MICHELLE LUJAN GRISHAM
GOVERNOR

NEW MEXICO DEPARTMENT OF HEALTH

DR. TRACIE C. COLLINS, M.D.
SECRETARY

PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT OF HEALTH
SECRETARY-DESIGNATE TRACIE C. COLLINS, M.D.

February 24, 2021

Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose County-by-County Restrictions Due to COVID-19

PREFACE

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 ("COVID-19"). Continued social distancing and self-isolation measures are necessary to protect public health given the devastating effects that are now resulting from the rapid increase in COVID-19 cases in New Mexico. It remains the core purpose of this Order to emphasize that **all New Mexicans should be staying in their homes for all but the most essential activities and services.** When New Mexicans are not in their homes, they must strictly adhere to social distancing protocols and wear face coverings to minimize risks. These sacrifices are the best contribution that each of us can individually make to protect the health and wellbeing of our fellow citizens and the State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans to stay in their homes for all but the most essential activities.

It is hereby **ORDERED** that:

1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

   A. March 24, 2020 Public Health Emergency Order Temporarily Regulating the Sale and Distribution of Personal Protective Equipment Due to Shortages Caused by COVID-19;

   B. December 15, 2020 Amended Public Health Emergency Order Implementing Additional Contact Tracing Information Requirements for All Laboratories and Submitters Submitting Notifiable Condition COVID-19 Test Results to the New Mexico Epidemiology and Response Division;

C. January 8, 2021 Emergency Order Implementing Administration and Reporting Requirements for All COVID-19 Vaccine Providers; and

D. January 29, 2021 Amended Public Health Emergency Order Temporarily Limiting Long-Term Care Facilities Visitation Due to COVID-19.

3. The January 29, 2021 Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose County-by-County Restrictions Due to COVID-19 is hereby amended as follows:

ORDER

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 ("COVID-19"), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through March 5, 2021;

WHEREAS, confirmed cases in the United States have risen to more than 28 million and confirmed COVID-19 infections in New Mexico have risen to over 183,000;

WHEREAS, COVID-19 is a deadly virus and has taken the lives of over 500,000 Americans and over 3,600 New Mexicans;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize the spread of COVID-19 and mitigate the potentially devastating impact of this pandemic in New Mexico; and

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

NOW, THEREFORE, I, Tracie C. Collins, M.D., Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance, as defined in NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

DEFINITIONS

As used in this Order, the following terms shall have the meaning given to them, except where the context clearly requires otherwise:

(1) "Essential businesses" means any business or non-profit entity falling within one or more of the following categories:

a. Health care operations including hospitals, walk-in-care health facilities, pharmacies, medical wholesale and distribution, home health care workers or aides for the elderly, emergency dental facilities, nursing homes, residential health care facilities, research facilities, congregate care facilities, intermediate care facilities for those with intellectual or developmental disabilities, supportive living homes, home health care providers, drug and alcohol recovery support services, and medical supplies and equipment manufacturers and providers;

b. Homeless shelters, food banks, and other services providing care to indigent or needy populations;

c. Childcare facilities;

d. Grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate more than one-third of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, pet food, animal feed or supplies, fresh meats, fish, and poultry, and any other consumable food and drink products;

e. Farms, ranches, and other food cultivation, processing, or packaging operations;

f. Infrastructure operations including, but not limited to, public works construction, commercial and residential construction and maintenance, self-storage facilities, airport operations, public transportation, airlines, taxis, private transportation providers, transportation network companies, water, gas, electrical, oil drilling, oil refining, natural resources extraction or mining operations, nuclear material research and enrichment, those attendant to the repair and construction of roads and highways, gas

stations, solid waste collection and removal, trash and recycling collection, processing and disposal, sewer, data and internet providers, data centers, technology support operations, and telecommunications systems;

g. Manufacturing operations involved in food processing, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductor, primary metals manufacturers, electrical equipment, appliance, and component manufacturers, and transportation equipment manufacturers;

h. Services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades;

i. Veterinary and livestock services, animal shelters and facilities providing pet adoption, daycare, or boarding services;

j. Media services;

k. Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products;

l. Utilities, including their contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply;

m. Hardware stores;

n. Laundromats and dry cleaner services;

o. Crematoriums, funeral homes, and cemeteries;

p. Banks, credit unions, insurance providers, licensed check cashing businesses, payroll services, brokerage services, and investment management firms;

q. Businesses providing mailing and shipping services;

r. Laboratories and defense and national security-related operations supporting the United States government, a contractor to the United States government, or any federal entity;

s. Professional services, such as legal or accounting services, but only where necessary to assist in compliance with legally mandated activities; and

t. Logistics and other businesses that store, transport, or deliver groceries, food, materials, goods, or services directly to residences, retailers, government institutions, or essential businesses.

