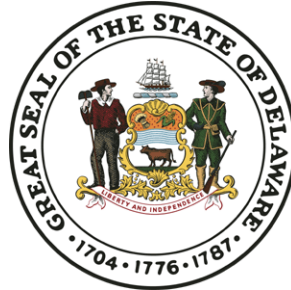


State of Delaware



Executive Department
Dover

SIXTH REVISION TO THE TWENTY-SEVENTH MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, on September 3, 2020 at 7:00 p.m. E.D.T., I issued the Twenty-Seventh Modification to the State of Emergency, combining all active COVID-19 restrictions into a single order (as used herein the “Omnibus Modification”), a complete copy of which is incorporated herein by reference and available at <https://de.gov/27soe>; and

WHEREAS, on September 25, 2020 at 2:00 p.m. E.D.T., I issued the First Revision to the Omnibus Modification to, among other things, lift the suspension on FOIA responses and permit extension of certain state employee leave policies; and

WHEREAS, on November 5, 2020 at 2:00 p.m. E.D.T., I issued the Second Revision to the Omnibus Modification to lift additional restrictions on bar service in beach towns from Lewes down to Fenwick Island; and

WHEREAS, on November 20, 2020 at 3:45 p.m. E.D.T., I issued the Third Revision to the Omnibus Modification to formally impose restrictions on indoor and outdoor gatherings, and reducing occupancy in restaurants to no more than thirty percent (30%); and

WHEREAS, on December 10, 2020 at 5:00 p.m. E.D.T., I issued the Fourth Revision to the Omnibus Modification imposing additional restrictions to confront the winter surge of COVID-19 hospitalizations in Delaware; and

WHEREAS, on January 8, 2021 at 10:00 a.m. E.D.T., I issued the Fifth Revision to the Omnibus Modification lifting the curfew placed on bars and restaurants and allowing sports to resume with restrictions; and

WHEREAS, except as specifically set forth herein, this Revision shall in no way modify, alter or amend the remaining terms of the Omnibus Modification, all of which shall remain in full force; and

WHEREAS, new market entrants are not exempt from the prohibition on price gouging during the State of Emergency; and

WHEREAS, because municipal and school district elections are scheduled to be conducted, and such elections will necessarily result in gatherings of individuals and potential exposure to (and community spread of) the COVID-19 virus (of voters and poll workers), the qualification of “sick or physically disabled” shall include any voter who is asymptomatic of COVID-19 infection and/or wishes to self-quarantine or exercise social distancing; and

WHEREAS, it is necessary for the State of Delaware to collect, store, and share comprehensive data relating to vaccination events with the Centers for Disease Control and Prevention (CDC), as the distributor and funder of the vaccine; and

WHEREAS, the CDC will require the State of Delaware to account for all doses received by state, and has provided the State of Delaware with a list of certain data elements in order to create an accurate accounting of administration of vaccines, ensure correct matching of the second dose, to ensure both dose number and product are consistent with federal guidance, to identify vaccine and patient information in the event of adverse events to address safety issues, and to assess the efficacy of vaccine among different demographic groups within the population; and

WHEREAS, the CDC also requires data from all states, including Delaware, to ensure proper vaccine allocation, ordering, distribution, and inventory management; and

WHEREAS, the Delaware Division of Public Health has created statewide COVID-19 Vaccination Guidance, which includes distribution of a COVID-19 vaccine for administration to every person in the State of Delaware as soon as such a vaccine becomes available; and

WHEREAS, it is in the best interests of the people of the State of Delaware to have timely and equitable access to COVID-19 vaccine to end the Pandemic's impact on persons and businesses in the state; and

WHEREAS, timely and effective distribution of the COVID-19 Vaccine will require coordination and sharing of information, including specific details concerning the amount of vaccine required, the number and efficacy of vaccine doses administered, the statewide and regional areas in most need of vaccine due to vulnerable or high-risk populations, need for administration in long-term care facilities, and information relating to coverage gaps; and

WHEREAS, in the interest of protecting the citizens of this state from a public health threat, the Governor is authorized by law to issue an order reasonably necessary to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or

the orders, rules, or regulations of any state agency, where strict compliance with such provisions may hinder necessary action in coping with the emergency.

NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that Sections E, G, I, N, O, and P are hereby modified, effective Friday, February 12, 2021 at 8:00 a.m. E.D.T. unless otherwise specified herein, by making deletions as shown by strike through and insertions as shown by italics as follows:

E. Consumer Protection.

4. *Effective February 4, 2021 at 9:00 a.m. E.D.T., no person doing business in this State shall engage in price gouging during the COVID-19 State of Emergency, which shall mean an excessive price increase of goods or services offered for sale by that person compared to the sales price offered by that person in the usual course of business immediately before the COVID-19 State of Emergency, unless that price increase is attributable to additional costs imposed on the seller of such goods or services, such price not to increase more than ten percent (10%) from the cost customarily applied in the usual course of business prior to the COVID-19 State of Emergency. If a person doing business in this State did not sell or offer to sell a good or service prior to the COVID-19 State of Emergency, the price at which that good or service was generally available in the State immediately prior to the COVID-19 State of Emergency will be used to determine if the person is engaged in price gouging. A violation of this paragraph shall be deemed an unlawful practice under § 2513 of Title 6 of the Delaware Code and a violation of Subchapter II of Chapter 25 of Title 6.*

G. Elections

3. *Effective February 4, 2021 at 9:00 a.m. E.D.T., and until this provision is rescinded, for purposes of qualification of an otherwise duly registered voter to vote in a 2021 municipal election by absentee ballot pursuant to 15 Del. C. § 7571, and for purposes of qualification of an otherwise duly qualified voter to vote in a 2021 school district election (school boards or referenda) pursuant to 14 Del. C. § 1086 and 15 Del. C. § 5502, the qualification of “sick or physically disabled” as used in 15 Del. C. §§ 5502(4) and 7571(4) shall apply to and include any such voter who is asymptomatic of COVID-19 infection and/or wishes to self-quarantine or exercise social distancing to avoid potential exposure to (and community spread of) COVID-19, and who herself or himself freely chooses to use such qualification to vote by absentee ballot.*

I. FOIA — Public Records and Public Meetings

1. All public meetings of public bodies governed by 29 Del. C. §§10001 et seq. (including boards, commissions, task forces, and any other similar public body) may be conducted in person in public buildings, provided that (1) the total number of individuals permitted in a room at one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of stated fire occupancy requirements; (2) a six (6) foot radius around individuals is maintained, and (3) attendees wear face coverings. Public bodies are encouraged to conduct meetings electronically, either by means of telephone conference call or video conference call. Any in-person meeting must also provide a telephone or video conference option for any member of the public body or the public who does not wish to attend in person.

N. Phase Two Reopening

INDIVIDUAL OBLIGATIONS OF SOCIAL DISTANCING, FACE COVERINGS, AND TRANSMISSION REDUCTION, ~~EFFECTIVE DECEMBER 14, 2020:~~

3. ~~Beginning on Monday, December 14, 2020 and until further notice, Delaware residents are advised and strongly encouraged to stay home as often as possible and to only leave home to go to work or school, or for necessary needs such as seeking medical care, going to the grocery store or pharmacy, or picking up food. Individuals leaving their residence for work, school or other activities are advised and strongly encouraged to take the following steps to reduce transmission of COVID-19:~~
- ~~a. Do not gather with anyone outside of your household, in their home or yours.~~
 - ~~b. Individuals who are not part of the same household are strongly encouraged to remain **at least six (6)** feet apart to the greatest extent possible and are encouraged to maintain greater physical distance whenever possible to avoid becoming a close contact. The CDC definition of a close contact is “someone who was within six feet of an infected person for a cumulative total of 15 minutes or more over a 24 hour period.”~~
 - ~~c. Individuals aged Kindergarten and up must wear a face covering while in attendance at any private indoor gathering or event with members of other households, including in their own home, irrespective of physical distance.~~
 - ~~d. Carry hand sanitizer and use it frequently.~~
 - ~~e. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.~~
 - ~~f. Regularly clean high touch surfaces such as steering wheels, wallets, phones and keyboards.~~
 - ~~g. Individuals who are sick are urged to stay in their residences except as necessary to seek medical care. Individuals who are considering delaying medical care are encouraged to consult with a medical provider.~~

