

## Executive Order 2020-041 Extends Shelter-in-Place Order; New Modifications Announced

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### PRACTICE AREAS

- Government Affairs & Public Policy

### An McV Government Affairs Alert

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On May 21, 2020, Governor Wanda Vázquez-Garced signed Executive Order 2020-041 (“EO 2020-041” or the “Executive Order”) to, among other matters, extend the period of the mandatory “Shelter-in-Place” Order issued under **Executive Order 2020-033**, as amended by **Executive Order 2020-034** and **Executive Order 2020-038**.

In addition, EO 2020-041 continues to ease the limitations imposed by previous administrative bulletins by considering the recommendations of the Puerto Rico Economic and Medical Task Forces to establish a second phase of reopening and the guidelines set forth in the United States Department of National Security’s *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response*.

**For your convenience, in this Alert we will highlight the major modifications and amendments contained in the new Executive Order, EO-2020-041, as the Government continues to ease into an economic reopening transition. We will refer to our previous Alerts as needed.**

### Shelter-in-Place and Exemptions

***Beginning on May 26, 2020 and until June 15, 2020, a mandatory “Shelter-In-Place” order requiring all Puerto Rico residents to remain in their residence or place of lodging remains in effect.***

During this period, individuals are required to remain in their residence or place of lodging 24 hours a day seven days a week, but may exit their residence or lodging from 5:00 a.m. to 7:00 p.m. solely for the reasons set forth in our **Alert for Executive Order 2020-038** (the “EO 2020-038 Alert”).

Individuals who allow persons to assemble in their residences, other than cohabitants of the same household, will be deemed to be in violation of EO 2020-041.

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### **Quarantine Order**

Section 2 of EO 2020-041 orders individuals who reasonably believe to have been exposed to COVID-19 or who have been diagnosed with COVID-19 to remain in their place of residence for a period of 14 days, as detailed in our EO 2020-038 Alert.

### **Government Offices**

According to Section 3 of the Executive Order, government agencies will continue offering services that may be rendered remotely, as detailed in our EO 2020-038 Alert.

To prepare for the gradual reopening of government agencies and instrumentalities, all Human Resources, Finance, Budget, and Procurement employees are directed to resume operations on June 1<sup>st</sup>, 2020.

Additionally, EO 2020-041 establishes certain requirements that each agency must comply with to safeguard their employees' health in the workplace, including implementing staggered schedules, cleaning and disinfecting the facilities, and ensuring proper distancing between employees.

### **Guidance Established by Agencies**

The provisions of the Executive Order may be supplemented by regulations or guidance issued by government agencies, as detailed in our EO 2020-038 Alert.

### **Private Businesses and Exceptions (Section 5 of the Executive Order)**

Pursuant to Section 5 of EO 2020-041, the following businesses, which were not previously exempted, are now **exempted** from the shutdown order:

#### ■ **Food**

- Sale of prepared food: Drive-thru, carry-out, and delivery services continue to be preferred. Starting on May 26, delivery services will be available until midnight, and restaurants are authorized to open their dining rooms at or below 25% of their maximum capacity, as defined in PR Building Code 2018.

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- Supermarket delivery services may continue operating until midnight.
- Other food businesses and services identified in our EO 2020-038 Alert.
- **Healthcare, Medications, Medical Items or Equipment, and Pharmacies**
  - Includes businesses that produce, sell, or provide services related to medication, medical tools or equipment, healthcare services, and their distribution chain, including those previously identified in our EO 2020-038 Alert.
  - Pharmacies may operate during their normal business hours and offer the full range of their products Monday through Sunday.
  - Other important notes:
    - Hospitals and ambulatory surgery centers are allowed to resume elective surgical procedures provided they certify having adopted strict safety and mitigation protocols promoted by the medical community and the Department of Health, and so long as they comply with health and safety protocols established for hospitals and ambulatory surgery centers, as applicable, including those set forth in the *Local Resumption of Elective Surgery Guidance* issued by the American College of Surgeons. Hospitals cannot exceed 50% of the maximum capacity of their intensive care units, hospital beds and ventilators.
    - Dental offices: Operations will be governed by the guidelines set forth by the ADA, the Puerto Rico Dental Board and the Department of Health. Dentists may offer emergency dental procedures by providing patients a phone number through which they may call to seek such services.
    - Optometrists' offices may resume operations by appointment only, preventing the crowding of waiting rooms and offices and complying with social distancing guidelines.
- **Gas Stations and their Distribution Chain**
  - Includes the products and services previously listed in our EO 2020-038 Alert. These businesses may operate within their normal business hours and offer the full range of products and services Monday through Sunday.

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- **Financial Institutions**

- Includes the entities listed and the procedures for closing summarized in our EO 2020-038 Alert.
- Starting May 26, pawn shops will be able to fully resume operations.

- **Organizations or Groups that Provide Services that Address the Basic Needs of Vulnerable Persons**

- Includes the shelters and food banks listed in our EO 2020-038 Alert.

- **Textile**

- Includes the textile businesses previously listed in our EO 2020-038 Alert.

- **Laundry and Laundromat Services**

- Laundry and laundromat services may now operate by appointment only **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. For more detail on laundry and laundromat services, please refer to our EO 2020-038 Alert.

- **Vehicle Inspection Centers**

- Vehicle inspection centers may open **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. upon prior phone or email appointment. Walk-ins are not allowed.

It is important to note that the extension of the deadline to renew auto tags that expired in March, April, and May 2020 remains in place until **June 30, 2020**.

- **Ornamental Gardening Businesses**

- Ornamental gardening businesses may operate by appointment only **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. For more detail on the operations of these businesses, please refer to our EO 2020-038 Alert.

- **Safety**

- Includes government and private security companies.

- **National Security**

- Includes those industries listed in our EO 2020-038 Alert.

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### ■ **Supply Chain**

- Businesses that make up the supply chain related to goods and services exempted under Sections 5 and 6 of the Executive Order.

### ■ **Car Wash Establishments**

- Car washes may now operate **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. See **Workplace Risk Management Plans** *Below*

### ■ **Beauty Salons and Barbershops**

- Beauty salons and barbershops may now operate by appointment only **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. Sunday operations will be limited to cleaning and disinfecting. These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, preventing the crowding of people, the disinfection of styling tools and complying with social distancing).

### ■ **Retail Stores**

- Starting on May 26, retail stores (including auto repair and parts shops and hardware stores) may operate Monday through Saturday from 9:00 a.m. to 5:00 p.m. so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Sunday operations will be limited to cleaning and disinfecting.
- Clothing and shoe stores shall not allow clients to try on clothes or shoes, except for tailoring once the purchase has been completed. Owners of retail businesses are encouraged to re-evaluate their return policies. These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing).
- **Please see restrictions for retail stores located in open and closed layout malls below.**

### ■ **Open Layout Shopping Malls**

- Starting on May 26, open layout shopping malls may open only to train and prepare employees and tenants to receive the public.
- Starting on June 8, open layout shopping malls (with the exception of movie theaters, play areas and valet parking services) may open to the

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public and operate Monday through Saturday from 9:00 a.m. to 5:00 p.m. at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Sunday operations will be limited to cleaning, disinfecting, and merchandise management.

- These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing). See **Workplace Risk Management Plans** *Below*
- Open layout shopping malls that are compliant with the Workplace Risk Management Plans and have filed the self-certification with the Puerto Rico Department of Labor and Human Resources (“PR DOL”) ***may begin to reopen as early as June 1<sup>st</sup>.***
- **Closed Layout Shopping Malls**
  - Starting on May 26, closed layout shopping malls may open only to train and prepare employees and tenants to receive the public.
  - Starting on June 8, closed layout shopping malls (with the exception of movie theaters, play areas and valet parking services) may open to the public and operate Monday through Saturday from 9:00 a.m. to 5:00 p.m. **Occupancy shall be limited to one person per 100 sq. ft., which occupancy restriction shall be implemented by the shopping mall’s management.** Sunday operations will be limited to cleaning, disinfecting, and merchandise management.
  - These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing). See **Workplace Risk Management Plans** *Below*
  - Closed layout shopping malls that are compliant with the Workplace Risk Management Plans and have filed the self-certification with the PR DOL ***may begin to reopen as early as June 1<sup>st</sup>.***
- **Wholesale Businesses**
  - As of May 26, wholesale businesses not previously authorized to resume operations may open to the public and operate **Monday through Saturday** from 9:00 a.m. to 5:00 p.m. so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Sunday operations will be limited to cleaning, disinfecting, and merchandise management.

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- These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing).
- **Automobile Dealerships**
  - Automobile dealerships may provide services by appointment only Monday through Saturday from 9:00 a.m. to 5:00 p.m. so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Sunday operations will be limited to cleaning, disinfecting, and merchandise management. See **Workplace Risk Management Plans** *Below*
  - These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, preventing the gatherings of people and complying with social distancing).
- **Travel Agencies**
  - Travel agencies may provide services by appointment only Monday through Saturday from 9:00 a.m. to 5:00 p.m. so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Sunday operations will be limited to cleaning, disinfecting, and merchandise management. See **Workplace Risk Management Plans** *Below*
- **IT Sector Establishments**
  - IT sector establishments should promote remote work. These businesses may provide services by appointment only Monday through Saturday from 9:00 a.m. to 5:00 p.m. Sunday operations will be limited to cleaning, disinfecting, and merchandise management. These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, preventing the accumulation of people and complying with social distancing).
- **Price Control Measures**
  - EO 2020-041 also advises exempted businesses to comply with any Price Control Measures issued by the Puerto Rico Department of Consumer Affairs (“DACO” for its Spanish acronym) throughout this period.

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### **Exempted Services (Section 6 of the Executive Order)**

The services listed below, which remained prohibited under previous Executive Orders, may now be provided during the lockdown. For a complete list of the previously exempted services, please refer to our EO 2020-038 Alert.

- Armory services for the security sector and shooting ranges so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018.
- Funeral services - Wakes are limited to 10 persons per family unit following the necessary precautionary measures (including using face masks, frequent hand washing, and complying with social distancing). Common areas cannot be used and children under the age of 12 are not allowed on the premises.
- Colleges and Private Schools - Practice laboratories may open so that students may complete their university programs, provided that social distancing norms are upheld. The partial opening of private schools is also authorized so that administrative employees, faculty, and counselors are allowed on campus to work on virtual summer programs. Students may not be present on school grounds.
- Real estate brokers, agents and property managers, provided they follow the necessary precautionary measures and the property is unoccupied. If the property is occupied, they may provide such services virtually.
- Services related to the repair of articles
- Telephone or online sales - Warehouses may operate to dispatch items via curbside pickup or delivery services to customer vehicles. Steps should be taken to serve one client at a time while complying with adequate safety measures.

### **Corporations**



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Section 7 of EO 2020-041 authorizes the Board of Directors to notify shareholders of its decision to reschedule the date and/or place of previously notified shareholder meetings. For more detail, please refer to our EO 2020-038 Alert.

### **Outdoor Sports and Recreational Activities**

Section 8 of EO 2020-041 provides that, within permissible curfew hours (5:00am to 7:00pm) , persons will be allowed to exercise outdoors, provided they wear face masks and adhere to social distancing practices. However, parks, running tracks, gymnasiums and other similar establishments will continue to remain closed to the public.

Beaches, golf courses and reserves may reopen strictly for professional or recreational sports (runners, cyclers, surfers, sailing and rowing athletes, and golfers). Golf club houses will not be used for social purposes and the rental of equipment, garments or clothes is not allowed. Beaches will remain closed for persons wishing to sunbathe, socialize or gather.

Equestrian training is also permitted.

### **Horse Racing Industry and Sport**

Section 9 of EO 2020-041 provides that the horse racing industry is authorized to resume operations to celebrate official races, subject to implementing the necessary safety and health measures to safeguard their employees' health. Employees must be trained and supervised on the new safety and health measures, as well as revised work guidelines.

Horse races may be permitted in the Camarero Racetrack; however, the premises will remain closed to the public. Races will be transmitted via television and/or internet, and bets may be placed online via the GanaDondeSea (Interbet) platform or in person at a horse racing agency (*agencia hípica*). Only one customer at a time will be permitted inside horse racing agencies, and each person must wear face masks and adhere to social distancing practices.

The operation and use of Electronic Video Game Systems (SVJE, per its Spanish acronym) is prohibited.

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### **Virtual Concerts and Theater Activities**

Section 10 of EO 2020-041 provides that proposals for virtual concerts and theater activities may be submitted for the approval and authorization of the Governor's Chief of Staff. Proposals will be evaluated subject to the implementation of health and safety measures to safeguard employees' health.

### **Safety Measures to be followed by the Public and Exempted Businesses**

To protect the health and safety of employees and customers, private businesses must require their employees and customers to comply with the health and safety measures included in previous Orders. Please refer to our EO 2020-038 Alert for additional details

### **Preferential Services**

Section 12 of the Executive Order provides that businesses allowed to resume operations pursuant to EO 2020-041 must, if possible, offer preferential services to persons who work in hospitals or clinical labs, public safety agents, persons over 65 years of age and persons with disabilities.

### **Excluded Persons (Section 13 of the Executive Order)**

The list of persons exempted from the "Stay-in-Shelter" remains unaltered. For additional detail, please refer to our EO 2020-038 Alert.

### **Payroll and Office Exceptions (Section 14 of the Executive Order)**

Employers are authorized to send up to five (5) employees to their offices to process payroll payments due on May and June 2020.

This exemption will apply only on May 28 and June 11, 2020, from 5:00 a.m. to 2:00 p.m. Employers using this exemption to perform services other than to process payroll payments will be fined in accordance with the provisions of EO 2020-041.

Likewise, on May 28, 2020, from 5:00 a.m. to 2:00 p.m., employers may send certain employees to their offices to retrieve materials and equipment needed to continue providing services remotely.

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### **Road Tolls (Section 15 of the Executive Order)**

Provisions on road tolls remain unaltered. For additional details, please refer to our EO 2020-038 Alert.

### **Celebration of Religious Events (Section 16 of the Executive Order)**

Starting on May 26, services may be held on Saturdays and Sundays within permissible curfew hours, so long as they comply with the “Guidelines for the Reopening of Religious Services” published by La Fortaleza and occupancy is at or below 25% of their maximum capacity, as defined in PR Building Code 2018.

Prepared parochial or administrative offices may resume operations with the minimum necessary staff (no more than 5 people) between 9:00 a.m. and 3:00 p.m.

### **Closure of Businesses and Private Entities (Section 17 of the Executive Order)**

EO 2020-041 provides for a total 24-hour closure of movie theaters, nightclubs, concert halls, theaters, gaming halls, casinos, theme parks, gymnasiums, bars, spas, or any analogous place that is conducive to the gathering of individuals within the same place.

### **Construction Services (Section 18 of the Executive Order)**

Provisions on construction services remain unaltered. For additional details, please refer to our EO 2020-038 Alert.

### **Manufacturing (Section 19 of the Executive Order)**

Provisions on manufacturing remain unaltered. For additional details, please refer to our EO 2020-038 Alert.

### **Judicial Branch (Section 20 of the Executive Order)**

The Judicial Branch will continue operating on a limited schedule from 12:00 p.m. until 4:00 p.m. to address urgent matters, and remotely via video conferencing during the day and part of the night.

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### **Recreational Maritime Traffic (Section 21 of the Executive Order)**

EO 2020-041 orders the Puerto Rico Department of Natural and Environmental Resources to issue orders, directives, and circular letters to allow recreational navigation and fishing within curfew hours and to work with the Puerto Rico Police Bureau and Municipal Police to establish a coastal vigilance plan. Boats and vessels may not anchor within 15 feet of each other. Jet skis are not allowed during this phase.

Mayors that supervise coastal municipalities may refuse entry of maritime transportation in their shores.

### **Workplace Risk Management Plans (Section 22 of the Executive Order)**

Before resuming operations, all exempted businesses must prepare an infection risk management plan based on OSHA 3990 guidelines, as detailed in our EO 2020-038 Alert

### **Modifications**

The Governor reserves the right to modify this Executive Order to address any change in the rate of infection that may result from the easing of restrictions introduced by EO 2020-041.

### **Penalties for Failing to Comply with EO 2020-041**

Any person who fails to comply with the provisions of EO 2020-041 may face up to six months of incarceration and/or a fine of up to \$5,000.

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