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Getting Ready to Reopen:

What Healthcare Providers Need to Know

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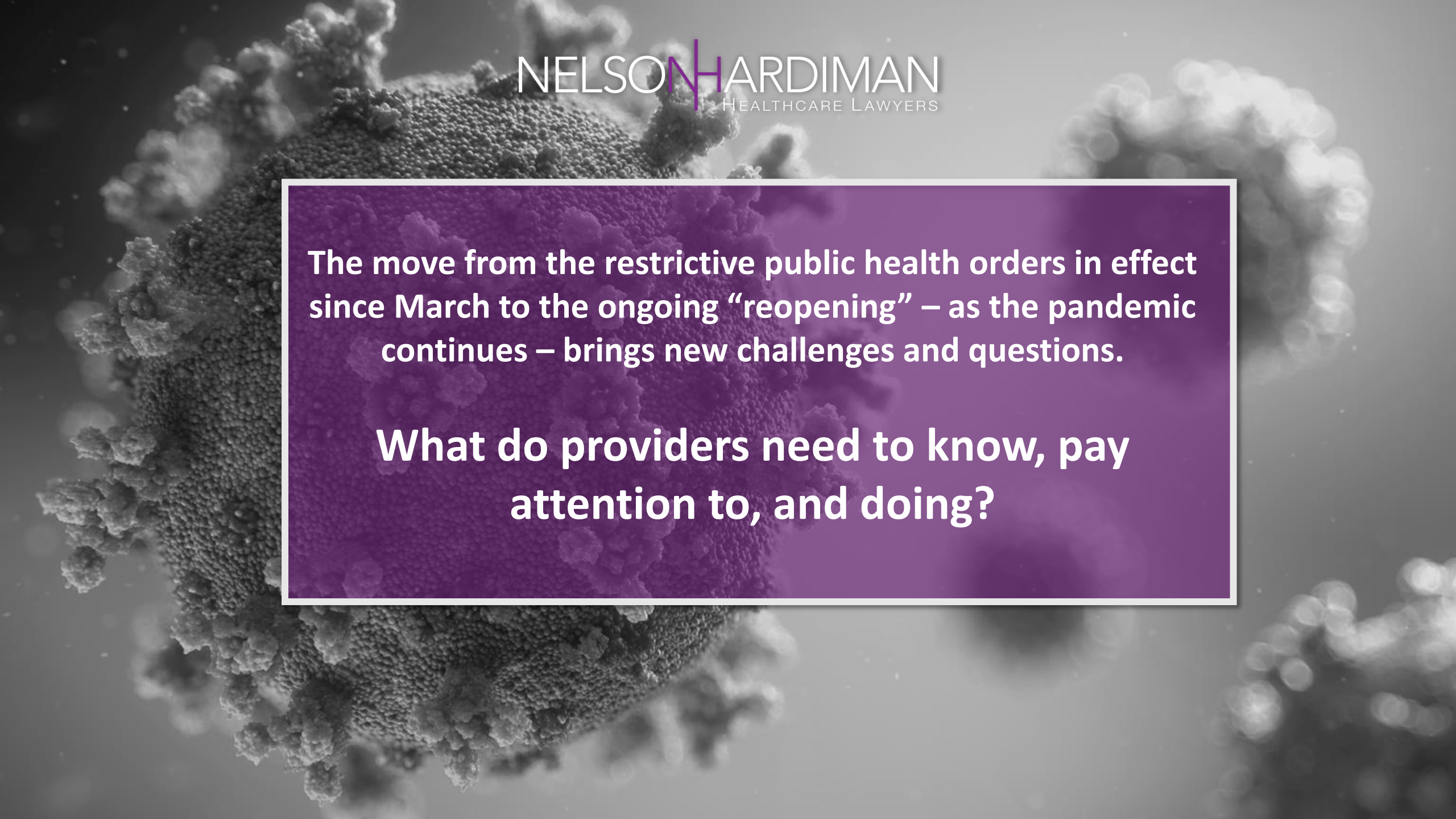


The move from the restrictive public health orders in effect since March to the ongoing "reopening" – as the pandemic continues – brings new challenges and questions.

What do providers need to know, pay attention to, and doing?

