

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MIDWEST INSTITUTE OF HEALTH, PLLC,  
d/b/a GRAND HEALTH PARTNERS,  
WELLSTON MEDICAL CENTER, PLLC,  
PRIMARY HEALTH SERVICES, PC, AND  
JEFFERY GULICK

Plaintiffs,

Case No. 1:20-cv-414

vs.

GRETCHEN WHITMER, in her official  
capacity as Governor of the State of Michigan,  
DANA NESSEL, in her official capacity as  
Attorney General of the State of Michigan,  
and ROBERT GORDON, in his official  
capacity as Director of the Michigan  
Department of Health and Human Services,

Hon.

Defendants.

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**VERIFIED COMPLAINT**

The Plaintiffs comprise medical providers and a patient seeking vital medical services during this re-declared state of emergency. They file this Complaint for declaratory

judgment, injunctive relief, damages, and other relief to vindicate their rights under the United States and Michigan Constitutions and to preserve their ability to safely provide and obtain necessary healthcare services as Michigan citizens, as detailed below:

1. The COVID-19 pandemic and its initial spread in the United States and Michigan represented an extraordinary challenge for the citizens of Michigan and its elected representatives. Initial projections based on some models projected widespread infection of the population that would overwhelm our hospitals and healthcare systems, resulting in a massive number of deaths. One model from the CDC projected between 160 to 214 million infections and between 200,000 to 1.7 million deaths nationwide.<sup>1</sup> Such projections and the lack of available data on U.S. cases put governmental leaders in very difficult spots. Nonetheless, based upon those projections, government leaders made hard decisions on how to best to protect the health of their citizens, while acting within the bounds of controlling constitutions and established law.

2. Fortunately, however, the projections upon which the government leaders made their decisions back in March 2020 were grossly inaccurate. Set forth below is a comparison of the projections made by the CDC in early 2020 with the actual data as of May 10, 2020.

<b>Data</b>	<b>CDC Projections</b>	<b>Actual Numbers<sup>2</sup></b>	<b>Comparison of Actual Numbers to CDC Projections</b>
Number of people infected nationwide	160 million to 214 million	1,324,488	0.8% to 0.6% of projection
Number of deaths nationwide	200,000 to 1.7 million	79,756	39.9% to 4.7% of projection

<sup>1</sup> Chas Danner, *CDC's Worst-Case Coronavirus Model: 214 Million Infected, 1.7 Million Dead*, N.Y. Magazine Intelligencer, updated Mar. 13, 2020, available at <https://nymag.com/intelligencer/2020/03/cdcs-worst-case-coronavirus-model-210m-infected-1-7m-dead.html>.

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last updated May 11, 2020; last visited May 12, 2020).

3. Many decisions made in immediate response to protect against the COVID-19 threat and the dire, potential public health crisis resulted in severe restrictions on the rights and liberties of both private individuals and businesses. Michigan was no exception.

4. Since early March 2020, Michigan Governor Gretchen Whitmer has taken drastic, unprecedented, unilateral executive actions in an effort to address the spread of the virus that causes COVID-19—declaring a state of emergency in the State of Michigan and justifying her restriction on rights and liberties based on the very important goal to “flatten the curve” and avoid overwhelming Michigan’s healthcare system and hospitals.

5. Thankfully, the goal of flattening the curve has been achieved, and the dire predictions of overwhelmed hospitals have not come to pass.

6. During a press conference on Monday, April 27, 2020, Governor Whitmer acknowledged that the curve has flattened in Michigan. Graphics depicted that while Governor Whitmer’s administration anticipated 220,000 patients being hospitalized without social distancing efforts, there had only been 3,000 hospitalizations as of April 27. That is less than 1.4% of the projected COVID-19 hospitalizations underlying the Governor’s declared states of emergency and disaster.

7. According to data released by the State of Michigan, hospitals in the state are well-stocked with over 2,400 available ventilators, nearly 1,000 available ICU beds, and more than 7,000 available hospital beds.<sup>3</sup>

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<sup>3</sup> <https://www.michigan.gov/coronavirus/0,9753,7-406-98159-523641--,00.html> (last updated May 11, 2020; last visited May 12, 2020).

8. On May 7, 2020, Governor Whitmer announced a six-phase plan to reopen Michigan's economy titled "MI Safe Start." Governor Whitmer stated that Michigan was in the third phase, called the "Flattening" phase, in which "[c]ase growth is gradually declining."<sup>4</sup>

9. But even in the Flattening phase, the reopening of the economy is strictly limited to only "[s]pecified lower-risk businesses with strict workplace safety measures." Only in later phases does the Governor's plan permit the retail sector, offices, restaurants, and bars to reopen. And the Governor has not indicated when medical services deemed "non-essential" by her executive order will be permitted to resume.

10. In the Governor's view, Michigan will not reach the sixth "Post-pandemic" phase anytime soon. From the Governor's perspective, Michigan enters that phase only once the state has achieved "sufficient community immunity" and there is "high uptake of an effective therapy or vaccine." The mumps vaccine holds the record for the fastest ever approved vaccine—with development and approval in 4 years.<sup>5</sup>

11. Governor Whitmer's MI Safe Start Plan warns that at any time, "it is also possible to move backwards"—and reenter earlier phases of the emergency—"if risk increases and if we stop adhering to safe practices." There is a real possibility that Governor Whitmer continues for many months, if not years, to enact measures that burden the rights and liberties of individuals and businesses without legislative input. Michigan is under an unlawfully re-declared state of emergency, with the Executive Branch dictating the law, and there is no end in sight.

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<sup>4</sup> MI Safe Start: A Plan to Re-Engage Michigan's Economy, Gov. Gretchen Whitmer, available at [https://content.govdelivery.com/attachments/MIEOG/2020/05/07/file\\_attachments/1446147/Governor%20Whitmer%27s%20MI%20Safe%20Start%20Plan.pdf](https://content.govdelivery.com/attachments/MIEOG/2020/05/07/file_attachments/1446147/Governor%20Whitmer%27s%20MI%20Safe%20Start%20Plan.pdf) (published May 7, 2020; last visited May 12, 2020).

<sup>5</sup> Donald G. McNeil, Jr., *The Coronavirus in America: The Year Ahead*, New York Times, April 18, 2020, available at <https://www.nytimes.com/2020/04/18/health/coronavirus-america-future.html>.

12. Meanwhile, medical providers are on the brink of financial ruin, facing extreme revenue shortages caused by the Governor's order forcing the postponement or cancellation of so-called "non-essential" procedures. Thousands of healthcare workers across Michigan have been furloughed or laid off.

13. The Michigan Legislature permitted Governor Whitmer to take extraordinary and immediate executive action during the first month of Michigan's response to the pandemic and even granted a 23-day extension. But the Michigan Legislature declined to extend Governor Whitmer's declaration of a state of emergency beyond April 30, 2020. The Legislature's decision not to extend the state of emergency constituted its determination that, now that Michigan had its bearings about the nature of the pandemic, the Legislature could resume its constitutionally mandated role of legislating based upon policy for what is no longer an emergency but a long-term challenge.

14. But instead of permitting the Legislature to resume its ordinary policy-setting and law-making role, Governor Whitmer simply re-declared exactly the same state of emergency that Michigan law required, and the Legislature directed, to be terminated. Under Governor Whitmer's interpretation of the relevant statutes, she may continue to re-declare a state of emergency serially, for as long as she determines that the pandemic continues to constitute an "emergency."

15. No one disputes that the exercise of executive power may be necessary in some time-limited, emergency situations. But the Governor's sweeping assertion that she can rule by emergency powers, potentially for years and without any regard for the Legislature, exceeds the scope of her statutory authority and violates the safeguard of the Michigan Constitution's Separation of Powers clause. This is an extraordinarily dangerous precedent to set. "While the law

may take periodic naps during a pandemic, we will not let it sleep through one.” *Maryville Baptist Church, Inc. v. Beshear*, \_\_\_ F.3d \_\_\_, 2020 WL 2111316, at \*4 (6th Cir. May 2, 2020).

16. The Governor’s executive orders—including Executive Orders 2020-17 and 2020-77, which prohibit all “non-essential” medical treatments and expansive categories of in-person work, respectively—are predicated upon Governor Whitmer’s improper attempts to re-declare a state of emergency that has already been terminated. They therefore cannot be applied to the Plaintiffs.

17. And even if it was appropriate for the Governor to re-declare over the Legislature’s objection exactly the same state of emergency that had just been terminated, the executive orders cannot constitutionally be applied to the Plaintiffs for many other reasons. As applied to the Plaintiffs, the executive orders are unconstitutionally vague; they violate procedural and substantive due process; and they violate the dormant commerce clause.

18. The Plaintiffs are suffering immeasurable and irreparable harm from the Governor’s executive orders. Plaintiffs who are healthcare providers are unable to provide preventive medical care to their patients. Patients, one of whom is also a Plaintiff in this action, are unable to receive the care they need. This has led to widely documented instances of patients whose conditions become drastically worse while they wait for care that is vital to their health yet deemed “non-essential” by Governor Whitmer. Plaintiffs who are healthcare providers are also facing dire financial outlooks that could very well spell disaster for—and permanent shuttering of—their businesses. At minimum, Plaintiffs will suffer irreparable harm in the form of lost business goodwill within the community and with the patients they serve, particularly if they are perceived as engaging in conduct that Executive Orders 2020-17 and 2020-77 have deemed to be

criminal in nature. They will also suffer irreparable harm through the deprivation of their constitutional rights. Preliminary and permanent injunctive relief is necessary in this case.

**Jurisdictional Allegations**

19. Plaintiff Midwest Institute of Health, PLLC, d/b/a Grand Health Partners (“Grand Health”), is a Michigan limited liability company with its principal place of business located at 2060 East Paris Ave., SE, Suite 100, Grand Rapids, MI 49546.

20. Plaintiff Wellston Medical Center, PLLC (“Wellston Medical Center”) is a primary care center located at 14477 Caberfae Hwy Wellston, Michigan 49689.

21. Plaintiff Primary Health Services, PC (“Primary Health Services”) is a primary care center located at 505 W Ludington Ave, Ludington, MI 49431.

22. Plaintiff Jeffery Gulick is a resident of Owosso, Michigan, who was scheduled to undergo knee replacement surgery on March 20, 2020.

23. Defendant Gretchen Whitmer is the Governor of Michigan and has issued more than 70 Executive Orders during the declared and re-declared emergency, including Executive Orders 2020-17 and 2020-77 that are at issue in this Complaint. She is being sued in her official capacity.

24. Defendant Dana Nessel is the Attorney General of Michigan and has authority to enforce Michigan law. She is being sued in her official capacity.

25. Defendant Robert Gordon is the Director of the Michigan Department of Health and Human Services. He is being sued in his official capacity.

26. The Court has original jurisdiction over this civil rights case under 28 U.S.C. § 1331, 42 U.S.C. § 1983 and 28 U.S.C. § 1343. The Court has supplemental jurisdiction over the state-law claims under 28 U.S.C. § 1367.

27. This Court has authority to award the requested injunctive relief under 28 U.S.C. § 1343 and Federal Rule of Civil Procedure 65, the requested declaratory relief under 28 U.S.C. § 2201-02 and Federal Rule of Civil Procedure 57, and damages and attorneys' fees under 28 U.S.C. § 1343, 42 U.S.C § 1983 and 42 U.S.C. § 1988.

28. Venue in this district is proper because a substantial part of the events or omissions giving rise to the claim occurred in this district, *see* 28 U.S.C. § 1391(b)(2).

### **General Allegations**

#### **The Provider Plaintiffs Can Conduct Their Business Operations Safely**

29. Plaintiffs Grand Health, Wellston Medical Center, and Primary Health Services (together, the "Provider Plaintiffs") in this action recognize that the safety of their employees and patients is and remains a paramount concern, and that additional steps to protect against the spread of the virus that causes COVID-19 should be taken by each employer consistent with CDC guidance. Each of the Provider Plaintiffs has already implemented procedures and precautions to ensure that it can safely operate in Michigan during the COVID-19 pandemic.

30. Grand Health was established in 2008 and operates out offices in Grand Rapids, Petoskey, and Grand Haven, Michigan. Its medical staff—which currently consists of eight licensed medical doctors and a full staff of physicians' assistants, dieticians, exercise physiologists, and behaviorists—provides a full complement of surgical and non-surgical weight loss solutions for patients. Grand Health's physicians provide not only bariatric surgery services but also general surgery services, including laparoscopic cholecystectomy (gallbladder removal), appendectomy, and various types of hernia surgery and repair. Grand Health also provides endoscopic and colonoscopy services. All endoscopy services and pre- and post-operative care and medical programs take place at Grand Health's offices, but all surgeries occur at area hospitals, at which Grand Health's physicians have admitting privileges.



31. Grand Health and its patients have been enormously impacted by Governor Whitmer's prohibition against the provision of bariatric and "non-essential" medical services since March 21, 2020. Obesity is one of the highest risk factors for morbidity, and timely preventive care is vital for many of Grand Health's patients. Many of Grand Health's weight-loss patients are lower income individuals, many of whom require surgery as a prerequisite for joint replacement surgery. The delay imposed by the prohibition of bariatric surgery has caused these individuals to suffer agonizing pain in the interim. Grand Health physicians have also seen an increase in cases where patients have been unable to obtain medical care until their condition has progressed far beyond a state in which it would have been easily treatable. For example, patients are obtaining surgery only after their gallbladder is gangrenous or their appendix is ruptured, instead of obtaining care when their condition was in a much less severe state. Although Grand Health continued to provide minimal levels of emergent care to its patients, Grand Health furloughed most of its employees and has pushed back almost all of its patients' procedures and post-operative support meetings. If the shutdown continues, Grand Health will almost certainly go out of business, and its medical staff will be out of work.

32. If permitted to fully reopen, there is no question that Grand Health can conduct its operations in a manner that will take precautions to prevent the transmission of the virus that causes COVID-19. All surgeries will occur at a hospital, consistent with surgical sanitation and COVID-19-compliant guidelines. Grand Health has implemented a plan under which its health care providers will screen all patients and staff when they come in, taking temperature and pulse oximeter readings. Most patients will wait in their car instead of in the waiting room; for those who cannot do so, Grand Health's waiting room has been reduced to half-occupancy, thereby allowing for social distancing. Finally, staff in Grand Health's endoscopy

center will wear medical facemasks, including N95 respirator masks during any medical procedure, and will use half of the available surgical bays in order to ensure appropriate distance between medical teams.

33. Wellston Medical Center and Primary Health Services are primary care clinics in West Michigan. They serve patients in primarily rural communities surrounding Wellston and Ludington. Over 90% of their patients are on Medicaid or Medicare. Much of the medical care they provide is not emergency care, but it is extremely important. For example, one patient had a stent in his ureter as a result of a kidney stone. The stent was supposed to be removed in two weeks. That procedure could not be scheduled for two months, resulting in a bladder and kidney infection. The infection required hospitalization and emergency surgery.

34. These clinics have been devastated by the Governor's executive orders. Prior to March 2020, these clinics treated an average of 90-100 patients per day, with 16 staff members. Under the Governor's executive orders, the clinics cannot perform what the Governor deems "non-essential procedures" meaning a medical or dental procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider. When Executive Order 2020-17 was issued, the number of patients who were allowed to be treated dropped by 95%. If the shutdown continues, these clinics will almost certainly go out of business, and their medical staff will be out of work.

35. Plaintiff Jeffery Gulick was scheduled to undergo knee replacement surgery on his right knee on March 20, 2020, at Memorial Hospital in Owosso. Under the Governor's executive orders, his knee replacement surgery cannot go forward. Additionally, he could not receive follow up care for the knee replacement surgery that had been performed on his left knee.

He is in excruciating pain and unable to get prescription pain medication until he can be seen on June 11. As a result of the debilitating pain, Mr. Gulick has had to reduce his work hours by 80%.

36. If permitted to reopen, there is no question that Wellston Medical Center and Primary Health Services can conduct their operations in a manner that will take precautions to prevent the transmission of the virus that causes COVID-19. All treatment will occur in a manner that is consistent with appropriate sanitation and COVID-19-compliant guidelines. Patients and staff will be screened for signs of COVID-19 and contact with those with COVID-19. No more than two patients per hour will be scheduled. Finally, staff and patients will wear facemasks, and the reception area will be equipped with a clear barrier.

#### **Governor Whitmer Issues Executive Orders Declaring a State of Emergency**

37. On March 11, 2020, Governor Whitmer issued Executive Order 2020-04, which proclaimed a state of emergency under both the Emergency Management Act, Mich. Comp. Laws § 30.403, and the Emergency Powers of the Governor Act of 1945, Mich. Comp. Laws § 10.31. (**Exhibit 1**).

38. Governor Whitmer's executive order identified the COVID-19 pandemic as the basis for her declaration of a state of emergency under both statutory regimes.

39. The Emergency Powers of the Governor Act provides that all orders and rules promulgated by the governor during the state of emergency "shall cease to be in effect upon declaration by the governor that the emergency no longer exists." Mich. Comp. Laws § 10.31(2).

40. The Emergency Management Act provides that a governor's declaration of emergency may last only 28 days, after which "the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an

extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature.” Mich. Comp. Laws § 30.403(4).

41. On April 1, 2020, Governor Whitmer issued Executive Order 2020-33, which replaced Executive Order 2020-04, declared a state of emergency pursuant to the Emergency Powers of the Governor Act, and proclaimed a state of disaster and a state of emergency under the Emergency Management Act. (**Exhibit 2**). These declarations were based on the same circumstances—that is, the dangers posed by the virus that causes COVID-19—that formed the basis of Executive Order 2020-04.

42. On April 1, 2020, Governor Whitmer also requested that the Michigan Legislature extend the state of emergency by an additional 70 days, as contemplated by the Emergency Management Act.

43. On April 7, 2020, the Michigan Senate and Michigan House of Representatives denied Governor Whitmer’s request to extend the state of emergency for an additional 70 days. Instead, the Michigan Legislature extended the state of emergency declared by Governor Whitmer until April 30, 2020, but not beyond.

**Governor Whitmer Issues Numerous Executive Orders, Including an Order That Prohibits the Provision of All Non-Emergency Medical Care**

44. Meanwhile, Governor Whitmer issued many additional executive orders, invoking emergency powers that the Governor claims flow from the state of emergency declared under Executive Orders 2020-04 and 2020-33. As of May 8, 2020, Governor Whitmer had issued more than 70 executive orders related to the COVID-19 pandemic, creating and changing substantive state law and regulations that impact and burden wide swaths of the economy. A chart

summarizing the substantive changes to the law imposed by Governor Whitmer's executive orders is attached as **Exhibit 3**.<sup>6</sup>

45. One of these orders, Executive Order 2020-17, took effect on March 21, 2020 and remains in effect until the termination of the Governor's declaration of emergency. It provides that, until the termination of the Governor's declaration of a state of emergency, most medical providers are prohibited from providing any "medical or dental procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider." (**Exhibit 4**).

46. Executive Order 2020-17 specifically prohibits medical providers from providing any bariatric surgery and joint replacement surgery services, "except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, and welfare of the patient."

47. There are significant penalties for health care providers who violate the executive order. Executive Order 2020-17 provides that any willful violation of its provisions is a misdemeanor.

48. On May 3, 2020, Dr. Joneigh Khaldun, Chief Deputy Director Health at the Michigan Department of Health and Human Services, issued a general letter to Michigan health care providers, noting, "I recognize some have questions about Executive Order 2020-17, including what is allowable under the order and how to start to re-engage with patients for important care." Dr. Khaldun then provided her own interpretation of the language of Executive Order 2020-17 prohibiting non-essential medical care: "This wording is intended to be flexible, preserve clinician judgement, and encourage consideration on an individual basis of which patient

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<sup>6</sup> The chart attached as Exhibit 3 was last updated as of 5 p.m. Eastern Time on May 11, 2020.

services can be safely delayed without resulting in a significant decline in health. **EO 2020-17 gives providers broad discretion to apply this standard.**” (Exhibit 5).

49. It is not clear that Dr. Khaldun’s interpretation of the Executive Order has any weight. Further, regardless of Dr. Kaldun’s correspondence, Executive Order 2020-17 continues to prohibit bariatric and joint replacement surgeries and continues to impose criminal penalties for those who willfully violate the order.

**Governor Whitmer Issues Several Stay-at-Home Orders Prohibiting Most In-Person Business Operations**

50. Along with her other executive orders, Governor Whitmer issued at least five iterations of “Stay Home, Stay Safe” orders, specifically Executive Orders 2020-21, 2020-42, 2020-59, 2020-70, and 2020-77. Each of those orders imposes sweeping limitations on Michigan citizens’ ability to travel and prohibits huge numbers of workers in Michigan from reporting to work.

51. On March 23, 2020, Governor Whitmer issued Executive Order 2020-21, citing as authority the Emergency Management Act and the Emergency Powers of the Governor Act. (Exhibit 6).

52. Executive Order 2020-21 went into effect on March 24, 2020. Among other restrictions, Executive Order 2020-21 restricts travel throughout the state and prohibits business operations “that require workers to leave their homes or places of residence” unless those workers are “critical infrastructure workers.” (Exhibit 6, ¶ 4(a)). “Critical infrastructure workers” are defined as “those workers described” in a March 19, 2020 memorandum prepared by the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (the “March 19 CISA guidance”), along with a short list of other workers. (*Id.* ¶ 8). The March 19

CISA guidance is attached as **Exhibit 7**. Executive Order 2020-21 imposes criminal penalties for willful violations of the order. (Exhibit 6, ¶ 17).

53. On April 9, 2020, Governor Whitmer issued Executive Order 2020-42, attached as **Exhibit 8**, rescinding and replacing her previous stay-at-home order and extending the shutdown until April 30, 2020. Like the previous executive order, Executive Order 2020-42 prohibits in-person work by workers who are not “critical infrastructure workers” and imposes criminal penalties for willful violations of the order. (Exhibit 8, ¶¶ 4, 17).

54. Executive Order 2020-42 imposes significant restrictions that curtail basic liberties to a greater extent than were imposed by any other shutdown order issued by any other state. For example, under Executive Order 2020-42 large retail stores are prohibited from advertising almost all of their products and are also prohibited from selling products that are deemed nonessential, including materials related to the construction industry, such as paint, carpet, and flooring. Executive Order 2020-42 does not explain the rationale for prohibiting the purchase of these items, nor does it indicate how the prohibition of their sale was related to abating the emergency posed by COVID-19.

55. On April 24, 2020, Governor Whitmer issued Executive Order 2020-59, which became effective immediately and rescinded Executive Order 2020-42. (**Exhibit 9**).

56. Executive Order 2020-59 lifts certain business restrictions, permitting workers who are necessary to perform certain defined “resumed activities” to perform in-person work. Those “resumed activities” are defined as: (a) workers who process or fulfill remote orders for goods for delivery or curbside pickup; (b) workers who perform bicycle maintenance or repair; (c) workers for garden stores, nurseries, and lawn care, pest control, and landscaping operations; (d) maintenance workers and groundskeepers for places of outdoor recreation; and (e) workers for

moving or storage operations. Businesses whose workers perform some “resumed activities” must implement enhanced social-distancing rules and measures listed in Sections 11(h) and 12 of Executive Order 2020-59. As with all of the other Stay Home, Stay Safe orders, a willful violation of Executive Order 2020-59 is a criminal misdemeanor.

57. On May 1, 2020, Governor Whitmer issued another update to the Stay Home, Stay Safe order, Executive Order 2020-70, which became effective immediately and rescinded Executive Order 2020-59. **(Exhibit 10)**.

58. Executive Order 2020-70 continues the restrictions of the previous Stay Home, Stay Safe orders, but lifts restrictions on additional “resumed activities,” including workers in the construction industry and the building trades, workers in the real-estate industry, workers necessary to the manufacture of goods that support workplace modification to forestall the spread of COVID-19 infections, and outdoor workers. In addition to the list of enhanced social-distancing rules and measures applicable to all resumed activities, construction businesses must implement other stringent measures listed in Section 11(i) of Executive Order 2020-70.

59. On May 7, 2020, Governor Whitmer issued Executive Order 2020-77, which became effective immediately and rescinded Executive Order 2020-70. This order continues the restrictions of the previous Stay Home, Stay Safe orders, but permits manufacturing workers to resume operations, subject to yet another set of stringent, enhanced workplace safety requirements listed in Section 11(k) of Executive Order 2020-77. **(Exhibit 11)**. This is the controlling stay-at-home order as of the date of the filing of this complaint. As with all of the other Stay Home, Stay Safe orders, a willful violation of Executive Order 2020-77 is a criminal misdemeanor.



**Governor Whitmer’s Executive Orders Cause Enormous and Immediate Confusion**

60. Almost immediately after her first shelter-in-place order (Executive Order 2020-21) was issued, the Attorney General and Governor were inundated with requests for clarification of the order. On March 24, 2020, Governor Whitmer observed, “We knew that there would be confusion, there always is.”<sup>7</sup>

61. On March 25, the Attorney General’s office admitted, “I think it’s a difficult executive order to really wrap your arms around.”<sup>8</sup> The Attorney General’s office explained that its process of clarifying the meaning of the order occurred on an ad hoc, case-by-case basis: “Every instance we get a call asking about whether or not businesses essential is being first reviewed by our office and then shared with the governor’s office so that we can begin to get some clarity around the executive order.”

62. Meanwhile, the portion of Attorney General Nessel’s official website that provides guidance to businesses and law enforcement regarding the definition of “critical infrastructure workers” has linked to the updated CISA guidance, instead of to the March 19 CISA Guidance. (**Exhibit 12**). As a result, a business seeking guidance from the Attorney General’s office as to whether it performs “critical infrastructure” operations is directed to the updated CISA guidance that Executive Orders 2020-42, 2020-59, 2020-70, and 2020-77 explicitly reject.

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<sup>7</sup> Mikenzie Frost, *Gov. Whitmer says she understands confusion surrounding stay-at-home, urging patience*, WWMT, Mar. 24, 2020, available at <https://wwmt.com/news/state/gov-whitmer-says-she-understands-confusion-surrounding-stay-at-home-urging-patience> (last visited May 12, 2020).

<sup>8</sup> Malachi Barrett, *Michigan Attorney General asks local law enforcement to handle violations of coronavirus stay home order*, MLive, Mar. 25, 2020, available at <https://www.mlive.com/public-interest/2020/03/michigan-attorney-general-asks-local-law-enforcement-to-handle-violations-of-coronavirus-stay-home-order.html> (last visited May 12, 2020).

63. Despite the admitted confusion created by the orders, the Attorney General's office reiterated that violating the order could result in criminal penalties and forced closure of a business by law enforcement.<sup>9</sup>

**The MDHHS Issues an Order Purporting to Authorize Enforcement Action Against Violations of Executive Orders and FAQs That Did Not Yet Exist**

64. Meanwhile, Robert Gordon, the Director of the Michigan Department of Health and Human Services ("HHS"), issued an emergency order on April 2, 2020 that purports to impose penalties based on the constantly changing FAQ answers that are posted on the Governor's website. (Exhibit 13).

65. Specifically, the HHS order provides that "[t]he procedures and restrictions outlined in . . . EO 2020-21 and [its] accompanying frequently asked questions (FAQs) that may be updated from time-to-time (available at [www.michigan.gov/coronavirus](http://www.michigan.gov/coronavirus)) are necessary to control the epidemic and protect the public health." (Exhibit 13, ¶ 1).

66. The HHS order further provides that "[l]aw enforcement is specifically authorized to bar access to businesses and operations that fail to comply with the procedures and restrictions outlines in . . . EO 2020-21 and its accompanying FAQs." (Exhibit 13, ¶ 4). The HHS order applies "to any future Executive Order that may be issued that rescinds and replaces . . . EO 2020-21." (Exhibit 13, ¶ 4).

67. As recognized in the HHS order, the FAQs accompanying Executive Order 2020-59 were updated and changed over time. In other words, the HHS order purports to determine that various executive orders and FAQ responses are "necessary to control the epidemic" even though some of the executive orders and FAQ responses were not yet in existence. It is impossible

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<sup>9</sup> Virginia Gordan, *Local police to handle reports of violations of Gov. Whitmer's stay-at-home order*, Michigan Radio, Mar. 25, 2020, available at <https://www.michiganradio.org/post/local-police-handle-reports-violations-gov-whitmers-stay-home-order> (last visited May 12, 2020).

for HHS to have determined that future executive orders and FAQ responses were necessary when they did not yet exist and when HHS therefore did not know their substance or content. It is also impossible for businesses to comply with constantly changing and sometimes conflicting FAQ responses.

**The Legislature Declines to Extend the Governor's Emergency Declaration, and the Governor Unilaterally Determines to Extend It Anyway**

68. As indicated, the Emergency Management Act requires the Governor to declare that a state of emergency is terminated after 28 days if the legislature does not extend the emergency, and the Emergency Powers of the Governor Act states that any emergency declared under that statute terminates when the Governor declares that the emergency is terminated.

69. On April 30, 2020, the Michigan Legislature refused to extend Governor Whitmer's declarations of a state of emergency and a state of disaster.

70. Immediately after the Michigan Legislature refused to extend her emergency declarations, Governor Whitmer issued on April 30, 2020 three additional Executive Orders: 2020-66, 2020-67, and 2020-68.

71. Executive Order 2020-66 terminates the Governor's declarations of a state of emergency and a state of disaster based upon the COVID-19 pandemic, as required under the Emergency Management Act. (**Exhibit 14**).

72. Executive Order 2020-68 was issued only minutes after Executive Order 2020-66 was issued. Executive Order 2020-68 purports to re-declare under the Emergency Management Act exactly the same states of disaster and emergency that the Legislature refused to extend and which had just been terminated under Executive Order 2020-66. These renewed states of disaster and emergency purported to remain effective through May 28, 2020. (**Exhibit 15**).

73. Executive Order 2020-67 states that a “state of emergency remains declared across Michigan” under the Emergency Powers of the Governor Act and that the state of emergency remains in effect until May 28, 2020. The state of emergency that Executive Order 2020-69 references is exactly the same state of emergency that the Governor declared to be terminated in Executive Order 2020-66. (**Exhibit 16**).

**The Governor Continues to Issue Revised Stay Home, Stay Safe Orders**

74. After re-declaring a state of emergency notwithstanding the Legislature’s refusal to extend it, Governor Whitmer continued to issue revised Stay Home, Stay Safe orders.

75. On May 7, 2020, Governor Whitmer issued Executive Order 2020-77, continues the restrictions of the previous Stay Home, Stay Safe orders, with limited exceptions.

76. Even though CISA updated its guidance twice—first on March 28 and again on April 17, 2020 (**Exhibits 17 & 18**)—Executive Order 2020-77 explicitly rejects both versions of the updated CISA guidance and continues to rely upon the March 19 CISA guidance for the definition of “critical infrastructure workers.” The Executive Order does not explain its rationale for continuing to rely upon superseded and outdated CISA guidance.

