

# The State of Maryland

## Executive Department

### ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 22-01-24-01

#### AMENDING ORDER No. 22-01-04-01 RELATING TO VARIOUS HEALTH CARE MATTERS

- WHEREAS, A state of emergency and catastrophic health emergency were proclaimed on January 4, 2022 to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency continue to exist;
- WHEREAS, Health care practitioners and facilities are needed to respond to the state of emergency and the medical consequences of the catastrophic health emergency, including for treatment, isolation, and quarantine, therefore requiring their control, regulation, use, and rationing, and other appropriate actions;
- WHEREAS, Health care providers are needed to participate in disease surveillance, treatment, and suppression efforts even if they are not licensed, certified, or credentialed to do so;
- WHEREAS, To respond to the catastrophic health emergency, licensing, certification, and credentialing of health care practitioners must be modified to expand the practice capabilities, permissions, and authorizations of those who already hold a Maryland license and those who are licensed in other states;
- WHEREAS, To expand such practice capabilities, permissions, and authorizations, and protect the public health, welfare, and safety, it is necessary to suspend certain State and local statutes, rules, and regulations regarding licensing, certification, and credentialing of health care practitioners;
- WHEREAS, During the state of emergency and catastrophic health emergency, a hospital may need to appoint to its medical staff physicians and other health care practitioners to provide services for which the health care practitioner does not have an appropriate Maryland license;
- WHEREAS, It is necessary that health care practitioners that hold licenses, certifications, or other permits issued by other states and that demonstrate appropriate professional, mechanical, or other qualifications or skills, be deemed licensed,

certified, or permitted in Maryland to render aid during the state of emergency and catastrophic health emergency;

WHEREAS, It is necessary that health care practitioners be authorized to perform acts, tasks, or functions while supervised by other health care practitioners licensed in Maryland during the state of emergency and catastrophic health emergency;

WHEREAS, The State's response to the state of emergency and catastrophic health emergency requires control, regulation, use, dispersing, distribution, and the setting of prices of various assets;

WHEREAS, To protect life, property, and the public health, welfare, and safety, it is necessary to authorize alternative care sites and control the occupancy and use of health care facilities, nursing homes, and other places established for treatment, isolation, or quarantine; and

WHEREAS, To treat, prevent, and reduce the spread of COVID-19, it is medically necessary and reasonable to examine and test health care facility and nursing home residents, staff, and visitors;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE OF THE MARYLAND CODE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Definitions. As used herein, the following terms have the meaning indicated:

- a. "Health Care Facility" has (i) the meaning assigned in HG § 19-114(d), and (ii) also includes:
  - i. any pharmacy, as defined in HO § 12-101(t); and
  - ii. any other place designated or established by the Secretary for treatment, isolation, and/or quarantine.
- b. "Health care license" means a license, certification, or other authorization under HO to provide health care services.
- c. "Health care practitioner" has the meaning assigned in HG § 19-114(e).
- d. "HG" means the Health-General Article of the Maryland Code.
- e. "HO" means the Health Occupations Article of the Maryland Code.
- f. "HSCRC" means the Health Services Cost Review Commission.

- g. “Inactive license” means the health care license that was held by an inactive practitioner prior to being placed on inactive status.
  - h. “Inactive practitioner” means a person who held a health care license, but has been placed on inactive status.
  - i. “Nursing Homes” means facilities licensed under Title 19, subtitles 3 and 14 of HG and COMAR 10.07.02.
  - j. “Other Facilities” means any health care provider (as defined in Section 14-3A-01 of the Public Safety Article of the Maryland Code) other than a Nursing Home, including without limitation, assisted living facilities, hospice facilities, residential treatment facilities, home health agencies, and any related institution.
  - k. “Secretary” means the Secretary of Health of the State of Maryland.
  - l. “Temporary health care licenses” means temporary licenses and temporary practice letters issued under HO.
- II. Resource Control. The Secretary is authorized to take actions, including without limitation, the issuance of directives and the establishment of appropriate policies and procedures, to control, restrict, or regulate the use, sale, dispensing, distribution, or transportation of anything needed to respond to the medical consequences of the catastrophic health emergency, including without limitation, personal protective equipment, testing supplies, pharmaceuticals, human resources, and space in Health Care Facilities.
- III. Alternate Care Sites.
- a. The Secretary is authorized to establish one or more alternate care sites for the isolation, quarantine, and treatment of persons with COVID-19. If the Secretary establishes any such alternate care sites, the Secretary shall identify and expeditiously select contractors, subcontractors, and vendors to support the establishment, supplying, operation, and management of such alternate care sites.
  - b. The Health Services Cost Review Commission (“HSCRC”) may, upon request by the Secretary, set rates and charges for the services to be provided at alternate care sites. In setting an alternate care site’s rates and charges, the HSCRC may take into account, in addition to other relevant circumstances and factors, the rates and charges set for nearby or similar facilities or services. The Secretary may, to ensure that alternate care sites have sufficient resources for ongoing operations, support related expenditures and costs with revenues from payments received for services billed at the rates set pursuant to this paragraph III.b.

