



## COVID-19 HR Guide for Your Practice – Frequently Asked Questions (FAQs)

Dear IDOC Member,

Many of you have reached out to us with HR questions related to COVID-19. In response to the needs of our Members, IDOC HR Services has created a Human Resources (HR) Rapid Response Team to quickly address your questions during this challenging time. The Team has developed this HR Guide using the frequently asked questions that are coming in from our Members.

This document will be updated regularly as new developments arise. For this issue, we have included information relating:

- OSHA Obligations
- Vacation, Paid Time Off, and Paid Sick Leave
- Wage and Hours
- Closures, Reduction in Force/WARN
- Unemployment
- Emergency Family & Medical Leave Expansion Act

After reviewing the FAQs enclosed in this guide, if you have any remaining questions please submit your question(s), using the following link - [IDOC Questions or Suggestions in Response to COVID-19](#).

For additional support, we encourage you to go to our **COVID-19 Resource Center** where you will find more tools and information related to COVID-19: <https://optometry.idoc.net/covid19>

We are here to support you through this trying time. Stay safe and healthy!

Best Regards,

IDOC HR Rapid Response Team  
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## **OSHA Obligations**

### **What is my obligation under OSHA to my employees?**

As an employer, under OSHA, you have an obligation to provide a work environment free of hazards or safety concerns for your employees. This includes protection, as best as it can be provided, from the COVID-19 virus.

### **If I have an employee(s) who has traveled or will be traveling, should I require a 14-day quarantine?**

Although the risk varies depending on destination, you can advise the employee not to travel. However, deciding to travel is the employee's choice. Because of your obligation to your employees and patients, you can require an employee to self-quarantine for 14 days before returning to work. It is recommended that any employee quarantine after travel at this point, no matter where they have been. Please be aware that requiring quarantine is only considered acceptable Practice right now because of COVID-19 and typically would not be condoned.

### **How can I protect my employees and patients while remaining open?**

Preventing sick patients and employees from coming into the Practice is important.

- You could start with sanitation and communications with patients – there is a patient communication template that you can use found on our **COVID-19 Resource Center** landing page at <https://optometry.idoc.net/covid19>.
- It is recommended that you update your check-in process to reduce the risk of a patient coming into the Practice sick. Here are some actions you can take:
  1. You can require these patients to wear a mask.
  2. You can ask your patients if they are sick, have been exposed to someone who is sick or have recently traveled (*although there are bans to and from certain countries, any air travel at this point is considered risky*).
  3. You can deny service and reschedule them unless they have a serious eye condition or injury.
  4. You can call to confirm the appointment and reschedule anyone who says they have recently traveled (*from anywhere*), are sick or have been exposed to someone who is sick or has recently traveled from a hot spot in the U.S. or other countries.
  5. You can check temperatures of patients during the check-in process.
  6. You and your employees can use masks when near patients, like in the exam lane during certain tests.

There are some other ways you can keep your employee safe. Below are CDC recommendations:

- Avoid close contact with people who are sick. (*this would be the changes to your check-in process*).
- Avoid touching your eyes, nose, and mouth.
- Stay home when you are sick (*encourage your employee to stay home if they are sick, even if they are experiencing symptom attributed to allergies*).
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash (*or at least sneeze or cough into your sleeve*).
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe (*often, at least once an hour for open areas, after each patient for exam lanes, and after each patient in optical*).

- Follow CDC’s recommendations for using a facemask.
  - CDC does not recommend that people who are well wear a facemask to protect themselves from respiratory diseases, including COVID-19.
  - Facemasks should be used by people who show symptoms of COVID-19 to help prevent the spread of the disease to others.
  - The use of facemasks is also crucial for health workers and people who are taking care of someone in close settings (*at home or in a health care facility*).
- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom, before eating, and after blowing your nose, coughing, or sneezing.
  - If soap and water are not readily available, use an alcohol-based hand sanitizer with at least 60% alcohol. Always wash hands with soap and water if hands are visibly dirty.

