

COVID-19 Update

March 30, 2020

If your small business is struggling to keep up with the ever-changing legal landscape resulting from the COVID-19 pandemic, join attorney Liza Favaro on Wednesday, April 1 at 10:00 a.m. for a free, informational Facebook live Q&A for small businesses. Topics of discussion include the CARES Act, the Families First Coronavirus Relief Act, and Michigan's Stay at Home Order. All are welcome! Details at this link: <https://lnkd.in/gJhX6kt>

1. Additional Guidance on Businesses Deemed “Critical” Under “Stay Home, Stay Safe” Executive Order.

Michigan Attorney General Dana Nessel posted an online video to address questions surrounding employment rights, including additional guidance on whether specific businesses are deemed “critical” under the “Stay Home, Stay Safe” Executive Order:

- Workers who manufacture, sell, and distribute RVs are not critical infrastructure workers under the Executive Order.
- Construction is allowed in *limited forms* including construction to maintain and improve roads, bridges, telecommunications, and public health infrastructure. Construction workers may also undertake projects that are necessary to maintain and improve the safety, sanitation, and essential operations of a residence. Cosmetic and non-emergency maintenance and improvements to residences are not permissible. Additionally, essential businesses are allowed to designate construction firms to provide necessary support to the work of their businesses' critical infrastructure workers. And to note, all construction work performed during this time must be done in accordance with the mitigation requirements under section 5(c) of the Executive Order.
- Landscaping, lawn care, tree service, irrigation, and related outdoor maintenance companies are not critical infrastructure workers under the Executive Order, unless the service is necessary to maintain and improve the safety, sanitation, and essential operations of a residence. Therefore, cosmetic and non-emergency maintenance and improvements are not permissible.
- Hardware stores may remain open but must implement the social distancing guidelines and other mitigation measures under the Executive Order.

- Golf courses may not stay open as they do not fall under the designation of critical infrastructure. Additionally, golf courses may not designate employees as critical infrastructure employees and allow them to go to work.
- Tobacco shops, cigar bars, vape shops, and hookah lounges may not stay open as they do not fall under the designation of critical infrastructure.
- Members of the media may have access to the station to relay news, as they are covered under an exception to the Executive Order and are deemed critical infrastructure workers.
- Individuals traveling to and from work as a critical infrastructure worker do not need a pass to travel. [The video can be viewed here.](#)

Additionally, the Attorney General's office added a new section to its website, [Know Your Employment Rights](#), which provides a list of categories considered to be critical and essential under the Executive Order. The State's website also contains information through its [Guidance for Business page](#) and answers to [frequently asked questions](#).

2. Temporary Expansion of Unemployment Benefits.

Governor Whitmer today announced the expansion of unemployment benefits under the federal CARES Act, which will grant benefits to individuals who do not already qualify for state unemployment benefits. This includes those who are self-employed, 1099-independent contractors, gig, and low-wage workers who can no longer work because of the pandemic. The expansion also increases weekly benefits for all unemployed individuals by \$600 a week for up to four months and extends benefits payments from 26 to 39 weeks.

The Department of Labor and Economic Opportunity will provide additional guidance regarding eligibility and application details as this new program is implemented, and we will provide further information as made available.

3. Governor's Executive Orders Pertaining to Health Care Providers.

The health care providers have been on the front lines of the COVID-19 fight, and we greatly appreciate these efforts. Over the past few weeks, the Governor issued a number of Executive Orders that directly affect health care providers and the provision of health care items and services in the State of Michigan. Two of these Orders are described below:

[Executive Order 2020-30](#)

- The Order suspends, until the declared state of emergency in Michigan is over, certain requirements of the Michigan Public Health Code relating to scope of practice, supervision, and delegation to the extent necessary to allow licensed, registered, or certified health care professionals to provide medical services at “designated health care facilities” (which are defined to include freestanding ASCs, hospitals, nursing homes and certain state-owned and state-operated facilities) at which the professional is employed or contracted to work, that are necessary to support the response to the COVID-19 pandemic and are appropriate to the person's education, training, and experience, as determined by the facility.
- The suspension applies to the extent necessary to:
 - permit physician assistants to provide medical services without a written practice agreement with a physician;
 - permit advanced practice registered nurses, including nurse anesthetists, to provide medical services without physician supervision;
 - permit registered nurses and licensed practical nurses to order COVID-19 testing;
 - permit licensed practical nurses to provide medical services appropriate to the professional's education, training, and experience, without registered nurse supervision;
 - permit licensed practical nurses to provide medical services without registered nurse supervision;
 - permit licensed pharmacists to provide care for routine health maintenance, chronic disease states, or similar conditions without physician supervision.
- The Order allows facilities to utilize medical students, physical therapists and emergency medical technicians to volunteer or work within the facilities in certain support roles.
- The Order allows health care professionals licensed and in good standing in any state or territory in the United States to practice in Michigan (but provides that a license that has been suspended or revoked is not considered a license in good standing, and a licensee with pending disciplinary action is not considered to have a license in good standing; also, any license that is subject to a limitation in another state is subject to the same limitation in this state).
- The Order increases the threshold for medical malpractice liability to “gross negligence” - any licensed health care professional or facility to which the Order applies that provides medical services in support of Michigan's response to COVID-19 is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained, unless it is established that such injury or death was caused by the gross negligence of such health care professional or facility.

[Executive Order 2020-17](#)

- This Order imposes temporary restrictions on non-essential medical and dental procedures while the state of emergency in Michigan remains in effect.
- Starting no later than 5 PM on March 21, 2020, all hospitals, freestanding ASCs, and dental facilities, and all state-operated outpatient facilities, were ordered to temporarily postpone all medical and dental procedures that are not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider.
- Facilities that perform medical procedures, including any elective surgery or cosmetic plastic surgery, must postpone, at a minimum, joint replacement, bariatric surgery, and cosmetic surgery, except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, and welfare of the patient.
- Specifically excluded from postponement are surgeries related to advanced cardiovascular disease (including coronary artery disease, heart failure, and arrhythmias) that would prolong life; oncological testing, treatment, and related procedures; pregnancy-related visits and procedures; labor and delivery; organ transplantation; and procedures related to dialysis, and emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.
- Dental facilities must postpone, at a minimum: any cosmetic or aesthetic procedures (such as veneers, teeth bleaching, or cosmetic bonding); any routine hygiene appointments; any orthodontic procedures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; initiation of any crowns, bridges, or dentures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; any periodontal plastic surgery; any extractions of asymptomatic non-carious teeth; and any recall visits for periodontally healthy patients. If a dental facility chooses to remain open, it must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.

4. Cyber Attacks Surge Amid Pandemic – from GMH's Information Technology Department.

Many organizations are for the first time asking traditionally office-based employees to work from home. It is important to prepare your employees for today's new cyber risks, regardless of their physical proximity to the office because cybercriminals are leveraging

COVID-19 fears to spread malware and pilfer data. Security experts warn that they have never seen phishing attempts quite this widespread before.

When working remotely, our mindset tends to shift and those good security habits we've practiced in public and in the office now seem less important due to our perceived sense of safety while in our private homes. When switching to an at-home work environment, it's important that your employees are cognizant to bring those habits with them.

This link below is from one of our trusted security awareness partners, KnowBe4. This blog shows some examples of Coronavirus phishing emails that are circulating, so that you and your employees know what to look for.

https://blog.knowbe4.com/heads-upfeeding-frenzy-covid-19-phishing-attacks-surge-as-u.s.-reels-from-pandemic?utm_content=122764971&utm_medium=social&utm_source=linkedin&hss_channel=lcp-2225282

GMH's Coronavirus Task Force is here to answer your questions. While GMH is complying with Governor Whitmer's Executive Order, we are working remotely and available to assist you. Please contact any of the below lawyers for more Coronavirus support.

THE LOCAL, STATE AND FEDERAL GOVERNMENT REQUIREMENTS RELATED TO COVID-19 MAY CHANGE, AND ADDITIONAL GUIDANCE, RULES, LAWS AND REGULATIONS MAY BE ISSUED OR AMENDED, AT ANY TIME. ACCORDINGLY, OUR GUIDANCE OR POSITION ON THESE TOPICS MAY ALSO CHANGE, WITH OR WITHOUT NOTICE, AND THE ABOVE INFORMATION IS FOR EDUCATIONAL PURPOSES ONLY AND SHOULD NOT BE INTERPRETED OR RELIED UPON AS LEGAL ADVICE. EACH SITUATION IS UNIQUE AND SHOULD BE REVIEWED WITH THE ASSISTANCE OF COMPETENT PROFESSIONALS.



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