State of North Carolina

ROY COOPER

GOVERNOR

October 30, 2020

EXECUTIVE ORDER NO. 172

FURTHER EXTENDING DEADLINES FOR CERTAIN HEALTH ASSESSMENTS AND IMMUNIZATION REQUIREMENTS DUE TO IMPACTS OF THE PANDEMIC

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 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; 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 l, 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, and 146-153, 155-157, 161-165, and 169-171; and

WHEREAS, more than 271,000 people in North Carolina have had laboratory-confirmed cases of COVID-19, and over 4,300 people in North Carolina have died from COVID-19; and

WHEREAS, immunizations are an integral part of the state's public health strategy and N.C. Gen. Stat. §§ 130A-152 to 130A-157 require immunizations of children and students in accordance with rules adopted by the Commission for Public Health (the "Commission"), and the Commission's rules, at 10A N.C. Admin. Code 41A .0401(c), specify that the State Health Director may suspend temporarily these immunization requirements due to emergency conditions; and

WHEREAS, the emergency conditions of the COVID-19 pandemic have made it difficult for many families to get all required immunizations on a timely basis, and action is necessary to support these families, while also supporting the public health goal of ensuring that children are appropriately immunized from harmful and contagious diseases; and

WHEREAS, therefore, in a written memorandum dated August 11, 2020, (the "Immunization Extension"), the State Health Director utilized the authority granted to her by the Commission under 10A N.C. Admin. Code 41A .0401(c) to temporarily suspend, through September 30, 2020, the immunization requirements of 10A N.C. Admin. Code 41A .0401(a) and (b), allowing the requirements to be deferred until October 1, 2020 with a grace period until October 30, 2020 or thirty (30) calendar days from the child's first day of attendance, whichever is later; and

WHEREAS, since the time to obtain these immunizations was extended, the undersigned issued Executive Order No. 156 to extend the deadlines for reporting on immunizations and for completing health assessments, which include immunization records, to align with the Immunization Extension; and

WHEREAS, although the Immunization Extension and Executive Order No. 156 provided families with several additional weeks to obtain the immunizations and health assessments that are required for students, barriers to immunization and health assessment have been reported and additional time is needed as the COVID-19 pandemic has continued to make it difficult for families to meet these requirements on a timely basis; and

WHEREAS, therefore, in a written memorandum dated October 30, 2020, (the "Further Immunization Extension"), the State Health Director utilized the authority granted to her by the Commission under 10A N.C. Admin. Code 41A .0401(c) to further extend the temporary suspension of the immunization requirements of 10A N.C. Admin. Code 41A .0401(a) and (b) through November 30, 2020, allowing the requirements to be deferred until December 1, 2020 with a grace period until December 30, 2020 or thirty (30) calendar days from the child's first day of attendance, whichever is later; and

WHEREAS, since the time to obtain these immunizations has been further extended, the deadlines should also be further extended for reporting on immunizations and for completing health assessments, which include immunization records; and

WHEREAS, notwithstanding these extensions, families are strongly encouraged, should their unique circumstances permit, to obtain the required immunizations for their children on a timely basis; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the undersigned may supervise the official conduct of all executive and ministerial officers; and

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 Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(f), the Division of Emergency Management has the power and duty to revise, in coordination with the State Health Director, the immunization procedures in the North Carolina Emergency Operations Plan; 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."

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Required Immunizations and Immunization Certificates.

For the reasons and pursuant to the statutes listed above:

A. The North Carolina Department of Health and Human Services ("NCDHHS") shall provide additional time for families, students, and children to complete required immunizations by implementing the Further Immunization Extension from the State Health Director. [Notwithstanding the Further Immunization Extension, families are strongly encouraged to obtain all required immunizations for their children on a timely basis, should their unique circumstances permit.] The Division of Emergency Management shall make any necessary temporary revisions to the Emergency Operations Plan to reflect this temporary change in immunization procedures.

B. To cope with the emergency, and to create immunization reports that will be most beneficial to maintaining public health, NCDHHS is directed to align deadlines with the Further Immunization Extension. This will include, without limitation, the following:

    1. The time period from the original Immunization Extension's date on August 11, 2020 through November 30, 2020, inclusive, will not count towards the thirty (30) calendar day grace period for submission of a certificate of immunization under N.C. Gen. Stat. §§ 130A-155(a) or 130A-155.1(a). The requirement is deferred until December 1, 2020 with a grace period until December 30, 2020 or thirty (30) calendar days from the child's first day of attendance, whichever is later. Schools, colleges, and universities will have until February 1, 2021 to submit immunization reports to NCDHHS under N.C. Gen. Stat. §§ 130A-155(c) or 130A-155.1(a).

    2. The time period from the original Immunization Extension's date on August 11, 2020 through November 30, 2020, inclusive, will not count towards the thirty (30) calendar day period for submission of a health assessment transmittal form under N.C. Gen. Stat. § 130A-440(a). The requirement is deferred until December 1, 2020 with a grace period until December 30, 2020 or thirty (30) calendar days from the child's first day of attendance, whichever is later.

    3. Principals will have until February 1, 2021 to submit health assessment status reports to NCDHHS under N.C. Gen. Stat. § 130A-441(c).

    There will be no penalties for submissions that are made in accordance with the extensions of time listed above.

Section 2. Distribution.

I hereby order 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 counties to which it applies, unless the

circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 3. Effective Date.

This Executive Order is intended to replace Executive Order No. 156 and is effective immediately. This Executive Order shall remain in effect through January 31, 2021 unless repealed, replaced, or rescinded by another applicable Executive Order; provided, however, that unless specifically stated in another Executive Order, any deadline extensions issued pursuant to Section 1 of this Executive Order shall remain in effect until those extensions expire. An Executive Order rescinding the Declaration of the 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 30th day of October in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State