State of Delaware

Executive Department
Dover

TWELFTH 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 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 restrictions 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 COVID-19 State of Emergency declaration to close all Delaware beaches, except to persons using the beaches for 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 23, 2020 at 4:00 p.m. E.D.T. 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, on March 30, 2020 at 5:00 p.m. E.D.T., I issued the Eighth Modification to the State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 1, 2020 at 3:00 p.m. E.D.T., I issued the Ninth Modification to the COVID-19 State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 6, 2020 at 6:00 p.m. E.D.T., I issued the Tenth Modification to the COVID-19 State of Emergency declaration to further restrict the operation of non-essential businesses to limit the spread of COVID-19; and

WHEREAS, on April 10, 2020 at 3:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration, as modified; and

WHEREAS, on April 15, 2020 at 9:00 a.m. E.D.T., I issued the Eleventh Modification to the COVID-19 State of Emergency declaration to provide increased guidance and support to long-term care facilities to protect our most vulnerable populations and permit remote notarization under limited circumstances; and

WHEREAS, a hospital may have an urgent need to expand its workforce on short notice due to conditions caused by the COVID-19 outbreak; and

WHEREAS, Delaware hospitals have asked to recruit and train formerly licensed professionals who may be approved to provide healthcare services on a volunteer basis when a hospital has operationalized its crisis standard of care; and

WHEREAS, it is in the public interest to permit the issuance of marriage licenses while promoting social distancing during the State of Emergency and thus to allow parties applying for

a marriage license to appear together before the issuing officer via video-conference technology that allows the parties to be seen and heard by the issuing officer; and

WHEREAS, the public may need additional time to review and respond to draft proposed regulations from state agencies during the COVID-19 pandemic and it is necessary to provide state agencies the temporary discretion to extend the public comment period on proposed regulations until 30 days after the termination of the State of Emergency; and

WHEREAS, the suspension of elective surgeries and non-emergency medical procedures during the COVID-19 pandemic may preclude state employees on short term disability leave from obtaining the healthcare services needed to return to work and the state requires flexibility to administer the disability insurance program during the COVID-19 pandemic and thereafter to ensure that state employees are able to obtain the healthcare needed and return to work; and

WHEREAS, in the interest of protecting the citizens of this state from a public health threat, the Governor is authorized by law to issue an order reasonably necessary to maintain life and health and to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business where strict compliance with the statute may hinder necessary action in coping with the 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 the COVID-19 State of Emergency declaration, as modified by the First through Eleventh Modifications and extended on April 10, 2020, shall remain in effect until further notice, with the following modifications and additions, effective April 23, 2020 at 4:15 p.m. E.D.T.:

A. PUBLIC HEALTH

1. Any individual who has at any time held an active license to practice medicine in any United States jurisdiction, which is now inactive, expired or lapsed, may be activated to provide healthcare services on a volunteer basis in Delaware, if (1) the individual's license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed, (2) the individual's scope of practice will be limited to primary care services, and (3) the hospital that will use the individual's services has provided training appropriate for the tasks to be performed.
2. Any individual who has at any time held an active license or certification from any United States jurisdiction to practice as a pharmacist, respiratory therapist, physician assistant, paramedic, emergency medical technician, practical nurse, professional nurse, registered nurse, advanced practice registered nurse, or certified nursing assistant, which is now inactive, expired or lapsed, may be activated to provide healthcare services on a volunteer basis in Delaware if (1) the individual's license or certification was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed, (2) the individual's scope of practice is limited to examination, testing and treatment, and (3) the hospital that will use the individual's services has provided training appropriate for the tasks to be performed.
3. The training provided in accordance with subsections 1. and 2. above shall be at no cost to the State of Delaware.
4. An individual must be registered with the Medical Reserve Corps before they may be activated to provide healthcare services as a volunteer under this Section A. of the Twelfth Modification of the COVID-19 State of Emergency declaration.

5. Activation to provide healthcare services as a volunteer under this Section A. of the Twelfth Modification of the COVID-19 State of Emergency declaration shall occur when a hospital activates its crisis standard of care developed in accordance with the Crisis Standard of Care Concept of Operations approved by the Public Health Authority. The Public Health Authority must grant written approval for the health system to operationalize its crisis standard of care before Section A. of the Twelfth Modification of the COVID-19 State of Emergency goes into effect.
6. Individuals activated to provide healthcare services as a volunteer under this Section A. of the Twelfth Modification of the COVID-19 State of Emergency declaration shall be considered "qualified medical personnel" for purposes of 20 Del. C. § 3129.

B. MISCELLANEOUS

1. Until the state of emergency is terminated and the public health emergency is rescinded, parties applying for a marriage license in accordance with 13 Del. C. § 120 may appear together before the issuing officer via video-conference call that allows the parties to be seen and heard by the issuing officer. The issuing officer may witness the parties' signatures on the marriage license application by video-conference call. The issuing officer may examine the parties and any documentation by video conference call in furtherance of the issuing officer's duty to make the certification required by 13 Del. C. § 122(c).
2. The requirements of 29 Del. C. § 5253(c)(5) are hereby suspended for any State of Delaware employee on approved short term disability (STD) who, as a result of health care providers having suspended performing non-emergency or elective services during the COVID-19 public health threat, is unable to receive those health care services which

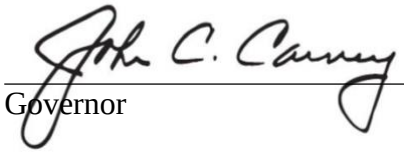
would enable the employee to return to work in compliance with that section. The State Employee Benefits Committee (SEBC) is hereby authorized to approve, subject to terms and conditions determined by the SEBC,(i) a supplemental disability wage equal to 15% of salary as of the employee's date of disability for an employee whose STD claim was approved or extended for the entire STD benefit period and who has been awarded long term disability (LTD) benefits because of the inability to obtain non-emergency health care services necessary to return to work; and (ii) other adjustments to the requirements of 29 Del. C. Chapter 52A deemed necessary by the SEBC to appropriately administer the disability insurance program during the COVID-19 public health threat. The terms of this paragraph shall expire on December 30, 2020.

3. The Eleventh Modification of the COVID-19 State of Emergency declaration, dated April 15, 2020, Paragraph A.5.b., is stricken and replaced with the following: "Designate a room, unit, or floor of the facility as a separate observation area where newly admitted and readmitted residents not known to be infected with COVID-19 are kept for 14 days on appropriate infection precautions per guidance from the Public Health Authority while being observed every shift for signs and symptoms of COVID-19."
4. Notwithstanding the public comment requirements in 29 Del. C. §10118, effective immediately, executive branch agency regulations proposed for promulgation and comment pursuant to 29 Del. C. §§10115 that were on file with the Registrar of Regulations and remained open for public comment when the State of Emergency in Delaware was declared, or were posted after the State of Emergency was declared and remain open for public comment may, at the discretion of the applicable agency, remain

open for public comment until 30 days from the date the State of Emergency is rescinded. Any stay by the state agency will also stay the effective date of promulgation of the proposed regulations. The extension for the public comment on proposed regulations does not apply to the following: 1) executive branch agency permit applications; and 2) emergency regulations pursuant to 29 Del. C. §10119.

5. **Enforcement**. 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 23rd day of April 2020 at 4:15 p.m.



Governor