



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

March 16, 2020 Executive Order Relating to Various Health Care Matters issued and May 6, 2020 Executive Order Amending March 30, 2020 Executive Order

Frequently Asked Questions

The Governor has issued a series of Executive Orders and interpretive guidance related to COVID-19. The March 16, 2020, Executive Order related to Health Care Matters. Governor Hogan addressed out-of-state health care practitioners and inactive Maryland licensees working at health care facilities in the State of Maryland under certain conditions. <https://governor.maryland.gov/wp-content/uploads/2020/03/Executive-Order-Health-Care-Matters.pdf>. On May 6, 2020 an Amended Executive Order was issued allowing the resumption of elective and non-urgent medical procedures that had been prohibited by the prior March 16, 2020 Executive Order and the March 23, 2020 Order issued by the Secretary of Health. <https://governor.maryland.gov/wp-content/uploads/2020/05/Gatherings-FIFTH-AMENDED-5.6.20.pdf>

The Board of Physicians has received a number of questions regarding this Executive Order and hopes to address many of them here. Please continue to check the Board's website for updated information.

General Questions

Q: Who is eligible to practice in Maryland without an active Maryland license for the duration of the COVID-19 Maryland State of Emergency?

- A: 1) Out-of-state health care practitioners ("HCP") with a valid, unexpired license issued by another state may engage in the activities authorized under the license at a Maryland health care facility; and
2) HCPs with inactive Maryland licenses¹ who are deemed competent by qualified supervisory personnel at a Maryland health care facility.

Q: Does the Executive Order pertain to all professions licensed by the Board of Physicians?

A: Yes.

Q: Where may an HCP provide care?

¹ An inactive licensee is an individual who has applied for and has been placed on inactive status pursuant to Health Occupations Article § 14-320.

A: The out-of-state HCP or inactive Maryland licensees may provide services only to patients at a health care facility² located in the State of Maryland.

Q: Under what circumstances may an HCP or inactive Maryland licensee practice at a Maryland health care facility?

A: 1) If a health care facility needs HCPs or inactive Maryland licensees to meet required staffing ratios; or
2) If a health care facility deems it necessary to ensure the continued and safe delivery of health care services.

Q: What responsibilities do health care facilities have?

A: 1) It is the responsibility of any health care facility located in Maryland that is utilizing the services of an out-of-state HCP or an inactive Maryland licensee to verify the credentials and licensure status of the HCP to ensure a valid, unexpired license in the home state or an inactive license in the State of Maryland.
2) The health care facility shall put in place a process by which HCP credentials and licensure status are routinely verified during the state of emergency and catastrophic health emergency and that the out-of-state HCP is only engaging in the activities authorized under the license.
3) The health care facility shall ensure that the HCP or an inactive Maryland licensee can competently engage in such activities and is properly supervised while engaged in such activities.
4) Health care facilities are responsible for determining whether the employment of an out-of-state HCP or an inactive Maryland licensee is necessary to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services.
5) If the health care facility determines that the HCP no longer meets the requirements for waiver of licensure or the assistance of the out-of-state or inactive HCPs is no longer necessary, the health care facility shall immediately cease allowing the HCP to continue providing care.

Q: Has the Board suspended any licensure requirements pursuant to §XI of the Executive Order?

A: The Board has suspended the following requirements for the duration of the state of emergency:
1) Physician Assistants working at a health care facility may perform medical acts as soon as they send a delegation agreement to the Board. The Physician Assistant need not wait for an acknowledgement by the Board to begin working at a health care facility. Health Occ. § 15-302.1(a).

² A health care facility is:

- (i) A hospital, limited service hospital, or a related institution, as defined in [§ 19-301](#) of this title;
- (ii) An ambulatory surgical facility;
- (iii) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;
- (iv) A home health agency, as defined in [§ 19-401](#) of this title;
- (v) A hospice, as defined in [§ 19-901](#) of this title;
- (vi) A freestanding medical facility, as defined in [§ 19-3A-01](#) of this title; and
- (vi) Any other health institution, service, or program for which this Part II of this subtitle requires a certificate of need or any other facility designated or established by the Secretary for treatment, isolation, and/or quarantine.

