

## Operating an Essential Business During the COVID-19 Pandemic Reference Guide<sup>1</sup>

1. Application
  - a. The new rules do not apply to health care providers; the rules apply to any business authorized to maintain in-person operations.
2. Instructions
  - a. This is a guide for employers to implement the procedures required by Governor Wolf's and Secretary Levine's April 15, 2020 Order for business remaining open. We recommend that you make this memo available to owners, managers, and other key employee decision makers. Each letter is a separate major requirement, and subsections are further details about those requirements. Where space allows, the references to CDC guidelines are included or links are imbedded. For longer instructions, posters are provided.
  - b. Some of the requirements are firmer than others. Take each instruction literally.
  - c. Guidance and instructions for employees can be found on GKH's COVID-19 resources page, [here](#).
3. Effective Date and Enforcement
  - a. The requirements below became effective on April 15, 2020
  - b. Enforcement begins on April 19, 2020 at 8:00 p.m.
4. Businesses' Responsibility Generally
  - a. Cleaning:
    - Clean and disinfect high-touch areas routinely in accordance with CDC guidelines, in spaces that are accessible to customers, tenants, or other individuals.
    - The CDC recommends the following—Clean AND disinfect frequently touched objects and surfaces such as workstations, keyboards, telephones, handrails, and doorknobs. Dirty surfaces can be cleaned with soap and water prior to disinfection. For disinfecting surfaces, use hydrogen peroxide and consult this list of resources <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>. Avoid using other

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<sup>1</sup> The following reference is based upon orders and guidance from <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Coronavirus.aspx> and <https://dced.pa.gov/> a full copy of the order can be found at <https://www.governor.pa.gov/newsroom/gov-wolf-health-secretary-signs-order-providing-worker-safety-measures-to-combat-covid-19/> and <https://www.scribd.com/document/456575241/20200415-SOH-Worker-Safety-Order>. Please note that each business is unique and each situation different, please contact the legal counsel at Gibbel Kraybill & Hess or your legal representative to discuss your specific questions. The following does not constitute legal advice.

employees' phones, desks, offices, or other work tools and equipment, when possible. If necessary, clean and disinfect them before and after use. Direct employees to visit the [coughing and sneezing etiquette](#) and [clean hands webpage](#) for more information. Provide disposable wipes so that commonly used surfaces (for example, doorknobs, keyboards, remote controls, desks, other work tools and equipment) can be wiped down by employees before each use. Perform enhanced cleaning and disinfection after persons suspected/confirmed to have COVID-19 have been in the facility. If a sick employee is suspected or confirmed to have COVID-19, follow the CDC [cleaning and disinfection recommendations](#).

- Maintain pre-existing cleaning protocols established by the business for all other areas of the building.

**b. Employee, Customer, or Other Visitor is Probable or Confirmed Case:**

- The following are protocols that should be established and implemented if a business discovers it has been exposed to the above persons.
- Close off areas visited by the person who is a probable or confirmed case of COVID-19. Open outside doors and windows and use ventilation fans to increase air circulation in the area. Wait a minimum of 24 hours, or as long as practical, before beginning cleaning and disinfection. Cleaning staff should clean and disinfect all areas such as offices, bathrooms, common areas including but not limited to employee break rooms, conference or training rooms and dining facilities, shared electronic equipment like tablets, touch screens, keyboards, remote controls, and ATM machines used by the ill person, focusing especially on frequently touched areas.
- Identify employees that were in close contact (within about 6 feet for about 10 minutes) with a person with a probable or confirmed case of COVID-19 from the period 48 hours before symptom onset to the time at which the patient isolated.
  - If the employee remains asymptomatic, the person should adhere to the practices set out by the CDC in its April 8, 2020 Interim Guidance for Implementing Safety Practice for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19.
    - Pre-Screen: Employers should measure the employee's temperature and assess symptoms prior to them starting work. Ideally, temperature checks should happen before the individual enters the facility.
    - Regular Monitoring: As long as the employee doesn't have a temperature or symptoms, they should self-monitor under the supervision of their employer's occupational health program.
    - Wear a Mask: The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Employers can issue facemasks or can approve employees' supplied cloth face coverings in the event of shortages.

