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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER AUTHORIZING RE-OPENING PREPARATIONS FOR CHILD CARE PROGRAMS

COVID-19 Order No. 36

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control have advised that COVID-19 is spread mainly by person to person contact and that the best means of slowing the spread of the virus is through practicing social distancing and protecting oneself and others by minimizing personal contact with environments where this potentially deadly virus may be transmitted;

WHEREAS, on March 18, 2020, in order to restrict person-to-person contact as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 10, which temporarily closed all licensed, approved, or exempt child care programs in the Commonwealth, effective at the end of the day on March 22, 2020;

WHEREAS, on March 25, 2020, and April 21, 2020, I issued COVID-19 Orders No. 15 and 27, respectively, which extended the period in which COVID-19 Order No. 10 would require all licensed, approved, or exempt child care programs to remain closed;

WHEREAS, recent public health data indicate continued improvement in key areas of measurement as a result of the extraordinary efforts of health care providers in the Commonwealth and the public's unselfish compliance with the restrictions imposed in response to the COVID-19 health crisis;

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WHEREAS, a sustained trend of improvement in public health data has permitted an ongoing carefully phased relaxation of certain restrictions placed on businesses and other organizations to combat the COVID-19 pandemic, provided, however, that any adjustment can only be maintained or expanded on the basis of continuing improvements in the public health data, and further provided that any adjustment must reflect the reality that the Commonwealth remains in the midst of a public health emergency, as demonstrated by reporting from the Department of Public Health that as of May 31, 2020, 1,824 persons remain hospitalized in the Commonwealth as a result of COVID-19 and 436 of these patients are receiving treatment in intensive care units;

WHEREAS, child care programs are a necessary support to the re-opening of businesses and organizations that are currently closed, and the continuing trend of improvement in the public health data permits a similar carefully phased relaxation of restrictions on child care programs; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, over educational facilities that are supported in whole or in part by public funds, and variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies;

NOW, THEREFORE, I hereby order the following:

1. **Advance Preparations by Child Care Programs**

Beginning immediately, any licensed, approved, or exempt child care program that was closed by COVID-19 Order No. 10 and that is not currently operating as an emergency child care program under the authority of COVID-19 Order No. 10 may open its physical workplaces and facilities ("brick-and-mortar premises") to workers for the purpose of preparing for opening when authorized.

Child care programs that admit workers to begin preparation of their brick-and-mortar premises for opening under the terms of this Order must at all times comply with all generally applicable COVID-19 workplace safety rules and any safety rules issued pursuant to Section 2 of this Order.

Child care programs that commence re-opening preparations under the terms of this Order may not open their brick-and-mortar premises to children and the public generally until authorized to do so by subsequent Order.

2. Requirements for Child Care Programs to Open

The Department of Early Education and Care ("EEC"), acting through its Commissioner and subject to my approval, is hereby authorized to issue policies, procedures, requirements, rules, and guidance to implement COVID-19 health and safety rules for the operation of licensed, approved, or exempt child care programs. EEC, through its Commissioner, is hereby further authorized to temporarily suspend or modify any existing EEC regulation applicable to licensed, approved, or exempt child care programs to the extent necessary to provide for the opening, operation, and funding of those programs.

3. Exceptions

This Order does not affect emergency child care programs created by and operating under the authority of COVID-19 Order No. 10, which programs may continue to operate subject to the terms of that Order.

This Order does not affect emergency residential programs created by and operating under the authority of COVID-19 Order No. 26, which programs may continue to operate subject to the terms of that Order.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 2:45 PM this 15th day of June, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts