STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 7NN

PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC AND RESPONSE – REMOTE MEETINGS OF NONPROFIT ORGANIZATIONS, VARIOUS RELIEF MEASURES, CORONAVIRUS RELIEF FUNDS

WHEREAS, on March 10, 2020, I issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and Connecticut; and

WHEREAS, pursuant to such declaration, I have issued forty (40) executive orders to suspend or modify statutes and to take other actions necessary to protect public health and safety and to mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, the risk of severe illness and death from COVID-19 is higher for individuals who are 60 or older and for those who have chronic health conditions; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention and the Connecticut Department of Public Health (DPH) recommend implementation of community mitigation strategies to increase slow transmission of the virus; and

WHEREAS, public health experts have determined that it is possible to transmit COVID-19 even before a person shows symptoms and through aerosol transmission; and

WHEREAS, Section 4-28b of the Connecticut General Statutes requires the Governor to submit for approval by certain legislative committees the recommended allocations of federal block grants, and such approvals for the current fiscal year for the Community Development Block Grant spending program were granted in June 2019; and

WHEREAS, in accordance with the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (CARES Act) and to respond to the COVID-19 pandemic, the Department of Housing has recommended amendments to its 2019-2020 Annual Action Plan to distribute relief funds made available through Community Development Block Grants, and such funds may not be distributed until DOH has filed an application certifying that it has met state law requirements; and

WHEREAS, the 2020 regular session of the General Assembly has ended, and the General Assembly is not currently scheduled to convene in a special session, removing the opportunity for legislative committees to meet to consider such amendments before the DOH must submit its application for federal approval of such amendments; and

WHEREAS, the Connecticut Revised Nonstock Corporation Act, Sections 33-1000 through 33-1330, inclusive, of the Connecticut General Statutes, requires nonstock corporations incorporated under the laws of the State of Connecticut to hold annual member meetings at a "place" stated in or fixed in accordance with the bylaws of such nonstock corporation or, if no place is stated in or fixed in accordance with the bylaws, at the nonstock corporation's principal office; and

WHEREAS, for the protection of the public health, Connecticut nonstock corporations should be permitted to hold member meetings partly or solely by remote communication, without requiring any representatives of the corporation or its members to gather in a place; and

WHEREAS, the Department of Aging and Disability Services awards funds for the National Family Caregiver Support Program pursuant to Title III-E of the Older Americans Act to Area Agencies on Aging to provide support services for family caregivers who provide in-home and community care to older individuals and to grandparents and older relative caregivers who are the primary caregivers of a child; and

WHEREAS, Sections 17b-423-8(g)(3), 17b-423-8(e)(3) and 17-b-423-8(e)(2) of the Regulations of Connecticut State Agencies set various limits on the amount of federal and state funds that an Area Agency on Aging may use to provide respite and other caregiver support services to family caregivers and to grandparents and older relative caregivers which state regulatory limitations are not currently feasible and do not allow sufficient support to be provided due to the extraordinary needs during this health emergency; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (CARES Act) made funding available for states to provide additional assistance to caregivers; and

WHEREAS, Executive Order No. 7X protected renters experiencing financial distress as a result of COVID-19 from eviction and from penalties, interest, and late fees, all of which cause potential risks to public health and safety; and

WHEREAS, landlords and tenants traditionally expect to receive and pay rent on certain days of the month and monthly rent and due dates are typically calculated by months, rather than by number of days; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (CARES Act) created the Coronavirus Relief Fund (CRF), allocates approximately $1.382 billion in assistance to the State of Connecticut, through the Office of Policy and Management, to support Connecticut's COVID-19 response efforts; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (CARES Act) created the Coronavirus Relief Fund (CRF), which allocates approximately $1.382 billion in assistance to the State of Connecticut, through the Office of Policy and Management, to support Connecticut's COVID-19 response efforts; and

WHEREAS, the Department of Social Services is authorized pursuant to section 17b-11 of the Connecticut General Statutes to accept allotments of federal funds and to manage and dispose of such funds in whatever manner is required by federal law; and

WHEREAS, Executive Order No. 7Y, issued April 11, 2020, authorized the designation and operation of 1) nursing home facilities dedicated to the care of residents who have been diagnosed with COVID-19 and discharged from hospitals (COVID Recovery Facilities), and 2) alternate care nursing facilities dedicated to the care of residents who have been diagnosed with COVID-19 and discharged from hospitals (Alternate COVID Recovery Facilities) including both vacant facilities that are being re-opened and existing facilities that dedicate specific units/floors for that purpose; and

WHEREAS, existing nursing home facilities, including those designated by the Department of Public Health to serve as COVID Recovery Facilities and Alternate COVID Recovery Facilities, continue to incur extraordinary costs related to COVID-19; and

