



STATE OF WASHINGTON
— OFFICE OF GOVERNOR JAY INSLEE —

**PROCLAMATION BY THE GOVERNOR
AMENDING PROCLAMATION 20-05**

21-15

Transfer or Discharge of Nursing Home Residents - COVID-19 Delta Variant

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout Washington State 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 and our health care system, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations, including issuance of Proclamations 20-25, et seq., which limit Washingtonians' ability to participate in certain activities unless certain conditions are met; and

WHEREAS, during early stages of the COVID-19 pandemic, health professionals and epidemiological modeling experts indicated that the spread of COVID-19, if left unchecked, threatened to overwhelm portions of Washington's public and private health-care system; and

WHEREAS, to protect some of our most vulnerable populations – persons in health care facilities, long-term care facilities (which includes nursing homes), and similar congregate care facilities – and to protect our health and congregate care systems themselves, I issued several proclamations imposing heightened protections on workers, residents and visitors in those facilities; and

WHEREAS, on March 31, 2020, the U.S. Centers for Medicare and Medicaid Services issued a retroactive addition to waivers granted under Section 1135 of the Social Security Act, waiving specific federal regulations that will allow nursing homes to transfer or discharge residents to another long-term care facility for certain COVID-19 related cohorting purposes; and

WHEREAS, after months of improving COVID-19 epidemiological conditions in Washington State, the emergence of highly contagious COVID-19 variants, including the "Delta" variant that is at least twice as transmissible as the virus that emerged in late 2019, coupled with the continued significant numbers of unvaccinated people, have caused COVID-19 cases and hospitalizations to rise sharply among unvaccinated populations and have resulted in breakthrough infections in some fully vaccinated individuals, causing a fifth wave of infections that is as significant as the one in the 2020 fall and winter; and

WHEREAS, as of August 22, according to the Washington State Department of Health, 2021, COVID-19 related hospitalizations were the highest they have been since the beginning of the pandemic and are occurring across all age groups; and

WHEREAS, the Delta variant of COVID-19 is placing unprecedented demands on our health care system, requiring certain transfers or discharges of nursing home residents be expedited to allow grouping or cohorting residents in other long-term care facilities to reduce the spread of COVID-19, especially the new Delta variant, and relieve stress on the overburdened health care system; and

WHEREAS, to protect the life, health and safety of those members of our most vulnerable populations who are long term care residents, it is necessary to temporarily waive and suspend certain statutory and regulatory provisions limiting the ability to expedite their transfer or discharge to another long-term care facility; 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.

NOW THEREFORE, I, Jay R. 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 20-05 is hereby amended to waive and suspend certain statutory and regulatory provisions that prevent, hinder, or delay action that is necessary to cope with the COVID-19 pandemic by temporarily expediting the ability to transfer or discharge nursing home residents to other long-term care facilities for specific COVID-19 related cohorting purposes, as provided herein.

I continue to 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.

As a result of this event, 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.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(2)(g), I also find that strict compliance with the following statutory and regulatory obligations and limitations will prevent, hinder, or delay certain transfers or discharges of nursing home residents to other long-term care facilities that are necessary to expedite the grouping or cohorting of residents to reduce the spread of COVID-19, especially the Delta variant, among our most vulnerable populations and to relieve stress on our health care system to meet the increased demand of addressing COVID-19 related illnesses, and that each statutory and regulatory provision or portion thereof as specified below is hereby waived and suspended until 11:59 p.m. on October 2, 2021:

1. RCW 74.42.450(6) in its entirety.
2. WAC 388-97-0140(1)(c)(ii) in its entirety.
3. WAC 388-97-0140(2) in its entirety.

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

Signed and sealed with the official seal of the state of Washington on this 3rd day of September, A.D., Two Thousand and Twenty-One at Olympia, Washington.

By:

_____/s/
Jay Inslee, Governor

BY THE GOVERNOR:

_____/s/
Secretary of State