

Remote Work, Masks, Mitigation, and Limits: Employer COVID-19 Obligations

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Employer COVID-19 Mitigation Obligations

Responding to record-breaking numbers of COVID-19 patients and reports that Iowa's healthcare system is in a dire position, the Governor instituted public health measures on November 16, 2020, via proclamation.

Iowa businesses and employers are directed to take appropriate precautions to mitigate the transmission of COVID-19 in the following ways:

Encourage Teleworking

If your workforce can telework/work remotely, consider allowing that arrangement. Davis Brown can assist employers with formulating the appropriate telework policy and procedures for essential workers who must remain at the physical business location. There are an array of telework legal issues that should be considered such as legal accommodations, purchasing/reimbursing for property, policies for expectations (attendance, productivity), confidentiality, security, flex hours, and interplay with the Families First Coronavirus Relief Act for Emergency Paid Sick Leave and Emergency Family and Medical Leave.

Mitigate Exposure

For those onsite, take reasonable actions to screen employees for symptoms and exposure, enforce distancing, and continue a heightened focus on hygiene. While this is part of the recent proclamation, it is not a new obligation. All employers have a duty under OSHA to take reasonable steps against known workplace dangers. Experienced employment attorneys can guide your business through the appropriate mitigation steps.

Masking when Indoors

Many Iowa businesses already instituted mask policies and require distancing to avoid the business impact of outbreaks.

To be clear, this is not a "mask mandate" as commonly understood. The proclamation requires masking in businesses open to the public for people aged two or older *unless they are*

more than six feet away from people who are not their household members for 15 minutes or longer.

Generally, if your employees interact with the public, they must be masked. If they are not able to distance themselves from their co-workers, then they must be masked. However, if customers enter a business with their household members, keep their social distance at all times, then there is no “mask mandate.” The proclamation excepts, in part, those with medical conditions or disabilities, those consuming food/drink at a table, those engaged in physical exercise, and those engaged in religious or entertainment performances.

If your business serves food, masks are required for those who interact with customers. If your business is a salon, barbershop, massage therapy, etc., then your staff must be masked unless it undermines the service being provided. If your business is a bowling alley/pool/bingo/arcade/indoor playground/children’s play center, then your staff who interact with customers and the customers must mask, unless eating.

Businesses are always free to insist on procedures that are more restrictive (absent situations that call for legal accommodations).

Capacity Limit

No more than 15 people may gather indoors—this does *not* include business or retail operations. In other words, if you have an essential staff of 20 people, that is not prohibited.

Enforcement

The proclamation calls for law enforcement to assist in the execution of these measures. However, as noted by the Governor in her press conference, the bulk of the work must be done by Iowans, not through law enforcement.

The Big Picture

Iowa employers are uniquely poised to assist in this crisis by careful and thoughtful planning that allows businesses to remain open with appropriate measures. As noted above, all employers have a duty under OSHA to take reasonable steps against known workplace dangers. Davis Brown stands ready and able to lead Iowa businesses through the regulatory framework and the various choices to decide how your business can and will respond.