A JOINT ORDER FROM THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL & THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION – STATE BOARD OF NURSING

WHEREAS, on March 13, 2020, Governor Henry McMaster declared a State of Emergency based on a determination that Coronavirus Disease 2019 (COVID-19) posed an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the Governor also directed the South Carolina Department of Health and Environmental Control (DHEC) to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with Section 44-4-500 of the South Carolina Code of Laws, as amended, the Governor ordered that DHEC shall "use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment"; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the Governor has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, and 2020-44; and

WHEREAS, in addition to the directive from the Governor on March 13, 2020 ordering DHEC to utilize any and all emergency powers, as set forth in the Emergency Health Powers Act, deemed necessary to promptly and effectively address the current public health emergency, the Governor has issued various Executive Orders restating this directive in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, and 2020-44; and

WHEREAS, DHEC is invested with all the rights and charged with all the duties pertaining to organizations of like character, and is the sole advisor of the State in all questions involving the protection of the public health within its limits (S.C. Code Ann. § 44-1-110); and

WHEREAS, DHEC may also create separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health (S.C. Code Ann. § 44-1-140); and

WHEREAS, during a state of public health emergency, DHEC must use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment (S.C. Code Ann. § 44-4-500); and

WHEREAS, for such period as the state of public health emergency exists, DHEC, in coordination with the appropriate licensing authority and the Department of Labor, Licensing and Regulation (LLR), may require in-state health care providers to assist in the performance of vaccination, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in this State (S.C. Code Ann. § 44-4-570(A)(1)); and

WHEREAS, as of December 16, 2020, COVID-19 is widespread throughout the state and in all 46 counties, with 241,471 confirmed cases statewide and 4,444 total confirmed deaths; and

WHEREAS, secondary to measures to control the spread of COVID-19, nursing graduates have been delayed in being able to take the National Council Licensure Examination (NCLEX) necessary for nurse licensure, thereby resulting in an inability for graduates to begin employment with health care providers throughout the State; and

WHEREAS, South Carolina is engaged in an all-hands effort to both reduce the spread of COVID-19 and to ensure the availability of medical resources and staff to care for those who become ill; and

NOW, THEREFORE, based upon the foregoing, DHEC, after consultation with the South Carolina Board of Nursing both to ensure that the public is protected and to provide additional resources for health care providers to combat COVID-19, hereby grants nurse graduates temporary authorization to practice pursuant to the following conditions:

TEMPORARY PRE-LICENSURE AUTHORIZATION FOR NURSING GRADUATES

1. An unlicensed graduate who completes an accredited basic nursing education program within the United States, its territories, or dependencies and who applies for initial licensure by examination may be temporarily authorized to practice nursing as a Graduate Nurse-Registered Nurse (GN-RN) or Graduate Nurse-Practical Nurse (GN-PN), pending the taking of the NCLEX.

2. The temporary authorization to practice shall remain in effect for the duration of the declared public health state of emergency, unless otherwise modified, amended, or rescinded by subsequent order, or unless otherwise affected by the conditions set forth herein.

3. The temporary authorization allows the Graduate Nurse who applies for licensure by examination to practice and use the title Graduate Nurse-RN (GN-RN) or Graduate Nurse-PN (GN-PN), as appropriate, to work in a South Carolina medical facility, subject to the following stipulations:

   a. The Graduate Nurse must function under the supervision of a currently-licensed Registered Nurse. "Supervision" means the process of critically observing, directing, and evaluating another's performance.

b. The Graduate Nurse must be assigned to a supervising Registered Nurse each shift. This supervising Registered Nurse must be physically present with the Graduate Nurse during unfamiliar nursing tasks and readily available for questions.
c. The Graduate Nurse shall not assume, nor be assigned, charge responsibilities.
d. The health care provider or facility employing a Graduate Nurse is responsible for ensuring that the Graduate Nurse is appropriately identified as a Graduate Nurse in accordance with South Carolina Code § 40-33-39.

3. In order to be temporarily authorized to practice, a Graduate Nurse must:

a. File a completed initial application for licensure by examination with the South Carolina Board of Nursing, including the applicable fee associated with such application;
b. Have never taken and failed the NCLEX-PN or NCLEX-RN;
c. Have registered to take the NCLEX-PN or NCLEX-RN with the examination administration service;
d. Have no prior felony convictions or have criminal charges pending; and
e. Comply with South Carolina Code § 40-33-32 if a foreign-educated graduate.

4. A temporary authorization to practice as a Graduate Nurse shall be immediately revoked if any of the following occur:

a. It is determined that a Graduate Nurse has provided fraudulent information on the Board of Nursing application;
b. The Graduate Nurse fails the licensing examination;
c. A license is subsequently issued by the Board of Nursing;
d. The Graduate Nurse is denied permanent licensure by the Board of Nursing;
e. A complaint alleging a violation of the Nurse Practice Act is filed with the Board of Nursing prior to the expiration of the declared public health state of emergency;
f. Misrepresentation of being an R.N., L.P.N., GN-RN, or GN-PN. without holding a valid license or valid authorization to work; or
g. A Graduate Nurse is charged with a misdemeanor or felony (other than a minor traffic offense) while authorized under this provision.

5. A Graduate Nurse who is temporarily authorized to work is required to:

a. Provide every employer proof of being temporarily authorized;
b. Upon receipt of the official licensure notification by the Board of Nursing, immediately provide validation to their employer;
c. Immediately inform the employer of denial of permanent licensure by the Board of Nursing;
d. Immediately notify the employer of failure of the NCLEX; and
e. Immediately notify the employer of any criminal charges.

This Order is effective immediately and shall remain in effect unless otherwise modified, amended, or rescinded by subsequent order.

AND IT IS SO ORDERED.

SC DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL

W. MARSHALL TAYLOR, JR.
Director

Date: December 16, 2020

STATE BOARD OF NURSING
FOR SOUTH CAROLINA

SALLIE BETH TODD, MSN/Ed., RN
Board Chair

Date: December 16, 2020