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EMAIL TO: All Sheriffs

FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

SENT: July 30, 2021

SUBJECT: Executive Order No. 224 - Applicable Only to Certain State
Agencies, Requiring Their Employees to Be Fully Vaccinated or to
Submit to Weekly COVID-Testing (and Wearing a Face Covering)

On July 29, 2021, Governor Roy Cooper issued Executive Order No. 224 implementing new vaccination and face covering requirements for State government cabinet agencies in response to the recent surge in COVID-19 cases in North Carolina. A copy of Executive Order No. 224 is attached for your reference.

The requirements of Executive Order No. 224 became **effective beginning at 5:00 p.m. on Thursday, July 29, 2021**, and will remain in effect until August 31, 2021 at 5:00 p.m., unless replaced or rescinded by another Executive Order.

Section 4.1. of Executive Order No. 224 directs the Office of State Human Resources to issue a policy, effective September 1, 2021 requiring all State government cabinet agencies to require their workers to either:

- Provide proof of full vaccination or
- Submit to weekly COVID-19 testing and wear a face covering at all times within a building or facility that is controlled by an agency that is part of the Governor's Office or headed by a member of the Governor's cabinet. These individuals would not be required to wear a face covering if they are alone in a room or if an exception applies, as detailed in Executive Order No. 209.

The affected State agencies include:

- The Department of Administration
- The Department of Commerce
- The Department of Environmental Quality
- The Department of Health & Human Services



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The North Carolina Sheriffs' Association is a Non-Profit, tax exempt organization recognized by the I.R.S.

Email to All Sheriffs

Executive Order No. 224 - Applicable Only to Certain State Agencies, Requiring Their Employees to Be Fully Vaccinated or to Submit to Weekly COVID-Testing (and Wearing a Face Covering)

July 30, 2021

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- The Department of Information Technology
- The Department of Military & Veterans Affairs
- The Department of Natural & Cultural Resources
- The Department of Public Safety
- The Department of Revenue
- The Department of Transportation

The Executive Order provides that these agencies are free to implement their own policies applicable to fully vaccinated individuals.

The Restrictions Set Forth in Executive Order No. 224 are NOT applicable to Sheriffs' Offices and Local Government Agencies

Executive Order No. 224 specifies that the restrictions and prohibitions it implements only apply to the operation of the agencies above and that all other State and local government agencies are encouraged but not required to adopt similar policies. Accordingly, this Executive Order does not subject sheriffs and sheriffs' personnel to any of the above restrictions.

The Face Covering Mandate in All Other Regards Expires July 30, 2021

Executive Order No. 224 does NOT extend the face covering requirements set forth in Executive Order No. 220 that covered confinement facilities, homeless shelters, health care settings, and transportation. Therefore, unless the above State agencies implement more restrictive mask policies, only the State agency workers who are not fully vaccinated will be subject to a mask mandate when Executive Order No. 220 expires on July 30, 2021.

Greater Local Restrictions May Still be Imposed

Executive Order No. 224 contains the same provision from previous Executive Orders stating that city and county governments are free to impose greater restrictions than those set forth in the Executive Order to the extent authorized by North Carolina law.

Enforcement

Executive Order No. 224 specifies that the above provisions applicable to State government cabinet agencies may be enforced through an employer's disciplinary action. All other parts of Executive Order No. 224 may be enforced by State and local law enforcement, such as enforcing any local ordinances that may be implemented.

Questions

If you have any questions about Executive Order No. 224, do not hesitate to contact Matthew Boyatt, NCSA Deputy General Counsel, at mboyatt@ncsheriffs.net or at 919-459-6467.

Thanks...Eddie C.



Edmond W. (Eddie) Caldwell, Jr.

Executive Vice President and General Counsel

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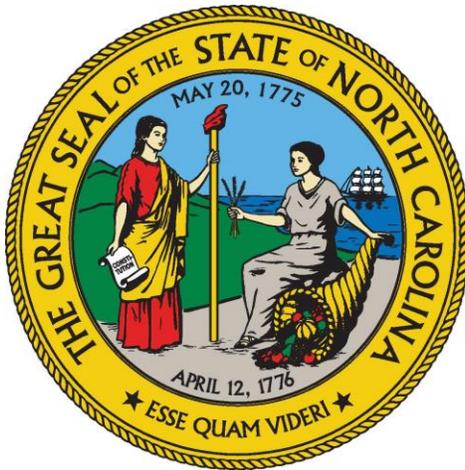
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North Carolina Sheriffs' Association

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Frequently Asked Questions (“FAQ”) for Executive Order No. 224

July 29, 2021

This FAQ provides guidance for the implementation of Executive Order No. 224 (“Order”). North Carolina has made great strides since the start of the pandemic to save lives. Nevertheless, the state is presently experiencing an increase in COVID-19 spread, principally among those who are unvaccinated. The state’s key COVID-19 metrics suggest some measures must remain active to address and mitigate the spread of COVID-19. As COVID-19 has continued to spread from person to person across the United States, variants (genetically distinct strains) of COVID-19 have developed. The Delta variant of COVID-19 is significantly more transmissible and more likely to lead to severe disease and hospitalization. Vaccination against COVID-19 is the most effective tool to combat the COVID-19 pandemic. Accordingly, effective September 1, 2021, workers at agencies that are part of the Governor’s Office or are headed by members of the Governor’s Cabinet (collectively, “Cabinet Agency Workers”) who are not fully vaccinated must submit to regular testing for COVID-19. In addition, effective August 2, 2021, face coverings will be required for all Cabinet Agency Workers who are not fully vaccinated.

Other agencies of state government, local governments, private businesses, and organizations are strongly encouraged to undertake mitigation measures similar to those imposed in Executive Order 224. These entities should follow guidance issued by the North Carolina Department of Health and Human Services (“NCDHHS”). These measures include requiring workers who are not fully vaccinated to submit to regular COVID-19 testing and requiring face coverings for workers and guests in indoor spaces where other people are present. Schools and school systems are strongly urged to follow guidance recently promulgated by the Centers for Disease Control & Prevention (“CDC”), which recommends that all students, staff, and visitors in K-12 schools wear face coverings.

The Order becomes effective on July 29, 2021, at 5:00 p.m. and will remain in effect through August 31, 2021, at 5:00 p.m. Office of State Human Resources (“OSHR”) policies directed by

this Order shall continue past the duration of this Order. Below are frequently asked questions (“FAQs”) and their answers. In addition, individuals should check with local governments to determine whether additional restrictions have been imposed in their local jurisdictions to limit the spread of COVID-19.

This information is subject to change in light of new CDC guidance and additional Executive Orders, further agency guidance, or local government declarations.

FAQs related to the Order

When does this Order take effect?

This Order takes effect on July 29, 2021 at 5:00 p.m.

What are the requirements on Cabinet Agency Workers under this Order?

- Effective Wednesday September 1, 2021, Cabinet Agency Workers who are not vaccinated will have to undergo weekly COVID-19 testing.
- Effective Monday, August 2, 2021, unvaccinated Cabinet Agency Workers must wear face coverings in any indoor area of a state government office, building, and facility that is controlled by an agency that is part of the Governor’s Office or is headed by a member of the Governor’s Cabinet.

Facilities and Buildings Controlled by an Agency that is Part of the Governor’s Office and Cabinet Agency Workers

Vaccine Verification Requirement

Why is the vaccine verification requirement being imposed now?

The emergence of the Delta variant amongst the non-vaccinated population in North Carolina has generated increased concern from medical professionals. The Delta variant’s growing dominance, coupled with its increased transmissibility, has led to a significant increase in the number of COVID-19 cases and hospitalizations, principally amongst the unvaccinated. Additionally, in recent weeks there has been a slowing in the administration of COVID-19 vaccinations, which are our best tool in combatting the COVID-19 pandemic.

What does it mean to be “fully vaccinated”?

A person is fully vaccinated if it has been two weeks after that person has received the second dose in a two-dose COVID-19 vaccine series (Pfizer or Moderna), or that it has been two weeks after that person has received a single-dose COVID-19 vaccine (Johnson & Johnson).

Which workers are subject to the vaccine verification requirement under the Order?

Anyone who is a Cabinet Agency Worker, meaning anyone who works at agencies that are part of the Governor’s Office or are headed by members of the Governor’s Cabinet.