- IV. Suspension of Expiration of Nursing Licenses. Expiration dates are extended until February 3, 2022 for all licenses and certifications issued pursuant to Title 8 of HO that would otherwise (i) expire during the state of emergency and catastrophic health emergency, and (ii) be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.
- V. Nursing Graduates.
- a. As used herein, the following terms have the meaning indicated:
- i. “Board” means the Board of Nursing.
  - ii. "CNA/CMT Graduate” means a person who has successfully completed an approved nursing assistant training program (as defined in HO § 8-6A-01(d)) or an approved medication technician training program (as defined in HO § 8-6A-01(c)).
  - iii. “Graduate” means an RN Graduate, an LPN Graduate, or a CNA/CMT Graduate.
  - iv. “LPN Graduate” means a person who completed satisfactorily and met all requirements for a diploma or degree from (i) a licensed practical nursing education program approved by the Board; or (ii) an out-of-state licensed practical nursing education program determined to be equivalent by the Board.
  - v. “RN Graduate” means a person who completed satisfactorily and met all requirements for a diploma or degree from (i) a registered nursing education program approved by the Board; or (ii) an out-of-state registered nursing education program determined to be equivalent by the Board.
- b. An RN Graduate may practice registered nursing (as defined in HO § 8-101(o)) at a Health Care Facility, an LPN Graduate may practice licensed practical nursing (as defined in HO § 8-101(n)) at a Health Care Facility, and a CNA/CMT Graduate may practice as a nursing assistant or medication technician (as applicable) at a Health Care Facility, if, in each case:
- i. doing so is necessary to allow the Health Care Facility to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services;
  - ii. qualified supervisory personnel at the Health Care Facility:
    1. reasonably conclude that the Graduate can competently

engage in such activities; and

2. reasonably supervise the Graduate while they are engaged in such activities.
- c. Without limiting the generality of paragraph XIII.c below, COMAR 10.27.01.03 is hereby suspended to the extent of any inconsistency with this paragraph V.

VI. Health Care Licenses - Interstate Reciprocity

- a. Any person who holds a valid, unexpired license as a health care practitioner that is issued by another state may, at a Health Care Facility, engage in the activities authorized under such license without first obtaining a license or practice letter from the applicable Maryland licensing agency or board, if:
  - i. doing so is necessary to allow the Health Care Facility to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services; and
  - ii. if HO allows the issuance of a temporary health care license to such person:
    1. the person could not reasonably obtain a temporary health care license in sufficient time to meet such needs of the Health Care Facility; and
    2. the person applies for such temporary health care license within 10 days after first working at a Health Care Facility in reliance on this paragraph VI.
- b. The Secretary, and all boards and commissions responsible for the licensing of health care practitioners, are ordered to expedite all applications for temporary licenses and temporary practice letters from health care practitioners licensed in other states.
- c. The expiration date of all temporary health care licenses that would otherwise expire during the state of emergency and catastrophic health emergency is hereby extended to the date on which the state of emergency has been terminated and the catastrophic health emergency has been rescinded.

VII. Inactive Practitioners

- a. Any inactive practitioner may, at a Health Care Facility, engage in activities that would have been authorized under his/her inactive license without first reinstating his/her inactive license, if:

- i. qualified supervisory personnel at the Health Care Facility reasonably conclude that the inactive practitioner can competently engage in such activities;
  - ii. doing so is necessary to allow the Health Care Facility to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services; and
  - iii. the person could not reasonably reinstate their inactive license in sufficient time to meet such needs of the Health Care Facility.
- b. The Secretary, and all boards and commissions responsible for the licensing of health care practitioners, are ordered to expedite all requests from inactive practitioners to reinstate inactive licenses.

