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Gallatin City-County Health Department

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EXTENSION OF EMERGENCY LOCAL HEALTH RULE RELATING TO COVID-19 EHR-2020-004-B PHASED REOPENING: PHASE TWO

WHEREAS, a state of emergency exists in Montana due to the global outbreak of the COVID19 Novel Coronavirus;

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and can easily spread from person-to-person;

WHEREAS, the Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high" and has advised that person-to-person spread of the COVID-19 will continue to occur globally, including within the United States, Montana, and Gallatin County, Montana;

WHEREAS, the circumstances of this outbreak may exceed the capacity of the services, personnel, equipment, supplies and facilities of Gallatin County if proactive measures are not continued to mitigate and limit the spread of COVID-19 infections in the community;

WHEREAS, during the course of the pandemic, Montana Governor Steve Bullock has issued directives requiring the closure of non-essential businesses, providing social distancing requirements, and limiting non-essential travel;

WHEREAS, the Gallatin City-County Board of Health (Board) adopted emergency health rules similarly restricting the operation of certain businesses in Gallatin County due to the COVID-19 pandemic;

WHEREAS, on April 22, 2020, Governor Bullock issued a directive providing guidance and conditions for the phased reopening of businesses in Montana, beginning with Phase One;

WHEREAS, the April 22nd Directive recognizes the importance of individual responsibility, through good hygiene and strict adherence to social distancing, to fight against new infections, and it emphasizes the continued need to protect those most vulnerable to complications from COVID-19;

WHEREAS, the April 22nd Directive allows for implementation of the phased reopening on a county-by county basis and directs local officials to "coordinate on a regional basis and continue to assess the conditions in their jurisdictions." Further, the Directive allows local public health authorities to adopt "more restrictive approaches based on local need";

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Page: 1 of 5
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WHEREAS, the duration of each phase of reopening must be regularly evaluated by public health and emergency management professionals using the best available epidemiological data for the community. As explained in the Directive, factors that must be considered in moving from one phase to the next include the ability to: monitor new cases adequately and conduct appropriate contact tracing to prevent further spread; treat all patients safely, both COVID-19 patients and those with other health conditions; screen and test all people with COVID-19 symptoms; and maintain sufficient levels of personal protective equipment;

WHEREAS, the April 22nd Directive appropriately recognizes that negative indicators in the factors listed above “may result in the need to re-implement certain restrictions or take other protective measures;”

WHEREAS, on May 1, 2020, the Board approved Emergency Health Rule (EHR) 2020-003, which adopted the guidance and conditions provided for the first phase of the phased reopening of businesses in the Governor’s April 22nd Directive and applied them to the reopening of businesses in Gallatin County;

WHEREAS, EHR 2020-003 also allowed for the imposition of the criminal penalties provided at § 50-2-124, MCA, in addition to the civil remedies available under § 50-2-123, MCA;

WHEREAS, Governor Bullock issued a directive on May 8, 2020, that allowed for the expansion of openings for certain businesses and facilities under Phase One, including pools at licensed public accommodations, gyms, gym pools, fitness studios, theaters, and museums, as long as they adhere to strict guidelines limiting capacity, requiring social distancing, and imposing thorough sanitation requirements;

WHEREAS, on May 13, 2020, the Board adopted EHR 2020-003-A to similarly allow for the reopening of certain pools, gyms, fitness studios, theaters, and museums in Gallatin County consistent with Governor Bullock’s May 8th Directive;

WHEREAS, on May 19, 2020, Governor Bullock issued a directive establishing conditions for the second phase of the phased reopening of Montana;

WHEREAS, similar to the April 22nd Directive for Phase One, the May 19th Directive for Phase Two encourages local officials to “coordinate on a regional basis and continue to assess the conditions in their jurisdictions” and recognizes that local public health authorities may adopt “more restrictive approaches based on local need”;

WHEREAS, on May 28, 2020, the Board adopted EHR 2020-004, which adopted the guidelines and conditions provided for the second phase of the phased reopening of businesses in the Governor’s May 19th Directive and applied them to the reopening of businesses in Gallatin County;

WHEREAS, EHR 2020-004 also allowed for the imposition of the criminal penalties provided at § 50-2-124, MCA, in addition to the civil remedies available under § 50-2-123, MCA;

WHEREAS, the Montana Department of Public Health and Human Services issued guidance titled “Bar Seating During Phase 2,” effective June 5, 2020, which extends the hours of operation for restaurants, breweries, distilleries, bars, and casinos until 12:30 a.m. and allows for open seating at bars and counters at these establishments in compliance with social distancing and sanitation protocols;

WHEREAS, on June 09, 2020, the Board amended EHR 2020-004 consistent with the June 5th guidance to extend the hours of operation for restaurants, breweries, distilleries, bars, and casinos until 12:30 a.m. and to allow open seating at bars and counters in these establishments if strict compliance with social distancing and social protocols is maintained;

WHEREAS, pursuant to § 50-2-116(1)(f), MCA, the Gallatin City-County Board of Health (Board) has the duty to “identify, assess, prevent, and ameliorate conditions of public health . . .”;

WHEREAS, § 50-1-101(2), MCA, defines a “condition of public health importance” as “a disease, injury, or other condition that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community;”

WHEREAS, the Board also has the duty pursuant to § 50-2-116(1)(g), MCA, to “protect the public from the introduction and spread of communicable disease or other conditions of public health importance, through: (i) epidemiological tracking and investigation; (ii) screening and testing; (iii) isolation and quarantine measures; (iv) diagnosis, treatment, and case management; (v) abatement of public health nuisances; (vi) inspections; (vii) collecting and maintaining health information; (viii) education and training of health professionals; or (ix) other public health measures as allowed by law”;

WHEREAS, pursuant to § 50-2-118, MCA, a local health officer in carrying “out the purpose of the public health system . . . shall . . . (2) take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and cancelling events,” and “(5) pursue action with the appropriate court if this chapter or rules adopted by the local board or department under this chapter are violated”;

WHEREAS, per Chapter 1, Section 5 of the Gallatin City-County Health Code, the Board may adopt an Emergency Local Health Rule when it finds the rule: (1) “must be adopted to deal with an emergency situation affecting the public, health, safety, or welfare;” (2) “the emergency cannot be averted or remedied by any other administrative act;” and (3) at least two-thirds of the Board votes to approve the rule;

WHEREAS, per Section 50-2-116, MCA, COVID-19 is a condition of public health importance that must be prevented and ameliorated through the guidance and conditions established herein for phased reopening, and to protect the public from the further introduction and spread of COVID-19 in the community;

WHEREAS, pursuant to its terms and to Section 5.2 of Chapter 1, Gallatin City-County Health Code, EHR-2020-004 expired ninety days after its adoption on May 28, 2020;

WHEREAS, Gallatin County continues to experience ongoing increases in the number of laboratory-confirmed cases of COVID-19 and is expected to continue identifying cases for months to come;

WHEREAS, the Board therefore desires to readopt and extend EHR-2020-004-A for an additional ninety-day period, ending on November 25, 2020;

WHEREAS, the requirements of this Amended Emergency Health Rule are reasonable and necessary to address public health needs, specifically to maintain health and to control and prevent the spread of a contagious and infectious disease throughout Gallatin County due to COVID-19; and

WHEREAS, pursuant to § 50-2-116(1)(f), MCA, the Gallatin City-County Board of Health (Board) has the duty to “identify, assess, prevent, and ameliorate conditions of public health importance through: (i) epidemiological tracking and investigation; (ii) screening and testing; (iii) isolation and quarantine measures; (iv) diagnosis, treatment, and case management; (v) abatement of public health nuisances; (vi) inspections; (vii) collecting and maintaining health information; (viii) education and training of health professionals; or (ix) other public health measures as allowed by law”;

WHEREAS, pursuant to Section 50-2-116(1)(g), MCA, the Gallatin City-County Board of Health has the duty to “protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health”;

WHEREAS, Section 50-1-101(2), MCA, defines a “condition of public health importance” as “a disease, injury, or other condition that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community;”

WHEREAS, pursuant to § 50-2-118, MCA, a local health officer in carrying “out the purpose of the public health system . . . shall . . . (2) take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and cancelling events”, and “(5) pursue action with the appropriate court if this chapter or rules adopted by the local board or department under this chapter are violated”;

WHEREAS, per Chapter 1, Section 5 of the Gallatin City-County Health Code, the Board may adopt an Emergency Local Health Rule when it finds the rule: (1) “must be adopted to deal with an emergency situation affecting the public, health, safety, or welfare;” (2) “the emergency cannot be averted or remedied by any other administrative act;” and (3) at least two-thirds of the Board votes to approve the rule;

WHEREAS, per Section 50-2-116, MCA, COVID-19 is a condition of public health importance that must be prevented and ameliorated through isolation and quarantine measures, and the public must be protected from the introduction and spread of the communicable disease;

WHEREAS, extending EHR-2020-004-A will help preserve critical and limited healthcare capacity in Gallatin County by reducing the spread of COVID-19;

WHEREAS, proactively adopting isolation and quarantine measures to slow the spread of the virus is in the best interests of Gallatin County and its citizens;

WHEREAS, the spread of COVID-19 constitutes a public health emergency and poses an imminent threat to the public health and, consequently, actions must be taken to avert and minimize the outbreak of this communicable disease;

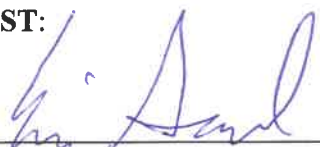
WHEREAS, the requirements of EHR-2020-004-A are reasonable and necessary to address public health needs, specifically to maintain health and to control and prevent the spread of a contagious and infectious disease throughout Gallatin County due to COVID-19; and

WHEREAS, for the foregoing reasons, the Board finds, pursuant to Chapter 1, Section 5 of the Gallatin City-County Health Code, that Emergency Local Health Rule 2020-004-A must be readopted and extended to deal with an emergency situation affecting the public health, safety, or welfare, and this emergency cannot be averted or remedied by any other administrative act.

NOW, THEREFORE, EFFECTIVE IMMEDIATELY, Emergency Local Health 2020-004-A and all of its terms with the exception of Paragraph 10 under “Phase Two: Individuals and Employers” are readopted and extended for an additional ninety (90) days, ending on November 25, 2020:

DATED this 27th day of August, 2020.


Becky Franks, Chair
Gallatin City-County Board of Health

ATTEST:

Eric Semerad, Clerk & Recorder