

Pennsylvania Health Secretary's Order Lays Out Extensive Requirements for Essential Employers

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April 16, 2020

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Pennsylvania Governor Tom Wolf has announced a new [Order](#) related to the ongoing COVID-19 outbreak. Signed by Dr. Rachel Levine under her authority as Secretary of the Department of Health, the April 15, 2020, Order is designed to provide additional protections for employees of essential businesses who are working during the pandemic — along with the public with whom they come into contact.

The Order contains a long list of new requirements for essential employers who are not healthcare providers and is designed to help employees maintain social distancing at work. Under the Order, employers must:

- Provide masks for employees to wear during their time at the business, and make it a mandatory requirement employees wear masks while at the work site, except to the extent an employee is using break time to eat or drink, in accordance with guidance from the Department of Health and the Centers for Disease Control and Prevention (CDC). Employers also may approve masks obtained or made by their employees, consistent with that guidance;
- Stagger work start and stop times for employees, when practical, to avoid gatherings of large groups entering or leaving the premises at the same time;
- Provide sufficient space for employees to have breaks and meals while maintaining a social distance of six feet, including limiting the number of employees in common areas and setting up seating to have employees facing forward and not across from each other;
- When possible, conduct meetings and training virtually. If a meeting must be held in person, employers must limit the meeting to the fewest number of employees possible, not to exceed 10 employees at one time. Attendees must maintain a social distance of six feet for the duration;
- Provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes and ensure that common areas are cleaned on a regular basis, including between any shifts;
- Ensure that the facility has a sufficient number of employees to perform all measures listed above, and to control access, maintain order, and enforce social distancing of at least six feet;
- Prohibit non-essential visitors from entering the employer's premises; and
- Ensure that all employees who do not speak English as their first language are aware of procedures by communicating the procedures, either orally or in writing, in their native or preferred language.

Additionally, the Order lays out *special protocols* for employers to follow in the event of exposure to COVID-19. If an employer discovers an exposure to a person who is a probable or confirmed case of COVID-19, the employer must implement temperature screenings before employees enter the facility before the start of work each day. The employer also

must send any employee home who registers a temperature of 100.4 degrees Fahrenheit or higher.

In addition to the temperature screening, employers are ordered to:

- Close off and ventilate areas visited by the individual with a probable or confirmed case of COVID-19;
- Wait a minimum of 24 hours, or as long as practical, before beginning cleaning and disinfection;
- Clean and disinfect all spaces, especially commonly used rooms and shared electronic equipment;
- Identify and notify all employees who were in close contact with that individual (within about six feet for about 10 minutes) within 48 hours prior to onset of symptoms;
- Ensure the business has a sufficient number of employees to perform these protocols effectively and immediately;
- Require employees with symptoms of fever, cough, or shortness of breath to notify the employer and stay home; and
- Require sick employees to following CDC-recommended steps and not return to work until the CDC criteria to discontinue home isolation are met in consultation with health care providers and state or local health departments. (Employers are encouraged to implement liberal paid time off for employees needing time off for these reasons.)

The Order contains additional requirements for employers that serve the public — measures designed to protect against exposure to members of the public in addition to employees.

Employers that serve the public within a building or any defined area are ordered to:

- Require all customers to wear masks while on premises and deny entry to anyone not wearing masks.
 - Businesses that provide medication, medical supplies, or food are excepted from this requirement. Such businesses must provide alternative methods of pick-up or delivery of goods. However, individuals who cannot wear a mask due to a medical condition (including children under the age of two) may enter the premises without having to provide medical documentation;
- Conduct business with the public by appointment only. To the extent this is not feasible, businesses must limit occupancy to no more than 50 percent of the number stated on their certificate of occupancy.
 - The business also must place signage throughout each site to mandate social distancing for both customers and employees;
- Alter hours of business so the business has sufficient time to clean, restock, or both;
- 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, or close lines to maintain a distance of six feet between lines;
- Encourage use of online ordering by providing delivery or outside pick-up;
- If the business continues with in-person, customer-facing operations, designate a specific time for high-risk and elderly persons to use the business at least once every week;

- In businesses with multiple check-out lines, only use every other register, or fewer. After every hour, businesses must rotate customers and employees to the previously closed registers.
 - Businesses also must clean the previously open registers and the surrounding area, including credit card machines, following each rotation;
- Schedule handwashing breaks for employees at least once every hour; and
- Where carts and handbaskets are available, assign an employee to wipe down carts and handbaskets before they become available to each new customer entering the premises.

The Order went into effect immediately, and enforcement will begin April 19, 2020, at 8:00 p.m. The Pennsylvania State Police, the Department of Health, the Liquor Control Board, and several other state agencies and officials will enforce the Order.

Violators risk citations, fines, or license suspensions — the same penalties for violation of Governor Wolf’s earlier order closing all non-life-sustaining businesses in the Commonwealth.

The Order follows another Order by the Secretary of Health [providing guidance to businesses on maintaining and cleaning their facilities.](#)

Other Pennsylvania COVID-19-related Orders and list of essential businesses:

- [List of PA Essential \(Life-Sustaining\) Businesses](#)
- [Life-Sustaining Business FAQs](#)
- [State-Wide Stay at Home Order Through April 30, 2020](#)
- [Philadelphia Stay at Home Order](#)

Jackson Lewis has a dedicated team tracking and responding to the developing issues facing employers in this difficult time. If you need guidance in handling the complicated issues pertaining to COVID-19, contact a Jackson Lewis attorney to discuss.

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