- ~~h. Avoid any unnecessary travel outside the home.~~
- ~~4. All vulnerable individuals, including those at high risk of severe illness from COVID-19, are strongly advised to stay at home, except that routine medical care should not be postponed without consulting a medical professional. Members of households with vulnerable residents should be aware that by visiting environments where distancing is not practical, they could carry COVID-19 home. Precautions should be taken to isolate oneself from vulnerable individuals in the home.~~

SOCIAL GATHERINGS AND EVENTS IN PHASE 2:

2. Indoor Gatherings/Events: All gatherings or events held within any business or indoor space open to the public (including, but not limited to: food and drink establishments; commercial lodging; convention centers; houses of worship; pools; senior centers; and those in parks and recreation facilities or at facilities without a stated fire code occupancy) shall comply with the gathering requirements set forth by this Twenty-Seventh Modification. Indoor gatherings or events at any business or indoor space open to the public of up to the lesser of ~~thirty percent (30%)~~ *fifty percent (50%)* stated fire occupancy or ten (10) people (e.g. weddings and receptions, graduations, birthday parties, funeral receptions, etc.) and private indoor gatherings or events of up to ten (10) persons (e.g. dinner parties, house parties, birthday parties) are permitted in Phase 2 under the following conditions:

PHASE 2 BUSINESS REOPENING

2. Phase 2 Responsibilities of all Businesses. In addition to the industry-specific guidance issued to businesses in the Phase 2 Reopen Plan, including any subsequent amendments thereto, business operations for any business that is re-opening or continuing operations

shall follow the coronavirus guidelines for public safety enumerated by the CDC and DPH, including:

1. For fixed seating venues, only ~~sixty percent (60%)~~ *fifty percent (50%)* of patron or visitor seating may be occupied and there must be a six (6) foot radius around individual household units. Patrons and visitors must exit their seats in an orderly, row by row fashion, as directed by venue staff.
3. Determination of Maximum Occupancy. With respect to the Phase 2 Reopen Plan, maximum occupancy for a business means ~~thirty percent (30%)~~ *fifty percent (50%)* of stated fire occupancy requirements, excluding employees, unless expressly stated otherwise ~~by the Phase 2 Additional Business Restrictions, effective December 14, 2020, as set forth below.~~
4. The following business categories may continue operations or reopen subject to the responsibilities listed in the Phase 2 Reopen Plan, and as amended, available at <https://governor.delaware.gov/wp-content/uploads/sites/24/2020/06/Delaware-Economic-Reopening-PHASE-2.pdf>, as follows:
 - a. *Arts and Culture, Museums, Galleries, and Historical Attractions.* The Arts and Culture industry which is comprised of several different types of businesses: Performing Arts; Museums, Galleries, Libraries, Historical Attractions and Arts Education Institutions, may continue operations or reopen provided, however, that the total number of guests permitted entry into an establishment at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of stated fire occupancy requirements. Additional requirements for Arts and Culture, Museums, Galleries, and Historical Attractions are listed in the Phase 2 Reopen Plan.

b. *Food and Drink Establishments.*

i. Providers of food or drink, such as restaurants, breweries, taverns, and taprooms that provide table service may continue operations or reopen provided, however, that the total number of guests within an establishment shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that establishment's stated fire occupancy requirements. Food and Drink Establishments are required to notify patrons that they may provide their name and phone number or email address to the establishment, and that the establishment will keep the information on file for the sole purpose of allowing DPH to contact the patron if another patron or an employee is later found to have tested positive for COVID-19. If a patron leaves such contact information, the establishment must retain the information for twenty-eight (28) days. The establishment need not deny service to patrons who do not provide contact information for this purpose. Additional requirements for Food and Drink Establishments are listed below and in the Phase 2 Reopen Plan.

