

EXECUTIVE ORDER NO. 280

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious disease caused by the SARS-CoV-2 virus that can cause severe illness and is at times fatal; and

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 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, 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 health care 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 B.1.1.529 ("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, 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 that 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 stronger protection against contracting and transmitting COVID-19, particularly the Omicron variant, and stronger protection against serious illness, including hospitalizations and death; 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 the last 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 the last 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, the increased potential for such a large number of hospitalizations raises serious concerns about the public health and about the capacity of the State's hospitals and health care systems to meet the health needs of residents, even in the face of the State's preparedness and response efforts since March 2020; and

WHEREAS, health care workers must have the staffing and resources that are essential to maintaining the operations of the State's essential health care services to protect public health during the Omicron variant surge, which include but are not limited to critical and emergency health care, vaccination administration, COVID-19 testing, and contact tracing; 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, such as resources for vaccination administration, COVID-19 testing, and contract tracing, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; 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, the CDC has confirmed that the rapid increase of infections is due to the increased transmissibility of the Omicron variant and its increased ability to evade immunity conferred by past infection or vaccination; and

WHEREAS, the State has thus far administered approximately 13.1 million doses of COVID-19 vaccines, with over 7.4 million New Jerseyans having received at least one dose of a vaccine and over 6.4 million having received the primary series of a vaccine; and

WHEREAS, as of January 10, 2022, only 46.3 percent of eligible individuals statewide had received their booster shot, with only 7.5 percent of persons 12-17 years old and eligible to be boosted having received their booster shot; and

WHEREAS, while over 74 percent of people in the State have received the primary series of a COVID-19 vaccine, the booster rates remain significantly lower and additional steps are necessary to ensure continued vaccinations, especially boosters, of individuals to protect against spread of COVID-19; and

WHEREAS, in addition to vaccination, testing for COVID-19 remains one of the strongest tools to prevent the further spread of COVID-19, particularly the Omicron variant; and

WHEREAS, the CDC recommends that all individuals should seek testing when they are ill and isolate if they experience COVID-19 symptoms or receive a positive result; and

WHEREAS, there are currently over 1,000 testing sites available to residents of the State and since mid-December 2021, the Department of Health ("DOH") has supported approximately 100 additional testing sites while also supporting local and county governments in expanding free testing for residents; and

WHEREAS, hospitals across the State report having experienced an increase of individuals seeking testing through their emergency departments and they continue to ask members of the public to only seek urgent medical treatment from hospitals to help preserve critical

staff and resources, especially as hospitals are approaching maximum capacity; and

WHEREAS, despite the increased testing capacity, the demand for testing in light of the increase in cases caused by the Omicron variant spread continues to exceed the supply of COVID-19 tests and there are delays in processing times for test results at clinical laboratories due to the increase in volume of tests and staffing shortages; and

WHEREAS, the State must have the resources necessary to protect the public health through vaccination efforts, masking, testing, treatment, and isolation and quarantine, monitoring hospital admissions and ICU capacity, tracking activity of the virus in the community, and acquiring and maintaining stockpiles of personal protective equipment, ventilators, and other critical supplies to remain prepared for the ongoing surge; and

WHEREAS, while our vaccination and testing efforts continue to progress, an effective mass vaccination and booster program and an adequate response to the continued public health threats imposed by COVID-19, and particularly the Omicron variant, require that my Administration retain all of the flexibility and resources that a public health emergency provides; and

WHEREAS, the rapid and continued spread of the Omicron variant within New Jersey constitutes an imminent 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

WHEREAS, it is necessary and appropriate to act 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 confirms that the circumstances relating to the surge in cases tied to the new variants of COVID-19, in particular

the Omicron variant, are meaningfully different than the circumstances on the ground at the time that I terminated the last Public Health Emergency; 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;

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 DECLARE and PROCLAIM that a Public Health Emergency exists in the State of New Jersey and that the State of Emergency declared in Executive Order No. 103 (2020) remains in full force and effect, and I hereby ORDER and DIRECT the following:

1. Pursuant to my declaration of a Public Health Emergency in this Order, and pursuant to the State of Emergency that was declared in Executive Order No. 103 (2020), I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, in conjunction with the Commissioner of DOH, to take any such emergency measures as the State Director may determine necessary, including the implementation of the State Emergency Operations Plan and directing the activation of county and municipal emergency operations plans, in order to fully and adequately protect the health, safety, and welfare of the citizens of the State of New Jersey from any actual or potential threat or danger that may exist from the possible exposure to COVID-19, including any and all variants of this virus. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, is authorized to coordinate the relief effort from this Emergency with all governmental agencies, volunteer organizations, and the private sector.

2. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, shall also supervise and coordinate all activities of all State, regional and local political bodies and

agencies, in order to ensure the most effective and expeditious implementation of this Order, and, to this end, may call upon all such agencies and political subdivisions for any assistance necessary.

3. Given the invocation of a Public Health Emergency as contemplated by N.J.S.A. 26:13-1 et seq. and restatement that the State of Emergency declared in Executive Order No. 103 (2020) remains in full force and effect, I reserve the right as specifically contemplated by N.J.S.A. 26:13-3 to exercise the authority and powers specific to the EHPA as I deem necessary and appropriate to ensure the public health of New Jersey's residents.

4. 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 with the State Director of Emergency Management and the Commissioner of DOH in all matters concerning this State of Emergency.

5. Consistent with my authority under the Disaster Control Act, N.J.S.A. App A:9-33 et seq., as invoked in Executive Order No. 103 (2020), I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this Emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH.

6. All State agencies are authorized to take appropriate steps to address the public health hazard of COVID-19, including any and all variants of this virus, including increasing access and eliminating barriers to medical care, protecting the health and well-being of students, and protecting the health and well-being of State, county, and municipal employees while ensuring the continuous delivery of State, county, and municipal services.

7. This Order shall take effect immediately.

GIVEN, under my hand and seal this
11th day of January,
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