



# Pandemic-Proof Your Immigration Practice

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There is a lot of anxiety on the internet and in the media. Right now, much of that involves the novel coronavirus named COVID-19. It probably isn't end of days, as some would imagine. But it is now becoming possible to probable, depending on where you are located, that this will affect your immigration practice. A major goal for law firms is to remain open and viable should the coronavirus reach pandemic preparations. So, this is what you need to think about to calmly prepare your staff, clients, and yourself, and to manage the issues unique to your practice.

## Office Messaging

An important part of this planning is giving your lawyers and staff clear messaging about what it is you are doing and what you expect from them. The CDC has [helpful information and recommendations for businesses](#), with detailed information, but here are the basics:

- Let them know you are monitoring CDC and other authoritative directives. Discourage sharing unsubstantiated rumors.
- Remind staff to stay home or go home if they begin to feel sick. Ask them to inform you if they think they've been exposed to the virus.

- Instruct them in the best preventative measures and make it easy for them to use them.
- If your firm employees have remote working capability, discuss possible expanded use.
- If your firm does not have this technology, let them know you are investigating remote work systems generally. Test with them. (See more below.)
- Talk with staff you have deemed not eligible for remote work about pay while the office is closed, and what the plan is. Be sensitive to employee needs.<sup>1</sup>
- Discuss with staff your protection measures, such as disinfecting the office and notifying clients about not coming to appointments in person if they feel sick.
- Caution staff about implicit bias. Tell them to be kind to each other and clients of different cultures. Pandemics become associated with certain regions and therefore certain populations (e.g. Ebola associated with Africans, SARS associated with Chinese). Communicate to your employees your efforts to protect employees from contagion from clients and caution employees from making judgments or assumptions about clients and illness without information.

<sup>1</sup> It may not be necessary to shut the office down and leave certain employees without pay. It was announced March 11, 2020, that the U.S. Treasury Department was instructed to defer tax payments for certain individuals and businesses negatively impacted by the coronavirus and the Small Business Administration is instructed to provide capital and liquidity to small businesses affected by the coronavirus by providing low-interest loans. State and federal wage relief may also be available. Investigate your options before finalizing your plan.

- Keep employees informed about developments and your decisions. This is a rapidly changing situation that will need your attention and calm planning in the coming months.

## Office Actions

There are some decisions to be made and some preparations to engage in. First, who will be the point of contact for the firm for employees who are ill or have sick family members and need to telework? Second, decide what will trigger a work-from-home order from your firm. Consider staggering shifts or having some employees telework, to thin the ranks and make contagion spread less likely. Consider whether employees are exposed on public transit or in certain vulnerable communities. Third, do some basic hygiene moves in the office. For example:

- Get disinfectant wipes and hand sanitizer for the office.
- Remind employees to wash their hands frequently, not shake hands or hug right now, and sneeze into their elbows or into tissues.
- Employ regular office cleaning to disinfect and lower contagion transmission.

Finally, if you are considering a plan where everyone teleworks and you are not using remote worker technology currently, *start practicing now*.

Train staff on the videoconferencing platform you have chosen now if you haven't already. Plan who will be onsite, if you need someone in office, ensure your building will be open and available to that necessary in-office employee. Determine how you will manage virtual meetings and phone calls. Not every staff person will be able to telework. Some work in a law firm is still physical. Decide who is eligible for teleworking and if some duties will change in order to keep staff working. Do be conscious of employee needs and how long staff can go without pay, if necessary. Let everyone know what will be expected of them in your remote supervision. For example, you could say:

- You are expected to make virtual meetings at the time the in-person meeting was scheduled.
- You will check in every morning and afternoon and log your actual time on our system. *OR* We will check in through video conferencing on our regular weekly check-in. Otherwise contact me by the messaging system in Teams/Slack if you have questions.
- You will be expected to work the same hours you usually do, but you can work them on off hours. *OR* You must work your regular schedule, so the phones are available during normal business hours.
- Provide deliverables at the same rate as before wherever possible.

- You must maintain a secured wireless connection with firewalls, do updates, and maintain up-to-date malware and virus protection on your device while you are teleworking. You must maintain a safe work environment in your home.
- We are asking you to use your own device and phone. You must take measures to protect client confidences and information to the highest standard. *OR* We are supplying you with a password protected laptop and phone while you telework. The serial number has been recorded and we will expect it back upon return to office working. Please keep it in good condition.
- If you have travel planned, please discuss with our designated person on where and when you are traveling. We may approve on a case by case basis or mandate a halt on travel to certain locations experiencing a COVID-19 outbreak. Please check your calendar for work-related travel and contact us regarding anything upcoming in the next month.
- If you become ill or you have sick family members or children with school closures, we ask that you take time off work as necessary, even if you have the tools and capacity to telework. Please take care of yourself and your family, and refrain from doing things that will prolong poor health.
- We ask that you do your best to protect your productivity and attention to your work, despite distractions you may be experiencing due to school closures or other distractions in your household. We will be flexible and understanding in this unusual period.

## Client Communications

Clients will want to know you are prepared. Tell clients the basics about your plan by email and on your website. If you use a professional texting service, schedule a notice to inform them of any appointment changes. Inform clients about such things as the best way to stay in contact, that you are still working but the physical office is closed, and anything affecting their case relating to COVID-19 (see examples below).

Most importantly, tell clients who are potentially sick to *not* come into an appointment with you. Get clients prepared to meet by videoconference, which generally works on smartphones and tablets, as well as laptops and desktops. Make sure each client knows any effects on his or her case from COVID-19. Keep clients in the loop and show that you are flexible and mobile-capable. If you have business clients, you may be informing them about how to manage their employees and plans as well.

## Test Your Remote Working Systems

Testing systems will help you identify pain points and things not worked out sufficiently. CDC does tests of their plans; good disaster plans have run-throughs to identify what isn't working. Some likely systems you will want to test are:

- Transferring the phone lines to those who will answer them
- Videoconferencing with employees
- Videoconferencing with clients
- Practice management and case management platform access and remote use
- Online filing systems and accounts, such as myUSCIS

If there are forms and filings the client must sign, you can fully review it with them online before you print. Then you would have to send it to them in person, so take into account delays caused by this and schedule completion with enough time to not miss deadlines.

You may have to solve for other printing and mailing issues. It seems unlikely the United States Postal Service could shut down, or that certain offices could close. Home printers often lack the capacity and efficiency to do large immigration packet creation. You may want to outsource the preparation of packets to a company that prepares and mails things like this, if these issues arise.<sup>2</sup> You may also need to solve for other paper-bound processes as well, such as posting Labor Condition Applications physically.<sup>3</sup>

Assess your remote work readiness. The amount of paper-dependence your office has will govern how simple or complex the planning will need to be. If you are primarily paperless and your files are complete in the cloud storage or case management platform, this will be fairly simple. Less paper firms often have issues with the files being complete, so audit crucial files and prioritize scanning key information into the cloud storage or remotely accessible platform now to ensure the file will be complete. If you are primarily paper-based, make decisions about who will get the primary file in her home office and how you will work on cases if everyone must remotely work. Will you have certain things scanned? What items are the most important to scan? Or will someone take home a scanner and issue the file to others on a certain trigger?

The AILA Ethics Committee noted there are grave concerns regarding client confidentiality and security of client data when discussing taking files home. Every firm should review employee confidentiality policy agreements and modify and/or remind employees of their obligations, carefully consider who can take files home, and have a permission process in place for supervising attorneys.<sup>4</sup> In addition, giving clear guidance on security and safekeeping of files, both electronically and physically and confirming home security

is necessary, but also recognize some flexibility may be required in the usual standards to achieve the greater good of continuity plan. When considering if employees can use their own devices or yours, realize that security measures and control is lessened when they use their own devices, but the cost and time it will take to enact a plan with employee-owned device use is less. Weigh the costs against the benefits.

## It's a Local Problem, But Immigration is National

The CDC expects that there will be outbreaks in certain cities or towns, that it will primarily be a local problem, contained to certain areas. As of this writing, California and Washington have announced they are in a state of emergency, and cases have appeared in 15 states in the United States. But because immigration lawyers are often in multijurisdictional practices or filing in jurisdictions elsewhere from where they are located, they may be interacting with a location that is either affected and closed, or not affected and open for business, depending on the spread of the virus. Stay abreast of changes and watch for closures and measures at the federal government level.

For example, USCIS recently announced [If You Feel Sick, Please Consider Canceling and Rescheduling Your USCIS Appointment](#), and the [USCIS Seattle Field Office Closed Due to Possible COVID-19 Exposure](#). This will affect those practicing in Washington state and those who file or interview there only. But what if a service center you send packets too from afar closes? What if your town essentially goes into quarantine while your service center or field office you work with stays open? You will want to know of closures and delays and inform your clients if their case is affected.

This author found nothing online about closures at EOIR Immigration Courts yet, but there could be in the future. AILA will be following the news closely, as should your law firm. Also important to certain clients are the proclamations restricting travel to and from certain affected countries. (See *Resources*.)

## Tips of Teleworking and Managing Remotely

Look, videoconferencing isn't the answer to everything. One must have a few things in place to do it successfully, the most important of which is a consistent internet connection. Sometimes rural areas have poor WiFi and sometimes it can be sporadic due to weather, service issues, or other mysterious causes. Client connection can be a factor, as

<sup>2</sup> [FedEx](#) and [Certificate of Service](#) document mailing services do this, among others.

<sup>3</sup> See [Coronavirus And H-1B Compliance - How Will You Post LCAs From Home? Electronic LCA Posting Is The Answer](#), by Roman Zelichenko.

<sup>4</sup> Other policies that may need review and update are Sick/Paid Leave, Work Hours, Remote Access/Work from Home, Internet Use Policy, and the Security Policy.

can their varying levels of buy-in and technology abilities. But videoconference products such as Zoom permit a client to call in, where they need to, share a screen or view your shared screen, and turn on the video if eye-to-eye is best. Manage distractions for yourself and your staff with these tips:

- Your usual teleworking policy may say that if you are watching children, you need to take a partial or whole day off. That is all well and good in normal conditions, but if you have mandated remote work for your employees for a certain duration and their children's schools have closed, some flexibility would be appreciated and appropriate. Ask your employees to consider their own productivity and to set up their live-work situation at home in a way that promotes productivity. Be kind to the worker who has young children and cats traipsing through during videoconference meetings and permit them to work on off hours (when the baby goes to bed) if their deliverables permit it.
- When you are the employee with wee children and other distractions cutting into your productivity, take note of how many hours you have worked and what you have accomplished accurately and periodically.
- Assuming distractions are not ill or isolating family, if you find your productivity has dropped in the home office, make adjustments on the space and time you work. Hire childcare assistance in house, or share childcare with neighbors or friends where one family takes all the children for a day. Find diverting things for the children to do. Give your child an assignment or task and work alongside them for as long as they can tolerate it. And the theory is siblings will distract each other more, but there are many an only child that can be in their own world for hours with the right diverting activity. If you have really young children, savor the nap times and use them wisely.
- House distractions can be an issue also. If you are not used to working in-home, you may find that the household demands and chores haunt you while you work, and the work haunts you while you're on your life-hours. Making a conscious parameter of time and space, where you are "at work" even though you are at home and informing family of the parameters can help. Realize that when you telework, you are not required to work more—just the same amount in a different location.
- Find ways to connect and collaborate even though you are teleworking or self-isolating. If you are an extrovert or you thrive on communication with others to resolve issues on cases, for example, make sure you have remote connections with your colleagues, especially if working remotely long term.
- Do trust your employees, but don't stop supervising them. Teleworking isn't for everyone. Some people have an innate ability to dig in anywhere and prove even

more productive than in-office workers on certain types of tasks. Others struggle to stay on task and focus. It often depends on how they view their home space and their motivation in the position overall, but not always. Give them clear parameters of what you expect and keep a feedback loop going. Be mindful of not over-communicating via chat or email. It can feel too directive and hovering in another way. Plan when you will talk with people and create an agenda for the meeting.

- Engage in good videoconferencing hygiene and respectful remote collaboration.

As the CDC said, [viruses still surprise us](#), and we are learning what this new virus means to us. In an earlier version, it was noted that China's workers began to return to work in about two weeks. Since then research has made this author question that assertion and begun to think the period of remote work is more unpredictable. We can hope remote work will be for a short stint, but there is no guarantee and little precedent to compare with. In the long run, immigration law firms will need to be nimble and ready to respond to new developments unique to their location and the clients and entities they interact with most. Above all, stay calm, plan, and keep everyone in the communication loop.

## Resources

CDC [Business Preparation Checklist](#).

CDC [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#), February 2020.

[Guidance on Preparing Workplaces for an Influenza Pandemic](#), United States Department of Labor OSHA 2007.

[How to Protect Yourself in the Workplace during a Pandemic](#), United States Department of Labor OSHA 2007.

[Pandemic Panic? These 5 Tips Can Help You Regain Your Calm](#), by Allison Aubrey, NPR.

Proclamation 9984 on January 31, 2020: [Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus](#).

Proclamation 9992 on February 29, 2020: [Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus](#).

[What is "social distancing," and how can it slow the coronavirus outbreak? The difference between quarantine, isolation, and social distancing, explained](#), by Brian Resnick, Vox.

[Working remotely during challenging times](#), by Jared Spataro, Corporate Vice President for Microsoft 365

[Zoom's Commitment to User Support & Business Continuity During the Coronavirus Outbreak](#), by Eric S. Yuan, Zoom Videoconferencing.