What are the requirements for unvaccinated Cabinet Agency Workers?

Starting August 2, 2021, all unvaccinated Cabinet Agency workers will have to wear a face covering when working indoors. Additionally, starting on September 1, 2021, all Cabinet Agency Workers who are not fully vaccinated must be tested once a week for COVID-19.

Are there exceptions to the vaccination requirement for Cabinet Agency Workers?

Yes. Cabinet Agency Workers may choose to undergo weekly COVID-19 testing and wear a face covering.

Additionally, workers with disabilities that impair or prevent vaccination, workers who are not recommended by a physician to be vaccinated, and workers with a sincerely held religious belief, practice, or observance that is inconsistent with vaccination may request a reasonable accommodation from the proof of vaccination requirement. The option to receive weekly COVID-19 testing and wear a face covering may serve as a reasonable accommodation for workers seeking an accommodation from the proof of vaccination requirement. Guidance will be issued regarding the process for requesting an exception from the vaccination requirement.

I'm a fully vaccinated Cabinet Agency Worker, do I have to take any steps to be exempted from the weekly testing requirement?

Yes. Workers are exempted from the weekly testing requirement if they provide proof that they are fully vaccinated, in accordance with a policy to be promulgated by the Office of State Human Resources ("OSHR").

Face Covering Requirement

Which workers are required to wear face coverings under the Order?

All Cabinet Agency Workers who are not fully vaccinated are required to wear face coverings in any indoor area of a state government office, building, and facility that is controlled by an agency that is part of the Governor's Office or is headed by a member of the Governor's Cabinet, unless an exception applies.

I'm a fully vaccinated Cabinet Agency Worker, do I have to take any steps to be exempted from wearing face coverings at work?

Yes. Workers are exempted from the face covering requirements if they provide proof that they are fully vaccinated, in accordance with a policy to be promulgated by OSHR. However, masks are encouraged even for vaccinated workers in public places indoors.

Do Cabinet Agency Workers or other state employees have to wear a face covering outdoors?

No. Face coverings are not required when outdoors.

Do unvaccinated Cabinet Agency Workers have to wear face coverings when others are not around?

No. Face coverings are not required when a worker is alone in a space where there are no other people within six (6) feet, or when a face covering exception applies.

Are there other exceptions to the face covering requirement for Cabinet Agency Workers?

Yes. Workers who are vaccinated do not need to wear a face covering, however a face covering for unvaccinated employees indoors is encouraged.

Additionally, a face covering does not need to be worn by an individual who qualifies for an exception from wearing Face Coverings listed in Section 2.3 of Executive Order No. 209 and any of the exceptions from wearing Face Coverings during exercise listed in the bullet points within Section 2.4 of [Executive Order No. 209](#). Those portions of Executive Order No. 209 are incorporated into this Executive Order, but only for the purpose of serving as exceptions to the Face Covering requirements listed in this Executive Order.

I'm not a government worker. Do I still have to wear a face covering in these facilities?

No. However, it is recommended that all visitors to government facilities wear a face covering in any indoor areas of government offices, building, and facilities.

Non-cabinet Agency Facilities and All Other Facilities Not Controlled by the Governor's Office (including Local Government Buildings and Private Businesses)

I don't work for a Cabinet Agency or agency controlled by the Governor's Office. Am I still required to be vaccinated or wear a face covering if I'm unvaccinated?

While this Executive Order only impacts Cabinet Agencies, the Order encourages all state and local government agencies and private businesses to adopt this policy and strongly encourages them to have workers and guests wear face coverings and to require unvaccinated workers to take weekly COVID-19 tests.

My workplace does not require vaccinations or face coverings. Can I still wear a face covering to be safe?

Yes. Everyone, including fully vaccinated people, is welcome to voluntarily wear a face covering. NCDHHS has additional recommendations to improve mask wearing based on guidance from the CDC. To ensure masks are as protective as possible, NCDHHS recommends that you:

- Make sure your mask fits snugly against your face and covers your nose and mouth. To help with a snug fit, you can use a mask with a metal strip along the top of the mask.
- Use two or more layers for your face covering. You can do this by wearing a cloth face covering with two or more layers or by wearing one disposable mask (sometimes referred to as a surgical mask or a medical procedure mask) underneath a cloth mask.
- Do not wear two disposable masks.
- Make sure you can see and breathe easily.

