

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: June 24, 2020

TO: Members of the Michigan Senate

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RE: Coronavirus Disease 2019 (COVID-19) Executive Orders 2020-83 through 2020-93, 2020-95 through 2020-97, 2020-99, and 2020-100

Overview

From May 13, 2020, through May 22, 2020, Governor Whitmer issued Executive Orders (EOs) 2020-83 through 2020-100 to maintain a state of emergency across the State of Michigan in relation to the outbreak of COVID-19 and to implement various measures in response to COVID-19 in Michigan. These measures affect, among other things, child care access, healthcare facilities, rental housing, telehealth measures, taxes, creation of the Return to School Advisory Council (RSAC), consumer protection, lab research, return-to-work planning requirements, pharmacies, the spirits buyback program, pesticide certificates, the Coronavirus Taskforce, the tolling of certain civil and probate actions, and the suspension of certain corrections protocols. The EOs will have an impact on State revenue, local governments, and various State departments including the Department of Health and Human Services (DHHS), the Department of Licensing and Regulatory Affairs (LARA), the Michigan Liquor Control Commission, and the Department of Corrections (DOC).

Executive Orders 2020-94 and 2020-98 are declarations of emergency regarding the Midland Dam failures, and will be analyzed in a separate memorandum.

COVID-19

Coronavirus disease 2019, COVID-19, is a respiratory illness caused by a virus that can spread from person to person. Generally, coronaviruses cause mild, cold-like symptoms; however, severe diseases, such as Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS) also are examples of disease cause by other forms of coronavirus. Reported symptoms of COVID-19 have ranged from mild (if any) cold-like symptoms in the majority of individuals, to severe illness or death.

The virus that causes COVID-19 was identified as the cause of an outbreak detected in Wuhan City, China, in November 2019. In late January 2020, the first case of COVID-19 in the United States was confirmed. The Michigan DHHS identified the first two positive cases of COVID-19 in Michigan on March 10, 2020. As of June 23, 2020, the DHHS has reported 61,630 cases and 5,864 deaths attributable to COVID-19.

Authority for Orders

Executive Orders 2020-67 and 2020-68 cite the Emergency Management Act (EMA) and Public Act (PA) 302 of 1945 (which pertains to the Governor's emergency powers), respectively, as authority for their issuance.¹ Under the EMA, the Governor must declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. In addition, Section 1 of PA 302 of 1945 allows the Governor to proclaim a state of emergency "during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency" within Michigan.

The Governor derives the authority for most of the Orders summarized in the memorandum from those same acts, namely Section 3 of the EMA, which provides (in pertinent part), that the Governor may "issue executive orders, proclamations, and directives having the force and effect of law to implement" the EMA, and Section 1 of PA 302 of 1945.²

A listing of all Executive Orders issued in response to the COVID-19 pandemic through Executive Order 2020-109, including the effective date and the expiration date of each, can be found in the appendix attached to this document.

Summary of Order Contents

Executive Order 2020-83

Effective May 13, 2020, to June 10, 2020, the Order suspended certain requirements pertaining to child care organizations and allowed for the establishment of disaster relief child care centers. The Order rescinded Executive Order 2020-51, which granted similar authorization. It authorized LARA to issue provisional licenses for child care organizations under terms that differed from those found in statute. The Department was authorized to renew provisional licenses until the termination of the state of emergency.

The Order suspended strict compliance with Section 7a of Public Act 116 of 1973 (which governs the licensing and regulation of child care organizations). Under the Act, a new child care organization is granted an original license for six months. At the end of that period, the organization receives either a regular license or, if adjustments are required, a provisional license. The Order authorized LARA to issue a provisional license to a child care organization without the organization's having to submit a plan to overcome the deficiencies that resulted in the failure to receive a regular license.

Also, under Public Act 116 of 1973, provisional licenses expire six months after issuance and maybe renewed up to three times. The Order granted LARA the authority to set an expiration date

¹ On May 22, 2020, Governor Whitmer issued Executive Orders 2020-99. This EO terminated the state of emergency under the EMA and declares a new state of emergency under the EMA and PA 302 of 1945. The Order states that any EOs that rested on EOs 2020-67 and 2020-68 rest on EO 2020-69.

² Section 1 of PA 302 of 1945 specifically states that orders may designate specific zones within the area involved in the emergency in which occupancy and use of buildings and ingress and egress of people and vehicles may be prohibited or regulated; control places of amusement and assembly and of individuals on public streets and thoroughfares; establish a curfew; and control the sale, transportation, and use of alcoholic beverages and liquors, among other things.

between one and six months following the date of issuance, and the authority to renew those licenses until the end of the declared state of Emergency.

The Order temporarily suspended the child care organization licensure requirement for employers and schools seeking to establish disaster relief child care centers. A disaster relief child care center is defined as any child care center providing child care services pursuant to the Order. The Order required a center to prioritize serving essential workers, including health workers, sanitation workers, law enforcement personnel, child care workers, and various government employees. The Department was required to promulgate rules and guidelines governing the establishment and operation of these centers, and a center had to comply with any orders issued by LARA. The Order required the rules to address certain areas of concern related to child care and sanitary practices.

Under the Order, disaster relief child care centers were not required to comply with Rule 400.8110(5) of the Michigan Administrative Code (which limits the number of children in a facility). However, changes in capacity or age groups had to be reported to LARA.

The Order temporarily allowed disaster relief child care centers to operate in school districts and allowed the use of employees from the school district. All individuals who entered a center had to pass a health evaluation with criteria that symptoms of a respiratory infection or contact within the last 14 days with someone with a confirmed COVID-19 diagnosis. The Department of Education was authorized to credit hours that student teachers worked at centers towards teaching credit requirements for graduation and licensure requirements. The Order allowed disaster relief child care centers to charge for reasonable and customary services.

Executive Order 2020-84

Effective May 13, 2020, and continuing until May 20, 2020, the Order implemented protections for residents and employees of long-term care facilities in Michigan. Executive Order 2020-95 (described in greater detail below) rescinded Executive Order 2020-84.

Executive Order 2020-85

This Order rescinded EO 2020-54, which was effective until May 15, 2020, and prohibited the same activities.³ Effective May 14, 2020, and continuing until June 11, 2020, at 11:59 PM, the Order prohibited a person from removing or excluding from leased residential premises or residential premises held under a forfeited executory contract a tenant, a vendee of a forfeited executory contract, or a person holding under a tenant or vendee, except when the tenant, vendee, or person holding under them posed a substantial risk to another person or an imminent and severe risk to property.

For the same period, the Order prohibited a person from entering residential property to remove or exclude from the premises a tenant, a vendee of a forfeited executory contract, a person holding under a tenant or vendee, or the personal property of any of those individuals or entities, including pursuant to a writ of restitution, except when the tenant, vendee, or person holding under them posed a substantial risk to another person or an imminent and severe risk to property.

³ Executive Order 2020-85 itself was rescinded on June 11, 2020, under Executive Order 2020-118, which will be summarized in a subsequent memorandum.

The Order prohibited a sheriff, undersheriff or constable, deputy, or other officer from serving process requiring forfeiture of leased residential premises or residential premises held under a forfeited executory contract. Any requirements imposed by the Revised Judicature Act were suspended.

The Order prohibited a person from denying a mobile home owner access to his or her mobile home, except when the mobile home owner's tenancy had been terminated because he or she posed a substantial risk to another person or an imminent and severe risk to property.

