



A physician's guide to Florida's executive and emergency orders

By Mary Thomas, Esq.
FMA Assistant General Counsel

Confused by the constant barrage of executive and emergency orders that all reference other orders with expiration dates that are constantly extending? We don't blame you! Let's take a look at where we've been and where we are:

Executive Order 20-51

Effective: March 1, 2020

The Details:

Executive Order 20-51 was the first order in response to the COVID-19 crisis directing the state Surgeon General to issue a public health emergency and take any action necessary to protect the public. The Department of Health subsequently issued a Public Health Emergency establishing the framework for the state's COVID-19 response.

Executive Order 20-52: Declaration of State of Emergency

Valid for 60 days unless extended

Effective: March 9, 2020

Extended: May 8: EO 20-114 and July 7: EO 20-166

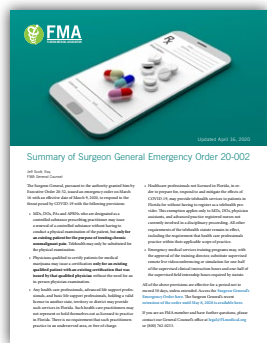
Expiration unless extended: September 5, 2020

The Details:

Executive Order 20-52 declared the official state of emergency in response to the COVID-19 crisis. Relevant to the medical profession, this order made federal funds available for the Governor to utilize in response to the pandemic and grants the state Surgeon General the authority to issue emergency orders. EO 20-52 also allows non-Florida medical professionals licensed in other states to provide such medical services free of charge

to Floridians affected by COVID-19 under the guidance of the Florida Department of Health or the American Red Cross.

EO 20-52 has become the anchor for the expiration of several other orders as discussed below.



Emergency Order 20-002: Expanding Use of Telehealth Effective: March 9, 2020

Extended: April 15: EO 20-004;
May 9: EO 20-007; May 31: EO 20-009;
& June 30: EO 20-011
Expiration unless extended: Tracks
with EO 20-52 September 5, 2020

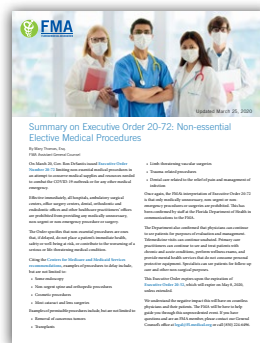
The Details:

The Surgeon General, pursuant to the authority granted him by Executive Order 20-52, issued **Emergency Order 20-002** to respond to the threat posed by COVID-19 with the following provisions:

- MDs, DOs, PAs and APRNs who are designated as a controlled substance prescribing practitioner may issue a renewal of a controlled substance without having to conduct a physical examination of the patient, but only for an existing patient for the purpose of treating chronic non-malignant pain. Telehealth may only be substituted for the physical examination.
- Physicians qualified to certify patients for medical marijuana may issue a certification only for an existing qualified patient with an existing certification that was issued by that qualified physician without the need for an in-person physician examination.
- Any healthcare professionals, advanced life support professionals, and basic life support professionals holding a valid license in another state, territory or district may provide such services in Florida. Such health care practitioners may not represent or present themselves as licensed to practice in Florida. There is no requirement that such practitioners practice in an underserved area, or free of charge.
- Healthcare professionals not licensed in Florida, in order to prepare for, respond to and mitigate the effects of COVID-19, may provide telehealth services to patients in Florida without having to register as a telehealth provider. This exemption initially only applied to MDs, DOs, physician assistants, and advanced practice registered nurses but a subsequent Emergency Order added clinical social workers, marriage and family therapists, mental health counselors, and psychologists. All other requirements of the telehealth statute remain in effect, including the requirement that healthcare professionals practice within their applicable scope of practice.

- Emergency medical services training programs may, with the approval of the training director, substitute supervised remote live videoconferencing or simulation for one-half of the supervised clinical instruction hours and one-half of the supervised field internship hours required by statute.

Emergency Order 20-002 has been extended several times in 30-day increments. However, the last extension, dated June 30, provided that EO 20-002 will remain in effect until the expiration of Executive Order 20-52. The FMA understands that many physicians have taken advantage of this expansion of telehealth services and we will continue to advocate for further extensions.



EXPIRED Executive Order 20-72: Limiting Non-essential Medical Procedures

Effective: March 20, 2020

Expired: May 4: EO 20-112

The Details:

Gov. Ron DeSantis issued Executive Order 20-72 limiting non-essential medical procedures in an attempt to conserve medical supplies and re-

sources needed to combat the COVID-19 outbreak or for other medical emergencies. Hospitals, ambulatory surgical centers, office surgery centers and other healthcare practitioners' offices were prohibited from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery. EO 20-72 did not prohibit physicians from continuing to see patients for purposes of evaluation and management, treating patients with chronic and acute conditions, performing wellness exams, providing mental health services, providing follow-up care and other non-surgical purposes.

Unfortunately, an unintended consequence of this Order is that patients are still reluctant to seek routine and even emergency medical care out of fear of contracting COVID-19. The FMA encourages patients to continue to see their physicians for appropriate medical care.

Executive Order 20-85*

Effective: March 24, 2020

Extended: July 7: EO 20-166

Expiration unless extended: September 5, 2020: EO 20-52

The Details:

This Order provides expanded telehealth and immunization services for state employees. **EO 20-85*** directs the Secretary of the Department of Management Services to amend the state employee health and pharmacy benefits plan to include telehealth services at no additional cost to employees. This Order ensures that all state employees have access to telehealth

services through the state's contracted HMO plans and PPO organization plan without cost sharing.

