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House Chamber, Lansing, Tuesday, September 8, 2020.

1:30 p.m.

The House was called to order by the Clerk.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was not present.

Announcements by the Clerk of Printing and Enrollment

The Clerk announced that the following House bills and joint resolutions had been reproduced and made available electronically on Thursday, September 3:

House Bill Nos. **6165 6166 6167 6168 6169 6170 6171 6172 6173 6174 6175 6176 6177**
 6178 6179 6180 6181 6182 6183 6184 6185 6186 6187

House Joint Resolutions **U V**

Notices

Pursuant to Rule 41, the Speaker has made the following referral:
House Bill No. 6180 referred to the Committee on Elections and Ethics.

Messages from the Governor

The following message from the Governor was received September 3, 2020 and read:

EXECUTIVE ORDER

No. 2020-175

Safeguards to protect Michigan's workers from COVID-19

Rescission of Executive Order 2020-161

Businesses must continue to do their part to protect their employees, their patrons, and their communities. Many businesses have already done so by implementing robust safeguards to prevent viral transmission. But

we can and must do more: no one should feel unsafe at work. With Executive Orders 2020-91, 2020-97, 2020-114, 2020-145, and 2020-161, I created workplace standards that apply to all businesses across the state. I am now rescinding and reissuing an amended version of those standards to add new safeguards for sports and exercise facilities.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in Michigan House of Representatives and Michigan Senate v. Whitmer. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I find it reasonable and necessary, for the reasons outlined above, to order:

1. **Workplace safeguards for all businesses.** All businesses or operations that require their employees to leave the homes or residences for work must, at a minimum:
 - (a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration ("OSHA") and available [here](#). Within two weeks of resuming in-person activities, a business's or operation's plan must be made readily available to employees, labor unions, and customers, whether via website, internal network, or by hard copy.
 - (b) Designate one or more worksite supervisors to implement, monitor, and report on the COVID-19 control strategies developed under subsection (a). The supervisor must remain on-site at all times when employees are present on site. An on-site employee may be designated to perform the supervisory role.

- (c) Provide COVID-19 training to employees that covers, at a minimum:
 - (1) Workplace infection-control practices.
 - (2) The proper use of personal protective equipment.
 - (3) Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
 - (4) How to report unsafe working conditions.
 - (d) Provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
 - (e) Place posters in the languages common in the employee population that encourage staying home when sick, cough and sneeze etiquette, and proper hand hygiene practices.
 - (f) Conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19.
 - (g) Keep everyone on the worksite premises at least six feet from one another to the maximum extent possible, including through the use of ground markings, signs, and physical barriers, as appropriate to the worksite.
 - (h) Provide non-medical grade face coverings to their employees, with supplies of N95 masks and surgical masks reserved, for now, for health care professionals, first responders (e.g., police officers, fire fighters, paramedics), and other critical workers.
 - (i) Require face coverings to be worn when employees cannot consistently maintain six feet of separation from other individuals in the workplace, and consider face shields when employees cannot consistently maintain three feet of separation from other individuals in the workplace.
 - (j) Require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.
 - (k) Increase facility cleaning and disinfection to limit exposure to COVID-19, especially on high-touch surfaces (e.g., door handles), paying special attention to parts, products, and shared equipment (e.g., tools, machinery, vehicles).
 - (l) Adopt protocols to clean and disinfect the facility in the event of a positive COVID-19 case in the workplace.
 - (m) Make cleaning supplies available to employees upon entry and at the worksite and provide time for employees to wash hands frequently or to use hand sanitizer.
 - (n) When an employee is identified with a confirmed case of COVID-19:
 - (1) Immediately notify the local public health department, and
 - (2) Within 24 hours, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a confirmed case of COVID-19.
 - (o) Allow employees with a confirmed or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the Centers for Disease Control and Prevention (“CDC”) and they are released from any quarantine or isolation by the local public health department.
 - (p) Follow Executive Order 2020-36, and any executive orders that follow it, that prohibit discharging, disciplining, or otherwise retaliating against employees who stay home or who leave work when they are at particular risk of infecting others with COVID-19.
 - (q) Establish a response plan for dealing with a confirmed infection in the workplace, including protocols for sending employees home and for temporary closures of all or part of the workplace to allow for deep cleaning.
 - (r) Restrict business-related travel for employees to essential travel only.
 - (s) Encourage employees to use personal protective equipment and hand sanitizer on public transportation.
 - (t) Promote remote work to the fullest extent possible.
 - (u) Adopt any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.
2. **Outdoor work.** Businesses or operations whose work is primarily and traditionally performed outdoors must:
- (a) Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.
 - (b) Limit in-person interaction with clients and patrons to the maximum extent possible, and bar any such interaction in which people cannot maintain six feet of distance from one another.
 - (c) Provide and require the use of personal protective equipment such as gloves, goggles, face shields, and face coverings, as appropriate for the activity being performed.

- (d) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning and disinfection of tools, equipment, and frequently touched surfaces.
3. **Construction.** Businesses or operations in the construction industry must:
- (a) Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering a worksite, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
 - (b) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in subsection (a) of this section, or in the alternative issue stickers or other indicators to employees to show that they received a screening before entering the worksite that day.
 - (c) Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled face coverings.
 - (d) Require the use of work gloves where appropriate to prevent skin contact with contaminated surfaces.
 - (e) Identify choke points and high-risk areas where employees must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
 - (f) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by employees.
 - (g) Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among employees at the worksite.
 - (h) Restrict unnecessary movement between project sites.
 - (i) Create protocols for minimizing personal contact upon delivery of materials to the worksite.
4. **Manufacturing.** Manufacturing facilities must:
- (a) Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening.
 - (b) Create dedicated entry point(s) at every facility for daily screening as provided in sub-provision (a) of this section, and ensure physical barriers are in place to prevent anyone from bypassing the screening.
 - (c) Suspend all non-essential in-person visits, including tours.
 - (d) Train employees on, at a minimum:
 - (1) Routes by which the virus causing COVID-19 is transmitted from person to person.
 - (2) Distance that the virus can travel in the air, as well as the time it remains viable in the air and on environmental surfaces.
 - (3) The use of personal protective equipment, including the proper steps for putting it on and taking it off.
 - (e) Reduce congestion in common spaces wherever practicable by, for example, closing salad bars and buffets within cafeterias and kitchens, requiring individuals to sit at least six feet from one another, placing markings on the floor to allow social distancing while standing in line, offering boxed food via delivery or pick-up points, and reducing cash payments.
 - (f) Implement rotational shift schedules where possible (e.g., increasing the number of shifts, alternating days or weeks) to reduce the number of employees in the facility at the same time.
 - (g) Stagger meal and break times, as well as start times at each entrance, where possible.
 - (h) Install temporary physical barriers, where practicable, between workstations and cafeteria tables.
 - (i) Create protocols for minimizing personal contact upon delivery of materials to the facility.
 - (j) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible.
 - (k) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by employees, and discontinue use of hand dryers.
 - (l) Notify plant leaders and potentially exposed individuals upon identification of a positive case of COVID-19 in the facility, as well as maintain a central log for symptomatic employees or employees who received a positive test for COVID-19.
 - (m) Send potentially exposed individuals home upon identification of a positive case of COVID-19 in the facility.
 - (n) Require employees to self-report to plant leaders as soon as possible after developing symptoms of COVID-19.

