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 2020-153, 2020-160, and 2020-161

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 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. Governor Whitmer has reissued the declaration of emergency on several occasions in light of the continuing threat posed by the pandemic.

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.

On May 18, 2020, in light of changing needs for enforcement, I rescinded the April 2 order and issued an order entitled Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-69, 2020-71, 2020-91, and 2020-92.

On May 27, 2020, again in light of changing needs for enforcement, I rescinded the May 18 order and issued an order entitled Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-69, 2020-71, 2020-96, and 2020-97.

And on June 5, 2020, to better reflect the changing needs for enforcement, I rescinded the May 27 order and issued an order entitled Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-110, 2020-114, and 2020-115.

As of July 29, 2020, there were 80,172 cases of COVID-19 diagnosed in Michigan and 6,172 reported deaths. Many of these cases are the result of well-established community spread. Michigan's efforts to suppress the virus have reduced Michigan's infection rate from among the highest in the country to a rate similar to the national average. However, case counts have recently trended upward, from fewer than 100 cases per day in mid-June, to between 500 and 1000 per day in recent days. We must remain steadfast in our response to this ongoing threat, and we must take all appropriate measures to reduce its impact.

As the pandemic persists, the means necessary to control it continue to evolve. Governor Whitmer has issued orders 2020-153, 2020-160, and 2020-161, all of which update prior orders requiring the use of masks, limiting certain types of gatherings and activities, and establishing workplace safeguards, respectively.

On July 17, 2020, Governor Whitmer issued Executive Order 2020-153, requiring the use of masks in certain public areas.

On July 29, 2020, Governor Whitmer issued Executive Order 2020-160, which reestablished restrictions crucial to addressing the pandemic. The order set forth temporary restrictions on certain events, gatherings, and businesses; required that work be completed remotely where possible; required that all persons abide by social distancing guidance; restricted attendance of gatherings and events; and closed bars and certain businesses for indoor service, among other provisions.

Also on July 29, 2020, Governor Whitmer issued Executive Order 2020-161, which reestablished safeguards to protect Michigan's workers from COVID-19. The order specifies workplace safeguards applicable throughout the State of Michigan, as well as specific safeguards for the businesses allowed to re-open in Regions 6 and 8 of the State.

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 rules, procedures, and restrictions outlined in Executive Orders ("EO") 2020-153, EO 2020-160, and EO 2020-161 are necessary to control the epidemic and protect the public health.

2. The rules, procedures, and restrictions outlined in EO 2020-153, EO 2020-160, and EO 2020-161 are hereby incorporated into this order and remain in place until this order is lifted.

3. Every person in this state must comply with the rules, procedures, and restrictions outlined in EO 2020-153, EO 2020-160, and EO 2020-161. Any violation 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 appropriate regulatory entity 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 rules, procedures, and restrictions outlined in EO 2020-153, EO 2020-160, and

EO 2020-161. 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 appropriate regulatory entity.

7. Any references to the May 27 order entitled "Emergency Order Pursuant to MCL 333.2253 Regarding Executive Orders 2020-11, 2020-20, and 2020-21," or to the June 5 order entitled "Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-110, 2020-114, and 2020-115" now refer to this order. Consequently, violations of this order are punishable by a civil fine of fine of up to $1,000, consistent with the amended schedule of fines, issued on May 27, 2020.

8. Consistent with MCL 333.2263, 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.

9. The June 5 order entitled "Emergency Order Under MCL 333.2253 – Regarding Executive Orders 2020-110, 2020-114, and 2020-115" is rescinded.

10. 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: July 29, 2020

Robert Gordon, Director

Michigan Department of Health and Human Services