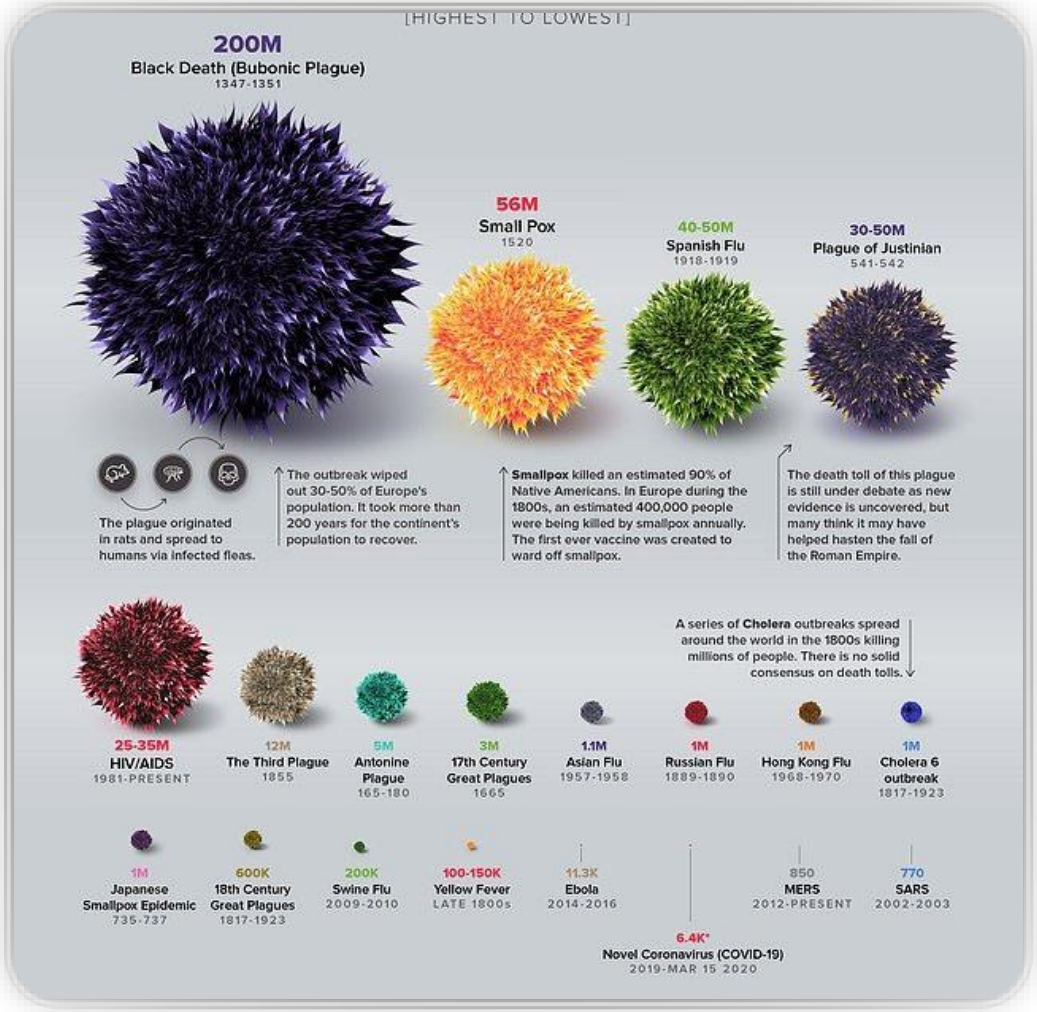
Understanding COVID-19

What Is It?



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Rules, Standards & Guidance

- CDC Foundation Of, But Not Exhaustive, Basis For Infectious Disease Management In US Federal Legal Requirements:
  - ✓ CDC
  - ✓ Conditions of Participation
  - ✓ FDA
  - ✓ DEA
  - ✓ OSHA/Worker's Compensation
  - ✓ International Rules
  - ✓ State Laws & Regulations
  - ✓ Contracts
  - ✓ Common Law Precedent
  - ✓ Credentialing, Accreditation or Other Applicable Standards
  - ✓ Other

- Businesses May Need To Supplement CDC Standards Based On Other Relevant Rules, Guidance, Information & Circumstances
- Businesses May Need To Tailor Selection & Use of CDC Infectious Disease Alternatives To Comply With Other Legal Requirements, Manage Other Legal & Operational Risks
- Well-Designed, Documented Decision-making & Process Important To Defensibility
- Customer Relations May Dictate/Support Greater Caution Than Law Requires

PHASED REOPENING BASED ON RISK CRITERIA

Proposed State or Regional Gating Criteria

(Satisfy Before Proceeding to Phased Opening)

SYMPTOMS

Downward trajectory of influenza-like illnesses (ILI) reported within a 14-day period

AND

Downward trajectory of COVID-like syndromic cases reported within a 14-day period

CASES

Downward trajectory of documented cases within a 14-day period

OR

Downward trajectory of positive tests as a percent of total tests within a 14-day period (flat or increasing volume of tests)

HOSPITALS

Treat all patients without crisis care

AND

Robust testing program in place for at-risk healthcare workers, including emerging antibody testing

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CDC COVID-19 HEALTH CARE INFECTIOUS DISEASE MANAGEMENT – KEY CONCEPTS

- ❑ Minimize Chance for Exposures
- ❑ Adhere to Standard and Transmission-Based Precautions
- ❑ Patient Placement
- ❑ Take Precautions When Performing Aerosol-Generating Procedures (AGPs)
- ❑ Collection of Diagnostic Respiratory Specimens
- ❑ Manage Visitor Access and Movement Within the Facility
- ❑ Implement Engineering Controls
- ❑ Monitor and Manage Healthcare Personnel
- ❑ Train and Educate Healthcare Personnel
- ❑ Implement Environmental Infection Control
- ❑ Establish Reporting within and between Healthcare Facilities and to Public Health Authorities

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CDC GUIDELINES FOR ALL EMPLOYERS SCALING UP OPERATIONS IN ALL PHASES

- ❑ Establish and maintain communication with local and state authorities to determine current mitigation levels in your community.
- ❑ Protect employees at higher risk for severe illness by supporting and encouraging options to telework.
- ❑ Consider offering workers at higher risk duties that minimize their contact with customers and other employees (e.g., restocking shelves rather than working as a cashier), if agreed to by the worker.
- ❑ Encourage any other entities sharing the same work space also follow this guidance.
- ❑ Provide employees from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to workplaces in lower transmission (later Step) areas and vice versa.

Employers with Workers at High Risk, CENTERS FOR DISEASE CONTROL AND PREVENTION (2020), https://www.cdc.gov/coronavirus/2019-ncov/community/high-risk-workers.html (last visited Jun 4, 2020).

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

- Step 1: Scale up only if business can ensure strict social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers; workers at higher risk for severe illness are recommended to shelter in place.
- Step 2: Scale up only if business can ensure moderate social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers; workers at higher risk for severe illness are recommended to shelter in place.
- Step 3: Scale up only if business can ensure limited social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers.

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

- Safety Action
  - Promote healthy hygiene (Steps 1-3)
  - Enforce handwashing, covering coughs and sneezes, and using cloth face coverings when around others where feasible; however, certain industries may require face shields.
  - Ensure that adequate supplies to support healthy hygiene behaviors, including soap, hand sanitizer with at least 60 percent alcohol, tissues, paper towels, and no-touch trash cans.
  - Post signs on how to stop the spread of COVID-19, properly wash hands, Promote everyday protective measures and properly wear face covering.

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

- Environmental Safeguards (Steps 1-3)
  - Intensify cleaning, disinfection, and ventilation (Steps 1-3)
    - Clean and disinfect frequently touched surfaces at least daily and shared objects between use.
    - Avoid use or sharing of items that are not easily cleaned, sanitized, or disinfected.
    - Ensure safe and correct application of disinfectants.
  - Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if doing so poses a safety risk to individuals and employees using the workspace.
  - Take steps to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of Legionnaires' disease and other diseases associated with water.

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

- Promote social distancing (Steps 1-3)
  - Limit service to drive-throughs, curbside take out, or delivery options, if possible (Step 1).
  - Consider installing physical barriers, such as sneeze guards and partitions, and changing workspace layouts to ensure all individuals remain at least 6 feet apart.
  - Close communal spaces, such as break rooms, if possible (Step 1) or stagger use and clean and disinfect in between uses (Steps 2 & 3).
  - Encourage telework for as many employees as possible.
  - Consider rotating or staggering shifts to limit the number of employees in the workplace at the same time.
  - Replace in-person meetings with video- or tele-conference calls whenever possible.
  - Cancel all group events, gatherings, or meetings of more than 10 people (Step 1), of more than 50 people (Step 2), and any events where social distancing of at least 6 feet cannot be maintained between participants (all Steps).
  - Restrict (Step 1) or consider limiting (Step 2) any nonessential visitors, volunteers, and activities involving external groups or organizations.
  - Limit any sharing of foods, tools, equipment, or supplies.

Employers with Workers at High Risk, CENTERS FOR DISEASE CONTROL AND PREVENTION (2020), https://www.cdc.gov/coronavirus/2019-ncov/community/high-risk-workers.html (last visited Jun 4, 2020).

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CDC GUIDELINES FOR ALL EMPLOYERS SCALING UP OPERATIONS IN ALL PHASES

- Limit travel and modify commuting practices (Steps 1-3)
  - Cancel all non-essential travel (Step 1) and consider resuming non-essential travel in accordance with state and local regulations and guidance (Steps 2 & 3).
  - For employees who commute to work using public transportation or ride sharing, consider using teleworking to promote social distancing or offering the following support:
  - If feasible, offer employees incentives to use forms of transportation that minimize close contact with others.
  - Ask employees to follow the CDC guidance on how to Protect Yourself When Using Transportation.
  - Allow employees to shift their hours so they can commute during less busy times.
  - Ask employees to wash their hands as soon as possible after their trip.

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CDC GUIDELINES FOR ALL EMPLOYERS SCALING UP OPERATIONS IN ALL PHASES

- **Monitoring and Preparing**
  - Checking for signs and symptoms (Steps 1-3)
  - Consider conducting routine, daily health checks (e.g., temperature and symptom screening) of all employees
  - Encourage employees who are sick to stay at home
  - Examples of screening methods in CDC's General Business FAQs a starting point guide
  - Know and follow requirements for using screening methods for effectiveness, to prevent spread of infection from screening, and to minimize legal and operational disruptions
  - Carefully weigh costs, legal and operational risks and other considerations within attorney-client privilege

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CDC GUIDELINES FOR ALL EMPLOYERS SCALING UP OPERATIONS IN ALL PHASES

- **Plan for when an employee becomes sick (Steps 1-3)**
  - Employees with symptoms (fever, cough, or shortness of breath) at work should immediately be separated and sent home.
  - Establish procedures for safely transporting anyone sick to their home or to a healthcare facility.
  - Notify local health officials, staff, and customers (if possible) immediately of a possible case while maintaining confidentiality consistent with the Americans with Disabilities Act (ADA)external icon and other applicable federal and state privacy laws.
  - Close off areas used by the sick person until after cleaning and disinfection. Wait 24 hours to clean and disinfect. If it is not possible to wait 24 hours, wait as long as possible before cleaning and disinfecting. Ensure safe and correct application of disinfectants and keep disinfectant products away from children.
  - Inform those who have had close contact to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and to follow CDC guidance if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for home isolation.
  - Sick employees should not return to work until they have met CDC's criteria to discontinue home isolation.

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CDC GUIDELINES FOR ALL EMPLOYERS SCALING UP OPERATIONS IN ALL PHASES

- **Maintain healthy operations (Steps 1-3)**
  - Implement flexible sick leave and other flexible policies and practices, such as telework, if feasible.
  - Monitor absenteeism of employees and create a roster of trained back-up staff.
  - Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
  - Create and test communication systems for employees for self-reporting and notification of exposures and closures.
  - Support coping and resilience among employees.

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

- **Closing (Steps 1-3)**
  - Check state and local health department notices daily about transmission in the area and adjust operations accordingly.
  - Be prepared to consider closing for a few days if there is a case of COVID-19 in the workplace or its workforce.
  - Train all managers and staff in the above safety actions. Consider conducting the training virtually, or if in-person, ensure procedures followed consistently.

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CDC Guidelines For ALL Employers Scaling Up Operations In All PHASES

INFECTION MANAGEMENT RISK MANAGEMENT TIP

- ❑ Design and administer policies to follow applicable privacy, notice, nondiscrimination and other laws,
- ❑ Post notices and secure consents
- ❑ Conduct processes safely and respectfully in uniform, nondiscriminatory fashion
- ❑ Respect and maintain confidentiality as legally required and otherwise to promote dignity and discretion, minimize risk
- ❑ Design and train team to handle potential opposition, other issues to minimize safety and litigation risks.

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CDC Guidance Employers: Phase 1

Phase 1: Develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, regarding:

- Restricted staffing subject to:
  - Social distancing and protective equipment
  - Temperature checks
  - Sanitation
  - Use and disinfection of common and high-traffic areas
  - Business travel
  - Monitor workforce for indicative symptoms. Do not allow symptomatic people to physically return to work until cleared by a medical provider.

- Develop and implement policies and procedures for workforce contact tracing following employee COVID+ test.

- Follow Specific Government Rules & Industry Guidelines Applicable To Your Specific Business Type & Situation

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CDC Guidance Employers: Phase 2

- ❑ Develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, regarding:
- ❑ Continue to **ENCOURAGE TELEWORK**, whenever possible and feasible with business operations.
- ❑ Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.
- ❑ Strongly consider **SPECIAL ACCOMMODATIONS** for personnel who are members of a **VULNERABLE POPULATION**.
- ❑ Follow Specific Government Rules & Industry Guidelines Applicable To Your Specific Business Type & Situation

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CDC Guidance Employers: Phase 3

Phase 1 Plus: Develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, except:

- ❑ Continue to **ENCOURAGE TELEWORK**, whenever possible and feasible with business operations.
- ❑ Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.
- ❑ Strongly consider **SPECIAL ACCOMMODATIONS** for personnel who are members of a **VULNERABLE POPULATION**.
- ❑ Follow Specific Government Rules & Industry Guidelines Applicable To Your Specific Business Type & Situation

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CDC Guidance Employers: Phase 3

Phase 1 Plus: Develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, except:

- ❑ Continue to **ENCOURAGE TELEWORK**, whenever possible and feasible with business operations.
- ❑ Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.
- ❑ Strongly consider **SPECIAL ACCOMMODATIONS** for personnel who are members of a **VULNERABLE POPULATION**.
- ❑ Follow Specific Government Rules & Industry Guidelines Applicable To Your Specific Business Type & Situation

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Workers at High Risk

Employers Should "Take Particular Care To Reduce Workers' Risk Of Exposure To COVID-19, While Making Sure To Be Compliant With Relevant Americans With Disabilities Act (ADA) And Age Discrimination In Employment Act (ADEA) Regulations"

- "Encourage" Workers at High Risk of Serious Illness To Self-identify
- Avoid Making "Unnecessary Medical Inquiries"

Employers with Workers at High Risk, Centers for Disease Control and Prevention (2020), https://www.cdc.gov/coronavirus/2019-ncov/community/high-risk-workers.html (last visited Jun 3, 2020).

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"High Risk Employees" e.g. individuals:

- Over Age 65
- With Underlying Medical Conditions Including But Not Limited To, Chronic Lung Disease, Moderate To Severe Asthma, Hypertension, Severe Heart Conditions, Weakened Immunity, Severe Obesity, Diabetes, Liver Disease, And Chronic Kidney Disease That Requires Dialysis.

- *TIP: Employers generally need to assume for risk management purposes at least some high risk employees employed given breadth of definition*

Employers with Workers at High Risk, Centers for Disease Control and Prevention (2020), https://www.cdc.gov/coronavirus/2019-ncov/community/high-risk-workers.html (last visited Jun 3, 2020).

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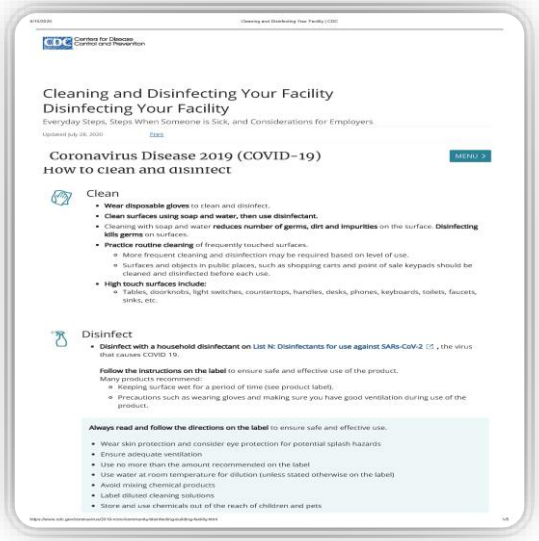
Current Employer Practices Rely Mostly On Other Businesses



Cleaning and Disinfecting Your Facility
Disinfecting Your Facility
Everyday Steps, Steps When Someone is Sick, and Considerations for Employers

Coronavirus Disease 2019 (COVID-19)
How to clean and disinfect

MENU >

Clean

- **Wear disposable gloves** to clean and disinfect.
- **Clean surfaces using soap and water, then use disinfectant.**
- Cleaning with soap and water **reduces number of germs, dirt and impurities** on the surface. **Disinfecting kills germs** on surfaces.
- **Practice routine cleaning** of frequently touched surfaces.
  - More frequent cleaning and disinfection may be required based on level of use.
  - Surfaces and objects in public places, such as shopping carts and point of sale keypads should be cleaned and disinfected before each use.
- **High touch surfaces include:**
  - Tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, sinks, etc.

Disinfect

- **Disinfect with a household disinfectant on** List N: Disinfectants for use against SARs-CoV-2 , the virus that causes COVID-19.

Follow the instructions on the label to ensure safe and effective use of the product.
Many products recommend:

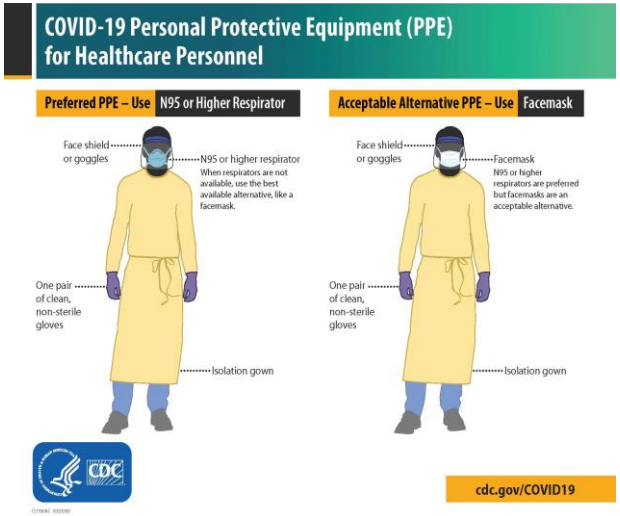
- Keeping surface wet for a period of time (see product label).
- Precautions such as wearing gloves and making sure you have good ventilation during use of the product.

Always read and follow the directions on the label to ensure safe and effective use.

- Wear skin protection and consider eye protection for potential splash hazards
- Ensure adequate ventilation
- Use no more than the amount recommended on the label
- Use water at room temperature for dilution (unless stated otherwise on the label)
- Avoid mixing chemical products
- Label diluted cleaning solutions
- Store and use chemicals out of the reach of children and pets

Shutdown/remote work

- Social Distancing
- Masks
- Hygiene
- Deep Mostly Chemical Cleaning



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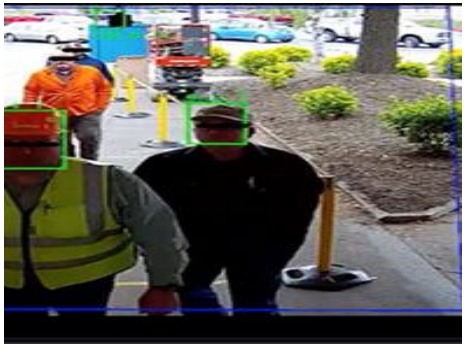
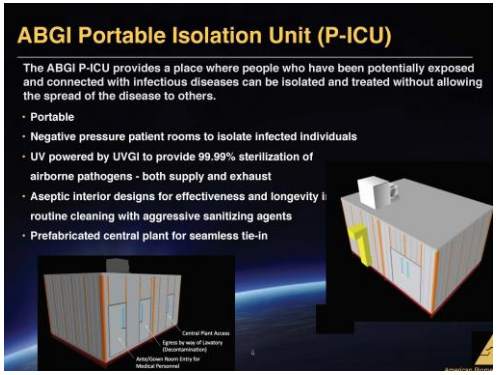
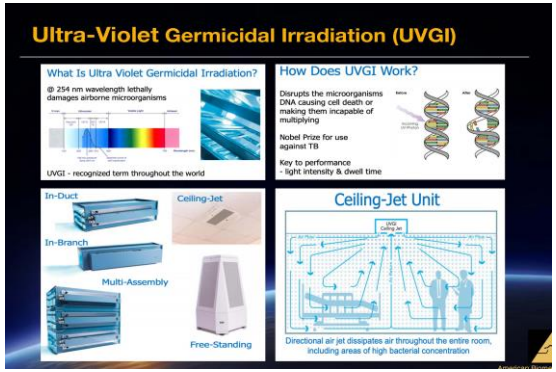
Health Care Solutions Provide Proven Pathway For Other Businesses

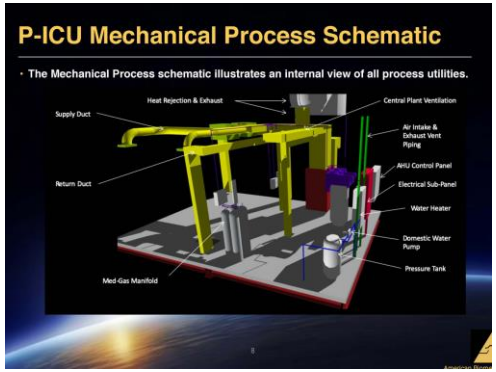


Fixed & Portable Containment Units demonstrate scientifically proven environmental and other tools for managing contagious disease in use for decades.

TemperatureTraq Video System™ thermographic imaging with hi-definition optical photography provides automated temperature readings of multiple individuals entering office buildings, factories, schools, grocery or retail stores with sub degree accuracy.







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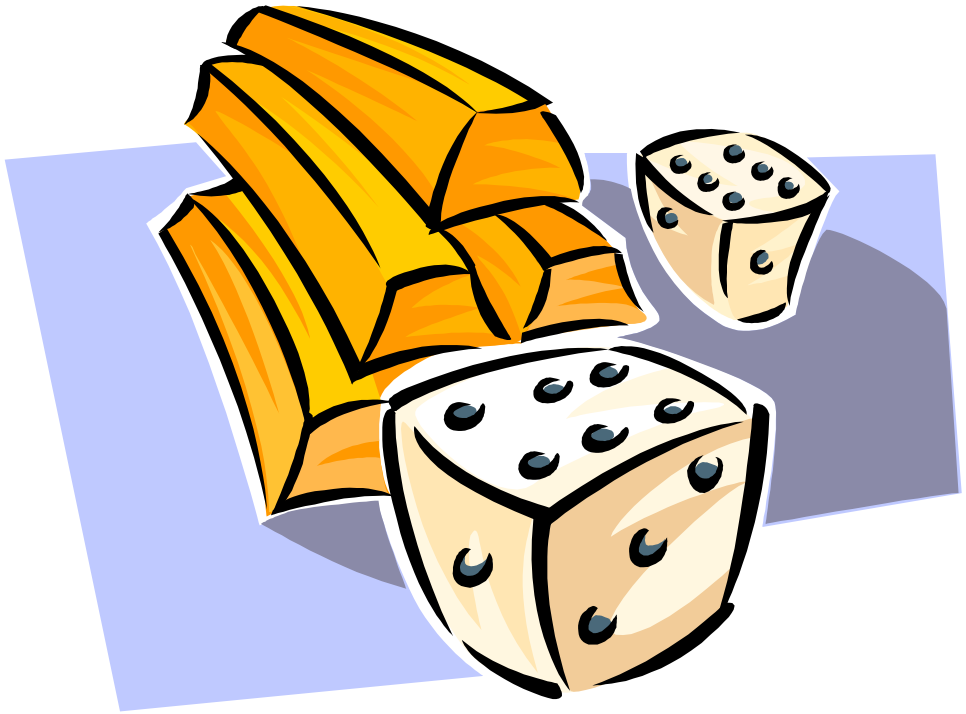
Victims of Catastrophe Are Largely Selected By The Luck of The Draw



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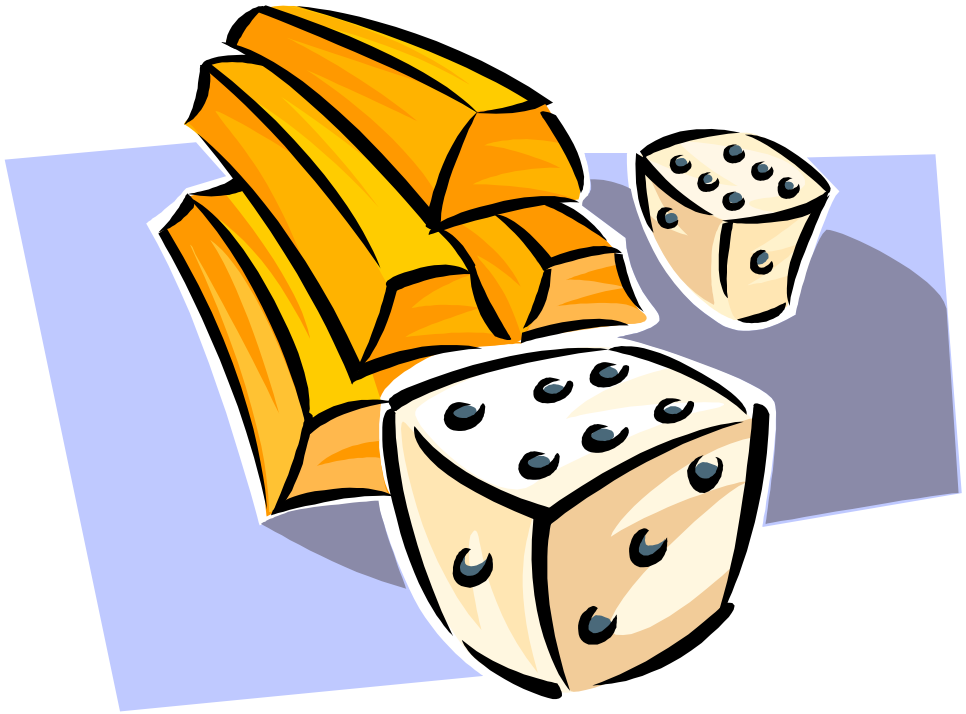
Strategic Planning Can Improve Chances of Winning or Losing



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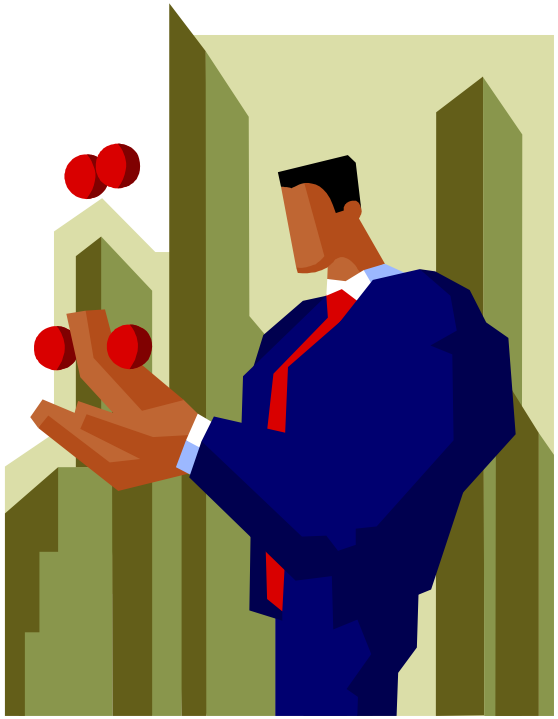
The Risk Management Jugging Game



Identify & Catch The Balls Before They Drop

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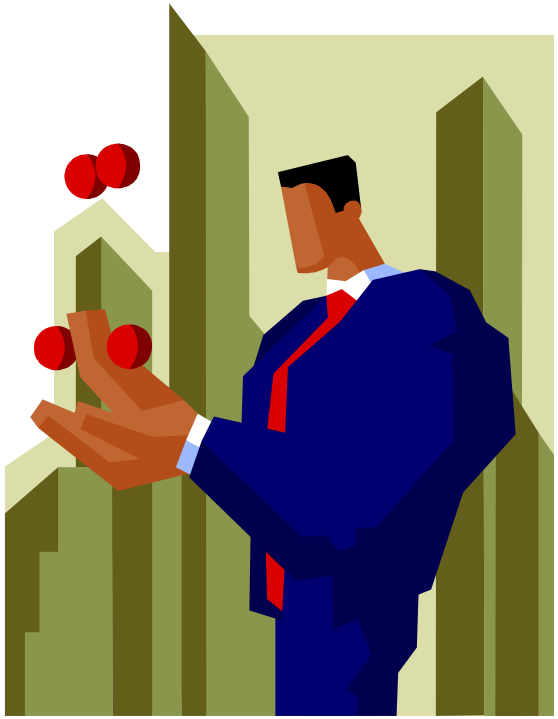
The Risk Management Jugging Game



Hope That The Ball You Drop Doesn't Blow Up

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The Risk Management Jugging Game

When A Ball Drops, Try To Get The Balls Back
Into The Air As Quickly,
Cost Effectively, and Painlessly As Possible

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Some Catastrophes Are Easier To Foresee, Prevent &/Or Manage Than Others …

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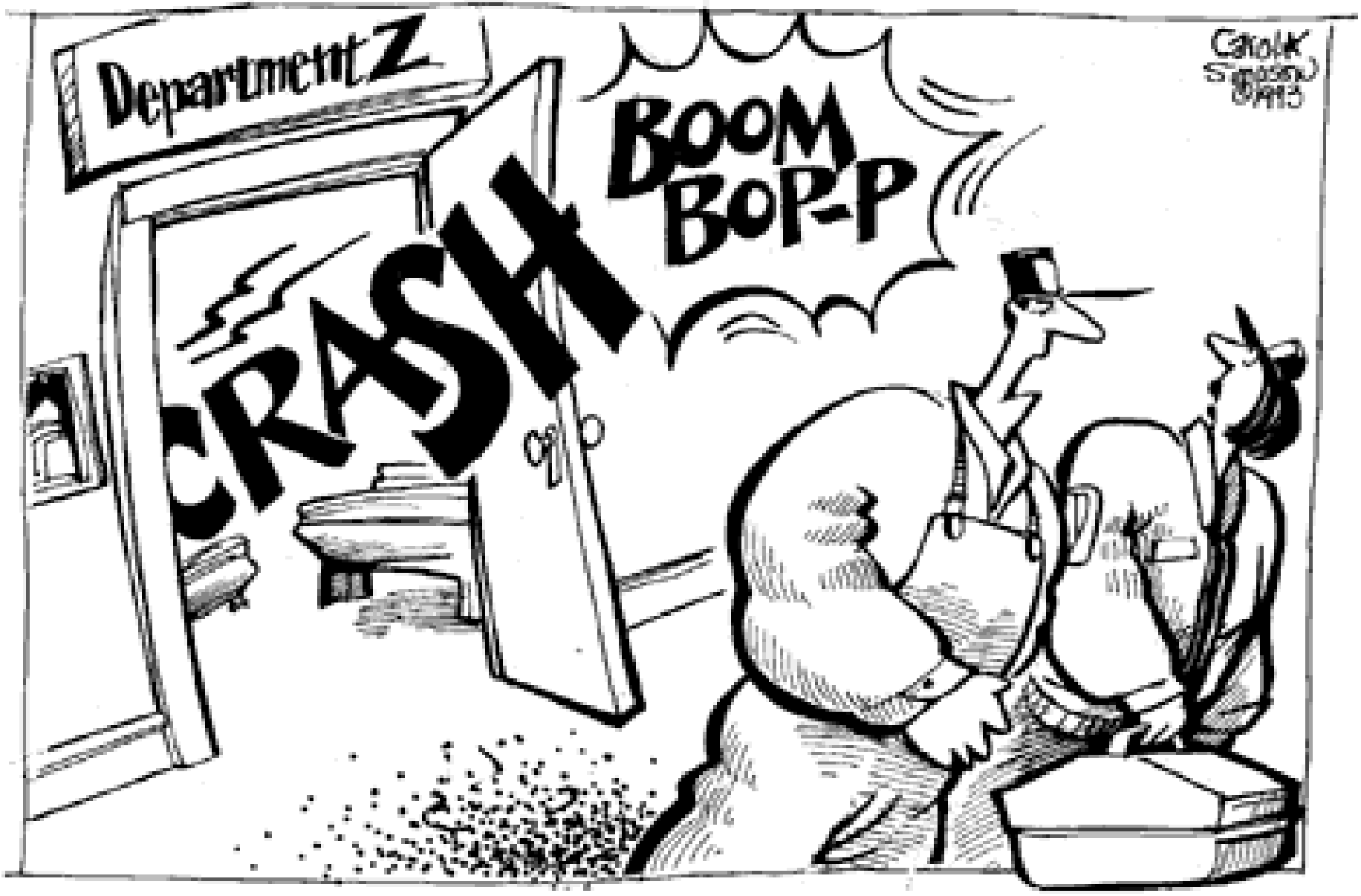

"That department is so dangerous even the foreman hired a stunt double."

TOUGH ENFORCEMENT, COMPLIANCE ASSISTANCE PRIORITY FOR PWBA IN 2003, COMBS TELLS BNA

In response to corporate fraud, concern about corporate governance, the protection of employee benefits, and the long-term financial security of workers, the Department of Labor's Pension and Welfare Benefits Administration expects to continue its policies of tough enforcement and compliance assistance in 2003, Ann L. Combs, assistant secretary for PWBA, told BNA in an interview at the agency's offices in Washington.

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September 11, 2001 World Trade Center Bombing

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Predicting What Might Happen Often Is Easier Than How

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The Worst That Could Happen

Business vs. Individuals

- Bankruptcy
- Business Loss
- Customer Loss
- Investor Loss
- Property Loss
- Financial Loss
- Reputation Loss
- Death/Dismemberment
- Jail/Criminal Sanctions
- Substantial Legal Judgment
- Other

- Death
- Illness/Injury
- Unemployment
- Income Loss
- Property Loss
- Reputation Loss
- Other

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Prepare To Respond To Your And Your Peoples' Worst Fears

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PURPOSE OF CRISIS PREVENTION AND RESPONSE IS TO PROTECT THE ASSETS OF YOUR FIRM AND TO INSURE THE ORDERLY AND EFFICIENT TRANSITION FROM NORMAL TO EMERGENCY OPERATIONS AND BACK.

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Be Prepared To Address Your People's Concerns!

- Your employees will have these questions
  - How will this affect my current position?
  - How will this affect my benefits?
  - How will this affect my salary?
  - How do I fit in?
  - How quickly must I adjust?

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Guiding Principles
For Managing Crisis or Change

The Process is Often as Important as the Result

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Staff & Public Perception Matters

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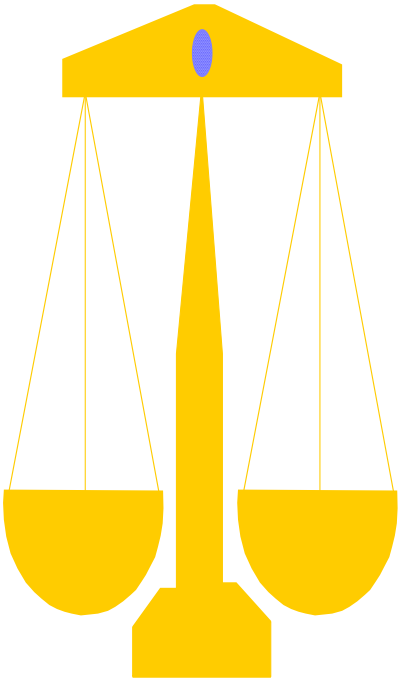
Guiding Principles
For Managing Crisis and Change



Doing the right thing is one thing,
Proving it in the court house, another ...

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Guiding Principles
For Managing Crisis or Change

Act or Speak In Haste,
Repent At Leisure

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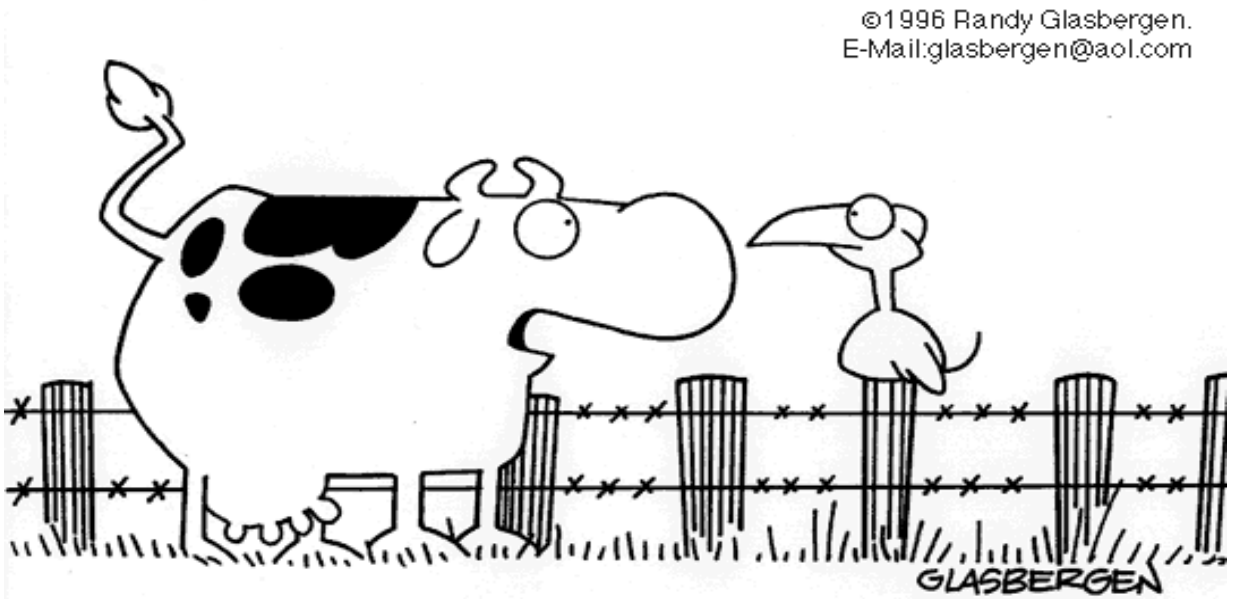
WHAT YOU SAY CAN & WILL BE USED AGAINST YOU



**"It's true, I did jump over the moon.
I had waaaaay too much coffee that day!"**

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Crisis Prep & Response Priorities

- To protect the **lives**, property, and other assets of the firm.
- To ensure the orderly and efficient transition from normal to emergency operation and back.
- To restore business operations in a timely manner.

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HAVE A DISASTER RECOVERY PLAN

"Remember son, if at first you don't succeed, make it look like someone else's fault then sue them."

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Plan & Implement Crisis Prevention & Response For Success

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Crisis Preparedness & Response

ATTORNEY-CLIENT PRIVILEGE

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The Natural Evolution of A Crisis

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Disasters Usually Unfold In Phases

- Pre-event
- Initial Post-Event Response
- Interim Clean Up
- Long Term Response

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Pre-Crisis Activities
Prevention & Risks Management

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CRISIS PLAN COMPONENTS*

- *Emergency structure: identifies* the responsibilities and authorities of the employees when implementing the plan.
- *Emergency procedures: outlines* the actions to be taken to prepare for, respond to, and recover from the event.
- *Emergency resources: identifies* the facilities and equipment needed to implement the plan.

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Designation Risk Manager

Designate and empower a compliance officer and/or risk manager with responsibility and power to develop and implement compliance & risk management strategies

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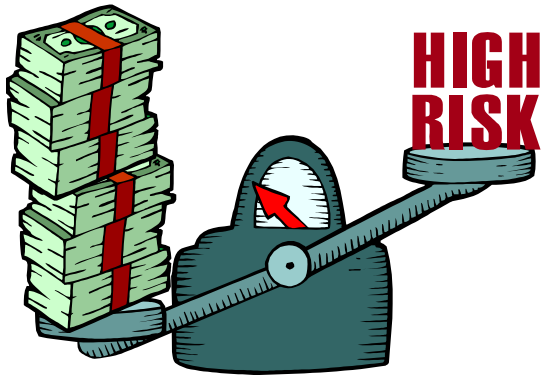
CONDUCT RISK ASSESSMENT

Risk assessment purpose to identify and rank potential hazards in terms of potential loss and establish action and response priorities ***within attorney-client privilege***



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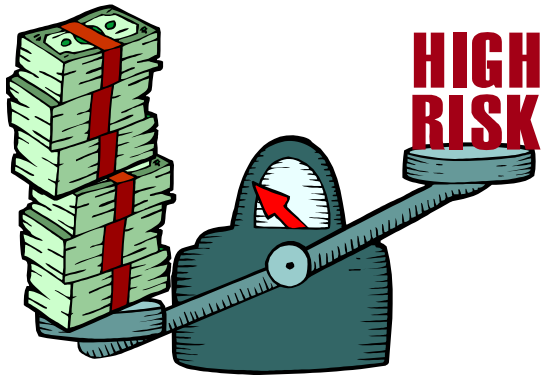
Consult Appropriate Experts

Legal
Risk Management
Insurance
Operations
Other



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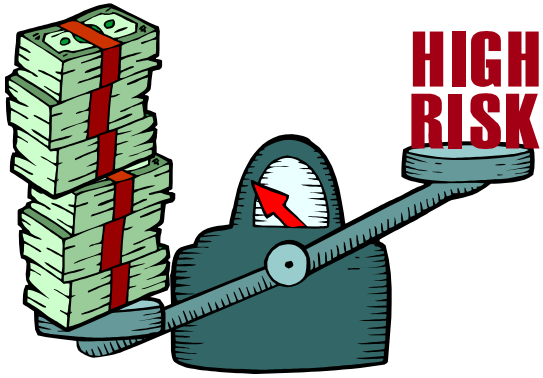

Devote Reasonable Resources To Prevent The Preventable

An ounce of prevention is worth a pound of cure
Document reasonable decisions where prevention not merited in advance

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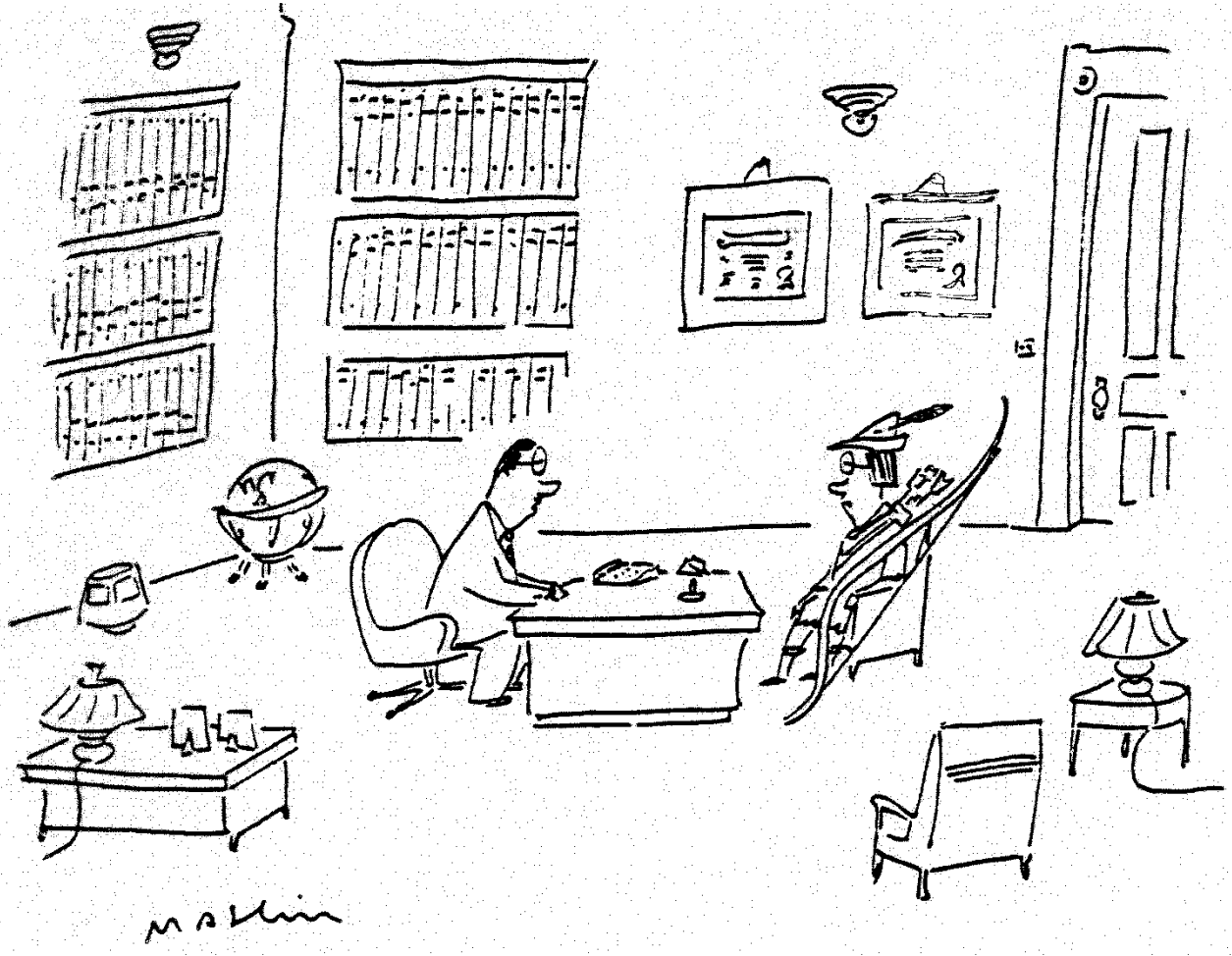

"To answer your question. Yes, if you shoot an arrow into the air and it falls to earth you know not where, you could be liable for any damage it may cause."

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Identify Critical Elements For Initial Response

- Emergency Response
- Personal Safety
- Emergency Supplies
- Back Up Location, Equipment To Maintain Critical Operations

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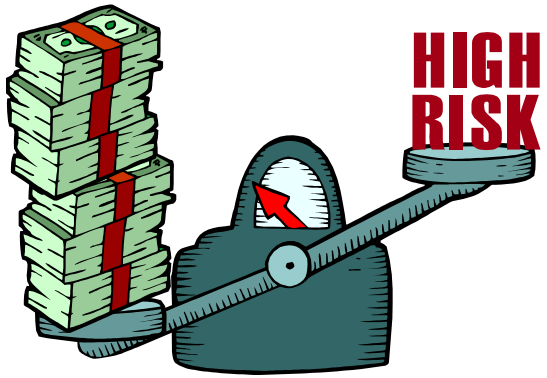
Evaluate Risk Shifting Opportunities

Insurance
Indemnification
Quality Assurance & Performance Standards
Other



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Document Prevention Analysis and Decisions Appropriately

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Appoint & Train
Crisis Response/Implementation Team

- Limit membership, involvement, access to information to those with “need to know
- Appoint one or two individuals as official spokesperson
- Require others not to comment
- Weigh pros/cons of announcing committee membership
- Ability to maintain confidence until disclosure authorized essential

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Appoint/Train Other Needed Immediate Response Teams

- Human Resources
- Risk Management
- Public Relations
- Customer Relations
- Insurance Coverage
- Compliance
- Other

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Prepare & Practice Crisis Response

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TRIAGE
Initial Post Event Response

Stabilize Situation

Prevent Further Injury/Damages

Treat & Mitigate Initial Damages & Injuries

Notify & Initiate Damage Control Team

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Initial Response

- Local employees/managers usually first to know
- Adopt appropriate written policies & procedures for responding to crisis or catastrophe
- Train employees & managers

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Initial Response

All employees should know at minimum:

- Call 911 for medical emergencies
- Call designated senior management, lawyers, others on response team
- Other response details & procedures

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Initial Response

Train local management to expect, and proper response to, interested groups, e.g.:

- Employees
- Victims families
- Contractors, customers, other business partners
- Health Care Providers
- Law enforcement
- Public/Media
- Others

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Initial Response

Train local managers to:

- Secure the Site
- Identify & Secure Witness Contact Information

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Initial Response

- Train local managers to provide a preliminary assessment report to senior management
- Train to focus on accurate description of status of employees, site, and relevant situational factors **not speculation or opinion on** causes
- Train to describe the actual situation
- Train to avoid speculation that could create damaging admissions as to causation or responsibility

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Initial Response

Train staff and management to preserve evidence and contact crisis investigation team to initiate investigation and risks management strategies.

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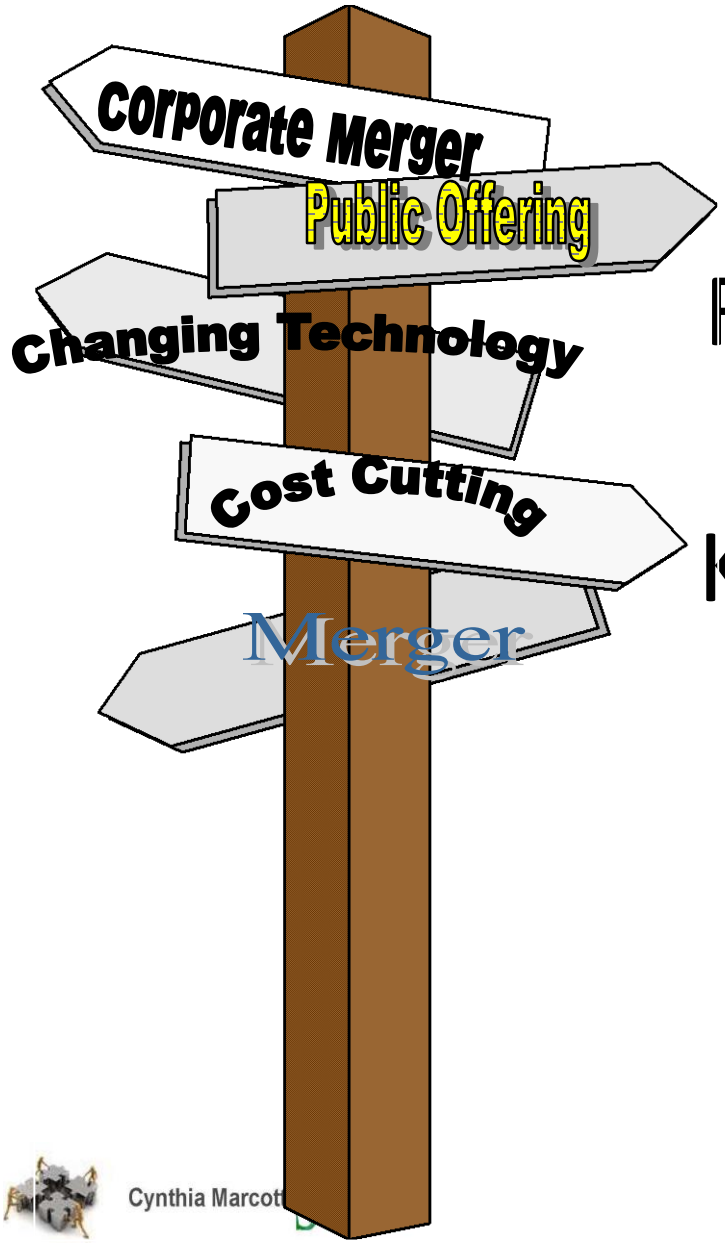

Realizing Your Company's Destiny Depends On Knowing What Its Destiny Is?

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Intermediate Response

- Assess Crisis Impact
- Identify and Implement Immediate Activities Required to Restart Operations As Soon As Possible
- Conduct Post-Event Investigation
- Develop Recovery Strategy

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Long Term Response

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New Business Realities/Post Event Response May Necessitate That Your Company Change Its People Or Modify Their Behavior

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MANAGING THROUGH THE COVID-19 HEALTH CARE EMERGENCY

- Safe Reliable Staffing
- Protect Essential Workers & Returning Workers
- Manage & Compensate Remote Workers
- Compensation, Benefits & Management of Furloughed Workers
- Managing Employee Absences & Return To Work
- COVID-19 FMLA & Other Leave
- COVID-19 Loans & Rehiring
- Benefit Effects Of COVID
- Promote Flexibility In Employment, Plans, & Vendor Relationships
- More

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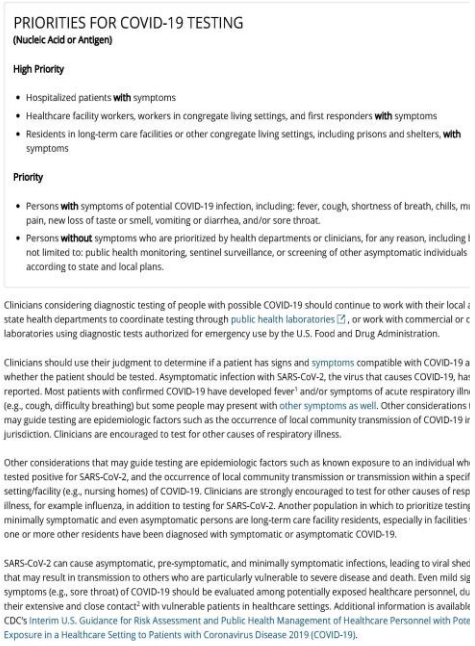
COVID-19 Evolving & Complex Legal Environment



PRIORITIES FOR COVID-19 TESTING
(Nucleic Acid or Antigen)

High Priority

- Hospitalized patients **with** symptoms
- Healthcare facility workers, workers in congregate living settings, and first responders **with** symptoms
- Residents in long-term care facilities or other congregate living settings, including prisons and shelters, **with** symptoms

Priority

- Persons **with** symptoms of potential COVID-19 infection, including: fever, cough, shortness of breath, chills, mi pain, new loss of taste or smell, vomiting or diarrhea, and/or sore throat.
- Persons **without** symptoms who are prioritized by health departments or clinicians, for any reason, including l not limited to: public health monitoring, sentinel surveillance, or screening of other asymptomatic individuals according to state and local plans.

Clinicians considering diagnostic testing of people with possible COVID-19 should continue to work with their local a state health departments to coordinate testing through public health laboratories, or work with commercial or c laboratories using diagnostic tests authorized for emergency use by the U.S. Food and Drug Administration.

Clinicians should use their judgment to determine if a patient has signs and symptoms compatible with COVID-19 a whether the patient should be tested. Asymptomatic infection with SARS-CoV-2, the virus that causes COVID-19, has reported. Most patients with confirmed COVID-19 have developed fever[1] and/or symptoms of acute respiratory illn (e.g., cough, difficulty breathing) but some people may present with other symptoms as well. Other considerations may guide testing are epidemiologic factors such as the occurrence of local community transmission of COVID-19 ir jurisdiction. Clinicians are encouraged to test for other causes of respiratory illness.

Other considerations that may guide testing are epidemiologic factors such as known exposure to an individual wh tested positive for SARS-CoV-2, and the occurrence of local community transmission or transmission within a specif setting/facility (e.g., nursing homes) of COVID-19. Clinicians are strongly encouraged to test for other causes of resp illness, for example influenza, in addition to testing for SARS-CoV-2. Another population in which to prioritize testing minimally symptomatic and even asymptomatic persons are long-term care facility residents, especially in facilities one or more other residents have been diagnosed with symptomatic or asymptomatic COVID-19.

SARS-CoV-2 can cause asymptomatic, pre-symptomatic, and minimally symptomatic infections, leading to viral shed that may result in transmission to others who are particularly vulnerable to severe disease and death. Even mild sig symptoms (e.g., sore throat) of COVID-19 should be evaluated among potentially exposed healthcare personnel, du their extensive and close contact[2] with vulnerable patients in healthcare settings. Additional information is available CDC's Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Pote Exposure in a Healthcare Setting to Patients with Coronavirus Disease 2019 (COVID-19).

Centers for Disease Control and Prevention

Coronavirus Disease 2019

Evaluating and Testing Persons for Coronavirus Disease 2019 (COVID-19)

CDC guidance for COVID-19 may be adapted by state and local health departments to respond to rapidly changing local circumstances.

Summary of Recent Changes

Revisions were made on May 3, 2020 to reflect the following:

- Updated recommendations for testing, specimen collection, and reporting patients and reporting positive test results
- Specification of testing priorities

Revisions were made on April 27, 2020 to reflect the following:

- Updated priorities for testing patients with suspected COVID-19 infection

Revisions were made on March 24, 2020 to reflect the following:

- Updated priorities for testing patients with suspected COVID-19 infection

Revisions were made on March 9, 2020, to reflect the following:

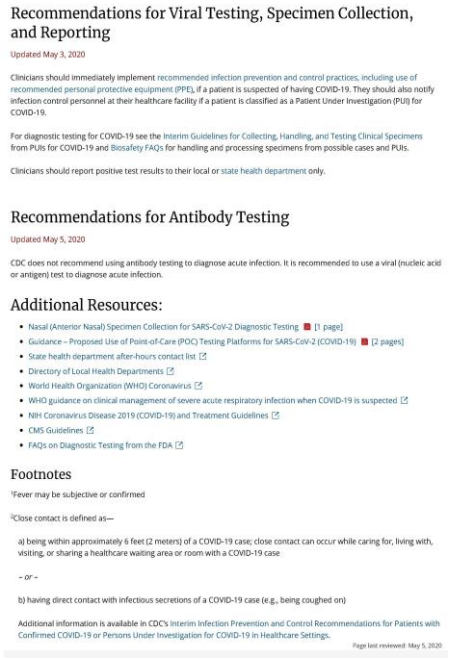
- Reorganized the Criteria to Guide Evaluation and Laboratory Testing for COVID-19 section

Revisions were made on March 4, 2020, to reflect the following:

- Criteria for evaluation of persons for testing for COVID-19 were expanded to include a wider group of symptomatic patients.

No vaccine for COVID-19 is currently available; however, vaccine trials are in progress. The National Institutes of Healt recently published guidelines on prophylaxis use, testing, and management of COVID-19 patients. For more information, please visit: National Institutes of Health: Coronavirus Disease 2019 (COVID-19) Treatment Guidelines.

The CDC clinical criteria for considering testing for COVID-19 have been developed based on what is known about COVID 19 and are subject to change as additional information becomes available.



Recommendations for Viral Testing, Specimen Collection, and Reporting

Updated May 3, 2020

Clinicians should immediately implement recommended infection prevention and control practices, including use of recommended personal protective equipment (PPE), if a patient is suspected of having COVID-19. They should also notify infection control personnel at their healthcare facility if a patient is classified as a Patient Under Investigation (PUI) for COVID-19.

For diagnostic testing for COVID-19 see the Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from PUIs for COVID-19 and Biosafety FAQs for handling and processing specimens from possible cases and PUIs.

Clinicians should report positive test results to their local or state health department only.

Recommendations for Antibody Testing

Updated May 5, 2020

CDC does not recommend using antibody testing to diagnose acute infection. It is recommended to use a viral (nucleic acid or antigen) test to diagnose acute infection.

Additional Resources:

- Nasal (Anterior Nasal) Specimen Collection for SARS-CoV-2 Diagnostic Testing [1 page]
- Guidance – Proposed Use of Point-of-Care (POC) Testing Platforms for SARS-CoV-2 (COVID-19) [2 pages]
- State health department after-hours contact list
- Directory of Local Health Departments
- World Health Organization (WHO) Coronavirus
- WHO guidance on clinical management of severe acute respiratory infection when COVID-19 is suspected
- NIH Coronavirus Disease 2019 (COVID-19) and Treatment Guidelines
- CMS Guidelines
- FAQs on Diagnostic Testing from the FDA

Footnotes

[1]Fever may be subjective or confirmed

[2]Close contact is defined as—

a) being within approximately 6 feet (2 meters) of a COVID-19 case; close contact can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case

– *or* –

b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on)

Additional information is available in CDC's Interim Infection Prevention and Control Recommendations for Patients with Confirmed COVID-19 or Persons Under Investigation for COVID-19 in Healthcare Settings.

