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D 2020 091

EXECUTIVE ORDER

Safer at Home and in the Vast, Great Outdoors

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 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, D 2020 032, D 2020 058, and D 2020 076. 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. This is especially important for Vulnerable Individuals as ninety percent (90%) of Colorado fatalities are individuals older than sixty (60). Evidence shows that Social Distancing and the Stay at Home Executive Order D 2020 017, as amended, have helped to slow the rate of infection and ensured that Coloradans who needed it had access to healthcare resources.

While we have seen indications that our efforts to "flatten the curve" are working, increased transmission of the virus, and the resulting strains on our healthcare resources, continue to threaten Coloradans' way of life and livelihoods. As we take steps to return Coloradans to work, we must continue to practice Social Distancing from others at a high level

and implement other measures, such as limiting our social interactions, extra precautions for Vulnerable Individuals, and wearing non-medical masks while in public to facilitate reopening the economy while we protect public health. As we move forward, the State continues to monitor the spread of COVID-19, increase our testing and tracing capabilities, and consider additional precautions as we learn more about the novel coronavirus and its effects on human health.

Colorado has millions of acres of accessible federal land, municipal parks, State parks, State and county open space, and other accessible areas that allow for stronger Social Distancing in our great outdoor areas. Coloradans should Stay at Home or in the great outdoors away from others as much as possible and continue to limit social interactions, remain at least six (6) feet from others not in their household, and wear non-medical facial coverings in public.

This Executive Order implements a number of measures that will allow many Coloradans to return to work and recreation in the great outdoors while we maintain a sustainable level of Social Distancing. Any business or activity not addressed in this Executive Order or any accompanying Public Health Order (PHO) may operate in accordance with general guidance from CDPHE concerning group limitations, Social Distancing Requirements, and sanitation and cleaning protocols.

II. Directives

A. All Vulnerable Individuals should Stay at Home or in the vast, great outdoors away from others as much as possible, and continue to limit their social interactions, remain at least six (6) feet from others not in their household, and wear facial coverings in public. Vulnerable Individuals cannot be compelled to perform in-person work for any business or government function, including a Critical Business or Critical Government Function.

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

1. Individuals who are sixty-five (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.

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

D. I direct the Colorado Civil Rights Division within the Department of Regulatory Agencies and CDPHE to provide continued 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.

E. 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:

   i. Limit social interactions to the greatest extent possible;

   ii. If travelling outside their community, Coloradans are urged to honor all restrictions in place at their destination and avoid travel to counties or municipalities that issue travel restrictions;

   iii. Get tested for COVID-19 if they are experiencing flu-like symptoms or if they are sick, Stay at Home until at least three (3) days after the fever and last symptom subsides, except as necessary to care for themselves or seek medical care. Coloradans who are sick and receive negative COVID-19 test results may resume activities as soon as they feel ready; and

   iv. Take other common-sense precautions against spreading and contracting COVID-19 such as maintaining six (6) feet of Social Distancing from others not in their household, wearing non-medical face coverings that cover the nose and mouth while in public, and frequent hand washing.

2. Prohibit public gatherings of groups of ten (10) persons in both public and private commercial spaces unless gatherings of groups greater than ten (10) persons are expressly authorized by this Executive Order or an associated PHO.

3. Strongly encourage all businesses and governmental entities to allow workers to telecommute whenever possible.

4. Require all Critical Businesses, Critical Government Functions, Non-Critical Retail, and Non-Critical Commercial Businesses to make work accommodations for Vulnerable Individuals. Employers are also encouraged to make accommodations for individuals living in the same household as a Vulnerable Individual and for individuals with childcare responsibilities.

5. 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 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 and cleaning and disinfection protocols. If a Non-Critical Retail entity experiences a COVID-19 case, they should fully cooperate with requirements of local public health officials.

6. Permit Places of Public Accommodation to offer food and beverage using delivery service, window service, walk-up service, drive-through service, drive-up service, curbside delivery, outside dining, limited indoor dining, or any other manner set forth in an existing Executive Order or PHO and in accordance with mandatory Social Distancing Requirements and cleaning and disinfection protocols. If a Place of Public Accommodation experiences a COVID-19 case, they should fully cooperate with requirements of local public health officials.

7. 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, closure of common areas, cleaning protocols, and mandatory Social Distancing Requirements.

8. CDPHE must specifically identify any businesses, industries, sectors, activities, or events that must remain closed at this time.

9. Any business or activity not addressed in this Executive Order or any accompanying PHO may operate in accordance with general guidance from CDPHE concerning group limitations, Social Distancing Requirements, and sanitation and cleaning protocols.

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

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

2. A definition of Vulnerable Individual consistent with this Executive Order;

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

4. Appropriate guidelines for classes and programs identified in consultation with the Executive Director of CDHE pursuant to paragraph II.C.;

5. Guidance governing restaurants, personal services, childcare, houses of worship, life cycle events, short-term rentals, summer camps, team sports, State parks, and personal and outdoor recreation activities. CDPHE may authorize public

gatherings of groups in these settings that exceed the limits in paragraph II.E.2., above, if justified by public health conditions; and

6. Define mandatory Social Distancing Requirements and sanitation and cleaning protocols for all businesses and government functions.

G. I direct the Executive Director of the Colorado Department of Labor and Employment (CDLE) to continue to modify 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.

H. I direct the Executive Director of CDLE to continue to modify 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.

I. 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 20-28, as amended, or any PHO issued pursuant to this Executive Order.

J. Any county wishing to apply for a local variance from part or all of this Executive Order must submit a written application to CDPHE. CDPHE shall define any criteria required for approval of a local variance.

K. 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.

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

M. 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 June 1, 2020, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this first day of June, 2020.

Jared Polis
Governor