Overview

1. Pre-Reopening
2. New Safety Protocols
3. The Workforce
4. Navigating Business Risks and Decisions
   Q&A/ Final Thoughts

Differently situated providers …

- Physician/Health professional outpatient settings
- Home health / Hospice / Mobile Practice
- Residential/ Inpatient settings
- Aesthetic and elective/direct-to-consumer practices
- Ambulatory Surgery Centers
- Hospital-based care

…

Differently situated patients …..

- Elderly/At Risk
- Sick Care vs Well Care
- Pediatrics vs Adults
- Tech-enabled –savvy?
- Struggling during the lockdown?

…

Disclaimers

- This webinar is provided for educational purposes only and is not offered as, and should not be relied on as, legal advice.
- This presentation addresses healthcare across multiple settings. We continue to develop more specific resources for particular settings. Let us know what you're interested in, and we're glad to share our best thoughts.
- Any individual or entity considering what to do with the information in this webinar should consult an attorney for their particular situation.
- Relevant laws, regulations, and guidance are in flux.

1.
Pre-Reopening

- How is reopening going to proceed?
- What should you be doing now

The Exit: Getting Back to Work
California's 5-Stage Risk-based Reopening Process

Phase 1	Phase 2	Phase 3	Phase 4	Phase 5
Ongoing since 3.19.20 (winding down)	**5.7.20: Roll-out underway**	**TBD – Aug/Sept 2020**	**Mid/late 2021?**	**???**
Safer at Home Order Planning for Recovery	**Lower-risk businesses "Essential Healthcare", Rolling**	**Higher-risk businesses**	**Highest risk businesses**	**Return to "Normal"**
• Improving safety for essential operation • Addressing PPE shortages, worker safety • Developing testing / tracing systems	• "Caseload Stability" allows for restoring resources that can open safely with modifications (PPE, distancing, sanitation)	• Schools • Theaters • Tattoo • Massage • Bars/nightclubs	• Conferences • Spectator sports • Concerts	

5.7.20: The "Regional Variance" Plan

Key criteria:

- Epidemiological Stability: <1 case /10K people in last 14 days
- Testing Capacity: 1.5 tests/1K residents daily)
- Containment Capacity: 15 contact tracers/100,000 residents
- Additional criteria: PPE, hospital surge capacity, homeless housing, SNFs, etc.

Making Sense of Conflicting Statements on Reopening

1.1. Federal policies re: permissible activity are largely non-binding guidance* **

2. State has authority to set rules (but limited enforcement role)

3. Local authorities (counties) are vested with authority (and enforcement). City/county control.

4. Health professional discretion to determine medically appropriate handling.

* *CMS/HHS regulations are controlling on many issues.*

** *CDC guidance non-binding but also de facto standard of care.*

Key Planning Components

Adopt Safety Protocols	Implement Communication Plan	Adapting to Patient Expectations	Plan for Business Challenges
• Screening (pts + staff) • PPE • Cleaning • Logistics	• Reassuring the workforce and patients • Operational changes • Guidance on COVID-19 risks, testing, treatment	• Consents? • Ongoing telehealth usage • Addressing anxiety and other behavioral challenges	• Timing? Slow start on patient volume • Managing cash flow, funding, AP, AR • Negotiating expenses/vendors

Competing Duties to Balance

First Principle: Patient Safety. Workforce Safety.

Health professionals and facilities are responsible for ensuring the health and safety of patients and staff by implementing the standards required to help each patient attain or maintain their highest level of well-being.

- Duties to patients
- Duties to employees
- Responsibilities to licensing agency, payor requirements *etc.*
- Mitigating, not eliminating, risks

Cal. Labor Code § 6400: Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein

Rapid Learning Curve on Best Practices

Track, Coordinate, Engage with Federal and State Agencies

- Expect significant changes ahead based on research and improved understanding of COVID-19
- Track CDC, local and state public health department recommendations/requirements – emerging standards of care
- Engage with agencies

E.g. How long is "prolonged time" for close contact exposure? CDC: more than a few minutes. Hong Kong: 15 minutes. Singapore: 30 minutes.

