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Florida Surgeon General Issues Emergency Order Temporarily Lifting Certain Healthcare Licensing Requirements and Prescription Limits

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On March 16, 2020, Florida State Surgeon General Scott A. Rivkees, M.D., pursuant to authority delegated to him by Florida Governor Ron Desantis, issued Department of Health Emergency Order #20-002 ("Emergency Order"). In the Emergency Order, Surgeon General Rivkees suspended certain requirements that potentially interfere with the care of patients given the ongoing state of emergency caused by COVID-19.

The Emergency Order allows certain out-of-state healthcare licensed practitioners including but not limited to medical doctors and those licensed to practice in Osteopathic Medicine, Naturopathy, nursing, pharmacy, occupational therapy, respiratory therapy, clinical lab personnel, physical therapy, emergency medical technicians and paramedics to practice in Florida for a period of up to thirty days from the Emergency Order. The license in the other State or territory must be valid, unrestricted and unencumbered.

Additionally, the Emergency Order suspends certain registration requirements regarding telemedicine services by out-of-state physicians, osteopathic physicians, physician assistants, and advance practice registered nurses for thirty days. These practitioners may not hold themselves out as Florida licensed practitioners, and their licenses must be not currently under investigation or prosecution, and all other provisions of Florida Statute section 456.47 must be met. Relatedly, with respect to medical marijuana, the Emergency Order permits qualified physicians (as defined under section 381.986, Florida Statutes) to conduct the required physical examinations via telemedicine, rather than in person, for issuance of a physician certification for existing qualified patients with existing certifications which were issued by the same qualified physician.

Furthermore, physicians, osteopathic physicians, physician assistants and advance practice registered nurses who have registered as a controlled substance prescribing practitioner under Florida Statute section 456.44 may issue a renewal prescription for a schedule II, III, or IV Controlled Substance for an existing patient for purpose of treating chronic nonmalignant pain without a physical examination. However, similar to the medical marijuana change discussed above, these practitioners may only substitute telehealth services for the physical examination requirement. This exception shall be valid for thirty days, unless extended. All other rules and practices standards must be met.

The Emergency Order states that it is to be construed in light of services that are related to preparing for, responding to, and mitigating the effects of this Public Health Emergency. The Emergency Order may be extended if deemed necessary by the State Surgeon General. The full text of the Emergency Order is available online at http://www.floridahealth.gov/diseases-and-conditions/COVID-19/ssg-orders/_documents/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf. Practitioners who wish to provide services in accordance with the Emergency Order or who have questions about any specific requirements therein may contact healthcare law attorneys Grant Dearborn at gdearborn@shumaker.com or 813.227.2233 or and Jessica West at jwest@shumaker.com or 813.676.7223 for more information.

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