77. By not adopting the most current CISA guidance, Executive Order 2020-77 relies on a different, more restrictive definition of “critical infrastructure workers” than the definition relied upon by other states, which creates confusion for businesses and their employees and needlessly restricts economic activity in the State of Michigan.

78. Executive Order 2020-77 does not provide any process through which a company that is not designated as “critical infrastructure” may challenge that designation.

79. A willful violation of Executive Order 2020-77 is a misdemeanor which could result in imprisonment for up to 90 days and a \$500 fine.

80. After the Legislature refused to extend the Governor's declaration of emergency past April 30, Attorney General Nessel issued a letter to law enforcement officials asserting that the Governor's executive orders—including her Stay Home, Stay Safe orders—continued to be valid under the Emergency Powers of the Governor Act and directing that law enforcement officials continue to enforce the Governor's orders. Notably, the Attorney General did not defend the Governor's assertion of authority to unilaterally extend the emergency under the Emergency Management Act. (**Exhibit 19**).

81. Due to the harsh penalties imposed for violating Executive Order 2020-77 and the HHS order—including criminal penalties and potential revocations of necessary business licenses—the Plaintiffs are in a very difficult position. Either they need to cease operations despite the fact that Executive Orders 2020-17 and 2020-77 may be invalid or may allow them to continue, or they need to continue operations under the threat of criminal prosecution and loss of their licenses.

82. The Plaintiffs have suffered and will suffer immeasurable and irreparable harm if Executive Orders 2020-17 and 2020-77 are continued and/or enforced against them. If the Provider Plaintiffs are prohibited from providing medical treatment, they will almost certainly become insolvent or be forced to permanently close their operations. If Mr. Gulick is further delayed from obtaining knee replacement surgery, he will continue suffering unnecessary pain. At minimum, they will suffer irreparable harm in the form of lost business goodwill within the community and with their patients, particularly if they are perceived as engaging in conduct that Executive Order 2020-77 has deemed to be criminal in nature.

**Causes of Action**

**Count I – Declaratory Judgment  
(Unlawful Exercise of Authority Under State Law)**

83. Plaintiffs incorporate all preceding allegations.

84. Executive Order 2020-17 and Executive Order 2020-77 are unenforceable because the Governor lacked authority to issue them or renew them after April 30, 2020.

85. In Executive Orders 2020-4 and 2020-33, Governor Whitmer proclaimed states of emergency and disaster based on COVID-19 and stated that those proclamations would terminate when the emergency conditions no longer exist “consistent with the legal authorities upon which this declaration is based and any limits on duration imposed by those authorities,” including Section 3 of the Emergency Management Act, which limits the Governor’s authority to declare disasters or emergencies to 28 days. *See Mich. Comp. Laws* § 30.403(3), (4).

86. To support an executive order, both the Emergency Management Act, Mich. Comp. Laws § 30.403 and the Emergency Powers of the Governor Act, Mich. Comp. Laws § 10.31, require the continuation of the previously proclaimed states of emergency or disaster.

87. The Emergency Powers of the Governor Act provides that all orders and rules promulgated by the governor during the state of emergency “shall cease to be in effect upon declaration by the governor that the emergency no longer exists.” Mich. Comp. Laws § 10.31(2).

88. The Emergency Management Act provides that a governor’s declaration of emergency may last only 28 days, after which “the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature.” Mich. Comp. Laws § 30.403(4) (emphasis added).

89. In issuing Executive Order 2020-33, Governor Whitmer invoked only a single emergency—namely, the COVID-19 pandemic—as grounds for exercising her powers under the Emergency Management Act and the Emergency Powers of the Governor Act.

90. The Michigan Legislature did not approve Governor Whitmer’s request for an extension of the declaration of emergency beyond April 30, 2020. Accordingly, as a matter of law, the state emergency must be terminated. *See* Mich. Comp. Laws § 30.403. Governor Whitmer terminated the state of emergency and disaster declaration supporting Executive Order 2020-77 on April 30, 2020 by issuing Executive Order 2020-66.

91. That declaration terminated and ended any emergency declaration under the Emergency Powers of the Governor Act and all “orders, rules and regulations” promulgated by the Governor based on that emergency “cease to be in effect” and “no longer exist[.]” *See* Mich. Comp. Laws § 10.31(2). Any other interpretation of the Emergency Powers of the Governor Act would not only render the Emergency Management Act entirely superfluous but would also violate the Separation of Powers Clause contained in Michigan’s Constitution.

92. Both houses of the Michigan Legislature have not approved an extension of emergency or disaster as declared by the Governor beyond April 30, 2020 and the state of emergency has been terminated by the Governor. Accordingly, Executive Orders 2020-17 and 2020-77 are unenforceable.

93. After terminating the emergency underlying Executive Orders 2020-17 and 2020-77, Governor Whitmer issued an additional two Executive Orders on April 30, 2020, Nos. 2020-67 and 2020-68. Those Orders purport to “continue a statewide emergency and disaster” under the Emergency Powers of the Governor Act and the Emergency Management Act and serve

as the basis to support the Governor's position that her executive orders predicated on the terminated state of emergency remain enforceable.

94. The Orders constitute an attempt to undo and negate the termination of the state of emergency that the Governor was required to end as a matter of law. They have no legal force or effect, and cannot void the termination of the state of emergency foundational to her other Executive Orders. The Governor cannot terminate the emergency as required by law and "unterminate" it or declare it continued in the next breath without running afoul of the law upon which she relied to support her Executive Orders.

95. There is no new emergency. The emergency upon which the Governor's subsequent executive orders rely is exactly the same emergency that Executive Order 2020-66 terminated. The Governor's attempts to circumvent state law cannot be sanctioned, because they not only violate the Separation of Powers clause in the Michigan Constitution, but would also render the statutory language requiring legislative permission for an extension of a proclaimed state of emergency beyond 28 days superfluous. It is well-settled that statutes should be interpreted to be constitutional if such a construction is permitted by the language.

96. The Governor cannot unilaterally extend the states of emergency or disaster in contravention of the state laws that she relies on to justify her executive orders, including Executive Orders 2020-17 and 2020-77. Any contrary interpretation would violate basic principles of separation of powers. It would unlawfully permit the Governor to declare as many emergencies as she wanted, for as long as she wanted, without any legislative checks on the Governor's law making by emergency executive order.

97. Further, to the extent that Mich. Comp. Laws § 10.31 is the basis of the Governor's emergency declaration, it permits the Governor only to issue "reasonable" orders,



rules, and regulations. If applied to prohibit the Plaintiffs' operations, Executive Order 2020-17 and 2020-77 are unreasonable regulations and are not permitted by Mich. Comp. Laws § 10.31(1).

98. The Plaintiffs have been informed by law enforcement and other officials that their operations are prohibited under Executive Orders 2020-17 and 77.

99. Plaintiffs have no adequate remedy at law for this continuing unlawful action by the Defendants.

**Count II – Declaratory Judgment  
(Violation of Separation of Powers and Non-Delegation Clauses)  
Michigan Constitution, Art. III, § 2, and Art. IV, § 1**

100. Plaintiffs incorporate all preceding allegations.

101. Executive Orders 2020-17 and 2020-77 are unconstitutional and unenforceable against the Plaintiffs because they are based on impermissible delegations of legislative authority in violation of the Michigan Constitution.

102. The Separation of Powers Clause in the Michigan Constitution provides that “[t]he powers of government are divided into three branches: legislative, executive, and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.” Mich. Const. (1963) art. III, Section 2.

103. Article IV, Section 1 of the Michigan Constitution prohibits the delegation of “legislative power.” The essential purpose of this prohibition is to “protect the public from misuses of delegated power.” *Blue Cross and Blue Shield of Mich. v. Milliken*, 422 Mich. 1, 51 (1985).

104. A delegation of power through legislation cannot be lawful if it permits executive law making. If a delegation of authority to the executive branch is not sufficiently

specific and/or fails to establish prescribed boundaries, or if the executive branch acts beyond specific boundaries in the legislation, the executive's actions will be constitutionally invalid.

105. Executive Order 2020-17 and 2020-77 are unlawful and unenforceable because the Emergency Powers of the Governor Act, Mich. Comp. Laws § 10.31, violates the Separation of Powers and the non-delegation clauses to the extent that it is interpreted as a delegation to the Governor of total legislative power during a proclaimed emergency for an indefinite period of time.

106. The Emergency Powers of the Governor Act provides no standards to guide or allow a proper delegation of legislative authority to the executive branch. This delegation of authority is completely open-ended; it permits unbridled "law making" by the Governor. The statute has no temporal, durational, substantive, or legislative checks. It gives the Governor carte blanche to regulate and restrict all manner of economic activity, all human interactions, and all movement within the state. A summary of the impermissible law making conducted by Governor Whitmer through executive orders based on this purported grant of statutory authority is attached. **(Exhibit 3)**. Accordingly, Governor Whitmer's executive actions predicated on this Act are not enforceable.

107. In the event that the Emergency Powers of the Governor Act does not facially violate the Separation of Powers and non-delegation clauses, Executive Orders 2020-17 and 2020-77 are unlawful and unenforceable because Governor Whitmer has applied any authority granted to her under the Emergency Powers of the Governor Act arbitrarily, unreasonably, and in violation of the Separation of Powers Clause. The Governor has also failed to comport with the terms of the Act.

108. Governor Whitmer explained in an interview on April 27, 2020 her view that “[w]e have to look at this [permitting Michigan businesses to resume operations] as a dial—not a switch, not on and off—but as a dial we can increase or decrease if necessary.” Regulating how, when, and what economic activity will be permitted and which Michigan citizens may engage in their rights to earn a living over a lengthy period of time is a legislative function, not an executive one.

109. Executive Order 2020-17 and 2020-77 are also unlawful and unenforceable because the Emergency Management Act, Mich. Comp. Laws § 30.403, violates the Separation of Powers and the non-delegation clauses by giving the Governor total legislative power during a unilaterally-determined emergency for up to 28 days and thereafter with legislative approval.

110. The Emergency Management Act provides no standards to guide or allow a proper delegation of legislative authority to the executive branch; it permits unbridled “law making” by the Governor. This delegation of authority is completely unconstrained. It provides only a temporal check in requiring the Governor to terminate any declared emergency or disaster after 28 days unless both houses of the Michigan Legislature agree to extend the state of emergency or disaster. *See* Mich. Comp. Laws § 30.403(3) & (4). A summary of the impermissible law making conducted by Governor Whitmer through executive orders based on this purported grant of statutory authority is attached. (**Exhibit 3**).

111. Even if the Emergency Management Act does not facially violate the Separation of Powers and non-delegation clauses, Executive Orders 2020-17 and 2020-77 are also unlawful and unenforceable because Governor Whitmer has applied any authority granted to her under the Emergency Management Act arbitrarily, unreasonably, and in violation of the Separation of Power clause. The Governor has also failed to comport with the terms of the Act.

112. Plaintiffs have no adequate remedy at law for this continuing unlawful action by the Defendants.

**Count III – Violation of Due Process – Void for Vagueness  
U.S. Constitution, Amendment XIV and 42 U.S.C. § 1983;  
Michigan Constitution, Article I, § 17**

113. Plaintiffs incorporate all preceding allegations.

114. To the extent that Executive Order 2020-17 and 2020-77 are interpreted to bar the Plaintiffs' operations, the Executive Orders are unconstitutionally vague as applied to the Plaintiffs.

115. A basic principle of due process is that an enactment is void for vagueness if its prohibitions are not clearly defined. Executive Order 2020-17 and 2020-77 are unconstitutionally vague because they inappropriately chill protected conduct and invite selective enforcement.

116. Executive Order 2020-17 does not give the Plaintiffs, or any other person of ordinary intelligence, a reasonable opportunity to know what is prohibited and to be able to act in accordance with the directives. The assessment of which medical treatments are deemed essential are largely left to the discretion of healthcare providers, but there are no standards or metrics by which healthcare providers can ensure that their decisions do not expose them to criminal liability.

117. Dr. Khaldun's correspondence underscores that the language of Executive Order 2020-17 is subject to broad interpretation, further undermining the ability of Executive Order 2020-17 to provide reasonably precise guidance to healthcare providers. Due to the criminal penalties imposed by the executive order, these vagueness concerns are heightened.

118. Executive Order 2020-77 does not give the Plaintiffs, or any other person of ordinary intelligence, a reasonable opportunity to know what is prohibited and to be able to act in accordance with the directives. The executive order defines critical infrastructure workers as those “who are necessary to sustain or protect life,” which “include *some* workers in each of” a number of business sectors. § 4(a), § 8 (emphasis added). Both facets of the definition are unclear.

119. Executive Order 2020-77 does not provide any explicit standards for determining whether particular operations are or are not engaged in critical infrastructure activity. The executive order does not clarify why certain industries were declared to be critical infrastructure and others were not; instead, it simply references a superseded list provided by CISA, rejects the updated version of the CISA guidance, and adds a handful of other workers deemed critical, such as insurance industry workers, labor union officials, landscapers, and real estate sales workers. The rationale for these decisions—including the decision to allow real estate officials to resume operations but to prohibit other in-person commercial activities—is entirely opaque. Nowhere does Executive Order 2020-77 explain the reason for its differentiation between these industries, explain why it continues to rely on superseded CISA guidance, or explain the standards to be applied by law enforcement officials when determining whether particular business operations fall within particular categories.

120. The office of Michigan’s Attorney General has acknowledged that the standards adopted in Executive Order 2020-77 are “difficult . . . to really wrap your arms around.” The Attorney General’s office has also indicated that it has attempted to clarify the meaning of the order with the Governor’s office on an ad hoc basis. Neither the Governor nor the Attorney General has outlined the criteria under which those ad hoc determinations are evaluated.

121. The definition of critical infrastructure workers is not just confusing for the person of ordinary intelligence—it is also confusing for the law enforcement personnel tasked with enforcing the executive order. Law enforcement agencies have been given no explicit standards to aid in their determinations of whether businesses such as the Plaintiffs are operating in accordance with Executive Order 2020-77, which invites arbitrary and discriminatory enforcement.

122. The continually changing FAQs found on the Governor’s website do not help. The meaning of the executive order turns on its plain language, not on extra-textual or after-the-fact statements, particularly when those statements change almost daily. The FAQs cannot alter, overcome, or conflict with the plain language in Executive Order 2020-77.

123. Further, the FAQs have morphed over time in ways that cannot be reconciled with the plain text of Executive Order 2020-77.

124. Adding to the confusion, the State’s guidance for businesses included in the Attorney General Nessel’s official website continues to link to the updated CISA guidance, instead of to the March 19 CISA Guidance. (**Exhibit 12**). As a result, businesses seeking guidance from the Attorney General’s office as to whether they perform “critical infrastructure” operations are directed to the updated CISA guidance that Executive Order 2020-77 explicitly rejects.

125. Executive Orders 2020-17 and 2020-77 are impermissibly and unconstitutionally vague as applied to the Plaintiffs.

**Count IV – Violation of Due Process – Procedural Due Process  
U.S. Constitution, Amendment XIV and 42 U.S.C. § 1983;  
Michigan Constitution, Article I, § 17**

126. Plaintiffs incorporate all preceding allegations.

127. To the extent that Executive Order 2020-17 or 2020-77 are interpreted to bar the Plaintiffs' operations, the Executive Orders violate the Plaintiffs' procedural due process rights.

128. Even in a pandemic, the Plaintiffs are entitled to the basic protections of due process. *See Friends of DeVito v. Wolf*, \_\_\_ A.3d \_\_\_, 2020 WL 1847100, at \*19-21 (Pa. Apr. 13, 2020). "The imperative necessity for safeguarding these rights to procedural due process under the gravest of emergencies has existed throughout our constitutional history, for it is then, under the pressing exigencies of crisis, that there is the greatest temptation to dispense with fundamental constitutional guarantees which, it is feared, will inhibit governmental action." *Id.* at \*19-20 (quoting *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 164–65 (1963)).

129. The fundamental requirement of procedural due process is the opportunity to be heard at a meaningful time and in a meaningful manner before one is finally deprived of a property interest.

130. Elimination of the Provider Plaintiffs' ability to engage in business operations deprives the Provider Plaintiffs of a property interest. As such, the Provider Plaintiffs are entitled at minimum to a post-deprivation hearing that provides them with a meaningful opportunity to challenge the designation of their businesses as non-critical infrastructure that must be shuttered in order to control the spread of the pandemic.

131. Executive Order 2020-77 provides no process through which to challenge a business's designation as non-critical infrastructure. Nor does it outline criteria that would serve as a reasonable guide to such a determination. It provides no pre-deprivation or post-deprivation process at all.

132. Executive Order 2020-17 likewise provides no procedure or process through which to challenge the determination that certain medical treatments—such as bariatric surgery or joint replacement—are non-essential.

133. By providing no mechanism through which the Provider Plaintiffs may challenge these determinations or the necessity for shuttering their operations and by failing to identify any criteria that guide the determination of whether certain medical procedures are “essential” or constitute a threat vector for the spread of the COVID-19 pandemic, Executive Orders 2020-17 and 2020-77 violate procedural due process and must be enjoined to prevent further injury and irreparable harm to Plaintiffs.

**Count V – Violation of Due Process – Substantive Due Process  
U.S. Constitution, Amendment XIV and 42 U.S.C. § 1983;  
Michigan Constitution, Article I, § 17**

134. Plaintiffs incorporate all preceding allegations.

135. To the extent that Executive Order 2020-17 and 2020-77 are interpreted to bar the Provider Plaintiffs’ operations, they violate the Provider Plaintiffs’ substantive due process rights.

136. Two fundamental rights are implicated by Executive Order 2020-17 and 2020-77—the right to intrastate travel and the right to practice one’s chosen profession. Enactments that directly curtail these fundamental rights are subject to strict scrutiny.

137. To satisfy strict scrutiny, the government must prove that the infringement of the Provider Plaintiffs’ rights is narrowly tailored to serve a compelling state interest.

138. While the government can likely show that protection of public health in the face of a global pandemic is an important state interest, after the curve has been flattened, the



facts do not support a finding that this interest is compelling, and the government has made no attempt to narrowly tailor Executive Order 2020-17 or 2020-77 to serve that interest.

139. Executive Order 2020-17 prohibits a variety of medical treatments that are deemed non-essential. However, there has been no showing that providing these medical treatments would increase the risk of transmission of the virus that causes COVID-19 or detract from the protection of public health.

140. Executive Order 2020-77 specifically advises that it “must be construed broadly.” And while the Executive Order’s stated purpose is to limit person-to-person contact, there has been no demonstration of why the government must prohibit all of the Provider Plaintiffs’ operations—including those operations that do not require in-person contact or interaction beyond that which is necessary to provide or obtain medical treatment.

141. Quarantine orders ordinarily require some degree of individualized analysis indicating that the particular individuals and operations quarantined pose an immediate and direct threat of contributing to the spread of an epidemic. The state has performed no analysis of whether the Provider Plaintiffs’ operations pose any particular or unique threat of contributing to the spread of the virus that causes COVID-19; nor has there been any analysis of whether Provider Plaintiffs’ operations are likely to contribute to the spread of the disease. Without some level of individualized assessment that determines that Provider Plaintiffs or their operations constitute a threat vector for COVID-19, the government cannot demonstrate that prohibiting their operations is narrowly tailored to achieve its public-health goals.

142. Many of the distinctions and requirements imposed by Executive Order 2020-77 also appear to be arbitrary and unrelated to the government’s public-health goals. There

has been no demonstration showing why the distinctions and requirements between various industries are necessary in order to achieve the government's public-health purposes.

143. Moreover, Executive Order 2020-77 provides no explanation for the determination to rely upon CISA's superseded March 19 guidance but to reject the updated versions of CISA's guidance. The Executive Order does not outline or apply any criteria that guide the determination of which business operations constitute critical infrastructure; instead, the Executive Order defers to CISA's analysis as to the underlying criteria for making those determinations. Having determined that Michigan will follow CISA's assessments of which industries employ critical infrastructure workers and failing to outline its own criteria for making such determinations, there is no substantive basis for Executive Order 2020-77 to continue to rely upon guidance that CISA has specifically superseded.

144. Because Executive Orders 2020-17 and 2020-77 impinge upon the Plaintiffs' fundamental rights and imposes arbitrary distinctions and prohibitions on the Plaintiffs' conduct, they violate substantive due process as applied to the Plaintiffs.

**Count VI – Violation of the Commerce Clause  
U.S. Constitution, Art. I, § 8, cl. 3 and 42 U.S.C. § 1983**

145. Plaintiffs incorporate all preceding allegations.

146. To the extent that Executive Orders 2020-17 and 2020-77 are interpreted to bar the Provider Plaintiffs' operations, they violate the Commerce Clause of the United States Constitution.

147. Because the Commerce Clause reserves to Congress the power to regulate interstate and foreign commerce, individual states may not unduly regulate commerce.

148. The Provider Plaintiffs' provision of goods and services impact the flow of interstate commerce, such that a regulation of the Provider Plaintiffs' commercial activities is a regulation that impacts interstate commerce.

149. Executive Orders 2020-17 and 2020-77 unduly burden interstate commerce in a manner that is excessive in relation to the alleged benefits of the Executive Orders. The Executive Orders impose enormous burdens on the Provider Plaintiffs' provision of goods and services by prohibiting the Provider Plaintiffs from engaging in their business operations.

150. The burden of this substantial and stringent regulation dwarfs its alleged benefits. Michigan's stated public-health goals are not advanced by prohibiting the Provider Plaintiff's operations because the Provider Plaintiffs can conduct their operations in a manner that complies with the Governor's stated goals of eliminating unsafe person-to-person contact.

151. As applied to the Plaintiffs, the Executive Orders are therefore an undue burden upon interstate commerce in violation of the Commerce Clause.

For the foregoing reasons, the Plaintiffs respectfully request that the Court enter a judgment against the Defendants and award Plaintiffs the following relief:

- a. A declaratory judgment that the Provider Plaintiffs are permitted under Executive Order 2020-17, Executive Order 2020-77, and the HHS order to continue their business operations and Mr. Gulick is permitted under Executive Order 2020-17, Executive Order 2020-77, and the HHS order to obtain knee replacement surgery and other vital medical treatment;

- b. Alternatively, a declaration that Executive Order 2020-17 and Executive Order 2020-77, as applied to the Plaintiffs, violates the Michigan Constitution, the Fourteenth Amendment, and the Commerce Clause of the United States Constitution;
- c. Preliminary and permanent injunctive relief preventing the Defendants from enforcing Executive Order 2020-17, Executive Order 2020-77, and the HHS order against the Plaintiffs;
- d. Damages for the violation of the Plaintiffs' constitutional rights, in an amount to be proven at trial;
- e. Costs and expenses of this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988; and
- f. Any further relief that the Court deems appropriate.

MILLER JOHNSON  
Co-counsel for Plaintiffs

Dated: May 12, 2020

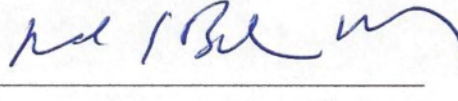
By /s/ James R. Peterson

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I, Randal S. Baker M.D., declare as follows:

1. I am an adult competent to testify to the matters stated herein;
2. I am the President of Midwest Institute of Health, PLLC, d/b/a Grand Health Partners, and in that capacity, I am familiar with the business of Midwest Institute of Health, PLLC, d/b/a Grand Health Partners, a Plaintiff in this action;
3. I have read the foregoing Verified Complaint and, based upon my personal knowledge of the facts stated therein, the facts stated in the Verified Complaint are true to the best of my knowledge and belief.
4. If called upon to testify, I would competently testify as to the matters stated herein.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Executed

on:

5/11/2020

VERIFICATION

I, Jordan Warrshitz, declare as follows:

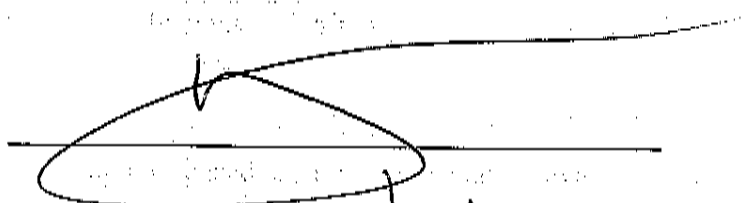
1. I am an adult competent to testify to the matters stated herein;
2. I am the OWNER of Wellston Medical Center, PLLC, and in that capacity, I am familiar with the business of Wellston Medical Center, PLLC, a Plaintiff in this action;
3. I have read the foregoing Verified Complaint and, based upon my personal knowledge of the facts stated therein, the facts stated in the Verified Complaint are true to the best of my knowledge and belief.
4. If called upon to testify, I would competently testify as to the matters stated herein.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 5/12/20

VERIFICATION

I, Jordan Wachsberg, declare as follows:

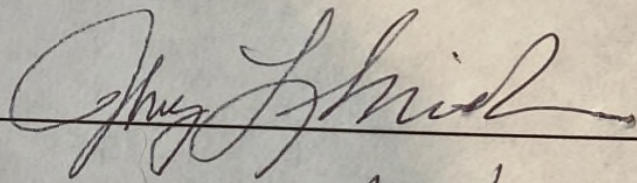
1. I am an adult competent to testify to the matters stated herein;
2. I am the owner of Primary Health Services, PC, and in that capacity, I am familiar with the business of Primary Health Services, PC, a Plaintiff in this action;
3. I have read the foregoing Verified Complaint and, based upon my personal knowledge of the facts stated therein, the facts stated in the Verified Complaint are true to the best of my knowledge and belief.
4. If called upon to testify, I would competently testify as to the matters stated herein.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

  
Executed on: 5/12/20

VERIFICATION

I, Jeffery Gulick, declare as follows:

1. I am an adult competent to testify to the matters stated herein;
2. I have read the foregoing Verified Complaint and, based upon my personal knowledge of the facts stated therein, the facts stated in the Verified Complaint are true to the best of my knowledge and belief.
3. If called upon to testify, I would competently testify as to the matters stated herein.
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Executed on: 5/12/2020



# **EXHIBIT 1**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## EXECUTIVE ORDER

No. 2020-4

### Declaration of State of Emergency

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person.

COVID-19 has been identified as the cause of an outbreak of respiratory illness first detected in Wuhan City in the Hubei Province of China. Person-to-person spread of the virus has occurred in the United States, with some of those occurring in people with no travel history and no known source of exposure. On January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19, and affected state and local governments have also declared states of emergency.

The State of Michigan has been taking proactive steps to prevent and prepare for the spread of this disease. On February 3, 2020, the Michigan Department of Health and Human Services (MDHHS) activated the Community Health Emergency Coordination Center, and has been working diligently with local health departments, health systems, and medical providers throughout Michigan to make sure appropriate screening and preparations for COVID-19 are being made. On February 28, 2020, I activated the State Emergency Operations Center to maximize coordination with state, local and federal agencies, as well as private partners, and to help prevent the spread of the disease. On March 3, 2020, I created four task forces comprising key state government agencies to coordinate the state's response and work closely with the appropriate community and non-governmental stakeholders to combat the spread of COVID-19 and assess the impact it may have on Michiganders' day-to-day lives. And throughout this time, the State has been working with schools, businesses, medical providers, local health departments, and residents to make sure they have the information they need to prepare for potential cases.

On March 10, 2020, MDHHS identified the first two presumptive-positive cases of COVID-19 in Michigan.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

SENATE ENROLLING  
MAR 11 '20 AM 9:36



The Emergency Management Act, 1976 PA 390, as amended, MCL 30.403(4), provides that “[t]he governor shall, by executive order or proclamation, declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists.”


The Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31(1), provides that “[d]uring times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state, or reasonable apprehension of immediate danger of a public emergency of that kind, . . . the governor may proclaim a state of emergency and designate the area involved.”

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. A state of emergency is declared across the State of Michigan.
2. The Emergency Management and Homeland Security Division of the Department of State Police must coordinate and maximize all state efforts that may be activated to state service to assist local governments and officials and may call upon all state departments to utilize available resources to assist.
3. The state of emergency is terminated when emergency conditions no longer exist and appropriate programs have been implemented to recover from any effects of the emergency conditions, consistent with the legal authorities upon which this declaration is based and any limits on duration imposed by those authorities.

Given under my hand and the Great Seal of the State of Michigan.

Date: March 10, 2020

  
 \_\_\_\_\_  
 GRETCHEN WHITMER  
 GOVERNOR

By the Governor:

  
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 SECRETARY OF STATE



FILED WITH SECRETARY OF STATE  
 ON 3/10/2020 AT 11:30pm

# **EXHIBIT 2**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

SECRETARY OF SENATE  
2020 APR 1 PM 4:59

## EXECUTIVE ORDER

No. 2020-33

### Expanded emergency and disaster declaration

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus has spread across Michigan. To date, the state has 9,334 confirmed cases of COVID-19 and 337 people have died of the disease. Many thousands more are infected but have not been tested. Hospitals in Oakland, Macomb, Wayne, and Washtenaw counties are reporting that they are full or nearly full to capacity. Ventilators and personal protective equipment are in short supply and high demand. Michigan needs more medical personnel than are currently available to care for COVID-19 patients. Dormitories and a convention center are being converted to temporary field hospitals.

The best way to slow the spread of COVID-19 is for people to stay home and keep their distance from others. To that end, and pursuant to the recommendations of public health experts, I have restricted access to places of public accommodation and school buildings in Executive Orders 2020-20 and 2020-11, respectively. And in Executive Order 2020-21, I have limited gatherings and travel, and have required all workers who are not necessary to sustain or protect life to remain at home.

Social distancing, though necessary to combat COVID-19, has harsh economic consequences. Almost overnight, businesses and government agencies have had to dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: over the past two weeks alone, nearly a half-million of them submitted claims for unemployment insurance. That is more claims than were filed in the entirety of the prior calendar year.

The economic damage—already severe—will compound with time. On March 19, 2020, economists at the University of Michigan forecasted that as many as 1 in 10 Michiganders could be unemployed by the fall and that economic sectors that feature substantial social interaction could contract by as much as 50%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

My administration has already taken aggressive measures to mitigate the economic harms of this pandemic. In Executive Order 2020-18, we placed strict rules on businesses to prevent price gouging. In Executive Order 2020-19, we put a temporary hold on evictions for families that cannot make their rent. And in Executive Order 2020-24, we expanded eligibility for unemployment benefits.

Nonetheless, the COVID-19 pandemic has disrupted and will continue to disrupt our economy, our homes, and our educational, civic, social, and religious institutions. School closures have made it harder to educate our children and have increased strain on parents, many of whom continue to work from home. The closure of museums and theaters will limit people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic are widespread and severe, and they demand we do more.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

The Emergency Management Act, 1976 PA 390, as amended, MCL 30.403(3)-(4), provides that "[t]he governor shall, by executive order or proclamation, declare a state of emergency" and/or a "state of disaster" upon finding that an emergency and/or disaster has occurred or is threatening to occur.

The Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31(1), provides that "[d]uring times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state . . . the governor may proclaim a state of emergency and designate the area involved."

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. A state of emergency and a state of disaster are both declared across the State of Michigan.
2. The Emergency Management and Homeland Security Division of the Department of State Police must coordinate and maximize all state efforts that may be activated to state service to assist local governments and officials and may call upon all state departments to utilize available resources to assist.
3. The state of emergency and the state of disaster will terminate when emergency and disaster conditions no longer exist and appropriate programs have been implemented to recover from any effects of the statewide emergency and disaster,

consistent with the legal authorities upon which this declaration is based and any limits imposed by those authorities, including section 3 of the Emergency Management Act, 1976 PA 390, as amended, MCL 30.403.

4. Executive Order 2020-4 is rescinded and replaced. All previous orders that rested on Executive Order 2020-4 now rest on this order.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 1, 2020

Time: 3:30 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 3**



**Exhibit 3****Governor Whitmer’s Executive Orders Since March 10, 2020<sup>1</sup>**

Executive Order	Provisions
Executive Order 2020-04—Declaration of State of Emergency	<ul style="list-style-type: none"> <li>• Declares a state of emergency “across the state of Michigan.”</li> </ul>
Executive Order 2020-05—Temporary prohibition on large assemblies and school closures (Rescinded)	<ul style="list-style-type: none"> <li>• Prohibits all assemblages of 250 people or more, excluding industrial work, mass transit, and the purchase of groceries.</li> <li>• Orders the closure of all secondary and elementary schools.</li> </ul>
Executive Order 2020-06—Temporary restrictions on entry into health care and juvenile justice facilities (Rescinded)	<ul style="list-style-type: none"> <li>• Prohibits visitors from entering healthcare and juvenile justice facilities who are not necessary for the provision of medical care.</li> <li>• Orders that “facilities must perform a health evaluation of all individuals that are not under the care of the facility each time the individual seeks to enter the facility, and must deny entry to those individuals who do not meet the evaluation criteria.”</li> </ul>
Executive Order 2020-07—Temporary restrictions on entry into healthcare and juvenile justice facilities (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-06.</li> <li>• Orders that healthcare and juvenile justice facilities prohibit any visitors that: “are not necessary for the provision of medical care, the support of activities of daily living, or the exercise of power of attorney or court-appointed guardianship for an individual under the facility’s care; are not a parent, foster parent, or guardian of an individual who is 21 years of age or under and who is under the facility’s care; are not visiting an individual under the facility’s care that is in serious or critical condition or in hospice care; and are not visiting under exigent circumstances or for the purpose of performing official governmental functions.”</li> </ul>
Executive Order 2020-08—Enhanced restrictions on price gouging (Rescinded)	<ul style="list-style-type: none"> <li>• Prohibits purchasing products from retailer and reselling the products for excessive prices.</li> <li>• Orders that a person must not offer for sale or sell any product in this state at a price that is more than 20% higher than what the person offered or charged for that product as of March 9, 2020, unless the person can demonstrate that the</li> </ul>

<sup>1</sup> This chart was last updated as of 5 p.m. Eastern Time on May 11, 2020.

**Exhibit 3**

	price increase was attributable to an increase in the cost of bringing the product to market.
Executive Order 2020-09—Temporary restriction on uses of places of public accommodation (Rescinded)	<ul style="list-style-type: none"> <li>• Declares it was reasonable and necessary to restrict the people of Michigan from places of public accommodation.</li> <li>• Orders the closure of bars, restaurants, coffeehouses, and other places of public accommodation offering food or beverage for on-site consumption.</li> <li>• Orders the closure of theaters, gyms, casinos, and other places of amusement and recreation.</li> </ul>
Executive Order 2020-10—Temporary expansions in unemployment eligibility and cost sharing (Rescinded)	<ul style="list-style-type: none"> <li>• Suspends “strict compliance with subdivision (a) of subsection (1) of section 29 of the Michigan Employment Security Act, 1936 PA 1, as amended (“Employment Security Act”), MCL 421.29(1)(a),” subject to certain conditions.</li> <li>• Suspends “strict compliance with subsection (3) of section 48 of the Employment Security Act, MCL 421.48(3),” subject to certain conditions.</li> <li>• Suspends “strict compliance with subsections (4) through (7) of Rule 421.210 is Suspends,” subject to certain conditions.</li> <li>• Orders that “strict compliance with subdivision (7) of subsection (c) of section 27 of the Employment Security Act, MCL 429.27(c)(7),” subject to certain conditions.</li> <li>• Orders that “strict compliance with subdivision (b) of subsection (1) of section 28c of the Employment Security Act, MCL 429.28c(1)(b),” subject to certain conditions.</li> <li>• Orders that “an employer or employing unit must not be charged for unemployment benefits if their employees become unemployed because of an executive order requiring them to close or limit operations.”</li> </ul>
Executive Order 2020-11—temporary prohibition on large assemblies and events (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-05.</li> <li>• Prohibits all assemblages of 50 people or more, excluding healthcare facilities, workplaces not open to the public, mass transit, the purchase of groceries, and agricultural or construction work.</li> <li>• Orders all elementary school buildings and secondary school buildings in the state to close to students for educational purposes through April 5, 2020.</li> </ul>

**Exhibit 3**

<p>Executive Order 2020-12—Enhanced support for deliveries (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Suspends all state and local seasonal load restrictions for deliveries that meet immediate needs for certain medical and sanitation supplies, food for emergency store restocking, and other COVID-19 necessities.</li> <li>• Orders all state and local road agencies to exercise their authority on an expedited basis to issue permits that allow non-seasonal load restrictions to be exceeded.</li> <li>• Suspends all state and local restrictions on the noise and timing of loading and deliveries for loading and deliveries that meet immediate needs for certain medical and sanitation supplies, food for emergency store restocking, and other COVID-19 necessities.</li> </ul>
<p>Executive Order 2020-13—Temporary enhancements to operational capacity and efficiency of health care facilities (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Orders that “the Department of Health and Human Services (“DHHS”) may issue an emergency certificate of need to an applicant and defer strict compliance with the procedural requirements of section 22235 of the Public Health Code.”</li> <li>• Orders that “the Department of Licensing and Regulatory Affairs (“LARA”) may grant a waiver under section 21564 of the Public Health Code, 1978 PA 368, as amended, MCL 333.21564, to any licensed hospital in this state.”</li> <li>• Orders that “LARA may issue a temporary registration as a certified nurse aide to an applicant, regardless of whether the applicant demonstrates to LARA that they have successfully completed the examination requirements of sections 21911 and 21913 of the Public Health Code.”</li> <li>• Orders that “LARA may renew a license to practice under Part 170, 172, 175, 177, or 187 of the Public Health Code, 1978 PA 368, as amended, regardless of whether the licensee has satisfied the continuing education requirement applicable to their license.”</li> <li>• Orders that “LARA may recognize hours worked responding to the COVID-19 emergency as hours toward continuing education courses or programs required for licensure.”</li> <li>• Orders that “LARA may allow a non-nursing assistant such as an activity coordinator, social worker, or volunteer to help feed or transport a patient or resident in a manner consistent with the patient’s or resident’s care plan.”</li> </ul>

**Exhibit 3**

Executive Order 2020-14—Temporary extension of deadline to redeem property for nonpayment of delinquent property taxes	<ul style="list-style-type: none"> <li>• Suspends “strict compliance with subsection (3) of section 78g of the General Property Tax Act (“GPTA”), 1893 PA 206, as amended, MCL 211.78g(3),” and extends “the deadline by which property forfeited to a county treasurer must be redeemed ... from March 31, 2020 until the later of (a) May 29, 2020, or (b) 30 days after the termination of the state of emergency under section 3 of Executive Order 2020-4.”</li> </ul>
Executive Order 2020-15—Authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “to the extent that the Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 to 15.272 (“OMA”) requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA, MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements,” subject to certain conditions.</li> <li>• Orders that “strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily suspended” subject to certain conditions.</li> </ul>
Executive Order 2020-16—Expanding child care during COVID-19 (Rescinded)	<ul style="list-style-type: none"> <li>• Suspends “strict compliance with section 7a of the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.117a” and allows provisional licenses to be issued in spite of “deficiencies present in the child care organization,” subject to certain conditions.</li> <li>• Suspends “strict compliance with subsection (2) of section 5m of the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.115m(2)” and allows the establishment of certain child care centers “without a license from LARA,” subject to certain conditions.</li> </ul>
Executive Order 2020-17—Temporary restrictions on non-essential medical and dental procedures	<ul style="list-style-type: none"> <li>• Orders that “all hospitals, freestanding surgical outpatient facilities, and dental facilities, and all state-operated outpatient facilities ... must implement a plan to temporarily postpone, until the termination of the state of emergency under section 3 of Executive Order 2020-4, all non-essential procedures.”</li> </ul>
Executive Order 2020-18—Restrictions on price gouging (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-08.</li> <li>• Imposes substantially similar restrictions as EO 20-08 with minor amendments.</li> </ul>

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Executive Order 2020-19—Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “no person shall remove or exclude from leased residential premises or residential premises held under a forfeited executory contract a tenant, a vendee of a forfeited executory contract, or a person holding under a tenant or vendee, except when the tenant, vendee, or person holding under them poses a substantial risk to another person or an imminent and severe risk to property.”</li> <li>• Orders that “no person may enter residential property in order to remove or exclude from the premises a tenant, a vendee of a forfeited executory contract, a person holding under a tenant or vendee, or the personal property of a tenant, vendee, or person holding under them, including pursuant to a writ authorizing restoration of a plaintiff to full, peaceful possession of premises under section 5744 of the RJA, MCL 600.5744, except when the tenant, vendee, or person holding under them poses a substantial risk to another person or an imminent and severe risk to property.”</li> <li>• Orders that “a sheriff, under-sheriff or constable, deputy, or other officer must not serve process requiring forfeiture of leased residential premises or residential premises held under a forfeited executory contract.”</li> <li>• Orders that “no person may deny a mobile home owner access to their mobile home, except when the mobile home owner’s tenancy has been terminated because the mobile home owner poses a substantial risk to another person or an imminent and severe risk to property.”</li> </ul>
Executive Order 2020-20—Temporary restrictions on the use of places of public accommodation (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-09.</li> <li>• Reinstates and modifies the restrictions in EO 2020-09 “by clarifying their application to facilities offering non-essential personal care services.”</li> </ul>
Executive Order 2020-21—Temporary requirement to suspend activities not necessary to sustain and protect life (Rescinded)	<ul style="list-style-type: none"> <li>• Declares that is “reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible”</li> <li>• Orders that “[n]o person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life or to conduct minimum basic operations” subject to certain conditions and exceptions.</li> </ul>
Executive Order 2020-22—Extension of county canvass deadlines for the March 10, 2020 Presidential Primary Election	<ul style="list-style-type: none"> <li>• Suspends strict compliance with rules and procedures under section 822(1) of the Michigan Election Law, 1954 PA 116, as amended, MCL 168.822(1) &amp; (2) and 842(1) of the Michigan Election Law, MCL 168.842(1) and extends the</li> </ul>

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	<p>deadlines for a board of county canvassers to complete the canvass of the election held on March 10, 2020.</p>
<p>Executive Order 2020-23—Enhanced authorization of remote means for carrying out state administrative procedures (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Orders that “[h]earing officers or arbitrators may conduct Michigan Employment Relations Commission ... hearings by electronic means, including video conferencing.”</li> <li>• Suspends “strict compliance with the procedural requirements of 1939 PA 176, as amended, MCL 423.1 et seq. (employment relations commission), 1947 PA 336, as amended, MCL 423.201 et seq. (public employment relations), and 1969 PA 312, as amended, MCL 423.231 et seq. (compulsory arbitration of labor disputes in police and fire departments),” subject to certain conditions.</li> <li>• Orders that the “Unemployment Insurance Agency may permit hearings to be held by telephone or electronic means, including video conferencing.”</li> <li>• Orders that documents, notice, and service of process for several agencies may be filed electronically.</li> <li>• Orders that state agencies may accept and rely upon electronic signatures.</li> </ul>
<p>Executive Order 2020-24—Temporary expansions in unemployment eligibility and cost-sharing (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-10.</li> <li>• Reaffirms the measures in EO 2020-10 and clarifies and strengthens the expansion of eligibility for unemployment benefits and cost-sharing with employers.</li> </ul>
<p>Executive Order 2020-25—Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Declares that the public requires increased access to therapeutic pharmaceuticals. Meeting this critical need requires swiftly but safely expanding access to pharmacy services.</li> <li>• Orders that pharmacists “may dispense emergency refills of up to a sixty (60) day supply of any non-controlled maintenance medication for residents of any county in this state if, in the pharmacist’s professional judgment, failure to refill the prescription might interrupt the patient’s ongoing care and have a significant adverse effect on the patient’s well-being” subject to certain conditions</li> <li>• Reduces licensing and supervisory requirements for pharmacists.</li> <li>• Suspends strict compliance with any statute, rule, or regulation that interferes with the order.</li> </ul>

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Executive Order 2020-26—Extension of April 2020 Michigan income tax filing deadlines	<ul style="list-style-type: none"> <li>• Orders that strict compliance with rules and procedures of the Income Tax Act of 1967 and the City Income Tax Act of 1964 as they relate to the filing of tax returns by certain deadlines is suspended and the deadlines for filing tax returns are extended.</li> </ul>
Executive Order 2020-27—Conducting elections on May 5, 2020 using absent voter ballots	<ul style="list-style-type: none"> <li>• Suspends strict compliance with the rules and procedures under chapters 28 and 39 of the Michigan Election Law, 1954 PA 116, and further orders that elections “must be conducted to the greatest extent possible by absent voter ballots issued and submitted without in-person interaction,” subject to certain conditions.</li> </ul>
Executive Order 2020-28—Restoring water service to occupied residences during the COVID-19 pandemic	<ul style="list-style-type: none"> <li>• Declares that it is “reasonable and necessary to require public water supplies to report on the status of water service within their respective service areas.”</li> <li>• Orders that “public water supply must restore water service to any occupied residence where water service has been shut off due to non-payment, so long as the public water supply does not have reason to believe that reconnection would create a risk to public health.”</li> </ul>
Executive Order 2020-29—Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “the Michigan Department of Corrections (the “Department”) must continue to implement risk reduction protocols to address COVID-19 (“risk reduction protocols”), which the Department has already developed and implemented at the facilities it operates.”</li> <li>• Orders that “strict compliance with the capacity and procedural requirements regarding county jail overcrowding states of emergency in the County Jail Overcrowding Act (“CJOA”), 1982 PA 325, MCL 801.51 et seq., is temporarily suspended. While this order is in effect, all actions that would be authorized under the CJOA in the event of a declaration of a county jail overcrowding state of emergency are authorized.”</li> </ul>
Executive Order 2020-30—Temporary relief from certain restrictions and requirements governing the provision of medical services (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “any and all provisions in Article 15 of the Public Health Code, 1978 PA 368, as amended, MCL 333.16101 et seq., relating to scope of practice, supervision, and delegation, are temporarily suspended” for the purpose of ensuring medical personnel, medical students, and volunteers can provide critical care in response to the increased demand for medical services related to COVID-19.</li> <li>• Orders that “[n]otwithstanding any law, regulation, or executive order to the contrary, any drug manufacturer or wholesale distributor of prescription drugs licensed in another state whose license is in good standing is temporarily</li> </ul>

**Exhibit 3**

	authorized to distribute and ship controlled substances into Michigan to a hospital or to a licensed manufacturer or wholesale distributor under MCL 333.17748.”
Executive Order 2020-31—Temporary relief from standard vapor pressure restrictions on gasoline sales	<ul style="list-style-type: none"> <li>• Declares that it is necessary to “temporarily exten[d] the period of time during which the winter-blend gasoline can be sold [to] enable distributors to safely shift to a lower volatility gasoline supply with as little in-person work and travel as possible, while also ensuring that this state maintains a reliable supply of gasoline adequate to meet its critical needs during this emergency.”</li> <li>• Orders that “Rule 4(g) of Regulation No. 564, promulgated by the Laboratory Division of the Department of Agriculture and Rural Development, 1987 AACRS, as amended, R 285.564.4(g) of the Michigan Administrative Code, is temporarily suspended,” subject to certain conditions.</li> </ul>
Executive Order 2020-32—Temporary restrictions on non-essential veterinary services (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “while the declared emergency is in effect, all veterinary facilities must implement a plan to temporarily postpone all in-person non-essential veterinary services until the declared emergency has ended.”</li> <li>• Orders that “all veterinary services, essential and non-essential, must be performed by telemedicine to the fullest extent possible while the declared emergency is in effect. If a non-essential service cannot be performed by telemedicine, a plan must require that it be postponed. If an essential service cannot be performed by telemedicine, a plan need not postpone it and may allow it to be performed in person.”</li> </ul>
Executive Order 2020-33—Expanded emergency and disaster declaration (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that a “state of emergency and a state of disaster are both declared across the state of Michigan.”</li> <li>• Orders that EO 2020-04 is replaced by EO 2020-33, and all previous Executive Orders relying on EO 2020-4 will now rely on EO 2020-33.</li> </ul>
Executive Order 2020-34—Temporary restrictions on veterinary services	<ul style="list-style-type: none"> <li>• Replaces EO 2020-32</li> <li>• Adjusts and clarifies the scope of EO 2020-32.</li> </ul>
Executive Order 2020-35—Provision of K-12 education during the remainder of the 2019-2020 school year (Rescinded)	<ul style="list-style-type: none"> <li>• Orders the suspension of in-person K-12 instruction for the remainder of the 2019-2020 school year.</li> <li>• Orders Department of Education to adopt Continuity of Learning and COVID-19 Response Plans.</li> </ul>



**Exhibit 3**

	<ul style="list-style-type: none"> <li>• Orders that “strict compliance with rules and procedures” under sections of the State School Aid Act, MCL 388.1701 et seq., and the Michigan School Code are temporarily suspended subject to certain conditions.</li> </ul>
Executive Order 2020-36—Protecting workers who stay home, stay safe when they or their close contacts are sick	<ul style="list-style-type: none"> <li>• Declares that “it is the public policy of this state that an employer shall not discharge, discipline, or otherwise retaliate against an employee for staying home when he or she is at particular risk of infecting others with COVID-19.”</li> <li>• Issues numerous rules governing the behavior of employers and employees, ostensibly to effectuate the purpose of EO 2020-36.</li> </ul>
Executive Order 2020-37—Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-07.</li> <li>• Clarifies the restrictions in EO 2020-07 and extends their duration.</li> </ul>
Executive Order 2020-38—Temporary extensions of certain FOIA deadlines to facilitate COVID-19 emergency response efforts	<ul style="list-style-type: none"> <li>• Orders that “[s]trict compliance with the required response periods set forth under sections 5(2), 10(2), and 10a(2) of the Freedom of Information Act (“FOIA”), 1976 PA 442, as amended, MCL 15.235(2), 15.240(2), and 15.240a(2), is temporarily suspended.”</li> <li>• Orders that “[s]trict compliance with the requirements relating to in-person efforts in connection with a public records request set forth under sections 3 and 4 of the FOIA, MCL 15.233 and 15.234, is temporarily suspended.”</li> </ul>
Executive Order 2020-39—Temporary relief from certain restrictions and requirements governing the provision of emergency medical services	<ul style="list-style-type: none"> <li>• Orders that “[s]trict compliance with the annual-inspection requirements for life support vehicles and life support agencies under section 20910(1)(e)(iii) of the Public Health Code, 1978 PA 368, as amended, MCL 333.20910(1)(e)(iii), is temporarily suspended” subject to certain conditions.</li> <li>• Orders that “strict compliance with the ambulance-staffing requirements under section 20921(3) of the Public Health Code, MCL 333.20921(3), is temporarily suspended” subject to certain conditions.</li> <li>• Suspends strict compliance with several other Michigan laws, all related to the provision of emergency services.</li> </ul>
Executive Order 2020-40—Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “[t]he requirements administered by the Department of Treasury (“Department”) concerning licensure of motor carriers under section 5 of the Motor Carrier Fuel Tax Act (“MCFTA”), 1980 PA 119, as amended, MCL 207.215, are temporarily suspended and must not be enforced.”</li> </ul>

**Exhibit 3**

	<ul style="list-style-type: none"> <li>• Orders that “[t]he requirements administered by the Department concerning decals for qualified commercial vehicles under section 5 of the MCFTA, MCL 207.215, are temporarily suspended” subject to certain conditions.</li> <li>• Orders that “[t]he requirements administered by the Department concerning trip permits for motor carriers under section 7 of the MCFTA, MCL 207.217, are temporarily suspended and must not be enforced” subject to certain conditions.</li> <li>• Orders that “[a]ny other requirements administered by the Department concerning the credentialing of motor carriers under the International Fuel Tax Agreement (“IFTA”) are temporarily suspended and must not be enforced” subject to certain conditions.</li> </ul>
<p>Executive Order 2020-41—Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Orders that “[s]trict compliance with rules and procedures under the Uniform Electronic Transactions Act (“UETA”), 2000 PA 305, as amended, MCL 450.831 et seq., and the Uniform Real Property Electronic Recording Act (“URPERA”), 2010 PA 123, as amended, MCL 565.841 et seq., is temporarily suspended to the extent necessary to permit the use of an electronic signature for a transaction whenever a signature is required under Michigan law, unless the law specifically mandates a physical signature.”</li> <li>• Orders that “[s]trict compliance the Michigan Law on Notarial Acts, 2003 PA 238, as amended, MCL 55.261 et seq., is temporarily suspended, to the extent it requires a notary to be in the physical presence of an individual seeking the notary’s services or of any required witnesses.”</li> <li>• Orders that “[a]ny requirement under Michigan law that an in-person witness attest to or acknowledge an instrument, document, or deed may be satisfied by the use of two-way real-time audiovisual technology, provided that” certain conditions are met.</li> <li>• Orders that the requirements in several additional Michigan laws mandating the physical presence of a person can be satisfied through the use of two-way video technology, provided that certain conditions are met.</li> </ul>
<p>Executive Order 2020-42—Temporary requirement to suspend activities that are not necessary to sustain or protect life (Rescinded)</p>	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-21.</li> <li>• Prohibits “in-person work that is not necessary to sustain or protect life.”</li> <li>• Affirms and reinstates various rules in EO 2020-21.</li> <li>• Prohibits travel between two residences.</li> </ul>

**Exhibit 3**

	<ul style="list-style-type: none"> <li>• Orders stores of more than 50,000 square feet to close areas dedicated to carpet or flooring, furniture, garden centers and plant nurseries, and paint.</li> <li>• Implements additional measures designed to limit business operations and personal travel.</li> </ul>
Executive Order 2020-43—Temporary restrictions on the use of places of public accommodation (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds and replaces EO 2020-20.</li> <li>• Extends duration of restrictions found in 2020-20.</li> </ul>
Executive Order 2020-44—Enhanced support for deliveries	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-12.</li> <li>• Extends “the duration of [relief from load and delivery restrictions on motor carriers and drivers engaged in the transport of essential supplies, equipment, and persons] because it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents.”</li> </ul>
Executive Order 2020-45—Enhanced authorization of remote means for carrying out state administrative procedures	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-23.</li> <li>• Extends “the duration of [the] relief [set forth in EO 2020-23], because it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents.”</li> </ul>
Executive Order 2020-46—Mitigating the economic harms of the COVID-19 pandemic through the creation of a spirits buyback program for restaurants and bars throughout the state	<ul style="list-style-type: none"> <li>• Authorizes the Michigan Liquor Control Commission (“Commission”) “to offer to a licensee a cash buyback of any spirits a licensee orders from the Commission and received and accepted from an Authorized Distribution Agent before March 16, 2020. When a licensee opts into this buyback program, the Commission must advance to the licensee 100% of the purchase price of those spirits that are in the licensee’s inventory.”</li> </ul>
Executive Order 2020-47—Temporary extension of the validity of certain driver’s licenses, state identification cards, and vehicle registrations (Rescinded)	<ul style="list-style-type: none"> <li>• Orders that “[i]ndividuals must, to the best of their ability, complete a vehicle registration or license renewal online at <a href="http://www.michigan.gov/sos/">www.michigan.gov/sos/</a> during the Declares states of emergency and disaster.”</li> <li>• Orders that certain provisions of the Motor Vehicle Code are temporarily suspended for purposes of the order if certain criteria are met.</li> </ul>
Executive order 2020-48—Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-15.</li> <li>• Orders that “[t]o the extent that the Open Meetings Act (“OMA”), 1976 PA 267, as amended, MCL 15.261 to 15.272, requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with</li> </ul>

**Exhibit 3**

	<p>section 3 of the OMA, MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements.”</p> <ul style="list-style-type: none"> <li>• Orders that “strict with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily suspended so as not to require school district boards to hold meetings at least once each month.”</li> </ul>
Executive Order 2020-49—Temporary enhancements to operational capacity and efficiency of health care facilities	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-13.</li> <li>• Orders that the Department of Health and Human Services and the Department of Licensing and Regulatory Affairs may issue various certificates, licenses, and waivers to healthcare workers and facilities without requiring strict compliance with the Public Health Code in order to “ensure that there is an adequate supply of health care providers and facilities.”</li> </ul>
Executive Order 2020-50—Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	<ul style="list-style-type: none"> <li>• Orders that, “notwithstanding any statute, rule, regulation, or policy to the contrary,” long-term care facilities may not, among other things, evict or discharge residents for nonpayment, or prohibit admission based on COVID-19 testing requirements.</li> <li>• Orders that long-term care facilities must take steps to limit the transmission of COVID-19, including canceling group activities and communal dining, ensuring adequate disinfection and cleaning protocols, and using best efforts to provide appropriate PPE.</li> <li>• Orders that long-term care facilities must take specific steps when residents are infected with COVID-19, such as filing a report to a local health department within 24 hours and transferring unstable patients to a hospital.</li> <li>• Orders that “[t]o the extent necessary to effectuate this terms of this order, strict compliance with any statute, rule, regulation, or policy pertaining to bed hold requirements or procedures, or to pre-transfer or pre-discharge requirements or procedures, is temporarily Suspends” subject to certain conditions.”</li> </ul>
Executive Order 2020-51—Expanding child care access during the COVID-19 pandemic	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-16.</li> <li>• Clarifies and expands the scope of EO 2020-16, and continues to allow the operation of childcare centers without a license from LARA.</li> </ul>

**Exhibit 3**

Executive Order 2020-52—Temporary extension of certain pesticide applicator certificates	<ul style="list-style-type: none"> <li>• Orders that “[n]otwithstanding any statute, rule, or regulation to the contrary, all three-year certificates for commercial applicators, private applicators, and registered applicators issued pursuant to Part 83 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.8301 et seq., that were set to expire on December 31, 2019, must be deemed unexpired and not to expire until 60 days after the end of the Declares states of emergency and disaster.”</li> </ul>
Executive Order 2020-53—Enhanced restrictions on price gouging	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-18.</li> <li>• “[S]trengthens ... and extends” the original restrictions on price gouging in EO 2020-18.</li> </ul>
Executive Order 2020-54—Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-19.</li> <li>• Clarifies and extends the restrictions in EO 2020-19.</li> </ul>
Executive Order 2020-56—Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-25.</li> <li>• Clarifies and extends the duration of the provisions in EO 2020-25.</li> </ul>
Executive Order 2020-57—Temporary expansions in unemployment eligibility and cost-sharing (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-24.</li> <li>• Orders that “[s]trict compliance with subdivision (a) of subsection (1) of section 29 of the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, as amended (“Employment Security Act”), MCL 421.29(1)(a), is temporarily suspended,” subject certain conditions.</li> <li>• Orders that “[s]trict compliance with subsection (3) of section 48 of the Employment Security Act, MCL 421.48(3), is temporarily suspended to allow an individual who is on a leave of absence for any” identified reason.</li> <li>• “In order to allow employers and workers more flexibility in the use of shared-work plans, strict compliance with several [additional] sections of the Employment Security Act are temporarily suspended.”</li> </ul>
Executive Order 2020-58—Temporary suspension of certain timing requirements relating to the commencement of civil and probate actions and proceedings	<ul style="list-style-type: none"> <li>• Orders that “all deadlines applicable to the commencement of all civil and probate actions and proceedings, including but not limited to any deadline for the filing of an initial pleading and any statutory notice provision or other prerequisite related to the deadline for filing of such a pleading, are suspended</li> </ul>

**Exhibit 3**

	as of March 10, 2020 and shall be tolled until the end of the declared states of disaster and emergency.”
Executive Order 2020-59—Temporary requirement to suspend activities that are not necessary to sustain or protect life (Rescinded)	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-42.</li> <li>• Requires all individuals to stay at home, with certain exceptions.</li> <li>• Halts all business operations except for operations of workers necessary to sustain or protect life, to conduct minimum basic operations, or to perform certain resumed activities in one of five categories.</li> <li>• Businesses permitted to continue in-person operations must provide “non-medical grade face coverings to their workers” and “personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed,” as well as take other mitigation measures.</li> <li>• Orders all individuals who can medical tolerate a face covering to wear one when in any enclosed public space.</li> </ul>
Executive Order 2020-60—Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry (Rescinded)	<ul style="list-style-type: none"> <li>• Requires all food-selling establishments and pharmacies to implement daily screening of employees, require checkout employees to wear face coverings, make work accommodations for employees in vulnerable populations, and close self-service and sampling stations, among other things.</li> <li>• Orders that “any individual who enters a food-selling establishment or pharmacy who is able to medically tolerate a face covering must wear a covering over his or her nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief.”</li> </ul>
Executive Order 2020-61—Temporary relief from certain restrictions and requirements governing the provision of medical services	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-30 to extend duration and expand scope of its provisions.</li> <li>• Orders the suspension of certain provisions Article 15 of the Public Health Code, 1978 PA 368.</li> </ul>
Executive Order 2020-62—Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-29.</li> <li>• Extends duration of provisions in EO 2020-29.</li> </ul>

