

# Coronavirus (COVID-19)

## County Authority During Public Health Emergencies

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# Agenda

- Town Hall Style
- Initial topics and questions posed for the following issues:
  - Labor & Employment
  - HIPAA
  - Local Health Department and Local Health Official authority
  - County government operations and day-to-day duties
  - County emergency management powers
  - County Board meetings and duties
- Submit additional questions throughout the presentation

## Labor & Employment Issues

- The implications of COVID-19 significantly affects the ability of public employers to continue day to day operations and has disrupted the procurement, production and distribution chains.
- From an operations perspective, counties are challenged with addressing questions concerning employee safety, absenteeism, handling the “working sick” and planning for the potential of mandatory or self-determined quarantine.
- How should counties communicate with their employees?
- Should counties implement policies and procedures in response to COVID-19?
- Our suggestion: Yes. Counties should establish a procedure to address anticipated operational vulnerability and develop a protocol to protect employees, calm fears and facilitate the operation of the business.

## Labor & Employment Issues

- Issues to Considering Addressing in a policy:
  - Best practices to avoid transmission
  - Duty to report travel, exposure, or symptoms
  - Asking/requiring patients to stay home
  - Offering alternative work environment
  - Deviations to Attendance Policy
  - Deviations to Leave (paid and unpaid) policies

## Labor & Employment Issues

- Can the County ban nonessential travel?
  - Can the County force testing/quarantine for employees engaging in nonessential travel?
- Can the County ban travel that is not work-related?
- Is an employee that is required to stay home to care for a child because of a school closure eligible for unemployment compensation?
- Who are “essential personnel” in a county SNF?
- Is an employee that contracts COVID-19 at work eligible for worker’s comp?

# FMLA Expansion and Paid Leave (HR 6201)

- Passed by the House of Representatives, pending in the Senate
- The current version of the bill includes:
  - Expands FMLA to cover all government employers and private sector companies with less than 500 employees. Employee must have been employed for 30 days to be eligible
  - 12 weeks of job protected leave for (1) employee treatment or quarantine, (2) to care for at-risk family member, and (3) to provide child care due to school or day care closing
    - First two weeks are unpaid, next ten paid at two-thirds regular rate
  - 2 weeks of paid sick leave for (1) employee treatment or quarantine, (2) to care for at-risk family member, and (3) to provide child care due to school or day care closing

# HIPAA

- What restrictions are there on disclosing employee information with respect to a COVID-19 diagnosis?
- May counties disclose to other employees when an employee tests positive for COVID-19?
- May counties disclose to federal and state government officials when an employee tests positive for COVID-19?
- May counties disclose to medical professionals when an employee tests positive for COVID-19?

# Local Health Department and Local Health Official Authority

- What may a local health department and local health official do in response to COVID-19?
- May a local health official limit or forbid public gatherings?
- What is a “public gathering”?
- See Wis. Stat. ch. 252



# County Government Operations and Day-to-Day Duties

- What should county governments do to ensure continued operations and administration of county governments day-to-day and ongoing duties?
- May county governments suspend any typical duties or programs?

# County Emergency Management Powers

- The Governor declared a public health emergency, what does that mean?
- May county governments declare a local state of emergency?
- What are the differences between an emergency declared by the Governor and a county?
- Who has authority to act on behalf of the county during a declared emergency?
- See Wis. Stat. ch. 323 and vBR Memorandum to WCA (located under “Legal Reports” at:  
<https://www.wicounties.org/legislative.iml#legislative-documents>)

# County Board and Committee Meetings and Duties

- How should county boards and committees proceed with meetings during the COVID-19 outbreak?
- May a county board hold special meetings?
- May a county board hold meetings remotely (*e.g.*, via conference call, WebEx, etc.)