EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-75-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS the effects of the COVID-19 pandemic continue to cause serious economic harm and financial uncertainty for many Californians; and

WHEREAS in light of the economic effects of the COVID-19 pandemic, as well as provisions of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act addressing Community Service Block Grant (CSBG) and Low Income Home Energy Assistance Program (LIHEAP) assistance, the Department of Community Services and Development (CSD) requires additional flexibility to ensure that Californians in need receive the maximum amount of CSBG and LIHEAP assistance for which they would otherwise be eligible; and

WHEREAS in light of the disruption to certain nonresidential services for individuals with developmental disabilities caused by COVID-19, the Department of Developmental Services (DDS) requires additional flexibility to ensure that individuals with developmental disabilities retain access to nonresidential services; and

WHEREAS in light of the risk of in-person transmission of SARS-CoV-2, the Department of Social Services (DSS) requires additional flexibility to waive or modify certain regulatory requirements that would otherwise require in-person contact; and

WHEREAS additional flexibility in the time limit that ordinarily applies to CalWORKs benefits will help mitigate the serious and ongoing economic harms the COVID-19 pandemic has imposed on Californians; and

WHEREAS allowing the Franchise Tax Board to share otherwise-confidential income tax return information with the Department of Social Services will help ensure that Californians receive financial assistance to which they are entitled under the CARES Act, which will also mitigate the serious and ongoing economic harms caused by the COVID-19 pandemic; and

WHEREAS it is imperative that home health agencies and pediatric day health and respite care facilities maximize the number of capable healthcare workers to ensure that Californians impacted by COVID-19 are able to access needed healthcare, in the same manner as existing waiver authority in Executive Order N-35-20 allows in other settings; and

WHEREAS further clarification of the authority of the Department of Consumer Affairs' to issue scope-of-practice waivers allowing pharmacists and pharmacy technicians to conduct SARS-CoV-2 tests would enhance the State's capacity to test for SARS-CoV-2; and

WHEREAS there remains ongoing need for other waiver authority and other flexibility conferred by prior Executive Orders; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) Notwithstanding the definition of "eligible beneficiaries" in Government Code section 12730(h)(1) or any other provision of law, "eligible beneficiaries" for purposes of CSBG-funded services in California shall include all individuals living in households with incomes up to 200 percent of the Federal Poverty Level. This definition of "eligible beneficiaries" shall be in effect throughout the duration of the State of Emergency that began March 4, 2020, except that this definition shall not remain in effect beyond the maximum time consistent with federal law.

   This Paragraph 1 shall be construed to be consistent with federal law and does not in any way affect the definition of "eligible beneficiaries" in Government Code section 12730(h)(2).

2) As applied to LIHEAP funding made available under the CARES Act, and throughout the duration of the State of Emergency that began March 4, 2020, the provisions of Government Code section 16367.5 are suspended as follows:

   a) The requirement that CSD "afford local service providers maximum flexibility and control" is suspended to facilitate the rapid distribution of CARES Act funding for LIHEAP through a consistent, statewide COVID-19 response program;

   b) Section16367.5(c) is suspended to the extent it requires the maximum allowable amount of CARES Act funding to be allocated for weatherization and related services;

   c) Section 16367.5(d) is suspended to the extent it requires the maximum allowable amount of CARES Act funding to be allocated for services that encourage and enable households to reduce their home energy needs;

   d) Section 16367.5(e) is suspended to the extent it requires at least 5% of CARES Act funding to be reserved for the Energy Crisis Assistance Intervention Program, outreach, and related services requirements;

e) Section 16367.5(h) is suspended for the purpose of enhancing CSD's ability to direct CARES Act funding towards households specifically impacted by the COVID-19 pandemic; and

f) Section 16367.5(i) is suspended to the extent it requires at least 5% of CARES Act funding to be allocated for operating the direct home energy assistance payment program.

3) Title 17, section 54326(a)(11) of the California Code of Regulations is suspended as applied to payments that would otherwise be made in connection with the State of Emergency proclaimed in response to COVID-19. Notwithstanding any other provision of law, DDS is directed to develop and implement policies and procedures to allow delivery of nonresidential services to individuals with developmental disabilities. The development and implementation of such policies and procedures shall not be subject to the Administrative Procedure Act.

4) To the extent Family Code sections 8702, 8818, or 9203–9205, or any implementing rule or regulation, imposes or implies any requirement that forms promulgated under those sections be completed or signed in the physical presence of a representative of DSS, or otherwise in person (including, but not limited to, in the physical presence of certain witnesses), that requirement is suspended. DSS is directed to develop and implement policies and procedures to allow such forms to be completed, signed, and witnessed remotely. The development and implementation of such policies and procedures shall not be subject to the Administrative Procedure Act.

5) To the extent Family Code sections 8700, 8700.5, 8801.3, 8801.5, 8808, 8813, 8814, 8814.5, or 8818, or any implementing rule or regulation, imposes or implies any requirement that a birth parent who performs certain acts related to adoption (including, in particular, acts related to the execution of any relinquishment for adoption, consent to adoption, adoption placement agreement, or waiver of the right to revoke such consent or relinquishment) perform such acts in the physical presence of a representative of DSS, or otherwise in person (including, but not limited to, in the physical presence of certain witnesses), that requirement is suspended as applied to birth parents who, consistent with guidance issued by the California Department of Public Health, are known or reasonably suspected to be infected with SARS-CoV-2. DSS is directed to develop and implement policies and procedures to allow such acts to be performed remotely with birth parents in this circumstance. The development and implementation of such policies and procedures shall not be subject to the Administrative Procedure Act.

