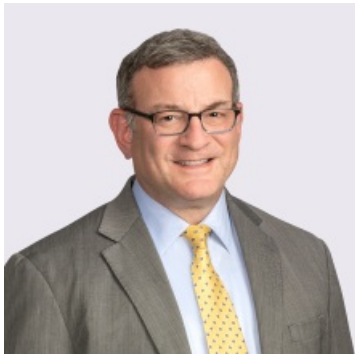


# Massachusetts Rolls Back Its COVID-19 Reopening Plan for Second Time in December

By Michael R. Bertoncini

December 23, 2020

## Meet the Authors



### Michael R. Bertoncini

Principal

(617) 305-1270

Michael.Bertoncini@jacksonlewis.com

To slow the spread of COVID-19 and to avoid overwhelming Massachusetts hospitals, Governor Charlie Baker [ordered](#) (No. 59) further limitations on capacity at gatherings, events, and workplaces. These restrictions are effective at 12:01 a.m. on December 26, 2020, and will remain in place for at least two weeks, until noon on January 10, 2021.

Governor Baker stated in his press conference that the intent of the new restrictions, which he hopes will be temporary, is to pause activity and reduce mobility to reduce the spread of the virus without closing schools and businesses. These are in addition to those [ordered on December 8, 2020](#).

### Capacity Limits

The following new sector-specific restrictions do not affect K-12 education:

Sector	Revised Capacity Limits <sup>†</sup>	Notes
Gatherings (adjusting Order <a href="#"><u>No. 57</u></a> )	10 persons indoors; 25 persons outdoors	Applies to both private homes and event venues and public spaces
Restaurants	25% of seating capacity	a. Workers/staff excluded from occupancy count; b. Applies separately to indoor and outdoor capacity
Close Contact Personal Services	25% of capacity	Workers/staff excluded from occupancy count
Indoor and Outdoor Events	10 persons indoors; 25 persons outdoors	Workers/staff excluded from occupancy count
Theaters and Performance Venues (Indoor performance venues remain closed)	Movie theaters: 25% and maximum 50 people; Outdoor performance venues: 25% and maximum 25 people	

Casinos	25% of capacity	Massachusetts Gaming Commission to re-issue capacity rules as necessary
Office Spaces	25% of capacity	
Places of Worship	25% of capacity	Workers/staff excluded from occupancy count
Retail Businesses	25% of capacity	Workers/staff excluded from occupancy count
Driving and Flight Schools	25% of capacity	
Golf Facilities	25% of capacity	Applies only to indoor spaces
Libraries	25% of capacity	
Operators of Lodgings	25% of capacity	Applies only to common areas
Arcades, Other Indoor & Outdoor Recreation Businesses	25% of capacity	
Fitness Centers and Health Clubs	25% of capacity	
Museums/Cultural & Historical Facilities/Guided Tours by Vehicles and Vessels	25% of capacity	
Sectors Not Otherwise Addressed	25% of capacity	
Common Areas in Facilities Subject to Energy and Environmental Affairs-issued COVID-19 Safety Rules	25% of capacity	Applies only to indoor spaces and excludes youth and amateur sports facilities

<sup>†</sup> *General Provision:* Where no licensed or permitted capacity allowance is on record and for any enclosed space within a larger facility, occupancy will be limited to no more than 5 persons per 1,000 square feet.

Except for the above changes, all other terms of [COVID-19 Order No. 57](#) and the Massachusetts [Sector-Specific COVID-19 workplace safety rules](#) remain in effect and will continue to apply on December 26, 2020.

In addition, allowances to exceed maximum capacity limitations will remain available as currently provided in COVID-19 workplace safety rules in order to accommodate public health or public safety considerations or where strict compliance may interfere with the continued delivery of critical services.

## Elective Procedures

In addition to the new order on capacity limits, the Massachusetts Department of Public Health (DPH) has released [updated guidance](#) to hospitals on nonessential, elective invasive procedures. Effective at 12:01 a.m. on December 26, 2020, hospitals are directed to postpone or cancel all nonessential inpatient elective invasive procedures in order to maintain and increase inpatient capacity. The suspension does not apply to life sustaining procedures.

The guidance defines inpatient, nonessential, elective invasive procedures as “procedures that are scheduled in advance because the procedure does not involve a medical emergency and where delay will not be adverse to the patient’s health; provided, that terminating a pregnancy is not considered a nonessential, elective invasive procedure under this guidance.”

Additionally, hospitals must suspend scheduling of any new inpatient nonessential, elective procedures until further notice from DPH.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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