2. Establishments that are not able to reach at least ~~thirty percent (30%)~~ *fifty percent (50%)* of fire code occupancy (excluding staff) while complying with safety requirements may submit an alternative plan for COVID-safe dining to DPH at HSPcontact@delaware.gov. Plans may not be implemented until approved by DPH. Other than when eating or drinking, staff and customers must wear a face covering in accordance with the State of Emergency Order at all times.

6. Any common areas where people would typically stand or engage in other activities must be off limits if not otherwise occupied by tables with seated patrons, *unless the Food and Drink Establishment can create a facility-specific plan for such activities, including that Food and Drink Establishments may not exceed fifty percent (50%) of stated fire occupancy requirements for the indoor area under any circumstances. Plans should be emailed to hspcontact@delaware.gov for consideration. This includes* ~~The use of dance floors, arcade/bar game areas, pool tables, and similar spaces is not permitted until plans are approved by DPH. Food and Drink establishments may not exceed thirty percent (30%) of stated fire occupancy requirements for the indoor area under any circumstances.~~

7. For food and drink establishments that provide table service:

d. Food and Drink Establishments must place a sign on each table stating that only customers from the same household may share a table.

8. For food and drink establishments that do not provide table service:

d. The total number of guests within a facility shall at no time exceed ~~thirty percent (30%)~~ fifty percent (50%) of fire occupancy requirements.

ii. Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective Monday, November 23, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply to taprooms and bar service in

all food and drink establishments, including to any service that is provided indoors or outdoors:

2. Any common areas where people would typically stand or engage in other activities must be off limits if not otherwise occupied by tables with seated patrons, *unless the Food and Drink Establishment can create a facility-specific plan for such activities, including that Food and Drink Establishments may not exceed fifty percent (50%) of stated fire occupancy requirements for the indoor area under any circumstances. Plans should be emailed to hspcontact@delaware.gov for consideration. This includes The use of dance floors, arcade/bar game areas, pool tables, and similar spaces is not permitted until plans are approved by DPH. Food and Drink establishments may not exceed thirty percent (30%) of stated fire occupancy requirements for the indoor area under any circumstances.*

c. *Retail Establishments.* Retail businesses, organizations, establishments, and facilities in the State of Delaware that principally sell goods (“Retail Establishments”) may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a Retail Establishment at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that Retail Establishment’s stated fire occupancy requirements. Additional requirements for Retail Establishments are listed in the Phase 2 Reopen Plan.

d. *Malls.* A mall means a collection of stores that are all contained within a building that contains interior walkways and common spaces between stores that consumers pass through as they move from store to store. This does not include facilities that have

a collection of stores but have no interior common area, otherwise known as strip malls. Those strip malls should advise stores to follow individual guidance that may apply to their individual store. Malls may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a mall at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that mall's stated fire occupancy requirements. Additional requirements for malls are listed in the Phase 2 Reopen Plan. All restaurants, bars, or other food and beverage service, including the food court, in a mall shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification, *except that the total number of guests permitted in a food court at any one time shall not exceed fifty percent (50%) of that facility's stated fire occupancy requirements or one hundred (100) individuals, whichever is less.* Additional requirements for malls are listed in the Phase 2 Reopen Plan.

e. Personal Care Services. This section shall apply to barber shops, hair salons, tanning salons, tattoo services, massage therapy services, nail care, brow care, spas, waxing services, and similar services. These consumer services may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an establishment at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. If a customer must remove a face covering for a service to be performed (e.g. make-up application, facial, etc.) the professional providing services shall wear a face covering AND face shield during the procedure until the client is able to wear their face covering or the procedure

is complete, and six (6) feet of social distance can be maintained. Additional requirements for consumer services are listed in the Phase 2 Reopen Plan.

