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Insights

COVID-19 Safety Compliance Alert: Time to Re-Evaluate Current Plans as Indiana Enters Stage 5

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By: Shelley M. Jackson and Kate Trinkle

On September 24, 2020, Governor Holcomb issued **Executive Order 20-43**, "Back on Track Indiana: Stage Five – The New Normal During a Global Pandemic" (the "Executive Order"), which outlines requirements for Hoosiers now that Indiana entered Stage 5 on September 26, 2020. Hoosiers, including businesses and other entities, must comply with the Executive Order, which includes updating COVID-19 safety plans and complying with Indiana's state-wide mask mandate.

All Hoosiers

All Hoosiers are to continue complying with Indiana's mask mandate, as established in **Executive Order 20-37** and explained in further detail in a previous client alert, **COVID-19 Safety Plan Compliance Alert: Indiana's Face Covering Mandate**.

All Hoosiers must also continue to practice social distancing, and "people at high risk of severe illness from COVID-19, including those 65 and above and those who are sick or have underlying medical issues, are urged to remain vigilant" by "limiting trips outside of their homes as recommended by the CDC."

Businesses and Entities

All businesses and entities operating in Indiana must comply with the Executive Order. Businesses and entities explicitly include "retail, restaurants, professional services, personal services, cultural and entertainment, public amusement, gyms, exercise and fitness centers, sports and athletic activities, outdoor activities, child care, day camps, adult care, education, health care providers and operations, financial and insurance, social services, charitable and religious, laundry, hotels and motels, manufacturing and production, trades, shipping and delivery, transportation, industrial, labor infrastructure, media, and governmental."

In particular, all businesses and entities must have a COVID-19 response plan in place to ensure a safe environment for employees, customers, clients, and members of the public. **Businesses and entities with existing COVID-19 plans "must re-evaluate any existing plan and update it to reflect current practices and safeguards."** Additionally, such plans must be distributed to each employee and posted publicly.

Businesses and entities must also ensure compliance with social distancing and sanitation requirements within the workplace, as detailed in Section 4(b).

The Executive Order encourages, but does not require, businesses to do the following:

- implement remote work policies when reasonable and practicable;

- ensure sick leave policies are up-to-date, flexible, and not punitive in nature;
- encourage sick employees to remain at home until fever free and symptoms improve for the **requisite time periods** as provided by the CDC;
- reiterate sanitation measures to employees;
- continue enhanced cleaning and disinfection; and
- prepare to change business practices, if needed.

Businesses and entities must also ensure that enforcement plans and COVID-19 response plans comply with any additional restrictions that local authorities may impose.

In particular, Marion County will continue to apply additional requirements as described in Public Health Order 31-2020 until superseded by Governor Holcomb. Additionally, Marion County has published **Guidance for Businesses**.

Educational Institutions

The Executive Order continues the enforcement plan and face covering requirements previously set forth in **Executive Order 20-39** and described in further detail in a previous client alert, **COVID-19 Enforcement Plan Compliance Alert: K-12 Educational Institutions and Indiana's Face Covering Mandate**.

Now, however, K-12 educational institutions should carefully review existing enforcement plans and determine whether updates are needed to reflect current practices. Additionally, K-12 educational institutions should ensure a COVID-19 response plan is in place and meets the criteria listed above. If a plan is already in place, K-12 educational institutions should review and update such plans.

K-12 educational institutions must also ensure that enforcement plans and COVID-19 response plans comply with any additional restrictions that local authorities may impose.

Gatherings with 500+ Individuals

In Stage 5, gatherings of 500+ individuals are permitted; however, event organizers must develop a COVID-19 Event Plan outlining guest information, staff & volunteer screening, increased sanitation, social distancing measures, face coverings and compliance, as described in further detail in Section 6 of the Executive Order. The event organizer must then submit the COVID-19 Event Plan to the event organizer's local health department for approval.

Event organizers should also carefully review applicable local health orders and ensure any additional requirements are followed. For example, Marion County's Public Health Order, linked above, requires event organizers to develop a COVID-19 Event Plan for conventions, conferences, fairs, and festivals with 250 or more individuals.

Next Steps

Employers, schools, day cares, and other entities, should ensure that COVID-19 safety plans are up-to-date and reflect current practices. Additionally, schools, day cares, and other childcare centers should ensure a plan is in place to enforce the mask mandate and COVID-19 safety plans. Finally, employers should continue to be flexible in considering remote work arrangements and to encourage employees to remain home when feeling ill.

We are pleased to offer flat fee arrangements to review and update COVID-19 safety plans. If your organization needs such assistance or you have questions about COVID-19 safety plans in general, please

contact **Shelley M. Jackson** of Krieg DeVault LLP's Labor and Employment practice group.

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