

SHRM Texas SHRM Webcast
 May 28, 2020
 COVID-19 - Getting Texans Back to Work: How Companies are Adapting to the "New Norm"

Questions Answers

Question	Answers Ashley Hogan; Jack Henry & Associates	Answers Dan Dalton; Texas Oncology	Answers Michael Currie; BoomerJacks Grill & Bar	Answers Mike Coffey; Imperative Information Group
<p>What is the best way to setup a way to do temperature screening or all employees, can it be out in the open or does it need to be in a privacy environment?</p>	<p>For every associate we have asked to come back to the office (about 200) we purchased electronic thermometers. We ask associates to test themselves before coming to the office.</p>	<p>In our organization, it is done in the open near the front door. The screener should have gloves and a mask to take the temp. We also have twice daily temp checks for each employee, but that is related to the fact we are a medical practice.</p>		<p>Excerpt from <i>The Imperative Guide to Reopening Your Workplace</i> (https://bit.ly/2TLr9JC):</p> <p>This information should be gathered and stored as confidential medical records in compliance with the Americans with Disabilities Act (ADA). Each employee's information should be collected on a separate form and maintained in employee-specific medical files apart from other personnel records.</p> <p>Access to these inquiries should be limited to key staff with a business need for the information. Ideally, the business will have designated representatives in Human Resources, Employee Health, Security, or some other central department that coordinates health concerns with employees. In those cases, supervisors and managers should generally be provided only the information necessary to implement restrictions on work duties or other accommodations.</p> <p>Smaller organizations may necessarily rely on more decentralized management to manage employee health issues. Even then, however, all information should be held in strict confidence.</p> <p>Because of the previously mentioned confidentiality concerns, employers should seek ways to check individual's temperatures privately. The degree to which this is practical will vary by work location.</p> <p>A challenge for employers is conducting these screens without risking exposure to someone who may have COVID-19.</p> <p>The CDC suggests several options, including attempting to evaluate the employee from at least six feet away, using barriers or partitions to separate the screener from the employee, or using of PPE.</p>
<p>Is there a policy or wording that employers can in RTW documents that address fears and are afraid to come back to work despite all safety measures in place.</p>	<p>Here is what we said in our internal communication this week... We respect that individuals have unique personal and professional circumstances impacting their ability to either continue working from home or returning to their office. Our goal is to be as flexible and accommodating as possible and to provide Jack Henry managers with the ability to make individual return-to-office decisions that are in the best interest of each Associate. Contact your manager if you have been asked to return to your office and you are unable or reluctant to do so at this time.</p>	<p>I would recommend verbiage that anyone still feeling uneasy about returning should discuss their concerns with leadership and the cases will be considered on a case by case basis. Remember the take always of Be Flexible, Be Patient, Be Kind and Flexibility w/ Grace.</p>		<p>Because every employer's circumstances will be different, I'm not sure that standard language would be helpful. An employee working with the public in a restaurant or retail environment would have different concerns from someone working in an office environment or a lineman climbing a utility pole. It will be important to anticipate the concerns unique to the employee's role and address those proactively.</p>
<p>We are a healthcare clinic which make us exempt for the EFMLA. With the state opening up more we have employees traveling again. If we learn that the employee is not following social distancing guidelines away from work and ask them to stay home for 14 days, will that be on the employer or unpaid?</p>	<p>We've not run into this situation.</p>	<p>We are the same and we have just rolled out our guidelines on travel. We ask where they plan to go and what they plan to do. If there is high risk and the "opt" to go anyway, the quarantine time comes out of their PTO or in unpaid. If the exposure is accidental or beyond their control, we have set up a "Special Pay" code.</p>		<p>I don't believe that an employer's requirement that someone not be in the workplace due to behavior the employer deems as "risky" would qualify the individual for the Emergency FMLA.</p> <p>EFMLA is limited to circumstances where an employee is unable to work (or telework) due to a need to care for a minor child if the child's school or place of child care has been closed or is unavailable due to a public health emergency.</p> <p>Nor do I believe that they would be qualified for paid sick leave, which is for employees unable to work (or telework) because:</p> <ol style="list-style-type: none"> (1) the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19; (2) the employee has been advised by a health care provider to self-quarantine because of COVID-19; (3) the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; (4) the employee is caring for an individual subject or advised to quarantine or self-isolate; (5) the employee is caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precautions; or (6) the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