Page last reviewed: May 5, 2020

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COVID-19 Evolving & Complex Legal Environment - CMS

CMS.gov

Centers for Medicare & Medicaid Services

Home > About CMS > Emergency Preparedness & Response Operations > Current emergencies

Search

Current emergencies | Providers, states & tribes | Get ready | Resources

Current emergencies

Here's information and updates about natural disasters, man-made incidents, and public health emergencies that are happening now. Find more information on ongoing or past emergencies.

2020

Coronavirus Disease 2019

When President Trump declared a national emergency on March 13, 2020, CMS took action nationwide to aggressively respond to COVID-19.

- You can read the blanket waivers for COVID19 in the List of Blanket Waivers (PDF) UPDATED (4/30/20).

Secretary Azar used his authority in the Public Health Service Act to declare a public health emergency (PHE) in the entire United States on January 31, 2020 giving us the flexibility to support our beneficiaries, effective January 27, 2020

Get waiver & flexibility information

General information & updates:

- Coronavirus.gov is the source for the latest information about COVID-19 prevention, symptoms, and answers to common questions.
- USA.gov has the latest information about what the U.S. Government is doing in response to COVID-19.
- CDC.gov/coronavirus has the latest public health and safety information from CDC and for the overarching medical and health provider community on COVID-19.

Read our Coronavirus disease 2019 press releases

Telehealth guidance:

- HHS telehealth guidance & information
- VIDEO-MLN Medicare Coverage and Payment of Virtual Services (4/10/20)
- General Telemedicine Toolkit (PDF) (3/20/20)
- Medicare Telehealth Frequently Asked Questions (3/17/20)
- Fact sheet: Medicare Telemedicine Healthcare Provider Fact Sheet (3/17/20)
- Long-Term Care Nursing Homes Telehealth and Telemedicine Toolkit (PDF) (3/27/20)
- End-Stage Renal Disease (ESRD) Provider Telehealth and Telemedicine Toolkit (PDF) (3/20/20)
- State Medicaid & CHIP Telehealth Toolkit (4/23/20)
- Medicaid Telehealth Guidance (3/17/20)
- CMS Coronavirus Partner Virtual Toolkit (3/17/20)

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COVID-19 Evolving & Complex Legal Environment - CMS

Executive Orders — By State

ALABAMA
- State of Emergency declared
- Gov. Kay Ivey establishes Coronavirus Task Force
- Department of Public Health Order
- Supplemental State of Emergency: Coronavirus COVID-19
- Governor Ivey Issues Statement on Updated Public Health Precautionary Guidelines
- Governor Ivey Issues Statement on Statewide Public Health Order
- Governor Ivey Issues Statement on Updated Statewide Public Health Order
- Second Supplemental State of Emergency
- Third Supplemental State of Emergency
- Fourth Supplemental State of Emergency
- Gov. Ivey awards $9.5 million in broadband extension grants
- Sixth Supplemental State of Emergency
- Gov. Ivey Issues Stay at Home Order
- Seventh Supplemental State of Emergency
- Safer at Home Order

ALASKA
- State of Emergency declared
- Administrative Order No. 315 directs the Department of Health and Social Services regarding COVID-19
- COVID-19 Health Mandate
- Health Mandate Issued on March 16: Libraries, Archives and Museums, Residential Schools Gov. Dunleavy announces Alaska Economic Stabilization Team
- Health Mandate 003: Statewide Closure Restaurants, Bars, Entertainment
- Health Mandate 004: Travel
- Health Mandate 005: Elective Medical Procedures
- Health Mandate 006 – Elective Oral Health Procedures
- Health Mandate 007 Fairbanks North Star Borough & Ketchikan Gateway Borough – Personal Care Services and Gatherings
- Health Mandate 008 Public and Private Schools
- Alaska COVID-19 Economic Stabilization Plan Released
- Health Mandate 009 Personal Care Services and Gatherings
- Health Mandate 010 International and Interstate Travel – Order for Self-Quarantine
- Governor Signs Legislation Expanding Unemployment Benefits and Increasing Internet Speeds for Alaska's Schools
- Health Mandate 011 Social Distancing
- Health Mandate 012 Intrastate Travel – Limiting travel between communities to critical infrastructure or critical person needs
- Governor Extends COVID-19 Health Mandate 002, 002
- Governor Issues Update to COVID-19 Health Mandate 005 – Attachment C
- Health Mandate 013 – K-12 Public and Private Schools
- COVID-19 Disaster Order of Suspension No. 2 Appendix A – Amendment 2 Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes
- Health Mandate 014 – Non-Congregate Sheltering Order
- COVID-19 Disaster Order of Suspension No. 2 Appendix A – Amendment 3 • Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes
- Health Mandate 015 Supercedes Mandate 005 on Elective Medical Procedures, Mandate 006 on Elective Oral Health Procedures, and affects health care providers directly addressed in Mandate 009 on Personal Care Services and Gatherings
- Health Mandate 16 – Reopen Alaska Responsibly Plan – Phase 1-A
- Health Mandate 17 Protective Measures for Independent Commercial Fishing Vessels

ARIZONA
- State of Emergency declared
- 2020-07 Proactive Measures to Protect Against COVID-19
- Governor Doug Ducey, Boys & Girls Clubs Announce Partnership to Help Address Impacts of COVID-19
- Executive Order 2020-08 Limiting In-Person Motor Vehicle Division Visits for Driver License Renewals
- Executive Order 2020-09 Limiting the Operations of Certain Businesses to Slow the Spread of COVID-19
- Executive Order 2020-10 Delaying Elective Surgeries to Conserve Personal Protective Equipment Necessary to Test and Treat Patients with COVID-19
- Executive Order 2020-11 Ensuring Individuals Whose Employment Is Affected by COVID-19 Have Access to Unemployment Insurance
- Governor Ducey Expands Access to Unemployment Insurance and Extends Income Tax Deadline
- Executive Order 2020-12 Prohibiting the Closure of Essential Services
- Executive Order 2020-13 Enhanced Surveillance Advisory

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HHS Rules As Usual Unless SSA §1135 COVID-19 Waivers

Official Waivers

- COVID-19 Emergency Declaration Blanket Waivers & Flexibilities for Health Care Providers (PDF) UPDATED (5/8/20)
- Blanket waivers of Section 1877(g) of the Social Security Act (3/30/20)
- Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-5531 IFC) (PDF) (4/30/20)
- IFC Federal Register Announcement (5/4/20)
- List of Hospital Outpatient Services and List of Partial Hospitalization Program Services Accompanying the 4/30/2020 IFC (ZIP) (4/30/20)
- List of lab test codes for COVID-19, Influenza, RSV (PDF) (4/30/20)
- Medicare IFC: Revisions in Response to the COVID-19 Public Health Emergency (CMS-1744-IFC) (PDF) (3/30/20)
- IFC Federal Register Announcement (4/1/20)
- COVID-19 Regulations & Waivers To Enable Health System Expansion (PDF) (5/4/20)
- Graphic Overview of Flexibilities (PDF) (3/30/20)
- Frequently Asked Questions to Assist Medicare Providers (PDF) UPDATED (5/1/20)
- Provider Burden Relief Frequently Asked Questions (PDF) UPDATED (4/23/20)
- Provider Enrollment Relief Frequently Asked Questions (PDF) (3/30/20)
- Updates for State Surveyors and Accrediting Organizations (EMTALA and Infection Control) (3/30/20)
- Reprioritization of PACE, Medicare Parts C and D Program, and Risk Adjustment Data Validation (RADV) Audit Activities (HPMS Memo) (3/30/20)

✓ **Temporarily modify or waive certain Medicare, Medicaid, CHIP, or HIPAA requirements;**

✓ **Limited Time, Scope & Conditions**

✓ **Evolving**

✓ **Not Excuse Pre- or Post-Waiver Violations**

✓ **Details Matter**

✓ **Don't Necessarily Prevent Liability As Not Impact Other Federal Or State Law Requirements**

Provider Specific Waiver Fact Sheets

- Home Health Agencies (PDF) UPDATED (4/30/20)
- Physicians and Other Practitioners (PDF) UPDATED (4/30/20)
- Ambulances (PDF) UPDATED (4/30/20)
- Hospitals (PDF) UPDATED (4/30/20)
- Teaching Hospitals, Teaching Physicians and Medical Residents (PDF) UPDATED (4/30/20)
- Long Term Care Facilities (Skilled Nursing Facilities and/or Nursing Facilities) (PDF) UPDATED (4/30/20)
- Hospices (PDF) UPDATED (4/30/20)
- Inpatient Rehabilitation Facilities (PDF) UPDATED (4/30/20)
- Long Term Care Hospitals & Extended Neoplastic Disease Care Hospitals (PDF) UPDATED (4/30/20)
- Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs) (PDF) UPDATED (4/30/20)
- Laboratories (PDF) UPDATED (4/30/20)
- End Stage Renal Disease (ESRD) Facilities (PDF) UPDATED (4/30/20)
- Durable Medical Equipment (PDF) UPDATED (4/30/20)
- Participants in the Medicare Diabetes Prevention Program (PDF)-UPDATED (4/2/20)
- Medicare Advantage and Part D Plans (PDF) UPDATED (4/30/20)
- State Medicaid & Basic Health Programs (4/30/20)
- Medicare Shared Savings Program Participants (PDF) (4/30/20)

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HHS Rules As Usual Unless SSA §1135 COVID-19 Waivers

Enforcement Continues For Requirements Not Covered By Waiver

OCR Says "No" Pennsylvania's Use Of Patients' Pre-Existing Conditions For Ration COVID-19 Scarce Resource Rationing

This week's Department of Health and Human Services ("HHS") Office of Civil Rights ("OCR") announcement of that the Pennsylvania Department of Health (PDH) has agreed to using a list of preexisting health care conditions to decide patient priority for access to respirators and other scarce resources during the COVID-19 health care emergency flags potential civil rights discrimination violations by the multitude of other State, local, tribal, and territorial public health policymakers, healthcare systems leadership, and other public emergency decision-makers and other public or private HHS funds recipients (collectively "COVID responders") whose pandemic emergency response plans call for the use pre-existing health conditions or other civil rights act protected status of patients to ration scarce medical resources like ventilators or other constricted resources.

Coupled with other recent guidance warning COVID responders against discrimination and to provide all legally required accommodations for individuals with pre-existing conditions or disorders constituting disabilities, English as a second language, religion, age or other protected status under Section 504 of the Rehabilitation Act of 1973 ("Section 504"), Title II of the Americans with Disabilities Act (the "ADA"), Section 1557 of the Patient Protection and Affordable Care Act ("Section 1557") and other federal civil rights laws, health care providers, public health authorities and other COVID-19 responders should act immediately to review and take any action needed to correct civil rights law deficiencies in their own COVID-19 emergency policies or operations.

PDH Enforcement Shows Agencies' Serious About COVID-19 Civil Rights Enforcement

OCR's April 28, 2020, OCR announcement of PDH's agreement to revise its Interim Pennsylvania Crisis Standards of Care for Pandemic Guidelines (CSC Guidelines) to revolve an April 3, 2020 civil rights complaint that PDH's COVID-19 pandemic response plan illegally discriminated against patients with disabilities by denying or lowing the care priority of patients with certain listed preexisting health conditions shows that OCR and other federal agencies are carrying through on promises to take quick enforcement action against COVID-19 responders that violate federal discrimination and other civil rights laws when dealing with the COVID-19 public health emergency in the March 14, 2020 Crisis Standards of Care and Civil Rights Laws guidance ("CSC Guidelines") and in OCR's March 28, 2020 Civil Rights, HIPAA, and the Coronavirus Disease 2019 Bulletin (the "Bulletin").

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HHS Rules As Usual Unless SSA §1135 COVID-19 Waivers

- SSA § 1135 Waivers Conditional, Limited, Only Relief From Specified Requirements for Medicare/Medicaid Conditions of Participation & Reimbursement For:
  - For Practicing Across State Lines
  - Telehealth Services
- HIPAA Telehealth Relief Limited In Scope, Duration
- Not Waive Other Federal or State Rules Or Requirements

OCR Limited COVID-19 HIPAA Privacy Rule Enforcement Relief For Community-Based COVID-19 Testing Sites & Telemedicine Leaves Majority Of HIPAA Requirements Active During COVID-19 Emergency

The U.S Department of Health and Human Services (HHS) Office for Civil Rights (OCR) announced Health Insurance Portability & Accountability Act Privacy Rule 2019 Novel Coronavirus (COVID-19) emergency enforcement relief for certain covered health care providers and their business associates participating in the operation of mobile, drive-through, or walk-up COVID-19 specimen collection and testing sites that only provide COVID-19 specimen collection or testing services to the public (Community-Based Testing Sites, or CBTS). The Notification of Enforcement Discretion ON CBTS During The COVID-19 Nationwide Public Health Emergency ("Notice") expands upon the series of HIPAA enforcement relief and other flexibility OCR has granted to health care providers and other HIPAA-covered entities and business associates when dealing with the COVID-19 National Health Emergency declared by President Trump on March 13, 2020.

While welcome relief for those health care providers and business associates that qualify for this relief, it is critical that all health care providers, health plans, health care clearinghouses and their business associates do not overlook the importance of ensuring their HIPAA obligations are fulfilled amid the frenzy of coping with the ongoing COVID-19 crisis. Like OCR's previously announced March 30, 2020 Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency ("Telehealth Relief") and the COVID-19 related flexibilities granted by OCR in its February 2020 Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: HIPAA Privacy and Novel Coronavirus ("OCR COVID-19 HIPAA Bulletin"), the CBTS Notice provides valuable flexibility and relief for HIPAA covered entities and business associates that qualify for the granted relief. While welcoming this relief, all covered entities and business associates need to keep in mind that the shifting of care locations, systems, affiliations and other arrangements to deal with the COVID-19 national health emergency generally are accompanied by changes in the collection, use, access, disclosure, storage and transmission of protected health information generally and electronic protected health information and its associated devices and systems. Except to the extent protected by COVID-19 or other specific disaster relief from OCR, covered entities and business associates need to use care to conduct appropriately documented risk assessments and take other necessary steps to maintain HIPAA compliance in these operations and systems throughout the emergency. See also COVID-19 Telehealth Relief;

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HHS Rules As Usual Unless SSA §1135 COVID-19 Waivers Telehealth Example

OCR Limited COVID-19 HIPAA Privacy Rule Enforcement Relief For Community-Based COVID-19 Testing Sites & Telemedicine Leaves Majority Of HIPAA Requirements Active During COVID-19 Emergency

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Telemedicine Under State COVID-19 Emergency Orders

STATE EXECUTIVE ORDERS ON COVID-19 – TELEMEDICINE

- Alaska – COVID-19 Disaster Order of Suspension No. 2 Appendix A – Amendment 2 Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes
- Alaska COVID-19 Disaster Order of Suspension No. 2 Appendix A – Amendment 3 – Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes
- Alaska – Health Mandate 015 Supercedes Mandate 005 on Elective Medical Procedures, Mandate 006 on Elective Oral Health Procedures, and affects health care providers directly addressed in Mandate 009 on Personal Care Services and Gatherings
- Arizona – Executive Order 20-19 Telemedicine for Pets and Animals
- **Arizona – Executive Order 20-29 Increased Telemedicine Access for Workers' Compensation**
- Arkansas – EO 20-05 Suspends telemedicine provisions
- California – Executive Order N-43-20 To Expand Telehealth Services
- Colorado Executive Order 2020-20 Ordering the Temporary Suspension of Certain Statutes to Expand the Use of Telehealth Services Due to Presence of COVID-19
- Colorado – Executive Order 2020-46 Extending EO 2020-20 Concerning the Temporary Suspension of Certain Statutes to Expand the Use of Telehealth Services Due to the Presence of COVID-19
- Connecticut – Executive Order No. 7F To Mitigate the Spread of COVID-19
- Connecticut – Executive Order No. 7G Takes Several Emergency Actions
- Connecticut – Executive Order No. 7DD Expansion of Healthcare Workforce
- Connecticut – Executive Order No. 7FF Expansion of Telehealth Availability
- Delaware – Governor Carney Issues Second Update to Emergency Declaration
- Delaware – Tenth Modification of the Declaration of a State of Emergency
- Florida – Executive Order 20-85 Telehealth and Immunizations for State Group Insurance
- Hawaii – Executive Order 20-02
- Illinois – Executive Order No. 20-09
- Illinois – Executive Order 20-33 Reissues Executive Orders
- Illinois – Executive Order 20-34 Cannabis Requirements
- Indiana – Executive Order 20-13 Directives to Manage Indiana's Health Care Response For Hoosiers with COVID-19 During the Public Health Emergency
- Iowa – Gov. Reynolds signs new proclamation continuing State Public Health Emergency Declaration
- Kansas – Executive Order 20-08 Temporarily expanding telemedicine and addressing certain licensing requirements to comb the effects of COVID-19
- Kansas – Executive Order 20-28 Reissuing and extending certain Executive Orders relating to the COVID-19 pandemic
- Kentucky – Telehealth and Nursing
- Louisiana – Proclamation No. JBE 2020-32 Additional Measures for COVID-19 Public Health Emergency
- Maryland – Authorizing Reimbursement for Telehealth
- Massachusetts – Order expanding access to telehealth services and to protect health care providers
- Massachusetts – Authorizing Telehealth
- Michigan – Executive Order 2020-12 Enhanced support for deliveries
- Montana – Directive implementing Executive Orders 2-2020 and 3- 2020 and providing for the use, delivery, and reimbursement of telemedicine and telehealth services
- Nebraska – Executive Order 20-12 Coronavirus – Relief for Hospitals & Health Care Facilities & Expanded Use of Telehealth Services
- Nebraska – Executive Order 20-17 Coronavirus – Personal Property Tax Penalty & Interest Waiver
- New Hampshire – Emergency Order #15: Temporary authorization for out of state medical providers to provide medically necessary services and provide services through telehealth.
- New Hampshire – Emergency Order 8 – Temporary expansion of access to Telehealth Services to protect the public and health care providers
- New York – No. 202.5: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency
- New York – State of Emergency declared
- North Dakota – Executive Order 2020-05.1 Amending Order 2020-05 to Allow for Expanded Telehealth Services
- Ohio – Executive Order 2020-05D Expands Telehealth Services
- Ohio – Executive Order 2020-09D Expanding Telehealth Access to Individual Counselors, Social Workers, and Marriage and Family Counselors
- Oklahoma – Seventh Amended Executive Order 2020-07 Closing All Non-Essential Businesses; Extending Order to all Counties
- Oklahoma – Sixth Amended Executive Order 2020-07 Requires Travelers from Six States to Self-Quarantine; Requires Certain Personnel to Submit to Screenings; Protects Health Care Workers from Housing and Childcare Discrimination
- Oklahoma – Third Amended Executive Order 2020-13
- Oklahoma – Fourth Amended Executive Order 2020-13
- Oklahoma – Fifth Amended Executive Order 2020-13
- Rhode Island – Executive Order 20-06 Fourth Supplemental Declaration – Expanding Access to Telemedicine Services
- Rhode Island – Executive Order 20-28 – Twenty-fifth Supplemental Emergency Declaration – Extension of Executive Orders
- Rhode Island – Executive Order 20-31 Twenty-eighth Supplemental Emergency Declaration – Extension of Various Executive Orders
- South Dakota – Executive Order 2020-07 COVID-19 Medical Assistance
- South Dakota – Executive Order 20-16 Suspension of Regulatory Requirements
- Tennessee – Executive Order 32 AN ORDER AMENDING EXECUTIVE ORDER NO. 15 AND TAKING OTHER NECESSARY MEASURES TO FACILITATE THE TREATMENT AND CONTAINMENT OF COVID-19
- Texas – Gov. Abbott Fast Tracks Licensing for Out-of-State Medial Professionals
- Utah – Executive Order 2020-07 Suspending Enforcement of Statutes Relating to Telehealth Services
- Washington – Proclamation on Telemedicine
- Wisconsin – Emergency Order #16 Relating to Certain Health Care Providers and the Department of Safety and Professional Services Credentialing

EXECUTIVE ORDERS COVID19 RESOURCES FOR STATE LEADERS, https://web.csg.org/covid19/executive-orders/ (last visited May 10, 2020)

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OSHA

- COVID-19 can be an OSHA recordable illness if a worker is infected as a result of performing their work-related duties.
- Employers are only responsible for recording cases of COVID-19 if all of the following are met:
- The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19);
- The case is work-related, as defined by 29 CFR 1904.5; and
- The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g. medical treatment beyond first-aid, days away from work).

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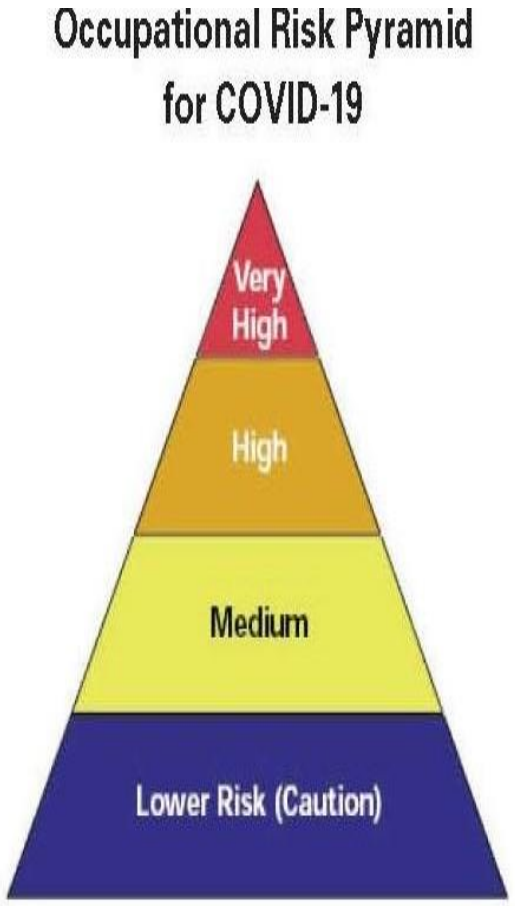
OSHA

Required Protection Keeps Rising With Risk Of Exposure

- PPE Plus
- PPE
- Administrative Controls
- Environmental Controls
- Communications & Monitoring

New Guidelines For Symptomatic, Recovering, & Exposed But Asymptomat



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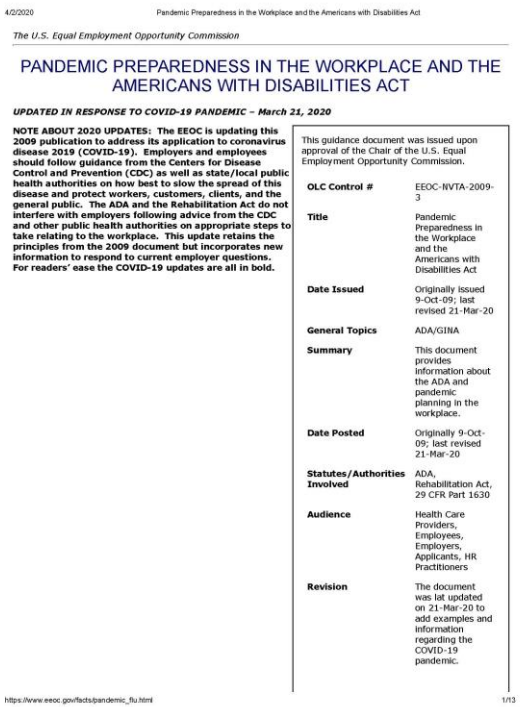
ADA

- Accommodation
- Medical Inquiries/Testing
- Medical Record Confidentiality



4/2/2020 Pandemic Preparedness in the Workplace and the Americans with Disabilities Act

The U.S. Equal Employment Opportunity Commission

PANDEMIC PREPAREDNESS IN THE WORKPLACE AND THE AMERICANS WITH DISABILITIES ACT

UPDATED IN RESPONSE TO COVID-19 PANDEMIC – March 21, 2020

NOTE ABOUT 2020 UPDATES: The EEOC is updating this 2009 publication to address its application to coronavirus disease 2019 (COVID-19). Employers and employees should follow guidance from the Centers for Disease Control and Prevention (CDC) as well as state/local public health authorities on how best to slow the spread of this disease and protect workers, customers, clients, and the general public. The ADA and the Rehabilitation Act do not interfere with employers following advice from the CDC and other public health authorities on appropriate steps to take relating to the workplace. This update retains the principles from the 2009 document but incorporates new information to respond to current employer questions. For readers' ease the COVID-19 updates are all in bold.

This guidance document was issued upon approval of the Chair of the U.S. Equal Employment Opportunity Commission.

OLC Control #	EEOC-NVTA-2009-3
Title	Pandemic Preparedness in the Workplace and the Americans with Disabilities Act
Date Issued	Originally issued 9-Oct-09; last revised 21-Mar-20
General Topics	ADA/GINA
Summary	This document provides information about the ADA and pandemic planning in the workplace.
Date Posted	Originally 9-Oct-09; last revised 21-Mar-20
Statutes/Authorities Involved	ADA, Rehabilitation Act, 29 CFR Part 1630
Audience	Health Care Providers, Employees, Employers, Applicants, HR Practitioners
Revision	The document was lat updated on 21-Mar-20 to add examples and information regarding the COVID-19 pandemic.

https://www.eeoc.gov/facts/pandemic_flu.html 1/13

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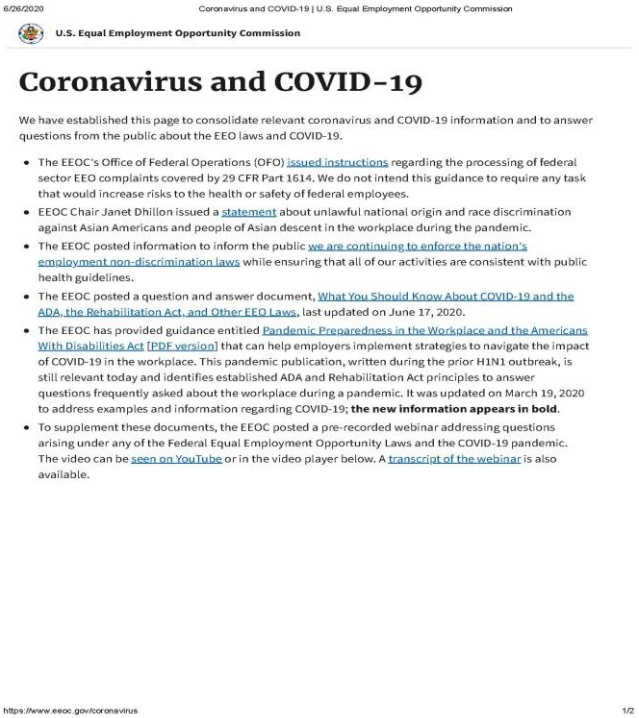
EEOC Employment Discrimination



6/26/2020 Coronavirus and COVID-19 | U.S. Equal Employment Opportunity Commission

U.S. Equal Employment Opportunity Commission

Coronavirus and COVID-19

We have established this page to consolidate relevant coronavirus and COVID-19 information and to answer questions from the public about the EEO laws and COVID-19.

- The EEOC's Office of Federal Operations (OFO) issued instructions regarding the processing of federal sector EEO complaints covered by 29 CFR Part 1614. We do not intend this guidance to require any task that would increase risks to the health or safety of federal employees.
- EEOC Chair Janet Dhillon issued a statement about unlawful national origin and race discrimination against Asian Americans and people of Asian descent in the workplace during the pandemic.
- The EEOC posted information to inform the public we are continuing to enforce the nation's employment non-discrimination laws while ensuring that all of our activities are consistent with public health guidelines.
- The EEOC posted a question and answer document, What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws, last updated on June 17, 2020.
- The EEOC has provided guidance entitled Pandemic Preparedness in the Workplace and the Americans With Disabilities Act [PDF version] that can help employers implement strategies to navigate the impact of COVID-19 in the workplace. This pandemic publication, written during the prior H1N1 outbreak, is still relevant today and identifies established ADA and Rehabilitation Act principles to answer questions frequently asked about the workplace during a pandemic. It was updated on March 19, 2020 to address examples and information regarding COVID-19; **the new information appears in bold**.
- To supplement these documents, the EEOC posted a pre-recorded webinar addressing questions arising under any of the Federal Equal Employment Opportunity Laws and the COVID-19 pandemic. The video can be seen on YouTube or in the video player below. A transcript of the webinar is also available.

https://www.eeoc.gov/coronavirus 1/2

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Federal and State Leave Mandates

- FMLA
- COVID Leave
- Local Mandates
- Other

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Benefit Changes & Relief

Businesses Should Confirm Using Benefits, Meeting Mandates Of Special COVID-19 Tax Rules

Jun 26, 2020

Earlier this week, the Internal Revenue Service ("IRS") announced that employee benefit plan participants that already took a required minimum distribution (RMD) in 2020 from certain retirement accounts now has the opportunity through August 31, 2020 to roll those funds back into a retirement account following the Coronavirus Aid, Relief, and Economic Security (CARES) Act RMD waiver for 2020. The announcement of this relief covers one of a long and growing list of special tax and other COVID-19 responsive special rules and requirements that may change requirements, provide special relief or both for businesses and individuals that every business leader and individual should carefully monitor and respond to appropriately.

Retirement Plan Rollover Relief

On July 23, 2020, the IRS announced its extension of the 60-day rollover period for any RMDs already taken this year to August 31, 2020 to give taxpayers time to take advantage

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Benefit Changes & Relief

New IRS Increased Health FSA Carryover, Gives COVID Health FSA Election Relief

Jun 11, 2020

IRS Notice 2020-33 released indexing the permissible health FSA carryover. As a consequence, the permissible amount immediately increases from $500 to $550.

IRS Notice 2020-29 released to provide temporary flexibility under cafeteria plans for new or changed health coverage and dependent care and health FSA elections, and extensions in certain circumstances of claims periods before use-or-lose must be applied, in response to the changed circumstances many have experienced with respect to availability of childcare and availability of elective health procedures. And a few other HDHP nuggets in there as well.

More Information

We hope this update is helpful. For more information about the these or other health or other legal, management or public policy developments, please contact the author Cynthia Marcotte Stamer via e-mail or via telephone at (214) 452 -8297.

