

# CLIENT ALERTS

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## “Mask Up Michigan” – Governor Whitmer Furthers Her MI Safe Start Plan by Rescinding the Prohibition on Routine Healthcare Services and Procedures

5.21.2020

On May 21, 2020, Governor Whitmer issued two new Executive Orders (“EO”) geared towards reopening Michigan’s businesses, including orders repealing Executive Orders 2020-17 and 2020-34 that require healthcare providers to delay all non-essential dental, medical and veterinary services. Effective May 29, 2020, healthcare providers may resume routine services and elective procedures, subject to continued adherence to strict safety measures designed to protect employees, customers, clients, and patients.

In Executive Orders 2020-96 and 2020-97, Governor Whitmer takes additional steps to advance her MI Safe Start Plan by rescinding or revising a number of prior Executive Orders that closed or limited operations of retail businesses, auto dealerships, and non-essential healthcare providers.[1]

Effective immediately, EO 2020-92 is rescinded, and gatherings of 10 people or fewer people will now be allowed statewide. Additionally, starting May 26, 2020, retailers and auto dealerships will be permitted to see customers **by appointment only** and subject to other limitations. Finally, dental, medical and veterinary providers and facilities will be able to perform routine services and procedures as early as May 29, 2020. All businesses, however, must adhere to the workplace safety rules detailed in EO 2020-97.

While EO 2020-97 rescinds prior EOs governing workplace safety measures, it reissues most of those measures while amending certain requirements and providing some additional ones for newly opened operations.[2] In our May 18, 2020 Client Alert, we detailed the workplace safety measures that were outlined in EO 2020-92.

### Related Services

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For healthcare operations, including outpatient facilities, clinics, primary care physician offices, dental offices, and veterinary clinics, many of the same workplace safety requirements apply, such as: use of personal protective equipment (PPE) by workforce and patients in accordance with CDC and the U.S. Occupational Health and Safety Administration guidance, installation of physical barriers in areas that involve physical interaction, and establishment of special hours for highly vulnerable patients (elderly and those with chronic health issues). However, some additional healthcare-specific safety measures are added, including:

- Limiting appointments and arranging the waiting rooms to ensure 6-foot social distancing (e., marking off or removing seats in the waiting room), and/or require patients to remain in their vehicle until they are called for their appointment;
- Enabling contactless sign-in and, to the extent possible, continuing to use telehealth and telemedicine;
- Conducting a common screening protocol for all patients, including temperature checks and questionnaires about COVID-19 symptoms/exposure;
- Providing hand sanitizer and face coverings at patient entrances;
- Requiring patients to wear a face covering when in the facility (and to the extent tolerable), except as necessary for identification or to facilitate the examination or procedure;
- Employing specialized procedures for patients with high temperatures or respiratory symptoms (e.g., special entrances, having them wait in their car) to avoid exposing other patients in the waiting room;
- Allowing sufficient time between appointments for cleaning of examination rooms after each patient and deep cleaning of examination rooms that treat patients with respiratory symptoms; and
- Establishing procedures for building disinfection in accordance with CDC guidance if it is suspected that an employee or patient has COVID-19 or if there is a confirmed case.

Many of these workplace safety measures should have been contemplated as part of a business's COVID-19 Preparedness and Response Plan, which are discussed further in a prior Client Alert. For those businesses and healthcare providers that have not started their COVID-19 Preparedness and Response Plan, the time is now. Every business (including healthcare facilities and providers) is required to have a COVID-19 Preparedness and Response Plan in place that meets OSHA Guidance within two weeks of resuming in-person operations. For those providers planning to restart routine services and elective procedures on May 29, 2020, your Plan should be in place by June 12, 2020.

If you have questions about these Executive Orders or preparing your COVID-19 Preparedness and Response Plan, please contact the author of this alert or your regular Butzel Long attorney.

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[1] Specifically, EOs 2020-97 and 2020-98 rescind or amend EOs 2020-17, 2020-21, 2020-42, 2020-59, 2020-70, 2020-77 and 2020-92.

[2] For example, the requirement that a restaurant or bar employee provide a doctor's written release to return to work after testing positive for COVID-19 was eliminated.