State of Delaware

Executive Department
Dover

EIGHTH MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has determined that a novel coronavirus ("COVID-19") presents a serious public health threat, and has advised the public that asymptomatic individuals may be carriers of the COVID-19 virus and may unknowingly spread the virus to other individuals in close proximity, and therefore, social distancing is required to help mitigate the individual exposure to (and community spread of) the COVID-19 virus; and

WHEREAS, it is in the best interests of the State to protect its citizens from a potential public health emergency that could threaten the lives of those who live and work here; and

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T., I issued 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 (the "COVID-19 State of Emergency"); and

WHEREAS, on March 16, 2020 at 2:00 p.m. E.D.T., I issued the First Modification to the COVID-19 State of Emergency declaration to advise that the CDC issued new guidance for large

events and mass gatherings, recommending that organizers halt gatherings of 50 people or more for the next eight weeks due to the public health threat of COVID-19, including conferences, social events, concerts and other types of assemblies; and

WHEREAS, on March 18, 2020 at 2:00 p.m. E.D.T., I issued the Second Modification to the COVID-19 State of Emergency declaration that modified the limitations on public gatherings of 50 or more people and, among other things, placed certain restriction on the operation of certain businesses and facilities in the State of Delaware; and

WHEREAS, on March 21, 2020 at 12:00 p.m. E.D.T., I issued the Third Modification to the State of Emergency declaration to close all Delaware beaches, except to persons using the beaches to exercise or to walk their dogs, subject to certain precautions recommended by the CDC on COVID-19, which became effective as of 5:00 p.m. E.D.T.; and

WHEREAS, on March 22, 2020 at 4:00 p.m. and 4:02 p.m. E.D.T., respectively, I issued the Fourth and Fifth Modifications to the COVID-19 State of Emergency declaration to close all non-essential businesses in Delaware, except those that can offer goods and services on the Internet, and to order a Shelter in Place for Delaware residents; and

WHEREAS, on March 24, 2020 at 4:00 p.m. E.D.T. I issued the Sixth Modification to the COVID-19 State of Emergency declaration to provide a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely, extended the presidential primary, provided for absentee balloting during the COVID-19 crisis, provided for a modified state procurement process, and placed a moratorium on cancellation of insurance policies for delay in premium payments caused by the economic uncertainty; and

WHEREAS, on March 29, 2020 at 4:30 p.m. E.D.T., I issued the Seventh Modification to the COVID-19 State of Emergency declaration to provide for the self-quarantine of travelers from areas severely impacted by COVID-19 outside the State of Delaware into the State; and

WHEREAS, in addition to the 4th and 5th Modifications to the State of Emergency that I issued that require Delawareans to shelter in place and restrict activity in Delaware to essential business operations only, I also directed K-12 schools to remain closed through May 15; and

WHEREAS, the Secretary of the Department of Services for Children, Youth & Their Families ("DSCYF") was authorized in Executive Order No. 38 that I signed on March 19, 2020 to modify or suspend certain childcare regulations during the State of Emergency to respond to an increasing demand on childcare centers; and

WHEREAS, because childcare is critical to enable personnel who work in essential businesses (including healthcare, law enforcement, first responders and others) identified in the Fourth Modification I signed on March 22, 2020 to continue keeping Delaware safe and functioning through the State of Emergency, it has become necessary to incorporate that authority from Executive Order Number 38 into this Modification to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency; and

WHEREAS, in the Declaration of a Public Health Emergency I signed on March 23, 2020, I authorized the Public Health Authority to Direct vaccination, treatment, isolation, quarantine and such other measures as may be necessary to prevent or contain the spread of COVID-19; and

WHEREAS, emergency health threats, including those caused by bioterrorism and epidemics, require the exercise of extraordinary government functions; and

WHEREAS, Delaware must have the ability to respond, rapidly and effectively, to potential or actual public health emergencies; and

WHEREAS, without additional action in state buildings and at essential businesses, COVID-19 could overwhelm Delaware's hospitals and health care providers; and

WHEREAS, due to the COVID-19 health emergency and efforts to promote and accommodate telecommuting and social distancing for State employees, it is desirable to allow temporary modifications to the State's internal control procedures including but not limited to certain requirements to make daily or weekly bank deposits pursuant to Title 29, § 6103 of the Delaware Code; and

WHEREAS, it is necessary to further clarify certain provisions contained in prior modifications to the State of Emergency.

NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, in an effort to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that, except as otherwise provided in Paragraph 2.a., 2.b. and 4.e., the following provisions shall be effective March 30, 2020 at 8:00 p.m. E.D.T.:

1. **CHILD CARE**

    a. The authority granted to the Secretary of the Department of Services for Children, Youth, and Their Families ("DSCYF") in Executive Order Number 38 that I issued on March 19, 2020 to suspend or modify the state's childcare rules and regulations prescribed by DSCYF's Office of Child Care Licensing ("OCCL"), and the authority to suspend any statute, rule or regulation of any agency of the state or political subdivision to ensure access to childcare, including identifying state agency supports and staff to assist in providing sufficient access to childcare, and to issue guidelines in accordance therewith, is hereby continued and fully incorporated herein.

b. In addition to the authority in 1.a. above, during the State of Emergency, the Secretary of DSCYF, in consultation with the Secretary of the Department of Health and Social Services (DHSS), the Secretary of the Department of Education (DOE), and the Director of the Office and Management and Budget (OMB), is authorized to direct all licensed childcare homes and centers (collectively "childcare") in the State of Delaware to provide childcare to "any business deemed essential or open for business, as those terms are used in the 4th Modification to the State of Emergency (hereinafter defined as "essential personnel"), including developing the following guidelines for implementation:

    i. Create temporary enrollment forms for parents/guardians who are employed by essential businesses under the Fourth Modification and cannot work from home to enroll their child(ren) in care, such requirement to apply to each parent or guardian of the child.

    ii. Create stricter health and safety guidelines, in consultation with the Delaware Division of Public Health (DPH), to ensure each childcare is adhering to health and safety measures required by COVID-19.

    iii. Effective April 6, 2020 at 8:00 a.m. E.D.T., childcares that remain open shall only serve children of essential personnel, shall be designated as "Emergency Childcare Sites" and must meet the stricter health and safety standards established by OCCL.

c. Childcares that are not designated as Emergency Childcare Sites are directed to close no later than April 6, 2020 at 8:00 a.m. E.D.T.

d. The Secretary of DSCYF, in consultation with the Secretary of DHSS, the Secretary of DOE, and the Director of OMB, shall have the ability to modify or suspend any childcare rules and regulations, as needed, to accomplish this objective.

e. The Secretary of DSCYF shall have the authority to prioritize essential personnel requests for childcare for eligibility, should there be a shortage of slots.

f. The Secretaries of DSCYF, DHSS, and DOE, and the Director of OMB shall evaluate Delaware's Purchase of Care Childcare Subsidy Program payments (POC) and tiered reimbursement payments for childcares during the State of Emergency and shall establish guidelines for the adjustment of POC payments, which may include, but not be limited to:

    i. Full Purchase of Care and tiered reimbursements for all filled and POC-eligible slots, and reimbursements for vacant slots based on a center's licensed capacity using an average of Purchase of Care and tiered reimbursement categories for vacant slots, at Emergency Childcare Sites. "Enhanced Reimbursement" for Emergency Childcare Sites may be used for additional staff pay, sanitation, or meeting additional DPH requirements. Such enhanced reimbursements shall be determined by vacant slots at Emergency Childcare Sites. Additional adjustments may be made for essential staff pay; and

    ii. Sliding scale Purchase of Care and tiered reimbursements for childcare facilities that close but choose to pay 100% staff, and those that close and choose not to pay 100% staff; calculations for reduced payments will be based upon the childcare center's enrollment and licensed capacity at the

time the childcare closed due to the State of Emergency. Childcare facilities that choose to pay staff must certify such payment to staff.

2. **PUBLIC HEALTH**

a. Effective April 1, 2020 at 8:00 a.m. E.D.T., state buildings and essential businesses that the Public Health Authority deems high-risk shall screen every employee, visitor and member of the public upon entering. The Public Health Authority shall develop and publicly post the screening tool to be used by high-risk essential businesses.

b. Effective April 1, 2020 at 8:00 a.m. E.D.T., all state buildings and essential businesses shall display signage developed by the Public Health Authority that cautions individuals experiencing symptoms of COVID-19 not to enter the premises.

c. All hospitals, nursing and residential facilities, and ambulatory health care services in Delaware, as categorized by the Division of Small Business, shall comply with the Public Health Authority's guidance for the use of Personal Protective Equipment.

d. The Public Health Authority is authorized to make, amend and rescind orders, rules and regulations under Title 16 necessary for emergency management purposes.

e. The Public Health Authority is authorized to:

i. Suspend all state-required deadlines and timetables for performance of facility and agency licensure activities as the Public Health Authority deems necessary; and

ii. Suspend any regulatory requirement found in Title 16 of the Delaware Administrative Code that the Public Health Authority deems an impediment to staffing facilities and agencies during the pendency of the emergency; and

iii. Suspend any regulatory requirements related to the provision of in-home medical care and personal services under Title 16 of the Delaware Administrative Code as the Public Health Authority deems necessary.

f. The requirement that long term care facilities provide documentation to the Division of Health Care Quality as to the of the amount of direct care time that was provided in an emergency by a Director of Nursing, Assistant Director of Nursing, or registered nurse assessment coordinator as required in 16 Del. C. § 1161(e) is hereby suspended.

g. Long term care facilities must continue to provide 3.28 hours of direct care per resident per day. However, the staffing ratios required in 16 Del. C. § 1162 are hereby suspended.

h. The training requirements found in Section 3215 of Title 16 of the Delaware Administrative Code are hereby suspended. Previously untrained feeding assistants may undergo on-site training for the pendency of the state of emergency.

3. **STATE INTERNAL CONTROL PROCEDURES**

a. The Division of Accounting (DOA) in the Delaware Department of Finance shall issue Internal Control Policy Guidance for COVID-19 to all State Organizations providing for any temporary modifications to State internal control procedures for the duration of the current State of Emergency.

b. The provisions of Title 29, § 6103 related to frequency of banking deposits are temporarily waived, provided that State Organizations shall be required to provide an alternative plan for cash receipts deposits during the State of Emergency to the Division of Accounting by email to DOA's mailbox at Internal.Controls@delaware.gov.

4. **MISCELLANEOUS PROVISIONS**

a. To the extent not suspended by the Second Modification of the Declaration of a State of Emergency, all regulations requiring any in-person contact before or during telemedicine services provided by any medical professional are hereby suspended.

b. The Fifth Modification of the Declaration of State of Emergency, dated March 22, 2020 at paragraph 12 is hereby stricken and modified to read: "All COVID-1 testing shall be made available to those persons who meet criteria for such testing as established and modified from time to time by the Division of Public Health. All health care providers, facilities and entities that decide to offer testing shall make that testing available to people meeting testing criteria without regard to that person's ability to pay, type of health insurance, or participation in any particular provider network. Health care providers shall provide testing free of charge, including eliminating any cost sharing, co-payments or other direct-to-consumer costs."

c. The Sixth Modification of the Declaration of the State of Emergency, dated March 24, 2020, is modified by adding a new subparagraph B.1.e. as follows: "e. The restrictions contained in Paragraphs B.1.a., B.1.b. and B.1.c. shall also apply to any

owner occupied manufactured home on leased land as described in Chapter 70, Title 25 located within the state."

d. The Sixth Modification of the Declaration of the State of Emergency, dated March 24, 2020, is modified by adding a new sentence to the end of paragraph E. as follows: "No provision contained in this Order shall be construed as relieving any policyholder of the obligation to pay premium payments due an insured or to comply with other obligations that a policyholder may have pursuant to a covered insurance policy."

e. Effective March 31, 2020 at 8:00 a.m. E.D.T., the restriction on activity on beaches contained in the Third Amended Modification of the State of Emergency I issued on March 21, 2020 at 12:00 p.m. E.D.T. shall not apply to persons using State Park beaches for surf fishing by vehicle, provided that:

    i. any vehicle on the beach for the purpose of surf fishing must have a current Delaware surf fishing permit;

    ii. any vehicle on the beach for the purpose of surf fishing may not be occupied or accompanied by more than 2 persons, and those persons must be from the same home or place of residence;

    iii. every person on the beach for the purpose of surf fishing must be actively fishing, and no other activities shall be allowed by a person occupying or accompanying a vehicle with a surf fishing permit;

    iv. vehicles on the beach for this purpose must be at least 20 yards from any other vehicle;

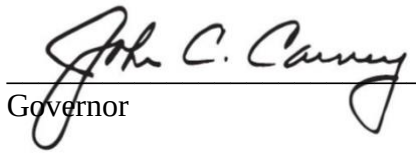
    v. all other rules and regulations regarding surf fishing shall apply;

vi. persons on the beach for the purpose of surf fishing must follow the Social Distancing Requirements detailed as part of the State of Emergency; and

vii. should circumstances require it to protect public health and safety, the Secretary of the Department of Natural Resources and Environmental Control may rescind surf fishing as allowed under this provision.

f. This Order has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency or any modification to a Declaration of the State of Emergency constitutes a criminal offense. 20 Del. C. §§ 3115 (b); 3116 (9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.

APPROVED this 30th day of March 2020 at 5:00 p.m.



Governor