- (o) Shut areas of the manufacturing facility for cleaning and disinfection, as necessary, if an employee goes home because he or she is displaying symptoms of COVID-19.
- 5. **Research labs.** Research laboratories, other than laboratories that perform diagnostic testing, must:
 - (a) Assign dedicated entry point(s) or times into lab buildings.
 - (b) Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering a worksite, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
 - (c) Create protocols or checklists as necessary to conform to the facility's COVID-19 preparedness and response plan.
 - (d) Suspend all non-essential visitors.
 - (e) Establish and implement a plan for distributing face coverings.
 - (f) Limit the number of people per square feet of floor space permitted in a particular laboratory at one time.
 - (g) Close open workspaces, cafeterias, and conference rooms.
 - (h) As necessary, use tape on the floor to demarcate socially distanced workspaces and to create one-way traffic flow.
 - (i) Require all office and dry lab work to be conducted remotely.
 - (j) Minimize the use of shared lab equipment and shared lab tools and create protocols for disinfecting lab equipment and lab tools.
 - (k) Provide disinfecting supplies and require employees to wipe down their work stations at least twice daily.
 - (l) Implement an audit and compliance procedure to ensure that cleaning criteria are followed.
 - (m) Establish a clear reporting process for any symptomatic individual or any individual with a confirmed case of COVID-19, including the notification of lab leaders and the maintenance of a central log.
 - (n) Clean and disinfect the work site when an employee is sent home with symptoms or with a confirmed case of COVID-19.
 - (o) Send any potentially exposed co-workers home if there is a positive case in the facility.
 - (p) Restrict all non-essential work travel, including in-person conference events.
- 6. **Retail, libraries, and museums.** Retail stores that are open for in-store sales, as well as libraries and museums, must:
 - (a) Create communications material for customers (e.g., signs or pamphlets) to inform them of changes to store practices and to explain the precautions the store is taking to prevent infection.
 - (b) Establish lines to regulate entry in accordance with subsection (c) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.
 - (c) Except in Regions 6 and 8, adhere to the following restrictions:
 - (1) Stores of less than 50,000 square feet of customer floor space must limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
 - (2) Stores of more than 50,000 square feet must:
 - (A) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
 - (B) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions such as heart disease, diabetes, and lung disease.
 - (3) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in this subsection as necessary to protect the public health.
 - (d) Post signs at store entrances instructing customers of their legal obligation to wear a face covering when inside the store.
 - (e) Post signs at store entrances informing customers not to enter if they are or have recently been sick.
 - (f) Design spaces and store activities in a manner that encourages employees and customers to maintain six feet of distance from one another.
 - (g) Install physical barriers at checkout or other service points that require interaction, including plexiglass barriers, tape markers, or tables, as appropriate.

- (h) Establish an enhanced cleaning and sanitizing protocol for high-touch areas like restrooms, credit-card machines, keypads, counters, shopping carts, and other surfaces.
 - (i) Train employees on:
 - (1) Appropriate cleaning procedures, including training for cashiers on cleaning between customers.
 - (2) How to manage symptomatic customers upon entry or in the store.
 - (j) Notify employees if the employer learns that an individual (including a customer or supplier) with a confirmed case of COVID-19 has visited the store.
 - (k) Limit staffing to the minimum number necessary to operate.
7. **Offices.** Offices must:
- (a) Assign dedicated entry point(s) for all employees to reduce congestion at the main entrance.
 - (b) Provide visual indicators of appropriate spacing for employees outside the building in case of congestion.
 - (c) Take steps to reduce entry congestion and to ensure the effectiveness of screening (e.g., by staggering start times, adopting a rotational schedule in only half of employees are in the office at a particular time).
 - (d) Increase distancing between employees by spreading out workspaces, staggering workspace usage, restricting non-essential common space (e.g., cafeterias), providing visual cues to guide movement and activity (e.g., restricting elevator capacity with markings).
 - (e) Prohibit social gatherings and meetings that do not allow for social distancing or that create unnecessary movement through the office. Use virtual meetings whenever possible.
 - (f) Provide disinfecting supplies and require employees wipe down their workstations at least twice daily.
 - (g) Post signs about the importance of personal hygiene.
 - (h) Disinfect high-touch surfaces in offices (e.g., whiteboard markers, restrooms, handles) and minimize shared items when possible (e.g., pens, remotes, whiteboards).
 - (i) Institute cleaning and communications protocols when employees are sent home with symptoms.
 - (j) Notify employees if the employer learns that an individual (including a customer, supplier, or visitor) with a confirmed case of COVID-19 has visited the office.
 - (k) Suspend all non-essential visitors.
 - (l) Restrict all non-essential travel, including in-person conference events.
8. **Restaurants and bars.** Restaurants and bars must:
- (a) Limit capacity to 50% of normal seating.
 - (b) Require six feet of separation between parties or groups at different tables or bar tops (e.g., spread tables out, use every other table, remove or put up chairs or barstools that are not in use).
 - (c) Require patrons to wear a face covering except when seated at their table or bar top (unless the patron is unable medically to tolerate a face covering).
 - (d) Require patrons to remain seated at their tables or bar tops, except to enter or exit the premises, to order food, or to use the restroom.
 - (e) Sell alcoholic beverages only via table service, not via orders at the bar except to patrons seated at the bar.
 - (f) Prohibit access to common areas in which people can congregate, dance, or otherwise mingle.
 - (g) Create communications material for customers (e.g., signs, pamphlets) to inform them of changes to restaurant or bar practices and to explain the precautions that are being taken to prevent infection.
 - (h) Close waiting areas and ask customers to wait in cars whenever possible, or else outside the restaurant or bar, for a notification when their table is ready. Restaurants and bars should take measures to encourage social distancing among those customers waiting for tables who are not waiting in their cars.
 - (i) Close self-serve food or drink options, such as buffets, salad bars, and drink stations.
 - (j) Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that customers remain at least six feet apart in any lines.
 - (k) Post signs at store entrances informing customers not to enter if they are or have recently been sick.
 - (l) Post signs instructing customers to wear face coverings until they are seated at their table.
 - (m) Require hosts, servers, and staff to wear face coverings in the dining area.
 - (n) Require employees to wear face coverings and gloves in the kitchen area when handling food, consistent with guidelines from the Food and Drug Administration (“FDA”).

- (o) Limit shared items for customers (e.g., condiments, menus) and clean high-contact areas after each customer (e.g., tables, chairs, menus, payment tools).
 - (p) Train employees on:
 - (1) Appropriate use of personal protective equipment in conjunction with food safety guidelines.
 - (2) Food safety health protocols (e.g., cleaning between customers, especially shared condiments).
 - (3) How to manage symptomatic customers upon entry or in the restaurant.
 - (q) Notify employees if the employer learns that an individual (including an employee, customer, or supplier) with a confirmed case of COVID-19 has visited the store.
 - (r) Close restaurant immediately if an employee shows symptoms of COVID-19, defined as either the new onset of cough or new onset of chest tightness or two of the following: fever (measured or subjective), chills, myalgia, headache, sore throat, or disorders of taste or smell, and perform a deep clean, consistent with guidance from the FDA and the CDC. Such cleaning may occur overnight.
 - (s) Install physical barriers, such as sneeze guards and partitions at cash registers, bars, host stands, and other areas where maintaining physical distance of six feet is difficult.
 - (t) To the maximum extent possible, limit the number of employees in shared spaces, including kitchens, host stands, break rooms, and offices, to maintain at least a six-foot distance between employees.
9. **Health care.** Outpatient health-care facilities, including clinics, primary care physician offices, dental offices, and veterinary clinics, must:
- (a) Post signs at entrance(s) instructing patients to wear a face covering when inside.
 - (b) Limit waiting-area occupancy to the number of individuals who can be present while staying six feet away from one another and ask patients, if possible, to wait in cars for their appointment to be called.
 - (c) Mark waiting rooms to enable six feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
 - (d) Enable contactless sign-in (e.g., sign in on phone app) as soon as practicable.
 - (e) Add special hours for highly vulnerable patients, including the elderly and those with chronic conditions.
 - (f) Conduct a common screening protocol for all patients, including a temperature check and questions about COVID-19 symptoms.
 - (g) Place hand sanitizer and face coverings at patient entrances.
 - (h) Require employees to make proper use of personal protective equipment in accordance with guidance from the CDC and OSHA.
 - (i) Require patients to wear a face covering when in the facility, except as necessary for identification or to facilitate an examination or procedure.
 - (j) Install physical barriers at sign-in, temperature screening, or other service points that normally require personal interaction (e.g., plexiglass, cardboard, tables).
 - (k) Employ telehealth and telemedicine to the greatest extent possible.
 - (l) Limit the number of appointments to maintain social distancing and allow adequate time between appointments for cleaning.
 - (m) Employ specialized procedures for patients with high temperatures or respiratory symptoms (e.g., special entrances, having them wait in their car) to avoid exposing other patients in the waiting room.
 - (n) Deep clean examination rooms after patients with respiratory symptoms and clean rooms between all patients.
 - (o) Establish procedures for building disinfection in accordance with CDC guidance if it is suspected that an employee or patient has COVID-19 or if there is a confirmed case.
10. **In-home services.** All businesses or operations that provide in-home services, including cleaners, repair persons, painters, and the like, must:
- (a) Require their employees (or, if a sole-owned business, the business owner) to perform a daily health screening prior to going to the job site.
 - (b) Maintain accurate appointment record, including date and time of service, name of client, and contact information, to aid with contact tracing.
 - (c) Limit direct interaction with customers by using electronic means of communication whenever possible.
 - (d) Prior to entering the home, inquire with the customer whether anyone in the household has been diagnosed with COVID-19, is experiencing symptoms of COVID-19, or has had close