f. Exercise Facilities. Exercise facilities may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an establishment at any one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. *Group exercise classes are limited to a maximum of ten (10) individuals (excluding staff). Facilities hosting multiple group exercise classes at the same time must allow for a minimum of twenty (20) feet between classes. All individuals must wear face coverings and individuals who are not part of the same household must remain at least thirteen (13) feet apart during classes and are encouraged to maintain greater physical distance whenever possible. Staff must be on-site to monitor patrons entering the facility, to ensure social distancing throughout the facility, and to ensure the use of face coverings in compliance with this order.* Additional requirements for exercise facilities are listed in the Phase 2 Reopen Plan.

h. Casinos. Any establishment holding a gaming and table gaming license may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a casino at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that casino's stated fire occupancy requirements. Additional requirements for casinos are listed in the Phase 2 Reopen Plan.

i. Racetracks. Racetracks are any facilities in the state licensed for the racing of horses, other animals or automobiles. Racetracks may continue operations or reopen to the general public, provided, however, that the total number of guests permitted at a

racetrack at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that racetrack's stated fire occupancy requirements. Additional requirements for racetracks are listed in the Phase 2 Reopen Plan.

l. Senior centers, adult day centers and senior congregate nutrition programs. Senior centers, adult day centers and senior congregate nutrition programs may reopen, provided, however, that the total number of guests (excluding staff) permitted in a facility at any one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. Senior centers, adult day centers and senior congregate nutrition programs are strongly encouraged to develop a plan to support contact tracing if a positive case is associated with the business location, including to request that customers provide contact information (name, email address, and telephone numbers) and to record the date of service. In addition to the responsibilities for all businesses, senior centers, adult day centers and senior congregate nutrition programs must also:

m. Commercial Lodging. As used herein, Commercial Lodging includes hotels, motels, inns, short-term accommodations, vacation homes, or condo rentals (such as Airbnb, VRBO, HomeAway or any other vacation or overnight accommodation rental), and other lodgings providing overnight accommodation. Commercial Lodging may continue operations or reopen, provided that the total number of guests within common areas (lobby) of any hotel, motel, or inn shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that establishment's stated fire occupancy requirements, and the total number of guests within any gym or exercise facility not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that establishment's stated fire occupancy requirements. The

~~sixty percent (60%)~~ *fifty percent (50%)* limit does not apply to the number of hotel rooms that may be booked or occupied at one time or to short term rental accommodations, such as vacation homes or condo rentals. All restaurants, bars, or other food and beverage service in Commercial Lodging shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification. All fitness centers, pools, spas, and all indoor places of congregation, including conference rooms and meeting rooms, shall operate within the same parameters as set by this Twenty-Seventh Modification. Additional requirements for Commercial Lodging are listed in the Phase 2 Reopen Plan.

o. Private Instruction. Private instruction covers a wide variety of classroom-based or similar instruction that is not in a traditional K-12 or post-secondary environment, including tutoring services, testing centers, adult education, or specific vocational training facilities (outside of traditional K-12 structures). Private instruction may reopen, provided, however, that the total number of learners permitted in private instruction at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. Additional requirements for private instruction are listed in the Phase 2 Reopen Plan.

p. Auction Houses. Auction Houses may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an Auction House at any one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that Auction House's stated fire occupancy requirements. Additional requirements for Auction Houses are listed in the Delaware Auctioneer's Association Guidelines issued by the Delaware Department of Agriculture, incorporated by reference herein.

