

## CLIENT ALERT: Massachusetts DPH Revises Quarantine Guidance and Governor Baker Rolls Back Reopening Plan to Step 1 of Phase 3

As COVID-19 cases continue to surge in Massachusetts, there have been several developments impacting quarantine guidelines and the reopening of the economy. On December 2, 2020, the Centers for Disease Control and Prevention (“CDC”) released **new guidelines** reducing the amount of time that individuals should quarantine after being exposed to COVID-19. Shortly thereafter, the Massachusetts Department of Public Health (“DPH”) revised state **quarantine** and **return to work guidelines** on December 7, 2020. Additionally, on December 8, 2020, Governor Baker issued two executive orders announcing a statewide rollback of its COVID-19 reopening guidelines to Step 1 of Phase 3, which go into effect on Sunday, December 13, 2020. This client alert focuses on these significant recent developments.

### **CDC Shortens Quarantine-Period Recommendations**

Since the beginning of the pandemic, the CDC has recommended a 14-day quarantine for individuals who have been in “close contact” with someone who has COVID-19. However, acknowledging the economic hardships on those who cannot work while quarantined and to lessen the stress on the public health system, the CDC now endorses shorter quarantine periods in certain situations. While the CDC continues to recommend quarantining for 14 days in most situations, the agency’s new guidelines set forth additional “options” for local public health authorities to consider depending on local circumstances and resources.

The CDC’s **two additional options** address the length of quarantines for individuals who come into close contact with COVID-19 but who are not presently experiencing symptoms. Under these new guidelines, asymptomatic individuals may end their quarantine under the following circumstances:

- **Without testing:** After 10 days if no symptoms are reported during daily monitoring; or,
- **With testing:** After 7 days if no symptoms are reported and the individual receives a negative diagnostic test result from a specimen collected and tested within 48 hours of the end of the individual’s quarantine.

Under both options, individuals must continue monitoring their symptoms, wear a mask, and take the recommended steps to reduce the spread of COVID-19 for the full 14 days following exposure. If symptoms develop after the end of the quarantine, individuals must immediately self-isolate and contact their local public health authority or health care provider.

The CDC defines “close contact” as coming within six (6) feet of someone who has COVID-19 for a cumulative total of 15 minutes or more over a 24-hour period. The CDC also defines “close contact” as any of the following: providing care at a home to someone who has COVID-19; direct physical contact with a person who has COVID-19 (e.g., hugging or kissing); sharing eating or drinking utensils

with a person who has COVID-19; and, being exposed to respiratory droplets from a person who has COVID-19 (e.g., getting sneezed or coughed on).

Notably, individuals who come into close contact with others who have COVID-19 but have tested positive for COVID-19 themselves within the prior three (3) months, need not quarantine as long as they do not develop symptoms. Individuals who develop symptoms again within three (3) months of their first positive COVID-19 test may need to be tested again if there is no other cause identified for their symptoms.

The CDC also clarified that local public health authorities make the final decisions about how long quarantine periods should last and that recommendations from those authorities should be followed.

### **Massachusetts DPH Issues Revised Quarantine and Return to Work Guidelines**

On December 7, 2020, following the changes announced by the CDC, the Massachusetts DPH released its own revised **quarantine** and **return to work guidelines** for employees exposed to COVID-19. The DPH's updated quarantine guidelines modify its prior return-to-work guidance for individuals who have tested positive for, or are experiencing symptoms of, COVID-19. Those individuals are still required to immediately self-isolate and may only end isolation and return to work under the following circumstances:

- **If the individual is symptomatic:**
  - After at least 24 hours have passed since resolution of fever without the use of fever-reducing medications;
  - Improvement in symptoms; and
  - At least 10 days have passed since symptoms first appeared.
- **If the individual is asymptomatic:**
  - At least 10 days have passed since the first positive COVID-19 diagnostic test was taken, assuming symptoms did not subsequently develop.

Under the new return-to-work guidelines, the DPH dispensed with its previous “time-based v. test-based” strategy for determining when it is safe for symptomatic or COVID-positive individuals to return to work. Instead, the DPH exclusively utilizes the time-based approach outlined above.

The DPH's revised guidance also provides additional options for reducing the quarantine period for certain Massachusetts employees that have been exposed to COVID-19 (not including those defined as Health Care Workers, First Responders, or Critical Infrastructure Workers, for which sector-specific protocols are in place). Asymptomatic employees in other industries who have been exposed to COVID-19 may end their quarantine and return to work under the following circumstances:

- On Day 11 from the date of close contact, after at least 10 days of quarantine, if:
  - The individual has not experienced any symptoms up to that point; and
  - The individual conducts active monitoring for symptoms through Day 14.
- On Day 8 from the date of close contact, after at least seven (7) days of quarantine, if:

- The individual is tested on Day 5 (or later) of their quarantine period using a molecular diagnostic test and the test is negative;
- The individual has not experienced any symptoms up to that point; and,
- The individual continues to monitor themselves for symptoms for the full 14 days following exposure.
- On Day 15 from the date of last exposure, after at least 14 days of quarantine, if:
  - The individual has experienced any symptoms during the quarantine period, even if they have a negative test; or,
  - The individual indicates they are unwilling or unable to conduct active monitoring.

Under the DPH guidelines, “active monitoring” requires a temperature check once daily. If even mild symptoms develop or the individual has a temperature of 100.0 degrees Fahrenheit at any point during the 14-day period, the individual should immediately self-isolate, contact the public health authority overseeing their quarantine and get tested. DPH has continued to confirm that employees who become symptomatic during their quarantine must follow the [DPH return to work guidelines](#) for individuals who have tested positive for COVID-19, or have experienced symptoms of COVID-19, before they return to work.

Massachusetts’s defines “close contact” similarly to the CDC, but also includes living in the same household as a person who has tested positive for COVID-19 within the definition. Unlike the CDC, Massachusetts also has not yet modified its definition to include brief encounters that add up to 15 minutes over a 24-hour period.

Massachusetts employers should continue following DPH’s quarantine and return-to-work guidelines when determining whether and when employees should be permitted to return to work after exposure to COVID-19.

### **Massachusetts Rolls Back Reopening Plan to Step 1 of Phase 3**

On December 8, 2020, Governor Baker issued two executive orders announcing a statewide rollback of its COVID-19 reopening guidelines and a revised gathering order which takes effect on Sunday, December 13. In the first [Executive Order](#), Governor Baker announced a return to Step 1 of Phase 3 of the Massachusetts reopening plan and several new restrictions in response to the recent surge in reported COVID-19 infections and hospitalizations. Our prior client alert addressing restrictions and safety guidelines for businesses in Step 1 of Phase 3 can be found [here](#). The rollback requires that businesses identified as Phase 3, Step 2 enterprises, including indoor theaters, performance venues and higher contact indoor recreation businesses (e.g., trampolines, laser tag, obstacle courses and roller skating) will be required to close their brick-and-mortar premises to workers, customers, and the public by December 13. Additionally, arcades, indoor and outdoor recreational businesses, driving schools, flight schools, gyms, health clubs, libraries, museums, retail and office spaces, places of worship, movie theaters (capped at 50 people) and golf facilities will all be required to reduce capacity from 50 percent to 40 percent.

In the second [Executive Order](#), Governor Baker announced a number of capacity restrictions on outdoor gatherings and certain venues, including:

- Indoor gatherings at private residences are limited to a maximum of 10 people
- Outdoor gatherings at private residences are limited to a maximum of 25 people
- Outdoor gatherings at event venues will be limited to no more than 50 people
- Hosts of outdoor gatherings of greater than 25 people will be required to provide advance notice of the gathering to their local board of health
- Outdoor theaters and performance venues will be limited to 25% capacity, and no more than 50 people

These new capacity restrictions will not apply to restaurants, laboratories, and other close contact personal services that do not currently have a percentage-based capacity limit. However, restaurants and other venues with seated dining will be required to adhere to additional new guidelines, including:

- All patrons must wear masks at all times, except when eating and drinking
- Restaurants must seat no more than six patrons per table
- Restaurants must impose a 90-minute time limit on tables
- Musical performances at restaurants will no longer be permitted
- Food court seating in malls must be closed

Additionally, office spaces and gyms will be required to adhere to several new guidelines, including:

- Employees working in office environments must wear masks at work if they are not in their own workspace and alone
- Employers are encouraged to close or limit the use of break rooms
- Patrons must wear masks at all times while in gyms

Employers with questions regarding the Massachusetts reopening changes and return to work guidelines should consult with their MBJ attorney.

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