Until 30 days after the restrictions provided above expired, any statutory limits on Michigan courts to adjourn any proceedings, toll any redemption or limitation periods, or extend any deadlines were suspended. The Order was not intended to abrogate the judicial power under the Michigan Constitution, and did not affect the inherent power of a judge to order equitable relief. In addition, the Order did not abrogate the obligation to pay or right to receive payment due under a lease, nor the obligations and duties prescribed under the Revised Judicature Act pertaining to demands for payment, except that a demand for payment of rent could not include a demand for possession. While the Order was in effect, demand for payment could not be served by personal delivery.

As used in the Order, all the terms had the meanings provided by the Revised Judicature Act.

Executive Order 2020-86

Effective May 14, 2020 and continuing through a state of emergency or state of disaster arising out of the COVID-19 pandemic, the Order authorizes and encourages the use of telehealth services when medically appropriate and after obtaining patient consent.

"Telehealth" means that term as defined in Section 16283(c) of the Public Health Code: the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include telemedicine, as that term is defined in the Insurance Code: the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine, the health care professional must be able to examine the patient via a real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided.

Under the Order, written consent for treatment is not required. A health care provider may obtain verbal consent for telehealth services and must document the consent in a patient's file before providing services. Remote patient monitoring, which may or may not take place in real-time, may be conducted as part of telehealth services. A physician is not required to conduct an in-person examination before prescribing medication or ordering the administration of medication, including controlled substances except for methadone.

The Order suspends strict compliance with Section 3476 of the Insurance Code, which prohibits an insurer that delivers, issues, or renews a health insurance policy in the State from requiring face-to-face contact between a health care professional and a patient for services provided through telemedicine.

The Order authorizes and encourages Healthy Michigan and private insurance carriers to reimburse telehealth services. Insurance carriers must cover virtual check-ins and e-visits.

Telehealth services are covered under the Michigan Medicare/Medicaid Assistance Program and Healthy Michigan Plan if the originating site is an in-home setting or any other originating site allowed in the Medicaid Provider Manual or considered appropriate by the provider.

The Order requires health care providers to abide by applicable guidance issued by the Substance Abuse and Mental Health Services Administration, the Centers for Medicare and Medicaid Services, Centers for Disease Control and Prevention (CDC), and the Drug Enforcement Agency when providing telehealth services. The Order temporarily suspends strict compliance with administrative rules that apply to substance use disorder services programs licensed under Part 62 (Substance Abuse Services) of the Public Health Code.

A controlled substance license issued under Part 73 (Manufacture, Distribution, and Dispensing) of the Public Health Code is sufficient to authorize a licensee to prescribe, administer, or dispense a controlled substance to treat a drug-dependent person enrolled in a drug treatment and rehabilitation program. The Order suspends strict compliance with Article 7 (Controlled Substances) of the Public Health Code and Administrative Rules 338.3132(1)(f), 338.3163(1)(a), and 338.3170(2), which also relate to the prescription, dispensing, and administration of controlled substances.

After a health care provider determines that an in-person evaluation, examination, or visitation is not feasible because of the COVID-19 pandemic, the use of two-way interactive video technology or other remote participation tools satisfies the requirements of an in-person evaluation, examination, or visitation under Article 5 (Protection of an Individual Under Disability and His or Her Property), Part 3 (Guardians of Incapacitated Individuals) of the Estates and Protected Individuals Code, and Chapters 4 (Civil Admission and Discharge Procedures: Mental Illness), 4A (Civil Admission and Discharge Procedures for Emotionally Disturbed Minors), 5 (Civil Admission and Discharge Procedures: Developmental Disabilities), and 10 (Criminal Provisions) of the Mental Health Code.

The Order suspends restrictions of Section 3476 of the Insurance Code, which requires services to be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located to the extent to allow a medical professional licensed and in good standing to practice in a state other than Michigan to use telehealth when treating patients in Michigan without a license to practice medicine in Michigan.

The Order suspends strict compliance with Sections 3(a)(1) and 3(q)(2) of the Michigan Medical Marihuana Act, which require a physician to review a patient's relevant medical records and complete a full assessment, including an in-person evaluation, to the extent necessary to enable the use of telemedicine.

Executive Order 2020-87

Executive Order 2020-87, which was effective on May 14, 2020, and applies retroactively to April 6, 2020, suspends strict compliance with Sections 30 and 30a of the General Property Tax Act such that:

- Any review of assessments by a city or township board of review that has been completed by the date of the EO is timely completed.

- A completed assessment roll for 2020 that has been delivered to a county equalization director by the date of the EO is timely delivered.
- If a county equalization director does not receive a certified roll from a board of review, the county must equalize based on the assessment roll prepared by the assessor.

Strict compliance with the deadlines for county boards of commissioners established under Section 34 of the Act and Section 5 of the State Board of Equalization law, is temporarily suspended to allow for the following extensions:

- The county board of commissioners in each county was required to meet by May 15, 2020, to determine county equalized value.
- The director of the tax or equalization department was required to transmit a certified copy of the tabular statement in the manner required under the law to the State Tax Commission by May 18, 2020.

Strict compliance with the protest and dispute provisions established under the General Property Tax Act is suspended to allow for a number of modifications. Boards of review that were not able to complete the duties set forth under the Act (e.g., reviewing the assessment rolls, hearing protests), must meet on the Tuesday following the third Monday to hear protests. In addition to the purposes set forth in Section 53b of the Act (approval of a qualified error), boards of review acting in July also must meet to hear protests and any other matters that are properly before a March board of review. Boards of review must issue decisions on any protests by September 1, 2020. Boards of review meeting in July must allow a resident taxpayer to file his or her protests before the board of review by letter without a personal appearance by the taxpayer or his or her agent. An owner of any assessable property who disputes the classification of a particular parcel must notify the assessor and may protest the assigned classification to the board of review acting in July. An owner or assessor may appeal the classification decision of the board of review acting in July by writing a written petition to the State Tax Commission.

Strict compliance with the jurisdictional requirements established in the Tax Tribunal Act would be temporarily suspended to allow for certain extensions. These include the following:

- The May 31 deadline for assessment disputes as to property classified as commercial real property, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property is extended to July 31.
- With respect to other matters, the Tribunal's jurisdiction is invoked by a part in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, or determination.

The EO applies only to the 2020 tax year. To the extent that the EO creates a conflict with a deadline or other requirement set by a local unit of government charter or ordinance, the EO controls. The extensions listed under the EO are automatic; taxpayers and local officials do not need to file any additional documents to qualify for them.

Executive Order 2020-88

Executive Order 2020-88, effective May 15, 2020, creates the Return to School Advisory Council within the Department of Technology, Management, and Budget (DTMB). The Council will act in

an advisory capacity to the Governor and the COVID-19 Task Force on Education until its dissolution on December 31, 2020, or other time as directed by the Governor.

Creating the Return to School Advisory Council

The Order creates the Return to School Advisory Council as an advisory board within the DTMB. The council will consist of up to 25 members, appointed by the Governor, reflecting the diverse geographic and demographic composition of Michigan. The Governor also must name a chairperson of the Council.

Membership will include school leaders, educators, individuals with expertise in public health, pediatrics, mental health, epidemiology or emergency management, and community members, including at least one parent and one student. Any vacancy on the Council must be filled in the same manner as the original appointment.

Council Duties and Responsibilities.

The Council must act in an advisory capacity to the Governor and the COVID-19 Task Force on Education and will do the following:

- Develop and submit recommendations to the COVID-19 Task Force on Education regarding the safe, equitable, and efficient K-12 return to school in the fall.
- Assemble critical voices from the education and public health communities to assist in identifying key issues schools must consider before opening in the fall.
- Recommend actions to remove statutory and administrative barriers to delivering education before Phase 6 of the MI Safe Start Plan.
- Recommend actions to develop and improve systems for academic support for students who experienced learning loss during the spring or summer of 2020.
- Provide other information or advice or take other actions as requested by the Governor and the COVID-19 Task Force on Education.