### ***Vacation, Paid Time Off, and Paid Sick Leave***

#### ***What if an employee wants to travel and use time off during this time?***

There is some discretion/flexibility with this. Ask employees to self-quarantine for 14 days after they return from a trip. As an employer and Medical Practice, you are responsible for the safety of your employees and patients (*see above section about OSHA obligation*). A quarantine allows you to fulfill that obligation. The issue that arises is that a 14-day leave, in addition to time off, might not be affordable for your employee. We recommend that you work with your employee(s) to pay for some of that time off as either good-will funding or a borrow against their PTO balance. You must determine what is affordable for you and come to an agreement with your employee.

#### ***Are COVID-19 absences covered by applicable state or local paid sick leave laws?***

Sick time related to a COVID-19 illness is now covered under the Families First Coronavirus Response Act (FFCRA). See below.

#### ***May an employer advance any vacation time and/or paid time off to employees to cover COVID-19 absences?***

Yes, which some IDOC Practices are already doing. Employers that do so should consider drafting policies and agreements so if employees are required to repay advanced time off from newly earned vacation time/PTO, they are aware. Where not otherwise prohibited by state law, employers may be able to deduct any advanced time off from a departing employee’s vacation time/PTO payout of final paycheck.

### ***Wage and Hours***

#### ***May a Practice require employees to use vacation time/PTO in less than full day increments?***

Time off is time that is set by the Practice and offered to employees as an additional benefit. The Practice can choose to require vacation time/PTO in hourly, ½ day or full day increments. Some states may require Practices to payout vacation/PTO upon termination, so we recommend confirming this with your state’s Department of Labor site.

#### ***How do you manage a salaried employee who has exhausted their vacation/sick/PTO?***

If a salaried employee takes time off and has exhausted their time off, you can choose not to pay your salaried employee during the time that they are off as salaried employees can be docked full days if no work has been completed. Keep in mind, if during their time off they are performing work-related

duties (e.g. charting, making work calls, checking in on patients) they must be paid for the days they completed the work.

If the Practice is choosing to lay off staff, reduce hours, or close and the salaried employee has exhausted all time off, the employee can apply for unemployment for reduced hours or if they are laid off, dependent on state law.

## **Unemployment**

### **How can my employees apply for unemployment if we lay them off?**

Anyone can apply for unemployment insurance (UI). Their total benefit will be based off contributed hours.

- One must have worked a certain number of hours as an employee to be eligible.
- If your employee is not doing any work, they can apply for total benefits.
- If they are logging some hours to the Practice, they likely would need to be paid for the whole day or apply for supplemental UI.
- Please refer to your state's UI claim site through your state's Department of Labor for additional information (*we've provided a link to local state DOL in the Resources section at the end of this document*).

### **Can I reduce my hours and allow my employees to apply for unemployment?**

- You can claim UI if you are full-time or part-time as it doesn't matter how many hours employees have been working to qualify for UI. Typically, states look at the last 2 quarters and average those earnings together to get your maximum.
- Employees must file every week each Sunday (*most file on Sunday*) and claim hours worked on their UI reporting. If they do not submit their claims, employees may be allowed a misstep or two and may be docked for those hours the following week. However, if employees continue to miss claim submissions, they may lose benefits eligibility. It is very important that they claim any hours worked each week.
- You can claim underemployment. For example, if you were working 40 hours and now you are working 20 hours, you can claim the difference; that is supplemental UI. It works the same as above, still based on the last 2 quarters of earnings and adjusted based on the hours worked. Supplemental and working some hours typically work out in the employee's favor. State to state percentages are different but the Practice shouldn't be surprised if the employee only receives 2/3 what they were making if they have no recorded hours.
- In terms of salaried employees – salaried employees can be docked full days if no work has been completed. They also can apply for UI benefits.
- Please refer to your state's DOL for guidance. The above guidance may vary from state-to-state.

