



# It's Here: The Reality of COVID-19 for Employers

**Presenters:**

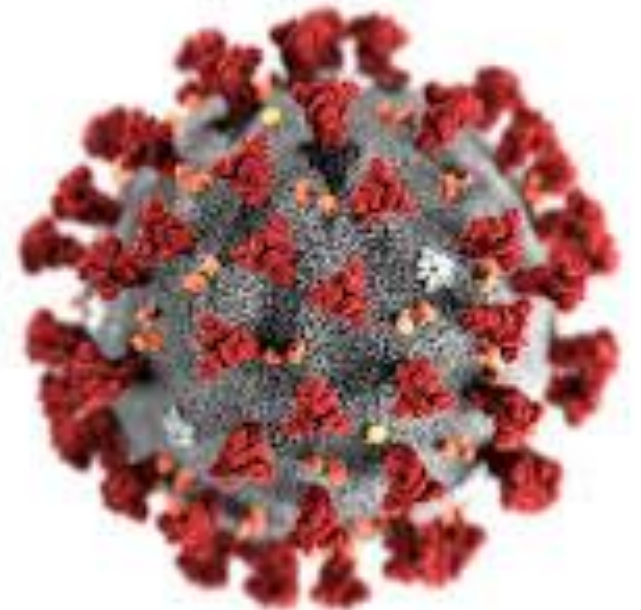
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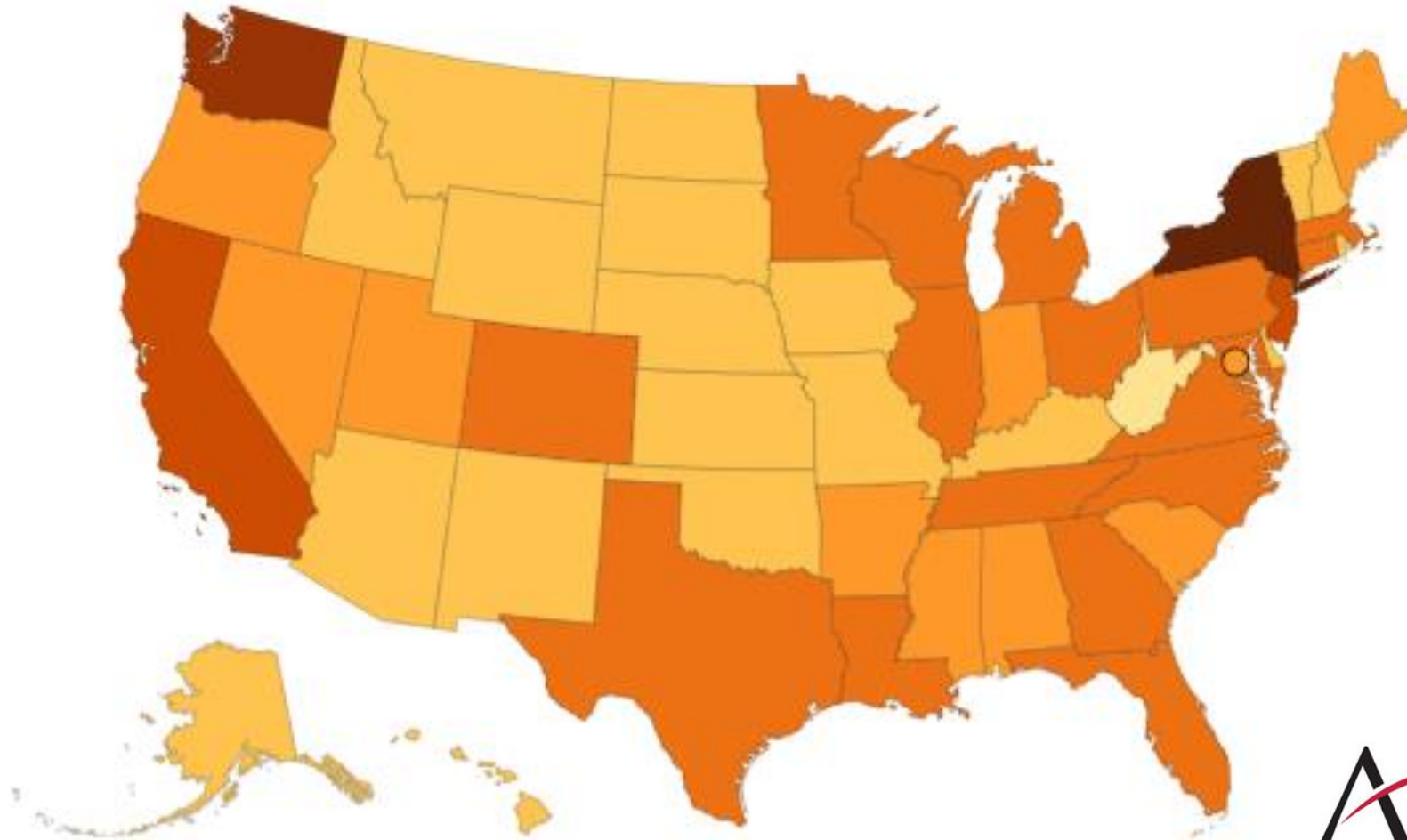
# Introduction

- What is the ***Harsh New Reality*** for employers?
  - Working
    - Job site
    - Tele-work
  - Furloughs or Separations/RIFs
- How can we get ***Back to Business***’
- Will there be a ***New Normal***?



