Arizona Directs Additional Businesses To Cease Operations

4.4.20

In response to the COVID-19 coronavirus outbreak, Arizona Governor Ducey issued a “Stay Home, Stay Healthy, Stay Connected” order last week requiring all Arizonans to limit their time away from their home or place of residence except in limited circumstances. On Friday, the governor expanded the order to include additional businesses and clarified other aspects of the order. Employers will want to review the changes to ensure they are in compliance with the latest directives.

What Did The Initial Order Say?

The March 30 order, Executive Order 2020-18, permitted individuals to leave their homes and places of residence:

1. To conduct or participate in Essential Activities.
2. For employment, to volunteer or participate in Essential Functions.
3. To utilize any services or product provided by Essential Businesses.
4. For employment, if as a sole proprietor or family owned business, work is conducted in a separate office space from your home and the business is not open to serve the public.

The order also said that no person shall be required to provide documentation or proof of their activities to justify their activities under this order. It went into effect at 5:00 pm on Tuesday, March 31, 2020 and remains effective until April 30, 2020, unless extended.
The Order carved out exceptions permitting the conduct “Essential Activities,” “Essential Businesses,” and “Essential Functions,” but required that businesses and entities that remained open implement rules and procedures that “facilitate physical distancing and spacing of individuals of at least six feet.”

**What Does The Latest Order Say?**

Through an April 3 press release, the Governor’s Office offered additional guidance regarding what constitutes “Essential Services” and directed that the following types of business “**cease operations**” no later than 5:00 pm on Saturday, April 4, 2020:

- Barbers
- Cosmetology, Hairstyling, Nail Salons and Aesthetic Salons
- Tanning Salons
- Tattoo Parlors
- Spas
- Massage Parlors

The press release explained that these business “cannot comply with the guidelines required in paragraph 11 of Executive Order 2020-18, directing Arizonans to Stay Home, Stay Healthy, and Stay Connected.” In addition, the guidance directed that certain facilities should **cease operations by 5:00 p.m., Saturday, April 4:**

- Amenities at public parks that do not allow for recommended physical distancing or proper hygiene such as basketball courts, splash pads, playgrounds and public restrooms;
- Communal pools such as those at hotels, condominiums, apartment complexes and parks; and
- Swap meets

The order does say that public parks should remain open to the greatest extent possible, and communal pools should continue to be maintained under environmental and public health rules and guidelines.

The Governor’s Office also clarified the types of services that were considered essential and permitted to continue operations. Specifically:

- Personal hygiene services including in-home services such as assistance with bathing and cleaning for vulnerable adults and those who are disabled.
- Daycare centers providing care for individuals with children serving in any essential services category.
Hotels and motels, to the extent used for lodging, including RV Parks, and hotel and motel restaurants providing delivery or carryout food services.

Respite and palliative care.

What Does This Latest Order Mean?

Friday’s clarification demonstrates that whether a business is permitted to remain open under Governor Ducey’s Stay Home, Stay Healthy, Stay Connected Order is dependent not only whether the business provides an “Essential Service” under Executive Order 2020-12, but also whether the nature of the business permits “physical distancing and spacing of individuals of at least six feet.”

Accordingly, those businesses that believe they provide essential functions or services should carefully review the Executive Orders 2020-12 and 2020-18 in their entirety to ensure that they BOTH fall squarely within an exception to the stay-at-home mandate AND can comply with all other aspects of the Orders, especially physical distancing.

Conclusion

We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips’ Alert System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our Phoenix office, or any member of our COVID-19 Taskforce. You can also review our nationwide Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus and our FP Resource Center For Employers, maintained by our Taskforce.

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