

EXECUTIVE ORDER NO. 288

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, and 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, 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, 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 appears to spread more easily than other variants, including Delta; early evidence suggests people who have received a primary series of a

COVID-19 vaccine but have not yet received the recommended booster shot are more likely to become infected with this variant than prior variants and to be able to spread the virus to others; and some monoclonal antibody treatments may not be as effective against infection with the Omicron variant; 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., 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, including Executive Order No. 252 (2021), 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 health care and high-risk congregate settings to maintain a policy that requires all covered workers to provide adequate proof to the health care and high-risk congregate 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, after the first confirmed case of the Omicron variant was identified in New Jersey on December 3, 2021, COVID-19 cases started to significantly and rapidly increase again; and

WHEREAS, for the first time since April 2020, the COVID-19 Activity Level reached the "Very High" score throughout the entire State the week of January 1, 2022; and

WHEREAS, as of January 10, 2022, due to the increased prevalence of the Omicron variant, there were 6,075 adult and 86 pediatric hospitalizations related to COVID-19, and within that week there were over 229,000 new cases, by far the highest number of new cases ever and the highest number of hospitalizations since the start of the pandemic, with 419 new confirmed deaths reported within that week; and

WHEREAS, as these numbers demonstrate, the spread of the Omicron variant has led to the highest number of cases in New Jersey ever, and has also led to a drastic increase in hospitalizations, increased risk to health and safety of health care workers, and staffing shortages; and

WHEREAS, as the State has taken significant emergency measures in the last month in response to the Omicron variant, there has been a 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 reproduction for COVID-19 infections in New Jersey; and

WHEREAS, the fact that the spread of COVID-19 has slowed over the last 30 days does not in any way suggest that the ongoing Public Health Emergency has dissipated, because absent mitigation measures, particularly increased rates of vaccinations and COVID-19 testing, public health experts anticipate that the spread of COVID-19 may again significantly increase; and

WHEREAS, since the Public Health Emergency was declared on January 11, 2022, at which time there were over 1,638,522 total cases of COVID-19 in New Jersey, the COVID-19 outbreak related to the Omicron and other new variants has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of February 9, 2022, according to the World Health Organization, there were over 399,600,607 confirmed cases of COVID-19 worldwide, with over 5,757,562 of those cases having resulted in death; and

WHEREAS, as of February 9, 2022, according to the CDC, there were over 76,976,575 confirmed cases of COVID-19 in the United States, with over 906,603 of those cases having resulted in death; and

WHEREAS, as of February 10, 2022, there were over 2,139,579 positive cases of COVID-19 in New Jersey, with at least 29,323 of those cases having resulted in death; and

WHEREAS, while the rate of reported new cases across all counties has decreased over the past weeks, New Jersey continues to see cases and hospitalizations in every county and a significant number of deaths, demonstrating the need for many of the State's current measures to remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, while 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 few weeks, COVID-19 continues to spread 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; 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 particularly 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, the CDC has advised that expedient and additional public health action is necessary to prevent severe impacts on the health of individuals and the health care system due to the rapid spread of the Omicron variant; and

WHEREAS, New Jersey has administered over 13.5 million doses of the COVID-19 vaccine in the State to date; and

WHEREAS, even with these improvements and the State's continued rollout of its vaccination program, it is still necessary to maintain mitigation protocols to ensure spread is limited while dissemination of the vaccine continues; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to ensure that the State can swiftly respond to Omicron and new variants and take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey again increase, as we have seen in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of the Department of Health ("DOH") confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and

welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; 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 that the Public Health Emergency declared in Executive Order No. 280 (2022) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER AND DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, including those extended pursuant to Executive Order No. 281 (2022), as well as Executive Order No. 283 (2022), remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA 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, remain in full force and effect.

3. 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.

4. This Order shall take effect immediately.

GIVEN, under my hand and seal this
10th day of February,
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