A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

Virtual Engagement Series
A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

Series Kickoff: June 19, 2020
Today’s Program

• Welcome & Housekeeping Notes
• Introduction of Nonprofit Leaders
• Remarks from Governor Whitmer; Q&A
• Conversation Among Nonprofit Leaders; Q&A
• Presentation on Legal Guidance in Developing a Re-Entry Plan; Q&A
Housekeeping Notes

• This webinar is being recorded.
• Q&A time is built into each portion of the program.
• Use the “Chat” function to share your questions anytime.
• Conversations are based on our best understanding at this time.
• The attorney presentation features legal guidance, not legal advice.
Next in Our Series

**Friday, June 26 (10am – 12pm)**
Lessons Learned and Legal Guidance for Safely Returning to the Workspace

**Thursday, July 9 (10am – 12pm)**
Creative Design Solutions for the Workplace

**Thursday, July 16 (10am – 12pm)**
HR Policies, Procedures and Practices
Today’s Presenters: Nonprofit Leader Panel

Donna Murray-Brown
MNA

Allandra Bulger
Co.act Detroit

Shamyle Dobbs
MCR

Kyle Caldwell
CMF

Paula Cunningham
AARP Michigan
(Moderator)
Welcome, Governor Whitmer!
What does an **equity-centered nonprofit workforce and workplace** mean to you, as employers and nonprofit leaders?
What are some of the immediate / shorter-term key considerations that are top of mind for you as you think about re-entry for your own employees? How might those same considerations be applicable for nonprofits on the call?
Looking ahead, what are some of the **longer-term implications of re-entry**? What **opportunities** do you see for the nonprofit sector? What can nonprofits be doing or thinking about now to prepare for those opportunities?
Today’s Presenter:

Courtney Kissell

Member, Dykema Gossett PLLC
Reopening Businesses and Operations
and State Executive Orders

A New Way Forward: Re-Imagining the Nonprofit Workplace
Virtual Engagement Series
June 19, 2020

Courtney F. Kissel
Agenda

• Overview of Current Legal Landscape
  – Federal Law
  – State Law
  – Local Orders
• Summary of Current Executive Orders on Reopening
• Workplace Safety Requirements
• Compliance/Penalties
• Resources
• Q&A
Current Legal Landscape

Layers of Regulation

- Federal Guidance
- State Executive Orders
- Local Executive Orders/Local Public Health Orders

The end result can be a complex regulatory landscape to navigate.
Federal Guidance

• Federal guidance is coming from several places with OSHA and the CDC being most significant with respect to reopening.
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State Executive Orders

• Currently, Executive Order Nos. 2020-110, 2020-114, and 2020-115 will likely be most important for you to review as you consider your obligations as you reopen.*

• In Regions 6 and 8, most (not all) businesses/operations may reopen subject to certain restrictions.
  – Executive Order No. 2020-114
  – Industry-specific restrictions in EO 2020-115

• In the rest of Michigan, however, there are more restrictions on gatherings and who can reopen.

• You also want to review any Executive Order that may apply specifically to your industry (e.g., child care, long-term care, health care facilities, etc.)

*Note: The Governor is expected to reopen additional regions/businesses in the coming days, so the applicable EO may change quickly. Executive Orders can be found on Michigan.gov (https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455_98456_100804---,00.html)
Who may resume in-person activities?

- The focus of the stay-at-home orders has shifted from what can be open to what must stay closed.
- No one is required to reopen!
- Even if you can reopen, please keep in mind the following:
  - Telework is still required where possible (in Regions 6 and 8, telework “should” be done remotely if it can be).
  - Make sure you understand what your workplace safety requirements you need to implement (may need to look in multiple places)
  - Check local and administrative orders too!

Note: Make sure you check every jurisdiction your operations are located if you have multiple locations.
Hypothetical

Where would an office-based nonprofit operation located in Lansing, MI look for its reopening requirements?

- Executive Order No. 2020-110 (reopening order)
- Executive Order No. 2020-114 (workplace safety order)
- Executive Order No. 2020-36 (worker protection order)
- Ingham County Emergency Orders
- City of Lansing Orders
- CDC/OSHA guidance
Challenges to the Governor’s Authority

• Please note that there have been several challenges to the Governor’s authority to issue the Executive Orders restricting business operations and workplace safety requirements.

• As of today, the Court of Claims has ruled the Governor has broad authority under the Emergency Powers of Governor Act to issue such orders. The same court did restrict the Governor’s authority under the Emergency Management Act. That case is currently before the Michigan Court of Appeals.

• Federal court sent two certified questions to the Michigan Supreme Court this week related to the Governor’s authority.
Local Orders

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Emergency Order (Ingham 2020-6) imposed similar restrictions and requirements. With this order, Emergency Order Ingham 2020-6 is rescinded. This order imposes substantially identical restrictions and requirements and extends the local order to align with the extended State of Emergency issued by Michigan Governor Gretchen Whitmer. This Order is made pursuant to Section 2453 of Michigan’s Public Health Code, 1978 PA 368 (MCL 333.2453). The Governor has extended the Michigan State of Emergency, which allows this sheltering order to remain in place for the period covered by the State of Emergency through June 19, 2020. Also, effective May 22, 2020, Michigan Governor Gretchen Whitmer issued Executive Order No. 2020-100, which extended the temporary suspension of activities that are not necessary to sustain or protect life continuing through June 12 at 11:59 p.m. Exemptions include businesses and operations that employ critical infrastructure workers, which may continue in-person operations. Consistent with MCL 10.33 and MCL 30.4013(B), a willful violation of Executive Order No. 2020-21 shall constitute a misdemeanor.

RESCISSON OF EMERGENCY PUBLIC HEALTH ORDER 220-02

Governor Whitmer’s Executive Order No. 2020-97 requires all businesses or operations to develop a COVID-19 preparedness and response plan. Executive Order No. 2020-97, various other Executive Orders issued within the last week, as well as guidance from the Centers for Disease Control and Prevention fully cover screening, social distancing, face screenings and additional public health protocols to protect the public health to the greatest degree possible from further transmission of COVID-19. Thus, there is no longer a need for Wayne County Health Department Emergency Public Health Order 920-02, Procedures for Non-Childcare Businesses and Other Entities Remaining Open.

Therefore, effective immediately, Wayne County Health Department Emergency Public Health Order 920-02, Procedures for Non-Childcare Businesses & Other Entities Remaining Open, is hereby rescinded and shall no longer be in force or in effect.

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Workplace Safety Requirements
What safety requirements must be in place if you resume in-person operations?

- For all businesses/operations, there are, at minimum, 18 specific requirements that you must put in place. Highlights include:
  - Developing a COVID-19 Preparedness and Response Plan;
  - Provide specific training to employees on specified topics;
  - Conduct a daily entry self-screening protocol for all employees and contractors entering the workplace;
  - Provide non-medical grade face coverings and require face coverings to be worn when social distancing cannot be maintained;
  - Provide notification of a confirmed case: (1) immediately to local health department and (2) within 24 hours to any co-workers, contractors, or suppliers who may have come into contact with the person.
What is the COVID-19 Preparedness and Response Plan?

• Must be consistent with recommendations in **Guidance on Preparing Workplaces for COVID-19**, developed by OSHA
• Requires classification of employees by risk level and implementation of recommended actions
• Templates are available in different locations—but be sure to tailor to your operations
• MIOSHA Template for Lower and Medium Risk available [here](#).

[Image: Document page with COVID-19 Preparations and Response Plan information]

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**COVID-19 Preparedness & Response Plan**

**For Lower and Medium Exposure Risk Employers**

**General**

The following COVID-19 preparedness & response plan has been established for [company name] in accordance with the requirements in the Executive Orders (EOs) for COVID-19 signed by Governor Gretchen Whitmer, the OSHA **Guidance on Preparing Workplaces for COVID-19**, and the latest guidance from the US Centers for Disease Control and Prevention (CDC). The purpose of this plan is to minimize or eliminate employee exposure to SARS-CoV-2.

The EOs, OSHA guidance, and CDC guidance for COVID-19 have general safeguards applicable for all workplaces and specific safeguards for certain industries. [Name of responsible person] has read these guidance documents carefully, found the safeguards appropriate to [company name] based on its type of business or operation, and has incorporated these safeguards into this COVID-19 preparedness and response plan.

As the COVID-19 situation evolves, the EOs and CDC guidance are periodically updated. [Name of person] will be responsible for visiting the EO webpage and CDC guidance webpage regularly (for example, weekly) for the latest information and for revising the plan as necessary. The EOs are found at [https://www.michigan.gov/whitmer](https://www.michigan.gov/whitmer). The CDC guidance documents are found at [https://www.cdc.gov/coronavirus/2019-ncov/worksites/guidance-list.html](https://www.cdc.gov/coronavirus/2019-ncov/worksites/guidance-list.html). This plan reflects the EOs and CDC guidance as of [date].

[Company name] has designated one or more workplace supervisors to implement, monitor, and report on the COVID-19 control strategies developed in this plan. The workplace supervisor is [name of supervisor or supervisors]. The supervisor will remain on site at all times where employees are present on site. An on-site employee may be designated to perform the supervisory role.
Other Requirements

- Industry-specific requirements are detailed for: work primarily/traditionally performed outdoors, construction, manufacturing, research laboratories, retail stores, libraries, museums, offices, restaurants/bars, outpatient health facilities, in-home services, personal care services, sports/cinemas/entertainment, and fitness/exercise facilities.
- Also make sure no other requirements are found in relevant EO.
- Finally, note that EO 2020-114 requires employers to maintain records on the required training, the daily entry self-screening protocol, and any required notifications for a confirmed case.
Compliance/Penalties?
Resources

- Michigan Coronavirus Homepage: https://www.michigan.gov/coronavirus/
- Executive Orders related to Coronavirus: https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455_98456_100804---,00.html
- Michigan Department of Labor and Economic Opportunity: https://www.michigan.gov/leo/0,5863,7-336-100207---,00.html#comp_116669
Thank you!

Courtney F. Kissel
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Q&A
Thank you for being a part of today’s conversation!

Please be sure to complete the evaluation via the email link you’ll receive.
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