

FAQ for DHHS Omnibus EO

What does this Executive Order do?

This Order temporarily waives some legal or regulatory constraints that could slow efforts to increase the state's health care resources during the public health emergency.

Why is this Executive Order necessary?

With a surge of COVID-19 cases requiring inpatient hospitalization forecasted in the coming days, this Order takes a series of actions designed to expand the capacity of the state's health care system. The actions taken by this Order allow for increases in health care facilities' licensed bed capacity, add health care providers to the system, put to use equipment and other resources that otherwise would lie dormant, and transfer medical resources where they can be most effective and save the most lives.

How does this Executive Order affect child care in North Carolina?

Child care centers that chose to remain open or reopen must operate under the new emergency facility guidelines issued by the NC Department of Health and Human Services. These new guidelines are specifically designed to address the COVID-19 emergency needs. To remain open or reopen, child care centers must submit an application to the NC DHHS and follow the new guidelines. They must also serve only children of essential employees, children who are receiving child welfare services or children who are homeless or living in unstable or unsafe living arrangements.

How does this Executive Order increase the number of health care workers available to help fight COVID-19?

This Order allows professional licensing boards to waive or modify the enforcement of legal or regulatory constraints to meet the need for additional health care workers to treat patients, including those related to:

- allowing practice in North Carolina by health care professionals that are licensed in other states, but not in North Carolina;
- allowing retired or inactive health care professionals to provide care;
- allowing skilled, but unlicensed volunteers to provide care; and/or
- allowing students to provide care if they are at an appropriately advanced stage of professional study.

Who decides whether the provisions in this Order will be waived?

These temporary actions set out in Section 1 of the Executive Order may be made only with the approval of the NCDHHS Division of Health Service Regulation following a written request. The request must explain how the increase in capacity, relocation or addition of resources, equipment acquisition, or change in facility operation is necessary for the public health and safety in the geographic area served. The request must also certify that the physical facilities to be used are adequate to safeguard the health and safety of clients and that clients' health and safety will be safeguarded.

How does this Executive Order impact the liability of healthcare workers fighting COVID-19?

Potential health care workers have raised concerns about a lack of malpractice insurance and whether they would be subject to potential liability for malpractice if they serve North Carolinians during this pandemic. The Order provides a series of orders and statements that, taken together, show that the Governor intends to provide to emergency management workers, as that term is defined by statute and in the Order, insulation from civil liability to the maximum extent authorized by statute, except in cases of willful misconduct, gross negligence, or bad faith.

Will DHHS continue to perform critical health and safety functions that aren't directly related to COVID-19?

DHHS is adapting to the demands of the pandemic and continually working to protect the health and safety of North Carolinians. As with all other State agencies, the NC DHHS workforce is teleworking as much as possible in order to prevent the spread of COVID-19. In addition, the demands of dealing with the COVID-19 State of Emergency have stretched DHHS resources. This may mean that DHHS has to prioritize certain matters during the State of Emergency, and some work will take longer than normal; however, DHHS will never abandon its health and safety responsibilities.

How does this Order impact mental health, developmental disabilities, and substance abuse services?

The Order temporarily waives certain regulations that could prevent or impair the provision of mental health and substance use disorder treatment services and support services for individuals with intellectual and/or developmental disabilities (“MH/DD/SAS” services). To allow MH/DD/SAS services to continue to be provided—and to authorize these services to be provided by telehealth—the executive order delegates to the Secretary of Health and Human Services power to waive or modify enforcement of a number of related rules.

How does this Order impact PACE centers that provide care for the elderly?

The Programs of All-Inclusive Care for the Elderly (“PACE”), under Medicaid, provide essential care, but traditionally, PACE care has been provided in centralized PACE centers. Because having elderly PACE participants congregate at centers would place them at severe risk of illness or death from COVID-19, this Order authorizes PACE care to be provided at home.

How does this Order impact the fingerprinting of new health care providers?

Because of the COVID-19 crisis, many private health care providers are facing difficulty in maintaining their workforce. Section 6(C) allows private health care providers, other than child care providers, to avoid a problem indirectly caused by certain counties failing to offer fingerprinting during the COVID-19 pandemic.

Without fingerprinting, national background checks cannot be performed, although state background checks can still be performed. National background checks are required for certain new hires.

Therefore, the executive order delegates to the Secretary of Health and Human Services authority to give health care providers (other than child care providers) additional time to complete the national background check part of a new hire's application.

Under this Order, the Secretary of Health and Human Services may allow health care providers (other than child care providers) to temporarily accept a written verification from a potential new hire's current employer (or most recent employer within 30 days) in lieu of the national background check that would require fingerprinting to continue efforts to grow the pool of care providers and care givers. This authority applies only in areas of North Carolina where fingerprinting is not available.

The written verification is required to show that the potential new hire passed a national criminal history records check. This does not waive the requirement to get a state-wide background check. The new hire would be required to complete a standard records check as soon as possible once fingerprinting is once again available, but in no case later than 30 days after the end of the State of Emergency.