# The New Reality

# States Reporting COVID-19 to CDC



# Legal/Agency Guidance

- President's Coronavirus Guidelines for America
- Federal agency guidance – CDC, EEOC, DOL, OSHA, DHS
- Families First Coronavirus Response Act
- State laws/guidance (e.g., NY emergency paid sick leave; CA WARN Act waiver)
- State and local laws/orders or public health agency directives
- Anticipated additional state and possible federal orders

# 1. Working “In Place”

- Notification of workforce or essential personnel
- Workplace safety protocol, depending on risk level for business, location and positions (OSHA Guidance)
- Protocol for handling sick employees, potential exposures and non-disclosures
- Medical inquiries, testing, and documentation
- Modified leave policies, including FMLA (and FFA), ADA, STD, LTD, and paid leave policies and laws
- Return to work after self-isolation, quarantine, or sickness
- Discrimination and retaliation
- Impact of state and local travel restrictions, closures and c



# OSHA Guidance

- Designed to reduce impact, identify risks and implement controls
- Steps:
  - Identify sources of exposure for workers
  - Prepare to implement basic infection prevention measures
  - Develop procedures for prompt identification and isolation sick people
- Implement workplace controls, including:
  - Engineering controls.
  - Administrative controls
  - Safe work practices
  - Personal protective equipment

# Challenging Workplace Situations

- Employee starts feeling sick at work . . .
  - And does not disclose his illness or seek treatment
  - Was exposed through failure to comply with state restrictions
  - Tests positive for COVID-19 and is ordered to quarantine for 14 days
- Employee who is high risk seeks refuses to return to work
- Employee with asthma is sent home because she is coughing or because of seasonal allergies
- Employee walks out of work to protest the lack of face masks and shortage of hand sanitizer at the worksite



## 2. Telecommuting

- May be only option for certain, most, or even all employees in jurisdictions with closure order
- May also be necessary as an accommodation or during quarantine
- Managing remote work
  - Providing the necessary equipment and remote access
  - Modification of work rules and standards
  - Work performance and conduct
- Wage and hour compliance and time charging
- Protection of confidential information and systems
- Reimbursement of expenses

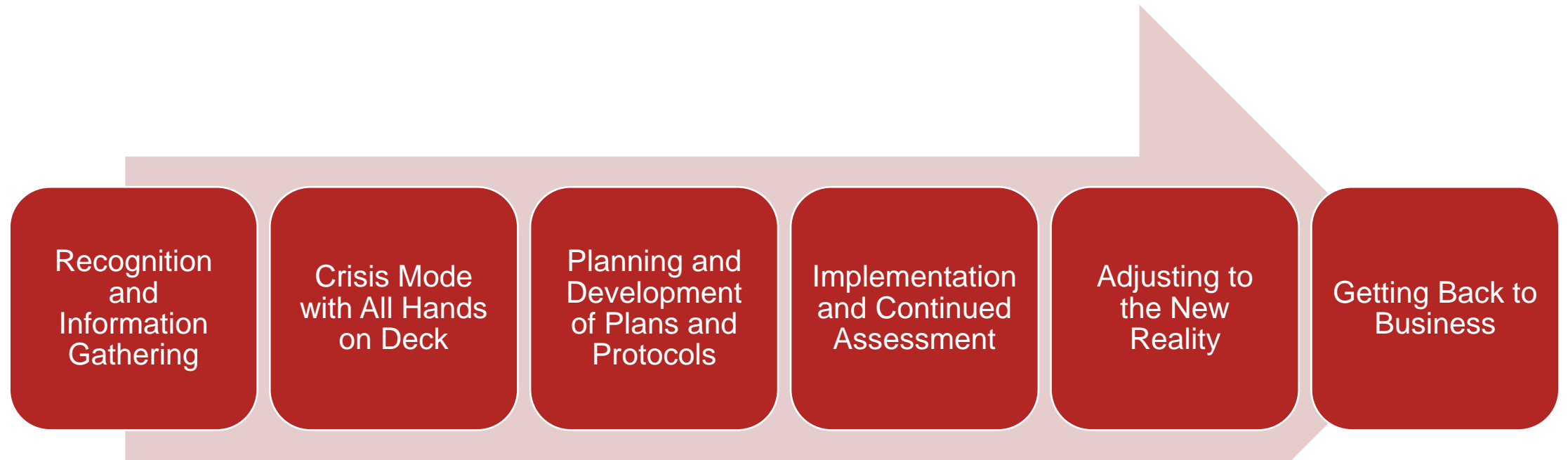
# 3. Furloughs and Terminations

Issue	Furlough	Termination
Discrimination and disparate impact	X	X
Wage and hour compliance	X	X
State and federal WARN Acts (as modified)		X
Severance policies and practices		X
Use and payment of accrued leave	X	X
Limits on work performed and access to systems	X	
OWBPA compliance		X
Notification and timing of final payment		X
Unemployment compensation	X	X
Handling of employees on leave	X	
Benefits – Medical, Dental, Vision, 401(k)	X	X



# Getting Back to Business

# 6 Stages of Crisis Handling



# How Do We Get Back to Business?

- Identify the situations (e.g., worker exposure) that are likely to arise
- Identify the owners of that situation
- Identify the protocols for handling it and provide instruction and training
- Require reporting and monitoring
- Reexamine the protocols as the rules and conditions change
- A hard look at the industry, business and economy, resulting in additional restructurings, reductions and closures

# Refocus on Core Employment Issues

- Re-review employment policies to ensure they are consistent with the New Reality
- Enforce (modified) workplace performance and conduct standards
- Move forward with planned discipline and terminations
- Ensure you have staffing and protocols for compliance functions, such as I-9 compliance
- Given the level of anxiety and stress, continue to focus on mental health and workplace/worker violence issues
- Handle issues with sensitivity, while moving forward



# The New Normal



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