Response + Recovery
The Allegheny Conference COVID-19 Webinar Series

TODAY:
Program

• Welcome

• Presentation

• Q&A Session

• Wrap-Up

Moderator: Mark Thomas, President, Pittsburgh Regional Alliance – an Allegheny Conference affiliate

Presenters: Erin McLaughlin & Christian Antkowiak, Shareholders, Labor & Employment Section, Buchanan Ingersoll & Rooney, PC

Q&A Moderator: Becky Thatcher Baer, Community Development Director, Allegheny Conference
Mark Thomas
President, Pittsburgh Regional Alliance – an Allegheny Conference affiliate
Its Finally Time to Get Back to Work

• Businesses have worked through suspected and confirmed COVID-19 exposures, closing offices, transitioning to remote work, complying with new leave laws, assisting employees with child and family member care, effectuating layoffs, pursuing stimulus opportunities, implementing furloughs and hour reductions, and developing and implementing steps to improve workplace safety as it relates to the spread of infectious diseases, such as COVID-19.

• We now face our most challenging endeavor yet – getting back to work with the coronavirus ever so present.

• Where do we currently stand in terms of reopening Pennsylvania?
Governor Wolf’s Color-Coded Plan By County

COVID-19 PHASED REOPENING IN PA

- **RED**
  - Stay at Home Order
- **YELLOW**
  - Aggressive Mitigation
- **GREEN**
  - Aggressive Mitigation Lifted

— IN EFFECT MAY 8 —
### Governor Wolf’s Color-Coded Plan – The Red Phase

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<thead>
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<th>Red Phase</th>
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<tr>
<td><strong>Work &amp; Congregate Setting Restrictions</strong></td>
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<tr>
<td>• Life Sustaining Businesses Only</td>
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<td>• Congregate Care and Prison Restrictions in Place</td>
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<td>• Schools (for in-person instruction) and Most Child Care Facilities Closed</td>
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<th><strong>Social Restrictions</strong></th>
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<tr>
<td>• Stay at Home Orders in Place</td>
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<td>• Large Gatherings Prohibited</td>
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<td>• Restaurants and Bars Limited to Carry-Out and Delivery Only</td>
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<td>• Only Travel for Life-Sustaining Purposes Encouraged</td>
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### The Yellow Phase: What Does This Mean For Business?

#### Work & Congregate Setting Restrictions

- Telework Must Continue Where Feasible
- Businesses with In-Person Operations Must Follow Business and Building Safety Orders
- Child Care Open Complying with Guidance
- Congregate Care and Prison Restrictions in Place
- Schools Remain Closed for In-Person Instruction

#### Social Restrictions

- Stay at Home Order Lifted for Aggressive Mitigation
- Large Gatherings of More Than 25 Prohibited
- In-Person Retail Allowable, Curbside and Delivery Preferable
- Indoor Recreation, Health and Wellness Facilities and Personal Care Services (such as gyms, spas, hair salons, nail salons and other entities that provide massage therapy), and all Entertainment (such as casinos, theaters) Remain Closed
- Restaurants and Bars Limited to Carry-Out and Delivery Only

- All businesses must follow CDC and DOH guidance for social distancing and cleaning
- Monitor public health indicators, adjust orders and restrictions as necessary
### Governor Wolf’s Color-Coded Plan – The Green Phase

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<td><strong>Work &amp; Congregate Setting Restrictions</strong></td>
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<td>• All Businesses Must Follow CDC and PA Department of Health Guidelines</td>
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<tr>
<td><strong>Social Restrictions</strong></td>
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<tr>
<td>• Aggressive Mitigation Lifted</td>
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<tr>
<td>• All Individuals Must Follow CDC and PA Department of Health Guidelines</td>
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<td>• Monitor public health indicators, adjust orders and restrictions as necessary</td>
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Today’s Topics

