EXECUTIVE ORDER NO. 20-02

By the authority vested in me by the Constitution and the laws of the State of Hawai‘i, I, DAVID Y. IGE, Governor of the State of Hawai‘i, hereby order:

1. The suspension of the following laws, as allowed by federal law, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes (HRS), in order for county and state agencies to engage in emergency management functions as defined in section 127A-2, HRS:
    a. Chapter 104, HRS, **wages and hours of employees on public works,** to the extent that this suspension only applies to construction contracts for governmental construction projects related to COVID-19 entered into on or after the date of my Supplementary Proclamation issued on March 16, 2020 through the duration of the emergency.
    b. Sections 134-3(a) and (b), HRS, **registration, mandatory, exceptions,** to the extent necessary such that the chiefs of police of the counties, in their sole discretion, may suspend the deadline whereby a person must register a firearm within three days after arrival in the State of the person or firearm, whichever arrives later, and the deadline whereby a person acquiring a firearm pursuant to section 134-2, HRS, must register the firearm within five days of acquisition.
    c. Sections 302D-12(h)(1) to (5), **charter school boards; powers and duties**, to the extent necessary to enable the governing board of a charter school to conduct business in person or through remote technology without holding meetings open to the public. The governing boards shall consider reasonable measures to allow public participation consistent with social distancing practices, such as providing notice of meetings, allowing submissions of written testimony on agendized items, live streaming meetings, and posting minutes of meetings online. No governing board

deliberation or action shall be invalid, however, if such measures are not taken.

d. Sections 329-32(a), 329-33(a), 329-38.2, HRS, **uniform controlled substances act**, and related administrative rules, to the extent necessary to allow out-of-state physicians and nurses to dispense (including prescribing and administering) controlled substances without having to register in Hawai‘i, as contemplated in the United States Drug Enforcement Administration’s COVID-19 Policy Concerning Separate Registration Across State Lines dated March 25, 2020. Such physicians or nurses must maintain active registration in at least one state and be authorized under that state’s law to dispense controlled substances. Such doctors or nurses must also otherwise comply with state laws, including those related to controlled substances.

e. Section 329-101(b), HRS, **reporting of dispensation of controlled substances; electronic prescription accountability system; requirements; penalty**, to the extent necessary to enable the Department of Public Safety to issue State controlled substance registrations prior to an applicant’s registration with the electronic prescription accountability system.

f. Chapter 346, HRS, Part VIII, **child care**, and related administrative rules for child care licensing and subsidies, to the extent necessary such that the Director of the Department of Human Services, in his sole discretion and for the purpose of assisting those in need, may suspend fingerprinting requirements; suspend the requisite staffing configurations and the number of children per adult ratio for a child care establishment; suspend eligibility and other requirements for family units impacted by an emergency; disregard emergency related benefits in calculating child care subsidies; suspend application deadlines for child care subsidies; allow for re-determinations of eligibility and monthly payment amounts within

the eligibility period; and suspend subsidy payments for longer than one month when a payment amount is determined to be zero.

g. Section 346-71, HRS, **general assistance to households without minor dependents**, and related administrative rules, to the extent necessary to allow for a presumptive determination of a disability for the duration of the emergency.

h. Section 346-97, HRS, **criminal history record checks**, and related administrative rules, to the extent necessary for the Director of the Department of Human Services, in his sole discretion, to suspend criminal history record check requirements prior to enrolling Medicaid service providers.

i. Section 377-9, HRS, **prevention of unfair labor practices**, to the extent necessary such that, at the sole discretion of the Hawaii Labor Relations Board, the requirement to hold a hearing on the complaint not more than 40 days after the filing of the complaint or amendment thereof may be waived.

j. Chapter 383, HRS, **Hawaii employment security law**, to the extent necessary and as allowed by federal law to enable the Director of Labor and Industrial Relations to extend deadlines; allow greater flexibility in determining good cause, employer contributions to the Unemployment Insurance Trust Fund, and employer experience rating; and waive the work search requirements, waiting period, and online registration for work requirement on HireNet for claimants who are otherwise eligible for unemployment insurance benefits for claims beginning March 1, 2020, through the duration of the emergency.

k. Section 383-128(b), HRS, **employment and training fund established**, to the extent necessary to assist workers who have become unemployed as a result of the COVID-19 response, and to address the critical skills shortage resulting from the COVID-19 response, so that the employment and training fund may be used to

train newly hired employees so that they may acquire the necessary knowledge, skills and behaviors to become effective and productive employees.

l. Chapter 386, HRS, **workers' compensation law**, to the extent necessary such that the Department of Labor and Industrial Relations' failure to act within the specified period shall not be deemed an automatic approval.

m. Chapter 394B, HRS, **dislocated workers,** to the extent necessary to waive notice requirements and deadlines; payment of back pay, benefits, or other forms of compensation; payment of dislocated employees or worker allowance; imposition of penalties; and any private right of action for failure to comply with chapter 394B resulting from the COVID-19 response.

n. Section 453-1.3, HRS, **practice of telehealth,** to the extent necessary to allow individuals currently and actively licensed pursuant to chapter 453, HRS, to engage in telehealth without an in-person consultation or a prior existing physician-patient relationship; and to the extent necessary to enable out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those who were previously licensed pursuant to chapter 453, HRS, but who are no longer current and active, to engage in telehealth in Hawai‘i without a license, in-person consultation, or prior existing physician-patient relationship, provided that they have never had their license revoked or suspended and are hired by a state or county agency or facility or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory.

o. Chapter 456, HRS, **notaries public**, and related administrative rules, to the extent necessary to suspend any requirement that would require close physical contact to accomplish notary functions.

p. Section 471-10, HRS, **refusal to grant and revocation or suspension of license**, to the extent necessary to enable veterinarians to engage in telehealth without a previously existing Veterinarian-Client-Patient-Relationship or physical examination of the patient.

q. Chapter 846E, HRS, **registration of sex offenders and other covered offenders and public access to registration information,** to the extent necessary to suspend any requirement that a covered offender must come into close physical contact with an agency with jurisdiction, the attorney general, or chief of police, or their designees to satisfy any element of this section.

2. Pursuant to section 127A-25, HRS, I hereby adopt the Rules Relating to Notaries and the Rules Amending Hawaii Administrative Rules Chapter 17-798.2, Relating to Child Care Services, attached hereto.

This order is in accordance with and incorporates by reference my Proclamation issued on March 4, 2020; Supplementary Proclamation issued on March 16, 2020; Second Supplementary Proclamation issued on March 21, 2020, and Third Supplementary Proclamation issued on March 23, 2020.

The provisions of this order shall remain in effect for the emergency period, unless terminated by separate proclamation, whichever shall occur first.

Done at the State Capitol, this
29th day of March, 2020.

DAVID Y. IGE
Governor of Hawai'i

APPROVED:

Clare E. Connors
Attorney General
State of Hawai'i

Rules Relating to Notaries Public

§1 Purpose and authority
§2 Social distancing

§1 Purpose and authority. These rules are adopted pursuant to sections 127A-12, 13, 25, 29, and 31, Hawaii Revised Statutes, to respond to the COVID-19 emergency declared by the Governor, specifically to enable Hawaii notaries to perform notarial acts while complying with social distancing guidelines. These rules have the force and effect of law.

§2 Social distancing. (a) The notary public shall take every reasonable precaution to perform notarial acts in compliance with all orders and social distancing guidelines relating to the COVID-19 emergency.

(b) Notaries public will not be required to perform notarial acts if they believe social distancing guidelines to ensure health and safety cannot be followed.

§3 Notarial Acts Utilizing Audio-Visual Technology. Notarial acts may be performed by utilizing audio-visual technology, provided there is compliance with the following conditions:

(1) The notary public shall have personal knowledge of the signer or obtain satisfactory evidence of the identity of the signer by requiring presentation of a current government-issued identification card or document that contains the signer's photograph and signature to the notary public during the video conference. Transmittal of the signer's identification for purposes of verification to the notary public prior to or after the video conference shall not satisfy this condition;

(2) The notary public shall confirm via observation during the video conference that the signer appears to be aware of significance of the transaction requiring a notarial act and is willing to perform such a transaction;

