

## **MELICK & PORTER, LLP COVID-19 MEMO:**

Melick & Porter, LLP provides you with the below update regarding the impact of COVID-19 on issues relating to insurance in the United States. The below is not meant to be all-inclusive, but provides an overview as to the trends in the United States. If you have any questions regarding any of the updates below, please do not hesitate to contact us.

### **SUMMARY OF IMPORTANT LEGISLATION AND EMERGENCY ORDERS AND DIRECTIVES:**

Below we provide an overview as to the types of legislative actions that have been occurring, both on a federal and state level.

- House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin met Monday and Tuesday in an attempt at forging another coronavirus relief deal. House Democrats released their revised version of The Health and Economic Recovery Omnibus Emergency Solutions Act or HEROES Act 2.0 on Monday evening.
- All New York state employers will soon be required to provide either paid or unpaid sick leave to employees under the New York State Sick Leave (“NYSSL”) law. Although NYSSL went into effect on September 30, 2020, employees are not permitted to take NYSSL until January 1, 2021. Practically speaking, this means that employers selecting the accrual method for sick leave must be prepared to track accrual as of September 30, 2020, and to carry over accrued time for employee use starting January 1, 2021.
- President Trump [announced](#) a plan on September 28, 2020, to deploy 150 million rapid tests to states and vulnerable communities.
- Announcement 2020-12 clarifies that lenders that make Paycheck Protection Program (PPP) loans that are later forgiven under the “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) should not file information returns or furnish payee statements to report the amount of qualifying forgiveness.
- The U.S. Treasury Department's Community Development Financial Institutions (CDFI) fund announced the “notice of allocation availability” for the calendar year 2020 allocation of the New Markets Tax Credit (NMTC) program. The NMTC allocation for the 2020 round is set at \$5 billion in tax credit allocation authority.
- Boston Mayor Marty Walsh on Friday October 2, 2020, said his administration would move to protect renters ahead of the end of Massachusetts' moratorium on evictions later this month, saying a surge of evictions could dramatically worsen the pandemic in the city. The moratorium, put in place earlier this year to assist renters hit hard by the pandemic, is set to expire on October 17, 2020.

- The US president Donald Trump and first lady, Melania Trump, have tested positive for coronavirus and will begin quarantine.

### **INSURANCE AND COVERAGE RELATED NEWS AND ORDERS/LEGISLATION:**

Below we provide an update as to regulations, news, and litigation specifically related to insurance and potential coverage.

- Since March of this year, there has been significant state insurance regulatory activity related to the novel COVID-19 pandemic. State insurance regulatory authorities have issued emergency rules and regulations, notices and bulletins, containing both directives and guidance, as well as requesting information related to the COVID-19 outbreak.
  - These regulatory actions vary some relate only to specific lines of insurance, such as health insurance, travel insurance and commercial property/casualty insurance. Some require an affirmative response to a state insurance regulator before a specified date, while others simply provide guidance or clarify the insurance department's position on issues related to the COVID-19 outbreak.
- New York City will impose fines on people who refuse to wear a face-covering in public, Mayor Bill de Blasio said on September 29, 2020, as he announced that the rate of positive tests for the coronavirus had climbed above 3% in the city for the first time in months.

### **BUSINESS AND COMMERCE NEWS AND LEGISLATION RELATED TO COVID-19:**

Below we discuss news regarding the economic impact of COVID-19 and measures being taken to address that.

- The Baker-Polito Administration today announced that effective Monday, October 5<sup>th</sup>, lower risk communities will be permitted to move into Step II of Phase III of the Commonwealth's reopening plan. All other communities will remain in Phase III, Step I. Governor Charlie Baker also issued a revised gatherings order. Industry specific guidance and protocols for a range of Phase I, II, and III businesses will also be updated. The City of Boston will not be moving forward into Step II of Phase III.
  - Effective October 5, a limited number of sectors will be eligible to reopen, with restrictions, in Step II of Phase III for lower risk communities only:
    - Indoor performance venues will be permitted to open with 50% capacity with a maximum of 250 people.
    - Outdoor performance venue capacity will increase to 50% with a max of 250 people.

- For arcades and indoor and outdoor recreation businesses, additional Step II activities like trampolines, obstacle courses, roller rinks and laser tag will also be permitted to open and capacity will increase to 50%.
  - Fitting rooms will be permitted to open in all types of retail stores.
  - Gyms, museums, libraries and driving and flight schools will also be permitted to increase their capacity to 50%.
- Revised Gatherings Order:
    - The limit for indoor gatherings remains at a maximum of 25 people for all communities.
    - Outdoor gatherings at private residences and in private backyards will remain at a maximum of 50 people for all communities.
    - Outdoor gatherings at event venues and in public settings will have a limit of 50 people in Step I communities, and a limit of 100 people in lower risk, Step II communities.

### **LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:**

Below we, highlight additional judicial orders related to the COVID-19 pandemic.

- Massachusetts Supreme Judicial Court issued Order 9-20, the fourth updated order regarding court operations under the exigent circumstances created by the COVID-19. This order was effective October 1, 2020 and rescinds and supersedes the previous Order.
  - To minimize the risk of transmission of the Coronavirus, the court will, with exceptions, continue to conduct most civil and criminal court business virtually, i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system.
  - For any videoconference hearing involving a self-represented litigant with limited access to, or limited facility with, videoconference technology, the court will assist the litigant to enable participation by videoconference or will offer an alternative means of participating virtually.
- All New Hampshire Judiciary Branch courts are open during regular business hours. However, due to the COVID-19 pandemic, public access to courthouses and/or clerk's offices has been restricted. With narrow exceptions, only individuals who are filing for emergency relief or who are scheduled for in-person court proceedings may be admitted.
- On September 28, 2020, the Maine Judicial Branch announced an update on the electronic filing system. The Supreme Judicial Court issued a revision to [PMO-SJC-3: Order Regarding Submission of Documents by Email and Filing of Petitions for Preliminary Protection Orders \(22 M.R.S. § 4034\)](#).
- On September 30, 2020, the Rhode Island Superior Court issued jury trial [protocols](#).