CHRISTOPHER T. SUNUNU
Governor

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR

Emergency Order #69 Pursuant to Executive Order 2020-04 as Extended by Executive Order 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16 and 2020-17

Ethics Committee for Crisis Standards of Care Clinical Guidelines

WHEREAS, on Friday, March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, on Friday, March 13, 2020, the Governor issued Executive Order 2020-04, an order declaring a state of emergency due to the Novel Coronavirus (COVID-19); and

WHEREAS, the Governor issued Executive Order 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, and 2020-17 extending the State of Emergency declared in Executive Order 2020-04; and

WHEREAS, RSA 4:45, RSA 4:46, RSA 4:47, and RSA 21-P authorize the Governor to issue orders to perform and exercise any functions, powers, and duties necessary to promote and secure the safety and protection of the people of New Hampshire; and

WHEREAS, on Friday, March 13, 2020, the Governor activated the Emergency Operations Center at the Incident Planning and Operations Center in Concord to assist in the State's response to the COVID-19 outbreak; and

WHEREAS, in the days since the Governor declared a State of Emergency and activated the Emergency Operations Center, the COVID-19 outbreak in New Hampshire has expanded significantly; and

WHEREAS, experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have severe symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS, despite all steps taken to minimize the demands on healthcare professionals, hospital and healthcare facility resources and capacities may not be able to meet actual patient

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needs due to COVID-19, as those needs develop on a regional, county, or community-by-community basis; and

WHEREAS, the Commissioner of Health and Human Services ("Commissioner"), with the input of dozens of stakeholders, created the New Hampshire Crisis Standards of Care Plan ("CSC Plan") and CSC Clinical Guidelines ("CC Guidelines"), to serve as guidance for how the Governor, through his designee, will oversee the healthcare system, or the part of it that has entered into crisis; and

WHEREAS, in accordance with the CSC Plan, the Commissioner has appointed members of the State Disaster Medical Advisory Committee ("SDMAC") and the State Triage Committee ("STC") to advise on the criteria for determining when the healthcare system is in crisis due to COVID-19; and

WHEREAS, RSA 141-C:27 established an ethics committee comprised of professionals with varying backgrounds and expertise to offer advice to the commissioner relative to ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic; and

WHEREAS, RSA 141-C:27 requires the ethics committee to review ethical implications of any of the powers that may be exercised by the commissioner including the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance, due process, and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; and issues relative to information sharing and confidentiality; and

WHEREAS, the State's experience with COVID-19 to date reveals that the State requires a broader range of perspectives related to allocation of resources than what the Legislature contemplated when it passed RSA 141-C:27 over a decade ago; and

WHEREAS, the SDMAC was created to address the pandemic of COVID-19 and is comprised of a broader range of professionals than RSA 141-C:27 contemplates who have expertise in many areas of the State's health care system; and

WHEREAS, the SDMAC is tasked with developing and leading a unified and consistent approach in an ethical way to allocate scarce resources, including ethical criteria used to allocate those resources to all patients.

NOW THEREFORE, Pursuant to Section 18 of Executive Order 2020-04 as extended by Executive Order 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16 and 2020-17, it is hereby ordered, effective immediately, that:

1. The SDMAC shall serve as the ethics committee created under RSA 141-C:27 ("Ethics Committee") for the duration of the state of emergency for the purposes of carrying out both the requirements of RSA 141-C:27 and the tasks identified in the CSC Plan.

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2. The Commissioner shall make any additional appointments to the SDMAC that are necessary to ensure that the SDMAC includes all of the members that are required by law to be included on the Ethics Committee created under RSA 141-C:27.

Given under my hand and seal at the Executive Chambers in Concord, this 16th day of September, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.

Chris T. Sununu

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