



WILL BARCLAY
Minority Leader

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

February 8, 2022

Honorable Kathy Hochul
Governor of New York State
New York State Capitol Building
Albany, NY 12224

Dr. Mary T. Bassett, M.D., M.P.H, Commissioner
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Dr. Betty A. Rosa, Commissioner
New York State Education Department
89 Washington Avenue
Albany, New York 12234

Dear Governor Hochul, Commissioners Bassett & Rosa:

We write to urge the Department of Health (DOH) to stop its permanent adoption of the following emergency regulations: *Prevention of COVID-19 Transmission by Covered Entities, Face Coverings for COVID-19 Prevention, and Investigation of Communicable Disease; Isolation and Quarantine.*

In addition, we also urge the State Education Department (SED) to stop its permanent adoption of its emergency regulation *Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer COVID-19 Immunizations.*

The decision to unilaterally declare these emergency regulations as permanent rules circumvents the legislative process that is enshrined in state law. Article III, Section 1 of the New York Constitution, states “[t]he legislative power of this state shall be vested in the Senate and Assembly”. We believe that the power to entrust the DOH and SED to permanently impose such mandates lies with the duly elected members of the state Assembly and Senate, not appointed commissioners.

As you are aware, at the start of the pandemic the former governor requested and received from the Legislature enhanced powers to deal with an unprecedented public health emergency.

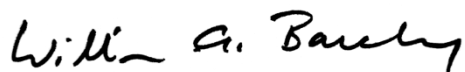
While members of our Conference expressed several concerns with how the Executive used emergency powers, it was clear that the Legislature had granted temporary authority to make determinations he felt were in the best interests of public health. When the original emergency declaration ended last June, those enhanced powers were deemed legally repealed. Absent express authorization by the Legislature, neither the governor, Department of Health nor any other state agency or authority possess such powers.

New Yorkers in every region of the state are demanding a return to normalcy, which includes a return to representative government, rather than endless mandates and heavy-handed regulations. While neighboring states like New Jersey and Pennsylvania are finally relaxing state mandates, New York is fighting in court to keep mask requirements in place while creating new, unilateral statewide orders without legislative approval.

Regardless of one's opinion regarding the effectiveness of mask mandates, vaccine mandates, isolation or quarantine, the people of this state deserve to have a voice in this discussion through their elected representatives. Unfortunately, New Yorkers currently are in the dark as to what data the DOH and SED are relying on in making permanent these mandates, which greatly impact our school children, businesses and communities.

We urge you to reverse course and respect the authority of the state Legislature and local governments as our Constitution intended. Thank you for your consideration of our comments and their inclusion as part of the official public record.

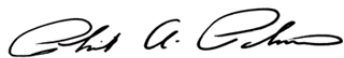
Sincerely,



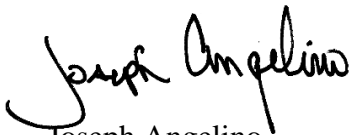
Will Barclay
Assembly Minority Leader



Edward P. Ra
19th Assembly District



Philip A. Palmesano
132nd Assembly District



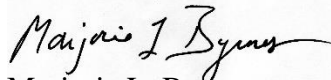
Joseph Angelino
122nd Assembly District



Kenneth D. Blankenbush
117th Assembly District



Keith P. Brown
12th Assembly District




Marjorie L. Byrnes
133rd Assembly District



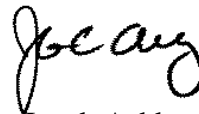
David J. DiPietro
147th Assembly District



Michael J. Fitzpatrick
8th Assembly District



Jeffery Gallahan
131st Assembly District



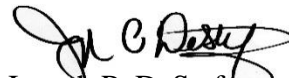
Jacob Ashby
107th Assembly District



Karl Brabenec
98th Assembly District



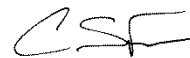
Kevin M. Byrne
94th Assembly District



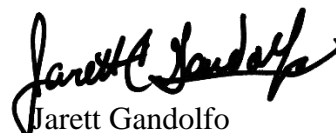
Joseph P. DeStefano
3rd Assembly District



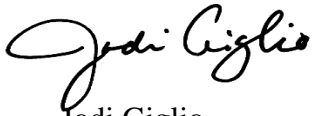
Michael Durso
9th Assembly District



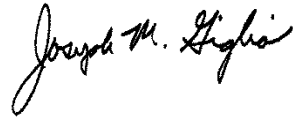
Christopher S. Friend
124th Assembly District



Jarett Gandolfo
7th Assembly District



Jodi Giglio
2nd Assembly District



Joseph M. Giglio
148th Assembly District



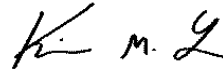
Andrew Goodell
150th Assembly District



Stephen M. Hawley
139th Assembly District



Joshua T. Jensen
134th Assembly District



Kieran Michael Lalor
105th Assembly District



Michael Lawler
97th Assembly District



John Lemondes, Jr.
126th Assembly District



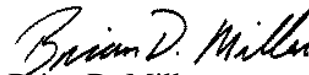
Brian D. Manktelow
130th Assembly District



David G. McDonough
14th Assembly District



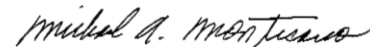
John Mikulin
17th Assembly District




Brian D. Miller
101st Assembly District





Melissa "Missy" Miller
20th Assembly District

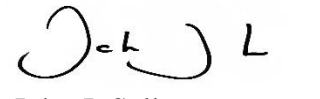



Michael A. Montesano
15th Assembly District



Angelo J. Morinello
145th Assembly District



Michael J. Norris
144th Assembly District

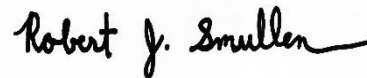

Michael W. Reilly, Jr.
62nd Assembly District



John J. Salka
121st Assembly District


Colin J. Schmitt
99th Assembly District



Matthew Simpson
114th Assembly District

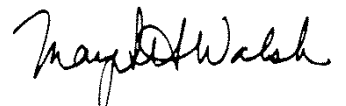

Douglas M. Smith
5th Assembly District


Robert J. Smullen
118th Assembly District


Christopher Tague
102nd Assembly District


Michael Tannousis
64th Assembly District


Mark C. Walczyk
116th Assembly District


Mary Beth Walsh
112th Assembly District