

Insights: Alerts

# COVID-19: Re-Opening Issues Checklist

April 27, 2020

Written by Yendelela Neely Holston, Ronald L. Raider, Gunjan R. Talati and Jon Neiditz

---

*Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.*

The fluidity of the COVID-19 situation will require businesses to consider a myriad of issues as they navigate the decision as to whether, when, and how to reopen their facilities to employees and the public. The following checklist highlights some of the many factors that businesses should consider.

## Do You Have an Adequate Operational Infrastructure?

- **Develop a Re-opening Plan** that includes outreach to employees, clients, and customers announcing the re-opening.
- **Designate a Re-opening Coordinator** to be responsible for COVID-19 issues and their impact in the workplace.
- **Procure the necessary equipment** and complete any reconfiguration of the facility needed to ensure a safe work environment.
- **Review and update existing policies** including disclosures or waivers as necessary to reflect changes because of COVID-19.
- **Provide any applicable notices to insurance carriers and licensing boards.**
- **Notify suppliers of the re-opening** and modify supply agreements to account for possible longer inventory lead times and changed demand.

## Have You Assessed the Applicable Legislative and Regulatory Landscape?

- **Determine whether your State Governor has issued a Relaxation, Repeal, or Expiration of Statewide “Stay at Home” and “Shelter-in-Place” Executive Orders** (e.g., [Georgia](#), [Texas](#), [South Carolina](#)).
- **Determine the impact of Municipal Relaxation, Repeal, or Expiration of County/Municipal “Stay at Home” and “Shelter-in-Place Orders”** issued by County Executives and Mayors.
- **Assess whether any State Licensing Boards** (e.g., [Georgia State Board of Cosmetology and Barbers](#)) have issued guidance that you must follow.
- **Review guidance from applicable Professional Organizations** (e.g., [American Dental Association](#)).

- **Review the CDC Interim Guidance for Businesses and Employers** to Plan and Respond to Coronavirus Disease 2019 (COVID-19) (best practices to prevent spread of COVID-19).
- **Determine whether any federal agencies** (e.g., Food and Drug Administration ([FDA](#)) Guidance (testing and treatments), Department of Labor ([DOL](#)), Internal Revenue Service ([IRS](#))) have issued guidance that should be implemented.

#### **Do You Have a Trusted Source for Information on COVID-19?**

- **Regularly review your state's department of health's website** for information on the scope of the pandemic in your local area.
- **Consider publications from epidemiologists and medical professionals** (nationally and locally) on issues of peaks, virus spread, hospital capacity, and best practices.
- **Consider publications from national medical organizations** (e.g., American Medical Association).

#### **Do Not Forget That Employment Laws Apply Even in a Pandemic**

- **Review employment policies** and make revisions to comply with recently-issued legislation such as the [Families First Coronavirus Response Act](#).
- **Confirm that re-hiring decisions** do not have an adverse impact or treatment on employees of a particular gender, race, national origin, age, religion, or other protected status.
- **Remember that the National Labor Relations Act and/or the Occupational Safety and Health Act could protect employees** who complain about returning to work and the safety of the workplace.
- **The Americans with Disabilities Act requires confidentiality of all employee medical information** (such as the results of a temperature check or COVID-19 results).
- **Consider whether and how returning employees to less than their prior working hours may impact obligations** under COVID-19 related unemployment compensation laws.

#### **How Will You Guarantee Worker Safety?**

- **Federal and state occupational safety laws** mandate that employers provide a safe workplace environment.
- **Continue performing as many tasks as possible remotely.**
- **Consider what PPE is necessary** for worker safety (e.g., masks, face shields, gloves, soap, hand sanitizers, etc.).
- **Consider whether testing or screening is necessary** to provide a safe working environment (e.g., taking the temperature of an employee, testing for the COVID-19 virus or anti-bodies, representations by

employees of good health and no known exposure to COVID-19 at home or elsewhere). Note: Collecting the information is allowed but must be kept confidential and away from the employees' personnel file.

- **Increase facility cleaning and disinfection** (before, during and after operating hours).
- **Consider whether employees can be scheduled to stagger staffing** to lower the number of employees at the work facility at any given time during operating hours.
- **Reduce hoteling** or other workstation and equipment sharing practices.
- **Prohibit non-essential business travel** and check the CDC's traveler's health notices for the latest guidance and recommendations.
- **Install signage and other reminders** that employees must practice good hygiene while at the facility (e.g., washing hands, sneezing and coughing into the elbow).
- **Develop a procedure for employees to confidentially report COVID-19 symptoms** without coming into the office and establish a process for assessing their ability to return to the office once symptom-free.

#### How Will You Maintain Physical or Social Distancing?

- **The initial re-opening orders require businesses to meet physical distancing requirements**, including having employees keep a 6-foot buffer between them.
- **Evaluate the floor plan** to determine how to create adequate physical distancing buffers between employees and customers.
- **Consider marking designated traffic flow paths** for high volume areas and marking checkout areas with distance markers.
- **Evaluate the air and ventilation systems** to lessen the risk that the virus spreads because of how air circulates around the facility.
- **Create an elevator usage plan** to limit the number of people allowed to enter and ride an elevator together.

#### How Will You Guarantee Customer/Client/Visitor Safety?

- **Consider asking client/customers and vendors about their personal health** and/or to wear masks before allowing them into the facility. *Note: Collecting the information is allowed but the information may need to remain private under applicable federal or state privacy laws or to prevent notice-triggering breaches.*
- **Avoid all physical contact** (such as handshakes) and maintain a 6-foot buffer among customers/clients /visitors and between employees and customers/clients/visitors.
- **Provide sanitation stations** and encourage their use.
- **Install no-touch payment options.**
- **Limit the number of customers/clients/visitors** allowed to enter your facility at any one time.

### Determine Ways to Limit Potential Liability

- **Require all customers/clients/visitors to sign a release** or other protections waiving liability, prior to granting access to your facility or providing services.
- **Determine whether your state's workers' compensation laws** would cover an employee who claims to have contracted COVID-19 at work.
- **Take all claims of COVID-19 contact seriously and act swiftly.**
- **Contact your insurance broker** to ensure that you have appropriate insurance coverage.
- **Work with your Kilpatrick Townsend attorneys to ensure that you are protected.**

## Related People

---



### **Yendelela Neely Holston**

Partner  
Atlanta, GA  
t 404.815.6318  
yholston@kilpatricktownsend.com



### **Ronald L. Raider**

Partner  
Atlanta, GA  
t 404.532.6909  
rraider@kilpatricktownsend.com



### **Gunjan R. Talati**

Partner  
Atlanta, GA  
t 404.815.6503  
gtalati@kilpatricktownsend.com



### **Jon Neiditz**

Partner  
Atlanta, GA  
t 404.815.6004  
jneiditz@kilpatricktownsend.com