The Council must regularly report to the COVID-19 Task Force on Education on its activities and make recommendations on an ongoing basis. The Council will dissolve on December 31, 2020, or another time the Governor identifies.

Council Operations

The DTMB, with additional support from the Executive Office of the Governor, in coordination with any identified external expertise, will assist and staff the Council. The budgeting, procurements, and related managerial functions of the Council will be performed under the direction and supervision of the Department. The Council must adopt procedures consistent with all Michigan law and may select a vice chairperson and secretary for the Council. The Council will meet at least monthly, at the call of its chairperson or otherwise provided by the Order.

The Council may establish advisory workgroups, conduct investigations, hold hearings, consult with outside experts, or hire and retain contractors or consultants as deemed advisable and necessary by the Department. Members of the Council are required to refer all legal, legislative, and media contacts to the Executive Office of the Governor.

Executive Order 2020-89

Executive Order 2020-89 rescinds Executive Order 2020-53, which imposed restrictions on the excessive pricing of goods, materials, emergency supplies, and consumer food items. Executive Order 2020-89, effective May 15, 2020, and continuing until June 12, 2020, at 11:59 PM, prohibited a person from reselling a product in Michigan at a price that was grossly in excess of the purchase price at which the person acquired the product. A person could not offer for sale or sell any product in Michigan at a price that was more than 20% higher than what the person offered or charged for that product as of March 9, 2020, unless the person demonstrated that the price increase was attributable to an increase in the cost of bringing the product to market or to an extraordinary discount in effect on that date. "Product" meant any good, material, or consumer food item with a fair market value of less than \$1,000, or any emergency supply. The Order did not limit or impair the ability of the Attorney General to investigate, determine, or impose liability under the Michigan Consumer Protection Act or any other State law.

A willful violation of the Order was a misdemeanor.

Executive Order 2020-90 and 2020-92

Executive Order 2020-90 was rescinded and replaced by EO 2020-92, effective May 18, 2020. On May 21, EO 2020-92 itself was rescinded and replaced by EO 2020-96. Executive Order 2020-96 is analyzed in this memorandum, below.

Executive Order 2020-91

This Order was rescinded and replaced by EO 2020-97, effective May 22, 2020. Executive Order 2020-97 is analyzed in this memorandum, below.

Executive Order 2020-93

Effective May 19, 2020, and continuing until June 16, 2020, at 11:59 PM, the Order rescinded Executive Order 2020-56 and extended the special permissions pertaining to the operation and regulation of pharmacies that were included in that Order. Executive Order 2020-93 allowed pharmacists and others to conduct their work in a manner that differed from standard practice and, in some cases, conflicted with existing statutes, rules, and regulations. A requirement that a pharmacist's license applicant show evidence of the completion of continuing education credits also was waived. The Order suspended strict compliance with current law, rules, and regulations to the extent they conflicted with the permissions outlined by the Order.

Dispensing of Prescriptions, Treatments, and Substances

Executive Order 2020-93 expanded a pharmacist's ability to refill prescriptions and to dispense and administer drugs for the treatment of COVID-19. A pharmacist or pharmacist intern was permitted to dispense a controlled substance without the supervision of another pharmacist. Insurers and health maintenance organizations that issue policies that provide prescription drug benefits had cover any emergency refills issued under the Order, including early refills.

Location

The Order allowed pharmacists to temporarily operate a pharmacy in an area other than that designated on the pharmacy license. However, those licensees could prepare only low-risk preparations in those areas. Other rules and statutes pertaining to the size and set-up of prescription departments were suspended as needed to comply with the remainder of the Order. In addition, licensees were not required to reapply and be approved before beginning work at a new location.

Regulations Pertaining to Supervision

The Order allowed pharmacists to supervise pharmacy technicians and other pharmacy staff remotely if it was conducted through a real-time audiovisual system that allowed the identification of markings on medications. The relevant patient information had to be available to the pharmacist. However, a pharmacy technician could not perform sterile or nonsterile compounding without a pharmacist on the premises.

The Order suspended strict compliance with a number of provisions of Part 177 (Pharmacy Practice and Drug Control) and associated rules that pertain to the supervision of and scope of practice allowed for pharmacy technician and pharmacy interns to the extent those provisions conflicted with the EO.

Out-of-State Entities

The Order required pharmacies and wholesale distributors licensed, certified, or otherwise registered and in good standing in another state to be deemed licensed to do business in Michigan. They were prohibited from delivering controlled substances in Michigan and had to adhere to State regulations unless otherwise exempted.

The Order also granted additional permissions and temporarily suspended certain other restrictions related to the practice of pharmacy.

Executive Order 2020-95

Effective May 20, 2020, and continuing until June 17, 2020, the Order implemented protections for residents and employees of long-term care facilities in Michigan. The Order rescinded Executive Order 2020-84, which granted similar authorization.

Executive Order 2020-95 barred evictions or involuntary discharges for residents for nonpayment while noting that residents subject to an admission contract with a long-term care facility were still obliged to pay for services. The Order also barred a long-term care facility from denying admission or readmission of a resident based on COVID-19 testing requirements. Additionally, the Order barred a facility from prohibiting the readmission of a resident who was residing elsewhere (such as with family) during the emergency. The Order required the use of telemedicine when feasible.

The Order directed long-term care facility employees who tested positive for COVID-19 or showed one or more of the symptoms of COVID-19 to remain in their homes and prohibited their employers from discharging or disciplining them for staying at home.

The Order requires long-term care facilities to cancel communal dining and group activities, to take precautions to disinfect and clean facilities, to provide personal protective equipment (PPE) and hand sanitizer to employees, to inform employees of the presence of any COVID-19-affected residents (and to report that information to their local health department and the Department of Health and Human Services), and to keep and report data on the quantity of PPE available on-site.

The Order required long-term care facilities to transfer medically unstable COVID-19-infected residents to a hospital for evaluation, except as otherwise provided by an advance directive. Nursing facilities had to create a unit dedicated to the care of COVID-19 residents and provide appropriate PPE to staff in that unit. A nursing home provider with multiple facilities could designate a specific facility for COVID-19 residents. A nursing home provider could not create a dedicate unit unless it could implement effective and reliable infection control procedures.

If a long-term care facility had a dedicated unit, it had to transfer COVID-19-affected residents to its dedicated unit, or to a regional hub if the facility did not have a dedicate unit. If a regional hub was not available, then the facility had to transfer the resident to a hospital that had available bed capacity.

Once a transferred patient was medically stable, then he or she had to be discharged to a regional hub, back to the long-term care facility where the resident resided, to an alternate care facility with physical and operational capacity to care for the resident, or to an available swing bed. Discharge destinations had to be determined consistent with CDC and DHHS guidelines. Until an acceptable destination was identified, the individual had to remain in the care of the hospital. A long-term care facility that transferred or discharged a resident had to notify the resident and his or her representative.

Executive Order 2020-96

The Order, effective May 21, 2020, rescinded EO 2020-17 (which imposed temporary restrictions on nonessential medical and dental procedures), effective May 28, 2020; EO 2020-34 (which imposed temporary restrictions on veterinary services), effective May 28, 2020; and EO 2020-92 (the previous iteration of the temporary requirement to suspend certain activities that are not necessary to sustain or protect life, colloquially known as the "stay-at-home order"), effective May 21, 2020.⁴

Stay-at-Home Order

The Order generally incorporated many of the restrictions included in Executive Order 2020-70. Specifically, while Executive Order 2020-96 was in effect, all individuals living within the State of Michigan were ordered to stay at home or at their place of residence, except to engage in certain listed activities. Those who left their homes were required to adhere to CDC-recommended 'social distancing' guidelines. Executive Order 2020-96 retained all of the permissible activities listed in previous 'stay-at-home orders', and also allowed individuals to do the following:

- Participate in training, credentialing, or licensing activities for first responders and health care workers.
- To go to a retail store by appointment, under the conditions specified in the Order.
- To attend a social gathering of no more than 10 individuals.

⁴ Executive Order 2020-96 itself was rescinded on June 1, 2020, with the issuance of Executive Order 2020-110, which will be discussed in a subsequent memorandum.

In addition, the Order split the State into regions, each including specific counties, as follows:

- Region 1-Monroe, Washtenaw, Livingston, Genesee, Lapeer, Saint Clair, Oakland, Macomb, and Wayne.
- Region 2-Mason, Lake, Osceola, Clare, Oceana, Newaygo, Mecosta, Isabella, Muskegon, Montcalm, Ottawa, Kent, and Ionia.
- Region 3-Allegan, Barry, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Saint Joseph, and Branch.
- Region 4-Oscoda, Alcona, Ogemaw, Iosco, Gladwin, Arenac, Midland, Bay, Saginaw, Tuscola, Sanilac, and Huron.
- Region 5-Gratiot, Clinton, Shiawassee, Eaton, and Ingham.
- Region 6-Manistee, Wexford, Missaukee, Roscommon, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Montmorency, Alpena, Charlevoix, Cheboygan, Presque Isle, and Emmet.
- Region 7-Hillsdale, Lenawee, and Jackson.
- Region 8-Gogebic, Ontonagon, Houghton, Keweenaw, Iron, Baraga, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Mackinac, and Chippewa.

Beginning on May 22, 2020, individuals in Regions 6 and 8 could leave their homes and travel to go to a restaurant or retail store. As in previous orders, all other travel was prohibited, including travel to vacation rentals.

The Order also required an individual who was able to tolerate a face covering to wear one over his or her nose and mouth when in any enclosed public space. Businesses had to provide at least nonmedical grade face coverings to those workers who performed in-person work,

Business Operations

As was the case with preceding Orders, EO 2020-96 generally prohibited a person or entity from operating a business or conducting operations that required workers to leave their homes or places of residence except to the extent that they were necessary to sustain or protect life ("critical infrastructure workers"), were needed to conduct minimum basic operations, or were workers who performed resumed activities, as specified in the Order.

"Critical infrastructure workers" was defined as those workers described by the Director of the US Cybersecurity and Infrastructure Security Agency in guidance issued March 19, 2020, on the COVID-19 response. The definition included workers in certain listed sectors, such as health care and public health, and food and agriculture.

Workers who perform resumed activities included those workers specified in previous orders; the Order also added the following:

- Workers needed to train, credential, and license first responders and health care workers.
- Workers needed to perform manufacturing activities.
- Workers needed to perform research activities in a laboratory setting.
- For Regions 6 and 8, effective May 22, 2020, workers needed to perform retail activities, who work in an office setting, or who work restaurants or bars.
- Workers needed to prepare a work place to follow Executive Order 2020-97.

- Beginning May 26, 2020, workers at motor vehicle dealerships and those needed to perform retail activities by appointment (as governed by the Order).

Government Activities

The Order suspended all in-person government activities at all levels unless they were performed by critical infrastructure workers or workers who were permitted to resume work under the Order, were necessary to support any of the activities of workers permitted to work under the Order, or involved public transit, trash services, the management of elections, and the maintenance of safe and sanitary public parks. State parks remained open for day use, subject to reductions in services and specific closures that were necessary to minimize large gatherings and prevent the spread of COVID-19.

Executive Order 2020-97

Executive Order 2020-97 rescinded Executive Order 2020-91, which required businesses or operations permitted to require employees to leave their residences for work to follow certain standards and procedures related to COVID-19. Primarily, Executive Order 2020-97 extended these standards and procedures and establishes further requirements for outpatient health-care facilities.⁵

Effective May 21, 2020, Executive Order 2020-97 required businesses or operations that require their employees to leave their homes to meet, at a minimum, the requirements described below.

Businesses or operations had to develop a COVID-19 preparedness and response plan, consistent with recommendation in Guidance on Preparing Workplaces for COVID-19, developed by the Occupation Health and Safety Administration. The plan had to be readily available to employees, labor unions, and customers by June 1, 2020, or within two weeks of resuming in-person activities, whichever was later.

Businesses or operations had to designate one or more worksite supervisors to implement, monitor, and report on the strategies developed above, and the supervisor had to remain on-site when employees were present on-site.

COVID-19 training had to be provided to employees, and had to cover the following, at a minimum: a) workplace infection-control practices; b) the proper use of PPE; c) steps employees had to take to notify the business of any COVID-19 symptoms, or of a suspected or confirmed diagnosis; and d) how to report unsafe working conditions.

Businesses or operations had to conduct a daily entry self-screening protocol for all employees or contractors and maintain at least six feet between everyone on the worksite premises by ground markings, signs, and physical barriers. Businesses or operations also had to provide nonmedical grade face coverings to their employees, require them to be worn when employees could not consistently maintain six feet of separation, and consider face shields when employees could not consistently maintain three feet of separation.

⁵ Executive Order 2020-97 itself was rescinded under Executive Order 2020-114, which amended the EO 2020-97 standards effective June 5, 2020. EO 2020-114 will be discussed in a subsequent memorandum.

Businesses or operations were required to increase facility cleaning and disinfection, especially on high-touch surfaces, with special attention on parts, products, and shared equipment. They also had to adopt protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace. Cleaning supplies had to be made available to employees after entry and at the worksite, and employees had to have time to wash hands frequently or use hand sanitizer.

If an employee was identified with a confirmed case of COVID-19, within 24 hours, businesses or operations had to notify the local public health department and any coworkers, contractors, or suppliers who could have come into contact with the person with a confirmed case. An employer was required to allow employees with confirmed or suspected cases of COVID-19 to return to the workplace only after they were no longer infectious according to the latest guidelines from the CDC.

Businesses or operations were obliged to follow Executive Order 2020-36, and any orders that followed it, that prohibited discharging, disciplining, or otherwise retaliating against employees who stayed at home or who left work when they were at particular risk of infecting others. Business and operation also had to establish a response plan for dealing with a confirmed infection in the workplace, including protocols for sending employees home and for temporary closures for deep cleaning.

Businesses or operations had to restrict business-related travel for employees to essential travel only, encourage employees to use PPE and hand sanitizer on public transportation, promote remote work to the fullest extent possible, and adopt any other infection-control measures that were reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.

In addition to the general requirements above, the Order established requirements for certain businesses or operations as described below.

The Order required businesses or operations whose work was primarily and traditionally performed outdoors to do the following:

- Limit in-person interaction with clients and patrons to the maximum extent possible, and bar any interaction in which people could not maintain six feet of distance.
- Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning and disinfection of tools, equipment, and frequently touched surfaces.

The Order requires businesses or operations in the construction industry to do the following:

- Create dedicated entry points at every worksite or meet other alternatives.
- Provide instructions for the distribution of PPE and designate on-site locations for soiled face coverings.
- Require the use of work gloves where appropriate.
- Identify choke points and high-risk areas for employees and control access to them.
- Ensure there were sufficient hand-washing or hand-sanitizing stations at the worksite.
- Notify contractors or owners of any confirmed COVID-19 cases among employees at their worksite.
- Restrict unnecessary movement between project sites.
- Create protocols for minimizing personal contact upon delivery of materials.