Rapid Learning Curve on Best Practices

Practical Tips Before Opening

- Consider triage approach and reduced scope with gradual expansion of services. (But: This is an opportune moment for market share if you move quickly.)
- Address the anxiety keeping people away by "overcommunicating" your status, values. Consider video to detail changes. Bring order to the chaos.
- Update website, daily message, Google on hours etc.
- Find out what technology patients have at home. Encourage patients to get blood pressure cuff, pulse oximeter, scale, glucometer, and other monitoring devices.
- Use listserves, WhatsApp groups to keep staff updated
- Expect to devote more "leadership" time to emotional challenges.

No value in waivers of liability.

Should you use Informed Consent for COVID-19 risks?

Good Practice to Make Patients Aware of Risk, Benefits and Alternatives:

- **Surgery:** Discuss contingency plans if the lockdown resumes, staff or patient get sick, and ability to proceed is delayed.
- **Option to Reschedule:** Option of waiting until greater stability, more information
- **Pre/post Procedure Prep:** Risk associated with COVD-19 exposure and recuperation, managing other health issues.
- **Risks of False Negative Rate**: Uncertainty of testing..
- **Use of Telehealth:** Use of telehealth for post-op visits.

2.
Safety Protocols

Safety Protocols

1. Screening
   - Workforce
   - Patients
2. Physical Distancing
3. PPE Usage
4. Sterilization/Cleaning
5. Quarantine Policy

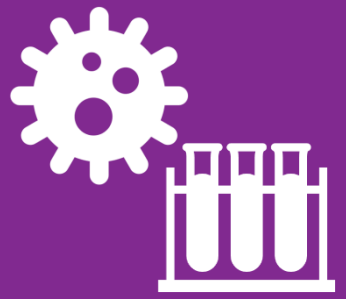
The Urgency of Affordable Point of Care Testing:

- 12% of transmissions from asymptomatic people
- 48 hour period before symptoms

The only solution is cost-effective, rapid screen by RT-PCR (real-time reverse transcription polymerase chain reaction) testing.

Differential treatment of people with IgG antibodies? (Less need for continued screening?)

Screening

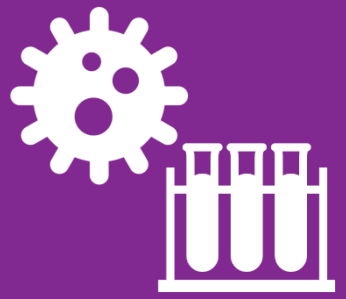


Screening: Staff

Self-monitoring
(with or without delegated supervision)

- Taking own temperature at least 2x/day (home and work)
- Remain alert for onset of symptoms
  - Cough
  - Shortness of breath
  - Sore throat
  - Myalgia, malaise
  - Lost sense of smell
- Report if symptoms make medical evaluation appropriate

Screening (Continued)



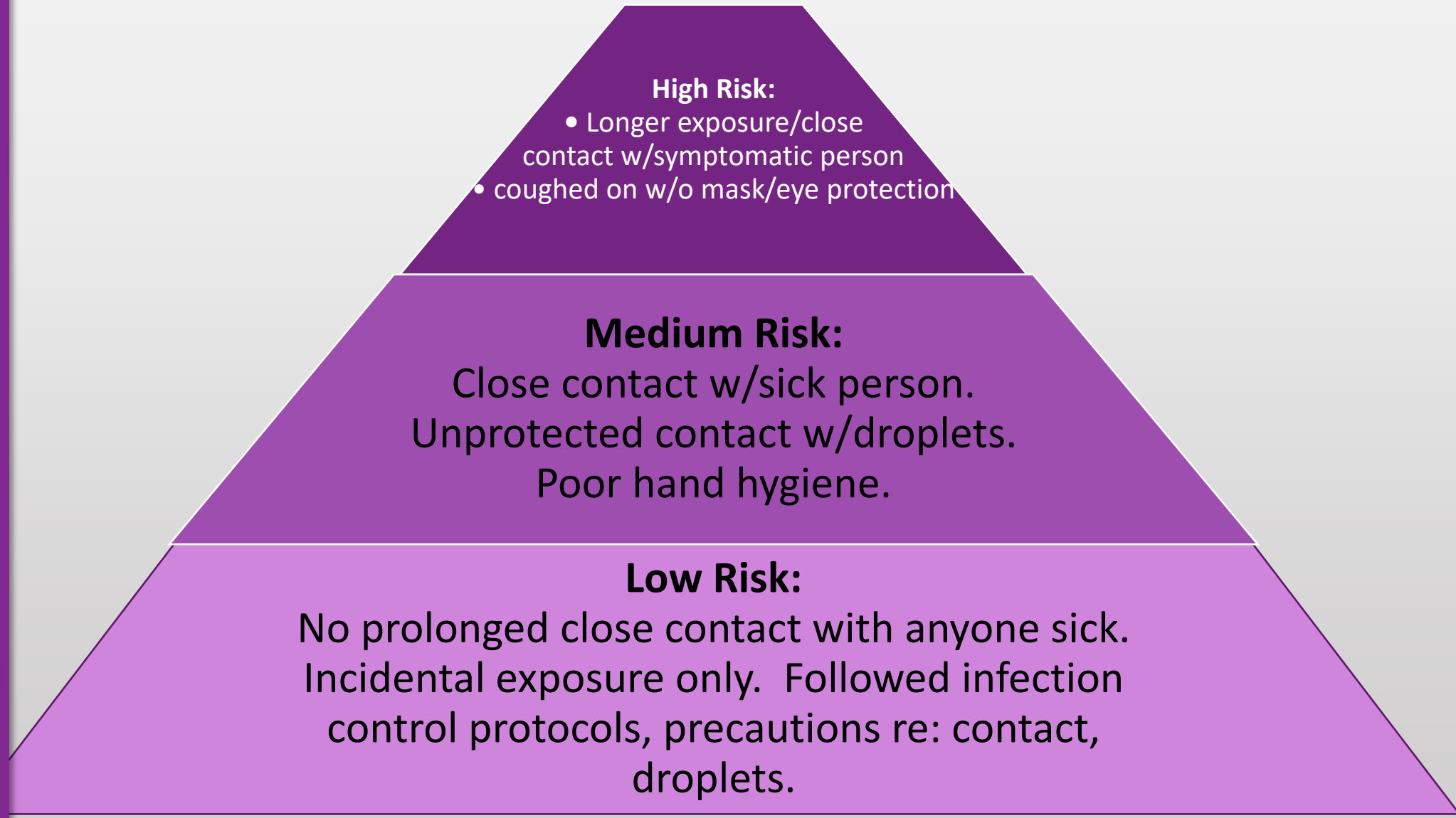
Active Screening Protocol
(staff and patients)
(until we get point-of-care testing)

Upon or before arrival, review these questions:

- Are you experiencing any of the following symptoms? Fever, cough, shortness of breath, sore throat, chills, repeated shaking with chills, muscle pain, headache, or new loss of taste or smell.
- Have you been in contact with someone known to have COVID-19?
- Actively measure individuals' temperatures. A fever is 100°F (99.6 if age 65+)
- Have you recently traveled by airplane or cruise ship?

Active Screening Protocol for Staff, Patients, Visitors

Screening and Monitoring



Active Screening Protocol for all Arrivals
(Staff, Potential Visitors, Returning Patients)

Screening and Monitoring

- Current limited internal capacity and availability of rapid test kits (5-15 min.)
- In absence of tests, rely on symptomology screening asking for 48 hrs prior.
- Staff are likeliest source to introduce COVID-19 + key allies in limiting spread
- Implement clear process, quarantine procedure for staff who are PUIs (person under investigation), mitigating staff-to-staff, staff-to-patient exposure, while awaiting test results.
- Communicate to all employees about who should and should not report to the facility for work. Daily check for signs of illness before reporting to work Stay home and notify supervisor if ill.

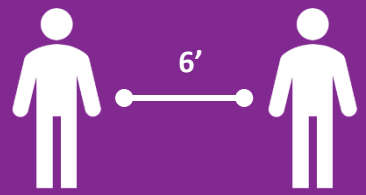
Adjusting to the crisis and rapid change

Professionally, Personally, Collectively – and with Continued Uncertainty

Effective Communication & Engagement

- **Facilitate engagement with patients, staff**

- **Systematize efficient dissemination/implementation**
  - Updates on your organization's resources
  - Timely alerts on new protocols
  - Educational content from trusted sources-empower ppl to engage w/care plans + understand role in limiting spread
  - Maintain person-centered approach to care in communication with staff, patients, patient representatives and family members re: patients' evolving needs during the crisis, treatment goals + how new protocols change care delivery and what life is like.



