



Amended Executive Order Number Fifty-Seven (2020): Temporary Modifications to Health Care Professional Licensing and Practice

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Introduction

On April 23, 2020, Governor Northam issued Amended Executive Order Number Fifty-Seven (2020) (the Order): Licensing of Health Care Professionals in Response to Novel Coronavirus (COVID-19). The initial Executive Order Number Fifty-Seven was issued on April 17, 2020, and all provisions of the amended Order, which added modified practice requirements for physician assistants, are valid from that date. The Order temporarily modifies licensing and practice requirements for certain health care professionals and expands telehealth services in the Commonwealth. The Order contains nine specific directives aimed at easing the burden on Virginia's health care system during the COVID-19 pandemic.

Licensure of Certain Health Care Professionals

The first directive in the Order allows out-of-state health care professionals who are licensed and in good standing in their home state to practice in the Commonwealth within the scope of their regular practice, provided that their practice in the Commonwealth is under the same hospital system, hospital affiliate, doctors' office, or other health care facility under which they practice in their home state. Each hospital, hospital affiliate, doctors' office, and health care facility must submit certain information to the appropriate health regulatory board for each practitioner. This directive also applies to health care practitioners within assisted living facilities, congregate care settings, and any alternate care facility established in response to the COVID-19 pandemic. Currently, out-of-state health care practitioners who wish to practice in the Commonwealth must meet all licensing requirements set forth in the Code of Virginia for their specific profession. Depending upon the profession, there may be certain narrowly tailored exceptions that allow for licensure by endorsement and reciprocity.

The second directive in the Order provides for temporary licensure by endorsement of active out-of-state clinical psychologists, professional counselors, marriage and family therapists, and clinical social workers upon submission of an application and other supporting materials as deemed necessary by the respective health regulatory board. Licensure by endorsement is currently available for clinical psychologists (18VAC125-20-42), professional counselors (18VAC115-20-45), marriage and family therapists (18VAC115-50-40), and clinical social workers (18VAC140-20-45).

Expansion of Telehealth Services

The third directive in the Order expands telehealth services in the Commonwealth by permitting actively practicing out-of-state health care practitioners to utilize telehealth to provide continuity of care to current patients who are Virginia residents. The directive clarifies that establishment of a new practitioner-patient relationship via telehealth still requires a Virginia license unless the new practitioner-patient relationship is established pursuant to the first or second directive of the Order. A practical example of this directive would be if a Virginia resident is already receiving specialized medical care from an out-of-state physician, that physician may temporarily provide telehealth services to the Virginia resident. Virginia currently requires a Virginia license to render telehealth services to Virginia residents.

The fourth directive gives greater discretion to health care providers regarding the mode of delivery of telehealth services, allowing health care practitioners to use any non-public facing audio or remote communication product to communicate with patients. The directive clarifies that this discretion is not limited to telehealth services related to the diagnosis and treatment of COVID-19.

Practice Modifications for Certain Health Care Professionals

The final five directives of the Order temporarily modify supervision and practice requirements for nurse practitioners; physician assistants; medical interns, residents, and fellows with active temporary training licenses; fourth year medical students; and respiratory therapists.

Under the fifth directive in the Order, licensed nurse practitioners, excluding certified registered nurse anesthetists, who have two or more years of clinical experience may practice and prescribe without a written or electronic practice agreement. Currently, § 54.1-2957 of the Code of Virginia requires five years of clinical experience prior to independent practice for most nurse practitioners. The sixth directive in the Order allows licensed physician assistants with two or more years of clinical experience to practice in their area of knowledge and expertise and to prescribe without a written or electronic practice agreement. Pursuant to § 54.1-2951.1 of the Code of Virginia, physician assistants are currently required to practice as part of a patient care team with a written or electronic practice agreement.

The seventh directive states that interns, residents, and fellows with active temporary training licenses to practice medicine issued by the Virginia Board of Medicine may practice without the supervision of a licensed physician or fully licensed member of the applicable faculty program at all times. The directive gives discretion to individual training programs to determine appropriate levels of supervision. This is a temporary modification of 18VAC85-20-220, which states that interns and residents with active temporary licenses must be "responsible and accountable at all times to a fully licensed member of the faculty where the internship or residency is served."

The eighth directive allows fourth year medical students to practice in a hospital, including a clinic or alternative care facility operated by a hospital, without direct tutorial supervision. The directive allows the institution and hospital to determine appropriate supervision. This is a modification to § 54.1-2959 of the Code of Virginia, which requires direct tutorial supervision of the practice of medical students.

The final directive of the Order allows individuals who have completed an accredited respiratory care program to practice respiratory therapy for a period of 90 days or until the



individual has passed the National Board for Respiratory Care licensure examination and has been issued a license, or has failed the examination, whichever occurs first. Current law requires a license to engage in the practice of respiratory therapy in the Commonwealth.

Conclusion

The directives in the Order will remain in effect until June 10, 2020, unless amended or rescinded on an earlier date.

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