STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 7U

PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC AND RESPONSE – PROTECTIONS FROM CIVIL LIABILITY FOR HEALTHCARE PROVIDERS AND BILLING PROTECTIONS FOR PATIENTS

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 confirmed spread in Connecticut; and

WHEREAS, pursuant to such declaration, I have issued twenty-one (21) 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 appears to be higher for individuals who are 60 years of age 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 recommend implementation of community mitigation strategies to increase containment of the virus and to slow transmission of the virus, including cancellation of gatherings of ten people or more and social distancing in smaller gatherings; and

WHEREAS, Section 38a-477aa of the Connecticut General Statutes addresses health care provider reimbursements for emergency services and surprise bills; and

WHEREAS, Sections 19a-508c(l) of the Connecticut General Statutes addresses hospital reimbursements for facility fees; and

WHEREAS, Section 19a-673 of the Connecticut General Statutes addresses maximum hospital charge amounts for uninsured patients; and

WHEREAS, in order to respond adequately to the public health emergency posed by the COVID-19 pandemic, it has been necessary to supplement Connecticut's health care workforce and the capacity of health care facilities to deliver life-saving care by requesting the assistances of health care professionals who have not previously maintained liability coverage; facilitating the deployment of volunteer and out-of-state healthcare professionals; and calling upon healthcare professionals to perform acts that they would not perform in the ordinary course of business; and

WHEREAS, in order to encourage maximum participation in efforts to expeditiously expand Connecticut's health care workforce and facilities capacity, there exists a compelling state interest in affording such professionals and facilities protection against liability for good faith actions taken in the course of their significant efforts to assist in the state's response to the current public health and civil preparedness emergency; and

WHEREAS, no Connecticut resident should have to choose between health and their financial security; and

WHEREAS, health insurance carriers anticipate future health expenditures in their plan design, including premium and cost-sharing allocations, but the current public health emergency will result in significant unexpected health care costs to consumers and health carriers; and

WHEREAS, it is in the public interest to mitigate the adverse impact on consumers' financial security that may result from treatment for COVID-19, as well as to limit the likely premium increases facing consumers in 2021 as a result of the COVID-19 response;

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. **Protection from Civil Liability for Actions or Omissions in Support of the State's COVID-19 Response.** Notwithstanding any provision of the Connecticut General Statutes, or any associated regulations, rules, policies, or procedures, any health care professional or health care facility shall be immune from suit for civil liability for any injury or death alleged to have been sustained because of the individual's or health care facility's acts or omissions undertaken in good faith while providing health care services in support of the State's COVID-19 response, including but not limited to acts or omissions undertaken because of a lack of resources, attributable to the COVID-19 pandemic, that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic and which resulted in the damages at issue, provided that nothing in this order shall remove or limit any immunity conferred by any provision of the Connecticut General Statutes or other law. Such immunity shall not extend to acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act pursuant to Section 4-275 et seq.

of the Connecticut General Statutes or 31 U.S.C. §§3729 et seq. The term "health care professional" means an individual who is licensed, registered, permitted, or certified in any state in the United States to provide health care services and any retired professional, professional with an inactive license, or volunteer approved by the Commissioner of the Department of Public Health or her designee. The term "health care facility" means a licensed or state approved hospital, clinic, nursing home, field hospital or other facility designated by the Commissioner of the Department of Public Health for temporary use for the purposes of providing essential services in support of the State's COVID-19 response. The immunity conferred by this order applies to acts or omissions subject to this order occurring at any time during the public health and civil preparedness emergency declared on March 10, 2020, including any period of extension or renewal, including acts or omissions occurring prior to the issuance of this order attributable to the COVID-19 response effort.

2. **Financial Protections for the Uninsured and People Covered by Insurance Who Receive Out-of-Network Health Care Services During the Public Health Emergency.** Effective immediately and for the duration of the public health and civil preparedness emergency declared on March 10, 2020, including any period of extension or renewal:

    a. Section 38a-477aa(b)(3)(A) of the Connecticut General Statutes is modified to provide: "If emergency services were rendered to an insured by an out-of-network health care provider, such health care provider may bill the health carrier directly and the health carrier shall reimburse such health care provider the amount the insured's health care plan would pay for such services if rendered by an in-network health care provider as payment in full."

    b. Section 38a-477aa(b)(3)(B) of the Connecticut General Statutes is suspended.

    c. Section 19a-673(b) of the Connecticut General Statutes is modified to provide: "No hospital that has provided health care services to an uninsured patient may collect from the uninsured patient more than the cost of providing services, except that, for uninsured patients receiving services for the treatment and management of COVID-19, no hospital may collect from the uninsured patient or such patient's estate more than the Medicare rate for said services as payment in full."

    d. Section 19a-508c(l) of the Connecticut General Statutes is modified to additionally provide: "Notwithstanding the provisions of this section, no hospital, health system or hospital-based facility shall collect a facility fee

for services received by a patient for the treatment and management of COVID-19 who is uninsured of more than the Medicare rate."

e. No hospital shall bill any individual not otherwise covered by any public or private health plan for services received for treatment and management of COVID-19, unless and until clarified by further executive order regarding distribution of any federal funding that may be made available to cover such services.

f. Each hospital, health system or hospital-based facility shall maintain fiscal records to identify services provided to uninsured patients for treatment and management of COVID-19 and make such records available for claiming federal reimbursement, as applicable.

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

Dated at Hartford, Connecticut, this 5th day of April, 2020.

Ned Lamont
Governor

By His Excellency's Command

Denise W. Merrill
Secretary of the State