contact with someone who has been diagnosed with COVID-19. If so, the business or operation must reschedule for a different time.

- (e) Limit the number of employees inside a home to the minimum number necessary to perform the work in a timely fashion.
 - (f) Gloves should be worn when practical and disposed of in accordance with guidance from the CDC.
- 11. Personal-care services.** All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal-care services must:
- (a) Maintain accurate appointment and walk-in records, including date and time of service, name of client, and contact information, to aid with contact tracing.
 - (b) Post signs at store entrances informing customers not to enter if they are or have recently been sick.
 - (c) Restrict entry to customers, to a caregiver of those customers, or to the minor dependents of those customers.
 - (d) Require in-use workstations to be separated by at least six feet from one another and, if feasible, separate workstations with physical barriers (e.g., plexiglass, strip curtains).
 - (e) Limit waiting-area occupancy to the number of individuals who can be present while staying six feet away from one another and ask customers, if possible, to wait in cars for their appointment to be called.
 - (f) Discontinue all self-service refreshments.
 - (g) Discard magazines in waiting areas and other non-essential, shared items that cannot be disinfected.
 - (h) Mark waiting areas to enable six feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
 - (i) Require employees to make proper use of personal protective equipment in accordance with guidance from the CDC and OSHA.
 - (j) Require employees and customers to wear a face covering at all times, except that customers may temporarily remove a face covering when receiving a service that requires its removal. During services that require a customer to remove their face covering, an employee must wear a face shield or goggles in addition to the face covering.
 - (k) Install physical barriers, such as sneeze guards and partitions at cash registers, where maintaining physical distance of six feet is difficult.
 - (l) Cooperate with the local public health department if a confirmed case of COVID-19 is identified in the facility.
- 12. Public accommodations.** Sports and entertainment facilities, including arenas, cinemas, concert halls, performance venues, sporting venues, stadiums and theaters, as well as places of public amusement, such as amusement parks, arcades, bingo halls, bowling alleys, night clubs, skating rinks, and trampoline parks, must:
- (a) Post signs outside of entrances informing customers not to enter if they are or have recently been sick.
 - (b) Encourage or require patrons to wear face coverings.
 - (c) Establish crowd-limiting measures to meter the flow of patrons (e.g., digital queuing, delineated waiting areas, parking instructions, social distance markings on ground or cones to designate social distancing, etc.).
 - (d) Use physical dividers, marked floors, signs, and other physical and visual cues to maintain six feet of distance between persons.
 - (e) Limit seating occupancy to the extent necessary to enable patrons not of the same household to maintain six feet of distance from others (e.g., stagger group seating upon reservation, close off every other row, etc.).
 - (f) For sports and entertainment facilities, establish safe exit procedures for patrons (e.g., dismiss groups based on ticket number, row, etc.).
 - (g) For sports and entertainment facilities, to the extent feasible, adopt specified entry and exit times for vulnerable populations, as well as specified entrances and exits.
 - (h) Train employees who interact with patrons (e.g., ushers) on how to:
 - (1) Monitor and enforce compliance with the facility's COVID-19 protocols.
 - (2) Help patrons who become symptomatic.
 - (i) Frequently disinfect high-touch surfaces during events or, as necessary, throughout the day.
 - (j) Disinfect and deep clean the facility after each event or, as necessary, throughout the day.
 - (k) Close self-serve food or drink options, such as buffets, salad bars, and drink stations.

13. **Sports and exercise facilities.** Gymnasiums, fitness centers, recreation centers, exercise facilities, exercise studios, bowling alleys, roller rinks, ice rinks, and like facilities must:
- (a) Use best efforts to provide opportunities for patrons to exercise outdoors.
 - (b) Maintain accurate records, including date and time of entry and exit, names of patrons, and contact information, to aid with contact tracing; and deny entry to any visitor who does not provide at a minimum their name and phone number.
 - (c) Mandate wearing of facial coverings at all times except when swimming.
 - (d) Limit capacity in the facility to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
 - (e) Configure workout stations or implement protocols to enable six feet of distance between individuals during exercise sessions (or six feet of distance with barriers).
 - (f) Reduce class sizes, as necessary, to enable at least six feet of separation between individuals, and comply with relevant restrictions on social gatherings and organized events in the Michigan Safe Start Order.
 - (g) Provide equipment-cleaning products throughout the facility for use on equipment.
 - (h) Make hand sanitizer, disinfecting wipes, soap and water, or similar disinfectant readily available.
 - (i) Regularly disinfect exercise equipment, including immediately after use. If patrons are expected to disinfect, post signs encouraging patrons to disinfect equipment.
 - (j) Ensure that ventilation systems operate properly.
 - (k) Increase introduction and circulation of outdoor air as much as possible by opening windows and doors, using fans, or other methods.
 - (l) Regularly clean and disinfect public areas, locker rooms, and restrooms.
 - (m) Close steam rooms, saunas, jacuzzis, and cold plunge pools.
 - (n) Post signs outside of entrances instructing individuals not to enter if they are or have recently been sick.
14. **Pools.** Swimming pools must:
- (a) If they are outdoors, limit capacity to 50% of the bather capacity limits described in Rule 325.2193 of the Michigan Administrative Code;
 - (b) If they are indoors, limit capacity to 25% of the bather capacity limits described in Rule 325.2193 of the Michigan Administrative Code;
 - (c) Limit capacity on the pool deck to ensure that persons not part of the same household maintain six feet of distance from one another.
15. **Meat and poultry processing.** Meat and poultry processing plants must:
- (a) Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening.
 - (b) Create at least one dedicated entry point at every facility for daily screening as provided in subsection (a) of this section, and ensure physical barriers are in place to prevent anyone from bypassing the screening.
 - (c) Configure communal work environments so that employees are spaced at least six feet apart in all directions (e.g., side-to-side and when facing one another).
 - (d) Require employees to wear a face covering whenever present at the facility, except when removal is necessary to eat or drink.
 - (e) Provide clean cloth face coverings or disposable mask options for employees to use when the coverings become wet, soiled, or otherwise visibly contaminated over the course of a workday.
 - (f) Use face shields in addition to face coverings as necessary when engineering and administrative controls are difficult to maintain and there may be exposure to other workplace hazards, such as splashes or sprays of liquids on processing lines
 - (g) Install physical barriers, such as strip curtains, plexiglass, or other impermeable dividers or partitions, to separate meat and poultry processing employees from each other.
 - (h) Take measures to ensure adequate ventilation in work areas to help minimize employees' potential exposures.
 - (i) Encourage single-file movement with a six-foot distance between each employee through the facility.
 - (j) Stagger employees' arrival, departure, break, and lunch times to avoid congregations of employees in parking areas, locker rooms, lunch areas, and near time clocks.
 - (k) Provide visual cues (e.g., floor markings, signs) as a reminder to employees to maintain social distancing.