EO 20-85 further amends the state employee health plan benefits plan to provide employees participating in the State Employees' Group Insurance Program the option to receive immunizations covered by the employee's plan in either a participating physician's office pursuant to the participant's current PPO Plan Group Health Insurance Plan Booklet or a participant's current HMO contract, or a participating pharmacy in the State Employees' pharmacy benefit manager's network. This Order will expire upon the expiration of EO 20-52.



EXPIRED Executive Order 20-91:

Safer at Home

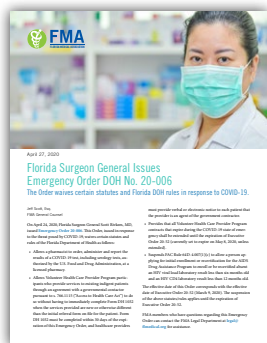
Effective: April 1, 2020

Expired: June 5: EO 20-139

The Details:

Executive Order 20-91, the "Safer at Home" order, provided that senior citizens and individuals with a significant underlying medical condition stay at home and take

all measures to limit the risk of exposure to COVID-19. This Order also required that all persons in Florida limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities. Notably, essential activities were defined to include healthcare providers, including, but not limited to, hospitals, doctors' and dentists' offices, urgent care centers, clinics, rehabilitation facilities, physical therapists, mental health professionals, psychiatrists, therapists, and pharmacies.



Emergency Order 20-006*

Executed: April 24, 2020

Effective: March 9, 2020

Expiration unless extended: September 5, 2020: EO 20-52

The Details:

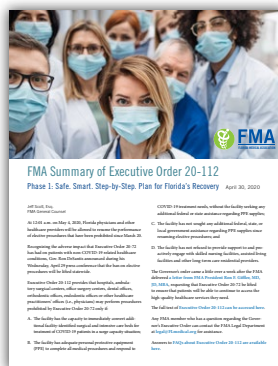
Emergency Order 20-006* waives certain statutes and rules of the Florida Department of Health as follows:

- Allows a pharmacist to order, administer and report the results of a COVID-19 test, including FDA-authorized serology tests at a licensed pharmacy.
- Allows Volunteer Health Care Provider Program participants who provide services to existing indigent patients through an agreement with a governmental contractor to do so without having to immediately complete Form DH

1032 when the services provided are new or otherwise different than the initial referral. Form DH 1032 must be completed within 30 days of the expiration of EO 20-006, and healthcare providers must provide verbal or electronic notice to each patient that the provider is an agent of the government contractor.

- Provides that all Volunteer Health Care Provider Program contracts that expire during the COVID-19 state of emergency shall be extended until the expiration of Executive Order 20-52
- Suspends FAC Rule 64D-4.007(1)(c) to allow a person applying for initial enrollment or recertification for the AIDS Drug Assistance Program to enroll or be recertified absent an HIV viral load laboratory result less than six months old and an HIV CD4 laboratory result less than 12 months old.

This is yet another order that will expire upon the expiration of EO 20-52.



Executive Order 20-112: Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery

Partially Effective: May 2, 2020

Fully Effective: May 18: EO 20-123

Extended: May 22: EO 20-131 and June 5: EO 20-39

The Details:

Executive Order 20-112 initiated the first step of the Governor's

plan to reopen Florida. Recognizing the adverse impact that Executive Order 20-72 had on patients with non-COVID-19 related healthcare conditions, Gov. Ron DeSantis lifted the ban on elective procedures. Executive Order 20-112 provides that hospitals, ambulatory surgical centers, office surgery centers, dental offices, orthodontic offices, endodontic offices or other healthcare practitioners' offices (i.e., physicians) may perform procedures prohibited by EO 20-72 only if:

- The facility has the capacity to immediately convert additional facility-identified surgical and intensive care beds for treatment of COVID-19 patients in a surge capacity situation;
- The facility has adequate personal protective equipment (PPE) to complete all medical procedures and respond to COVID-19 treatment needs, without the facility seeking any additional federal or state assistance regarding PPE supplies;

- The facility has not sought any additional federal, state, or local government assistance regarding PPE supplies since resuming elective procedures; and
- The facility has not refused to provide support to and proactively engage with skilled nursing facilities, assisted living facilities and other long-term care residential providers.

In subsequent orders related to EO 20-112, the Governor did not amend the provision relating to elective procedures. The Governor's order came a little over a week after the FMA delivered a letter from FMA President Ron F. Giffler, MD, JD, MBA, requesting that EO 20-72 be lifted to ensure that patients will be able to continue to access the high-quality healthcare services they need.

Executive Order 20-139: Phase 2: Safe. Smart. Step-by-Step. Plan for Florida's Recovery

Effective: June 5, 2020

The Details:

The Governor's transition to Phase 2 of his plan to reopen Florida primarily focused on "responsible individual activity" and increased the capacity for establishments such as restaurants, museums, gyms, and retail. However, this Order did not remove the conditional PPE requirements that physicians must meet before performing elective procedures as set forth above in EO 20-112.

**Tracks with Executive Order 20-52*

FMA members who have additional questions can contact our General Counsel's office at legal@FLmedical.org for assistance.