

EXECUTIVE ORDER NO. 242

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 222, 231, 235, and 240, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, December 21, 2020, January 19, 2021, February 17, 2021, March 17, 2021, April 15, 2021, and May 14, 2021, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey, I have issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020) and Nos. 214-216, Nos. 219-220, Nos. 222-223,

No. 225, Nos. 228-235, and Nos. 237-241 (2021), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed certain businesses, including recreational and entertainment businesses, and limited certain activities, including gatherings; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, because of the progress we had made in our fight against the COVID-19 pandemic in New Jersey, I was able to announce a series of reopening steps over the course of several months, including increasing the indoor and outdoor gathering limit; and

WHEREAS, Executive Order No. 157 (2020) first outlined requirements for indoor and outdoor food and beverage establishments, including the requirement that groups be spaced six feet apart; and

WHEREAS, Executive Order No. 192 (2020) required workers and visitors on worksites to wear masks with limited exceptions and to practice social distancing, subject to certain conditions; and

WHEREAS, in connection with these Orders, agency orders, directives, and guidance have imposed additional masking and social distancing requirements in indoor settings; and

WHEREAS, all subsequent Executive Orders regarding restrictions on businesses and other facilities and on gatherings required individuals or groups of individuals to remain six feet apart in indoor and outdoor settings, with limited exceptions; and

WHEREAS, in the past year, we have gained critical knowledge regarding COVID-19, including a better understanding of the risks associated with certain activities, the activities that are most conducive to spread of the virus, and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, as well as the ongoing COVID-19 Vaccination Plan ("Plan") discussed below, allows for certain activities to continue subject to more limited restrictions; and

WHEREAS, over the last six weeks, the number of hospitalized patients has gone from over 2,300 to under 700, the number of patients in intensive care has gone from over 450 to under 150, and the number of ventilators in use has gone from over 230 to under 110; and

WHEREAS, over the last six weeks, the number of individuals testing positive for COVID-19 has gone from approximately 3,000 per day to approximately 600-700 per day, and the weekday spot positivity of COVID-19 tests has gone from 7-8 percent to under or slightly above 2 percent for the last four recorded days; and

WHEREAS, the rate of transmission in the State has remained below 1 for the past two weeks, has consistently trended downward over the past two months, and has recently dipped below 0.5; and

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

WHEREAS, the CALI Report for the week ending May 15, 2021, presented an activity level of moderate throughout most of the State, with the southeast region showing low activity level, down from high as recently as mid-April; and

WHEREAS, the State has not experienced a low activity level in any region since September of 2020; and

WHEREAS, given the decisive decreases 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 the continuation of the State's Plan, described more fully below, the State can take more significant steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") recently stated that fully vaccinated individuals may be able to safely forgo masking and social distancing in certain indoor and outdoor environments; and

WHEREAS, as part of the State's response to COVID-19, DOH has created a comprehensive Plan to manage the receipt, administration, and tracking of the vaccines developed to inoculate the State's residents and workforce against COVID-19; and

WHEREAS, as part of that Plan, New Jersey set an initial goal of fully vaccinating 70 percent of the eligible adult population in New Jersey by June 30, equating to approximately 4.7 million individuals; and

WHEREAS, the State has thus far administered approximately 8.7 million doses of COVID-19 vaccines, with over 4.7 million New Jerseyans having received at least one dose of a vaccine and over 4 million having been fully vaccinated; and

WHEREAS, vaccine supply was previously constrained, but is now sufficient to permit every eligible individual within the State reasonable access, and every individual age 16 and over has been eligible for five full weeks, meaning they have had time to get both doses of a two-shot vaccine; and

WHEREAS, since the issuance of Executive Order No. 241 (2021), which lifted the mask mandate in outdoor public spaces but retained masking requirements in indoor spaces, we have made and are projected to continue to make sufficient progress in reducing transmission in the State and in increasing our vaccination numbers to be able to safely lift the indoor mask mandate in most settings; and