<p>Looking back on this event what do you feel was the best way to communicate with employees? Did you use text, email, social media or a similar platform?</p>	<p>We have used our main page of our intranet site, videos (CRO, CHRO, and CRO) and Teams (O365).</p>	<p>We used mass emails as well as prepared materials to leaders to disperse. We have also used regular town hall calls for leaders and separate ones for employees.</p>		

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<p>Question for Ashley - as Jack Henry looks to the future, has the position of Sr Leadership changed regarding working remotely? 2) Have your associates maintained their productivity during the transition to working from home and have you seen an increase in productivity?</p>	<p>Our Sr. Leadership strongly supports remote work. As in any large organization, leaders in different functions/levels of the corporation have different perceptions of remote work based on personal beliefs/operational needs/experience. Since we converted to remote work for 98% of our associate in Mid-March, we have seen productivity gains. We measure productivity on our customer feedback results, time to resolve trouble tickets, and first response resolution rates. We've used these metrics for several years and all have seen improvement. We're more concerned about associates not taking their PTO (burnout). Leadership is sending out messaging encouraging our associates to take time to refresh and recharge.</p>			
<p>The Shared Work Program...have any of the panelist used this program during this COVID-19 "season?" If yes, how did they or are they certifying that the exempt employees are working reduced hours with their reduced pay? The TWC intake form asks that specific question which is difficult when exempt employees are not paid by the hour. Example: Normal work week is Monday-Friday. With a 20% cut in pay, each exempt employee also is expected not work Fridays...20% cut in schedule. The TWC intake form asks specifically for HOURS not WORKDAYS.</p>	<p>We have not cut pay or hours with our associates.</p>			
<p>for Ashley- How are you tracking that productivity? Is that through sales rev generated or otherwise?</p>	<p>Since we converted to remote work for 98% of our associate in Mid-March, we have seen productivity gains. We measure productivity on our customer feedback results, time to resolve trouble tickets, and first response resolution rates. We've used these metrics for several years and all have seen improvement.</p>			
<p>With many companies looking at more long-term remote environments how can we ensure we grow a rich culture? Can we have a great work culture and work remotely?</p>	<p>Jack Henry believes that part of our culture is that we provide flexibility in the workplace. We started a JHAnywhere business innovation working group where remote associates get together and talk about the challenges they face around working remotely. Several ideas on policy/technology changes have been implemented based upon recommendations from this group.</p>	<p>One thing we have done to keep the "team" feel is to have contests. We have purple caps that all staff members have. We had a purple hat contest to see who could be the most creative while wearing purple hats. At the grocery store, in the back yard, etc.</p>		
<p>What are the concerns over employer liability as it relates to positive Covid tests with employees? Is it recommended to have employees sign waivers?</p>				<p>OSHA's General Duty Clause requires employers to furnish to each worker "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." OSHA has reiterated that this applies during the pandemic.</p> <p>OSHA's COVID-related information is here: https://www.osha.gov/SLTC/covid-19/standards.html</p> <p>Apart from that, I've spoken to a number of plaintiff's lawyers who have indicated that they don't believe the risk of a lawsuit is high if an employee is exposed in the workplace and the employer has followed the guidance from the CDC and other sources.</p>
<p>Folks that have large vacation/PTO balances because they aren't traveling, what do you see as ways that employers can encourage employees to utilize that time?</p>	<p>We have seen our PTO usage decline year over year. We are concerned about burnout. To address this concern, our CEO, CHRO, and Sr. Leaders have continued to talk with our associates about taking time away to relax and refresh.</p>	<p>Promote taking care of yourself. That can include "staycations". The fact is that many who have these big balances would have them anyway, without the pandemic. If there are those who banked up hours, encourage them to take smaller time away, while still saving hours if case they reschedule their big trip.</p>		<p>Unless your policies dictate otherwise, it is acceptable for an employer to mandate that employees take time off and utilize their PTO. Of course, it would also be wise to explain to employees how important self-care is and that they need to take time to relax and recharge.</p>
