

A JOINT RESOLUTION extending emergency executive actions and declaring an emergency.

WHEREAS, emergency executive orders, administrative regulations, and other directives have been issued by the Governor and executive branch agencies in response to the SARS-COV-2 virus; and

WHEREAS, KRS 39A.090 limits certain emergency executive actions, administrative regulations, and directives issued by the Governor to 30 days unless an extension is approved by the General Assembly, and some of the SARS-COV-2 emergency executive actions, administrative regulations, and other directives set out herein were extended by 2021 HJR 77 to 90 days after March 30, 2021; and

WHEREAS, a number of SARS-COV-2 emergency executive orders, administrative regulations, or directives need to be extended past the expiration date set out in 2021 HJR 77 and continued until January 15, 2022 in order to protect the citizens of Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. All SARS-COV-2-related executive orders issued by the Governor and all executive actions and administrative orders, administrative regulations, or other administrative actions not specifically extended by this Resolution are of no further force or effect as of the effective date of this Resolution.

➔Section 2. The General Assembly hereby approves, extends, and in some cases modifies as stated, the following executive orders issued in response to the SARS-COV-2 virus, and declares that the same shall be in effect until and expire on January 15, 2022:

(1) 2020 Executive Order 2020-215, which declared a state of emergency, to the extent necessary to:

(a) Secure current or future federal funding, including reimbursements, related to the SARS-COV-2 virus;

- (b) Preserve the protections and status afforded by 2021 RS SB 5, 2021 Ky. Acts ch. 205; and
 - (c) Extend 2020 RS SB 150, 2020 Ky. Acts ch. 73, until January 15, 2022, to the extent the provisions are not superseded by statute or administrative regulation;
- (2) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order 2021-666, related to the dispensing of pharmaceuticals;
 - (3) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order 2021-665, related to price gouging;
 - (4) 2020 Executive Order 2020-220, related to health insurers waiving costs for COVID-19 screening, testing, and immunizations;
 - (5) 2020 Executive Order 2020-265, related to retired first responders returning to work during an emergency;
 - (6) 2020 Executive Order 2020-266, related to retired state employees returning to work during an emergency, except the provisions in paragraphs 8 and 9;
 - (7) 2020 Executive Order 2020-277, related to temporary disability from occupational exposure to COVID-19, except the provisions in paragraph 3;
 - (8) 2020 Executive Order 2020-243 to the extent that the order:
 - (a) Encourages social distancing among citizens; and
 - (b) Requires state agencies to:
 - 1. Encourage social distancing;
 - 2. Provide and conduct services by mail, Internet, phone, and/or video conferencing;
 - 3. Extend licenses, credentials, or certificates that require in-person appearances or education for renewal;
 - 4. Permit education and continuing education to be satisfied online;
 - 5. Extend deadlines for statutory or regulatory reporting; and

6. Extend deadlines for payments of fees, taxes, and assessments, and waive late payment penalties incurred;
- (9) Secretary of the Governor's Executive Cabinet Order dated March 31, 2020, related to the suspension of statutes and administrative regulations that require advanced practice nurses to have collaborative agreements with physicians in order to prescribe legend drugs and controlled substances; and
- (10) Secretary of the Governor's Executive Cabinet Order dated April 24, 2020, related to the "practice of pharmacy" shall include initiating, ordering, and administering SARS-COV-2 testing.

➔Section 3. The General Assembly hereby approves, ratifies, modifies, and extends the following executive actions and administrative regulations issued by a cabinet, agency, or department in response to the SARS-COV-2 virus until January 15, 2022:

- (1) Labor Cabinet Administrative Order 2020-001, dated April 10, 2020, related to the allowing of digital signatures;
- (2) Cabinet for Health and Family Services Order, dated July 8, 2021, related to not requiring a clinician's order to administer, bill, or insure SARS-COV-2 testing and prohibiting cost sharing;
- (3) Education and Workforce Development Administrative Order 2020-02 paragraphs 5, 7, 9, and 10 only, related to unemployment insurance;
- (4) Education and Workforce Development Administrative Order 2020-07 dated July 30, 2020, related to unemployment insurance clarification per federal law;
- (5) Labor Cabinet Administrative Order 2021-02, dated May 24, 2021, related to permitting auto industry employers to file electronically for unemployment insurance benefits for employees with recall rights;
- (6) Personnel Cabinet Memorandum No. 21-14, dated August 5, 2021, except that the annual leave shall be leave only and shall not be credited for compensation;