WHEREAS, the State can also lift social distancing requirements in indoor and outdoor settings in light of new CDC guidance and our progress on both COVID-19 metrics and vaccine administration; and

WHEREAS, though unvaccinated individuals, in accordance with CDC recommendations, should continue wearing masks and social distancing, without knowing an individual's vaccination status it is not practicable to continue mandating such practices for a portion of the population; and

WHEREAS, though New Jersey continues to vaccinate large numbers of individuals each day, it is still appropriate to maintain mitigation protocols in certain settings to ensure spread is limited while dissemination of the vaccine continues; and

WHEREAS, infants and children up to age 11 are not currently eligible for vaccination, and are not anticipated to become eligible until at least the fall, so that it is appropriate to exercise additional caution in settings that involve that population; and

WHEREAS, the CDC's guidance for K-12 operations notes that schools should continue to follow current mitigation protocols through the remainder of the 2020-2021 school year; and

WHEREAS, the CDC's new guidance on masking maintains that all individuals should continue to wear masks and social distance in certain high-traffic settings, such as transportation hubs, in congregate settings such as homeless shelters and correctional facilities, and in health care settings; and

WHEREAS, with the relaxation of social distancing requirements, it is reasonable to permit dance floors to reopen at food and beverage establishments; and

WHEREAS, similarly, we can now lift the restriction on valet parking and communal spaces in indoor malls; and

WHEREAS, the Director of the CDC has noted that decisions about indoor mask mandates should be made at the local level; and

WHEREAS, while New Jersey's statewide COVID-19 numbers have progressed far enough in the right direction so that we can safely relax the statewide indoor mask mandate, we know that there is considerable variation in vaccination rates among different localities, and for that reason it is appropriate to allow counties and municipalities to retain an indoor mask mandate if they so choose; and

WHEREAS, we expect that our vaccination progress and the steady decline in COVID-19 case numbers, hospitalizations, and other relevant metrics will continue over the next two weeks, so that we can reasonably lift the numerical limitations on indoor gatherings and the limitation on large venue indoor capacity at that time; 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:2-4 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 ORDER and DIRECT:

1. Effective Friday, May 28, 2021, individuals in indoor public spaces are not required to wear masks, regardless of their ability to maintain six feet of distance from other individuals or groups. In accordance with CDC recommendations, individuals who are not fully vaccinated should continue to wear masks in indoor public spaces. Paragraph 4 of Executive Order No. 155 (2020), Paragraph 1 of Executive Order No. 192 (2020), Paragraph 11 of Executive Order No. 239 (2021), and Paragraph 5 of Executive Order No. 241 (2021) are hereby superseded to the extent that they conflict with the provisions of this Order. Employers and entities overseeing public spaces in settings where masking is no longer required pursuant to the provisions of the Paragraph are permitted to impose stricter requirements regarding mask-wearing in indoor settings for employees, customers, guests, and other individuals, where otherwise consistent with federal and State law. Employers and entities overseeing public spaces shall not restrict individuals from wearing masks in those settings and shall not in any way penalize or retaliate against individuals who elect to wear a mask.

2. In addition, for purposes of Paragraph 1 of this Order, "indoor public spaces" do not include child care centers, other child care facilities, youth summer camps, and public, private, and parochial preschool program premises and elementary and secondary schools, including charter and renaissance schools,

which continue to be governed by Executive Orders No. 149 (2020), No. 175 (2020), and No. 237 (2021), and any applicable standards issued by the Commissioner of the DOH. Further, "indoor public spaces" do not include indoor worksites of employers, as defined in Executive Order No. 192 (2020), that do not open their indoor spaces to the public for purposes of sale of goods, attendance at an event or activity, or provision of services.

3. As provided for in Executive Order No. 192 (2020), all individuals shall continue to wear face coverings in indoor workplaces that are not "indoor public spaces," subject only to exceptions that have previously existed, such as when employees are at distanced workstations or in their own offices, and shall continue to maintain six feet of distance from others to the maximum extent possible, except in the circumstances described therein.

