STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

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IN THE OFFICE OF
SECRETARY OF STATE

May 1, 2020 EXECUTIVE ORDER 2020-35

EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 33)

WHEREAS, Coronavirus Disease 2019 (COVID-19) has rapidly spread throughout Illinois in a short period of time, necessitating stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

WHEREAS, COVID-19 spreads among people through respiratory transmissions and presents with symptoms similar to those of influenza; and,

WHEREAS, on March 11, 2020, the World Health Organization (WHO) characterized the COVID-19 outbreak as a pandemic; and,

WHEREAS, despite efforts to contain COVID-19, the WHO and the federal Centers for Disease Control and Prevention (CDC) have declared that it is expected to continue spreading; and,

WHEREAS, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area (the First Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19; and,

WHEREAS, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area (the Second Gubernatorial Disaster Proclamation) as a result of the exponential spread of COVID-19; and,

WHEREAS, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to address the potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area (the Third Gubernatorial Disaster Proclamation, and, together with the First and Second Gubernatorial Disaster Proclamations, the Gubernatorial Disaster Proclamations); and,

WHEREAS, certain populations are at a higher risk of experiencing severe illness as a result of COVID-19, including older adults and people who have serious chronic health conditions such as heart disease, diabetes, lung disease or other conditions; and,

WHEREAS, Executive Order 2020-32, requires that Illinoisans stay at home to the greatest extent possible, other than for essential activities, essential governmental functions, or to operate essential businesses and operations; and,

WHEREAS, in order to minimize the spread of COVID-19 in Illinois, Executive Order 2020-32, mandates social distancing, consisting of maintaining at least a six-foot distance between people, which is a paramount strategy for minimizing the spread of COVID-19; and,

WHEREAS, the facilities licensed by the Illinois Department of Public Health (IDPH) pursuant to the Assisted Living and Shared Housing Act, 210 ILCS 9; the Nursing Home Care Act, 210

ILCS 45; the MC/DD Act, 210 ILCS 46; the ID/DD Community Care Act, 210 ILCS 47; and Specialized Mental Health Rehabilitation Act of 2013, 210 ILCS 49, are essential human services operations pursuant to Executive Order 2020-32; and,

WHEREAS, pursuant to the Assisted Living and Shared Housing Act, 210 ILCS 9, IDPH regulates assisted living establishments and shared housing establishments through annual on-site reviews, on-site complaint investigations, issuance of probationary licenses for a period no longer than 120 days, and complete inspections of each facility 30 days prior to the expiration of a probationary license; and,

WHEREAS, pursuant to the Nursing Home Care Act, 210 ILCS 45; the MC/DD Act, 210 ILCS 46; and the ID/DD Community Care Act, 210 ILCS 47, IDPH regulates skilled and intermediate nursing facilities, medically complex facilities for the developmentally disabled, and intermediate care facilities for persons with developmental disabilities, through inspections 120 days prior to license renewal, on-site complaint investigations, on-site facility plan reviews, issuance of probationary licenses for a period no longer than 120 days, and complete inspections of each facility 30 days prior to the expiration of a probationary license; and,

WHEREAS, pursuant to the Specialized Mental Health Rehabilitation Act of 2013, 210 ILCS 49, IDPH regulates long term care facilities that specialize in providing services to individuals with a serious mental illness, through surveys to determine compliance and investigate complaints, and issuance of provisional licenses for a period no longer than three years; and,

WHEREAS, individuals who are employed as nursing assistants, habilitation aides, and child care aides at facilities licensed by IDPH pursuant to the Nursing Home Care Act, 210 ILCS 45; the MC/DD Act, 210 ILCS 46; and the ID/DD Community Care Act, 210 ILCS 47, are required to successfully complete a nurse aide training program approved by IDPH within 120 days after the date of initial employment; and,

WHEREAS, individuals currently enrolled in a nurse aid training program required by the Nursing Home Care Act, 210 ILCS 45; the MC/DD Act, 210 ILCS 46; and the ID/DD Community Care Act, 210 ILCS 47, are currently unable to complete nurse aide training because schools that provide such training are closed during this public health emergency; and,

WHEREAS, pursuant to the Nursing Home Care Act, 210 ILCS 45/3-401(d); the MC/DD Act, 210 ILCS 46/3-401; and the ID/DD Community Care Act, 210 ILCS 47/3-401, a long-term care facility within the State of Illinois may involuntarily transfer or discharge a resident only for one or more certain enumerated reasons, including for their failure to make payment for regularly incurred charges; and,

WHEREAS, as provided for under the Nursing Home Care Act, 210 ILCS 45/3-403, a long-term care facility resident has the right to appeal a notice of involuntary transfer or discharge by filing a request for a hearing with IDPH; however, COVID-19 threatens the ability of IDPH's Bureau of Administrative Hearings to ensure that all residents have a timely and meaningful opportunity to appeal a notice of involuntary transfer or discharge for failure to make payment; and,

WHEREAS, IDPH regulates the following industries and professions that provide services to the residents of Illinois: plumbers, plumbing contractors, and irrigation contractors pursuant to the Illinois Plumbing License Law, 225 ILCS 320, and the Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code; structural pest control businesses pursuant to the Structural Pest Control Act, 225 ILCS 235; milk hauler-samplers pursuant to the Grade A Pasteurized Milk and Milk Products Act, 410 ILCS 635; and the Illinois Food, Drug and Cosmetic Act, 410 ILCS 620; mobile home parks pursuant to the Mobile Home Park Act, 210 ILCS 115; tanning facilities pursuant to the Tanning Facility Permit Act, 210 ILCS 145; and body art establishments pursuant to the Tattoo and Body Piercing Establishment Registration Act, 410 ILCS 54; and,

WHEREAS, the Illinois Speech-Language Pathology and Audiology Practice Act, 225 ILCS 110/8.8, mandates that a speech-language pathology assistant be under the direct supervision of a speech-language pathologist, which requires in-person contact; and,

WHEREAS, for the preservation of public health and safety throughout Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take additional significant measures consistent with public health guidance to slow and stop the spread of COVID-19; and,

WHEREAS, it is necessary to suspend certain routine regulatory activities by IDPH to ensure essential human services operations are able to continue to operate during the COVID-19 pandemic, to preserve the resources of IDPH to address the urgent issues presented by the COVID-19 pandemic, and to limit the potential exposure of IDPH employees to COVID-19; and,

WHEREAS, it is necessary to expand the State's health care workforce in response to the increased staffing needs of health care facilities during this public health emergency;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby order the following, effective immediately and for the remainder of the duration of the Gubernatorial Disaster Proclamations:

Section 1. The provisions of the Assisted Living and Shared Housing Act, 210 ILCS 9/40; the Nursing Home Care Act, 210 ILCS 45/3-116; the MC/DD Act, 210 ILCS 46/3-116; and the ID/DD Community Care Act, 210 ILCS 47/3-116, requiring that (a) a probationary license shall be valid for 120 days unless sooner suspended or revoked, and (b) IDPH shall fully and completely review the establishment or facility within 30 days prior to the termination of a probationary license, are suspended for the duration of the Gubernatorial Disaster Proclamations. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 2. The provisions of the Nursing Home Care Act, 210 ILCS 45/3-702(d); the MC/DD Act, 210 ILCS 46/3-702(d); and the ID/DD Community Care Act, 210 ILCS 47/3-702(d), mandating that IDPH investigate complaints unrelated to allegations of abuse and neglect within 30 days of receipt, are suspended. IDPH shall continue to investigate complaints alleging abuse or neglect, including those indicating a resident's life or safety is in imminent danger, pursuant to the statutory time frames.

Section 3. The provision of the Specialized Mental Health Rehabilitation Act of 2013, 210 ILCS 49/4-105, requiring that provisional licenses issued upon initial licensure as a specialized mental health rehabilitation facility shall expire at the end of a 3-year period, is suspended. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 4. The provisions of the Assisted Living and Shared Housing Act, 210 ILCS 9/30(a) and 210 ILCS 9/110(a), requiring that IDPH conduct an annual on-site review for each establishment covered by the Act and an annual unannounced on-site visit at each assisted living and shared housing establishment, are hereby suspended. IDPH will conduct the on-site review and annual unannounced on-site visits to the extent feasible.

Section 5. The following provisions of the Nursing Home Care Act, 210 ILCS 45, are hereby suspended:

a) The requirement that IDPH shall conduct an on-site review at each facility annually or as often as necessary to ascertain compliance with the program plan, pursuant to 210 ILCS 45/3-102.2, except that IDPH will continue to conduct on-site reviews to the extent feasible;
b) The requirement that IDPH shall conduct an on-site inspection of the completed construction project no later than 30 days after notification from the applicant, pursuant to 210 ILCS 45/3-202.5(g); and
c) The requirement that IDPH shall conduct an on-site inspection of the completed construction project no later than 45 working days after notification from the applicant, pursuant to 210 ILCS 45/3-202.6(e).

Section 6. The provisions of the MC/DD Act, 210 ILCS 46/3-202.5(g), and the ID/DD Community Care Act, 210 ILCS 47/3-202.5(g), requiring that IDPH shall conduct an on-site inspection of the completed construction project no later than 30 days after notification, is suspended.

Section 7. The provisions of the Nursing Home Care Act, 210 ILCS 45/3-206(a)(5); the ID/DD Community Care Act, 210 ILCS 47/3-206(a)(5); and the MC/DD Act, 210 ILCS 46/3-206(a)(5), requiring nursing assistants, habilitation aids, and child care aides to successfully complete a

Department-approved Basic Nursing Assistant Training Program within 120 days after the date of initial employment, is suspended. The requirement that nursing assistants, habilitation aids, and child care aides successfully complete the program is not suspended.

Section 8. The following provisions of the Illinois Plumbing License Law, 225 ILCS 320, and the corresponding regulations, are suspended:

a) The requirement that every irrigation contractor doing business in this State shall annually register with IDPH pursuant to 225 ILCS 320/2.5(a);
b) The requirement that no licensed apprentice plumber shall serve more than a 6 year licensed apprenticeship period pursuant to 225 ILCS 320/3(4)(i);
c) The requirement that IDPH hold examinations for applicants for plumbers' licenses at least once every three months at some place in this State pursuant to 225 ILCS 320/9; and
d) The requirement that all plumber's licenses and apprentice plumber's licenses issued under the law shall expire on April 30 next following date of issuance pursuant to 225 ILCS 320/14.

Such registration requirements and licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 9. The provision of the Structural Pest Control Act, 225 ILCS 235/7, requiring IDPH or its designee to conduct written examinations at least 4 times each year, is suspended.

Section 10. The provisions of the Grade A Pasteurized Milk and Milk Products Act, 410 ILCS 635/5, and Illinois Food, Drug and Cosmetic Act, 410 ILCS 620/21.2, requiring that permits issued to milk hauler-samplers shall expire on March 31 of each year, are suspended. Such permits that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 11. The provision of the Mobile Home Park Act, 210 ILCS 115/3, requiring renewal of licenses of mobile home parks by April 30 of each year is suspended. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 12. The provision of the Tanning Facility Permit Act, 210 ILCS 145/15(a), requiring annual renewal of permits issued by IDPH, is suspended. Such permits that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 13. The provision of the Tattoo and Body Piercing Establishment Registration Act, 410 ILCS 54/35(a), requiring the annual renewal of certificates of registration, is suspended. Such certificates of registration that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

Section 14. The provisions of the Nursing Home Care Act, 210 ILCS 45/3-401(d); MC/DD Act, 210 ILCS 46/3-401; and ID/DD Community Care Act, 210 ILCS 47/3-401, permitting a long-term care facility to initiate an involuntary transfer or discharge of a resident for late payment or nonpayment, is suspended.

Section 15: The provision of the Illinois Speech-Language Pathology and Audiology Practice Act, 225 ILCS 110/8.8(e), defining "direct supervision" of speech-language pathology assistants as "on-site, in-view observation and guidance by a speech-language pathologist" is suspended for the limited purpose of allowing speech-language pathology assistants to receive supervision by speech-language pathologists by way of video conferencing technology.

Section 16. This Executive Order and any emergency rules promulgated by IDPH shall be interpreted consistent with any waivers, regulations, other official guidance issued by the federal Centers for Medicare and Medicaid Services or the U.S. Department of Health and Human Services pertaining to nurse aides.

Section 17. If any provision of this Executive Order or its application to any person or circumstance 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.

JB Pritzker, Governor

Issued by the Governor May 1, 2020
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