STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

EO 20-35

TO ALL TO WHOM THESE PRESENTS COME—GREETINGS

EXECUTIVE ORDER PURSUANT TO THE PUBLIC HEALTH EMERGENCY CONCERNING COVID-19, AS DECLARED IN EXECUTIVE ORDER 20-03 AND EXTENDED BY EXECUTIVE ORDER 20-25, FOR THE PURPOSE OF CLARIFYING WORKERS' COMPENSATION LAW.

WHEREAS: On March 11, 2020, by Executive Order 20-03, an emergency was declared for the entire State of Arkansas due to the outbreak of COVID-19; and

WHEREAS: On May 5, 2020, by Executive Order 20-25, the emergency was extended, and that emergency is ongoing; and

WHEREAS: On April 21, 2020, Executive Order Number 20-22 suspended certain provisions of the Arkansas Code dealing with workers' compensation to reduce the risk of economic and physical hardship to front-line healthcare workers; and

WHEREAS: COVID-19 continues to spread within the State of Arkansas and adjoining states, threatening the public safety of the citizens of Arkansas, and such spread is expected to continue; and

WHEREAS: Uncertainty as to the application of the workers' compensation laws to COVID-19-related claims is causing hardship to both employers and workers alike; and

WHEREAS: It is essential to the economic and financial stability of the State of Arkansas during this emergency for businesses in the state to reopen or to remain open to provide goods and services to the people of Arkansas without the threat of civil liability related to COVID-19; and

WHEREAS: It is essential to provide employees with an avenue for recovery if they can establish a causal connection between their employment and the contraction of COVID-19; and

WHEREAS: I, as Governor, in consultation with the Secretary of Health, have determined that more actions must be taken to protect the people of the State of Arkansas from COVID-19.

NOW, THEREFORE, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101 *et seq.*, after consultation with the Secretary of Health, do hereby issue this Executive Order pursuant to the on-going public health emergency as declared in Executive Order 20-03 and extended by Executive Order 20-25, and order the following:

(1) The intent of this order is to clarify and provide sufficient recourse under the Workers' Compensation Law, Ark. Code Ann. §§ 11-9-101 et seq., for employees to receive workers' compensation benefits during the COVID-19 public health emergency.

(2) For the purposes of the exclusivity of rights and remedies under the Workers' Compensation Law in Ark. Code Ann. § 11-9-105, requiring

an employee to perform work when the employer has knowledge that, within the normal course and scope of the employee's job performance, exposure to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or to coronavirus disease 2019 (COVID-19) or to any other disease, health condition, or threat caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or by any virus mutating from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is possible or likely is not intentional conduct that would remove the employer from the protections of the Workers' Compensation Law, § 11-9-101 et seq.

(3) For the purposes of defining "occupational disease" as used in the Workers' Compensation Law, coronavirus disease 2019 (COVID-19) or a disease, health condition, or threat caused by severe acute respiratory syndrome, coronavirus 2 (SARS-CoV-2) or by any virus mutating from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) shall be established as an occupational disease, including without limitation meeting all requirements for occupational diseases provided by law.

(4) For the purposes of defining "unusual and unpredicted incident" under Ark. Code Ann. § 11-9-114 to include exposure to Covid-19 as a respiratory accident or incident that may be found to have been the major cause of the physical harm. This definition shall supersede the definition of "unusual and unpredicted incident" contained in Executive Order 20-22(3).

(5) Coronavirus disease 2019 (COVID-19) or a disease, health condition, or threat caused by severe acute respiratory syndrome, coronavirus 2 (SARS-CoV-2) or by any virus mutating from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) shall be an exception to the prohibition in Ark. Code Ann. § 11-9-601(e)(3) on compensation for ordinary diseases of life to which the general public is exposed. Any employee asserting an occupational disease under this Executive Order must meet all requirements of proof for an occupational disease, including a causal connection between employment and the disease.

(6) This Executive Order applies to all claims filed after the date of its execution and shall automatically expire when the emergency is terminated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 15th day of June, in the year of our Lord 2020.

Asa Hutchinson, Governor