(3) The video conferencing shall allow for direct interaction between the person and the notary public and shall not be pre-recorded;

(4) The notary public shall confirm as is reasonably possible that the signer is physically situated in this State;
(5) The notary public shall create an audio-visual recording of the performance of the notarial act, which shall be kept as part of the notary public's record and stored as an unsecured audio-visual recording or on a secured external digital storage such as a flash drive, DVD, or external hard drive;
(6) The notary public shall deposit with the office of the attorney general the external digital storage and the notarial record books within ninety days of the notary public's date of the resignation, expiration of any term of office as a notary, or removal from or abandonment of office as a notary. The notary public's representative shall provide the same upon the notary public's death;
(7) The notary public shall obtain the signed document that requires notarization by fax or electronic format on the same date it was signed;
(8) The notary public may notarize the transmitted copy of the document and transmit the same back to the signer;
(9) The notary public shall add a statement to the notarized document as follows: "*This notarial act involved the use of communication technology enabled by emergency order*";
(10) The notary public shall enter in the record book that the notarial act was performed pursuant to Executive Order 20-02; and
(11) The notary public may repeat notarization of the original signed document as of the date of execution provided the notary public receives such original signed document together with the electronically notarized copy within 60 days after the date of execution.

Rules Relating to Child Care Services Under
Chapter 17-798.2, Hawaii Administrative Rules

§1 Purpose and authority
§2 Eligibility requirements
§3 Method of computing child care payment
§4 Mandatory Reporting

§1 Purpose and authority. These rules are adopted pursuant to sections 127A-12, 13, 25, 29, and 31, Hawaii Revised Statutes, to respond to the COVID-19 emergency declared by the Governor. The following amendments are necessary to enable the Department of Human Services to assist families who need child care services due to impacts of the COVID-19 pandemic emergency. These rules have the force and effect of law.

§2 Eligibility requirements. Section 17-798.2-9, Hawaii Administrative Rules, is amended to read as follows:

"§17-798.2-9 Eligibility requirements. (a) Depending upon availability of funds, all children eligible for child care assistance shall reside with the eligible caretaker and meet the following requirements:

(1) Be under age thirteen years;
(2) Be thirteen through seventeen years of age with a physical or mental incapacity that prevents the child from doing self-care; or
(3) Receive child protective services, and the need for child care is specified in the family unit's case plan as ordered by the court.

(b) A caretaker shall be eligible for child care, provided the caretaker:

(1) Has a monthly gross income verified through documentation that does not exceed eighty-five percent of the State Median Income for a family of the same size except for:
    (A) Individuals who are licensed by the department or organizations under the authority of the department, as foster parents; [or]
    (B) Family units receiving child protective services; [~~and~~] or
    (C) Family units impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or natural disaster, or public health pandemic situation;

(2) Meets one of the following conditions:

(A) Is engaged in employment in exchange for wages or salary;

(B) Has a written offer of employment that is scheduled to start within two weeks;

(C) Needs child care for up to thirty calendar days during a break in employment, if employment is scheduled to resume within thirty days;

(D) Needs up to thirty consecutive days in a twelve-month period for the caretaker with or without a work history to job search, when there is no one to care for the child, not to exceed the maximum child care rates as provided under section 17-798.2-12;

(E) Is enrolled in and attends an educational program or job training, vocational, or employment training. This includes the break time between classes for the day;

(F) Is participating in the FTW program or a treatment program as required by section 17-656.1-10, except for a participant in the Food Stamp Employment and Training program, and the FTW participant is involved in the required activities written in the FTW employment or individualized service plan;

(G) Is receiving child protective services and the need for child care is specified in the family unit's case plan as ordered by the court;

(H) Is in a two-parent family unit where one of the caretakers is in an approved activity and the other caretaker is determined to have a disability which prevents the caretaker from providing care for their own child. Proof of disability and inability to provide care of the caretaker's own eligible child shall be verified by the written report of a State-licensed physician, psychologist, or psychiatrist. In the case of a temporary disability, the written report shall be submitted every six months;

