STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-09

Directing Delay of Inpatient and Outpatient Elective Surgery and Procedural Cases during 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.

Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(1), the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes, 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. Any person who willfully violates such an order or rule is guilty of a misdemeanor.

COVID-19 cases in Minnesota are rapidly increasing and risk overwhelming the healthcare system. On March 17, 2020, the Centers for Disease Control and Prevention recommended delaying elective inpatient and outpatient surgeries and procedures, which include dental procedures. On March 18, 2020, the Centers for Medicare and Medicaid Services ("CMS") issued similar guidance. CMS recognizes that conservation of critical resources such as ventilators and personal protective equipment ("PPE") is essential to aggressively address the COVID-19 pandemic. CMS has also recognized that non-emergent or elective procedures increase patient and provider contact, which could increase the risk of COVID-19 transmission. This risk provides further reason to delay elective surgeries and procedures. To ensure the health and safety of Minnesotans, it is important to establish consistency throughout our healthcare system and ensure that our resources can be focused on responding to this pandemic.

For these reasons, I order as follows:

1. Beginning no later than March 23, 2020 at 5:00 pm, and continuing for the duration of the peacetime emergency declared in Executive Order 20-01 or until this Executive Order is rescinded, all non-essential or elective surgeries and procedures, including non-emergent or elective dental care, that utilize PPE or ventilators must be postponed indefinitely.

2. A non-essential surgery or procedure is a surgery or procedure that can be delayed without undue risk to the current or future health of a patient. Examples of criteria to consider in making this determination include:

    a. Threat to the patient's life if surgery or procedure is not performed.

    b. Threat of permanent dysfunction of an extremity or organ system, including teeth and jaws.

    c. Risk of metastasis or progression of staging.

3. Pursuant to Minnesota Statutes 2019, section 12.45, a person who willfully violates paragraph 1 of this Executive Order is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed $1,000, or by imprisonment for not more than 90 days.

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 March 19, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on March 20, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed on March 18, 2020
Office of the Minnesota
Secretary of State,
Steve Simon