1. Building Your Back-2-Business Team
2. Preparing your workplace
3. Returning your workforce
4. Updating your policies and procedures
5. Reviewing and analyzing business and legal obligations
Developing your Back-2-Business Plan
Establish a Pandemic Response Team

The Pandemic Response Team will guide the business as it returns to in-person operations and develop the B2B Plan. Key roles on a Pandemic Response Team include:

– Business Leader
– Team Leader
– Operations
– Facilities
– Human Resources
– Marketing and Communications
– Safety/Infectious Disease Advisor
### The Business Plan Approach: Identify Action Items By Team Member

**Preparation for Reopening**

**Owner: Facilities**

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<th>Action Item</th>
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**Coordination with Building Management in Each Location**

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**Personal Protective Equipment**

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## The Business Plan Approach: Develop a Timeline By Location

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<th>Office</th>
<th>Government Restriction Lifted – Return to Work Date</th>
<th>Location Specific Restrictions as of Return to Work Date</th>
<th>Phase 1 begins</th>
<th>Phase 2 begins</th>
<th>Phase 3 begins</th>
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- **Office**: The office location.
- **Government Restriction Lifted – Return to Work Date**: The date the government restrictions were lifted, allowing for return to work.
- **Location Specific Restrictions as of Return to Work Date**: Specific restrictions applicable as of the return to work date.
- **Phase 1 begins**: The commencement of Phase 1.
- **Phase 2 begins**: The commencement of Phase 2.
- **Phase 3 begins**: The commencement of Phase 3.
- **Phase 4 begins**: The commencement of Phase 4.
Preparing Your Workplace
Develop and Implement Workplace Health/Safety Protocols

– Develop a plan for daily temperature checks and other screening protocols
– Consider Employer-provided COVID-19 testing (when available and consistent with applicable law)
– Implement enhanced cleaning and sanitization measures
– Improve air quality and purification
  • Develop a response plan for managing actual and potential COVID-19 exposures in the workplace
  • Require personal protective equipment and other safety equipment
  • Mandate increased handwashing and hygiene measures
  • Revise food policies
Develop and Implement Social Distancing Protocols

• Implement social distancing measures within your physical space
• Mandate use of personal protective equipment, such as face masks, gloves, etc., for use by employees and visitors
• Install barriers to separate employees, visitors and/or customers
• Review alternative payment and communication methods to reduce close personal contact
• Consider modifying open floor plans and communal space configurations
• Modify schedules/shifts to limit the number of employees in the workplace
Develop and Implement Social Distancing Protocols (Cont’d)

• Impose limitations on the number of individuals occupying confined spaces at any given time
• Eliminate waiting rooms, instead requiring patients or clients to wait outside or in their cars until it is time to be seen
• Limit visitors to the workplace to those who are essential
• Place appropriate notices and signage to notify employees, visitors and customers of required safety, personal hygiene and social distancing requirements
Returning Your Workforce
Develop a Recall Plan

• Prioritize employee returns based on job function, location, ability to perform tasks remotely, seniority, collective bargaining obligations, etc.
• Consider PPP forgiveness requirements, in terms of maintaining headcount and compensation levels
• Assess (continue) remote work arrangements
• Analyze a phased return plan and alternative scheduling arrangements, such as staggered hours, alternating days in the office, etc.
• Review for compliance with applicable anti-discrimination laws
• Determine whether exempt employees continue to meet the requirements to maintain their salary exempt status
Develop a Recall Plan (Cont’d)

• Develop a strategy and procedure for responding to employees who cannot or refuse to return to work because:
  – they have underlying conditions that make them more susceptible to COVID-19 or at higher risk for complications
  – they fear exposure to COVID-19
  – they refuse to travel
  – they have childcare obligations
  – they are making more money on unemployment than they did while employed

• Determine which employees, if any, will be permanently separated and whether severance will be offered and, if so, under what terms

• Review plan to continue furloughs for compliance with applicable laws and benefit plans
Implement Recall Plan (Cont’d)

