Effective at 12:01 a.m. on April 2nd, the Governor has ordered a statewide “stay at home” order further restricting Maine resident’s movement. Governor’s Executive Order No. 28 FY 19/20 dated March 31, 2020 (“Stay at Home Order”).

This “Stay at Home Order” has raised several questions regarding the continued operation of Essential Businesses and Operations (“Essential Businesses”) under the Stay at Home Order.

One point of confusion surrounds the dueling definitions of “Essential Businesses and Operations” (as defined in Executive Order No. 19 FY 19/20 dated March 24, 2020, herein “Shut Down Order”) and “Essential Activities” as defined in the Stay at Home Order. Specifically, the question has arisen as to whether the activities of Essential Businesses are limited to the “Essential Activities” listed in Section I(B) of the Stay at Home Order. The answer is generally no – the activities of Essential Businesses are not limited to Essential Activities.

Under Section I(A)(2) of the Stay at Home Order, Essential Businesses are “not required to close” and employees “may travel...to and from customers for the purpose of delivering goods or performing services.” Thus the designation as an Essential Business, under the Shut Down Order, allows that business to stay operational to the public and, under the Stay at Home Order, workers of an Essential Business may travel to and from the business and customers when working for the Essential Business. Therefore the business of Essential Businesses continues (in compliance with CDC guidelines and per the Governor’s prior Executive Order, maintaining to the maximum extent practicable six foot social distancing) and is not limited to Essential Activities.

However, the travel for anyone not working for an Essential Business can only be done for Essential Activities. As long as the Essential Business provides goods or services designated as an Essential Activity (e.g. grocery stores and grocery shopping) travel to that business by the general public is allowed and that Essential Business’s operations should continue smoothly.

But if the Essential Business does not provide goods or services designated as an Essential Activity (e.g. hotels and staying at a hotel) then the Essential Business may be able to operate but customers may not be able to travel to the business. If this is a concern for your business please reach out to us so that we can assist in obtaining the guidance you need to continue operating your business in compliance with the Stay at Home Order.

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