

## Governor Kemp Issues Executive Order Reducing Regulations

On March 20, 2020, Governor Brian Kemp issued Executive Order No. 03.20.20.02, reducing regulations to assist the State of Georgia's response to the spread of COVID-19. The Executive Order largely affects **healthcare, real estate, and Georgia business corporations** with upcoming shareholder meetings. We will be following the agencies and boards carrying out Governor Kemp's directives in this Executive Order as additional administrative actions are implemented.

### 1. Telemedicine

In 2019, the Georgia General Assembly passed the Georgia Telehealth Act and authorized the Georgia Composite Medical Board to issue telemedicine licenses to physicians licensed in other states. Pursuant to the Governor's March 20, 2020 Executive Order, the Georgia Composite Medical Board must immediately adopt emergency rules to provide telemedicine licenses. The emergency rules will allow telemedicine licenses to be issued to physicians who are licensed in other states but not licensed in Georgia to engage in the practice of medicine through telemedicine.

To be eligible for a telemedicine license, a physician must:

- Hold a full and unrestricted license to practice medicine in another state;
- Not have had any disciplinary or other action taken against him or her by any other state or jurisdiction; and
- Meet such other requirements established by the Georgia Composite Medical Board, as deemed necessary by the board to ensure patient safety.

Additionally, the Georgia Department of Community Health is waiving certain policies related to the use of telehealth and telemedicine for Medicaid/PeachCare for Kids members and providers to prevent exposure to COVID-19 during diagnosis and treatment. Such waivers will allow for expanded originating site locations and modalities. Under the Georgia Telehealth Act, an insurer shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

Emergency rules have not been published as of the date of this update, but we will continue to regularly monitor state information resources for the emergency rules.

### Prescription Drug Refills

Governor Kemp's March 20, 2020 Executive Order further ordered that all licensed Georgia pharmacists are permitted to dispense a 90-day supply of a prescription drug in the event that the patient has no remaining refills and the pharmacist is unable to contact the issuing practitioner to obtain refill authorization. This may only be used once per prescription and does not apply to prescriptions for Schedule II controlled substances. Additionally, all licensed pharmacists are permitted to dispense early refill prescriptions for prescription drugs, except as to prescriptions for Schedule II controlled substances.

### **Certificate of Need**

The Governor's March 20, 2020 Executive Order also suspended certificate of need requirements for healthcare facilities (hospitals, ambulatory surgery centers) that need to expand capacity, purchase equipment, make capital expenditures, and expand service lines that are related to the COVID-19 pandemic. We will be continuing to monitor this directive for further agency action by the Department of Community Health.

### **Healthcare Professional Licensure**

The Governor's Executive Order authorizes the Georgia Board of Pharmacy to grant temporary licenses to pharmacists who apply for a temporary license and are currently licensed in good standing as a pharmacist by an equivalent board in another state. The Georgia Board of Pharmacy has adopted an emergency policy and statement of interpretation addressing temporary recognition of non-resident licensure and temporary pharmacy facilities. Prior executive orders required the Georgia Medical Board and the Board of Nursing to allow for temporary licenses for physicians and nurses who are licensed and in good standing in another state. The boards now have information on their websites about obtaining temporary licenses. Georgia also recognizes reciprocity for nursing licenses for states that are members of the Nursing Licensure Compact.

### **Real Estate**

Due to limited staffing and increased wait times, the Executive Order allows all applicants seeking plan review or inspection of buildings or similar structures for compliance with the state minimum standard codes to retain a "private professional provider" immediately to provide the required plan review or inspection in accordance with O.C.G.A. 8-2-26(g)(4). Any plan review or inspection conducted by a private professional provider shall be no less extensive than plan reviews or inspections conducted by county or municipal personnel. The Executive Order does not otherwise amend or abate any other requirements of O.C.G.A. § 8-2-26(g)(4), nor does it suspend the enforcement of its provisions.

Additionally, Governor Kemp is urging all counties, cities, clerks of superior court, tax commissioners, and other officials to ensure recording offices remain open and available to receive applications and filings to the extent possible while maintaining adherence to the CDC's guidelines to prevent the spread of COVID-19.

### **Corporate Shareholder Meetings**

In accordance with the Executive Order, any Georgia corporation that is required by its bylaws to hold an annual shareholder meeting while the Public Health State of Emergency is in effect is permitted to conduct such shareholder meeting by means of remote communication so long as the corporation's board of directors establishes procedures to provide verified shareholders and proxies a reasonable opportunity to participate, be deemed present in person, and be permitted to vote on matters submitted at the meeting. This

authorization also applies to special meetings conducted pursuant to O.C.G.A. § 14-2-702. The location of any such shareholders meeting for the required notice to shareholders shall be deemed to include the method of remote communication through which shareholders may participate in a meeting held solely by means of remote communication.

Further, the requirement to provide access to the list of shareholders pursuant to O.C.G.A. § 14-2-720(b)(1) is suspended so long as such information is otherwise made available to all shareholders in advance of the meeting.