



KEN PAXTON

ATTORNEY GENERAL OF TEXAS

April 11, 2020

The Honorable James B. Frank
Chair, Committee on Human Services
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Re: Whether golf courses may remain open during the COVID-19 disaster if local authorities require social distancing protocols and compliance with public health instructions

Dear Chairman Frank:

You ask for guidance on the interpretation of the Governor's Executive Order GA-14 and its impact on certain essential services and activities in Texas. In particular, you ask whether "golf courses, which serve as a forum for essential activity such as exercise, may remain open if local authorities require social distancing protocols and public health instructions be followed."¹

Some elements of golf course businesses may provide "essential services" under GA-14 and the federal CISA Guidance it adopts.² For example, restaurants at golf courses provide an essential service and may continue to provide take-out or delivery options.³ Landscapers and other workers who are necessary to maintain

¹ Letter from Honorable James B. Frank, Chair, House Committee on Human Services, to Honorable Ken Paxton, Tex. Att'y Gen. (Apr. 8, 2020).

² GA-14 adopts as essential services "everything listed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0." Exec. Order No. GA-14 (Mar. 31, 2020) (hereafter "Exec. Order GA-14").

³ See Cybersecurity and Infrastructure Security Agency, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, *available at* <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce> ("CISA Guidance"). CISA Guidance provides that "essential services" include "restaurant carry-out and quick serve food operations, including dark kitchen and food prep centers, and carry-out and delivery food employees."

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the safety and sanitation of the business are likewise essential.⁴ Such services may continue to operate, and employees performing those services may go to work at the golf course. Yet even when providing an essential service, golf courses “should follow the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible.”⁵

However, other elements of golf course operations that do not involve services identified under GA-14 or the CISA guidance are not essential services. For example, golf course personnel, such as starters, marshals, and pro-shop staff, who do not provide essential services, must follow GA-14’s general rule: “minimize social gatherings and minimize in-person contact with people who are not in the same household.”⁶ These personnel may work remotely from home if possible, performing functions like taking tee times, monitoring the course, or posting instructions or updates on a web site. Thus, ongoing non-essential services of golf courses should be conducted remotely.

With regard to individuals that desire to play golf, GA-14 expressly allows “engaging in physical activity.”⁷ Golf is defined as a sport involving physical activity.⁸ While GA-14 expressly prohibits “visiting gyms,” it permits activities like “jogging and bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.”⁹ Similarly, a person is not prohibited from playing or practicing golf on property that remains open to the person (such as by holding a membership and/or reserving a tee time), but the person should follow the CDC guidelines pursuant to GA-14.

⁴ The CISA Guidance identifies landscapers and other service providers who are “necessary to maintaining the safety, sanitation, and essential operation of residences and businesses.” Such personnel could include groundskeepers and employees who maintain the safety, sanitation, and usability of the outdoor surfaces of the golf course grounds used for practice or play.

⁵ Exec. Order GA-14.

⁶ *Id.*

⁷ *Id.*

⁸ *Sport*, *Dictionary.com*, at <https://www.dictionary.com/browse/sport>. Golfing is defined as “the activity of playing golf[.]” *Golfing*, *Collins English Dict.*, available at <https://www.collinsdictionary.com/dictionary/english/golfing>; see also *Golf*, WIKIPEDIA, at <https://en.wikipedia.org/wiki/Golf> (last visited Apr. 10, 2020); *Sport*, WIKIPEDIA, at <https://en.wikipedia.org/wiki/Golf> (last visited Apr. 10, 2020).

⁹ Exec. Order GA-14.

Please note that this response is not an official opinion of the Office of the Attorney General issued under section 402.042 of the Texas Government Code, nor is it an exhaustive memorandum of law; rather, it is an informal letter of legal advice offered for the purpose of general guidance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Vassar', with a long horizontal flourish extending to the right.

Ryan M. Vassar
Deputy Attorney General for Legal Counsel