- (l) Designate employees to monitor and facilitate social distancing on the processing floor.
- (m) Reduce processing capacity or modify the processing or production lines or stagger workers across shifts to minimize the number of employees in the facility at any one time.
- (n) Adopt sick leave policies that discourage employees from entering the workplace while sick and modify any incentive programs that penalize employees for taking sick leave.
- (o) Group employees together in cohorts, if feasible, in a manner that allows a group of employees to be assigned to the same shifts with the same coworkers, so as to minimize contacts between employees in each cohort.
- (p) If an employee becomes or reports being sick, disinfect the workstation used and any tools handled by the employee.
- (q) Provide personal protective equipment that is disposable if possible or else, if reusable equipment is provided, ensure proper disinfection and storage in a clean location when not in use.

16. **Casinos.** Casinos must:

- (a) Conduct a daily entry screening protocol for customers, employees, contractors, suppliers, and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening.
- (b) Limit and enforce patron occupancy of 15% of total occupancy limits established by the State Fire Marshal or a local fire marshal.
- (c) Designate entry points and exit points with extensive signage of the directional flow of patrons.
- (d) Place signs at each entrance point, cage, and throughout the casino reminding patrons of CDC guidelines for social distancing practices, proper washing of hands, wearing face coverings, and to stay at home if feeling ill or sick.
- (e) Require patrons to wear a face covering, except while eating or drinking or for identification purposes.
- (f) Prohibit smoking indoors.
- (g) Designate a Liaison Officer (or Officers), identify such Officer (or Officers) to all casino employees, and require any employee who believes they may have contracted COVID-19 or been exposed to COVID-19 to report this to an Officer.
- (h) Stagger break schedules and employee starting and ending times to the extent possible to avoid congregation of individuals in back-of-house areas.
- (i) Provide frequent opportunities for employees to wash and/or sanitize their hands to reduce the risk of surface transmission.
- (j) In addition to the cleaning required under subsection 1(k), clean and disinfect all high-touch objects that are accessible to the public (e.g., ATMs, counters, door handles, elevator panels and buttons, restrooms, dining tables, employee break rooms, carts, chairs, table rails, trash bins, light switches, phones, kiosks, time clocks, etc.).
- (k) Provide disinfecting wipes (to the extent they are available) throughout the casino to enable patrons to disinfect frequently touched surfaces.
- (l) Place hand sanitizer stations in high traffic areas, including throughout the casino floor and employee break rooms.
- (m) Regularly maintain their HVAC systems and maximize the delivery of fresh air into the facility.
- (n) Frequently disinfect slot machines, provide wipe dispensaries for slot machines, and post signs encouraging patrons to wipe down slot machines before and after use.
- (o) Enable social distancing between slot machines by either:
 - (1) Installing a plexiglass barrier between slot machines.
 - (2) Disabling machines or removing chairs from machines as necessary to maintain six feet of distance between machines in operation.
- (p) Require dealers and customers to wear face coverings.
- (q) Require casino employees who provide food and drink service on the casino floor to follow the rules described in section 8, which governs servers at restaurants, including but not limited to, the wearing of face coverings.
- (r) Close the following services or offerings:
 - (1) Concerts, nightclubs, live events, and shows.
 - (2) Valet service.
 - (3) Coat check.
 - (4) Self-serve buffets and self-serve soda and coffee stations.
- (s) Follow any infection-control guidance provided by the Michigan Gaming Control Board, including, but not limited to, any guidance on the conduct of table games.

17. **Racetracks.** In addition to following any other applicable rules, including the gathering restrictions of the Safe Start order (Executive Order 2020-160 or any order that may follow from it), racetracks licensed by the Executive Director of the Michigan Gaming Control Board must follow all orders issued by the Executive Director for reopening and operation consistent with this order or any order that follows from it.
18. **Recordkeeping.** Employers must maintain a record of the requirements set forth in subsections 1(c) (training), 1(f) (screening protocol), and 1(n) (required notifications).
19. **Effective date and effect on other orders.** This order is effective immediately upon issuance. Executive Order 2020-161 is rescinded, except that nothing in this order shall be construed to affect any prosecution based on conduct that occurred before the effective date of this order. This order rescinds section 2(d) of Executive Order 2020-153, Masks. Except as otherwise specified, nothing in this order supersedes any other executive order.
20. **Non-exclusivity.** Nothing in this order shall be taken to limit or affect any rights or remedies otherwise available under law.
21. **Penalty.** Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: September 3, 2020

Time: 2:30 pm

[SEAL]

GRETCHEN WHITMER

GOVERNOR

By the Governor:

JOCELYN BENSON

SECRETARY OF STATE

The message was referred to the clerk.

The following message from the Governor was received September 3, 2020 and read:

EXECUTIVE ORDER

No. 2020-176

Safe Start

Rescission of Executive Orders 2020-160 and 2020-162

Where Michigan was once among the states most heavily hit by COVID-19, our per-capita rate of new daily cases is now well below the national average. Our progress in suppressing the disease has plateaued. Michigan's seven-day case positivity rate has remained between 3.0% and 3.5% since early June. And although cases have continued to rise slightly—from a rolling seven-day average of 612 cases per day on July 25 to 745 cases per day on August 25—so has our testing volume.

Recognizing the need for ongoing vigilance, this plateau allows us to carefully and deliberately relax some restrictions. An incremental approach—where some activities reopen before others—is essential to avoiding uncontrolled spread, measuring the result of changes, and allowing our gradual reopening to continue. This order therefore allows for organized sports competitions to resume, if organizers take appropriate precautions. It also allows for gyms and pools to reopen across the state, subject to stringent safety protocols.

Additional safeguards specific to the workplace can be found in Executive Order 2020-175 or any order that may follow from it.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in Michigan House of Representatives and Michigan Senate v. Whitmer. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)–(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I find it reasonable and necessary, for the reasons outlined above, to order:

1. **Remote work.** Except in Regions 6 and 8, any work capable of being performed remotely (i.e., without the worker leaving his or her home or place of residence) must be performed remotely. Although not required, in Regions 6 and 8, any work capable of being performed remotely should be performed remotely.
2. **Individual responsibility.** Any individual who leaves his or her home or place of residence must:
 - (a) Follow social distancing measures recommended by the Centers for Disease Control and Prevention ("CDC"), including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances; and
 - (b) Follow the rules described in Executive Order 2020-153, Masks, or any order that may follow from it.
3. **Public accommodations restrictions.** Subject to the exceptions in section 8 ("Regions 6 and 8") and 9 ("Exceptions"), the following places are closed to entry, use, and occupancy by members of the public:
 - (a) Indoor theaters, cinemas, and performance venues;
 - (b) Until September 8, 2020 at 11:59 pm, indoor gymnasiums, fitness centers, recreation centers, sports facilities, exercise facilities, exercise studios, and the like;
 - (c) Millionaire Parties licensed by the Michigan Gaming Control Board; and
 - (d) Except as provided in subsection (e) of this section, indoor services or facilities, or outdoor services or facilities involving close contact of persons, for amusement or other recreational or entertainment purposes, such as amusement parks, arcades, bingo halls, bowling alleys, indoor climbing facilities, indoor dance areas, roller rinks, ice rinks, trampoline parks, carnival or amusement rides as defined by MCL 408.652(2), waterparks, and other similar recreational or entertainment facilities.

