STATE OF VERMONT

EXECUTIVE DEPARTMENT

ADDENDUM 4 TO AMENDED AND RESTATED EXECUTIVE ORDER 01-20

[Expansion of Child Care to School-Age Children in Family Child Care Homes]

WHEREAS, on Friday, March 13, 2020, the Governor issued Executive Order 01-20, Declaration of State of Emergency ("Executive Order"), as amended and restated June 15, 2020 ("Amended and Restated Executive Order"), declaring a state of emergency for the State of Vermont in response to COVID-19; and

WHEREAS, the Governor, in consultation with the Vermont Department of Health (VDH), Department of Public Safety/Division of Emergency Management (DPS), the Vermont Agency of Human Services (AHS) and the Agency of Education (AoE), initiated aggressive and sustained efforts to protect property and public health, and to ensure public safety in this public health emergency including issuing the Executive Order, as supplemented and amended, and Directives issued pursuant to the Executive Order, to limit in-person contact, such as limiting the size of gatherings, closure of schools and the institution of remote learning through the end of the 2019-2020 school year, directing the postponement of non-essential medical and surgical procedures, suspending the operation of close contact businesses, requiring telecommuting and work from home, requiring Vermonters to stay home and stay safe, with exceptions for essential purposes, and suspending the operation of businesses which were not deemed critical to public health and safety and national and economic security; and

WHEREAS, modeling studies done for the State clearly show that, but for the mitigation measures taken to date, the number of COVID-19 cases and COVID-19 related deaths in the State would be having a much more devastating effect on Vermonters and would be threatening to overwhelm the capacity of the Vermont health care system; and

WHEREAS, in mid-April, the Governor began to undertake a cautious, measured and data-based approach to restarting Vermont's economy to minimize the risk to the public by limiting the spread of infection in our communities in order to protect the most vulnerable, while reopening our business, non-profit, government and recreation sectors in a safe and effective way; and

WHEREAS, this cautious, data-driven approach has allowed for the restart of every sector of the Vermont economy to some degree, while maintaining containment of the spread of COVID-19; and

WHEREAS, based on the best scientific evidence available to the experts at VDH, AoE and leading pediatric medical professionals and educators, the Governor imposed a statewide uniform start date for Vermont schools of September 8, 2020; and

WHEREAS, an analysis of AoE's enrollment data, by county and grade, estimates if 25% of K-6 students require child care during remote learning days, the number of day care openings required could exceed 10,000; and

WHEREAS, multiple return to school models being pursued throughout the state create a significant, immediate need for child care for school age child care on remote learning days as families return to work.

NOW THEREFORE, I, Philip B. Scott, by virtue of the authority vested in me as Governor of Vermont by the Constitution of the State of Vermont, the emergency powers set forth in 20 V.S.A. §§ 8, 9 and 11 and other laws, hereby order the following measures to rapidly expand child care capacity in the State for school age children.

1. Expand Child Care to School-Age Children in Family Child Care Homes. In accordance with the authority granted to the Governor pursuant to 20 V.S.A. §§ 8 and 9 to make, amend, and rescind necessary orders, rules, and regulations for emergency management purposes, I hereby adopt the following rule for the purpose of interpreting the scope of 33 V.S.A. § 3511(7), relating to the exceptions to limits on child care provided in family home settings. The intent of this rule is to clarify an exception for remote learning is consistent with the policy intent of the exceptions afforded by 33 V.S.A. § 3511(7), which allows exceptions for school closing days, snow days and vacation days. This clarification will result in an increase in school age full-time child care capacity statewide.

   A. For purposes of this Addendum 4 to the Amended and Restated Executive Order, the following term is defined as set forth below to provide further detail to the scope of the exceptions provided in 33 V.S.A. § 3511(7). The following term is defined as set forth below:

      (i) "Family child care home" means a child care facility which provides care on a regular basis in the caregiver's own residence for not more than 10 children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. As used in this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver.

      These part-time school-age children may be cared for in a family child care home on a full-day basis during school closing days, remote-learning days, snow days, and vacation days which occur during the school year.

2. Authority of the Secretary of the Agency of Human Services. With respect to child care programs, the Secretary of AHS shall oversee the implementation of this Addendum 4 to the Amended and Restated Executive Order and I hereby delegate to the Secretary of AHS such further authority to undertake measures to expand the State's capacity for school-age child care, which may include, but not be limited to:
   A. Supporting the development of child care facilities for school age children to receive child care on remote learning days. These sites would allow for flexibility based on the region's K-12 education models. These sites could be established in school buildings, recreational buildings, municipal buildings and summer camp buildings to leverage existing spaces that historically care for children. These sites could also be established upon application by employers, or in collaboration between the State and employers.
   B. With the approval of the Governor, making the necessary orders and making, amending and rescinding the necessary rules and regulations to carry out the provisions of this Addendum 4 to the Amended and Restated Executive Order. This may include, but not be limited to, such changes necessary to collaborate with community partners and employers to operate these new child care facilities similarly to summer recreation programs and day camps.
   C. Expediting administrative processing and increasing administrative flexibility for applicants seeking to become a regulated child care program, which may include granting provisional licensure to programs while they pursue full licensure, granting variances to licensing regulations and expedited division reviews.

3. All State Agencies shall collaborate and align resources as directed by the Secretary of AHS, in consultation with the Governor, to support child care providers in accordance with this Addendum 4 to the Amended and Restated Executive Order.

4. State Agencies shall collaborate on continuity of mental health services to children and their families as directed by the Secretary of AHS, in consultation with the Governor.

5. All child care providers shall follow guidance issued by the Agency of Commerce and Community Development and VDH to ensure all children and employees are safe and healthy.

Addendum 4 to the Amended and Restated Executive Order shall take effect upon signing and shall continue in full force and effect until midnight on September 15, 2020, at which time the Governor, in consultation with the Vermont Department of Health and the Department of Public Safety shall assess the emergency and determine whether to amend or extend this Addendum.

By the Governor:

Philip B. Scott
Governor

Brittney L. Wilson
Secretary of Civil and Military Affairs

Addendum 4 to Amended and Restated Executive Order No. 01-20

Dated: August 18, 2020