



**NINTH AMENDED PUBLIC HEALTH ORDER 20-38**  
**LIMITED COVID-19 RESTRICTIONS**  
**November 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 implement measures to protect individuals, businesses and activities, as well as reporting requirements for hospitals, to prevent the spread of COVID-19 further in Colorado.

**FINDINGS**

1. On March 10, 2020, Governor Jared Polis verbally declared a disaster emergency regarding COVID-19 in Colorado, and on March 11, 2020 Governor Polis issued **Executive Order D 2020 003**, memorializing the disaster declaration. The Governor's verbal declaration of a disaster emergency is now memorialized in **Executive Order D 2021 122**, as amended and extended by **D 2021 124**, **D 2021 125**, **D 2021 129**, **D 2021 132**, and **D 2021 136**. 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. As of November 12, 2021, there have been 781,960 Coloradans diagnosed with COVID-19, 44,542 have been hospitalized and 8,886 Coloradans have died from COVID-19. There are 1,476 individuals currently hospitalized due to COVID-19, and only 810 hospital beds remain unoccupied across the state. At this time, 88% of Colorado's intensive care beds are occupied and 94% of medical/surgical beds are occupied.
3. 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 get vaccinated, receive a booster after six months, and remain at least 6 feet away from non-household contacts whenever possible, 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.

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4. On November 10, 2021, Governor Polis issued **Executive Order D 2021 137**, declaring that the entire state of Colorado is high risk for exposure or transmission of COVID-19 for the purpose of COVID-19 booster shot eligibility. It is currently estimated that one in sixty-seven Coloradans is infectious with COVID-19. With this high risk of transmission, large indoor gatherings which often include people gathering from all parts of the state and beyond pose a significant concern for continuing the spread of COVID-19. In collaboration with elected leadership in these cities and counties, the State is taking additional action in large indoor event venues to protect against further disease spread.

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;
- c. PHO 21-01 Vaccine Access And Data Reporting For COVID-19; and
- D. PHO 21-02 Concerning Hospital Capacity and Access to Care.

**INTENT**

This Order includes measures for individuals and businesses to mitigate the spread of COVID-19 in Colorado. The Order continues to require face coverings in some settings. Additionally, the Order maintains some additional protections for certain activities while we continue to take steps to limit the spread of COVID-19 in Colorado, 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 superseded and replaced Public Health Orders 20-29 and 20-36, as amended, on April 16, 2021.

**I. COVID-19 RESTRICTIONS**

**A. FACE COVERINGS AND COVID-19 TESTING**

- 1. Face coverings continue to be required for unvaccinated or not fully vaccinated patients, residents, and visitors, and medical grade face masks are required for unvaccinated or not fully vaccinated staff in the following settings that serve vulnerable or at-risk populations:

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- a. Homeless shelters;
  - b. Prisons;
  - c. Jails;
  - d. Community corrections programs and facilities;
  - e. Emergency medical and other healthcare settings (including hospitals, ambulatory surgical centers, urgent care centers, clinics, doctors' offices, and non-urgent care medical structures) and
  - f. Public transit services, as described in Section I.A.3 of this Order.
2. Exceptions to the face covering requirements include
- a. individuals 11 years of age or younger,
  - b. individuals who cannot medically tolerate a face covering, and
  - c. individuals participating in one of the following activities:
    - i. individuals who are hearing impaired or otherwise disabled or who are communicating with someone who is hearing impaired or otherwise disabled and where the ability to see the mouth is essential to communication;
    - ii. individuals who enter a business or receive services and are asked to temporarily remove a face covering for identification purposes;
    - iii. individuals who are actively engaged in a public safety role, such as law enforcement officers, firefighters, or emergency medical personnel; or
    - iv. individuals who are officiating or participating in a life rite or religious service where the temporary removal of a face covering is necessary to complete or participate in the life rite or religious service.
3. 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>.
4. All of the settings and facilities identified in paragraph 1 of this subsection A are strongly encouraged to require all of their unvaccinated and not fully vaccinated staff to participate in COVID-19 testing as follows:
- a. Daily rapid testing every day that they work in the facility or setting, and/or
  - b. Once weekly polymerase chain reaction (PCR) testing.

**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

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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 Section I.A of this Order, 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. SCHOOLS**

1. In accordance with existing law, **Schools** shall report all COVID-19 cases and outbreaks to public health, and work with their local public health agencies and CDPHE, as applicable, regarding COVID-19 case investigations, which includes following all quarantine, isolation, investigation, and any other disease mitigation strategies deemed necessary by the public health agency.

