



## COVID-19 provincial updates

In response to the significant increase in COVID-19 cases in Ontario, the provincial government introduced targeted public health measures for Toronto, Peel and Ottawa for the next 25 days. While the modified Stage 2 restrictions do not apply to veterinary practices, members are reminded to minimize the risk of exposure to their staff, clients and patients by following Public Health guidance. This includes wearing masks, social distancing and maintaining hand hygiene and infection control best practices.

For additional COVID-19 resources, visit:

- [OVMA Coronavirus \(COVID-19\) FAQ page](#)
- [OVMA Practice Reopening Guide](#)
- [Staff and client screening form template](#)
- [Worms and Germs blog](#)

## The OVMA office has gone virtual (again)

To safeguard staff health and protect against community spread, OVMA staff have reverted to working virtually as of Tuesday, Oct. 13. Although OVMA's physical office will be closed, all OVMA staff will continue to be available by email and phone to assist members throughout the COVID-19 pandemic.

Staff contact information can be found at [ovma.org/contact](https://ovma.org/contact).

### Farley Foundation funding applications

Clinics submitting Farley Foundation funding requests must email completed application forms to Victoria Hickey at [vhickey@ovma.org](mailto:vhickey@ovma.org). At this time, the Farley Foundation is unable to process applications sent via fax.

## Employment law FAQs

As the province continues to navigate COVID-19, many members have questions regarding employment law and staff sick leave. To address these questions, Jordan Morelli and Tamara Ramsey from Dale & Lessmann LLC, which provides legal counsel to OVMA, have provided the following guidance for members.

### **Scenario 1: An employee needs to be tested for COVID-19. Does the employer have to pay them while they wait for the test and/or test results at home?**

No. The employee is likely entitled to **unpaid** leave while waiting for the test and results, so long as the test for COVID-19 is not completely voluntary. Under section 50.1 of the Employment Standards Act (ESA), an employee is entitled to an infectious disease emergency leave of absence without pay if the employee will not be performing the duties of their position because of one or more reasons related to

COVID-19. An employee is entitled to this unpaid leave if the employee is under individual medical investigation, supervision or treatment related to COVID-19. This includes employees who are being tested for COVID-19 because they have symptoms of COVID-19 or because they have been in close contact with someone who has tested positive for COVID-19. It would not likely include people who are voluntarily seeking to be tested for COVID-19, such as those who are being tested so that they can visit with vulnerable family members.

However, an employee may be entitled to use sick days or vacation days in accordance with the terms of their employment and the clinic's policy regarding sick days and personal days.

**Scenario 2: Does the answer to Scenario 1 change if the employee has to stay home and wait for their child's COVID-19 test and results?**

No. An employee is entitled to **unpaid** leave while providing care or support to their child (and certain other family members) because of a matter related to COVID-19.

Similarly, an employee may be entitled to use sick days or vacation days in accordance with the terms of their employment and the clinic's policy regarding sick days and personal days.

**Scenario 3: Can the employer ask for proof that the employee is awaiting test results and/or proof of positive test results?**

Yes, although it depends on what is being requested. It's reasonable to request that the employee provide a copy of the test results, regardless of whether they are negative or positive. Under section 50.1(4.1) of the ESA, an employer may require an employee who takes an infectious disease emergency leave to provide evidence reasonable in the circumstances, at a time that is reasonable in the circumstances. However, the employee is not required to provide a certificate from a doctor or other qualified health practitioner.

**Scenario 4: If the clinic has requested a staff member to remain home until they are symptom-free or receive a negative test result, does the clinic need to pay them until that happens?**

No. If an employee is given direction from their employer to stay home due to concern that the employee may expose other individuals in the workplace to COVID-19, then the employee may be placed on infectious disease emergency leave.

In addition, the employer has obligations under O. Reg 364/20 made under the Reopening Ontario (A Flexible Response to COVID-19) Act to screen employees by asking the questions in the [workplace screening form template](#). If an employee doesn't answer all the questions negatively, they may not enter the workplace and must follow guidance from the health authorities regarding self-isolation.

However, an employee may be entitled to use sick days or vacation days in accordance with the terms of their employment and the clinic's policy regarding sick days and personal days.

Further, if an employee is ill, they may be entitled to apply for short-term disability benefits depending on the terms of any applicable policies.

**Scenario 5: If someone falls ill in the practice and the practice is asked to quarantine by Public Health, can employees be temporarily laid off, if the practice owner wishes to go that route?**

Maybe. The employees may be placed on infectious disease emergency leave instead of a temporary layoff. As discussed above, this is an **unpaid** leave.

Note that a temporary layoff may be considered constructive dismissal if the employer does not have the contractual right to place employees on temporary layoff.

It is important to note that the law continues to develop as the government responds to changes related to COVID-19. The above responses are accurate at the time of writing but may change as the situation develops. For example, the Infectious Disease Emergency Leave referenced above is currently set to expire on Jan. 2, 2021. Unless the government extends the sunset date (which may occur in response to the pandemic), some of the

responses may change. Finally, as always, it's recommended to obtain independent legal advice as changes in the facts may alter the response.

OVMA members can take advantage of free legal advice for specific employment questions through the Legal Council Service. Visit OVMA's website to learn more or call 1.877.636.8557 to speak with an advisor.

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## New federal benefit programs available

In August, the federal government announced two new benefits for employees needing time away from work due to COVID-19. Applications are now open for the [Canada Recovery Sickness Benefit](#) and the [Canada Recovery Caregiving Benefit](#).

Last week, the federal government announced proposed legislation that, if passed, will support businesses through a second wave of the virus. The proposal includes an extension for the Canada Wage Subsidy, a new Canada Emergency Rent Subsidy, and an expansion of the Canada Emergency Business Account. Additional information will be provided to members as it becomes available.



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