## Exhibit 3

county jails, local lockups, and juvenile detention centers	
Executive Order 2020-63—Temporarily suspending the expiration of personal protection orders	<ul style="list-style-type: none"> <li>• Orders that “all personal protection orders that would otherwise expire during the period from the date of the entry of this order through June 1, 2020 are extended, and now expire on July 21, 2020.”</li> </ul>
Executive Order 2020-64—Affirming anti-discrimination policies and requiring certain health care providers to develop equitable access to care protocols	<ul style="list-style-type: none"> <li>• Declares that it is “the public policy of this state that no person should be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person’s relative ‘worth,’ including judgments about a person’s worth based on the presence or absence of disabilities.”</li> <li>• Orders health care providers to take steps and develop protocols to ensure non-discrimination in the delivery of critical care and allocation of other medical resources.</li> </ul>
Executive Order 2020-65—Provision of K-12 education during the remainder of the 2019-2020 school year	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-35.</li> <li>• Extends, expands, and clarifies the restrictions in EO 2020-35.</li> <li>• Temporarily suspends certain portions of the Teachers’ Tenure Act, MCL 38.71 <i>et seq</i>, and the Great Start Readiness Program, MCL 388.1632, <i>et seq</i>.</li> </ul>
Executive Order 2020-66—Termination of the states of emergency and disaster declared under the Emergency Management Act in Executive Order 2020-33	<ul style="list-style-type: none"> <li>• Declares that “[t]wenty-eight days ... have elapsed since [Governor Whitmer] declared states of emergency and disaster under the Emergency Management Act in Executive Order 2020-33. And while [Governor Whitmer] ... sought the legislature’s agreement that these declared states of emergency and disaster should be extended, the legislature—despite the clear and ongoing danger to the state—has refused to extend them beyond today.”</li> <li>• Orders that “[t]he state of emergency declared under the Emergency Management Act in Executive Order 2020-33 is terminated.”</li> <li>• Orders that “[t]he state of disaster declared under the Emergency Management Act in Executive Order 2020-33 is terminated.”</li> </ul>
Executive Order 2020-67—Declaration of state of emergency under the Emergency Powers of the Governor Act, 1945 PA 302	<ul style="list-style-type: none"> <li>• Declares that “state disaster and emergency recovery efforts remain necessary” and that “[s]tatewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.”</li> </ul>

**Exhibit 3**

	<ul style="list-style-type: none"> <li>• Orders that a “state of emergency remains declared across the State of Michigan under the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.”</li> <li>• Rescinds and replaces EO 2020-33. States that “[a]ll previous orders that rested on Executive Order 2020-33 now rest on this order.”</li> </ul>
Executive Order 2020-68—Declaration of states of emergency and disaster under the Emergency Management Act, 1976 PA 390	<ul style="list-style-type: none"> <li>• Declares “a state of emergency and a state of disaster across the State of Michigan under the Emergency Management Act.”</li> <li>• Orders “[t]he Emergency Management and Homeland Security Division of the Department of State Police must coordinate and maximize all state efforts that may be activated to state service to assist local governments and officials and may call upon all state departments to utilize available resources to assist.”</li> <li>• Declares that “[a]ll previous orders that rested on Executive Order 2020-33 now rest on this order.”</li> </ul>
Executive Order 2020-69—Temporary restrictions on the use of places of public accommodation	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-43.</li> <li>• Extends the provisions of EO 2020-43 through May 28, 2020.</li> </ul>
Executive Order 2020-70—Temporary requirement to suspend activities that are not necessary to sustain or protect life	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-59.</li> <li>• Reaffirms and amends the measures set forth in EO 2020-59.</li> <li>• Orders that, subject to certain exceptions, “all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence.”</li> <li>• Orders that, subject to certain exceptions, “[n]o person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life, to conduct minimum basic operations, or to perform a resumed activity within the meaning of this order.”</li> <li>• Orders that certain industries, including construction, real-estate activities, and work that is traditionally and primarily performed outdoors” can resume on May 7, 2020, subject to “stringent precautionary measures.”</li> <li>• Orders that stores permitted to remain open for in-store sales under this Order must take steps such as limiting total occupancy, creating two hours per week of dedicated shopping times for vulnerable populations, and considering the establishment of curbside pick-up.</li> </ul>



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	<ul style="list-style-type: none"> <li>• Orders all individuals medically able to tolerate a face covering to wear a covering over his or her nose and mouth when in any “enclosed public space.”</li> </ul>
Executive Order 2020-71—Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	<ul style="list-style-type: none"> <li>• Rescinds, extends, and clarifies EO 2020-60.</li> <li>• Orders “[a]ny individual who enters a food-selling establishment or pharmacy who is able to medically tolerate a face covering must wear a covering over his or her nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief.”</li> <li>• Orders grocery stores and pharmacies to “create at least two hours per week of dedicated shopping time for vulnerable populations.”</li> <li>• Orders food-selling establishment and pharmacies to “deploy strategies to reduce COVID-19 exposure for their customers and employees,” which are to include developing and implementing a specified daily screening program for all staff, requiring checkout employees to wear masks, allowing employees sufficient break time to wash their hands, and providing disinfecting wipes at cash registers, among others.</li> <li>• Suspends strict compliance with portions of the Food Law, 92 PA 2000, as amended.</li> </ul>
Executive Order 2020-72—Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-37.</li> <li>• Reinstates and extends the restrictions in EO 2020-37.</li> </ul>
Executive Order 2020-73— Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-40.</li> <li>• Reinstates and extends the provisions in EO 2020-40.</li> </ul>
Executive Order 2020-74—Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-41.</li> <li>• Reinstates, extends, and expands the provisions in EO 2020-41.</li> <li>• Suspends strict compliance with the Uniform Electronic Transactions Act, as amended, MCL 450.831 <i>et seq.</i>, and the Uniform Real Property Electronic Recording Act, as amended, MCL 565.841 <i>et seq.</i>, “to the extent necessary to permit the use of an electronic signature for a transaction whenever a signature</li> </ul>

**Exhibit 3**

	<p>is required” under Michigan law, unless the law specifically mandates a physical signature.</p> <ul style="list-style-type: none"> <li>• Suspends strict compliance the Michigan Law on Notarial Acts, as amended, MCL 55.261 et seq., “to the extent it requires a notary to be in the physical presence of an individual seeking the notary’s services or of any required witnesses.”</li> <li>• Orders that the requirements in several Michigan laws mandating the physical presence of a person can be satisfied through the use of two-way video technology, provided that certain conditions are met.</li> </ul>
Executive Order 2020-75—Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	<ul style="list-style-type: none"> <li>• Rescinds and extends the provision of EO 2020-48, suspending “rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan.”</li> </ul>
Executive Order 2020-76—Temporary expansions in unemployment eligibility and cost-sharing	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-57.</li> <li>• “[C]ontinues [the] provisions” under EO 2020-57 “and relaxes certain other requirements in order to allow the Unemployment Insurance Agency to more quickly process unemployment claims.”</li> <li>• Suspends strict compliance with several provisions of the Employment Security Act, 1936 (Ex Sess) PA 1, as amended, the Michigan Administrative Code, and section 68c of the State Employees Retirement Act, 1943 PA 240.</li> </ul>
Executive Order 2020-77—Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-70.</li> <li>• Reaffirms the measures set forth in EO 2020-77, including the measures requiring individuals to shelter-in-place and prohibiting most in-person business operations, subject to certain amendments.</li> <li>• Reaffirms and modifies specific protocols that must be adopted and implemented by businesses performing construction work.</li> <li>• Orders that manufacturing work may resume on May 11, subject to numerous “workplace safeguards,” including conducting daily screening of all individuals entering manufacturing facilities and conducting certain training of workers, among others.</li> </ul>
Executive Order 2020-78—Temporary extension of the validity of driver licenses, state	<ul style="list-style-type: none"> <li>• Rescinds EO 2020-47 and “extends [the] duration and expands [the] scope” of the provisions in EO 2020-47.</li> </ul>

**Exhibit 3**

identification cards, and certain vehicle registrations	<ul style="list-style-type: none"><li>• Suspends strict compliance with the Michigan Vehicle Code to the extent it requires certifications or renewals in order to maintain licenses or insurance coverage.</li></ul>
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# **EXHIBIT 4**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## EXECUTIVE ORDER

No. 2020-17

### Temporary restrictions on non-essential medical and dental procedures

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to “cop[e] with dangers to this state or the people of this state presented by a disaster or emergency,” which the governor may implement through “executive orders, proclamations, and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, provide essential protections to vulnerable Michiganders, and ensure the availability of health care resources, it is reasonable and necessary to impose temporary restrictions on non-essential medical and dental procedures.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Beginning as soon as possible but no later than March 21, 2020 at 5:00 pm, and continuing while the state of emergency declared in Executive Order 2020-4 is in effect, all hospitals, freestanding surgical outpatient facilities, and dental facilities, and all state-operated outpatient facilities (collectively, “covered facilities”), must implement a plan to temporarily postpone, until the termination of the state of emergency under section 3 of Executive Order 2020-4, all non-essential procedures (“non-essential procedure postponement plan” or “plan”). For purposes of this order, “non-essential procedure” means a medical or dental procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider.
2. A plan for a covered facility that performs medical procedures, including any medical center or office that performs elective surgery or cosmetic plastic surgery, must postpone, at a minimum, joint replacement, bariatric surgery, and cosmetic surgery, except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, and welfare of the patient. A plan for a covered facility that performs medical procedures should exclude from postponement: surgeries related to advanced cardiovascular disease (including coronary artery disease, heart failure, and arrhythmias) that would prolong life; oncological testing, treatment, and related procedures; pregnancy-related visits and procedures; labor and delivery; organ transplantation; and procedures related to dialysis. A plan for a covered facility that performs medical procedures must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.
3. A plan for a covered facility that performs dental procedures must postpone, at a minimum: any cosmetic or aesthetic procedures (such as veneers, teeth bleaching, or cosmetic bonding); any routine hygiene appointments; any orthodontic procedures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; initiation of any crowns, bridges, or dentures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; any periodontal plastic surgery; any extractions of asymptomatic non-carious teeth; and any recall visits for periodontally healthy patients. If a covered facility that performs dental procedures chooses to remain open, its plan must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.
4. A covered facility must comply with the restrictions contained in its non-essential procedure postponement plan.
5. This order does not alter any of the obligations under law of an affected health care facility to its employees or to the employees of another employer.
6. The director of the Department of Licensing and Regulatory Affairs shall issue orders or directives pursuant to law as necessary to enforce this order.

7. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: March 20, 2020

Time: 12:28 pm



\_\_\_\_\_  
GRETCHEN WHITMER  
GOVERNOR

By the Governor:

  
\_\_\_\_\_  
SECRETARY OF STATE

SENATE JOURNAL  
MAR 20 2020 PM 3:16

FILED WITH SECRETARY OF STATE

ON 3/20/20 AT 2:48 P.M.

# **EXHIBIT 5**





STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

GRETCHEN WHITMER  
GOVERNOR

ROBERT GORDON  
DIRECTOR

May 3, 2020

Dear Michigan Clinicians,

We appreciate the leadership of health care systems and clinicians across the state who have worked tirelessly to care for patients during the COVID-19 pandemic. Our front-line healthcare workers have provided exceptional care, and many have put their own lives and the lives of their families at risk. Some have even lost their lives. I am forever in gratitude for your service.

While we are cautiously optimistic about the plateau in the number of cases of COVID-19 across the state, we continue to see many cases daily, as well as deaths. Michigan currently has the third highest number of COVID-19-related deaths in the United States. Governor Whitmer's Executive Order 2020-17, Temporary Restrictions on Non-Essential Medical and Dental Procedures, was put in place to assure our healthcare systems had enough staffing, bed capacity, and personal protective equipment to be able to take care of patients, as well as to limit spread of COVID-19. As we continue to fight the COVID-19 pandemic we are in constant consideration of how to safely and responsibly provide care for our patients, while maintaining the safety of healthcare workers.

I recognize some have questions about Executive Order 2020-17, including what is allowable under the order and how to start to re-engage with patients for important care. This letter provides guidance to consider in determining the timeliness and necessity of care for individual patients.

The provisions of the Executive Order No. 2020-17 state the following:

1. Beginning as soon as possible but no later than March 21, 2020 at 5:00 pm, and continuing while the state of emergency declared in Executive 2020-4 is in effect, all hospitals, freestanding surgical outpatient facilities, and dental facilities, and all state-operated outpatient facilities (collectively, "covered facilities"), must implement a plan to temporarily postpone, until the termination of the state of emergency under section 3 of Executive Order 2020-4, all non-essential procedures ("non-essential procedure postponement plan" or "plan"). For purposes of this order, "non-essential procedure" means a medical or dental procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider.

2. A plan for a covered facility that performs medical procedures, including any medical center or office that performs elective surgery or cosmetic plastic surgery, must postpone, at a minimum, joint replacement, bariatric surgery, and cosmetic surgery, except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, and welfare of the patient. A plan for a covered facility that performs medical procedures should *exclude* from postponement: surgeries related to advanced cardiovascular disease (including coronary artery disease, heart failure, and arrhythmias) that would prolong life; oncological testing, treatment, and related procedures; pregnancy-related visits and procedures; labor and delivery; organ transplantation; and procedures related to dialysis. A plan for a covered facility that performs medical procedures must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.

3. A plan for a covered facility that performs dental procedures must postpone, at a minimum: any cosmetic or aesthetic procedures (such as veneers, teeth bleaching, or cosmetic bonding); any routine hygiene appointments; any orthodontic procedures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; initiation of any crowns, bridges, or dentures that do not relieve pain or infection, do not restore oral function, or are not trauma-related; any periodontal plastic surgery; any extractions of asymptomatic non-carious teeth; and any recall visits for periodontally healthy patients. If a covered facility that performs dental procedures chooses to remain open, its plan must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.

This wording is intended to be flexible, preserve clinician judgement, and encourage consideration on an individual basis of which patient services can be safely delayed without resulting in a significant decline in health. **EO 2020-17 gives providers broad discretion to apply this standard.** I have had the pleasure of speaking to many physician and health system leaders in recent days and applaud current efforts to re-engage with patients in the safest way possible and within the scope of Executive Order 2020-17. Consistent with Executive Order 2020-17, the following guidelines and principles (which are non-binding suggestions unless otherwise indicated) should be considered as clinicians and hospitals plan reengagement of patients in need of medical services:

**1. Limit in-person contact as much as possible and implement best practices for infection prevention and control.**

- Maximize the use of telehealth. Clinicians can determine if an in-person visit is necessary. An initial phone call to collect pertinent information can reduce the time needed for an in-person visit. In some cases, a post-procedure telehealth visit may be an alternative to an in-person visit.
- Consider eliminating waiting room times altogether for ambulatory visits. Ask patients to wait in their cars until the time of their appointment if feasible. If that cannot be done, consider implementing the following:

- Arrange waiting rooms such that patients are kept at least six feet apart.
- Remove magazines, books and toys from waiting areas.
- Do not offer food or drink in waiting areas.
- Have clear markings and signage for patients indicating where they should stand or wait.
- Patients and visitors who can medically tolerate a face covering should wear cloth face coverings at all times. If they do not bring one to the office, surgical facemasks should be provided.
- Perform frequent cleanings of patient waiting and care areas. Pay special attention to frequently touched surfaces.
- Categorize patients into risk strata for COVID-19 exposure. Consider seeing patients at lower risk of severe outcomes from COVID-19 on one day, and high risk on another. Alternatively, consider having separate blocks of time for seeing higher risk patients.
- Assure any clinical site has sufficient PPE for all staff.
- Consider separate entrances for well and sick visits.
- As required by Executive Order 2020-72, limit visitation and perform fever and symptom checks for all patients, visitors, and employees.
- Consider discharge as early as safely possible, arranging home health care services as appropriate.
- Ensure patient safety during transitions of care. Promote strategies for timely communication between inpatient and outpatient providers with an emphasis on confirming that a patient's primary care provider or provider team has received results of important diagnostic tests, medication reconciliation lists, and follow-up recommendations.

## **2. Systematically prioritize in-person patient interactions.**

- Encourage prioritizing appointments for your most vulnerable patients, particularly those with chronic diseases who may need laboratory or other diagnostic work done or have had difficulty managing their disease in the past. Evaluate the need for a well-visit if in your clinical judgement postponement of the visit would significantly impact the health, safety, and welfare of the patient.
- Consider stratification of the care or procedures you intend to provide into categories based on need or urgency.
- Consider allowing medical visits for immunizations. Delayed immunizations can put individuals and communities at risk of vaccine-preventable diseases. Consider reaching out to families to schedule immunization visits in future months, so that patients can remain up to date.
- Recognize that procedures or visits that were not time-sensitive several weeks ago may now be, based on clinician judgment. Certain laboratory or radiological tests may be performed under the current executive order, if it is determined by a licensed medical provider that these tests are necessary to preserve the health, safety, and welfare of the patient. This may include pre-operative tests for planned procedures.

**3. Reassure patients of appropriate safety measures:**

- Utilize diagnostic testing for COVID-19 when available as deemed clinically appropriate. Recognize that a negative COVID-19 test at a single point in time does not guarantee that a patient does not have the disease, nor that they have not become infected in the time since their test sample was obtained. This should be considered when making decisions regarding implementation of PPE, and isolation and quarantine protocols in your facility.
- Provide appropriate PPE for staff and patients following CDC and local health department guidance.

**4. Assure appropriate surge capacity and develop emergency plans**

- Develop specific and written plans for how your clinic or system will incrementally start doing procedures while maintaining the safety of patients and staff.
- Assure adequate beds, PPE, staffing, supplies, and medication are on hand to take care of both COVID and non-COVID patients.
- Continue to conserve PPE and maintain an appropriate surge plan should there be an increased demand for care.
- Have plans in place for how you may need to restrict procedures and visits should a surge in COVID cases occur. Follow the epidemiology and trends of the disease in your region. The most up to date information can be found at [www.michigan.gov/coronavirus](http://www.michigan.gov/coronavirus).

More information about best practices for infection prevention and control can be found on the [CDC's website](https://www.cdc.gov). The above guidance is not a substitute for clinician judgement in providing individualized medical care for patients. Furthermore, now is a great time to proactively communicate with your patients about the dangers of delaying important medical care. Any patient with signs or symptoms consistent with possible life-threatening disease should not have diagnostic testing or treatment delayed. Speak with your patients about the safety plans you have in place and how you are prepared to take care of them in a safe environment.

Thank you for all you have done to respond heroically in this epidemic. I look forward to continuing to work with you as we protect the health and safety of all Michiganders.

Sincerely,



Joneigh S. Khaldun, MD, MPH, FACEP  
Chief Medical Executive  
Chief Deputy Director for Health  
Michigan Department of Health and Human Services

# **EXHIBIT 6**



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GRETCHEN WHITMER  
GOVERNOR

GARLIN GILCHRIST II  
LT. GOVERNOR

**EXECUTIVE ORDER**

**No. 2020-21**

**Temporary requirement to suspend activities that  
are not necessary to sustain or protect life**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to “cop[e] with dangers to this state or the people of this state presented by a disaster or emergency,” which the governor may implement through “executive orders, proclamations, and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945, provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To suppress the spread of COVID-19, to prevent the state’s health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible.

This order takes effect on March 24, 2020 at 12:01 am, and continues through April 13, 2020 at 11:59 pm.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any number of people occurring among persons not part of a single household are prohibited.
3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention, including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life or to conduct minimum basic operations.
  - (a) For purposes of this order, workers who are necessary to sustain or protect life are defined as "critical infrastructure workers," as described in sections 8 and 9.
  - (b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm.

5. Businesses and operations that employ critical infrastructure workers may continue in-person operations, subject to the following conditions:
  - (a) Consistent with sections 8 and 9, businesses and operations must determine which of their workers are critical infrastructure workers and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm. Businesses and operations need not designate:

- (1) Workers in health care and public health.
  - (2) Workers who perform necessary government activities, as described in section 6.
  - (3) Workers and volunteers described in section 9(d).
- (b) In-person activities that are not necessary to sustain or protect life must be suspended until normal operations resume.
- (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons. Those practices and measures include, but are not limited to:
- (1) Restricting the number of workers present on premises to no more than is strictly necessary to perform the business's or operation's critical infrastructure functions.
  - (2) Promoting remote work to the fullest extent possible.
  - (3) Keeping workers and patrons who are on premises at least six feet from one another to the maximum extent possible, including for customers who are standing in line.
  - (4) Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
  - (5) Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person who is known or suspected to have COVID-19.
  - (6) Any other social distancing practices and mitigation measures recommended by the Centers for Disease Control.
6. All in-person government activities at whatever level (state, county, or local) that are not necessary to sustain or protect life, or to supporting those businesses and operations that are necessary to sustain or protect life, are suspended.
- (a) For purposes of this order, necessary government activities include activities performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders.
  - (b) Such activities also include, but are not limited to, public transit, trash pick-up and disposal, activities necessary to manage and oversee elections, operations necessary to enable transactions that support the work of a business's or operation's critical infrastructure workers, and the maintenance of safe and sanitary public parks so as to allow for outdoor recreation.



- (c) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b). Workers performing such activities need not be designated.
- (d) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 5(c).

7. Exceptions.

- (a) Individuals may leave their home or place of residence, and travel as necessary:
  - (1) To engage in outdoor activity, including walking, hiking, running, cycling, or any other recreational activity consistent with remaining at least six feet from people from outside the individual's household.
  - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) may leave their home for work without a designation.)
  - (3) To conduct minimum basic operations, as described in section 4(b), after being designated to perform such work by their employers.
  - (4) To perform necessary government activities, as described in section 6.
  - (5) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including procedures that, in accordance with a duly implemented nonessential procedures postponement plan, have not been postponed).
  - (6) To obtain necessary services or supplies for themselves, their family or household members, and their vehicles. *Individuals must secure such services or supplies via delivery to the maximum extent possible.* As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the safety, sanitation, and basic operation of their residences.
  - (7) To care for a family member or a family member's pet in another household.

- (8) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
  - (9) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
  - (10) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
  - (11) To work or volunteer for businesses or operations (including both and religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
- (b) Individuals may also travel:
- (1) To return to a home or place of residence from outside this state.
  - (2) To leave this state for a home or residence elsewhere.
  - (3) To travel between two residences in this state.
  - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available [here](#)). Such workers include some workers in each of the following sectors:
- (a) Health care and public health.
  - (b) Law enforcement, public safety, and first responders.
  - (c) Food and agriculture.
  - (d) Energy.
  - (e) Water and wastewater.
  - (f) Transportation and logistics.
  - (g) Public works.
  - (h) Communications and information technology, including news media.
  - (i) Other community-based government operations and essential functions.

- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.
- (n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

- (a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers as defined in this order. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of critical infrastructure workers.
- (b) Workers at designated suppliers and distribution centers, as described below.
  - (1) A business or operation that employs critical infrastructure workers may designate suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the work of its critical infrastructure workers.
  - (2) Such suppliers, distribution centers, or service providers may designate workers as critical infrastructure workers *only* to the extent those workers are necessary to enable, support, or facilitate the work of the original operation's or business's critical infrastructure workers.
  - (3) Designated suppliers, distribution centers, and service providers may in turn designate additional suppliers, distribution centers, and service providers whose continued operation is necessary to enable, support, or facilitate the work of their critical infrastructure workers.
  - (4) Such additional suppliers, distribution centers, and service providers may designate workers as critical infrastructure workers *only* to the extent that those workers are necessary to enable, support, or facilitate the work of the critical infrastructure workers at the supplier, distribution center, or service provider that has designated them.
  - (5) Businesses, operations, suppliers, distribution centers, and service providers must make all designations in writing to the entities they are designating, whether by electronic message, public website, or other appropriate means. Such designations may be made orally until March 31, 2020 at 11:59 pm.

- (6) Businesses, operations, suppliers, distribution centers, and service providers that abuse their designation authority shall be subject to sanctions to the fullest extent of the law.
  - (c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.
  - (d) Workers and volunteers for businesses or operations (including both and religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.
10. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, a place of religious worship, when used for religious worship, is not subject to penalty under section 14.
  11. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.
  12. This order takes effect on March 24, 2020 at 12:01 am, and continues through April 13, 2020 at 11:59 pm.
  13. The governor will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, she will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health-care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
  14. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: March 23, 2020

Time: 10:39 am



\_\_\_\_\_  
GRETCHEN WHITMER  
GOVERNOR

By the Governor:



\_\_\_\_\_  
SECRETARY OF STATE



FILED WITH SECRETARY OF STATE

ON 3/23/2020 AT 11:51 Am

# **EXHIBIT 7**

U.S. Department of Homeland Security  
Cybersecurity & Infrastructure Security Agency  
Office of the Director  
Washington, DC 20528



**CISA**  
CYBER+INFRASTRUCTURE

March 19, 2020

## MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE

FROM: Christopher C. Krebs  
Director  
Cybersecurity and Infrastructure Security Agency (CISA)

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As the Nation comes together to slow the spread of COVID-19, on March 16<sup>th</sup>, the President issued updated Coronavirus Guidance for America. This guidance states that:

*“If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as health care services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule.”*

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security’s responsibilities as assigned under the Homeland Security Act of 2002 to provide strategic guidance, promote a national unity of effort, and coordinate the overall federal effort to ensure the security and resilience of the Nation’s critical infrastructure. CISA uses trusted partnerships with both the public and private sectors to deliver infrastructure resilience assistance and guidance to a broad range of partners.

In accordance with this mandate, and in collaboration with other federal agencies and the private sector, CISA developed an initial list of “Essential Critical Infrastructure Workers” to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list can also inform critical infrastructure community decision-making to determine the sectors, sub-sectors, segments, or critical functions that should continue normal operations, appropriately modified to account for Centers for Disease Control (CDC) workforce and customer protection guidance.

The attached list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing management functions, among others. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works.

We recognize that State, local, tribal, and territorial governments are ultimately in charge of implementing and executing response activities in communities under their jurisdiction, while the Federal Government is in a supporting role. As State and local communities consider COVID-19-related restrictions, CISA is offering this list to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions.

**Accordingly, this list is advisory in nature. It is not, nor should it be considered to be, a federal directive or standard in and of itself.**

In addition, these identified sectors and workers are not intended to be the authoritative or exhaustive list of critical infrastructure sectors and functions that should continue during the COVID-19 response. Instead, State and local officials should use their own judgment in using their authorities and issuing implementation directives and guidance. Similarly, critical infrastructure industry partners will use their own judgment, informed by this list, to ensure continued operations of critical infrastructure services and functions. All decisions should appropriately balance public safety while ensuring the continued delivery of critical infrastructure services and functions.

CISA will continue to work with you and our partners in the critical infrastructure community to update this list as the Nation's response to COVID-19 evolves. We also encourage you to submit how you might use this list so that we can develop a repository of use cases for broad sharing across the country.

Should you have questions about this list, please contact CISA at [CISA.CAT@cisa.dhs.gov](mailto:CISA.CAT@cisa.dhs.gov).

**Attachment:** "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response"





**CISA**  
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW

# Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 1.0 (March 19, 2020)

## THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This guidance and accompanying list are intended to support State, Local, and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives guidance to State, local, tribal, and territorial jurisdictions and the private sector on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

## CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, State managed, and federally supported
2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.
3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.

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5. All organizations should implement their business continuity and pandemic plans, or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the employees.
6. In the modern economy, reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.
7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.
8. When government and businesses engage in discussions about critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.
9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

## IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of sectors and identified essential critical infrastructure workers are an initial recommended set and are intended to be overly inclusive reflecting the diversity of industries across the United States. CISA will continually solicit and accept feedback on the list (both sectors/sub sectors and identified essential workers) and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. We ask that you share your feedback, both positive and negative on this list so we can provide the most useful guidance to our critical infrastructure partners. **Feedback can be sent to [CISA.CAT@CISA.DHS.GOV](mailto:CISA.CAT@CISA.DHS.GOV).**



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## HEALTHCARE / PUBLIC HEALTH

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers)
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information
- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

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## LAW ENFORCEMENT, PUBLIC SAFETY, FIRST RESPONDERS

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management
- Emergency Medical Technicians
- 911 call center employees
- Fusion Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors – who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

## FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies and other retail that sells food and beverage products
- Restaurant carry-out and quick serve food operations - Carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

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## ENERGY

### Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

### Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

### Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers

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- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

## WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

## TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

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## PUBLIC WORKS

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste

## COMMUNICATIONS AND INFORMATION TECHNOLOGY

### Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

### Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as

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manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

## **OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS**

- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Customs workers who are critical to facilitating trade in support of the national emergency response supply chain
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions, if operating under rules for social distancing
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures

## **CRITICAL MANUFACTURING**

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

## **HAZARDOUS MATERIALS**

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

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## FINANCIAL SERVICES

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

## CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

## DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

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# **EXHIBIT 8**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## EXECUTIVE ORDER

No. 2020-42

**Temporary requirement to suspend activities that  
are not necessary to sustain or protect life**

**Rescission of Executive Order 2020-21**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

SECRETARY OF SENATE  
2020 APR 9 PM2:48

To suppress the spread of COVID-19, to prevent the state's health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe. The order limited gatherings and travel, and required workers who are not necessary to sustain or protect life to stay home.

The measures put in place by Executive Order 2020-21 have been effective, but this virus is both aggressive and persistent: on April 8, 2020, Michigan reported 20,346 confirmed cases of COVID-19 and 959 deaths from it. To win this fight, and to protect the health and safety of our state and each other, we must be just as aggressive and persistent. Though we have all made sacrifices, we must be steadfast. Accordingly, with this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-21, clarify them, and extend their duration to April 30, 2020. This order takes effect on April 9, 2020 at 11:59 pm. When this order takes effect, Executive Order 2020-21 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7 of this order, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any number of people occurring among persons not part of a single household are prohibited.
3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention ("CDC"), including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life or to conduct minimum basic operations.
  - (a) For purposes of this order, workers who are necessary to sustain or protect life are defined as "critical infrastructure workers," as described in sections 8 and 9 of this order.
  - (b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work.

Any in-person work necessary to conduct minimum basic operations must be performed consistently with the social distancing practices and other mitigation measures described in section 10 of this order.

5. Businesses and operations that employ critical infrastructure workers may continue in-person operations, subject to the following conditions:
  - (a) Consistent with sections 8 and 9 of this order, businesses and operations must determine which of their workers are critical infrastructure workers and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work. Businesses and operations need not designate:
    - (1) Workers in health care and public health.
    - (2) Workers who perform necessary government activities, as described in section 6 of this order.
    - (3) Workers and volunteers described in section 9(d) of this order.
  - (b) In-person activities that are not necessary to sustain or protect life must be suspended until normal operations resume.
  - (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons, as described in section 10 of this order. Stores that are open to the public must also adhere to the rules described in section 11 of this order.
6. All in-person government activities at whatever level (state, county, or local) that are not necessary to sustain or protect life, or to support those businesses and operations that are necessary to sustain or protect life, are suspended.
  - (a) For purposes of this order, necessary government activities include activities performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders.
  - (b) Such activities also include, but are not limited to, public transit, trash pick-up and disposal (including recycling and composting), activities necessary to manage and oversee elections, operations necessary to enable transactions that support the work of a business's or operation's critical infrastructure

workers, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity permitted under this order.

- (c) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b) of this order. Workers performing such activities need not be designated.
- (d) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 10 of this order.

