OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

TO: Montanans; all officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: April 21, 2020
RE: Directive implementing Executive Orders 2-2020 and 3-2020 and easing licensing requirements for health care providers during the emergency

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

For the duration of the emergency, § 10-3-104(2)(a), MCA, provides authority to the Governor to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Section 10-3-305(2), MCA, provides that "all officers and agencies shall cooperate with and extend their services and facilities to the governor as the governor may request in the carrying out of the purposes of parts 1 through 4 of this chapter." Further, § 10-3-118, MCA, authorizes the Montana Department of Labor and Industry (DLI or Department), under the Governor's direction, to provide interstate licensure recognition whenever a state of emergency is in effect by registering professionals who possess an active, unrestricted license in another state.

The Centers for Disease Control and Prevention (CDC) has advised state and local authorities to begin planning for a surge of critically ill patients. Part of this planning process is the identification and procurement by health care facilities of additional health care providers to care for and manage COVID-19 patients. Further, the need for health care providers to respond to the emergency may impact the ability of health clinics and providers to serve the continuing medical needs of the community in general and particularly in rural settings that may already experience shortages of health care personnel. Additionally, social distancing requirements and the closures of nonessential businesses may affect the ability of health care providers to satisfy certain licensure or re-licensure requirements.

Agency officials and professional associations have requested that I suspend certain administrative and statutory requirements that may hamper rapid licensure, renewal of licensure, or reactivation of licensure of health care professionals and certain primary responders to the declared emergency in the State of Montana. This is necessary to build and maintain the State's capacity to respond to any local or statewide surges in need for health care services. The purpose of this Directive is to increase the number of health care professionals available for medical surge preparations by easing certain barriers to licensing. Accordingly, I find that strict compliance with the provisions of the statutes and administrative rules outlined below would prevent, hinder, or delay necessary action in coping with the COVID-19 pandemic.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and

other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana effective immediately:

I. Licensing of Out-of-State Health Care Professionals

- Strict compliance with the provisions of ARM 24.101.417 is suspended as follows:
    - The Department of Labor and Industry, Business Standards Division (BSD), has implemented an interstate licensure recognition registration process to allow expedited registration of health care professionals who hold an active, unrestricted license in another state to allow them to begin working in Montana as soon as possible. To the extent that, in the Department's determination, strict compliance with ARM 24.101.417 would impede this process, it is suspended.
    - To the extent that ARM 24.101.417(2) would provide that volunteer health care professionals may not accept remuneration for services provided in responding to the emergency, it is suspended.

- Consistent with the Directive on expanded telehealth, health care professionals shall be allowed to perform health care services using all modes of telehealth, including video and audio, audio-only, or other electronic media, to treat the residents of the State of Montana for all medically necessary and appropriate services.

II. Reactivation of Inactive, Retired, and Non-disciplinary Terminated Montana Health Care Related Licenses

- Inactive, retired, or other health care professionals who have left the practice of their profession in the last five years and who have a clean disciplinary record will be allowed to reactivate their license without meeting current licensure requirements. Such individuals are a fast resource to increase the availability of health care providers. To the extent §37-1-141(8), MCA, or any other statute or administrative rule is in conflict, it is suspended for the duration of the emergency and for these limited purposes.

- The following administrative rules are suspended to the extent they require continuing education, certification, evaluation, or other demonstration of competency after a period of inactivity or non-disciplinary termination of license, for the duration of the emergency and for limited purposes of accomplishing this Directive:

Pharmacy	ARM 24.174.504
Behavioral Health	ARM 24.219.509, 24.219.609, 24.219.709, 24.219.921, 24.219.5012, and New Rule II MAR 24-219-35, pending
Clinical Laboratory Science	ARM 24.129.611(1)(b)
Physician, PA, ECP	ARM 24.156.603(3), 24.156.615(3)(a), 24.156.618, 24.156.1618(2), 24.156.2719
Nursing Home Admin.	ARM 24.162.515(6)
Occupational Therapy	ARM 24.165.604(3)
Respiratory Care Practice	ARM 24.213.402(7), 24.213.415(2) and (3)
Speech Language Pathology	ARM 24.222.513(4)
Sanitarians	ARM 24.216.2104

- The Department shall issue a temporary practice permit, without charging a fee, to any health care professional whose Montana license has been inactive or terminated for non-disciplinary reasons for a period of five years or less. To the extent § 37-1-305(2), MCA, or any other

statute or administrative rule is in conflict, it is suspended for the duration of the emergency and for these limited purposes.

- Temporary permits issued under this directive are valid until rescission of Executive Orders 2-2020 and 3-2020.

III. Definition of Health Care Professional

- As used in this Directive, the term "health care professional" means a person engaged in an occupation or profession that requires licensure through the Board of Medical Examiners, Board of Pharmacy, Board of Nursing, Board of Nursing Home Administrators, Board of Radiologic Technologists, Board of Respiratory Care Practitioners, Board of Clinical Laboratory Specialists, Board of Behavioral Health, Board of Physical Therapy Examiners, Board of Occupational Therapy Practice, Board of Sanitarians, or Board of Psychologists.

IV. Conflicting Statutes or Rules Suspended

- To the extent any statute or administrative rule conflicts with the provisions of this Directive or, in the Department's determination, imposes requirements for licensure or temporary practice permits that conflict with the purposes of this Directive, it is suspended for that limited purpose and only for the duration of the emergency.

Authorities: Sections 10-3-103, -104, -118, -302, and -305, MCA; § 50-1-202, MCA; Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

Limitations

- This Directive is effective immediately and expires at the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor, the Department, any department, agency, political subdivision, officer, agent, or employee of the State of Montana except as expressly provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.