OFFICE OF
THE GOVERNOR

NO. 35 FY 19/20
DATE April 6, 2020

AN ORDER SUSPENDING ENFORCEMENT OF PROVISIONS OF CERTAIN LICENSING STATUTES AND RULES IN ORDER TO FACILITATE HEALTH CARE AND VETERINARY CARE DURING THE STATE OF EMERGENCY CREATED BY COVID-19

WHEREAS, the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

WHEREAS, COVID-19 is a highly contagious and sometimes fatal disease that has infected more than 304,000 persons and caused more than 7,600 deaths to this date in the United States; and

WHEREAS, on March 11, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization; and

WHEREAS, on March 15, Governor Janet T. Mills declared a State of Civil Emergency in Maine to respond to the spread of COVID-19; and

WHEREAS, on March 15, the Maine Center for Disease Control and Prevention issued guidance urging the postponement of non-urgent medical and dental procedures, elective surgeries, and appointments; and

WHEREAS, on March 24, Governor Mills issued Executive Order 19 FY 19/20 *An Order Regarding Essential Businesses and Operations*, which required essential businesses, to the maximum extent practicable, to have their employees work remotely and comply with social distancing requirements, and further strongly encouraged health care providers to use telehealth and telephone consultation; and

WHEREAS, on March 31, Governor Mills issued Executive Order 28 FY 19/20 *An Order Regarding Further Restrictions on Public Contact and Movement, Schools, Vehicle Travel and Retail Business Operations*, which reinforced and extended earlier restrictions and ordered all persons living in the State of Maine to stay at their places of residence except to perform essential activities and travel to work in essential businesses; and

WHEREAS, during the state of emergency, individuals complying with state orders to stay at home in order to slow the spread of COVID-19 may be unable to attend in-person health care and veterinary appointments and examinations; and

WHEREAS, due to the highly contagious nature of COVID-19, the ability of health care licensees to provide services by telemedicine or telehealth is of sufficient importance in reaching a greater number of patients without the risk of contagion presented by face to face encounters as to support the limited suspension of the enforcement of health care privacy and confidentiality laws to the degree necessary to the provision of such services; and

WHEREAS, the escalating COVID-19 public health emergency will produce an extraordinary demand on the State's health care system that will require a degree of flexibility and responsiveness in the staffing of medical facilities and provision of health care services that current licensing requirements cannot accommodate; and

WHEREAS, the COVID-19 public health emergency is likely to lead to an increased need for the services of certain health care providers; and

WHEREAS, the provisions of this Order are necessary to ensure that Maine patients can obtain necessary health and veterinary care and services during this state of emergency; and

WHEREAS, 37-B M.R.S.§ 742(1)(C)(1) and (13)(c) expressly authorize the Governor during a state of emergency declared due to the outbreak of COVID-19, to modify or suspend the enforcement of requirements for professional or occupational licensing or registration by any agency, board, or commission as well as health care confidentiality and privacy statutes if strict compliance with such requirements would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, pursuant to this authority and the general emergency management powers of the Governor under law, the temporary suspension or amendment of selected state laws and rules is necessary to facilitate the response to the current public health situation; and

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, including but not limited to 37-B M.R.S. § 742(1)(C)(1) and 13(c) do hereby Order the following:

I. ORDERS

The Commissioner of the Department of Professional and Financial Regulation, Director of the Office of Professional and Occupational Regulation, and the professional licensing boards listed

below shall immediately comply with the following modifications to the regulatory requirements for the licensure of certain specified licensees while this Order is in effect.

Nursing Home Administrators Licensing Board
Board of Chiropractic Licensure
Board of Occupational Therapy Practice
Board of Examiners in Physical Therapy
Board of Licensure of Podiatric Medicine
State Board of Examiners of Psychologists
State Board of Alcohol and Drug Counselors
State Board of Social Worker Licensure
Board of Respiratory Care Practitioners
Radiologic Technology Board of Examiners
Board of Licensing of Dietetic Practice
Board of Complementary Health Care Providers
Maine Board of Pharmacy
Board of Counseling Professionals Licensure
Board of Speech, Audiology and Hearing
State Board of Veterinary Medicine

Enforcement of the relevant provisions of Maine Revised Statutes, Title 32, Chapters 2, 9, 22, 32, 45-A, 51, 56, 71-A, 81, 83, 97, 103, 104, 113-B, 117, 119, 127-A, 137 and related rules are hereby suspended to the extent necessary to allow the following:

A. All Maine-licensed psychologists, psychological examiners, clinical social workers, clinical professional counselors, pastoral counselors, marriage and family therapists, alcohol and drug counselors, physical therapists, physical therapy assistants, chiropractic doctors, pharmacists, pharmacy interns, pharmacy technicians, podiatrists, occupational therapists, occupational therapy assistants, speech-language pathologists, hearing aid dealers and fitters, audiologists, certified interpreters, certified deaf interpreters, limited interpreters, and limited deaf interpreters, athletic trainers, naturopathic doctors, acupuncturists, dietitians, radiologic technologists, respiratory care practitioners, and certified professional midwives may provide necessary health care services permitted by their licenses through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. To the extent that requirements of any state patient privacy or confidentiality law, including but not limited to 22 M.R.S. § 1711-C, would in any way prevent, hinder, or delay the provision of health care services through the use of telehealth authorized by this Order, enforcement of that law is hereby suspended. This Order does not expand the scope of practice for any type of licensee.

