KAUFMAN DOLOWICH LLP

NEW YORK COVID-19 UPDATE: Governor Cuomo Mandates Workforce Closure

On March 20, 2020, Governor Andrew Cuomo announced that he will be signing an Executive Order mandating that 100% of the workforce must stay home, excluding essential services as of 8:00 p.m. on March 22, 2020.

New York State's Empire State Development (the "NYSESD") has issued guidance as to what industries and businesses constitute essential services who are exempt from the requirement that 100% of the workforce must stay home. The NYSESD identified these essential services as follows:

(i) research and laboratory services;

(ii) hospitals;

(iii) walk-in-care health facilities;

(iv) emergency veterinary and livestock services;

(v) elder care;

(vi) medical wholesale and distribution;

(vii) home health care workers or aides for the elderly;

(viii) doctors and emergency dentists;

(ix) nursing homes, residential health care facilities, or congregate care facilities;

(x) medical supplies and equipment manufacturers and providers;

(xi) utilities including power generation, fuel supply and transmission;

(xii) public water and wastewater;

(xiii) telecommunications and data centers;

(xiv) airports and airlines;

(xv) transportation infrastructure such as bus, rail, for-hire vehicles, and garages;

(xvi) hotels and places of accommodation;

(xvii) food processing, manufacturing agents, including all foods and beverages;

(xviii) manufacturing of chemicals;

(xix) manufacturing of medical equipment and instruments;

(xx) manufacturing of pharmaceuticals;

(xxi) manufacturing of sanitary products;

(xxii) manufacturing of telecommunications;

(xxiii) manufacturing of microelectronics/semi-conductor;

(xxiv) manufacturing of agriculture/farms;

(xxv) manufacturing household paper products;

(xxvi) grocery stores including all food and beverage stores;

(xxvii) pharmacies;

(xxviii) convenience stores;

(xxix) farmer's markets;

(xxx) gas stations;

(xxxi) restaurants and bars (but only for take-out and delivery);

(xxxii) hardware and building material stores;

(xxxiii) trash and recycling collection, processing, and disposal;

(xxxiv) mail and shipping services;

(xxxv) laundromats;

(xxxvi) building cleaning and maintenance;

(xxxvii) child care services;

(xxxviii) auto repair;

(xxxix) warehouse/distribution and fulfillment;

(xl) funeral homes, crematoriums, and cemeteries;

(xli) storage for essential businesses;

(xlii) animal shelters;

(xliii) news media;

(xliv) financial institutions including banks, insurance, payroll, accounting, and services related to financial markets;

(xlv) homeless shelters and congregate care facilities;

(xlvi) food banks;

(xlvii) human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; and those operating community shelters and other critical human services agencies providing direct care or support;

(xlviii) construction including skilled trades such as electricians, plumbers, and other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes;

(xlix) defense and national security-related operations supporting the U.S. Government or a contractor to the U.S. Government;

(l) essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses including law enforcement, fire prevention and response, building code enforcement, security, emergency management and response, building cleaners or janitors, general maintenance whether employed by the entity directly or a vendor, automotive repair, and disinfection; and

(li) vendors that provide essential services or products, including logistics and technology support, child care and services including logistics, technology support for online services, child care programs and services, government owned or leased buildings, and essential government services.

In addition, the NYSESD strongly urges that every business, even those designated as essential, maintain social distance to the extent possible. Also, while houses of worship are not ordered closed, the NYSESD strongly recommends that no congregate services are held and that social distancing remains.

Furthermore, businesses have the opportunity to apply for a designation as an essential business if they were not listed on the above list. According to the NYSESD, businesses with only a single occupant/employee are automatically deemed exempt and do not need to submit this application. Other businesses, however, under the order to close on March 15, 2020 under the restrictions on gatherings of 50 or more persons are ineligible to apply for this application. The application for the exemption can be found at the following link: https://esd.ny.gov/sites/default/files/Request%20for%20Designation%20Form_2.pdf

Video Notarization of Documents Are Now Permitted

Pursuant to Executive Order 202.7, Governor Andrew Cuomo announced that signatures can be notarized with the use of video conference technology provided that the following conditions are met: (a) valid photo ID must be presented to the Notary during the video conference unless if the person seeking notarization is personally known to the Notary; (b) the video conference must utilize live direct interaction during which the document is signed; (c) a verbal representation during the video conference must be made that the person requesting the notary is physically present in New York State; (d) the person requesting the notarization must either fax or e-mail a legible copy of the document being notarized to the Notary on the same date it was signed; (e) the Notary may notarize the document and return it to the person requesting the notarization; and (f) the Notary may repeat the notarization of the original signed document as of the date of execution as long as the Notary receives the original signed document and the electronically notarized copy of the document within thirty (30) days after the date the notarization was executed.

The attorneys in KD's Labor & Employment Law Practice Group continue to closely monitor developments on the law and update employers as the legal landscape continues to evolve. If you have questions about these developments, complying with the above regulations or are in need of assistance in implementing the new policies, please contact one of the experienced Labor & Employment Law attorneys at Kaufman Dolowich & Voluck at (516) 681-1100.

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