For additional information on how to improve mask wearing, please see updated guidelines from the [CDC](#).

Can businesses still require guests to wear face coverings?

Yes. Businesses are strongly encouraged to require guests to wear a face covering in indoor areas of offices, building, and facilities.

Miscellaneous Questions

Does this order require K-12 students to wear face coverings indoors?

As recommended in the [StrongSchoolsNC Public Health Tool Kit](#), leaders at all public and non-public schools are strongly urged to require all K-12 students, visitors and all school staff to wear face coverings at school, regardless of vaccination status (unless a face covering exception applies or medical or developmental conditions prohibit use).

What are the capacity limits and social distancing requirements on businesses operating in North Carolina?

There are no capacity or social distancing requirements put in place under this Order.

My city implemented stricter face covering requirements. Do I have to follow my city's requirements?

Yes. The Governor recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. This Order does not prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions



State of North Carolina

ROY COOPER
GOVERNOR

July 29, 2021

EXECUTIVE ORDER NO. 224

IMPLEMENTING MEASURES TO ADDRESS COVID-19 AND RELATED VARIANTS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, on February 24, 2021, the President issued notice that the national emergency relating to COVID-19 must remain in effect because the pandemic "continues to cause significant risk to the public health and safety of the Nation"; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, and 219-221; and

WHEREAS, more than one million forty-four thousand (1,044,000) people in North Carolina have had COVID-19, and over thirteen thousand six hundred (13,600) people in North Carolina have died from the disease; and

WHEREAS, COVID-19 continues to infect thousands of North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

WHEREAS, the State of Emergency allows North Carolina to receive federal funding; to provide increased regulatory flexibility to the North Carolina Department of Health and Human Services ("NCDHHS") and health care facilities, which allows health care providers to expand their capacity to treat patients and assist with vaccination efforts; and to respond to any spikes in spread of the disease; and

WHEREAS, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

Current Metrics

WHEREAS, as COVID-19 has continued to be spread from person to person across the United States and world, variants (genetically distinct strains) of COVID-19 have developed; and

WHEREAS, the Delta variant of COVID-19 is more transmissible than the original COVID-19 virus; and

WHEREAS, the spread of the Delta variant amongst the unvaccinated population in North Carolina has generated increased concern from medical professionals; and

WHEREAS, while North Carolina has continued to see improvement in vaccination numbers, the weekly number of doses of COVID-19 vaccinations administered has slowed in recent months, and there are still more than eighteen (18) counties in which under thirty-five (35%) of the population have been Fully Vaccinated; and

WHEREAS, because the Delta variant is more contagious than the original virus or other current COVID-19 variants, it quickly became the most common kind of COVID-19 in North Carolina during summer 2021, and now, the Delta variant makes up more than eighty percent (80%) of all new COVID-19 cases in North Carolina; and

WHEREAS, the Delta variant's growing dominance, coupled with its increased transmissibility, has led to a significant increase in the number of COVID-19 cases and hospitalizations; and

WHEREAS, on June 25, 2021, 388 new COVID-19 cases were reported, and 400 people were hospitalized with COVID-19, but one month later (on July 25, 2021), 1,910 new COVID-19 cases were reported, and 954 people were hospitalized with COVID-19; and

WHEREAS, over recent weeks, and despite the overall progress the state has made during the pandemic, North Carolina is experiencing a rapid increase in COVID-19 cases, almost entirely among those who are unvaccinated; and

WHEREAS, specifically, as of the date of this Executive Order, the state's key metrics for COVID-19 are worsening: the number of people hospitalized for COVID-19 has doubled over the past two weeks, the number of people going to emergency departments with COVID-like symptoms is rising, the number of COVID-19 daily diagnoses is rising, and the percent of total COVID-19 tests that are positive is rising and higher than five percent (5%); and

WHEREAS, although the Delta variant represents a severe threat to the unvaccinated, being vaccinated greatly reduces the chance of being infected by the Delta variant, and being vaccinated greatly reduces the risk that anyone who does contract the Delta variant becomes severely ill or requires hospitalization; and

WHEREAS, on July 27, 2021, the U.S. Centers for Disease Control and Prevention ("CDC") issued new guidance which: (i) suggests that Face Coverings should be worn by all people if they are indoors in a public place and are in areas of substantial or high transmission; (ii) identifies most of North Carolina as being areas of substantial or high transmission; and (iii) recommends all teachers, staff, students, and visitors to schools wear Face Coverings, regardless of vaccination status; and

Progress in COVID-19 Vaccination

WHEREAS, COVID-19 vaccines are now widely available at no cost to all eligible North Carolinians who wish to receive one, and all eligible North Carolinians are strongly encouraged to get vaccinated; and

WHEREAS, the state has mounted a robust vaccination effort to distribute the state's supply of COVID-19 vaccines authorized by the Food and Drug Administration ("FDA") to all eligible people living in or spending significant time in North Carolina; and

WHEREAS, as of the date of this Executive Order, eighty-four percent (84%) of the state's population age sixty-five (65) and older is Fully Vaccinated; and

WHEREAS, as of the date of this Executive Order, fifty-five percent (55%) of the state's population age twelve (12) and older is Fully Vaccinated, and forty-five percent (45%) is not fully vaccinated; and

WHEREAS, although forty-five percent (45%) of North Carolinians age twelve (12) and over are not fully vaccinated, more than ninety-four percent (94%) of recent North Carolina cases are in people who are not Fully Vaccinated; and

Measures to Protect Against COVID-19

WHEREAS, unvaccinated people pose a risk not only to themselves, but to people who are immunocompromised and to children who are too young to be vaccinated; and

WHEREAS, it remains critical that North Carolinians exercise personal responsibility to protect themselves and their friends and neighbors from the spread of COVID-19, including by obtaining the free and widely available COVID-19 vaccines; and

WHEREAS, the undersigned and the Secretary of the Department of Health and Human Services have taken measures to ensure that COVID-19 testing and vaccination administration are accessible to as many North Carolinians as possible, and the undersigned has determined that these measures should continue; and

WHEREAS, to protect State employees and the public, the undersigned has also determined that Cabinet agency workers should be required to show either that they are Fully Vaccinated or that they have been recently tested for COVID-19; and

WHEREAS, to protect State employees and the public, the undersigned has determined that Face Covering requirements for unvaccinated workers should be implemented at Cabinet agencies; and

WHEREAS, the undersigned encourages all state and local government agencies, school systems, and private businesses and organizations, at a minimum, to adopt the same protections for state employees and the public; and

WHEREAS, if the state's COVID-19 case rate continues to increase, if the state's vaccination rate does not improve, or if existing or new COVID-19 variants continue to pose increased dangers, it may be necessary to reevaluate whether additional restrictions are necessary to reduce the risk of death and serious illness from COVID-19; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorially vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities; and

WHEREAS, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of the Office of State Human Resources may adopt policies, consistent

with law and with rules established by the Governor and with rules of the State Human Resources Commission, which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

WHEREAS, pursuant to N.C. Gen. Stat. § 126-4, the State Human Resources Commission (“Commission”) shall establish state human resources policies and rules subject to approval of the Governor, and pursuant to this statute, the Commission has issued a Communicable Disease Emergency Policy and rules that require social distancing policies, including administrative and engineering controls, that shall be implemented immediately upon orders from the Governor.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Introduction.

1.1. Structure of this Executive Order.

North Carolina has made great strides since the start of the pandemic to save lives. Nevertheless, the state is presently experiencing a surge in COVID-19 spread, principally among those who are unvaccinated. The state’s key COVID-19 metrics suggest some measures must remain active to address and mitigate the spread of COVID-19.

Section 2 of this Executive Order is intended to provide the State Health Director with flexibility to issue any statewide standing order needed for COVID-19 testing or for administering an authorized or approved COVID-19 vaccine. The standing order may be issued as necessary in her medical judgment to allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19 or receive a COVID-19 vaccine. Section 2 of this Executive Order also promotes COVID-19 testing and vaccine administration by preempting local regulations that may prevent such activity.

NCDHHS has developed guidance listing effective measures for businesses and organizations to use in protecting their employees and customers against COVID-19, including the Delta variant. Section 3 of this Executive Order provides information about this guidance and recommends that all private organizations and schools follow NCDHHS recommendations.

The most effective protection against the Delta variant—or against any form of COVID-19—is getting vaccinated. Vaccinations also protect the people around us from sickness and death. The undersigned has also determined that workers at Cabinet agencies must either be vaccinated or be regularly tested to ensure that they are not spreading COVID-19 to their fellow employees and members of the public. Section 4 of this Executive Order requires the Office of State Human Resources and all Cabinet agencies to implement these measures. The undersigned also has determined that Face Coverings should be required for unvaccinated workers at Cabinet agencies in many situations. Non-Cabinet agencies, state universities, and state commissions, local governments and school systems, and private businesses and organizations are strongly encouraged, at a minimum, to enact the same measures.

1.2. Definitions.

- a. “**Face Covering**” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person’s face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Face Coverings are most effective when they fit snugly against a person’s face and have two (2) or more layers. This can be achieved by wearing a cloth Face Covering with two or more layers or by wearing one disposable mask underneath a cloth mask. A cloth Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

- b. "Face Covering Exception" means any of the exceptions from wearing Face Coverings listed in Section 2.3 of Executive Order No. 209 and any of the exceptions from wearing Face Coverings during exercise listed in the bullet points within Section 2.4 of Executive Order No. 209. Those portions of Executive Order No. 209 are incorporated into this Executive Order, but only for the purpose of serving as exceptions to Face Covering requirements and recommendations.
- c. "Fully Vaccinated" means that it has been two weeks after someone has received the second dose in a two-dose COVID-19 vaccine series (Pfizer or Moderna), or that it has been two weeks after someone has received a single-dose COVID-19 vaccine (Johnson & Johnson).
- d. "Guest" means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.
- e. "Surgical Mask" means American Society for Testing and Materials ("ASTM") Level 1, 2, or 3 approved procedural and surgical masks.

Section 2. COVID-19 Testing and Vaccine Administration.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 2.1. **Statewide Standing Order for COVID-19 Testing.** In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.
- 2.2. **Statewide Standing Order for COVID-19 Vaccination.** In order to further protect public health by providing greater access to COVID-19 vaccines, the undersigned orders the State Health Director, consistent with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue such statewide standing orders as needed in her medical judgment that would allow individuals eligible for vaccinations to access and receive a COVID-19 vaccination, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.
- 2.3. **School and Health Officials to Continue Efforts.** NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children enrolled in North Carolina schools as they transition back to in-person learning.
- 2.4. **Effect on Local Emergency Management Orders.**
 - a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in this Subsection 2.4, is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which

impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

- b. Local Restrictions Cannot Restrict State or Federal Government Operations. Notwithstanding Subsection 2.4(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the state or the United States.
- c. Local Restrictions Cannot Prevent COVID-19 Testing. To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.
- d. Local Restrictions Cannot Prevent COVID-19 Vaccine Administration. To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

Section 3. Guidelines for Private Businesses, Organizations, and Schools.

Federal and state health officials have issued guidance on how individuals and businesses can reduce the risk of transmission of COVID-19, including the Delta variant. These recommendations are available at <https://covid19.ncdhhs.gov/guidance>. Private businesses and organizations are strongly encouraged, at a minimum, to follow the measures in the NCDHHS guidance. These measures include requiring workers to either verify that they are Fully Vaccinated or, if they are not Fully Vaccinated, to wear Face Coverings and be tested on a weekly basis. These measures also include recommending Face Coverings for Fully Vaccinated workers and Guests indoors when other people are present.

Nothing in this Executive Order is intended to prohibit or discourage private businesses and organizations from requiring Face Coverings for their workers or Guests, or to prevent such businesses and organizations from enforcing all existing rights under the law to prohibit Guests from entering without Face Coverings.

In accordance with CDC's recommendations, and as recommended in the StrongSchoolsNC Public Health Tool Kit, leaders at all public and non-public schools should require all students, school staff, and visitors, regardless of vaccination status, to wear Face Coverings at all K-12 schools (unless a Face Covering Exception applies or medical or developmental conditions prohibit use).

