

BY: M. of A. Fahy

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY
terminating certain directives issued pursuant to
Executive Order numbers 202.89, 202.88, and 202.86

WHEREAS, the Governor was given the authority pursuant to Executive Law section 29-a by Executive Order to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a state disaster emergency if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, and to issue any directive during a disaster emergency necessary to cope with the disaster pursuant to chapter 23 of the laws of 2020 and chapter 71 of the laws of 2021; and

WHEREAS, a number of directives have been issued to regulate and manage the use of vaccines by certified providers, including but not limited to: Subclause 3 of Executive Order number 202.88, which requires that any healthcare facility, provider, or entity who has been allocated and has received COVID-19 vaccine, or who has received redistributed COVID-19 vaccine, must administer all such vaccine within one week of its receipt by such facility. Any healthcare facility, provider or entity who is not on pace to administer all vaccines must notify the Department of Health on the 5th day after receipt. This will be effective for any vaccine currently on hand at any healthcare facility, provider or entity as of January 4, 2020, and such remaining doses must be administered no later than January 8, 2020, with the failure to administer vaccine in accordance with this process may result in a civil penalty of up to \$100,000, and/or reduction or elimination of future allocations of vaccine; Subclause 8 of Executive Order number 202.89, which modified Subclause 3 of Executive Order number 202.88 to provide for a process by which such facility may be granted a good cause exception from the previous directive; and Subclause 3 of Executive Order number 202.86, which requires a healthcare provider to require any person who is receiving the vaccine to provide information, including but not limited to an attestation that they are a member of a specific priority group that has been determined by the Department of Health to be eligible for the vaccine, on a form to be determined by the Department of Health, and any licensed healthcare provider who administers the vaccine to an individual who has not certified to being a member of a priority group or where such provider otherwise has knowledge that the individual is not a member of the priority group may be subject to civil penalties of up to one million dollars per dose administered and/or the revocation of any state-issued license; and

WHEREAS, Subclause 2 of Executive Order 202.86 and Subclause 2 of Executive Order 202.88 temporarily modified section 12 of the Public Health Law for the purposes of permitting the Department of Health to assess civil penalties established in Executive Order 202.86 and Executive Order 202.88; and

WHEREAS, the directives referenced previously establish requirements that are no longer required due to the rates of vaccination, the availability of vaccination appointments, and the benefits to the public in removing regulations and restrictions on vaccine providers in further aiding the vaccination effort; and

WHEREAS, the State Legislature has the authority to terminate by concurrent resolution Executive Orders issued under section 29-a of the Executive Law, chapter 23 of the laws of 2020 and chapter 71 of the laws of 2021; now, therefore, be it

RESOLVED, (if the &HOUSE concur), that Subclauses 2 and 3 of Executive Order number 202.88, as extended or modified, Subclause 8 of Executive Order number 202.89, as extended or modified, and Subclauses 2 and 3 of Executive Order number 202.86, as extended or modified, are hereby terminated.