THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

WHEREAS: On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and

WHEREAS: On March 14, 2020, I issued a Proclamation convening the General Assembly of Georgia in special session on Monday 16, 2020 at 8:00 A.M. for the express purpose of concurring with or terminating the Public Health State of Emergency in accordance with Code Section 38-3-51(a); and

WHEREAS: The Georgia General Assembly met in special session and concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020, thereby affirming the existence of a Public Health State of Emergency and vesting me with the emergency powers enumerated in Code Section 38-3-50 *et seq.*; and

WHEREAS: Georgia law does not require that the General Assembly concur with every rule, regulation, or order the Governor issues in response to a Public Health State of Emergency; the law requires only that the General Assembly concur with the initial existence of such a state of emergency, and the Governor is thereafter charged with ongoing management of a state of emergency; and

WHEREAS: On April 8, 2020, I renewed the Public Health State of Emergency until May 13, 2020 by issuing Executive Order 04.08.20.02; and

WHEREAS: On April 30, 2020, I renewed the Public Health State of Emergency until June 12, 2020 by issuing Executive Order 04.30.20.01; and

WHEREAS: On May 28, 2020, I renewed the Public Health State of Emergency until July 12, 2020 by issuing Executive Order 05.28.20.01; and

WHEREAS: On June 29, 2020, I renewed the Public Health State of Emergency until August 11, 2020 by issuing Executive Order 06.29.20.01; and

WHEREAS: On July 31, 2020, I renewed the Public Health State of Emergency until September 10, 2020 by issuing Executive Order 07.31.20.01; and

WHEREAS: On August 31, 2020, I renewed the Public Health State of Emergency until October 10, 2020 by issuing Executive Order 08.31.20.01; and

WHEREAS: On September 30, 2020, I renewed the Public Health State of Emergency until November 9, 2020 by issuing Executive Order 09.30.20.01; and

WHEREAS: On October 30, 2020, I renewed the Public Health State of Emergency until December 9, 2020 by issuing Executive Order 10.30.20.01; and

WHEREAS: The Governor is vested with the emergency powers cited herein as the Chief Executive of this State; and

WHEREAS: The Georgia Constitution, Art. III, § VI, Para. IV provides that no local or special law can contravene a statewide law of general applicability; and

WHEREAS: Code Section 38-3-28 provides that "[a]ll orders, rules, and regulations promulgated by the Governor" have the force and effect of law; and

WHEREAS: As Chief Executive, the Governor is tasked with protecting the citizens of this State, including during a state of emergency; and

WHEREAS: The General Assembly has entrusted the authority to declare a state of emergency to the Governor and vested him with the sole power to direct and manage the statewide response to any such emergency, as Code Section 45-12-30 provides that, "[w]hen, in his opinion, the facts warrant, the Governor shall, by proclamation, declare that, because of unlawful assemblage, violence, overt threats of violence, or otherwise, a danger exists to the person or property of any citizen or citizens of the state and that the peace and tranquility of the state or of any area or political subdivision thereof is threatened, and because thereof an emergency, with reference to said threats and danger, exists. In all such cases, when the Governor shall issue his proclamation he shall be and is further authorized, in coping with said threats and danger, to order and direct any person, corporation, association, or group of persons to do any act which would, in his opinion, prevent danger to life, limb, or property or prevent a breach

of the peace; or he may order such person, corporation, association, or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb, or property or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of society; and he shall have full power to enforce such order or proclamation by appropriate means"; and

WHEREAS: Code Section 38-3-51(c)(1) vests the Governor with the power to enforce all laws, rules, and regulations relating to emergency management and to assume direct operational control of all civil forces and helpers in the state; and

WHEREAS: Code Section 38-3-51(c)(4) vests the Governor with the power to perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS: Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and

WHEREAS: The Georgia Constitution, Art. IX, § 2, Para. III(c) grants the General Assembly the ability to regulate, restrict, or limit the powers of local governments by general law; and

WHEREAS: To ensure the public's safety and prevent confusion, it is necessary for the State's departments, agencies, and political subdivisions to provide a coordinated response to support the Governor's emergency management rules, regulations, and orders; and

WHEREAS: Code Section 38-3-51(d)(2) vests the Governor with the power to utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster, therefore providing the Governor with emergency authority over all resources of every local government of the State; and

WHEREAS: Code Section 38-3-51(d)(3) establishes the Governor's emergency authority over the operation of state departments and agencies by vesting the Governor with the power to transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS: To ensure the Governor is equipped with all resources necessary to respond to a public health state of emergency, the General Assembly has vested him with the option to delegate expanded powers to the Department of Public Health in such an event as Code Section 38-3-51(i) provides that the Governor ***may*** direct the Department of Public Health to coordinate all matters pertaining to the response of the state to a public health emergency; and

WHEREAS: Pursuant to Code Section 38-3-51(i), in Executive Order 03.14.20.01, I instructed the Department of Public Health to coordinate with the Georgia Emergency Management and Homeland Security Agency to take any action necessary to protect the public's health, including, without limitation:

(1) Planning and executing public health emergency assessments, mitigation, preparedness response, and recovery for the state;
(2) Coordinating public health emergency responses between state and local authorities;
(3) Establishing protocols to control the spread of COVID-19;
(4) Coordinating recovery operations and mitigation initiatives;
(5) Collaborating with appropriate federal government authorities, elected officials of other states, private organizations, or private sector companies;
(6) Organizing public information activities regarding the state's public health emergency response operations, including educating the public on prevention of the spread of COVID-19 based on Centers for Disease Control and Prevention's guidelines and the best scientific evidence available;
(7) Providing special identification for public health personnel involved in this Public Health State of Emergency;
(8) For all persons meeting the Centers for Disease Control and Prevention's definition of a Person Under Investigation ("PUI"), implementing a program of active monitoring, which may include a risk assessment within twenty-four (24) hours of learning that the person meets the PUI criteria and twice-daily temperature checks for a period of at least fourteen (14) days or until the PUI tests negative for COVID-19; and
(9) Implementing quarantine, isolation, and other necessary public health interventions consistent with Code Sections 31-12-4 and 38-3-51(i)(2) or as otherwise authorized by law.

WHEREAS: Notwithstanding said broad instructions, the authority delegated to the Department of Public Health is subject to the limitations of Code Section 38-3-28(a), and such delegation did not lessen or relinquish the Governor's superior emergency management powers; and

WHEREAS: Georgia law grants the Department of Public Health other duties and authority for general and emergency disease prevention and control; and

WHEREAS: Code Sections 31-2A-4 and 31-12-4 vests the Department of Public Health with the power to segregate and isolate certain individuals with certain communicable diseases or conditions when said individuals' exposure to the general population is likely to endanger the health of others; and

WHEREAS: To ensure advance preparation for a public health emergency, the Georgia legislature has provided in Code Section 31-12-3(a) that the Department of Public Health may require vaccinations or other measures to prevent the conveyance of infectious matter from infected persons to other persons as may be necessary and appropriate, although this Code Section does not vest sole power in the department to do so and the rules and regulations promulgated by the Department to provide for the implementation of such measures during a public health state of emergency must be adopted pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act,"; and

WHEREAS: Code Section 38-12-2.1 provides that in the event of a public health emergency, the Department of Public Health shall carry out certain investigatory duties relating to the identification of the illness or health condition, the source thereof, and infected or potentially infected persons, and shall promulgate rules and regulations appropriate for management of any declared public health emergency; and

WHEREAS: The Department of Public Health is also authorized to adopt and implement emergency rules and regulations pursuant to the provisions of subsection (b) of Code Section 50-13-4; however, all such rules, regulations, and emergency rules and regulations remain subject to the provisions of Code Section 38-3-51(i); and

WHEREAS: The various public health emergency related powers designated to the Department of Public Health are not mutually exclusive, and pursuant to Code Section 38-3-51, are subject to the Governor's own emergency management orders; and

WHEREAS: The U.S. government, by way of the Department of Health and Human Services (HHS) and other agencies, is facilitating and accelerating the development, manufacturing, and distribution of COVID-19 vaccines, therapeutics, and diagnostics by way of a public-private partnership entitled Operation Warp Speed (OWS); and

WHEREAS: It is recognized that participation by the Georgia Department of Public Health in OWS provides a vital service that will protect the citizens of Georgia against COVID-19; and

WHEREAS: The Center Disease Control (CDC) has asked each jurisdiction to develop and return a Response Plan that, among other things, identifies a plan to connect jurisdictional and Federal IT systems for the purposes of efficient management and administration of vaccine planning and distribution; and

