

EXECUTIVE ORDER NO. 292

WHEREAS, on March 9, 2020, I issued Executive Order No. 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act ("EHPA"), N.J.S.A. 26:13-1 et seq., and a State of Emergency, pursuant to the New Jersey Civilian Defense and Disaster Control Act ("Disaster Control Act"), N.J.S.A. App A:9-33 et seq., in the State of New Jersey for Coronavirus disease 2019 ("COVID-19"), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 222, 231, 235, and 240, which were issued each month between April 7, 2020 and May 14, 2021, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency in effect at the time continued to exist; and

WHEREAS, Executive Order No. 111, issued March 28, 2020, requires that health care facilities report their capacity and supplies, including bed capacity, ventilators, and Personal Protective Equipment ("PPE") on a daily basis; and

WHEREAS, Executive Order No. 112, issued April 1, 2020, granted the Department of Law and Public Safety, Division of Consumer Affairs, the authority to temporarily reactivate certain inactive health care licenses and allow the licensure of physicians licensed, and in good standing, in another country; suspended and waived certain licensure requirements for advanced practice nurses and physician assistants; relaxed registration requirements for the Prescription Monitoring Program; waived signature requirements for funeral agreements and authorizations; and provided certain healthcare professionals with civil or criminal immunity; and

WHEREAS, Executive Order No. 207, issued December 4, 2020, requires all individuals, regardless of age, to be automatically enrolled in the New Jersey Immunization Information System ("NJIIS"), the statewide electronic immunization registry, upon receipt of a COVID-19 vaccination; and

WHEREAS, New Jersey made significant progress in responding to COVID-19 and mitigating its devastating effects, in particular in light of the advent of three effective vaccines that, among other things, had significantly reduced the likelihood of both contracting and transmitting the variants of COVID-19 that were present in the United States at the time; and

WHEREAS, on June 4, 2021, in light of these developments, I signed Assembly Bill No. 5820 into law as P.L.2021, c.103, and issued Executive Order No. 244, which terminated the Public Health Emergency declared in Executive Order No. 103 (2020); and

WHEREAS, P.L.2021, c.103 sought to enable the State to bring an end to its prior Public Health Emergency while still allowing for an orderly continuation of the Administration's ability to order certain public health measures relating to COVID-19, including but not limited to vaccine distribution, administration, and management, COVID-19 testing, health resource and personnel allocation, data collection, and implementation of recommendations of the Centers for Disease Control and Prevention ("CDC") to prevent or limit the transmission of COVID-19, including in specific settings; and

WHEREAS, P.L.2021, c.103 explicitly maintained the State of Emergency declared in Executive Order No. 103 (2020), and stated it would in no way diminish, limit, or impair the powers of the Governor to respond to any of the threats presented by COVID-19 pursuant to the Disaster Control Act; and

WHEREAS, in addition to leaving the prior State of Emergency in effect, nothing in P.L.2021, c.103 prevented the Governor from declaring any new public health emergency under the EHPA, N.J.S.A. 26:13-1 et seq., should the evolving circumstances on the ground require such a declaration; and

WHEREAS, Executive Order No. 251, issued August 6, 2021, requires all public, private, and parochial preschool programs and elementary and secondary schools, including charter and renaissance schools (collectively "school districts"), to maintain a policy regarding mandatory use of face masks by staff, students, and visitors in the indoor portion of the school district premises, except in certain specified circumstances; and

WHEREAS, Executive Order No. 252, issued August 6, 2021, required all covered health care and high-risk congregate settings ("covered settings") to maintain a policy that required all covered workers to either provide adequate proof to the covered settings that they have been fully vaccinated or submit to COVID-19 testing at minimum one to two times weekly beginning September 7, 2021; and

WHEREAS, Executive Order No. 253, issued August 23, 2021, requires school districts to maintain a policy that requires all covered workers to either provide adequate proof to the school district that they have been fully vaccinated or submit to COVID-19 testing at minimum one to two times weekly beginning October 18, 2021; and

WHEREAS, Executive Order No. 264, issued September 20, 2021, requires all child care centers and other child care facilities (collectively "child care settings") to maintain a policy regarding mandatory use of face masks by staff, child enrollees, and visitors in the indoor portion of the child care setting premises, except in certain specified circumstances; and