Physical Distancing

- Keep using telehealth (reduce in-person volume)
- Limit visits to blood draw, injection, essential in-person exams
- Reconfigure workforce for 6 foot spacing
- Remote check-in via dedicated cellphone: text on arrival + to come in
- Pre-Screen patient condition… Separate sick and well patients
- Direct patients to go straight to private exam room
- Limit maximum patient capacity in office at one time
- Restrict guests/visitors (unless necessary to directly support a patient’s health + wellness or for compassionate purposes)
- One Direction? Set entrance/exit, foot traffic to minimize interaction
- Special hours for vulnerable patients
- Remove magazines, toys, coffee – infectable items

Sterilization/ Cleaning

- Access to alcohol-based hand rub (ABHR) (Use soap if unavailable.)
- Reinforce hand-hygiene: posted handwashing protocols, tissue rules, no-touch receptacles for disposal
- Max out time of exam rooms between usage, if possible to air out.
- Increase maintenance standards throughout all public access points
- Disinfection protocols: thoroughly disinfect touched surfaces (tables, counters, doorknobs, switches, handles, desks, toilets, faucets, sinks) after use + throughout the day any with products labeled effective vs rhinoviruses/human coronaviruses (EPA anti-viral pathogen grade)
- Maintain inventory of cleaning supplies, wipes, towels, *etc.*
- Post federal, state and local advisories conspicuously.
- Heightened equipment sterilization protocols
- Clean rooms, bathrooms immediately after use by infected person

3.
The Workforce

Effective Workplace Wellness in a Time of Fear

Foster an environment of safety, trust, transparency, collaboration, input, and peer support.

1. Acknowledge the economic uncertainty and the contagion fear. Dedicate time for reassurance.
2. Be ready for strong staff reactions to person under investigation (PUIs) or infected patients or co-workers
3. Implement system to share + implement new rules efficiently.
4. Ensure training opportunities and resources to support protocol implementation – everyone trained + proficient.
5. Schedule check-ins to listen and address concerns.
6. Remain flexible, creative, and responsive to staff needs.
7. Identify solutions that work within resources available.

What to do with staff who are afraid to come in?

What if staff don't want to return to work? 2 questions: Do you need to accommodate them? Do you want to?

- **General Rule:** Employees must return to work when asked or can be terminated. Failure to return leads to ineligibility for unemployment benefits
- **ADA:** People at higher risk may qualify for reasonable accommodation under the Americans with Disabilities Act. (Fear of COVID-19 is not a covered disability.)
- **OSHA:** Reluctant employee is only protected from discrimination if (a) s/he asked employer to eliminate hazard in the workplace; (b) employer failed/refused to do so; (c) employee has "good faith" belief that imminent danger exists; (d) a reasonable person would agree "real danger" of death or serious injury is present; and (e) there is no time to get the hazard fixed via appropriate channels.

Maintaining (and documenting) a Safe Workplace

1. Assess OSHA risk level of COVID-19 exposure (next slide)
2. Train employees + enforce policies on proper workplace sanitation/hygiene
3. Provide employees with appropriate PPE (*e.g.*, face coverings, gloves, etc.) and train on use, maintenance, and cleaning
4. Appropriate administrative controls (*e.g.* temporary shutdown of certain, nonessential activities, staggered shifts, limited patient access, direct sick workers to stay home, distancing)
5. Appropriate engineering controls (*e.g.*, exhaust or ventilation systems, physical barriers or partitions, etc.)
6. Investigate and address, if necessary, internal complaints from employees about alleged workplace hazards

Key: Demonstrate good faith efforts to reduce/eliminate workplace hazards with *contemporaneous documentation + implementation* to rebut employee claims/refusal to return

Screening: Assess Employee Exposure Risk (OSHA)

