State of North Carolina

ROY COOPER

GOVERNOR

April 08, 2020

EXECUTIVE ORDER NO. 130

MEETING NORTH CAROLINA'S HEALTH AND HUMAN SERVICES NEEDS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak 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 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

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 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117-122, 124-25, and 129 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has identified widespread community transmission of the virus; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities and health care staff may be insufficient to care for those who become sick; and

WHEREAS, COVID-19 cases requiring inpatient hospitalization are expected to surge in the coming days; and

WHEREAS, a composite modeling forecast, constructed by experts from North Carolina universities and research organizations, estimates that by the end of May 2020, approximately 250,000 North Carolinians will be infected with the novel coronavirus, even if social distancing measures continue through that date; and

WHEREAS, statistical modeling by experts within and outside North Carolina predicts a significant risk that North Carolina will not have a sufficient number of hospital beds and medical equipment to meet the crisis; and

WHEREAS, North Carolina should take all reasonable actions to expand the capacity of its health care system, thereby lowering the chance that North Carolina will run out of capacity; and

WHEREAS, these efforts to expand capacity should include adding health care providers, putting to use equipment and other resources that otherwise would lie dormant, and transferring resources where they can be most effective and save the most lives; and

WHEREAS, in some cases, expanding health care capacity will require temporarily waiving or suspending legal and regulatory constraints; and

WHEREAS, in the coming days and weeks, decisions about adding and transferring resources will require real-time decision-making; and

WHEREAS, in the coming days and weeks, decisions about adding and transferring health care resources will need to be made in a time frame that cannot accommodate even emergency rulemaking; and

WHEREAS, to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary of Health & Human Services with authority to waive the enforcement of certain legal and regulatory constraints in order to expand capacity and save lives; and

WHEREAS, to add health care providers to meet the coming surge in COVID-19 cases, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the state's health care occupational licensing boards with authority to develop and implement tailored plans to add providers in each of their subject areas; and

WHEREAS, to expand capacity for COVID-19 treatment and handle the forecasted surge in cases, the undersigned has determined that the Secretary of Health and Human Services requires authority to waive the enforcement of legal and regulatory constraints limiting licensed bed capacity; and

WHEREAS, to expand capacity for COVID-19 treatment and handle the forecasted surge in cases, the undersigned has determined that the Secretary of Health and Human Services requires authority to waive the enforcement of any legal or regulatory constraints that would prevent or impair (a) temporarily increasing health care facilities' licensed bed capacity, (b) temporarily relocating beds to other facilities, (c) temporarily adding dialysis stations, (d) temporarily relocating dialysis stations, (e) temporarily acquiring medical imaging equipment, and (f) allowing an ambulatory surgical facility to operate as a temporary hospital; and

WHEREAS, the undersigned has considered, in light of the urgent needs for medical treatment during the COVID-19 pandemic, the criteria established in N.C. Gen. Stat. § 131E-183(a), including but not limited to the populations to be served by the proposed projects; the needs that those populations have for the services proposed; the extent to which all residents, and in particular, low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed; whether the proposed actions will result in unnecessary duplication of existing or approved health service capabilities or facilities; the availability of resources for the provision of the services proposed to be provided; the expected effects of the proposed services on competition in the proposed service area; and whether quality care has been provided in the past; and

WHEREAS, the undersigned has determined that for the actions contemplated in Section 1 of this Executive Order, the requirement to obtain a Certificate of Need should be interpreted in the circumstances of this State of Emergency and the urgent needs of North Carolinians for health care during the pandemic; and

WHEREAS, the undersigned has determined that the Division of Health Service Regulation may allow these relocations or increases in health care resources under certain conditions, stated herein; and

WHEREAS, child care is an essential service for those members of our work force who remain on the job during this State of Emergency; and

WHEREAS, to ensure that health care workers and other people performing essential jobs can continue to work, child care facilities must be available; and

WHEREAS, many child care facilities have closed, and it is difficult or impossible for any child care facility to remain open without changes in regulatory requirements to adapt to the circumstances of the COVID-19 pandemic; and

WHEREAS, the undersigned has determined that child care facilities must be available to the essential workers of the state, and enforcement of regulatory requirements should be modified or waived as necessary to allow these facilities to open or remain open; and

WHEREAS, to meet these critical needs, the undersigned has determined that the Secretary of Health and Human Services requires authority to issue emergency facility guidelines adapted to the circumstances of the COVID-19 pandemic; and

WHEREAS, to meet these critical needs, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements as necessary; and

WHEREAS, today, many persons with health care training wish to serve North Carolina in this crisis, but are barred from providing health care by licensing requirements; and

WHEREAS, the lives of North Carolinians will be saved if these trained persons provide care; and

WHEREAS, the circumstances of each profession are different, and the ability of trained persons to provide care during the COVID-19 pandemic may be different in each health care field; and

WHEREAS, for these reasons, the undersigned has determined that the occupational licensing boards established by the General Assembly should be empowered in their discretion to waive or modify enforcement of legal or regulatory constraints that would prevent or impair North Carolina from putting to work (i) health care professionals who are licensed in other states, but not licensed here, (ii) retired or inactive health care professionals, (iii) skilled, but unlicensed volunteers, and (iv) students in their professional fields; and

WHEREAS, the undersigned has determined that the occupational licensing boards should be empowered to impose conditions on any persons who are not yet licensed in North Carolina, but who will be authorized to provide care by the licensing boards as a result of this Executive Order; and

WHEREAS, all fifty states, the District of Columbia, U.S. Virgin Islands, Puerto Rico, Guam and Northern Mariana Islands are members of the Emergency Management Assistance Compact ("EMAC"), which requires North Carolina to provide assistance to any other EMAC member who has declared an emergency or disaster and requests such aid; and

WHEREAS, all EMAC member states have declared that emergencies exist as a result of the pandemic event and may under the provisions of EMAC request telehealth/telemedicine aid

from all fifty states, the District of Columbia, U.S. Virgin Islands, Puerto Rico, Guam and Northern Mariana Islands; and

WHEREAS, in order to respond to such telehealth/telemedicine requests it may be necessary to employ the resources of state, county and local government and the private sector; and

WHEREAS, the provisions of this Executive Order will help to ensure the coordinated delivery of telehealth/telemedicine assistance that will help to supplement the health, safety and resources of the residents of the state, while preserving the supply of essential materials and services; and

WHEREAS, many potential health care workers have raised concerns about a lack of malpractice insurance or potential liability if they were to serve North Carolinians during this pandemic; and

WHEREAS, N.C. Gen. Stat. § 166A-19.60 provides immunity from liability for emergency management workers, as defined in and provided in that statute, except in cases of willful misconduct, gross negligence, or bad faith; and

WHEREAS, the partial immunity provided by N.C. Gen. Stat. § 166A-19.60 applies to persons complying with any Executive Order promulgated under the Emergency Management Act; and

WHEREAS, the undersigned has determined to remove any doubt that persons providing health care services to treat COVID-19 are complying with this Executive Order; and

WHEREAS, emergency management workers, under N.C. Gen. Stat. § 166A-19.60(e), include persons performing emergency services pursuant to a request of the state government; and

WHEREAS, the undersigned intends to remove any doubt that persons providing health care services to treat COVID-19 are acting at the request of the state government; and

WHEREAS, the undersigned intends to provide insulation from liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith; and

WHEREAS, expiration dates of certain permits may need to be extended in order to allow certain restaurants to continue providing carry-out, delivery, and drive-through services; and

WHEREAS, expiration dates of certain permits may need to be extended in order to ensure that there are enough analysts to perform breath alcohol tests; and

WHEREAS, therefore, the undersigned has determined that the Secretary of Health and Human Services requires authority to extend these expiration dates by modifying or waiving regulatory requirements as necessary; and

WHEREAS, there continues to be a pressing need for mental health and substance use disorder treatment services and support services for individuals with intellectual and/or developmental disabilities ("MH/DD/SAS" services); and

WHEREAS, in the circumstances of the COVID-19 pandemic, many regulatory requirements for MH/DD/SAS programs cannot be met, and many MH/DD/SAS services may need to be provided in the form of telehealth; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements so that providers can continue to perform MH/DD/SAS services; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements to provide MH/DD/SAS services via telehealth; and

WHEREAS, during this State of Emergency, many participants in the Medicaid Programs of All-Inclusive Care for the Elderly ("PACE") are unable to congregate in PACE centers; and

WHEREAS, PACE participants are elderly and at high risk for severe illness or death from COVID-19; and

WHEREAS, the services provided by the PACE program to its participants remain necessary for life and health, so those services must be provided to participants at their homes; and

WHEREAS, because of the critical need for PACE participants to safely receive care, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of any legal constraints or regulations that impair providing PACE services at participants' homes; and

WHEREAS, ordinarily, pursuant to N.C. Gen. Stat. § 131E-138(a), no person or governmental unit may operate a home care agency without a license obtained from NCDHHS; and

WHEREAS, because of the critical need for PACE participants to safely receive care, the undersigned has determined that this license requirement should be interpreted in the circumstances of this State of Emergency and the urgent needs of North Carolinians for health care during the pandemic; and

WHEREAS, the undersigned has determined that the Division of Health Service Regulation may allow PACE programs to provide care in homes under certain conditions, stated herein; and

WHEREAS, employees at adult care homes must have criminal history records checks and controlled-substances screens; and

WHEREAS, in the circumstances of the COVID-19 pandemic, there are substantial delays in obtaining these checks and screens; and

WHEREAS, adult care homes need to continue to be able to hire new health care workers; and

WHEREAS, because of the critical need for health care providers to continue to hire new workers, the undersigned has determined that the Secretary of Health and Human Services requires authority to treat record-check and screening requirements as satisfied if those checks were performed by the employee's current employer or a previous employer where the employee had been working within the last thirty (30) days; and