Section 4. Measures to Protect State Employees and Members of the Public Who Enter State Facilities.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

4.1. **Vaccination or Testing Required for Unvaccinated Workers at Cabinet Agencies.**

The undersigned directs the Office of State Human Resources (“OSHR”) to issue a policy that includes the following requirements in this Section. OSHR is delegated the authority to issue this policy. OSHR shall issue this policy no later than August 13, 2021. OSHR may amend that policy thereafter.

The OSHR policy shall be effective September 1, 2021, and the requirements in this Subsection 4.1 shall become effective on that date.

These requirements set out prohibitions and restrictions only upon operation of agencies that are part of the Governor’s Office or are headed by members of the Governor’s Cabinet. All other state and local government agencies are strongly encouraged to voluntarily adopt similar policies.

- a. All workers must either:
 1. Provide proof that they are Fully Vaccinated; or
 2. Be tested at least once a week for COVID-19.
- b. The OSHR policy shall identify how workers may show that they are Fully Vaccinated. This proof shall include, but not be limited to, providing a valid COVID-19 vaccination record card to a representative of the agency’s Human Resources staff.
- c. The OSHR policy shall identify how an employee may show that they have tested negative for COVID-19. This proof shall include, but not be limited to, providing test results to a representative of the agency’s Human Resources staff. The OSHR policy, which shall be drafted in consultation with NCDHHS, shall also identify the conditions under which a positive or pending test result requires exclusion from the workplace.
- d. The OSHR policy shall identify confidentiality requirements for the information provided by workers under this Subsection 4.1. These confidentiality provisions shall be consistent with guidance from the Equal Employment Opportunity Commission.
- e. State employees may be subject to disciplinary action for violations of this Subsection 4.1 or the OSHR policy, up to and including dismissal. Each agency may determine the appropriate level of discipline for violations by issuing guidelines or policy. This Subsection 4.1 shall be enforceable only through disciplinary action for workers, and not by law enforcement under N.C. Gen. Stat. § 166A-19.30(a)(2).
- f. Workers with disabilities that impair or prevent vaccination, workers who are not recommended by a physician to be vaccinated, and workers with a sincerely held religious belief, practice, or observance that is inconsistent with vaccination may request a reasonable accommodation from the proof of vaccination option in Section 4.1(a)(1). The testing option in Section 4.1(a)(2) may serve as a reasonable accommodation for workers seeking an accommodation from the proof of vaccination option. These workers may request an exception by contacting their agency’s Human Resources office.

4.2. **Face Covering Requirements at Cabinet Agencies.** Effective Monday, August 2, 2021:

- a. If they are not Fully Vaccinated, workers must wear Face Coverings in any indoor space, within a state government office, building, or facility, that is that is controlled by an agency that is either part of the Governor’s Office or is headed by a member of the Governor’s Cabinet.
- b. Workers are excepted from the Face Covering requirements in this Subsection 4.2 if they provide proof that they are Fully Vaccinated. OSHR shall issue no later than July 30, 2021, a policy detailing how workers may provide this proof. This policy shall be replaced, effective September 1, 2021, by the policy issued under Subsection 4.1 of this Executive Order. OSHR is delegated the authority to issue this policy.

- c. Each agency may set its own Face Covering policy for Guests and for Fully Vaccinated workers in its offices, buildings, and facilities. All workers and Guests are welcome to wear a Face Covering at any time. It is recommended that Fully Vaccinated workers and Guests wear a Face Covering.
- d. Face Coverings are not required when a person is alone in a room or when a Face Covering Exception applies.
- e. State employees may be subject to disciplinary action for violations of this Subsection 4.2 or the OSHR policy, up to and including dismissal. Each agency may determine the appropriate level of discipline for violations by issuing guidelines or policy. This Subsection 4.2 shall be enforceable only through disciplinary action for workers, and not by law enforcement under N.C. Gen. Stat. § 166A-19.30(a)(2).
- f. The requirements of this Subsection 4.2 set out prohibitions and restrictions only upon operation of agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet. All other state and local government agencies are strongly encouraged to adopt similar policies.

Section 5. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 6. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 7. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 8. Enforcement.

- 8.1. Except where otherwise specified herein and pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- 8.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order.
- 8.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 9. Effective Date.

This Executive Order is effective July 29, 2021, at 5:00 pm. This Executive Order shall remain in effect through August 31, 2021, at 5:00 pm, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 29th day of July in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

