

GOVERNOR ABBOTT RELAXES COVID-19 RESTRICTIONS IN MOST COUNTIES

On Thursday, September 17, 2020, Texas Governor Greg Abbott signed two executive orders that allow certain establishments to reopen to 75 percent capacity and hospitals to resume elective surgeries at 12:01 a.m. on Monday September 21, 2020. The orders exclude areas with high COVID-19 hospitalizations from these reopenings.

EXECUTIVE ORDER GA 30

[Executive Order GA 30](#) relaxes COVID-19 restrictions to allow in-store retail establishments, dine-in restaurants, office buildings, manufacturers, museums and libraries, and gyms and exercise facilities and classes to operate at up to 75 percent of the total listed occupancy of the establishment. Pursuant to [Executive Order GA 28](#), issued June 26, 2020, these establishments were previously allowed to operate at up to 50 percent capacity. All bars or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission (“TABC”) and do not have less than 51 percent of their gross receipts from the sale of alcoholic beverages must remain closed.

The [new executive order](#) states that no occupancy limits exist for any public or private schools, and any public or private institutions of higher education as well as drive-in concerts, movies, or similar events. Religious services, local government operations, child-care services, youth camps, and recreational sports programs for youths and adults can continue to operate with no occupancy limits. Additionally, as before, no occupancy limit exists for the following establishments that operate with at least six feet of social distancing between work stations: cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers work; massage establishments; and other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal studios, and hair loss treatment and growth services. [Executive Order GA 30](#) continues to prohibit any outdoor gatherings in excess of 10 people unless the mayor of the city, or the county judge, approves of the gathering.

All other business establishments in Texas continue to operate at no more than 50 percent of the total listed occupancy of the establishment. These establishments continue to include professional, collegiate, or similar sporting events; swimming pools; water parks; zoos, aquariums, natural caverns, and similar facilities; rodeos and equestrian events; and amusement parks.

As was stated in Governor Abbott’s [prior executive order](#), any business establishment that is subject to a 50 percent total listed occupancy or normal operating limit and that is in a county that has filed with the Texas Department of State Health Services (“DSHS”) and is in compliance with the requisite attestation form promulgated by DSHS regarding minimal cases of COVID-19 may continue to operate at up to 75 percent of the total listed occupancy or normal operating limit of the establishment.

Counties that reside in Trauma Service Areas with high COVID-19 hospitalizations are excluded from these reopenings. Per the executive order, “areas with high hospitalizations” means any Trauma Service Area (“TSA”) that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent, until such time as the TSA has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. A current list of the areas with high hospitalizations is maintained at dshs.texas.gov/ga3031/. At this time, the following counties are excluded from the reopenings: Calhoun, Cameron, DeWitt, Goliad, Hidalgo, Jackson, Jim Hogg, Lavaca, Starr, Victoria, Webb, Willacy, and Zapata.

EXECUTIVE ORDER GA 31

[Executive Order GA 31](#) supersedes [Executive Order GA 27](#) and Governor Abbott’s proclamations dated [June 30](#) and [July 9, 2020](#), which required postponement of non-medically necessary surgeries and procedures in numerous counties including Bexar, Dallas, Harris, and Travis counties.

The [new executive order](#) requires hospitals located in “areas with high hospitalizations” to postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who, without timely performance of the surgery or procedure, would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician. As stated above, “areas with high hospitalizations,” are defined as TSAs that have had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent until such time as the TSA has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. At this time, “areas with high hospitalizations,” include the following counties: Calhoun, Cameron, DeWitt, Goliad, Hidalgo, Jackson, Jim Hogg, Lavaca, Starr, Victoria, Webb, Willacy, and Zapata.

The prohibition does not apply to any surgery or procedure that would not deplete any hospital capacity needed to cope with COVID-19. These hospitals must also reserve at least 10 percent of their hospital capacity for the treatment of COVID-19 patients.

Questions? If you have any questions about the information contained in this Client Alert, please contact the Thompson & Knight attorney with whom you regularly work or one of the attorneys listed below.

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