



NCASPPB

North Carolina Addictions Specialist
Professional Practice Board

Memo

To: Joint Legislative Administrative Procedure Oversight Committee
Joint Legislative Commission on Governmental Operations
Office of State Budget and Management

From: Barden Culbreth, Executive Director

cc: NCASPPB Board Members
Nelson Harris, Counsel

Date: October 1, 2020

Re: State Agency Regulatory Flexibility in Coronavirus Response

In accordance with Section 4.38 of Session Law 2020-3, the North Carolina Addictions Specialist Professional Practice Board submits this report of its efforts to review its statutes, rules, and policies to determine whether regulatory relief was needed considering the COVID-19 pandemic.

First, on March 12, 2020, the Executive Committee of the Board met electronically and resolved that the Board waive the requirement that educational training consists of a minimum of 50% in-person classes for a period of 60 days. This recommendation from the Executive Committee was accepted without objection from the Board and was twice extended at later meetings of the Board. Currently the waiver is in effect through December 31, 2020.

A second waiver was passed by the Board related to work supervision requirements for applicants and certified level professionals. The Board waived the 50% in-person requirement for supervision sessions through December 31, 2020 and then voted to allow telephone supervision.

A third waiver was passed related to Criminal Background Checks; applicants for licensure could proceed with their applications and were allowed to practice on a contingency basis,

pending that they completed the required SBI/FBI fingerprint check once local law enforcement agencies allowed members of the public to return for fingerprinting service. The Board maintains a list of those applicants under this waiver and staff is contacting them every 30 days to check on them and their local law enforcement agency's operational policy.

In addition to these waivers, the Board passed a resolution on April 17th, 2020 (see attached) clarifying its policy on telehealth practice. Out of state licensed and certified SUD professionals can treat patients living in North Carolina. Professionals licensed by this Board in North Carolina are encouraged to contact the regulatory agencies where their patients live, if out of state, and they wish to continue SUD treatment services via telehealth.

Further, at its April 17, 2020 meeting, the Board voted to extend the application deadlines of 65 applications who were preparing to take the examination to complete their license applications but were unable to test due to examination sites closing during the pandemic.

The Board made no changes to its fee collection policy.

The Board appreciates the efforts of the Legislature to provide regulatory flexibility to the citizens of North Carolina during the pandemic. The Board also appreciates the trust placed in the Board by the General Assembly and the responsibility to the industry and the general public that comes with that trust.

RESOLUTION (April 17, 2020)

This Resolution of the Board of the North Carolina Addictions Specialist Professional Practice Board ("the Board") was made pursuant to the powers granted and duties imposed on the Board pursuant to N.C. General Statutes § 90-113.33, and was passed and entered into this the 17th day of April, 2020.

WITNESSETH:

WHEREAS, on March 10, 2020, the Governor of the State of North Carolina ("the Governor") issued Executive Order No. 116, which declared a State of Emergency ("the Declaration") to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency, and provide for the health, safety and welfare of residents and visitors located in North Carolina; and

WHEREAS, during the period from March 10, 2020 through April 8, 2020, the Governor issued Executive Orders 117-122, 124-125 and 129, in connection with the World Health Organization's declared COVID-19 global pandemic ("the COVID-19 Pandemic") for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on April 8, 2020, the Governor issued Executive Order No. 130, in which the Governor noted the necessity of expanding the capacity of North Carolina's health care system to address the effects of the COVID-19 Pandemic; that expanding the capacity of the health care system should include additional health care providers and putting to use other resources where they can be most effective; that expanding the capacity of the health care system would require temporarily waiving or suspending legal and regulatory constraints; that decisions about adding and transferring resources and taking other action will require real time decision making that cannot accommodate even emergency rulemaking; and

WHEREAS, the Governor determined in Executive Order No. 130 that it is in the best interest of the people of North Carolina to provide the Secretary of Health & Human Services with authority to waive the enforcement of certain legal and regulatory constraints in order to expand capacity of the health care system and save lives; and

WHEREAS, the Governor further determined in Executive Order No. 130 that it is in the best interests of the people of North Carolina to provide the state's health care providers with authority to develop and implement tailored plans to add providers in each of their subject areas; and

WHEREAS, the Governor further determined in Executive Order No. 130 that occupational licensing boards established by the General Assembly should be empowered in their discretion to waive or modify enforcement of legal or regulatory constraints that would prevent or impair North Carolina from putting to work (i) health care professionals licensed in other states, but not licensed here; (ii) retired or inactive health care professionals; (iii) skilled but unlicensed volunteers; and (iv) students in their professional fields; and

