

San Diego County Issues New COVID-19 Quarantine and Isolation Orders

The San Diego County Public Health Officer has issued new orders affecting persons who have been diagnosed with COVID-19, are likely to have COVID-19, or who have been in close contact with someone who has or is likely to have COVID-19. These orders may impact an employee's entitlement to federal, state, and/or local paid sick leave.

Effective April 10, 2020, all persons in San Diego County who have or are likely to have COVID-19 are ordered to immediately self-isolate in their home or another residence. This includes individuals who have received a positive lab test for COVID-19, have signs or symptoms consistent with COVID-19 (e.g., fever, cough, shortness of breath, or trouble breathing), or have been advised by a physician that they are likely to have COVID-19. Such persons may only leave their place of isolation to receive necessary medical care. Moreover, those in self-isolation must advise all people with whom they have had close contact to self-quarantine for 14 days after the last contact. "Close contact" is defined as: (1) an individual was within six feet of a person who has or is likely to have COVID-19 for a period of more than ten minutes; or (2) had unprotected contact with the bodily fluids and/or secretions (including, but not limited to, being coughed or sneezed on, sharing utensils, or drinking out of the same container) of a person who has or is likely to have COVID-19. Additionally, an individual in self-isolation may not come within six feet of any person, excluding healthcare workers, designated law enforcement personnel, and caretakers. Self-isolation must continue until at least 72 hours have passed since recovery and at least seven days since symptoms first appeared.

Also effective April 10, 2020, any persons who have had close contact (as defined above) with a person diagnosed with COVID-19, or likely to have COVID-19, must immediately quarantine themselves in their home or another residence for 14 days after the last close contact. Such persons may only leave their place of isolation to receive necessary medical care. Notably, an essential worker needed to maintain continuity of operations of sectors designated as critical infrastructure by Governor Gavin Newsom may still report to work if the following conditions are satisfied: (1) the worker has notified the employer about the close contact; (2) the worker has no symptoms of COVID-19; and (3) the workers wears appropriate personal protective equipment as required by the worker's job/position. A person under quarantine may not come within six feet of any person, excluding healthcare workers, designated law enforcement personnel, and caretakers.

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Employers are advised to consider whether an employee subject to the foregoing orders is entitled to paid sick leave under federal, state, and/or local law during the period of isolation or quarantine. For example, an employee who is subject to the San Diego County isolation order may be entitled to paid sick leave under the Emergency Paid Sick Leave Act for criterion reason 1 (the employee is unable to work due to a government quarantine or isolation order) and/or criterion reason 2 (the employee is unable to work because a healthcare provider advised the employee to self-quarantine).

Los Angeles County Issues Updated Public Health Emergency Quarantine and Isolation Orders

On April 1, 2020, the County of Los Angeles Health Officer issued updated quarantine and isolation orders. The April 1st orders supersede the initial quarantine and isolation orders issued on March 25th. The new orders are summarized below.

Public Health Emergency Quarantine Order

The new quarantine order provides that “household contacts, intimate partners, caregivers, and close contacts” of individuals who have been in close contact with a person diagnosed with or likely to have COVID-19 must quarantine. The order defines “close contact” with a person diagnosed with or likely to have COVID-19 as (1) being within six feet of the person for more than 10 minutes, or (2) having unprotected contact with the body fluids and/or secretions (coughing, sneezing, shared utensils) of the person from 48 hours before the person’s symptoms began and until that person is no longer required to be isolated.

The quarantine order requires a quarantine period of 14 days in an individual’s place of residence, beginning from the last date that the individual was in last contact with the person having or likely having COVID-19. Individuals subject to quarantine may not leave their place of quarantine or enter any other public or private place, except to receive necessary medical care.

Notably, the quarantine order does not provide exceptions for essential functions, such as grocery shopping or work. The language of the order leaves open the possibility that individuals subject to quarantine may take walks or exercise outside so long as they do not “enter” a public or private place. The penalty for violating the quarantine order is substantial, including the potential for civil detention at a health facility or misdemeanor prosecution punishable by imprisonment and/or fine.

Public Health Emergency Isolation Order

The isolation order applies directly to persons who have been diagnosed with or are likely to have COVID-19. Persons subject to the isolation order include those who have tested positive for COVID-19, are showing signs and symptoms that are consistent with COVID-19 (i.e., fever, cough, shortness of

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breath or trouble breathing), or have been informed by a physician that they are likely to have COVID-19.

Such persons must isolate themselves at their place of residence until: (1) at least 72 hours have passed since recovery, and (2) at least seven days have elapsed since symptoms first appeared. The isolation order defines recovery as resolution of fever without use of fever-reducing medications and improvement of respiratory symptoms.

Persons subject to the isolation order may not leave their place of isolation or enter any other public or private place, except to receive necessary medical care. The penalties for violating the isolation order are identical to the penalties for violation of the quarantine order.

Given the sweeping effect of the new orders, individuals subject to a quarantine or isolation order are likely to qualify for paid sick leave under criterion 1 and/or criterion 2 of the Emergency Paid Sick Leave Act.

San Bernardino Public Health Order for Licensed Care Facilities

On April 6, 2020, the County of San Bernardino Health Officer issued an order for the control of COVID-19 in licensed care facilities. The order became effective at 5:00 pm on April 6th and will continue until April 30, 2020. The order applies to all incorporated and unincorporated areas of San Bernardino County.