WHEREAS: In order to implement these plans, the Department of Public Health will need to utilize federal systems including the CDC's Vaccine Tracking System (VTrcks) for vaccine ordering and shipment; Tiberius, a web-based solution for developing and executing the Department of Public Health's response plan; and the Vaccine Administration Management System (VAMS) or other similar immunization information management system for vaccine administration and clinical support; and

WHEREAS: Strict compliance with the provisions of Georgia law which prohibit the release of individually identifiable vaccination information to HHS and its partners in support of OWS would prevent, hinder, or delay necessary action in coping with this disaster in all counties of the state; and

WHEREAS: In addition to the limitations on agency authority during a state of emergency set forth in Code Section 38-3-51, Code Section 38-3-28(a) prohibits political subdivisions of the state from making, amending, or rescinding any orders, rules, and regulations as may be necessary for emergency management that are inconsistent with any orders, rules, or regulations promulgated by the Governor; and

WHEREAS: Local rules, ordinances, orders, or mandates that provide for any action more or less permissive than the recommendations and requirements of this Order will result in an incompatible outcome for the uniform response to COVID-19, therefore constituting inconsistency as Black's Law Dictionary defines "inconsistent" as lacking agreement among parts or otherwise not compatible with another fact or claim; and

WHEREAS: In accordance with Georgia law, the Governor has ultimate authority over the State's emergency management procedures because, while other agencies and political subdivisions of the State may be directed or authorized to develop and implement emergency management plans, rules, regulations, and emergency rules and regulations, Code Section 38-3-28(a) clearly provides that no such rule, regulation, or

order may be inconsistent with the Governor's own emergency management directives; and

WHEREAS: In consultation with The Department of Public Health I have determined that the following actions are necessary and appropriate to provide for the health, safety, and welfare of Georgia's residents and visitors.

NOW, THEREFORE, PURSUANT TO THE AFOREMENTIONED GEORGIA LAW, CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS THE GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That any requirement of the laws or regulations of this state, including but not limited to Code Section 31-12-3.1(e), which prohibits the release of individually identifiable vaccination information, is hereby suspended to the extent it prevents the disclosure of COVID-19 vaccination records to the U.S. Department of Health and Human Services to support the response to COVID-19. Such records may include, but are not limited to, individually identifiable COVID-19 vaccination information.

IT IS FURTHER

ORDERED: That the Commissioner of the Department of Public Health or her designee is authorized and directed to implement waivers of those rules and regulations necessary to implement the suspension of Code Section 31-12-3.1(e), in accordance with this Executive Order.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall conflict with the provisions of any previous Executive Order or Agency Administrative Order, the provisions of this Order shall control. Further, in the event of any conflict, the provisions of any Quarantine or Isolation Order issued to a specific person by the Department of Public Health shall control.

IT IS FURTHER

ORDERED: That nothing in this Order shall be construed to suspend or limit the sale, dispensing, or transportation of firearms or ammunition, or any component thereof.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in

violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

IT IS FURTHER

ORDERED: That no provision of this Order shall limit, infringe, suspend, or supplant any judicial order, judgment, or decree issued pursuant to the laws or constitution of this State or the laws or constitution of the United States, nor shall any person use any provision this Order as a defense to an action in violation of a judicial order, judgment, or decree by any court created pursuant to the laws or constitution of this State or the laws or constitution of the United States.

IT IS FURTHER

ORDERED: This Order does not attempt, nor shall it be construed, to imply that the Governor, in any instance, has the unilateral authority to overturn any judicial order, judgment, or decree.

IT IS FURTHER

ORDERED: The Office of the Governor may continue to issue guidance on the scope of this Order as needed through communication media, including social media, without need for further Executive Orders.

IT IS FURTHER

ORDERED: That this Order shall be effective upon signature, and the provisions of the Order shall expire at the conclusion of the Public Health State of Emergency declared in Executive Order No. 03.14.20.01. If the Public Health State of Emergency declared in Executive Order No. 03.14.20.01 is renewed, this Order shall carry forward with the Public Health State of Emergency until such state of emergency is terminated or ceases to be renewed by the Governor.

This 20th day of November 2020.

GOVERNOR