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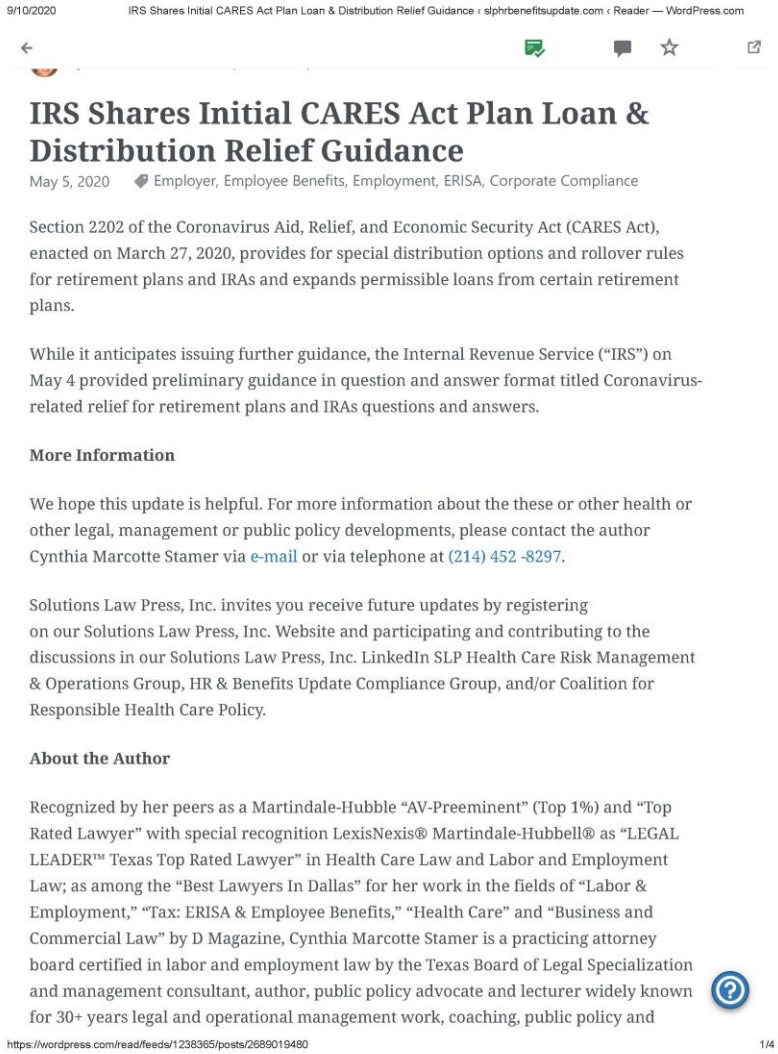
Benefit Changes & Relief



9/10/2020 IRS Shares Initial CARES Act Plan Loan & Distribution Relief Guidance ‹ slphrbenefitsupdate.com ‹ Reader — WordPress.com

IRS Shares Initial CARES Act Plan Loan & Distribution Relief Guidance

May 5, 2020 Employer, Employee Benefits, Employment, ERISA, Corporate Compliance

Section 2202 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, provides for special distribution options and rollover rules for retirement plans and IRAs and expands permissible loans from certain retirement plans.

While it anticipates issuing further guidance, the Internal Revenue Service ("IRS") on May 4 provided preliminary guidance in question and answer format titled Coronavirus-related relief for retirement plans and IRAs questions and answers.

More Information

We hope this update is helpful. For more information about the these or other health or other legal, management or public policy developments, please contact the author Cynthia Marcotte Stamer via e-mail or via telephone at (214) 452 -8297.

Solutions Law Press, Inc. invites you receive future updates by registering on our Solutions Law Press, Inc. Website and participating and contributing to the discussions in our Solutions Law Press, Inc. LinkedIn SLP Health Care Risk Management & Operations Group, HR & Benefits Update Compliance Group, and/or Coalition for Responsible Health Care Policy.

About the Author

Recognized by her peers as a Martindale-Hubble "AV-Preeminent" (Top 1%) and "Top Rated Lawyer" with special recognition LexisNexis® Martindale-Hubbell® as "LEGAL LEADER™ Texas Top Rated Lawyer" in Health Care Law and Labor and Employment Law; as among the "Best Lawyers In Dallas" for her work in the fields of "Labor & Employment," "Tax: ERISA & Employee Benefits," "Health Care" and "Business and Commercial Law" by D Magazine, Cynthia Marcotte Stamer is a practicing attorney board certified in labor and employment law by the Texas Board of Legal Specialization and management consultant, author, public policy advocate and lecturer widely known for 30+ years legal and operational management work, coaching, public policy and

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Benefit Changes & Relief

Employer Option To Defer Paying Some Employee Payroll Taxes Until 2021

6d ago

Employers now have the option temporarily to defer paying the employee portion (but not employer's portion) of certain payroll taxes due between September 1, 2020 to December 31, 2020 for employees earning less than $4000 on a bi-weekly basis.

U.S. Department of the Treasury Notice 2020-65, Relief with Respect to Employment Tax Deadlines Applicable to Employers Affected by the Ongoing Coronavirus (COVID-19) Disease 2019 Pandemic (the "Notice") issued on August 28, 2020 implements President Trump's directive in his August 8, 2020 Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster (the "Memorandum") that the Treasury Department allow the deferral of the employee portion of federal payroll taxes (6.2% for Social Security and 1.45% for Medicare) ("Employee Payroll Taxes") from September 1, 2020 until December 31, 2020 for workers earning less than $4,000 on a biweekly basis (roughly $104,000 annually).

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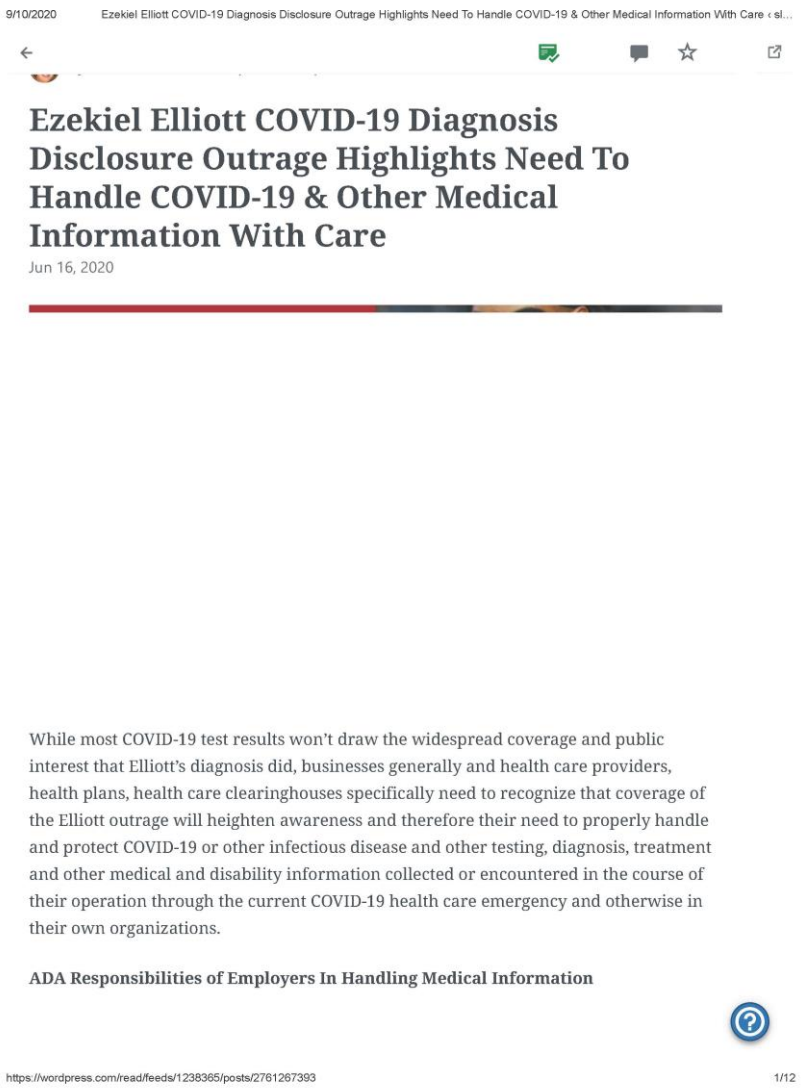
Privacy



9/10/2020 Ezekiel Elliott COVID-19 Diagnosis Disclosure Outrage Highlights Need To Handle COVID-19 & Other Medical Information With Care ‹ sl...

Ezekiel Elliott COVID-19 Diagnosis Disclosure Outrage Highlights Need To Handle COVID-19 & Other Medical Information With Care

Jun 16, 2020

While most COVID-19 test results won't draw the widespread coverage and public interest that Elliott's diagnosis did, businesses generally and health care providers, health plans, health care clearinghouses specifically need to recognize that coverage of the Elliott outrage will heighten awareness and therefore their need to properly handle and protect COVID-19 or other infectious disease and other testing, diagnosis, treatment and other medical and disability information collected or encountered in the course of their operation through the current COVID-19 health care emergency and otherwise in their own organizations.

ADA Responsibilities of Employers In Handling Medical Information

https://wordpress.com/read/feeds/1238365/posts/2761267393 1/12

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Requirements & Rules Constantly Changing To Meet Demands

Stay Informed and Resilient

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WORKFORCE RE-ENGINEERING AND DOWNSIZING

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THE RE-ENGINEERING PROCESS

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THE PROCESS IS AS CRITICAL AS THE RESULT

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CONFIDENTIALITY IS CRITICAL

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GETTING STARTED

- **Time is of The Essence**
- **Confidentiality is CRUCIAL**
- **Properly Document the Reason for the Downsizing**
- **Appoint a Re-Engineering Committee to Design and Implement the Re-Engineering Process**

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SELECTING THE RE-ENGINEERING COMMITTEE

- **Committee Should be Small**
- **Participation Should be Limited to Only Those Individuals Whose Participation is Required**
- **Meetings and Access to Information Should be Limited to Those Individuals**
- **One or Two Individuals Should be Appointed as Spokesperson; All Others Should Avoid Comment**
- **Weigh the Pros and Cons of an Announcement Regarding the Committee's Members**
- **Stress to Committee embers That Confidentiality is Essential**
- **Seek Input or Involvement From Persons Not on Committee Only as Needed**

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THE RE-ENGINEERING COMMITTEE'S JOB

- **Committee Should First Define Goals Before Examining Any Particular Employee or Group of Employees**
- **Define The Criteria For Matching Personnel to New Positions**
- **Prepare Implementation Documents and Procedures**
- **Execute Reassignment and Terminations**
- **Post-Reassignment Follow-Up and Terminations**

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DEFINING GOALS

- **Define in Writing How The Organization Currently Looks in an Organization Chart**
- **Define in Writing How The Organization Should Look After The Re-Engineering in an Organizational Chart**
- **Identify The Changes That Are Required to Move The Organization to its Goal**
- **Define The Positions That Will Remain After The Change, The Numbers of Employees Who Will be Employees in Each of Those Positions, and The Qualifications Required of The Employees That Will Fill Those Positions**
- **Develop Criteria to be Used to Assign Employees to Positions**
- **Match Qualifications of Employees With New Positions in Accordance With Predetermined Criteria**

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Crisis often requires that organizations temporarily or permanently reduce hours, cut or freeze wages, or lay off employees.

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ALTERNATIVES TO LAYOFFS

- **Reclassify Employees**
  - **If permitted by FLSA, permits non-payment of overtime**
  - **May help workers' compensation rates**
- **Benefit Reductions or Modifications to Reduce Fringe Benefit Costs**
- **Wage and Salary Freezes or Reductions**
  - **Union Consent Generally Required for Union Workforces**
  - **Prolonged Freezes or Reductions May Fuel Unionization Activities**
- **Hiring Freeze or Attrition**

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Alternatives to Layoffs (cont.)

- **Early Retirement**
  - Age Discrimination Issues
  - Pension Plan Qualifications and ERISA Concerns
- **Voluntary Reductions in Hours**
  - Establish length, conditions of leave, benefits, reinstatement, and other issues in advance
- **Voluntary Reclassification From Full-Time to Part-Time**
- **Involuntary Reductions**
  - Reductions in Hours
  - Force Reclassification From Full-Time to Part-Time
  - Forced Job Sharing
  - Job Consolidation and Cross Training
  - Subcontracting Work
  - Shorter or Alternating Work Weeks

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CAUTIONARY NOTES

- **Weigh anticipated benefits against disruption, costs, and alternatives**

- **Avoid violating employment contracts, personnel policies, employee handbooks, collective bargaining agreements, applicable staff bylaws, employee benefit plan provisions, etc.**

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LAYOFFS

- If unionized, deal with union responsibilities early
- Review and, if necessary, modify employment handbooks, employee benefit plans, etc. to avoid violations
- Evaluate and take into account contractual and statutory rights of employees

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LAYOFF STRATEGIES

- Layoff Temporary or Probationary Employees First

- Decide Layoff Criteria
  - Seniority
  - Skills & Qualifications
  - Personality

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SENIORITY AS DETERMINANT OF LAYOFF ORDER

- Advantages include
  - Highly objective
  - Less Likely to Raise Age Bias
  - Administrative Simplicity

- Disadvantages include
  - Does not guarantee remaining employees qualified to perform required tasks
  - Possible discriminatory bias
  - Tendency to retain more costly workers
  - Hybrid systems often required

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SENIORITY LAYOFF PREPARATION

- Decide if seniority based tenure satisfies organizational goals
- Decide seniority unit, i.e., occupation, department, or institution wide
- Evaluate contractual and legal obligations
- Evaluate proposed terminations for possible discriminatory impact or other undesirable effects

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ESTABLISH RULES FOR CALCULATING SENIORITY FOR LAYOFF

- Union, handbook, or other contractual rules
- Treatment of
  - transfer
  - layoff
  - extended absence for illness, family problems, pregnancy, etc.
- Scrutinize for discriminatory patterns

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SKILL/QUALIFICATIONS BASED LAYOFF

- **Advantages include**
  - **Structures for efficiency and performance**
  - **Maximizes likelihood that retained employees can perform jobs**
  - **Minimizes need to rehire**
- **Disadvantages include**
  - **Costly and time consuming**
  - **Administratively Burdensome**
  - **Enforceability depends largely on qualification measurement system**
  - **Personal reputation damage exposure**

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CAUTION

Reductions in Force Should Not Be Used To Terminate Unsatisfactory Workers.

Employers Generally Should Address Performance Problems As they Arise Through Supervision, Training, Discipline or Terminations Specifically In Response To An Individual Employee's Actual Performance.

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DECIDE IF REASSIGNMENT IN LIEU OF TERMINATION IS AN OPTION

- Uniform rules of decision desirable
- Demotion or reassignment in lieu of layoff may create morale problems
- Beware of discriminatory patterns

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ANTICIPATE RUMORS, APPREHENSION, QUESTIONS, AND MORALE PROBELMS

- Frank, Honest, and Accurate Communications
- Avoid Commenting or Speculating on Undecided Matters
- Never Provide False Hope to Soften the Blow

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Legal Concerns Associated With Workforce Change: What Promises Have You Already Made

To preserve flexibility, review handbooks and procedures to minimize procedural assurances for employees

Review existing promises before making new commitments

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LEGAL OBLIGATIONS ASSOCIATED WITH LAYOFFS

- **Federal and State Employment Discrimination Laws**

Protected Classes include

- **Age**
- **Sex**
- **Race**
- **Disability**
- **National Origin**
- **Religion**
- **Veteran Status**
- **Family Leave Rights**
- **Whistle Blower Laws**
- **Workers' Compensation**
- **Disciplinary Action**
- **Union**

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Federal and State Employment Discrimination Laws (cont.)

