STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
2020 JUL 13 PM3:11

EXECUTIVE ORDER

No. 2020-150

Temporary and limited relief from certain licensing and certification requirements applicable to COVID-19 response

Recission of Executive Order 2020-61

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPGA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v. Whitmer*. On May 21, 2020, the Court of Claims ruled that Executive Order 2020-67 is a valid exercise of authority under the Emergency Powers of the Governor Act but that Executive Order 2020-68 is not a valid exercise of authority under the Emergency Management Act. Both of those rulings are being challenged on appeal.

On June 18, 2020, I issued Executive Order 2020-127, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)–(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Responding effectively to the urgent and steep demands created by the COVID-19 pandemic requires enormous health care resources. To ensure health care professionals and facilities are fully equipped to provide the critical assistance and care needed by this state and its residents during this unprecedented emergency, it has been reasonable and necessary to provide limited and temporary relief from certain restrictions and requirements governing the provision of medical services. Executive Order 2020-30 provided this relief, and Executive Order 2020-61 extended its duration and expanded its scope, as it remained reasonable and necessary under the circumstances.

As the pressure on hospitals has eased, the importance of the broad relief afforded in Executive Orders 2020-30 and 2020-61 has waned. Today's circumstances require a narrower form of relief than was provided in these earlier orders. Specifically, it remains reasonable and necessary to suspend certain licensing and certification requirements for healthcare professionals, life support and first aid workers, and public safety answering point telecommunicators. This order provides that narrower relief, and rescinds Executive Order 2020-61.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Any law or regulation is temporarily suspended to the extent that it requires, as a condition of licensure, certification, registration for any health care professional, or

the renewal of a license, certification, or registration for any health care professional:

(a) An exam, to the extent that the exam's administration has been canceled while the emergency declaration is in effect;

(b) Fingerprinting, to the extent that, in the judgment of the director of the Department of Licensing and Regulatory Affairs (LARA), locations to have fingerprints taken are substantially unavailable on account of closures arising from the COVID-19 pandemic; and

(c) Continuing education.

2. Professional certifications of individuals in basic life support, advanced cardiac life support, and first aid shall remain in effect, even if they are otherwise due to expire.

3. Any deadlines for telecommunicators and trainee telecommunicators who are employed by primary public safety answering points to complete training modules, or continuing education under Rules 484.803, 484.804, and 484.805 of the Michigan Administrative Code, are suspended until 60 days after the termination of the any state of emergency or disaster related to the COVID-19 pandemic.

4. This order is effective immediately and continues until the end of any state of emergency or disaster related to the COVID-19 pandemic.

5. Executive Order 2020-61 is rescinded.

Given under my hand and the Great Seal of the State of Michigan.

Date: July 13, 2020

Time: 11:17 am

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE