



COVID-19 Legal Digest: City of Philadelphia Order No. 2; Delaware Issues Stay-at-Home Order; NJ Governor Suspends Elective Surgeries

Client Advisories

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City of Philadelphia Order No. 2

On March 22nd, Mayor Kenney and Philadelphia Health Commissioner Thomas Farley, M.D., issued the City of Philadelphia's COVID-19 Order No. 2, providing additional guidance to businesses and business patrons and requiring that Philadelphia residents stay in their homes, with some exceptions.

What's New?

The City's new order references Governor Wolf's March 20th order and its parameters by:

- Incorporating into the City's definition of "essential businesses" all life-sustaining businesses in specific industry groups identified in the Governor's Order. (See City Order No. 2, sect. 1(C)), noting that "[t]he City's order should be interpreted to be consistent with the Governor's Order (See City Order No. 2, sect. 1(D)).
- Correlating Philadelphia-specific businesses and activities previously identified by the City as "essential" to the businesses and activities listed as "life-sustaining" in the Governor's order (See Order No. 2, sects. 1(F)-(H)).
- Specifically referencing the Governor's deference to the Supreme Court's jurisdiction to regulate the activities of law firms, and reiterating that law firms are permitted to undertake physical operations only to the extent necessitated by participation in legal services that the Supreme Court's order has designated as "essential." (See Order No. 2, sect. 3(C)).

Stay-at-Home Order

The Order mandates that Philadelphia residents remain at their place of residence unless engaging in “essential personal activities,” which include, *inter alia*, grocery shopping; obtaining medications or prescriptions; obtaining medical attention; caring for family members; reporting to or performing their jobs; leaving the home for educational, religious, or political reasons; or engaging in outdoor activities while adhering to social distancing rules. (See Order No. 2, sect. 6(A).)

How Long Is Order No. 2 in Effect?

Order No. 2 supersedes the City’s previous March 17th order, which expired March 27th, 2020. Order No. 2 took effect Monday, March 23, at 8:00 a.m., and will remain in effect **indefinitely** and until rescinded, superseded, or amended by further order.

A copy of the order is available [here](#).

Delaware Issues Stay-at-Home Order

On Sunday, March 22, 2020, Governor Carney issued a Stay-at-Home Order closing all non-essential businesses. You can access the order by clicking [here](#) and a spreadsheet identifying Essential Businesses by clicking [here](#). A notable provision in the Delaware Order requires Essential Businesses to exclude from the premises all “individuals at highest risk of poor outcomes such as those over age 60 and those with chronic underlying conditions . . . (with the exception of healthcare workers).”

Governor Murphy Suspends All Elective Surgeries and Invasive Procedures

As part of the state’s effort to preserve the capacity of the health care system to respond to COVID-19, Governor Phil Murphy today signed Executive Order No. 109, directing the suspension of all elective surgeries and invasive procedures performed on adults that are scheduled to take place after 5:00 p.m. on Friday, March 27. The Governor’s Executive Order applies to all medical and dental operations that can be delayed without undue risk to the current or future health of the patient, as determined by the patient’s physician or dentist.

“Our new reality calls for aggressive action to reduce the burden on our health care system and protect our frontline medical responders,” said Governor Murphy. “Given the dramatic shortfall in personal protective equipment we face, it’s imperative that we work with our partners in health care to strategically preserve supplies and equipment for emergency purposes only.”

In addition to the suspension outlined above, Governor Murphy’s Executive Order also requires the following:

- **Protecting the capacity of hospitals:** Physicians and dentists, who are planning to perform surgery or invasive procedures in their offices, must consider the potential burden of post-surgery complications on local hospitals prior to performing any operation.
- **Explicit exemption for family planning and termination of pregnancies:** The order provides that it shall not be interpreted in any way to limit access to family planning services, including termination of pregnancies.



- **Inventory of personal protective equipment to be taken:** Any business, non-hospital health care facility, or institution of higher learning in possession of PPE, ventilators, respirators, or anesthesia machines not required for the provision of critical health care services shall undertake an inventory of these supplies and send that information to the State by 5:00 pm on Friday, March 27. The Office of Emergency Management shall establish a process for affected entities to submit this information.

The Order requires facilities to immediately notify patients whose operations have to be suspended.

For a copy of Executive Order No.109, please click [here](#).

Please reach out to your Archer contact or any member of **Archer's COVID-19 Task Force** with any questions you may have.

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