<p>Taking employee temperatures upon their entry to the workplace, has anyone had challenges over who should be taking/checking their temperatures and avoiding HIPAA issues from this?</p>		<p>If you assign the task to an employee, then they are covered under HIPAA. What is a possible HIPAA violation is if the disclose information to coworkers who do not have a need to know. Reinforce HIPAA training before anyone takes on that task.</p>		<p>Many employers are doing this. First, while asking questions about symptoms and taking temperatures does create confidential employee health information under the ADA, it does not implicate HIPAA. Employers can (and I argue, SHOULD) be using a daily questionnaire and taking temperatures, according to the EEOC. It is important that the information be kept in separate employee medical record files with limited access.</p>
<p>Hiring is the WORST right now. They'll show up for interviews and then if you make an offer they stop communications.</p>				
<p>Does Jack Henry foresee shrinking their physical assets as they move forward?</p>	<p>Not sure what you mean by physical assets... I'm assuming you mean real estate footprint. Jack Henry continues to evaluate our office space to ensure that we have what we need for our associates to complete their jobs. We will always have office locations, but how much square feet space and the design of the office might change based upon associate needs.</p>			
<p>We have been running into the problem that some don't want to work because they want the extra \$600 in addition to unemployment. They are getting paid more than they did when they were working</p>		<p>The harsh fact is that the benefit has a short shelf life. When they return, their job may not be there.</p>		
<p>What do you do about those employees that want to chill by the pool?</p>		<p>It may sound harsh, but I would start seeking their successor. We can't make them come back if they have been laid off. If they want to stay out of work, that is their decision.</p>		<p>I'm encouraging employers to work with them to ensure that they understand that it is safe to return to work and make sure they understand that a refusal to return to work will result in their termination and ineligibility for unemployment compensation. Most states have a mechanism that allows employers to report unemployment fraud. In Texas, an employer can email twc.fraud@twc.state.tx.gov or complete the online form at https://www.twc.texas.gov/news/covid-19-resources-employers#employerWorkRefusalDocumentation.</p> <p>Of course, the other issue is that an employer doesn't want employees who are only there because you coerced them to be there—that is tough on engagement and they may become poisonous in the workplace.</p>
<p>For those sitting by the pool you can always let unemployment know you called them back but they didn't come, right?</p>				<p>Yes, in Texas, an employer can email twc.fraud@twc.state.tx.gov or complete the online form at https://www.twc.texas.gov/news/covid-19-resources-employers#employerWorkRefusalDocumentation.</p>

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<p>This question is for Michael Currie. How are you discern the employees that don't want to return because they are enjoying unemployment benefits? Are you terminating them, thus their unemployment benefits?</p>			<p>We are sending every employee that has not returned an email with an official offer, job description, and listed safety protocols to reassure them that they will be safe. We are following up with phone calls. All who decline give us a reason. Whatever reason they give us is the reason we list on our reports. Some were bold enough to tell us that unemployment money was the reason. We are forwarding all the reports to our PEO to send to TWC and whoever needs it in order to be forgiven for PPP loans. Yes, that would end their eligibility for unemployment.</p>	
<p>If the employee is being offered work back then they should not be able to continue to draw unemployment with an offer to return to work?</p>			<p>That is correct.</p>	<p>Yes, in Texas, an employer can email twc.fraud@twc.state.tx.gov or complete the online form at https://www.twc.texas.gov/news/covid-19-resources-employers#employerWorkRefusalDocumentation.</p>
