EXECUTIVE ORDER

Suspending Enforcement of Statutes Relating to Telehealth Services and Updating Citations

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the Centers for Disease Control and Prevention issued guidelines encouraging healthcare facilities to use telehealth services to reduce in-person healthcare visits and to prevent transmission of COVID-19 and other respiratory viruses;

WHEREAS, during the current state of emergency state and local health authorities have encouraged patients needing access to healthcare to use telehealth services when possible rather than go to a healthcare facility or doctor's office;

WHEREAS, the use of telehealth services is critical to ensure that the healthcare system is not overwhelmed during this state of emergency and to mitigate the continuing spread of COVID-19;

WHEREAS, Utah Code Title 26, Chapter 60, Telehealth Act governs the use of telehealth services in Utah;

WHEREAS, on March 25, 2020, I issued Executive Order 2020-7 suspending the enforcement of certain statutes governing the use of telehealth services;

WHEREAS, recent legislation has moved the provisions of the telehealth statutes suspended in Executive Order 2020-7 to Utah Code §§ 26-60-102(9)(b)(ii) and 26-60-103(4)(a);

WHEREAS, Utah Code §§ 26-60-102(9)(b)(ii) and 26-60-103(4)(a) may limit the ability of a healthcare provider to offer telehealth services during this state of emergency;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. Executive Order 2020-7 is rescinded and replaced by this Order.
2. Enforcement of the following statutes is suspended:

a. Utah Code § 26-60-102(9)(b)(ii); and

b. Utah Code § 26-60-103(4)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services.

A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

1. inform the patient the the telehealth service does not comply with those federal acts;
2. give the patient an opportunity to decline use of the telehealth service; and
3. take reasonable care to ensure security and privacy of the telehealth service.

This Order is declared effective immediately and shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until this Order is otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 15th day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/023/EO