

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 12-21**

**By the Governor**

**WHEREAS**, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the “State of Emergency”), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS**, Chapter 15 Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, perform and exercise functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, Executive Order 9-20, made effective on March 24, 2020, designated Essential Businesses and Operations, as defined therein, which could operate largely unfettered during the COVID-19 pandemic, and required non-essential businesses to cease activities within the state except for certain basic operations to maintain the business and to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

**WHEREAS**, on April 27, 2020, I, Governor Jim Justice, announced the State’s reopening plan, West Virginia Strong: *The Comeback* (the “Comeback Plan”), to phase in the reopening of businesses in the State of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia’s economy and get our citizens back to work, and various executive orders have been issued to date to accomplish this and to do so while ensuring the health and protection of all West Virginians, and especially the state’s significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

**WHEREAS**, it is appropriate at this time to formally terminate as moot certain of the various executive orders that have been issued to date, as well as to clarify and restate in one

document the previous termination of certain of the various executive orders that have been issued to date in response to the COVID-19 pandemic; and

**WHEREAS**, additionally, West Virginia's public health experts have advised that the termination of certain executive orders relating to remaining limitations relating to the State's response to the COVID-19 pandemic, is appropriate at this time; and

**WHEREAS**, West Virginia's public health experts have advised and recommended against, however, the termination of certain executive orders issued relating to the State's response to the COVID-19 pandemic, including, among others, executive orders mandating that plans and policies be put in place to ensure hospital and other health care center capacity to respond in the event of adverse changes in public health conditions or surge in COVID-19 cases, mandating that individuals aged 9 and over, with certain exceptions, wear an adequate face covering when in confined, indoor public spaces, in order to mitigate the spread of COVID-19, and prohibiting travel sports teams and travel leagues from bringing players or spectators together in a county that is in the "Red" color category on the County Alert System, as COVID-19 case rates may change each county's color category from time to time; and

**WHEREAS**, there are a number of additional executive orders suspending regulatory statutes that would have hindered this State's response to the COVID-19 pandemic or otherwise were issued to respond to the COVID-19 pandemic and its effects that were and continue to be necessary to remain in place to most effectively respond to COVID-19 in this State; and

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 of the Code of West Virginia, hereby **DECLARE** and **ORDER** that:

1. The following executive orders issued to respond to the COVID-19 pandemic either have previously been expressly terminated or wholly effected or otherwise rendered moot by the occurrence of events contemplated therein or by subsequent executive orders terminating, superseding, or rendering moot the terms or provisions thereof, and are hereby, to the extent not previously explicitly stated, formally terminated and of no further effect, or are hereby

terminated and of no further effect, provided that the terms and provisions set forth in the following sections of this Order shall control as between the same or similar substantive matters addressed in such previous executive orders and in the following sections of this Order:

Executive Order 2-20, Executive Order 3-20, Executive Order 4-20, Executive Order 5-20, Executive Order 6-20, Executive Order 8-20, Executive Order 9-20, Executive Order 12-20, Executive Order 14-20, Executive Order 15-20, Executive Order 16-20, Executive Order 18-20, Executive Order 20-20, Executive Order 21-20, Executive Order 22-20, Executive Order 23-20, Executive Order 24-20, Executive Order 25-20, Executive Order 27-20, Executive Order 29-20, Executive Order 32-20, Executive Order 33-20, Executive Order 34-20, Executive Order 35-20, Executive Order 36-20, Executive Order 37-20, Executive Order 38-20, Executive Order 39-20, Executive Order 40-20, Executive Order 41-20, Executive Order 42-20, Executive Order 43-20, Executive Order 44-20, Executive Order 45-20, Executive Order 46-20, Executive Order 49-20, Executive Order 50-20, Executive Order 51-20, Executive Order 52-20, Executive Order 53-20, Executive Order 55-20, Executive Order 56-20, Executive Order 57-20, Executive Order 58-20, Executive Order 59-20, Executive Order 60-20, Executive Order 61-20, Executive Order 62-20, Executive Order 64-20, Executive Order 65-20, Executive Order 67-20, Executive Order 68-20, Executive Order 69-20, Executive Order 70-20, Executive Order 71-20, Executive Order 74-20, Executive Order 75-20, Executive Order 76-20, Executive Order 78-20, Executive Order 80-20, Executive Order 81-20, Executive Order 1-21, Executive Order 2-21, Executive Order 3-21, Executive Order 4-21, Executive Order 5-21, Executive Order 6-21, Executive Order 7-21, Executive Order 8-21, and Executive Order 9-21; provided that the termination of each executive order listed above, with the exception of those already formally terminated, Executive Order 4-20, and Executive Order 57-20 shall be effective as of 12:01 AM on April 20, 2021, and that the termination of Executive Order 4-20 and Executive Order 57-20 shall be effective as

of 12:01 AM on June 1, 2021.