WHEREAS, Executive Order No. 264 (2021) further requires all child care settings to maintain a policy that requires all covered workers to either provide adequate proof to the child care settings that they have been fully vaccinated or submit to COVID-19 testing at minimum one to two times weekly beginning November 1, 2021; and

WHEREAS, Executive Order No. 271, issued October 20, 2021, requires that each executive department and agency, including an independent authority, ensure that certain new contracts, new solicitation for a contract, extension or renewal of existing contracts, and exercise of an option on existing contracts, include a clause that the contractor or any subcontractors, at any tier, that is party to the contract, must maintain a policy that requires all covered workers to either provide adequate proof to the covered contractor that they have been fully vaccinated or submit to COVID-19 testing at minimum one to two times weekly; and

WHEREAS, as the CDC has recognized, viruses can change through mutation and mutations can result in a new variant of the virus, and these variants can have meaningfully distinct impacts from the original virus; and

WHEREAS, as the CDC has recognized, some variants spread more easily and quickly than other variants of the same virus, which may lead to more cases of COVID-19, increased strain on healthcare resources, more hospitalizations, and more deaths; and

WHEREAS, new variants are classified based on how easily the variant spreads, how severe its symptoms are, how it responds to treatments, and how well vaccines protect against the variant; and

WHEREAS, since Executive Order No. 244 (2021) took effect, the CDC has reported that new variants of concern of COVID-19 have been identified in the United States, particularly the B.1.617.2 (Delta) variant and most recently the B1.1.529 ("Omicron") variant; and

WHEREAS, although New Jersey was able to end the prior Public Health Emergency on account of the effectiveness of vaccines in reducing transmissibility of COVID-19, the Omicron variant spread more easily than other variants and required additional action to protect the public; and

WHEREAS, on January 11, 2022, I issued Executive Order No. 280, declaring the existence of a new Public Health Emergency, pursuant to the EHPA, N.J.S.A. 26:13-1 et seq., and continuing the State of Emergency declared in Executive Order No. 103 (2020) pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., in the State of New Jersey due to the surge of cases and hospitalizations tied to the new variants of COVID-19; and

WHEREAS, on January 11, 2022, I issued Executive Order No. 281, extending various orders to ensure the State continues to have the necessary resources in place to respond to the new variants of COVID-19; and

WHEREAS, on January 19, 2022, I issued Executive Order No. 283, requiring all covered settings to maintain a policy that requires all covered workers to provide adequate proof to the covered settings that they have are up to date with their COVID-19 vaccinations, including any booster shots for which they are eligible; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on February 10, 2022, I issued Executive Order No. 288, which declared that the Public Health Emergency declared in Executive Order No. 280 (2022) continues to exist; and

WHEREAS, through Executive Order No. 288 (2022), I declared all Executive Orders issued, as well as actions taken by any Executive Branch department and agency, in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, on March 2, 2022, I issued Executive Order No. 290, clarifying and extending the timeframes within which covered settings must require their covered workers to comply with the vaccination and booster requirements set forth in Executive Order No. 283 (2020); and

WHEREAS, as the State has taken significant emergency measures in the last two months in response to the Omicron variant, there has been a substantial decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of transmission for COVID-19 infections in New Jersey; and

WHEREAS, the fact that the spread of COVID-19 has slowed over the last two months does not by itself suggest that the Public Health Emergency had dissipated, because absent certain mitigation measures, particularly increased rates of vaccinations and COVID-19 testing, public health experts anticipated that the spread of COVID-19 would continue to significantly increase; and

WHEREAS, over the last two months, the number of hospitalized patients has gone from over 6,075 to under 730, the number of patients in intensive care has gone from over 900 to under 140, and the number of ventilators in use has gone from over 500 to under 85; and

WHEREAS, over the last two months, the number of individuals testing positive for COVID-19 has gone from approximately 33,400 per day to 887 per day, and the weekday spot positivity of COVID-19 tests has gone from over 39 percent to under 2 percent; and

WHEREAS, the rate of transmission in the State has moved significantly below 1; and

WHEREAS, the COVID-19 Activity Level Report ("CALI Report") issued by the New Jersey Department of Health ("DOH"), Communicable Disease Service calculates COVID-19 activity levels throughout the State using the case rate, percent of COVID-like illness, and percent positivity; and

WHEREAS, for the first time since April 2020, the CALI Report reached the "Very High" score throughout the entire State the week of January 10, 2022; and

WHEREAS, the CALI Report for the week ending March 4, 2022, presented activity levels of "Moderate" and "Low" throughout the State; and

WHEREAS, because vaccines are effective at preventing severe illness, hospitalizations, and death, including from the Omicron variant, the CDC has noted that the recent emergence of this variant emphasizes the importance of vaccination and boosters, particularly as we move toward the next phase of the State's COVID-19 response; and

WHEREAS, according to the CDC, studies show after getting the primary series of a COVID-19 vaccine, protection against the virus and the ability to prevent infection may decrease over time, in particular due to changes in variants; and

WHEREAS, although the COVID-19 vaccines remain effective in preventing severe disease, recent data suggests their effectiveness at preventing infection or severe illness wanes over time; and

WHEREAS, the CDC has reported that vaccinated people who receive a COVID-19 booster are likely to have a stronger protection against contracting and transmitting COVID-19, particularly the

Omicron variant, and stronger protection against serious illness, including hospitalizations and death; and

WHEREAS, New Jersey has administered over 13.7 million doses of the COVID-19 vaccine in the State to date, with over 6.8 million New Jerseyans having received the primary series of a vaccine; and

WHEREAS, as of March 3, 2022, only 54 percent of eligible individuals statewide have received their booster shot; and

WHEREAS, in addition to vaccination, testing for COVID-19 remains one of the strongest tools to prevent the further spread of COVID-19 and ensure the State can move into the next phase of its COVID-19 response; and

WHEREAS, because the number of hospitalized patients, patients in intensive care, and ventilators in use, and the spot positivity of COVID-19 tests have decreased considerably over the past two months, the State can begin to responsibly lift certain mitigation protocols in place, including requiring that face masks be worn in schools and child care settings, as the State moves into the next phase of the COVID-19 response; and

WHEREAS, given the progress the State has made and the decisive decrease in key statistics, such as the number of hospitalized patients in the State, the number of daily positive COVID-19 cases, spot positivity, and the rate of transmission, and in consultation with the Commissioner of DOH, I find that the Public Health Emergency declared in Executive Order No. 280 (2022) can be safely and responsibly lifted; and

WHEREAS, despite the extensive progress made in combatting COVID-19, and the ability to lift the Public Health Emergency and certain mitigation protocols, there remains an ongoing threat necessitating that certain actions taken by the State in response to COVID-19 and the Omicron variant, including to ensure COVID-19

testing and vaccine management, administration, and tracking, can all remain in place as the State moves toward the next phase of our COVID-19 response; and

WHEREAS, due to the ongoing threat, health care workers must continue to have the staffing and resources that are essential to maintaining the operations of the State's essential health care services to protect public health, which include but are not limited to critical and emergency health care, vaccine administration, COVID-19 testing, contact tracing, acquiring and maintaining stockpiles of PPE, ventilators, and other critical supplies to remain prepared for the ongoing threat; and

WHEREAS, it remains crucial that the State understand the health care system's existing capacity and its gaps through continued reporting, which will allow additional resources to be deployed where they are most needed; and

WHEREAS, continued automatic enrollment in the NJIIS for individuals receiving a COVID-19 vaccine will facilitate and track progress relative to New Jersey's vaccination targets; and

WHEREAS, ongoing oversight of the State's vaccination program is particularly important as the rollout continues during the next phase of the State's COVID-19 response, especially in ensuring that all residents in New Jersey have access to the booster doses, and as the State prepares for additional groups of New Jerseyans to become eligible for vaccination; and

WHEREAS, on July 6, 2021, the U.S. Department of Justice's Office of Legal Counsel issued an opinion concluding that Section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3 does not prohibit public or private entities from imposing vaccination requirements while vaccinations are only available pursuant to Emergency Use Authorization (EUA); and

WHEREAS, the American Academy of Pediatrics (AAP) continues to emphasize that in-person learning is critical for educational and social development of children, as evidence demonstrates that remote learning has been detrimental to the educational attainment of students of all ages and has exacerbated the mental health crisis among children and adolescents; and

WHEREAS, the CDC has also cited evidence that suggests virtual learning can lead to learning loss for children and worsening mental health problems for the younger population; and

WHEREAS, child care centers provide critical support to tens of thousands of families across the State who rely on safe, in-person environments for their children during the work day; and

WHEREAS, continuing to require workers in schools and child care settings to receive a COVID-19 vaccine or undergo regular testing can help prevent outbreaks and reduce transmission to children, including those who have not received or are not yet eligible to receive a vaccination; and

