



## NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Statement Regarding June 5, 2020 Letter from North Carolina Department of Justice

This statement is intended to clarify who may, as part of a medical treatment plan, use certain facilities for medical purposes. Such facilities include the use of indoor gyms, indoor fitness facilities, and indoor exercise facilities (each an “indoor fitness facility” and collectively, “indoor fitness facilities”) for medical purposes which are otherwise closed to the general public under Executive Order No. 147 and any similar subsequently-issued executive orders (“Phase 2 Order”).

On June 5, 2020 and related to ongoing litigation regarding the application of the Phase 2 Order to certain types of businesses, the North Carolina Department of Justice (“NCDOJ”) issued a letter clarifying the Phase 2 Order concerning an exception to the closure of indoor fitness facilities in Phase 2. The following guidance statement has been developed in close consultation with NCDOJ.

Per this exception, gyms, exercise facilities, and fitness facilities may open their indoor areas to serve any people prescribed or directed to use those facilities by a medical professional or health care professional. The number of people using this exception may not exceed—in any room or other single confined space—the indoor Mass Gathering limit.

For purposes of this exception, “medical professionals” and “health care professionals” shall include licensed physicians, licensed physician’s assistants or nurse practitioners, licensed nurses, licensed chiropractors, licensed dietitians, licensed respiratory care therapists, licensed psychologists, licensed clinical mental health counselors, licensed occupational therapists, licensed physical therapists, licensed recreational therapists, and licensed massage therapists.

“Medical professionals” and “health care professionals” does not include personal trainers, unlicensed masseurs or body work therapists, or other unlicensed persons that may provide advice about health.

The NCDOJ letter indicates that a patron’s use of an indoor fitness facility must be “prescribed or directed.” For individuals using indoor areas of the facility under this exception, individuals must present a note or other written communication from the medical professional or health care professional to the facility operators to confirm that each individual’s use of the facilities is indeed “prescribed or directed” for that individual.

To the extent that indoor or outdoor areas in gyms, exercise facilities, or fitness facilities are utilized under the restrictions stated above, they must follow the [NCDHHS Interim Guidance for Fitness Center and Gym Settings](#).

Due to the decreased risk of transmission of COVID-19 in an outdoor environment, indoor fitness facilities may continue to operate outdoors. If an indoor fitness facility closed by Executive Order No. 141, as amended by Executive Order No. 147, operates outdoors, it should do so in compliance with the [North Carolina Department of Health and Human Services’ \(“NCDHHS”\) Guidance on Indoor Exercise Facilities, Indoor Fitness Facilities and Gyms: Enabling Outdoor Operations](#).