

COVID-19 Legal + Safety

06.08.2020

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Today's Agenda

- Introduction
- Legal perspectives
- Safety perspectives
- Q&A

Legal

Note: The information contained in this document does not convey legal advice of any kind. Please consult your attorney for advice on the application of the law to the specific facts of your case or legal problem.



Is COVID-19 covered by workers' compensation insurance?

Yes – under certain conditions

- The worker must prove:
 - The contraction of the disease arose out of and in the course of employment and,
 - It caused a disability or the need for medical treatment.

Is there any legislation that might impact workers' comp coverage for COVID-19?

Yes – Senate Bill 216.

- Would create a rebuttable presumption of compensability for certain employees who are required to work outside their homes and are diagnosed with COVID-19.
- The employer would be able to overcome the presumption only by clear and convincing evidence of a specific non-work-related cause.

If an employee is exposed to COVID-19 at work, who pays for testing and lost wages during quarantine?

Probably not workers' comp.

- Exposure to a contagious disease does not necessarily mean the employee sustained a compensable injury.
- However, Pinnacol is voluntarily paying short-term wage replacement for first responders and front-line healthcare workers, and for testing of its policyholders' employees.

When should an employer report an employee's contraction of COVID-19 at work?

The employer should report any alleged injury to its WC insurer within 10 days.

- If there is lost time in excess of three days, a fatality, or possible permanent impairment, the insurer must report the claim to the DOWC within 10 days and take a position on compensability within 20 days.
- Note: DOWC and OSHA reporting requirements are not the same.

What other legal considerations are there regarding COVID-19 and workers' compensation?

- Workers' compensation exclusivity
- Possible third-party liability
- Penalties for safety rule violations

OSHA recordkeeping

Ask yourself these three questions:

1. Did the employee actually contract the illness?
2. Did the employee get ill while at work?
3. Did the employee receive medical treatment beyond first aid?

Safety

How do I protect my employees?

Safety Services

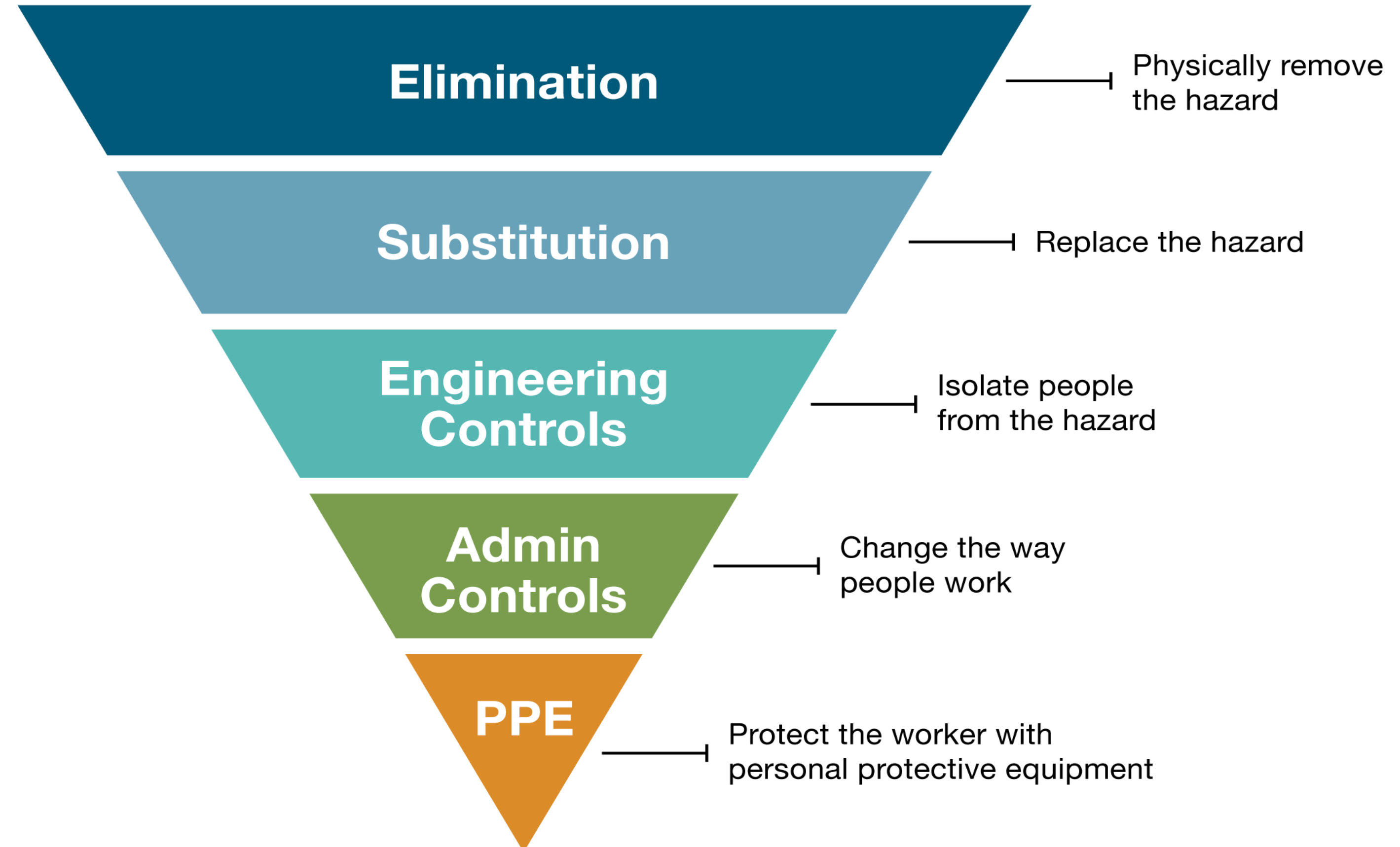
- Identify workplace risks
- Assign a COVID coordinator
- Develop infection control procedures
- Use the hierarchy of controls as a framework
- Provide training to employees
- Listen to employees' needs
- Document your safety management