4. Effective Friday, May 28, 2021, the requirement in Paragraph 1 of Executive Order No. 239 (2021) and Paragraph 4 of Executive Order No. 157 (2020) that food or beverage establishments providing in-person service in indoor and/or outdoor areas limit capacity to a number that ensures all patrons can remain six feet apart is hereby rescinded. Food and beverage establishments are not required to seat individuals or groups of individuals six feet apart at tables or at indoor bar areas. Establishments with table service are permitted to allow patrons to place orders when not seated and to serve patrons who are not seated, and patrons may consume food or beverages while standing. Paragraphs 4 and 5 of Executive Order No. 157 (2020) and Paragraph 1 of Executive Order No. 183 (2020) are hereby superseded to the extent that they conflict with the provisions of this Order, except that establishments must continue to ensure all areas designated for food and/or beverage consumption are in conformance with

applicable local, State, and Federal regulations, and must continue to abide by all other current health and safety standards issued by the Commissioner of the Department of Health on indoor and outdoor dining, as may be updated in accordance with this Order and consistent with her authority under the EHPA.

5. Effective Friday, May 28, 2021, the following businesses that have opened their indoor and/or outdoor premises to the public are permitted to operate at full capacity without limiting occupancy to a number that ensures that all patrons or groups of patrons entering the facility together can remain six feet apart:

- a. Retail establishments;
- b. Personal care services authorized to reopen their indoor facilities to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020);
- c. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as amusement and water parks, authorized to reopen their indoor facilities to the public pursuant to Paragraph 1 of Executive Order No. 181 (2020);
- d. Recreational and entertainment businesses that were permitted to reopen their indoor facilities to the public pursuant to Paragraph 7 of Executive Order No. 157 (2020), including pools, amusement parks, and water parks;
- e. Casinos, including casino gaming floors and retail sports wagering lounges; and
- f. Racetracks.

The aforementioned businesses remain subject to any applicable directive, order, and/or guidance document issued by the Commissioner of the DOH or any other State agency, as may be updated in accordance with this Order. Paragraph 2 of Executive

Order No. 239 (2021) and Administrative Order No. 2020-14 are hereby rescinded.

6. Effective Friday, May 28, 2021, the requirement in Paragraph 9 of Executive Order No. 239 (2021) that all attendees at indoor gatherings, including but not limited to gatherings that are religious services, political activities, memorial services, commercial gatherings, gatherings at private residences, performances at entertainment centers where performances are viewed or given, catered events, and sports practices and competitions, are required to be six feet apart from other attendees, with certain exceptions, is hereby rescinded. Where an indoor gathering occurs in a workplace that is not a public space, as defined in Paragraph 2 of this Order, the facility must continue to follow the requirements of Executive Order No. 192 (2020) regarding social distancing. In accordance with CDC recommendations, individuals who are not fully vaccinated should continue to practice social distancing.

7. Effective Friday, May 28, 2021, sports and entertainment venues, including concert venues and stadiums, with fixed seating capacity of 1,000 or greater, that have opened their indoor spaces to the public may continue to permit a number of patrons and/or members of the public totaling up to 30 percent of the stated maximum capacity of any room without limiting occupancy to a number that ensures that all patrons or groups of patrons entering the facility together can remain six feet apart. Paragraph 11 of Executive Order No. 239 (2021) is hereby superseded to the extent that it conflicts with the provisions of this Order.

8. Degree-granting public and private institutions of higher education are not required to implement policies to provide for social distancing in classrooms, residence halls, restrooms, and other areas across campus. Executive Order No. 155 (2020) is

hereby superseded to the extent it conflicts with the provisions of this Order.

9. This Order shall not supersede any social distancing requirements for child care centers, other child care facilities, youth summer camps, and public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, which continue to be governed by Executive Orders No. 149 (2020), No. 175 (2020), and No. 237 (2021), and any applicable standards issued by the Commissioner of the DOH.

