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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER AUTHORIZING THE CREATION AND OPERATION OF EMERGENCY RESIDENTIAL PROGRAMS AND EMERGENCY PLACEMENT AGENCIES FOR CHILDREN

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the number of confirmed cases of COVID-19 continues to rise dramatically in the Commonwealth. As of April 15, 2020, the Department of Public Health had reported 29,918 cases of COVID-19, including 1,108 deaths, with all counties across the Commonwealth affected;

WHEREAS, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, the Department of Early Education and Care is responsible for licensing and oversight of residential programs, which provide twenty-four-hour care for children, and placement agencies, which provide custodial care and social services to children. These programs have partnerships with various other Commonwealth agencies, including the Department of Children and Families, the Department of Elementary and Secondary Education, the Department of Mental Health, and the Department of Youth Services;

WHEREAS, ensuring the health and safety of children and staff in these programs while simultaneously combatting the COVID-19 pandemic is of critical importance;

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WHEREAS, the COVID-19 pandemic poses unique challenges for residential programs and placement agencies because many facilities lack capacity to effectively isolate and quarantine individuals who have been exposed to, or test positive for, COVID-19. Moreover, certain licensing regulations, such as those governing staffing ratios, segregation of residents, and visitation, limit the ability to restructure operations to respond to and prevent the spread of COVID-19 while keeping children and staff safe; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages to protect the health and safety of persons, over educational facilities that are supported in whole or in part by public funds, so as to extend those facilities' benefits and availability, and over variances of the terms and conditions of licenses issued by the Commonwealth or any of its agencies;

NOW, THEREFORE, I hereby Order the following:

(1) Emergency Programs

The Department of Early Education and Care ("EEC"), acting through its Commissioner and subject to my approval, is hereby authorized to implement emergency residential programs and placement agencies as necessary to provide capability and capacity for effective isolation and quarantine to prevent the spread of COVID-19. EEC is authorized to issue policies, procedures, requirements, and guidance to provide for the creation, approval, operation, staffing, monitoring, inspection, investigation, oversight, and closure of emergency residential programs and placement agencies, and to provide funding for such programs, as available. EEC shall have access to and use of all available Criminal Offender Record Information, juvenile, and sealed records, Sex Offender Registry Information, and information regarding supported findings of abuse or neglect from the central registry of the Department of Children and Families in order to review and approve the staffing of emergency residential programs and placement agencies.

(2) Modifications to Existing Programs

EEC, acting through its Commissioner and subject to my approval, is hereby further authorized to temporarily suspend or modify any existing regulation or requirement applicable to EEC-licensed or EEC-approved residential programs and placement agencies, in order to meet the purposes of this Order and to the extent necessary to:

(a) create, operate, and ensure sufficient availability of emergency residential programs, residential programs, and placement agencies for isolation and quarantine; or

(b) institute protocols to prevent and combat the spread of COVID-19 while maintaining the health and safety of children and staff.

EEC shall temporarily suspend or modify rules or regulations pursuant to this paragraph only after consultation with the Department of Public Health, and any such suspension or modification shall be documented in written policies or guidance issued by EEC.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is terminated, whichever happens first.

Given in Boston at 11:00 AM this 16th day of April, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts