



## CLIENT ALERT EMPLOYMENT & LABOR

### **Public Health Safety Measures for Businesses Permitted to Maintain In-Person Operations**

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April 16, 2020

On April 15, 2020, the Secretary of Health signed an [order](#) which applies to all businesses, regardless of size, other than health care providers, which are permitted to maintain in-person operations. The order continues the enhanced cleaning procedures previously [ordered](#) by the Secretary of Health and the requirement to have sufficient cleaning and security personnel to carry out these requirements. The new order expands what is required for employees and customers.

#### **When does the order take effect?**

The order takes effect on April 19, 2020 at 8:00 p.m.

#### **What does the order require regarding mitigation measures?**

Under the new order, employers shall implement, as applicable, the following mitigation measures within the workplace:

1. **Provide employees access to regular handwashing** with soap, hand sanitizer, and disinfectant wipes, and schedule handwashing breaks for employees at least every hour;
2. **Provide masks for employees to wear** during their time at the business and make it a mandatory requirement to wear masks while on the work site, except to the extent an employee is using break time to eat or drink. Employers are allowed to approve masks obtained or made by employees in accordance with Department of Health guidance but the obligation to provide all employees with masks rests with the employer; and
3. **Provide notice to employees of the new requirements** by communicating to them, either orally or in writing, in their native or preferred language, as well as in English or by a methodology that allows them to understand. To date, no translated versions of the Order have been posted by the Commonwealth nor has an approved Notice suitable for posting been provided.

#### **What does the order require regarding site access and control?**

Under the new order, employers shall implement, as applicable, the following site access and control measures at the workplace:

1. **Require all customers to wear masks** while on premises, and deny entry to individuals not wearing masks, unless the business is providing medication, medical supplies, or food, in which case the business must provide alternative methods of pick-up or delivery of such goods (note there is an exception for individuals who cannot wear a mask due to a medical condition and children under the age of 2 years without the need to present documentation by the customer);
2. **Prohibit non-essential visitors** from entering the premises of the business;
3. **Limit access**: where feasible, businesses should conduct business with the public by appointment only and, if not possible, businesses must limit occupancy to no greater than 50% of the number stated on the applicable certificate of occupancy at any given time, maintain social distancing, and place signage throughout each site to mandate social distancing for both customers and employees;
4. **Install shields or other barriers** at registers and check-out areas to physically separate cashiers and customers or take other measures to ensure social distancing of customers from check-out personnel;
5. **Accommodate high-risk people**: designate a specific time for high-risk and elderly persons to use the business at least once every week; and
6. **Provide time to clean**: alter hours of business so that the business has sufficient time to clean, restock, or both.

### **What does the order require regarding social distancing?**

Under the new order, employers shall implement, as applicable, the following social distancing measures within the workplace:

1. Stagger work start and stop times for employees;
2. Stagger employee break times;
3. Provide sufficient space for employees to have breaks and meals while maintaining a social distance of 6 feet and eliminate seating which requires employees to be across from each other while eating or on breaks;
4. Limit persons in employee common areas (such as locker or break rooms, dining facilities, training or conference rooms) at any one time;
5. If a meeting must be held in person, limit the meeting to the fewest number of employees possible, not to exceed 10 employees at one time; and
6. Use every other checkout lane where possible.

### **Are any employers excluded?**

Yes. Health care providers are excluded from the requirements of the order. Additionally, on its face, the order only applies to businesses. What is left unanswered by the new order is whether it was intended to apply to local government, public schools, or other organizations which are not normally considered to be businesses.

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Please contact any of our Employment and Labor attorneys at (610) 825-8400 or via email if you have concerns about the impact of COVID-19 in the workplace.

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*This is a rapidly evolving situation from both a legal and public health standpoint. Because the guidance from Harrisburg changes frequently, you should always make sure that you follow the most up to date guidance. Wisler Pearlstine is committed to providing up to date, practical legal advice to our clients on how to manage the legal implications arising from the COVID-19 virus. If you have any questions, please contact one of our attorneys.*

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