## **Closures, Reductions in Force/WARN**

### **How is the federal government supporting small businesses during this time?**

The SBA (federal) is offering small businesses disaster loans during this time to help keep your business operating. You can learn more at <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-provide-disaster-assistance-loans-small-businesses-impacted-coronavirus-covid-19>

### ***If a Practice must lay off employees temporarily due to COVID-19, is the federal WARN Act implicated?***

For most Practices, the WARN Act will not apply because there is a size requirement for the business. Businesses of 100+ employees must provide 30-90 days' notice for a closure (temporary or permanent). Some states require a business of 50+ employees to provide similar protections. If your Practice is of this size and you are considering closures, please check with your state's Department of Labor for guidance at <https://www.dol.gov/agencies/whd/state/contacts#MI>.

### ***I've reduced my Practice hours and/or no longer seeing patients, should I lay off my employees?***

As the Practice slows, there are different options the Practice can choose from:

- Have the team work on things that they typically "don't have time for".
- Ask the team if they would like to reduce their hours temporarily to help ease the burden on the Practice.
- Put in mandatory reduction of hours before going straight to layoffs – the team can claim unemployment for supplemental income (*see your state's DOL*).
- Temporary layoffs lasting less than 2 weeks – consider having your staff use up their PTO and then pay the team at 60% of their income.
- Layoff staff until the Practice can return to normal, which will allow employees to claim for UI benefits and save on payroll burden.
- Should you lay off employees, you can provide per-diem shifts to support the Practice and they can claim supplemental benefits.
- For more information about UI and layoffs, please check out your state's Department of Labor site.

It is recommended that Practices try other means of maximizing their cashflow so that you can re-employ your staff once business starts to pick up again. Incremental income will help with your transition. Nathan Hayes, Finance Consultant at IDOC, has posted several resources on our **COVID-19 Resource Center** to help guide our Members through finance options in response to the COVID-19 disruption.

### ***What is the impact on continued health coverage and benefits if an employer must close its business?***

Whether benefits can remain in place during a temporary business closure, a furlough, or layoff requires review of your group health plan documents, such as insurance carrier contracts. Often, benefits can be continued for a limited period if the layoff or furlough is temporary. Typically, carriers have been leaving the decision to keep employees as active without transitioning to COBRA to the employer's discretion.

If permitted by the plan materials, benefit continuation may be extended and done so pursuant to the Federal Family and Medical Leave Act (FMLA), whereby employees remit their customary portion of premiums to the employer via personal check. You can also plan to collect payment once employees return to work. We recommend checking with your Plan Administrator to see if they would allow you to make the decision to continue benefits under these circumstances.

For more details on the rules, and how premiums are handled during a FMLA-qualifying leave, please refer to the following online resources:

- [Employee Payment of Premiums](#)
- [Cafeteria Plans and the Family and Medical Leave Act](#)

### ***What is the protocol for paying my employees if the Practice must shut down?***

- Non-exempt employees (*hourly*) are only eligible for pay for hours they work, and any benefit offered.
- Exempt employees (*salaried*) are paid for the week if they are performing work during that time. Salaried employees can be docked for a whole day of pay if they did not complete any work.
  - More information can be found under Fair Labor Standards Act (FLSA) at either your state's Department of Labor or <https://www.dol.gov/agencies/whd/flsa>
- Generally, for PTO, there have been suggestions made by SHRM (Society of Human Resources), CDC and other HR Consulting firms to offer additional benefits of time off OR to allow employees to generate a negative PTO balance of time.
- Should you feel a closure of longer than 2 weeks is necessary, we recommend Practices follow up with their state's Department of Labor and the Small Business Association for additional support.

### ***Families First Coronavirus Response Act (FFCRA)***

#### ***What does the law do?***

The legislation provides 12 weeks of job-protected paid leave for employees who are unable to work or telework so that they may care for a child or children if schools are closed or their daycare is unavailable because of a public health emergency.

