STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-34

Protecting Minnesota's First Responders by Directing the Commissioner of Health to Share Information with the Department of Public Safety, 911 Dispatchers, and First Responders

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety. Since the peacetime emergency began, Minnesota has seen a rapid rise in confirmed COVID-19 cases and fatalities, especially among our most vulnerable communities.

Minnesota's emergency medical services personnel, law enforcement personnel, public safety workers, and other first responders (collectively, "first responders"), stand on the front lines of our COVID-19 response. These workers keep Minnesotans and their communities safe and help ensure that critical services continue to be provided—and it is imperative to protect their health and safety. To do so, our first responders must exercise caution in light of COVID-19's pervasive spread in our communities and the fact that only a small proportion of those infected have been or can be identified through testing. Appropriate precautions include assuming that everyone they meet may be a carrier of COVID-19, maintaining social distancing, and asking, whenever possible, whether an individual is experiencing symptoms of a fever and a cough. These measures are critically important, but we can and must do more to protect our first responders.

The Minnesota Department of Health ("MDH") maintains data regarding COVID-19 test results. In the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes 2019, section 13.3805, subdivision 1(b)(3), the Minnesota Legislature permitted the disclosure of private health data to the extent necessary to control or prevent the spread of serious disease such as COVID-19. I have determined that limited information—the addresses where a positive COVID-

19 test result has been obtained and the individual tested is still contagious to others—should be disclosed via the Department of Public Safety ("DPS") Public Safety Answering Point ("911") dispatchers and first responders in a very limited fashion to control and prevent the spread of COVID-19. This decision is not taken lightly. We must ensure that this health information is disclosed only to those who have an emergent need to know it, and we must implement safeguards to ensure that no one abuses this data. Minnesota has a strong tradition of protecting the private data of its citizens. This is reflected in the penalties imposed for unlawful use of private data provided by the MGDPA, which will continue to apply to the data shared under this Executive Order.

For these reasons, I order as follows:

1. Pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes 2019, section 13.3805, subdivision 1(b)(3), I have determined that the disclosure of limited health data from MDH to first responders via DPS is necessary to control and prevent the spread of COVID-19, a serious infectious disease.

2. Based on this determination, I direct the Minnesota Commissioner of Health to share limited health data, which consists solely of the addresses of individuals who have tested positive for COVID-19 and are still contagious ("shared data"), with the Commissioner of Public Safety pursuant to a protocol to be developed by the Commissioners, subject to the limitations and safeguards below:

    a. Shared data must not include identifying information beyond an address.

    b. Shared data may be shared only with DPS, 911 dispatchers, and first responders as defined in the protocol.

    c. The term "shared data" includes data derived from that shared data (*e.g.*, a notation in a computer file or other record that is based upon the shared data).

    d. Only the addresses of those people who MDH has determined to be contagious to others will be shared. MDH must promptly notify DPS when an address is no longer associated with a person who is contagious, and DPS must then promptly cause the shared data to be deleted or removed from 911 dispatch systems.

    e. The shared data must remain confidential, be encrypted in transit, provided only to the minimum number of people necessary accomplish the purpose of this Order, and not maintained by DPS or 911 dispatch centers longer than necessary to accomplish the purpose of this Order.

    f. To the maximum extent possible, 911 dispatchers and first responders will rely upon other sources of information, such as a caller screening protocol, before utilizing the shared data.

g. 911 dispatchers may provide the shared data only to first responders who have an emergent need to know the shared data to aid in their infection control precautions.

h. Unless no other means of communication is available, the shared data must not be disseminated over any channel of communication that could be actively monitored by the public or uninvolved parties. When using channels of communication that could be actively monitored by the public or uninvolved parties, 911 dispatchers and first responders are encouraged to use coded language or other similar methods that would prevent the public or uninvolved parties from obtaining the shared data.

i. Recipients of the shared data may use the information only for the limited purpose of protecting their health and that of other first responders making contact at an address.

j. No recipient of this shared data may use the information as a basis to refuse or delay a call for service or cause others to refuse or delay a call for service.

3. Pursuant to the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes 2019, section 13.03, subdivision 4(c), shared data remains classified as private data on individuals and not public data under Minnesota Statutes 2019, section 13.02, subdivisions 8a and 12, and Minnesota Statutes 2019, section 13.3805, subdivision 1. Pursuant to Minnesota Statutes 2019, section 13.09(a), any person who willfully violates the provisions of the MGDPA or any rules adopted under the MGDPA or whose conduct constitutes the knowing unauthorized acquisition of not public data, as defined in section 13.055, subdivision 1, is guilty of a misdemeanor. In addition, pursuant to Minnesota Statutes 2019, section 13.09(b), willful violation of the MGDPA, including any action subject to a criminal penalty under the previous sentence, by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on April 10, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Filed April 10, 2020
Office of the Minnesota
Secretary of State,
Steve Simon