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State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-116

December 16, 2021

PROTECTING PUBLIC HEALTH BY WEARING MASKS OR FACE COVERINGS OR OBTAINING PROOF OF VACCINATION IN INDOOR PUBLIC PLACES

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19 and that Order has been extended through at least December 23, 2021;

WHEREAS, on November 12, 2021, I issued Executive Order 21-109 affirming the disaster emergency that was first declared on August 19, 2021 for the now-dominant Delta variant of SARS-CoV-2 (“the Delta variant”) and other then-existing COVID-19 variants and that Order has been extended through at least January 8, 2022;

WHEREAS, on July 27, 2021, as a result of the increased transmissibility of the Delta variant and the resulting surge in COVID-19 infections, the Center for Disease Control and Prevention (CDC) issued guidance recommending that all people, including those who are vaccinated, wear masks indoors in areas of substantial or high COVID-19 community transmission;

WHEREAS, Rhode Island is experiencing a high level of community transmission of COVID-19, defined as more than 100 cases of COVID-19 per 100,000 people in the past 7 days;

WHEREAS, prior to the COVID-19 pandemic, Rhode Island's hospitals and healthcare facilities faced major staffing challenges and significant financial instability;

WHEREAS, the pandemic has exacerbated these issues, leading to bed shortages and increased hospital diversions at the State's acute care facilities and an even more emergent workforce shortage due to pandemic stress, burnout and widespread resignations;

WHEREAS, in recent months, there has been an influx of patients who deferred necessary care during the height of the pandemic and now require longer hospitalization;

WHEREAS, in recent weeks, the number of Rhode Islanders hospitalized with COVID-19 has dramatically increased;

WHEREAS, as a result of longer and increased hospitalizations, Rhode Island's hospitals are reporting that their emergency departments are at capacity and that patients are leaving without being evaluated, and that many acute care hospitals have exceeded maximum capacity, necessitating the diversion of patients to other hospitals;

WHEREAS, the Rhode Island Department of Health (RIDOH) projects the already high COVID-19 community transmission and hospitalizations in the State will continue to increase over the coming weeks and into early 2022;

WHEREAS, on November 26, 2021, the World Health Organization (WHO) named and classified the Omicron variant of SARS-CoV-2 (the "Omicron variant") as a *Variant of Concern*; and on November 30, 2021, the United States designated the Omicron variant as a *Variant of Concern*. The Omicron variant has also been identified in the populations of Rhode Island and neighboring states; it is expected to cause a significant number of COVID-19 infections in Rhode Island and to increase COVID-19 transmission rates;

WHEREAS, Rhode Island and other states have experienced early influenza season outbreaks with a strain of influenza that is transmitted in a similar manner as SARS-CoV-2, and the current strain of influenza A H3N2 is known to be associated with more

hospitalizations and deaths than other influenza viruses in persons aged 65 years and older;

WHEREAS, according to the CDC, COVID-19 viral particles spread between people more readily indoors than outdoors, and with the weather getting colder and people spending more time indoors in enclosed spaces, the risk of COVID-19 infection has become higher;

WHEREAS, while vaccination remains highly effective at preventing infection, severe disease, hospitalization, and death from COVID-19, breakthrough infection and transmission among vaccinated people have been clearly established;

WHEREAS, the significant increase in SARS-CoV-2 cases due to the Delta variant, exacerbated by the increase in influenza A H3N2 and also potentially by the emergence of the Omicron variant, together with staffing shortages in healthcare institutions in the State, constitute a serious threat to public health in Rhode Island;

WHEREAS, emerging evidence from South Africa suggests the Omicron variant can partially evade protection from two doses of the Pfizer/BioNTech COVID-19 vaccine; and

WHEREAS, the use of masks and face coverings and other mitigation measures are critical public health approaches and have proven effective to slow the transmission of COVID-19.

NOW, THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, and Title 23, Chapter 8, do hereby order and direct the following:

Recreation Establishments, Entertainment Establishments, Historical Establishments, Cultural Establishments, Venues of Assembly, and Religious and Faith-Based Organizations

1. Recreation establishments, entertainment establishments, historical establishments, cultural establishments, venues of assembly, and religious and faith-based organizations conducting operations in indoor venues with a capacity of 250 or more persons shall require any person in their indoor premises to cover their mouth and nose with a mask or face covering (“masking”), regardless of vaccination status.

2. Recreation establishments, entertainment establishments, historical establishments, cultural establishments, venues of assembly, and religious and faith-based organizations conducting operations in indoor venues with a capacity of fewer than 250 persons shall require masking of any person in their indoor premises, but may make an exception for any person who provides proof of vaccination¹.

Retail and Service Businesses

3. Retail and service businesses conducting indoor operations with a capacity of 250 or more persons shall require masking of anyone in their indoor premises, regardless of vaccination status. Retail and service businesses conducting indoor operations with a capacity of fewer than 250 persons shall require masking of any person in their indoor premises, but may make an exception for any person who provides proof of vaccination.

Restaurants and Bars

4. Restaurants and bars with indoor dining capacity of 250 or more persons shall require masking of any person in their indoor premises. Restaurants and bars with indoor dining capacity of fewer than 250 persons shall require masking of any person in their indoor premises, but may make an exception for any person who provides proof of vaccination.

Catered Events

5. Indoor catered events with 250 or more persons shall require masking of any person in their indoor premises.
6. Indoor catered events with fewer than 250 persons shall require masking of any person in their indoor premises, but may make an exception for any person who provides proof of vaccination.

¹ “Proof of vaccination” means proof of completion of the 2-dose COVID-19 vaccination series or the only dose of a single-dose COVID-19 vaccine authorized for emergency use or licensed for use by the U.S. Food and Drug Administration or authorized for emergency use by the WHO.

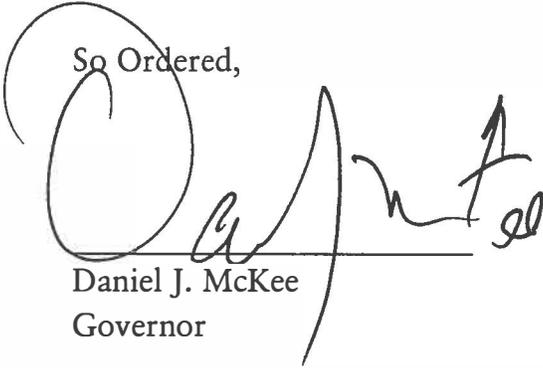
Office-Based and Other Public and Private Employers

7. All office-based businesses and other public or private employers with indoor operations, including but not limited to the manufacturing sector, construction sector, fitness centers and personal services, shall require masking of any person in their indoor premises, but may make an exception for any person who provides proof of vaccination.
8. Notwithstanding the requirements of this Order:
 - a. Masking shall not be required for any person (i) who is under two years of age, (ii) whose health would be damaged thereby, or (iii) who is developmentally unable to comply, including young children who may not be able to effectively wear a mask or face covering.
 - b. Masking is not required for any person when:
 - A face covering would impede communication by or with a person who has a hearing impediment;
 - Working alone in an office or at a job site, *provided* if a worker can reasonably expect to interact with or to be approached by customers, co-workers or visitors, the worker must wear a mask or face covering;
 - Working in an environment where masking would create a safety hazard;
 - Receiving communion, making kiddush or conducting similar religious rituals;
 - Speaking to a broadcast, webcast or audience when no person is within six feet of the person speaking;
 - Competing in professional or intercollegiate athletic programs, *provided* the athlete provides proof of vaccination;
 - Consuming food or drink;
 - Officiating, or participating as a legal party in, a marriage or civil union ceremony;
 - Undergoing a medical or dental procedure; or
 - Performing live indoors, *provided* the performer provides proof of vaccination. This exemption shall not apply in the K-12 setting.

9. The Director of RIDOH is hereby authorized to promulgate and enforce any rules and regulations necessary to implement this Order.
10. The Director of the Department of Business Regulation (DBR) shall make determinations regarding the ways in which a business, organization, or operation (or a portion of such business, operation or organization) is to be categorized within the provisions of this Order or within other state guidance documents. In doing so, DBR may determine the executive order and guidance provisions under which a business or organization is to operate or by which it is to be guided. The Director of DBR, with concurrence of the Director of RIDOH, may make exceptions to the requirements of this Order as are reasonable and necessary.
11. An enforcement task force (“Task Force”) is hereby established. The Task Force shall be composed of inspectors and other personnel that I assign from DBR, RIDOH and other departments of state government, as necessary. Notwithstanding any other provision of Rhode Island law, all inspection and enforcement authority for the emergency regulations promulgated by RIDOH shall be vested in the Task Force.
12. I authorize the Director of the Department of Administration (DOA) to transfer any State employee in the executive branch to the Task Force without regard to union status, union affiliation, seniority, and/or the employee’s formal job classification or prior duties. The Director of DOA is also authorized to implement workplace policies that may be necessary to effectuate this order.
13. Task Force inspectors shall conduct inspections of businesses, governmental establishments and other establishments as well as enforce the emergency regulations promulgated by RIDOH. The Task Force, through RIDOH, shall issue compliance orders under Chapter 1 of Title 23.
14. The Director of RIDOH or her designees are further authorized to assess civil penalties for violation of this Order. Such civil penalties shall be in addition to any other penalties authorized by law.
15. Nothing herein shall prohibit or otherwise prevent a business, organization, operation, or governmental establishment from developing, adopting and/or implementing a masking or COVID-19 vaccination policy that is more restrictive than this Order.

This Order shall take effect on December 20, 2021 and remain in full force and effect through January 18, 2022 unless renewed, modified, or terminated by a subsequent Executive Order.

So Ordered,

A handwritten signature in black ink, appearing to read 'D. McKee', written over a horizontal line. The signature is stylized and includes a large initial 'D' and a final flourish.

Daniel J. McKee
Governor