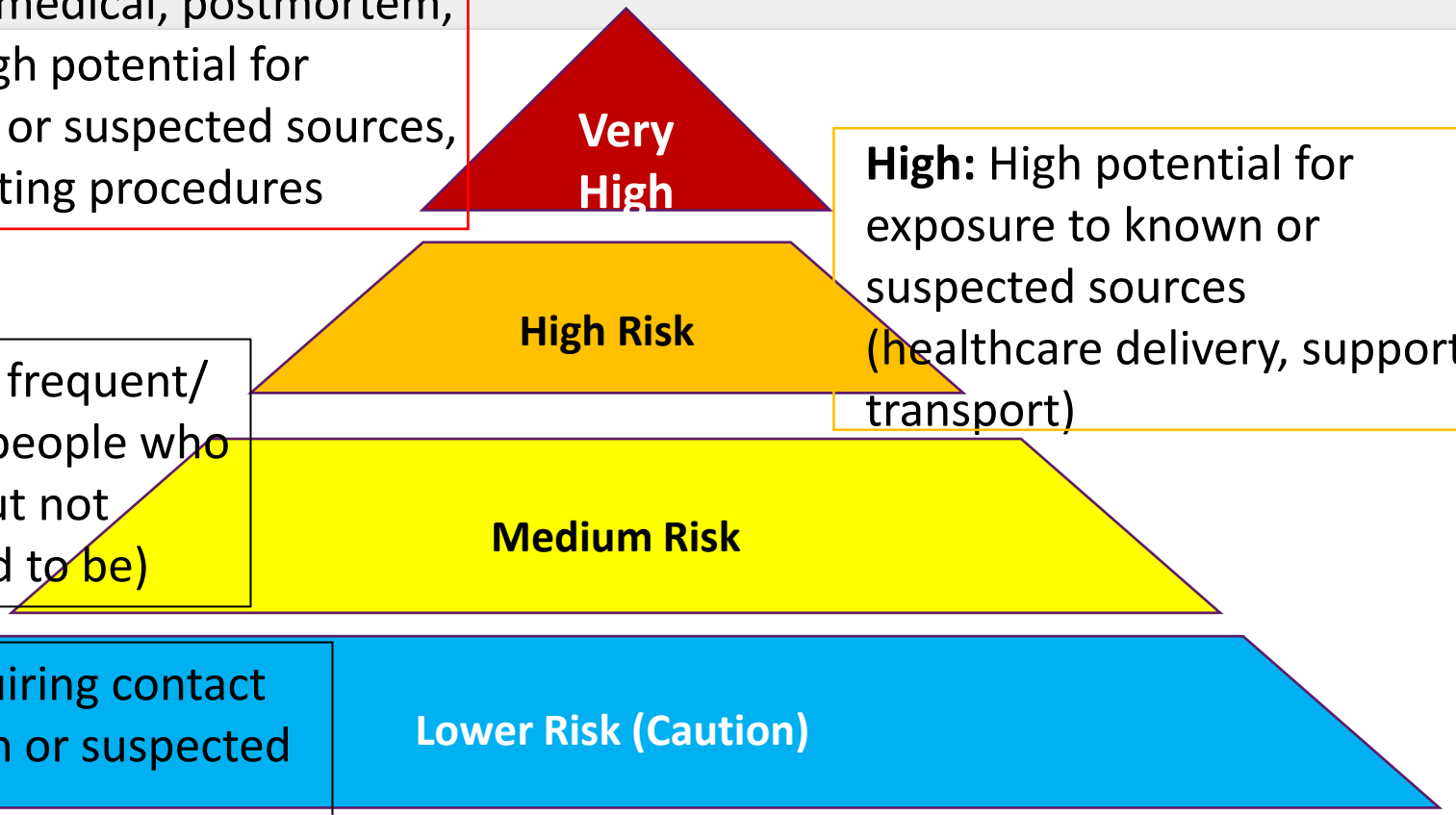
Assessment of Employee Risk

Very high: Specific medical, postmortem, or lab work with high potential for exposure to known or suspected sources, e.g. aerosol-generating procedures

High: High potential for exposure to known or suspected sources (healthcare delivery, support, transport)

Medium: Jobs with frequent/ close contact with people who may be infected (but not known or suspected to be)

Low: Jobs not requiring contact with people known or suspected of being, infected.



