

COLORADO ISSUES MULTIPLE MANDATES FOR BUSINESS OPERATIONS DURING “SAFER AT HOME” PHASE

Insights
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The Colorado Department of Public Health issued [Public Health Order 20-28](#) to govern the next phase of Colorado’s reopening, labeled “Safer at Home.” Every business in Colorado planning to reopen over the next few weeks in some capacity should become familiar with the order and the requirements for its business.

The PHO also contains requirements for critical businesses that have been and will continue to operate during the Safer-at-Home Phase. The PHO was issued in response to the Governor’s [Executive Order D 2020-44](#), which in addition to mandating return to work requirements, [expanded the Colorado paid leave rule](#) that initially came out in March.

KEY REQUIREMENTS

Below are a few of the key provisions that will require action on the part of both critical and non-critical businesses. Employers must implement the following measures based on previous CHPHE guidance:

- Deputize a workplace coordinator charged with addressing COVID-19 issues;
- Maintain a six-foot separation between employees;
- Clean and disinfect all high-touch areas;
- Post signage for employees and customers on good hygiene;

Related People



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- Ensure proper ventilation;
- Avoid gatherings of more than 10 people;
- Implement symptom monitoring protocols and daily temperature checks; and
- Eliminate or regularly clean and disinfect common spaces.

[Ed. Note (5/6/20): CDPHE has changed its guidance for how to monitor employee temperatures in the workplace. CDPHE now provides that the best practice for essential and nonessential businesses is to implement a temperature check station at the entrance to your business. If this is not feasible, employees should check for symptoms at home and report symptoms either electronically or on paper per the system created by the business.]

Employers must also implement the following measures:

- Provide reasonable work accommodations for vulnerable individuals who remain subject to stay-at-home advisements, and not compel vulnerable individuals to go to work;
- Provide to the greatest extent possible flexible or remote scheduling for employees who may have child or elder care obligations or who live with a person who still needs to observe Stay-at-Home due to underlying condition, age, or other factors;
- Encourage breaks and remote work whenever possible;
- Phase shift and breaks to reduce density; and
- Provide protective gear like gloves, masks, and face coverings. Note: [the previous PHO did not require employer provided face coverings](#). The language here is stricter, but still links to [CDPHE guidance](#) that states employers should provide coverings when possible. The Appendices to the PHO also acknowledge that face coverings may not be possible to provide. Employers should strive to provide face coverings to employees that interact with the public and continue to encourage employees to provide their own face coverings.

“Vulnerable individuals” have been expanded to include:

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- Individuals who are 65 years or older;
- Individuals with chronic lung disease or moderate to severe asthma;
- Individuals who have serious heart conditions;
- Individuals who are immunocompromised;
- Pregnant women; and
- Individuals determined to be high risk by a licensed healthcare provider.

Employers with over 50 employees in one location have additional protocols to follow including stations for screening and temperature checks, closing common areas, and strict guidance to social distancing requirements.

NEXT STEPS

In addition to numerous requirements for an employer to implement in order to be deemed safely operating during the Safer-at-Home phase, the PHO also includes restrictions and guidelines for customers and the public. The PHO reemphasizes previous guidance regarding social distancing, disinfection protocols, and limits on the number of people in gatherings. Critical and non-critical businesses should familiarize and train their supervisors and employees regarding the required protocols in the PHO.

WHAT SHOULD EMPLOYERS DO?

As you begin the process of reopening, you should familiarize yourself with our alert: [5 Steps To Reopen Your Workplace, According To CDC's Latest Guidance](#). You should also keep handy our [4-Step Plan For Handling Confirmed COVID-19 Cases When Your Business Reopens](#) in the event you learn of a positive case at your workplace. For a more thorough analysis of the many issues you may encounter from a labor and employment perspective, we recommend you review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

CONCLUSION

Fisher Phillips 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 [Denver](#) office, or any member of [our Post-Pandemic Strategy Group Roster](#).

This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.