WHEREAS, during the COVID-19 pandemic, the work of in-home aides must continue; and

WHEREAS, certain regulations regarding in-home aides' initial assessments and supervisory visits would, in these circumstances, put assessors, supervisors, aides, and patients at risk of COVID-19 infection; and

WHEREAS, the regulations for many DHHS programs currently require in-person applications or in-person assessments; and

WHEREAS, these regulations would, in these circumstances, create risk of COVID-19 spread; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of these regulatory requirements in order to allow remote assessments; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article"; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency or political subdivision which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30; and

WHEREAS, all the authority granted by this Executive Order is intended to be temporary, and the waivers and modifications of enforcement set out in this Executive Order are intended to extend only through the period where they are needed to address the COVID-19 pandemic.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Allowing Increases in Health Care Resources

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Authority to meet extraordinary health care needs**.

1. To meet the goal of providing health care and saving lives in response to the potential wave of illness brought on by the COVID-19 pandemic, and to meet the need for additional health care facility beds and technology to treat patients, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify

enforcement of any legal or regulatory constraints that would prevent or impair any of the following:

a. Increasing health care facilities' licensed bed capacity.

b. Relocating beds from a currently operating hospital, nursing home facility, or adult care home to another hospital, nursing home facility, adult care home, or other physical space.

c. Adding dialysis stations to an existing or approved kidney disease treatment center or hospital.

d. Relocating dialysis stations from a currently operating kidney disease treatment center to another physical space.

e. Acquisition by or on behalf of a hospital of Medical Imaging Equipment (as defined below).

f. Allowing an ambulatory surgical facility to operate as a temporary hospital.

2. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any of the following:

a. Any regulations on licensed bed capacity of adult care homes, including but not limited to 10A N.C. Admin. Code 13F .0206 and 13G .0206.

b. Any regulations on licensed bed capacity of mental health, developmental disabilities and substance abuse facilities, including but not limited to 10A N.C. Admin. Code 27G .0404(e).

c. Any regulations that are related to the provisions listed above.

3. These waivers or modifications must be consistent with the conditions established below. Facilities may increase, relocate, add, or acquire health care resources under this Section only after submitting a request to the Division of Health Service Regulation ("DHSR"), and receiving approval from DHSR under the process described below.

B. **Temporary nature of this Section**.

1. This Section allows only temporary increases, relocations, additions, acquisitions, or changes in status of health care resources. All increases, relocations, additions, or changes in status made under this Section's authority shall be allowed only through the duration of the State of Emergency, with an additional 30-day grace period following the State of Emergency. Any equipment acquired under this Section's authority must be returned no later than thirty (30) days following the end of the State of Emergency.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the Secretary has waived or modified enforcement under this Section.

C. **Affirming temporary waiver of hospital and nursing home facility licensed bed capacity**. The undersigned hereby affirms the temporary waiver of limitations on hospital and nursing home facility licensed bed capacity granted by DHSR in its March 12, 2020 Memorandum and April 3, 2020 Memorandum. These memoranda allow hospitals and nursing home facilities to request a temporary increase in licensed bed capacity.

D. **Process for requests to temporarily increase bed capacity or relocate beds**. Before any increase in licensed bed capacity or relocation of beds under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. A request for a temporary increase in licensed bed capacity must specify the number of additional beds requested.

3. A request for a relocation of beds must specify (i) the facility from which the beds will be moved and (ii) the facility to which the beds will be relocated.

4. All requests must include a description of the space that will be utilized, how it will be utilized, and the anticipated duration.

5. All requests must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the patients/residents; and

    c. The patients/residents will receive appropriate care and their health and safety will be safeguarded.

E. **Process for requests to add or relocate dialysis stations**. Before any increase in dialysis station capacity or relocation of dialysis stations under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail) by submitting a CMS Form 3427.

2. A request for a temporary increase in dialysis station capacity must specify the number of additional stations requested.

3. A request to temporarily relocate dialysis stations must specify (i) the facility from which the stations will be moved and (ii) the facility to which the stations will be relocated.

4. All requests must include a description of the space that will be utilized and the anticipated duration.

5. All requests must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

F. **Process for requests to acquire Medical Imaging Equipment**. Before acquisition of any Medical Imaging Equipment under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. The request to temporarily acquire Medical Imaging Equipment must include information documenting the preparations made for the mobile site location.

3. The request must include a description of the space that will be utilized and the anticipated duration.

4. The request must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

G. **Process for requests for an ambulatory surgical facility to operate as a temporary hospital**. Before an ambulatory surgical facility may operate as a temporary hospital, a request must have been submitted to, and approved by, DHSR. Upon approval, DHSR must issue a temporary hospital license and the ambulatory surgical facility operating as a hospital must follow the applicable hospital laws and rules as determined by DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. The request must include a description of the space that will be utilized and the anticipated duration.

