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EXECUTIVE ORDER

Amending, Restating, and Extending Executive Orders D 2020 038, D 2020 063, D 2020 097, and D 2020 131 Ordering the Temporary Suspension of Certain Statutes and Rules to Expand the Healthcare Workforce for Hospitals and Other Inpatient Treatment Facilities Due to the Presence of COVID-19

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq*., I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order amending, restating, and extending Executive Orders D 2020 038, D 2020 063, D 2020 097, and D 2020 131, ordering the temporary suspension of certain statutes and rules to expand the healthcare workforce for hospitals and other inpatient treatment facilities due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, and D 2020 152. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has undertaken a wide array of actions to respond to and mitigate the effects of the pandemic, prevent further spread, preserve our health care resources, and provide needed flexibility to address the collateral consequences of the pandemic.

This Executive Order amends, restates, and extends Executive Orders D 2020 038, D 2020 063, D 2020 097, and D 2020 131 for an additional thirty (30) days, and clarifies language regarding the suspension of certain emergency rulemaking authorities to ensure that inpatient healthcare facilities have sufficient resources and personnel to treat patients suffering from COVID-19.

II. Delegated Medical Practice Directives

A. I direct the Executive Director of DORA, through the Director of the Division of Professions and Occupations (DPO), to promulgate and issue temporary emergency rules to permit the licensed professionals listed below to cross train, supervise, and delegate responsibilities concerning the temporary care and treatment of patients to the professionals listed in Section II.B., below, in hospitals or inpatient medical facilities, including emergency departments, as long as such delegated responsibilities are appropriate based on each delegated professional's education, training, and experience:

1. Advanced practice nurses and certified registered nurse anesthetists as defined in C.R.S. § 12-255-104(1);

2. Nurses as defined in C.R.S. §§ 12-255-104(7) and 12-255-104(11);

3. Physicians as described in C.R.S. § 12-240-107;

4. Physician assistants as described in C.R.S. §§ 12-240-107(6) and 12-240-114.5; and

5. Respiratory therapists as defined in C.R.S. §§ 12-300-104(2) and (3).

B. I temporarily suspend the following statutory and regulatory scope of practice limitations to permit the licensed professionals listed in Section II.A., above, to cross train, supervise, and delegate responsibilities concerning the temporary care and treatment of patients to the professionals listed below:

1. C.R.S. §§ 12-260-110 and 12-255-131, and 3 CCR 716-1 Rule 1.10(I) (limiting the practice of certified nurse aides);

2. C.R.S. § 12-215-103(4) and 3 CCR 707-1 Rule 1.7 (limiting the practice of chiropractors);

3. C.R.S. §§ 12-220-104(6) and 12-220-130(1)(cc), (gg) and (ii), and 3 CCR 709-1 Rules 1.9(D)(2)(a), 1.14(F), and 1.17(C)(1) and (2) (limiting the practice of dentists);

4. C.R.S. §§ 12-270-104(6) and 12-270-111 (limiting the practice of occupational therapists), C.R.S. § 12-270-109, and 3 CCR 715-1 Rule 1.5 (requiring the supervision of occupational therapy assistants);

5. C.R.S. § 12-275-103(1) (limiting the practice of optometrists);

6. C.R.S. §§ 12-285-104(6)(a), 12-285-108, 12-285-128, and 12-285-203 (limiting the practice of physical therapists and physical therapist assistants);

7. C.R.S. § 12-290-102(3) and 3 CCR 712-13 Rule 290 (limiting the practice of podiatrists);

8. C.R.S. § 12-255-115 (limiting the practice of retired volunteer nurses);

9. C.R.S. §§ 12-305-104(4) and 12-305-111 (limiting the practice of speech-language pathologists);

10. C.R.S. §§ 12-310-102(4) and (5), C.R.S. § 12-310-103(1)(a), and 4 CCR 745-1 Rule 1.6 (limiting the practice of surgical assistants and surgical technologists);

11. C.R.S. § 12-315-104(14)(a) (limiting the practice of veterinarians); and

12. C.R.S. § 12-240-107(2) (otherwise barring non-physicians from performing tasks within the practice of medicine so long as the licensed healthcare professionals identified in this Section II.B. are acting in compliance with this Executive Order).

C. I temporarily suspend the medical tasks that may be delegated to anesthesiologist assistants under C.R.S. § 12-240-107(7)(a), and I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules that allow certified nurse anesthetists and anesthesiologist assistants to perform airway management for COVID-19 patients.

D. I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules that permit the licensed professionals listed in Section II.A., above, to cross train, supervise, and delegate responsibilities to medical assistants who are not otherwise listed in Section II.B., above, to treat patients.

E. I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules that permit the licensed professionals listed in Section II.A., above, to cross train, supervise, and delegate responsibilities to volunteer nursing students, as referenced in C.R.S. § 12-255-127(f), who are currently enrolled in their last semester of their educational program to treat patients.

III. Training and Practice Requirement Directives

A. I temporarily suspend the following State Board of Nursing (SBON) Rules in 3 CCR 716-1 to facilitate the completion of nursing and nurse aide students' studies to make additional professionals available to the healthcare workforce as soon as possible:

1. SBON Rule 1.2 C.11. (requiring concurrent clinical and theory experiences to allow clinical hours to be completed beyond six (6) months of relevant theory content);

2. SBON Rule 1.10 D.12.a. (requiring completion of a written examination, including skills-based examination, as a condition of nurse aide certification);

3. SBON Rule 1.2 E. 15.c.(4)(a) (requiring a minimum of four hundred (400) clinical hours graduation from a practical nursing education program);

4. SBON Rule 1.2 E. 15.c.(4)(b) (requiring a minimum of seven hundred fifty (750) clinical hours for graduation from a professional nursing education program);

5. SBON Rule 1.2 E.15.c.(4)(c) (requiring fifty percent (50%) of clinical hours in the Medical Surgical Nursing II, Community Health and Capstone (practicum) courses, pediatrics, obstetrics, psychiatric and medical surgical nursing be completed in a clinical setting);

6. SBON Rule 1.2 E.15.c.(13)(d) (requiring faculty supervision for healthcare related volunteer experiences); and

7. SBON Rule 1.11.E.2.a. (requiring that a minimum of sixteen (16) hours of clinical instruction be performed in a clinical setting as part of any certified nurse aide program).

B. I temporarily suspend C.R.S. § 12-255-111(2) and 3 CCR 716-1 Rules 1.14(C) and (D), requiring national certification or designated population focus for advanced practice nurses when engaging in inpatient care, only to the extent necessary to enable advanced practice nurses without such certification or designation to evaluate and treat COVID-19 patients.

C. I temporarily suspend C.R.S. § 12-260-120(1)(d), prohibiting the employment of a nurse aide student for longer than four (4) months unless certified, to enable nurse aide students to continue to evaluate and treat patients beyond four (4) months.

D. I temporarily suspend the emergency rulemaking authorities set forth in C.R.S. § 24-1-122(3)(m)(I) (Colorado Medical Board), C.R.S. § 24-1-122(3)(gg) (State

Board of Nursing), C.R.S. § 24-1-122(3)(h) (Colorado State Board of Chiropractic Examiners, C.R.S. § 24-1-122(3)(k) (Colorado Dental Board), C.R.S. § 24-1-122(3)(m)(II) (Colorado Podiatry Board), C.R.S. § 24-1-122(3)(p) (Colorado State Board of Optometry), C.R.S. § 24-1-122(3)(y) (State Board of Veterinary Medicine), and C.R.S. § 12-285-105(1)(b) (State Physical Therapy Board), for matters consistent with this Executive Order and I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules consistent with this Executive Order.

E. I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules providing for the temporary certification of nurse aides without a written examination or skills-based examination.

F. I direct the Executive Director of DORA, through the Director of DPO, to promulgate and issue temporary emergency rules ensuring that physicians and physician assistants are authorized to engage in inpatient care to evaluate and treat COVID-19 patients regardless of American Board of Medical Specialties (ABMS) Board certifications, national certifications, national specialty certificates of added qualifications, or current scope of specialty or subspecialty practice, if appropriate based on the physicians' or physician assistants' education, training, and experience.

IV. Duration

Executive Orders D 2020 038, D 2020 063, D 2020 097, and D 2020 131, as amended, restated, and extended by this Executive Order, shall expire thirty (30) days from August 9, 2020, unless amended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this ninth day of August, 2020.

Jared Polis
Governor