Source: https://osha.gov/publications/OSHA3393.pdf

What should you do if staff is exposed?

Until we have point of care testing available …

- Any symptoms: Send/stay home.
- High Risk exposure: Consider sending home.
- Low risk: Continue to work as long as asymptomatic.
- Report new symptoms ASAP (fever/cough/shortness of breath/sore throat/chills/repeated shaking with chills/muscle pain/headache/new loss of taste or smell).
- If staff develops symptoms (fever/cough/shortness of breath), they should notify their manager and stay/go home.
- Exposed co-workers should self-monitor more closely.

Do you need to worry about liability if employees get sick?

Low risk. Employers who can show they acted in good faith to reduce the risk of transmission and protect worker health will be well positioned to avoid liability.

1. Federal legislation in the works to immunize employers from liability for personnel getting infected.

2. Following OSHA rules and CDC guidance for enhanced workplace safety is evidence of reasonableness.

3. Workers' Compensation: Gov. Newsom has said the presumption will be reversed. Ordinarily, an employee must prove that (1) s/he contracted the illness in the course of employment and (2) illness was caused by conditions peculiar to employment. Normally excludes "ordinary diseases of life." Will this be the exception? Buckle up.

4.
Navigating Business Risks

Organizational Challenges

While the crisis has been felt differently by different healthcare providers, the vulnerabilities are the same

- Finance (Cash Flow)
- Census/Admissions
- HR/Staffing
- IT
- Supply Chain

Practical Guidance on Organizational Financial Health

Financial Adjustments

- Best way to deal with uncertainty: constantly make and revise projections
- Manage expenses – consider how practice changes impact staffing needs.
- Big questions around liquidity: how much longer will payment cycles be extended? Focus on minimum 2 Months of Operating Income
- Existing AP: Negotiate with landlords, vendors for accommodation (deferral, abatement)
- Managing Patient Financial Responsibility (cost-sharing) in a time of crisis: Strategies… Financing?

Work with a bank that values your business.

Lessons about Big Banks

- Small businesses got burned in the loan process by using large national banks that reserved private banking service for large accounts
- Open account and build relationships with small-business friendly banks – assigned private banker to ensure you get the necessary support and get applications in on time

Reexamining Contracts

Contracts

- Patient Agreements:
  - Adding disclosures / increasing flexibility
  - Identifying opportunities
- Employee Contracts: rights to reduce compensation as workflow is reduced?
- Leases/Service Contracts: force majeure clauses

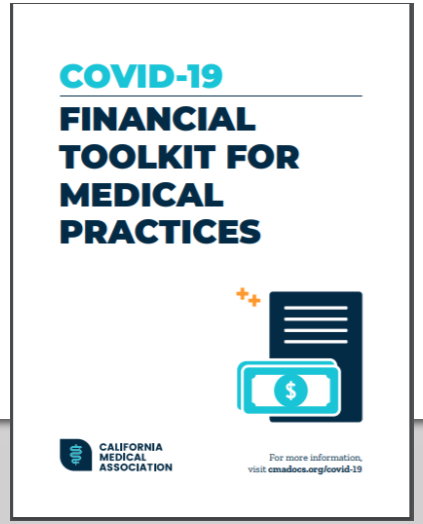
Shoring up Finances in the Lockdown

Payroll Protection Program (PPP): over $750B to date for payroll, mortgage, interest, utilities up to $10M. Funds still available. 3rd round expected.

Economic Injury Disaster Loan (EIDL): up to $2M of financial assistance to eligible organizations, including $10,000 expedited grants

CARES Act Provider Relief Fund ($150B)

Review CMA's Financial Tookit



6.
Q&A
Final Thoughts

Takeaways

- Slow starts offer time and testing to lay the foundation for success.
- Identify potential pivots to solve problems patients are feeling – bring order to the chaos – to claim more market share. This is also a moment of opportunity.
- Still more change ahead for the long-term
- Adapt to market trends - identify changes that will increase strengthen your operations, diversify revenue. Pay attention to what competitors are doing.
- Stay positive with an open mind – and build positivity in your team.