3. The request must include an explanation that certifies that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

H. **Relationship to Certificate of Need requirements**.

1. Relocating beds without an immediate Certificate of Need. The undersigned directs DHSR that it may allow a relocation of beds, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

2. Adding or relocating dialysis stations without an immediate Certificate of Need. The undersigned directs DHSR that it may allow the addition or relocation of dialysis stations, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

3. Temporary acquisition of medical imaging equipment without an immediate Certificate of Need. The undersigned directs DHSR that it may allow temporary acquisition by or on behalf of a hospital of Medical Imaging Equipment, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

4. Operation of an ambulatory surgical facility as a temporary hospital without an immediate Certificate of Need. The undersigned directs DHSR that it may allow operation of an ambulatory surgical facility as a temporary hospital, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

I. **Definition**. In this Section, "Medical Imaging Equipment" means a mobile Magnetic Resonance Imaging (MRI) Scanner or a mobile Computed Tomography (CT) Scanner.

Section 2. Child Care Facilities for Covered Children

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver of enforcement of regulations**. To meet the goal of providing health care and protecting the public in response to the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

1. To waive or modify enforcement of any regulations on child care facility requirements, activities, records, orientation, continuing education, food, and attendance, including without limitation 10A N.C. Admin. Code 09 .0201, .0508, .0510, .0703(c) and (d), .0901, .1101(a), .1401(a) and (f), .1402(b), .1709, .1718, .1721(a)(1) and (a)(2), .2318(6), .2504, .2508, .2830, .3003, and .3005.

2. To waive or modify, by adding additional required health or emergency elements, enforcement of any regulations on child care facility staff qualifications, health and safety training, and sanitation requirements, including without limitation 10A N.C. Admin. Code 09 .0701(a), .0703(c) and (d), .1102, .1720, .1725, and .2401 to .2411, and 15A N.C. Admin. Code 18A .2803, .2827, and .2836.

3. To waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Guidelines for child care facility operation during pandemic**. NCDHHS shall establish certain emergency health, safety and operational guidelines (the "Emergency Facility Guidelines") for child care facilities that wish to open or remain open. When establishing these guidelines, the Secretary of the Department of Health and Human Services may exercise the authority delegated to her in Executive Order No. 119, Section 1, related to child care regulations. NCDHHS shall issue an Emergency Child Care Provider Application that may be signed by child care facilities attesting to their adherence with the Emergency Facility Guidelines.

C. **Children that may be served**. Child Care Facilities approved by NCDHHS to operate under the Emergency Facility Guidelines shall provide child care only to:

1. Children of employees of COVID-19 Essential Businesses and Operations, as defined in Executive Order No. 121; or

2. Children who are receiving child welfare services; or

3. Children who are homeless or who are living in unstable or unsafe living arrangements.

Collectively, these children are referred to as "covered children" in this Section.

D. **Opening or reopening**. Child care facilities which have signed the Emergency Child Care Provider Application and which have been approved by DHHS may remain open to serve covered children. Child Care Facilities which are currently closed and wish to reopen to serve covered children shall submit the Emergency Child Care Provider Application prior to reopening.

E. **Requirement to operate only under this Section**. Child care facilities shall not remain open except as authorized by this Section.

F. **Implementation**. NCDHHS shall develop a detailed process to implement this Section and shall maintain a registry of available child care for covered children.

G. **Temporary nature of this Section**.

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

H. **Relationship to Executive Order No. 119**. The provisions of this Section supplement, rather than restrict, the emergency authority provided in Section 1 of Executive Order No. 119.

Section 3. Increasing the Pool of Professional Health Care Workers

A. **Regulatory flexibility to expand the health care workforce**.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. Authority to meet extraordinary health care needs.

   a. To meet the goal of providing health care and saving lives in response to the wave of illness brought on by the COVID-19 pandemic, and to meet the need for additional health care workers to treat patients, the undersigned delegates to each professional health care licensure board the authority to waive or modify enforcement of any legal or regulatory constraints that would prevent or impair the following:

      i. Allowing persons to provide care if they are licensed in other states, territories, or the District of Columbia, but not licensed in North Carolina.

      ii. Allowing persons to provide care if they are retired or if their licenses are inactive.

      iii. Allowing skilled, but unlicensed volunteers to provide care.

      iv. Allowing students at an appropriately advanced stage of professional study to provide care.

   b. Without limiting the foregoing, the undersigned delegates to each professional health care licensure board the authority to accomplish the goals listed in Subdivision (a)(i)-(iv) above by waiving or modifying any of the following regulations:

      i. The regulations on admission and licensure for the practice of medicine, at 21 N.C. Admin. Code Chapter 32.

      ii. The regulations on admission and licensure for the practice of nursing, at 21 N.C. Admin. Code Chapter 36.

      iii. The regulations on admission and licensure for the practice of midwifery, at 21 N.C. Admin. Code Chapter 33.

      iv. The admission and licensure regulations for the social worker profession, at 21 N.C. Admin. Code Chapter 63.

      v. The regulations on admission and licensure for the practice of respiratory care, at 21 N.C. Admin. Code Chapter 61.

      vi. The admission and licensure regulations for the pharmacy profession, at 21 N.C. Admin. Code Chapter 46.

vii. The regulations on admission and licensure for the practice of speech language pathology/therapy, at 21 N.C. Admin. Code Chapter 64.

viii. The regulations on admission and licensure for the practice of psychology, at 21 N.C. Admin. Code Chapter 54.

ix. The regulations on admission and licensure for the practice of clinical mental health counseling, at 21 N.C. Admin. Code Chapter 53.

x. The admission and licensure regulations for substance use disorder professionals, at 21 N.C. Admin. Code Chapter 68.

xi. The regulations on admission and licensure for the practice of occupational therapy, at 21 N.C. Admin. Code Chapter 38.

xii. The regulations on admission and licensure for the practice of physical therapy, at 21 N.C. Admin. Code Chapter 48.

xiii. The regulations on admission and licensure for the practice of recreational therapy, at 21 N.C. Admin. Code Chapter 65.

xiv. The admission and licensure regulations for the profession of interpreters and transliterators, at 21 N.C. Admin. Code Chapter 25.

xv. The admission and licensure regulations for the profession of nursing home administrators, at 21 N.C. Admin. Code Chapter 37.

xvi. The admission and licensure regulations for the profession of assisted living administrators, at 10A N.C. Admin Code 13F .1701.

xvii. The admission and licensure regulations for the perfusionist profession, at 21 N.C. Admin. Code Subchapter 32V.

xviii. Any regulations that are related to the provisions listed above.

c. In each case, the professional health care licensure board shall have the authority to allow or not allow, in its discretion, these waivers or modifications, and the board shall have the authority to impose conditions on any persons authorized to provide care under this Subsection.

2. Posting waivers and modifications. Each professional health care licensure board shall document such waivers and modifications in writing and post them on their respective websites.

3. Guidance on training and qualifications. The professional health care licensure boards shall provide guidance on the training and qualifications necessary for their licensees to be ready to address workforce shortages in essential health care services needed to properly manage this State of Emergency.

4. No reduction in existing waiver authority. Nothing in this Subsection shall limit the existing statutory waiver authority of any board.

5. Temporary nature of this Subsection.

a. Waivers and modifications under authority of this Subsection are temporary and shall be effective only for the duration of this Executive Order.

b. The undersigned delegates to each professional health care licensure board the authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the board has waived or modified enforcement under this Subsection.

6. This Subsection supersedes the first paragraph of Section 16 of Executive Order No. 116. Any persons licensed in other states, territories, or the District of Columbia who are providing health care services under the authority of the first paragraph of Section 16 of Executive Order No. 116 may continue to provide those services through April 15, 2020, unless otherwise authorized by a professional health care licensure board under the authority delegated in this Subsection.

B. **Utilizing the Emergency Management Assistance Compact ("EMAC")**.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. EMAC requests. The State Director of Emergency Management shall identify resources that are available for response to Emergency Management Assistance Compact ("EMAC") requests. EMAC requests shall be coordinated through the State Director of Emergency Management and shall be fulfilled once authorized by the State Director of Emergency Management.

2. Out-of-state licensees; telehealth. For the pendency of the State of Emergency: (i) a health provider licensed, registered, or certified in good standing in another United States jurisdiction (or reinstated pursuant to emergency action) may apply for an emergency license with the appropriate North Carolina licensing board and, if deemed eligible and licensed, may deliver services in North Carolina, including through any remote telecommunications technologies (telehealth), provided those services are within the provider's authorized scope of practice in such other jurisdiction; and (ii) any restrictions under North Carolina state law restricting the use of telecommunications technologies (telehealth) by a health provider licensed in North Carolina, whether through a standard license or emergency license, have their enforcement waived.

3. Deemed licensed. Pursuant to N.C. Gen. Stat. § 166A-45, when assistance is requested by North Carolina, any person who holds a license, certificate, or other permit issued by another United States jurisdiction evidencing the meeting of qualifications for professional, mechanical, or other skills shall be deemed licensed, certified, or permitted by this state to render aid involving skill to meet the declared State of Emergency, subject to any limitations and conditions the undersigned may prescribe by executive order or otherwise.

   Furthermore, any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any emergency management workers as defined in N. C. Gen. Stat. § 166A-19.60(e) who shall, in the course of performing the workers' duties as such, practice such professional, mechanical, or other skill during a state of emergency.

4. The provisions of this Subsection 3(B) supplement, rather than restrict, the persons and types of health care practice that are authorized under Subsection 3(A) above.

5. Limitation of liability.

   a. Pursuant to N.C. Gen. Stat. § 166A-46, officers and employees and emergency management workers as defined in N.C. Gen. Stat. § 166A-19.60(e) are considered agents of the State of North Carolina for tort liability and immunity purposes; and no officers, employees or emergency management workers rendering aid in North Carolina pursuant to the Compact shall be liable for any act or omission occurring as a result of a good faith attempt to render aid or as a result of the use of any equipment or supplies used in connection with an attempt to render aid. For the purposes of this Executive Order, "good faith" does not include willful misconduct, gross negligence, or recklessness.

   b. All persons participating in a response authorized by the State Director of Emergency Management to an EMAC request shall be considered state emergency management workers as defined in N.C. Gen. Stat. § 166A-19.60(e) for the purposes of EMAC.

6. Temporary nature of this Subsection.

    a. Actions under authority of this Subsection are temporary and shall be effective only for the duration of this Executive Order.

    b. The undersigned delegates to the State Director of Emergency Management the authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the Director has waived or modified enforcement under this Subsection.

C. **Limitation of liability under N.C. Gen. Stat. § 166A-19.60**.

N.C. Gen. Stat. 166A-19.60(e) defines "emergency management workers" as follows:

> As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this State or other states, territories, possessions, or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2 [recodified as G.S. 90-12.5].

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. All persons who are licensed or otherwise authorized under this Executive Order to perform professional skills in the field of health care are hereby requested to provide emergency services to respond to the COVID-19 pandemic and, to the extent they are providing emergency services, therefore constitute "emergency management workers" to the extent allowed under N.C. Gen. Stat. § 166A-19.60(e).

2. Therefore, the undersigned intends that all such emergency management workers should be insulated from civil liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith.

Section 4. Public Health

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations**. To meet the goal of providing human services during the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

1. To waive or modify, in order to provide necessary relief to restaurants continuing to provide carry-out, delivery, and drive-through services, the expiration date of transitional food establishment permits under 15A N.C. Admin. Code 18A.2659(b) issued from January 1, 2020 to June 30, 2020 for 180 days.

2. To waive or modify, in order to ensure there are sufficient analysts permitted to conduct breath alcohol tests, the expiration date of analyst permits under 10A N.C. Admin. Code 41B .0302(a) otherwise set to expire from March 10, 2020 to June 30, 2020 for twelve (12) months.

3. To waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Temporary nature of this Section**.

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the periods listed above.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 5. Mental Health, Developmental Disabilities and Substance Abuse Services

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations**. Health care remains an essential service during this State of Emergency, including mental health and substance use disorder treatment services and support services for individuals with intellectual and/or developmental disabilities ("MH/DD/SAS" services). In order to help protect the health and well-being of North Carolinians by allowing access to MH/DD/SAS services and MH/DD/SAS facilities during this State of Emergency:

1. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any MH/DD/SAS regulatory constraints that would prevent or impair any of the following:

    a. Continued provision of MH/DD/SAS Services.

    b. Providing MH/DD/SAS Services via real-time, two-way audio and/or video teleconferencing ("Telehealth").

2. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any of the following:

    a. Regulations on minimum periodic retraining and demonstration of competence requirements for non-restrictive and restrictive interventions, including without limitation 10A N.C. Admin. Code 27E .0107, 27E .0108, 28D .0209, and 28D .0210.

    b. Regulations on minimum program teaching requirements for non-restrictive and restrictive interventions trainers, including but not limited to 10A N.C. Admin. Code 27E .0107(i)(7) and .0108(i)(10).

    c. Regulations on requiring that Associate Professionals must have individualized supervision plans upon hiring, including but not limited to 10A NCAC 27G .0203(f) and 10A NCAC 27G .0204(f).

    d. Regulations setting minimum hours per week for licensed professionals at Residential Treatment Staff Secure Facilities, including but not limited to 10A N.C. Admin. Code 27G .1705(a).

    e. Regulations setting requirements for the direct service ratio at Adult Developmental and Vocational Programs (ADVP) for Individuals with Developmental Disabilities, including but not limited to 10A N.C. Admin. Code 27G .2303(d).

    f. Regulations, including but not limited to N.C. Admin. Code 10A NCAC 28D .0102(c), setting requirements for annual exams to the extent that they require delivery of non-essential medical services.

    g. Regulations setting requirements for multiple staff members to be in the presence of the client at all times, including but not limited to 10A N.C. Admin. Code 27G .1402(b).

h. Regulations setting a maximum date after which an adolescent may not remain in a day treatment facility for children and adolescents with behavioral or emotional disturbances, including but not limited to 10A N.C. Admin. Code 27G .1403.

i. Regulations regarding factors for determining program compliance for purposes of take-home eligibility, including but not limited to 10A N.C. Admin. Code 27G .3602(6).

j. Regulations setting the ratio of certified drug abuse or substance abuse counselors to clients, including but not limited to 10A N.C. Admin. Code 27G .3603(a).

k. Regulations regarding conditions for determining levels of take-home eligibility, including but not limited to 10A N.C. Admin. Code 27G .3604(f)(1).

l. Regulations regarding the minimum frequency for the conduct, and program staff observation of, random testing for alcohol and other drugs on each active opioid treatment client, including but not limited to requirements set forth in 10A N.C. Admin. Code 27G .3604(h).

m. Regulations setting limitations on the class session schedule at drug education schools, including but not limited to 10A N.C. Admin. Code 27G .3903(e)(5).

n. Regulations on routine drug screens, staffing, minimum operational hours and days per week, and minimum service hours per week at Substance Abuse Intensive Outpatient Programs, including but not limited to 10A N.C. Admin. Code Subchapter 27G, Section 4400.

o. Regulations on routine drug screens, staffing, minimum operational hours and days per week, and minimum service hours per week at Substance Abuse Comprehensive Outpatient Programs, including but not limited to 10A N.C. Admin. Code Subchapter 27G, Section 4500.

p. Regulations limiting cumulative provision of private home respite services, including but not limited to 10A N.C. Admin. Code 27G .5101(b).

q. The requirement set forth in 10A N.C. Admin. Code 27G .5601(g) defining "F" designation facility as a facility in a private residence which serves no more than three adult clients whose primary diagnosis is mental illness, to the limited extent necessary to also allow for service of minor clients whose primary diagnosis is mental illness in this setting.

r. Regulations establishing specific time frame requirements for the steps of the non-Medicaid appeals process, including but not limited to 10A N.C. Admin. Code Subchapter 27I.

s. State MH/DD/SAS administrative rule provisions requiring that services, assessments, interviews, consultations, counseling, crisis or emergency responses, or other client contacts be provided in-person or face-to-face in connection with delivery of MH/DD/SAS Services, including but not limited to 10A N.C. Admin. Code 27G .1705(a), .3602(8), .3805(3), .3807(b), .4003(c)(2), .4403(a), .4503(f), .5703(c), and .6102(b).

t. State MH/DD/SAS administrative rule provisions requiring MH/DD/SAS Services to be furnished in a group setting, including but not limited to 10A N.C. Admin. Code 27B .0401(a), .3401, .3602(8), .3603, .3701(a), .4101, .4501, and .5401(a).

u. State MH/DD/SAS administrative rule provisions requiring day/night treatment facilities for substance use disorders to provide services at the facility or program site setting, including but not limited to 10A N.C. Admin. Code 27G .2301(d).

v. State MH/DD/SAS administrative rule provisions requiring substance abuse treatment programs to operate in a setting separate from the client's residence, including but not limited to 10A N.C. Admin. Code 27G .4403(a) and .4503(a).

w. State MH/DD/SAS administrative rule provisions that require adult developmental and vocational programs for individuals with developmental disabilities to provide a majority of services and activities on the program site premises, including but not limited to 10A N.C. Admin. Code 27G .2301(d).

x. Any regulations that are related to the provisions listed above.

3. These waivers or modifications must be to the extent clinically appropriate and in accordance with appropriate mitigation measures in effect during the COVID-19 pandemic.

B. **Temporary nature of this Section**.

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 6. Health Services Licensure

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. Program of All-Inclusive Care for the Elderly ("PACE") entities to provide in-home care.

1. Allowing in-home care.

a. To meet the goals of providing all-inclusive care, preventing the spread of COVID-19 within a highly vulnerable population, and saving lives during the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any legal or regulatory constraints that would prevent or impair any of the following:

i. Providing in an in-home setting the services of the Program of All-Inclusive Care for the Elderly ("PACE").

b. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to accomplish the goal listed in Subdivision (a)(i) above by waiving or modifying any of the following regulations:

i. Any regulations on licensure of home care agencies, including but not limited to 10A N.C. Admin. Code Subchapter 13J.

ii. Any regulations that are related to the provisions listed above.

c. These waivers or modifications must be consistent with the conditions established below.

2. Duration of in-home PACE care. Any in-home PACE care authorized under this Subsection shall be allowed only for the period of March 25, 2020 through the expiration of this Executive Order.

B. **Waivers or modifications of enforcement of in-home aide rules**.

1. To meet the goal of providing health care and protecting the public in response to the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

    a. To waive or modify enforcement of any regulations on initial assessment for agencies providing in-home aide services, including but not limited to 10A N.C. Admin. Code 13J .1107.

    b. To waive or modify enforcement of any regulations on supervisory visits for in-home caregivers, including but not limited to 10A N.C. Admin. Code 13J .1110.

    c. To waive or modify enforcement of any regulations that are related to the provisions listed above.

2. These waivers or modifications must be consistent with the conditions established below.

3. During the State of Emergency, initial assessments must be conducted, but may be conducted utilizing eligible technologies that allow the health care practitioner to remotely communicate and evaluate the client's functional status in the area of social, mental, physical health, environmental, economic, activities of daily living, and instrumental activities of daily living. Initial assessments can be delivered via any HIPAA-compliant, secure technology with audio and video capabilities including (but not limited to) smart phones, tablets and computers.

4. During the State of Emergency, supervisory visits must be conducted, but may be conducted utilizing eligible technologies that allow the supervising Registered Nurse to remotely communicate and evaluate services rendered. Supervisory visits can be delivered via any HIPAA-compliant, secure technology with audio and video capabilities including (but not limited to) smart phones, tablets and computers. If the provider is unable to conduct supervisory visits via the above method, the provider must develop and implement a procedure that details the method in which the Registered Nurse will monitor the client's care with review of the client's general condition, progress, and response to the services provided by the in-home caregiver.

C. **Additional time to screen new hires because of disruptions to fingerprinting**.

1. NCDHHS has informed the undersigned that because of the COVID-19 crisis, certain private health care facilities, including those facilities that serve the elderly and at-risk population, are facing extreme difficulty in maintaining their workforce.

2. In particular, the failure of some counties to offer fingerprinting has delayed completion of nationwide background checks, which require fingerprints. Therefore, national background checks cannot be performed, although state background checks can still be performed. National background checks are required for certain new hires. State background checks can and should continue.

3. Therefore, the Secretary of Health and Human Services may authorize health care facilities (other than child care providers) to accept a written verification from a potential new hire's current employer (or most recent employer within 30 days) as a temporary measure in lieu of the national portion of the Criminal History Records Check, so long as the following conditions are also satisfied:

    a. The state background check portions of the Criminal History Records Check must be completed as required by statute.

    b. This authorization is only provided in areas of North Carolina where fingerprinting is not available.

c. The national background check portions of the Criminal History Records Check must be completed for the new hire as soon as possible once fingerprinting becomes available. Moreover, under no circumstances may the national background check be completed later than within thirty (30) days following the end of the State of Emergency.

d. The current or previous employer's written verification must be in a form that meets guidelines to be established by DHSR. To be acceptable, the verification must show that the potential new hire passed both the national background check and state background check portions of a Criminal History Records Check while at the employer providing the verification.

4. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to accomplish the goal listed in Subdivision (1) above by modifying any of the following regulations:

   a. 10A N.C. Admin. Code 13F .0407(a)(7), on background checks for staff of an adult care home.

   b. 10A N.C. Admin. Code 13G .0406(a)(7), on background checks for staff of a family care home.

   c. Any regulations that are related to the provisions listed above.

   These waivers or modifications must be consistent with the conditions established above.

5. Nothing herein shall relieve any pre-existing obligation for any health care facility to run a criminal records check based on a job applicant's name prior to the date the applicant begins work.

D. **Temporary nature of this Section**.

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 7. Social Services Programs and Licensure

For the reasons and pursuant to the authority set forth above, and to meet the goal of providing human services during the COVID-19 pandemic, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations**.

1. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0601(6) that an applicant or his designated representative apply in person for the State/County Special Assistance Program at a county department of social services. Upon receipt of an application by mail or via electronic submission, the county department of social services shall make alternative arrangements with the applicant.

2. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0701 that certain State/County Special Assistance Program eligibility factors be reviewed at least once every 12 months. Review of the required eligibility factors shall occur within ninety (90) days of the date this Executive Order terminates, or the Special Assistance payment for the first month following the month in which the ninety (90) days end shall not be issued.

3. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0903(c)(1) that causes a loss of benefits upon leaving a Special Assistance-Adult Care Home facility for greater than thirty (30) calendar days. This authority shall apply only if benefit recipients leave the facility for their health and safety.

4. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any visit or supervisory visit established in Subchapters 06A and 06X of Title 10A of the North Carolina Administrative Code. Visits and/or supervisory visits shall still occur in frequency and in scope as set forth in the agency's rules and policies. Visits or supervisory visits may be conducted by making other HIPAA-compliant arrangements including audio or visual means such as a telephone call or video meeting.

5. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any assessment, reassessment, or quarterly visit in Subchapter 06D of Title 10A of the North Carolina Administrative Code. Assessments, reassessments or quarterly visits shall still occur in frequency and in scope as set forth in the agency's rules and policies. Assessments, reassessments or quarterly visits may be conducted by making other HIPAA-compliant arrangements including audio or visual means such as a telephone call or video meeting.

6. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any visit or interview in Subchapters 70I and 70K of Title 10A of the North Carolina Administrative Code. Other requirements for that visit or interview are maintained.

7. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the direct care service personnel standards for licensure of residential child-care facilities in 10A N.C. Admin. Code 70I .0405(f)(2)(B) and (C).

8. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirements of 10A N.C. Admin. Code 70E .0704 and 10A N.C. Admin. Code 70E .1108 requiring a fire and building safety inspection prior to relicensure, so long as the foster home has had a satisfactory fire and building inspection completed within the previous 30 months and can attest to the standards set forth in 10A N.C. Admin. Code 70E .1108(b). Any foster home relicensed pursuant to this waiver shall obtain such required inspections within sixty (60) days of the date this Executive Order terminates, or such license shall immediately expire.

9. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Temporary nature of this Section**.

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 8. No Private Right of Action

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 9. Savings Clause

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 10. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 11. Effective Date

Except where otherwise stated above, this Executive Order is effective immediately. This Executive Order shall remain in effect for sixty (60) days unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

Unless otherwise expressly stated in another Executive Order, Section 1(B)(1) of this Executive Order shall remain in effect for thirty (30) days following the termination of the remainder of this Executive Order, and the relief from permit expiration dates provided in Section 4(A) of this Executive Order shall remain in effect following the termination of the remainder of this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State