MICHELLE LUJAN GRISHAM
GOVERNOR

NEW MEXICO DEPARTMENT OF HEALTH

KATHYLEEN M. KUNKEL
CABINET SECRETARY

AMENDED PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT OF HEALTH
CABINET SECRETARY KATHYLEEN M. KUNKEL

MARCH 19, 2020

Public Health Emergency Order Limiting Mass Gatherings and Implementing Other Restrictions Due to COVID-19

PREFACE

The intent of this Order is to ensure that our State's citizens are self-isolating to the maximum extent possible in order to minimize the transmission of the novel Coronavirus Disease 2019 (referred to as "COVID-19"). The core directive underlying this Order is that New Mexicans should not leave their homes unless absolutely necessary or to access essential services. This Order should be interpreted consistent with that purpose and exceptions should be narrowly construed. Failure to comply with the mandates set out herein constitutes a threat to our State's health, welfare, and economy.

ORDER

WHEREAS, on January 30, 2020, the World Health Organization (WHO) announced the emergence of COVID-19 that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services (HHS) Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in our nation through its support of state and community-led preparedness and response efforts;

WHEREAS, the COVID-19 virus continues to spread in New Mexico;

WHEREAS, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 ("EO 2020-004") that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

WHEREAS, as of March 12, 2020, I issued a Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19, which limited certain public gatherings, and on March 16,

2020, I issued an amended Public Health Emergency Order Limiting Mass Gatherings and Implementing Other Restrictions Due to COVID-19, which provided further restrictions on certain public gatherings;

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), the potential for significant displacement of persons, and potential closures of schools or other places of public gathering; 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 -10, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, the authority granted in EO 2020-004, and in any 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, Kathyleen M. Kunkel, Cabinet 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, do hereby declare the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, 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.

The following definitions are adopted for the purposes of this Order:

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

(1) "Condition of public health importance" means 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.

(2) "Disease" means an illness, including those caused by infectious agents or their toxic products which may be transmitted to a susceptible host.

(3) "Essential service" includes the provision of goods and services necessary to sustain and promote public health and welfare including airports, transportation facilities, shelters, grocery stores and pharmacies, local food vendors, courthouses, correctional and detention facilities, banks, schools and educational institutions, hospitals, clinics, nursing homes, intermediate care facilities for individuals with intellectual disabilities, other health care and congregate care facilities, and places of worship operating during "normal business hours".

(4) "Individuals" means natural persons.

(5) "Gathering" means any grouping together of individuals in a single connected location.

(6) "Mass gathering" means any public or private gathering that brings together ten (10) or more individuals in a single room or connected space but does not include a "typical business environment" and does not include the presence of ten (10) or more individuals in a residence where those individuals regularly reside.

(7) "Normal business hours" means the normal workday or typical time of operation for a "typical business environment".

(8) "Secretary" or "Secretary of Health" means the Cabinet Secretary of the Department of Health.

(9) "Typical business environments" includes businesses, governmental organizations, political subdivisions, or other entities engaged in commercial, industrial, charitable, or professional activities.

I HEREBY DIRECT AS FOLLOWS:

(1) All Mass Gatherings are hereby prohibited under the powers and authority set forth in the New Mexico Public Health Act, and all regulations promulgated pursuant thereto.

(2) All restaurants, bars, breweries, eateries, and other food service establishments are limited to providing take-out service and home delivery only.

(3) Indoor shopping malls, recreational facilities, health clubs, resort spas, athletic facilities, theaters including movie theaters, and flea markets are directed to close for the duration of this Order. Restaurants situated in shopping malls with exterior entrances may provide take-out or delivery services.

(4) Typical business environments that are not engaged in the provision of an essential service should limit operations to the greatest extent possible and minimize employee contact.

(5) All casinos and horse racing facilities, and attendant restaurant or bar operations shall close during the pendency of this Order. This directive excludes those casinos operating on Tribal lands.

(6) Hotels, motels, and other places of lodging shall not operate at more than fifty percent of maximum occupancy. This restriction does not apply to operations providing lodging to health care workers who are engaged in the provision of care to New Mexico residents or those businesses providing temporary housing to individuals employed and working in New Mexico.

(7) The New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the Department of the Environment, Regulation and Licensing Department, and all other State departments

and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(8) All public and private employers are required to comply with this Order and any instructions provided by State departments or agencies regarding COVID-19.

(9) In order to minimize the shortage of health care supplies and other necessary goods, grocery stores and other retailers are hereby directed to limit the sale of over-the-counter medications, durable medical equipment, baby formula, diapers, sanitary care products, and hygiene products to three packaged items per individual. NMSA 1978, § 12-10A-6 (2012). This provision is not intended to limit the provision of prescription medications by pharmacies.

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 New Mexico Public Health Act.

(3) This Order shall remain in effect for the duration of Executive Order 2020-004. This Order may be renewed consistent with any direction from the Governor.

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

- **New Mexico citizens must stay at home and undertake only those outings absolutely necessary for their health, safety, or welfare.**
- Avoid contact with people who are sick.
- Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place. If soap and water are not available, use a hand sanitizer that contains at least 60% alcohol.
- To the extent possible, avoid touching high-touch surfaces in public places – elevator buttons, door handles, handrails, handshaking with people, etc. Use a tissue or your sleeve to cover your hand or finger if you must touch something.
- Avoid touching your face, nose, eyes, etc.
- Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example: tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks & cell phones).
- Avoid crowds, especially in poorly ventilated spaces. Your risk of exposure to respiratory viruses like COVID-19 may increase in crowded, closed-in settings with little air circulation if there are people in the crowd who are sick.
- Avoid all non-essential travel including plane trips and cruise ships.

THIS ORDER amends the Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19 issued on March 12, 2020 and the Public Health Emergency Order Limiting

Mass Gatherings and Implementing Other Restrictions Due to COVID-19 issued on March 16, 2020. This Order supersedes any other previous orders, proclamations, or directives in conflict. This Order shall take effect immediately and shall remain in effect for the duration indicated in the Order unless otherwise rescinded.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 19TH DAY OF MARCH 2020

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

Kathyleen M Kunkel

KATHYLEEN M. KUNKEL
SECRETARY OF THE STATE OF
NEW MEXICO DEPARTMENT OF HEALTH