(2) "Close-contact businesses" include barbershops, hair salons, tattoo parlors, nail salons, spas, massage therapy services, esthetician clinics, and tanning salons.

(3) "Food and drink establishments" include restaurants, breweries, wineries, distillers, cafes, coffee shops, or other similar establishments that offer food or drink. For purposes of this section, "breweries" are those businesses licensed pursuant to NMSA 1978, Section 60-6A-26.1; "distillers" are those businesses licensed pursuant to NMSA 1978, Section 60-6A-1; and "wineries" are those businesses licensed pursuant to NMSA 1978, Section 60-A-11.

(4) "Houses of worship" means any church, synagogue, mosque, or other gathering space where persons congregate to exercise their religious beliefs.

(5) "Large entertainment venues" mean any publicly or privately owned venue typically or actually used to host large audiences for the purposes of entertainment or amusement, including, but not limited to: convention centers, concert venues, movie theaters, performance venues, professional or semi-professional sports venues, racetracks, and theaters.

(6) "Recreational facilities" means any publicly or privately owned facility typically or actually used for recreational activities capable of bringing persons within close proximity of one another, including, but not limited to: aquariums, amusement parks, arcades, basketball courts, baseball fields, bowling alleys, botanical gardens, family entertainment centers, football fields, go-kart courses, golf courses, guided raft and balloon tours, ice-skating rinks, museums with interactive displays or exhibits, miniature golf courses, ski areas, soccer fields, swimming pools, tennis courts, trampoline parks, youth programs, and zoos.

(7) "Bars and clubs" means any business, other than those specifically defined as a "food and drink establishment," that typically or actually generates more than half of its revenue from the sale of alcohol for on-premises consumption, as well as adult entertainment venues, nightclubs, and dance clubs, regardless of the source of their revenue.

(8) "Places of lodging" means hotels, motels, RV parks, and short-term vacation rentals.

(9) "Retail space" means any business that regularly sells goods or services directly to consumers or end-users at the business location and includes, but is not limited to, the following "essential businesses" identified in the categories above: (1)d, (1)k, (1)m, and (1)n.

(10) "Mass gathering" means any public gathering, private gathering, organized event, ceremony, parade, funeral, or any other grouping that brings together a specified number of individuals in a single room or connected space, confined outdoor space, or open outdoor space. "Mass gatherings" also includes coordinated events in which individuals gather in vehicles. "Mass gathering" does not include the presence of any number of individuals where those individuals regularly reside. "Mass gathering" does not include individuals who are public officials or public employees in the course and scope of their employment.

(11) "COVID-Safe Practices" ("CSP's") are those directives, guidelines, and recommendations for businesses and other public operations that are set out and memorialized in

the document titled "All Together New Mexico: COVID-Safe Practices for Individuals and Employers." This document may be obtained at the following link: https://cv.nmhealth.org/covid-safe-practices/.

THE "RED TO GREEN" FRAMEWORK

I DIRECT that the State shall continue to reopen according to the following county-by-county framework:

SUMMARY

This Order sets out the "Red to Green" framework, which includes four levels of operations that are based on a county's ability to satisfy specified metrics: Turquoise Level, Green Level, Yellow Level, and Red Level. A county will remain at a given operating level so long as it continues to satisfy the specified metrics for that level. The Department of Health maintains the official map displaying each county's current level at: https://cvprovider.nmhealth.org/public-dashboard.html. The Department of Health updates this map every other Wednesday. If a county fails to meet the specified metrics for a given level, the county must begin operating at the lower level's restrictions within 48 hours of the map's update. If a county begins meeting the specified metrics for a less restrictive level, the county may begin operating at that level's restrictions immediately upon the map's update.

