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GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-08

Temporarily expanding telemedicine and addressing certain licensing requirements to combat the effects of COVID-19

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with more than 10,000 cases of the illness and more than 150 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 50 1 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, the Kansas Telemedicine Act states that payment or reimbursement of covered health care services delivered through telemedicine shall be the same payment or reimbursement delivered through personal contact;

WHEREAS, The Office of Civil Rights has eased its HIPAA telemedicine/telehealth enforcement during the COVID-19 emergency and will waive potential penalties for HIPAA violations against health care providers who serve patients through everyday communication technologies

WHEREAS, I have consulted with staff at the Kansas State Board of Healing Arts regarding methods for increasing access to health care in response to COVID-19 pandemic;

WHEREAS, many patients in the State of Kansas are required to travel long distances, both in-state and out-of-state, to see their healthcare providers;

WHEREAS, face-to-face visits with health care professionals may increase the risk of COVID-19 transmission;

WHEREAS, the potential for increased need for health care resources, including physical space, the time of medical professionals, and medical supplies as a result of COVID-19 increases the already existing difficulties accessing health care;

WHEREAS, when the COVID-19 pandemic is stressing health care, local and state support systems, and our economy, any impediment to receiving health care through telemedicine impedes our ability to promote and secure the safety and protection of the civilian population;

WHEREAS, when the COVID-19 pandemic is stressing health care, local and state support systems, and our economy, strict compliance with certain regulations or laws—especially those limiting access to health care—may prevent, hinder, or delay necessary action in coping with the pandemic; and

WHEREAS, this Administration will do whatever it can to assist Kansans in these challenging times, especially vulnerable Kansans and those requiring routine health care.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A. 48-924 and K.S.A. 48-925, in order to mitigate the effects of the spread of COVID-19, cope with the healthcare effects of the pandemic, and to promote and secure the safety and protection of the civilian population, I hereby direct and order the following:

1. The Kansas State Board of Healing Arts ("the Board") shall not enforce any statute, rule, or regulation that would require physicians to conduct an in-person examination of a patient prior to the issuance of a prescription or order the administration of medication, including controlled substances, as long as the physician otherwise complies with the provisions of this order.

2. All physicians are encouraged to utilize telemedicine services, when appropriate for their patients, to avoid unnecessary patient travel both in-state and out of state.

3. Out-of-state physicians may utilize telemedicine when treating patients in Kansas without the necessity of securing a license to practice medicine in the state, provided the out of state physician advises the Board of the physician's practice in this state via telemedicine in writing in a manner to be determined by the Board and holds an unrestricted license to practice medicine in the state in which the physician practices and is not the subject of an investigation or disciplinary proceeding. The Board is authorized to extend the provisions of this paragraph to other healthcare professionals regulated by the Board to the extent the

board deems such extension both necessary or appropriate to address impacts of the COVID-19 pandemic and consistent with patient safety.

4. Physicians under quarantine or self-quarantine are permitted to practice telemedicine.

5. Every physician practicing pursuant to the provisions of this order is encouraged to access the Prescription Monitoring Program, if in the judgment of the physician, it is appropriate for the individual patient being evaluated or treated, before a controlled substance prescription is issued.

6. Every physician treating a patient through telemedicine shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

7. The Board is authorized to grant a temporary emergency license to practice any profession regulated by the Board to an applicant whose qualifications the Board determines to be sufficient to protect public safety and welfare within the scope of professional practice permitted by the temporary emergency license for the purpose of preparing for, responding to, and mitigating any effect of COVID-19. Further, the Board is authorized to temporarily waive, to the extent the Board determines such waiver will not harm public safety and welfare, any other regulatory requirements falling under the Board's enforcement authorities for the purpose of preparing for, responding to, and mitigating any effect of COVID-19.

8. Except as specifically stated herein, all other regulations remain in full force and effect.

9. Nothing in this order shall affect the enforcement or applicability of any laws, including K.S.A. 65-4a10 and K.S.A. 40-2,215, regulating the provision or performance of abortions in Kansas.

10. For the purposes of this order, the terms "telemedicine," "telemedicine services," and "telehealth" have the same meaning.

11. This order supersedes any contrary order by any local health department regarding telemedicine and should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any contrary provision in previous orders is superseded by this order.

This document shall be filed with the Secretary of State as Executive Order No. 20-08. It shall become effective immediately and remain in force until rescinded, until May 1, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.

THE GOVERNOR'S OFFICE BY THE GOVERNOR _____

DATED 3.20.2020

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Secretary of State

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Assistant Secretary of State