q. Houses of Worship and Political Gatherings. Notwithstanding the indoor gathering occupancy limits set forth in Paragraph N.2, Houses of Worship may continue to offer in-person worship services, provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed the lesser of thirty percent (30%) of that House of Worship's stated fire occupancy or one hundred (100) guests. In addition, and consistent with the authority offered to certain other businesses or indoor spaces open to the public to modify capacity, a House of Worship may apply to host worship services of more than one hundred (100) guests, but not to exceed thirty percent (30%) of that House of Worship's stated fire occupancy, by submitting a facility specific plan to HSPcontact@delaware.gov for consideration. Facility specific plans must outline how the applicant will prevent, reduce the spread of, and suppress the transmission of COVID-19 during worship services in light of the requested additional number of guests. Facility specific plans may not be implemented until approved by DPH. Notwithstanding the indoor gathering occupancy limits set forth in Paragraph N.2, Houses of Worship may continue operations or reopen provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed fifty percent (50%) of that House of Worship's stated fire occupancy. For purposes of this paragraph, a funeral mass, memorial service, visitation, wake, or viewing within a House of Worship or funeral home shall be entitled to the same occupancy parameters as Houses of Worship. For the purpose of clarity, nothing in this paragraph prohibits a House of Worship: (1) from offering multiple or additional daily worship services which otherwise comply with the requirements of this Order, or (2) from the concurrent use of available outdoor space to facilitate wider

attendance at worship services when such use of outdoor space is otherwise compliant with the outdoor gathering requirements set forth by this Twenty-Seventh Modification. For purposes of this paragraph, political gatherings shall be entitled to the same occupancy parameters and administrative remedies as Houses of Worship.

r. Swimming facilities (public or community). Public and private swimming facilities, except pools associated with an individual, single-family home, may continue operations or reopen provided, however, that the total number of guests permitted in a swimming facility at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that swimming facility's stated fire occupancy requirements. Additional requirements for swimming facilities are listed in the DPH Guidance for Public and Community Swimming Pools.

t. Convention Centers & Meeting Facilities. Convention centers and meeting facilities may reopen provided, however, that the total number of guests permitted in a facility at any one time shall not exceed ~~sixty percent (60%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. Additional requirements for convention centers and meeting facilities are listed in the Phase 2 Reopen Plan.

PHASE 2 LIMITED BUSINESSES: The following businesses are not permitted to open during

Phase 2, except as provided:

2. Indoor children's play areas, including softscape or hardscape playground facilities, trampoline parks and children's museums, unless they can create a facility-specific plan to observe the industry guidance provided for indoor children's play areas, including that the total number of guests permitted in a facility at any one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements.

Plans should be emailed to hspcontact@delaware.gov for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

3. Water parks, unless they can create a facility-specific plan to observe the industry guidance provided for water parks, including that that the total number of guests permitted in a facility at any one time shall not exceed ~~thirty percent (30%)~~ *fifty percent (50%)* of that facility's stated fire occupancy requirements. Plans should be emailed to hspcontact@delaware.gov for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

~~PHASE 2 ADDITIONAL BUSINESS RESTRICTIONS, EFFECTIVE DECEMBER 14, 2020:~~

~~Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective December 14, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply:~~

- ~~1. Determination of Maximum Occupancy. Maximum occupancy for all businesses and indoor spaces open to the public is as follows:~~
 - ~~a. Notwithstanding the indoor gathering occupancy limits set forth in Paragraph N.2, Houses of Worship may continue operations or reopen provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed forty percent (40%) of that House of Worship's stated fire occupancy. For the purposes of this paragraph, political gatherings shall be entitled to the same occupancy parameters as Houses of Worship. For the purposes of this paragraph, a funeral mass, memorial service, visitation, wake, or viewing within a House of Worship or funeral home shall be entitled to the same occupancy parameters as Houses of Worship.~~

~~b. Retail establishments of five thousand square feet (5,000 sq. ft.) or less may continue operations or reopen provided, however, that the total number of individuals within the retail establishment shall not exceed forty percent (40%) of that facility's stated fire occupancy requirements.~~

~~c. Businesses with less than one hundred thousand square feet (100,000 sq. ft.) and retail establishments having five thousand and one square feet (5,001 sq. ft.) but no more than one hundred thousand square feet (100,000 sq. ft.) may continue operations or reopen provided, however, that the total number of individuals within them shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements.~~

~~d. 100,001+ SQ FT: All businesses, including retail establishments, having one hundred thousand and one or more square feet (100,001+ sq. ft.) may continue operations or reopen provided, however, that the total number of individuals within the business shall not exceed twenty percent (20%) of that facility's stated fire occupancy requirements.~~

~~2. Food and Drink Establishments. In addition to the maximum occupancy requirements set forth above, the following additional restrictions shall apply to Food and Drink Establishments:~~

~~a. The total number of guests permitted in a food court at any one time shall not exceed twenty percent (20%) of that facility's stated fire occupancy requirements or one hundred (100) individuals, whichever is less.~~

~~b. Food and Drink Establishments must place a sign on each table stating that only customers from the same household may share a table. Tables within food and drink~~

~~establishments are limited to parties of six (6) persons, consisting of no more than four (4) adults.~~

~~3. Exercise Facilities. In addition to the maximum occupancy requirements set forth above, the following additional restrictions shall apply to Exercise Facilities:~~

~~a. Group exercise classes are limited to a maximum of ten (10) individuals (excluding staff). Facilities hosting multiple group exercise classes at the same time must allow for a minimum of twenty (20) feet between classes. All individuals must wear face coverings and individuals who are not part of the same household must remain at least thirteen (13) feet apart during classes and are encouraged to maintain greater physical distance whenever possible.~~

~~b. Staff must be on-site to monitor patrons entering the facility, to ensure social distancing throughout the facility, and to ensure the use of face coverings in compliance with this order.~~

O. Youth and Amateur Adult Sports

1. APPLICATION AND ENFORCEMENT.

~~iv. Out-of-State Travel. Effective Tuesday, December 1, 2020~~ Any individual who participates in an out-of-state tournament or competition (~~e.g.,~~ (e.g., ice hockey, basketball, football, competitive cheer or dance) ~~must~~ *is strongly encouraged to* immediately self-quarantine in accordance with DPH guidance from the time of entry into Delaware or for the duration of the individual's presence in Delaware, whichever period is shorter.

3. SUBMISSION AND APPROVAL OF PLANS.

i. Tournaments are not permitted until plans for the tournaments are approved by DPH. Tournament facilities shall submit plans to HSPcontact@delaware.gov for review.

Plans must include a method to collect contact information for all players, staff, coaches, officials and spectators, as well as team rosters and game schedules to assist with contact tracing in the event of a COVID-19 infection. ~~Effective December 1, 2020 at 8:00 a.m. E.D.T., the hosting of or participation in out-of-state tournaments is hereby prohibited. Effective December 7, 2020 at 8:00 a.m. E.D.T., and until further notice, tournaments plans may be submitted but will not be approved by DPH, except that tournaments having received approval from the Division of Public Health to play prior to Monday, December 7, 2020 are hereby granted an exception to the restrictions on tournaments in this paragraph, unless notified by DPH that a plan modification is necessary for the public health and safety.~~

9. ADDITIONAL RESTRICTIONS, EFFECTIVE ~~DECEMBER 14, 2020~~ *FEBRUARY 12, 2021*.

Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective ~~December 14, 2020~~ Friday, February 12, 2021 at 8:00 a.m. E.D.T., the following additional restrictions shall apply until further notice:

- i. The maximum occupancy for any indoor practice is ~~thirty percent (30%)~~ *fifty percent (50%)* of stated fire occupancy requirements, **including** athletes, coaches, and other employees or staff, but excluding the one person permitted to accompany an athlete to any practice as provided in Paragraph 7.v. of this section.
- ii. ~~Effective January 11, 2021, at 8:00 a.m. E.D.T., all~~ All games, matches, and competitions may resume, provided that the maximum occupancy for any game, match, *tournament* or competition is ~~thirty percent (30%)~~ *fifty percent (50%)* of stated fire occupancy requirements, **including** athletes, coaches, and other employees or staff, but excluding ~~the one person~~ *two individuals* permitted to accompany ~~an~~ *each* athlete to any ~~any~~ game,

match, *tournament* or competition. Additional spectators are not permitted to attend any game, match, *tournament* or competition.

