

EXECUTIVE ORDER N-68-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS the treatment and prevention of COVID-19 and related conditions requires medical devices that are in great demand nationally, including but not limited to respirators, ventilators, and masks; and

WHEREAS the federal Food and Drug Administration (FDA) has issued two temporary policy guidelines—“Guidance for Industry: Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID-19)” (April 2020) and “Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency” (April 2020)—to promote the availability of safe and effective hand sanitizer for the public and healthcare professionals during this pandemic; and

WHEREAS the FDA has issued an additional temporary policy, “Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease (COVID-19) Public Health Emergency (Revised)” (May 2020), to promote the availability of general-use face masks for the general public and particulate-filtering facepiece respirators (including N95 respirators) for health care professionals during this pandemic; and

WHEREAS the State has also been taking—and continues to take—action to promote the availability of these supplies; and

WHEREAS the COVID-19 pandemic, as well as physical distancing and other public health measures undertaken in response to it, have affected governmental agencies, workers, private businesses, and California residents, with associated impacts on adherence to certain statutory and regulatory deadlines and requirements, as well as to workers’ efforts to vindicate their labor and employment rights; and

WHEREAS there remains an ongoing shortage of fingerprinting services in California due to the COVID-19 pandemic, and this shortage is continuing to impact background checks for individuals providing certain social and developmental services that provide care and support to vulnerable Californians; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) Notwithstanding Health and Safety Code sections 111615-111635 and 111645-111655, and any implementing regulations in California Code of Regulations, title 17, Division 1, Chapter 5, Subchapter 2, Group 1, Article 2 (pertaining to licensing requirements for over-the-counter drugs and medical devices), an entity need not obtain a license from the California Department of Public Health to manufacture over-the-counter drugs (such as hand sanitizer) or medical devices, as long as that entity receives a temporary registration issued by the Department consistent with this Paragraph 1 and complies with all other applicable laws. Such an entity must submit an application for temporary registration to the Department of Public Health; that application must include self-certification of compliance with temporary FDA guidance for firms not federally registered as over-the-counter drug manufacturers or medical device manufacturers.

An entity that receives a temporary registration may manufacture over-the-counter drugs or medical devices under that temporary registration until the earliest of the following occurs:

- (i) The expiration of a six-month registration period, after which that entity may apply for a further temporary registration;
- (ii) The Department of Public Health suspends or rescinds any applicable temporary registration; or
- (iii) The FDA withdraws or otherwise terminates any applicable federal guidance (including, but not limited to, previously issued guidance for firms that lack federal registration).

The Department of Public Health may establish requirements and procedures (including, but not limited to, administrative fees) to implement this Paragraph 1 in a manner consistent with public health and safety. The establishment of such requirements and procedures shall not be subject to the Administrative Procedure Act. The Department shall post any temporary registration, and any action taken to suspend or rescind a temporary registration, on the Department's website.

- 2) Notwithstanding Health and Safety Code sections 111630 and 111800, Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, and Part 6, of Division 104 of the Health and Safety Code, and any implementing regulations in title 17, Division 1, Chapter 5 of the California Code of Regulations, the Department of Public Health shall establish procedures (which shall not be subject to the Administrative Procedure Act) to allow entities affected by the COVID-19 pandemic to submit renewal-fee payments to the Department up to 60 days after the original applicable expiration date, on the condition that the relevant entity submits a request for deferral of renewal fees on the entity's letterhead along with a timely application for renewal. Any penalties for late submission of renewal fees are suspended as applied to entities that submit their renewal fees in accordance with this Paragraph 2.

- 3) Paragraph 8(g) of Executive Order N-63-20 is hereby amended to read:

Labor Code section 5313, related to the period of time a workers' compensation judge must make and serve the findings, decision, order, or reward in a controversy;

- 4) The deadlines specified in the following statutes shall each be extended for a period of 60 days:
 - (i) Labor Code section 5909, related to the period of time a petition for reconsideration is deemed to have been denied by the Workers' Compensation Appeals Board; and
 - (ii) Labor Code section 5315, related to the period of time in which the Workers' Compensation Appeals Board must act on any decision submitted by a Workers' Compensation judge.

- 5) Paragraph 11 of Executive Order N-52-20 is withdrawn and superseded by the following text:

To the extent any provision of state law might restrict the exercise of the California Department of Justice's authority to conduct criminal background checks pursuant to Penal Code section 11105 based on identifying information other than fingerprints for individuals performing tasks that require licensure pursuant to Division 2 of the Business and Professions Code or providing services or care pursuant to the California Community Care Facilities Act (Chapter 3 of Division 2 of the Health and Safety Code), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 of Division 2 of the Health and Safety Code), the California Child Day Care Facilities Act (Chapter 3.4 of Division 2 of the Health and Safety Code), In-Home Supportive Services (Article 7 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, and Welfare and Institutions Code sections 14132.95, 14132.952, and 14132.956), or Services and Supports to Developmentally Disabled Persons Living in the Community (Article 4 of Chapter 6 of Division 4.5 of the Welfare and Institutions Code), those provisions are suspended through July 31, 2020.

- 6) Paragraph 12 of Executive Order N-52-20 is withdrawn and superseded by the following text:

To the extent any provision of state law might restrict the exercise of the California Department of Justice's authority to waive or eliminate the applicable fee for a criminal background check conducted pursuant to Paragraph 5 in this Order, those provisions are suspended through July 31, 2020.

- 7) The timeframe set forth in Executive Order N-45-20, Paragraph 6, is extended until June 30, 2020.
- 8) The timeframe set forth in Executive Order N-45-20, Paragraph 7, is extended until June 30, 2020.
- 9) The timeframe set forth in Executive Order N-45-20, Paragraph 11, is extended for an additional 60 days from the date of this Order.

- 10)The timeframe set forth in Executive Order N-47-20, Paragraph 1, is extended for an additional 60 days from the date of this Order.
- 11)The timeframe set forth in Executive Order N-53-20, Paragraph 1, is extended for an additional 60 days from the date of this Order.
- 12)The timeframe set forth in Executive Order N-53-20, Paragraph 2, is extended for an additional 60 days from the date of this Order.
- 13)The timeframe set forth in Executive Order N-53-20, Paragraph 5, is extended for an additional 60 days from the date of this Order.
- 14) The timeframe set forth in Executive Order N-53-20, Paragraph 6, is extended for an additional 60 days from the date of this Order.
- 15)The timeframe set forth in Executive Order N-53-20, Paragraph 11, is extended for an additional 60 days from the date of this Order.

IT IS FURTHER ORDERED that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 5th day of June 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State