



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR

June 9, 2020

Dear Members of the House of Representatives:

Since the beginning of the COVID-19 pandemic, my Administration has worked tirelessly to protect the health and welfare of all Pennsylvanians. Most actions taken by my executive agencies in the COVID-19 response have come directly from authorities granted solely through the execution of the Proclamation of Disaster Emergency (COVID-19 Proclamation), which I signed on March 6, 2020, and recently renewed on June 3, 2020. House Resolution 836 (HR 836) would terminate the COVID-19 Proclamation and end the disaster emergency prematurely, therefore stripping away the ability of the Commonwealth of Pennsylvania (Commonwealth) to continue providing services to citizens and communities where COVID-19 has spread, and continues to spread, throughout Pennsylvania. Further, HR 836 threatens to close the door on federal funding needed to provide Pennsylvania businesses and families with resources to restart their lives once the pandemic has ended.

Pennsylvania's Proclamation of Disaster Emergency

Currently all 50 states and the District of Columbia are under a state disaster emergency. If HR 836 were to become law and terminate the COVID-19 Proclamation, Pennsylvania will be the first and only state in the United States without an active disaster emergency related to the COVID-19 pandemic. *See <https://www.nga.org/coronavirus-state-actions-all/>*. Currently, Pennsylvania has the sixth most cases of COVID-19 in the country. We have succeeded thus far in flattening the curve, but a decline in the number of new cases does not mean that COVID-19 is eliminated. Pandemics tend to come in waves, new cases are still occurring, and the total number of cases are still rising. More Pennsylvanians are unfortunately dying every day.

The COVID-19 Proclamation activates the Commonwealth's Emergency Operations Plan. Activation of the emergency plan in accordance with a proclamation of disaster emergency authorizes the Commonwealth to utilize all disaster response and recovery aspects of the Commonwealth and local disaster emergency plans applicable to the political subdivision or geographic area declared a disaster area. The COVID-19 Proclamation also serves as the authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged to be made available to respond to the disaster emergency.

In addition, a proclamation allows for the transfer of unused appropriated funds to the Pennsylvania Emergency Management Agency (PEMA) for expenses authorized and incurred related to the Commonwealth COVID-19 response. Further, the COVID-19 Proclamation allows for the quick procurement of systems and supplies, as it suspends the Procurement Code for disaster related services and items. If HR 836 ends the COVID-19 Proclamation, it would cripple the Commonwealth's ability to procure resources quickly and decisively to respond to the evolving pandemic, which has consistently made supplies difficult to obtain, particularly for testing and critical containment needs such as personal protective equipment. As we begin to reopen Pennsylvania, many of the necessary containment strategies to safely reopen depend on enhanced contact tracing and testing efforts; the funding to continue those efforts may be jeopardized if HR 836 succeeds.

If HR 836 terminates the COVID-19 Proclamation, all Pennsylvania specific statutory and regulatory suspensions and waivers outlined above will cease. Housing protections for the most vulnerable individuals will end. Immunity protections will no longer be in effect. Licensure portability for medical professionals from other states and disciplines will no longer be able to practice under the emergency. HR 836 eliminates the ability for long-term care or other facilities to use military or Department of Defense personnel to supplement staff. Practitioners with overdue license renewals will be forced to cease practicing in medical facilities with COVID-19 patients. Recently retired medical professionals currently assisting in COVID-19 medical response will no longer be able to help citizens afflicted with the virus. The removal of the COVID-19 Proclamation re-establishes practitioner and facility licensure requirements, including those related to scope of practice. This will create a professional drought of health care professionals available to fight COVID-19 and protect our citizens, including those in long-term care facilities, where both residents and staff have been affected by COVID-19.

Federal Disaster Declarations (FEMA)

The Commonwealth was awarded two types of federal disaster declarations. On March 13, 2020, an Emergency Declaration was awarded to the entirety of the country pursuant to the President's national emergency declaration. On March 30, 2020, a major disaster declaration was awarded to Pennsylvania.

Under the Emergency Declaration, FEMA may provide assistance for emergency protective measures including, but not limited to, the following, to the extent the emergency protective measures are not otherwise covered by HHS/CDC or other federal agency funding:

- Management, control and reduction of immediate threats to public health and safety.
- Emergency medical care.
- Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)

In addition to the Emergency Declaration, the Commonwealth applied for a major disaster declaration for Public Assistance. The Commonwealth was awarded a major disaster declaration to reimburse eligible costs associated with COVID-19 emergency protective measures. This assistance is provided at a 75 percent federal cost share and required execution of a FEMA-State Agreement and execution of the Commonwealth's emergency plan.

As a general matter, to receive a federal disaster declaration (emergency or major) a state must certify that the disaster is "of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments and that supplementary federal assistance is needed." *See generally* OMB Form Control Number 1660-0009/FEMA Form 010-0-13.

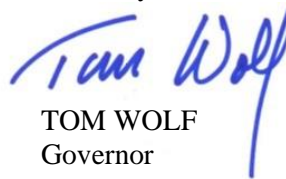
If awarded, reimbursement of eligible costs associated with disasters by the federal government correspond with a disaster incident period. Pennsylvania's incident period began for both declarations on January 20, 2020. It is true that the Commonwealth will be eligible to receive reimbursement for eligible costs associated with the COVID-19 response *to date*. What is unclear however, is if the Commonwealth acts to terminate Pennsylvania's COVID-19 Proclamation, then the federal government may act to close the incident period associated with Pennsylvania's disaster declarations.

Termination of a disaster emergency in Pennsylvania signals to the federal government that COVID-19 is no longer “of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments.” More importantly, if the Commonwealth acts to end its disaster emergency, it signals to the federal government that supplementary federal assistance is no longer needed. If the federal government acts to close the Commonwealth’s disaster incident period, any COVID-19 costs incurred after the end of the incident period are not eligible for reimbursement by the federal government. This include reimbursement to state agencies, county and local governments, school districts, authorities, and certain private-non-profits, such as volunteer fire companies, hospitals, and nursing homes. Finally, the Commonwealth risks losing additional federal funding for hazard mitigation. Hazard mitigation is funding dedicated solely to projects that will reduce or alleviate future disaster related risks based on the Commonwealth’s all hazards plans which includes pandemic related planning efforts to mitigate effects of a pandemic outbreak.

Passage of House Resolution 836, and the resulting premature termination of the Proclamation of Disaster Emergency for the COVID-19 pandemic, will be disastrous for the Commonwealth. It will potentially undo all the progress made to combat the spread of COVID-19 and to save the lives of Pennsylvanians. For the safety and welfare of all Pennsylvanians, I urge you to vote against the passage of House Resolution 836.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Tom Wolf". The signature is stylized and cursive, with a long vertical stroke extending downwards from the end of the name.

TOM WOLF
Governor