

**Q. If an employee calls in sick, how much information can an employer request?**

A. Employers may ask employees if they are experiencing COVID-19 symptoms, including fever, chills, cough, shortness of breath, or sore throat.

**Q. When employees report to work, what health information can an employer collect?**

A. An employer can ask about COVID-19 symptoms, as identified by the CDC and other public health authorities. Potential symptoms may change as we learn more about COVID-19, so employers should stay current on CDC and other agency guidance.

**Q. Can an employer take employees' temperature upon arrival at work?**

A. During the COVID-19 pandemic, employers may take employees' temperature. Under normal circumstances, this is a prohibited medical examination under the Americans with Disabilities Act, but it is permissible in the context of a pandemic. Temperatures should be measured privately, out of view of other employees. Employers should also be aware that COVID-19 is not always associated with an elevated temperature.

**Q. What should an employer do with information it collects?**

A. Information received during conversations with employees relating to their health, or health information such as temperature readings, must be maintained as a confidential medical record. Employers should not identify any employee with symptoms or a positive diagnosis to other employees, but can take measures to reduce exposure of other employees.

**Q. Can an employer require an employee with COVID-19 symptoms to stay home?**

A. Yes. Employers should be aware that under certain circumstances, an employee experiencing symptoms is entitled to paid sick leave under the Families First Coronavirus Response Act, and may also be entitled to use paid leave under Vermont's Earned Sick Time law.

**Q. Can an employer require a doctor's note for employees who are out because of symptoms, or upon their return to work?**

A. If an employee with symptoms is entitled to leave under the Families First Coronavirus Response Act, there is specific information that an employer may obtain in order to determine eligibility for leave. That information does not include a doctor's note. Upon return to work, an employer can ask for a "fitness for duty" note, but employers should be aware that it may be difficult for an employee to obtain a note given the strain on the health care system.

**Q. Can an employee refuse to come to work based on safety concerns associated with COVID-19?**

A. Maybe. Generally speaking, employees can be required to report to work (or face discipline) if the employer is following all safety guidelines issued by the Vermont Department of Health and the CDC. If, however, an employee has a legitimate concern that there is a safety risk, the employer should discuss that concern with the employee. Additionally, if an employee has a disability that makes him or her more

April 30, 2020

Page 2

vulnerable to COVID-19, the employer may be required to provide the employee with a reasonable accommodation under the Americans with Disabilities Act.

The EEOC has provided additional guidance to employers here:

[https://www.eeoc.gov/eeoc/newsroom/wysk/wysk\\_ada\\_rehabilitaion\\_act\\_coronavirus.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm).

7881947\_1:00001-01160