Licensed Facilities and Other Agencies

This order applies to licensed care entities or other agencies including: hospitals including general acute care; psychiatric health facilities; skilled nursing facilities; intermediate care facilities of all license types; hospice facilities; home health and hospice agencies; home care organizations; chronic dialysis clinics; federally qualified health care centers; community clinics; ambulatory surgical centers; residential care facilities for the elderly; residential facilities for the chronically ill, social rehabilitation facilities; continuing care retirement communities; urgent care centers; EMS providers; and adult residential care facilities (ARF) of all license types.

Temperature Screening

All individuals entering the licensed facilities listed above and/or who provide the services listed above must submit to a temperature screening prior to entering these locations or providing such services in the community. The temperature screening must be completed by the least obtrusive means possible.

If an individual registers a temperature of 100.0° F or 37.8° C or greater pursuant to such temperature screening, has a subjective fever (i.e., feels he or she is running a fever), or has symptoms of COVID-19 per a self-evaluation (described below), that individual is prohibited from entering the foregoing licensed locations or providing services in the community.

Self-Evaluation

Individuals are required to conduct a self-evaluation prior to entering licensed facilities. Individuals are prohibited from entering licensed facilities or providing services in the community if they have the following symptoms: sore throat, runny nose, fever, chills, are not feeling well, sneezing, coughing, soft stool, or stomach cramps.

Surgical Masks and N95 Respirators

All staff at licensed facilities shall wear a surgical mask at all times while in the facility. If there are suspected or confirmed cases of COVID-19 at the facility, staff shall wear an N95 respirator, when available, while caring for suspected or confirmed patients.

Employees Working in Multiple Facilities

Facilities should avoid utilizing employees who have worked in another licensed facility.

Riverside County Mandates Face Coverings While in Public

Effective April 6, 2020, all persons in Riverside County, including essential workers, must wear cloth face coverings when in public. Appropriate forms of face coverings include scarves, bandanas, neck gaiters, or other fabric face coverings. All persons, including essential workers, are discouraged from using personal protective equipment, such as N95 respirators, for non-medical reasons, so that such equipment remains available for health care workers.

San Francisco and San Jose Extend Required Paid Sick Leave

On April 14, 2020, the San Francisco Board of Supervisors passed a public health emergency leave ordinance (the “Ordinance”). The Ordinance is now before Mayor London Breed for signature. The Ordinance requires private employers with 500 or more employees to provide up to 80 hours of supplemental paid sick leave to employees who are unable to work as a result of the COVID-19 public health emergency. The Ordinance applies to any person providing labor or services for remuneration who is an employee under California law, including part-time and temporary employees, who perform work as an employee in San Francisco. In addition to certain welfare-to-work program participants, the Ordinance states that “employee” includes one who performs limited work in San Francisco if the individual would be an employee under rules governing the pre-existing, separate paid sick leave ordinance (employees who live in San Francisco and perform work for an employer from home, and employees who work outside San Francisco, but stop in San Francisco to work). Moreover, these individuals are employees for all hours they perform work in San Francisco and must perform 56 or more hours of work in San Francisco in a calendar year in order to qualify. The Ordinance provides that employers of health care providers or emergency responders may elect to

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limit their employees' public health emergency leave, but at a minimum these employees may use leave if they are unable to work at their customary place of work or telework because either a health care provider advises them to self-quarantine or they are experiencing symptoms associated with COVID-19, seeking a medical diagnosis, and do not meet the CDC guidance for criteria to return to work for healthcare personnel with confirmed or suspected COVID-19. The Ordinance provides that employers must make leave available, regardless of whether or when an employee is scheduled to work. The total number of leave hours an employee can take cannot exceed the average number of hours over a one-week period the employee was scheduled to work over the six-month period ending February 25, 2020, including any leave hours the employee took. The Ordinance provides that full-time employees (as of February 25, 2020) receive 80 hours, and part-time employees (as of February 25, 2020) receive a number of hours equal to the average number of hours over a two-week period the employee was scheduled to work over the previous six months ending on February 25, 2020, including leave hours the employee took.

Mayor Sam Liccardo has signed the San Jose COVID-19 paid sick leave ordinance, which became effective on April 7, 2020 ("the San Jose Ordinance"). The San Jose Ordinance requires private employers with 500 or more employees to provide up to 80 hours of supplemental paid sick leave to employees who are unable to work as a result of the COVID-19 public health emergency. This supplemental leave will be available to eligible employees for immediate use. The San Jose Ordinance also covers private employers with fewer than 50 employees. An eligible employee may use the leave granted by the San Jose Ordinance if the employee cannot work because of one of these reasons:

- The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis.
- The employee is subject to COVID-19 related quarantine or isolation by a government order or is caring for someone subject to the same.
- The employee has been advised by a health care provider to self-quarantine due to COVID-19 or is caring for someone subject to the same.
- The employee is caring for a family member because school or day care is closed due to COVID-19.

The San Jose Ordinances prohibits employees from carrying over any unused paid sick leave at its sunset date (December 31, 2020) or from being paid for unused amounts of sick leave. The San Jose Ordinance provides an offset for some combination of paid personal leave available to employees as of the effective date of April 7, 2020. The San Jose Ordinance includes those who have worked at least two hours within the city. If an employee can work from home, the San Jose Ordinance does not provide these additional COVID-19 sick leave benefits. The San Jose Ordinance further specifies that only employees who must leave their residences to perform essential work are covered. Hospital

employers may be exempted from the San Jose Ordinance only if, between April 7, 2020 and April 21, 2020, the hospital operators provide their employees some form of paid personal leave at least equivalent to the paid sick time as required by the San Jose Ordinance.

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