JAY INSLEE
Governor

STATE OF WASHINGTON
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**PROCLAMATION BY THE GOVERNOR**
**AMENDING PROCLAMATIONS 20-05, 20-06, 20-10, 20-16, 20-17, 20-18, 20-37 et seq., 20-38 et seq., and 20-52 et seq.**

**20-65**
**Long Term Care – Workers, Facilities, and Resources**

**WHEREAS**, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington 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 through 20-53 and 20-55 through 20-64, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

**WHEREAS,** there is an increased risk of rapid spread of COVID-19 among persons who live and work in congregate settings, and many residents and workers at long-term care facilities are at increased risk for severe COVID-19; and

**WHEREAS,** to mitigate the increased risk of rapid spread of COVID-19 among residents and workers, congregate living facilities have increased physical distancing protocols, heightened screening upon entrance and exit, instituted more intensive cleaning protocols, and taken a variety of other measures; and

**WHEREAS,** the measures taken in congregate settings to respond to the COVID-19 pandemic have resulted in unprecedented demands on the resources and caregivers necessary to provide essential services in Washington State's congregate living facilities; and

**WHEREAS,** as an added challenge to meeting the resource and workforce needs of our congregate living facilities, the outbreak of COVID-19 has significantly reduced the availability of long-term care workers in the state in recent weeks; and

**WHEREAS,** long-term care workers are required to complete specific training, testing and certification requirements by dates certain, yet necessary class offerings, testing opportunities, and certification processing have been disrupted and cancelled because of the COVID-19 pandemic, exacerbating the long-term care worker shortage throughout Washington State; and

**WHEREAS,** due to physical distancing and group size requirements, training class sizes held during early phases of reopening must be smaller, and it will take significant time for workers to receive training and testing to fully meet licensing and certification requirements and resume their positions with long-term care facilities or as individual providers to clients in the community; and

**WHEREAS,** if the existing waivers for fingerprint background check requirements for Adult Family Homes, Assisted Living Facilities, Enhanced Services Facilities, and in-home providers are not extended, staff who have been or are unable to obtain fingerprint background checks as a result of the COVID-19 pandemic cannot provide services while they wait for fingerprint test sites to become fully operational and address the backlog of customers; and

**WHEREAS,** long-term care facilities are required to meet specific construction reviews, at times, certificate of need requirements, and inspections by dates certain or at specified intervals, yet necessary personnel and resources to process those requirements are unavailable or cannot be utilized due to restrictions implemented in response to the COVID-19 pandemic; and

**WHEREAS,** restrictions and staff shortages related to the COVID-19 pandemic, to include possible quarantine of residential long-term care facilities such as nursing homes, may hinder safe reviews, certificate issuance, and inspection and survey activities; and

**WHEREAS,** to maintain availability of facilities, staffing, and resources in our congregate living system at levels necessary to safely provide essential services during the current COVID-19 pandemic, agencies and other entities operating congregate living facilities have utilized a variety of interim licenses, waiver of certain certification, inspection, administrative requirements, and other programs that are temporary in nature; and

**WHEREAS,** to prevent expiration of these temporary programs and the resulting loss of necessary facilities, staffing, and resources, I previously issued Proclamations 20-06, 20-10, 20-16, 20-17, 20-18, 20-37 et. seq., 20-38 et seq., and 20-52 et seq., waiving and suspending specified statutes and rules relating to facilities, staffing, and resources at congregate living and care facilities and other related subjects; and

**WHEREAS,** under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions in Proclamations 20-10, 20-18, 20-37 et seq., 20-38 et seq., and 20-52 et seq., were extended with certain modifications by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or September 1, 2020, whichever occurs first, and which I acknowledged and similarly extended the prohibitions and the waiver and suspension of rules therein with certain modifications in subsequent proclamations; and

**WHEREAS,** because the waivers, suspensions and prohibitions contained in Proclamations 20-10, 20-18, 20-37 et seq., 20-38 et seq., and 20-52 et seq., address a variety of topics some of which are also addressed by other proclamations, orders and guidance documents, issuing new proclamations that divide the waivers, suspensions and prohibitions into their topical areas and cross-reference applicable orders and guidance documents will assist in the understanding, administration and implementation of those waivers, suspensions and prohibitions; 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 and remains a significant health risk to all of our people, especially members of our most vulnerable populations; 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; and

**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 Proclamations 20-06, 20-10, 20-18, 20-37 et seq., 20-38 et seq., and 20-52 et seq., are amended to (1) recognize the prior extensions of statutory waivers and suspensions listed below by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or 11:59 p.m. on September 1, 2020, whichever occurs first, and (2) similarly extend the prior prohibitions and waiver and suspension of rules listed below until the termination of the COVID-19 State of Emergency or 11:59 p.m. on September 1, 2020, whichever occurs first.

**FURTHERMORE**, , the *Safe Start Washington Phased Reopening County-by-County Plan* found here, the *Order of the Secretary of Health* 20-03, issued on June 24, 2020, found here, and all provisions of Proclamations 20-25 et seq., shall remain in full force and effect.

**FURTHERMORE,** the recognition and extension of waivers, suspensions, and prohibitions related to long term care contained herein supersede the recognition and extension of waivers, suspensions, and prohibitions contained in Proclamations 20-06, 20-10, 20-18, 20-37 et seq., 20-38 et seq., and 20-52 et seq. The recognition and extension of waivers, suspensions, and prohibitions contained in Proclamations 20-10, 20-18, 20-37 et seq., 20-38 et. seq., and 20-52 et seq., remain in effect as stated in those enumerated proclamations or as otherwise extended.

**ADDITIONALLY,** based on the above situation, I also continue to find that strict compliance with the following statutory and regulatory obligations or limitations will prevent, hinder, or delay necessary action in coping with the COVID-19 State of Emergency under Proclamation 20-05, and that the language of each statutory and regulatory provision specified below continues to be waived and suspended, in its entirety unless otherwise indicated:

1. RCW 74.39A.074(1)(a)
2. RCW 74.39A.076(1) and (2)
3. RCW 74.39A.341
4. RCW 70.128.120(6)
5. RCW 70.128.230(2), (5), and (6)
6. RCW 70.128.250 (last paragraph)
7. RCW 18.20.270(2), (5), and (6)
8. RCW 18.88B.021(1) – waiver and suspension only of the following language as indicated by strikethrough:
   "…~~within two hundred calendar days~~"
9. Chapter 388-112A WAC
10. WAC 388-107-0630
11. WAC 388-78A-2474(1), (2), (4) and (5)
12. WAC 388-76-10146
13. WAC 388-76-10135(4)
14. WAC 388-71-0540(13)
15. WAC 388-71-0523
16. WAC 388-71-0520
17. WAC 246-980-040(1)(a) and (c)
18. WAC 246-980-030(1) and (2)
19. WAC 246-980-010(2)
20. RCW 18.51.091
21. RCW 18.51.230
22. RCW 18.20.110 – waiver and suspension only of the following language as indicated by strikethrough:
   ~~"The department shall make or cause to be made, at least every eighteen months with an annual average of fifteen months, an inspection and investigation of all assisted living facilities. However, the department may delay an inspection to twenty-four months if the assisted living facility has had three consecutive inspections with no written notice of violations and has received no written notice of violations resulting from complaint investigation during that same time period~~…"
23. RCW 70.128.070(2)(b)
24. RCW 70.129.090(2)
25. RCW 70.97.160(1) – waiver and suspension only of the following language as indicated by strikethrough:
   "…~~and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months~~."
26. RCW 74.42.056
27. RCW 74.42.360(2),(3), and (4)
28. RCW 74.39A.056(1)(b)(i)
29. RCW 43.20A.710(2)
30. RCW 43.43.837(1) – waiver and suspension only of the following language as indicated by strikethrough:
   "…~~but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application~~".
31. RCW 43.43.837(1) (a), (b), (c), and (d)
32. RCW 70.128.130(13)
33. WAC 388-71-0514

34. WAC 388-76-10161(2)(b)
35. WAC 388-76-10176
36. WAC 388-78A-2462(2)(b)
37. WAC 388-78A-24681
38. WAC 388-97-1080(3), (4), (5), (6), (7), and (8)
39. WAC 388-97-1090WAC 388-107-1210(2)(b)
40. WAC 388-107-1270
41. WAC 388-101D-0080
42. WAC 388-06-0500 through 0540
43. WAC 388-106-0360
44. RCW 18.88A.030(2)(a)
45. WAC 388-97-1660(3)(a)(i)

Nursing Homes

Pursuant to RCW 43.06.220(1)(h) the waivers and suspensions set forth in numbered paragraphs 46 through 52 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.

46. RCW 70.38.105(4)(d)
47. RCW 18.51.091 – waiver and suspension only of the following language as indicated by strikethrough:
    "~~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.~~"
48. RCW 18.51.240
49. WAC 246-310-020(1)(f)
50. WAC 388-97-2060(1), (2), (3)
51. WAC 388-97-3400 through WAC 388-97-3480
52. WAC 388-97-3520

Assisted Living Facility – Construction Review Process

Pursuant to RCW 43.06.220(1)(h), the waivers and suspensions set forth in numbered paragraphs 53 through 63 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.

53. RCW 18.20.110 – waiver and suspension only of the following language as indicated by strikethrough:
    "~~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.~~"
54. WAC 388-78A-2810(1)

55. WAC 388-78A-2821(2)
56. WAC 388-78A-2850(1)
57. WAC 388-78A-2851(2)(a) and (6)
58. WAC 388-78A-2853(1)(a), (b)
59. WAC 388-78A-2853(2)(a) – waiver and suspension only of the following language as indicated by strikethrough:
"~~Construction review services has approved the construction, and~~"
60. WAC 388-78A-2853(2)(b) – waiver and suspension only of the following language as indicated by strikethrough: "~~Construction review services has recommended approval, and~~"
61. WAC 388-78A-2853(2)(c) – waiver and suspension only of the following language as indicated by strikethrough: "~~Construction review services has recommended approval,~~"
62. WAC 388-78A-2880
63. WAC 388-78A-2900

Pursuant to RCW 43.06.220(1)(h) the waivers and suspensions in paragraphs 53 through 63 do not apply except to temporary programs 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.

**ADDITIONALLY**, in furtherance of the prohibitions, waivers, and suspensions contained herein, and for general awareness:

1. Employers must comply with all conditions for operation required by the state Department of Labor & Industries, including interpretive guidance, regulations and rules, such as WAC 296-800-14035, and Department of Labor & Industries-administered statutes.
2. Everyone is required to cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of COVID-19 and with the implementation of infection control measures pursuant to State Board of Health rule in WAC 246-101-425.
3. All mandatory guidelines for businesses and activities, which remain in effect except as modified by this Proclamation and the *Order of the Secretary of Health 20-03*, may be found at the Governor's Office website, *COVID-19 Resources and Information*, and at *COVID-19 Reopening Guidance for Businesses and Workers*.

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.

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

This order goes into effect at 12:01 a.m. on August 12, 2020, and the extension of statutory waivers and suspensions referenced herein by the leadership of the Washington State Senate and House of Representatives is recognized until the termination of the COVID-19 State of Emergency or 11:59 p.m. on September 1, 2020, whichever occurs first, and (2) the prohibitions and waivers and suspensions of rules herein are extended until the termination of the COVID-19 State of Emergency or 11:59 p.m. on September 1, 2020, whichever occurs first.

Signed and sealed with the official seal of the state of Washington on this 7th day of August, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State