

Liability Issues to Consider on Reopening Churches for Live Worship Services

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Our office has received a number of calls inquiring about the risks associated with reopening church buildings for worship and other functions. Obviously, the risk most asked about is: what if someone enters our building and later becomes infected with COVID-19?

Some inquirers are, no surprise, seeming to get mixed messages from national and state leaders on whether they must, can, or should reopen. Some staff are concerned about reopening since they themselves are in a high-risk category due to age or underlying health issues. There are several issues to consider before you reopen your church buildings to the public.

First, it will be difficult for a person to prove they contracted coronavirus at church, unless they can prove: (1) it was the only public place they visited within a certain time period before their infection; and, (2) that no one else in their household was infected and infected them in the same time period. That is not to say sessions and ministers should not be concerned about this issue; claims of infection can be made and perhaps proven. There have been news reports in recent weeks about churches defying or ignoring government recommendations on reopening, use of masks, and other precautions with tens of worshippers becoming infected. Following safety protocols can diminish the risk of infection and show good faith efforts to protect visitors.

Second, any decision to open/reopen a church should be made based upon what your Governor and state officials say in public orders, so check your state's websites for information. Does any order forbid churches from operating? Unlikely. But there may be limits on the number of people who can gather. Some folks have found viable solutions or compromises by, for example, holding church outdoors in a setting akin to a drive-in. Cars are parked at least six feet apart, facemasks should be worn, no singing, and so on. Complying with state recommendations and orders can reduce the risk of infection and demonstrate good faith efforts to protect visitors.

Third, it would be wise for congregations to contact their insurance company before reopening. If anyone attends worship or comes onto their property and becomes infected with COVID-19 and is able to prove they were infected while on church property, they may be able to make a claim against the church corporation. (Under the *Book of Order*, churches should form their own corporation to own property, purchase insurance, etc. G-4.0101). A session would want the insurance company to weigh in on the wisdom of reopening and how. If the congregation fails to satisfy the insurer, and if someone does get sick and files a claim, the insurer may refuse to pay the cost of defense and/or refuse to pay any settlement or damages found in a judgment after trial.

Fourth, it would be wise to have the session meet and discuss reopening once the session has reviewed state orders or recommendations and input from the church's insurer. The session should decide whether to open or not, and if the session decides to open it would be wise to have a detailed plan that complies with state orders and recommendations, any advice or guidance from your insurer, and any guidance from the Centers for Disease Control and Prevention. Failure to follow that guidance/advice will allow someone to say the church/session was

negligent in its decision to reopen. It would also be wise for the decision to be made by the corporate board of the church, so any potential liability is corporate and not individual.

Finally, there is a paper that was put out by Theology, Formation and Evangelism in the Presbyterian Mission Agency, "[Returning to Public Worship](#)," which has some guidance.

Presbyteries may also be concerned about liability. The same suggestions offered above also apply. Presbyteries are encouraged to offer recommendations of their own to their congregations, citing the sources of the recommendations (state websites, CDC website links).