

# CORONAVIRUS INFORMATION & UPDATES

March 23, 2020

## Illinois COVID-19 FAQs

On March 20, 2020, Governor J.B. Pritzker issued a sweeping “stay-at-home” proclamation to cease non-essential businesses activities and require that individuals stay at home through April 7, 2020. During this time period, however, essential businesses such as health care facilities and pharmacies can remain open. Individuals can still leave the house for an essential purpose and engage in outdoor activity so long as they maintain social distancing precautions.

The stay-at-home order follows Governor Pritzker’s March 19, 2020 [proclamation](#) expanding telemedicine reimbursement and the Chicago Department of Public Health’s public order that requires all Chicago residents with confirmed cases of COVID-19, as well as those who have symptoms of the virus, to stay home. In addition to the aforementioned measures, Governor Pritzker has announced a [disaster proclamation](#) and [seven other executive orders](#) addressing COVID-19 to date. Several other measures taken by Illinois agencies are summarized in Section 10 below.

As new proclamations, emergency rules, and local government guidance impacting Illinois businesses and residents are issued and updated, we have found that a few questions have come up frequently from our clients. Because the state and local approach to COVID-19 remains fluid, we will continue to monitor these developments and provide updates.

This alert is one of a series of advisories, podcasts and webinars issued by Ropes & Gray on COVID-19 topics. Please check our [Coronavirus Resource Center](#) for additional information concerning developments across the country.

### Questions Related to the Stay-at-Home Order

#### 1. How does the stay-at-home order impact health care operations?

The stay-at-home order makes clear that individuals may continue to travel to work for or obtain services from health care providers. “Healthcare and Public Health Operations” is defined broadly,<sup>1</sup> and include all of the below:

- i. Hospitals;
- ii. Clinics;
- iii. Dental offices;
- iv. Pharmacies;
- v. Pharmaceutical, medical device and equipment, and biotechnology research organizations, manufacturers, and distributors;
- vi. Blood, platelet, and plasma collection organizations;
- vii. Licensed medical cannabis dispensaries and licensed cannabis cultivation centers;

<sup>1</sup> Gyms, spas, salons, and barber shops and similar facilities are all excluded from the definition of Healthcare and Public Health Operations, and are not given an exception to continue operations. To the extent a health care facility maintains any of these operations, such as a hospital gym or a salon in a skilled nursing facility, such operations should cease.

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- viii. Reproductive health care providers;
- ix. Eye care centers, including businesses that sell glasses and contact lens;
- x. Home health care providers;
- xi. Mental health and substance use providers;
- xii. Medical waste transporters; and
- xiii. Veterinary care and all other health care service providers to animals.

Note that the definition of Healthcare and Public Health Operations is to be construed broadly so as to avoid impact on the delivery of health care. If you are uncertain as to whether your business may continue operating during the term of the proclamation, consult your legal counsel.

## **2. I am not one of the health care facility types addressed by the definition of Healthcare and Public Health Organizations, but offer health care-related services. Am I still able to operate?**

A number of additional health care-related provider types are addressed by the definition of “Human Services Operations” in the proclamation. Individuals are permitted to leave to work for, or obtain services from, any provider funded by the Illinois Department of Human Services, Illinois Department of Children and Family Services, or Medicaid that provides services to the public. Examples of such facilities include long-term care facilities and residential care facilities for individuals with mental and developmental disabilities. Although not specifically addressed, outpatient addiction treatment facilities and outpatient services for those with substance abuse disorders that offer services to Medicaid beneficiaries can continue to operate during the term of the proclamation.

## **3. I am not a health care provider and don’t provide health care-adjacent services. How will my business be impacted by the Governor’s stay-at-home order?**

The stay-at-home order issued on March 20, 2020 will run through April 7, 2020. During this time period, all businesses except “Essential Businesses and Operations” are ordered to cease operations and close, but may continue “Minimum Basic Operations”. Such operations include the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, as well as to preserve the condition of a business’s physical plant and equipment, security, process payroll and benefits, and other related functions.

The excepted “Essential Businesses and Operations” include, but are not limited to, grocery stores; charitable organizations providing food, shelter, and social services to persons of need and persons with disabilities; gas stations; banks and other financial institutions; laundry services; legal services; transportation providers; and certain critical trades, such as plumbers, electricians, painting, and moving services.

The stay-at-home order further requires Essential Businesses and Operations to take proactive measures to ensure compliance with social distancing requirements, including (where possible) the designation of six-foot distances where customers and employees may line up; ensuring hand sanitizer and sanitizing procedures are available for both employees and customers; maintaining separate operating hours for vulnerable populations; and posting online whether a facility is open and how to reach that facility by phone or remotely.

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## 4. How does the stay-at-home order impact me individually?

As noted above, Essential Businesses and Operations can remain open while the stay-at-home order is in effect. Individuals will continue to have access to, and be able to travel to, places like gas stations, pharmacies, and grocery stores. Food delivery and laundry services will continue to remain available. Individuals may leave their homes for such purposes, and may travel outdoors to walk, hike, bike, or run, and may go to public parks. There is no restriction on traveling to take care of a family member, friend or pet in another household.

## Questions Related to Other Illinois Actions Taken in Response to the Spread of COVID-19

### 5. I am a health care provider and one of my practice's patients has tested positive for COVID-19. Do I need to report the case?

Yes, the Illinois Department of Public Health (IDPH) requires the persons and entities over which it has jurisdiction (health care practitioners, institutions, schools, colleges, child care facilities, food service management personnel, and researchers, amongst others) to make a report to a local public health authority **within three hours** of learning that an individual has COVID-19. *See* Ill. Admin. Code tit. 77, 690.100, 690.200, 690.295.