<p>What are you telling employees who were sent home to work as a result of COVID and now they don't want to come back to the office b/c of fear and don't have an underlying condition?</p>	<p>Here is what we said in our internal communication this week... We respect that individuals have unique personal and professional circumstances impacting their ability to either continue working from home or returning to their office. Our goal is to be as flexible and accommodating as possible and to provide Jack Henry managers with the ability to make individual return-to-office decisions that are in the best interest of each Associate. Contact your manager if you have been asked to return to your office and you are unable or reluctant to do so at this time.</p>	<p>We are having to assess jobs again as to whether there is a business case to allow remote working. When we made the decision to offer remote working, the employees were notified that this arrangement was temporary and subject to be reassessed.</p>		<p>Because every employer's circumstances will be different, it will be important to anticipate the concerns unique to the employee's role and address those proactively. I'm encouraging employers to work with them to ensure that they understand that it is safe to return to work and make sure they understand that that a refusal to return to work will result in their termination and ineligibility for unemployment compensation.</p>
<p>For Michael. Being a family atmosphere, how will you address enforcing return to work. What strategies do you see to addressing the need for employees to return to the workplace vs. fear to return. Will you terminate?</p>			<p>Every employee who was terminated due to the Covid 19 virus pandemic has that reason listed as their term reason. We are assuring every single person that if they are afraid to return, they will be eligible for rehire when they feel safe. If the location where they worked is fully staffed, we will use them at another location. If they have to work at multiple locations to make ends meet we will allow it.</p>	
<p>How long do you empathize for? What is a reasonable amount of time for leniency?</p>			<p>We have offered everyone similar hours to what they had if they return by June 1st. If they come back later, we will do our best.</p>	<p>I would argue that will be unique to your business' situation. If you have other employees who are willing to return, you might give an uncertain employee a little more time. But eventually, you'll have to fill that job with the employee or someone else. If you are going to be lenient, it is important that you apply the same standards to all other employees.</p>
<p>I thought there was a TWC unemployment rule and the Texas Governor outlined the items that an employee can refuse to work. If their job is offered and they refuse to return to work, I thought they would become ineligible for unemployment (and CARES act) funds.</p>				<p>Yes, in Texas, an employer can email twc.fraud@twc.state.tx.gov or complete the online form at https://www.twc.texas.gov/news/covid-19-resources-employers#employerWorkRefusalDocumentation.</p>
<p>We are a small business (28 employees) travel agency and group and meeting planning company. Do you have any suggestions for a business that is NOT getting the business back as quick as say restaurants. Also, I have "heard" they are discussing extending the additional \$600. unemployment. Thanks so much! Christy (can someone contact me about joining the SHRM Texas group? And is there anywhere that focuses on SMALL (less than 50 employees) that I can connect with?</p>				<p>Yeah, different employers are going to follow different timetables about reopening and recalling employees. I cover a lot of the workforce planning considerations in my eBook, available at https://bit.ly/2TLr9JC.</p>
<p>I can provide more details, but it limited me to 600 characters.</p>				
<p>how will the employers address new employee Covid cases as employees return to the workplace? will all employees be quarantined? none? etc?</p>		<p>Yes, we will continue our established protocol for new cases. If they are positive, we send them home until a negative test and asymptomatic for three days.</p>		<p>The CDC suggests that you primarily focus on those employees who had "close contact" with the employee for a prolonged period of time.</p> <p>The CDC's guidance clarifies "close contact" as follows:</p> <p>"Data are limited to define of close contact. Factors to consider when defining close contact include proximity, the duration of exposure (e.g., longer exposure time likely increases exposure risk), whether the individual has symptoms (e.g., coughing likely increases exposure risk) and whether the individual was wearing a facemask (which can efficiently block respiratory secretions from contaminating others and the environment)."</p> <p>Likewise, they provide the following criteria for "prolonged period of time":</p> <p>"Data are insufficient to precisely define the duration of time that constitutes a prolonged exposure. Recommendations vary on the length of time of exposure but 15 min of close exposure can be used as an operational definition. In healthcare settings, it is reasonable to define a prolonged exposure as any exposure greater than a few minutes because the contact is someone who is ill. Brief interactions are less likely to result in transmission; however, symptoms and the type of interaction (e.g., did the person cough directly into the face of the individual) remain important."</p> <p>I cover preventing and responding to potential workplace exposures in my eBook, available at https://bit.ly/2TLr9JC.</p>

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<p>Most of us had a pretty haphazard move to remote - is the move back more planned and smooth? Have you discussed what happens if we have another wave to deal with?</p>		<p>The plan to return needs to be systematic and planned. Be prepared to deal with exceptions and one off cases where return is delayed. As for another possible spike, use what you learned the first time to be organized about another possible remote work order. OR delay the return if things are working and you want to wait until a more stable time.</p>		<p>The future is certainly uncertain, isn't it? Hopefully, if an employer has thoughtfully put into place practices that prevent exposures (health questionnaires, temperature checks, social distancing, cleanliness standards, etc.), a second wave will be more controllable.</p> <p>Remember that we originally shut down because, as a society and individuals, we weren't prepared for a pandemic.</p> <p>As I've helped employers put their return to the workplace plans together, I am cautioning them to be conservative--go slowly in loosening of restrictions</p> <p>For instance, even if employees get impatient because they can't use the breakroom, it is better than letting them use the breakroom and then taking away breakroom access, which hurts management credibility.</p>
<p>Have you set clear criteria for what is considered exposure?</p>		<p>Yes, we have scenarios based tool to help our managers assess exposure cases.</p>		<p>The CDC suggests that you primarily focus on those employees who had "close contact" with the with an infected or symptomatic individual for a prolonged period of time.</p> <p>The CDC's guidance clarifies "close contact" as follows:</p> <p>"Data are limited to define of close contact. Factors to consider when defining close contact include proximity, the duration of exposure (e.g., longer exposure time likely increases exposure risk), whether the individual has symptoms (e.g., coughing likely increases exposure risk) and whether the individual was wearing a facemask (which can efficiently block respiratory secretions from contaminating others and the environment)."</p> <p>Likewise, they provide the following criteria for "prolonged period of time":</p> <p>"Data are insufficient to precisely define the duration of time that constitutes a prolonged exposure. Recommendations vary on the length of time of exposure but 15 min of close exposure can be used as an operational definition. In healthcare settings, it is reasonable to define a prolonged exposure as any exposure greater than a few minutes because the contact is someone who is ill. Brief interactions are less likely to result in transmission; however, symptoms and the type of interaction (e.g., did the person cough directly into the face of the individual) remain important."</p> <p>I cover preventing and responding to potential workplace exposures in my eBook, available at https://bit.ly/2TLr9JC.</p>
<p>Will they share the flow charts they have developed when an employee is/may have a positive test?</p>				
<p>Any plans for testing, temp checks, etc as people come back to work?</p>				<p>Most federal and state guidance includes daily symptom questionnaires and temperature checks. I cover these kinds of issues in my eBook, available at https://bit.ly/2TLr9JC.</p>
<p>Should employees be tested daily before entering the workplace? Should employees be required to report illness, fever, etc. - self reporting - and how do you work within HIPPA?</p>		<p>Yes, test when the report and two checks per day (mid-morning and mid-afternoon)</p>		<p>Most federal and state guidance includes daily symptom questionnaires and temperature checks and many employers are doing this.</p> <p>First, while asking questions about symptoms and taking temperatures does create confidential employee health information under the ADA, it does not implicate HIPPA.</p> <p>Employers can (and I argue, SHOULD) be using a daily questionnaire and taking temperatures, according to the EEOC. It is important that the information be kept in separate employee medical record files with limited access.</p> <p>I cover these kinds of issues in my eBook, available at https://bit.ly/2TLr9JC.</p>
<p>What reporting tool are they using to log and track and can that be shared?</p>	<p>We have an internal sharepoint tool that we developed internally to track reporting of illness by associates.</p>	<p>Simple spreadsheet</p>		<p>I have a sample health questionnaire in my eBook, available at https://bit.ly/2TLr9JC.</p> <p>It is important that employers' tracking mechanisms mask employees' identities as much as possible because this is considered confidential health information.</p>
<p>What are some basic screening questions to ask when bringing employees back</p>		<p>Have you had symptoms of potential COVID-19 infection including: fever, cough, shortness of breath, chills, muscle pain, new loss of taste or smell, vomiting, or diarrhea and/or sore throat?" "Have you traveled outside the local area in the past 21 days?" "Have you recently been in contact with a person who may be sick with COVID-19?"</p>		<p>I have a sample health questionnaire in my eBook, available at https://bit.ly/2TLr9JC.</p>
<p>How do you plan to deal with employees who are symptomatic (sick) and lie about it because they have concerns of loss of wages and cannot afford not to work?</p>		<p>In light of the impact of COVID-19 I would recommend an abundance of caution and send them home. Ask them to get tested and not return until negative test and symptom free for 3 days, or the 14 day quarantine period is up.</p>		<p>All employees should be educated as to the symptoms of COVID-19 and understand the importance of expressing any concerns about other employees' health to HR.</p> <p>Also, as employees health questionnaires are received and their temperatures checked each morning, the individuals conducting that screening should be watching for any symptoms and ensuring that anyone who may be symptomatic is segregated and sent home.</p>

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What are you all doing in regards to employee personal travel outside Texas? Requiring self-quarantine upon return, use PTO for that time period, etc etc?	We are following the Texas Department of State Health Services guidance on business or personal travel outside of Texas. We are not asking associates to take PTO during self-quarantine.	We have developed a form where the employee discloses what where they are going and what they plan to do. If they are exposed or travel to a hot spot as identified by CDC, we require 14 day quarantine. If at all possible, we allow them to work remotely.	
Where is the link to the 30 page guide/checklist that is online based on CDC, DEOC, OSHA?			https://bit.ly/2TLr9JC
Where can we obtain a copy of Mike's paper he just referenced?			https://bit.ly/2TLr9JC
after you give all the flexibility and grace, how do you keep someone engaged and working from home? They have pretty much checked out and quit doing their job.		Even if they are working remotely, they should still be held to established production standards. Respond as you would if they are failing to perform in the office.	That ultimately becomes a performance management issue. Regardless of where they are working, all employees are expected to perform their jobs. I'd follow your normal process of coaching and performance improvement to get someone back up to speed or out the door.
How do you in your opinion deal with employees that show fear of returning to work?	Here is what we said in our internal communication this week... We respect that individuals have unique personal and professional circumstances impacting their ability to either continue working from home or returning to their office. Our goal is to be as flexible and accommodating as possible and to provide Jack Henry managers with the ability to make individual return-to-office decisions that are in the best interest of each Associate. Contact your manager if you have been asked to return to your office and you are unable or reluctant to do so at this time.	Flexibility and grace, by there will come a point, when things are stable where we have to tell them that the need to make a decision.	Because every employer's circumstances will be different, it will be important to anticipate the concerns unique to the employee's role and address those proactively. I'm encouraging employers to work with them to ensure that they understand that it is safe to return to work and make sure they understand that a refusal to return to work will result in their termination and ineligibility for unemployment compensation.
We are an essential business (pharmacy) with office staff as well. Do we still need to maintain social distancing requirements? We have an issue with our office staff who work in cubicles that are unable to be separated.	I would recommend looking into the current CDC and Texas Department of State Health Services guidance.	I recommend consistent use of PPE and erect additional barrier between work stations.	The less social distancing is possible, the more likely it is that health questionnaires, face coverings, and strict cleaning regimens need to be implemented. Separate cubicles probably do help minimize the risk of spreading the virus, also.
Our employees are temporarily working from home. What do we do if they refuse to return to the office when requested?		Flexibility and grace, by there will come a point, when things are stable where we have to tell them that the need to make a decision.	I'm encouraging employers to work with them to ensure that they understand that it is safe to return to work and make sure they understand that a refusal to return to work will result in their termination and ineligibility for unemployment compensation. Most states have a mechanism that allows employers to report unemployment fraud. In Texas, an employer can email twc.fraud@twc.state.tx.gov or complete the online form at https://www.twc.texas.gov/news/covid-19-resources-employers#employerWorkRefusalDocumentation . Of course, the other issue is that an employer doesn't want employees who are only there because you coerced them to be there--that is tough on engagement and they may become poisonous in the workplace.