

## IMPLEMENTATION OF GOVERNOR BAKER'S POST-TRAVEL QUARANTINE ORDER, EFFECTIVE AUGUST 1, 2020

As you know, late last week, Governor Baker issued COVID-19 Order No. 45, "Order Instituting a Mandatory 14-Day Quarantine Requirement for Travelers Arriving in Massachusetts" ("Order"). The Order, which is effective tomorrow, August 1 and which will remain in effect until rescinded or the current State of Emergency is lifted, can be found here: <https://www.mass.gov/doc/july-24-2020-travel-order-pdf/download>. Under this new Order, persons returning to Massachusetts from travel to all but a few States are required to quarantine for a 14-day period, subject to limited exemptions (such as for so-called "transitory travel", work or school-related commute travel, travel for purposes of seeking medical treatment, and work-related travel by military personnel or critical infrastructure workers). Notably, persons arriving in Massachusetts from "lower-risk States" as defined by the state Department of Public Health ("DPH"), are exempted from this post-travel quarantine period. As of now, those lower-risk states are Connecticut, New Hampshire, Rhode Island, New York, New Jersey, Vermont, Maine, and Hawaii, but this list may be updated or changed by the DPH in the future. Persons are subject to a \$500/day fine if they do not comply with these post-travel quarantine requirements, enforceable by DPH (and local boards of health and police upon request from DPH). Travelers can avoid this post-travel quarantine period if, upon arrival to Massachusetts, they have proof of a negative result from a COVID-19 test based on a sample obtained not longer than 72 hours before their arrival in Massachusetts. More detailed information about the Order, including specific requirements for the quarantine period and explanations of persons exempted from the post-travel quarantine, is available on the state's website, at: <https://www.mass.gov/info-details/covid-19-state-of-emergency>.

From an employment perspective, the Order advises employers to "strongly discourage their employees from taking personal travel to destinations not included on the [DPH issued] list of COVID-19 lower-risk States." For our public sector employers, this post-travel quarantine period can pose a significant impact upon resumption of "normal" or "semi-normal" governmental operations as we head into August/September. Employees typically have vacations planned for this time of year, or they may seek to take vacations that had been scheduled for earlier in the year but were postponed due to government-imposed COVID-19 related closures and restrictions. Moreover, some employees will be travelling with college-aged students to schools outside of the Commonwealth for the start of the 2020-2021 school year. How each employer responds to the challenges posed by this mandatory quarantine period will vary based upon such issues as: provisions of applicable collective bargaining agreements and/or personnel policies; status of partial or full reopening of governmental operations and associated employee scheduling issues; and size of affected workforce; to name just a few considerations. This means that there is no "one size fits all" employer response to employee leisure/personal travel as of August 1.

With that said, there are common questions arising from the Governor's Order, for instance:

- Can an employer ban personal/leisure travel, or deny vacation requests, in light of the impact upon operations resulting from the post-travel quarantine requirement?
- Can/should an employer ask employees to identify their travel destination when submitting vacation or other leave requests?
- Must an employer permit employees who are required to quarantine post-travel to use their accrued paid leave time, or other paid leave that might be available by law, during the quarantine period?
- What are the employer's bargaining obligations (if any) over personnel policies adopted pursuant to the Governor's Order?
- How does this current Order impact previously-adopted travel policies?

There is conflicting information being circulated with respect to the answers to these, and related questions. Employers seeking to institute a uniform policy implementing the Governor's Order are advised to contact their labor counsel in connection with developing such a policy. We have worked with many communities in this regard, and are happy to assist you moving forward as you navigate the impacts of the Governor's Order.

From all the staff and attorneys at KP Law, take good care.

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