REOPENING LEVEL METRICS

Counties shall be categorized according to one of the following levels:

(1) Turquoise Level – Counties seeking to operate at this level must have satisfied the metrics required to operate at Green Level for the two most recent 14-day reporting periods.

(2) Green Level – Counties seeking to operate at this level must satisfy <u>both</u> of the following metrics:

  (a) A new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent 14-day period; <u>AND</u>
  (b) An average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

(3) Yellow Level – Counties seeking to operate at this level must meet <u>either</u> of the following metrics:

  (a) A new COVID-19 case incidence rate of no greater than 8 cases per 100,000 inhabitants during the most recent 14-day period; <u>OR</u>
  (b) An average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 5%.

(4) Red Level – All other counties shall operate at the Red Level.

REQUIREMENTS FOR EACH LEVEL

Turquoise Level – Turquoise Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all "mass gatherings" of more than one hundred fifty (150) individuals are prohibited. "Mass gatherings" in which individuals gather in vehicles are permitted so long as the gathering is limited to two hundred (200) vehicles.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following occupancy limits and restrictions:

a. All "essential businesses," excluding those defined as a "retail space," may operate without occupancy limitations but must limit operations to only those absolutely necessary to carry out essential functions.

b. "Essential businesses" identified as a "retail space" may operate but may not exceed 75% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, such "retail spaces" may operate up to 100% capacity of any outdoor space on the premises.

c. "Houses of worship" may hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 75% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department.

d. "Large entertainment venues" may operate up to 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, "large entertainment venues" may operate up to 75% capacity of any outdoor space on the premises.

e. "Recreational facilities" may operate up to 50% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, "recreational facilities" may operate up to 75% capacity of any outdoor space on the premises.

f. "Bars and clubs" may operate up to 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, "bars and clubs" may operate up to 75% capacity of any outdoor space on the premises, where applicable. "Bars and clubs" shall comply with all other requirements applicable to "food and drink establishments."

g. "Food and drink establishments" may not provide dine-in service, except those restaurants that have completed the NM Safe Certified training program. All "food and drink establishments" that have completed the NM Safe Certified offered at https://nmsafecertified.org, and also comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring

dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks may operate at 75% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. All "food and drink establishments," regardless of compliance with the NM Safe Certified requirements, may provide service in outdoor seating areas up to 75% occupancy, where applicable. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. "Food and drink establishments" may provide carryout service, or delivery service if otherwise permitted by law.

h. "Places of lodging" which have completed the NM Safe Certified training offered at https://nmsafecertified.org may operate up to 100% of maximum occupancy. All other "places of lodging" shall not operate at more than 50% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed fifteen (15) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. Any entity not identified above may operate but may not exceed 75% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, such entities may operate up to 100% capacity of any outdoor space on the premises.

Green Level – Green Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all "mass gatherings" of more than twenty (20) individuals are prohibited. "Mass gatherings" in which individuals gather in vehicles are permitted so long as the gathering is limited to one hundred twenty (120) vehicles, no food or drinks are sold at the gathering, and all individuals remain in their vehicles.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following occupancy limits and restrictions:

a. All "essential businesses," excluding those defined as a "retail space," may operate without occupancy limitations but must limit operations to only those absolutely necessary to carry out essential functions.

b. "Essential businesses" identified as a "retail space" may operate but may not exceed 50% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

c. "Houses of worship" may hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 50% of the

maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department.

d. "Large entertainment venues" may operate up to 25% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, "large entertainment venues" may operate up to 50% capacity of any outdoor space on the premises.

e. "Recreational facilities" may operate up to 25% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. Further, "recreational facilities" may operate up to 50% capacity of any outdoor space on the premises.

f. "Bars and clubs" may operate up to 25% capacity of any outdoor space on the premises, where applicable, but shall not permit patrons to enter any indoor portion of the premises except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the premises only to the extent necessary to operate the outdoor portion. "Bars and clubs" shall comply with all other requirements applicable to "food and drink establishments."

g. "Food and drink establishments" may not provide dine-in service, except those restaurants that have completed the NM Safe Certified training program. All "food and drink establishments" that have completed the NM Safe Certified training offered at https://nmsafecertified.org, and also comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks may operate at 50% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. All "food and drink establishments," regardless of compliance with the NM Safe Certified requirements, may provide service in outdoor seating areas up to 75% occupancy, where applicable. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. "Food and drink establishments" may provide carryout service, or delivery service if otherwise permitted by law.

h. "Places of lodging" which have completed the NM Safe Certified training offered at https://nmsafecertified.org may operate up to 75% of maximum occupancy. All other "places of lodging" shall not operate at more than 40% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed ten (10) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and

individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. Any entity not identified above may operate but may not exceed 50% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

Yellow Level – Yellow Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all "mass gatherings" of more than ten (10) individuals are prohibited. "Mass gatherings" in which individuals gather in vehicles are permitted so long as the gathering is limited to eighty (80) vehicles, no food or drinks are sold at the gathering, and all individuals remain in their vehicles.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following occupancy limits and restrictions:

a. All "essential businesses," excluding those defined as a "retail space," may operate but must limit operations to only those absolutely necessary to carry out essential functions.

b. "Essential businesses" identified as a "retail space" may operate but may not exceed 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

c. "Houses of worship" may hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department.

d. "Large entertainment venues" may operate up to 25% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the venue except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, "large entertainment venues" may operate up to 25% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department, for the limited purposes of recording and broadcasting entertainment, but shall in no event permit any live, in-person audience.

e. "Recreational facilities" may operate up to 33% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the facility except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion.

f. "Bars and clubs" may not operate.

g. "Food and drink establishments" may not provide dine-in service unless they complete the NM Safe Certified training offered at https://nmsafecertified.org, as well as comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff

for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks. Those "food and drink establishments" that complete the NM Safe Certified training and comply with all attendant requirements mandated by that program may provide dine-in services but may not exceed more than 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. All "food and drink establishments," regardless of compliance with the NM Safe Certified requirements, may provide service in outdoor seating areas up to 75% occupancy, where applicable. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. Any "food and drink establishment" that is permitted to serve alcohol must close for in-person service by 10:00 p.m. and must remain closed until at least 4:00 a.m. but may continue to provide delivery service so long as no customers are permitted on the premises. "Food and drink establishments" may provide carryout service, or delivery service if otherwise permitted by law.

h. "Places of lodging" which have completed the NM Safe Certified training offered at https://nmsafecertified.org may operate up to 60% of maximum occupancy. All other "places of lodging" shall not operate at more than 33% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed five (5) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. "Close-contact businesses" may operate but may not exceed the lesser of 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department, or twenty (20) customers inside the building at any given time.

j. Any entity not identified above may operate but may not exceed 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

Red Level – Red Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all "mass gatherings" of more than five (5) individuals are prohibited. "Mass gatherings" in which individuals gather in vehicles are permitted so long as the gathering is limited to forty (40) vehicles, no food or drinks are sold at the gathering, and all individuals remain in their vehicles.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following occupancy limits and restrictions:

a. All "essential businesses," excluding those defined as a "retail space," may operate but must limit operations to only those absolutely necessary to carry out essential functions.

b. "Essential businesses" identified as a "retail space" may operate but may not exceed 25% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

c. "Houses of worship" may hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 25% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department.

d. "Large entertainment venues" may not operate.

e. "Recreational facilities" may operate up to 25% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the facility except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, amusement parks may not operate.

f. "Bars and clubs" may not operate.

g. "Food and drink establishments" may provide service in outdoor seating areas up to 25% occupancy, where applicable, but shall not permit patrons to enter any indoor portion of the premises except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the premises only to the extent necessary to operate the outdoor portion. Tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. "Food and drink establishments" may provide carryout service, or delivery service if otherwise permitted by law. Any "food and drink establishment" that is permitted to serve alcohol must close for in-person service by 9:00 p.m. and must remain closed until at least 4:00 a.m. but may continue to provide delivery service so long as no customers are permitted on the premises.

h. "Places of lodging" which have completed the NM Safe Certified training offered at https://nmsafecertified.org may operate up to 40% of maximum occupancy. All other "places of lodging" shall not operate at more than 25% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed five (5) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. "Close-contact businesses" may operate but may not exceed 25% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department, or ten (10) customers inside the building at any given time.

j. Any entity not identified above may operate but may not exceed 25% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

BASELINE DIRECTIVES

Regardless of a county's level, **I DIRECT** that the following baseline directives apply at all times and in all instances:

(1) Unless a healthcare provider instructs otherwise, all individuals shall wear a mask or multilayer cloth face covering in public settings except when eating or drinking. Masks with vents do not satisfy this requirement. "Retail spaces" may not allow a person who is without a mask or multilayer cloth face covering to enter the premises except where that person is in possession of a written exemption from a healthcare provider.

