

Ohio COVID-19 Orders Replaced with Order Emphasizing Social Distancing, Masks, Non-Congregating

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Although Ohio has not yet attained its goal of reducing COVID-19 cases to 50 cases per 100,000 people over a two-week period, the Director of the Ohio Department of Health has rescinded many of the prior orders designed to prevent the spread of COVID-19. In their place, the director issued a new “Amended Order for Social Distancing, Facial Coverings and Non-Congregating.”

As the title of the order suggests, Ohio continues to require social distancing, masks, and non-congregating.

Social distance requirements under the order include:

- Maintaining six-foot social distance;
- Washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer;
- Covering coughs or sneezes;
- Regularly cleaning high-touch surfaces; and
- Not shaking hands.

For businesses, this means, where possible, designating with signage or tape six-foot spacing, and having hand sanitizer and sanitizing products readily available for employees and customers.

Masks are required in any indoor location that is not a residence. In addition, masks are required when outdoors and unable to consistently maintain a distance of at least six feet from non-family or non-household members, and when waiting for or riding, driving, or operating public transportation.

The order provides a number of exceptions for mask wearing, including medical conditions that affect breathing, mental health conditions and other disabilities that contraindicate the wearing of masks, and for those seeking to communicate with individuals with hearing impairments or other disabilities where the ability to see the mouth is essential for communication.

In addition, with respect to businesses, masks are not required if the individual is:

- a. In a space not intended for use or access by the public and alone in an enclosed space or office or separated by six feet in all directions;
- b. In a manufacturing facility, if employees are separated by at least six feet in all directions or by a barrier;
- c. Actively engaged in a public safety capacity, including but not limited to law enforcement, firefighters, or emergency medical personnel;
- d. Actively participating in broadcast communications; or
- e. An officiant of a religious service.

The mask requirement in this order also does not apply to schools that comply with the guidelines set by the Ohio Department of Education and the Ohio Department of Health or child care centers, family child care, in home aids, day camps, and after school programs that comply with the guidelines by Ohio Department of Job and Family Services and the Ohio Department of Health. It also does not apply where facial coverings are prohibited by law or regulations, where they are in violation of documented industry standards, or where they are in violation of a business's documented safety policies. Additional exceptions are found in section 2(b) of the order. No exception is provided for

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individuals who have been vaccinated. The order specifies, “Businesses must apply exceptions to wearing a mask equally to all persons.”

Non-congregating under the order means that individuals should avoid gathering in groups and attempt to maintain social distance. The order does not limit the total size of group gatherings, but provides that individuals should be in a group of no more than 10 individuals and separated from other groups by at least six feet. Individuals are advised to perform daily health assessments and stay home if they have a fever, cough, or other signs of possible “corona virus.”

The new order removes travel restrictions, any recommendation that employers have employees work from home when possible, and many of the other obligations placed on businesses in the earlier orders. With respect to travel, the Ohio Department of Health (ODH) is no longer issuing a travel advisory for those entering Ohio after traveling to states reporting positive testing rates of 15 percent or higher. Instead, ODH has revised its travel guidance to encourage Ohioans to carefully review Centers for Disease Control and Prevention (CDC) guidance when considering travel.

As businesses reopen, they will want to assess the state’s requirements along with any local requirements and the recommendations of both the CDC and Occupational Safety and Health Administration in developing a return-to-work plan. In many industries, masks, social distancing, and limiting congregation of individuals will continue to be hallmark measures to continue to reduce the spread of COVID-19, along with maximizing ventilation, routine disinfection of high-contact surfaces, and providing hand washing, sanitizer, and sanitizing products.

Employers also will want to continue to immediately isolate and send home individuals who develop symptoms. The order directs Ohioans to contact the local health department about suspected COVID-19 cases and exposure and recommends working with the local health department to assist with contact tracing and notifications of potentially exposed or infected individuals. Finally, the order requires businesses and organized gatherings, where possible, to post clearly visible signage at all entrances requiring facial coverings and social distancing.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with state-specific or multistate-compliant plans.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our COVID-19 team.

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