

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

**ADDENDUM NO. 1
COVID-19 PUBLIC HEALTH EMERGENCY ORDER
SEPTEMBER 21, 2021**

WHEREAS, since March of 2020, the State of Alaska has engaged in aggressive mitigation efforts to curb the spread of COVID-19 including, but not limited to, social mitigation strategies, widespread testing, vaccination and monoclonal antibody clinics, and interstate/intrastate travel protocols; and

WHEREAS, the State of Alaska has worked collaboratively with community and tribal healthcare partners to meet the challenges posed by COVID-19; and

WHEREAS, despite the efforts of many Alaskans, and the heroic efforts of our healthcare and public health providers, COVID-19 continues to be a public health risk to the citizens of Alaska; and

WHEREAS, despite Alaska's continued efforts to mitigate the impacts of COVID-19, the health risks to Alaskans persists and the coordinated efforts on the part of the Department of Health and Social Services and its partners (governmental, private, and tribal) must continue until excess pressure on our healthcare system caused by the pandemic is relieved, and to collectively work toward mitigating the impacts of COVID-19; and

WHEREAS, the best tool available to combat the virus is vaccination. Vaccination offers considerable protection against COVID-19 and lowers the chance of hospitalization should you contract it. In communities where COVID transmission is substantial or high, it is recommended that Alaskans continue to practice mitigating behaviors by wearing a surgical or cloth mask in public settings, engaging in social distancing when possible, washing hands regularly, and testing within 72-hours before, and immediately after, traveling between Alaskan communities via commercial or private air carrier or the Alaska Ferry System, and also testing before and immediately after traveling between Alaska and other U.S. states or foreign countries; and

WHEREAS, the objective for the Department of Health and Social Services (DHSS) is to support the State of Alaska to ensure COVID-19 and its variants do not overwhelm the Alaskan economy, healthcare system, and communities as demonstrated on the state dashboard found at <https://alaska-coronavirus-vaccine-outreach-alaska-dhss.hub.arcgis.com/>. The dashboard measures the following objectives:

- a. Statewide transmission;
- b. Statewide case rate;
- c. Testing positivity;
- d. Hospital capacity; and
- e. Vaccine availability.

WHEREAS, Alaska is currently experiencing the highest transmission levels of COVID-19 due to the highly contagious delta variant. The current measures show that as of September 16, 2021:

- a. Statewide transition rate: Average over the past 14 days reproductive number (Rt) is 1.069 and is at the highest alert level, RED.
- b. Statewide COVID-19 cases: 667 reported number of cases per 100,000 population over the past seven days is at the highest alert level, RED.
- c. Statewide testing: is 9.7 percent over the past seven days, which is the highest percentage since March 2020.
- d. Statewide hospitalizations: 20.2 percent of hospitalizations are COVID-19, which is the highest level since March 2020.
- e. Statewide hospital capacity has been limited and has moved into the high-alert level as one or more of the following metrics have been met:
 - a. Hospitals within Anchorage have been on EMS divert >90 percent of the time for the last seven days.
 - b. Hospitals within Anchorage have been near capacity or closed for ICU or inpatient for >90 percent of the time for the last seven days.
 - c. Multiple facilities in the state are transferring patients outside of their normal transfer patterns or retaining patients, including out of state, to a degree greater than standard operations.
 - d. Multiple facilities, in multiple regions of the state are experiencing prolonged emergency department boarding of inpatients (>24 hours).
 - e. Multiple surge treatment areas, alternative care sites, or large municipal care sites are being deployed in a single region or multiple regions of the state.
 - f. Crisis standards of care are occurring at any facility in the state.

These numbers are causing unprecedented stress on the entire healthcare infrastructure, specifically hospitals and nursing homes, to meet the needs of COVID-19 and non-COVID-19 patients.

WHEREAS, House Bill 76 provided, in Section 4, the authority for the DHSS Commissioner to issue a Public Health Emergency Order to “declare a public health emergency if the commissioner determines that the DHSS enforcing existing health laws, as part of the State's response to the ongoing pandemic related to the novel coronavirus disease (COVID-19)”. Additionally, in Section 13 of HB 76, the Legislature specifically provided for good faith immunity related to acts performed at the request of a government agency under the authority granted in the bill. However, this immunity does not apply to an act or omission that constitutes gross negligence, reckless misconduct, or intentional misconduct.

NOW, THEREFORE, I, Adam Crum, as the Commissioner of DHSS, based on the limited authorities provided in Chapter No. 2, SLA 2021, do hereby issue this **ADDENDUM No. 1 to the April 30 2021 PUBLIC HEALTH EMERGENCY ORDER** and direct the DHSS to continue all necessary actions to address the impacts and effects of the COVID-19 pandemic, as follows:

I. Scope Of Practice Guidelines For Hospitals, Psychiatric Hospitals, Critical Access Hospitals, Long-Term Care Hospitals, And Skilled Nursing Facilities.

1. Consistent with the Centers for Medicare and Medicaid Services' (CMS) 1135 Blanket Waivers, dated March 1, 2020, as amended on May 24, 2021, implement all flexibilities for hospitals, psychiatric hospitals, critical access hospitals, and long-term care hospitals and skilled nursing facilities, including but not limited to:
 - a. The use of alternate care sites to provide appropriate and safe patient care;
 - b. CMS is waiving the enforcement of section 1867 (a) of the Emergency Medical Treatment and Labor Act (EMTALA). This will allow hospitals, psychiatric hospitals, and critical access hospitals to screen patients at a location offsite from the hospital's campus; and
 - c. Evaluate options for early discharge of patients from hospitals to lower levels of care that may not meet best practices, or would normally not be considered ideal conditions for discharge, but are necessary to address capacity concerns within the hospitals.
2. In addition to the above flexibilities, evaluate and take necessary action as conditions warrant to:
 - a. Postpone or reschedule medical and surgical procedures at hospitals;
 - b. Address staffing limitations by increasing patient-to-staffing ratios, team nursing models, utilizing nurse extenders or increasing non-clinical staff, and reprioritizing duties so healthcare providers can work at their highest level of scope of practice and allow non-clinical providers to take care of the lower-priority duties to meet the needs of patients and providers;
 - c. Expand clinical care within the hospital campus to maximize the use of all available beds to meet the clinical needs of any admitted patient; and
 - d. Support sister hospitals and healthcare systems to meet the needs of behavioral health patients, including, but not limited to, amending inpatient treatment to change in ratios (such as 1:1 monitoring), early discharge, charge planning, use of local and family resources to meet safety and welfare, less than ideal holding, use of family, nonmedical personnel, etc., for monitoring.
3. Action taken under Section I is considered action taken at the request of the DHSS Commissioner, as set forth in HB 76.

II. Crisis Care

1. Appoint a Crisis Care Committee to advise the DHSS Commissioner on acute care issues impacting region(s) or the state, as a whole, in order to reduce hospital and healthcare system impacts and promote the health and wellbeing of all Alaskans in a time of limited resources.
2. DHSS adopts the following documents to guide the Crisis Care Committee:
 - a. Notification Protocol for the *Patient Care Strategies for Scarce Resource Situations* (Attachment 1); and
 - b. *Patient Care Strategies for Scarce Resource Situations* document (Attachment 2).
3. Crisis Standards of Care for hospitals, healthcare systems, and providers:
 - a. May activate their own Crisis Standards of Care process independently or in conjunction with the state under (b) of this Order;
 - b. The above, and or regions, may request DHSS to implement and invoke the State *Patient Care Strategies for Scarce Resource Situations* (August 2021) to address allocation of limited resources if no alternatives are available.
 - c. Action taken under section II.3.b is considered action taken at the request of the DHSS Commissioner as set forth in HB 76.
4. DHSS shall facilitate a statewide daily hospital and healthcare system huddle meeting to identify and prioritize transfers to available beds, treatments, and identify and mitigate gaps in the healthcare system

This **Addendum No. 1 To The April 30, 2021 Public Health Emergency Order**, shall remain in effect until rescinded by me or until the public health emergency issued under Section 319 of the Public Health Service Act expires, whichever is sooner.

DATED: September 21, 2021



Adam Crum, Commissioner
Alaska Department of Health and Social Services