(2) In order to minimize the shortage of health care supplies and other necessary goods, "retail spaces" shall limit the sale of medications, durable medical equipment, baby formula, diapers, sanitary care products, and hygiene products to three items per individual.

(3) Any "food and drink establishment," "close-contact business," "place of lodging," "retail space," or other business (including "essential businesses" other than those which meet the definition of a healthcare operation, utility, or indigent care services) in which members of the public regularly visit must immediately close for a period of fourteen (14) days following the occurrence of four (4) or more rapid responses within a fourteen (14) day period. For purposes of this directive, rapid responses will be counted on a rolling basis. Notwithstanding this provision, an "essential business" may be permitted to continue operating if the Department of Health, after consultation with the New Mexico Environment Department, determines that the business is a necessary provider of goods or services within the community in light of geographic considerations. Further, "essential businesses" that test each employee every two weeks and regularly provide contact tracing data to the Environment Department shall not be subject to closure under this provision.

(4) All businesses, houses of worship, and other non-profit entities must adhere to the pertinent CSP's. In the event the pertinent CSP's specify a reduced occupancy or capacity limit, the CSP's limit shall control.

(5) Private educational institutions serving children and young adults from pre-Kindergarten through 12th Grade, including homeschools serving children who are not household members, shall adhere to the face covering and other COVID-Safe Practices requirements for in-person instruction described in the document "Reentry Guidance" published by New Mexico's Public Education Department on June 20, 2020 and as updated from time to time thereafter, and shall operate with a maximum occupancy of 50% of any individual enclosed indoor space, such as

any classroom, as determined by the relevant fire marshal or fire department, with the occupancy restriction herein to govern in the event of any discrepancy with the "Reentry Guidance." Private schools shall report to the New Mexico Public Education Department all cases of COVID-19-positive students, staff, contractors and volunteers associated with the school within four hours of the school being notified of the positive case, pursuant to the procedures in the current COVID-19 Response Toolkit for New Mexico's Public Elementary Schools. Private schools must immediately close for a period of fourteen (14) days following the last occurrence of four (4) or more rapid responses within a fourteen (14) day period. Private schools also are subject to inclusion on the New Mexico Environment Department's watchlist and closure list.

(6) State parks shall be open to camping with reservations and day-use only. Event facilities at state parks shall remained closed. The State Parks Division is directed to extend the use of annual camping passes that were purchased after March 2019 for a period determined by the State Parks Division related to the original expiration date due to the closure of state parks to camping.

(7) State museums may operate subject to the occupancy level and restrictions applicable to comparable private museums located in their respective counties.

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect February 24, 2021 and remain in effect through March 24, 2021.

(5) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the New Mexico Environment Department, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Order by issuing a citation of violation, which may result in civil administrative penalties of up to $5,000 for each violation under NMSA 1978, Section 12-10A-19.

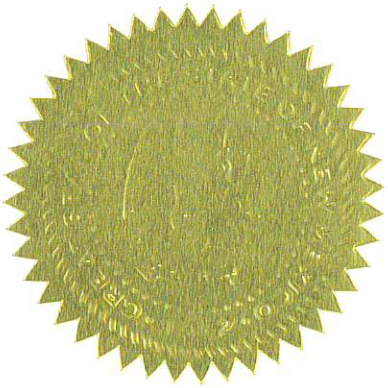
I FURTHER ADVISE the public to take the following preventive precautions:

- **New Mexico citizens should stay at home and undertake only those outings absolutely necessary for their health, safety, or welfare.**
- Retailers should take appropriate action consistent with this order to reduce hoarding and ensure that all New Mexicans can purchase necessary goods.
- Avoid crowds.
- Avoid all non-essential travel including plane trips and cruise ships.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE



DONE AT THE EXECUTIVE OFFICE
THIS 24TH DAY OF FEBRUARY 2021

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Tracie C. Collins

TRACIE C. COLLINS, M.D.
SECRETARY OF THE STATE OF NEW MEXICO
DEPARTMENT OF HEALTH