#### ***When does the law go into effect?***

The provisions will go into effect on April 2, 2020 and will expire on December 31, 2020. It applies to any time taken between April 1 and December 31, 2020.

#### ***Who is exempt from the law?***

Employers of employees who are healthcare providers or emergency responders may elect to exclude such employees from eligibility for paid leave. The law doesn't define the terms, "healthcare provider" and "emergency responder". It is likely that this will default to typical FMLA guidelines in which case the exemption would **only** apply to the optometrist. We will release new information as we learn more from the U.S. Department of Labor.

#### ***Are small business, fewer than 50, exempt from this law?***

As we understand today, the Act only grants the authority to the U.S. DOL to issue regulations to exempt small businesses with fewer than 50 employees from the requirement to provide emergency paid family leave and emergency paid sick leave if doing so would jeopardize the viability of the business. The U.S. DOL has not yet issued regulations; however, we are expecting that they will be issued in the next week or two. Please check our **COVID-19 Resource Center** frequently for updates to legislation relating to COVID-19.

#### ***How does the Families First Coronavirus Response Act (FFCRA) impact my Practice?***

We are still learning about impacts of this Act on the Practice and small businesses, but here is what we know now, as of March 25, 2020.

#### **Sick Pay**

- Small businesses with fewer than 50 employees are required to provide the paid sick leave to all employees who have worked for the Practice for 30 days for the duration of the year 2020.

- Sick Pay eligibility includes:
  - Two weeks (*up to 80 hours*) for the employee who is unable to work because they have been quarantined or are seeking medical diagnosis (*doctor or federal state or local order to quarantine – recommended or required*).
  - Two weeks (*up to 80 hours*) at 2/3s the employees regular pay if they are unable to work because they have to care for an individual who has been quarantined or to care for a child under 18 whose school or children care provider is closed or unable to provide care.
  - The benefit cannot be used for any other reason like reduction of hours or business closure.
  - Health care providers are exempt – as it stands now that is the optometrist ONLY and does not apply to the staff.
- Small businesses are eligible for an immediate reimbursement through a tax payroll tax credit to cover 100% of the wages paid to employees, up to certain limitations.

#### FMLA Style Leave

- The leave portion of the act requires the employer to provide up to 12 weeks of leave for any employee to care for a child or children out of school or a closed day care. The first two weeks would be unpaid, or the employee would use their sick pay and the employee would be eligible for 2/3s of their pay through the remaining 10 weeks.
  - This is the only reason an employee can use this benefit.
  - Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closing or childcare unavailability if the leave requirements would be jeopardizing the viability of the business.
  - This has not been verified or confirmed yet by the Department of Labor.

For additional information regarding the FFCRA, please reference these DOL FAQs sites:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

## Helpful links

- IDOC COVID-19 Resources - <https://optometry.idoc.net/covid19>
- State Labor Office - <https://www.dol.gov/agencies/whd/state/contacts#MI>
- The full details Extended Paid Sick Leave - <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>
- WARN Act - <https://www.doleta.gov/layoff/warn/>
- US DOL Wage & Hour Division - <https://www.dol.gov/agencies/whd/flsa>
- Small Business Administration - <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-provide-disaster-assistance-loans-small-businesses-impacted-coronavirus-covid-19>
- Family First Coronavirus Response Act Q&A - <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

## Sources

- SHRM - <https://www.shrm.org/>
- Ogletree Deakins - <https://ogletree.com/>
- Center for Disease Control and Prevention - <https://www.cdc.gov/>
- Employment law Handbook - <https://www.employmentlawhandbook.com/state-employment-and-labor-laws/>
- The National Law Review - <https://www.natlawreview.com/>
- Jackson Lewis - <https://www.jacksonlewis.com/>
- US Department of Labor - <https://www.dol.gov/agencies/whd/pandemic>