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D 2020 044

EXECUTIVE ORDER

Safer at Home

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order continuing stay at home requirements for vulnerable individuals and permitting the limited reopening of postsecondary institutions and certain business operations due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and there is community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018 and D 2020 032. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. It can also be spread through contact with contaminated surfaces. Public health experts recommend we practice social distancing, or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19. Evidence shows that social distancing and the Stay at Home Executive Order D 2020 017, as amended, have helped to slow the increase of cases and rate of infection.

While we have seen indications that our efforts to "flatten the curve" are working, transmission of the virus continues to threaten Coloradans' way of life and livelihoods. As we take steps to return Coloradans to work, we must continue to practice social distancing at a high level and implement other measures, such as limiting our social interactions, taking extra precautions for Vulnerable Individuals and wearing non-medical masks while in public, to

facilitate a step towards reopening the economy while protecting public health. While this is a first step toward resuming our daily lives, the State is monitoring the spread of COVID-19 and additional precautions may be necessary in the future.

This Executive Order implements a number of measures that will allow many Coloradans to return to work while we maintain a sustainable level of social distancing. In particular, this Executive Order continues Social Distancing Requirements for all Coloradans and stay at home requirements for Vulnerable Individuals, permits the limited reopening of postsecondary institutions and certain business operations, and orders the Executive Director of CDPHE to amend or issue public health orders (PHO) consistent with the directives in this Executive Order.

II. Directives

A. Pursuant to Executive Order D 2020 041, normal in-person instruction at all P-12 schools in Colorado will be suspended until the scheduled end of the 2019-2020 regular school year. P-12 schools and school districts may use school buildings for providing services to students, educators, and families, including but not limited to: in-person small group instruction; staff professional development; food service; access to internet, devices, or instructional materials; special education services; or mental health supports. P-12 schools and school districts intending to provide these services must work in coordination with their local public health agency and must observe Social Distancing Requirements pursuant to applicable public health orders.

B. I direct the Executive Director of the Colorado Department of Higher Education (CDHE) to work with CDPHE to identify those programs and courses at postsecondary institutions that cannot be taught remotely and require limited in-person instruction.

C. All Vulnerable Individuals should Stay at Home, except when necessary to provide, support, perform, or operate Necessary Activities, Minimum Basic Operations, Critical Government Functions, Necessary Travel, or Critical Businesses, provided that Vulnerable Individuals cannot be compelled to perform in-person work for any business or government function, including a Critical Business or Critical Government Function.

D. For purposes of this Executive Order, Vulnerable Individuals means:

1. Individuals who are 65 years and older;
2. Individuals with chronic lung disease or moderate to severe asthma;
3. Individuals who have serious heart conditions;
4. Individuals who are immunocompromised;

5. Pregnant women; and

6. Individuals determined to be high risk by a licensed healthcare provider.

E. I direct all individuals who are sick or who test positive for COVID-19 to Stay at Home except as necessary to care for themselves or seek medical care.

F. I direct employers to accommodate workers with childcare responsibilities and workers who live in the same household as a Vulnerable Person to the greatest extent possible by promoting telecommuting or other remote work options, flexible schedules, or other means.

G. I direct the Colorado Civil Rights Division within the Department of Regulatory Agencies and CDPHE to provide guidance to prevent discrimination in the workplace related to COVID-19. Employers must provide reasonable accommodation and are prohibited from discriminating against employees who are showing symptoms of COVID-19 or who have been in contact with a known positive case of COVID-19.

H. I direct the Executive Director of CDPHE to issue a new or amended PHO consistent with the directives in this Executive Order. The new or amended PHO must:

1. Advise Coloradans to wear non-medical cloth face coverings that cover the nose and mouth whenever in public;

2. Order Coloradans to limit:

   i. Social interactions to the greatest extent possible except as required to conduct Necessary Activities; and
   ii. Essential Travel to within their county of residence or employment as much as possible and recreational travel to no further than ten (10) miles from their residence.

3. Prohibit public gatherings of ten (10) persons or more in both public spaces and private commercial venues.

4. Strongly encourage all Critical Businesses, Critical Government Functions, Non-Critical Retail, and Non-Critical Commercial Businesses to allow workers to telecommute whenever possible.

5. Require all Critical Businesses, Critical Government Functions, Non-Critical Retail, and Non-Critical Commercial Businesses to make work accommodations for Vulnerable Individuals, who remain subject to Stay at Home requirements. Employers must also be encouraged to make

accommodations for individuals living in the same household as a Vulnerable Individual, and for individuals with childcare responsibilities.