7. Exceptions.

- (a) Individuals may leave their home or place of residence, and travel as necessary:
  - (1) To engage in outdoor physical activity, consistent with remaining at least six feet from people from outside the individual's household. Outdoor physical activity includes walking, hiking, running, cycling, kayaking, canoeing, or other similar physical activity, as well as any comparable activity for those with limited mobility.
  - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) of this order may leave their home for work without being designated.)
  - (3) To conduct minimum basic operations, as described in section 4(b) of this order, after being designated to perform such work by their employers.
  - (4) To perform necessary government activities, as described in section 6 of this order.
  - (5) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including procedures that, in accordance with a duly implemented nonessential procedures postponement plan, have not been postponed).
  - (6) To obtain necessary services or supplies for themselves, their family or household members, their pets, and their vehicles.
    - (A) Individuals must secure such services or supplies via delivery to the maximum extent possible. As needed, however, individuals may leave the home or place of residence to

purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the safety, sanitation, and basic operation of their residences. Individuals may also leave the home to drop off a vehicle to the extent permitted under section 9(i) of this order.

- (B) Individuals should limit, to the maximum extent that is safe and feasible, the number of household members who leave the home for any errands.
  - (7) To care for a family member or a family member's pet in another household.
  - (8) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
  - (9) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
  - (10) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
  - (11) To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (12) To attend a funeral, provided that no more than 10 people are in attendance at the funeral.
- (b) Individuals may also travel:
- (1) To return to a home or place of residence from outside this state.
  - (2) To leave this state for a home or residence elsewhere.
  - (3) Between two residences in this state, through April 10, 2020. After that date, travel between two residences is not permitted.
  - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
- (c) All other travel is prohibited, including all travel to vacation rentals.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available

here). This order does *not* adopt any subsequent guidance document released by this same agency.

Consistent with the March 19, 2020 guidance document, critical infrastructure workers include some workers in each of the following sectors:

- (a) Health care and public health.
- (b) Law enforcement, public safety, and first responders.
- (c) Food and agriculture.
- (d) Energy.
- (e) Water and wastewater.
- (f) Transportation and logistics.
- (g) Public works.
- (h) Communications and information technology, including news media.
- (i) Other community-based government operations and essential functions.
- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.
- (n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

- (a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of workers required to perform in-person work as permitted under this order. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of such workers.
- (b) Workers at suppliers, distribution centers, or service providers, as described below.
  - (1) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate another business's or operation's critical infrastructure work may designate their workers as critical infrastructure workers, provided



that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

- (2) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the necessary work of suppliers, distribution centers, or service providers described in subprovision (1) of this subsection may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.
  - (3) Consistent with the scope of work permitted under subprovision (2) of this subsection, any suppliers, distribution centers, or service providers further down the supply chain whose continued operation is necessary to enable, support, or facilitate the necessary work of other suppliers, distribution centers, or service providers may likewise designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.
  - (4) Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.
- (c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.
  - (d) Workers and volunteers for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.
  - (f) Workers at retail stores who sell groceries, medical supplies, and products necessary to maintain the safety, sanitation, and basic operation of residences, including convenience stores, pet supply stores, auto supplies and repair stores, hardware and home maintenance stores, and home appliance retailers.
  - (g) Workers at laundromats, coin laundries, and dry cleaners.

- (h) Workers at hotels and motels, provided that the hotels or motels do not offer additional in-house amenities such as gyms, pools, spas, dining, entertainment facilities, meeting rooms, or like facilities.
  - (i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.
10. Businesses, operations, and government agencies that continue in-person work must adhere to sound social distancing practices and measures, which include but are not limited to:
- (a) Developing a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available [here](#). Such plan must be available at company headquarters or the worksite.
  - (b) Restricting the number of workers present on premises to no more than is strictly necessary to perform the business's, operation's, or government agency's critical infrastructure functions or its minimum basic operations.
  - (c) Promoting remote work to the fullest extent possible.
  - (d) Keeping workers and patrons who are on premises at least six feet from one another to the maximum extent possible.
  - (e) Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
  - (f) Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
  - (g) Any other social distancing practices and mitigation measures recommended by the CDC.
11. Any store that remains open for in-person sales under section 5 or 9(f) of this order must:
- (a) Establish lines to regulate entry in accordance with subsections (c) and (d) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.

- (b) Consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.
  - (c) For stores of less than 50,000 square feet of customer floor space, limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
  - (d) For stores of more than 50,000 square feet:
    - (1) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space. The amount of customer floor space must be calculated to exclude store areas that are closed under subprovision (2) of this subsection.
    - (2) Close areas of the store—by cordoning them off, placing signs in aisles, posting prominent signs, removing goods from shelves, or other appropriate means—that are dedicated to the following classes of goods:
      - (A) Carpet or flooring.
      - (B) Furniture.
      - (C) Garden centers and plant nurseries.
      - (D) Paint.
    - (3) By April 13, 2020, refrain from the advertising or promotion of goods that are not groceries, medical supplies, or items that are necessary to maintain the safety, sanitation, and basic operation of residences.
    - (4) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.
  - (e) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in subsections (c) and (d) of this section as necessary to protect the public health.
12. No one shall advertise or rent a short-term vacation property except as necessary to assist in housing a health care professional or volunteer aiding in the response to the COVID-19 crisis.
13. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior

guidance, a place of religious worship, when used for religious worship, is not subject to penalty under section 17 of this order.

14. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.
15. This order takes effect on April 9, 2020 at 11:59 pm and continues through April 30, 2020 at 11:59 pm. When this order takes effect, Executive Order 2020-21 is rescinded. All references to that order in other executive orders, agency rules, letters of understanding, or other legal authorities shall be taken to refer to this order.
16. I will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, I will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health-care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
17. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 9, 2020

Time: 2:07 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 9**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## **EXECUTIVE ORDER**

**No. 2020-59**

**Temporary requirement to suspend activities that  
are not necessary to sustain or protect life**

**Rescission of Executive Order 2020-42**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945, provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To suppress the spread of COVID-19, to prevent the state's health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, to establish the public health infrastructure necessary to contain the spread of infection, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe, and then extended that order through April 30, 2020, with Executive Order 2020-42. The orders limited gatherings and travel, and required all workers who are not necessary to sustain or protect life to stay home.

The measures put in place by Executive Orders 2020-21 and 2020-42 have been effective: the number of new confirmed cases each day has started to drop. Although the virus remains aggressive and persistent—on April 23, 2020, Michigan reported 35,291 confirmed cases and 2,977 deaths—the strain on our health care system has begun to relent, even as our testing capacity has increased. We can now start the process of gradually resuming in-person work and activities that were temporarily suspended under my prior orders. But in doing so, we must move with care, patience, and vigilance, recognizing the grave harm that this virus continues to inflict on our state and how quickly our progress in suppressing it can be undone. Accordingly, with this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-42, amend their scope, and extend their duration to May 15, 2020, unless modified earlier. With this order, Executive Order 2020-42 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7 of this order, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any number of people occurring among persons not part of a single household are prohibited.
3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention ("CDC"), including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life, to conduct minimum basic operations, or to perform a resumed activity within the meaning of this order.
  - (a) For purposes of this order, workers who are necessary to sustain or protect life are defined as "critical infrastructure workers," as described in sections 8 and 9 of this order.

- (b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work.

Any in-person work necessary to conduct minimum basic operations must be performed consistently with the social distancing practices and other mitigation measures described in section 11 of this order.

- (c) Workers who perform resumed activities are defined in section 10 of this order.

5. Businesses and operations that employ critical infrastructure workers or workers who perform resumed activities may continue in-person operations, subject to the following conditions:

- (a) Consistent with sections 8, 9, and 10 of this order, businesses and operations must determine which of their workers are critical infrastructure workers or workers who perform resumed activities and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work. Businesses and operations need not designate:
  - (1) Workers in health care and public health.
  - (2) Workers who perform necessary government activities, as described in section 6 of this order.
  - (3) Workers and volunteers described in section 9(d) of this order.
- (b) In-person activities that are not necessary to sustain or protect life or to perform a resumed activity must be suspended.
- (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons, as described in section 11 of this order. Stores that are open for in-



person sales must also adhere to the rules described in section 12 of this order.

- (d) Any business or operation that employs workers who perform resumed activities under section 10(a) of this order, but that does not sell necessary supplies, may sell any goods through remote sales via delivery or at the curbside. Such a business or operation, however, must otherwise remain closed to the public.

6. All in-person government activities at whatever level (state, county, or local) that are not necessary to sustain or protect life, or to support those businesses and operations that are maintaining in-person activities under this order, are suspended.

- (a) For purposes of this order, necessary government activities include activities performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders.
- (b) Such activities also include, but are not limited to, public transit, trash pick-up and disposal (including recycling and composting), activities necessary to manage and oversee elections, operations necessary to enable transactions that support the work of a business's or operation's critical infrastructure workers, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity permitted under this order.
- (c) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b) of this order. Workers performing such activities need not be designated.
- (d) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 11 of this order.

7. Exceptions.

- (a) Individuals may leave their home or place of residence, and travel as necessary:
  - (1) To engage in outdoor recreational activity, consistent with remaining at least six feet from people from outside the individual's household. Outdoor recreational activity includes walking, hiking, running, cycling, boating, golfing, or other similar activity, as well as any comparable activity for those with limited mobility.
  - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) of this order may leave their home for work without being designated.)

- (3) To conduct minimum basic operations, as described in section 4(b) of this order, after being designated to perform such work by their employers.
- (4) To perform resumed activities, as described in section 10 of this order, after being designated to perform such work by their employers.
- (5) To perform necessary government activities, as described in section 6 of this order.
- (6) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including in-person procedures or veterinary services that, in accordance with a duly implemented non-essential procedure or veterinary services postponement plan, have not been postponed).
- (7) To obtain necessary services or supplies for themselves, their family or household members, their pets, and their motor vehicles.
  - (A) Individuals must secure such services or supplies via delivery to the maximum extent possible. As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the safety, sanitation, and basic operation of their residences or motor vehicles.
  - (B) Individuals may also leave the home to pick up or return a motor vehicle as permitted under section 9(i) of this order, or to have a motor vehicle or bicycle repaired or maintained.
  - (C) Individuals should limit, to the maximum extent that is safe and feasible, the number of household members who leave the home for any errands.
- (8) To pick up non-necessary supplies at the curbside from a store that must otherwise remain closed to the public.
- (9) To care for a family member or a family member's pet in another household.
- (10) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.

- (11) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
  - (12) To visit a child in out-of-home care, or to facilitate a visit between a parent and a child in out-of-home care, when there is agreement between the child placing agency, the parent, and the caregiver about a safe visitation plan, or when, failing such agreement, the individual secures an exception from the executive director of the Children's Services Agency.
  - (13) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
  - (14) To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (15) To attend a funeral, provided that no more than 10 people are in attendance.
  - (16) To attend a meeting of an addiction recovery mutual aid society, provided that no more than 10 people are in attendance.
- (b) Individuals may also travel:
- (1) To return to a home or place of residence from outside this state.
  - (2) To leave this state for a home or residence elsewhere.
  - (3) Between two residences in this state, including moving to a new residence.
  - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
- (c) All other travel is prohibited, including all travel to vacation rentals.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available [here](#)). This order does *not* adopt any subsequent guidance document released by this same agency.

Consistent with the March 19, 2020 guidance document, critical infrastructure workers include some workers in each of the following sectors:

- (a) Health care and public health.
- (b) Law enforcement, public safety, and first responders.
- (c) Food and agriculture.
- (d) Energy.
- (e) Water and wastewater.
- (f) Transportation and logistics.
- (g) Public works.
- (h) Communications and information technology, including news media.
- (i) Other community-based government operations and essential functions.
- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.
- (n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

- (a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers, workers who conduct minimum basic operations, workers who perform necessary government activities, or workers who perform resumed activities. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of such workers.
- (b) Workers at suppliers, distribution centers, or service providers, as described below.
  - (1) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate another business's or operation's critical infrastructure work may designate their workers as critical infrastructure workers, provided

that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

- (2) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the necessary work of suppliers, distribution centers, or service providers described in subprovision (1) of this subsection may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.
  - (3) Consistent with the scope of work permitted under subprovision (2) of this subsection, any suppliers, distribution centers, or service providers further down the supply chain whose continued operation is necessary to enable, support, or facilitate the necessary work of other suppliers, distribution centers, or service providers may likewise designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.
  - (4) Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.
- (c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.
  - (d) Workers and volunteers for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.
  - (f) Workers at retail stores who sell groceries, medical supplies, and products necessary to maintain the safety, sanitation, and basic operation of residences or motor vehicles, including convenience stores, pet supply stores, auto supplies and repair stores, hardware and home maintenance stores, and home appliance retailers.
  - (g) Workers at laundromats, coin laundries, and dry cleaners.

- (h) Workers at hotels and motels, provided that the hotels or motels do not offer additional in-house amenities such as gyms, pools, spas, dining, entertainment facilities, meeting rooms, or like facilities.
  - (i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.
10. For purposes of this order, workers who perform resumed activities are defined as follows:
- (a) Workers who process or fulfill remote orders for goods for delivery or curbside pick-up.
  - (b) Workers who perform bicycle maintenance or repair.
  - (c) Workers for garden stores, nurseries, and lawn care, pest control, and landscaping operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.
  - (d) Maintenance workers and groundskeepers who are necessary to maintain the safety and sanitation of places of outdoor recreation not otherwise closed under Executive Order 2020-43 or any order that may follow from it, provided that the places and their workers do not provide goods, equipment, supplies, or services to individuals, and subject to the enhanced social-distancing rules described in section 11(h) of this order.
  - (e) Workers for moving or storage operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.
11. Businesses, operations, and government agencies that remain open for in-person work must adhere to sound social distancing practices and measures, which include but are not limited to:
- (a) Developing a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available [here](#). Such plan must be available at company headquarters or the worksite.
  - (b) Restricting the number of workers present on premises to no more than is strictly necessary to perform the in-person work permitted under this order.
  - (c) Promoting remote work to the fullest extent possible.
  - (d) Keeping workers and patrons who are on premises at least six feet from one another to the maximum extent possible.

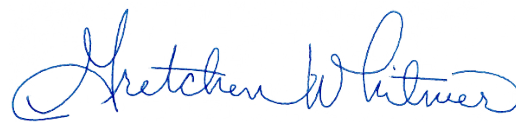
- (e) Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
  - (f) Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
  - (g) Any other social distancing practices and mitigation measures recommended by the CDC.
  - (h) For businesses and operations whose in-person work is permitted under sections 10(c) through 10(e) of this order, the following additional measures must also be taken:
    - (1) Barring gatherings of any size in which people cannot maintain six feet of distance from one another.
    - (2) Limiting in-person interaction with clients and patrons to the maximum extent possible, and barring any such interaction in which people cannot maintain six feet of distance from one another.
    - (3) Providing personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.
    - (4) Adopting 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.
12. Any store that remains open for in-store sales under section 9(f) or section 10(c) of this order:
- (a) Must establish lines to regulate entry in accordance with subsection (b) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.
  - (b) Must adhere to the following restrictions:
    - (1) For stores of less than 50,000 square feet of customer floor space, must limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.

- (2) For stores of more than 50,000 square feet, must:
    - (A) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
    - (B) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.
  - (3) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in this subsection as necessary to protect the public health.
  - (c) May continue to sell goods other than necessary supplies if the sale of such goods is in the ordinary course of business.
  - (d) Must consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.
13. No one shall rent a short-term vacation property except as necessary to assist in housing a health care professional aiding in the response to the COVID-19 pandemic or a volunteer who is aiding the same.
14. Michigan state parks remain open for day use, subject to any reductions in services and specific closures that, in the judgment of the director of the Department of Natural Resources, are necessary to minimize large gatherings and to prevent the spread of COVID-19.
15. Effective on April 26, 2020 at 11:59 pm:
- (a) Any individual able to medically tolerate a face covering must wear a covering over his or her nose and mouth—such as a homemade mask, scarf, bandana, or handkerchief—when in any enclosed public space.
  - (b) All businesses and operations whose workers perform in-person work must, at a minimum, provide non-medical grade face coverings to their workers.
  - (c) Supplies of N95 masks and surgical masks should generally be reserved, for now, for health care professionals, first responders (e.g., police officers, fire fighters, paramedics), and other critical workers who interact with the public.
  - (d) The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq., and any other protections against discrimination in Michigan law, apply in full force to persons who wear a mask under this order.



16. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, neither a place of religious worship nor its owner is subject to penalty under section 20 of this order for allowing religious worship at such place. No individual is subject to penalty under section 20 of this order for violating section 15(a) of this order.
17. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.
18. This order takes effect immediately, unless otherwise specified in this order, and continues through May 15, 2020 at 11:59 pm. Executive Order 2020-42 is rescinded. All references to that order in other executive orders, agency rules, letters of understanding, or other legal authorities shall be taken to refer to this order.
19. I will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, I will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
20. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.



Date: April 24, 2020

Time: 11:00 am

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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 10**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## **EXECUTIVE ORDER**

**No. 2020-70**

**Temporary requirement to suspend activities that  
are not necessary to sustain or protect life**

**Rescission of Executive Order 2020-59**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the weeks that followed, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations,

and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To suppress the spread of COVID-19, to prevent the state’s health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, to establish the public health infrastructure necessary to contain the spread of infection, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe. In Executive Orders 2020-42 and 2020-59, I extended that initial order, modifying its scope as needed and appropriate to match the ever-changing circumstances presented by this pandemic.

The measures put in place by Executive Orders 2020-21, 2020-42, and 2020-59 have been effective: the number of new confirmed cases each day has started to drop. Although the virus remains aggressive and persistent—on April 30, 2020, Michigan reported 41,379 confirmed cases and 3,789 deaths—the strain on our health care system has begun to relent, even as our testing capacity has increased. We can now start the process of gradually resuming in-person work and activities that were temporarily suspended under my prior orders. In so doing, however, we must move with care, patience, and vigilance, recognizing the grave harm that this virus continues to inflict on our state and how quickly our progress in suppressing it can be undone.

Accordingly, with this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-59 and amend their scope. With Executive Order 2020-59, I ordered that certain previously suspended work and activities could resume, based on an evaluation of public health metrics and an assessment of the statewide risks and benefits. That evaluation remains ongoing, and based upon it, I find that we will soon be positioned to allow another segment of previously suspended work to resume. This work is permitted to resume on May 7, 2020, and includes construction, real-estate activities, and work that is traditionally and primarily performed outdoors. This work, like the resumed activities allowed under Executive Order 2020-59, will be subject to stringent precautionary measures. This partial and incremental reopening will allow my public health team to evaluate the effects of allowing these activities to resume, to assess the capacity of the health care system to respond adequately to any increases in infections, and to prepare for any increase in patients presenting to a health-care facility or provider. With this order, Executive Order 2020-59 is rescinded. This order will remain in effect until May 15, 2020.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7 of this order, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any

number of people occurring among persons not part of a single household are prohibited.

3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention (“CDC”), including remaining at least six feet from people from outside the individual’s household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life, to conduct minimum basic operations, or to perform a resumed activity within the meaning of this order.
  - (a) For purposes of this order, workers who are necessary to sustain or protect life are defined as “critical infrastructure workers,” as described in sections 8 and 9 of this order.
  - (b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work.

Any in-person work necessary to conduct minimum basic operations must be performed consistently with the social distancing practices and other mitigation measures described in section 11 of this order.

- (c) Workers who perform resumed activities are defined in section 10 of this order.
5. Businesses and operations that employ critical infrastructure workers or workers who perform resumed activities may continue in-person operations, subject to the following conditions:
  - (a) Consistent with sections 8, 9, and 10 of this order, businesses and operations must determine which of their workers are critical infrastructure workers or workers who perform resumed activities and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave

the home or place of residence for work. Businesses and operations need not designate:

- (1) Workers in health care and public health.
  - (2) Workers who perform necessary government activities, as described in section 6 of this order.
  - (3) Workers and volunteers described in section 9(d) of this order.
- (b) In-person activities that are not necessary to sustain or protect life or to perform a resumed activity must be suspended.
  - (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons, as described in section 11 of this order. Stores that are open for in-person sales must also adhere to the rules described in section 12 of this order.
  - (d) Any business or operation that employs workers who perform resumed activities under section 10(a) of this order, but that does not sell necessary supplies, may sell any goods through remote sales via delivery or at the curbside. Such a business or operation, however, must otherwise remain closed to the public.
6. All in-person government activities at whatever level (state, county, or local) are suspended unless:
- (a) They are performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders, as defined in sections 8 and 9 of this order.
  - (b) They are performed by workers who are permitted to resume work under section 10 of this order.
  - (c) They are necessary to support the activities of workers described in sections 8, 9, and 10 of this order, or to enable transactions that support businesses or operations that employ such workers.
  - (d) They involve public transit, trash pick-up and disposal (including recycling and composting), the management and oversight of elections, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity permitted under this order.
  - (e) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b) of this order. Workers performing such activities need not be designated.

- (f) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 11 of this order.

7. Exceptions.

- (a) Individuals may leave their home or place of residence, and travel as necessary:
  - (1) To engage in outdoor recreational activity, consistent with remaining at least six feet from people from outside the individual's household. Outdoor recreational activity includes walking, hiking, running, cycling, boating, golfing, or other similar activity, as well as any comparable activity for those with limited mobility.
  - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) of this order may leave their home for work without being designated.)
  - (3) To conduct minimum basic operations, as described in section 4(b) of this order, after being designated to perform such work by their employers.
  - (4) To perform resumed activities, as described in section 10 of this order, after being designated to perform such work by their employers.
  - (5) To perform necessary government activities, as described in section 6 of this order.
  - (6) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including in-person procedures or veterinary services that, in accordance with a duly implemented non-essential procedure or veterinary services postponement plan, have not been postponed).
  - (7) To obtain necessary services or supplies for themselves, their family or household members, their pets, and their motor vehicles.
    - (A) Individuals must secure such services or supplies via delivery to the maximum extent possible. As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the

safety, sanitation, and basic operation of their residences or motor vehicles.

- (B) Individuals may also leave the home to pick up or return a motor vehicle as permitted under section 9(i) of this order, or to have a motor vehicle or bicycle repaired or maintained.
  - (C) Individuals should limit, to the maximum extent that is safe and feasible, the number of household members who leave the home for any errands.
- (8) To pick up non-necessary supplies at the curbside from a store that must otherwise remain closed to the public.
  - (9) To care for a family member or a family member's pet in another household.
  - (10) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
  - (11) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
  - (12) To visit a child in out-of-home care, or to facilitate a visit between a parent and a child in out-of-home care, when there is agreement between the child placing agency, the parent, and the caregiver about a safe visitation plan, or when, failing such agreement, the individual secures an exception from the executive director of the Children's Services Agency.
  - (13) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
  - (14) To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (15) To attend a funeral, provided that no more than 10 people are in attendance.
  - (16) To attend a meeting of an addiction recovery mutual aid society, provided that no more than 10 people are in attendance.
  - (17) To view a real-estate listing by appointment, as permitted under section 10(h) of this order.



- (b) Individuals may also travel:
    - (1) To return to a home or place of residence from outside this state.
    - (2) To leave this state for a home or residence elsewhere.
    - (3) Between two residences in this state, including moving to a new residence.
    - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
  - (c) All other travel is prohibited, including all travel to vacation rentals.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available [here](#)). This order does *not* adopt any subsequent guidance document released by this same agency.

Consistent with the March 19, 2020 guidance document, critical infrastructure workers include some workers in each of the following sectors:

- (a) Health care and public health.
- (b) Law enforcement, public safety, and first responders.
- (c) Food and agriculture.
- (d) Energy.
- (e) Water and wastewater.
- (f) Transportation and logistics.
- (g) Public works.
- (h) Communications and information technology, including news media.
- (i) Other community-based government operations and essential functions.
- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.

(n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

(a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers, workers who conduct minimum basic operations, workers who perform necessary government activities, or workers who perform resumed activities. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of such workers.

(b) Workers at suppliers, distribution centers, or service providers, as described below.

(1) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate another business's or operation's critical infrastructure work may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(2) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the necessary work of suppliers, distribution centers, or service providers described in subprovision (1) of this subsection may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(3) Consistent with the scope of work permitted under subprovision (2) of this subsection, any suppliers, distribution centers, or service providers further down the supply chain whose continued operation is necessary to enable, support, or facilitate the necessary work of other suppliers, distribution centers, or service providers may likewise designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(4) Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.

(c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.

(d) Workers and volunteers for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy

individuals, individuals who need assistance as a result of this emergency, and people with disabilities.

- (e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.
  - (f) Workers at retail stores who sell groceries, medical supplies, and products necessary to maintain the safety, sanitation, and basic operation of residences or motor vehicles, including convenience stores, pet supply stores, auto supplies and repair stores, hardware and home maintenance stores, and home appliance retailers.
  - (g) Workers at laundromats, coin laundries, and dry cleaners.
  - (h) Workers at hotels and motels, provided that the hotels or motels do not offer additional in-house amenities such as gyms, pools, spas, dining, entertainment facilities, meeting rooms, or like facilities.
  - (i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.
10. For purposes of this order, workers who perform resumed activities are defined as follows:
- (a) Workers who process or fulfill remote orders for goods for delivery or curbside pick-up.
  - (b) Workers who perform bicycle maintenance or repair.
  - (c) Workers for garden stores, nurseries, and lawn care, pest control, and landscaping operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.
  - (d) Maintenance workers and groundskeepers who are necessary to maintain the safety and sanitation of places of outdoor recreation not otherwise closed under Executive Order 2020-69 or any order that may follow from it, provided that the places and their workers do not provide goods, equipment, supplies, or services to individuals, and subject to the enhanced social-distancing rules described in section 11(h) of this order.
  - (e) Workers for moving or storage operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.
  - (f) Effective at 12:01 am on May 7, 2020, and subject to the enhanced social-distancing rules described in section 11(h) of this order, workers who perform

work that is traditionally and primarily performed outdoors, including but not limited to forestry workers, outdoor power equipment technicians, parking enforcement workers, and similar workers.

- (g) Effective at 12:01 am on May 7, 2020, workers in the construction industry, including workers in the building trades (plumbers, electricians, HVAC technicians, and similar workers), subject to the enhanced social-distancing rules described in section 11(i) of this order.
  - (h) Effective at 12:01 am on May 7, 2020, workers in the real-estate industry, including agents, appraisers, brokers, inspectors, surveyors, and registers of deeds, provided that:
    - (1) Any showings, inspections, appraisals, photography or videography, or final walk-throughs must be performed by appointment and must be limited to no more than four people on the premises at any one time. No in-person open houses are permitted.
    - (2) Private showings may only be arranged for owner-occupied homes, vacant homes, vacant land, commercial property, and industrial property.
  - (i) Effective at 12:01 am on May 7, 2020, workers necessary to the manufacture of goods that support workplace modification to forestall the spread of COVID-19 infections.
11. Businesses, operations, and government agencies that remain open for in-person work must, at a minimum:
- (a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available [here](#). Such plan must be available at company headquarters or the worksite.
  - (b) Restrict the number of workers present on premises to no more than is strictly necessary to perform the in-person work permitted under this order.
  - (c) Promote remote work to the fullest extent possible.
  - (d) Keep workers and patrons who are on premises at least six feet from one another to the maximum extent possible.
  - (e) Increase standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.

- (f) Adopt policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
- (g) Adopt any other social distancing practices and mitigation measures recommended by the CDC.
- (h) Businesses or operations whose in-person work is permitted under sections 10(c) through 10(f) of this order must also:
  - (1) Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.
  - (2) Limit in-person interaction with clients and patrons to the maximum extent possible, and barring any such interaction in which people cannot maintain six feet of distance from one another.
  - (3) Provide personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.
  - (4) 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.
- (i) Businesses or operations in the construction industry must also:
  - (1) Adhere to all of the provisions in subsection (h) of this section.
  - (2) Designate a site-specific supervisor to monitor and oversee the implementation of COVID-19 control strategies developed under subsection (a) of this section. The supervisor must remain on-site at all times during activities. An on-site worker may be designated to perform the supervisory role.
  - (3) Conduct a daily entry screening protocol for workers and visitors entering the worksite, including a questionnaire covering symptoms and exposure to people with possible COVID-19, together with, if possible, a temperature screening.
  - (4) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in subprovision (3) of this subsection, or in the alternative issue stickers or other indicators to workers to show that they received a screening before entering the worksite that day.
  - (5) Require face shields or masks to be worn when workers cannot consistently maintain six feet of separation from other workers.

- (6) Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled masks.
  - (7) Encourage or require the use of work gloves, as appropriate, to prevent skin contact with contaminated surfaces.
  - (8) Identify choke points and high-risk areas where workers must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
  - (9) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by workers.
  - (10) Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among workers at the worksite.
  - (11) Restrict unnecessary movement between project sites.
  - (12) Create protocols for minimizing personal contact upon delivery of materials to the worksite.
12. Any store that remains open for in-store sales under section 9(f) or section 10(c) of this order:
- (a) Must establish lines to regulate entry in accordance with subsection (b) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.
  - (b) Must adhere to the following restrictions:
    - (1) For stores of less than 50,000 square feet of customer floor space, must limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
    - (2) For stores of more than 50,000 square feet, must:
      - (A) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
      - (B) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.

- (3) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in this subsection as necessary to protect the public health.
- (c) May continue to sell goods other than necessary supplies if the sale of such goods is in the ordinary course of business.
  - (d) Must consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.
- 13. No one shall rent a short-term vacation property except as necessary to assist in housing a health care professional aiding in the response to the COVID-19 pandemic or a volunteer who is aiding the same.
- 14. Michigan state parks remain open for day use, subject to any reductions in services and specific closures that, in the judgment of the director of the Department of Natural Resources, are necessary to minimize large gatherings and to prevent the spread of COVID-19.
- 15. Rules governing face coverings.
  - (a) Any individual able to medically tolerate a face covering must wear a covering over his or her nose and mouth—such as a homemade mask, scarf, bandana, or handkerchief—when in any enclosed public space.
  - (b) All businesses and operations whose workers perform in-person work must, at a minimum, provide non-medical grade face coverings to their workers.
  - (c) Supplies of N95 masks and surgical masks should generally be reserved, for now, for health care professionals, first responders (e.g., police officers, fire fighters, paramedics), and other critical workers who interact with the public.
  - (d) The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq., and any other protections against discrimination in Michigan law, apply in full force to individuals who wear a face covering under this order.
- 16. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, neither a place of religious worship nor its owner is subject to penalty under section 20 of this order for allowing religious worship at such place. No individual is subject to penalty under section 20 of this order for violating section 15(a) of this order.

17. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.
18. This order takes effect immediately, unless otherwise specified in this order, and continues through May 15, 2020 at 11:59 pm. Executive Order 2020-59 is rescinded. All references to that order in other executive orders, agency rules, letters of understanding, or other legal authorities shall be taken to refer to this order.
19. I will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, I will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
20. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: May 1, 2020

Time: 2:49 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE



# **EXHIBIT 11**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## EXECUTIVE ORDER

No. 2020-77

**Temporary requirement to suspend certain activities that  
are not necessary to sustain or protect life**

**Rescission of Executive Order 2020-70**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations,

and directives having the force and effect of law.” MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, “the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1).

To suppress the spread of COVID-19, to prevent the state’s health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, to establish the public health infrastructure necessary to contain the spread of infection, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe. In Executive Orders 2020-42, 2020-59, and 2020-70, I extended that initial order, modifying its scope as needed and appropriate to match the ever-changing circumstances presented by this pandemic.

The measures put in place by Executive Orders 2020-21, 2020-42, 2020-59, and 2020-70 have been effective: the number of new confirmed cases each day has started to drop. Although the virus remains aggressive and persistent—on May 6, 2020, Michigan reported 45,054 confirmed cases and 4,250 deaths—the strain on our health care system has begun to relent, even as our testing capacity has increased. We can now start the process of gradually resuming in-person work and activities that were temporarily suspended under my prior orders. In so doing, however, we must move with care, patience, and vigilance, recognizing the grave harm that this virus continues to inflict on our state and how quickly our progress in suppressing it can be undone.

Accordingly, with this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-70 and amend their scope. With Executive Order 2020-70, I ordered that certain previously suspended work and activities could resume, based on an evaluation of public health metrics and an assessment of the statewide risks and benefits. That evaluation remains ongoing, and based upon it, I find that we will soon be positioned to allow another segment of previously suspended work to resume: manufacturing work. This work, like the resumed activities allowed under Executive Order 2020-70, will be subject to stringent precautionary measures. This partial and incremental reopening will allow my public health team to evaluate the effects of allowing these activities to resume, to assess the capacity of the health care system to respond adequately to any increases in infections, and to prepare for any increase in patients presenting to a health-care facility or provider. With this order, Executive Order 2020-70 is rescinded. This order will remain in effect until May 28, 2020.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7 of this order, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any

number of people occurring among persons not part of a single household are prohibited.

3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention (“CDC”), including remaining at least six feet from people from outside the individual’s household to the extent feasible under the circumstances.
4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life, to conduct minimum basic operations, or to perform a resumed activity within the meaning of this order.
  - (a) For purposes of this order, workers who are necessary to sustain or protect life are defined as “critical infrastructure workers,” as described in sections 8 and 9 of this order.
  - (b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work.

Any in-person work necessary to conduct minimum basic operations must be performed consistently with the social distancing practices and other mitigation measures described in section 11 of this order.

- (c) Workers who perform resumed activities are defined in section 10 of this order.
5. Businesses and operations that employ critical infrastructure workers or workers who perform resumed activities may continue in-person operations, subject to the following conditions:
  - (a) Consistent with sections 8, 9, and 10 of this order, businesses and operations must determine which of their workers are critical infrastructure workers or workers who perform resumed activities and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave

the home or place of residence for work. Businesses and operations need not designate:

- (1) Workers in health care and public health.
  - (2) Workers who perform necessary government activities, as described in section 6 of this order.
  - (3) Workers and volunteers described in section 9(d) of this order.
- (b) In-person activities that are not necessary to sustain or protect life or to perform a resumed activity must be suspended.
  - (c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons, as described in section 11 of this order. Stores that are open for in-person sales must also adhere to the rules described in section 12 of this order.
  - (d) Any business or operation that employs workers who perform resumed activities under section 10(a) of this order, but that does not sell necessary supplies, may sell any goods through remote sales via delivery or at the curbside. Such a business or operation, however, must otherwise remain closed to the public.
6. All in-person government activities at whatever level (state, county, or local) are suspended unless:
- (a) They are performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders, as defined in sections 8 and 9 of this order.
  - (b) They are performed by workers who are permitted to resume work under section 10 of this order.
  - (c) They are necessary to support the activities of workers described in sections 8, 9, and 10 of this order, or to enable transactions that support businesses or operations that employ such workers.
  - (d) They involve public transit, trash pick-up and disposal (including recycling and composting), the management and oversight of elections, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity permitted under this order.
  - (e) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b) of this order. Workers performing such activities need not be designated.

- (f) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 11 of this order.

7. Exceptions.

- (a) Individuals may leave their home or place of residence, and travel as necessary:
  - (1) To engage in outdoor recreational activity, consistent with remaining at least six feet from people from outside the individual's household. Outdoor recreational activity includes walking, hiking, running, cycling, boating, golfing, or other similar activity, as well as any comparable activity for those with limited mobility.
  - (2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) of this order may leave their home for work without being designated.)
  - (3) To conduct minimum basic operations, as described in section 4(b) of this order, after being designated to perform such work by their employers.
  - (4) To perform resumed activities, as described in section 10 of this order, after being designated to perform such work by their employers.
  - (5) To perform necessary government activities, as described in section 6 of this order.
  - (6) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including in-person procedures or veterinary services that, in accordance with a duly implemented non-essential procedure or veterinary services postponement plan, have not been postponed).
  - (7) To obtain necessary services or supplies for themselves, their family or household members, their pets, and their motor vehicles.
    - (A) Individuals must secure such services or supplies via delivery to the maximum extent possible. As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the

safety, sanitation, and basic operation of their residences or motor vehicles.

- (B) Individuals may also leave the home to pick up or return a motor vehicle as permitted under section 9(i) of this order, or to have a motor vehicle or bicycle repaired or maintained.
  - (C) Individuals should limit, to the maximum extent that is safe and feasible, the number of household members who leave the home for any errands.
- (8) To pick up non-necessary supplies at the curbside from a store that must otherwise remain closed to the public.
  - (9) To care for a family member or a family member's pet in another household.
  - (10) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
  - (11) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
  - (12) To visit a child in out-of-home care, or to facilitate a visit between a parent and a child in out-of-home care, when there is agreement between the child placing agency, the parent, and the caregiver about a safe visitation plan, or when, failing such agreement, the individual secures an exception from the executive director of the Children's Services Agency.
  - (13) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
  - (14) To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (15) To attend a funeral, provided that no more than 10 people are in attendance.
  - (16) To attend a meeting of an addiction recovery mutual aid society, provided that no more than 10 people are in attendance.
  - (17) To view a real-estate listing by appointment, as permitted under section 10(g) of this order.

- (18) To participate in training, credentialing, or licensing activities permitted under section 10(i) of this order.
  - (b) Individuals may also travel:
    - (1) To return to a home or place of residence from outside this state.
    - (2) To leave this state for a home or residence elsewhere.
    - (3) Between two residences in this state, including moving to a new residence.
    - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
  - (c) All other travel is prohibited, including all travel to vacation rentals.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available [here](#)). This order does *not* adopt any subsequent guidance document released by this same agency.

Consistent with the March 19, 2020 guidance document, critical infrastructure workers include some workers in each of the following sectors:

- (a) Health care and public health.
- (b) Law enforcement, public safety, and first responders.
- (c) Food and agriculture.
- (d) Energy.
- (e) Water and wastewater.
- (f) Transportation and logistics.
- (g) Public works.
- (h) Communications and information technology, including news media.
- (i) Other community-based government operations and essential functions.
- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.



(m) Chemical supply chains and safety.

(n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

(a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers, workers who conduct minimum basic operations, workers who perform necessary government activities, or workers who perform resumed activities. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of such workers.

(b) Workers at suppliers, distribution centers, or service providers, as described below.

(1) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate another business's or operation's critical infrastructure work may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(2) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the necessary work of suppliers, distribution centers, or service providers described in subprovision (1) of this subsection may designate their workers as critical infrastructure workers provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(3) Consistent with the scope of work permitted under subprovision (2) of this subsection, any suppliers, distribution centers, or service providers further down the supply chain whose continued operation is necessary to enable, support, or facilitate the necessary work of other suppliers, distribution centers, or service providers may likewise designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(4) Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.

(c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.

- (d) Workers and volunteers for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
  - (e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.
  - (f) Workers at retail stores who sell groceries, medical supplies, and products necessary to maintain the safety, sanitation, and basic operation of residences or motor vehicles, including convenience stores, pet supply stores, auto supplies and repair stores, hardware and home maintenance stores, and home appliance retailers.
  - (g) Workers at laundromats, coin laundries, and dry cleaners.
  - (h) Workers at hotels and motels, provided that the hotels or motels do not offer additional in-house amenities such as gyms, pools, spas, dining, entertainment facilities, meeting rooms, or like facilities.
  - (i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.
10. For purposes of this order, workers who perform resumed activities are defined as follows:
- (a) Workers who process or fulfill remote orders for goods for delivery or curbside pick-up.
  - (b) Workers who perform bicycle maintenance or repair.
  - (c) Workers for garden stores, nurseries, and lawn care, pest control, and landscaping operations, subject to the enhanced social-distancing rules described in section 11(i) of this order.
  - (d) Workers for moving or storage operations, subject to the enhanced social-distancing rules described in section 11(i) of this order.
  - (e) Subject to the enhanced social-distancing rules described in section 11(i) of this order, workers who perform work that is traditionally and primarily performed outdoors, including but not limited to forestry workers, outdoor power equipment technicians, parking enforcement workers, and outdoor workers at places of outdoor recreation not otherwise closed under Executive Order 2020-69 or any order that may follow from it.

- (f) Workers in the construction industry, including workers in the building trades (plumbers, electricians, HVAC technicians, and similar workers), subject to the workplace safeguards described in section 11(j) of this order.
- (g) Workers in the real-estate industry, including agents, appraisers, brokers, inspectors, surveyors, and registers of deeds, provided that:
  - (1) Any showings, inspections, appraisals, photography or videography, or final walk-throughs must be performed by appointment and must be limited to no more than four people on the premises at any one time. No in-person open houses are permitted.
  - (2) Private showings may only be arranged for owner-occupied homes, vacant homes, vacant land, commercial property, and industrial property.
- (h) Workers necessary to the manufacture of goods that support workplace modification to forestall the spread of COVID-19 infections.
- (i) Workers necessary to train, credential, and license first responders (e.g., police officers, fire fighters, paramedics) and health-care workers, including certified nursing assistants, provided that as much instruction as possible is provided remotely.
- (j) Workers necessary to perform start-up activities at manufacturing facilities, including activities necessary to prepare the facilities to follow the workplace safeguards described in section 11(k) of this order.
- (k) Effective at 12:01 am on May 11, 2020, workers necessary to perform manufacturing activities, subject to the workplace safeguards described in section 11(k) of this order. Manufacturing work may not commence under this subsection until the facility at which the work will be performed has been prepared to follow the workplace safeguards described in section 11(k) of this order.
- (l) Consistent with section 9(b) of this order, workers at suppliers, distribution centers, or service providers whose in-person presence is necessary to enable, support, or facilitate another business's or operation's resumed activities, including workers at suppliers, distribution centers, or service providers along the supply chain whose in-person presence is necessary enable, support, or facilitate the necessary work of another supplier, distribution center, or service provider in enabling, supporting, or facilitating another business's or operation's resumed activities. Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.

11. Businesses, operations, and government agencies that remain open for in-person work must, at a minimum:
  - (a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available [here](#). Such plan must be available at company headquarters or the worksite.
  - (b) Restrict the number of workers present on premises to no more than is strictly necessary to perform the in-person work permitted under this order.
  - (c) Promote remote work to the fullest extent possible.
  - (d) Keep workers and patrons who are on premises at least six feet from one another to the maximum extent possible.
  - (e) Require masks to be worn when workers cannot consistently maintain six feet of separation from other individuals in the workplace, and consider face shields when workers cannot consistently maintain three feet of separation from other individuals in the workplace.
  - (f) Increase standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
  - (g) Adopt policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
  - (h) Adopt any other social distancing practices and mitigation measures recommended by the CDC.
  - (i) Businesses or operations whose in-person work is permitted under sections 10(c) through 10(e) of this order must also:
    - (1) Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.
    - (2) Limit in-person interaction with clients and patrons to the maximum extent possible, and bar any such interaction in which people cannot maintain six feet of distance from one another.
    - (3) Provide personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.
    - (4) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough

cleaning and disinfection of tools, equipment, and frequently touched surfaces.

- (j) Businesses or operations in the construction industry must also:
- (1) Adhere to all of the provisions in subsection (i) of this section.
  - (2) Designate a site-specific supervisor to monitor and oversee the implementation of COVID-19 control strategies developed under subsection (a) of this section. The supervisor must remain on-site at all times during activities. An on-site worker may be designated to perform the supervisory role.
  - (3) Conduct a daily entry screening protocol for workers, contractors, suppliers, and any other individuals entering a worksite, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
  - (4) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in subprovision (3) of this subsection, or in the alternative issue stickers or other indicators to workers to show that they received a screening before entering the worksite that day.
  - (5) Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled masks.
  - (6) Encourage or require the use of work gloves, as appropriate, to prevent skin contact with contaminated surfaces.
  - (7) Identify choke points and high-risk areas where workers must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
  - (8) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by workers.
  - (9) Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among workers at the worksite.
  - (10) Restrict unnecessary movement between project sites.
  - (11) Create protocols for minimizing personal contact upon delivery of materials to the worksite.

- (k) Manufacturing facilities must also:
- (1) Conduct a daily entry screening protocol for workers, contractors, suppliers, and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening as soon as no-touch thermometers can be obtained.
  - (2) Create dedicated entry point(s) at every facility for daily screening as provided in subprovision (1) of this subsection, and ensure physical barriers are in place to prevent anyone from bypassing the screening.
  - (3) Suspend all non-essential in-person visits, including tours.
  - (4) Train workers on, at a minimum:
    - (A) Routes by which the virus causing COVID-19 is transmitted from person to person.
    - (B) Distance that the virus can travel in the air, as well as the time it remains viable in the air and on environmental surfaces.
    - (C) Symptoms of COVID-19.
    - (D) Steps the worker must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
    - (E) Measures that the facility is taking to prevent worker exposure to the virus, as described in the COVID-19 preparedness and response plan required under section 11(a) of this order.
    - (F) Rules that the worker must follow in order to prevent exposure to and spread of the virus.
    - (G) The use of personal protective equipment, including the proper steps for putting it on and taking it off.
  - (5) Reduce congestion in common spaces wherever practicable by, for example, closing salad bars and buffets within cafeterias and kitchens, requiring individuals to sit at least six feet from one another, placing markings on the floor to allow social distancing while standing in line, offering boxed food via delivery or pick-up points, and reducing cash payments.
  - (6) Implement rotational shift schedules where possible (e.g., increasing the number of shifts, alternating days or weeks) to reduce the number of workers in the facility at the same time.

- (7) Stagger start times and meal times.
  - (8) Install temporary physical barriers, where practicable, between work stations and cafeteria tables.
  - (9) Create protocols for minimizing personal contact upon delivery of materials to the facility.
  - (10) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible.
  - (11) Frequently and thoroughly clean and disinfect high-touch surfaces, paying special attention to parts, products, and shared equipment (e.g., tools, machinery, vehicles).
  - (12) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by workers, and discontinue use of hand dryers.
  - (13) Notify plant leaders and potentially exposed individuals upon identification of a positive case of COVID-19 in the facility, as well as maintain a central log for symptomatic workers or workers who received a positive test for COVID-19.
  - (14) Send potentially exposed individuals home upon identification of a positive case of COVID-19 in the facility.
  - (15) Encourage workers to self-report to plant leaders as soon as possible after developing symptoms of COVID-19.
  - (16) Shut areas of the manufacturing facility for cleaning and disinfection, as necessary, if a worker goes home because he or she is displaying symptoms of COVID-19.
12. Any store that remains open for in-store sales under section 9(f) or section 10(c) of this order:
- (a) Must establish lines to regulate entry in accordance with subsection (b) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.
  - (b) Must adhere to the following restrictions:
    - (1) For stores of less than 50,000 square feet of customer floor space, must limit the number of people in the store (including employees) to 25% of

the total occupancy limits established by the State Fire Marshal or a local fire marshal.

- (2) For stores of more than 50,000 square feet, must:
      - (A) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
      - (B) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.
    - (3) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in this subsection as necessary to protect the public health.
  - (c) May continue to sell goods other than necessary supplies if the sale of such goods is in the ordinary course of business.
  - (d) Must consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.
13. No one shall rent a short-term vacation property except as necessary to assist in housing a health care professional aiding in the response to the COVID-19 pandemic or a volunteer who is aiding the same.
  14. Michigan state parks remain open for day use, subject to any reductions in services and specific closures that, in the judgment of the director of the Department of Natural Resources, are necessary to minimize large gatherings and to prevent the spread of COVID-19.
  15. Rules governing face coverings.
    - (a) Except as provided in subsection (b) of this section, any individual able to medically tolerate a face covering must wear a covering over his or her nose and mouth—such as a homemade mask, scarf, bandana, or handkerchief—when in any enclosed public space.
    - (b) An individual may be required to temporarily remove a face covering upon entering an enclosed public space for identification purposes.
    - (c) All businesses and operations whose workers perform in-person work must, at a minimum, provide non-medical grade face coverings to their workers.
    - (d) Supplies of N95 masks and surgical masks should generally be reserved, for now, for health care professionals, first responders (e.g., police officers, fire



fighters, paramedics), and other critical workers who interact with the public.

- (e) The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq., and any other protections against discrimination in Michigan law, apply in full force to individuals who wear a face covering under this order.
- 16. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, neither a place of religious worship nor its owner is subject to penalty under section 20 of this order for allowing religious worship at such place. No individual is subject to penalty under section 20 of this order for engaging in or traveling to engage in religious worship at a place of religious worship, or for violating section 15(a) of this order.
- 17. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority. Similarly, nothing in this order shall be taken to abridge protections guaranteed by the state or federal constitution under these emergency circumstances.
- 18. This order takes effect immediately, unless otherwise specified in this order, and continues through May 28, 2020 at 11:59 pm. Executive Order 2020-70 is rescinded. All references to that order in other executive orders, agency rules, letters of understanding, or other legal authorities shall be taken to refer to this order.
- 19. I will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, I will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
- 20. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

A handwritten signature in blue ink that reads "Gretchen Whitmer". The signature is fluid and cursive, with the first name "Gretchen" written in a larger, more prominent script than the last name "Whitmer".

Date: May 7, 2020

Time: 3:00 pm

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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 12**

DEPARTMENT OF

# ATTORNEY GENERAL



AG

## Tips for Evaluating Complaints

On page 5 of EO 2020-21, federal guidance is incorporated by reference into the EO to help define "critical infrastructure workers." This federal guidance is from the U.S. Cybersecurity and Infrastructure Security Agency and provides important details and examples of what types of businesses are permitted to operate under the EO. [A link to that document is below and it should be reviewed prior to making a determination about the existence of a violation.](#)

- [Guidance on the Essential Critical Infrastructure Workforce](#)



**Michigan Department of Attorney  
General Written Public Summary of  
the Department's Freedom of  
Information Act Procedures and  
Guidelines**

**Michigan Department of Attorney  
General Freedom of Information Act  
Procedures and Guidelines  
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# GUIDANCE ON THE ESSENTIAL CRITICAL INFRASTRUCTURE WORKFORCE

Original release date: March 19, 2020 | Last revised: April 24, 2020

CISA's Identifying Critical Infrastructure During COVID-19 guidance and accompanying list are intended to support state, local, and industry partners in identifying the critical infrastructure sectors and the essential workers.




This document gives guidance to state, local, tribal, and territorial jurisdictions and the private sector on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CISA issued the guidance originally on March 19 and has continued to update it based on feedback from the Critical Infrastructure community. The most recent update on April 17, 2020, clarifies the description of a small number of essential services and functions in the list.

If you have feedback or additional questions, please reach out to: [CISA.CAT@cisa.dhs.gov](mailto:CISA.CAT@cisa.dhs.gov)

**Taxonomy Topics:** Infrastructure Security

## Attachment

 <b>Version 3.0 - CISA's Guidance on Essential Critical Infrastructure Workers</b>	796.49 KB
 <b>Ver 3.0 - Guía sobre la Fuerza de Trabajo Esencial de Infraestructura Crítica</b>	607.88 KB
 <b>Ver 3.0 - Lignes directrices sur les travailleurs essentiels des infrastructures critiques</b>	676.51 KB

# **EXHIBIT 13**



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

GRETCHEN WHITMER  
GOVERNOR

ROBERT GORDON  
DIRECTOR

## DIRECTOR'S ORDER

### **Emergency Order Pursuant to MCL 333.2253 Regarding Executive Orders 2020-11, 2020-20, and 2020-21**

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, Governor Gretchen Whitmer issued Executive Order 2020-4 declaring a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33. And in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, the Governor issued Executive Order 2020-33 on April 1, 2020. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

As of April 1, 2020, there were 9,334 cases of COVID-19 diagnosed in Michigan and 337 reported deaths. The exponential increase in cases demonstrates that many of these cases are the result of widening community spread.

Social distancing measures, including isolation of persons affected by COVID-19, are essential to control the epidemic. Social distancing is the primary tool available to slow the spread of COVID-19 and reduce the overwhelming strain on the State's healthcare system.

On March 16, 2020, Governor Whitmer issued Executive Order 2020-11 re: Temporary prohibition on large assemblages and events and temporary school closures.

On March 22, 2020, Governor Whitmer issued Executive Order 2020-20 re: Temporary restrictions on the use of places of public accommodation.

On March 23, 2020, Governor Whitmer issued Executive Order 2020-21 re: Temporary requirement to suspend activities that are not necessary to sustain or protect life (i.e., stay home stay safe order).

Considering the above, and upon the advice of scientific and medical experts employed by the Michigan Department of Health and Human Services, I have concluded pursuant to MCL 333.2253 that COVID-19 has reached epidemic status in Michigan. I further conclude that control of the epidemic is necessary to protect the public health and that it is necessary to establish procedures to be followed during the epidemic to ensure the continuation of essential public health services and enforcement of health laws.

I therefore order that:

1. The procedures and restrictions outlined in EO 2020-11, EO 2020-20, and EO 2020-21 and their accompanying frequently asked questions (FAQs) that may be updated from time-to-time (available at [www.michigan.gov/coronavirus](http://www.michigan.gov/coronavirus)) are necessary to control the epidemic and protect the public health. Every person, as that term is defined in MCL 333.1106, in this State, must comply with the procedures and restrictions outlined in EO 2020-11, EO 2020-20, and EO 2020-21 and their accompanying FAQs.
2. This Order applies to any future Executive Order that may be issued that rescinds and replaces EO 2020-11, EO 2020-20, or EO 2020-21.
3. Pursuant to MCL 333.2235(1), I authorize local health departments to carry out and enforce the terms of this Order.
4. Chiefs of police, sheriffs, and other local law enforcement leaders are specifically authorized to investigate potential violations of EO 2020-11, EO 2020-20, and EO 2020-21. They may coordinate as necessary with the local health department and enforce this Order within their jurisdiction. Law enforcement is specifically authorized to bar access to businesses and operations that fail to comply with the procedures and restrictions outlined in EO 2020-11, EO 2020-20, and EO 2020-21 and its accompanying FAQs. County prosecutors are likewise specifically authorized to enforce this Order to control the epidemic and protect the public health in coordination with the appropriate local law enforcement authority and, as necessary, the local health department.

This Order is effective immediately and remains in effect until vacated in writing or until the state of emergency in Michigan ceases.

Date: April 2, 2020



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Robert Gordon, Director  
Michigan Department of Health and Human Services



# **EXHIBIT 14**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

SENATE JOURNAL  
APR 30 2020 PM9:27

## EXECUTIVE ORDER

No. 2020-66

### **Termination of the states of emergency and disaster declared under the Emergency Management Act in Executive Order 2020-33**

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions.

On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: section 1 of article 5 of the Michigan Constitution of 1963; the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq.; and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq. On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued

orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

The Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., provides that "[t]he governor shall, by executive order or proclamation, declare a state of emergency" and/or a "state of disaster" upon finding that an emergency and/or disaster has occurred or is threatening to occur. MCL 30.403(3) & (4). The Emergency Management Act further provides that a declared state of emergency or disaster

shall continue until the governor finds that the threat or danger has passed, the [disaster/emergency] has been dealt with to the extent that [disaster/emergency] conditions no longer exist, or until the declared state of [disaster/emergency] has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of [disaster/emergency] terminated, unless a request by the governor for an extension of the state of [disaster/emergency] for a specific number of days is approved by resolution of both houses of the legislature. [*Id.*]

For the reasons set forth above, the threat and danger posed to Michigan by the COVID-19 pandemic has by no means passed, and the disaster and emergency conditions it has created still very much exist. Twenty-eight days, however, have elapsed since I declared states of emergency and disaster under the Emergency Management Act in Executive Order 2020-33. And while I have sought the legislature's agreement that these declared states of emergency and disaster should be extended, the legislature—despite the clear and ongoing danger to the state—has refused to extend them beyond today.

Accordingly, acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The state of emergency declared under the Emergency Management Act in Executive Order 2020-33 is terminated.
2. The state of disaster declared under the Emergency Management Act in Executive Order 2020-33 is terminated.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 30, 2020

Time: 7:29 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 15**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

SENATE JOURNAL  
APR 30 2020 PM9:27

## EXECUTIVE ORDER

No. 2020-68

### Declaration of states of emergency and disaster under the Emergency Management Act, 1976 PA 390

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions.

On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: section 1 of article 5 of the Michigan Constitution of 1963; the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq.; and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq. On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow

the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the



University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

The Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., provides that "[t]he governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency." MCL 30.403(1). In particular, the Emergency Management Act mandates that "[t]he governor shall, by executive order or proclamation, declare a state of emergency" and/or a "state of disaster" upon finding that an emergency and/or disaster has occurred or is threatening to occur. MCL 30.403(3) & (4). Under the Emergency Management Act, an emergency constitutes "any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state." MCL 30.402(h). And a disaster constitutes "an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, . . . epidemic." MCL 30.402(e).

Acting under the Michigan Constitution of 1963 and Michigan law:

1. I now declare a state of emergency and a state of disaster across the State of Michigan under the Emergency Management Act.
2. The Emergency Management and Homeland Security Division of the Department of State Police must coordinate and maximize all state efforts that may be activated to state service to assist local governments and officials and may call upon all state departments to utilize available resources to assist.
3. This order is effective immediately and continues through May 28, 2020 at 11:59 pm.
4. I will evaluate the continuing need for this order prior to its expiration.
5. All previous orders that rested on Executive Order 2020-33 now rest on this order.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 30, 2020

Time: 7:30 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 16**



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GARLIN GILCHRIST II  
LT. GOVERNOR

## EXECUTIVE ORDER

SENATE JOURNAL  
APR 30 2020 PM9:27

No. 2020-67

### Declaration of state of emergency under the Emergency Powers of the Governor Act, 1945 PA 302

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions.

On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: section 1 of article 5 of the Michigan Constitution of 1963; the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq.; and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq. On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow

the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in

Michigan will struggle to pay their bills or even put food on the table. So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

The Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq., provides that "[d]uring times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state . . . the governor may proclaim a state of emergency and designate the area involved." MCL 10.31(1). The state of emergency ceases "upon declaration by the governor that the emergency no longer exists." MCL 10.31(2).

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. A state of emergency remains declared across the State of Michigan under the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.
2. This order is effective immediately and continues through May 28, 2020 at 11:59 pm.
3. I will evaluate the continuing need for this order prior to its expiration.

4. Executive Order 2020-33 is rescinded and replaced. All previous orders that rested on Executive Order 2020-33 now rest on this order.

Given under my hand and the Great Seal of the State of Michigan.

Date: April 30, 2020

Time: 7:30 pm



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GRETCHEN WHITMER  
GOVERNOR

By the Governor:

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SECRETARY OF STATE

# **EXHIBIT 17**



U.S. Department of Homeland Security  
Cybersecurity & Infrastructure Security Agency  
Office of the Director  
Washington, DC 20528



**CISA**  
CYBER+INFRASTRUCTURE

March 28, 2020

**ADVISORY MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE**

FROM: Christopher C. Krebs  
Director  
Cybersecurity and Infrastructure Security Agency (CISA)

A handwritten signature in black ink, appearing to read "Chris Krebs", written over the printed name and title.

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As the Nation comes together to slow the spread of COVID-19, on March 16<sup>th</sup> the President issued updated Coronavirus Guidance for America that highlighted the importance of the critical infrastructure workforce.

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security's authorities to secure critical infrastructure. Consistent with these authorities, CISA has developed, in collaboration with other federal agencies, State and local governments, and the private sector, an "Essential Critical Infrastructure Workforce" advisory list. This list is intended to help State, local, tribal and territorial officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. Decisions informed by this list should also take into consideration additional public health considerations based on the specific COVID-19-related concerns of particular jurisdictions.

**This list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 response across all jurisdictions. Individual jurisdictions should add or subtract essential workforce categories based on their own requirements and discretion.**

The advisory list identifies workers who conduct a range of operations and services that are typically essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing operational functions, among others. It also includes workers who support crucial supply chains and enable functions for critical infrastructure. The industries they support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement,

and public works.

State, local, tribal, and territorial governments are responsible for implementing and executing response activities, including decisions about access and reentry, in their communities, while the Federal Government is in a supporting role. Officials should use their own judgment in issuing implementation directives and guidance. Similarly, while adhering to relevant public health guidance, critical infrastructure owners and operators are expected to use their own judgement on issues of the prioritization of business processes and workforce allocation to best ensure continuity of the essential goods and services they support. All decisions should appropriately balance public safety, the health and safety of the workforce, and the continued delivery of essential critical infrastructure services and functions. While this advisory list is meant to help public officials and employers identify essential work functions, it allows for the reality that some workers engaged in activity determined to be essential may be unable to perform those functions because of health-related concerns.

CISA will continue to work with our partners in the critical infrastructure community to update this advisory list if necessary as the Nation's response to COVID-19 evolves.

Should you have questions about this list, please contact CISA at [CISA.CAT@cisa.dhs.gov](mailto:CISA.CAT@cisa.dhs.gov).

**Attachment:** "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 2.0"



**CISA**  
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW

# Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 2.0 (March 28, 2020)

## THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This advisory guidance and accompanying list are intended to support state, local, tribal, territorial and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives advisory guidance on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CISA will continually solicit and accept feedback on the list and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. Feedback can be sent to [CISA.CAT@CISA.DHS.GOV](mailto:CISA.CAT@CISA.DHS.GOV).

## CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, state managed, and federally supported.
2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.
3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.
5. All organizations should implement their business continuity and pandemic plans or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the

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health and safety of the employees.

6. Reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.
7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.
8. When government and businesses engage in discussions about essential critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.
9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

## IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of identified essential critical infrastructure workers is intended to be overly inclusive reflecting the diversity of industries across the United States.



