



COLORADO

Department of Public
Health & Environment

SECOND AMENDED PUBLIC HEALTH ORDER 20-38 LIMITED COVID-19 RESTRICTIONS

May 14, 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 13, 2021, there have been 524,190 known cases of COVID-19 in Colorado, 29,062 Coloradans have been hospitalized and 6,556 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 Saturday, May 15, 2021.

I. COVID-19 RESTRICTIONS

A. FACE COVERINGS

- 1. Face coverings are required pursuant to **Executive Order D 2021 103** for certain individuals, age eleven (11) and older, in the following settings:
 - a. Preschool through grade 12 schools (including extracurricular activities)

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- and child care centers and services; *however*, fully vaccinated individuals, including vaccinated children ages 16-18, in a classroom, cohort, or other group of children may remove masks where the teacher(s), caregiver(s), or other staff whose primary responsibility is education or childcare have provided proof of fully completed vaccination to their employer;
- b. Unvaccinated or not fully vaccinated staff of Colorado Department of Motor Vehicle offices;
 - c. Unvaccinated or not fully vaccinated residents, staff, and visitors to congregate care facilities, including nursing facilities, assisted living residences, intermediate care facilities, and group homes, except in situations where removal is authorized by the Centers for Medicare and Medicaid Services;
 - d. Unvaccinated or not fully vaccinated residents, staff, and visitors to Prisons;
 - e. Unvaccinated or not fully vaccinated residents, staff, and visitors to Jails;
 - f. Unvaccinated or not fully vaccinated personnel in 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);
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.G of **Executive Order D 2021 103**.
4. Face coverings of unvaccinated or not fully vaccinated individuals 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>.

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.

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2. Face coverings. All employers must implement the face covering requirements in **Executive Order D 2021 103** 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. a. 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:
 - i. Places of worship and associated ceremonies,
 - ii. Retail services,
 - iii. 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
- iv. 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.

D. 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; except that outdoor graduations may be approved by the local public health agency.

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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:

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

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- A. **Fully Vaccinated** means two (2) weeks after a second dose in a two dose-series of the COVID-19 vaccine, such as the Pfizer or Moderna vaccine, or two (2) weeks after the single-dose vaccine, such as Johnson & Johnson's Janssen vaccine.
- 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. **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.
- D. **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

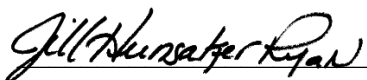
This Order will be enforced by all appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with this order could result in penalties, including jail time, and fines, and may also be subject to discipline on a 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 Saturday, May 15, 2021 and will expire on June 1, 2021 unless extended, rescinded, superseded, or amended in writing.


Jill Hunsaker Ryan, MPH
Executive Director

5/14/2021
Date