VIII. Expanded Scope of Practice for Health Care Practitioners. A health care practitioner may engage in activities that are not authorized by his/her license at a Health Care Facility if:

- a. doing so is necessary to allow the Health Care Facility to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services; and
- b. qualified supervisory personnel at the Health Care Facility:
  - i. reasonably conclude that the health care practitioner can competently engage in such activities; and
  - ii. reasonably supervise the health care practitioner while they are engaged in such activities.

IX. Activation of Maryland Responds Medical Reserve Corps. The Secretary is authorized to activate the Maryland Responds Medical Reserve Corps, as necessary to respond to the catastrophic health emergency.

X. Elective Medical Procedures. The Secretary is authorized to take actions to control, restrict, and regulate the use of health care facilities for the performance of elective medical procedures, as necessary to respond to the catastrophic health emergency.

XI. Nursing Homes and Other Facilities.

- a. The Secretary is hereby authorized to issue directives under this Order, as the Secretary deems necessary, to monitor, treat, prevent, reduce the spread of, and suppress, COVID-19 in and around Nursing Homes and Other Facilities, which directives may include, without limitation, requiring Nursing Homes and/or Other Facilities to:

- i. test residents, staff, and/or visitors for COVID-19;
  - ii. ensure that each resident is evaluated periodically by a physician, physician's assistant, nurse practitioner, or registered nurse for symptoms suggesting possible COVID-19 infection;
  - iii. develop a surge staffing plan to ensure continuity of resident care in the event of a significant outbreak of COVID-19 among residents or staff;
  - iv. fully cooperate with all personnel acting at the Secretary's direction, including without limitation, by providing access to the Nursing Home or Other Facility, its residents, and its staff;
  - v. provide periodic informational updates to their residents, resident representatives, and staff regarding COVID-19 infections related to the Nursing Home or Other Facility; and
  - vi. regularly report such information as the Secretary deems necessary to monitor the spread of COVID-19 in and around Nursing Homes and Other Facilities.
- b. All Nursing Homes and Other Facilities are hereby ordered to comply in good faith with all applicable directives of the Secretary issued under this Order, including without limitation, participation in all disease surveillance, treatment, and suppression efforts required by those directives.

## XII. General Authorizations.

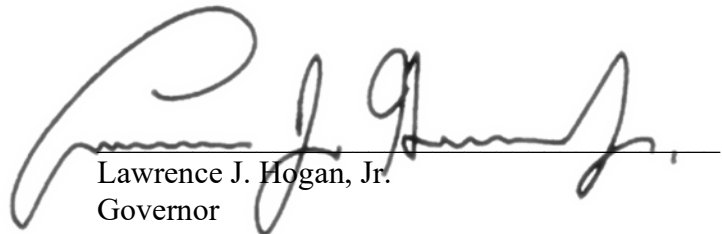
- a. The Secretary is authorized to suspend the effect of any statute, rule, or regulation administered by the Maryland Department of Health ("MDH") related to licensing, oversight, and inspection of health care facilities, or other community-based programs or providers of health care licensed, certified, or otherwise authorized under HG, or related to the provision of services by MDH, as appropriate and necessary to protect the public health, welfare, and safety.
- b. The Secretary is authorized to promulgate directives, rules, or guidance as the Secretary deems necessary to carry into effect the purpose and intent of paragraphs II through XI of this Order.
- c. For avoidance of doubt, the authority granted to the Executive Director of the Maryland Institute for Emergency Medical Services Systems and the chairperson of the State Emergency Medical Services Board pursuant to the Order of the Governor of the State of Maryland number 22-01-04-02 ("Augmenting the Emergency Medical Services

Workforce”) is intended to include, but not be limited to, augmentation of the emergency medical services workforce with students at Maryland accredited schools of respiratory therapy.

XIII. General Provisions

- a. A person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
- b. This Order remains effective until the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.
- c. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order is hereby suspended to the extent of the inconsistency.
- d. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

ISSUED UNDER MY HAND THIS 24<sup>TH</sup> DAY OF JANUARY, 2022, AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.  
Governor