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May15, 2020

Anna Destree, Brown County Local Health Officer
Via email attachment

RE: RESCINDING THE MAY 13, 2020 BROWN COUNTY HEALTH OFFICER ORDER

Anna:

I write today to inform you that, after now having had the chance to perform in-depth legal research regarding the validity of your May 13, 2020 Order which was issued hours after the Statewide Orders were struck down, and after considering the opinion of the Wisconsin Counties Association (WCA) and consulting with outside counsel, I am of the opinion that your Order needs to be rescinded. While the WCA and outside legal counsel did not opine that counties were outright prohibited from taking such actions, they did indicate that overall, the legal basis to do so is likely weak.

Wis. Stat. 252.03 allows you to take *reasonable and necessary* measures to prevent, suppress and control COVID-19 in Brown County. Ordering what is effectively a soft-quarantine for **all** Brown County residents (ordering them to shelter at home while allowing them to leave for various purposes such as shopping), while residents in other Counties are free to come and go in Brown County due to the lack of a Statewide prohibition, would be of questionable effectiveness, and would likely be found to be an unreasonable restriction.

Nothing in this opinion prevents you from performing more traditional Local Health Officer functions. For example, exercising your quarantine and isolation authority on a **case-by-case** basis per Wis. Stat. Sec. 252.06 would continue, as would other activities necessary to prevent, suppress and control communicable diseases.

I am hopeful that businesses in the community have used the additional time your Order has provided to review and implement the WEDC and CDC guidelines for safely opening their businesses, and trust that you will continue your efforts to educate the community on best practices to safely confront this Pandemic.

Very Truly Yours,



David P. Hemery, Brown County Corporation Counsel
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