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## HEALTHCARE / PUBLIC HEALTH

- Workers who perform critical clinical research, development, and testing needed for COVID-19 response.
- Healthcare providers and Caregivers including physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, optometrists, speech pathologists, chiropractors, and diagnostic and therapeutic technicians and technologists.
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical and biomedical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Nursing Care Facilities, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers, and retail facilities specializing in medical good and supplies).
- Manufacturer workers for health manufacturing (including biotechnology companies), materials and parts suppliers, logistics and warehouse operators, distributors of medical equipment (including those who test and repair), personal protective equipment (PPE), isolation barriers, medical gases, pharmaceuticals (including materials used in radioactive drugs), dietary supplements, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.
- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers who manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers performing information technology and cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Pharmacy employees necessary to maintain uninterrupted prescription filling.
- Workers performing mortuary funeral, cremation, burial, cemetery, and related services, including funeral homes, crematoriums, cemetery workers, and coffin makers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident.

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## LAW ENFORCEMENT, PUBLIC SAFETY, AND OTHER FIRST RESPONDERS

- Public, private, and voluntary personnel (front line and management) in emergency management, law enforcement, fire and rescue services, emergency medical services, and private security, to include public and private hazardous material responders, air medical service providers (pilots and supporting technicians), corrections, and search and rescue personnel.
- 911 call center employees and Public Safety Answering Points who can't perform their duties remotely.
- Fusion Center employees.
- Workers – including contracted vendors – who maintain, manufacture, or supply equipment and services supporting law enforcement emergency service and response operations (to include electronic security and life safety security personnel).
- Workers supporting the manufacturing of safety equipment and uniforms for law enforcement, public safety personnel, and first responder.
- Workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.
- Public agency workers responding to abuse and neglect of children, elders, and dependent adults.
- Workers who support weather disaster / natural hazard mitigation and prevention activities.
- Security staff to maintain building access control and physical security measures.

## FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies, convenience stores, and other retail (including unattended and vending) that sells human food, animal/pet food and pet supply, and beverage products, including retail customer support service and information technology support staff necessary for online orders, pickup and delivery.
- Restaurant carry-out and quick serve food operations, including dark kitchen and food prep centers, and carry-out and delivery food employees.
- Food manufacturer employees and their supplier employees—to include those employed in food ingredient production and processing facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging.
- Farmers, farm workers, and agribusiness support services to include those employed in auction and sales: grain and oilseed handling, processing and distribution; animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically and for export.
- Farmers, farm workers, support service workers, and their supplier employees to include those engaged in producing and harvesting field crops; commodity inspection; fuel ethanol facilities; biodiesel and renewable diesel facilities; storage facilities; and other agricultural inputs.
- Employees and firms supporting the distribution of food, feed, and beverage and ingredients used in these products, including warehouse workers, vendor- managed inventory controllers and blockchain managers.
- Workers supporting the sanitation and pest control of all food manufacturing processes and operations from wholesale to retail.
- Employees in cafeterias used to feed employees, particularly employee populations sheltered against COVID-19.
- Workers in animal diagnostic and food testing laboratories in private industries and in institutions of higher education.

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- Government, private, and non-governmental organizations' workers essential for food assistance programs (including school lunch programs) and government payments.
- Employees of companies engaged in the production, storage, transport, and distribution of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids.
- Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.
- Transportation supporting animal agricultural industries, including movement of animal medical and reproductive supplies and materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, live animals, animal by-products, and deceased animals for disposal.
- Workers who support sawmills and the manufacture and distribution of fiber and forest products, including, but not limited to timber, paper, and other wood and fiber products.
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary for agricultural production and distribution.

## ENERGY

- Workers supporting the energy sector, regardless of the energy source (including but not limited to nuclear, fossil, hydroelectric, or renewable), segment of the system, or infrastructure the worker is involved in, or who are needed to monitor, operate, engineer, and maintain the reliability, safety, environmental health, and physical and cyber security of the energy system.
- Energy/commodity trading/scheduling/marketing functions, who can't perform their duties remotely.
- IT and OT technology for essential energy sector operations including support workers, customer service operations; energy management systems, control systems, and Supervisory Control and Data Acquisition SCADA systems, and energy sector entity data centers; cybersecurity engineers; and cybersecurity risk management.
- Workers supporting the energy sector through renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, ocean, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.
- Workers and security staff involved in nuclear re-fueling operations.
- Providing services related to energy sector fuels (including, but not limited, petroleum (crude oil), natural gas, propane, natural gas liquids, other liquid fuels, nuclear, and coal), supporting the mining, processing, manufacturing, construction, logistics, transportation, permitting, operation/maintenance, security, waste disposal and storage, and monitoring of support for resources.
- Environmental remediation/monitoring, limited to immediate critical needs technicians.
- Manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service at energy sector facilities (across all energy sector segments).

### Electricity industry:

- Workers who maintain, ensure, or restore, or are involved in the development, transportation, fuel procurement, expansion, or operation of the generation, transmission, and distribution of electric power, including call centers, utility workers, engineers, retail electricity, constraint maintenance, and fleet maintenance technicians who cannot perform their duties remotely.
- Workers at coal mines, production facilities, and those involved in manufacturing, transportation, permitting, operation/maintenance and monitoring at coal sites which is critical to ensuring the reliability of the electrical system.

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- Workers who produce, process, ship and handle coal used for power generation and manufacturing.
- Workers needed for safe and secure operations at nuclear generation to include but not limited to, the broader nuclear supply chain, parts to maintain nuclear equipment, fuel manufacturers and fuel components used in the manufacturing of fuel.
- Workers at renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.
- Workers at generation, transmission, and electric black start facilities.
- Workers at Reliability Coordinator, Balancing Authorities, and primary and backup Control Centers, including but not limited to independent system operators, regional transmission organizations, and local distribution control centers.
- Mutual assistance personnel which may include workers from outside of the state or local jurisdiction.
- Vegetation management and traffic control for supporting those crews.
- Environmental remediation/monitoring workers limited to immediate critical need technicians.
- Instrumentation, protection, and control technicians.
- Essential support personnel for electricity operations.
- Generator set support workers such as diesel engineers used in power generation including those providing fuel.

#### **Petroleum industry:**

- Workers for onshore and offshore petroleum drilling operations; platform and drilling construction and maintenance; transportation (including helicopter operations), maritime transportation, supply, and dredging operations; maritime navigation; well stimulation, intervention, monitoring, automation and control, extraction, production; processing; waste disposal, and maintenance, construction, and operations.
- Workers for crude oil, petroleum and petroleum product storage and transportation, including pipeline, marine transport, terminals, rail transport, storage facilities and racks and road transport for use as end-use fuels such as gasoline, diesel fuel, jet fuel, and heating fuels or feedstocks for chemical manufacturing.
- Petroleum and petroleum product security operations center employees and workers who support maintenance and emergency response services.
- Petroleum and petroleum product operations control rooms/centers and refinery facilities.
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.

#### **Natural Gas, Natural Gas Liquids (NGL), Propane, and other liquid fuels**

- Workers who support onshore and offshore drilling operations, platform and drilling construction and maintenance; transportation (including helicopter operations); maritime transportation, supply, and dredging operations; maritime navigation; natural gas and natural gas liquid production, processing, extraction, storage and transportation; well intervention, monitoring, automation and control; waste disposal, and maintenance, construction, and operations.
- Transmission and distribution pipeline workers, including compressor stations and any other required, operations maintenance, construction, and support for natural gas, natural gas liquid, propane, and other liquid fuels.
- Natural gas, propane, natural gas liquids, and other liquid fuel processing plants, including construction, maintenance, and support operations.
- Natural gas processing plants workers, and those that deal with natural gas liquids.
- Workers who staff natural gas, propane, natural gas liquids, and other liquid fuel security operations centers, operations dispatch and control rooms/centers, and emergency response and customer emergencies (including leak calls) operations.
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for

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chemical manufacturing, or use in electricity generation.

- Dispatch and control rooms and emergency response and customer emergencies, including propane leak calls.
- Propane gas service maintenance and restoration, including call centers.
- Propane, natural gas liquids, and other liquid fuel distribution centers.
- Propane gas storage, transmission, and distribution centers.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.
- Ethanol and biofuel production, refining, and distribution.
- Workers in fuel sectors (including, but not limited to nuclear, coal, and gas types and liquid fuels) supporting the mining, manufacturing, logistics, transportation, permitting, operation/maintenance, and monitoring of support for resources.

## WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities.
- Operational staff at community water systems.
- Operational staff at wastewater treatment facilities.
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring, including field staff.
- Operational staff for water distribution and testing.
- Operational staff at wastewater collection facilities.
- Operational staff and technical support for SCADA Control systems.
- Chemical and equipment suppliers to water and wastewater systems and personnel protection.
- Workers who maintain digital systems infrastructure supporting water and wastewater operations.

## TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including truck drivers, bus drivers, dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, Department of Motor Vehicle (DMV) employees, towing/recovery services, roadside assistance workers, intermodal transportation personnel, and workers who maintain and inspect infrastructure (including those that require cross-jurisdiction travel).
- Workers supporting the distribution of food, pharmaceuticals (including materials used in radioactive drugs) and other medical materials, fuels, chemicals needed for water or water treatment and energy Maintenance and operation of essential highway infrastructure, including roads, bridges, and tunnels (e.g., traffic operations centers and moveable bridge operators).
- Employees of firms providing services, supplies, and equipment that enable warehouse and operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use. Includes cold- and frozen-chain logistics for food and critical biologic products.
- Mass transit workers and providing critical transit services and/or performing critical or routine maintenance to mass transit infrastructure or equipment.
- Employees supporting personal and commercial transportation services – including taxis, delivery services, vehicle rental services, bicycle maintenance and car-sharing services, and transportation network providers.
- Workers responsible for operating and dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment.
- Maritime transportation workers, including dredgers, port workers, mariners, ship crewmembers, ship pilots and tug boat operators, equipment operators (to include maintenance and repair, and maritime-specific medical

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providers), ship supply, chandler, and repair companies.

- Workers including truck drivers, railroad employees and contractors, maintenance crew, and cleaners supporting transportation of chemicals, hazardous, medical, and waste materials to support critical infrastructure, capabilities, functions, and services, including specialized carriers, crane and rigging industry workers.
- Bus drivers and workers who provide or support intercity, commuter and charter bus service in support of other essential services or functions.
- Automotive repair, maintenance, and transportation equipment manufacturing and distribution facilities (including those who repair and maintain electric vehicle charging stations).
- Transportation safety inspectors, including hazardous material inspectors and accident investigator inspectors.
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations.
- Postal, parcel, courier, last-mile delivery, and shipping and related workers, to include private companies.
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers.
- Air transportation employees, including air traffic controllers and maintenance personnel, ramp workers, aviation and aerospace safety, security, and operations personnel and accident investigations.
- Workers who support the operation, distribution, maintenance, and sanitation, of air transportation for cargo and passengers, including flight crews, maintenance, airport operations, those responsible for cleaning and disinfection, and other on- and off- airport facilities workers.
- Workers supporting transportation via inland waterways such as barge crew, dredging, river port workers for essential goods.
- Workers critical to rental and leasing of vehicles and equipment that facilitate continuity of operations for essential workforces and other essential travel.
- Warehouse operators, including vendors and support personnel critical for business continuity (including HVAC & electrical engineers; security personnel; and janitorial staff) and customer service for essential functions.

## PUBLIC WORKS AND INFRASTRUCTURE SUPPORT SERVICES

- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues.
- Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, senior living facilities, any temporary construction required to support COVID-19 response.
- Workers who support, such as road and line clearing, to ensure the availability of and access to needed facilities, transportation, energy and communications.
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste, including landfill operations.
- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees.
- Workers who support the inspection and maintenance of aids to navigation, and other government provided services that ensure continued maritime commerce.

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## COMMUNICATIONS AND INFORMATION TECHNOLOGY

### Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call -centers, wireline and wireless providers, cable service providers, satellite operations, Internet Exchange Points, Points of Presence, Network Access Points, back haul and front haul facilities, and manufacturers and distributors of communications equipment.
- Government and private sector employees (including government contractors) with work related to undersea cable infrastructure and support facilities, including cable landing sites, beach manhole vaults and covers, submarine cable depots and submarine cable ship facilities.
- Government and private sector employees (including government contractors) supporting Department of Defense internet and communications facilities.
- Workers who support radio, television, and media service, including, but not limited to front-line news reporters, studio, and technicians for newsgathering, and reporting, and publishing news.
- Network Operations staff, engineers and/or technicians to include IT managers and staff, HVAC & electrical engineers, security personnel, software and hardware engineers, and database administrators that manage the network or operate facilities.
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables, buried conduit, small cells, other wireless facilities, and other communications sector-related infrastructure. This includes construction of new facilities and deployment of new technology as these are required to address congestion or customer usage due to unprecedented use of remote services.
- Installation, maintenance and repair technicians that establish, support or repair service as needed.
- Central office personnel to maintain and operate central office, data centers, and other network office facilities, critical support personnel assisting front line employees.
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, logistics, and troubleshooting.
- Workers providing electronic security, fire, monitoring and life safety services, and to ensure physical security, cleanliness and safety of facilities and personnel, including temporary licensing waivers for security personnel to work in other States of Municipalities.
- Dispatchers involved with service repair and restoration.
- Retail customer service personnel at critical service center locations for onboarding customers, distributing and repairing equipment and addressing customer issues in order to support individuals' remote emergency communications needs, supply chain and logistics personnel to ensure goods and products are on-boarded to provision these front-line employees.
- External Affairs personnel to assist in coordinating with local, state and federal officials to address communications needs supporting COVID-19 response, public safety, and national security.

### Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Centers, Broadcast Operations Control Centers and Security Operations Command Centers.
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers and purchasers, data transfer solutions engineers, software and hardware engineers, and database administrators, for all industries (including financial services).

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- Workers who support client service centers, field engineers, and other technicians and workers supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, support services, research and development, and information technology equipment (to include microelectronics and semiconductors), and HVAC and electrical equipment for critical infrastructure, and test labs and certification agencies that qualify such equipment (to include microelectronics, optoelectronics, and semiconductors) for critical infrastructure, including data centers.
- Workers needed to preempt and respond to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, securities/other exchanges, other entities that support the functioning of capital markets, public works, critical manufacturing, food & agricultural production, transportation, and other critical infrastructure categories and personnel, in addition to all cyber defense workers (who can't perform their duties remotely).
- Suppliers, designers, transporters and other workers supporting the manufacture, distribution and provision and construction of essential global, national and local infrastructure for computing services (including cloud computing services and telework capabilities), business infrastructure, financial transactions/services, web-based services, and critical manufacturing.
- Workers supporting communications systems and information technology- and work from home solutions- used by law enforcement, public safety, medical, energy, public works, critical manufacturing, food & agricultural production, financial services, education, and other critical industries and businesses.
- Employees required in person to support Software as a Service businesses that enable remote working, performance of business operations, distance learning, media services, and digital health offerings, or required for technical support crucial for business continuity and connectivity.

## OTHER COMMUNITY- OR GOVERNMENT-BASED OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions, including but not limited to security and environmental controls (e.g., HVAC), the manufacturing and distribution of the products required for these functions, and the permits and inspections for construction supporting essential infrastructure.
- Elections personnel to include both public and private sector elections support.
- Workers supporting the operations of the judicial system.
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks.
- Trade Officials (FTA negotiators; international data flow administrators).
- Employees necessary to maintain news and media operations across various media.
- Employees supporting Census 2020.
- Weather forecasters.
- Clergy for essential support.
- Workers who maintain digital systems infrastructure supporting other critical government operations.
- Workers who support necessary credentialing, vetting and licensing operations for critical infrastructure workers.
- Customs and immigration workers who are critical to facilitating trade in support of the national emergency response supply chain.
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions.
- Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.

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- Residential and commercial real estate services, including settlement services.
- Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, and supply chain and COVID 19 relief efforts.

## CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of metals (including steel and aluminum), industrial minerals, semiconductors, materials and products needed for medical supply chains, and for supply chains associated with transportation, energy, communications, information technology, food and agriculture, chemical manufacturing, nuclear facilities, wood products, commodities used as fuel for power generation facilities, the operation of dams, water and wastewater treatment, processing and reprocessing of solid waste, emergency services, and the defense industrial base. Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains, and workers necessary to maintain a manufacturing operation in warm standby.
- Workers necessary for the manufacturing of materials and products needed to manufacture medical equipment and personal protective equipment (PPE).
- Workers necessary for mining and production of critical minerals, materials and associated essential supply chains, and workers engaged in the manufacture and maintenance of equipment and other infrastructure necessary for mining production and distribution.
- Workers who produce or manufacture parts or equipment that supports continued operations for any essential services and increase in remote workforce (including computing and communication devices, semiconductors, and equipment such as security tools for Security Operations Centers (SOCs) or datacenters).

## HAZARDOUS MATERIALS

- Workers who manage hazardous materials associated with any other essential activity, including but not limited to healthcare waste (medical, pharmaceuticals, medical material production), testing operations (laboratories processing test kits), and energy (nuclear facilities) Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing tests Workers who support hazardous materials response and cleanup.
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations.

## FINANCIAL SERVICES

- Workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities).
- Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
- Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, and to move currency, checks, securities, and payments (e.g., armored cash carriers).
- Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.
- Workers supporting production and distribution of debit and credit cards.
- Workers providing electronic point of sale support personnel for essential businesses and workers.

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## CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, paintings and coatings, textiles, building materials, plumbing, electrical, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items.
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, disinfectants, fragrances, and packaging that prevents the contamination of food, water, medicine, among others essential.
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections.
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing.

## DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals include, but are not limited to, space and aerospace; mechanical and software engineers (various disciplines), manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers; and sanitary workers who maintain the hygienic viability of necessary facilities.
- Personnel working for companies, and their subcontractors, who perform under contract or sub-contract to the Department of Defense, as well as personnel at government-owned/contractor-operated and government-owned/government-operated facilities, and who provide materials and services to the Department of Defense, including support for weapon systems, software systems and cybersecurity, defense and intelligence communications and surveillance, space systems and other activities in support of our military, intelligence and space forces.

## COMMERCIAL FACILITIES

- Workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions.
- Workers supporting ecommerce through distribution, warehouse, call center facilities, and other essential operational support functions.
- Workers in hardware and building materials stores, consumer electronics, technology and appliances retail, and related merchant wholesalers and distributors - with reduced staff to ensure continued operations.
- Workers distributing, servicing, repairing, installing residential and commercial HVAC systems, boilers, furnaces and other heating, cooling, refrigeration, and ventilation equipment.

## RESIDENTIAL/SHELTER FACILITIES AND SERVICES

- Workers in dependent care services, in support of workers in other essential products and services.

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- Workers who support food, shelter, and social services, and other necessities of life for needy groups and individuals, including in-need populations and COVID-19 responders (including travelling medical staff).
- Workers in animal shelters.
- Workers responsible for the leasing of residential properties to provide individuals and families with ready access to available housing.
- Workers responsible for handling property management, maintenance, and related service calls who can coordinate the response to emergency “at-home” situations requiring immediate attention, as well as facilitate the reception of deliveries, mail, and other necessary services.
- Workers performing housing construction related activities to ensure additional units can be made available to combat the nation’s existing housing supply shortage.
- Workers performing services in support of the elderly and disabled populations who coordinate a variety of services, including health care appointments and activities of daily living.
- Workers supporting the construction of housing, including those supporting government functions related to the building and development process, such as inspections, permitting and plan review services that can be modified to protect the public health, but fundamentally should continue and serve the construction of housing (e.g., allow qualified private third-party inspections in case of government shutdown).

## HYGIENE PRODUCTS AND SERVICES

- Workers who produce hygiene products.
- Workers in laundromats, laundry services, and dry cleaners.
- Workers providing personal and household goods repair and maintenance.
- Workers providing disinfection services, for all essential facilities and modes of transportation, and supporting the sanitation of all food manufacturing processes and operations from wholesale to retail.
- Workers necessary for the installation, maintenance, distribution, and manufacturing of water and space heating equipment and its components.
- Support required for continuity of services, including commercial disinfectant services, janitorial/cleaning personnel, and support personnel functions that need freedom of movement to access facilities in support of front-line employees.

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# **EXHIBIT 18**



U.S. Department of Homeland Security  
Cybersecurity & Infrastructure Security Agency  
Office of the Director  
Washington, DC 20528



**CISA**  
CYBER+INFRASTRUCTURE

March 28, 2020

**ADVISORY MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE**

FROM: Christopher C. Krebs  
Director  
Cybersecurity and Infrastructure Security Agency (CISA)

A handwritten signature in black ink, appearing to read "Chris Krebs", written over the printed name and title.

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As the Nation comes together to slow the spread of COVID-19, on March 16<sup>th</sup> the President issued updated Coronavirus Guidance for America that highlighted the importance of the critical infrastructure workforce.

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security's authorities to secure critical infrastructure. Consistent with these authorities, CISA has developed, in collaboration with other federal agencies, State and local governments, and the private sector, an "Essential Critical Infrastructure Workforce" advisory list. This list is intended to help State, local, tribal and territorial officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. Decisions informed by this list should also take into consideration additional public health considerations based on the specific COVID-19-related concerns of particular jurisdictions.

**This list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 response across all jurisdictions. Individual jurisdictions should add or subtract essential workforce categories based on their own requirements and discretion.**

The advisory list identifies workers who conduct a range of operations and services that are typically essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing operational functions, among others. It also includes workers who support crucial supply chains and enable functions for critical infrastructure. The industries they support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement,

and public works.

State, local, tribal, and territorial governments are responsible for implementing and executing response activities, including decisions about access and reentry, in their communities, while the Federal Government is in a supporting role. Officials should use their own judgment in issuing implementation directives and guidance. Similarly, while adhering to relevant public health guidance, critical infrastructure owners and operators are expected to use their own judgement on issues of the prioritization of business processes and workforce allocation to best ensure continuity of the essential goods and services they support. All decisions should appropriately balance public safety, the health and safety of the workforce, and the continued delivery of essential critical infrastructure services and functions. While this advisory list is meant to help public officials and employers identify essential work functions, it allows for the reality that some workers engaged in activity determined to be essential may be unable to perform those functions because of health-related concerns.

CISA will continue to work with our partners in the critical infrastructure community to update this advisory list if necessary as the Nation's response to COVID-19 evolves.

Should you have questions about this list, please contact CISA at [CISA.CAT@cisa.dhs.gov](mailto:CISA.CAT@cisa.dhs.gov).

**Attachment:** "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 3.0"



# CISA

CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW

## Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 3.0 (April 17, 2020)

### THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This advisory guidance and accompanying list are intended to support state, local, tribal, territorial and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives advisory guidance on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions. The term “workers” as used in this guidance is intended to apply to both employees and contractors performing the described functions.

CISA will continually solicit and accept feedback on the list and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. Feedback can be sent to [CISA.CAT@CISA.DHS.GOV](mailto:CISA.CAT@CISA.DHS.GOV).

### CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, state managed, and federally supported.
2. Everyone should follow guidance from the Centers for Disease Control and Prevention (CDC), as well as state and local government officials, regarding strategies to limit disease spread.
3. Employers must comply with applicable Occupational Safety and Health Administration (OSHA) requirements for protecting critical infrastructure workers who remain on or return to the job during the COVID-19 pandemic. As the nation relies on these workers to protect public health, safety, and community well-being, they must be protected from exposure to and infection with the virus so that they can continue to carry out

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their responsibilities. OSHA has guidance and enforcement information for workplaces at [www.osha.gov/coronavirus](http://www.osha.gov/coronavirus).

4. Businesses and government agencies may continue to implement organization-specific measures, which protect the workforce while meeting mission needs.
5. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
6. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not limited to, physically separating staff, staggering work shift hours or days, and other social distancing measures. While the CDC recommends that everyone wear a cloth face cover to contain respiratory droplets when around others, critical infrastructure employers must consider how best to implement this public health recommendation for source control in the workplace. For example, employers may provide disposable facemasks (e.g., surgical masks) instead of cloth face coverings when workers would need to wear masks for extended periods of time (e.g., the duration of a work shift) or while performing tasks in which the face covering could become contaminated.
7. Consider the impact of workplace sick leave policies that may contribute to an employee decision to delay reporting medical symptoms. Sick employees should not return to the workplace until they meet the criteria to stop home isolation.
8. Critical infrastructure has an obligation to limit to the extent possible the reintegration of in-person workers who have experienced an exposure to COVID-19 but remain asymptomatic in ways that best protect the health of the worker, their co-workers, and the general public. An analysis of core job tasks and workforce availability at worksites can allow the employer to match core activities to other equally skilled and available in-person workers who have not experienced an exposure. CDC guidance on safety practices for critical infrastructure workers is maintained at <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>
9. All organizations should implement their business continuity and pandemic plans or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the workers.
10. Reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions. The vast majority of our economy relies on technology and therefore information technology (IT) and operational technology (OT) workers for critical infrastructure operations are essential. This includes workers in many roles, including workers focusing on management systems, control systems, and Supervisory Control and Data Acquisition (SCADA) systems, and data centers; cybersecurity engineering; and cybersecurity risk management.
11. Government workers, such as emergency managers, and the business community need to establish and maintain lines of communication.
12. Essential critical infrastructure workers need continued and unimpeded access to sites, facilities, and equipment within quarantine zones, containment areas, or other areas where access or movement is limited to perform functions for community relief and stability; for public safety, security and health; for maintaining essential supply chains and preserving local, regional, and national economic well-being.
13. Essential critical infrastructure workers need sustained access to designated quarantine, containment, or

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restricted areas; and should be exempted from curfews, shelter-in-place orders, and transportation restrictions or restrictions on movement.

14. Whenever possible, local governments should consider adopting specific state guidance on essential workers to reduce potential complications of workers crossing jurisdictional boundaries. When this is not possible, local jurisdictions should consider aligning access and movement control policies with neighboring jurisdictions to reduce the burden of cross-jurisdictional movement of essential critical infrastructure workers.

## IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of identified essential critical infrastructure workers is intended to be overly inclusive reflecting the diversity of industries across the United States.



## HEALTHCARE / PUBLIC HEALTH

- Workers, including laboratory personnel, that perform critical clinical, biomedical and other research, development, and testing needed for COVID-19 or other diseases.
- Healthcare providers including, but not limited to, physicians; dentists; psychologists; mid-level practitioners; nurses; assistants and aids; infection control and quality assurance personnel; pharmacists; physical, respiratory, speech and occupational therapists and assistants; social workers; optometrists; speech pathologists; chiropractors; diagnostic and therapeutic technicians; and radiology technologists.
- Workers required for effective clinical, command, infrastructure, support service, administrative, security, and intelligence operations across the direct patient care and full healthcare and public health spectrum. Personnel examples may include, but are not limited, to accounting, administrative, admitting and discharge, engineering, accrediting, certification, licensing, credentialing, epidemiological, source plasma and blood donation, food service, environmental services, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.
  - Emergency medical services workers.
  - Prehospital workers included but not limited to urgent care workers.
  - Inpatient & hospital workers (e.g. hospitals, critical access hospitals, long-term acute care

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- hospitals, long-term care facilities, inpatient hospice, ambulatory surgical centers, etc.).
- Outpatient care workers (e.g. end-stage-renal disease, Federally Qualified Health Centers, Rural Health Clinics, community mental health clinics, organ transplant/procurement centers, and other ambulatory care settings/providers, comprehensive outpatient rehabilitation facilities, etc.).
- Home care workers (e.g. home health care, at-home hospice, home dialysis, home infusion, etc.).
- Workers at Long-term care facilities, residential and community-based providers (e.g. Programs of All-Inclusive Care for the Elderly (PACE), Intermediate Care Facilities for Individuals with Intellectual Disabilities, Psychiatric Residential Treatment Facilities, Religious Nonmedical Health Care Institutions, etc.).
- Workplace safety workers (i.e., workers who anticipate, recognize, evaluate, and control workplace conditions that may cause workers' illness or injury).
- Workers needed to support transportation to and from healthcare facility and provider appointments.
- Workers needed to provide laundry services, food services, reprocessing of medical equipment, and waste management.
- Workers that manage health plans, billing, and health information and who cannot work remotely.
- Workers performing cybersecurity functions at healthcare and public health facilities and who cannot work remotely.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Childcare, eldercare, and other service providers for essential healthcare personnel.
- Vendors and suppliers (e.g. imaging, pharmacy, oxygen services, durable medical equipment, etc.).
- Workers at manufacturers (including biotechnology companies and those companies that have shifted production to medical supplies), materials and parts suppliers, technicians, logistics and warehouse operators, printers, packagers, distributors of medical products and equipment (including third party logistics providers, and those who test and repair), personal protective equipment (PPE), isolation barriers, medical gases, pharmaceuticals (including materials used in radioactive drugs), dietary supplements, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies (including dispensers), sanitary goods, personal care products, pest control products, and tissue and paper towel products.
- Donors of blood, bone marrow, blood stem cell, or plasma, and the workers of the organizations that operate and manage related activities.
- Pharmacy staff, including workers necessary to maintain uninterrupted prescription, and other workers for pharmacy operations.
- Workers in retail facilities specializing in medical good and supplies.
- Public health and environmental health workers, such as:
  - Workers specializing in environmental health that focus on implementing environmental controls, sanitary and infection control interventions, healthcare facility safety and emergency preparedness planning, engineered work practices, and developing guidance and protocols for appropriate PPE to prevent COVID-19 disease transmission.
  - Public health/ community health workers (including call center workers) who conduct community-based public health functions, conducting epidemiologic surveillance and compiling, analyzing, and communicating public health information, who cannot work remotely.
- Human services providers, especially for at risk populations such as:
  - Home delivered meal providers for older adults, people with disabilities, and others with chronic

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- health conditions.
- Home-maker services for frail, homebound, older adults.
- Personal assistance services providers to support activities of daily living for older adults, people with disabilities, and others with chronic health conditions who live independently in the community with supports and services.
- Home health providers who deliver health care services for older adults, people with disabilities, and others with chronic health conditions who live independently in the community with supports and services.
- Government entities, and contractors that work in support of local, state, and federal public health and medical mission sets, including but not limited to supporting access to healthcare and associated payment functions, conducting public health functions, providing medical care, supporting emergency management, or other services necessary for supporting the COVID-19 response.
- Mortuary service providers, such as:
  - Workers performing mortuary funeral, cremation, burial, cemetery, and related services, including funeral homes, crematoriums, cemetery workers, and coffin makers.
  - Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental and behavioral health services to the family members, responders, and survivors of an incident.