- (e) Bowling alleys, roller rinks, and ice rinks may be open for the sole purpose of serving as a venue for organized sports under section 7 of this order.
4. **Bars.** Food service establishments, as defined in section 1107(t) of the Michigan Food Law, 2000 PA 92, as amended, MCL 289.1107(t), that hold on-premises retailer licenses to sell alcoholic beverages must close for indoor service if they earn more than 70% of their gross receipts from sales of alcoholic beverages (for purposes of calculating gross receipts, sales of lottery tickets do not count because they are remitted to the state, although commissions, incentives, bonuses and other payments from the Michigan Lottery do count).
- (a) Food service establishments that are closed for indoor service but open for outdoor service must prohibit patrons from entering the establishment, except to walk through in order to access the outdoor area, to leave the establishment, or to use the restroom.
- (b) For purposes of calculating its percentage of gross receipts from sales of alcoholic beverages under this section, a food service establishment must use:
- (1) Gross receipts from 2019; or
 - (2) If the establishment was not in operation in 2019, gross receipts from the date the establishment opened in 2020.
5. **Liquor license restrictions.** Dance and topless activity permits issued under subsections 2 or 3 of section 916 of the Michigan Liquor Control Code, 1998 PA 58, as amended, MCL 436.1916(2) and (3), are temporarily suspended. Combination dance–entertainment permits and topless activity–entertainment permits issued under subsection 4 of section 916 of the Michigan Liquor Control Code, MCL 436.1916(4), are suspended to the extent they allow dancing and topless activity, but remain valid to the extent they allow other entertainment.
- (a) In enforcing the Michigan Liquor Control Code, the Michigan Liquor Control Commission will consider whether the public health, safety or welfare requires summary, temporary suspension of a license under section 92(2) of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.292(2).
- (b) Nothing in this order or in the Executive Order 2020-175, Workplace Safeguards, prevents food service establishments from selling alcoholic beverages for off-premises consumption to patrons who are not seated at a table, or requires such patrons to remain seated when ordering such beverages.
- (c) Nothing in this order or in Executive Order 2020-175, Workplace Safeguards prevents the holder of a social district license under section 551 of the Michigan Liquor Control Code, 1998 PA 58, as amended, MCL 436.1551 from selling alcoholic beverages for consumption in a commons area within a designated social district to patrons who are not seated at a table, or requires such patrons to remain seated when ordering such beverages.
6. **Gatherings, events, and large venues.**
- (a) Except in Regions 6 and 8 (see section 8), social gatherings and organized events among persons not part of the same household are permitted provided that organizers and venues ensure that:
- (1) Persons not part of the same household maintain six feet of distance from one another, including by designing the gathering or event to encourage and maintain social distancing;
 - (2) If a gathering or event is indoors, it does not exceed 10 people; and
 - (3) If a gathering or event is outdoors, it does not exceed 100 people.
- (b) Subsection (a) applies to workplace gatherings and events (such as meetings and trainings), but does not apply to the incidental gathering of persons in a shared space, including an airport, bus station, factory floor, restaurant, shopping mall, public pool, or workplace.
7. **Organized sports.**
- (a) For purposes of this order, “organized sports” means competitive athletic activity requiring skill or physical prowess and organized by an institution or association that sets and enforces rules to ensure the physical health and safety of all participants (“sports organizer” or “sports organizers”).
- (b) Athletes participating in an organized sport, while on the field of play, are not subject to the social distancing requirements of this order found in sections 2(a) and 6(a)(1), but instead must maintain six feet of distance from one another to the extent compatible with that organized sport, and wear a facial covering except when swimming. Sports organizers shall ensure that athletes comply with this subsection for each organized sporting event.
- (c) Sports organizers should follow the guidance of the Department of Health and Human Services regarding whether and how a sport can be played safely.
- (d) For indoor organized sports competitions, sports organizers must ensure that the live audience is limited to the guests of the athletes with each athlete designating up to two guests. For outdoor

organized sports competitions, sports organizers must ensure that either (i) the live audience is limited to the guests of the participants with each athlete designating up to two guests or (ii) the live audience is limited to the extent that 100 people or fewer are gathered for the event including all participants (athletes, coaches, staff, etc.).

- (e) For indoor organized sports, sports organizers must ensure that no concessions are sold at the venue.
 - (f) Notwithstanding any other provision of this order, professional sports leagues and teams, including professional athletes engaged in individual sports, may engage in professional sports operations, provided that:
 - (1) No live audiences are allowed, except for staff of the facility at which a sporting event is held and media personnel reporting on, filming, or otherwise documenting the sporting event;
 - (2) The activities are conducted pursuant to a COVID-19 safety plan that is consistent with any guidance from the Centers for Disease Control and Prevention and the Michigan Department of Health and Human Services; and
 - (3) Participants maintain six feet of distance from one another to the extent compatible with the sporting activity.
- 8. Regions 6 and 8.**
- (a) Notwithstanding section 6(a)(3) of this order, an outdoor social gathering or outdoor organized event among persons not part of the same household is permitted in Regions 6 and 8 provided that the gathering or event does not exceed 250 people and complies with the social distancing requirement of subsection 6(a)(1) of this order.
 - (b) In Regions 6 and 8, a business or venue whose operations would otherwise be restricted by section 3 of this order may be open to spectators or patrons provided that it:
 - (1) Arranges the venue such that persons not part of the same household may maintain six feet of distance from one another at all times while in the venue; and
 - (2) Limits the number of people in the venue to 25% of its maximum capacity or to 250, whichever is smaller. For purposes of this order, each separate auditorium or screening room is a separate venue.
 - (c) In Regions 6 and 8, and notwithstanding the restrictions in subsection (a) of this section, an outdoor concert space, race track, sports arena, stadium, or similar outdoor venue may be open to spectators or patrons provided that it:
 - (1) Arranges the venue such that persons not part of the same household may maintain six feet of distance from one another at all times while in the venue; and
 - (2) Limits the number of people in the venue to 25% of its maximum capacity or to 500, whichever is smaller.
- 9. Exceptions.**
- (a) The public accommodations restrictions imposed by section 3 of this order do not apply to any of the following:
 - (1) Services necessary for medical treatment as determined by a licensed medical provider;
 - (2) Health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities;
 - (3) Crisis shelters or similar institutions;
 - (4) Food courts inside the secured zones of airports; and
 - (5) Employees, contractors, vendors, or suppliers who enter, use, or occupy the places described in section 3 of this order in their professional capacity.
 - (b) The 10-person indoor gathering limitation imposed by section 6(a)(2) does not apply to any of the following:
 - (1) Aspects of training of law enforcement, medical, or first responder personnel not capable of being performed remotely;
 - (2) Polling places.
- 10. Parks.** Unless otherwise prohibited by local regulation, outdoor parks and recreational facilities may be open, provided that they make any reasonable modifications necessary to enable employees and patrons not part of the same household to maintain six feet of distance from one another, and provided that areas in which social distancing cannot be maintained are closed, subject to guidance issued by the Michigan Department of Health and Human Services.
- 11. Pools.** Effective September 9, 2020, unless otherwise prohibited by local regulation, public swimming pools may be open in all Regions, subject to the rules in the Workplace Safeguards order (Executive Order 2020-175 or any order that may follow from it). This section does not apply to waterparks, which are subject to section 3(c) of this order, except in Regions 6 and 8.

