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WHAT IS A NON-ESSENTIAL BUSINESS? GUIDANCE ON PENNSYLVANIA'S CURRENT CLOSURE DIRECTIVES

On Monday, March 16, 2020, the Wolf Administration ordered certain “non-essential” businesses to close for 14 days to mitigate the spread of coronavirus, while urging other types of business to voluntarily close. A lack of clear guidance has left many business owners unsure of whether their business is mandated to close, or merely encouraged to close.

Current Closure Directives

Late in the day on March 16, the Department of Community and Economic Development (DCED) issued additional guidance on the closure of non-essential businesses. Based on that guidance, as of March 17, the following closures are in place in Pennsylvania:

- Non-Essential Businesses
 - Public-facing industries, such as entertainment, hospitality and recreation facilities, are ***urged, but not required*** to close. This includes, but is not limited to, community and recreation centers; gyms, including yoga, barre and spin facilities; hair salons and barber shops, nail salons and spas; casinos; concert venues; theaters; sporting event venues and golf courses; retail facilities, including shopping malls except for pharmacy or other health care facilities within retail operations.
 - Restaurants and bars have been ***ordered*** to close their dine-in facilities. Businesses that offer carry-out, delivery, and drive-through food and beverage service may continue to do so.
- Essential Services and Sectors
 - Essential services and sectors may remain open but are ***encouraged to use social distancing practices***. In addition, employers may refer to the World Health Organization (WHO) Guidance for Workplaces which is accessible [here](#).
 - Essential services and sectors include, but are not limited to, food processing, agriculture, industrial manufacturing, feed mills, construction, trash collection, grocery and household goods (including convenience stores), home repair/hardware and auto repair, pharmacy and other medical facilities, biomedical and healthcare, post offices and shipping outlets, insurance, banks, gas stations, laundromats, veterinary clinics and pet stores, warehousing, storage, and distribution, public transportation, and hotel and commercial lodging.
 - Dental practices have been urged by the American Dental Association to postpone elective procedures for the next three weeks, and to limit procedures to emergency dental care. Many dental offices have closed for routine appointments and will evaluate whether to reopen after the recommended three-week period.

- Medical practices should comply with guidance and recommendations issued by the Center for Disease Control (CDC) and World Health Organization (WHO), including guidance on maintaining a safe and healthy work environment. The CDC's Interim Guidance for Healthcare Professionals can be accessed [here](#), and the WHO Communication Package for Healthcare Facilities can be accessed [here](#).
- Professional Services Businesses
 - Professional service businesses are **encouraged to have employees work remotely from home**. When working from home is not possible, employers should employ **social distancing practices and be aware of the CDC's Guidance to avoid gatherings of 10 or more people**.
 - These businesses include legal services, business and management consulting, accounting services, insurance services and other professional services.

Unemployment Compensation

The PA Department of Labor & Industry (L&I) is proactively notifying workers that they may be eligible to received unemployment compensation benefits if they are unable to work for one of the following reasons:

- Their employer temporarily closes or goes out of business because of COVID-19;
- Their hours of work are reduced because of COVID-19;
- They have been told not to work because their employer feels their might get or spread COVID-19; or
- They have been told to quarantine or self-isolate, or live/work in a county under government-recommended mitigation efforts.

In an effort to aid workers whose employment is impacted by COVID-19, the Wolf Administration has also implemented the following changes to the UC benefit system:

- **Waiting Week is Suspended.** Normally, when an employee files for unemployment compensation, they are not eligible to receive benefits during their first week of unemployment (known as the "waiting week"). The waiting week requirement is currently suspended, and eligible claimants may receive benefits for the first week they are unemployed.
- **Work Search and Registration Requirements Temporarily Waived.** Individuals receiving unemployment compensation benefits are normally required to register with PA CareerLink and engage in weekly work search efforts. Both of these requirements have been temporarily waived.

L&I is also notifying workers that they may be eligible for workers' compensation benefits if they are exposed to COVID-19 in the workplace. Additional information about unemployment and workers' compensation benefits for those impacted by COVID-19 is available [here](#).

Additional Financing Available

DCED is offering working capital loans that may be of assistance to businesses during the COVID-19 shut down. Information about financing will be posted [here](#) as it becomes available. These loans are in addition to the Economic Injury Disaster Loans being offered by the U.S. Small Business Administration (SBA). You can learn more about SBA loans [here](#).

BCGL's Business and Employment Team is available to assist you with coronavirus strategies for your business. Please reach out to Ted Brubaker (TedB@bcgl-law.com), Brett Jackson (BrettJ@bcgl-law.com) and Ryan Givens (RyanG@bcgl-law.com) with business-continuity and financing questions, and Theresa Mongiovi (TheresaM@bcgl-law.com) and Angela Sanders (AngelaS@bcgl-law.com) with employment-related questions.