State of Delaware

Executive Department

Dover

DECLARATION OF A PUBLIC HEALTH EMERGENCY FOR THE STATE OF DELAWARE

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T, I issued a Declaration of a State of Emergency due to the public health threat of COVID-19, which became effective as of 8:00 a.m. E.D.T on March 13, 2020, and which remains in effect as modified by the First Modification of the Declaration of a State of Emergency Order dated March 16, 2020, as further modified by the Second Modification of the Declaration of a State of Emergency Order dated March 18, 2020, and as further modified by the Third Modification of the Declaration of a State of Emergency Order, dated March 21, 2020, and as further modified by the Fourth and Fifth Modifications of the Declaration of a State of Emergency dated March 22, 2020; and

WHEREAS, with 68 confirmed COVID-19 diagnoses in the State of Delaware as of March 23, 2020, additional significant measures are necessary to ensure sufficient capacity of the health care system to meet the challenges of the COVID-19 epidemic. Accordingly, to facilitate the state's ability to address COVID-19 as a global pandemic with a high probability of imminent

and irreparable harm to the health, security and welfare of Delawareans, a more robust declaration is appropriate; and

WHEREAS, for convenience, certain provisions from the Declaration of a State of Emergency and the Modifications thereto should be consolidated into and restated in this expanded declaration.

NOW THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31, subchapter V of the Delaware Code, do hereby declare a Public Health Emergency in Delaware. This Declaration of a Public Health Emergency will be effective as of Monday, March 23, 2020 at 5:00 p.m. E.D.T., and shall continue until terminated as provided under state law. Along with such other actions authorized by Title 20, Chapter 31 of the Delaware Code, I specifically direct and authorize:

1. The Secretary of the Delaware Department of Health and Social Services (DHSS), or such person as the Secretary may designate with my written consent, shall serve as the Public Health Authority as such term is defined in Chapter 31 of Title 20. The Public Health Authority is hereby directed to utilize all available resources of state government as reasonably necessary to address this public health emergency.

2. The Public Health Authority shall:
    a. Conduct a prompt assessment of emergency medical supplies, capacity needs assessment, and procurement to include:
        i. Potential medical supplies and equipment needs of health care providers, including but not limited to masks, ventilators and lab testing supplies;
        ii. An assessment of all medications and supplies in the State Stockpile, and an assessment of any potential needs from the Federal Stockpile, as such terms are defined in Chapter 31 of Title 20;
        iii. An assessment of hospital bed capacity, including but not limited to ICU beds, to determine need for additional bed capacity and alternative care sites to respond to the COVID-19 epidemic; and
        iv. An assessment of any potential needs to rescind, modify, re-appropriate or otherwise distribute any previously appropriated or presently authorized state funds to address emergency response needs.

b. Immediately purchase or facilitate the purchase, contracting and distribution of any and all necessary supplies to address the COVID-19 epidemic, including: antitoxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents or medical supplies that the Public Health Authority deems advisable in the interest of preparing for or controlling the public health emergency.

3. The Public Health Authority, or its designee in consultation with the Division of Medicaid and Medical Assistance, shall promptly take all state-required actions as may be necessary to waive applicable state Medicaid program requirements and determine waiver needs and Centers for Medicare & Medicaid Services (CMS) approvals, including the following provisions and such other provisions as the Public Health Authority may deem necessary to respond to the COVID-19 epidemic:
    a. All applicable State of Delaware Medicaid regulations and programmatic requirements relating to the provision of telehealth services, including billing and reimbursement restrictions; and
    b. Such additional waivers or programmatic requirement suspensions as the Public Health Authority may deem appropriate to respond to the Public Health Emergency.

4. The Public Health Authority is further authorized to:
    a. Direct vaccination, treatment, isolation, quarantine and such other measures as may be necessary to prevent or contain the spread of COVID-19, including
    b. Designate any qualified person to administer vaccines in accordance with 20 Del. C. § 3137, and require in-state health care providers to assist in the performance of vaccination, treatment and testing of any potentially infected individual in accordance with 20 Del. C. § 3140.

5. The following statutory and regulatory provisions are hereby suspended or waived for the duration of this Public Health Emergency:
    a. Effective upon the entry of this Order, all insurers issuing policies subject to state regulation under Title 18 of the Delaware Code shall waive all prior authorization requirements for the lab testing and treatment of confirmed or suspected COVID-19 patients; and
    b. All regulatory state contracting and procurement requirements set forth in 29 Del. C. Ch. 69 with respect to the purchase of materials or services necessary to respond to the COVID-19 epidemic as set forth in this Order.

6. The Public Health Authority is also directed to:
    a. Suspend all state-required deadlines and timetables for performance of required non-essential routine healthcare facilities inspection and licensing activities, including but not limited to suspension of accreditation surveys (CMS, Joint Commission, etc. administered under state law), surveys provided under deemed status except those involving immediate jeopardy, abuse, neglect, infection

prevention and control during time of declared emergency and for 30 days post the date of termination of this Order; and

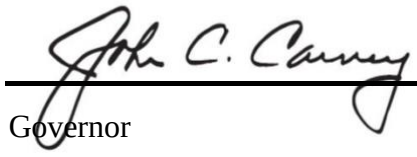
b. Suspend any provisions that require medical care to be provided in a specific location and any related physical plant requirements as the Public Health Authority deems necessary; and
c. Evaluate and suspend any state-specific components of applicable requirements under federal law, including but not limited to state-specific requirements relating to the Emergency Medical Treatment and Active Labor Act (EMTALA) (if applicable), that would hinder or prohibit the direction, transfer or discharge of individuals to an alternative location in accordance with COVID-19 emergency response plans.

7. The powers assigned to the Public Safety Authority and the Public Health Authority in this Declaration of Public Health Emergency repeat or supplement, and do not derogate, the powers granted to the Delaware Emergency Management Agency, DHSS and the Division of Public Health under the Declaration of a State of Emergency (SOE) I issued on March 12, 2020, the First Modification of the SOE, dated March 16, 2020, the Second Modification of the SOE, dated March 18, 2020, the Third Modification of the SOE, dated March 21, 2020, and the Fourth and Fifth Modifications of the SOE, dated March 22, 2020, nor do the powers derogate any of the restrictions included in those declarations, unless expressly stated in the Public Health Emergency.

8. I reserve the right to take or direct state or local authorities to take, without issuance of further written order, any other necessary actions authorized by Title 20, Chapter 31 of the Delaware Code to respond to this emergency.

APPROVED this 23rd day of March 2020 at 4:15 p.m.

E.D.T.



Governor