- Social Distance: The employee should maintain 6 feet and practice social distancing as work duties permit in the workplace.
    - Disinfect and Clean work spaces: Clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment routinely.
  - If the employee becomes sick during the work day, the person should be sent home immediately. Surfaces in the employee's workspace should be cleaned and disinfected. Information on other employees who had contact with the ill employee during the time the employee had symptoms and 48 hours prior to symptoms should be compiled. Others at the workplace with close contact within 6 feet of the employee during this time would be considered exposed.
  - Promptly notify employees who were close contacts of any known exposure to COVID-19 at the business premises, consistent with applicable confidentiality laws.
  - Ensure that the business has a sufficient number of employees to perform the above protocols effectively and timely.
- Implement temperature screening before an employee enters the business, prior to the start of each shift or, for employees who do not work shifts, before the employee starts work, and send employees home that have an elevated temperature or fever of 100.4 degrees Fahrenheit or higher. Ensure employees practice social distancing while waiting to have temperatures screened.
- Employees who have symptoms (i.e., fever, cough, or shortness of breath) should notify their supervisor and stay home.
- Sick employees should follow CDC-recommended steps. Employees should not return to work until the CDC criteria to discontinue home isolation are met, in consultation with healthcare providers and state and local health departments. Employers are encouraged to implement liberal paid time off for employees who do not return to work as set forth above.
  - Employees who have symptoms (i.e., fever, cough, or shortness of breath) should notify their supervisor and stay home.
  - Sick employees should follow CDC-recommended steps. Employees should not return to work until the criteria to discontinue home isolation are met, in consultation with healthcare providers and state and local health departments.
    - Persons with COVID-19 who have symptoms and were directed to care for themselves at home may discontinue isolation under the following conditions:
      - At least 3 days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications and
      - Improvement in respiratory symptoms (e.g., cough, shortness of breath); and,

- At least 7 days have passed since symptoms first appeared.
    - Once testing is available regularly, see this link: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html#st2>
  - Employees who are well but who have a sick family member at home with COVID-19 should notify their supervisor and follow CDC recommended precautions.
    - [https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/index.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fguidance-prevent-spread.html](https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fguidance-prevent-spread.html)
- c. Stagger work start and stop times for employees when practicable to prevent gatherings of large groups entering or leaving the premises at the same time.
- d. Provide sufficient amount of space for employees to have breaks and meals while maintaining a social distance of 6 feet, while arranging seating to have employees facing forward and not across from each other in eating and break settings.
- e. Stagger employee break times to reduce the number of employees on break at any given time so that appropriate social distancing of at least 6 feet may be followed.
- f. Limit persons in employee common areas (such as locker or break rooms, dining facilities, training or conference rooms) at any one time to the number of employees that can maintain a social distance of 6 feet.
- g. Conduct meetings and trainings virtually (i.e., by phone or through the internet). If a meeting must be held in person, limit the meeting to the fewest number of employees possible, not to exceed 10 employees at one time, and maintain a social distance of 6 feet.
- h. Provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes and ensure that common areas (including but not limited to break rooms, locker rooms, dining facilities, rest rooms, conference or training rooms) are cleaned on a regular basis, including between any shifts.
- i. Provide masks for employees to wear during their time at the business, and make it a mandatory requirement to wear masks while on the work site, except to the extent an employee is using break time to eat or drink, in accordance with the guidance from the Department of Health and the CDC. Employers may approve masks obtained or made by employees in accordance with Department of Health guidance.
  - Cloth face coverings should—
  - fit snugly but comfortably against the side of the face;
  - be secured with ties or ear loops;
  - include multiple layers of fabric;
  - allow for breathing without restriction; and
  - be able to be laundered and machine dried without damage or change to shape.
  - <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Stop-the-Spread.aspx>

- j.** Ensure that the facility has a sufficient number of employees to perform all measures listed effectively and in a manner that ensures the safety of the public and employees.
  - k.** Ensure that the facility has a sufficient number of employees to perform all measures listed effectively and in a manner that ensures the safety of the public and employees.
  - l.** Prohibit non-essential visitors from entering the premises of the business.
  - m.** Ensure that all employees are made aware of these required procedures by communicating them, either orally or in writing, in their native or preferred language, as well as in English or by a methodology that allows them to understand.
5. Businesses that Serve the Public in a Building or Other Closed Area
- a.** Where feasible, businesses should conduct business with the public by appointment only and to the extent that this is not feasible, businesses must limit occupancy to no greater than 50% of the number stated on the applicable certificate of occupancy at any given time, as necessary to reduce crowding in the business, and must maintain a social distance of 6 feet at check-out and counter lines, and must place signage throughout each site to mandate social distancing for both customers and employees.
  - b.** Based on the building size and number of employees, alter hours of business so that the business has sufficient time to clean or to restock or both.
  - c.** Install shields or other barriers at registers and check-out areas to physically separate cashiers and customers or take other measures to ensure social distancing of customers from check-out personnel, or close lines to maintain a social distance between of 6 feet between lines.
  - d.** Encourage use of online ordering by providing delivery or pick-up options.
  - e.** Designate a specific time for high-risk and elderly persons to use the business at least once every week if there is a continuing in-person customer-facing component.
  - f.** Require all customers to wear masks while on premises, and deny entry to individuals not wearing masks, unless the business is providing medication, medical supplies, or food, in which case the business must provide alternative methods of pick-up or delivery of such goods; however, individuals who cannot wear a mask due to a medical condition (including children under the age of 2 years per CDC guidance) may enter the premises and are not required to provide documentation of such medical condition.
  - g.** In businesses with multiple check-out lines, only use every other register, or fewer. After every hour, rotate customers and employees to the previously closed registers. Clean the previously open registers and the surrounding area, including credit card machines, following each rotation.
  - h.** Schedule handwashing breaks for employees at least every hour.
  - i.** Where carts and handbaskets are available for customers' use, assign an employee to wipe down carts and handbaskets before they become available to each customer entering the premises.