The Order required manufacturing facilities to do the following:

- Create dedicated entry points at every facility for daily screening.
- Suspend all nonessential in-person visits, including tours.
- Train employees on the transmission of COVID-19 and the use of PPE.
- Implement shift schedules where possible to reduce the number of employees in the facility at the same time.
- Stagger meal and break times, as well as start times at each entrance, where possible.
- Install temporary physical barriers, where practicable, between work stations and cafeteria tables.
- Create protocols for minimizing personal contact upon delivery of materials.
- Ensure there were sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by employees and discontinue the use of hand dryers.
- Maintain a central log for symptomatic employees or employees who received a positive test for COVID-19.
- Send potentially exposed individuals home after identification of a positive COVID-19 case.
- Require employees to self-report to plant leaders as soon as possible after developing symptoms for COVID-19.
- Shut areas of the manufacturing facility for cleaning and disinfection, as necessary, if an employee went home because of symptoms of COVID-19.

The Order required research laboratories, but not laboratories that performed diagnostic testing, to do the following:

- Assign dedicated entry points and/or times into lab buildings.
- Create protocols and or checklists as necessary to conform to the facility's COVID-19 preparedness and response plan.
- Suspend all nonessential in-person visitors.
- Limit the number of people per square feet of floor space permitted in a laboratory.
- Close open workspaces, cafeterias, and conference rooms.
- Require all office and dry lab work to be conducted remotely.
- Provide disinfecting supplies and require employees to wipe down their workstations.
- Implement an audit and compliance procedure to ensure that cleaning criteria were followed.
- Establish a clear reporting process for any symptomatic individual or any individual with a confirmed case of COVID-19, including the notification of lab leaders and the maintenance of a central log.
- Clean and disinfect the work site when an employee was sent home with symptoms or a confirmed case.
- Send any potentially exposed coworkers home if there was a positive case in the facility.

The Order required retail stores that were open for in-store sales to do the following:

- Create communications material for customers to inform of changes to store practices and the precautions the store was taking to prevent infection.
- Establish lines to regulate entry in accordance with requirements described below.
- Post signs at store entrances instructing customers to wear a face covering.

- Post signs at store entrances informing customers not to enter if they were or recently had been sick.
- Install physical barriers at checkout or other service points that required interaction.
- Establish an enhanced cleaning and sanitizing protocol for high-touch areas like restrooms, credit-card machines, keypads, counters, and other surfaces.
- Train employees on appropriate cleaning procedures and how to manage symptomatic customers after entry or in the store.
- Notify employees if the employer learned that an individual with a confirmed case of COVID-19 had visited the store.
- Limit staffing to the minimum necessary to operate.

Retail stores also had to adhere to the following restrictions:

- For stores of less than 50,000 square feet of customer floor space, limit the number of people in the store (including employees) to 25% of the total occupancy limits.
- For stores of more than 50,000 square feet, limit the number of customers in store at one time (excluding employees) to four people per 1,000 square feet and create at least two hours per week of dedicated shopping time for vulnerable populations, including people over 60, pregnant women, and those with chronic conditions.

The Order authorized the Director of the DHHS to issue an emergency order varying the capacity limits.

The Order required offices to do the following:

- Turn off water fountains.
- Notify employees if the employer learned that an individual with a confirmed case had visited the office.
- Suspend all nonessential visitors and restrict nonessential travel.

The Order required restaurants and bars to do the following:

- Limit capacity to 50% of normal seating.
- Require six feet of separation between groups at different tables, close waiting areas, and provide physical guides to maintain separation.
- Close self-serve food or drink options.
- Post signs and communications materials for customers about changes in practice, instructions to wear face coverings, and instructions not to enter if recently sick.
- Require hosts and servers to wear face coverings.
- Limit shared items for customers and clean high contact areas.
- Train employees on protocols related to PPE, food safety, and managing customers.
- Notify employees if the employer learned of a confirmed COVID-19 case in the store.
- Close the restaurant immediately if an employee showed multiple symptoms of COVID-19.
- Require a doctor's written release to return to work if an employee had a confirmed case of COVID-19.

The Order required outpatient health-care facilities, including clinics, primary care physician offices, or dental offices, and also including veterinary clinics, to do the following:

- Limit waiting-area occupancy to the number of individuals who could be present while staying six feet apart, and ask patients to wait in their cars, if possible.
- Enable contactless sign-in.
- Add special hours for highly vulnerable patients.
- Employ telehealth and telemedicine to the greatest extent possible.
- Limit the number of appointments to maintain social distancing and allow time for cleaning between all appointments.
- Employ specialized procedures for patients with high temperatures or respiratory symptoms.
- Deep clean examination rooms after patients with respiratory symptoms.
- Establish procedures for building disinfection in accordance with CDC guidelines if it was suspected that an employee or patient has COVID-19, or if there was a confirmed case.

The Order provided that the rules described above had the force and effect of regulations adopted by the departments and agencies with responsibility for overseeing compliance with workplace health-and-safety standards and any violation was fully enforceable by the agencies. Any challenge to penalties was required to proceed through the same administrative review process as any challenge to a penalty imposed by the department or agency.

The Order specified that any business or operation that violated the above rules had failed to provide a place of employment that was free from recognized hazards that were causing, or were likely to cause, death or serious physical harm to an employee within the meaning of the Michigan Occupational Safety and Health Act.

Executive Order 2020-99

Executive Order 2020-99 rescinded Executive Order 2020-67 and Executive Order 2020-68, which extended the declared state of emergency under Executive Order 2020-33. Effective May 22, 2020, Executive Order 2020-99 constitutes a state of emergency declaration under the Emergency Powers of the Governor Act and continues through June 19, 2020 at 11:59 PM.

The Order specifies that the COVID-19 pandemic constitutes a disaster and emergency throughout the State. The Order also specifies, subject to ongoing litigation and appeals, and to the extent the Governor may declare states of emergency and disaster under the Emergency Management Act when emergency and disaster conditions exist but the Legislature has not granted an extension request, that the Order constitutes states of emergency and disaster declarations under the Act.

Executive Order 2020-100

Effective May 22, 2020, Executive Order 2020-100 specifies that the following Executive Orders remain in effect and do not terminate until the end of the states of emergency and disaster declared under Executive Order 2020-99 (which ends June 19, 2020, at 11:59 PM) or the end of any subsequently declared states of disaster or emergency arising out of the COVID-19 pandemic, whichever comes later.

- Executive Order 2020-26, which extends the deadline to file State taxes into July.
- Executive Order 2020-28, which requires a public water supply to restore water service to any occupied residence.

- Executive Order 2020-36, which prohibits an employer from discharging, disciplining, or otherwise retaliating against an employee for circumstances related to COVID-19.
- Executive Order 2020-39, which temporarily suspends certain licensing and staffing requirements for emergency medical services.
- Executive Order 2020-58, which tolls all civil and probate pleading deadlines.
- Executive Order 2020-61, which allows for greater scope of practice by health care professionals and temporarily suspends certain requirements related to licensing.
- Executive Order 2020-64, which requires healthcare facilities to develop protocols that guide decision-making during COVID-19 and prohibit decision-making based upon certain characteristics of an individual.
- Executive Order 2020-76, which temporarily suspends compliance with regulations related to unemployment benefits.

In addition, Executive Order 2020-100 amends the following executive orders as described below and specifies that the expiration dates are contingent upon the end of the states of emergency and disaster declared in Executive Order 2020-99 or the end of any subsequent declared states of disaster or emergency arising out of the COVID-19 pandemic, whichever comes later.

Under Executive Order 2020-46, the Michigan Liquor Control Commission may take physical possession of any spirits held by any licensee to which the Commission holds legal title at any time later than 90 days after the timeline for expiration above.