HIERARCHY OF CONTROLS

Most
Effective



Least
Effective



Using the hierarchy of controls

Safety Services

- Depends on the industry
- [Colorado State Department of Public Health and Environment](#) has published specific guidance for various workplaces
- Each of these workplaces has specific control methods to prevent virus spread

What about OSHA inspections?

Geographic areas with decreasing COVID-19 community spread:

- Will continue to prioritize COVID-19 fatalities and imminent danger exposures
- Will utilize non-formal phone/fax investigations
- Will utilize rapid-response investigations to address formal complaints

What about OSHA inspections?

Geographic areas with sustained COVID-19 community spread:

- Will prioritize COVID-19 fatalities and imminent danger exposures
- Will prioritize onsite inspections for high-risk workplaces and complaints

Overall guidance

Pinnacol Assurance safety tips:

- Know the symptoms
- Identify work-related exposures and risks to employees
- Tell employees who are sick to stay home
- Revise your sick policy as needed
- Advise everyone to wash hands frequently
- Promote prevention actions
- Elevate cleaning and disinfecting
- Talk to your employees
- Monitor guidance from trusted sources

Pinnacol's COVID-19 resources

Access a library of up-to-date resources at covid.pinnacol.com

- [An employer's guide to safely resuming work after the pandemic closures](#)
- [Top three strategies for protecting non-healthcare workers during an N95 respirator shortage](#)
- [How to wear a cloth face mask safely and effectively](#)
- [Has your business started offering delivery? Seven tips for keeping your drivers safe](#)
- [Office ergonomics: Do's and don'ts of working from home safely](#)
- [How a job hazard analysis can help your business during uncertain times](#)
- [Tips for essential workers who must visit clients' private homes](#)
- [Protecting field crews from coronavirus](#)
- [Creating psychological safety for your employees](#)
- [Coronavirus \(COVID-19\): Tips to slow the spread](#)



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U.S. SURGEON GENERAL

If an employee reports to an employer that they have contracted COVID-19 while at work, then to whom should the employer report the injury?

- a) Division of Workers' Compensation (DOWC)
- b) The President
- c) The employer's workers' compensation insurer
- d) Occupational Safety & Health Administration (OSHA)

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SAFETY ON CALL

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Thanks.

References

- Updated interim enforcement response plan for coronavirus disease 2019 (COVID-19) <https://www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>
- Occupational Safety & Health Administration. (2020). Retrieved on June 3, 2020 from <https://www.osha.gov/SLTC/covid-19/>
- Colorado Department of Labor and Employment <https://www.colorado.gov/pacific/cdle/dwc>