WHEREAS, the Governor further determined in Executive Order No. 130 that occupational licensing boards should be empowered to impose conditions on any persons who are not licensed in North Carolina, but who will be authorized to provide care by the licensing boards as a result of the authority granted in Executive Order No. 130; and

WHEREAS, all fifty states, the District of Columbia, U.S. Virgin Island, Puerto Rico, Guam and Northern Mariana Islands are members of the Emergency Management Assistance Compact ("EMAC"); all EMAC member states have declared emergencies exist as a result of the COVID-19 Pandemic and may request telehealth/telemedicine aid from the other Compact members; and

WHEREAS, the Governor has determined in Executive Order No. 130 that there continues to be a pressing need for mental health and substance use disorder treatment services and individuals with intellectual and/or developmental disabilities ("MH/DD/SAS" services); and

WHEREAS, in the circumstances of the COVID-19 Pandemic, many regulatory requirements for MH/DD/SAS programs cannot be met, and many MH/DD/SAS services may need to be provided in the form of telehealth; and

WHEREAS, the provisions of Executive Order 130 went into effect on April 8, 2020, and will continue for sixty (60) days thereafter unless rescinded or replaced by a superseding Executive Order.

IT IS HEREBY RESOLVED by the Board, pursuant to the powers granted and duties imposed on the Board pursuant to N.C. General Statutes § 90-113.33, and pursuant to the specific authority granted to the Board, by the Governor, pursuant to his authority under the Constitution and laws of the State of North Carolina, in Executive Order No. 130, that, for the duration of the effectiveness of Executive Order No. 130, or any superseding Executive Order, the Board hereby waives or modifies enforcement of any legal or regulatory constraints that would prevent or impair the provision of substance use disorder counseling or other services by individuals currently licensed to provide substance use disorder counseling or other services by EMAC member states. Individuals benefiting from the waiver granted to licensees of EMAC member states are not permitted to practice beyond the scope of practice allowed by their EMAC member state license(s).

IT IS FURTHER RESOLVED by the Board that any individual previously licensed by the Board, who has retired, or whose license is inactive, shall, upon request transmitted in writing to the Board, be restored to active status for the duration of the effectiveness of Executive Order No. 130, or any superseding Executive Order. With respect to each separate individual, restoration to active status shall be subject to such conditions as the Board may, in its reasonable discretion, impose. The Board shall not charge any additional application or other fee in connection with any such request.

IT IS FURTHER RESOLVED by the Board, for the duration of the effectiveness of Executive Order No. 130, that an individual licensed, registered, certified, and in good standing

with an EMAC member, to provide substance use disorder counseling and related services may apply for an emergency license with the Board, and if deemed eligible and licensed, may deliver services in North Carolina through remote telecommunications technologies (telehealth), provided those services are within the providers authorized scope of practice in such other jurisdiction.

IT IS FURTHER RESOLVED by the Board, for the duration of the effectiveness of Executive Order No. 130, that any restrictions under North Carolina law, or under any Rule or prior guidance of the Board, with respect to the use of telehealth by a health provider licensed in North Carolina, whether through a standard license or emergency license, shall have their enforcement waived.

IT IS FURTHER RESOLVED by the Board that the Executive Committee shall have, for the duration of the effectiveness of Executive Order No. 130, the authority to make and implement such Emergency Rules and Resolutions as may be permitted under N.C. General Statutes § 90-113.33; or Executive Order No. 130, or any superseding Executive Order, and to waive (or waive the enforcement of) any existing Rule or Regulation that the Executive Committee, in its discretion, deems appropriate.

IT IS FURTHER RESOLVED by the Board that the Executive Committee is authorized and encouraged to communicate with the Secretary of Health and Human Services ("the Secretary") concerning the waiver or modification of enforcement of regulations applicable to licensees of the Board, by the Secretary, under the authority granted to the Secretary under Section 5 of Executive Order No. 130, and specifically with respect to waiver or modification of the rules and regulations identified in Section 5(A)(2) j, m, n, o, h, t, u, v and w.

Adopted by the Board this the ____ day of April, 2020.

NORTH CAROLINA ADDICTIONS SPECIALIST
PROFESSIONAL PRACTICE BOARD

By:



Laura Veach, Chairman of the Board

ATTESTED TO BY:



Carol Hoffman, Secretary of the Board