

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

ATTORNEYS

- Arturo J. García-Solá
- Marcos Rodríguez-Ema
- Rubén Méndez-Benabe
- Isis Carballo-Irigoyen
- Carlos J. Fernández-Lugo
- Patricia George-Iguina
- Anita Montaner-Sevillano
- Miguel Rivera-Arce
- Magda M. Boyles
- Sila M. González-Calderón
- Carla S. D'Almeida-Aracena

PRACTICE AREAS

- Government Affairs & Public Policy

An McV Government Affairs Alert

June 15, 2020

On June 12, 2020, Governor Wanda Vázquez-Garced signed Executive Order 2020-044 (“EO 2020-044” or the “Executive Order”) to, among other matters, eliminate the mandatory “Shelter-in-Place” Order issued under **Executive Order 2020-033**, as amended by **Executive Order 2020-034** and **Executive Order 2020-038** and **Executive Order 2020-041**.

EO 2020-044 also 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 third 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 this new Executive Order as the Government continues to ease into an economic reopening transition. We will refer to our previous Alerts as needed.

Lifting of Shelter-in-Place and Reduced Curfew

Beginning on June 16, 2020 and until June 30, 2020, the mandatory “Shelter-In-Place” order requiring all Puerto Rico residents to remain in their residence or place of lodging is eliminated.

A reduced curfew from 10:00pm until 5:00am is established during the effectiveness of this Executive Order.

Quarantine Order

Section 2 of EO 2020-044 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.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

Government Operations

According to Section 3 of EO 2020-044, government agencies will continue offering services that may be rendered remotely, as detailed in our EO 2020-038 Alert.

To continue with the gradual reopening of government agencies and instrumentalities, and in addition to the government employees previously directed to report back to work as detailed in our EO 2020-041 Alert, all political appointees (*empleados de confianza*) are directed to resume operations at their respective agencies on June 16, 2020.

Additionally, EO 2020-044 establishes certain requirements that each agency must meet 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 2020-044, the following businesses, which were not previously exempted, are now **exempted** from the shutdown order:

■ **Food**

- Sale of prepared food: Starting June 16th, restaurants are authorized to open their dining rooms Monday through Sunday until curfew, at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Reservations are encouraged in order to comply with the capacity limitations set forth in the Executive Order.
- Establishments selling alcoholic beverages: Starting June 16th, bars are authorized to open Monday through Sunday until curfew, at or below 50% of their maximum capacity, as defined in PR Building Code 2018.
- Fast food restaurants: Must ensure a 6-ft. distance between customers while they are in line to order.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

- Supermarkets may continue to open Monday through Sunday until curfew, and must set aside time at the end of the day to clean and disinfect the premises.
- 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.
 - Other important notes:
 - Hospitals and ambulatory surgery centers may continue with elective surgical procedures, as set forth in our EO 2020-041 Alert. Patients are encouraged to be tested for COVID-19 prior to a procedure.
 - Dental and optometrist's offices: May continue operations as set forth in our EO 2020-041 Alert.
 - Therapy centers: The Executive Order authorizes on-site therapy for patients who have not been able to receive virtual therapy sessions. Therapy centers must follow the necessary precautionary measures, such as frequent hand washing, use of masks and preventing crowding in waiting rooms.
- **Gas Stations and their Distribution Chain**
 - Includes the products and services previously listed in our EO 2020-038 Alert. These businesses may continue operating Monday through Sunday within their normal business hours and offer the full range of products and services Monday through Sunday.
- **Financial Institutions**
 - Includes the entities listed and the procedures for closing summarized in our EO 2020-038 and our EO 2020-041 Alerts.
- **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**

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

- Includes the textile businesses previously listed in our EO 2020-038 Alert.
- **Laundry and Laundromat Services**
 - Laundries may continue operating Monday through Sunday until curfew, establishing a telephone or email method of contact in order to schedule the drop off and pick up of orders.
 - Laundromat services may continue operating Monday through Sunday until curfew, at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Laundromats must follow the necessary precautionary measures, such as frequent hand washing, use of masks and preventing crowding in waiting rooms.
- **Vehicle Inspection Centers**
 - Vehicle inspection centers may continue operating Monday through Sunday until curfew upon prior phone or email appointment. Walk-ins are not allowed.

It is important to note that the deadline extension 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 continue operating Monday through Sunday until curfew, at or below 50% of their maximum capacity, as defined in PR Building Code 2018. These businesses must follow the necessary precautionary measures, such as frequent hand washing, use of masks and preventing crowding and must set aside time at the end of the day to clean and disinfect the premises.
- **Safety**
 - Includes government and private security companies.
- **National Security**
 - Includes those industries listed in our EO 2020-038 Alert.
- **Car Wash Establishments**
 - Car washes may continue operating Monday through Sunday until curfew, and must follow the necessary precautionary measures, such as frequent hand washing, use of masks, preventing crowding and complying with social distancing.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

- **Beauty Salons and Barbershops**

- Beauty salons and barbershops may continue operating by appointment only Monday through Sunday until curfew, and must follow the necessary precautionary measures, such as frequent hand washing, use of masks, preventing crowding and complying with social distancing. 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).