(I) Is a caretaker participating in an approved activity and has a temporary disability that prevents him or her from engaging in that activity and providing care for his or her own child until the activity can be resumed. Proof of the temporary disability condition and duration, and inability to care for the caretaker's own child shall be verified by the

written report of a State-licensed physician, psychologist, or psychiatrist. The written report shall be reviewed every thirty days;

(J) Is a caretaker whose child is approved for participation in the Preschool Open Doors program; [~~or~~]

(K) Is a caretaker under the age eighteen years who meets any eligibility condition cited in section 17-798.2-9(b)(2)(A) through (J), retains custody of his or her own child, and does not reside in the same household with his or her adult caretaker[~~.~~]; or

(L) Is a caretaker impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or natural disaster, or public health pandemic situation and who needs child care to search for employment or prepare for resuming employment; and

(3) Shall establish a reasonable relationship between the time during which the caretaker participates in an activity and the time during which child care is needed.

(c) Child care providers and caregivers:

(1) Shall meet the following conditions in order that child care payments may be authorized:

(A) Be eighteen years old or older;

(B) Afford caretakers unlimited access to their children, including written records concerning their children, during normal hours of provider operation and whenever the children are in the care of the provider;

(C) Be a department regulated or license-exempt child care provider, including in-home care providers. License-exempt providers shall be listed with the department and shall submit a written statement to the department that shall attest to their:

(i) Willingness to provide care;

(ii) Rate that will be charged;

(iii) Assurance that the provider premises are safe from hazards in accord with subparagraphs (G) and (H); and

(iv) Address and telephone number;

(D) Have no known history of child abuse or neglect, physical, psychological or psychiatric problems, or criminal convictions that may adversely affect or interfere with the care of children;

(E) Provide consent, on forms supplied by the department, to conduct a background check. The background check shall be conducted in accord with sections 17-891.1-3, 17-892.1-3, 17-895-3, or 17-896-3;
Provide consent, on forms supplied by the department, to conduct an additional fingerprint check through the Federal Bureau of Investigations (FBI), except for the child's grandparents, great-grandparents, siblings living in a separate residence and who are at least eighteen years old, and aunts or uncles;
(F) Be free of tuberculosis as indicated by a skin test or chest x-ray completed within the last twenty-four months of child care; and
(G) Have a child care facility or home with an installed smoke detector, unobstructed emergency exits, and an emergency exit plan.

(2) Shall not be one of the following:
(A) Parents, biological or legal;
(B) Step-parents living in the household;
(C) Guardians, or members of the family unit that receives government financial assistance payments, including essential persons;
(D) Providers who are not in compliance with State or county regulatory requirements;
(E) Individuals under the age of eighteen years;
(F) Other individuals determined by the department to pose a risk to the health and safety of the child;
(G) A sibling of the child needing care who resides in the same home as the child; or
(H) A caretaker.

(d) The department shall:
(1) Verify that the child and caretaker meet the eligibility requirements as described in this chapter;
(2) Establish the eligibility of the child care provider and caregiver selected by the caretaker, following the provisions of section 17-798.2-9(c).
(3) Allow, at the department's option, for the presumptive eligibility of a license-exempt provider selected by the caretaker upon receipt by the department of the completed and signed child care certificate and provider confirmation forms and consent forms for conducting a background check, provided that the presumptive eligibility shall end upon completion of the background check;

(4) Authorize the initial and subsequent monthly child care payments based on sections 17-798.2-9, 17-798.2-10, 17-798.2-12, 17-798.2-13, 17-798.2-14, 17-798.2-15, 17-798.2-16, 17-798.2-17, 17-798.2-18, 17-798.2-20, 17-798.2-21, 17-798.2-29, and 17-798.2-35;
(5) Review eligibility no less than every six months and whenever changes that affect eligibility are reported; and
(6) Track and monitor appropriateness and utilization of child care and payments."