WHEREAS, preventing transmission of COVID-19 is critical to ensuring that we can safely lift the mask requirements and to keeping schools and child care settings open for in-person instruction; and

WHEREAS, school districts have access to multiple sources of funding to address costs associated with worker vaccination efforts and testing, including three rounds of federal Elementary and Secondary School Emergency Relief funds and Emergency Assistance for Nonpublic Schools within the Governor's Emergency Education Relief funds; and

WHEREAS, the CDC has repeatedly emphasized the importance of heightened mitigation protocols in certain covered settings because of the significant risk of spread and vulnerability of the populations served; and

WHEREAS, continuing to require workers in those covered settings to receive a COVID-19 vaccine, including a booster shot when eligible, can help prevent outbreaks and reduce transmission to vulnerable individuals who may be at higher risk of severe disease; and

WHEREAS, parties that contract with the State government provide essential services to the public and interact with the public on a regular basis, and because of the nature of their work, a significant portion of their workers are not able to work remotely; and

WHEREAS, continuing to require contractors to maintain a policy that requires its covered workers to either provide proof of vaccination status or submit to regular testing continues to be essential for continued operation and service to the public; and

WHEREAS, this continues to ensure that contractors are held to the same requirements as the State workforce, which the Executive Branch in its capacity as an employer has required to receive a COVID-19 vaccine or undergo regular testing; and

WHEREAS, while the State has significantly curtailed the immediate public health threat of the virus, the economic and social impacts of the virus, as part of the next phase of the State's COVID-19 response, will also require ongoing management and oversight; and

WHEREAS, as we evaluate the appropriate response and resources needed to continue to manage and oversee the next phase of the COVID-19 response, I have consulted with the Executive Branch departments and agencies as to what administrative orders, directives, and waivers are necessary to continue; and

WHEREAS, it is critical that the Executive Orders and Administrative Orders, Directives, and Waivers continue at this time to ensure that an orderly transition to the next phase of the

State's COVID-19 recovery is done in a measured and thoughtful manner; and

WHEREAS, the State of Emergency declared in Executive Order No. 103 (2020) and continued in Executive Order No. 280 (2022) pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., must remain in effect to allow for the continued management of New Jersey's recovery from and response to the COVID-19 pandemic; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:24 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM and ORDER and DIRECT:

1. The Public Health Emergency declared in Executive Order No. 280 (2022) pursuant to the EHPA, N.J.S.A. 26:13-1 et seq., is hereby terminated.

2. The State of Emergency declared in Executive Order No. 103 (2020) and continued in Executive Order No. 280 (2022) pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., continues to exist in the State of New Jersey.

3. Executive Order Nos. 111, 112, and 207 (2020), Nos. 252, 253, and 271 (2021), and Nos. 283 and 290 (2022) remain in full force and effect pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., except that any civil or criminal immunity related to the COVID-19 response bestowed by Executive Order No. 112 shall not be in effect.

4. Executive Order No. 251 (2021) is hereby rescinded.

5. Executive Order No. 264 (2021) remains in full force and effect pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., except that paragraphs 11 and 13 are hereby rescinded.

6. All actions taken by any Executive Branch departments and agencies in whole or in part to respond to the Public Health Emergency presented by the COVID-19 outbreak, and extended pursuant to Executive Order No. 281 (2022) and attached in the Appendix thereto, including but not limited to any Administrative Orders, Directives, and Waivers, remain in full force and effect pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq, until revoked or modified by the department or agency head, or until the State of Emergency is no longer in effect, whichever is sooner, except that any Administrative Order, Directive, or Waiver extended pursuant to Executive Order No. 281 (2022) that was revoked after the effective date of Executive Order No. 281 shall not remain in full force and effect.

7. Notwithstanding paragraph 6 of this Order, Executive Directive 21-003, Youth Camp Requirements, issued April 28, 2021, provided in the Appendix to Executive Order No. 281 (2022) shall no longer be in full force and effect.

8. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with any Administrative Orders issued pursuant to this Order.

10. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

11. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

12. This Order shall take effect at 12:01 a.m. on March 7, 2022, and shall remain in effect until revoked or modified by the Governor.

GIVEN, under my hand and seal this
4th day of March,
Two Thousand and Twenty-two,
and of the Independence of
the United States, the Two
Hundred and Forty-Sixth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor