STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ROBERT GORDON
DIRECTOR

Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-69, 2020-71, 2020-91, and 2020-92

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 Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, Governor Gretchen Whitmer issued Executive Order 2020-4 declaring 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, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33. And in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, the Governor issued Executive Order 2020-33 on April 1, 2020. 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, the governor 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.

On April 2, 2020, I issued an order entitled Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-11, 2020-20, and 2020-21 to control the epidemic and protect public health by reinforcing the Governor's executive orders. At the time that order was issued, there were 9,334 cases of COVID-19 diagnosed in Michigan and 337 reported deaths.

As of May 16, 2020, there were 50,504 cases of COVID-19 diagnosed in Michigan and 4,880 reported deaths. Many of these cases are the result of well-established community spread.

The pandemic persists, and the means to control it have evolved. Specifically, the governor today issued an executive order providing safeguards to protect Michigan's returning workforce from the threat of COVID-19. The April 2 order does not incorporate this executive order and other executive orders providing critical workplace protections, and is therefore no longer adequate to control the epidemic and protect the public health. I therefore find it appropriate to rescind the April 2 order.

Social distancing measures, including isolation of persons affected by COVID-19, are essential to control the pandemic. Social distancing is the primary tool available to suppress the spread of COVID-19, save lives, and prevent excessive pressure on the state's healthcare system.

On April 30, 2020, Governor Whitmer issued Executive Order 2020-69 re: Temporary restrictions on the use of places of public accommodation.

On May 2, 2020, Governor Whitmer issued Executive Order 2020-71 re: 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.

On May 18, 2020, Governor Whitmer issued Executive Order 2020-91 re: Safeguards to protect Michigan's workers from COVID-19, and Executive Order 2020-92 re: Temporary requirement to suspend certain activities that are not necessary to sustain or protect life, and.

Considering the above, and upon the advice of scientific and medical experts employed by the Michigan Department of Health and Human Services, I have concluded pursuant to MCL 333.2253 that the COVID-19 pandemic continues to constitute an epidemic in Michigan. I further conclude that control of the epidemic is necessary to protect the public health and that it is necessary to establish procedures to be followed during the epidemic to ensure the continuation of essential public health services and enforcement of health laws. As provided in MCL 333.2253, these emergency procedures are not limited to the Public Health Code.

I therefore order that:

1. The procedures and restrictions outlined in Executive Order ("EO") 2020-69, EO 2020-71, EO 2020-91, and EO 2020-92 are necessary to control the epidemic and protect the public health.

2. The procedures and restrictions outlined in EO 2020-69, EO 2020-71, EO 2020-91, and EO 2020-92 are hereby incorporated into this order, and remain in place until this order is lifted.

3. Every person in this state must comply with these procedures and restrictions. Any violations of this order by a person regulated by a licensing agency shall be referred to the relevant licensing agency. The licensing agency must determine whether to pursue additional enforcement action on a case-by-case basis. For purposes of this order, "person" has the meaning provided by section 1106 of the public health code, 1978 PA 368, MCL 333.1106.

4. Pursuant to MCL 333.2235(1), local health departments are authorized to carry out and enforce the terms of this order.

5. Law enforcement officers, as defined in the Michigan Commission on Law Enforcement Standards Act, 1965 Public Act 203, MCL 28.602(f), are deemed to be "department representatives" for purposes of enforcing this order, and are specifically authorized to investigate potential violations of this order. They may coordinate as necessary with the local health department and enforce this order within their jurisdiction.

6. Law enforcement officers are specifically authorized to bar access to businesses and operations that fail to comply with the procedures and restrictions outlined in EO 2020-69, EO 2020-71, EO 2020-91, and EO 2020-92. The Attorney General and county prosecutors are likewise specifically authorized to enforce this order to control the epidemic and protect the public health in coordination with the appropriate law enforcement authority and, as necessary, the local health department.

7. Consistent with MCL 333.2263, any appeals of civil monetary citations issued under this order in accordance with the schedule of fines set forth in related emergency rules may be heard by the Michigan Office of Administrative Hearings and Rules.

8. The April 2 order entitled "Emergency Order Pursuant to MCL 333.2253 Regarding Executive Orders 2020-11, 2020-20, and 2020-21" is rescinded. Any references to that April 2 order now refer to this order.

9. If any provision of this order is found invalid by a court of competent jurisdiction, whether in whole or in part, such decision will not affect the validity of the remaining part of this order.

This order is effective immediately and remains in effect until lifted.

Date: May 18, 2020

Robert Gordon

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Robert Gordon, Director

Michigan Department of Health and Human Services