JAY INSLEE
Governor

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov

PROCLAMATION BY THE GOVERNOR
AMENDING PROCLAMATION 20-05

20-38
Department of Social & Health Services – Facilities

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout Washington state as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued amendatory Proclamations 20-06, 20-07, 20-08, 20-09, 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21, 20-22, 20-23, 20-24, 20-25, 20-26, 20-27, 20-28, 20-29, 20-30, 20-31, 20-32, 20-33, 20-34, 20-35, 20-36, and 20-37, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has broadly spread throughout Washington State, seriously increasing the threat of serious associated health risks statewide; and

WHEREAS, the threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as long term care facilities; and

WHEREAS, the COVID-19 pandemic has resulted in unprecedented demands on our health care system, and is expected to significantly reduce the availability of long-term care facility beds, including nursing home beds, that are necessary to provide essential services to some of Washington's most vulnerable populations during this crisis; and

WHEREAS, to address the reduced availability of long-term care facility beds resulting from the COVID-19 pandemic, and to increase the surge capacity necessary for our health care system to meet the unprecedented demands being imposed on it by this crisis, it is necessary to immediately allow the Department of Social and Health Services to license additional long-term care facilities to provide necessary capacity, which will require temporary waiver or suspension of certain construction review requirements and certificate of need requirements applicable to those long-term care facilities that can promptly be made available to help meet the unprecedented demands being placed on our health care system; and

WHEREAS, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

WHEREAS, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a state of emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect as otherwise amended, and that Proclamation 20-05 is amended to waive and suspend specified statutes and regulations that prevent, hinder or delay action that is necessary to increase the availability of long-term care facility beds required to meet the unprecedented demands being imposed on Washington State's health care system by the COVID-19 pandemic.

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

As a result of this event, I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(1)(h) and (2)(g), I also find that strict compliance with the following statutory and regulatory obligations or limitations will prevent, hinder, or delay necessary action by the Department of Social and Health Services to license additional long-term care facilities to increase nursing home bed capacity that is necessary to assist in meeting the unprecedented demand being placed on our health care system by COVID-19 pandemic, and that the specific language of each statutory and regulatory provision specified below is hereby waived and suspended in its entirety, except as otherwise provided herein, until midnight on April 29, 2020:

Nursing Homes

1. RCW 70.38.105(4)(d)
2. RCW 18.51.091 - the following language only: "The department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized."
3. RCW 18.51.240
4. WAC 246-310-020(1)(f)
5. WAC 388-97-2060(1), (2), (3)
6. WAC 388-97-3400 through WAC 388-97-3480
7. WAC 388-97-3520

Pursuant to RCW 43.06.220(1)(h) these waivers and suspensions do not apply except to temporary increases in bed capacity and projects undertaken to provide surge capacity for the COVID-19 response, for which certificates of need must be obtained after the expiration of this waiver in compliance with the waived statutory and regulatory provisions.

Assisted Living Facility - Construction Review Process

Pursuant to RCW 43.06.220(1)(h), these waivers and suspensions shall not be applied to anything except to facilities opening to assist with the COVID-19 crisis and the surge capacity within the health care system.

1. RCW 18.20.110 - the following language only: "The department may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agencies responsible for plan reviews for preliminary inspection and approval or recommendations with respect to compliance with the rules and standards herein authorized."
2. WAC 388-78A-2810(1)
3. WAC 388-78A-2821(2)
4. WAC 388-78A-2850(1)
5. WAC 388-78A-2851(2)(a) and (6)
6. WAC 388-78A-2853(1)(a), (b)
7. WAC 388-78A-2853(2)(a) - the following language only: "Construction review services has approved the construction, and"
8. WAC 388-78A-2853(2)(b) - the following language only: "Construction review services has recommended approval, and"
9. WAC 388-78A-2853(2)(c) - the following language only: "Construction review services has recommended approval,"
10. WAC 388-78A-2880
11. WAC 388-78A-2900

Pursuant to RCW 43.06.220(1)(h) these waivers and suspensions do not apply except to temporary and projects undertaken to provide surge capacity for the COVID-19 response, for which certificates of need must be obtained after the expiration of this waiver in compliance with the waived statutory and regulatory provisions.

Violators of this of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 30th day of March, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State