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## **IMPORTANT CLIENT UPDATE**

### **GOVERNOR EXECUTIVE ORDER 2020-48 (rescinded and replaced EO 2020-15) ON OPEN MEETINGS ACT**

As some of you may now know, many Michigan local governmental associations, including MAC and MML, have been working with Governor Whitmer's office to provide relief from the strict requirements of the Open Meetings Act considering the highly contagious nature of the COVID-19 pandemic. Executive Order 2020-15 was issued by the Governor on March 18, 2020 which was rescinded and replaced on April 15, 2020 in Executive Order 2020-48 (set to expire on May 12, 2020).

The current executive order permits public bodies and other governmental entities in Michigan to hold "electronic" public meeting using phone or video conferencing.

#### **Executive Order No. 2020-48 Overview:**

As previously permitted starting on March 18, 2020 and now continuing through May 12, 2020 (this date may be extended further), the rules of the Open Meetings Act (OMA) are suspended to the extent they require a meeting of a public body to be in a physical building open to the public and to the extent the OMA requires the physical presence of one or more members of the public body.

Instead, a meeting of a public body can be held electronically provided the following conditions are met:

- (1) The meeting can be held electronically (including tele-conferencing and video conferencing) if a means are available for both the public and the members of the public body to participate.
- (2) There must be 2-way communication so that (1) the members of the public body can hear each other, (2) the members of the public can hear the members of the public body, and each other, and the public body can hear all of the public during the public comment portion of the meeting.
- (3) It appears to be optional for the public body to use technology for typed public comments to be submitted and read or shared with the public body and participants.

- (4) Members of the public body and members of the public participating electronically will be considered present at the meeting and may participate as if physically present at the meeting.
- (5) All persons wanting to participate must be permitted to participate. The time limits for public comment can still be enforced.
- (6) In addition to the meeting notice requirements of the OMA, the public body must post advance notice of an electronic meeting on the home page of its website. The Notice must include:
  - (a) an explanation of why the meeting is being held electronically,
  - (b) detailed procedures on how the public may participate electronically, including a telephone number, internet address or both, and
  - (c) an explanation of procedures by which persons with disabilities may participate.

The Order does not mandate remote meetings, and likely some public entities could hold “hybrid” meetings where some members might participate in person and others electronically, but the meeting chambers would not be open for the public by operation of Executive Order 2020-42, Temporary requirement to suspend activities that are not necessary to sustain or protect life, expiring on April 30, 2020 (with the possibility of further extension). Therefore, any meeting of a public entity must allow a mechanism for the public to listen and participate electronically for the duration of EO 2020-42 and any successor order. If such hybrid meetings are needed, care should be taken to assure compliance with federal, state, and local health guidance and requirements relating to maximum numbers of persons within a specific confined area and social distancing between individuals.

**Should you have questions concerning this new option, please do not hesitate to contact our Office.**

Link to EO 2020-48:

[https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90705-525888--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-525888--,00.html)

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April 20, 2020

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