

Professional Regulation During the COVID-19 Pandemic

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Objectives

JARED POLIS
GOVERNOR



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D 2020 003

EXECUTIVE ORDER

**Declaring a Disaster Emergency Due to the Presence of
Coronavirus Disease 2019 in Colorado**

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.* (Act), I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order declaring a state of disaster emergency due to the presence of coronavirus disease 2019 (COVID-19) in Colorado, and authorizing response activities associated with the disaster emergency to enable State agencies to coordinate response, recovery, and mitigation efforts.

Further, pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 5 of the Colorado Constitution and C.R.S. § 28-3-104, I hereby authorize employing the Colorado National Guard to support and provide planning resources to State and local authorities as they respond to the presence of COVID-19 in the State.

I. Background and Purpose

The Governor is responsible for meeting the dangers to the State and people presented by disasters. C.R.S. § 24-33.5-704(1). The Act defines a disaster as "the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . epidemic." C.R.S. § 24-33.5-703(3). The threat currently posed by COVID-19, a respiratory illness that can spread from person to person, constitutes a disaster for purposes of the Act.

Like many other states and countries around the world, Colorado identified numerous presumptive positive cases of COVID-19. The virus that causes COVID-19 is a novel coronavirus that was first identified during an investigation into an outbreak in Wuhan, China in December 2019. Transmission of the disease likely occurs in ways similar to other respiratory illnesses. To become sick, an individual must be exposed to the virus, either through prolonged, close (within six (6) feet) exposure to someone with COVID-19, transmission of respiratory droplets by an infected person coughing or sneezing, or touching a surface or object that has the virus on it and then touching your mouth, nose, or eyes. Symptoms include fever, coughing, and difficulty breathing.

State of Emergency

Practice Act, Rules, Executive Orders

Licensee Responsibilities

Complaints and Regulator Response



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State of Disaster Emergency



Constitutional and Statutory Authority



Disaster is “the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . epidemic.”



Mobilize National Guard and Encumber Emergency Disaster Funds to coordinate response, recovery and mitigation efforts



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Practice Act, Rules, Policy, & Executive Orders

- **Mental Health Practice Act, Section [12-245-101, et.seq.](#), CRS governs profession**
- **Board Rules clarify the Practice Act- have force of law**
- **Board Policy provides guidance but does not have force of law**
- **[Executive Orders](#) temporarily suspend current law- statutes and rules and may order additional rulemaking**



Executive Order D 2020-020

**April 1 through
July 27**

**Suspended
statute
limiting out-
of-state MH
providers to
20 days of
Colorado
practice**

**Suspended
statutes to
ensure
insurance
coverage for
telehealth**

**Ordered
rulemaking
for telehealth
insurance
coverage**



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The End of the Executive Order

If the Executive Order expired in July, what does that mean for current telehealth practice?



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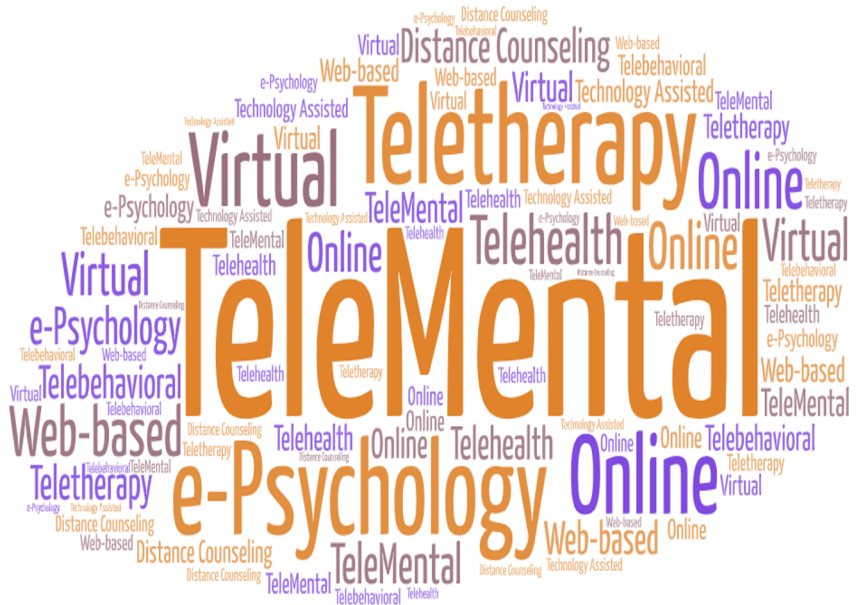
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Laws, Rules and Policies

- [Senate Bill 20-212](#), enacted July 6, 2020 ensures insurance coverage for telehealth
- Division licenses out-of state practitioners through emergency licensure/immediate endorsement pursuant to Emergency Declaration
- [Board Policy 30-1](#) provides guidance for telehealth



Licensee Responsibilities



- Follow current law, rules, orders
- Use teletherapy policy for guidance



What if the the laws conflict



- **Executive and Public Health Order**
- **State Law**



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Complaints and Board Response

**Violation of
PHO-
Mandatory
Mask**

**Violation of
PHO- Social
Distancing**

**Disclosure
or Consent**



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Takeaways

Nathan Batchelder:
Director, External Affairs



- **Keep Current with the Law**
- **Follow Executive and Public Health Orders**
- **There are bound to be “out-of -the-box” circumstances
document, document document!**



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