STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

TO ALL TO WHOM THESE PRESENTS COME — GREETINGS: EO 20 - 52

EXECUTIVE ORDER PURSUANT TO THE PUBLIC HEALTH EMERGENCY CONCERNING COVID-19, AS DECLARED IN EXECUTIVE ORDER 20-37 AND EXTENDED BY EXECUTIVE ORDERS 20-45, 20-48, and 20-51. FOR THE PURPOSE OF AMENDING EXECUTIVE ORDER 20-34 TO ENSURE ACCESS TO HEALTHCARE RESOURCES TO TREAT COVID-19

WHEREAS: On March 11, 2020, by Executive Order 20-03, an emergency was declared for the entire State of Arkansas due to the outbreak of COVID-19; and

WHEREAS: On May 5, 2020, by Executive Order 20-25, the emergency was extended for forty-five additional days; and

WHEREAS: On June 18, 2020, by Executive Order 20-37, the emergency declared pursuant to Executive Order 20-03, and its amendments was terminated, and the public health and disaster emergency and declaration of the State of Arkansas as a disaster area resulting from the state-wide impact of COVID-19 was declared anew, pursuant to the Emergency Services Act at Ark. Code Ann. §§ 12-75-101, *et seq.*; and

WHERAS: The emergency declared by Executive Order 20-37 was renewed by Executive Orders 20-45, 20-48, and 20-51. The emergency is ongoing.; and

WHEREAS: COVID-19 continues to spread within the State of Arkansas and adjoining states, threatening the public safety of the citizens of Arkansas, and such spread is expected to continue; and

WHEREAS: On June 15, 2020, Executive Order 20-34 was signed to ensure that the State of Arkansas has adequate resources to treat citizens of Arkansas suffering from COVID-19, as well as patients with other illnesses and injuries, including, without limitation, drugs, medical devices, supplies, equipment, bed capacity, and healthcare providers; and

WHEREAS: Flexibility for hospital staffing and healthcare contingency plans are required to meet the current demands of increased hospitalizations during this public health emergency. All resources must be maintained and allocated to the greatest extent possible for the health and safety of the public; and

WHEREAS: I, as Governor, in consultation with the Secretary of Health, have determined that more actions must be taken to protect the people of the State of Arkansas from COVID-19;

NOW, THEREFORE, I, ASA HUTCHINSON, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101 *et seq.*, after consultation with the Secretary of Health, issue this Executive Order pursuant to the on-going public health emergency as declared in Executive Order 20-37 and renewed by Executive Orders 20-45, 20-48, and 20-51, and order the following:

(1) As part of the State's response to the COVID-19 public health emergency and pursuant to the Declaration of the Secretary of the

U.S. Department of Health and Human Services under the Public Readiness and Emergency Preparedness Act, 42 U.S.C. 247d-6d, that was published in the Federal Register on March 17, 2020, I hereby authorize all health care providers who are licensed, certified, or otherwise authorized by law to administer healthcare in this State, and any partnership, association, corporation or other facility or institution that employs or contracts with such healthcare providers to provide healthcare services in their normal course of business or operation ("Healthcare Providers"), for the purpose of diagnosing, treating, mitigating, or curing COVID-19 or any complication therefrom, to use any drug, device, or product approved or cleared under the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301-392) ("FD&C Act"); licensed under the Public Health Service Act (42 U.S.C. §§ 201-291n); or authorized for emergency use under an Investigational Device Exemption or Investigational Drug Application of the FD&C Act.

(2) In accordance with the Arkansas Emergency Services Act of 1973, all Healthcare Providers as defined herein are hereby requested and authorized pursuant to Ark. Code Ann. § 12-75-103(7) to provide healthcare services which include acts or treatment performed or furnished by a Healthcare Provider to a patient during the patient's medical care, treatment, or hospitalization that are directed at the treatment, mitigation, or symptoms of COVID-19 ("Healthcare Services") in response to the COVID-19 pandemic during the declared emergency and declare such individuals and entities as Emergency Responders during the COVID-19 public health emergency.

(3) These Emergency Responders are hereby requested to perform Healthcare Services directed at the prevention, treatment, mitigation, or cure of COVID-19 and to perform other Emergency Management Functions within the scope of their licensure. Emergency Management Functions include: (a) triage, diagnostic testing, and/or treatment to individuals with known or suspected COVID-19; (b) cancelling, postponing, or denying elective procedures for an illness or condition that does not fall within the scope of the COVID-19 public health emergency pursuant to an order, directive, or recommendation from the Governor, the Arkansas Department of Health, the Arkansas Department of Human Services, or other State agency with the authority to order or recommend cessation of healthcare services; (c) redeploying or cross training staff not typically assigned to such duties, to the extent necessary to respond to the COVID-19 public health emergency; (d) planning to or enacting contingency standards and/or crisis standards of care measures, such as modifying numbers of beds, adjusting staffing, preserving personal protective equipment, and triaging access to services or equipment; and (e) reducing recordkeeping requirements to the extent necessary for Healthcare Providers to perform tasks as may be necessary to respond to the COVID-19 public health emergency.

(4) As Emergency Responders pursuant to Ark. Code Ann. § 12-75-103, Healthcare Providers shall, pursuant to Ark. Code Ann. § 12-75-128, be immune from liability for any death, injury, or property damage

alleged to have been sustained as a result of any act or omission by such Emergency Responder in the course of providing emergency management functions during this public health emergency if the act or omission occurs as the result of a good faith effort on the part of the Healthcare Provider and was the direct result of the Healthcare Provider's providing Healthcare Services for: (a) the diagnosis, prevention, or treatment of COVID-19; (b) the assessment or care of an individual with a confirmed or suspected case of COVID-19; or (c) the care of any individual who presents at a healthcare facility or to a healthcare professional during the period of the COVID-19 public health emergency. Such immunity shall not extend to an act or omission that is willful, reckless, or intentional misconduct. Healthcare Providers shall also be immune from liability for using any prescription drug or device to treat a known or suspected COVID-19 infection provided that: (i) prescription of the drug or device is within the scope of the Healthcare Provider's license; (ii) the Healthcare Provider prescribes the drug or device in accordance with the most current written recommendations of a U.S. Government agency; and (iii) the Healthcare Provider informs the patient of known positive and negative outcomes of the drug or device and documents the patient's informed consent to the treatment in the patient's medical record.

(5) This Executive Order shall supersede Executive Order 20-34.

IN TESTIMONTY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 21st day of December, in the year of our Lord 2020.

Asa Hutchinson, Governor