



AMENDED PUBLIC HEALTH ORDER 20-38
LIMITED COVID-19 RESTRICTIONS
May2, 2021

PURPOSE OF THE ORDER

I am issuing this Public Health Order (PHO or Order) in response to the existence of thousands of confirmed and presumptive cases of Coronavirus disease 2019 (COVID-19) and related deaths across the State of Colorado. This Order supersedes PHO 20-36 COVID-19 Dial and PHO 20-29 Voluntary and Elective Surgeries and Procedures, and implements reduced restrictions for individuals, businesses and activities, as well as reporting requirements for hospitals, to prevent the spread of COVID-19 further in Colorado.

FINDINGS

1. Governor Polis issued **Executive Order D 2020 003** on March 11, 2020, declaring a disaster emergency in Colorado due to the presence of COVID-19. Since that time, the Governor has taken numerous steps to implement measures to mitigate the spread of disease within Colorado, and has further required that several public health orders be issued to implement his orders.
2. I have issued public health orders pertaining to the limitation of visitors and nonessential individuals in skilled nursing facilities, intermediate care facilities, and assisted living residences; defining the terms of the Governor's **Stay at Home, Safer at Home, and Protect our Neighbors** requirements as well as **Critical Business** designations; requiring hospitals to report information relevant to the COVID-19 response; and requiring the wearing of face coverings in the workplace and urging their use in public. These measures all act in concert to reduce the exposure of individuals to disease, and are necessary steps to protect the health and welfare of the public. Additionally, in reducing the spread of disease, these requirements help to preserve the medical resources needed for those in our communities who fall ill and require medical treatment, thus protecting both the ill patients and the healthcare workers who courageously continue to treat patients.
3. As of May 1, 2021, there have been 512,804 known cases of COVID-19 in Colorado, 28,870 Coloradans have been hospitalized and 6,449 Coloradans have died from COVID-19. Multiple sources of data show that COVID-19 transmission and the use of the hospital system due to COVID-19 have leveled off in Colorado.

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4. With the rescission of PHO 20-36 COVID-19 Dial, but the pandemic ongoing, it remains critical for individuals, communities, businesses, and governments to remain vigilant regarding the spread of COVID-19. Individuals are encouraged to remain at least 6 feet away from non-household contacts, wash their hands, and wear a face covering to reduce the likelihood of disease transmission. As we continue to combat COVID-19 in our communities, continuing some limited requirements to mitigate disease spread remain appropriate.

5. The following additional public health orders remain in effect:

- a. PHO 20-20 Requirements For Colorado Skilled Nursing Facilities, Assisted Living Residences, Intermediate Care Facilities, And Group Homes For COVID-19 Prevention And Response;
- b. PHO 20-33 Laboratory Data Reporting for COVID-19; and
- c. PHO 20-37 Vaccine Access And Data Reporting For COVID-19.

INTENT

This Order includes limited requirements for individuals and businesses to mitigate the spread of COVID-19 in Colorado. The Order incorporates the requirements of **Executive Order D 2020 138**, as amended and extended by **Executive Order D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, and D 2021 079** concerning face coverings. Additionally, the Order maintains some restrictions on certain activities while we continue to take steps to limit the spread of COVID-19 in Colorado, and includes a provision that authorizes CDPHE to require a county to comply with additional restrictions should certain metrics be met. The Order also includes hospital reporting requirements regarding bed capacity to provide the State with critical information to assess the status of the COVID-19 pandemic relative to the statewide capacity to provide necessary medical care and services to Coloradans.

ORDER

This Order supersedes and replaces Public Health Orders 20-29 and 20-36, as amended, effective at 12:01 AM on Friday, April 16, 2021.