Under Executive Order 2020-52, any three-year certificates that were set to expire on December 31, 2019 and were deemed unexpired will not expire until 60 days after the timeline for expiration above.

Under Executive Order 2020-55, the Michigan Coronavirus Task Force on Racial Disparities will continue its work until 90 days after the timeline for expiration above.

Under Executive Order 2020-58, all deadlines applicable to the commencement of all civil and probate actions and proceedings, including any deadline for the filing of an initial pleading and any statutory notice provision or other prerequisite related to the deadline for filing of such a pleading, remain suspended and must be tolled until the timeline for expiration above.

Executive Orders 2020-62, 2020-69, and 2020-96 will remain in effect until 11:59 PM on June 12, 2020. (Executive Order 2020-62 implements limited and temporary COVID-19-related protocols and procedures regarding entry into facilities operated by the Michigan Department of Corrections and transfers to and from the Department's custody. Executive Order 2020-69 closes certain places of public accommodation to ingress, egress, use, and occupancy by members of the public. Executive Order 2020-96 suspends activities designated as nonessential.)

Violations of Orders

Executive Orders 2020-83, 2020-84, 2020-85, 2020-89, 2020-90, 2020-92, 2020-93, 2020-95, and 2020-96 specify that, consistent with Section 3 of PA 302 of 1945 (MCL 10.33) and Section 5(3) of the EMA (MCL 30.405(3)), a willful violation of these Orders is a misdemeanor.

Section 3 of PA 302 of 1945 specifies that a violation of an order, rule, or regulations made in conformity with the Act is punishable as a misdemeanor, when it states that a violation constitutes a misdemeanor. Section 5(3) of the EMA states that a person who willfully disobeys or interferes with the implementation of a rule order, or directive issued by the Governor pursuant to Section 5 of EMA is guilty of a misdemeanor. Under Section 504 of the Michigan Penal Code, if a person is convicted of a crime under State law designated as a misdemeanor for which no punishment is prescribed, the violation is punishable by up to 90 days' imprisonment or a fine of up to \$500, or both.

Executive Orders 2020-97 (which rescinds and replaces EO 2020-91) did not indicate that a violation would be a misdemeanor. Instead, it stated that the requirements therein had the force and effect of department regulations and are enforceable by the applicable State departments and agencies. Executive Order 2020-97 further stated that challenges to any penalties assessed by a department for a violation of the return-to-work requirements set forth had to be handled through the administrative review process. Additionally, EO 2020-97 stated that a violation of the requirements therein constitutes a violation of the Michigan Occupational Safety and Health Act (MIOSHA). There are varying penalties identified in the MIOSHA, including civil and criminal penalties that range from a fine to a felony conviction.⁶

Fiscal Impact

Overview

The Executive Orders will have a substantial fiscal impact, immediately and in the near future. Some of these impacts will be absorbed by existing appropriations, while others may require additional appropriations in the future. For orders that prescribe a misdemeanor penalty for a violation, each may have a negative fiscal impact on the State and local governments. New misdemeanor arrests and convictions may increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people will be prosecuted for a violation. Any additional revenue from imposed fines will go to local libraries.

Executive Order 2020-83

The Executive Order will have an indeterminate but likely minor negative fiscal impact on the Department of Licensing and Regulatory Affairs. The cost of administering provisional child care organization licenses is unknown. It is likely that existing appropriations and staffing levels will be sufficient to cover the costs of this activity as well as the promulgation of rules required under the Order.

The Order will have a minimal fiscal impact on the Department of Education. Additional costs may come from tracking credit hours for student teachers for graduation and licensure requirements. These costs likely will be minimal and within current appropriations.

⁶ As of Monday, June 8, 2020, the Michigan Court of Claims has ruled that the MIOSHA penalty provisions cited in EO 2020-97 are unenforceable as penalties for a violation of EO 2020-97. In *Associated Builders and Contractors et al v. Whitmer et al* (COC Docket No. 20-000092), Judge Christopher Murray ruled that the penalty provisions identified in MIOSHA cannot be used to enforce the Governor's executive orders, which are authorized under the Emergency Powers Act and the Emergency Powers of the Governor Act, both of which have misdemeanor penalties identified within.

The Order will have an indeterminate fiscal impact on school districts that operate disaster relief child care centers. This will include the typical costs of operating a child care center, in addition to performing health assessments on individuals who enter a center. This may lead to additional administrative costs for centers. Districts will be able to charge for child care services for reasonable and customary services. These charges should be sufficient to cover the additional costs to operate disaster relief child care centers in school districts.

Executive Order 2020-84

This Order was rescinded on May 20, 2020, with the issuance of EO 2020-95 (the fiscal impact for which is provided below).

Executive Order 2020-85

The Order will have a negligible fiscal impact on local law enforcement, as it prohibited, for a period of time, a required action that is taken only occasionally.

Local law enforcement officials do not evict tenants without a writ of eviction. Very few, if any, of these writs are being issued by District Courts on account of the Supreme Court's Administrative Order 2020-4, which tolls all filing deadlines until the expiration of an EO that extends the period in which citizens are required to suspend activities that are not necessary to sustain or protect life. Under this order, no new writs of eviction will order unless summary proceedings hearings are conducted remotely, which is highly unlikely.

Executive Order 2020-86

Executive Order 2020-86 may result in an increase in costs for the State depending on the increase in the number of telehealth services provided to enrollees of State run healthcare programs, such as the Healthy Michigan Plan and traditional Medicaid program, or to governmental employees. Should the Order increase the number of allowable visits with health care providers over the expected number of visits by program enrollees and governmental employees, the State would see an increase in costs.

The Order will not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs. The Department may incur minor costs related to the dissemination of information about the Order. Administrative and oversight costs likely will be sufficiently absorbed by existing appropriations.

Executive Order 2020-87

The Order may affect the timing of certain property tax payments, as explained below, and should have only a minor, indeterminate fiscal impact for the State or local units of government. The General Property Tax Act contains several deadlines regarding the review and appeal of tax assessments meant to help finalize taxable values before the summer property tax assessment. These deadlines reduce the number of adjustments and corrections needed after summer taxes have been assessed. The Order extends many of these deadlines until July, meaning there will likely be more adjustments and corrections after summer taxes are assessed and paid.

For example, if a taxpayer has a valid appeal that would normally have been processed in March, that taxpayer's summer taxes would have been lower. If the appeal is not heard until July, the

summer assessment will be higher than it would have been otherwise. Depending on when the taxpayer makes the summer tax payment, either a higher payment will be made, followed by a partial refund to the taxpayer, or the amount will be changed before payment is made. Ultimately, the amount of taxes owed would be the same as if the deadlines were not extended, but the timing of payments may shift.

The provision to hold meetings remotely is optional; therefore, any costs or savings will depend on the actions of individual departments, agencies, and public bodies. Public bodies required to reimburse members for the cost of attending hearings or meetings may have fewer costs if members do not have to travel to the meetings. However, there may be additional costs related to the upgrade or purchase of the technology required to conduct the hearings and meetings. Any additional administrative costs related to notices is expected to be minor and will be handled within existing appropriations.

Executive Order 2020-88

The Department of Technology, Management and Budget will incur the costs for staff and support that is provided to the Advisory Council. Members of the Advisory Council will serve without compensation; however, they may be reimbursed for necessary travel and expenses consistent with current law, rules, and procedures subject to available funding.

The typical annual costs to support an advisory council can range from \$10,000 to \$200,000 depending on the travel expenses and staff demands of the council. The costs will be determined by demand and available funding within the Department of Technology, Management and Budget. Accordingly, there is no anticipated need for additional funding.