- **Spas and Esthetic Clinics**

- Starting June 16th, spas and esthetic clinics may resume operations by appointment only, serving one client per service provider at a time, until curfew. These businesses must follow the necessary precautionary measures, such as frequent hand washing, use of masks, preventing crowding and complying with social distancing and must also set aside time at the end of the day to clean and disinfect the premises. See

Workplace Risk Management Plans *Below*

- **Retail Stores**

- Online sales continue to be preferred. Starting June 16th, retail stores (including auto repair and parts shops and hardware stores) may continue operating Monday through Sunday until curfew so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. See **Workplace Risk Management Plans** *Below*. 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 June 16th, open layout shopping malls may continue operating Monday through Sunday until curfew so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing) and must also set aside time at the end of the day to clean and disinfect the premises. See **Workplace Risk Management Plans** *Below*

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

- **Closed Layout Shopping Malls**

- Starting June 16th, closed layout shopping malls continue operating Monday through Sunday until curfew. **Occupancy must be limited to one person per 75 sq. ft., which occupancy restriction shall be implemented by the shopping mall's 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) and must also set aside time at the end of the day to clean and disinfect the premises. See **Workplace Risk Management Plans** *Below*

- **Wholesale Businesses**

- Starting June 16th, wholesale businesses not previously authorized to resume operations may open to the public and operate Monday through Sunday 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. These businesses must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and complying with social distancing) and must also set aside time at the end of the day to clean and disinfect the premises.

- **Automobile Dealerships**

- Automobile dealerships may continue providing services by appointment only Monday through Sunday until curfew, so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. 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) and must also set aside time at the end of the day to clean and disinfect the premises. See **Workplace Risk Management Plans** *Below*

- **Travel Agencies**

- Travel agencies may continue providing services by appointment only Monday through Sunday until curfew so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. These businesses must set aside time at the end of the day to clean and disinfect the premises See **Workplace Risk Management Plans** *Below*

- **IT Sector Establishments**

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

- IT sector establishments should promote remote work. These businesses may provide services by appointment only Monday through Sunday until curfew. 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) and must also set aside time at the end of the day to clean and disinfect the premises.
- **Advertising Agencies**
 - Advertising agencies may resume operations by appointment only Monday through Sunday so long as occupancy is at or below 50% of their maximum capacity, as defined in PR Building Code 2018. 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) and must also set aside time at the end of the day to clean and disinfect the premises.
- **Movie Theaters and Drive-in Cinemas**
 - Movie theaters and drive-in cinemas may resume operations Monday through Sunday until curfew by promoting the sale of tickets online.
 - Movie theaters must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and keeping a 6-ft. distance between moviegoers) and must also set aside time at the end of the day to clean and disinfect the premises.
- **Museums**
 - Museums may resume operations Monday through Sunday until curfew by promoting the sale of tickets online. Occupancy must not exceed 50% of their maximum capacity, as defined in PR Building Code 2018.
 - Museums must adopt measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing and keeping a 6-ft. distance) and must also set aside time at the end of the day to clean and disinfect the premises.
- **Gyms**
 - Gyms may resume operations Monday through Sunday until curfew so long as occupancy does not exceed 50% of their maximum capacity, as defined in PR Building Code 2018.
 - Gyms must adopt measures to prevent COVID-19 infection (including the mandatory use of face masks, frequent hand washing and keeping a 6-ft.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

distance between clients) and must also set aside time at the end of the day to clean and disinfect the premises.

- In the case of gyms located within housing complexes or residential developments, the administrators must ensure compliance with all precautionary and social distancing measures.
- **Daycare Centers**
 - Starting June 16th, daycare centers may reopen **solely for the purpose of training and preparing of its employees.**
 - Starting July 1st, daycare centers may operate within the hours allowed by the curfew and ensuring compliance with measures to prevent COVID-19 infection (including the mandatory use of face masks, frequent hand washing and keeping a 6-ft. distance) and must also set aside time at the end of the day to clean and disinfect the premises.
 - Government agencies are instructed to issue the necessary circular letters, guidelines and administrative orders.
- **Film Industry**
 - Starting June 16th, the film industry may resume its operations Monday through Sunday until curfew. Business must ensure compliance with measures set forth by the industry to prevent COVID-19 infection (including the mandatory use of face masks, frequent hand washing and keeping a 6-ft. distance).
- **Price Control Measures**
 - EO 2020-044 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.

Exempted Services (Section 6 of the Executive Order)

The services listed below, which remained prohibited under previous Executive Orders, may now be provided. For a complete list of the previously exempted services, please refer to our EO 2020-038 and our EO-2020-041 Alerts.

- Funeral services - Wakes are allowed so long as occupancy does not exceed 50% of the maximum capacity, as defined in the PR Building Code 2018. Funeral homes must follow the necessary precautionary measures (including using face masks, frequent hand washing, and complying with social

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

distancing). Common areas cannot be used and children under the age of 12 are not allowed on the premises.

- Colleges and Private Schools – Necessary personnel is allowed to return to school campuses in order to prepare the premises pursuant to the CDC, PR Department of Health and PROSHA guidelines for the next academic semester.
- Repair and maintenance of private infrastructure to ensure the continuity of operations and services exempted by the Executive Order
- 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

Section 7 of EO 2020-044 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 2020-044 provides that people will be allowed to exercise outdoors within permissible curfew hours (5:00am to 10:00pm) provided they wear face masks and adhere to social distancing practices.

Golf courses, reserves, parks, sport courts, swimming pools and gymnasiums may reopen subject to the directives and limitations set forth by the Government of Puerto Rico, the Secretary of the Department of Sports and Recreation, or the Municipality where such facilities are located.

Beaches

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

Section 9 of EO 2020-044 provides for the reopening of beaches. However, socializing and the grouping of people are not allowed without the proper precautionary measures and social distancing.

Horse Racing Industry and Sport

Section 10 of EO 2020-044 provides that the horse racing industry may continue to celebrate official races, subject to the implementation of 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, and the general public may attend the races so long as occupancy does not exceed 50% of the racetrack's official capacity, as set forth in the PR Building Code 2018.

For additional detail on horse races, please refer to our EO-2020-041 Alert.

Tourism

Section 11 of EO 2020-044 provides that starting June 16th, local tourism will be incentivized by promoting outdoor activities. Sports equipment and clothing may now be rented for the sports activities permitted under the Executive Order.

Starting June 16th, amusement parks may reopen so long as occupancy does not exceed 50% of the park's official capacity, as set forth in the PR Building Code 2018.

Common areas at hotels and inns may be used by guests, so long as occupancy does not exceed 50% of its official capacity, as set forth in the PR Building Code 2018.

Tourism activities are subject to precautionary measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing, keeping a 6-ft. distance and complying with social distancing norms). See **Workplace Risk Management Plans** *Below*.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

Subject to the management and development of COVID-19, Puerto Rico will be available to coordinate external tourism starting July 15th.

Entertainment

Section 12 of EO 2020-044 provides that starting June 16th, and provided that the online sale of tickets and concessionaires are promoted by electronic means, public spaces or public parking lots may be used to present “drive in” events, movies, graduations, concerts, stand up, and previously recorded presentations.

These activities are subject to precautionary measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing, keeping a 6-ft. distance and complying with social distancing norms), as well as a use plan and the regular disinfection of portable bathrooms for attendees.

Starting July 1st venues for on-site events and concerts may reopen so long as they are compliant with the necessary precautionary measures to prevent COVID-19 infection (including the use of face masks, frequent hand washing, keeping a 6-ft. distance and complying with social distancing norms). See **Workplace Risk Management Plans** *Below*.

Safety Measures to be followed by the Public and Exempted Businesses

To protect the health and safety of employees and customers, Section 13 of the Executive Order provides that 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 14 of the Executive Order provides that businesses allowed to resume operations pursuant to EO 2020-044 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 15 of the Executive Order)

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

The list of persons exempted from the curfew remains unaltered. For additional details, please refer to our EO 2020-038 Alert.

Road Tolls (Section 16 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 17 of the Executive Order)

Starting June 16th services may be held within permissible curfew hours so long as they comply with the “Guidelines for the Reopening of Religious Services” published by La Fortaleza and a 6-ft. distance is kept between attendees.

Prepared parochial or administrative offices may continue operations within the hours permitted by curfew.

Closure of Businesses and Private Entities (Section 18 of the Executive Order)

EO 2020-044 provides for a total 24-hour closure of nightclubs, gaming halls, casinos, or any analogous place conducive to the gathering of individuals within the same place.

Construction Services (Section 19 of the Executive Order)

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

Manufacturing (Section 20 of the Executive Order)

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

Recreational Maritime Traffic (Section 21 of the Executive Order)

Provisions on recreational maritime traffic remain unaltered. For additional details, please refer to our EO 2020-041 Alert.

Executive Order 2020-044 Lifts Shelter-in-Place Order; New Modifications Announced

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 2020-044.

Penalties for Failing to Comply with EO 2020-044

Any person who fails to comply with the provisions of EO 2020-044 may face up to six months of incarceration and/or a fine of up to \$5,000.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.