WHEREAS, providing financial assistance for eligible expenditures through the CRF will further support such facilities' ongoing efforts to care for residents, protect healthcare staff, and engage in effective infection control measures in response to the COVID-19 pandemic; and

WHEREAS, DSS, on behalf of the Office of Policy and Management, is authorized to distribute CRF funding to nursing home facilities and designated COVID facilities, as appropriate, to assist in offsetting the cost of necessary expenditures incurred due to COVID-19 and provide the most efficient mechanism to deliver such funding to facilities as rapidly as possible; and

WHEREAS, in order to ensure the timely, efficient and consistent distribution of CRF funding within the CRF allocation available to the state, it is necessary to establish clear eligibility criteria and distribution methodologies of said funding and to establish that distribution of CRF funds is not subject to rehearing or appeal;

NOW, THEREFORE, I, NED LAMONT, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and the laws of the State of Connecticut, do hereby **ORDER AND DIRECT**:

1. **Waiver of Statutory Vote on Supplemental Federal Block Grant.** The requirement pursuant to Section 4-28b of the Connecticut General Statutes that the relevant legislative committees vote on supplemental block grant allocations is suspended for the purpose of allowing the Commissioner of Housing, in consultation with the Secretary of the Office of Policy and Management, to receive and disburse a supplemental block grant from the federal government under the federal Community Development Block Grant program.

2. **Remote Participation in Member Meetings.** Section 33-1061 of the Connecticut General Statutes is modified to provide a new clause (e), to read in its entirety as follows:

   (e)(i) The board of directors may determine that any meeting of members shall not be held at any place and shall instead be held solely by means of remote communication. Participation by means of remote communication shall be subject to such guidelines and procedures as the board of directors may adopt.

   (ii) Members participating by means of remote communication are deemed present in person and may vote at the meeting on matters submitted to the members and on which the members are entitled to vote if the corporation has implemented reasonable measures: (A) to verify that each person participating remotely as a member is a member; and (B) to provide the members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members and on which the members are entitled to vote, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings. The notice to members entitled to vote at a meeting to be held pursuant to this clause (e)shall describe the means of accessing the meeting.

   (iii) Any statute, regulation or requirement, or part thereof, or any provision of the certificate of incorporation or bylaws of the corporation, inconsistent with this clause (e) shall be inoperative for the effective period of this Section 33-1061(e), and any meeting conducted by remote communication shall be deemed validly held if notice of the meeting is given during the effective period of this Section 33-1061(e).

3. **Waiver of Certain Regulatory Limitations on the Amount of Support That Can Be Provided to Caregiver Relatives.** The Regulations of Connecticut State Agencies are modified to authorize the Commissioner of Aging and Disability Services to provide additional support for caregiver relatives as follows:

   a. Section 17b-423-8(g)(3) of the Regulations of Connecticut State Agencies is modified to allow Area Agencies on Aging to provide up to $7,500 per fiscal year to family caregivers for respite care services and to provide up to $1,500 per fiscal year for supplemental services.

   b. Section 17b-423-8(e)(3) of the Regulations of Connecticut State Agencies is modified to allow Area Agencies on Aging to provide supplemental services without a percentage limitation on the amount that may be provided for such services.

   c. Section 17b-423-8(e)(2) of the Regulations of Connecticut State Agencies is modified to delete the ten percent limitation on the total amount of funds

awarded to Area Agencies on Aging that may be utilized to support grandparents and older relative caregivers.

The foregoing modifications shall remain in effect until such time as the Commissioner of the Department of Aging and Disability Services (ADS) determines they are necessary but no longer than the duration of the public health and civil preparedness emergency.

4. **Technical Modification of Grace Period for April and May Rent.** Sections 1(b) and 1(c) of Executive Order No. 7X are hereby modified to replace the phrase "paid within sixty days thereafter" with "paid within two months thereafter."

5. **Authorization for OPM to Direct DSS to Provide Coronavirus Relief Fund (CRF) Distributions to Nursing Home Facilities.** Subsection (a) of Section 17b-11 of the Connecticut General Statutes is hereby modified to add a new subdivision (1) as follows: The Office of Policy and Management shall authorize the Commissioner of Social Services to distribute Coronavirus Relief Fund (CRF) funds received by the State of Connecticut under the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, (CARES Act) to nursing home facilities pursuant to funding distribution methodologies established by the Commissioner of Social Services, in consultation with the Office of Policy and Management, to cover necessary expenditures incurred due to the COVID-19 public health emergency. The Commissioner of Social Services shall require nursing home facilities to submit reports in a form and manner prescribed by the Commissioner to demonstrate that such CRF funds were utilized on eligible expenditures incurred for actions taken to respond to COVID-19 in accordance with the CRF and associated federal requirements and guidance.

6. **Authorization for OPM to Direct DSS to Provide Coronavirus Relief Fund (CRF) Distributions to COVID Recovery Facilities and Alternate COVID Recovery Facilities.** Subsection (a) of Section 17b-11 of the Connecticut General Statutes is hereby modified to add a new subdivision (2) as follows: The Office of Policy and Management shall authorize the Commissioner of Social Services to distribute COVID-specific grants equivalent to $600 per bed per day from CRF funds received by the State of Connecticut under the CARES Act to COVID Recovery Facilities and Alternate COVID Recovery Facilities, as identified and defined pursuant to Executive Order 7Y, issued April 11, 2020, to cover necessary expenditures incurred due to the COVID-19 public health emergency. Using a mutually agreed upon format, the Commissioner of Social Services, acting under the direction of the Office of Policy and Management, shall complete a monthly cost and expense review of each COVID Recovery Facility and Alternate COVID Recovery Facility receiving the COVID-specific grant, for consideration of expenses that exceed the reimbursement received by the facility from all available federal, state and private sources. The Commissioner of Social Services shall require COVID Recovery Facilities and Alternate COVID Recovery Facilities to submit reports, in a form and manner prescribed by the Commissioner, to demonstrate that such CRF funds were utilized on eligible

expenditures incurred for actions taken to respond to COVID-19 in accordance with the CRF and associated federal requirements and guidance.

7. **Authorization for Additional COVID-19 Related Hardship Relief Funding Under the Coronavirus Relief Fund (CRF) to Nursing Home Facilities.** Subsection (a) of Section 17b-11 of the Connecticut General Statutes is hereby modified to add a new subdivision (3) as follows: The Commissioner of Social Services, under the direction of the Office of Policy and Management, may, in the Commissioner's discretion, distribute additional CRF funds received by the State of Connecticut under the CARES Act to nursing home facilities that request additional CRF hardship relief funding to avoid substantial deterioration of the facility's financial condition that may be expected to adversely affect resident care and the continued operation of the facility as a result of COVID-19 related expenditures. In reviewing requests for additional COVID-19 hardship relief funding under the CRF, the Commissioner of Social Services, in consultation with the Office of Policy and Management, shall, at a minimum, consider: 1) existing chronic and convalescent nursing homes or rest homes with nursing supervision utilization in the area and projected bed need; 2) physical plant long-term viability and the ability of the owner or purchaser to implement any necessary property improvements; 3) licensure and certification compliance history; 4) reasonableness of actual and projected expenses as related to COVID-19; 5) the ability of the facility to meet wage and benefit costs; 6) compliance with Department of Public Health guidance disseminated to nursing home facilities in response to COVID-19, including, but not limited to, compliance with infection control measures, appropriate utilization of personal protective equipment, and required staffing configurations, to reduce the transmission of COVID-19; and 7) whether facilities have explored other federal funding opportunities to address COVID-19 related expenditures prior to seeking additional CRF hardship relief. The Commissioner of Social Services may require nursing home facilities, in a form and manner prescribed by the Commissioner, to demonstrate that such CRF funds were utilized on eligible expenditures incurred for actions taken to respond to COVID-19 in accordance with the CRF and associated federal requirements and guidance.

8. **Coronavirus Relief Fund (CRF) Distribution Determinations Not Subject to Rehearing or Appeal.** Subsection (a) of Section 17b-11 of the Connecticut General Statutes is hereby modified to add a new subdivision (4) as follows: Notwithstanding Sections 4-168 to 4-174, inclusive, of the Connecticut General Statutes, the Commissioner of Social Services and Secretary of Policy and Management may establish additional standards or policies in connection with the distribution of CRF funds as may be deemed appropriate. All Commissioner of Social Services and Office of Policy and Management determinations regarding the appropriate distribution and allocation of CRF funding to nursing home facilities, including those designated by the Department of Public Health to serve as COVID Recovery Facilities and Alternate COVID Recovery Facilities, and any other facilities or providers under this section, as modified, shall not be considered payments made pursuant to Section 17b-340 of the Connecticut General Statutes and shall not be subject to any rehearing rights afforded

to such facilities under Section 17b-238(b) of the Connecticut General Statutes or otherwise subject to reconsideration, rehearing or appeal in any form or forum.

9. **Extension and Sunset of Suspension of Tax on Single-use Plastic Checkout Bags.** The provisions of Executive Order No. 7N, Section 4, suspending the tax on single-use plastic checkout bags, and Section 5, providing that retail employees shall not be required to bag items in reusable bags but that customers must be allowed to use their own reusable bags if they bag their own items, are extended through June 30, 2020.

Unless otherwise specified herein, this order shall take effect immediately and remain in effect for the duration of the public health and civil preparedness emergency, unless earlier modified, extended or terminated.

Dated at Hartford, Connecticut, this 13th day of May, 2020.

Ned Lamont
Governor

By His Excellency's Command

Denise W. Merrill
Secretary of the State