- 2) Physicians are not limited to supervising 4 Physician Assistants at any one time. Health Occ. § 15-302(h).
- 3) Inactive Maryland licensees are not required to apply to the Board for reactivation of their license while working at a health care facility if the employment is necessary to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services. Health Occ. § 14-320(b).
- 4) An out-of-state HCP with an active, unexpired license issued by another state may, at a health care facility in Maryland, engage in the activities authorized under the license during the state of emergency without applying for and obtaining a Maryland license if the employment is necessary to meet required staffing ratios or otherwise ensure the continued and safe delivery of health care services. Health Occ. § 14-301.
- 5) HCPs who hold a valid, unexpired license issued by an adjoining state may practice telehealth to the extent authorized by the home state license without obtaining a Maryland license to treat existing Maryland patients to provide continuity of care during the state of emergency. COMAR 10.32.05.03.

Specific Questions

Q: Does the Board issue temporary licenses? What requirements must I complete before I can work in Maryland under the exceptions provided in the Executive Order?

A: The Board does not issue temporary licenses. Each health care facility will determine whether the out-of-state HCP or inactive Maryland licensee meets the requirements to practice under the Executive Order. There is no special authorization or application process through the Board.

Q: As an inactive licensee, do I have to apply for reactivation of my license prior to practicing under this exception to licensure?

A: No. For the duration of the state of emergency, the Board has suspended the requirement for inactive Maryland licensees to file an application for reinstatement with the Board.

Q: I allowed my license to expire, may I practice under the Executive Order?

A: No. The Executive Order only pertains to Maryland licensees on inactive status. If you would like to apply for reinstatement of your Maryland license, you may do so by filling out an application for reinstatement on the Board's Website.

https://www.mbp.state.md.us/resource_information/res_pro/resource_Practitioner_forms.aspx

Q: Does the Executive Order apply to physicians licensed in another country?

A: No. The Executive Order only pertains to HCPs licensed in another State.

Q: Are there changes regarding Controlled Dangerous Substances (CDS) Prescribing and Dispensing during the State of Emergency?

A: Please refer to the Office of Controlled Dangerous Substances (OCSA) website

<https://health.maryland.gov/OCSA/Pages/home.ASPX>

OCSA FAQs:

[https://health.maryland.gov/ocsa/Documents/Controlled%20Dangerous%20Substances%20\(CDS\)%20Frequently%20Asked%20Questions%20during%20COVID-19.pdf](https://health.maryland.gov/ocsa/Documents/Controlled%20Dangerous%20Substances%20(CDS)%20Frequently%20Asked%20Questions%20during%20COVID-19.pdf)

Q: How can I volunteer to assist with the COVID-19 response?

A: Register at <https://mdresponds.health.maryland.gov/>

Q: Does the Executive Order issued by Governor Hogan permit healthcare practitioners with suspended, surrendered or revoked licenses to practice in Maryland during the state of emergency?

A: No. The Executive Order issued by Governor Hogan only applies to health care practitioners with inactive Maryland licenses or valid, unexpired licenses in other states. <https://governor.maryland.gov/wp-content/uploads/2020/03/Executive-Order-Health-Care-Matters.pdf>

Q: Does the Executive Order issued by Governor Hogan permit healthcare practitioners with an expired license to practice in Maryland during the state of emergency?

A: No. The Executive Order issued by Governor Hogan only applies to health care practitioners with inactive Maryland licenses or valid, unexpired licenses in other states. If your license has expired, you may apply for reinstatement at the following websites for physicians and for allied health, respectively:
https://www.mbp.state.md.us/resource_information/res_pro/resource_Practitioner_forms_phy.aspx
https://www.mbp.state.md.us/resource_information/res_pro/resource_practitioner_forms_ah.aspx

Q: What businesses must be closed?

A: The Governor's executive Order Number 20-03-23-01 closed non-essential businesses effective at 5 p.m. on March 23, 2020.

Q: What is an essential business?

A: Essential businesses include offices of health care providers, hospitals, healthcare systems and clinics, diagnostic facilities, pharmacies, and more. For guidance see:
<https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>
<https://governor.maryland.gov/wp-content/uploads/2020/03/OLC-Interpretive-Guidance-COVID19-04.pdf> and
<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

Q: Can a physician perform x-rays with a radiographer providing direction to reduce the risk of spreading COVID-19?

A: There are no Board of Physicians statutes or regulations that govern scope of practice for physicians. A medical license allows a physician to perform any task within the practice of medicine. There may, however, be other requirements through the Maryland Department of Environment, Joint Commission, etc. regarding radiation safety that are separate and apart from the Board's requirements.

Q: Can Unlicensed Medical Practitioners (UMPs) such as a resident, medical student or fellow, practice medicine independently?

A: UMPs are allowed to practice in Maryland without a license while enrolled in a Board-approved program (ACGME) while performing the assigned duties by the program at any office of a licensed physician, hospital clinic, or similar facility. The facility can decide

what duties to assign and whether supervision is needed so long as the UMP remains enrolled in the Board-approved program.

Q: Where can clinicians find additional resources?

A: COVID-19 Pandemic: Orders and Guidance:

<https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>

Governor Hogan's COVID-19 Response:

<https://governor.maryland.gov/coronavirus/>

Maryland Unites:

<https://governor.maryland.gov/marylandunites/>

The Maryland Department of Health Coronavirus website has extensive resources:

<https://coronavirus.maryland.gov/>

See also "Resources for Health Care Professionals":

<https://coronavirus.maryland.gov/pages/provider-resources>

Behavioral Health Administration:

<https://bha.health.maryland.gov/Pages/bha-covid-19.aspx>

Maryland Medicaid:

<https://mmcp.health.maryland.gov/Pages/home.aspx>

Centers for Disease Control and Prevention:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

May 6 Amended Executive Order Questions

Q: A May 6, 2020 Order allows the resumption of elective and non-urgent medical procedures that had been prohibited by the prior March 16, 2020 Executive Order and the March 23, 2020 Order issued by the Secretary of Health. Can all medical offices reopen regardless of the services provided and the procedures performed?

A: No. A May 6, 2020 Order allows the resumption of elective and non-urgent medical procedures that had previously been restricted by the March 23, 2020 Order issued by the Secretary of Health required all health care practitioners to cease all elective and non-urgent medical procedures and appointments. However, the May 6, 2020 Executive Order requires licensed healthcare providers to exercise their independent professional judgment to determine what procedures are appropriate to perform, which appointments should occur, and which patients to see in light of widespread COVID-19 community transmission. Additionally, the Order has several measures that need to be in place, including required use of personal protective equipment (PPE), social distancing requirements, screening for COVID-19, and implementation of infection control measures. Those unable to comply with these additional requirements, and in particular the PPE requirements, may not resume elective and non-urgent medical procedures.

<https://governor.maryland.gov/wp-content/uploads/2020/05/Gatherings-FIFTH-AMENDED-5.6.20.pdf>

<https://governor.maryland.gov/wp-content/uploads/2020/03/03.23.2020-Sec-NeallHealthcare-Matters-Order.pdf>

Q: The May 6, 2020 Executive Order allows the resumption of elective and non-urgent medical procedures that had been prohibited by the prior March 16, 2020 Executive Order and March 23, 2020 Order issued by the Secretary of Health. What are the new requirements in order to reopen?

A: The updated May 6, 2020 Executive Order has several additional requirements in order to reopen. All providers resuming elective and non-urgent medical procedures shall have at least one-week supply of personal protective equipment (PPE) for themselves, staff and as appropriate, for patients. Social distancing requirements must be strictly maintained in all settings where people must wait in order to minimize direct contact between individuals within the healthcare settings and use of non-traditional alternatives is encouraged, such as call ahead registration and waiting in a car until called. All healthcare workers, patients, and others must be screened for COVID-19 symptoms upon arrival for shift or visit. Staff must stay home if they are showing COVID-19 symptoms. All healthcare providers must plan for and implement enhanced workplace infection control measures in accordance with the most current CDC guidelines: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control.html> This includes provider and staff wearing face coverings and patients should wear face coverings when possible. See Governor Hogan's most recent Executive Order: <https://governor.maryland.gov/wp-content/uploads/2020/05/Gatherings-FIFTH-AMENDED-5.6.20.pdf>

Finally, if unable to provide PPE for yourself, staff, and patients when appropriate, operations shall be restricted to urgent and non-elective procedures and appointments, in accordance with the prior directives. The 3/23/2020 Secretary's Directive and Order on Various Health Care Matters includes language regarding the provision of services: "medical procedures that are critically necessary for the maintenance of health for a patient." The determination of what this means is something that is within each practitioner's clinical judgment as each individual patient's/client's case. The Board cannot advise a practitioner on whether a procedure is elective and non-urgent. There is also further guidance on the MDH website regarding surgical procedures: <https://phpa.health.maryland.gov/Documents/Surgical%20Procedures%20Guidelines%20-%203-23-2020.pdf>

Q: What certifications do I need to submit before reopening?

A: A healthcare facility's managing authority or the responsible healthcare provider shall certify to MDH via secretary.health@maryland.gov that all of the above conditions for resumption of elective and non-urgent medical procedures have been met prior to resuming operations. A copy of this self-certification notice shall be posted prominently in the facility for the attention of patients and staff.