JAY INSLEE
Governor

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PROCLAMATION BY THE GOVERNOR
AMENDING PROCLAMATION 20-05

20-44
Nursing Home Transfer or Discharge
for COVID-19 Cohorting Purposes

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, 20-37, 20-38, 20-39, 20-40, 20-41, 20-42, and 20-43, 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, there are currently at least 7,984 cases of COVID-19 in Washington State with 338 associated deaths, and models predict that many hospitals and nursing homes throughout the state will reach capacity or become overwhelmed by the COVID-19 crisis within the next few weeks unless action is immediately taken to significantly slow its spread and address its impacts; and

WHEREAS, hospitalizations for COVID-19-like illnesses have been sharply increasing for the past month, and a large surge in the number of serious COVID-19 infections will compromise the ability of our health care system to deliver necessary health care services; and

WHEREAS, our most vulnerable populations are at greatest risk to their life, health and safety from the threat of COVID-19, especially for those receiving long-term care services in congregate settings such as nursing homes; and

WHEREAS, the COVID-19 pandemic has placed unprecedented demands on our health care system, requiring that certain transfers or discharges of nursing home residents be expedited to allow grouping or cohorting residents in other long-term care facilities to reduce the spread of COVID-19 and relieve stress on health care system capacity; and

WHEREAS, on March 31, 2020, the U.S. Centers for Medicare and Medicaid Services issued a retroactive addition to waivers granted under Section 1135 of the Social Security Act, waiving specific federal regulations that will allow nursing homes to transfer or discharge residents to another long-term care facility for certain COVID-19 related cohorting purposes; and

WHEREAS, to protect the life, health and safety of those members of our most vulnerable populations who are nursing home residents, it is immediately necessary to temporarily waive and suspend certain statutory and regulatory provisions limiting the ability to expedite their transfer or discharge to another long-term care facility for specific COVID-19 related cohorting purposes; 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 hereby amended to waive and suspend certain statutory and regulatory provisions that prevent, hinder, or delay action that is necessary to cope with the COVID-19 pandemic by temporarily expediting the ability to transfer or discharge nursing home residents to other long-term care facilities for specific COVID-19 related cohorting purposes, as provided herein.

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.

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(2)(g), I also find that strict compliance with the following statutory and regulatory obligations and limitations will prevent, hinder, or delay certain transfers or discharges of nursing home residents to other long-term care facilities that are necessary to expedite the grouping or cohorting of residents to reduce the spread of COVID-19 among our most vulnerable populations and relieve stress on our health care system to meet the increased demand of addressing COVID-19 related illnesses, and that each statutory and regulatory provision or portion thereof as specified below is hereby waived and suspended until 11:59 p.m. on May 10, 2020:

1. RCW 74.42.450(6) in its entirety.

2. WAC 388-97-0140(1)(c)(ii) in its entirety.

3. WAC 388-97-0140(2) in its entirety.

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 10th day of April, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State