**D. Repealed.**

**E. ADDITIONAL COUNTY RESTRICTIONS**

1. CDPHE may require counties whose resident hospitalizations threaten to exceed 85% of hospital or hospital system capacity to report additional data and consult with CDPHE regarding implementation of additional measures to mitigate disease transmission.
2. Effective November 19, 2021 through December 31, 2021, the following **Indoor Event** requirements shall take effect:
  - a. All unseated, open to the public **Indoor Events** of 500 or more individuals in the counties of Adams, Arapahoe, Boulder, Jefferson, and the city and county of Denver and the city and county of Broomfield shall require all individuals 12 years of age or older to be **Fully Vaccinated** to be admitted into the **Indoor Event**. This requirement is not applicable to houses of worship. **Indoor Event** venues with vaccine requirements or testing programs in place may continue to have a verified **Negative COVID-19 Test** as an option until December 1, 2021. No later than December 1, 2021 all public **Indoor Events** of 500 more individuals in the counties of Adams, Arapahoe, Boulder, Jefferson, and the city and county of Denver and the city and county of Broomfield shall require proof of being **Fully Vaccinated** to be admitted into the **Indoor Event**.

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- i. Proof of vaccination shall be provided in accordance with Section III.A.2 of this Order.
  - b. **Indoor Event** venues may submit a variance request to CDPHE if they have disease mitigation measures that will similarly protect individuals from further disease spread. Such requests must be submitted in the form and format as determined by CDPHE.
3. All unseated, private **Indoor Events** of greater than 500 individuals in all county and municipal government jurisdictions are strongly encouraged to implement a mandatory vaccination policy for all individuals, or at a minimum require the individual to produce a **Negative COVID-19 Test** to be admitted into the **Indoor Event**.
4. All county and municipal governments and venues are strongly encouraged to implement a **vaccine** requirement for indoor public events.
5. All county and municipal governments and venues are strongly encouraged to mandate the **vaccine** for staff in residential and congregate facilities, such as jails, homeless shelters, and other congregate living settings. For all other workers, county and municipal governments are strongly encouraged to require disclosure of vaccine status and serial testing for unvaccinated employees.

**F. 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;

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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; and
6. COVID-19 vaccination status, including primary, additional and booster doses, and age.

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

**B. Hospital Bed Capacity Reporting.** All Colorado hospitals shall report to CDPHE the following in EMResource daily, Monday through Friday each week, at 10:00 a.m.:

1. The daily maximum number of adult and pediatric 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. VACCINATION REQUIREMENTS**

**A. State Contractor Workers.** All **State Contractors and State Contractor Workers** who physically enter a **State Facility** shall comply with the requirements of this section III.A.

1. All **State Contractors and State Contractor Workers**, including individuals who have been infected with and recovered from COVID-19, shall have received their first dose in a two dose COVID-19 series no later than September 30, 2021 and shall have received their second dose in a two dose COVID-19 series by October 31, 2021, unless they meet the testing requirements set forth in Section III.A.3 of this Order. **State Contractors** shall identify by name all **State Contractor Workers** who will require access to **State Facilities** in connection with the performance of the **State Contractor's** obligations under the **Contract** or as a goods or service provider to an individual residing in a **State Facility**. **State Contractors** shall certify, in a form acceptable to the State as determined by the Department of Personnel and Administration or its delegate, that each of the identified **State Contractor Workers** is **Fully Vaccinated**.
2. Proof of Vaccination. Any of the following may be used as proof of vaccination:
  - a. COVID-19 Vaccination Record Card (issued by the U.S. Department of Health and Human Services Centers for Disease Control & Prevention or World Health Organization Yellow Card) which includes name of person vaccinated, type of vaccine provided and dates of last doses administered);
  - b. a photo of a COVID-19 Vaccination Record Card or immunization record obtained from the Colorado Immunization Information System (CIIS) as a separate document;

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- c. a photo of a COVID-19 Vaccination Record Card or immunization record obtained from CIIS, either directly or through the MyColorado application or another verified health application, stored on a phone or electronic device; or
- d. documentation of COVID-19 vaccination from a health care provider.

The Federal Bureau of Investigation issued a [public service announcement](#) confirming that fraudulent vaccination cards are illegal and punishable by law, including fines, imprisonment, or both.

- 3. **State Contractors and State Contractor Workers** who are not **Fully Vaccinated**, or for whom **Vaccine** status is unknown or documentation is not provided, shall be considered unvaccinated.
  - a. **State Contractors and State Contractor Workers** who enter a **State Facility** to provide services to a client, resident, patient or youth residing in a **State Facility** who do not have proof of vaccination and also do not have a medical or religious exemption from vaccination approved by their employer shall not be allowed to physically enter a **State Facility** but may provide services remotely.
  - b. **State Contractors and State Contractor Workers** who enter a **State Facility** to provide services to a client, resident, patient or youth residing in a **State Facility** who have a medical or religious exemption from vaccination approved by their employer, and all other **State Contractors** and **State Contractor Workers** not covered in Section III.A.3.a of this Order without proof of vaccination including those who have a medical or religious exemption from vaccination approved by their employer who enter a **State Facility**, must participate in twice weekly COVID-19 testing and, if they test positive, shall not enter a **State Facility** and shall comply with [isolation guidance](#). **State Contractors** shall certify, in a form acceptable to the State as determined by the Department of Personnel and Administration or its delegate, that each of the identified **State Contractor Workers** who are not **Fully Vaccinated** are participating in twice weekly COVID-19 testing. **State Contractor Workers** shall provide documentation of testing if requested while in a **State Facility**.
- 4. **State Contractors and State Contractor Workers** shall comply with any face covering requirements in place at the **State Facilities** they enter.

**IV. DEFINITIONS**

- A. **Contract** means a State contract, grant agreement, purchase order or other encumbrance document.

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- B. Fully Vaccinated** means two (2) weeks after receipt of a second dose in a two dose-series of a COVID-19 vaccine, such as the Pfizer-BioNTech/Comirnaty or Moderna vaccine, or two (2) weeks after receipt of a single-dose COVID-19 vaccine, such as Johnson & Johnson's Janssen vaccine.
- C. Indoor Events** means controlled access unseated indoor venues and activities where gatherings of individuals are likely to occur of 500 or more individuals in one area or room, such as concerts, receptions, bars, dance halls, and auctions. If no single area or room exceeds 500 people, these requirements do not apply. Houses of worship are excluded from the definition of **Indoor Events**. To be considered a seated event, 100% of the participants at the event must be seated.
- D. Negative COVID-19 Test** means a printed document, email, or text message displayed on a phone, from a test provider or laboratory that shows results of a polymerase chain reaction (PCR) or antigen COVID-19 test that either has Emergency Use Authorization (EUA) by the U.S. Food and Drug Administration or is operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services, that was conducted within 48 hours before entry into an **Indoor Event**. The printed document, email, or text message must include the person's name, type of test performed, date of the test, and negative test result.
- E. School** means a public, private, or parochial nursery school, day care center, child care facility or child care center as defined in section 26-6-102 (5), C.R.S., family child care home, foster care home, head start program, kindergarten, elementary or secondary school through grade twelve. A school includes all grade levels contained in a building or multiple buildings on a campus.
- F. State Contractor** means all entities or persons that have entered into or accepted a **State Contract** to transact business with the State, as well as all entities or persons that have one or more employees, agents or subcontractors who provide services in or deliver goods to a **State Facility** or to a client, resident, patient or youth residing in a **State Facility**.
- G. State Contractor Worker** means all of a **State Contractor's** employees, agents and subcontractors and all employees of a **State Contractor's** agents and subcontractors who will perform work under a **State Contract**.



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- H. State Facility** means a building, utility, **School**, or any other property owned, leased or used by the State for State services, excluding highways or publicly assisted housing projects.
- I. Vaccine** means any COVID-19 vaccine that is currently or in the future may be authorized for emergency use or fully approved for permanent use by the U.S. Food and Drug Administration (FDA) and recommended by the CDC, including as many primary, additional and booster doses as the authorizations or approvals allow.

**V. ENFORCEMENT**

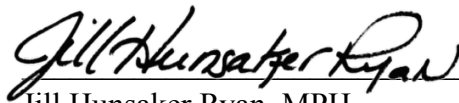
This Order will be enforced by all appropriate legal means. Local authorities are encouraged to determine the best course of action to encourage maximum compliance. Failure to comply with this order could result in penalties, including jail time, and fines, and may also be subject to discipline on a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

**VI. 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.

**VIII. DURATION**

This Order shall become effective on Sunday, November 14, 2021 and will expire at 12:01 AM on December 1, 2021 unless extended, rescinded, superseded, or amended in writing.

  
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Jill Hunsaker Ryan, MPH  
Executive Director

November 14, 2021  
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Date