

P.L. 2021, CHAPTER 103, *approved June 4, 2021*
Assembly, No. 5820

1 **AN ACT** concerning emergency health powers and supplementing
2 Title 26 of the Revised Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. All executive orders issued by the Governor prior to the
8 effective date of this act, P.L. , c. (C.) (pending before the
9 Legislature at this bill), that relied on the existence of the public
10 health emergency declared by the Governor in Executive Order No.
11 103 of 2020, as extended, shall expire 30 days following the
12 effective date of this act, with the exception of the executive orders
13 listed in this section that shall remain in effect until January 1,
14 2022. The Governor shall have the ability to revoke or modify the
15 executive orders listed in this section prior to January 1, 2022.

16 (1) Executive Order No. 106 (2020)

17 (2) Executive Order No. 111 (2020)

18 (3) Executive Order No. 112 (2020)

19 (4) Executive Order No. 123 (2020)

20 (5) Executive Order No. 127 (2020)

21 (6) Executive Order No. 150 (2020)

22 (7) Executive Order No. 159 (2020)

23 (8) Executive Order No. 170 (2020)

24 (9) Executive Order No. 178 (2020)

25 (10) Executive Order No. 207 (2020)

26 (11) Executive Order No. 229 (2021)

27 (12) Executive Order No. 233 (2021)

28 (13) Executive Order No. 237 (2021)

29 (14) The most recent executive order containing general
30 coronavirus disease 2019 (COVID-19) mitigation measures
31 regarding face coverings, social distancing, and gatherings prior to
32 the effective date of this act, and this executive order shall not be
33 more restrictive than the recommendations provided in the federal
34 Centers for Disease Control and Prevention guidelines on social
35 distancing and face coverings in response to the coronavirus disease
36 2019 (COVID-19) pandemic, unless a substantial increase in
37 hospitalizations, substantially increased spot positivity, or rate of
38 transmission above 1 necessitates a modification that would be
39 more restrictive.

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41 2. Notwithstanding the provision of section 1 of this act,
42 P.L. , c. (C.) (pending before the Legislature at this bill),

1 allowing Executive Order No. 112 of 2020 to remain in place until
2 January 1, 2022, any civil or criminal immunity related to the
3 COVID-19 response bestowed by either Executive Order No. 112 of
4 2020, P.L.2020, c.18, or Department of Health Executive Directive
5 No. 20-006 (Revised) as issued December 16, 2020 upon health
6 care professionals, health care facilities, health care systems,
7 modular field treatment facilities, and any other sites designated by
8 the Commissioner of the Department of Health for temporary use in
9 connection with the State's COVID-19 response, including hotels
10 and student dormitories, shall last until September 1, 2021, and then
11 expire on that date. Conduct occurring prior to September 1, 2021
12 by health care professionals, health care facilities, or health care
13 systems shall retain the civil or criminal immunity provided by
14 Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of
15 Health Executive Directive No. 20-006 (Revised) as issued
16 December 16, 2020. The civil immunity bestowed upon health care
17 professionals in connection with the State's COVID-19 response by
18 P.L.2020, c.18 shall continue beyond September 1, 2021 only for
19 individuals specifically engaged in vaccinations or testing related to
20 COVID-19.

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22 3. a. Following the termination of the public health emergency
23 declared by the Governor in Executive Order No. 103 of 2020, as
24 extended, the force and effect of any administrative order, directive,
25 or waiver issued by the head of a State agency that relied on the
26 existence of the public health emergency declared by the Governor
27 in Executive Order No. 103 of 2020, as extended, shall expire on
28 January 11, 2022. Such administrative order, directive, or waiver
29 may be continued and may be modified by the head of a State
30 agency, unless such administrative order, directive, or waiver is
31 explicitly revoked, until January 11, 2022.

32 b. Notwithstanding subsection a. of this section, the Governor
33 shall notify the Legislature by January 1, 2022 if the Governor
34 determines that it is necessary or appropriate to continue for an
35 additional 90 days beyond January 11, 2022 any administrative
36 order, directive, or waiver issued by the head of a State agency that
37 relied on the existence of the public health emergency declared by
38 the Governor in Executive Order No. 103 of 2020, as extended.
39 The administrative orders, directives, or waivers shall be extended
40 for an additional 90 days if each House of the Legislature passes a
41 concurrent resolution to continue any such administrative order,
42 directive, or waiver. Any administrative order, directive, or waiver
43 as to which the Governor does not provide notification to the
44 Legislature or as to which both Houses of the Legislature do not
45 pass a concurrent resolution to continue shall expire on January 11,
46 2022.

47 c. Notwithstanding subsection a. of this section, the provisions
48 of any administrative order, directive, or waiver issued by the

1 Department of Health that relied on the existence of the public
2 health emergency declared by the Governor in Executive Order No.
3 103 of 2020, as extended, governing staffing ratios, overtime, shifts,
4 and vacation time shall remain in force and effect until September
5 1, 2021, at which time all such provisions of administrative orders,
6 directives, and waivers governing staffing ratios, overtime, shifts,
7 and vacation time shall be superceded by relevant provisions of
8 laws, regulations, or collective bargaining agreements in effect on
9 that date.

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11 4. The termination of the public health emergency declared by
12 the Governor in Executive Order No. 103 of 2020, as extended,
13 shall in no way diminish, limit, or impair the powers of the
14 Governor or the head of a State agency pursuant to the provisions of
15 the civilian defense and disaster control act P.L.1942, c.251
16 (C.App.A:9-33 et seq.). The state of emergency declared in
17 Executive Order No. 103 of 2020, as extended, pursuant to
18 P.L.1942, c.251 (C.App.A:9-33 et seq.) shall remain in effect until
19 terminated by the Governor.

20 While the state of emergency declared in Executive Order No.
21 103 of 2020 shall remain in effect, the deadlines in paragraph (1) of
22 subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5) shall
23 apply to any request made under the open public records act after
24 the effective date of this act, with the exception of requests made
25 for records related to the COVID-19 response, which shall continue
26 to be governed by paragraph (2) of subsection i. of section 6 of
27 P.L.2001, c.404 (C.47:1A-5).

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29 5. Following the termination of the public health emergency
30 declared by the Governor in Executive Order No. 103 of 2020, as
31 extended, the Governor, Commissioner of Health, and the head of
32 any other State agency may issue orders, directives, and waivers
33 pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) related to (1)
34 vaccination distribution, administration, and management, (2)
35 COVID-19 testing, (3) health resource and personnel allocation, (4)
36 data collection, retention, sharing, and access, (5) coordination of
37 local health departments, and (6) implementation of any applicable
38 recommendations of the Centers for Disease Control and Prevention
39 to prevent or limit the transmission of COVID-19, including in
40 specific settings.

41 The authority granted by this section shall last until January 11,
42 2022, unless the Governor notifies the Legislature by January 1,
43 2022 that the authority granted by this section is necessary to
44 combat the continuing threat posed by COVID-19 and should last
45 for another 90 days. In the event of such notification, the
46 Legislature shall have the authority to pass a concurrent resolution
47 to concur with the Governor's notice. If such a concurrent
48 resolution passes both Houses of the Legislature, then the authority

1 granted by this section shall continue for an additional 90 days. If
2 such a concurrent resolution does not pass both Houses of the
3 Legislature, then the authority granted by this section shall expire
4 on January 11, 2022.

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6 6. This act shall take effect immediately.

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STATEMENT

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11 Under this bill, all executive orders issued by the Governor prior
12 to the effective date of this bill that relied on the existence of the
13 public health emergency declared by the Governor in Executive
14 Order No. 103 of 2020, as extended, will expire 30 days following
15 the effective date of this bill, with the exception of the executive
16 orders listed below that will remain in effect until January 1, 2022.
17 The Governor will have the ability to revoke or modify the
18 following executive orders prior to January 1, 2022.

19 Executive Order No. 106 (2020)

20 Executive Order No. 111 (2020)

21 Executive Order No. 112 (2020)

22 Executive Order No. 123 (2020)

23 Executive Order No. 127 (2020)

24 Executive Order No. 150 (2020)

25 Executive Order No. 159 (2020)

26 Executive Order No. 170 (2020)

27 Executive Order No. 178 (2020)

28 Executive Order No. 207 (2020)

29 Executive Order No. 229 (2021)

30 Executive Order No. 233 (2021)

31 Executive Order No. 237 (2021)

32 The most recent executive order containing general COVID-19
33 mitigation measures regarding face coverings, social distancing, and
34 gatherings prior to the effective date of this bill and the executive
35 order cannot be more restrictive than the recommendations provided
36 in the federal Centers for Disease Control and Prevention guidelines
37 on social distancing and face coverings in response to the COVID-
38 19 pandemic, unless a substantial increase in hospitalizations,
39 substantially increased spot positivity, or rate of transmission above
40 1 necessitates a modification that would be more restrictive.

41 Notwithstanding the provision allowing Executive Order No. 112
42 of 2020 to remain in place until January 1, 2022, any civil or
43 criminal immunity related to the COVID-19 response bestowed by
44 either Executive Order No. 112 of 2020, P.L.2020, c.18, or
45 Department of Health Executive Directive No. 20-006 of 2020 upon
46 health care professionals, health care facilities, health care systems,
47 modular field treatment facilities, and any other sites designated by
48 the Commissioner of the Department of Health for temporary use in

1 connection with the State's COVID-19 response, including hotels
2 and student dormitories, will last until September 1, 2021, and then
3 expire on that date. Conduct occurring prior to September 1, 2021
4 by health care professional, health care facilities, or health care
5 systems will retain the civil or criminal immunity provided by
6 Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of
7 Health Executive Directive No. 20-006 of 2020. Under the bill, the
8 civil immunity bestowed upon health care professionals in
9 connection with the State's COVID-19 response by P.L.2020, c.18
10 would continue beyond September 1, 2021 only for individuals
11 specifically engaged in vaccinations or testing related to COVID-
12 19.

13 Following the termination of the public health emergency
14 declared by the Governor in Executive Order No. 103 of 2020, as
15 extended, the force and effect of any administrative order, directive,
16 or waiver issued by the head of a State agency that relied on the
17 existence of public health emergency declared by the Governor in
18 Executive Order No. 103 of 2020, as extended, would expire on
19 January 11, 2022. Under the bill, such administrative orders,
20 directive, or waiver may be continued and may be modified by the
21 head of a State agency, unless such administrative order, directive,
22 or waiver is explicitly revoked, until January 11, 2022.

23 The bill provides that the Governor must notify the Legislature
24 by January 1, 2022 if the Governor determines that it is necessary
25 or appropriate to continue for an additional 90 days beyond January
26 11, 2022 any administrative order, directive, or waiver issued by the
27 head of a State agency that relied on the existence of the public
28 health emergency declared by the Governor in Executive Order No.
29 103 of 2020, as extended. The administrative order, directive, or
30 waiver would be extended for an additional 90 days if each House
31 of the Legislature passes a concurrent resolution to continue any
32 such administrative orders, directives, or waivers. Any
33 administrative orders, directives, or waivers as to which the
34 Governor does not provide notification to the Legislature or as to
35 which both Houses of the Legislature do not pass a concurrent
36 resolution to continue would expire on January 11, 2022.

37 Under the bill, the provision of any administrative order,
38 directive, or waiver issued by the Department of Health that relied
39 on the existence of the public health emergency declared by the
40 Governor in Executive Order No. 103 of 2020, as extended,
41 governing staffing ratios, overtime, shifts, and vacation time shall
42 remain in force and effect until September 1, 2021, at which time
43 all such provisions of administrative orders, directives, and waivers
44 governing staffing ratios, overtime, shifts, and vacation time will be
45 superseded by relevant provisions of laws, regulations, or collective
46 bargaining agreements in effect on that date.

47 The bill specifies that the termination of the public health
48 emergency declared by the Governor in Executive Order No. 103 of

1 2020, as extended, will in no way diminish, limit, or impair the
2 powers of the Governor or the head of a State agency pursuant to
3 the provisions of the civilian defense and disaster control act
4 P.L.1942, c.251 (C.App.A:9-33 et seq.). The state of emergency
5 declared in Executive Order No. 103 of 2020 pursuant to that law
6 will remain in effect until terminated by the Governor.

7 However, while the state of emergency declared in Executive
8 Order No. 103 of 2020 remains in effect, the deadlines in paragraph
9 (1) of subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5) will
10 apply to any requests made under the open public records act after
11 the effective date of this bill, with the exception of requests made
12 for records related to the COVID-19 response, which will still be
13 governed by paragraph (2) of subsection i. of section 6 of P.L.2001,
14 c.404 (C.47:1A-5).

15 Following the termination of the public health emergency
16 declared by the Governor in Executive Order No. 103 of 2020, as
17 extended, the Governor, Commissioner of Health, and the head of
18 any other State agency may issue orders, directives, and waivers
19 pursuant to the emergency health powers law, P.L.2005, c.222
20 (C.26:13-1 et seq.), related to (1) vaccination distribution,
21 administration, and management, (2) COVID-19 testing, (3) health
22 resource and personnel allocation, (4) data collection, retention,
23 sharing, and access, (5) coordination of local health departments,
24 and (6) implementation of any applicable recommendations of the
25 Centers for Disease Control and Prevention to prevent or limit the
26 transmission of COVID-19, including in specific settings. The
27 authority granted above will last until January 11, 2022, unless the
28 Governor notifies the Legislature by January 1, 2022 that the
29 authority granted is necessary to combat the continuing threat posed
30 by COVID-19 and should last for another 90 days. In the event of
31 such notification, the Legislature will have the authority to pass a
32 concurrent resolution to concur with the Governor. If such a
33 concurrent resolution passes both Houses of the Legislature, then
34 the authority granted will continue for an additional 90 days. If
35 such a concurrent resolution does not pass both Houses of the
36 Legislature, then the authority granted would expire on January 11,
37 2022.

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42 Provides for termination of public health emergency declared by
43 Governor to address COVID-19 pandemic, except certain executive
44 orders, directives, and powers will remain in effect temporarily.