- Develop communications to employees regarding their return to work (including issues and consequences associated with refusing to return to work)
- Work with insurers and employees on enrollment obligations and waiting periods associated with your employee benefit plans (including retirement and pension plans)
- Address any unpaid insurance benefit premiums owed by employees due to furloughs
- Remain vigilant regarding efforts to unionize the workforce/train managers to be prepared for the same
Updating Employee Policies and Procedures
Updating Your Employee Policies and Procedures

• Develop and/or revise policies to require employees who are sick to stay home, including flexible time-off policies and, if so desired, telecommuting policies.

• Develop policies and procedures to comply with state and local government orders on social distancing, required PPP, medical testing and notifications.

• Develop and/or update policies on employee leave entitlements, including paid sick leave and paid family leave obligations under the Families First Coronavirus Response Act (FFCRA) and additional COVID-19-related paid sick leave under applicable state and local laws.
• Implement procedures to obtain and maintain documentation necessary to support forgiveness of your Paycheck Protection Program loan, Employee Retention Tax Credit or tax credits due under the FFCRA
• Assess essential job functions (including mandatory attendance in the workplace) and accommodation obligations under the Americans with Disabilities Act (ADA) and similar state laws as they relate to COVID-19 in the workplace
• Review medical check procedures and inquiries to confirm compliance with the ADA and similar state laws, as well as EEOC guidance
• Consider a work from home/telecommuting policy or agreement to address time keeping, maintaining and enhancing a safe work environment, expense reimbursement, confidentiality and cybersecurity, etc.
• Review compensation plans, agreements and provisions to determine whether modification is necessary due to business interruption caused by COVID-19
• Review the definition of “cause” in your employment agreements and consider revising to account for pandemics, such as COVID-19

• Consider policies encouraging meetings by phone or videoconference rather than in person and, when in person, limiting the number of people in attendance at in-person meetings, and limiting non-essential visitors in the workplace

• Revise travel policies to limit employee travel to essential travel only and consider establishing self-isolation guidelines upon return (depending on the destination)
• Review immigration policies and procedures to avoid lapses in status and compliance issues in visa and immigration processes for foreign national employees
• Update workplace safety policies to address OSHA and CDC guidance
• Promptly address possible issues around discrimination/harassment based on disability, or race/national origin perceived to be affiliated with an affected area
• Develop supervisor and employee training programs on new policies, procedures and expectations in terms of employee hygiene and conduct
• Develop a communication strategy for providing information and resources to employees related to COVID-19 and its impact on the workplace
Reviewing and Analyzing Business and Legal Obligations
Engage Counsel to Advise on Legal Compliance and Anticipate Risk

• Monitor state and local governmental orders permitting, limiting or prohibiting your business’s reopening

• Analyze applicable guidance provided by the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL) to determine their impact on your decision to reopen

• If applicable, determine obligations and procedures under CARES Act stimulus provisions to maximize forgiveness under the Paycheck Protection Program, take advantage of available tax credits, and defer payroll taxes
Engaging Counsel, contd.

• Assess and revise your annual business plans and budgets to account for the business interruption caused by COVID-19
• Review insurance policies to determine whether your business has coverage for the business interruption caused by COVID-19 and whether to add or increase such coverage
• Coordinate with your workers’ compensation carrier to respond to claims of work-related exposure to COVID-19
• Monitor solvency of creditors to determine threat of insolvency
• Develop or revise your emergency response plan in order to respond to another COVID-19 or other pandemic outbreak
• Review contracts to assess the consequences of nonperformance, nonpayment, etc. applicability of force majeure provisions
• Prepare for anticipated litigation
Questions?

Thank you.

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Q & A

Moderated by:

Becky Thatcher Baer

Director of Community Development,
Allegheny Conference on Community Development
PITTSBURGH REGION RESPONSE TO COVID-19

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