2. The following executive orders shall remain in effect until terminated by subsequent executive order:
  - a. Executive Order 7-20 (suspending regulatory provisions);
  - b. Executive Order 10-20 (suspending regulatory provisions);
  - c. Executive Order 11-20 (suspending regulatory provisions);
  - d. Executive Order 13-20 (relating to tax filing dates);
  - e. Executive Order 17-20 (suspending regulatory provisions);
  - f. Executive Order 19-20 (relating to tax redemption dates);
  - g. Executive Order 26-20 (suspending regulatory provisions);
  - h. Executive Order 28-20 (providing for a plan to be in place at hospitals and ambulatory surgical centers regarding capacity in the event of any adverse change in public health conditions or surge in COVID-19);
  - i. Executive Order 30-20 (providing for health care facilities to have adequate and appropriate personal protective equipment and to be prepared to contribute as necessary in the event of any adverse change in public health conditions or surge in COVID-19 cases);
  - j. Executive Order 31-20 (suspending regulatory provisions);
  - k. Executive Order 54-20 (suspending regulatory provisions);
  - l. Executive Order 63-20 (suspending regulatory provisions);
  - m. Executive Order 66-20 (suspending regulatory provisions);
  - n. Executive Order 72-20 (suspending regulatory provisions);
  - o. Executive Order 73-20 (suspending regulatory provisions);
  - p. Executive Order 77-20 (mandating masks be worn by individuals aged 9 and over, with certain exceptions, when in confined, indoor public spaces);
  - q. Executive Order 79-20 (relating to testing at nursing homes);
  - r. Executive Order 82-20 (establishing the COVID-19 Joint Interagency Task Force for vaccination efforts in this State);
  - s. Executive Order 83-20 (suspending regulatory provisions);
  - t. Executive Order 10-21 (relating to in-person instruction in the schools of this State); and

- u. Executive Order 11-21 (relating to unemployment benefits).
3. Section 1 through Section 6 of Executive Order 10-20 are hereby terminated and without further effect, and Section 7 (relating to the ability of registered nurses and advance practice registered nurses licensed in another state to practice in West Virginia), Section 8 (relating to a renewal period requirement for registered nurses and advance practice registered nurses), and Section 11 (relating to continuing education requirements for registered nurses and advance practice registered nurses) of such Executive Order 10-20 are hereby amended to leave the enforcement thereof in the discretion of the West Virginia Board of Examiners for Registered Professional Nurses.
  4. Section 1 through Section 5 of Executive Order 11-20 (relating to regulation of respiratory care professionals) are hereby amended to leave the enforcement thereof in the discretion of the West Virginia Board of Respiratory Care.
  5. Executive Order 77-20 is hereby amended by the addition of one further exception to the mandate to wear an adequate face covering when in confined, indoor spaces, by further excepting persons from wearing face coverings when actively engaged in physical activity where the wearing of such face covering would substantially hinder one's ability to engage in such activity, such as when actively engaged in sport or using an exercise machine in an indoor facility; provided that when present but not actively engaged in such activity (e.g., when sitting on the bench in sport or when transitioning between exercise machines in a fitness center), such persons should wear such face covering.
  6. As previously provided in Executive Order 8-21, travel sports teams and travel leagues remain prohibited from bringing players or spectators together in a county that is in the "Red" color category on the County Alert System, as COVID-19 case rates may change each county's color category from time to time. For the purposes of this Order, "travel sports teams" means teams that typically travel, often long distances and/or out of state, to games, competitions, and/or tournaments, and "travel leagues" means leagues that typically encourage or involve travel by teams and players, often long distance and/or out of state, to games, competitions, and/or tournaments.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, this Nineteenth day of April, in the year of our Lord, Two Thousand Twenty-One in the One Hundred Fifty-eighth year of the State.



**GOVERNOR**



**SECRETARY OF STATE**



**By the Governor**