10. Effective Friday, May 28, 2021, the requirement in Paragraph 12 of Executive Order No. 239 (2021), as restated in Paragraph 1 of Executive Order No. 241 (2021), that all attendees at outdoor gatherings, including but not limited to religious services or celebrations, political activities, weddings, funerals, memorial services, commercial gatherings, gatherings in private residences, performances at outdoor entertainment centers, catered events, and athletic practices and competitions remain six feet apart from other attendees, with certain exceptions, is hereby rescinded.

11. Effective Friday, May 28, 2021, sports and entertainment venues, including concert venues and stadiums, with fixed seating capacity of 1,000 or greater, that have opened their outdoor spaces to the public are permitted to operate at full capacity without limiting occupancy to a number that ensures that all patrons or groups of patrons entering the facility together can remain six feet apart. Such venues shall continue to follow all applicable requirements in any other Executive Order, Administrative Order, and/or Executive Directive, including, but not limited to, the requirements for outdoor dining, as applicable. Paragraph 16 of

Executive Order No. 239 (2021) is superseded to the extent that it conflicts with the provisions of this Order.

12. Paragraph 3 of Executive Order No. 143 (2020) outlining restrictions for public and private beaches, boardwalks, lakes, and lakeshores is hereby rescinded.

13. This Order shall not supersede any masking or social distancing requirements currently in place in indoor or outdoor spaces in health care settings, including but not limited to long-term care facilities, home health care settings, and office-based health care settings, correctional facilities, homeless shelters, and on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in transportation hubs such as airports and stations.

14. Effective Friday, May 28, 2021, all establishments open to the public, including a food or beverage establishment, shall be permitted to open indoor and outdoor dance floors. Paragraph 9 of Executive Order No. 157 (2020) is hereby rescinded. The restrictions on dance floors at catered events outlined in Paragraph 9 of Executive Order No. 238 (2021) are hereby rescinded.

15. Effective Friday, May 28, 2021, valet parking and communal play areas are permitted to open at indoor malls. Administrative Order 2020-22 is hereby superseded to the extent that it conflicts with the provisions of this Order.

16. Effective Friday, June 4, 2021, paragraphs 3-5 and 7-8 of Executive Order No. 239 (2021) regarding the numerical limit on indoor gatherings, including but not limited to political activities, weddings, funerals, memorial services, commercial gatherings, gatherings in private residences, performances at indoor entertainment centers, catered events, and athletic practices and competitions, are hereby rescinded. As a result, there will be no limits applying to indoor gatherings.

17. Effective Friday, June 4, 2021, sports and entertainment venues, including concert venues and stadiums, with a fixed seating capacity of 1,000 or greater, that have opened their indoor spaces to the public are not subject to any percentage-based capacity restriction, and are permitted to operate at full capacity without limiting occupancy to a number that ensures that all patrons or groups of patrons entering the facility together can remain six feet apart. Such venues shall continue to follow all applicable requirements in any other Executive Order, Administrative Order, and/or Executive Directive, including, but not limited to, the requirements for indoor dining, as applicable. Paragraph 11 of Executive Order No. 239 (2021) is superseded to the extent that it conflicts with the provisions of this Order.

18. 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, except that municipalities and counties are permitted under this Order to impose additional restrictions, in response to COVID-19, regarding mask requirements for individuals in indoor public spaces. This Order shall not supersede the provisions of Executive Order No. 108 (2020) that currently remain in effect, which includes the ability of municipalities and counties to impose additional restrictions on online marketplaces for arranging or offering lodging and on municipal parks, or the provisions of any Administrative Order that permits municipalities and counties to impose additional restrictions. Paragraph 3 of Executive Order No. 195 (2020) is hereby rescinded.

19. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

20. 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.

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

22. Paragraphs 1 - 15, and 18 of this Order shall take effect at 6:00 a.m. on Friday, May 28, 2021, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

23. Paragraphs 16-17 of this Order shall take effect at 6:00 a.m. on Friday, June 4, 2021, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this
24th day of May,
Two Thousand and Twenty-one,
and of the Independence of
the United States, the Two
Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor