STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-32

Ensuring that Healthcare Providers Can Respond Quickly and Safely During the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to "ensure the preparations of this state will be adequate to deal with disasters," to "generally protect the public peace, health, and safety," and to "preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

Confirmed cases of COVID-19 in Minnesota are rapidly increasing. On March 15, 2020, Minnesota detected the first confirmed cases caused by "community spread"—infections not epidemiologically linked to overseas travel. This development requires Minnesota to take additional proactive measures, including enhanced community mitigation, to slow the spread of the pandemic. Slowing the spread of COVID-19 is critical to ensuring that our healthcare

facilities remain able to accommodate those who require intensive medical intervention. Similarly, ensuring that the Minnesota Department of Health ("MDH" or "department") and our healthcare facilities are able to focus on responding to the pandemic is critical to protecting the health and safety of Minnesotans.

MDH serves Minnesotans across the state through its regulatory authority to protect the health and safety of the public. MDH regulates approximately thirty-four types of facilities and service providers, including hospitals, nursing homes, home care agencies, housing with services establishments, supervised living facilities, boarding and lodging establishments with special services, boarding care homes, funeral homes, morticians, and supplemental nursing services agencies, among others. MDH also licenses and regulates Health Maintenance Organizations, designates and re-designates trauma hospitals, and oversees the reporting of and response to serious adverse health events in hospitals and ambulatory surgical centers. MDH also regulates other activities affected by the pandemic that play an important role in our response such as the use of x-ray technology and certain lodging establishments, such as short- and long-term shelters.

The COVID-19 pandemic presents many challenges, and timely access to services regulated by MDH promotes public health and safety. Strict compliance with relevant laws and regulations during the peacetime emergency will increase the risk for spread of COVID-19 by limiting the ability of these MDH-regulated facilities or service providers to provide essential services to Minnesotans. Temporarily delaying, waiving, or modifying these requirements will allow providers to take necessary action to assess, identify, treat, and support Minnesotans with COVID-19 and protect those Minnesotans who are not infected.

For these reasons, I order as follows:

1. Effective immediately, the Commissioner of Health may temporarily delay, waive, or modify any of the following provisions and applicable rules, provided that the delay, waiver, or modification does not endanger the public health, welfare, or safety of Minnesotans:

    a. Provisions regulating the hospital moratorium and nursing home moratorium laws found in Minnesota Statutes 2019, sections 144.551, 144A.071, and 144A.073;

    b. Provisions in Minnesota Statutes 2019, section 144.121 and Minnesota Rules 2019, Chapter 4732, that govern the health care-based use of x-ray and related technologies;

    c. Provisions that MDH is responsible for in Minnesota Statutes 2019, Chapters 62D, 62J, 62Q, 144, 144A, 144D, 144G, 144H, 146A, 146B, 148, 149A, 153A, 157, 214, 256.045, 327, 626.556, 626.557; or

    d. Provisions related to administrative appeals, reconsiderations, or other reviews involving or initiated by the department.

2. Effective immediately, the Commissioner of Health may temporarily delay, waive, or modify the scope, timelines, reporting requirements, and activities of state funded grants to allow recipient organizations to use such funds, as authorized by the Commissioner of Health, to respond to COVID-19.

3. Effective immediately, the Commissioner of Health may establish temporary alternative health care facilities. To the extent necessary to establish and regulate temporary alternative health care facilities, the Commissioner of Health shall consult with the Commissioner of Labor and Industry on State Building Code issues. During the peacetime emergency declared in Executive Order 20-01, compliance and regulatory standards in the following provisions, as they apply to the use of nontraditional spaces to provide patient care in temporary alternative care facilities established by the Commissioner of Health, are suspended:

    a. Minnesota Statutes 2019, Chapters 14, 144, 144A, 144D, 144G, 144H, 146A, 157, and 327;

    b. Minnesota Statutes 2019, sections 256.045, 626.556, and 626.557; and

    c. Corresponding chapters of Minnesota Rules.

4. Effective immediately, the Commissioner of Health may temporarily grant variances on an individual basis to rules within the Commissioner's authority that do not affect the health or safety of persons in a licensed program. The Commissioner's decision to grant or deny a variance request is final and not subject to appeal. The Commissioner may temporarily grant variances on an individual basis if:

    a. The variance is requested by an applicant or license holder in a form and manner prescribed by the Commissioner;

    b. The request for a variance includes the reasons the applicant or license holder cannot comply with the requirement specified in rule and the alternative, equivalent measures the applicant or license holder will follow to comply with the intent of the rule; and

    c. The request for a variance states the time period for which the variance is requested.

5. Effective immediately, the Commissioner of Health may temporarily grant blanket variances to rules governing licensed programs within the Commissioner's jurisdiction if the Commissioner:

    a. Determines that the rule does not affect the health or safety of persons in the licensed program;

    b. Identifies the alternative, equivalent measures the applicant or license holder must follow to comply with the intent of the rule; and

c. Establishes a time period for which the variance is granted.

6. This Executive Order suspends the requirements for the Commissioner of Health to comply with Minnesota Statutes, Chapter 14.

7. To the extent they are inconsistent with or are barriers to the creation, expansion or operation of facilities, settings, or establishments under the jurisdiction of the Commissioner of Health, any rules and ordinances of any political subdivision are suspended if the Commissioner of Health determines the creation, expansion, or operation of such facilities, settings, or establishments is necessary to respond to the public health emergency and the suspension of the rules and ordinances does not endanger the public health, welfare, or safety of Minnesotans.

8. The Commissioner of Health shall not issue any delay, waiver, or modification under this Executive Order that affects statutory provisions or requirements for matters outside of the department's jurisdiction.

9. Any delay, waiver, or modification issued pursuant to this Executive Order shall be posted on the department's website within 48 hours and shall include a plain language description of the waiver or modifications made.

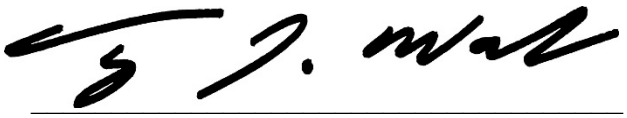
10. No more than 48 hours after a delay, waiver, or modification under this Executive Order goes into effect, the Commissioner of the Department of Health shall provide written notice of the delay, waiver, or modification to the appropriate ombudsman, if any; and the chairs and ranking minority members of the house of representatives and senate committees overseeing MDH.

11. The Commissioner of the Department of Health shall submit a final report to the chairs and ranking minority members of the house of representatives and senate committees overseeing MDH within 60 days of the end of the peacetime emergency declared in Executive Order 20-01 with specific details about state statutes and rules delayed, waived, or modified as authorized in this Executive Order.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on April 8, 2020.



Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on April 8, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed on April 8, 2020
Office of the Minnesota
Secretary of State,
Steve Simon