## LAW ENFORCEMENT, PUBLIC SAFETY, AND OTHER FIRST RESPONDERS

- Public, private, and voluntary personnel (front-line and management, civilian and sworn) in emergency management, law enforcement, fire and rescue services, emergency medical services (EMS), and security, public and private hazardous material responders, air medical service providers (pilots and supporting technicians), corrections, and search and rescue personnel.
- Personnel involved in provisioning of access to emergency services, including the provisioning of real-time text, text-to-911, and dialing 911 via relay.
- Personnel that are involved in the emergency alert system (EAS) ((broadcasters, satellite radio and television, cable, and wireline video) and wireless emergency alerts (WEA).
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and technicians to manage the network or operate facilities.
- Workers at emergency communication center, public safety answering points, public safety communications centers, emergency operation centers, and 911 call centers.
- Fusion Center workers.
- Workers, including contracted vendors, who maintain, manufacture, or supply equipment and services supporting law enforcement, fire, EMS, and response operations (to include electronic security and life safety security personnel).
- Workers and contracted vendors who maintain and provide services and supplies to public safety facilities, including emergency communication center, public safety answering points, public safety communications centers, emergency operation centers, fire and emergency medical services stations, police and law enforcement stations and facilities.
- Workers supporting the manufacturing, distribution, and maintenance of necessary safety equipment and uniforms for law enforcement and all public safety personnel.

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- Workers supporting the operation of firearm, or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.
- Public agency workers responding to abuse and neglect of children, spouses, elders, and dependent adults.
- Workers who support weather disaster and natural hazard mitigation and prevention activities.
- Security staff to maintain building access control and physical security measures.

## FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies, convenience stores, and other retail (including unattended and vending) that sells human food, animal and pet food and pet supply, and beverage products, including retail customer support service and information technology support staff necessary for online orders, pickup, and delivery.
- Restaurant carry-out and quick serve food operations, including dark kitchen and food prep centers, carry-out, and delivery food workers.
- Food manufacturer workers and their supplier workers including those employed at food ingredient production and processing facilities; aquaculture and seafood harvesting facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging.
- Farmers, farm and ranch workers, and agribusiness support services to include those employed in auction and sales; grain and oilseed handling, storage, processing, and distribution; animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; and truck delivery and transport.
- Farmers, farm and ranch workers, and support service and supplier workers producing food supply domestically and for export, to include those engaged in raising, cultivating, harvesting, packing, storing, or delivering to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity for human consumption; agricultural inspection; fuel ethanol facilities; biodiesel and renewable diesel facilities; storage facilities; and other agricultural inputs.
- Workers and firms supporting the distribution of food, feed, and beverage and ingredients used in these products, including warehouse workers, vendor-managed inventory controllers, and blockchain managers.
- Workers supporting the sanitation and pest control of all food manufacturing processes and operations from wholesale to retail.
- Workers supporting the growth and distribution of plants and associated products for home gardens.
- Workers in cafeterias used to feed workers, particularly worker populations sheltered against COVID-19.
- Workers in animal diagnostic and food testing laboratories.
- Government, private, and non-governmental organizations' workers essential for food assistance programs (including school lunch programs) and government payments.
- Workers of companies engaged in the production, storage, transport, and distribution of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids.
- Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising, caring for and management of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.

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- Transportation supporting animal agricultural industries, including movement of animal medical and reproductive supplies and materials, animal vaccines, animal drugs, feed ingredients, feed and bedding, live animals, animal by-products, and deceased animals for disposal.
- Workers who support sawmills and the manufacture and distribution of fiber and forest products, including, but not limited to timber, paper, and other wood and fiber products, as well as manufacture and distribution of products using agricultural commodities.
- Workers engaged in the manufacture and maintenance of equipment and other infrastructure necessary for agricultural production and distribution.

## ENERGY

- Workers supporting the energy sector, regardless of the energy source (including, but not limited to, nuclear, fossil, hydroelectric, or renewable), segment of the system, or infrastructure the worker is involved in, who are needed to construct, manufacture, repair, transport, permit, monitor, operate engineer, and maintain the reliability, safety, security, environmental health, and physical and cyber security of the energy system, including those who support construction, manufacturing, transportation, permitting, and logistics.
- Workers and contractors supporting energy facilities that provide steam, hot water or chilled water from central power plants to connected customers.
- Workers conducting energy/commodity trading/scheduling/marketing functions who can't perform their duties remotely.
- Workers supporting the energy sector through renewable energy infrastructure (including, but not limited to, wind, solar, biomass, hydrogen, ocean, geothermal, and hydroelectric) and microgrids, including those supporting construction, manufacturing, transportation, permitting, operation and maintenance, monitoring, and logistics.
- Workers and security staff involved in nuclear re-fueling operations.
- Workers providing services related to energy sector fuels (including, but not limited to, petroleum (crude oil), natural gas, propane, liquefied natural gas (LNG), compressed natural gas (CNG), natural gas liquids (NGL), other liquid fuels, nuclear, and coal) and supporting the mining, processing, manufacturing, construction, logistics, transportation, permitting, operation, maintenance, security, waste disposal, storage, and monitoring of support for resources.
- Workers providing environmental remediation and monitoring, limited to immediate critical needs technicians.
- Workers involved in the manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service at energy sector facilities across all energy sector segments.

### Electricity Industry

- Workers who maintain, ensure, restore, or who are involved in the development, transportation, fuel procurement, expansion, or operation of, the generation, transmission, and distribution of electric power, including call centers, utility workers, engineers, retail electricity, construction, maintenance, utility telecommunications, relaying, and fleet maintenance technicians who cannot perform their duties remotely.
- Workers at coal mines, production facilities, and those involved in manufacturing, transportation,

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- permitting, operation, maintenance, and monitoring at coal sites.
- Workers who produce, process, ship, and handle coal used for power generation and manufacturing.
  - Workers in the electricity industry including but not limited to those supporting safety, construction, manufacturing, transportation, permitting, operation/maintenance, engineering, physical and cyber security, monitoring, and logistics
  - Workers needed for safe and secure operations at nuclear generation including, but not limited to, those critical to the broader nuclear supply chain, the manufacture and delivery of parts needed to maintain nuclear equipment, the operations of fuel manufacturers, and the production and processing of fuel components used in the manufacturing of fuel.
  - Workers at fossil fuel (including but not limited to natural gas, refined, distillate, and/or coal), nuclear, and renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, geothermal, and hydroelectric), and microgrids, including those supporting safety, construction, manufacturing, transportation, permitting, operation, maintenance, monitoring, and logistics.
  - Workers at generation, transmission, and electric black start facilities.
  - Workers at Reliability Coordinator, Balancing Authority, local distribution control centers, and primary and backup Control Centers, including, but not limited to, independent system operators, regional transmission organizations, and local distribution control centers.
  - Workers that are mutual assistance/aid personnel, which may include workers from outside of the state or local jurisdiction.
  - Vegetation management and traffic control for supporting those crews.
  - Instrumentation, protection, and control technicians.
  - Essential support personnel for electricity operations.
  - Generator set support workers, such as diesel engineers used in power generation, including those providing fuel.

### **Petroleum Industry**

- Workers who support onshore and offshore petroleum drilling operations; platform and drilling construction and maintenance; transportation (including helicopter operations), maritime transportation, supply, and dredging operations; maritime navigation; well stimulation, intervention, monitoring, automation and control, extraction, production; processing; waste disposal, and maintenance, construction, and operations.
- Workers in the petroleum industry including but not limited to those supporting safety, construction, manufacturing, transportation, permitting, operation/maintenance, engineering, physical and cyber security, monitoring, and logistics.
- Workers for crude oil, petroleum, and petroleum product storage and transportation, including pipeline, marine transport, terminals, rail transport, storage facilities, racks, and road transport for use as end- use fuels such as gasoline, diesel fuel, jet fuel, and heating fuels or feedstocks for chemical manufacturing.
- Petroleum and petroleum product security operations center workers and workers who support maintenance and emergency response services.
- Petroleum and petroleum product operations control rooms, centers, and refinery facilities.
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.
- Manufacturing and distribution of equipment, supplies, and parts necessary for production, maintenance, restoration, and service of petroleum and petroleum product operations and use, including end-users.

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- Transmission and distribution pipeline workers, including but not limited to pump stations and any other required, operations maintenance, construction, and support for petroleum products.

### **Natural Gas, Natural Gas Liquids (NGL), Propane, and Other Liquid Fuels**

- Workers who support onshore and offshore drilling operations, platform and drilling construction and maintenance; transportation (including helicopter operations); maritime transportation, supply, and dredging operations; maritime navigation; natural gas and natural gas liquid production, processing, extraction, storage and transportation; well intervention, monitoring, automation and control; waste disposal, and maintenance, construction, and operations.
- Workers in the natural gas, NGL, propane, and other liquid fuels industries including but not limited to those supporting safety, construction, manufacturing, transportation, permitting, operation/maintenance, engineering, physical and cyber security, monitoring, and logistics.
- Transmission and distribution pipeline workers, including compressor stations and any other required operations maintenance, construction, and support for natural gas, natural gas liquid, propane, and other liquid fuels.
- Workers at Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG) facilities.
- Workers at natural gas, propane, natural gas liquids, liquified natural gas, liquid fuel storage facilities, underground facilities, and processing plants and other related facilities, including construction, maintenance, and support operations personnel.
- Natural gas processing plants workers and those who deal with natural gas liquids.
- Workers who staff natural gas, propane, natural gas liquids, and other liquid fuel security operations centers, operations dispatch and control rooms and centers, and emergency response and customer emergencies (including leak calls) operations.
- Workers supporting drilling, production, processing, refining, and transporting natural gas, propane, natural gas liquids, and other liquid fuels for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation.
- Workers supporting propane gas service maintenance and restoration, including call centers.
- Workers supporting propane, natural gas liquids, and other liquid fuel distribution centers.
- Workers supporting propane gas storage, transmission, and distribution centers.
- Workers supporting new and existing construction projects, including, but not limited to, pipeline construction.
- Workers supporting ethanol and biofuel production, refining, and distribution.
- Workers in fuel sectors (including, but not limited to nuclear, coal, and gas types and liquid fuels) supporting the mining, manufacturing, logistics, transportation, permitting, operation, maintenance, and monitoring of support for resources.
- Workers ensuring, monitoring, and engaging in the physical security of assets and locations associated with natural gas, propane, natural gas liquids, and other liquid fuels.
- Workers involved in the manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service of natural gas, propane, natural gas liquids, and other liquid fuels operations and use, including end-users.

## **WATER AND WASTEWATER**

Workers needed to operate and maintain drinking water and wastewater and drainage infrastructure, including:

- Operational staff at water authorities.

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- Operational staff at community water systems.
- Operational staff at wastewater treatment facilities.
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring, including field staff.
- Operational staff for water distribution and testing.
- Operational staff at wastewater collection facilities.
- Operational staff and technical support for SCADA Control systems.
- Chemical equipment and personal protection suppliers to water and wastewater system.
- Workers who maintain digital systems infrastructure supporting water and wastewater operations.

## TRANSPORTATION AND LOGISTICS

- Workers supporting or enabling transportation and logistics functions, including truck drivers, bus drivers, dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, driver training and education centers, Department of Motor Vehicle (DMV) workers, enrollment agents for federal transportation worker vetting programs, towing and recovery services, roadside assistance workers, intermodal transportation personnel, and workers that construct, maintain, rehabilitate, and inspect infrastructure, including those that require cross-jurisdiction travel.).
- Workers supporting the distribution of food, fuels, pharmaceuticals and medical material (including materials used in radioactive drugs), and chemicals needed for water or water treatment and energy maintenance.
- Workers supporting operation of essential highway infrastructure, including roads, bridges, and tunnels (e.g., traffic operations centers and moveable bridge operators).
- Workers of firms providing services, supplies, and equipment that enable warehouse and operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use, including cold- and frozen-chain logistics for food and critical biologic products.
- Mass transit workers providing critical transit services and performing critical or routine maintenance to mass transit infrastructure or equipment.
- Workers supporting personal and commercial transportation services including taxis, delivery services, vehicle rental services, bicycle maintenance and car-sharing services, and transportation network providers.
- Workers, including police, responsible for operating and dispatching passenger, commuter, and freight trains and maintaining rail infrastructure and equipment.
- Maritime transportation workers, including port authority and commercial facility personnel, dredgers, port workers, security personnel, mariners, ship crewmembers, ship pilots, tugboat operators, equipment operators (to include maintenance and repair, and maritime-specific medical providers), ship supply workers, chandlers, and repair company workers. Refer to the United States Coast Guard's Marine Safety Information Bulletin "Maintaining Maritime Commerce and Identification of Essential Maritime Critical Infrastructure Workers" for more information.
- Workers, including truck drivers, railroad employees, maintenance crews, and cleaners, supporting transportation of chemicals, hazardous, medical, and waste materials that support critical infrastructure, capabilities, functions, and services, including specialized carriers, crane and rigging industry workers.
- Bus drivers and workers who provide or support intercity, commuter, and charter bus service in support of other essential services or functions.

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- Automotive repair, maintenance, and transportation equipment manufacturing and distribution facilities (including those who repair and maintain electric vehicle charging stations).
- Transportation safety inspectors, including hazardous material inspectors and accident investigator inspectors.
- Manufacturers and distributors (to include service centers and related operations) of lighting and communication systems, specialized signage and structural systems, emergency response equipment and support materials, printers, printed materials, packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations, and other critical infrastructure needs.
- Postal Service, parcel, courier, last-mile delivery, and shipping and related workers, to include private companies, who accept, process, transport, and deliver information and goods.
- Workers who supply equipment and materials for maintenance of transportation equipment.
- Workers who repair and maintain vehicles, aircraft, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers.
- Workers who support air transportation for cargo and passengers, including operation distribution, maintenance, and sanitation. This includes air traffic controllers, flight dispatchers, maintenance personnel, ramp workers, fueling agents, flight crews, airport safety inspectors and engineers, airport operations personnel, aviation and aerospace safety workers, security, commercial space personnel, operations personnel, accident investigators, flight instructors, and other on- and off-airport facilities workers.
- Workers supporting transportation via inland waterways, such as barge crew, dredging crew, and river port workers for essential goods.
- Workers critical to the manufacturing, distribution, sales, rental, leasing, repair, and maintenance of vehicles and other transportation equipment (including electric vehicle charging stations) and the supply chains that enable these operations to facilitate continuity of travel-related operations for essential workers.
- Warehouse operators, including vendors and support personnel critical for business continuity (including heating, ventilation, and air conditioning (HVAC) and electrical engineers, security personnel, and janitorial staff), e-commerce or online commerce, and customer service for essential functions.

## PUBLIC WORKS AND INFRASTRUCTURE SUPPORT SERVICES

- Workers who support the construction, maintenance, or rehabilitation of critical infrastructure.
- Workers supporting construction materials production, testing laboratories, material delivery services, and construction inspection.
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues.
- Workers such as plumbers, electricians, exterminators, builders (including building and insulation), contractors, HVAC Technicians, landscapers, and other service providers who provide services, including temporary construction, that are necessary to maintaining the safety, sanitation, and essential operation

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of residences, businesses and buildings, such as hospitals and senior living facilities.

- Workers personnel, who support operations that ensure, the availability of and access to needed facilities, transportation, energy, and communications through activities such as road and line clearing.
- Workers who support the effective removal, storage, and disposal of residential, industrial, and commercial solid waste and hazardous waste, including at landfill operations.
- Workers who support the operation, inspection, and maintenance of essential dams, locks, and levees.
- Workers who support the inspection and maintenance of aids to navigation and other government-provided services that ensure continued maritime commerce.

## COMMUNICATIONS AND INFORMATION TECHNOLOGY

### Communications

- Maintenance of communications infrastructure, -- including privately owned and maintained communication systems, -- supported by technicians, operators, call centers, wireline and wireless providers, cable service providers, satellite operations, Internet Exchange Points, Points of Presence, Network Access Points, back haul and front haul facilities, and manufacturers and distributors of communications equipment.
- Government and private sector workers, including government contractors, with work related to undersea cable infrastructure and support facilities, including cable landing sites, beach manhole vaults and covers, submarine cable depots, and submarine cable ship facilities.
- Government and private sector workers, including government contractors, supporting Department of Defense internet and communications facilities.
- Network Operations staff, engineers, and technicians to include IT managers and staff, HVAC and electrical engineers, security personnel, software and hardware engineers, and database administrators that manage the network or operate facilities.
- Workers responsible for infrastructure construction and restoration, including but not limited to engineers, technicians, and contractors for construction and engineering of fiber optic cables, buried conduit, small cells, other wireless facilities, and other communications sector-related infrastructure. This includes permitting, construction of new facilities, and deployment of new technology as required to address congestion or customer usage due to unprecedented use of remote services.
- Installation, maintenance, and repair technicians that establish, support, or repair service as needed.
- Central office personnel to maintain and operate central office, data centers, and other network office facilities, including critical support personnel assisting front line workers.
- Customer service and support staff, including managed and professional services, as well as remote providers of support to transitioning workers to set up and maintain home offices, who interface with customers to manage or support service environments and security issues including payroll, billing, fraud, logistics, and troubleshooting.
- Workers providing electronic security, fire, monitoring, and life safety services, and who ensure physical security, cleanliness, and the safety of facilities and personnel, including those who provide temporary licensing waivers for security personnel to work in other States or Municipalities.
- Dispatchers involved with service repair and restoration.
- Retail customer service personnel at critical service center locations to address customer needs, including new customer processing, distributing and repairing equipment, and addressing customer issues, in order to support individuals' remote emergency communications needs

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- Supply chain and logistics personnel to ensure goods and products are available to provision these front-line workers.
- External Affairs personnel to assist in coordinating with local, state, and federal officials to address communications needs supporting COVID-19 response, public safety, and national security.
- Workers responsible for ensuring that persons with disabilities have access to and the benefits of various communications platforms, including those involved in the provision of telecommunication relay services, closed captioning of broadcast television for the deaf, video relay services for deaf citizens who prefer communication via American Sign Language over text, and audio-description for television programming.

### Information Technology

- Workers who support command centers, including, but not limited to, Network Operations Command Centers, Broadcast Operations Control Centers, and Security Operations Command Centers.
- Data center operators, including system administrators, HVAC and electrical engineers, security personnel, IT managers and purchasers, data transfer solutions engineers, software and hardware engineers, and database administrators for all industries, including financial services.
- Workers who support client service centers, field engineers, and other technicians and workers supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, support services, research and development, information technology equipment (to include microelectronics and semiconductors), HVAC and electrical equipment for critical infrastructure, and test labs and certification agencies that qualify such equipment (to include microelectronics, optoelectronics, and semiconductors) for critical infrastructure, including data centers.
- Workers needed to preempt and respond to cyber incidents involving critical infrastructure, including medical facilities; state, local, tribal, and territorial (SLTT) governments and federal facilities; energy and utilities; banks and financial institutions; securities and other exchanges; other entities that support the functioning of capital markets, public works, critical manufacturing, food, and agricultural production; transportation; and other critical infrastructure categories and personnel, in addition to all cyber defense workers who can't perform their duties remotely.
- Suppliers, designers, transporters, and other workers supporting the manufacture, distribution, provision, and construction of essential global, national, and local infrastructure for computing services (including cloud computing services and telework capabilities), business infrastructure, financial transactions and services, web-based services, and critical manufacturing.
- Workers supporting communications systems, information technology, and work from home solutions used by law enforcement, public safety, medical, energy, public works, critical manufacturing, food and agricultural production, financial services, education, and other critical industries and businesses.
- Workers required in person to support Software as a Service businesses that enable remote working, performance of business operations, distance learning, media services, and digital health offerings, or required for technical support crucial for business continuity and connectivity.

### OTHER COMMUNITY- OR GOVERNMENT-BASED OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions, including but not limited to security and environmental controls (e.g., HVAC), the manufacturing and distribution of the products required for these functions, and the permits and inspections for construction supporting essential infrastructure.

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- Elections personnel to include both public and private sector elections support.
- Workers supporting the operations of the judicial system, including judges, lawyers, and others providing legal assistance.
- Workers who support administration and delivery of unemployment insurance programs, income maintenance, employment service, disaster assistance, workers' compensation insurance and benefits programs, and pandemic assistance.
- Federal, State, and Local, Tribal, and Territorial government workers who support Mission Essential Functions and communications networks.
- Trade Officials (FTA negotiators; international data flow administrators).
- Workers who support radio, print, internet and television news and media services, including, but not limited to front line news reporters, studio, and technicians for newsgathering, reporting, and publishing news.
- Workers supporting Census 2020.
- Weather forecasters.
- Clergy for essential support.
- Workers who maintain digital systems infrastructure supporting other critical government operations.
- Workers who support necessary permitting, credentialing, vetting, and licensing for essential critical infrastructure workers and their operations.
- Customs and immigration workers who are critical to facilitating trade in support of the national emergency response supply chain.
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions.
- Workers at testing centers for emergency medical services and other healthcare workers.
- Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.
- Residential and commercial real estate services, including settlement services.
- Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, supply chain, and COVID-19 relief efforts.
- Workers performing services to animals in human care, including zoos and aquariums.

## CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of metals (including steel and aluminum), industrial minerals, semiconductors, materials and products needed for medical supply chains and for supply chains associated with transportation, aerospace, energy, communications, information technology, food and agriculture, chemical manufacturing, nuclear facilities, wood products, commodities used as fuel for power generation facilities, the operation of dams, water and wastewater treatment, processing and reprocessing of solid waste, emergency services, and the defense industrial base. Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains, and workers necessary to maintain a manufacturing operation in warm standby.
- Workers necessary for the manufacturing of materials and products needed to manufacture medical equipment and PPE.
- Workers necessary for mining and production of critical minerals, materials and associated essential supply chains, and workers engaged in the manufacture and maintenance of equipment and other

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infrastructure necessary for mining production and distribution.

- Workers who produce or manufacture parts or equipment that supports continued operations for any essential services and increase in remote workforce, including computing and communication devices, semiconductors, and equipment such as security tools for Security Operations Centers (SOCs) or data centers.
- Workers manufacturing or providing parts and equipment that enable the maintenance and continued operation of essential businesses and facilities.

## HAZARDOUS MATERIALS

- Workers who manage hazardous materials associated with any other essential activity, including but not limited to healthcare waste (medical, pharmaceuticals, medical material production, and testing operations from laboratories processing and testing kits) and energy (including nuclear facilities).
- Workers who support hazardous materials response and cleanup.
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations.

## FINANCIAL SERVICES

- Workers who are needed to provide, process, and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; public accounting; and capital markets activities.
- Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
- Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, lockbox banking, and to move currency, checks, securities, and payments (e.g., armored cash carriers).
- Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.
- Workers supporting production and distribution of debit and credit cards.
- Workers providing electronic point of sale support personnel for essential businesses and workers.

## CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, laboratories, distribution facilities, and workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, paintings and coatings, textiles, building materials, plumbing, electrical, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items.
- Workers supporting the production of protective cleaning and medical solutions, PPE, chemical consumer and institutional products, disinfectants, fragrances, and packaging that prevents the contamination of food, water, medicine, among others essential products.

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- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections.
- Workers (including those in glass container manufacturing) who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products.

## DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military, including, but are not limited to, space and aerospace workers, nuclear matters workers, mechanical and software engineers (various disciplines), manufacturing and production workers, IT support, security staff, security personnel, intelligence support, aircraft and weapon system mechanics and maintainers, and sanitary workers who maintain the hygienic viability of necessary facilities.
- Personnel working for companies, and their subcontractors, who perform under contract or sub-contract to the Department of Defense (DoD) and the Department of Energy (DoE) (on nuclear matters), as well as personnel at government-owned/contractor operated facilities, and who provide materials and services to the DoD and DoE (on nuclear matters), including support for weapon systems, software systems and cybersecurity, defense and intelligence communications, surveillance, sale of U.S. defense articles and services for export to foreign allies and partners (as authorized by the U.S. government), and space systems and other activities in support of our military, intelligence, and space forces.

## COMMERCIAL FACILITIES

- Workers who support the supply chain of building materials from production through application and installation, including cabinetry, fixtures, doors, cement, hardware, plumbing (including parts and services), electrical, heating and cooling, refrigeration, appliances, paint and coatings, and workers who provide services that enable repair materials and equipment for essential functions.
- Workers supporting ecommerce through distribution, warehouse, call center facilities, and other essential operational support functions, that accept, store, and process goods, and that facilitate their transportation and delivery.
- Workers in hardware and building materials stores necessary to provide access to essential supplies, consumer electronics, technology and appliances retail, and related merchant wholesalers and distributors.
- Workers distributing, servicing, repairing, installing residential and commercial HVAC systems, boilers, furnaces and other heating, cooling, refrigeration, and ventilation equipment.
- Workers supporting the operations of commercial buildings that are critical to safety, security, and the continuance of essential activities, such as on-site property managers, building engineers, security staff, fire safety directors, janitorial personnel, and service technicians (e.g., mechanical, HVAC, plumbers, electricians, and elevator).
- Management and staff at hotels and other temporary lodging facilities that provide for COVID-19 mitigation, containment, and treatment measures or provide accommodations for essential workers.

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## RESIDENTIAL/SHELTER FACILITIES AND SERVICES

- Workers providing dependent care services, particularly those whose services ensure essential workers can continue to work.
- Workers who support food, shelter, and social services, and other necessities of life for needy groups and individuals, including in-need populations and COVID-19 responders including travelling medical staff.
- Workers in animal shelters.
- Workers responsible for the leasing of residential properties to provide individuals and families with ready access to available housing.
- Workers responsible for handling property management, maintenance, and related service calls who can coordinate the response to emergency “at-home” situations requiring immediate attention, as well as facilitate the reception of deliveries, mail, and other necessary services.
- Workers performing housing and commercial construction related activities, including those supporting government functions related to the building and development process, such as inspections, permitting, and plan review services that can be modified to protect the public health, but fundamentally should continue and enable the continuity of the construction industry (e.g., allow qualified private third-party inspections in case of federal government shutdown).
- Workers performing services in support of the elderly and disabled populations who coordinate a variety of services, including health care appointments and activities of daily living.
- Workers responsible for the movement of household goods.

## HYGIENE PRODUCTS AND SERVICES

- Workers who produce hygiene products.
- Workers in laundromats, laundry services, and dry cleaners.
- Workers providing personal and household goods, repair, and maintenance.
- Workers providing disinfection services for all essential facilities and modes of transportation and who support the sanitation of all food manufacturing processes and operations from wholesale to retail.
- Workers necessary for the installation, maintenance, distribution, and manufacturing of water and space heating equipment and its components.
- Support required for continuity of services, including commercial disinfectant services, janitorial and cleaning personnel, and support personnel functions that need freedom of movement to access facilities in support of front-line workers.
- Workers supporting the production of home cleaning, pest control, and other essential products necessary to clean, disinfect, sanitize, and ensure the cleanliness of residential homes, shelters, and commercial facilities.
- Workers supporting agriculture irrigation infrastructure.
- Workers supporting the production of home cleaning and pest control products.

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# **EXHIBIT 19**

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30005  
LANSING, MICHIGAN 48909

DANA NESSEL  
ATTORNEY GENERAL

May 4, 2020

Re: Executive Orders 2020-69 & 2020-70

Dear Colleagues:

I am writing to clarify that, regardless of what you may have heard, Executive Order 2020-69 (temporary restrictions on the use of places of public accommodation) and Executive Order 2020-70 (temporary requirement to suspend activities that are not necessary to sustain or protect life) are valid and enforceable.

As you are aware, on April 30, 2020, Governor Whitmer issued executive orders under the Emergency Management Act and the Emergency Powers of Governor Act regarding the declared states of disaster and emergency in Michigan. In Executive Order 2020-66, the Governor terminated the states of disaster and emergency that had been previously declared under the EMA, and then, in Executive Order 2020-68, reissued a declaration of states of disaster and emergency under the EMA. A third order, Executive Order 2020-67, reiterated that a state of emergency remains declared under the EPGA.

Subsequently, the Governor issued two orders that have been the subject of debate—Executive Order 2020-69 and Executive Order 2020-70. Executive Order 2020-69 rescinded Executive Order 2020-43, but again placed temporary restrictions on the use of places of public accommodation. Executive Order 2020-70 rescinded Executive Order 2020-59, but again temporarily suspended various activities that are not necessary to sustain or protect life.

After these most recent actions, numerous legislators, and other officials, began to publicly question the validity of the Governor's declarations under the EMA, and consequently, the enforceability of Executive Order 2020-69 and Executive Order 2020-70. Such commentary has created confusion among law enforcement officials tasked with enforcing the orders. In light of this confusion, as the chief law enforcement officer for the State of Michigan, I carefully reviewed the issue and offer the following guidance.

Executive Order 2020-69 and Executive Order 2020-70 were issued by the Governor under *both* the EPGA and the EMA.

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The EPGA authorizes the Governor, following the declaration of an emergency, to:

promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control. [MCL 10.31(1).]

The legislature has deemed this to be a “sufficiently broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster.” MCL 10.32. In addition, the provisions of the EPGA are to “be broadly construed to effectuate this purpose.” *Id.*

Here, as mentioned, the Governor has declared a state of emergency under the EPGA, and Executive Order 2020-69 and Executive Order 2020-70 were issued following that declaration. Therefore, to be valid under the EPGA, the orders must be “reasonable orders” that the governor “considers necessary to protect life and property or to bring the emergency situation within the affected area under control.” MCL 10.31(1). In promulgating Executive Order 2020-69 and Executive Order 2020-70, the Governor specifically stated that she considered the restrictions imposed by those orders to be “reasonable and necessary” to mitigate the spread of COVID-19 and protect the public health across the State of Michigan. See Executive Order 2020-69, p 1-2; Executive Order 2020-70, p 1-2. I agree with that assessment.

COVID-19 has created a public health crisis of unprecedented gravity in our lifetime. Responding to, and stemming the spread of, the virus is paramount to all our well-being. To date, the most effective means to contain an infectious pandemic is to keep people away from each other. In promulgating Executive Order 2020-69 and Executive Order 2020-70, the Governor has done just that by placing restrictions on certain activities to limit social interactions. The absence of these restrictions would open gateways for the virus to reach every family and social network in every part of the State.

Consequently, the restrictions in Executive Order 2020-69 and Executive Order 2020-70 bear a real and substantial relationship to securing the public health, and they are reasonable. Further, although some restrictions on social interactions have been judiciously loosened by the Governor, the restrictions in Executive Order 2020-69 and Executive Order 2020-70 remain necessary to protect the lives of all Michiganders and bring the emergency created by COVID-19 in Michigan under control. As a result, Executive Order 2020-69 and Executive Order 2020-70 are valid and enforceable under the EPGA. Given that these orders are a valid exercise of the Governor’s authority pursuant to the EPGA, the speculation

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related to the EMA is of no moment and should not create any confusion as to the enforceability of these orders.

As always, we appreciate your continued assistance in the enforcement of Executive Orders 2020-69 and 2020-70.

Sincerely,

A handwritten signature in blue ink that reads "Dana Nessel". The signature is written in a cursive, flowing style.

Dana Nessel  
Attorney General