- Risk of Adverse Impact
- Review How Proposed Policy Will Work Before Implementation Within The Scope of Attorney/Client Privilege and Make Appropriate Modifications To Enhance Defensibility Before Implementation
- Look For Overt And Hidden Subjectivity In Layoff Criteria
- Examine Subjective Layoff Criteria For Bias and Establish Appropriate Review Mechanism

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RECALL RIGHTS AND RESPONSIBILITIES

- Right to recall generally preserves the eligibility of the employee to vote in NLRB elections
- Decide if recalled employees will be permitted to "bump" employees who assumed their jobs
  - spreads suffering
  - morale problems
  - minimal bumping rights generally best for employer because it minimizes orientations and retraining needs

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Anticipate increased workers' compensation, health care, disability, retirement, and discrimination claims

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OLDER WORKERS' BENEFIT PROTECTION ACT

- waivers
- voluntary early retirement windows
- age-based discriminatory design

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WORKER'S ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN)

- Employer generally must give 60 days notice of plant closings and mass layoffs to unions or employees as well as state and local authorities
- Noncompliance penalties include
  - up to 60 days back pay and benefits to employees not properly notified
  - $500 per day fine for failure to notify local government
  - punitive damages not recoverable by employees

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EMPLOYERS COVERED BY WARN INCLUDE

- Employers who employee 100 or more employees, excluding part-time employees, and
- Employers who employee 100 or more part-time and full-time employees who work at least 4,000 hours per week, excluding overtime.
- Number of employees counted as of the date the notice would be due
- Temporary employees count

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TRIGGERING "UNEMPLOYMENT LOSSES" UNDER WARN

- Terminations other than for cause terminations, voluntary departures, or retirements
- Layoffs exceeding 6 months
- 50% or greater reductions in hours worked during each month of any 6 month period
- Layoff expected to be less than 6 months if employer extends the layoff to 6 months, unless the extension is due to business circumstances not reasonably foreseeable at the time of the original layoff and the employer gives notice of the extension when it becomes reasonably foreseeable
- Employees transferred to another worksite are not considered to have lost employment.

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PLANT CLOSING

Defined as the permanent or temporary shut down of a single site of employment or one or more operating units or facilities within a single site, causing 50 or more full-time employees to lose employment during a 30-day period

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Beware of Federal & State Laws Regarding Leave, Plant Closing Unemployment Compensation &/Or Other Limits

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Federal and State Benefits Laws

- COBRA Continuation of Group Medical Coverage
- ERISA
- Partial Termination Rules for Pension, Profit-Sharing and other Retirement Plans
- ERISA and Tax Rules about Notice, Benefit Election, Benefit Distribution, Etc.
- Payday Laws
- Other

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MINIMIZING LITIGATION

- Consider severance package with ERISA Compliance
  - With or without waivers
  - Timing issues for waiver of age discrimination claims
  - ERISA and other legal concerns
  - Proper consideration & integration with other termination costs
- Consider outplacement assistance
- Do not oppose legitimate unemployment compensation claims

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Consider adopting an arbitration or internal appeal procedure to question or appeal termination or recall decisions to provide the employee an alternative to seek union or attorney and enhance appearance of management fairness.

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EXIT MEETING WITH EACH TERMINATED EMPLOYEE DESIRABLE

- Pre-scripted explanation of
  - reason for layoff
  - methodology of layoff
  - recall methods and employees obligations to qualify
  - information about unemployment compensation, employee benefits, rehire and other similar rights

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Effective Human Resources, Compensation & Benefits Compliance & Risk Management Critical To Organizational Survival & Effectiveness

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Employee Lawsuits: A Growing Threat

- Most Legally Protected Persons
- Most Likely Plaintiff
- Plaintiff Most Likely To Win
  - Defamation
- Could Trigger Political Repercussions
- Likely to Raise Interest of Regulators
- Size and Availability of Judgments and Other Sanctions Rising

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Employees Sue Organizations For

- Whistleblower
- Discriminatory Acts
- Invasion of Privacy
- Same-Sex Marriage And Other Cohabitation Issues
- Out-Of-Wedlock Pregnancy
- Family Leave
- Sexual Assault/Sexual Harassment
- Workers' Compensation
- Health or Other Employee Benefits
- Due Process Violation

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Governmental Oversight and Enforcement

- Audit and Enforcement of Grant Compliance
- IRS Audit of Worker Classification, Fringe Benefit Arrangements, Employee Benefit Programs, 125 Plans, Executive Compensation Arrangements
- Other

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Service Provider Risks and Opportunities

- You Can't Choose Your Relatives But You Can Choose Your Vendors
- Not All Products, Contracts or Vendors are Created Equal

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Service Provider Risks and Opportunities

- Just Because The Contract Required It Doesn't Mean The Vendor Did It Right
- Some Liabilities Can't Be Delegated
- You Too May Be Sued For Your Vendor's Mistakes

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Implementing An Effective Compliance Program

- Getting Started
- Legal Inventory
- Audit Policies, Procedures and Practices

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Implementing An Effective Compliance Program

- Assess Compliance Status and Risks
- Design and Document Tailored Compliance Program
- Implementation of Compliance Program

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Implementing An Effective Compliance Program

- Oversight and Enforcement
- Review Periodically and Respond to Emerging Risks and Experiences

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Practical Pointers

- Establish Compliance Standards and Procedures Reasonably Capable of Being Followed
- Assign Overall Responsibility To Monitor Compliance To Specific High Level Officials, Not To Individuals That Maintain Programs
- Communicate and Conduct Training Tailored To Ensure Effectiveness

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Practical Pointers

- Monitor Compliance
- Consistently Enforce Standards Through Appropriate Disciplinary Mechanisms
- When Detect Violation, Respond Appropriately and To Prevent Future Offenses

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SPECIAL ISSUES WHEN THE GOVERNMENT COMES CALLING

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IF YOU SUSPECT COMPLIANCE CONCERN OR GOVERNMENTAL INVESTIGATION:

- Conduct an Internal Investigation Within Attorney-Client Privilege To Determine:
  - To determine if a problem exists
  - To determine extent of problem
  - To prepare an action plan
  - To initiate corrective measure
  - To go to government, if appropriate
  - To prepare a defense

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IN CASE THE GOVERNMENT VISITS, HAVE AN ACTION PLAN

- Who authorized to deal with the situation
- General procedures
- Search warrant procedures

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OTHER PRACTICAL POINTERS FOR PLANNING CRISIS

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Be Complete

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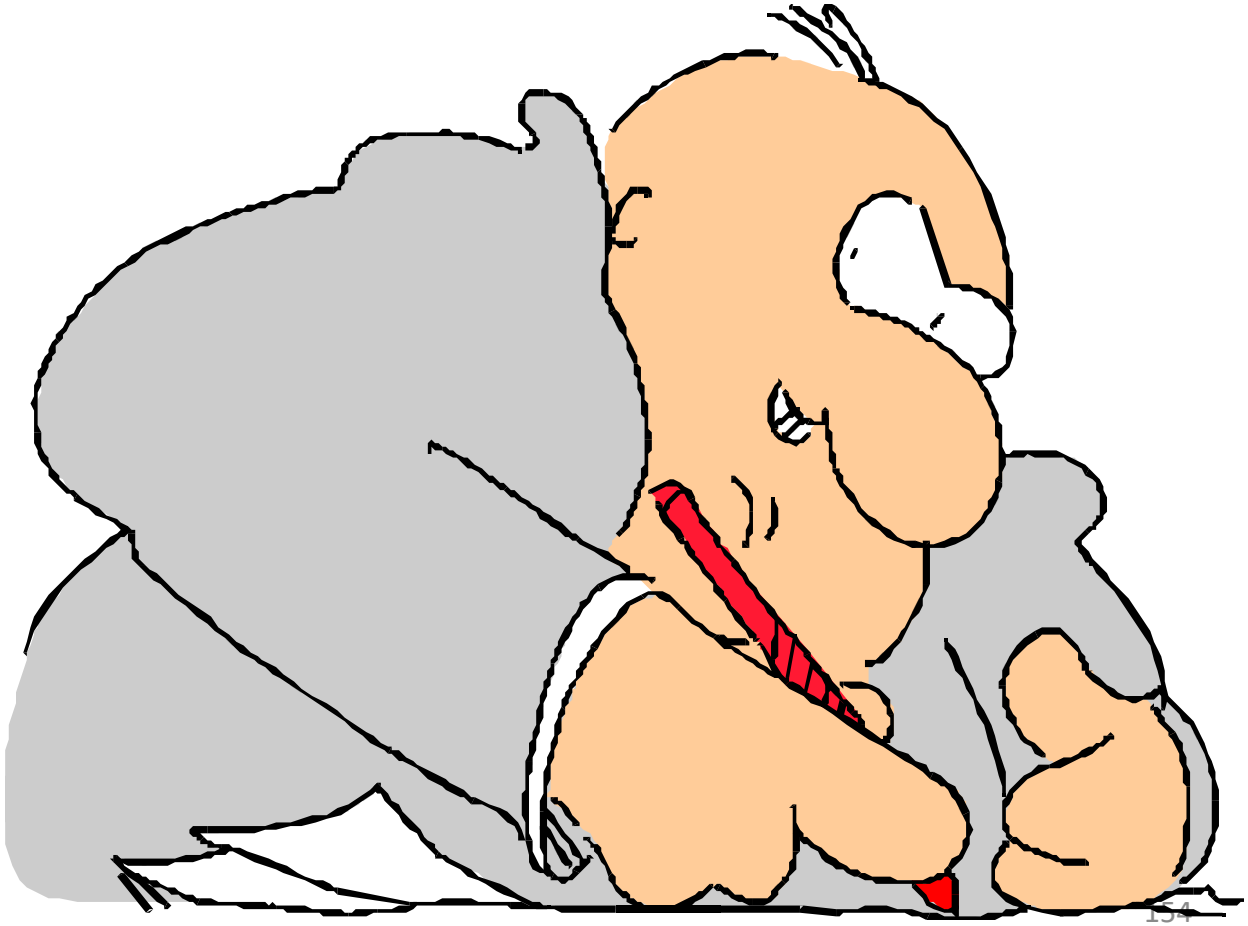
Draft documents carefully



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Read The Fine Print

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It's Better To Be Right Than Simple

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Examine things from other points of view

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Learn to listen. Opportunity sometimes knocks very softly.

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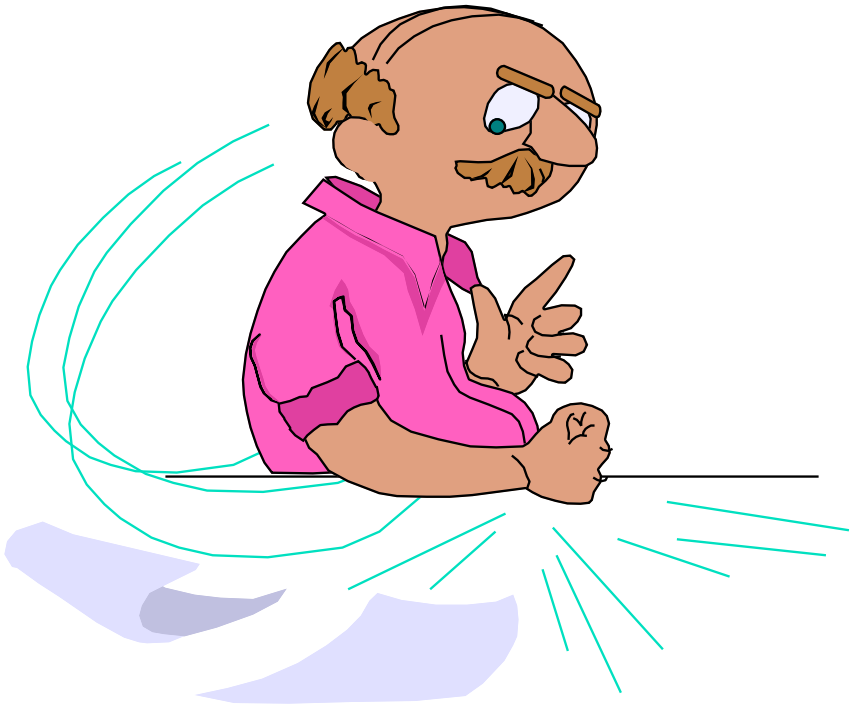
Never underestimate the damage that can be done by



One Angry Man

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Be kinder than necessary

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Don't Assume That
What You Said Is What The Listener Heard

Recognize When You Are Not Getting Through

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Learn to disagree without being disagreeable

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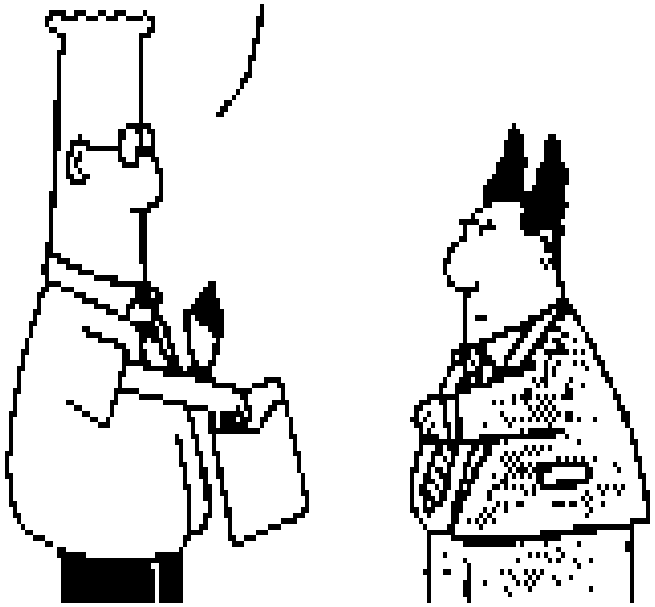
Employees Are Suspicious Of Management



I filled out the confidential questionnaire about your management style, boss. Only your management class instructor sees those, right?

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- This program qualifies for CEBS Compliance credit
- Be recognized for the professional education you complete to stay up-to-date
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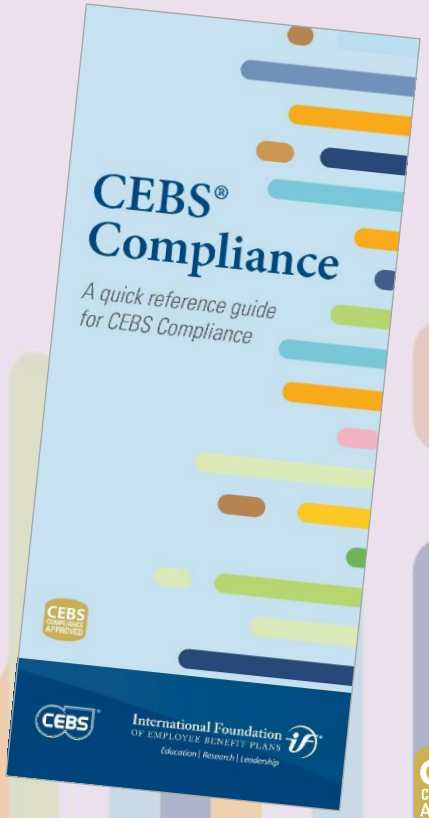
- Most credits are self-reported



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Thank you for attending!

CEBS COMPLIANCE APPROVED

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