



## Q&A: GVMA Town Hall, 04/02/2020

### Surviving the Storm: Business Strategies for Weathering the Financial Uncertainties

#### **Panelists:**

- **Philip Ladner**, American Veterinarians' Insurance
  - **Jim Cichanski**, President & CEO, Flex HR, Inc.
  - **Don Riddick**, GVMA Legal Expert (late addition to explain Kemp Executive Order)
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#### **Panelist: Philip Ladner - American Veterinarians' Insurance**

**Q:** In our first scenario, we have an employee who was exposed to another individual who tested positive for COVID-19. The employee is NOT running a fever or showing any other symptoms of illness. Should the employer require the individual to stay at home & self-quarantine for 14 days? If the employee does not want to stay home, can the employer force the employee?

**A:** The CDC advises that anyone who has been exposed to COVID-19 should be isolated from others. Many people will experience little to no symptoms but are still carriers that could spread the virus if they sneeze or cough on someone.

An employer can require an employee to stay at home. However, an employer cannot simply require an employee who is considered "high-risk" due to age or any other known pre-existing condition to stay at home unless it was known that they were diagnosed or been around someone who has been diagnosed with COVID.

Employers do have the right to measure the temperature of all staff and evaluate any symptoms they may be experiencing. However, this information is considered medically sensitive. Any screenings should be done in a private setting.

Additionally, it is also important to note a recent update that employers cannot require a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or return to work. This is to protect the already overwhelmed healthcare system from taking time to provide this documentation.

**Q:** What are the minimum standards a veterinary hospital should be taking at this time to ensure all employees are protected from COVID-19 and the workplace is considered a safe environment? The current recommendations from the CDC & the Governor's office are to avoid gatherings of more than 10 people. Can large hospitals have more than 10 persons working, as long as they are practicing social distancing? There are times when we must be in closer proximity to one another (animal restraint, etc.). Can this be performed safely from the CDC's standpoint?

**A:** It is imperative that all employers take steps to create a safe workplace environment. The steps fall into 4 categories.

1. Engineering Controls – physical changes such as increasing ventilation rates or installing high efficiency air filters
2. Administrative controls – Minimizing contact with other employees or clients, alternating shifts to reduce exposure, develop communication plans to keep staff updated
3. Safe Work Practices – providing resources that promote hygiene. Frequent hand washing, disinfectants, disposable towels, no touch trash cans.



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4. PPE (Personal Protective Equipment) – Gloves, masks etc. Employees should be instructed on proper use of equipment.

Yes, large hospitals can have more than 10 persons working so long as they practice social distancing.

**Q: How do we manage people who do not fall under FMLA, but want to stay home because they are scared?**

**A:** Generally, employees do not have the right to refuse to come to work unless they believe they are in imminent danger. Therefore, it is important to have communication with your employees about concerns they may have in the workplace. Employers are required to provide a safe workplace environment (cleaning supplies, gloves, social distancing). The rule is written that if a “reasonable person” would agree there is a real danger or serious injury then the employee can refuse to come to work.

**Q: With “curbside service,” employees may be reaching into cars to get pets. Why is this a bad idea & what do you suggest?**

**A:** Curbside service helps control contamination when done properly. Employees should never reach into cars.

1. Exposes them to any airborne containment in the car.
2. Increased liability if damage to vehicle during extraction, or the animal bites the assistant because the pet is protective/territorial.

Advised to have owner remove pet from vehicle and hand off to staff.

**Q: Since veterinary hospitals are considered essential businesses, should we provide employees with some type of documentation to keep in their vehicles if they are stopped by the police while traveling to and from work?**

**A:** Currently no states have required such documentation but the GVMA is aware of several instances where someone has been pulled over. The GVMA has a template on their website of a letter for employers to use stating that they are employed by an essential business with contact information for the employer in case it is needed.

**Q: If we are forced to close the clinic or reduce operating hours will business interruption insurance cover lost income?**

**A:** Business interruption has to be tied to a direct physical loss. Policy language can vary. It can be argued that if the virus was to be found in a business because an employee had it and was working. For example, this could result in physical loss because the building could not be used for some time. I recommend you review your policy language in case you have a viable claim.

**Q: If an employee voluntarily or involuntarily reduces their hours below the minimum required to be a full-time employee, are they still eligible for health benefits?**



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**A:** Most major carriers are relaxing any "actively at work" requirements associated with eligibility so long as the intent of the employee is that they will return to work full time at some time in the future.

**Q:** **If my payroll has been reduced can I lower my workers comp premium?**

**A:** Yes, you can always request an audit that could help lower your monthly cost now. Many carriers will allow for an audit outside of the renewal if there has been a change in payroll. This could help free up some much needed cash flow.

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**Panelist: Jim Cichanski - Flex HR**

**Q:** **The Families First Coronavirus Response Act. The goal of this act is to allow employees that are sick, in quarantine, caring for family members in quarantine, or those without childcare to qualify for paid sick leave. There are 3 different classifications of paid leave.**

**Can you explain the 3 classifications that qualify for sick pay under the FFCRA?**

**A:**

1. Self-quarantine advised by a healthcare advisor, or told to do so by a Federal, State or local government quarantine or isolation order;
2. Has symptoms and is seeking medical diagnosis;
3. Is experiencing any other substantially similar conditions specified by the U.S. Department of Health and Human Service.

**Q:** **It appears that any qualifying payments to employees under the FFCRA will be refunded to the employer. How will the employer receive reimbursement and what steps should employers take to ensure that this type of sick pay will be easy to track for reimbursement later?**

**A:** Yes, the employer will get repaid. It will be handled via a reduction in the practice submitting federal taxes on their payrolls. Quickly work with your payroll company and you should set up two "pay leave" deduction codes. One for the 2-week sick leave, and one for the 2/3<sup>rd</sup> pay. Therefore, whatever you paid off these codes can be easily recorded and entered to get your tax rebate.

**Q:** **I also heard that employers with less than 50 employees could file a hardship claim with the Department of Labor to be exempt for participating in the FFCRA. However, it seems as though the employers should try to avoid exemption since the intention of FFCRA is to pay the employee without draining the employer's bank account. Can you think of any example where an employer should consider filing for exemption?**

**A:** Only one, and that is if the owner just won the lottery and prefers to eat up the won cash rather than spending a few minutes reporting how much you paid in this area to get your money repaid you. I would think it would be embarrassing for an owner if one did get sick and you don't pay them and the employee asked for the Family First pay for sick and the owner would say, no I opted out of that option to get you paid.



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**Q:** The Paycheck Protection Program (PPP) will be overseen by the Small Business Association (SBA to issue loans to business impacted by COVID-19. This loan is intended to cover salary or wages, healthcare premiums, retirement benefits, mortgage payments, rent, and utilities. If businesses only use the loan to cover qualifying expenses, the loan will be forgiven. This loan is NOT the same as the disaster relief loan (Economic Injury Disaster Loan or EIDL). Are there any benefits for applying for the disaster loan, or should we focus on the PPP?

**A:** Yes, in fact I talked to several owners in the last two days about this. There is a disaster loan out there, but it MUST all be repaid. It is low interest (4%) and you may need it to get to the next loan, but I would think twice. And work with your bank or trusted advisor.

**Q:** We discussed the Paycheck Protection Program briefly last week. At that time, there were still many unknowns. It has been brought to my attention that many predatory lenders are already sending emails stating that they are the SBA accepting applications. However, they are talking about the Disaster Loan, which we just discussed. Can you explain what steps need to be taken to apply for the Paycheck Protection Program?

**A:** This is a great loan option and I really do see it as an option in an Essential Business. This is a real plan and I see the Payroll Protection Program as the "Get out of Jail" card to help you bridge the practice's losses. This loan is forgiven if you do all the right things and that should not be hard to do.

But please use a reputable loan firm. I would first start with the bank you do business with - almost all of them have these loans available. I would not even respond to one of those email loan schemes! The big banks do not have the full information so forms floating around may not be the final format to use. The IRS stated they will try to get information out to the loan partners by this Friday, April 3.

**Q:** I've also read many differing opinions on the time period covered by the PPP. When applying for the loan, what time period should we take into account when calculating expenses?

**A:** It is a one year look back period at the origination of the loan. They will take the payroll cost for the last 12 months, average it and multiply by 2.5 to get the amount of the loan. So that would mean April 1, 2019 thru March 31, 2020.

**Q:** Finally, the loan is forgiven based upon two criteria. The first criteria is qualified expenses, which we have already mentioned. The second criteria is employee retention. How is employee retention calculated? Is it based merely upon the number of employees, or the number of hours worked? What if you cannot pay your employees 100% of their wages/salary in April & May? How do we file for forgiveness?

**A:** First, you must pay the current employees their normal wages prior to the start of COVID-19 at the average rate you paid them. So, if they were full time, then they need to get their full-time pay. Your average headcount will be one of the factors and how many hours they work would be another factor. It also will include 1099's you have paid.

Well it is already April and you don't have the funds yet so it may be mid-April to mid-June. Each Bank will have that information to include what documentation you will need to provide to the government.



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## The rest of our time focused on Governor Kemp's statewide Stay at Home Executive Order.

**Panelist: Don Riddick, Esq. - GVMA Legal Expert**

### Basics of Governor Kemp's Order

- Takes effect at 6 p.m. Friday and continues through April 13
  - Residents are instructed to shelter in place unless they're conducting "essential services," traveling to and from jobs and other exceptions.
  - It allows Georgians to leave the home to buy groceries, purchase medical equipment, go outside to exercise, head to doctor's appointments, or leave for certain jobs covered by the order.
  - Kemp's order doesn't distinguish between an "essential" or "non-essential" business. Instead, the state's policy lists a range of criteria for "minimum basic operations" and "critical infrastructure" that businesses must meet to remain open.
  - The definition of critical Infrastructure by the Department of Homeland Security includes veterinarians. Veterinarians are covered as follows:
    - Under the Food and Agriculture sector, Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.
    - Under the Food and Agriculture sector, CISA added language that broadens the reference for workers supporting pet retail, including pet food and pet supply (page 6, bullet 1).
      - Workers supporting groceries, pharmacies, convenience stores, and other retail (including unattended and vending) that sells human food, animal/pet food and pet supply, and beverage products, including retail customer support service and information technology support staff necessary for online orders, pickup and delivery.
    - RESIDENTIAL/SHELTER FACILITIES AND SERVICES. Under this section, they've added Workers in animal shelters
    - It is, and has been, AVMA's opinion that veterinarians are included in this, though it could be clearer.
1. The criteria for critical infrastructure business is: Screening and evaluating workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
  2. Requiring workers who exhibit signs of illness to not report to work or to seek medical attention;
  3. Enhancing sanitation of the workplace as appropriate;
  4. Requiring hand washing or sanitation by workers at appropriate places within the business location;
  5. Providing personal protective equipment as available and appropriate to the function and location of the worker within the business location;
  6. Prohibiting gatherings of workers during working hours;



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7. Permitting workers to take breaks and lunch outside, in their office or personal workspace, or in such other areas where proper social distancing is attainable;
  8. Implementing teleworking for all possible workers;
  9. Implementing staggered shifts for all possible workers;
  10. Holding all meetings and conferences virtually, wherever possible;
  11. Delivering intangible services remotely wherever possible;
  12. Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment;
  13. Providing disinfectant and sanitation products for workers to clean their workspace, equipment and tools;
  14. Prohibiting handshaking and other unnecessary person-to-person contact in the workplace; and
  15. Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen; and
  16. Suspending the use of Personal Identification Number ("PIN") pads, PIN entry devices, electronic signature capture and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies.
- Though the restrictions are set to expire in less than two weeks, the Governor could extend them beyond that date once lawmakers agree to renew a state public health emergency declaration that's set to expire in mid-April.
  - The 5 most important points in the order for veterinarians (as identified by GVMA Legal Expert, Don Riddick) are:
    1. The 3/23 Executive Order that specified that there could be no gatherings of 10 or more people in a single location DOES NOT APPLY ANYMORE since we are part of the critical infrastructure (and are complying with the 16 points).
    2. Those under the shelter in place order (our clients) can only go to businesses that are part of the critical infrastructure (veterinarians are a part of that).
    3. Those businesses who are a part of the critical infrastructure only need to comply with items 1-16 above.
    4. If you don't comply with 1-16 above, you could be subject to misdemeanor charges.
    5. If there is an emergency such as a tornado, flood, fire, etc., the terms of the order concerning sheltering would be invalidated.