- (7) Cabinet for Health and Family Services Directive, dated August 18, 2021, related to out of state medical providers providing COVID-19 services;
- (8) Cabinet for Health and Family Services Directive dated August 8, 2021, related to SARS-COV-2 testing waivers;
- (9) The Department of Financial Institution's Guidance issued June 5, 2021, and any extension, but not including Section 2 of the Guidance;
- (10) The Department of Financial Institutions Guidance, undated, related to waiving the requirement for physical signatures on U4 forms and updates on annual filings;
- (11) 201 KAR 8:505E, Administration of COVID-19 immunizations;
- (12) Energy and Environment Cabinet Emergency Bulletin to all solid waste management facilities from the secretary of the Energy and Environment Cabinet dated March 26, 2020, related to the response to the request of the National Waste and Recycling Association dated March 24, 2020 asking that the Department for Environmental Protection consider granting relief or flexibility to certain administrative regulations concerning the handling, storage, and disposal of solid waste and recycling materials;
- (13) Energy and Environment Cabinet Memorandum to Department of Environmental Protection staff from the secretary of the Energy and Environment Cabinet dated March 26, 2020, related to the SARS-COV-2 state of emergency, method 9 visual opacity measurements, and asbestos certification/accreditation renewals;
- (14) Energy and Environment Cabinet Memorandum to the staff of the Department of Environmental Protection, for dissemination, from the secretary of the Energy and Environment Cabinet, dated March 26, 2020, related to SARS-COV-2 state of emergency, waste water operators certification;
- (15) Energy and Environment Cabinet Memorandum to Department of Natural Resources staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated May 4, 2020, related to the SARS-COV-2 state of

- emergency extension of miner training deadlines;
- (16) Energy and Environment Cabinet and Public Service Commission Memorandum dated July 31, 2020, related to the SARS-COV-2 state of emergency, requests for temporary flexibility relating to the specific instruction program conducted by the Kentucky Public Service Commission for water district commissioners under KRS 74.020(8)(b);
 - (17) Energy and Environment Cabinet Memorandum to Department of Environmental Protection staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated August 6, 2020, related to the SARS-COV-2 state of emergency, requests for temporary regulatory flexibility relating to the consideration of the use of enforcement discretion for regulated entities for issues of noncompliance caused by SARS-COV-2;
 - (18) Energy and Environment Cabinet Memorandum to the Department for Natural Resources staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated January 25, 2021, related to the SARS-COV-2 state of emergency, temporary master logger designations and master logger designations;
 - (19) Public Protection Cabinet Orders, dated March 31, 2020 and April 7, 2020 related to licensure and the temporary suspension of the building code for hospital overflow areas;
 - (20) Kentucky Economic Development Finance Authority Resolution No. 2020-0730, dated July 30, 2020, related to the deferral of job and wage requirements per financial incentive programs;
 - (21) Department of Insurance Order dated March 18, 2020, related to telehealth remote communications and the prior relationship requirement;
 - (22) Cabinet for Health and Family Services, Office of the Secretary Order dated April 6, 2020, related to waiver CHFS approval for a waiver if state law requirements are more stringent than HHS 1135 blanket waivers; and

(23) Labor Cabinet Administrative Order 2020-04, dated December 15, 2020, related to unemployment insurance reserve ratios for employers with 100 or less employees, but not including section 3 of the administrative order.

➔Section 4. The General Assembly hereby approves, ratifies, and extends the following administrative actions issued by boards, commissions, corporations, and authorities in response to the SARS-COV-2 virus until January 15, 2022:

- (1) Board of Veterinary Examiners Order, dated April 16, 2020, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
- (2) Kentucky Applied Behavior Analysis Licensing Board Order dated March 23, 2020, related to telehealth services;
- (3) Kentucky Board of Alcohol and Drug Counselors Order dated April 2, 2020, related to licensure;
- (4) Kentucky Board of Licensed Diabetes Educators Order, dated July 21, 2020, related to social distancing and telework;
- (5) Kentucky Board of Licensure for Long-Term Care Administrators Orders dated May 29, 2020, and March 26, 2021, related to continuing education and licensure;
- (6) Kentucky Board of Licensed Professional Counselors Order dated April 2, 2020, related to distance counseling;
- (7) Kentucky Board of Licensure for Marriage and Family Therapists Order dated March 31, 2020, related to telework;
- (8) Kentucky Board of Licensure for Occupational Therapy Order dated March 24, 2020, related to telehealth;
- (9) Kentucky Board of Licensure for Private Investigators Order dated June 10, 2020, related to licensure;
- (10) Kentucky Board of Examiners of Psychology Orders dated March 25, 2020, June 8, 2020, and August 3, 2020, related to licensure, continuing education, and telehealth;
- (11) Kentucky Board of Speech-Language Pathology and Audiology Orders dated

- March 25, 2020 and June 25, 2020, related to licensure and telehealth;
- (12) Kentucky Board of Interpreters for Deaf and Hard of Hearing Order dated April 27, 2020, related to fees, licensure, and continuing education;
 - (13) Kentucky Licensing Board for Specialists in Hearing Instruments Order dated May 21, 2021, related to licensure and continuing education;
 - (14) Kentucky Board of Barbering Order, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
 - (15) Kentucky Board of Licensure for Massage Therapy Order dated May 11, 2020, related to licensure;
 - (16) Board of Pharmacy Order dated April 24, 2020, related to the suspension of administrative regulations which relate to in person work;
 - (17) Bluegrass State Skills Corporation May 21, 2020, exemption to Guidelines 2020-2021;
 - (18) Board of Dentistry Order dated April 17, 2020, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
 - (19) Board of Nursing Emergency Memoranda dated March 5, 2021, August 26, 2020, April 17, 2020, and March 27, 2020, related to clinical education, APRN licensure, and temporary licensure;
 - (20) Board of Social Work Memorandum dated March 30, 2020, related to licensure and out of state practitioners;
 - (21) Board of Licensure for Pastoral Counselors action dated April 24, 2020, related to licensure;
 - (22) Board of Licensure for Dietitians and Nutritionists actions dated March 30, 2020, March 25, 2020, and October 30, 2019 related to licensure, telehealth, and continuing education;
 - (23) Board of Durable Medical Equipment Suppliers action dated May 19, 2020, related to suspension of license renewals;

- (24) Board of Chiropractic Examiners actions dated April 24, 2020 and May 15, 2020, related to SARS-COV-2 mitigation and continuing education;
- (25) Kentucky Board of Podiatry actions dated April 13, 2021 and July 28, 2020, related to a fee waiver;
- (26) Board of Prosthetics, Orthotics, and Pedorthics action dated May 26, 2020, related to telehealth and continuing education;
- (27) Board of Respiratory Care undated action premised on the August 18, 2021 Cabinet for Health and Family Services directive, related to licensure;
- (28) Board of Licensure for Professional Art Therapists action dated May 13, 2020, related to licensure;
- (29) Board of Emergency Medical Services:
 - (a) 202 KAR 7:201, First responders;
 - (b) 202 KAR 7:301, EMT;
 - (c) 202 KAR 7:330, Requirements for examination, certification, and recertification of the advanced emergency medical technician;
 - (d) 202 KAR 7:401, Paramedics;
 - (e) 202 KAR 7:501, Ambulance agency licensure;
 - (f) 202 KAR 7:510, Air ambulance services;
 - (g) 202 KAR 7:540, EMS data collection, management, and compliance;
 - (h) 202 KAR 7:545, License classifications;
 - (i) 202 KAR 7:550, Required equipment and vehicle standards;
 - (j) 202 KAR 7:555, Ground agencies;
 - (k) 202 KAR 7:560, Ground vehicle staff;
 - (l) 202 KAR 7:601, Training, education, and continuing education;
 - (m) 202 KAR 7:701, Scope of practice; and
 - (n) 202 KAR 7:801, Medical directors.
- (30) Kentucky Real Estate Commission action dated March 19, 2020, related to

licensure;

(31) Kentucky Board of Home Inspectors action dated August 18, 2020, related to licensure; and

(32) Kentucky Board of Auctioneers action dated April 8, 2020, related to distance learning.

➔Section 5. All executive orders, cabinet and agency orders, guidances, memoranda, directives, or actions identified herein shall be forwarded to the Secretary of State for posting prominently on the secretary's Web site until the conclusion of the SARS-COV-2 emergency.

➔Section 6. Upon the expiration of an executive order, other directive, or administrative regulation declaring an emergency or other implementation of powers under KRS Chapter 39A, the Governor shall not declare a new emergency or continue to implement any of the powers under KRS Chapter 39A based upon the same or substantially similar facts and circumstances as the original declaration or implementation without the prior approval of the General Assembly.

➔Section 7. The state of emergency declared by the Governor in response to the flash flooding in Nicholas County, and in particular the City of Carlisle, on August 3, 2021, by Executive Order No. 2021-565 dated August 3, 2021, is extended an additional 30 days to ensure any necessary emergency services that may be required are provided to residents and businesses of Nicholas County and the City of Carlisle, as the Commonwealth's request for federal assistance submitted to the President of the United States through the Federal Emergency Management Agency on August 19, 2021 remains under review.

➔Section 8. If any of the executive or administrative actions identified herein becomes necessary after January 15, 2022, the Governor, responsible cabinet, agency, or department shall promulgate an emergency administrative regulation according to KRS Chapter 13A. If any suspension of statutes is included in the executive or administrative

actions identified herein, or in any executive or administrative action contemplated after January 15, 2021, prior approval of the Attorney General shall be obtained as required by KRS 39A.180.

➔Section 9. Nothing in this Resolution shall be interpreted to allow state agencies to remain closed for regular in-person business.

➔Section 10. It is not the intention of the General Assembly that this Joint Resolution should impair or delay the ability of the Commonwealth to receive any federal stimulus or pandemic-related funds.

➔Section 11. Whereas, the General Assembly desires to ensure that the citizens of the Commonwealth are protected during the SARS-COV-2 pandemic, an emergency is declared to exist, and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.