

CLIENT ALERT

July 29, 2020

1

MICHIGAN GOVERNOR RESCINDS SOME AND EXTENDS OTHER SCOPE OF PRACTICE RULES

by *Jeremy L. Belanger and Peter J. Domas*

On July 13, 2020, Michigan Governor Gretchen Whitmer issued Executive Order ("EO") 2020-150, which renewed and, at the same time, rescinded different relief measures previously granted to health care professionals in Michigan during the COVID-19 state of emergency.

On April 1, 2020, to increase access to care in response to COVID-19, the Governor issued EO 2020-61¹, which suspended provisions of Article 15 of the Public Health Code, MCL 333.16101 *et seq.*, as they related to scope of practice, supervision, and delegation. Specifically, EO 2020-61 permitted medical services to be provided without the need of supervision or a practice agreement with a licensed physician for physician assistants, advance practice registered nurses (e.g., nurse practitioners, clinical nurse specialists, and certified nurse midwives), and nurse anesthetists otherwise acting within their scope of practice. EO 2020-61 also permitted RNs and LPNs to order throat or nasopharyngeal swabs from patients suspected of being infected by COVID-19. Additionally, licensed pharmacists were to provide routine care for health maintenance, chronic disease states, or similar conditions with supervision. Medical students, physical therapists, and EMTs were permitted to act as "respiratory therapists extenders" if they were acting under the supervision of licensed physicians, respiratory therapists, or APRNs. In addition, EO 2020-61 permitted health care professionals (including drug manufacturers and wholesalers) licensed and in good standing in other states or territories to perform services in Michigan without a Michigan license. Finally, the Governor limited the liability for licensed health care professionals for any injury or death that occurred while services were being provided in response to COVID-19 – except for circumstances of gross negligence or willful conduct.

EO 2020-150 rescinded all of the above-mentioned relief granted in EO 2020-61. The Governor's reasoned that "the pressures on hospitals has eased," and the need for such "broad relief . . . has waned." However, EO 2020-150 extends other relief provided for in EO 2020-61. First, requirements for an exam, fingerprints, and continuing education have been temporarily suspended if they cannot be provided due to COVID-19. Second, professional certification for individuals in basic life support, advanced cardiac life support, and first aid shall remain in effect, even if they were due to expire. Third, any deadlines for telecommunicators and trainee telecommunicators employed by primary public safety commission are temporarily suspended for a period of sixty (60) days after the state of emergency is over.

ABOUT THE AUTHORS



Peter J. Domas is a Member in Dickinson Wright's Ann Arbor office. He can be reached at 248.433.7595 or pdomas@DickinsonWright.com.



Jeremy L. Belanger is an Associate in Dickinson Wright's Troy office. He can be reached at 248.433.7542 or jbelanger@DickinsonWright.com.

¹EO 2020-61 expanded prior relief granted under EO 2020-30.