

To: NIELSEN MERKSAMER CLIENTS

From: NM Government Law Section

Date: April 17, 2020

Re: California Statewide COVID-19 Actions

To keep the public informed of all COVID-19 developments, the state has created a webpage, <https://www.covid19.ca.gov/>, to provide up-to-date information and resources that contains links to all relevant state departments and local government websites.

EXECUTIVE ORDERS:

The state's public health experts have determined that gatherings should be postponed or canceled across the state until further notice. Nonessential gatherings must be limited to no more than 10 people, while also following social distancing guidelines.

March 4: [Emergency Declaration](#)

Mar 12: [Executive Order N-25-20](#): General Provisions & Government

This order relaxes protocols for unemployment insurance (specifically waives the one-week waiting period for people who are unemployed and/or disabled as a result of COVID-19), delays the state income tax deadline, discourages large gatherings and waives portions of the Brown Act.

March 13: [Executive Order N-26-20](#): Schools

This order sets forth requirements that school must meet, even if they close because of COVID-19.

March 16: [Executive Order N-27-20](#): State Licensed Facilities

This order establishes guidance for state licensed facilities that house populations most vulnerable to COVID-19. It directs the Health and Human Services Agency, in consultation with counties and labor organizations and consumers, to leverage existing services and programs to support home isolation of vulnerable Californians, including seniors and those with serious chronic underlying health conditions.

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March 16: [Executive Order N-28-20](#): Renters and Homeowners

This order authorizes local governments to take measures to halt evictions and protect against utility shutoffs and sets forth guidance for any jurisdiction looking to do so. The order does not relieve tenants from the obligation to pay rent or restrict the landlord's ability to recover rent that is due. The protections are in effect through May 31, 2020, unless extended. The order also requests banks and other financial institutions to halt foreclosures and related evictions during this time period. It also asks the California Public Utilities Commission to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including electric, gas, water, internet, landline telephone and cell phone service on a weekly basis.

March 17: [Executive Order N-31-30](#): Goods Movement

This order eases restrictions on commercial drivers engaged in support of emergency relief efforts. The change comes in conjunction with the Federal Motor Carrier Safety Administration's emergency waiver announced last week to ensure the free flow of critical supplies and equipment.

March 18: [Executive Order N 29-20](#): Safety Net Services & Brown Act

This order relaxes requirements for state social safety net programs but waiving eligibility re-determinations for 90 days for Medi-Cal, CalFresh, CalWorks, Cash Assistance for Immigrants and In-Home Supportive Services. It also replaces and revises EO-25-20 and makes further suspensions of Bagley-Keene Act and Brown Act to states that there is no requirement for state or local legislative bodies to make a physical location available from which the public can make public comment, so long as options to participate telephonically or electronically are provided. Local bodies must still follow noticing requirements and implement a procedure for resolving requests for accommodation from individuals with disabilities.

March 18: [Executive Order N-30-20](#): School Testing

This order is focused entirely on school testing. It waives, for the 2019-2020 school year, the requirement that all students be administered academic assessments each year.

March 18: [Executive Order N-32-20](#): Local Flexibility for Homelessness

This order aims to grant local flexibility on spending and building shelters to combat homelessness during the COVID-19 outbreak including waiving certain regulatory barriers for shelters or facilities built with this emergency funding. It provides \$150 million for emergency homelessness actions: \$100M direct to local governments for shelter support and emergency housing to address COVID 19 amend the homeless population and \$50M to purchase travel trailers and lease rooms in hotels, motels and other facilities in partnership with counties and cities to provide immediate isolation for homeless individuals.

March 19: [Executive Order N-33-20](#): Stay at Home Order

This order institutes a statewide stay at home order and includes a link defining critical infrastructure and essential workers.

March 20: [Executive Order N-34-20](#): Elections

This order focuses on elections procedures during the COVID-19 outbreak, including allowing vote-by-mail for certain upcoming special elections and extends timeframes for the March 4, 2020 statewide primary.

March 21: [Executive Order N-35-20](#): Facilities Staffing Ratios, Work Hours & Brown Act

This order covers a wide array of issues. Broadly it applies work health facilities' staffing ratios, hours exemptions (laid out in N-25-20) to local governments, suspends local ordinances that interfere with essential activities, further clarifies and expand Brown Act exemptions, and extends deadlines and relaxes requirements for several statues.

March 24: [Executive Order N-36-20](#): Correctional Facilities

This order temporarily halts the intake and/or transfer of inmates and youth into the state's 35 prisons and four youth correctional facilities. These inmates will remain in county custody for the next 30 days, but the timeframe could be extended if needed.

March 27: [Executive Order N-37-20](#): Evictions

This order bans the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. The order prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts. It also requires tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.

March 27: [Executive Order N- 38-20](#): Judicial Council Emergency Authority

This order empowers the Judicial Council and the Chief Justice of the California Supreme Court to take necessary action to be able to conduct business and continue to operate while responding to the COVID-19 pandemic. The order does not affect any existing court order or rule. Specifically, it allows the Judicial Branch to allow for remote depositions in every case (the law had previously required that parties be deposed in person) and electronic service of process. Additionally, the order leaves the Judicial Branch discretion to make any modifications to legal practice and procedure it deems necessary in order to continue conducting business.

March 30: [Executive Order N-39-20](#): Healthcare Workforce Expansion

This order temporarily expands the health care workforce and allow health care facilities to staff at least an additional 50,000 hospital beds the state needs to treat COVID-19 patients. The order allows the Department of Consumer Affairs (DCA) to waive specific health professional licensure requirements and license maintenance requirements until June 30th.

March 30: [Executive Order N-40-20](#): Government Functions & Small Business Relief
This order allows the California Department of Tax and Fee Administration (CDTFA) to offer a 90-day extension for tax returns and tax payments for all businesses filing a return for less than \$1 million in taxes. Additionally, the order extends the statute of limitations to file a claim for refund by 60 days to accommodate tax and fee payers. The EO also includes extensions that impact state government workers, as well as consumers. For instance, the Department of Motor Vehicles will limit in-person transactions for the next 60 days, allowing instead for mail-in renewals. Additionally, DCA will waive continuing education requirements for several professions, also for the next 60 days. Further, the order extends the Office of Administrative Law's (OAL) deadlines to review regular department proposed regulations and extends by 60 days the time period to complete investigation of public safety officers based on allegations of misconduct. Finally, deadlines for trainings, investigations and adverse actions for state workers will also be extended.

Pursuant to this order, the state created a [link](#) to the COVID-19 website that details the assistance available to small businesses and employers impacted by the pandemic.

April 1: [Executive Order N-41-20](#): Disaster Response Expenditures

This order facilitates expenditures from the state's Disaster Response-Emergency Operations Account (DREOA), a subaccount of the Special Fund for Economic Uncertainties in the General Fund (the state's budget reserve), as well as from any other legally available fund to help with the COVID-19 response. On March 25th, the Department of Finance transferred \$1.3 billion from the budget reserve into the DREOA subaccount to pay for costs associated COVID-19 pandemic response. A total of \$1.4 billion is now available in DREOA.

April 2: [Executive Order N-42-20](#): Water Shutoff Restrictions

This order restricts water shutoffs to homes and small businesses during the COVID-19 pandemic and restores water service for occupied residences that may have had their water shut off as of March 4, 2020, the date of the state of emergency proclamation.

April 3: [Executive Order N-43-20](#): Telehealth Services

This order expands protections to medical providers as they amplify the use of video chats and similar applications to provide routine and non-emergency medical appointments to minimize patient exposure to COVID-19. It relaxes certain state privacy and security laws for medical providers, so they can provide telehealth services without the risk penalty. This action is similar to the federal Health and Human Services (HHS) Office for Civil Rights waiver issued on [March 17, 2020](#) regarding federal privacy and security laws.

April 3: [Executive Order N-44-20](#): Price Gouging

This order expands consumer protection against price gouging during COVID-19 pandemic. It generally prohibits sellers of any kind from increasing prices on food,

consumer goods, medical or emergency supplies, and certain other items by more than 10 percent and give gives additional tools to the California Department of Justice and Attorney General’s Office, among others, to take action against price gougers.

April 4: [Executive Order N-45-20](#): Child Care for Essential Workers

This order seeks to facilitate childcare for children of essential critical infrastructure workers by granting the California Department of Education (CDE) and California Department of Social Services (DSS) the flexibility to waive certain programmatic and administrative requirements in response to the COVID-19 pandemic. The waivers will focus on current eligibility and enrollment priorities that prevent childcare and afterschool programs from serving children of essential infrastructure workers. The waiver will allow eligibility for childcare to prioritize essential workers, including health care professionals, emergency response personnel, law enforcement, and grocery workers. Additionally, the order requires CDE & DSS to jointly develop and issue guidance, by April 7th, on how the essential worker prioritization will roll out, as well as guidance on how childcare programs and providers can safely provide care.

April 7: [Executive Order N-46-20](#): Medical Supplies Procurement

This order assists the state in the procurement of necessary medical supplies.

April 7: [Executive Order N-47-20](#): Support for Vulnerable Populations

This order provides additional support for older adults and vulnerable young children by allowing a 60-day waiver for In-Home Supportive Services (IHSS) program caseworkers to continue their work and be able to care for older adults, as well as individuals with disabilities.

April 10: [Executive Order N-48-20](#): Upcoming Special Elections

This order mandates that three upcoming special elections scheduled for May and June will be held as all-mail elections. Under the order, local election officials can also make in-person voting available, to ensure every voter has an opportunity to vote, but only in a manner consistent with public health and safety, including appropriate physical distancing. The upcoming impacted elections are a May 19, 2020 special recall election in the City of Santa Ana; a June 2, 2020 special municipal election scheduled in the City of Commerce; and a special recall election in the El Rancho Unified School District, also scheduled for June 2, 2020.

April 14: [Executive Order N-49-20](#): Juvenile Justice Discharge and Reentry Process

This order addresses the release and reentry process at the Division of Juvenile Justice (DJJ) for the safe and expeditious discharge of eligible youth. It calls for all discharge and reentry hearings to be held via videoconference to minimize the youth’s and other participants’ exposure to COVID-19 and shortens various notification timeframes from 60 to 30 days before holding a discharge consideration hearing. Victim notifications are not impacted by this order.

The order also allows for reentry consideration hearings to take place at the DJJ facility where the youth are housed, instead of transferring youth to a county jail to await these hearings. Victims and victim representatives will be able to participate in the videoconference hearings.

April 15: [Executive Order N-50-20](#): Employment Development Department
This order requires the Employment Development Department (EDD) call centers to operate 7 days a week from 8:00 AM to 8:00 PM. It also directs 1,340 existing state employees to the Unemployment Insurance Branch and directs EDD to expedite access to the Work Share program to avert layoffs. It also requires EDD to create a one-stop shop for individuals applying for unemployment insurance and the new federal Pandemic Unemployment Assistance (PUA) program starting April 28. The PUA will provide federally funded benefits distinct from UI program for certain individuals out of work or partially unemployed due to COVID-19. This includes the self-employed, individuals who may be employees but who lack sufficient work history and independent contractors. Federal guidelines include gig workers and California's gig workers will continue to be protected by existing state laws against misclassification in the administration of PUA. PUA benefits will be issued within 24-48 hours – not the traditional 21 days for regular UI claims.

April 16: [Executive Order N-51-20](#): Food Sector Employee Supports
This order provides California workers in the food sector industry impacted by the COVID-19 pandemic with two weeks of paid sick leave. Food sector workers include farmworkers, agricultural workers, grocery stores and fast food chains employees and as delivery drivers are part of the state's essential infrastructure workforce and have continued to work to serve Californians. The order also includes new health and safety standards to increase worker and customer protection by permitting workers at food facilities to wash their hands every 30 minutes, or as needed, to increase proper sanitation measures.

April 16: [Executive Order N-52-20](#): Various Government Functions
This order allows the California University (CSU) system to adjust its admissions requirements for students applying for acceptance in Fall 2021 and allows the Department of Justice (DOJ) to develop procedures to perform name-based background checks to ensure there is no delay processing employment for critical sectors, such as health care services and care and support for vulnerable populations. It also allows federal stimulus checks to flow directly to custodial parents owed back child support payments rather than to the state and allows commercially licensed food trucks to be able to temporarily operate in roadside rest areas for a period of 60 days, to ensure essential infrastructure workers have access to food. Caltrans will be charged with developing and implementing a process to administer the temporary permits.

NEWSOM'S CRITERIA FOR MODIFICATIONS TO STAY AT HOME ORDERS

On April 15th, the Governor released six key indicators that will inform the state's decision-making process for when and how to modify the stay-at-home and other orders during the COVID-19 pandemic. The six indicators are:

- The ability to monitor and protect our communities through testing, contact tracing, isolating, and supporting those who are positive or exposed;
- The ability to prevent infection in people who are at risk for more severe COVID-19;
- The ability of the hospital and health systems to handle surges;
- The ability to develop therapeutics to meet the demand;
- The ability for businesses, schools, and childcare facilities to support physical distancing; and
- The ability to determine when to reinstitute certain measures, such as the stay-at-home orders, if necessary.

The Governor said there is not a precise timeline for modifying the stay-at-home order, but that these six indicators will serve as the framework for making that decision.

He also noted that things will look different as California makes modifications. For example, restaurants will have fewer tables and classrooms will be reconfigured.

LEGISLATION:

On March 17, 2020, Governor Gavin Newsom signed emergency legislation providing up to \$1 billion in funding to help California fight COVID-19.

1. [SB 89](#) by the Committee on Budget and Fiscal Review – Budget Act of 2019.
2. [SB 117](#) by the Committee on Budget and Fiscal Review – Education finance: average daily attendance and timeline waivers: protective equipment and cleaning appropriation: COVID-19.

The emergency legislative package provides \$500 million General Fund to help California fight COVID-19 and authorizes increases up to \$1 billion. The funding is intended to:

- Increase hospital bed capacity and purchase medical equipment to combat the coming surge in COVID-19 patients;
- Protect hospitals, nursing homes, and other facilities most vulnerable to COVID-19 spread;
- Provide lifesaving services to Californians isolating at home;
- Support local government to reduce the spread of COVID-19 in homeless populations and provide safe beds for people experiencing homelessness; and

- Provide funding to clean childcare facilities that remain open.

However, the operative language of the bill says, “\$500,000,000 is hereby appropriated from the General Fund to any item for any purpose...” – there will be pressure for the Governor to spend this money outside of his stated purposes.

The package also provides \$100 million Proposition 98 General Fund for personal protective equipment and cleaning for schools that remain open. It also allows schools to maintain funding despite service disruptions.

FEDERAL GOVERNMENT COLLABORATION:

Presidential Major Disaster Declaration

On March 22nd, Governor Newsom [requested](#) and received approval a Presidential Major Disaster Declaration to assist in California’s COVID-19 preparedness and emergency response efforts. The Major Disaster Declaration includes any and all individual assistance programs to assist those affected by the outbreak and lessen the economic impacts of the crisis. It will provide additional assistance, including but not limited to, mass care and emergency assistance, crisis counseling, disaster case management, disaster unemployment assistance, disaster legal services and Disaster Supplemental Nutrition Assistance.

Congressional Leadership Letter

On March 19th, the Governor sent a [letter](#) on 3/19/2020 to Senate Majority Leader Mitch McConnell, Senate Democratic Leader Chuck Schumer, Speaker of the House Nancy Pelosi and House Republican Leader Kevin McCarthy requesting additional federal assistance to supplement California’s efforts to prepare for a COVID-19 surge.

USNS Mercy Deployment

The Governor also announced on March 19th that he sent a [letter](#) to Trump Administration requesting the immediate deployment of the USNS Mercy Hospital Ship to the Port of Los Angeles through September 1, 2020, to help decompress the state’s health care delivery system in Los Angeles in response to COVID-19. The Administration approved the request and USNS Mercy arrived in Los Angeles on March 26th.

Medi-Cal Section 1135 Waiver Requests

On March 16th, the Department of Health Care Services (DHCS) submitted a [letter](#) to the federal Centers for Medicare and Medicaid Services (CMS) requesting the easing of certain federal rules governing doctors and other health care providers who treat people covered through Medi-Cal, California’s version of Medicaid. It also would loosen rules regarding the use of telehealth and where care can be provided, making it simpler to protect seniors and other populations at high risk for harm if exposed to the virus. , DHCS submitted an [additional letter](#) to CMS requesting additional flexibilities on March 19th. On March 23rd, CMS [responded](#) to the letters by approving portions of the

requests related to allowing out-of-state providers to treat California (in-person or via telehealth), allowing changes for efficient use of hospital capacity and shifting patients to appropriate care settings and modifications to prior authorization treatment rules.