§3 Method of computing child care payment. Section 17-798.2-14, Hawaii Administrative Rules, is amended to read as follows:

"§17-798.2-14 Method of computing child care payment. (a) The following will be used to compute the child care payment:
(1) Monthly gross income;
(2) The caretaker's hours of activity, except for individuals identified in sections 17-798.2-9(b)(2)(G) [~~and~~], (J), and (L)[~~÷~~];
(3) The caretaker's relationship to the child who reside with the caretaker, and the age of the child who needs care;
(4) The child care provider;
(5) The cost and hours of child care;
(6) The type of child care; and
(7) The need for care.
(b) The child care payment amount shall be determined by:
(1) Counting the caretaker's activity hours to be engaged in for the month, as referenced in section 17-798.2-14(a)(2), comparing these activity hours with the child care hours needed, and always choosing the lesser hours; provide that:
(A) This is not needed for child protective services reasons as ordered by the court;
(B) This is not required for the Preschool Open Doors program; [~~and~~]
(C) In the case of a caretaker who is temporarily disabled in accordance with subparagraph 17-798.2-9(b)(2)(I), the activity hours shall be the same as the activity hours that the caretaker had prior to the temporary disability[~~.~~]; and
(D) This is not required for a caretaker impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or

natural disaster, or public health pandemic situation and who needs child care to search for employment or prepare for resuming employment.

(2) Identifying the type of child care selected and approved for each qualifying child, and using the child care rate table, Exhibit I, to select the appropriate rate for the care type that supports the hours needed for child care; provided that:

(A) For child protective services need is based on the number of hours of child care specified in the court order; [~~and~~]

(B) For the Preschool Open Doors program need is based on the number of hours child care requested by a caretaker[~~.~~]; and

(C) For a caretaker impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or natural disaster, or public health pandemic situation, need is based on full-time care.

(3) Comparing the child care allowance determined by subparagraphs (b)(1) and (2) and the actual child care cost, and choosing the lesser amount.

(4) Determining the family unit's co-payment (conversely, the percentage of the department's maximum rate allowable) based on the family unit's monthly gross income, and using the co-payment rates established in Exhibit III, dated October 1, 2009, attached at the end of this chapter.

(5) Subtracting the family unit's co-payment from the amount determined in subparagraph (b)(3).

(c) The family unit shall be responsible for any child care costs in excess of the maximum child care rates specified in section 17-798.2-12.

(d) The family unit shall be responsible to pay its share of the child care cost directly to the provider.

(e) The department shall project the family unit's eligibility and monthly payments prospectively for the eligibility period.

(1) The initial payment shall be calculated from the date of eligibility to the end of the month, which may be for less than a full month, and shall be considered the first month of the eligibility period.

(2) When changes are reported during the eligibility period, the monthly payments shall be prospectively calculated for the remainder of the eligibility period."

§4 Mandatory reporting. Section 17-798.2-15, Hawaii Administrative Rules, is amended to read as follows:

"§17-798.2-15 Mandatory reporting. (a) A caretaker who is a recipient of child care payments shall be responsible to report to the department within ten calendar days when the following changes occur:

(1) Monthly gross income and the source of the household income when it is in excess of the eighty-five per cent of the State Median Income for a family of the same size, except for:
    (A) Department-licensed foster parents with approved activities that need child care; [~~or~~]
    (B) Family units that receive child protective services[~~.~~]; or
    (C) Family units that are impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or natural disaster, or public health pandemic situation.
(2) Address changes, including:
    (A) Place of residence; and
    (B) Mailing address;
(3) Household composition;
(4) Marital status;
(5) Child care provider;
(6) Cost of care;
(7) Child care type;
(8) Loss of activity,
    (A) Except for family units that receive only Preschool Open Doors services; [~~or~~]
    (B) Except for family units that receive child protective services; [~~and~~] or
    (C) Except for family units that are impacted by any federal-, state-, or county-declared emergency proclamation related to a man-made or natural disaster, or public health pandemic situation; and
(9) Closure of the child protective services case.

(b) Changes may be reported in writing, in person, or by telephone, and shall be supported by verifying documentation.

(c) When changes are reported pursuant to this section, the department shall take action on the reported changes and calculate payments for the balance of the eligibility period, after timely and adequate notice.

(1) Changes that are reported within ten calendar days of the occurrence shall be implemented in the first month following the month in which the change was reported;
(2) Changes that are reported after ten calendar days of the occurrence, that result in a higher payment, shall be implemented in the second month following the month in which the change was reported; and
(3) Changes that are reported that result in a lower payment shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the occurrence."