- 12. **Region definitions.** For purposes of this order, Michigan comprises eight separate regions.
 - (a) Region 1 includes the following counties: Monroe, Washtenaw, Livingston, Genesee, Lapeer, Saint Clair, Oakland, Macomb, and Wayne.
 - (b) Region 2 includes the following counties: Mason, Lake, Osceola, Clare, Oceana, Newaygo, Mecosta, Isabella, Muskegon, Montcalm, Ottawa, Kent, and Ionia.
 - (c) Region 3 includes the following counties: Allegan, Barry, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Saint Joseph, and Branch.
 - (d) Region 4 includes the following counties: Oscoda, Alcona, Ogemaw, Iosco, Gladwin, Arenac, Midland, Bay, Saginaw, Tuscola, Sanilac, and Huron.
 - (e) Region 5 includes the following counties: Gratiot, Clinton, Shiawassee, Eaton, and Ingham.
 - (f) Region 6 includes the following counties: Manistee, Wexford, Missaukee, Roscommon, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Montmorency, Alpena, Charlevoix, Cheboygan, Presque Isle, and Emmet.
 - (g) Region 7 includes the following counties: Hillsdale, Lenawee, and Jackson.
 - (h) Region 8 includes the following counties: Gogebic, Ontonagon, Houghton, Keweenaw, Iron, Baraga, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Mackinac, and Chippewa.
- 13. **Separation of powers.** Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority. Similarly, nothing in this order shall be taken to abridge protections guaranteed by the state or federal constitution under these emergency circumstances.
- 14. **Religious worship.** Consistent with prior guidance, neither a place of religious worship nor its owner is subject to penalty under section 18 of this order for allowing religious worship at such place. No individual is subject to penalty under section 18 of this order for engaging in religious worship at a place of religious worship.
- 15. **Consistency with state and federal law.** Nothing in this order, or any other executive order, should be taken to modify, limit, or abridge protections provided by state or federal law for a person with a disability.
- 16. **Effective date and effect on prior orders.** Except as otherwise specified, this order takes effect at 12:01 a.m. on September 4, 2020. At that time, Executive Orders 2020-160 and 2020-162 are rescinded, except that nothing in this order shall be construed to affect any prosecution based on conduct that occurred before the effective date of this order. Except as otherwise specified, nothing in this order supersedes any other executive order.
- 17. **Future orders.** In determining whether to maintain, intensify, or relax the restrictions in this order, I will consider, among other factors, (1) data on COVID-19 infections and the disease’s rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health care workforce; (4) the state’s capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.
- 18. **Penalty.** Consistent with MCL 10.33 and MCL 30.405(3), willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: September 3, 2020

Time: 2:32 pm

[SEAL]

GRETCHEN WHITMER
 GOVERNOR
 By the Governor:
 JOCELYN BENSON
 SECRETARY OF STATE

The message was referred to the clerk.

The following message from the Governor was received September 3, 2020 and read:

EXECUTIVE ORDER

No. 2020-177

Declaration of state of emergency and state of disaster related to the COVID-19 pandemic

Rescission of Executive Order 2020-165

Where Michigan was once among the states most heavily hit by COVID-19, our per-capita rate of new daily cases is now well below of the national average. Our progress in suppressing the disease, however, has

eroded. Cases rose from a rolling seven-day average of about 25 cases per million per day in mid-June to about 60 cases per million per day through most of July and August. Moreover, many Michigan students have returned or will soon be returning to in-person instruction, increasing the risk of outbreaks. In an alarming trend, both nationwide and here in Michigan, younger people have constituted a growing share of new cases.

There is much we do not know about this novel virus, but we know at least three things for certain: it is widespread, it is easily transmitted by airborne particles, and its effects can be fatal. That lethal combination, combined with ongoing uncertainty about how to defeat it, means that the health, economic, and social harms of the COVID-19 pandemic remain severe and affect every corner of this state. The COVID-19 pandemic therefore constitutes a statewide emergency and disaster.

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Once detected, the virus quickly spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. Exactly one month later, this number had ballooned to 42,356 confirmed cases and 3,866 deaths from the disease—a tenfold increase in deaths. The virus's rapid spread threatened to overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals.

On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: section 1 of article 5 of the Michigan Constitution of 1963; the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq.; and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq. On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

On April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v Whitmer*. On August 21, 2020, the Court of Appeals ruled that my declaration of a state of emergency, my extensions of the state of emergency, and my issuance of related executive orders clearly fell within the scope of the governor's authority under the Emergency Powers of the Governor Act.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I took steps to build the public health infrastructure in this state that is necessary to contain the spread of infection.

These statewide measures were effective. For example, a report released by the Imperial College COVID-19 Response Team showed that my actions significantly lowered the number of cases and deaths that would have occurred had the state done nothing. And while the virus remains aggressive and persistent—on September 2, Michigan reported a total of 103,710 confirmed cases and 6,509 deaths—the strain on our health care system has relented, even as our testing capacity has increased.

In early June, with the steep reduction in case counts, I moved progressively to relax restrictions on business activities and daily life. On June 1, I announced that most of the state would move to Phase 4 of my Safe Start plan, thereby allowing retailers and restaurants to resume operations. Hair salons and other personal care services followed two weeks later. And on June 10, I moved the Upper Peninsula and the region surrounding Traverse City to Phase 5, allowing for the reopening of movie theaters, gyms, bowling alleys, and other businesses.

Since then, however, our progress in suppressing the pandemic has stalled and begun to erode. Daily case counts in Michigan have exceeded 50 new cases per million statewide through most of July and August. Our statewide positivity rate has not decreased, remaining at about 3%. This reflects a national trend: COVID-19 cases are growing or holding steady in most other states.

Michigan continues to face an acute risk of a second wave, one that not only threatens lives but also our economy and the education of our children. In response, I have slowed the reopening of the economy. Performance venues remain closed across most of the state, and large gatherings remain curtailed. At the same time, consistent with the accumulating evidence that COVID-19 often spreads via aerosolized droplets, I have adopted additional measures—including the closure of certain bars, and a requirement that stores refuse entry and service to those without face coverings—to reduce the risk of spread in indoor spaces. Life will not be back to normal for some time to come.

In the meantime, the economic toll continues to mount. Between March 15 and May 30, Michigan received 2.2 million initial unemployment claims—the fifth-highest nationally, amounting to more than a third of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state already saw its highest unemployment rate since the Great Depression (22.7% in April). The Michigan Department of Treasury projects that in the coming fiscal year, this pandemic will cost the state \$1 billion in revenue. Even as Michigan experiences unemployment rates not seen in decades, federal unemployment assistance has dwindled from \$600 per week to \$300. Without further action by Congress, even this limited federal assistance run out.

In addition to these challenges, many Michigan students will return to in-person instruction over the next month, increasing the risk of outbreaks. States that have reopened schools have already begun to see new cases—a second-grader in Cherokee County, Georgia, a middle schooler in Greenfield, Indiana, and a high schooler in Corinth, Mississippi, have already tested positive for COVID-19 after attending school in person, triggering quarantines in those districts.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. Though local health departments have some limited capacity to respond to cases as they arise within their jurisdictions, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and to quickly direct additional resources to hot-spots as they emerge. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe. Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work.

Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan.
2. This order constitutes a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. Subject to the ongoing litigation, and the possibility that current rulings may be overturned or otherwise altered on appeal, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act of 1976 when emergency and disaster conditions exist yet the legislature has not granted an extension request, this order constitutes a state of emergency and state of disaster declaration under that act.
3. This order is effective immediately and continues through October 1, 2020 at 11:59 pm. I will evaluate the continuing need for this order.
4. Executive Order 2020-165 is rescinded. All previous orders that rested on that order now rest on this order.

Given under my hand and the Great Seal of the State of Michigan.

Date: September 3, 2020

Time: 5:44 pm

[SEAL]

GRETCHEN WHITMER
GOVERNOR

By the Governor:

JOCELYN BENSON

SECRETARY OF STATE

The message was referred to the clerk.

The following message from the Governor was received September 5, 2020 and read:

EXECUTIVE ORDER

No. 2020-178

Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry

Rescission of Executive Order 2020-168

Beginning in May 2020, I put in place special protocols to minimize the risk of COVID-19 transmission in food-selling establishments and pharmacies. Because buying food and medicine remains an unavoidable source of infection risk for many Michiganders, and the COVID-19 pandemic remains a serious and deadly threat, it is reasonable and necessary to again extend these policies.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v. Whitmer*. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Grocery stores and pharmacies must create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant people, and those with chronic conditions, including heart disease, diabetes, and lung disease.
2. Food-selling establishments and pharmacies must deploy strategies to reduce COVID-19 exposure for their customers and employees consistent with the strategies described in Executive Orders 2020-153 and 2020-175 or any order that follows from either order, as well as the following:
 - (a) Provide access to handwashing facilities, including those available in public restrooms;
 - (b) Allow employees sufficient break time to wash hands as needed;
 - (c) Use best efforts to ensure checkout employees disinfect their hands between orders to prevent cross-contamination;
 - (d) Use best efforts to provide employees and customers access to an alcohol-based hand sanitizer that contains at least 60% alcohol, as recommended by the Centers for Disease Control and Prevention (CDC);
 - (e) Use best efforts to provide disinfecting wipes at cash registers and entrance points for customers to disinfect carts and baskets, as well as at other appropriate locations;
 - (f) Ensure that both employees and customers remain at least six feet apart to the maximum extent possible, including during employee breaks, for example by reviewing floor plans, creating temporary barriers, designating aisles as one-way only, and demarcating queueing distances;
 - (g) Close self-serve prepared food stations such as salad bars;
 - (h) Eliminate free samples and tasting stations;
 - (i) Adopt procedures to meet the environmental cleaning guidelines set by the CDC, including by cleaning and disinfecting frequent touchpoints throughout the day such as point of sale terminals at registers, shopping carts, and shopping baskets;
 - (j) Prohibit employees who are sick from reporting to work and send employees home if they display symptoms of COVID-19. Employees who test positive for COVID-19 or who display one or more of the principal symptoms of COVID-19 should follow the procedures of Executive Order 2020-166 or any order that follows from it;
 - (k) Accommodate employees who fall within a vulnerable population by providing lower-exposure work assignments or giving them the option to take an unpaid leave of absence with a return date of September 30, 2020 or later. Nothing in this executive order abrogates any right to disability benefits. Employees who take an unpaid leave of absence as described in this subsection are encouraged to apply for unemployment benefits;
 - (l) Close to the public for sufficient time each night to allow stores to be properly sanitized;
 - (m) Encourage cash transactions to be processed at self-checkout kiosks when possible; and
 - (n) Adhere to all applicable safeguards, including but not limited to conducting a daily self-screening protocol for all employees and contractors, that are required under Executive Order 2020-175 or any order that follows from it.
3. Vendors moving between food-selling establishments must frequently clean and disinfect frequent touch points.
4. If an employee at a food-selling establishment tests positive for COVID-19, the establishment must notify food vendors and other employees of the positive test result as soon as possible and in no case later than 12 hours after receiving the test result, without revealing the personal health-related information of any employee.
5. Strict compliance with sections 3119, 4109, 4113, and 4115 of the Food Law, 92 PA 2000, as amended, MCL 289.3119, MCL 289.4109, MCL 289.4113, and MCL 289.4115, is temporarily suspended to the extent necessary to extend the deadline for local health departments to submit fees under section 3119, and to extend the license and registration expiration dates under sections 4109 and 4115, until 60 days after the end of the states of emergency and disaster declared in Executive Order 2020-165 or the end of any subsequently declared states of disaster or emergency arising out of the COVID-19 pandemic, whichever comes later. Furthermore, late fees shall not be assessed under sections 4113 or 4115 during the 2020–2021 license year.
6. Strict compliance with subsection 6137 of the Food Law, MCL 289.6137, is suspended to the extent necessary to make a license holder eligible for a special transitory temporary food unit for the 2020–2021 licensing year, even if the license holder received only 1 evaluation during the 2019–2020 licensing year.
7. For the purposes of this order, “food-selling establishments” means grocery stores, convenience stores, restaurants that sell groceries or food available for takeout, and any other business that sells food.
8. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

9. This order is effective immediately and continues through September 30, 2020.

10. Executive Order 2020-168 is rescinded.

Given under my hand and the Great Seal of the State of Michigan.

Date: September 5, 2020

Time: 11:10 am

[SEAL]

GRETCHEN WHITMER
GOVERNOR

By the Governor:

JOCELYN BENSON
SECRETARY OF STATE

The message was referred to the clerk.

The following message from the Governor was received September 5, 2020 and read:

EXECUTIVE ORDER

No. 2020-179

Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic

Rescission of Executive Order 2020-169

From day one, I have taken action to protect seniors from the deadly COVID-19 pandemic. Because of the inordinate risk of COVID-19 to elderly Michiganders living in congregate settings, I have issued executive orders implementing special protections for residents and employees of long-term care facilities. To ensure our nursing homes are as safe as possible, I pushed our inspectors to complete 100% of infection control surveys more than two months before the federal deadline, and they delivered. And I have worked tirelessly to procure tests and PPE to keep seniors safe, and to facilitate testing for all nursing home residents and staff, with little to no assistance from federal authorities. To protect against a possible second wave, I created the nursing home preparedness task force, which is set to produce its report August 31. Finally, my stay-home and safe-start orders have dramatically cut the infection rate and limited community spread, the single-greatest threat to the residents of long-term care facilities.

Because COVID-19 continues to threaten the health and safety of elderly Michiganders living in long-term care facilities, it is reasonable and necessary to continue the enhanced protections for residents and staff of long-term care facilities put in place back in April 2020. This order rescinds my prior executive order on this topic and extends those protections through the end of this month. The Michigan Department of Health and Human Services remains empowered to issue orders and directives to implement these protections and should carefully consider the recommendations of the Nursing Home Task Force, released August 31, 2020, in doing so.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v. Whitmer*. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[er] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

I. Protections for residents of long-term care facilities

1. Notwithstanding any statute, rule, regulation, or policy to the contrary, a long-term care facility must not effectuate an eviction or involuntary discharge against a resident for nonpayment, nor deny a resident access to the facility, except as otherwise provided in this order.
2. A long-term care facility must not prohibit admission or readmission of a resident based on COVID-19 testing requirements or results in a manner that is inconsistent with this order or relevant guidance issued by the Department of Health and Human Services ("DHHS").
3. The following apply to a resident that voluntarily obtained housing outside of a long-term care facility such as by moving in with a family member (but not to a resident who was hospitalized) during any state of emergency or state of disaster arising out of the COVID-19 pandemic:
 - (a) The resident does not forfeit any right to return that would have been available to the resident under state or federal law had they been hospitalized or placed on therapeutic leave. Nothing in this section affects the rights of a resident who was hospitalized or placed on therapeutic leave.
 - (b) Except as provided in subsection (c), as soon as capacity allows, the long-term care facility of origin must accept the return of the resident, provided it can meet the medical needs of the resident, and there are no statutory grounds to refuse the return.
 - (c) Prior to accepting the return of such a resident, the long-term care facility must undertake screening precautions that are consistent with relevant DHHS guidance when receiving the returning resident. A facility must not accept the return of a COVID-19-positive resident if the facility does not have a dedicated unit or regional hub meeting the requirements of this order.
4. Nothing in this order abrogates the obligation to pay or right to receive payment due under an admission contract between a resident and a long-term care facility.
5. All long-term care facilities must use best efforts to facilitate the use of telemedicine in the care provided to their residents, including, but not limited to, for regular doctors' visits, telepsychology, counseling, social work and other behavioral health visits, and physical and occupational therapy.

