

## Temporary Restrictions on Entry into Health Care Facilities Effective Immediately

Mar 16, 2020

Late on Saturday, March 14th, Governor Whitmer signed Executive Order No. 2020-7 which temporarily restricts visitors' entry into health care facilities, residential care facilities, and congregate care facilities, and requires health screening of all individuals entering such facilities (excluding individuals under the care of the facility).

These restrictions are in effect now and continue through April 5th at 5:00 p.m.

Governor Whitmer ordered:

1. **Effective immediately** and continuing through April 5, 2020 at 5:00 p.m., all health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities **must prohibit from entering their facilities any visitors** that:
  - Are not necessary for the provision of medical care, the support of activities of daily living, or the exercise of power of attorney or court-appointed guardianship for an individual under the facility's care;
  - Are not a parent, foster parent, or guardian of an individual who is 21 years of age or under and who is under the facility's care;
  - Are not visiting an individual under the facility's care that is in serious or critical condition or in hospice care; and
  - Are not visiting under exigent circumstances or for the purpose of performing official governmental functions.
2. **Beginning as soon as possible but no later than Monday, March 16, 2020 at 9:00 a.m.**, and continuing through April 5, 2020 at 5:00 p.m., all health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities **must perform a health evaluation** of all individuals that are not under the care of the facility **each time** the individual seeks to enter the facility, **and must deny entry** to those individuals who do not meet the evaluation criteria. The evaluation criteria must include:
  - Symptoms of a respiratory infection, such as fever, cough, shortness of breath, or sore throat; and
  - Contact in the last 14 days with someone with a confirmed diagnosis of COVID-19.

3. A willful violation of the Executive Order constitutes a misdemeanor.

Governor Whitmer urged facilities to facilitate visitations via phone or other electronic communication platforms, consistent with normal visitation policies.

The Executive Order No. 2020-7 applies to “health care facilities” which is not defined under the Public Health Code but presumably includes any “health facility” as that term is defined at MCL 333.20106(1)(a) which includes, among other facilities, hospitals and freestanding surgical outpatient facilities. The Executive Order also applies to “residential care facilities” defined at MCL 168.38(4)(c) to include both homes for the aged and nursing homes. Finally, the Executive Order applies to “congregate care facilities” which presumably includes adult foster care congregate facilities, meaning adult foster care facilities with the approved capacity to receive more than 20 adults (see MCL 400.703(3)).

Executive Order No. 2020-7 rescinds Executive Order No. 2020-6, which imposed nearly identical restrictions, with the exception of certain clarifying changes to the visitation limitations.

Health care facilities should also consider federal guidance when implementing Executive Order No. 2020-7. For example, CMS’ guidance for hospitals and nursing homes contain similar, but not identical, restrictions. Health care facilities that operate outside of Michigan should continue to monitor applicable state law.

Honigman attorneys are actively working on all aspects of the Coronavirus pandemic. See Employment Law Essentials for COVID-19 and Force Majeure Clauses for COVID-19. For more guidance, contact your relationship attorney at Honigman.