P. Vaccine Administration. Effective February 4, 2021 at 9:00 a.m. E.D.T.:

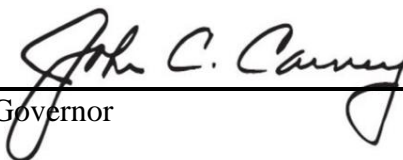
- 1. All COVID-19 vaccinations shall be made available only to persons who meet current criteria for inoculation as determined by DPH. The phases, criteria, or target population will be established and modified over time by DPH in the form of the State of Delaware's COVID-19 Vaccination Guidance ("Vaccination Guidance") and may be accessed at the following website: <https://coronavirus.delaware.gov/vaccine/>*
- 2. All health care providers, facilities and entities that decide to offer vaccinations shall make those vaccinations available to any person meeting the vaccination criteria without regard to that person's ability to pay, type of health insurance, or participation in any particular provider network.*
- 3. All health care providers, facilities and entities that offer vaccinations shall provide vaccinations at no out-of-pocket cost to individuals.*
- 4. All healthcare providers, facilities, and entities administering COVID-19 vaccination in Delaware must report the vaccination within 24 hours to the Division of Public Health through the Delaware Immunization Information System (DelVAX or its derivative). Healthcare providers, facilities, and entities administering COVID-19 vaccination in Delaware must request and, when provided, report the vaccinated person's date of birth, address, phone number, race, ethnicity, date of vaccination, lot number and manufacturer of the vaccine administered, and other information as specified in the Delaware Immunization Information System.*

5. *Notwithstanding any provision of the Delaware Code or the common law of the State of Delaware, all COVID-19 vaccine or the constituent parts of COVID-19 vaccine distributed to any third party by the State of Delaware shall remain the property of the State of Delaware until administered to a patient. Until the moment of vaccination, the State of Delaware shall retain the authority to direct, redirect, reclaim, recover, and reallocate any amount of COVID-19 vaccine or the constituent parts of COVID-19 vaccine without cause and at the sole discretion of either DHSS or DEMA.*
6. *No person shall intentionally or willfully provide or distribute COVID-19 vaccine to individuals who are not authorized to receive such vaccine pursuant to the Vaccination Guidance, except as provided herein. Any health care provider who intentionally or willfully provides or distributes, or who supervises someone who intentionally or willfully provides or distributes the COVID-19 vaccine to any individual who is not authorized to receive such vaccine pursuant to the Vaccination Guidance is guilty of unprofessional conduct as that term is defined in Title 24 and may be subject to licensure discipline.*
7. *Exceptions to the Vaccination Guidance are authorized only as set forth in this subparagraph. Vaccinations not authorized by the Vaccination Guidance are authorized only for the purpose of preventing waste or spoilage of vaccine, but such vaccination shall only be permitted under following conditions and circumstances:*
 - i. *COVID-19 vaccine has already been constituted for injection and the vaccinator is unable, after a reasonable and diligent search, to locate any individual prior to such vaccine becoming wasted or spoiled, who is (a) presently authorized by the Vaccination Guidance to receive vaccination, and (b) willing to receive vaccination;*

- ii. *Any vaccinator providing COVID-19 vaccine to any individual not authorized to receive such vaccine as set forth in the Vaccination Guidance shall maintain written documentation of the reasonable and diligent search set forth in the forgoing subparagraph; and*
 - iii. *Any vaccinator providing COVID-19 vaccine to any individual authorized to receive such vaccine pursuant to the exception set forth herein shall maintain a written log identifying every such individual.*
8. *Any person who, through the provision of false information to any third party, through any medium, takes, exercises control over, or obtains COVID-19 vaccine or COVID-19 vaccination shall commit the offense of Theft; False Pretense as set forth at 11 Del. C. § 843.*
9. *Failure to comply with the data reporting requirements in this order may result in a fine as authorized by 16 Del. C. § 107(a) and/or the cessation of vaccine distribution to the noncompliant provider.*

P. Q. Miscellaneous

APPROVED this 4th day of February 2021 at 9:00 a.m.


Governor