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SUMMARY OF EMERGENCY PROCLAMATIONS AND EXECUTIVE ORDERS AFFECTING THE HEALTH CARE PROFESSION AS OF APRIL 6, 2020

Hawai'i's Governor issued an Emergency Proclamation on March 4; a Supplementary Proclamation on March 16; a Second Supplementary Proclamation and Rules Relating to COVID-19 on March 21; a Third Supplementary Proclamation and Executive Order No. 20-01 on March 23; Executive Order No. 20-02 on March 29; and a Fourth Supplementary Proclamation on March 31.

The Governor's power to suspend certain laws is pursuant to Hawai'i Revised Statutes (HRS) § 127A-13(a)(3): "In the event of a state of emergency declared by the governor pursuant to Section 127A-14, the governor may [] Suspend any law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel[.]"

The following is a summary of the Rules, Proclamations, and Executive Orders affecting the health care profession current as of April 6, 2020.

The following laws applicable to health care providers have been suspended or modified:

Laws regulating purchases made by state and county agencies providing health and human services have been suspended effective March 4 (Suspended law: HRS § 103F).

Out-of-state physicians, osteopathic physicians, physician assistants, LPNs, RNs, and APRNs may practice in Hawaii without a license, so long as (1) they have a current and active license in another jurisdiction; (2) they have never had their license suspended or revoked; and (3) they are hired by a state or county agency or facility, or by a hospital, clinic, nursing home, hospice, pharmacy, or clinical laboratory. Effective March 16 (Suspended laws: HRS §§ 453

and 457; Hawaii Administrative Rules §§ 16-85, 16-89, and 16-93). But see “Mandatory Quarantine” below.

Provisions related to prevention, control, treatment of, and advancing knowledge about communicable diseases are suspended to the limited extent if they conflict with any of the Proclamations or the Executive Order, effective March 23 (Suspended law: provisions of HRS § 325 to the extent any conflict arises).

Physicians practicing telehealth may issue prescriptions for controlled substances, effective March 23 (Suspended law: HRS § 329-41(a)(8); all other provisions of HRS § 329 continue to be in effect).

Physicians may practice telehealth without an in-person consultation or a prior existing physician-patient relationship. This also applies to out-of-state physicians, osteopathic physicians, and physician assistants. Effective March 29 (Suspended law: HRS § 453-1.3).

Out-of-state physicians and nurses may dispense controlled substances without first registering with Hawaii’s electronic prescription accountability system, so long as they have a current and active license in another jurisdiction. Effective March 29 (Suspended laws: HRS §§ 329-32(a), 329-33(a), 329-38.2, and 329-101(b)).

Registered medical users of cannabis whose registration cards expire in March and April will have their cards extended for sixty days. Effective March 23 (Suspended law: HRS §§ 329-121 through 131 only to the extent necessary to extend expiration dates).

The following laws and rules applicable to health care providers have been invoked:

Prices cannot be increased on food, water, ice, medical supplies, medical protective measures, medications, vitamins, personal hygiene products, hand sanitizer, alcohol, hydrogen peroxide, cleaning supplies, and all other commodities to sanitize or clean persons or objects, as well as items to help the population to stay well, prevent illness, or recover from illness (HRS § 127A-30). This applies to wholesale and retail prices, effective March 4.

The Governor has directed all state agencies and officers to extend services, materials, and facilities as may be required (HRS § 127A-12(b)), effective March 4.

Owners of “critical infrastructure” (as identified by Dept. of Homeland Cybersecurity & Infrastructure Security Agency) must provide for the protection of their premises and key resources (HRS § 127A-12(b)(13)). County emergency management directors have additional discretion to identify additional critical infrastructure to be protected and safeguarded. Emergency services, Healthcare, and Public Health are “critical infrastructure.” Effective March 16.

COVID-19 (*SARS-CoV-2*) has been added to the list of communicable diseases Hawaii health care providers are required to report to the Department of Health (HRS § 325-2; HRS § 91-3(b); Hawaii Administrative Rules § 11-156). Failure to comply is a misdemeanor

punishable by up to 12 months of imprisonment and a \$5,000 fine. Effective March 16 through September 16, 2020.

Mandatory Quarantine: All persons entering Hawaii must self-quarantine for 14 days or the duration of the stay in Hawaii, whichever is shorter. Costs to be borne by the quarantined person. Failure to comply is a misdemeanor. Persons performing emergency response or critical infrastructure functions (health care facilities are included). Effective March 23 through May 20, 2020 (Rules Relating to COVID-19, Sections 2-4).

Persons traveling between islands for purposes related to medical or health care are exempted from the mandatory quarantine so long as they wear appropriate protective gear and follow social distancing requirements. Effective March 31.

All persons in Hawai'i are ordered to stay at home. Exceptions applicable to the healthcare industry include healthcare services and facilities; sellers of food and medicine; food, beverage, and cannabis production; agriculture; charitable and social services; manufacture, distribution, and supply chain for critical products and industries; and outdoor exercise activities, effective March 23.

Immunity for health care providers and volunteers:

Hawai'i's emergency management statute contains a provision which may be interpreted to provide immunity for health care workers and volunteers during times of emergency, but no specific proclamation granting immunity to health care workers and volunteers responding to the Coronavirus pandemic has been issued as the time of this writing.

Duration

All laws suspended or invoked above are effective through April 30 unless otherwise indicated above.