



State of North Carolina

ROY COOPER
GOVERNOR

August 31, 2021

EXECUTIVE ORDER NO. 229

**EXTENDING MEASURES TO FACILITATE VACCINE ADMINISTRATION,
COVID-19 TESTING, AND THE VACCINE VERIFICATION POLICY
FOR CABINET AGENCIES**

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

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

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

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

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, and 228; and

WHEREAS, more than one million two hundred thirteen thousand six hundred (1,213,600) people in North Carolina have had COVID-19, and over fourteen thousand four hundred (14,400) people in North Carolina have died from the disease; and

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

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

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

Current Metrics

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

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

WHEREAS, because the Delta variant is more contagious than the original virus or other current COVID-19 variants, it quickly became the most common kind of COVID-19 in North Carolina during summer 2021, and now, the Delta variant makes up more than ninety-five percent (95%) of all new COVID-19 cases in North Carolina; and

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

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

Extension of Certain Provisions of Executive Order No. 224

WHEREAS, to facilitate the provision of COVID-19 testing and vaccine administration across the state, Executive Order No. 224 directed the State Health Director to issue, and confirmed the State Health Director's flexibility to issue, any statewide standing order needed for COVID-19 testing or for administering an authorized or approved COVID-19 vaccine; and

WHEREAS, Executive Order No. 224 also promotes COVID-19 testing and vaccine administration by preempting local regulations that may prevent such activity; and

WHEREAS, in light of troubling COVID-19 metrics across the state, and the need to continue testing and vaccination efforts, the undersigned, at the recommendation of NCDHHS, has determined that the above-referenced measures of Executive Order No. 224 should be extended for an additional ninety (90) days; and

WHEREAS, in Executive Order No. 224, the undersigned determined that Cabinet agency workers should be required to show either that they are fully vaccinated or that they have been recently tested for COVID-19, and directed the Office of State Human Resources ("OSHR") to issue a policy to implement the proof-of-vaccination and testing requirements; and

WHEREAS, on August 13, 2021, OSHR issued the Requirements for COVID-19 Testing and Face Coverings as an Alternative to Proof of Full Vaccination policy, and this policy, as updated on August 27, 2021, takes effect on September 1, 2021; and

WHEREAS, to protect the health and safety of state employees and the general public, Cabinet agencies should continue to implement this policy for the effective period of this Executive Order; and

WHEREAS, the undersigned continues to encourage all state and local government agencies, school systems, and private businesses and organizations, at a minimum, to adopt the same protections for state employees and the public as those directed under Executive Order No. 224; and

Statutory Determinations and Authority

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

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

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

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

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”; and

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

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

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

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

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

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

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

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

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

WHEREAS, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of the Office of State Human Resources may adopt policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission (“Commission”), which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

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

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order No. 224, **IT IS ORDERED**:

Section 1. Extension of Certain Provisions of Executive Order No. 224.

Sections 2, 3, and 8 of Executive Order No. 224 are hereby extended for an additional ninety (90) days from today’s date, unless repealed, replaced, or rescinded by another applicable Executive Order.

Section 2. Continuation of Policies Established under Executive Order No. 224.

Throughout the effective period of this Executive Order, Cabinet agencies are directed to continue to implement the policy issued under Sections 4.1 and 4.2 of Executive Order No. 224, requiring workers to either be fully vaccinated or be tested for COVID-19 each week. Workers will be required to directly or indirectly provide proof of vaccination or test results, as applicable, to the Cabinet agency where they work.

Section 3. No Private Right of Action.

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

Section 4. Distribution.

The undersigned hereby orders that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the State of North Carolina; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Savings Clause.

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

Section 6. Effective Date.

This Executive Order is effective August 31, 2021 at 5:00 p.m. This Executive Order shall remain in effect for an additional ninety (90) days from today's date unless repealed, rescinded, or replaced by another applicable Executive Order. An Executive Order rescinding the Declaration of State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

