

Obligations of Board of Directors in Light of COVID-19 Restrictions

We have been asked whether businesses should cancel or severely limit business meetings and social engagements due to the Coronavirus pandemic crisis. It is admittedly difficult to run a business while essentially sheltering in place until such time, as the country achieves some sort of reliable testing program and medical treatment availability. Our recommendation is to cancel all but the most critical of meetings and gatherings. This recommendation is based on how rapidly things are changing due to the crisis. Just in the last few days, the President shut down all travel from Europe, the NBA, the NCAA (re March Madness), the NHL, Major League Baseball, and even the PGA cancelled all games; the WHO declared a pandemic; Italy is on the verge of collapse, and our stock market has crashed. Tom Hanks and his wife and Justin Trudeau's wife were diagnosed positive for the virus. Higher education schools are closing around the country, and now some states are closing K-12 schools.

Governor Newsom also issued sweeping statewide "guidance" in response to the coronavirus, asking Californians to postpone all non-essential gatherings through the end of March, including small social gatherings in places where people can't remain at least six feet apart. [The California Department of Public Health advisory](#), issued shortly before midnight Wednesday, also says gatherings of 250 people or more should be postponed or canceled, and gatherings of people at higher risk for severe illness from the coronavirus should be limited to no more than ten people.

"Not holding that concert or community event can have cascading effects — saving dozens of lives and preserving critical health care resources that your family may need a month from now," Newsom said in his statement. "The people in our lives who are most at risk — seniors and those with underlying health conditions — are depending on all of us to make the right choice."

The advisory defines a "gathering" as anything "that brings together people in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, cafeteria, or any other indoor or outdoor space."



by Dennis McQuaid

"This applies to all non-essential professional, social, and community gatherings regardless of their sponsor," the guidance says. The goals are to delay the rates of transmission and death by reducing the number of people who contract the coronavirus before an effective treatment or vaccine is available, protect the elderly and chronically ill, and to preserve and protect the health care system's capacity to respond. The guidance vastly expands local and case-specific responses to the outbreak around California.

Boards need to decide whether currently planned activities, meetings, and large gatherings should be canceled or postponed until it is determined that the crisis has passed. In view of the Public Health Advisory and all the other responses discussed above, boards should consult with counsel to consider the potential liability of the organization and its membership, should a member or guest contract the virus, become seriously ill, or die. You need to evaluate how many of your employees or customers fall within what are considered the vulnerable older population.

For your immediate consideration, you should determine whether you need to cancel or postpone any activities scheduled in the next 30 days. It is unrealistic to believe the Governor's Advisory will be lifted in that time, even though it currently says it goes until the end of March.

For more information, please contact:

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