# State of Wisconsin

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**EMERGENCY ORDER #32**
**RELATING TO THE OPERATION OF THE ALTERNATIVE CARE FACILITY**

**WHEREAS**, in December 2019, a novel strain of the coronavirus was detected, SARS-CoV-2 coronavirus, which causes what is commonly referred to as COVID-19, and has spread throughout the world, including every state in the United States;

**WHEREAS**, on January 30, 2020, the World Health Organization declared COVID-19 to be a Public Health Emergency of International Concern;

**WHEREAS**, on March 12, 2020, Governor Tony Evers declared a public health emergency and directed all agencies to support efforts to respond to and contain COVID-19 in Wisconsin;

**WHEREAS**, on March 13, 2020, President Donald Trump proclaimed a National Emergency concerning COVID-19;

**WHEREAS**, as of April 22, 2020, 2,471,136 people around the world have tested positive for COVID-19, including 802,582 in the United States and 4,845 in Wisconsin;

**WHEREAS**, COVID-19 is present throughout Wisconsin, with people testing positive for COVID-19 in 65 of 72 counties as of April 22, 2020;

**WHEREAS,** southeastern Wisconsin is one area of the state that has been heavily impacted by COVID-19, with Milwaukee County as of April 22, 2020, having 2,304 confirmed cases, resulting in 142 deaths; Waukesha County as of April 22, 2020, having 278 confirmed cases, resulting in 13 deaths; Racine County as of April 22, 2020, having 198 confirmed cases, resulting in 10 deaths; Kenosha County as of April 22, 2020, having 278 confirmed cases, resulting in 6 deaths; Washington County as of April 22, 2020, having 88 confirmed cases, resulting in 4 deaths; and Ozaukee County as of April 22, 2020, having 80 confirmed cases, resulting in 9 deaths;

**WHEREAS**, the State of Wisconsin, in direct response to the anticipated emergency needs of southeastern Wisconsin and in consultation with multiple area hospitals, requested and received assistance from the Federal Emergency Management Agency and the Army Corps of Engineers to construct an alternative care facility (ACF) at State Fair Park in West Allis, Wisconsin;

**WHEREAS,** essential aspects of the federal guidance and the Badger Bounce Back plan are hospital preparedness and maintaining the ability to handle a surge in hospital capacity, which this facility provides; and

**NOW, THEREFORE**, I, Andrea Palm, Department of Health Services Secretary-designee, by the authority vested in me by the Laws of the State, including but not limited to Section 252.02(2) of the Wisconsin Statutes, and I, Governor Tony Evers, by the authority vested in me by the Laws of the State, including but not limited to Section 323.45 of the Wisconsin Statutes, hereby order the following:

## I. General operations:

A. The ACF shall temporarily accommodate the overflow of low-acuity COVID-19 patients from Wisconsin hospitals and other health care facilities should they exceed their capacity due to the COVID-19 pandemic.

B. The ACF shall be operated by the Department of Administration in coordination with a leadership team comprised of qualified health care administrators, including a Chief Executive Officer, Chief Operating Officer, Chief Human Resources Officer, Chief Medical Officer, and Chief Nursing Officer. The ACF shall be staffed with clinical and non-clinical personnel through a variety of sources including, without limitation, state-contracted limited-term employees, volunteers, and independent contractors.

C. The ACF shall arrange for ancillary health services and resources including, without limitation, emergency medical services, ambulance transport, electronic medical record functionality, limited laboratory services, and limited pharmaceutical supply and services, as well as accompanying necessary ancillary services.

D. The ACF shall adopt and implement policies and procedures intended to safeguard patients, employees and volunteers, in compliance with all applicable laws. The Department of Health Services may require supplemental operating policies and procedures as it deems necessary.

## II. Patient transfer and clinical care admission criteria:

A. Clinical care criteria: The ACF shall adopt and implement clinical criteria for acceptance of low-acuity, minimal monitoring patients. ACF leadership has the discretion to modify these criteria if needed to provide care effectively.

B. Transfer of patients: Whether a hospital or other health care entity is eligible to utilize ACF facilities is dependent on the following definitions and criteria:

(1) Definitions

a. Phase I refers to the use of pre-surge capacity of hospital acute care beds and intensive care unit (ICU) beds.
b. Phase II refers to the use of current clinical spaces to expand either ICU or acute care beds to care for COVID-19 positive patients or to care for

COVID-19 negative patients that have been displaced from COVID-19 care units.

c. Phase III refers to the use of space that has been repurposed and not typically used for acute care beds or ICU level care.
d. The trigger for starting to move from one phase to another is when, in any given phase, approximately 80% occupancy has been reached.

(2) Any Wisconsin hospital that has reached approximately 80% of its Phase II capacity may transfer to the ACF low acuity diagnosed COVID-19 positive patients or patients otherwise meeting the criteria of COVID-19 if untested, subject to the care criteria under Subsection II-A. ACF leadership has the discretion to modify this triggering condition if needed to effectively provide care, so long as modifications are consistent with the ACF's purpose under Subsection I-A.

(3) ACF leadership may establish additional guidelines for the purposes of establishing transfer process for non-hospital health care entities, to the extent Subsection II-B(1)-(2) is not a functional standard.

(4) Any health care entity that wishes to transfer a patient must: contact, via email or phone, the ACF's Chief Medical Officer and/or designee before the transfer; work with the Chief Medical Officer and/or designee after review the patient's chart to discuss needs; and obtain acceptance of the patient from the ACF's Chief Medical Officer and/or designee. Transferring health care facilities must make every reasonable effort to obtain permission for transfers with at least 24-hours advance notice. ACF leadership has the discretion to modify these criteria if needed to provide care effectively, so long as modifications are consistent with the ACF's purpose under Subsection I-A.

(5) Nothing about this Section should be interpreted to prevent ACF leadership from implementing additional policies or procedures necessary for the operation of the ACF, so long as modifications are consistent with the ACF's purpose under Subsection I-A and the safety of patients, employees, and volunteers.

C. Review: The ACF leadership, or a designee, shall conduct a weekly review of the surge capacity of those facilities utilizing the ACF in order to assess future ACF care needs and ensure proper use of the facility.

## III. General Provisions:

A. All persons who provide equipment, materials, facilities, labor, or services in the planning, construction, staffing, maintenance, support, or operation of the ACF do so at the direction of the Governor and Department for purposes of Section 323.45(1)(a) of the Wisconsin Statutes.

B. All persons who provide equipment, materials, facilities, labor, or services in the planning, construction, staffing, maintenance, support, or operation of the ACF do so in response to the public health emergency declared by Governor Tony Evers on March 12, 2020, via Executive Order #72, any extension or subsequent emergency

declaration related to COVID-19, the federal emergency declared by President Donald Trump on March 13, 2020, or any subsequent federal emergency declarations related to COVID-19, for purposes of Section 323.45(1)(b) of the Wisconsin Statutes.

C. "Person" for purposes of this Section includes all partnerships, associations, and bodies politic or corporate, consistent with Section 990.01(26) of the Wisconsin Statutes.

D. Nothing about this order shall be construed to affect protections afforded to persons entitled to state protection, including but not limited to, state entities, officers, employees, or agents, persons or facilities under Sections 257.03 and 257.04 of the Wisconsin Statutes, and persons under Section 323.41 of the Wisconsin statutes, including but not limited to protections under Sections 895.46, 893.80, 893.82, and 165.25(6) of the Wisconsin Statutes. Eligible persons shall enjoy the full extent of applicable state protections.

E. Nothing about this order shall be construed to preclude or otherwise limit any other applicable source of liability protection that may apply.

**IV.** **Severability**: If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**V.** **Effective date and termination**: This Order is effective immediately and shall remain in effect until the Department of Health Services, in consultation with the Department of Administration, ACF leadership, and local health officials, determine that the ACF can safely be decommissioned in the absence of the need for emergency medical aid and temporary hospital accommodations per Section 252.02(2) of the Wisconsin Statutes. This Section shall not be construed to affect the Department of Health Services' ultimate authority to decommission the ACF for any reason.

Tony Evers

4/23/2020

Tony Evers
Governor
State of Wisconsin

Date

4/23/2020

Andrea Palm
Secretary-designee
State of Wisconsin Department of Health Services

Date