B. All Maine-licensed veterinarians and veterinary technicians may perform veterinary medicine services permitted by their licenses through all modes of telemedicine, including video and audio, audio-only, or other electronic media, to treat veterinary patients of the state of Maine for necessary services. This Order does not expand the scope of practice for veterinarians or veterinary technicians.

C. Any licensed alcohol and drug counselor, clinical professional counselor, marriage and family therapist, pastoral counselor, dietitian, podiatrist, psychologist, radiologic technologist, respiratory care therapist, respiratory care technician, licensed clinical social worker, multi-level long term care administrator, nursing home administrator, acupuncturist, naturopathic doctor, certified professional midwife, chiropractor, physical therapist, pharmacist, pharmacy technician, pharmacy intern, veterinarian, speech-language pathologist, audiologist, speech-language pathologist/audiologist, hearing aid dealer and fitter, certified interpreter, certified deaf interpreter, or occupational therapist who, within three years of this Order, held an active Maine license that was not a conditional license, was in good standing with this State and not the subject of any outstanding complaint or open investigation when the license terminated, and had no disciplinary or adverse action in the past ten years involving loss of license, probation, restriction, or limitation, shall have his/her license immediately reactivated upon request, and such license shall remain valid until 60 days after the conclusion of the declared state of civil emergency unless surrendered. Except for veterinarians and nursing home administrators, any individual licensed under this section may provide health care services in-person in Maine or across state lines into Maine using telemedicine or telehealth. Any veterinarian licensed under this section may provide veterinary medicine services in-person in Maine or across state lines into Maine using telemedicine. License application fees for licenses issued pursuant to this paragraph are waived.

D. Any licensed alcohol and drug counselor, clinical professional counselor, marriage and family therapist, pastoral counselor, dietitian, podiatrist, psychologist, radiologic technologist, respiratory care therapist, respiratory care technician, licensed clinical social worker, multi-level long term care administrator, nursing home administrator, acupuncturist, naturopathic doctor, certified professional midwife, chiropractor, physical therapist, pharmacist, pharmacy technician, pharmacy intern, veterinarian, speech-language pathologist, audiologist, speech-language pathologist/audiologist, hearing aid dealer and fitter, certified interpreter, certified deaf interpreter, or occupational therapist who holds an active license issued by another state that is not a conditional license, has had no disciplinary or adverse action in the past ten years involving loss of license, probation, restriction, or limitation, and is not the subject of any outstanding complaint or open investigation, may apply for a temporary Maine license valid until 60 days after the conclusion of the declared state of civil emergency unless surrendered. Except for veterinarians and nursing home administrators, any individual licensed under this section may provide health care services in-person in Maine or across state lines into Maine using telemedicine or telehealth. Any veterinarian licensed under this section may provide veterinary medicine services in-person in Maine or across state lines into Maine using telemedicine. License application fees for emergency licenses issued pursuant to this paragraph are waived.

E. Any individual who holds an active license of a type listed in Paragraph A or B above, including a conditional license, or an active administrator license issued by the Nursing Home Administrators Licensing Board, that is scheduled to expire on or before March 20, 2021, may renew that license without satisfying any continuing education requirement that would otherwise apply. All licenses of the types listed in Paragraphs A

and B above, including conditional licenses, and all active administrator licenses issued by the Nursing Home Administrators Licensing Board that are scheduled to expire during the declared state of civil emergency shall have their expiration dates extended until 30 days following the conclusion of the declared state of civil emergency. All temporary licenses issued by the Board of Respiratory Care Practitioners, Board of Occupational Therapy Practice, and Radiologic Technology Board of Examiners and all permits for the performance of relief veterinary service issued by the State Board of Veterinary Medicine during the state of civil emergency shall not expire prior to 30 days following the conclusion of the declared state of civil emergency.

The Commissioner of the Department of Professional and Financial Regulation, Director of the Office of Professional and Occupational Regulation, Nursing Home Administrators Licensing Board, Board of Chiropractic Licensure, Board of Occupational Therapy Practice, Board of Examiners in Physical Therapy, Board of Licensure of Podiatric Medicine, State Board of Examiners of Psychologists, State Board of Alcohol and Drug Counselors, State Board of Social Worker Licensure, Board of Respiratory Care Practitioners, Radiologic Technology Board of Examiners, Board of Licensing of Dietetic Practice, Board of Complementary Health Care Providers, Maine Board of Pharmacy, Board of Counseling Professionals Licensure, American Sign Language Interpreters, Board of Speech, Audiology and Hearing, and the State Board of Veterinary Medicine are directed to issue forthwith guidance to implement the provisions of this Order.

II. EFFECTIVE DATE

This Order is effective April 6, 2020, and shall remain in effect until rescinded or until the State of Civil Emergency to Protect Public Health is terminated, whichever occurs first.

Janet T. Mills
Governor