Any report should be made to the practitioner's local public health authority. For most locations throughout Illinois, that authority will be the county department of public health. For jurisdictions that have their own local public health authority, like Chicago, the report is to be made to that health authority. A link to the local health department in each county is available [here](#). Note that, if a provider's county, city, or township does not maintain a local health department, IDPH is considered to be the applicable local public health authority for that provider.

### 6. Other than the CDC guidance, does Illinois require me to inform my patient of any quarantine information once they are a confirmed COVID-19 case?

IDPH's communicable disease regulations require health care providers who attend to a case or suspect case of COVID-19 to inform the individual of the applicable requirements of isolation, exclusion, quarantine, screening, treatment or prophylactic measures and other precautions necessary to prevent the spread of disease. During this time, providers should consult local county or municipal guidelines, such as the Commissioner of Health of the City of Chicago's [stay-at-home order](#) for individuals testing positive for COVID-19 and those experiencing symptoms consistent with COVID-19.

### 7. As a hospital in Chicago, is there anything else I need to be aware of?

IDPH issued its "[Clinical and Public Health Guidance for Managing COVID-19](#)" on March 18, 2020, and this guidance is applicable to all health care providers in Illinois. It largely serves as a restatement of guidance provided by the CDC and WHO, but offers a useful resource that combines all such guidance issued to date, with some specific IDPH recommendations on best practices.

Separately, the Commissioner of Health of the City of Chicago issued an [order](#) on the evening of March 19, 2020 that requires acute care and long-term hospitals within the city to (i) adopt and implement administrative and personal protective equipment control policies to conserve personal protective equipment; (ii) postpone elective surgeries and medical procedures; (iii) implement a strict visitor policy in hospital buildings and clinics with exceptions for pediatric

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and neonatal patients, laboring mothers, and end-of-life situations; (iv) implement a policy to limit entry into patient rooms of COVID-19 patients to essential health care workers only, with the exceptions set forth in (iii); and (v) implement a policy to check employees for symptoms of COVID-19 at the start and end of each shift.

The order also requires all Chicago acute care hospitals to submit daily reports to the Chicago Department of Public Health that address certain COVID-19-related patient reportable data elements through an online tool. While the patient data elements required to be reported have not yet been finalized, the order cites to a limited number of reportable data points, including (i) daily counts of COVID-19-related intensive care unit admissions; (ii) COVID-19 patients receiving mechanical ventilation; and (iii) COVID-19-related deaths that occurred at the hospital during the preceding 24 hours. Failure to adhere to the order subjects a hospital to fines between \$100 and \$500 per offense.

[Guidance](#) was also released for all Chicago hospitals to ensure the preservation of personal protective equipment supplies and plan for enhanced surge capacity. Although consistent with existing CDC recommendations, the guidance may prove useful in developing the above-required policies and procedures.

## **8. As an Illinois employer, am I required to notify my employees if one of their colleagues tests positive for COVID-19?**

There is no Illinois law that mandates employers share with their employees that another employee has contracted COVID-19. Although there is no legal obligation to notify, we recommend consideration of the OSHA general duty clause (29 U.S.C. § 654(a)), and potential civil liability and reputational harm when determining how to approach notifications generally.

## **9. As a Chicago commercial landlord, do I need to notify my building's tenants of another tenant's employee testing positive for COVID-19?**

We are not aware of an Illinois or Chicago law that requires commercial landlords or condominium management companies to report a case of a communicable disease, such as COVID-19, within the building. This includes the Chicago landlord-tenant ordinance for commercial landlords with residential properties. *See* Chi. Mun. Code § 5-12-010 et seq.

## **10. What other sources should I consult when trying to stay up-to-date on Illinois developments on COVID?**

Local departments of public health and IDPH remain the two best resources for continued updates on COVID-19 applicable to any given community. However, several Illinois administrative agencies have taken measures to combat the spread of COVID-19 and protect individuals and businesses. Additional announcements and resources are set forth below.

- a. Illinois Department of Financial and Professional Regulation. The Illinois Department of Financial and Professional Regulation announced [rule variances](#) for professional licensure renewal terms and continuing education requirements. Specifically of interest to licensed health care providers: (i) licensees with licenses expiring between March 1, 2020 and July 31, 2020 are permitted to complete all continuing education coursework online; (ii) licensees will have until September 30, 2020 to complete such continuing education; and (iii) licensees with license expirations between March 1, 2020 and July 31, 2020 have until September 30, 2020 to renew their licenses.

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- b. Illinois Department of Employment Security. On March 11, 2020, the Illinois Department of Employment Security (IDES) [announced](#) it was taking additional steps to provide unemployment benefits for any individuals unemployed as a result of COVID-19. IDES currently maintains an [FAQ page](#) providing guidance to the unemployed and to employers.
- c. Medicaid. Governor Pritzker [filed](#) a federal waiver to expand Medicaid coverage. Approval of the waiver remains pending.
- d. Illinois Attorney General. The Illinois Attorney General's office [announced](#) on March 17, 2020 that it would take action against businesses engaging in price gouging on items crucial to stopping COVID-19.
- e. Illinois Commerce Commission. The Illinois Commerce Commission issued an [emergency order](#) on March 18, 2020 mandating that all public utilities suspend disconnections from service until (i) May 1 or (ii) the lifting of the state of emergency declaration, whichever is later. The order includes disconnections for non-payment, as well as a suspension of fees or penalties during the moratorium period.
- f. Chicago Department of Public Health. To stay current on all Chicago Department of Public Health announcements applicable to Chicago health care providers, we recommend tracking the updates published through the [Chicago Health Alert Network](#) maintained by the Chicago Department of Public Health.