State of New York

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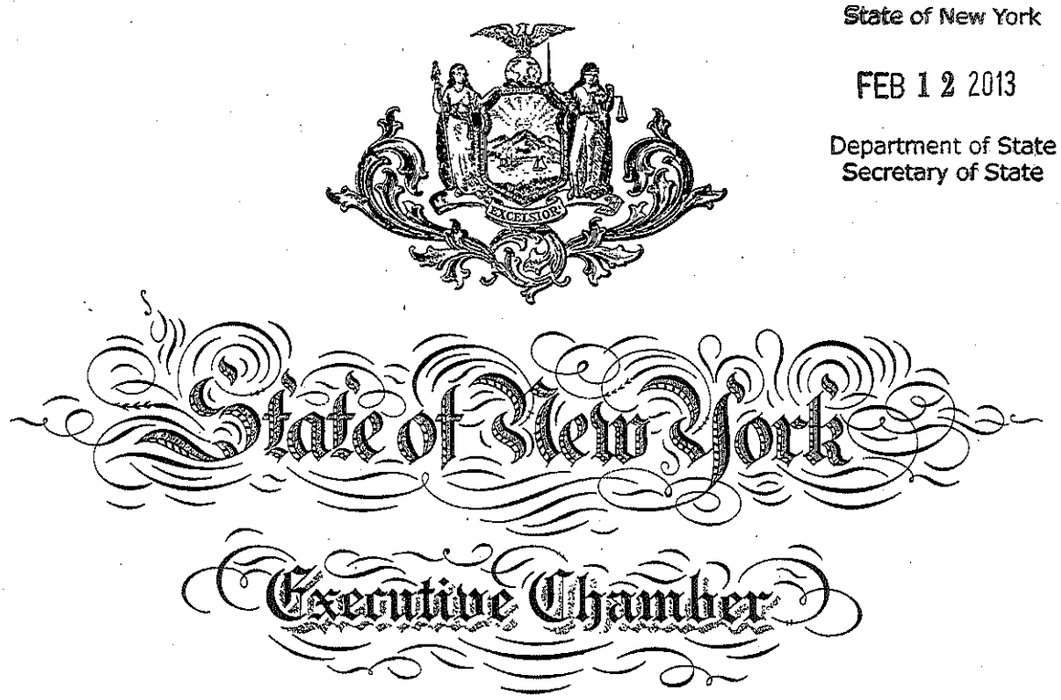
Department of State
Secretary of State



No. 93

EXECUTIVE ORDER

CONTINUING THE TEMPORARY SUSPENSION AND MODIFICATION OF STATUTORY AND REGULATORY PROVISIONS TO PROMOTE THE IMMUNIZATION OF CHILDREN AGAINST SEASONAL INFLUENZA

WHEREAS, on January 12, 2013, I issued Executive Order No. 90, declaring a disaster emergency in the State of New York; and

WHEREAS, section 29-a of the Executive Law authorizes the suspension, alteration and modification of specific provisions of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with a disaster emergency; and

WHEREAS, Executive Order No. 90 temporarily, during the disaster emergency, authorized the suspension and modification of specified laws and regulations for the purpose of facilitating the administration of seasonal influenza vaccine to the people of the State of New York, and particularly to children; and

WHEREAS, Executive Order No. 90 allowed pharmacists who are already authorized to administer vaccinations against seasonal influenza to individuals 18 years of age and older also to administer such vaccinations to individuals between six months and 18 years of age, pursuant to prescriptions or orders for non-patient specific regimens for seasonal influenza vaccine; and

WHEREAS, Executive Order No. 90 expressly stated that it did not authorize any person to be vaccinated without his or her consent or the consent of another person legally authorized to consent on his or her behalf, did not authorize any minor to be vaccinated without the consent of a person in parental relation to the minor, and did not authorize the vaccination of children under six months of age – for whom vaccines against influenza are not licensed – or of any individual whom vaccination is contraindicated; and

WHEREAS, the conditions that prompted the issuance of Executive Order No. 90, including the widespread incidence of influenza and reports that many primary care providers were unable to obtain sufficient quantities of vaccine to meet demand, particularly for children, continue to persist; and

WHEREAS, Section 29-a of the Executive Law provides that no suspension of laws shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the suspension may be extended for additional thirty-day periods; and

WHEREAS, this Order extends the suspension and modification of statutory and regulatory provisions ordered by Executive Order No. 90; and

WHEREAS, the New York State Department of Health has received reports that while many pharmacists already had in place such prescriptions or orders for non-patient specific regimens to administer seasonal influenza vaccine to adults, a number of pharmacists have been unable to expeditiously obtain similar orders for children; and

WHEREAS, this Order also removes that barrier by authorizing the New York State Commissioner of Health to prescribe or order a State-wide non-patient specific regimen for seasonal influenza vaccine for individuals six months of age and older; and

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, and after having reconsidered all of the relevant facts and circumstances, do hereby order that the suspension and modification of statutory and regulatory provisions ordered by Executive Order No. 90 shall continue for an additional thirty days from the date upon which this Order is executed, upon the same terms and conditions set forth in such Order, including those enumerated above; and

FURTHER, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster emergency, I hereby temporarily suspend or modify, as the case may be, during the period that such disaster emergency remains in effect, the following:

Subdivision 22 of section 6802 of the Education Law, and any associated regulations, to the extent necessary to permit the New York State Commissioner of Health to prescribe or order a State-wide non-patient specific regimen for seasonal influenza vaccine, covering individuals six months of age and older, to pharmacists already authorized to administer vaccinations against seasonal influenza to individuals 18 years of age and older.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twelfth day of February in the year two thousand thirteen.

BY THE GOVERNOR

Secretary to the Governor