I. COVID-19 RESTRICTIONS

A. FACE COVERINGS

1. Face coverings are required pursuant to **Executive Order D 2020 138**, as amended and extended by **Executive Order D 2020 164, D 2020 190, D 2020**

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219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, D 2021 079, and D 2021 095 for all individuals in the following settings:

- a. Preschool through grade 12 schools (including extracurricular activities), child care centers and services, and indoor children's camps;
 - b. Public areas of state government facilities, and areas in state government facilities where members of the public come into contact with state government employees;
 - c. Congregate care facilities, including nursing facilities, assisted living residences, intermediate care facilities, and group homes;
 - d. Prisons;
 - e. Jails;
 - f. Emergency medical and other healthcare settings (including hospitals, ambulance service centers, urgent care centers, non-ambulatory surgical structures, clinics, doctors' offices, and non-urgent care medical structures);
 - g. **Personal services**; and
 - h. **Limited healthcare settings**.
2. For counties with a one week disease incidence rate in excess of 35 per 100,000, face coverings are also required pursuant to **Executive Order D 2020 138**, as amended and extended, in a **Public Indoor Space**, as defined in **Executive Order D 2020 138**, as amended and extended, where 10 or more unvaccinated individuals or individuals of unknown vaccination status are present.
 - a. Individuals are permitted to remove their medical or non-medical cloth face coverings in **Public Indoor Spaces** if 80% of the individuals in the **Public Indoor Space** have shown proof of vaccination.
 3. Exceptions to the face covering requirements include
 - a. individuals 10 years of age or younger,
 - b. individuals who cannot medically tolerate a face covering, and
 - c. individuals participating in one of the activities described in Section II.I of **Executive Order D 2020 138**, as amended and extended.
 4. Face coverings may be removed in a school classroom setting for the limited purpose of playing an instrument that cannot otherwise be played while wearing a face covering.
 5. Nothing in this Order changes or abrogates the Centers for Disease Control and Prevention's (CDC) Order on January 29, 2021, requiring the wearing of masks by travelers to prevent the spread of COVID-19. All Coloradans must abide by the CDC's Order, which can be found at <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.
 6. For **Restaurants**, once 85% of the **Restaurant** employees have been fully

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vaccinated, the **Restaurant** employees are no longer required to wear face coverings.

B. ALL BUSINESSES AND GOVERNMENT ENTITIES. All businesses and government entities shall comply with the requirements in this Section I.B.

1. Work Accommodations. Employers are strongly encouraged to provide reasonable work accommodations, including accommodations under the Americans with Disabilities Act (ADA) for individuals who cannot obtain access to COVID-19 vaccine or who for medical or other legal reasons cannot take a COVID-19 vaccine.
2. Face coverings. All employers must implement the face covering requirements in **Executive Order D 2020 138**, as amended and extended, as applicable.
3. Disease mitigation practices. Employers and sole proprietors are strongly encouraged to follow the best practices for disease mitigation found in [CDPHE Guidance](#).

C. MASS INDOOR GATHERINGS

1. In addition to the requirements in Section I.B of this Order, the requirements in this Section I.C apply to **Mass Indoor Gatherings**.
2. When more than 100 people are gathered in a room in a **Public Indoor Space**, the setting may operate at 100% capacity not to exceed 500 people, with 6 feet distancing required between parties of unvaccinated people or when vaccination status is unknown. Existing approved variances remain in effect, including 5 Star Program approvals granted by a county. Venues may apply to their local public health agency for a variance to exceed 500 people, to be finally approved by CDPHE. These requirements do not apply to the following sectors:
 - a. Places of worship and associated ceremonies,
 - b. Retail services,
 - c. Restaurants that have sit-down dining and do not have unseated areas where 100 or more people could gather (such as dance floors or common gathering areas), and
 - d. School proms and graduations that wish to exceed these thresholds shall be subject to review and approval by local public health agencies in accordance with CDPHE [prom](#) and [graduation](#) guidance.
3. Face coverings are required for all individuals in a **Mass Indoor Gathering**, except in the following circumstances:

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- a. individuals 10 years of age or younger,
- b. individuals who cannot medically tolerate a face covering, and
- c. individuals participating in one of the activities described in Section II.I of **Executive Order D 2020 138**, as amended and extended.

D. OUTDOOR EVENTS

1. Outdoor ticketed, seated event venues in excess of 30,000 square feet require CDPHE approval, in consultation with the local public health agency. Existing approved variances, including 5 Star Program approvals granted by a county, remain in effect.

E. SCHOOLS AND CHILD CARE

1. **Schools** and child care shall work with their local public health agencies as COVID-19 cases occur, and shall follow the CDPHE guidance for [Cases and Outbreaks in Schools and Child Care](#).
2. **Schools** that are entirely remote learning due to ongoing COVID-19 cases and outbreaks shall not have in-person extracurricular activities.

F. ADDITIONAL COUNTY RESTRICTIONS

1. CDPHE may require counties whose resident hospitalizations threaten to exceed 85% of hospital or hospital system capacity to implement additional restrictions to mitigate disease transmission.

G. NON-CONGREGATE SHELTERING

1. Governmental and other entities are strongly urged to make shelter available to people experiencing homelessness whenever possible and to the maximum extent practicable, and are authorized to take all reasonable steps necessary to provide non-congregate sheltering along with necessary support services to members of the public in their jurisdiction as necessary to protect all members of the community.

II. HOSPITAL FACILITY REPORTING

- A. COVID-19 Case Reporting. All Colorado hospitals shall report to CDPHE in a form and format determined by CDPHE, certain information for all suspected (pending laboratory test) and confirmed (positive laboratory test) cases of COVID-19, including but not limited to:

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1. race and ethnicity;
2. numbers of suspected and confirmed cases who are hospitalized, who are hospitalized and using a ventilator, or who are in the emergency department waiting for an inpatient bed;
3. numbers of suspected and confirmed cases who are discharged and in recovery;
4. deaths due to COVID-19; and
5. medical equipment and supply information, including but not limited to total bed and intensive care unit (ICU) bed capacity and occupancy, ventilator availability and utilization, and availability of N95 masks.

Reporting by hospitals shall be done in CDPHE's EMResource reporting system on a daily basis or as otherwise required by this Order.

- B. Hospital Bed Capacity Reporting. All Colorado hospitals shall report to CDPHE the following in EMResource daily at 10:00 a.m.:
1. The daily maximum number of beds that are currently or can be made available within 24 hours for patients in need of ICU level care; and
 2. The daily maximum number of all staffed acute care beds, including ICU beds, available for patients in need of non-ICU hospitalization.

III. DEFINITIONS

- A. **Limited Healthcare Settings** means those locations where certain healthcare services are provided, including acupuncture (not related to personal services), athletic training (not related to personal services), audiology services, services by hearing aid providers, chiropractic care, massage therapy (not related to personal services), naturopathic care, occupational therapy services, physical therapy, and speech language pathology services.
- B. **Mass Indoor Gathering** is any indoor space where more than 100 unvaccinated individuals or individuals with unknown vaccination status are gathered in a room.
- C. **Personal Services** means services and products that are not necessary to maintain an individual's health or safety, or the sanitation or essential operation of a business or residence. **Personal Services** include, but are not limited to, personal training, dog grooming, or body art and also applies to noncritical professionals regulated by the Division of Professions and Occupations, within the Department of Regulatory Agencies (DORA) including but not limited to services provided by personal beauty professionals such as hairstylists, barbers, cosmetologists, estheticians, nail technicians, as well as massage therapists, whose work requires these professionals to be less than six feet from the person for whom the services are being provided.

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- D. Public Indoor Space** means any enclosed indoor area that is publicly or privately owned, managed, or operated to which individuals have access by right or by invitation, expressed or implied, and that is accessible to the public, serves as a place of employment, or is an entity providing services. **Public Indoor Space** does not mean a person’s residence, including a room in a motel or hotel or a residential room for students at an educational facility.

- E. School** means pre-kindergarten through 12th grade. A school includes all grade levels contained in a building or multiple buildings on a campus.

IV. ENFORCEMENT

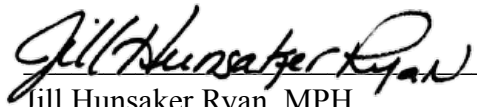
This Order will be enforced by all appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with this order could result in penalties, including jail time, and fines, and may also be subject to discipline on a professional license based upon the applicable practice act.

V. SEVERABILITY

If any provision of this Order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

VI. DURATION

This Order shall become effective on Sunday, May 2, 2021 and will expire on May 15, 2021 unless extended, rescinded, superseded, or amended in writing.



Jill Hunsaker Ryan, MPH
Executive Director

May 2, 2021

Date