6) Notwithstanding any contrary provision of law (including, but not limited to, section 31-320.3 of the DSS Manual of Policies and Procedures), DSS may develop and implement policies and procedures to allow any periodic caseworker visitation requirement to be fulfilled through videoconferencing technology, rather than through in-person visits. Any such use of videoconferencing technology shall be conducted in accordance with guidance from the DSS, and only after a child-specific decision based on the training and

experience of the social worker, considering all available information, that an in-person visit is not necessary to ensure the child's safety or well-being. DSS shall adopt policies to ensure that the use of videoconferencing technology shall not be substituted for an in-person visit when an in-person visit is necessary to protect the safety, health, or well-being of the child. The development and implementation of any policies and procedures pursuant to this paragraph shall not be subject to the Administrative Procedure Act.

7) The requirement that each child in foster care receive an in-person medical and dental examination within 30 days of placement, as set forth in in section 31-405.241 of the DSS Manual of Policies and Procedures, is suspended for the purpose of protecting the health and safety of children and others during the COVID-19 pandemic. During the State of Emergency proclaimed in response to COVID-19, each child in foster care shall receive a medical and dental examination no later than 90 calendar days after placement. This suspension shall not affect or delay any child's access to emergency or otherwise necessary medical and dental care.

8) Through June, 30, 2021 or the termination of the State of Emergency, whichever is sooner, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall (to the extent consistent with the federal time limits set forth in 45 C.F.R. § 264.1 and other applicable provisions of federal law) not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454.

9) Notwithstanding Revenue & Taxation Code section 19542 or any other provision of law, the Franchise Tax Board may disclose individual income tax return information for taxable years beginning on or after January 1, 2018, and before January 1, 2020, to DSS for the purpose of informing individuals of financial assistance available under section 2201 of the CARES Act (concerning 2020 Recovery Rebates for individuals). Except as expressly provided in this paragraph or as otherwise provided by law, such tax return information shall remain confidential.

10) In order to assist in the care or protect the health of individuals not in a hospital or health facility, as defined in Health and Safety Code section 1250, and due to the COVID-19 pandemic, the Department of Public Health may, for the duration of the state of emergency proclaimed in response to COVID-19, waive any of the licensing and staffing requirements set forth in Chapters 8 and 8.6 of Division 2 of the Health and Safety Code and any accompanying regulations with respect to any home health agency and any pediatric day health and respite care facility. Any such waiver shall include alternative measures that, under the circumstances, will allow the home health agency or pediatric day health and respite care facility to assist in the care or protect the health of individuals while protecting public health and safety. Any waivers issued pursuant to this paragraph shall be posted on the Department of Public Health's website. This paragraph shall be construed to extend the waiver authority set forth in Paragraph 1 of

Executive Order N-35-20 to home health agencies and pediatric day health and respite care facilities.

11) The Department of Consumer Affairs, in consultation with the Department of Public Health, may amend scopes of practice to allow pharmacists and pharmacy technicians to conduct any aspect of any point-of-care test for the presence of SARS-CoV-2 that is deemed or classified as CLIA waived; to that end, the Department of Consumer Affairs (in consultation with the Department of Public Health) may waive any provision of the Business and Professions Code, or any other provision of law, to the extent that provision would prevent or in any way restrict any pharmacist or pharmacy technician from conducting any aspect of any such test. Any such waiver shall be in writing, shall be posted on the website of the Department of Consumer Affairs, and may be subject to such conditions as the Department of Consumer Affairs (in consultation with the Department of Public Health) deems appropriate to protect public health and safety, and to ensure the timely and accurate reporting of test results. This paragraph does not in any way restrict existing authority to waive provisions of the Business and Professions Code or otherwise amend scopes of practice.

12) The timeframe set forth in Paragraph 12 of Executive Order N-40-20 is extended until this Order is modified or rescinded, or until the State of Emergency is terminated, whichever occurs sooner.

13) The deadline specified in Government Code section 1774(c) (related to the Senate's confirmation of an individual appointed or reappointed by the Governor to an office) is extended until April 1, 2021 for an individual appointed or reappointed to an office specified in Penal Code section 13500 et seq. or Business and Professions Code section 2001 et seq. Additionally, the deadlines specified in Government Code section 1774(a) (related to the Governor's appointment or reappointment of an incumbent to an office) and Government Code section 1774(b) (related to transmittal of certain information about an appointment or reappointment to the Secretary of the Senate) are, for an individual appointed or reappointed by the Governor pursuant to Education Code section 66602 et seq., extended until September 30, 2021. Except as expressly provided in this paragraph, this paragraph does not supersede or in any way alter the operation of any provision of any prior Executive Order.

14) Notwithstanding the timeframe set forth in Paragraph 14 of Executive Order N-53-20, Paragraph 4 of Executive Order N-53-20 shall remain in effect, without interruption, through September 30, 2020.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 24th day of August 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State