Executive Order 2020-59: Extending Stay Home, Stay Safe Order

On April 24, 2020, Governor Whitmer issued Executive Order 2020-59 which supersedes and replaces the previous Executive Orders 2020-21 and 2020-42 (the “Stay Home, Stay Safe" orders) and is generally effective immediately. Per the Order, the “Stay Home, Stay Safe” mandate continues through May 15, 2020, with broader exceptions but some additional restrictions as well.

Many of the 2020-42 Order key provisions continue, as outlined in our earlier article. Importantly, in-person work that is not necessary to sustain or protect life continues to be prohibited, except for employees (1) necessary to sustain or protect life or to “conduct minimum basic operations” of any business and (2) employees who are "critical infrastructure workers" of a business that is in an exempt or essential sector.

The new/revised provisions affecting employers are as follows:

- Employers with workers who perform the following functions are now able to resume their normal business activities, as long as the employer maintains the appropriate mitigation precautions (including the county rules where applicable) and the additional measures described below:

    - Workers who process or fulfill remote orders for goods for delivery or pick-up
    - Workers who perform bicycle maintenance and repair
    - Workers for garden stores, nurseries, lawn care, pest control and landscaping operations
    - Maintenance workers and groundskeepers who maintain the safety and sanitation of outdoor recreation
    - Workers for moving or storage operations

- For businesses and operations whose in-person work is permitted pursuant to the Order, the following additional measures must also be taken:

    - Gatherings of any size in which people cannot maintain six feet of distance from one another are barred
    - In-person interaction with customers must be limited to the maximum extent possible, and any such interaction must meet the six-feet distance requirements
    - Businesses must provide personal protective equipment for affected workers, such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed
    - Businesses must adopt protocols to limit the sharing of tools and equipment to the maximum extent possible, and to ensure frequent and thorough cleaning of tools, equipment, and frequently touched surfaces

- For retail/stores that continue to operate in-person sales:
    - Stores must establish lines of entry with markings that enable individuals to maintain a six-foot distance from others
    - Stores must consider the use of curbside pick-up and other methods to reduce in-store traffic and lines
    - For stores which are less than 50,000 sq. ft., the number of people in the store (including employees) must not exceed 25% of the total occupancy limits established by the applicable fire marshal
    - For stores which are more than 50,000 sq. ft., the stores must limit the number of customers to 4 people per 1,000 sq. ft. of customer floor space (excluding employees)
    - Stores must create at least two hours per week of dedicated shopping time for populations vulnerable to illness (e.g. people over 60, pregnant women, people with chronic conditions)
    - Note, the restrictions against advertising and/or selling certain non-essential goods in stores have been lifted

- Effective April 26, 2020 at 11:59 p.m., all businesses and operations must, at a minimum, provide non-medical grade face coverings to their in-person workers. Additionally, employers must not discriminate against any workers who wear a mask pursuant to this Order.

- Lastly, any individual able to "medically tolerate a face covering" must wear a covering over his or her nose and mouth (i.e. homemade mask, scarf, bandana, or handkerchief) when in any enclosed public space. Therefore, employees must wear masks in any areas of a business which are open to the public.

The Governor's full Executive Order can be found at:
https://content.govdelivery.com/attachments/MIEOG/2020/04/24/file_attachments/1435194/EO%202020-59.pdf

This memo is intended only as a summary and general overview. If you have any questions or would like legal advice regarding the above or any other employment issue, please contact **David Lawrence** or **Stacey DiDomenico**.