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## **IMPORTANT CLIENT UPDATE**

### **EXECUTIVE ORDER 2020-153**

On July 17, 2020, Governor Whitmer issued EO 2020-153 to clarify and strengthen the previous mandates contained in EO 2020-147 (now rescinded) that individuals wear a face covering over their nose and mouth in indoor public spaces, as well as crowded outdoor spaces. EO 2020-153 now clarifies that businesses may not assume that an unmasked customer cannot medically tolerate a face covering, but the business can accept a customer's verbal representation to that effect. EO 2020-153 also requires public safety officers to wear a face covering unless doing so would seriously interfere in the performance of their responsibilities. Finally, EO 2020-153 clarifies that wearing a mask is not required at a polling place for purposes of voting in an election, but still strongly encouraged.

#### **Executive Order No. 2020-153 Overview:**

Executive Order No. 2020-153 orders that any individual who leaves their home or place of residence must wear a face covering over their nose and mouth:

- (1) When in any indoor public space.
- (2) When outdoors and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household.
- (3) While waiting for or riding on public transportation, while in a taxi or ride-sharing vehicle, or when using a private car service as a means of hired transportation.

Although a face covering is strongly encouraged even for individuals not required to wear one, the requirement mandating face coverings excludes:

- (1) Individuals younger than 5 years old. Children older than two years old are encouraged to wear a face covering pursuant to guidance from the Centers for Disease Control and Prevention ("CDC").
- (2) Individuals who cannot medically tolerate a face covering.
- (3) Individuals who are eating and drinking while seated at a food service establishment.
- (4) Individuals who are exercising where wearing face coverings would interfere with the activity.
- (5) Individuals who are receiving a service for which temporary removal is necessary to perform said service.
- (6) Individuals who are entering a place of business or are receiving service and are asked to temporarily remove a face covering for identification purposes.

- (7) Individuals who are communicating with a deaf, deafblind, or hard of hearing person, and where the ability to see the mouth is essential for communication.
- (8) Individuals who are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a mask would seriously interfere in the performance of their public safety function.
- (9) Individuals who are at a polling place for purposes of voting in an election.
- (10) Individuals who are officiating at a religious service.
- (11) Individuals who are giving a speech for broadcast or for an audience, provided that the audience is at least six feet away from the speaker.

Similarly, Executive Order No. 2020-153 also mandates that businesses, government offices, or operations open to the public may not 1) provide services to a customer, or 2) allow a customer to enter its premises, unless the customer is wearing a face covering as provided by the Order. Businesses that are open must post signs at the entrance(s) instructing customers of their legal obligation to wear a face covering inside. A department or agency that learns of a licensee not in compliance will consider whether the public health, safety and welfare requires summary, temporary suspension of the business's license to operate under section 92 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24. 292(2).

A business may not assume that someone who enters the business without a face covering is eligible for one of the listed exceptions, including the exception for individuals who cannot medically tolerate a face covering. A business may, however, accept a customer's verbal representation that they are not wearing a face covering because they fall within a specified exception. Further, for purposes of this order, neither child care centers nor day, residential, travel, or troop camps as defined by Rule 400.11101 of the Michigan Administrative Code, are considered public spaces.

The Executive Order takes effect immediately. Consistent with MCL 10.33 and MCL 30.45(3), a willful violation of this Executive Order is a misdemeanor subject to a \$500 criminal penalty, but no term of confinement may be imposed for a violation of Section 1 of the Executive Order.

**Should you have questions, please do not hesitate to contact our Office.**

Link to [EO 2020-153](#)

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