6. Permit all Critical Businesses and Critical Government Functions to continue to operate with mandatory Social Distancing Requirements and cleaning protocols.

7. Permit Non-Critical Retail to operate and offer goods through delivery service, window service, walk-up service, drive-through service, drive-up service, curbside delivery, and, beginning May 1, 2020, permit Non-Critical Retail to allow customers onto their premises in a manner allowing for strict compliance with mandatory Social Distancing Requirements similar to the requirements for Critical Retail.

8. Permit Places of Public Accommodation to continue to offer food and beverage using delivery service, window service, walk-up service, drive-through service, drive-up service, curbside delivery or any manner set forth in an existing Executive Order or PHO and in accordance with mandatory Social Distancing Requirements.

9. Issue appropriate guidelines for classes and programs identified in consultation with the Executive Director of CDHE pursuant to paragraph II.B., above.

10. Beginning on May 4, 2020, permit Non-Critical Commercial Businesses to allow up to fifty percent (50%) of their employees to conduct in-person work that takes place outside a private residence in accordance with Mandatory Social Distancing Requirements and protocols.

11. Ensure that Critical Businesses, Critical Government Functions, Non-Critical Commercial Businesses, and Non-Critical Retail with over fifty (50) employees in any one location follow protocols established by PHO, including but not limited to symptom screening and temperature check stations, closure of common areas, cleaning protocols, and Mandatory Social Distancing Requirements and protocols.

I. Any new or amended PHO issued pursuant to this Executive Order must identify or develop:

1. Mandatory Social Distancing Requirements and protocols to be implemented by all employers, identifying any specific protocols for certain employers based on the nature of their work, including proper face and hand coverings to be used;

2. An amended definition of Vulnerable Individual consistent with this Executive Order; and

3. Operations requirements for Non-Critical Retail and Critical Retail.

J. I direct the Executive Director of the Colorado Department of Labor and Employment (CDLE) to promulgate and issue temporary emergency rules to amend the Colorado Health Emergency Leave with Pay Rules found in 7 CCR 1103-10 to cover individuals returning to work under this Executive Order and to extend paid sick leave coverage to up to two-thirds pay for fourteen (14) days if a worker has tested positive for COVID-19, has COVID-like symptoms, or has been directed to quarantine or isolation due to COVID-19 concerns.

K. I direct the Executive Director of CDLE to promulgate and issue temporary emergency rules pursuant to C.R.S. § 8-73-108(4)(c) and guidance to ensure that workers, and particularly workers who are Vulnerable Individuals, are not in danger of losing unemployment insurance eligibility for refusal to return to COVID-19-related demonstrable, unsafe working conditions.

L. Terms in this Executive Order, including Stay at Home, Necessary Activities, Minimum Basic Operations, Critical Government Functions, Necessary Travel, Critical Businesses, Places of Public Accommodation, Critical Retail, Social Distancing Requirements, and Vulnerable Individuals have the meaning as defined in PHO 20-24 and PHO 20-22, as amended, or any PHO issued pursuant to this Executive Order.

M. Any county wishing to apply for a local variance from part or all of this Executive Order must submit a written application to CDPHE certifying that the county has low case counts of COVID-19 cases or can document fourteen (14) consecutive days of decline in COVID-19 cases reported in the county. The application must include a written COVID-19 suppression plan approved by the appropriate local public health authority, all hospitals within the county (unless no hospitals are located in the county), and a majority of the county commissioners, or, in the case of the City and County of Denver, the mayor of Denver, or, in the case of the City and County of Broomfield, the city council.

N. CDPHE shall review and approve a county-specific COVID-19 suppression plan that meets CDPHE's public health standards. CDPHE shall not provide COVID-19 preparedness grant funding to any county that implements measures that are less restrictive than the standards contained in this Executive Order if the county did not first obtain approval from CDPHE to adopt such less restrictive standards.

O. Nothing in this Executive Order prevents a county or municipality from adopting more protective standards than those contained in this Executive Order as

necessary, including but not limited to stay at home orders, mask wearing requirements in public, or additional protective measures. If adopted, such measures shall take effect in the county or municipality without the need for further approval by the State.

1. Except as modified by this Executive Order, all Executive Orders issued due to COVID-19 that are currently in effect shall remain in full force and effect as originally promulgated.

III. Duration

This Executive Order shall expire thirty (30) days from April 27, 2020, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty sixth day of April, 2020

Jared Polis
Governor