Executive Order 2020-89

The Department of the Attorney General likely will incur some costs for possible investigations and prosecutions related to violations of the Order. The Department has indicated an increase in the call volume to the Department's hotline, creating unbudgeted overtime costs. To date the Department has not hired any additional attorneys or staff to work on cases involving excessive pricing of goods and materials related to COVID-19. Should that become necessary, however, the estimated average annual cost for an attorney at the Department of Attorney General is \$185,000 in salary and benefits. The actual cost to the Department is indeterminate and will depend on the number of investigations and any prosecutions that may result.

Executive Orders 2020-90 and 2020-92

Executive Order 2020-90 was rescinded on May 18, 2020, with the issuance of EO 2020-92. Subsequently, EO 2020-92 was rescinded under EO 2020-96. The fiscal impact for EO 2020-96 is included below.

Executive Order 2020-91

This Order was rescinded on May 22, 2020 with the issuance of EO 2020-97. See below for the fiscal impact of EO 2020-97.

Executive Order 2020-93

The Executive Order likely will not have a significant fiscal impact on LARA. The Department may see increased administrative costs because of increases in the number of individuals seeking information regarding the Order, but it is unlikely that the cost of providing guidance and monitoring compliance will require any additional appropriations.

Executive Order 2020-95

The Order will increase short-term costs for nursing facilities, depending on the number of residents who are diagnosed with COVID-19. The costs will increase because of the costs of PPE and the possibility of additional staff being needed to provide services that had previously been provided in communal settings. As some nursing facilities are county-owned, this will have a clear impact on local government. While costs for most nursing homes eventually are indirectly recouped through the rate-setting process, the retrospective nature of this process means that any reimbursement of cost increases will not occur for one to two years.

Executive Order 2020-96

Executive Order 2020-96 and orders of a similar character will reduce State tax revenue, particularly from individual and corporate income taxes and the sales tax, by an unknown amount that will depend on how long and the degree to which business activity is reduced or that individuals are affected. For individuals, the impact also will be affected by the degree and extent to which individuals continue to receive pay, receive unemployment compensation or otherwise maintain income levels, draw down savings or maintain consumption, work from home, and the degree to which any changes result in prolonged or permanent changes in employment or other financial conditions. Given the magnitude of economic activity affected by the Executive Order, the revenue reductions could be significant and would affect revenue in both fiscal year (FY) 2019-20 as well as FY 2020-21 (when annual payments are due and/or reconciled).

The Department of State could see a decrease in revenue from various vehicle and driver license transactions. While only late fees are being waived while the Order is in effect, all fees will be due and eventually will be paid so there is no large anticipated change to revenue. However, the Order could affect vehicle sales, which could reduce the amount of revenue the Department receives. However, these costs are indeterminate and will depend on how sales are affected and the length of the stay-at-home order.

To the extent that the Executive Order restricted less activity than previous orders, it will reduce revenue by less than previous orders. The fact that businesses and consumers are permitted to resume activities does not guarantee that revenue recovers rapidly, particularly to levels before the pandemic. Any recovery in revenue will depend on the extent to which economic circumstances (employment, wages, etc.) are similar to levels before the pandemic and that consumers and businesses are comfortable with engaging in economic activity absent the restrictions imposed by an Executive Order. For example, even if a business were free to operate as before the pandemic, and consumers were free to shop as before, consumers could choose to limit their visits and/or their purchases even in the absence of an Executive Order that compels them to limit their activities. Similarly, to the extent that the Order's provisions limit operating capacity, either by restricting customers or available labor (for example because of proximity restrictions), the Order will result in reduced revenue relative to the absence of those limits but greater revenue than under more severe restrictions imposed by earlier orders.

Executive Order 2020-97

Executive Order 2020-97 and orders of a similar character will have an indeterminate fiscal impact on State and local government.

By providing guidelines for specified businesses to resume operations, the Order may have a positive impact on State and local government by way of increased tax revenue from resumed business activity. This will take the form of income tax and sales tax revenue when the specified businesses begin to resume operations. On the other hand, the Order tasks State departments and agencies with the responsibility of overseeing compliance with the Order, increasing the regulatory workload for several state departments, including LARA, MDOT, DHHS, MDARD, and MSP. The Order will increase the workload of the administrative review process, as any challenges to disciplinary action taken by a Department for a violation of the Order will be adjudicated by administrative review.

Executive Order 2020-99

The declaration of emergency, by itself, will not have a fiscal impact on State or local government. Any fiscal impact from the Orders authorized by the declaration of emergency are included in the fiscal impact statements under those specific Orders.

Executive Order 2020-100

The Order will an indirect fiscal impact on State and local government by way of the extensions it creates for previous EOs. For a full fiscal analysis of the impact of those EOs, consult previously published Executive Order memoranda from the Agency.

Conclusion

The EOs summarized above implement various measures in response to COVID-19 in Michigan. These measures affect, among other things, child care access, healthcare facilities, rental housing, telehealth measures, taxes, creation of the RSAC, consumer protection, lab research, return-to-work planning requirements, pharmacies, the spirits buyback program, pesticide certificates, the Coronavirus Taskforce, the tolling of certain civil and probate actions, and the suspension of certain corrections protocols. The EOs will have an impact on State revenue, local governments, and various State departments including the DHHS, LARA, the Michigan Liquor Control Commission, and the DOC.

If you have any questions regarding these Executive Orders, please do not hesitate to contact us.

/mh

Attachment

c: Christopher Harkins, Director

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
4	Declaration of State of Emergency	3/10/2020	EO 2020-33	4/1/2020
5	Temporary prohibition on large assemblages and events, temporary school closures	3/13/2020	EO 2020-11	3/16/2020
6	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-6	3/14/2020
7	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-37	4/5/2020
8	Enhanced restrictions on price gouging	3/16/2020	EO 2020-18	4/13/2020
9	Temporary restrictions on the use of places of public accommodation	3/16/2020	EO 2020-20	3/22/2020
10	Temporary expansions in unemployment eligibility and cost-sharing	3/16/2020	EO 2020-24	3/25/2020
11	Temporary prohibition on large assemblages and events, temporary school closures	3/16/2020		4/5/2020
12	Enhanced support for deliveries	3/16/2020	EO 2020-44	4/13/2020
13	Temporary enhancements to operational capacity and efficiency of health care facilities	3/17/2020	EO 2020-49	4/14/2020
14	Temporary extension of deadline to redeem property for nonpayment of delinquent property taxes	3/18/2020	EO 2020-106	5/28/2020
15	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	3/18/2020	EO 2020-48	4/14/2020
16	Expanding child care access during the COVID-19 emergency	3/18/2020	EO 2020-51	4/15/2020
17	Temporary restrictions on non-essential medical and dental procedures	3/20/2020	EO 2020-96	5/28/2020
18	Enhanced restrictions on price gouging	3/20/2020	EO 2020-53	4/17/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
19	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	3/20/2020	EO 2020-54	4/17/2020
20	Temporary restrictions on the use of places of public accommodation	3/22/2020	EO 2020-43	4/13/2020
21	Temporary requirement to suspend activities that are not necessary to sustain or protect life	3/24/2020	EO 2020-42	4/9/2020
22	Extension of county canvass deadlines for the March 10, 2020 Presidential Primary Election	3/24/2020		4/30/2020
23	Enhanced authorization of remote means for carrying out state administrative procedures	3/25/2020	EO 2020-45	4/13/2020
24	Temporary expansions in unemployment eligibility and cost-sharing	3/25/2020	EO 2020-57	4/22/2020
25	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	3/25/2020	EO 2020-56	4/21/2020
26	Extension of April 2020 Michigan income tax filing deadlines	3/27/2020		*
27	Conducting elections on May 5, 2020 using absent voter ballots	3/27/2020		5/5/2020
28	Restoring water service to occupied residences during the COVID-19 pandemic	3/28/2020		*
29	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers	3/29/2020	EO 2020-62	4/26/2020
30	Temporary relief from certain restrictions and requirements governing the provision of medical services	3/29/2020	EO 2020-61	4/26/2020
31	Temporary relief from standard vapor pressure restrictions on gasoline sales	3/30/2020	EO 2020-102	5/22/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
32	Temporary restrictions on non-essential veterinary services	3/31/2020	EO 2020-34	4/2/2020
33	Expanded emergency and disaster declaration	4/1/2020	EO 2020-66 EO 2020-67	4/30/2020
34	Temporary restrictions on veterinary services	4/2/2020	EO 2020-96	5/28/2020
35	Provision of K-12 education during the remainder of the 2019-2020 school year	4/2/2020	EO 2020-65	4/30/2020
36	Protecting workers who stay home, stay safe when they or their close contacts are sick	4/3/2020		*
37	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	4/5/2020	EO 2020-72	5/3/2020
38	Temporary extensions of certain FOIA deadlines to facilitate COVID-19 emergency response efforts	4/5/2020		6/4/2020
39	Temporary relief from certain restrictions and requirements governing the provision of emergency medical services	4/7/2020		*
40	Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	4/8/2020	EO 2020-73	5/5/2020
41	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	4/8/2020	EO 2020-74	5/5/2020
42	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/9/2020	EO 2020-59	4/24/2020
43	Temporary restrictions on the use of places of public accommodation	4/13/2020	EO 2020-43	4/30/2020
44	Enhanced support for deliveries	4/13/2020	EO 2020-81	5/11/2020
45	Enhanced authorization of remote means for carrying out state administrative procedures	4/13/2020	EO 2020-80	5/11/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
46	Mitigating the economic harms of the COVID-19 pandemic through the creation of a spirits buyback program for restaurants and bars throughout the state	4/13/2020		*
47	Temporary extension of validity of driver's licenses, state identification cards and registration	4/13/2020	EO 2020-78	5/8/2020
48	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	4/14/2020	EO 2020-75	5/6/2020
49	Temporary enhancements to operational capacity and efficiency of health care facilities	4/14/2020	EO 2020-82	5/12/2020
50	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	4/15/2020	EO 2020-84	5/13/2020
51	Expanding child care access during the COVID-19 pandemic	4/15/2020	EO 2020-83	5/13/2020
52	Temporary extension of certain pesticide applicator certificates	4/17/2020		*
53	Enhance restrictions on price gouging	4/17/2020	EO 2020-89	5/15/2020
54	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	4/17/2020	EO 2020-85	5/14/2020
55	Michigan Coronavirus Task Force on Racial Disparities	4/20/2020		*
56	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	4/21/2020	EO 2020-93	5/19/2020
57	Temporary expansions in unemployment eligibility and cost-sharing	4/22/2020	EO 2020-76	5/6/2020
58	Temporary suspension of certain timing requirements relating to the commencement of civil and probate actions and proceedings	4/22/2020		*
59	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/24/2020	EO 2020-70	5/15/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
60	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	4/24/2020	EO 2020-71	5/1/2020
61	Temporary relief from certain restrictions and requirements governing the provision of medical services	4/26/2020		*
62	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers.	4/26/2020		6/12/2020
63	Temporary suspending the expiration of personal protection orders	4/27/2020		7/21/2020
64	Affirming anti-discrimination policies and requiring certain health care providers to develop equitable access to care protocols	4/29/2020		*
65	Provision of K-12 education during the remainder of the 2019-2020 school year	4/30/2020		*
66	Termination of the state of emergency and disaster declared under the Emergency Management Act in Executive Order 2020-33	4/30/2020		4/30/2020
67	Declaration of state of emergency under the Emergency Powers of the Governor Act, 1945 PA 302	4/30/2020	EO 2020-99	5/22/2020
68	Declaration of states of emergency and disaster under the Emergency Management Act, 1976 PA 390	4/30/2020	EO 2020-99	5/22/2020
69	Temporary restrictions on the use of places of public accommodation	4/30/2020		6/12/2020
70	Temporary requirement to suspend activities that are not necessary to sustain or protect life	5/1/2020	EO 2020-77	5/7/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
71	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	5/1/2020	EO 2020-109	5/29/2020
72	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	5/3/2020	EO 2020-108	5/29/2020
73	Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	5/5/2020		6/2/2020
74	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	5/5/2020		6/30/2020
75	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	5/6/2020		6/30/2020
76	Temporary expansions in unemployment eligibility and cost-sharing	5/6/2020		*
77	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/7/2020	EO 2020-92	5/18/2020
78	Temporary extension of the validity of driver licenses, state identification cards, and certain vehicle registrations	5/8/2020		7/31/2020
79	Temporary suspension of youth work permit application requirements	5/11/2020		6/8/2020
80	Enhanced authorization of remote means for carrying out state administrative procedures	5/11/2020		6/8/2020
81	Enhanced support for deliveries	5/11/2020		5/25/2020
82	Temporary enhancements to operational capacity and efficiency of health care facilities	5/12/2020		6/9/2020

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
83	Expanding child care access during the COVID-19 pandemic	5/13/2020		6/10/2020
84	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	5/13/2020	EO 2020-95	5/20/2020
85	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	5/14/2020		6/11/2020
86	Encouraging the use of telehealth services during the COVID-19 emergency	5/14/2020		*
87	Temporary Extension of Deadlines for Boards of Review, County Equalization, and Tax Tribunal Jurisdiction	5/14/2020		**
88	COVID-19 Return to School Advisory Council Executive Office of the Governor	5/15/2020		
89	Enhanced restrictions on price gouging	5/15/2020		6/12/2020
90	Resumption of laboratory research activities	5/15/2020	EO 2020-92	5/18/2020
91	Safeguards to protect Michigan's workers from COVID-19	5/18/2020	EO 2020-97	
92	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/18/2020	EO 2020-96	5/21/2020
93	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	5/19/2020		6/16/2020
94***	Declaration of State of Emergency [Midland]	5/19/2020		6/16/2020
95	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	5/20/2020		6/17/2020
96	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/21/2020		6/12/2020
97	Safeguards to protect Michigan's workers from COVID-19	5/21/2020		

Executive Orders related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
98***	Declaration of State of Emergency [Midland, Arenac, Gladwin, Saginaw]	5/22/2020		6/16/2020
99	Declaration of state of emergency and state of disaster related to the COVID-19 pandemic	5/22/2020		6/19/2020
100	Amending certain previously issued executive orders to clarify their duration	5/22/2020		
101	Extending the expiration date for watercraft registration	5/22/2020		7/31/2020
102	Temporary Relief from Standard Vapor Pressure Restrictions on Gasoline Sales	5/22/2020		6/30/2020
103	Providing alternative notice of public hearing under Michigan's tax abatement statutes	5/22/2020		6/30/2020
104	Increasing COVID-19 testing by expanding the scope of practice for certain professionals and encouraging the establishment of community testing locations	5/26/2020		*
105***	Declaration of State of Emergency [Iosco]	5/26/2020		6/16/2020
106	Establishing deadline to redeem property for nonpayment of delinquent property taxes	5/28/2020		6/29/2020
107***	Department of Labor and Economic Opportunity Michigan Workforce Development Board	5/29/2020		
108	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	5/29/2020		6/26/2020
109	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	5/29/2020		6/12/2020
*The end date for these marked items will be the end of the declared state of emergency or a date reasonably related to the end of the declared state of emergency.				
**Affecting the 2020 tax year, only.				
***These indicate non-COVID-19 related Executive Orders.				