

# NOTES FROM THE LEGAL HOTLINE

Massachusetts Association of Realtors®

**June 2020**

The ongoing COVID-19 pandemic continues to disrupt real estate transactions and has raised many questions from our members. These are just a few of the many questions we know you have. MAR is here to help you navigate through these uncertain times with the latest information and updates. Please watch for emails from MAR and check [www.MARCOVID19.com](http://www.MARCOVID19.com) for all the latest news. Let us know what other concerns you have and any problems you are seeing in the marketplace as a result of the pandemic. Most importantly, stay safe.

**Q. What are the requirements for opening my office during Phase 1 of reopening?**

**A.** Although real estate was named an essential service by the Governor, many real estate brokers elected to close their physical offices. Now that we have entered Phase 1, many offices are considering reopening their brick and mortar locations. If you choose to open your brick and mortar workspace, you must, at a minimum, adhere to the following protocols:

- No more than 25% of the maximum occupancy of the building or the typical occupancy. This allows for both workers and clients to be in the office so long as all protocols are met.
- Social distancing of at least 6 feet between individuals.
- Workers must wear face coverings when social distancing is not possible.
- Designate assigned work areas and avoid sharing office materials.
- Stagger work schedules, if possible.
- Use enhanced hygiene protocols – frequent handwashing and daily cleaning of high-touch surfaces.
- Establish a COVID-19 Prevention Plan describing how the workplace will prevent the spread of COVID-19.
- Hang the required posters in a place that is visible to workers and visitors.
- Keep a log of all persons who enter the building.
- Display signs in the workplace describing the rules pertaining to social distancing, hygiene protocols, cleaning, and disinfecting.

The detailed safety standards from the state for office spaces can be found [here](#). MAR has compiled all mandatory reopening materials [here](#). Some cities and towns are also adding their own re-opening rules, so be certain to check with your local government before opening.

**Q. When am I required to provide the Mandatory Real Estate Licensee-Consumer Relationship Disclosure if I am assisting someone virtually?**

**A.** There have been no modifications to the requirements of providing the Mandatory Real Estate Licensee-Consumer Relationship Disclosure (Agency disclosure) as a result of the current COVID-19 pandemic. The Regulations require you to provide the agency disclosure at the first in person meeting to discuss a specific property. There may be situations, particularly now, where you may be conducting a large portion of your business with clients virtually and acting in an agency capacity without having met the client in person. In these situations, provide the agency disclosure as soon as possible in the relationship, but no later than the signing of a contract to purchase.

**Q. Can a buyer be denied a showing if they refuse to sign a health questionnaire or waiver?**

**A.** Probably. Sellers may restrict access to the property based upon certain criteria, such as signing a health questionnaire, so long as that criteria is not discriminatory. A buyer's refusal to provide information may restrict their ability to view that property. If a buyer provides the requested information and indicates they have or might have COVID-19, it may implicate the Fair Housing Act. While it remains a novel question whether having COVID-19 is a disability protected by the Fair Housing Act., the National Association of REALTORS® recommends treating individuals who have COVID-19 as being covered by federal disability protections. If you find yourself faced with this situation, discuss with the buyer or their REALTOR® whether a reasonable accommodation that can be implemented without posing a threat to the health and safety of others. As with any analysis of a request for a reasonable accommodation, this determination must be based upon an individualized assessment of the situation and through an interactive process with the person seeking the accommodation. If any potential reasonable accommodation would threaten the health and safety risk to others, the broker may decline the showing to the infected individual.

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