II. Protections for employees and residents of long-term care facilities

1. It is the public policy of this state that employees of long-term care facilities or regional hubs who test positive for COVID-19 or who display one or more of the principal symptoms of COVID-19 should remain in their homes or places of residence, as provided in section 2 of Executive Order 2020-172 or any order that may follow from it, and that their employers shall not discharge, discipline, or otherwise retaliate against them for doing so, as provided in section 1 of Executive Order 2020-172 or any order that may follow from it.
2. Long-term care facilities must:
 - (a) Cancel all communal dining and all internal and external group activities;

- (b) Take all necessary precautions to ensure the adequate disinfecting and cleaning of facilities, in accordance with relevant guidance from the Centers for Disease Control and Prevention (“CDC”);
- (c) Use best efforts to provide appropriate personal protective equipment (“appropriate PPE”) and hand sanitizer to all employees that interact with residents;
- (d) As soon as reasonably possible, but no later than 12 hours after identification, inform employees of the presence of a COVID-19-affected resident;
- (e) Notify employees of any changes in CDC recommendations related to COVID-19;
- (f) Keep accurate and current data regarding the quantity of each type of appropriate PPE available onsite, and report such data to EMResource upon DHHS’s request or in a manner consistent with DHHS guidance; and
- (g) Report to DHHS all presumed positive COVID-19 cases in the facility together with any additional data required under DHHS guidance.

III. Procedures related to transfers and discharges of COVID-19-affected residents

1. A long-term care facility must report the presence of a COVID-19-affected resident to their local health department within 24 hours of identification.
2. Except as otherwise provided by an advance directive, a long-term care facility must transfer a COVID-19-affected resident who is medically unstable to a hospital for evaluation.
3. A nursing home must make all reasonable efforts to create a unit dedicated to the care and isolation of COVID-19-affected residents (“dedicated unit”).
 - (a) A nursing home with a dedicated unit must provide appropriate PPE to direct-care employees who staff the dedicated unit.
 - (b) A nursing home provider that operates multiple facilities may create a dedicated unit by designating a facility for such a purpose.
 - (c) A nursing home must not create or maintain a dedicated unit unless it can implement effective and reliable infection control procedures.
4. A long-term care facility must adhere to the following protocol with respect to a COVID-19-affected resident who is medically stable:
 - (a) If the long-term care facility has a dedicated unit, the facility must transfer the COVID-19-affected resident to its dedicated unit.
 - (b) If the long-term care facility does not have a dedicated unit, it must attempt to transfer the COVID-19-affected resident to a regional hub, an alternate care facility with physical and operational capacity to care for the resident, or an available swing bed at a hospital.
 - (c) If a transfer under subsection (b) of this section is not possible, the long-term care facility must attempt to send the resident to a hospital within the state that has available bed capacity.
5. Once a long-term care facility resident who has been hospitalized due to onset of one or more of the principal symptoms of COVID-19 becomes medically stable, the hospital must conduct testing consistent with best practices identified by the CDC prior to discharge. Discharge may be made to any of the following: a regional hub, the facility where the resident resided prior to hospitalization, an alternate care facility with physical and operational capacity to care for the resident, or an available swing bed.
6. Discharge destinations should be determined consistent with CDC and DHHS guidelines. Decisionmakers should consider patient safety, the safety of the residents of any destination facility, the wishes of the patient and patient’s family, and any guidance or recommendations from the local health department. However, a resident may only be discharged to a facility capable of safely isolating the resident, consistent with any applicable CDC and DHHS guidelines.
7. Until an acceptable discharge destination is identified, the individual must remain in the care of the hospital where they reside.
8. For any transfer or discharge of a resident, the transferring or discharging entity must ensure that the resident’s advance directive accompanies the resident and must disclose the existence of any advance directive to medical control at the time medical control assistance is requested.
9. A long-term care facility that transfers or discharges a resident in accordance with this order must notify the resident and the resident’s representative (if reachable) of the transfer or discharge within 24 hours.
10. The department of licensing and regulatory affairs is authorized to take action to assure proper level of care and services in connection with this order, consistent with section 21799b of the Public Health Code, MCL 333.21799b, and any other relevant provisions of law.
11. A transfer or discharge of a long-term care facility resident that is made in accordance with this order constitutes a transfer or discharge mandated by the physical safety of other facility residents

and employees as documented in the clinical record, for purposes of section 21773(2)(b) of the Public Health Code, 1978 PA 368, as amended, MCL 333.21773(2)(b), and constitutes a transfer or discharge that is necessary to prevent the health and safety of individuals in the facility from being endangered, for purposes of 42 CFR 483.15(c)(1)(i)(C)–(D) and (c)(4)(ii)(A)–(B).

- 12. To the extent necessary to effectuate this terms of this order, strict compliance with any statute, rule, regulation, or policy pertaining to bed hold requirements or procedures, or to pre-transfer or pre-discharge requirements or procedures, is temporarily suspended. This includes, but is not limited to, strict compliance with the requirements and procedures under sections 20201(3)(e), 21776, 21777(1), and 21777(2) of the Public Health Code, MCL 333.20201(3)(e), MCL 333.21773(2), MCL 333.21776, MCL 333.21777(1), and MCL 333.21777(2), as well as Rules 325.1922(13)-(16), 400.1407(12), 400.2403(9), and 400.15302 of the Michigan Administrative Code.

IV. Definitions and general provisions

- 1. For purposes of this order:
 - (a) “Adult foster care facility” has the same meaning as provided by section 3(4) of the Adult Foster Care Facility Licensing Act, 1979 PA 218, as amended, MCL 400.703(4).
 - (b) “Alternate care facility” means any facility activated by the state to provide relief for hospitals that surge past their capacity,
 - (c) “Appropriate PPE” means the PPE that DHHS recommends in relevant guidance.
 - (d) “Assisted living facility” means an unlicensed establishment that offers community-based residential care for at least three unrelated adults who are either over the age of 65 or need assistance with activities of daily living (ADLs), including personal, supportive, and intermittent health-related services available 24-hours a day.
 - (e) “COVID-19-affected resident” means a resident of a long-term care facility who is COVID-19 positive, who is a person under investigation, or who displays one or more of the principal symptoms of COVID-19.
 - (f) “Home for the aged” has the same meaning as provided by section 20106(3) of the Public Health Code, MCL 333.20106(3).
 - (g) “Long-term care facility” means a nursing home, home for the aged, adult foster care facility, or assisted living facility.
 - (h) “Medically unstable” means a change in mental status or a significant change or abnormality in blood pressure, heart rate, oxygenation status, or laboratory results that warrants emergent medical evaluation.
 - (i) “Nursing home” has the same meaning as provided by section 20109(1) of the Public Health Code, MCL 333.20109(1).
 - (j) “Person under investigation” means a person who is currently under investigation for having the virus that causes COVID-19.
 - (k) “Principal symptoms of COVID-19” are fever, atypical cough, or atypical shortness of breath.
 - (l) “Regional hub” means a nursing home that is designated by DHHS as a dedicated facility to temporarily and exclusively care for and isolate COVID-19-affected residents. A regional hub must accept COVID-19-affected residents in accordance with relevant DHHS orders and guidance.
 - (m) “Swing bed” has the meaning provided by 42 CFR 413.114(b).
- 2. DHHS may issue orders and directives, and take any other actions pursuant to law, to implement this executive order.
- 3. This order is effective immediately and continues through September 30, 2020.
- 4. Executive Order 2020-169 is rescinded.
- 5. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

Given under my hand and the Great Seal of the State of Michigan.

Date: September 5, 2020

Time: 11:12 am

[SEAL]

GRETCHEN WHITMER
 GOVERNOR
 By the Governor:
 JOCELYN BENSON
 SECRETARY OF STATE

The message was referred to the clerk.

Announcements by the Clerk

September 4, 2020

Received from the Auditor General a copy of the:

- Labor and Performance audit report on the Adult Education Program, Adult Education, Department of Economic Opportunity (186-0720-18), September 2020.

Gary L. Randall
Clerk of the House

The Clerk declared the House adjourned until Wednesday, September 9, at 1:30 p.m.

GARY L. RANDALL
Clerk of the House of Representatives