NORTH Dakota | Governor Doug Burgum

Be Legendary.™

EXECUTIVE ORDER 2020-05.1

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Director of Emergency Services, the State is actively responding to the crisis and working to gather, coordinate, and deploy goods, services, professionals and volunteers of all types and kinds; and,

WHEREAS, both travel related cases and community contact transmission of COVID-19 have been documented in North Dakota and are expected to continue; and,

WHEREAS, during the state of public health emergency, health care professionals, including behavioral health professionals, licensed and in good standing in states other than North Dakota, may be needed to provide treatment to citizens and residents of long term care facilities impacted by COVID-19;

WHEREAS, based on these factors, the suspension of certain state statutes and administrative rules is necessary to address the threats to public health and safety, reduce economic hardships and continue our active response, recovery and mitigation efforts.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Director of Emergency Services, hereby suspends the licensure requirements for health care or behavioral health professionals and certain health care facility licensure requirements. Additionally, for purposes of providing expanded services across the state through telehealth, this Order suspends certain statutory and regulatory requirements to facilitate the delivery of health care and behavioral health services.

Licensing Health Care and Behavioral Health Professionals.

The licensure requirements for health care or behavioral health professionals licensed under the following Chapters of the North Dakota Century Code are hereby suspended: Chapter 43-12.1 (Nurse Practices Act); Chapter 43-15 (Pharmacists); Chapter 43-17 (Physicians and Surgeons); Chapter 43-32 (Psychologists); Chapter 43-30 (Occupational Therapists); Chapter 43-

41 (Social Workers); Chapter 43-42 (Respiratory Care Practitioners); Chapter 43-44 (Dietitians and Nutritionists); Chapter 43-45 (Addiction Counselors); Chapter 43-47 (Counselors); Chapter 43-48 (Clinical Laboratory Personnel); Chapter 43-53 (Marriage and Family Therapy Practice); Chapter 43-57 (Integrative Health Care); Chapter 43-58 (Naturopaths); Chapter 43-62 (Medical Imaging and Radiation Therapy) and Chapter 23-27 (Emergency Medical Services), and any additional licensure requirements set forth in related sections of the North Dakota Administrative Code, who are licensed and in good standing in other states, as needed to provide health care and behavioral health services, to include telehealth care, for citizens impacted by COVID-19, subject to identification, verification of credentials and other temporary emergency requirements approved by the State Health Officer and the Director of Emergency Services, in consultation with the Executive Director, North Dakota Department of Human Services.

Licensing Medical Facilities.

In addition, the licensing requirements for hospitals and other health care facilities under the following Chapters in the North Dakota Century Code: Chapter 23-01.2 (Trauma and Emergency Medical System); Chapter 23-09 (Lodging Establishments and Assisted Living Facilities) applicable only to Assisted Living Facilities; Chapter 23-09.3 (Basic Care Facilities); Chapter 23-16 (Licensing Medical Hospitals); Chapter 23-17.3 (Home Health Agency Licensure); Chapter 23-17.4 (Hospice Programs); Chapter 23-27 (Emergency Medical Services Operations Licenses); Chapter 50-31 (Substance Abuse Treatment Programs) and all related provisions under the North Dakota Administrative Code are hereby suspended, subject to temporary emergency requirements established by the State Health Officer and the Adjutant General, in consultation with the Executive Director, North Dakota Department of Human Services.

Telehealth Services.

For purposes of expanding health care and behavioral health services across the State, certain statutory and regulatory requirements must be suspended as follows:

a. The "secured connection" provision of NDCC § 26.1-36-09.15 (1)(g)(1) is hereby expanded to include the guidance issued by CMS on March 17, 2020.
b. The "audio-only" provision of NDCC § 26.1-36-09.15 (1)(g)(3) is hereby suspended. Telehealth services shall be provided as defined by NDCC § 26.1-36-09.15 (1)(g)(1) and (2) to include audio-only telehealth services.
c. Insurance carriers shall cover virtual check-ins and e-visits for established patients in accordance with the guidance issued by CMS on March 17, 2020.
d. The provisions of NDCC § 26.1-36-09.15 (4) are hereby suspended. Insurance carriers shall not subject telehealth coverage, including virtual check-ins and e-visits for established patients, to deductible, coinsurance, copayment or other cost sharing provisions.
e. No insurance carriers shall impose any specific requirements on the technologies used to deliver telehealth, virtual check-in and e-visit services (including any

limitations on audio-only or live video technologies) that are inconsistent with these requirements.

f. The North Dakota Insurance Commissioner may issue guidance on the implementations of these requirements.

This order is issued upon the following basis and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This order will become effective immediately and shall remain in effect for the duration of the declared state of emergency.

Executed at Bismarck, North Dakota, this 20th day of March, 2020.

Doug Burgum
Governor

ATTEST:

Secretary of State