


# Bond

Update and Discussion on  
Continuing Legal and  
Practical Issues Related to  
COVID-19  
May 19, 2020



 **BOND** SCHOENECK  
& KING ATTORNEYS

1

## Introduction



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2

## Update from Albany



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3

## The Week In Review

- Executive Order 202.31
- Regions Reopened:
  - Southern Tier, Finger Lakes, North Country, Mohawk Valley, Central New York (May 15)
  - Western New York (May 19)
  - Capital Region (May 20???)
- Reopening Guidance Issued
  - Application to essential businesses
- Updated Guidance from Empire State Development



4

## Updated Essential Business Guidance

1. Essential health care operations including...
  - acupuncture, prescribed by medical professional ...
4. Essential retail including ...
  - in regions that are not within the first phase of the state's regional reopening plan, delivery for orders placed remotely via phone or online at non-essential retail establishments; provided, however, that only one employee is physically present at the business location to fulfill orders ...
5. Essential services including ...
  - auto repair and maintenance ...
  - animal shelters and animal care including dog walking, animal boarding and pet grooming but only to the extent necessary to ensure animal health
  - landscaping, but only for maintenance or pest control and not cosmetic purposes gardening and horticulture ...



5

## Updated Essential Business Guidance

11. Essential services necessary to maintain the safety, sanitation and essential operations of residences or other businesses including ...
  - general and specialized maintenance whether employed by the entity directly or a vendor, including but not limited to heating, ventilation, and air conditioning (HVAC) and pool maintenance ...
    - cleaning, disinfection, and sanitation services
    - occupational safety and health professionals
    - residential and commercial moving services ...
13. Recreation ...
  - Outdoor, low-risk recreational activities are permitted so long as social distancing and cleaning/disinfecting measures are in place:
    - tennis;
    - non-motorized boat use and rentals, such as row boats, kayaks, canoes; and
    - golf and driving ranges, except miniature (mini) golf, with food and retail services subject to the restrictions that are currently in effect within the region
  - Drive-in movie theaters so long as social distancing and cleaning/disinfecting measures are in place



6

## Executive Order 202.31

- Extends NY On PAUSE – May 28<sup>th</sup>
  - This includes gatherings
- NY FORWARD:
  - Phase One industries are exempt from the reductions and restrictions on the in-person workforce
- Extends enforcement of all Executive Orders by state and local government to June 13<sup>th</sup>



7

## Reopening Guidance

- New York Forward Business Reopening Lookup Tool: NAICS Code
  - [www.businessexpress.ny.gov/app/nyforward](http://www.businessexpress.ny.gov/app/nyforward)
- Industries Reopening By Phase
  - <https://forward.ny.gov/industries-reopening-phase>
- Empire State Development FAQs on Reopening
  - <https://esd.ny.gov/nyforward-faq>

### Phase One: Construction

- Building Equipment Contractors
- Building Finishing Contractors
- Foundation, Structure, and Building Exterior Contractors
- Highway, Street and Bridge Construction
- Land Subdivision
- Nonresidential Building Construction
- Residential Building Construction
- Utility System Construction

[VIEW SUMMARY GUIDELINES](#)

[READ AND AFFIRM DETAILED GUIDELINES](#)

[PRINT BUSINESS SAFETY PLAN TEMPLATE](#)



8

## Reopening Guidance: Things to Know

- The guidance applies to essential businesses! (ESD FAQs)
  - **“Once guidance is posted that is applicable, you should read and affirm that you are operating in accordance with the health and safety requirements designed to protect your employees and customers.**
- An affirmation must be submitted to the State affirming (1) a plan is in place and (2) you are operating in accordance with the applicable guidance.



9

## Reopening Guidance: Things to Know

- **Occupancy Restrictions**
  - For work occurring indoors, workforce presence must be limited to 50% of the maximum occupancy for the area, as set by the certificate of occupancy.
  - Exception: if a facility requires more employees to “safely operate core functions,” additional mitigation strategies (such as social distancing, increased frequency of disinfecting, PPE, etc.) must be utilized.
- **Face coverings are required when social distancing cannot be maintained**



10

## Business Safety Precautions: PLAN

- 1. Protections** for Employees and Customers
- 2. Layout:** Changes to the Physical Workspace
- 3. Adaptive** Health Protocols
- 4. Notation:** Put the Plan in Writing



11

## Reopening – Phase 1 and Reopening Plans



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12

## Reopening – What Can We Expect in the Coming Weeks



### Hermes Fernandez

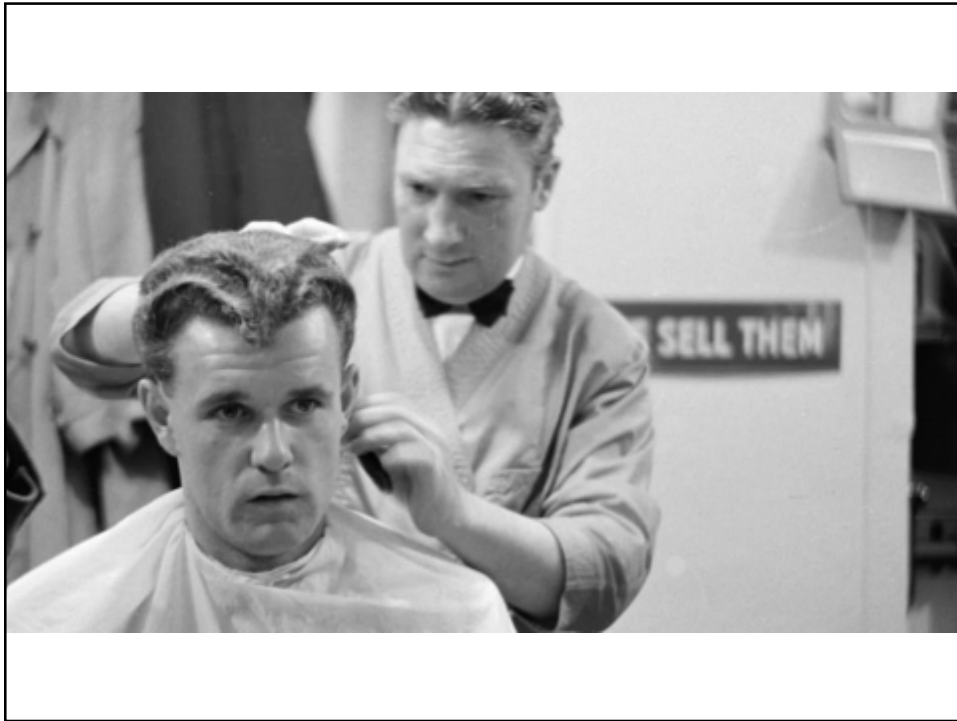
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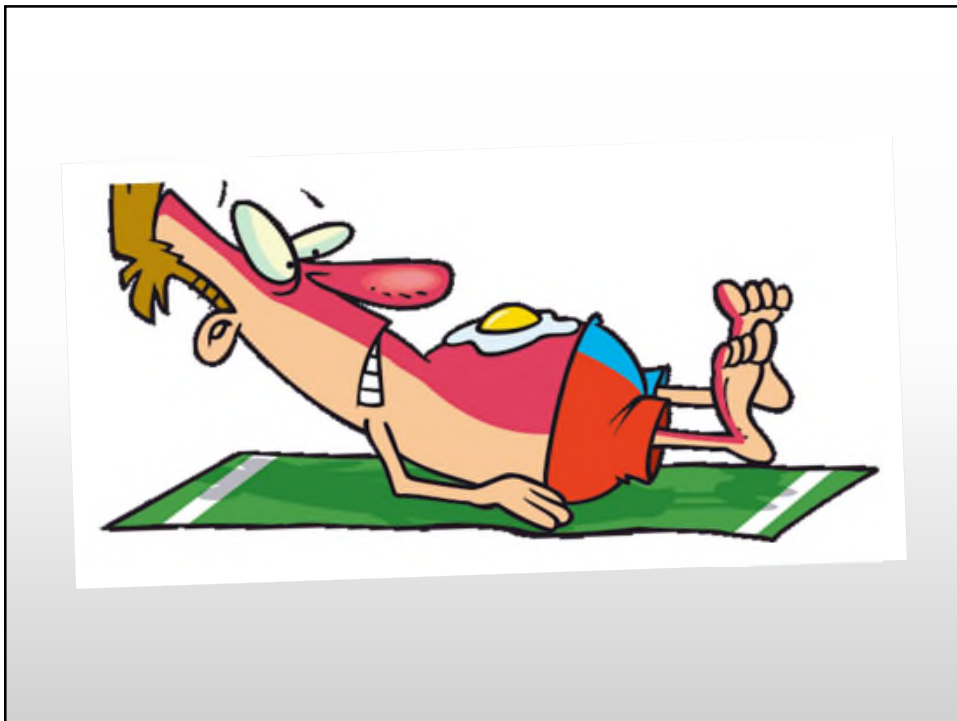
13



14



15



16



## Order of Reopening

**Phase 1:**

- Construction Service
- Manufacturing Hotels/Accommodations
- Wholesale supply chain
- Select retail – curbside pickup

**Phase 2:**

- Professional services
- Finance and insurance
- Retail
- Administrative support
- Real estate and rental leasing

**Phase 3:**

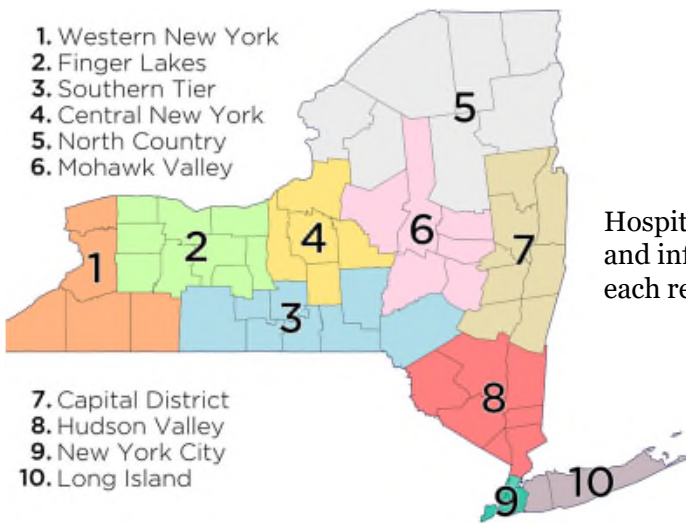
Restaurants/Food

**Phase 4:**

Arts  
 Entertainment  
 Recreation  
 Education



17



Hospitalization rates and infection rates in each region matter

- 7. Capital District
- 8. Hudson Valley
- 9. New York City
- 10. Long Island



18

## Keys to Opening and Staying Open

- Maintain Social Distancing
- Masks
- Screening
- Configuration
  
- Testing
- Isolation
- Tracing
- Quarantine



19

## Opening and Staying Open

- No Attractive Nuisances
- No (or limited) Public Gatherings
- Wear Masks
- Keep Up the Good Work
  
- Is Good Behavior Sustainable?
  - Will there be a difference in how businesses and the public behave?



20

## Reopening – Employment Issues



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21

## PPP Update



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22

The Week in Review

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